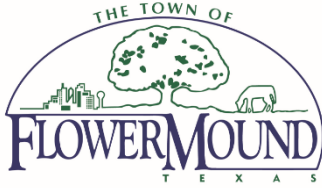


FLOWER MOUND TOWN COUNCIL REGULAR MEETING;
TOWN OF FLOWER MOUND FIRE CONTROL, PREVENTION, AND EMERGENCY MEDICAL
SERVICES DISTRICT SPECIAL MEETING;
AND CRIME CONTROL AND PREVENTION DISTRICT SPECIAL MEETING



December 4, 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. Texas Police Best Practices Re-accreditation
2. Donation from Friends of the Library

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
3. Organizational 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).

I. COORDINATION OF CALENDARS

1. December 18 - Regular Meeting
2. December 21 - Discuss and consider canceling this 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 11/16 - Consider approval of the minutes from a regular meeting and work session held on November 16.
2. Lakeside Parkway Capacity Improvements - Geotechnical PSA - Consider approval of a Professional Services Agreement with ECS Southwest, LLP, to provide subsurface exploration and geotechnical engineering services, for the Lakeside Parkway Capacity Improvements project, in the amount of \$38,855.00; and authorization for the Mayor to execute same on behalf of the Town.
3. NEOGOV Agreement - Consider approval of an updated agreement with NEOGOV to provide applicant tracking, onboarding, and electronic performance evaluation software, and authorization for the Mayor to execute same on behalf of the Town.
4. PSA-Promoter Line (Ind. Fest) - Consider approval of a Professional Services Contract with Promoter Line, Inc., to provide professional event production and planning services for the 2024 Independence Fest, in an amount not-to-exceed \$344,000.00 and authorization for the Mayor to execute same on behalf of the Town.
5. Vehicle Purchase - FD (F250) - Consider approval of the purchase of a 2024 Ford F250 4x4 SD Crew Cab for the Fire and Emergency Services Department from Chastang Ford, through Houston-Galveston Area Contract (HGAC) # AM10-23 in the amount of \$110,122.00; and authorization for the Mayor to execute same on behalf of the Town.
6. Vehicle Purchase - FD (Tahoe) - Consider approval of the purchase of a 2024 Chevrolet Tahoe 9C1 4WD for the Fire and Emergency Services Department Fire Marshal's Office from Holiday Chevrolet, through Tarrant County

- Cooperative Contract #2023-016, in the total amount of \$68,759.09; and authorization for the Mayor to execute same on behalf of the Town.
7. Ambulance Purchase - FD - Consider approval of the purchase of a 2024 Ford F450 Frazer ambulance for the Fire and Emergency Services Department from Sterling McCall, through Houston-Galveston Area Contract (HGAC) # AM10-23, in the total amount of \$332,625.00; and authorization for the Mayor to execute same on behalf of the Town.
 8. Ambulance Accessories Purchase - FD - Consider approval of the purchase of a Stryker ambulance cot and Power Load system for the 2024 Ford F450 Frazer ambulance purchase from Stryker Medical amount of \$60,281.39; and authorization for the Mayor to execute same on behalf of the Town.
 9. Vehicle Purchases - PD (Dodge) - Consider approval of purchasing (5) 2023 Dodge Durango PPV vehicles, all with Police Equipment Packages as per Town of Flower Mound specifications and vendor estimate via TIPS USA Cooperative Contract #210907, for \$392,118.85.
 10. Vehicle Purchases - PD (Toyota) - Consider approval of purchasing (2) 2023 Toyota Highlanders, both vehicles with vendor estimates via TIPS USA Cooperative Contract #210907, for \$86,073.00.
 11. Purchase 3-D Scanner - Grant Funds - Consider the use of grant funds (2024 Edward Byrne Memorial Justice Assistance program) for the purchase of a 3-D scanner in the amount of \$78,510.58
 12. 7th and Final FY 22-23 Budget Amendment - Consider approval of an ordinance amending the Town of Flower Mound's Annual Budget for the fiscal year beginning October 1, 2022, and ending on September 30, 2023, as adopted by Ordinance No. 45-22 and amended by Ordinance No. 60-22, No. 06-23, No. 16-23, No. 19-23, No. 21-23, and No. 28-23 for adjustments to the General Fund, Debt Service Fund, Utility Fund, Stormwater Utility Fund, SAFER Grant Fund, and Health Insurance/ Flex Account Fund.
 13. 2nd FY 22-23 Fire District Budget Amendment - Town Council acting as the Board of Directors for the Town of Flower Mound Fire Control, Prevention, and Emergency Medical Services District to consider approval of a resolution amending the Town of Flower Mound Fire Control, Prevention, and Emergency Medical Services District budget for the fiscal year beginning on October 1, 2022, and ending on September 30, 2023, as adopted by Resolution No. 15-22 and amended by Resolution No. 13-23.
 14. 1st FY 23-24 Budget Amendment - Consider approval of an ordinance amending the Town of Flower Mound's Annual Budget for the fiscal year beginning October 1, 2023, and ending on September 30, 2024, as adopted by Ordinance No. 37-23 for adjustments to the General Fund, Utility Fund, Stormwater Utility Fund, Tree Preservation Fund, Public Education Government (PEG) Fund, Chapter 59 Seizure Fund, Grant Fund, Vehicle and Equipment Replacement (VERF) Fund, and the Health Insurance/ Flex Account Fund.
 15. 1st FY 23-24 Crime District Budget Amendment - Town Council acting as the Board of Directors for the Town of Flower Mound Crime Control and Prevention District to consider approval of a resolution amending the Town of Flower Mound Crime Control and Prevention District budget for the fiscal year beginning on

- October 1, 2023, and ending on September 30, 2024, as adopted by Resolution No. 23-23.
16. 1st FY 23-24 Fire District Budget Amendment - Town Council acting as the Board of Directors for the Town of Flower Mound Fire Control, Prevention, and Emergency Medical Services District to consider approval of a resolution amending the Town of Flower Mound Fire Control, Prevention, and Emergency Medical Services District budget for the fiscal year beginning on October 1, 2023, and ending on September 30, 2024, as adopted by Resolution No. 22-23.
 17. PY 2022 CDBG CAPER - Consider approval of a resolution authorizing the adoption of the Program Year 2022 Consolidated Annual Performance & Evaluation Report for the Community Development Block Grant; and authorization for the Mayor to execute same on behalf of the Town and submit to the U.S. Department of Housing and Urban Development.
 18. Oak Street Lift Station - CoServ Transformer Upgrade - Consider the approval of a proposal from CoServ Electric for an electric transformer upgrade at the Oak Street Lift Station in the amount of \$61,206.65.
 19. CoServ Gas Rate Case Denial - Consider approval of a resolution authorizing the Town to join with the Steering Committee of Cities Served by CoServ Gas, Ltd. to deny CoServ Gas's application for approval to amend its gas rates.
 20. PSA Hillside Ln Reconstruction Project - Consider approval of a Professional Services Agreement with Alliance Geotechnical Group to provide construction materials engineering and testing for the Hillside Lane Reconstruction project, in the amount of \$30,025.00; and authorization for the Mayor to execute same on behalf of the Town.
 21. Annual Standards of Care Ordinance Update - Consider approval of Standards of Care for Youth Recreation Programs operated by the Town, in accordance with the Texas Human Resources Code-Section 42.041 and to adopt an Ordinance providing for said Standards. (The Parks Board recommended approval by a vote of 6 to 0 at its November 2, 2023 meeting).
 22. Roof Repair - FD (Station 1) - Consider the approval of the PMR Roofing proposal for the replacement of a section of standing seam roof at Fire Station 1, utilizing TIPS contract number 22010702 in the amount of \$112,200.
 23. Gas Well Pad Site Monitoring PSA - Consider approval of a Professional Services Agreement for gas well pad site monitoring by Modern Geosciences, LLC, in the amount of \$41,600.00; and authorization for the Mayor to execute same on behalf of the Town.

K. REGULAR ITEM(S)

1. Proposed Charter amendments - Discuss and consider proposed Charter amendments as presented by the Charter Review Commission (final report)
2. Green Waste Program Options - Consider and discuss green waste program options presented by Republic Services.
3. SUP23-0005 – Long Prairie Golf Everywhere - Public Hearing to consider an ordinance granting Specific Use Permit No. 487 (SUP23-0005 – Long Prairie Golf Everywhere) to permit an amusement and recreation (indoors) use. The

- property is generally located north of Aberdeen Drive and east of Long Prairie Road. (PZ recommended approval by a vote of 6 to 0 at its November 13, 2023, meeting.)
4. Z20-0005 - The River Walk at Central Park - Public Hearing to consider an ordinance for rezoning (Z20-0005 - The River Walk at Central Park) to amend the development standards for The River Walk at Central Park related to Article II - Uses and Article XI - Signage and to update the Concept Ground Sign Location exhibit. The property is generally located north of Cross Timbers Road, west of Morriss Road, and east of Long Prairie Road. (On Oct 23, 2024, at the request of the applicant, PZ tabled this item to its Nov 13, 2023, meeting by a vote of 6 to 0.) (PZ recommended approval by a vote of 5 to 1 at its Nov 13, 2023, meeting) *(Applicant requests this item be postponed to Dec 18)*
 5. Z23-0002 - The River Walk at Central Park, Promenade Way - Public Hearing to consider an ordinance for rezoning (Z23-0002 - The River Walk at Central Park, Promenade Way) to amend the development standards for The River Walk at Central Park related to Article II - Uses to propose standards for Extended Stay Hotel and to update the conceptual plan exhibits. The property is generally located north of Cross Timbers Road, west of Morriss Road, and east of Long Prairie Road. (PZ recommended approval by a vote of 4 to 2 at its Nov 13, 2023, meeting.) *(Applicant requests this item be postponed to Dec 18)*
 6. Purchase of a Fire Apparatus - Consider approval of the purchase of a Pierce Aerial Fire Apparatus from Siddons Martin, through BuyBoard Contract #651-21, in the total amount of \$1,483,301.30 ; and authorization for the Mayor to execute same on behalf of the Town.
 7. Reinsurance Contract (Health Plan) - Consider approval of a reinsurance contract for the Town's Group Health Plan with Blue Cross and Blue Shield of Texas in the amount of \$3,042,698; and authorization for the Mayor to execute the same on behalf of the Town.
 8. Glen Chester Lift Station Rehabilitation Construction Award - Consider approval of a Construction Agreement with Red River Construction Company for the Glen Chester Lift Station Rehabilitation project, in the amount of \$1,581,300.00; and authorization for the Mayor to execute same on behalf of the Town.
 9. Consider and discuss options for the Sunrise Circle - Consider and discuss options for the Sunrise Circle wastewater connection project along with feedback received during community meetings regarding zoning, on-site septic facilities, and financial assistance (Public Comment for this item will be heard at the time opened).

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.

1. Historical Commission - Discuss and consider the establishment of a Historical Commission or other alternatives.

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, cultural arts, public safety, 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, health care facilities, performance related to certain incentive agreements, and Tax Increment Reinvestment Zone (TIRZ) #1, TIRZ #2, River Walk PID No. 1, Proposed PID, MMDs, and MUDs.

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: December 1, 2023, at 3:05 p.m., at least 72 hours prior to the scheduled time of said meeting.

Theresa Scott, Town Secretary

The Flower Mound Town Hall and Jody Smith Hall are wheelchair accessible. Requests for 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](#).

Town Council Regular Meeting and Work Session



November 16, 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 (Remotely)

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
Matt Woods, Director of Environmental Services

B. INVOCATION

Chaplain Plunk gave 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. 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

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.	Lindsay Ayers, 314 Catlin Cir, Highland Village	SP23-0005 Village Church
2.	Matt Clay, 137 Red Oak Ln	SP23-0005 Village Church
3.	Mike Ponds, 5900 Southern Hills	SP23-0005 Village Church
4.	Dorothy Ponds, 5900 Southern Hills*	SP23-0005 Village Church
5.	Joe Bernard, 10605 Sunrise Cir	Sunrise Circle sewage infrastructure
6.	Matt Hurst, 4153 Meadowview Dr, Argyle	Sunrise Circle sewage infrastructure
7.	Dana Ellsworth, 1419 Limerick Ct, Keller	Sunrise Circle sewage infrastructure

* Indicates person did not wish to speak

E. CLOSED MEETING

The Town Council convened into a closed meeting at 6:22 p.m. on November 16, 2023, pursuant to Texas Government Code Chapter 551.071 for consultation with the town attorney and reconvened at 7:21 p.m.

1. Consultation with Town Attorney.

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

F. CONSENT ITEM(S)

ACTION: Jim Engel moved to approve Consent items 1 - 6 as presented in the agenda caption. Chris Drew seconded the motion.

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

NAYS: None

ABSTAIN: None

RESULT: 5 : 0

1. Minutes 11/6 - Consider approval of the minutes from a regular meeting held on November 6.
2. Handyman Contract - Consider approval to increase the contract for Handyman services from \$250,000 to \$350,000.
3. Stoval Contractor for FS1 - Consider the approval of a proposal from Stoval Commercial Contractors LLC for the Central Fire Station (Fire Station One) crew renovation in the amount of \$103,296.40. The proposal is submitted per the BuyBoard Contract.
4. Town Facilities Custodial Supplies - Consider approval to increase the annual amount utilizing the City of Mesquite's bid #2020-027 with Master Cleaning Supply, Inc. to provide additional custodial supplies for all Town facilities from an estimated annual amount of \$80,000 to \$147,000.
5. Gerault Park Improvements - Consider approval of a Construction Agreement with Cole Construction, Inc., for the Gerault Park Improvements project, in the amount of \$448,114.00; and authorization for the Mayor to execute the same on behalf of the Town.
6. Tealwood Oaks Park Improvements - Consider approval of a Construction Agreement with 2L Construction, LLC, for the Tealwood Oaks Park Improvements project, in the amount of \$491,706.00; and authorization for the Mayor to execute the same on behalf of the Town.

G. WORK SESSION ITEM

Presentations and discussions on:

The previously posted work session item (sign ordinance) will be rescheduled and the other item (special events ordinance) is no longer needed.

1. Public Improvement Districts

Mr. Childers provided background information, noting that tonight is an educational opportunity on the topic of a PID, and he introduced Mary Petty, P3 Works, who gave a presentation identifying or noting:

- introduction to Public Improvement Districts (PID)
- big picture consideration
- who does the Town have on their team
- types of PIDs
- how does a PID work
- how is a PID created
- Town benefits
- Town obligations for PIDs

- financial implications for the Town
- weighing PID benefits/challenges
- PID unique characteristics
- Town-specific steps to request a PID
- Town Charter and application process

and she responded to questions from Council regarding:

- how unpaid assessments are handled
- how the PID works with a TIRZ
- when would the math information come
- process timeline
- what type of disclosures are made available (so people are aware of the PID and that additional assessment)
- who collects the taxes
- why there isn't a line item for the PID assessment on the tax bill of the current PID
- clawbacks or conditions that can be put in place and tied to performance measures
- phased approach
- kinds of bonds
- who are the investors (that may get refunded)
- how many cities P3 administers PIDs for

Mr. Childers pointed out that staff recently received the PID application and it's being reviewed, and a future agenda item will be coming in December to discuss further. He noted that the applicant would be available at that time.

H. REGULAR ITEMS

The Charter Review Commission report previously scheduled for this agenda has been rescheduled to December 4.

1. Consider a request for a Site Plan (SP23-0005 – Th - Consider a request for a Site Plan (SP23-0005 – The Village Church Expansion) to expand an existing church, with an exception to the Architectural Standards of the Town's Urban Design Plan for meritorious design, a request for additional height pursuant to Section 98-1031(d) Additional height, of the Code of Ordinances and a request for a deviation to the required parking standards pursuant to Section 82-73 of the Code of Ordinances. The property is generally located south of Justin Road and east of Morriss Road. (PZ recommendation will be available in the packet on or before Nov. 16)

Ms. Murphy gave a presentation identifying or noting:

- general and detailed location
- land use and zoning
- site plan

- exception requests (meritorious design)
- deviation request
- site photos
- landscape plan
- elevations

and she responded to questions from Council regarding:

- past Council approval examples for additional parking

Applicant Presentation

Randi Rivera, McAdams

Ms. Rivera gave a presentation identifying or noting:

- aerial photo
- overall campus bird's eye view
- multi-purpose venue
- front door and outdoor space
- expanded lobby
- site plan rendering
- elevations

and she responded to questions from Council regarding:

- outreach meetings with the neighbors
- construction timeline and the associated impact

Council Discussion

There was Council discussion regarding:

- the benefit of the structured parking
- what's proposed would revitalize this area
- lighting standards
- concerns about people having to walk across FM 407 the way it is now

ACTION:	Adam Schiestel moved to approve H.1. as presented in the agenda caption. Ann Martin seconded the motion.
AYES:	Ann Martin, Jim Engel, Adam Schiestel, Brian Taylor, Chris Drew
NAYS:	None
ABSTAIN:	None
RESULT:	5 : 0

2. Public Hearing to consider an ordinance granting S - Public Hearing to consider an ordinance granting Specific Use Permit No. 488 (SUP23-0006 – Morriss Road Assembly Hall) to permit an assembly hall use. The property is generally located west of Morriss Road and south of Littlejohn Court. (PZ recommendation will be available in the packet on or before Nov 16.)

Ms. Murphy gave a presentation identifying or noting:

- general and detailed location
- land use and zoning
- site plan
- site photos
- landscape plan
- elevations
- SUP conditions

and the applicant (Gautam Kota, A3K Properties, LLC) responded to questions from Council regarding:

- how would the maximum number of attendees be enforced

Mayor France opened the public hearing at 8:50 p.m. No one spoke. Mayor France closed the public hearing at 8:50 p.m.

ACTION:	Adam Schiestel moved to approve H.2. as presented in the agenda caption. Jim Engel seconded the motion.
AYES:	Ann Martin, Jim Engel, Adam Schiestel, Brian Taylor, Chris Drew
NAYS:	None
ABSTAIN:	None
RESULT:	5 : 0

ORDINANCE NO. 51-23

AN ORDINANCE OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING THE OFFICIAL ZONING MAP, EXHIBIT "A" OF SUBPART B, "LAND DEVELOPMENT REGULATIONS," OF THE CODE OF ORDINANCES, TOWN OF FLOWER MOUND, TEXAS, BY APPROVING SPECIFIC USE PERMIT NO. 488 (SUP-488) FOR AN ASSEMBLY HALL USE ON CERTAIN PROPERTY DESCRIBED AS APPROXIMATELY 0.94 ACRES OF LAND AND BEING ALL OF LOT 6, BLOCK 1 OF THE MORRISS COMMONS ADDITION, COMMONLY KNOWN AS 2041 MORRISS ROAD, AND ZONED PLANNED DEVELOPMENT DISTRICT NO. 84 (PD-84) FOR R-2 RETAIL DISTRICT-2 USES; PROVIDING THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.

3. Public Hearing to consider an ordinance for amendi - Public Hearing to consider an ordinance for amending the zoning (CON23-0001 – FM 1171 Conservation Development) from Interim Holding (IH) and Agricultural (A) uses to Planned Development District No. 196 (PD-196) with Agricultural (A) uses for a conservation development with certain exceptions, modifications, and waivers to the Code of Ordinances. The property is generally located north of Cross Timbers Road and east of U.S. Hwy 377. (PZ recommendation will be available in the packet on or before Nov 16.)
- Mayor France opened items 3 and 4 at the same time.

Ms. Murphy gave a presentation identifying or noting:

- general and detailed location
- land use and zoning
- overall concept plan
- meeting dates (neighborhood meetings and outreach program)
- exceptions and modifications (topographical slope; 200-foot scenic corridor setback; agricultural district dimensional regulations)
- site photos
- conceptual site plan, open space plan
- tree survey

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

- slope
- lot coverage percentage
- trees (penalties, condition of existing trees, why ECC denied the trees they did)
- grading
- when is the entitlement for metal needed

Applicant Presentation

Randi Rivera, Jameson Pinson, McAdams
Greer McDowell, Hines Development

Ms. Rivera gave a presentation identifying or noting:

- existing conditions
- conservation ordinance updates
- concept plan
- lot standards
- subdivision entrance design and size
- trail system
- Parks and ECC Board recommendations
- open space management plan
- specimen trees

- slopes

and she, Mr. Pinson, or Mr. McDowell, responded to questions from Council regarding:

- signage: use of metal/fonts and size
- conservation standards
- sign face
- screening versus vista
- 35% lot coverage (intent)
- accessory structures (types)
- slope impacts
- retaining walls
- fencing
- use of a turn lane
- tree preservation

Council Discussion

There was Council discussion regarding:

- 25% and 35% lot coverage
- concerns regarding the large monument entrance sign proposed at the bottom of the hill (doesn't allow for the scenic vista of the natural hills and vegetation)
- how the project meets the conservation ordinance requirements, but not the spirit
- possibility of postponing the item to a future date

Mayor France opened the public hearing for items 3 and 4 at 9:55 p.m. No one spoke. Mayor France closed the public hearing for items 3 and 4 at 9:55 p.m.

ACTION:	Ann Martin moved to postpone items H.3. and H.4 to a future date as determined by the applicant. Jim Engel seconded the motion.
AYES:	Ann Martin, Jim Engel, Adam Schiestel, Brian Taylor, Chris Drew
NAYS:	None
ABSTAIN:	None
RESULT:	5 : 0

4. TRP23-0017 – FM 1171 Conservation Development - Public Hearing to consider an application for a tree removal permit (TRP23-0017) for eighteen (18) specimen trees on property proposed for development as FM 1171 Conservation Development. The property is generally located north of Cross Timbers Road

and east of U.S. Highway 377. (The Environmental Conservation Commission recommended denial of specimen trees #'s 10, 632, 1274 and 1275 and approval of the remaining fourteen (14) specimen trees proposed for removal by a vote of 6-0-0 at its October 3, 2023, meeting).

Mayor France opened the public hearing for items 3 and 4 at 9:55 p.m. No one spoke. Mayor France closed the public hearing for items 3 and 4 at 9:55 p.m.

Council action was taken with item H.3 to postpone to a date as determined by the applicant.

I. BOARDS/COMMISSIONS

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

No action taken.

J. ADJOURN

Mayor France adjourned the meeting at 10:16 p.m. on November 16, 2023, and all were in favor.

TOWN OF FLOWER MOUND, TEXAS

DEREK FRANCE, MAYOR

ATTEST:

THERESA SCOTT, TOWN SECRETARY



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

DATE: December 4, 2023
FROM: Blake Hummel, Senior Project Engineer
ITEM: **Consider approval of a Professional Services Agreement with ECS Southwest, LLP, to provide subsurface exploration and geotechnical engineering services, for the Lakeside Parkway Capacity Improvements project, in the amount of \$38,855.00; and authorization for the Mayor to execute same on behalf of the Town.**

BACKGROUND: The Professional Service Agreement includes subsurface exploration and geotechnical engineering services for the Lakeside Parkway Capacity Improvements project.

The proposed Professional Service Agreement with ECS Southwest, LLP authorizes onsite borings and collection of subgrade material along the alignment of Lakeside Parkway to be performed within the project limits. The material collected will be laboratory tested to prepare an engineering report with recommendations for subgrade treatment and pavement design. These recommendations will be used to prepare bid item specifications for the project to increase Lakeside Parkway from two lanes each way to three lanes each way along with various panel replacements of existing damaged street paving.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES: A decision not to approve the Professional Services Agreement for subsurface exploration and geotechnical engineering services would remove the ability of Town staff to obtain geotechnical data and design recommendations to be used in the contract specifications for the proposed pavement cross section and panel replacements.

FISCAL IMPACT: \$38,855.00

Proposed Expenditure/(Revenue)
\$38,855.00

Account Number(s):
550-117-78061-6160

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 (Internal Use)

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

THE STATE OF TEXAS §
COUNTY OF DENTON §

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

This contract is entered into on this 4th day of December, 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 **ECS SOUTHWEST, LLP**, (“hereinafter referred to as “CONSULTANT”) whose address is 2621 White Settlement Road, Fort Worth, Texas 76107

RECITALS

WHEREAS, TOWN desires to obtain professional services from CONSULTANT relative to subsurface exploration, geotechnical engineering and other services for the Lakeside Parkway Capacity Improvements project; and

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

TERMS OF AGREEMENT

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

I.

Employment of Consultant

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

II.

Scope of Services

CONSULTANT shall perform such services as are necessary to provide the Lakeside Parkway Capacity Improvements project Subsurface Exploration and Geotechnical Engineering Services 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 Thirty-Eight Thousand Eight Hundred Fifty-Five and No/100 Dollars (\$38,855.00). This total payment for services includes CONSULTANT's ordinary expenses. Additional expenses and charges, which are extraordinary in nature, must be approved in advance by TOWN in writing signed by the parties. Such extraordinary expenses may be paid as incurred and billed to the TOWN pursuant to this Contract over and above the total payment amount identified in this provision. Any extraordinary expenses or charges not approved in writing in advance by the TOWN shall remain the sole responsibility of the CONSULTANT.

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

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

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

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

IV.

Revisions of the Scope of Services

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

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

V.

Term

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

VI.

Contract Termination Provision

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

VII.
Ownership of Documents

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

VIII.
Insurance

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

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

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

The following policies and coverage shall be required:

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

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

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

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

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

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

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

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

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

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

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

D. CONSULTANT agrees to the following:

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

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

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

IX. **Right to Inspect Records**

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

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

X. **Successors and Assigns**

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

XI.
CONSULTANT's Liability

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

XII.
Indemnification

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

XIII.

Independent Contractor

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

XIV.

Default

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

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

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

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

(2) The total dollar amount of this Contract.

XV.

Provisions Surviving Termination

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

XVI.

Changes

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

XVII.

Conflicts of Interest

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

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

XVIII.

Confidential Information

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

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

XIX. **Notice Information**

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

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

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

Vince Elizarde, P.E.
ECS Southwest, LLP
2621 White Settlement Road
Fort Worth, TX 76107
214-952-9437 Telephone
velizarde@ecslimited.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. Situs of this Contract is agreed to be Denton County, Texas, for all purposes, including performance and execution.

XXI.
Non-Discrimination

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

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

XXII.
Arbitration

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

XXIII.
No Waiver of Governmental Immunity

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

XXIV.
Severability

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

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

XXV.
Remedies

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

XXVI.
Entire Agreement

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

XXVII.
Non-Waiver

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

XXVIII.
Headings

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

XXIX.
Venue

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

XXX.
No Third Party Beneficiary

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

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

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

THE TOWN OF FLOWER MOUND, TEXAS

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

Date Signed: _____

Attest:

Town Secretary

**CONSULTANT:
ECS SOUTHWEST, LLP**

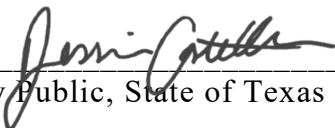
By: 
Name: Vince Elizarde, P.E.
Title: Vice President, Office Manager
Date Signed: 11/01/2023

State of Texas §

County of Dallas §
 §

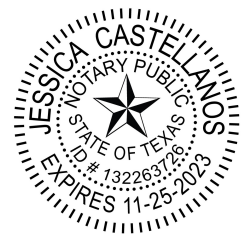
This instrument was acknowledged before me on the 1st day of
November 2023, by Vince Elizarde in his capacity as
Vice President, Office Manager of ECS Southwest, a LLP Corporation, known to
me to be the person whose name is subscribed to the foregoing instrument, and
acknowledged that he executed the same on behalf of and as the act of
ECS Southwest LLP.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS THE 1st
DAY OF November, 2023.


Notary Public, State of Texas

My Commission Expires:

11/25/2023





ECS Southwest, LLP

Scope and Fee for Subsurface Exploration and Geotechnical Engineering Services

Lakeside Parkway Roadway Improvements

From FM 2499 to SH 121
Flower Mound, Texas

ECS Proposal 63:3077-GP (Rev.1)

October 18, 2023





October 18, 2023

Blake Hummel, P.E., C.F.M.
Senior Project Engineer
Town of Flower Mound
2121 Cross Timbers Road
Flower Mound, TX 75028

Reference: Scope and Fee for Subsurface Exploration and Geotechnical Engineering Services
Lakeside Parkway Roadway Improvements
From FM 2499 to SH 121
Flower Mound, Texas

ECS Proposal No. 63.3077-GP (Rev.1)

As requested, ECS Southwest, LLP (ECS) is pleased to be selected to present the following scope and lump sum fee for providing subsurface exploration and geotechnical engineering services for the referenced roadway improvement project. In preparing this scope and fee, we have reviewed the geotechnical information we have in the vicinity, and the site plan sets provided by the client dated October 4, 2023.

PROJECT BACKGROUND

Existing Site Conditions:

The project site is located at the existing Lakeside Parkway from FM 2499 to SH 121 in Flower Mound, Texas. ECS did not visit the site during proposal preparation. Based on Google Earth Lakeside Parkway is generally a two-lane divided concrete pavement roadway with some dedicated turn lanes.

Project Description:

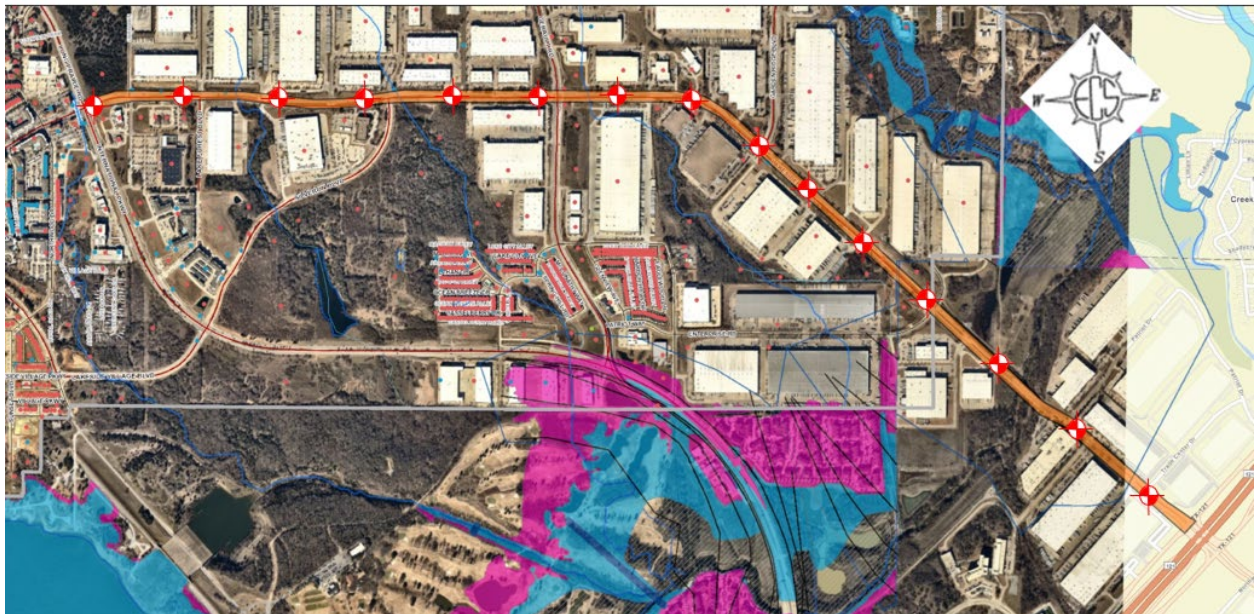
Based on the information provided by the client on October 4, 2023, we understand the project will consist of the design and construction of Lakeside Parkway expansion from 2-lanes each direction to 3-lanes each direction between FM 2499 and SH 121 for approximately 15,000 linear feet along Lakeside Parkway. The additional lanes are planned to be located in the existing median. In addition, isolated panel repairs of the existing concrete pavement are also planned. We assume that the final site grades will be within 2 feet of the existing grades.

SCOPE OF SERVICES

In order to evaluate the subsurface conditions for the proposed development, a subsurface exploration consisting of a series of soil borings will be performed. Our integrated services will include providing traffic control while drilling soil borings and drilling borings by drilling crews based on instructions provided by ECS. Our services will also include laboratory testing of representative soil samples, and engineering analyses presented in a site-specific engineering report.

As requested, we will perform 20 borings at this site (15 borings will be along Lakeside Parkway with 1,000 lf spacing and five borings are optional) for the proposed roadway improvements. The borings

will be extended to the proposed depths unless auger refusal causes them to be terminated at a shallower depth. It is our understanding that no other structural features such as utility improvements, culvert crossing, bridge improvements are planned under this scope. Additional scope and fee can be prepared if additional design information for structure improvements is needed. Upon completion of drilling operations, the samples will be returned to our laboratory in Fort Worth, Texas for further identification and testing. Please see below for the proposed boring locations for 15 borings (5 optional boring locations will be fixed during actual work):



Approximate Pavement Boring Locations

Field Exploration

Our field exploration will include:

- Field locate borings by handheld GPS unit. Elevations will be interpolated from civil drawings or referenced from published topographical maps.
- Mobilize a truck mounted drilling rig to the site.
- Perform twenty (20) borings. All borings will be drilled within the proposed pavement right-of way area to a depth of about 10 feet below existing site grades.
- Obtain representative soil samples by means of the split-barrel and Shelby tube sampling procedures in accordance with ASTM Specifications D-1586 and D- 1587, respectively.
- Texas Cone Penetrometer tests will be performed to evaluate the load carrying capacity of the bedrock encountered in the borings. These tests will be performed in general accordance with test method Tex-132-E in the Texas Department of Transportation (TxDOT) Manual of Testing Procedures.
- Measure the depth of groundwater at each boring at the time of drilling and prior to backfilling.

Laboratory Testing

Laboratory testing of representative soil samples will be performed to determine physical and engineering properties of the soil. The laboratory testing will include the following:

- Moisture content
- Atterberg limits
- Passing No. 200 sieve
- Swell
- California Bearing Ratio (CBR)
- Standard Proctor
- Soluble Sulfate
- Lime-pH Series
- Lime-PI Series

Engineering Report

Upon completion of the field exploration, laboratory testing, and engineering analyses, we will prepare a written engineering report that will coordinate recommendations with previous geotechnical information and will include:

- a. A review of published soils mapping and/or geologic information.
- b. Observations from our site reconnaissance and personnel on the drill rig, including current site conditions, surface drainage features, and surface topographic conditions, and/or available satellite imagery.
- c. A description of the field exploration and laboratory tests performed.
- d. Final logs of the soil borings in accordance with industry standard practices for geotechnical engineering. A Boring Location Plan will be included.
- e. The results of the laboratory tests will be plotted on the final exploration logs and/or included on separate test report pages.
- f. Recommendations for preparation of subgrade for pavements.
- g. Recommendations regarding preparation of existing soils (native or otherwise) including recommendations regarding undercut and backfill.
- h. Pavement design recommendations according to the Town of Flower Mound or similar agency. Traffic data for pavement analysis will be provided by the client or others.
- i. Testing and recommendations for pavement design related to sulfates.
- j. Recommendations regarding surface and subsurface drainage, during and after construction.

UTILITY CLEARANCE

Per state law, we will contact Texas 811 to locate underground utilities at the site. Typically, Texas 811 will not locate utilities beyond the point of distribution meters. The risk of hitting utilities that Texas 811 did not mark can be reduced by engaging a private utility locating service. The risks include hitting electric lines, electrocution, gas explosions, loss of services to businesses, and fiber optic lines can result in tremendous costs for lost business, interruption of service, and repair along with potential legal liability.

Since the area is developed, private utility locate is included in the scope. Private utility locator services can identify utilities that incorporate significant iron content in the conduit materials. However, utilities that are more difficult to detect are utilities without significant ferrous (iron) content which includes most sanitary sewer alignments, copper or PVC water lines, fiber optic lines without tracer ribbons, copper electric lines with no surface exposure, drainage tiles/pipes, irrigation lines, etc.

Using a private utility locator does not guarantee that all utilities will be identified. However, this service lowers the risk and potential liability of the client, while also protecting the safety of our field exploration crews.

We will coordinate our exploration locations around marked utilities, and utilities pointed out to us by the owner/client. However, we will not be responsible for any utilities not marked or not pointed out to us by the landowner or client.

SITE DEPARTURE CONDITIONS

Upon completion of subsurface exploration drilling, we will backfill each of the excavations with the excavated soil and mound the excess spoils back up over the test location. In pavement areas, the borings will be patched with early strength concrete. Typically, we will not provide site repairs beyond what is outlined above unless specifically contracted. Alternatively, we will remove excess spoils from job sites and dispose of them in an approved manner for a negotiated fee.

Please note that some disturbance to off-pavement, gravel covered, grass covered areas, including the possible cutting of trees, running over of brush and understory in wooded areas might occur. We will attempt to limit such disturbance; however, we have not budgeted for site repairs including filling of tire ruts, seeding of lawn areas, replacement of bushes or the planting of trees, etc. If necessary, additional site repairs can be provided at an additional cost.

FEE

ECS will provide our services on a lump sum basis in accordance with the fees depicted on the detailed "Cost Estimate" below. We have provided a total-fee estimate based on the scope of services described above. The estimated cost associated with the scope of services identified above is as follows:

	QTY.		TOTAL UNIT	UNIT RATE	COST
Field Exploration:					
Soil Boring and Utility Coordination	24	hours		\$85.00 / hr.	\$2,040.00
ROW Permit	1	lump sum		\$1,000.00 each	\$1,000.00
Private Utility Locates	1	lump sum		\$1,500.00 each	\$1,500.00
Drill Rig Mobilization (Truck)	1	lump sum		\$2,000.00 each	\$2,000.00
Field Logging	30	hours		\$95.00 / hr.	\$2,850.00
Drilling Borings (0'-10')	20	borings	10 lf. each	\$22.00 /lf.	\$4,400.00
Bulk Sampling	1	lump sum		\$500.00 each	\$500.00
Cleaning, backfill and patching	20	each		\$80.00 each	\$1,600.00
Traffic Control Plan	1	each		\$900.00 each	\$900.00
Traffic Control	3	days		\$2,750.00 each	\$8,250.00
Field Exploration Subtotal:					\$25,040.00
Laboratory Testing:					
Moisture Content Testing	40	tests		\$10.00 /sample	\$400.00
Atterberg Limits Tests	30	tests		\$85.00 /test	\$2,550.00
Gradation (fines)	20	tests		\$45.00 /test	\$900.00
Swell	15	tests		\$90.00 /test	\$1,350.00
Sulfate	20	tests		\$90.00 /test	\$1,800.00
Lime-pH Series	2	test		\$175.00 /test	\$350.00



Lime-PI series	2	test	\$375.00	/test	\$750.00
California Bearing Ratio (CBR)	1	test	\$540.00	/test	\$540.00
Standard/Modified Proctor	1	test	\$175.00	/test	\$175.00
Laboratory Testing Subtotal:					\$8,815.00
Engineering Services:					
Engineering Report	1	lump sum	\$5,000.00	each	\$5,000.00
Engineering Services Subtotal:					\$5,000.00
ESTIMATED TOTAL COST:					\$38,855.00

Our fee assumes that the site is accessible to a truck-mounted drill rig. If additional services are requested or required based on differing site conditions, we will contact you for verbal and written authorization to proceed with the additional services.

SCHEDULE

We have assumed that the client will assist in accessing the site (with the current site owners/occupants). We anticipate being able to mobilize to the site within two to three weeks after authorization to proceed, notification that on-site personnel if any has been made, and upon clearing utilities. If Town of Flower Mound permit is required for drilling, client will be assisting us with the permit application.

Our ability to access the site and perform the field exploration may be impacted by precipitation, excessive temperatures, or other atmospheric conditions. Field exploration will be performed during normal business hours Monday through Friday. If work needs to be performed at night work or on weekends, there will be an additional fee.

We anticipate that the ROW permit process will take about 2 weeks. Drilling operations will require about three to four days. The laboratory testing will require about 2 weeks followed by our engineering analyses. For time budget purposes, the entire scope should take about 6 to 8 weeks from initial authorization through final report submission. If there is a specific due date for the report, please let us know.

Verbal comments on findings can be provided within one week of completion of the borings, if requested.

CLOSING

If other services are required because of unexpected field conditions, or because of a request for additional services, they will be invoiced in accordance with a negotiated fee. Before modifying or expanding the extent of our exploration program, we will contact you for your review and authorization.

Our insurance carrier requires that we receive written authorization prior to initiation of work, and a signed contract prior to the release of any work product. This letter is the agreement for our services.

Your acceptance of this proposal may be indicated by signing and returning a copy of this proposal to us.



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

Respectfully submitted,

ECS SOUTHWEST, LLP



Ishtiaque Hossain, Ph.D., P.E.
Geotechnical Department Manager



Teng Li, Ph.D., E.I.T.
Geotechnical Staff Project Manager



Michael Batuna, P.E.
Principal Engineer

Enclosures: Proposal Acceptance Form
 Terms and Conditions



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

DATE: December 4, 2023

FROM: Lynda Bolitho, Director of HR

ITEM: **Consider approval of an updated agreement with NEOGOV to provide applicant tracking, onboarding, and electronic performance evaluation software, and authorization for the Mayor to execute same on behalf of the Town.**

BACKGROUND: The Town of Flower Mound has been in partnership with NEOGOV since 2009. NEOGOV provides software solutions for applicant tracking, onboarding of new employees, and electronic performance evaluations. They are the leading software provider for these services for local governments. We have recently been notified that they have updated their 2009 agreement. The 2023 agreement provides additional language clarification. There are no significant changes to our ongoing relationship, specifically in the terms of the agreement and the cost. This is the first update to the 2009 agreement and, since that time, the total cost of the agreement has exceeded the Town Manager's signing threshold. Therefore, the Mayor is required to sign this update. Continuing our partnership with NEOGOV will allow the Town to provide the best experience possible for our applicants and employees in the area of hiring, promotions, and evaluations.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES:

FISCAL IMPACT: N/A

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

ATTACHMENTS:

1. Services Agreement 2023

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

SERVICES AGREEMENT

V040123

You agree that by placing an order through a NEOGOV standard ordering document such as an “Order Form”, “Service Order,” “Ordering Document,” “SOW” or other document mutually agreed by the parties detailing the services, pricing and subscription term (each, an “Order Form” for purposes of this Agreement), you agree to follow and be bound by the terms and conditions set forth herein. “Governmentjobs.com”, “NEOGOV”, “we”, and “our” means Governmentjobs.com, Inc. (D/B/A/ NEOGOV), for and on behalf of itself and its subsidiaries PowerDMS, Inc., Cuehit, Inc., Ragnasoft LLC (D/B/A/ PlanIT Schedule), and Design PD, LLC (D/B/A Agency360) (collectively, “NEOGOV” and, where applicable, its other affiliates; “Customer”, “you”, “your” means the NEOGOV client, customer, and/or the subscriber identified in the Order Form).

“Services Agreement” or the “Agreement” shall be used to collectively refer to this NEOGOV Services Agreement, documents incorporated herein including the applicable Order Form, each Addendum (as applicable), and Special Conditions (if any). “Addendum” means each Addendum set forth either as an Exhibit hereto or otherwise made available at <https://www.neogov.com/service-specifications> (the “NEOGOV Site”) and, as applicable, made a part of this Agreement. “Special Conditions” means individually negotiated variations, amendments and/or additions to this Service Agreement of which are either drafted, or incorporated by reference, into the Order Form.

1. **Provision of Services.** Subject to the terms of this Agreement NEOGOV hereby agrees to provide Customer with access to its SaaS Applications and Professional Services (each defined below) included or ordered by Customer in the applicable Order Form (collectively referred to as the “Services”). Customer hereby acknowledges and agrees that NEOGOV’s provision and performance of, and Customer’s access to, the Services is dependent and conditioned upon Customer’s full performance of its duties, obligations and responsibilities hereunder. This Agreement entered into as of the earlier of: (i) date of your signature on an applicable Order Form; or (ii) use of the Services commences (the “Effective Date”). The Agreement supersedes any prior and contemporaneous discussions, agreements or representations and warranties.
2. **SaaS Subscription.**
 - a) **Subscription Grant.** “SaaS Applications” means each proprietary NEOGOV web-based software-as-a-service application that may be set forth on an Order Form and subsequently made available by NEOGOV to Customer, and associated components as described in any written service specifications made available to Customer by NEOGOV (the “Service Specifications”). Subject to and conditioned on Customer’s and its Authorized Users’ compliance with the terms and conditions of this Agreement, NEOGOV hereby grants to Customer a limited, non-exclusive, non-transferable, and non-sublicensable right to (i) onboard, access and use, and to permit Authorized Users to onboard, access and use, the SaaS Applications specified in the Order Form solely for Customer’s internal, non-commercial purposes; (ii) generate, print, and download Customer Data as may result from any access to or use of the SaaS Applications; and (iii) train Authorized Users in uses of the SaaS Applications permitted hereunder (these rights shall collectively be referred to as the “SaaS Subscription”). “Authorized Users” means (1) Customer employees, agents, contractors, consultants (“Personnel”) who are authorized by Customer to access and use the Services under the rights granted to Customer pursuant to this Services Agreement and (2) for whom access to the Services has been purchased hereunder. You shall not exceed the usage limits (if any) as detailed in the user tier in the applicable Order Form. You may not access the SaaS Applications if you are a direct competitor of NEOGOV or its affiliates. In addition, you may not access the SaaS Applications for purposes of monitoring their availability, performance, or functionality, or for any other benchmarking or competitive purposes. You shall be responsible for each Authorized User’s access to and use of the SaaS Applications and compliance with applicable terms and conditions of this Agreement.
 - b) **Subscription Term.** Unless otherwise specified in an applicable Order Form, SaaS Subscriptions shall commence on the Effective Date and remain in effect for twelve (12) consecutive months, unless terminated earlier in accordance with this Agreement (the “Initial Term”). Thereafter, SaaS Subscriptions shall automatically renew for successive twelve (12) month terms (each a “Renewal Term” and together with the Initial Term, collectively, the “Term”) unless a party delivers to the other party, at least thirty (30) days prior to the expiration of the Initial Term or the applicable Renewal Term, written notice of such party’s intention to not renew the SaaS Subscriptions, or unless terminated earlier in accordance with this Agreement. The Term for the Services is a continuous and non-divisible commitment for the full duration regardless of any invoice schedule. The purchase of any Service is separate from any other order for any other Service. Customer may purchase certain Services independently of other Services. Your obligation to pay for any Service is not contingent on performance of any other Service or delivery of any other Service.
3. **Customer Responsibilities.** Customer will not, and will ensure its Authorized Users do not (a) make any of the Services available to anyone other than Authorized Users or use any Services for the benefit of anyone other than Customer and its Authorized Users, unless otherwise agreed in writing by the parties, (b) sell, resell, license, sublicense, distribute, make

available, rent or lease any of the Services, or include any of the Services in a service bureau or outsourcing offering, unless otherwise agreed in writing by the parties, (c) use the Services to store or transmit infringing, libelous, or otherwise unlawful or tortious material, or to store or transmit material in violation of the privacy rights, publicity rights, copyright rights, or other rights of any person or entity, (d) use the Services to store or transmit code, files, scripts, agents or programs intended to do harm, including, for example, viruses, worms, time bombs and Trojan horses, (e) interfere with or disrupt the integrity or performance of the Services (including, without limitation, activities such as security penetration tests, stress tests, and spamming activity), (f) attempt to gain unauthorized access to the Services or its related systems or networks, (g) disassemble, reverse engineer, or decompile the Services, or modify, copy, or create derivative works based on the Services or any part, feature, function or user interface thereof, (h) remove the copyright, trademark, or any other proprietary rights or notices included within NEOGOV Intellectual Property and on and in any documentation or training materials, or (i) use the Services in a manner which violates the terms of this Agreement, any Order Form or any applicable laws.

4. Professional Services. “Professional Services” shall mean professional services purchased by Customer as detailed in an applicable Order Form or NEOGOV Scope of Work (SOW) describing the work to be performed, fees, and any applicable milestones, dependencies, and other technical specifications or related information. Professional Services may include training, implementation, and best practices of and concerning the SaaS Applications. Professional Services are subject to the terms of the Professional Services Addendum made available on the NEOGOV Site and made a part hereof and may be subject to additional terms pursuant to an SOW and Service Specifications describing, if applicable, the work to be performed, fees, and any applicable milestones, dependencies, and other technical specifications or related information. Order Forms or SOWs must be signed by Customer before NEOGOV shall commence work. If Customer executes a separate SOW, this Agreement and documents incorporated herein (including but not limited to the Professional Services Addendum) shall control in the event of a conflict with the terms of the SOW. All Professional Services purchased by Customer must be utilized within twelve (12) months of the date of the applicable Order Form or SOW.
5. Payment Terms.
 - a) Fees. Customer shall pay all Subscription, Onboarding and Set-Up fees (“Subscription Fees”) and Professional Service fees (“Professional Service Fees”, collectively the “Fees”) as set forth in an Order Form within thirty (30) days of the date of NEOGOV’s invoice. Fees shall be invoiced annually in advance and in a single invoice for each Term. Unless explicitly stated otherwise in an Order Form, all payments due under an Order Form are expressed in and shall be paid in U.S. dollars. Invoices shall be delivered to the stated “Bill To” party on the Order Form. Unless explicitly provided otherwise, once placed the Order Form is non-cancellable and sums paid nonrefundable. Any invoiced amount that is not received by NEOGOV when due as set forth in an Order Form will be subject to a late payment fee of 1.5% per month or the maximum rate permitted by law, whichever is lower. If any amount owing by Customer is more than 30 days overdue, NEOGOV may, without limiting its other rights and remedies, suspend the Services until such amounts are paid in full. If Subscription Fees are based upon the Authorized User or employee count as may be specified in an Order Form, Customer shall owe NEOGOV supplemental Subscription Fees to the extent Customer exceeds the number of Authorized Users or employees set forth in the Order Form. Except as otherwise specifically stated in the Order Form, NEOGOV may change the charges for the Services with effect from the start of each Renewal Term by providing Customer with new pricing at least thirty (30) day notice prior to commencement of a Renewal Term. The new pricing shall be deemed to be effective if Customer (a) returns an executed Order Form to NEOGOV, (b) remits payment to NEOGOV of the fees set forth in the invoice referencing the new pricing, or (c) the Customer or any of its Authorized Users access or use the Services after the expiration of the previous Term.
 - b) Taxes. Customer will pay all taxes, duties and levies imposed by all federal, state, and local authorities (including, without limitation, export, sales, use, excise, and value-added taxes) based on the transactions or payments under this Agreement, except those taxes imposed or based on NEOGOV’s net income or those exempt by applicable state law. Customer shall provide NEOGOV with a certificate or other evidence of such exemption within ten (10) days after the Effective Date of this Agreement and thereafter upon NEOGOV’s request therefor.
 - c) Purchase Orders. Any reference to a purchase order in an Order Form or any associated invoice is solely for Customer’s convenience in record keeping, and no such reference or any delivery of services to Customer following receipt of any purchase order shall be deemed an acknowledgement of or an agreement to any terms or conditions referenced or included in any such purchase order. If a purchase order is delivered by Customer in connection with the purchase of Services, none of the terms and conditions contained in such purchase order shall have any effect or modify or supersede the terms and conditions of this Agreement. NEOGOV’s failure to object to terms contained in any such purchase order shall not be a waiver of the terms set forth in this provision or in this Agreement.
6. Term and Termination.

- a) Term. This Agreement shall commence on the Effective Date and shall remain in effect until all SaaS Subscriptions have expired and/or both parties have achieved full performance of Professional Services, unless it is terminated earlier in accordance with this Agreement.
 - b) Termination for Cause; Effect of Termination. Either Party may terminate this Agreement immediately if the other is in material breach of this Agreement and such breach is not cured within thirty (30) days following non-breaching party's written specification of the breach. NEOGOV may suspend the Services or terminate this Agreement immediately in the event the Services or Customer's use of the Services provided hereunder pose a security risk to the Services, NEOGOV or any third party, or become illegal or contrary to any applicable law, rule, regulation, or public policy. Upon expiration or any termination of this Agreement, Customer shall cease all use and refrain from all further use of the Services and other NEOGOV Intellectual Property. Additionally, Customer shall be obligated to pay, as of the effective date of such expiration or termination, all amounts due and unpaid to NEOGOV under this Agreement. Unless otherwise specified, following 90 days after expiration or termination of the Agreement after expiration or termination of this Agreement NEOGOV may remove Customer Data from NEOGOV Services and without Customer consent or notice.
7. Audit Rights. Upon reasonable notice, NEOGOV or its agent shall have the right to audit Customer's records relating to its compliance with this Agreement. Customer shall cooperate fully with this audit. If any audit conducted under this Section indicates that any amount due to NEOGOV was underpaid, Customer shall within three (3) business days pay to NEOGOV the amount due. All expenses associated with any such audit shall be paid by NEOGOV unless the audit reveals underpayment in excess of five percent (5%), in which case Customer shall pay such expenses as well as any amount due to NEOGOV.
8. Maintenance; Modifications; Support Services. \
- a) Maintenance, Updates, Upgrades. NEOGOV maintains NEOGOV's hardware and software infrastructure for the Services and is responsible for maintaining the NEOGOV server operation and NEOGOV database security. NEOGOV may in its sole discretion, periodically modify, Update, and Upgrade the features, components, and functionality of the Services during the Term. "Update" means any update, bug fix, patch or correction of the Services or underlying NEOGOV software that NEOGOV makes generally available to its customers of the same module, excluding Upgrades. Updates are automatic and available upon Customer's next login to the Services following an Update at no additional cost to Customer. "Upgrade" means any update of the Services or underlying NEOGOV software such as platform updates, and major product enhancements and/or new features that NEOGOV makes commercially available. NEOGOV shall have no obligation to provide Upgrades to customers and retains the right to offer Upgrades free of cost or on a per customer basis at additional cost. NEOGOV shall have no liability for, or any obligations to, investments in, or modifications to Customer's hardware, systems or other software which may be necessary to use or access the Services due to a modification, Update, or Upgrade of the Services.
 - b) Program Documentation; Training Materials. "Program Documentation" shall mean all user guides, training, and implementation material, and Service descriptions provided by NEOGOV to Customer in connection with the Services. NEOGOV hereby grants to Customer a non-exclusive, non-sublicensable, non-transferable license to use, print, and distribute internally via non-public platforms, the Program Documentation during the Term solely for Customer's internal business purposes in connection with its use of the Services. Primary training of NEOGOV Services is conducted by self-review of online materials. NEOGOV's pre-built, online training consists of a series of tutorials to introduce the standard features and functions (the "Training Materials"). The Training Materials may be used as reference material by Customer Personnel conducting day-to-day activities.
 - c) Implementation. For Services requiring implementation, NEOGOV implementation supplements the Training Materials and is conducted off-site unless otherwise agreed in the Order Form. For an additional fee as detailed on an applicable Order Form, NEOGOV personnel will provide consultation on best practices for setting up the Services, answer Customer questions during the implementation period, and use commercially reasonable efforts to ensure Authorized User Admins grasp the system. The length of the implementation time is dependent on the type of Service and the Customer's responsiveness. NEOGOV is not responsible or liable for any delay or failure to perform implementation caused in whole or in part by Customer's delay in performing its obligations hereunder and, in the event of any such delay, NEOGOV may, in its sole discretion, extend all performance dates as NEOGOV deems reasonably necessary.
 - d) Support. Phone support for the Services is available to Customer Monday through Friday, excluding NEOGOV holidays. Customer may submit a request for online support for the Services 24 hours a day, seven days a week, and the NEOGOV support desk will acknowledge receipt of the request within a reasonable time. The length of time for a resolution of any problem is dependent on the type of case.
 - e) Limitations. Unless otherwise specified in the Order Form, this Agreement does not obligate NEOGOV to render any maintenance or support services that are not expressly provided herein, including, but not limited to data uploads, manual

data entry, migration services, data conversion, refinement, purification, reformatting, SQL dump, or process consultation.

9. NEOGOV Intellectual Property. NEOGOV shall exclusively own all right, title and interest in and to all pre-existing and future intellectual property developed or delivered by NEOGOV including all Services, products, systems, software (including any source code or object code) or Service Specifications related thereto, Updates or Upgrades, trademarks, service marks, logos and other distinctive brand features of NEOGOV and all proprietary rights embodied therein (collectively, the “NEOGOV Intellectual Property”). This Agreement does not convey or transfer title or ownership of the NEOGOV Intellectual Property to Customer or any of its users. All rights not expressly granted herein are reserved by NEOGOV. Other than recommendation use or as required by law, all use of NEOGOV trademarks must be pre-approved by NEOGOV prior to use. Trademarks shall include any word, name, symbol, color, designation or device, or any combination thereof that functions as a source identifier, including any trademark, trade dress, service mark, trade name, logo, design mark, or domain name, whether or not registered.
10. Data Processing and Privacy.
- a) Customer Data. “Customer Data” shall mean all data that is owned or developed by Customer, whether provided to NEOGOV by Customer or provided by a third party to NEOGOV in connection with NEOGOV’s provision of Services to Customer, including Personnel data collected, loaded into, or located in Customer data files maintained by NEOGOV. NEOGOV Intellectual Property, including but not limited to the Services and all derivative works thereof, NEOGOV Confidential Information, and Platform Data do not fall within the meaning of the term “Customer Data”. Customer exclusively owns all right, title, and interest in and to all Customer Data. Customer grants NEOGOV a license to host, use, process, display, create non-personal derivative works of, and transmit Customer Data to provide the Services. Subject to the requirements of the Local Government Records Act (Tex. Loc. Gov’t Code, subtitle C (Chap. 201 et seq.) and provided the information is not subject to a pending Public Information Act request, subpoena or other court order, NEOGOV reserves the right to delete or disable Customer Data stored, transmitted or published by Customer using the Services upon receipt of a bona fide notification that such content infringes upon the intellectual property rights of others, or if NEOGOV otherwise reasonably believes any such content is in violation of this Agreement.
 - b) Platform Data. “Platform Data” shall mean any anonymized data reflecting the access to or use of the Services by or on behalf of Customer or any user, including statistical or other analysis and performance information related to the provision and operation of the Services including any end user visit, session, impression, clickthrough or click stream data, as well as log, device, transaction data, or other analysis, information, or data based on or derived from any of the foregoing. NEOGOV shall exclusively own all right, title and interest in and to all Platform Data. Customer acknowledges NEOGOV may compile Platform Data based on Customer Data input into the Services. Customer agrees that NEOGOV may use Platform Data to the extent and in the manner permitted under applicable law. Such anonymized data neither identifies Customer or its users, nor can Customer or any its users can be derived from such data.
 - c) Data Processing Agreement. To the extent Customer uses the Services to target and collect personal information from users located in the European Union, European Economic Area, or Switzerland (the “EU”) or the United Kingdom (“UK”), or has Authorized Users accessing the Services from the EU or UK, the terms of the NEOGOV Data Processing Addendum (“DPA”) made available on the NEOGOV Site is hereby incorporated herein by reference and made part of this Agreement.
 - d) Data Responsibilities.
 - i) NEOGOV will maintain administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of the Customer Data. Those safeguards will include, but will not be limited to, measures for preventing access, use, modification or disclosure of Customer Data by NEOGOV personnel except (a) to provide the Services and prevent or address service or technical problems, (b) as compelled by applicable law, or (c) as Customer expressly permits in writing. Customer acknowledges and agrees that it is commercially reasonable for NEOGOV to rely upon the security processes and measures utilized by NEOGOV’s cloud infrastructure providers.
 - ii) Customer is solely responsible for the development, content, operation, maintenance, and use of Customer Data, including but not limited to compliance with applicable laws. NEOGOV will have no responsibility or liability for the accuracy of the Customer Data prior to receipt of such data into the Services. Without limiting the foregoing, Customer shall be solely responsible for and shall comply with all applicable laws and regulations relating to (a) the accuracy and completeness of all information input, submitted, or uploaded to the Services, (b) the privacy of users of the Services, including, without limitation, providing appropriate notices to and obtaining appropriate consents from any individuals to whom Customer Data relates; and (c) the collection, use, modification, alteration, extraction,

retention, copying, external storage, disclosure, transfer, disposal, and other processing of any Customer Data. NEOGOV is not responsible for lost data caused by the action or inaction of Customer or Authorized Users. Unless otherwise mutually agreed in writing, Customer shall not maintain any financial, health, payment card, or similarly sensitive data that imposes specific data security or data protection obligations within the Services. Customer shall provide and institute all appropriate tools and procedures required to ensure the security of its own information system and, more specifically, to prevent, detect and destroy the occurrence of any viruses.

- e) Breach Notice. NEOGOV will notify Customer of unauthorized access to, or unauthorized use, loss or disclosure of Customer Data within its custody and control (a “Security Breach”) within 72 hours of NEOGOV’s confirmation of the nature and extent of the same or when required by applicable law, whichever is earlier. Each party will reasonably cooperate with the other with respect to the investigation and resolution of any Security Breach. If applicable law or Customer’s policies require notification of its Authorized Users or others of the Security Breach, Customer shall be responsible for such notification.
 - f) Data Export, Retention and Destruction. Customer may export or delete Customer Data from the Services at any time during a Subscription Term, using the existing features and functionality of the Services. Customer is solely responsible for its data retention obligations with respect to Customer Data. If and to the extent Customer cannot export or delete Customer Data stored on NEOGOV’s systems using the then existing features and functionality of the Services, NEOGOV will, upon Customer’s written request, make the Customer Data available for export by Customer or destroy the Customer Data. If Customer requires the Customer Data to be exported in a different format than provided by NEOGOV, such additional services will be subject to a separate agreement on a time and materials basis. Except as otherwise required by applicable law, NEOGOV will have no obligation to maintain or provide any Customer Data more than ninety (90) days after the expiration or termination of this Agreement. Customer acknowledges that it is solely responsible for determining any retention requirements with respect to the Customer Data as required by applicable law and NEOGOV disclaims all liability in connection with such determination. In addition, to the extent Customer requests that NEOGOV retain Customer Data beyond the expiration of the retention period required by applicable law, rule or regulation, NEOGOV disclaims all liability in connection with retaining such Customer Data including but not limited to any claims related to loss or destruction of such Customer Data.
11. Third Party Services. The Services may permit Customer and its Authorized Users to access services or content provided by third parties through the Services (“Third Party Services”). Customer agrees that NEOGOV is not the original source and shall not be liable for any inaccuracies contained in any content provided in any of the Third Party Services. NEOGOV makes no representations, warranties or guarantees with respect to the Third Party Services or any content contained therein. NEOGOV may discontinue access to any Third Party Services through the Services if the relevant agreement with the applicable third party no longer permits NEOGOV to provide such access. If loss of access to any Third Party Services (to which Customer has a subscription under this Agreement) occurs during a Subscription Term, NEOGOV will refund to Customer any prepaid fees for such Third Party Services covering the remainder of the Subscription Term.
12. Nondisclosure.
- a) Definition of Confidential Information. “Confidential Information” means all information disclosed by a party (“Disclosing Party”) to the other party (“Receiving Party”), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. Customer’s Confidential Information includes its Customer Data. NEOGOV Confidential Information includes the NEOGOV Intellectual Property and the Services. The Confidential Information of each party includes the terms and conditions of this Agreement and all Order Forms (including pricing), as well as business and marketing plans, technology and technical information, product plans and designs, and business processes disclosed by such party. However, Confidential Information does not include any information that (a) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party, (b) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party, (c) is received from a third party without breach of any obligation owed to the Disclosing Party, or (d) was independently developed by the Receiving Party.
 - b) Obligations. The Receiving Party will: (i) use the same degree of care it uses to protect the confidentiality of its own confidential information of like kind (but not less than reasonable care); (ii) not use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement and (iii) except as otherwise authorized by the Disclosing Party in writing, limit access to Confidential Information of the Disclosing Party to those of its employees and contractors who need access for purposes consistent with this Agreement and who have signed confidentiality agreements with the Receiving Party containing protections not less protective of the Confidential Information than those herein.

- c) Exceptions. The Receiving Party may disclose Confidential Information of the Disclosing Party to the extent compelled by law to do so, provided the Receiving Party gives the Disclosing Party prior notice of the compelled disclosure (to the extent legally permitted) and reasonable assistance, at the Disclosing Party's cost, if the Disclosing Party wishes to contest the disclosure.
- d) Equitable Relief. The parties recognize and agree there is no adequate remedy at law for breach of the provisions of the confidentiality obligations set forth in this Section 12, that such a breach would irreparably harm the Disclosing Party and the Disclosing Party is entitled to seek equitable relief (including, without limitation, an injunction) with respect to any such breach or potential breach in addition to any other remedies available to it at law or in equity.

13. Representations, Warranties, and Disclaimers.

- a) Mutual Representations. Each party represents and warrants to the other party that (i) it has full power and authority under all relevant laws and regulations and is duly authorized to enter into this Agreement; and (ii) to its knowledge, the execution, delivery and performance of this Agreement by such party does not conflict with any agreement, instrument or understanding, oral or written, to which it is a party or by which it may be bound, nor violate any law or regulation of any court, governmental body or administrative or other agency having jurisdiction over it.
- b) Service Performance Warranty. NEOGOV warrants that it provides the Services using a commercially reasonable level of care and skill and in a professional manner in accordance with generally recognized industry standards for similar services.
- c) No Other Warranty. EXCEPT FOR THE EXPRESS WARRANTIES SET FORTH IN THIS WARRANTY SECTION, THE SERVICES ARE PROVIDED ON AN "AS IS" BASIS, AND CUSTOMER'S USE OF THE SERVICES IS AT ITS OWN RISK. NEOGOV DOES NOT MAKE, AND HEREBY DISCLAIMS, ANY AND ALL OTHER EXPRESS AND/OR IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NONINFRINGEMENT AND TITLE, AND ANY WARRANTIES ARISING FROM A COURSE OF DEALING, USAGE, OR TRADE PRACTICE. NEOGOV DOES NOT WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED, ERROR-FREE, OR COMPLETELY SECURE, OR THAT ANY ERROR WILL BE CORRECTED.
- d) Disclaimer of Actions Caused by and/or Under the Control of Third Parties. NEOGOV DOES NOT AND CANNOT CONTROL THE FLOW OF DATA TO OR FROM THE NEOGOV SYSTEM AND OTHER PORTIONS OF THE INTERNET. SUCH FLOW DEPENDS IN LARGE PART ON THE PERFORMANCE OF INTERNET SERVICES PROVIDED OR CONTROLLED BY THIRD PARTIES. AT TIMES, ACTIONS OR INACTIONS OF SUCH THIRD PARTIES CAN IMPAIR OR DISRUPT CUSTOMER'S CONNECTIONS TO THE INTERNET (OR PORTIONS THEREOF). ALTHOUGH NEOGOV WILL USE COMMERCIALY REASONABLE EFFORTS TO TAKE ALL ACTIONS IT DEEMS APPROPRIATE TO REMEDY AND AVOID SUCH EVENTS, NEOGOV CANNOT GUARANTEE THAT SUCH EVENTS WILL NOT OCCUR. ACCORDINGLY, NEOGOV DISCLAIMS ANY AND ALL LIABILITY RESULTING FROM OR RELATED TO SUCH EVENTS OR WITH RESPECT TO ANY THIRD PARTY SERVICES.
- e) No Medical Advice. Through certain Services, NEOGOV may make certain telehealth related information available to Customer and/or facilitate user access to telemedicine, expert medical services, and/or emergency medical services. NEOGOV is independent from healthcare providers who provide telemedicine services and is not responsible for such healthcare providers' acts, omissions or for any content or communications made by them. The Services do not provide medical advice and do not create a healthcare provider/patient relationship between Customer and NEOGOV or otherwise. Any Services, or content accessed from the Services, are for informational purposes only and do not constitute medical advice. Customer should seek professional medical advice, diagnosis, and/or treatment for any and all medical conditions, whether as a result of using Services or otherwise. NEOGOV IS NOT RESPONSIBLE OR LIABLE FOR ANY ADVICE, COURSE OF TREATMENT, DIAGNOSIS OR ANY OTHER TREATMENT OR INFORMATION THAT CUSTOMER OR ITS USERS MAY OBTAIN THROUGH THE USE OF THE SERVICES.

14. Indemnification.

- a) Customer Indemnity. To the extent permitted by applicable law, Customer will defend and indemnify NEOGOV from and against any claim, demand, suit or proceeding made or brought against NEOGOV (i) by a third party alleging that any Customer Data infringes or misappropriates such third party's intellectual property rights, (ii) in connection with Customer's violation of any applicable laws, or (iii) any claim or allegation by any third party resulting from or related to Customer's or any of its Authorized User's breach of Section 3 of this Agreement.

- b) NEOGOV Indemnity. Subject to subsections 14(b)(i) through 14(b)(iii) and 14(c) of this Section, if a third party makes a claim against Customer that any NEOGOV intellectual property furnished by NEOGOV and used by Customer infringes a third party's intellectual property rights, NEOGOV will defend the Customer against the claim and indemnify the Customer from the damages and liabilities awarded by the court to the third-party claiming infringement or the settlement agreed to by NEOGOV.
- i) Alternative Resolution. If NEOGOV believes or it is determined that any of the Services may have violated a third party's intellectual property rights, NEOGOV may choose to either modify the Services to be non-infringing or obtain a license to allow for continued use. If these alternatives are not commercially reasonable, NEOGOV may end the subscription or license for the Services and refund a pro-rata portion of any fees covering the whole months that would have remained, absent such early termination, following the effective date of such early termination.
- ii) No Duty to Indemnify. NEOGOV will not indemnify Customer if Customer alters the Service or Service Specifications, or uses it outside the scope of use or if Customer uses a version of the Service or Service Specifications which has been superseded, if the infringement claim could have been avoided by using an unaltered current version of the Services or Service Specifications which was provided to Customer, or if the Customer continues to use the infringing material after the subscription expires. NEOGOV will not indemnify the Customer to the extent that an infringement claim is based upon any information, design, specification, instruction, software, data, or material not furnished by NEOGOV. NEOGOV will not indemnify Customer for any portion of an infringement claim that is based upon the combination of Service or Service Specifications with any products or services not provided by NEOGOV. NEOGOV will not indemnify Customer for infringement caused by Customer's actions against any third party if the Services as delivered to Customer and used in accordance with the terms of the Agreement would not otherwise infringe any third-party intellectual property rights.
- iii) Exclusive Remedy. This Section provides the exclusive remedy for any intellectual property infringement claims or damages against NEOGOV.
- c) Indemnification Procedures. In order to receive the indemnities described hereunder, the indemnified party must: (i) promptly notify the indemnifying party, in writing, of any claim; (ii) cooperate reasonably with indemnifying party, at the indemnifying party's expense, in the defense and/or settlement thereof; and (iii) allow the indemnifying party to control the defense and/or settlement thereof except that the indemnifying party may not, without the indemnified party's prior written consent, enter into any settlement that does not unconditionally release the indemnified party from liability. The indemnified party shall have the right to participate in any defense of a claim and/or to be represented by counsel of its own choosing at its own expense, provided that ultimate control of such defense shall remain solely with the indemnifying party.

15. Limitations of Liability.

- a) EXCLUSION OF DAMAGES. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL EITHER PARTY BE LIABLE UNDER OR IN CONNECTION WITH THIS AGREEMENT OR ITS SUBJECT MATTER UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, AND OTHERWISE, INCLUDING FOR ANY: (a) LOSS OF PRODUCTION, USE, BUSINESS, REVENUE, OR PROFIT OR DIMINUTION IN VALUE; (b) IMPAIRMENT, INABILITY TO USE OR LOSS, INTERRUPTION OR DELAY OF THE SERVICES; (c) LOSS, DAMAGE, CORRUPTION OR RECOVERY OF DATA, OR BREACH OF DATA OR SYSTEM SECURITY; (d) COST OF REPLACEMENT GOODS OR SERVICES; (e) LOSS OF GOODWILL, LOSS OF BUSINESS OPPORTUNITY OR PROFIT, OR LOSS OF REPUTATION; OR (f) CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, ENHANCED, OR PUNITIVE DAMAGES, REGARDLESS OF WHETHER SUCH PERSONS WERE ADVISED OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES OR SUCH LOSSES OR DAMAGES WERE OTHERWISE FORESEEABLE, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.
- b) CAP ON MONETARY LIABILITY. EXCEPT FOR DAMAGES ARISING OUT OF LIABILITY WHICH CANNOT BE LAWFULLY EXCLUDED OR LIMITED, OR CUSTOMER'S OBLIGATIONS TO MAKE PAYMENT UNDER THIS AGREEMENT, THE TOTAL AGGREGATE LIABILITY OF EITHER PARTY FOR ANY AND ALL CLAIMS AGAINST THE OTHER PARTY UNDER THIS AGREEMENT, WHETHER ARISING UNDER OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, OR ANY OTHER LEGAL OR EQUITABLE THEORY, SHALL NOT EXCEED THE AMOUNT OF ALL PAYMENTS ACTUALLY RECEIVED BY NEOGOV FROM CUSTOMER IN CONNECTION WITH THIS AGREEMENT IN THE 12 MONTH PERIOD PRECEDING THE DATE OF THE EVENT INITIALLY GIVING RISE TO SUCH LIABILITY. THE EXISTENCE OF ONE OR MORE CLAIMS WILL NOT ENLARGE THE LIMIT.

16. Reimbursement of Costs in Third Party Litigation. With respect to any litigation or other court proceeding involving Customer and a third party, if any subpoena or other legally binding request related to such litigation or court proceeding is served to NEOGOV requesting copies of documents maintained by NEOGOV or otherwise requesting NEOGOV to appear as a witness in any capacity or provide testimony with respect to Customer's documentation, Customer shall reimburse NEOGOV for its out-of-pocket costs associated with compliance with such request, including but not limited to NEOGOV's reasonable attorneys' fees.
17. Text Message Communications. NEOGOV may offer Personnel the opportunity to receive text messages regarding job application or hiring process reminders, applicant status updates, or other human resource related notices. Since these text message services depend on the functionality of third-party providers, there may be technical delays on the part of those providers. NEOGOV may make commercially reasonable efforts to provide alerts in a timely manner with accurate information, but cannot guarantee the delivery, timeliness, or accuracy of the content of any alert. NEOGOV shall not be liable for any delays, failure to deliver, or misdirected delivery of any alert; for any errors in the content of an alert; or for any actions taken or not taken by you or any third party in reliance on an alert. NEOGOV cannot vouch for the technical capabilities of any third parties to receive such text messages. To the extent you utilize text messaging features, NEOGOV shall not be responsible for your use of such features, and you shall indemnify NEOGOV with respect to any damages resulting from your use including but not limited any violations of applicable law. NEOGOV MAKES NO WARRANTIES OR REPRESENTATIONS OF ANY KIND, EXPRESS, STATUTORY, OR IMPLIED AS TO: (i) THE AVAILABILITY OF TELECOMMUNICATION SERVICES; (ii) ANY LOSS, DAMAGE, OR OTHER SECURITY INTRUSION OF THE TELECOMMUNICATION SERVICES; AND (iii) ANY DISCLOSURE OF INFORMATION TO THIRD PARTIES OR FAILURE TO TRANSMIT ANY DATA, COMMUNICATIONS, OR SETTINGS CONNECTED WITH THE SERVICES.
18. Publicity. Unless otherwise provided in the applicable Order Form, NEOGOV may identify Customer as one of its customers and use Customer's logo for such purposes, subject to any trademark usage requirements specified by Customer.
19. Force Majeure. Except for Customer's payment obligations to NEOGOV, neither party shall be liable for any damages, costs, expenses or other consequences incurred by the other party or by any other person or entity for any act, circumstance, event, impediment or occurrence beyond such party's reasonable control, including, without limitation: (a) acts of God; (b) changes in or in the interpretation of any law, rule, regulation or ordinance; (c) strikes, lockouts or other labor problems; (d) transportation delays; (e) unavailability of supplies or materials; (f) fire or explosion; (g) riot, pandemic, military action or usurped power; (h) actions or failures to act on the part of a governmental authority; (i) internet service interruptions or slowdowns, vandalism or cyber-attacks, or (j) any other cause beyond the reasonable control of such party.
20. Independent Contractor; No Third Party Beneficiary; Fulfillment Partners. The relationship of the parties shall be deemed to be that of an independent contractor and nothing contained herein shall be deemed to constitute a partnership between or a joint venture by the parties hereto or constitute either party the employee or agent of the other. Customer acknowledges that nothing in this Agreement gives Customer the right to bind or commit NEOGOV to any agreements with any third parties. This Agreement is not for the benefit of any third party and shall not be deemed to give any right or remedy to any such party whether referred to herein or not. NEOGOV may designate any third-party affiliate, or other agent or subcontractor (each a "Fulfillment Partner"), without notice to, or the consent of, Customer, to perform such tasks and functions to complete any Services.
21. Entire Agreement; Amendment; Addendum. This Services Agreement, the Exhibits hereto, each Addendum (as may be applicable pursuant to the terms therein) and documents incorporated herein, the applicable Order Form, and Special Conditions (if any) constitute the entire agreement between the parties with respect to the subject matter hereof and supersede all prior or contemporaneous oral and written statements of any kind whatsoever made by the parties with respect to such subject matter. It is expressly agreed that the terms of this Agreement and any NEOGOV Order Form shall supersede the terms in any non-NEOGOV purchase order or other ordering document. Notwithstanding the foregoing, any conflict of terms shall be resolved by giving priority in accordance with the following order: 1) Special Conditions (if any), 2) NEOGOV Order Form, 3) the NEOGOV Services Agreement, and 4) incorporated documents (including the Exhibits and each applicable Addendum). This Agreement supersedes the terms and conditions of any clickthrough agreement associated with the Services. This Agreement may not be modified or amended (and no rights hereunder may be waived) except through a written instrument signed by the parties to be bound. If you are subscribing for the HRIS or PowerEngage Platform, you hereby specifically agree to the terms of the applicable Addendum set forth on the NEOGOV Site.
22. General.
- a) Governing Law and Venue. This Agreement shall be governed by and construed in accordance with the laws of the state of California, without giving effect to conflict of law rules. Any legal action or proceeding relating to this Agreement shall be instituted only in any state or federal court in Los Angeles, California.

- b) **Severability.** If any provision of this Agreement is held to be illegal or unenforceable, such provision shall be limited or eliminated to the minimum extent necessary so that the remainder of this Agreement will continue in full force and effect. Provisions that survive termination or expiration are those relating to, without limitation, accrued rights to payment, acknowledgements and reservations of proprietary rights, confidentiality obligations, warranty disclaimers, and limitations of liability, and others which by their nature are intended to survive.
- c) **Notices.** All notices or other communications required or permitted hereunder shall be in writing and shall be deemed to have been duly given either when personally delivered, one (1) business day following delivery by recognized overnight courier or electronic mail, or three (3) business days following deposit in the U.S. mail, registered or certified, postage prepaid, return receipt requested. All such communications shall be sent to (i) Customer at the address set forth in the Order Form and (ii) NEOGOV at the address specified in the applicable Order Form.
- d) **Waiver.** The waiver, express or implied, by either party of any breach of this Agreement by the other party will not waive any subsequent breach by such party of the same or a different kind. This Agreement may be executed in two or more counterparts, each of which will be deemed an original, but all of which taken together shall constitute one and the same instrument.
- e) **Electronic Delivery.** Delivery of a copy of this Agreement or an Order Form bearing an original signature by electronic mail or by any other electronic means will have the same effect as physical delivery of the paper document bearing the original signature.
- f) **Assignment.** Customer may not assign this Agreement without the express written approval of NEOGOV. Any attempt at assignment in violation of this Section shall be null and void.
- g) **Construction.** The parties intend this Agreement to be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted. The exhibits, addendum, schedules, attachments, and appendices referred to herein are an integral part of this Agreement to the same extent as if they were set forth verbatim herein.
- h) **Subcontractors.** For purposes of this Agreement, including any subsequent documentation requested by Customer pursuant to this Agreement, subcontractors are those specifically hired to provide to NEOGOV some or all of the services that are the subject of this Agreement and who will have access to Customer personal data, and does not include the general provision of services or utilities which are also provided to NEOGOV's other customers as well as Customer.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their respective duly authorized officers as of the date set forth below, and consent to the Agreement.

Customer		GovernmentJobs.com, Inc. (D/B/A/ NEOGOV), on behalf of itself and its subsidiaries PowerDMS, Inc., Cuehit, Inc., Ragnasoft LLC (D/B/A/ PlanIT Schedule), and Design PD, LLC (D/B/A Agency360)	
Entity Name:	Town of Flower Mound		
Signature:	_____	Signature:	_____
Print Name:	Derek France, Mayor	Print Name:	
Date:	December 4, 2023	Date:	

Exhibit A
Government Customer Addendum

If Customer is a Government Customer, the following Government Customer Addendum (“Government Addendum”) forms part of the Services Agreement, and in the case of any conflict or inconsistency between the terms and provisions of this Addendum and any other provision of the Services Agreement, the terms of this Government Addendum shall control. For purposes hereof, a “Government Customer” means a Customer which is a (a) U.S. Federal agency, (b) state government, agency, department, or political subdivision (including a city, county or municipal corporation), or (c) instrumentality of any of the foregoing (including a municipal hospital or municipal hospital district, police or fire department, public library, park district, state college or university, Indian tribal economic development organization, or port authority).

1. **Applicability.** The provisions of this Addendum shall apply only if Customer is a Government Customer under the Services Agreement.
2. **Termination for Non-Appropriation of Funds.** If Customer is subject to federal, state or local law which makes Customer’s financial obligations under this Services Agreement contingent upon sufficient appropriation of funds by the applicable legislature (or other appropriate governmental body), and if such funds are not forthcoming or are insufficient due to failure of such appropriation, then Customer will have the right to terminate the Services Agreement at no additional cost and with no penalty by giving prior written notice documenting the lack of funding. Customer will provide at least thirty (30) days advance written notice of such termination. Customer will use reasonable efforts to ensure appropriated funds are available. It is expressly agreed that Customer shall not activate this non-appropriation provision for its convenience or to circumvent the requirements of this Agreement, but only as an emergency fiscal measure during a substantial fiscal crisis, which affects generally its fiscal operations.
3. **Indemnification.** If Customer is prohibited by federal, state or local law from agreeing to hold harmless or indemnify third parties, Section 14(a) and the indemnification provision included in Section 17 of the Services Agreement shall not apply to Customer, to the extent disallowed by applicable law.
4. **Open Records.** If the Customer is subject to federal or state public records laws, including laws styled as open records, freedom of information, or sunshine laws (“Open Records Laws”) the confidentiality requirements of Section 12 of the Services Agreement apply only to the extent permitted by Open Records Laws applicable to the Customer. This Section is not intended to be a waiver of any of the provisions of the applicable Open Records Laws, including, without limitation, the requirement for the Customer to provide notice and opportunity for NEOGOV to assert an exception to disclosure requirements in accordance with the applicable Open Records laws.
5. **Cooperative Purchasing.** As permitted by law, it is understood and agreed by Customer and NEOGOV that any (i) federal, state, local, tribal, or other municipal government (including all administrative agencies, departments, and offices thereof); (ii) any business enterprise in which a federal, state, local, tribal or other municipal entity has a full, majority, or other controlling interest; and/or (iii) any public school (including without limitation K-12 schools, colleges, universities, and vocational schools) (collectively referred to as the “New Entity”) may purchase the Services specified herein in accordance with the terms and conditions of this Agreement. It is also understood and agreed that each New Entity will establish its own contract with NEOGOV, be invoiced therefrom and make its own payments to NEOGOV in accordance with the terms of the contract established between the New Entity and NEOGOV. With respect to any purchases by a New Entity pursuant to this Section, Customer: (i) shall not be construed as a dealer, re-marketer, representative, partner or agent of any type of NEOGOV, or such New Entity; (ii) shall not be obligated, liable or responsible for any order made by New Entities or any employee thereof under the agreement or for any payment required to be made with respect to such order; and (iii) shall not be obliged, liable or responsible for any failure by any New Entity to comply with procedures or requirements of applicable law or to obtain the due authorization and approval necessary to purchase under the agreement. Termination of this Agreement shall in no way limit NEOGOV from soliciting, entering into, or continuing a contractual relationship with any New Entity. Any New Entity who purchases Services under this Section hereby represents that it has the authority to use this Services Agreement for the purchase and that the use of the Services Agreement for the purchase is not prohibited by law or procurement regulations applicable to the New Entity.
6. **Subcontractors.** For purposes of this Agreement, including any subsequent documentation requested by Customer pursuant to this Agreement, the term “subcontractors” shall exclude subcontractors (i) who perform routine software development and maintenance services which are not specific to the Customer, and (ii) subcontractors who will not have any access to Customer Data.

Exhibit B
Integration Terms Addendum

NEOGOV offers integrations and platform APIs for integrations to third party systems (“Integration Services”). Customer may use only those Integration Services purchased or subscribed to as listed within the NEOGOV Order Form. The following terms (the “Integration Terms Addendum”) shall apply to the extent that Customer utilizes a system integration between the Services and either: (a) an affiliated integrated service, including those found at <https://api.neogov.com/connect/marketplace.html> and/or <https://apidocs.powerdms.com> (“Affiliated API”) or to the extent that Customer utilizes a system integration between the Services and an unaffiliated third-party service (“Customer Application”) integrated using NEOGOV’s open API (“Open API”). Integration Services are not available for HRIS Services and this Exhibit B shall not apply to HRIS Services.

1. **Provision of Integrations.** Subject to and conditioned on compliance with all terms and conditions set forth in this Agreement, NEOGOV hereby grants Customer a limited, revocable, non-exclusive, non-transferable, non-sublicensable license during the applicable Term to use and/or access the Affiliated API as described in this Agreement, or the Open API for communication between Customer’s human resource related third application(s) that will interoperate with NEOGOV Services (collectively these uses shall be referred to as the “API” or “Integration”). Customer acknowledges there are no implied licenses granted under this Agreement. NEOGOV reserves all rights that are not expressly granted. Customer may not use the API for any other purpose without our prior written consent. Customer may not share the API with any third party, must keep the API and all log-in information secure, and must use the API key as Customer sole means of accessing the API.
2. **Integration Intellectual Property.** All right, title, and interest in the API and any and all information, data, documents, materials, inventions, technologies, know-how, descriptions, requirements, plans, reports, works, intellectual property, software, hardware, systems, methods, processes, and inventions, customizations, enhancements, improvements and other modifications based on or derived from the API are and will remain, as appropriate, with NEOGOV. All right, title, and interest in and to the third-party materials, including all intellectual property rights therein, are and will remain with their respective third-party rights holders subject to the terms and conditions of the applicable third-party license agreements. Customer has no right or license with respect to any third-party materials except as expressly licensed under such third-party license agreements.
3. **Integration Terms of Use.** Except as expressly authorized under this Agreement, you may not remove any proprietary notices from the API; use the API in any manner or for any purpose that infringes, misappropriates, or otherwise violates any intellectual property right or other right of any person, or that violates any applicable law; combine or integrate the API with any software, technology, services, or materials not authorized by NEOGOV; design or permit Customer Application(s) to disable, override, or otherwise interfere with any NEOGOV-implemented communications to end users, consent screens, user settings, alerts, warning, or the like; use the API in any of Customer Application(s) to replicate or attempt to replace the user experience of the Services; or attempt to cloak or conceal Customer identity or the identity of Customer Application(s) when requesting authorization to use the API.
4. **Customer Integration Responsibilities.** Customer, Customer developed web or other software services or applications, and Customer third-party vendors that integrate with the API (collectively the “Customer Applications”), shall comply with all terms and conditions of this Agreement, all applicable laws, rules, and regulations, and all guidelines, standards, and requirements that may be posted on <https://api.neogov.com/connect/index.html> and/or <https://apidocs.powerdms.com> from time to time. In addition, Customer will not use the API in connection with or to promote any products, services, or materials that constitute, promote, or are used primarily for the purpose of dealing in spyware, adware, or other malicious programs or code, counterfeit goods, items subject to U.S. embargo, unsolicited mass distribution of email (“spam”), multi-level marketing proposals, hate materials, hacking, surveillance, interception, or descrambling equipment, libelous, defamatory, obscene, pornographic, abusive, or otherwise offensive content, stolen products, and items used for theft, hazardous materials, or any illegal activities.
5. **Cooperation.** If applicable, Customer shall timely provide such cooperation, assistance, and information as NEOGOV reasonably requests to enable the API. NEOGOV is not responsible or liable for any late delivery or delay or failure of performance caused in whole or in part by Customer’s delay in performing, or failure to perform, any of its obligations under this Agreement. NEOGOV will provide Customer maintenance and support services for API issues arising from the information technology designed, developed, and under then current control of NEOGOV. NEOGOV shall have no obligation to provide maintenance or support for issues arising from the inaction or action of Customer or third parties of which are outside NEOGOV control.
6. **Provision of Open API.** In the event license fees or other payments are not due in exchange for the right to use and access the Open API, you acknowledge and agree that this arrangement is made in consideration of the mutual covenants set forth in this Agreement, including, without limitation, the disclaimers, exclusions, and limitations of liability set forth herein.

Notwithstanding the foregoing, NEOGOV reserves the right to charge for access with effect from the start of each Renewal Term by giving Customer at least ninety (90) day notice prior to commencement of a Renewal Term.

7. API Key. In order to use and access the Open API, you must obtain an Open API key through the registration process. Customer agrees to monitor Customer Applications for any activity that violates applicable laws, rules and regulation, or any terms and conditions of this Agreement, including any fraudulent, inappropriate, or potentially harmful behavior. This Agreement does not entitle Customer to any support for the Open API. You acknowledge that NEOGOV may update or modify the Open API from time to time and at our sole discretion and may require you to obtain and use the most recent version(s). You are required to make any such changes to Customer Applications that are required for integration as a result of such Update at Customer sole cost and expense. Updates may adversely affect how Customer Applications communicate with the Services.
8. Efficient Processing. You must use efficient programming, which will not cause an overwhelming number of requests to be made in too short a period of time, as-determined solely by NEOGOV. If this occurs, NEOGOV reserves the right to throttle your API connections, or suspend or terminate your access to the Open API. NEOGOV shall use reasonable efforts to provide Customer notice and reasonable time to cure prior to taking such actions.
9. Open API Limitations. TO THE FULLEST EXTENT PERMITTED UNDER APPLICABLE LAW, IN NO EVENT WILL NEOGOV BE LIABLE TO CUSTOMER OR TO ANY THIRD PARTY UNDER ANY TORT, CONTRACT, NEGLIGENCE, STRICT LIABILITY, OR OTHER LEGAL OR EQUITABLE THEORY FOR ANY DIRECT, LOST PROFITS, LOST OR CORRUPTED DATA, COMPUTER FAILURE OR MALFUNCTION, INTERRUPTION OF BUSINESS, OR OTHER SPECIAL, INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OF ANY KIND ARISING OUT OF THE USE OR INABILITY TO USE THE OPEN API; OR ANY DAMAGES, IN THE AGGREGATE, IN EXCESS OF FIFTY DOLLARS, EVEN IF NEOGOV HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGES AND WHETHER OR NOT SUCH LOSS OR DAMAGES ARE FORESEEABLE OR NEOGOV WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. ANY CLAIM YOU MAY HAVE ARISING OUT OF OR RELATING TO THIS AGREEMENT MUST BE BROUGHT WITHIN ONE YEAR AFTER THE OCCURRENCE OF THE EVENT GIVING RISE TO SUCH CLAIM.
10. Open API Termination. Notwithstanding the additional Termination rights herein, NEOGOV may immediately terminate or suspend Customer access to Open APIs in our sole discretion at any time and for any reason, with or without notice or cause. In addition, your Open API subscription will terminate immediately and automatically without any notice if you violate any of the terms and conditions of this Agreement.



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

DATE: December 4, 2023
FROM: Chuck Jennings, Director of Parks and Recreation
ITEM: **Consider approval of a Professional Services Contract with Promoter Line, Inc., to provide professional event production and planning services for the 2024 Independence Fest, in an amount not-to-exceed \$344,000.00 and authorization for the Mayor to execute same on behalf of the Town.**

BACKGROUND: On November 21, 2022, Town Council approved a professional services contract with Promoter Line, Inc. (PLI) to provide professional event production and planning services related to the 2023 Independence Fest. The new proposed contract term will be for twelve months, beginning December 2, 2023, and ending on December 1, 2024.

Due to the size and scope of the event, which regularly hosts between 20,000 and 30,000 attendees, staff is requesting the continuation of the professional services of PLI to assist staff in organizing, planning, and operating the festival. PLI was selected by staff due to their continued experience with the Town, other municipalities, and the quality of special events produced in the area. PLI has worked with numerous cities including Lewisville, Grapevine, Ft. Worth, Southlake, Mesquite, Bedford and Addison.

PLI has done an excellent job over the last 15 years working with the Town to produce the Wild About Flower Mound Festival (2009 & 2010) and the Independence Fest (2011-2023), at Bakersfield Park. Last year's celebration was a huge success and drew a large crowd, with over 30,000 spectators coming to help the Town celebrate the country's independence. Attendees enjoyed food vendors, exhibitors, a kid's play area, a car show, great live music headlined by the Eli Young Band and a spectacular fireworks display to end the festival.

Overall, PLI handles most aspects of organizing and managing the festival as noted in the proposed contract. Town staff will be responsible for obtaining festival sponsorships, holding planning meetings, monitoring the event budget, and providing manpower during the festival. Promoter Line will be paid in eight monthly installments for their professional services fee of \$32,500 and all budgeted costs as outlined in the contract to organize and manage the festival, which comes to \$311,500. The necessary funds to host the 2024 Independence Fest were appropriated through the FY23-24 budget process and adopted into the Town's overall budget.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES: N/A

FISCAL IMPACT: \$344,000.00

Proposed Expenditure/(Revenue)
\$344,000.00

Account Number(s):
100-630-34200-5110

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

ATTACHMENTS:

1. Promoter Line Contract

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

PROFESSIONAL SERVICES CONTRACT

THIS CONTRACT is entered into on this 4th day of December 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 Town Manager or his designee, and **PROMOTER LINE, INC.**, whose address is PO Box 2028, Colleyville, Texas, 76034-2028 (hereinafter referred to as “CONSULTANT”).

WITNESSETH:

WHEREAS, TOWN desires to obtain professional services relative to acting as a Promoter/Producer for the TOWN’s Independence Fest event and Children’s Activity Area at Parade (“Event”), which professional services are hereinafter referred to as “Services”; and

WHEREAS, CONSULTANT is qualified to provide such Services and is willing to undertake such Services for TOWN in exchange for fees hereinafter specified; NOW, THEREFORE,

THAT 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 its profession, both public and private, currently practicing in the same locality under similar conditions, including reasonable, informed judgments and prompt, timely action. If CONSULTANT is representing that it has special expertise in one or more areas to be utilized in this Contract, then CONSULTANT agrees to perform those special expertise services to the appropriate local, regional or national professional standards.

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 consultants, and that the doctrine of respondeat superior shall not apply between TOWN and CONSULTANT, its officers, agents, employees, Contractors, subcontractors and consultants, and nothing herein shall be construed as creating a partnership or joint enterprise between TOWN and CONSULTANT.

II.

Scope of Services

The Services to be performed by CONSULTANT include the Services listed in Exhibit A, attached hereto and incorporated by reference as if written word for word. In the event of discrepancy or conflict between Exhibit A and this Contract, this Contract shall be binding and

control. Deviations from this scope of services or other provisions of this Contract may only be made by written agreement signed by all parties to this Contract.

Consistent with the Services identified in Exhibit A, the TOWN will pay CONSULTANT the amount budgeted for the Event in an amount not to exceed Three Hundred Eleven Thousand Five Hundred and 00/100 Dollars (\$311,500.00) for the Event ("Event Funds"). The Event Funds shall be paid on a monthly installment basis with the initial/first payment being made within ten (10) days of the start date as defined in section IV, for \$38,937.50 and thereafter on or about the 1st of each month with final payment to be made in the amount of \$38,937.50 on the first day of the Independence Fest event. CONSULTANT shall use said Event Funds for the Event purposes identified in Exhibit A other than CONSULTANT's Fee, which Fee is provided for in section III. If additional services are requested, CONSULTANT will not initiate work on such additional services until authorized by the Town Manager, in writing, to proceed.

CONSULTANT shall collect any and all monies due and payable to the TOWN for participation in the Event and shall turn such monies over to the TOWN within fourteen (14) days of receipt. All participants shall be required to make their check or money order payable to the TOWN. Further, CONSULTANT shall meet regularly with Town as directed by TOWN to discuss the Event budget and expenses, provide to TOWN updated budget spreadsheets and receipts for all expenses incurred for the Event and paid on behalf of the TOWN, and make such expenditures as are authorized and required for the proper functioning of the Event within the parameters of the funding approved by the TOWN Council for such purpose.

III.

Compensation

For and in consideration of the Services performed hereunder, TOWN agrees to compensate CONSULTANT in a total amount not to exceed Thirty-Two Thousand Five Hundred and no/100 Dollars (\$32,500.00) as CONSULTANT's "Promoter's" or "Producer's" fees ("CONSULTANT'S Fee"). Such CONSULTANT'S Fee shall be paid to CONSULTANT on a monthly installment basis with the initial/first payment being made within ten (10) days of the start date as defined in section IV, for \$4,062.50 and thereafter on or about the 1st of each month with last payment to be made in the amount of \$4,062.50 once the final event invoice has been submitted to the Town no later than 60 days after the event.

The Scope of Services shall be strictly limited. TOWN shall not be required to pay any amount in excess of the original proposed amount unless TOWN shall have approved in writing in advance (prior to the performance of additional work) the payment of additional amounts.

IV.

Term

The term of this Contract shall be twelve (12) months, beginning December 2, 2023 and ending December 1, 2024.

V.

Performance Cancellation

If any Artists' performance which has been booked by CONSULTANT for the Event is prevented or rendered impossible or unfeasible due to illness or accident of the Artist; any act or regulation of any public authority; civil uprising, act of God, labor disputes; interruption, delay, or failure of transportation services; war conditions, terrorist attack or emergencies; interruption of utility services; or any other cause beyond the reasonable control of CONSULTANT, the Artist, or TOWN then neither party to this Contract, nor the Artist, shall have any claim for damages due to the performance cancellation.

VI.

Insurance

CONSULTANT shall 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 it has obtained all the insurance required under the Contract and such insurance has been approved by TOWN; nor shall CONSULTANT allow any subcontractor to commence work on his 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.

1. Workers' Compensation, as required by law, Employer's Liability insurance of not less than \$100,000 for each accident, \$100,000 disease - each employee \$500,000 disease - policy limit.
2. Commercial General Liability Insurance including, but not limited to, Premises/Operations, Personal & Advertising Injury, Products/Completed Operations, Medical Payments, Independent Contractor's and Contractual Liability, covering but not limited to the indemnification provisions of this Contract, 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. Automobile Liability Insurance, covering all vehicles to be used in performance of this contract with minimum limits equal to or greater than required by State law.

It is agreed by all parties to this Contract that the insurance required under this Contract shall:

- (a) Provide for thirty (30) days notice of cancellation to TOWN, for nonpayment of premium, material change or any other cause.
- (b) Be written through companies duly authorized to transact that class of insurance in the State of Texas.
- (c) Allow the Town the right to review the insurance requirements of this section during the effective period of the Contract and to require adjustment of insurance coverages and their limits when deemed necessary and prudent by the Town based upon changes in statutory law, court decisions, or the claims history of the industry as well as the CONSULTANT.

- (d) Name the Town of Flower Mound and its officer, employees, and elected representatives as additional insureds, (as the interest of each insured may appear) as to all applicable coverage;
- (e) Allow the Town to be entitled, upon request, and without expense, to receive copies of the policies and all endorsements thereto.
- (f) Notify the Town in the event of any change in coverage and shall give such notices not less than 30 days prior to the change. The notice must be accompanied by a replacement Certificate of Insurance.
- (g) Provide a Certificate of Insurance evidencing the required coverages to:

TOWN OF FLOWER MOUND
Attn. Purchasing Division
2121 Cross Timbers Road
Flower Mound, TX 75028
Fax: 972-874-6478
Email: purchasing@flower-mound.com

VII.

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 during the term of 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.

VIII.

Indemnity

THE CONSULTANT DOES HEREBY COVENANT AND CONTRACT TO WAIVE ALL CLAIMS, RELEASE, INDEMNIFY AND HOLD HARMLESS THE TOWN AND 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 THE CONSULTANT AS WELL AS ANY NEGLIGENT OMISSION, ACT OR ERROR OF THE CONSULTANT, ITS OFFICIALS, OFFICERS, AGENTS, EMPLOYEES AND INVITEES, OR OTHER PERSONS FOR WHOM THE CONSULTANT IS LEGALLY LIABLE, AND THE CONSULTANT WILL, AT ITS OWN COST AND EXPENSE, DEFEND AND PROTECT THE TOWN FROM AND AGAINST ANY AND ALL SUCH CLAIMS AND DEMANDS.

TO THE EXTENT ALLOWED UNDER TEXAS LAW, THE TOWN DOES HEREBY COVENANT AND CONTRACT TO RELEASE, INDEMNIFY AND HOLD HARMLESS THE CONSULTANT AND ITS OFFICERS, AGENTS, EMPLOYEES AND INVITEES, 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 THE TOWN AS WELL AS ANY NEGLIGENT OMISSION, ACT OR ERROR OF THE TOWN, ITS OFFICIALS, OFFICERS, AGENTS, EMPLOYEES AND INVITEES, OR OTHER PERSONS FOR WHOM THE TOWN IS LEGALLY LIABLE, AND THE TOWN WILL, AT ITS OWN COST AND EXPENSE, DEFEND AND PROTECT THE CONSULTANT FROM AND AGAINST ANY AND ALL SUCH CLAIMS AND DEMANDS.

IX.

Default; Termination

A. TOWN reserves the right to terminate this Contract immediately upon breach of any term or provision of this Contract by CONSULTANT. 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 and complete the work in any manner it deems desirable, including engaging the services of other parties therefor. Any such act by TOWN shall not be deemed a waiver of any other right or remedy of TOWN.

B. TOWN may terminate without cause with sixty (60) days written notice. CONSULTANT will provide TOWN with all Contract information and return any unpaid funds. CONSULTANT shall cooperate with TOWN to renegotiate with all third parties to recuperate expenses.

X.

Changes

TOWN may, from time to time, require changes in the scope of the 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.

XI.

Conflict 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.

XII.

Mailing Address

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

The Town of Flower Mound
2121 Cross Timbers Road
Flower Mound, Texas 75028
Attn.: Chuck Jennings
Telecopy: 972.874.6471
Telephone: 972.874.6273

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:

Promoter Line, Inc., a Texas corporation
PO Box 2028
Colleyville, Texas 76034-2028
Attn.: Jerry R. Thompson
Phone: 817.312.6101
Federal ID# 75-2976232
Email: jtpresents@promoterline.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 by the sending party.

XIII.

Successors and Assigns

TOWN and CONSULTANT each binds themselves and their respective successors, executors, administrators and assigns to the other party of this Contract and to the successor, 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.

XIV.

Applicable Law

This Contract is entered into subject to the Charter and ordinances of TOWN as they may be amended from time to time, and is subject to and is to be construed, governed and enforced under all applicable State of Texas and Federal laws. CONSULTANT will make any and all reports required per Federal, State or local law including, but not limited to, proper reporting to the Internal Revenue Service, as required in accordance with CONSULTANT's income. Situs of this Contract is agreed to be Denton County, Texas, for all purposes including performance and execution.

XV.

Severability

If any of the terms, provisions, covenants, conditions or any other part of this Contract are held for any reason 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.

XVI.

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 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.

XVII.

Entire Agreement

This Contract embodies the complete 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.

XVIII.

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.

XIX.

Headings

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

XX.

Venue

The parties to this Contract agree and covenant that this Contract will be enforceable in Denton County, Texas; and that if legal action is necessary to enforce this Contract, exclusive venue will lie in Denton County, Texas.

XXI.

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. Further, nothing contained in this

Contract is intended to waive nor should it be interpreted as waiving or otherwise deemed to waive the TOWN's sovereign immunity or governmental immunity as it applies to any third person or entity.

IN WITNESS WHEREOF, the parties have hereunto set their hands by their representatives duly authorized on the day and year first written above.

THE TOWN:

THE TOWN OF FLOWER MOUND, TEXAS

By: _____
Derek France, Mayor

CONSULTANT:

PROMOTER LINE, INC.,
a Texas Corporation

By: _____
Name: Jerry R. Thompson
Title: President

Date Signed: _____

Exhibit “A”

1. Promoter Line, Inc. will work with Town staff in development and design of an Event concept and theme.
2. Promoter Line, Inc. will develop and oversee all existing logistical elements going into Event.
3. Promoter Line, Inc. will hold a series of meetings to begin in February each year and occur monthly until the Event.
4. Promoter Line, Inc. will secure entertainment related items in cooperation with the budget.
5. Promoter Line, Inc. and the designated Town of Flower Mound's “Key” staff will oversee budget preparation. The budget will include, at a minimum, the following:

<u>Services To Be Provided</u>	<u>Projected Budget</u>
Entertainment	\$130,000.00
Catering/Rider for Headliner	\$ 3,000.00
Hotel for Headliner	\$ 3,000.00
Transportation for Headliner	\$ 1,500.00
ASCAP	\$ 250.00
BMI	\$ 250.00
Forklifts/Light Towers	\$ 12,000.00
Fence/Golf Carts	\$ 10,000.00
Food/Catering	\$ 2,400.00
Décor/scaff	\$ 2,800.00
Generators	\$ 38,000.00
Kid Zone	\$ 16,000.00
Portalets/Cleaning & Servicing	\$ 5,500.00
Producer fee	\$ 32,500.00
Radio Rentals	\$ 700.00
Security	\$ 10,500.00
RV Rental	\$ 1,000.00
Sound & Lights main stage	\$ 29,500.00
Stage-Main	\$ 7,500.00
Stagehands	\$ 12,000.00
Spotlights/Stage Barricades	\$ 800.00
Tents/Tables/Chairs	\$ 13,000.00
Traffic Control	\$ 7,800.00
Volunteer/Staff Golf Shirts	<u>\$ 4,000.00</u>
Total:	\$344,000.00

6. Promoter Line, Inc. to manage budget and obtain services in accordance with the budget that is approved by the Town of Flower Mound.
7. Promoter Line, Inc. will secure all arts, crafts, and food vendors.
8. Promoter Line, Inc. will secure all payments and any insurance required from vendors.
9. Prepare and distribute vendor packets to vendors secured by Promoter Line, Inc., in cooperation with Town.
10. Promoter Line, Inc. will oversee all on site sponsor logistics for sponsors secured by the Town of Flower Mound. Promoter Line, Inc. will not be responsible for securing any sponsors for event.
11. Promoter Line, Inc. will secure all purchase/rental items, delivery, and timing of them. Promoter Line, Inc. will compile a list of Town equipment that will be needed and provided by the Town.
12. Promoter Line, Inc. will hire and oversee production items and staffing on all stages.
13. Promoter Line, Inc. will direct and manage overall staffing and placement of staffing for events.
14. Promoter Line, Inc. will jointly handle with the Town of Flower Mound all marketing, advertising, and promotion.
15. Promoter Line, Inc. will manage and execute overall festival accounting, subject to Town of Flower Mound approval of the final budget. Promoter Line, Inc. will oversee and maintain approved budget. This would include making timely payments to all vendors and contractors.
16. Promoter Line, Inc. will oversee and secure talent for entertainment on all stages.
17. Promoter Line, Inc. will develop, implement, and maintain a schedule timeline in coordination with all Town departments.



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

DATE: December 4, 2023

FROM: Paul Henley, Fire Chief

ITEM: Consider approval of the purchase of a 2024 Ford F250 4x4 SD Crew Cab for the Fire and Emergency Services Department from Chastang Ford, through Houston-Galveston Area Contract (HGAC) # AM10-23 in the amount of \$110,122.00; and authorization for the Mayor to execute same on behalf of the Town.

BACKGROUND: The Fire and Emergency Services Department has a 2015 Chevrolet Suburban that is approved for replacement under the FY23/24 vehicle equipment replacement fund (VERF). This unit (60000-01) was originally an Administration vehicle and is now used for the Shift Battalion Chief (BC) and the Shift Field Incident Technician (FIT). The unit will be purchased through HGAC contract # AM10-23 in the amount of \$110,122.00. This request is in accordance with the Fleet Department's recommendation.

Vehicle Price:	\$109,122.00
HGAC	<u>\$ 1,000.00</u>
	\$110,122.00

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES: N/A

FISCAL IMPACT: \$110,122.00

Proposed Expenditure/(Revenue)
\$110,122.00

Account Number(s):
565-450-84500-6130

LEGAL REVIEW: N/A

ATTACHMENTS:

1. Bid Award Recommendation-60000-01
2. Siddons Quote 60000-01 VERF
3. HGACBuy Price Sheet 60000-01 VERF

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



Bid Award Recommendation

Date: 11/8/2023 – VERF – FY23-24

Description: **New Ford F250 4x4 Crew Cab w/ Emergency Equipment and Upfit**

Qty.: 1

Replaces: 60000-01, a 2015 Chevrolet Suburban – Fire, Emergency Medical Services

Bidder: Chastang Ford, Ed Miller, 713-678-5007, emiller@chastangford.com

Item: 1 – New Ford F250 4x4 Crew Cab, RED with 8 Foot Bed to Include Vehicle Options and Upfit as Identified on HGACBuy Worksheet and Siddons Upfit Quote #400-0000146.

Total Cost of Vehicles, Equipment & Installation:

\$110,122.00

It is Fleet Services recommendation to award the bid to **Chastang Ford** in the amount of **\$110,122.00** utilizing the **HGACBuy Cooperative Contract # AM10-23**.

Fleet Services Manager

11/8/2023

Date



EVS Upfit
1364 E Richey Rd
Houston, TX, 77073
USA
Phone: (281) 219-1920

ESTIMATE

DO NOT PAY

Customer Info:

Flower Mound, Town of
2121 Cross Timbers Road
Flower Mound, TX, 75028
USA

Document Info:

Quote #: 400-0000146
Taken By: James George

Item #	Description	Quantity / Unit
008009	2024 Ford F250 4x4 SD Crew Cab 8'Box XLT ...	1.00 / EA
008009	CUSTOM POLY BOX FROM SMEG POLY DIVISION ...	1.00 / EA
153020	153020 EXTENDEBED	1.00 / EA
008009	RANCH HAND REPLACEMENT BUMPER ...	1.00 / EA
162592	LIBERTY II DUO WC 54" CTR DKDK INCLUDES OPTICOM IJ2DKDK	1.00 / EA
007158	WHELEN LIGHTBAR STRAP KIT f250,f350 #38 STPKT38	1.00 / EA
004865	CENCOM CORE WCX CONTROL CENTER C399	1.00 / EA
143155	WeCanX 16 OUTPUT EXPANSION MOD CEM16	2.00 / EA
006791	SA315U SPEAKER, BLACK PLASTIC SA315U	1.00 / EA
006798	SA-315 MOUNT KIT UNIVERSAL SAK1	1.00 / EA
143646	WCX LOW FREQUENCY SIREN SYSTEM CHOWLER	1.00 / EA
005877	HOWLER UNIVERSAL MTG BKT PAIR HWLRB23	1.00 / EA
007583	warn light clear lens, red light 2 EACH SIDE OF CAMPER WIONSMCR	6.00 / EA
191494	NFPA SURFACE MT ION AMB CHROME 2 ON REAR OF CAMPER WIONSMCA	2.00 / EA



EVS Upfit
1364 E Richey Rd
Houston, TX, 77073
USA
Phone: (281) 219-1920

ESTIMATE

DO NOT PAY

Document Info:

Quote #: 400-0000146

175981	18 LED STRIP LIGHT COMPARTMENT 1 EACH DOOR 2 IN CAMPER PSC0CDCR	5.00 / EA
159009	CAMPER PROP SWITCH H9401	3.00 / EA
085084	3" ROUND SPLIT RED/WHT DOME LIGHT 3SRCCDCR	1.00 / EA
004956	8.5" Heavy Duty Telescoping Pole, s C-HDM-204	1.00 / EA
005876	SLIDE OUT LOCKING SWING ARM WITH MOTION ADPT HVS-C-MD-112	1.00 / EA
145978	CUSTOMER SUPPLIED DOCKING STATION CSP	1.00 / EA
011458	KUSSMAUHL DUAL AUTO CHARGER 091-11-12	1.00 / EA
011656	SUPER AUTO EJECT 120 VOLT AC 20 AMP SIDE WIRE RED 091-55-20-120	1.00 / EA
175450	2019 FORD SUPER DUTY NOTCHED FP PP-2017-FSD-FS-N	1.00 / EA
013949	12VDC Socket Dual USB Output 5V 2.1A 1016B	2.00 / EA
171130	NMO KIT WITH CONNECTOR AND 25 RG58 CABLE NMO-60-300-M1-N	2.00 / EA
161796	MOTOROLA EXTERNAL RADIO SPEAKER HSN4019B	2.00 / EA
006238	MAGNETIC MIC. CONVERSION KIT MMSU-1	5.00 / EA
142482	CAMPER SHELL BY ARE HALF DRIVER SIDE BOX, FULL PASSENGER BOX DOUBLE DOORS-SIDE OPENING REAR	1.00 / EA



EVS Upfit
1364 E Richey Rd
Houston, TX, 77073
USA
Phone: (281) 219-1920

ESTIMATE

DO NOT PAY

Document Info:

Quote #: 400-0000146

	CAMPER ARE	
157890	CUSTOM GRAPHICS PACKAGE GRAPHICS EVS	1.00 / EA
156151	36 LED double stack mini brow. 40" length FT-MB-2.36-FT-B	2.00 / EA
145978	CUSTOMER SUPPLIED SETCOM HEADESET CSP	1.00 / EA
176577	3000W PURE SINE WAVE POWER INVERTER 12V DC Puresine3000	1.00 / EA
182615	SURVIVOR ORANGE W/ CHARGER SL-90503	2.00 / EA
185780	500 DUO T/A PKG 8 AMB/RED TADF8-80000	1.00 / EA
182356	LONG L BRKT SID001	1.00 / EA
007415	UHF2150A HEADLIGHT FLASHER UHF2150A	1.00 / EA
187510	ION T-SERIES LINEAR DUO RW SMK 3 EACH RUNNING BOARD TLI2DX	6.00 / EA
097275	BLUE SEA ST Blade Compact Fuse Block-8 Circuits 5046B	1.00 / EA
184451	Whelen universal solid state tail light flasher SSF5150D	1.00 / EA
187330	WINDOW TINT LEGAL LIMIT FRONT LIMO REAR TINT	1.00 / EA
000056	FREIGHT/ NDA	1.00 / EA
148549	DELIVERY TO CUSTOMER DELIVERY	1.00 / EA
162719	WIRE, LOOM, FUSES, BREAKERS RELAYS, HEAT SHRINK	1.00 / EA



EVS Upfit
1364 E Richey Rd
Houston, TX, 77073
USA
Phone: (281) 219-1920

ESTIMATE

DO NOT PAY

Document Info:

Quote #: 400-0000146

	INSTALLKIT	
166458	LABOR TO INSTALL ABOVE LISTED EQUIPMENT LABOR	1.00 / EA
008009	POWER STRIP IN BOTH CAMPER TOOL BOXES ***	1.00 / EA
162772	SURFACE MT ION LT GREEN REAR OF CAMPER IONSMG	2.00 / EA
008009	REAR VIEW CAMERA SYSTEM ***	1.00 / EA



CONTRACT PRICING WORKSHEET
For MOTOR VEHICLES Only

Contract
No.:

AM10-23

Date
Prepared:

10/3/2023

*This Worksheet is prepared by Contractor and given to End User. If a PO is issued, both documents **MUST** be faxed to H-GAC @ 713-993-4548. Therefore please type or print legibly.*

Buying Agency:	FLOWER MOUND FD	Contractor:	CHASTANG FORD
Contact Person:		Prepared By:	ED MILLER
Phone:		Phone:	713-678-5007
Fax:		Fax:	713-678-5001
Email:		Email:	emiller@chastangford.com
Product Code:	CF002	Description:	2024 FORD F250 RAPID RESPONSE

A. Product Item Base Unit Price Per Contractor's H-GAC Contract: 86,865

B. Published Options - Itemize below - Attach additional sheet(s) if necessary - Include Option Code in description if applicable.

(Note: Published Options are options which were submitted and priced in Contractor's bid.)

Description	Cost	Description	Cost
W4G176WB - CREWCAB	2995		
64D- CAST ALUMINUM WHEELS	INCL	CRUISE CONTROL	INCL
7.3L V8	INCL	CLASS V HITCH	INCL
52B - TRAILER BRAKE CONTROLLER	INCL	67B - 410 AMP ALTERNATOR	INCL
XLT - XLT PACKAGE	4995	LT275/70R18 A/T	INCL
POWER EQUIPMENT GROUP	INCL		
DUAL BATTERIES	INCL		
4WD UPGRADE	2995		
SYNC 4	INCL		
66S - UPFITTER SWITCHES	INCL		
		Subtotal B:	10985

C. Unpublished Options - Itemize below / attach additional sheet(s) if necessary.

(Note: Unpublished options are items which were not submitted and priced in Contractor's bid.)

Description	Cost	Description	Cost
SIDDONS ADDITIONAL EQUIPMEN UPGRADE	11272		
		Subtotal C:	11272

Check: Total cost of Unpublished Options (C) cannot exceed 25% of the total of the Base Unit Price plus Published Options (A+B).

For this transaction the percentage is:

12%

D. Total Cost Before Any Applicable Trade-In / Other Allowances / Discounts (A+B+C)

Quantity Ordered:	1	X Subtotal of A + B + C:	109122	=	Subtotal D:	109122
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E. H-GAC Order Processing Charge (Amount Per Current Policy)

Subtotal E: 1000

F. Trade-Ins / Other Allowances / Special Discounts / Freight / Installation

Description	Cost	Description	Cost
		Subtotal F:	0

Delivery Date: TBD

G. Total Purchase Price (D+E+F):

110122



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

DATE: December 4, 2023

FROM: Paul Henley, Fire Chief

ITEM: Consider approval of the purchase of a 2024 Chevrolet Tahoe 9C1 4WD for the Fire and Emergency Services Department Fire Marshal's Office from Holiday Chevrolet, through Tarrant County Cooperative Contract #2023-016, in the total amount of \$68,759.09; and authorization for the Mayor to execute same on behalf of the Town.

BACKGROUND: The Fire and Emergency Services Department has a 2016 Chevrolet Tahoe that has been approved for replacement under the FY23/24 vehicle equipment replacement fund (VERF). This unit (65000-04) is to be replaced with a 2024 Chevrolet Tahoe 9C1 4WD through Tarrant County Cooperative Contract # 2023-016 in the amount of \$68,759.09. This price includes the public safety upfit necessary to operate as an emergency unit. This request is in accordance with the Fleet Department's recommendation.

Vehicle Price: \$68,759.09

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES: N/A

FISCAL IMPACT: \$68,759.09

Proposed Expenditure/(Revenue)
\$68,759.09

Account Number(s):
565-450-84500-6130

LEGAL REVIEW: N/A

ATTACHMENTS:

1. Bid Award Recommendation 65000-04 VERF
2. Holiday Chevrolet Quote #37292 65000-04 VERF

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



Bid Award Recommendation

Date: 11/7/2023 - VERF

Description: **Chevrolet Tahoe Pursuit Rated Vehicle W/ Emergency Equipment**

Qty.: 1

Replaces: 65000-04, a 2016 Chevy Tahoe – Fire Prevention

Bidder: Holiday Auto Group, Mike Hewitt 903-564-5641, mike@defendersupply.com
Via Tarrant County Cooperative Contract# 2023-016.

Item: One – Black Chevrolet Tahoe Pursuit Rated Vehicle with Emergency Lighting and Equipment Package as per TOFM Specs and as Identified Within Attached Cooperative Quote 37292.

Total Cost of Vehicles, Equipment & Installation:

\$68,759.09

It is Fleet Services recommendation to award the bid to **Holiday Auto Group** in the amount of **\$68,759.09** utilizing the **Tarrant County Cooperative Contract # 2023-016**.

Fleet Services Manager

11/7/2023

Date

Date	10/5/2023
Estimate #	37292
Estimate By	Mike
	mike@defendersupply.com
	903-771-1089



Bill To
Town of Flower Mound 3911 S Broadway Ave Flower Mound, TX 75028

Customer Contact	
Customer Phone	
Customer E-mail	accountspayable@flower-mound....

Description	Location	Qty	Price	Total
(Purchased Through Holiday Chevrolet on the Tarrant County Cooperative Contract # 2023-016).				
2024 Chevrolet Tahoe 9C1 4WD Police Pursuit Vehicle (CK10706) - with EcoTec3 5.3-liter, 10-Speed Auto Trans with Heavy Duty Cooler, Heavy Duty Clutch Type Locking Differential, Dual Batteries with 760-amp Auxiliary Battery, High-output Alternator, 20-inch Steel Wheels, Brembo Front Calipers with 16-inch rotors, Keyless Entry & Push-to-Start Ignition, OnStar with Bluetooth Connectivity, Vinyl Rear Seat & Front Recovery Tow Hooks. (No Spotlight)		1	51,349.00	51,349.00T
BLACK Exterior				
2 extra Key/FOBs				
Black Rims Standard				
Make Payment to: Johnson-Grayson Automotive, Inc., DBA Holiday Chevrolet 1009 Highway 82 West Whitesboro, Tx 76273				
2 Year Texas State Inspection Certificate		1	7.00	7.00T
Vehicle Dealer Prep		1	130.00	130.00T
Tremco Anti-Theft System. Includes Installation		1	206.25	206.25
Jotto Desk Wide Body AR/ZRT Console		1	860.48	860.48T
Jotto Floor Plate Kit- 2021 Silverado		1	207.47	207.47T
Jotto ABS Dual Cup Holder - Faceplate Mount		1	57.78	57.78T
Jotto Desk Side Mount Arm Rest for Wide Body AR/ZRT Console and Ford F-150 SSV/Police Responder 18+ Console		1	120.11	120.11T
Jotto Desk Magnetic Console Mic Clip		2	32.00	64.00T
Havis - Console Mount Mic Clip Bracket		2	26.00	52.00T

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

Vehicle & Emergency Equipment Total

Signature

Date	10/5/2023
Estimate #	37292
Estimate By	Mike
	mike@defendersupply.com
	903-771-1089



Bill To
Town of Flower Mound 3911 S Broadway Ave Flower Mound, TX 75028

Customer Contact	
Customer Phone	
Customer E-mail	accounts payable@flower-mound....

Description	Location	Qty	Price	Total
Defender Supply TAHOE Running Board Light Stick Package - Includes Two Tri Color Super LED Light Sticks (R/B/W), 1 on Each Running Board and an expansion module. Progressing Flash Patterns with Slide Switch, Alley, Low Power and Cruise Functions Available (Core/Carbide Only). Includes Installation. Red/Blue/Clear		1	2,540.00	2,540.00
Installation of 795 Opticom/Emitter and bracketry in the upper passenger side windshield.		1	1,693.75	1,693.75
Defender Supply Mirror Lighting Package 1 - Includes Two Tri-Color Super LED Light Heads Mounted Under Mirror (R/B/W) with 180° Light Spread and integrated Alley Function with Bracket. Includes Installation.		1	847.00	847.00
Defender Supply Two-Way (800) Radio Antenna and Coaxial Cable. Includes Installation.		1	210.00	210.00
Delivery to Department/Fleet Texas Government or Municipality - No Sales Tax		1	129.00 0.00%	129.00T 0.00

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

Vehicle & Emergency Equipment Total	\$68,759.09
--	--------------------

Signature _____

Date	10/5/2023
Estimate #	37292
Estimate By	Mike
	mike@defendersupply.com
	903-771-1089



Bill To
Town of Flower Mound 3911 S Broadway Ave Flower Mound, TX 75028

Customer Contact	
Customer Phone	
Customer E-mail	accounts payable@flower-mound....

Description	Location	Qty	Price	Total
Installation of Console		1	875.00	875.00
Defender Supply TAHOE Marked Patrol Slicktop Base Package		1	7,739.00	7,739.00
- Full Function Dual Color LED Low Profile Visor Light Bar with Full Across Take Down, Progressing Flash Patterns with Slide Switch, Cruise, Low Power (R/W, B/W). - Core Controller, SYNC Module, Output Expansion Module, 100 Watt Speaker and Bracket. Wired and Programmed to Defender Supply Standard. - Steel Push Bumper with Textured Coating and 6 Tri Color Super LED Light Heads (R/B/W), 4 in the Top Channel Cutouts and 1 on Each Side with 45° Brackets. Take Down, Alley Lighting, Progressing Flash Patterns with Slide Switch, Cruise and Low Power Capabilities. - 2 Tri Color Super LED Light Heads (R/B/W) Mounted on Rear License Plate Bracket. Reverse / Brake Lighting, Progressing Flash Patterns with Slide Switch, Cruise and Low Power Capabilities. - 1 Front Cabin and 2 Hatch Dome Lights. - Defender Supply Wiring Harnesses and Power Distribution Block. - Includes Installation.				
Defender Supply TAHOE Traffic Advisor Package		1	1,671.25	1,671.25
- 1 Eight Dual Color Module Super LED Full Function Light Stick (R/A, B/A) with Progressing Flash Patterns with Slide Switch, Cruise, Low Power Functions Mounted on Rear Hatch Behind Glass with Vehicle Specific Shroud and Brackets. ... - 2, Dual Color Super LED Light Heads (R/B), Mounted Horizontally Under The Hatch on Each Corner, Rear Facing When Open. Includes Installation.				

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

Vehicle & Emergency Equipment Total

Signature



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

DATE: December 4, 2023

FROM: Paul Henley, Fire Chief

ITEM: Consider approval of the purchase of a 2024 Ford F450 Frazer ambulance for the Fire and Emergency Services Department from Sterling McCall, through Houston-Galveston Area Contract (HGAC) # AM10-23, in the total amount of \$332,625.00; and authorization for the Mayor to execute same on behalf of the Town.

BACKGROUND: The Fire and Emergency Services Department has an ambulance that is approved for replacement under the FY23/24 vehicle equipment replacement fund (VERF). This unit (61000-06) is a 2018 Ford F450 which will be replaced with a 2024 Ford F450 gas model through HGAC contract # AM10-23 in the amount of \$332,625.00. This request is in accordance with the Fleet Department's recommendation.

Vehicle Price:	\$331,625.00
HGAC	<u>\$ 1,000.00</u>
	\$332,625.00

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES: N/A

FISCAL IMPACT: \$332,625.00

Proposed Expenditure/(Revenue)
\$332,625.00

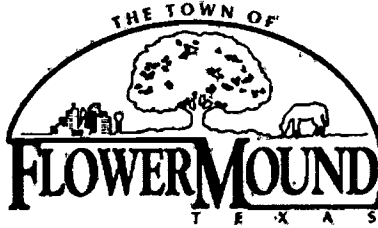
Account Number(s):
565-450-84500-6130

LEGAL REVIEW: N/A

ATTACHMENTS:

1. Vehicle Award Recommendation
2. Frazer Quote #Q3814-001
3. HGAC Worksheet (61000-06 VERF)

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



Bid Award Recommendation

Date: 11/8/2023 – VERF – FY23-24

Description: **New Frazer Medic Body on a New Ford F450 4x2 DRW Chassis**

Qty.: 1

Replaces: 61000-06, a 2017 Ford F450 Medic – Fire, Emergency Medical Services

Bidder: Sterling McCall Ford, Pablo Cantu, 281-588-5007,
pcantu@sterlingmccallford.com

Item: 1 – New Frazer Medic Body on a New Ford F450 7.3L Gasoline Engine 4x2 DRW Chassis with Equipment and Options as Per Specifications Identified on HGACBuy Cooperative Contract# AM10-23 and Frazer TOFM Quote Q3814-0001 dated 11/2/2023.

Total Cost of Vehicles, Equipment & Installation:

\$332,625.00

It is Fleet Services recommendation to award the bid to **Sterling McCall Ford** in the amount of **\$332,625.00** utilizing the **HGACBuy Cooperative Contract # AM10-23**.

Fleet Services Manager

11/8/2023

Date

Customer Quote



11/2/2023 2:41:40 PM

Estimate No: Q3814-0001
Quote Date: 11/2/2023
Expiration Date: 12/17/2023
Salesperson: LL
Payment Terms: Due on Delivery

Invoice To: 11565
Flower Mound Fire Department
3911 S. Broadway Avenue
Flower Mound TX 75028
US

Deliver To:
Flower Mound Fire Department
3911 S. Broadway Avenue
Flower Mound TX 75028
US
Phone:972-874-6007

No.	Item	Qty	U/M:		Unit Price		Net Amount
1	MODULE Type I 14' Module	1.00	EA	\$	270,375.00	\$	270,375.00
2	CHASSIS 2024 Ford F450 Gas 4x2	1.00	EA	\$	61,250.00	\$	61,250.00
3	DELIVERY Customer Pick Up - FOB FRAZER	1.00	M	\$	0.00	\$	0.00
4	HGAC-NEW Contract No. AM10-23	1.00	EA	\$	1,000.00	\$	1,000.00
5	SpecDoc Configurable item to create the SpecDoc	1.00	EA	\$	0.00	\$	0.00

Frazer will accept returns on parts up to 180 days after shipment. No restocking fee will be charged if the item is returned within 90 days of the original invoice date. All parts returns should be shipped back freight prepaid and require prior approval with a "Returns Material Authorization" (RMA) clearly displayed on the exterior of the shipping package. A credit will be issued towards the customer's account within approximately 7 business days of receipt of the item. If a part is returned after 90 days of the original invoice date a 15% restocking fee will be applied. Frazer Ltd reserves the right to accept returned items at its sole discretion based upon the condition of the item to be placed back into stock. :

Customer Quote



11/2/2023 2:41:40 PM

Estimate No: Q3814-0001
Quote Date: 11/2/2023
Expiration Date: 12/17/2023
Salesperson: LL
Payment Terms: Due on Delivery

No.	Item	Qty	U/M:		Unit Price		Net Amount
-----	------	-----	------	--	------------	--	------------

Remit To:

Frazer, Ltd.
7219 Rampart Street
Houston TX 77081

Sale Amount: 332,625.00
Order Disc(0.0000%): 0.00
Surcharge: N/A
Sales Tax: 0.00
Misc Charges: 0.00
Total Amount: 332,625.00

Frazer will accept returns on parts up to 180 days after shipment. No restocking fee will be charged if the item is returned within 90 days of the original invoice date. All parts returns should be shipped back freight prepaid and require prior approval with a "Returns Material Authorization" (RMA) clearly displayed on the exterior of the shipping package. A credit will be issued towards the customer's account within approximately 7 business days of receipt of the item. If a part is returned after 90 days of the original invoice date a 15% restocking fee will be applied. Frazer Ltd reserves the right to accept returned items at its sole discretion based upon the condition of the item to be placed back into stock. :

Prod
llambert

Frazer, Ltd.

Page 2 of 2



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For your convenience, all pricing has been itemized below per quote Q3814-0001 for Flower Mound Fire Department

Base Module	\$ 147,050.00
Chassis Exterior	\$ 32,175.00
Module Exterior	\$ 59,350.00
Chassis Interior	\$ 5,900.00
Module Interior	\$ 25,900.00
Total	\$ 270,375.00

Items included in above totals:

1. Type I 14' Module - Side Entry Door Forward of Front I/O Configuration \$ 6,150.00
2. This is a CAAS GVS v3.0 Unit \$ incl

Chassis Exterior:

3. Chassis Paint Layout: Paint All Two Tone - Red - Pierce 90 (FLNA 3042) and Frazer Black (FLNA 4123) \$ 7,475.00
4. Chassis : 2024 Ford F-450, Gas, 4x2, Regular Cab, 108" Cab to Axle, Z1 - Oxford White \$ incl
5. Suspension: LiquidSpring \$ 15,550.00
6. Wheel type: Factory Aluminum \$ incl
7. Road Force Elite tire and wheel balancing \$ incl
8. Chassis Steps: ArcRite with Sure Grip \$ 1,350.00
9. Grille Guard: Full Replacement Bumper \$ 1,750.00
10. 10" and 12" Air Horns \$ 1,450.00
11. Manual Air Horn Air Drain Valve \$ 575.00
12. Compressor Type: Fast Recovery \$ 1,875.00
13. Air Horn Switching Options: Momentary \$ 125.00
14. Window Tint (35% VLT) on Chassis Doors \$ 375.00
15. Exhaust Removal System: Plymovent \$ 900.00
16. Passenger's side Grille Light: Whelen M4 Red Light \$ incl
17. Driver's side Grille Light: Whelen M4 Red Light \$ incl
18. Passenger's side Intersect Light: Whelen M4 Clear Light \$ incl
19. Driver's side Intersect Light: Whelen M4 Clear Light \$ incl
20. Driver Fender Light: Whelen M4 Red Light \$ 375.00
21. Passenger Fender Light: Whelen M4 Red Light \$ 375.00

Chassis Exterior Subtotal \$ 32,175.00



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Module Exterior:

22. Power Source: MEPS	\$	18,950.00
23. Module Paint Layout: Non-White One Tone - Pierce Red 90 (FLNA 3042)	\$	3,350.00
24. Roof Color: OTHER: Frazer White	\$	incl
25. Blackout cladding: All diamond plating (treadbrite) powdercoated black and rear bumper coated with black bedliner	\$	1,900.00
26. Rear Wall 3M Conspicuity Layout - Chevron : Fluorescent Yellow/Green Base Color and Red - Translucent Overlay	\$	2,025.00
27. Entry Door Conspicuity Layout - Strips : White Base Color	\$	250.00
28. Front Wall Placard: 11" x 8.5" Painted Side-Loading Aluminum Holder with Lasco	\$	250.00
29. Driver Side Placard: 11" x 8.5" Painted Top-Loading Aluminum Holder with Lasco	\$	250.00
30. Rear Wall Placard: 11" x 8.5" Painted Side-Loading Aluminum Holder with Lasco	\$	250.00
31. Passenger Side Placard: 11" x 8.5" Painted Top-Loading Aluminum Holder with Lasco	\$	250.00
32. Frazer Provided Graphics	\$	3,500.00
33. Body Drop on the Passenger's Side Forward of Rear Wheels	\$	incl
34. Compartment Keys: J210 in the Electrical Compartment	\$	incl
35. Dri-Deck in Applicable Exterior Compartments	\$	375.00
36. Ground Lights: Perimeter of Module and Under Chassis Steps	\$	4,000.00
37. GTT Opticom (Infrared)	\$	2,475.00
38. Opticom Switching: On/Off Switch and Cut-off with park	\$	incl
39. Whelen TAM85 Traffic Advisor	\$	1,875.00
40. Shore Power: Dual 20/30 Amp Kussmaul Auto Eject w/ Red covers on Rear Wall	\$	775.00
41. Pigtail/Plug Option: Pigtail	\$	incl
42. Coax 1: Run coax from location 1 to Chassis	\$	incl
43. Coax 2: Run coax from location 2 to Chassis	\$	incl
44. Coax 3: Run coax from location 3 to Electrical Compartment	\$	incl
45. Coax 4: Run coax from location 4 to Electrical Compartment	\$	incl
46. Front Scene: Whelen Pioneer Plus Dual Panel LED (Recessed)	\$	2,525.00
47. Front Wall Light Layout: Lower 5 Lights	\$	incl
48. Front Wall Light #1: Whelen M6 Clear Light	\$	incl
49. Front Wall Light #2: Whelen M6 Red Light	\$	incl
50. Front Wall Light #3: Whelen M6 Clear Light	\$	incl
51. Front Wall Light #4: Whelen M6 Red Light	\$	incl



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52. Front Wall Light #5: Whelen M6 Clear Light	\$	incl
53. Front Wall Driver Side Box Light: Whelen M9 Red Light	\$	175.00
54. Front Wall Passenger Box Light: Whelen M9 Red Light	\$	175.00
55. *Note to Engineering: Mount Opticom emitter toward D/S of front scene light. Relocate plating in front wall.	\$	incl
56. UNOC #318 - All Clear LEDs to turn OFF in PARK	\$	300.00
57. Driver Wall Front Box Light: Whelen M9 Red Light	\$	175.00
58. Driver Wall Rear Box Light: Whelen M9 Red Light	\$	175.00
59. Driver Wheel Well Light: Whelen M6 Red Light	\$	incl
60. Side Scene Lights: Whelen Pioneer Plus Dual Panel LED (Recessed)	\$	3,750.00
61. O2 Compartment Style: 76" O2 Standup with Divider	\$	incl
62. O2 Cylinder Bracket Type: Ratchet Straps for H Cylinder	\$	incl
63. O2 Cylinder Changing Wrench	\$	125.00
64. Intermediate Compartment Style: SCBA in the Corners	\$	300.00
65. (1) SC-50-H-6-SF SCBA brackets raised 10" off the Floor of the Compartment	\$	700.00
66. Coat Hooks: Four Hooks - 1 on Front Wall, 1 on Rear Wall, and 2 on an angle on the Ceiling	\$	300.00
67. Electrical Compartment Style: Taller Electrical Compartment	\$	incl
68. Dometic Self-Contained A/C with Exhaust Fan	\$	incl
69. Rear Storage Compartment Style: Rear Storage with Flatbars for SCBA Brackets	\$	300.00
70. (1) SC-50-H-6-SF SCBA brackets raised 10" off the Floor of the Compartment	\$	700.00
71. Coat Hooks: Four Hooks - 1 on Front Wall, 1 on Rear Wall, and 2 on an angle on the Ceiling	\$	300.00
72. Module Window Option: Sliding Window	\$	incl
73. Window Tint (5% VLT) on Rear and Side Entry Doors	\$	375.00
74. Upper Rear Wall Light Layout: 5 Across	\$	incl
75. Upper Light #1: Whelen M6 Amber Light	\$	375.00
76. Upper Light #2: Whelen M6 Load Light	\$	incl
77. Upper Light #3: Whelen M6 Green Light	\$	175.00
78. Upper Light #4: Whelen M6 Load Light	\$	incl
79. Upper Light #5: Whelen M6 Amber Light	\$	375.00
80. Lower Light #1: Whelen M6 Brake/Tail/Turn Red Light	\$	incl
81. Lower Light #2: Whelen M6 Brake/Tail/Turn Red Light	\$	incl



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82. Lower Light #3: Whelen M6 Red Light	\$	incl
83. Lower Light #4: Whelen M6 Red Light	\$	incl
84. Rear Wall Driver Box Light: Whelen M9 Red Light	\$	175.00
85. Rear Wall Passenger Box Light: Whelen M9 Red Light	\$	175.00
86. Rear Backboard Options: 5" Compartment Shelf	\$	300.00
87. Lower BTTs: 2 M6 Lights on each side	\$	950.00
88. Rear Bumper	\$	incl
89. Door Grabbers	\$	incl
90. License Plate Light	\$	incl
91. Passenger Wall Front Box Light: Whelen M9 Red Light	\$	175.00
92. Passenger Wall Rear Box Light: Whelen M9 Red Light	\$	175.00
93. Passenger Wheel Well Light: Whelen M6 Red Light	\$	incl
94. Passenger Scene Light Activated with Side Entry Door	\$	425.00
95. Interior Step Option: Double Step Well	\$	incl
96. Passenger Rear Compartment Style: Passenger Side Storage Compartment	\$	incl
97. Door Locks on Entry Doors and Compartments	\$	3,700.00
98. Gas Hold Open on All Compartments	\$	1,500.00

Module Exterior Subtotal \$ 59,350.00

Chassis Interior:

99. Siren Speakers: Whelen SA 315 Speakers	\$	incl
100. Tap-2 on Primary Siren	\$	incl
101. Siren Option: Whelen C9 Siren in Console	\$	incl
102. Mic 1 shipped loose	\$	incl
103. HAAS Alert System: HAAS Alert Responder to Vehicle - 5 Year Sub	\$	650.00
104. Slot 1: Single Slot Switch Panel	\$	incl
105. Slot 2: Siren 1	\$	incl
106. Slot 3: Radio Plate: 7.5 L X 2.5 W opening dims	\$	incl
107. Slot 4: Traffic Advisor Head	\$	incl
108. Console Switch Layout : Primary - Secondary - Opticom - Front Scene - Side Scene (Driver's Side) - Side Scene (Passenger's Side) - Rear Load - Interior Lights - Air Horn -	\$	incl
109. New Armrest	\$	300.00
110. Console Layout: 4-Slot Console	\$	incl
111. Front Base of Console: 120VAC	\$	700.00



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112. Floor in Front of Console: Gamber Johnson Heavy Dual Cup Holder	\$	250.00
113. Rear of Console: Double Mapholder	\$	500.00
114. Chassis Rear Wall: 3 High Glove Box Holder	\$	300.00
115. Camera System: Ford OEM Back-up Camera System	\$	700.00
116. Map Light: Light on both sides	\$	550.00
117. Secure-Idle Anti-Theft System	\$	850.00
118. Aftermarket Vinyl Seats	\$	1,100.00
Chassis Interior Subtotal	\$	5,900.00

Module Interior:

119. Protek Cushions	\$	incl
120. Gunmetal Grey Interior	\$	incl
121. Stainless Steel Countertops	\$	incl
122. Yellow Grab Rails	\$	300.00
123. Sentinel Disinfection System	\$	4,600.00
124. Stacked Cabinet with Refrigerator	\$	2,975.00
125. Refrigerator Lock	\$	325.00
126. (2) Glove Box Holders on the Front Wall	\$	450.00
127. Location 1: 8 Switch panel	\$	incl
128. Location 2: Double O2 Outlet	\$	incl
129. Location 3: Electric O2 panel with monitor	\$	2,300.00
130. Location 4: Thermostat	\$	incl
131. Location 6: Blank	\$	incl
132. Location 7: Blank	\$	incl
133. Location 8: Quad 120 VAC	\$	incl
134. Location 9: Suction	\$	incl
135. Kussmaul USB/USB-C at Action Wall	\$	300.00
136. Door Lock Switch at Action Wall	\$	175.00
137. Action Wall Switch Layout : Interior Lights; Dimmer; Ventilation Fan; Electric O2; Kussmaul USB/USB-C; Module Heater - Hi/Off/Low; Unlock/Lock; Blank;	\$	incl
138. Technimount ZOLL X Monitor Mount (Heavy Duty) on the Action Wall Countertop	\$	1,975.00
139. Sharps Container at Action Wall	\$	incl
140. Acrylic Holder at the Action Wall Cabinet	\$	incl
141. New 6pt Harness at the CPR Seat	\$	700.00



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142. Cabinet Aft CPR Seat	\$	1,225.00
143. A/C Vent Plate Perko Clip	\$	75.00
144. Rear Door Switch Layout : Blank; Blank; Dump/Bypass (Suspension); Rear Load;	\$	incl
145. Two Seating Positions at the Squad Bench - 1 and 2	\$	incl
146. Harness Type for Seat Position 1: New 6pt Harness	\$	700.00
147. Harness Type for Seat Position 2: New 6pt Harness	\$	700.00
148. Acrylic Holder and Sharps at Squad Bench	\$	1,075.00
149. Triple Squad Bench Cabinet	\$	1,225.00
150. Trashcan With Lid at the Head of the Squad Bench	\$	incl
151. Door Forward Front I/O with Hospital Grade Power Strip with Lexan Doors	\$	incl
152. 2 High "D" Cylinder Holder in the Front I/O	\$	250.00
153. Duplex Outlet Above the Front I/O	\$	incl
154. Large Black Trashcan at the Side Entry Door	\$	250.00
155. O2 Outlet in Ceiling Raceway	\$	450.00
156. IV Hanger on Ceiling Raceway	\$	incl
157. Driver and Passenger Side Yellow Powdercoated Ceiling Grab Rails for 14' Unit	\$	650.00
158. IV Hanger on Squad Bench Ceiling	\$	incl
159. Head knocker options: With Clock only	\$	625.00
160. Stryker cot tower only (no antler and bar)	\$	incl
161. Floor Options: Customer Provided Stryker Power-LOAD - Gen 2	\$	2,225.00
162. Loncoin II Onyx Floor	\$	incl
163. Captain's Chair Type: Valor's Captain's Chair with 4pt. Harness	\$	2,025.00
164. Module Heater : New	\$	incl
165. Customer Provided Items Processing Fee	\$	325.00
Module Interior Subtotal		\$ 25,900.00



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Email this quote along with your PO
to Lauren Lambert at llambert@frazerbilt.com

Remit To:

Per TMVCC, we are quoting this through our
licensed franchise dealer, Sterling McCall Ford.

Sterling McCall Ford
6445 Southwest Freeway
Houston, TX 77074

Standard Terms and Conditions

INVOICING AND PAYMENT TERMS: Vendor shall submit one (1) original invoice per payment due. The invoice(s) shall include the items listed in accordance with the quote mentioned in the Sale Agreement with reference to the Customer's Purchase Order Number.

If the Sale Agreement provides for any progress (or advance) payments based on specific milestones or activities, Vendor's invoice shall certify to the accomplishment or performance by Vendor of said milestone or activity, and that Customer has obtained a security interest in such Products to the extent of such payment.

Payment shall be due upon receipt of the invoice and delivery of the unit to the Customer unless previously negotiated.

CANCELLATION POLICY: Cancellation of orders must be received 120 days prior to the agreed upon delivery date. If the order is cancelled within the 120 day window, a fee of 25% of the total purchase order price will apply.

DELIVERY TERMS: The products listed in the estimate are to be delivered Free On Board (FOB) Destination to Houston, TX. Customer representative(s) will pick up the unit at upfitter location, 7219 Rampart St., Houston, TX 77081 and transport it to their final destination at customer expense unless otherwise specified in the Vendor quote.



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TERMINATION FOR CAUSE: Customer may terminate this Sale Agreement and any corresponding Purchase Order, or any part thereof, for cause including, but not limited to the following Vendor actions: (1) any default or breach of any of the terms and conditions of the Sale Agreement, (2) failure to provide Customer, upon request, a reasonable assurance of future performance, or (3) bankruptcy, dissolution, or suspension of payments by judicial decree. If Vendor does not cure such failure within a period of five (5) days or such a longer period as Customer may authorize in writing after the date such notice is sent to Vendor, then termination may proceed.

Vendor may also terminate this Sale Agreement and any corresponding Purchase Order for cause, and Vendor will not be in breach of same, in the event any supplier to Vendor fails to deliver Products and/or component parts in a timely fashion and Vendor cannot make alternate accommodations in order to comply with the Parties' agreed upon completion and delivery dates.

CHANGE ORDERS: Vendor has the right to modify the Purchase Order requirements and conditions as needed and will advise Customer in writing of such requested changes. Vendor shall not proceed with any changes without Customer's written authorization. Any request by Customer to change the terms or conditions of the Purchase Order, including product specifications, options, and price, must be made in advance of the production job order release. Any changes made after the release of the production job order will incur a \$350 fee per change order made in a 24 hour period and will be included on a secondary invoice. Vendor reserves the right to refuse changes requested by the Customer.

PROPRIETARY INFORMATION, CONFIDENTIALITY AND ADVERTISING: All commercial, financial or technical information in any form that Vendor provides to Customer shall be deemed proprietary and confidential and Customer shall not disclose such information to third parties without Vendor's written consent. Termination of the Sale Agreement shall not relieve Customer of this confidentiality obligation. Upon Vendor's request, Customer shall return all confidential information to Vendor along with any reproductions, in whole or in part. The confidentiality obligation does not apply to information that is in the public domain through no fault of Customer or to information lawfully within Customer's possession prior to the date of the Purchase Order, as evidenced by Customer's written records.

INDEMNIFICATION: Customer shall fully release, indemnify, defend and hold harmless Vendor, its co-venturers, its contractors, and their respective affiliates, and Vendor's and their respective directors, officers and employees (including agency personnel) ("Vendor Group") from and against any and all claims arising out of the Customer's purchase, use, sale or incorporation of any Products purchased from Vendor into Customer's products or equipment wherein it is claimed or alleged that Vendor's Products are defective or violate any warranty, standard of care, industry standard or governmental regulation or term or condition of any Purchase



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Order without regard to any allegation of negligence on the part of the Vendor Group as it pertains to Vendor's Products.

Vendor shall fully release, indemnify, defend and hold harmless Customer, its co-venturers, its contractors, and their respective affiliates, and the Customer's and their respective directors, officers and employees (including agency personnel) ("Customer Group") from and against any and all claims arising out of the Customer's purchase, use, sale or incorporation of any Products purchased from Vendor into Customer's products or equipment wherein it is claimed or alleged that Vendor's Products are defective or violate any warranty, standard of care, industry standard or governmental regulation or term or condition of any Purchase Order without regard to any allegation of negligence on the part of the Customer Group as it pertains to Vendor's Products.

Customer Initials: _____

LIMITATIONS ON DAMAGES: In the event of any dispute, disagreement or breach alleged by Customer on the part of Vendor, Customer's exclusive and sole remedy shall be repair or replacement, if practical, of the module, or component part, by Vendor. If Vendor is not able to effectuate a repair, replacement, or cure that brings the module, or component part, into compliance with the Parties' agreement, then Vendor shall refund the sale price to Customer. In no event shall Vendor be liable to Customer, or to any third-party acting through Customer, for any additional, consequential or punitive damages, or damages for lost sales, revenue or profits claimed by Customer or any third-party acting through Customer.

FORCE MAJEURE: A force majeure delay shall mean any delay or other unforeseeable causes beyond the reasonable control of the party affected, provided that any such delay is not caused, in whole or in part, by the acts or omissions of the party so delayed and further provided that such party is unable to make up for such delay with reasonable diligence and speed. If any such cause delays Vendor's performance, the delivery date or time for completion may be extended by a period of time reasonably necessary to overcome the effect of such delay; however, Vendor shall take all reasonable measures to mitigate the effects of the force majeure event and to minimize such delay. A party affected by a force majeure event shall notify the other party of such force majeure event within forty-eight (48) hours of its knowledge of such event for the event to be considered a bona fide force majeure event.

TITLE AND RISK OF LOSS: Title to the Products shall transfer to Customer upon receipt of Products by Customer or its agent unless otherwise stated in the Sale Agreement. Notwithstanding the above, risk of loss of the Products shall remain with Vendor until delivered to Customer.



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WAIVER: Vendor's failure to exercise or enforce any right in the Purchase Order, or any other right or privilege under law, or Vendor's waiver of any breach by Customer shall not constitute a waiver or modification of any terms, conditions, privileges or rights whether of the same or similar type, unless Vendor gives such waiver in writing.

LIENS: Vendor waives and relinquishes all existing and future liens and claims (statutory or otherwise) for the Products specified in the Purchase Order, and warrants that the Products will be free and clear of all liens, claims or encumbrances of any kind.

INSPECTION, REVIEW AND WITNESSING: Customer and/or the ultimate owner of the Products have the right to inspect and attend testing of the Products at Vendor's premises (or its supplier's or subcontractor's premises) with reasonable advance notice. If any inspection is made on the premises of Vendor or its supplier, Vendor, without additional charge, shall provide all reasonable facilities and assistance for the safety and convenience of the inspectors in the performance of their duties.

APPLICABLE LAW AND VENUE: The Sale Agreement shall be governed and interpreted in accordance with the laws of the State of Texas, without reference to any principle of conflict of laws. Customer and Vendor expressly exclude the application of the Convention on International Sale of Goods to the Sale Agreement. Venue for all judicial, administrative, or regulatory proceedings shall be Houston, Harris County, Texas.

OWNERSHIP OF DOCUMENTS: Title to all drawings, specifications, calculations, technical data and other documents that Customer submits in accordance with the Purchase Order shall vest with Vendor. Vendor shall have the right to use such documents for any purpose pertaining to the manufacture, assembly, and delivery of the Products.

Title to all drawings, specifications, calculations, technical data, and other documents that Vendor submits to the Customer shall vest with the Customer. Customer shall have the right to use such documents for any purpose pertaining to the installation, operation, and maintenance of the Products.

INSURANCE: Vendor shall comply with the project insurance requirements for which the Products are being provided. Customer shall provide specific reasonable levels required as soon as such levels are available, which shall not exceed \$1,000,000 for any non-statutory category other than excess liability umbrella, which shall not exceed \$4,000,000. When requested by Customer, Vendor shall provide certificates of insurance as proof of same.



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SURVIVAL: The provisions of the following Paragraphs of these Terms and Conditions shall survive any cancellation or termination of the Purchase Order: (Proprietary Information, Confidentiality and Advertising), (Indemnification), (Liens), and (Applicable Law and Venue).

HGACBuy		CONTRACT PRICING WORKSHEET For MOTOR VEHICLES Only		Contract No.:	AM10-23	Date Prepared:	11/1/2023
Due to global supply chain constraints, any delivery date contained herein is a good faith estimate as of the date of this order/contract. As needed, delivery updates will be provided as soon as possible. Terms: A progress payment for the chassis portion will be invoiced and is due within 30 days of the chassis arriving at the dealership. The remaining balance will be invoiced 30 days prior to completion and is to be settled at the time of inspection and acceptance of the fully completed unit.							
Buying Agency:	Flower Mound Fire Department	Contractor:	Sterling McCall Ford	3814	HGAC		
Contact Person:	Dean Feldpausch	Prepared By:	Pablo Cantu				
Phone:		Phone:	(281) 588-5007				
Fax:		Fax:	(281) 588-5150				
Email:	dean.feldpausch@flower-mound.com	Email:	pcantu@sterlingmccallford.com				
Product Description	Type I - 14' Ford F-450 Gas 4x2 Reg Cab-108"CA w/ AL wheels						
A. Product Item Base Unit Price Per Contractor's H-GAC Contract: AM10-23						\$223,750.00	
B. Published Options - Itemize below - Attach additional sheet(s) if necessary. (Note: Published Options are "manufacturer standard options" which were submitted and priced in Contractor's proposal.)							
Description	Cost	Description	Cost				
Door Forward	\$6,750.00	Technimount at Action Wall	\$2,175.00				
Paint Two Tone	\$8,200.00	Cabinet to the Rear of the CPR Seat	\$1,350.00				
LiquidSpring	\$17,050.00	Acrylic Holder and Sharps at Squad Bench	\$1,200.00				
Chassis Steps: Texture Coated Side Steps	\$1,500.00	Triple Squad Bench Cabiner	\$1,350.00				
Dual 10" & 12" Air Horns	\$1,600.00	Customer Provided Power-load	\$2,450.00				
Fast Recover Compressor	\$2,075.00	4pt Captains Chair with child safety	\$2,950.00				
MEPS	\$20,775.00	Current Whelen Automotive Distributor Catalog List Price	\$3,725.00				
Paint One Color	\$7,300.00						
Conspicuity on the Rear of the Module in a Chevron Pattern	\$2,225.00						
Ground lights on perimeter of module and chassis steps	\$4,400.00						
GTT Opticom on Front Wall	\$2,725.00						
New Door Locks on Compartments and Entry Doors	\$6,450.00						
After-market Vinyl Seats in Truck Cab	\$1,225.00						
Interior Front Wall Upgrade (each)	\$4,600.00						
Stacked Cabinet with Fridge	\$3,275.00						
Electric O2 with Monitor	\$2,525.00						
		Subtotal B:	\$107,875.00				
C. Customization Category Totals - Itemize below / Attach additional sheet(s) if necessary. (Note: Customization options are "manufacturer non-standard options" which were submitted and priced in Contractor's proposal.)							
Description	Cost	Description	Cost				
		Subtotal C:					
Check: Total cost of Customization Categories (C) cannot exceed 25% of the total of the Base Unit Price plus Published Options (A+B).		For this transaction the percentage is:		0%			
D. Total Cost Before Any Applicable Trade-In / Other Allowances / Discounts (A+B+C)							
Quantity Ordered:	1	X Subtotal of A + B + C:	\$331,625.00	=	Subtotal D:	\$331,625.00	
E. H-GAC Order Processing Charge (Amount Per Current Policy)						Subtotal E:	\$1,000.00
F. Trade-Ins / Special Discounts / Other Allowances / Freight / Installation / Miscellaneous Charges							
Description	Cost	Description	Cost				
		Subtotal F:	\$0.00				
Delivery Date:		G. Total Purchase Price (D+E+F):		\$332,625.00			



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

DATE: December 4, 2023

FROM: Paul Henley, Fire Chief

ITEM: Consider approval of the purchase of a Stryker ambulance cot and Power Load system for the 2024 Ford F450 Frazer ambulance purchase from Stryker Medical amount of \$60,281.39; and authorization for the Mayor to execute same on behalf of the Town.

BACKGROUND: The Fire and Emergency Services Department has an ambulance that is approved for replacement under the FY23/24 vehicle equipment replacement fund (VERF). The Stryker medical equipment consisting of a Cot and Power Load System is part of this VERF however it will be purchased directly from the vendor at a cost savings for the Town. The amount of purchase is \$60,281.39 which includes equipment and installation. This request is in accordance with the Fleet Department's recommendation.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES: N/A

FISCAL IMPACT: \$60,281.39

Proposed Expenditure/(Revenue)
\$60,281.39

Account Number(s):
565-450-84500-6130

LEGAL REVIEW: N/A

ATTACHMENTS:

1. Bid Award Recommendation COT and PWR Load
2. Stryker sole source
3. Stryker Power Cot and Load Quote

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



Bid Award Recommendation

Date: 11/10/2023– VERF FY23-24

Description: **Stryker COT and Power Load for New Medic replacing 61000-06**

Qty.: 1 Kit Consisting of a COT and Power Load with Floor Plate:
Power-PRO XT MTS High: Dual wheel lock, x-restraint package, retractable head section 02 bottle holder, 3-stage IV pole PR, equipment hook, H/E storage flat, XPS side rail, XPS mattress, Knee-Gatch, Dual compatibility, backrest storage pouch, steer-lock

Replaces: COT and Power Load Equipment for New Medic replacing 61000-06, a 2017 Ford F450 Medic - Fire

Bidder: Stryker, Marissa Wheeler, marissa.wheeler@stryker.com 586-713-6031 via sole source letter and quote 10804427 Dated 10/19/2023

Item: 1 – Stryker COT and Power Load device to be installed in the new Medic/Ambulance that is replacing current Medic 61000-06

Total Cost of Equipment & Installation:

\$60,281.39

It is Fleet Services recommendation to award the bid to **Stryker** in the amount of **\$60,281.39** utilizing the **enclosed quote and sole source letter.**

Fleet Services Manager

11/10/2023

Date

December 2022

Power-LOAD® Cot Fastener sole source information

To whom it may concern,

Stryker certifies that we are the sole manufacturer of Stryker's Power-LOAD Cot Fastener (Model 6390). This correspondence is to inform you of the characteristics of the Power-LOAD Cot Fastener. These characteristics can be broken down into two primary categories: **qualifications** and **ease of use**.

Stryker's Power-LOAD (Model 6390) Cot Fastener is mounted within the patient compartment and is intended to aid in the loading/unloading of patients. Stryker's Power-LOAD is the only powered cot fastening system that meets the following:

Qualifications:

- IPX6: The system is tested to withstand powerful water jets.
- IEC 60601-1 and IEC 60601-1-2: The Power-LOAD Cot Fastener conforms to industry standards for mechanical and electrical safety for medical electrical devices, as well as electromagnetic compatibility and immunity.
- BS EN-1789:2007, clause 4.5.9 when used with Power-PRO Cot and X-Restraints: This is a European dynamic crash test which subjects a 50th percentile dummy to nominal 10g deceleration for a minimum of 50ms. Following the test there shall be no sharp edges.
- SAE J3027 compliant when used with Stryker's Power-PRO Cot and X-Restraints

Ease of use:

- Provides a linear guide for loading and unloading the cot.
- Allows for remote actuation from Power-PRO foot end controls.
- Engages to the cot during loading and unloading, providing a means of lifting and lowering.
- Safe working load of 870 lb and capable of lifting patients weighing up to 700 lb.
- Mounts inside the patient compartment to prevent environmental exposure and corrosion.
- Power washable.
- Capable of inductively charging Stryker's SMRT Battery.

Please contact your Sales Representative for further information.

Sincerely,



John Guyeskey, Sr. Manager, Downstream Marketing

Stryker or its affiliated entities own, use, or have applied for the following trademarks or service marks: Power-LOAD, Power-PRO, SMRT, Stryker. All other trademarks are trademarks of their respective owners or holders.

The absence of a product, feature, or service name, or logo from this list does not constitute a waiver of Stryker's trademark or other intellectual property rights concerning that name or logo.

M0000001062 REV AB

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Emergency Care

3800 E. Centre Avenue, Portage, MI 49002 USA | P +1 269 329 2100 | Toll-free +1 800 327 0770 | [stryker.com](https://www.stryker.com)



Flower Mound x Frazer - cot and load 1

Quote Number: 10804427

Version: 1

Prepared For: FLOWER MOUND FIRE DEPT

Attn:

Rep: Marisa Wheeler

Email: marisa.wheeler@stryker.com

Phone Number: 586-713-6031

Quote Date: 12/01/2023

Expiration Date: 02/29/2024

Equipment Products:

#	Product	Description	U/M	Qty	Sell Price	Total
1.0	650605550003	Power-PRO XT MTS High: Dual wheel lock, x-restraint package, retractable head section 02 bottle holder, 3-stage IV pole PR, equipment hook, H/E storage flat, XPS side rail, XPS mattress, Knee-Gatch, Dual compatibility, backrest storage pouch, steer-lock	PCE	1	\$28,889.66	\$28,889.66
2.0	639005550001	MTS POWER LOAD *INCLUDES FLOOR PLATE*	PCE	1	\$30,647.52	\$30,647.52
Equipment Total:						\$59,537.18

Price Totals:

Estimated Sales Tax (0.000%):	\$0.00
Freight/Shipping:	\$744.21
Grand Total:	\$60,281.39

Prices: In effect for 30 days

Terms: Net 30 Days

Terms and Conditions:
Deal Consummation: This is a quote and not a commitment. This quote is subject to final credit, pricing, and documentation approval. Legal documentation must be signed before your equipment can be delivered. Documentation will be provided upon completion of our review process and your selection of a payment schedule. Confidentiality Notice: Recipient will not disclose to any third party the terms of this quote or any other information, including any pricing or discounts, offered to be provided by Stryker to Recipient in connection with this quote, without Stryker's prior written approval, except as may be requested by law or by lawful order of any applicable government agency. A copy of Stryker Medical's terms and conditions can be found at https://techweb.stryker.com/Terms_Conditions/index.html.



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

DATE: December 4, 2023
FROM: Shane Jennings, Assistant Chief of Police
ITEM: **Consider approval of purchasing (5) 2023 Dodge Durango PPV vehicles, all with Police Equipment Packages as per Town of Flower Mound specifications and vendor estimate via TIPS USA Cooperative Contract #210907, for \$392,118.85.**

BACKGROUND: The Police Services Department is requesting the purchase of (5) 2023 Dodge Durango PPV vehicles, all with Police Equipment Packages as per Town of Flower Mound specifications and vendor estimates via TIPS USA Cooperative Contract #210907 for \$392,118.85. This purchase replaces (2) current units that are scheduled to rotate out of service and adds (3) new units to the Uniformed Services Section fleet. The Police Department requests to purchase these five vehicles due to availability in a limited police vehicle market and at a cost savings compared to future 2024 pricing. The purchase and replacement of these vehicles is part of the approved Fiscal Year 23-24 budget and Vehicle Equipment Replacement Fund (VERF).

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES: Nothing that provides the same benefits and availability.

FISCAL IMPACT: \$392,118.85

Proposed Expenditure/(Revenue)

\$235,271.31

\$156,847.54

Account Number(s):

318-560-43500-6130

565-450-84500-6130

LEGAL REVIEW: N/A

ATTACHMENTS:

1. Bid Award Recommendation
2. Defender Spec (Equipment Package)
3. Fleet Requisition
4. Quote

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



Bid Award Recommendation

Date: 11/13/2023 – Decision Pkg. & VERF FY2024

Description: **Dodge Durango Pursuit Rated Vehicle W/ Emergency Equipment**

Qty.: 5 Total Units:
3 Funded as New Fleet Addition Decision Package
2 Funded as Replacement VERF

Replaces: 43500-89, and 43500-90, Both of which are 2020 Tahoe PPV - Police

Bidder: Donalson CDJR, Seth Gamblin 512-436-1313 sgamblin.silsbeefleet@gmail.com
Via TIPS USA Cooperative Contract# 210907.

Item: Five – Dodge Durango All Wheel Drive V8 Pursuit Rated Vehicle with Police Emergency Lighting/Equipment Package as per TOFM Specs and as Identified Within Attached Cooperative Quote “DODGE DURANGO POLICE V8” and Defender Upfit #37014.

Total Cost of Vehicles, Equipment & Installation:

3 – Decision Pkg. Units - \$235,271.31
2 – VERF Units - \$156,847.54

5 Units Total - \$392,118.85

It is Fleet Services recommendation to award the bid to **Donalson CDJR** in the amount of **\$392,118.85** utilizing the **TIPS USA Cooperative Contract #210907**.

Fleet Services Manager

11/13/2023

Date



**845 FM 407 W
Argyle, TX 76226**

Date	8/31/2023
Estimate #	37014
Estimate By	Mike
	mike@defendersupply.com
	903-771-1089



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

Customer Contact	
Customer Phone	972-874-6037 AP
Customer E-mail	accountspayable@flower-mound....

Item	Description	Location	Qty	Price	Total
	2024 Dodge Durango				
Tint-2Windows-Front	Window Tint - For Two Front Windows Madico Window Tint 55% Front 2 Windows		1	93.00	93.00T
	Tech Note: Special Programming Mount one siren speaker on each inside corner of the push bumper				

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

**DEFENDER SUPPLY™**845 FM 407 W
Argyle, TX 76226

Date	8/31/2023
Estimate #	37014
Estimate By	Mike
	mike@defendersupply.com
	903-771-1089



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

Customer Contact	
Customer Phone	972-874-6037 AP
Customer E-mail	accounts payable@flower-mound....



Item	Description	Location	Qty	Price	Total
DSP-DUR-BASE-MARKE...	Defender Supply DURANGO Marked Patrol Base Package - Whelen 48' Legacy WeCanX DUO Lightbar with Integrated Traffic Advisor and Full Across Take Down/Alley Lighting, Progressing Flash Patterns with Slide Switch, Cruise, Photo Cell Daylight Sensing, Low Power (R/W, B/W Font And Side, R/A, B/A Rear) with Strap Kit. - Core Controller, SYNC Module, OBDII Canport Harness, Output Expansion Module, 100 Watt Speaker and Bracket. Wired and Programmed to Defender Supply Standard. - Steel Push Bumper with Textured Coating and 6 Tri Color Super LED Light Heads (R/B/W), 4 in the Top Channel Cutouts and 1 on Each Side with 45° Brackets. Take Down, Alley Lighting, Progressing Flash Patterns with Slide Switch, Cruise and Low Power Capabilities. - 2 Tri Color Super LED Light Heads (R/B/W) Mounted on Rear License Plate Bracket. Reverse / Brake Lighting, Progressing Flash Patterns with Slide Switch, Cruise and Low Power Capabilities. - Tail light Flasher Module. - 2 Hatch Dome Lights. - Contoured Police Console With Dual Cup Holder, Arm Rest and 2 Magnetic Mic Clips. - Defender Supply Wiring Harnesses and Power Distribution Block. - Includes Installation. TECH NOTE: I3SMJC flush mounted to side of PB, Perpendicular. Please mount Speaker on bottom of middle cross member.		1	7,898.75	7,898.75
DSP-COMPSTAND-CON...	Defender Supply Computer Mount; Console. Includes Installation.		1	472.00	472.00
HV-DS-DELL-425	Docking Station with Standard Port Replication for Dell Latitude Rugged Notebooks 5430, 7330, 5420, 5424 & 7424		1	489.00	489.00T
HV-LPS-137	90 Watt Power Supply (with ferrite bead for in-vehicle EMI suppression) for use with DS-DELL-100,110 Series, DS-DELL-200,210,220,230 Series, DS-DELL-300 Series, DS-DELL-400 Series, and DS-GD-300 Series Docking Stations		1	186.00	186.00T

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

**DEFENDER SUPPLY™**845 FM 407 W
Argyle, TX 76226

Date	8/31/2023
Estimate #	37014
Estimate By	Mike
	mike@defendersupply.com
	903-771-1089



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

Customer Contact	
Customer Phone	972-874-6037 AP
Customer E-mail	accountspayable@flower-mound....



Item	Description	Location	Qty	Price	Total
DSP-DUR-DOORPANEL	Defender Supply DUR Prisoner Door Panels. Includes Shipping and Installation.		1	426.25	426.25
DSP-DUR-WINDOWGUA...	Defender Supply DURANGO Steel Window Guards In Conjunction with Factory or Prisoner Door Panels. Includes Shipping and Installation.		1	401.50	401.50
DSP-WEAPONLOCK	Defender Supply Surface Mount Dual Weapon Universal Cuff Lock with 8 Second Timer, Switch, Defender Supply Gunlock Wire Harness. Includes Installation.		1	568.75	568.75
DSP-DUR-PARTITION	Defender Supply DURANGO Prisoner Partition with Full Across Poly Window with Center Slider, Recessed Center and Lower Kick Panels. Includes Shipping and Installation. Pro-Gard PSSP6704D18A		1	1,129.00	1,129.00
DSP-DUR-CARGOBARRI...	Defender Supply DURANGO Cargo Barrier with Mesh Window, Plastic Prisoner Seat with Center Pull Seat Belt System. Includes Shipping and Installation. Pro-Gard S6705D18OSB		1	1,994.50	1,994.50
DSP-DUALTONE-X	Defender Supply Dual Tone Siren Package for Core. Includes Amp, 100 Watt Speaker, Bracket. Includes Installation.		1	637.50	637.50
DSP-DUR-RB-LIGHTSTICK	Defender Supply DURANGO Running Board Light Stick Package - Includes Two Tri Color Super LED Light Sticks (R/B/W), 1 on Each Running Board. Progressing Flash Patterns with Slide Switch, Alley, Low Power and Cruise Functions Available (Core/Carbide Only). Includes Installation. Red/Blue/White				1,981.00
DSP-HIDEAWAY-TAIL-C...	Defender Supply Tail Light Hide-Away Lighting Package -Includes 2, Dual Color Super LED Light Heads (1x R/W, 1x B/W) Inserted in the Reverse Section of the Tail Lights. Cruise, Low Power and White in Reverse Function Available (Configuration 2 Core/Carbide Only). Includes Installation.				317.50
DSP-MIRROR-SIDE	Defender Supply Mirror Lighting Package 1 - Includes Two Tri-Color Super LED Light Heads Mounted Under Mirror (R/B/W) with 180° Light Spread and integrated Alley Function. Includes Installation.		1	1,131.00	1,131.00

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

**DEFENDER SUPPLY™**845 FM 407 W
Argyle, TX 76226

Date	8/31/2023
Estimate #	37014
Estimate By	Mike
	mike@defendersupply.com
	903-771-1089



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

Customer Contact	
Customer Phone	972-874-6037 AP
Customer E-mail	accountspayable@flower-mound....



Item	Description	Location	Qty	Price	Total
DSP-DUR-REARPILLAR	Defender Supply DURANGO Pillar Light Package - Includes Six Super LED Light Heads (3x Red, 3x Blue) integrated into a formed Housing Mounted on the Pillar at Each Side of the Rear Window. Includes Installation.		1	1,197.75	1,197.75
DSP-UNDERHATCH	Defender Supply Under Hatch Lighting Package -Includes 2, Dual Color Super LED Light Heads (R/B), Mounted Horizontally Under The Hatch on Each Corner, Rear Facing When Open. Progressing Flash Patterns with Slide Switch, Cruise, Tail/Brake Functions Available (Carbide Only). Includes Independent On/Off Switch and Installation.		1	557.75	557.75
SO-ECVDMTLAL00	Universal Mount 6" Round w/ Red LED Night Light, 10-30v - White LEDs/White Lens Front Cabin		1	81.00	81.00T
WH-3SRCCDCR	Whelen LED Flush Mount Compartment Light in Red & White 2-Hatch 1-Cargo 2-Prisoner Area		15	49.00	735.00T
WIRE-CUSTOM	Wiring Hardness for Dome Lights		1	77.00	77.00T
Misc. Shop Supplies	Red Rocker Switch for Hatch Lights		1	5.00	5.00T
DSP-REARSIDEGLASS	Defender Supply Rear Side Window Lighting Package - Includes Two Tri Color Super LED Light Heads (R/B/W) Mounted 1 on Each Rear Side Window. Progressing Flash Patterns with Slide Switch, Alley, Low Power and Cruise Functions Available (Core/Carbide Only). Includes Installation.		1	482.50	482.50
DSP-EQUIPMENTMOUNT	Defender Supply Electronic Equipment mounting system with Protection Cover - Mounts to cargo partition in the Rear Cargo Area to Install and Protect Electronic Equipment and Power Distribution for Cleanliness and Easy Maintenance Access. Includes Installation.		1	367.50	367.50
DSP-OPTI-BUMPER	Installation of 794 Opticom/Emitter Mounted on the Push Bumper.		1	1,418.75	1,418.75
DSP-DUR-RADAR-Stalker...	Stalker DSR 2X - 'Ka' Band - Front & Rear Antenna Moving Radar Unit with Remote and Vehicle Specific Brackets. Includes Installation.		1	4,098.50	4,098.50
AC-24MONTHEXTENDED	Applied Concepts, Stalker, 24 Month Extended Warranty		1	608.00	608.00T

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**DEFENDER SUPPLY™**845 FM 407 W
Argyle, TX 76226

Date	8/31/2023
Estimate #	37014
Estimate By	Mike
	mike@defendersupply.com
	903-771-1089



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

Customer Contact	
Customer Phone	972-874-6037 AP
Customer E-mail	accountspayable@flower-mound....



Item	Description	Location	Qty	Price	Total
DSP-FLASHLIGHT-LG	Defender Supply Full-Size Rechargeable Metal Multi-Function LED Flashlight. --Mounted to the passenger side of the console. -Flashlight Switches Provide Momentary or Constant-On Functionality with User-Selectable High (350 Lumens), Medium (160 Lumens) or Low (10 Lumens)-Brightness Settings as well as a Disorienting Strobe.		1	290.27	290.27
Misc	TK0233DUR11 Setina Cargo Box DSK- Drawer, Sliding With Key Lock BSN- Base Sliding With No Lock		1	1,449.00	1,449.00T
SE-TF0237DUR11	FREE STANDING CARGO BRKT KIT, 11-20 DURANGO		1	148.00	148.00T
RD-GP-IN2148	Panorama GPS-D-2148, GPSD+/C29/C32/C74/CABLES KIT		1	375.00	375.00T
RD-AFM-835	AFM 835 700-800 whip		1	14.00	14.00T
RD-C23F-5M	Radio Cable FRadio Cable FME(ftd) MPL(ftd) 5m CS23 cable		1	20.00	20.00T
RD-170635-000	12-volt vehicular power cable for Cradlepoint		1	35.00	35.00T
TC-HAF4013A	RADIO CABLES HAF4013A Motorola Antenna (762-870 mHz)		1	68.00	68.00T
TC-HKN4192C	Mobile Power Cable, 20ft, 10 AWG		1	53.00	53.00T
TC-HKN6188B	Remote head power cable plus speaker outs for Motorola XTL 5000		1	51.00	51.00T
TC-HSN4032B	Motorola 13-Watt Police Radio Speaker with Mounting Bracket		1	81.00	81.00T
TC-HKN6169B	Motorola Two-Piece Radio Remote Cable		1	119.00	119.00T
TC-HSN4040A	Motorola 13W weatherproof / waterproof external speaker		1	81.00	81.00T
Misc. Shop Supplies	Red Rocker Switch for Cargo Dome Operation		1	7.00	7.00T
CDW-P1063406-031	ZEBRA AIT, ACCESSORY, KIT, DC-DC VEHICLE ADAPTER, CIG,12-24V, QLN/ZQ5/ZQ6		1	62.00	62.00T
Graphics-Design & Install	Professional Design & Installation of Graphics for Customer's Department by Defender Supply - Grafixx Shoppe		1	501.00	501.00
Graphics-Install	Professional Installation of Graphics by Defender Supply		1	210.00	210.00
Install	Installation of Above Equipment not covered under groups		1	551.00	551.00

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**DEFENDER SUPPLY™**845 FM 407 W
Argyle, TX 76226

Date	8/31/2023
Estimate #	37014
Estimate By	Mike
	mike@defendersupply.com
	903-771-1089



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

Customer Contact	
Customer Phone	972-874-6037 AP
Customer E-mail	accountspayable@flower-mound....

Item	Description	Location	Qty	Price	Total
Install	Removal of Equipment (hardware only. cables can remain) Customer Supplied Equipment Cradlepoint COR IBR900 Motorola APX-6500 2pc with remote head Axon Fleet		1	125.00	125.00
DSP-CSP-RADIO2PC	Installation of customer supplied 2 piece radio. ** All customer supplied equipment is assumed to be either brand new in box or bench tested and fully functional with all necessary vehicle specific cables and brackets – troubleshooting and/or repairing inoperable or incomplete customer supplied equipment will be subject to our normal labor rate of \$125/hour ** APX-6500 2 piece remote head		1	251.00	251.00
DSP-CSP-CRADLEPOINT	Installation of customer supplied cradle point. ** All customer supplied equipment is assumed to be either brand new in box or bench tested and fully functional with all necessary vehicle specific cables and brackets – troubleshooting and/or repairing inoperable or incomplete customer supplied equipment will be subject to our normal labor rate of \$125/hour ** Cradlepoint COR IBR900		1	188.50	188.50
DSP-CSP-CAMERA	Installation of customer supplied camera system. ** All customer supplied equipment is assumed to be either brand new in box or bench tested and fully functional with all necessary vehicle specific cables and brackets – troubleshooting and/or repairing inoperable or incomplete customer supplied equipment will be subject to our normal labor rate of \$125/hour ** Axon Fleet 3		1	594.75	594.75
	Customer Supplied Equipment: Cradlepoint COR IBR900 Motorola APX-6500 2pc with remote head Axon Fleet				
	Texas Government or Municipality - No Sales Tax			0.00%	0.00

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

Vehicle & Emergency Equipment Total	\$32,629.02
--	--------------------

Signature _____

VEHICLE-EQUIPMENT PURCHASE REQUISITION

(For Purchase Process)

Date: 11/14/2023
 Suggested Vendor: Donalson CDJR
 Contact (if known): Seth Gamblin
 Address (if available): 1305 hwy 96 bypass
Silsbee Tx 77656
 Phone/Fax: 512-436-1313



Ship/Bill To: Town of Flower Mound
 ATTN: FLEET SERVICES
 Address: 1101 Duncan Lane
Flower Mound, TX 75028
 PO #: _____
 Department Name: POLICE

G/L Account # (if Decision Package)	\$ Amount Estimated	Qty.	Unit Description (Specifications)	\$Quote Amount	Amount
565-450-84500-6130	\$ 90,000	2	2023 Dodge Durango PPV w/ Emergency Eq. Upfit	\$78,423.77	\$156,847.54
318-560-43500-6130	\$ 90,000	3	2023 Dodge Durango PPV w/ Emergency Eq. Upfit	\$78,423.77	\$235,271.31
					-
All Pickups come equipped w/ Spray-In Liner, Headache Rack, Across-the-bed Locking Toolbox, and Lights				TOTAL:	\$392,118.85

Name/Phone Ext.: Darren Branch 6587
 Approved By: _____
 Unit #(s) to be replaced 43500-89-VERF
 or specify NEW Unit: 43500-90 VERF
NEW x 3 Dec. Pkg.
 Spec Name: Durango PPV
w/ Defender Upfit

APPROVALS:

Fleet Manager: Bill Sterner

Bid/Solicitation #: _____

Co-Op/Contract #: TIPS 210907

Note: Requisition 'Unit Description' **must** match unit approved through the budget process. Any exceptions **must** accompany a detailed justification and ATM/CFO signature approval.

PRODUCT PRICING SUMMARY

TIPS USA 210907 AUTOMOBILES

VENDOR DONALSON CDJR, LLC, 1305 Hwy 96 BYPASS , Silsbee TX 77656

End User: TOWN OF FLOWER MOUND

Prepared by: SETH GAMBLIN

Contact:

Phone: 512.436.1313**Email:**

Email: SGAMBLIN.SILSBEEFLEET@GMAIL.COM

Product Description: DODGE DURANGO POLICE V8

Date: November 13, 2023

A. Bid Item: _____

A. Base Price:	\$ 36,405.00
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B. Factory Options

Code	Description	Bid Price	Code	Description	Bid Price
WDEE75	2023 DODGE DURANGO POLICE	\$ -		POLICE GROUP	\$ -
EZH	5.7L V8 HEMI MDS VVT ENGINE AWD	\$ 7,995.00		ABS 4-WHEEL HD DISC BRAKES	
DFD	8 SPEED AUTO TRANS	\$ -		255/60R18 BSW ON/OFF ROAD TIRES	
				POLICE TUNED SUSPENSION	
A7	CLOTH BUCKET / REAR VINYL	\$ 135.00		I/P MOUNTING ELEC SHIFTER	
XCS	4 EXTRA KEY FOBS	\$ 115.00		130 MPH MAXIMUM SPEED CALIBRATION	
				AUX SWITCHES	
LNF	BLACK DRIVER SIDE SPOT	\$ 800.00		4 KEY FOBS	

Total of B. Published Options:	\$ 9,045.00
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Published Option Discount (5%)	\$ (442.75)
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C. Unpublished Options

\$= 71.8 %

Description	Bid Price	Options	Bid Price
		EXTERIOR COLOR- BLACK	
DEFENDER 37014	\$ 32,629.02	INTERIOR-	
		** UNIT ON ORDER NOW**	
			\$ 32,629.02

D. Floor Plan Interest (for in-stock and/or equipped vehicles):

E. Lot Insurance (for in-stock and/or equipped vehicles):

F. Contract Price Adjustment:

G.	Additional Delivery Charge:	250	miles
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H. Subtotal:

I. Quantity Ordered 5 x H =

J. Trade in:

K.

L. Total Purchase Price



TOWN COUNCIL AGENDA J.10. CONSENT ITEM(S)

DATE: December 4, 2023

FROM: Shane Jennings, Assistant Chief of Police

ITEM: **Consider approval of purchasing (2) 2023 Toyota Highlanders, both vehicles with vendor estimates via TIPS USA Cooperative Contract #210907, for \$86,073.00.**

BACKGROUND: The Police Services Department is requesting the purchase of (2) 2023 Toyota Highlanders, both vehicles as per Town of Flower Mound specifications and vendor estimates, via TIPS USA Cooperative Contract #210907 for \$86,073.00. The Police Services Department would utilize seizure funds to purchase two unmarked vehicles to assign to the assistant police chiefs. The requirements and duties of this position require it to be a uniform assignment most of the time. These positions act in the capacity of the Chief of Police in their absence, representing the agency at various events or meetings and responding to incidents 24/7. Further, assigning a vehicle to these positions is consistent with this position in other agencies. These vehicles are anticipated to be in service for six to eight years, and the assistant chief assignment would no longer receive a call allowance.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES:

Nothing that provides the same benefits and availability.

FISCAL IMPACT: \$86,073.00

Proposed Expenditure/(Revenue)
\$86,073.00

Account Number(s):
333-368-00000-6130

LEGAL REVIEW: N/A

ATTACHMENTS:

1. Fleet Requisition
2. Quote
3. Bid Award Recommendation

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

VEHICLE-EQUIPMENT PURCHASE REQUISITION

(For Purchase Process)

Date: 11/20/2023
 Suggested Vendor: Silsbee Toyota
 Contact (if known): Seth Gamblin
 Address (if available): 1396 Hwy 327 E
Silsbee, TX 77656
 Phone/Fax: 512-436-1313



Ship/Bill To: Town of Flower Mound
 ATTN: FLEET SERVICES
 Address: 1101 Duncan Lane
Flower Mound, TX 75028
 PO #: _____
 Department Name: Police Department

G/L Account # (if Decision Package)	Budget Estimate\$	Qty.	Unit Description (Specifications)	Quote Price	Amount
333-368-00000-6130	\$85,675.00	2	2023 Toyota Highlander	43,036.50	86,073.00
					-
					-
					-
					-
All Pickups come equipped w/ Spray-In Liner, Headache Rack, Across-the-bed Locking Toolbox, and Lights				TOTAL:	86,073.00

Name/Phone Ext.: Darren Branch / #6587
 Approved By: _____
 Unit #(s) to be replaced
 or specify NEW Unit: New Unit- 2
 Spec Name: PD Highlander

APPROVALS:
 Fleet Manager: Bill Sterner

 Bid/Solicitation #: _____
 Co-Op/Contract #: TIPS USA #210907

Note: Requisition 'Unit Description' **must** match unit approved through the budget process. Any exceptions **must** accompany a detailed justification and ATM/CFO signature approval.



PRODUCT PRICING SUMMARY

TIPS- USA 210907 Automobiles

VENDOR--Silsbee Toyota, 1396 Hwy 327 E., Silsbee TX 77656

End User: TOWN OF FLOWER MOUND

Prepared by: SETH GAMBLIN

Contact: _____

Phone: 512.436.1313

Email: _____

Email: SGAMBLIN.SILSBEEFLEET@GMAIL.COM

Product Description: TOYOTA HIGHLANDER

Date: November 27, 2023

A. Bid Item: _____

A. Base Price: \$ 36,325.00

B. Factory Options

Code	Options	Bid Price	Code	Options	Bid Price
6946	2023 HIGHLANDER LE FWD	\$ 5,895.00			
	TURBO 4 CYL.	\$ -			

Total of B. Published Options: \$ 5,895.00

Published Option Discount (5%): \$ -

C. Additional Options

\$= 0.5 %

Options	Bid Price	Options	Bid Price
		EXTERIOR COLOR -WHITE	\$ -
1 ADDITIONAL KEY FOB TOTAL OF 3	\$ 199.00		
		** UNIT ON ORDER **	

Total of C. Unpublished Options: \$ 199.00

D. Floor Plan Interest (for in-stock and/or equipped vehicles):

\$ 250.00

E. Lot Insurance (for in-stock and/or equipped vehicles):

\$ -

F. Contract Price Adjustment: _____

G. Additional Delivery Charge: 210 miles

\$ 367.50

H. Subtotal:

\$ 43,036.50

I. Quantity Ordered 2 **x K =**

\$ 86,073.00

J. Trade in: _____

\$ -

K.

L. Total Purchase Price

\$ 86,073.00



Bid Award Recommendation

Date: 11/28/2023 – Seizure Fund FY2024

Description: **Toyota Highlander**

Qty.: 2

Replaces: None – New Fleet Addition - Police

Bidder: Silsbee Toyota, Seth Gamblin 512-436-1313 sgamblin.silsbeefleet@gmail.com
Via TIPS USA Cooperative Contract# 210907.

Item: 2 – White 2023 Toyota LE FWD Highlander Vehicles as Identified on Silsbee
"TOYOTA HIGHLANDER" Quote Dated 11/27/2023

Total Cost of Vehicles, Equipment & Installation:

\$86,073.00

It is Fleet Services recommendation to award the bid to **Silsbee Toyota** in the amount of **\$86,073.00** utilizing the **TIPS USA Cooperative Contract #210907**.

Fleet Services Manager

11/28/2023

Date



TOWN COUNCIL AGENDA J.11. CONSENT ITEM(S)

DATE: December 4, 2023
FROM: Henry Lucio, Captain Special Services
ITEM: **Consider the use of grant funds (2024 Edward Byrne Memorial Justice Assistance program) for the purchase of a 3-D scanner in the amount of \$78,510.58**

BACKGROUND: The Town applied and was awarded a grant in the amount of \$85,000.00 from the 2024 Edward Byrne Memorial Justice Assistance Grant Program to purchase a FARO 3D scanner. The purpose of this item is to purchase this forensic tool that efficiently and accurately documents crime and traffic crash scenes.

The quote for the equipment came in less than was originally anticipated in the Town's grant application. As a result, the Town will request permission from the Office of the Governor to utilize the remaining balance of the grant to purchase related accessory items for the crime scene mapping device, once the purchase is complete.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES: N/A

FISCAL IMPACT: \$78,510.68

Proposed Expenditure/(Revenue)
\$78,510.58

Account Number(s):
Grant Fund (370)

LEGAL REVIEW: N/A

ATTACHMENTS:

1. FARO Statement of Grant Award
2. FARO 1023-25-Flower

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

Statement of Grant Award (SOGA)

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

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

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

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

Grant Number:	4755901	Award Amount:	\$85,000.00
Date Awarded:	10/24/2023	Grantee Cash Match:	\$0.00
Grant Period:	10/01/2023 - 09/30/2024	Grantee In Kind Match:	\$0.00
Liquidation Date:	12/29/2024	Grantee GPI:	\$0.00
Program Fund:	DJ-Edward Byrne Memorial Justice Assistance Grant Program	Total Project Cost:	\$85,000.00
Grantee Name:	Flower Mound, Town of		
Project Title:	3D Crime Scene Scanner		
Grant Manager:	Sylvia Garcia		
Unique Entity Identifier (UEI):	FY9SMCN4CS33		

CFDA:	16.738 - Edward Byrne Memorial Justice Assistance Grant Program
Federal Awarding Agency:	U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance
Federal Award Date:	9/16/2022
Federal/State Award ID Number:	15PBJA-22-GG-00618-JAGX
Total Federal Award/State Funds Appropriated:	\$14,989,265.00

Pass Thru Entity Name:

Texas Office of the Governor – Criminal Justice Division (CJD)

Is the Award R&D:

No

Federal/State Award Description:

The purpose of this program is to reduce crime and improve the criminal justice system.



Remit To:
ZNet Tech, LLC
 PO BOX 213
 Olney, MD 20830
 301 200-4715 office
 301 200-4716 fax

GSA Schedule

47QTCA18D003S

Quote
 1023-25-Flower

Ship To: Flower Mound Police Department (TX)
 Flower Mound, United States
 Address: 4150 Kirkpatrick Ln
 Flower Mound, TX, 75028-1400

2280496

CUST ID:	BID / QUOTE:	POINT OF CONTACT:	BID DATE:	Required Date	F.O.B.	TERMS
	1023-25-Flower	Gary Block 202 262-8002 / garyb@znettech.com	25-Oct-23	2-6 Weeks	EXW Origin	Net 30
	DUNS: 610551637	TIN: 20-3728205	Cage: 499V5			
Line Item	Product Number	Product Description	GSA/Open Market	Unit Price	Quantity	Extended Price
	LS9-HU-TAA	FARO Focus Premium USA TAA			1	\$ 40,769.00
		Laser Scanner Focus Premium ships with: 1x Focus Premium scanner head, 1x Status Indicator, 1x Quick Release, 1x Power Block Battery, 1x Battery Power Dock, 1x Power Supply, 1x 64GB High-Speed SD Card and reader, 1x rugged transport case, 1x calibration certificate, 1x quick start guide, manufacturer warranty				
	ACCS-PWR-0014	3D AC LS FocusS Battery Power Block			1	\$ 594.00
		Power Block battery for Focus laser scanner and Freestyle.				
	ACCSS8032	3D AC LS Standard Carbon Fiber Tripod			1	\$ 1,168.00
		Carbon fiber tripod, super lightweight, highly stable, low-vibration, customized for Focus scanners for perfect performance and increased durability				
	SSA0900-3Y	SSA0900-Scene			1	\$ 5,355.00
	SSA51007-3Y	SSA51007-FARO Zone 3D Expert			1	\$ 4,771.00
	SOFTL0001	Single User Soft Lock			2	\$ -
	COMP0123X64	VR Ready Notebook			1	5443
		High-end notebook computer. Contact your FARO representative for current specifications.				
	SV2-SCN-Y3	Focus Premium Complete Care Year 3			1	\$ 5,132.00
		Complete care coverage for Focus Premium scanners. Includes parts and labor for repairs and annual cleaning and calibration. Covers thru year 3 from point of sale				
	ACCSS0299	80Mm Koppa Target Set			1	\$ 1,120.00
		A combination set of 12 x 80mm targets with rubber O-rings to secure the sphere to the 1/4" trajectory rods.				
	TR-SCN-POS-FOR-O	OnSite Forensics Cust-Site Upg. 5 Day			1	\$ 8,890.00
		Available only at point of FARO system sale. Customer Site Upgrade - five day course that discusses forensic applications with FARO Scanner with FARO Software, setup, and basic measurements. Customer Site Trainings are designed for up to 4 people to ensure proper transfer of knowledge and understanding. Price per class. Training days must be taken together on consecutive days, and cannot be split into individual days.				



2280496

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TOWN COUNCIL AGENDA J.12. CONSENT ITEM(S)

DATE: December 4, 2023
FROM: Kay Wilkinson, Director of Budget Services
ITEM: **Consider approval of an ordinance amending the Town of Flower Mound's Annual Budget for the fiscal year beginning October 1, 2022, and ending on September 30, 2023, as adopted by Ordinance No. 45-22 and amended by Ordinance No. 60-22, No. 06-23, No. 16-23, No. 19-23, No. 21-23, and No. 28-23 for adjustments to the General Fund, Debt Service Fund, Utility Fund, Stormwater Utility Fund, SAFER Grant Fund, and Health Insurance/ Flex Account Fund.**

BACKGROUND: The attached budget amendment represents the seventh proposed adjustment of the FY 2022-2023 Annual Budget. According to Section 9.14 of the Town Charter, "During the fiscal year, the Town Council shall have the power to transfer funds allocated by the budget from one department to another department, and to re-estimate revenues and expenditures." Transfers such as these are presented to the Town Council throughout the fiscal year in an effort to resolve variances from the Annual Budget and reallocate resources to cover unanticipated expenditures.

The year-end budget amendment request allows staff to adjust the financial reports to ensure that expenses do not exceed the approved budget at the departmental level. A discussion of the adjustments being requested in this budget amendment is provided below.

General Fund

Total General Fund expenditures are currently \$5,777,726 below the FY 2022-2023 budgeted expenditures. (These numbers are preliminary and subject to audit adjustments.)

Intergovernmental revenue will increase by \$1,500,000 to account for the payments from the state. The Fire Department has been working with the Texas Division of Emergency Management supporting Operation Lonestar in Del Rio, Texas. The state reimbursed the Town for employee salary, overtime, and backfill expenses and expenditures such as lodging and food for the employees on deployment. Additionally, the State is paying the Town an hourly rate for a fire engine to be deployed.

The Legislative Services, Police Services, Fire and Emergency Services, and Public Works departments require budget amendments. Legislative Services is over budget due to salaries and election costs. When a small department remains relatively fully staffed during the fiscal year, an overage will occur due to the budgeting practice of building in salary savings to account for potential vacancies. Police Services is over budget due to overtime costs. Fire and Emergency Services is over budget due to overtime costs associated with the department's partnership with the Texas Division of Emergency Management. Finally, Public Works requires a budget amendment because electricity costs were greater than the budget.

The following departments will increase or decrease by the amounts listed:

Town Manager's Office	\$ (1,255,000)
Legislative Services	30,000
Development Services	-
Parks and Recreation Services	-
Library Services	-
Police Services	200,000
Financial Services	-
Administrative Services	-
Fire and Emergency Services	1,000,000
Communications	-
Non-Departmental	-
Public Works	25,000
Environmental Services	-
	\$ -

Debt Service Fund

In the Debt Service Fund, revenues will increase by \$1,895,990, from \$6,089,699 to \$7,985,689. Expenditures will increase by \$1,806,502 from \$6,740,310 to \$8,546,812. In June 2023, the Town issued general obligation refunding bonds for the current refunding of a portion of the Town's tax supported bond issues, lowering overall debt service requirements. The increase in revenue is due to the proceeds and the increase in expenditures is due to the refunding payment to escrow.

Utility Fund

Total Utility Fund expenditures are currently \$1,615,422 below the FY 2022-2023 budgeted expenditures. (These numbers are preliminary and subject to audit adjustments.)

Financial Services requires a budget amendment due to Utility Billing merchant card fees exceeding the budget. Merchant card fees can vary significantly depending on the number of customers who pay with a credit card. Non-Departmental also requires an amendment due to insurance costs exceeding the budget.

The following departments will increase or decrease by the amounts listed:

Financial Services	\$ 110,000
Non-Departmental	5,000
Public Works	(115,000)
	\$ -

Stormwater Utility Fund

Total Stormwater Utility Fund expenditures are currently \$62,165 below the FY 2022-2023 budgeted expenditures. (These numbers are preliminary and subject to audit adjustments.)

Environmental Services requires a budget amendment due to an overage in salary expenses. When a small department remains fully staffed during the fiscal year, an overage will occur due to the budgeting practice of building in salary savings to account for potential vacancies.

The following departments will increase or decrease by the amounts listed:

Public Works	\$ (15,000)
Environmental Services	15,000
	\$ -

SAFER Grant Fund

In the SAFER Grant Fund, revenues will increase by \$4,495, from \$0 to \$4,495. Expenditures will increase by \$4,495, from \$768,020.70 to \$772,515.70. The 3-year grant was used to supplement the pay of 15 newly hired firefighters. The grant was approved by the Town Council on October 7, 2019. The grant is now complete. These adjustments will close out the SAFER Grant Fund.

Health Insurance/Flex Account Fund

In the Health Insurance/Flex Account Fund, revenues will increase by \$2,759,775, from \$10,675,000 to \$13,434,775 due to receiving reinsurance payments and more investment earnings than budgeted. Expenditures will increase by \$3,800,000 from \$11,684,000 to \$15,484,000. The actual cost of health insurance claims was higher than originally budgeted.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES: N/A

FISCAL IMPACT: N/A

Proposed Revenue:	Account Number(s):
\$ 1,500,000	Fund 100 General Fund
1,895,990	Fund 110 Debt Service Fund
4,495	Fund 349 SAFER Grant Fund
<u>2,759,775</u>	Fund 840 Health/ Flex Fund
\$ 6,160,260	
Proposed Expenditure:	Account Number(s):
\$ -	Fund 100 General Fund
1,806,502	Fund 110 Debt Service Fund
-	Fund 200 Utility Fund
-	Fund 230 Stormwater Utility Fund
4,495	Fund 349 SAFER Grant Fund
<u>3,800,000</u>	Fund 840 Health/ Flex Fund
\$ 5,610,997	

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

ATTACHMENTS:

1. Ordinance- Budget Amendment- 7th FY 22-23

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

TOWN OF FLOWER MOUND, TEXAS

ORDINANCE NO. _____

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING THE TOWN'S BUDGET FOR THE FISCAL YEAR BEGINNING ON OCTOBER 1, 2022, AND ENDING ON SEPTEMBER 30, 2023, AS ADOPTED BY ORDINANCE NO. 45-22 AND AMENDED BY ORDINANCE NO. 60-22, NO. 06-23, NO. 16-23, NO. 19-23, NO. 21-23 AND NO. 28-23, BY PROVIDING FOR ADJUSTMENTS TO THE GENERAL FUND, DEBT SERVICE FUND, UTILITY FUND, STORMWATER UTILITY FUND, SAFER GRANT FUND, AND HEALTH INSURANCE/ FLEX ACCOUNT FUND; PROVIDING THAT EXPENDITURES FOR SAID FISCAL YEAR SHALL BE MADE IN ACCORDANCE WITH SAID BUDGET, AS AMENDED; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town Council of the Town of Flower Mound, Texas ("Town Council") has heretofore adopted its Annual Budget for the fiscal year beginning on October 1, 2022, and ending on September 30, 2023; and,

WHEREAS, said Annual Budget was adopted by Ordinance No. 45-22 on September 19, 2022 and amended by Ordinance 60-22 on December 19, 2022, Ordinance 06-23 on March 6, 2023, Ordinance 16-23 on May 16, 2023, Ordinance 19-23 on June 6, 2023, Ordinance 21-23 on June 19, 2023, and Ordinance 28-23 on July 17, 2023; and,

WHEREAS, after approval of said Annual Budget, unexpected needs have arisen which require amendment of the Annual Budget; and,

WHEREAS, Section 102.010 of the Local Government Code allows the Town to make changes to the budget for municipal reasons;

NOW, THEREFORE, BE IT ORDAINED 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 factual and legislative determinations of the Town of Flower Mound and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

SECTION 2

The Annual Budget of the Town of Flower Mound, Texas, for the fiscal year beginning on October 1, 2022, and ending on September 30, 2023, as heretofore adopted by Ordinance No. 45-22 and amended by Ordinance No. 60-22, No. 06-23, No. 16-23, No. 19-23, No. 21-23 and No. 28-23, is hereby amended to provide for adjustments to the General Fund, Debt Service Fund, Utility Fund, Stormwater Utility Fund, SAFER Grant Fund, and Health Insurance/ Flex Account Fund, as shown in Exhibit "A," attached hereto and incorporated herein, and expenditures for said fiscal year shall be made in accordance with said Annual Budget, as amended.

SECTION 3

The expenditures and amendments authorized by this Ordinance are necessary to meet unusual and/or unforeseen conditions or circumstances that could not have been included in the original budget through the use of reasonably diligent thought and attention.

SECTION 4

A true and correct copy of this ordinance showing the approved budget amendments shall be filed with the Town Secretary and in the office of the County Clerk as required by Section 102.009 of the Local Government Code.

SECTION 5

All ordinances, orders or resolutions heretofore passed and adopted by the Town Council of the Town of Flower Mound, Texas, are hereby repealed to the extent that said ordinances, orders or resolutions, or parts thereof, are in conflict herewith.

SECTION 6

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

SECTION 7

This Ordinance shall take effect and be in full force from and after its passage and adoption.

DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, BY A VOTE OF _____ TO _____, ON THIS 4th DAY OF DECEMBER, 2023.

APPROVED:

Derek France, MAYOR

ATTEST:

Theresa Scott, TOWN SECRETARY

EXHIBIT "A"

**Town of Flower Mound
Amended Budget
Fiscal Year 2022-2023**

REASON FOR ADJUSTING THE GENERAL FUND APPROPRIATION:

In the General Fund, 4 departments require budget adjustments. Total General Fund expenditures are currently \$5,777,726 below the FY 2022-2023 budgeted expenditures. (These numbers are preliminary and subject to audit adjustments.)

Intergovernmental revenue will increase by \$1,500,000 to account for the payments from the state. The Fire Department has been working with the Texas Division of Emergency Management supporting Operation LoneStar in Del Rio, Texas. The state reimbursed the Town for employee salary, overtime, and backfill expenses and expenditures such as lodging and food for the employees on deployment. Additionally, the State is paying the Town an hourly rate for a fire engine to be deployed.

General Fund	Original Budget	Current Budget	Amended Budget	Increase / (Decrease)
Revenues:				
Taxes	\$ 70,200,253	70,200,253	\$ 70,200,253	\$ -
Charges for services	4,568,900	4,568,900	4,568,900	-
Licenses and permits	2,718,360	2,718,360	2,718,360	-
Fines and forfeits	745,950	745,950	745,950	-
Investment Earnings	200,000	200,000	200,000	-
Intergovernmental Revenue	1,380,190	2,184,271	3,684,271	1,500,000
Interfund Transfer	3,091,837	3,091,837	3,091,837	-
Other revenue	563,739	565,059	565,059	-
Total	\$ 83,469,229	\$ 84,274,630	\$ 85,774,630	\$ 1,500,000
Expenditures:				
Town Manager's Office	\$ 3,633,625	\$ 3,673,327	\$ 2,418,327	\$ (1,255,000)
Town Secretary's Office	547,589	603,310	633,310	30,000
Development Services	2,365,145	2,381,270	2,381,270	-
Parks and Recreation Services	10,772,827	10,875,283	10,875,283	-
Library Services	2,123,151	2,150,113	2,150,113	-
Police Services	17,976,186	19,359,811	19,559,811	200,000
Financial Services	4,234,015	4,282,157	4,282,157	-
Administrative Services	7,807,437	8,481,932	8,481,932	-
Fire and Emergency Services	19,499,281	21,983,804	22,983,804	1,000,000
Communications	834,813	843,595	843,595	-
Non-Departmental Services	4,098,834	6,398,834	6,398,834	-
Public Works	7,782,525	7,967,776	7,992,776	25,000
Environmental Services	1,604,312	1,615,621	1,615,621	-
Total	\$ 83,279,740	\$ 90,616,833	\$ 90,616,833	\$ -

EXHIBIT "A"

**Town of Flower Mound
Amended Budget
Fiscal Year 2022-2023**

REASON FOR ADJUSTING THE DEBT SERVICE FUND APPROPRIATION:

In the Debt Service Fund, revenues will increase by \$1,895,990, from \$6,089,699 to \$7,985,689. Expenditures will increase by \$1,806,502 from \$6,740,310 to \$8,546,812. In June 2023, the Town issued general obligation refunding bonds for the current refunding of a portion of the Town's tax supported bond issues, lowering overall debt service requirements. The increase in revenue is due to the proceeds and the increase in expenditures is due to the refunding payment to escrow.

<u>General Debt Service Fund</u>	<u>Original Budget</u>	<u>Current Budget</u>	<u>Amended Budget</u>	<u>Increase / (Decrease)</u>
Revenues:				
General Debt Service	\$ 6,089,699	\$ 6,089,699	\$ 7,985,689	\$ 1,895,990
Total	\$ 6,089,699	\$ 6,089,699	\$ 7,985,689	\$ 1,895,990
Expenditures:				
General Debt Service	\$ 6,740,310	\$ 6,740,310	\$ 8,546,812	\$ 1,806,502
Total	\$ 6,740,310	\$ 6,740,310	\$ 8,546,812	\$ 1,806,502

REASON FOR ADJUSTING THE UTILITY FUND APPROPRIATION:

In the Utility Fund, 2 departments require budget adjustments. Total Utility Fund expenditures are currently \$1,615,422 below the FY 2022-2023 budgeted expenditures. (These numbers are preliminary and subject to audit adjustments.)

<u>Utility Fund</u>	<u>Original Budget</u>	<u>Current Budget</u>	<u>Amended Budget</u>	<u>Increase / (Decrease)</u>
Expenditures:				
Financial Services	\$ 1,908,968	\$ 1,982,840	\$ 2,092,840	\$ 110,000
Non-Departmental Services	12,772,799	12,772,799	12,777,799	5,000
Public Works	37,377,380	37,655,238	37,540,238	(115,000)
Total	\$ 52,059,147	\$ 52,410,877	\$ 52,410,877	\$ -

EXHIBIT “A”

**Town of Flower Mound
Amended Budget
Fiscal Year 2022-2023**

REASON FOR ADJUSTING THE STORMWATER UTILITY FUND APPROPRIATION:

In the Utility Fund, one department requires a budget adjustment. Total Stormwater Utility Fund expenditures are currently \$62,165 below the FY 2022-2023 budgeted expenditures. (These numbers are preliminary and subject to audit adjustments.)

Stormwater Utility Fund	Original Budget	Current Budget	Amended Budget	Increase / (Decrease)
Expenditures:				
Public Works	\$ 2,105,779	\$ 2,131,993	\$ 2,116,993	\$ (15,000)
Environmental Services	86,115	86,115	101,115	15,000
Total	\$ 2,191,894	\$ 2,218,108	\$ 2,218,108	\$ -

REASON FOR ADJUSTING THE SAFER GRANT FUND APPROPRIATION:

In the SAFER Grant Fund, revenues will increase by \$4,495, from \$0 to \$4,495. Expenditures will increase by \$4,495, from \$768,020.70 to \$772,515.70. The 3-year grant was used to supplement the pay of 15 newly hired firefighters. The grant was approved by the Town Council on October 7, 2019. The grant is now complete. These adjustments will close out the SAFER Grant Fund.

SAFER Grant Fund	Original Budget	Current Budget	Amended Budget	Increase / (Decrease)
Revenues:				
Intergovernmental Revenue	\$ -	\$ -	\$ 4,495	\$ 4,495
Other revenue	-	-	-	-
Total	\$ -	\$ -	\$ 4,495	\$ 4,495
Expenditures:				
Fire and Emergency Services	\$ -	\$ 768,021	\$ 772,516	\$ 4,495
Total	\$ -	\$ 768,021	\$ 772,516	\$ 4,495

EXHIBIT "A"

**Town of Flower Mound
Amended Budget
Fiscal Year 2022-2023**

**REASON FOR ADJUSTING THE HEALTH INSURANCE/ FLEX ACCOUNT FUND
APPROPRIATION:**

In the Health Insurance/Flex Account Fund, revenues will increase by \$2,759,775, from \$10,675,000 to \$13,434,775 due to receiving reinsurance payments and more investment earnings than budgeted. Expenditures will increase by \$3,800,000 from \$11,684,000 to \$15,484,000. The actual cost of health insurance claims was higher than originally budgeted.

Health/ Flex Fund	Original Budget	Current Budget	Amended Budget	Increase / (Decrease)
Revenues:				
Charges for Current Services	\$ 10,665,000	\$ 10,665,000	\$ 13,329,645	\$ 2,664,645
Investment Earnings	10,000	10,000	105,130	95,130
Other Revenue	-	-	-	-
Total	\$ 10,675,000	\$ 10,675,000	\$ 13,434,775	\$ 2,759,775
Expenditures:				
Health Insurance/ Flex Accounts	\$ 11,237,000	\$ 11,684,000	\$ 15,484,000	\$ 3,800,000
Total	\$ 11,237,000	\$ 11,684,000	\$ 15,484,000	\$ 3,800,000



TOWN COUNCIL AGENDA J.13. CONSENT ITEM(S)

DATE: December 4, 2023
FROM: Kay Wilkinson, Director of Budget Services
ITEM: **Town Council acting as the Board of Directors for the Town of Flower Mound Fire Control, Prevention, and Emergency Medical Services District to consider approval of a resolution amending the Town of Flower Mound Fire Control, Prevention, and Emergency Medical Services District budget for the fiscal year beginning on October 1, 2022, and ending on September 30, 2023, as adopted by Resolution No. 15-22 and amended by Resolution No. 13-23.**

BACKGROUND: At the March 3, 2008 Town Council meeting, the Town Council acting as the Board of Directors for the Fire District, adopted alternative budget procedures for the Fire District to follow similar procedures and dates to the Town's annual budget. The attached budget amendment represents the second adjustment to the FY 2022-2023 Fire District Budget.

Expenditures in the Fire District Fund will increase by \$410,000. The Town budgets salaries per full-time equivalent (FTE) positions. There are 22.5 FTE budgeted in the Fire District. The department needs a budget amendment due to unanticipated overtime costs incurred during the fiscal year.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES: N/A

FISCAL IMPACT: \$410,000

Proposed Expenditure/(Revenue)
\$410,000

Account Number(s):
Fund 319 Fire District- Sales Tax

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

ATTACHMENTS:

1. Resolution - Fire District - 2nd (final)

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

TOWN OF FLOWER MOUND, TEXAS

RESOLUTION NO. _____

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, ACTING AS THE BOARD OF DIRECTORS OF THE TOWN OF FLOWER MOUND FIRE CONTROL, PREVENTION, AND EMERGENCY MEDICAL SERVICES DISTRICT, AMENDING THE BUDGET FOR THE TOWN OF FLOWER MOUND FIRE CONTROL, PREVENTION, AND EMERGENCY MEDICAL SERVICES DISTRICT FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2022, AND ENDING SEPTEMBER 30, 2023, AS ADOPTED BY RESOLUTION NO. 15-22 AND AMENDED BY RESOLUTION NO. 13-23; PROVIDING A SEVERABILITY CLAUSE; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the Town Council acting as the Board of Directors of the Town of Flower Mound Fire Control, Prevention, and Emergency Medical Services District (Fire District) has adopted procedures for adopting and amending a budget that are different from the procedures outlined in Texas Local Government Code Section 363.204, as permitted by such section; and

WHEREAS, the Town Council acting as the Board of Directors of the Fire District caused to be filed with the Town Secretary, in accordance with the procedures adopted therefore, a budget to cover all proposed expenditures of the Fire District for the fiscal year beginning October 1, 2022, and ending September 30, 2023; and

WHEREAS, said Fire District Budget was adopted by Resolution No. 15-22 on September 19, 2022 and amended by Resolution No. 13-23 on June 19, 2023; and

WHEREAS, after approval of said Resolution, unexpected needs have arisen which require amendment of the Fire District Budget adopted thereby.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, ACTING AS THE BOARD OF DIRECTORS OF THE TOWN OF FLOWER MOUND FIRE CONTROL, PREVENTION, AND EMERGENCY MEDICAL SERVICES DISTRICT, THAT:

SECTION 1

All of the above premises are hereby found to be true and correct legislative and factual determinations 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 Fire District Budget, for the fiscal year beginning on October 1, 2022, and ending on September 30, 2023, as heretofore adopted by Resolution No. 15-22 and amended by Resolution No. 13-23, is hereby amended to provide for adjustments as shown in Exhibit "A", attached hereto and incorporated herein.

SECTION 3

The expenditures and amendments authorized by this Resolution are necessary to meet unusual and/or unforeseen conditions or circumstances that could not have been included in the original budget through the use of reasonably diligent thought and attention.

SECTION 4

A true and correct copy of this resolution showing the approved budget amendments shall be filed with the Town Secretary and in the office of the County Clerk as required by Section 102.009 of the Local Government Code.

SECTION 5

If any section, paragraph, sentence, clause, phrase, or word in this Resolution, or application thereof by any persons or circumstances is held invalid in any Court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this Resolution; and the Town Council acting as the Board of Directors of the Fire District hereby declares it would have passed such remaining portions of the resolution despite such invalidity, which remaining portions shall remain in full force and effect.

SECTION 6

This Resolution shall take effect and be in full force from and after its passage and adoption.

DULY PASSED, APPROVED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, BY A VOTE OF _____ TO _____ ON THIS 4th DAY OF DECEMBER, 2023.

APPROVED:

Derek France, MAYOR

ATTEST:

Theresa Scott, TOWN SECRETARY

EXHIBIT "A"

**Town of Flower Mound
Fire Control, Prevention, and Emergency Medical Services District
Amended Budget
Fiscal Year 2022-2023**

REASON FOR ADJUSTING THE FIRE DISTRICT FUND APPROPRIATION:

In the Fire District Fund, expenditures will increase by \$10,142 from \$3,396,878 to \$3,407,020. The Town budgets salaries per full-time equivalent (FTE) positions. There are 22.5 FTE budgeted in the Fire District. The department needs a budget amendment due to unanticipated overtime costs incurred during the fiscal year.

<u>Fire District- Sales Tax</u>	<u>Original Budget</u>	<u>Current Budget</u>	<u>Amended Budget</u>	<u>Increase / (Decrease)</u>
Expenditures:				
Fire and Emergency Services	\$ 3,396,878	\$ 3,407,020	\$ 3,817,020	\$ 410,000
Total	\$ 3,396,878	\$ 3,407,020	\$ 3,817,020	\$ 410,000



TOWN COUNCIL AGENDA J.14. CONSENT ITEM(S)

DATE: December 4, 2023
FROM: Kay Wilkinson, Director of Budget Services
ITEM: **Consider approval of an ordinance amending the Town of Flower Mound's Annual Budget for the fiscal year beginning October 1, 2023, and ending on September 30, 2024, as adopted by Ordinance No. 37-23 for adjustments to the General Fund, Utility Fund, Stormwater Utility Fund, Tree Preservation Fund, Public Education Government (PEG) Fund, Chapter 59 Seizure Fund, Grant Fund, Vehicle and Equipment Replacement (VERF) Fund, and the Health Insurance/ Flex Account Fund.**

BACKGROUND: The attached budget amendment represents the first proposed adjustment of the FY 2023-2024 Annual Budget. According to Section 9.14 of the Town Charter, "During the fiscal year, the Town Council shall have the power to transfer funds allocated by the budget from one department to another department, and to re-estimate revenues and expenditures." Transfers such as these are presented to the Town Council throughout the fiscal year in an effort to resolve variances from the Annual Budget and reallocate resources to cover unanticipated expenditures.

This budget amendment is to re-appropriate the balances of outstanding purchase orders for items or services ordered but not received by September 30, 2023 totaling \$2,694,947 for the General Fund, \$220,215 for the Utility Fund, \$17,718 for the Stormwater Utility Fund, \$11,058 for the Tree Preservation Fund, \$1,979 for the Public Education Government (PEG) Fund, \$173,777 for the Grant Fund and \$1,849,940 for the Vehicle and Equipment Replacement Fund.

Market adjustments for employees were not originally included in the FY 23-24 budget. The Human Resources department worked with a consultant to calculate up to date market rates. Due to many cities not making changes until later in the fall, the decision was made to consider a market increase for eligible employees in December. A budget increase is needed to fund the market adjustments in the General Fund (\$1,270,245), Utility Fund (\$68,012), and Stormwater Utility Fund (\$10,066).

A recent self-audit was conducted of the number of users and stations related to the ICS CAD, Mobile Data Computers, and Records Management in Police, Fire, Animal Services, and Municipal Court. It was discovered that the Town is using more licenses across these departments than originally purchased. A budgetary amendment is requested in order to cover the cost of these additional licenses, so that current operations and service levels can continue. In the General Fund, \$61,200 is needed for the Police Department, \$28,858 for the Fire Department, and \$6,147 for Municipal Court, for a total of \$96,205.

On June 11, 2023, a hailstorm hit multiple buildings in town. The Town filed an insurance claim with TML for the damage incurred. The Town's out of pocket cost for the required deductible and items not covered by insurance is \$30,665. An amendment is needed in the Facilities Division to cover this amount.

In the Facilities Management Division of the General Fund, expenditures will increase by \$844,900 to account for projects that were budgeted but not completed in the last fiscal year. Due to time

constraints and supply chain issues, seven projects that were budgeted in FY 22-23 were unable to be completed during the fiscal year: Fire Station #1 crew renovations for \$150,000, Fire Station #2 HVAC replacement for \$130,900, Fire Station #3 HVAC replacement for \$132,000, Fire Station #3 diesel tank for generator for \$7,000, Animal Adoption Center walk-in freezer for \$50,000, Animal Adoption Center HVAC upgrade for \$370,500, and Animal Adoption Center access control doors for \$4,500.

In the Chapter 59 Seizure Fund, a revenue and expenditure amendment is needed. Estimated revenues are not budgeted in the Chapter 59 Seizure Fund, since revenue is very volatile and typically tied to court cases. Since the beginning of the fiscal year, the Police Department has brought in \$93,220 in revenue, including \$70,200 for the sale of a vehicle and \$23,020 tied to seizure forfeitures. Furthermore, there is \$30,000 in Chapter 59 Seizure fund balance that was not budgeted in FY 23-24. In order to be expensed, the fund balance has to be budgeted. The amendment includes a \$123,220 expenditure budget to account for future vehicle purchases.

In the Vehicle and Equipment Replacement Fund (VERF), an amendment is needed to increase expenditures by \$143,110 to account for the replacement of two vans for Facilities. The vehicles were budgeted in FY 21-22 and cancelled by the vendor because of supply chain issues. Replacement vans have been found, and their cost needs to be budgeted this fiscal year.

Also in the VERF, the Fire Department has a 2017 Pierce Wildland Pumper (vehicle 63000-05) that needs to be replaced. The vehicle was mistakenly left off of the FY 23-24 VERF replacement list. The unit will be replaced with a Pierce Custom Enforcer Aerial Quint for Fire Suppression. The amendment includes \$1,473,550 in the VERF for the vehicle and \$9,750 in the General Fund for the mobile router and radios.

The Fire Department has been working with the Texas Division of Emergency Management supporting Operation Lonestar in Del Rio, Texas. The State reimburses the Town for employee salaries, overtime, as well as backfill expenses and expenditures, such as lodging and food, for the employees on deployment. Additionally, the State pays the Town an hourly rate for a fire engine to be deployed. A portion of the revenue associated with the deployed fire engine will be transferred to the VERF to help offset the cost to replace Fire Department vehicles. This amendment increases VERF intergovernmental revenue by \$809,625 to represent the vehicle payments from the State.

The final amendment is for the Health Insurance/Flex Account Fund accounts for the Town's employee health insurance program. A one-time payment of \$3,150,000 to the Fund is needed to cover the costs associated with a few unusually high claimants. The transfer is split proportionally between the funds that include personnel. The amendment will include increasing revenue in the Health/Flex Fund by \$3,150,000 and budgeting an interfund transfer from the General Fund (\$2,394,000), Utility Fund (\$424,000), Stormwater Utility Fund (\$58,000), and Tree Preservation Fund (\$9,000). The \$163,000 transfer from the Crime District and the \$102,000 transfer from the Fire District are included in separate budget amendments.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES: N/A

FISCAL IMPACT: N/A

Proposed Revenue:	Account Number(s):
\$ 93,220	Fund 333 Chapter 59 Seizure Fund
809,625	Fund 565 Vehicle and Equipment Replacement Fund
3,150,000	Fund 840 Health Insurance/ Flex Fund
<u>\$ 4,052,845</u>	
Proposed Expenditure:	Account Number(s):
\$ 7,340,712	Fund 100 General Fund
712,227	Fund 200 Utility Fund
85,784	Fund 230 Stormwater Utility Fund
20,058	Fund 311 Tree Preservation Fund
1,979	Fund 314 Public Education Government (PEG) Fund
123,220	Fund 333 Chapter 59 Seizure Fund
173,777	Fund 370 Grant Fund
3,466,600	Fund 565 Vehicle and Equipment Replacement Fund
<u>\$ 11,924,357</u>	

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

ATTACHMENTS:

1. Ordinance- Budget Amendment-1st FY 23-24

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

TOWN OF FLOWER MOUND, TEXAS

ORDINANCE NO. _____

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING THE TOWN'S BUDGET FOR THE FISCAL YEAR BEGINNING ON OCTOBER 1, 2023, AND ENDING ON SEPTEMBER 30, 2024, AS ADOPTED BY ORDINANCE NO. 37-23, BY PROVIDING FOR ADJUSTMENTS TO THE GENERAL FUND, UTILITY FUND, STORMWATER UTILITY FUND, TREE PRESERVATION FUND, PUBLIC EDUCATION GOVERNMENT (PEG) FUND, CHAPTER 59 SEIZURE FUND, GRANTS FUND, VEHICLE AND EQUIPMENT REPLACEMENT FUND, AND HEALTH INSURANCE/FLEX ACCOUNT FUND; PROVIDING THAT EXPENDITURES FOR SAID FISCAL YEAR SHALL BE MADE IN ACCORDANCE WITH SAID BUDGET, AS AMENDED; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town Council of the Town of Flower Mound, Texas ("Town Council") has heretofore adopted its Annual Budget for the fiscal year beginning on October 1, 2023, and ending on September 30, 2024; and,

WHEREAS, said Annual Budget was adopted by Ordinance No. 37-23 on September 18, 2023; and,

WHEREAS, after approval of said Annual Budget, unexpected needs have arisen which require amendment of the Annual Budget; and,

WHEREAS, Section 102.010 of the Local Government Code allows the Town to make changes to the budget for municipal reasons;

NOW, THEREFORE, BE IT ORDAINED 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 factual and legislative determinations of the Town of Flower Mound and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

SECTION 2

The Annual Budget of the Town of Flower Mound, Texas, for the fiscal year beginning on October 1, 2023, and ending on September 30, 2024, as heretofore adopted by Ordinance No. 37-23, is hereby amended to provide for adjustments to the General Fund, **Utility Fund, Stormwater Utility Fund, Tree Preservation Fund, Public Education Government (PEG) Fund, Chapter 59 Seizure Fund, Grant Fund, Vehicle and Equipment Replacement (VERF) Fund, and the Health Insurance/ Flex Account Fund**, as shown in Exhibit "A," attached hereto and incorporated herein, and expenditures for said fiscal year shall be made in accordance with said Annual Budget, as amended.

SECTION 3

The expenditures and amendments authorized by this Ordinance are necessary to meet unusual and/or unforeseen conditions or circumstances that could not have been included in the original budget through the use of reasonably diligent thought and attention.

SECTION 4

A true and correct copy of this ordinance showing the approved budget amendments shall be filed with the Town Secretary and in the office of the County Clerk as required by Section 102.009 of the Local Government Code.

SECTION 5

All ordinances, orders or resolutions heretofore passed and adopted by the Town Council of the Town of Flower Mound, Texas, are hereby repealed to the extent that said ordinances, orders or resolutions, or parts thereof, are in conflict herewith.

SECTION 6

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

SECTION 7

This Ordinance shall take effect and be in full force from and after its passage and adoption.

DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, BY A VOTE OF _____ TO _____, ON THIS 4th DAY OF DECEMBER, 2023.

APPROVED:

Derek France, MAYOR

ATTEST:

Theresa Scott, TOWN SECRETARY

EXHIBIT "A"**Town of Flower Mound
Amended Budget
Fiscal Year 2023-2024****REASON FOR ADJUSTING THE GENERAL FUND APPROPRIATION:**

In the General Fund, expenditures will increase by \$7,340,712, from \$88,140,703 to \$95,481,415.

Expenditures will increase by \$2,694,947 to re-appropriate funds budgeted in prior years for outstanding purchase orders at September 30, 2023.

Market adjustments for employees were not originally included in the FY 23-24 budget. The Human Resources department worked with a consultant to calculate up to date market rates. Due to many cities not making changes until later in the fall, the decision was made to consider a market increase for eligible employees in December. In order to fund the market adjustments, expenditures will increase by \$1,270,245 in the General Fund.

Expenditures will also increase by \$2,394,000 to account for a transfer to the Health Insurance/Flex Account Fund. A one-time payment of \$3,150,000 to the Fund is needed to cover the costs associated with a few unusually high claimants. The transfer is split proportionally between the funds that include personnel.

A recent self-audit was conducted of the number of users and stations related to the ICS CAD, Mobile Data Computers, and Records Management in Police, Fire, Animal Services, and Municipal Court. It was discovered that the Town is using more licenses across these departments than originally purchased. A budgetary amendment is requested in order to cover the cost of these additional licenses, so that current operations and service levels can continue. In the General Fund, \$61,200 is needed for the Police Department, \$28,858 for the Fire Department, and \$6,147 for Municipal Court, for a total of \$96,205.

On June 11, 2023, a hailstorm hit multiple buildings in town. The Town filed an insurance claim with TML for the damage incurred. The Town's out of pocket cost for the required deductible and items not covered by insurance is \$30,665. An amendment is needed in the Facilities Division to cover this amount.

In the Facilities Management Division of the General Fund, expenditures will increase by \$844,900 to account for projects that were budgeted but not completed in the last fiscal year. Due to time constraints and supply chain issues, seven projects that were budgeted in FY 22-23 were unable to be completed during the fiscal year: Fire Station #1 crew renovations for \$150,000, Fire Station #2 HVAC replacement for \$130,900, Fire Station #3 HVAC replacement for \$132,000, Fire Station #3 diesel tank for generator for \$7,000, Animal Adoption Center walk-in freezer for \$50,000, Animal Adoption Center HVAC upgrade for \$370,500, and Animal Adoption Center access control doors for \$4,500.

The Fire Department has a 2017 Pierce Wildland Pumper (vehicle 63000-05) that needs to be replaced. The vehicle was mistakenly left off of the FY 23-24 VERF replacement list. The unit will be replaced with a Pierce Custom Enforcer Aerial Quint for Fire Suppression. The

amendment includes \$1,473,550 in the VERF for the vehicle and \$9,750 in the General Fund for the mobile router and radios.

General Fund	Original Budget	Current Budget	Amended Budget	Increase / (Decrease)
Expenditures:				
Town Manager's Office	\$ 3,384,801	\$ 3,384,801	\$ 3,463,114	\$ 78,313
Town Secretary's Office	564,753	564,753	569,438	4,685
Development Services	2,676,032	2,676,032	2,687,470	11,438
Parks and Recreation Services	11,097,580	11,097,580	11,139,620	42,040
Library Services	2,258,963	2,258,963	2,270,424	11,461
Police Services	19,410,360	19,410,360	20,915,460	1,505,100
Financial Services	4,561,668	4,561,668	4,680,454	118,786
Administrative Services	8,548,035	8,548,035	9,931,422	1,383,387
Fire and Emergency Services	20,563,275	20,563,275	22,177,600	1,614,325
Communications	887,518	887,518	888,718	1,200
Non-Departmental Services	5,289,670	5,289,670	7,683,670	2,394,000
Public Works	7,287,310	7,287,310	7,451,787	164,477
Environmental Services	1,610,738	1,610,738	1,622,238	11,500
Total	\$ 88,140,703	\$ 88,140,703	\$ 95,481,415	\$ 7,340,712

REASON FOR ADJUSTING THE UTILITY FUND APPROPRIATION:

In the Utility Fund, expenditures will increase by \$712,227, from \$59,956,084 to \$60,668,311.

Expenditures will increase by \$220,215 to re-appropriate funds budgeted in prior years for outstanding purchase orders at September 30, 2023.

Market adjustments for employees were not originally included in the FY 23-24 budget. The Human Resources department worked with a consultant to calculate up to date market rates. Due to many cities not making changes until later in the fall, the decision was made to consider a market increase for eligible employees in December. In order to fund the market adjustments, expenditures will increase by \$68,012 in the Utility Fund.

Expenditures will also increase by \$424,000 to account for a transfer to the Health Insurance/Flex Account Fund. A one-time payment of \$3,150,000 to the Fund is needed to cover the costs associated with a few unusually high claimants. The transfer is split proportionally between the funds that include personnel.

Utility Fund	Original Budget	Current Budget	Amended Budget	Increase / (Decrease)
Expenditures:				
Financial Services	\$ 2,003,798	\$ 2,003,798	\$ 2,005,626	\$ 1,828
Non-Departmental Services	18,400,432	18,400,432	18,824,432	424,000
Public Works	39,551,854	39,551,854	39,838,253	286,399
Total	\$ 59,956,084	\$ 59,956,084	\$ 60,668,311	\$ 712,227

REASON FOR ADJUSTING THE STORMWATER UTILITY FUND APPROPRIATION:

In the Stormwater Utility Fund, expenditures will increase by \$85,784, from \$1,727,128 to \$1,812,912.

Expenditures will increase by \$17,718 to re-appropriate funds budgeted in prior years for outstanding purchase orders at September 30, 2023.

Market adjustments for employees were not originally included in the FY 23-24 budget. The Human Resources department worked with a consultant to calculate up to date market rates. Due to many cities not making changes until later in the fall, the decision was made to consider a market increase for eligible employees in December. In order to fund the market adjustments, expenditures will increase by \$10,066 in the Stormwater Utility Fund.

Expenditures will also increase by \$58,000 to account for a transfer to the Health Insurance/Flex Account Fund. A one-time payment of \$3,150,000 to the Fund is needed to cover the costs associated with a few unusually high claimants. The transfer is split proportionally between the funds that include personnel.

<u>Stormwater Utility Fund</u>	<u>Original Budget</u>	<u>Current Budget</u>	<u>Amended Budget</u>	<u>Increase / (Decrease)</u>
Expenditures:				
Public Works	\$ 1,628,485	\$ 1,628,485	\$ 1,714,269	\$ 85,784
Environmental Services	98,643	98,643	98,643	-
Total	\$ 1,727,128	\$ 1,727,128	\$ 1,812,912	\$ 85,784

REASON FOR ADJUSTING THE TREE PRESERVATION FUND APPROPRIATION:

In the Tree Preservation Fund, expenditures will increase by \$20,058, from \$244,582 to \$264,640.

Expenditures will increase by \$11,058 to re-appropriate funds budgeted in prior years for outstanding purchase orders at September 30, 2023.

Expenditures will also increase by \$9,000 to account for a transfer to the Health Insurance/Flex Account Fund. A one-time payment of \$3,150,000 to the Fund is needed to cover the costs associated with a few unusually high claimants. The transfer is split proportionally between the funds that include personnel.

<u>Tree Preservation Fund</u>	<u>Original Budget</u>	<u>Current Budget</u>	<u>Amended Budget</u>	<u>Increase / (Decrease)</u>
Expenditures:				
Parks & Recreation Services	\$ 170,395	\$ 170,395	\$ 181,453	\$ 11,058
Environmental Services	74,187	74,187	83,187	9,000
Total	\$ 244,582	\$ 244,582	\$ 264,640	\$ 20,058

REASON FOR ADJUSTING THE PUBLIC EDUCATION GOVERNMENT (PEG) FUND APPROPRIATION:

In the Public Education Government (PEG) Fund, expenditures will increase by \$1,979, from \$763,650 to \$765,629; to re-appropriate funds budgeted in prior years for outstanding purchase orders at September 30, 2023.

Public Education Government (PEG) Fund	Original Budget	Current Budget	Amended Budget	Increase / (Decrease)
Expenditures:				
Communications	\$ 763,650	\$ 763,650	\$ 765,629	\$ 1,979
Total	\$ 763,650	\$ 763,650	\$ 765,629	\$ 1,979

REASON FOR ADJUSTING THE CHAPTER 59 SEIZURE FUND APPROPRIATION:

In the Chapter 59 Seizure Fund, revenues will increase by \$93,220 from \$0 to \$93,220. Expenditures will also increase by \$123,220 from \$48,445 to \$171,665.

Estimated revenues are not budgeted in the Chapter 59 Seizure Fund, since revenue is very volatile and typically tied to court cases. Since the beginning of the fiscal year, the Police Department has brought in \$93,220 in revenue, including \$70,200 for the sale of a vehicle and \$23,020 tied to seizure forfeitures. Furthermore, there is \$30,000 in Chapter 59 Seizure fund balance that was not budgeted in FY 23-24. In order to be expensed, the fund balance has to be budgeted. The amendment includes a \$123,220 expenditure budget to account for future vehicle purchases.

Chapter 59 Seizure Fund	Original Budget	Current Budget	Amended Budget	Increase / (Decrease)
Revenues:				
Fine and Forfeitures	\$ -	\$ -	\$ 23,020	\$ 23,020
Other Revenue	-	-	70,200	70,200
Total	\$ -	\$ -	\$ 93,220	\$ 93,220
Expenditures:				
Police Services	\$ 48,445	\$ 48,445	\$ 171,665	\$ 123,220
Total	\$ 48,445	\$ 48,445	\$ 171,665	\$ 123,220

REASON FOR ADJUSTING THE GRANT FUND APPROPRIATION:

In the Grant Fund, expenditures will increase by \$173,777 from \$0 to \$173,777 to re-appropriate funds budgeted in prior years for outstanding purchase orders at September 30, 2023.

Grant Fund	Original Budget	Current Budget	Amended Budget	Increase / (Decrease)
Expenditures:				
Grant Fund	\$ -	\$ -	\$ 173,777	\$ 173,777
Total	\$ -	\$ -	\$ 173,777	\$ 173,777

REASON FOR ADJUSTING THE VEHICLE AND EQUIPMENT REPLACEMENT FUND APPROPRIATION:

In the Vehicle and Equipment Replacement Fund, revenues will increase by \$809,625, from \$2,487,500 to \$3,297,125. Expenditures will increase by \$3,466,600 from \$3,650,000 to \$7,116,600.

The Fire Department has been working with the Texas Division of Emergency Management supporting Operation Lonestar in Del Rio, Texas. The State reimburses the Town for employee salaries, overtime, as well as backfill expenses and expenditures, such as lodging and food, for the employees on deployment. Additionally, the State pays the Town an hourly rate for a fire engine to be deployed. A portion of the revenue associated with the deployed fire engine will be transferred to the VERF to help offset the cost to replace Fire Department vehicles. This amendment increases VERF intergovernmental revenue by \$809,625 to represent the vehicle payments from the State.

Expenditures will increase by \$1,849,940 to re-appropriate funds budgeted in prior years for outstanding purchase orders at September 30, 2023. Expenditures will increase by \$1,616,660 to account for the purchase of two vehicles for Facilities and a pumper for the Fire and Emergency Services Department.

An amendment is needed to increase expenditures by \$143,110 to account for the replacement of two vans for Facilities. The vehicles were budgeted in FY 21-22 and cancelled by the vendor because of supply chain issues. Replacement vans have been found, and their cost needs to be budgeted this fiscal year.

The Fire Department has a 2017 Pierce Wildland Pumper (vehicle 63000-05) that needs to be replaced. The vehicle was mistakenly left off of the FY 23-24 VERF replacement list. The unit will be replaced with a Pierce Custom Enforcer Aerial Quint for Fire Suppression. The amendment includes \$1,473,550 in the VERF for the vehicle and \$9,750 in the General Fund for the mobile router and radios.

Vehicle & Equipment Replacement Fund	Original Budget	Current Budget	Amended Budget	Increase / (Decrease)
Revenues:				
Investment Earnings	\$ 250,000	\$ 250,000	\$ 250,000	\$ -
Other Revenue	2,237,500	2,237,500	3,047,125	809,625
Total	\$ 2,487,500	\$ 2,487,500	\$ 3,297,125	\$ 809,625
Expenditures:				
Vehicles & Equipment	\$ 3,650,000	\$ 3,650,000	\$ 7,116,600	\$ 3,466,600
Total	\$ 3,650,000	\$ 3,650,000	\$ 7,116,600	\$ 3,466,600

REASON FOR ADJUSTING THE HEALTH INSURANCE/FLEX ACCOUNT FUND APPROPRIATION:

In the Health Insurance/Flex Account Fund, revenues will increase by \$3,150,000, from \$13,686,000 to \$16,836,000.

A one-time payment of \$3,150,000 to the Fund is needed to cover the costs associated with a few unusually high claimants. The transfer is split proportionally between the funds that include personnel. The amendment will include increasing revenue in the Health/Flex Fund by \$3,150,000 and budgeting an interfund transfer from the General Fund (\$2,394,000), Utility Fund (\$424,000), Stormwater Utility Fund (\$58,000), and Tree Preservation Fund (\$9,000). The \$163,000 transfer from the Crime District and the \$102,000 transfer from the Fire District are included in separate budget amendments.

Health/ Flex Fund	Original Budget	Current Budget	Amended Budget	Increase / (Decrease)
Revenues:				
Charges for Current Services	\$ 12,836,000	\$ 12,836,000	\$ 12,836,000	\$ -
Investment Earnings	100,000	100,000	100,000	-
Other Revenue	750,000	750,000	3,900,000	3,150,000
Total	\$ 13,686,000	\$ 13,686,000	\$ 16,836,000	\$ 3,150,000



TOWN COUNCIL AGENDA J.15. CONSENT ITEM(S)

DATE: December 4, 2023
FROM: Kay Wilkinson, Director of Budget Services
ITEM: **Town Council acting as the Board of Directors for the Town of Flower Mound Crime Control and Prevention District to consider approval of a resolution amending the Town of Flower Mound Crime Control and Prevention District budget for the fiscal year beginning on October 1, 2023, and ending on September 30, 2024, as adopted by Resolution No. 23-23.**

BACKGROUND: At the March 3, 2008, Town Council meeting, the Town Council acting as the Board of Directors for the Crime District, adopted alternative budget procedures for the Crime District to follow similar procedures and dates to the Town's annual budget.

The attached budget amendment represents an adjustment of the FY 2023-2024 Crime District Budget. According to Section 12 of Resolution No. 06-08, "During the fiscal year, the Town Council shall have the power to transfer funds allocated by the budget from one department to another department, and to re-estimate revenues and expenditures."

Market adjustments for employees were not originally included in the FY 23-24 budget. The Human Resources department worked with a consultant to calculate up to date market rates. Due to many cities not making changes until later in the fall, the decision was made to consider a market increase for eligible employees in December. In the Crime District, a \$106,057 budget increase is needed to fund the market adjustments.

The amendment also includes a \$163,000 transfer to the Health/Flex Fund. The Health/Flex Fund accounts for the Town's employee health insurance program. A one-time payment to the Fund is needed to cover the costs associated with a few unusually high claimants. The transfer is split proportionally between the funds that include personnel.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES: N/A

FISCAL IMPACT: \$269,057

Proposed Expenditure:	Account Number(s):
\$ 269,057	Fund 318 Crime District- Sales Tax
\$ 269,057	

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

ATTACHMENTS:

1. Resolution - Crime Control - 1st Budget Amendment

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

TOWN OF FLOWER MOUND, TEXAS

RESOLUTION NO. _____

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, ACTING AS THE BOARD OF DIRECTORS OF THE TOWN OF FLOWER MOUND CRIME CONTROL AND PREVENTION DISTRICT, AMENDING THE BUDGET FOR THE TOWN OF FLOWER MOUND CRIME CONTROL AND PREVENTION DISTRICT FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2023, AND ENDING SEPTEMBER 30, 2024, AS ADOPTED BY RESOLUTION NO. 23-23; PROVIDING A SEVERABILITY CLAUSE; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the Town Council acting as the Board of Directors of the Town of Flower Mound Crime Control and Prevention District ("Crime District") has adopted procedures for adopting a budget that are different from the procedures outlined in Texas Local Government Code Section 363.204, as permitted by such section; and

WHEREAS, the Town Council acting as the Board of Directors of the Crime District caused to be filed with the Town Secretary, in accordance with the procedures adopted therefore, a budget to cover all proposed expenditures of the Crime District for the fiscal year beginning October 1, 2023, and ending September 30, 2024; and

WHEREAS, said Crime District Budget was adopted by Resolution No. 23-23 on September 18, 2023; and

WHEREAS, after approval of said Resolution, unexpected needs have arisen which require amendment of the Crime District Budget adopted thereby.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, ACTING AS THE BOARD OF DIRECTORS OF THE TOWN OF FLOWER MOUND CRIME CONTROL AND PREVENTION DISTRICT, THAT:

SECTION 1

All of the above premises are hereby found to be true and correct legislative and factual determinations 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 Crime District Budget, for the fiscal year beginning on October 1, 2023, and ending on September 30, 2024, as heretofore adopted by Resolution No. 23-23, is hereby amended to provide for adjustments as shown in Exhibit "A", attached hereto and incorporated herein.

SECTION 3

The expenditures and amendments authorized by this Resolution are necessary to meet unusual and/or unforeseen conditions or circumstances that could not have been included in the original budget through the use of reasonably diligent thought and attention.

SECTION 4

A true and correct copy of this resolution showing the approved budget amendments shall be filed with the Town Secretary and in the office of the County Clerk as required by Section 102.009 of the Local Government Code.

SECTION 5

If any section, paragraph, sentence, clause, phrase, or word in this Resolution, or application thereof by any persons or circumstances is held invalid in any Court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this Resolution; and the Town Council acting as the Board of Directors of the Crime District hereby declares it would have passed such remaining portions of the resolution despite such invalidity, which remaining portions shall remain in full force and effect.

SECTION 6

This Resolution shall take effect and be in full force from and after its passage and adoption.

DULY PASSED, APPROVED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, BY A VOTE OF _____ TO _____ ON THIS 4th DAY OF DECEMBER, 2023.

APPROVED:

Derek France, MAYOR

ATTEST:

Theresa Scott, TOWN SECRETARY

EXHIBIT "A"

**Town of Flower Mound
Amended Budget
Fiscal Year 2023-2024**

**REASON FOR ADJUSTING THE CRIME CONTROL AND PREVENTION DISTRICT FUND
APPROPRIATION:**

In the Crime Control and Prevention District Fund, expenditures will increase by \$269,057 from \$4,622,212 to \$4,891,269.

Market adjustments for employees were not originally included in the FY 23-24 budget. The Human Resources department worked with a consultant to calculate up to date market rates. Due to many cities not making changes until later in the fall, the decision was made to consider a market increase for eligible employees in December. In the Crime District, a \$106,057 budget increase is needed to fund the market adjustments.

The amendment also includes a \$163,000 transfer to the Health/Flex Fund. The Health/Flex Fund accounts for the Town's employee health insurance program. A one-time payment to the Fund is needed to cover the costs associated with a few unusually high claimants. The transfer is split proportionally between the funds that include personnel.

<u>Crime District- Sales Tax</u>	<u>Original Budget</u>	<u>Current Budget</u>	<u>Amended Budget</u>	<u>Increase / (Decrease)</u>
Expenditures:				
Police Services	\$ 4,622,212	\$ 4,622,212	\$ 4,891,269	\$ 269,057
Total	\$ 4,622,212	\$ 4,622,212	\$ 4,891,269	\$ 269,057



TOWN COUNCIL AGENDA J.16. CONSENT ITEM(S)

DATE: December 4, 2023
FROM: Kay Wilkinson, Director of Budget Services
ITEM: **Town Council acting as the Board of Directors for the Town of Flower Mound Fire Control, Prevention, and Emergency Medical Services District to consider approval of a resolution amending the Town of Flower Mound Fire Control, Prevention, and Emergency Medical Services District budget for the fiscal year beginning on October 1, 2023, and ending on September 30, 2024, as adopted by Resolution No. 22-23.**

BACKGROUND: At the March 3, 2008, Town Council meeting, the Town Council acting as the Board of Directors for the Fire Control, Prevention, and Emergency Medical Services District, adopted alternative budget procedures for the Fire Control, Prevention, and Emergency Medical Services District to follow similar procedures and dates to the Town's annual budget.

The attached budget amendment represents an adjustment of the FY 2023-2024 Fire Control, Prevention, and Emergency Medical Services District Budget. According to Section 12 of Resolution No. 06-08, "During the fiscal year, the Town Council shall have the power to transfer funds allocated by the budget from one department to another department, and to re-estimate revenues and expenditures."

This budget amendment is to re-appropriate the balances of outstanding purchase orders for items or services ordered but not received by September 30, 2023. The Fire Control, Prevention, and Emergency Medical Services District Fund budget will increase by \$2,192.

Market adjustments for employees were not originally included in the FY 23-24 budget. The Human Resources department worked with a consultant to calculate up to date market rates. Due to many cities not making changes until later in the fall, the decision was made to consider a market increase for eligible employees in December. In the Fire District, a \$144,707 budget increase is needed to fund the market adjustments.

The amendment also includes a \$102,000 transfer to the Health/Flex Fund. The Health/Flex Fund accounts for the Town's employee health insurance program. A one-time payment to the Fund is needed to cover the costs associated with a few unusually high claimants. The transfer is split proportionally between the funds that include personnel.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES: N/A

FISCAL IMPACT: \$248,899

Proposed Expenditure:	Account Number(s):
\$ 248,899	Fund 319 Fire District- Sales Tax
\$ 248,899	

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

ATTACHMENTS:

1. Resolution - Fire District - 1st FY 23-24 Budget Amendment

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

TOWN OF FLOWER MOUND, TEXAS

RESOLUTION NO. _____

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, ACTING AS THE BOARD OF DIRECTORS OF THE TOWN OF FLOWER MOUND FIRE CONTROL, PREVENTION, AND EMERGENCY MEDICAL SERVICES DISTRICT, AMENDING THE BUDGET FOR THE TOWN OF FLOWER MOUND FIRE CONTROL, PREVENTION, AND EMERGENCY MEDICAL SERVICES DISTRICT FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2023, AND ENDING SEPTEMBER 30, 2024, AS ADOPTED BY RESOLUTION NO. 22-23; PROVIDING A SEVERABILITY CLAUSE; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the Town Council acting as the Board of Directors of the Town of Flower Mound Fire Control, Prevention, and Emergency Medical Services District (Fire District) has adopted procedures for adopting and amending a budget that are different from the procedures outlined in Texas Local Government Code Section 363.204, as permitted by such section; and

WHEREAS, the Town Council acting as the Board of Directors of the Fire District caused to be filed with the Town Secretary, in accordance with the procedures adopted therefore, a budget to cover all proposed expenditures of the Fire District for the fiscal year beginning October 1, 2023, and ending September 30, 2024; and

WHEREAS, said Fire District Budget was adopted by Resolution No. 22-23 on September 18, 2023; and

WHEREAS, after approval of said Resolution, unexpected needs have arisen which require amendment of the Fire District Budget adopted thereby.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, ACTING AS THE BOARD OF DIRECTORS OF THE TOWN OF FLOWER MOUND FIRE CONTROL, PREVENTION, AND EMERGENCY MEDICAL SERVICES DISTRICT, THAT:

SECTION 1

All of the above premises are hereby found to be true and correct legislative and factual determinations 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 Fire District Budget, for the fiscal year beginning on October 1, 2023, and ending on September 30, 2024, as heretofore adopted by Resolution No. 22-23, is hereby amended to provide for adjustments as shown in Exhibit "A", attached hereto and incorporated herein.

SECTION 3

The expenditures and amendments authorized by this Resolution are necessary to meet unusual and/or unforeseen conditions or circumstances that could not have been included in the original budget through the use of reasonably diligent thought and attention.

SECTION 4

A true and correct copy of this resolution showing the approved budget amendments shall be filed with the Town Secretary and in the office of the County Clerk as required by Section 102.009 of the Local Government Code.

SECTION 5

If any section, paragraph, sentence, clause, phrase, or word in this Resolution, or application thereof by any persons or circumstances is held invalid in any Court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this Resolution; and the Town Council acting as the Board of Directors of the Fire District hereby declares it would have passed such remaining portions of the resolution despite such invalidity, which remaining portions shall remain in full force and effect.

SECTION 6

This Resolution shall take effect and be in full force from and after its passage and adoption.

DULY PASSED, APPROVED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, BY A VOTE OF _____ TO _____ ON THIS 4th DAY OF DECEMBER, 2023.

APPROVED:

Derek France, MAYOR

ATTEST:

Theresa Scott, TOWN SECRETARY

EXHIBIT "A"

**Town of Flower Mound
Fire Control, Prevention, and Emergency Medical Services District
Amended Budget
Fiscal Year 2023-2024**

REASON FOR ADJUSTING THE FIRE DISTRICT FUND APPROPRIATION:

In the Fire District Fund, expenditures will increase by \$248,899 from \$3,709,197 to \$3,958,096. This budget amendment is to re-appropriate the balances of outstanding purchase orders for items or services ordered but not received by September 30, 2023. The Fire Control, Prevention, and Emergency Medical Services District Fund budget will increase by \$2,192.

Market adjustments for employees were not originally included in the FY 23-24 budget. The Human Resources department worked with a consultant to calculate up to date market rates. Due to many cities not making changes until later in the fall, the decision was made to consider a market increase for eligible employees in December. In the Fire District, a \$144,707 budget increase is needed to fund the market adjustments.

The amendment also includes a \$102,000 transfer to the Health/Flex Fund. The Health/Flex Fund accounts for the Town's employee health insurance program. A one-time payment to the Fund is needed to cover the costs associated with a few unusually high claimants. The transfer is split proportionally between the funds that include personnel.

Fire District- Sales Tax	Original Budget	Current Budget	Amended Budget	Increase / (Decrease)
Expenditures:				
Fire and Emergency Services	\$ 3,709,197	\$ 3,709,197	\$ 3,958,096	\$ 248,899
Total	\$ 3,709,197	\$ 3,709,197	\$ 3,958,096	\$ 248,899



TOWN COUNCIL AGENDA J.17. CONSENT ITEM(S)

DATE: December 4, 2023
FROM: Brittni Barnett, Grants and Financial Analyst
ITEM: **Consider approval of a resolution authorizing the adoption of the Program Year 2022 Consolidated Annual Performance & Evaluation Report for the Community Development Block Grant; and authorization for the Mayor to execute same on behalf of the Town and submit to the U.S. Department of Housing and Urban Development.**

BACKGROUND: This item is to consider approval of a resolution adopting Flower Mound's Program Year 2022 Consolidated Annual Performance & Evaluation Report (CAPER). The CAPER is required under the Town's Community Development Block Grant (CDBG). It describes the Town's progress in carrying out the housing and community development strategies identified in the Program Year 2020-2024 Consolidated Plan, which was submitted to the U. S. Department of Housing and Urban Development (HUD) in August of 2020. In 2002, HUD recognized Flower Mound (the Town) as an Entitlement Community and awarded the Town a Community Development Block Grant (CDBG). Since that time, Flower Mound has received \$4,672,793 in funding under this CDBG (this includes the total for the 2023 Program year).

Receipt of grant funding is conditioned upon Flower Mound implementing and adhering to the Consolidated Plan, which identifies long-term strategies and annual activities that assist the Town's low- and moderate-income residents. Flower Mound's Program Year 2022 Annual Action Plan was approved by the Town Council on August 8, 2022. During this period, the Council designated available CDBG funds to be used: (1) for planning and administration; (2) for the Residential Rehabilitation Program and (3) to subsidize a call-in transportation service for the Town's elderly and/or those with disabilities. The CAPER describes the ways in which the Town leveraged both federal and non-federal dollars to achieve these goals.

BOARD REVIEW/CITIZEN FEEDBACK: Grant staff held a public hearing on November 1, 2023 to discuss the CAPER. The CAPER was also available for public comment for 30 days. No comments were received.

ALTERNATIVES: N/A

FISCAL IMPACT: N/A

LEGAL REVIEW: Rachel Raggio, of Taylor, Olson, Adkins, Sralla, & Elam L.L.P., has reviewed the resolution and proposed Program Year 2022 CAPER as to form and legality.

ATTACHMENTS:

1. CAPER 2022 Resolution
2. Proposed Program Year 2022 CAPER
3. Transmittal Letter

4. CPMP Worksheet

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

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

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, PROVIDING FOR THE ADOPTION OF FLOWER MOUND'S PROGRAM YEAR 2022 CONSOLIDATED ANNUAL PERFORMANCE AND EVALUATION REPORT UNDER THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM; AUTHORIZING THE MAYOR TO EXECUTE SAID REPORT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, a Consolidated Annual Performance and Evaluation Report must be adopted by the Town of Flower Mound (the "Town") in order to fulfill the requirements of the Housing and Community Development Act of 1974, as amended, the National Affordable Housing Act of 1990, as amended, the Stewart B. McKinney Act of 1987, as amended, and Title 24, Part 91.520 of the Code of Federal Regulations; and,

WHEREAS, the Consolidated Annual Performance and Evaluation Report has been made available for public review and comment for a period of thirty (30) business days; and,

WHEREAS, the Town's Community Development Block Grant staff held a public hearing to allow for public comments regarding the Consolidated Annual Performance and Evaluation Report; and,

WHEREAS, the Town Council of the Town has determined that it is in the best interest of the residents of the Town to adopt the Consolidated Annual Performance and Evaluation Report for 2022, and to authorize the Mayor to execute said report on behalf of the Town, in order to comply with the requirements of the Housing and Community Development Act of 1974, as amended, the National Affordable Housing Act of 1990, as amended, the Stewart B. McKinney Act of 1987, as amended, and Title 24, Part 91.520 of the Code of Federal Regulations;.

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

SECTION 1

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

SECTION 2

The Town's Program Year 2022 Consolidated Annual Performance and Evaluation Report, attached hereto as "Attachment 2," is hereby adopted.

SECTION 3

The Mayor is authorized to execute the Program Year 2022 Consolidated Annual Performance and Evaluation Report on behalf of the Town and submit it to the U. S. Department of Housing and Urban Development prior to December 31, 2023.

SECTION 4

This Resolution shall become effective on and after its date of adoption.

DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, ON THIS THE 4TH DAY OF DECEMBER, 2023.

APPROVED:

Derek France, MAYOR

ATTEST:

Theresa Scott, TOWN SECRETARY



Program Year 2022

**Consolidated Annual
Performance & Evaluation Report (CAPER)**

**For the period
October 1, 2022 – September 30, 2023**

**Prepared for the U. S. Dept. of Housing and Urban
Development (HUD)**

CR-05 - Goals and Outcomes

Progress the jurisdiction has made in carrying out its strategic plan and its action plan.

91.520(a)

This could be an overview that includes major initiatives and highlights that were proposed and executed throughout the program year.

The Consolidated Annual Performance and Evaluation Report (CAPER) contains information about the Town of Flower Mound's accomplishments during the second year of our community's five-year Consolidated Plan (2020-2024) for Housing and Community Development. The report reflects Flower Mound's implementation of outcome performance measurement requirements described in the Federal Register Notice dated March 7, 2006. It also provides a description of how our jurisdiction's program provided new or improved availability/accessibility, affordability, sustainability of decent housing; a suitable living environment; and economic opportunity for Flower Mound's low-and moderate-income residents.

The Town of Flower Mound is an entitlement community under the U.S. Department of Housing and Urban Development's (HUD) Community Development Block Grant (CDBG) Program. During the 2022 Program Year (PY), October 1, 2022 through September 30, 2023, \$229,923.00 in CDBG funds were made available to the Town of Flower Mound to further the objectives of our Consolidated Plan, which began in Program Year 2020 and will end in Program Year 2024. Additionally, the Town continued to utilize its \$347,556.00 in awarded CARES Act funding to prevent, prepare for, and respond to the COVID-19 pandemic.

Flower Mound expended \$273,064.80 in CDBG funds and \$135,478.31 in CDBG-CV funds and leveraged Town General funds during the year to help address identified housing, homeless, community development, anti-poverty, and other special needs. The investments were allocated based on citizen input; research and analysis to identify service level weaknesses and areas of need; and Town Council goals and priorities. The Town's Program Year 2022 Annual Action Plan identified three specific objectives that were to be achieved during the year, using CDBG funds, and are reaffirmed in this annual report:

- Preserve the Town's existing housing stock through the Residential Rehabilitation Program.
- Offer transportation services for the Town's elderly who are 65 years or older and adults with severe disabilities who are 18 years or older.
- Carry out planning and program administration activities.

Assess how the jurisdiction's use of funds, particularly CDBG, addresses the priorities and specific objectives identified in the plan, giving special attention to the highest priority activities identified.

Preserve the Town's Existing Housing Stock: Successfully completed four projects to assist low-to moderate-income homeowners with interior and exterior home rehabilitation (one utilizing CDBG-CV funding) as part of the Town's Residential Rehabilitation Program.

Town-wide Transportation Service: Subsidized 1,174 one-way rides to 45 of the Town's elderly residents who are 65 or older or residents with severe disabilities who are 18 years or older.

Planning and Administration: Continued to fund the administration costs of the CDBG Program, including contract administration, publication of public notices, office equipment and supplies, planning, monitoring, and all other related expenses.

Domestic Violence Assistance (CDBG-CV): The Town initially allocated the entirety of its CDBG-CV funding toward its Residential Rehabilitation Program to assist low-to moderate-income homeowners whose income had been affected by the COVID-19 pandemic, with necessary repairs to their homes. However, due to a lack of applicants, this year the Town worked to revise its 2019 Annual Action Plan to reallocate its remaining CDBG-CV funding to assist those affected by domestic violence. The Town provided three local agencies with funding awards that they will utilize to assist Flower Mound residents who have been increasingly affected by these issues during the course of the COVID-19 pandemic. The period of performance for these organizations began on August 1, 2022. During the 2022 Program Year, one of the organizations was struggling to spend the funds it had been awarded, so the Town reallocated those funds to one of the other organizations. The two remaining organizations provided services to 188 Flower Mound residents who had been affected by domestic violence.

Assist Social Service and Cultural Arts Providers: Allocated \$236,875 in Town General Funds to 19 agencies and organizations that are actively engaged in the provision of social services and cultural arts in Flower Mound.

CR-10 - Racial and Ethnic composition of families assisted

Describe the families assisted (including the racial and ethnic status of families assisted).

91.520(a)

	CDBG
White	38
Black or African American	5
Asian	6
American Indian/Alaskan Native	0
Native Hawaiian or Other Pacific Islander	0
Total	49
Hispanic	1
Not Hispanic	48

Table 1 – Table of assistance to racial and ethnic populations by source of funds

Narrative

The Town's housing rehabilitation program accounted for about 80 percent of the total CDBG funding allocated to the Town in PY 2022. In PY 2022, four homes were rehabilitated using CDBG funds. Of the four households assisted, two were White, one was Asian, and one was African American. These are reflected in the count above.

Additionally, the Town's transportation service helped subsidize 1,174 one-way rides to 45 of the Town's elderly residents who are 65 or older and/or residents with severe disabilities who are 18 years or older with CDBG funds. Of these riders, 36 were White (one of which was Hispanic), five were Asian and four were African American. An additional 1,199 rides were subsidized using a grant received by SPAN, the Town's contracted provider for the service.

The Town provided three local agencies with CDBG-CV funding to assist Flower Mound residents who have been increasingly affected by issues related to domestic violence during the course of the COVID-19 pandemic. The period of performance for these organizations began on August 1, 2022. Of the 188 individuals assisted during the the 2022 Program Year, 118 were White; eight were African American; 17 were Asian; two were African American & White; two were Native Hawaiian/Other Pacific Islander; and 41 were Other/Multi-Racial. Of these, 51 were Hispanic.

CR-15 - Resources and Investments 91.520(a)

Identify the resources made available

Source of Funds	Source	Resources Made Available	Amount Expended During Program Year
CDBG	public - federal	\$229,923	\$273,064.80
Other	public - federal	\$0	\$135,478.31

Table 2 - Resources Made Available

Narrative

In the 2020-2024 Consolidated Plan, the Town of Flower Mound identified the preservation of existing housing stock as a priority. The Town currently offers a Residential Rehabilitation Program to address this need. This program was not limited to a specific geographic area but is only for low-to-moderate income homeowners that live within the Town of Flower Mound city limits. \$185,523 or about 80 percent of the Town's total 2021 CDBG allocation was dedicated to housing rehabilitation projects for low-to-moderate income homeowners.

The Residential Rehabilitation Program is designed to assist low-and moderate-income homeowners in Flower Mound with the rehabilitation of their single-family, owner-occupied houses. The program pays for rehabilitation up to \$60,000. As mentioned, in PY 2022, \$185,523 in CDBG funds were allocated for the program, and a total of four homes were completed utilizing those funds, with an additional home completed utilizing CDBG-CV funds.

Additionally, in its 2020-2024 Consolidated Plan, the Town of Flower Mound identified Town-wide transportation as a priority. The Town-wide transportation program provides transportation to locations within the Town of Flower Mound, the City of Lewisville, the City of Denton and the City of Highland Village and is only for Town of Flower Mound residents aged 65 or older and/or residents who are 18 or older with a severe disability. In PY 2022, \$34,400 or about 15 percent of the Town's total 2022 CDBG allocation was dedicated to the Town-wide Transportation Program. The Town contracts with Special Programs for Aging Needs (SPAN) to provide the service and, if needed, supplements the CDBG funds with Town General Funds.

Lastly, the Town received \$347,556.00 in CARES Act funding during PY 2019, which continued to be utilized to prevent, prepare for, and respond to the COVID-19 pandemic. The Town initially put the funds toward its Residential Rehabilitation Program to assist low-to moderate-income homeowners, whose income had been directly affected by the COVID-19 pandemic, with necessary repairs to their homes.

However, as mentioned in section CR-05, due to a lack of applicants, the Town worked to revise its 2021 Annual Action Plan to reallocate its remaining CDBG-CV funding to assist those affected by domestic violence. The Town provided three local agencies with funding awards that they will utilize to assist Flower Mound residents who have been increasingly affected by these issues during the course of the

COVID-19 pandemic. The period of performance for these organizations began on August 1, 2022. During the 2022 Program Year, the organizations provided services to 188 Flower Mound residents who had been affected by domestic violence.

Identify the geographic distribution and location of investments

Target Area	Planned Percentage of Allocation	Actual Percentage of Allocation	Narrative Description
Town of Flower Mound	100	100	

Table 3 – Identify the geographic distribution and location of investments

Narrative

Because of the limited size of the Town’s allocation of CDBG funding, the Town’s Community Development Block Grant Executive Advisory Committee decided not to target a certain area or region of the Town to focus its programming efforts. All the activities implemented using CDBG funds are open to all qualified residents of Flower Mound and are intended to have a town-wide benefit.

Leveraging

Explain how federal funds leveraged additional resources (private, state and local funds), including a description of how matching requirements were satisfied, as well as how any publicly owned land or property located within the jurisdiction that were used to address the needs identified in the plan.

The Town of Flower Mound's Financial Services Division is the lead agency for the administration of CDBG funding. To effectively implement the Community Development Plan, Financial Services utilizes CDBG funds as well as resources allocated by the Town Council. The Town Council makes available about \$200,000 a year in General Fund resources to fund agencies that are actively engaged in the provision of social services and cultural arts in Flower Mound.

No publicly owned land or property was used to address the needs identified in the Town's plan.

There are no match requirements for CDBG funds.

CR-20 - Affordable Housing 91.520(b)

Evaluation of the jurisdiction's progress in providing affordable housing, including the number and types of families served, the number of extremely low-income, low-income, moderate-income, and middle-income persons served.

	One-Year Goal	Actual
Number of Homeless households to be provided affordable housing units	0	0
Number of Non-Homeless households to be provided affordable housing units	3	4
Number of Special-Needs households to be provided affordable housing units	0	0
Total	3	4

Table 4 – Number of Households

	One-Year Goal	Actual
Number of households supported through Rental Assistance	0	0
Number of households supported through The Production of New Units	0	0
Number of households supported through Rehab of Existing Units	3	4
Number of households supported through Acquisition of Existing Units	0	0
Total	3	4

Table 5 – Number of Households Supported

Discuss the difference between goals and outcomes and problems encountered in meeting these goals.

The Town of Flower Mound proposed to use 80 percent of its 2022 CDBG allocation to fund the rehabilitation of homes owned and occupied by low-to-moderate income households. It was anticipated that three households would be served through the Town's Residential Rehabilitation Program.

Four households were assisted through the Residential Rehabilitation Program. These four homes are reflected in the count above.

Discuss how these outcomes will impact future annual action plans.

The Town is on track to meet all of the goals established in its 2020-2024 Consolidated Plan. This CAPER summarizes the accomplishments of the third year of that plan. The Town will make every effort to stay on track moving forward and does not anticipate any issues in doing so.

Include the number of extremely low-income, low-income, and moderate-income persons served by each activity where information on income by family size is required to determine the eligibility of the activity.

Number of Households Served	CDBG Actual	HOME Actual
Extremely Low-income	0	0
Low-income	0	0
Moderate-income	4	0
Total	4	0

Table 6 – Number of Households Served

Narrative Information

Beginning in PY 2020, the Town of Flower Mound decided to focus its housing rehabilitation efforts on its Residential Rehabilitation Program. Previously, the Town's Minor Home Repair Program was instituted to provide an additional outlet for accomplishing the Town's goal of supplying decent, safe, sanitary, and affordable housing; correcting health and safety hazards in deteriorated housing; and expanding the useful life of existing housing units. However, the Town found that the majority of residents seeking assistance with repairs on their homes, needed more than the maximum \$15,000 of assistance provided through the Minor Home Repair Program, especially when faced with rising construction and material costs.

One hundred percent of all CDBG funding for the Town's Residential Rehabilitation Program was dedicated to persons of low-to-moderate income. Four homes were completed in PY 2022. Of the four homes completed, 100% were occupied by moderate-income homeowners. Two of the four homes (50%) were owned by female head of households. The four homes completed through the Town's Residential Rehabilitation Program are reflected in the count above.

CR-25 - Homeless and Other Special Needs 91.220(d, e); 91.320(d, e); 91.520(c)

Evaluate the jurisdiction's progress in meeting its specific objectives for reducing and ending homelessness through:

Reaching out to homeless persons (especially unsheltered persons) and assessing their individual needs

Outreach to persons experiencing homelessness continued to be carried out by the Town's partners, such as Journey to Dream and Christian Community Action (CCA), each of which play a major role in advocating for and addressing the needs of the most vulnerable members of our community. Flower Mound continued to allocate a portion of its General Funds to support Journey to Dream and its efforts to provide support to a growing population of homeless teens, including life skills training and access to community resources. Additionally, the organization runs Kyle's Place, which is a transitional living program for homeless and foster youth. Aside from giving teens a safe place to sleep and basic necessities, Kyle's Place offers programs and the support homeless youth need to get back on their feet and succeed. A portion of the Town's General Fund dollars also went to support Christian Community Action and its efforts to prevent homelessness, including rental assistance, a food pantry and comprehensive case management. In PY 2022, the Town allocated \$236,875 in general funds to fund agencies that are actively engaged in the provision of social services and cultural arts in Flower Mound.

The Town also continued its involvement with the Denton County Homeless Coalition (DCHC). DCHC conducts monthly meetings, which are attended by representatives from area cities, service providers and faith-based groups. The meetings provide a forum for problem solving, information sharing and referral services. Agencies that serve a wide variety of special needs in locations throughout the cities of Flower Mound, Lewisville and Denton regularly attend and participate. These meetings provide an opportunity for collaboration between the Town of Flower Mound and these organizations that work to assist the homeless and address their needs.

Addressing the emergency shelter and transitional housing needs of homeless persons

The Town of Flower Mound does not receive Emergency Shelter Grant (ESG) funding. However, the Town continued to participate in the Denton County Homeless Coalition. This network of service providers and other relevant parties serves as a catalyst for developing and providing needed services to those individuals and families who are homeless or at risk of homelessness in the county, such as emergency shelter and transitional housing.

Helping low-income individuals and families avoid becoming homeless, especially extremely low-income individuals and families and those who are: likely to become homeless after being discharged from publicly funded institutions and systems of care (such as health care facilities, mental health facilities, foster care and other youth facilities, and corrections programs and institutions); and, receiving assistance from public or private agencies that address housing, health, social services, employment, education, or youth needs

The Town of Flower Mound made available \$236,875 in General Fund resources to fund agencies that are actively engaged in the provision of social services and cultural arts in, and for, the residents of Flower Mound. Some of these organizations included Journey to Dream, an organization that provides support to a growing population of homeless teens, including life skills training and access to community resources; PediPlace, an organization that provides primary care pediatric health services to children with limited access to care; and Denton County Friends of the Family, an organization that provides supportive services to those impacted by relationship violence and sexual assault.

Additionally, the Town of Flower Mound continued to participate in the Denton County Homeless Coalition. This network of service providers and other relevant parties serves as a catalyst for developing and providing needed services to those individuals and families who are homeless or at risk of homelessness in the county.

Helping homeless persons (especially chronically homeless individuals and families, families with children, veterans and their families, and unaccompanied youth) make the transition to permanent housing and independent living, including shortening the period of time that individuals and families experience homelessness, facilitating access for homeless individuals and families to affordable housing units, and preventing individuals and families who were recently homeless from becoming homeless again

The Town continued its support of helping homeless and potentially homeless individuals by allocating General Funds to local social service agencies that are working to address this challenge, such as Journey to Dream. The Town also continued its participation in the Denton County Homeless Coalition, which brings together those fighting to end homelessness in Denton County, such as local service providers, churches, and governments.

The Town of Flower Mound also supplements the work of various Town-funded social service agencies to end chronic homelessness by promoting the preservation and maintenance of existing homes through its Residential Rehabilitation Program.

The Town continues to carry out these programs and support these various organizations and agencies in order to address this challenge in a coordinated and proactive manner that reduces duplication of effort as much as possible.

CR-30 - Public Housing 91.220(h); 91.320(j)

Actions taken to address the needs of public housing

This section is not applicable, as the Town of Flower Mound does not have a public housing authority. The Town also does not receive or administer funds for assisted housing. There are no plans for public housing in Flower Mound at this time. However, surrounding communities do administer assisted housing programs to residents of Flower Mound, such as the Denton Housing Authority, which currently provides assistance to 23 families in Flower Mound.

Actions taken to encourage public housing residents to become more involved in management and participate in homeownership

N/A

Actions taken to provide assistance to troubled PHAs

N/A

CR-35 - Other Actions 91.220(j)-(k); 91.320(i)-(j)

Actions taken to remove or ameliorate the negative effects of public policies that serve as barriers to affordable housing such as land use controls, tax policies affecting land, zoning ordinances, building codes, fees and charges, growth limitations, and policies affecting the return on residential investment. 91.220 (j); 91.320 (i)

During the 2022 Program Year, the Town's SMARTGrowth Commission and Planning and Zoning Commission continued their periodic review of development criteria to help mitigate the ill effects of overcrowding and congestion, including overburdened infrastructure, facilities, schools, and services. Examples of these efforts include:

- The Planning and Zoning Commission met regularly throughout the year. The members used Flower Mound's SMARTGrowth criteria to ensure growth does not occur at the expense of environmental quality, community character, or quality of life of the Town's residents. Commission members followed residential density criterion and the Town's Master Plan when reviewing residential development requests, which allowed for a wide range of housing opportunities.
- The SMARTGrowth Commission also met during the year, which provided an opportunity for members to discuss any potential issues with the SMARTGrowth criteria.

Additionally, The Fair Housing Committee continued its routine review of the Town's zoning and subdivision ordinances, building codes and impact fees; and when necessary, will bring any potential impediments to the attention of management and the Town Council. Examples of these efforts include:

- The Town's Planning Services Division is represented on the Town's Fair Housing Committee. This Division reviews, administers and enforces Town codes and regulations pertaining to the development of commercial and residential property through the planning and zoning process. During the year, no impediments were identified that needed to be brought to the attention of management and the Town Council.
- The Town's Building and Inspections Division is represented on the Fair Housing Committee. This Division reviews building codes and enforces building, electrical, plumbing and mechanical code regulations within Flower Mound. Permits are required before performing any new construction or addition, alteration or repair of existing buildings, structures, plumbing, electrical or mechanical work. During the year, no impediments were identified that needed to be brought to the attention of management and the Town Council.
- The Development Services Department is represented on the Fair Housing Committee. This Department reviews impact fees and provides planning, design review, implementation, quality control and maintenance for the Town's infrastructure system and improvement projects. During the year, no impediments were identified that needed to be brought to the attention of management and the Town Council.

Actions taken to address obstacles to meeting underserved needs. 91.220(k); 91.320(j)

Limited funding and resources to address the most complicated situations are the primary obstacles to meeting underserved needs in Flower Mound. However, the Town did allocate more than \$236,000 in General Fund dollars to its social service partners to help meet the basic unmet needs of residents, including food, medical care, clothing, and emergency housing assistance.

Actions taken to reduce lead-based paint hazards. 91.220(k); 91.320(j)

During the 2022 Program Year, the Town of Flower Mound continued to demonstrate its commitment to the eradication of lead-based paint hazards in the community.

In 2003, the Town formed a Lead-based Paint Task Force to determine what activities needed to be taken to reduce any existing or potential lead-based paint hazards and ensure compliance with the Lead-based Paint Hazard Reduction Act of September 15, 2000. During the year, the Task Force (a) researched and analyzed Flower Mound's ordinances, laws, regulations, public policies, practices, procedures, records, and reports for any references to lead-based paint; (b) identified the locations of the 859 homes in Flower Mound built before 1978; and (c) obtained and developed educational materials about the dangers of lead-based paint. These materials were made available for public access at Town Hall and posted on the Town's website.

Based on the Task Force recommendations, the Town's Environmental Services Department was identified as Flower Mound's point of contact for lead-based paint issues. This Department continued to maintain and update the supply of educational materials available at Town Hall, as well as information on the Town website.

The Town currently sponsors the Residential Rehabilitation Program that is carried out through the Community Development Block Grant Program. For this program, occupants of units constructed prior to 1978 receive proper notification of Lead-Based Paint (LBP) hazards and all projects are subject to the implementation of the Federal Lead-Based Paint Regulations in accordance with the most recently published CDBG grant management manual chapter on Lead-Based Paint.

During the 2022 Program Year, none of the homes rehabilitated had a construction date prior to 1978.

Actions taken to reduce the number of poverty-level families. 91.220(k); 91.320(j)

The Town of Flower Mound's actions to help reduce the number of poverty-level families during the 2022 Program Year included economic development activities, tax exemptions for the disabled and senior citizens, leveraging resources and serving as a referral source:

- Economic Development: 4.1% of Flower Mound families live below the poverty level (compared to 7.4% in Denton County, 14% in Texas and 11.5% in the United States), according to the

Census Bureau's QuickFacts information. Additionally, the Town's unemployment rate of 3.8% is lower than Denton County's rate of 4.1%, the State's rate of 5.4%, and the Nation's rate of 5.5%, according to the American Community Survey 2021 5-Year Estimates. Flower Mound's lower rate can be attributed to the Town's proximity to numerous major employers and educational institutions throughout the Dallas-Fort Worth area. However, it is important to note that within Town limits, only 23% of the tax base is commercial. While Flower Mound's property, county and school taxes are among the lowest in the surrounding area, 75% of the Town's tax base is comprised of residential development, placing a disproportionate tax burden on homeowners. Community efforts during the past few years have resulted in an increase in commercial properties in Flower Mound. During the 2022 Program Year, Town staff continued their efforts, with the help of the local Chamber of Commerce, to provide business and retention development programs with incentives for economic development. As a result, in PY 2022, 13 new commercial permits were issued.

- **Tax Exemptions:** In Program Year 2022, the Town maintained the exempted amount of the appraised value of residence homesteads for those with disabilities and individuals 65 years of age or older at \$100,000. Additionally, the Town recently approved a 10% homestead exemption for all Flower Mound homeowners that will take effect on their 2022 property tax bill.
- **Leveraging Resources:** Town staff continued to liaison with community agencies established to provide the necessary resources for affordable housing and other needed services through outlets such as the Denton County Homeless Coalition. Some of these organizations include the Denton Housing Authority, which offers rental assistance and self-sufficiency training; the Denton Workforce Center/Texas Workforce Commission, which offers training and supportive services leading to employment; the Texas Department of Housing and Community Affairs; and the Denton County Housing Finance Corp., which offers homebuyer assistance.
- **Referral Source:** To help ensure that residents needing services are aware of available local providers, Town staff maintained established links to service providers on the Town website. In addition, the Town continued to post information about available job training, job search and financial management workshop opportunities on the Town's website, at the Town library and on the Town's cable television station.

These actions assisted in reducing the number of poverty-level families in Flower Mound by increasing local employment opportunities, reducing homeowner costs for senior citizens and those with disabilities and providing a referral network for those families seeking rental and other assistance.

Actions taken to develop institutional structure. 91.220(k); 91.320(j)

The Town continued to promote and emphasize the need for greater coordination between all social service agencies active in the Flower Mound area to minimize duplication of efforts. This was carried out through outlets such as the Denton County Homeless Coalition meetings. Efforts to enhance coordination between local agencies, both public and private, will ensure that the information available is comprehensive, needs are being properly addressed and resources are being maximized.

Actions taken to enhance coordination between public and private housing and social service agencies. 91.220(k); 91.320(j)

The Town of Flower Mound continued to share information and leverage funds with area public and private housing, health, and social service agencies. This helps ensure that access to needed services is available. The Town also continued to liaison with the Denton County Housing Authority, the Denton County Housing Finance Corporation and area lenders, through means such as the meetings of the Denton County Homeless Coalition, an organization that includes a network of public and private housing, health, and social service representatives throughout Denton County.

The Town continues to make staff available as a referral source for families with low-to-moderate incomes to assist them in obtaining rental assistance or below-market interest rate mortgage loans and down payment assistance through local lenders. Additionally, the Town continued to maintain the links to housing rights, access groups and other service providers on the Flower Mound website.

Finally, the Town continued its participation in HUD-sponsored activities, which are informative and offer a ready network of Community Development Block Grant representatives and advisors.

Identify actions taken to overcome the effects of any impediments identified in the jurisdictions analysis of impediments to fair housing choice. 91.520(a)

The Town of Flower Mound continues to demonstrate its commitment to overcoming the effects of impediments to fair housing choice. This position was solidified in 2012 when the Town passed a Fair Housing Ordinance, which declared the Town's commitment to ensure fair housing opportunities for all citizens, regardless of race, color, religion, handicap, sex, familial status, or national origin. This ordinance was unanimously approved by the Town Council.

During the 2022 Program Year, The Fair Housing Committee conducted its annual review of the Town's Analysis of Impediments to Fair Housing Choice. No overt barriers to fair housing were identified in the analysis. However, the Fair Housing Committee discussed a few items that the Town should do to ensure that unanticipated barriers do not develop in the future. These items and the efforts the Town took to address them in the 2022 Program Year are listed below.

- The SMARTGrowth Commission continued its periodic review of development criteria to help mitigate the ill effects of overcrowding and congestion, including overburdened infrastructure, facilities, and services.
- The Fair Housing Committee continued its routine review of the Town's zoning and subdivision ordinances, building codes and impact fees; and when necessary, commits to bringing any potential impediments to the attention of management and the Town Council.
- The Economic Development Department continued to work closely with the Chamber of Commerce to provide business and retention development programs with incentives for economic development. As a result, in PY 2022, 13 new commercial permits were issued.

- The Financial Services Department continued to foster partnerships with community agencies established to provide the necessary resources for affordable housing and identifying populations such as the elderly, youth, and female head-of-households living below the poverty level. This was done through the outlet of the Denton County Homeless Coalition, where the Town's Grants and Financial Analyst serves as the Town's representative. The Town also provided General Fund financial assistance to organizations that provide services to Flower Mound residents during the year. One such organization, Christian Community Action, provides financial and non-financial resources to residents of Flower Mound through its family assistance services, back-to-school program, Christmas program and food pantry.
- The Library Services Department continued to ensure that residents with poverty-level incomes are made aware of job training, financial management and job search workshop opportunities at the Town of Flower Mound Library. Additionally, the Library provides online databases related to the job search process and educational assistance. In Program Year 2022, 346 job views/job-related sessions were accessed through these databases. These databases were available both onsite and remotely, which allowed residents access any time of day. The Library also hosted four programs related to financial planning with 30 attendees. Finally, the Library continued to purchase new books that relate to resume writing, interviewing, testing, and starting a small business.

CR-40 - Monitoring 91.220 and 91.230

Describe the standards and procedures used to monitor activities carried out in furtherance of the plan and used to ensure long-term compliance with requirements of the programs involved, including minority business outreach and the comprehensive planning requirements

The Town of Flower Mound continually monitors programs and projects to ensure compliance with all applicable laws and regulations.

Financial Services staff administers financial monitoring for all projects, programs and activities funded by CDBG. They ensure that all drawdowns are made after all ledgers and records have been reconciled and approved. Additionally, the financial operations and expenditures of the Town are audited on an annual basis by an independent accounting firm.

To ensure compliance with grant requirements, effectiveness in solving neighborhood and community problems, as well as adherence to the goals laid out in the Town's five-year Consolidated Plan and 2022 Annual Action Plan, Town staff conducted monitoring of all operational projects identified in the Annual Plan. Technical assistance is provided on a continuing basis.

During the 2022 Program Year, no problems or issues were identified in either of the Town's CDBG projects that needed to be corrected during the review.

Additionally, under the Town's Residential Rehabilitation Program, Town staff administers and continuously monitors all projects implemented under this program. Projects requested by residents are thoroughly evaluated for adherence to the program guidelines, including income eligibility. An environmental compliance checklist is completed for each project and the potential repairs are assessed for eligibility during an on-site evaluation by staff.

As a result of this careful management and monitoring, Flower Mound's CDBG-funded programs continue to have a positive effect on solving neighborhood and community problems, especially in regard to reducing the potential for homelessness. While progress is slow due to a lack of available funding, our community is meeting priority needs and specific objectives that will help to make Flower Mound's vision of the future a reality. By collaborating and leveraging funds, we were able to provide opportunities for our low-and moderate-income residents to have access to decent housing, a suitable living environment, and expanded economic opportunity.

Citizen Participation Plan 91.105(d); 91.115(d)

Describe the efforts to provide citizens with reasonable notice and an opportunity to comment on performance reports.

The Town's Citizen Participation Plan requires the Town to post public notices for performance reports in the newspaper and on the Town website to ensure that interested groups, agencies, organizations, and individuals have an opportunity to provide comments regarding Flower Mound's use of federal grant funds under the Community Development Block Program. These requirements were designed especially to encourage participation by low- and moderate-income residents.

During the comment period, a copy of the report is posted on the Town website, www.flower-mound.com, at Town Hall, located at 2121 Cross Timbers Road, and at the Flower Mound Library, located at 3030 Broadmoor Lane. Additionally, on November 1, 2023, a public hearing was held at Flower Mound's Town Hall in the Council Chambers. This meeting place is easily accessible to all Town residents, including those with disabilities. All meeting notices and the Town website noted that translation services are available upon request and that persons with disabilities would also be accommodated upon request. Public notices announcing the hearing were issued two weeks prior to the hearing date. Information about the public hearing was published in the Denton Record-Chronicle, displayed at Town Hall in an area easily visible to all who entered the building, and posted on the Town website.

CR-45 - CDBG 91.520(c)

Specify the nature of, and reasons for, any changes in the jurisdiction's program objectives and indications of how the jurisdiction would change its programs as a result of its experiences.

There were no changes to the Town of Flower Mound's regular program objectives. The Town of Flower Mound continues to work toward all the goals established in its 2020-2024 Consolidated Plan.

However, as mentioned in section CR-05, the Town did work to revise its 2022 Annual Action Plan to reallocate its remaining CDBG-CV funding to assist those affected by domestic violence. The Town provided three local agencies with funding awards that they will utilize to assist Flower Mound residents who have been increasingly affected by these issues during the course of the COVID-19 pandemic. The Town is confident that this change will allow these remaining funds to be utilized most effectively and to be spent by the expenditure deadline.

Does this Jurisdiction have any open Brownfields Economic Development Initiative (BEDI) grants?

No

[BEDI grantees] Describe accomplishments and program outcomes during the last year.

N/A

CR-58 – Section 3

Narrative

N/A



TOWN COUNCIL AGENDA J.18. CONSENT ITEM(S)

DATE: December 4, 2023
FROM: Brian Waltenburg, Assistant Director of Engineering
ITEM: **Consider the approval of a proposal from CoServ Electric for an electric transformer upgrade at the Oak Street Lift Station in the amount of \$61,206.65.**

BACKGROUND: On June 6, 2023, Town Council approved the construction award for the Oak Street Lift Station and Forcemain Phase IV project. The project includes upgrades to the pump and electrical systems of the lift station. These upgrades require larger electrical transformers than the transformers currently onsite. This proposal submitted by CoServ includes replacement of the existing transformers with larger units that will serve the buildout flows of the Oak Street Lift Station.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES: N/A

FISCAL IMPACT: \$61,206.65

Proposed Expenditure/(Revenue)
\$61,206.65

Account Number(s):
600-971-90386-6180

LEGAL REVIEW: N/A

ATTACHMENTS:

1. CoServ Proposal

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



7701 S Stemmons Fwy
Corinth, TX 76210
(940) 321-7800

ORDER: 7801

Order Date: 11/10/2023
Terms: 90 DAY ESTIMATE

Contact: MAWALKER

FLOWER MOUND TOWN OF
STREET SERVICES
2121 CROSS TIMBERS ROAD
FLOWER MOUND TX 75028

Account: 145
Description: WO 1087605

Page 1 of 1

CATALOG ITEM	DESCRIPTION	QUANTITY	UOM	UNIT PRICE	AMOUNT	TAX
	UPGRADE 2X 277/480 500KVA PDMT XFMRs TO 750KVA @ 851 OAK ST, FLOWER MOUND	1.000	EA	58,852.5500	58,852.55	√
	22-FRANCHISE FEE - FLOWER M				2,354.10	

MESSAGES

PAYMENTS ARE NO LONGER ACCEPTED IN PERSON AT THE OFFICE

* PRICING IS VALID FOR 90 DAYS.
* NO CONSTRUCTION WILL COMMENCE UNTIL PAID IN FULL.
* THIS INVOICE IS FOR CONSTRUCTION ONLY.
* PLEASE REFER TO COVER LETTER FOR ADDITIONAL INFORMATION.

REMIT TO:
COSERV
PO BOX 734852
DALLAS, TX 75373-4852

TOTAL ORDER AMOUNT: \$ 61,206.65



TOWN COUNCIL AGENDA J.19. CONSENT ITEM(S)

DATE: December 4, 2023
FROM: Kay Wilkinson, Director of Budget Services
ITEM: **Consider approval of a resolution authorizing the Town to join with the Steering Committee of Cities Served by CoServ Gas, Ltd. to deny CoServ Gas's application for approval to amend its gas rates.**

BACKGROUND: On July 28, 2023, CoServ Gas filed its Statement of Intent to change gas rates at the Railroad Commission of Texas and in all municipalities exercising original jurisdiction within its service area.

The Steering Committee of Cities Served by CoServ Gas, Ltd. engaged the services of consultants to review the Company's filing. The consultants identified numerous unreasonable expenses and proposed significant reductions to the Company's request. Settlement discussions are ongoing, but no agreement has been met. Accordingly, CoServ Gas Cities' attorneys recommend that all member cities adopt the Resolution denying the rate change. Once the Resolution is adopted, CoServ will have 30 days to appeal the decision to the Railroad Commission where the appeal will be consolidated with CoServ's filing. All cities with original jurisdiction will need to adopt the denial resolution no later than December 7.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES: N/A

FISCAL IMPACT: N/A

LEGAL REVIEW: The Town is using the Steering Committee of Cities Served by CoServ Gas documents created by Lloyd Gosselink Rochelle & Townsend, P.C.

ATTACHMENTS:

1. CoServ Gas Denial Resolution

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

TOWN OF FLOWER MOUND

RESOLUTION NO. _____

A RESOLUTION OF THE TOWN OF FLOWER MOUND, TEXAS FINDING THAT COSERV GAS, LTD.'S STATEMENT OF INTENT TO INCREASE RATES WITHIN THE TOWN SHOULD BE DENIED; FINDING THAT THE TOWN'S REASONABLE RATE CASE EXPENSES SHALL BE REIMBURSED BY THE COMPANY; FINDING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; REQUIRING NOTICE OF THIS RESOLUTION TO THE COMPANY AND TOWN'S LEGAL COUNSEL

WHEREAS, the Town of Flower Mound, Texas ("Town") is a gas utility customer of CoServ Gas, Ltd. ("CoServ" or "Company") and is a regulatory authority under the Gas Utility Regulatory Act ("GURA") with exclusive original jurisdiction over CoServ's rates, operations, and services within the Town; and

WHEREAS, the Town cooperated with a coalition of similarly situated cities served by the Company that have joined together to facilitate the review and response to natural gas issues affecting the rates charged in CoServ's service area ("CoServ Gas Cities" or "Steering Committee of Cities Served by CoServ Gas, Ltd."); and

WHEREAS, on or about July 28, 2023, CoServ filed with the Town a Statement of Intent to Increase Rates seeking to increase natural gas rates by \$10.3 million annually in incorporated areas; and

WHEREAS, the Town passed Resolution No. 18-23 to suspend the effective date of CoServ's requested rate increase for 90 days, the maximum period allowed by law; and

WHEREAS, CoServ Gas Cities hired and directed legal counsel and consultants to prepare a collective response to the Company's requested increase, which resulted in a conclusion that CoServ's proposed rates are not reasonable; and

WHEREAS, CoServ Gas Cities' attorneys recommend that members deny the requested increase; and

WHEREAS, GURA § 103.022 provides that costs incurred by CoServ Gas Cities in ratemaking activities are to be reimbursed by the regulated utility.

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

SECTION 1. That the rates proposed by CoServ to be recovered through its gas rates charged to customers located within the Town limits, are hereby found to be unreasonable and shall be denied.

SECTION 2. That the Company shall continue to charge its existing rates to customers within the Town.

SECTION 3. That the Town's reasonable rate case expenses shall be reimbursed in full by CoServ.

SECTION 4. That it is hereby officially found and determined that the meeting at which this Resolution is passed is open to the public as required by law and the public notice of the time, place, and purpose of said meeting was given as required.

SECTION 5. That a copy of this Resolution shall be sent to CoServ, care of Charles Harrell, CoServ Gas, Ltd., 7701 South Stemmons Freeway, Corinth, Texas 76210 (Charrell@coserv.com); and to Thomas Brocato, counsel for CoServ Gas Cities, Lloyd Gosselink Rochelle & Townsend, P.C., 816 Congress Avenue, Suite 1900, Austin, Texas 78701 (tbrocato@lglawfirm.com).

PASSED AND APPROVED this 4th day of December, 2023.

APPROVED:

Derek France, MAYOR

ATTEST:

Theresa Scott, TOWN SECRETARY



TOWN COUNCIL AGENDA J.20. CONSENT ITEM(S)

DATE: December 4, 2023

FROM: Dale Crown, Senior Project Engineer

ITEM: **Consider approval of a Professional Services Agreement with Alliance Geotechnical Group to provide construction materials engineering and testing for the Hillside Lane Reconstruction project, in the amount of \$30,025.00; and authorization for the Mayor to execute same on behalf of the Town.**

BACKGROUND: The Professional Services Agreement includes construction materials engineering and testing for the Hillside Lane Reconstruction project. The construction project was awarded to 3D Paving and Contracting, LLC on November 6, 2023. The project consists of the reconstruction of Hillside Lane, a local residential street, from Edgefield Trail to Timber Valley Drive. The project also includes 1200 linear feet of sewer line replacement.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES: Materials testing is required as part of the recently awarded construction project.

FISCAL IMPACT: \$30,025.00

316-560-78045-6160

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

ATTACHMENTS:

1. PSA
2. Form 1295 (Internal Use)

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

THE STATE OF TEXAS §
COUNTY OF DENTON §

**PROFESSIONAL SERVICES AGREEMENT WITH
ALLIANCE GEOTECHNICAL GROUP, INC.**

This contract is entered into on this 4th day of December, 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 **ALLIANCE GEOTECHNICAL GROUP, INC.**, (“hereinafter referred to as “CONSULTANT”) whose address is 7970 West Main Street, Frisco, Texas 75033

RECITALS

WHEREAS, TOWN desires to obtain professional services from CONSULTANT relative to construction materials engineering and testing and other services for the Hillside Lane Reconstruction project; and

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

TERMS OF AGREEMENT

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

I.

Employment of Consultant

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

II.

Scope of Services

CONSULTANT shall perform such services as are necessary to provide the Hillside Lane Reconstruction Construction Materials Engineering and Testing

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

III. Payment for Services

Total payment for services described herein shall be a sum not to exceed Thirty Thousand Twenty-Five and No/100 Dollars (\$30,025.00). This total payment for services includes CONSULTANT's ordinary expenses. Additional expenses and charges, which are extraordinary in nature, must be approved in advance by TOWN in writing signed by the parties. Such extraordinary expenses may be paid as incurred and billed to the TOWN pursuant to this Contract over and above the total payment amount identified in this provision. Any extraordinary expenses or charges not approved in writing in advance by the TOWN shall remain the sole responsibility of the CONSULTANT.

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

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

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

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

IV.

Revisions of the Scope of Services

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

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

V.

Term

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

VI.

Contract Termination Provision

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

VII.
Ownership of Documents

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

VIII.
Insurance

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

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

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

The following policies and coverage shall be required:

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

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

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

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

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

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

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

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

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

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

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

D. CONSULTANT agrees to the following:

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

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

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

IX. **Right to Inspect Records**

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

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

X. **Successors and Assigns**

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

XI.
CONSULTANT's Liability

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

XII.
Indemnification

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

XIII.

Independent Contractor

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

XIV.

Default

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

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

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

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

(2) The total dollar amount of this Contract.

XV.

Provisions Surviving Termination

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

XVI.

Changes

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

XVII.

Conflicts of Interest

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

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

XVIII.

Confidential Information

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

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

XIX. **Notice Information**

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

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

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

J.K. Marthers
Alliance Geotechnical Group, Inc.
7970 West Main Street
Frisco, TX 75033
214-618-4100 Telephone
217-618-4110 Facsimile
Email: JMarthers@aggengr.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. Situs of this Contract is agreed to be Denton County, Texas, for all purposes, including performance and execution.

XXI.
Non-Discrimination

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

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

XXII.
Arbitration

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

XXIII.
No Waiver of Governmental Immunity

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

XXIV.
Severability

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

XXV.
Remedies

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

XXVI.
Entire Agreement

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

XXVII.
Non-Waiver

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

XXVIII.
Headings

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

XXIX.
Venue

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

XXX.
No Third Party Beneficiary

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

[The remainder of this page left blank intentionally]

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

THE TOWN OF FLOWER MOUND, TEXAS

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

Date Signed: _____

Attest:

Town Secretary

**CONSULTANT:
ALLIANCE GEOTECHNICAL GROUP, INC.**

By: 
Name: Robert P. Nance
Title: President
Date Signed: November 16, 2023

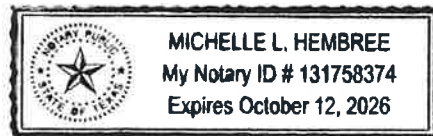
State of Texas §
 §
County of Dallas §

This instrument was acknowledged before me on the 16th day of November, 2023, by Robert P. Nance in his capacity as President of Alliance Geotechnical Group, Inc., a Texas Corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged that he executed the same on behalf of and as the act of Alliance Geotechnical Group, Inc..

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS THE 16th
DAY OF November, 2023.


Notary Public, State of Texas

My Commission Expires:
October 12, 2026





CONSTRUCTION MATERIALS ENGINEERING & TESTING
 GEOTECHNICAL ENGINEERING
 CONSTRUCTION INSPECTION SERVICES
 FORENSIC STUDIES

November 15, 2023
 Proposal No.: P23-1118CR

Mr. Dale Crown P.E.
 Town of Flower Mound
 2121 Cross Timbers Road
 Flower Mound, Texas 75028

**Subject: Construction Materials Testing Services
 Hillside Lane Reconstruction
 Flower Mound Texas**

Dear Mr. Crown

Alliance Geotechnical Group (Alliance) is pleased to submit this proposal for construction materials testing for the above referenced project. We understand we have been selected based on the Professional Services Procurement Act.

PROJECT INFORMATION

Based on our review of the project plans, specifications, and geotechnical report, we understand that the project will consist of the following:

- ◆ Paving and Earthwork:
 - ◆ Construction of 1,220 linear feet of sanitary sewer line, and 9 sanitary sewer line manholes.
 - ◆ Construction of 1,275 linear feet of paving sub grade and flexible base materials.
 - ◆ Placement of approximately 612 cubic yards of concrete paving, and various concrete replacement area's.
 - ◆ Construction of concrete for sidewalks and ADA ramps

SCOPE OF SERVICES

The following scope of services is based our review of project documents dated June 2023, and is limited to providing testing and/or observations for the previously mentioned construction. ***We do request that your construction representative provide us with a 24-hour notice for scheduling purposes.*** As such, we agree to provide the appropriate personnel to perform the below construction materials services.

Inspections and Testing for Earthwork

- Obtain and perform laboratory moisture/density relations (ASTM D698/D1557/D558, TEX-113-E, TEX-114-E) and soil classification tests (liquid limit, plastic limit and percent finer than no. 200 sieve analysis) for each soil type
- Perform in-place moisture/density tests at the rate of 1/ 10,000 square feet for paving areas, 1/300 linear feet for utilities, with a minimum of 2 tests per lift per area

Inspections and Testing for Concrete Construction

- Perform reinforcing steel inspection prior to concrete placement (if requested; generally the same day unless scope of pour deemed too large by AGG) for conformance with project plans and reviewed shop drawings
- During concrete pours, for each intended use, AGG shall sample concrete from the first concrete truck on each day of concrete pouring and a minimum of one truck every 150 cubic yards thereafter.
- Perform testing and inspections during concrete placements, which will include:
 - collect a copy of the batch ticket and verify mix design matches reviewed submittal (provided that approved mix designs are provided to AGG)
 - collect a sample in accordance with ASTM C172
 - perform slump test in accordance with ASTM C143
 - perform air content test in accordance with ASTM C231 or ASTM C173
 - perform unit weight test in accordance with ASTM C138
 - record concrete temperature in accordance with ASTM C1064
 - fabricate cylinders molded and standard-cured in accordance with ASTM C31; either four 6" x 12" or five 4" x 8"
 - perform compression testing in accordance with ASTM C39

COMPENSATION

While testing is dependent on the construction sequence, contractor performance and efficiency, weather conditions, and the actual testing performed, we suggest an **estimated budget of \$30,025.00**. The invoicing for this project will use the attached Fee Schedule **and the actual quantity of work performed**. The estimated budget will not be exceeded without prior approval. Town of Flower Mound and Alliance Geotechnical Group may subsequently agree in writing to provide for additional services to be rendered under this agreement for additional, negotiated compensation. Services provided by Alliance will be consistent with the engineering standards prevailing at the time and in the area that the work is performed; no other warranty, express or implied, is intended.

Please indicate your approval of the proposal either by signing below acceptance form and returning to our office, or issuing a Town of Flower Mound contract and/or purchase order as our notice to proceed.

We appreciate the opportunity to provide you with our services. If you have any questions or wish to discuss any aspect of our proposal, please call us. Following your authorization, we are ready to begin work and look forward to a successful project.



Sincerely,
Alliance Geotechnical Group

A handwritten signature in blue ink, appearing to read 'JK Marthers', is positioned above the printed name.

JK Marthers C.E.T., R.S.O.
Project Manager

A handwritten signature in blue ink, appearing to read 'Douglas S. Land', is positioned above the printed name.

Douglas S. Land P.E.
Branch Manager

Attachments: Fee Schedule
Estimated Quantities
Acceptance Form
Remarks

Alliance Geotechnical Group
PROJECT DATA SHEET - BUDGET
Hillside Ln Recon (P23-1118C)

Concrete

1000	Concrete Technician	101.00 @	\$55.00	\$5,555.00
1001	Concrete Technician Overtime	8.00 @	\$82.50	\$660.00
1008	Concrete Cylinder Pick Up	10.00 @	\$185.00	\$1,850.00
ASTM C39	Compressive Strength of Cylindrical Concrete Specimens	101.00 @	\$25.00	\$2,525.00

Concrete Budget: \$10,590.00

Misc

1307	Project Manager	28.00 @	\$95.00	\$2,660.00
1322	Vehicle Trip Charge	46.00 @	\$55.00	\$2,530.00

Misc Budget: \$5,190.00

Soils

1400	Earthwork Inspection and Testing	135.00 @	\$70.00	\$9,450.00
1401	Earthwork Inspection and Testing Overtime		\$105.00	\$0.00
ASTM D1140	Material in Soils Finer than No. 200 Sieve	4.00 @	\$75.00	\$300.00
ASTM D1557	Laboratory Compaction Characteristics of Soil Using Modified Effort	1.00 @	\$235.00	\$235.00
ASTM D4318	Liquid Limit, Plastic Limit, and Plasticity Index of Soils	4.00 @	\$75.00	\$300.00
ASTM D6938	In-Place Density and Water Content of Soil and Soil-Aggregate by Nuclear Methods	90.00 @	\$35.00	\$3,150.00
ASTM D698	Laboratory Compaction Characteristics of Soil Using Standard Effort	3.00 @	\$195.00	\$585.00
Tex-110-E	Particle Size Analysis of Soils	1.00 @	\$225.00	\$225.00

Soils Budget: \$14,245.00

Total Budget: \$30,025.00



TOWN COUNCIL AGENDA J.21. CONSENT ITEM(S)

DATE: December 4, 2023
FROM: Travis Cunniff, Assistant Director of Parks and Recreation
ITEM: **Consider approval of Standards of Care for Youth Recreation Programs operated by the Town, in accordance with the Texas Human Resources Code-Section 42.041 and to adopt an Ordinance providing for said Standards. (The Parks Board recommended approval by a vote of 6 to 0 at its November 2, 2023 meeting).**

BACKGROUND: The State of Texas Department of Family and Protective Services administer state regulations and general licensing procedures for all child-care facilities. Municipalities are exempted from the licensing requirement for programs provided for elementary aged youth so long as the Town Council annually adopts local standards of care by ordinance after a public hearing. Additionally, the following criteria must be met in order to receive the exemption:

- Standards of care are provided to the parents of each program participant.
- Ordinance includes at a minimum: staffing ratios; staff qualifications; facility, health, and safety standards; and mechanisms for monitoring and enforcing the adopted local standards.
- Parents are informed that the program is not operated or advertised as a licensed day care.

The request for the exemption is necessary as the Town currently offers different day camps and programs throughout the year to elementary-age youth (5 – 13 years of age). The Town officially received its exempt status from the State in 2011. On December 5, 2022, the Town Council enacted Ordinance No. 58-22, which adopted Standards of Care for the Town's Parks and Recreation youth recreation programs.

A representative from the Texas Department of Family and Protective Services was contacted to confirm there had not been any newly mandated Standards of Care changes that the Town needed to include in the document. The proposed Standards of Care have been increased and are updated to reflect Cati's Law, which requires parents/guardians to provide written notification if their child can swim or is in danger of death or injury when swimming, and is in accordance with Section 42.041(b)(14) of the Texas Human Resources Code, and Section 54-206 of the Code of Ordinances, Town of Flower Mound, Texas.

BOARD REVIEW/CITIZEN FEEDBACK: The Parks Board recommended approval of the Standards of Care by a vote of 6 to 0 at its November 2, 2023 regular meeting.

ALTERNATIVES: N/A

FISCAL IMPACT: N/A
N/A

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

ATTACHMENTS:

1. Proposed Standards of Care Town Ordinance 2023

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

TOWN OF FLOWER MOUND, TEXAS

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE CODE OF ORDINANCES, TOWN OF FLOWER MOUND, TEXAS; AMENDING CHAPTER 54, "PARKS AND RECREATION," SECTION 54-202, "ADOPTION;" ADOPTING UPDATED STANDARDS OF CARE FOR YOUTH RECREATION PROGRAMS; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

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

WHEREAS, the Town operates a recreation program for elementary age children as a service to residents of the Town, and surrounding communities; and

WHEREAS, the State of Texas has adopted licensing requirements and regulations under Chapter 42 of the Texas Human Resources Code for facilities providing care to children, with which all facilities must comply, unless an exemption under Section 42.041(b) applies; and

WHEREAS, Section 42.041(b)(14) of the Texas Human Resources Code provides an exemption from the requirements of Chapter 42 to a municipality operating a recreation program for elementary age children (5-13 years); and

WHEREAS, on February 11, 2011, the Town received an exemption from the requirements of Chapter 42 of the Texas Human Resources Code from the Texas Department of Family and Protective Services ("TDFPS"); and

WHEREAS, the TDFPS will not monitor the Town's Parks and Recreation's youth recreation programs because the exempt status has been granted, and the TDFPS will not be responsible for investigating complaints regarding the Town's Parks and Recreation's youth recreation programs, so that any complaints shall be made to the Town Parks and Recreation Department; and

WHEREAS, the Town adopted Ordinance No. 58-22 on December 5, 2022 setting forth the standards of care for the Town Parks and Recreation's youth recreation programs; and

WHEREAS, the Town's standards of care for the Town Parks and Recreation's youth recreation programs must be adopted annually by the Town of Flower Mound Town Council, after public hearing, in order to maintain the exemption under Section 42.041(b)(14) of the Texas Human Resources Code; and

WHEREAS, the Director of the Town Parks and Recreation Services Department has recommended changes be made to the standards of care adopted on December 5, 2022, in reference to the new Cati's Act adopted by the State in 2023, and in accordance with Section 42.041(b)(14) of the Texas Human Resources Code and Section 54-206 of the Code of Ordinances, Town of Flower Mound, Texas; and

WHEREAS, a public hearing was held on November 2, 2023, by the Parks Board regarding the revised standards of care, and the adoption of such revised standards of care by the Town Council of the Town of Flower Mound ("Town Council") has been recommended by the Parks Board; and

WHEREAS, the Town Council finds that it is in the best interest of the Town of Flower Mound and will promote the health, safety and general welfare of the citizens of the Town of Flower Mound and the general public to adopt the revised standards of care as recommended by the Parks Board.

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

SECTION 1

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

SECTION 2

The Town Council hereby adopts local standards of care for the Parks and Recreation Services Department ("Department") youth recreation programs in compliance with the requirements of Texas Human Resources Code Section 42.041(b)(14) and pursuant to Section 54-206 of the Code of Ordinances of the Town of Flower Mound. The standards of care adopted by this Ordinance are available for inspection in the office of the Town Secretary and in the Town Parks and Recreation Services Department office.

SECTION 3

That Section 54-202, "Adoption," of the Code of Ordinances, Town of Flower Mound, Texas, is hereby amended to read as follows:

"Sec. 54-202. Adoption.

The local standards of care ("Standards of Care"), as set forth in Exhibit "A" which is attached to the ordinance adopting the Standards of Care are incorporated by reference for all purposes as if written word for word herein, and are hereby adopted by the Town Council as the Standards of Care for the Parks and Recreation Services Department of the Town of Flower Mound. The Standards of Care are available for inspection in the office of the Town Secretary and in the Town Parks and Recreation Services Department office."

SECTION 4

This Ordinance shall be cumulative of all provisions of ordinances of the Town of Flower Mound, Texas, except where the provisions of this Ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed.

SECTION 5

It is hereby declared to be the intention of the Town Council that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph, or section 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 phrases, clauses, sentences, paragraphs, and sections of this Ordinance, since same would have been enacted by the Town Council without the incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph, or section, and said remaining portions shall remain in full force and effect.

SECTION 6

This Ordinance shall take effect and be in full force on and after its passage.

DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, BY A VOTE OF _____ TO _____, ON THIS THE 4th DAY OF DECEMBER, 2023.

Derek France, MAYOR

ATTEST:

Theresa Scott, TOWN SECRETARY

Parks & Recreation Department



Standards of Care For Youth Programs

Parks and Recreation Department
1200 Gerault Road
Flower Mound, TX 75028
972.874.6300
972.874.6471 (Fax)
www.flower-mound.com

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FLOWER MOUND YOUTH PROGRAMS

STANDARDS OF CARE

The following Standards of Care have been adopted by the Town Council of the Town of Flower Mound, Texas, to comply with Chapter 42 of the Texas Human Resources Code, specifically Section 42.014(b)(14) regarding an exemption for the Town of Flower Mound's Youth Programs, as defined herein. These Standards of Care are intended to be minimum standards by which the Town of Flower Mound Parks and Recreation Department will operate the Town's youth programs. The Youth Programs are recreational in nature and are not child-care facilities or day care programs.

General Administration

1. Organization

- A. The governing body of the Town of Flower Mound youth programs is the Town of Flower Mound Town Council.
- B. Implementation of the Youth Programs Standards of Care ("Standards of Care") is the responsibility of the Director of Parks and Recreation and departmental employees.
- C. These Standards of Care apply to all Youth Programs operated by the Department, including but not limited to: the Day Camp Program, Holiday Day Camp Program, and Spring Break Day Camp Program.
- D. Each Program Site will have available for public and staff review a current copy of the Standards of Care.
- E. Parents of participants may obtain a copy of the Standards of Care from the Town during the registration process or the Standards of Care can be accessed on the Town's website at: www.flower-mound.com/cac.
- F. Criminal background checks are conducted on all prospective Program Employees. If the results of a criminal background check indicate that a prospective Program Employee has been convicted of any of the following offenses, he or she will not be considered for employment:
 - (1) A felony or a misdemeanor classified as an offense against a person or family member.
 - (2) A felony or misdemeanor classified as public indecency.
 - (3) Any offense involving moral turpitude.

- (4) Any offense that, in the Director's sole opinion, would place the participants of the Youth Programs at risk.

2. Definitions

- A. Camp Director: A temporary Department employee who is assigned responsibility to implement and direct a Youth Program, and oversee the Program Employees that are assigned to the corresponding Youth Program.
- B. Community Activity Center or CAC: Town of Flower Mound Community Activity Center located at 1200 Gerault Road, Flower Mound, TX, 75028, 972.874.7275.
- C. Department: Parks and Recreation Department of the Town of Flower Mound.
- D. Employee(s): Term used to describe people who have been hired to work for the Town of Flower Mound and have been assigned responsibility for managing, administering, or implementing some portions of the Youth Programs.
- E. Parent(s): This term will be used to represent one or both parent(s) or legal guardian(s) who have legal custody and authority to enroll their child(ren) in the Youth Programs.
- F. Participant: A Youth whose parent(s) or legal guardian(s) have completed all required registration procedures and determined to be eligible for the Youth Programs.
- G. Program Coordinator or Coordinator: A full-time Department employee who has been assigned administrative responsibility for the Youth Programs and oversees the Camp Directors.
- H. Program Employee: A temporary Department employee who is assigned to work with participants of a Youth Program at a Program Site.
- I. Program Manual: Notebook of policies, procedures, required forms, and organizational and programming information relevant to Youth Programs.
- J. Program Site: The facilities and surrounding property where Youth Programs are held, consisting of, but not limited to, the Community Activity Center and Gerault Park.
- K. Program Supervisor: A full-time Department employee who oversees the Program Coordinator and operations of all Youth Programs.

- L. Director: Town of Flower Mound Parks and Recreation Director, or his or her designee.
- M. Town: Town of Flower Mound, Texas.
- N. Town Council: Town Council of the Town of Flower Mound.
- O. Youth: A school aged person between the ages of 6 and 13 as of the enrollment date of the Youth Program.
- P. Youth Programs: The Town of Flower Mound youth programs consisting of the Summer Day Camp Programs, Holiday Day Camp Programs, and Spring Break Day Camp Program. A single camp may be referred to as a Youth Program.

3. Objectives of Youth Programs

- A. To provide Youth with the opportunity of recreational activities, which may include sports, games, arts and crafts, education, dance, drama, special events, field trips, tournaments, etc.
- B. To provide an encouraging atmosphere by emphasizing the positive development of physical skills, emotional development and growth of self-confidence.
- C. To provide a safe environment by promoting good health and welfare for all participants.
- D. To teach Youth how to spend their leisure time wisely in an effort to meet the emotional, physical and social needs of the Youth.

4. Inspections/Monitoring/Enforcement

- A. The Town has established these Standards of Care in order to obtain an exemption from the State regarding the Youth Programs. Once the exemption is established, the State will not monitor the Youth Programs. These Standards of Care will be reviewed annually and brought before the Town Council for consideration, regarding any amendments recommended by the Director, and approval after a public hearing regarding the Standards of Care is held, pursuant to Texas Human Resources Code § 42.041(b)(14).
- B. A monthly inspection report will be prepared and submitted to the Program Supervisor by the Coordinator to confirm the Standards of Care are being adhered to.

- (1) Monthly inspection reports will be sent to the Director or his/her designee for review and maintained by the Town in accordance with applicable record retention policies.
 - (2) The Director or his/her designee will review the monthly inspection report and shall establish deadlines and criteria for compliance with the Standards of Care where failure to comply is noted.
- C. The Director or his/her designee will make visual inspections of the Youth Programs based on the following schedule.
1. Youth Programs operating during the summer will be inspected no less than twice during the Youth Program's summer schedule.
 2. Youth Programs, which operate during the regular Lewisville Independent School District school year, for two (2) weeks or less, will be inspected at least once during the Youth Program's schedule.
- D. Complaints regarding enforcement of the Standards of Care will be directed to the Coordinator. The Coordinator will be responsible to take the necessary steps to address the complaint and resolve the problem, if any. Complaints regarding enforcement of the Standards of Care and resolution of complaints arising under the Standards of Care will be recorded by the Coordinator. All complaints regarding enforcement of the Standards of Care where a deficiency is noted will be forwarded to the Director with the complaint and the resolution noted.

5. Enrollment

Before a child may be enrolled in a Youth Program, the parents must sign registration forms that contain the following information about the child:

- (1) Name, home address, home telephone number;
- (2) Name and address of parent(s) and contact telephone number(s) during Youth Program hours;
- (3) The names and telephone numbers of people to whom the child can be released;
- (4) If requested, a statement of the child's physical health, including a physician's signed statement detailing any special needs the child may have;

- (5) Emergency medical authorization, current shot records, and valid health insurance information;
- (6) Proof of CAC Membership or Non-Membership, when appropriate; and
- (7) A signed liability waiver.

6. Suspected Abuse

Program Employees will report suspected child abuse or neglect in accordance with the Texas Family Code. In a situation where an Employee is involved in an incident with a child that could be considered to be child abuse, the incident shall be immediately reported to the Program Supervisor. The Program Supervisor will immediately notify the Police Department and any other agency, as may be appropriate.

Texas State law requires the Employees of Youth Programs to report any suspected abuse or neglect of a child to the Texas Department of Family and Protective Services or a law enforcement agency. Failure to report suspected abuse is punishable by fines up to \$1000 and/or confinement up to one hundred eighty (180) days. Reports of abuse may be made by calling 1.800.252.5400.

A complete copy of the Texas Family Code regulations regarding child abuse can be found at www.statutes.legis.state.tx.us/docs/FA/htm/FA.261.htm.

Staffing - Responsibilities and Training

1. Camp Director

A. Qualifications. A Camp Director must:

- (1) Consistently exhibit competency, good judgment, and self-control when working with Youth and other Town employees.
- (2) Interact with Youth with courtesy, respect, tolerance, and patience.
- (3) Successfully complete a course in first aid, CPR, and AED, in compliance with American Red Cross standards.
- (4) Pass a background investigation and testing for illegal substances.
- (5) Be mature, responsible, and able to complete duties with minimal supervision.
- (6) Communicate effectively with the public.

- (7) Possess a valid Texas driver's license.
- (8) Have previous experience in supervising Youth of varying age levels in a group setting and possess knowledge of recreational games, crafts, and activities.
- (9) Complete Town-mandated training.
- (10) Be at least eighteen (18) years of age.

B. Job Functions. A Camp Director shall endeavor to:

- (1) Direct and supervise Program Employees. Hiring and training of staff shall be the responsibility of the Coordinator with assistance from the Camp Director.
- (2) Complete and submit proper records, including Youth Program schedules, Program Employee schedules, accident/incident reports, and Participant attendance.
- (3) Schedule appropriate activities in accordance with the philosophy of the Youth Program and coordinate with the Coordinator to ensure appropriate reservations and transportation are secured in order to complete activities.
- (4) Maintain an orderly, clean and safe environment for the Youth while promoting a non-competitive program directed toward accentuating positive behaviors, physical development, and emotional growth.
- (5) Maintain supplies, equipment and all necessary documentation for the operation of the Youth Program.
- (6) Communicate with Parent(s) as necessary.
- (7) Conduct on-going evaluations regarding the Youth Program and implement approved recommendations as needed.
- (8) Provide reports to Coordinator on a weekly basis regarding Youth Program activities.
- (9) Know and follow all Town, Department, and Program Manual standards, policies, and procedures that apply to Youth Programs.

- (10) Ensure that Participants are released only to a Parent or an adult designated by the Parent. All Program Sites will have a copy of the Department approved plan to verify the identity of a person authorized to pick-up a Participant if that person is not known to the Camp Director.

2. Program Employees

A. Qualifications. A Program Employee must:

- (1) Consistently exhibit competency, good judgment, and self-control when working with Youth.
- (2) Interact with Youth with courtesy, respect, tolerance, and patience.
- (3) Successfully complete a course in first aid, CPR, and AED, in compliance with American Red Cross standards.
- (4) Pass a background investigation and testing for illegal substances.
- (5) Be mature, responsible, and able to complete duties with minimal supervision.
- (6) Possess a valid Texas driver's license.
- (7) Have previous experience in working with Youth of varying age levels in a group setting and possess knowledge of recreational games, crafts, and activities.
- (8) Complete Town-mandated training.
- (9) Be at least sixteen (16) years of age.

B. Essential Job Functions. A Program Employee shall endeavor to:

- (1) Promote a non-competitive, positive, image-enhancing environment for each Participant through the direction of fun, varied, and well-organized activities.
- (2) Directly lead activities using a method that will provide opportunities for the involvement of all Participants on an equal basis.
- (3) Exhibit enthusiasm for the activity to impart a feeling of excitement in the Participants.

- (4) Follow procedures for Youth Programs drop-off and pick-up, and preparation of accident/incident reports.
- (5) Follow guidelines for safety and storage of equipment and notify Camp Director regarding supply inventories.
- (6) Ensure safety of Youth at Program Site and on field trips.
- (7) Provide and adhere to Standards of Care.

3. Personnel Restriction

A person will not be employed as an Employee in a Youth Program if:

- (1) The person would be permanently barred from being present at a child care operation while children are in care under the Texas Administrative Code Title 40, Part 19, Chapter 745 (Licensing); or
- (2) The Director determines that, based on the criminal history and other relevant and credible information, the person poses a risk to the safety or health of participants.

4. Training/Orientation

- A. The Department is responsible to provide training and orientation to all Youth Program employees who work with children regarding their specific job responsibilities. Coordinator will provide each Camp Director with a staff program manual specific to each Youth Program.
- B. Employees must be familiar with these Standards of Care for Youth Programs.
- C. Employees will be trained in appropriate procedures to handle emergencies.
- D. Employees will be trained in Town, Department, and Program Manual policies and procedures applicable to Youth Programs.
- E. Employees will be required to sign an acknowledgment that they received the required training.

Service Standards

1. Appearance

- A. Youth Program shirts and name badges will be worn and clearly visible.

- B. The Town's dress code policy shall be adhered to at all times. Failure to comply with the dress code will result in an Employee being sent home.
2. Interaction with Parents and Participants
- A. Participants and Parents will be treated with respect at all times.
 - B. Program Employees and Camp Directors will keep Parents continuously informed of activities and schedules. A weekly schedule will be distributed and copies will be kept with the daily sign in sheets.
 - C. Staff will note details of behavior of Participants (accomplishments, discipline problems, general activities, etc.) and update Parents as much as possible.
 - D. The Camp Director will listen to complaints and forward to Coordinator as appropriate. All complaints will be followed up within 24-hours if they are not resolved on site. All complaints must be recorded, including resolution, and forwarded to Coordinator.
3. Additional Staff Responsibilities
- A. Program Employees will monitor the sign in/out log at all times.
 - B. Program Employees will spend 100% of their time actively involved with Participants and/or Parents.
 - C. Program Employees will pick up the area used by their group after each activity.
 - D. Prior to beginning work each day, all staff will check in at the appointed location for any messages, instructions, or information.

Operations

1. Staff/Participant Ratio
- A. Pursuant to Texas mandated standards, the maximum ratio of Participants to Program Employees will be 12 to 1. In the event an employee is unable to report to the Program Site, a replacement will be assigned.
 - B. Each Participant shall have a Program Employee who is responsible for him or her and who is aware of the Participant's habits, interests, and any special needs, as identified by the Participant's Parent(s) during the registration process.

2. Discipline

- A. Program Employees will implement discipline and guidance in a consistent manner based on the best interests of the program participants.
- B. There must be no cruel, harsh or corporal punishment used as a method of discipline.
- C. Program Employees may use brief, supervised separation from the group if necessary. Participants will be informed of Youth Program rules.
- D. As necessary, Program Employees will initiate discipline reports to the Parent(s) of Participants. Parents will be asked to sign discipline reports to indicate they have been advised about specific problems or incidents.
- E. A sufficient number and/or severe nature of discipline reports as detailed in the program manual may result in a Participant being suspended or removed from the Youth Program. Parents will be contacted to pick up their Youth immediately.
- F. In instances where there is a danger to Participants or Employees, offending Participants will be removed from the Program Site immediately.
- G. Any person(s) creating a nuisance, causing a disturbance, or creating an unsafe environment at any Program Site will be subject to ejection from the site and possible arrest and legal action.

3. Programming

- A. Program Employees will attempt to provide activities for each group according to the Participant's age, interests, and abilities. The activities must be appropriate to Participants' health, safety, and well-being. The activities also must be flexible and promote the Participants' emotional, social, and mental growth.
- B. Program Employees will attempt to provide indoor and outdoor time periods, weather permitting, that include:
 - (1) Alternating active and passive activities; and
 - (2) Opportunity for individual and group activities.
- C. Program Employees will be attentive and considerate of the Participants' safety on field trips and during any transportation provided by the Youth Programs. Participants

must be counted before leaving the Program Site and before boarding the transportation to return to the Program Site.

- (1) During trips, Program Employees supervising Participants must have immediate access to Participant forms and emergency contact information for each Participant;
- (2) Program Employees must have a written list of the Participants in the group and must check the attendance frequently; and
- (3) Program Employees must have First Aid supplies, a guide to First Aid and emergency care available on field trips.

4. Communication

The Program Site will have a telephone to allow the Program Employees to be contacted by Parks and Recreation personnel or for making emergency calls.

5. Transportation

- A. First Aid supplies and a First Aid and emergency care guide will be available in all Youth Program vehicles that transport Youth.
- B. All Program vehicles used for transporting Participants must have available a 6-BC portable fire extinguisher in the vehicle, which must be accessible to the adult occupants.

Facility Standards

1. Safety

- A. Program Employees will inspect the Program Site daily to detect sanitation and safety concerns that might affect the health and safety of the Participants. A daily inspection report will be completed by Camp Director and kept on file by the Program Coordinator.
- B. Buildings, grounds, and equipment on the Program Site will be inspected, cleaned, repaired, and maintained to protect the health of the Participants.
- C. Program equipment and supplies must be safe for Participant use.
- D. Program Employees must have First Aid supplies available at the Program Site, during transportation, and for the duration of any off-site activity.

- E. Program Employees must have First Aid supplies and a guide to First Aid and emergency care readily available in a designated location.

2. Fire

- A. In case of fire, danger of fire, explosion, or other emergency, Program Employee's first priority is to evacuate the Participants to a designated safe area. Emergency evacuation and relocation plans will be posted within the Program Site.
- B. The Program Site will have an annual fire inspection by the local Fire Marshal, and the resulting report will detail any safety concerns observed. The report will be forwarded to the Director or his/her designee who will review and establish deadlines and criteria for compliance.
- C. Each Program Site must have at least one (1) fire extinguisher approved by the Fire Marshal readily available to all Program Employees. The fire extinguisher is to be inspected monthly by the Program Coordinator, and a monthly report will be forwarded to the Program Supervisor who will keep the report on file for a minimum of two (2) years. All Employees will be trained in the proper use of a fire extinguisher.
- D. Fire drills shall be conducted monthly.

3. Health

- A. Illness or Injury
 - (1) Participants shall have and maintain immunizations in accordance with those required by the Texas Department of Health for public school attendance according to age.
 - (2) Illnesses and injuries will be handled in a manner to protect the health of all Participants and employees. Parents will be notified in cases of illness or injury. Paramedics will be notified in the event of an injury that cannot be remedied through basic first aid. An accident report shall be completed for all injuries and forwarded to the Camp Director.
 - (3) An ill Youth will not be allowed to attend or participate if the Youth is suspected of having a temperature and/or accompanied by behavior changes or other signs or symptoms until a medical evaluation indicating that the Youth can return to the Youth Program.

- (4) Employees will follow the recommendation of the Texas Department of Health concerning the admission or readmission of any Participant after a communicable disease.

B. Program Employees will administer medication only if:

- (1) Parent(s) complete and sign a Medicine Dispensation Form that provides authorization for Employees to dispense medication with details as to time(s) and dosage(s).
- (2) Prescription medications are in original containers labeled with the Youth's name, a date, directions, and the prescribing physician's name. Employees will administer the medication only as stated on the label. Employees will not administer medication after the expiration date.
- (3) Non-prescription medications are labeled with the Youth's name and the date the medication was brought to the Youth Program. Non-prescription medication must be in the original container. The Employees will administer non-prescription medications only according to label direction.
- (4) Medications dispensed will be limited to routine oral ingestion not requiring special knowledge or skills on the part of Program Employees.
- (5) Program Employees must ensure medications are inaccessible to Participants.

C. Toilet Facilities

- (1) The Program Site will have adequate indoor toilets and lavatories located and equipped so Youth can use them independently and Program Employees can supervise as needed.
- (2) There must be one (1) flush toilet for every thirty (30) Participants. Urinals may be counted in the ratio of toilets to Participants but must not exceed fifty percent (50%) of the total number of toilets.

D. Sanitation

- (1) The Program Site must have adequate light, ventilation, and heat.
- (2) The Program Site must have an adequate supply of water meeting the standards of the Texas Department of Health for drinking water and

ensure that it will be supplied to the Participants in a safe and sanitary manner.

- (3) Program Employees must see that garbage is removed from buildings daily.

Participants

1. General

- A. Participants must wear tennis shoes daily. Sandals or thongs are not permitted unless approved by Program Employees on certain occasions.
- B. Shoes must be worn at all times, unless the Youth is in the swimming pool or participating in an activity that requires shoes to not be worn.
- C. Youth must respect the Employees, the Program Site, Program Rules, and each other.
- D. Youth may not use the Youth Programs telephone unless it is an emergency with the permission of a Program Employee.
- E. Cati's Act requires childcare organizations to get written notice from parents/guardians stating whether their child can swim and requires camp staff to put U.S. Coast Guard-approved lifejackets on those children at risk of injury or death when swimming or otherwise accessing a body of water. Camp registration forms have been updated to reflect this new law and parents/guardians will be required to provide this information.



TOWN COUNCIL AGENDA J.22. CONSENT ITEM(S)

DATE: December 4, 2023
FROM: Jeff Garner, Director of Facilities Management
ITEM: **Consider the approval of the PMR Roofing proposal for the replacement of a section of standing seam roof at Fire Station 1, utilizing TIPS contract number 22010702 in the amount of \$112,200.**

BACKGROUND: Fire Station 1 has three sections of standing seam roof. Two sections (north and middle) were replaced in the fall of 2021 due to severe leaks. During the replacement of the north and middle roof sections, it was identified that the roof was not installed on the proper sub straight during construction and was one of the main reasons for the failure and leaking. The final south section was approved for replacement by Town Council during the FY 23-34 budget process. PMR proposes to remove the old roof, and install a new plywood sub straight and standing seam metal roof to match the existing metal roof sections utilizing TIPS contract number, 22010702 in the amount of \$112,200. This amount includes the \$18,000 alternate option to replace all 210 sheets of decking.

BOARD REVIEW/CITIZEN FEEDBACK:

ALTERNATIVES: N/A

FISCAL IMPACT: \$112,200

Proposed Expenditure/(Revenue)
\$112,200

Account Number(s):
100-655-59200-4301

LEGAL REVIEW: N/A

ATTACHMENTS:

1. PMR_Formal TIPS Proposal

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

NOVEMBER 19TH, 2023

City of Flower Mound

3911 S. Broadway Ave.

FLOWER MOUND, TEXAS 75028

CENTRAL FIRE STATION



ROOFING PROPOSAL

We are pleased to submit this proposal for the replacement for the referenced project through Paragon Multi Family Roofing Inc. TIPS contract number, 22010702. This proposal includes both labor and materials for the full replacements of the metal roofing systems as described below. We are confident our team will complete this project efficiently and smoothly.

WORK INCLUDES

1. Remove all debris from site
2. Install a Soprema high temp ice in water shield, for max water proofing under the standing seam metal panels.
3. Install new 24 gage Berridge standing seam metal panels (color Charcoal to match the other two areas that were previously replaced.
4. Install new 24 gage ridge with Berridge metal to match
5. Install new 24 gage, wall panels, and flashing to insure the completion of the system
6. Install Dimond cut boxes to flash all penetration including pipe jacks and heater vents, etc..
7. Includes 2 year contractor workmanship warranty

PROJECT TERMS AND CONDITIONS

1. Contractor shall carry Worker's Compensation and General Liability Insurance.
2. Contractor shall coordinate all schedules and work hours with the Owner or the designated representative. Standard work hours shall apply to this project. Only one mobilizations is included to complete the entire scope of work
3. Once work commences, Contractor shall proceed diligently to final completion.
4. Payment Schedule shall be as follows with all invoices due upon receipt:

CONTACT

469.409.ROOF
PMRroofing.com



ADDRESS

7239 Envoy Court
Dallas, TX 75247

NOVEMBER 19TH, 2023

City of Flower Mound
3911 S. Broadway Ave.
FLOWER MOUND, TEXAS 75028



A. 30% payment due upon 25% completion and balance due upon 100% completion and acceptance from owner

5. This proposal, if accepted, shall become the agreement between the parties. There are no agreements either express or implied that extend beyond the face of this proposal.

6. Price is good for delivery of materials for 45 days from the date of this proposal.

TOTAL VALUE OF ROOFING WORK AS OUTLINED ABOVE:

	\$ 94,200.00
Tax 8.25%	\$ N/A
Total	\$ 94,200.00

ALTERNATE OPTIONS

1. **ADD \$18,000.00** to replace all 210 sheets of decking _____ Initial If accepted
2. **ADD \$5,500.00** to replace box gutter and down spouts _____ Initial if accepted

ACCEPTANCE

If accepted the city will need to simply issue a Purchase Order or sign this document and send to Paragon Multi Family Roofing, Inc. by email Q@PMRroofing.com using your normal procedure.

ACCEPTED:

Respectfully,

Bryan Breeze

Project & Account Manager
bryan@pmrroofing.com
469.900.7901

Company: _____

Printed Name: _____

Authorized Signature: _____

Title: _____

Date: _____

CONTACT
469.409.ROOF
PMRroofing.com



ADDRESS
7239 Envoy Court
Dallas, TX 75247



TOWN COUNCIL AGENDA J.23. CONSENT ITEM(S)

DATE: December 4, 2023
FROM: Matthew Woods, Director of Environmental Services
ITEM: **Consider approval of a Professional Services Agreement for gas well pad site monitoring by Modern Geosciences, LLC, in the amount of \$41,600.00; and authorization for the Mayor to execute same on behalf of the Town.**

BACKGROUND: The Town began conducting air monitoring in 2010 on a quarterly basis to assess the ambient air conditions adjacent to gas well operations and other areas in the Town. In 2011, the Town and Modern Geosciences implemented a monthly monitoring program. Beginning with the 2016-2017 monitoring program proposal, a more detailed gas well pad site monitoring approach was initiated to assess pad site conditions more effectively and identify potential air quality related issues.

For the proposed 2024 monitoring program, Modern Geosciences will continue to conduct upwind and downwind monitoring consistent with EPA methodology, near-equipment inspections to evaluate the operational conditions on the pad sites, subgrade piping monitoring, and conduct an assessment of the pad site conditions associated with gas well plugging and abandonment processes.

Modern Geosciences has provided an acceptable scope of services for the air sampling and pad site monitoring program, and Modern Geosciences has the necessary experience to perform the requested sampling and analysis. The cost for the monitoring program for 2024 is estimated at \$41,600, which includes contingency costs in the event an additional monitoring event is needed. The costs associated with the pad site monitoring program are covered by annual gas well pad site monitoring and inspection fees which are assessed to the pad site operators. The current Professional Services Agreement for the Town's monitoring and inspection program expires in December 2023.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES: N/A

FISCAL IMPACT: \$41,600.00

Proposed Expenditure/(Revenue)
\$41,600.00

Account Number(s):
100-695-96050-5110 (FY 23-24)

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. PSA - Modern Geosciences 2024

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

THE STATE OF TEXAS §
COUNTY OF DENTON §

**PROFESSIONAL SERVICES AGREEMENT WITH
MODERN GEOSCIENCES, LLC.**

This contract is entered into on this 4th day of December, 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 Modern Geosciences, LLC. ("hereinafter referred to as "CONSULTANT") whose address is 5100 Thompson Terrace, Colleyville, Texas 76034.

RECITALS

WHEREAS, TOWN desires to obtain professional services from CONSULTANT relative to conducting gas well pad site air monitoring inspections and post-production inspections in 2024, and provide a final report for each monitoring event and inspections to the TOWN; and

WHEREAS, CONSULTANT is an engineering and/or professional geosciences 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 engineering and professional geosciences 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 pad site monitoring and inspection services for the project specifically including, but not necessarily limited to, the tasks enumerated more fully in Attachment "A" hereto entitled "Scope of Work" (hereafter referred to as the "Project"). Attachment "A" is hereby incorporated herein by reference and made a part hereof as if written word for word. However, in case of conflict in the language of Attachment "A" and this Contract, the terms and conditions of this Contract shall be final and binding upon both parties hereto.

III.
Payment for Services

Total payment for services described herein shall be a sum not to exceed Forty - One Thousand and Six Hundred Dollars (\$41,600.00). 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.

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

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 to the extent covered by policy form CG0001 or equivalent, 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.

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.

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 equivalent 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, or nonrenewal, a notice thereof shall be given to TOWN by certified mail to:

Matthew Woods, Director of Environmental Services
Town of Flower Mound
2121 Cross Timbers Road
Flower Mound, Texas 75028
972-874-6348 Telephone
972-874-6473 Facsimile

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 reduction in coverage or in limits 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 (with the exception of professional liability coverage) shall be underwritten by contractual liability coverage sufficient to include such obligations within applicable policies.

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

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

D. CONSULTANT agrees to the following:

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

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

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

IX. **Right to Inspect Records**

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

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

X. **Successors and Assigns**

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

XI.

CONSULTANT's Liability

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

XII. Indemnification

CONSULTANT DOES HEREBY COVENANT AND CONTRACT TO WAIVE ALL CLAIMS, RELEASE, INDEMNIFY AND HOLD HARMLESS TOWN AND ALL OF ITS OFFICIALS, OFFICERS, AGENTS, AND EMPLOYEES, 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, 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 respondent superior shall not apply as between TOWN and CONSULTANT, its officers, agents, employees, contractors, subcontractors and engineers, and nothing herein shall be construed as creating a partnership or joint enterprise between TOWN and CONSULTANT.

XIV. Default

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

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

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

XV. Provisions Surviving Termination

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

XVI. Changes

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

XVII.
Conflicts of Interest

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

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

XVIII.
Confidential Information

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

XIX.
Notice Information

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

Matthew Woods, Director of Environmental Services
Town of Flower Mound
2121 Cross Timbers Road
Flower Mound, Texas 75028
972-874-6348 Telephone
972-874- 6473 Facsimile

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:

Kenneth S. Tramm, PhD, PG, CHMM
Modern Geosciences, LLC.
5100 Thompson Terrace
Colleyville, TX 76034
682-223-1322 Telephone

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

XX.

Applicable Law

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

XXI.

Non-Discrimination

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

- (a) Cancel, terminate, or suspend the Contract in whole or in part; or

(b) Declare CONSULTANT ineligible for future TOWN contracts until it is determined to be in compliance.

XXII
Arbitration

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

XXIII.
No Waiver of Governmental Immunity

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

XXIV.
Severability

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

XXV.
Remedies

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

XXVI.
Entire Agreement

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

XXVII.
Non-Waiver

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

XXVIII.
Headings

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

XXIX.
Venue

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

XXX.
No Third Party Beneficiary

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

[The remainder of this page is left blank intentionally]

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

**THE TOWN OF FLOWER MOUND,
TEXAS**

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

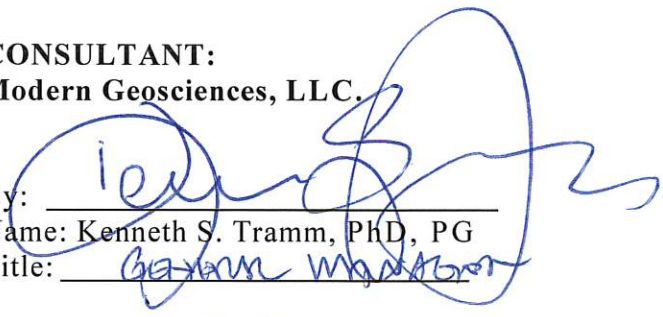
Date Signed: _____

Attest:

Town Secretary

Approved:

CONSULTANT:
Modern Geosciences, LLC.

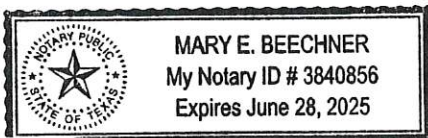
By: 
Name: Kenneth S. Tramm, PhD, PG
Title: General Manager

Date Signed: 11-27-23

State of Texas §
 §
County of Tarrant §

This instrument was acknowledged before me on the 27th day of November, 2023, by Kenneth S. Tramm, PhD, PG, in his capacity as Principal of Modern Geosciences, LLC., a Texas Corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged that he executed the same on behalf of and as the act of Modern Geosciences, LLC.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS THE 27th DAY OF Nov, 2023.



Mary Beechner
Notary Public, State of Texas

My Commission Expires:

6-28-25



DATE November 8, 2023

PROPOSAL P23340

ATTN **Mr. Matthew Woods**
Town of Flower Mound
2121 Cross Timbers Road
Flower Mound, Texas 75208

SUBJECT **Padsite Inspection and Air Monitoring Program - 2024**
Flower Mound, Texas

Dear Mr. Woods:

Modern Geosciences, LLC (Modern) is pleased to submit this proposal to the Town of Flower Mound (Town) to perform Monthly Padsite Inspection and Air Monitoring in 2024.

The following sections provide our understanding of the proposed project, scope of work, fee and schedule. Modern's consulting services will be conducted in accordance with the scope of services detailed below and Professional Services Agreement (PSA) as provided by the Town.

BACKGROUND AND PROJECT UNDERSTANDING

Modern understands the Town would like to continue detailed padsite inspection and air monitoring in 2024. Prior sampling and monitoring have been completed by the Town since 2010 with individual padsite inspection following in 2013. Since padsite inspections have been implemented, hundreds of leaks have been identified and addressed by operators, which in turn minimize impact to off-site properties. Dr. Kenneth Tramm with Modern has been the Program Manager since 2010 for the Town and will continue in this capacity.

Our padsite inspection and air monitoring approach includes two distinct steps that will occur simultaneously and produce padsite-specific data to aid in the identification of concerns before significant releases or emissions become a greater concern off the padsite. Modern has worked with the Town to tailor our approach and expand our inspection parameters each year monitoring has been performed. Additionally, Modern will perform Post-Production Inspection efforts to address possible legacy concerns that may impact future redevelopment of prior padsites after well plugging and equipment decommissioning.

Additional detail on the Fenceline Monitoring and Near-Equipment Inspection is presented below.



Fenceline Monitoring

Modern will continue to perform up and downwind air sampling for each padsite. This will utilize our Gas Chromatograph/Mass Spectrometer (GC/MS) to analyze samples collected upwind and downwind of each padsite for volatile organic compounds (VOCs). Additionally, Modern will deploy high-resolution particulate matter (PM) monitors to evaluate up and downwind levels of PM_{2.5} (fine particles) and PM₁₀ (coarse particles) in addition to a high-resolution hydrogen sulfide meter (3 ppbv detection limit).

GC/MS System

The GC/MS will allow collection of discrete samples analyzed using a modified EPA Method TO-15 or TO-17 for broad range of volatile organic compounds (VOCs). This is consistent with the ambient monitoring approach described below, but will be processed within 12 hours of collection to allow us the ability to respond to concerns in an expedited manner. This approach will yield high resolution data in the low parts per billion.

Particulate Matter

Modern will collect PM data within 60 second intervals to allow multiple observations both up and downwind of padsites. The samples will be analyzed using light-scattering methods to allow differentiation of specific mass sizes. This allows estimation of both coarse and fine particle contribution to ambient air from multiple emission sources that may be present at a padsite (compressor exhaust, diesel engine exhaust, elevated SVOCs). Temperature and humidity will be recorded to allow adjustment to observations as appropriate.

Discrete Meters

Handheld meters (further detailed below) monitoring hydrogen sulfide, VOCs, methane, and radiation will also be utilized at the fenceline locations. Additionally, Modern will record meteorological data such as wind speed, direction, and barometric pressure.

Near-Equipment Inspection

During the monitoring event, Modern will perform an Audio, Visual, and Olfactory (AVO) field inspection as well as record monitoring results with the use of optical gas imaging systems (e.g., FLIR cameras) and handheld meters. The goal of near-equipment inspection activities is to visually evaluate operational conditions of well heads, well connections, flanges, valves, pumps, well head fluids (i.e., corrosion inhibitors), production piping, visible system pressure gauges, separator systems, above-ground storage tanks (i.e., thief hatch, ventilation), fluid disposal transfer points, compressor system connections, chemical storage areas, and identify obvious signs of staining, spills, or releases.

Modern uses a FLIR GF320 Optical Gas Imaging (OGI) system to determine if a potential leak is indicated. When emissions are identified, handheld equipment is used to quantify the emissions for leak determination at the point of release. Our instrumentation includes optical methane sensors (ppmv resolution), radiological survey meters (uR/hr resolution), photo-ionization detectors (ppbv resolution), and hydrogen sulfide monitors (ppbv resolution).

Our proposed leak definitions are set at either positive visual observation with the OGI equipment, or if accessible, direct measurement for quantification. An example of typical leak definition thresholds is outlined below.

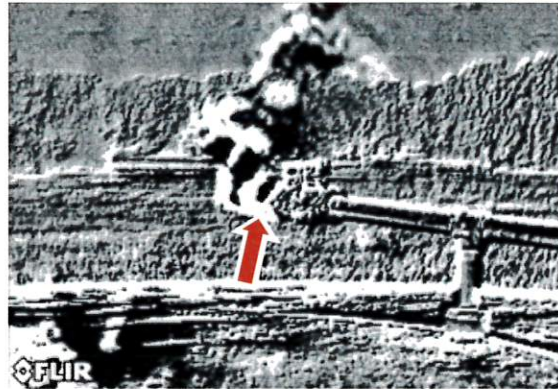
Measured Compound	On-Site Criteria	Fenceline Criteria
Methane	10,000 ppmv ¹	500 ppmv ²
Hydrogen Sulfide (H ₂ S)	5 ppmv ³	0.08 ppmv ⁴
Total VOCs (tVOCs)	500 ppmv ^{2,5}	5 ppmv ⁶
Radiation (NORM)	50 µR/hr ⁷	20 µR/hr ⁷
Individual VOCs, Ozone, others	OSHA, NIOSH, ACGIH levels	TCEQ Short-term AMCV or ESL, NAAQS
Particulates	PM _{2.5} - 5,000 ug/m ³ ⁸ PM ₁₀ - 15,000 ug/m ³	PM _{2.5} - 35 ug/m ³ , ⁹ PM ₁₀ - 150 ug/m ³ , ⁹

1. Utilizes the Interstate Natural Gas Association of America (INGAA) recommended leak definition within their December 4, 2015 response to EPA Docket No. EPA-HQ-OAR-2010-0505 – “Oil and Natural Gas Sector: Emission Standards for New and Modified Sources,” dated September 18, 2015 (80 FR 56593). Also represents 20% of the Lower Explosive Limit. A lower leak definition and additional inspection and reporting may be required at facilities subject to 40 CFR §60 Subpart OOOOa
2. NSPS; 40 CFR Part 40 Subpart OOOOa; Represent half of the American Conference of Governmental Industrial Hygienists (ACGIH) 8-hour threshold limit value (TLV) of 1,000 ppmv (0.1% by volume) set for potential cardiac sensitization and central nervous system depression.
3. 50% NIOSH 10-minute IDLH ceiling (29 CFR 1910.1000 Table Z-2)
4. 30-minute criteria set at 30 TAC §112.31
5. EPA 20102; 40 CFR Part 63 (EPA-HQ-OAR-2010-0505; FRL-RIN 2060-AP76)
6. Used as an indicator elevated VOCs may approach or exceed ambient air quality criteria
7. 16 TAC §4; Environmental Protection, Subchapter F, Oil and Gas NORM; EPA average background criteria established under Document No. 402-R-08-005; April 2008. Reported background ranged from 10 µR/hr to 85 µR/hr.
8. Utilizes OSHA Total and Respirable Limits
9. Utilizes the 24-hour Average Criteria set under NAAQS

The above references represent non-ambient conditions that would typically indicate a significant contribution of COC emissions from production equipment. If “new, modified, or reconstructed” equipment as defined within NSPS OOOOa is present on a padsite, the methane (as a part of the VOC definition) leak criteria will be adjusted to match NSPS requirements of 500 ppmv.



Near-Equipment Inspection efforts during a padsite inspection event using an Optical Gas Imaging (OGI) Camera to record a leak.



Example image for a leaking pressure control valve from a tank battery system. The leak is video recorded for the operator to repair.



Example of infrared methane monitoring after a leak has been identified with the OGI equipment.



Example of tagged equipment in need of repair or replacement. Modern can tag each accessible component noted above monitoring goals.

SCOPE OF SERVICES

TASK 1: PADSITE INSPECTION AND FENCELINE AIR MONITORING

Modern will coordinate with Town staff and padsite representatives to obtain access to each of the padsites. Flame Resistant clothing will be worn during access to areas where flammable environments are anticipated. It is anticipated that the services will be performed under Level D safety requirements and no other protective gear is required.



Modern will perform upwind and downwind monitoring by collecting discrete samples for VOC analysis as well as particulate matter evaluation. During the fenceline monitoring events, Modern will also complete Near-Equipment Inspection activities as detailed earlier.

Inspection Schedule

Modern will coordinate with Town staff to inspect each of the padsites every six months (twice annually). We understand Town staff will continue to verify the identified leaks are addressed by the operator, but have anticipated periodic assistance and re-inspections as directed by Town staff. Modern will coordinate with Town staff on the final schedule for inspections and monitoring.

TASK 2: MONTHLY REPORTING

The preliminary results of our assessment will be verbally reported during the course of the project. Modern's scope of services for this assessment is based on the production of brief reports issued after each sampling and inspection period. Streamlined reports are proposed and will be padsite specific.

The reports will include:

- Results of Near-Equipment inspections and notation of changing conditions identified;
- Results of Fenceline Monitoring and notation of changing conditions identified;
- Subgrade piping inspection results; and
- Findings and Conclusions

The ambient air sampling and monitoring results will be compared to the current Texas Commission on Environmental Quality (TCEQ) Short Term Air Monitoring Comparison Values (AMCVs) and if warranted, additional related risk criteria developed by the TCEQ Toxicology Division and/or other appropriate regulatory entities.

TASK 3: POST-PRODUCTION INSPECTION REPORTING

As padsites are decommissioned and future development contemplated, it is important that final site conditions be confirmed since there is a possibility for subgrade leaks, elevated radiation from NORM-containing scale, and/or other non-compliance items to be identified. Modern has developed a streamlined process and reporting format to help document if final site conditions suggest a concern for future development. To ensure the final location of all major infrastructure is captured, Modern will bring GPS equipment with sub-meter capability to verify all separators, tanks systems, wells, and other equipment locations.

A contingency cost for the Interim Post-Production Inspection (PPI) (equipment still present) and/or Final PPI (all equipment and planned grading completed and RRC plugging documents submitted). If elevated radiation is noted during the interim effort, this will be communicated to the operator to confirm if removal is still planned



or confirmatory sampling pending. If the inspection event follows the completion of all planned padsite activities by the operator, and evidence of a release or elevated radiation (2x background) remains, Modern's inspection will include soil sampling and laboratory analysis for determination of regulatory compliance. A contingency budget was added for these purposes. Additionally, a Final PPI will include all available close out documents as submitted to the City and RRC.

ESTIMATED BUDGET

Modern will perform the above-described scope of services on a unit rate cost (per below) with an annual not-to-exceed budget of **\$41,600**. Additional costs might be incurred if the assumptions presented earlier are not correct or further monitoring assistance is needed outside the above scope. In the event that additional costs and services are required, Modern will notify the town immediately and prepare an estimate of the additional cost. Modern will not exceed the authorized amount until written approval from town has been received. The estimated project budget is summarized in the table below. Please see the attached table for information regarding the current status of the active Flower Mound padsites.

PROJECT BUDGET	
TASK 1-2: INSPECTION/REPORTING	
Consulting Labor and Expenses (\$1,400/well x 9 wells x 2 events)	\$ 25,200
Subtotal:	\$ 25,200
TASK 3: POST-PRODUCTION INSPECTION	
Interim Field Inspection/Report (\$1,500/ea x 3 estimated)	\$ 4,500
Final Field Inspection/Report (\$2,300/ea x 3 estimated)	\$ 6,900
Program Contingency Costs (if sampling required)	\$ 5,000
Subtotal:	\$ 16,400
ANNUAL TOTAL BUDGET:	\$ 41,600

PROJECT SCHEDULE

Modern is ready to begin project activities within 10 days of authorization. Each monthly sampling event will include coordination with Town staff and padsite operators (as authorized by Town) so all active padsites are evaluated twice annually. Post-production inspections will be coordinated with Town staff when each location is ready.

ASSUMPTIONS AND LIMITATIONS

- Our client will coordinate all access and site personnel/equipment requirements to allow the above scope of services to be executed;



- Our work will be performed in a manner consistent with that level of care and skill ordinarily exercised by other members of our profession practicing in the same locality, under similar conditions and at the time the services are performed;
- Our findings and conclusions will be based on the information available for review. This will only include a limited number of observations and data points. It is likely that conditions will vary between or beyond the specific points evaluated. Modern makes no guarantee or warranty, express or implied, regarding the services, communication (oral or written), report, opinion, or instrument of service provided. The final report will be submitted electronically. Hard copies can be provided for an additional fee;
- The samples collected as part of these services will represent conditions at the time of sampling only as future conditions can vary based on changing conditions, such as: work schedules of oil and gas exploration, production, and transmission, temperature, weather factors and other industrial activities within the Town; and
- This proposal is valid for a period of 60 days from the date of issuance.

AUTHORIZATION

If this proposal meets your needs please submit provide us written authorization and the PSA as required by the Town. If there is a need for any change in the scope of services described in this proposal, please contact us immediately. Any requested changes may require revision of the proposed fee and schedule. All terms and conditions indicated in this proposal will be considered by both parties to be in effect from the effective date of the executed contract through completion of the project.



CLOSING

We thank you for the opportunity to provide this proposal for environmental services and look forward to working with you on this project. If you have any comments or questions concerning this proposal please contact us at your earliest convenience.

Respectfully submitted,

Kenneth S. Tramm, PhD, PG, CHMM
PROGRAM MANAGER

MODERN GEOSCIENCES

TEXAS REGISTERED GEOSCIENCE FIRM 50411

TEXAS REGISTERED ENGINEERING FIRM F-16201



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

DATE: December 4, 2023
FROM: Theresa Scott, Town Secretary
ITEM: **Discuss and consider proposed Charter amendments as presented by the Charter Review Commission (final report)**

BACKGROUND: The [Town Charter](#) is required to be reviewed every 5 years. On August 7, Town Council approved Resolution No. 17-23 (attached) that outlined a charge for a Charter Review Commission (CRC), and appointed the following individuals to serve:

Steve Dixon, Chair
Mike Wallace
Ann Martin
Sandeep Sharma
Greg Wilson
Rick Lust

The CRC met on 8/31, 9/13, 10/4 (6 pm), and 10/10 (12 noon), with a public input session on 11/8 (5 - 6 pm). All meetings were open to the public and included a public comment opportunity. The email address of Charter@flower-mound.com was also created for the public to communicate with the CRC.

The purpose of this item is for the CRC Chair to present their six (6) Charter amendment recommendations. The Town Council has the option to accept as presented, modify, propose new amendments, or take no action.

If there is Council consensus for amendments to come forward for voter consideration, those amendments would be on the May 4, 2024 ballot. The deadline to call this election is February 16. Proposed amendments (as applicable), along with calling the election for Council candidates will come forward on the February 5 Council agenda.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES: There is no requirement to make any amendments to the Town Charter.

FISCAL IMPACT: N/A

LEGAL REVIEW: The Town Attorney attended all CRC meetings, with the exception of the introductory meeting on 8/31.

ATTACHMENTS:

1. Resolution 17-23
2. CRC Minutes 10.10.23

DRAFT MOTION: Discuss and provide staff with direction.

TOWN OF FLOWER MOUND, TEXAS

RESOLUTION NO. 17-23

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, CREATING A CHARTER REVIEW COMMISSION; APPROVING A CHARGE FOR THE CHARTER REVIEW COMMISSION; PROVIDING THAT THE TOWN COUNCIL SHALL APPOINT MEMBERS TO THE CHARTER REVIEW COMMISSION; MAKING FINDINGS RELATIVE THERETO; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Charter serves as the governing document for the actions of the Town Council and staff, establishes a structure and sets boundaries for the Town, and creates the basic guidelines and principles under which the Town operates; and

WHEREAS, it is the desire of the Town Council to review the Town Charter to ensure public interest is maintained; and

WHEREAS, Section 11.19 of the Charter authorizes the Town Council to appoint a Charter Review Commission composed of at least five qualified voters of the Town; and

WHEREAS, it is the intent of the Town Council to appoint a Charter Review Commission that will serve in an advisory capacity and will undertake a review of the Town Charter.

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

SECTION 1

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

SECTION 2

The Town Council hereby creates a Charter Review Commission ("Commission") and, the Charter Review Commission is charged as follows:

1. Review the Charter for any content that hinders efficiency in Town operations
2. Ensure the Charter does not contain language that is in conflict with state law
3. Revisit items previously considered by prior Charter Review Commissions
4. Rank proposed ballot recommendations in order of importance when presented to Council

Items listed above are not necessarily in order by priority or preference.

RESOLUTION NO. 17-23

SECTION 3

The Town Council shall appoint interested individuals who are qualified voters of the Town to serve on the Commission and the mayor's selection shall serve as the chair of said Commission, and a voting member. All members shall serve without compensation and at the will of the Town Council.

The following individuals are appointed to serve as members:

1. Steve Dixon, Chair and voting member
2. Mike Wallace
3. Ann Martin
4. Sandeep Sharma
5. Greg Wilson
6. Rick Lust

SECTION 4

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

PASSED, APPROVED, AND ADOPTED THIS 7TH DAY OF AUGUST, 2023

APPROVED:



Derek France, Mayor

ATTEST:



Theresa Scott, Town Secretary

Charter Review Commission



October 10, 2023
Town Hall
Large Conference Rm #124
2121 Cross Timbers Road
Flower Mound, TX 75028

12:00 p.m.

DRAFT MINUTES

A. CALL TO ORDER

Chair Dixon called the meeting to order at 12:00 p.m. with the following members present:

Steve Dixon, Chair
Rick Lust
Ann Martin
Greg Wilson
Mike Wallace
Sandeep Sharma

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

Theresa Scott, Town Secretary
Bryn Meredith, Town Attorney

B. PUBLIC COMMENT

The purpose of this item is to allow the public an opportunity to address the commission regarding any item on this agenda or provide general comments regarding the Town's Charter as it relates to the Commission's charges, duties and responsibilities. Speakers are limited to three minutes. Time limits may be adjusted by the Chairperson.

No one spoke.

C. MINUTES

1. Consider approval of minutes from the 10/4/23 meeting.
All were in favor of the minutes as presented.

D. DISCUSS AND CONSIDER RECOMMENDATIONS FOR THE FOLLOWING PROPOSED CHARTER AMENDMENTS OR POLICY MATTERS

There was discussion and consideration on all of the items listed below and action was taken as follows:

1. Administration - 4.02 (Town Manager)

Description	CRC General Consensus (Concept Only)

Requirement: Town Mgr. need not be a resident when appointed, but become a resident in a not to exceed 6 months time frame.	Add language that authorizes a 1-year extension by Council
---	--

2. Administration - 3.07(w) (Powers of the Council)

Cause captions of ordinances to be published in the newspaper.	Remove the requirement that ordinance captions be published in the newspaper.
--	---

3. Council - 3.03.1 (d) - Vacancies

Reference to 2 year terms	Clean up item
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4. Council - 3.05 (Mayor)

Mayor authorization for TM to sign contracts not to exceed \$15,000.	Change to \$50,000
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5. Development - 8.02

Cooperation with persons regarding development...	Strike the 1st sentence - The TC shall cooperate with persons interested in the development of...
---	--

6. Election - 7.17

Election required for certain PPP	Replace election required for certain PPP to Super Majority of the Town Council...
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7. Finance - 9.10 (Budget)

Copy of the budget filed with Denton County	Needs to include Tarrant County.
---	----------------------------------

8. Finance - 9.14 (Transfer of Appropriations)

Council has the power to transfer funds between departments	Shift this power to the Town Manager (if can wordsmith for clarity)
---	---

9. Economic Development

a) Tax Increment Reinvestment Zone (TIRZ)	Require a simple majority vote for the creation of a TIRZ, and a super-majority vote for the final approval
---	---

	of the associated agreement.
b) Economic Development Incentives	The Town shall not grant any economic development incentives (i.e. abatement, deferrals, reimbursements) without a super-majority vote of the Town Council.

POLICY/OTHER RECOMMENDATION

1. Election - 7.16 (Election required for MUD or PID)

Recommend Council adopt a policy that developers be responsible for election costs related to the creation of a MUD or PID.

2. For property taxes, recommend Council address the topic of high property taxes at a future strategic planning meeting to make sure there are checks and balances in place to protect the taxpayer, particularly as it relates to over 65 or disabled exemptions.

1. For the Town Charter, Section 4.02 (Town Manager), Ann Martin moved to recommend a Charter amendment to incorporate language that authorizes a 1-year extension by the Town Council to extend the not to exceed 6 months time frame for the Town Manager to establish residency. Sandeep Sharma seconded the motion.

AYES: Dixon, Sharma, Wilson, Wallace, Lust, Martin

NAYS: None

2. For the Town Charter, Section 3.07 (w)(Powers of the Council), Ann Martin moved to recommend a Charter amendment that would remove the requirement that ordinance captions be published in the newspaper (and with the understanding these same captions will be included on the Town's website, in the Town Council minutes, and the Town's Code Book (as applicable). Sandeep Sharma seconded the motion.

AYES: Dixon, Sharma, Wilson, Wallace, Lust, Martin

NAYS: None

3. For the Town Charter, Section 3.03.1 (d)(Vacancies), Ann Martin moved to recommend a Charter amendment that would remove all references to 2-year terms (since no longer applicable). Rick Lust seconded the motion.

AYES: Dixon, Sharma, Wilson, Wallace, Lust, Martin

NAYS: None

4. For the Town Charter, Section 3.05 (Mayor), Ann Martin moved to recommend a Charter amendment that would change the Mayor authorization for the Town Manager to sign contracts from a not to exceed \$15,000 to \$50,000. Mike Wallace seconded the motion.

AYES: Dixon, Sharma, Wilson, Wallace, Lust, Martin
NAYS: None

5. For the Town Charter, Section 8.02 (Development), Ann Martin moved to recommend a Charter amendment that would substitute language from "The Town Council shall cooperate with persons interested in the development of property within or beyond the town limits" to "The Town Council shall give due consideration to persons interested in the development of property". Rick Lust seconded the motion.

AYES: Lust, Martin
NAYS: Dixon, Sharma, Wilson, Wallace

6a. For the Town Charter, Section 7.17 (Election Required for Certain Public-Private Partnerships), Sandeep Sharma moved to recommend no action be taken. Greg Wilson seconded the motion.

AYES: Sharma, Wilson, Wallace, Lust
NAYS: Dixon, Martin

6b. For the Town Charter, Section 7.17 (Election Required for Certain Public-Private Partnerships), Ann Martin moved to recommend a Charter amendment that all language related to calling an election for Public-Private Partnerships be removed and replaced with language that would require Town Council approval by an affirmative vote of at least three fourths super-majority vote of all members of the Town Council. Steve Dixon seconded the motion.

AYES: Dixon, Martin
NAYS: Sharma, Wilson, Wallace, Lust

7. For the Town Charter, Section 9.10, Sandeep Sharma moved to recommend a Charter amendment to add Tarrant County as an entity to receive a copy of the Town budget. Greg Wilson seconded the motion.

AYES: Dixon, Sharma, Wilson, Wallace, Lust, Martin
NAYS: None

8. For the Town Charter, Section 9.14 (Transfer of Appropriations), Rick Lust moved to recommend no action be taken. Sandeep Sharma seconded the motion.

AYES: Dixon, Sharma, Wilson, Wallace, Lust, Martin
NAYS: None

9a. For the Town Charter, Rick Lust moved to recommend a Charter amendment to add language that a super-majority vote of the Town Council be required for final approval of a new, revised, or modified Tax Increment Reinvestment Zone (TIRZ) agreement, as well as for any expansion of the boundaries of an existing TIRZ. Sandeep Sharma seconded the motion.

AYES: Dixon, Sharma, Lust
NAYS: Wilson, Wallace, Martin

9b. For the Town Charter, Greg Wilson moved to recommend a Charter amendment to add language that a super-majority vote of the Town Council be

required for the creation, final approval of a new, revised, or modified Tax Increment Reinvestment Zone (TIRZ) agreement, as well as for any expansion of the boundaries of an existing TIRZ. Sandeep Sharma seconded the motion.
AYES: Sharma, Wilson, Wallace, Lust
NAYS: Dixon, Martin

9c. For the Town Charter, Ann Martin moved to recommend no action be taken to amend the Charter to add language as it relates to a Tax Increment Reinvestment Zone. Mike Wallace seconded the motion.
AYES: Wallace, Martin
NAYS: Dixon, Sharma, Wilson, Lust

10a. For the Town Charter, Mike Wallace moved to recommend no action be taken to amend the Charter to require a super-majority vote for any economic development incentives, abatements, deferrals, or reimbursements. Ann Martin seconded the motion.
AYES: Dixon, Sharma, Wilson, Wallace, Martin
NAYS: Lust

10b. For the Town Charter, Rick Lust moved to recommend a Charter amendment that would require an affirmative vote of at least three-fourths super-majority vote of all members of the Town Council, for any economic development incentives, abatements, deferrals, or reimbursements. No one seconded the motion.
Motion failed for lack of a second.

11. Ann Martin moved to recommend the Town Council adopt a policy that would make developers be responsible for election costs related to the creation of a MUD or PID. Greg Wilson seconded the motion.
AYES: Dixon, Sharma, Wilson, Wallace, Lust, Martin
NAYS: None

12. Sandeep Sharma moved to recommend the Town Council discuss the topic of high property taxes at a future strategic planning session to ensure that checks and balances are in place to protect taxpayers, especially as it relates to those 65 and over or disabled. Ann Martin seconded the motion.
AYES: Dixon, Sharma, Wilson, Wallace, Lust, Martin
NAYS: None

E. COORDINATION OF CALENDARS

1. Next meeting: November 8, 5pm - Public Hearing. Discuss public hearing format would like to use at this meeting.
Chair Dixon confirmed that the next CRC meeting will be the public input opportunity on November 8, 5 - 6 pm

F. ADJOURN

Chair Dixon adjourned the meeting at 1:10 p.m. and all were in favor.

TOWN OF FLOWER MOUND, TEXAS

STEVE DIXON, CHAIR

ATTEST:

THERESA SCOTT, TOWN SECRETARY



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

DATE: December 4, 2023
FROM: Tommy Dalton, Assistant Town Manager
ITEM: **Consider and discuss green waste program options presented by Republic Services.**

BACKGROUND: The purpose of this item is to receive direction from Town Council on implementing a green waste recycling program (GWRP) for residents. The Town's current solid waste provider is Republic Services who would be the entity responsible for the collection of green waste.

The details of the history of this topic can be found below. Essentially, there are three options for the Council to consider. Two of the options involve implementing a pilot program, and the third option provides an estimate to fully implement a town wide GWRP.

- **PILOT PROGRAM:**

1. The Town would pay Republic Services \$65,000 to conduct a green-waste pilot program for weekly collection on one route per day for 60 days, or
2. Republic Services can absorb the cost if the Town approves a modification to the franchise agreement (FA) to include a fee to commercial customers that over fill their containers of \$45.00 per overloaded container per service day.

- **FULL PROGRAM:**

1. Republic Services will implement a green-waste program beginning within 60 days of approval to run until the end of the current agreement with the following changes to the FA:
 - Implement overage charges to commercial customers that overfill their containers
 - Charge \$2.50 per month, per resident
 - Increase the annual CPI adjustment from 2.6% to 4% to cover cost increases Republic Services is experiencing due to the current financial conditions

HISTORY: This is an Environmental Conservation Commission (ECC) initiated item. Implementing GWRP has long been an initiative of the Town's ECC, who has sought Council feedback and direction on this topic since at least 2011 (see discussion timeline below). Over that timeline, the Town has asked about resident interest in a GWRP through the Town's resident survey in 2009, 2011, and 2019. Excerpts of the resident survey results are provided below.

The Town's solid waste franchise agreement between Republic Services and the Town was approved on May 16, 2016. At that time, the agreement included an optional GWRP that the Town could opt into within the first five years of the agreement at guaranteed rate of \$1.65 per household per month (excerpt of exact language below). The Town's ability to opt into the program at a guaranteed rate

expired in July 2021.

Optional Yard/Green Waste Recycling Add-on: Should at any time during the first five years of this agreement, the Town decide to add the "Green Waste" program, Contractor guarantees the rate of \$1.65 per household per month, based on total Residential Unit billing, for the first five (5) years of this Contract (subject to CPI adjustments as provided in "Modification of Rates" below) to allow the addition of yard waste separated at the curb and 100% recycled collected weekly on the designated service day. The Town will provide 60 days notice to contractor of desire to add this service.

Currently, green waste is collected curbside and taken to a landfill for disposal. Under the franchise agreement with Republic Services, green waste is defined as decomposable plant materials, including brush, leaves, grass, weeds and other vegetation. In general, a GWRP involves residents placing their green waste into compostable bags that can be purchased at local retail stores. In discussions with Republic Services, if the Town were to institute a GWRP, Republic Services would collect the green waste on a resident's normal collection day using a separate truck, then transport and dispose of the waste at the Flower Mound Living Earth facility located at 3901 Haynes Rd.

During the May 18, 2023, Town Council work session various Town boards provided updates to Town Council on their accomplishments or projects in progress. The Town's ECC discussed their desire to evaluate implementing a GWRP for Town residents, among other topics. During that work session, Town Council requested a future agenda item to discuss options. A comparison of what other communities do for a GWRP are provided in Attachment 1.

During the July 20, 2023, Town Council work session, the General Manager for Republic Services, Craig Mikolachak, presented information on a GWRP. The Town Council directed staff to work with Republic Services in developing a pilot program and asked that the ECC be briefed on what the pilot program would entail.

The pilot program was presented to the ECC by the Municipal Services Manager for Republic Services, Jeri Harwell, on November 7, 2023. Republic Services' recommendations on the pilot program are outlined within Attachment 2. Essentially, there are two options they are proposing to cover the costs of a pilot program:

1. The Town would pay Republic Services \$65,000 to conduct a green-waste pilot program for weekly collection on one route per day for 60 days, or
2. Republic Services can absorb the cost if the Town approves a modification to the franchise agreement (FA) to include a fee to commercial customers that over fill their containers of \$45.00 per overloaded container per service day.

For option 1, the Town has not budgeted for the cost to launch a pilot program primarily due to the timing of the request in relation to the Town's budget process. If the Council wishes to pursue option 1, the Town will create a decision package for the Council to consider with the fiscal year 2024-2025 budget. If that package were approved in September 2024, the pilot program could begin in the spring of 2025.

Option 2 entails Republic Services charging a fee to commercial customers when they overload their containers. According to Republic Services, the Town is the only community they serve that does not have an overage fee established in their FA. Instead, the FA allows Republic to refuse service if the container is overloaded. Refusal of service is not in the best interest of either party. When the commercial customer repeatedly has overages, Republic Services will either call the customer or speak to them in person about increasing the size of the dumpster or the frequency of service. Due to

the lack of penalties, or incentives to change behavior in the FA, Republic Services has not seen commercial customers implement changes and the problem continues. Between January and August of 2023, there were approximately 298 commercial customers noted for overloaded containers.

Generally, during the November 7 meeting, ECC wanted to know why the Town needed to start with a pilot program and not look specifically at the cost and services provided for a full implementation. Additional discussion ranged between the lack of making the GWRP optional for individual residents, incentivizing the use of the GWRP instead of a town-wide cost, and providing yard bags free of charge.

In response to the ECC discussion, staff asked Republic Services to provide an estimate to fully implement a GWRP with the understanding that the estimate is not final and subject to a formal proposal. Republic Services could implement a green-waste program beginning within 60 days of approval to run until the end of the current agreement with the following changes to the FA:

- Implement overage charges to commercial customers that overfill their containers
- Charge \$2.50 per month, per resident
- Increase annual CIP from 2.6% to 4% to cover cost increases Republic Services is experiencing due to the current financial conditions

As outlined by the timeline of discussion below, there have been several public discussions on implementing a GWRP. The topic will typically arise during contract discussions, and the Town's last two providers, Republic Services, and Waste Management, both provided an optional GWRP that could be implemented within the first five years of the contract with an additional charge. The Town did not exercise that option with either provider. The topic will generally come up again just before the sunset of the five-year option period. Since a GWRP is an ongoing initiative of the ECC, the topic will generally come up during a joint work session, or when the ECC briefs Council on their ongoing initiatives or projects.

Since 2011, the overarching comments/concerns have been:

- Concern of imposing another fee on residents
- Residents who use a yard service are subsidizing the cost of a program they aren't using
- The program does not include the ability for individual residents to opt in or out of the program

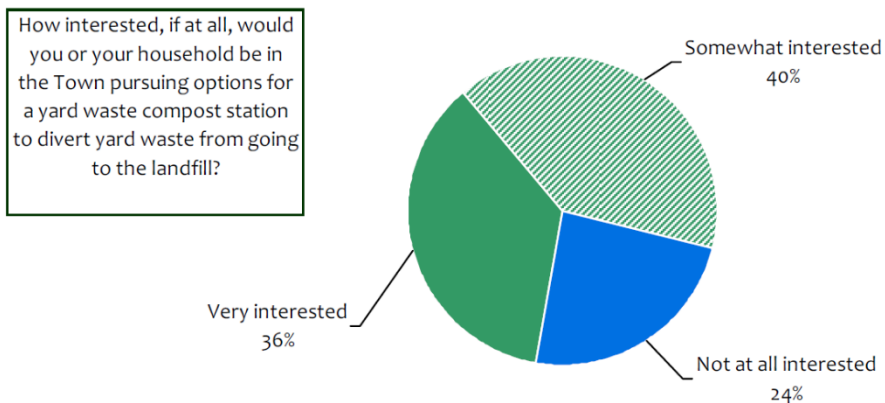
A representative from ECC will be in attendance should the Council have any questions regarding ECC's perspective on a GWRP.

RESIDENT SURVEY RESULTS:

2009 Resident Survey:

When asked about their level of interest in the Town pursuing options for a yard waste compost station to divert yard waste from going to the landfill, a majority of respondents were at least “somewhat” interested with about a third reporting that they were “very” interested in this idea.

Figure 23: Interest in Yard Waste Compost Station



2011 Resident Survey:

One-third of the residents said they would be “very” interested in the Town pursuing options for green waste collection for an additional monthly cost of \$1.82, 40% were “somewhat” interested and one-quarter were “not at all” interested. When compared to 2009, fewer respondents in 2011 said they would be interested in green waste collection. Differences in ratings could be at least partially attributable to changes in question wording between survey years.

Table 18: Interest in Pursuing Green Waste Collection Options Compared by Year

How interested is your household, if at all, in the Town pursuing options for green waste collection for an additional monthly cost of \$1.82? Green waste organics collection at the curb (separate from bulk pickup) would be 100% recycled, reused, and/or processed through composting, mulching and/or beneficial reuse; diverting yard waste from going to the landfill.*	2011	2009
Very interested	37%	36%
Somewhat interested	33%	40%
Not at all interested	30%	24%

*The 2009 survey did not include potential costs associated with green waste collection, but assessed general interest in pursuing options for a yard waste compost station to divert yard waste from going to the landfill.

2019 Resident Survey:

Figure 5: Importance of Potential Projects

Please rate how important, if at all, you think it is for the Town to offer the following services that are not currently being offered:

■ Essential ■ Very important ■ Somewhat important ■ Not at all important

Green Waste collection for an additional monthly fee of \$1.65 per household



DISCUSSION TIMELINE: This following timeline represents most of the substantive discussion on a GWRP, but not all.

- July 19, 2012
 - Joint work session with the ECC regarding their sustainability initiatives.
 - Included discussing opting into the GWRP under the franchise agreement with Waste Management at a monthly cost of \$1.58.
- September 18, 2014
 - Joint works session with ECC regarding their sustainability initiatives.
 - Included implementing a GWRP where Council asked ECC to approach the Town's contractor, Waste Management, about options.
- February 18, 2016
 - Joint work session with ECC to discuss the Town's tree ordinance, urban forestry programs, and receive an update on the sustainability initiatives.
 - Included discussion on recycling and green waste to be considered with the upcoming contract renewal for solid waste services.
- February 16, 2017
 - Joint work session with ECC to discuss their sustainability initiatives.
 - Including green waste and that Republic Services would review options with the ECC at a future ECC meeting.
- February 6, 2018
 - ECC meeting that included an annual report from Republic Services
 - Included discussion on opting in on the GWRP that is part of the Republic Services contract. Opting into the GWRP would require Council action.
- April 18, 2019
 - Joint work session with Town Council and ECC to discuss accomplishments and objectives.
 - Included discussion on statistics and cost associated with a GWRP.

BOARD REVIEW/CITIZEN FEEDBACK: The Town's Environmental Conservation Commission is in support of a green waste recycling program.

ALTERNATIVES:

FISCAL IMPACT: N/A

LEGAL REVIEW: N/A

ATTACHMENTS:

1. Benchmark Survey
2. Pilot Program Details

DRAFT MOTION: Discuss and provide staff with direction.

Green Waste is yard waste that is diverted from the landfill. Otherwise, yard waste is collected generally the same day as trash service and sent to the landfill.

City	Green Waste Program	Frequency	Guidelines	Cost per Month	Provider	Notes
Flower Mound	No				Republic Services	
Allen	No				Community Waste Disposal (CWD)	
Carrollton	No				Republic Services	
Colleyville	No (see notes)				CWD	Provides a seasonal service for leaf pick-up (diverted from landfill)
Coppell	Yes	Weekly	Yard trimmings must be placed in lawn and leaf bags (paper bags) or an open trash can. Do not put trash or recyclables in with your yard trimmings. Bundle brush and tree trimmings in bundles less than 4 feet long and tie the bundles with cotton or jute string. Bundles or containers must weigh less than 40 pounds.	Included	Republic Services	
Denton	Yes	Weekly	Yard waste includes grass clippings, leaves, and weeds that are placed in kraft bags or yard waste carts. Uncooked vegetative waste such as peels, cores, tops, and loose coffee grounds can still be placed in your yard waste cart or kraft bags. Tree and brush limbs are collected once a week on your curbside collection day. Four cubic yards (about the size of four washing machines) of brush will be collected per week at no additional charge. Brush piles that are more than 4 cubic yards (about the size of 4 washing machines), will have additional fees assessed. If applicable, overage charges will automatically be applied to your utility bill. This material will be used by the Beneficial Reuse Division to make Dyno Dirt.	Included. Additional services for additional cost.	City of Denton	
Frisco	Yes	Weekly	Residents can place up to 10 bags/bundles out for collection each week. Grass, leaves, plants, small cuttings must be placed in paper bags (Plastic bags are not accepted) three feet away from your cart on your regularly scheduled pick up day. Tree limbs must be cut into three-foot lengths; tied and bundle with rope or twine (must be compostable). Maximum weight not to exceed thirty (30) pounds per bundles.	Included. Additional services for additional cost.	Waste Connections	
Grapevine	Yes	Twice a month	Brush must be placed in large piles behind the curb. Place yard waste in paper bags or reusable trash can style plastic container. Free of any trash or refuse.	Included	Republic Services	
Highland Village	Yes	Weekly	Yard waste should be placed at your curb in biodegradable brown kraft bags. You can place up to 20 bags at the curb for pickup. Yard waste is defined as lawn, grass, or shrubbery cuttings or clippings and dry leaf rakings, small tree branches (not to exceed 4-feet in length), bushes, shrubs, green leaf cuttings, fruits or other matter usually created by refuse in the care of lawns and yards.	Included	Republic Services	
Keller	Yes	Weekly	Brush must be prepared in bundles 4 feet or shorter and weighing up to 50 lbs., tied with biodegradable rope, twine, or string. Do not bundle tree and brush trimmings with nylon rope, plastic, metal, garden hoses, or other non-compostable materials. Leaves and other small waste should be in biodegradable kraft bags. CWD will accept up to 10 bags/bundles per resident on each collection day.	Included	CWD	
Lewisville	No				Republic Services	
McKinney	Yes	Weekly	Limbs must be cut in 4-foot lengths, tied with string or twine (no tape or wire) in bundles of 50 pounds or less. All grass clippings and leaves must be placed in brown paper bags. Place bags and bundles three feet away from your cart on your regular collection day. Limit of 10 bags or 10 bundles or a combination not to exceed 10 items total.	Included	Waste Connections	
North Richland Hills	No				Republic Services	
Richardson	Yes	8 times per year via online request	Acceptable items are small twigs, leaves and grass clippings in brown compostable bags. Set out by 7am on your collection day.	Included	City of Richardson	
Southlake	No (see notes)				CWD/Republic?	Provides a seasonal service for leaf pick-up (diverted from landfill)



October 19, 2023

Ms. Shelly Willson
Customer Relations Manager
Town of Flower Mound
2121 Cross Timbers Rd.
Flower Mound, Texas 75028

Re: Green Waste Pilot Letter of Intent

Shelly:

As per our meeting and discussions this letter of intent outlines the program parameters and includes cost to implement with an alternative to save the residents the cost of providing the pilot program. Final cost of a long-term program would be negotiated after the pilot program.

Our recommendations on how the pilot program should be done is outlined below and could be tweaked as necessary following comments from the ECC and Council after the presentations in November and December.

- Routes chosen by Republic/Staff
 - One route per service day – this allows for a good demographic data
- Time of year Recommended by Republic
 - October – November
 - March -April
- Resident education campaign
 - Letter sent to each resident on routes selected
 - Dates of pilot program
 - Explanation of why the pilot program
 - Instructions on how green-waste will need to be packaged for collection, i.e., mulch bags for grass clippings and leaves, cut/bundled/tied brush, where to place brush so not mixed in with bulk
 - Collection will be same day as trash, bulk and recycle
 - Dedicated email for questions from residents
 - Residents are not required to participate, if they choose not to participate service will be the same as contracted
- Track tonnage for route/day
 - The material will go to Living Earth in Flower Mound and tracked by route each day

- Survey residents following program
 - Follow-up questionnaire mailed to all residents in the chosen routes
- Report results back to Staff/Council

The cost to conduct the green-waste pilot program for weekly collection on one route per day for 60 days would be \$65,000 to the Town of Flower Mound. As discussed in our meeting, Republic Services will absorb the cost if we could modify the contract to include a fee to commercial customers that over fill their containers of \$45.00 per overloaded container per service day.

If you have any questions or need additional information please do not hesitate to contact me.

Thanks for allowing Republic Services to partner with the Town of Flower Mound!

Sincerely,

Jeri Harwell

Jeri Harwell



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

DATE: December 4, 2023
FROM: Chuck Russell, Principal Planner
ITEM: **Public Hearing to consider an ordinance granting Specific Use Permit No. 487 (SUP23-0005 – Long Prairie Golf Everywhere) to permit an amusement and recreation (indoors) use. The property is generally located north of Aberdeen Drive and east of Long Prairie Road. (PZ recommended approval by a vote of 6 to 0 at its November 13, 2023, meeting.)**

BACKGROUND:

- Size – 7.739 acres
- Zoning – Planned Development District-157 (PD-157) for Retail District-2 (R-2) uses
- Proposed use – Amusement and Recreation (Indoors)
- Building Size – 31,471 square feet (one-story)
- SMARTGrowth – Passed
- Traffic Analysis – N/A, review not triggered
- Exceptions – N/A
- 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 November 13, 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.

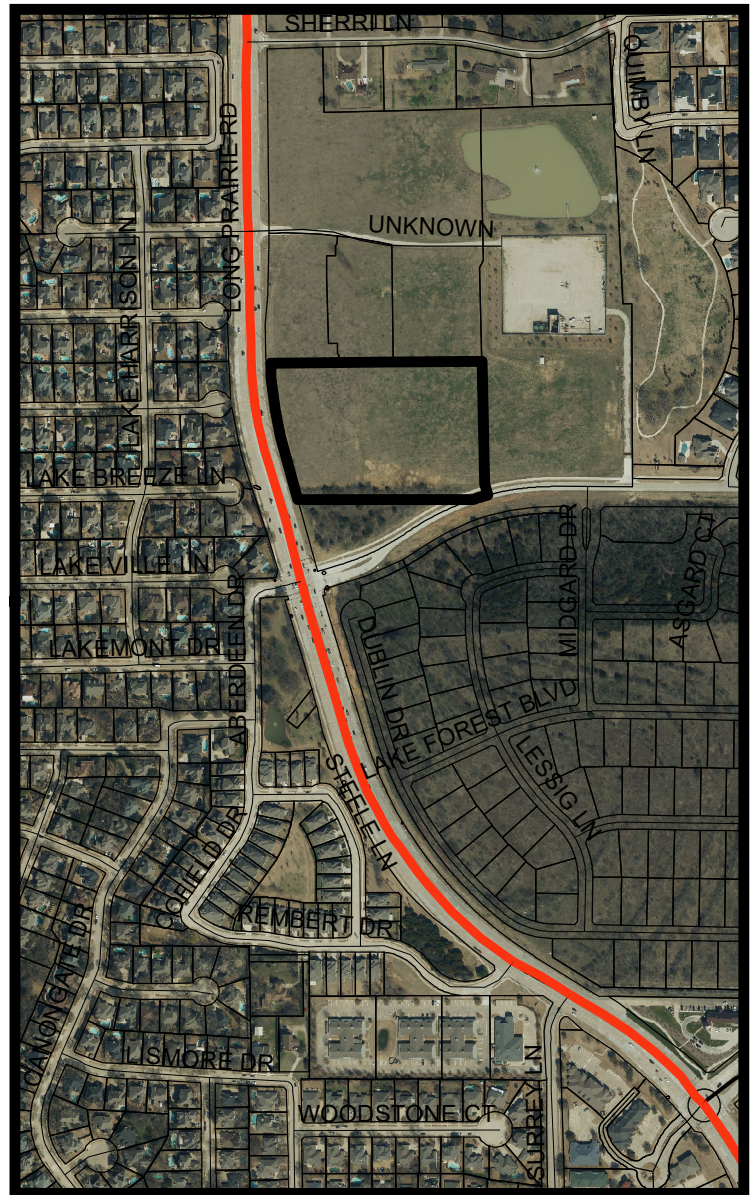
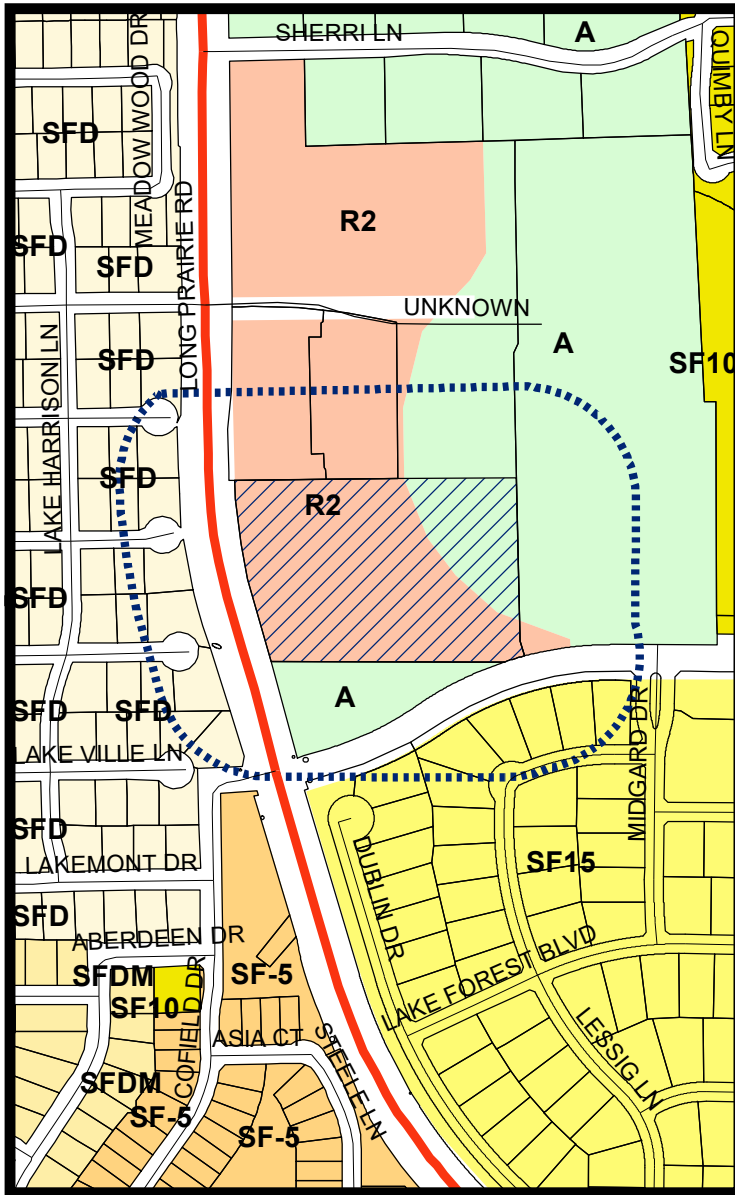
ATTACHMENTS:

1. Map - Zoning & Aerial
2. Draft Ordinance
3. Draft Exhibits

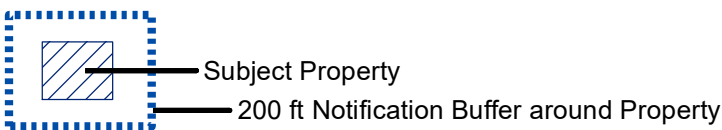
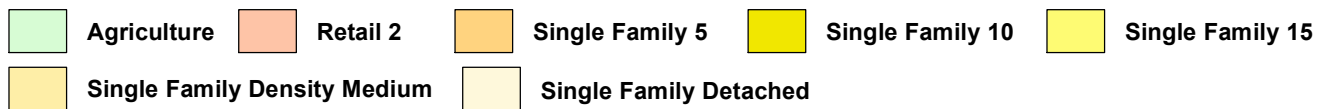
DRAFT MOTION: Move to approve as presented in the agenda caption.

Vicinity Map

SUP23-0005: Long Prairie Plaza - Golf Everywhere

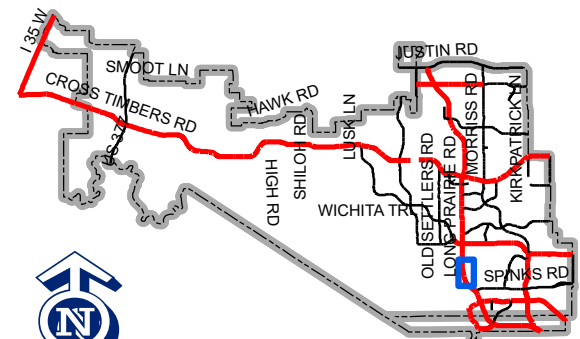


LEGEND

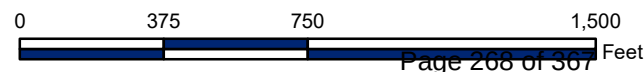


Visit www.fmdevmap.com to learn more about this project.

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



Map Location



TOWN OF FLOWER MOUND, TEXAS
ORDINANCE NO. _____

AN ORDINANCE OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING THE OFFICIAL ZONING MAP, EXHIBIT "A" OF SUBPART B, "LAND DEVELOPMENT REGULATIONS," OF THE CODE OF ORDINANCES, TOWN OF FLOWER MOUND, TEXAS, BY APPROVING SPECIFIC USE PERMIT NO. 487 (SUP-487) FOR AN AMUSEMENT AND RECREATION (INDOORS) USE ON CERTAIN PROPERTY DESCRIBED AS APPROXIMATELY 7.739 ACRES OF LAND AND BEING A PORTION OF LOT 2R, BLOCK A OF THE LONG PRAIRIE PLAZA ADDITION, AND ZONED PLANNED DEVELOPMENT DISTRICT NO. 157 (PD-157) WITH R-2 RETAIL DISTRICT-2 USES; PROVIDING THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Flower Mound, 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 owner of the property described as approximately 7.739 acres of land and being a portion of Lot 2R, Block A of the Long Prairie Plaza Addition, Denton County, Texas (the "Property"), has filed an application for a Specific Use Permit to allow an amusement and recreation (indoors) use; and,

WHEREAS, the Planning and Zoning Commission of the Town held a public hearing on November 13, 2023, and the Town Council held a public hearing on December 4, 2023, with respect to the Specific Use Permit described herein; and,

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

WHEREAS, the Town Council finds that the Specific Use Permit should be granted as outlined herein as it is in the best interest of the Town 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 7.739 acres of land and being a portion of Lot 2R, Block A of the Long Prairie Plaza Addition, Denton County, Texas, and zoned Planned Development District No. 157 (PD-157) with R-2 Retail District-2 uses and more fully described in Exhibit "A" hereto.

The Property shall remain in the Planned Development District No. 157 (PD-157) zoning district with R-2 Retail District-2 uses and Specific Use Permit No. 487 (SUP-487) is hereby approved to allow an amusement and recreation (indoors) use as more fully described in Exhibits "B", "C," and "D" attached hereto and incorporated herein, subject to the following conditions:

1. Specific Use Permit No. 487 (SUP-487) is limited to the approximately 31,471 square-foot building labeled as "Main Golf Building and Mezzanine" as shown on the Conceptual Site Plan attached hereto as Exhibit "B."

SECTION 2

The Conceptual Site Plan, Conceptual Landscape Plan, and Conceptual Elevations of the proposed amusement and recreation (indoors) use, attached hereto as Exhibits "B", "C," and "D" and incorporated herein for all purposes allowed by law, are hereby approved as the Conceptual Site Plan, Conceptual Landscape Plan, and Conceptual Elevations for Specific Use Permit No. 487 (SUP-487).

SECTION 3

The official Zoning Map of the Town is amended and the Director of Planning Services is directed to revise the official Zoning Map to reflect the approved Specific Use Permit No. 487 (SUP-487), as set forth above.

SECTION 4

The use of the property described above shall be subject to all restrictions, terms, and conditions contained herein, as well as all applicable regulations contained in the Land Development Regulations and all other applicable and pertinent ordinances of the Town, including the regulations contained in Ordinance No. 15-18 for Planned Development District No. 157 (PD-157).

SECTION 5

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 6

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

SECTION 7

Any person, firm, or corporation who violates any provision of this Ordinance as adopted by the Town Council 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 8

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 9

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 10

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

DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, BY A VOTE OF ____ TO ____, ON THIS THE 4TH DAY OF DECEMBER, 2023.

APPROVED:

Derek France, MAYOR

ATTEST:

Theresa Scott, TOWN SECRETARY

BEING a 7.739 acre portion of Lot 2R, Block A of Long Prairie Plaza, an addition to the Town of Flower Mound, Denton County, Texas, according to the plat thereof recorded under Document Number 2022-60, Plat Records, Denton County, Texas (P.R.D.C.T.), and being more particularly described as follows:

BEGINNING at a 1/2 inch iron rod with orange cap stamped "G&A Consultants" found for corner being the southwest corner of the herein described tract, same point being the southwest of said Lot 2R, and being the northwest corner of Lot 3, Block A of Middle School Addition, an addition to the Town of Flower Mound, Denton County, Texas, according to the plat thereof recorded in Cabinet V, Page 817, P.R.D.C.T., and being in the east right-of-way line of Long Prairie Road, also known as F.M. Road 2499;

THENCE North 15 degrees 22 minutes 39 seconds West, with the east right-of-way line of said Long Prairie Road and the west line of said Hilliard tract, a distance of 110.52 feet to a 1/2 inch iron rod found for the beginning of a non-tangent curve to the right, having a radius of 1379.48 feet;

THENCE continuing on with the east right-of-way line of said Long Prairie Road and the west line of said Lot 2R, and with said curve to the right, through a central angle of 14 degrees 58 minutes 31 seconds, whose chord bears North 09 degrees 14 minutes 11 seconds West at 359.53 feet, an arc length of 360.55 feet to a 1/2 inch iron rod with blue cap stamped "*OLD TOWN SURVEYING*" (OTS) found for corner being the southwest corner of Lot 1R, Block A of Long Prairie Plaza, an addition to the Town of Flower Mound, Denton County, Texas, according to the plat thereof recorded under Document Number 2022-467, P.R.D.C.T.;

THENCE North 89 degrees 18 minutes 02 seconds East, passing at 247.36 feet a 1/2 inch iron rod with blue cap stamped "OTS" found for the southeast corner of said Lot 1R and the southwest corner of Lot 4, Block A of said Long Prairie Plaza (Doc. No. 2022-467), continuing on and passing at 183.54 feet a 1/2 inch iron rod with blue cap stamped "OTS" found for the southeast corner of said Lot 4, continuing on, over and across said Lot 2R, a total distance of 747.38 feet to a 1/2 inch iron rod with blue cap stamped "OTS" set for corner being in an east line of said Lot 2R;

THENCE South 01 degrees 09 minutes 32 seconds East, with an east line of said Lot 2R, a distance of 421.95 feet to a 1/2 inch iron rod with blue cap stamped "OTS" found for corner;

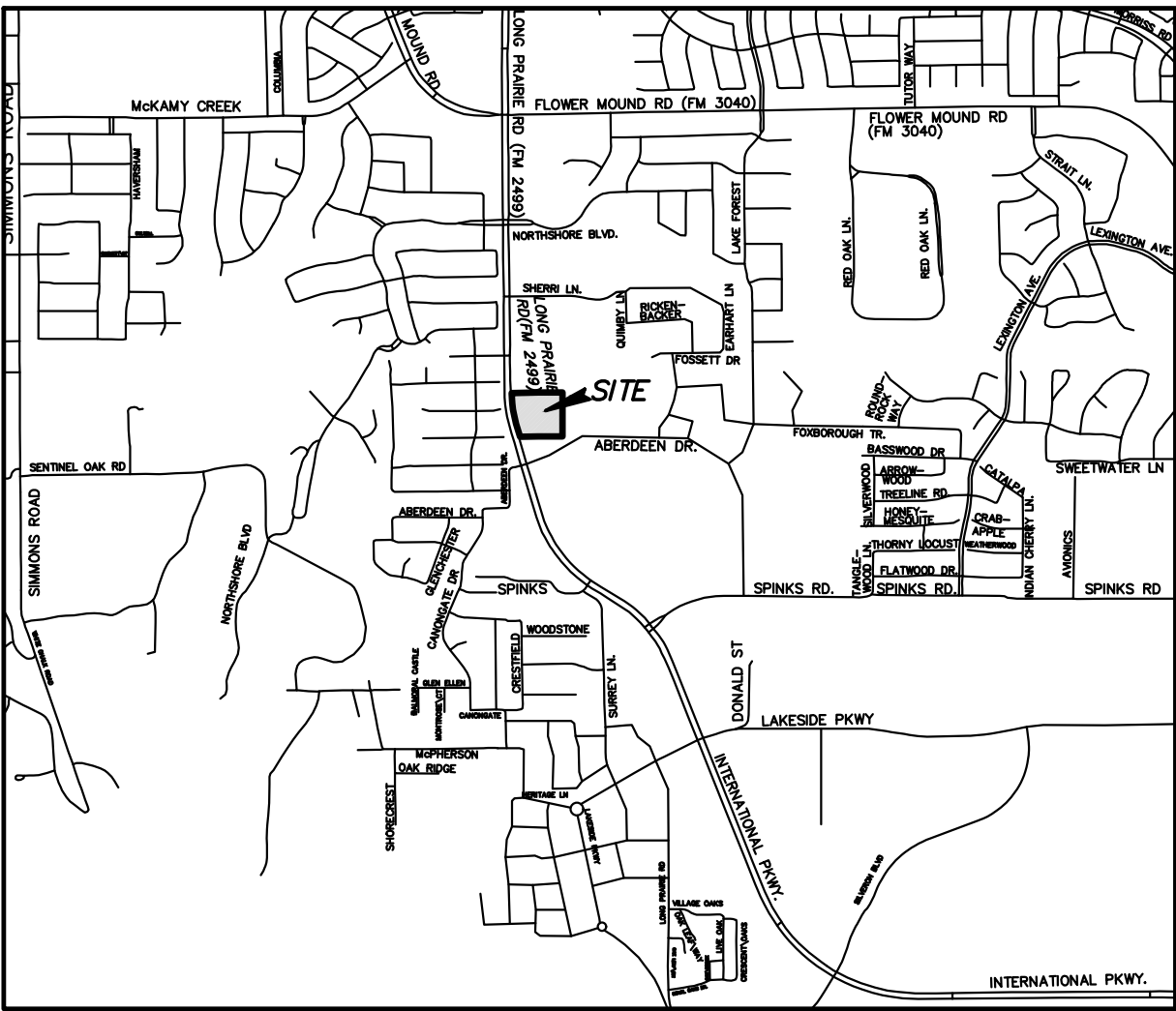
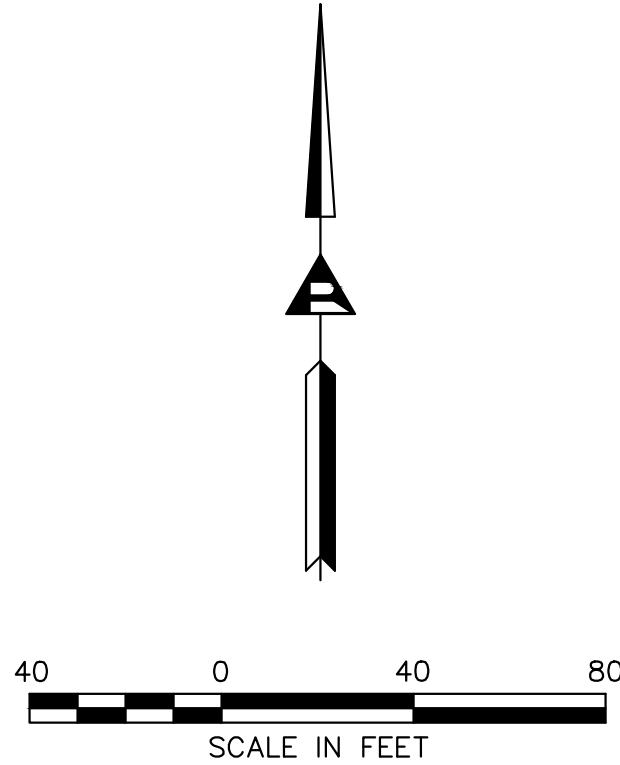
THENCE South 17 degrees 28 minutes 59 seconds East, with an east line of said Lot 2R, a distance of 42.93 feet to a 1/2 inch iron rod with blue cap stamped "OTS" found for corner being in the north right-of-way line of Aberdeen Drive as described by right-of-way dedication deed recorded under Instrument Number 2016-38146, O.P.R.D.C.T., same point being the beginning of a non-tangent curve to the left, having a radius of 900.08 feet;

THENCE with the north right-of-way line of said Aberdeen Drive, and with said curve to the left, through a central angle of 02 degrees 50 minutes 14 seconds, whose chord bears South 73 degrees 46 minutes 26 seconds West at 44.57 feet, an arc length of 44.57 feet to a 1/2 inch iron rod with blue cap stamped "OTS" set for corner being in the northeast line of said Lot 3, Block A of Middle School Addition.

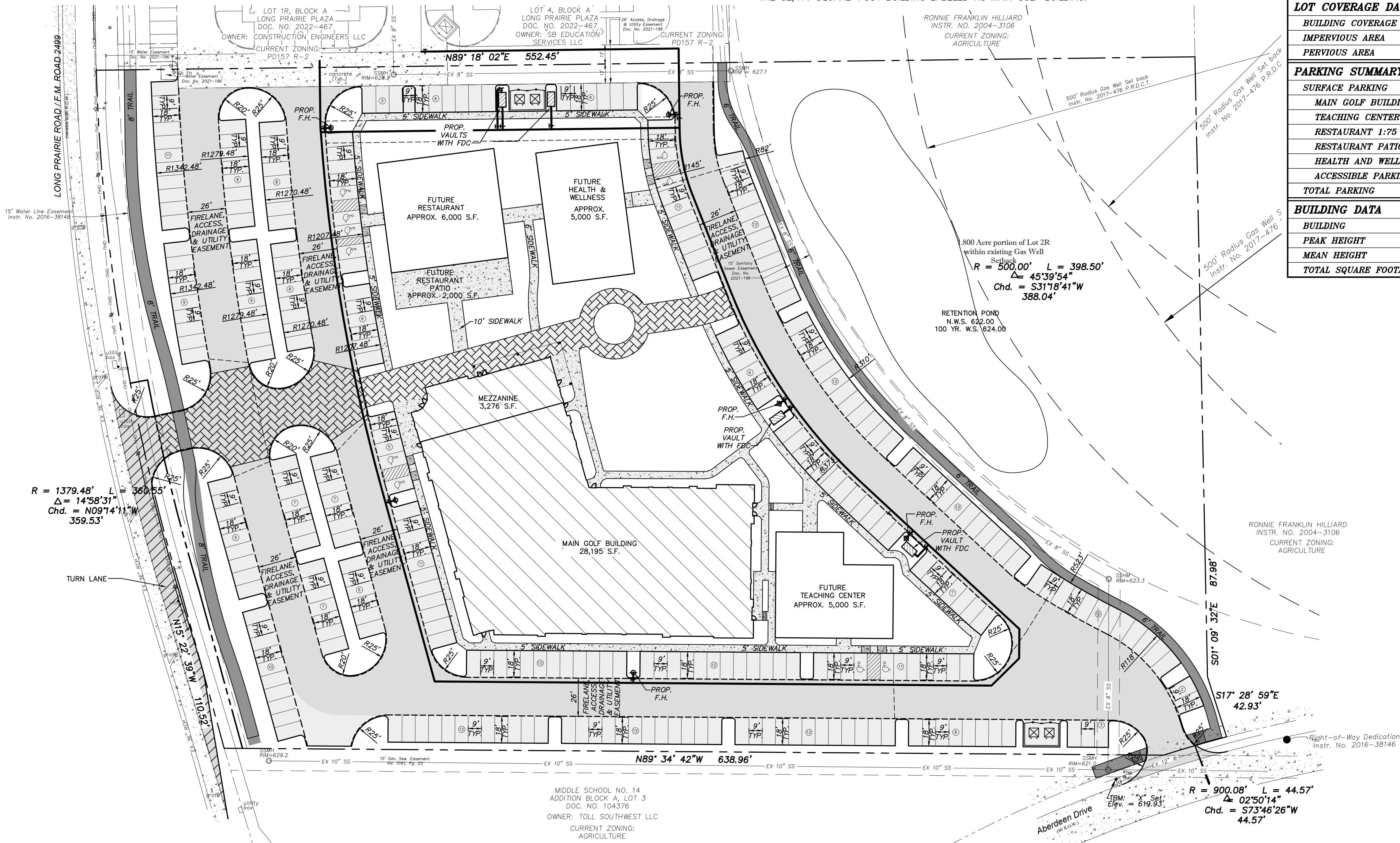
THENCE North 89 degrees 34 minutes 42 seconds West, with the north line of said Lot 3, a distance of 638.96 feet to the **POINT OF BEGINNING** and containing 7.739 acres of land, of which 1.800 acres is contained within an apparent Gas Well Setback, leaving a net acreage of 5.939 acres of land.

NOTES:

1. TOWN OF FLOWER MOUND CONSTRUCTION STANDARDS APPLY WHETHER INDICATED ON THESE PLANS OR NOT.
2. ALL PROPER EROSION CONTROL SHALL BE IN PLACE PRIOR TO THE DISTURBANCE OF ANY EXISTING SURFACE.
3. DUMPSTER SCREENING WALL SHALL BE CLAD IN A MATERIAL TO MATCH THE MATERIALS ON THE MAIN BUILDING.
4. DUMPSTER SCREENING WALL REQUIRES A SEPARATE BUILDING PERMIT.
5. ALL ROOF-MOUNTED MECHANICAL UNITS AND/OR EQUIPMENT SHALL BE SCREENED FROM VIEW.
6. ALL CONSTRUCTION SHALL BE IN STRICT ACCORDANCE WITH THESE PLANS AND THE TOWN OF FLOWER MOUND STANDARDS SPECIFICATIONS.
7. ALL DIMENSIONS SHOWN ARE TO THE BACK OF THE CURB UNLESS OTHERWISE NOTED.
8. ALL GROUND BASED HVAC SHALL BE SCREENED WITH LIVE SCREENING OR MASONRY ENCLOSURE. MASONRY ENCLOSURE SHALL BE CLAD IN THE SAME MATERIAL AS THE MAIN BUILDING.
9. ALL RETAINING/DETAINING WALLS, TURN-DOWN CURBS, TREE RETAINING WALLS SHALL BE CLAD IN A MATERIAL TO MATCH THE MATERIALS ON THE MAIN BUILDING.
10. ADA RAMPS ARE TO USE ARMOR TILE FOR THE DETECTABLE WARNINGS.
11. ALL CURB RADII ARE 2.0' UNLESS OTHERWISE NOTED.
12. ALL SIDEWALKS, ESTABLISHED VEGETATION (PER TCEQ REQUIREMENTS, BY SODDING OR SEEDING), SCREENING WALLS, FENCES, AND ALL REQUIRED APPURTENANCES MUST BE CONSTRUCTED AS REQUIRED BY THE APPROVED CONSTRUCTION PLANS BEFORE SCHEDULING FINAL INSPECTION.
13. METER & DOMESTIC SERVICE SIZES TO BE DETERMINED BY MEP ENGINEER, OTHER THAN RIDINGER ASSOCIATES.
14. SIGNS REQUIRE A SEPARATE BUILDING PERMIT. ANY SIGNS DEPICTED ON THE SUBJECT SITE/PLAN ELEVATIONS ARE NOT APPROVED AS A PART OF THIS REVIEW AND MUST COMPLY WITH ALL APPLICABLE TOWN REGULATIONS.
15. RETAINING WALLS 4 FOOT IN HEIGHT OR TALLER, INCLUDING FOOTINGS, WILL REQUIRE A SEPARATE BUILDING PERMIT THROUGH THE BUILDING DEPARTMENT.
16. THE SPECIFIC USE PERMIT FOR THE AMUSEMENT AND RECREATION (INDOORS) IS LIMITED TO THE 32,471 SQUARE-FOOT BUILDING LABELED AS MAIN GOLF BUILDING.

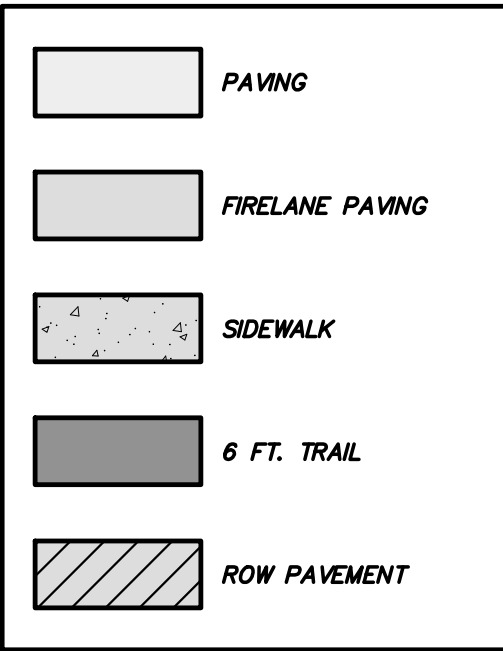


VICINITY MAP NOT TO SCALE



SITE DATA TABLE			
PHYSICAL ADDRESS		1600 LONG PRAIRIE RD	
SITE AREA		7.739 acres / 337,123.99 s.f.	
ZONING		PD-157 & AGRICULTURAL DISTRICT	
CURRENT USE		UNDEVELOPED	
PROPOSED USE		AMUSEMENT AND RECREATION (INDOORS)	
LOT COVERAGE DATA			
BUILDING COVERAGE		14.67% / 49,471 s.f.	
IMPERVIOUS AREA		62.49% / 210,656 s.f.	
PERVIOUS AREA		37.51% / 126,467 s.f.	
PARKING SUMMARY		BUILDING S.F.	REQUIRED
SURFACE PARKING			PROVIDED
MAIN GOLF BUILDING 1:200		31,471 S.F.	158
TEACHING CENTER 1:250		5,000 S.F.	20
RESTAURANT 1:75		6,000 S.F.	80
RESTAURANT PATIO 1:75		2,000 S.F.	27
HEALTH AND WELLNESS 1:250		5,000 S.F.	20
ACCESSIBLE PARKING			8
TOTAL PARKING			305
BUILDING DATA			
BUILDING		1 STORY WITH MEZZANINE	
PEAK HEIGHT		39'-2"	
MEAN HEIGHT		32'-2"	
TOTAL SQUARE FOOTAGE		31,471 s.f.	

PAVING LEGEND



OWNER:
RONNIE FRANKLIN HILLIARD, TR
HILLIARD FAMILY TRUST ETAL
CONTACT: RONNIE HILLIARD
630 COPPER CANYON ROAD
ARGYLE, TX 76226-9716

ENGINEER/APPLICANT:
RIDINGER ASSOCIATES, INC
550 S. EDMONDS LANE, SUITE 101
LEWISVILLE, TEXAS 75067
TEL. (972) 353-8000

SOUTH HILLIARD TRACT

CONCEPTUAL SITE
PLAN

Scale: 1" = 40'
Designed by: LDR
Drawn by: MAB
Checked by: JRK
Date: NOVEMBER 6, 2023
Project No. 196-001

SHEET
1 OF 1

Ridinger
Associates, Inc.
Civil Engineers - Planners
Firm No. 1969
550 S. Edmonds Lane, Suite 101
Lewisville, Texas 75067
Tel. No. (972) 353-8000
Fax. No. (972) 353-8011

GENERAL LANDSCAPE NOTES

1. All landscape areas are to be received within .1' of proposed finish grade and free from all trash and debris.
2. All trees are to be planted in pits twice the diameter of the tree ball and no deeper than the depth of the ball. Scarify all tree pit sides prior to planting. All trees are to be planted plumb and at or slightly above finish grade. All tree pits are to have a 3" watering saucer formed around the perimeter of the pit. All tree pits are to be top dressed with a 2" layer of shredded hardwood mulch. Stake and / or guy trees only at the direction of the landscape architect.
3. Rotovate the existing soil of all planting beds to a minimum depth of 6". Add a 3" layer of premium compost as supplied by Living Earth Technology and till into the top 3" of the existing soil. Install all shrubs 1" above finish grade and fertilize with Agri-form slow release fertilizer tablets at the manufacturer's recommended rates of application. Top dress all planting beds with a 2" layer of shredded hardwood mulch.
4. All planting beds not formed by a concrete curb or sidewalk are to edged with Steel Edging (1/8"x4" painted green) or an approved equal. All edging stakes are to be placed to the inside of the bed and the top of the edging is to be no less than 1" and no more than 1.5" above proposed finish grade.
5. All turf areas are to be hydromulch Bermudagrass, unless otherwise noted on the plan.
6. Hydromulch with Bermudagrass seed at a rate of two (2) pounds per one thousand (1,000) square feet. If installation occurs between September 1 and April 1, all hydromulch areas to be Winter Ryegrass at a rate of four (4) pounds per thousand square feet. Contractor shall be required to re-hydromulch with Bermudagrass the following growing season.

7. All sodded areas are to receive common bermuda sod laid parallel to the contour of the land. All sod on slopes greater than 1:4 is to be pinned with 1"x1"x12" wooden stakes. All sod is to be laid with tight joints and with all joints staggered. Roll all sod with a water ballast lawn roller upon installation and fertilize with a complete fertilizer (13-13-13) at the rate of 1.5# actual nitrogen per 1000 square feet. Water all sod thoroughly.
8. All irrigation meter(s) are to be by utility contractors as per local codes. Irrigation sleeves to be installed by licensed irrigation contractor as per the plan.
9. All irrigation controllers are to have mini-click freeze and rain stats installed as per manufacturer's recommendations.
10. All irrigation sleeves to be by licensed irrigation contractor. All sleeves to be PVC schedule 40 with 90 degree elbows on both ends with extensions protruding 18" above proposed finish grade.
11. All turf and planting beds to be zoned separately. All planting bed heads to be on 12" pop-up risers. All turf heads to be on 4" pop-up risers. All valves to be plastic valves. All equipment to be Rainbird or approved equal.
12. All mainline and lateral line to have a minimum of 12" of cover and to be SDR (class 200) pipe.
13. Quantities shown on plant list are landscape architect's estimate only and should be verified prior to bidding. Contractor shall be responsible for bidding and providing quantity of plants required at spacing designated for bed sizes and configurations shown on the plans regardless of quantities designated on plant list.

IRRIGATION NOTES:

1. All landscaped areas shall be irrigated with an irrigation system capable of providing the proper amount of water for the particular for the particular type of plant material used. Irrigation will be provided by an underground sprinkler system, or a subterranean drip drip system as approved by the City Arborist.
2. Automatic underground irrigation system shall be equipped with freeze guard set at 38 degrees F.
3. Areas of open space which contain preserved trees need not be irrigated if the City Arborist determines irrigation would be harmful to the preserved trees.

TREE PRESERVATION AND MITIGATION NOTE:

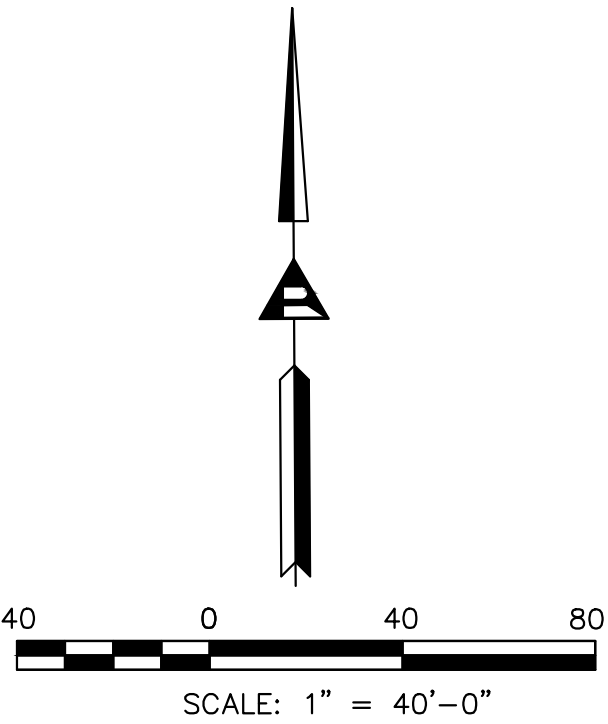
There are no existing protected trees on this site.

WATER FEATURE NOTE:

Prior to issuance of Certificate of Occupancy, appropriate drawings, plans and elevations, as required by the Town of Flower Mound, of the proposed water feature shall be provided to ensure that the final work is compatible with the architectural style, finishes and materials of the proposed buildings.

PD-157 Compliance

In compliance with PD-157, three bike racks, sized to accommodate a minimum of four bikes each, are shown at each building. In addition, four raised planters, minimum of 30 gallons, and 4 raised planters, minimum of 90 gallons, are shown at each building. These amenities are shown to indicate compliance with PD-157 and location can be rearranged at the time of site plan applications.



No. 4	11-6-23	PER CITY COMMENTS
No. 3	10-30-23	PER CITY COMMENTS
No. 2	9-7-23	REVISED SITE PLAN
No. 1	7-10-23	REVISED BUILDING FOOTPRINT
No.	Date	Revisions
		App.

Ridinger Associates, Inc.

Civil Engineers - Planners

Firm No. 1969
550 S. Edwards
Lewisville, Texas 75067

Tel. No. (972) 553-8000
Fax No. (972) 553-8011

SOUTH HILLIARD TRACT
FLOWER MOUND, TEXAS

CONCEPTUAL
LANDSCAPE PLAN

Scale: 1" = 40'-0"
Designed by: JBS
Drawn by: JBS
Checked by: SCDG
Date: APRIL 26, 2023
Project No. 196-001

SHEET

LP-1

STREET YARD LANDSCAPING			
STANDARD	TOTAL STREET YARD (SQUARE FEET)	REQUIRED	PROVIDED
MIN. 20% OF STREETYARD	85,975 SQ.FT.	17,195 SQ. FT.	25,315 SQ. FT.
STREET YARD TREES			
STANDARD	TOTAL STREET YARD (SQUARE FEET)	REQUIRED	PROVIDED
10,000 TO 100,000 SF = 1 PER 2,500 SF PLUS 10 TREES	85,975 SQ. FT.	44 TREES	42 CANOPY TREES 6 ORNAMENTAL TREES
STREET BUFFER LANDSCAPING			
STANDARD	REQUIRED BUFFER WIDTH	PROVIDED	
LONG PRARIE ROAD	25 FT.	37 TO 25 FT.	
STREET BUFFER TREES			
STANDARD	STREET FRONTAGE (LINEAR FEET)	REQUIRED	PROVIDED
1 PER 30 L.F.	LONG PRARIE ROAD = 471.77 L.F.	16 TREES	19 TREES
PARKING AREA LANDSCAPING			
STANDARD	NO. OF PARKING SPACES	REQUIRED	PROVIDED
90 S.F. PER 12 SPACES	315	2,370 S.F.	8,895 S.F.
PARKING AREA TREES			
STANDARD	NO. OF PARKING SPACES	REQUIRED	PROVIDED
1 PER 10 PARKING SPACES	315	32 TREES	40 CANOPY TREES 6 ORN. TREES
RETENTION POND LANDSCAPE			
STANDARD	SURFACE AREA	REQUIRED	PROVIDED
20 TREES 1ST 10,000 SF PLUS 1 PER 700 SF OVER	18,399 SQ. FT.	32 TREES	39 TREES

ALL PARKING SPACES ARE LOCATED WITHIN 50 FT. OF A LARGE TREE.

ST. CLAIR DESIGN GROUP, INC

Landscape Architecture

P. O. Box 12519
Dallas, Texas 75225
T. 214-454-9934

REGISTERED LANDSCAPE ARCHITECT
JOHN B. ST. CLAIR
2210
STATE OF TEXAS

DATE SEALED: 11/6/23
DESIGN BY: JBS
DRAWN BY: JBS
CHECKED BY: SCDG
DATE: APRIL 26, 2023

SOUTH HILLIARD TRACT
LONG PRAIRIE PLAZA
A PORTION OF LOT 2R, BLOCK A
Being 7.739 acres Situated in the
John White Survey, Abstract No. 1341
in the
Town of Flower Mound
Denton County, Texas

Page 276 of 367

8'-0"

GRADE

16'-0"

[EX-1]

[EX-2]

[EX-4]

5



DUMPSTER FRONT ELEVATION-SINGLE AND DOUBLE
1/4"=1'-0"

A. ALL RETAINING/DETAINING WALLS, TURN-DOWN CURBS, TREE RETAINING WALLS SHALL BE CLAD IN A MATERIAL TO MATCH THE MATERIALS ON THE MAIN BUILDING.

B. ALL GROUND BASED HVAC SHALL BE SCREENED WITH LIVE SCREENING OR MASONRY ENCLOSURE. MASONRY ENCLOSURE SHALL BE CLAD IN THE SAME MATERIAL AS THE MAIN BUILDING.

C. ALL ELECTRICAL PANELS AND ASSOCIATED COMPONENTS SHALL BE PAINTED/TEXTURED TO MATCH THE COLOR OF THE BUILDING.

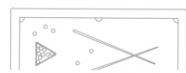
D. DUMPSTER SCREENING WALL REQUIRES A SEPARATE BUILDING PERMIT.

E. SIGNS REQUIRE A SEPARATE BUILDING PERMIT. ANY SIGNS DEPICTED ON THE SUBJECT SITE PLAN/ELEVATIONS ARE NOT APPROVED AS A PART OF THIS REVIEW AND MUST COMPLY WITH ALL APPLICABLE TOWN REGULATIONS.

F. ALL EXTERNAL ELECTRICAL PANELS SHALL BE PAINTED/TEXTURED TO MATCH THE MATERIAL AND COLOR OF THE BUILDING.

EXTERIOR FINISH SCHEDULE	
TAG	ITEM
EXTERIOR WALL FINISHES	
EXT-1	AMARETTO BRICK
EXT-2	ALPINE LEDGESTONE CHARDONNAVY
EXT-3	DOVE GRAY
EXT-4	PLASTER STUCCO
EXT-5	METAL PANEL
EXT-6	STANDING SEAM METAL
EXT-7	ANODIZED ALUMINUM - DARK BRONZE
EXTERIOR PAINT	
P-1	SNOWBOUND
P-2	GRIZZLED GRAY

SHEET TITLE:	
EXTERIOR ELEVATIONS	
SHEET NUMBER:	
A2.0	
PROJECT NUMBER:	
GEF23001	



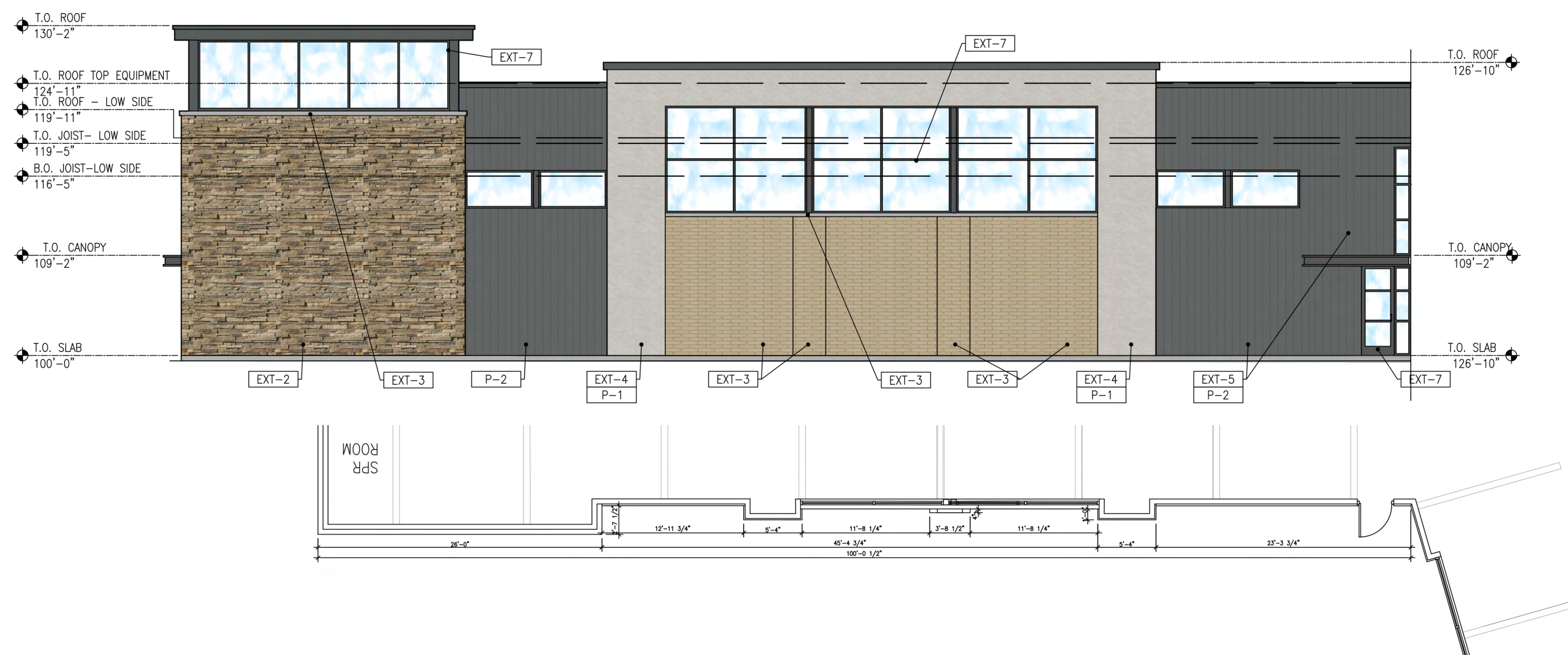
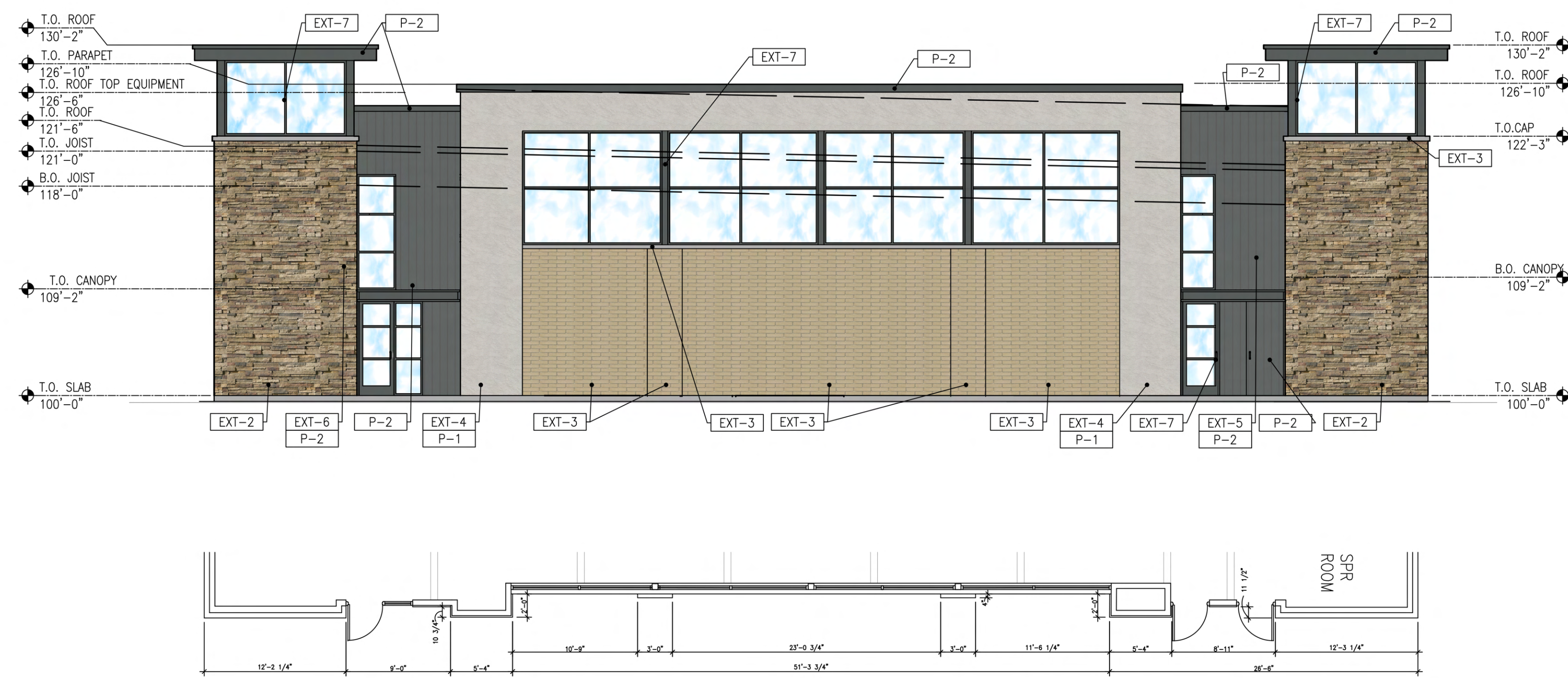
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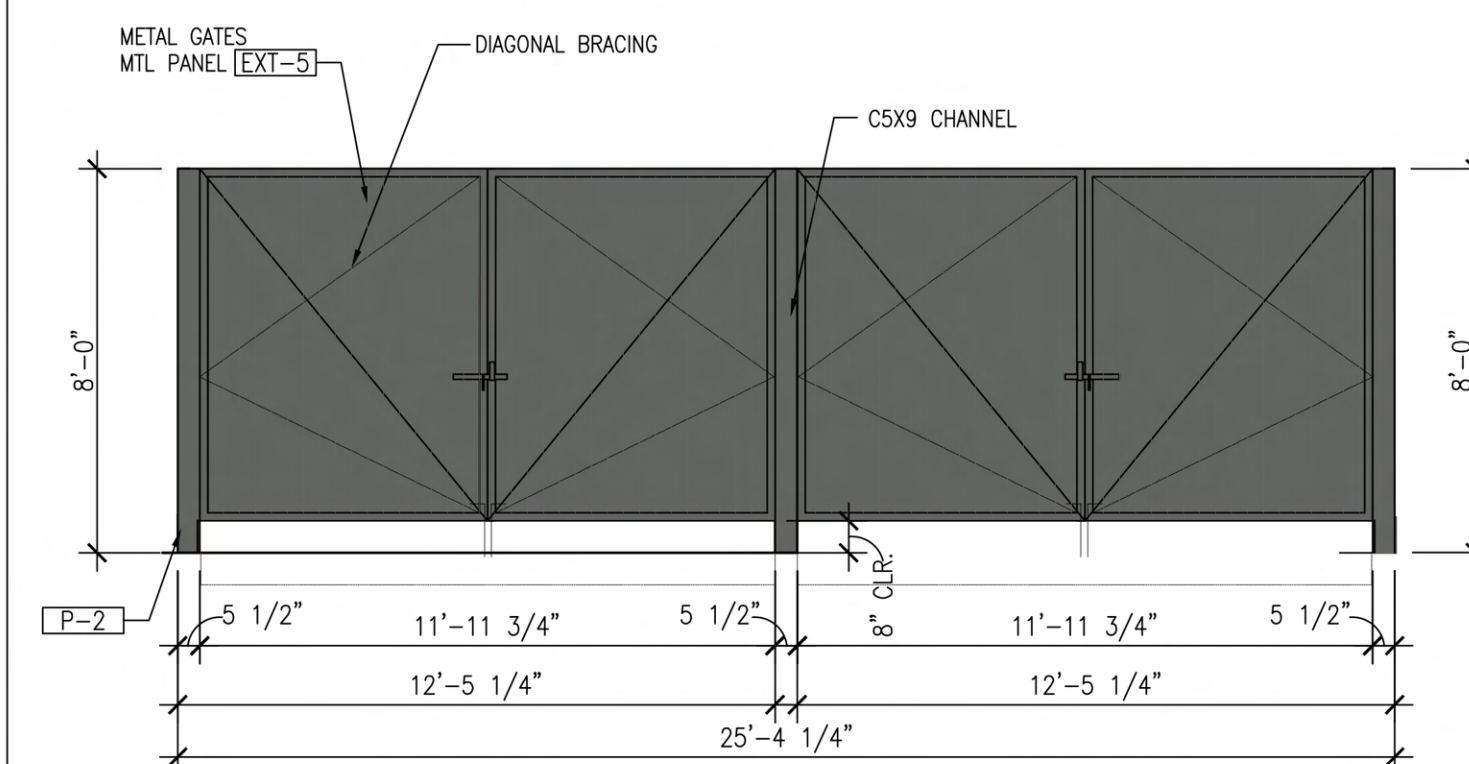
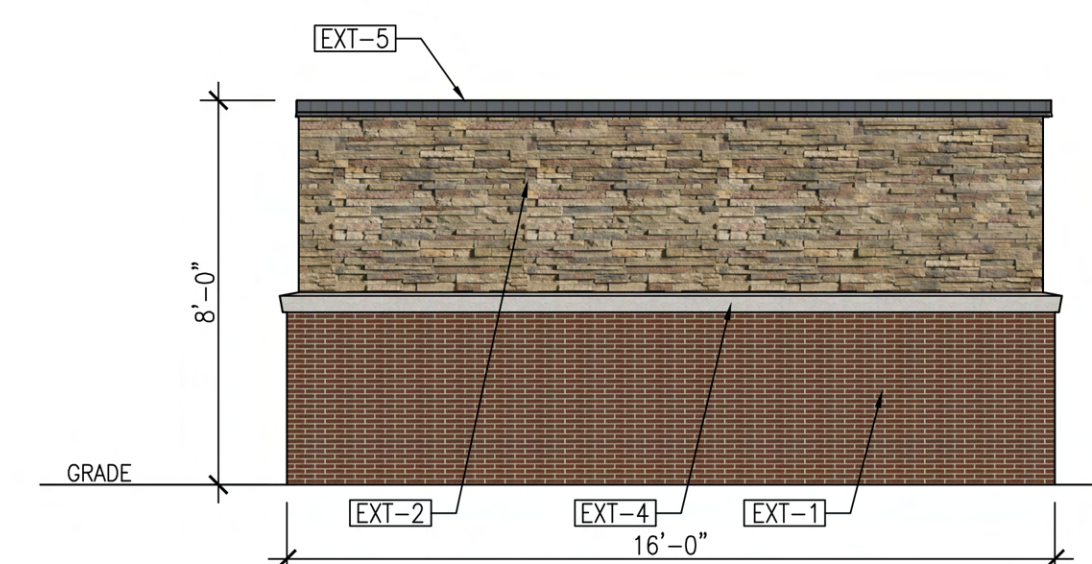
WEST ELEVATION
1/8"=1'-0"



SOUTH ELEVATION
1/8"=1'-0"



		NORTH	SOUTH	EAST	WEST
1	Total Facade S.F.	6702 s.f.	5138 s.f.	6,194 s.f.	6049 s.f.
2	Facade S.F (Exclusive of door and windows)	4584 s.f.	3590 s.f.	3926 s.f.	3896 s.f.
3	Door and Windows S.F.	2118 s.f.	1548 s.f.	2272 s.f.	2153 s.f.
4	Primary Masonry totals (Min. 80%)				
5	Red Sunset Brick S.F.	993 s.f.– 22%	0 s.f. – 0%	377 s.f.–9%	0 s.f. – 0%
6	Stone S.F.	1487 s.f. – 32%	755 s.f. – 21%	1017 s.f.– 26%	1294 s.f.– 33%
7	Dove Gray – Brick S.F.	505 s.f. 11%	1014 s.f.–28%	1258 s.f.– 32%	1231 s.f. – 32%
8	Stucco S.F.	458 s.f. 10%	682 s.f. 19%	905 s.f. 23%	623 s.f. – 16%
9	Metal Panel S.F.	732 s.f. 16%	1166 s.f. 32%	186 s.f. – 5%	748 s.f. – 19%
10	Steel S.F.	410 s.f. 9%	0 s.f. 0%	183 s.f. – 5%	0 s.f. – 0%



EXTERIOR MATERIAL SCHEDULE

PRIMARY MATERIAL	SUPP./MANUF.	SPECIFICATIONS	COLOR	FINISH/NOTES
BRICK (EXT-1)	ACME BRICK	TUP020-103384	AMARETTO	VELOUR TEXTURE
FAUX STONE (EXT-2)	CULTURED STONE-BORAL	ALPINE LEDGESTONE CHARDONNAY	BEIGE & OFF-WHITE, BUFF-S GROUT	-
BRICK (EXT-3)	ACME BRICK	500 COCOA	DOVE GRAY	SMOOTH TEXTURE
STUCCO (EXT-4)	QUIKRETE OR EQ.	5005 SMOOTH	P-1-SW7004 SNOWBOUND	-
METAL PANEL (EXT-5)	BERRIDGE OR EQ.	EXT METAL PANEL	MATCH SW7068	-
STANDING SEAM MTL (EXT-6)	BERRIDGE OR EQ.	EXT METAL PANEL	MATCH SW7068	-
ANODIZED ALUMINUM (EXT-7)	KAWNEER OR EQ.	EXTERIOR	DARK BRONZE	FRAME & DOOR FIN.
PAINT (P-1)	SHERWIN WILLIAMS	EXTERIOR	SW7004 SNOWBOUND	-
PAINT (P-2)	SHERWIN WILLIAMS	EXTERIOR	SW7068 GRIZZLY GRAY	-

- A. ALL RETAINING/RETAINING WALLS, TURN-DOWN CURBS, TREE RETAINING WALLS SHALL BE CLAD IN A MATERIAL TO MATCH THE MATERIALS ON THE MAIN BUILDING.
- B. ALL GROUND BASED HVAC SHALL BE SCREENED WITH LIVE SCREENING OR MASONRY ENCLOSURE. MASONRY ENCLOSURE SHALL BE CLAD IN THE SAME MATERIAL AS THE MAIN BUILDING.
- C. ALL ELECTRICAL PANELS AND ASSOCIATED COMPONENTS SHALL BE PAINTED/TEXTURED TO MATCH THE COLOR OF THE BUILDING.
- D. DUMPSTER SCREENING WALL REQUIRES A SEPARATE BUILDING PERMIT.
- E. SIGNS REQUIRE A SEPARATE BUILDING PERMIT. ANY SIGNS DEPICTED ON THE SUBJECT SITE PLAN/ELEVATIONS ARE NOT APPROVED AS A PART OF THIS REVIEW AND MUST COMPLY WITH ALL APPLICABLE TOWN REGULATIONS.
- F. ALL EXTERNAL ELECTRICAL PANELS SHALL BE PAINTED/TEXTURED TO MATCH THE MATERIAL AND COLOR OF THE BUILDING.

KEY NOTES:

- | | |
|---|--|
| 1 | GLAZING, RE: WINDOW SCHEDULE |
| 2 | SIGNAGE, PERMITTED BY OTHERS |
| 3 | GUTTER AND DOWNSPOUT; PAINT TO MATCH TRIM |
| 4 | ALL ELECTRICAL PANELS, GUTTERS, AND DOWNSPOUTS TO MATCH THE COLOR OF THE BUILDING. |

EXTERIOR FINISH SCHEDULE

TAG	ITEM
EXTERIOR WALL FINISHES	
EXT-1	AMARETTO BRICK
EXT-2	ALPINE LEDGESTONE CHARDONNAY
EXT-3	DOVE GRAY
EXT-4	PLASTER STUCCO
EXT-5	METAL PANEL
EXT-6	STANDING SEAM METAL
EXT-7	ANODIZED ALUMINUM - DARK BRONZE
EXTERIOR PAINT	
P-1	SNOWBOUND
P-2	GRIZZLED GRAY

 **idstudio**
6201 CAMPUS CIRCLE DRIVE E
IRVING, TEXAS 75063
TEL 972.870.1288
WWW.IDSTUDIO4.COM

RATE: _____

L.F. EVERYWHERE
CMAKIN ROAD
ONVILLE, TX 76226
39.9057



10.18.23

**G.O.L.F. EVERYWHERE
FLOWER MOUND, TX**

FM 2499 & ABERDEEN
FLOWER MOUND, TX

CLIENT: G.O.L.F. EVERYWHERE
462 MCMAKIN ROAD
BARTONEVILLE, TX 76226

[illegible]

SHEET TITLE:

EXTERIOR ELEVATIONS

SHEET NUMBER:

A2.1

PROJECT NUMBER:

GEF23001



EXT-1
Acme Brick
Amaretto Brick



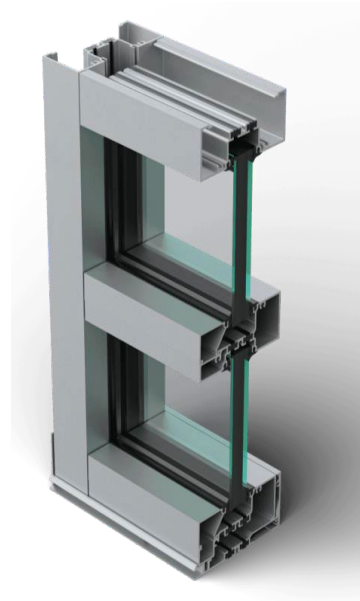
EXT-2
Cultured Stone
Boral Alpine LedgeStone Chardonnay



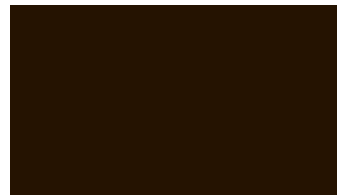
EXT-3
Acme Brick
Dove Gray



EXT-4
Plaster Stucco
Color to match SW7004 Snowbound



EXT-7
Kawneer Storefront Window System
Trifab 451UT Framing System
Color: #40 Dark Bronze



EXT-5 & EXT-6
Standing Seam & Metal Entrance Awning
Color to match P-2



P-2
Sherwin- Williams Paints
SW-7068 Grizzle Gray



TOWN COUNCIL AGENDA K.4. REGULAR ITEM(S)

DATE: December 4, 2023
FROM: Poornima Kashyap, Planning Manager
ITEM: **Public Hearing to consider an ordinance for rezoning (Z20-0005 - The River Walk at Central Park) to amend the development standards for The River Walk at Central Park related to Article II - Uses and Article XI - Signage and to update the Concept Ground Sign Location exhibit. The property is generally located north of Cross Timbers Road, west of Morriss Road, and east of Long Prairie Road. (On Oct 23, 2024, at the request of the applicant, PZ tabled this item to its Nov 13, 2023, meeting by a vote of 6 to 0.) (PZ recommended approval by a vote of 5 to 1 at its Nov 13, 2023, meeting) (*Applicant requests this item be postponed to Dec 18*)**

BACKGROUND:

- Development Size – 158 acres
- Proposed Zoning Amendments
 1. To add Boutique Vendor Market and Food Truck as an accessory use to the River Walk use chart
 2. To allow 15 special events per year
 3. To allow carnival or circus twice a year on the site for three week runs excluding move-in and pack-out
 4. To allow outdoor music as an ancillary use to restaurants
 5. Signage amendments
- SMARTGrowth – N/A
- Traffic Analysis – N/A
- Incentives – N/A
- [Planning and Zoning Commission Staff Report Link](#)

BOARD REVIEW/CITIZEN FEEDBACK: On October 23, 2023, at the request of the applicant, PZ tabled this item to its November 13, 2023, meeting by a vote of 6 to 0. The Planning & Zoning Commission recommended approval by a vote of 5 to 1 at its November 13, 2023, meeting with certain modifications listed below.

- Lease signs be limited to one additional sign per building on block interiors
- LED lighting be used in place of neon and limited to one window sign per property, and not observable from Morriss Road, Cross Timbers Road, and Long Prairie Road
- Limit the total square footage of ground signs to 60 square-feet
- Provision to allow annual review of special event permits and carnival or circus events by the Town Council

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.

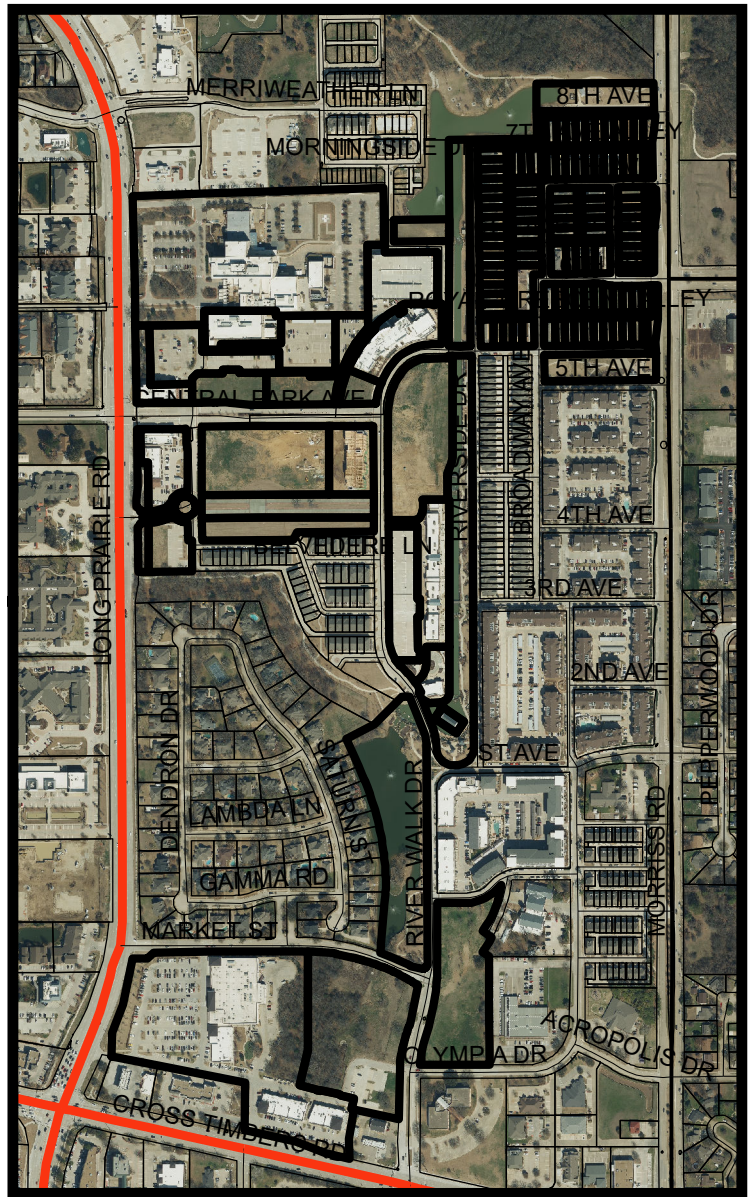
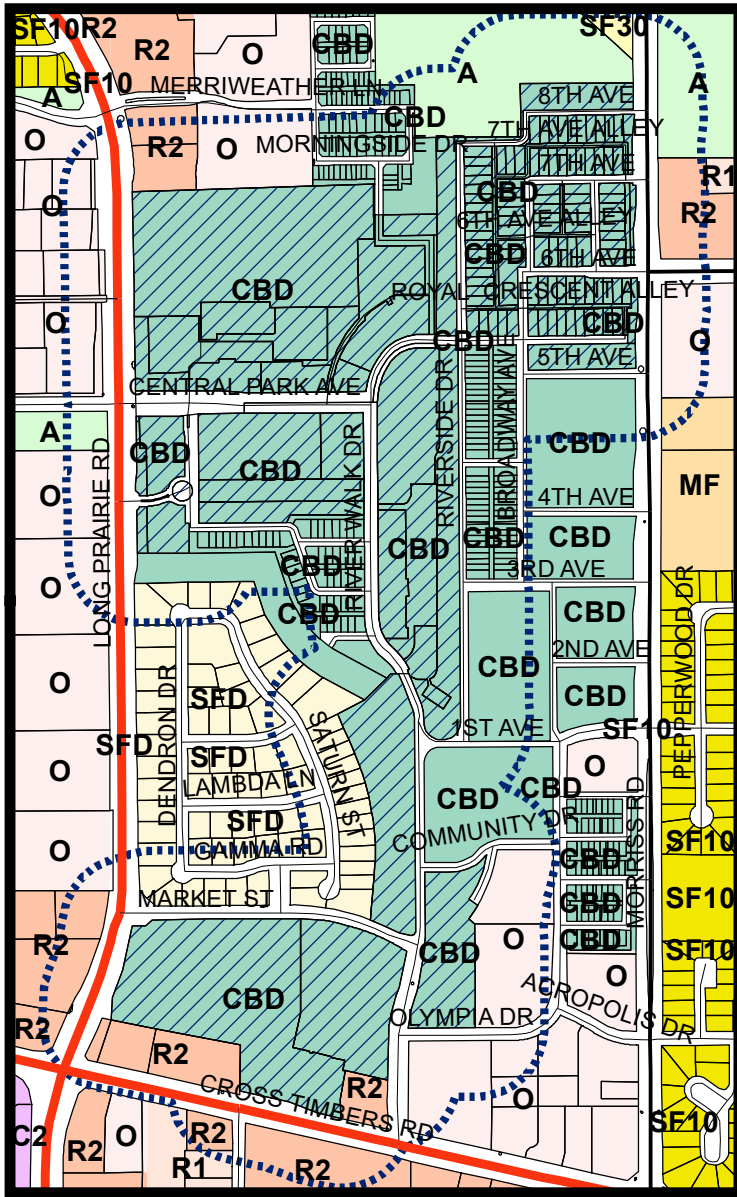
ATTACHMENTS:

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

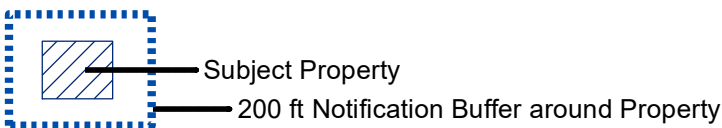
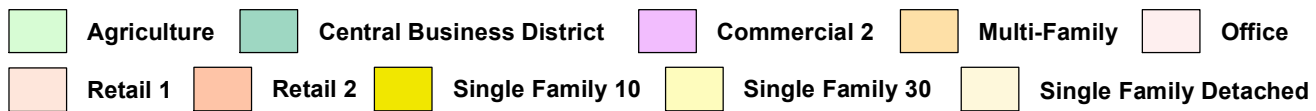
DRAFT MOTION: Move to approve as presented in the agenda caption.

Vicinity Map

Reference Project: Z20-0005

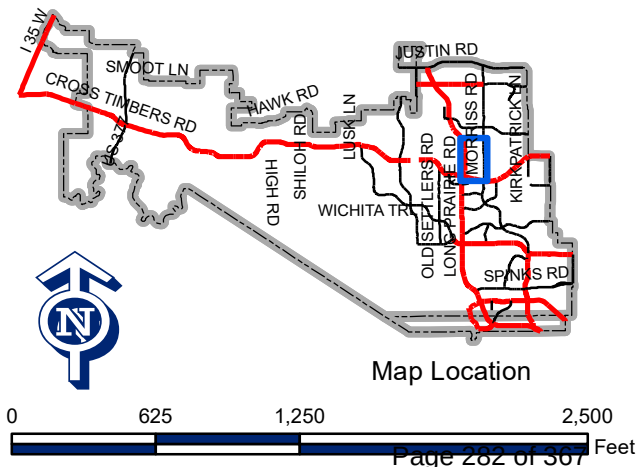


LEGEND



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. 05-15, AS AMENDED (WHICH AMENDED ORDINANCE NO. 46-08 ESTABLISHING THE RIVER WALK AT CENTRAL PARK), BY AMENDING ARTICLE II, "USES," AND REPLACING ARTICLE XI, "SIGNAGE," OF EXHIBIT "A," "DEVELOPMENT STANDARDS AND CONCEPT PLANS"; PROVIDING THIS ORDINANCE SHALL BE CUMULATIVE; 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, 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 the property described as approximately 158.608 acres and being all of The River Walk at Central Park Addition (the "Property") have filed an application for a zoning amendment to amend Ordinance No. 05-15, as amended, which amended Ordinance No. 46-08 establishing The River Walk at Central Park; and,

WHEREAS, the Planning and Zoning Commission of the Town held a public hearing on November 13, 2023, and the Town Council held a public hearing on December 4, 2023, with respect to the proposed zoning amendment as described herein; and,

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

WHEREAS, the Town Council finds that the zoning amendment 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, as amended, are hereby amended on the hereinafter described Property and area as shown below:

158.608 acres of land being all of The River Walk at Central Park Addition, Denton County, Texas.

Article II, "Uses," of Exhibit "A," "Development Standards and Concept Plans," of Ordinance No. 05-15, as amended, is hereby amended to read as indicated in Exhibit "A" attached hereto and incorporated herein.

Article XI, "Signage," of Exhibit "A," "Development Standards and Concept Plans," of Ordinance No. 05-15, as amended, is hereby amended to read as indicated in Exhibit "B" attached hereto and incorporated herein.

SECTION 2

The use of the Property described above shall be subject to all restrictions, terms, and conditions contained herein and in Exhibit "A" attached hereto, as well as the applicable regulations contained in Ordinance Nos. 46-08 and 05-15; 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 of Flower Mound as required by Section 3.07 of the Charter of the Town of Flower Mound.

SECTION 8

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

DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, BY A VOTE OF ____ TO ____, ON THIS THE 4TH DAY OF DECEMBER, 2023.

APPROVED:

Derek France, MAYOR

ORDINANCE NO. _____

Page 4

ATTEST:

Theresa Scott, TOWN SECRETARY

EXHIBIT "A"

ARTICLE II USES

SCHEDULE OF USE REGULATIONS

<u>Use</u>	TC (2.2(i))	CR (2.2(h)), (2.2(i))	CMU (2.2(i))	CRC (2.2(i))
Accessory retail/service uses	P	P	P	P
Accessory use, general, subject to sec. 98-972	P	P	P	P
Amusement and recreation (outdoors)	S			
Amusement and recreation (indoors), subject to sec. 98-973	P	P	P	P
Antique shop	P	P	P	P
Art gallery or handicraft sales	P	P	P	P
Art supply store	P	P	P	P
Artisan hut	P			
Asphalt/concrete batch plant, temporary	S	S	S	S
Assembly hall	S		S	S
Auto leasing or rental	P			
Bakery or confectionery shop, retail	P	P	P	P
Bank or savings and loan	P	P	P	P
Bank or savings and loan with drive-through facility	S	S	S	P
Boardinghouse or roominghouse (2.2(a))	P	P		
Book store or stationery store	P	P	P	P
Bottling works (microbrewery)	P	P	P	P
Boutique Vendor Market, subject to Section 98-1006	P		P	P
Building material sales or storage (indoors)	P		P	P
Building material yard and construction office, temporary	T	T	T	T

<u>Use</u>	TC (2.2(i))	CR (2.2(h)), (2.2(i))	CMU (2.2(i))	CRC (2.2(i))
Carnival or circus, temporary, subject to 2.2(l)	T	T	T	T
Church or rectory	P		P	P
Cleaning/laundry shop, pickup station only	P	P	P	P
College or university	P		P	
Communication tower, commercial, subject to sec. 98-977	S	S	S	S
Community center, public	P	P	P	P
Convenience store	P	P	P	P
Custom personal service	P	P	P	P
Day camp for children	S			
Day care center	S	S	S	S
Drugstore or pharmacy	P	P	P	P
Dwelling, multifamily (including either or both MF Loft and MF Traditional)	P	P	P	
Dwelling, townhome	P	P	P	
Dwelling, single family detached		P		
Electrical energy generating plant	S	S		
Electrical line/substation, high voltage, subject to sec. 98-979	S	S	S	S
Exhibition area or fairgrounds	T	T	T	T
Farmers' market, subject to 2.2(m)	P		P	
Field office, temporary	T	T	T	T
Fire station	P		P	P
Florist	P	P	P	P
Food processing, retail	P	P	P	P
Fraternal club or lodge	P		P	P
Garage sale, subject to sec. 98-982 (2.2(b))		P		
Hardware store	P		P	P
Health club, athletic club	P	P	P	P
Heliport	S			

<u>Use</u>	TC (2.2(i))	CR (2.2(h)), (2.2(i))	CMU (2.2(i))	CRC (2.2(i))
Helistop (2.2(c))	P			
Hospital	P			
Hotel (2.2(d))	P	P	P	
Institution, drug or psychiatric treatment	P			
Laboratory, medical or dental	P		P	P
Laboratory, scientific or research	P			
Lithographic or print shop	P	P	P	P
Live-work unit	P	P	P	
Local utility line	P	P	P	P
Maintenance service	P		P	P
Model home (2.2(e))	P	P	P	
Museum, library or art gallery, public	P	P	P	P
Newsstand	P	P	P	P
Nursing or congregate care facility (2.2(f))	S	S	S	
Off-street parking, accessory	P	P	P	P
Office, general business or professional	P	P	P	P
Office, medical or dental	P	P	P	P
Open space common area	P	P	P	P
Optical sales	P	P	P	P
Parking lot, commercial	P	P	P	P
Parking structure, commercial	P	P	P	P
Parking, podium	P	P	P	
Personal improvement services	P	P	P	P
Pet store, subject to sec. 98-988	P	P	P	P
Plant nursery or garden shop	P	P	P	P
Private franchise utility	S	S	S	S
Public building, shop or yard	P	P	P	P
Recreation center	P	P	P	P

<u>Use</u>	TC (2.2(i))	CR (2.2(h)), (2.2(i))	CMU (2.2(i))	CRC (2.2(i))
Recreational equipment rental	P	P	P	
Recycling drop-off center, subject to sec. 98-990	S	S	S	S
Refreshment Stand or Food Truck, Accessory, subject to Sec-98-991	P		P	P
Repair services, limited	P	P	P	P
Restaurant, general (indoors), subject to 2.2(m)	P	P	P	P
Restaurant, fast food	P		P	P
Restaurant, fast food with drive-through facility	S	S	S	P
Restaurant Row, subject to 2.2(m)	P			
Retail, general (indoors)	P	P	P	P
Retail, single tenant	P	P	P	P
Sales, temporary or seasonal, subject to sec. 98-992	T		T	T
Sales trailer, temporary, subject to sec. 98-993 (2.2(g))	T	T	T	
School, business	P		P	
School, commercial trade	P		P	
School, elementary or secondary	P	P	P	
Sewage pump station	P	P	P	P
Special event, temporary, subject to 2.2(n)	T	T	T	T
Sporting goods sales	P	P	P	P
Stadium or playfield, public	S	S	S	
Studio, television or radio	P		P	
Supermarket (2.2 (k))	P		P	P
Swimming pool, private, subject to sec. 98-996	P	P	P	
Swimming pool, public	P		P	
Telephone equipment station	P	P	P	P
Theater	P		P	P

<u>Use</u>	TC (2.2(i))	CR (2.2(h)), (2.2(i))	CMU (2.2(i))	CRC (2.2(i))
Tool rental (domestic equipment)	P			P
Town hall	P		P	
Transmission pipeline, subject to sec. 98-997	P	S	S	S
Transportation stop	S	S	S	S
Travel bureau or consultant	P	P	P	P
Veterinary hospital (indoor pens), subject to sec. 98-998	P		S	P
Water well, storage or pump station (2.2(j))	P	P	P	P
Wine retail establishment	P	P	P	P

2.2 Special Use Conditions. The conditions in this section apply to the listed uses when referenced in the Schedule of Use Regulations or elsewhere in these Development Standards.

* * *

(l) Carnival or circus, temporary use. A carnival or circus, temporary use is subject to the provisions of Sec. 98-976 except for paragraph 11. The use is allowed twice per calendar year on the site, for three-week runs excluding move-in and pack-out. This use shall not constitute a special event, temporary for the purpose of calculating the maximum permitted special events, temporary pursuant to section 2.2(n). Upon the first anniversary of the effective date of Ordinance No. xxx, this use will be permitted only to the extent authorized by Section 98-976, and any property owner(s) seeking to operate this use as permitted by Ordinance No. xxx must submit a new application for a zoning amendment reauthorizing the deviations from Section 98-976 provided herein.

(m) Outside music. Outside music may be used as an ancillary use to Restaurant General, Restaurant Row, and Farmers' Market uses. Outside music may be played subject to Article III, "Noise Control," of Chapter 34, "Environment," of the Flower Mound Code. Music shall not be played past 10:00 PM. The music setup shall not impede pedestrian circulation and accessible routes.

(n) Special event, temporary. Up to 15 special events, temporary shall be allowed per calendar year within the development subject to Section 98-976 of the Flower Mound Code. The permit must be additionally authorized by the River Walk

Property Owners Association, and proof of such authorization must be submitted with any application required by Section 98-976. Upon the first anniversary of the effective date of Ordinance No. xxx, this use will be permitted only to the extent authorized by Section 98-976, and any property owner(s) seeking to operate this use as permitted by Ordinance No. xxx must submit a new application for a zoning amendment reauthorizing the deviations from Section 98-976 provided herein.

* * *

ARTICLE XI
SIGNAGE

11.1 General

- (a). Chapter 86 of the Code of Ordinances. Signage in The River Walk CBD shall comply with Chapter 86 of the Code of Ordinances, as in effect on the date of this Ordinance, except as amended, modified or excluded in this Article XI.
- (b). Purpose and Intent. The intent and purpose of Development Standards for signage at The River Walk CBD are not to encourage the maximum signage permitted but, rather, to allow flexibility for more variety of sign types and locations. The following drawing depicts the usage of various types of signs permitted by these Development Standards, including but not limited to a building identification wall sign, a tenant identification wall sign, banner signs, an awning sign, a canopy sign, a blade sign and window signs.



- (c). Permitted Signs. All signs and outdoor advertising displays permitted under Chapter 86 of the Code of Ordinances, as of the date of this Ordinance, shall be permitted in The River Walk CBD, and the following types of signs shall also be permitted in The River Walk CBD:
- (i) Marquees, subject to Section 11.2 (f) hereof;
 - (ii) Waterfront signage, subject to Section 11.2 (g) hereof;
 - (iii) Awning signs, subject to Section 11.3 (d) hereof;
 - (iv) Canopy signs, subject to Section 11.3 (f) hereof;
 - (v) Banner signs, subject to Section 11.3(g) hereof;
 - (vi) Blade signs, subject to Section 11.3(h) hereof;
 - (vii) Sandwich board signs, subject to Section 11.3(i), hereof;
 - (viii) Umbrella signs, subject to Section 11.3(j) hereof;

- (ix) Promenade Terminus Signage, subject to Section 11.2 (h) hereof;
- (x) Picture Spot Signage, subject to Section 11.3 (k) hereof;
- (xi) Wall Murals, subject to Section 11.3 (l) hereof; and
- (xii) Electronic/digital signs, subject to 11.3 (n) hereof.

(d). Signs Permits.

- (i) For all signs that require a permit, a copy of the permit shall be maintained on premises and be available for viewing during normal business hours.
- (ii) Sec. 86-63 shall apply to directional signs in The River Walk CBD, except that the sign area may be up to twelve (12) square feet and the height of the sign may be up to five feet six inches (5' 6").
- (iii) Sec. 86-64 shall apply to menu signs in The River Walk CBD. Further, no permit shall be required for signs within storefronts or adjacent to the entrance for a restaurant that display the establishment's menu, provided that such signs do not exceed four (4) square feet in sign area and are located no higher than six feet (6') above the adjacent grade or floor elevation.

- (e). Abandoned Signs and Removed Message. Sec. 86-7 shall apply to signs in The River Walk CBD, except that (i) an abandoned sign need not be removed until the lapse of ninety (90) days after abandonment and (ii) the period for replacing a removed message or removing the shell of a sign shall be one hundred eighty (180) days after the removal of the message. Placement of "for lease," "for rent" or comparable signage in the sign shell shall be effective to replace the message.

11.2 Regulations Pertaining To Certain Uses

(a). Multifamily and Mixed Use Buildings.

- (i) Multifamily buildings with eight (8) residential units or more and mixed use buildings shall be permitted one (1) sign for identification purposes for each side of the building ~~facing a street~~, which sign shall be of the following types: (i) ~~building identification~~ ground sign; (ii) building identification wall sign; (iii) blade sign; (iv) awning sign; (v) window sign or (vi) canopy sign.
- (ii) A multifamily or mixed use building with residential use shall be permitted one (1) "for lease" wall sign with a maximum sign area of nine (9) square feet on each side of the building that faces a street, or Block Interior.
- (iii) For multifamily and mixed use buildings with nonresidential ground floor uses with exterior access, clauses (i) and (ii) of this subsection (a) shall apply to the building, and Section 11.2(c) hereof shall also apply so as to permit the signs thereunder in addition to the signs permitted under this Section 11.2(a).
- (iv) Following is an example of a blade sign used for identification of a multifamily building, with a first-floor restaurant identified by a canopy sign:



(b). Nonresidential Buildings with Multi-Tenant Interior Access.

- (i) A nonresidential building with multi-tenant interior access shall be permitted one (1) sign for identification purposes for each side of the building, which signs shall be of the following types: (i) building identification wall sign; (ii) blade sign; (iii) awning sign; (iv) window sign and (v) canopy sign.
- (ii) For identification of interior tenants, one (1) wall sign shall be permitted per building wall with street or private drive frontage, and one additional sign shall be allowed for a side of the building with a public entrance facing a Block Interior. The aggregate of all signs must comply with the maximum allowable sign area specified in Section 11.2 (c) (iii).

- (iii) Sec. 86-68(2)(b) shall apply to directory signs, except that it will be permitted that such directory signs are visible from any street, private drive, Block Interior or sidewalk. Following is an example of a directory sign:



- (iv) For multistory buildings with interior tenants on upper floors, window signs and awning signs shall be permitted, in lieu of signs permitted in clause (ii) of this Section 11.2(b), to identify upper story tenants, subject to Sections 11.3(c) and (d), respectively, of these Development Standards. Following is an example of a wall sign identifying a ground-floor retail tenant and a wall sign identifying an upper floor tenant with interior access:



- (v) For multistory, nonresidential buildings with interior tenants on upper floors and tenants with exterior access on the ground floor, the regulations in this Section 11.2(b) shall apply to the building and interior tenants, and Section 11.2(c) shall apply to tenants on the ground floor .
- (vi) Real estate signs advertising the sale, lease or rental of a nonresidential building shall be permitted on each side of the building that faces a street.

(c). Buildings with Tenants with Exterior Access.

- (i) Section 11.2(a) of these Development Standards shall apply to signs identifying buildings with nonresidential uses that have exterior access.
- (ii) Tenants with exterior access shall be permitted the following types of signs for their identification: (i) wall signs; (ii) blade signs; (iii) awning signs; (iv) canopy signs; (v) window signs; and (v) banner signs.
- (iii) A combination of sign types may be used, with the sum of the areas of all signs attached to the building not to exceed the maximum area of signage permitted per length of the building wall with street frontage occupied by a tenant. The maximum allowable area shall be determined using the following table, by multiplying maximum width by maximum height.

MAXIMUM ALLOWABLE SIGN AREA

Lineal Footage of the Building Wall (occupied by the tenant)	Maximum Sign Width	Maximum Sign Height
Less than 20 feet	80 percent of lineal footage	36 inches
20 feet up to 25 feet	75 percent of lineal footage	42 inches
25 feet up to 35 feet	70 percent of lineal footage	48 inches
35 feet up to 45 feet	65 percent of lineal footage	54 inches
45 feet up to 60 feet	60 percent of lineal footage	60 inches
60 feet or more	55 percent of lineal footage	72 inches

Example of signage for a tenant with exterior access, using a variety of signs including a wall sign, a window sign, a blade sign and a sandwich board:



- (iv) A corner or end tenant may utilize the maximum area permitted on two (2) walls. A sign may be located at the corner, but the area of the corner sign will be counted against the maximum area of signage permitted for one of the walls. Following is an example of signage for a corner tenant:



- (v) The area of window signs shall not be included in the maximum area of signage permitted in clause (iii) of this subsection (c) but shall be limited by the regulations in Section 11.3(c) of these Development Standards.
- (vi) Blade signs less than nine (9) square feet in area will not count against the maximum area of signage permitted. This provision is to encourage the use of blade signs that are pedestrian-friendly.
- (vii) For a tenant entrance from a Block Break or Block Interior, two (2) of the sign types permitted in clause (iii) of this subsection (c) shall be permitted, the area of which may not exceed fifty percent (50%) of the maximum area permitted in clause (iii) of this subsection (c).
- (viii) One (1) portable sandwich board sign shall be permitted per tenant in addition to the signage permitted in this subsection (c).
- (ix) For restaurants, in addition to the signage permitted in this subsection (c), a menu board sign shall be permitted according to the standards set forth in Section 11.3(i) of these Development Standards. For food service uses with outdoor seating areas, umbrella signs shall be permitted in addition to the signage permitted in this subsection (c).
- (x) Real estate signs advertising the sale, lease or rental of a nonresidential building shall be permitted on each side of the building that faces a street.

(d). Nonresidential Buildings (other).

- (i) The provisions of this subsection (d) shall apply to buildings in The River Walk CBD that do not fall into the categories of buildings described in subsections (a) through (c) above, including, without limitation, hotels and theaters.
- (ii) For identification of the building, a maximum of three (3) signs shall be permitted for each side of the building facing a street, which signs shall be of the following types: (i) building identification wall sign; (ii) ground sign (for a maximum of one per street frontage); (iii) blade sign; (iv) awning sign; (v) window sign; or (vi) canopy sign. One (1) additional sign of the listed types shall be permitted for each entrance to the building located along a Block Break or at the Block Interior. Following is an example of a wall sign for identification of a retail tenant at the Block Interior:



- (iii) For nonresidential buildings (other) with tenants with exterior access on the ground floor, the regulations in this Section 11.2(d) shall apply to the building and interior tenants, and Section 11.2(c) shall apply to tenants on the ground floor.
- (iv) Real estate signs advertising the sale, lease or rental of a nonresidential building shall be permitted on each side of the building that faces a street.

(e). Hospital Signage.

- (i) A hospital in The River Walk CBD shall be permitted signage at its main entry driveway, its emergency entry driveway and at Central Park Avenue that meets the requirements of applicable federal and state laws for the hospital itself, its emergency room and other facilities, including, without limitation, these signs:
 - (1) A maximum of three (3) building identification ground signs to be located along Long Prairie Road (FM 2499) at the main entry driveway and the emergency entry driveway.

- (2) A maximum of four (4) additional ground signs as directional signs within the site.
- (3) A maximum of two (2) signs shall be permitted for each side of the building with a public entrance, which signs shall be of the following types: wall signs, building identification wall signs, canopy signs, awning signs or blade signs.
- (ii) A medical office building adjacent and attached to the hospital building shall be permitted signs according to Section 11.2(b) hereof.
- (iii) Figure XI-A is an example of sign locations permitted for the hospital, such signs being of the following type: items 1-2, building identification ground signs; items 3-6, directional ground signs; items 7-8, building identification signs for medical office building; items 9-10, wall signs identifying the emergency room.

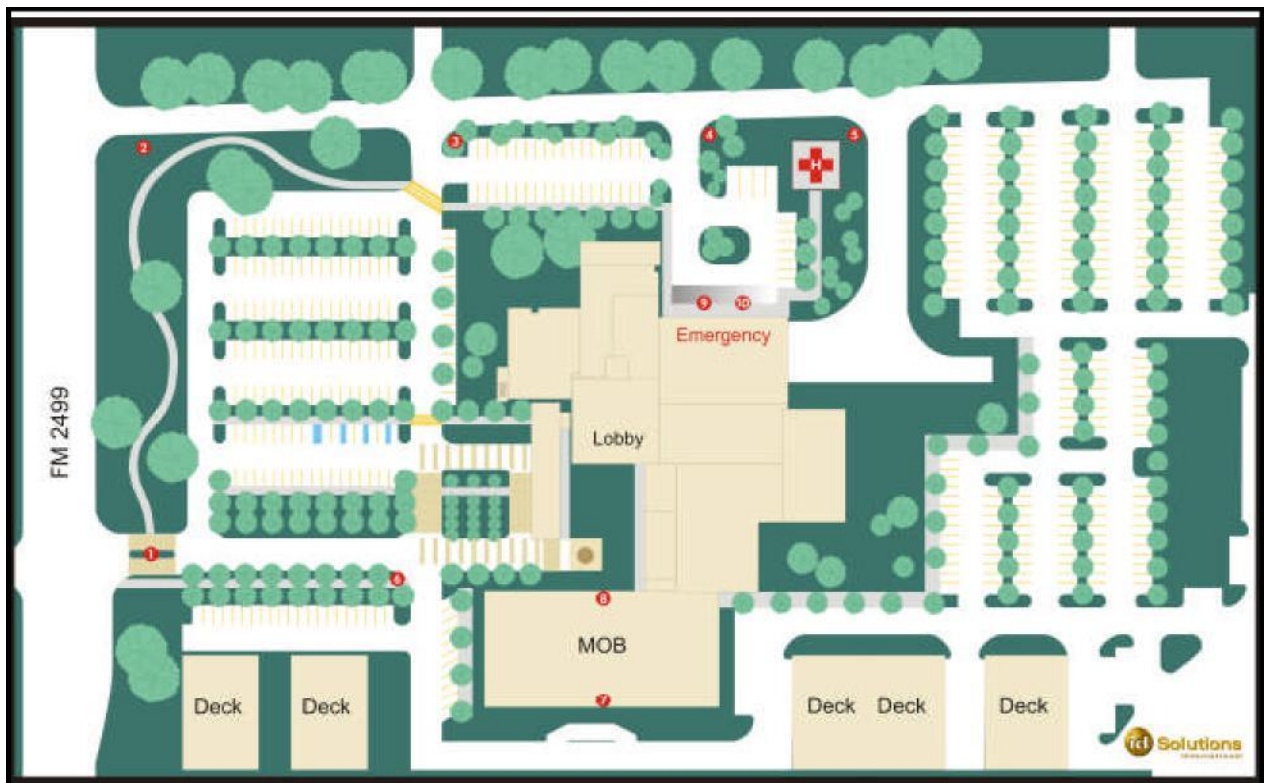


Figure XI-A

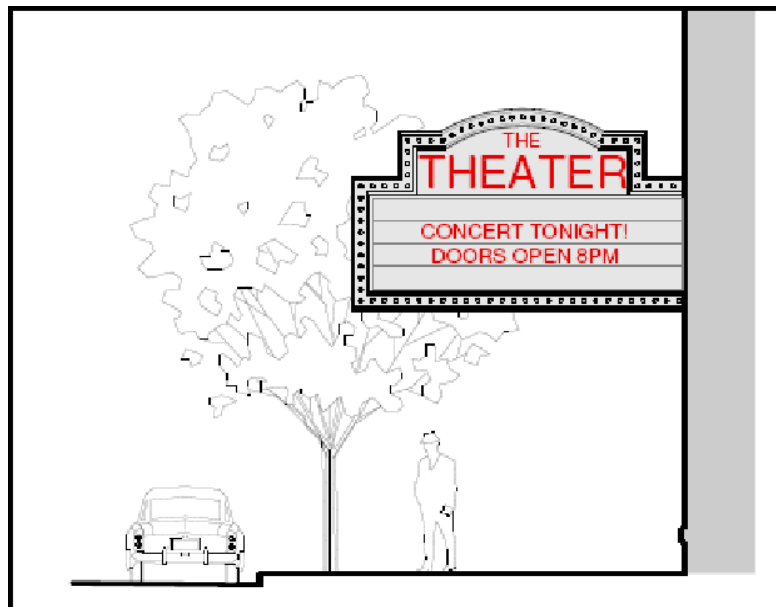
Subject to the foregoing, such signage shall comply with these Development Standards, including, without limitation, the design principles and standards for signage.

- (iv) Without limitation of clause (i) of this subsection (e) and in addition to the signage permitted thereunder, if the hospital's site is adjacent to Long Prairie Road (FM 2499), signage shall be permitted to be affixed to the principal hospital building, notwithstanding the buffer required by Section 5.1 of these Development Standards
- (f). Marquee Signage.
 - (i) Hotel or Theater Marquee Signage.

- (1) A marquee sign may be used to identify hotels or theatres. Following is an example of a marquee sign identifying a theatre:



- (2) The following drawing depicts a marquee sign:



- (3) The regulations for a marquee sign shall be as follows:
- a) The total area of all signs on the marquee shall not exceed the maximum area of signage permitted in Section 11.2(c)(iii) hereof.
 - b) Maximum height of letters identifying the tenant or building shall be limited to twenty-four inches (24").

- c) Maximum height of letters identifying information on reader boards shall not exceed twelve inches (12").
 - d) Marquee signs may be illuminated by unshielded light sources above fifteen (15) watts, but not in excess of seventy-five (75) watts. Blinking, flashing, or scrolling lights shall not be permitted on marquees.
 - e) The design of a marquee sign shall be consistent with the design of the building, to which it will be affixed.
 - f) Marque sign shall have a vertical clearance of at least 10 feet above the sidewalk.
- (ii) Central Park Marquee Signage.
- (1) A Central Park marquee sign identifying the development with no advertising may be permitted on the building located at the southeastern corner of Central Park and Long Prairie Road. The maximum height shall be 27' and the maximum width shall be 2'6".
 - (2) Central Park marquee sign shall comply with regulations 11.2(f)(i)3.(b-f) except that illumination shall be internal.



(g). Ground Signage

- (i) Development Ground Signage.
 - (1) A sign identifying the development and businesses is permitted at the locations shown on the Ground Sign Locations map. The maximum height shall be 10 feet and the maximum width shall be 10 feet, however the total square

footage of any one side of the sign shall not exceed 60 square feet. Following is an example of a Multi-Tenant sign:



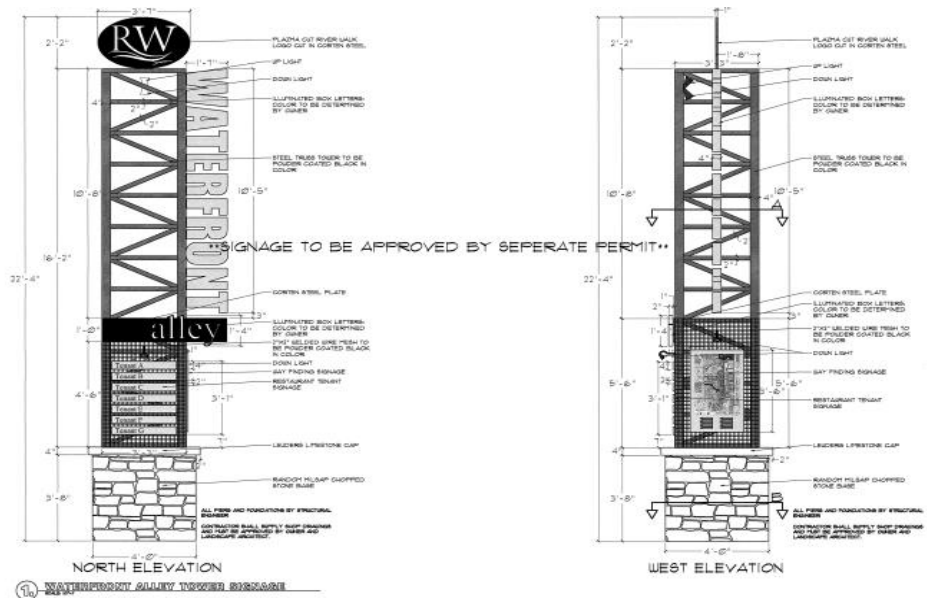
- (ii) Ground Signs. The following shall apply to ground signs in The River Walk CBD:
- (1) A complex comprised of more than one building, with exterior or interior access, shall be permitted one (1) ground sign per building.
 - (2) A multifamily building or a mixed use building with eight (8) or more residential units shall be permitted a ground sign for identifying the building and its address. Following is an example of a ground sign identifying a multifamily building:



- (3) Ground signs shall have no setback requirements provided that they may not be placed on any sidewalk and that they will not be within a visibility clip/triangle.
- (4) Except as otherwise shown on Figure XI-D in Section 11.2(h) hereof, ground signs shall be placed at least thirty feet (30') apart.
- (5) Ground signs are not required to have a masonry border.

(iii) Waterfront Signage.

- (1) A sign identifying the development with restaurant names may be permitted at the southern end of the Waterfront. The maximum height shall be 25 feet and the maximum width shall be 10 feet. The sign will be internally illuminated for the 'Waterfront' and 'alley' portions of the signs. A external light will illuminate the 'RW' portion of the sign and at the top of the tenant signs. Following is a Waterfront sign:



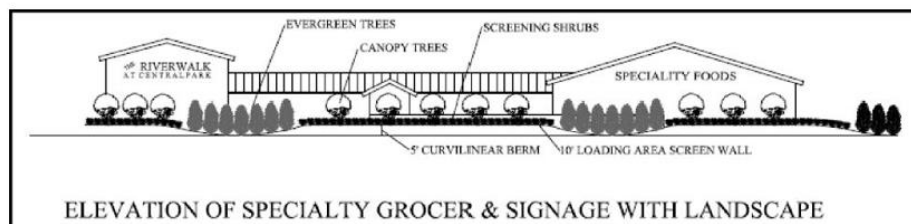
(iv) Promenade Terminus Sign.

- (1) A sign identifying the development with no advertising may be permitted at the eastern end of the Promenade. The maximum height shall be 24 feet and the maximum width shall be 35 feet.
- (2) The base support of the sign shall include masonry materials. The sign face and posts may be metal and may have internally illuminated lettering.
- (3) Sign colors shall be similar to shown below.



- (h). Traffic Signage. The developer shall pay the costs of purchasing and installing traffic signs at each street intersection, which traffic signs and posts shall comply with the design principles and standards for signage set out in these Development Standards and the standards set out in the Texas Manual on Uniform Traffic Control Devices (TMUTCD). Traffic signs and posts shall be of the same types throughout The River Walk CBD but need not be of the same type as used throughout the Town. Traffic signs that do not conform to the type of traffic signs used throughout the Town shall be perpetually maintained by the property-owners' association.
- (i). Rear of Supermarket. If the rear of any supermarket in the CRC Community Retail Center subdistrict faces Long Prairie Road (FM 2499), signage shall be permitted to be affixed to the rear of the supermarket, notwithstanding the buffer required by Section 5.1 of these Development Standards, as shown on Figure XI-B following:

Figure XI-B



- (j). Signage for the CBD Itself. The following signs may be installed by owners and/or developers in The River Walk CBD:

- (i) Ground signs, complying with the design principles and standards for signage set out in these Development Standards, generally at the locations shown on the Concept Plan Ground Sign Locations included in Exhibit C to this Ordinance; ground signs for the CBD can be located in the medians of public streets as shown on Exhibit C and can be located within 20 feet of the property line, so long as the ground sign does not obstruct the stopping sight distance at an intersection;
- (ii) Ground signs used as project directory signs located throughout The River Walk CBD, which signs may have a listing of tenants and map on one side and a changeable message on the other;
- (iii) Banner signs attached to light poles within The River Walk CBD and on light poles along Long Prairie Road (FM 2499), Cross Timbers Road (FM 1171) and Morriss Road and within twenty-five feet (25') of the proposed Hospital Drive, Central Park Avenue, Market Street (Euclid Avenue), Riverwalk Drive, Park Avenue, 1st Avenue, 2nd Avenue, 3rd Avenue, 4th Avenue, 5th Avenue, 6th Avenue or 7th Avenue, subject to Section 11.3(g) of these Development Standards; and
- (iv) The signs set out above will be perpetually maintained by the property owners association.

11.3 Regulations Pertaining to Certain Types Of Signs.

- (a). Off-Premises Signs; Directional Signs. Off-premises signs shall be permitted to advertise developments and businesses within The River Walk CBD, as permitted by Article XI Signage and the ground sign location exhibit.
- (b). Wall Signs. Mixed use buildings that have exterior access to more than two (2) office and/or retail tenants shall be permitted more than two (2) wall signs for tenant identification, provided that the sum of the areas of all wall signs is within the maximum area of signage permitted in Section 11.2(c)(iii) hereof. The following drawing depicts multiple wall signs used for tenant identification:



(c). Window Signs.

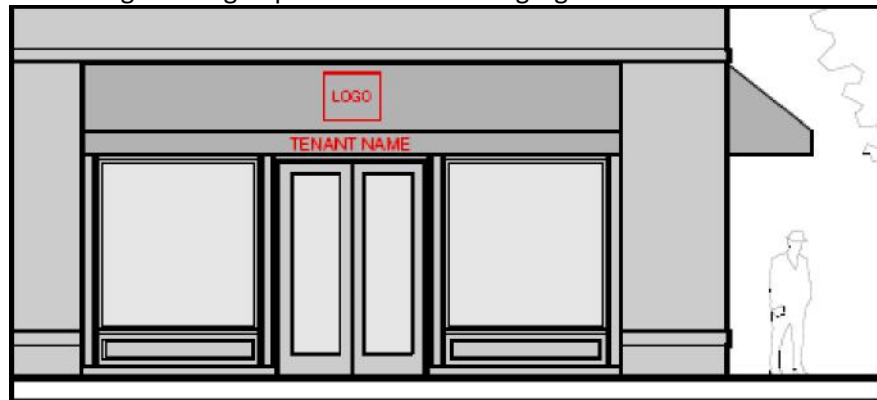
(i) The following drawing depicts various window signs:



(ii) The area of window signs shall be limited to a maximum of twenty percent (20%) of the glass area per opening. This requirement applies only to those signs that are permanently fixed in the window area and does not prevent the use of temporary signs in the window area. Following is an example of the use of window signs:



- (iii) Electronic reader board signs and video display signs shall be permitted as interior signs and shall be counted in the maximum area allowed set forth in clause (ii) of this subsection (c). Other types of blinking, flashing or moving signs shall not be allowed as window signs.
 - (iv) LED signs are allowed as window signs. These signs will count towards the standards set forth in (ii) above. The LED window signs shall be limited to one (1) sign per property and shall not be visible from Long Prairie Road, Morriss Road or Cross Timbers Road.
- (d). Awning Signs. Awning signs shall be permitted in accordance with Section 11.2 of these Development Standards, subject to the following:
- (i) The following drawing depicts a tenant awning sign:



- (ii) The maximum height of lettering of an awning sign placed on the valance (vertical face) shall not exceed eight inches (8").
- (iii) One (1) logo per awning shall be permitted to be centered on the slope portion or primary face of the awning.
- (iv) The total sign area for an awning shall not exceed fifty percent (50%) percent of the exterior surface area of the awning.

- (v) There shall be no limitation on the typefaces that can be utilized for awning signs. Following is an example of an awning sign:



(e). Building Identification Wall Signs.

- (i) Multi-building complexes and single buildings shall be allowed one building identification wall sign per each side of a building.
- (ii) Sec.86-68(b)(4) of the Code of Ordinances shall apply to building identification wall signs in The River Walk CBD.
- (iii) Following is an example of a building identification wall sign:



- (f). Canopy Signs. Canopy signs shall be permitted in accordance with Section 11.2 of these Development Standards, subject to the following:
- (i) The following drawing depicts a canopy sign:



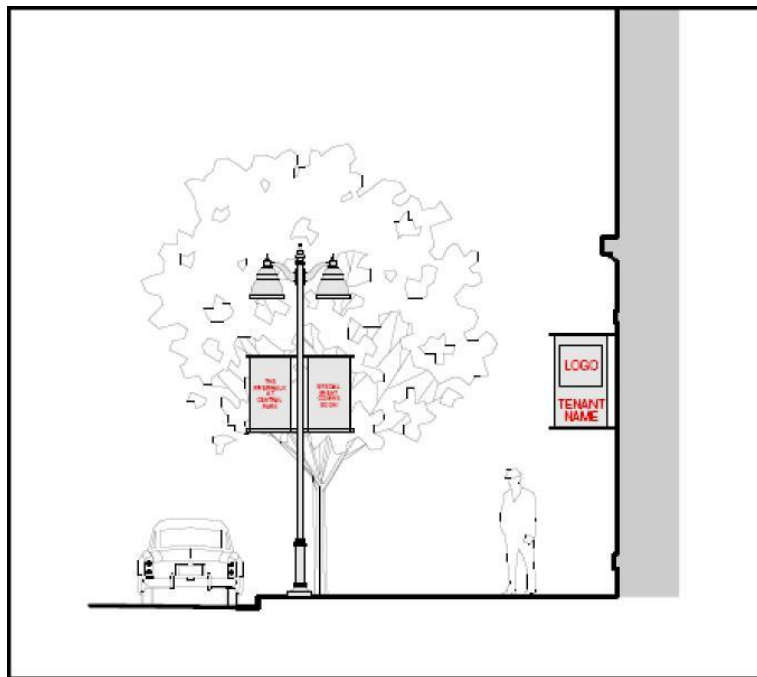
- (ii) The maximum height of lettering of a canopy sign placed within a face of the canopy shall not exceed twelve inches (12”).
- (iii) The maximum height of lettering of a canopy sign supported above the canopy shall be eighteen inches (18”). The following drawing depicts a tenant canopy sign supported above the canopy:



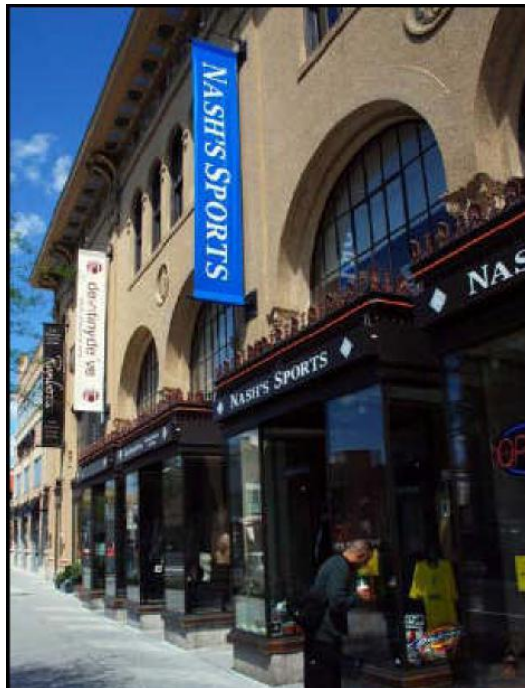
- (iv) Following is an example of a canopy sign used for building identification:



- (g). Banner Signs. Banner signs shall be permitted to be attached to buildings or light poles, subject to the following:
- (i) The following drawings depicts various banner signs:



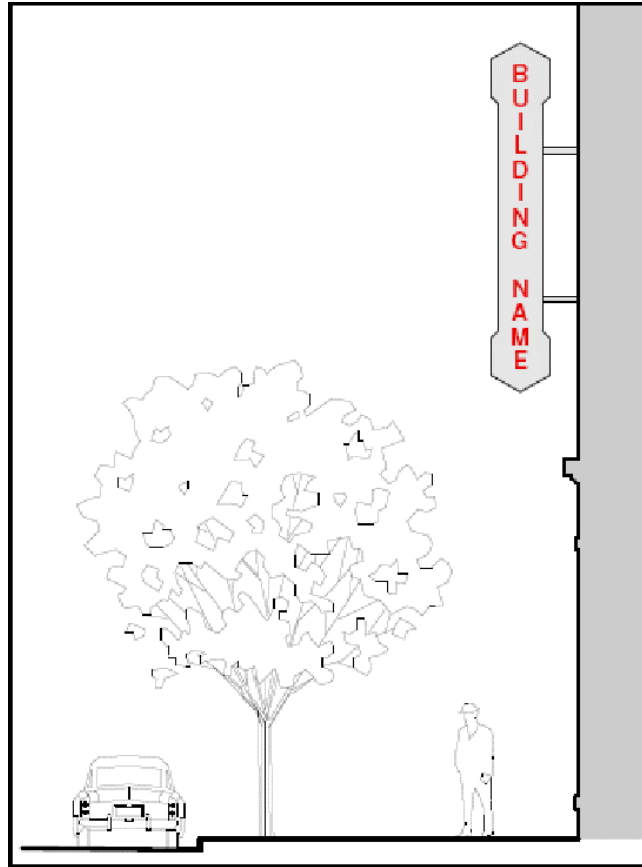
- (ii) For signs that are attached to a building and that identify a tenant, the maximum area permitted is sixteen (16) square feet per face. The maximum height or width of lettering shall be twelve inches (12").
- (iii) For signs attached to light poles, the maximum area permitted shall be nine (9) square feet per face. The maximum height or width of lettering shall be eight inches (8").
- (iv) For banner signs identifying a tenant, the area of one face shall be included in the maximum area of signage permitted in Section 11.2(c)(iii) hereof. Following is an example of the use of banner signs used to identify tenants:



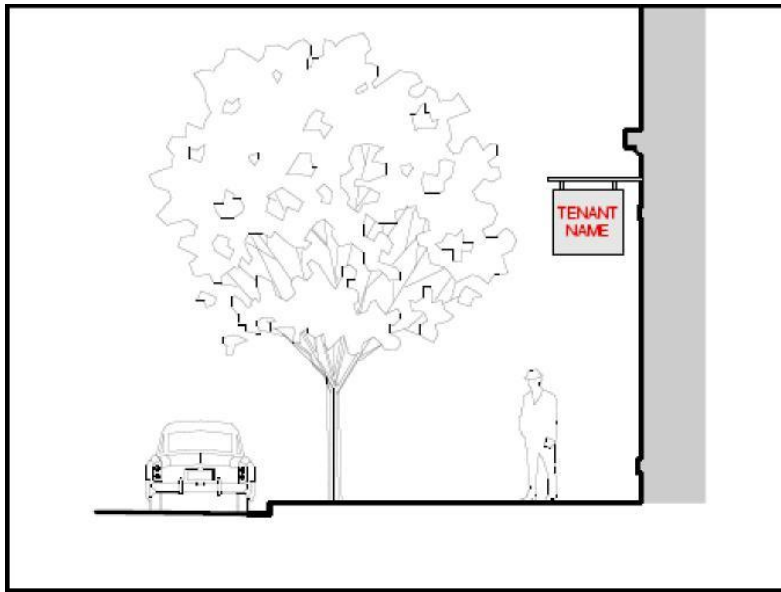
- (v) Banner signs must be made of a suitable material to withstand weather and have the same image on both sides.
- (vi) Banner signs must be supported by projecting poles at the top and bottom of the sign so as to prevent excessive movement caused by wind.
- (vii) Banner signs attached to light poles may be retail banners which identify retail tenants, district banners which identify the neighborhood or district in which it is located, special event or public announcement banners which identify events or pertain to matters occurring in or with regard to The River Walk CBD or seasonal banners which identify general seasons or holidays. Following is an example of a banner sign identifying a neighborhood:



- (viii) Sec. 86-107 shall not apply to banner signs pertaining to events or matters occurring in or with regard to The River Walk CBD or general seasons or holidays.
- (h). Blade Signs. Blade signs shall be permitted in accordance with Section 11.2 of these Development Standards, subject to the following:
 - (i) The following drawing and example depict a blade sign identifying a building:



The following drawing depicts a blade sign identifying a tenant:



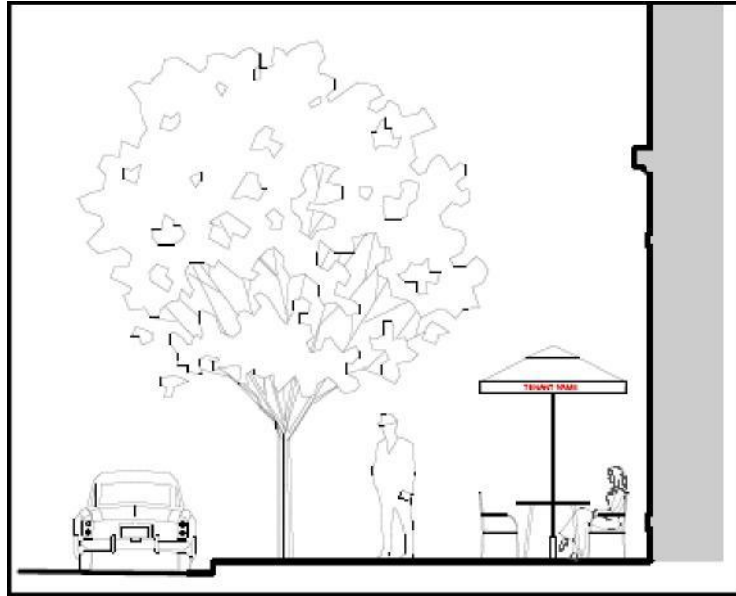
- (ii) For blade signs identifying a building two (2) stories or more, the maximum area permitted shall be forty (40) square feet per face. The maximum height or width of lettering shall be eighteen inches (18").
 - (iii) For blade signs identifying a tenant or one (1) story building, the maximum area permitted is sixteen (16) square feet per face.
 - (iv) For blade signs identifying a tenant, one face shall be included in the maximum area of signage permitted in Section 11.2(c)(iii) hereof.
 - (v) Sign supports shall not be counted in the area of the sign.
- (i). Sandwich Board Signs. Sandwich board signs shall be permitted for retail uses in accordance with Section 11.2 of these Development Standards, subject to the following:
- (i) The following drawing depicts a sandwich board sign:



- (ii) The maximum size for a sandwich board sign shall be three and one-half feet (3.5') in height by two and one-half feet (2.5') in width.
- (iii) A sandwich board sign shall be located near the entrance to business that it advertises and must not impede pedestrian traffic.
- (iv) Sandwich board signs must be professionally made, be constructed of durable materials and be sufficiently weighted to prevent movement by wind or other elements.
- (v) Sandwich board signs cannot be permanently attached to any object or the ground.
- (vi) All sandwich board signs must be moved indoors during times of heavy rain or high winds and after business hours.
- (vii) A sandwich board sign must be uncluttered, with a minimum of text. Logos and graphics are encouraged.
- (viii) Following is an example of a sandwich board sign for a restaurant, with umbrella signs:



- (j). Umbrella Signs. Umbrella signs shall be permitted for retail uses in accordance with Section 11.2 of these Development Standards, subject to the following:
 - (i) The following drawing depicts an umbrella sign:



- (ii) The maximum height of lettering on umbrella signs shall be twelve inches (12").
- (iii) The area of all signage on an umbrella sign shall not exceed four (4) square feet per face or a total of sixteen (16) square feet.

(k). Picture Spot Signage.

- (i) A sign identifying the development with no advertising may be permitted within the development for taking pictures. The maximum height shall be 10 feet and the maximum width shall be 50 feet. These signs require approval of a zoning amendment by the Town Council showing the location and design. Following is an example of a Picture Spot sign:



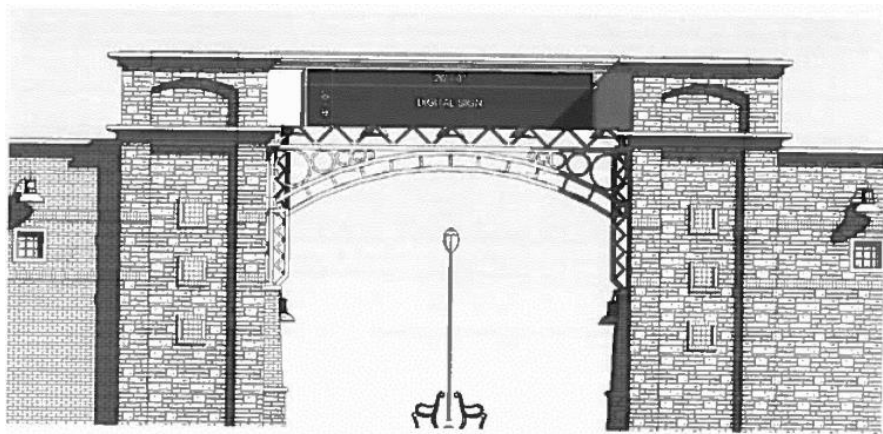
(l). Wall Murals.

- (i) Wall Murals. Wall murals without advertising may be permitted on non-residential buildings. These signs require approval of a zoning amendment by the Town Council showing the location and design. The following depicts a wall mural:



- (m). Sign Illumination. The light source shall be continuous and uninterrupted so as not to be flashing.

- (n). Electronic/ Digital Signs. Electronic or digital signs may be permitted for restaurant row and the amphitheater. Each sign shall not exceed 80 square feet in size. There shall be no more than two (2) electronic signs at restaurant row and one (1) electronic sign for the amphitheater.



11.4 Temporary Signs.

- (a). Sec. 86-74(b)(2) of the Code of Ordinances shall apply to signs in The River Walk CBD advertising the sale, lease, or rental of nonresidential buildings, except that no more than one (1) sign shall be permitted per property for each street frontage.
- (b). Sec. 86-74(b)(4) of the Code of Ordinances shall apply to on-premises development or project signs in The River Walk CBD, except that one (1) sign shall be permitted for tracts

containing up to five (5) acres and that additional signs shall be permitted for each additional five (5) acres comprising the tracts up to a maximum of two (2) signs per each arterial or collector street frontage. Further, signs may be erected before a record plat has been approved for the project or for the first phase, if development is to be a multiphase project.

- (c). Sec. 86-74(b)(6) of the Code of Ordinances shall apply to model home signs in The River Walk CBD, except that one (1) sign advertising a model home shall be permitted per builder or developer in the subdivision and that, for multifamily buildings, one (1) sign advertising a model unit shall be permitted per building.
- (d). Sec. 86-74(b)(8) of the Code of Ordinances shall apply to “coming soon” or “now open signs” in The River Walk CBD, except that (i) one (1) sign per street frontage shall be permitted for each business; (ii) one (1) additional sign shall be permitted for businesses with entrances at the Block Interior; (iii) such signs shall be limited to a maximum sign area of twenty (20) square feet for buildings or for tenant space of less than 50,000 square feet; and (iv) the maximum sign area shall be fifty (50) square feet for buildings or for tenant space of 50,000 square feet or more.



TOWN COUNCIL AGENDA K.5. REGULAR ITEM(S)

DATE: December 4, 2023
FROM: Poornima Kashyap, Planning Manager
ITEM: **Public Hearing to consider an ordinance for rezoning (Z23-0002 - The River Walk at Central Park, Promenade Way) to amend the development standards for The River Walk at Central Park related to Article II - Uses to propose standards for Extended Stay Hotel and to update the conceptual plan exhibits. The property is generally located north of Cross Timbers Road, west of Morriss Road, and east of Long Prairie Road. (PZ recommended approval by a vote of 4 to 2 at its Nov 13, 2023, meeting.)**
(Applicant requests this item be postponed to Dec 18)

BACKGROUND:

- Development Size – 158 acres
- Proposed Zoning Amendments
 1. To add Extended Stay Hotel to the River Walk use chart and to comply with the Town's extended stay hotel regulations except for the density standard.
 2. To allow increase in building height from approved one/two and three stories to five stories for buildings located within the Promenade area (area located to the east of Esplanade Place, south of Central Park Drive, north of Promenade Way, and west of Home2Suites)
- SMARTGrowth – N/A
- Traffic Analysis – N/A
- Incentives – None requested
- [Planning and Zoning Commission Staff Report Link](#)

BOARD REVIEW/CITIZEN FEEDBACK: The Planning & Zoning Commission recommended approval by a vote of 4 to 2 at its November 13, 2023, meeting with certain modifications as listed below.

- The density of rental units for the proposed extended stay hotel shall be limited to 105 units/hotel.
- No more than two extended stay hotels shall be permitted within the River Walk development.
- The height of the extended stay hotel shall be limited to 4-stories.

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.

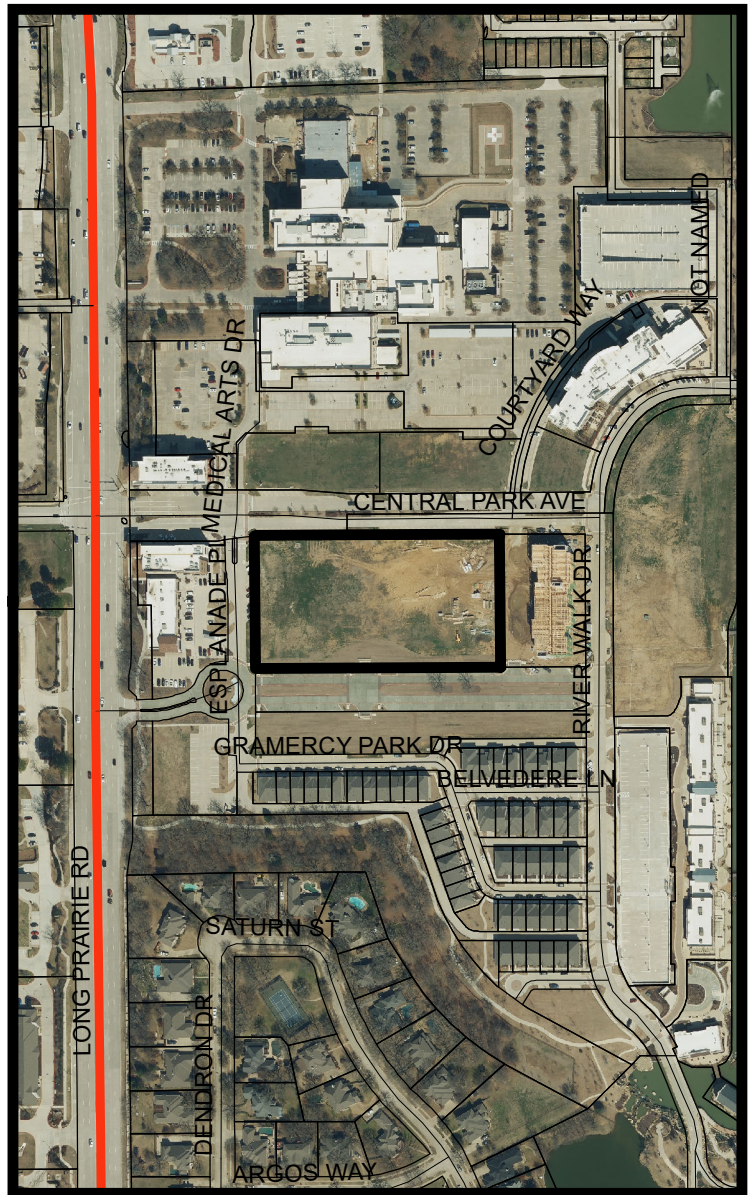
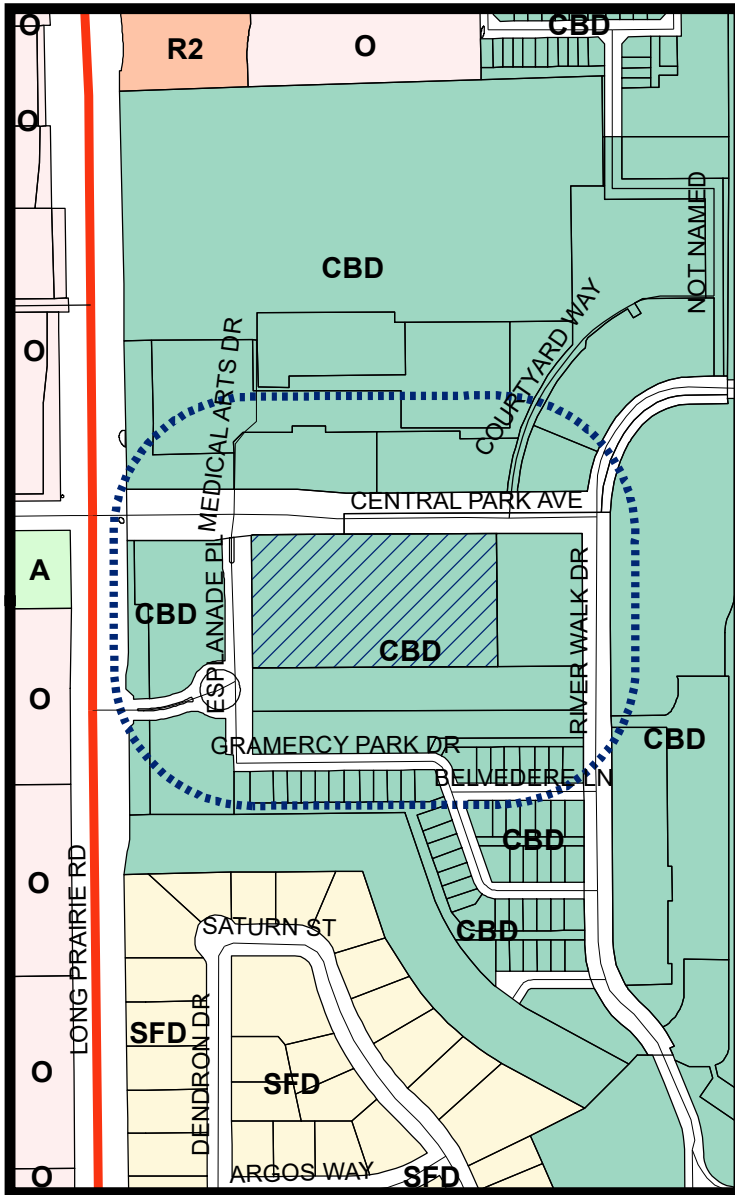
ATTACHMENTS:

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

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

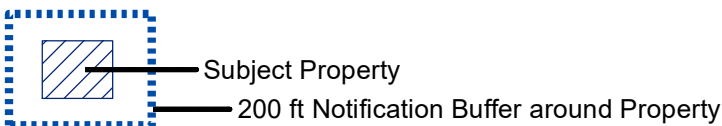
Vicinity Map

Z23-0002 - River Walk Promenade



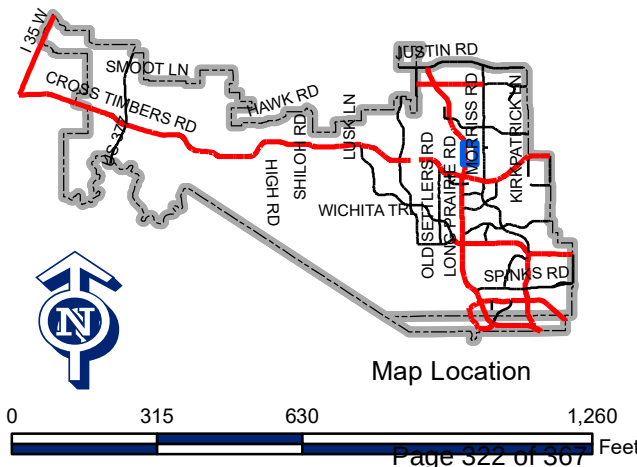
LEGEND

- Agriculture
- Central Business District
- Office
- Retail 2
- Single Family Detached



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. 05-15, AS AMENDED, (WHICH AMENDED ORDINANCE NO. 46-08 ESTABLISHING THE RIVER WALK AT CENTRAL PARK) BY AMENDING ARTICLE II, "USES," OF EXHIBIT "A," DEVELOPMENT STANDARDS AND CONCEPT PLANS," BY ADDING "EXTENDED STAY HOTEL" AS A PERMITTED USE WITHIN THE TOWN CENTER OR TC SUBDISTRICT, AND BY AMENDING EXHIBIT C, "CONCEPT PLANS – THE RIVER WALK AT CENTRAL PARK," BY REPLACING THE CONCEPT LAND USE PLAN AND CONCEPT BUILDING HEIGHTS; PROVIDING THIS ORDINANCE SHALL BE CUMULATIVE; 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, 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 the property described as approximately 3.51 acres of land and being all of Lot 3, Block A of The River Walk at Central Park Addition (the "Property") has filed an application for a zoning amendment to amend Ordinance No. 05-15, as amended, which amended Ordinance No. 46-08 establishing The River Walk at Central Park; and,

WHEREAS, the Planning and Zoning Commission of the Town held a public hearing on November 13, 2023, and the Town Council held a public hearing on December 4, 2023, with respect to the proposed zoning amendment as described herein; and,

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

WHEREAS, the Town Council finds that the zoning amendment 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:

3.51 acres of land and being all of Lot 3, Block A of The River Walk at Central Park Addition, Denton County, Texas.

Article II, "Uses," of Exhibit "A," "Development Standards and Concept Plans," of Ordinance No. 05-15, as amended, is hereby amended by adding "Extended Stay Hotel" as a permitted use only within the Town Center or TC subdistrict, inserted alphabetically as indicated on Exhibit "A," attached hereto and incorporated herein.

Exhibit "C," "Concept Plans – The River Walk at Central Park," of Ordinance No. 05-15, as amended, is hereby amended by replacing the "Concept Land Use Plan" and "Concept Building Heights" with the Concept Land Use Plan and Concept Building Heights contained in Exhibit "B," attached hereto and incorporated herein.

The following exhibits shall be supplied by the applicant prior to finalizing this ordinance and attached as exhibits to this ordinance.

- Concept Sub-district Plan
- Concept Plan - Streets
- Concept Plan - Buffers
- Concept Plan - open Space, Common Areas, and Trails Plan
- Concept Plan - Parking

SECTION 2

The use of the property described above shall be subject to all restrictions, terms and conditions contained herein and in Exhibit "A" and Exhibit "B" attached hereto, as well as the applicable regulations contained in Ordinance Nos. 46-08 and 05-15, as amended; 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 of Flower Mound as required by Section 3.07 of the Charter of the Town of Flower Mound.

SECTION 8

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

DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, BY A VOTE OF ____ TO ____, ON THIS THE 4TH DAY OF DECEMBER, 2023.

APPROVED:

Derek France, MAYOR

ATTEST:

Theresa Scott, TOWN SECRETARY

EXHIBIT "A"

SCHEDULE OF USE REGULATIONS

<u>Use</u>	TC (2.2(i))	CR (2.2(h)), (2.2(i))	CMU (2.2(i))	CRC (2.2(i))
* * *				
Extended Stay Hotel (subject to 2.2.(d.1))	P			
* * *				

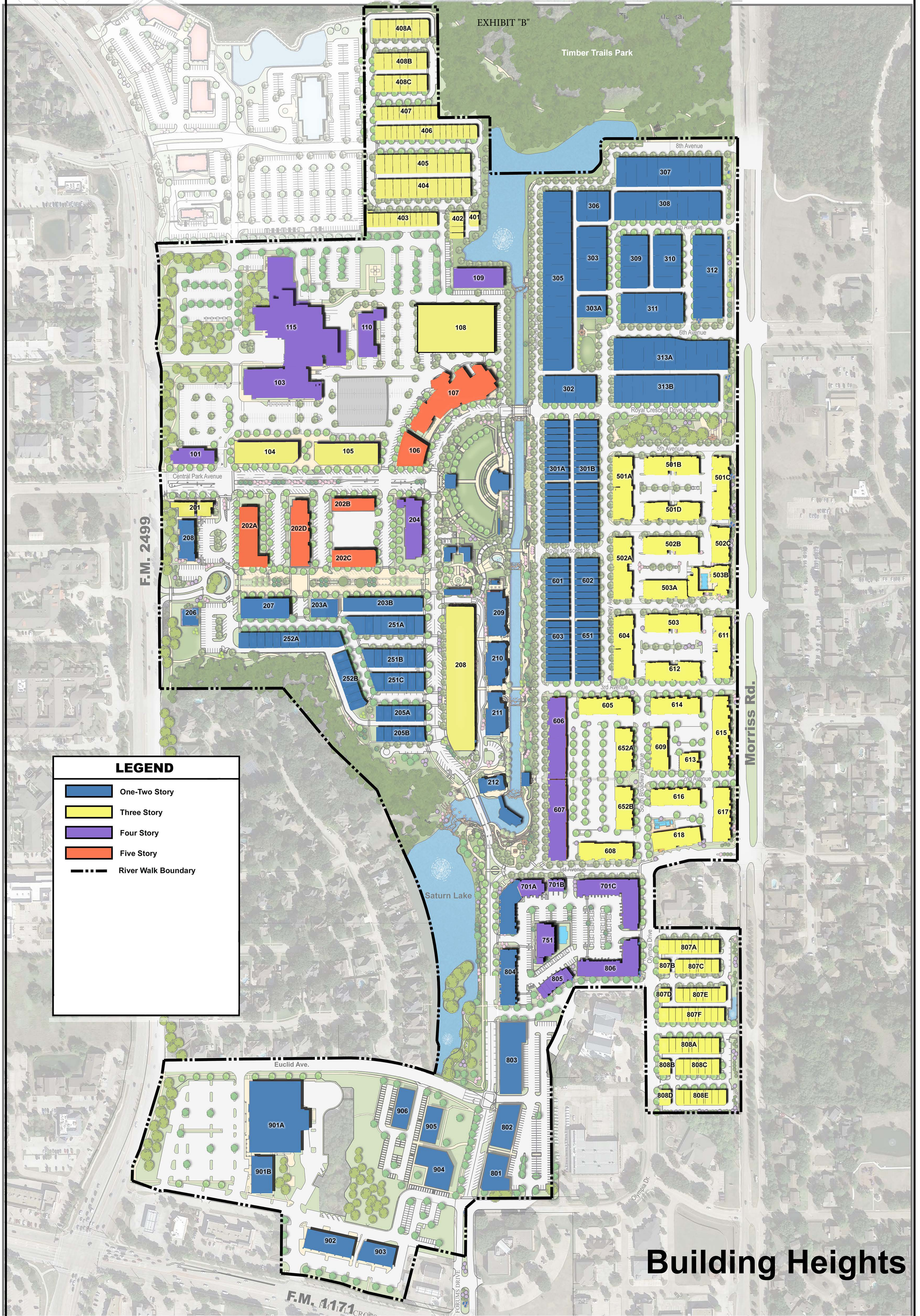
2.2 Special Use Conditions.

* * *

(d.1) Extended Stay Hotels shall comply with the provisions of Section 98-1003, Hotel or motel, and Section 98-1004, extended stay hotel, subject to the following conditions:

- (1) The density of rental units shall be limited to 105 units per hotel.
- (2) No more than two (2) extended stay hotels shall be permitted within the River Walk development.
- (3) The height of any extended stay hotel shall be limited to a maximum of four (4) stories.

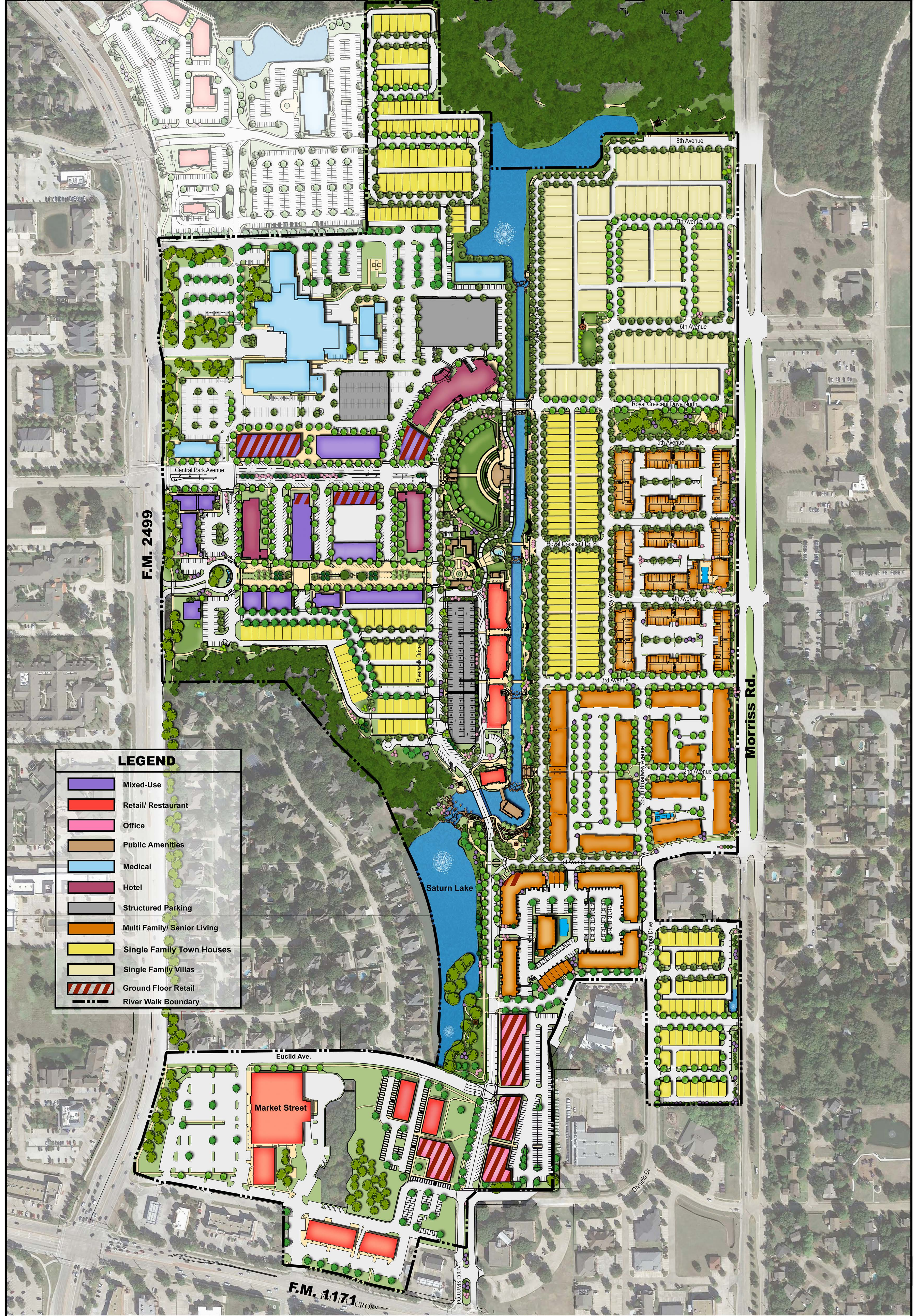
* * *



LEGEND

- One-Two Story
- Three Story
- Four Story
- Five Story
- River Walk Boundary

Building Heights



LEGEND

- Mixed-Use
- Retail/ Restaurant
- Office
- Public Amenities
- Medical
- Hotel
- Structured Parking
- Multi Family/ Senior Living
- Single Family Town Houses
- Single Family Villas
- Ground Floor Retail
- River Walk Boundary

Concept Land Use Plan
River Walk at Central Park

Town of Flower Mound
Denton County, Texas

150 0 150 300 450 Feet N

The John R. McAdams
Company, Inc.
111 Hillside Drive
Lewisville, Texas 75057
972.436.9712
201 Country View Drive
Roanoke, Texas 75262
840.240.1112
www.mcadamsco.com

Job No. MRW-20000 Date: June 2, 2023 By: LH
M:\Projects\MRW\Investors\MRW-20000\Drawings\Exhibit\Overall River Walk Rendering\2020-05-01 Updated CAD Work.dwg
This concept plan is intended for conceptual developmental use and shall not be
interpreted as an official or submitted document. All aerial and map images
were obtained from best available information. This plan is subject to change.



TOWN COUNCIL AGENDA K.6. REGULAR ITEM(S)

DATE: December 4, 2023

FROM: Paul Henley, Fire Chief

ITEM: **Consider approval of the purchase of a Pierce Aerial Fire Apparatus from Siddons Martin, through BuyBoard Contract #651-21, in the total amount of \$1,483,301.30 ; and authorization for the Mayor to execute same on behalf of the Town.**

BACKGROUND: The Fire and Emergency Services Department has a 2017 Pierce Wildland Pumper (63000-05) that is approved for replacement under the FY23/24 vehicle equipment replacement fund (VERF). This unit is requested to be replaced with a Pierce Custom Enforcer Aerial Quint which is needed in the Suppression fleet. The Quint will be purchased from Siddons Martin through BuyBoard Contract #651-21 in the amount of \$1,473,550.00 (includes a \$1,500 BuyBoard fee). A mobile router and radios will be purchased for the emergency apparatus from other vendors in the amount of \$9,751.30 for a full purchase price of \$1,483,301.30. This request is in accordance with the Fleet Department's recommendation.

Vehicle Price: \$1,472,050.00

Communication Equipment: \$ 9,751.30

BuyBoard: \$ 1,500.00

Total: \$1,483,301.30

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES: N/A

FISCAL IMPACT: \$1,483,301.30

Proposed Expenditure/(Revenue)

\$1,473,550.00

\$ 9,751.30

Account Number(s):

565-450-84500-6130

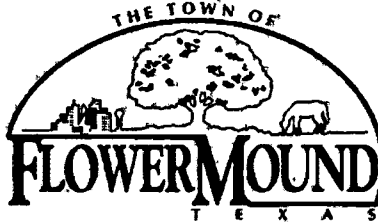
100-660-63000-6130

LEGAL REVIEW: N/A

ATTACHMENTS:

1. Bid Award Recommendation 63000-05
2. Siddons Proposal -Quote SMEG-0005769-2
3. BuyBoard Worksheet 63000-05
4. Cradlepoint Quote #QT0103654
5. Motorola Quote #2327278

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



Bid Award Recommendation

Date: 11/7/2023 – VERF – FY23-24

Description: **New Pierce Custom Enforcer 107' Aerial Quint W/Equipment**

Qty.: 1

Replaces: 63000-05, a 2017 Pierce Wildland Pumper – Fire

Bidder: Siddons Martin Emergency Group, LLC. Contact Travis Ownby, 817-454-5394
townby@siddons-martin.com

Item: 1 – Pierce Custom Enforcer Aerial 107' Quint Fire Rescue Vehicle with options and equipment as defined in proposal detail report provided with Siddons Martin BuyBoard Cooperative quote SMEG-0005769-2 and BuyBoard contract worksheet.

Total Cost of Vehicles, Equipment & Installation:

Vehicle Total – \$1,473,550.00

It is Fleet Services recommendation to award the bid to **Siddons Martin Emergency Group, LLC** in the amount of **\$1,473,550.00** utilizing the **BuyBoard Cooperative Contract # 651-21.**

Fleet Services Manager

11/7/2023

Date

Siddons Martin Emergency Group, LLC
3500 Shelby Lane
Denton, TX 76207
GDN P115891
TXDOT MVD No. A115890



September 18, 2023

Paul Henley, Chief
FLOWER MOUND FIRE DEPARTMENT
3911 S BROADWAY AVE
FLOWER MOUND, TX 75028

Proposal For: 107 Enforcer Quint BMP

Siddons-Martin Emergency Group, LLC is pleased to provide the following proposal to FLOWER MOUND FIRE DEPARTMENT. Unit will comply with all specifications attached and made a part of this proposal. Total price includes delivery FOB FLOWER MOUND FIRE DEPARTMENT and training on operation and use of the apparatus.

Description	Amount
Qty. 1 - 1123 - Pierce-Custom Enforcer Aerial - 107' (Unit Price - \$1,611,157.00) Delivery within 32-33 months of order date QUOTE # - SMEG-0005769-2	
	Vehicle Price \$1,611,157.00
	Full Prepay Discount (\$139,107.00)
	1123 - UNIT TOTAL \$1,472,050.00
	SUB TOTAL \$1,472,050.00
	BuyBoard 651-21 (FIRE) \$1,500.00
	TOTAL \$1,473,550.00

Price guaranteed until COB October 30, 2023. Line slots adjust daily based on order intake. Delivery dates can vary based on orders as they are received. To remain in the BMP program, very minimal to no changes will be accepted after order. (Shelves/trays, internal compartment design, etc are acceptable). Major engineering changes can result in exclusion from the BMP program and increase the build time.

Additional: Due to global supply chain constraints, any delivery date contained herein is a good faith estimate as of the date of this order/contract, and merely an approximation based on current information. Delivery updates will be made available, and a final firm delivery date will be provided as soon as possible.

Persistent Inflationary Environment Notification: If the Producer Price Index of Components for Manufacturing [www.bls.gov Series ID: WPUID6112] (the "PPI") has increased at a compounded annual growth rate greater than 5.0% from the date of

acceptance of this proposal letter (the "Order Month") and 14 months prior to the anticipated Ready for Pickup Date (the "Evaluation Month"), then the proposal price may be increased by an amount equal to any increase exceeding 5.0% for the time period between the Order Month and the Evaluation Month. Siddons Martin and Pierce will provide documentation of such an increase and the updated price for the customer's approval before proceeding with completion of the order along with an option to cancel the order.

Taxes: Tax is not included in this proposal. In the event that the purchasing organization is not exempt from sales tax or any other applicable taxes and/or the proposed apparatus does not qualify for exempt status, it is the duty of the purchasing organization to pay any and all taxes due. Balance of sale price is due upon acceptance of the apparatus at the factory.

Late Fee: A late fee of .033% of the sale price will be charged per day for overdue payments beginning ten (10) days after the payment is due for the first 30 days. The late fee increases to .044% per day until the payment is received. In the event a prepayment is received after the due date, the discount will be reduced by the same percentages above increasing the cost of the apparatus.

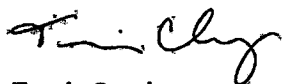
Cancellation: In the event this proposal is accepted and a purchase order is issued then cancelled or terminated by Customer before completion, Siddons-Martin Emergency Group may charge a cancellation fee. The following charge schedule based on costs incurred may be applied:

- (A) 10% of the Purchase Price after order is accepted and entered by Manufacturer;
- (B) 20% of the Purchase Price after completion of the approval drawings;
- (C) 30% of the Purchase Price upon any material requisition.

The cancellation fee will increase accordingly as costs are incurred as the order progresses through engineering and into manufacturing. Siddons-Martin Emergency Group endeavors to mitigate any such costs through the sale of such product to another purchaser; however, the customer shall remain liable for the difference between the purchase price and, if applicable, the sale price obtained by Siddons-Martin Emergency Group upon sale of the product to another purchaser, plus any costs incurred by Siddons-Martin to conduct such sale.

Acceptance: In an effort to ensure the above stated terms and conditions are understood and adhered to, Siddons-Martin Emergency Group, LLC requires an authorized individual from the purchasing organization sign and date this proposal and include it with any purchase order. Upon signing of this proposal, the terms and conditions stated herein will be considered binding and accepted by the Customer. The terms and acceptance of this proposal will be governed by the laws of the state of Texas. No additional terms or conditions will be binding upon Siddons-Martin Emergency Group, LLC unless agreed to in writing and signed by a duly authorized officer of Siddons-Martin Emergency Group, LLC.

Sincerely,



Travis Ownby

I, _____, the authorized representative of FLOWER MOUND FIRE DEPARTMENT, agree to purchase the proposed and agree to the terms of this proposal and the specifications attached hereto.

Signature & Date

CONTRACT PRICING WORKSHEET for motor vehicles only				Contract No.: 651-21	Date: 9/28/2023
Buy Board Contract 651-21					
Agency:	Flower Mound Fire		Contractor:	Siddons-Martin Emergency Group	
Contact:	Brandon Barth		Prepared:	Jeff Doran	
Phone:	770-883-6245		Phone:	281-442-6806	
Fax:	1		Fax:		
Email:	brandon.barth@flowermound.com		Email:	jdoran@siddons-martin.com	
Prod. Code:	18	Description:	107 Aerial		
A. Product Item Base Unit Price Per Contractor's Buy Board Contract:					\$ 1,556,623.00
B. Published Options - Itemize below - Attach additional sheet(s) if necessary - Include Option Code in description if applicable.					
Description		Cost	Description		Cost
			Subtotal From Additional Sheet(s):		\$ 130,760.50
			Subtotal B:		\$ 130,760.50
Total Published Options					\$ 1,687,383.50
C. Unpublished Options - Itemize below / attach additional sheet(s) if necessary.					
Description		Cost	Description		Cost
			Subtotal From Additional Sheet(s):		\$ (20,336.00)
			Subtotal C:		\$ (20,336.00)
Check: Total cost of Unpublished Options (C) cannot exceed 25% of the total of the Base Unit Price plus Published Options (A+B).					-1%
D. Other Cost Items Not Itemized Above (e.g. Installation, Freight, Delivery, Etc.)					
Description		Cost	Description		Cost
			Subtotal D:		\$ -
E. Total Cost Before Any Applicable Trade-In / Other Allowances / Discounts (A+B+C+D)					\$ 1,667,047.50
Quantity Ordered:	1	X Subtotal of A + B + C + D:		1667047.5	=
					Subtotal E:
					\$ 1,667,047.50
F. Buy Board Fee Calculation (From Current Fee Tables)					Subtotal F:
					\$ 1,500.00
Description	Cost	Description	Cost		
Chassis/Aerial-Full Pre-Payment Discount	-\$139,107.00	Contract Discount	-\$55,890.50		
Subtotal of column	-\$139,107.00	Subtotal of Column	-\$55,890.50		
					Subtotal G:
					\$ (194,997.50)
Delivery Date:		32-33 months ARO		H. Total Purchase Price (E+F+G):	
				\$ 1,473,550.00	

Option Number	Qty	Description	Published Options	Unpublished Options
110	-1	Upgrade Rear Axle, 48,000#	-\$10,728.00	
121	1	Tire Chains - Rear Axle	\$6,034.00	
142	1	Air inlet-outlet	\$984.00	
144	1	12 or 120 volt air compressor	\$2,523.00	
145	1	Brake fittings compression type	\$2,514.00	
174	1	Add Extended Bumper	\$3,177.00	
180	2	Bumper warning light recess	\$2,658.00	
236	-0.5	Upgrade Enforcer to Velocity	-\$31,654.50	
189	1	Electric Windows	\$2,880.00	
190	1	Electric Door locks	\$1,677.00	
192	2	Handrail with LED Lighting per 2	\$1,568.00	
205	1	Heavy Duty Metal Dash	\$6,751.00	
217	1	Danhard Style A/C	\$8,998.00	
223	1	EMS Compartment in Cab	\$4,357.00	
290	1	Radio with Weatherband	\$2,004.00	
292	1	Pierce Command Zone, Advanced Electronics & Control	\$11,082.00	
308	1	IOTA Charger	\$1,612.00	
318	1	Auto-eject 20 amp	\$746.00	
346	4	12 volt LED Flood Recessed or surface (per light) A	\$11,908.00	
337	4	12 volt LED Scene - B	\$8,116.00	
422	5	Adjustable Comp. shelves	\$1,380.00	
425	3	Floor Tray	\$3,390.00	
451	1	C-Tech style drawers (per ea.)	\$1,851.00	
438	1	Swing-out tool board	\$3,234.00	
684	1	LED Emergency Light Package Upgrade	\$14,824.00	
731	1	Graphics Upgraded 4	\$11,315.00	
813	2	Additional Pike Poles - B	\$2,450.00	
476	1	add 2.5" suction inlet	\$4,613.00	
485	1	2.5" Discharge front bumper	\$4,247.00	
513	1	Foam Pro 1600 Single Agent	\$12,622.00	
525	1	Foam Cell 25 Gallons	\$2,795.00	
491	1	Flow Meters, each	\$3,077.00	
545	1	Tank Level LED Group	\$1,861.00	
588	1	Q2B	\$5,970.00	
703	1	12 Volt LED Tracking/tip lights	\$7,111.00	
713	1	Three-tone paint	\$5,698.00	
714	1	Compartment Night Spots	\$7,116.00	
624713	1	Base bid tandem to single axle body		-\$23,112.00
809989	1	Compartment Each side crew cab	\$0.00	\$2,776.00
Base Bid			\$ 1,556,623.00	
Published Options			\$ 130,760.50	
Total with Published Options			\$ 1,687,383.50	
Unpublished Options			\$ (20,336.00)	-1.21%
Total Options including Fee			\$ 1,667,047.50	



GTS Technology Solutions, Inc.
9211 Waterford Centre Blvd
Suite 275
Austin, TX, 78758
Phone: (512) 452-0651

Quote

Quote #: QT0103654
Date: 9/14/2023
Delivery Date: 10/14/2023
Customer ID: TXFLOWERM13000
Sales Contact: Jacob Jiongo

QUOTE FOR			SHIP TO			
Town of Flower Mound			Town of Flower Mound			
CUSTOMER P O NO		TERMS	SALES REP			
		Net 30 Days	JD Rowell			
		SHIPPING TERMS	SHIP VIA			
NO	ITEM	CONTRACT	QTY	UOM	PRICE	EXTENDED PRICE
1	MB03-19005GB-GA: 3-yr NetCloud Mobile Performance Essentials Plan and R1900 router with WiFi (5G modem), no AC power supply or antennas, Global	DIR-CPO-4751	1.00	EACH	\$1,993.66	\$1,993.66
2	PRO12GP8L2WBG15B: 12:1 Great Pyrenees, 8 Cellular, 2 Wi-Fi, Bluetooth, GPS, 15' cables, Black	DIR-CPO-4751	1.00	EACH	\$533.41	\$533.41

Total Weight (EACH):	0	Sales Total:	\$2,527.07
Total Volume (EACH):	0	Freight & Misc.:	\$0.00

Prices do NOT include taxes, insurance, shipping, delivery, setup fees, or any cables or cabling services or material unless specifically listed above. If a customer requests expedited or special delivery, causes carrier delays or requests redelivery, customer will be responsible for any additional charges for these services directly billed by the carrier. All prices are subject to change without notice. Supply subject to availability.

Tax Total:	\$0.00
Total (USD):	\$2,527.07



QUOTE-2327278
FMFD APX8500 single Remote
Head

Quote Date:09/12/2023
Expiration Date:11/11/2023
Quote Created By:
Cody Cross
codycross@callmc.com

End Customer:
Flower Mound Fire
Brandon Barth
brandon.barth@flower-mound.com

Contract: DIR-TSO-4101

Line #	Item Number	APC	Description	Qty	List Price	Sale Price	Ext. Sale Price
APX™ 8500							
1	M37TSS9PW1AN	0681	APX8500 ALL BAND MP MOBILE	1	\$9,789.68	\$7,224.23	\$7,224.23
1a	G831AD	0681	ADD: SPKR 15W WATER RESISTANT	1			
1b	GA00250AA	0681	ADD: BLUETOOTH/WIFI/ GNSS FLEXIBLE CABLE LMR195	1			
1c	G996AS	0681	ENH: OVER THE AIR PROVISIONING	1			
1d	G67DD	0681	ADD: REMOTE MOUNT 02 MP	1			
1e	GA00580AA	0681	ADD: TDMA OPERATION	1			
1f	GA01513AB	0681	ADD: ALL BAND MOBILE ANTENNA (7/8/V/U)	1			
1g	G51AT	0681	ENH:SMARTZONE	1			
1h	G78AT	0185	ENH: 3 YEAR ESSENTIAL SVC	1			
1i	GA05509AA	0681	DEL: DELETE UHF BAND	1			
1j	G892AB	0681	ENH:HAND MIC,GCAI WTR RESISTANT APX	1			



Any sales transaction following Motorola's quote is based on and subject to the terms and conditions of the valid and executed written contract between Customer and Motorola (the "Underlying Agreement") that authorizes Customer to purchase equipment and/or services or license software (collectively "Products"). If no Underlying Agreement exists between Motorola and Customer, then Motorola's Standard Terms of Use and Motorola's Standard Terms and Conditions of Sales and Supply shall govern the purchase of the Products.
Motorola Solutions, Inc.: 500 West Monroe, United States - 60661 ~ #: 36-1115800



QUOTE-2327278
FMFD APX8500 single Remote
Head

Line #	Item Number	APC	Description	Qty	List Price	Sale Price	Ext. Sale Price
1k	G444AH	0681	ADD: APX CONTROL HEAD SOFTWARE	1			
1l	GA01517AA	0681	DEL: NO J600 ADAPTER CABLE NEEDED	1			
1m	G806BL	0681	ENH: ASTRO DIGITAL CAI OP APX	1			
1n	G193AK	0681	ADD: ADP ONLY (NON-P25 CAP COMPLIANT) (US ONLY)	1			
1o	G361AH	0681	ENH: P25 TRUNKING SOFTWARE APX	1			
1p	QA09113AB	0681	ADD: BASELINE RELEASE SW	1			
1q	G201AA	0681	ADD: GREEN COLORED HOUSING (O2 CH)	1			
1r	GA00804AB	0681	ADD: APX O2 CH (IMPACT GREEN)	1			

Grand Total	\$7,224.23(USD)
-------------	-----------------

Notes:

- Unless otherwise noted, this quote excludes sales tax or other applicable taxes (such as Goods and Services Tax, sales tax, Value Added Tax and other taxes of a similar nature). Any tax the customer is subject to will be added to invoices.



Any sales transaction following Motorola's quote is based on and subject to the terms and conditions of the valid and executed written contract between Customer and Motorola (the "Underlying Agreement") that authorizes Customer to purchase equipment and/or services or license software (collectively "Products"). If no Underlying Agreement exists between Motorola and Customer, then Motorola's Standard Terms of Use and Motorola's Standard Terms and Conditions of Sales and Supply shall govern the purchase of the Products.

Motorola Solutions, Inc.: 500 West Monroe, United States - 60661 ~ #: 36-1115800



TOWN COUNCIL AGENDA K.7. REGULAR ITEM(S)

DATE: December 4, 2023

FROM: Lynda Bolitho, Director of HR

ITEM: **Consider approval of a reinsurance contract for the Town's Group Health Plan with Blue Cross and Blue Shield of Texas in the amount of \$3,042,698; and authorization for the Mayor to execute the same on behalf of the Town.**

BACKGROUND: The Town is self-insured for health, dental, and vision benefits for employees and dependents covered on the Town's group health insurance plan. The Town currently purchases reinsurance to limit liability from any single participant's claims up to \$165,000 per year. The reinsurance also limits the total aggregate insurance claims for all employees during any calendar year. In September 2023, the Human Resources Division, in conjunction with the Town's health insurance consulting firm, McGriff Insurance Services, LLC. (MIS) solicited bids from fourteen (14) reinsurance carriers for the Town's reinsurance coverage for Plan Year 2024. Due to uncompetitive rates and ongoing large claims, the Town received quotes from two insurers, the incumbent Blue Cross Blue Shield of Texas (BCBSTX) and Sun Life.

The current carrier, BCBSTX provided a renewal quote, lasering three members at \$650,000 each, which results in an overall increase of 11.82% to the Town's annual premium. Lasering is a common reinsurance industry practice of setting a higher deductible for certain plan members based on prior and expected claims experience or the likelihood they will become a high-cost claimant in the future. In addition to the renewal quote, BCBSTX also proposed a quote with no lasers which results in a 101% overall increase to the Town's annual premium. The quotes provided by Sun Life included six individual lasers ranging from \$600,000 to \$3.5 million.

The Town is recommending awarding the bid to BCBSTX based on the proposed quote submitted with no lasering of any members. This decision is based partly on the Town's recent partnership with Payer Matrix. Payer Matrix is a specialty drug advocacy organization that will assist members in accessing manufacturer programs for high-cost specialty medications. The Town believes that this partnership will assist in reducing specialty medication costs for members and the Town and offset the premium increase offered by BCBSTX with the potential to save the Town \$1.9 million in claims costs.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES: N/A

FISCAL IMPACT: \$3,042,698

Proposed Expenditure/(Revenue):
\$3,042,698

Account Number(s):
840-710-17600-8510

LEGAL REVIEW: N/A

ATTACHMENTS:

1. Stop Loss Marketing Analysis
2. Application for Stop Loss Coverage

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

Town of Flower Mound 2024 Stop Loss Marketing Analysis

Stop Loss		
Carrier	AM Best	Comments
Berkley Accident and Health	A+ (Excellent)	DTQ - Uncompetitive Rates
Berkshire Hathaway Specialty	A++ (Superior)	DTQ - Uncompetitive Rates
BCBS	A (Excellent)	Incumbent - on the spreadsheet
HCC Life Insurance	A+ (Excellent)	DTQ - Ongoing Large Claims
International Specialty Underwriters	A+ (Excellent)	DTQ - Uncompetitive Rates
OptumHealth	A+ (Excellent)	DTQ - Uncompetitive Rates
QBE	A (Excellent)	DTQ - Ongoing Large Claims
SL Management Partners	A+ (Excellent)	DTQ - Uncompetitive Rates
Sun Life	A (Excellent)	Quoted - on the spreadsheet
Swiss Re	A+ (Excellent)	DTQ - Ongoing Large Claims
Symertra	A (Excellent)	DTQ - Uncompetitive Rates
Unum	A (Excellent)	DTQ - Uncompetitive Rates
Voya	A+ (Excellent)	DTQ - Uncompetitive Rates
Wellpoint	A (Excellent)	DTQ - Uncompetitive Rates

This is not an insurance contract: This proposal is for comparison purposes only. Please refer to certificate booklet or proposal for additional details, including limitations and exclusions.

Final rates and benefits will be determined by actual enrollment and plan selection.

Town of Flower Mound

Stop Loss Marketing Analysis

Effective: 1/1/2024

	Current	Renewal	Proposed	Proposed	Proposed
2024 Stop Loss Marketing Analysis	BCBS	BCBS	BCBS	SunLife	SunLife
AM Best Rating	A	A	A	A+	A+
SPECIFIC RETENTION	\$165,000	\$165,000	\$165,000	\$165,000	\$175,000
Contract	Paid	Paid	Paid	Paid	Paid
Coverages	Medical & Rx	Medical & Rx	Medical & Rx	Medical & Rx	Medical & Rx
Specific Rates 0					
Composite 573	\$216.39	\$242.41	\$438.75	\$281.85	\$266.46
Specific Monthly Premium	\$123,991.47	\$138,900.93	\$251,403.75	\$161,500.05	\$152,681.58
Specific Annual Premium 573	\$1,487,897.64	\$1,666,811.16	\$3,016,845.00	\$1,938,000.60	\$1,832,178.96
Aggregate Rate					
Employee	\$3.76	\$3.76	\$3.76	\$4.00	\$4.04
Aggregate Monthly Premium	\$2,154.48	\$2,154.48	\$2,154.48	\$2,292.00	\$2,314.92
Aggregate Annual Premium	\$25,853.76	\$25,853.76	\$25,853.76	\$27,504.00	\$27,779.04
TOTAL ANNUAL REINSURANCE COST	\$1,513,751.40	\$1,692,664.92	\$3,042,698.76	\$1,965,504.60	\$1,859,958.00
% Increase Compared to Current		11.82%	101.00%	29.84%	22.87%
AGGREGATE RETENTION					
Contract	Paid	Paid	Paid	Paid	Paid
Coverages	Medical & Rx	Medical & Rx	Medical & Rx	Medical & Rx	Medical & Rx
Maximum Reimbursement	\$1,000,000	\$1,000,000	\$1,000,000	\$1,000,000	\$1,000,000
Aggregate Factors Composite 573	\$1,840.30	\$1,958.26	\$1,958.26	\$1,730.89	\$1,755.90
Monthly Attachment Factor	\$1,054,491.90	\$1,122,082.98	\$1,122,082.98	\$991,799.97	\$1,006,130.70
Annual Attachment Factor 573	\$12,653,902.80	\$13,464,995.76	\$13,464,995.76	\$11,901,599.64	\$12,073,568.40
Total Fixed Costs					
Monthly Fixed Costs	\$126,145.95	\$141,055.41	\$253,558.23	\$163,792.05	\$154,996.50
Annual Fixed Costs	\$1,513,751.40	\$1,692,664.92	\$3,042,698.76	\$1,965,504.60	\$1,859,958.00
% Increase	--	11.82%	101.00%	29.84%	22.87%

Notes

Lasers:

Disclaimer:

The rates and benefits shown in this proposal are for an illustrative comparison only. Please refer to the carrier's certificate of coverage or policy for a complete description of benefits, exclusions, and limitations. In the event of a discrepancy, the carrier's contract will always govern. Rates shown are not final until final underwriting is approved by the carrier.

PM Carve Out- \$1 PEPM + \$30k implementation

Lasers:

Claimant #1 - \$650K
Claimant #2 - \$650K
Claimant #3 - \$650K

PM Carve Out- \$1 PEPM + \$30k implementation

No Lasers

Gene Therapy Included Firm through 11/10

Lasers:

Claimant #1 - \$1.9M
Claimant #2 - \$700K
Claimant #3 - \$600K
Claimant #4 - \$1M contingent at \$3.5M if Hemgenix
Claimant #5 - \$750K contingent at \$3.5M if Hemgenix
Claimant #6 - \$600K

Gene Therapy Included Firm through 11/10

Lasers:

Claimant #1 - \$1.9M
Claimant #2 - \$700K
Claimant #3 - \$600K
Claimant #4 - \$1M contingent at \$3.5M if Hemgenix
Claimant #5 - \$750K contingent at \$3.5M if Hemgenix
Claimant #6 - \$600K



BlueCross BlueShield of Texas

APPLICATION AND POLICY SCHEDULE FOR STOP LOSS COVERAGE

Employer Group Name: Town of Flower Mound
Employer Group Address: 2121 Cross Timbers Road
City: Flower Mound **State of Situs:** TX **Zip Code:** 75028
Account Number: 031462
Employer Group Number(s): 031462,099925, 037207
Original Effective Date of Stop Loss Policy: 01/01/2009
Current Policy Effective Date: 01/01/2024
Current Policy Period The specifications set forth in this Application are for the Policy Period commencing on 01/01/2024 and ending on 12/31/2024.

The specifications below shall become effective on the first date of the Policy Period specified above and shall continue in full force and effect until the earliest of the following dates: (1) The last day of the Policy Period; (2) The date the Policy terminates; or (3) The date this Application is superseded in whole or in part by a later executed Application.

A. Covered Employees:

Number of Single Coverage Units: 195
 Number of Family Coverage Units: 378

B. Individual Stop Loss Coverage:

1. New Coverage ☐ Renewal of Existing Coverage ☒

2. Stop Loss coverage during the Current Policy Period

☐ Choose an item

Coverage for Claims incurred from _____ to _____ and Claims paid from _____ to _____.

If 24/12, 18/12, 15/12, or 12/12 are selected, Employer Group understands that run-out coverage is not included, and Employer Group represents that it intends to purchase run-in coverage from its next carrier.

For new coverage only, if a run-in contract as explained in the Stop Loss Policy (24/12, 18/12, or 15/12 coverage period) is purchased, claims paid by the Employer Group's prior claim administrator will be settled at the time of the annual stop loss settlement and must be reported by the Employer Group to the Company (Blue Cross and Blue Shield of Texas, a Division of Health Care Service Corporation, a Mutual Legal Reserve Company) by the end of the Employer Group's Current Policy Period or stop loss coverage for these run-in claims will be forfeited.

☒ (Paid Renewal Only) Claim Administrators Claims: Claims incurred on or after the Original Effective Date of Policy and paid during the Policy Period.

3. Covered Expenses includes:

- ☒ Medical Claims:
- ☒ Prescription Drug Claims with: Prime (Preferred PBM) _____

- ☐ For **Hospital Employer Groups only**: Excludes ____% of Home Hospital Medical claims
☐ Other (for example Dental/Vision): ____.

4. Individual Stop Loss Provisions

- a. Individual Stop Loss Deductible: \$165,000
Applies per Covered Person for the Employer Group's Current Policy Period.
- b. Aggregating Specific Deductible (if applicable): \$____
- c. Lasered Individuals with Individual Stop Loss Deductible (if applicable):
Individual identifier, alternate Individual Stop Loss Deductible:
\$____
- d. Lasered Individuals excluded from Stop Loss Coverage (if applicable):
Individual identifier:

- e. If a run-in contract (24/12, 18/12, or 15/12 coverage period) is purchased, per Item 2. above, run-in claims are covered with a maximum liability of: \$____ per Covered Person.

5. Terminal Liability Option (TLO) (does not apply to Employer Groups with 12/15, 12/18, or 12/24 contracts):
☒ Yes ☐ No

The following applies if the answer to item above is "Yes" (Terminal Liability Option):

Must be elected at Policy inception or renewal. Premium cost is calculated by taking the average enrollment for the last two months of the Current Policy Period multiplied by three times pre-termination Individual Stop Loss rate(s). Premium is due at the time of termination, payable by lump sum within 10 days of receipt of bill. Claims will accumulate and be combined under one Individual Stop Loss Deductible specified in item B.4.a above for the Current Policy Period and Terminal Period. The Settlement for the Final Accounting Period will be described in the section of the Policy entitled SETTLEMENTS.

6. Individual Stop Loss Premium

Monthly Individual Stop Loss Premium shall be equal to the amounts obtained by multiplying the number of Covered Employees for a particular Month by:

\$438.75 Composite; or
\$____ for each Single Coverage Unit
\$____ for each Family Coverage Unit

C. Aggregate Stop Loss Coverage: Yes ☒ No ☐

If yes, complete Items 1. through 5. Below:

1. New Coverage ☐ **Renewal of Existing Coverage** ☒

2. Stop Loss Coverage during the current Policy Period

☐ **Choose an item**

Coverage for Claims incurred from ____ to ____ and Claims paid from ____ to ____.

If 24/12, 18/12, 15/12, or 12/12 are selected, Employer Group understands that run-out coverage is not included, and Employer Group represents that it intends to purchase run-in coverage from its next carrier.

For new coverage only, if a run-in contract as explained in the policy (24/12, 18/12, or 15/12 coverage period) is purchased, claims paid by the Employer Group's prior claim administrator will be settled at the time of the annual

stop loss settlement and must be reported by the Employer Group to the Company (Blue Cross and Blue Shield of Texas, a Division of Health Care Service Corporation, a Mutual Legal Reserve Company) by the end of the Employer Group's Current Policy Period or stop loss coverage for these run-in claims will be forfeited.

☒ (Paid Renewal Only) Claim Administrators Claims: Claims incurred on or after the Original Effective Date of Policy and paid during the Policy Period.

3. Covered Expenses:

- ☒ Medical Claims
☐ Claim Administrator's Provider Access Fees
☒ Prescription Drug Claims with: Prime (Preferred PBM) _____
☐ For **Hospital Employer Groups only**: Excludes _____% of Home Hospital Medical claims
☐ Other (for example Dental/Vision): _____

4. Aggregate Claim Liability

- a. Attachment Factor 125% of the Average Claim Value
b. Aggregate Claim Factors:

Group Number:	031462	099925	037207	
Composite; or	\$1,958.26	\$1,958.26	\$1,958.26	\$
For each Single Coverage Unit	\$	\$	\$	\$
For each Family Coverage Unit	\$	\$	\$	\$

- c. Minimum Aggregate Point of Attachment: \$12,118,511

5. Terminal Liability Option (TLO) (does not apply to Employer Groups with 12/15, 12/18, or 12/24 contracts):

☒ Yes ☐ No

The following applies if the answer to item above is "Yes" (Terminal Liability Option):

Must be elected at Policy inception or renewal. Premium cost is calculated by taking the average enrollment for the last two months multiplied by three times pre-termination Aggregate Stop Loss rate(s). Premium is due at the time of termination, payable by lump sum within 10 days of receipt of bill.

The Final Settlement Point of Attachment shall equal the sum of the Employer's Aggregate Claim Liability amount for the Policy Period plus 15% of the Aggregate Claim Factor multiplied by 12, and then multiplied by the average enrollment for the last two (2) months of the Current Policy Period immediately preceding termination. Furthermore, for the Final Settlement Period, the Minimum Aggregate Point of Attachment shall be the Minimum Aggregate Point of Attachment in item C.4.c. above increased by 15%. The Settlement for the Final Accounting Period will be described in the section of the Policy entitled SETTLEMENTS.

6. Aggregate Stop Loss Premium:

- ☒ Monthly Premium
Monthly Aggregate Stop Loss Premium shall be equal to the amounts obtained by multiplying the number of Covered Employees for a particular Month by:
\$3.76 Composite; or
\$_____ for each Single Coverage Unit
\$_____ for each Family Coverage Unit

☐ Annual Premium (Due on the first day of the Current Policy Period): \$_____

D. Additional Provisions (if elected):

1. Retirees Covered (select if included):

Pre-65: ☐ or Post-65: ☐

2. Home Hospital Employer Groups Only: Home Hospital Provider Number(s) subject to exclusion percentage per Item B.3. & C.3.: _____
3. Monthly Aggregate Accommodation: ☐ Yes ☐ No
4. Additional information: _____

Fraud Notice: Any person who knowingly, with intent to injure, defraud or deceive any insurance company submits an application containing any false, incomplete, or misleading information, may be subject to prosecution and may be found guilty of a felony under state law and subject to punishment, including fines and/or imprisonment. Submission of false information in connection with this application may also constitute a crime under federal laws. All appropriate legal remedies will be pursued in the event of insurance fraud, including prosecution under Federal Mail or Wire Fraud statutes, and/ or the Federal Racketeer Influenced and Corrupt Organizations Act. Any false statements made herein may be reported to state and federal tax and regulatory authorities as is appropriate.

The undersigned person represents that he/she is authorized and responsible for purchasing Stop Loss Coverage on behalf of the Employer Group. It is understood that the actual terms and conditions of coverage are those contained in this Application and the Stop Loss Coverage Policy into which this Application shall be incorporated at the time of acceptance by Blue Cross and Blue Shield of Texas, a Division of Health Care Service Corporation, a Mutual Legal Reserve Company ("HCSC"). Upon acceptance, HCSC shall issue a Stop Loss Coverage Policy to the Employer Group. Upon acceptance of this Application and issuance of the Stop Loss Coverage Policy, the Employer Group shall be referred to as the "Policyholder".

Allison Gooderl
Sales Representative

Signature of Authorized Purchaser

Title of Authorized Purchaser

Date



TOWN COUNCIL AGENDA K.8. REGULAR ITEM(S)

DATE: December 4, 2023
FROM: Blake Hummel, Senior Project Engineer
ITEM: **Consider approval of a Construction Agreement with Red River Construction Company for the Glen Chester Lift Station Rehabilitation project, in the amount of \$1,581,300.00; and authorization for the Mayor to execute same on behalf of the Town.**

BACKGROUND: On October 24, 2023, bids were received and opened (Bid # 2024-2-B) for the Glen Chester Lift Station Rehabilitation project. Red River Construction Company submitted the lowest qualified bid of the three (3) responding bidders at a base bid of \$1,581,300.00. The Glen Chester Lift Station Rehabilitation project consists of improvements to the existing lift station located at the corner of Glen Chester Drive and Queen Mary Drive in the Woodlake Estates subdivision. The improvements include the replacement of existing submersible pumps, valving, antenna, generator controller, odor control equipment, and SCADA controls; along with installation of an electrical equipment shade structure, bypass connection reconfiguration, wet well structural coating, fence, gate and other site improvements.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES: A decision not to approve the Construction Agreement would leave the existing sanitary sewer lift station in the current state of conditions. Due to the age and deterioration of the site, this could require emergency deployment of bypass pumping with equipment failure and could lead to possible TCEQ violations.

FISCAL IMPACT: \$1,581,300.00

Proposed Expenditure/(Revenue)
\$1,581,300.00

Account Number(s):
630-970-98280-6180

LEGAL REVIEW: The Town's standard construction 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. Bid Tabulation
2. Construction Agreement

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



**Town of Flower Mound
Bid Tab Verified**

Bid No: 2024-2-B – Glen Chester Lift Station Rehabilitation

Bid Opening: 10/24/2023 at 11:00 AM

Company	Total Base Bid
Red River Construction Company	\$ 1,581,300.00
Urban Infraconstruction LLC	\$ 1,943,500.00
Fort Worth Civil Constructors LLC	\$ 2,049,921.00

****All bids/proposals submitted for the designated project are reflected on this tabulation sheet. However, the listing of the bid/proposal on this tabulation sheet shall not be construed as a comment on the responsiveness of such bid/proposal or as any indication that the agency accepts such bid/proposal as being responsive. The agency will make a determination as to the responsiveness of the vendor responses submitted based upon compliance with all applicable laws, purchasing guidelines and project documents, including but not limited to the project specifications and contract documents. The agency will notify the successful vendor upon award of the contract and, as according to the law, all bid/proposal responses received will be available for inspection at that time.**

Certified By: Sabrina Zadow
Purchasing Manager
Town of Flower Mound, Texas

Date: October 24, 2023

TOWN OF FLOWER MOUND

Glen Chester Lift Station Rehabilitation

Bid # 2024-2-B

CONSTRUCTION AGREEMENT

THIS CONSTRUCTION AGREEMENT (the “Agreement”), made and entered into this 4th day of December, 2023, by and between the Town of Flower Mound, County of Denton, Texas, hereinafter referred to as the “Town,” and Red River Construction Company, a Corporation, hereinafter referred to as the “Contractor.” For and in consideration of the payment, agreements, and conditions hereinafter mentioned, and under the conditions expressed in the bonds herein, Contractor hereby agrees to complete the construction of improvements described as follows:

Glen Chester Lift Station Rehabilitation,
Bid # 2024-2-B

in the Town of Flower Mound, Texas, and all extra work in connection therewith, under the terms as stated in this Agreement, and under the terms of the Contract Documents; and at his, her, or their own proper cost and expense to furnish all superintendence, labor, insurance, equipment, tools, and other accessories and services necessary to complete the said construction in accordance with all the Contract Documents, incorporated herein as if written word for word, and in accordance with the Plans, which include all maps, plats, blueprints, and other drawings and printed or written explanatory manner therefore, and the Conditions and Specifications as prepared by the Town or its consultant hereinafter called “Engineer”, who has been identified by the endorsement of the Contractor's written proposal, and the General Conditions, Supplemental Conditions, and Special Provisions of this Agreement, and the payment, performance, and maintenance bonds hereto attached; all of which are made a part hereof and collectively evidence and constitute the entire Agreement.

ARTICLE 1. The Contract Documents shall consist of the following documents:

- A. The Construction Agreement;
- B. Properly executed Change Orders and Field Orders in writing and executed by the Town, the last in time being first in precedence;
- C. Any listed and numbered addenda;
- D. Special Provisions;

- E. Supplementary Conditions;
- F. Construction Drawings or Plans;
- G. Technical Specifications;
- H. Town's Standard Construction Details;
- I. The most current edition of the *Town of Flower Mound Design Criteria and Construction Standards* (by reference);
- J. *Occupational Safety and Health Standards – Excavation*, 20 CFR Part 1926 (by reference);
- K. *Texas Manual on Uniform Traffic Control Devices (TMUTCD)* (by reference);
- L. The General Conditions;
- M. *Public Works Construction Standards - North Central Texas, as amended* (by reference);
- N. Notice to Bidders;
- O. Instructions to Bidders;
- P. The Town's written notice to proceed to Contractor;
- Q. The Contractor's Bid Proposal;
- R. The Performance Bond, Payment Bond and Maintenance Bond; and
- S. Bid materials distributed by the Town that relate to the Project.

These Contract Documents are incorporated by reference into this Agreement as if set out in their entirety. The Contract Documents are intended to be complementary; what is called for by one document shall be as binding as if called for by all Contract Documents. It is specifically provided; however, that in the event of any inconsistency in the Contract Documents, the inconsistency shall be resolved by giving precedence to the Contract Documents in the order in which they are listed herein above. If, however, there exists a conflict or inconsistency between the Technical Specifications and the Construction Drawings, it shall be the Contractor's obligation to seek clarification as to which requirements or provisions control before undertaking any work on that component of the project. Should the Contractor fail or refuse to seek a clarification of such conflicting or inconsistent requirements or provisions prior to any work on that component of the project, the Contractor shall be solely responsible for the costs and expenses - including additional time - necessary to cure, repair, and/or correct that component of the project.

ARTICLE 2. For performance of the Work in accordance with the Contract Documents, the Town shall pay the Contractor in current funds an amount not to exceed **One Million Five Hundred Eighty-One Thousand Three Hundred Dollars and Zero cents (\$1,581,300.00)** taking into consideration additions to or deductions from the Total Bid through properly executed change orders by reason of alterations or modifications of the original quantities or by reason of “Extra Work” authorized under this Agreement in accordance with the provisions of the Contract Documents. It is hereby mutually agreed that for and in consideration of the payments as provided for herein to the Contractor by the Town, the said Contractor shall furnish all labor, equipment, and material (except as otherwise specified above) and shall perform all work necessary to complete the improvements in a good and workmanlike manner, ready for use, within the specified time for substantial completion of two-hundred and seventy (270) calendar days, and final completion of three-hundred (300) calendar days ready for final payment, as measured from the Effective Start Date shown in the Notice to Proceed. The work shall be in strict accordance with this Agreement, a copy of which is filed pursuant to law in the office of the legal representative of the Town.

ARTICLE 3. Before commencing work, the Contractor shall, at its own expense, procure, pay for, and maintain the insurance coverage required by the Contract Documents written by companies approved by the State of Texas and acceptable to the Town of Flower Mound. Contractor shall provide the Town Purchasing Manager with certificates of insurance indicating coverage’s required by the Contract Documents. The certificates are to be signed by a person authorized by that insurer to bind coverage on its behalf. Certificate of Insurance similar to the ACORD Form are acceptable. Town will not accept Memorandums of Insurance or Binders as proof of insurance. The Town reserves the right to require complete, certified copies of all required insurance policies at any time.

ARTICLE 4. The Contractor shall procure and pay for performance and payment bonds applicable to the work in the amount of the total bid price. The Contractor shall also procure and pay for a maintenance bond applicable to the work in the amount of one hundred percent (100%) of the total bid price. The period of the Maintenance Bond shall be two years from the date of acceptance of all work done under the contract, to cover the guarantee as set forth in the Special Conditions. The performance, payment, and maintenance bonds shall be issued on the forms attached to this Construction Agreement. Other performance, payment, and maintenance bond forms shall not be accepted. Among other things, these bonds shall apply to any work performed during the two-year warranty period after acceptance as described in this Construction Agreement.

The performance, payment, and maintenance bonds shall be issued by a corporate surety, acceptable to and approved by the Town, authorized to do business in the State of Texas, pursuant to Chapter 2253 of the Texas Government Code. Further, the Contractor shall supply capital and surplus information concerning the surety and reinsurance information concerning the performance, payment, and maintenance bonds upon Town request. In addition to the foregoing requirements if the amount of the bond exceeds One Hundred Thousand and Zero/One Hundredths Dollars (\$100,000.00) the bond must be issued by a surety that is qualified as a surety on obligations permitted or required under federal law

as indicated by publication of the surety's name in the current U.S. Treasury Department Circular 570. In the alternative, an otherwise acceptable surety company (not qualified on federal obligations) that is authorized and admitted to write surety bonds in Texas must obtain reinsurance on any amounts in excess of One Hundred Thousand and Zero/One Hundredths Dollars (\$100,000.00) from a reinsurer that is authorized and admitted as a reinsurer in Texas who also qualifies as a surety or reinsurer on federal obligations as indicated by publication of the surety's or reinsurer's name in the current U.S. Treasury Department Circular 570.

ARTICLE 5. It is hereby further agreed that in consideration of the faithful performance of the work by the Contractor, the Town shall pay the Contractor the compensation due him by reason of said faithful performance of the work in accordance with the provisions of this Agreement. As it completes portions of the Work, the Contractor may request progress payments from the Town. Progress payments shall be made by the Town based on the Town's estimate of the value of the Work properly completed by the Contractor since the time the last progress payment was made. The "estimate of the value of the work properly completed" shall include the net invoice value of acceptable, non-perishable materials actually delivered to and currently at the job site only if the Contractor provides to the Town satisfactory evidence that material suppliers have been paid for these materials.

No progress payment shall be due to the Contractor until the Contractor furnishes to the Town:

1. copies of documents reasonably necessary to aid the Town in preparing an estimate of the value of Work properly completed;
2. full releases of liens, including releases from subcontractors providing materials or delivery services relating to the Work, in a form acceptable to the Town releasing all liens or claims relating to goods and services provided up to the date of the most recent previous progress payment;
3. an updated and current schedule clearly detailing the project's critical path elements; and
4. any other documents required under the Contract Documents.

Progress payments shall not be made more frequently than once every thirty (30) calendar days unless the Town determines that more frequent payments are appropriate. Further, progress payments are to be based on estimates and these estimates are subject to correction through the adjustment of subsequent progress payments and the final payment to Contractor. If the Town determines after final payment that it has overpaid the Contractor, then Contractor agrees to pay to the Town the overpayment amount specified by the Town within thirty (30) calendar days after it receives written demand from the Town.

The fact that the Town makes a progress payment shall not be deemed to be an admission by the Town concerning the quantity, quality, or sufficiency of the Contractor's work.

Progress payments shall not be deemed to be acceptance of the Work nor shall a progress payment release the Contractor from any of its responsibilities under the Contract Documents.

After determining the amount of a progress payment to be made to the Contractor, the Town shall withhold a percentage of the progress payment as retainage. The amount of retainage withheld from each progress payment shall be set depending upon the value of the Contract Work on the effective date of the Contract:

<u>Contract Amount</u>	<u>Retainage Percentage</u>
Up to \$25,000.00	15%
\$25,000.00 to \$400,000.00	10%
Over \$400,000.00	5%

Retainage shall be withheld and may be paid to:

1. ensure proper completion of the Work. The Town may use retained funds to pay replacement or substitute contractors to complete unfinished or defective work;
2. ensure timely completion of the Work. The Town may use retained funds to pay liquidated damages; and
3. provide an additional source of funds to pay claims for which the Town is entitled to indemnification from Contractor under the Contract Documents.

Retained funds shall be held by the Town in accounts that shall not bear interest. Retainage not otherwise withheld in accordance with the Contract Documents shall be returned to the Contractor as part of the final payment.

ARTICLE 6. The Town may withhold payment of some or all of any progress or final payment that would otherwise be due if the Town determines, in its discretion, that the Work has not been performed in accordance with the Contract Documents. The Town may use these funds to pay replacement or substitute contractors to complete unfinished or defective Work.

The Town may withhold payment of some or all of any progress or final payment that would otherwise be due if the Town determines, in its discretion, that it is necessary and proper to provide an additional source of funds to pay claims for which the Town is entitled to indemnification from Contractor under the Contract Documents. Amounts withheld under this section shall be in addition to any retainage.

ARTICLE 7. When the erosion control measures have been completed, the Contractor shall request that the Town perform a final inspection. The Town shall inspect the Work. If the Town determines that the Work has been completed in accordance with the Contract Documents and per TPDES General Construction Permit, it shall issue a written Notice of Acceptance of the Work. If the Town determines that the Work has not been completed in accordance with the Contract Documents or TPDES General Construction Permit, then it shall provide the Contractor with a verbal or written list of items to be completed before another final inspection shall be scheduled.

ARTICLE 8. When the Work is completed, the Contractor shall request that the Town perform a final inspection. The Town shall inspect the Work. If the Town determines that the Work has been completed in accordance with the Contract Documents, it shall issue a written notice of acceptance of the Work. If the Town determines that the Work has not been completed in accordance with the Contract Documents, then it shall provide the Contractor with a written list of items to be completed before another final inspection shall be scheduled.

It is specifically provided that Work shall be deemed accepted on the date specified in the Town's written notice of acceptance of the Work. The Work shall not be deemed to be accepted based on "substantial completion" of the Work, use or occupancy of the Work, or for any reason other than the Town's written Notice of Acceptance. Further, the issuance of a certificate of occupancy for all or any part of the Work shall not constitute a Notice of Acceptance for that Work.

In its discretion, the Town may issue a Notice of Acceptance covering only a portion of the Work. In this event, the notice shall state specifically what portion of the Work is accepted.

ARTICLE 9. After all Work required under the Contract Documents has been completed, inspected, and accepted, the Town shall calculate the final payment amount promptly after necessary measurements and computations are made. The final payment amount shall be calculated to:

1. include the estimate of the value of Work properly completed since the date of the most recent previous progress payment;
2. correct prior progress payments; and
3. include retainage or other amounts previously withheld that are to be returned to Contractor, if any.

Final payment to the Contractor shall not be due until the Contractor provides original full releases of liens, or other evidence satisfactory to the Town to show that all sums due for labor, services, and materials furnished for or used in connection with the Work have been paid or shall be paid with the final payment. To ensure this result, Contractor consents to

the issuance of the final payment in the form of joint checks made payable to Contractor and others. The Town may, but is not obligated to, issue final payment using joint checks.

Final payment to the Contractor shall not be due until the Contractor has supplied to the Town copies of all documents that the Town determines are reasonably necessary to ensure both that the final payment amount is properly calculated and that the Town has satisfied its obligation to administer the Agreement in accordance with applicable law.

Subject to the requirements of the Contract Documents, the Town shall pay the Final Payment within thirty (30) calendar days after the date specified in the Notice of Acceptance. This provision shall apply only after all Work called for by the Contract Documents has been accepted.

ARTICLE 10. CONTRACTOR SHALL DEFEND, INDEMNIFY, AND HOLD HARMLESS THE TOWN, ITS TOWN COUNCIL, OFFICERS, EMPLOYEES, AND AGENTS FROM AND AGAINST ALL CITATIONS, CLAIMS, COSTS, DAMAGES, DEMANDS, EXPENSES, FINES, JUDGMENTS, LOSSES, PENALTIES, OR SUITS, WHICH IN ANY WAY ARISE OUT OF, RELATE TO, OR RESULT FROM THE PERFORMANCE OF THE WORK OR WHICH ARE CAUSED BY THE INTENTIONAL ACTS OR NEGLIGENT ACTS OR OMISSIONS OF CONTRACTOR, ITS SUBCONTRACTORS, ANY OFFICERS, AGENTS, OR EMPLOYEES OF EITHER CONTRACTOR OR ITS SUBCONTRACTORS, AND ANY OTHER THIRD PARTIES FOR WHOM OR WHICH CONTRACTOR IS LEGALLY RESPONSIBLE (THE "INDEMNIFIED ITEMS").

BY WAY OF EXAMPLE, THE INDEMNIFIED ITEMS MAY INCLUDE PERSONAL INJURY AND DEATH CLAIMS AND PROPERTY DAMAGE CLAIMS, INCLUDING THOSE FOR LOSS OF USE OF PROPERTY.

INDEMNIFIED ITEMS SHALL INCLUDE ATTORNEYS' FEES AND COSTS, COURT COSTS, AND SETTLEMENT COSTS. INDEMNIFIED ITEMS SHALL ALSO INCLUDE ANY EXPENSES, INCLUDING ATTORNEYS' FEES AND EXPENSES, INCURRED BY AN INDEMNIFIED INDIVIDUAL OR ENTITY IN ATTEMPTING TO ENFORCE THIS INDEMNITY.

In its sole discretion, the Town shall have the right to approve counsel to be retained by Contractor in fulfilling its obligation to defend and indemnify the Town. Contractor shall retain approved counsel for the Town within seven business days after receiving written notice from the Town that it is invoking its right to indemnification under this Agreement. If Contractor does not retain counsel for the Town within the required time, then the Town shall have the right to retain counsel and the Contractor shall pay the attorneys' fees and expenses.

The Town retains the right to provide and pay for any or all costs of defending indemnified items, but it shall not be required to do so. To the extent that Town elects to provide and pay for any such costs, Contractor shall indemnify and reimburse Town for such costs.

ARTICLE 11. The Contractor understands and agrees that time is of the essence in performing and completing the Work. The Town and Contractor acknowledge that the actual damages the Town may sustain if the Contractor fails to complete the Work on time are uncertain and will be difficult to ascertain. The Contractor agrees that the sum of Two Hundred Fifty and Zero/One Hundredths Dollars (\$250.00) per day or portion of a day in Liquidated Damages will be deducted from the Contract price by the Town for each calendar day or portion thereof that the work is not substantially complete beyond the Substantially Complete Contract time, or within such extra time as may have been allowed by an extension approved by the Town. The Contractor also agrees that the sum of Two Hundred Fifty and Zero/One Hundredths Dollars (\$250.00) per day or portion of a day in Liquidated Damages for each calendar day or portion thereof the work has not been finally completed by the Contractor beyond the Contract time for final completion, or within such extra time as may have been allowed by an extension approved by the Town. The Town and the Contractor agree that this amount is payable as reasonable and just compensation for failure to complete the Work on time. This amount is payable as liquidated damages and not as a penalty.

ARTICLE 12. For a two-year period after the date specified in a written notice of acceptance of Work and authorization to make final payment by the Flower Mound Town Council, Contractor shall provide and pay for all labor and materials that the Town determines are necessary to correct all defects in the Work arising because of defective materials or workmanship supplied or provided by Contractor or any subcontractor. This shall also include areas of vegetation that did meet TPDES General Construction Permit during final close out but have since become noncompliant.

Forty-five (45) to sixty (60) calendar days before the end of the two-year warranty period, the Town may make a warranty inspection of the Work. The Town shall notify the Contractor of the date and time of this inspection so that a Contractor representative may be present. After the warranty inspection, and before the end of the two-year warranty period, the Town shall mail to the Contractor a written notice that specifies the defects in the Work that are to be corrected.

The Contractor shall begin the remedial work within ten (10) calendar days after receiving the written notice from the Town. If the Contractor does not begin the remedial work timely or prosecute it diligently, then the Town may pay for necessary labor and materials to effect repairs and these expenses shall be paid by the Contractor, the maintenance bond surety, or both.

If the Town determines that a hazard exists because of defective materials and workmanship, then the Town may take steps to alleviate the hazard, including making repairs. These steps may be taken without prior notice either to the Contractor or its surety.

Expenses incurred by the Town to alleviate the hazard shall be paid by the Contractor, the maintenance bond surety, or both.

Any Work performed by or for the Contractor to fulfill its warranty obligations shall be performed in accordance with the Contract Documents. By way of example only, this is to ensure that Work performed during the warranty period is performed with required insurance and the maintenance and payment bonds still in effect.

Work performed during the two-year warranty period shall itself be subject to a one-year warranty. This warranty shall be the same as described in this section.

The Town may make as many warranty inspections as it deems appropriate.

ARTICLE 13. The Contractor shall be responsible for ensuring that it and any subcontractors performing any portion of the Work required under the Contract Documents comply with all applicable federal, state, county, and municipal laws, regulations, and rules that relate in any way to the performance and completion of the Work. This provision applies whether or not a legal requirement is described or referred to in the Contract Documents.

Ancillary/Integral Professional Services: In selecting an architect, engineer, land surveyor, or other professional to provide professional services, if any, that are required by the Contract Documents, Contractor shall not do so on the basis of competitive bids but shall make such selection on the basis of demonstrated competence and qualifications to perform the services in the manner provided by Section 2254.004 of the Texas Government Code and shall so certify to the Town the Contractor's agreement to comply with this provision with Contractor's bid.

ARTICLE 14. The Contractor shall sign the Construction Agreement, and deliver signed performance, payment, and maintenance bonds and proper insurance policy endorsements (and/or other evidence of coverage) within fifteen (15) calendar days after the Town makes available to the Contractor copies of the Contract Documents for signature. Six copies of the Contract Documents shall be signed by an authorized representative of the Contractor and returned to the Town.

The Construction Agreement "effective date" shall be the date on which the Town Council acts to approve the award of the Contract for the Work to Contractor. It is expressly provided; however, that the Town Council delegates the authority to the Town Manager or his designee to rescind the Contract award to Contractor at any time before the Town delivers to the Contractor a copy of this Construction Agreement that bears the signature of the Mayor or Town Manager and Town Secretary or their authorized designees. The purpose of this provision is to ensure that:

1. the Contractor timely delivers to the Town all bonds and insurance documents; and

2. the Town retains the discretion not to proceed if the Town Manager or his designee determines that information indicates that the Contractor was not the lowest responsible bidder or that the Contractor cannot perform all of its obligations under the Contract Documents.

THE CONTRACTOR AGREES THAT IT SHALL HAVE NO CLAIM OR CAUSE OF ACTION OF ANY KIND AGAINST THE TOWN, INCLUDING A CLAIM FOR BREACH OF CONTRACT, NOR SHALL THE TOWN BE REQUIRED TO PERFORM UNDER THE CONTRACT DOCUMENTS, UNTIL THE DATE THE TOWN DELIVERS TO THE CONTRACTOR A COPY OF THE CONSTRUCTION AGREEMENT BEARING THE SIGNATURES JUST SPECIFIED.

Contractor stipulates that the Town is a political subdivision of the State of Texas, and, as such, may enjoy immunities from suit and liability under the Constitution and laws of the State of Texas. By entering into this Agreement, the Town does not waive any of its immunities from suit and/or liability, except as otherwise expressly and specifically provided herein or as specifically provided by law.

Payments under this Contract are due and payable in accordance with the provisions of Texas Government Code Section 2251.022. Interest on unpaid and overdue amounts shall accrue in accordance with Texas Government Code Section 2251.025.

Attention is called to the Government Code, Chapter 2258, Prevailing Wage Rates. Contractor and any subcontractor shall pay not less than the prevailing rates of per diem wages in the locality at the time of construction to all laborers, workmen, and mechanics employed by them in the execution of this Agreement. The Town has determined the general prevailing rate of per diem wages in the locality in which the public work is to be constructed by using the prevailing wage rates as determined by the United States Department of Labor in accordance with the Davis-Bacon Act as applicable to this Project. Contractor or a subcontractor who violates this provision shall be liable for the penalty specified in Texas Government Code Section 2258.023, which as of the date of this Agreement is \$60 for each worker employed for each calendar day or part of the day that the worker is paid less than the wage rates stipulated in the contract. Town reserves the right to receive and review payroll records, payment records, and earnings statements of employees of Contractor, and of Contractor's Subcontractors, and of Sub-Subcontractors to verify payments made to same. However, no Claim for additional compensation shall be considered by Town because of payments of wage rates in excess of the applicable rate provided herein.

It is distinctly understood that by virtue of this Contract, no mechanic, contractor, materialmen, artisan, laborer, or subcontractor, whether skilled or unskilled, shall ever in any manner have, claim, or acquire any lien upon the project of whatever nature or kind so erected or to be erected by virtue of this Contract, nor upon any of the land upon which said improvements are so erected, built, or situated, such property being public property belonging to a political subdivision of the State of Texas.

The Contractor represents and warrants the following to the Town (in addition to the other representations and warranties contained in the Contract Documents), as an inducement to the Town to execute this Contract, which representations and warranties shall survive the execution and delivery of the Contract and the Final Completion of the Work:

1. that it is financially solvent, able to pay its debts as they mature, and possessed of sufficient working capital to complete the Work and perform its obligations under the Contract Documents;
2. that it is able to furnish the tools, materials, supplies, equipment and labor required to timely complete the Work and perform its obligations hereunder and has sufficient experience and competence to do so;
3. that it is authorized to do business in the State of Texas and properly licensed by all necessary governmental, public and quasi-public authorities having jurisdiction over it, the Work, or the site of the Project; and
4. that the execution of the Contract and its performance thereof are within its duly-authorized powers.

The Contract Documents shall be construed and interpreted by applying Texas law. Exclusive venue for any litigation concerning the Contract Documents shall be Denton County, Texas.

Although the Construction Agreement has been drafted by the Town, should any portion of the Construction Agreement be disputed, the Town and Contractor agree that it shall not be construed more favorably for either party.

The Contract Documents are binding upon the Town and Contractor and shall inure to their benefit as well as that of their respective successors and assigns.

If Town Council approval is not required for the Construction Agreement under applicable law, then the Construction Agreement "effective date" shall be the date on which the Mayor or Town Manager and Town Secretary or their designees have signed the Construction Agreement. If the Mayor or Town Manager and Town Secretary sign on different dates, then the later date shall be the effective date.

IN WITNESS WHEREOF, the Town and the Contractor, respectively, have caused this Agreement to be duly executed in the day and year first herein written in two copies, all of which to all intents and purposes shall be considered as the original.

This Agreement will be effective on the ____ day of _____, 20__.

TOWN OF FLOWER MOUND

CONTRACTOR

Derek France, MAYOR

(Signature)
(Printed Name)
(Position)

(CORPORATE SEAL)

(CORPORATE SEAL)

ATTEST: _____
Theresa Scott, TOWN SECRETARY

ATTEST: _____

(Signature)
(Position)



TOWN COUNCIL AGENDA K.9. REGULAR ITEM(S)

DATE: December 4, 2023
FROM: Tommy Dalton, Assistant Town Manager
ITEM: **Consider and discuss options for the Sunrise Circle wastewater connection project along with feedback received during community meetings regarding zoning, on-site septic facilities, and financial assistance (Public Comment for this item will be heard at the time opened).**

BACKGROUND: The purpose of this item is to receive direction on the future of the Sunrise Circle Wastewater Connection project as well as discuss zoning options, septic systems, and financial assistance for the Sunrise Circle and Stonecrest South neighborhoods ("Sunrise Circle").

Sunrise Circle includes existing neighborhoods that were incorporated into the Town's boundaries during the 1999 annexation of approximately 5,000 acres in western Flower Mound. The neighborhoods consist of 42 platted lots in the Sunrise Circle neighborhood, and 48 platted lots in the Stonecrest South neighborhood. All developed lots include mobile homes on septic systems. The neighborhoods are supplied drinking water by the SouthWest Water Company, formerly Monarch Utilities. It's important to note that the SouthWest Water Company has the exclusive right to provide drinking water to the Sunrise Circle area. The Town asked the SouthWest Water Company if they were interested in transferring that right to the Town, and they declined.

Shortly after annexation, the Town began using available Community Development Block Grant (CDBG) funding to improve streets, drainage, sewer, and fire coverage within the Sunrise Circle area. However, the project became ineligible for CDBG funding in fiscal year 2011-2012, because the census tract covering Sunrise Circle no longer qualified for assistance under HUD rules following the 2010 census. While CDBG funding was available for the project, the Town utilized all the funding it could each year. However, due to the limited funding provided, the Town was only able to complete the street and drainage improvements before the project became ineligible in 2011.

Following the completion of the street and drainage improvements in 2013, fire hydrants were installed on Stonecrest Road at the entrances to the Sunrise Circle neighborhoods with the ongoing development of the Canyon Falls neighborhood.

Undeveloped lots remain in the Sunrise Circle neighborhood along with undeveloped property south of the area. As growth continues in western Flower Mound, the Town has seen development interest within and outside of the Sunrise Circle area. Due to the development interest, the Town began planning and budgeting to extend sewer access during the 2021-2022 fiscal year budget process.

The planned sewer improvements are known as the Sunrise Circle Wastewater Connection Project which consists of a wastewater line extension to provide sewer availability to the Sunrise Circle and Stonecrest South neighborhoods. During the 2021-2022 and 2022-2023 budget processes, \$470,000 was approved and funded for design, easement acquisition, and construction costs. The design was awarded on February 7, 2022, in the amount of \$40,000, and included extending sewer north along the western side of the Union Pacific Railroad tract and entering the Sunrise Circle neighborhood in

the southeast corner to serve the two cul-de-sacs within the neighborhood. The budgeted estimated construction cost for the extension was \$430,000; however, bids on the project came back over the budget. As such, the scope of the project was reduced to only extend the line to the southern cul-de-sac.

In December 2022, property owners within the Sunrise Circle area reached out to staff and Town Council regarding future development in the area. On January 17, 2023, concerns by owners within Sunrise Circle were raised about infrastructure and zoning during a zoning case on Oakridge Lane in the Stonecrest South neighborhood. As a result of the concerns raised, the Town Council requested a work session to discuss the concerns within the neighborhood.

On [February 16, 2023](#), staff presented history and information on the following topics associated with the Sunrise Circle area:

- Land Use and Zoning
- CDBG and utility improvement history
- Town's existing wastewater policy
- Status of the Sunrise Circle Wastewater Connection Project
- Costs associated with expanding the Sunrise Circle Wastewater Connection Project
- Septic systems
- Fire protection
- Water service
- Annexation

The Town Council directed staff to look at a CIP amendment to the northern cul-de-sac, in addition to reaching out to the neighborhood to understand their interest in connecting to the proposed sewer line. There was also Council consensus to consider SF-10 zoning changes, in conformance with the Town's Master Plan, on a case-by-case basis.

On July 13, 2023, staff held a Sunrise Circle neighborhood meeting at the Argyle High School to discuss the topics below along with receiving feedback from the community.

- Prior CDBG projects
- Sewer
- Septic
- Water
- Financial assistance
- Land use and zoning

Approximately 30 people attended the meeting and many questions were raised. In response, the Town created a [Sunrise Circle webpage](#) to address the questions asked during the meeting, as well as questions asked during public comments at numerous Council meetings.

A follow-up community meeting occurred on October 5, 2023, at Argyle High School. This meeting was a come and go format that allowed residents to speak directly to staff about the topics of their choice. Approximately 15 people attended the October 5 meeting.

Overall, property owner attitudes are mixed. Most sentiment hinges on the fact there is not a free option for residents to connect to sewer if it's extended into the neighborhood. The free option was eliminated when the CDBG funding could no longer be utilized on the project. Because the Town will be using Town taxpayer funds, the extension of services falls under the Town's ordinances regarding

the extension of utilities. [That ordinance](#) allows services to be extended upon request and payment by the property owner(s), which is consistent with the [annexation service plan](#). Under the ordinance, the property owner is responsible for the cost to extend services to their lot. The Sunrise Circle Wastewater Connection Project would make sewer service *available*, but not connect individual lots to the system.

The mere availability of sewer creates issues for some property owners. Under Town ordinances, if a home's septic system fails, it can be replaced if sewer isn't available within 300 feet. If sewer is within 300 feet, the property owner must connect to the Town's sewer system. The cost to connect to the system depends on many factors. There is also the cost to decommission the failed septic system and connect the new private sewer lines from the home to the public sewer line in the right-of-way. Many owners communicated that they could not afford the cost of connection. In their opinion, if the sewer could not be provided free of charge, they didn't want it available to the neighborhood.

Others understood the benefit of sewer and were not as concerned with the connection costs. Others were okay with the sewer line entering the neighborhood so long as they were not forced to connect regardless of how close they were to the sewer line.

In addition to discussing options to extend the Sunrise Circle Wastewater Connection project, staff will present options to provide financial assistance for connection costs and an exception process to the mandatory sewer connection ordinance when properties are within 300 feet of sewer.

Staff will also seek direction from Council on their desire to establish a septic replacement program that would be available Town wide. This concept has been previously discussed and, if feasible, would involve setting up a fund that is seeded each year whereby the Town would use those funds to replace failed septic systems for eligible property owners. Property owners would pay back those cost over time. This would be similar to the Town's current sidewalk and fence replacement programs.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES: N/A

FISCAL IMPACT: N/A

LEGAL REVIEW: N/A

ATTACHMENTS:

None

DRAFT MOTION: Discuss and provide staff with direction.



TOWN COUNCIL AGENDA L.1. BOARDS/COMMISSIONS

DATE: December 4, 2023
FROM: Theresa Scott, Town Secretary
ITEM: **Discuss and consider the establishment of a Historical Commission or other alternatives.**

BACKGROUND: On August 22, 2022, the Town Council appointed a Historical Commission Task Force (HCTF) for the purpose of conducting a needs assessment to identify historical places, artifacts, people, and events of importance that shaped the history of the Town. The HCTF was also instructed to hold two public input sessions for the purpose of gauging community interest and gathering public feedback on the topic of historical preservation. Public meetings were held on:

10/19/22

01/18/23 (1 of 2 public input meetings)

02/16/23

03/08/23

04/13/23

07/25/23

08/29/23 (2 of 2 public input meetings)

09/27/23

11/01/23

At the July 25 meeting, and as part of the HCTF's due diligence, the Town Secretary and Town Manager provided the task force with a board structure overview that described how Town boards function (attached).

The HCTF was also tasked with assessing whether the Town would be best served by a Town Historical Commission or a stand-alone 501(C)(3) Historical Society, or a completely different approach.

On November 6, the HCTF recommended that the Town Council establish a Historical Commission. During that same meeting, a member of Council requested a future agenda item to discuss their recommendation. There was Council consensus to do so.

The purpose of this agenda item is for Council to provide direction regarding interest in creating a Historical Commission, or other alternatives. If there is direction to proceed, a draft resolution will be created and presented for Council consideration at a future meeting. That resolution would provide a draft outline of the Commission's purpose, structure, procedures, and powers/duties.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES: 1. Consider modifying the duties of a current Town board to include historical preservation responsibilities (i.e. Parks or Cultural Arts).
2. Recommend the task force pursue the establishment of a 501(C)(3) to allow greater flexibility and

decision-making authority, and to provide a funding source to support historical preservation endeavors, with a possible financial contribution by the Town.

FISCAL IMPACT: N/A
N/A

LEGAL REVIEW: N/A

ATTACHMENTS:

1. Board Structure Overview

DRAFT MOTION: Discuss and provide staff with direction.



1

- **TRAINING/LEGAL:**
 - Board members need to take Tx Attorney General OMA & PIA Training (45 min video – each) and required In-house legal training with Town Attorney
 - Subject to the Town’s Ethics and Conflicts of Interest rules, Oaths, Anti Bribery Statements
- **FUNDING:**
 - No funds allocated to boards and members cannot participate in fund raising activities
- **PUBLIC INFORMATION ACT (PIA)**
 - Board members subject to PIA(need to disclose any notes, emails, etc. as applicable)
- **OPEN MEETINGS ACT (OMA)**
 - Agendas posted 72 hours in advance
 - Meetings take place in JSH & televised
 - Must have a quorum to meet & 4 or more members cannot meet w/o agenda
 - Sub committees of 3 or less are possible
 - Public comment opportunity at every meeting
 - Speakers limited to 3 minutes and board can engage in a discussion with speaker
 - At the close of public comment, the chair/board is limited to providing a statement of fact or requesting that the topic be on a future agenda (OMA rules)

2

- **STAFF SUPPORT**

- Staff liaison
 - contacts board members to determine availability for meeting dates
 - prepares/post agendas, minutes, based on previous meetings or items that came up that are appropriate to that board
 - Meetings would be set on weekday not already used by a board – Current available dates:
 - Tues: 3rd, 4th
 - Wed: 1st, 3rd, 4th
 - Thur: 2nd, 4th
 - Takes and retains minutes (permanent record)

- **TOWN COUNCIL**

- Town Council appoints members (each serve at the will of Council)
- Council sets the duties, responsibilities & structure
- 2-year term
 - Place 1, 3, 5, 7 in odd years - Place 2, 4, 6 in even years
 - Council considers attendance in reappointment process
- Board members serve in an advisory role to Council

- **COMMUNICATION**

- Additional cost for Town to broadcast meetings (A/V crew)
- Request for Council input & feedback is done during the annual reporting session in May
- Refrain from using your title for any social media, letters to editor, etc.

3