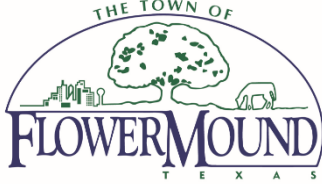


Town Council Regular Meeting



June 3, 2024
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. 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

E. ANNOUNCEMENTS

1. Announcements from the mayor and council members

F. TOWN MANAGER'S REPORT

1. Capital Improvement Projects
2. Economic Development Projects
3. Organizational Updates
4. Storm Response Report

G. 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).

H. COORDINATION OF CALENDARS

1. June 17 - Regular Meeting

I. 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 - 5/14, 5/16, and 5/20 - Consider approval of the minutes from a Special Meeting on May 14, a Special Meeting/Work Session on May 16, and a Regular Meeting on May 20.
2. Pavement Markings Contract - Consider approval to increase the annual contract amount for pavement markings services with Stripe-A-Zone, Inc., from an estimated annual contract amount of \$400,000.00 to an estimated annual contract amount of \$900,000.00, with an estimated fiscal year amount of \$500,000 through a City of Grand Prairie contract.
3. WWTP Effluent Filter Rehab Design PSA - Consider approval of a Professional Services Agreement (PSA) with Ardurra Group, Inc., for the design phase services associated with the Wastewater Treatment Plant Effluent Filter Rehabilitation project, in the amount of \$399,980.00; and authorization for the Mayor to execute same on behalf of the Town.
4. Leonard & Helen Johns Park Master Plan - Consider the approval of a Professional Services Agreement with MHS Planning & Design, LLC for the master planning of Leonard & Helen Johns Park, in the amount of \$75,750.00; and authorization for the Mayor to execute same on behalf of the Town.
5. SIM Elite Chef Fundraiser Event-Alcohol Consumption - Consider approval of the consumption of alcohol at the Flower Mound Senior Center during the 2024 Elite Chef Fundraiser.
6. FASTER Web Core Upgrade - Consider approval of an agreement with FASTER Asset Solutions to upgrade to FASTER Web Core in a one-time amount of \$49,999 and annual maintenance amount of \$17,578.32 for a term of sixty months.
7. NeoGov Subscriptions - Consider approval of an Order Form with NeoGov to purchase additional subscriptions to add to the current services agreement to include Learn, eForms, Laserfiche Integration, CoreHR and Benefits and authorization for the Mayor to execute same on behalf of the Town.

J. 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, Community Development Corporation, Cultural Arts Commission, Denton County Transportation Authority, Environmental Conservation Commission, Historical Commission, Parks Board, School Liaison Committee, SMARTGrowth Commission, Tax Increment Reinvestment Zone Number (TIRZ #1), Tax Increment Reinvestment Zone Number (TIRZ #2), Transportation Commission, and Veterans Liaison Board.

1. Conduct interviews for the Planning & Zoning Commission/Capital Improvements Advisory Committee.

K. REGULAR ITEM(S)

1. Development Agreement Townlake Phase 5 & 6 - Consider approval of a Development Agreement with Toll Southwest LLC., for the construction of certain Master Planned Town Roadway, Utility and Park improvements associated with the Townlake Phase 5 & 6 residential development; for \$1,783,578.50 and authorization for the Mayor to execute same on behalf of the Town.
2. Helistops - Consider and discuss zoning requirements for helistops and other aircraft-based uses.
3. Capital Projects-Future debt issuances - Discuss and provide feedback on large capital projects and future debt issuances.

L. CLOSED MEETING

The Town Council to convene into closed meeting pursuant to Texas Government Code Chapter 551, including, but not limited to, Sections 551.071, 551.072, 551.074, and 551.087 for consultation with Town Attorney, and to discuss matters relating to real property, personnel, and economic development negotiations, as indicated below. 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 below-referenced items.

1. Deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of the Municipal Judge, Alternate Judge, and Associate Judge.
2. Consultation with Town Attorney.
 - a. Furst Ranch Development Agreement
 - b. Regulation of Public Utilities
3. Discuss and consider purchase, exchange, lease or value of real property for parks, cultural arts, public safety, fire stations, public rights-of-way, and/or other municipal purposes and all matters incident and related thereto.
4. Discuss and consider resignations, appointments, evaluations, reassignments, discipline, or dismissals for the following boards or commissions: Board of Adjustment/Oil & Gas Board of Appeals, and Planning and Zoning Commission.
5. 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.

M. RECONVENE

N. 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: May 31, 2024, at 3:40 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 Special Meeting



May 14, 2024
Town Hall
2121 Cross Timbers Road
Flower Mound, TX 75028

6:00 p.m.

DRAFT MINUTES

A. CALL TO ORDER

Mayor Pro Tem Engel called the meeting to order at 6:00 p.m. with the following members:

Present Items A. - F.

Jim Engel, Mayor Pro Tem

Ann Martin, Deputy Mayor Pro Tem

Chris Drew, Councilmember Place 2

Brian Taylor, Councilmember Place 3

with the following member(s) absent: Derek France, Mayor; Adam Schiestel, Councilmember Place 1

Present Items G. - L.

Cheryl Moore, Mayor

Ann Martin, Deputy Mayor Pro Tem

Chris Drew, Councilmember Place 2

Brian Taylor, Councilmember Place 3

Janvier Werner, Councilmember Place 4

with the following member(s) absent: Adam Schiestel, Councilmember Place 1

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

Theresa Scott, Town Secretary

James W. Childers, Town Manager

Tommy Dalton, Assistant Town Manager

Tiffany Bruce, Assistant Town Manager/Town Engineer

John Zagurski, Chief Financial Officer

B. INVOCATION

Chaplain Bradley Vincent 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 Pro Tem Engel 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

	Speaker name and address	Subject (as written on the form)
1.	Tim Whisenant, 2120 Helmsford	Thanks

E. CONSENT ITEM(S)

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

ACTION: Ann Martin moved to approve Consent items 1 - 3 as presented in the agenda caption. Chris Drew seconded the motion.
AYES: Ann Martin, Jim Engel, Chris Drew, Brian Taylor
NAYS: None
ABSENT Adam Schiestel
RESULT: 4 : 0

1. Minutes - 5/6 - Consider approval of the minutes from a regular meeting held on May 6, 2024.
2. Election Canvass - Consider approval of an ordinance canvassing returns and declaring the results of a General and Special Election held May 4, 2024, to elect Mayor and Councilmember Place 4, amend the Home Rule Charter of the Town of Flower Mound, Texas, and Proposition G ("For" or "Against" Public Improvement District), and provide an effective date.

ORDINANCE 17-24

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, CANVASSING RETURNS AND DECLARING RESULTS OF A GENERAL AND SPECIAL ELECTION HELD MAY 4, 2024, FOR THE PURPOSE OF ELECTING MAYOR AND COUNCIL MEMBER PLACE 4 AND AMENDING THE HOME RULE CHARTER OF THE TOWN OF FLOWER MOUND, TEXAS; AND PROVIDING AN EFFECTIVE DATE.

3. 2024 Texas A&M Forest Service Grant - Consider acceptance of grant funds from the Texas A&M Forest Service for the FY 2024 Tree City USA Growth Award and execution of an agreement with the Texas A&M Forest Service; and authorization for the Mayor to execute said agreement on behalf of the Town.

F. RECOGNITION OF AND REMARKS FROM MAYOR DEREK FRANCE AND COUNCILMEMBER JIM ENGEL

Amanda France, on behalf of Derek France, offered remarks. Jim Engel offered remarks regarding his service.

G. OATH OF OFFICE FOR NEWLY ELECTED OFFICIALS

Mayor Pro Tem Engel issued each newly elected official with a Certificate of Election, and Ms. Scott administered the Oath of Office to each.

1. Administer Oath of Office to newly elected Councilmember Place 4, Janvier Werner and issue Certificate of Election.
2. Administer Oath of Office to newly elected Mayor, Cheryl Moore and issue Certificate of Election.

H. REMARKS FROM MAYOR CHERYL MOORE AND COUNCILMEMBER JANVIER WERNER

Cheryl Moore and Janvier Werner offered remarks.

I. CLOSED MEETING

The Council did not take action on this item given one member of Council was absent.

1. Discuss and consider election of Mayor Pro Tem
2. Discuss and consider election of Deputy Mayor Pro Tem

J. RECONVENE TO REGULAR MEETING

Not applicable.

K. COORDINATION OF CALENDARS

Mayor Moore confirmed that all members of Council plan to be at the following meeting.

1. May 20 - Regular Meeting

L. ADJOURN

Mayor Moore adjourned the meeting at 6:46 p.m. and all were in favor.

TOWN OF FLOWER MOUND, TEXAS

CHERYL MOORE, MAYOR

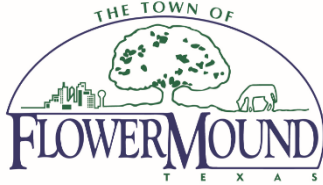
ATTEST:

THERESA SCOTT, TOWN SECRETARY

**Town Council Work Session
and Special Meeting**

and

Possible Quorum for Animal Services Board, Cultural Arts Commission, Environmental Conservation Commission, Historical Commission, Parks Board, School Liaison Committee, Transportation Commission, and Veterans Liaison Board for item F on this agenda; and possible quorum for the Board of Adjustment/Oil and Gas Board of Appears for item G & H.



May 16, 2024
Town Hall
2121 Cross Timbers Road
Flower Mound, TX 75028

5:15 p.m.

DRAFT MINUTES

A. CALL TO ORDER

Mayor Moore called the meeting to order at 5:15 p.m. with the following members present:

Cheryl Moore, Mayor
Ann Martin, Mayor Pro Tem (Remote)
Adam Schiestel, Deputy Mayor Pro Tem
Chris Drew, Councilmember Place 2
Brian Taylor, Councilmember Place 3
Janvier Werner, Councilmember Place 4

constituting a quorum with the following members of the Town Staff participating:
Theresa Scott, Town Secretary

Items A. - F.
Tommy Dalton, Assistant Town Manager

Items A. - E.
James W. Childers, Town Manager
Bryn Meredith, Town Attorney
Tiffany Bruce, Assistant Town Manager/Town Engineer
Lexin Murphy, Director of Development Services
John Zagurski, Chief Financial Officer

B. PUBLIC COMMENT

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

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

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- Speakers must address their comments to the Town Council
- Please state your name and address when speaking

No one spoke.

C. SPECIAL MEETING (1 OF 2)

D. CLOSED MEETING (1 of 2)

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 indicated below. 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 below-referenced items.

Mayor Moore announced that the Town Council is convening into a closed meeting at 5:16 p.m., pursuant to Texas Government Code Chapter 551, including, but not limited to, Sections 551.071, 551.072, 551.074, and 551.087.

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 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

E. RECONVENE

The Town Council reconvened into an open meeting at 6:03 p.m., and took no action on the above items.

F. WORK SESSION ITEM

1. The following Boards, Commissions, or Committees to provide status update reports relative to their duties and responsibilities and receive feedback from Town Council:

Mayor Moore provided background information on the purpose of this item and the following boards provided reports on their work. Board representatives also received feedback from Town Council.

- a. Veterans Liaison
- b. Animal Services
- c. Cultural Arts
- d. Environmental Conservation
- e. Historic Commission Task Force
- f. Parks
- g. School Liaison
- h. Transportation

G. SPECIAL MEETING (2 OF 2)

1. Conduct interviews for the Planning and Zoning Commission.
Mayor Moore provided background information on this item regarding the vacancy on the Planning and Zoning Commission, and Town Council interviewed the following individuals:
 1. Mike Bean
 2. Clare Harris
 3. Michelle Jackson
 4. Danielle Workman
2. 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, Environmental Conservation Commission, Historical Commission, Parks Board, School Liaison Committee, SMARTGrowth Commission, Tax Increment Reinvestment Zone Number One (TIRZ #1), Transportation Commission, and Veterans Liaison Board.
No action taken.

H. CLOSED MEETING (2 of 2) - The Town Council to convene into closed meeting pursuant to Texas Government Code Chapter 551.074 to discuss matters relating to personnel.

Mayor Moore announced that the Town Council is convening into a closed meeting at 8:30 p.m., pursuant to Texas Government Code Chapter 551.074.

1. Conduct interviews, 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.
2. Discuss and consider selection of Mayor Pro Tem and Deputy Mayor Pro Tem.

ACTION:	Janvier Werner moved to select Ann Martin as Mayor Pro Tem and Adam Schiestel as Deputy Mayor Pro Tem. Chris Drew seconded the motion.
AYES:	Ann Martin, Adam Schiestel, Brian Taylor, Chris Drew, Janvier Werner
NAYS:	None
ABSTAIN:	None
RESULT:	5 : 0

I. RECONVENE

The Town Council reconvened into an open meeting at 8:40 p.m., and took action on item H.2. above.

J. ADJOURN

Mayor Moore adjourned the meeting at 8:40 p.m. and all were in favor.

TOWN OF FLOWER MOUND, TEXAS

CHERYL MOORE, MAYOR

ATTEST:

THERESA SCOTT, TOWN SECRETARY

Town Council Regular Meeting



May 20, 2024
Town Hall
2121 Cross Timbers Road
Flower Mound, TX 75028

6:00 p.m.

DRAFT MINUTES

A. CALL TO ORDER

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

Cheryl Moore, Mayor
Ann Martin, Mayor Pro Tem (Remotely)
Adam Schiestel, Deputy Mayor Pro Tem
Chris Drew, Councilmember Place 2
Brian Taylor, Councilmember Place 3
Janvier Werner, Councilmember Place 4

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
John Zagurski, Chief Financial Officer
Clay Riggs, Director of Public Works
Ray Watson, Director of Economic Development

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 Moore led the pledges.

D. PRESENTATION(S)

1. Proclamation and presentation of Hometown Hero banner to Aaron Kovacevich
Mayor Moore recited the proclamation and presented it to Mr. Kovacevich's parents on his behalf.
2. Proclamation for 50th Anniversary of Emergency Medical Services Week May 19 - 25
Mayor Moore recited the proclamation and presented it to Fire Chief Henley.
3. Proclamation for Public Works Week May 19 - 25
Mayor Moore recited the proclamation and presented it to Clay Rigg, Director of Public Works.

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.

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

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

	Speaker name and address	Subject (as written on the form)
1.	Brit Stock, 4005 Rothschild	Integrity
2.	Scott Langley, 800 Carter Ct	Concerts in the Park

F. ANNOUNCEMENTS

1. Announcements from the mayor and council members
There were announcements from the Mayor and Council regarding:
 - congratulations to the newest elected officials
 - concerts in the Park
 - Memorial Day ceremony
 - summer jobs (Town of Flower Mound)
 - congratulations to EMS and Public Works staff for their recognitions and for the work that they do
 - lobby artwork
 - chalk the walk

G. TOWN MANAGER'S REPORT

1. Capital Improvement Projects
2. Economic Development Projects
3. Organizational Updates

a. Employee Service Recognition

Mayor Moore and Mr. Childers presented Certificates of Appreciation to Town employees with 15 years of service.

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).

There were no future agenda item request.

I. COORDINATION OF CALENDARS

Mayor Moore confirmed that all members of Council plan to attend the following meeting:

1. June 3 - Regular Meeting

J. CONSENT ITEM(S)

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

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

AYES: Ann Martin, Adam Schiestel, Chris Drew, Brian Taylor, Janvier Werner

NAYS: None

ABSTAIN: None

RESULT: 5 : 0

1. Budget Amendment FY23-24 - 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 and amended by Ordinance No. 52-23 for adjustments to the COVID-19 Fund.

ORDINANCE NO. 20-24

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 AND AMENDED BY ORDINANCE NO. 52-23, BY PROVIDING FOR ADJUSTMENTS TO THE COVID-19 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.

2. FY 2023-2024 CIP Amendment No. 4 - Consider approval of CIP Amendment No. 4 to the fiscal year 2023-2024 Capital Improvement Program.
3. Dump Truck Purchase - Consider approval of the purchase of one Mack GR64FR 12 Yard Tandem Dump Truck with Snow Plow Hitch and Hydraulics per the Town of Flower Mound Specifications and vendor quote from Bruckner Truck Sales in the amount of \$224,091.00.
4. Vehicle Purchase-Toyota Highlander for PD - Consider approval of purchasing (1) 2023 Toyota Highlander vehicle, with a police equipment package from Silsbee Toyota as per Town of Flower Mound specifications and vendor estimate via TIPS USA Cooperative Contract #210907, for \$50,626.50.
5. Utility Sites Security Fencing Construction Award - Consider approval of the award of Bid No. 2024-18-B Utility Sites Security Fence and Gate Implementation project to Triple-C Fence, LLC for the construction of security gates and fences at various Public Works utility sites in the amount of \$268,050.00; and authorization for the Mayor to execute same on behalf of the Town.
6. ClearGov Budget Software Agreement - Consider an agreement with ClearGov, Inc for online subscription budgeting software through September 30, 2029.

K. REGULAR ITEM(S)

1. Legislative Priorities - Discuss and provide feedback on the Town's legislative priorities for the 89th Texas Legislative Session.
Mr. Childers provided background information on the item. Brandi Bird, Bird Advocacy and Consulting, gave a presentation identifying or noting:
 - House and Senate Interim Charges
 - housing affordability
 - property tax issues
 - tax issues
 - other issues

- 2025 legislative session

and she responded to questions or comments from Council, or received their feedback regarding:

- interest in meeting opportunities with legislators.

Town Council members had the following priority topics:

- housing
- minimum lot size/unrestricted density and how the infrastructure would be paid for
- accessory dwelling units (adu's)
- property tax relief
- public utilities and interest in requiring Oncor to get permits, or coordinate better with municipalities, especially prior to cutting trees
- anything that preempts the Town at the local level
- local control of easements

and expressed interest in knowing the state's position regarding:

- preemption bill
- transportation (use of cameras at intersections)
- handling of first responders

2. Flower Mound Road Panel Replacements - Consider approval of the purchase of concrete removal and replacement services from F&F Concrete Construction, LLC, for work associated with the Flower Mound Road Panel Replacement project, through the Town of Flower Mound contract No. 2023-56-A, Concrete and Drainage Improvement Services, in the amount of \$2,276,763.00.

Mr. Riggs gave a presentation identifying or noting:

- project scope
- panel replacement locations
- annual contract
- project schedule

and he responded to questions or comments from Council regarding:

- community feedback
- funding source

ACTION: Adam Schiestel moved to approve K.2. as presented in the agenda caption. Janvier Werner seconded the motion.

AYES: Ann Martin, Adam Schiestel, Brian Taylor, Chris Drew, Janvier Werner

NAYS: None

ABSTAIN: None

RESULT: 5 : 0

3. DA23-0004 - VCA Animal Hospital - Consider approval of an amendment to the Development Agreement (DA23-0004) with VCA Real Property Acquisition Corporation, to amend Sections 7, 8, and 9 of the Original Agreement to modify standards related to an existing masonry wall and landscaping within the 25-foot landscape buffer along the northern property line; and authorization for the Mayor to execute same on behalf of the Town.

Ms. Murphy gave a presentation identifying or noting:

- general and detailed location
- site photos
- site plan
- landscape plan
- sample fencing
- existing language
- proposed language
- caption

and she responded to questions from Council regarding:

- building entrance
- pet relief area, including cleaning frequency
- boarding activity, including large and small dogs
- fencing
- property boundary
- synthetic turf option

ACTION: Adam Schiestel moved to approve K.3. as presented in the agenda caption. Chris Drew seconded the motion.

AYES: Adam Schiestel, Brian Taylor, Chris Drew, Janvier Werner

NAYS: Ann Martin

ABSTAIN: None

RESULT: 4 : 1

4. SUP24-0002 - Petfolk Veterinary Hospital - Public Hearing to consider an ordinance granting Specific Use Permit No. 491 (SUP24-0002- Petfolk Veterinary Hospital) to permit a veterinary hospital (inside pens) use. The property is generally located north of Cross Timbers Road and east of Long Prairie Road. (PZ recommended approval by a vote of 4 to 0 at its April 22, 2024, meeting.)

Ms. Murphy gave a presentation identifying or noting:

- general and detailed location
- land use and zoning
- SUP site plan
- site photos
- landscape plan
- hours of operation
- SUP conditions

and she responded to questions or comments from Council regarding:

- neighborhood communication

Applicant presentation (Brianna Moretti, Petfolk)

- delivery model
- space design
- hours of operation
- minimal use of kennels
- exam rooms and neighboring walls

and she responded to questions or comments from Council regarding:

- neighborhood communication (support or opposition)
- convenience pet relief area
- amount of veterinary clinics in vicinity and what makes them different, including market studies

Mayor Moore opened and closed the public hearing at 7:45 p.m. No one spoke.

ORDINANCE NO. 21-24

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. 491 (SUP-491) FOR A VETERINARY HOSPITAL (INSIDE PENS) USE ON CERTAIN PROPERTY DESCRIBED AS 1.6913 ACRES OF LAND AND BEING ALL OF LOT 1, BLOCK A, OF THE TIMBER PRAIRIE PLAZA ADDITION, AND ZONED RETAIL-2 ; 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.

ACTION: Brian Taylor moved to approve K.4. as presented in the agenda caption, and with the addition of a pet relief station as a condition of the SUP and in coordination with Town staff and the landlord. Chris Drew seconded the motion.

AYES: Ann Martin, Adam Schiestel, Brian Taylor, Chris Drew, Janvier Werner

NAYS: None

ABSTAIN: None

RESULT: 5 : 0

5. SP24-0007 - Flower Mound Montessori - Consider a request for a Site Plan (SP24-0007-Flower Mound Montessori) with an exception to Section 82-303, Compatibility setback, of the Code of Ordinances. The property is generally located east of Long Prairie Road and north of Aberdeen Drive. (PZ recommended approval by a vote of 4 to 0 at its May 13, 2024, meeting.) Ms. Murphy gave a presentation identifying or noting:

- general and detailed location
- land use and zoning
- site plan
- site photos
- background
- exception request
- elevations/rendering

Applicant (Jason Kilpatrick) responded to questions from Council regarding:

- height and color of the shade structure
- building color

ACTION: Adam Schiestel moved to approve K.5. as presented in the agenda caption. Chris Drew seconded the motion.

AYES: Ann Martin, Adam Schiestel, Brian Taylor, Chris Drew, Janvier Werner

NAYS: None

ABSTAIN: None

RESULT: 5 : 0

6. CON23-0002 – Smith Tract Conservation - Public Hearing to consider an ordinance amending the zoning (CON23-0002 – Smith Tract Conservation) from Agricultural District (A) uses to Planned Development District No. 197 (PD-197) with Agricultural District (A) uses for a conservation development with certain exceptions, modifications, and waivers to the Code of Ordinances. The property is generally located south of Cross Timbers Road, east of Shiloh Road and west of Scenic Road. (PZ recommended approval by a vote of 3 to 1 at its May 13, 2024, meeting.)

Mayor Moore opened items 6 and 7 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
- topographic slope exception
- overhead utility exception
- modifications (zoning standard, agricultural, estate, proposed); fencing
- site photos
- overall concept plan
- concept plan
- concept landscape plan
- concept open space plan, including trails
- tree survey/ECC recommendation
- Parks Board recommendation

and she, Mr. Woods, Mr. Riggs, Ms. Bruce, or Mr. Meredith responded to questions or comments from Council regarding:

- minimum lot sizes/septic systems
- tree survey
- septic inspection, and has the Town had any issues with the new systems
- process to identify and protect Indian marking trees
- drainage
- future bike lanes

Mike Boswell, Toll Brothers (applicant), gave a presentation identifying or noting:

- Toll Brothers values

- proposed development (447+ acres in the Cross Timbers Conservation District)
- subject tract
- what does the plan look like
- development of the plan (site history, trees, slopes, trails and roads (pre-development and master plan)
- trailheads, including concepts
- tree removal, including recycling and repurposing, measuring impacts (critical root zone, theoretical drip line, water courses, uncorrected leans), tree mitigation, tree impacts, Indian marking trees
- overhead exception
- wildlife and open space
- open space management plan
- product history
- site renderings
- the Toll Brothers Advantage
- milestones (various meetings)

and he responded to questions or comments from Council regarding:

- drainage
- construction traffic
- slope impact
- retaining walls
- tree preservation opportunities, including Indian Marking Trees
- wildlife protection plan
- side yard exception
- fencing (why not pipe fencing)
- gas wells on site (clean up process)
- septic systems and environmental impact for the quantity in this area

There was Council discussion regarding:

- tree preservation
- lot width
- open space
- overhead line exception
- quality of the develop
- drainage will be addressed by engineering
- traffic and thoroughfare plan may mitigate the concerns
- park component
- slopes and side yard setbacks

Mayor Moore opened the public hearing for items 6 and 7 at 9:23 p.m.

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

	SUPPORT	OPPOSITION	QUESTIONS OR COMMENTS ONLY
1.	Sally Mashburn, 6051 Walnut Hill Dir, Dallas	Christine Payton, 3025 Monet Ct	Bronz Peterson, 5104 Saddle Dr
2.		Bill Milburn, 3036 Hugo Ct	Kenneth Scheepers, 6505 Burning Tree Dr

** Indicates person did not wish to speak*

Mayor Moore closed the public hearing at 9:36 p.m.

ORDINANCE NO 22-24

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 CHANGING THE ZONING ON APPROXIMATELY 446.95 ACRES OF LAND SITUATED IN THE N. A. THOMPSON SURVEY, ABSTRACT NO. 1307, THE L. K. HEATH SURVEY, ABSTRACT NO. 1597, THE M.E.P. AND P.R.R. COMPANY SURVEY, ABSTRACT 935, DENTON COUNTY, TEXAS, FROM A AGRICULTURAL DISTRICT USES TO PLANNED DEVELOPMENT DISTRICT-197 (PD-197) WITH A AGRICULTURAL DISTRICT USES FOR A CONSERVATION DEVELOPMENT IN ACCORDANCE WITH THE TOWN'S MASTER PLAN AND SPECIFIC REQUIREMENTS AND EXHIBITS INCORPORATED HEREIN; PROVIDING THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

ACTION: Adam Schiestel moved to approve K.6. as presented, with the exception of the 15 foot side yard setback as needed for tree preservation, and the requirement for updated exhibits to reflect lot and tree modifications. Ann Martin seconded the motion.

AYES: Ann Martin, Adam Schiestel, Chris Drew, Brian Taylor, Janvier Werner

NAYS: None

ABSTAIN: None

RESULT: 5 : 0

7. TRP23-0022 - Smith Tract Conservation - Public Hearing to consider an application for a tree removal permit (TRP23-0022) for one hundred and twenty-nine (129) specimen trees on property proposed for development as Smith Tract Conservation. The property is generally located south of Cross Timbers Road, east of Shiloh Road, and west of Scenic Drive. (The Environmental Conservation Commission recommended approval by a vote of 4 - 3 at its April 2, 2024, meeting.)

ACTION: Adam Schiestel moved to approve K.7. as presented, excluding trees 4144, 4163, 4238, 6163, 6164, 6202, 6213, 6223, 6348, 6352 6415 6440. Janvier Werner seconded the motion.

AYES: Ann Martin, Adam Schiestel, Chris Drew, Brian Taylor, Janvier Werner

NAYS: None

ABSTAIN: None

RESULT: 5 : 0

8. MPA23-0006 - La Estancia - Public Hearing to consider an ordinance for a Master Plan Amendment (MPA23-0006 – La Estancia) to amend Section 1.0, Land Use Plan and Section 2.0, Area Plans, of the Master Plan by changing the current land use designation within the Denton Creek District Area Plan from Campus Industrial and Commercial/Industrial uses to High Density Single Family Detached, High Density, and Retail uses. The property is generally located north of Cross Timbers Road and west of U.S. Highway 377. (PZ recommended approval by a vote of 4 to 0 at its May 13, 2024, meeting.) Mayor Moore opened items 8, 9, and 10 at the same time.

Item 8: Mr. Dalton gave a presentation identifying or noting:

- location
- recap
- lawsuit
- negotiated plans
- density evolution
- land purchase
- settlement of case

and he, Mr. Watson, or Mr. Meredith responded to questions from Council regarding:

- current proposal history
- open meetings act
- adherence to legal advice
- entitlements under interim holding, and right to modify
- why newly elected officials did not attend the last Planning and Zoning Commission meeting (when this item on the agenda)

- land cost (fair value) and if marketable

Item 9: Ms. Murphy gave a presentation identifying or noting:

- general and detailed location
- land use and zoning
- master plan exhibit
- conceptual site plan
- site photos
- modification request
- use modifications
- conceptual site plan and landscape plan
- ECC and Parks Board recommendations

and she responded to questions or comments from Council regarding:

- zoning for neighboring developments (Trailwood and Canyon Falls)

Applicant Presentation: Brad Williams, Green Brick

Mr. Williams gave a presentation identifying or noting:

- Green Brick Partners
- DFW Metro area activity map

and he responded to questions from Council regarding:

- projects completed in Flower Mound
- time line for the project
- power lines within the site
- anticipated price points for the homes planned

Item 10: Mr. Dalton gave a presentation identifying or noting:

- TIRZ #2 goals overview
- TIRZ # 2 boundary
- project location
- CIA - Projects
- process
- CIA additions
- CIA corrections

and he, or Mary Petty, TIRZ consultant, responded to questions or comments from Council regarding:

- process for dissolving the boundary (if all obligations fulfilled)
- clarification regarding what the agreement entails
- what would happen if not for the TIRZ
- overall funding sources

Council Discussion

There was Council discussion regarding:

- adjacency
- retail space needs
- Green Brick's reputation for past projects in Flower Mound
- appreciation for longer driveways
- communication restrictions due to pending litigation
- benefit for the Town entering into the real estate transaction component of the project
- how the plan negotiated down the original amount of multi family units

Mayor Moore opened and closed the public hearing for items 8, 9, and 10 at 11:36 p.m. No one spoke.

ORDINANCE NO. 18-24

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING ORDINANCE NO. 24-01, IN PART, WHICH ADOPTED THE MASTER PLAN OF THE TOWN, BY AMENDING SECTION 1.0, "LAND USE PLAN," AND SECTION 2.0, "AREA PLANS," TO CHANGE THE CURRENT LAND USE DESIGNATION WITHIN THE DENTON CREEK DISTRICT AREA PLAN AND REFLECTED ON THE LAND USE PLAN MAP FROM COMMERCIAL/INDUSTRIAL OR MIXED DENSITY RESIDENTIAL, COMMERCIAL/INDUSTRIAL, AND CAMPUS INDUSTRIAL TO HIGH DENSITY SINGLE FAMILY DETACHED, HIGH DENSITY, AND RETAIL USES, ALONG WITH APPROPRIATE TEXT AMENDMENTS, ON CERTAIN PROPERTY DESCRIBED AS AN APPROXIMATELY 263.6 ACRE TRACT OF LAND IN THE JOEL WILBURN SURVEY, ABSTRACT NO. 1416, MEP&P RR CO. SURVEY, ABSTRACT NO. 922, AND BBB&C RR CO SURVEY, ABSTRACT NO. 154, DENTON COUNTY, TEXAS; PROVIDING THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

ACTION:	Adam Schiestel moved to approve K.8. as presented in the agenda caption. Brian Taylor seconded the motion.
AYES:	Ann Martin, Adam Schiestel, Chris Drew, Brian Taylor, Janvier Werner
NAYS:	None
ABSTAIN:	None
RESULT:	5 : 0

9. ZPD23-0014 - La Estancia - Public Hearing to consider an ordinance amending the zoning (ZPD23-0014 – La Estancia) from Planned Development District No.188 (PD-188) with Campus Industrial (CI) and Industrial District-2 (I-2) uses to Planned Development District No.202 (PD-202) with Single Family District-5 (SF-5), Single Family-Attached (SF-A), Multi-Family (MF), and Retail District-2 (R-2) uses, with certain waivers, exceptions, and modifications to the Code of Ordinances. The property is generally located north of Cross Timbers Road and west of U.S. Highway 377. (PZ recommended approval by a vote of 4 to 0 at its May 13, 2024, meeting.)

ORDINANCE NO. 19-24

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 CHANGING THE ZONING ON CERTAIN PROPERTY DESCRIBED AS AN APPROXIMATELY 263.6 ACRE TRACT OF LAND IN THE JOEL WILBURN SURVEY, ABSTRACT NO. 1416, MEP&P RR CO. SURVEY, ABSTRACT NO. 922, AND BBB&C RR CO SURVEY, ABSTRACT NO. 154, DENTON COUNTY, TEXAS, FROM PLANNED DEVELOPMENT DISTRICT-188 (PD-188) WITH CAMPUS INDUSTRIAL (CI) AND INDUSTRIAL DISTRICT-2 (I-2) USES TO PLANNED DEVELOPMENT DISTRICT-202 (PD-202) WITH SINGLE FAMILY DISTRICT-5 (SF-5), SINGLE FAMILY-ATTACHED (SF-A), MULTI FAMILY (MF), AND RETAIL DISTRICT-2 (R-2) USES, IN ACCORDANCE WITH THE TOWN'S MASTER PLAN AND SPECIFIC REQUIREMENTS AND EXHIBITS INCORPORATED HEREIN; PROVIDING THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

ACTION: Adam Schiestel moved to approve K.9. as presented in the agenda caption. Brian Taylor seconded the motion.
AYES: Ann Martin, Adam Schiestel, Chris Drew, Brian Taylor, Janvier Werner
NAYS: None
ABSTAIN: None
RESULT: 5 : 0

10. La Estancia Capital Improvement Agreement - Public Hearing to consider approval of a Capital Improvement Agreement for the La Estancia Development, establishing a process and providing for the reimbursement of impact fees, and TIRZ #2 revenues for qualified capital improvement costs.

ACTION: Adam Schiestel moved to approve K.10. as presented, and with the identified corrections. Brian Taylor seconded the motion.

AYES: Ann Martin, Adam Schiestel, Chris Drew, Brian Taylor, Janvier Werner

NAYS: None

ABSTAIN: None

RESULT: 5 : 0

11. Residential Homestead Increase - Consider approval of an ordinance increasing the residential homestead ad valorem (property) tax exemption to 15%.

Mr. Zagurski gave a presentation identifying or noting:

- strategic linkage
- homestead history
- financial impact

and he responded to questions from Council regarding:

- voter approval rate
- tax rate
- budget impact - next fiscal
- homestead exemption - other cities
- commercial tax rate impact and potential burden
- service levels if approved
- available tools to relieve the tax rate for homeowners
- sales tax rate

ORDINANCE NO. 23-24

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING SECTION 62-55, "RESIDENCE HOMESTEAD EXEMPTION," DIVISION 2, "EXEMPTIONS," ARTICLE II, "PROPERTY TAXES," OF CHAPTER 62, "TAXATION", OF THE CODE OF ORDINANCES, TOWN OF FLOWER MOUND, TEXAS, BY INCREASING THE RESIDENTIAL HOMESTEAD AD VALOREM (PROPERTY) TAX EXEMPTION TO 15 PERCENT (15%) OF THE APPRAISED VALUE OF THE RESIDENCE HOMESTEAD; PROVIDING A SAVINGS/REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

ACTION: Ann Martin moved to approve K.11. as presented in the agenda caption. Adam Schiestel seconded the motion.

AYES: Ann Martin, Adam Schiestel, Chris Drew, Brian Taylor, Janvier Werner

NAYS: None

ABSTAIN: None

RESULT: 5: 0

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, Community Development Corporation, Cultural Arts Commission, Denton County Transportation Authority, Environmental Conservation Commission, Historical Commission, Parks Board, School Liaison Committee, SMARTGrowth Commission, Tax Increment Reinvestment Zone Number (TIRZ #1), Tax Increment Reinvestment Zone Number (TIRZ #2), Transportation Commission, and Veterans Liaison Board.

No action taken.

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 indicated below. 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 below-referenced items.

1 of 2

Mayor Moore announced that the Town Council is convening into a closed meeting at 10:41 p.m., pursuant to Texas Government Code Chapter 551, including, but not limited to, Sections 551.071, 551.072, 551.074, and 551.087. The Town Council reconvened into an open meeting at 10:57 p.m., and took no action on the following items.

2 of 2

Mayor Moore announced that the Town Council is convening into a closed meeting at 12:06 a.m., on Tuesday, May 21 pursuant to Texas Government Code Chapter 551, including, but not limited to, Sections 551.071, 551.072, 551.074, and 551.087. The Town Council reconvened into an open meeting at 12:20 a.m. on Tuesday, May 21, and took no action on the following items.

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, economic development, 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, 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
5. Deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of the Municipal Judge, Alternate Judge, and Associate Judge.

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

Noted in Item M. above.

O. ADJOURN

Mayor Moore adjourned the meeting at 12:20 a.m. on Tuesday, May 21 and all were in favor.

TOWN OF FLOWER MOUND, TEXAS

CHERYL MOORE, MAYOR

ATTEST:

THERESA SCOTT, TOWN SECRETARY



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

DATE: June 3, 2024
FROM: Matthew Hotelling, Assistant Director of Public Works/Transportation
ITEM: **Consider approval to increase the annual contract amount for pavement markings services with Stripe-A-Zone, Inc., from an estimated annual contract amount of \$400,000.00 to an estimated annual contract amount of \$900,000.00, with an estimated fiscal year amount of \$500,000 through a City of Grand Prairie contract.**

BACKGROUND: The Transportation Services Division of Public Works has been utilizing, through an interlocal agreement, the City of Grand Prairie's contract for pavement marking services. In September 2021, Council approved an estimated annual contract amount of \$400,000 for these services. The contract annual effective date is July 31 and is tracked in one-year increments. The estimated annual fiscal year amount will increase this year from \$400,000 to \$500,000 due to price increases. Over the past two fiscal years, a unique situation has occurred where a large amount of FY2023 expenses occurred after July 31, 2023 and FY2024 expenses occurred before July 31, 2024, so this has put us in a unique situation to approve 2023 and 2024 expenses in this same fiscal year. Authorizing the \$900,000 in the estimated annual contractual amount will allow for Transportation Services to continue Pavement Marking activities, address the discrepancy between the contractual and fiscal years, and comply with Texas Local Government Code purchasing requirements.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES: N/A

FISCAL IMPACT: \$900,000.00 annually (estimated \$450,000.00 per fiscal year)

Proposed Expenditure/(Revenue)	Account Number(s):
\$900,000.00 estimated over two fiscal years	Various Projects and Accounts

LEGAL REVIEW: N/A

ATTACHMENTS:

1. City of Grand Prairie Contract

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



Contract Coversheet

Dept: * Purchasing

Contract ID: 20913

For: Transportation Services

Bid Number: 21116

Contact Name: Anda Upchurch

Contact Phone: * 8270

Contact Email: * aupchurch@gptx.org

Vendor Name: Stripe-A-Zone, Inc.

Vendor Email: jjohnson@stripe-a-zone.com

Project Name: Pavement Marking Services (2021)

Summary: Initial 1-year with up to 4 additional renewal terms; CC Agenda Item # 21

Permanent Retention *

☐ Yes

☒ No

Contract Amount

\$ 489,885.00

Total Contract Amount over all terms

\$ 2,449,425.00

Account #

Work Order #

Dates

Implementation Date

8/4/2021

Termination Date

7/31/2022

Council Approval Date

8/3/2021

Contract Approvals

Department Manager:

Cathy Patrick

Date 8/5/2021

City Attorney Signature

Tiffany Bull

Date 8/5/2021

City Manager Signature

WILLIAM A. HILLS

Date 8/18/2021

City Secretary Signature

Gloria Colvin

Date 8/20/2021

CITY OF GRAND PRAIRIE SERVICES PRICE AGREEMENT

THIS CONTRACT is made and entered into this date by and between the **CITY OF GRAND PRAIRIE**, a Texas municipal corporation (hereinafter referred to as the “CITY”), and **STRIPE-A-ZONE, INC.** (hereinafter referred to as “VENDOR”) and evidences the following:

I. PURPOSE

VENDOR shall provide pavement marking services per bid award resulting from VENDOR’s response to RFB #21116, submitted by John Johnson, on June 21, 2021.

II. DESCRIPTION OF SERVICES

The services which VENDOR shall provide for the CITY shall include the following:

- A. VENDOR hereby covenants and agrees that VENDOR is to work closely with the CITY’s Transportation Services Director or their designee, and/or other appropriate officials of the CITY, and that VENDOR is to perform any and all tasks required of VENDOR to fulfill the purposes of this Contract.
- B. VENDOR and the CITY covenant and agree that VENDOR shall perform all of the services and work contained in CITY specifications and VENDORS bid to CITY (attached hereto as “Exhibit A”); said document being part of this Contract and incorporated in its entirety herein. The parties agree that should there be any conflict between the terms of the incorporated document and this Contract, the provisions of this Contract shall control. The parties understand that quantity of services to be furnished to the City is an estimate and that the City may order more, less, or none of the services depending on the projects and the work of the City that requires the services. The price of the services shall remain constant throughout the term of contract.
- C. VENDOR expressly covenants and agrees to provide the CITY with such written reports or documentation of guaranties as may be required by the scope of the submittal.

III. PERFORMANCE OF WORK

VENDOR or VENDOR’S associates and employees shall perform all the work called for in this Contract. VENDOR hereby covenants and agrees that all of VENDOR’S associates and employees who work on this project shall be competent and fully qualified to do the work described in this Contract, the services performed shall be performed in a good and workmanlike manner, and the finished product shall be fit for the particular use(s) contemplated by this agreement.

IV. PAYMENT

The CITY shall pay to VENDOR a sum not to exceed those unit prices, or percentage discount from list price where applicable in the submittal for the purchase of services designated herein and in no event shall total payments under the base contract exceed \$489,885.00 without additional approval. VENDOR'S invoices must be delivered to the attention of the department placing the order. The city will pay invoices as work is completed and within 30 days after receipt of an invoice or certification by the City that the work is performed in a good and workmanlike manner, whichever is later. Payment will be made by means of a City issued check, an ACH, or with a City issued Procurement Card (Mastercard).

V. TERM OF THE CONTRACT

This Contract is for an initial term of one year with the option to renew for four additional one year periods. This Contract is effective as of August 4, 2021. No new orders shall be accepted, against this Contract term, after midnight on July 31, 2022. Contract shall terminate upon completion of all requirements for orders placed by said date, unless the parties mutually agree in writing to extend the term of the Contract through allowable renewal option, or unless otherwise terminated as provided in Paragraph XVI herein. The parties shall evidence the renewal in writing, with any additional terms set out in the said writing.

VI. CONTRACT ASSIGNMENT

VENDOR and the CITY hereby covenant and agree that this Contract provides for services and that these services are not to be assigned or sublet in whole or part without the prior written consent of the CITY.

VII. CONFLICT OF INTEREST

VENDOR hereby covenants and agrees that during the Contract period that VENDOR and any of VENDOR'S associates and employees will have no interest nor acquire any 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 VENDOR pursuant to this Contract will be conducted by employees or associates of VENDOR. VENDOR further covenants and agrees that it understands that the Code of Ordinances of the City of Grand Prairie prohibits any officer or employee of the CITY from having any financial interest, either direct or indirect, in any business transaction with the CITY. Any violation of this paragraph which occurred with the actual or constructive knowledge of VENDOR will render this Contract voidable by the CITY.

VIII. CHANGE IN WORK

The CITY, through its Purchasing Manager or their designee, may request changes in the scope and focus of the activities and duties called for under this Contract. Any such change which, in the opinion of VENDOR or the CITY varies significantly from the scope and focus of the work set out herein or entails a significant increase in cost or expense to VENDOR must be mutually agreed upon by VENDOR and the CITY. The parties herein acknowledge that any change in the scope or focus of the work which results in the increase in compensation to VENDOR of the fee stated in Paragraph IV hereof must first be approved by the CITY's Purchasing Manager, City Manager or City Council, where applicable.

IX. CONFIDENTIAL WORK

Any reports, designs, plan, information, project evaluations, data or any other documentation given to or prepared or assembled by VENDOR under this Contract shall be kept confidential and may not be made available to any individual or organization by VENDOR without the prior written approval of the CITY except as may be required by law.

X. OWNERSHIP OF DOCUMENTS

VENDOR acknowledges that CITY owns all notes, reports, or other documents, intellectual property or documentation produced by the vendor pursuant to this agreement or in connection with its work which are not otherwise public records. VENDOR acknowledges that CITY shall have copyright privileges to those notes, reports, documents, processes, and information.

VENDOR shall provide CITY a copy of all such notes, reports, documents, and information (except to the extent that they contain confidential information about third parties) at CITY expense upon written request.

XI. NONDISCRIMINATION

As a condition of this Contract, VENDOR covenants and agrees that VENDOR shall take all necessary actions to ensure, in connection with any work under this Contract, VENDOR, VENDOR'S associates, sub-vendors, and employees will not discriminate in the treatment or employment of any individual or groups of individuals on the grounds of race, color, religion, national origin, age, sex, or physical or mental handicap, either directly or indirectly or through contractual or other arrangements. In this regard, VENDOR shall keep, retain, and safeguard all records relating to this Contract for work performed hereunder for a minimum period of three (3) years from final contract completion, with full access allowed to authorized representatives of the CITY upon request, for purposes of evaluating compliance with this and other provisions of the Contract. VENDOR verifies that it does not "boycott Israel" as that term is defined in Tex. Govt. Code §808.001 and will not boycott Israel during the term of this contract.

XII. INDEPENDENT VENDOR

By the execution of this Contract, the CITY and VENDOR do not change the independent vendor status of VENDOR. No term or provision of this Contract or any act of VENDOR in the performance of this Contract may be construed as making VENDOR the agent or representative of the CITY. All employees of VENDOR shall perform their duties under the supervision of VENDOR, which shall have the exclusive right to dictate to the VENDOR'S employees how to perform their tasks. VENDOR agrees and covenants that each of its employees will be properly qualified and will use reasonable care in the performance of the assigned duties. VENDOR shall post all applicable warning signs if such work will disrupt normal traffic or workplace activities.

XIII. WARRANTY, HOLD HARMLESS, AND INDEMNITY

VENDOR warrants that the services it performs for CITY will be performed in a good and workmanlike manner, and that any items delivered to the CITY under this contract will be fit for the particular purpose for which it was furnished. VENDOR shall defend, indemnify, and hold the CITY whole and harmless against any and all claims for damages, costs, and expenses to persons or property that may arise out of, or be occasioned by, the execution or performance of this Contract or any of VENDOR'S activities or any act of commission or omission related to this Contract of any representative, agent, customer, employee, sub-vendor or invitee of VENDOR or any representative, agent, employee, or servant of the CITY. If an item is covered by a manufacturer's warranty, it is the responsibility of the VENDOR to obtain the information for CITY and to get the manufacturer to honor the warranty.

XIV. INSURANCE

Prior to the commencement of work under this Contract, VENDOR shall obtain and shall continue to maintain at no cost to the CITY, in full force and effect during the term of this Contract, a comprehensive liability insurance policy with a company licensed to do business in the State of Texas and rated not less than "A" in the current Best Key Rating Guide, which shall include bodily injury, death, automobile liability, worker's compensation, and property damage coverage, in accordance with any CITY ordinance or directive. The minimum limits for this coverage shall be \$1,000,000.00 per occurrence / \$2,000,000 aggregate for general liability and for property damage, and \$1,000,000 combined single limit for automobile liability unless modified in accordance with any ordinance or directive. Insurance obtained by VENDOR shall be primary and noncontributory, and CITY shall be named as an additional insured under the general liability and automobile policies. A provision shall be incorporated in the policies whereby CITY shall be given at least thirty (30) days prior notice of any material change in coverage or of cancellation of such policies, and VENDOR shall provide the City with a copy of any such notice of material change in coverage or cancellation of any such policies, within three (3) business days of its receipt of such a notice. For purposes of this section, a material change in coverage includes, but is not limited to, a reduction in coverage below the amounts required under this agreement. VENDOR shall provide a waiver of subrogation in favor of the CITY on all coverages and represents that it has taken all actions necessary under the policy or policies for the City to have the status of additional insured and to effectuate any required waiver of subrogation. VENDOR shall furnish the CITY with original copies of the policies or certificates evidencing such coverage prior to commencement of any work under this Contract.

XV. NO VERBAL AGREEMENT

This Contract contains the entire commitments and agreements of the parties to the Contract. Any verbal or written commitment not contained in this Contract or expressly referred to in this Contract and incorporated by reference shall have no force or effect.

XVI. TERMINATION

The CITY may, at its option and without prejudice to any other remedy to which it may be entitled at law or in equity, terminate further work under this Contract, in whole or in part, by giving at least thirty (30) days prior written notice thereof to VENDOR with the understanding that all services being terminated shall cease upon the date specified in such notice. The CITY shall equitably compensate VENDOR, in accordance with the terms of this Contract for the services properly performed prior to the date specified in such notice following inspection and acceptance of same by the CITY. VENDOR shall not, however, be entitled to lost or anticipated profits should the CITY choose to exercise its option to terminate.

XVII. VENUE

The parties to this Contract agree and covenant that this Contract will be performable in Grand Prairie, Texas, and that if legal action is necessary to enforce this Contract, exclusive venue will lie in Dallas County, Texas.

XVIII. APPLICABLE LAWS

This Contract is made subject to the existing provisions of the Charter of the City of Grand Prairie, its rules, regulations, procedures, and ordinances, present and future, and all applicable laws of the State of Texas and the United States.

XIX. FIREARM AND AMMUNITION INDUSTRY CONTRACT VERIFICATION

VENDOR verifies that, in accordance with the terms defined in Section 2274.001 of the Texas Government Code, it does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association, and that it will not during the term of the contract discriminate against a firearm entity or firearm trade association.

XX. CONTRACT INTERPRETATION

The parties to this Contract covenant and agree that in any litigation relating to this Contract, the terms and conditions of the Contract will be interpreted according to the laws of the State of Texas, without regard to any conflict of law rules.

XXI. NOTICES

All notices, requests, or other communications (excluding invoices) hereunder must be in writing and transmitted via overnight courier, email, hand delivery, or certified or registered mail, postage prepaid and return receipt requested to the CITY and VENDOR as follows:

CITY:

City of Grand Prairie
ATTN: Anda Upchurch, Sr. Buyer/ Purchasing Division
300 Main Street, Grand Prairie, TX 75050
PO Box 534045, Grand Prairie, TX 75053-4045
Phone 972-237-8270 | Email purchasingfax@gptx.org
Accounts Payable Contact: accountspayable@gptx.org

City of Grand Prairie
ATTN: Caryl DeVries, Senior Traffic Engineer | Transportation Services Department
300 Main Street, Grand Prairie, TX 75050
PO Box 534045, Grand Prairie, TX 75053-4045
Phone 972-237-8119 | Email cdevries@gptx.org

VENDOR:

Stripe-A-Zone, Inc.
ATTN: John Johnson, VP of Finance
2714 Sherman St., Grand Prairie, TX, 75051
Phone 972-647-2714 | Email jjohnson@stripe-a-zone.com

Any notice required or desired to be given to either party hereto shall be deemed to be delivered: (i) on the date of delivery, if hand delivered or emailed; (ii) one (1) day after sending, if sent by overnight courier; or (iii) three (3) days after the same is deposited in an official depository under the regular care and custody of the United States Postal Service located within the confines of the United States of America and sent by registered or certified mail, return receipt requested, and addressed to such party at the address hereinafter specified. Either party hereto may change such party's address for notice to another address within the United States of America, but until written notice of such change is actually received by the other party, the last address of such party designated for notice shall remain such party's address for notice.

XXII. SEVERABILITY

In the event that any provision contained in this Contract is held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof and this Contract shall be considered as if such invalid, illegal, or unenforceable provision had never been contained in the Contract.

XXIII. RIGHT OF REVIEW

VENDOR covenants and agrees that the CITY, upon reasonable notice to VENDOR, may review any of the work performed by VENDOR under this Contract.

XXIV. WAIVER OF ATTORNEYS FEES

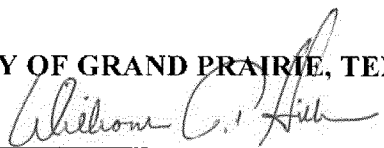
VENDOR and CITY expressly covenant and agree that in the event of any litigation arising between the parties to this contract, each party shall be solely responsible for payment of its attorneys and that in no event shall either party be responsible for the other party's attorney's fees regardless of the outcome of the litigation.

XXV. NON-COLLUSION

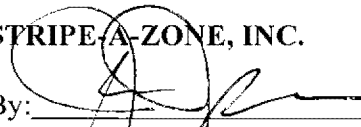
VENDOR represents and warrants that VENDOR has not given, made, promised, or paid, nor offered to give, make, promise or pay any gift, bonus, commission, money or other consideration to any person as an inducement to or in order to obtain the work to be provided to the CITY under this Contract. VENDOR further agrees that VENDOR shall not accept any gift, bonus, commission, money, or other consideration from any person (other than from the CITY under this Contract) for any of the services performed by VENDOR under or related to this Contract. If any such gift, bonus, commission, money, or other consideration is received by or offered to VENDOR, VENDOR shall immediately report that fact to the CITY and, at the sole option of the CITY, the CITY may elect to accept the consideration for itself or to take the value of such consideration as a credit against the compensation otherwise owing to VENDOR under this Contract.

EXECUTED this the 5TH day of AUGUST, 2021.

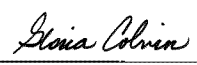
CITY OF GRAND PRAIRIE, TEXAS

By: 
Deputy City Manager

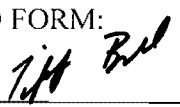
STRIPE-A-ZONE, INC.

By: 
Printed Name: JOHN JOHNSON
Title: V.P. OF FINANCE

ATTEST:

for 
Mona Lisa Galicia, City Secretary

APPROVED AS TO FORM:


Megan Mahan, City Attorney

By Tiffany Bull, Assistant City Attorney

CONTRACT FOR PRICE AGREEMENT ~ RFB # 21116
(City Standard Form—Revision June 2021)

Page 7 of 7



CITY OF GRAND PRAIRIE, TEXAS

REQUEST FOR BIDS

RFB # 21116 – Pavement Marking Services

DUE DATE: PRIOR TO 2PM JUNE 29, 2021

DUE TO: Anda Upchurch, Senior Buyer
Purchasing Division
www.publicpurchase.com
Grand Prairie, Texas 75050

Late responses will be unopened and not accepted for consideration. The City of Grand Prairie is not responsible for lateness or failure of timely delivery via mail (whether delays are internal/external), carrier, etc. Please ensure you allow time to provide your response timely so that you may be properly considered. **EMAIL BIDS WILL NOT BE ACCEPTED.**

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CITY OF GRAND PRAIRIE
ADVERTISEMENT FOR BIDS

Sealed bids will be received via www.PublicPurchase.com until **June 29, 2021**, at 2:00 PM, and publicly opened and read via teleconference for the purchase of the following:

BID # 21116 – Pavement Marking Services

Further information and specifications may be obtained at www.publicpurchase.com, www.gptx.org, or from the Purchasing division at (972) 237-8262.

The city reserves the right to reject any or all bids and to waive formalities. The city also reserves the right to purchase these items through state awarded contracts or other intergovernmental agreements when it is in the best interest of the city.

Publish: June 11th & June 18th, 2021

1. PROJECT SCOPE

It is the intent of this specification to obtain an annual price agreement for the purchase of pavement marking services for the City of Grand Prairie. These services shall include but are not limited to removal of existing pavement markings, furnishing and placing of hot applied thermoplastic reflective pavement markings of extruded and/or sprayed thermoplastic compound on a work order basis. This agreement will begin on or after August 17, 2021.

2. REQUIREMENTS - Services shall include but are not limited to the following:

2.1. Vendor shall furnish all equipment, materials, service, labor, and all miscellaneous items necessary for the required pavement preparation, layout, and completion of the pavement marking installation.

2.2. The pavement markings to be applied generally will consist of crosswalk lines, stop lines, crosshatch lines, symbols, legends and arrows, channelizing lines, and short sections of centerlines and lane lines.

2.3. The pavement that the thermoplastic markings will be applied to will be primarily asphalt. Some pavements may have been rejuvenated by means of a "chip seal" or "slurry seal" surface treatment. Some pavements may be Portland Cement Concrete.

2.4. Standards - All markings shall be installed in accordance with the following:

2.4.1 Manual on Uniform Traffic Control Devices for Streets and Highways (MUTCD), published by the Texas Highway Administration, latest edition (<http://www.txdot.gov/government/enforcement/signage/tmutcd.html>); and

2.4.2 TxDOT Pavement Marking Handbook (<http://onlinemanuals.txdot.gov/txdotmanuals/pmh/pmh.pdf>); and

2.4.3 These specifications and special provisions; and

2.4.4 Work orders issued by the Signs and Markings Division, which will include appropriate drawings from the TxDOT Pavement Marking Standard Detail Sheets. (<https://ftp.dot.state.tx.us/pub/txdot-info/cmd/cserve/standard/traffic/pm1-20.pdf>).

2.4.5 In the event of conflict between the above standards, the work orders and the drawings attached thereto shall take precedence.

2.5. THERMOPLASTIC, HOT APPLIED – ATTACHMENT A

The attached specification shall govern for the materials, composition, quality, sampling, and testing of thermoplastic, hot applied, and materials utilized in its application to the roadway surface.

2.6 ELIMINATING EXISTING PAVEMENT MARKINGS & MARKERS – ATTACHMENT B

The attached specification shall govern for the elimination of existing pavement markings of the various types and sizes and raised pavement markers as shown on the plans or as directed by the Engineer.

2.7 PAVEMENT SURFACE PREPARATION FOR MARKINGS – ATTACHMENT C

The attached specification shall govern for the surface preparation of pavement surface areas prior to placement of pavement markings or raised pavement markers.

2.8 RAISED PAVEMENT MARKERS – ATTACHMENT D

The attached specification shall govern for the materials, composition, quality, sampling, and testing of raised pavement markers of the various classes and types shown on the plans.

3. RATE OF PURSUING THE WORK

3.1 The Vendor shall start the work required by each work order within two weeks of notification and complete the work, no later than one (1) calendar month after receipt of the work order. The only exception to this requirement will be extenuating circumstance as may be accepted by the City representative. Requests for exceptions due to extenuating circumstances must be made in writing to the City representative within 48 hours of the occurrence. The City representative's decision on extenuating circumstances will be final.

3.2 Lost workdays due to holidays, weather, break-down or non-availability of materials or of Vendor's equipment shall not be allowed as an excuse for not meeting the required schedule. The Vendor shall assure that necessary materials and equipment are available for use on this Agreement. Each day that a work order is not completed after the one (1) month allowed shall be considered failure to pursue the work at an adequate rate. See "Termination for Default" in the SOLICITATION STANDARD TERMS AND CONDITIONS.

4. SCHEDULING AND RECORD KEEPING

4.1. The Vendor shall designate a foreman in charge of the daily striping work. Each Monday morning, (Tuesday morning following a Monday City holiday), the Vendor shall submit a weekly written schedule of work to the City representative. The schedule shall be verbally updated each working day (i.e. progress report on accomplishments and schedule changes) by the Vendor's foremen. This daily contact with the City representative is required.

4.2. A permanent written log of each day's work shall be maintained by the Vendor. This daily log shall consist of the name of the intersecting roadways, the work order number that was executed, the markings actually installed, the approximate time of day that the markings were installed, the quantity (L.F., Sq. Ft., or each) of each bid item installed at locations, and any other comments as may be desirable. A copy of the daily logs and completed work orders for the previous week's work shall be submitted no later than each Tuesday. Repeated failure to turn in logs and completed work orders when due may result in assignment of one (1) day of Liquidated Damages for each occurrence.

4.3. If there are locations that the Vendor desires to do at night or during other than normal working hours for his own convenience, the Vendor shall submit a request in writing to the City representative at least three (3) working days in advance of any intended work on nights, weekends, or holidays, and shall not undertake such work without the approval of the City representative.

- 4.4. Provisions must be made, at the Vendor's expense, for adequate lighting of the marking operation and additional traffic control devices required for nighttime work. For night work, a minimum of six (6) 3000-watt lights shall be used to illuminate the area where pavement markings are being installed or removed. These lights shall be positioned so they do not interfere with the travelling public. Night work is defined as any work occurring between one-half (1/2) hour after sunset and one-half (1/2) hour before sunrise.

5. DELIVERY OF MATERIAL

- 5.1 It shall be the Vendor's responsibility to see that merchandise is delivered within or adjacent to the area of installation repair as specified by the City.
- 5.2 The work described in this specification shall be done with the least inconvenience. Vehicles must always have egress capabilities. The amount of time that normal operations are interrupted must be kept to an absolute minimum and shall be coordinated with the City representative.
- 5.3 The Vendor is responsible to protect all existing and newly installed work, materials, equipment, improvements, utilities, structures, and vegetation always during this agreement. Any property or incidentals damaged during this agreement shall be repaired or replaced to the satisfaction of the City representative.

6. LOCATIONS

The specific locations of work are not listed herein but will be assigned via written work order by the City's representative during the duration of the agreement. Each work order will specify the locations, items, and estimate quantities of work to be performed. The City may add, delete, or change the work locations or details of the markings layouts 'at any time during the work period, with at least two (2) working days prior notice to the Vendor.

7. QUALIFICATIONS

- 7.1 The Vendor must be have a minimum of five years' experience in the application of hot thermoplastic retro-reflective pavement markings at intersections, on streets, and highways that are open to traffic. Bidders that cannot demonstrate successful previous experience in work of the type in this agreement will be considered not responsible and will not be considered for award of agreement.
- 7.2 The Vendor must possess (own or rent) and/or assure the availability of sufficient equipment, meeting the requirements, to successfully pursue the work in this agreement.
- 7.3 Personnel employed by the Vendor for work on this agreement shall be experienced in operating the striping equipment, requiring little or no training necessary to expeditiously commence the work and pursue it to completion. Before the City will authorize the Vendor to start work, the Vendor shall inform the City representative of the names and specific jobs of the Vendor's employees assigned to the Agreement. Any personnel replacements or job assignment changes during the Agreement must be reported immediately to the City representative and any replacement personnel must meet the personnel experience qualifications stated above. If, at any time, the City representative believes that inexperienced personnel are being employed, the City representative may halt the work until experienced personnel are provided.

8. VENDOR RESPONSIBILITIES

- 8.1 Supervision** – The Vendor shall, during all periods of contract performance, provide competent supervision of his employees to assure complete and satisfactory fulfillment of the work and the terms of this contract. The Vendor or a capable, fully authorized representative must be immediately available during all work activities to receive all special instructions from the City agent.
- 8.2 Defective Work and Damages** – The Vendor shall be wholly responsible for and shall promptly correct or restore all defective work or damages to any/all City facilities caused by its activities. Restoration and correction shall be to the complete satisfaction of the City. This shall apply to any part of a building, its appurtenances, the adjacent grounds, or any other tangible damage incurred in the performance of the Contract. Any damage will be immediately reported to the Contract administrator or his agent. Failure by the Vendor to proceed promptly with corrective actions may be cause for cancellation of this contract with amount(s) necessary to correct defective work and/or damage being withheld from payments due or to become due to the Vendor.
- 8.3 Warranty** - The Vendor agrees to warrant all services performed (workmanship, parts, refinishing, etc.) for a minimum period of one (1) year from date of acceptance. Longer warranty periods will be viewed favorably.

9. COMPLETION

- 9.1 Inspection** - Vendor agrees to allow the City agent to conduct periodic on-site inspections of any/all striping work to ensure all work is being performed in accordance with the agreed estimate(s).
- 9.2 Acceptance** - Acceptance of markings shall be conducted by designated City agent.

10. PAYMENT AND INVOICING

- 10.1 Payment** - The City will authorize payment upon satisfactory completion, inspection and acceptance by the City. Work found unacceptable by the City will be corrected at the Vendor's expense. All work will be performed in accordance with the outlined quote and work order furnished by the city. Vendors are subject to non-payment for any/all unauthorized repair/restoration work.
- 10.2 Implied work** - All incidental work required by the drawings and specifications, for which no payment is specifically provided, and any work or materials not therein specified which are required to complete the work and which may fairly be implied as included, shall be done or furnished by the Vendor without extra compensation.
- 10.3 Invoicing** - The following requirement applies to all invoices. Invoices must reference a purchase order number and have attached a copy of the matching work order. The invoice should include the following:
- 10.3.1** Purchase Order number
 - 10.3.2** Invoice number
 - 10.3.3** Total Hours Charged
 - 10.3.4** Contract rates
 - 10.3.5** Total amount due

11. SAFETY REQUIREMENTS

- 11.1 The Vendor must be thoroughly familiar with all prevailing safety measures pertinent to its operation and shall meet or exceed those measures. This shall include, but not necessarily be limited to Environmental Health Agency (EPA) regulations, State of Texas regulations, local city ordinances, and Occupational Safety and Health Agency (OSHA) regulations. In addition, the Vendor shall be wholly responsible for instructing its employees in these safety measures and seeing that they are fully complied with in every respect.
- 11.2 Vendor will provide all required safety signage, barricades, and flashers/strobes.
- 11.3 All employees shall follow all applicable safety procedures, have appropriate safety training certification when required by federal or state law, have immediate access to all appropriate safety equipment, and shall be trained in the use of that equipment.
- 11.4 All vehicles shall have proper safety signage, be fit for their intended purpose, and meet all FAA, OSHA, and State of Texas requirements.
- 11.5 Vendors discovered working without necessary safety devices or equipment in place will be required to stop all work in progress until adequate equipment has been obtained and approved by to the Contract Administrator.
- 11.6 Any hazardous condition or any damage to City property is to be immediately reported to the City Contract Administrator.
- 11.7 Vendor will not permit unsafe practices. Examples of unsafe practices include but are not limited to: using inappropriate equipment for the job, removing chains or other safety devices from equipment, traveling with an operator sitting in the back of a pickup truck with the tailgate lowered, operating equipment at excessive speed, or operating without appropriate traffic control plan in place for the safety of the motorist and workers. Unsafe practices will be grounds for termination of the contract.

12. PROCUREMENT SCHEDULE

The projected schedule for this procurement is as follows:

Activity	Target Dates
Release Bid	Friday, June 11, 2021
Deadline for Questions	Wednesday, June 23, 2021
Responses to Questions	Thursday, June 24, 2021
Deadline for Receipt of Bids	Tuesday, June 29, 2021
Council Date	Tuesday, July 13, 2021

13. CONTACT

Information, questions or clarification concerning the intent of this RFB should be in writing and addressed to Anda Upchurch at aupchurch@gptx.org by 4:00 p.m. (CST) of the Deadline for Questions outlined in the Procurement Schedule. City of Grand Prairie's response to questions and requests for clarification will be posted to Public Purchase (www.publicpurchase.com).

14. BID EVALUATION

Award will be based on responsive bids best value as outlined in the Evaluation Criteria below. The City of Grand Prairie reserves the right to accept or reject all bids in whole or in part and waive any informality in the competitive bid process. Further, the city reserves the right to enter any contract deemed to be in the best interest of the city.

15. EVALUATION CRITERIA

The following evaluation criteria will be utilized in the selection of a vendor:

	EVALUATION CRITERIA	POINTS
1	Cost	50
2	Qualifications	25
3	References	10
4	Past Experience with the City or other municipality	10
5	Local Business Presence	5
	TOTAL POSSIBLE	100

16. SUBMITTAL RESPONSE GUIDELINES

Vendor response to this Request for Bid shall include:

- 16.1** Completed and signed proposal check list.
- 16.2** Bid Pricing Form filled in with unit prices, extended prices, and total.
- 16.3** Completed Questionnaire and References.
- 16.4** Bid Affirmation form reviewed and signed.
- 16.5** Completed Historically Underutilized Business Questionnaire and Completed House Bill 89 Verification Form.

17. AGREEMENT TERMS AND AWARD

The term of the agreement will be for an initial one-year agreement with the option to renew for up to four (4) additional one-year periods. The price agreement shall be awarded to the vendor(s) submitting the bid(s) deemed to be in the best interest of the City. The City may award one Primary and one Secondary vendor by portions or for the entire bid. The City of Grand Prairie may award to a single vendor, multiple vendors, or use any combination that serves the best interest of the City. Successful Vendor will enter into a contract with the City for an annual agreement in accordance with the terms and conditions found within.

ATTACHMENT A
THERMOPLASTIC, HOT APPLIED

- I. Description: This specification shall govern for the materials, composition, quality, sampling, and testing of thermoplastic, hot applied, and materials utilized in its application to the roadway surface.

- II. General Characteristics: Thermoplastic marking material shall be a product especially compounded for traffic markings. Each bag shall be clearly and adequately marked to indicate the color, weight, type of material, and lot or batch number (a lot or batch shall be considered as each individual mix or blend that produces a finished product ready for use). Each bag of thermoplastic material shall weigh approximately 50 pounds and designate appropriate user information, manufacturers, name and address. The bag must be composed of a compatible material to allow for the placement of the bag and its contents into the melter. When placed on the roadway, the markings shall not be slippery when wet, lift from pavement under normal weather conditions, nor exhibit a tacky, exposed surface. Cold ductility of the material shall permit normal road surface expansion and contraction without chipping or cracking.
 - The markings shall retain their original color, dimensions, and placement under normal traffic conditions at road surface temperatures of 158° F and below.
 - When applied at a 90 mil thickness, the setting to traffic time shall not exceed a characteristic straight-line curve, the lower limit of which is four minutes at 59° F road surface temperature, and the upper limit of which is ten minutes at 90° F road surface temperature. Temperatures are to be measured a maximum relative humidity of 90%.
 - The markings shall essentially have a uniform cross-section. The density and quality of markings shall be uniform throughout their thickness. The applied markings shall be 95% free of holes and voids, and free of blisters for a minimum of 60 days after application.
 - The markings in place on the roadway shall be completely reflectorized both internally and externally. The marking shall exhibit uniform retro-directive reflectance.
 - The contractor shall assume all costs arising from the use of the patented materials, equipment, devices, or processes used on or incorporated in the work and agree to indemnify and hold harmless the purchaser and its duly authorized representatives from all legal suits or action of every nature for, or on account of, the use of any patented materials, equipment, devices, or processes.

- III. Sampling and Testing: The City reserves the right to have the supplied thermoplastic tested by an independent laboratory. If the tests reveal that the thermoplastic meets all of the agreed upon specifications, the City will submit payment for the tests; however, if the tests reveal that the thermoplastic does not meet all of the agreed upon specifications, the supplier shall assume all the costs of the tests. If the thermoplastic material does not meet the specifications; the City reserves the right to refuse all thermoplastic materials with matching lot or batch numbers of material tested. Amounts due to the City for conducting such tests will be deducted from monthly or final estimates on Contracts or from partial or final payments on direct purchases by the City. If the supplier, at any time during the life of the Contract, fails to supply a thermoplastic that meets the agreed upon specifications, the City reserves the right to terminate the contract.

The minimum batch size of thermoplastic striping material when tested shall not be less than 2000 pounds unless the total order is less than that amount. A small trial batch should be made prior to making the thermoplastic traffic line in large quantities to make certain the finished product will comply with all the requirements of this specification.

IV. Material Requirements:

- A. Pigments:** Prime and filler pigments shall, when washed free of resins by solvent washing, pass a U.S. Standard Sieve Number 200 (Tex-863-B) and shall meet the following specific requirements for each pigment:
1. Prime Pigments:
 - a. The white pigment shall be a Rutile Titanium Dioxide.
 - b. The yellow pigment shall be a heat resistant, double encapsulated medium chrome yellow or other approved heat resistant pigment.
 2. Filler Pigment: The filler pigment shall be calcium carbonate, 95% purity.
- B. Binder:** The binder must consist of a mixture of resins, at least one of which is a solid at room temperature, and high boiling point plasticizers. At least 1/3 of the binder composition must be a maleic-modified glyceryl ester of rosin and must be no less than 8% by weight of the entire material formulation. The infrared analysis of the resin extract shall match the spectra on file at CST / M&P in accordance with Tex-888-B.
- C. Silica:** The total silica used in the formulation shall be in the form of glass traffic beads.
- D. Glass Traffic Beads:** Drop-on glass traffic beads shall meet the requirements of DMS-8290.
1. Manufacture: Glass traffic beads shall be:
 - a. Manufactured from glass.
 - b. Spherical in shape.
 - c. Essentially free of sharp angular particles.
 - d. Essentially free of particles showing milkiness, surface scoring, or surface scratching.
 - e. Water white in color.
 2. Contaminates: Glass traffic beads shall:
 - a. Contain less than 1/4 of 1% moisture by weight.
 - b. Be free of trash, dirt, etc.
 - c. Show no evidence of objectionable static electricity when flowing through a regular traffic-bead dispenser.
 3. Gradation:
 - a. Sieve Analysis: Glass traffic beads shall meet the following gradation requirements:
- | <u>Openings</u>
<u>U.S. Std. Sieves</u> | <u>Percent</u>
<u>Passing</u> |
|--|----------------------------------|
| # 20 Sieve | 100 |
| # 30 Sieve | 80 - 95 |
| # 50 Sieve | 15 - 35 |
| #100 Sieve | 0 - 4 |

- b. Irregular Particles: Glass traffic beads, retained on any screen used to determine gradation requirements, shall not contain more than 30% (by weight) irregular particles measured by Tex-832-B.
 - 4. Index of Refraction: Glass traffic beads, when tested by the liquid immersion method at 77°F, shall show an index of refraction within the range of 1.50 to 1.53.
 - 5. Wetting: Glass traffic beads shall be capable of being readily wet with water when tested in accordance with Test Method Tex-826-B.
 - 6. Stability: Glass traffic beads shall show no tendency toward decomposition, surface etching, change in retro-reflective characteristics, or change in color after:
 - a. One-hour exposure to concentrated hydrochloric acid at 77°F.
 - b. Twenty-four hours exposure to weak alkali.
 - c. One hundred hours of weather-o-meter exposure in accordance with ASTM G 155 using Exposure Cycle 1 with a quartz inner filter glass and Type "S" Borosilicate outer filter glass.
- V. Equipment: The thermoplastic pavement marking material may be either spray applied or extruded hot to the pavement surface unless application method is specified on the plans. The thermoplastic equipment shall be constructed to provide continuous mixing and agitation of the material. The shaping die or spray gun shall be equipped with a cut-off device remotely controlled to provide clean, square, marking ends and to provide a method for applying broken lines.
- The equipment used to install hot applied thermoplastic material by contract under this specification shall be constructed to provide continuous uniform heating to temperatures exceeding 400°F mixing, and agitation of the material. Conveying parts of the equipment between the main material reservoir and the line dispensing device shall prevent accumulation and clogging. All parts of the equipment that come in contact with the material shall be constructed for easy access and exposure for cleaning and maintenance. The equipment shall operate so that all mixing and conveying parts, including the line dispensing device, maintain the material at the manufacturer's recommended application temperature. The equipment shall provide for varying traffic marking application widths. The application equipment shall be mobile and maneuverable to the extent that straight lines can be followed, and normal curves can be made in a true arc. A special kettle shall be provided for uniformly melting and heating the thermoplastic material. The kettle must be equipped with an automatic thermostatic control device and material thermometer for positive temperature control and to prevent overheating or scorching of the material. The heating kettle and application equipment shall meet the requirements of the National Fire Underwriters and the National Fire Protection Association of the state and local authorities.

Equipment used to place four inch solid or broken line shall be capable of placing a minimum of 10,000 linear feet of marking per working day. Equipment used for placing markings in widths of other than four inches shall have capabilities similar to four-inch marking equipment. Equipment shall be maintained in satisfactory operating condition. Equipment shall be considered in unsatisfactory working condition if it fails to have an average hourly placement rate of 1,500 linear feet of acceptable four-inch solid or broken lines over any five consecutive working days of seven hours or more due to equipment malfunction. Upon notification by the Engineer of equipment in unsatisfactory operating condition, the Contractor shall repair and place such unsatisfactory equipment in satisfactory condition or replace with equipment meeting the requirements of this specification. Equipment used to place markings other than solid or broken lines shall have production capabilities satisfactory to the Engineer.

The material container must be so equipped and arranged as to satisfy the requirement of the National Fire Underwriters and the Texas Railroad Commission. The Contractor shall supply the Engineer with a thermometer for the project, capable of measuring the temperature of the pavement marking material to be applied.

Beads applied to the surface of the material shall be applied by an automatic bead dispenser attached to the pavement marking equipment in such a manner that the beads are dispensed uniformly and almost instantly upon surface. The beads shall be applied at a uniform minimum rate of 10 pounds of glass spheres every 100 square feet of line. The bead dispenser shall be equipped with an automatic cut-off control, synchronized with the cut-off of the pavement marking equipment.

- VI. Construction Methods:** The Contractor shall use a crew experienced in the work of installing pavement markings and shall supply all the equipment and materials necessary for the placement of the pavement markings. All traffic control and work zone set-ups shall be in conformance with the Texas Manual on Uniform Traffic Control Devices (current edition).

The pavement marking material shall be applied within the material temperature limits recommended by the manufacturer.

The pavement markings shall be placed in proper alignment with guidelines established on the roadway. Deviation from the alignment established shall not exceed two inches and, in addition, the deviation in alignment of the marking being placed shall not exceed one inch per 200 feet of roadway nor shall any deviation be abrupt.

The thermoplastic material shall not deteriorate by contact with sodium chloride, calcium chloride, or other chemicals used to prevent roadway ice or because of the oil content of pavement materials or from oil droppings or other effects of traffic.

The material shall be applied to the pavement by spray method to 90 mil thickness.

When deemed necessary the Engineer to achieve specified alignment, the Contractor, at his expense, shall place any additional markings required to achieve alignment specified throughout both straight and horizontally curved sections of roadway. All additional markings placed on the roadway for alignment purposes shall be temporary in nature and shall not establish a permanent marking on the roadway. Materials used for alignment markings and equipment used to place such markings shall be approved by the Engineer.

The pavement upon which the pavement markings are to be placed shall be cleaned and prepared, to the satisfaction of the Engineer, prior to placement of markings.

The bid price for parking lot striping shall include the removal of all existing pavement markings, surface prep and cleaning, layout, and placement of the new markings, if deemed necessary by the Engineer.

Cleaning shall be by any effective method, approved by the Engineer, which completely and effectively removes contaminants, loose materials and conditions deleterious to proper adhesion. When blast cleaning is required, it shall be shown in the plans and shall be done in accordance with the Item "Blast Cleaning".

Asphalt surfaces more than 3 years old or Portland cement concrete surfaces shall be further prepared after cleaning by completely sealing with an acrylic, epoxy or Type II marking. When epoxy sealer is used, the thermoplastic marking shall be applied before the sealer is completely cured.

Longitudinal lines shall be offset at least two inches from construction joints of Portland cement concrete pavements and joints or shoulder breaks of bituminous concrete pavements.

The material shall be installed in increments of 4, 6, 8, 12, or 24-inch widths or otherwise shaped as shown in the plans. Deviations from the specified width shall not exceed 1/8 inch except when due to undulations in the pavement surface, in which case the deviation in width shall not exceed 1/4 inch.

The material shall not prohibit adhesion of other thermoplastic markings if, at some future time, new markings are placed over existing material. New material shall bond itself to the old line in such a manner that no splitting or separation takes place.

The application of hot-applied pavement markings shall be done only on a clean, dry pavement having a road surface temperature above 50°F and an air temperature of 55°F. The application of hot-applied pavement markings shall not be performed for a minimum of 24 hours after the road surface has become wet due to rainfall or any other means.

When pavement marking application is by spray and operations cease for five minutes or more, the spray head must be flushed by spraying pavement marking material into a pan or similar container until the pavement marking material being sprayed out the nozzle is at the proper temperature for application.

Unless otherwise directed by the Engineer, pavement marking materials shall not be placed on roadways between November 1 and March 1, subject to temperature and moisture limitations specified elsewhere herein.

The thickness of the markings shall be uniform throughout their lengths and widths. Unless otherwise specified in the plans, the minimum thickness of the markings applied by extrusion, as measured above the plane formed by the pavement surface, shall not be less than 125 mils in the center of the marking and 90 mils at a distance of one-half inch from the edge. Maximum thickness shall be 125 mils. The Contractor shall supply a device, suitable to the Engineer, to measure thickness of the applied extruded markings.

VII. Finished Product Requirements: Finished thermoplastic pavement marking materials shall meet the following requirements:

- A. Physical Characteristics:** The finished thermoplastic pavement marking material shall be a free-flowing granular material, unless otherwise specified. The material shall remain in the free-flowing state in storage for a minimum of six months when stored at temperatures of 100°F or less. The material shall be readily sprayed through nozzles commonly used on thermoplastic spray equipment at temperatures between 400°F to 425°F.
- B. Toxicity:** At temperatures up to and including 446°F, materials shall not give off fumes which are toxic or otherwise injurious to persons, animals, or property.
- C. Material Stability:** The material shall not break down or deteriorate when held at 400°F for 4 hours.
- D. Temperature vs. Viscosity Characteristics:** The temperature versus viscosity characteristics of the material in the plastic state shall remain constant throughout up to four reheatings to 401°F and from batch to batch.
- E. Chemical Resistance:** The material shall not be adversely altered by contact with sodium chloride, calcium chloride, or other similar chemicals on or used on the roadway surface; by contact with the oil content of pavement materials; or by contact from oil droppings from traffic.
- F. Softening Point:** The materials shall not soften at 194°F when tested by the Ball and Ring Method, ASTM Method E28.
- G. Color:** The CIE chromaticity coordinates of the material, when determined in accordance with Tex-839-B, shall fall within an area having the following corner points.

	Point 1		Point 2		Point 3		Point 4		Luminous
Color	x	y	x	y	x	y	X	y	Y
White	0.290	0.315	0.310	0.295	0.350	0.340	0.330	0.360	Min.65
Yellow	0.470	0.455	0.510	0.489	0.490	0.432	0.537	0.462	45-60

The white and yellow material shall meet the above specified color requirements, for each color respectively, before and after 70 hours of exposure in a Weather-O-Meter. Weather-O-Meter exposure shall be in accordance with ASTG G 155 using Exposure Cycle 1 with a quartz inner filter glass and Type "S" Borosilicate outer filter glass.

- H. Abrasion: Thermoplastic pavement marking material shall be tested for abrasion in accordance with Test Method Tex-851-B according to Steps 1 through 8 of the procedure using the following test parameter.

1. Test Distance – 5 in.
2. Blast Pressure – 40psi
3. Sample Angle -10 degree
4. Blast Media – 1200 g.

- I. Uniformity: Material shall be manufactured such that, when sampled in accordance with CST / M & P's testing procedures, any 100-gram sample will be representative of the batch or lot of material.

VIII. Formula:

A. <u>Thermoplastic Marking, White</u>	<u>% by Weight</u>
Binder	18-23
Titanium Dioxide	12-15
Calcium Carbonate	20-42
<u>Glass Traffic Beads</u>	<u>30-45</u>
Total	100
B. <u>Thermoplastic Marking, Yellow</u>	<u>% by Weight</u>
Binder	18-23
Medium Chrome Yellow	5-10
Calcium Carbonate	20-42
<u>Glass Traffic Beads</u>	<u>30-45</u>
Total	100

- IX. Sealer: Sealers for use on Portland cement concrete surfaces prior to application of the thermoplastic shall be either an acrylic, epoxy sealer or Type I marking.
- X. Performance: Pavement markings shall meet all requirements of this specification for a minimum of three years after installation. Pavement markings that fail to meet all requirements of this specification shall be removed and replaced at the expense of the Contractor. The Contractor shall replace all pavement markings failing the requirements of this specification within 30 working days following notification by the Engineer of such failing. All replacement pavement markings shall also meet all requirements of this specification for a minimum of three years after installation.
- XI. Measurement: Measurement of the solid and / or broken line markings will be made, for each color, by the linear foot of the various widths complete in place. Measurement of the arrows, legends and railroad crossing markings will be made by each unit complete in place.

XII. Payment: The work performed and materials furnished as prescribed by this item, measured as provided under "Measurement", shall be paid for at the unit price bid for "Thermoplastic Pavement Markings", for each color, per linear foot of the various widths of solid and / or broken line per each unit of the arrows, legends and railroad crossings complete in place. This price shall be full compensation for cleaning the pavement by any suitable means other than blast cleaning, for furnishing and placing all materials, and for all labor, tools, equipment and incidentals necessary to complete the work.

Warranty (contract applications only) - The thermoplastic pavement marking material furnished and installed by contract under this specification shall be guaranteed by the contractor against failure because of poor adhesion resulting from defective materials or methods of application.

Warranties may vary depending upon the applied line thickness, the positioning of the line, the traffic density, the use of studded snow tires, and the frequency of snowplow operations.

The following warranties are typical for application thickness of 125 mils for crosswalks and stop lines and 90 mils for landlines, centerlines, and edge lines by extruded method or by spray method. Warranties for thinner lines in these applications or for higher traffic volumes may be reduced commensurately.

For non-defective pavement surfaces carrying volumes fewer than 50,000 vehicles per day, the contractor shall guarantee to replace or renew without cost to the City that part of the pavement markings installed that have not remained to perform service as follows:

- a. Crosswalks and stop lines and legends - 75 percent of the total of any one intersection for one year. Retro-reflectivity levels less than 250 millicandelas during a three-year period after installation.
- b. Lane lines, edge lines, and centerlines - 90 percent of a unit for one year, 80 percent of a unit for two years, and 60 percent of a unit for three years. (A "unit" is defined as any length of highway having installed thereon 2,000 lineal feet (610 m) of line of specified width in any combination or pattern. Retro-reflectivity level of less than 250 millicandelas at any time during a three-year period after installation.

All minimum retro reflectivity values for pavement markings are set forth in ASTM D6359-98. The minimum retro reflective pavement marking values are set at 250 mcd/m²/lux. For white and 175 mcd/m²/lux for yellow. These minimum values shall be attained for three (3) years from the installation date of the markings.

ATTACHMENT B
ELIMINATING EXISTING PAVEMENT MARKINGS AND MARKERS

- I. Description: This specification shall govern for the elimination of existing pavement markings of the various types and sizes and raised pavement markers as shown on the plans or as directed by the Engineer.
- II. Materials: All surface treatment material application rates shall be as directed by the Engineer. Unless otherwise shown on the plans, surface treatment materials shall conform to the requirements of "Asphalts, Oils and Emulsions," and "Aggregates for Surface Treatments" as specified in TxDOT Pavement Marking Specification. Testing of surface treatment materials may be waived by the Engineer. Asphalt and aggregate types and grades shall be as shown on the plans or approved by the Engineer.
- III. Construction Methods: Elimination of existing pavement markings and markers shall be accomplished by one (1) or more of the following methods as approved by the Engineer.
 1. Markings on Asphaltic Surfaces:
 - A. Placement of a surface treatment a minimum of two feet (2') wide to cover the existing marking.
 - B. Placement of a surface treatment, thin overlay or micro-surfacing a minimum of one (1) lane in width in areas where directional changes of traffic are involved, or other areas as directed by the Engineer.
 - Construction methods for surface treatment shall conform to "Surface Treatments" as specified in TxDOT Pavement Marking Specifications.
 2. Markings on Concrete Surfaces:
 - A. Removal by an approved burning method
 3. Markings on Asphaltic or Concrete Surfaces:
 - A. Removal by water, water-sand blasting techniques or by any other method(s) proven satisfactory to the Engineer.
 4. Markers on Asphaltic or Concrete Surfaces:
 - A. Removal by any mechanical method to remove marker and adhesive

Existing pavement markings and markers on both concrete and asphaltic surfaces shall be removed in such a manner that color and/or texture contrast of the pavement surface will be minimal.

Removal of pavement markings on concrete surfaces by blast cleaning shall be in accordance with Grand Prairie's "Pavement Surface Preparation for Markings" specification. Blast cleaning shall be performed in such a manner that damage to the concrete surface is minimal.

When thermoplastic pavement markings or prefabricated pavement markings are encountered, the application of heat may be used to remove the bulk of the marking material prior to blast cleaning. When heat is used, care shall be taken to prevent spalling of concrete surfaces.

A burner may be used for complete removal of pavement markings. Broom removal or light blast cleaning may be used for removal of minor residue.

Damage, such as spalling, shelling, etc. greater than ¼ inch in depth, caused to asphaltic surfaces resulting from the removal of pavement markers shall be repaired by the application of a two (2) foot wide surface treatment for longitudinal markers with no directional change or a minimum of one (1) lane width surface treatment in areas where directional changes of traffic are involved.

Grinding is not an acceptable method of marker or marking removal. However, equipment utilizing special milling flails is considered acceptable in the removal of markings and markers on asphaltic and concrete surfaces.

ATTACHMENT C
PAVEMENT SURFACE PREPARATION FOR MARKINGS

- I. Description: This specification shall govern for the surface preparation of pavement surface areas prior to placement of pavement markings or raised pavement markers.
- II. Materials: Abrasive blasting medium, when used, shall be a quality commercial product capable of producing the specified surface cleanliness without the deposition of deleterious materials on the cleaned surface. Water used in blasting operations shall be potable.
- III. Equipment: Equipment shall be in good condition. Air compression equipment shall utilize moisture and oil traps, in working order, of sufficient capacity to remove any contaminants from blasting air and prevent the deposition of moisture, oil or other contaminants on the roadway surface. Grinding equipment must utilize special milling flails.
- IV. Construction Methods: Widths, lengths and shapes of the prepared surfaces shall only be of sufficient size to include the full area of pavement markings or raised pavement markers as shown on the plans.

Surface preparation of Portland cement concrete surfaces shall be sufficient to remove contaminants. Damage to the roadway surface shall be held to a minimum. Asphaltic pavement surfaces shall be cleaned by brushing, washing, compressed air, high pressure water or any combination thereof to remove all forms of contamination and loose materials. All surfaces shall be cleaned sufficiently to remove loose and flaking materials from the roadway surface.

When existing markings are encountered, they shall be cleaned sufficiently to remove all loose and flaking materials. Small spots of old markings or contaminants of up to 0.5 square inch in area may remain if the contaminant is not removed by the following test:

Firmly press a 10-inch-long, two-inch wide strip of monofilament tape onto the surface to be tested, leaving approximately two inches (2") free. Grasp the free end and remove the tape with a sharp pull.

Blasting pressure and technique shall be controlled to prevent damage to the pavement surface. Grinding is not an acceptable method of marker or marking removal. However, equipment utilizing special milling flails is considered acceptable in the removal of markings and markers on Portland cement concrete and asphaltic surfaces.

ATTACHMENT D
RAISED PAVEMENT MARKERS

- I. Description: This specification shall govern for the materials, composition, quality, sampling, and testing of raised pavement markers of the various classes and types shown on the plans.
- II. Materials: Raised pavement markers shall comply with the requirements of TxDOT Departmental Materials Specifications as follows:

Pavement Markers (Reflectorized) DMS-4200

- A. Raised Pavement Markers (Pavement Markers, Reflectorized). Raised pavement markers shall include Types: I-A, I-C, I-R, II-A-A and II-C-R.

Descriptions:

Type I-A. Type I-A shall contain one face that reflects amber light. The body, other than the reflective face, shall be yellow.

Type I-C. Type I-C shall contain one face that reflects white light. The body, other than the reflective face, shall be white, silver white.

Type I-R. Type I-R shall contain one face that reflects red light. The body, other than the reflective face, shall be white or silver white.

Type II-A-A. Type II-A-A shall contain two (2) reflective faces oriented 180° to each other, each of which shall reflect amber light. The body, other than the reflective faces, shall be yellow.

Type II-C-R. Type II-C-R shall contain two (2) reflective faces oriented 180° to each other, one of which shall reflect white light and one of which shall reflect red light. The body, other than the reflective faces, shall be white or silver white. Optionally, the body may be one-half white, silver-white on the side that reflects white light and one-half red on the side that reflects red light.

- III. Appearance Requirements: The outer surface of the RPM's shall be smooth except for the molding or stamping of the manufacturer's unique imprint. All corners and edges exposed to traffic shall be rounded.
- IV. Optical Requirements: The RPM's shall be capable of providing amber, red or white light reflection as required by the requisition or plans.

The reflected light of each reflective face must conform to the minimum reflective specific intensity (SI) requirements measured in candelas per foot-candle (cd/ftc) as follows:

Minimum SI per Reflective Face at 0.2° Observation Angle (cd/ft)			
Horizontal Entrance Angle	Crystal	Amber	Red
4°	3.00	2.00	0.75
20°	1.50	1.00	0.30

- V. Physical Requirements: The RPM's shall comply with TxDOT "Tex-434-A, Breaking Strength of Traffic Buttons".
- VI. Heat Resistance: The RPM's shall comply with TxDOT "Tex-846-B, Testing the Heat Resistance of Reflector Units".
- VII. Sampling: Sampling will be in accordance with TxDOT Test Method Tex 729-I
- VIII. Construction Methods: Each class of raised pavement marker shall be from the same manufacturer.

Surfaces to which markers are to be installed by an adhesive shall be prepared by any method approved by the Engineer to ensure that the surface is free of dirt, curing compound, grease, oil, moisture, loose or unsound pavement markings and any other material which would adversely affect the adhesive bond. Unless otherwise shown on the plans, surface preparation for installation of raised pavement markers will not be paid for directly, but shall be considered subsidiary to this item

Guides to mark the lateral placement of pavement markers shall be established as shown on the plans or as directed by the Engineer. The Contractor shall establish the pavement marker guides and the Engineer will verify the location of the guides.

The pavement markers shall be placed in proper alignment with guidelines established on the roadway. The deviation rate in alignment shall not exceed one inch (1") per 200 feet of roadway. The maximum deviation shall not exceed two inches (2") nor shall any deviation be abrupt.

Markers placed that are not in alignment or sequence, as shown on the plans or as stated in this specification, shall be removed by the Contractor at the Contractor's expense. Removal shall be in accordance with Grand Prairie's "Eliminating Existing Pavement Markings and Markers" Specification except for measurement and payments. Guides placed on the roadway for alignment purposes shall not establish a permanent marking on the roadway.

Unless otherwise shown on the plans, the Contractor shall use the following adhesive materials for placement of markers.

Epoxy adhesive for Raised Pavement Markers on Portland cement concrete pavements.

Bituminous adhesive for Raised Pavement Markers on asphalt surfaces.

Adhesive shall be applied in sufficient quantity to ensure the following:

100 percent of the bonding area of raised pavement markers shall be in contact with the adhesive.

Unless otherwise required by this item, adhesives shall be applied in accordance with the manufacturer's recommendations.

Bituminous adhesive shall conform to the requirements of the TxDOT Materials Specification DMS-6130. Epoxy adhesive shall conform to the requirements of the TxDOT Materials Specification DMS-6100 Type II Traffic Marker Adhesives.

When bituminous adhesive is used, the pavement and raised pavement marker temperature shall be at least 40° F. The bituminous adhesive shall not be heated above 400°F. The bituminous adhesive shall be agitated intermittently to ensure even heat distribution.

Epoxy adhesive shall be machine mixed.

Raised pavement markers shall be free of rust, scale, dirt, oil, grease, moisture or contaminants which might adversely affect the adhesive bond.

Raised pavement markers shall be placed immediately after the adhesive is applied and shall be firmly bonded to the pavement. Adhesive or any other material that impairs functional reflectivity will not be acceptable.

SOLICITATION STANDARD TERMS AND CONDITIONS

1. **INSTRUCTIONS:** These standard terms apply to all solicitations.
2. **BEST INTEREST:** The City reserves the right to reject any or all responses and to waive formalities. The City also reserve the right to purchase through State awarded contracts or other intergovernmental agreements when it is in the best interest of the City.
3. **PRICING:** Price(s) quoted must be held firm for ninety (90) days to allow for evaluation unless otherwise noted in this document.
4. **SILENCE OF SPECIFICATION:** The apparent silence of these specifications as to any detail or to the apparent omission of a detailed description concerning any point, shall be regarded as meaning that only the best commercial practices are to prevail. All interpretations of these specifications shall be made based on this statement.
5. **F.O.B.:** All shipping shall be F.O.B. Destination.
6. **COOPERATIVE/INTERLOCAL PURCHASING:** If the vendor checked yes on the submittal affirmation form to allow for Interlocal Purchasing the following will apply: Government Entities utilizing Inter-Governmental Contracts with the City of Grand Prairie will be eligible, but not obligated, to purchase goods and services under this contract (s) awarded as a result of this solicitation. All purchases by Governmental Entities other than the City of Grand Prairie will be billed directly to that Governmental Entity and paid by that Governmental Entity. The City of Grand Prairie will not be responsible for another Governmental Entity's debts. Each Governmental Entity will order their goods and services as needed.
7. **SPLIT AWARD:** The City of Grand Prairie reserves the right to award a separate contract to separate vendors for each item/group or to award one contract for the entire bid.
8. **WITHDRAWAL OF RESPONSE TO SOLICITATION:** A response may not be withdrawn or cancelled by the vendor for a period of ninety (90) days following the date designated for the receipt without approval by the City.
9. **ERROR-QUANTITY:** Submittals must be made on units of quantity specified, extend, and show total(s). In the event of discrepancies in extension, the unit price shall govern.
10. **LATE SUBMITTALS:** Submittals received after the submission deadline shall be returned unopened and will be considered void and unacceptable. The City of Grand Prairie is not responsible for lateness from any carrier for any reason.
11. **TAXES:** The City of Grand Prairie is exempt from Federal Manufacture's Excise, and State Sales taxes. **TAX MUST NOT BE INCLUDED IN PRICING.** Tax exemption certificates will be executed by the City and furnished upon request.
12. **ADDENDA:** Any interpretations, corrections or changes to these specifications will be made by addenda. Sole issuing authority of the addenda shall be vested in the City of Grand Prairie Purchasing Department. Addenda will be mailed to all who are known to have received a copy of this solicitation. It is the responsibility of proposers to ensure they have received and understand any issued addenda.
13. **PROTEST:** Protests shall be submitted in writing and filed with the Purchasing Division no less than three business days prior to the City Council meeting at which the award appears on the agenda. A written response will be prepared by the Purchasing Manager in consultation with the end user department and City Attorney in accordance with the City Purchasing Manual. If the protesting vendor does not agree with the staff recommendation, they may appeal to the City Council. Protesting vendors must contact the City Secretary in order to be acknowledged and heard by City Council at the first available Council meeting.
14. **PAYMENT TERMS:** Payment terms are Net 30 unless otherwise specified by the City in this document.
15. **PATENT RIGHTS:** The vendor agrees to indemnify and hold the City harmless from any claim involving patent right infringement or copyrights on goods supplied.
16. **FUNDING:** The City of Grand Prairie is a home-rule municipal corporation operated and funded on an annual basis for Oct. 1 to Sept. 30. The City reserves the right to terminate, without liability to the City, any contract for which funding is not available.
17. **ASSIGNMENT:** Vendor shall not sell, assign, transfer, or convey this contract in whole or in part, without the prior written consent of the City.
18. **VENUE:** This agreement will be governed and construed according to the laws of the State of Texas.
19. **RIGHT OF REVIEW:** Vendor covenants and agrees that the City, upon reasonable notice to vendor, may review any of the work performed by vendor under this Contract.
20. **DELIVERY TIMES:** Deliveries will be acceptable only during normal working hours at the designated City Municipal Facility.
21. **STANDARD WARRANTY:** Standard manufacturer's warranty shall be provided and submitted to the City of Grand Prairie upon request.
22. **PACKAGING:** Unless otherwise indicated, items will be new, unused, and in first class condition in containers suitable for damage-free shipment and storage.
23. **ORDERS AND INVOICING:** A Purchase Order Number is required for all purchases. All invoices must identify the purchase order number, include the bid unit pricing by item, identify the ordering department/user, and include contact phone and email.

24. **CONFLICT OF INTEREST:** The successful vendor hereby covenants and agrees that during the Contract period that vendor and any of vendor's associates and employees will have no interest nor acquire any 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 vendor pursuant to this Contract will be conducted by employees or associates of vendor. Vendor further covenants and agrees that it understands that the Code of Ordinances of the City of Grand Prairie prohibits any officer or employee of the City from having any financial interest, either direct or indirect, in any business transaction with the City. Any violation of this paragraph which occurred with the actual or constructive knowledge of vendor will render this contract voidable by the City.
- a. **FORM CIQ** – is required when a conflict exists in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a). By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. See Section 176.006(a-1), Local Government Code. A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor. This form may be obtained from the Texas Ethics Commission's website.
25. **CONFIDENTIAL WORK:** Any reports, designs, plan, information, project evaluations, data or any other documentation given to or prepared or assembled by vendor under this contract shall be kept confidential and may not be made available to any individual or organization by vendor without the prior written approval of the City except as may be required by law.
26. **WARRANTY, HOLD HARMLESS, AND INDEMNITY:** Vendor warrants that the commodities it delivers to the City shall be delivered in a good and workmanlike manner, and that any items delivered to the City under this contract will be fit for the particular purpose for which it was furnished. Vendor shall defend, indemnify, and hold the City whole and harmless against any and all claims for damages, costs, and expenses to persons or property that may arise out of, or be occasioned by, the execution or performance of this Contract or any of vendor's activities or any act of commission or omission related to this Contract of any representative, agent, customer, employee, sub-vendor or invitee of vendor or any representative, agent, employee, or servant of the City. If an item is covered by a manufacturer's warranty, it is the responsibility of the vendor to obtain the information for City and to get the manufacturer to honor the warranty.
27. **PROPRIETARY INFORMATION:** Any material or information that is considered proprietary in nature must be clearly marked as such and will be treated as confidential by the City of Grand Prairie to the extent permitted under the Open Records Act.
28. **WAIVER OF ATTORNEYS FEES:** Vendor and City expressly covenant and agree that in the event of any litigation arising between the parties to this contract, each party shall be solely responsible for payment of its attorneys and that in no event shall either party be responsible for the other party's attorney's fees regardless of the outcome of the litigation.
29. **CHANGE ORDERS:** No Oral statement of any person shall modify or otherwise change or affect the terms, conditions, or specifications stated in the resulting contract. All change orders to the contract will be made in writing by the City of Grand Prairie.
30. **TERMINATION:** The City may, at its option and without prejudice to any other remedy to which it may be entitled at law or in equity, terminate the right for vendor to accept further orders under this Contract, in whole or in part, by giving at least thirty (30) days prior written notice thereof to vendor with the understanding that no further orders may be accepted after the date specified in such notice. The City shall equitably compensate vendor, in accordance with the terms of this Contract for the commodities properly ordered prior to the date specified in such notice following inspection and acceptance of same by the City. Vendor shall not, however, be entitled to lost or anticipated profits should the City choose to exercise its option to terminate.
31. **TERMINATION FOR DEFAULT:** The CITY reserves the right to enforce the performance of this purchase order in any manner prescribed by law or deemed to be in the best interest of the CITY in the event of breach or default. The CITY reserves the right to terminate the purchase order immediately in the event the VENDOR fails to: (1) meet delivery schedules, or (2) otherwise perform in accordance with this contract and incorporated documents. Breach of contract or default authorizes the CITY to award to another VENDOR, purchase elsewhere and charge the full increase in cost and handling to the defaulting VENDOR.
32. **PERFORMANCE OF WORK:** Vendor or vendor's associates and employees shall perform all the work called for in this Contract. Vendor hereby covenants and agrees that all of vendor's associates and employees who work on this project shall be fully qualified to undertake same and competent to do the work described in this Contract, and the services performed shall be performed in a good and workmanlike manner, and that the finished product shall be fit for the particular use(s) contemplated by this agreement.
33. **OWNERSHIP OF DOCUMENTS:** VENDOR acknowledges that City owns all notes, reports, or other documents, intellectual property or documentation produced by the vendor pursuant to this agreement or in connection with its work which are not otherwise public records. Vendor acknowledges that City shall have copyright privileges to those notes, reports, documents, processes and information. Vendor shall provide City a copy of all such notes, reports, documents, and information (except to the extent that they contain confidential information about third parties) at City expense upon written request.

34. **PRICE REDETERMINATION:** Price redetermination shall only be considered by the City forty-five (45) days prior to the anniversary date of the initial contract award and subsequent renewals. Price redetermination requests must be substantiated in writing. The City of Grand Prairie reserves the right to reject the request when it is deemed to be in the best interest of the City.
35. **DRUG FREE WORKPLACE:** VENDOR hereby covenants and agrees that during the contract period that VENDOR and any of VENDOR's associates and employees shall follow the CITY'S drug free workplace policy.
36. **INSPECTION:** All goods and services will be subject to inspection and testing by CITY prior to acceptance. Goods rejected and goods supplied in excess of quantities ordered may be returned to the VENDOR at its expense. If any of the goods or services are found at any time to be defective in material or workmanship, or otherwise not in conformity with the requirements of this purchase order, including any applicable drawings and specifications, then CITY, in addition to such other rights and remedies it may have by contract or by law or equity, at its sole discretion may reject and return such goods at VENDOR's expense, require VENDOR to inspect the goods and remove nonconforming goods and/or require VENDOR to replace nonconforming goods or services with conforming goods or services.
37. **PACKAGING:** All goods must be packaged in the manner as specified by CITY and shipped in the manner and by the route and carrier designated by CITY. If CITY does not specify the way the goods must be packaged, VENDOR shall package the goods to avoid any damage in transit. If CITY does not specify the manner of shipment, route or carrier, VENDOR shall ship the goods at the lowest possible transportation rates, consistent with VENDOR's obligation to meet the delivery schedule set forth in this Order.
38. **AUDIT:** the CITY reserves the right to audit the records and performance of contractor during the contract and for three years thereafter.
39. **INSURANCE:** Prior to the commencement of work under this Contract, vendor shall obtain and shall continue to maintain in full force and effect during the term of this Contract any insurance required by Law and any additional insurance that may be required pursuant to the specification. Performance under the contract will not start until this obligation has been met. Carrier must be authorized to do business in Texas rated "A" or better in the current Best Key Rating Guide. All policies shall be of the "occurrence type" and the city of Grand Prairie shall be listed as an additional insured (to the extent Contractor/City are indemnified pursuant to the indemnity provisions herein) on all certificates of insurance. Additional Insured Clauses does not apply to Workers' Compensation and Employer's Liability. A waiver of Subrogation Clause, naming

the city of Grand Prairie "shall be included" on all types of coverages.

TYPE AMOUNT

- a. Workers' Compensation Statutory
- b. Employer's Liability \$1,000,000
- c. Comprehensive General Liability \$1,000,000
(Combined Single Limit)
- d. Premises Operations
- e. Products Operations Hazard
- f. Contractual Insurance
Comprehensive Automobile Liability \$1,000,000
(Combined Single Limit)

40. **HB 1295 FORM:** At time of contract execution vendor must provide a signed HB 1295 Form received directly from the State of Texas.
https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm.
41. **CONTRACT EXECUTION AND START DATE:** The awarded vendor will have ten calendar days after receiving the notice of award to return the executed contract, certificate of insurance, HB 1295 form, and vendor setup packet (when applicable). The CITY reserves the right to terminate the contract immediately, place the VENDOR on the City's debarred vendor list, and award to another VENDOR in the event the VENDOR fails to return the required documents by the indicated time. After documentation is received by the City a notice to proceed or purchase order will be issued. The vendor will have up to five calendar days to begin performance under this contract, unless otherwise agreed in writing between the CITY and VENDOR.
42. **STORMWATER REQUIREMENTS:** The Contractor shall implement Best Management Practices (BMPs) and good housekeeping measures to prevent stormwater pollution in accordance with the current City of Grand Prairie Stormwater Discharges Ordinance (Article XXIII, Section 13).
43. **LOCAL PREFERENCE:** Section 271.9051 of the Texas Local Government Code authorizes a municipality, when considering competitive sealed bids when the bid evaluation is setup to award to the lowest responsible bidder, to enter into a contract for certain purchases with a bidder whose principal place of business is in the municipality and whose bid is within five percent of the lowest bid if the lowest bid is from a business outside the municipality and contracting with the local bidder would provide the best combination price and other economic benefits to the municipality. *Application for Local Bidder Preference must be submitted with bid to be considered by the City of Grand Prairie.* If your principal place of business is within the Grand Prairie city limits and you want to apply for local preference consideration, then you must provide a tax certificate for the most current year marked PAID, included with your Application for Local Bidder Preference.

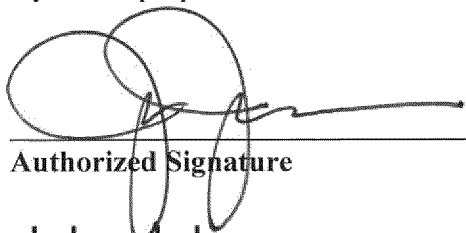
SUBMITTAL FORMS

SUBMITTAL CHECK LIST – Company Name Stripe-A-Zone, Inc.

Interested parties **MUST** submit responses online through www.publicpurchase.com. Response **must** include all the following items listed below for consideration. Please contact vendorsupport@publicpurchase.com for any issues in responding. The submission should be in the order stated below.

	DOCUMENT	ATTACHED
1	Submittal Check List	☒
2	Bid Pricing	☒
3	Questionnaire & References	☒
4	Submittal Affirmation	☒
5	HUB Questionnaire and House Bill 89 Verification	☒

By my signature I affirm all items as listed above have been completed and submitted as part of my firm's proposal.



Authorized Signature

John Johnson

Print/Type Name

Vice President of Finance

Title

06/21/2021

Date

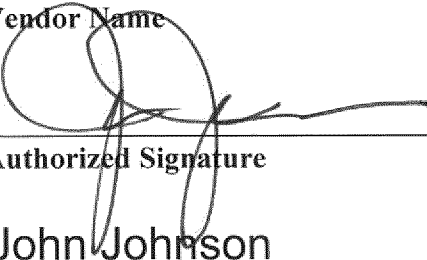
BID PRICING

PLEASE SUBMIT PRICING ON THE ATTACHED EXCEL SHEET.

By my signature I affirm all items as listed on the attached bid sheet have been completed and submitted as part of my firm's proposal.

Stripe-A-Zone, Inc.

Vendor Name



Authorized Signature

John Johnson

Print/Type Name

Vice President of Finance

Title

06/21/2021

Date

Pavement Marking Services**Vendor:**Stripe-A-Zone **Exhibit A****BID SHEET ~ RFB #21116****Contact:**

John Johnson

**All prices shall include any and all delivery fees,
including but not limited to freight, fuel surcharge,
and environmental fees**

Email:

jjohnson@stripe-a-zone.com

Phone:

972-647-2714

City/State:

Grand Prairie, TX

	DESCRIPTION	QTY	UOM	UNIT PRICE	EXTENDED
1	Reflective Pavement Marking TY I W BRK 4"	30000	LF	\$ 0.55	\$ 16,500.00
2	Reflective Pavement Marking TY I W BRK 6"	30000	LF	\$ 0.69	\$ 20,700.00
3	Reflective Pavement Marking TY I W BRK 8"	15000	LF	\$ 0.71	\$ 10,650.00
4	Reflective Pavement Marking TY I W BRK 12"	15000	LF	\$ 1.11	\$ 16,650.00
5	Reflective Pavement Marking TY I W SLD 4"	30000	LF	\$ 0.55	\$ 16,500.00
6	Reflective Pavement Marking TY I W SLD 6"	30000	LF	\$ 0.69	\$ 20,700.00
7	Reflective Pavement Marking TY I W SLD 8"	15000	LF	\$ 1.00	\$ 15,000.00
8	Reflective Pavement Marking TY I W SLD 12"	7500	LF	\$ 5.00	\$ 37,500.00
9	Reflective Pavement Marking TY I W SLD 24"	7500	LF	\$ 6.00	\$ 45,000.00
10	Reflective Pavement Marking TY I W SLD ARROW	108	EA	\$ 110.00	\$ 11,880.00
11	Reflective Pavement Marking TY I W SLD DBL ARROW	30	EA	\$ 110.00	\$ 3,300.00
12	Reflective Pavement Marking TY I W SLD WORD	30	EA	\$ 110.00	\$ 3,300.00
13	Reflective Pavement Marking TY I W SLD RR XING	30	EA	\$ 310.00	\$ 9,300.00
14	Reflective Pavement Marking TY I Y SLD 4"	60000	LF	\$ 0.55	\$ 33,000.00
15	Reflective Pavement Marking TY II W BRK 4"	30000	LF	\$ 0.25	\$ 7,500.00
16	Reflective Pavement Marking TY II W BRK 6"	30000	LF	\$ 0.29	\$ 8,700.00
17	Reflective Pavement Marking TY II W BRK 8"	15000	LF	\$ 0.29	\$ 4,350.00
18	Reflective Pavement Marking TY II W SLD 4"	15000	LF	\$ 0.25	\$ 3,750.00
19	Reflective Pavement Marking TY II W SLD 6"	15000	LF	\$ 0.29	\$ 4,350.00
20	Reflective Pavement Marking TY I W SLD 8"	15000	LF	\$ 1.00	\$ 15,000.00
21	Reflective Pavement Marking TY II W SLD 12"	7500	LF	\$ 0.72	\$ 5,400.00
22	Reflective Pavement Marking TY II W SLD 24"	7500	LF	\$ 1.01	\$ 7,575.00
23	Reflective Pavement Marking TY II W SLD ARROW	108	EA	\$ 36.00	\$ 3,888.00
24	Reflective Pavement Marking TY II W SLD DBL ARROW	30	EA	\$ 36.00	\$ 1,080.00
25	Reflective Pavement Marking TY II W SLD WORD	30	EA	\$ 36.00	\$ 1,080.00
26	Reflective Pavement Marking TY II W SLD RR XING	30	EA	\$ 36.00	\$ 1,080.00
27	Reflective Pavement Marking TY II Y SLD 4"	60000	LF	\$ 0.25	\$ 15,000.00
28	Eliminate Existing Pavement Marking 4"	30000	LF	\$ 0.49	\$ 14,700.00
29	Eliminate Existing Pavement Marking 6"	30000	LF	\$ 0.49	\$ 14,700.00
30	Eliminate Existing Pavement Marking 8"	15000	LF	\$ 0.54	\$ 8,100.00
31	Eliminate Existing Pavement Marking 12"	7500	LF	\$ 0.84	\$ 6,300.00
32	Eliminate Existing Pavement Marking 24"	7500	LF	\$ 1.70	\$ 12,750.00
33	Eliminate Existing Pavement Marking ARROW	108	EA	\$ 23.00	\$ 2,484.00
34	Eliminate Existing Pavement Marking WORD	30	EA	\$ 27.00	\$ 810.00
35	Eliminate Existing Pavement Marking RR XING	30	EA	\$ 40.00	\$ 1,200.00
36	Pavement Marking Preparation 4"	30000	LF	\$ 0.30	\$ 9,000.00
37	Pavement Marking Preparation 6"	30000	LF	\$ 0.30	\$ 9,000.00
38	Pavement Marking Preparation 8"	15000	LF	\$ 0.30	\$ 4,500.00
39	Pavement Marking Preparation 12"	15000	LF	\$ 0.30	\$ 4,500.00
40	Pavement Marking Preparation 24"	7500	LF	\$ 0.30	\$ 2,250.00
41	Pavement Marking Preparation ARROW	108	EA	\$ 16.00	\$ 1,728.00

42	Pavement Marking Preparation DBL ARROW	30	EA	\$ 16.00	\$ 480.00
43	Pavement Marking Preparation WORD	30	EA	\$ 19.00	\$ 570.00
44	Pavement Marking Preparation RR XING	30	EA	\$ 36.00	\$ 1,080.00
45	Raised Pavement Marker CL B REFL TY I A	3000	EA	\$ 2.50	\$ 7,500.00
46	Raised Pavement Marker CL B REFL TY II A-A	3000	EA	\$ 6.00	\$ 18,000.00
47	Raised Pavement Marker CL B REFL TY I C	3000	EA	\$ 2.50	\$ 7,500.00
48	Raised Pavement Marker CL B REFL TY II C-R	3000	EA	\$ 6.00	\$ 18,000.00
49	Eliminate Existing Pavement Markers	6000	EA	\$ 1.00	\$ 6,000.00
TOTAL					\$ 489,885.00

Attachment 1
Exhibit A

QUESTIONNAIRE

All questions should be answered clearly and completely. Marketing materials WILL NOT be accepted in lieu of this questionnaire. This questionnaire will assist the City in understanding your submittal and will be used in the evaluation process and therefore it is critical that the questionnaire be completed and submitted with your submittal.

GENERAL CONTACT INFORMATION					
Primary Contact:	John Johnson			Title:	VP of Finance
Vendor Name:	Stripe-A-Zone, Inc.				
Vendor Address:	2714 Sherman St.				
City:	Grand Prairie	State:	TX	Zip:	75051
Phone:	972-647-2714		Fax:	972-641-9520	
Email:	jjohnson@stripe-a-zone.com			Tax ID:	75-2676688

Provide at Least 3 References, including contact name, agency name, title, phone number and email of those you have provided similar services in the past three years. This information will be used in the evaluation of your submittal.

REFERENCE #1			
Reference Name:	Mika Clark	Title:	Signs & Markings Supervisor
Reference Organization:	Town of Flower Mound		
Project Title:	Town of Flower Mound Street Markings		
Email:	Mika.Clark@flower-mound.com	Phone:	972-874-6416

REFERENCE #2			
Reference Name:	Tarl Plank	Title:	Streets Crew Leader
Reference Organization:	City of Southlake		
Project Title:	City of Southlake Pavement Markings		
Email:	tplank@ci.southlake.tx.us	Phone:	817-478-8091

REFERENCE #3			
Reference Name:	Petite Kirkendoll	Title:	Streets & Drainage Superintendent
Reference Organization:	City of Colleyville		
Project Title:	FY2021 Miscellaneous Pavement Marking Project		
Email:	PKirkendoll@colleyville.com	Phone:	817-503-1098

EXPERIENCE			
How many years has your company been involved in providing these types of commodities or services?			
Years:	70	Months:	7
Do you have a corporate office, branch office or warehouse located in the Grand Prairie city limits? (5 points)	Yes ☒	No	☐
Address if different from above:			
Please list all government entities your firm has worked with in the past three (3) years:			
City of Grand Prairie		City of Arlington	
City of Colleyville		Town of Flower Mound	
TXDOT		LADOT	
City of Bedford		City of Denton	
City of McKinney		City of Weatherford	

BILLING					
What is the timeframe an invoice should be expected after services/commodities are delivered?					
Days	7	Weeks		Months	
Briefly explain how your business maintains and executes a service schedule for various locations:					
We have a project manager that manages all scheduling for the various crews we have available to perform the work that we are qualified to do.					

LEGAL INFORMATION			
Has your firm failed to complete a contract?	Yes	☐	No ☒
<i>If yes, please identify the project and date:</i>			
Do you have any litigation issues pending in the last three (3) years?	Yes	☐	No ☒
<i>If yes, please explain:</i>			
Are there any judgements, claims, arbitration proceedings, or suits pending or outstanding against your organization or officers?	Yes	☐	No ☒
<i>If yes, please explain:</i>			

SUBMITTAL AFFIRMATION FORM

FORM AND ADDENDA ACKNOWLEDGEMENT

This will acknowledge your submittal contains all items and receipt of the following addenda which are part of the solicitation documents:

✓ All items identified in Submittal Checklist have been submitted

N/A Addendum No.

INTERLOCAL PURCHASING

Should other Government entities decide to participate in this contract, would you, the Vendor, agree that all terms, conditions, specifications and pricing would apply:

Yes ☒

No ☐

OTHER CONDITIONS

The undersigned agrees to the following:

- A. Agrees that the submittal is complete and all required information/forms were submitted.
- B. Agrees that the bid package was fully reviewed and fully understands the requirements.
- C. Agrees to the Terms & Conditions as included in this bid packet and have noted any exceptions.
- D. Agrees that their submittal shall be good and may not be withdrawn for a period of 90 calendar days after the scheduled closing time.
- E. Will supply all required insurance, and execute contract within the time stated on the notice of award.
- F. Affirms that the submittal was not prepared in collusion with any other firm and the contents of this submittal have not been communicated by the undersigned or any agent with any other person engaged in this type of business.

SUBMITTAL CERTIFICATION

By my signature I affirm that I am duly authorized to execute this proposal as an offer to contract and in compliance with this solicitation, the undersigned firm having examined the specifications, and being familiar with the conditions to be met, hereby submits a proposal for consideration of being selected as COGP 's provider for said services; and agrees to enter into negotiations if selected as a finalist for said services.

Authorized Signature

John Johnson

Print/Type Name

Vice President of Finance

Title

06/21/2021

Date

HISTORICALLY UNDERUTILIZED BUSINESS (HUB) QUESTIONNAIRE

A Historically Underutilized Business (HUB) is a for-profit entity that has not exceeded the size standards prescribed by 34 TAC §20.23, and has its principal place of business in Texas, and is at least 51% owned by an Asian Pacific American, Black American, Hispanic American, Native American, American woman and/or Service Disabled Veteran, who reside in Texas and actively participate in the control, operations and management of the entity's affairs.

1. Is your business a certified historically underutilized business (HUB) or Disadvantaged Business Enterprise (DBE)?

☒

No

☐

Yes; and certifying agency: _____

If you answered in the affirmative, please include a copy of my certification as an attachment to your proposal.

HOUSE BILL 89 VERIFICATION

I hereby verify that the company named in this submittal, under the provisions of Subtitle F, Title 10, Government Code Chapter 2270:

1. Does not boycott Israel currently; and
2. Will not boycott Israel during the term of the contract.

Pursuant to Section 2270.01, Texas Government Code:

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

By my signature I affirm the information provided in this submittal is accurate to the best of my knowledge.

Authorized Signature

John Johnson

Print/Type Name

Vice President of Finance

Title

06/21/2021

Date

CERTIFICATE OF INTERESTED PARTIES**FORM 1295**

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.
 Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

**OFFICE USE ONLY
CERTIFICATION OF FILING**

Certificate Number:
2021-787246

Date Filed:
08/05/2021

Date Acknowledged:

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

Stripe-A-Zone, Inc.
Grand Prairie, TX United States

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

City of Grand Prairie

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

RFB#21116-Pavement Marking Svc
Pavement Marking Services

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary

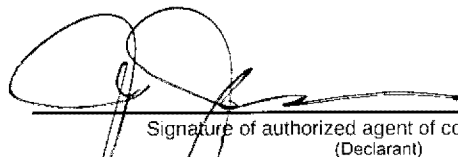
5 Check only if there is NO Interested Party.**6 UNSWORN DECLARATION**

My name is JOHN JOHNSON, and my date of birth is 12-5-1967.

My address is 4915 ROCKFORD COURT, ARLINGTON, TX, 76017, USA.
(street) (city) (state) (zip code) (country)

I declare under penalty of perjury that the foregoing is true and correct.

Executed in TARRANT County, State of TEXAS, on the 5TH day of AUGUST, 2021.
(month) (year)



Signature of authorized agent of contracting business entity
(Declarant)

**CERTIFICATE OF LIABILITY INSURANCE**

1/1/2022

DATE (MM/DD/YYYY)

8/5/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER LOCKTON COMPANIES 3657 BRIARPARK DRIVE, SUITE 700 HOUSTON TX 77042 866-260-3538	CONTACT NAME: PHONE (A/C, No. Ext): E-MAIL ADDRESS:		FAX (A/C, No):
	INSURER(S) AFFORDING COVERAGE INSURER A: Zurich American Insurance Company INSURER B: American Guarantee and Liab. Ins. Co. INSURER C: INSURER D: INSURER E: INSURER F:		NAIC # 16535 26247
INSURED 1482042 Frontline Road Safety Holdings, LLC Stripe-A-Zone, Inc. 2714 Sherman Street Grand Prairie TX 75051			

COVERAGES**CERTIFICATE NUMBER:** 17746557**REVISION NUMBER:** XXXXXXXX

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR ☒ PD Ded: 5,000 GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☒ PRO-JECT ☐ LOC OTHER:	Y	Y	GLO 3002387 00	1/1/2021	1/1/2022	EACH OCCURRENCE \$ 2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 2,000,000 GENERAL AGGREGATE \$ 4,000,000 PRODUCTS - COMP/OP AGG \$ 4,000,000 \$
A	AUTOMOBILE LIABILITY ☒ ANY AUTO ☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☒ HIRED AUTOS ONLY ☒ NON-OWNED AUTOS ONLY	Y	Y	BAP 3088737 00	1/1/2021	1/1/2022	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ XXXXXXXX BODILY INJURY (Per accident) \$ XXXXXXXX PROPERTY DAMAGE (Per accident) \$ XXXXXXXX \$ XXXXXXXX
B	☒ UMBRELLA LIAB ☒ OCCUR ☐ EXCESS LIAB ☐ CLAIMS-MADE DED RETENTION \$	Y	Y	AUC 3109785 00	1/1/2021	1/1/2022	EACH OCCURRENCE \$ 5,000,000 AGGREGATE \$ 5,000,000 \$ XXXXXXXX
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N	Y	WC 3002388 00	1/1/2021	1/1/2022	☒ PER STATUTE ☐ OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

All policies include a blanket notice of cancellation to certificate holders endorsement, providing for 30 days' advance notice if the policy is cancelled by the company other than for nonpayment of premium, 10 days' notice if the policy is cancelled for nonpayment of premium. Notice is sent to certificate holders with mailing addresses on file with the agent or the company. The endorsement does not provide for notice of cancellation if the named insured requests cancellation. All policies (except Workers' Compensation/EL) contain a special endorsement with "primary and noncontributory" wording.

CERTIFICATE HOLDER**CANCELLATION** See Attachments**17746557**

City of Grand Prairie
 ATTN: Anda Upchurch, Sr.
 Buyer - Purchasing Division
 300 Main Street
 Grand Prairie TX 75050

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

All policies (except Workers' Compensation/EL) include a blanket automatic additional insured [provision] that confers additional insured status to the certificate holder only if there is a written contract between the named insured and the certificate holder that requires the named insured to name the certificate holder as an additional insured. In the absence of such a contractual obligation on the part of the named insured, the certificate holder is not an additional insured under the policy.

All policies include a blanket automatic waiver of subrogation endorsement [provision] that provides this feature only when there is a written contract between the named insured and the certificate holder that requires it. In the absence of such a contractual obligation on the part of the named insured, the waiver of subrogation feature does not apply.

Additional Insured – Automatic – Owners, Lessees Or Contractors



Policy No.	Eff. Date of Pol.	Exp. Date of Pol.	Eff. Date of End.	Producer No.	Add'l. Prem	Return Prem.
GLO3002387 00	1/1/2021	1/1/2022	1/1/2021			

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

Named Insured: Frontline Road Safety Holdings, LLC; Stripe-A-Zone, Inc.; Apply-A-Line, LLC; Griffin Pavement Services

Address (including ZIP Code): 9 Greenway Plaza, Suite 2400, Houston, TX 77046

This endorsement modifies insurance provided under the:

Commercial General Liability Coverage Part

A. Section II – Who Is An Insured is amended to include as an additional insured any person or organization whom you are required to add as an additional insured on this policy under a written contract or written agreement. Such person or organization is an additional insured only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

1. Your acts or omissions; or
2. The acts or omissions of those acting on your behalf,

in the performance of your ongoing operations or "your work" as included in the "products-completed operations hazard", which is the subject of the written contract or written agreement.

However, the insurance afforded to such additional insured:

1. Only applies to the extent permitted by law; and
2. Will not be broader than that which you are required by the written contract or written agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds, the following additional exclusion applies:

This insurance does not apply to:

"Bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of, or failure to render, any professional architectural, engineering or surveying services including:

- a. The preparing, approving or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
- b. Supervisory, inspection, architectural or engineering activities.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage", or the offense which caused the "personal and advertising injury", involved the rendering of or the failure to render any professional architectural, engineering or surveying services.

C. The following is added to Paragraph 2. Duties In The Event Of Occurrence, Offense, Claim Or Suit of Section IV – Commercial General Liability Conditions:

The additional insured must see to it that:

1. We are notified as soon as practicable of an "occurrence" or offense that may result in a claim;
2. We receive written notice of a claim or "suit" as soon as practicable; and
3. A request for defense and indemnity of the claim or "suit" will promptly be brought against any policy issued by another insurer under which the additional insured may be an insured in any capacity. This provision does not apply to insurance on which the additional insured is a Named Insured if the written contract or written agreement requires that this coverage be primary and non-contributory.

D. For the purposes of the coverage provided by this endorsement:

1. The following is added to the Other Insurance Condition of Section IV – **Commercial General Liability Conditions:**

Primary and Noncontributory insurance

This insurance is primary to and will not seek contribution from any other insurance available to an additional insured provided that:

- a. The additional insured is a Named Insured under such other insurance; and
 - b. You are required by written contract or written agreement that this insurance be primary and not seek contribution from any other insurance available to the additional insured.
2. The following paragraph is added to Paragraph 4.b. of the Other Insurance Condition of Section IV – **Commercial General Liability Conditions:**

This insurance is excess over:

Any of the other insurance, whether primary, excess, contingent or on any other basis, available to an additional insured, in which the additional insured on our policy is also covered as an additional insured on another policy providing coverage for the same "occurrence", offense, claim or "suit". This provision does not apply to any policy in which the additional insured is a Named Insured on such other policy and where our policy is required by a written contract or written agreement to provide coverage to the additional insured on a primary and non-contributory basis.

- E. This endorsement does not apply to an additional insured which has been added to this policy by an endorsement showing the additional insured in a Schedule of additional insureds, and which endorsement applies specifically to that identified additional insured.
- F. With respect to the insurance afforded to the additional insureds under this endorsement, the following is added to Section III – **Limits Of Insurance:**

The most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the written contract or written agreement referenced in Paragraph A. of this endorsement; or
 2. Available under the applicable Limits of Insurance shown in the Declarations,
- whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

All other terms and conditions of this policy remain unchanged.

Waiver Of Subrogation (Blanket) Endorsement



Policy No.	Eff. Date of Pol.	Exp. Date of Pol.	Eff. Date of End.	Producer	Add'l. Prem	Return Prem.
GLO 3002387 00	1/1/2021	1/1/2022	1/1/2021	Lockton Companies	\$	\$

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This endorsement modifies insurance provided under the:

Commercial General Liability Coverage Part

The following is added to the **Transfer Of Rights Of Recovery Against Others To Us Condition**:

If you are required by a written contract or agreement, which is executed before a loss, to waive your rights of recovery from others, we agree to waive our rights of recovery. This waiver of rights shall not be construed to be a waiver with respect to any other operations in which the insured has no contractual interest.

POLICY NUMBER: GLO 3002387 00

**COMMERCIAL GENERAL LIABILITY
CG 25 03 05 09****THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.****DESIGNATED CONSTRUCTION PROJECT(S)
GENERAL AGGREGATE LIMIT**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE**Designated Construction Project(s):**

A General Aggregate Limit applies to each construction project where the Named Insured is performing operations, however, a General Aggregate Limit does not apply to any construction project where the Named Insured is performing operations that are insured under a wrap up or any other consolidated or similar insurance program.

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

- A.** For all sums which the insured becomes legally obligated to pay as damages caused by "occurrences" under Section I – Coverage **A**, and for all medical expenses caused by accidents under Section I – Coverage **C**, which can be attributed only to ongoing operations at a single designated construction project shown in the Schedule above:
1. A separate Designated Construction Project General Aggregate Limit applies to each designated construction project, and that limit is equal to the amount of the General Aggregate Limit shown in the Declarations.
 2. The Designated Construction Project General Aggregate Limit is the most we will pay for the sum of all damages under Coverage **A**, except damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard", and for medical expenses under Coverage **C** regardless of the number of:
 - a. Insureds;
 - b. Claims made or "suits" brought; or
 - c. Persons or organizations making claims or bringing "suits".
 3. Any payments made under Coverage **A** for damages or under Coverage **C** for medical expenses shall reduce the Designated Construction Project General Aggregate Limit for that designated construction project. Such payments shall not reduce the General Aggregate Limit shown in the Declarations nor shall they reduce any other Designated Construction Project General Aggregate Limit for any other designated construction project shown in the Schedule above.
 4. The limits shown in the Declarations for Each Occurrence, Damage To Premises Rented To You and Medical Expense continue to apply. However, instead of being subject to the General Aggregate Limit shown in the Declarations, such limits will be subject to the applicable Designated Construction Project General Aggregate Limit.

- B.** For all sums which the insured becomes legally obligated to pay as damages caused by "occurrences" under Section I – Coverage **A**, and for all medical expenses caused by accidents under Section I – Coverage **C**, which cannot be attributed only to ongoing operations at a single designated construction project shown in the Schedule above:
1. Any payments made under Coverage **A** for damages or under Coverage **C** for medical expenses shall reduce the amount available under the General Aggregate Limit or the Products-completed Operations Aggregate Limit, whichever is applicable; and
 2. Such payments shall not reduce any Designated Construction Project General Aggregate Limit.
- C.** When coverage for liability arising out the "products-completed operations hazard" is provided, any payments for damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard" will reduce the Products-completed Operations Aggregate Limit, and not reduce the General Aggregate Limit nor the Designated Construction Project General Aggregate Limit.
- D.** If the applicable designated construction project has been abandoned, delayed, or abandoned and then restarted, or if the authorized contracting parties deviate from plans, blueprints, designs, specifications or timetables, the project will still be deemed to be the same construction project.
- E.** The provisions of Section III – Limits Of Insurance not otherwise modified by this endorsement shall continue to apply as stipulated.



Limited Operations Coverage – Work Excluded Under A Consolidated (Wrap-Up) Insurance Program

Policy No.	Exp. Date of Pol.	Eff. Date of End.	Agency No.	Addl. Prem.	Return Prem.
GLO 3002387 00	1/1/2022	1/1/2021			

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

Named Insured: Frontline Road Safety Holdings, LLC; Stripe-A-Zone, Inc.; Apply-A-Line, LLC; Griffin Pavement Services

Address (including ZIP Code): 9 Greenway Plaza, Suite 2400, Houston, TX 77046

This endorsement modifies insurance provided under the:
Commercial General Liability Coverage Part

SCHEDULE

Description and Location of Operation(s):

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

A. The following exclusion is added to paragraph 2., Exclusions of Coverage A – Bodily Injury and Property Damage Liability (Section I – Coverages):

This insurance does not apply to "bodily injury" or "property damage" arising out of either your ongoing operations or operations included within the "products-completed operations hazard" at the location described in the **SCHEDULE** of this endorsement, as a consolidated (wrap-up) insurance program has been provided by the prime contractor/project manager or owner of the construction project in which you are involved.

This exclusion applies whether or not the consolidated (wrap-up) insurance program:

1. Provides coverage identical to that provided by this Coverage Part;
2. Has limits adequate to cover all claims; or
3. Remains in effect.

B. The exclusion in A. above shall not apply to your ongoing operations at the location shown in the **SCHEDULE – for your service, maintenance, correction, repair or replacement of the original work performed and insured under the consolidated wrap-up insurance program.**

However, this extension of coverage does not apply to damages because of "bodily injury" or "property damage" due to any service, maintenance, correction, repair or replacement work:

1. as respects the "products-completed operations hazard"; or
2. for which coverage is afforded under the consolidated (wrap-up) insurance program.

.C. For the application of the coverage provided by this endorsement in paragraph B. above, **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS** paragraph 4 **Other Insurance** is replaced by the following:

This insurance is excess over any other insurance, whether primary, excess, contingent or on any other basis. If any other insurance responds or can respond to this loss, we shall have the right but not the duty to defend any "suit".

When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

1. The total amount that all such other insurance would pay for the loss in the absence of this insurance; and
2. The total of all deductible and self-insured amounts under all that other insurance.

We will share the remaining loss, if any, with any other insurance that may apply and that was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.

Countersigned

Authorized Representative

Notification to Others of Cancellation



Policy No.	Eff. Date of Pol.	Exp. Date of Pol.	Eff. Date of End.	Producer No.	Add'l. Prem	Return Prem.
GLO 3002387 00	01/01/2021	01/01/2022	01/01/2021			

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This endorsement modifies insurance provided under the:

Commercial General Liability Coverage Part
Liquor Liability Coverage Part
Products/Completed Operations Liability Coverage Part

- A.** If we cancel this Coverage Part(s) by written notice to the first Named Insured for any reason other than nonpayment of premium, we will mail or deliver a copy of such written notice of cancellation:
- To the name and address corresponding to each person or organization shown in the Schedule below; and
 - At least 10 days prior to the effective date of the cancellation, as advised in our notice to the first Named Insured, or the longer number of days notice if indicated in the Schedule below.
- B.** If we cancel this Coverage Part(s) by written notice to the first Named Insured for nonpayment of premium, we will mail or deliver a copy of such written notice of cancellation to the name and address corresponding to each person or organization shown in the Schedule below at least 10 days prior to the effective date of such cancellation.
- C.** If notice as described in Paragraphs **A.** or **B.** of this endorsement is mailed, proof of mailing will be sufficient proof of such notice.

SCHEDULE	
Name and Address of Other Person(s) / Organization(s):	Number of Days Notice:
To Be Determined, as required by written contract.	30 days

All other terms and conditions of this policy remain unchanged.


ZURICH®

Coverage Extension Endorsement

Policy No.	Eff. Date of Pol.	Exp. Date of Pol.	Eff. Date of End.	Producer No.	Add'l. Prem	Return Prem.
BAP 3088737 00	1/1/2021	1/1/2022	1/1/2022			

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This endorsement modifies insurance provided under the:

Business Auto Coverage Form
Motor Carrier Coverage Form

A. Amended Who Is An Insured

1. The following is added to the **Who Is An Insured** Provision in **Section II – Covered Autos Liability Coverage**:

The following are also "insureds":

- a. Any "employee" of yours is an "insured" while using a covered "auto" you don't own, hire or borrow for acts performed within the scope of employment by you. Any "employee" of yours is also an "insured" while operating an "auto" hired or rented under a contract or agreement in an "employee's" name, with your permission, while performing duties related to the conduct of your business.
- b. Anyone volunteering services to you is an "insured" while using a covered "auto" you don't own, hire or borrow to transport your clients or other persons in activities necessary to your business.
- c. Anyone else who furnishes an "auto" referenced in Paragraphs **A.1.a.** and **A.1.b.** in this endorsement.
- d. Where and to the extent permitted by law, any person(s) or organization(s) where required by written contract or written agreement with you executed prior to any "accident", including those person(s) or organization(s) directing your work pursuant to such written contract or written agreement with you, provided the "accident" arises out of operations governed by such contract or agreement and only up to the limits required in the written contract or written agreement, or the Limits of Insurance shown in the Declarations, whichever is less.

2. The following is added to the **Other Insurance** Condition in the Business Auto Coverage Form and the **Other Insurance – Primary and Excess Insurance Provisions Condition** in the Motor Carrier Coverage Form:

Coverage for any person(s) or organization(s), where required by written contract or written agreement with you executed prior to any "accident", will apply on a primary and non-contributory basis and any insurance maintained by the additional "insured" will apply on an excess basis. However, in no event will this coverage extend beyond the terms and conditions of the Coverage Form.

B. Amendment – Supplementary Payments

Paragraphs **a.(2)** and **a.(4)** of the **Coverage Extensions** Provision in **Section II – Covered Autos Liability Coverage** are replaced by the following:

- (2) Up to \$5,000 for the cost of bail bonds (including bonds for related traffic law violations) required because of an "accident" we cover. We do not have to furnish these bonds.
- (4) All reasonable expenses incurred by the "insured" at our request, including actual loss of earnings up to \$500 a day because of time off from work.

C. Fellow Employee Coverage

The **Fellow Employee** Exclusion contained in **Section II – Covered Autos Liability Coverage** does not apply.

D. Driver Safety Program Liability and Physical Damage Coverage

1. The following is added to the **Racing** Exclusion in **Section II – Covered Autos Liability Coverage**:

This exclusion does not apply to covered "autos" participating in a driver safety program event, such as, but not limited to, auto or truck rodeos and other auto or truck agility demonstrations.

2. The following is added to Paragraph **2.** in the **Exclusions** of **Section III – Physical Damage Coverage** of the Business Auto Coverage Form and Paragraph **2.b.** in the **Exclusions** of **Section IV – Physical Damage Coverage** of the Motor Carrier Coverage Form:

This exclusion does not apply to covered "autos" participating in a driver safety program event, such as, but not limited to, auto or truck rodeos and other auto or truck agility demonstrations.

E. Lease or Loan Gap Coverage

The following is added to the **Coverage** Provision of the **Physical Damage Coverage** Section:

Lease Or Loan Gap Coverage

In the event of a total "loss" to a covered "auto", we will pay any unpaid amount due on the lease or loan for a covered "auto", less:

- a. Any amount paid under the **Physical Damage Coverage** Section of the Coverage Form; and
- b. Any:
 - (1) Overdue lease or loan payments at the time of the "loss";
 - (2) Financial penalties imposed under a lease for excessive use, abnormal wear and tear or high mileage;
 - (3) Security deposits not returned by the lessor;
 - (4) Costs for extended warranties, credit life insurance, health, accident or disability insurance purchased with the loan or lease; and
 - (5) Carry-over balances from previous leases or loans.

F. Towing and Labor

Paragraph **A.2.** of the **Physical Damage Coverage** Section is replaced by the following:

We will pay up to \$75 for towing and labor costs incurred each time a covered "auto" of the private passenger type is disabled. However, the labor must be performed at the place of disablement.

G. Extended Glass Coverage

The following is added to Paragraph **A.3.a.** of the **Physical Damage Coverage** Section:

If glass must be replaced, the deductible shown in the Declarations will apply. However, if glass can be repaired and is actually repaired rather than replaced, the deductible will be waived. You have the option of having the glass repaired rather than replaced.

H. Hired Auto Physical Damage – Increased Loss of Use Expenses

The **Coverage Extension** for **Loss Of Use Expenses** in the **Physical Damage Coverage** Section is replaced by the following:

Loss Of Use Expenses

For Hired Auto Physical Damage, we will pay expenses for which an "insured" becomes legally responsible to pay for loss of use of a vehicle rented or hired without a driver under a written rental contract or written rental agreement. We will pay for loss of use expenses if caused by:

- (1) Other than collision only if the Declarations indicate that Comprehensive Coverage is provided for any covered "auto";
 - (2) Specified Causes Of Loss only if the Declarations indicate that Specified Causes Of Loss Coverage is provided for any covered "auto"; or
 - (3) Collision only if the Declarations indicate that Collision Coverage is provided for any covered "auto".
- However, the most we will pay for any expenses for loss of use is \$100 per day, to a maximum of \$3000.

I. Personal Effects Coverage

The following is added to the **Coverage** Provision of the **Physical Damage Coverage** Section:

Personal Effects Coverage

- a. We will pay up to \$750 for "loss" to personal effects which are:
 - (1) Personal property owned by an "insured"; and
 - (2) In or on a covered "auto".
- b. Subject to Paragraph a. above, the amount to be paid for "loss" to personal effects will be based on the lesser of:
 - (1) The reasonable cost to replace; or
 - (2) The actual cash value.
- c. The coverage provided in Paragraphs a. and b. above, only applies in the event of a total theft of a covered "auto". No deductible applies to this coverage. However, we will not pay for "loss" to personal effects of any of the following:
 - (1) Accounts, bills, currency, deeds, evidence of debt, money, notes, securities, or commercial paper or other documents of value.
 - (2) Bullion, gold, silver, platinum, or other precious alloys or metals; furs or fur garments; jewelry, watches, precious or semi-precious stones.
 - (3) Paintings, statuary and other works of art.
 - (4) Contraband or property in the course of illegal transportation or trade.
 - (5) Tapes, records, discs or other similar devices used with audio, visual or data electronic equipment.

Any coverage provided by this Provision is excess over any other insurance coverage available for the same "loss".

J. Tapes, Records and Discs Coverage

- 1. The Exclusion in Paragraph **B.4.a.** of **Section III – Physical Damage Coverage** in the Business Auto Coverage Form and the Exclusion in Paragraph **B.2.c.** of **Section IV – Physical Damage Coverage** in the Motor Carrier Coverage Form does not apply.
- 2. The following is added to Paragraph **1.a. Comprehensive Coverage** under the **Coverage** Provision of the **Physical Damage Coverage** Section:

We will pay for "loss" to tapes, records, discs or other similar devices used with audio, visual or data electronic equipment. We will pay only if the tapes, records, discs or other similar audio, visual or data electronic devices:

- (a) Are the property of an "insured"; and
- (b) Are in a covered "auto" at the time of "loss".

The most we will pay for such "loss" to tapes, records, discs or other similar devices is \$500. The **Physical Damage Coverage Deductible** Provision does not apply to such "loss".

K. Airbag Coverage

The Exclusion in Paragraph **B.3.a. of Section III – Physical Damage Coverage** in the Business Auto Coverage Form and the Exclusion in Paragraph **B.4.a. of Section IV – Physical Damage Coverage** in the Motor Carrier Coverage Form does not apply to the accidental discharge of an airbag.

L. Two or More Deductibles

The following is added to the **Deductible** Provision of the **Physical Damage Coverage** Section:

If an accident is covered both by this policy or Coverage Form and by another policy or Coverage Form issued to you by us, the following applies for each covered "auto" on a per vehicle basis:

1. If the deductible on this policy or Coverage Form is the smaller (or smallest) deductible, it will be waived; or
2. If the deductible on this policy or Coverage Form is not the smaller (or smallest) deductible, it will be reduced by the amount of the smaller (or smallest) deductible.

M. Physical Damage – Comprehensive Coverage – Deductible

The following is added to the **Deductible** Provision of the **Physical Damage Coverage** Section:

Regardless of the number of covered "autos" damaged or stolen, the maximum deductible that will be applied to Comprehensive Coverage for all "loss" from any one cause is \$5,000 or the deductible shown in the Declarations, whichever is greater.

N. Temporary Substitute Autos – Physical Damage

1. The following is added to **Section I – Covered Autos**:

Temporary Substitute Autos – Physical Damage

If Physical Damage Coverage is provided by this Coverage Form on your owned covered "autos", the following types of vehicles are also covered "autos" for Physical Damage Coverage:

Any "auto" you do not own when used with the permission of its owner as a temporary substitute for a covered "auto" you do own but is out of service because of its:

1. Breakdown;
 2. Repair;
 3. Servicing;
 4. "Loss"; or
 5. Destruction.
2. The following is added to the Paragraph **A. Coverage** Provision of the **Physical Damage Coverage** Section:

Temporary Substitute Autos – Physical Damage

We will pay the owner for "loss" to the temporary substitute "auto" unless the "loss" results from fraudulent acts or omissions on your part. If we make any payment to the owner, we will obtain the owner's rights against any other party.

The deductible for the temporary substitute "auto" will be the same as the deductible for the covered "auto" it replaces.

O. Amended Duties In The Event Of Accident, Claim, Suit Or Loss

Paragraph **a.** of the **Duties In The Event Of Accident, Claim, Suit Or Loss** Condition is replaced by the following:

- a. In the event of "accident", claim, "suit" or "loss", you must give us or our authorized representative prompt notice of the "accident", claim, "suit" or "loss". However, these duties only apply when the "accident", claim, "suit" or "loss" is known to you (if you are an individual), a partner (if you are a partnership), a member (if you are a limited liability company) or an executive officer or insurance manager (if you are a corporation). The failure of any

agent, servant or employee of the "insured" to notify us of any "accident", claim, "suit" or "loss" shall not invalidate the insurance afforded by this policy.

Include, as soon as practicable:

- (1) How, when and where the "accident" or "loss" occurred and if a claim is made or "suit" is brought, written notice of the claim or "suit" including, but not limited to, the date and details of such claim or "suit";
- (2) The "insured's" name and address; and
- (3) To the extent possible, the names and addresses of any injured persons and witnesses.

If you report an "accident", claim, "suit" or "loss" to another insurer when you should have reported to us, your failure to report to us will not be seen as a violation of these amended duties provided you give us notice as soon as practicable after the fact of the delay becomes known to you.

P. Waiver of Transfer Of Rights Of Recovery Against Others To Us

The following is added to the **Transfer Of Rights Of Recovery Against Others To Us** Condition:

This Condition does not apply to the extent required of you by a written contract, executed prior to any "accident" or "loss", provided that the "accident" or "loss" arises out of operations contemplated by such contract. This waiver only applies to the person or organization designated in the contract.

Q. Employee Hired Autos – Physical Damage

Paragraph **b.** of the **Other Insurance** Condition in the Business Auto Coverage Form and Paragraph **f.** of the **Other Insurance – Primary and Excess Insurance Provisions** Condition in the Motor Carrier Coverage Form are replaced by the following:

For Hired Auto Physical Damage Coverage, the following are deemed to be covered "autos" you own:

- (1) Any covered "auto" you lease, hire, rent or borrow; and
- (2) Any covered "auto" hired or rented under a written contract or written agreement entered into by an "employee" or elected or appointed official with your permission while being operated within the course and scope of that "employee's" employment by you or that elected or appointed official's duties as respect their obligations to you.

However, any "auto" that is leased, hired, rented or borrowed with a driver is not a covered "auto".

R. Unintentional Failure to Disclose Hazards

The following is added to the **Concealment, Misrepresentation Or Fraud** Condition:

However, we will not deny coverage under this Coverage Form if you unintentionally:

- (1) Fail to disclose any hazards existing at the inception date of this Coverage Form; or
- (2) Make an error, omission, improper description of "autos" or other misstatement of information.

You must notify us as soon as possible after the discovery of any hazards or any other information that was not provided to us prior to the acceptance of this policy.

S. Hired Auto – World Wide Coverage

Paragraph **7a.(5)** of the **Policy Period, Coverage Territory** Condition is replaced by the following:

- (5) Anywhere in the world if a covered "auto" is leased, hired, rented or borrowed for a period of 60 days or less,

T. Bodily Injury Redefined

The definition of "bodily injury" in the **Definitions** Section is replaced by the following:

"Bodily injury" means bodily injury, sickness or disease, sustained by a person including death or mental anguish, resulting from any of these at any time. Mental anguish means any type of mental or emotional illness or disease.

U. Expected Or Intended Injury

The **Expected Or Intended Injury** Exclusion in Paragraph **B. Exclusions** under **Section II – Covered Auto Liability Coverage** is replaced by the following:

Expected Or Intended Injury

"Bodily injury" or "property damage" expected or intended from the standpoint of the "insured". This exclusion does not apply to "bodily injury" or "property damage" resulting from the use of reasonable force to protect persons or property.

V. Physical Damage – Additional Temporary Transportation Expense Coverage

Paragraph **A.4.a.** of **Section III – Physical Damage Coverage** is replaced by the following:

4. Coverage Extensions**a. Transportation Expenses**

We will pay up to \$50 per day to a maximum of \$1,000 for temporary transportation expense incurred by you because of the total theft of a covered "auto" of the private passenger type. We will pay only for those covered "autos" for which you carry either Comprehensive or Specified Causes of Loss Coverage. We will pay for temporary transportation expenses incurred during the period beginning 48 hours after the theft and ending, regardless of the policy's expiration, when the covered "auto" is returned to use or we pay for its "loss".

W. Replacement of a Private Passenger Auto with a Hybrid or Alternative Fuel Source Auto

The following is added to Paragraph **A. Coverage** of the **Physical Damage Coverage** Section:

In the event of a total "loss" to a covered "auto" of the private passenger type that is replaced with a hybrid "auto" or "auto" powered by an alternative fuel source of the private passenger type, we will pay an additional 10% of the cost of the replacement "auto", excluding tax, title, license, other fees and any aftermarket vehicle upgrades, up to a maximum of \$2500. The covered "auto" must be replaced by a hybrid "auto" or an "auto" powered by an alternative fuel source within 60 calendar days of the payment of the "loss" and evidenced by a bill of sale or new vehicle lease agreement.

To qualify as a hybrid "auto", the "auto" must be powered by a conventional gasoline engine and another source of propulsion power. The other source of propulsion power must be electric, hydrogen, propane, solar or natural gas, either compressed or liquefied. To qualify as an "auto" powered by an alternative fuel source, the "auto" must be powered by a source of propulsion power other than a conventional gasoline engine. An "auto" solely propelled by biofuel, gasoline or diesel fuel or any blend thereof is not an "auto" powered by an alternative fuel source.

X. Return of Stolen Automobile

The following is added to the **Coverage Extension** Provision of the **Physical Damage Coverage** Section:

If a covered "auto" is stolen and recovered, we will pay the cost of transport to return the "auto" to you. We will pay only for those covered "autos" for which you carry either Comprehensive or Specified Causes of Loss Coverage.

All other terms, conditions, provisions and exclusions of this policy remain the same.


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Notification to Others of Cancellation

Policy No.	Eff. Date of Pol.	Exp. Date of Pol.	Eff. Date of End.	Producer No.	Add'l. Prem	Return Prem.
BAP 3088737 00	01/01/2021	01/01/2022	01/01/2021			

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This endorsement modifies insurance provided under the:

Commercial Automobile Coverage Part

- A.** If we cancel this Coverage Part by written notice to the first Named Insured for any reason other than nonpayment of premium, we will mail or deliver a copy of such written notice of cancellation:
- To the name and address corresponding to each person or organization shown in the Schedule below; and
 - At least 10 days prior to the effective date of the cancellation, as advised in our notice to the first Named Insured, or the longer number of days notice if indicated in the Schedule below.
- B.** If we cancel this Coverage Part by written notice to the first Named Insured for nonpayment of premium, we will mail or deliver a copy of such written notice of cancellation to the name and address corresponding to each person or organization shown in the Schedule below at least 10 days prior to the effective date of such cancellation.
- C.** If notice as described in Paragraphs **A.** or **B.** of this endorsement is mailed, proof of mailing will be sufficient proof of such notice.

SCHEDULE	
Name and Address of Other Person(s) / Organization(s):	Number of Days Notice:
To Be Determined, as required by written contract.	30

All other terms and conditions of this policy remain unchanged.

WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY INSURANCE POLICY

WC 04 03 06 (Ed. 4-84)

**WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS
ENDORSEMENT—CALIFORNIA**

This endorsement changes the policy to which it is attached effective on the inception date of the policy unless a different date is indicated below.

(The following "attaching clause" need be completed only when this endorsement is issued subsequent to preparation of the policy.)

This endorsement, effective on 1/1/2021 at 12:01 A.M. standard time, forms a part of

Policy No. WC 3002388 00 Endorsement No.

of the

Zurich American Insurance Company

issued to

Premium (if any) \$

Authorized Representative

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

You must maintain payroll records accurately segregating the remuneration of your employees while engaged in the work described in the Schedule.

The additional premium for this endorsement shall be _____ % of the California workers' compensation premium otherwise due on such remuneration.

Schedule**Person or Organization****Job Description**

ALL PERSONS AND/OR ORGANIZATIONS THAT ARE REQUIRED BY WRITTEN CONTRACT OR AGREEMENT WITH THE INSURED, EXECUTED PRIOR TO THE ACCIDENT OR LOSS, THAT WAIVER OF SUBROGATION BE PROVIDED UNDER THIS POLICY FOR WORK PERFORMED BY YOU FOR THAT PERSON AND/OR ORGANIZATION.

WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE POLICY**WC 42 03 04 B**

(Ed. 6-14)

TEXAS WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

This endorsement applies only to the insurance provided by the policy because Texas is shown in Item 3.A. of the Information Page.

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule, but this waiver applies only with respect to bodily injury arising out of the operations described in the Schedule where you are required by a written contract to obtain this waiver from us.

This endorsement shall not operate directly or indirectly to benefit anyone not named in the Schedule.

The premium for this endorsement is shown in the Schedule.

Schedule

1. () Specific Waiver

Name of person or organization

(X) Blanket Waiver

Any person or organization for whom the Named Insured has agreed by written contract to furnish this waiver.

2. Operations:

3. Premium:

The premium charge for this endorsement shall be 2% percent of the premium developed on payroll in connection with work performed for the above person(s) or organization(s) arising out of the operations described.

4. Advance Premium:

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.

(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Endorsement Effective 1/1/2021

Policy No. WC 3002388 00

Endorsement No.

Insured Frontline Road Safety Holdings, LLC; Stripe-A-Zone, Inc.; Apply-A-Line, LLC; Griffin Pavement Services Premium

Insurance Company

Countersigned by _____



Additional Insured – Automatic – Owners, Lessees Or Contractors

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

Policy No. GLO 3002387-00

Effective Date: 01/01/2021

This endorsement modifies insurance provided under the:

Commercial General Liability Coverage Part

A. Section II – Who Is An Insured is amended to include as an additional insured any person or organization whom you are required to add as an additional insured under a written contract or written agreement executed by you, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" and subject to the following:

1. If such written contract or written agreement specifically requires that you provide that the person or organization be named as an additional insured under one or both of the following endorsements:

- a. The Insurance Services Office (ISO) ISO CG 20 10 (10/01 edition); or
- b. The ISO CG 20 37 (10/01 edition),

such person or organization is then an additional insured with respect to such endorsement(s), but only to the extent that "bodily injury", "property damage" or "personal and advertising injury" arises out of:

- (1) Your ongoing operations, with respect to Paragraph 1.a. above; or
- (2) "Your work", with respect to Paragraph 1.b. above,

which is the subject of the written contract or written agreement.

However, solely with respect to this Paragraph 1., insurance afforded to such additional insured:

- (a) Only applies if the "bodily injury", "property damage" or "personal and advertising injury" offense occurs during the policy period and subsequent to your execution of the written contract or written agreement; and
- (b) Does not apply to "bodily injury" or "property damage" caused by "your work" and included within the "products-completed operations hazard" unless the written contract or written agreement specifically requires that you provide such coverage to such additional insured.

2. If such written contract or written agreement specifically requires that you provide that the person or organization be named as an additional insured under one or both of the following endorsements:

- a. The Insurance Services Office (ISO) ISO CG 20 10 (07/04 edition); or
- b. The ISO CG 20 37 (07/04 edition),

such person or organization is then an additional insured with respect to such endorsement(s), but only to the extent that "bodily injury", "property damage" or "personal and advertising injury" is caused, in whole or in part, by:

- (1) Your acts or omissions; or
- (2) The acts or omissions of those acting on your behalf,

in the performance of:

- (a) Your ongoing operations, with respect to Paragraph 2.a. above; or
- (b) "Your work" and included in the "products-completed operations hazard", with respect to Paragraph 2.b. above,

which is the subject of the written contract or written agreement.

However, solely with respect to this Paragraph 2., insurance afforded to such additional insured:

- (i) Only applies if the "bodily injury", "property damage" or "personal and advertising injury" offense occurs during the policy period and subsequent to your execution of the written contract or written agreement; and
- (ii) Does not apply to "bodily injury" or "property damage" caused by "your work" and included within the "products-completed operations hazard" unless the written contract or written agreement specifically requires that you provide such coverage to such additional insured.

3. If neither Paragraph 1. nor Paragraph 2. above apply and such written contract or written agreement requires that you provide that the person or organization be named as an additional insured:

- a. Under the ISO CG 20 10 (04/13 edition, any subsequent edition or if no edition date is specified); or
- b. With respect to ongoing operations (if no form is specified),

such person or organization is then an additional insured only to the extent that "bodily injury", "property damage" or "personal and advertising injury" is caused, in whole or in part by:

- (1) Your acts or omissions; or
- (2) The acts or omissions of those acting on your behalf,

in the performance of your ongoing operations, which is the subject of the written contract or written agreement.

However, solely with respect to this Paragraph 3., insurance afforded to such additional insured:

- (a) Only applies to the extent permitted by law;
- (b) Will not be broader than that which you are required by the written contract or written agreement to provide for such additional insured; and
- (c) Only applies if the "bodily injury", "property damage" or "personal and advertising injury" offense occurs during the policy period and subsequent to your execution of the written contract or written agreement.

4. If neither Paragraph 1. nor Paragraph 2. above apply and such written contract or written agreement requires that you provide that the person or organization be named as an additional insured:

- a. Under the ISO CG 20 37 (04/13 edition, any subsequent edition or if no edition date is specified); or
- b. With respect to the "products-completed operations hazard" (if no form is specified),

such person or organization is then an additional insured only to the extent that "bodily injury" or "property damage" is caused, in whole or in part by "your work" and included in the "products-completed operations hazard", which is the subject of the written contract or written agreement.

However, solely with respect to this Paragraph 4., insurance afforded to such additional insured:

- (1) Only applies to the extent permitted by law;
- (2) Will not be broader than that which you are required by the written contract or written agreement to provide for such additional insured;
- (3) Only applies if the "bodily injury" or "property damage" occurs during the policy period and subsequent to your execution of the written contract or written agreement; and

- (4) Does not apply to "bodily injury" or "property damage" caused by "your work" and included within the "products-completed operations hazard" unless the written contract or written agreement specifically requires that you provide such coverage to such additional insured.

B. Solely with respect to the insurance afforded to any additional insured referenced in Section A. of this endorsement, the following additional exclusion applies:

This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of, or failure to render, any professional architectural, engineering or surveying services including:

1. The preparing, approving or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
2. Supervisory, inspection, architectural or engineering activities.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage", or the offense which caused the "personal and advertising injury", involved the rendering of or the failure to render any professional architectural, engineering or surveying services.

C. Solely with respect to the coverage provided by this endorsement, the following is added to Paragraph 2. Duties In The Event Of Occurrence, Offense, Claim Or Suit of Section IV – Commercial General Liability Conditions:

The additional insured must see to it that:

- (1) We are notified as soon as practicable of an "occurrence" or offense that may result in a claim;
- (2) We receive written notice of a claim or "suit" as soon as practicable; and
- (3) A request for defense and indemnity of the claim or "suit" will promptly be brought against any policy issued by another insurer under which the additional insured may be an insured in any capacity. This provision does not apply to insurance on which the additional insured is a Named Insured if the written contract or written agreement requires that this coverage be primary and non-contributory.

D. Solely with respect to the coverage provided by this endorsement:

1. The following is added to the **Other Insurance** Condition of Section IV – **Commercial General Liability Conditions**:

Primary and Noncontributory insurance

This insurance is primary to and will not seek contribution from any other insurance available to an additional insured provided that:

- a. The additional insured is a Named Insured under such other insurance; and
- b. You are required by written contract or written agreement that this insurance be primary and not seek contribution from any other insurance available to the additional insured.

2. The following paragraph is added to Paragraph 4.b. of the **Other Insurance** Condition under Section IV – **Commercial General Liability Conditions**:

This insurance is excess over:

Any of the other insurance, whether primary, excess, contingent or on any other basis, available to an additional insured, in which the additional insured on our policy is also covered as an additional insured on another policy providing coverage for the same "occurrence", offense, claim or "suit". This provision does not apply to any policy in which the additional insured is a Named Insured on such other policy and where our policy is required by a written contract or written agreement to provide coverage to the additional insured on a primary and non-contributory basis.

E. This endorsement does not apply to an additional insured which has been added to this Coverage Part by an endorsement showing the additional insured in a Schedule of additional insureds, and which endorsement applies specifically to that identified additional insured.

- F. Solely with respect to the insurance afforded to an additional insured under Paragraph **A.3.** or Paragraph **A.4.** of this endorsement, the following is added to Section **III – Limits Of Insurance**:

Additional Insured – Automatic – Owners, Lessees Or Contractors Limit

The most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the written contract or written agreement referenced in Section **A.** of this endorsement; or
 2. Available under the applicable Limits of Insurance shown in the Declarations,
- whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

All other terms, conditions, provisions and exclusions of this policy remain the same.



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

DATE: June 3, 2024
FROM: Dale Crown, Senior Project Engineer
ITEM: **Consider approval of a Professional Services Agreement (PSA) with Ardurra Group, Inc., for the design phase services associated with the Wastewater Treatment Plant Effluent Filter Rehabilitation project, in the amount of \$399,980.00; and authorization for the Mayor to execute same on behalf of the Town.**

BACKGROUND: The project consists of the rehabilitation of the Wastewater Treatment Plant's existing effluent filter system. The effluent filters are one of the final critical components of the wastewater treatment process prior to being discharged to Bakers Branch Creek. The existing effluent filters are experiencing control panel failure, backwash process failure, and the high-pressure spray system no longer functions. The project provides for replacement of this equipment along with replacement of the original cloth media disk filter structure and effluent surface aerators as described and scheduled in the wastewater treatment plant master plan.

The scope of the PSA includes the preparation of design plans and contract specifications. In addition to the design, the estimated cost for rehabilitation of the effluent filter system is \$4,625,000.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES: Wastewater treatment plant effluent filtration is required per Texas Commission on Environment Quality (TCEQ) standards. Rehabilitation is needed to remain in compliance with TCEQ standards.

FISCAL IMPACT: \$399,980.00

Proposed Expenditure/(Revenue)
\$399,980.00

Account Number(s):
630-970-98285-6070

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

ATTACHMENTS:

1. Professional Services Agreement
2. Form 1295 (Internal Use Only)

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

THE STATE OF TEXAS §
COUNTY OF DENTON §

**PROFESSIONAL SERVICES AGREEMENT WITH
ARDURRA GROUP, INC.**

This contract is entered into on this 3rd day of June, 2024, 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 **Ardurra Group, Inc.**, (“hereinafter referred to as “CONSULTANT”) whose address is 1341 W. Mockingbird Ln., Ste. 310W, Dallas, TX 75247.

RECITALS

WHEREAS, TOWN desires to obtain professional services from CONSULTANT relative to design and providing construction documents for the Wastewater Treatment Plant Effluent Filter Rehabilitation project; and

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

TERMS OF AGREEMENT

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

**I.
Employment of Consultant**

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

II.

Scope of Services

CONSULTANT shall perform such services as are necessary to provide services for the Wastewater Treatment Plant Effluent Filter Rehabilitation 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 Three Hundred Ninety-Nine Thousand Nine Hundred Eighty and No/100 Dollars (\$399,980.00). This total payment for services includes CONSULTANT’s ordinary expenses. Additional expenses and charges, which are extraordinary in nature, must be approved in advance by TOWN in writing signed by the parties. Such extraordinary expenses may be paid as incurred and billed to the TOWN pursuant to this Contract over and above the total payment amount identified in this provision. Any extraordinary expenses or charges not approved in writing in advance by the TOWN shall remain the sole responsibility of the CONSULTANT. If CONSULTANT retains any subcontractors to perform any of the work, CONSULTANT acknowledges that payments to such subcontractors are due and payable in accordance with the provisions of Texas Government Code Section 2251.022, and that interest on unpaid and overdue amounts shall accrue in accordance with Texas Government Code Section 2251.025.

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

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

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

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

IV.

Revisions of the Scope of Services

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

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

V.

Term

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

VI.

Contract Termination Provision

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

notice, CONSULTANT shall immediately terminate working on, placing orders or entering into contracts for supplies, assistance, facilities or materials in connection with this Contract and shall proceed to promptly cancel all existing contracts insofar as they are related to this Contract.

VII.

Ownership of Documents

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

VIII.

Insurance

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

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

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

The following policies and coverage shall be required:

1. Worker's Compensation Insurance (as required by law) with the policy endorsed to provide a waiver of subrogation as to TOWN; such policy to

provide for Employers' Liability Insurance of not less than \$100,000.00 for each accident, \$100,000.00 disease-each employee, \$500,000.00 disease-policy limit;

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

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

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

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

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

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

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

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

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

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

D. CONSULTANT agrees to the following:

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

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

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

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

IX.

Right to Inspect Records

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

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

X.
Successors and Assigns

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

XI.
CONSULTANT's Liability

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

XII.
Indemnification

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

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

XIII.
Independent Contractor

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

XIV.
Default

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

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

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

XV.
Provisions Surviving Termination

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

XVI.
Changes

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

XVII.
Conflicts of Interest

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

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

XVIII.
Confidential Information

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

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

XIX.
Notice Information

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

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

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

Justin Halter
Engineering & Client Services
Ardurra Group, Inc.
1341 W. Mockingbird Ln., Ste. 310W
Dallas, TX, 75247
469-589-5524 Telephone
JHalter@ardurra.com Email

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

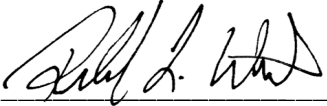
with TOWN or CONSULTANT or both; and (2) the terms of this Contract are not intended to release, either by contract or operation of law, any third person or entity from obligations owing by them to either TOWN or CONSULTANT.

[Signature Page to Follow]

AGREED AND SIGNED by the authorized representatives of the Parties hereto on the dates indicated below.

CONSULTANT:
ARDURRA GROUP, INC.

THE TOWN OF FLOWER MOUND, TEXAS

By: 

By: _____

Name: Randel L. West, PE

Name: _____

Title: Client Services Manager

Title: _____

Dated: May 10, 2024

Dated: _____

**ATTACHMENT A
SCOPE OF SERVICES
WASTEWATER TREATMENT PLANT IMPROVEMENTS**

PROJECT DESCRIPTION

The Project will provide engineering services for the design of improvements to the Flower Mound Wastewater Treatment Plant (WWTP).

1. The design will include the following primary elements for renovation of the effluent filters:
 - a. Replace all original cloth media disk filter equipment with new equipment from original manufacturer.
 - b. Replace effluent surface aerators.

SCOPE OF SERVICES

Task 1 - Project Management, Quality Assurance and Quality Control

1. The ENGINEER shall provide project management and progress reporting functions required for all Tasks.
2. Monthly Invoicing and Progress Reporting: The ENGINEER shall prepare and submit to OWNER monthly invoice including the following:
 - a. Monthly invoice.
 - b. Progress report for time period associated with the invoice.
3. Progress Meetings:
 - a. ENGINEER shall conduct up to three progress meetings with the OWNER. The meetings shall cover the following items at a minimum:
 - i. Update the team on project status, progress achieved, and potential deviations from the Scope of Services and corrective actions.
 - ii. Discuss project issues, coordinate work activities and review planned work activities. These progress meetings will be conducted in conjunction with work product review meetings or workshops identified herein. The Engineer shall prepare an agenda for each meeting.
 - iii. ENGINEER shall distribute meeting minutes within seven (7) work days of the meeting.
4. Quality Assurance and Quality Control: The design documents shall be reviewed by ENGINEER's technical advisors and/or senior technical staff for quality assurance and quality control (QA/QC) purposes prior to delivery to the OWNER.
 - a. ENGINEER QA/QC reviews of each deliverable shall be completed prior to submitting to the OWNER for review. A concurrent QA/QC review with the OWNER shall not be permitted without prior written approval from the OWNER.
5. Schedule: ENGINEER shall provide a schedule for execution of the project.

ATTACHMENT A
SCOPE OF SERVICES

- a. Schedule shall be updated on an as needed basis.

Task 2 - Design Services

Engineer shall provide Final Design Services in accordance with Basic Services of the Contract and as supplemented herein.

A. Engineering Design Manual and 30 Percent Project Design Documents

1. ENGINEER shall prepare a detailed Engineering Design Manual (EDM) that summarizes design and document details for the project design. The EDM will include Technical Memorandums that include the basis of design, regulatory requirements, design calculations, code requirements, cut-sheet information, and 30 percent design drawings.
2. Engineering Design Manual Outline:
 - a. Existing Filter Design Summary
 - b. Filter Capacity and Hydraulics
 - c. Process Mechanical
 - i. Effluent Filters
 - ii. Effluent Surface Aerators
 - d. Electrical
 - e. Instrumentation and Control
 - f. Construction Sequencing and Maintenance of Plant Operations (MOPO)
 - g. 30 percent drawings
 - h. Opinion of Probable Cost (OPCCs)
3. ENGINEER will develop 30 percent level of Front-End Contract Documents and Technical Specifications. The Front-End contracts documents required for the project shall be provided by the OWNER.
 - a. Technical Specifications shall include draft sections for all items anticipated for the project. Technical specification shall be draft level Specifications that identify the items being proposed in the design and draft technical details.
4. Deliverables: ENGINEER shall provide the following:
 - a. Engineering Design Manual: Provide 2 Printed Manuals and in a PDF format.
 - b. Contract Document and Technical Specifications in a PDF format.
5. ENGINEER shall conduct an internal QC review prior to OWNER's review. ENGINEER shall incorporate all internal QC comments prior to Review meeting with OWNER.
6. OWNER shall conduct a review of all deliverables and provide questions and comments for ENGINEERs review and response.
7. Review Meeting: ENGINEER shall conduct the meeting between OWNER's Project Team and ENGINEER to review the Engineering Design Manual, Contract Document and Technical Specifications.
 - a. Prepare and submit an agenda for the review meeting.
 - b. Prepare and submit meeting minutes to the OWNER for review and comment within seven (7) work days of the meeting.

ATTACHMENT A
SCOPE OF SERVICES

- c. ENGINEER shall incorporate OWNER review comments into the 60 Percent design deliverable and submit a response matrix documenting the proposed action to the Owner's comments with the 60 percent design deliverable.

B. 60 Percent Project Design Documents

1. ENGINEER shall incorporate all OWNER comments into the Engineering Design Manual. ENGINEER shall complete the Engineering Design Manual and distribute to the OWNER for reference throughout Final Design.
2. Construction Drawings to 60 percent:
 - a. Cover Sheet
 - b. Sheet Index
 - c. Legend and Symbols Sheet(s)
 - d. General Notes
 - e. Site Plan
 - f. Existing Effluent Filter Layout
 - g. Demolition and Abandonment Plans for Existing Facilities
 - h. Structural Plans of Sections of Filter Complex
 - i. Mechanical Plans for Effluent Filter Levels
 - j. Mechanical Sections for Effluent Filters
 - k. Mechanical Sections and Details for Effluent Filters
 - l. Electrical Plan
 - m. Electrical Power Distribution Diagram
 - n. Electrical Schedule of MCC Modifications
 - o. Instrumentation and Controls P&IDs
3. Specifications:
 - a. Division 1 Contract Document specifications.
 - b. Major equipment specifications.
 - c. Instrument device schedule and I/O lists.
 - d. Project requirements specification including a draft sequence of construction.
4. Opinion of Probable Construction Costs:
 - a. Provide an updated OPCC.
 - b. ENGINEER shall provide the OPCC report matching the anticipated bid structure of the Project.
5. Deliverable: ENGINEER shall provide the following with 60 percent design deliverable:
 - a. Plans shall be Provided in Digital PDF format.
 - b. Specifications shall be Provided in Digital PDF format.
 - c. Updated OPCC.
 - d. ENGINEER shall indicate if any review comments are a material change to the design scope with regards to engineering services fee, design schedule, or construction cost.
 - e. After review with the OWNER, ENGINEER shall incorporate the comments into the next design deliverable submittal.
6. ENGINEER shall conduct an internal QC review prior to OWNER's review. ENGINEER

ATTACHMENT A
SCOPE OF SERVICES

shall incorporate all internal QC comments prior to Review meeting with OWNER.

7. OWNER shall conduct a review of all deliverables and provide questions and comments for ENGINEERs review and response.
8. Review Meeting: ENGINEER shall conduct the meeting between OWNER's Project Team and ENGINEER to review the 60 percent design deliverable.
 - a. Prepare and submit an agenda prior to the review meeting.
 - b. Prepare and submit meeting minutes to the OWNER for review and comment within seven (7) work days of the meeting.
 - c. ENGINEER shall incorporate OWNER review comments into the 90 percent design deliverable and submit a response matrix documenting the proposed action to the Owner's comments with the 90 percent design deliverable.

C. 90 Percent Project Design Documents

1. ENGINEER shall advance the design to an approximate 90 percent design level. It will build upon the Engineering Design Manual and 30 percent documents and 60 percent design documents.
2. Plans:
 - a. Updates to all drawings provided with 60 percent design
 - b. Cover sheet
 - c. Sheet Index
 - d. Legend and symbols sheet(s)
 - e. General Notes
 - f. Site Plan
 - g. Existing Effluent Filter Layout
 - h. Demolition and Abandonment Plans for Existing Facilities
 - i. Structural Plan and Sections of Filter Complex
 - j. Structural Details
 - k. Mechanical Plans for Effluent Filter Levels
 - l. Mechanical Sections for Effluent Filters
 - m. Mechanical Sections and Details for Effluent Filters
 - n. Electrical Plan
 - o. Electrical Power distribution diagram
 - p. Electrical Schedule of MCC Modifications
 - q. Instrumentation and Controls P&IDs
3. Specifications:
 - a. Updates to all specifications provided with the 60 percent design
 - b. OWNER front-end specifications, if Available including draft bid format in .csv file format. ENGINEER will develop Front-End Contract Documents if OWNER directs ENGINEER to develop the documents.
 - c. Electrical specifications
 - d. I&C specifications including incorporation of the Utilities Department's Standard Design Specifications for I&C and SCADA work.
 - e. All other specifications required for a complete design.

ATTACHMENT A
SCOPE OF SERVICES

4. Opinion of Probable Construction Costs:
 - a. Provide an updated OPCC.
 - b. ENGINEER shall provide summary and detail reports of the OPCC. Summary OPCC report shall match the anticipated bid structure of the Project.
5. Deliverable: ENGINEER shall provide the following with 90 percent design deliverable:
 - a. Plans shall be Provided in Digital PDF format.
 - b. Specifications shall be Provided in Digital PDF format.
 - c. Updated OPCC and variance report: Provide in PDF format.
 - d. 60 percent Design Comment Response Matrix and Decision Log: Provide in PDF format.
6. ENGINEER shall conduct an internal QC review prior to OWNER's review. ENGINEER shall incorporate all internal QC comments prior to Review meeting with OWNER.
7. OWNER shall conduct a review of all deliverables and provide questions and comments for ENGINEERs review and response.
 - a. After review with the OWNER, ENGINEER shall incorporate the comments into the next design deliverable submittal.
8. Review Meeting: ENGINEER shall conduct the meeting between OWNER's Project Team and ENGINEER to review the 90 percent design deliverable.
 - a. Prepare and submit an agenda prior to the review meeting.
 - b. Prepare and submit meeting minutes to the OWNER for review and comment within seven (7) work days of the meeting.
 - c. ENGINEER shall incorporate OWNER review comments into the 90 percent design deliverable and submit a response matrix and decision log documenting the proposed action to the Owner's comments with the 100 percent design deliverable.

D. Final Design Documents

1. ENGINEER shall advance the design to an approximate 100% design level. It will build upon the Engineering Design Manual and 30, 60, 90 percent designs, and regulatory review comments.
2. Incorporate comments from ENGINEER's internal Quality Control, OWNER, and applicable regulatory agencies into the Final Design Documents.
3. Opinion of Probable Construction Costs:
 - a. Provide an updated OPCC.
 - b. ENGINEER shall provide summary and detail reports of the OPCC. Summary OPCC report shall match the anticipated bid structure of the Project.
4. Deliverables:
 - a. Final Bid Ready Plans:
 - i. Electronic: Provide full-scale plans in PDF format.
 - ii. Hard copy: Provide up to three (3) half-scale sets.
 - b. Bid Ready Contract Document and Specifications:
 - i. Electronic: Provide in PDF format. PDF format shall be fully indexed using the Table of Contents and bookmarks shall be created in the navigation frame for each major entry in the Table of Contents.

- ii. Hard copy: Provide three (3) sets of Construction Documents.
- c. Updated OPCC and variance report: Provide in PDF format.
- d. 90% Design Comment Response Matrix and Decision Log: Provide in PDF format.

E. Permitting

- 1. ENGINEER shall provide supporting documentation for applicable permits.
 - a. Provide assistance to OWNER in obtaining permits from federal, state, and local agencies.
 - b. Submit the required sets of documents for review and approval.
 - c. Provide formal responses to any comments received and incorporate revisions into the Construction Contract Documents.
 - d. Provide in the Construction Contract Documents a list of permits which must be obtained by the CONTRACTOR.
- 2. The following permits are anticipated:
 - a. TCEQ – Construction Permit.
- 3. OWNER shall pay all applicable permit fees.

F. Utility Coordination

- 1. Utility Coordination not included in this scope.

G. Surveying and Subsurface Utility Engineering (SUE)

- 1. SUE not included in this scope.

H. Geotechnical Services

- 1. Geotechnical Services not included in this scope.

Task 3 - Bidding Services

ENGINEER shall provide Bidding Services in accordance with Basic Services of the Contract and as supplemented herein.

- 1. Bid Advertisement and Bid Services:
 - a. ENGINEER shall assist OWNER with advertisement of the Contract Documents.
 - b. ENGINEER shall provide responses to bidders' questions.
 - c. ENGINEER shall prepare and distribute any resulting Addendums required to make a change to the bidding documents.
- 2. Bid Review:
 - a. ENGINEER will review bids for completeness, conformance with the Bid Documents, and coordinate as required to resolve any clarifications.
- 3. Conformed Drawings and Specifications:
 - a. Following the bid opening and award of project, revise the Drawings and Specifications to incorporate changes made during the Bidding Phase by addendum to present a unified set of documents for use during the construction process. A copy of all addenda shall be placed at the front of the Conformed Specifications.
 - b. Deliverable:
 - i. Electronic: Provide in PDF format.
 - (i) ENGINEER shall not be required to provide CADD files of Contract

ATTACHMENT A
SCOPE OF SERVICES

Drawings to OWNER or Contractor.

- ii. Hard Copy – OWNER:
 - (i) Provide five (5) half-scale sets of Conformed Drawings.
 - (ii) Provide five (5) copies of the Conformed Specifications.
- iii. Hard Copy – CONTRACTOR:
 - (i) Provide one (1) full-size set of Conformed Drawings.
 - (ii) Provide two (2) half-sized scaled set of Conformed Drawings.
 - (iii) Provide two (2) copies of the Conformed Specifications.

Task 4 - Construction Administration Services (To be Negotiated at a Later Date)

Engineer shall provide Construction Administration Services in accordance with Basic Services of the Contract and as supplemented herein.

A. Pre-Construction Conference

- 1. ENGINEER shall attend the pre-work conference with OWNER and CONTRACTOR.
- 2. ENGINEER shall distribute Conformed Documents to all parties at the pre-work conference.

B. Meetings and Site Visits

- 1. Construction Progress Meetings
 - a. ENGINEER shall attend monthly progress meetings during construction with CONTRACTOR and OWNER.
- 2. Special On-site Meetings
 - a. ENGINEER shall attend up to two (2) special on-site meetings (not conducted on the same day as the regularly scheduled meetings) at the request of the OWNER to discuss and assist in resolving construction issues.
 - b. The intent of these meetings is to expedite the submittal review process, resolve change order requests, requests of information (RFIs), and other issues that arise during construction.
- 3. Site Visits
 - a. ENGINEER shall make visits to the project site at intervals appropriate to the various stages of construction, as the ENGINEER deems necessary, to observe the CONTRACTOR's executed Work.
 - b. ENGINEER shall document site visits and submit a report to the OWNER within seven (7) workdays of each site visit.
 - c. Defective Work: ENGINEER shall notify the OWNER and CONTRACTOR if, on the basis of the ENGINEER's observations, the ENGINEER believes that such Work (a) is defective under the standards set forth in the Construction Contract Documents, (b) will not produce a completed Project that conforms to the Construction Contract Documents, or (c) will imperil the integrity of the design concept of the completed Project as functioning whole as indicated by the Construction Contract Documents.

C. Submittals

- 1. ENGINEER shall maintain and update a submittal log documenting the following items:

ATTACHMENT A
SCOPE OF SERVICES

- a. Submittal name and number
 - b. Date submitted by the CONTRACTOR
 - c. Date the submittal was returned to the CONTRACTOR
 - d. Submittal disposition (e.g., No Exceptions Noted, Revise and Resubmit, Rejected, etc.)
- 2. ENGINEER shall submit an updated log to the OWNER and CONTRACTOR prior to every construction progress meeting.
 - 3. ENGINEER shall complete submittal reviews within fifteen (15) week days after receipt from CONTRACTOR.
 - 4. Review of submittals includes all Operation and Maintenance (O&M) manuals submitted by the CONTRACTOR as required by the Construction Contract Documents.

D. Requests for Information, Design Change Memoranda, and Change Orders

- 1. Requests for Information (RFI)
 - a. ENGINEER shall be responsible for generating and preparing responses to all RFIs which includes requests for substitution and/or “or-equal”.
 - b. ENGINEER shall maintain and update an RFI log documenting the following items:
 - i. RFI number and name
 - ii. Date submitted by the CONTRACTOR
 - iii. Date response was returned to the CONTRACTOR
 - iv. Brief description of the response
 - c. ENGINEER shall submit an updated log to the OWNER and CONTRACTOR prior to every construction progress meeting.
- 2. Design Change Memoranda
 - a. Design Change Memoranda (DCM’s) shall be initiated by the ENGINEER when questions and concerns arise that cannot be resolved through a close and thorough examination of the Contract Document, or for which an interpretation may result in a material change in the design or operational intent of the facility. DCM’s shall include sketches and drawing/specification revisions.
- 3. Change Orders
 - a. ENGINEER shall review Potential Change Order (PCO) submissions by the CONTRACTOR and make recommendations to the OWNER regarding the acceptance or rejection of the project change. The includes requests for additional time and/or money from the CONTRACTOR.
 - b. ENGINEER shall prepare change order requests to the CONTRACTOR for proposed changes. Change orders, including modified and/or additional drawings, specifications, and other exhibits shall be prepared to define the scope and extent of the change and to solicit a price proposal from the CONTRACTOR to complete the Work.
 - c. Change Order and Potential Change Order Log:
 - i. ENGINEER shall maintain and update a CO and PCO log.
 - ii. ENGINEER shall submit an updated log to the OWNER and CONTRACTOR prior to every construction progress meeting.

ATTACHMENT A
SCOPE OF SERVICES

E. Monthly Payment Request Reviews:

1. ENGINEER shall review monthly progress payment requests from the CONTRACTOR and make recommendations to the OWNER for payment.
2. The review shall include assessment of materials and/or equipment stored on-site or off-site in approved and bonded warehouse and for which the CONTRACTOR is requesting payment for stored materials.

F. Start-Up and Testing Support:

1. ENGINEER shall review the CONTRACTOR's proposed start-up and testing plan for compliance with the Construction Contract Documents.
2. ENGINEER shall review start-up and testing reports from the CONTRACTOR, including subcontractors and manufacturers, for compliance with the Construction Contract Documents.

G. Project Closeout:

1. ENGINEER shall conduct a project walkthrough and develop a punch list of defective or non-conforming construction items when CONTRACTOR requests a certificate of substantial completion.
2. Final Inspection meeting and included deficiencies on the punch list submitted to the CONTRACTOR shall be conducted to confirm all punch list items have been completed and the project is in conformance with the Contract Documents.
3. ENGINEER shall provide record copies of the following at project closeout:
 - a. Submittals: electronic format of final versions.
 - b. Equipment O&M Manuals:
 - i. Provide final versions in PDF format.
 - ii. Coordinate transmittal of CONTRACTOR-provided hard copies to the OWNER.
 - c. Warranties: electronic format.
 - d. RFIs: electronic format.
 - e. DCMs: electronic format.
 - f. Meeting Minutes: electronic format.
 - g. Construction Progress Photographs: electronic format.
 - h. Site Visit Reports: electronic format.
 - i. Start-up and Testing Reports: electronic format.
 - j. COs and PCOs: electronic format.
 - k. Record Drawings as provided by the CONTRACTOR.
4. Electronic documents shall be provided via a portable hard drive or flash drive unless otherwise approved by the OWNER. Files shall be organized in folders by type of document.

Task 5 - Record Drawings Services

ENGINEER shall provide Services in accordance with Basic Services of the Contract and as supplemented herein.

A. General:

1. Corrected Final Plans with any changes based on field surveys that reflect actual construction. Corrections, comments, changes, and any other markings must be highlighted in RED.
2. AutoCAD .dwg files shall be provided in AutoCAD digital file.

Project Schedule:

Task	Work Item	Time to Complete	Completion Time from NTP
2	Engineering Design Manual / 30 Percent Specs.	1 months	1 months
	60 Percent Design	2 months	3 months
	90 Percent Design	2 months	5 months
	100 Percent Design	1 months	6 months
3	Bidding	1 months	7 months
4	Construction Administration Services	10 months	17 months
5	Record Drawings	1 months	18 months

ATTACHMENT B
COMPENSATION for BASIC SERVICES
WASTEWATER TREATMENT PLANT IMPROVEMENTS

Basic Services

Compensation for basic services may not exceed Three Hundred Ninety-Nine Thousand Nine Hundred and Eighty dollars \$399,980.00, and in no event may the Engineer receive compensation in excess of the amount listed for each task for performance of its basic services.

The Engineer may receive up to the following amounts of the not to exceed amounts for services rendered upon the completion of the following tasks. Partial payments of the not to exceed amounts for each task may be invoiced for incremental work completed. Not to exceed amounts below are accumulative for successive tasks.

Tasks are broken out as follows:

Task No. 1: Project Management, Quality Assurance and Quality Control	\$ 40,480.00
Task No. 2: Design Services	
Task No. 2A: Engineering Design Manual and 30% Project Design Documents	\$ 89,390.00
Task No. 2B: 60% Project Design Documents	\$ 115,090.00
Task No. 2C: 90% Project Design Documents	\$ 93,970.00
Task No. 2D: Final Design Documents	\$ 36,210.00
Task No. 2E: Permitting	\$ 3,040.00
Task No. 3: Bidding Services	
Task No. 3A: Bid Advertisement and Bid Services	\$ 13,870.00
Task No. 3B: Bid Review	\$ 930.00
Task No. 3C: Conformed Drawings and Specifications	\$ 7,000.00
<u>TOTAL</u>	<u>\$399,980.00</u>

ATTACHMENT C
ADDITIONAL SERVICES
WASTEWATER TREATMENT PLANT IMPROVEMENTS

Additional Services shall only be provided upon prior written and clearly detailed direction of the OWNER. The Engineer may be directed to perform any, all or none of the following Additional Services that may include, but not be limited to, the following:

- AS.1: Design services for additional rehabilitation elements or new tasks shall be negotiated on an as needed basis.
- AS.2: Construction Administration Services in excess of the construction duration listed in the Project Schedule shall be negotiated on an as needed basis.
- AS.3: Compensation for Additional Services: Included in the not to exceed total compensation is an allowance for Additional Services in an amount not to exceed Fifty Thousand dollars (\$50,000). This allowance is to be used and paid to the Engineer in the manner established in this Contract unless other compensation means are agreed to in writing by the OWNER. The Additional Services compensation may only be used after prior approval from OWNER and the Engineer has performed Additional Services. Invoices submitted for Additional Services shall represent only hours worked by employees at raw labor rate times a multiplier of 3.0 and reimbursable costs.



ARDURRA-01

EMORRIS

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

5/13/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Ames & Gough 8300 Greensboro Drive Suite 980 McLean, VA 22102	CONTACT NAME: PHONE (A/C, No, Ext): (703) 827-2277 FAX (A/C, No): (703) 827-2279 E-MAIL ADDRESS: admin@amesgough.com																					
INSURED Ardurra Group, Inc. 4921 Memorial Highway Suite 300 Tampa, FL 33634	<table><tr><th colspan="2">INSURER(S) AFFORDING COVERAGE</th><th>NAIC #</th></tr><tr><td>INSURER A :</td><td>Charter Oak Fire Insurance Company A++ (XV)</td><td>25615</td></tr><tr><td>INSURER B :</td><td>Phoenix Insurance Company A++, XV</td><td>25623</td></tr><tr><td>INSURER C :</td><td>Travelers Property Casualty Company of America</td><td>25674</td></tr><tr><td>INSURER D :</td><td>National Fire & Marine Insurance Company</td><td>20079</td></tr><tr><td>INSURER E :</td><td></td><td></td></tr><tr><td>INSURER F :</td><td></td><td></td></tr></table>	INSURER(S) AFFORDING COVERAGE		NAIC #	INSURER A :	Charter Oak Fire Insurance Company A++ (XV)	25615	INSURER B :	Phoenix Insurance Company A++, XV	25623	INSURER C :	Travelers Property Casualty Company of America	25674	INSURER D :	National Fire & Marine Insurance Company	20079	INSURER E :			INSURER F :		
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INSURER E :																						
INSURER F :																						

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR ☒ Contractual Liab. GEN'L AGGREGATE LIMIT APPLIES PER: ☒ POLICY ☒ PRO-JECT ☐ LOC OTHER:			630-5X487435	1/1/2024	1/1/2025	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 15,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
B	☒ AUTOMOBILE LIABILITY ☒ ANY AUTO OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☐ HIRED AUTOS ONLY ☐ NON-OWNED AUTOS ONLY			810-5X558309	1/1/2024	1/1/2025	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
C	☒ UMBRELLA LIAB ☒ OCCUR ☐ EXCESS LIAB ☐ CLAIMS-MADE DED ☒ RETENTION \$ 10,000			CUP-5X642114	1/1/2024	1/1/2025	EACH OCCURRENCE \$ 15,000,000 AGGREGATE \$ 15,000,000 \$
C	☒ WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) ☒ Y / N If yes, describe under DESCRIPTION OF OPERATIONS below		N / A	UB-5X489557	1/1/2024	1/1/2025	☒ PER STATUTE ☐ OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
D	☒ Professional Liab.			42-EPP-306878-06	1/1/2024	1/1/2025	Per Claim/Aggregate 2,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
Town of Flower Mound - Wastewater Treatment Plant Effluent Filter Rehabilitation

Town of Flower Mound are included as additional insured with respect to General Liability, Automobile Liability, and Umbrella Liability when required by written contract. General Liability includes Additional Insured coverage for Completed Operations as required by written contract. General Liability, Automobile Liability, and Umbrella Liability are primary and non-contributory over any existing insurance and limited to liability arising out of the operations of the named insured and when required by written contract. General Liability, Automobile Liability, Workers Compensation, and Umbrella Liability policies include a waiver of subrogation in favor of the additional insureds where permissible by state law and when required by written contract. Umbrella Liability SEE ATTACHED ACORD 101

CERTIFICATE HOLDER

CANCELLATION

Town of Flower Mound 2121 Cross Timbers Road, Flower Mound, TX 75028	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE
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ADDITIONAL REMARKS SCHEDULE

AGENCY Ames & Gough		NAMED INSURED Ardurra Group, Inc. 4921 Memorial Highway Suite 300 Tampa, FL 33634
POLICY NUMBER SEE PAGE 1		
CARRIER SEE PAGE 1	NAIC CODE SEE P 1	EFFECTIVE DATE: SEE PAGE 1

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,
FORM NUMBER: ACORD 25 FORM TITLE: Certificate of Liability Insurance

Description of Operations/Locations/Vehicles:

coverage sits excess over General Liability, Automobile Liability and Employers' Liability coverage. 30-day Notice of Cancellation will be issued for the General Liability, Automobile Liability, Umbrella Liability, Workers Compensation and Professional Liability policies in accordance with policy terms and conditions.



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

DATE: June 3, 2024
FROM: Brennon Peltier, Park Development Manager
ITEM: **Consider the approval of a Professional Services Agreement with MHS Planning & Design, LLC for the master planning of Leonard & Helen Johns Park, in the amount of \$75,750.00; and authorization for the Mayor to execute same on behalf of the Town.**

BACKGROUND: Leonard and Helen Johns Park is located at 1850 Timber Creek Road. The park, originally known as Community Center Park, was acquired in 1985. The park was renamed in 1990 after Leonard Johns (former Parks Board Chair and Councilmember), and his wife's name (Helen Johns) was added in 2019.

The park has been incrementally improved throughout the years but has never received a proper master plan. Current amenities include parking, four tennis courts, pond with fountain, picnic pavilion, and paved trails. With the recent addition of the LISD properties immediately adjacent to the park, now is an opportune time to develop a master plan with input from the community.

The project was initially added through Amendment #1 to the FY 2023-2024 CIP Plan and funding was approved by Council on 11/6/23 in the amount of \$60,000.00. During discussions with design professionals, it was determined that a hydrology and floodplain study of the site would be required to properly develop the site. This was not originally considered and to account for this, CIP Amendment #4 was approved by Council on 5/20/24, increasing the total project funding to \$80,000.00.

The attached Professional Services Agreement (PSA) will allow Town staff to begin working with the design consultant, MHS Planning & Design LLC, to develop a master plan document based on feedback from Flower Mound residents. The scope of the agreement includes:

- visits to the site and analysis of the existing conditions
- a survey & base map of the site topography
- study of the site hydrology
- public engagement meetings with residents, Parks Board, and Town Council
- interactive online engagement
- preparation of preliminary conceptual layouts
- final conceptual layout/design documentation based on feedback received during the public engagement sessions.

A cost estimate for future construction will also be developed based on this final conceptual plan. The proposed project scope has been included in the attached PSA for further reference.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES: N/A

FISCAL IMPACT: \$75,750.00

Proposed Expenditure/(Revenue)

\$75,750.00

Account Number(s):

317-110-90655-6210 - \$60,000.00

310-320-90655-6210 - \$15,750.00

Total \$75,750.00

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 Only)

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

THE STATE OF TEXAS §
COUNTY OF DENTON §

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

This contract is entered into on this 3 day of June , 2024, by and between the **TOWN OF FLOWER MOUND, TEXAS**, a municipal corporation located in Denton County, Texas, (hereinafter referred to as “TOWN”), acting by and through its Mayor, and **MHS Planning & Design, LLC.**, (“hereinafter referred to as “CONSULTANT”) whose address is 212 W. 9th Street, Tyler, TX 75701.

RECITALS

WHEREAS, TOWN desires to obtain professional services from CONSULTANT relative to surveying, design and providing construction documents for the Leonard & Helen Johns Park Master Plan project; and

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

TERMS OF AGREEMENT

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

**I.
Employment of Consultant**

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

II.

Scope of Services

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

III.

Payment for Services

Total payment for services described herein shall be a sum not to exceed Seventy-five Thousand Seven Hundred Fifty and No/100 Dollars (\$75,750.00). This total payment for services includes CONSULTANT's ordinary expenses. Additional expenses and charges, which are extraordinary in nature, must be approved in advance by TOWN in writing signed by the parties. Such extraordinary expenses may be paid as incurred and billed to the TOWN pursuant to this Contract over and above the total payment amount identified in this provision. Any extraordinary expenses or charges not approved in writing in advance by the TOWN shall remain the sole responsibility of the CONSULTANT. If CONSULTANT retains any subcontractors to perform any of the work, CONSULTANT acknowledges that payments to such subcontractors are due and payable in accordance with the provisions of Texas Government Code Section 2251.022, and that interest on unpaid and overdue amounts shall accrue in accordance with Texas Government Code Section 2251.025.

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

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

Assuming that TOWN agrees with the invoice, that TOWN has not determined any of the work to be unsatisfactory, or that TOWN otherwise does not dispute any of the

amounts billed, TOWN shall make payments in the amount shown by CONSULTANT's approved monthly statements and other documentation submitted in compliance with the Texas Prompt Payment Act, Texas Government Code Chapter 2251.

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

IV.

Revisions of the Scope of Services

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

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

V.

Term

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

VI.

Contract Termination Provision

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

this Contract and shall proceed to promptly cancel all existing contracts insofar as they are related to this Contract.

VII.

Ownership of Documents

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

VIII.

Insurance

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

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

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

The following policies and coverage shall be required:

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

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

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

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

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

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

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

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

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

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

D. CONSULTANT agrees to the following:

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

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

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

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

IX.

Right to Inspect Records

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

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

X.
Successors and Assigns

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

XI.
CONSULTANT's Liability

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

XII.
Indemnification

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

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

XIII.
Independent Contractor

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

XIV.
Default

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

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

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

XV.
Provisions Surviving Termination

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

XVI.
Changes

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

XVII.
Conflicts of Interest

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

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

XVIII.
Confidential Information

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

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

XIX.
Notice Information

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

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

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

Hunter N. Rush
Senior Planner & Partner
MHS PLANNING & DESIGN, LLC
212 W. 9th Street
Tyler, Texas 75701
903-597-6606
hnrush@mhsplanning.com

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

XX.
Applicable Law

The Contract is entered into subject to the Flower Mound Town Charter and ordinances of TOWN, as same may be amended from time to time, and is subject to and is to be construed, governed and enforced under all applicable State of Texas and federal

laws. CONSULTANT will make any and all reports required per federal, state or local law including, but not limited to, proper reporting to the Internal Revenue Service, as required in accordance with CONSULTANT's income.

XXI.
Non-Discrimination

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

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

XXII.
Arbitration

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

XXIII.
No Waiver of Governmental Immunity

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

XXIV.
Severability

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

XXV.
Remedies

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

XXVI.
Entire Agreement

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

XXVII.
Non-Waiver

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

XXVIII.
Headings

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

XXIX.
Venue

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

XXX.
No Third Party Beneficiary

For purposes of this Contract, including its intended operation and effect, the parties (TOWN and CONSULTANT) specifically agree and contract that: (1) the Contract only affects matters/disputes between the parties to this Contract, and is in no way intended by the parties to benefit or otherwise affect any third person or entity notwithstanding the fact that such third person or entity may be in contractual relationship

with TOWN or CONSULTANT or both; and (2) the terms of this Contract are not intended to release, either by contract or operation of law, any third person or entity from obligations owing by them to either TOWN or CONSULTANT.

[Signature Page to Follow]

AGREED AND SIGNED by the authorized representatives of the Parties hereto on the dates indicated below.

CONSULTANT:
MHS PLANNING & DESIGN, LLC

THE TOWN OF FLOWER MOUND, TEXAS

By: Hunter Rush

By: _____

Name: HUNTER RUSH

Name: _____

Title: Sr. Planner & Partner

Title: _____

Dated: 05/07/2024

Dated: _____

April 26, 2024

Brennon Peltier, Park Development Manager
Town of Flower Mound
2121 Cross Timbers Road
Flower Mound, Texas 75028

Dear Brennon,

It is my pleasure to submit this proposal for professional services regarding the Conceptual Master Planning of Leonard & Helen Johns Park located in Flower Mound, TX as shown in Exhibit 'A'. Our scope of services for this project is as follows:

1. Discovery Phase, Site Analysis & Public Engagement

- a. Site visit to view the existing conditions at the site and coordination with the Client to obtain the most current and available online data regarding the site
- b. Coordination and preparation of a Phase 1 Flood Study
 - i. Obtain the FEMA effective modeling
 - ii. Obtain the fully developed flow rates from the Town
 - iii. Create a Revised Existing model by adding additional data and cross sections to the FEMA effective hydraulic model
 - iv. Create a Proposed model by adjusting the Revised Existing model to reflect the proposed grading plan for up to two (2) alternatives identified by the design team
 - v. Identify if adverse impacts occur to WSEL, channel velocities, or overall valley storage and make suggested changes to eliminate
 - vi. Identify future steps required to permit and construct
- c. Coordination and preparation of Topographic Survey
 - i. Topography & ground shots sufficient to generate 1' contours
 - ii. Trees in open areas
 - iii. Visible Utilities
 - iv. Existing flatwork, sidewalks, curb and gutter of adjacent street, etc.
 - v. Spot elevations throughout property
 - vi. Five (5) cross sections of creek
 - vii. Permanent benchmark with given elevation for future reference
- d. Develop base map utilizing existing site conditions
- e. Conduct Kick-Off Meeting with Town Staff
- f. Develop & Manage ArcGIS StoryMap for interactive online engagement
- g. Conduct Public Engagement/Meetings
 - i. One (1) Town Hall Meeting open to the General Public
 - ii. Two (2) Town Park Board Presentations (Update and Plan Recommendation)
 - iii. One (1) Town Council Meeting (Master Plan Adoption)

2. Preliminary Conceptual Layout and Design Development

- a. Work in conjunction with the Client to prepare two (2) preliminary hand-drawn layouts for the proposed property
- b. Develop design development options
- c. Meet with Client (virtual) to review the two layouts, the design development and discuss options for the site
- d. Meeting with the Development Review Committee to present proposed layout
- e. General coordination with Town regarding the existing Lenoard and Helen Johns Park (Four Town Staff Coordination Meetings (virtual))

3. Final Conceptual Layout

- a. Revise preferred layout based on notes from meeting with Client
- b. Meeting with Client to review updated layout and finalize layout with revisions from meeting
- c. Develop final conceptual 2D layout
- d. Develop three (3) 3D renderings of site-specific locations (Exact Areas To Be Determined)
- e. Develop Cost Estimate based on final conceptual plan

Once the conceptual layout has been finalized, MHS will provide a proposal for, but not limited to, detailed engineering, landscape architecture, grant writing and/or construction administration.

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

Geotechnical Testing	Structural Engineering	Wetland Delineation	3-Way Contracts w/ City
Detention	Off-Site Roadway Design	Lake Permitting	TxDOT Permits
FEMA Coordination	Traffic Impact Analysis	Septic Design	Bidding & Permitting
Off-Site Utilities	Hydraulic Modeling	CLOMR or LOMR	

Based on this scope of services, our lump sum fee for the project is \$75,750 including reimbursables. If you find this proposal meets your needs, please have the appropriate party sign below, retain one copy for your file and return one to us. Once we receive the signed proposal, we will begin work. If you have any questions or need us to modify our proposal, please let me know.

Sincerely,



Hunter N. Rush
Senior Planner & Partner

Approved _____

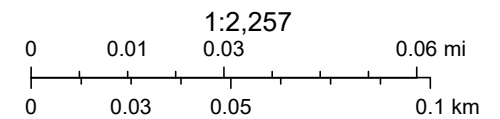
Date _____

LHJ Park - Exhibit A



4/9/2024, 2:03:54 PM

 Parcels



© OpenStreetMap (and) contributors, CC-BY-SA

Denton County Appraisal District, BIS Consulting - www.bisconsulting.com

Disclaimer: This product is for informational purposes only and has not been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of boundaries.

2024 Hourly Rates

Engineering

Senior Professional Engineer	\$225.00 per hour
Professional Engineer	\$155.00 per hour
Graduate Engineer	\$105.00 per hour
Civil Engineering Intern	\$80.00 per hour

Landscape Architecture

Senior Landscape Architect	\$225.00 per hour
Landscape Architect	\$150.00 per hour
Landscape Designer	\$105.00 per hour
Landscape Intern	\$80.00 per hour

Planning

Senior Planner	\$180.00 per hour
Planner	\$105.00 per hour
Planning Intern	\$80.00 per hour

Graphic Design

Senior Graphics Designer	\$175.00 per hour
Graphics Designer	\$95.00 per hour

Drafting

Senior CAD Designer	\$135.00 per hour
CAD Designer	\$115.00 per hour
CAD Drafter	\$95.00 per hour

Office Admin

Word Processing/Clerical	\$75.00 per hour
Mileage	2024 Standard IRS Rate
Reproduction, Aerial photography, etc.	Cost plus 15%

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



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

DATE: June 3, 2024
FROM: Jaime Jaco-Cooper, Senior Center Manager
ITEM: **Consider approval of the consumption of alcohol at the Flower Mound Senior Center during the 2024 Elite Chef Fundraiser.**

BACKGROUND: The SIM Auxiliary, Inc. (SIMA) is requesting Council approval to serve wine at the Flower Mound Senior Center during the Elite Chef Competition Fundraiser on June 21, 5 - 8pm. SIMA is a 501(c)3 that supports the Flower Mound Seniors In Motion program. Since its formation in 2009, SIMA has donated over \$100,000 to support the program and the Flower Mound Senior Center. The Elite Chef competition has been held annually at the Senior Center for the last nine years. SIMA invites four local, professional chefs to create dishes for the competition. Participants get to sample each dish and vote for their favorite. After the votes are tallied, the winning chef receives a trophy and the title of Elite Chef. Guests will purchase tickets for \$30 each, which includes appetizers, chef tastings, dessert, wine, and beverages. The event typically raises over \$10,000. During the event, a TABC licensed server will be onsite to serve wine, as well as monitor participant consumption. SIMA will take on risk and liability of providing alcohol at the event. They have obtained event insurance and named the Town of Flower Mound as an additional insured on their liability insurance. No one under the age of 21 will be admitted to the event.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES: Not having the option of alcohol at this event could impact proceeds.

FISCAL IMPACT: N/A
N/A

LEGAL REVIEW: N/A

ATTACHMENTS:

1. Elite Chef 2024 (1)

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

THE SIM AUXILIARY'S PRESENTS

ELITE CHEF

Competition

THURSDAY, JUNE 20

5:30 - 8 P.M.

\$30 PER PERSON

FLOWER MOUND SENIOR CENTER

2701 W. WINDSOR DRIVE

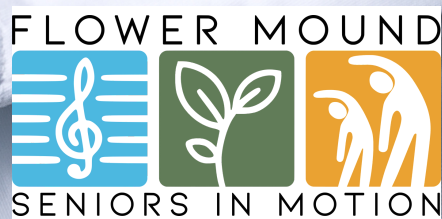
Local professional chefs will prepare dishes for audience members to taste and vote for their favorite.

**Appetizers provided by
Rockbrook Assisted Living**

**Bar provided by
Care Patrol Denton &
The Vista at Razor Ranch**

Tickets can be purchased at the
Senior Center Courtesy Desk
or by calling 972.874.6110.

All proceeds will be donated to SIM Auxiliary,



SIM
Auxiliary Inc.



A friend of Flower Mound
Seniors in Motion



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

DATE: June 3, 2024

FROM: Meg Jakubik, Director of Budget Services

ITEM: **Consider approval of an agreement with FASTER Asset Solutions to upgrade to FASTER Web Core in a one-time amount of \$49,999 and annual maintenance amount of \$17,578.32 for a term of sixty months.**

BACKGROUND: The Town of Flower Mound currently has an on-premise software solution for Fleet Management, FASTER Win. We have been notified that this solution is being sunset soon. Staff has researched available options and determined that upgrading to FASTER Web is the best solution for the Town.

FASTER Asset Solutions is the largest provider of fleet management information systems to municipal governments in North America. Their solution allows for total management of all fleet assets, tracking maintenance, condition, and fuel use.

FASTER has provided an incentive to proceed with the upgrade earlier by discounting the upgrade expenses if approved before June 30, 2024. Additionally, the first year of maintenance will be credited with any remaining months already paid for FASTER Win support.

The one-time expenses associated with the upgrade will be funded with ARPA grant funds. Fleet has an established budget for software maintenance that will be reallocated to this product. Additional budget authorization will be submitted as a non-discretionary request in the FY 24-25 budget.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES:

FISCAL IMPACT: A one-time amount of \$49,999 will be paid with ARPA funds. The annual maintenance amount of \$17,578.32 will be budgeted in the Fleet Division budget.

Proposed Expenditure/(Revenue)
\$49,999

Account Number(s):
378-588-00000-5130

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

ATTACHMENTS:

1. FASTER Solution Quote
2. FASTER Agreement

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



SOLUTION PROPOSAL

FLEET MANAGEMENT SOFTWARE

FASTER

Billy Sterner

Town of Flower Mound

Quote #: 2373

Quote Date: Mar 28, 2024

Quote Expires: Jun 29, 2024



FASTER Asset Solutions Quote and Proposal



Billy Sterner

Fleet Svc/Materials Mgr.

Town of Flower Mound

FASTER Asset Solutions is pleased to submit our proposal, Town of Flower Mound, TX - Migration - NPPGov member ID#: M-5701164. FASTER has been in business since 1982 and provides FMIS systems to cities, counties, states, universities, airports, transit, public utilities, and private companies. FASTER is the largest provider of fleet management information systems (FMIS) to municipal governments in North America. We also believe FASTER is a superior choice because of the following key strategic differences in our company.

The Most Experienced Staff in the Industry:

Seventy percent of FASTER's technical staff have been with us for more than 10 years. Reference checks will also reveal that no other vendor offers the level of professional technical support staff and responsiveness as FASTER. This results in a better implementation experience along with superior ongoing support, which ultimately results in better system utilization and ROI.

FASTER Invests in the Long-Term:

No other systems provider offers better systems longevity or a more advanced and stable system. For nearly 40 years now we have continuously improved our system through three generations of technology. FASTER Web is our latest release and includes the ability to deploy as a cloud-based or on-premises system and integrate easily with other software through API technology.

We are Product and Service Focused:

Likely the most important distinction of our company is that FASTER is product and service focused. Our strategy to continually reinvest in our products, solutions, and staff, allows us to build a reputation with our customers and partners to have industry leading software and the most responsive and knowledgeable support team in the asset management space.

Thank you for the opportunity to earn your business. If there is any additional information we can provide, or questions we can answer, please don't hesitate to let us know.

Sincerely,

Cris Valderas

Business Development Manager

FASTER Asset Solutions

Cellular 817.205.2507

Main Line 800.753.2783 ext 3044

cris.valderas@fasterasset.com



Cris Valderas

cris.valderas@fasterasset.com



FASTER Asset Solutions
760 Lynnhaven Pkwy, Suite 203
Virginia Beach, VA 23452
United States

T: 4023055850

Quote #	2373
Date	Mar 28, 2024
Expires	Jun 29, 2024
Contact	Cris Valderas

Prepared for Town of Flower Mound
Billy Sterner
2121 Cross Timbers
Flower Mound, TX 75028-2602
United States

T: 972-874-6431
E: billy.sterner@flower-mound.com

ACCEPT QUOTE

Town of Flower Mound, TX - Migration - NPPGov member
ID#: M-5701164

FASTER Web Core

One-Time Fees

Category	Item	Qty
LICENSE	FASTER WEB CORE LICENSE FEE FASTER WEB Core license fee per standard asset. Standard assets are those originally valued at \$5,000 or greater and active). • This includes one instance of the FASTER Web Application with one database. • Unlimited user access (named accounts) included. 20% Item Discount (\$5,000.00) FASTER (Code: 001)	250
LICENSE	FASTER WEB Non Standard Assets License Fee For non standard assets (initial purchase price <\$5,000). Includes setup, license fee, lifetime software updates for customers, first year maintenance and support. Fuel Only assets are also considered non standard regardless of initial purchase price. 20% Item Discount (\$750.00) FASTER (Code: 012a)	150



Category	Item	Qty
SETUP / Interface	Database Management & Setup Migrating Customer Establishment of one FASTER Web instance with a single Database. This setup includes the FASTER Web test environment that will be used during the entire implementation, all database configuration, testing, backup configuration, and validation. Includes 24x7x365 cloud database access. This same environment will be promoted to be the production environment at the time of Go-Live. Backups: Hourly database backups will be conducted to ensure consistent and recoverable backups of the database to restore from in the event of an emergency. Database Backups will be limited to 14 days of recoverability. Backups will also be sent daily to a secure, offsite location 50% Item Discount (\$1,000.00) Faster Asset (Code: 620)	1

One-Time Subtotal	\$30,750.00
Discount	(\$6,750.00)

Annual Fees

Category	Item	Qty
SUPPORT and MAINTENANCE	FASTER WEB CORE ANNUAL SUPPORT & MAINTENANCE FASTER WEB Core annual support and maintenance fee per standard asset. 12.5% Item Discount (\$625.00) FASTER (Code: 001A)	250
SUPPORT and MAINTENANCE	FASTER WEB NON STANDARD ANNUAL SUPPORT & MAINTENANCE FASTER WEB Non-Standard Assets annual support and maintenance fee per non-standard asset. 12.5% Item Discount (\$93.75) FASTER (Code: FWNSALICANN)	150
SUPPORT and MAINTENANCE	Database Annual Support and Maintenance Annual fee for support, maintenance, software upgrades, firmware/database management, data storage, and report management. - Backups: Hourly database backups will be conducted to ensure consistent and recoverable backups of the database to restore from in the event of an emergency. Database Backups will be limited to 14 days of recoverability. Backups will also be sent daily to a secure, offsite location - Includes 24x7x365 cloud database access. 12.5% Item Discount (\$1,125.00) FASTER (Code: DBMSANN)	1

* Annual Support and Maintenance Fees billing schedules are outlined in the terms and conditions.

Annual Support And Maintenance Subtotal	\$14,750.00
Discount	(\$1,843.75)



FASTER Web Add-On Solutions

One-Time Fees

Category	Item	Qty
SETUP / Interface	Fuel Import - Single Vendor (Existing Customer) Petrovend by OPW Single Vendor Fuel Import This is a single vendor fuel import for an existing customer who has been live on a FASTER product for more than 6 months. The import includes 1 (one) of the following options: 1. Import a new fuel vendor fuel transaction file. 2. Import a new fuel file from your existing vendor. FASTER will conduct complete configuration and testing of the fuel file layout and export files (flat files) from the fuel system. Site & Dispenser optional add on is available, if required, to the single vendor fuel import 20% Item Discount (\$721.00) FASTER (Code: 301)	1
Addon Modules / WEB	Single Vendor Site and Dispenser Add On This is an optional add-on to the Fuel Import (FI) to enable you to track the specific fuel site and/or fuel dispenser. This optional add on allows configuration to track Inventory Items so fuel imports deplete quantity from inventory. 100% Item Discount (\$2,781.00) Faster Asset (Code: 303)	1
SETUP / Interface	Dashboard The Faster Dashboard provides easy access to an at-a-glance overview of key performance indicators and data for your organization. The FASTER Dashboard is designed to give fleets a way to monitor performance, communicate, and make quick decisions about their operations. It comes with 20 Key Performance Indicators (KPIs) charts within the Dashboard Add-on, which includes the 8 module landing charts available within FASTER Web which can also be accessed via the Dashboard for one convenient high level overview. 100% Item Discount (\$10,300.00) FASTER (Code: 207nc)	1
One-Time Subtotal		\$16,686.00
Discount		(\$13,802.00)

Annual Fees

Category	Item	Qty
SUPPORT and MAINTENANCE	Fuel Import Single Vendor Support and Maintenance Existing Customer Annual support and maintenance for fuel import for existing customer 12.5% Item Discount (\$90.13) FASTER (Code: 301ann)	1



Category	Item	Qty
SUPPORT and MAINTENANCE	Single Vendor Site and Dispenser Support and Maintenance	1
	Annual support and maintenance for site and dispenser	
	12.5% Item Discount (\$69.53)	
	FASTER (Code: 303ann)	
SUPPORT and MAINTENANCE	Dashboard Annual Support and Maintenance	1
	12.5% Item Discount (\$257.50)	
	FASTER (Code: 207ncann)	

* Annual Support and Maintenance Fees billing schedules are outlined in the terms and conditions.

Annual Support And Maintenance Subtotal	\$3,337.20
Discount	(\$417.16)

FASTER Web Integrations

One-Time Fees

Category	Item	Qty
Service / API	Asset Meter Readings Web Service API - Samsara	1
	API for creating Meter Readings for an Asset in FASTER Web. Recommended frequency once per day (one reading per asset).	
	- Creates one or more validated meter readings per asset. - Failed validation meter readers are flagged by the API method and a log of failed readings is created for evaluation and correction.	
	12.5% Item Discount (\$695.25)	
	Faster Asset (Code: 320g)	

One-Time Subtotal	\$5,562.00
Discount	(\$695.25)

Annual Fees

Category	Item	Qty
SUPPORT and MAINTENANCE	Asset Meter Readings API Support and Maintenance - Samsara	1
	Annual support and maintenance for asset meter readings API.	
	12.5% Item Discount (\$250.29)	
	FASTER (Code: 320gann)	

* Annual Support and Maintenance Fees billing schedules are outlined in the terms and conditions.



Annual Support And Maintenance Subtotal	\$2,002.32
Discount	(\$250.29)

FASTER Web Implementation

One-Time Fees

Category	Item	Qty
Service / Data	Migration Data Conversion The Migration Data Conversion Product is used for migrating data from FASTER Win to FASTER Web. - Data Migration for FASTER Win Add-Ons are quoted individually and require an individual requirements scope - Data Migration for FASTER Win Customizations are quoted individually and require an individual requirements scope 12.5% Item Discount (\$2,500.00) Faster Asset (Code: 408) Base Price	1
One-Time Subtotal		\$20,000.00
Discount		(\$2,500.00)

Annual Fees

Category	Item	Qty
<i>* Annual Support and Maintenance Fees billing schedules are outlined in the terms and conditions.</i>		
Annual Support And Maintenance Subtotal		\$0.00

FASTER Web Training

One-Time Fees

Category	Item	Qty
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Category	Item	Qty
Training	Implementation Training - Faster Web 101 Introduction - Training Planning Meeting - Pre-Go Live - Six sessions totaling 8 hours of remote, live, instructor-led training focusing on a functional understanding of FASTER Web features to help prepare you for Go Live - Go Live - Three days of onsite, live, instructor-led training - Covers functions necessary in day-day fleet work 90 Days Post-Go Live - Deployment 30 min weekly Status Consult for 1st 30 days - Health Check 2-hr call 60 and 90 days from Go Live. - Ongoing through 1st Year - Access to FASTER Resource Central - Monthly public Q&A and Seminar on specific topics 12.5% Item Discount (\$1,993.75) Code: 512-SGL	1

One-Time Subtotal	\$15,950.00
Discount	(\$1,993.75)

Discount

One-Time Fees

Category	Item	Qty
Discounts / credit	WIN LIC Credit from purchae Jan 2024 Quote 2163 Credit for purchase of WIN LIC add from Jan 2024 Quote 2163, to be applied only if purchase Migration to FASTER WEB.	1
Discounts	One Time Discount Expires 6/30/2024 One Time discount applied only if a PO is provided by 6/30/2024. This discount will expire if there is no PO provided by 6/30/2024.	1

One-Time Subtotal	(\$13,208.00)
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Summary



Please contact us if you have any questions.

One-Time Subtotal	\$75,740.00
Discount	(\$25,741.00)
Total One-Time	\$49,999.00 USD
Annual Support And Maintenance Subtotal	\$20,089.52
Discount	(\$2,511.20)
Total Annual Support And Maintenance	\$17,578.32 USD

ACCEPT QUOTE

Cost Breakdown

Category	One-Time Fees	Annual Fees
LICENSE	\$28,750.00	—
SUPPORT and MAINTENANCE	—	\$20,089.52
SETUP / Interface	\$15,905.00	—
Addon Modules / WEB	\$2,781.00	—
Service / API	\$5,562.00	—
Service / Data	\$20,000.00	—
Training	\$15,950.00	—
Discounts / credit	(\$4,656.00)	—
Discounts	(\$8,552.00)	—
Discount	(\$25,741.00)	(\$2,511.20)
Total	\$49,999.00 USD	\$17,578.32 USD



- Standard agreement for recurring pricing model is 60 months.
- Cancellation of service prior to term expiration will result in an early termination fee equal to 85% of the recurring fees for the remaining term period.
- PAYMENT TERMS:
 - One Time Fees: 30% at Purchase Confirmation/30% at Installation of Software/20% at System Overview/20% at Delivery of Converted Data, Go Live.
 - Annual Maintenance and Support will be due October 1 2024 to align with fiscal year for the Town of Flower Mound. 100% of Annual Fees due for renewal on October 1 of each year for *FASTER* Web. Any months remaining on *FASTER* Win support will be deducted from the first year's annual fee. If approved we anticipate 3 months of credit on WIN



support for Oct-Dec that will be applied toward WEB support that will be due on October 1.

- Discounts are based on procuring via the NPP Purchasing Cooperative and existing client status.

Legacy Data Preparation and Cleanup

FASTER Asset Solutions always recommends that customers confirm that all legacy system data is current, accurate, and in good order. Data maintained in good order from previous systems will not typically require any corrections and can be imported effectively and efficiently into the FASTER Web product without issue. In the event that there are legacy data issues that require correction by the customer, FASTER Web consultants will support those efforts for our customers by providing guidance and advice.

GENERAL AGREEMENT

TT FASTER LLC, dba *FASTER* Asset Solutions, hereinafter referred to as "*FASTER*," and the Town of Flower Mound, Texas, hereinafter referred to as "Customer," agree to the following terms and conditions as detailed below and in the attached Schedules A-E (collectively, the "Agreement"), which are as follow:

- Schedule A: Statement of Work
- Schedule B: Software Upgrades & Support Agreement
- Schedule C: Software License Agreement
- Schedule D: Cloud Service Level Agreement (SLA)
- Schedule E: Pricing & Payment Terms

1. *FASTER* Web and Custom Deliverables:

- a. This Agreement may have custom deliverables, which are distinct and separate from *FASTER* Web. Custom deliverables, if any, will be listed in the Pricing & Payment Terms, attached as Schedule E. There are also several add-on products to *FASTER* Web that may be identified in Schedule E and licensed separately.

Whatever add-ons, custom deliverables and converted data are listed in Schedule E as work product will be deployed together through a "Soft Go-Live" instance. If there is additional work product that is to be delivered separately (after the initial Go-Live) that will be specifically listed in Schedule E. The Soft Go-Live instance is tested in the *FASTER* datacenter and then deployed to Customer's single environment that serves as Customer's test environment during the implementation and will become the production environment upon Go-Live. This permits Customer to perform whatever tests it deems necessary in the later environment to which it will have access. Customer having one environment through the life of the implementation that will be promoted to the production environment is a critical aspect of quality control that is a distinctly important part of the *FASTER* Web implementation process.

- b. Integrations & Business Intelligence Work Approvals & Testing:

All solutions, processes, and custom deliverables will be documented in the Statement of Work, which will be confirmed by both parties at the time of project kickoff.

- Post project kickoff change orders will be documented in writing and signed by both parties to confirm agreement.

Data Conversion Testing:

If data conversion services are included in Schedule E, the following will apply:

- i. *FASTER* will perform data validation testing.
- ii. *FASTER* will ensure the accuracy of the data *FASTER* loads into Customer's *FASTER* Web database against the data provided by Customer.

- iii. *FASTER* will confirm Customer's converted data meets the business rules of *FASTER* Web.
- iv. Once *FASTER* has completed data validation testing internally, *FASTER* will provide Customer a Soft Go-Live copy of the database that contains the data *FASTER* loaded.
- v. Customer may, at its discretion, perform any due diligence it deems necessary to validate this data.
- vi. *FASTER* will provide data validation test cases for Customer to use free of charge.
- vii. Any data defects Customer finds and reports during its Soft Go Live Data Conversion Testing that are the result of *FASTER*'s work will be corrected by *FASTER* at no charge to Customer.

2. Taxes

Prices and fees are exclusive of all federal, state, municipal, or other government, excise, sales, use, occupational, or like taxes now in force or enacted in the future and, therefore, prices are subject to an increase equal in amount to any tax *FASTER* may be required to collect, or pay, upon the sale or delivery of items purchased or licensed. In accordance with the Texas Tax Code Section 151.309, *FASTER* understands that Customer is a municipal corporation, who qualifies for exemption from state and local use taxes.

3. Proprietary Rights of *FASTER*

- a. Nature of Rights and Title: Customer recognizes that all computer programs, system documentation, and other materials supplied by *FASTER* to Customer are subject to the proprietary rights of *FASTER*. Customer agrees that the programs, documentation, and all information or data supplied by *FASTER*, in machine-readable form are trade secrets of *FASTER*, are very valuable to *FASTER*, and that their use and disclosure must be controlled.

Title: *FASTER* retains title to and all intellectual property rights to all programs, documentation, information or data furnished by *FASTER*. Customer retains rights to the asset data related to its property, which is housed within the MSSQL database. Other aspects of that MSSQL database, such as database structure and database objects remain the proprietary property of *FASTER*.

Customer shall keep each and every item to which *FASTER* retains title free and clear of all claims, liens and encumbrances except those of *FASTER*. Any act of Customer, voluntary or involuntary, purporting to create a claim, lien, or encumbrance on such an item shall be void.

- b. Restrictions on Customer Use: The computer programs and other items supplied by *FASTER* hereunder are for the sole use of Customer and Customer's employees/agents.

- i. Competitive Uses: Customer agrees that it will not directly or indirectly lease, license, sell, offer, negotiate, or contract to provide any software similar to that supplied hereunder to any third party. This clause, however, will not prohibit Customer from acquiring, for its own use, software from third parties. Customer agrees that it will not:
 - 1. Copy or duplicate, or permit anyone else to copy or duplicate, any physical or electronic version of the programs, databases, documentation, or information furnished by *FASTER* (other than for internal backup purposes).
 - 2. Create or attempt to create, or permit others to create or attempt to create, by reverse engineering or object program or otherwise, the source programs, or any part thereof, from the object program or from other information made available under this Agreement (whether oral, written, tangible, or intangible). Customer may copy for its own use documentation and any other materials provided by *FASTER*.
 - 3. Modify or permit others to modify the system's database structure. Any such modifications will void *FASTER's* warranties and *FASTER's* obligation to provide Software Upgrades and Support pursuant to Schedule B.
- ii. Demonstrations. Due to the proprietary nature of *FASTER Web*, Customer agrees not to demonstrate or show *FASTER Web* to any competitors, or consultants that work with competitors, of *FASTER*.

c. Transfer/Expansion of Rights

Customer's rights to use the programs, documentation, and other materials supplied by *FASTER* under this Agreement shall not be assigned, licensed, or transferred to a successor, affiliate or any other person, firm, corporation, or organization voluntarily, by operation of law, or in any other manner without the prior written consent of *FASTER*, which shall not be unreasonably withheld.

d. Equitable Relief

If Customer attempts to use, copy, license, or convey the items supplied by *FASTER* hereunder in a manner contrary to the terms of this Agreement or in competition with *FASTER* or in derogation of *FASTER's* proprietary rights, whether these rights are explicitly herein stated, determined by law, or otherwise, *FASTER* may, in addition to other remedies available to it, seek equitable relief enjoining such action.

e. Binding Effect & Definitions

Customer agrees that this Agreement binds the named Customer and each of its employees, agents, representatives, and persons associated with it. The term employee means individual on whose behalf Customer withholds income taxes or makes contributions under the federal insurance contributions act or similar statutes in other nations.

5. Exclusion of Incidental, Consequential and Certain Other Damages

Neither *FASTER* nor its suppliers shall be liable for any special, incidental, indirect, punitive or consequential damages arising out of the use of or inability to use the *FASTER* software or its associated support services, or the provision of or failure to provide support services under this Agreement.

6. Confidential Information

“Confidential Information” means any software provided by *FASTER* to Customer under this Agreement, the log-on identifiers and passwords provided to Customer and its authorized users, materials marked confidential by Customer or *FASTER* and any other information conveyed under this Agreement in writing or orally that is designated confidential or by the circumstances in which it is provided reasonably would be considered confidential. Each party acknowledges and agrees that: (a) the Confidential Information constitutes trade secrets of the party owning such Confidential Information; (b) it will use Confidential Information of the other party solely in accordance with the provisions of this Agreement; and (c) it will not disclose, or permit to be disclosed, the Confidential Information of the other party to any third party without the disclosing party’s prior written consent. Each party will take all reasonable precautions necessary to safeguard the confidentiality of the other party’s Confidential Information including, at a minimum, those precautions taken by a party to protect its own Confidential Information of a similar nature, which will in no event be less than a reasonable degree of care. Confidential Information will not include information that is: (a) publicly available through no fault of the receiving party; (b) already in the other party’s possession and not subject to a confidentiality obligation; (c) obtained by the other party from any source without breach of any obligation of confidentiality; or (d) independently developed by the other party without reference to the disclosing party’s Confidential Information. Either party may disclose such Confidential Information as is required to be disclosed by order of a court, other governmental entity, or as provided in Texas Government Code Chapter 552. Both parties agree to provide reasonable notice to the other party owning such Confidential Information, in the event of said release, so that such party may challenge the disclosure or obtain a protective order or other equitable relief. The obligations in this section as to Confidential Information shall continue for a period of five years following termination of this Agreement, including all renewal terms.

7. Term and Termination

The initial term of this Agreement shall be for five years from the Effective Date. After expiration of the initial term, Annual Software and Support (as outlined in Schedule B) shall automatically renew for successive one-year periods unless either party provides written notice of non-renewal at least 60 days prior to commencement of the applicable renewal term. The costs for Annual Software and Support in this Agreement will increase annually by the Consumer Price Index for the United States as published by the Bureau of Labor Statistics of the United States Department of Labor (capped at no more than 6% annually), or, if specified, by the amount identified in the pricing quotation. The parties will work in good faith to allow for each party to unwind this relationship if termination occurs.

a. Termination by *FASTER*

FASTER shall have the right, upon notice to Customer, to terminate this Agreement if: (a) Customer fails to pay *FASTER* any amount due hereunder and such failure to pay is not cured within 30 days following *FASTER*’s notice to Customer of such breach; (b) Customer is

in material breach of this Agreement, provided such breach is not cured by Customer within 30 days following *FASTER*'s notice to Customer of such breach; or (c) Customer (i) terminates or suspends its activities which utilize the services provided for under this Agreement; (ii) makes an assignment for the benefit of creditors, or becomes subject to direct control of a trustee, receiver or similar authority; or (iii) becomes subject to any bankruptcy or insolvency proceeding under federal or state statutes.

b. Termination by Customer

Customer will have the right, upon notice to *FASTER*, to terminate this Agreement if (a) *FASTER* is in material breach of this Agreement and *FASTER* fails to remedy such material breach within 30 days of its receipt of such notice; (b) the Town Council of the Town of Flower Mound does not appropriate funds for such upcoming renewal period; or (c) *FASTER* (i) terminates or suspends its business activities; (ii) makes an assignment for the benefit of creditors, or becomes subject to direct control of a trustee, receiver or similar authority; or (iii) becomes subject to any bankruptcy or insolvency proceeding under federal or state statutes.

8. General

a. Agreement Modifications

This Agreement can be modified only by a written agreement duly executed by persons authorized to sign agreements on behalf of Customer and of *FASTER*. Any variance from the terms and conditions of this Agreement in any order or other written notification from Customer will be of no effect unless agreed to in writing by both Parties.

b. Entire Agreement

This Agreement constitutes the entire agreement among the parties, and any prior understanding or representation of any kind preceding the date of this Agreement shall not be binding on any party except to the extent incorporated in this Agreement.

c. No Other Warranties outside of this Agreement

FASTER WARRANTS THAT THE *FASTER* SERVICE WILL BE DELIVERED IN A PROFESSIONAL AND WORKMANLIKE MANNER SUBSTANTIALLY IN ACCORDANCE WITH THE STATEMENT OF WORK SET FOR IN THIS AGREEMENT AND THAT THE *FASTER* SERVICE WILL OPERATE IN ALL MATERIAL ASPECTS AS DESCRIBED IN ITS PRODUCT DESCRIPTIONS AND/OR DOCUMENTATION. EXCEPT FOR THE EXPRESS WARRANTIES STATED IN THIS AGREEMENT, *FASTER* DISCLAIMS ALL WARRANTIES WITH REGARD TO THE *FASTER* PRODUCT SOLD HEREUNDER, INCLUDING ALL IMPLIED WARRANTIES OF MARKETABILITY AND FITNESS AND ALL OBLIGATIONS OR LIABILITIES ON THE PART OF *FASTER* FOR DAMAGES INCLUDING, BUT NOT LIMITED TO, CONSEQUENTIAL DAMAGES ARISING OUT OF, OR IN CONNECTION WITH, THE USE OR PERFORMANCE OF THE SYSTEM.

d. Severability

If any provision or provisions of this Agreement shall be held to be invalid, illegal, or non-enforceable, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

e. Force Majeure

Neither party shall be liable in damages or have the right to terminate this Agreement for any delay or default in performing hereunder if the delay or default is caused by conditions beyond its control including, but not limited to, Acts of God, government restrictions, wars, insurrections, pandemics or any other causes beyond the reasonable control of the party whose performance is affected.

f. Limitation Period (3 years)

No action, regardless of form, arising out of this Agreement may be brought by either party more than three (3) years after the cause of action has arisen, or, in the case of non-payment, more than three (3) years from the date of the last payment.

g. Asset Count

FASTER reserves the right to periodically and reasonably confirm Customer's Standard Active Asset and Non-Standard Active Asset counts. Customer will reasonably cooperate with *FASTER* in the asset count confirmation process. Should those counts exceed the number of active assets licensed by Customer, *FASTER* reserves the right to bill Customer for those excess assets at the applicable additional asset rate noted in Customer's Statement of Work (SOW), Pricing & Payment Terms.

h. Public Agencies

With *FASTER*'s approval, this Agreement may be extended for use by other municipalities and government agencies of any state. Any such usage by other municipalities and government agencies must be in accord with the ordinance, charter, and/or rules and regulations of the respective political entity. Special discount(s) provided to Customer will not necessarily apply to other customers. Customer does not accept any responsibility or involvement in the purchase orders or contracts issued by other public agencies.

i. Governing Law

This Agreement will be governed by the laws of the State of Texas, without regard to conflict of laws rules. Any dispute, claim or controversy arising out of or relating to this Agreement or the breach, termination, enforcement, interpretation, or validity thereof, including the determination of the scope or applicability of this agreement, shall be determined in Denton County, Texas. Customer acknowledges that it has read this Agreement, understands it, and agrees to be bound by its terms and conditions. Further, Customer agrees that it is the complete and exclusive statement of the agreement between the parties, which supersedes all proposals or prior agreements, oral or written, and all other communications between the parties relating to the subject matter of this Agreement.

j. Independent Contractor

In performing work and services under this Agreement, *FASTER* is acting as an independent contractor and not as an employee of Customer. No terms or provision of this Agreement shall be construed as making *FASTER* the agent, servant, or employee of the Customer or as creating a partnership or joint venture relationship between *FASTER* and Customer. *FASTER* shall not be entitled to any employment or other benefits from the Customer and *FASTER* is solely responsible for any and all federal or state taxes resulting from performance of the work and services under this Agreement.

k. Notice

All notices, demands, consents, approvals and other communications (each, a "Notice") which are required or desired to be given by either party to the other under this Agreement shall be in writing and shall be (a) hand delivered, (b) sent by U.S. registered or certified mail, postage prepaid, return receipt requested, (c) sent by reputable overnight courier service, (d) e-mail (if the sender receives a machine generated message that the delivery has failed, such notice shall not be considered received by the other party, and would be insufficient to provide proper notice under this paragraph), or (e) transmitted by facsimile machine (with a copy, including the transmission sheet indicating successful transmission of the Notice by facsimile machine, to follow by regular mail), addressed to the appropriate party at its address set forth below, or at such other address as such party shall have last designated by Notice to the other. Notices shall be deemed given when delivered, if delivered by hand or by overnight courier; at the time and on the date of machine transmittal, if given by facsimile; if sent by e-mail, upon sending the e-mail; or three days after mailing, if given by U.S. mail. Rejection or other refusal by the addressee to accept a Notice or the inability to deliver the Notice because of a changed address of which no Notice was given shall be deemed to be receipt of the Notice sent. Notice addresses for the parties are as follows:

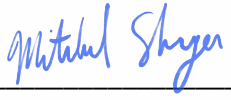
To Customer:	Town of Flower Mound 2121 Cross Timbers Road Flower Mound, TX 75028 Attn: [insert point of contact] Facsimile: [insert] E-Mail: [insert]
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To <i>FASTER</i> :	[insert notice information]
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l. Indemnification by *FASTER*

At *FASTER's* cost, *FASTER* agrees to indemnify, hold harmless and defend Customer against any cost, loss or expense (including attorney's fees) resulting from any claims by third parties for loss, damage or injury arising out of or relating to (i) *FASTER's* breach of any term, condition, representation or warranty of this Agreement, (ii) *FASTER's* violation of any third party rights in connection with the *FASTER* Service or (iii) *FASTER's* violations of applicable laws, rules or regulations in connection with the *FASTER* Service. In such a case, Customer will provide *FASTER* with written notice of such claim, suit or action. Customer shall cooperate as fully as reasonably required in the defense of any claim. Customer reserves the right, at its own expense, to assume the exclusive defense and control of any matter subject to indemnification by *FASTER*. Notwithstanding the foregoing, unless the settlement involves no cost, loss or continuing liability to Customer, *FASTER* shall not settle any claim, action or demand without the written consent of Customer, such consent not to be unreasonably withheld.

AGREED TO:

Customer:	TT FASTER LLC DBA <i>FASTER</i> Asset Solutions:
By: _____	By:  _____ Mitchel Skyer
Title: _____	Title: _____ President _____
Date: _____	Date: _____ May 20, 2024 _____

Schedule A: Statement of Work

1. SERVICES

- a. Orders for Services.
 - i. *FASTER* will provide and make the Services available to Customer in accordance with the terms and conditions of this Agreement and any applicable written Quote signed by all parties, which becomes an Order.
 - ii. In the event of a conflict between the terms of this Agreement and the terms of an Order, the terms of this Agreement will govern to the extent of the conflict unless the Order expressly states that it is intended to modify the conflicting terms of this Agreement, in which case the terms of the Order will govern to the extent of the conflict.
- b. Professional Services.
 - i. If specified in an Order, *FASTER* will provide Professional Services to Customer in accordance with this Agreement and the applicable Order.
 - 1. Data Extraction Support Services – optional add on service to support Customer with data extraction, mapping, and database population from existing database to *FASTER* Web MSSQL staging database.
 - ii. *FASTER* will own any improvements, enhancements, configurations, or other derivative works to the Cloud Services made by *FASTER* in connection with the Professional Services.
- c. Training Services.
 - i. *FASTER* shall provide training services via live, instructor led web-based internet sessions, live in person sessions, and via collateral materials for self-directed customer training. All training options shall include the instructional materials provided.
 - ii. Training may include some or all of the following training; supervisory and administrative functions, technicians, train the trainer, operators, and other identified customer representatives.
 - iii. All quotes for training options and/or combinations will be delivered in writing and only executed with Customer's authorized signature. Onsite training is recommended at key intervals based on customer need and/or deployment complexity. *FASTER* will provide quotes for onsite training as requested and/or as recommended at *FASTER*'s then-current rates (unless specified in an Order. otherwise) plus travel expenses, which include airfare, ground transportation, parking, lodging, per diem, and administrative expenses.
- d. Implementation/Configuration Services.
 - i. *FASTER* shall provide Customer with account setup information within fourteen (14) days of the effective date of Order.
 - ii. To permit *FASTER* to perform historical data import, Customer shall provide *FASTER* with any requested configuration information and a copy of the Customer *FASTER* Win database and/or other external database as applicable. This typically is provided within twenty (20) business days of the applicable Order's effective date, or at a date mutually agreed upon within the project plan.
- e. Custom Work

- i. This Agreement may have custom work product, which is distinct and separate from the *FASTER* Web services and software. Custom work, if any, will be listed in Schedule E, or within a subsequent order document.
 - ii. There are also several software products that are licensed separately. Therefore, if the product is not specifically listed in Schedule E, no license rights are conveyed.
- 2. PROJECT MANAGEMENT.
 - a. Project Managers.
 - i. Each party shall, throughout the Term, maintain within its organization a project manager to serve as such party's primary point of contact for day-to-day communications, consultation, and decision-making regarding the Services.
 - ii. Each such project manager shall be responsible for providing all day-to-day consents and approvals on behalf of such party under this Agreement.
 - iii. Customer's project manager will assist with scheduling and coordinating training sessions and other requests Customer may have for the Services.
 - iv. Each party shall ensure its project manager has the requisite organizational authority, skill, experience, and other qualifications to perform in such capacity.
 - b. Delays in Performance.
 - i. *FASTER* shall not be deemed in breach of its obligations under this Agreement or otherwise liable if *FASTER*'s performance of its obligations under this Agreement is prevented or delayed by the unavailability of Customer's data, to include, but not be limited to, an existing *FASTER* Win database or other existing database.
 - ii. Additionally, *FASTER* will not be considered in breach of its obligations due to Customer delays with respect to configuration decisions, training scheduling, assigned project task completion, differences in the descriptions of the fleet as provided by Customer, or any other act or omission of Customer, its project manager, or any other of its agents, subcontractors, consultants or employees.
 - iii. *FASTER*'s obligation to perform will be extended by the same number of days as Customer's contingent action is delayed plus additional coordination time that results from these delays.
 - iv. *FASTER* will always work to minimize delays and partner with the Customer to address solutions if and when these situations occur.
- 3. *FASTER* Web Application
 - a. One instance of the *FASTER* Web application with one database is included.
 - b. Unlimited user access (named accounts) is included.
 - c. *FASTER* Fleet Management Dashboard includes 8 Key Performance Indicator (KPI) Charts, as Module landing page charts.
 - d. MODULES
 - i. Assets
 - ii. Inventory
 - iii. Maintenance
 - iv. Fuel
 - v. Accounting
 - vi. Vendors
 - vii. Reports
 - e. Technician Workstation
 - f. Customer Portal
- 4. SELECTED (OPTIONAL) SOFTWARE COMPONENTS

- a. Selected software add-on components as indicated in the Order.
- b. Selected components are not included in the standard *FASTER* Web Application and are priced separately for initial and ongoing recurring fees.
- 5. Application Programming Interface (API) (OPTIONS)
 - a. Communication protocol that allows communication between *FASTER* Web and specifically identified application. Includes all required definitions and protocols to communicate with external application as identified. Includes updates to the API if required due to definition or protocol changes.
 - i. Integrations Web Service API to retrieve, create, update, and delete API data is included with any purchased API. The Integrations Web Service returns setting values from the integration console and captures the execution history by status.
 - ii. Health Web Service API included with any purchased API option. Confirms user authentication and communication success, and provides diagnostics information for troubleshooting communication activity.
 - b. Maintenance Repair API
 - i. Retrieve work order and direct charge repair information from *FASTER* Web
 - c. Asset Alerts API
 - i. Retrieving and creating alerts from telematics vendor for assets in *FASTER* Web once per hour.
 - ii. Create one or more alerts for an asset or a collection of alerts for an asset in *FASTER* Web.
 - d. Asset Locations Web Service API
 - i. Create GPS location record for an Asset in *FASTER* Web from an external automated vehicle location/GPS vendor.
 - ii. One or more new location records are created once per hour per asset.
 - e. Inventory Orders and Invoices API
 - i. Import invoices into *FASTER* Web based on received date
 - ii. Import orders and line items by status and date
 - iii. Import orders and line items by Vendor Name, Vendor Code, and Purchase Order Number
 - iv. Create orders and order line items (optional parameter)
 - v. Deletes orders and order line items.
 - f. Inventory Item Request Web Service API
 - i. Retrieve item requests and create item request messages.
 - ii. Item requests include Storeroom, Begin and/or End Date and Offset
 - iii. Item Request Messages for technician include Item Request Identifier (unique), Message Subject, Message Body
 - g. Asset Meter Readings Web Service API
 - i. Create meter readings for each asset in *FASTER* Web daily per asset from external vendor data feed.
 - h. Purchase Orders Web Service API
 - i. Import one or more Purchase Orders that match the given Vendor Names, Vendor Codes and Purchase Order Numbers.
 - ii. Create one or more purchase orders and budget line items for purchase orders.
 - i. Process Billing Automation Web Service API
 - i. Auto create date specific billing statement in *FASTER* Web
 - j. Asset Birth Certificate Web Service API

- i. Retrieves and updates Assets in *FASTER Web*.
 - ii. Parameters include current Asset Status, date, VinSerial, License, Asset Number, and Organization.
- 6. Integrations (OPTIONS)
 - a. Asset Alerts Import
 - i. Import telematics alerts such as, but not limited to, Diagnostic Trouble Codes (DTC), fault codes, inspection comments from external vendors.
 - b. Asset Locations Import
 - i. Latitude and longitude GPS data points imported from Automated Vehicle Locator system and displayed on *FASTER Web*'s map
 - ii. Fixed location and ignition status at time of import to be used to track parked vehicle locations.
 - iii. Requires vendor provided flat file that contains all required data or *FASTER Web* can fetch data via an APIs using SOAP-based web services or RESTful-based APIs
 - c. Asset Meter Readings Import
 - i. Import cumulative asset meter readings available from vendor into *FASTER Web*.
 - ii. Supported meter types that may be imported include Miles, Hours, PTO, Engine Idle Hours, etc.
 - iii. *FASTER Web* can fetch meter data from external vendor APIs using SOAP-based web services or RESTful-based APIs. Flat files with conforming data structure can be imported as well.
 - d. Single Vendor Fuel Import
 - i. Import fuel usage data by asset from a Fuel System Vendor (FSV).
 - ii. Live production export flat files including the complete disbursement transaction data from Fuel System Vendor are required for import.
 - e. Fuel Dispenser Integration
 - i. Allows *FASTER Web* users to track the individual fuel site and/or dispenser source.
 - ii. Allows configuration to track Inventory Items so fuel imports deplete quantity from inventory.
 - f. VIN Decoder
 - i. Scan or manually enter a VIN into *FASTER Web* Create Asset and Select Asset processes.
 - ii. VIN decoded by the National Highway and Transportation Safety Administration (NHTSA).
 - iii. Automatically creates Table Look Up values, such as Make, if the value provided by NHTSA is not in *FASTER Web*.
 - iv. Decoded VINS trigger import of the following fields and pre-populate in *FASTER Web* "Create New Asset" function.
 - 1. Vehicle Make, Vehicle Model, Year, Drivetrain, Engine
 - v. Decoded NHTSA values not already in the system will automatically be added to the appropriate field list in Setup when saving the asset.
 - vi. NHTSA values are checked to confirm active status in *FASTER Web*.
- 7. Modules (OPTIONS)
 - a. Barcoding Add On
 - i. Software to scan and print 2D or Symbiology – Code 128 barcodes
 - b. Alert Filtering and Mapping Add On

- i. Automatically create pending repairs or service items
 - ii. Automatically send text or email custom notifications.
 - iii. Assign custom descriptions to alerts from vendor provided XML file
 - iv. Optional alert description reference mapping to SAE (Society of Automotive Engineers) codes with SAE subscription.
 - c. Dashboard Add On
 - i. Separate module with user definable views and settings
 - ii. 12 additional KPI (Key Performance Indicators) Charts
 - d. *FASTER* Web Inventory Import Utility (IIU)
 - i. Interface that enables the issuance of parts and credits to *FASTER* Web work orders.
 - ii. Supports import of Inventory (parts) data from parts or fluid vendor.
 - iii. IIU is incorporated directly in *FASTER* Web Integrations Module
 - iv. Configuration is done within the *FASTER* Web Integrations Module, results are imported directly into the module.
 - v. Scheduling frequency of import as often as every five minutes.
 - vi. Data is retrieved via an external vendor provided comma separated value (CSV) flat file from a designated file location or SFTP site.
 - e. Web-Based MotorPool Module
 - i. Software package to manage Asset Sharing, Asset Rentals and Asset Reservations for both attended and unattended motor pools
 - ii. Unlimited user access (named accounts)
 - iii. Workflow processes to manage customer and end user interaction, rate structures, multiple motor pool locations, and consolidated billing.
 - f. Key Box Integration
 - i. Required to integrate keybox hardware with *FASTER* MotorPool module. Includes keyfob tracking, dispatch and reservations without requiring an onsite attendant.
- 8. Exports (OPTIONS)
 - a. Asset Alert Results Export
 - i. Utility to export alerts from *FASTER* Web by status fixed or cleared status.
 - ii. Fixed Alert exports include Alert Status, Alert Code, Alert Description, Asset Number, VIN/Serial, Maintenance Shop, Maintenance Shop Description, Work Order, Repair Description, Technician Name, Date/Time Completed
 - iii. Cleared Alert exports include Alert Status (Cleared), Asset Number, VIN/Serial, Alert Code, Alert Description, Date/Time Cleared
 - b. Asset Birth Certificate Export
 - i. Utility to provide initial and ongoing data for new and updated assets related to: asset identification, acquire/dispose, engines, fuel types, and meters for consumption by external solutions.
- 9. Data Services (OPTIONS)
 - a. Data Extraction Mapping Tools
 - i. Option 1: Pre-designed MS Excel data mapping template
 - ii. Option 2: MSSQL Staging Database provided for mapping and populating existing data for migration
 - b. Level 1 Data Conversion and Testing

- i. Data conversion from existing database to *FASTER* Web database. Includes Asset/Equipment Birth Certificates, Parts Birth Certificates, Vendor Birth Certificates, Employees/Users Records.
 - ii. Data Validation testing conducted to confirm data conversion integrity.
 - c. Level 2 Data Conversion and Testing
 - i. Data conversion from existing database to *FASTER* Web database. Includes Fuel Transaction Details and Work Order Transaction Details
 - ii. Data Validation testing conducted to confirm data conversion integrity.
 - d. Level 3 Data Conversion and Testing
 - i. Data conversion from existing database to *FASTER* Web database. Includes Inventory Orders/Receipt Transaction Detail, Chart of Accounts
 - ii. Functional stability testing conducted to ensure no data conflicts with *FASTER* Web table structure.
 - iii. Data Validation testing conducted to confirm data conversion integrity.
- 10. Implementation/Pre Go-Live Training Modules – training modules are continually enhanced and updated, examples of these modules are found below.
 - a. Maintenance Management Overview
 - b. System Configuration for *FASTER* Web system settings
 - c. Training Plan and Schedule for specific system users and job functions.
 - d. Live System Management Webinars: Assets, Inventory, Maintenance, Vendors, Reports, and Dashboards.
- 11. Go Live Training
 - a. Typically delivered on site during the first week *FASTER* Web is deployed and fully implemented.
 - b. Full system review followed by comprehensive sessions covering Setup of Users and Permissions; Inventory; Maintenance, Creating Work Orders; Fuel; Accounting; Vendors; Reports; and Technician Workstation.
- 12. Post Go-Live Training (OPTIONS)
 - a. Users are invited to attend scheduled *FASTER* Q&A topic focused sessions to get questions answered, learn best practices, and sharpen their *FASTER* Web skills. These are available for no additional charge for 12 months after Go-Live.
 - b. Add on programmed training packages are available at scheduled intervals (i.e., quarterly, semi-annually, and annually) after Go-Live. These packages include review and reinforcement, advanced specialty training, and new employee introductory training modules. Training packages are conducted both remotely and in person as required.
 - c. New manager training program modules are available to introduce Customer new hire management to the *FASTER* Web solution and provide understanding of the tools, capabilities and reporting analytics to replacement management personnel.

Schedule B: Software Upgrades & Support Agreement

1. Software Upgrades & Support will consist of: (i). Upgrades to the *FASTER* Web software and custom deliverables listed in any Statement of Work; (ii). Correction of defects to keep the software in conformance with the applicable user documentation; and (iii). Support listed in Section 4.
2. Software Upgrades:
 - a. Software upgrades are regularly scheduled and implemented by *FASTER* to all customers with current Software Upgrades & Support Agreements (i.e., it cannot have expired). After the initial term, Software Upgrades & Support will automatically renew unless Customer cancels per the termination provisions identified herein. Software Upgrades & Support provides the following upgrade benefits:
 - i. Upgrades to *FASTER* Web: Each new version release is included under this Agreement.
 - ii. Upgrades to Add-on Products and Customizations: All Add-on Products and customizations will be upgraded to function with new versions of *FASTER* Web.
3. Software Defects: Software Upgrades & Support covers issues or problems that are the result of verifiable, replicable errors (*FASTER* will use all reasonable means to verify and replicate) in the software ("Verifiable *FASTER* Defect"). An error will be a Verifiable *FASTER* Defect only if it constitutes a material failure by the software to function in accordance with the applicable software documentation. This documentation encompasses *FASTER* Web, and, if custom deliverables are included in Schedule E, the associated detailed Requirements Document.
4. *FASTER* Software Support Coverage and Policies

Overview

FASTER Support Services are set forth in this Software Upgrades & Support Agreement. During the term of this Agreement, *FASTER* will provide the following support services if the Licensed Software does not operate substantially in accordance with the documentation. Support will be handled via phone, email, and the internet when *FASTER* support personnel are not at Customer's site. The infrastructure for this plan is a request tracking system used to facilitate the process of tracking and resolving customer needs and issues. Every service request is logged into the system and is accessible by *FASTER* support representatives.

- Full-service support hours are weekdays from 7:30 AM – 6:00 PM Eastern Time, except for holidays.
- On call support personnel are available 24/7/365 to handle Urgent and High severity issues outside of standard business hours.
- All support cases are entered in the *FASTER* tracking system, assigned a case number, and documented via email with a response and case number sent to Customer.

Assignment of Service Request Severity

When Customer has opened a service request and reaches customer support, the *FASTER* associate will assess the severity of the request based on Customer's description of the issue.

Table 1 below describes the definitions used in identifying and assigning a severity level to Customer's reported issue for the *FASTER* Web cloud-based solution.

Severity Level	Criteria
Urgent	• Customer's production system is down due to an issue with a <i>FASTER</i> product. • <i>FASTER</i> product is unusable resulting in total disruption of work or other critical business impact. • No workaround is available
High	• Major feature/function failure • Operations are severely restricted • A workaround is available
Medium	• Minor feature/function failure • Product does not operate as designed, minor impact on usage, acceptable workaround deployed
Low	• Minor issue • Documentation, general information, enhancement request, etc.

Response and Resolution Targets

FASTER Support response and resolution targets are described below:

Response: When *FASTER* Customer Support receives a support request, a support engineer will provide feedback to Customer that the request has been logged and assigned to the appropriate resource. The support team will work as efficiently as possible with Customer to ensure **a clear understanding of the issue, and, where applicable, attempt to reproduce or identify from the system log the issue.**

FASTER offers the option to submit support requests in three ways: via our web portal, direct email to support@fasterasset.com, or via our phone support line.

Severity Level	Target Response	Target Resolution	Solution (1 or more of the following)
Urgent	1 Business Hour	Within 4 hours from actual response	• Satisfactory workaround is provided • Product patch is provided • Fix incorporated into future release • Fix or workaround incorporated into Solution Library
High	4 Business Hours	Within 36 hours from actual response	• Satisfactory workaround is provided • Product patch is provided • Fix incorporated into future release

			Fix or workaround incorporated into Solution Library
Medium	1 Business Day	Within 5 Business Days	- Answer to question is provided - Satisfactory workaround is provided - Fix or workaround incorporated into Solution Library - Fix incorporated into future release
Low	1 Business Day	Within 10 Business Days	- Answer to question is provided through FAQ, Knowledge Base, or through trained customer subject matter experts (SME) - Fix or workaround incorporated into Solution Library

Assignment of Service Request Status

When a customer contacts *FASTER* Customer Support and requests help to resolve a question or an issue, a service request is opened. The following table describes the possible status that may be assigned to a service request.

Status	Criteria
Open/In-Process	A service request has just been submitted. It may be assigned to an individual or a queue. <i>FASTER</i> has responded to Customer regarding receipt of the service request and is actively pursuing a resolution.
Waiting on Customer	<i>FASTER</i> is not actively working on the resolution of the service request. Generally, this is due to information pending from the submitter of the service request to be able to clearly understand, have the ability to reproduce or identify from the system log the issue at hand. However, service requests may be put on hold for other reasons as well.
Active	<i>FASTER</i> has identified the issue and is actively working on a resolution, but the issue requires additional activities, such as, but not limited to, development, integration, third-party discussions, and additional Customer department interaction. <i>FASTER</i> will regularly provide status updates and expected resolution timelines to the customer.
Closed	Closed status reflects that: - Customer and <i>FASTER</i> agree that a satisfactory resolution has been provided, or - Customer understands that there is not a solution to the issue at hand, and the issue is not a result of a product defect, or <i>FASTER</i> has made multiple attempts to contact Customer that opened the log and Customer has not responded. Electronic service requests (Web, e-mail) may be closed when <i>FASTER</i> Professional Services has provided an electronic reply with a high degree of confidence that the reply will resolve the issue or answer the question.

Networking, hardware and installed software at the site are the sole responsibility of Customer and are not covered in Support Services. Customer misuse or unauthorized use of Licensed Software or Mobile Modules also is not covered in Support Services.

5. Training is provided as requested by Customer. Options for training include initial “Go-Live Training,” remote, web-based training, regional training sessions, progressive system administrator training, and onsite, in person training. Each option will be quoted, in writing, for Customer’s review. Once accepted, the account management team will coordinate scheduling at the earliest mutually acceptable date.
6. Customer’s Responsibilities:
 - a. Customer’s representative(s) must be qualified and authorized to communicate all necessary information.
 - b. Customer accepts sole responsibility for any compatibility problems between the *FASTER* Web software and any other application software or non-current software programs not maintained or supported by *FASTER*.
 - c. Provide all relevant information and supporting details necessary to clarify support issue(s).

Term:

A lapse in Software Upgrades & Support is defined as non-payment for 60-days. Customers who enter delinquent status may be subject to suspension of some or all services, including, but not limited to support, product updates, or access to cloud-based services. Removal of delinquent status will be at *FASTER*’s discretion and may require a penalty payment and/or increase in recurring service costs.

A customer may, at any time, license other *FASTER* software that will also have a Software Upgrades & Support fee. There will be an additional Software Upgrades & Support fee due at the time of licensing the additional software based on the associated licensing fee. Recurring service fees may be pro-rated to reflect term agreement pricing as is applicable.

Schedule C: Software License Agreement

1) Scope of License

a) Grant:

Subject to and conditioned on Customer's compliance with the terms and conditions of this Agreement, *FASTER* grants Customer a personal, non-exclusive, non-transferable, non-sublicensable, limited license for its Authorized Users to use the Licensed Software on behalf of Customer solely during the subscription term set out in Schedule E: Pricing & Payments Terms (including all orders and/or addenda accepted following execution of this Agreement, which shall be incorporated automatically into Schedule E at the time of acceptance) and for Customer's internal business purposes in accordance with the Documentation. Under the foregoing license, Customer may either (a) install and/or host the Licensed Software on *FASTER*'s hosting provider's hardware, as agreed by the Parties in Schedule E; (b) install and/or host the Licensed Software on Customer's, or its designated contractor's, hardware and in the number of copies of the Licensed Software permitted in Schedule E (or other licensing metric set forth therein, as applicable); or (c) any combination of the foregoing (a) and (b).

- b) Limitations. Customer shall not, and shall require its Authorized Users not to, directly or indirectly: (a) use (including make any copies of) the Licensed Software or Documentation beyond the scope of the license granted; (b) provide any other person or entity, including any subcontractor, independent contractor, affiliate or service provider of Customer, with access to or use of the Licensed Software or Documentation; (c) modify, translate, adapt or otherwise create derivative works or improvements, whether or not patentable, of the Licensed Software or Documentation or any part thereof; (d) combine the Licensed Software or any part thereof with, or incorporate the Licensed Software or any part thereof in, any other programs other than as contemplated by Schedule E or by the Documentation; (e) reverse engineer, disassemble, decompile, decode or otherwise attempt to derive or gain access to the source code of the Licensed Software or any part thereof; (f) remove, delete, alter or obscure any trademarks or any copyright, trademark, patent or other intellectual property or proprietary rights notices provided on or with the Licensed Software or Documentation, including any copy thereof; (g) copy the Licensed Software or Documentation, in whole or in part, other than as permitted by this Agreement; (h) rent, lease, lend, sell, sublicense, assign, distribute, publish, transfer or otherwise make available the Licensed Software, or any features or functionality of the Licensed Software, to any third party for any reason, whether or not over a network or on a hosted basis, including in connection with the internet or any web hosting, wide area network (WAN), virtual private network (VPN), virtualization, time-sharing, service bureau, software as a service, cloud or other technology or service; (i) use the Licensed Software or Documentation in violation of any Law, regulation or rule; or (j) use the Licensed Software or Documentation for purposes of competitive analysis of the Licensed Software, the development of a competing software product or service or any other purpose that is to *FASTER*'s commercial disadvantage.

2) SaaS Services.

- a) Access. Subject to and conditioned on Customer's compliance with the terms and conditions of this Agreement, *FASTER* will provide Customer's Authorized Users a personal, non-exclusive, and non-transferable right to access and use the Licensed Software on behalf of Customer solely during the subscription term set out in Schedule E and for Customer's internal business purposes in accordance with the Documentation. *FASTER* shall host the Licensed Software on *FASTER*'s hardware, during the Access Term, as agreed by the Parties in this Agreement.
- b) Acknowledgment. Customer acknowledges and agrees that this Agreement and the rights provided pursuant to this Section 2 is a services agreement and *FASTER* will not be delivering copies of the Licensed Software to Customer or its Authorized Users as part of the SaaS Services.
- c) Proprietary Rights. Customer acknowledges and agrees that the Licensed Software and any necessary software used in connection with the services provided under this Agreement contain proprietary and confidential information that is protected by applicable intellectual property and other laws. Customer further acknowledges and agrees that the content or information presented to the Customer through the services provided pursuant to this Agreement may be protected by copyrights, trademarks, service marks, patents or other proprietary rights and laws. Except where expressly provided otherwise by *FASTER*, nothing in this Agreement or Documentation shall be construed to confer any license to any of *FASTER*'s intellectual property rights, including, but not limited to, the Licensed Software, whether by estoppel, implication, or otherwise.
- d) Limitations. Customer shall not, and shall require its Authorized Users not to, directly or indirectly: (a) use (including make any copies of) the Licensed Software or Documentation beyond the scope of the access and use granted; (b) provide any other person or entity, including any subcontractor, independent contractor, affiliate or service provider of Customer, with access to or use of the Licensed Software or Documentation; (c) modify, translate, adapt or otherwise create derivative works or improvements, whether or not patentable, of the Licensed Software or Documentation or any part thereof; (d) combine the Licensed Software or any part thereof with, or incorporate the Licensed Software or any part thereof in, any other programs other than as contemplated by Schedule E and the Documentation; (e) reverse engineer, disassemble, decompile, decode or otherwise attempt to derive or gain access to the source code of the Licensed Software or any part thereof; (f) remove, delete, alter or obscure any trademarks or any copyright, trademark, patent or other intellectual property or proprietary rights notices provided on or with the Licensed Software or Documentation, including any copy thereof; (g) copy the Licensed Software or Documentation, in whole or in part; (h) rent, lease, lend, sell, license, assign, distribute, publish, transfer or otherwise make available the Licensed Software, or any features or functionality of the Licensed Software, to any third party for any reason, whether on a network or on a hosted basis, including in connection with the internet or any web hosting, wide area network (WAN), virtual private network (VPN), virtualization, time-

sharing, service bureau, software as a service, cloud or other technology or service; (i) use the Licensed Software or Documentation in violation of any Law, regulation or rule; or (j) use the Licensed Software or Documentation for purposes of competitive analysis of the Licensed Software, the development of a competing software product or service or any other purpose that is to *FASTER's* commercial disadvantage.

- 3) The term of this license or subscription will, unless written notice of termination is given at least 60 days prior to the end of the then-current term or the Town Council of the Town of Flower Mound fails to appropriate funds for this Agreement, automatically renew at the end of each term for a subsequent term equal in duration to the original term.

4) Environment:

Customer understands that it may use the Licensed Software in a single environment. In this Agreement, an “environment” is defined as a single installation (instance) of the Licensed Software and one *FASTER* Web database.

- a) *SINGLE FASTER TEST/PRODUCTION ENVIRONMENT*: In order to minimize costs, as well as control quality and reduce risk, there will only be one environment through the implementation process. This environment, upon installation and during implementation will be the test environment on which all tasks (system overview, configuration, testing, training, etc.) will be performed. Upon loading a final Go-Live database, this test environment will then be promoted to become the production environment.
- b) *OTHER TEST OR DEVELOPMENT ENVIRONMENT/S*: Customer may request a separate test or development environment for other purposes (e.g., during the implementation or after Go-Live) with the additional license and annual support fees outlined in Schedule E.

5) Software Modifications:

Customer may not modify the Licensed Software, including, but not limited to, reverse engineering of any component of the Licensed Software in order to perform any such modifications. Should Customer violate this provision, all warranties associated with the Licensed Software are null and void.

Schedule D: Cloud Service Level Agreement (SLA)

1. Administration:

FASTER will issue to Customer's designated "Administrator" an individual logon identifier and password ("Administrator's Logon") for purposes of Customer administering the *FASTER* Web software. Using the Administrator's Logon, the Administrator shall assign each remaining Authorized User a unique logon identifier and password and assign and manage the business rules/permissions that control each such Authorized User's access to the *FASTER* Web software. Customer shall use commercially reasonable efforts to ensure that each Authorized User will: (a) use a logon identifier to access all areas of the system and not allow the system to be accessed without a logon identifier; (b) not disclose his/her logon identifier to any person or entity; (c) not permit any other person or entity to use his/her logon identifier and (d) use the *FASTER* Web software solely in accordance with the terms and conditions of this Agreement.

2. Database Backups

An incremental backup of the database to a local drive will occur hourly. And a full backup will occur nightly. Both the hourly and nightly full backups will be stored offsite.

3. Database Rights and Access:

3.1 Data Rights: Customer maintains full rights to its data contained in the database upon termination of this Agreement.

3.2 Access to Database: Unless Customer purchases the optional "Database Access," Customer will not have access to the database or database server (e.g., to run queries directly against the database). However, Customer will have access to download a copy of the database backup file on a regular basis. In addition, through the user interface of *FASTER* Web, Customer will have access to the business intelligence built into *FASTER* Web to search data, run reports and view data in dashboards.

4. Cloud Service Level Agreement:

4.1 Availability: *FASTER* shall maintain a datacenter adequate to make *FASTER* software available to Customer twenty-four (24) hours per day, seven (7) days per week (excluding scheduled maintenance) with service availability of not less than 99.9% (the "Service Level Commitment") calculated as specified below.

4.1.1 Formula. The *FASTER* software will, subject to the exceptions listed below, be available for a percentage of each calendar month at least equal to the Service Level Commitment. The availability of the *FASTER* software for a given month will be calculated according to the following formula (referred to herein as the "Availability"):

Where: Total minutes in the month = TMM

Total minutes in the month the Service is unavailable = TMU

And: $((TMM - TMU) \times 100) / TMM = \text{Availability}$

- 4.1.2 For purposes of this calculation, the *FASTER* software will be deemed to be unavailable if application functions do not successfully complete. Further, the *FASTER* software will not be deemed Unavailable for any downtime or outages excluded from such calculation by reason of the exceptions set forth in Sections 4.1.3 and 4.1.4 below. *FASTER*'s records and data will be the sole basis for all SLA calculations and determinations.
- 4.1.3 Exceptions: (a). Maintenance performed at Customer's request outside of the normally scheduled maintenance will not be considered an outage. (b). The *FASTER* Web software will not be considered Unavailable for any outage that results from maintenance performed by *FASTER* of which Customer is notified 48 hours in advance and to which Customer does not reasonably object. (c). Downtime resulting from errors or issues created by Customer will not be included in the Unavailable total. (d). Should Customer opt to purchase access to the database, *FASTER* is not accountable for disruptions caused by Customer's actions related to database access.
- 4.1.4 The *FASTER* network extends to, includes and terminates at the datacenter located router that provides the outside interface of each of *FASTER*'s WAN connections to its backbone providers (referred to herein as the "*FASTER* Network"). The *FASTER* Web software will not be considered Unavailable for any outage unavailability due to (a) Customer's information content or application programming, acts or omissions of Customer or its agents, (b) failures of Internet backbone itself and the third-party network by which Customer connects to the Internet backbone or any other network unavailability outside of the *FASTER* Network; (c) delays or failures due to circumstances beyond *FASTER*'s reasonable control that could not be avoided by its exercise of due care; or (d) any other outage or downtime outside the *FASTER* Network.
- 4.2 Remedies: Subject to the exceptions provided for in this SLA, Customer will have the rights set forth below.
- 4.2.1 If the total Availability (as calculated in Section 4.1 above) for a given month is (a) below the Service Level Commitment and greater than or equal to 99.5%, Customer will receive three (3) Service Credits; (b) below 99.5% and greater than or equal to 99.0%, Customer will receive ten (10) Service Credits; and (c) below 99.0%, Customer will receive fifteen (15) Service Credits. Notwithstanding the foregoing and in lieu of the preceding Service Credits, any continuous outage of more than twenty-four (24) hours shall automatically result in a total of one month's value of Service Credits. If Service Level Commitment is not met for a second time in a thirty (30)-day period, then Customer shall be entitled to receive at Customer's election, either (i) another month's value of Service Credits, or (ii) the right to terminate this Cloud Service Level Agreement.
- 4.2.2 For purposes of this SLA, a Service Credit will be deemed to be an amount equal to 1/30th of the monthly fee for the cloud services to Customer (herein referred to as "Service Credit"). Service Credits will be recognized for billing purposes in the month following the month giving rise to such Service Credits. All Service Credits will be calculated assuming a 30-day month. Except as provided above in Section 4.2.1 of this SLA, Customer's right to receive Service Credits will be Customer's exclusive remedy for *FASTER*'s failure to satisfy the Service Level Commitment.

4.2.3 Remedies will not accrue (i.e., no Service Credits will be issued and an outage will not be considered unavailability for purposes of this SLA) if Customer is in breach of its payment obligations either when the outage occurs or when the credit would otherwise be issued.

4.3. Performance: Customer understands that performance of the *FASTER* Web software is dependent on multiple factors, including, but not limited to, internet access speed, onsite network capabilities, user demand load, and hardware performance.

SCHEDULE E: PRICING AND PAYMENT TERMS

(Insert Quote/Order)

Payment Schedule

Migrating Customer

Standard Quote

MILESTONE	PAYMENT
Upon Purchase Confirmation	30% One Time Fees
Project Kickoff	20% One Time Fees
<i>FASTER</i> Web Delivery	30% One Time Fees and 100% of 1 st Year Recurring Fees
Data Delivery and Go-Live	20% One Time Fees

Software as a Service Quote

MILESTONE	PAYMENT
Upon Purchase Confirmation	75% of one-time fees, including, but not limited to, Training and Data Conversion.
<i>FASTER</i> Web Delivery (Access to Database)	100% of 1 st Year Recurring Fees
Data Delivery and Go-Live	25% of one-time fees, including, but not limited to, Training and Data Conversion.

New Customer

Standard Quote

MILESTONE	PAYMENT
Upon Purchase Confirmation	30% One Time Fees
Project Kickoff	20% One Time Fees
<i>FASTER</i> Web Delivery	30% One Time Fees
Data Delivery and Go-Live	20% One Time Fees
1 year from Purchase Confirmation	100% of 1 st Year Recurring Fees

Software as a Service Quote

MILESTONE	PAYMENT
Upon Purchase Confirmation	75% of one-time fees, including, but not limited to, Training and Data Conversion.
<i>FASTER</i> Web Delivery (Access to Database)	100% of 1 st Year Recurring Fees
Data Delivery and Go-Live	25% of one-time fees, including, but not limited to, Training and Data Conversion.



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

DATE: June 3, 2024

FROM: Lynda Bolitho, Director of HR

ITEM: **Consider approval of an Order Form with NeoGov to purchase additional subscriptions to add to the current services agreement to include Learn, eForms, Laserfiche Integration, CoreHR and Benefits and authorization for the Mayor to execute same on behalf of the Town.**

BACKGROUND: The Town has partnered with NeoGov since 2009 to provide an applicant tracking module that allows for a paperless process so that we can meet applicant expectations; an onboarding module which makes it easier for new hires to complete forms, reducing manual entry and helping new hires feel welcome with a personalized portal of resources and support; and a performance management module that automates the employee performance review process which increases transparency and engagement between employees and managers.

NeoGov has added several additional modules that would continue to streamline processes, reduce paper, and improve retention. The additional modules that are proposed to be added to our current service agreement include Learn, eForms, Laserfiche Integration, CoreHR and Benefits.

- Learn Module - Provides a centralized training solution with a library of courses, development programs, and tracking. This system promotes employee training with an easy-to-use system for HR, department managers, and employees.
- eForms Module - Modernizes processes by eliminating paper and messy spreadsheets. Makes organization easy by managing all employee documents digitally. Automates the distribution, submission, tracking, and approval of HR forms with customized digital workflows, routing, and eSignatures.
- CoreHR - Consolidates employee information and processes and automates error-prone tasks.
- Benefits - See and manage all open enrollment requests from one place.
- Laserfiche Integration – Integrate digital records within Laserfiche as the Town's personnel file repository system, maintaining compliance with the records' retention program.

In order to align costs with the Town's fiscal year, the first portion of the agreement is prorated through September 30, 2024, in the amount of \$3,207.46. The agreement continues for a six-year term, through September 30, 2030.

Pricing is variable each year of the agreement with one-time costs and various discounts.

- Year 1 - \$116,890.40 (funded by American Rescue Plan Act)
- Year 2 - \$74,819.20
- Years 3, 4, and 5 - \$98,200.20

- Year 6 - 115,034.52

Should the Town become dissatisfied with the service, the agreement does include a non-appropriation clause to terminate.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES: N/A

FISCAL IMPACT: The amount is variable.

Proposed Expenditure/(Revenue)

\$3,207.60

\$116,890.40

Account Number(s):

100-655-58000-5130

378-588-00000-5130

LEGAL REVIEW: N/A

ATTACHMENTS:

1. NeoGov Existing Services Agreement 2023
2. Quote - Exhibit A

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.

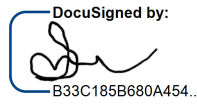
Customer		GovernmentJobs.com, Inc. (D/B/A/ NEOGOV), on behalf of itself and its subsidiaries PowerDMS, Inc., Cuehit, Inc., Ragnasoft LLC (D/B/A/ PlanIT Schedule), and Design PD, LLC (D/B/A Agency360)	
Entity Name:	Town of Flower Mound	 B33C185B680A454...	
Signature:			
Print Name:	Derek France, Mayor		
Date:	December 4, 2023	Signature:	
		Print Name:	Sandy Miranda Chief Customer Officer
		Date:	12/12/2023 12:54:48 PM PST



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.



Certificate Of Completion

Envelope Id: DA3BF4B728B949368840A2F1E5415A2A
Subject: 12.4.23 J3 NEOGOV Services Agreement 2023.pdf
Source Envelope:
Document Pages: 12
Certificate Pages: 5
AutoNav: Enabled
Envelopeld Stamping: Disabled
Time Zone: (UTC-06:00) Central Time (US & Canada)

Status: Sent

Envelope Originator:
Anne Carnes
2121 Cross Timbers Rd
Flower Mound, TX 75028
anne.carnes@flower-mound.com
IP Address: 97.105.97.14

Record Tracking

Status: Original
12/6/2023 11:41:53 AM

Holder: Anne Carnes
anne.carnes@flower-mound.com

Location: DocuSign

Signer Events	Signature	Timestamp
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Derek France mayor@flower-mound.com Mayor Town of Flower Mound Security Level: Email, Account Authentication (None)	 Signature Adoption: Pre-selected Style Using IP Address: 47.185.156.112	Sent: 12/6/2023 11:44:43 AM Viewed: 12/6/2023 4:28:56 PM Signed: 12/6/2023 4:28:58 PM
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Electronic Record and Signature Disclosure:
Accepted: 6/22/2021 2:20:34 PM
ID: 964510c2-b844-4143-a0ab-81863a2ef394

Kortney DeWitt kdewitt@neogov.net Renewals Manager NEOGOV Security Level: Email, Account Authentication (None)	Sent: 12/6/2023 4:29:00 PM Viewed: 12/7/2023 9:51:41 AM
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Electronic Record and Signature Disclosure:
Accepted: 12/7/2023 9:51:41 AM
ID: e1f4622e-4ee7-4471-bc86-3de7099fe6a2

In Person Signer Events	Signature	Timestamp
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Editor Delivery Events	Status	Timestamp
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Agent Delivery Events	Status	Timestamp
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Intermediary Delivery Events	Status	Timestamp
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Certified Delivery Events	Status	Timestamp
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Carbon Copy Events	Status	Timestamp
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Ginger Choate
Ginger.Choate@flower-mound.com
Security Level: Email, Account Authentication (None)
Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Carbon Copy Events	Status	Timestamp
Lynda Bolitho lynda.bolitho@flower-mound.com Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign		
Marquita Shamlin marquita.shamlin@flower-mound.com Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign		
NeoGov Renewals renewals@neogov.com Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign		

Witness Events	Signature	Timestamp
Notary Events	Signature	Timestamp
Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	12/6/2023 11:44:43 AM
Certified Delivered	Security Checked	12/7/2023 9:51:41 AM
Payment Events	Status	Timestamps
Electronic Record and Signature Disclosure		

CONSUMER DISCLOSURE

From time to time, Carahsoft OBO Town of Flower Mound (we, us or Company) may be required by law to provide to you certain written notices or disclosures. Described below are the terms and conditions for providing to you such notices and disclosures electronically through the DocuSign, Inc. (DocuSign) electronic signing system. Please read the information below carefully and thoroughly, and if you can access this information electronically to your satisfaction and agree to these terms and conditions, please confirm your agreement by clicking the 'I agree' button at the bottom of this document.

Getting paper copies

At any time, you may request from us a paper copy of any record provided or made available electronically to you by us. You will have the ability to download and print documents we send to you through the DocuSign system during and immediately after signing session and, if you elect to create a DocuSign signer account, you may access them for a limited period of time (usually 30 days) after such documents are first sent to you. After such time, if you wish for us to send you paper copies of any such documents from our office to you, you will be charged a \$0.00 per-page fee. You may request delivery of such paper copies from us by following the procedure described below.

Withdrawing your consent

If you decide to receive notices and disclosures from us electronically, you may at any time change your mind and tell us that thereafter you want to receive required notices and disclosures only in paper format. How you must inform us of your decision to receive future notices and disclosure in paper format and withdraw your consent to receive notices and disclosures electronically is described below.

Consequences of changing your mind

If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. To indicate to us that you are changing your mind, you must withdraw your consent using the DocuSign 'Withdraw Consent' form on the signing page of a DocuSign envelope instead of signing it. This will indicate to us that you have withdrawn your consent to receive required notices and disclosures electronically from us and you will no longer be able to use the DocuSign system to receive required notices and consents electronically from us or to sign electronically documents from us.

All notices and disclosures will be sent to you electronically

Unless you tell us otherwise in accordance with the procedures described herein, we will provide electronically to you through the DocuSign system all required notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you during the course of our relationship with you. To reduce the chance of you inadvertently not receiving any notice or disclosure, we prefer to provide all of the required notices and disclosures to you by the same method and to the same address that you have given us. Thus, you can receive all the disclosures and notices electronically or in paper format through the paper mail delivery system. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the consequences of your electing not to receive delivery of the notices and disclosures electronically from us.

How to contact Carahsoft OBO Town of Flower Mound:

You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:

To contact us by email send messages to: anne.carnes@flower-mound.com

To advise Carahsoft OBO Town of Flower Mound of your new e-mail address

To let us know of a change in your e-mail address where we should send notices and disclosures electronically to you, you must send an email message to us at anne.carnes@flower-mound.com and in the body of such request you must state: your previous e-mail address, your new e-mail address. We do not require any other information from you to change your email address..

In addition, you must notify DocuSign, Inc. to arrange for your new email address to be reflected in your DocuSign account by following the process for changing e-mail in the DocuSign system.

To request paper copies from Carahsoft OBO Town of Flower Mound

To request delivery from us of paper copies of the notices and disclosures previously provided by us to you electronically, you must send us an e-mail to anne.carnes@flower-mound.com and in the body of such request you must state your e-mail address, full name, US Postal address, and telephone number. We will bill you for any fees at that time, if any.

To withdraw your consent with Carahsoft OBO Town of Flower Mound

To inform us that you no longer want to receive future notices and disclosures in electronic format you may:

- i. decline to sign a document from within your DocuSign session, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;
- ii. send us an e-mail to anne.carnes@flower-mound.com and in the body of such request you must state your e-mail, full name, US Postal Address, and telephone number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

Required hardware and software

Operating Systems:	Windows® 2000, Windows® XP, Windows Vista®; Mac OS® X
Browsers:	Final release versions of Internet Explorer® 6.0 or above (Windows only); Mozilla Firefox 2.0 or above (Windows and Mac); Safari™ 3.0 or above (Mac only)
PDF Reader:	Acrobat® or similar software may be required to view and print PDF files
Screen Resolution:	800 x 600 minimum

Enabled Security Settings:	Allow per session cookies
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** These minimum requirements are subject to change. If these requirements change, you will be asked to re-accept the disclosure. Pre-release (e.g. beta) versions of operating systems and browsers are not supported.

Acknowledging your access and consent to receive materials electronically

To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please verify that you were able to read this electronic disclosure and that you also were able to print on paper or electronically save this page for your future reference and access or that you were able to e-mail this disclosure and consent to an address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format on the terms and conditions described above, please let us know by clicking the ‘I agree’ button below.

By checking the ‘I agree’ box, I confirm that:

- I can access and read this Electronic CONSENT TO ELECTRONIC RECEIPT OF ELECTRONIC CONSUMER DISCLOSURES document; and
- I can print on paper the disclosure or save or send the disclosure to a place where I can print it, for future reference and access; and
- Until or unless I notify Carahsoft OBO Town of Flower Mound as described above, I consent to receive from exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to me by Carahsoft OBO Town of Flower Mound during the course of my relationship with you.

Exhibit A
Order Form



NEOGOV

Governmentjobs.com, Inc. (dba "NEOGOV")
2120 Park Pl, Suite 100
El Segundo, CA 90245
United States
billing@neogov.com
Sales Rep: Emily Willis

Customer:

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

Quote Valid From: 3/25/2024
Quote Valid To: 6/4/2024

Quote Number: Q-15837
PaymentTerms: Annual,Net 30
Subscription Term in Months: 75

Employee Count: 620
Order Summary

Pro-Rated Term eForms Only

Service Description	Type	Start Date	End Date	Term Price (USD)
eForms Subscription	RECURRING	6/28/2024	9/30/2024	\$3,207.46
Pro-Rated Term eForms Only TOTAL:				\$3,207.46

Year 1 Incentive Applied to Bundle Rate

Service Description	Type	Start Date	End Date	Term Price (USD)
Learn Subscription	RECURRING	10/1/2024	9/30/2025	\$19,668.60
Learn Setup	ONE-TIME			\$3,960.00
Core HR Subscription	RECURRING	10/1/2024	9/30/2025	\$11,669.40
Core HR Setup	ONE-TIME			\$18,284.00
Benefits Subscription	RECURRING	10/1/2024	9/30/2025	\$8,853.00
Benefits Setup	ONE-TIME			\$18,192.00
Laserfiche Annual Integration Subscription (with MCCI)	RECURRING	10/1/2024	9/30/2025	\$3,600.00
Neogov Laserfiche Integration Setup	ONE-TIME			\$6,000.00
Implementation Management	ONE-TIME			\$4,725.00

Service Description	Type	Start Date	End Date	Term Price (USD)
Partner Professional Services	ONE-TIME			\$6,975.00
eForms Subscription	RECURRING	10/1/2024	9/30/2025	\$12,323.40
eForms Setup	ONE-TIME			\$2,640.00
Year 1 Incentive Applied to Bundle Rate TOTAL:				\$116,890.40

Year 2 reduced Incentive continued bundle pricing

Service Description	Type	Start Date	End Date	Term Price (USD)
Learn Subscription	RECURRING	10/1/2025	9/30/2026	\$26,224.80
eForms Subscription	RECURRING	10/1/2025	9/30/2026	\$16,431.20
Core HR Subscription	RECURRING	10/1/2025	9/30/2026	\$15,559.20
Benefits Subscription	RECURRING	10/1/2025	9/30/2026	\$11,804.00
Laserfiche Annual Integration Subscription (with MCCI)	RECURRING	10/1/2025	9/30/2026	\$4,800.00
Year 2 reduced Incentive continued bundle pricing TOTAL:				\$74,819.20

Year 3 Incentive ends, Bundle rate only

Service Description	Type	Start Date	End Date	Term Price (USD)
Learn Subscription	RECURRING	10/1/2026	9/30/2027	\$34,420.05
eForms Subscription	RECURRING	10/1/2026	9/30/2027	\$21,565.95
Core HR Subscription	RECURRING	10/1/2026	9/30/2027	\$20,421.45
Benefits Subscription	RECURRING	10/1/2026	9/30/2027	\$15,492.75
Laserfiche Annual Integration Subscription (with MCCI)	RECURRING	10/1/2026	9/30/2027	\$6,300.00
Year 3 Incentive ends, Bundle rate only TOTAL:				\$98,200.20

Year 4 Renewal Cost

Service Description	Type	Start Date	End Date	Term Price (USD)
Learn Subscription	RECURRING	10/1/2027	9/30/2028	\$34,420.05
eForms Subscription	RECURRING	10/1/2027	9/30/2028	\$21,565.95
Core HR Subscription	RECURRING	10/1/2027	9/30/2028	\$20,421.45
Benefits Subscription	RECURRING	10/1/2027	9/30/2028	\$15,492.75

Service Description	Type	Start Date	End Date	Term Price (USD)
Laserfiche Annual Integration Subscription (with MCCI)	RECURRING	10/1/2027	9/30/2028	\$6,300.00
Year 4 Renewal Cost TOTAL:				\$98,200.20

Year 5 Renewal Cost

Service Description	Type	Start Date	End Date	Term Price (USD)
Learn Subscription	RECURRING	10/1/2028	9/30/2029	\$34,420.05
eForms Subscription	RECURRING	10/1/2028	9/30/2029	\$21,565.95
Core HR Subscription	RECURRING	10/1/2028	9/30/2029	\$20,421.45
Benefits Subscription	RECURRING	10/1/2028	9/30/2029	\$15,492.75
Laserfiche Annual Integration Subscription (with MCCI)	RECURRING	10/1/2028	9/30/2029	\$6,300.00
Year 5 Renewal Cost TOTAL:				\$98,200.20

Year 6 Renewal Cost

Service Description	Type	Start Date	End Date	Term Price (USD)
Learn Subscription	RECURRING	10/1/2029	9/30/2030	\$40,320.63
eForms Subscription	RECURRING	10/1/2029	9/30/2030	\$25,262.97
Core HR Subscription	RECURRING	10/1/2029	9/30/2030	\$23,922.27
Benefits Subscription	RECURRING	10/1/2029	9/30/2030	\$18,148.65
Laserfiche Annual Integration Subscription (with MCCI)	RECURRING	10/1/2029	9/30/2030	\$7,380.00
Year 6 Renewal Cost TOTAL:				\$115,034.52

ORDER TOTAL (USD) : **\$604,552.18**

A. Terms and Conditions

- 1. Agreement. This Ordering Document and the Services purchased herein are expressly conditioned upon the acceptance by Customer of the terms of the NEOGOV Services Agreement either affixed hereto or the version most recently published prior to execution of this Ordering Form available at <https://www.neogov.com/service-specifications>. Unless otherwise stated, all capitalized terms used but not defined in this Order Form shall have the meanings given to them in the NEOGOV Services Agreement.
- 2. Effectiveness & Modification. Neither Customer nor NEOGOV will be bound by this Ordering Document until it has been signed by its authorized representative (the "Effective Date"). Unless otherwise stated in this Ordering Document, all SaaS Subscriptions shall commence on the Effective Date. This Ordering Document may not be modified or amended except through a written instrument signed by the parties.
- 3. Summary of Fees. Listed above is a summary of Fees under this Order. Once placed, your order shall be non-cancelable and the sums paid nonrefundable, except as provided in the Agreement.
- 4. Order of Precedence. This Ordering Document shall take precedence in the event of direct conflict with the Services Agreement, applicable Schedules, and Service Specifications.

B. Special Conditions (if any).

Notwithstanding anything to the contrary, this order and the services purchased herein are subject to the same terms and conditions set forth in the Services Agreement, dated 12/12/2023 between The Town of Flower Mound, TX and NEOGOV.

Pro-Rated SaaS Subscription Fees for eForms shall be invoiced on 6/28/2024 and annual SaaS Subscription Fee invoices shall commence after expiration of the Pro-Rated Term.
Initial Term Subscription fees for Learn, eForms, Laserfiche Integration, CoreHR and Benefits will be invoiced on 10/1/2024
due net 30 and each anniversary thereafter.
Initial Setup Fees shall be invoiced on 10/1/2024, due net 30.

**"Flower Mound, Town
of (TX)"**

NEOGOV

Signature: _____

Signature: _____

Print Name: _____

Print Name: _____

Date: _____

Date: _____



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

DATE: June 3, 2024

FROM: Robert Pegg, Assistant Director of Engineering

ITEM: **Consider approval of a Development Agreement with Toll Southwest LLC., for the construction of certain Master Planned Town Roadway, Utility and Park improvements associated with the Townlake Phase 5 & 6 residential development; for \$1,783,578.50 and authorization for the Mayor to execute same on behalf of the Town.**

BACKGROUND: Toll Southwest LLC. (Toll) is developing the 107.262-acre, 65-lot Townlake Phase 5 & 6 residential subdivision in the Town of Flower Mound. As part of the construction, Toll Southwest will build certain Master Planned Town Improvements including trails, streets and water utilities. This agreement allows for the Town to reimburse Toll Southwest LLC for the Town's share of the costs associated with these infrastructure improvements.

As part of the overall development, Toll will upsize the Town's Multi-Use Trail connection along Cross Timbers Road from an 8-foot Multi-Use Trail to a 12-foot Multi-Use Trail section to match the Town's current Trails Master Plan.

As part of the overall development Toll will rebuild Scenic Drive from FM 1171 to the intersection with Walsingham Drive, construct Walsingham Drive from Flower Mound Road to the intersection with Scenic Drive, and install a master planned 12-inch water line along Walsingham Drive.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES: N/A

FISCAL IMPACT: \$1,783,578.50

Proposed Expenditure/(Revenue)

Account Number(s):

\$1,756,321.52 (Road)

\$27,346.98 (Water)

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

ATTACHMENTS:

1. Development Agreement
2. Form 1295 (Internal Use Only)

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

**DEVELOPMENT AGREEMENT FOR
TOWNLAKE (PHASES FIVE AND SIX)**

THIS DEVELOPMENT AGREEMENT FOR TOWNLAKE (PHASES FIVE AND SIX) ("Agreement") is made and entered into this ____ day of _____, 2024 (the "Effective Date"), by and between the Town of Flower Mound, Texas (the "Town"), and Toll Southwest LLC, a Delaware limited liability company ("Developer"). The Town and Developer are each referred to herein as a "Party", and collectively as the "Parties".

WITNESSETH:

WHEREAS, Developer proposes to develop roughly sixty-five (65) single-family dwelling units and related infrastructure improvements (the "Project") on property encompassing approximately 107.262 acres in Flower Mound, Texas, generally located east of proposed Scenic Drive and south of Cross Timbers Road, as more particularly shown and described in **Exhibit A** attached hereto and incorporated herein by reference (the "Property"); and

WHEREAS, the Town Council approved a development plan for the Project (DP21-0005 – Townlake (Phase Five & Six)) on August 22, 2022 ("Development Plan"); and

WHEREAS, in accordance with the Park Regulations (defined herein), Developer is required to reserve 3.36 acres of park and recreational area per 100 dwelling units within the Project, pay fees in lieu of dedication, or a combination thereof; and

WHEREAS, as contemplated with the Development Plan approval, at the October 7, 2021, Parks Board meeting, Developer agreed to reserve certain portions of the Project as open space in satisfaction of the open space requirements for conservation developments and in partial satisfaction of the park and recreational area requirements, to pay a fee in lieu in the amount of \$81,900.00, and to pay park development fees in the amount of \$90,220.00 (subject to any credits or reimbursement as set forth herein), each as further detailed herein; and

WHEREAS, the Developer has agreed to dedicate 2.817 acres of land to the Town for right-of-way shown on the Town's Capital Improvements Plan, as described in more detail herein; and

WHEREAS, the Town and Developer wish to address various development issues related to the Project, including without limitation, the Project's park and recreational area dedication requirements, park development fees, trails, right-of-way dedication, and the Developer's completion of and/or funding of certain capital improvements described herein and/or impact fee credits and reimbursement related thereto, all as more specifically described herein; and

WHEREAS, the Town and Developer acknowledge that the foregoing issues should be addressed in this Agreement.

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Town and Developer covenant and agree as follows:

1. Project Subject to Town Ordinances. The Project, or any portion thereof, at all times shall be developed and constructed in accordance with all applicable Town ordinances related to the Project (subject to state law), and shall be subject to said ordinances, as such now exist or may hereafter be amended and/or approved by the Town, subject to the terms of this Agreement. Unless otherwise expressly stipulated in this Agreement, nothing herein shall relieve Developer from its responsibilities for the construction of public improvements under applicable development ordinances of the Town.

2. Open Space and Parks and Recreational Area Requirements.

A. Open Space. In full satisfaction of Developer's obligations under The Flower Mound Code of Ordinances (the "Code of Ordinances"), Subpart B, "Land Development Regulations," Chapter 98, "Zoning," Article III, "District Regulations," Division 4, "SF-E, Single-Family Estate and Conservation Development," as amended ("Cluster Development Standards") to dedicate or convey open space, Developer shall reserve approximately 55.143 acres of open space within the Property to be owned by the HOA (as defined in Section 4 herein) in the locations generally shown as open space on **Exhibit B** attached hereto and incorporated herein for all purposes (the "Open Space"). The aforementioned reservation of the Open Space shall be the only open space reservation, conveyance and/or dedication required by the Town for development of the Project and shall fully satisfy the Developer's open space dedication requirements in satisfaction of Section 98-307 of the Code of Ordinances and the open space requirements in the planned development district ordinance applicable to the Property (PD-187) established by Ordinance No. 15-22 approved by the Town Council on April 4, 2022, as amended.

B. Fee in Lieu. In full satisfaction of Developer's obligations under the Code of Ordinances, Subpart B, "Land Development Regulations," Chapter 90, "Subdivisions," Article VI, "Standards," Division 8, "Parks and Recreational Areas," as amended ("Park Regulations") to dedicate park or recreational area and/or make a payment of cash in lieu of park or recreational area dedication, Developer shall pay the Town the amount of \$81,900.00¹ (to be accepted in lieu of the otherwise required park or recreational area

¹ The Fee In Lieu is calculated based on the Property's fair market value per acre of \$75,000.00 and the Project containing 65 single-family dwelling units. The total park land dedication generally required is 2.184 acres, but Developer is receiving a 50% credit against the total park land dedication requirement for provision of the Open Space. Therefore, after the 50% credit, the total park land dedication for the Property is 1.092 acres. The fee in lieu is calculated based on the 1.092 acres multiplied by the fair market value of \$75,000.00 per acre, which equals the \$81,900.00 Fee In Lieu required herein.

dedication under the Park Regulations), subject to credits or reimbursement pursuant to Section 6 of this Agreement ("Fee In Lieu"). For the avoidance of doubt, no park and recreational area dedication shall be required. The provision of the Fee In Lieu in accordance with this Section 2.B. shall be the only park and recreational area dedication and/or fee in lieu of park and recreational area required by the Town for development of the Project and shall fully satisfy Developer's park and recreational area dedication requirements or fee in lieu under the Park Regulations. The Developer is receiving a 50% credit against the total park land dedication requirement under the Park Regulations for provision of the Open Space per Section 2.A. herein. Subject to credits or reimbursement pursuant to Section 6 herein, (i) \$42,840.00 of the Fee In Lieu shall be paid by Developer to the Town prior to acceptance by the Town of public improvements for phase 5 of the Project; and (ii) \$39,060.00 of the Fee In Lieu shall be paid by Developer to the Town prior to acceptance by the Town of public improvements for phase 6 of the Project. Phase 5 and phase 6 of the Project are generally depicted on Exhibit B.

3. Park Development Fees. The Parties agree that the total park development fees to be assessed for the Property and the Project under Section 90-446 of the Park Regulations is \$90,220.00 (\$1,388.00 per unit) ("Park Development Fee"). Developer shall be eligible for credits and/or reimbursement for the Park Development Fee and the Fee In Lieu as described in Section 6 herein. Subject to credits or reimbursement pursuant to Section 6 herein, the Park Development Fee shall be paid by Developer to the Town prior to acceptance by the Town of public improvements, as applicable, for each phase of the Project. The Park Development Fee will be paid separately for each phase prior to the acceptance of the public improvements for each respective phase. The amount due with each phase will be calculated based on the number of lots depicted in the final plat for each phase (phase 5 or phase 6), as applicable.

4. Open Space Ownership and Maintenance. A mandatory homeowners association (the "HOA") shall be established for the Property. The HOA will own the Open Space and Trail Improvements (as defined below). Developer shall record covenants, conditions and restrictions encumbering the Property, which shall require that the HOA shall be responsible to perpetually maintain the Open Space and which shall meet the requirements of Section 90-185 of the Town's Code of Ordinances, Subpart B, "Land Development Regulations," Chapter 90, "Subdivisions".

5. Trail Improvements and Oversizing. Developer agrees to construct and install an 8-foot wide trail in the locations shown as "proposed 8' trail" on **Exhibit D** attached hereto and incorporated herein for all purposes (collectively with the Trail Oversizing (defined herein), the "Trail Improvements"). Despite the Park Regulations only requiring an 8-foot trail for the Project, Developer agrees to oversize a portion of the Trail Improvements beyond the requirements of the Park Regulations by installing a 12-foot wide concrete trail along Cross Timbers Road (F.M. 1171) in the location generally labeled as "Proposed 12' Town Trail" on **Exhibit D** attached hereto ("Trail Oversizing"). For the avoidance of doubt, such Trail Improvements shall neither add to the amount of land required to be dedicated as park or recreational area nor increase the Fee In Lieu of park and recreational area required by the Town in accordance with Section 2 herein. The

Trail Improvements shall be constructed and completed prior to the later of (i) acceptance of the subdivision; or (ii) the recording of the final plat(s) for the Project in the Real Property Records of Denton County, Texas ("DCRPR"). For purposes of this Agreement, "acceptance of the subdivision" means when all infrastructure for the Project is installed and approved and/or accepted by the Town. Developer shall not be required to pay for or provide any trails other than the Trail Improvements described herein. From and after completion of the Trail Improvements, the Town agrees to and will be responsible for all maintenance and operation of the Trail Improvements. The Developer may grant an easement or license to facilitate the Town's maintenance of the Trail Improvements via plat or separate instrument.

6. Park Fee Credits and Reimbursement. The Town agrees to provide Developer credits against the Park Development Fee and Fee In Lieu ("Park Fee Credit") or reimburse Developer from the Park Development Fee or Fee In Lieu already paid ("Park Fee Reimbursement"), as applicable, in an amount equal to (i) all costs attributable to oversized portions of the Trail Improvements, expressly including any material and labor costs necessitated to provide the Trail Oversizing (e.g., increasing the trail thickness in order to provide a larger trail) (the "Oversize Costs"). The Oversize Costs shall be evidenced by the difference between a bid for construction of the applicable portion of the Trail Improvements as an 8-foot wide trail and a bid for construction of the applicable portion of the Trail Improvements as a 12-foot wide trail. In order to receive the Park Fee Credit or the Park Fee Reimbursement, as applicable, Developer shall submit bids evidencing oversizing costs and actual construction receipts or similar evidence for the Oversize Costs to substantiate that such costs have actually been paid. In the event the Oversize Costs exceed the Park Development Fee and Fee In Lieu owed, the Developer would be responsible for the remaining excess costs (to the extent of any Oversize Costs that exceed the combined total of the Park Development Fee and Fee In Lieu).

7. Scenic Drive and Walsingham Drive.

A. In consideration for the Impact Fee Credits, the Road Improvements Reimbursement Payment, and the Water Improvements Reimbursement Payment as defined and provided for herein and subject to the Town fulfilling its obligations with respect to the Offsite ROW Land (defined below) in accordance with the terms set forth in Section 7.D. herein, Developer agrees to construct or cause the construction of certain improvements for and along a portion of Scenic Drive and a portion of Walsingham Drive in the general locations shown on **Exhibit D**, attached hereto and incorporated herein for all purposes, which consist of: (i) the excavation, subgrade, and concrete installation for approximately 1,225 linear feet of the two northern/southern through lanes of Scenic Drive consisting of 34 feet in width and associated 11-foot turn lanes (the "Scenic Road Improvements"); (ii) the excavation, subgrade, and concrete installation for approximately 2,320 linear feet of the two eastern/western through lanes of Walsingham Drive consisting of 34 feet in width and associated 11-foot turn lanes (the "Walsingham Road Improvements"); (iii) the installation of storm drain improvements for Scenic Drive (the "Scenic Drainage Improvements"); (iv) the installation of storm drain improvements for Walsingham Drive (together with the Scenic Drainage Improvements, the "Drainage

Improvements"); (v) one 12-inch and two 8-inch waterline connections at existing 12-inch waterline on Scenic Drive (the "Scenic Water Improvements"); (vi) one 12-inch waterline extension of existing 12-inch waterline in Walsingham Drive to west side of Scenic Drive and four 8-inch waterline stubs to service residential streets, including Stowe Drive, Angelou Circle, and Brown Boulevard (the "Walsingham Water Improvements," and together with the Scenic Water Improvements, the "Water Improvements"); (vii) the burial of any and all overhead utility lines that run roughly parallel to Scenic Drive (the "Burial of Scenic Utility Lines"); and (viii) the burial of any and all overhead utility lines that run roughly parallel to Walsingham Drive (together with the Burial of Scenic Utility Lines, the "Burial of Utility Lines"; and together with items (i)–(vii) herein, the "Public Improvements"). The Scenic Road Improvements, Walsingham Road Improvements, the Drainage Improvements and the Burial of Utility Lines shall be collectively referred to herein as the "Road Improvements". The Scenic Road Improvements, the Scenic Drainage Improvements, and the Burial of Scenic Utility Lines are collectively referred to herein as the "Scenic Portion of the Public Improvements". Other than the Public Improvements, Developer shall not be required to construct or fund any off-site roadway, water, wastewater, or drainage facilities or improvements for development of the Property.

B. Prior to commencing construction of the Public Improvements (or portion thereof), Developer shall submit construction plans for the Public Improvements (or portion thereof) to the Town for review and approval. Upon approval of such plans, the Town will issue Developer a notice to proceed. Upon completion of the Public Improvements (or portion thereof), the Town will accept the applicable Public Improvements (which acceptance will not be unreasonably withheld, conditioned, or delayed) and from and after such acceptance, the Town will own such Public Improvements and be responsible for all maintenance and operation related thereto. Developer shall cause its contractor to secure a maintenance bond in a form acceptable to the Town for a period of two (2) years from the date of the Town's acceptance of the Public Improvements, as applicable.

C. Developer agrees to dedicate to the Town 2.817 acres of land (the "ROW Dedication Area") along Scenic Drive and Walsingham Drive in the locations generally labeled as "Townlake Phase Five and Six ROW Dedication" on **Exhibit B** (the "ROW Dedication"). The ROW Dedication shall be provided to the Town via plat or separate instrument prior to the Town's acceptance of the Public Improvements.

D. It shall be the obligation of the Town to obtain at its cost, whether through a conveyance, condemnation, deed in lieu thereof, or otherwise, the title to those certain tracts of real property consisting of approximately 0.645 acres, 1.135 acres, and 0.525 acres (collectively, the "Offsite ROW Land"), which is located adjacent to the Project and located on real property owned by one or more third party(ies), more particularly described and depicted on **Exhibit E** attached hereto and incorporated herein for all purposes, and to provide the Developer and its agents, representatives, contractors, and subcontractors the irrevocable rights to enter upon the Offsite ROW Land and to use the Offsite ROW Land for construction of the Public Improvements, as applicable. For the

avoidance of doubt, the Town's obligation in the preceding sentence shall not be subject to a cure period under Section 21 herein. The 0.645 acre tract and the 1.135 acre tract described on **Exhibit E** shall be referred to herein as the "Scenic Offsite ROW Land". The 0.525 acre tract described on **Exhibit E** shall be referred to herein as the "Walsingham Offsite ROW Land." Notwithstanding anything else contained within this Agreement, if the Town fails to fulfill its obligations under this Section 7.D. within two (2) years of the Effective Date (i) Developer shall be released from any and all obligations herein related to the construction of the Scenic Portion of the Public Improvements, (ii) Developer shall be released from any and all obligations herein related to the construction of any of the Road Improvements located on, upon, or within the Walsingham Offsite ROW Land, (iii) if Developer chooses not to develop the Scenic Portion of the Public Improvements and/or any of the Road Improvements located on, upon or within the Walsingham Offsite ROW Land, the definition of Public Improvements hereunder shall exclude such portion of the Public Improvements, as applicable, and (iv) the rights of the Developer, including its rights related to the Impact Fee Credits (defined below), Road Improvements Reimbursement Payment (defined below), Water Improvements Reimbursement Payment (defined below) and Park Fee Credit and/or Park Fee Reimbursement, shall not be affected.

E. The Town has agreed to and hereby waives any and all Town inspection fees in connection with the Public Improvements and no inspection fees will be due to the Town for the Public Improvements or any portion thereof.

F. For the avoidance of doubt, the Town agrees that the completion of the Public Improvements (or any portion thereof) shall not be a condition to any plat approval for the Property (or portion thereof) or approval of plans related to such plat approval. Further, the Town agrees that completion of (i) the Scenic Portion of the Public Improvements (or any portion thereof); and (ii) any of the Road Improvements located on, upon or within the Walsingham Offsite ROW (or any portion thereof) shall not be a requirement or condition of any approval required for Developer to develop the Property (including without limitation that it shall not be a condition to approval of construction plans, building permits, certificates of occupancy, acceptance of on-site public improvements, or any other approval required for the Developer to begin construction on the Property and complete the Project (or portion thereof)).

8. Impact Fee Credit.

A. The Town hereby confirms and represents that the Public Improvements are capital improvements on the Capital Improvements Plan duly adopted by the Town under Chapter 395, Texas Local Government Code, and, therefore, Developer is entitled to receive impact fee credits against impact fees that would otherwise be due from the development for the actual cost of the Public Improvements, including construction costs (including but not limited to all costs for labor, supplies and materials); costs for any easements; inspection fees; maintenance bonds; material testing costs; staking costs; all soft costs, including but not limited to all engineering and design costs; and all other costs as shown on **Exhibit C** (the "Public Improvement Costs"). Developer shall be entitled to

and will receive roadway impact fee credits for the Road Improvements in the amount of \$1,168,316.50 (which represents roughly \$17,974.10 per lot in credits); and water impact fee credits for the Water Improvements in the amount of \$364,780.00 (which represents roughly \$5,612.00 per lot in credits) for a total of \$1,533,096.50 in impact fee credits pursuant to Chapter 42 Article II of the Flower Mound Code of Ordinances ("Impact Fee Credits") as shown on **Exhibit C**.

B. The Impact Fee Credits shall be (A) subject to Section 18 herein, fully assignable and transferable by Developer to builders or purchasers of all or any portion of the Property; and (B) carried forward for at least ten (10) years after issuance of the first building permit on the Property until the Impact Fee Credits are exhausted.

9. Payment for Public Improvement Costs.

A. Developer shall receive a reimbursement of the total Public Improvement Costs for the Road Improvements (as detailed on **Exhibit C**) in excess of \$1,168,316.50, which amount is estimated to be approximately \$1,756,231.52, upon completion of the Road Improvements and acceptance of the Road Improvements by the Town (the "Road Improvements Reimbursement Payment") in accordance with **Exhibit C**, but under no circumstances shall the Town be required to pay more than \$1,756,231.52 (the "Road Improvements Reimbursement Cap") for the Road Improvements, which when added together with the Water Improvements Reimbursement Cap (defined below) is less than thirty-percent (30%) of the estimated total cost of all infrastructure improvements required by the Project. The Town shall provide the Road Improvements Reimbursement Payment to Developer within thirty (30) calendar days of the Town's acceptance of the Road Improvements and the Developer's submittal of a request for reimbursement packet, which shall include all final contractor pay applications and affidavits of bills paid. The Developer may provide such a reimbursement packet for both the Road Improvements and the Water Improvements together or may provide such reimbursement packets separately, in its discretion. The amount of the Road Improvements Reimbursement Payment may not exceed the amount substantiated by all final contractor pay applications and affidavits of bills paid.

B. Developer shall receive a reimbursement of the total Public Improvement Costs for the Water Improvements (as detailed on **Exhibit C**) in excess of \$364,780.00, which amount is estimated to be approximately \$27,346.98, upon completion of the Water Improvements and acceptance of the Water Improvements by the Town (the "Water Improvements Reimbursement Payment") in accordance with **Exhibit C**, but under no circumstances shall the Town be required to pay more than \$27,346.98 (the "Water Improvements Reimbursement Cap") for the Water Improvements, which when added together with the Road Improvements Reimbursement Cap is less than thirty-percent (30%) of the estimated total cost of all infrastructure improvements required by the Project. The Town shall provide the Water Improvements Reimbursement Payment to Developer within thirty (30) calendar days of the Town's acceptance of the Water Improvements and the Developer's submittal of a request for reimbursement packet, which shall include all final contractor pay applications and affidavits of bills paid. The

Developer may provide such a reimbursement packet for both the Road Improvements and the Water Improvements together or may provide such reimbursement packets separately, in its discretion. The amount of the Water Improvements Reimbursement Payment may not exceed the amount substantiated by all final contractor pay applications and affidavits of bills paid.

C. The Town agrees that so long as the combined total of the Road Improvements Reimbursement Payment and the Water Improvements Reimbursement Payment does not exceed thirty-percent (30%) of the total cost of all infrastructure improvements for the Project, the construction of the Road Improvements and the Water Improvements will not be subject to competitive bidding requirements under applicable law.

10. Indemnity. Developer agrees to indemnify, hold harmless, and defend the Town and its officers, agents, and employees from any and all third-party claims, including, but not limited to, third-party claims for damages, attorney's fees, court costs, third-party judgments, real and personal property damage, personal injury, and death, arising out of Developer's performance of this Agreement; provided that, the foregoing shall not apply to any liability resulting from the gross negligence or willful misconduct of the Town, its officers, agents, or employees, and in the event of any such gross negligence or willful misconduct of the Town, its officers, agents, or employees, responsibility and indemnity, if any, shall be apportioned comparatively in accordance with the laws of the State of Texas. This indemnity provision shall survive the termination of this Agreement.

11. Captions and Headings. The captions and headings of the sections of this Agreement are for convenience and reference only and shall not affect, modify, or amplify the provisions of this Agreement, nor shall they be employed to interpret or aid in the construction of this Agreement.

12. Applicable Laws and Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, and all obligations of the Parties created hereunder are performable in Denton County, Texas. Venue for any action arising under this Agreement shall lie in Denton County, Texas.

13. Notices. Any notices required or permitted to be given hereunder shall be given by certified or registered mail, return receipt requested; via hand-delivery service that provides a return receipt showing the date of actual delivery of the same to the addressee, or a courier service that provides a return receipt showing the date of actual delivery of the same to the addressee. Notice given in accordance herewith shall be effective upon receipt at the address of the addressee set forth below, or to such other address as either Party hereto shall notify the other:

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

with a copy to: Taylor Olson Adkins Sralla & Elam, LLP
6000 Western Place
Suite 200
Fort Worth, Texas 76107

If to Developer: Toll Southwest LLC
c/o Toll Brothers
2555 SW Grapevine Parkway, Suite 100
Grapevine, TX 76051
Attn: Mike Boswell, Vice President, Land Development
mboswell@tollbrothers.com

with a copy to: Winstead PC
500 Winstead Building
2728 N. Harwood Street
Dallas, Texas 75201
Attn: Laura Hoffmann
lhoffmann@winstead.com

14. Attorneys' Fees. In the event either Party initiates or defends any legal action or proceeding to enforce or interpret any of the terms of this Agreement, the prevailing Party in any such action or proceeding shall be entitled to recover its reasonable costs and attorneys' fees (including its reasonable costs and attorneys' fees on any appeal). Nothing herein shall constitute a waiver of any claim or defense that could be asserted in any litigation related to this Agreement, and the Parties agree that this Agreement is not subject to Subchapter 1 of Chapter 271 of the Texas Local Government Code.

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

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

17. Filing in Denton County Real Property Records; Covenant Running with the Land. This Agreement or a memorandum thereof shall be filed in the DCRPR. Upon any sale or other transfer of any ownership rights in the Property, Developer shall notify the Town in writing of such sale or transfer within thirty (30) days of such sale or transfer, provided, however, no notice shall be required for the sale of a lot for which a record plat has been approved and recorded in the DCRPR. This Agreement shall be deemed a covenant that runs with the land and is binding on all heirs, successors, assigns, grantees, vendors, trustees, representatives of Developer and all others holding any interest now or in the future with the exceptions of (i) the purchaser of a lot for which a record plat has been approved and recorded in the DCRPR and on which a residence has been

constructed, and (ii) common areas owned by the HOA or other property owners' association, as applicable (each a "Fully Improved Lot").

18. Binding Obligation; Assignment. This Agreement shall become a binding obligation on the signatories upon execution by all signatories hereto. The Town warrants and represents that the individual executing this Agreement on behalf of the Town has full authority to execute this Agreement and bind the Town to the same. Developer warrants and represents that the individual executing this Agreement on its behalf has full authority to execute this Agreement and bind Developer to same. Developer may assign this Agreement, in whole or in part, and all or part of Developer's right, title, and interest under this Agreement (i) to any affiliate of the Developer and/or (ii) the HOA without the prior consent of the Town, but upon written notice to the Town. Developer may assign this Agreement, in whole or in part, and all or part of Developer's right, title, and interest under this Agreement to any person or entity that is or will become an owner of any portion of the Property upon receipt of the Town's prior written consent which shall not be unreasonably withheld, conditioned or delayed. The Town shall not be bound by any assignment of this Agreement unless and until the Town has received a fully signed copy of the assignment. Following an assignment of the Agreement done in accordance with this Section 18, such assignee shall be considered a "Party" for the purposes of this Agreement. The Town shall not assign this Agreement. Developer will file an assignment of this Agreement in the in the DCRPR. Further, this Agreement is and shall be binding upon Developer, its successors, heirs, assigns, grantees, vendors, trustees, representatives, and all others holding any interest in the Property now or in the future with the exception of the purchaser of a Fully Improved Lot.

19. Mutual Assistance. The Parties agree to take such actions, including the execution and delivery of such documents, instruments, petitions, and certifications supplemental hereto, as may be necessary or appropriate to carry out the terms, provisions, and intent of this Agreement.

20. Mediation. The Parties shall attempt in good faith to resolve any disagreement or conflict concerning this Agreement, including but not limited to any disagreement or conflict concerning the interpretation of this Agreement. Either Party may initiate negotiations to resolve such a disagreement or conflict by providing written notice to the other Party (the "Initial Notice"), setting forth the subject of the conflict and the proposed solution. In the event such disagreement cannot be resolved by the Parties hereto within sixty (60) days of the receiving Party's receipt of the Initial Notice, the Parties agree to submit such disagreement to nonbinding mediation before a single mediator mutually agreed upon by the Parties who has had at least ten (10) years' relevant experience in the commercial real estate industry. If within fifteen (15) days after the date of mediation, the Parties have not reached agreement on resolution of the conflict or disagreement, then either Party may (but shall not be obligated to) commence an action in accordance with the requirements of Section 12 herein. Parties shall evenly share the expense of mediation.

21. Default. No Party shall be in default of provisions under this Agreement until notice of the alleged failure of such Party to perform has been given as provided herein (which notice shall set forth in reasonable detail the nature of the alleged failure) and until such Party has been given ten (10) days after the written notice in the case of the default of a payment obligation, and in all other cases a reasonable time, to cure the alleged failure (such reasonable time determined based upon the nature of the alleged failure, but in no event less than thirty (30) calendar days after written notice of the alleged failure has been given).

22. Roughly Proportionate Determination under Texas Law and Federal Law. Developer has been represented by legal counsel in the negotiation of this Agreement and has been advised regarding Developer's rights under Texas and federal law. Developer has carefully reviewed the development exactions mandated by the Town pursuant to this Agreement and has been afforded the opportunity to consult with the Town and Developer's own professional consultants in order to ascertain whether Developer objects to same. In executing this Agreement, Developer hereby and in good faith agrees that the development exactions under this Agreement, subject to the Town fulfilling its commitments under this Agreement, are roughly proportionate to the impact of the Project. In addition, Developer knows of no development exaction associated with the obligations under this Agreement that would give rise to a claim relating to rough proportionality (procedural or substantive) arising out of (1) the Texas Constitution, (2) §212.904 and Chapter 395 of the Texas Local Government Code; and/or (3) the federal constitution, as mandated by the United States Supreme Court in *Dolan v. City of Tigard*, 512 U.S. 374 (1994), and its progeny; and Developer further agrees that there exists an essential nexus between said development exactions and the Project.

23. Reservation of Rights. Except for the matters expressly agreed to by the Parties in this Agreement, Developer does not waive any of Developer's rights under the Town's Code of Ordinances or any state or federal law, including, but not limited to a waiver of any claim of a regulatory taking or illegal exaction or a waiver of any vested rights for the Project or any portion thereof that have already accrued or may accrue in the future under Chapter 245 of the Texas Local Government Code or any other state law.

24. Force Majeure. It is expressly understood and agreed by the Parties to this Agreement that if the performance of any obligations hereunder is delayed by reason of war; civil commotion; acts of God; strike; inclement weather; shortages or unavailability of labor, supplies, or materials; incidence of disease or other illness that reaches outbreak, epidemic, or pandemic proportions or other causes affecting the area in which the Property is located; or other circumstances that are reasonably beyond the control of the Party obligated or permitted under the terms of this Agreement to do or perform the same, regardless of whether any such circumstance is similar to any of those enumerated or not, the Party so obligated or permitted shall be excused from doing or performing the same during such period of delay, so that the time period applicable to such design or construction requirement and any applicable completion deadline shall be extended for a period of time equal to the period such Party was delayed.

25. Estoppel. Either Party shall, at any time upon reasonable request by the other Party, provide an estoppel certificate or similar document evidencing that this Agreement is in full force and effect, that no event of default exists hereunder (or, if appropriate, specifying the nature and duration of any existing event of default and the steps required to cure the same), the status of completion of any improvements, the amount of available impact fee credits or reimbursement due and/or any other obligations set forth in this Agreement.

26. No Third-Party Beneficiaries. Nothing in this Agreement shall be construed to create any right in any third party not a signatory to this Agreement, and the Parties do not intend to create any third-party beneficiaries by entering into this Agreement.

27. Multiple Counterparts. This Agreement may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes. An electronic mail or facsimile signature will also be deemed to constitute an original if properly executed and delivered to the other Party.

28. Exhibits. The following exhibits are attached hereto and incorporated into this Agreement for all purposes:

- | | |
|-----------|--|
| Exhibit A | Legal Description of the Property |
| Exhibit B | Open Space and ROW Dedication Area |
| Exhibit C | Public Improvements Costs & Impact Fees |
| Exhibit D | Depiction of the approximate location of the Public Improvements |
| Exhibit E | Depiction of the approximate location of the Offsite ROW Land |

[Signatures appear on the following pages.]

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

STATE OF TEXAS §
§
COUNTY OF DENTON §

This instrument was acknowledged before me on this the ____ day of _____, 2024 by Derek France, Mayor of the Town of Flower Mound, Texas, on behalf of the Town of Flower Mound, Texas.

Notary Public, State of Texas

DEVELOPER:

Toll Southwest LLC,
a Delaware limited liability company

By: _____

David M. "Mike" Boswell,
Vice President of Land Development

STATE OF TEXAS §
 §
COUNTY OF Tarrant §

This instrument was acknowledged before me on this the 22nd day of April, 2024 by David M. "Mike" Boswell, Vice President of Land Development, of Toll Southwest LLC, a Delaware limited liability company, on behalf of said limited liability company.

Notary Public, State of Texas

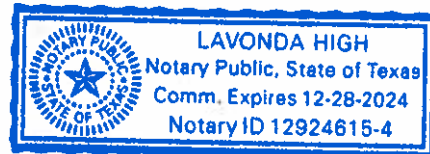


EXHIBIT A

Legal Description of the Property

(see attached)

LEGAL DESCRIPTION – 107.262 ACRES – SHADY OAK FAMILY RANCH, LTD.

BEING A TRACT OF LAND SITUATED IN THE JOSEPH CLARK SURVEY, ABSTRACT NO. 231 AND THE M.E.P. & P.R.R. CO. SURVEY, ABSTRACT 935, IN DENTON COUNTY, TEXAS, AND BEING PART OF ALL OF THAT TRACT THREE CONVEYED IN DEED TO SHADY OAKS FAMILY RANCH, LTD, ACCORDING TO THE DOCUMENT OF RECORD FILED IN DOCUMENT NUMBER 2012-136827, OF THE OFFICIAL RECORDS OF DENTON COUNTY, TEXAS, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A TEXAS DEPARTMENT OF TRANSPORTATION (TxDOT) MONUMENT FOUND STAMPED "3257", FOR THE NORTHEAST CORNER OF THE HEREIN DESCRIBED TRACT, COMMON WITH THE NORTHWEST CORNER OF LOT 1, BLOCK A OF THE RECORD PLAT OF ST PHILIP THE APOSTLE CATHOLIC CHURCH ADDITION, ACCORDING TO THE DOCUMENT OF RECORD FILED IN DOCUMENT NUMBER 2019-444, OF THE OFFICIAL RECORDS OF DENTON COUNTY, TEXAS; ALSO BEING ON THE NEW SOUTHERLY RIGHT-OF-WAY LINE OF FARM TO MARKET ROAD 1171, PER DEEDS TO DENTON COUNTY, TEXAS, ACCORDING TO THE DOCUMENTS OF RECORD FILED IN DOCUMENT NUMBER 2007-112943 AND 2007- 106352, OF THE OFFICIAL RECORDS OF DENTON COUNTY, TEXAS;

THENCE SOUTH 00 DEGREES 46 MINUTES 06 SECONDS EAST, ALONG THE COMMON LINE OF SAID PART OF TRACT THREE OF THE SHADY OAK FAMILY RANCH WITH THE WEST LINE OF SAID LOT 1, BLOCK A, A DISTANCE OF 1,366.77 FEET TO A 1/2 INCH IRON ROD WITH CAP, STAMPED "G&A" FOUND FOR THE COMMON WEST CORNER OF SAID LOT 1, BLOCK A OF THE ST PHILIP THE APOSTLE CATHOLIC CHURCH ADDITION AND THE AMENDED RECORD PLAT OF TOWNLAKE PHASE TWO, AN ADDITION TO THE TOWN OF FLOWER MOUND, ACCORDING TO THE DOCUMENT OF RECORD FILED IN DOCUMENT NUMBER 2019-308, OF THE OFFICIAL RECORDS OF DENTON COUNTY, TEXAS;

THENCE ALONG THE COMMON LINE OF SAID PART OF TRACT THREE OF THE SHADY OAK FAMILY RANCH WITH THE WEST LINE OF SAID TOWNLAKE PHASE TWO, AN ADDITION TO THE TOWN OF FLOWER MOUND, THE FOLLOWING THREE (3) COURSES AND DISTANCES:

SOUTH 00 DEGREES 47 MINUTES 21 SECONDS EAST, 437.47 TO A METAL FENCE POST;

NORTH 89 DEGREES 47 MINUTES 24 SECONDS EAST, 688.59 TO A 1/2 INCH IRON ROD FOUND;

SOUTH 00 DEGREES 47 MINUTES 55 SECONDS EAST, 2,015.92 TO A 1/2 INCH IRON ROD WITH CAP, STAMPED "G&A" FOUND ON THE NORTH LINE OF THE RECORD PLAT OF KENSINGTON PARK ESTATES, ACCORDING TO

THE DOCUMENT OF RECORD FILED IN CABINET M, PAGE 183, OF THE PLAT RECORDS OF DENTON COUNTY, TEXAS;

THENCE SOUTH 89 DEGREES 54 MINUTES 21 SECONDS WEST, ALONG THE COMMON LINE OF SAID PART OF TRACT THREE OF THE SHADY OAK FAMILY RANCH WITH THE NORTH LINE OF SAID KENSINGTON PARK ESTATES, A DISTANCE OF 413.90 FEET TO A 1/2 INCH IRON ROD FOUND;

THENCE SOUTH 89 DEGREES 29 MINUTES 41 SECONDS WEST, ALONG THE COMMON LINE OF SAID PART OF TRACT THREE OF THE SHADY OAK FAMILY RANCH WITH THE NORTH LINE OF SAID KENSINGTON PARK ESTATES, AND WITH THE NORTH LINE OF THE REPLAT OF LOTS 2R, 3 AND 4, BLOCK A OF THE CMP FAMILY ADDITION, AN ADDITION TO THE TOWN OF FLOWER MOUND, ACCORDING TO THE DOCUMENT OF RECORD FILED IN DOCUMENT NUMBER 2017-35, OF THE OFFICIAL RECORDS OF DENTON COUNTY, TEXAS, PASSING AT A DISTANCE OF 191.84 FEET A 1/2 INCH REBAR WITH CAP, DEFACED FOUND FOR THE NORTH COMMON CORNER OF LOTS 1 AND 2 OF SAID KENSINGTON PARK ESTATES, AND PASSING AT A DISTANCE OF 802.71 FEET A 5/8 INCH REBAR WITH CAP, STAMPED "KHA" FOUND FOR THE NORTH COMMON CORNER OF LOTS 3 AND 4, BLOCK A OF SAID REPLAT OF LOTS 2R, 3 AND 4, BLOCK A OF THE CMP FAMILY ADDITION, AND CONTINUING FOR A TOTAL DISTANCE OF 951.96 FEET TO A CONCRETE HOLE OF A FENCE POST REMAIN FOR THE SOUTHEAST OF A TRACT OF LAND CONVEYED IN DEED TO M&M SISK FARMS PH III, LLC, ACCORDING TO THE DOCUMENT OF RECORD FILED IN DOCUMENT NUMBER 2017-103592, OF THE OFFICIAL RECORDS OF DENTON COUNTY, TEXAS, FROM WHICH A 1/2 INCH REBAR BEARS NORTH, A DISTANCE OF 0.58 FEET;

THENCE NORTH 00 DEGREES 17 MINUTES 31 SECONDS WEST, ALONG THE COMMON LINE OF SAID PART OF TRACT THREE OF THE SHADY OAK FAMILY RANCH WITH THE EAST LINE OF SAID M&M SISK FARMS PH III TRACT, AND WITH THE EAST LINE OF A TRACT OF LAND CONVEYED IN DEED TO MARIS DARZNIEKS AND LORRAINE DARZNIEKS, HUSBAND AND WIFE, ACCORDING TO THE DOCUMENT OF RECORD FILED IN DOCUMENT NUMBER 96-R0019623, OF THE OFFICIAL RECORDS OF DENTON COUNTY, TEXAS, A DISTANCE OF 882.00 FEET TO A 1/2 INCH IRON ROD FOUND FOR THE NORTHEAST CORNER OF SAID MARIS DARZNIEKS AND LORRAINE DARZNIEKS TRACT, ALSO BEING THE SOUTHEAST CORNER OF A TRACT OF LAND CONVEYED IN DEED TO EAGLERIDGE ENERGY, LLC & USG PROPERTIES BARNETT II, INC., ACCORDING TO THE DOCUMENT OF RECORD FILED IN DOCUMENT NUMBER 2018-70839, OF THE OFFICIAL RECORDS OF DENTON COUNTY, TEXAS;

THENCE NORTH 00 DEGREES 44 MINUTES 46 SECONDS WEST, ALONG THE COMMON LINE OF SAID PART OF TRACT THREE OF THE SHADY OAK FAMILY RANCH WITH THE EAST LINE OF SAID EAGLERIDGE ENERGY, LLC & USG PROPERTIES BARNETT II, INC. TRACT, A DISTANCE OF 1,563.39 FEET TO A 1/2 INCH IRON ROD FOUND FOR THE NORTHEAST CORNER OF SAID EAGLERIDGE

ENERGY, LLC & USG PROPERTIES BARNETT II, INC. TRACT AND AN ELL CORNER OF SAID PART OF TRACT THREE OF THE SHADY OAK FAMILY RANCH;

THENCE NORTH 89 DEGREES 44 MINUTES 19 SECONDS WEST, ALONG THE COMMON LINE OF SAID PART OF TRACT THREE OF THE SHADY OAK FAMILY RANCH WITH THE NORTH LINE OF SAID EAGLERIDGE ENERGY, LLC & USG PROPERTIES BARNETT II, INC. TRACT, PASSING AT DISTANCE OF 571.98 FEET A 5/8 INCH IRON ROD WITH CAP STAMPED "SEMPCO SURVEYING INC" FOUND FOR THE NORTHWEST CORNER OF SAID EAGLERIDGE ENERGY, LLC & USG PROPERTIES BARNETT II, INC. TRACT, ALSO BEING THE NORTHEAST CORNER OF A TRACT OF LAND CONVEYED IN DEED TO M&M SISK FARMS PH III, LLC, ACCORDING TO THE DOCUMENT OF RECORD FILED IN DOCUMENT NUMBER 2018-25710, OF THE OFFICIAL RECORDS OF DENTON COUNTY, TEXAS, AND CONTINUING FOR A TOTAL DISTANCE OF 632.71 FEET TO A 1/2 INCH IRON ROAD FOUND;

THENCE NORTH 00 DEGREES 50 MINUTES 00 SECONDS WEST, ACROSS THE EXISTING SCENIC DRIVE, A DISTANCE OF 1,018.74 FEET TO A PK NAIL WITH WASHER FOUND ON THE ROAD FOR THE NEW SOUTHERLY RIGHT-OF-WAY LINE OF FARM TO MARKET ROAD 1171 PER SAID DEED TO DENTON COUNTY, TEXAS, ACCORDING TO THE DOCUMENT OF RECORD FILED IN DOCUMENT NUMBER 2007-112943, OF THE OFFICIAL RECORDS OF DENTON COUNTY, TEXAS;

THENCE IN AN EASTERLY NORTHEASTERLY DIRECTION ALONG THE SAID NEW SOUTHERLY RIGHT-OF-WAY LINE OF FARM TO MARKET HIGHWAY 1171 (A VARIABLE WIDTH RIGHT-OF-WAY), THE FOLLOWING COURSES AND DISTANCES:

NORTH 89 DEGREES 16 MINUTES 10 SECONDS EAST, A DISTANCE OF 29.81 FEET TO A TxDOT ALUMINUM DISK MONUMENT FOUND;

NORTH 05 DEGREES 43 MINUTES 03 SECONDS EAST, A DISTANCE OF 149.54 FEET TO A TxDOT ALUMINUM DISK MONUMENT FOUND;

NORTH 41 DEGREES 22 MINUTES 49 SECONDS EAST, A DISTANCE OF 47.61 FEET TO A TxDOT ALUMINUM DISK MONUMENT FOUND;

NORTH 83 DEGREES 59 MINUTES 39 SECONDS EAST, A DISTANCE OF 109.88 FEET TO A TxDOT ALUMINUM DISK MONUMENT FOUND;

NORTH 81 DEGREES 41 MINUTES 10 SECONDS EAST, A DISTANCE OF 131.16 FEET TO A 5/8 INCH IRON ROAD FOUND;

NORTH 83 DEGREES 59 MINUTES 15 SECONDS EAST, A DISTANCE OF 196.86 FEET TO A TxDOT ALUMINUM DISK MONUMENT FOUND;

NORTH 88 DEGREES 10 MINUTES 11 SECONDS EAST, A DISTANCE OF

65.53 FEET TO A TxDOT ALUMINUM DISK MONUMENT FOUND;

NORTH 83 DEGREES 57 MINUTES 16 SECONDS EAST, A DISTANCE OF 197.19 FEET TO A TxDOT ALUMINUM DISK MONUMENT FOUND;

NORTH 81 DEGREES 45 MINUTES 55 SECONDS EAST, A DISTANCE OF 393.96 FEET TO A 1/2 IRON ROD WITH CAP STAMPED "AG PROP COR" SET;

NORTH 83 DEGREES 56 MINUTES 51 SECONDS EAST, A DISTANCE OF 135.80 FEET TO THE POINT OF BEGINNING.

CONTAINING 4,672,339.6 SQUARE FEET OR 107.262 ACRES, MORE OR LESS.



EXHIBIT B

Open Space and ROW Dedication Area

(see attached)

EXHIBIT C

Public Improvement Costs & Impact Fees

(see attached)

Item No.	Approx. Quantity	Unit	Item Description	Unit Price	Total Amount
Water					
1	75	Linear Foot	8" P.V.C Water Line	\$75.00	\$5,625
2	1438	Linear Foot	12" P.V.C Water Line	\$125.00	\$179,750
3	2	Each	Fire Hydrant With 6" Valve	\$7,000.00	\$14,000
4	5	Each	8" Gate Valve & Box	\$2,600.00	\$13,000
5	9	Each	12" Gate Valve & Box	\$4,600.00	\$41,400
6	1.86	Tn	Ductile Iron Fittings	\$10,500.00	\$19,551
7	1	Each	1.5" Irrigation Meter	\$2,500.00	\$2,500
8	1	Each	2" Irrigation Meter	\$4,000.00	\$4,000
9	475	Linear Foot	4" Conduit Sleeves	\$25.00	\$11,875
10	2	Each	Remove Plug & Connect to Existing Water Line	\$2,000.00	\$4,000
11	1513	Linear Foot	Testing and Chlorination	\$1.25	\$1,891
12	1513	Linear Foot	Trench Safety	\$1.00	\$1,513
13	1	Lump Sum	Maintenance Bond (2%)	\$5,982.11	\$5,982
14	1	Lump Sum	Inspection Fee (3.15%)	\$9,421.82	\$0
15	1	Lump Sum	Materials Testing (2%)	\$5,982.11	\$5,982
			TOTAL		\$311,068
Platting, Permitting, Engineering, and Staking (10%)					
					\$29,811
TOTAL FOR WATER (including Bonds, Fees, & Testing)					\$340,880
Contingency (15% of Water Total)					\$51,147
TOTAL COSTS FOR WATER (including Bonds, Fees, & Testing)					\$392,127

WAIVED

Storm Sewer					
16	1	Each	18" SETP-PD TXDOT Headwall (No Pipe Runners)	\$7,200.00	\$7,200
17	1	Each	21" SETP-PD TXDOT Headwall (No Pipe Runners)	\$7,800.00	\$7,800
18	1	Each	4' X 3' SETB-PD TXDOT Headwall (No Pipe Runners)	\$10,000.00	\$10,000
19	2	Each	2-5' X 5' SETB-PD TXDOT Headwall (No Pipe Runners)	\$23,000.00	\$46,000
20	364	Linear Foot	18" Class III RCP	\$105.00	\$38,220
21	92	Linear Foot	21" Class III RCP	\$115.00	\$10,580
22	99	Linear Foot	24" Class III RCP	\$130.00	\$12,870
23	443	Linear Foot	36" Class III RCP	\$190.00	\$84,170
24	146	Linear Foot	4' X 3' RCB	\$380.00	\$55,480
25	160	Linear Foot	5' X 3' RCB	\$410.00	\$65,600
26	8	Each	2' X 2' Drop Inlet	\$7,000.00	\$56,000
27	2	Each	4' X 4' Drop Inlet	\$7,800.00	\$15,600
28	363	Square Foot	Flexamat	\$26.00	\$9,438
29	1	Each	6' X 6' Storm Manhole	\$14,000.00	\$14,000
30	30	Linear Foot	18" RCP Culvert Under Driveway To USG Properties	\$105.00	\$3,150
31	2	Each	18" SETP-PD TXDOT Headwall At USG Properties	\$7,200.00	\$14,400
32	48	Linear Foot	18" RCP Culvert under 8' Trail	\$105.00	\$5,040
33	4	Each	18" SETP-PD TXDOT Headwall under 8' Trail	\$7,200.00	\$28,800
34	908	Linear Foot	Testing and T.V. Inspection	\$2.50	\$2,270
35	908	Linear Foot	Trench Safety	\$1.00	\$908
36	1	Lump Sum	Maintenance Bond (2%)	\$9,750.52	\$9,751
37	1	Lump Sum	Inspection Fee (3.15%)	\$15,357.07	\$0
38	1	Lump Sum	Materials Testing (2%)	\$9,750.52	\$9,751
			TOTAL		\$507,027

WAIVED

Paving				
39	14667	Square Yards	8-inch Reinforced Concrete Pavement	\$70.00 \$1,026,690
40	297	Square Yards	8-inch Asphalt Pavement	\$65.00 \$19,305
41	14964	Square Yards	10-inch Lime-Stabilized Subgrade	\$5.00 \$74,820
42	3	Each	Connect to Existing Pavement	\$7,495.53 \$22,487
43	1	Lump Sum	Scenic & Walsingham Drive Striping	\$15,000.00 \$15,000
44	184	Linear Foot	Full Depth Sawcut	\$5.58 \$1,027
45	61	Square Yards	Concrete Driveway Connection	\$70.00 \$4,270
46	3288	Linear Foot	8' Town Trail	\$64.00 \$210,432
47	1282	Linear Foot	12' Town Trail	\$96.00 \$123,072
48	9	Each	TxDOT PED-18 Type 7 Ramp	\$3,000.00 \$27,000
49	4	Each	36" x 36" Stop Sign	\$1,100.00 \$4,400
50	3	Each	30" x 30" Stop Sign	\$1,000.00 \$3,000
51	2	Each	Speed Limit Sign (R2-1)	\$1,000.00 \$2,000
52	10	Each	Street Name Blades	\$750.00 \$7,500
53	9	Each	Street Light (14')	\$10,000.00 \$90,000
54	388	Linear Foot	Street Light Conduit Sleeves	\$22.00 \$8,536
55	1	Lump Sum	Traffic Control	\$8,500.00 \$8,500
56	1	Lump Sum	Abandoned Gas Line Removal	\$10,000.00 \$10,000
57	1	Lump Sum	Total Demolition/Removal Cost for Scenic Drive	\$18,840.00 \$18,840
58	1	Lump Sum	Maintenance Bond (2%)	\$32,790.77 \$32,791
59	1	Lump Sum	Inspection Fee (3.15%)	\$51,645.46 \$0
60	1	Lump Sum	Materials Testing (2%)	\$32,790.77 \$32,791
TOTAL				\$1,742,460
Excavation				
61	13006	Cubic Yards	Unclassified Excavation	\$3.50 \$45,521
62	7.79	Acres	Clearing & Grubbing	\$3,000.00 \$23,370
63	1	Lump Sum	Materials Testing (2%)	\$1,377.82 \$1,378
TOTAL				\$70,269
Platting, Permitting, Engineering, and Staking for Roadway (10%)				\$223,330
TOTAL for Roadway (Including Bonds, Fees, & Testing)				\$2,543,085
Contingency (15% of Roadway Total)				\$381,463
TOTAL COSTS FOR ROADWAY (Including Bonds, Fees, & Testing)				\$2,924,548

WAIVED

COST SHARE SUMMARY				
WATER IMPACT FEES (\$5,612 PER LOT, 65 LOTS TOTAL):				
\$364,780.00	TOTAL IMPACT FEES DUE			
\$392,126.98	COST OF WATER IMPROVEMENTS			
\$27,346.98	PORTION FUNDED BY REIMBURSEMENT			
\$364,780.00	PORTION FUNDED BY IMPACT FEE CREDITS			
\$392,126.98	WATER SUBTOTAL DUE BY TOWN			
ROADWAY IMPACT FEES (\$17974.10 PER LOT, 65 LOTS TOTAL):				
\$1,168,316.50	TOTAL IMPACT FEES DUE			
\$2,924,548.02	COST OF ROADWAY IMPROVEMENTS			
\$1,756,231.52	PORTION FUNDED BY REIMBURSEMENT			
\$1,168,316.50	PORTION FUNDED BY IMPACT FEE CREDITS			
\$2,924,548.02	ROADWAY SUBTOTAL DUE BY TOWN			
\$1,533,096.50	TOTAL DUE BY IMPACT FEE CREDITS			
\$1,783,578.50	TOTAL DUE BY REIMBURSEMENT			
\$3,316,675.00	GRAND TOTAL DUE BY TOWN			
IMPACT FEE BALANCE SUMMARY				
IMPACT FEE TYPE	FEE PER LOT REQUIRED BY ORDINANCE	CREDITS PER LOT BY DA	REMAINING FEE OWED PER LOT WITH PERMIT	
WATER IMPACT FEE (3/4" METERS)	\$ 5,612.00	\$ 6,032.72	\$ (420.72)	
ROADWAY IMPACT FEE (SERVICE AREA B)	\$ 17,974.10	\$ 17,974.10	\$ -	

EXHIBIT D

Depiction of Approximate Location of Public Improvements

(see attached)



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EXHIBIT E

Description and Depiction of approximate location of Offsite ROW Land

(see attached)

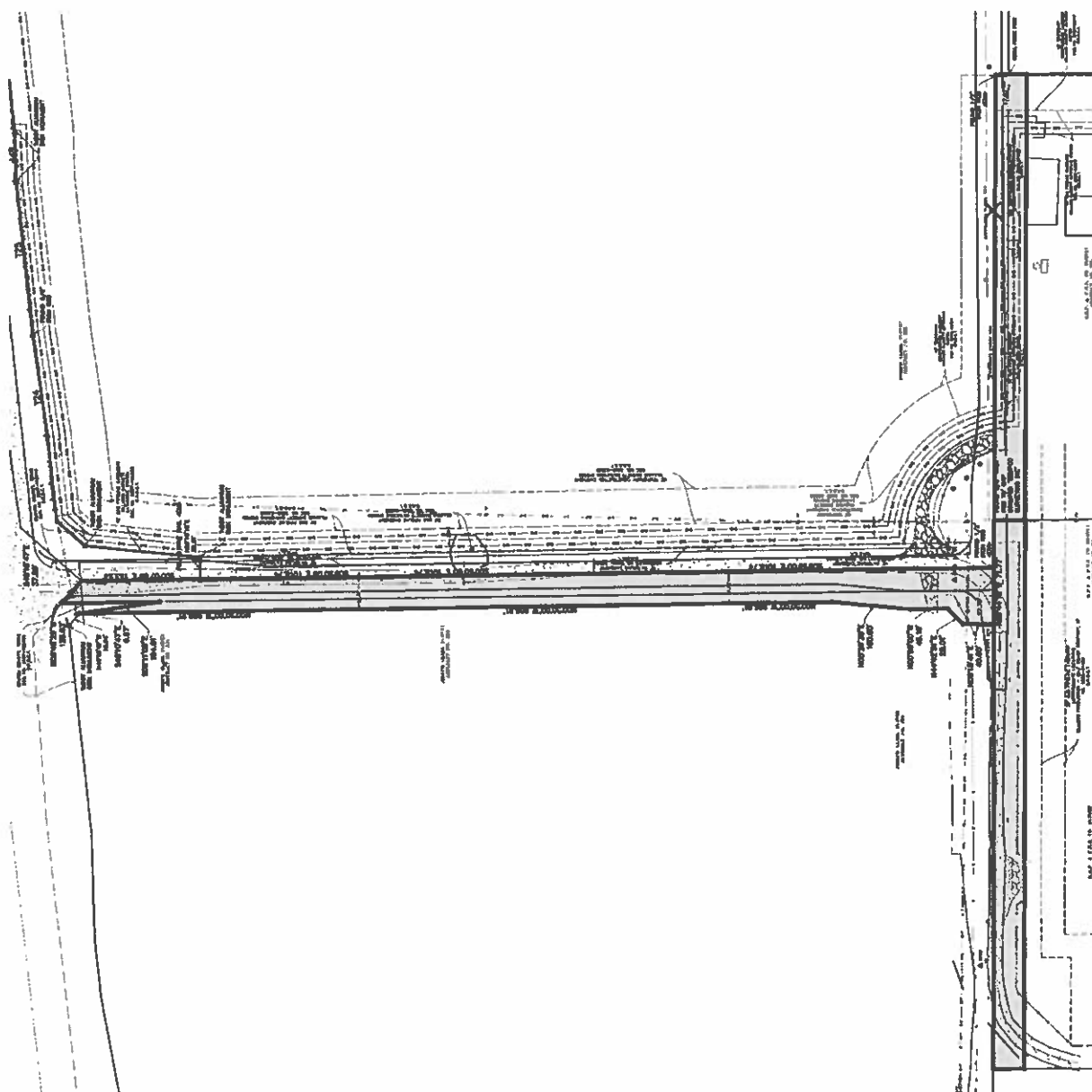


Exhibit E, Depiction of approximate location of Offsite ROW Land – Page 1

Tract 1

EXHIBIT E-1

LEGAL DESCRIPTION:

A 40-FOOT STRIP OF LAND SITUATED IN THE M.E.P. & P.R.R. CO. SURVEY, ABSTRACT NUMBER 935, IN DENTON COUNTY, TEXAS AND BEING THE NORTH 40 FEET OF THAT TRACT OF LAND CONVEYED TO BRONZ PETERSON AND CARA PETERSON, ACCORDING TO THE DOCUMENT OF RECORD FILED IN DOCUMENT NUMBER 2021-98393, OFFICIAL RECORDS DENTON COUNTY, TEXAS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOW:

BEGINNING AT A FOUND 5/8 INCH IRON ROD WITH CAP STAMPED "SEMPCO SURVEYING INC" FOR THE NORTH COMMON CORNER OF SAID BRONZ PETERSON AND CARA PETERSON TRACT AND A TRACT OF LAND CONVEYED TO EAGLERIDGE ENERGY, LLC & USG PROPERTIES BARNETT II, LLC, ACCORDING TO THE DOCUMENT OF RECORD FILED IN DOCUMENT NUMBER 2018-70839, OFFICIAL RECORDS DENTON COUNTY, TEXAS, ALSO BEING ON THE SOUTH LINE OF A TRACT OF LAND DESCRIBED AS "TRACT 1" CONVEYED TO TOLL SOUTHWEST, LLC, ACCORDING TO THE DOCUMENT OF RECORD FILED IN DOCUMENT NUMBER 2021-232703, OFFICIAL RECORDS DENTON COUNTY, TEXAS;

THENCE S 01°05'57" E, ALONG THE COMMON LINE OF SAID BRONZ PETERSON AND CARA PETERSON TRACT AND SAID EAGLERIDGE ENERGY, LLC & USG PROPERTIES BARNETT II, LLC TRACT, A DISTANCE OF 40.01 FEET TO A SET 1/2 INCH IRON ROD WITH CAP STAMPED "AG PROP COR";

THENCE N 89°44'19" W, LEAVING SAID COMMON LINE OF BRONZ PETERSON AND CARA PETERSON TRACT AND EAGLERIDGE ENERGY, LLC & USG PROPERTIES BARNETT II, LLC TRACT, AND ALONG A LINE 40 FEET SOUTH AND PARALLEL TO THE NORTH LINE OF SAID BRONZ PETERSON AND CARA PETERSON TRACT, A DISTANCE OF 702.93 FEET TO A SET 1/2 INCH IRON ROD WITH CAP STAMPED "AG PROP COR" ON THE WEST LINE OF SAID BRONZ PETERSON AND CARA PETERSON TRACT, ALSO BEING THE EASTERLY LINE OF A TRACT OF LAND DESCRIBED AS "TRACT 2" CONVEYED TO BOB SMITH MANAGEMENT COMPANY, LTD, ACCORDING TO THE DOCUMENT OF RECORD FILED IN DOCUMENT NUMBER 1997-89454, OFFICIAL RECORDS DENTON COUNTY, TEXAS;

THENCE N 00°10'44" W, ALONG SAID COMMON LINE OF BRONZ PETERSON AND CARA PETERSON TRACT AND BOB SMITH MANAGEMENT COMPANY TRACT, A DISTANCE OF 40.00 FEET TO A FOUND 1/2 INCH IRON ROD FOR THE NORTHWEST CORNER OF SAID BRONZ PETERSON AND CARA PETERSON TRACT, AND BEING A CHANGE ON DIRECTION ON THE SOUTH LINE OF A TRACT OF LAND CONVEYED TO JAHR RANCH LLC, ACCORDING TO THE DOCUMENT OF RECORD FILED IN DOCUMENT NUMBER 2017-79179, OFFICIAL RECORDS DENTON COUNTY, TEXAS;

THENCE S 89°44'19" E, ALONG THE COMMON LINE OF SAID BRONZ PETERSON AND CARA PETERSON TRACT AND JAHR RANCH LLC TRACT, PASSING AT A DISTANCE OF 641.56 FEET A FOUND 1/2 INCH IRON ROD FOR THE SOUTHWEST CORNER OF THE AFOREMENTIONED TRACT OF LAND DESCRIBED AS "TRACT 1" CONVEYED TO TOLL SOUTHWEST, LLC, AND CONTINUING FOR A TOTAL DISTANCE OF 702.29 TO THE POINT OF BEGINNING.

CONTAINING 28,104.4 SQUARE FEET OR 0.645 ACRES, MORE OR LESS.

GENERAL NOTES:

1. BASIS OF BEARINGS DERIVED FROM THE TEXAS STATE PLANE COORDINATE SYSTEM, NAD83, USING GLOBAL POSITIONING SYSTEM (GPS).
2. THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A TITLE COMMITMENT. THE SURVEY REFLECTS THE PROPERTIES PER THE DOCUMENTS OF RECORD PROVIDED BY THE CLIENT. OTHER EASEMENTS, RESTRICTIONS AND RESERVATIONS OF RECORD MAY AFFECT THE SUBJECT PROPERTY.
3. REFERENCE IS MADE TO A LAND DESCRIPTION OF EVEN DATE ACCOMPANYING THIS SURVEY. THIS SURVEY IS NOT CONSIDER COMPLETE IF ALL 03 SHEETS ARE NOT BOUND TOGETHER.
4. THIS IS NOT A BOUNDARY SURVEY.

CERTIFICATION:

I, JESUS LAJARA, A REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF TEXAS, DO HEREBY CERTIFY THAT THIS PLAT IS BASED ON AN ACTUAL ON THE GROUND SURVEY, MADE UNDER MY DIRECT SUPERVISION AND ALL CORNERS ARE MONUMENTED AS SHOWN HEREON.

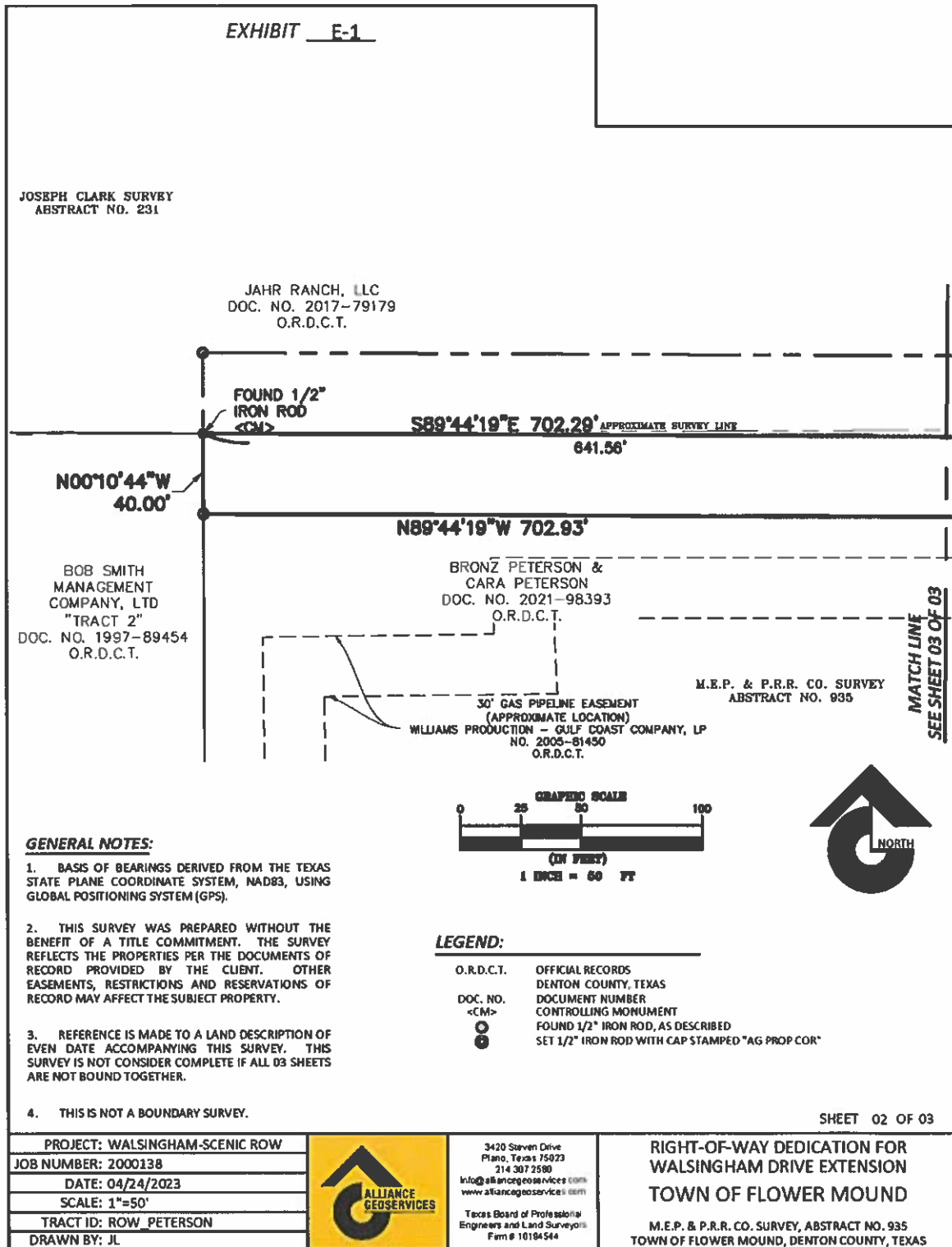
JESUS J. LAJARA DATE
REGISTERED PROFESSIONAL LAND SURVEYOR
TEXAS REGISTRATION # 6378

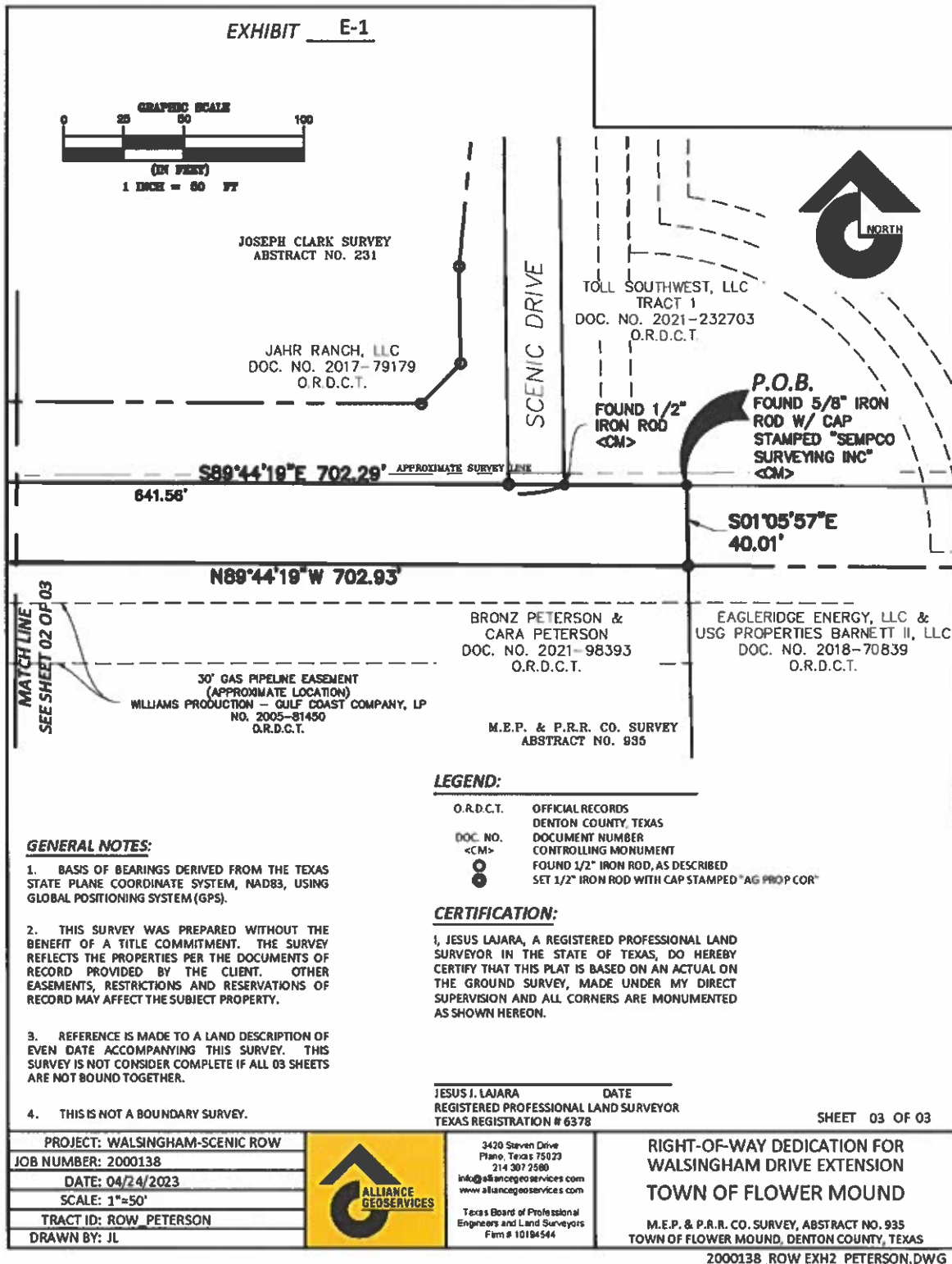
SHEET 01 OF 03

PROJECT: WALSINGHAM-SCENIC ROW		3420 Steven Drive Pleuro, Texas 75023 214.307.2500 Info@alliancegeoservices.com www.alliancegeoservices.com Texas Board of Professional Engineers and Land Surveyors Firm # 10184544	RIGHT-OF-WAY DEDICATION FOR WALSINGHAM DRIVE EXTENSION TOWN OF FLOWER MOUND M.E.P. & P.R.R. CO. SURVEY, ABSTRACT NO. 935 TOWN OF FLOWER MOUND, DENTON COUNTY, TEXAS
JOB NUMBER: 2000138			
DATE: 04/24/2023			
SCALE: N/A			
TRACT ID: ROW_PETERSON			
DRAWN BY: JL			

2000138_ROW EXH2_PETERSON.DWG

EXHIBIT E-1





Tract 2

EXHIBIT E-2

LEGAL DESCRIPTION:

A VARIABLE WIDTH STRIP OF LAND SITUATED IN THE JOSEPH CLARK SURVEY, ABSTRACT NUMBER 231, IN DENTON COUNTY, TEXAS AND BEING PART OF A TRACT OF LAND CONVEYED TO JAHR RANCH, LLC, ACCORDING TO THE DOCUMENT OF RECORD FILED IN DOCUMENT NUMBER 2017-79179, OFFICIAL RECORDS DENTON COUNTY, TEXAS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOW:

BEGINNING AT A FOUND 1/2-INCH IRON ROD FOR THE SOUTHWEST CORNER OF A TRACT OF LAND, IDENTIED AS "TRACT 1", CONVEYED TO TOLL SOUTHWEST, LLC, ACCORDING TO THE DOCUMENT OF RECORD FILED IN DOCUMENT NUMBER 2021-232703, OFFICIAL RECORDS DENTON COUNTY, TEXAS, AND BEING ON THE NORTH LINE OF A TRACT OF LAND CONVEYED TO BRONZ & CARA PETERSON, ACCORDING TO THE DOCUMENT OF RECORD FILED IN DOCUMENT NUMBER 2021-98393, OFFICIAL RECORDS DENTON COUNTY, TEXAS, FROM WHICH A 5/8-INCH IRON ROD WITH CAP, STAMPED "SEMPCO SURVEYING INC" FOR THE NORTHEAST CORNER OF SAID BRONZ & CARA PETERSON TRACT, BEARS S 89°44'19" E, A DISTANCE OF 60.73 FEET;

THENCE N 89°44'19" W, ALONG THE NORTH LINE OF SAID BRONZ & CARA PETERSON TRACT, PASSING AT A DISTANCE OF 27.70 FEET A POINT FOR THE SOUTHEAST CORNER OF SAID JAHR RANCH, LLC TRACT, PER THE DOCUMENT OF RECORD FILED IN DOCUMENT NUMBER 2017-79179, AND CONTINUING FOR A TOTAL DISTANCE OF 71.77 FEET TO A SET 1/2-INCH IRON ROD WITH CAP STAMPED "AG PROP COR" ON THE COMMON LINE OF SAID BRONZ & CARA PETERSON TRACT AND SAID JAHR RANCH, LLC TRACT;

THENCE, LEAVING THE NORTH LINE OF SAID BRONZ & CARA PETERSON TRACT, OVER AND ACROSS SAID JAHR RANCH, LLC TRACT THE FOLLOWING COURSES AND DISTANCES:

N 00°15'41" E, A DISTANCE OF 40.00 FEET TO A SET 1/2-INCH IRON ROD WITH CAP STAMPED "AG PROP COR";

N 44°42'51" E, A DISTANCE OF 28.01 FEET TO A SET 1/2-INCH IRON ROD WITH CAP STAMPED "AG PROP COR";

N 00°50'00" W, A DISTANCE OF 48.19 FEET TO A SET 1/2-INCH IRON ROD WITH CAP STAMPED "AG PROP COR";

N 05°26'39" E, A DISTANCE OF 100.60 FEET TO A SET 1/2-INCH IRON ROD WITH CAP STAMPED "AG PROP COR";

N 00°50'00" W, A DISTANCE OF 966.91 FEET TO A SET 1/2-INCH IRON ROD WITH CAP STAMPED "AG PROP COR" ON THE NORTH LINE OF SAID JAHR RANCH, LLC TRACT AND THE SOUTH RIGHT-OF-WAY LINE OF FM HIGHWAY 1171 (A VARIABLE WIDTH RIGHT-OF-WAY), PER A WARRANTY DEED TO DENTON COUNTY, TEXAS, ACCORDING TO THE DOCUMENT OF RECORD FILED IN DOCUMENT NUMBER 2007-135605, OFFICIAL RECORDS DENTON COUNTY, TEXAS, FROM WHICH A MONUMENT WITH AN ALUMINUM DISK STAMPED "TXDOT" BEARS N 49°10'47" W, A DISTANCE OF 19.94 FEET;

THENCE ALONG SAID COMMON LINE OF JAHR RANCH LLC TRACT AND THE RIGHT-OF-WAY LINE OF FM HIGHWAY 1171 THE FOLLOWING COURSES AND DISTANCES:

S 49°10'47" E, A DISTANCE OF 0.67 FEET TO A SET 1/2-INCH IRON ROD WITH CAP STAMPED "AG PROP COR";

S 08°11'08" E, A DISTANCE OF 104.61 FEET TO A SET 1/2-INCH IRON ROD WITH CAP STAMPED "AG PROP COR" FOR THE SOUTHEASTERLY CORNER OF SAID RIGHT-OF-WAY TRACT OF FM HIGHWAY 1171 AND THE EAST LINE OF SAID JAHR RANCH, LLC TRACT (AS DESCRIBED ON SAID DOCUMENT NUMBER 2017-79179);

THENCE N 00°45'29" W, ON SCENIC DRIVE, A DISTANCE OF 125.63 FEET TO A POINT FOR CORNER;

THENCE S 48°18'47" E, A DISTANCE OF 37.80 FEET TO A POINT FOR CORNER NEAR THE EXISTING CENTERLINE OF SCENIC DRIVE;

THENCE S 00°07'09" E, ALONG THE APPROXIMATE CENTERLINE ON SCENIC DRIVE, A DISTANCE OF 153.24 FEET TO A MAG NAIL FOUND ON THE SOUTH RIGHT-OF-WAY LINE OF SAID FM HIGHWAY 1171 AND BEING THE MOST SOUTHWESTERLY CORNER OF A RIGHT-OF-WAY TRACT, PER SPECIAL WARRANTY DEED TO DENTON COUNTY, TEXAS, ACCORDING TO THE DOCUMENT OF RECORD FILED IN DOCUMENT NUMBER 2007-112943, OFFICIAL RECORDS DENTON COUNTY, TEXAS; ALSO BEING ON THE MOST WESTERLY LINE OF A TRACT OF LAND, DESCRIBED AS "TRACT 1", CONVEYED TO TOLL SOUTHWEST, LLC, ACCORDING TO THE DOCUMENT OF RECORD FILED IN DOCUMENT NUMBER 2021-232703, OFFICIAL RECORDS DENTON COUNTY, TEXAS, FROM WHICH A MONUMENT WITH AN ALUMINUM DISK STAMPED "TXDOT" BEARS N 89°16'10" E, A DISTANCE OF 29.81 FEET;

THENCE S 00°50'00" E, ALONG THE MOST WESTERLY LINE OF SAID TOLL SOUTHWEST, LLC TRACT, A DISTANCE OF 1018.74 FEET TO THE POINT OF BEGINNING.

CONTAINING 49,472.4 SQUARE FEET OR 1.135 ACRES, MORE OR LESS.

GENERAL NOTES:

1. BASIS OF BEARINGS DERIVED FROM THE TEXAS STATE PLANE COORDINATE SYSTEM, NAD83, USING GLOBAL POSITIONING SYSTEM (GPS).

2. THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A TITLE COMMITMENT. THE SURVEY REFLECTS THE PROPERTIES PER THE DOCUMENTS OF RECORD PROVIDED BY THE CLIENT. OTHER EASEMENTS, RESTRICTIONS AND RESERVATIONS OF RECORD MAY AFFECT THE SUBJECT PROPERTY.

3. REFERENCE IS MADE TO A LAND DESCRIPTION OF EVEN DATE ACCOMPANYING THIS SURVEY. THIS SURVEY IS NOT CONSIDER COMPLETE IF ALL 05 SHEETS ARE NOT BOUND TOGETHER.

4. THIS IS NOT A BOUNDARY SURVEY.

CERTIFICATION:

I, JESUS J. LAJARA, A REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF TEXAS, DO HEREBY CERTIFY THAT THIS PLAT IS BASED ON AN ACTUAL ON THE GROUND SURVEY, MADE UNDER MY DIRECT SUPERVISION AND ALL CORNERS ARE MONUMENTED AS SHOWN HEREON.

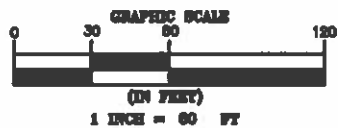
JESUS J. LAJARA DATE
REGISTERED PROFESSIONAL LAND SURVEYOR
TEXAS REGISTRATION # 6378

SHEET 01 OF 04

PROJECT: WALSINGHAM-SCENIC ROW		3420 Steven Drive Plano, Texas 75023 214.307.2580 info@alliancegeoservices.com www.alliancegeoservices.com Texas Board of Professional Engineers and Land Surveyors Firm # 10184544	RIGHT-OF-WAY DEDICATION FOR SCENIC DRIVE TOWN OF FLOWER MOUND JOSEPH CLARK SURVEY, ABSTRACT NO. 231 TOWN OF FLOWER MOUND, DENTON COUNTY, TEXAS
JOB NUMBER: 2000138			
DATE: 03/01/2024			
SCALE: N/A			
TRACT ID: ROW_JAHR RANCH (R1)			
DRAWN BY: JL			

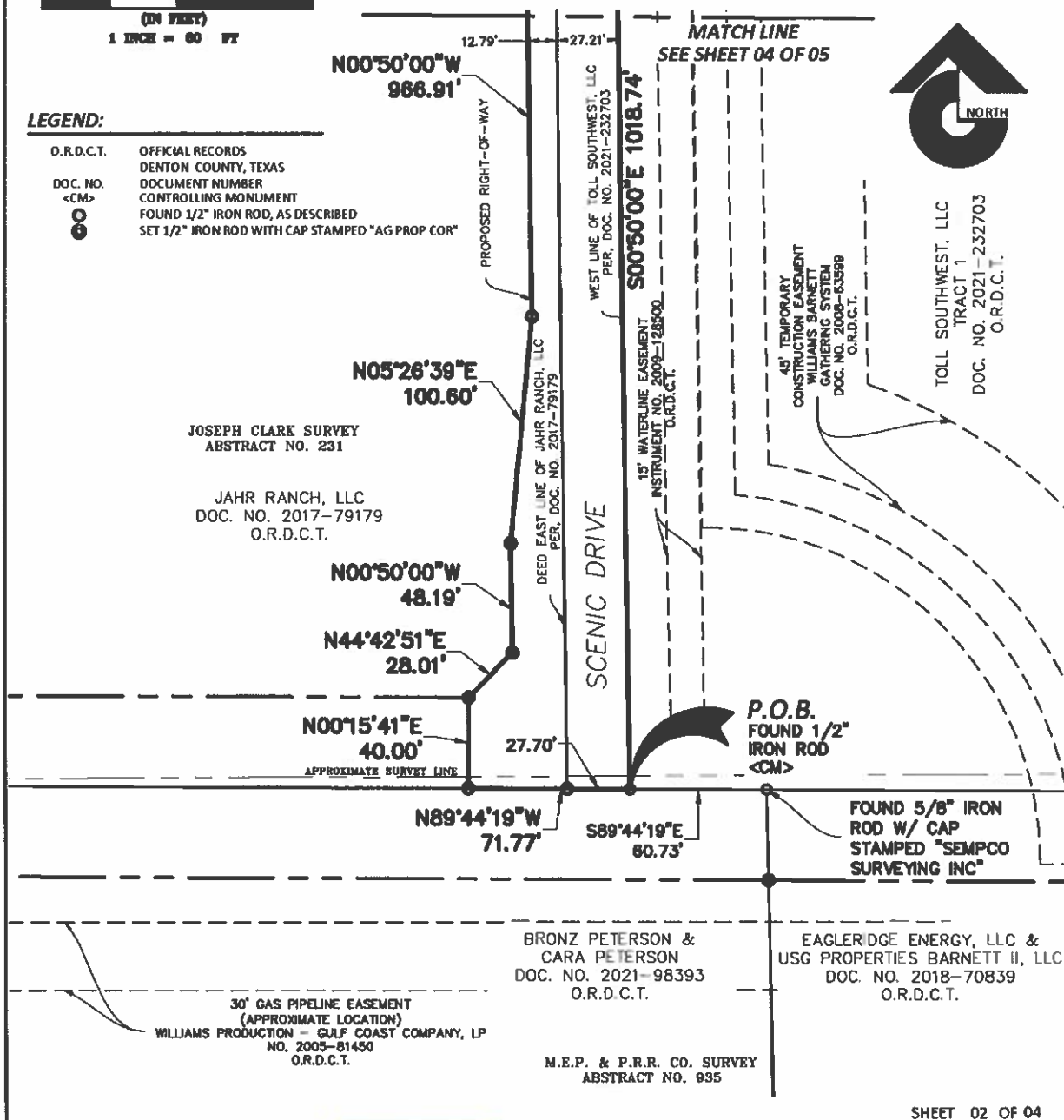
2000138_ROW EXH3MOD20240301_CIRCLE C RANCH_JAHR.DWG

EXHIBIT E-2



LEGEND:

O.R.D.C.T. OFFICIAL RECORDS
DENTON COUNTY, TEXAS
DOC. NO. DOCUMENT NUMBER
<CM> CONTROLLING MONUMENT
FOUND 1/2" IRON ROD, AS DESCRIBED
SET 1/2" IRON ROD WITH CAP STAMPED "AG PROP COR"

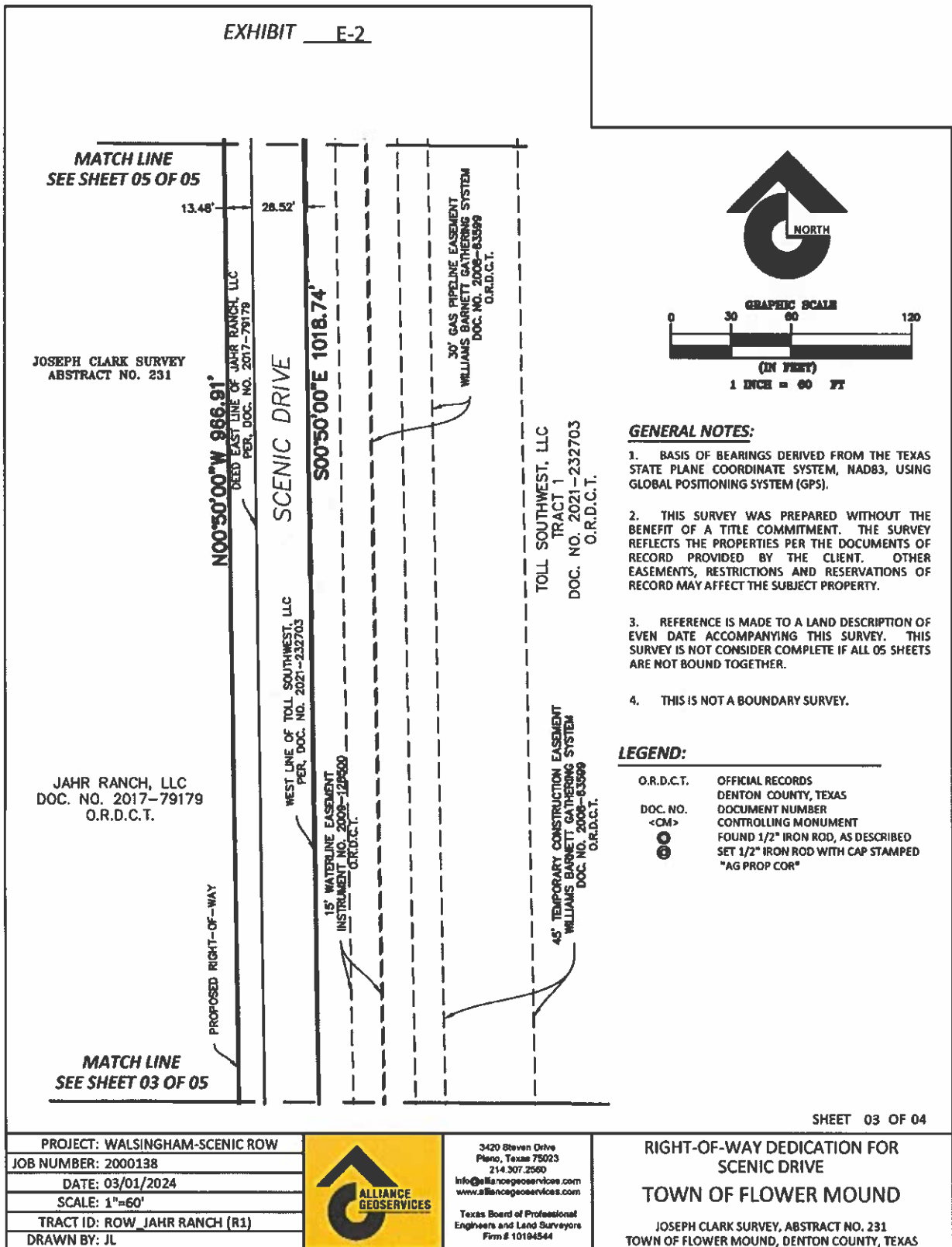


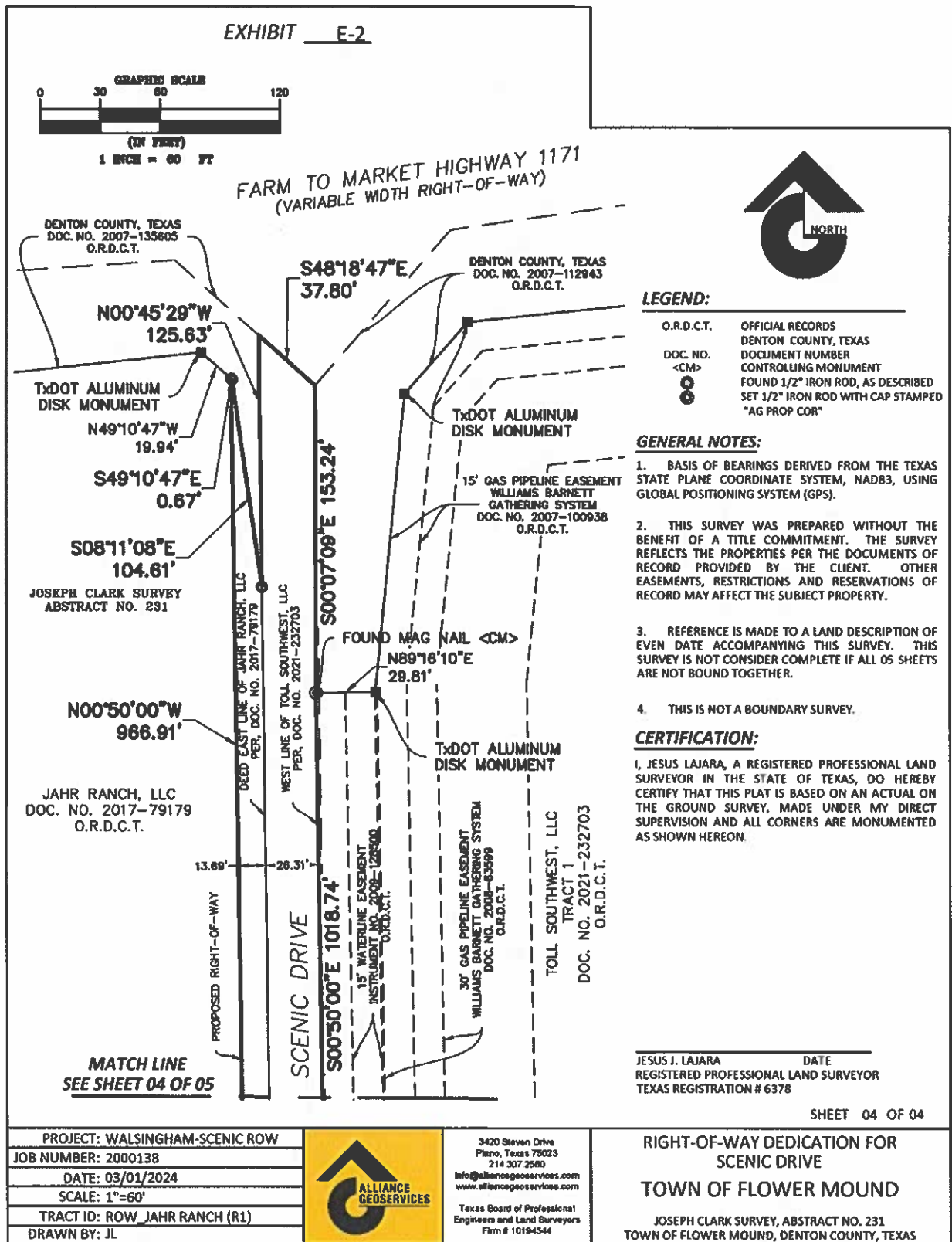
SHEET 02 OF 04

PROJECT: WALSINGHAM-SCENIC ROW JOB NUMBER: 2000138 DATE: 03/01/2024 SCALE: 1"=60' TRACT ID: ROW JAHR RANCH (R1) DRAWN BY: JL		3420 Steven Drive Plano, Texas 75023 214 307 2580 info@alliancegeoservices.com www.alliancegeoservices.com Texas Board of Professional Engineers and Land Surveyors Firm # 10194544	RIGHT-OF-WAY DEDICATION FOR SCENIC DRIVE TOWN OF FLOWER MOUND JOSEPH CLARK SURVEY, ABSTRACT NO. 231 TOWN OF FLOWER MOUND, DENTON COUNTY, TEXAS
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2000138_ROW EXH3MOD20240301_CIRCLE C RANCH_JAHR.DWG

EXHIBIT E-2





Tract 3

EXHIBIT E-3

LEGAL DESCRIPTION:

A 40-FOOT STRIP OF LAND SITUATED IN THE M.E.P. & P.R.R. CO. SURVEY, ABSTRACT NUMBER 935, IN DENTON COUNTY, TEXAS AND BEING THE NORTH 40 FEET OF THAT TRACT OF LAND CONVEYED TO EAGLERIDGE ENERGY, LLC & USG PROPERTIES BARNETT II, LLC, ACCORDING TO THE DOCUMENT OF RECORD FILED IN DOCUMENT NUMBER 2018-70839, OFFICIAL RECORDS DENTON COUNTY, TEXAS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOW:

BEGINNING AT A FOUND 5/8 INCH IRON ROD WITH CAP STAMPED "SEMPCO SURVEYING INC" FOR THE NORTH COMMON CORNER OF SAID EAGLERIDGE ENERGY, LLC & USG PROPERTIES BARNETT II, LLC TRACT AND A TRACT OF LAND CONVEYED TO BRONZ PETERSON AND CARA PETERSON, ACCORDING TO THE DOCUMENT OF RECORD FILED IN DOCUMENT NUMBER 2021-98393, OFFICIAL RECORDS DENTON COUNTY, TEXAS, FROM WHICH A FOUND 1/2 INCH IRON ROD, FOR THE SOUTHWEST CORNER OF A TRACT OF LAND DESCRIBED AS "TRACT 1" CONVEYED TO TOLL SOUTHWEST, LLC, ACCORDING TO THE DOCUMENT OF RECORD FILED IN DOCUMENT NUMBER 2021-232703, OFFICIAL RECORDS DENTON COUNTY, TEXAS, BEARS N 89°44'19" W, A DISTANCE OF 60.73 FEET;

THENCE S 89°44'19" E, ALONG THE COMMON LINE OF SAID EAGLERIDGE ENERGY, LLC & USG PROPERTIES BARNETT II, LLC TRACT AND SAID "TRACT 1" OF TOLL SOUTHWEST, LLC, A DISTANCE OF 571.98 FEET TO A FOUND 1/2 INCH IRON ROD FOR THE NORTHEAST CORNER OF SAID EAGLERIDGE ENERGY, LLC & USG PROPERTIES BARNETT II, LLC TRACT;

THENCE S 00°44'46" E, ALONG THE EAST LINE OF SAID EAGLERIDGE ENERGY, LLC & USG PROPERTIES BARNETT II, LLC TRACT, PASSING AT A DISTANCE OF 17.07 FEET A METAL FENCE POST FOR THE NORTHWEST CORNER OF A TRACT OF LAND DESCRIBED AS "TRACT 2" CONVEYED TO TOLL SOUTHWEST, LLC, ACCORDING TO THE DOCUMENT OF RECORD FILED IN DOCUMENT NUMBER 2021-232703, OFFICIAL RECORDS DENTON COUNTY, TEXAS, AND CONTINUING FOR A TOTAL DISTANCE OF 40.01 FEET TO A SET 1/2 INCH IRON ROD WITH CAP STAMPED "AG PROP COR";

THENCE N 89°44'19" W, LEAVING SAID EAST LINE OF EAGLERIDGE ENERGY, LLC & USG PROPERTIES BARNETT II, LLC TRACT AND ALONG A LINE 40 FEET SOUTH AND PARALLEL TO THE NORTH LINE OF SAID EAGLERIDGE ENERGY, LLC & USG PROPERTIES BARNETT II, LLC TRACT, A DISTANCE OF 571.73 FEET TO A SET 1/2 INCH IRON ROD WITH CAP STAMPED "AG PROP COR" ON THE WEST LINE OF SAID EAGLERIDGE ENERGY, LLC & USG PROPERTIES BARNETT II, LLC TRACT, ALSO BEING THE EAST LINE OF AFOREMENTIONED BRONZ PETERSON AND CARA PETERSON TRACT;

THENCE N 01°05'57" W, ALONG SAID COMMON LINE OF EAGLERIDGE ENERGY, LLC & USG PROPERTIES BARNETT II, LLC TRACT AND THE BRONZ PETERSON AND CARA PETERSON TRACT, A DISTANCE OF 40.01 FEET TO THE POINT OF BEGINNING.

CONTAINING 22,874.1 SQUARE FEET OR 0.525 ACRES, MORE OR LESS

GENERAL NOTES:

1. BASIS OF BEARINGS DERIVED FROM THE TEXAS STATE PLANE COORDINATE SYSTEM, NAD83, USING GLOBAL POSITIONING SYSTEM (GPS).
2. THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A TITLE COMMITMENT. THE SURVEY REFLECTS THE PROPERTIES PER THE DOCUMENTS OF RECORD PROVIDED BY THE CLIENT. OTHER EASEMENTS, RESTRICTIONS AND RESERVATIONS OF RECORD MAY AFFECT THE SUBJECT PROPERTY.
3. REFERENCE IS MADE TO A LAND DESCRIPTION OF EVEN DATE ACCOMPANYING THIS SURVEY. THIS SURVEY IS NOT CONSIDER COMPLETE IF ALL 03 SHEETS ARE NOT BOUND TOGETHER.
4. THIS IS NOT A BOUNDARY SURVEY.

CERTIFICATION:

I, JESUS J. LAJARA, A REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF TEXAS, DO HEREBY CERTIFY THAT THIS PLAT IS BASED ON AN ACTUAL ON THE GROUND SURVEY, MADE UNDER MY DIRECT SUPERVISION AND ALL CORNERS ARE MONUMENTED AS SHOWN HEREON.

JESUS J. LAJARA DATE
REGISTERED PROFESSIONAL LAND SURVEYOR
TEXAS REGISTRATION # 6378

SHEET 01 OF 03

PROJECT: WALSHINGHAM-SCENIC ROW
JOB NUMBER: 2000138
DATE: 04/24/2023
SCALE: N/A
TRACT ID: ROW EAGLERIDGE
DRAWN BY: JL



3420 Steven Drive
Plano, Texas 75023
214.307.2500
info@alliancegeoservices.com
www.alliancegeoservices.com
Texas Board of Professional
Engineers and Land Surveyors
Firm # 10194544

RIGHT-OF-WAY DEDICATION FOR
WALSHINGHAM DRIVE EXTENSION
TOWN OF FLOWER MOUND

M.E.P. & P.R.R. CO. SURVEY, ABSTRACT NO. 935
TOWN OF FLOWER MOUND, DENTON COUNTY, TEXAS

2000138_ROW EXH1_EAGLERIDGE.DWG

EXHIBIT E-3

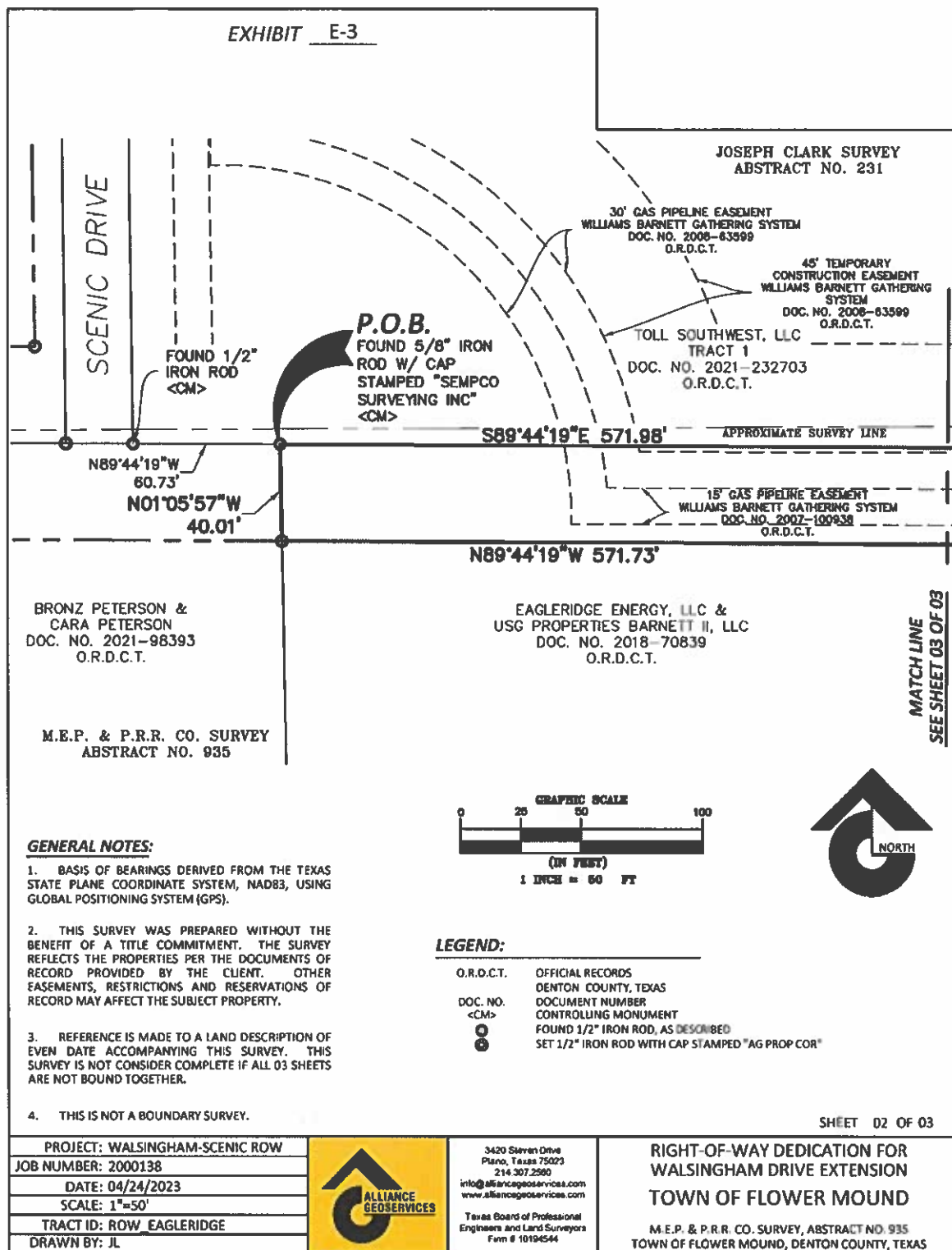


EXHIBIT E-3



JOSEPH CLARK SURVEY
ABSTRACT NO. 231

TOLL SOUTHWEST, LLC
TRACT 1
DOC. NO. 2021-232703
O.R.D.C.T.

APPROXIMATE SURVEY LINE
S89°44'19"E 571.98'

FOUND 1/2"
IRON ROD
<CM>

S00°44'46"E
40.01'

METAL FENCE POST

15' GAS PIPELINE EASEMENT
WILLIAMS BARNETT GATHERING SYSTEM
DOC. NO. 2007-100938
O.R.D.C.T.

17.07'

N89°44'19"W 571.73'

EAGLERIDGE ENERGY, LLC &
USG PROPERTIES BARNETT II, LLC
DOC. NO. 2018-70839
O.R.D.C.T.

TOLL SOUTHWEST, LLC
TRACT 2
DOC. NO. 2021-232703
O.R.D.C.T.

45' TEMPORARY
CONSTRUCTION EASEMENT
WILLIAMS BARNETT GATHERING
SYSTEM
DOC. NO. 2008-63599
O.R.D.C.T.

30' GAS PIPELINE EASEMENT
WILLIAMS BARNETT GATHERING SYSTEM
DOC. NO. 2008-63599
O.R.D.C.T.

M.E.P. & P.R.R. CO. SURVEY
ABSTRACT NO. 935

MATCH LINE
SEE SHEET 02 OF 03

LEGEND:

O.R.D.C.T. OFFICIAL RECORDS
DENTON COUNTY, TEXAS
DOC. NO. DOCUMENT NUMBER
<CM> CONTROLLING MONUMENT
FOUND 1/2" IRON ROD, AS DESCRIBED
SET 1/2" IRON ROD WITH CAP STAMPED "AG PROP COR"

CERTIFICATION:

I, JESUS J. LAJARA, A REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF TEXAS, DO HEREBY CERTIFY THAT THIS PLAT IS BASED ON AN ACTUAL ON THE GROUND SURVEY, MADE UNDER MY DIRECT SUPERVISION AND ALL CORNERS ARE MONUMENTED AS SHOWN HEREON.

JESUS J. LAJARA DATE
REGISTERED PROFESSIONAL LAND SURVEYOR
TEXAS REGISTRATION # 6378

SHEET 03 OF 03

GENERAL NOTES:

1. BASIS OF BEARINGS DERIVED FROM THE TEXAS STATE PLANE COORDINATE SYSTEM, NAD83, USING GLOBAL POSITIONING SYSTEM (GPS).
2. THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A TITLE COMMITMENT. THE SURVEY REFLECTS THE PROPERTIES PER THE DOCUMENTS OF RECORD PROVIDED BY THE CUE. OTHER EASEMENTS, RESTRICTIONS AND RESERVATIONS OF RECORD MAY AFFECT THE SUBJECT PROPERTY.
3. REFERENCE IS MADE TO A LAND DESCRIPTION OF EVEN DATE ACCOMPANYING THIS SURVEY. THIS SURVEY IS NOT CONSIDER COMPLETE IF ALL 03 SHEETS ARE NOT BOUND TOGETHER.
4. THIS IS NOT A BOUNDARY SURVEY.

PROJECT: WALSHINGHAM-SCENIC ROW
JOB NUMBER: 2000138
DATE: 04/24/2023
SCALE: 1"=50'
TRACT ID: ROW EAGLERIDGE
DRAWN BY: JL



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Engineers and Land Surveyors
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RIGHT-OF-WAY DEDICATION FOR
WALSHINGHAM DRIVE EXTENSION
TOWN OF FLOWER MOUND

M.E.P. & P.R.R. CO. SURVEY, ABSTRACT NO. 935
TOWN OF FLOWER MOUND, DENTON COUNTY, TEXAS

2000138_ROW EXH1_EAGLERIDGE.DWG



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

DATE: June 3, 2024

FROM: Lexin Murphy, Director of Development Services

ITEM: **Consider and discuss zoning requirements for helistops and other aircraft-based uses.**

BACKGROUND: Recent helicopter and rotorcraft activity in residentially zoned areas of Town have raised some concerns from residents. Through this item, staff will provide general background on this topic, as well as related ordinance information, which will allow Town Council the opportunity to both ask questions and provide staff with direction.

Staff's presentation will include a historical summary of events related to helicopters, current Town code definitions and ordinances, and a benchmark city comparison.

BOARD REVIEW/CITIZEN FEEDBACK: During the [Public Comment](#) section of the April 15, 2024, Town council meeting, a resident of the Bella Lago Subdivision brought up concerns about private citizens illegally flying helicopters in and out of adjacent subdivisions. Town Council then agreed during the Future Agenda Items section of that meeting that this topic should be brought up at a later date for further discussion.

ALTERNATIVES: N/A

FISCAL IMPACT: N/A

LEGAL REVIEW: N/A

ATTACHMENTS:

None

DRAFT MOTION: Discuss and provide staff with direction.



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

DATE: June 3, 2024

FROM: John Zagurski, Chief Financial Officer

ITEM: Discuss and provide feedback on large capital projects and future debt issuances.

BACKGROUND: Twenty-two years have passed since the last Blue-Ribbon Bond Committee was formed for a General Obligation (GO) election. The previous committee's focus was the creation of the Community Activity Center and two additional parks. Once again, the Town of Flower Mound is facing capital demands that could necessitate the engagement of a bond committee to vet the projects before sending the decision to the Town Council for final approval and placement on a future ballot. A Blue-Ribbon Bond Committee is one of the few means under state law to evaluate requests, receive feedback from residents, and gauge public support. The purpose of this discussion item is to update the Town Council on the status of potential projects under consideration and to gauge their interest in calling an election in May of 2025.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES:

FISCAL IMPACT: N/A

N/A

LEGAL REVIEW: N/A

ATTACHMENTS:

None

DRAFT MOTION: Discuss and provide staff with direction.