

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



August 19, 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@flowermound.gov or by calling 972.874.6005 and leaving a message.

AGENDA

A. CALL TO ORDER

B. INVOCATION

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

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

D. PRESENTATION(S)

1. Proclamation and presentation of Hometown Hero banner to Thomas Economidis
2. Senior Center Month Proclamation
3. Ovarian Cancer Awareness Month Proclamation

E. PUBLIC COMMENT

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

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

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

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

F. ANNOUNCEMENTS

1. Announcements from the mayor and council members

G. TOWN MANAGER'S REPORT

1. Capital Improvement Projects
2. Economic Development Projects
3. Organizational Updates
 - a. Employee Recognition

H. FUTURE AGENDA ITEM(S)

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

I. COORDINATION OF CALENDARS

1. September 2 - Labor Day (No meeting)
2. September 16 - Regular Meeting
3. September 17 - Board & Commission Interviews (1 of 2)
4. September 19 - Board & Commission Interviews (2 of 2)

J. CONSENT ITEM(S)

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

1. Minutes - 8/5 and 8/15 - Consider approval of the minutes from a regular meeting held on August 5, 2024, and a work session held on August 15, 2024.
2. SPAN Agreement - Consider approval of a Service Agreement for Demand Response Transit Service with SPAN, Inc., in an amount not-to-exceed \$60,873.12, to provide transportation service for Town citizens who are age 65 or older and Town citizens with verifiable disabilities that prevent them from driving; and authorization for the Mayor to execute same on behalf of the Town.
3. Vehicle purchase (3) - Public Works Water Line Maint. Div. - Consider approval of the purchase of one 2023 F350 Regular Cab with Dump Body, one 2024 F250 Super Cab, and one 2024 Ford F550 Crew Cab, with Service Body per the Town of Flower Mound Specifications and Vendor Quotes from Silsbee Ford, for the Public Works Water Line Maintenance division, for a total of \$216,199.00.
4. Vehicle purchase (1) - Public Works Sewer Line Maint. Div. - Consider approval of the purchase of one 2024 Ford F550 Crew Cab, with Service Body per the Town of Flower Mound Specifications and Vendor Quote from Silsbee Ford, for the Public Works Sewer Line Maintenance division, for the amount of \$71,452.50.

5. Water Valve Maintenance Trailer purchase - Public Works - Consider approval of the purchase of one Wachs Standard LX VMT – Water Valve Maintenance Trailer with Options and Accessories from Wachs Utility Products in the amount of \$121,012.67.
6. Emergency generator for Fire Station 2 - Consider approval of a quote for the purchase and installation of a replacement 150 kW emergency generator for Fire Station 2 from Parker Power Systems Inc. in the amount of \$82,397.91.
7. Denton Creek Blvd Bridge & Waterline Materials Testing PSA - Consider approval of a Professional Services Agreement with ECS Southwest, LLP for the engineering materials testing associated with the Denton Creek Blvd Bridge and Waterline project, in the amount of \$86,120.00, and authorization for the Mayor to execute same on behalf of the Town.
8. Denton Creek Blvd Bridge Inspection Services PSA - Consider approval of a Professional Services Agreement with VRX Global, Inc., for bridge inspection services associated with the Denton Creek Blvd Bridge and Waterline project, in the amount of \$227,512.08; and authorization for the Mayor to execute same on behalf of the Town.
9. Peters Colony Memorial Park Material Testing PSA - Consider approval of a Professional Services Agreement with Alliance Geotechnical Group, Inc., to provide construction material testing services, for the Peters Colony Memorial Park project, in the amount of \$69,795.00, and authorization for the Mayor to execute same on behalf of the Town.
10. Timber Creek Trail Alignment Feasibility and Hydraulic Analysis - Consider the approval of a Professional Services Agreement with Halff Associates, Inc. for the Timber Creek Trail Alignment Feasibility and Hydraulic Analysis, in the amount of \$99,500.00; and authorization for the Mayor to execute same on behalf of the Town.
11. Water Conservation Plan Update - Consider a request to amend the Town's Code of Ordinances by amending Chapter 70: Utilities by replacing Article VI, entitled "Water Conservation;" in its entirety with a new Article VI, entitled "Water Conservation", and to consider adopting an ordinance for said amendment.
12. Flood Damage Prevention Ordinance Update - Consider approval of an ordinance amending the Town's Code of Ordinances Chapter 33 entitled "Flood Damage Prevention" and removing references to previous Flood Damage Prevention Ordinance 06-18.
13. Certified Collection Rate - Consider accepting the submission of the certified collection rate of 100 percent for the fiscal year beginning October 1, 2024, and ending September 30, 2025.
14. 2024 Certified Appraisal Roll - Consider approval of an ordinance establishing the 2024 certified appraisal roll.
15. No-New-Revenue and Voter-Approval Tax Rates - Consider accepting the submission of the notice of a no-new-revenue tax rate of \$0.348167 per \$100 assessed valuation and a voter-approval tax rate of \$0.387278 per \$100 assessed valuation for the fiscal year beginning October 1, 2024, and ending September 30, 2025.

16. Schedule Budget and Tax Rate Meetings - Consider proposing a maximum tax rate of \$0.387278 per \$100 valuation for the fiscal year beginning October 1, 2024, and ending September 30, 2025; and scheduling September 16, 2024, public hearing on the budget, scheduling September 16, 2024, public hearing on the tax rate, and scheduling the September 16, 2024, adoption of said budget and tax rate; with each meeting to be held at 6:00 PM, at Town Hall, located at 2121 Cross Timbers Road.

K. REGULAR ITEM(S)

1. Proposed Budget FY 2024-2025 - Discussion and direction regarding the FY 2024 - 2025 proposed budget, including community support funding, and water, wastewater and stormwater rates (continued from August 15).
2. Crime District Budget Public Hearing - Public Hearing by the Town Council acting as the Board of Directors for the Town of Flower Mound Crime Control and Prevention District to consider the Flower Mound Crime Control and Prevention District proposed budget for the fiscal year beginning on October 1, 2024, and ending on September 30, 2025.
3. Fire District Budget Public Hearing - Public Hearing by the Town Council acting as the Board of Directors for the Town of Flower Mound Fire Control, Prevention, and Emergency Medical Services District to consider the Flower Mound Fire Control, Prevention, and Emergency Medical Services District proposed budget for the fiscal year beginning on October 1, 2024, and ending on September 30, 2025.

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.

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. Consultation with Town Attorney.
 - a. Enforcement of Zoning Regulations
2. Discuss and consider purchase, exchange, lease or value of real property for parks, cultural arts, public safety, public rights-of-way, and/or other municipal purposes and all matters incident and related thereto.

3. Discuss and consider resignations, appointments, evaluations, reassignments, discipline, or dismissals for the following boards or commissions: Board of Adjustment/Oil & Gas Board of Appeals, and Planning and Zoning Commission.
4. Discuss and consider economic development incentives, including retail centers, grocers, corporate relocation/expansion/retention, hospitality projects, health care facilities, performance related to certain incentive agreements, and Tax Increment Reinvestment Zone (TIRZ) #1, TIRZ #2, River Walk PID No. 1, Proposed PID, MMDs, and MUDs.

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

N. RECONVENE

O. ADJOURN

I do hereby certify that the Notice of Meeting was posted on the bulletin board at the Town Hall for the Town of Flower Mound, Texas, in a place convenient and readily accessible to the general public at all times and said Notice was also posted on the Town's website in accordance with GC Section 551.056 on the following date and time: August 16, 2024, at 1:48 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](#).

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



August 5, 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
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
Bryn Meredith, Town Attorney
Tommy Dalton, Acting/Assistant Town Manager
Tiffany Bruce, Assistant Town Manager/Town Engineer
Lexin Murphy, Director of Development Services
John Zagurski, Chief Financial Officer
Chuck Jennings, Director of Parks and Recreation
Clay Riggs, Director of Public Works
Rachel Hadidi, Director of Library Services

B. INVOCATION

Mayor Moore 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. Administer Oath of Office to Alissa Janke, Municipal Judge
Mayor Moore administered the Oath of Office to Judge Janke.
2. Recognition of Top 10 readers from the Library Summer Reading Program
Dr. Hadidi provided background information on the Library's Summer Reading program and Mayor Moore recognized the top 10 readers.

E. PUBLIC COMMENT

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

	Speaker name and address	Subject (as written on the form)
1.	Kirthe Narasimhan, 5316 Park Ridge	Trotter Park
2.	Jamie Von Trap, 6301 Riverside Dr	Fairness in women's sports

F. ANNOUNCEMENTS

1. Announcements from the mayor and council members
Mayor Moore or Councilmembers had announcements regarding:
 - You, Me, and a Cup of Tea - new Town event
 - Movie in the Park
 - School zone reminders
 - Board applications currently being accepted

G. TOWN MANAGER'S REPORT

1. Capital Improvement Projects
2. Economic Development Projects
3. Organizational Updates
Mr. Dalton reported that the Town's proposed budget is now available online.

H. FUTURE AGENDA ITEM(S)

There were no future agenda item request.

I. COORDINATION OF CALENDARS

Mayor Moore confirmed that all Councilmembers plan on attending the following meetings.

1. August 15 - Work Session (Budget)
2. August 19 - Regular Meeting

J. CONSENT ITEM(S)

ACTION: Adam Schiestel moved to approve J.1 - 11 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. Minutes - 7/15 & 7/18 - Consider approval of the minutes from a regular meeting held on July 15, 2024, and a Strategic Planning Retreat held on July 18, 2024.
2. RFID equipment purchase for Library - Consider approval of the purchase of Radio Frequency Identification (RFID) equipment and automated handling machine using American Rescue Plan Act (ARPA) funds for the Flower Mound Public Library in the amount of \$170,255.26.
3. 2024 F250 4WD Supercab w/ Liftgate - Consider approval of the purchase of purchase (1) 2024 F250 4WD Supercab w/ Liftgate and listed options for a grand total of \$62,237.00
4. Purchase of 2 Vehicles - Parks Department - Consider approval of the purchase (1) 2024 F250 Supercab XL 8' bed with listed options for \$55,208.00 and (1) 2023 F350 Reg Cab with Service body for \$66,081.50 per Town of Flower

Mound Specifications and Vendor Quote from Silsbee Ford in the amount of \$121,289.50 utilizing the TIPS USA Cooperative Contract #210907.

5. Ash Street Pro Rata Agreement - Consider approval of a Pro-Rata Agreement between Cezary Wozniak and the Town of Flower Mound for the construction of approximately 362 feet of 8-inch water line, approximately 472 feet of 8-inch sanitary sewer line, approximately 450 linear feet of road paving improvements south on the east side of Ash Street, approximately 250 linear feet of road paving improvements south on the west side of Ash Street , and associated apparatuses on Ash Street in the Pecan Acres Addition; consider adopting an ordinance providing for said Pro-Rata Agreement; and authorization for the Mayor to execute same on behalf of the Town.

ORDINANCE NO. 34-24

AN ORDINANCE ESTABLISHING A PRO RATA CONNECTION FEE TO DEVELOPERS OF PROPERTIES LOCATED ALONG ASH STREET NORTH OF PECAN DRIVE BENEFITTING FROM THE SANITARY SEWER, WATER, AND ROAD PAVING IMPROVEMENTS NORTH OF THE INTERSECTION OF PECAN DRIVE AND ASH STREET; BASING SUCH CHARGE UPON THE FRONT FOOT OF THE PROPERTY TO BE SERVICED BY SUCH SANITARY SEWER, WATER, AND ROAD PAVING IMPROVEMENTS; PROHIBITING THE ISSUANCE OF BUILDING OR OTHER PERMITS WITHOUT PAYMENT OF SUCH CONNECTION FEE; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

6. 2024 CDBG Annual Action Plan - Consider approval of a resolution authorizing the adoption of the Program Year 2024 Action Plan for the Community Development Block Grant Program and authorizing the Mayor to execute same on behalf of the Town and submit to the U.S. Department of Housing and Urban Development.

RESOLUTION NO. 10-24

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, PROVIDING FOR THE ADOPTION OF FLOWER MOUND'S PROGRAM YEAR 2024 ACTION PLAN UNDER THE TOWN'S COMMUNITY DEVELOPMENT BLOCK GRANT; AUTHORIZING THE MAYOR TO EXECUTE AND SUBMIT THE PLAN ON BEHALF OF THE TOWN TO THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT; AND PROVIDING AN EFFECTIVE DATE.

7. River Walk Public Improvement District No. 1 - Consider approval of an ordinance adopting the 2024-2025 annual update to the River Walk Public Improvement District No. 1 (PID) Service and Assessment Plan (SAP) and Assessment Roll.

ORDINANCE NO. 32-24

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, APPROVING THE ANNUAL UPDATE OF THE SERVICE

AND ASSESSMENT PLAN AND ASSESSMENT ROLL(S) FOR THE RIVERWALK PUBLIC IMPROVEMENT DISTRICT NO. 1 IN ACCORDANCE WITH TEXAS LOCAL GOVERNMENT CODE §372.013 AS AMENDED; CONTAINING A CUMMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

8. FY 23-24 Budget Amendment #4 - 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, Ordinance No. 20-24, and Ordinance No. 30-24 for adjustments to the Library Development Fund and the Justice Seizures Fund.

ORDINANCE NO. 33-24

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, ORDINANCE NO. 20-24, AND ORDINANCE NO. 30-24, BY PROVIDING FOR ADJUSTMENTS TO THE JUSTICE SEIZURE 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.

9. Animal Adoption Center HVAC Replacement - Consider approval of a quotation from Texas Air Systems for turnkey replacement of six existing AAON Indoor & Outdoor Air units at Animal Adoption Center utilizing BuyBoard Supplier contract #720-23, in the amount of \$432,642.00.
10. Set Crime District Budget - Town Council acting as the Board of Directors for the Town of Flower Mound Crime Control and Prevention District to schedule a public hearing for August 19, 2024, on the Flower Mound Crime Control and Prevention District budget and to schedule a meeting for September 16, 2024, to take action on the proposed budget; with each meeting to be held at 6:00 PM, at Town Hall, located at 2121 Cross Timbers Road.
11. Set Fire District Budget - Town Council acting as the Board of Directors for the Town of Flower Mound Fire Control, Prevention, and Emergency Medical Services District to schedule a public hearing for August 19, 2024, on the Flower Mound Fire Control, Prevention, and Emergency Medical Services District budget and to schedule a meeting for September 16, 2024, to take action on the proposed budget; with each meeting to be held at 6:00 PM, at Town Hall, located at 2121 Cross Timbers Road.

K. REGULAR ITEM(S)

1. Peters Colony Memorial Park - Consider approval of a Construction Agreement with Millis Development and Construction - Dallas, LLC., for the Peters Colony Memorial Park project, in the amount of \$3,562,629.67; and authorization for the Mayor to execute same on behalf of the Town.

Mr. Jennings gave a presentation identifying or noting:

- background information
- Park master and site plans
- Park amenities
- engineer's OPCC
- bidders

and he responded to questions from Council regarding:

- ADA accessibility
- history of the Veterans component of the park

ACTION: Ann Martin moved to approve K.1. 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

2. Bordeaux Way Concrete Panel Replacements - Consider approval of the purchase of concrete removal and replacement services from Apex Concrete Construction, Inc., for work associated with Bordeaux Way Reconstruction project, through the Town of Flower Mound contract No. 2023-56-A, Concrete and Drainage Improvement Services, in the amount of \$1,439,864.63.

Mr. Riggs gave a presentation identifying or noting:

- background information
- project location
- panel replacement locations
- annual contract (concrete and drainage improvement services)
- project schedule

and he or Ms. Bruce responded to questions from Council regarding:

- panel condition history
- resident feedback regarding material use
- short-term versus long-term options for repairs (cost-benefit analysis)
- timing for maintenance review and repair

- environmental impacts

ACTION: Brian Taylor moved to approve K.2. 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

L. ADJOURN

Mayor Moore adjourned the meeting at 6:46 p.m.

TOWN OF FLOWER MOUND, TEXAS

CHERYL MOORE, MAYOR

ATTEST:

THERESA SCOTT, TOWN SECRETARY

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



August 15, 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 work session to order at 6:02 p.m.

with the following members in attendance:

Cheryl Moore, Mayor

Ann Martin, Mayor Pro Tem

Adam Schiestel, Deputy Mayor Pro Tem

Chris Drew, Place 2 (remote)

Brian Taylor, Place 3

constituting a quorum with the following members absent:

Janvier Werner, Place 4

and the following 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

Chuck Jennings, Director of Parks & Recreation

David Coulan, Police Chief

Paul Henley, Fire Chief

Meg Jakubik, Director of Budget Services

Matt Hotelling, Assistant Director of Public Works/Transportation

Clay Riggs, Director of Public Works

Jose Mendez, Director of Information Technology

JP Walton, Chief Strategic Officer

Rachel Hadidi, Director of Library Services

Julie Taylor, Director of Treasury Operations

with the following consultant participating for the topics of water, wastewater, and drainage rates and fees:

B. PUBLIC COMMENT

There were no speakers.

C. WORK SESSION ITEM

1. Hold a discussion and provide direction regarding the FY [2024-2025 Proposed Budget](#)

Mr. Childers provided background information about the budget preparation and process.

Ms. Jakubik gave a presentation identifying or noting:

- budget - a strategic tool
- phases of the budget cycle
- types of budgets (operating and capital improvement program)
- operating budget structure (base budget, non-discretionary packages, decision packages)
- how Flower Mound compares (population, tax rate, citizens served per Full Time Equivalent (FTE), personnel vs. population)
- financial overview
- on-going vs one-time (general fund)
- revenue by source - operations
- expenditures by category - operations
- financial goals
- the big picture
- strategic focus
- walking the walk
- financial stability and operational soundness
- FTE summary
- environmental and country feel
- community engagement
- hotel occupancy tax
- community support
- capital projects and funding
- 2024 proposed tax rate
- no-new revenue tax rate
- voter approval tax rate
- tax rate impact
- debt and capacity
- M & O vs. I & S

- property tax bill
- monthly cost breakdown
- tax rate cuts
- taxes (residential and commercial property, sales tax)
- next steps

and she, and various town staff responded to questions from the Council regarding:

- balanced budgeting
- fund balance
- cost of living adjustment
- FTE's
- fall festival options and cost
- environmental preservation efforts
- hotel occupancy tax (projections and use of funds)
- community support funding
- public art
- signs and markings FTE's
- robotic floor cleaner
- SRO vehicle
- handgun request
- positions of traffic light analyst, GIS technician, senior property standards manager, fire captain, library assistant, property room technician
- computer-aided dispatch and records management system
- fire equipment
- on-site sewage facility (OSSF) replacement program

Mr. Ekrut gave a presentation identifying or noting:

- business fundamentals
- adopted financial policies
- rate plan
- capital funding
- wholesale expenses
- financial performance (proposed rates) - water and wastewater combined
- water and wastewater residential bill impact
- path forward
- drainage fund overview, including current rates, impervious area, and NewGen recommendations with regional bill comparison for the proposed rates

and he, or various staff responded to questions from Council regarding:

- timing for the proposed rate increase for water and wastewater
- provider contract timing

- wholesale expenses
- drainage runoff programs
- proposed rates for drainage charge

Mr. Waltenburg gave a presentation for CIP Projects identifying or noting:

Streets:

- ADA transition plan and implementation
- FM 2499 at FM 407 intersection improvements
- impact fee study
- roadway amenities
- Scenic road (Walsingham Drive to FM 1171)
- sidewalk links
- streetlight improvements
- Walsingham Drive (Scenic/Flower Mound Rd connector)

Signal:

- FM 407
- Lakeside enterprise signal
- Lakeside pedestrian Hawk signal
- Lakeside
- Smart traffic signals to connected vehicle upgrade
- traffic detention rehab
- traffic signal performance measures
- traffic signal preemption upgrade
- traffic signal analytics cameras
- Street Reconstruction panel replacement
- Facility Projects (Fire Station No. 6)

Park projects:

- playground replacement: Rustic Timbers Park and Northshore Park
- Gerault Park improvements
- LED screen & trailer
- Leonard & Helen Johns Community Park improvements
- Oakridge development
- park & trail amenities
- Parker Square Park improvements
- Post Oak Improvements (design & construction)
- trails master plan - implementation
- Trotter Park improvements (design & construction)
- Wilkerson Park lighting improvements

Water Projects:

- Denton Creek Water Re-use - pump station and ground storage, and reuse waterlines
- Impact fee study and water master plan update

- Lakeside water reuse - pump station and ground storage tanks, and reuse waterlines
- Stonecrest pump station Phase II
- Stonehill pump station motor replacement
- Timber Valley and Fairfiled Lane water line replacement
- utility asset management and utility replacement
- Walsingham Dr (Scenic/Flower Mound Road connector)
- water system leak detection and repair
- water system model update
- water system security implementation
- Wichita Trail line water replacement

Stormwater:

- Bakers Branch stabilization at wastewater treatment plant

Wastewater:

- impact fee study & wastewater master plan update
- inflow-infiltration/evaluation and repair
- Timber Valley and Fairfield Lane
- Utility asset management and utility replacement
- wastewater system model update
- wastewater system security implementation
- wastewater treatment plan effluent filter rehabilitation
- wastewater treatment plant primary treatment area improvement

and he, or various staff responded to questions from Council regarding:

- communication with cars
- traffic signal performance measures instead of the communication with cars tools
- funding for leak detection (sufficient)
- environmental concerns on water reuse

D. ADJOURN

Mayor Moore adjourned the meeting at 10:24 p.m.

TOWN OF FLOWER MOUND, TEXAS

CHERYL MOORE, MAYOR

ATTEST:

THERESA SCOTT, TOWN SECRETARY



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

DATE: August 19, 2024
FROM: Chuck Jennings, Director of Parks and Recreation
ITEM: **Consider approval of a Service Agreement for Demand Response Transit Service with SPAN, Inc., in an amount not-to-exceed \$60,873.12, to provide transportation service for Town citizens who are age 65 or older and Town citizens with verifiable disabilities that prevent them from driving; and authorization for the Mayor to execute same on behalf of the Town.**

BACKGROUND: This item is to enter into a Service Agreement for Demand Response Transit Service with SPAN, Inc., (SPAN) to provide transportation for Town citizens who are age 65 or older and/or Town citizens with verifiable disabilities that prevent them from driving. Eligible riders will be taken anywhere in the service area (Denton County) at a cost to the Eligible Riders of \$3.00 per one-way ride for the limited purposes of medical treatments, doctor's and dentist's appointments, shopping for necessities, hair appointments, travel to and from places of employment, to support programs for persons with special needs, administrative, special purpose with Town approval, and participation in the Town's Seniors In Motion senior citizen program.

Town representatives met with the SPAN Director of Operations and Executive Director in June and July to discuss the upcoming contract renewal period and the §5310 (Enhanced Mobility for Seniors and People with Disabilities) grant funding. Staff discussed various items including trip purposes, grants, rates, cost to rider, and service areas. New changes being implemented for FY24-25 include an expanded service area (all of Denton County) and several new trip purposes (hair appointments, administrative and special purpose).

The new one-way rate breakdown for FY24 is listed below, which is a slight increase from the previous year.

Breakdown of the one-way trip rate:

Overall Rate:	\$30.09 per one-way trip
Less Maintenance Expense Rate:	(\$5.13) per one-way trip
Less Passenger Fares:	(\$3.00) per one-way trip
Operations Rate charged to the Town:	\$21.96 per one-way trip

Ridership has steadily increased over the last couple of years and is now averaging 269 one-way trips per month this fiscal year. Through June 2024, SPAN has provided 2,420 one-way rides to over 55 different residents. If the Town averaged the same number of one-way trips per month next fiscal year, the total number of annual trips would equal 3,228 trips. Utilizing the rate of \$21.96 (Town's portion), the annual cost would equal \$70,886.88 which is greater than the \$60,850.00 not-to-exceed amount. With our §5310 grant sunsetting at the end of September 2024, SPAN is applying for additional grant funding and is optimistic that the Town will again receive §5310 funds to help with the transportation services. If SPAN is unsuccessful, the Town will identify additional funding during the fiscal year to carry the program through September of 2025.

BOARD REVIEW/CITIZEN FEEDBACK: SPAN annually surveys the ridership and many respondents indicated they were satisfied with the service, but pointed to expanding the service area and adding additional trip purposes as a way to improve. SPAN does inform riders that their trips to the doctor or dentist's office, hospital, drug store, or other locations may qualify as a Medicaid eligible trip. Medicaid eligible trips are fully reimbursed by the federal government and are not charged to the rider or the Town.

ALTERNATIVES: At this time, there are no other transportation options available to the Town. The proposed SPAN contract does have a 30-day termination clause that could be used if a more viable option becomes available during the contract period.

FISCAL IMPACT: \$60,873.12

Proposed Expenditure/(Revenue)

\$40,800.00

\$20,073.12

Account Number(s):

361-724-97820-5110

100-630-34300-5110

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

ATTACHMENTS:

1. FY 2025 SPAN Agreement
2. SPAN Budget Report
3. FY23 Audit Report

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

STATE OF TEXAS §
COUNTY OF DENTON §

SERVICE AGREEMENT FOR DEMAND RESPONSE TRANSIT SERVICE

THIS SERVICE AGREEMENT ("Agreement") is entered into by and between Town of Flower Mound, Texas ("TOWN"), acting by and through its duly authorized Mayor and Span, Inc., ("SPAN"), a Texas non-profit corporation operating in Denton County, Texas as an organization described in Section 501(c)(3) of the Internal Revenue Code, acting by and through its duly authorized Executive Director. The TOWN or SPAN may hereinafter be referred to individually as a "Party" or collectively as "Parties."

RECITALS:

- WHEREAS,** SPAN enables people to live as fully and independently as possible by providing nutrition, transportation and social services to older persons, persons with disabilities, veterans, and the general public; and
- WHEREAS,** the TOWN is charged with the responsibility of promoting and preserving the health, safety, peace, good government, and welfare of its citizens; and
- WHEREAS,** the TOWN recognizes that it needs transportation alternatives for its elderly, and disabled citizens to seek routine medical care and to deal with daily routine matters, and the TOWN desires to assist and provide public transportation to said citizens; and
- WHEREAS,** TOWN desires to engage SPAN as an independent contractor, and not as a joint venture, partnership, or employee, to provide the transportation services described herein; and
- WHEREAS,** SPAN is authorized as a non-profit corporation, authorized under the Texas Transportation Code to provide this type of transportation to municipalities found in whole or in part within Denton County, Texas; and
- WHEREAS,** SPAN desires to provide transportability services for TOWN on the terms and conditions set forth in this Agreement.

NOW, THEREFORE, In exchange for the mutual covenants set forth herein, and other valuable consideration, the sufficiency and receipt of which are hereby acknowledged, the Parties agree to as follows:

Article I

Term

1.01. This Agreement shall commence on October 1, 2024 ("Effective Date") and continue until September 30, 2025.

1.02. Either Party may terminate this Agreement by giving thirty (30) days prior written notice to the other Party. In the event of termination, SPAN shall be entitled to receive compensation for services completed in accordance with this Agreement prior to termination.

Article II

Service

2.01. In accordance with this Agreement, SPAN shall provide door-to-door demand response transit services to the TOWN's residents who are sixty-five (65) years or older and persons with documented disabilities (hereafter referred to collectively as "Riders").

2.02. Riders in the TOWN are taken anywhere in the Demand Response Transit Service Area. (Denton County)

2.03. Riders in TOWN are taken anywhere in the Demand Response Transit Service area at a cost to the Riders of \$3.00 per one-way ride for the limited purposes of medical treatments, doctor's and dentist's appointments, shopping for necessities, hair appointments, travel to and from places of employment, to support programs for persons with special needs, Administrative, Special Purpose (with Town approval as outlined in 2.04), and participation in the TOWN'S Seniors In Motion senior citizen program.

2.04. Situations may arise when Riders call and request service that is not identified as a part of the limited purposes. SPAN may make a request to the Town appointed representative to accommodate the Rider by temporarily transporting for the requested trip purpose. The limited purposes may be more permanently amended at the request of either Party, if both Parties mutually agree to such amendment in writing.

2.05. SPAN shall provide door-to-door Demand Response Transit Services to TOWN citizens who are Eligible Riders in accordance with this Agreement and SPAN's "Transportation Policy and Procedures" which is attached hereto as Exhibit "A" and incorporated herein by reference as though it were set out in its entirety ("Policy").

2.06. Riders may call at least two (2) days in advance, but no more than two (2) weeks in advance, to set up appointments for pick-up and drop off. Riders may schedule a ride by calling SPAN'S Transportation Office at 940-382-1900, weekdays between the hours of 8:00 a.m. and 2:00 p.m.

2.07. Demand response transit service is available between the hours of 6:00 a.m. and 6:00 p.m., Monday through Friday, excluding Saturday, Sunday, major holidays and subject to capacity, constraints, and availability.

Article III

Schedule of Work

3.01. SPAN shall provide all equipment, facilities, qualified employees, training, and insurance necessary to establish a demand response transit service for the Riders. SPAN shall further establish, operate, and maintain an accounting system for this program that will allow for a tracking of services provided to Riders and a review of the financial status of the program. SPAN shall also track and break down the information regarding the number of one-way trips it provides to Riders.

3.02. SPAN will be responsible for verifying and documenting the eligibility of Riders. SPAN reserves the right to determine on an individual basis whether SPAN has the capability to safely transport a Rider, based on the information provided. If SPAN determines that a Rider cannot safely be transported, SPAN shall decline transportation and shall provide documentation as to the reason why service was declined.

3.03. The TOWN shall have the right to review the activities and financial records kept incident to the services provided to the Riders by SPAN under this Agreement. In addition, SPAN shall provide monthly ridership information to the TOWN appointed designee specifically identifying the number of Rider trips including rider origination, destination, and purpose.

3.04. SPAN will inform riders that their trips to the doctor or dentist's office, drug store or other location may qualify as a Medicaid eligible trip. SPAN will direct potential Medicaid eligible riders to call Texas Health and Human Services to schedule free transportation through Medicaid by calling toll free 1-877-633-8747 (TTY: 1-800-735-2989) or 1-877-MED-TRIP, Monday through Friday between 8:00 a.m. and 5:00 p.m., at least two days before their appointment or trip.

3.05. The services provided under this Agreement may be, in part, eligible for reimbursement from the Community Development Block Grant (CDBG) program. SPAN shall comply with all necessary requirements of the CDBG program as set forth in Exhibit "B." The TOWN shall assume all responsibility for CDBG submittals and required reporting, unless otherwise requested in writing to and agreed to by SPAN. SPAN shall provide all information necessary for the TOWN to comply with CDBG requirements.

3.06. The services provided under this Agreement may be, in part, eligible for funding through the Enhanced Mobility for Seniors and People with Disabilities (§5310) grant program. SPAN shall comply with all necessary requirements of the grant program. SPAN shall assume all responsibility for invoices, submittals and required reporting, unless otherwise requested in writing to TOWN.

3.07. SPAN will administer a user survey to all riders in the TOWN to solicit feedback on SPAN services at least one time per contract year. The survey results shall be compiled and shared with the TOWN and used by SPAN to ensure services are adequate for riders.

Article IV

Compensation and Method of Payment

4.01. TOWN agrees to pay a reasonable fee for Service provided to eligible Riders under this Agreement, together with Federal grant funds available under the §5310 Enhanced Mobility for Seniors and People with Disabilities Program. Such fee ("Fee") shall not to exceed Sixty Thousand Eight Hundred and Seventy-Three Dollars and Twelve Cents (\$60,873.12) for up to Two Thousand Seven Hundred and Seventy-Two (2,772) one-way trips. Fee shall be invoiced monthly, at a price per one-way trip of Twenty-One Dollars and Ninety-Six Cents (\$21.96). Riders shall pay SPAN a price per one-way trip of Three Dollars (\$3.00), to be collected by SPAN at the time of such trip.

4.02. SPAN shall produce monthly trip reports to help monitor usage and shall work with the TOWN to implement limitations as needed to ensure that funding is sufficient for the entire length of this contract. The TOWN will limit and/or suspend non-medical trip purposes as needed when funding is insufficient and will give SPAN the authority to not accept new riders for those trip purposes until appropriate funding is available.

4.03. The Fee is based on Two Hundred and Thirty-One (231) one-way trips per month. If fewer than Two Hundred and Thirty-One (231) are used in any given month, the accrued trips shall continue to roll forward monthly until the end of this Agreement.

4.04. It is further understood and agreed that the service provided hereunder shall be secondary to and not in lieu of or as a substitute for transportation services available through or funded by Medicare and/or Medicaid or any other program, insurance, or provider.

4.05. If an otherwise eligible Rider contacts SPAN for service and the Rider's trip does not qualify for payment by the TOWN under this Agreement and/or there are no remaining trips or funding available under this Agreement for such trip, SPAN may offer its service to such Rider in the Service Area at the total cost of Twenty One Dollars and Ninety Six Cents (\$21.96) per one-way trip, which is to be collected by SPAN at the time of such trip.

Article V

Devotion of Time, Personnel, and Equipment

5.01. SPAN shall devote such time as reasonably necessary for the satisfactory performance of the services under this Agreement. Should TOWN require additional services not included under this Agreement, SPAN shall make reasonable effort to provide such additional services within the time schedule without decreasing the effectiveness of the performance of services required under this Agreement and shall be compensated for such additional services on a time and materials basis, in accordance with SPAN's standard hourly rate schedule, or as otherwise agreed between the Parties.

5.02. To the extent reasonably necessary for SPAN to perform the services under this Agreement, SPAN shall be authorized to engage the services of any agents, assistants, persons, or corporations that SPAN may deem proper to aid or assist in the performance of the services under this Agreement. The cost of such personnel and assistance shall be included as part of the total compensation to be paid SPAN hereunder and shall not otherwise be reimbursed by TOWN unless otherwise agreed to in writing.

5.03. The TOWN shall not be required to furnish any facilities, equipment, or personnel necessary to perform the services required under this Agreement unless otherwise provided herein. The Services provided under this Agreement are based on availability.

5.04. SPAN reserves the right to suspend or terminate Riders who violate SPAN's policies and procedures.

Article VI Miscellaneous

6.01. Entire Agreement. This Agreement constitutes the sole and only agreement between the Parties and supersedes any prior understandings written or oral agreements between the Parties with respect to this subject matter.

6.02. Assignment. Neither Party may assign this Agreement without the prior written consent of the other Party.

6.03. Successor and Assigns. Subject to the provisions regarding assignment, this Agreement shall be binding on and inure to the benefit of the Parties to it and their respective heirs, executors, administrators, legal representatives, successors, and assigns.

6.04. Mediation. In the event of any dispute regarding this Agreement or the terms contained herein, the Parties hereto agree that they shall submit such dispute to non-binding mediation, prior to any litigation being filed.

6.05. Governing Law. The laws of the State of Texas shall govern this Agreement without regard to any conflict of law rules; and venue for any action concerning this Agreement shall be in Denton County, Texas or the Federal courts having jurisdiction over claims arising in Denton County, Texas. The Parties agree to submit to the personal and subject matter jurisdiction of said court.

6.06. Amendments. This Agreement may be amended by the mutual written agreement of the Parties.

6.07. Severability. In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provisions, and the Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in it.

6.08. Independent Contractor. It is understood and agreed by and between the Parties that SPAN, in satisfying the conditions of this Agreement, is acting independently. All services to be performed by SPAN pursuant to this Agreement shall be for the TOWN as an independent contractor, and not as an agent or employee of TOWN. SPAN shall supervise the performance of its services and shall be entitled to control the manner and means by which its services are to be performed, subject to the terms of this Agreement. Nothing contained herein shall constitute or provide for as a waiver of the TOWN's immunity under state or federal law.

6.09. Notice. Any notice required or permitted to be delivered hereunder may be sent by electronic mail, first class mail, overnight courier or by confirmed telefax or facsimile to the address specified below, or to such other Party or address as either Party may designate in writing, and shall be deemed received three (3) days after delivery set forth herein:

If intended for TOWN:

Chuck Jennings
Director of Parks and Recreation
2121 Cross Timbers Road
Flower Mound, Texas 75028
972.874.6273

If intended for SPAN:

Michelle McMahon
Executive Director
Span, Inc.
1800 Malone Street
Denton, Texas 76201
940.382.2224– Office

6.10. Insurance.

(a) SPAN shall during the term hereof maintain in full force and effect the following insurance:

(1) a comprehensive commercial general liability policy of insurance for bodily injury, death and property damage insuring against all claims, demands or actions relating to SPAN' s performance of services pursuant to this Agreement with a minimum combined single limit of not less than \$1,000,000.00 per occurrence for injury to persons (including death), and for property damage with an aggregate of \$2,000,000.00.

(2) policy of automobile liability insurance covering any vehicles owned and/or operated by SPAN, its officers, agents, and employees, and used in the performance of this Agreement with policy limits of not less than \$5,000,000.00 combined single limit and aggregate for bodily injury and property damage.

(3) statutory Worker's Compensation Insurance at the statutory

limits and Employers Liability covering all of SPAN's employees involved in the provision of services under this Agreement with policy limit of not less than \$500,000.00; and

(b) All policies of insurance shall be endorsed and contain the following provisions:

(1) provide TOWN, its officers, and employees with indemnification under all applicable coverage with the exception of Workers Compensation Insurance;

(2) name TOWN, and its officials, officers, and employees, as additional insureds;

(3) provide for at least thirty (30) days prior written notice to TOWN for cancellation of the insurance;

(4) provide for a waiver of subrogation against TOWN for injuries, including death, property damage, or any other loss to the extent the same is covered by the proceeds of insurance. SPAN shall provide written notice to TOWN of any material change of or to the insurance required herein.

(c) All insurance companies providing the required insurance shall be authorized to transact business in Texas.

(d) A certificate of insurance and copies of the policy endorsements evidencing the required insurance shall be submitted prior to commencement of services and upon request by TOWN.

6.11. In performing services under this Agreement, the relationship between the TOWN and SPAN is that of an independent contractor. No term or provision of this Agreement or act of SPAN in the performance of this Agreement shall be construed as making SPAN the agent, servant, or employee of the TOWN. It is expressly understood that the TOWN assumes no operational supervision, control or oversight to the services provided under this Agreement. TOWN does not have any ownership or beneficial interest in the business; and does not share any profits or losses generated from the business.

6.12. Indemnification. TOWN SHALL NOT BE LIABLE FOR ANY LOSS, DAMAGE, OR INJURY OF ANY KIND OR CHARACTER TO ANY PERSON OR PROPERTY ARISING FROM THE SERVICES OF SPAN PURSUANT TO THIS AGREEMENT. SPAN HEREBY WAIVES ALL CLAIMS AGAINST TOWN, ITS OFFICERS, AGENTS, AND EMPLOYEES (COLLECTIVELY REFERRED TO IN THIS SECTION AS "TOWN") FOR DAMAGE TO ANY PROPERTY OR INJURY TO, OR DEATH OF, ANY PERSON ARISING AT ANY TIME AND FROM ANY CAUSE OTHER THAN THE NEGLIGENCE OR WILLFUL MISCONDUCT OF TOWN OR BREACH OF TOWN'S OBLIGATIONS HEREUNDER. SPAN AGREES TO INDEMNIFY AND SAVE HARMLESS TOWN FROM AND AGAINST ANY AND ALL LIABILITIES, DAMAGES, CLAIMS, SUITS, COSTS (INCLUDING COURT COSTS,

REASONABLE ATTORNEYS' FEES AND COSTS OF INVESTIGATION) AND ACTIONS OF ANY KIND BY REASON OF INJURY TO OR DEATH OF ANY PERSON OR DAMAGE TO OR LOSS OF PROPERTY TO THE EXTENT CAUSED BY SPAN'S NEGLIGENT PERFORMANCE OF SERVICES UNDER THIS AGREEMENT OR BY REASON OF ANY NEGLIGENT ACT OR OMISSION ON THE PART OF SPAN, ITS OFFICERS, DIRECTORS, SERVANTS, EMPLOYEES, REPRESENTATIVES, CONSULTANTS, LICENSEES, SUCCESSORS OR PERMITTED ASSIGNS (EXCEPT WHEN SUCH LIABILITY, CLAIMS, SUITS, COSTS, INJURIES, DEATHS OR DAMAGES ARISE FROM OR ARE ATTRIBUTED TO NEGLIGENCE OF TOWN, IN WHOLE OR IN PART, IN WHICH CASE SPAN SHALL INDEMNIFY TOWN ONLY TO THE EXTENT OR PROPORTION OF NEGLIGENCE ATTRIBUTED TO SPAN AS DETERMINED BY A COURT OR OTHER FORUM OF COMPETENT JURISDICTION). SPAN'S OBLIGATIONS UNDER THIS SECTION SHALL NOT BE LIMITED TO THE LIMITS OF COVERAGE OF INSURANCE MAINTAINED OR REQUIRED TO BE MAINTAINED BY SPAN UNDER THIS AGREEMENT. THIS PROVISION SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

6.13. Subject to the requirements of the Texas Public Information Act or as required by Court order, both Parties agree to endeavor to take all reasonable measures to keep in confidence the confidential data and information of any Party that another Party may know or access during performance of this Agreement ("Confidential Information"), and shall not disclose, make available or assign such Confidential Information to any third Party without the prior written consent of the Party providing the information except as required by the Texas Public Information Act or Court order.

6.14. Counterparts. This Agreement may be executed by the Parties hereto in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute one and the same instrument. Each counterpart may consist of any number of copies hereof each signed by less than all, but together signed by all the Parties hereto.

6.15. Exhibits. The exhibits attached hereto are incorporated herein and made a part hereof for all purposes.

6.16. Survival of Covenants. Any of the representations, warranties, covenants, and obligations of the Parties, as well as any rights and benefits of the Parties, pertaining to a period of time following the termination of this Agreement shall survive termination.

[Signature Page to Follow]

EXECUTED this _____ day of _____, 2024

FLOWER MOUND, TEXAS

By: _____
Cheryl Moore, Mayor

EXECUTED this _____ day of _____, 2024

SPAN, INC

By: _____
Michelle McMahon, Executive Director



SPAN, INC. TRANSPORTATION POLICY AND PROCEDURES

FLOWER MOUND

Adopted by Span, Inc.'s Board of Directors September 2024

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INTRODUCTION

Span, Inc. is a private, non-profit that has been serving the residents of Denton County since 1974. Our mission is “to enable people to live as fully and independently as possible by providing nutrition, transportation and social services to older people, people with disabilities, veterans, and the public.” Our vision is “to eradicate senior hunger and to eliminate gaps in transportation in Denton County.”

It is the policy of Span, Inc. that no person shall on the grounds of race, religion, color, national origin, sexual orientation, gender identity or orientation, physical or mental ability, age, or income status be excluded from participation in, be denied the benefits of, or otherwise be subject to discrimination or retaliation under any program or activity administered by Span.

Span reserves the right to modify, make additions to, and/or eliminate portions of these policies and procedures at any time. Updated versions of this document will be posted on Span, Inc.’s website, www.span-transit.org.

DESCRIPTION OF SERVICES

Span provides door-to-door, demand response, shared-ride transportation services to individuals residing within Span’s service area, traveling to and from areas within our service area. **In the Town of Flower Mound, service is provided to seniors (aged sixty five[65] or older – verification of age may be required) and/or to people with disabilities (verification of disability may be required), residing in the Town of Flower Mound traveling to locations in throughout the Span Demand Response Service Area (Denton County)** [See *Disability Certification* section for more information.

If traveling for other reasons or to other areas, riders may qualify under our Denton County General policies. Span will also assist clients, when possible, who are traveling to destinations outside of Denton County by coordinating with other transportation providers, such as DART (Dallas Area Rapid Transit) and Trinity Metro. Out-of-county trips may require transfer to another bus or to rail service.

Span uses wheelchair-accessible vehicles to transport clients. Our drivers are available to provide limited assistance upon request. ***Our drivers are not trained to provide medical assistance.***

Examples of driver assistance include:

- The driver will assist passengers from the door of a residence or pick-up location to the vehicle, if needed.
- The driver will attempt to notify passengers of arrival.

- The driver will assist passengers in boarding and exiting the vehicle.
- The driver will take the passenger to the door of his/her destination.
- **The driver is the only person permitted to secure wheelchairs and other mobility devices.**

Examples of assistance our drivers will not provide include:

- Assistance getting in or out of a wheelchair.
- Assistance getting ready for the trip.
- Administering medication or oxygen.
- Assisting clients in wheelchairs going up or down stairs.
- Assisting passengers on ramps deemed unsafe.
- Assisting in carrying personal belongings or purchases.

SPAN IS NOT AN EMERGENCY TRANSPORTATION SERVICE.

SPAN, INC. POLICY DOES NOT ALLOW A DRIVER TO LOSE VISUAL CONTACT WITH THE AGENCY VEHICLE AT ANY TIME, FOR ANY REASON.

DEFINITIONS

Aide – An aide is a social services attendant or personal care assistant (PCA) who travels to assist in the needs of a passenger who, otherwise, would not be able to travel alone.

Companion – A companion is anyone, other than an aide or PCA, who travels with a disability-certified passenger.

Demand Response Service – Non-fixed route transportation service utilizing vans or buses with passengers boarding and alighting at pre-arranged times and locations within the provider's service area. Multiple riders with varying destinations may be on the vehicle at the same time.

Disability - With respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities of such individual; a record of such an impairment; or being regarded as having such an impairment.

ePass - Span has simplified the fare payment process by offering automated fare deductions. No ParaPass card is needed. Simply board the bus and your fare is automatically deducted from your account. Funds are applied to a passenger's account by contacting 940-382-2224 between 9 am and 5 pm Monday - Friday. Callers may leave a message, if necessary, and will be called back by a staff member, or in person between the hours of 9:00 AM and 4:30 PM, Monday through Friday, at 1800 Malone Street, Denton, TX 76201 depending on staff availability.

Mobility Device – A mechanism such as a wheelchair, walker, or scooter, designed to aid passengers with mobility impairments. The mechanisms can be manually operated or powered.

Late Cancellation – If a passenger cancels their trip on the day of service but does so more than 3 hours before the pick-up time, it will be considered a late cancellation.

No-Show – A no-show occurs when a passenger fails to cancel their trip at least 3 hours before the scheduled pick-up time OR does not board the Span vehicle within 5 minutes after it arrives (within the 30-minute ready-time window).

ParaPass - Span's electronic fare pass. Funds are applied to a passenger's ParaPass card by phoning Span's main office at 940-382-2224 with a valid credit card, by mail via check or money order, or in person between the hours of 9:00 AM and 4:30 PM, Monday through Friday, at 1800 Malone Street, Denton, TX 76201.

Ready-Time Window – A 30-minute window, beginning 15 minutes before and 15 minutes after the scheduled pick-up time during which a passenger should be ready for pick-up.

Service Animals – Animals that are trained to perform tasks for people with disabilities, such as guiding people who are blind or have low vision, alerting people who are deaf, pulling wheelchairs, alerting a person who is having a seizure, or performing other special tasks. Service animals are working animals, not pets.

Service Area – Span serves residents of the Town of Flower Mound. See *Description of Services* section for parameters.

Subscription Service – An ongoing standing order is entered into Span's schedule for a person traveling to the same place at the same time each week.

Wheelchair – A mobility aid belonging to any class of 3 or 4-wheeled devices, usable indoors, designed for and used by passengers with mobility impairments. The devices may be manually operated or powered.

SERVICE HOURS

Our hours of operation are 6:00 AM to 6:00 PM, Monday through Friday. Currently, there is no weekend service. Service is provided throughout the year, except the following holidays:

- New Year's Day
- Martin Luther King Day
- Good Friday
- Memorial Day
- Independence Day
- Labor Day
- Thanksgiving Day
- Day after Thanksgiving
- Christmas Eve
- Christmas Day

APPLICATION PROCESS

To use Span, Inc. services, prospective passengers must complete and submit an application, meet the eligibility criteria, and receive approval by Span, Inc. staff. Please also review the Disability Certification information below prior to submitting an application in case that portion also applies to you and additional documents are needed as part of the application process.

Applications may be obtained in the following ways:

- Call the Span Dispatch Office at 940-382-1900.
- Visit our website to print the application to complete it by hand.
- Complete the document online on our website

Once the application is fully completed, and if not completed online, the signed original should be emailed, mailed, dropped off, or faxed to:

Email address – span@span-transit.org

Fax number – 940-383-8433

Span, Inc.
1800 Malone St.
Denton, TX 76201

Please allow a minimum of 21 days to process the application once it has been received by Span. Properly completed applications will be processed immediately upon receipt. Only completed, signed applications will be considered for review.

Once the application has been reviewed and a decision is reached, dispatch will contact the applicant via phone to notify them. If the application is approved, the dispatcher will provide instructions on how to schedule a trip. If the application was not approved, a letter will be mailed via USPS stating the reason(s).

Span reserves the right to determine on an individual basis whether Span has the capability to safely transport a passenger. In the event safety is compromised, Span may decline transportation and will document why service was declined.

It is the responsibility of the passenger to provide their updated contact information, as well as updated emergency contact information, to the Span Dispatch Office when changes occur.

DISABILITY CERTIFICATION

In the Town of Flower Mound, service is provided to people with disabilities (including some medical conditions) who meet regulatory criteria, at the Flower Mound contracted fare. In addition to the application, applicants whose contracted fare eligibility is contingent on a disability must submit a properly completed Certification Form. Both documents must be received and reviewed during the application process to qualify for the contracted fare due to disability.

A licensed physician or certified human services professional familiar with the applicant's condition must sign the Certification Form verifying the disability and the applicant's functional limitations if applying for service at the contracted fare based upon disability. It is recommended that the Certification Form and Application be submitted at the same time to prevent delay of the application review. Examples of licensed or certified human services professionals include Medical Doctor, Psychiatrist, Psychologist, Social Worker, Rehabilitation Professional, Physical/Occupational Therapist, Physician's Assistant, Registered Nurse, and Nurse Practitioner.

Once all documentation is received, Span personnel will make an evaluation and will request any additional relevant information, if necessary, about the applicant's functional limitations related to transportation. The applicant will be notified either by phone or a letter will be mailed via USPS stating the reason(s) once an eligibility determination has been made.

Notice of Eligibility Determination

An applicant who is determined to be eligible for the contracted fare due to disability will be sent documentation of eligibility via USPS to the address listed on the application. The document will include the name of the eligible individual, the phone number of the Span Dispatch Office, an expiration date for eligibility, and any conditions or limitations on the individual's eligibility including the use of a personal care attendant (PCA).

If the determination is made that an applicant is not eligible for the contracted fare due to disability, the written notification will state the specific reason(s) for the finding. Applicant may still qualify for ridership at the Denton County General fare. All applicants have the right to

appeal the initial determination of eligibility (see *Grievance and Appeal Procedures*). Span employees and the Span Board of Directors strive to maintain an accommodation process that is cooperative rather than adversarial in nature, attempt to fulfill disability eligibility requests, when possible, and will document all attempts at reasonable accommodation.

Reapplication Process

Passengers will need to reapply every three (3) years from the date they are initially approved. Reapplication ensures Span's files are accurate and contain up-to-date information. Span will notify passengers when they are due for the reapplication process.

Accessible Materials for Blind or Low Vision Riders

Span will make reasonable accommodations to assist with the application process. If a person with vision issues calls, dispatch will assist in filling out the application and will fax it to their doctor for them.

Individuals with a vision impairment may request Accessible Materials such as large print, braille, audiotape, and electronic files usable with text-to-speech technology (known as screen reader technology). Requests for Accessibility Materials may be made to the Span Dispatch Office. The Span staff will work with individuals who request information to determine the most appropriate alternative formats.

Alternatives to Audio Communications

For individuals who are deaf or hard of hearing, or who have speech impairments, Span can provide accessible information, including "711" relay service. Visual aids may also be provided upon request. Requests can be made to the Span Dispatch Office.

Reasonable Modification

Span will make reasonable modifications in policies or procedures when the modifications are necessary to avoid discrimination on the basis of disability or to provide program accessibility to services, subject to federal limitations. Span staff will work with riders requesting reasonable modifications and follow up on reasonable modification requests within two weeks of the request date.

To make a Reasonable Modification request, individuals must follow these guidelines:

1. Whenever feasible, requests for modifications shall be made and determined in advance of a scheduled trip before Span is expected to provide the modified service. Modification requests should be made during the application process.

2. Individuals requesting modifications will need to describe what they need to use the service.
3. When a request for modification cannot practicably be made and determined in advance, Span personnel will make a determination as to whether the modification can be provided at the time of the request.

Drivers and other operations personnel may consult with Span management before deciding to grant or deny the request.

HOW TO SCHEDULE A TRIP

Trip Requests

Requests for service can be made from 8:00 AM until 2:00 PM, Monday through Friday, by calling 940-382-1900.

1. At the time of scheduling your reservation, you will need to provide Span with your name, phone number, the addresses of both the pick-up and drop-off locations and the pick-up and drop-off times. It is advisable to over-estimate the length of your appointment, rather than underestimate it, as part of the determination of your needed pickup time. Please also let the dispatcher know if you will be accompanied by a personal care attendant, companion, or service animal.
2. Span does not provide pick-up service from public schools.
3. Please note that all scheduling requests can be made as early as 14 days prior or as late as two days before the trip by 2 pm. By accepting trip requests up to two days in advance of service, the amount of service that can be provided increases due to our scheduling process requirements. **Please Be Advised: If you do not receive a call/text between 5:00 pm and 5:30 pm from our automated service, Span was not able to accommodate your requested trip and you do not have a scheduled ride for the next day.**
4. Same day call-ins, including unscheduled requests or will-calls for return trips, will not be accepted. Bus drivers are not permitted to make unscheduled trips or stops.

Scheduling

1. Span provides demand response service. We are a shared ride, public transportation service. As such, we will attempt to schedule your pick-up time as close to your requested time as possible, **but we are unable to guarantee requested times. This may require an earlier or later pickup, drop-off, or waiting time.**
2. You should receive a call/text from our automated service the evening prior to your scheduled ride, between 5:00 PM and 5:30 PM, informing you of your pick-up time. In addition, you should receive an "On the Way" notification via phone or text on the day

of your scheduled trip, approximately 20 minutes before the scheduled pick up/arrival time. **Please Be Advised: If you do not receive a call/text between 5:00 pm and 5:30 pm from our automated service, Span was not able to accommodate your requested trip and you do not have a scheduled ride for the next day.**

3. Due to traffic, weather, and other conditions beyond our control, ***the vehicle may arrive up to 15 minutes before or 15 minutes after your scheduled pick-up time, our 30-minute window.*** Once the bus has arrived, ***the driver will not wait more than 5 minutes*** for the scheduled passenger to board the bus.
4. Whenever possible, Span will attempt to notify passengers that the vehicle will be early or late beyond the 30-minute window, allowing passengers time to make other arrangements if the vehicle is unavoidably detained. If Span does not have a valid phone number for the passenger, we will be unable to notify the passenger of the scheduling issue. **It is the responsibility of the passenger to provide their updated contact information, as well as updated emergency contact information, to the Span Dispatch Office when changes occur.**
5. Riders should carry any necessary medications with them in the event there is a significant delay. Riders who use oxygen should make sure they have an adequate supply. Riders who are diabetic or hypoglycemic should bring a small snack. Consumption of food and/or drinks on the bus is strictly prohibited, except for rarely encountered, medically necessary reasons. Please speak with the driver before consuming food or drink on the bus.
6. Only trips with scheduled pick-up times will be entered on the daily schedules.
7. Subscription service is available to a limited number of passengers who travel to the same place at the same time every week. If a subscription slot is made available to a passenger, the passenger will automatically be placed on the schedule for those trips. Subscription passengers must notify the Span Dispatch Office if changes need to be made to their subscription schedule or if the subscription service should be cancelled. A change in time, origination, or destination may change your eligibility for a subscription ride.
8. There may be times Span is unable to schedule service due to a variety of factors, including increased rider demand, capacity constraints, and staffing/scheduling limitations. However, we make every attempt to accommodate requested dates and times.

INCLEMENT WEATHER

Span, Inc. reserves the right to suspend, modify, or cancel service during times of hazardous weather conditions that have the potential to jeopardize the safety of our riders, drivers, or vehicles. If the roads are deemed unsafe by the Transportation Manager, we will not transport and you will not receive a confirmation call the night before.

In the event of severe winter weather, please check local news websites for updates.

SPAN FLOWER MOUND FARES

The current fare for the Town of Flower Mound riders is

- \$3.00 per one-way trip

Without exception, Span passengers must pay the one-way fare, to the bus driver PRIOR to the vehicle's departure. ParaPasses and cash are the only forms of payment accepted. Please have your ParaPass or the exact fare amount ready. Since the same bus/driver may not be providing the return trip, advance payments and round-trip payments are not permitted. Passengers shall pay the fare in **exact change** or with an ePass, or ParaPass. Drivers cannot make change.

If you do not pay the correct fare, the driver is required to contact the Span Dispatch Office. A determination will be made, and the ride may be denied. In that case, a no-show may be notated on your account.

ParaPasses

A ParaPass is Span's electronic fare pass. Funds are applied to a passenger's ParaPass card by phoning Span's main office at 940-382-2224 with a valid credit card, by mail via check or money order, or in person between the hours of 9:00 AM and 4:30 PM, Monday through Friday, at 1800 Malone Street, Denton, TX 76201.

New requests for a ParaPass submitted by mail should include the address to which the ParaPass should be mailed, along with the requested amount of money that should be applied to your account in the form of a check or money order made payable to Span, Inc. Please do not mail cash.

If the ParaPass is lost, please call Span's main office at 940-382-2224 for a replacement.

ePass

Span's electronic fare payment system also offers the convenient choice of ePass. Funds are added to a passenger's account and a rider may select an automated fare deduction called ePass. Funds are applied to a passenger's account by phoning 940-382-2224 with a valid credit or debit card, by mail via check or money order, or in person between the hours of 9:00 AM and 4:30 PM, Monday through Friday, at 1800 Malone Street, Denton, TX 76201.

Fund Balances / Inactive Riders:

In the event that a rider becomes inactive (due to relocation out of the service area, being removed from ridership because of policy violation, worsening health, the cessation of life, or other situation), remaining ParaPass funds are subject to the following guidelines.

1. Funds will be handled according to the option selected by the rider on their latest application:
 - A. A refund will be paid to the rider or a donation of funds made to Span, Inc.
 - B. Riders are responsible for initiating the refund process within 60 days of inactivity or all funds will be processed as a donation to Span, Inc.
 - C. For deceased riders:
 - a. Rider representatives are required to notify Span, Inc. within 60 days of the rider's passing.
 - b. Funds will be handled according to the option selected by the rider on their latest application:
 - i. Release of funds to a selected beneficiary: Requires proof of Power of Attorney, Estate Executorship, or other legal document establishing the beneficiary's identity and legal status.
 - ii. Donation of remaining funds to Span, Inc.
 - iii. Either option will be completed within 30 days of the requirements being met for that situation.

Any situation not specifically addressed above shall be resolved by Span administrative staff on a case-by-case basis.

Standard business phone hours for all fare payment questions are 9 am – 5 pm. You may leave a voicemail if no one is available to answer your call.

Gratuities and Tips

Drivers are not allowed to accept gratuities, tips, or gifts.

AIDES, COMPANIONS, AND ANIMALS

Aides/Personal Care Attendants (PCAs)

An aide is a social services attendant or personal care attendant (PCA) who is required to travel with a passenger, based on the disability certification. When an aide is required, the aide rides for free. The aide must be picked up and dropped off at the same address as the passenger. Riders who have a disability certification indicating an aide is required will not be transported if an aide is not accompanying them.

When a trip is scheduled, the Span Dispatch Office must be notified that an aide will be riding, so the aide can be placed on the schedule in addition to the passenger.

Under certain circumstances, Span may request that a passenger ride with an aide. Span does not provide aides.

Companions

A companion is anyone other than an aide who travels with a passenger. A companion will be required to pay a fare equivalent to the fare paid by the registered passenger. When a trip is scheduled, the Span Dispatch Office must be notified that a companion will be riding, so the companion can be placed on the schedule in addition to the passenger. Last-minute companion additions will be scheduled if there is availability on both the A and B legs.

Animals

Per FTA guidelines, a service animal is: *Any guide dog, signal dog, or other animal individually trained to work or perform tasks for an individual disability, including, but not limited to, guiding individuals with impaired vision, alerting individuals with impaired hearing to intruders or sounds, providing minimal protection or rescue work, pulling a wheelchair, or fetching dropped items.*

Guide dogs and other service animals are permitted on Span vehicles and are allowed to accompany passengers. Other small animals are also allowed, but they must be contained in an approved pet travel kennel and must be restrained in the kennel throughout the trip. When scheduling a trip, passengers must indicate that an animal will be accompanying the passenger. Control of the animal is the responsibility of the rider. If an animal's behavior creates a hazard or direct threat, the rider is responsible for any damages or injuries.

CANCELLATIONS, WAIT TIME, NO-SHOW, LATE CANCELLATION, AND PENALTIES

Span acknowledges that unavoidable situations may arise that result in a passenger needing to cancel or miss a scheduled trip. However, frequent and excessive late cancellation and/or no-show of scheduled trips negatively affects our ability to serve all our riders. Span's goal is to educate passengers on our policies as a means of reducing the incidences of late cancellations and/or no-shows.

Cancellations

If you need to cancel a trip, please call the Span Dispatch Office at 940-382-1900 as soon as possible.

Wait Time

Riders are expected to be ready to ride when the bus arrives. Span bus drivers will not wait longer than five (5) minutes from the arrival time for passengers to board the vehicle. If the vehicle arrives within the 30-minute ready window (15 minutes before to 15 minutes after the scheduled pick-up time), the passenger must board the vehicle within 5 minutes of arrival time. Passengers or their associates may not ask the bus driver to delay this five-minute interval under any circumstances; this is to assure the timely pick-up and transport of all Span passengers. See *Scheduling* section for more information.

No-Show

Failure to meet the vehicle within five (5) minutes from the time of arrival will constitute a no-show. If a passenger fails to cancel their trip within three (3) hours before the scheduled pick-up time, that will also be considered a no-show. A passenger is allowed two (2) no-shows per calendar month without penalty.

Span understands that some no-shows are beyond the rider's control and those instances will not be counted as no-shows. Potential examples of excused no-shows include:

- Family emergency
- The scheduled appointment was canceled or rescheduled for reasons that are not the fault of the rider
- Illness that prevents the rider from being able to call and cancel
- The Personal Care Attendant (PCA) did not arrive in time to assist the rider
- The rider's mobility device failed

Late Cancellation

If a passenger cancels their trip on the day of service but does not do so at least three (3) hours prior to the pick-up time, it will be considered a late cancellation. A passenger is allowed four (4) late cancellations per calendar month without penalty.

Subscription Service Changes

Subscription service riders should contact the Span Dispatch Office at 940-382-1900 as soon as possible if a ride is not needed on a normally scheduled day. Advance notifications allow us to plan changes to our schedules, avoid any no-show notations on your account, and schedule our other riders more efficiently.

Penalties

We would certainly prefer not to have to penalize anyone. However, behavior that inflicts disruption and inconvenience for our riders, drivers, and office staff will not be tolerated.

- Three (3) no-shows in a thirty (30)-day period will result in the suspension of services for one (1) week. In the event there are three (3) no-shows during a thirty (30)-day period a second time, services will be suspended for two (2) weeks. If the problem persists, services may be suspended indefinitely.
- Five (5) late cancellations in a (30)-day period may result in the suspension of services for one (1) week. If the problem persists, services may be suspended indefinitely.
- Span may impose reasonable penalties for any passenger who develops a pattern or practice of missing scheduled trips, including indefinite suspension of services.
- Subscription riders who face penalties may lose their subscription slot.

The suspension will go into effect seven (7) days after notification of the suspension has been made to the rider.

MOBILITY DEVICES

Span vehicles, in compliance with the ADA and the Federal Code of Regulations, are designed to carry passengers utilizing wheelchairs. A wheelchair is defined as a mobility aid belonging to any class of three or more-wheeled devices, usable indoors, designed for and used by individuals with mobility impairments, whether operated manually or powered. *All mobility devices must be secured by the Span driver and the device must face forward during transportation.*

Span reserves the right to deny service if the mobility device is unable to fit safely on the vehicle.

SEATBELTS AND RESTRAINTS

Span policy requires that all passengers wear seatbelts at all times for their own safety, as well as the safety of other passengers. All wheeled mobility devices must be properly secured at all times the Span vehicle is in operation.

CARRY-ON ITEMS

You may only board the vehicle with packages you are able to carry yourself and maintain control of at all times. No bulk items are allowed (i.e., cases of drinks, bulk paper products,

large bags of pet food or bags of potting soil). Your packages cannot block the aisle, displace another rider, or otherwise create a safety hazard. Drivers do not assist riders with packages.

Priority Seating

Priority seating is made available on Span vehicles and is designated for the elderly and persons with a disability. Persons sitting in those locations who are not elderly or disabled may be asked to vacate their seat to make room for an individual with a disability. Priority seating and the securement areas are intended to accommodate riders with disabilities.

RIDER COURTESY AND CONDUCT

- Riders shall maintain appropriate, reasonable personal hygiene.
- Shirts and shoes or other footwear must be worn.
- Service animals accompanying other riders should not be pet without the permission of the owner.

To ensure the safety and comfort of all passengers and the driver, the following activities are prohibited on all vehicles. Persons who engage in these activities may be refused service.

- Playing radios or using other devices that make sound, without using headphones
- Smoking, including the use of electronic cigarettes
- Eating or drinking
- Consuming alcoholic beverages
- Using or possessing illegal drugs
- Using obscene or abusive language
- Indecent exposure or sexual conduct
- Harassment or bullying
- Violent, disruptive, or threatening behavior
- Shoving, pushing, or behaving in a disorderly manner
- Interfering with the driver
- Causing actual or potential damage to the vehicle

Span reserves the right to deny service, including removing the passenger from the bus, if the situation is determined to be unsafe for the passenger, other passengers, the driver, or the public.

TERMINATION OF SERVICES

If a passenger does not follow Span Inc.'s policies and guidelines, services will be terminated as follows:

- If feasible, a verbal warning will be given.
- If the verbal warning does not result in compliance, the passenger will receive a detailed, written warning concerning the area(s) of non-compliance and possible sanctions.
- If compliance is not achieved after the written warning, the passenger will be notified in writing that their use of Span's services is suspended for 30 days, with a statement of the reason(s) for suspension.
- Failure to follow Span Inc.'s policies and guidelines an additional time will result in permanent termination of services, effective immediately. The passenger will be notified in writing that their use of Span's services is permanently terminated, with a statement of the reason(s) for termination.

Span reserves the right to immediately terminate services without prior warning if a passenger poses a safety risk to themselves or any other person.

GRIEVANCE AND APPEAL PROCEDURES

1. Any individual has the option to appeal a suspension, termination, or rate eligibility determination. Appeals must be presented in writing within 30 days. Span's Executive Director will hear first appeals. Span service will not be suspended while the Span Executive Director is considering an appeal unless the suspension or termination resulted from behavior that was determined to pose a risk to the passenger or others. A decision will be made within two weeks (14 days). If the Executive Director upholds the determination, the individual may request that the matter be reviewed by a panel of Span board members, designated by the Span Board Chair.
2. If an individual requests an appeal of the Executive Director's decision, the Span board member panel will review all material submitted. A decision will be made within thirty (30) days. Span service will not be suspended while the Span board panel is considering an appeal unless the suspension or termination resulted from behavior that was determined to pose a risk to the passenger or others.
3. Span will notify the individual, in writing, of the Span board panel's ruling on all appeals. The notification will outline the ruling and the reason(s) for it.
4. Once the individual has been informed of the initial ruling or the ruling from an appeal, the determination will go into effect the following business day.
5. Span requires that all appeals be made within 30 days of notification of sanctions or eligibility determination.
6. All decisions made by the Span board panel are considered final.

Span Employees and the Span Board of Directors will strive to maintain an accommodation process that is cooperative rather than adversarial in nature, attempt to fulfill eligibility requests when possible, and will document all attempts at reasonable accommodations.

CUSTOMER COMPLAINTS

Span takes all complaints seriously and records, investigates, and responds to each complaint, including Americans with Disabilities Act (ADA) complaints. Span is committed to resolving complaints in a prompt and equitable manner.

Span reserves the right to extend the complaint investigation beyond in-person communication to include additional information sources, such as:

- Video recordings from on-board cameras and facility surveillance
- Recordings of telephone calls
- Written communications (paper and/or electronic, including faxed documents)
- System data including location tracking, dispatch records, and reservation notes and data input
- Driver manifests (paper and/or electronic)
- Interviews with transit agency employees or contractors and other riders who may be witnesses to the incident
- Any additional source determined to have relevance

Customer Complaint Process

Complaints concerning Span's demand response transportation service by passengers or caretakers of passengers, or any other authorized representative of the passenger should be reported to the Span Transportation Department by one of the following methods:

- Calling Span at 940-382-1900 and asking to speak to the Transportation Supervisor or Transportation Manager.
- Sending an email to span@span-transit.org.
- Mailing a letter to Span, Inc, Attn: Transportation Manager, 1800 Malone Street, Denton, TX 76201; or
- Sending a fax to the Transportation Supervisor or Transportation Manager at 940-383-8433.

When the complaint is reported, please include as much information as possible; including the nature of the complaint, date and time of the incident, the location where it took place, the names of the people involved (if known), and any other relevant information.

Service Complaint Form

Please see the last page of this document for a copy of our *Span, Inc. Transportation Service Complaint Form*. You can also complete the *Complaint Form* on our website, www.span-transit.org.

TITLE VI

Span operates its programs and services without regard to race, color, or national origin in accordance with Title VI of the Civil Rights Act. Any person who believes they have been aggrieved by any unlawful discriminatory practice under Title VI may file a complaint with Span.

For more information on Span's Title VI program, the procedures to file a complaint, or to file a complaint contact the Executive Director at 940-382-2224; email span@span-transit.org; or visit our administrative office at 1800 Malone Street, Denton, TX 76201. For more information, visit www.span-transit.org.

Span opera sus programas y servicios, sin distinción de raza, color u origen nacional, de conformidad con el Título VI de la Ley de Derechos Civiles. Cualquier persona que cree que él o ella ha sido perjudicada por una práctica discriminatoria ilegal bajo el Título VI, puede presentar una queja con Span.

Para obtener más información sobre Span 's Título VI programa, los procedimientos para presentar una queja, o para presentar una queja contacto el Director Ejecutivo al 940-382-2224; lapso de correo electrónico @ ñol@span-transit.org; o visite nuestra oficina administrativa en 1800 Malone Street, Denton, TX 76201. Para obtener más información, visite www.span-transit.org.

A complaint may also be filed directly with the:

Texas Department of Transportation, Attn: TxDOT-PTN, 125 E. 11th Street, Austin, TX 78701-2483, or

Federal Transit Administration, Office of Civil Rights, Attention: Title VI Program Coordinator, East Building, 5th Floor-TCR, 1200 New Jersey Ave., SE Washington, DC, 20590.

If information is needed in another language, contact 940-382-2224. Para más información llame a este número 940-382-2224.



Span, Inc. Transportation Service Complaint Form

Date of Complaint _____

This complaint is being made by:

Client _____ Client Representative _____ Driver/Staff _____ Member of the Community _____

If you selected Client Representative, please list the client's name _____

Your Name _____ Telephone Number _____

Street Address _____ City _____ Zip Code _____

Email address _____

Date of issue that resulted in this complaint _____ Approx. time _____

Passenger Name _____ Vehicle Number _____

Driver/Employee Name _____ Route Number _____

Please explain the reason for your complaint and provide as much detail as possible:

Signature _____ Date _____

Mail to Span, Inc., Attn: Transportation Mgr., 1800 Malone St., Denton, TX 76201;

email to span@spantransit.org; or fax to 940-383-8433.

.....
Supervisor/Manager Response/Resolution to Complaint:

Supervisor/Manager Signature _____ Date _____

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT COMMUNITY
DEVELOPMENT BLOCK GRANT FUNDS

1. Statement of Work

During the period October 1, 2024 through September 30, 2025, the Town of Flower Mound may use Community Development Block Grant (CDBG) funds to reimburse SPAN for providing "Demand Response" transit service to the following citizens of the Town of Flower Mound (TOWN):

- Elderly who are 65 years and older
- Severely disabled adults who are 18 years and older and
 - Use a wheelchair or another special aid for six months or longer; or
 - Are unable to perform one or more "functional activities" (i.e., seeing, hearing, having one's speech understood, lifting and carrying, walking up a flight of stairs, or walking); or
 - Need assistance with an "ADL" (i.e., an activity of daily living including getting around inside the home, getting in or out of bed or a chair, bathing, dressing, eating, and toileting); or
 - Need assistance with an "IADL" (i.e., going outside the home, keeping track of money or bills, preparing meals, doing light housework and using the telephone); or
 - Are prevented from working at a job or doing housework; or
 - Have a selected condition including autism, cerebral palsy, Alzheimer's disease, senility or dementia, or mental retardation; or
 - Are less than 65 years and covered by Medicare or receive Supplemental Social Security Income.

It is expressly agreed and understood that the total amount of CDBG funds to be paid by the TOWN under this Agreement shall not exceed Forty Thousand Eight Hundred Dollars (\$40,800.00). Costs exceeding Forty Thousand Eight Hundred Dollars (\$40,800.00) for providing Demand Response transit service to the above citizens will be paid with TOWN funds in accordance with the Agreement.

The TOWN's obligations under this Agreement are contingent upon the actual receipt of adequate CDBG funds to meet SPAN's liabilities under this Agreement. If adequate CDBG funds are not available to make payments under this Agreement, the TOWN will notify SPAN in writing within a reasonable time after such fact has been determined, so that SPAN can modify its services. The TOWN may, at its option, either reduce the amount of its liability, or terminate the Agreement. It is expressly understood that this Agreement in no way obligates the TOWN's General Fund or any other monies or credits of the TOWN for payment of the CDBG funds.

CDBG grant funds will not be used for any cost or portion thereof of which:

- Has been paid, reimbursed or is subject to payment or reimbursement from any other source;
- Was incurred prior to the beginning date, or after the ending date specified in this Agreement;

- Is not in strict accordance with the terms of this Agreement; or,
- Has not been billed to TOWN within 30 calendar days following termination of the Agreement.

CDBG grant funds reimbursed under this Agreement will not be paid to any party other than SPAN. Upon termination of this Agreement, should any expense for which payment has been made be subsequently disallowed or disapproved as a result of any auditing or monitoring by the TOWN, the Department of Housing and Urban Development, or any other federal agency, SPAN will refund such amount to the TOWN within ten working days of a written notice to SPAN, which specifies the amount disallowed. Refunds of disallowed costs may not be made from these or any funds received from or through the TOWN.

2. Records and Reports

SPAN agrees to maintain records that provide accurate, current, separate, and complete disclosure of the status of the CDBG funds received under this Agreement. SPAN shall retain all records pertinent to expenditures incurred under this Agreement for five years from the date of termination of the Agreement. If there is litigation, claims, audits, negotiations or other actions that involve any of the records cited and that have started before the expiration of the five-year period, then such records must be retained until completion of the actions and resolution of all issues, or the expiration of the five-year period, whichever occurs first.

SPAN agrees to grant access by the TOWN, the U. S. Department of Housing and Urban Development, and the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of SPAN which are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts, and transcriptions.

At the time SPAN submits a request to TOWN for reimbursement, SPAN shall provide a report to TOWN identifying the costs by line item and the actual ridership provided, including name, address, age, disability, and race. SPAN will provide TOWN staff access to records necessary to obtain documentation to support CDBG eligibility requirements.

3. Program Income

No program income will be generated under this Agreement.

4. Uniform Administrative Requirements

In regard to CDBG funds provided under this Agreement, SPAN agrees to comply with the requirements of Title 24: Housing and Urban Development of the Code of Federal Regulations (CFR) Part 570.502 concerning Community Development Block Grants (CDBG). The TOWN has a copy available for review or reproduction. SPAN also agrees to comply with all other applicable Federal, state and local laws, regulations, and policies governing the CDBG funds provided under this Agreement.

5. Other Program Requirements

SPAN further agrees to utilize CDBG funds available under this Agreement to supplement rather than supplant funds otherwise available. For example, if an eligible rider's fee is partially paid by other funds, CDBG funds will be used to pay only the difference in cost for the ride. CDBG grant funds will not be used to fund any claims, actions, suits, charges or judgments whatsoever that arise out of SPAN's performance or nonperformance of the services or subject matter called for in the Agreement. SPAN shall:

- Hold harmless, defend, and indemnify TOWN from any and all claims, actions, suits, charges and judgments whatsoever that arise out of SPAN's performance or nonperformance of the services or subject matter called for in the Agreement;
- Comply with the bonding and insurance requirements of OMB Circular A-110 (Flower Mound has a copy available for review or reproduction). Actual losses not covered by insurance as required by this Agreement are not allowable costs under this Agreement and remain the sole responsibility of SPAN;
- Comply with all applicable equal employment opportunity and affirmative action laws or regulations;
- Provide Workers' Compensation Insurance coverage for all of its employees involved in the performance of this Agreement;
- Maintain adequate and continuous liability insurance on all vehicles owned, leased or operated that are used to provide services under this Agreement; and,
- Ensure that all drivers possess a valid Texas driver's license.

6. Conditions for Religious Organizations

SPAN shall provide all services under this Agreement in a manner that is exclusively non-religious in nature and scope. There shall be no religious services, proselytizing, instruction or any other religious preference, influence or discrimination in connection with providing these services.

7. Reversion of Assets

Payment for allowable costs under the terms of the Agreement is on a reimbursement basis. Expenditures will not be reimbursed to SPAN for the purchase of real property or equipment. These are not allowable costs under this Agreement.

SPAN
May 2024 Budget Report

		<i>May</i>	<i>YTD</i>	<i>Annual</i>	<i>YTD/Annual</i>	<i>YTD/Annual</i>
		<i>Actual</i>	<i>Actual</i>	<i>Budget</i>	<i>Variance (\$)</i>	<i>Variance (%)</i>
						67%
	Revenue					
5005	CITY CONTRIBUTIONS	\$1,200.00	\$31,256.50	\$68,489.00	(\$37,232.50)	46%
5010	CITY OF DENTON CDBG	2,125.00	17,000.00	25,500.00	(8,500.00)	67%
5020	LEWISVILLE CDBG	2,200.00	17,600.00	22,000.00	(4,400.00)	80%
5023	COPPELL CONTRACT	1,477.52	7,063.76	16,000.00	(8,936.24)	44%
5025	CORINTH CONTRACT	1,234.64	7,640.60	24,531.00	(16,890.40)	31%
5030	DOUBLE OAK CONTRACT			547.00	(547.00)	0%
5035	HICKORY CREEK CONTRACT	931.04	3,440.80	4,918.00	(1,477.20)	70%
5040	SHADY SHORES CONTRACT	829.84	6,142.84	8,541.00	(2,398.16)	72%
5050	THE COLONY CONTRACT	4,088.48	24,478.56	91,114.00	(66,635.44)	27%
5053	LITTLE ELM CONTRACT	4,736.16	21,353.20	33,133.00	(11,779.80)	64%
5055	LAKE DALLAS CONTRACT	546.48	2,874.08	7,833.00	(4,958.92)	37%
5085	FLOWER MOUND CONTRACT	2,813.36	22,304.48	67,804.00	(45,499.52)	33%
5065	TITLE IIIB - PARTICIPANT ASSESSMENTS	1,151.21	10,957.30	25,500.00	(14,542.70)	43%
5070	DENTON COUNTY CONTRACT	9,622.67	76,981.36	115,472.00	(38,490.64)	67%
5090	UNITED WAY-DENTON CONTRACT	1,703.30	12,395.25	25,000.00	(12,604.75)	50%
5170	INTEREST INCOME	0.20	14,148.55	20,000.00	(5,851.45)	71%
5172	INSURANCE CLAIM PMTS NON-BUDGET	1,000.00	11,878.15		11,878.15	
5175/5178	FUNDRAISING	37,913.43	188,284.03	270,710.00	(82,425.97)	70%
5180	MISCELLANEOUS	1,176.44	1,285.65	1,000.00	285.65	129%
5181	SR. PAWS - DONATIONS FOR PET FOOD	215.00	5,610.00		5,610.00	
5187	EBAY - AUCTION SALES REVENUE	5,050.00	17,300.00		17,300.00	
5190	GENERAL DONATIONS, UNALLOCATED	1,176.79	23,755.36	80,000.00	(56,244.64)	30%
5320	5339 TXDOT FEDERAL		23,511.00		23,511.00	
5330	5310 NCTCOG FEDERAL	10,409.64	107,573.96	145,000.00	(37,426.04)	74%
5335	5310 TXDOT FEDERAL		35,000.00	35,000.00		100%
5340	5311 TXDOT FEDERAL	63,564.00	553,374.70	1,155,000.00	(601,625.30)	48%
5345	5311 TXDOT STATE	43,023.00	338,409.00		338,409.00	
5350	MEDICAID CONTRACT		1,296.47		1,296.47	
5357	TX VETERANS COMM	1,596.77	9,529.39	20,000.00	(10,470.61)	48%
5360	TITLE IIIB - TRANSPORTATION	1,783.37	25,979.44	33,204.00	(7,224.56)	78%
5361	5307 DISCRETIONARY FUNDS	104,307.66	438,563.69	767,774.00	(329,210.31)	57%
5363	5307 CARES ACT		259,803.52	300,000.00	(40,196.48)	87%
5365	BUS DONATIONS - COUNTY	22.00	45.00		45.00	
5370	FARES - COUNTY 5311	11,786.35	103,313.72	135,000.00	(31,686.28)	77%
5410	TITLE IIIC1- CONGREGATE MEALS	27,702.95	203,576.45	251,280.00	(47,703.55)	81%
5440	MEAL DONATIONS -TITLE C1	307.00	3,289.30	5,100.00	(1,810.70)	64%
5450	TITLE III-C2 HOME DELIVERY	61,079.30	493,414.80	775,200.00	(281,785.20)	64%
5470	USDA ALLOWANCE - HOME DEL.		4,018.82	11,000.00	(6,981.18)	37%
5480	MEAL DONATIONS -TITLE C2	1,217.00	11,423.75	15,000.00	(3,576.25)	76%
5520	DADS CBA/CCAD HD MEALS	12,891.30	94,239.02	153,218.00	(58,978.98)	62%
	Total Revenue	420,881.90	3,230,112.50	4,709,868.00	1,479,755.50	69%

SPAN
May 2024 Budget Report

		<i>May</i>	<i>YTD</i>	<i>Annual</i>	<i>YTD/Annual</i>	<i>YTD/Annual</i>
		<i>Actual</i>	<i>Actual</i>	<i>Budget</i>	<i>Variance (\$)</i>	<i>Variance (%)</i>
	General Expenses					
6005	DUES AND MEMBERSHIPS	465.00	2,222.50	5,205.00	2,982.50	43%
6010	MILEAGE	1,019.41	4,650.08	4,153.00	(497.08)	112%
6015	JANITORIAL SERVICES	1,125.00	4,500.00	6,501.00	2,001.00	69%
6020	TELEPHONE - GENERAL	877.20	7,049.60	9,593.00	2,543.40	73%
6025	UTILITIES	1,207.17	8,758.89	13,450.00	4,691.11	65%
6030	BUILDING MAINTENANCE	719.45	5,332.29	29,547.00	24,214.71	18%
6035	GROUPS MAINTENANCE	582.50	3,802.00	4,775.00	973.00	80%
6040	FEES & PERMITS		5,149.00	12,607.00	7,458.00	41%
6045	LIABILITY INSURANCE	249.77	19,082.22	21,466.00	2,383.78	89%
6050	MEETINGS/CONFERENCES	57.96	4,788.33	10,753.00	5,964.67	45%
6052	TRAINING	1,148.20	3,408.50	7,012.00	3,603.50	49%
6055	POSTAGE	680.00	1,357.54	3,056.00	1,698.46	44%
6060	OFFICE SUPPLIES	518.85	7,244.52	14,566.00	7,321.48	50%
6065	OFFICE EQUIPMENT		1,816.04	5,285.00	3,468.96	34%
6070	PRINTING		123.54	9,352.00	9,228.46	1%
6080	IT SUPPORT	3,251.00	34,964.74	42,012.00	7,047.26	83%
6085	ADVERTISING & PROMOTION	417.53	34,006.79	49,662.00	15,655.21	68%
6090	PROFESSIONAL SERVICES	3,044.11	32,606.04	36,399.00	3,792.96	90%
6095	EQUIPMENT LEASING	173.13	4,220.92	8,037.00	3,816.08	53%
6105	COMPUTER EQUIPMENT		37.98	7,291.00	7,253.02	1%
6110	COMPUTER SOFTWARE	7,522.71	16,921.17	53,293.00	36,371.83	32%
6115	BANK SERVICE FEES	608.70	4,689.71	9,142.00	4,452.29	51%
6120	INTEREST & FINANCE CHARGES	10.23	10.23		(10.23)	
6150	GROUP MEDICAL	17,444.21	134,778.56	184,880.00	50,101.44	73%
6155	EMPLOYER SHARE OF RETIREMENT	(222.56)	9,583.23	22,431.00	12,847.77	43%
6190/6192	FUNDRAISING EXPENSE	292.51	28,487.44	40,262.00	11,774.56	71%
6191	VOLUNTEER EXPENSES		283.62	2,481.00	2,197.38	11%
6194	EMPLOYEE APPRECIATION		163.47		(163.47)	
6195	MISC. (OTHER)	585.43	7,553.65	30,244.00	22,690.35	25%
	Total General Expense	41,777.51	387,592.60	643,455.00	255,862.40	60%

SPAN

May 2024 Budget Report

	<i>May Actual</i>	<i>YTD Actual</i>	<i>Annual Budget</i>	<i>YTD/Annual Variance (\$)</i>	<i>YTD/Annual Variance (%)</i>
Program Expenses					
6405 UNIFORMS	362.10	2,626.48	6,012.00	3,385.52	44%
6410 FUEL & LUBRICANTS	21,264.73	183,400.48	281,355.00	97,954.52	65%
6415 PARTS	4,526.65	29,444.44	31,981.00	2,536.56	92%
6420 TIRES	2,387.70	14,930.60	25,304.00	10,373.40	59%
6425 OFF SITE REPAIRS	2,837.10	81,268.90	77,239.00	(4,029.90)	105%
6430 TOLLS	1,530.00	11,603.26	21,254.00	9,650.74	55%
6435 PHYSICALS / BACKGROUND SEARCHES	1,602.94	15,122.44	15,582.00	459.56	97%
6440 LICENSING	124.00	4,802.05	7,193.00	2,390.95	67%
6445 INSURANCE - VEHICLE	5,105.00	38,977.00	61,260.00	22,283.00	64%
6450 TABLETS - PTT		2,480.44	10,297.00	7,816.56	24%
6475 INSURANCE CLAIMS EXPENSE NON-BUDGET			4,000.00	4,000.00	0%
6510 CATERED AND PURCHASED MEALS	72,651.21	603,971.60	791,309.00	187,337.40	76%
6515 ENSURE MEALS - MOODY FOUNDATION	7,035.27	29,708.53		(29,708.53)	
6545 FUEL-OIL-PARTS - MOW	35.82	1,918.41	1,783.00	(135.41)	108%
6550 SR. PAWS - PET FOOD		4,598.01		(4,598.01)	
6551 SR. PAWS - VET EXP		18,418.60		(18,418.60)	
Total Program Expenses	119,462.52	1,043,271.24	1,334,569.00	291,297.76	78%
Payroll Expense					
8000 GENERAL ADMINISTRATION	84,237.31	482,481.19	679,072.00	196,590.81	71%
8001 GENERAL ADMIN TAXES	6,303.57	37,045.56	42,316.00	5,270.44	88%
8200 TRANSPORTATION ADMIN	44,526.85	264,647.29	363,292.00	98,644.71	73%
8201 TRANSPORTATION TAXES	3,348.64	20,612.36	28,464.00	7,851.64	72%
8210 DRIVERS	105,436.93	651,203.26	961,410.00	310,206.74	68%
8211 DRIVER TAXES	8,278.86	51,980.99	75,938.00	23,957.01	68%
8230 MECHANICS	16,783.28	103,006.87	143,458.00	40,451.13	72%
8231 MECHANICS TAXES	1,255.71	8,003.03	11,199.00	3,195.97	71%
8400 SENIOR SERVICES ADMINISTRATION	12,202.83	75,808.34	116,084.00	40,275.66	65%
8401 SENIOR SERVICES TAXES	734.49	4,814.34	9,030.00	4,215.66	53%
8430 SR CTR MGRS	22,112.03	128,423.37	182,948.00	54,524.63	70%
8431 SR CENTER TAXES	1,879.57	10,718.65	15,257.00	4,538.35	70%
6125 WORKERS COMP INSURANCE	7,753.00	72,016.00	103,376.00	31,360.00	70%
Total Payroll Expense	314,853.07	1,910,761.25	2,731,844.00	821,082.75	70%
Total Expenses	476,093.10	3,341,625.09	4,709,868.00	1,368,242.91	71%
Total Revenue	420,881.90	3,230,112.50	4,709,868.00	1,479,755.50	69%
Net Contribution	(55,211.20)				

SPAN, INCORPORATED

ANNUAL FINANCIAL REPORT

YEAR ENDED SEPTEMBER 30, 2023

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INDEPENDENT AUDITORS' REPORT

To the Board of Directors
SPAN, Incorporated
Denton, Texas

Opinion

We have audited the accompanying financial statements of SPAN, Incorporated (a nonprofit organization), which comprise the statement of financial position as of September 30, 2023, and the related statements of activities, cash flows, and functional expenses for the year then ended, and the related notes to the financial statements.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of SPAN, Incorporated as of September 30, 2023, and the changes in its net assets and its cash flows for the years then ended in accordance with accounting principles generally accepted in the United States of America.

Basis for Opinion

We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Our responsibilities under those standards are further described in the Auditor's Responsibilities for the Audit of the Financial Statements section of our report. We are required to be independent of SPAN, Incorporated and to meet our other ethical responsibilities in accordance with the relevant ethical requirements relating to our audit. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Responsibility of Management for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America, and for the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, management is required to evaluate whether there are conditions or events, considered in the aggregate, that raise substantial doubt about SPAN, Incorporated's ability to continue as a going concern within one year after the date that the financial statements are available to be issued.

Auditor's Responsibilities for the Audit of the Financial Statements

Our responsibilities are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with generally accepted auditing standards will always detect a material misstatement when it exists. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentation, or the override of internal control. Misstatements are considered material if there is a substantial likelihood that, individually or in the aggregate, they would influence the judgement made by a reasonable user based on the financial statements.

In performing an audit in accordance with generally accepted auditing standards, we:

- Exercise professional judgment and maintain professional skepticism throughout the audit.
- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of SPAN, Incorporated's internal control. Accordingly, no such opinion is expressed.
- Evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluate the overall presentation of the financial statements.
- Conclude whether, in our judgment, there are conditions or events, considered in the aggregate, that raise substantial doubt about SPAN, Incorporated's ability to continue as a going concern for a reasonable period of time.

We are required to communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit findings, and certain internal control related matters we identified during the audit.

Supplementary Information

Our audit was conducted for the purpose of forming an opinion on the financial statements as a whole. The accompanying schedule of expenditures of federal awards, as required by Title 2 U.S. *Code of Federal Regulations* (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*, is presented for purposes of additional analysis and is not a required part of the financial statements. Such information is the responsibility of management and was derived from and relates directly to the underlying accounting and other records used to prepare the financial statements. The information has been subjected to the auditing procedures applied in the audit of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. In our opinion, the information is fairly stated, in all material respects, in relation to the financial statements as a whole.

Other Reporting Required by *Government Auditing Standards*

In accordance with *Government Auditing Standards*, we have also issued our report dated February 6, 2024, on our consideration of SPAN, Incorporated's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering SPAN, Incorporated's internal control over financial reporting and compliance.

Hankins, Eastup, Deaton, Tonn, Seay & Scarborough, LLC

Hankins, Eastup, Deaton, Tonn, Seay & Scarborough, LLC
Denton, Texas

February 6, 2024

FINANCIAL SECTION

SPAN, INCORPORATED

STATEMENT OF FINANCIAL POSITION
SEPTEMBER 30, 2023

ASSETS

Current Assets:

Cash and cash equivalents	\$ 982,227	
Accounts receivable	898,191	
Accrued interest receivable	10,050	
Prepaid expenses	<u>53,699</u>	
Total Current Assets		\$ 1,944,167

Property and equipment:

Land	181,100	
Building	624,730	
Transportation equipment	2,779,289	
Office/Shop furniture and equipment	<u>241,767</u>	
	3,826,886	
Less accumulated depreciation	<u>(2,481,126)</u>	
Net Property and Equipment		<u>1,345,760</u>

Total Assets		<u><u>\$ 3,289,927</u></u>
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LIABILITIES AND NET ASSETS

Current Liabilities:

Accounts payable	\$ 82,164	
Deferred Income	<u>18,889</u>	
Total Current Liabilities		\$ 101,053

Net Assets:

Without donor restriction	3,180,911	
With donor restriction	<u>7,963</u>	
Total Net Assets		<u>3,188,874</u>

Total Liabilities and Net Assets		<u><u>\$ 3,289,927</u></u>
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The accompanying notes are an integral part of these financial statements.

SPAN, INCORPORATEDSTATEMENT OF ACTIVITIES
YEAR ENDED SEPTEMBER 30, 2023

	Without Donor Restriction	With Donor Restriction	Total
Support and Revenue:			
Support			
Contributions	\$ 240,813	\$ 15,550	\$ 256,363
Support from local governments	216,570		216,570
United Way	20,206		20,206
Total Support	<u>477,589</u>	<u>15,550</u>	<u>493,139</u>
Revenue:			
Transportation grants	3,397,407		3,397,407
Transportation contracts	42,392		42,392
Aging grants	820,743		820,743
Aging contracts	102,298		102,298
Transportation program income	147,228		147,228
Meals program income	25,638		25,638
Miscellaneous	2,314		2,314
Fundraising	34,570		34,570
Gain on disposition of assets	35,127		35,127
Interest income	16,478		16,478
Total Revenue	<u>4,624,195</u>	<u>-</u>	<u>4,624,195</u>
Net assets released from restrictions:			
Satisfaction of usage restrictions	16,333	(16,333)	-
Total Support and Revenue	<u>5,118,117</u>	<u>(783)</u>	<u>5,117,334</u>
Expenses:			
Functional Expenses:			
Transportation program	2,850,484		2,850,484
Senior citizen meals and other services	1,231,463		1,231,463
Management and general	540,611		540,611
Fundraising	97,276		97,276
Total Expenses	<u>4,719,834</u>	<u>-</u>	<u>4,719,834</u>
Change in net assets	<u>398,283</u>	<u>(783)</u>	<u>397,500</u>
Net Assets, Beginning of Year	<u>2,782,628</u>	<u>8,746</u>	<u>2,791,374</u>
Net Assets, End of Year	<u>\$ 3,180,911</u>	<u>\$ 7,963</u>	<u>\$ 3,188,874</u>

The accompanying notes are an integral part of these financial statements.

SPAN, INCORPORATED

STATEMENT OF CASH FLOWS
YEAR ENDED SEPTEMBER 30, 2023

Cash Flows From Operating Activities:

Change in net assets	\$ 397,500	
Adjustments to reconcile change in net assets to net cash provided by operating activities:		
Depreciation	293,107	
Increase in accounts receivable	(238,085)	
Increase in accrued interest receivable	(10,050)	
Decrease in prepaid expenses	24,923	
Increase in accounts payable	15,340	
Increase in deferred income	3,971	
Gain on disposition of assets	<u>(35,127)</u>	
Net Cash Provided By Operating Activities		\$ 451,579

Cash Flows From Investing Activities:

Proceeds from sale of assets	35,127	
Purchase of property and equipment	<u>(667,731)</u>	
Net Cash Used by Investing Activities		<u>(632,604)</u>

Net decrease in cash and cash equivalents	(181,025)
Cash and cash equivalents - September 30, 2022	<u>1,163,252</u>
Cash and cash equivalents - September 30, 2023	<u><u>\$ 982,227</u></u>

Supplemental disclosure:

Interest paid during the year	\$ -
Income taxes paid during the year	\$ -

SPAN, INCORPORATEDSTATEMENT OF FUNCTIONAL EXPENSES
YEAR ENDED SEPTEMBER 30, 2023

	Transportation	Senior Citizen Meal and Other Services	Management and General	Fundraising	Total
Salaries and Wages	1,395,912	340,239	430,626	43,404	2,210,181
Payroll taxes	109,639	26,246	30,574	3,397	169,856
Workers compensation ins.	64,028	16,462	18,110	2,012	100,612
Health insurance	96,200	18,908	25,899	2,878	143,885
Retirement	13,063	1,708	3,323	369	18,463
Travel	756	3,363	-	-	4,119
Occupancy	108,427	27,781	8,835	2,209	147,252
Insurance	63,232	3,133	1,674	314	68,353
Telephone	6,698	1,722	744	140	9,304
Office expense	16,169	7,834	2,728	546	27,277
Conferences and meetings	12,135	3,945	1,422	267	17,769
Advertising	20,042	6,798	-	-	26,840
Professional fees	17,623	4,014	1,913	359	23,909
Computer & equipment expenses	86,829	15,213	9,020	1,691	112,753
Fundraising expenses	-	-	-	39,690	39,690
Fuel and oil	274,335	-	-	-	274,335
Licensing	6,766	-	-	-	6,766
Vehicle repairs & maintenance	182,825	-	-	-	182,825
Tolls	17,615	-	-	-	17,615
Health & background screenings	20,300	-	-	-	20,300
Uniforms	5,295	-	-	-	5,295
Miscellaneous	36,387	5,904	3,814	-	46,105
Cost of meals	-	724,350	-	-	724,350
Supplies and fees	10,815	18,058	-	-	28,873
Total expenses before deprec.	2,565,091	1,225,678	538,682	97,276	4,426,727
Depreciation of property & equip	285,393	5,785	1,929	-	293,107
Total expenses	2,850,484	1,231,463	540,611	97,276	4,719,834

The accompanying notes are an integral part of these financial statements.

SPAN, INCORPORATED

NOTES TO THE FINANCIAL STATEMENTS SEPTEMBER 30, 2023

NOTE 1 – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

A. Nature of Activities

SPAN, Incorporated (SPAN) is a not-for-profit agency established to provide transportation, meals and other services to senior citizens and others within the community.

B. Financial Statement Presentation

The accompanying financial statements have been prepared on the accrual basis of accounting in accordance with accounting principles generally accepted in the United States. Net assets and revenues, expenses, gains, and losses are classified based on the existence or absence of donor-imposed restrictions. Accordingly, net assets of the Organization and changes therein are classified and reported as follows:

Net assets without donor restriction - Net assets that are not subject to donor-imposed stipulations.

Net assets with donor restriction - Net assets subject to donor-imposed stipulations that may or will be met, either by actions of the Organization and/or the passage of time. When a restriction expires, net assets with donor restriction are reclassified to net assets without donor restriction and reported in the statement of activities as net assets released from restrictions.

C. Description of Programs

Transportation - SPAN provides transportation programs for citizens throughout Denton County. Programs include demand response transportation in Denton County for senior citizens, persons with disabilities, and the general public. Funding for these programs is provided through Federal and State transportation grants and contracts; fares and donations received from riders; and local public and private support.

Senior Citizen Meals and Other Services - Daily (Monday through Friday) hot meals are served to senior citizens at eight sites throughout Denton County. The program also includes home delivered meals to qualifying home-bound senior citizens. In March 2020, SPAN temporarily closed all of the congregate meal locations in response to the coronavirus pandemic. At that time, SPAN began home-delivery of meals to the effected individuals. In August 2021, SPAN reopened all congregate meal locations. Funding for the meal programs is provided by Federal and State aging grants and contracts, donations from meal recipients and local public and private support. SPAN also provides a variety of programs for senior citizens including information and referral and recreational activities at senior centers.

D. Contributions

Contributions, including unconditional promises to give, are recorded as made. All contributions are available for unrestricted use unless specifically restricted by the donor. Conditional promises to give are recognized when the conditions on which they depend are substantially met. Unconditional promises to give due in the next year are recorded at their net realizable value. Unconditional promises to give due in subsequent years are reported at the present value of their net realizable value, using risk-free interest rates applicable to the years in which the promises are to be received.

SPAN, INCORPORATED

NOTES TO THE FINANCIAL STATEMENTS SEPTEMBER 30, 2023

NOTE 1 – SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

E. Property and Equipment

Expenditures for property and equipment are stated at cost. Donated property and equipment is recorded at its estimated fair market value at the date of donation. The organization capitalizes property and equipment purchases that exceed \$5,000.

Depreciation of property and equipment is calculated on the straight-line method over the following estimated useful lives:

Buildings	31.5 years
Vehicles	4-10 years
Equipment	4-8 years
Furniture and fixtures	7-10 years

F. Contributed Services and Materials

SPAN receives donated services from a variety of unpaid volunteers assisting SPAN in its programs. No amounts have been recognized in the accompanying statement of activities because the criteria for recognition of such volunteer effort under SFAS No. 116 have not been satisfied.

G. Income Taxes

SPAN is organized as a Texas nonprofit corporation and has been recognized by the IRS as exempt from Federal income taxes under IRC Section 501(a) as an organization described in IRC Section 501(c)(3), qualifies for the charitable contribution deduction under IRC Section 170(b)(1)(A)(vi) and (viii), and has been determined not to be a private foundation under IRC Sections 509(a)(1) and (3), respectively. SPAN is annually required to file a Return of Organization Exempt from Income Tax (Form 990) with the IRS. In addition, SPAN is subject to income tax on net income that is derived from business activities that are unrelated to their exempt purposes. We have determined that SPAN is not subject to unrelated business income tax and has not filed an Exempt Organization Business Tax Return (Form 990-T) with the IRS.

H. Functional Allocation of Expenses

The costs of providing SPAN's various programs and supporting services have been reported on a functional basis in the statement of activities in order to present the natural classification detail of expenses by function. Accordingly, certain costs have been allocated among the programs and supporting services benefited.

SPAN, INCORPORATED

NOTES TO THE FINANCIAL STATEMENTS SEPTEMBER 30, 2023

NOTE 1 – SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

I. Cash Equivalents

For purposes of the statement of cash flows, SPAN considers all cash and other highly liquid investments with initial maturities of three months or less to be cash equivalents.

J. Estimates

The preparation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect certain reported amounts of assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates, and those differences could be material.

NOTE 2 – CONCENTRATIONS OF RISK

SPAN maintains several bank accounts at two banks and one credit union. Accounts at an institution are insured by the Federal Deposit Insurance Corporation (FDIC) up to \$250,000. Cash held at Wells Fargo Bank and Bank of the West exceeded Federally insured limits at certain times during the year. At September 30, 2023, cash balances at Wells Fargo Bank were \$473,781 and Bank of the West were \$256,759.

SPAN receives a significant portion of its revenues under transportation grants from Texas Department of Transportation (TXDOT) and North Central Texas Council of Governments (NCTCOG). Revenue from these grants were \$1,807,995 from TXDOT and \$1,518,508 from NCTCOG during the year ended September 30, 2023.

SPAN also received \$862,102 in aging and transportation grants from the Area Agency on Aging.

NOTE 3 – RETIREMENT PLAN

SPAN sponsors a retirement plan for its employees. The plan is a salary reduction retirement plan under Internal Revenue Code Section 403(b). Under the plan, employees can elect to contribute to the plan, up to Internal Revenue Code limits. SPAN matches eligible employee's contributions up to three percent of the employee's compensation. During the fiscal year ended September 30, 2023, SPAN contributed \$18,463 in matching contributions to the plan.

NOTE 4 – FAIR VALUE OF FINANCIAL INSTRUMENTS

The carrying amounts of cash and cash equivalents, investments, accounts receivable, accrued interest receivable, and accounts payable reported in the statement of financial position approximate fair values because of the short maturities of those instruments.

SPAN, INCORPORATED

NOTES TO THE FINANCIAL STATEMENTS SEPTEMBER 30, 2023

NOTE 5 – SUBSEQUENT EVENTS

Management has reviewed events subsequent to September 30, 2023 through February 6, 2024, which is the date the financial statements were available to be issued. No subsequent events were identified that were required to be recorded or disclosed in the financial statements.

NOTE 6 – LIQUIDITY AND AVAILABILITY

Financial assets available for general expenditure without donor restrictions limiting their use, within one year of the balance sheet date, comprise the following:

Cash and cash equivalents-unrestricted	\$	982,227
Accounts receivable		898,191
Accrued interest receivable		<u>10,050</u>
		<u>1,890,468</u>

FEDERAL AWARDS SECTION

INDEPENDENT AUDITORS' REPORT ON INTERNAL CONTROL OVER
FINANCIAL REPORTING AND ON COMPLIANCE AND OTHER MATTERS
BASED ON AN AUDIT OF FINANCIAL STATEMENTS PERFORMED
IN ACCORDANCE WITH GOVERNMENT AUDITING STANDARDS

To the Board of Directors
SPAN, Incorporated
Denton, Texas

We have audited, in accordance with the auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, the financial statements of SPAN, Incorporated (a nonprofit organization), which comprise the statement of financial position as of September 30, 2023, and the related statements of activities, functional expenses, and cash flows for the year then ended, and the related notes to the financial statements, and have issued our report thereon dated February 6, 2024.

Report on Internal Control Over Financial Reporting

In planning and performing our audit of the financial statements, we considered SPAN, Incorporated's internal control over financial reporting (internal control) to determine the audit procedures that are appropriate in the circumstances for the purpose of expressing our opinions on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of SPAN, Incorporated's internal control. Accordingly, we do not express an opinion on the effectiveness of the Organization's internal control.

A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. A *material weakness* is a deficiency, or a combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis. A *significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies. Given these limitations, during our audit we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified.

Report on Compliance and Other Matters

As part of obtaining reasonable assurance about whether SPAN, Incorporated's financial statements are free from material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

Purpose of this Report

The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the organization's internal control or on compliance. This report is an integral part of the audit performed in accordance with *Government Auditing Standards* in considering the organization's internal control and compliance. Accordingly, this communication is not suitable for any other purpose.

Hankins, Eastup, Deaton, Tonn, Seay & Scarborough, LLC

Hankins, Eastup, Deaton, Tonn, Seay & Scarborough, LLC
Denton, Texas

February 6, 2024

INDEPENDENT AUDITORS' REPORT ON COMPLIANCE FOR EACH MAJOR FEDERAL
PROGRAM AND REPORT ON INTERNAL CONTROL OVER COMPLIANCE IN
ACCORDANCE WITH THE UNIFORM GUIDANCE

To the Board of Directors
SPAN, Incorporated
Denton, Texas

Report on Compliance for Each Major Federal Program

Opinion on Each Major Federal Program

We have audited SPAN, Incorporated's compliance with the types of compliance requirements identified as subject to audit in the *OMB Compliance Supplement* that could have a direct and material effect on each of SPAN, Incorporated's major federal programs for the year ended September 30, 2023. SPAN, Incorporated's major federal programs are identified in the summary of auditor's results section of the accompanying schedule of finding and questioned costs.

In our opinion, SPAN, Incorporated complied, in all material respects, with the types of compliance requirements referred to above that could have a direct and material effect on each of its major federal programs for the year ended September 30, 2023.

Basis for Opinion on Each Major Federal Program

We conducted our audit of compliance in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; and the audit requirements of Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance). Our responsibilities under those standards and the Uniform Guidance are further described in the Auditor's Responsibilities for the Audit of Compliance section of our report.

We are required to be independent of SPAN, Incorporated and to meet other ethical responsibilities, in accordance with relevant ethical requirements relating to our audit. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a legal determination of SPAN, Incorporated's compliance with the compliance requirements referred to above.

Responsibilities of Management for Compliance

Management is responsible for compliance with the requirements referred to above and for the design, implementation, and maintenance of effective internal control over compliance with the requirement of laws, statutes, regulations, contracts, and grants applicable to its federal programs.

Auditors' Responsibilities for the Audit of Compliance

Our objectives are to obtain reasonable assurance about whether material noncompliance with the compliance requirements referred to above occurred, whether due to fraud or error, and express an opinion on SPAN Incorporated's compliance based on our audit. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with

generally accepted auditing standards, *Government Auditing Standards*, and the Uniform Guidance will always detect material noncompliance when it exists. The risk of not detecting material noncompliance resulting from fraud is higher than for that resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control. Noncompliance with the compliance requirements referred to above is considered material if there is a substantial likelihood that, individually or in the aggregate, it would influence the judgement made by a reasonable user of the report on compliance about SPAN, Incorporated's compliance with the requirements of each major federal program as a whole.

In performing an audit in accordance with generally accepted auditing standards, *Government Auditing Standards*, and the Uniform Guidance, we:

- Exercise professional judgment and maintain professional skepticism throughout the audit.
- Identify and assess the risks of material noncompliance, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding SPAN, Incorporated's compliance with the compliance requirements referred to above and performing such other procedures as we considered necessary in the circumstances.
- Obtain an understanding of SPAN, Incorporated's internal control over compliance relevant to the audit in order to design audit procedures that are appropriate in the circumstances and to test and report on internal control over compliance in accordance with Uniform Guidance, but not for the purpose of expressing an opinion on the effectiveness of SPAN, Incorporated's internal control over compliance. Accordingly, no such opinion is expressed.

We are required to communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit and any significant deficiencies and material weaknesses in internal control over compliance that we identified during the audit.

Report on Internal Control Over Compliance

A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance with a type of compliance requirement of a federal program on a timely basis. *A material weakness in internal control over compliance* is a deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a type of compliance requirement of a federal program will not be prevented, or detected and corrected, on a timely basis. *A significant deficiency in internal control over compliance* is a deficiency, or a combination of deficiencies, in internal control over compliance with a type of compliance requirement of a federal program that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Our consideration of internal control over compliance was for the limited purpose described in the Auditor's Responsibilities for the Audit of Compliance section above and was not designed to identify all deficiencies in internal control over compliance that might be material weaknesses or significant deficiencies in internal control over compliance. Given these limitations, during our audit we did not identify any deficiencies in internal control over compliance that we considered to be material weaknesses, as defined above. However, material weaknesses may exist that have not been identified.

Our audit was not designed for the purpose of expressing an opinion on the effectiveness of internal control over compliance. Accordingly, no such opinion is expressed.

The purpose of this report on internal control over compliance is solely to describe the scope of our testing of internal control over compliance and the results of that testing based on the requirements of the Uniform Guidance. Accordingly, this report is not suitable for any other purpose.

Hankins, Eastup, Deaton, Tonn, Seay & Scarborough, LLC

Hankins, Eastup, Deaton, Tonn, Seay & Scarborough, LLC
Denton, Texas

February 6, 2024

SPAN, INCORPORATED

**SCHEDULE OF FINDINGS AND QUESTIONED COSTS
YEAR ENDED SEPTEMBER 30, 2023**

I. Summary of Auditors' Results

Financial Statements

Type of auditors' report issued:	Unmodified
Internal control over financial reporting:	
Material weakness(es) identified?	No
Significant deficiencies identified that are not considered to be material weaknesses?	None reported.
Noncompliance material to financial statements noted?	No

Federal Awards

Internal control over major federal programs:	
Material weakness(es) identified?	No
Significant deficiencies identified that are not considered to be material weaknesses?	None reported.
Type of auditors' report issued on compliance for major federal programs:	Unmodified
Any audit findings disclosed which are required to be reported in accordance with 2 CFR 200.516(a)?	No
Identification of major programs:	
Aging Cluster:	
Title III, Part B	FALN 93.044
Title III, Part C	FALN 93.045
Federal Transit – Formula Grants (Urbanized Area Formula Program)	FALN 20.507
Dollar threshold used for distinguishing between Type A and Type B federal programs?	\$750,000
Auditee qualified as low-risk auditee?	Yes

II. Financial Statement Findings

None

III. Federal Awards Findings and Questioned Costs

None

SPAN, INCORPORATED

SCHEDULE OF STATUS OF PRIOR FINDINGS
YEAR ENDED SEPTEMBER 30, 2023

PROGRAM

DESCRIPTION

No findings were noted in the prior year.

SPAN, INCORPORATED

CORRECTIVE ACTION PLAN
YEAR ENDED SEPTEMBER 30, 2023

PROGRAM

DESCRIPTION

None required.

SPAN, INCORPORATED

SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS
YEAR ENDED SEPTEMBER 30, 2023

Federal Grantor/Pass-Through Grantor/Program Title	Federal FALN Number	Agency or Pass-Through Number	Federal Expenditures
<u>U.S. Department of Health and Human Services</u>			
Pass-through Texas Department on Aging: Contracted through the North Central Texas Council of Governments Area Agency on Aging:			
Aging Cluster:			
Title III, Part B – Supporting Services and Senior Centers *	93.044	088995790	\$ 51,444
Title III, Part C – Nutrition Services *	93.045	088995790	752,499
Participant Assessment	93.045	088995790	29,100
Subtotal – Aging Cluster			<u>833,044</u>
Total U.S. Department of Health and Human Services			<u>833,044</u>
<u>U.S. Department of Transportation</u>			
Pass-through Texas Department of Transportation:			
Public Transportation for Nonurbanized Areas	20.509	RPT-2101(26)045-20	170,462
	20.509	RPT-2201(26)063-21	343,715
	20.509	CAF-2101(26)072-20	29,046
	20.509	RPT-2301(26)051-22	404,618
	20.509	RPT-2402(18)108-23	8,142
	20.509	DIS-2301(18)014-23	429,610
Total FALN 20.509			<u>1,385,593</u>
Enhanced Mobility of Seniors and Individuals with Disabilities	20.513	ED-2302(18)074-19	30,000
Total FALN 20.513			<u>30,000</u>
Buses & Bus Facilities	20.526	BBF-2301(18)050-22	76,780
Total FALN 20.526			<u>76,780</u>
Subtotal			<u>1,492,373</u>

SPAN, INCORPORATED

SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS (CONTINUED)
YEAR ENDED SEPTEMBER 30, 2023

Federal Grantor/Pass-Through Grantor/Program Title	Federal FALN Number	Agency or Pass-Through Number	Federal Expenditures
<u>U.S. Department of Transportation (continued)</u>			
Pass-through North Central Texas Council of Governments:			
Federal Transit – Formula Grants (Urbanized Area Formula Program) **			
Discretionary	20.507	TX-2017-058-00	258,844
Cares Act	20.507	TX-2020-087-00	<u>912,402</u>
Total FALN 20.507			<u>1,171,246</u>
 Enhanced Mobility of Seniors And Individuals with Disabilities	 20.513	 TX-2020-080-00	 <u>347,262</u>
Total FALN 20.513			<u>347,262</u>
 Subtotal			 <u>1,518,508</u>
 Total U.S. Department of Transportation			 <u>3,010,881</u>
 Total Expenditures of Federal Awards			 <u>\$ 3,843,925</u>

* Clustered Programs – Aging Cluster

** Clustered Programs – Federal Transit Cluster

SPAN, INCORPORATED

NOTES TO SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS YEAR ENDED SEPTEMBER 30, 2023

NOTE 1 – BASIS OF PRESENTATION

The accompanying schedule of expenditures of federal awards (the "Schedule") includes the federal grant activity of SPAN, Incorporated ("SPAN") under programs of the federal government for the year ended September 30, 2023. The information in this schedule is presented in accordance with the requirements of the Uniform Guidance. Because the schedule presents only a selected portion of the operations of SPAN, it is not intended to and does not present the financial position, changes in net assets or cash flows of SPAN.

NOTE 2 – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

SPAN accounts for all awards under federal programs using the accrual basis of accounting in accordance with accounting principles generally accepted in the United States. This basis of accounting recognizes revenue in the accounting period in which they are earned, and expenses in the accounting period in which the liability is incurred. Expenses are recognized following the cost principles contained in the Uniform Guidance, wherein certain types of expenses are not allowable.



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

DATE: August 19, 2024
FROM: Jeremy Jennings, Utility Line Main Manager
ITEM: **Consider approval of the purchase of one 2023 F350 Regular Cab with Dump Body, one 2024 F250 Super Cab, and one 2024 Ford F550 Crew Cab, with Service Body per the Town of Flower Mound Specifications and Vendor Quotes from Silsbee Ford, for the Public Works Water Line Maintenance division, for a total of \$216,199.00.**

BACKGROUND: The Water Line Maintenance division of Public Works is requesting the purchase of:

- 2023 F350 Reg Cab with Dump Body (1) - \$87,886.50
 - 2024 F250 Super Cab with listed options (1) - \$56,860.00
 - 2024 Ford F550 Crew Cab, Service Body, with listed options (1) - \$71,452.50
- per the Town of Flower Mound Specifications and Vendor Quotes, for a total amount of \$216,199.00 from Silsbee Ford, through TIPS USA Cooperative Contract #210907.

These vehicle purchases will replace units 92330-02, 92330-07, and 92330-10, and are part of the approved Fiscal Year 2023-2024 Vehicle Equipment Replacement Fund (VERF).

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES: N/A

FISCAL IMPACT: \$216,199.00

Proposed Expenditure/(Revenue)
\$216,199.00

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

LEGAL REVIEW: N/A

ATTACHMENTS:

1. Bid Award Recommendation
2. TIPS USA Quote for F350
3. TIPS USA Quote for F250
4. TIPS USA Quote for F550

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



Bid Award Recommendation

Date: 7/12/2024– VERF – FY24

Description: **ULM – Sewer – Vehicle Replacement Package**

Qty.: 3 Vehicles

Replaces: 92330-02, a 2014 Ford F350 Regular Cab Truck with Dump Bed – ULM-S
92330-07, a 2016 Ford F250 Super Cab Pick-Up Truck with 8' Bed – ULM-S
92330-10, a 2016 F450 with Service Body – ULM-S

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

Item: **Truck Quote#6** Ford F350 Regular Cab Truck with Dump bed, Mid Mount Toolbox, and Options as identified on "Town of Flower Mound Truck 6" Quote Dated 7/11/2024 which includes Trux Upfit Estimate 2398

Truck Quote#3 Ford F250 Super Cab Pick-Up with 8 Foot Bed, Across the Bed Toolbox, 2 side boxes, Headache Rack and Spray in Bedliner with options identified on "Town of Flower Mound Truck 3" Quote Dated 7/11/2024 which includes Trux Upfit Estimate 2395.

Truck Quote#8 Ford F550 Crew Cab Truck with Service Body, Headache Rack, Spray in Bedliner and Options as identified on "Town of Flower Mound Truck 8" Quote Dated 7/11/2024 which includes Trux Upfit Estimate 2399.

Truck 6 - \$87,886.50, Truck 3 - \$56,860.00, Truck 8 - \$71,452.50

Total Cost of Vehicles, Equipment & Installation:

\$216,199.00

It is Fleet Services recommendation to award the bid to **Silsbee Ford** in the amount of **\$216,199.00** utilizing the **TIPS USA Cooperative Contract # 210907**.

Fleet Services Manager

7/12/2024

Date



PRODUCT PRICING SUMMARY

TIPS USA TIPS RFP 210907 Automobiles
VENDOR--Silsbee Ford, 1211 Hwy 96 N., Silsbee TX 77656

End User: TOWN OF FLOWER MOUND TRUCK 6

Prepared by: SETH GAMBLIN

Contact: _____

Phone: 512.436.1313

Email: _____

Email: SGAMBLIN.SILSBEEFLEET@GMAIL.COM

Product Description: FORD F350 CHASSIS DRW

Date: July 11, 2024

A. Bid Item: _____

A. Base Price: \$ 49,775.00

B. Factory Options

Code	Options	Bid Price	Code	Options	Bid Price
F3G	2023 F-350 CHASSIS DRW 4X2 REG CAB X	\$ -	67A	350 DUAL ALTERNATORS	\$ 100.00
99T	6.7L 4V OHV Power Stroke V8 Turbo Diesel	\$ 9,995.00	872	REAR VIEW CAMERA PREP KIT	\$ 415.00
90L	POWER EQUIPMENT GROUP	INC	512	SPARE TIRE, WHEEL, CARRIER W/ JACK	\$ 350.00
18Y	UPFITTER INTERFACE	\$ 445.00			
TBM	TIRES LT245/75RX17E BSW A/T	\$ 165.00	640A	ORDER CODE	
52B	TRAILER BRAKE CONTROLLER	INC	44G	TRANSMISSION	
18B	PLATFORM RUNNING BOARDS	\$ 445.00		84CA / 169 WB	
43C	110V/400W OUTLET	\$ 175.00			

Total of B. Published Options: \$ 12,090.00

Published Option Discount (5%) \$ (662.00)

C. Additional Options

\$= 41.9 %

Options	Bid Price	Options	Bid Price
TRUX DUMP BODY 2398	\$ 25,896.00	EXTERIOR COLOR- WHITE (Z1)	
		INTERIOR- HD VINYL 40/20/40 (AS)	

Total of C. Unpublished Options: \$ 25,896.00

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

\$ 350.00

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

\$ -

F. Contract Price Adjustment: _____

G. Additional Delivery Charge: 250 miles

\$ 437.50

H. Subtotal:

\$ 87,886.50

I. Quantity Ordered 1 x K =

\$ 87,886.50

J. Trade in: _____

\$ -

K. _____

L. Total Purchase Price

\$ 87,886.50

ESTIMATE

TRUX Service Body & Rigging
 1550 East Cardinal
 Beaumont, TX 77705

rlowrance@truxsbr.com
 +1 (409) 718-0342

**Bill to**

SILSBEE FORD
 1211 US HIGHWAY 96 N
 SILSBEE, TX 77656

Ship to

SILSBEE FORD
 1211 US HIGHWAY 96 N
 SILSBEE, TX 77656

Estimate details

Estimate no.: 2398
 Estimate date: 07/09/2024
 Expiration date: 08/09/2024

#	Product or service	Description	Qty	Rate	Amount
1.	2-3 YARD DUMP	2/3 YARD DUMP BODY, SUBFRAME AND DOUBLE ACTING ELECTRIC OVER HYDRAULIC HOIST, INSTALLED ON 84" CA DRW FORD F-350 SUPER DUTY	1	\$17,734.00	\$17,734.00
2.	DUMP BODY TARP	DUMP BODY TARP SYSTEM WITH BLACK MESH TARP INSTALLED	1	\$1,974.00	\$1,974.00
3.	HITCH & 7 WAY	CLASS V HITCH & 7 WAY INSTALLED	1	\$1,146.00	\$1,146.00
4.	MUDFLAPS	BRACKETS, MUDFLAPS AND ANTI SAIL INSTALLED	2	\$137.00	\$274.00
5.	CAMERA RELOCATION	RELOCATE FACTORY CAMERA	1	\$185.00	\$185.00
6.	SPACEPACK	BLACK STEEL SPACEPACK INSTALLED	1	\$4,583.00	\$4,583.00
7.		ATTN : SETH GAMBLIN FLOWER MOUND TRUCK #6			

Total**\$25,896.00**

Expiry
date

08/09/2024



PRODUCT PRICING SUMMARY

TIPS USA TIPS RFP 210907 Automobiles
VENDOR--Silsbee Ford, 1211 Hwy 96 N., Silsbee TX 77656

End User: TOWN OF FLOWER MOUND TRUCK 3

Prepared by: SETH GAMBLIN

Contact: _____

Phone: 512.436.1313

Email: _____

Email: SGAMBLIN.SILSBEEFLEET@GMAIL.COM

Product Description: FORD 3/4 TON

Date: July 11, 2024

A. Bid Item: _____

A. Base Price: \$ 48,195.00

B. Factory Options

Code	Options	Bid Price	Code	Options	Bid Price
X2A	2024 F-250 2WD SUPERCAB XL		610A	ORDER CODE	
99A	ENGINE 6.8L 2V V8 GAS	\$ 1,995.00		8' BOX XL 164 WB	\$ 350.00
90L	POWER EQUIPMENT GROUP	INC			
X3E	ELECTRONIC LOCKING W/3.73 AXLE RAT	\$ 430.00			
TBM	TIRES LT245/75RX17E BSW A/T	\$ 165.00			
18B	RUNNING BOARDS	\$ 445.00			
52B	TRAILER BRAKE CONTROLLER	INC			
66S	UPFITTER SWITCHES (6)	\$ 165.00			

Total of B. Published Options: \$ 3,550.00

Published Option Discount (5%) \$ (147.50)

C. Additional Options

\$= 8.4 %

Options	Bid Price	Options	Bid Price
TRUX 2395	\$ 4,150.00	EXTERIOR- WHITE	
HEADACHRE RACK	INC	INTERIOR- VINYL 40/20/40	
SPRAY IN BED LINER	INC	44F TRANSMISSION	
CROSS BOX TOOLBOX	INC		
SIDE TOOL BOXES	INC		
3 ADDITIONAL KEY TOTAL OF 3	\$ 175.00		

Total of C. Unpublished Options: \$ 4,325.00

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

\$ 500.00

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

\$ -

F. Contract Price Adjustment: _____

G. Additional Delivery Charge: 250 miles

\$ 437.50

H. Subtotal:

\$ 56,860.00

I. Quantity Ordered 1 x K =

\$ 56,860.00

J. Trade in: _____

\$ -

K. _____

L. Total Purchase Price

\$ 56,860.00

ESTIMATE

TRUX Service Body & Rigging
 1550 East Cardinal
 Beaumont, TX 77705

rlowrance@truxsbr.com
 +1 (409) 718-0342

**Bill to**

SILSBEE FORD
 1211 US HIGHWAY 96 N
 SILSBEE, TX 77656

Ship to

SILSBEE FORD
 1211 US HIGHWAY 96 N
 SILSBEE, TX 77656

Estimate details

Estimate no.: 2395
 Estimate date: 07/09/2024
 Expiration date: 08/09/2024

#	Product or service	Description	Qty	Rate	Amount
1.	TOOL BOX	RKI C63AB ALUMINUM BLACK CROSSBOX INSTALLED	1	\$1,284.00	\$1,284.00
2.	HEADACHE RACK	RKI WG11B BLACK STEEL HEADACHE RACK INSTALLED	1	\$714.00	\$714.00
3.	BEDLINER	HIGH PRESSURE SPRAY IN BEDLINER	1	\$500.00	\$500.00
4.	SIDE BOXES	RKI 67SAB ALUMINUM BLACK SIDE TOOL BOX INSTALLED	2	\$826.00	\$1,652.00
5.		ATTN : SETH GAMBLIN FLOWER MOUND TRUCK #3			
Total					\$4,150.00
				Expiry date	08/09/2024

PRODUCT PRICING SUMMARY

TIPS USA 210907 AUTOMOBILES

VENDOR- Silsbee Ford, 1211 Hwy 96 N., Silsbee TX 77656

End User: TOWN OF FLOWER MOUND TRUCK 7 ANS 8

Prepared by: SETH GAMBLIN

Contact: _____

Phone: 512.436.1313

Email: _____

Email: SGAMBLIN.SILSBEEFLEET@GMAIL.COM

Product Description: FORD F550 CREW CAB CHASSIS

Date: July 11, 2024

A. Bid Item: 48

A. Base Price:	\$ 52,642.00
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B. Factory Options

Code	Description	Bid Price	Code	Description	Bid Price
W5G	2024 FORD F550 2WD CREW CAB/CHAS	\$ -	67B	410 AMP ALT	\$ 115.00
99N	Engine: 7.3L 2V DEVCT NA PFI V8 Gas	\$ -	872	REARVIEW CAMERA KIT	\$ 415.00
	DRW				
TGM	225 TRACTION TIRE	\$ 190.00			
90L	POWER EQUIPMENT GROUP	\$ 1,125.00			
43C	120/400W OUTLET	\$ 175.00	660A	ORDER CODE	
512	SPARE TIRE /	\$ 350.00		179/ WB / 60CA	\$ -

Total of B. Published Options:	\$ 2,370.00
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Published Option Discount (5%)	\$ (118.50)
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C. Unpublished Options

Description	Bid Price	Options	Bid Price
TINT ALL 25%	\$ 250.00	EXTERIOR- WHITE Z1	
		INTERIOR- 40/20/40 AS VINYL	
TRUX INSTALL 2399	\$ 15,249.00		
1 ADDITONAL KEY FOB TOTAL OF 3	\$ 175.00		
		Total of C. Unpublished Options:	\$ 15,674.00

Total of C. Unpublished Options:	\$ 15,674.00
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D. Floor Plan Interest (for in-stock and/or equipped vehicles):

\$	500.00
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E. Lot Insurance (for in-stock and/or equipped vehicles):

\$ -

F. Contract Price Adjustment:

\$ -

G. Additional Delivery Charge: 220 miles

\$	385.00
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H. Subtotal:

\$ 71,452.50

I. Quantity Ordered 1 **x H =**

\$ 71,452.50

J. Trade in:

\$ -

K. Total Purchase Price

\$ 71,452.50

ESTIMATE

TRUX Service Body & Rigging
 1550 East Cardinal
 Beaumont, TX 77705

rlowrance@truxsbr.com
 +1 (409) 718-0342

**Bill to**

SILSBEE FORD
 1211 US HIGHWAY 96 N
 SILSBEE, TX 77656

Ship to

SILSBEE FORD
 1211 US HIGHWAY 96 N
 SILSBEE, TX 77656

Estimate details

Estimate no.: 2399
 Estimate date: 07/09/2024
 Expiration date: 08/09/2024

#	Product or service	Description	Qty	Rate	Amount
1.	READING 60" CA DRW	READING 60" CA DRW STEEL SERVICE BODY, POWDER COATED WHITE WITH BUMPER AND FLUSH MOUNT LED LIGHTING INSTALLED ON CAB, 60" CA DRW CAB & CHASSIS FORD	1	\$12,457.00	\$12,457.00
2.	HITCH & 7 WAY	CLASS V HITCH & 7 WAY INSTALLED	1	\$994.00	\$994.00
3.	MUDFLAPS	BRACKETS, MUDFLAPS AND ANTI SAIL INSTALLED	2	\$147.00	\$294.00
4.	CAMERA RELOCATION	RELOCATE FACTORY CAMERA	1	\$185.00	\$185.00
5.	BEDLINER	HIGH PRESSURE SPRAY IN BEDLINER IN BED AND OVER RAILS	1	\$550.00	\$550.00
6.	HEADACHE RACK	RKI WG49 WHITE STEEL SERVICE BODY HEADACHE RACK INSTALLED	1	\$769.00	\$769.00
7.		ATTN : SETH GAMBLIN FLOWER MOUND TRUCKS #7 & 8			

Total**\$15,249.00**

Expiry
date

08/09/2024



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

DATE: August 19, 2024
FROM: Jeremy Jennings, Utility Line Main Manager
ITEM: **Consider approval of the purchase of one 2024 Ford F550 Crew Cab, with Service Body per the Town of Flower Mound Specifications and Vendor Quote from Silsbee Ford, for the Public Works Sewer Line Maintenance division, for the amount of \$71,452.50.**

BACKGROUND: The Water Line Maintenance division of the Public Works Department is requesting the purchase of one 2024 Ford F550 Crew Cab, with Service Body per the Town of Flower Specifications and Vendor Quote in the amount of \$71,452.50 from Silsbee Ford, through TIPS USA Cooperative Contract #210907.

This equipment purchase replaces unit 92320-12, a 2016 Ford F550 Crew Cab Truck with Service Body and is a part of the approved Fiscal Year 23-24 Vehicle and Equipment Replacement Fund (VERF).

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES:

FISCAL IMPACT: \$71,452.50

Proposed Expenditure/(Revenue)
\$71,452.50

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

LEGAL REVIEW: N/A

ATTACHMENTS:

1. Bid Award Recommendation
2. TIPS USA Quote for F550

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



Bid Award Recommendation

Date: 7/12/2024– VERF – FY24

Description: **Ford F550 Crew Cab with Service Body, Headache Rack, and Spray In Bedliner**

Qty.: 1

Replaces: 92320-12, a 2016 Ford F550 Crew Cab Truck with Service Body, Headache Rack, Spray in Bedliner. ULM – Water

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

Item: Ford F550 Crew Cab Truck with Service Body, Headache Rack, Spray in Bedliner and Options as identified on "Town of Flower Mound Truck 7" Quote Dated 7/11/2024 which includes Trux Upfit Estimate 2399.

Total Cost of Vehicles, Equipment & Installation:

\$71,452.50

It is Fleet Services recommendation to award the bid to **Silsbee Ford** in the amount of **\$71,452.50** utilizing the **TIPS USA Cooperative Contract # 210907**.

Fleet Services Manager

7/12/2024

Date

PRODUCT PRICING SUMMARY

TIPS USA 210907 AUTOMOBILES

VENDOR- Silsbee Ford, 1211 Hwy 96 N., Silsbee TX 77656

End User: TOWN OF FLOWER MOUND TRUCK 7 ANS 8

Prepared by: SETH GAMBLIN

Contact: _____

Phone: 512.436.1313

Email: _____

Email: SGAMBLIN.SILSBEEFLEET@GMAIL.COM

Product Description: FORD F550 CREW CAB CHASSIS

Date: July 11, 2024

A. Bid Item: 48

A. Base Price:	\$ 52,642.00
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B. Factory Options

Code	Description	Bid Price	Code	Description	Bid Price
W5G	2024 FORD F550 2WD CREW CAB/CHAS	\$ -	67B	410 AMP ALT	\$ 115.00
99N	Engine: 7.3L 2V DEVCT NA PFI V8 Gas	\$ -	872	REARVIEW CAMERA KIT	\$ 415.00
	DRW				
TGM	225 TRACTION TIRE	\$ 190.00			
90L	POWER EQUIPMENT GROUP	\$ 1,125.00			
43C	120/400W OUTLET	\$ 175.00	660A	ORDER CODE	
512	SPARE TIRE /	\$ 350.00		179/ WB / 60CA	\$ -

Total of B. Published Options:	\$ 2,370.00
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Published Option Discount (5%)	\$ (118.50)
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C. Unpublished Options

Description	Bid Price	Options	Bid Price
TINT ALL 25%	\$ 250.00	EXTERIOR- WHITE Z1	
		INTERIOR- 40/20/40 AS VINYL	
TRUX INSTALL 2399	\$ 15,249.00		
1 ADDITONAL KEY FOB TOTAL OF 3	\$ 175.00		
		Total of C. Unpublished Options:	\$ 15,674.00

Total of C. Unpublished Options:	\$ 15,674.00
---	---------------------

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

\$	500.00
----	--------

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

\$ -

F. Contract Price Adjustment:

\$ -

G.	Additional Delivery Charge:	220	miles
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\$	385.00
----	--------

H. Subtotal:

\$	71,452.50
----	-----------

I. Quantity Ordered 1 **x H =**

\$ 71,452.50

J. Trade in:

\$ -

K. Total Purchase Price

\$ 71,452.50

ESTIMATE

TRUX Service Body & Rigging
 1550 East Cardinal
 Beaumont, TX 77705

rlowrance@truxsbr.com
 +1 (409) 718-0342

**Bill to**

SILSBEE FORD
 1211 US HIGHWAY 96 N
 SILSBEE, TX 77656

Ship to

SILSBEE FORD
 1211 US HIGHWAY 96 N
 SILSBEE, TX 77656

Estimate details

Estimate no.: 2399
 Estimate date: 07/09/2024
 Expiration date: 08/09/2024

#	Product or service	Description	Qty	Rate	Amount
1.	READING 60" CA DRW	READING 60" CA DRW STEEL SERVICE BODY, POWDER COATED WHITE WITH BUMPER AND FLUSH MOUNT LED LIGHTING INSTALLED ON CAB, 60" CA DRW CAB & CHASSIS FORD	1	\$12,457.00	\$12,457.00
2.	HITCH & 7 WAY	CLASS V HITCH & 7 WAY INSTALLED	1	\$994.00	\$994.00
3.	MUDFLAPS	BRACKETS, MUDFLAPS AND ANTI SAIL INSTALLED	2	\$147.00	\$294.00
4.	CAMERA RELOCATION	RELOCATE FACTORY CAMERA	1	\$185.00	\$185.00
5.	BEDLINER	HIGH PRESSURE SPRAY IN BEDLINER IN BED AND OVER RAILS	1	\$550.00	\$550.00
6.	HEADACHE RACK	RKI WG49 WHITE STEEL SERVICE BODY HEADACHE RACK INSTALLED	1	\$769.00	\$769.00
7.		ATTN : SETH GAMBLIN FLOWER MOUND TRUCKS #7 & 8			

Total **\$15,249.00**

Expiry date 08/09/2024



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

DATE: August 19, 2024
FROM: Jeremy Jennings, Utility Line Main Manager
ITEM: **Consider approval of the purchase of one Wachs Standard LX VMT – Water Valve Maintenance Trailer with Options and Accessories from Wachs Utility Products in the amount of \$121,012.67.**

BACKGROUND: The Public Works Department is requesting the purchase of one Wachs Standard LX VMT – Valve Maintenance Trailer with Options and Accessories from Wachs Utility Products for the amount of \$121,012.67, utilizing the BuyBoard Cooperative Contract #685-22.

This equipment purchase replaces 92320-06, a 2015 Ford F250 4x4 Truck with Truck Mounted Valve Turning Machine and is a part of the approved Fiscal Year 23-24 Vehicle and Equipment Replacement Fund (VERF).

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES: N/A

FISCAL IMPACT: \$121,012.67

Proposed Expenditure/(Revenue)
\$121,012.67

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

LEGAL REVIEW: N/A

ATTACHMENTS:

1. Bid Award Recommendation
2. Buyboard Quote
3. Specifications

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



Bid Award Recommendation

Date: 7/26/2024– VERF – FY24

Description: **Valve Maintenance Trailer**

Qty.: 1

Replaces: 92320-06, a 2015 Ford F250 4x4 Truck with Truck Mounted Valve Turning Machine. ULM – Water

Bidder: WACHS Utility Products, Jeffrey Brehm 512-348-0171, jeffrey.brehm@elwachs.com
Via BuyBoard Cooperative Contract# 685-22

Item: WACHS Standard LX VMT – Valve Maintenance Trailer with Options and Accessories as Identified on Quote JB219208 Dated 7/19/2024

Total Cost of Vehicles, Equipment & Installation:

\$121,012.67

It is Fleet Services recommendation to award the bid to **WACHS Utility Products** in the amount of **\$121,012.67** utilizing the **BuyBoard Cooperative Contract # 685-22**.

Fleet Services Manager

7/26/2024

Date

TO: **Billy Sterner**
 Fleet Manger
 Town of Flower Mound- Fleet
 1101 Duncan Lane
 Flower Mound, TX 75028

Date: 7/19/2024
 Quotation Number: JB219208
 Payment Terms: Net 30 Days
 Shipping Terms: FCA Origin
 Valid Through: 9/17/2024
 Estimated Delivery: See Below
 Reference: BuyBoard #685-22

E.H. Wachs is pleased to offer the following quotation.

Item Number	Description	Qty	U/M	Unit Price (USD)	Disc%	Line Total (USD)
1	77-400-00	1	EA	8,495.00	1.5%	8,367.57
	8,000 GVRW VMS Bunk Trailer manufactured by Karavan Trailers for Wachs. Perimeter frame deck area approximately 8' x 6' with three cross braces for installation of Wachs Standard VMS with provision to add Wachs TM-7 HD Plus. Single torsion flex, sure lube axle, 12" electric brakes running on ST255/85R16E radial tires rated to 4,080 pounds. The trailer is two coat, black wet painted to match the skid platform, utilizes a 2,500 jack and is interfaced with a standard 3" pintle ring. All lighting is LED and fully grounded.					
2	77-000-55	1	EA	79,995.00	1.5%	78,795.07
	Standard LX (Gas) – VMS (RH): Single turner valve maintenance skid; includes Wachs 750 ft-lb (1020 Nm) Extended Reach Valve operator for those preventive maintenance activities, telescoping valve key and Wachs ruggedized TC-100 with GPS controller/datalogger. A 27 HP (20 kW) gasoline powered Kohler overhead cam air cooled engine provides ample power for all contained functions, including an auxiliary HTMA Class II circuit; 10 gallon (38 L) reservoir, fan cooled heat exchanger, continuous duty rated for 8 GPM (30.3 LPM) @ 2,000 PSI (140 bar). A positive displacement blower provides 500 CFM (14.2 cmm)-11" (280mm) Hg vacuum, with spoils containment provided by a 250 (950 L) gallon tank with power hydraulic dump (rear discharge) and latching rear door. Also driven from the common power train is a 2.5 gpm (9.5 LPM) @ 3000 PSI (210 bar) pressure washer system with 3 gallon (11.4 L) anti-freeze tank and 95 gallon (360 L) water tank. Includes 2-1/2" (63.5mm), 1-1/4" (31.75mm) & 7/8" (22mm) suction wands and one each short and long wash-down guns. The LX package bundles the service light bar with arrow board, 45' (14 M) auxiliary hydraulic hose reel for operation of hydraulic power tools & Bluetooth tethering module (installed in ERV-750) for wireless communication between the exerciser and Controller/Data Logger.					
3	79-430-20	1	EA	2,495.00	100.0%	0.00
	Field training - 1 day program. Training topics range from field operation of the mechanical systems like hydro-excavation and Valve operator; to training of computerized controllers and preventive maintenance software like VITALS. Field crews and participants will be shown, in detail, standard procedures for safe and efficient operation and use of valve maintenance tools.					
4	17-405-00	1	EA	21,995.00	1.5%	21,665.07
	TM-7 HD Plus (only for LX or Builder installs) Automated Valve Operator, Exercisor and Rehabilitator with Bluetooth Kit for VMS systems, featuring Wachs industry leading automation. Heavy Duty 2,500 ft. lb. torque system with dual hybrid control functionality. Operate either fully automatic with Controller/Datalogger (part #79-422-01/02/05/06 not included), or manually through direction control toggle, digital revolution counter and torque output gauge (no Controller/Datalogger required). Mounting frame is indexable to VMS in 2-1/2" increments to adapt to different bed widths; shipping location is plum to skid frame (72" skid width) to 15" beyond (87" skid width). For wider truck decks the TM-7 needs to be mounted outside the VMS; if mounting in other than default location, longer hydrualic hoses may be required (not included). Kit includes TM-7 HD Plus, bluetooth adapter, 8' valve key, mounting hardware and interface plumbing. May require Ruggedized Controller/Datalogger (Part#79-422-01/02/05/06) if not already included in other options.					
5	77-409-01	1	EA	1,150.00	1.5%	1,132.75
	A-Frame Job Box for VMS Trailer. 66" Long, 15" deep and 18" Tall. Twin interconnected latches with lock on street side and dedicated storage pocket for manuals. Sturdy .100" thick, polished diamond plate aluminum, watertight with gas springs on full 90 degree lid.					

Quotation

Page 2 of 2

 TO: **Billy Sterner**

 Date: 7/19/2024
 Quotation Number: JB219208

Reference: BuyBoard #685-22

Item Number	Description	Qty	U/M	Unit Price (USD)	Disc%	Line Total (USD)
6 08-000-03	WDP3500 Dewatering Pump is light weight, compact unit capable of discharging water quickly and quietly. Centrifugal-type pump features a direct drive hydraulic motor for continuous use. The contaminant-tolerant gear motor is designed for continuous high-speed operation. Direct drive impeller with no spindle bearings that require periodic lubrication or replacement. Cast stainless steel, semi-closed impeller resists corrosion and sealed drive shaft. Includes operation manual.	1	EA	3,745.00	1.5%	3,688.82
7 08-400-03	Hose, Discharge 3" for WDP3500 25'x 3" Diameter Vinyl Coated Discharge Hose with Aluminum Female Camlock Coupler	1	EA	220.00	1.5%	216.70
8 08-000-10	45 Pound Hydraulic Breaker with EZ Ride Foot and 1-1/8" hex bit capacity. This medium duty breaker operates from any HTMA Class 2 hydraulic circuit and produces 1,800 blows per minute; making it idea for cutting curbs, sidewalks and asphalt.	1	EA	3,745.00	1.5%	3,688.82
9 08-410-01	5" x 11" Asphalt Cutter for Breaker	1	EA	270.00	1.5%	265.95
10 08-410-02	14" Moil Point for Breaker	1	EA	85.00	1.5%	83.72
11 08-410-03	3" x 14" Long Chisel	1	EA	120.00	1.5%	118.20
Subtotal						118,022.67
Motor Freight						2,990.00
Total (USD)						\$121,012.67

Thank you for the opportunity to quote your application needs. If you have any questions or if I may be of any further assistance to you please do not hesitate to notify me.

We will prepay and add shipping charges to your order, or we can ship collect via your choice of carrier service.

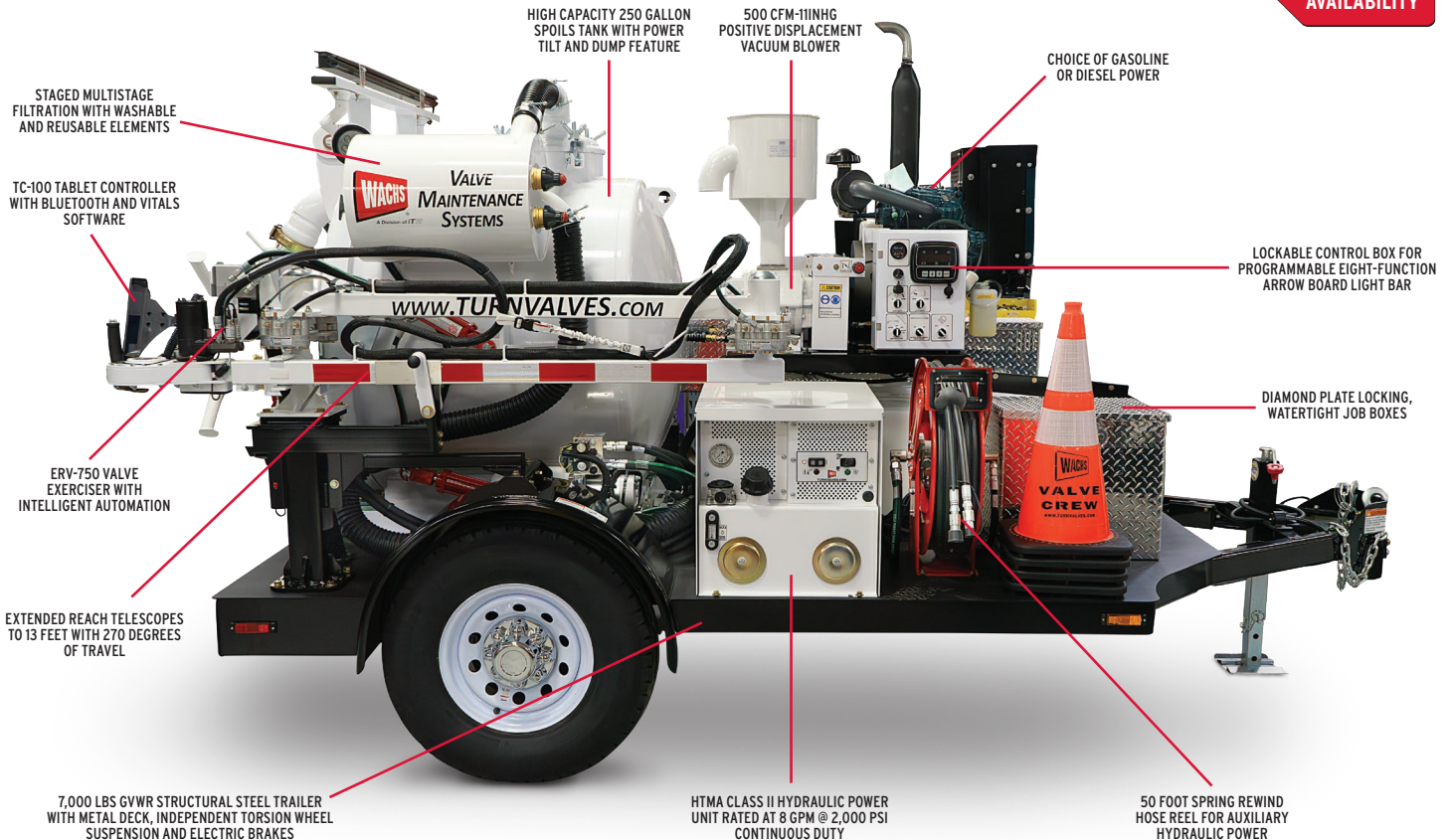
(SALES TAX!!!!) We collect sales tax in all but the following states: AK, DE, MT, OR and NH. If you are tax exempt please supply your identification number and certificate with your order. If your exempt number is not on file, tax will be added to your order.

Jeffrey Brehm
 Sales Manager
 512-348-0171
 jeffrey.brehm@ehwachs.com

Sales of E.H. Wachs products and services are expressly limited to and made conditional on acceptance of its current Terms and Conditions of Sale, found at ehwachs.com ("Terms"). Any additional or different terms are hereby rejected. Commencement of work by E.H. Wachs or acceptance of delivery of products by you constitutes your acceptance of the Terms.

Complete, Portable, Self-Contained Valve Maintenance System

**RENTAL
AVAILABILITY**



**TRUE
HANDS-FREE
VALVE EXERCISING**



**FULLY
ENGINEERED
VALVE MAINTENANCE
SYSTEM**



**UNMATCHED
FUNCTIONALITY &
STORAGE**



Wachs Standard LX VMT trailer is the industry standard for a self-contained, portable system that includes all the tools needed for municipalities and water organizations to complete a valve maintenance program.

The Standard LX trailer comes equipped with our industry-leading ERV-750 extended reach valve exerciser, plus the TC-100 wireless handheld tablet controller/datalogger with GPS and VITALS®. Wachs VITALS software eliminates misdirection and over-torquing of valves, allowing you to set torque limits and record infrastructure details including

location, valve-operating direction, torque applied and more.

Other standard equipment includes a powerful 500CFM-11 inHg vacuum, with a 250 gallon spoils tank that features a hydraulic slide, tilt & dump and power latching rear discharge door. Configured with large, watertight and lockable diamond plate storage boxes, it includes the Valve Box Buddy portable vault cover magnetic lifting tool, making it more versatile than ever. For those preferring a truck mounted system the Standard LX is also available as a VMS valve maintenance skid.



Standard LX comes complete with TC-100 tablet controller with VITALS® software preloaded

Trailer:	7000 lb. (3175 Kg) GVWR single axle trailer, frame structural steel with metal deck, torsion wheel suspension, electric brakes, LED lighting, Pintle hitch w/ safety chains
Gasoline Engine:	27 HP Kohler Command Pro, electronic ignition, v-twin 4 stroke, air cooled
Diesel Engine:	26 HP Kubota Tier 4 compliant, 1.1 liter 4 stroke I-3 liquid cooled IDI
Fuel Tank:	10 gallon (38 liter) DOT approved aluminum tank, formed end caps, fuel gauge
Valve Exerciser:	ERV-750 extended reach, 750 ft-lb articulating arm valve exerciser
Controller:	TC-100 tablet controller and datalogger with VITALS software & Bluetooth
Vacuum:	500 CFM-11 inHg positive displacement vacuum blower
Spoils Tank:	250 gallon (946 liter) tank with hydraulic powered slide, tilt, dump feature
Spoils Handling:	Heavy duty 20 foot x 3 inch diameter flex hose with 3 steel suction wands
Washer System:	High pressure system with 95 gallon (360 liter) fresh water tank
Washer Reel:	50 foot (15.2M) retractable washer hose reel with short and long wands
Washer Pump:	Clutch operated, dual belt drive, 2.5 GPM @ 3,000 PSI
Hydraulic Power Unit:	HTMA Class II circuit, fan cooled heat exchanger, 8 GPM @ 2000 PSI
Hydraulic System:	10 gallon (38 liter) hydraulic reservoir, 50 foot (15.2M) hydraulic hose reel
Light Package:	LED spotlights and programable arrow board with locking control panel
Job Boxes:	Heavy duty, locking, watertight diamond plate aluminum, with gas springs
Cover Lifter:	Valve Box Buddy lifter for removal of cast iron or steel valve box covers



Expanded storage with locking diamond plate watertight job boxes for added security



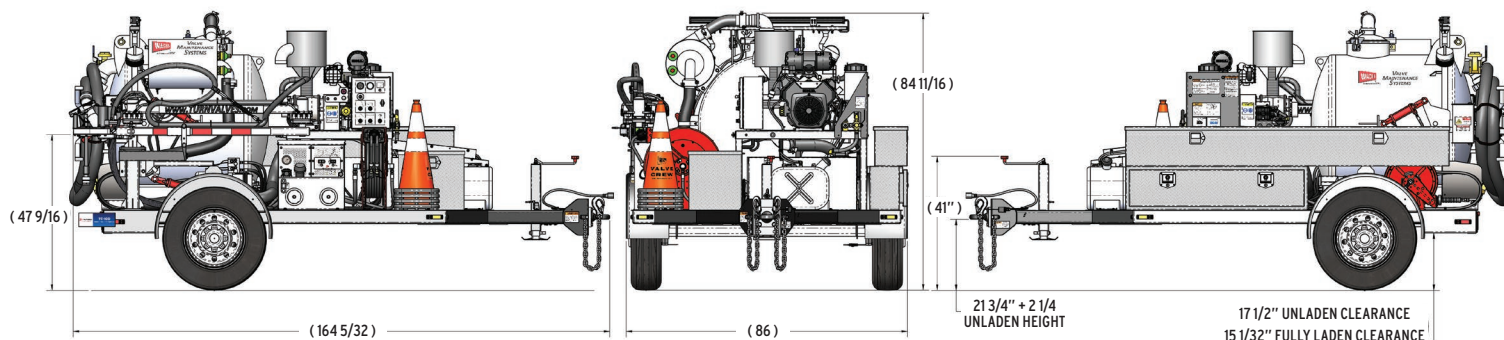
ERV-750 uses unique disk brake system for rigidity, and hydraulic sensors for true hands-free operation



All major systems and operating controls are located curbside for operator safety

OPTIONAL EQUIPMENT

- Additional telescoping valve keys and extensions
- 45 lb. hydraulic breaker and attachments
- Trimble R2 GNSS receiver, with centimeter accuracy
- Valve Nut Rx replacement valve nut kit
- Hydraulic powered dewatering pumps
- Diamond Wire Guillotine pipe saw





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

DATE: August 19, 2024
FROM: Jeff Garner, Director of Facilities Management
ITEM: **Consider approval of a quote for the purchase and installation of a replacement 150 kW emergency generator for Fire Station 2 from Parker Power Systems Inc. in the amount of \$82,397.91.**

BACKGROUND: The emergency generator which provides emergency power to the Fire Station 2 at 4401 Shiloh Road has failed. The emergency generator was installed in 2002 with the construction of the Fire Station. During a recent preventative maintenance exercise, a problem was diagnosed with the emergency generator attached to the diesel engine. Troubleshooting revealed that the emergency generator would not produce electricity. Parker Power was contacted to assist in troubleshooting and locating replacement parts for the emergency generator. Unfortunately, due to the age of the equipment, no replacement parts are available, or an alternative generator set to match the diesel motor. The existing emergency generator will be removed and a new Generac industrial diesel engine driven stationary emergency generator will be installed in its place. Lead time for the new generator is 12–16 weeks. Parker Power is a long-time contractor utilized by the Town for generator maintenance and repair. The replacement is a turnkey project. Currently, a temporary generator is placed on site to provide emergency power to the Fire Station when required. Funding for this generator is coming from a generator project allocated to the Community Activity Center in the FY 23-24 budget in the amount of \$650,000. Since the Community Activity Center may be expanded, the placement of an emergency generator when the Community Activity Center would be used as an emergency shelter is better delayed for the expansion of the Community Activity Center.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES: N/A

FISCAL IMPACT: \$82,397.91

Proposed Expenditure/(Revenue)
\$82,397.91

Account Number(s):
100-655-59200-6010

LEGAL REVIEW: N/A

ATTACHMENTS:

1. Quote

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

PARKER POWER SYSTEMS INC

1540 VALWOOD PARKWAY
CARROLLTON, TEXAS 75006
972-484-9044 FAX 972-484-4318

Date: August 9, 2024

To: Town Of Flower Mound

Attn: Richard

Reference: Flower Mound Fire 2

We are pleased to offer the following quote for the above project:

Quantity 1 - Generac Industrial diesel engine-driven generator set with turbocharged/aftercooled 6-cylinder 6.7L engine, consisting of the following features and accessories:

- Stationary Emergency-Standby rated
- 150 kW Rating, wired for 120/208 VAC Three Phase, 60 Hz
- Permanent Magnet Excitation
- UL2200
- EPA Certified
- SCAQMD
- Standard Weather Protective Enclosure, Steel
 - Baked-On Powder Coat Finish
- 24" 440 Gallon Double-Wall UL142 Extended Basetank with External Fill & Vents
 - Mechanical fuel level indicator gauge
 - Electronic fuel level sender
 - 12' Vent Extensions, High Fuel Level Alarm Panel, Overfill Prevention Valve, Return Hose, Spill/Fill
- DSE G8601 Digital Genset Controller
 - Meets NFPA 99 and 110 requirements
 - Temp Range -30 to +50 deg C
 - UL6200
 - CE
 - High-Resolution 240 X 128 Pixel Display
 - Integral LCD Display Heater
 - IP65 (front)
 - Auto/Manual/Off key switch, Alarm Indication, Not in Auto Indication, audible alarm, emergency stop switch
 - Advanced PLC Functionality
 - 2 RS485 Ports, 2 USB Ports, 1 Ethernet Port, and 1 CANbus Port
 - Engine Sensors: Oil Pressure, Oil Temp, Coolant Temp and Level, Fuel Level/Pressure (where applicable), Engine Speed, DC Battery Voltage and Charge Current, Run-time Hours, Generator Voltages, Amps, Frequency, Power, Power Factor
 - Alarm Status: Low or High AC Voltage, Low or High Battery Voltage, Low or High Frequency, Pre-low or Low Oil Pressure, Pre-high or High Oil Temp, Low Water Level and Temp, Pre-high or High Engine Temp, High, Low, and Critical-low Fuel Level/Pressure (where applicable), Overcrank, Over and Under Speed, Unit Not in Automatic
 - Programmable I/O

- Built-in PLC for special applications
- Engine function monitoring and control:
 - Full range standby operation; programmable auto crank, Emergency Stop, Auto-Off-Manual switch
- Isochronous Governor
 - Digital frequency regulation with: soft-start ramping - adjustable, gain - adjustable, overshoot limit - adjustable
- 3 Phase RMS Voltage Sensing
 - +/-0.5% digital voltage regulation with: soft-start voltage ramping - adjustable, loss of sensing protection - adjustable, negative power limit - adjustable, Hi/Lo voltage limit - adjustable, V/F slope and gain - adjustable, fault protection (I2T Function)
- Configurable Timers
- Integrated SNMP
- DSENet (Expansion Support)
- 2 and 3-wire start controls for any industrial grade transfer switch
- DSE G8601 Digital Genset Controller
 - Meets NFPA 99 and 110 requirements
 - Temp Range -30 to +50 deg C
 - UL6200
 - CE
 - High-Resolution 240 X 128 Pixel Display
 - Integral LCD Display Heater
 - IP65 (front)
 - Auto/Manual/Off key switch, Alarm Indication, Not in Auto Indication, audible alarm, emergency stop switch
 - Advanced PLC Functionality
 - 2 RS485 Ports, 2 USB Ports, 1 Ethernet Port, and 1 CANbus Port
 - Engine Sensors: Oil Pressure, Oil Temp, Coolant Temp and Level, Fuel Level/Pressure (where applicable), Engine Speed, DC Battery Voltage and Charge Current, Run-time Hours, Generator Voltages, Amps, Frequency, Power, Power Factor
 - Alarm Status: Low or High AC Voltage, Low or High Battery Voltage, Low or High Frequency, Pre-low or Low Oil Pressure, Pre-high or High Oil Temp, Low Water Level and Temp, Pre-high or High Engine Temp, High, Low, and Critical-low Fuel Level/Pressure (where applicable), Overcrank, Over and Under Speed, Unit Not in Automatic
 - Programmable I/O
 - Built-in PLC for special applications
 - Engine function monitoring and control:
 - Full range standby operation; programmable auto crank, Emergency Stop, Auto-Off-Manual switch
 - Isochronous Governor
 - Digital frequency regulation with: soft-start ramping - adjustable, gain - adjustable, overshoot limit - adjustable
 - 3 Phase RMS Voltage Sensing
 - +/-0.5% digital voltage regulation with: soft-start voltage ramping - adjustable, loss of sensing protection - adjustable, negative power limit - adjustable, Hi/Lo voltage limit - adjustable, V/F slope and gain - adjustable, fault protection (I2T Function)
 - Configurable Timers
 - Integrated SNMP
 - DSENet (Expansion Support)
 - 2 and 3-wire start controls for any industrial grade transfer switch
- 21 Light Remote Annunciator, Surface Mount
- Remote Emergency Stop Switch, Surface-Mount, shipped loose
- MLCB, 80% rated, LSI Electronic Trip
 - 600 amp
- Battery Charger, 10 Amp, NFPA 110 compliant, installed
- 110 AH, 925 CCA Group 31 Batteries, dual-paralleled, with rack, installed
- Engine Coolant Heater, 1500W
- 120V GFCI and 240V Outlet
- 3 Owner's Manuals

- Standard 2-Year Limited Warranty
- SD0150GG176.7D18CPYY3

Quantity 1 - Clarifications :

- Project Specific Clarifications:
- This proposal is based on verbal specifications only. No other information was provided for consideration in this proposal. Compliance with any other specification section(s) or drawing(s) is specifically excluded including those incorporated by reference.
- Offering equipment by Generac Power Systems
- Offering manufacturers standard materials of construction.
- Quotation is limited to the quantity and description listed above

Quantity 1 - Freight :

- Freight to job site but off loading by others

Quantity 1 - Start up :

- Start up service with building load only

- Price of generator \$67,421.91

Quantity 1 - Install New Generator :

- REPLACE EXISTING 150 KW DIESEL GENERATOR
- - Recover fuel
- - Initial fuel fill (510 gallons)
- - Lift Rental
- - Disconnect existing generator
- - Re-connect new generator
- - Anchor new generator
- - Place existing generator in parking lot
- - New generator provided by Parker Power
- - Use existing ATS
- Price to remove old generator and install new generator \$ 14,976.00

Total investment for the above equipment (Not including any applicable tax): **\$82,397.91**

The above price does not include, fuel, installation, rigging or any sales, use or TERP tax. Price is valid for Sixty- (30) days.
Terms of sale are standard terms and conditions as listed in an approved, signed credit application.

Notes

Estimated Delivery: 12-16 weeks
 Prices valid for 30 days from above date
 FOB: Jobsite

Sincerely,

Nathan Parker
Owner
Parker Power Systems
214-502-4346
nathan@parkerpower.com



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

DATE: August 19, 2024
FROM: David Brockway, Construction Manager
ITEM: **Consider approval of a Professional Services Agreement with ECS Southwest, LLP for the engineering materials testing associated with the Denton Creek Blvd Bridge and Waterline project, in the amount of \$86,120.00, and authorization for the Mayor to execute same on behalf of the Town.**

BACKGROUND: On July 17, 2024, the construction agreement for the Denton Creek Blvd Bridge and Water Line, in the amount of \$9,392,100.00, was awarded to Urban Infraconstruction. The attached Professional Services Agreement with ECS Southwest, LLP provides for material testing associated with the installation of the project.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES: Materials Testing is required as a part of the recently awarded construction project.

FISCAL IMPACT: \$86,120.00

Proposed Expenditure/(Revenue)
\$86,120.00

Account Number(s):
505-220-78032-6160

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

ATTACHMENTS:

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

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

THE STATE OF TEXAS §
COUNTY OF DENTON §

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

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

RECITALS

WHEREAS, TOWN desires to obtain professional services from CONSULTANT relative to construction materials engineering and testing and other services for the Denton Creek Blvd Bridge and Waterline; and

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

TERMS OF AGREEMENT

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

I.

Employment of Consultant

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

II.

Scope of Services

CONSULTANT shall perform such services as are necessary to provide the Denton Creek Blvd Bridge and Waterline Construction Materials Engineering and Testing specifically including, but not necessarily limited to, the tasks enumerated more fully in

Attachment "A" hereto entitled "Scope of Work" (hereafter referred to as the "Project"). Attachment "A" is hereby incorporated herein by reference and made a part hereof as if written word for word. However, in case of conflict in the language of Attachment "A" and this Contract, the terms and conditions of this Contract shall be final and binding upon both parties hereto.

III. Payment for Services

Total payment for services described herein shall be a sum not to exceed Eighty Six Thousand One Hundred Twenty and No/100 Dollars (\$86,120.00). This total payment for services includes CONSULTANT's ordinary expenses. Additional expenses and charges, which are extraordinary in nature, must be approved in advance by TOWN in writing signed by the parties. Such extraordinary expenses may be paid as incurred and billed to the TOWN pursuant to this Contract over and above the total payment amount identified in this provision. Any extraordinary expenses or charges not approved in writing in advance by the TOWN shall remain the sole responsibility of the CONSULTANT.

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

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

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

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

IV.

Revisions of the Scope of Services

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

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

V.

Term

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

VI.

Contract Termination Provision

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

VII.
Ownership of Documents

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

VIII.
Insurance

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

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

Town of Flower Mound
2121 Cross Timbers Road
Flower Mound, TX 75028
Email: purchasing@flowermound.gov

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:

David Brockway
Town of Flower Mound
2121 Cross Timbers Road
Flower Mound, Texas 75028
972-874-6308 Telephone

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

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

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

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

D. CONSULTANT agrees to the following:

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

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

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

IX. **Right to Inspect Records**

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

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

X. **Successors and Assigns**

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

XI.
CONSULTANT's Liability

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

XII.
Indemnification

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

XIII.
Independent Contractor

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

XIV.
Default

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

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

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

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

(2) The total dollar amount of this Contract.

XV.

Provisions Surviving Termination

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

XVI.

Changes

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

XVII.

Conflicts of Interest

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

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

XVIII.

Confidential Information

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

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

XIX. **Notice Information**

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

David Brockway
Town of Flower Mound
2121 Cross Timbers Road
Flower Mound, Texas 75028
972-874- 6308 Telephone

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

Vince Elizarde
ECS Southwest, LLP
3033 Kellway Drive, Suite 110
Carrollton, TX 75006
972-392-3222 Telephone
VElizarde@ecslimited.com

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

XX.
Applicable Law

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

XXI.
Non-Discrimination

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

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

XXII.
Arbitration

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

XXIII.
No Waiver of Governmental Immunity

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

XXIV.
Severability

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

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

XXV.
Remedies

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

XXVI.
Entire Agreement

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

XXVII.
Non-Waiver

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

XXVIII.
Headings

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

XXIX.
Venue

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

XXX.
No Third Party Beneficiary

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

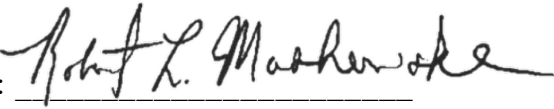
only affects matters/disputes between the parties to this Contract, and is in no way intended by the parties to benefit or otherwise affect any third person or entity notwithstanding the fact that such third person or entity may be in contractual relationship with TOWN or CONSULTANT or both; and (2)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

[Signature Page to Follow]

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

CONSULTANT:
ECS SOUTHWEST, LLP

THE TOWN OF FLOWER MOUND, TEXAS

By: 

Name: Robert L. Mashewske, PE

Title: Sr. Vice President / Regional Manager

Dated: July 29, 2024

By: _____

Name: _____

Title: _____

Dated: _____

APPENDIX A: SCOPE OF SERVICES

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

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

We anticipate the following services for this project:

Earthwork

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

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

Cast-In-Place Concrete

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

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

Structural Steel

Perform as-scheduled observation and testing before, during, and after structural steel erection including:

1. Observe general structural steel erection and assembly.
2. Observe completed welds and connections.

Project Administration, Clerical, & Dispatching

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

1. Perform Field Services Dispatching.
2. Perform additional administrative and clerical duties to aid in project execution.

Project Management

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

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

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

ADDITIONAL SERVICES

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

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

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

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

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

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

APPENDIX B: ESTIMATED FEES & STANDARD FEE SCHEDULE

ESTIMATED FEES

Description of Services	Detail	Estimate	Quantity	Unit	Rate	Total
Earthwork						
Engineering Technician	<i>Sample Pickups</i>	<i>2 events</i>	8	hours	\$ 55.00	\$ 440.00
Engineering Technician	<i>Denton Creek Blvd</i>	<i>12 events</i>	60	hours	\$ 55.00	\$ 3,300.00
Engineering Technician	<i>Sidewalks</i>	<i>1 event</i>	5	hours	\$ 55.00	\$ 275.00
Engineering Technician	<i>Water/Storm</i>	<i>8 events</i>	40	hours	\$ 55.00	\$ 2,200.00
Engineering Technician	<i>Embankment</i>	<i>16 events</i>	160	hours	\$ 55.00	\$ 8,800.00
Nuclear Gauge Fee	<i>Nuclear Gauge Fee</i>		33	events	\$ 75.00	\$ 2,475.00
Cement/Lime Gradations	<i>Field Gradations</i>		40	each	\$ 15.00	\$ 600.00
St. Proctor (Moist./Dens. Rel.)	<i>Standard Proctor</i>		6	each	\$ 140.00	\$ 840.00
Atterberg Limits Tests	<i>Plasticity Index</i>		6	each	\$ 80.00	\$ 480.00
Washed Sieve (- #200 Sieve)	<i>Percent Fines</i>		6	each	\$ 60.00	\$ 360.00
Vehicle Charge			39	trips	\$ 55.00	\$ 2,145.00
Subtotal:						\$ 21,915.00
Asphalt						
Engineering Technician	<i>HMAC Underlayment</i>	<i>2 events</i>	16	hours	\$ 55.00	\$ 880.00
Nuclear Gauge Fee	<i>Nuclear Gauge Fee</i>		2	events	\$ 75.00	\$ 150.00
Vehicle Charge			2	trips	\$ 55.00	\$ 110.00
Subtotal:						\$ 1,140.00
Concrete						
Engineering Technician	<i>Denton Creek Blvd</i>	<i>4 events</i>	32	hours	\$ 55.00	\$ 1,760.00
Engineering Technician	<i>Sidewalks</i>	<i>3 events</i>	18	hours	\$ 55.00	\$ 990.00
Engineering Technician	<i>Mow Strips</i>	<i>2 events</i>	10	hours	\$ 55.00	\$ 550.00
Engineering Technician	<i>Abutments</i>	<i>4 events</i>	24	hours	\$ 55.00	\$ 1,320.00
Engineering Technician	<i>Bent Caps</i>	<i>8 events</i>	48	hours	\$ 55.00	\$ 2,640.00
Engineering Technician	<i>Columns</i>	<i>8 events</i>	48	hours	\$ 55.00	\$ 2,640.00
Engineering Technician	<i>Bridge/Approach Slabs</i>	<i>6 events</i>	60	hours	\$ 55.00	\$ 3,300.00
Engineering Technician	<i>Vaults/Straddle Blocks</i>	<i>3 events</i>	15	hours	\$ 55.00	\$ 825.00
Engineering Technician	<i>Storm Drain Concrete</i>	<i>6 events</i>	36	hours	\$ 55.00	\$ 1,980.00
Senior Engineering Tech.	<i>Piers</i>	<i>15 events</i>	180	hours	\$ 60.00	\$ 10,800.00
Conc. Cylinders (Comp. Str.)			400	each	\$ 18.00	\$ 7,200.00
Material Sample Pickup			59	trips	\$ 165.00	\$ 9,735.00
Vehicle Charge			59	trips	\$ 55.00	\$ 3,245.00
Subtotal:						\$ 46,985.00
Structural Steel						
Structural Steel Technician	<i>Girder Connections</i>	<i>6 events</i>	30	hours	\$ 80.00	\$ 2,400.00
Vehicle Charge			6	trips	\$ 55.00	\$ 330.00
Subtotal:						\$ 2,730.00
Project Management						
Administrator / Clerical / Dispatch			36	hours	\$ 50.00	\$ 1,800.00
Project Manager			73	hours	\$ 120.00	\$ 8,760.00
Project Principal			36	hours	\$ 185.00	\$ 6,660.00
Subtotal:						\$ 17,220.00
PROJECT TOTAL:						\$ 86,120.00

General Assumptions:

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

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

STANDARD FEE SCHEDULE

Description of Services	Notes	Unit Rate
Field Services		
• Engineering Technician		\$ 55.00 / hour
• Senior Engineering Technician		\$ 60.00 / hour
• Specialty Engineering Technician		\$ 75.00 / hour
• Structural Steel Technician		\$ 80.00 / hour
• Nuclear Gauge Fee		\$ 75.00 / day
• Core Drilling (Crew)		\$ 100.00 / hour
• Core Drilling (Equip. & Matls)		\$ 15.00 / each
Project Management & Engineering Services		
• Administrator / Clerical / Dispatch		\$ 50.00 / hour
• Project Manager		\$ 120.00 / hour
• Project Principal		\$ 185.00 / hour
• Concrete Mix Design Review		\$ 300.00 / each
• Certification Letter		\$ 325.00 / each
Laboratory Services		
• St. Proctor (Moist./Dens. Rel.)	ASTM D-698	\$ 140.00 / each
• Mod. Proctor (Moist./Dens. Rel.)	ASTM D-1557	\$ 140.00 / each
• Atterberg Limits Tests	ASTM D-4318	\$ 80.00 / each
• Washed Sieve (- #200 Sieve)	ASTM D-1440	\$ 60.00 / each
• Lime Series	ASTM D-6276	\$ 160.00 / each
• Lime Gradations	ASTM D-6913	\$ 15.00 / each
• Free-Swell Test	ASTM D-4546	\$ 100.00 / each
• Conc. Cylinders (Comp. Str.)	ASTM C-39	\$ 18.00 / each
• Conc. Cores (Comp. Str.)	ASTM C-39	\$ 50.00 / each
• Grout Prisms (Comp. Str.)	ASTM C-1019	\$ 30.00 / each
• Mortar Cubes (Comp. Str.)	ASTM C-270	\$ 18.00 / each
• Masonry Block Prisms (Comp. Str.)	ASTM C-1314	\$ 300.00 / each
Mobilization & Transportation		
• Core Drilling (Mobilization)		\$ 350.00 / each
• Floor Flatness (Mobilization)		\$ 300.00 / hour
• Material Sample Pickup		\$ 165.00 / trip
• Vehicle Charge		\$ 55.00 / trip

General Notes:

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



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

DATE: August 19, 2024
FROM: David Brockway, Construction Manager
ITEM: **Consider approval of a Professional Services Agreement with VRX Global, Inc., for bridge inspection services associated with the Denton Creek Blvd Bridge and Waterline project, in the amount of \$227,512.08; and authorization for the Mayor to execute same on behalf of the Town.**

BACKGROUND: On July 17, 2024, the construction agreement for the Denton Creek Blvd Bridge and Water Line project, in the amount of \$9,392,100.00, was awarded to Urban Infraconstruction. The attached Professional Services Agreement with VRX Global, Inc. provides for bridge inspection services associated with the installation of the project.

The Denton Creek Blvd Bridge and Water Line project consists of the construction of a 5-span reinforced concrete bridge over the Graham Branch floodplain, roadway and sidewalks, underground waterline, bridge-suspended waterline, median landscaping, and irrigation.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES: N/A

FISCAL IMPACT: \$227,512.08

Proposed Expenditure/(Revenue)
\$227,512.08

Account Number(s):
505-220-78032-6160

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

ATTACHMENTS:

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

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

THE STATE OF TEXAS §
COUNTY OF DENTON §

**PROFESSIONAL SERVICES AGREEMENT WITH
VRX GLOBAL, INC.**

This contract is entered into on this 19th day of August, 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 VRX Global, Inc., (“hereinafter referred to as “CONSULTANT”) whose address is 2500 N. Dallas Pkwy, Suite 450, Plano, TX 75093

RECITALS

WHEREAS, TOWN desires to obtain professional services from CONSULTANT relative to construction inspection services for the Denton Creek Blvd Bridge and Waterline project; and

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

TERMS OF AGREEMENT

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

I.

Employment of Consultant

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

II.

Scope of Services

CONSULTANT shall perform such services as are necessary to provide the Denton Creek Blvd Bridge and Waterline Construction Inspection 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 Two Hundred Twenty Seven Thousand Five Hundred Twelve and 8/100 Dollars (\$227,512.08). This total payment for services includes CONSULTANT’s ordinary expenses. Additional expenses and charges, which are extraordinary in nature, must be approved in advance by TOWN in writing signed by the parties. Such extraordinary expenses may be paid as incurred and billed to the TOWN pursuant to this Contract over and above the total payment amount identified in this provision. Any extraordinary expenses or charges not approved in writing in advance by the TOWN shall remain the sole responsibility of the CONSULTANT.

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

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

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

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

IV.

Revisions of the Scope of Services

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

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

V.

Term

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

VI.

Contract Termination Provision

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

VII.
Ownership of Documents

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

VIII.
Insurance

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

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

Town of Flower Mound
2121 Cross Timbers Road
Flower Mound, TX 75028
Email: purchasing@flowermound.gov

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:

David Brockway
Town of Flower Mound
2121 Cross Timbers Road
Flower Mound, Texas 75028
972-874-6308 Telephone

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

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

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

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

D. CONSULTANT agrees to the following:

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

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

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

IX. **Right to Inspect Records**

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

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

X. **Successors and Assigns**

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

XI.
CONSULTANT's Liability

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

XII.
Indemnification

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

XIII. Independent Contractor

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

XIV. Default

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

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

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

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

(2) The total dollar amount of this Contract.

XV.

Provisions Surviving Termination

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

XVI.

Changes

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

XVII.

Conflicts of Interest

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

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

XVIII.

Confidential Information

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

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

XIX. **Notice Information**

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

David Brockway
Town of Flower Mound
2121 Cross Timbers Road
Flower Mound, Texas 75028
972-874- 6308 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:

Praxedis Garza
VRX Global, Inc.
2500 N. Dallas Pkwy, Suite 450
Plano, TX 75093
682-561-8985 Telephone
p.garza@vrxglobal.com

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

XX.
Applicable Law

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

XXI.
Non-Discrimination

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

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

XXII.
Arbitration

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

XXIII.
No Waiver of Governmental Immunity

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

XXIV.
Severability

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

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

XXV.
Remedies

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

XXVI.
Entire Agreement

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

XXVII.
Non-Waiver

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

XXVIII.
Headings

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

XXIX.
Venue

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

XXX.
No Third Party Beneficiary

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

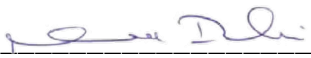
only affects matters/disputes between the parties to this Contract, and is in no way intended by the parties to benefit or otherwise affect any third person or entity notwithstanding the fact that such third person or entity may be in contractual relationship with TOWN or CONSULTANT or both; and (2)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

[Signature Page to Follow]

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

CONSULTANT:
VRX GLOBAL, INC.

THE TOWN OF FLOWER MOUND, TEXAS

By: 

Name: Noelle Ibrahim, P.E.

Title: President

Dated: 07/23/2024

By: _____

Name: _____

Title: _____

Dated: _____

ATTACHMENT 'A' – INSPECTION SCOPE OF SERVICES

DENTON CREEK BLVD BRIDGE AND WATERLINE

PROJECT DESCRIPTION:

This project includes the construction of a 5-span reinforced concrete bridge, underground waterline, bridge-suspended waterline, roadway, median landscaping, irrigation and associated appurtenance detailed in the construction plans and specifications. Construction Cost is \$9,392,100. Performance Period is 270 Calendar Days.

The Town of Flower Mound will have a Town employee Construction Manager assigned to the project, and Town employee Construction Inspectors for waterline and roadway pavement work outside the bridge footprint. This Scope of Services is to provide the Town an experienced bridge Construction Inspector to provide daily inspection services for all bridge related features of work, substructure and superstructure, from approach slab East side to approach slab West side.

Inspection labor will be paid on an hourly basis, and material support costs will be paid on a monthly basis, according to Fee Schedule "Attachment B".

CONSTRUCTION INSPECTION SERVICES:

- A. Construction Inspection
 - 1. The Construction Inspector is considered to be an extension of the Town of Flower Mound construction inspection staff. The Inspector shall be proficient in all disciplines and features of work to which he is assigned.
 - **Inspect Denton Creek Blvd Bridge Project, in accordance with the project plans and specifications**
 - Estimated quantities are contained in the provided plans and specifications, and Engineer's Estimated Construction Costs
 - Ensure quality control is achieved in performance of the work
 - Ensure construction is in accordance with the plans and specifications
 - Communicate internally among team members of the Town
 - Communicate externally among members of the Contractor and the Town's contracted Materials Testing Agency
 - 2. Daily Reporting:
 - Maintain daily a complete and accurate inspection report documenting all activities related to the Project and record all work undertaken or completed by the Contractor. Daily reports shall be completed in Procore, submitted on a timely basis by 9:00 am the following workday, but no later than the end of the following work day when circumstances require
 - Bring field observations of note and deficiencies in workmanship or specifications to the attention of the Contractor and the Town's Construction Manager
 - Maintain cellphone and email contact with Contractor, Materials Testing Agency, and Town personnel

- See General Conditions para. 18.4 for Contractor's allowable working hours

B. Materials Testing and Inspection

1. The Town will contract with an external testing agency for the Project, and pays for all passing tests. The Contractor coordinates all testing with the Town's Inspectors and the contracted Materials Testing Agency, and pays for all failed tests and re-tests. The Construction Inspector shall ensure quality control of all materials included into the work, and bring deficiencies to the attention of the Contractor and the Town's Construction Manager, recording such results in appropriate daily reports.

END OF ATTACHMENT A

**ATTACHMENT 'B' - FEE SCHEDULE
DENTON CREEK BLVD BRIDGE AND WATERLINE**

	<u>Quantity</u>	<u>Unit</u>	<u>\$ Rate</u>	<u>\$ Total</u>
Senior Bridge Inspector	1584	Hours	\$ 134.37	\$212,842.08
Truck	9	Month	\$ 1500.00	\$13,500.00
Laptop	9	Month	\$ 60.00	\$540.00
Cellphone	9	Month	\$ 70.00	\$630.00
				Project Total: \$227,512.08

END OF ATTACHMENT B



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

DATE: August 19, 2024
FROM: Brennon Peltier, Park Development Manager
ITEM: **Consider approval of a Professional Services Agreement with Alliance Geotechnical Group, Inc., to provide construction material testing services, for the Peters Colony Memorial Park project, in the amount of \$69,795.00, and authorization for the Mayor to execute same on behalf of the Town.**

BACKGROUND: On August 5, 2024, the construction agreement for the Peters Colony Memorial Park project, in the amount of \$3,562,629.67, was awarded to Millis Development and Construction - Dallas, LLC. The attached Professional Services Agreement with Alliance Geotechnical Group, Inc. provides for material testing associated with the installation of the project.

BOARD REVIEW/CITIZEN FEEDBACK: The park master plan was recommended by the Parks Board at the October 3, 2019, meeting and approved by Town Council on November 4, 2019. The Professional Services Agreement (PSA) with Mesa Design Associates, Inc., to implement the park master plan for the dedicated park land of 3.3 acres, located adjacent to the Flower Mound Public Library, was approved at the June 15, 2020 Town Council meeting.

ALTERNATIVES: Materials Testing is required as a part of the recently awarded construction project.

FISCAL IMPACT: \$69,795.00

Proposed Expenditure/(Revenue)
\$69,795.00

Account Number(s):
310-320-90731-6210

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
ALLIANCE GEOTECHNICAL GROUP**

This contract is entered into on this 19 day of August, 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 **ALLIANCE GEOTECHNICAL GROUP**, (“hereinafter referred to as “CONSULTANT”) whose address is 7970 West Main Street, Frisco, Texas 75033.

RECITALS

WHEREAS, TOWN desires to obtain professional services from CONSULTANT relative to construction materials engineering and testing and other services for the Peters Colony Memorial Park project; and

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

TERMS OF AGREEMENT

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

I.

Employment of Consultant

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

II.

Scope of Services

CONSULTANT shall perform such services as are necessary to provide the Peters Colony Memorial Park Construction Materials Engineering and Testing specifically including, but not necessarily limited to, the tasks enumerated more fully in Attachment

“A” hereto entitled “Scope of Work” (hereafter referred to as the “Project”). Attachment “A” is hereby incorporated herein by reference and made a part hereof as if written word for word. However, in case of conflict in the language of Attachment “A” and this Contract, the terms and conditions of this Contract shall be final and binding upon both parties hereto.

III. Payment for Services

Total payment for services described herein shall be a sum not to exceed Sixty Nine Thousand Seven Hundred Ninety-Five and No/100 Dollars (\$69,795.00). This total payment for services includes CONSULTANT’s ordinary expenses. Additional expenses and charges, which are extraordinary in nature, must be approved in advance by TOWN in writing signed by the parties. Such extraordinary expenses may be paid as incurred and billed to the TOWN pursuant to this Contract over and above the total payment amount identified in this provision. Any extraordinary expenses or charges not approved in writing in advance by the TOWN shall remain the sole responsibility of the CONSULTANT.

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

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

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

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

IV.

Revisions of the Scope of Services

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

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

V.

Term

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

VI.

Contract Termination Provision

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

VII.
Ownership of Documents

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

VIII.
Insurance

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

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

Town of Flower Mound
2121 Cross Timbers Road
Flower Mound, TX 75028
Email: purchasing@flowermound.gov

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
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.

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

X. **Successors and Assigns**

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

XI.
CONSULTANT's Liability

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

XII.
Indemnification

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

XIII.

Independent Contractor

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

XIV.

Default

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

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

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

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

(2) The total dollar amount of this Contract.

XV.

Provisions Surviving Termination

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

XVI.

Changes

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

XVII.

Conflicts of Interest

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

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

XVIII.

Confidential Information

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

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

XIX. **Notice Information**

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

Brennon Peltier
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:

J.K. Marthers
Alliance Geotechnical Group
7970 West Main Street
Frisco, TX 75033
214-618-4100 Telephone
214-618-4110 Facsimile
jmarthers@aggengr.com

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

XX.
Applicable Law

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

XXI.
Non-Discrimination

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

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

XXII.
Arbitration

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

XXIII.
No Waiver of Governmental Immunity

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

XXIV.
Severability

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

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

XXV.
Remedies

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

XXVI.
Entire Agreement

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

XXVII.
Non-Waiver

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

XXVIII.
Headings

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

XXIX.
Venue

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

XXX.
No Third Party Beneficiary

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

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

[Signature Page to Follow]

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

CONSULTANT:
ALLIANCE GEOTECHNICAL
GROUP

THE TOWN OF FLOWER MOUND, TEXAS

By: 
Name: Robert P. Nance
Title: President
Dated: July 9, 2024

By: _____
Name: _____
Title: _____
Dated: _____



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

DATE: August 19, 2024
FROM: Brennon Peltier, Park Development Manager
ITEM: **Consider the approval of a Professional Services Agreement with Halff Associates, Inc. for the Timber Creek Trail Alignment Feasibility and Hydraulic Analysis, in the amount of \$99,500.00; and authorization for the Mayor to execute same on behalf of the Town.**

BACKGROUND: In August 2022, Town Council approved the Trails and Bikeways Master Plan. This master plan included a list of "Feasibility Corridors" in Appendix D, a series of key corridors that were assessed in greater detail to determine if a trail or bikeway accommodation would be feasible in the future. One of the corridors listed, Corridor 5, was located along the Timber Creek and was to make use of the future extension of Kirkpatrick Lane to provide a needed connection along the Pink Evening Primrose Trail. In February 2024, Town Council approved an amendment to the Town Thoroughfare Plan, removing the Kirkpatrick Lane road extension. With the removal of the road and the associated hydraulic study no longer proceeding, additional investigation is necessary for the proposed trail connection. This includes identifying a viable trail alignment, assessing hydraulic impacts to the floodplain and nearby residential lots, and preparing preliminary cost estimates. The trail creek crossings that would have been included with the road extension will now need to be addressed separately.

If approved, this professional services agreement would allow the consultant to further study the section of Timber Creek located between Rustic Timbers Park and Vickery Elementary to determine a feasible trail alignment. The proposed trail alignment would connect the existing trail at the south end of Rustic Timbers Park to the existing sidewalk along Kirkpatrick Lane, just north of Vickery Elementary. The proposed alignment would make use of existing Town properties and right of way. The study will additionally provide for hydraulic analysis of Timber Creek in order to determine and mitigate any potential downstream impacts to the floodplain from the proposed trail and creek crossing, define the future limits of construction to reduce environmental and vegetative impacts, and ensure that the adjacent residential lots will not be negatively impacted by a potential trail. The analysis will also provide preliminary cost estimates to be used in developing a future construction budget and presentation on the final findings and proposed trail alignment. These findings will serve as the basis for future trail design to be used in the development of full construction plans.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES: N/A

FISCAL IMPACT: \$99,500.00

Proposed Expenditure/(Revenue)
\$99,500.00

Account Number(s):
317-110-70424-6210

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
HALFF ASSOCIATES, INC.**

This contract is entered into on this 19th day of August, 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 **Halff Associates, Inc.**, (“hereinafter referred to as “CONSULTANT”) whose address is 1201 N. Bowser Rd., Richardson, TX 75081.

RECITALS

WHEREAS, TOWN desires to obtain professional services from CONSULTANT relative to surveying, design and trail alignment development for the Timber Creek Trail Alignment Feasibility and Hydraulic Analysis 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 landscape architecture, engineering and planning professions 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 Timber Creek Trail Alignment Feasibility and Hydraulic Analysis 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 Ninety-Nine Thousand Five Hundred and No/100 Dollars (\$99,500.00). 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:

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 provide to TOWN in a reasonable time after receipt of any notices of expiration, cancellation, or nonrenewal 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.

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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
brennon.peltier@flowermound.gov

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:

Joe D. Buchanan
Director of Landscape Architecture
Halff Associates, Inc.
1201 N. Bowser Rd.
Richardson, Texas 75087
214-346-6268 Telephone
dbuchanan@halff.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:
HALFF ASSOCIATES, INC.

THE TOWN OF FLOWER MOUND, TEXAS

By: 
Name: Joe D. Buchanan

Title: Director of Landscape Architecture

Dated: July 10, 2024

By: _____

Name: _____

Title: _____

Dated: _____



April 17, 2023

Mr. Brennon Peltier
Park Development Manager
Town of Flower Mound
2121 Cross Timbers Rd
Flower Mound, TX 75028

RE: 57426.001 Timber Creek Trail

Dear Brennon,

Halff Associates, Inc. is pleased to submit the following scope and fee proposal to provide Alignment Analysis Study services for the Timber Creek Trail in the Town of Flower Mound, Texas.

The proposed services to be performed are described in the Scope of Services (**Attachment A**) the Basis of Compensation and Schedule are described in (**Attachment B**). Proposed services that are not included as part of the Scope of Service are listed in the Exclusions/Additional Services (**Attachment C**); however, these services can be provided by Halff upon request. A Project Exhibit (**Attachment D**) is also included.

We appreciate the opportunity to submit our proposal for this project. Please feel free to contact me at 214.346.6276 or at jmarston@halff.com if you have any questions or comments regarding the proposal.

Sincerely,

HALFF ASSOCIATES, INC.

A handwritten signature in black ink that reads "Justin Marston". The signature is fluid and cursive, with a long horizontal line extending from the end.

Justin Marston, PLA
Project Manager

ATTACHMENT A

BASIC SCOPE OF ALIGNMENT FEASIBILITY AND HYDRAULIC ANALYSIS FOR THE TIMBER CREEK TRAIL IN FLOWER MOUND, TEXAS

PURPOSE

Halff Associates, Inc. (CONSULTANT) shall provide Conceptual Design Services for the Timber Creek Trail (PROJECT), for the Town of Flower Mound, Texas (CLIENT). The purpose of the Project is to prepare a Trail alignment analysis for approximately 3200 LF of 12' wide concrete off-street trail. that will connect to an existing trail on the south end of Rustic Timbers Park to the west end of Kirkpatrick Ln.

SCOPE

The PROJECT is anticipated to be located within an abandoned roadway corridor which includes a sanitary sewer easement. This corridor follows along Timber Creek and connects Rustic Timber Park to the west end of Kirkpatrick Ln. (As shown in **Attachment C**). Anticipated improvements may include the following:

- 12' wide concrete trail
- Three (03) creek crossings

ASSUMPTIONS

The scope of services for this proposal has been prepared using the following assumptions as a basis for its preparation:

1. The scope of work herein represents a single, stand-alone project consisting of tasks described below for alignment analysis of the proposed improvements, in their entirety, with no removal or separation of tasks for the completion of the PROJECT.
2. All Tasks described herein will be completed consecutively, beginning with **Task 1**, prior to beginning all subsequent Tasks.
3. The PROJECT will follow Town-Specific design requirements as applicable.
4. CLIENT and other franchise utility providers (facilitated by CLIENT) within or adjacent to the PROJECT area will provide available existing conditions information and base-map data, including, but not limited to:
 - As-built plans, record drawings, and/or condition assessments for all existing utilities located within or adjacent to the PROJECT area.
 - Current property and easement information.
 - Photographic Aerial Data.
 - Existing or previous environmental reporting.
5. **CONSULTANT is not responsible for acquiring Right of Entry (ROE).** If required for the completion of the PROJECT Tasks, CLIENT shall be responsible for the facilitation and coordination with all impacted utility franchise and/or private property owners for providing access and ROE for any necessary data collection, field assessments, and/or site investigations.

6. The CLIENT will be responsible for distributing, coordinating, and facilitating all submittal milestones/packages to all necessary stakeholders, including correspondence during the submittal review period(s) and providing CONSULTANT with organized reviews/comments/feedback from all reviewing entities.
7. In addition to any base map data provided by the CLIENT (as described above), CONSULTANT will utilize publicly available and CLIENT-provided data (aerial ortho imagery, NCTCOG contours, record drawings, etc.) to supplement PROJECT development outside the limits of the existing park. All supplemental information will be used in the assessment, review, and master planning of the proposed improvements.

PHASE 1 – PRE-DESIGN

TASK 1.1 – PROJECT MANAGEMENT AND COMMUNICATION

Project Management Coordination, Communications, and Reporting:

CONSULTANT will provide monthly reports to the CLIENT in 8.5"x11" format, delivered electronically, which will detail the current progress, highlight any outstanding issues, and address future concerns. Additionally, CONSULTANT will conduct internal meetings with their staff for effective coordination and communication regarding the PROJECT.

Coordination / Project Kick-off Meeting and Site Visit:

CONSULTANT will attend one (01) in-person coordination/project kick-off meeting and site visit of the PROJECT corridor with the CLIENT to confirm the goals and objectives of the PROJECT. Notes will be taken by the CONSULTANT to record items discussed and decisions made during this meeting and site visit and provided to all attendees. Photographs will be taken during the site visit to record existing conditions.

- Project Kick-Off Meeting and Site Visit – One (01) meeting (max 6 hour duration)

CLIENT/Stakeholder Coordination Meetings:

CONSULTANT will participate in Agency / Stakeholder coordination meetings organized, scheduled and facilitated by the CLIENT. **The number of CLIENT / Stakeholder Coordination Meetings shall not exceed two (02) meetings.** Meeting objectives will include preliminary design discussions with general question and answer. Stakeholder comments will be incorporated into the Preliminary Concepts Plans. Notes will be taken by the CONSULTANT to record items discussed and decisions made during these meetings and provided to all attendees.

- CLIENT/Stakeholder – Two (02) meetings (max 3 hours duration per meeting)

Task 1.1 Deliverables:

Deliverables provided by the COJNSULTANT shall include the following:

1. One (01) Digital PDF copy of the Project Kick-Off and Site Visit meeting notes.
2. One (01) Combined Digital JPG copy of Site Visit Photographs.
3. One (01) Digital PDF copy of the Client/Stakeholder Coordination meeting notes.
4. Digital PDF copies of the monthly progress reports (provided as a part of monthly invoicing).

TASK 1.2 – DATA COLLECTION AND BASE MAP PREPARATION

Data Collection / Base Map Preparation:

The CLIENT will provide the CONSULTANT all available data relevant to the PROJECT. With assistance from the CLIENT, the CONSULTANT will collect the data necessary to develop the alignment analysis. The CONSULTANT will prepare a project base map for the proposed alignment analysis utilizing the

CONSULTANT's, CLIENT's, and other Stakeholder's gathered relevant project data. At a minimum, data will include the following information:

- Google Earth and/or Near Map aerial photography and mapping
- Texas statewide environmental/historic/cultural resource data
- NCTCOG Regional Data, Existing photometric (LIDAR) topographic contours (2-foot contour interval), and other information (as available)
- FEMA Flood Boundary Maps and Flood Insurance Studies (locations of FEMA 100-year floodplain and floodway – if applicable)
- Wetland locations (if available)
- Existing and adopted land use maps and plans (if applicable)
- Local comprehensive and thoroughfare plans (if applicable)
- Utility (as-builts and/or record drawings) data including underground/at-grade/overhead, location, type, size, owner name and contact information.
- Property information as well as Property Lines, Easements, ROW Limits, and other information (as available)
- Existing survey information
- Previously prepared drainage studies (if applicable)
- Development Site Plans (if applicable)
- Retrieve topographic maps from the Town of Flower Mound and North Central Texas Council of Governments (NCTCOG), as necessary.
- Retrieve FEMA effective models, Base Level Engineering (BLE), and/or Town of Flower Mound current effective hydrologic and hydraulic models for Timber Creek and Timber Creek Tributary 9 and 10.

The project base map shall be suitable for use in both 22" inch x 34" inch (full-size) and 11" inch x 17" inch (half size) format with line work (and with full-color aerial photo background which can be turned on or off as requested by CLIENT). The base map shall include, at minimum, the following data for all areas within the project study area:

- Property ownership (current owner name and contact information, DCAD parcel number, parcel size, assessed values of land and improvements)
- Updates per information gathered as part of the Site Visit.
- Existing terrain file using the best available topography. The topography will include 2010 or newer Texas Natural Resources Information System (TNRIS) Light Detection and Ranging (LiDAR) if more recent topography is not available.
- Merge of all existing data, create work map, and annotate as required.
- Location map.

Task 1.2 Deliverables:

Deliverables provided by the CLONSULTANT shall include the following:

1. *One (01) Digital PDF and/or JPG copy of the Project Base Map.*

TASK 1.3 – PROJECT OPPORTUNITY AND CONSTRAINTS EXHIBIT

Project Opportunity and Constraints Exhibit:

CONSULTANT will prepare one (01) Opportunity & Constraints Exhibit to identify challenges, opportunities and/or potential impacts within the project corridor, including impacts to the nature, cultural, and human environment. Examples are historic and archeological resources, community resources, wetlands, floodplains, parks, and geological features. The project Opportunity & Constraints exhibit will also identify public and private properties that could be impacted by the proposed trail alignment. The exhibit will be used in trial alignment discussions with the CLIENT and stakeholders.

Task 1.3 Deliverables:

Deliverables provided by the CLONSULTANT shall include the following:

1. One (01) Digital PDF and/or JPG copy of the Opportunities and Constraints Exhibit

PHASE 2 – HYDRAULIC ANALYSIS AND ENVIRONMENTAL

TASK 2.1 – PROJECT MANAGEMENT AND COMMUNICATION (CONT.)

Project Management Coordination, Communications, and Reporting:

CONSULTANT will provide monthly reports to the CLIENT in 8.5"x11" format, delivered electronically, which will detail the current progress, highlight any outstanding issues, and address future concerns. Additionally, the CONSULTANT will conduct internal meetings with their staff for effective coordination and communication regarding the PROJECT.

Task 2.1 Deliverables:

Deliverables provided by the CONSULTANT shall include the following:

1. Digital PDF copies of the monthly progress reports (provided as a part of monthly invoicing)

TASK 2.2 HYDRAULIC ANALYSIS

Hydrologic Analysis:

CONSULTANT will review the FEMA effective discharges for Timber Creek which will serve as the basis for analyzing the updated FEMA model. The Town fully developed discharges for Timber Creek, Timber Creek Tributary 9, and Timber Creek Tributary 10 will be used from the discharges originally developed by Nathan D. Maier as part of the 2009 Town of Flower Mound Hydrologic Study.

Pre- Project Hydraulic Modeling:

CONSULTANT will prepare pre-project hydraulic modeling that includes the following components:

- Obtain FEMA effective or latest Town hydraulic models for Timber Creek and Timber Creek Tributary 9 and Timber Creek Tributary 10. Execute and establish base flood levels for each stream.
- Modify existing conditions to reflect pre-project conditions based upon recent topography through the project limits.
- Insert additional hydraulic cross-sections, as needed, to project limits.
- If effective models do not exist for Timber Creek Tributary 9 or Tributary 10, develop an existing conditions hydraulic model for these streams only.
- Run and debug the models to establish pre-project flood levels for the FEMA and fully-developed 100-year storm event on Timber Creek.
- Run and debug the models to establish pre-project flood levels for the FEMA and fully-developed 100 year storm event on Tributaries 9 and 10.
- Compile comparison tables for FEMA and/or fully developed 100-year flood elevation table for both Timber Creek and Timber Creek Tributary 9 and Timber Creek Tributary 10.
- Conduct a Quality Assessment/Quality Control review of the hydraulic models.

Floodplain Mapping:

CONSULTANT will map the fully developed and / or FEMA pre-project 100-year floodplains using the best available topography through the project area to include in the technical memorandum.

TASK 2.3 – TECHNICAL MEMORANDUM

Technical Memorandum

CONSULTANT will write, edit, and compile technical memorandum summarizing the hydraulic modeling and results. The technical memorandum will include the following per Town of Flower Mound Drainage Report Submittal requirements:

- Report Text
- Report Appendix
 - o Appendix A – General
 - o Appendix B – Existing Hydraulics
 - o Appendix C – Pre-Project Hydraulics
 - o Appendix D – FEMA Information / Other
 - o Appendix E – Digital Data

Task 2.3 Deliverables:

Deliverables provided by the CONSULTANT shall include the following:

1. One (01) Digital PDF copy of the Hydraulic Technical Memorandum.
2. Three (03) Hard Copies of the Hydraulic Technical Memorandum.

TASK 2.4 – WATERS OF THE U.S. DELINEATION

Waters of the United States Jurisdictional Delineation/Determination

CONSULTANT will perform a field delineation within the proposed project area to identify the limits of potential waters of the United States, including wetlands. A delineation report will be prepared describing the methodology and results of the investigation, so that the report may satisfy the jurisdictional determination requirement for permit requirements pursuant to Section 404. The results will further assist in the development of trail alignment alternatives.

Task 2.4 Deliverables:

Deliverables provided by the CONSULTANT shall include the following:

1. One (01) Digital PDF copy of the Delineation Report

PHASE 3 – TRAIL ALIGNMENT DEVELOPMENT

TASK 3.1 – PROJECT MANAGEMENT AND COMMUNICATION (CONT.)

Project Management Coordination, Communications, and Reporting:

CONSULTANT will provide monthly reports to the CLIENT in 8.5"x11" format, delivered electronically, which will detail the current progress, highlight any outstanding issues, and address future concerns. Additionally, the CONSULTANT will conduct internal meetings with their staff for effective coordination and communication regarding the PROJECT.

Task 3.1 Deliverables:

Deliverables provided by the CONSULTANT shall include the following:

1. Digital PDF copies of the monthly progress reports (provided as a part of monthly invoicing).

TASK 3.2 – PRELIMINARY ALIGNMENT STUDY

Preliminary Primary Proposed Trail Alignment:

Based on the input from stakeholders, site visit, opportunities and constraints and data collection efforts, the CONSULTANT will identify a primary trail alignment suitable for users of all ages and abilities. The

CONSULTANT will provide the CLIENT and local stakeholders with a preliminary alignment assessment with typical sections. The CONSULTANT will identify a primary trail route that will maximize comfort for users of all ages and abilities and will minimize adverse impacts, major utility conflicts, structural impediments, private property impacts and will be mindful of construction cost impacts. Primary trail alignment will be graphically represented on the base map and will identify trail connection, creek or drainage swale crossings and locations where retaining walls and guardrails may be required. Trail alignment will adhere to AASHTO and TAS requirements.

Preliminary Alternative Trail Alignments:

Up to two (02) alternative alignments to the primary proposed alignment will be considered if the initial identified alignment and crossing location(s) are determined not feasible.

Task 3.2 Deliverables:

Deliverables provided by the CONSULTANT shall include the following:

1. *One (01) Digital PDF copy of the Preliminary Trail Alignment Exhibit that includes the Primary and Alternative Trail Alignments.*

TASK 3.3 PRELIMINARY OPINION OF PROBABLE CONSTRUCTION COST

Preliminary Opinion of Probable Cost (OPCC):

An opinion of probable construction cost (OPCC) will be prepared for the primary alignment and each alternative alignment and distributed with the proposed concepts. The OPCC will list bid items, quantities and estimated bid costs.

Task 3.3 Deliverables:

Deliverables provided by the CONSULTANT shall include the following:

1. *One (01) Digital PDF copy of the preliminary OPCC.*

3.4 PRELIMINARY ALIGNMENT REVIEW MEETING

Preliminary Alignment Review Meeting:

CONSULTANT will participate in one (01) preliminary alignment review meeting with the CLIENT and other necessary stakeholders (facilitated by CLIENT) to review the alternative alignment alternatives. Notes will be taken by the CONSULTANT to record items discussed and decisions made during this meeting and provided to all attendees.

- Preliminary Alignment Review Meeting – One (01) meeting (max duration 2 hours)

Task 3.4 Deliverables:

Deliverables provided by the CONSULTANT shall include the following:

1. *One (01) Digital PDF copy of the preliminary alignment review meetings notes.*

TASK 3.5 – FINAL ALIGNMENT STUDY

Final Alignment Study:

Based on the input gathered from the Preliminary Alignment Review Meeting, CONSULTANT will prepare one (01) Final Alignment Study that helps communicate the intent and vision of the PROJECT. The Final Alignment Study shall revise the preliminary alignment and optional alignments based on CLIENT and Stakeholder feedback. A color rendering will be prepared to include with the final alignment study.

Task 3.5 Deliverables:

Deliverables provided by CONSULTANT shall include the following:

1. One (01) Digital PDF and/or JPG copy of the Final Alignment Study.
2. One (01) Digital PDF and or JPG copy of the Color Rendered Final Alignment Study.

TASK 3.6 – FINAL OPINION OF PROBABLE CONSTRUCTION COST (OPCC)

Final Alignment Study OPCC:

CONSULTANT shall provide an updated Opinion of Probable Construction Cost (OPCC) with the Final Alignment Study submittal. CONSULTANT's OPCC shall be based on the revised quantities indicated on the CONSULTANT's final alignment study and on the unit prices current at the time of the cost opinion preparation. All quantities included in the OPCC are final and shall not be subject to change based on the reviews of the CLIENT and stakeholders. OPCC's shall include bid items, quantities and estimated bid costs.

Task 3.6 Deliverables:

Deliverables provided by the CONSULTANT shall include the following:

1. One (01) Digital PDF copy of the Final Opinion of Probable Construction Cost.

TASK 3.7 – TOWN MEETING PRESENTATION

CONSULTANT will prepare a power point presentation to present to a Town Meeting that will include the color rendered final concept plan and the opinion of probable construction cost. Notes will be taken by the CONSULTANT at this meeting to record items discussed and decisions made.

- Town Meeting Presentation – One (01) meeting (Max 3 hour duration)

Task 3.7 Deliverables:

Deliverables provided by the CONSULTANT shall include the following:

1. One (01) Digital PDF copy of the power point presentation.
2. One (01) Digital PDF copy of the presentation notes.

ATTACHMENT B

COMPENSATION AND SCHEDULE FOR THE TIMBER CREEK TRAIL IN FLOWER MOUND, TEXAS

PROJECT COMPENSATION

The basis of compensation for the services listed below shall be as follows:

The fees listed below shall be considered a lump sum fee and invoiced monthly based on percentage of services completed.

Direct Costs shall include, but are not necessarily limited to expenses for supplies, transportation, hotel, meals while traveling, equipment, printing of plans and presentation boards, graphic boards and similar incidentals. All project related expenses will be billed at cost plus 10%.

A. PHASE 1 – DESIGN SUPPORT SERVICES

Task 1.1 – Project Management and Communication	\$9,500
Task 1.2 – Data Collection and Base Map	\$10,500
Task 1.3 – Opportunities and Constraints Exhibit	\$3,000

PHASE 1 TOTAL (Tasks 1.1-1.3)	\$23,000
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B. PHASE 2 – HYDRAULIC ANALYSIS & ENVIRONMENTAL

Task 2.1 – Project Management and Communication	\$4,500
Task 2.2 – Hydraulic Analysis	\$23,000
Task 2.3 – Technical Memorandum	\$10,000
Task 2.4 - Waters of the US Delineation	\$8,500

PHASE 2 TOTAL (Tasks 2.1-2.4)	\$46,000
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C. PHASE 3 – TRAIL ALIGNMENT DEVELOPMENT

Task 3.1 – Project Management and Communication	\$3,500
Task 3.2 – Preliminary Alignment Study	\$8,500
Task 3.3 – Preliminary OPCC	\$3,000
Task 3.4 – Preliminary Alignment Review Meeting	\$2,000
Task 3.5 – Final Alignment Study	\$6,500
Task 3.6 – Final OPCC	\$1,500
Task 3.7 – Town Council Presentation	\$3,000

PHASE 3 TOTAL (Tasks 3.1-3.7)	\$28,000
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**Direct Costs (Estimated Reimbursable Expenses)	\$2,500
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PROJECT GRAND TOTAL (Phases 1-3, & Direct Costs)	\$99,500
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The fee proposal provided above is valid for **30 days** from receipt from CONSULTANT. Estimated fees established above shall be considered a lump sum fee and invoiced monthly based on the percentage of services completed.

PROJECT SCHEDULE

CONSULTANT will work closely with the CLIENT on the Project schedule. **Phases 1-3** are anticipated to require approximately **three (03) months** to complete; but may be subject to delays, depending upon CLIENT review turnaround.

It is assumed that CLIENT / stakeholder reviews along with any associated review comments will be provided within **ten (10)** working days of receipt of any milestone submittals.

ATTACHMENT C

EXCLUSIONS/ADDITIONAL SERVICES FOR THE TIMBER CREEK TRAIL IN FLOWER MOUND, TEXAS

The following services are not included in the scope or fees for this proposal; but can be provided by the CONSULTANT, subject to negotiation:

GENERAL:

1. Any additional work not specifically included in the Proposed Scope of Work will be accomplished as Additional Services.
2. Revisions to the concept plan requested by the CLIENT after the concept plan has been approved, unless necessitated by errors on the plan.
3. Design of areas outside the limits of the defined project site.
4. Additional graphic products.
5. Additional meetings not identified in the project scope of services.
6. Printing of additional plans not identified in the project deliverables.
7. The development of trail amenities, including, but not limited to, trail head opportunities, landscaping, bike repair/air stations, trash receptacles, seating, drinking fountains, kiosks, wayfinding signage, artwork.
8. Public Meetings, Hearings, or Community Engagement and coordination with impacted stakeholders, adjacent property owners, and agencies are excluded.
9. Negotiations with adjacent property owners.
10. Development of an updated Town/County effective or regulatory hydrologic or hydraulic model.
11. Environmental services.
12. Town of Flower Mound or Denton County floodplain development permitting or permitting fees
13. Hydrologic/hydraulic (H&H) modeling of streams other than Timber Creek and Timber Creek Tributary
14. Development of an updated 500-year hydraulic analysis and determination of floodway limits.
15. Any additional crossings from those noted in the scope. above will require additional scope and fee.
16. Any additional H&H services beyond those included in this scope.
17. Preparation of a CLOMR/LOMR for Timber Creek and Timber Creek Tributary 9.
18. Preparation of any 2D modeling.
19. Geotechnical investigation.
20. Detention analysis.
21. Hydrologic analysis.

FEES:

1. Flood Study Fees.
2. Fees associated with data collection (model retrieval fee from data libraries, etc.) FEMA Project Library model retrieval costs.

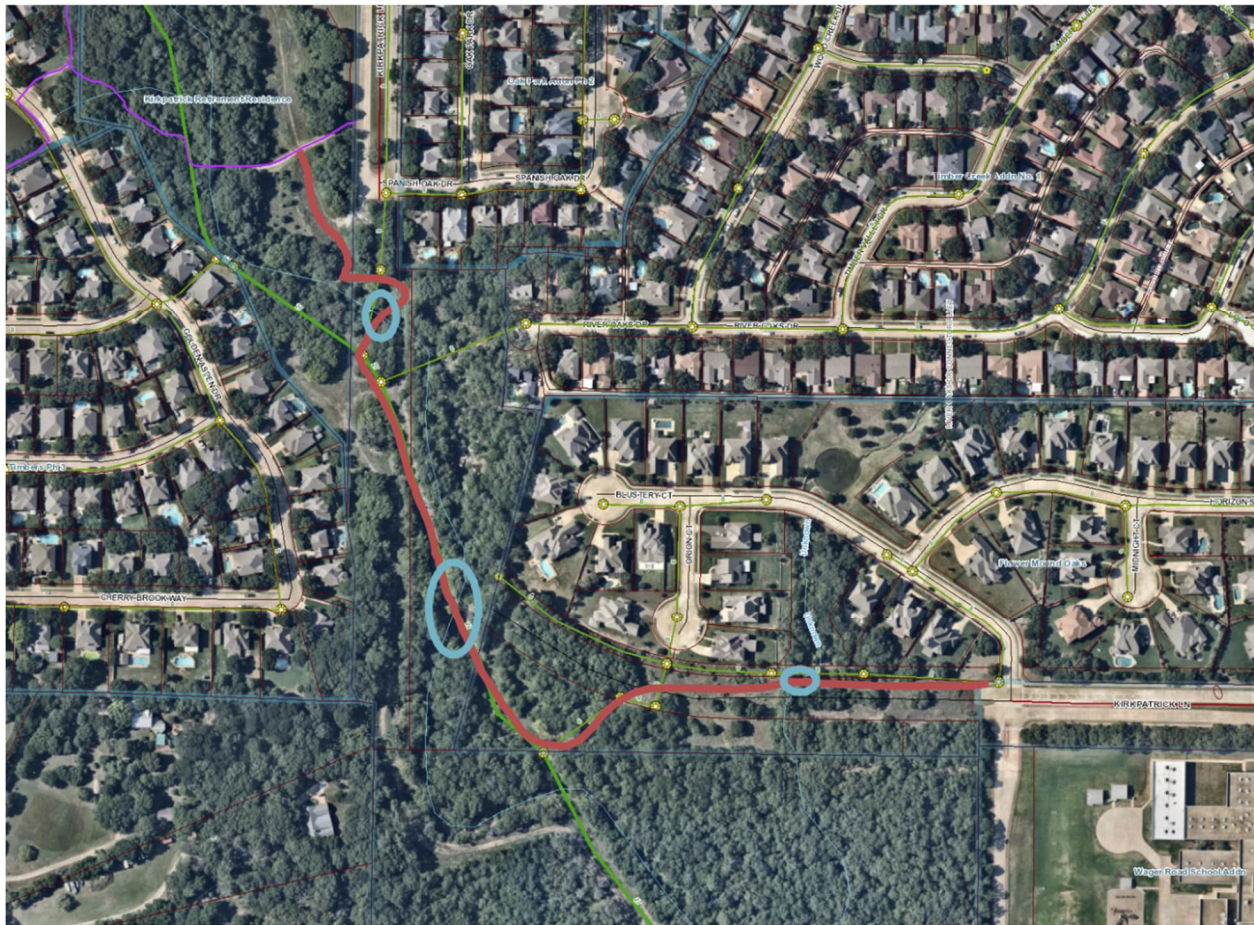
CONSTRUCTION DOCUMENTATION:

1. The preparation and development of Construction Documents.

SURVEY:

1. Topographic survey.
2. Geospatial Survey Services.
3. Right of Entry preparation and coordination.
4. Boundary Research, Boundary Resolution Services and Boundary Survey.
5. Quality Level A, B or C SUE Services.

**PROJECT EXHIBIT
FOR THE TIMBER CREEK TRAIL IN
FLOWER MOUND, TEXAS**





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

DATE: August 19, 2024
FROM: Clayton Riggs, Director of Public Works
ITEM: **Consider a request to amend the Town’s Code of Ordinances by amending Chapter 70: Utilities by replacing Article VI, entitled “Water Conservation;” in its entirety with a new Article VI, entitled “Water Conservation”, and to consider adopting an ordinance for said amendment.**

BACKGROUND: In 2007, the 80th Texas Legislature amended Section 13.146 of the Texas Water Code to require each retail public utility that provides water service to 3,300 or more connections to submit a Water Conservation Plan to the Texas Water Development Board (TWDB) and the Texas Commission on Environmental Quality (TCEQ). The code also required an annual report to be provided on the implementation of the plan, and the plan to be reviewed and submitted once every five years thereafter. The Water Conservation Plan is required to establish specific and quantified 5 and 10-year targets and goals in gallons per capita day for total water pumped; a schedule for plan implementation; and a water rate structure which is cost-based and does not encourage the excessive use of water. The Town’s existing Water Conservation Ordinance already includes a Water Conservation Plan.

The following updates are proposed to be made to the current Water Conservation Ordinance to fully comply with the requirements of the TWDB and TCEQ and to bring the ordinance up to date with 2024 information:

- The Town’s per capita target water savings goals have been updated with more current information.
- Updated information on water meter accuracy
- Updated information on water audits and leak detection
- Updated water delivery numbers delivered to Red Rock Water Supply Corporation

A copy of the ordinance showing all the proposed additions and deletions is attached. A copy of the ordinance under consideration that has incorporated all deletions and additions is also attached. The updated ordinance will be provided to TCEQ and TWDB upon approval

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES: N/A

FISCAL IMPACT: N/A

Proposed Expenditure/(Revenue)

Account Number(s):

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

ATTACHMENTS:

1. Ordinance
2. 2019 Ordinance with proposed revisions

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

TOWN OF FLOWER MOUND

ORDINANCE NO. XX-XX

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING THE CODE OF ORDINANCES, CHAPTER 70: UTILITIES BY REPLACING ARTICLE VI, ENTITLED “WATER CONSERVATION,” IN ITS ENTIRETY WITH A NEW ARTICLE VI, ENTITLED “WATER CONSERVATION;” PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town Council of the Town of Flower Mound has for many years recognized the need for water conservation and the efficient utilization of water from all sources in order to meet future needs at reasonable costs and has determined that it is in the best public interest of the Town of Flower Mound to amend the water conservation and emergency water demand management plan; and,

WHEREAS, recent improvements in the water system of the Town of Flower Mound make it possible to reduce the scope of some restrictions necessary to assure the availability of adequate supplies of safe drinking water, and bring those restrictions in line with the restrictions applied in other communities; and,

WHEREAS, the proposed standards will allow the Town of Flower Mound to continue to comply with the requirements set forth in the Texas Commission on Environmental Quality’s rules for community water supply systems;

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

SECTION 1

The Code of Ordinances, Chapter 70: Utilities be and is hereby amended by replacing Article VI, entitled “Water Conservation,” with the following Article VI which reads as follows:

ARTICLE VI. WATER CONSERVATION

DIVISION 1. GENERALLY

§§70-441 – 70-460. Reserved.

DIVISION 2. LONGTERM WATER CONSERVATION PLAN

§70-461. Purpose and Goals.

- (a) The purpose of this long term water conservation plan is to encourage and promote efficient use of water resources, and to outline a strategy for achieving such efficiency.
- (b) Opportunities for conservation exist through public education efforts, plumbing fixture improvements, and the responsible use of water that may allow the Town and its customers to save water. This plan addresses various opportunities to conserve water and establishes specific strategies to realize those opportunities.
- (c) Current Texas Commission on Environmental Quality (TCEQ) rules requires the adoption of specific water conservation 5-year and 10-year goals as part of plan. No enforcement action will be taken against the Town by TCEQ if these proposed goals are not met. The following table summarizes the Town 5-year and 10-year goals using 2023 per capita water usage as the benchmark, since it was the driest in the last five (5) years. This is in compliance with TCEQ guidelines.

Town per Capita Target Water Savings Goals			
Description	Current Average (GPCD)	5-Year Goal (GPCD)	10-Year Goal (GPCD)
Annual Average Per Capita Day Use	210.10	205.90	199.72

§70-462. Conservation Methods.

The objective of water conservation is to permanently reduce the quantity of water required per person per day for living and business activities. The water conservation methods recommended by the Texas Water Development Board (TWDB) Guidelines for Municipal Water Conservation and Emergency Demand Management are as follows:

- (1) Education of the public and provide information to each retail customer;
- (2) Plumbing codes to promote conservation;
- (3) Retrofit of existing plumbing devices where warranted;
- (4) Conservation oriented rate structure;
- (5) Universal metering and meter repair and replacement;
- (6) Water conservation landscaping practices;
- (7) Irrigation practices;

- (8) Water audits and leak detections;
- (9) Recycling and reuse of treated wastewater wherever practical;
- (10) Assumption of water supply corporations that are located within the Town's corporate limits and conversion to surface water supply;
- (11) Pressure control; and
- (12) Encourage water conservation by owners of private water wells.

In addition, various methods recommended by the TWDB for saving water are on file in the office of the Town Secretary, incorporated herein, and will be made available to customers through an organized program.

§70-463 Conservation Program.

This water conservation program is organized according to the conservation methods outlined above, and each method is described below. At the conclusion of this section, the steps involved in implementation and enforcement are outlined.

§70-464. Public Information and Education.

The following shall be done to inform and educate the public concerning long-term water conservation:

- (1) Have a series of Town meetings during the course of each major water and wastewater project to explain the purpose of the project and available alternatives, and explain how growth or usage is affecting the need for the project.
- (2) Have on display at the Town of Flower Mound Offices at least three (3) conservation items, conveniently organized to encourage customer use. Possible booklets or brochures available from the TWDB include:
 - a. "A Homeowners Guide to Water Use and Water Conservation"
 - b. "How to Save Water Inside the Home"
 - c. "How to Save Water Outside the Home"
 - d. "Water Saving Ideas for Business & Industry"

- (3) Mail water conservation brochures appropriate for the season to each retail customer. The number of brochures mailed on an annual basis will be adjusted to maintain the effectiveness of the program. The program may include the following:

<u>Item</u>	<u>Frequency</u>
(1) Water conservation message	Annually
(2) Water conservation brochure or bill stuffers	Annually
(3) Information on conservation programs such as leak detection or reuse	As Necessary
(4) Instructions for additional information	Included with Utility Bills
(4) Encourage local media coverage of water conservation issues and the importance water conservation.	
(5) Make information on water conservation available on the Town website and include links to the Texas Smartscape website and to other sites with good information about water conservation, including TWDB and TCEQ.	
(6) Make information on water conservation available on Flower Mound TV (FMTV).	
(7) Notify local organizations, schools, and civic groups that Town staff, and staff of Upper Trinity Regional Water District (UTRWD), are available to make presentations on the importance of water conservation and the best ways to save water.	

§ 70-465. Water conserving Plumbing Fixtures.

The Town of Flower Mound will inform customers about water-conserving plumbing fixtures and encourage the use of such fixtures when replacing fixtures in existing homes and commercial and public buildings. The Town of Flower Mound shall require all plumbing fixtures to meet the water conservation standards established in Texas Health and Safety Code Sec. 372.002, as listed below:

- (1) Toilets: Maximum flush that does not exceed 1.6 gallons of water.
- (2) Urinals: Maximum flush of 1 gallon of water.
- (3) Showerheads: Maximum flow rate of 2.5 gallons per minute at 80 pounds per square inch, except where necessary for safety reasons.

- (4) Faucets: Maximum flow rate of 2.0 gallons per minute at 60 pounds per square inch, for all lavatory, kitchen, and bar sink faucets.

This program will be implemented by code inspectors and monitored by the Town Manager and shall become effective on the effective date of the adoption of this plan. It is not expected to increase the costs of code enforcement.

§70-466. (Omitted)

§70-467. Conservation Oriented Rate Structure.

- (a) The Town of Flower Mound recognizes that an increasing block rate structure will encourage water users to reduce water use and, thereby, increase water conservation. With an increasing block rate, the price per one thousand (1,000) gallons of water increases as the quantity used increases, thereby discouraging excessive and wasteful water use.
- (b) The Town of Flower Mound has an increasing block rate structure as evidenced by the Town's rate structure, which is on file in the office of the Town Secretary.

§70-468. Metering and Meter Testing.

The purpose of metering is to measure the quantity of water being distributed to customers throughout the system, to account for all the water being produced, and to accurately bill for the quantity of water delivered to each customer. The Town of Flower Mound recognizes the need for universal and accurate metering. The Town's schedule for testing meters is as follows:

- (1) Compound meters 2 inches and larger and HPT meters 3 inches and larger – Test, calibrate and repair annually.
- (2) Meters 2 inches or smaller – Test and/or replace every ten (10) years.

These activities can be performed by the Town as a part of its routine operation and maintenance activities. It will be monitored by the Meter Services Section. Metering devices shall have an accuracy of plus or minus five percent (5%). It is expected that the costs will be offset by more accurate accounting and billing, resulting in enhanced revenues.

§70-469. Water Conservation Landscaping.

Well designed and properly maintained demonstration landscapes located in parks and other highly visible areas will promote the water-conserving landscape concept. As opportunities occur, the Town of Flower Mound will plan Xeriscape landscaping for its parks and other facilities. Such landscaping should emphasize native species and low water consuming plant types. Also, the Town of Flower Mound will encourage garden clubs, developers and customers to implement water efficient landscaping. The Town will participate with the UTRWD in demonstration gardens developed as part of the regional program. Brochures on water demand of certain grasses and on outdoor water use in general will be mailed to all customers initially and provided to all new customers.

§70-470. Irrigation Practices.

The Town of Flower Mound will explore opportunities for conserving water through improved irrigation practices, including:

- (1) Prohibiting wasteful uses of water from irrigation systems, such as:
 - a. Over-watering lawns and gardens in excess of what is actually required, thereby causing water to escape from irrigated areas or run off into gutters, ditches, streets, sidewalks, and other surface drains;
 - b. watering during the heat of the day when losses due to evaporation are high;
 - c. operating sprinkler systems during periods of rainfall.
- (2) The partitioning of any given irrigation system so as to provide sequential operation of segments of the system rather than simultaneous operation.
- (3) The distribution of a brochure providing helpful tips when a permit is issued for a sprinkler system and periodically thereafter.
- (4) Require all new irrigation systems be in compliance with state design and installation standards (TAC Title 30, Part 1, Chapter 344)

§70-471. Water Audits and Leak Detection.

- (a) The Town of Flower Mound is aware of potential savings from leak detection studies and water audits. The Town is committed to maintain low unaccounted-for water losses in its water system, and in recent years has experienced less than ten percent (10%) loss because of the responsiveness of the various utility service departments and a relatively new water system. The 5-year and 10-year water loss goals are 5% and 4%, respectively.
- (b) Audit results will continue to be evaluated. In addition, the Town will conduct periodic visual inspections of the distribution system, conduct annual leak

detection activities, and repair leaks in the distribution system to control unaccounted for losses of water.

§70-472 Wastewater Recycling and Reuse

- (a) The leading types of potential recycling and reuse projects are:
 - (1) Use of wastewater effluent for irrigation of parks and/or golf courses.
 - (2) Transmission of wastewater effluent to a surface water reservoir project for treatment and reuse as a public water supply.
 - (3) Installation of gray water (water from the washing machine, showers, and bathtubs) tanks in homes for lawn and landscape watering.
 - (4) Recycling and reuse of treated effluent by, or for, industrial, commercial and institutional customers – as well as for irrigation of open space, such as parks and golf courses.
- (b) The Town of Flower Mound has two reuse water master plans that take advantage of nearby wastewater treatment plant effluent, one was adopted in 2014 and covers the western area of Flower Mound and the other was adopted in 2018 and covers the southeast area of Flower Mound. The treatment of wastewater effluent is recognized as an excellent method of conserving drinking water through the use of reuse water for irrigation purposes.

§70-473. Pressure Control.

The Town of Flower Mound recognizes that adequate pressure control throughout its distribution system can improve water conservation. The transmission system should be sized to maintain a minimum pressure of 40 psi during normal operating conditions and a minimum pressure of 20 psi during extreme operating conditions. In addition, pressures above 90 psi are undesirable and should be avoided. The maximum pressure in extreme conditions should be limited to 120 psi because high operating pressure will result in increased system maintenance and increased operational cost. The transmission system should also be sized to limit maximum velocity in the transmission system to seven cubic feet per second.

§70-474. Enforcement of article provisions.

- (a) The water conservation plan will be implemented and enforced under the general direction of the Town Manager. Methods and costs of implementation are described below:
 - (1) Public Information and Education: The Town of Flower Mound will make copies available of the water conservation plan, including copies of the

water conservation methods, to customers, civic groups and other groups upon request. Also, copies of the plan and literature will be given to the local newspapers for use in writing water conservation articles.

- (2) Water Conservation Plumbing Fixtures: The Texas Health and Safety Code §372.002, *et seq.*, sets out conservation standards for plumbing fixtures sold within Texas. These standards are listed in §70-465, above.
 - (3) Water Conserving Landscape: The Town of Flower Mound will cooperate with the UTRWD in informing nurseries and the public of plants and shrubs that are native to the area. The budget for this activity will be included in the budget for public information and education.
 - (4) Leak Detection and Water Audits: The Town of Flower Mound will be alert to leak detection, will emphasize water audits, and will repair leaks to save water and reduce operation costs. Technical assistance for leak detection and water audits is available from the TWDB and from the UTRWD. No budget increase is expected for this water conservation activity.
 - (5) Wastewater Reuse and Recycling: The use of wastewater effluent from the central sewage collection and treatment system for irrigation of parks, golf courses, or forage crops is incorporated in to the Town's Water Master Plan. Other opportunities will be considered. Any such use must be planned and evaluated on an individual basis. Also, opportunities for recycling and reuse of effluent by or for, industrial, commercial and institutional customers will be explored.
- (b) The use of gray water systems in homes for lawn and landscape watering may be possible in some parts of the service area; but may not be acceptable within more densely populated portions of the service area. Gray water systems are most easily installed as homes are being built. Existing homes can be retrofitted with a gray water system at a higher cost. In the case of new homes, gray water tanks, piping, and pumping equipment for a family of four would cost approximately four thousand dollars (\$4,000.00) to install. The costs to install such a system in existing homes may be considerably higher, since piping would need to be modified and pumps added.
 - (c) The Town of Flower Mound encourages water reuse and recognizes that the cost of water reuse will be borne by the beneficiaries. To the extent that water reuse saves water and lowers monthly water bills, the benefits can be used to repay the costs of reuse projects.
 - (d) The Town Manager will be responsible for implementation of the water conservation program. Punitive enforcement measures are not expected to be required. By adoption of this plan, the Town of Flower Mound is directing and

authorizing the Town Manager to take all steps reasonably necessary to implement and enforce the plan.

§70-475. Review and Evaluation.

The Town shall maintain a record management system to record water pumped, delivered, sold and lost, which allows the classification of water sold and used by user categories (i.e. single and multi-family residential, commercial, public and institutional, and industrial).

The Town is required to submit an annual water conservation implementation report to TCEQ and TWDB. Said reports must be completed by May1 of the following year for the previous year and used to monitor the effectiveness and efficiency of the Town water conservation program. The results of the report may also be used to plan conservation-related activities for the following year. A copy of the report will also be sent to UTRWD, which will monitor the regional water conservation trends.

As required by TCEQ rules, the Town will review the plan every five (5) years. The plan will be updated, as appropriate, based upon new or updated information. Should the plan be revised during any five-year period, an amended plan must be submitted to TCEQ within 90 days of being adopted.

§70-476. Contracts With Other Political Subdivisions.

The Town sells water to one small Water Supply Corporation for resale

(a) Customer Data for Wholesale Customer is as follows:

Red Rock Water Supply Corporation

P.O.Box 270103

Flower Mound, TX 75027

Annual usage in 2023: 11.4MG

(b) Contract Requirements for Successive Customer Conservation

The Town of Flower Mound will include a requirement in every water supply contract entered into or renewed after official adoption of the water conservation plan, and including any contract extension, that each successive wholesale customer develop and implement a water conservation plan or water conservation measures using the applicable elements of Title 30 TAC Chapter 288. If the customer intends to resell the water, then the contract between the initial supplier and customer must provide that the contract for the resale of the water must have water conservation requirements so that each successive customer in the resale of the water will be required to implement water conservation measures in accordance with the provisions of 30 TAC Chapter 288.

§70-477. Coordination with Regional Planning Groups.

The Town of Flower Mound will provide a copy of this water conservation plan to the Region C Water Planning Group, which is responsible for developing regional water use information for the planning of future water needs. Flower Mound will cooperate with

regional water agencies by providing information, participating in cooperative conservation programs, and with usage reductions initiated as a result of drought or other conditions. In addition, a copy of this approved plan will be sent to both TCEQ and TWDB.

§§70-478 – 70-500. Reserved.

DIVISION 3. SHORTTERM WATER CONSERVATION PLAN

§70-501. Purpose and Goals.

- (a) The purpose of the annual water conservation plan is to establish the Town's policy and procedures in reference to the use of potable water for outdoor watering and to encourage the prudent application of water to lawns and landscaping plants.
- (b) Waste of water shall be prohibited, including such actions as permitting water to escape from irrigated areas or runoff into gutters, ditches, streets, sidewalks, and other surface drains; failing to promptly repair a controllable leak due to deficient plumbing after discovery; and other obvious wasteful uses.

§70-502. Public Education and Information.

Public information that can make the most immediate impact is the encouragement for proper watering of lawns and landscaping. Proper watering of lawns can further reduce usage while improving the health of the lawns at the same time. Information on outdoor water use will be published in the Town's newsletter.

§70-503. Water Conserving Plumbing Fixtures.

The Town shall require water conserving fixtures on all new construction in the Town.

§§70-504 – 70-520. Reserved.

DIVISION 4. EMERGENCY WATER DEMAND MANAGEMENT PLAN

§70-521. Purpose and Goals.

The purpose of this emergency water demand management plan is to establish an orderly strategy for preserving and managing an adequate supply of water to protect and preserve the public health, safety and welfare of citizens and the general public from situations that threaten to interrupt or otherwise prevent the Town from providing continuous water service.

§70-522. Trigger Conditions.

The following four (4) stages of drought or water storage and pumping conditions shall be used to determine the degree of urgency for initiation and implementation of the management plan measures.

- (1) Stage 1 Triggers – Water Awareness – Water awareness conditions exist upon discovery or notification of potentially serious water management situations that can be managed through voluntary reductions in water use. Customers shall be requested to voluntarily conserve water and adhere to the prescribed restrictions on certain non-essential water usage as provided in the Emergency Management Measures section of this plan. These conditions include:
 - a. Either wholesale water supplier(s) implement restrictive measures that require customers to implement similar restrictions for reasons such as conserving reservoir levels, maintaining system pressures, water treatment capacity, or other such items requiring cooperation; or
 - b. Total water consumption reaches seventy-five percent (75%) of the Town's water distribution pumping capacity; or,
 - c. The water supply system has a significant limitation due to failure of or damage to important system components.

Stage 1 of the Plan may be terminated when Stage 1 conditions no longer exist and would be unlikely to recur upon termination.

- (2) Stage 2 Triggers – Water Watch – Water watch conditions exist because of a failure in voluntary reduction and public awareness efforts to reduce demand, failures with equipment, inadequate supply, or diminished capacity. Customers shall be requested to adhere to both voluntary and mandatory measures to conserve water and adhere to the prescribed restrictions on certain non-essential water uses provided in the Emergency Management Measures section of this plan. These conditions shall include any of the following:
 - a. Either average daily water demand reaches ninety percent (90%) of available supply for two (2) consecutive days; or
 - b. Average daily water demand reaches ninety percent (90%) of the Town's water distribution system pumping capacity for two (2) consecutive days; or

- c. Failures occur with Town or wholesale supplier equipment or systems that result in a situation where demand reaches ninety percent (90%) of remaining supply or system capacity; or
- d. Wholesale suppliers implement restrictive measures that require customers to implement similar restrictions for reasons such as conserving reservoir levels, maintaining system pressures, water treatment capacity or other items requiring cooperation.

Stage 2 of the Plan may be terminated when Stage 2 conditions no longer exist and would be unlikely to recur upon termination.

- (3) Stage 3 Triggers – Water Warning – A water warning condition exists because of a failure of Stage 2 management measures to reduce demand for water, or failures with equipment, inadequate supply, or diminished system capacity prevents meeting demand for water. Customers shall be required to comply with the requirements and mandatory restrictions on certain non-essential water uses provided in the Emergency Management Measures section of this plan. These conditions shall include any of the following:

- a. Either average daily water demand reaches ninety-five percent (95%) of available supply for two (2) consecutive days; or
- b. Average daily water demand reaches ninety-five percent (95%) of the Town's water distribution system pumping capacity for two (2) consecutive days; or
- c. Failures occur with Town or wholesale supplier equipment or systems that result in a situation where demand reaches ninety-five percent (95%) of remaining supply or system capacity; or
- d. Wholesale suppliers implement restrictive measures that require customers to implement similar restrictions for reasons such as conserving reservoir levels, maintaining system pressures, water treatment capacity or other items requiring cooperation.

Stage 3 of the Plan may be terminated when the Stage 3 conditions no longer exist and would be unlikely to recur upon termination.

- (4) Stage 4 Triggers – Water Emergency – A water emergency condition exists because of a failure of Stage 3 management measures to reduce demand for water. This condition reflects the Town's impaired ability to provide water service as a result of unforeseen failures and inadequacies in equipment and supply. Customers shall be required to comply with the requirements and mandatory restrictions on certain non-essential water

uses provided in the Emergency Management Measures section of this plan. These conditions shall include any of the following:

- a. Either average daily water demand reaches ninety-eight percent (98%) of the Town's water distribution system pumping capacity for one (1) day; or
- b. The water system is contaminated either accidentally or intentionally; or
- c. Major waterline breaks, or pump or system failure occurs causing unprecedented loss of capacity to provide treated water service; or
- d. Wholesale suppliers implement restrictive measures that require customers to implement similar restrictions for reasons such as conserving reservoir levels, maintaining system pressures, water treatment capacity, or other items requiring cooperation.

Stage 4 of the Plan may be terminated when Stage 4 conditions no longer exist and would be unlikely to recur upon termination.

§70-523. Emergency Management Measures.

Adoption of this plan includes authorization for the Town Manager to implement the following emergency management measures in response to the aforementioned trigger conditions for the various levels of severity for drought or emergencies:

- (1) Stage 1 Response – Water Awareness – Water awareness measures involve voluntary reductions in water use and encourage users to conserve water to avoid activation of more limiting management measures. The target of water awareness measures is to achieve a voluntary one percent (1%) reduction in total gallons per capita day (GPCD) usage.

Specific actions to be taken during any drought situation will be determined by the Town Manager. The Town Manager may also take other actions not listed, if deemed necessary. The actions available under this measure include the following Voluntary Water Use Restrictions for Reducing Demand, except for item 1, which provide a menu of possible actions collectively and for different classes of water users as follows:

- (a) All Water Users

1. All users shall refrain from lawn and garden watering, or irrigation, between the hours of 10:00 a.m. to 6:00 p.m.

2. Encourage the reduction of water use through a voluntary day-of-week watering schedule. Irrigation of landscaped areas with hose-end sprinklers or automatic irrigation systems shall be limited to Sundays, Tuesdays, and Thursdays for customers with a street address ending in an even number (0, 2, 4, 6, or 8) and for locations without an address. Irrigation of landscaped areas with hose-end sprinklers or automatic irrigation systems shall be limited to Saturday, Monday, and Wednesday for water customers with a street address ending in an odd number (1, 3, 5, 7, or 9). Apartments, office building complexes, or other property containing multiple addresses shall be identified by the lowest address number. Irrigation of landscaped areas is permitted at anytime if it is by means of a hand-held hose, faucet-filled bucket, or drip irrigation.
3. Encourage reduction in the frequency of watering new and first year landscaping and foundations.
4. Encourage only initial filling of ornamental fountains or ponds.
5. Encourage reduction in the frequency of washing and rinsing vehicles and recommend the use of bucket/container, hand-held hose with positive shut-off valve or commercial car wash.
6. Encourage reduction in the frequency of draining and refilling of swimming pools.
7. Encourage reduction in recreational water use including the use of faucets, hoses, or hydrants which use water in such a manner as to allow run-off or other waste.

(b) Municipal Government

1. Initiate a public education campaign teaching and encouraging reduced water use practices for both Town water and water from private wells.
2. Notices will be published in local papers, will appear on local cable channel and posted on the Town's web page informing the public of the trigger condition(s) prompting the measure and requesting that water users voluntarily reduce water consumption.
3. Increase public awareness through the distribution of conservation pamphlets, including water conservation tips on

utility billings, and including notices and suggestions in newsletters.

4. Weekly status updates on the condition(s) causing activation of the management measure will be displayed on the local cable television channel and appear on the Town's website.
5. Waste of water shall be prohibited by eliminating such actions that allow excessive amounts of water to escape from irrigated areas as runoff into gutters, ditches, streets, and other surface drains; failing to promptly repair a controllable leak; and, other obvious wasteful uses and conditions.
6. Intensify normal leak detection and repair activities on waterlines.
7. Encourage reduction of water use in Town-owned ornamental fountains or ponds.
8. Encourage reduction in water use for landscaping for parks and athletic fields.

(c) Commercial Customers

1. Commercial users, Home Owners Associations, and other non-residential irrigation system owners will be contacted and asked to reduce water use by inspecting their systems. Corrective measures would limit over watering to prevent runoff, repairing broken or damaged sprinkler heads, and repair of any leaks that may be identified.
2. Identify and encourage voluntary reduction measures by high-volume water users through water audits.
3. Encourage reduction in water use for landscaping for commercial landscaping, open space, parks and golf courses.
4. Encourage reduction in water use for landscape nursery stock.

- (2) Stage 2 Response – Water Watch – Water watch measures impose usage restrictions on consumers as a result of ineffective Stage 1 measures, or because Stage 2 conditions require immediate implementation of Stage 2 measures. The Stage 2 management measures provide for limiting use and enforcement of the restrictions. The target of water watch measures is to

achieve a five percent (5%) reduction in total gallons per capita day (GPCD) usage.

Specific actions taken during any drought situation will be determined by the Town Manager. The Town Manager may also take other actions not listed, if deemed necessary. The actions available under this measure include the following Mandatory Water Use Restrictions for Reducing Demand which provide a menu of possible actions collectively and for different classes of water users as follow:

(a) All Water Users

1. Required reduction of water use through mandatory day-of-week landscape watering schedule and required watering only during off-peak hours. Irrigation of landscaped areas with hose-end sprinklers or automatic irrigation systems shall be limited to Sunday, Tuesday, and Thursday for customers with a street address ending in an even number (0, 2, 4, 6, or 8) and for locations without addresses, and Saturday, Monday, and Wednesday for water customers with a street address ending in an odd number (1, 3, 5, 7, or 9). Irrigation is further limited to the hours of 12:00 midnight until 10:00 a.m. and between 6:00 p.m. and 12:00 midnight on the customers' designated watering days. Apartments, office building complexes, or other property containing multiple addresses shall be identified by the lowest address number. Irrigation of landscaping areas is permitted at anytime if it is by means of a hand-held hose, faucet-filled bucket, or drip irrigation system.
2. Restrict operation of ornamental fountains or ponds to initial filling except where necessary to support aquatic life or where fountains or ponds are equipped with a recirculation system.
3. Prohibit recreational water use including the use of faucets, hoses, or hydrants that use water in such a manner as to allow run-off or other waste.
4. Restrict washing of any motor vehicle, motorbike, boat, trailer, airplane, or other vehicle to the use of a hand-held bucket or a hand-held hose equipped with a positive shutoff nozzle for quick rinses. Vehicle washing may be done at anytime on the immediate premises of a commercial car wash or commercial service station. Further, such washing may be exempted from these regulations if the health, safety, and welfare of the public

is contingent upon frequent vehicle cleaning, such as garbage trucks, and vehicles used to transport food or perishables.

5. Filling of swimming pools following new construction is allowed during Stage 2 management measures. However, filling of existing swimming pools following maintenance or to maintain water levels is considered outside use and must comply with the schedule outlined in the Stage 2 management measures.
6. Prohibit hosing off of paved areas, buildings, windows, and other surfaces.
7. Watering of new plantings (first year) of trees, shrubs, and turf will require obtaining a variance from the Director of Public Works. The variance will only be given for the length of time needed to establish the planting.
8. Wasting of water shall be prohibited, including such actions as: permitting an excessive amount of water to escape from the irrigated areas or run off into gutters, ditches, streets, and other surface drains; failing to promptly repair a controllable leak after discovery; and other obvious wasteful uses.
9. Certain construction related activities using significant amounts of water, such as new water line flushing and paving construction will not be allowed without prior approval from the Director of Public Works.

(b) Municipal Government

1. Accelerate public education campaign teaching and encouraging reduced water use practices.
2. Reduce frequency of Town vehicle washing or rinsing by fifty percent (50%).
3. Continue intensified leak detection and repair activities on waterlines.
4. Prohibit operation of ornamental fountains and ponds by municipal government.
5. Require reduction of water use for all municipal government landscaping including parks and athletic fields through day of the week landscape watering schedule.

(c) Commercial Customers

1. Identify and encourage voluntary reduction measures by high-volume water users through water use audits.
2. Require reduction of water use through day of the week landscape watering schedule for parks, athletic fields, and golf courses unless water is received from another source.
3. Encourage further reduction of landscape uses for nursery stock.

- (3) **Stage 3 Response – Water Warning** – Water Warning management measures reflect worsening conditions. Outside water use for irrigation purposes will be more strictly limited with active enforcement measures taken to ensure compliance. The target of water watch measures is to achieve a fifteen percent (15%) reduction in total gallons per capita day (GPCD) usage.

Specific actions taken during any drought situation will be determined by the Town Manager. The Town Manager may also take other actions not listed, if deemed necessary. The actions available under this measure include the following Mandatory Water Use Restrictions for Reducing Demand which provide a menu of possible actions collectively and for different classes of water users. All requirements of Stage shall effect during Stage 3 except as follows:

(a) All Water Users

1. Required reduction of water use through mandatory day-of-week landscape watering schedule and required watering only during off-peak hours. Irrigation of landscaped areas with hose-end sprinklers or automatic irrigation systems shall be limited to Sundays and Thursdays for customers with a street address ending in an even number (0, 2, 4, 6, or 8) and for locations without addresses, and Saturdays and Wednesdays for water customers with a street address ending in an odd number (1, 3, 5, 7 or 9). Irrigation is further limited to the hours of 12:00 midnight until 10:00 a.m. and between 6:00 p.m. and 12:00 midnight on the customers'; designated watering days. Apartments, office building complexes, or other property containing multiple addresses shall be identified by the lowest address number. Irrigation of landscaping areas is permitted at anytime if it is by means of a hand-held hose, faucet-filled bucket, or drip irrigation system.

2. A ten percent (10%) rate increase shall be initiated for high water demand users (customers using greater than 10,000 gallons per month, per account).
3. Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle not occurring on the premises of a commercial car wash and commercial service stations and not in the immediate interest of public health, safety, and welfare shall continue to be limited to the use of hand-held bucket or a hand-held hose equipped with a positive shutoff nozzle for quick rinses. Further, such washing shall occur only between the hours of 6:00 a.m. and 10:00 a.m. and between 6:00 p.m. and 10:00 p.m.
4. The filling, refilling, or adding of water to swimming pools, wading pools and Jacuzzi type pools is prohibited except between the hours of 6:00 p.m. and 10:00 a.m.
5. Foundations may be watered for a two-hour period between the hours of 6:00 p.m. and 10:00 a.m. with soaker or hand-held hose equipped with a positive shutoff nozzle on the customers' designated day of the week watering schedule.
6. Operation of any ornamental fountain or pond for aesthetic or scenic purposes is prohibited except where necessary to support aquatic life or where such fountains or ponds are equipped with a recirculation system.
7. Permitting of new swimming pools, hot tubs, spas, ornamental ponds, and fountain construction is prohibited.
8. Certain construction related to using significant amounts of water such as new line flushing and paving construction will not be allowed without prior authorization from the Director of Public Works.

(b) Municipal Government

1. Town vehicle washing and rinsing is limited to once a week.
2. All Municipal landscape watering is prohibited.

(c) Commercial Customers

1. Watering of golf course greens and tee boxes shall be restricted to off-peak hours of 6:00 p.m. to 10:00 a.m.; watering of other golf course areas and parks is prohibited unless the golf course or park utilizes a water source other than that provided by the Town.
2. Watering of nursery plant stock shall be restricted to designated off-peak hours and the customers' designated day-of-the-week landscaping water schedule.

- (4) Stage 4 Response – Water Emergency – Water Emergency management measures reflect the most extreme measures taken in protecting the water supply for sanitary and fire protection uses only. Outside water uses shall be limited and active enforcement measures will be taken to ensure compliance. This measure is anticipated to be a short term measure used to protect the integrity of the water system. The target of water emergency measures is to achieve a twenty-five percent (25%) reduction in total gallons per capita day (GPCD) usage.

Specific actions taken during any drought situation, including water allocation will be determined by the Town Manager. The actions available under this measure include the following Mandatory Water Use Restrictions for Reducing Demand which provide a menu of possible actions collectively and for different classes of water users. All requirements of Stage 2 and 3 shall remain in place during Stage 4 except as follows:

(a) All Water Users

The Town Manager may order the implementation of the following and take other reasonable and necessary measures subject to the approval of the Town Council:

1. Irrigation of landscaped areas is absolutely prohibited.
2. Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle is absolutely prohibited.
3. All rates for usage in excess of 10,000 gallons per month (per single-family residential account), or any other usage amount above 10,000 gallons per month, as deemed appropriate by the Town Manager, may be increased by an additional ten percent (10%), or any other percentage deemed appropriate by the Town Manager as necessary to reduce water consumption.

4. No application for new, additional, expanded, or increased-in-size water service connections, meters, service lines, pipeline extensions, mains, or water service facilities of any kind shall be approved, and time limits for approval of such applications are hereby suspended for such time as this drought response stage or a higher number stage shall be in effect.
5. Commercial and industrial water users shall reduce or stop water consumption to the extent determined by the Town Manager. Water service will be provided, depending on availability, according to the following priority system:
 - a. Hospitals;
 - b. Schools;
 - c. Industrial Users;
 - d. Commercial Users;
 - e. Residential Users;
 - f. Recreational Users.
6. Certain construction related activities using significant amounts of water, such as new water line flushing and paving construction will not be allowed without prior authorization from the Director of Public Works.
7. Exceptions to these mandatory water use restrictions may be authorized by the Director of Public Works for essential water uses such as: health and safety uses; commercial and industrial uses necessary to maintain, but not expand, primary business practices (e.g., commercial car and truck washes, nurseries, water haulers, etc.); and uses pursuant to law and/or regulation.

§70-524. Public Involvement.

Adoption of this plan and subsequent revisions will require the Town to actively inform the public of proposed changes and provide an opportunity for comment regarding the conservation plan. At a minimum, this will include the placement of proposed changes on a Town Council Meeting Agenda with participation by individuals during the Citizen/Visitor Comment portion of the meeting.

§70-525. Initiation Procedures.

The method of initiation of emergency management measures is defined in each level of emergency in §70-523 above.

§70-526. Termination Notification.

For water alert conditions, termination will not occur until the conditions which triggered the emergency have been alleviated. If excessive demand is determined to be the trigger, all initiated actions will remain in effect until September 30 of the year in which they were triggered, or until the Town Manager determines the actions are no longer required. For water warning conditions, all initiated actions will remain in effect until the conditions which triggered the emergency have been alleviated, or until the Town Manager determines that conditions exist which will allow the removal of the water warning actions. For water emergency conditions, all initiated actions will remain in effect until the conditions which triggered the emergency have been alleviated, or until the Town Manager determines that conditions exist which will allow the removal of the water emergency actions. Public notification of the termination of any water emergency management measures will follow the same procedures used in the notification of the initiation of these measures.

§70-527. Implementation and Enforcement of Division Provisions.

The various levels of remedial actions are implemented per the triggers defined in §70-522. The method of implementation is set out in §70-523. Violations of restrictions defined in §70-523 and will result in a warning, after which a citation may be issued with a fine as prescribed in §1-13 of this Code of Ordinances.

§70-528. Penalty.

- (a) Any person, customer and/or user of the Town's water system, except for the Town, who violates or fails to comply with any provision of this Article VI shall be deemed guilty of a misdemeanor and shall be punished by a fine as provided in §1-13 of this Code of Ordinances. Each day any such violation continues shall constitute a separate offense and be punishable as such.
- (b) In addition to proceeding under the authority of subsection (a) of this section, the Town shall be entitled to disconnect or discontinue water services to any such person, customer and/or user of the Town's water system who violates or fails to comply with any provision of this Article VI.

§70-529. Emergency Water Demand Management Plan Review and Update.

The emergency water demand management plan shall be reviewed and updated as needed at least every five (5) years, based upon new or updated information, such as the adoption or revision of the regional water plan.

§70-530. Texas Commission on Environmental Quality (TCEQ) Notification.

The Town shall notify the Executive Director of TCEQ within five (5) business days of the implementation of any mandatory provisions of the Emergency Water Demand Management Plan.

§70-531. Utilization of Alternative Water Sources and/or Alternative Delivery Mechanisms

The Town of Flower Mound utilizes and is under contract with two potable water sources, Dallas Water Utilities and Upper Trinity Regional Water District. The Town also has plans to utilize reuse water in the future from two sources, Trinity River Authority and our wastewater treatment plant effluent.

§70-532. Pro Rata Curtailment

In the event that the triggering criteria specified in Stage 4 – Water Emergency have been met, the Town Manager is hereby authorized to initiate allocation of water supplies on a pro rata basis in accordance with Texas Water Code, §11.039

§70-533. Contract Provisions

Dallas Water Utilities and Upper Trinity Regional Water District will include a provision in every wholesale contract entered into or renewed after adoption of the plan, including contract extensions, that in case of a shortage of water resulting from drought, the water will be distributed in accordance with Texas Water Code, §11.039.

§70-534 – 70-540. Reserved.**DIVISION 5. UTILITY PROFILE****§70-541. Texas Water Development Board Utility Profile**

The most recent Texas Water Development Board Utility Profile is on file in the office of the Town Secretary.

SECTION 2

That any provision of the Code of Ordinances of the Town of Flower Mound in conflict with the provisions of this Ordinance be, and same is hereby, repealed and all other provisions of the Code of Ordinances of the Town of Flower Mound not in conflict with this ordinance shall remain in full force and effect.

SECTION 3

That should any sentence, paragraph, subdivision, clause, phrase or section of this Ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this Ordinance as a whole, or any part or provision thereof other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of the Code of Ordinances as a whole.

SECTION 4

That any person, firm or corporation violating any of the provisions or terms of this Ordinance or the Code of Ordinances as amended hereby shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine not to exceed the sum of Two Thousand Dollars (\$2,000.00) for each offense, and each and every day such violation shall continue shall constitute a separate offense.

SECTION 5

This ordinance shall take effect and be in full force immediately after its passage.

DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS BY A VOTE OF TO ON THE 19TH DAY OF AUGUST, 2024.

APPROVED:

Cheryl Moore, MAYOR

ATTEST:

Theresa Scott, TOWN SECRETARY

TOWN OF FLOWER MOUND

ORDINANCE NO. ~~19-19XX-XX~~

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING THE CODE OF ORDINANCES, CHAPTER 70: UTILITIES BY REPLACING ARTICLE VI, ENTITLED “WATER CONSERVATION,” IN ITS ENTIRETY WITH A NEW ARTICLE VI, ENTITLED “WATER CONSERVATION;” PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town Council of the Town of Flower Mound has for many years recognized the need for water conservation and the efficient utilization of water from all sources in order to meet future needs at reasonable costs and has determined that it is in the best public interest of the Town of Flower Mound to amend the water conservation and emergency water demand management plan; and,

WHEREAS, recent improvements in the water system of the Town of Flower Mound make it possible to reduce the scope of some restrictions necessary to assure the availability of adequate supplies of safe drinking water, and bring those restrictions in line with the restrictions applied in other communities; and,

WHEREAS, the proposed standards will allow the Town of Flower Mound to continue to comply with the requirements set forth in the Texas Commission on Environmental Quality’s rules for community water supply systems;

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

SECTION 1

The Code of Ordinances, Chapter 70: Utilities be and is hereby amended by replacing Article VI, entitled “Water Conservation,” with the following Article VI which reads as follows:

ARTICLE VI. WATER CONSERVATION

DIVISION 1. GENERALLY

§§70-441 – 70-460. Reserved.

DIVISION 2. LONGTERM WATER CONSERVATION PLAN

§70-461. Purpose and Goals.

- (a) The purpose of this long term water conservation plan is to encourage and promote efficient use of water resources, and to outline a strategy for achieving such efficiency.
- (b) Opportunities for conservation exist through public education efforts, plumbing fixture improvements, and the responsible use of water that may allow the Town and its customers to save water. This plan addresses various opportunities to conserve water and establishes specific strategies to realize those opportunities.
- (c) Current Texas Commission on Environmental Quality (TCEQ) rules requires the adoption of specific water conservation 5-year and 10-year goals as part of plan. No enforcement action will be taken against the Town by TCEQ if these proposed goals are not met. The following table summarizes the Town 5-year and 10-year goals using ~~2014~~ 2023 per capita water usage as the benchmark, since it was the driest in the last five (5) years. This is in compliance with TCEQ guidelines.

Town per Capita Target Water Savings Goals			
Description	Current Average (GPCD)	5-Year Goal (GPCD)	10-Year Goal (GPCD)
Annual Average Per Capita Day Use	203.39 <u>210.10</u>	199.32 <u>205.90</u>	193.34 <u>199.72</u>

§70-462. Conservation Methods.

The objective of water conservation is to permanently reduce the quantity of water required per person per day for living and business activities. The water conservation methods recommended by the Texas Water Development Board (TWDB) Guidelines for Municipal Water Conservation and Emergency Demand Management are as follows:

- (1) Education of the public and provide information to each retail customer;
- (2) Plumbing codes to promote conservation;
- (3) Retrofit of existing plumbing devices where warranted;
- (4) Conservation oriented rate structure;
- (5) Universal metering and meter repair and replacement;
- (6) Water conservation landscaping practices;
- (7) Irrigation practices;

- (8) Water audits and leak detections;
- (9) Recycling and reuse of treated wastewater wherever practical;
- (10) Assumption of water supply corporations that are located within the Town's corporate limits and conversion to surface water supply;
- (11) Pressure control; and
- (12) Encourage water conservation by owners of private water wells.

In addition, various methods recommended by the TWDB for saving water are on file in the office of the Town Secretary, incorporated herein, and will be made available to customers through an organized program.

§70-463 Conservation Program.

This water conservation program is organized according to the conservation methods outlined above, and each method is described below. At the conclusion of this section, the steps involved in implementation and enforcement are outlined.

§70-464. Public Information and Education.

The following shall be done to inform and educate the public concerning long-term water conservation:

- (1) Have a series of Town meetings during the course of each major water and wastewater project to explain the purpose of the project and available alternatives, and explain how growth or usage is affecting the need for the project.
- (2) Have on display at the Town of Flower Mound Offices at least three (3) conservation items, conveniently organized to encourage customer use. Possible booklets or brochures available from the TWDB include:
 - a. "A Homeowners Guide to Water Use and Water Conservation
 - b. "How to Save Water Inside the Home"
 - c. "How to Save Water Outside the Home"
 - d. "Water Saving Ideas for Business & Industry"

- (3) Mail water conservation brochures appropriate for the season to each retail customer. The number of brochures mailed on an annual basis will be adjusted to maintain the effectiveness of the program. The program may include the following:

<u>Item</u>	<u>Frequency</u>
(1) Water conservation message	Annually
(2) Water conservation brochure or bill stuffers	Annually
(3) Information on conservation programs such as leak detection or reuse	As Necessary
(4) Instructions for additional information	Included with Utility Bills
(4) Encourage local media coverage of water conservation issues and the importance water conservation.	
(5) Make information on water conservation available on the Town website and include links to the Texas Smartscape website and to other sites with good information about water conservation, including TWDB and TCEQ.	
(6) Make information on water conservation available on Flower Mound TV (FMTV).	
(7) Notify local organizations, schools, and civic groups that Town staff, and staff of Upper Trinity Regional Water District (UTRWD), are available to make presentations on the importance of water conservation and the best ways to save water.	

§ 70-465. Water conserving Plumbing Fixtures.

The Town of Flower Mound will inform customers about water-conserving plumbing fixtures and encourage the use of such fixtures when replacing fixtures in existing homes and commercial and public buildings. The Town of Flower Mound shall require all plumbing fixtures to meet the water conservation standards established in Texas Health and Safety Code Sec. 372.002, as listed below:

- (1) Toilets: Maximum flush that does not exceed 1.6 gallons of water.
- (2) Urinals: Maximum flush of 1 gallon of water.
- (3) Showerheads: Maximum flow rate of 2.5 gallons per minute at 80 pounds per square inch, except where necessary for safety reasons.

- (4) Faucets: Maximum flow rate of 2.0 gallons per minute at 60 pounds per square inch, for all lavatory, kitchen, and bar sink faucets.

This program will be implemented by code inspectors and monitored by the Town Manager and shall become effective on the effective date of the adoption of this plan. It is not expected to increase the costs of code enforcement.

§70-466. (Omitted)

§70-467. Conservation Oriented Rate Structure.

- (a) The Town of Flower Mound recognizes that an increasing block rate structure will encourage water users to reduce water use and, thereby, increase water conservation. With an increasing block rate, the price per one thousand (1,000) gallons of water increases as the quantity used increases, thereby discouraging excessive and wasteful water use.
- (b) The Town of Flower Mound has an increasing block rate structure as evidenced by the Town's rate structure, which is on file in the office of the Town Secretary.

§70-468. Metering and Meter Testing.

The purpose of metering is to measure the quantity of water being distributed to customers throughout the system, to account for all the water being produced, and to accurately bill for the quantity of water delivered to each customer. The Town of Flower Mound recognizes the need for universal and accurate metering. The Town's schedule for testing meters is as follows:

- (1) Compound meters 2 inches and larger and HPT meters 3 inches and larger – Test, calibrate and repair annually.
- (2) Meters 2 inches or smaller – Test and/or replace every ten (10) years.

These activities can be performed by the Town as a part of its routine operation and maintenance activities. It will be monitored by the Meter Services Section. -Metering devices shall have an accuracy of plus or minus five percent (5%). It is expected that the costs will be offset by more accurate accounting and billing, resulting in enhanced revenues.

§70-469. Water Conservation Landscaping.

Well designed and properly maintained demonstration landscapes located in parks and other highly visible areas will promote the water-conserving landscape concept. As opportunities occur, the Town of Flower Mound will plan Xeriscape landscaping for its parks and other facilities. Such landscaping should emphasize native species and low water consuming plant types. Also, the Town of Flower Mound will encourage garden clubs, developers and customers to implement water efficient landscaping. The Town will participate with the UTRWD in demonstration gardens developed as part of the regional program. Brochures on water demand of certain grasses and on outdoor water use in general will be mailed to all customers initially and provided to all new customers.

§70-470. Irrigation Practices.

The Town of Flower Mound will explore opportunities for conserving water through improved irrigation practices, including:

- (1) Prohibiting wasteful uses of water from irrigation systems, such as:
 - a. Over-watering lawns and gardens in excess of what is actually required, thereby causing water to escape from irrigated areas or run off into gutters, ditches, streets, sidewalks, and other surface drains;
 - b. watering during the heat of the day when losses due to evaporation are high;
 - c. operating sprinkler systems during periods of rainfall.
- (2) The partitioning of any given irrigation system so as to provide sequential operation of segments of the system rather than simultaneous operation.
- (3) The distribution of a brochure providing helpful tips when a permit is issued for a sprinkler system and periodically thereafter.
- (4) Require all new irrigation systems be in compliance with state design and installation standards (TAC Title 30, Part 1, Chapter 344)

§70-471. Water Audits and Leak Detection.

- (a) The Town of Flower Mound is aware of potential savings from leak detection studies and water audits. The Town is committed to maintain low unaccounted-for water losses in its water system, and in recent years has experienced less than ~~five~~ten percent (~~5~~10%) loss because of the responsiveness of the various utility service departments and a relatively new water system. ~~Although the current management practices have been successful in maintaining low water losses, the Town currently does not have an established leak detection and repair program.~~ The 5-year and 10-year water loss goals are 5% and 4%, respectively.

- (b) Audit results will continue to be evaluated. In addition, the Town will conduct periodic visual inspections of the distribution system, conduct annual leak detection activities, and repair leaks in the distribution system to control unaccounted for losses of water.

§70-472 Wastewater Recycling and Reuse

- (a) The leading types of potential recycling and reuse projects are:
- (1) Use of wastewater effluent for irrigation of parks and/or golf courses.
 - (2) Transmission of wastewater effluent to a surface water reservoir project for treatment and reuse as a public water supply.
 - (3) Installation of gray water (water from the washing machine, showers, and bathtubs) tanks in homes for lawn and landscape watering.
 - (4) Recycling and reuse of treated effluent by, or for, industrial, commercial and institutional customers – as well as for irrigation of open space, such as parks and golf courses.
- (b) The Town of Flower Mound has two reuse water master plans that take advantage of nearby wastewater treatment plant effluent, one was adopted in 2014 and covers the western area of Flower Mound and the other was adopted in 2018 and covers the southeast area of Flower Mound. The treatment of wastewater effluent is recognized as an excellent method of conserving drinking water through the use of reuse water for irrigation purposes.

§70-473. Pressure Control.

The Town of Flower Mound recognizes that adequate pressure control throughout its distribution system can improve water conservation. The transmission system should be sized to maintain a minimum pressure of 40 psi during normal operating conditions and a minimum pressure of 20 psi during extreme operating conditions. In addition, pressures above 90 psi are undesirable and should be avoided. The maximum pressure in extreme conditions should be limited to 120 psi because high operating pressure will result in increased system maintenance and increased operational cost. The transmission system should also be sized to limit maximum velocity in the transmission system to seven cubic feet per second.

§70-474. Enforcement of article provisions.

- (a) The water conservation plan will be implemented and enforced under the general direction of the Town Manager. Methods and costs of implementation are described below:

- (1) Public Information and Education: The Town of Flower Mound will make copies available of the water conservation plan, including copies of the water conservation methods, to customers, civic groups and other groups upon request. Also, copies of the plan and literature will be given to the local newspapers for use in writing water conservation articles.
 - (2) Water Conservation Plumbing Fixtures: The Texas Health and Safety Code §372.002, *et seq.*, sets out conservation standards for plumbing fixtures sold within Texas. These standards are listed in §70-465, above.
 - (3) Water Conserving Landscape: The Town of Flower Mound will cooperate with the UTRWD in informing nurseries and the public of plants and shrubs that are native to the area. The budget for this activity will be included in the budget for public information and education.
 - (4) Leak Detection and Water Audits: The Town of Flower Mound will be alert to leak detection, will emphasize water audits, and will repair leaks to save water and reduce operation costs. Technical assistance for leak detection and water audits is available from the TWDB and from the UTRWD. No budget increase is expected for this water conservation activity.
 - (5) Wastewater Reuse and Recycling: The use of wastewater effluent from the central sewage collection and treatment system for irrigation of parks, golf courses, or forage crops is incorporated in to the Town's Water Master Plan. Other opportunities will be considered. Any such use must be planned and evaluated on an individual basis. Also, opportunities for recycling and reuse of effluent by or for, industrial, commercial and institutional customers will be explored.
- (b) The use of gray water systems in homes for lawn and landscape watering may be possible in some parts of the service area; but may not be acceptable within more densely populated portions of the service area. Gray water systems are most easily installed as homes are being built. Existing homes can be retrofitted with a gray water system at a higher cost. In the case of new homes, gray water tanks, piping, and pumping equipment for a family of four would cost approximately four thousand dollars (\$4,000.00) to install. The costs to install such a system in existing homes may be considerably higher, since piping would need to be modified and pumps added.
 - (c) The Town of Flower Mound encourages water reuse and recognizes that the cost of water reuse will be borne by the beneficiaries. To the extent that water reuse saves water and lowers monthly water bills, the benefits can be used to repay the costs of reuse projects.
 - (d) The Town Manager will be responsible for implementation of the water conservation program. Punitive enforcement measures are not expected to be

required. By adoption of this plan, the Town of Flower Mound is directing and authorizing the Town Manager to take all steps reasonably necessary to implement and enforce the plan.

§70-475. Review and Evaluation.

The Town shall maintain a record management system to record water pumped, delivered, sold and lost, which allows the classification of water sold and used by user categories (i.e. single and multi-family residential, commercial, public and institutional, and industrial).

The Town is required to submit an annual water conservation implementation report to TCEQ and TWDB. Said reports must be completed by May1 of the following year for the previous year and used to monitor the effectiveness and efficiency of the Town water conservation program. The results of the report may also be used to plan conservation-related activities for the following year. A copy of the report will also be sent to UTRWD, which will monitor the regional water conservation trends.

As required by TCEQ rules, the Town will review the plan every five (5) years. The plan will be updated, as appropriate, based upon new or updated information. Should the plan be revised during any five-year period, an amended plan must be submitted to TCEQ within 90 days of being adopted.

§70-476. Contracts With Other Political Subdivisions.

The Town sells water to one small Water Supply Corporation for resale

(a) Customer Data for Wholesale Customer is as follows:

Red Rock Water Supply Corporation

P.O.Box 270103

Flower Mound, TX 75027

Annual usage in ~~2018~~2023: ~~8.3MG~~11.4MG

(b) Contract Requirements for Successive Customer Conservation

The Town of Flower Mound will include a requirement in every water supply contract entered into or renewed after official adoption of the water conservation plan, and including any contract extension, that each successive wholesale customer develop and implement a water conservation plan or water conservation measures using the applicable elements of Title 30 TAC Chapter 288. If the customer intends to resell the water, then the contract between the initial supplier and customer must provide that the contract for the resale of the water must have water conservation requirements so that each successive customer in the resale of the water will be required to implement water conservation measures in accordance with the provisions of 30 TAC Chapter 288.

§70-477. Coordination with Regional Planning Groups.

The Town of Flower Mound will provide a copy of this water conservation plan to the Region C Water Planning Group, which is responsible for developing regional water use information for the planning of future water needs. Flower Mound will cooperate with

regional water agencies by providing information, participating in cooperative conservation programs, and with usage reductions initiated as a result of drought or other conditions. In addition, a copy of this approved plan will be sent to both TCEQ and TWDB.

§§70-478 – 70-500. Reserved.

DIVISION 3. SHORTTERM WATER CONSERVATION PLAN

§70-501. Purpose and Goals.

- (a) The purpose of the annual water conservation plan is to establish the Town's policy and procedures in reference to the use of potable water for outdoor watering and to encourage the prudent application of water to lawns and landscaping plants.
- (b) Waste of water shall be prohibited, including such actions as permitting water to escape from irrigated areas or runoff into gutters, ditches, streets, sidewalks, and other surface drains; failing to promptly repair a controllable leak due to deficient plumbing after discovery; and other obvious wasteful uses.

§70-502. Public Education and Information.

-Public information that can make the most immediate impact is the- encouragement for proper watering of lawns and landscaping. Proper watering of lawns can further reduce usage while improving the health of the lawns at the same time. Information on outdoor water use will be published in the Town's newsletter.

§70-503. Water Conserving Plumbing Fixtures.

The Town shall require water conserving fixtures on all new construction in the Town.

§§70-504 – 70-520. Reserved.

DIVISION 4. EMERGENCY WATER DEMAND MANAGEMENT PLAN

§70-521. Purpose and Goals.

The purpose of this emergency water demand management plan is to establish an orderly strategy for preserving and managing an adequate supply of water to protect and preserve the public health, safety and welfare of citizens and the general public from situations that threaten to interrupt or otherwise prevent the Town from providing continuous water service.

§70-522. Trigger Conditions.

The following four (4) stages of drought or water storage and pumping conditions shall be used to determine the degree of urgency for initiation and implementation of the management plan measures.

- (1) Stage 1 Triggers – Water Awareness – Water awareness conditions exist upon discovery or notification of potentially serious water management situations that can be managed through voluntary reductions in water use. Customers shall be requested to voluntarily conserve water and adhere to the prescribed restrictions on certain non-essential water usage as provided in the Emergency Management Measures section of this plan. These conditions include:
 - a. Either wholesale water supplier(s) implement restrictive measures that require customers to implement similar restrictions for reasons such as conserving reservoir levels, maintaining system pressures, water treatment capacity, or other such items requiring cooperation; or
 - b. Total water consumption reaches seventy-five percent (75%) of the Town's water distribution pumping capacity; or,
 - c. The water supply system has a significant limitation due to failure of or damage to important system components.

Stage 1 of the Plan may be terminated when Stage 1 conditions no longer exist and would be unlikely to recur upon termination.

- (2) Stage 2 Triggers – Water Watch – Water watch conditions exist because of a failure in voluntary reduction and public awareness efforts to reduce demand, failures with equipment, inadequate supply, or diminished capacity. Customers shall be requested to adhere to both voluntary and mandatory measures to conserve water and adhere to the prescribed restrictions on certain non-essential water uses provided in the Emergency Management Measures section of this plan. These conditions shall include any of the following:
 - a. Either average daily water demand reaches ninety percent (90%) of available supply for two (2) consecutive days; or
 - b. Average daily water demand reaches ninety percent (90%) of the Town's water distribution system pumping capacity for two (2) consecutive days; or

- c. Failures occur with Town or wholesale supplier equipment or systems that result in a situation where demand reaches ninety percent (90%) of remaining supply or system capacity; or
- d. Wholesale suppliers implement restrictive measures that require customers to implement similar restrictions for reasons such as conserving reservoir levels, maintaining system pressures, water treatment capacity or other items requiring cooperation.

Stage 2 of the Plan may be terminated when Stage 2 conditions no longer exist and would be unlikely to recur upon termination.

- (3) Stage 3 Triggers – Water Warning – A water warning condition exists because of a failure of Stage 2 management measures to reduce demand for water, or failures with equipment, inadequate supply, or diminished system capacity prevents meeting demand for water. Customers shall be required to comply with the requirements and mandatory restrictions on certain non-essential water uses provided in the Emergency Management Measures section of this plan. These conditions shall include any of the following:

- a. Either average daily water demand reaches ninety-five percent (95%) of available supply for two (2) consecutive days; or
- b. Average daily water demand reaches ninety-five percent (95%) of the Town's water distribution system pumping capacity for two (2) consecutive days; or
- c. Failures occur with Town or wholesale supplier equipment or systems that result in a situation where demand reaches ninety-five percent (95%) of remaining supply or system capacity; or
- d. Wholesale suppliers implement restrictive measures that require customers to implement similar restrictions for reasons such as conserving reservoir levels, maintaining system pressures, water treatment capacity or other items requiring cooperation.

Stage 3 of the Plan may be terminated when the Stage 3 conditions no longer exist and would be unlikely to recur upon termination.

- (4) Stage 4 Triggers – Water Emergency – A water emergency condition exists because of a failure of Stage 3 management measures to reduce demand for water. This condition reflects the Town's impaired ability to provide water service as a result of unforeseen failures and inadequacies in equipment and supply. Customers shall be required to comply with the requirements and mandatory restrictions on certain non-essential water

uses provided in the Emergency Management Measures section of this plan. These conditions shall include any of the following:

- a. Either average daily water demand reaches ninety-eight percent (98%) of the Town's water distribution system pumping capacity for one (1) day; or
- b. The water system is contaminated either accidentally or intentionally; or
- c. Major waterline breaks, or pump or system failure occurs causing unprecedented loss of capacity to provide treated water service; or
- d. Wholesale suppliers implement restrictive measures that require customers to implement similar restrictions for reasons such as conserving reservoir levels, maintaining system pressures, water treatment capacity, or other items requiring cooperation.

Stage 4 of the Plan may be terminated when Stage 4 conditions no longer exist and would be unlikely to recur upon termination.

§70-523. Emergency Management Measures.

Adoption of this plan includes authorization for the Town Manager to implement the following emergency management measures in response to the aforementioned trigger conditions for the various levels of severity for drought or emergencies:

- (1) Stage 1 Response – Water Awareness – Water awareness measures involve voluntary reductions in water use and encourage users to conserve water to avoid activation of more limiting management measures. The target of water awareness measures is to achieve a voluntary one percent (1%) reduction in total gallons per capita day (GPCD) usage.

Specific actions to be taken during any drought situation will be determined by the Town Manager. The Town Manager may also take other actions not listed, if deemed necessary. The actions available under this measure include the following Voluntary Water Use Restrictions for Reducing Demand, except for item 1, which provide a menu of possible actions collectively and for different classes of water users as follows:

- (a) All Water Users

1. All users shall refrain from lawn and garden watering, or irrigation, between the hours of 10:00 a.m. to 6:00 p.m.

2. Encourage the reduction of water use through a voluntary day-of-week watering schedule. Irrigation of landscaped areas with hose-end sprinklers or automatic irrigation systems shall be limited to Sundays, Tuesdays, and Thursdays for customers with a street address ending in an even number (0, 2, 4, 6, or 8) and for locations without an address. Irrigation of landscaped areas with hose-end sprinklers or automatic irrigation systems shall be limited to Saturday, Monday, and Wednesday for water customers with a street address ending in an odd number (1, 3, 5, 7, or 9). Apartments, office building complexes, or other property containing multiple addresses shall be identified by the lowest address number. Irrigation of landscaped areas is permitted at anytime if it is by means of a hand-held hose, faucet-filled bucket, or drip irrigation.
3. Encourage reduction in the frequency of watering new and first year landscaping and foundations.
4. Encourage only initial filling of ornamental fountains or ponds.
5. Encourage reduction in the frequency of washing and rinsing vehicles and recommend the use of bucket/container, hand-held hose with positive shut-off valve or commercial car wash.
6. Encourage reduction in the frequency of draining and refilling of swimming pools.
7. Encourage reduction in recreational water use including the use of faucets, hoses, or hydrants which use water in such a manner as to allow run-off or other waste.

(b) Municipal Government

1. Initiate a public education campaign teaching and encouraging reduced water use practices for both Town water and water from private wells.
2. Notices will be published in local papers, will appear on local cable channel and posted on the Town's web page informing the public of the trigger condition(s) prompting the measure and requesting that water users voluntarily reduce water consumption.
3. Increase public awareness through the distribution of conservation pamphlets, including water conservation tips on

utility billings, and including notices and suggestions in newsletters.

4. Weekly status updates on the condition(s) causing activation of the management measure will be displayed on the local cable television channel and appear on the Town's website.
5. Waste of water shall be prohibited by eliminating such actions that allow excessive amounts of water to escape from irrigated areas as runoff into gutters, ditches, streets, and other surface drains; failing to promptly repair a controllable leak; and, other obvious wasteful uses and conditions.
6. Intensify normal leak detection and repair activities on waterlines.
7. Encourage reduction of water use in Town-owned ornamental fountains or ponds.
8. Encourage reduction in water use for landscaping for parks and athletic fields.

(c) Commercial Customers

1. Commercial users, Home Owners Associations, and other non-residential irrigation system owners will be contacted and asked to reduce water use by inspecting their systems. Corrective measures would limit over watering to prevent runoff, repairing broken or damaged sprinkler heads, and repair of any leaks that may be identified.
2. Identify and encourage voluntary reduction measures by high-volume water users through water audits.
3. Encourage reduction in water use for landscaping for commercial landscaping, open space, parks and golf courses.
4. Encourage reduction in water use for landscape nursery stock.

- (2) Stage 2 Response – Water Watch – Water watch measures impose usage restrictions on consumers as a result of ineffective Stage 1 measures, or because Stage 2 conditions require immediate implementation of Stage 2 measures. The Stage 2 management measures provide for limiting use and enforcement of the restrictions. The target of water watch measures is to

achieve a five percent (5%) reduction in total gallons per capita day (GPCD) usage.

Specific actions taken during any drought situation will be determined by the Town Manager. The Town Manager may also take other actions not listed, if deemed necessary. The actions available under this measure include the following Mandatory Water Use Restrictions for Reducing Demand which provide a menu of possible actions collectively and for different classes of water users as follow:

(a) All Water Users

1. Required reduction of water use through mandatory day-of-week landscape watering schedule and required watering only during off-peak hours. Irrigation of landscaped areas with hose-end sprinklers or automatic irrigation systems shall be limited to Sunday, Tuesday, and Thursday for customers with a street address ending in an even number (0, 2, 4, 6, or 8) and for locations without addresses, and Saturday, Monday, and Wednesday for water customers with a street address ending in an odd number (1, 3, 5, 7, or 9). Irrigation is further limited to the hours of 12:00 midnight until 10:00 a.m. and between 6:00 p.m. and 12:00 midnight on the customers' designated watering days. Apartments, office building complexes, or other property containing multiple addresses shall be identified by the lowest address number. Irrigation of landscaping areas is permitted at anytime if it is by means of a hand-held hose, faucet-filled bucket, or drip irrigation system.
2. Restrict operation of ornamental fountains or ponds to initial filling except where necessary to support aquatic life or where fountains or ponds are equipped with a recirculation system.
3. Prohibit recreational water use including the use of faucets, hoses, or hydrants that use water in such a manner as to allow run-off or other waste.
4. Restrict washing of any motor vehicle, motorbike, boat, trailer, airplane, or other vehicle to the use of a hand-held bucket or a hand-held hose equipped with a positive shutoff nozzle for quick rinses. Vehicle washing may be done at anytime on the immediate premises of a commercial car wash or commercial service station. Further, such washing may be exempted from these regulations if the health, safety, and welfare of the public

is contingent upon frequent vehicle cleaning, such as garbage trucks, and vehicles used to transport food or perishables.

5. Filling of swimming pools following new construction is allowed during Stage 2 management measures. However, filling of existing swimming pools following maintenance or to maintain water levels is considered outside use and must comply with the schedule outlined in the Stage 2 management measures.
6. Prohibit hosing off of paved areas, buildings, windows, and other surfaces.
7. Watering of new plantings (first year) of trees, shrubs, and turf will require obtaining a variance from the Director of Public Works. The variance will only be given for the length of time needed to establish the planting.
8. Wasting of water shall be prohibited, including such actions as: permitting an excessive amount of water to escape from the irrigated areas or run off into gutters, ditches, streets, and other surface drains; failing to promptly repair a controllable leak after discovery; and other obvious wasteful uses.
9. Certain construction related activities using significant amounts of water, such as new water line flushing and paving construction will not be allowed without prior approval from the Director of Public Works.

(b) Municipal Government

1. Accelerate public education campaign teaching and encouraging reduced water use practices.
2. Reduce frequency of Town vehicle washing or rinsing by fifty percent (50%).
3. Continue intensified leak detection and repair activities on waterlines.
4. Prohibit operation of ornamental fountains and ponds by municipal government.
5. Require reduction of water use for all municipal government landscaping including parks and athletic fields through day of the week landscape watering schedule.

(c) Commercial Customers

1. Identify and encourage voluntary reduction measures by high-volume water users through water use audits.
2. Require reduction of water use through day of the week landscape watering schedule for parks, athletic fields, and golf courses unless water is received from another source.
3. Encourage further reduction of landscape uses for nursery stock.

- (3) **Stage 3 Response – Water Warning** – Water Warning management measures reflect worsening conditions. Outside water use for irrigation purposes will be more strictly limited with active enforcement measures taken to ensure compliance. The target of water watch measures is to achieve a fifteen percent (15%) reduction in total gallons per capita day (GPCD) usage.

Specific actions taken during any drought situation will be determined by the Town Manager. The Town Manager may also take other actions not listed, if deemed necessary. The actions available under this measure include the following Mandatory Water Use Restrictions for Reducing Demand which provide a menu of possible actions collectively and for different classes of water users. All requirements of Stage shall effect during Stage 3 except as follows:

(a) All Water Users

1. Required reduction of water use through mandatory day-of-week landscape watering schedule and required watering only during off-peak hours. Irrigation of landscaped areas with hose-end sprinklers or automatic irrigation systems shall be limited to Sundays and Thursdays for customers with a street address ending in an even number (0, 2, 4, 6, or 8) and for locations without addresses, and Saturdays and Wednesdays for water customers with a street address ending in an odd number (1, 3, 5, 7 or 9). Irrigation is further limited to the hours of 12:00 midnight until 10:00 a.m. and between 6:00 p.m. and 12:00 midnight on the customers'; designated watering days. Apartments, office building complexes, or other property containing multiple addresses shall be identified by the lowest address number. Irrigation of landscaping areas is permitted at anytime if it is by means of a hand-held hose, faucet-filled bucket, or drip irrigation system.

2. A ten percent (10%) rate increase shall be initiated for high water demand users (customers using greater than 10,000 gallons per month, per account).
3. Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle not occurring on the premises of a commercial car wash and commercial service stations and not in the immediate interest of public health, safety, and welfare shall continue to be limited to the use of hand-held bucket or a hand-held hose equipped with a positive shutoff nozzle for quick rinses. Further, such washing shall occur only between the hours of 6:00 a.m. and 10:00 a.m. and between 6:00 p.m. and 10:00 p.m.
4. The filling, refilling, or adding of water to swimming pools, wading pools and Jacuzzi type pools is prohibited except between the hours of 6:00 p.m. and 10:00 a.m.
5. Foundations may be watered for a two-hour period between the hours of 6:00 p.m. and 10:00 a.m. with soaker or hand-held hose equipped with a positive shutoff nozzle on the customers' designated day of the week watering schedule.
6. Operation of any ornamental fountain or pond for aesthetic or scenic purposes is prohibited except where necessary to support aquatic life or where such fountains or ponds are equipped with a recirculation system.
7. Permitting of new swimming pools, hot tubs, spas, ornamental ponds, and fountain construction is prohibited.
8. Certain construction related to using significant amounts of water such as new line flushing and paving construction will not be allowed without prior authorization from the Director of Public Works.

(b) Municipal Government

1. Town vehicle washing and rinsing is limited to once a week.
2. All Municipal landscape watering is prohibited.

(c) Commercial Customers

1. Watering of golf course greens and tee boxes shall be restricted to off-peak hours of 6:00 p.m. to 10:00 a.m.; watering of other golf course areas and parks is prohibited unless the golf course or park utilizes a water source other than that provided by the Town.
2. Watering of nursery plant stock shall be restricted to designated off-peak hours and the customers' designated day-of-the-week landscaping water schedule.

- (4) Stage 4 Response – Water Emergency – Water Emergency management measures reflect the most extreme measures taken in protecting the water supply for sanitary and fire protection uses only. Outside water uses shall be limited and active enforcement measures will be taken to ensure compliance. This measure is anticipated to be a short term measure used to protect the integrity of the water system. The target of water emergency measures is to achieve a twenty-five percent (25%) reduction in total gallons per capita day (GPCD) usage.

Specific actions taken during any drought situation, including water allocation will be determined by the Town Manager. The actions available under this measure include the following Mandatory Water Use Restrictions for Reducing Demand which provide a menu of possible actions collectively and for different classes of water users. All requirements of Stage 2 and 3 shall remain in place during Stage 4 except as follows:

(a) All Water Users

The Town Manager may order the implementation of the following and take other reasonable and necessary measures subject to the approval of the Town Council:

1. Irrigation of landscaped areas is absolutely prohibited.
2. Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle is absolutely prohibited.
3. All rates for usage in excess of 10,000 gallons per month (per single-family residential account), or any other usage amount above 10,000 gallons per month, as deemed appropriate by the Town Manager, may be increased by an additional ten percent (10%), or any other percentage deemed appropriate by the Town Manager as necessary to reduce water consumption.

4. No application for new, additional, expanded, or increased-in-size water service connections, meters, service lines, pipeline extensions, mains, or water service facilities of any kind shall be approved, and time limits for approval of such applications are hereby suspended for such time as this drought response stage or a higher number stage shall be in effect.
5. Commercial and industrial water users shall reduce or stop water consumption to the extent determined by the Town Manager. Water service will be provided, depending on availability, according to the following priority system:
 - a. Hospitals;
 - b. Schools;
 - c. Industrial Users;
 - d. Commercial Users;
 - e. Residential Users;
 - f. Recreational Users.
6. Certain construction related activities using significant amounts of water, such as new water line flushing and paving construction will not be allowed without prior authorization from the Director of Public Works.
7. Exceptions to these mandatory water use restrictions may be authorized by the Director of Public Works for essential water uses such as: health and safety uses; commercial and industrial uses necessary to maintain, but not expand, primary business practices (e.g., commercial car and truck washes, nurseries, water haulers, etc.); and uses pursuant to law and/or regulation.

§70-524. Public Involvement.

Adoption of this plan and subsequent revisions will require the Town to actively inform the public of proposed changes and provide an opportunity for comment regarding the conservation plan. At a minimum, this will include the placement of proposed changes on a Town Council Meeting Agenda with participation by individuals during the Citizen/Visitor Comment portion of the meeting.

§70-525. Initiation Procedures.

The method of initiation of emergency management measures is defined in each level of emergency in §70-523 above.

§70-526. Termination Notification.

For water alert conditions, termination will not occur until the conditions which triggered the emergency have been alleviated. If excessive demand is determined to be the trigger, all initiated actions will remain in effect until September 30 of the year in which they were triggered, or until the Town Manager determines the actions are no longer required. For water warning conditions, all initiated actions will remain in effect until the conditions which triggered the emergency have been alleviated, or until the Town Manager determines that conditions exist which will allow the removal of the water warning actions. For water emergency conditions, all initiated actions will remain in effect until the conditions which triggered the emergency have been alleviated, or until the Town Manager determines that conditions exist which will allow the removal of the water emergency actions. Public notification of the termination of any water emergency management measures will follow the same procedures used in the notification of the initiation of these measures.

§70-527. Implementation and Enforcement of Division Provisions.

The various levels of remedial actions are implemented per the triggers defined in §70-522. The method of implementation is set out in §70-523. Violations of restrictions defined in §70-523 and will result in a warning, after which a citation may be issued with a fine as prescribed in §1-13 of this Code of Ordinances.

§70-528. Penalty.

- (a) Any person, customer and/or user of the Town's water system, except for the Town, who violates or fails to comply with any provision of this Article VI shall be deemed guilty of a misdemeanor and shall be punished by a fine as provided in §1-13 of this Code of Ordinances. Each day any such violation continues shall constitute a separate offense and be punishable as such.
- (b) In addition to proceeding under the authority of subsection (a) of this section, the Town shall be entitled to disconnect or discontinue water services to any such person, customer and/or user of the Town's water system who violates or fails to comply with any provision of this Article VI.

§70-529. Emergency Water Demand Management Plan Review and Update.

The emergency water demand management plan shall be reviewed and updated as needed at least every five (5) years, based upon new or updated information, such as the adoption or revision of the regional water plan.

§70-530. Texas Commission on Environmental Quality (TCEQ) Notification.

The Town shall notify the Executive Director of TCEQ within five (5) business days of the implementation of any mandatory provisions of the Emergency Water Demand Management Plan.

§70-531. Utilization of Alternative Water Sources and/or Alternative Delivery Mechanisms

The Town of Flower Mound utilizes and is under contract with two potable water sources, Dallas Water Utilities and Upper Trinity Regional Water District. The Town also has plans to utilize reuse water in the future from two sources, Trinity River Authority and our wastewater treatment plant effluent.

§70-532. Pro Rata Curtailment

In the event that the triggering criteria specified in Stage 4 – Water Emergency have been met, the Town Manager is hereby authorized to initiate allocation of water supplies on a pro rata basis in accordance with Texas Water Code, §11.039

§70-533. Contract Provisions

Dallas Water Utilities and Upper Trinity Regional Water District will include a provision in every wholesale contract entered into or renewed after adoption of the plan, including contract extensions, that in case of a shortage of water resulting from drought, the water will be distributed in accordance with Texas Water Code, §11.039.

§70-534 – 70-540. Reserved.**DIVISION 5. UTILITY PROFILE****§70-541. Texas Water Development Board Utility Profile**

The most recent Texas Water Development Board Utility Profile is on file in the office of the Town Secretary.

SECTION 2

That any provision of the Code of Ordinances of the Town of Flower Mound in conflict with the provisions of this Ordinance be, and same is hereby, repealed and all other provisions of the Code of Ordinances of the Town of Flower Mound not in conflict with this ordinance shall remain in full force and effect.

SECTION 3

That should any sentence, paragraph, subdivision, clause, phrase or section of this Ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this Ordinance as a whole, or any part or provision thereof other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of the Code of Ordinances as a whole.

SECTION 4

That any person, firm or corporation violating any of the provisions or terms of this Ordinance or the Code of Ordinances as amended hereby shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine not to exceed the sum of Two Thousand Dollars (\$2,000.00) for each offense, and each and every day such violation shall continue shall constitute a separate offense.

SECTION 5

This ordinance shall take effect and be in full force immediately after its passage, ~~and publication as provided by the Revised Civil Statutes of the State of Texas and the Home Rule Charter of the Town of Flower Mound, Texas.~~

DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS BY A VOTE OF 5 TO 0 ON THE 1920TH DAY OF MAYAUGUST, 20192024.

APPROVED:

~~Steve Dixon~~Cheryl Moore, MAYOR

ATTEST:

Theresa Scott, TOWN SECRETARY



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

DATE: August 19, 2024
FROM: Blake Hummel, Senior Project Engineer
ITEM: **Consider approval of an ordinance amending the Town's Code of Ordinances Chapter 33 entitled "Flood Damage Prevention" and removing references to previous Flood Damage Prevention Ordinance 06-18.**

BACKGROUND: The Town participates in the Federal Emergency Management Association (FEMA) National Flood Insurance Program (NFIP) so that Town residents and business owners have the ability to purchase flood insurance through the NFIP. In addition to participating in the NFIP, the Town also participates in the FEMA Community Rating System (CRS). Through the CRS system, residents and business owners receive flood insurance premium discounts. The Town is currently rated as a CRS Class 8 and policy holders receive a five to ten percent premium discount.

The Town of Flower Mound is completing the 5-year verification cycle required to participate in the CRS program and the CRS Coordinator noted five administrative items within the Town's Flood Damage Prevention ordinance that need to be updated to maintain our Class 8 rating. These changes are also needed to advance to higher class ratings in the future. The current Flood Damage Prevention ordinance (06-18) was adopted in March 2018. The following five updates were identified and recommended:

- Require electrical, HVAC, and other service facilities to be 18-inches above the 100-year Base Flood Elevation (BFE). This matches the requirement for residential finished floor elevation requirements.
- Require commercial flood proofing to be 1-foot above the BFE.
- Require manufactured homes that have received substantial damage to have the lowest finished floor to be elevated 18-inches above the BFE. This matches the requirement for any new manufactured home.
- Require manufactured homes to be elevated 18-inches above BFE and replace the word "or" with "and" so that the manufactured home must be supported by reinforced piers that are no less than 36-inches above ground is also a requirement.
- Require new or substantial improvements of residential structures in FEMA AO/AH Zones be at least three, instead of two, feet above the depth number specified on the community's FIRM. The Town does not have any AO/AH Zones. Therefore, it is just an administrative change.

A summary of the ordinance changes that includes the original language and the proposed language is attached for more detail. This proposed ordinance will replace the current Flood Damage Prevention Ordinance (06-18) in its entirety and will address the administrative changes recommended to complete the Town's CRS 5-year verification cycle.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES: A decision not to approve the proposed administrative changes to the Town's Flood Damage Prevention Ordinance will prevent the Town from advancing in the CRS program and downgrade our current Class 8 rating.

FISCAL IMPACT: N/A

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

ATTACHMENTS:

1. Flood Damage Prevention Ordinance Summary of Changes
2. Flood Prevention Ordinance

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

Flood Damage Prevention Ordinance Summary of Changes

Sec. 33-5 (a)(4)

ORIGINAL

All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

PROPOSED

All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are **elevated at least 18 inches above the 100-year base flood elevation established by a fully developed watershed, or the FEMA elevation, using whichever is higher and** designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

Sec. 33-5 (b)(2)

ORIGINAL

Nonresidential construction. New construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated 18 inches above the 100-year flood elevation established by a fully developed watershed, or the FEMA elevation, using whichever is higher or together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are flood-proofed shall be maintained by the floodplain administrator.

PROPOSED

Nonresidential construction. New construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated 18 inches above the 100-year flood elevation established by a fully developed watershed, or the FEMA elevation, using whichever is higher or together with attendant utility and sanitary facilities, be designed so that below **1 foot above** the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are flood-proofed shall be maintained by the floodplain administrator.

Sec. 33-5 (b)(4)(b)(4)

ORIGINAL

In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated **to or above the base flood elevation** and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

PROPOSED

In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated **18 inches above the 100-year base flood elevation established by a fully developed watershed, or the FEMA elevation, using whichever is higher** and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

Sec. 33-5 (b)(4)(c)(1)

ORIGINAL

The lowest floor of the manufactured home is elevated 18 inches above the 100-year flood elevation established by a fully developed watershed, or the FEMA elevation, using whichever is higher; **or**

PROPOSED

The lowest floor of the manufactured home is elevated 18 inches above the 100-year flood elevation established by a fully developed watershed, or the FEMA elevation, using whichever is higher; **and**

Sec. 33-5 (d)(1)

ORIGINAL

All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated 18 inches above the 100-year flood elevation established by a fully developed watershed, or the FEMA elevation, using whichever is higher or the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least **two** feet if no depth number is specified).

PROPOSED

All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated 18 inches above the 100-year flood elevation established by a fully developed watershed, or the FEMA elevation, using whichever is higher or the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least **three** feet if no depth number is specified).

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

AN ORDINANCE OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING THE CODE OF ORDINANCES, TOWN OF FLOWER MOUND, TEXAS, BY AMENDING CHAPTER 33, "FLOOD DAMAGE PREVENTION," TO INCLUDE REQUIREMENTS TO REDUCE FLOOD LOSSES CONSISTENT WITH THE NATIONAL FLOOD INSURANCE PROGRAM; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY FOR VIOLATIONS HEREOF; PROVIDING A SAVING CLAUSE; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

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

WHEREAS, as a condition of the continued eligibility of the Town to participate in the National Flood Insurance Program ("NFIP"), the Town's floodplain management regulations must equal or exceed the minimum criteria stated in the NFIP Regulations; and,

WHEREAS, the Federal Emergency Management Agency ("FEMA") has promulgated a model ordinance to meet the minimum standards of the NFIP Regulations; and,

WHEREAS, the Town Council has determined that it is in the public's best interest and in furtherance of the health, safety, morals, and general welfare of the citizens of the Town and the public to amend the Code of Ordinances, Town of Flower Mound, Texas, as set forth herein;

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

SECTION 1

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

SECTION 2

The Code of Ordinances, Town of Flower Mound, Texas, is hereby amended by amending Chapter 33, "Flood Damage Prevention," to read as follows:

"Chapter 33 – FLOOD DAMAGE PREVENTION

Sec. 33-1. - Statutory authorization, findings of fact, purpose and methods.

- (a) *Statutory authorization.* The Texas Legislature has in the Flood Control Insurance Act, Texas Water Code Section 16.315, delegated the responsibility to local governmental units to adopt regulations designed to minimize flood losses.
- (b) *Findings of fact.*
 - (1) The flood hazard areas of the Town are subject to periodic inundation, which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.
 - (2) These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, flood-proofed or otherwise protected from flood damage.
- (c) *Statement of Purpose.* It is the purpose of this ordinance to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:
 - (1) Protect human life and health;
 - (2) Minimize expenditure of public money for costly flood control projects;
 - (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
 - (4) Minimize prolonged business interruptions;
 - (5) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
 - (6) Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas; and
 - (7) Insure that potential buyers are notified that property is in a flood area.

(d) *Methods of reducing flood losses.* In order to accomplish its purposes, this chapter uses the following methods:

- (1) Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;
- (2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;
- (4) Control filling, grading, dredging and other development which may increase flood damage; and
- (5) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

Sec. 33-2. - Definitions.

Unless specifically defined below, words or phrases used in this chapter shall be interpreted to give them the meaning they have in common usage and to give this chapter its most reasonable application.

Alluvial fan flooding means flooding occurring on the surface of an alluvial fan or similar landform which originates at the apex and is characterized by high-velocity flows; active processes of erosion, sediment transport, and deposition; and unpredictable flow paths.

Apex means a point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

Appeal board means the Town Council.

Appurtenant structure means a structure which is on the same parcel of property as the principal structure to be insured and the use of which is incidental to the use of the principal structure.

Area of future conditions flood hazard means the land area that would be inundated by the one percent annual chance (100-year) flood based on future conditions hydrology.

Area of shallow flooding means a designated AO, AH, AR/AO, AR/AH, or VO zone on a community's Flood Insurance Rate Map ("FIRM") with a one percent or greater annual chance of flooding to an average depth of one to three feet, where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of special flood hazard is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A on the Flood Hazard Boundary Map ("FHBM"). After detailed rate making has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, VO, V1-30, VE or V.

Base flood means the flood having a one percent chance of being equaled or exceeded in any given year.

Basement means any area of the building having its floor subgrade (below ground level) on all sides.

Breakaway wall means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

Critical feature means an integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

Development means any man-made change to improved and unimproved real estate, including but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

Elevated building means, for insurance purposes, a non-basement building, which has its lowest elevated floor, raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

Existing construction means for the purposes of determining rates, structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRM's effective before that date. "Existing construction" may also be referred to as "existing structures."

Existing manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

Expansion to an existing manufactured home park or subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Flood or flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters.
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

Flood elevation study means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

Flood insurance rate map ("firm") means an official map of a community, on which the Federal Emergency Management Agency has delineated both the special flood hazard areas and the risk premium zones applicable to the community.

Flood insurance study ("fis") is the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, water surface elevation of the base flood, as well as the flood boundary-floodway map.

Floodplain or flood-prone area means any land area susceptible to being inundated by water from any source (see definition of flooding).

Floodplain management means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

Floodplain management regulations means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any

combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

Flood protection system means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

Flood proofing means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate Flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Floodway see *regulatory floodway*.

Functionally dependent use means a use, which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

Highest adjacent grade means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic structure means any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (4) Individually listed on a local inventory or historic places in communities with historic preservation programs that have been certified either:

- a. By an approved state program as determined by the Secretary of the Interior or;
- b. Directly by the Secretary of the Interior in states without approved programs.

Levee means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

Levee system means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

Lowest floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking or vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of Section 60.3 of the National Flood Insurance Program regulations.

Manufactured home means a structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

Manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Mean sea level means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum ("NGVD") of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

New construction means, for the purpose of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

New manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads)

is completed on or after the effective date of floodplain management regulations adopted by a community.

Recreational vehicle means a vehicle which is:

- (1) Built on a single chassis;
- (2) Four hundred square feet or less when measured at the largest horizontal projections;
- (3) Designed to be self-propelled or permanently towable by a light duty truck; and
- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Regulatory floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

Riverine means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Special flood hazard area. See *area of special flood hazard*.

Start of construction, for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348), includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

- (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or
- (2) Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure."

Variance means a grant of relief by a community from the terms of a floodplain management regulation. (For full requirements see Section 60.6 of the National Flood Insurance Program regulations.)

Violation means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Section 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

Water surface elevation means the height, in relation to the National Geodetic Vertical Datum ("NGVD") of 1929 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

Sec. 33-3. - General provisions.

- (a) *Lands to which this chapter applies.* This chapter shall apply to all areas of special flood hazard within the jurisdiction of the Town.
- (b) *Basis for establishing the areas of special flood hazard.* The areas of special flood hazard identified by FEMA in the current scientific and engineering report entitled, "The Flood Insurance Study (FIS) for Tarrant County, Texas and Incorporated areas," dated September 25, 2009, with accompanying Flood Insurance Rate Maps (FIRM) dated September 25, 2009, and "The Flood Insurance Study (FIS) for Denton County, Texas and Incorporated areas," dated April 18, 2011, with accompanying Flood Insurance Rate Maps (FIRM) dated April 18, 2011 and any revisions thereto are hereby adopted by reference and declared to be a part of this ordinance.

- (c) *Establishment of development permit.* A floodplain development permit shall be required to ensure conformance with the provisions of this chapter.
- (d) *Compliance.* No structure or land shall hereafter be located, altered, or have its use changed without full compliance with the terms of this chapter and other applicable regulations.
- (e) *Abrogation and greater restrictions.* This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
- (f) *Interpretation.* In the interpretation and application of this chapter, all provisions shall be;
 - (1) Considered as minimum requirements;
 - (2) Liberally construed in favor of the governing body; and
 - (3) Deemed neither to limit nor repeal any other powers granted under State statutes.
- (g) *Warning and disclaimer or liability.* The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur and flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the community or any official or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

Sec. 33-4. - Administration.

- (a) *Designation of the floodplain administrator.* The Town Floodplain Manager is hereby appointed the Floodplain Administrator to administer and implement the provisions of this chapter and other appropriate sections of 44 CFR (Emergency Management and Assistance - National Flood Insurance Program Regulations) pertaining to floodplain management.
- (b) *Duties & responsibilities of the floodplain administrator.* Duties and responsibilities of the floodplain administrator shall include, but not be limited to, the following:

- (1) Maintain and hold open for public inspection all records pertaining to the provisions of this chapter.
- (2) Review permit application to determine whether to ensure that the proposed building site project, including the placement of manufactured homes, will be reasonably safe from flooding.
- (3) Review, approve or deny all applications for development permits required by adoption of this chapter.
- (4) Review permits for proposed development to assure that all necessary permits have been obtained from those Federal, State or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required.
- (5) Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the floodplain administrator shall make the necessary interpretation.
- (6) Notify, in riverine situations, adjacent communities and the state coordinating agency which is the Texas Water Development Board ("TWDB") and also the Texas Commission on Environmental Quality ("TCEQ"), prior to any alteration or relocation of a watercourse, and submit evidence of such notification to FEMA.
- (7) Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.
- (8) When base flood elevation data has not been provided in accordance with section 33-3(b) the floodplain administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from a Federal, State or other source, in order to administer the provisions of section 33-4.
- (9) When a regulatory floodway has not been designated, the floodplain administrator must require that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

- (10) Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program regulations, a community may approve certain development in Zones A1-30, AE, AH, on the community's FIRM which increases the water surface elevation of the base flood by more than 1 foot, provided that the community first completes all of the provisions required by Section 65.12.

(c) *Permit procedures.*

- (1) Application for a floodplain development permit shall be presented to the floodplain administrator on forms furnished by him/her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following information is required:
- a. Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures;
 - b. Elevation in relation to mean sea level to which any nonresidential structure shall be flood-proofed;
 - c. A certificate from a registered professional engineer or architect that the nonresidential flood-proofed structure shall meet the flood-proofing criteria of subsection 33-5(b)(2);
 - d. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development;
 - e. Maintain a record of all such information in accordance with subsection 33-4(b)(1).
- (2) Approval or denial of a Floodplain Development Permit by the floodplain administrator shall be based on all of the provisions of this chapter and the following relevant factors:
- a. The danger to life and property due to flooding or erosion damage;
 - b. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

- c. The danger that materials may be swept onto other lands to the injury of others;
- d. The compatibility of the proposed use with existing and anticipated development;
- e. The safety of access to the property in times of flood for ordinary and emergency vehicles;
- f. The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;
- g. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site;
- h. The necessity to the facility of a waterfront location, where applicable;
- i. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use.
- j. The relationship of the proposed use to the comprehensive plan for that area.

(d) *Variance procedures.*

- (1) The appeal board, as established by the community, shall hear and render judgment on requests for variances from the requirements of this chapter.
- (2) The appeal board shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the floodplain administrator in the enforcement or administration of this chapter.
- (3) Any person or persons aggrieved by the decision of the appeal board may appeal such decision in the courts of competent jurisdiction.
- (4) The floodplain administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.

- (5) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this chapter.
- (6) Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in subsection 33-4(c)(2) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- (7) Upon consideration of the factors noted above and the intent of this chapter, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this chapter.
- (8) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (9) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- (10) *Prerequisites for granting variances:*
 - a. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - b. Variances shall only be issued upon:
 - 1. Showing a good and sufficient cause;
 - 2. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - 3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

- c. Any application to which a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
- (11) Variances may be issued for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:
 - a. The criteria outlined in subsections 33-4(d)(1)-(9) are met; and
 - b. The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

Sec. 33-5. - Provisions for flood hazard reduction.

- (a) *General standards.* In all areas of special flood hazards the following provisions are required for all new construction and substantial improvements:
 - (1) All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
 - (2) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
 - (3) All new construction or substantial improvements shall be constructed with materials resistant to flood damage;
 - (4) All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are elevated at least 18 inches above the 100-year base flood elevation established by a fully developed watershed, or the FEMA elevation, using whichever is higher and designed and/or located, so as to prevent water from entering or accumulating within the components during conditions of flooding;
 - (5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

- (6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters; and,
 - (7) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- (b) *Specific standards.* In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section 42-37, 33-4(b)(8) or 33-5(c)(3), or Section 33-5(c)(3), the following provisions are required:
- (1) *Residential construction.* New construction and substantial improvement of any residential structure shall have the lowest floor (including basement), elevated 18 inches above the 100-year flood elevation established by a fully developed watershed, or the FEMA elevation, using whichever is higher. A registered professional engineer, architect, or land surveyor shall submit a certification to the floodplain administrator that the standard of this subsection as proposed in subsection 33-5(2)(b) is satisfied.
 - (2) *Nonresidential construction.* New construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated 18 inches above the 100-year flood elevation established by a fully developed watershed, or the FEMA elevation, using whichever is higher or together with attendant utility and sanitary facilities, be designed so, that below the one (1) foot above the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are flood-proofed shall be maintained by the floodplain administrator.
 - (3) *Enclosures.* New construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:

- a. A minimum of two openings on separate walls having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
- b. The bottom of all openings shall be no higher than one foot above grade.
- c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(4) *Manufactured homes.*

- a. Require that all manufactured homes to be placed within Zone A on a community's FHBM or FIRM shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.
- b. Require that manufactured homes that are placed or substantially improved within Zones A1-30, AH, and AE on the community's FIRM on sites:
 - 1. Outside of a manufactured home park or subdivision;
 - 2. In a new manufactured home park or subdivision;
 - 3. In an expansion to an existing manufactured home park or subdivision; or
 - 4. In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated 18 inches above the 100-year base flood elevation established by a fully developed watershed, or the FEMA elevation, using whichever is higher and can be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
- c. Require that manufactured homes be placed or substantially improved on sites in an existing manufactured home park or subdivision with Zones A1-30, AH and AE on the community's

FIRM that are not subject to the provisions of subsection (d) of this section to be elevated so that either:

1. The lowest floor of the manufactured home is elevated 18" above the 100-year flood elevation established by a fully developed watershed, or the FEMA elevation, using whichever is higher; and,
 2. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
- (5) *Recreational vehicles.* Require that recreational vehicles placed on sites within Zones A1-30, AH, and AE on the community's FIRM either:
- a. Be on the site for fewer than 180 consecutive days, or
 - b. Be fully licensed and ready for highway use, or
 - c. Meet the permit requirements of subsection 33-4(c)(1), and the elevation and anchoring requirements for "manufactured homes" as described in subsection (b)(4) of this section. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.
- (c) *Standards for subdivision proposals.*
- (1) All subdivision proposals including the placement of manufactured home parks and subdivisions shall be consistent with subsections 33-1(b) – (d) of this chapter.
 - (2) All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet floodplain development permit requirements of subsections 33-3 (c); 33-4(c); and the provisions of section 33-5.
 - (3) Base flood elevation data shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and subdivisions which is greater than 50 lots or 5 acres, whichever is lesser, if not otherwise provided pursuant to subsections 33-3(b) or 33-4(b)(8).

- (4) All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.
 - (5) All subdivision proposals including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.
- (d) *Standards for areas of shallow flooding (ao/ah zones).* Located within the areas of special flood hazard established in section 33-3(b), are areas designated as shallow flooding. These areas have special flood hazards associated with flood depths of one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:
- (1) All new construction and substantial improvements of **residential** structures have the lowest floor (including basement) elevated 18 inches above the 100-year flood elevation established by a fully developed watershed, or the FEMA elevation, using whichever is higher or the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least three (3) feet if no depth number is specified).
 - (2) All new construction and substantial improvements of non-residential structures;
 - a. Have the lowest floor (including basement) elevated 18 inches above the 100-year flood elevation established by a fully developed watershed, or the FEMA elevation, using whichever is higher or the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two (2) feet if no depth number is specified), or
 - b. Together with attendant utility and sanitary facilities be designed so that below the base specified flood depth in an AO Zone, or below the Base Flood Elevation in an AH Zone, level the Structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.

- (3) A registered professional engineer or architect shall submit a certification to the floodplain administrator, as proposed in subsection 33-4(c).
- (4) Require within Zones AH or AO adequate drainage paths around structures on slopes, to guide flood waters around and away from proposed structures.
- (e) *Floodways*. Located within areas of special flood hazard established in subsection 33-3(b), are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles and erosion potential, the following provisions shall apply:
 - (1) Encroachments are prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
 - (2) If subsection 33-5(d)(1) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of section 33-5.
 - (3) Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the community first completes all of the provisions required by Section 65.12."

SECTION 3

This Ordinance shall be cumulative of all provisions of ordinances of the Code of Ordinances, Town of Flower Mound, Texas, as amended, except where the provisions of this Ordinance are in direct conflict with the provisions of such ordinances and such Code,

in which event the conflicting provisions of such ordinances and such Code are hereby repealed.

SECTION 4

Any person, firm, or corporation who violates any provision of this Ordinance as adopted by the Town Council shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine as provided in Section 1-13 of the Code of Ordinances, Town of Flower Mound, Texas. Each day any such violation or violations exist shall constitute a separate offense and shall be punishable as such.

SECTION 5

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

SECTION 6

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

SECTION 7

The Town Secretary is hereby directed to publish the caption and penalty clause of this Ordinance in the official newspaper of the Town as provided by the Town's charter.

DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, BY A VOTE OF _ TO _, ON THIS THE _ OF 2024.

APPROVED:

Cheryl Moore, MAYOR

ATTEST:

Theresa Scott, TOWN SECRETARY



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

DATE: August 19, 2024
FROM: John Zagurski, Chief Financial Officer
ITEM: **Consider accepting the submission of the certified collection rate of 100 percent for the fiscal year beginning October 1, 2024, and ending September 30, 2025.**

BACKGROUND: Ad valorem tax collection revenue is divided between the General Fund (for operation and maintenance), the Debt Service Fund (for payment of principal and interest on debt obligations), and the Tax Increment Reinvestment Zone (TIRZ) Fund. The Town's current rate of collection of ad valorem taxes is expected to meet or exceed 100 percent.

The purpose of this agenda item is to certify that the anticipated collection rate used for the General Fund, Debt Service Fund, and the TIRZ Fund is 100 percent for the 2024-2025 fiscal year, which is one of the steps required by state law to establish the 2024-2025 tax rate. The collection rate includes the current taxes, delinquent taxes, penalties, and interest.

Chapter 26 of the Property Tax Code requires municipalities to adopt an estimated collection rate to comply with truth-in-taxation laws in adopting their tax rates. The laws have two purposes: 1) to make taxpayers aware of tax rate proposals; and 2) to allow taxpayers, in certain cases, to limit a tax increase.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES: N/A

FISCAL IMPACT: N/A

LEGAL REVIEW: N/A

ATTACHMENTS:

None

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



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

DATE: August 19, 2024
FROM: John Zagurski, Chief Financial Officer
ITEM: Consider approval of an ordinance establishing the 2024 certified appraisal roll.

BACKGROUND: Approval of the certified appraisal roll is an annual process required by the Texas Property Tax Code. The Town will also be required to approve the tax roll after the rate is set. The roll lists all the taxable property and values within the Town limits for 2024.

There are three main parts to the property tax system. First, the Denton Central Appraisal District (DCAD) and the Tarrant Appraisal District (TAD) set the value of the property in our Town's limits each year. Second, the Appraisal Review Boards (ARB) settle any disagreements between the taxpayers and the DCAD or the TAD about the value of any property under protest. Third, the Town decides how much money it will need to spend to provide services to taxpayers. This determines the total amount of taxes that will need to be collected.

The preliminary appraisal was provided by the DCAD and the TAD in mid May and the certified appraisal roll was provided in late July by DCAD and TAD.

The Chief Appraisers certify the appraisal rolls that allows the Town to calculate and submit the no-new-revenue and voter-approval tax rates.

The total taxable value on the 2024 appraisal roll including estimated values under protest is \$16,953,894,754. Once the tax rate is approved, the Town will be able to calculate its 2024 tax levy (i.e., property tax revenue). These funds will be used to cover operating and maintenance expenses as well as debt service. On September 19, 2005, an ordinance was approved establishing a Tax Increment Reinvestment Zone (TIRZ). Approximately \$1,706,435,207 of the 2024 appraisal roll is the incremental difference between the 2005 and 2024 appraised value of properties in the TIRZ.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES:

FISCAL IMPACT: N/A

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

ATTACHMENTS:

1. Ordinance est 2024 certified roll

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

TOWN OF FLOWER MOUND, TEXAS

ORDINANCE NO. _____

AN ORDINANCE OF THE TOWN OF FLOWER MOUND, TEXAS, APPROVING THE 2023 APPRAISAL ROLL; REPEALING CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Denton Central Appraisal District (DCAD) and the Tarrant Appraisal District (TAD) prepare the certified appraisal rolls and rolls under protest of the taxable property in the Town of Flower Mound, Texas (Town); and

WHEREAS, the Town uses the certified appraisal rolls and rolls under protest received from the DCAD and TAD to calculate the tax rate and voter-approval tax rate applicable to taxable property in the Town; and

WHEREAS, approval by the Town of the certified appraisal roll is required by state law as an integral part of the Town's ability to levy and collect property taxes.

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

SECTION 1

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

SECTION 2

The Town Council hereby approves the 2023 appraisal roll of the Town, in the amount of \$16,953,984,754 assessed valuation, based on the certified appraisal rolls and rolls under protest as approved by the Appraisal Review Board of the DCAD and the TAD.

SECTION 3

Any and all ordinances, resolutions, rules, regulations, policies, or provisions in conflict with the provisions of this Ordinance are hereby repealed and rescinded to the extent of the conflict herewith.

SECTION 4

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

DULY PASSED, APPROVED, AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, BY A VOTE OF ____ TO ____, ON THIS 19th DAY OF AUGUST, 2024.

APPROVED:

Cheryl Moore, MAYOR

ATTEST:

Theresa Scott, TOWN SECRETARY



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

DATE: August 19, 2024
FROM: John Zagurski, Chief Financial Officer
ITEM: **Consider accepting the submission of the notice of a no-new-revenue tax rate of \$0.348167 per \$100 assessed valuation and a voter-approval tax rate of \$0.387278 per \$100 assessed valuation for the fiscal year beginning October 1, 2024, and ending September 30, 2025.**

BACKGROUND: State law requires municipalities to submit to their governing boards and publish in a local newspaper a notice showing their no-new-revenue and voter-approval tax rates and the notice-and-hearing limit for the upcoming fiscal year. The no-new-revenue tax rate allows the public to evaluate the relationship between taxes for the current fiscal year and the upcoming fiscal year. This rate will produce the same amount of tax revenue if applied to the same properties in both years. The voter-approval rate is the highest tax rate the Town can set before an election is required.

All taxing units that levied property taxes in 2023 and intend to levy them in 2024 must calculate a no-new-revenue tax rate and a voter-approval tax rate. Although the actual calculation is more detailed, the Town's no-new-revenue tax rate is generally equal to the prior year's taxes divided by the current taxable value of properties that were also on the tax roll in the prior year.

The no-new-revenue tax rate enables the public to evaluate the relationship between taxes for the current year and taxes that a proposed tax rate would produce if applied to the same properties taxed in both years.

The voter-approval rate calculation is split into two separate components: an operating and maintenance rate and a debt rate. The voter-approval rate calculation allows municipalities to raise 103.5 percent of the operating and maintenance money raised in the prior year, plus the necessary debt rate.

State law also requires municipalities to publish the no-new-revenue and voter-approval tax rates, and to hold a public hearing on the proposed tax rates if a tax rate exceeds the no-new-revenue tax rate.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES: N/A

FISCAL IMPACT: N/A

LEGAL REVIEW: N/A

ATTACHMENTS:

1. 2024 Tax Rate Worksheet

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

2024 Tax Rate Calculation Notice

Taxing Unit Name: Town of Flower Mound

Attached are the following documents:

No New Revenue and Voter Approval Tax Rate Worksheets

Notice of Tax Rates (required to be posted on taxing unit website)

Approving Rates: Section 8 on worksheet shows the following rates

No New Revenue Rate

Voter Approval Rate

Di Minimis Rate (if applicable)

Please review these documents carefully and notify our office of any changes that need to be made. If any changes are made, our office will send out new documents including the revisions. Once you are satisfied that the calculation is correct, please sign this document stating that you approve the calculation worksheet that is attached to this document.

Proposed M&O \$0.323876 (Maintenance & Operation Rate)

Proposed I&S \$0.063402 (Interest & Sinking or Debt Rate)
(proposed I&S rate must match line 48 on worksheet)

Proposed Total Rate \$0.387278

As a representative of John Zagurski, I approve the Tax Rate Calculation and have provided the proposed tax rate for the taxing entity listed above.

John Zagurski

Printed name

John Zagurski

Signature

07/31/2024

Date

2024 Tax Rate Calculation Worksheet

Taxing Units Other Than School Districts or Water Districts

Form 50-856

TOWN OF FLOWER MOUND

Taxing Unit Name

Phone (area code and number)

Taxing Unit's Address, City, State, ZIP Code

Taxing Unit's Website Address

GENERAL INFORMATION: Tax Code Section 26.04(c) requires an officer or employee designated by the governing body to calculate the no-new-revenue (NNR) tax rate and voter-approval tax rate for the taxing unit. These tax rates are expressed in dollars per \$100 of taxable value calculated. The calculation process starts after the chief appraiser delivers to the taxing unit the certified appraisal roll and the estimated values of properties under protest. The designated officer or employee shall certify that the officer or employee has accurately calculated the tax rates and used values shown for the certified appraisal roll or certified estimate. The officer or employee submits the rates to the governing body by Aug. 7 or as soon thereafter as practicable.

School districts do not use this form, but instead use Comptroller Form 50-859 *Tax Rate Calculation Worksheet, School District without Chapter 313 Agreements* or Comptroller Form 50-884 *Tax Rate Calculation Worksheet, School District with Chapter 313 Agreements*.

Water districts as defined under Water Code Section 49.001(1) do not use this form, but instead use Comptroller Form 50-858 *Water District Voter-Approval Tax Rate Worksheet for Low Tax Rate and Developing Districts* or Comptroller Form 50-860 *Developed Water District Voter-Approval Tax Rate Worksheet*.

The Comptroller's office provides this worksheet to assist taxing units in determining tax rates. The information provided in this worksheet is offered as technical assistance and not legal advice. Taxing units should consult legal counsel for interpretations of law regarding tax rate preparation and adoption.

SECTION 1: No-New-Revenue Tax Rate

The NNR tax rate enables the public to evaluate the relationship between taxes for the prior year and for the current year based on a tax rate that would produce the same amount of taxes (no new taxes) if applied to the same properties that are taxed in both years. When appraisal values increase, the NNR tax rate should decrease.

The NNR tax rate for a county is the sum of the NNR tax rates calculated for each type of tax the county levies.

While uncommon, it is possible for a taxing unit to provide an exemption for only maintenance and operations taxes. In this case, the taxing unit will need to calculate the NNR tax rate separately for the maintenance and operations tax and the debt tax, then add the two components together.

Line	No-New-Revenue Tax Rate Worksheet	Amount/Rate
1.	Prior year total taxable value. Enter the amount of the prior year taxable value on the prior year tax roll today. Include any adjustments since last year's certification; exclude Tax Code Section 25.25(d) one-fourth and one-third over-appraisal corrections from these adjustments. Exclude any property value subject to an appeal under Chapter 42 as of July 25 (will add undisputed value in Line 6). This total includes the taxable value of homesteads with tax ceilings (will deduct in Line 2) and the captured value for tax increment financing (adjustment is made by deducting TIF taxes, as reflected in Line 17). ¹	\$ 14,579,642,155
2.	Prior year tax ceilings. Counties, cities and junior college districts. Enter the prior year total taxable value of homesteads with tax ceilings. These include the homesteads of homeowners age 65 or older or disabled. Other taxing units enter 0. If your taxing unit adopted the tax ceiling provision last year or a prior year for homeowners age 65 or older or disabled, use this step. ²	\$ 0
3.	Preliminary prior year adjusted taxable value. Subtract Line 2 from Line 1.	\$ 14,579,642,155
4.	Prior year total adopted tax rate.	\$ 0.387300 /\$100
5.	Prior year taxable value lost because court appeals of ARB decisions reduced the prior year's appraised value. A. Original prior year ARB values: \$ 592,248,476 B. Prior year values resulting from final court decisions: - \$ 549,251,709 C. Prior year value loss. Subtract B from A. ³	\$ 42,996,767
6.	Prior year taxable value subject to an appeal under Chapter 42, as of July 25. A. Prior year ARB certified value: \$ 1,153,170,188 B. Prior year disputed value: - \$ 230,558,039 C. Prior year undisputed value. Subtract B from A. ⁴	\$ 922,612,149
7.	Prior year Chapter 42 related adjusted values. Add Line 5C and Line 6C.	\$ 965,608,916

¹ Tex. Tax Code §26.012(14)² Tex. Tax Code §26.012(14)³ Tex. Tax Code §26.012(13)⁴ Tex. Tax Code §26.012(13)

Line	No-New-Revenue Tax Rate Worksheet	Amount/Rate
8.	Prior year taxable value, adjusted for actual and potential court-ordered adjustments. Add Line 3 and Line 7.	\$ 15,545,251,071
9.	Prior year taxable value of property in territory the taxing unit deannexed after Jan. 1, 2024. Enter the prior year value of property in deannexed territory. ⁵	\$ 0
10.	Prior year taxable value lost because property first qualified for an exemption in the current year. If the taxing unit increased an original exemption, use the difference between the original exempted amount and the increased exempted amount. Do not include value lost due to freeport, goods-in-transit, temporary disaster exemptions. Note that lowering the amount or percentage of an existing exemption in the current year does not create a new exemption or reduce taxable value. A. Absolute exemptions. Use prior year market value: \$ 583,973 B. Partial exemptions. Current year exemption amount or current year percentage exemption times prior year value: + \$ 154,610,007 C. Value loss. Add A and B.⁶	\$ 155,193,980
11.	Prior year taxable value lost because property first qualified for agricultural appraisal (1-d or 1-d-1), timber appraisal, recreational/scenic appraisal or public access airport special appraisal in the current year. Use only properties that qualified for the first time in the current year; do not use properties that qualified in the prior year. A. Prior year market value: \$ 2,428,112 B. Current year productivity or special appraised value: - \$ 1,965 C. Value loss. Subtract B from A.⁷	\$ 2,426,147
12.	Total adjustments for lost value. Add Lines 9, 10C and 11C.	\$ 157,620,127
13.	Prior year captured value of property in a TIF. Enter the total value of the prior year captured appraised value of property taxable by a taxing unit in a tax increment financing zone for which the prior year taxes were deposited into the tax increment fund. ⁸ If the taxing unit has no captured appraised value in line 18D, enter 0.	\$ 1,639,374,893
14.	Prior year total value. Subtract Line 12 and Line 13 from Line 8.	\$ 13,748,256,051
15.	Adjusted prior year total levy. Multiply Line 4 by Line 14 and divide by \$100.	\$ 53,246,995
16.	Taxes refunded for years preceding the prior tax year. Enter the amount of taxes refunded by the taxing unit for tax years preceding the prior tax year. Types of refunds include court decisions, Tax Code Section 25.25(b) and (c) corrections and Tax Code Section 31.11 payment errors. Do not include refunds for the prior tax year. This line applies only to tax years preceding the prior tax year. ⁹	\$ 371,378
17.	Adjusted prior year levy with refunds and TIF adjustment. Add Lines 15 and 16. ¹⁰	\$ 53,618,373
18.	Total current year taxable value on the current year certified appraisal roll today. This value includes only certified values or certified estimate of values and includes the total taxable value of homesteads with tax ceilings (will deduct in Line 20). These homesteads include homeowners age 65 or older or disabled. ¹¹ A. Certified values: \$ 16,899,422,641 B. Counties: Include railroad rolling stock values certified by the Comptroller's office: + \$ C. Pollution control and energy storage system exemption: Deduct the value of property exempted for the current tax year for the first time as pollution control or energy storage system property: - \$ 0 D. Tax increment financing: Deduct the current year captured appraised value of property taxable by a taxing unit in a tax increment financing zone for which the current year taxes will be deposited into the tax increment fund. Do not include any new property value that will be included in Line 23 below.¹² - \$ 1,337,707,504 E. Total current year value. Add A and B, then subtract C and D.	\$ 15,561,715,137

⁵ Tex. Tax Code §26.012(15)⁶ Tex. Tax Code §26.012(15)⁷ Tex. Tax Code §26.012(15)⁸ Tex. Tax Code §26.03(c)⁹ Tex. Tax Code §26.012(13)¹⁰ Tex. Tax Code §26.012(13)¹¹ Tex. Tax Code §26.012, 26.04(c-2)¹² Tex. Tax Code §26.03(c)

Line	No-New-Revenue Tax Rate Worksheet	Amount/Rate
19.	Total value of properties under protest or not included on certified appraisal roll. ¹³ A. Current year taxable value of properties under protest. The chief appraiser certifies a list of properties still under ARB protest. The list shows the appraisal district's value and the taxpayer's claimed value, if any, or an estimate of the value if the taxpayer wins. For each of the properties under protest, use the lowest of these values. Enter the total value under protest. ¹⁴ \$ 44,141,353 B. Current year value of properties not under protest or included on certified appraisal roll. The chief appraiser gives taxing units a list of those taxable properties that the chief appraiser knows about but are not included in the appraisal roll certification. These properties also are not on the list of properties that are still under protest. On this list of properties, the chief appraiser includes the market value, appraised value and exemptions for the preceding year and a reasonable estimate of the market value, appraised value and exemptions for the current year. Use the lower market, appraised or taxable value (as appropriate). Enter the total value of property not on the certified roll. ¹⁵ + \$ 5,111,848 C. Total value under protest or not certified. Add A and B.	\$ 49,253,201
20.	Current year tax ceilings. Counties, cities and junior colleges enter current year total taxable value of homesteads with tax ceilings. These include the home- steads of homeowners age 65 or older or disabled. Other taxing units enter 0. If your taxing unit adopted the tax ceiling provision in the prior year or a previous year for homeowners age 65 or older or disabled, use this step. ¹⁶	\$ 0
21.	Current year total taxable value. Add Lines 18E and 19C. Subtract Line 20. ¹⁷	\$ 15,610,968,338
22.	Total current year taxable value of properties in territory annexed after Jan. 1, of the prior year. Include both real and personal property. Enter the current year value of property in territory annexed. ¹⁸	\$ 0
23.	Total current year taxable value of new improvements and new personal property located in new improvements. New means the item was not on the appraisal roll in the prior year. An improvement is a building, structure, fixture or fence erected on or affixed to land. New additions to existing improvements may be included if the appraised value can be determined. New personal property in a new improvement must have been brought into the taxing unit after Jan. 1, of the prior year and be located in a new improvement. New improvements do include property on which a tax abatement agreement has expired for the current year. ¹⁹	\$ 210,800,064
24.	Total adjustments to the current year taxable value. Add Lines 22 and 23.	\$ 210,800,064
25.	Adjusted current year taxable value. Subtract Line 24 from Line 21.	\$ 15,400,168,274
26.	Current year NNR tax rate. Divide Line 17 by Line 25 and multiply by \$100. ²⁰	\$ 0.348167 /\$100
27.	COUNTIES ONLY. Add together the NNR tax rates for each type of tax the county levies. The total is the current year county NNR tax rate. ²¹	\$ _____ /\$100

SECTION 2: Voter-Approval Tax Rate

The voter-approval tax rate is the highest tax rate that a taxing unit may adopt without holding an election to seek voter approval of the rate. The voter-approval tax rate is split into two separate rates:

- Maintenance and Operations (M&O) Tax Rate:** The M&O portion is the tax rate that is needed to raise the same amount of taxes that the taxing unit levied in the prior year plus the applicable percentage allowed by law. This rate accounts for such things as salaries, utilities and day-to-day operations.
- Debt Rate:** The debt rate includes the debt service necessary to pay the taxing unit's debt payments in the coming year. This rate accounts for principal and interest on bonds and other debt secured by property tax revenue.

The voter-approval tax rate for a county is the sum of the voter-approval tax rates calculated for each type of tax the county levies. In most cases the voter-approval tax rate exceeds the no-new-revenue tax rate, but occasionally decreases in a taxing unit's debt service will cause the NNR tax rate to be higher than the voter-approval tax rate.

Line	Voter-Approval Tax Rate Worksheet	Amount/Rate
28.	Prior year M&O tax rate. Enter the prior year M&O tax rate.	\$ 0.348344 /\$100
29.	Prior year taxable value, adjusted for actual and potential court-ordered adjustments. Enter the amount in Line 8 of the <i>No-New-Revenue Tax Rate Worksheet</i> .	\$ 15,545,251,071

¹³ Tex. Tax Code §26.01(c) and (d)

¹⁴ Tex. Tax Code §26.01(c)

¹⁵ Tex. Tax Code §26.01(d)

¹⁶ Tex. Tax Code §26.012(6)(B)

¹⁷ Tex. Tax Code §26.012(6)

¹⁸ Tex. Tax Code §26.012(17)

¹⁹ Tex. Tax Code §26.012(17)

²⁰ Tex. Tax Code §26.04(c)

²¹ Tex. Tax Code §26.04(d)

Line	Voter-Approval Tax Rate Worksheet	Amount/Rate
30.	Total prior year M&O levy. Multiply Line 28 by Line 29 and divide by \$100	\$ 54,150,949
31.	Adjusted prior year levy for calculating NNR M&O rate. A. M&O taxes refunded for years preceding the prior tax year. Enter the amount of M&O taxes refunded in the preceding year for taxes before that year. Types of refunds include court decisions, Tax Code Section 25.25(b) and (c) corrections and Tax Code Section 31.11 payment errors. Do not include refunds for tax year 2023. This line applies only to tax years preceding the prior tax year..... + \$ 329,115 B. Prior year taxes in TIF. Enter the amount of taxes paid into the tax increment fund for a reinvestment zone as agreed by the taxing unit. If the taxing unit has no current year captured appraised value in Line 18D, enter 0..... - \$ 6,289,120 C. Prior year transferred function. If discontinuing all of a department, function or activity and transferring it to another taxing unit by written contract, enter the amount spent by the taxing unit discontinuing the function in the 12 months preceding the month of this calculation. If the taxing unit did not operate this function for this 12-month period, use the amount spent in the last full fiscal year in which the taxing unit operated the function. The taxing unit discontinuing the function will subtract this amount in D below. The taxing unit receiving the function will add this amount in D below. Other taxing units enter 0. +/- \$ 0 D. Prior year M&O levy adjustments. Subtract B from A. For taxing unit with C, subtract if discontinuing function and add if receiving function..... \$ -5,960,005 E. Add Line 30 to 31D.	\$ 48,190,944
32.	Adjusted current year taxable value. Enter the amount in Line 25 of the <i>No-New-Revenue Tax Rate Worksheet</i> .	\$ 15,400,168,274
33.	Current year NNR M&O rate (unadjusted). Divide Line 31E by Line 32 and multiply by \$100.	\$ 0.312924 /\$100
34.	Rate adjustment for state criminal justice mandate. ²³ A. Current year state criminal justice mandate. Enter the amount spent by a county in the previous 12 months providing for the maintenance and operation cost of keeping inmates in county-paid facilities after they have been sentenced. Do not include any state reimbursement received by the county for the same purpose. \$ 0 B. Prior year state criminal justice mandate. Enter the amount spent by a county in the 12 months prior to the previous 12 months providing for the maintenance and operation cost of keeping inmates in county-paid facilities after they have been sentenced. Do not include any state reimbursement received by the county for the same purpose. Enter zero if this is the first time the mandate applies..... - \$ 0 C. Subtract B from A and divide by Line 32 and multiply by \$100..... \$ 0.000000 /\$100 D. Enter the rate calculated in C. If not applicable, enter 0.	\$ 0.000000 /\$100
35.	Rate adjustment for indigent health care expenditures. ²⁴ A. Current year indigent health care expenditures. Enter the amount paid by a taxing unit providing for the maintenance and operation cost of providing indigent health care for the period beginning on July 1, of the prior tax year and ending on June 30, of the current tax year, less any state assistance received for the same purpose. \$ 0 B. Prior year indigent health care expenditures. Enter the amount paid by a taxing unit providing for the maintenance and operation cost of providing indigent health care for the period beginning on July 1, 2022 and ending on June 30, 2023, less any state assistance received for the same purpose..... - \$ 0 C. Subtract B from A and divide by Line 32 and multiply by \$100..... \$ 0.000000 /\$100 D. Enter the rate calculated in C. If not applicable, enter 0.	\$ 0.000000 /\$100

²² [Reserved for expansion]²³ Tex. Tax Code §26.044²⁴ Tex. Tax Code §26.0441

Line	Voter-Approval Tax Rate Worksheet	Amount/Rate
36.	Rate adjustment for county indigent defense compensation. ²⁵ A. Current year indigent defense compensation expenditures. Enter the amount paid by a county to provide appointed counsel for indigent individuals and fund the operations of a public defender's office under Article 26.044, Code of Criminal Procedure for the period beginning on July 1, of the prior tax year and ending on June 30, of the current tax year, less any state grants received by the county for the same purpose. \$ 0 B. Prior year indigent defense compensation expenditures. Enter the amount paid by a county to provide appointed counsel for indigent individuals and fund the operations of a public defender's office under Article 26.044, Code of Criminal Procedure for the period beginning on July 1, 2022 and ending on June 30, 2023, less any state grants received by the county for the same purpose. \$ 0 C. Subtract B from A and divide by Line 32 and multiply by \$100. \$ 0.000000 /\$100 D. Multiply B by 0.05 and divide by Line 32 and multiply by \$100. \$ 0.000000 /\$100 E. Enter the lesser of C and D. If not applicable, enter 0.	\$ 0.000000 /\$100
37.	Rate adjustment for county hospital expenditures. ²⁶ A. Current year eligible county hospital expenditures. Enter the amount paid by the county or municipality to maintain and operate an eligible county hospital for the period beginning on July 1, of the prior tax year and ending on June 30, of the current tax year. \$ 0 B. Prior year eligible county hospital expenditures. Enter the amount paid by the county or municipality to maintain and operate an eligible county hospital for the period beginning on July 1, 2022 and ending on June 30, 2023. \$ 0 C. Subtract B from A and divide by Line 32 and multiply by \$100. \$ 0.000000 /\$100 D. Multiply B by 0.08 and divide by Line 32 and multiply by \$100. \$ 0.000000 /\$100 E. Enter the lesser of C and D, if applicable. If not applicable, enter 0.	\$ 0.000000 /\$100
38.	Rate adjustment for defunding municipality. This adjustment only applies to a municipality that is considered to be a defunding municipality for the current tax year under Chapter 109, Local Government Code. Chapter 109, Local Government Code only applies to municipalities with a population of more than 250,000 and includes a written determination by the Office of the Governor. See Tax Code Section 26.0444 for more information. A. Amount appropriated for public safety in the prior year. Enter the amount of money appropriated for public safety in the budget adopted by the municipality for the preceding fiscal year \$ 0 B. Expenditures for public safety in the prior year. Enter the amount of money spent by the municipality for public safety during the preceding fiscal year. \$ 0 C. Subtract B from A and divide by Line 32 and multiply by \$100 \$ 0.000000 /\$100 D. Enter the rate calculated in C. If not applicable, enter 0.	\$ 0.000000 /\$100
39.	Adjusted current year NNR M&O rate. Add Lines 33, 34D, 35D, 36E, and 37E. Subtract Line 38D.	\$ 0.312924 /\$100
40.	Adjustment for prior year sales tax specifically to reduce property taxes. Cities, counties and hospital districts that collected and spent additional sales tax on M&O expenses in the prior year should complete this line. These entities will deduct the sales tax gain rate for the current year in Section 3. Other taxing units, enter zero. A. Enter the amount of additional sales tax collected and spent on M&O expenses in the prior year, if any. Counties must exclude any amount that was spent for economic development grants from the amount of sales tax spent \$ 0 B. Divide Line 40A by Line 32 and multiply by \$100 \$ 0.000000 /\$100 C. Add Line 40B to Line 39.	\$ 0.312924 /\$100
41.	Current year voter-approval M&O rate. Enter the rate as calculated by the appropriate scenario below. Special Taxing Unit. If the taxing unit qualifies as a special taxing unit, multiply Line 40C by 1.08. - or - Other Taxing Unit. If the taxing unit does not qualify as a special taxing unit, multiply Line 40C by 1.035.	\$ 0.323876 /\$100

²⁵ Tex. Tax Code §26.0442²⁶ Tex. Tax Code §26.0443

Line	Voter-Approval Tax Rate Worksheet	Amount/Rate
D41.	Disaster Line 41 (D41): Current year voter-approval M&O rate for taxing unit affected by disaster declaration. If the taxing unit is located in an area declared a disaster area and at least one person is granted an exemption under Tax Code Section 11.35 for property located in the taxing unit, the governing body may direct the person calculating the voter-approval tax rate to calculate in the manner provided for a special taxing unit. The taxing unit shall continue to calculate the voter-approval tax rate in this manner until the earlier of 1) the first year in which total taxable value on the certified appraisal roll exceeds the total taxable value of the tax year in which the disaster occurred, or 2) the third tax year after the tax year in which the disaster occurred If the taxing unit qualifies under this scenario, multiply Line 40C by 1.08. ²⁷ If the taxing unit does not qualify, do not complete Disaster Line 41 (Line D41).	\$ 0.000000 / \$100
42.	Total current year debt to be paid with property taxes and additional sales tax revenue. Debt means the interest and principal that will be paid on debts that: (1) are paid by property taxes, (2) are secured by property taxes, (3) are scheduled for payment over a period longer than one year, and (4) are not classified in the taxing unit's budget as M&O expenses. A. Debt also includes contractual payments to other taxing units that have incurred debts on behalf of this taxing unit, if those debts meet the four conditions above. Include only amounts that will be paid from property tax revenue. Do not include appraisal district budget payments. If the governing body of a taxing unit authorized or agreed to authorize a bond, warrant, certificate of obligation, or other evidence of indebtedness on or after Sept. 1, 2021, verify if it meets the amended definition of debt before including it here. ²⁸ Enter debt amount \$ 23,538,174 B. Subtract unencumbered fund amount used to reduce total debt. - \$ 0 C. Subtract certified amount spent from sales tax to reduce debt (enter zero if none) - \$ 0 D. Subtract amount paid from other resources - \$ 13,089,830 E. Adjusted debt. Subtract B, C and D from A.	\$ 10,448,344
43.	Certified prior year excess debt collections. Enter the amount certified by the collector. ²⁹	\$ 550,678
44.	Adjusted current year debt. Subtract Line 43 from Line 42E.	\$ 9,897,666
45.	Current year anticipated collection rate. A. Enter the current year anticipated collection rate certified by the collector. ³⁰ 100.00 % B. Enter the prior year actual collection rate..... 99.44 % C. Enter the 2022 actual collection rate. 99.82 % D. Enter the 2021 actual collection rate. 99.64 % E. If the anticipated collection rate in A is lower than actual collection rates in B, C and D, enter the lowest collection rate from B, C and D. If the anticipated rate in A is higher than at least one of the rates in the prior three years, enter the rate from A. Note that the rate can be greater than 100%. ³¹	100.00 %
46.	Current year debt adjusted for collections. Divide Line 44 by Line 45E.	\$ 9,897,666
47.	Current year total taxable value. Enter the amount on Line 21 of the <i>No-New-Revenue Tax Rate Worksheet</i> .	\$ 15,610,968,338
48.	Current year debt rate. Divide Line 46 by Line 47 and multiply by \$100.	\$ 0.063402 / \$100
49.	Current year voter-approval tax rate. Add Lines 41 and 48.	\$ 0.387278 / \$100
D49.	Disaster Line 49 (D49): Current year voter-approval tax rate for taxing unit affected by disaster declaration. Complete this line if the taxing unit calculated the voter-approval tax rate in the manner provided for a special taxing unit on Line D41. Add Line D41 and 48.	\$ 0.000000 / \$100

²⁷ Tex. Tax Code §26.042(a)²⁸ Tex. Tax Code §26.012(7)²⁹ Tex. Tax Code §26.012(10) and 26.04(b)³⁰ Tex. Tax Code §26.04(b)³¹ Tex. Tax Code §§26.04(h), (h-1) and (h-2)

Line	Voter-Approval Tax Rate Worksheet	Amount/Rate
50.	COUNTIES ONLY. Add together the voter-approval tax rates for each type of tax the county levies. The total is the current year county voter-approval tax rate.	\$ 0.000000 /\$100

SECTION 3: NNR Tax Rate and Voter-Approval Tax Rate Adjustments for Additional Sales Tax to Reduce Property Taxes

Cities, counties and hospital districts may levy a sales tax specifically to reduce property taxes. Local voters by election must approve imposing or abolishing the additional sales tax. If approved, the taxing unit must reduce its NNR and voter-approval tax rates to offset the expected sales tax revenue.

This section should only be completed by a county, city or hospital district that is required to adjust its NNR tax rate and/or voter-approval tax rate because it adopted the additional sales tax.

Line	Additional Sales and Use Tax Worksheet	Amount/Rate
51.	Taxable Sales. For taxing units that adopted the sales tax in November of the prior tax year or May of the current tax year, enter the Comptroller's estimate of taxable sales for the previous four quarters. ³² Estimates of taxable sales may be obtained through the Comptroller's Allocation Historical Summary webpage. Taxing units that adopted the sales tax before November of the prior year, enter 0.	\$ 0
52.	Estimated sales tax revenue. Counties exclude any amount that is or will be spent for economic development grants from the amount of estimated sales tax revenue. ³³ Taxing units that adopted the sales tax in November of the prior tax year or in May of the current tax year. Multiply the amount on Line 51 by the sales tax rate (.01, .005 or .0025, as applicable) and multiply the result by .95. ³⁴ - or - Taxing units that adopted the sales tax before November of the prior year. Enter the sales tax revenue for the previous four quarters. Do not multiply by .95.	\$ 0
53.	Current year total taxable value. Enter the amount from Line 21 of the <i>No-New-Revenue Tax Rate Worksheet</i> .	\$ 15,610,968,338
54.	Sales tax adjustment rate. Divide Line 52 by Line 53 and multiply by \$100.	\$ 0.000000 /\$100
55.	Current year NNR tax rate, unadjusted for sales tax. ³⁵ Enter the rate from Line 26 or 27, as applicable, on the <i>No-New-Revenue Tax Rate Worksheet</i> .	\$ 0.348167 /\$100
56.	Current year NNR tax rate, adjusted for sales tax. Taxing units that adopted the sales tax in November the prior tax year or in May of the current tax year. Subtract Line 54 from Line 55. Skip to Line 57 if you adopted the additional sales tax before November of the prior tax year.	\$ 0.348167 /\$100
57.	Current year voter-approval tax rate, unadjusted for sales tax. ³⁶ Enter the rate from Line 49, Line D49 (disaster) or Line 50 (counties) as applicable, of the <i>Voter-Approval Tax Rate Worksheet</i> .	\$ 0.387278 /\$100
58.	Current year voter-approval tax rate, adjusted for sales tax. Subtract Line 54 from Line 57.	\$ 0.387278 /\$100

SECTION 4: Voter-Approval Tax Rate Adjustment for Pollution Control

A taxing unit may raise its rate for M&O funds used to pay for a facility, device or method for the control of air, water or land pollution. This includes any land, structure, building, installation, excavation, machinery, equipment or device that is used, constructed, acquired or installed wholly or partly to meet or exceed pollution control requirements. The taxing unit's expenses are those necessary to meet the requirements of a permit issued by the Texas Commission on Environmental Quality (TCEQ). The taxing unit must provide the tax assessor with a copy of the TCEQ letter of determination that states the portion of the cost of the installation for pollution control.

This section should only be completed by a taxing unit that uses M&O funds to pay for a facility, device or method for the control of air, water or land pollution.

Line	Voter-Approval Rate Adjustment for Pollution Control Requirements Worksheet	Amount/Rate
59.	Certified expenses from the Texas Commission on Environmental Quality (TCEQ). Enter the amount certified in the determination letter from TCEQ. ³⁷ The taxing unit shall provide its tax assessor-collector with a copy of the letter. ³⁸	\$ 0
60.	Current year total taxable value. Enter the amount from Line 21 of the <i>No-New-Revenue Tax Rate Worksheet</i> .	\$ 15,610,968,338
61.	Additional rate for pollution control. Divide Line 59 by Line 60 and multiply by \$100.	\$ 0.000000 /\$100

³² Tex. Tax Code §26.041(d)

³³ Tex. Tax Code §26.041(i)

³⁴ Tex. Tax Code §26.041(d)

³⁵ Tex. Tax Code §26.04(c)

³⁶ Tex. Tax Code §26.04(c)

³⁷ Tex. Tax Code §26.045(d)

³⁸ Tex. Tax Code §26.045(i)

Line	Voter-Approval Rate Adjustment for Pollution Control Requirements Worksheet	Amount/Rate
62.	Current year voter-approval tax rate, adjusted for pollution control. Add Line 61 to one of the following lines (as applicable): Line 49, Line D49 (disaster), Line 50 (counties) or Line 58 (taxing units with the additional sales tax).	\$ 0.387278 /\$100

SECTION 5: Voter-Approval Tax Rate Adjustment for Unused Increment Rate

The unused increment rate is the rate equal to the sum of the prior 3 years Foregone Revenue Amounts divided by the current taxable value. ³⁹ The Foregone Revenue Amount for each year is equal to that year's adopted tax rate subtracted from that year's voter-approval tax rate adjusted to remove the unused increment rate multiplied by that year's current total value. ⁴⁰ In a year where a taxing unit adopts a rate by applying any portion of the unused increment rate, the portion of the unused increment rate that was used must be backed out of the calculation for that year.

The difference between the adopted tax rate and adjusted voter-approval tax rate is considered zero in the following scenarios:

- a tax year in which a taxing unit affected by a disaster declaration calculates the tax rate under Tax Code Section 26.042; ⁴¹
- a tax year in which the municipality is a defunding municipality, as defined by Tax Code Section 26.0501(a); ⁴² or
- after Jan. 1, 2022, a tax year in which the comptroller determines that the county implemented a budget reduction or reallocation described by Local Government Code Section 120.002(a) without the required voter approval. ⁴³

Individual components can be negative, but the overall rate will be the greater of zero or the calculated rate.

This section should only be completed by a taxing unit that does not meet the definition of a special taxing unit. ⁴⁴

Line	Unused Increment Rate Worksheet	Amount/Rate
63.	Year 3 Foregone Revenue Amount. Subtract the 2023 unused increment rate and 2023 actual tax rate from the 2023 voter-approval tax rate. Multiply the result by the 2023 current total value A. Voter-approval tax rate (Line 67) B. Unused increment rate (Line 66) C. Subtract B from A D. Adopted Tax Rate E. Subtract D from C F. 2023 Total Taxable Value (Line 60) G. Multiply E by F and divide the results by \$100	\$ 0.387327 /\$100 \$ 0.001540 /\$100 \$ 0.385787 /\$100 \$ 0.387300 /\$100 \$ -0.001513 /\$100 \$ 14,279,514.080 \$ -216,050
64.	Year 2 Foregone Revenue Amount. Subtract the 2022 unused increment rate and 2022 actual tax rate from the 2022 voter-approval tax rate. Multiply the result by the 2022 current total value A. Voter-approval tax rate (Line 67) B. Unused increment rate (Line 66) C. Subtract B from A D. Adopted Tax Rate E. Subtract D from C F. 2022 Total Taxable Value (Line 60) G. Multiply E by F and divide the results by \$100	\$ 0.406682 /\$100 \$ 0.014613 /\$100 \$ 0.392069 /\$100 \$ 0.405000 /\$100 \$ -0.012931 /\$100 \$ 13,126,830.588 \$ -1,697,431
65.	Year 1 Foregone Revenue Amount. Subtract the 2021 unused increment rate and 2021 actual tax rate from the 2021 voter-approval tax rate. Multiply the result by the 2021 current total value A. Voter-approval tax rate (Line 67) B. Unused increment rate (Line 66) C. Subtract B from A D. Adopted Tax Rate E. Subtract D from C F. 2021 Total Taxable Value (Line 60) G. Multiply E by F and divide the results by \$100	\$ 0.419471 /\$100 \$ 0.014915 /\$100 \$ 0.404556 /\$100 \$ 0.405000 /\$100 \$ -0.000444 /\$100 \$ 12,013,716.672 \$ -53,341
66.	Total Foregone Revenue Amount. Add Lines 63G, 64G and 65G	\$ 0 /\$100
67.	2024 Unused Increment Rate. Divide Line 66 by Line 21 of the <i>No-New-Revenue Rate Worksheet</i> . Multiply the result by 100	\$ 0.000000 /\$100
68.	Total 2024 voter-approval tax rate, including the unused increment rate. Add Line 67 to one of the following lines (as applicable): Line 49, Line 50 (counties), Line 58 (taxing units with additional sales tax) or Line 62 (taxing units with pollution)	\$ 0.387278 /\$100

³⁹ Tex. Tax Code §26.013(b)

⁴⁰ Tex. Tax Code §26.013(a)(1-a), (1-b), and (2)

⁴¹ Tex. Tax Code §§26.04(c)(2)(A) and 26.042(a)

⁴² Tex. Tax Code §§26.0501(a) and (c)

⁴³ Tex. Local Gov't Code §120.007(d)

⁴⁴ Tex. Local Gov't Code §120.007(d)

SECTION 6: De Minimis Rate

The de minimis rate is the rate equal to the sum of the no-new-revenue maintenance and operations rate, the rate that will raise \$500,000, and the current debt rate for a taxing unit.⁴⁴ This section should only be completed by a taxing unit that is a municipality of less than 30,000 or a taxing unit that does not meet the definition of a special taxing unit.⁴⁵

Line	De Minimis Rate Worksheet	Amount/Rate
69.	Adjusted current year NNR M&O tax rate. Enter the rate from Line 39 of the <i>Voter-Approval Tax Rate Worksheet</i> .	0.312924
70.	Current year total taxable value. Enter the amount on Line 21 of the <i>No-New-Revenue Tax Rate Worksheet</i> .	\$ 15,610,968,338
71.	Rate necessary to impose \$500,000 in taxes. Divide \$500,000 by Line 70 and multiply by \$100.	\$ 0.003202 /\$100
72.	Current year debt rate. Enter the rate from Line 48 of the <i>Voter-Approval Tax Rate Worksheet</i> .	\$ 0.063402 /\$100
73.	De minimis rate. Add Lines 69, 71 and 72.	\$ 0.000000 /\$100

SECTION 7: Voter-Approval Tax Rate Adjustment for Emergency Revenue Rate

In the tax year after the end of the disaster calculation time period detailed in Tax Code Section 26.042(a), a taxing unit that calculated its voter-approval tax rate in the manner provided for a special taxing unit due to a disaster must calculate its emergency revenue rate and reduce its voter-approval tax rate for that year.⁴⁶

Similarly, if a taxing unit adopted a tax rate that exceeded its voter-approval tax rate, calculated normally, without holding an election to respond to a disaster, as allowed by Tax Code Section 26.042(d), in the prior year, it must also reduce its voter-approval tax rate for the current tax year.⁴⁹

This section will apply to a taxing unit other than a special taxing unit that:

- directed the designated officer or employee to calculate the voter-approval tax rate of the taxing unit in the manner provided for a special taxing unit in the prior year; and
- the current year is the first tax year in which the total taxable value of property taxable by the taxing unit as shown on the appraisal roll for the taxing unit submitted by the assessor for the taxing unit to the governing body exceeds the total taxable value of property taxable by the taxing unit on January 1 of the tax year in which the disaster occurred or the disaster occurred four years ago. This section will apply to a taxing unit in a disaster area that adopted a tax rate greater than its voter-approval tax rate without holding an election in the prior year.

Note: This section does not apply if a taxing unit is continuing to calculate its voter-approval tax rate in the manner provided for a special taxing unit because it is still within the disaster calculation time period detailed in Tax Code Section 26.042(a) because it has not met the conditions in Tax Code Section 26.042(a)(1) or (2).

Line	Emergency Revenue Rate Worksheet	Amount/Rate
74.	2023 adopted tax rate. Enter the rate in Line 4 of the <i>No-New-Revenue Tax Rate Worksheet</i> .	\$ 0.387300 /\$100
75.	Adjusted 2023 voter-approval tax rate. Use the taxing unit's Tax Rate Calculation Worksheets from the prior year(s) to complete this line. If a disaster occurred in 2023 and the taxing unit calculated its 2023 voter-approval tax rate using a multiplier of 1.08 on Disaster Line 41 (D41) of the 2023 worksheet due to a disaster, complete the applicable sections or lines of <i>Form 50-856-a, Adjusted Voter-Approval Tax Rate for Taxing Units in Disaster Area Calculation Worksheet</i> . - or - If a disaster occurred prior to 2023 for which the taxing unit continued to calculate its voter-approval tax rate using a multiplier of 1.08 on Disaster Line 41 (D41) in 2023, complete form 50-856-a, <i>Adjusted Voter-Approval Tax Rate for Taxing Units in Disaster Area Calculation Worksheet</i> to recalculate the voter-approval tax rate the taxing unit would have calculated in 2023 if it had generated revenue based on an adopted tax rate using a multiplier of 1.035 in the years following the disaster. ⁵⁰ Enter the final adjusted 2023 voter-approval tax rate from the worksheet. - or - If the taxing unit adopted a tax rate above the 2023 voter-approval tax rate without calculating a disaster tax rate or holding an election due to a disaster, no recalculation is necessary. Enter the voter-approval tax rate from the prior year's worksheet.	\$ 0.000000 /\$100
76.	Increase in 2023 tax rate due to disaster. Subtract Line 75 from Line 74.	\$ 0.000000 /\$100
77.	Adjusted 2023 taxable value. Enter the amount in Line 14 of the <i>No-New-Revenue Tax Rate Worksheet</i> .	\$ 13,748,256,051
78.	Emergency revenue. Multiply Line 76 by Line 77 and divide by \$100.	\$ 0
79.	Adjusted 2023 taxable value. Enter the amount in Line 25 of the <i>No-New-Revenue Tax Rate Worksheet</i> .	\$ 15,400,168,274
80.	Emergency revenue rate. Divide Line 78 by Line 79 and multiply by \$100. ⁵¹	\$ 0.000000 /\$100

⁴⁵ Tex. Tax Code §26.04(c)(2)(B)

⁴⁶ Tex. Tax Code §26.012(8-a)

⁴⁷ Tex. Tax Code §26.063(a)(1)

⁴⁸ Tex. Tax Code §26.042(b)

⁴⁹ Tex. Tax Code §26.042(f)

⁵⁰ Tex. Tax Code §26.42(c)

⁵¹ Tex. Tax Code §26.42(b)

Line	Emergency Revenue Rate Worksheet	Amount/Rate
81.	Current year voter-approval tax rate, adjusted for emergency revenue. Subtract Line 80 from one of the following lines (as applicable): Line 49, Line D49 (disaster), Line 50 (counties), Line 58 (taxing units with the additional sales tax), Line 62 (taxing units with pollution control) or Line 68 (taxing units with the unused increment rate).	\$ 0.387278 /\$100

SECTION 8: Total Tax Rate

Indicate the applicable total tax rates as calculated above.

No-new-revenue tax rate.	\$ 0.348167 /\$100
As applicable, enter the current year NNR tax rate from: Line 26, Line 27 (counties), or Line 56 (adjusted for sales tax).	
Indicate the line number used: 26	
Voter-approval tax rate.	\$ 0.387278 /\$100
As applicable, enter the current year voter-approval tax rate from: Line 49, Line D49 (disaster), Line 50 (counties), Line 58 (adjusted for sales tax), Line 62 (adjusted for pollution control), Line 68 (adjusted for unused increment), or Line 81 (adjusted for emergency revenue).	
Indicate the line number used: 49	
De minimis rate.	\$ 0.000000 /\$100
If applicable, enter the current year de minimis rate from Line 73.	

SECTION 9: Taxing Unit Representative Name and Signature

Enter the name of the person preparing the tax rate as authorized by the governing body of the taxing unit. By signing below, you certify that you are the designated officer or employee of the taxing unit and have accurately calculated the tax rates using values that are the same as the values shown in the taxing unit’s certified appraisal roll or certified estimate of taxable value, in accordance with requirements in the Tax Code.⁵²

print here

TAMMY WILSON

Printed Name of Taxing Unit Representative

sign here

Taxing Unit Representative

Date

⁵² Tex. Tax Code §§26.04(c-2) and (d-2)

Notice About 2024 Tax Rates

Property tax rates in TOWN OF FLOWER MOUND.

This notice concerns the 2024 property tax rates for TOWN OF FLOWER MOUND. This notice provides information about two tax rates used in adopting the current tax year's tax rate. The no-new-revenue tax rate would impose the same amount of taxes as last year if you compare properties taxed in both years. In most cases, the voter-approval tax rate is the highest tax rate a taxing unit can adopt without holding an election. In each case, these rates are calculated by dividing the total amount of taxes by the current taxable value with adjustments as required by state law. The rates are given per \$100 of property value.

This year's no-new-revenue tax rate	\$0.348167/\$100
This year's voter-approval tax rate	\$0.387278/\$100

To see the full calculations, please visit 1505 E. McKinney Street
Denton, TX 76209 for a copy of the Tax Rate Calculation Worksheet.

Unencumbered Fund Balance

The following estimated balances will be left in the taxing unit's accounts at the end of the fiscal year. These balances are not encumbered by corresponding debt obligation.

Type of Fund	Balance
GENERAL FUND	41,933,829
DEBT SERVICE FUND	790,363
TIRZ #1	20,636,815

Current Year Debt Service

The following amounts are for long-term debts that are secured by property taxes. These amounts will be paid from upcoming property tax revenues *(or additional sales tax revenues, if applicable)*.

Description of Debt	Principal or Contract Payment to be Paid from Property Taxes	Interest to be Paid from Property Taxes	Other Amounts to be Paid	Total Payment
GENERAL OBLIGATION REFUNDING SERIES 2014	615,000	15,375	102,500	732,875
GENERAL OBLIGATION REFUNDING SERIES 2014A	830,000	64,500	113,125	1,007,625
GENERAL OBLIGATION REFUNDING SERIES 2016	945,000	107,825	1,014,900	2,067,725
GENERAL OBLIGATION REFUNDING SERIES 2020	335,000	66,300	173,200	574,500
GENERAL OBLIGATION REFUNDING SERIES 2021	0	0	223,600	223,600
GENERAL OBLIGATION REFUNDING SERIES 2023	140,000	72,500	613,500	826,000
GENERAL OBLIGATION REFUNDING SERIES 2024	1,955,000	62,451	514,222	2,531,673
CERTIFICATES OF OBLIGATIONS SERIES 2012	0	0	453,444	453,444
CERTIFICATES OF OBLIGATIONS SERIES 2014	25,000	7,938	989,825	1,022,763
CERTIFICATES OF OBLIGATIONS SERIES 2015	0	0	271,250	271,250
CERTIFICATES OF OBLIGATIONS SERIES 2015A	0	21,106	39,413	60,519
CERTIFICATES OF OBLIGATIONS SERIES 2016	180,000	105,100	613,425	898,525
CERTIFICATES OF OBLIGATIONS SERIES 2017	0	0	1,238,400	1,238,400
CERTIFICATES OF OBLIGATIONS SERIES 2017A	560,000	443,950	637,275	1,641,225

CERTIFICATES OF OBLIGATIONS SERIES 2018	0	0	1,397,950	1,397,950
CERTIFICATES OF OBLIGATIONS SERIES 2018A	255,000	201,475	287,050	743,525
CERTIFICATES OF OBLIGATIONS SERIES 2019	240,000	208,200	1,505,200	1,953,400
CERTIFICATES OF OBLIGATIONS SERIES 2020	0	0	555,000	555,000
CERTIFICATES OF OBLIGATIONS SERIES 2021	0	0	619,875	619,875
CERTIFICATES OF OBLIGATIONS SERIES 2022	0	0	624,600	624,600
CERTIFICATES OF OBLIGATIONS SERIES 2023	0	0	563,625	563,625
CERTIFICATES OF OBLIGATIONS SERIES 2024	10,000	20,196	528,451	558,647
2025 TAX NOTES	2,560,678	400,750	0	2,961,428
ADMINISTRATIVE AND ARBITRAGE FEES	0	0	10,000	10,000

Total required for 2024 debt service	\$23,538,174
- Amount (if any) paid from funds listed in unencumbered funds	\$0
- Amount (if any) paid from other resources	\$13,089,830
- Excess collections last year	\$550,678
= Total to be paid from taxes in 2024	\$9,897,666
+ Amount added in anticipation that the unit will collect only 100.00% of its taxes in 2024	\$0
= Total debt levy	\$9,897,666

This notice contains a summary of actual no-new-revenue and voter-approval calculations as certified by Michelle French, Denton County Tax Assessor/Collector on 07/31/2024 .

Visit [Texas.gov/PropertyTaxes](https://www.texas.gov/PropertyTaxes) to find a link to your local property tax database on which you can easily access information regarding your property taxes, including information about proposed tax rates and scheduled public hearings of each entity that taxes your property.

The 86th Texas Legislature modified the manner in which the voter-approval tax rate is calculated to limit the rate of growth of property taxes in the state.



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

DATE: August 19, 2024
FROM: John Zagurski, Chief Financial Officer
ITEM: Consider proposing a maximum tax rate of \$0.387278 per \$100 valuation for the fiscal year beginning October 1, 2024, and ending September 30, 2025; and scheduling September 16, 2024, public hearing on the budget, scheduling September 16, 2024, public hearing on the tax rate, and scheduling the September 16, 2024, adoption of said budget and tax rate; with each meeting to be held at 6:00 PM, at Town Hall, located at 2121 Cross Timbers Road.

BACKGROUND: Chapter 26 of the Property Tax Code requires municipalities to comply with truth-in-taxation laws in adopting their tax rates. The laws are designed to make taxpayers aware of tax rate proposals and to limit a tax increase. The Town Council must take a record vote on the maximum tax rate to be considered for the upcoming fiscal year. The adopted tax rate may not exceed this maximum rate.

The Town is required to hold a public hearing on the tax rate and publish a notice in the newspaper, on TV, and website before adopting a tax rate that exceeds \$0.348167 the no-new-revenue tax rate.

Section 9.06 of the Town Charter requires the Town Council to fix the time and place of the public hearing on the budget and to publish a notice in the official newspaper of the Town, as required by law. This public hearing is in addition to the tax rate public hearing required by the State Property Tax Code.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES:

FISCAL IMPACT: \$(64,829,343) based on certified roll at collection rate of 99.5%

Proposed Expenditure/(Revenue)	Account Number(s):
\$(51,971,141)	100-4105 Property Taxes
(7,557,825)	110-4105 Property Taxes
(5,300,377)	308-4105 Property Taxes

LEGAL REVIEW: N/A

ATTACHMENTS:

None

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



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

DATE: August 19, 2024

FROM: John Zagurski, Chief Financial Officer

ITEM: Discussion and direction regarding the FY 2024 - 2025 proposed budget, including community support funding, and water, wastewater and stormwater rates (continued from August 15).

BACKGROUND: The Town Council held a [proposed budget](#) work session on August 15. This item allows for the continuation of that discussion, including community support funding.

BOARD REVIEW/CITIZEN FEEDBACK:

ALTERNATIVES:

FISCAL IMPACT: N/A

LEGAL REVIEW: N/A

ATTACHMENTS:

None

DRAFT MOTION: No action is required by the Town Council on this item.



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

DATE: August 19, 2024
FROM: Meg Jakubik, Director of Budget Services
ITEM: **Public Hearing by the Town Council acting as the Board of Directors for the Town of Flower Mound Crime Control and Prevention District to consider the Flower Mound Crime Control and Prevention District proposed budget for the fiscal year beginning on October 1, 2024, and ending on September 30, 2025.**

BACKGROUND: Section 363.204 of the local government code requires a public hearing to consider the proposed annual budget of the Crime Control and Prevention District (Crime District). In addition, at the March 3, 2008 Town Council meeting, the Town Council acting as the Board of Directors for the Crime District, adopted alternative budget procedures for the Crime District to follow the procedures and public hearing requirements for the Town's annual budget process.

The Fiscal Year 2024-2025 Crime District Proposed Budget was filed with the Town Secretary and distributed to the Town Council on August 2, 2024. The proposed budget is on file for review at Town Hall and the Town's internet website. Town Council received a presentation of the proposed budget during the Town Council Work Session on August 15, 2024.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES: N/A

FISCAL IMPACT: N/A

LEGAL REVIEW: N/A

ATTACHMENTS:

None

DRAFT MOTION: No action is required by the Town Council on this item.



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

DATE: August 19, 2024

FROM: Meg Jakubik, Director of Budget Services

ITEM: **Public Hearing by the Town Council acting as the Board of Directors for the Town of Flower Mound Fire Control, Prevention, and Emergency Medical Services District to consider the Flower Mound Fire Control, Prevention, and Emergency Medical Services District proposed budget for the fiscal year beginning on October 1, 2024, and ending on September 30, 2025.**

BACKGROUND: Section 344.204 of the local government code requires a public hearing to consider the proposed annual budget of the Fire Control, Prevention, and Emergency Medical Services District (Fire District). In addition, at the March 3, 2008 Town Council meeting, the Town Council acting as the Board of Directors for the Fire District, adopted alternative budget procedures for the Fire District to follow the procedures and public hearing requirements for the Town's annual budget process.

The Fiscal Year 2024-2025 Fire District Proposed Budget was filed with the Town Secretary and distributed to the Town Council on August 2, 2024. The proposed budget is on file for review at Town Hall and the Town's internet website. Town Council received a presentation of the proposed budget during the Town Council Work Session on August 15, 2024.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES: N/A

FISCAL IMPACT: N/A

LEGAL REVIEW: N/A

ATTACHMENTS:

None

DRAFT MOTION: No action is required by the Town Council on this item.