Town Council Regular Meeting

November 18, 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. National Night Out Awards
2. Proclamation for Small Business Saturday

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. LISD School Retirement and Boundary Adjustments Proposal

2. Capital Improvement Projects
3. Economic Development Projects
4. Organizational Updates
   a. Town Awards and Recognitions

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. November 21 - Work Session
2. December 2 - Regular Meeting
3. December 16 - Regular Meeting

J. CONSENT ITEM(S)

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

1. Minutes - 11/4 - Consider approval of the minutes from a regular meeting held on November 4, 2024.
2. Board Manual Update - Discuss and consider approval of a resolution to revise the Board and Commission Manual.
3. PSA-ITS (transportation consulting) - Consider approval of a professional services agreement with Innovative Transportation Solutions, Inc. to provide professional transportation consultation services in the amount of $75,000.00 annually, with four one-year renewal options; and authorization for the Mayor to execute the same on behalf of the Town.
4. Road and Utility Construction Materials Contract - Consider approval of the annual purchase contract for road and utility construction materials from CJA Enterprises, through a City of Denton contract number 7841 for an estimated annual amount of $25,000 and authorization for the Mayor to execute same on behalf of the Town.
5. Trotter Park Design Contract - Consider approval of a Professional Services Agreement with MHS Planning & Design, LLC., for the design services associated with the Trotter Park project, in the amount of $589,200.00; and authorization for the Mayor to execute same on behalf of the Town.
6. Sale and consumption of alcohol (beer and wine) at 2025 Independence Fest - Consider approval of the sale and consumption of alcoholic beverages (beer and wine) at Bakersfield Park, during the 2025 Independence Fest. (The Parks Board recommended approval by a vote of 6 to 0 at the October 3, 2024 meeting.)
7. Annual Standards of Care Ordinance Update - Consider approval of Standards of Care for Youth Recreation Programs operated by the Town, in accordance with the Texas Human Resources Code-Section 42.041 and to adopt an Ordinance providing for said Standards. (The Parks Board recommended approval by a vote of 6 to 0 at its November 7, 2024 meeting).

8. PLA Digital Literacy Grant - Consider approval of a resolution authorizing the acceptance of grant funds from the Public Library Association for the purpose of providing digital literacy classes; authorizing the Library Director to act on behalf of Flower Mound as the grantee's official; pledging that the Town of Flower Mound will comply with all program requirements of the grant program; and providing an effective date.

9. Consider approval of a multi-year agreement for th - Consider approval of a multi-year agreement for the acquisition of sixty-two (62) Axon electric control devices (ECD or Taser), including renewal certificates, upgraded and new devices for a combined total of $268,998.48, and authorization for the Mayor to execute the same on behalf of the Town.

10. Vehicle purchase(s) - Police Dept. - Consider approval of purchasing for the police department (1) 2024 Ford F150 Crew Cab XLT 4X4 from Sam Pack's Five Star Ford for $55,328.00 utilizing the HGAC Cooperative Contract # CE05-24 and the purchase of (1) 2024 Chevrolet Silverado 1500 crew cab from Lake Country Chevrolet for $67,317.51 utilizing the TIPS USA contract #210907, for a total of $122,645.51.

11. Fee schedule amendment - Consider a request to amend the Town's Code of Ordinances by amending Appendix A, "Fee Schedule," Referenced in Chapter 70, "Utilities" by amending Section 70-56(d), entitled "Water Meter Fee Schedule," by repealing all conflicting ordinances; providing a severability clause; and providing an effective date.

12. Fortinet Network Infrastructure Renewal - Consider approval of a three-year renewal agreement with Centre Technologies for network equipment, software, support, and maintenance for $107,332.83

13. TMRS Benefit Plan Change - Consider approval of an ordinance adopting benefit plan design changes to plan provisions for the Town of Flower Mound in the Texas Municipal Retirement System as allowed by the Texas Municipal Retirement System Act.

K. REGULAR ITEM(S)

1. Senior Center Library - Naming Request - Consider approval of the naming request for the library at the Flower Mound Senior Center as the Mary Kay Walker Library. (The Parks Board recommended approval by a vote of 6 to 0 at the November 7, 2024 meeting.)

2. SUP24-0003 - Lakeside Kiddie Academy - Public Hearing to consider an ordinance granting Specific Use Permit No. 492 (SUP24-0003 – Lakeside Kiddie Academy) to permit a day care center use. The property is generally located east of International Parkway and south of Lakeside Parkway. (PZ recommended approval by a vote of 6 to 0 at its November 11, 2024, meeting.)

3. MPA24-0001 - Wager Road Nursing or Congregate Facility - Public Hearing to consider an ordinance amending the Master Plan (MPA24-0001 – Wager Road Nursing or Congregate Facility) to amend Section 1.0, Land Use Plan, of the Master Plan, to change the current land use designation from Estate Residential uses to Office uses. The property is generally located west of Garden Ridge Boulevard and south of Kirkpatrick Lane. (PZ recommended approval by a vote of 6 to 0 at its November 11, 2024, meeting.)

4. ZPD23-0011 – Wager Road Nursing or Congregate Facility - Public Hearing to consider an ordinance amending the zoning (ZPD23-0011 – Wager Road Nursing or Congregate Facility) from Agricultural District (A) uses to Planned Development District-205 (PD-205) with Office District (O) uses with an exception to Section 82-302, Compatibility buffer, of the Code of Ordinances. The property is generally located west of Garden Ridge Boulevard and south of Kirkpatrick Lane. (PZ recommended approval with conditions by a vote of 6 to 0 at its November 11, 2024, meeting.)

5. TIRZ #1 Amended and Restated Plan - Public Hearing to consider an ordinance amending and restating the Project and Finance Plan of Tax Increment Reinvestment Zone No. 1 (TIRZ #1), Town of Flower Mound, TX, ratifying the previous TIRZ # 1 Board actions relative to projects authorized, adding additional projects already approved by the TIRZ #1 Board. (The TIRZ #1 Board of Directors recommended approval by a vote of 3 to 0 at their April 3, 2024, meeting.)

6. TIRZ # 1 - amended participation agreement - Consider authorizing the Town Manager to execute an amended and restated participation agreement with Denton County in Tax Increment Financing Reinvestment Zone No. 1 (TIRZ #1), Town of Flower Mound, Texas.

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.

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: November 15, 2024, at 4:33 p.m., at least 72 hours prior to the scheduled time of said meeting.

Theresa Scott, Town Secretary

The Flower Mound Town Hall and Jody Smith Hall are wheelchair accessible. Requests for accommodation or interpretive services must be made 48 hours prior to this meeting by contacting Town Hall at 972.874.6000. Additional time limits will be provided for members of the public that need to address the Town Council through a translator.

To preview upcoming items of business that may appear on future agendas click HERE.

Town Council Regular Meeting

November 4, 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
James W. Childers, Town Manager
Bryn Meredith, Town Attorney
Tommy Dalton, Assistant Town Manager
Tiffany Bruce, Assistant Town Manager/Town Engineer
Lexin Murphy, Director of Development Services
John Zagurski, Chief Financial Officer
JP Walton, Chief Strategic Officer
Chuck Jennings, Director of Parks and Recreation

B. INVOCATION

Chaplain Plunk gave the invocation.

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

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

Mayor Moore led the pledges.

D. PRESENTATION(S)

1. Proclamation for the Elm Fork Chapter of the Texas Master Naturalist

Mayor Moore recited the proclamation and presented it to Kathryn Wells with the Elm Fork Chapter of the Texas Master Naturalist.

2. Certificate of Recognition for Flower Mound High School's Global Challenge International Robotics competition
   Mayor Moore presented the certificate of recognition to Harish Pravin, Team Captain, Flower Mound High School Robotics Team for their achievement.

3. Proclamation for Hindu Heritage Month
   Mayor Moore recited the proclamation and presented it to Ashish Puri.

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

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.	Mike Hennefer, 4265 Harvest Hill, Carrollton	DCAD Board of Directors

** Indicates person did not wish to speak*

F. ANNOUNCEMENTS

1. Announcements from the mayor and council members
   There were announcements from Town Council regarding:

   - Flower Mound Citizens Academy
   - Veterans Ceremony
   - Election Day

G. TOWN MANAGER'S REPORT

1. Capital Improvement Projects

2. Economic Development Projects

3. Organizational Updates

4. Town named Scenic City of the year
   Mr. Walton provided background information on this award.

H. FUTURE AGENDA ITEM(S)

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

There were no future agenda item requests.

I. COORDINATION OF CALENDARS

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

1. November 18 - Regular Meeting

2. November 21 - Work Session

3. December 2 - Regular Meeting

4. December 16 - Regular Meeting

J. CONSENT ITEM(S)

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

ACTION:	Ann Martin moved to approve consent items J.1 - 6 as presented in the agenda caption. Adam Schiestel seconded the motion.
AYES:	Ann Martin, Adam Schiestel, Chris Drew, Brian Taylor, Janvier Werner
NAYS:	None
ABSTAIN:	None
RESULT:	5 : 0

1. Minutes 10/21/24 - Consider approval of the minutes from a regular meeting held on October 21, 2024.

2. Timber Valley Dr. & Fairfield Ln. Reconstruction - Design Award - Consider approval of a Professional Services Agreement with Teague Nall and Perkins, Inc., for the design phase services associated with the Timber Valley Drive and

Fairfield Lane Reconstruction project, in the amount of $392,000.00; and authorization for the Mayor to execute the same on behalf of the Town.

3. Traffic Signal Monitoring Software - Consider approval of the purchase of the Traffic Signal Analytics Software, ClearGuide, for Traffic Signal Monitoring in the amount of $209,800.00, under the BuyBoard Contract from Iteris, Inc., and authorization for the Mayor to execute same on behalf of the Town.

4. Cityworks Software Maintenance Renewal - Consider the approval of a three-year asset management software maintenance renewal with Cityworks LLC, a Trimble Company, in the amount of $66,780; and authorization for the Mayor to execute same on behalf of the Town.

5. Pro Rata Agreement Juniper Street - Consider approval of a Pro-Rata Agreement between Hal Brown and the Town of Flower Mound for the construction of approximately 209 feet of 8-inch sanitary sewer line on the north side of Juniper Street, and associated apparatuses on Juniper 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. 49-24
   AN ORDINANCE ESTABLISHING A PRO RATA CONNECTION FEE TO DEVELOPERS OF PROPERTIES LOCATED ALONG JUNIPER STREET WEST OF CEDAR STREET BENEFITTING FROM THE SANITARY SEWER WEST OF THE INTERSECTION OF JUNIPER STREET AND CEDAR STREET; BASING SUCH CHARGE UPON THE FRONT FOOT OF THE PROPERTY TO BE SERVICED BY SUCH
   SANITARY SEWER 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. Public Park Naming Recommendation - Consider approval of naming the 97 acre public park located at 3900 Haynes Road as Samuel G. Tate Athletic Complex at Furst Ranch.

K. REGULAR ITEM(S)

1. Z24-0005 - Sunrise Circle Lot 7, Block 2 - Public Hearing to consider an ordinance amending the zoning (Z24-0005- Sunrise Circle Lot 7, Block 2) from Interim Holding (IH) uses to Single Family District-10 (SF-10) uses. The property is generally located east of Stonecrest Road and south of Sunrise Circle. (PZ recommended approval by a vote of 6 to 0 at its October 28, 2024, meeting.)
   Ms. Murphy gave a presentation identifying or noting:

   - general and detailed location
   - land use and zoning
   - plat location

- site photo

Mayor Moore opened the public hearing at 6:34 p.m. No one spoke. Mayor Moore closed the public hearing at 6:34 p.m.

ORDINANCE NO. 50-24
AN ORDINANCE OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING THE OFFICIAL ZONING MAP, EXHIBIT "A" OF SUBPART B, “LAND DEVELOPMENT REGULATIONS,” OF THE FLOWER MOUND CODE BY ADOPTING SF-10 SINGLE FAMILY DISTRICT-10 ZONING ON APPROXIMATELY 0.4462 ACRES OF LAND BEING ALL OF LOT 7 BLOCK 2 OF THE SUNRISE CIRCLE ESTATES ADDITION IN ACCORDANCE WITH THE TOWN’S MASTER PLAN AND SPECIFIC REQUIREMENTS AND EXHIBITS INCORPORATED HEREIN; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY FOR VIOLATIONS; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

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

2. MPA24-0004 - Watermere at Flower Mound Phase II - Public Hearing to consider an ordinance amending the Master Plan (MPA24-0004 – Watermere at Flower Mound Phase II) to amend Section 1.0, Land Use Plan, of the Master Plan to change the current land use designation from Office uses to High Density Residential uses. The property is generally located south of Dixon Lane and west of Whyburn Drive. (PZ recommended approval by a vote of 6 to 0 at its October 28, 2024, meeting.)
Mayor Moore opened items 2 and 3 at the same time.

Ms. Murphy gave a presentation identifying or noting:

- general and detailed location
- land use and zoning
- Master plan exhibit
- conceptual site plan
- parking modifications
- development standards
- street buffer and street yard
- site photos
- approved conceptual plan

- conceptual landscape plan, elevations
- Parks Board recommendation
- ZPD caption

and she responded to questions from Council regarding:

- fire lane

Applicant Presentation
Andrew Chapin, 7909 Chapel Wood Dr

Mr. Chapin gave a presentation identifying or noting:

- senior living (classification of Independent Living)
- current state (occupancy)

and he responded to questions from Council regarding:

- wait list

Council Discussion
There was Council discussion regarding:

- product offering
- product demand (senior living)
- appreciation for invite to view the site
- office versus senior housing

Mayor Moore opened the public hearing for items K.2 and K.3 at 6:50 p.m. No one spoke. Mayor Moore closed the public hearing for items K.2 and K.3 at 6:50 p.m.

ORDINANCE NO. 51-24
AN ORDINANCE OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING THE FLOWER MOUND 2001 MASTER PLAN BY AMENDING ORDINANCE NO. 24-01, WHICH ADOPTED THE MASTER PLAN, BY AMENDING SECTION 1.0, “LAND USE PLAN,” TO CHANGE THE CURRENT LAND USE DESIGNATION ON THE LAND USE PLAN MAP FROM OFFICE USES TO HIGH DENSITY RESIDENTIAL USES ON CERTAIN PROPERTY DESCRIBED AS 3.38 ACRES OF LAND AND BEING ALL OF LOT 1, BLOCK A OF THE WHYBURN ADDITION, DENTON COUNTY, TEXAS; PROVIDING THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.

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

3. ZPD24-0005 - Watermere at Flower Mound Phase II - Public Hearing to consider an ordinance amending the zoning (ZPD24-0005 – Watermere at Flower Mound Phase II) by replacing Tract 1 of Planned Development District No. 167 (PD-167) with Office District uses with a new Tract 1 of Planned Development District No. 167 (PD-167) with Age-Restricted, High Density Residential uses, with certain modifications to the Code of Ordinances including but not limited to a modification to Section 82-242 “Street buffer landscaping” and a modification to Section 94-62 “Street buffer trees” of the Town’s Code of Ordinances. The property is generally located south of Dixon Lane and west of Whyburn Drive. (PZ recommended approval by a vote of 6 to 0 at its October 28, 2024, meeting.)

ORDINANCE NO. 52-24

AN ORDINANCE OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING THE OFFICIAL ZONING MAP, EXHIBIT "A," OF SUBPART B, “LAND DEVELOPMENT REGULATIONS,” OF THE CODE OF ORDINANCES, TOWN OF FLOWER MOUND, TEXAS, BY CHANGING THE ZONING ON CERTAIN PROPERTY DESCRIBED AS 3.38 ACRES OF LAND AND BEING ALL OF LOT 1, BLOCK A OF THE WHYBURN ADDITION, DENTON COUNTY, TEXAS, BY REPLACING TRACT 1 OF PLANNED DEVELOPMENT DISTRICT NO. 167 (PD-167) WITH OFFICE DISTRICT USES WITH A NEW TRACT 1 OF PLANNED DEVELOPMENT DISTRICT NO. 167 (PD-167) WITH AGE-RESTRICTED, HIGH DENSITY RESIDENTIAL USES IN ACCORDANCE WITH THE TOWN’S MASTER PLAN AND SPECIFIC REQUIREMENTS AND EXHIBITS INCORPORATED HEREIN; PROVIDING THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

ACTION:	Ann Martin moved to approve K.3. as presented in the agenda caption. Brian Taylor seconded the motion.
AYES:	Ann Martin, Adam Schiestel, Chris Drew, Brian Taylor, Janvier Werner
NAYS:	None
ABSTAIN:	None
RESULT:	5 : 0

4. 2027 Pierce Aerial Quint Fire Apparatus - Consider approval of the purchase of a 2027 Pierce Customer Enforcer Aerial Quint for Fire and Emergency Services Department from Siddons Martin Emergency Group in the amount of $1,641,746.00 and authorization for the Mayor to execute same on behalf of the Town.

Chief Henley gave a presentation identifying or noting:

- VERF 6300-34
- vehicle replacement details

ACTION:	Brian Taylor moved to approve K.4. as presented in the agenda caption. Janvier Werner seconded the motion.
AYES:	Ann Martin, Adam Schiestel, Chris Drew, Brian Taylor, Janvier Werner
NAYS:	None
ABSTAIN:	None
RESULT:	5 : 0

5. Property Exchange - Consider a resolution authorizing the sale of approximately 23 acres of Town property located at 10300 Dunham Road in consideration for the transfer of title to an approximately 97-acre parcel of land to the Town at 3900 Haynes Road for future recreational purposes, both properties being located within the Town's Tax Increment Reinvestment Zone No. 2.

Mr. Dalton gave a presentation identifying or noting:

- vicinity map
- cemetery
- deed restrictions
- deed exhibit
- additional consideration

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

- Dunham Road changes
- when would the site be available for park events (design-to-construction)

ACTION:	Ann Martin moved to approve K.5. as presented in the agenda caption, and to allow the Mayor and Town Manager to be authorized to take all steps necessary to effectuate the land swap. Chris Drew seconded the motion.
AYES:	Ann Martin, Adam Schiestel, Chris Drew, Brian Taylor, Janvier Werner
NAYS:	None
ABSTAIN:	None

RESULT: 5 : 0

6. FY 24-25 Strategic Plan - Consider approval of the FY 24-25 Strategic Plan for the Town of Flower Mound.

Mr. Walton gave a presentation identifying or noting:

- Town strategic goals
- core goals, community goals, and foundational goal
- FM strategic plan
- FY 24-25 Objectives

and he responded to questions from Council regarding:

- tree planting
- performance metrics
- training
- task force purpose

Several members of Council expressed appreciation for the work of the staff and the future implementation steps.

ACTION:	Ann Martin moved to approve K.6. as presented in the agenda caption. Chris Drew seconded the motion.
AYES:	Ann Martin, Adam Schiestel, Chris Drew, Brian Taylor, Janvier Werner
NAYS:	None
ABSTAIN:	None
RESULT:	5 : 0

L. BOARDS/COMMISSIONS

Discuss and consider resignations, appointments, evaluations, reassignments, discipline, or dismissals for the following boards or commissions: Animal Services Board, Capital Improvements Advisory Committee, Community Development Corporation, Cultural Arts Commission, Denton County Transportation Authority, Environmental Conservation Commission, Historical Commission, Parks Board, School Liaison Committee, SMARTGrowth Commission, Tax Increment Reinvestment Zone Number (TIRZ #1), Tax Increment Reinvestment Zone Number (TIRZ #2), Transportation Commission, and Veterans Liaison Board.

No action taken.

M. CLOSED MEETING

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

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

Mayor Moore announced that the Town Council is convening into a closed meeting at 7:38 p.m., pursuant to Texas Government Code Chapter 551, including, but not limited to, Sections 551.071, 551.072, 551.074, and 551.087.

1. Consultation with Town Attorney.

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

The Town Council reconvened into an open meeting at 9:48 p.m., and no action was taken on the above items.

O. ADJOURN

Mayor Moore adjourned the meeting at 9:49 p.m. and all were in favor.

TOWN OF FLOWER MOUND, TEXAS

_____

CHERYL MOORE, MAYOR

ATTEST:

_____

THERESA SCOTT, TOWN SECRETARY

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

DATE: November 18, 2024
FROM: Theresa Scott, Town Secretary
ITEM: **Discuss and consider approval of a resolution to revise the Board and Commission Manual.**

BACKGROUND: The Board, Commission, & Committee Manual was adopted on September 19, 2022. There have been multiple changes since adoption. This resolution provides updates regarding:

- resignations and timing (Section 2.02)
- purpose and function of subcommittees (Section 2.03)
- Historical Commission - new board language (Section 6.07)
- board structure for School Liaison Committee, 3 to 5 members, and chair, vice-chair, and secretary responsibilities (Section 6.11)
- board structure for Veterans Liaison Board, 6 to 9 members (Section 6.15)

Upon approval, all board members and staff liaisons will be provided a copy of this revised manual, and the website will also be updated.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES: N/A

FISCAL IMPACT: N/A
N/A

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

ATTACHMENTS:
1. Resolution_Board Manual
2. Board and Commission Manual_11.18.24

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

TOWN OF FLOWER MOUND, TEXAS

RESOLUTION NO. ___-24

A RESOLUTION OF THE TOWN OF FLOWER MOUND, TEXAS REVISING THE BOARD, COMMISSION, AND COMMITTEE MANUAL; AND PROVIDING AN EFFECTIVE DATE.

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

WHEREAS, the Town Council of the Town of Flower Mound, Texas, has determined that the adoption and implementation of a manual that outlines the operational procedures of the Town's boards, commissions, and committees is in the best interest of the Town and its residents.

WHEREAS, this Resolution replaces the previous Resolution (16-22) in its entirety.

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

SECTION 1

The revised Board, Commission, and Committee Manual (the "Manual"), outlining the operational procedures of the Town's boards, commissions and committees, attached hereto to this Resolution, is hereby approved.

SECTION 2

In the event of a conflict between the Town Charter ("Charter") or the Code of Ordinances, Town of Flower Mound, Texas ("Code"), and the Manual, the Charter and the Code shall prevail.

SECTION 3

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

DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, ON THIS THE 18th DAY OF NOVEMBER, 2024.

APPROVED:

_____
Cheryl Moore
MAYOR

ATTEST:

_____
Theresa Scott
TOWN SECRETARY

REVISED DRAFT

(yellow highlighted text is new)

Board, Commission, & Committee Manual

Town of Flower Mound

2121 Cross Timbers Road

Flower Mound, Texas 75028

972.874.6000

Adopted

September 19, 2022

Resolution No. 16-22

Revised Proposed

11-18-24

Table of Contents

INTRODUCTION 3

ARTICLE I FLOWER MOUND MUNICIPAL GOVERNMENT.....4

1.01 Town Charter.....4
1.02 Town Council.....4
1.03 Town Manager.....4
1.04 Town Secretary.....5
1.05 Town Attorney.....5
1.06 Staff Liaison or Staff Contact.....5

ARTICLE II PROCEDURAL INFORMATION.....6

2.01 Qualifications.....6
2.02 Appointments.....6
2.03 Sub-Committees.....6
2.04 Election of Officers.....7
2.05 Oath of Office and Anti Bribery Statement.....8
2.06 Role of an Alternate.....8
2.07 Attendance.....9
2.08 Vacancies.....9
2.09 Orientation and Training.....9
2.10 Rules of Procedure.....10
2.11 Minutes.....11
2.12 Communication with Town Council.....11
2.13 Communication with Media and Social Media.....12
2.14 Communication with the Public.....12
2.15 Being an Effective Board Member.....12
2.16 Security.....13

ARTICLE III ETHICS AND CONFLICTS OF INTEREST.....13

3.01 Ethics.....13
3.02 Conflict of Interest.....13
3.02.1 Appearance of Conflict.....14
3.02.2 Chapter 176 Conflicts Disclosure.....14
3.02.3 Incompatibility of Office.....15

ARTICLE IV TEXAS OPEN MEETINGS ACT.....15

ARTICLE V PUBLIC INFORMATION ACT.....16

ARTILE VI BOARDS, COMMISSIONS, AND COMMITTEES 16
6.01 Animal Services Board 17
6.02 Board of Adjustment 18
6.03 Capital Improvements Advisory Committee 18
6.04 Community Development Corporation 19
6.05 Cultural Arts Commission 19
6.06 Environmental Conservation Commission 20
6.07 Historical Commission 21
6.08 Oil and Gas Board of Appeals 24
6.09 Parks Board 24
6.10 Planning and Zoning Commission 25
6.11 School Liaison Committee 26
6.12 SMARTGrowth Commission 27
6.13 Tax Increment Reinvestment Zone No. 1 28
6.14 Transportation Commission 29
6.15 Veterans Liaison Board 29
ARTICLE VII CONTACTS AND RESOURCES 30

INTRODUCTION

Welcome!

The Town of Flower Mound has over 100 individuals that serve on fifteen boards, commissions, and committees who advise and assist in carrying out the functions of local government.

Throughout this manual, reference to “board(s)” should be interpreted to mean “commission(s)” and “committee(s)”.

As a board member you perform a public service to the Town and have both the obligation and an opportunity to provide input. This requires a thorough understanding of your role, as well as a willingness to engage constructively with the public, elected officials, and Town staff.

While no one document could adequately cover all aspects of serving on a Town board, this manual covers basic knowledge regarding the operations of most boards. It consolidates various topics and regulations into one place for quick reference. It is not intended to answer every question or address every matter that you may face as a board member. Based on your experience as a board member, you may have suggestions to improve this manual for future editions. We welcome your input.

Most boards are created by Town resolution or ordinance and members serve in an advisory role to the Town Council. They provide information, analysis, and recommendations to assist the Town Council in making important decisions. Some boards have specific authority to make binding decisions in certain areas, such as the Board of Adjustment; the Planning and Zoning Commission; and the Community Development Corporation. These boards generally derive their decision making authority from state laws.

This manual has been adopted by resolution of the Town Council and will be updated from time to time. If any provision of this manual conflicts with any Town Ordinance or the Town Charter, then the Ordinance or Charter shall prevail.

Thank you for your interest in serving the Town of Flower Mound!

Town Secretary’s Office

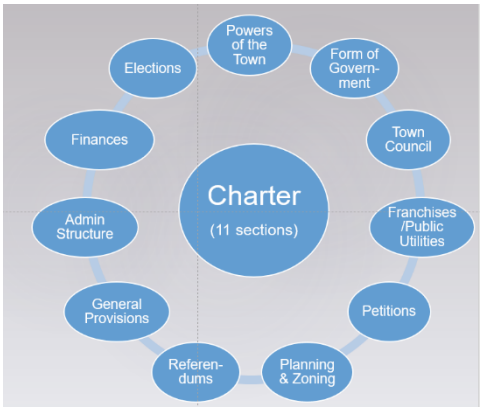
972.874.6076

Townsecretary@flowermound.gov

ARTICLE I FLOWER MOUND MUNICIPAL GOVERNMENT

1.01 Town Charter

The Flower Mound Town Charter was adopted in 1981 and is the basic governing authority of the Town. The Charter determines the form of municipal government, the composition, and powers of the Town Council, and establishes the legal framework necessary for the Town to function. The Charter provides for the operation of municipal functions under the council-manager form of government. Under this system, the Town Council serves as community leaders and policy makers and a professional manager oversee the daily operations of the Town.



1.02 Town Council

The Town Council consists of a mayor and five council members that serve as the legislative body of the Town; all of which are elected from the Town at large and serve three-year terms.

The mayor is a non-voting member of the council (except in the case of a tie vote) that serves as the ceremonial head and policy leader. The mayor presides at Town Council meetings, serves as spokesperson to the community, and facilitates communication and understanding between elected officials.

The council members are the policy makers elected to represent the entire community and concentrate on policy issues responsive to citizens' needs and wishes. As a legislative body, the council members are the community decision makers. They approve the budget and determine the tax rate. The council focuses on community goals, major projects, and long-term considerations such as community growth, land use development, capital improvement plans, and strategic planning.

The Town Council appoints the Town Manager, Town Secretary, Town Attorney, and municipal judge, all of which report directly to the council. All other employees of the Town report to the Town Manager.

1.03 Town Manager

The Town Manager is appointed by the council to serve the community through the professional administration of local government projects and programs. The Town Manager prepares the Town's annual budget for the council's consideration and approval; recruits, hires, and supervises the Town staff; and serves as the council's chief adviser by bringing forth objective information regarding policy matters. The Town Manager makes policy recommendations to the council, which the council may adopt, modify, or reject.

1.04 Town Secretary

The Town Secretary is appointed by the council. The Town Secretary administers the Town's board program, and is responsible for conducting Town elections, preparing and posting Town Council meeting agendas and minutes, serving as coordinator for the Flower Mound Citizen's Academy, and maintaining the official records of the Town. The Town Secretary serves as the staff liaison for the Charter Review Commission and Outstanding Citizenship Award Committee (when active), and the staff contact for the School Liaison Committee.

1.05 Town Attorney

The Town Attorney is appointed by the Town Council. The Town Attorney serves as the legal advisor, representing the Town's legal interests and rights. The Town Attorney attends the meetings of the Planning and Zoning Commission, and Board of Adjustment/Oil and Gas Board of Appeals given their quasi-judicial structure and decision making authority. Questions regarding legal matters should first be directed to the board liaison to determine if a consultation with the Town Attorney is needed.

1.06 Staff Liaison or Staff Contact

The Town Manager assigns a staff member to work with most boards.

Staff liaison role:

1) Prepare and provide meeting calendars, agendas, staff reports, and supporting information to the board members prior to meetings.
2) Ensure compliance with the Texas Open Meetings Act.
3) Respond to board member or public requests for information related to the business of the board.
4) Take meeting minutes, as applicable.

   Board members do not have authority over the work program of Town staff. Rather, the liaison acts as an information resource and provides technical assistance to the board. Board members may not direct Town staff in the performance of their board-related activities, nor can they assign projects or direct the work of staff. A board may request staff's assistance on various projects; however, the Town Manager must approve all requests which create a substantial demand for a work product.

Staff contact role:

A staff contact serves mainly as a resource for the board to answer questions or provide general assistance to the board and may or may not attend meetings of the board. In this structure, typically one of the board members serves as secretary and takes minutes.

ARTICLE II PROCEDURAL INFORMATION

The following information contains general procedures applicable to most boards.

2.01 Qualifications

Most boards require members to be residents, regardless of length of residency, and registered voters at the time of their appointment. There are some exceptions, where members can be county residents or Flower Mound business owners. Some boards have specific job titles (e.g., real estate representative or developer, veterinarian).

2.02 Appointments

The Town Council is responsible for making appointments for board positions. Applicants are considered on a Town-wide basis with a review of qualifications, willingness to serve, and other factors, without regard to age, race, color, national origin, religion, gender, or disability.

Service Term and Resignations

Members are usually appointed to a two-year term and with no term limits. All board members serve at the pleasure of the Town Council and may be removed before their term of office expires. For most boards, terms follow the position and not the person, meaning that for even number places or positions, the term expires in an even number year, and for odd number places, in an odd number year, regardless of when the appointment or reappointment was made.

> *Exception*: Board of Adjustment members may only be removed when their term has expired or for cause on a written charge after a public hearing (LGC 211.008).

A member's appointment to a board can be terminated by written resignation from the member to the Town Secretary or board liaison. This should be done as soon as possible, and no later than two weeks, to ensure that the members' departure doesn't create a hardship for the board to conduct business and the Town Council has adequate time to appoint a replacement.

2.03 Sub-Committees

Sub-committees are sometimes needed to manage specific board or commission tasks or initiatives. Sub-committees can be temporary or permanent. Temporary sub-committees serve a limited and single purpose that is not perpetual and dissolve once its specific task is completed. Permanent sub-committees have ongoing work. Sub-committees serve in an advisory capacity to the board or commission and ultimately to the Town Council.

The Town's practice for the structure of sub-committees is as follows:

- The board or commission creates sub-committee(s) and appoints its members by a majority vote, including the selection of a chair. Before voting

or selecting members, the subcommittee's name and duties shall be defined. If possible, whether the sub-committee is classified as a standing (permanent) or temporary (ad hoc) group should be noted.

1. The purpose of this sub-committee is to _____, with a focus on _____
   Examples of defined duties:
2. The _____ sub-committee discusses or conducts research on topics related to _____, _____, _____, and works with the following advisory boards or commissions:
   - _____
   - _____

   Example of discussion topics may include:
   - _____
   - _____

- All work must be relevant to the board or commission scope as outlined by the Town Council.
- Open Meeting Act (OMA) rules apply for most Town boards; therefore, subcommittee members must have less than a quorum and adhere to the rules associated with the OMA. For this reason, subcommittees should be limited in size. Additionally, members should generally not serve on more than two committees to be effective and to avoid burnout.
- When selecting members to serve on a sub-committee, all members should be allowed to participate based on their interest level or subject matter expertise.
- Sub-committee chairs must report to the board or commission at each regular meeting as warranted.
- Periodically, the board or commission will evaluate the subcommittee(s) for effectiveness, including but not limited to the number and types of subcommittees and their membership makeup. Subcommittees may be automatically dissolved once their work is done without formal board action; however, the dissolution should be noted in the board or commission minutes.
- Staff liaisons do not support subcommittees; however, liaisons may participate in some meetings or activities as warranted or if their schedule allows.
- Minute taking is optional; however, is advisable.

2.04 Election of Officers

Procedures for electing a chair and vice chair (officers) ensure meetings are conducted orderly. Except as otherwise provided by state or federal law, Town Charter, or Town ordinance or resolution, the election of officers for Town Council appointed boards will be as follows:

a) The chair and vice-chair will be elected by voting board members for most boards.

b) The Town Council has the sole authority to appoint the chair for some boards (e.g., Tax Increment Reinvestment Zone, and Charter Review Commission).

c) Election of officers shall be held annually as soon as practicable after the annual appointment process. If, for any reason, the chair or vice-chair vacates their seat, a special election should be held by the voting members to fill the unexpired term. A temporary chair may be selected by the board. Depending on the board structure, the chair may or may not vote on matters coming before the board, and as follows:

Chair Votes (only if a tie)	Chair Votes	Not Applicable
Animal Services Board		Capital Improvements Advisory Committee
Cultural Arts Commission	Board of Adjustment	Community Development Corporation
Environmental Conservation Commission	Oil & Gas Board of Appeals	School Liaison Committee
Historical Commission	Tax Increment Reinvestment Zone	SMARTGrowth Commission
Parks Board		Veterans Liaison Board
Planning & Zoning Commission		
Transportation Commission		

2.05 Oath of Office and Anti Bribery Statement

Public "officers" are required to take the oath of office and sign the anti-bribery statement as required by the Texas Constitution. This includes all members of the Planning and Zoning Commission, Board of Adjustment/Oil and Gas Board of Appeals, and Community Development Corporation. For all other boards, only board chairs and vice chairs must take an oath of office and complete additional paperwork. Consult the Town Secretary's office to make sure you have taken and signed such oath within a timely manner.

2.06 Role of an Alternate

Alternates serve as voting members in the absence of a regular member. In determining which alternate members shall serve in the absence of a regular member, the alternate member with the longest tenure shall serve for most boards. If, for any reason, the alternate member with the longest tenure cannot serve, the second alternate member shall serve, and so forth.

Alternates are encouraged to attend all meetings to remain apprised of the board work product and to participate actively in all discussions.

2.07 Attendance

Because the Town Council values your viewpoint, they take your appointment, attendance, and involvement on a board very seriously and ask that you do the same.

The Town Council knows that board members have careers and other responsibilities that demand their time. However, because of the importance of citizen boards, the Town Council asks that each board member, including both regular and alternate members, make every effort to attend all board meetings and notify the staff liaison in advance if they will be unable to attend a meeting.

Consideration shall be given to absences such as personal or family illness, death of a family member, jury duty, service in the armed forces, or attending a seminar involving municipal matters of importance to the member's duties, absence necessary for the member's business or employment, and any related emergencies or other matters determined by the Town Council to be excusable.

Should a board member fail to notify the board liaison after three consecutive regular board meetings or if the reason for their absence is not as described in the above-referenced paragraph, the board liaison will inform the Town Secretary, who will then let the Town Council know of the absences for any action deemed necessary.

The staff liaison or board secretary shall record all members' attendance and provide it to the Town Secretary annually upon request.

2.08 Vacancies

Vacancies generally occur when a member resigns or moves out of Town. Board members should notify their staff liaison or staff contact immediately once that vacancy is confirmed. The staff person will inform the Town Secretary's office, who will in turn notify the council of the vacancy. Council action in the way of a replacement will be timely if the vacancy creates a hardship in the board's ability to conduct business, or if the vacancy is early in the fiscal year. Otherwise, a replacement may be delayed until the Town's annual board process takes place in the fall.

A vacancy can also be created if council action is taken to remove a member, and regardless of service term.

2.09 Orientation and Training

Town Sponsored Training (Ord. 12-21)

Members of any Town board shall complete the Town sponsored new member orientation training within 90 days of their appointment. Such training may be completed either by attending a live training session offered by the Town (preferred), or by watching a video provided by the Town. This training is in addition to the state Open Government training.

Open Meetings Act and Public Information Act Training

The Open Meetings Act and the Public Information Act impose mandatory open government educational requirements on elected and appointed officials. Each board member is required to take this training within 90 days after their appointment. Training videos are available online at www.oag.state.tx.us.

External Training

Other training opportunities may be made available through area governmental organizations such as North Central Texas Council of Governments, Texas Municipal Clerks Association, or Texas Municipal League. The Town Secretary's office or staff liaison will make the outreach to board members based on relevance and availability of funds.

2.10 Rules of Procedure

Most boards establish their own rules and procedures that govern its operation. Those rules will be discussed in detail with your staff liaison or staff contact.

The rules of procedure must accommodate the public on agenda items and public hearings prior or during the item(s) to be heard. The Town Council adopted the following rules regarding the public's right to address the governmental body, which includes the Town Council and all boards (Res 26-19):

1. Every open meeting will include a public comment section on the agenda that will be placed immediately after the invocation and pledge, as applicable.

   Each printed or online public comment form will include the following instructions:

   a. Turn in this form to the Town Secretary or board liaison prior to the time the meeting is scheduled to begin and up to when the public comment portion of the meeting has concluded.

   b. State your name and address when you begin your remarks.

   c. Speakers are limited to 3 minutes. Time limits may be adjusted by the Mayor or Chairperson.

   d. If you wish to speak about an item that is a Public Hearing, you will be called after the Mayor or Chairperson opens the Public Hearing for that item.

   e. Remarks that are prohibited by law will not be tolerated.

   f. Any person wishing to make a presentation that includes any form of electronic media must provide that digital file to the Town Secretary's Office, or other appropriate department, by 12:00 p.m. on the day of the meeting for review by the staff. The file must be compatible with the

Town's technology equipment. Presentations shall not contain information that is prohibited by law.

The Texas Open Meetings Act restricts members of the governing body, or board from discussing items not posted on the agenda. If the topic is not a posted agenda, action or responses to a speaker's remarks by members of the governing body, or board, is limited to either a statement of fact, recitation of existing policy, or a proposal to place the subject on the agenda for a future meeting.

The Town Council has adopted Robert's Rules of Order to serve as a guide on all questions of procedure not addressed by provisions of the Town Charter or contained within the Code of Ordinances. In the event of a conflict between the Charter or Code of Ordinances and Robert's Rules of Order, the Charter and/or Code of Ordinances shall prevail.

For more information:

- Parliamentary procedures at a glance
- Public hearing format and procedure

2.11 Minutes

The staff liaison will take meeting minutes in a form consistent with Town Council meeting minutes. Minutes of the meeting will be presented for approval by the members present at the next meeting, and revisions, corrections, or amendments will be made at that time. For retention purposes, approved minutes shall be stored following the Town's Records Retention Program.

For some boards, a secretary, selected by the members, will take the minutes, as applicable. Minutes are not required for the School Liaison Committee or the Veterans Liaison Board.

2.12 Communication with Town Council

Staff liaisons will seek board input on work topics and priorities for the council to discuss and consider during their annual strategic planning session.

Boards and commissions may occasionally participate in a joint work session with council when more immediate feedback or input on a topic is needed.

Some boards must provide annual reports to the Town Council, and others may be periodically asked to report on their activities, accomplishments, projects, and initiatives.

Board and commission members are encouraged to first contact their staff liaison regarding policy matters that fall within the board's scope and purpose. The mayor or any member of council may also be contacted individually or collectively at Towncouncil@flowermound.gov.

2.13 Communication with Media and Social Media

Should you choose to post information on social media sites or communicate with the media, please refrain from using your title so it doesn't give the impression you are making a statement or opinion that is representative of the entire board you serve on. This also applies when speaking to others. Make it clear that you are speaking in your personal capacity.

Board member may incur personal liability for statements made publicly outside of a posted meeting.

2.14 Communication with the Public

A group email exists for each board to provide the public a way to offer input regarding agenda items coming before the board (e.g. PZ@flowermound.gov, ParksBoard@flowermound.gov, etc.). Due to open meeting and public information regulations, this is a one-way communication from the public to board members. Staff will respond to any questions asked and will summarize any echoing issues or concerns as part of their presentation for that item.

The staff liaison or contact manages the group email distribution list.

2.15 Being an Effective Board Member

The role of a board member is to bring their experience and insight to the board and deliberate with other members to reach decisions that fulfill the purpose of the board in the best interest of the citizens it serves, and with consideration to applicable laws. Several strategies may be used to be an effective board member:

a) **Be prepared**. Reading your agenda packet before the board meeting is essential. Thorough preparation will enhance the ability to actively participate in the meeting.

b) **Ask questions**. Board members are not expected to know everything. When policy is discussed or decisions are deliberated, these are key moments to ask questions to facilitate learning. Seek clarification from those presenting during the meeting.

c) **Know the law**. New regulations are continually revised and updated. Stay apprised to changes that impact the board you serve on.

d) **Maintain focus**. Being a board member requires being attentive and open to learning new things. Remain engaged in the meeting and avoid distractions that can steal your attention, such as smartphones and other devices.

e) **Be courteous**. Every member's contribution is significant. All members should be treated equally and with the utmost respect and courtesy when

sharing thoughts, ideas, and suggestions. Those viewpoints are crucial to the decision-making process.

f) **Be punctual**. Make every attempt to arrive on time for meetings and let your board liaison know if you will be absent. Unexpected absences can cause a meeting to be canceled if not enough members are present to establish a quorum. If a quorum is lacking, the board cannot conduct business. Please provide advance notice of any absences as a courtesy to your fellow board members and the public.

g) **Active participation**. Passivity breeds inactivity. Rather than reacting to what occurs, be proactive in thinking. Asking appropriate questions, requesting important information, and participating in discussions will benefit you as a board member.

h) **Watch**. You may wish to review materials or videos from prior meetings to familiarize yourself with topics that come before the board you serve on, as applicable. Most board meetings are streamed live via FMTV, recorded, and archived.

2.16 Security

There are security measures in place in Jody Smith Hall should the need ever arise. Your staff liaison will provide an overview of those measures and the evacuation plan.

ARTICLE III ETHICS AND CONFLICTS OF INTEREST

3.01 Ethics

The Town Council has adopted an ethics policy that applies to all council members and appointed Town officials, including board members. Click here for detailed information about the Town's Code of Ethics. The Town's Code of Ethics is substantially stricter than Texas state law. Please familiarize yourself with these regulations.

3.02 Conflict of Interest

The State's conflict of interest law, Chapter 171 of the Texas Local Government Code, although only applicable to officers of the Town, has been made applicable to all board members by practice. However, penal provisions of Chapter 171 are not applicable to advisory board members.

Chapter 171 requires a board member with substantial interest in a business entity or real property to file an affidavit with the staff liaison and abstain prior to a vote or decision on any matter involving the business entity or real property if the action on the matter will have a special economic effect on the business entity distinguishable from the effect on the public, or if it is foreseeable that the action on the matter will have a special economic effect on the value of the real property, distinguishable from its effect on the public. For example, the Attorney General (AG) has opined that a special economic effect on the value of real property distinguishable from the effect on the public exists when a Planning and Zoning board member has an interest in real property located within 200 feet of property

being rezoned. However, the AG made it clear that these evaluations are highly fact intensive. Ask yourself the question, will this action before my board affect the value of my real property in a manner that is different from the public at large?

You have a substantial interest in a business entity if:

1. You own 10 percent or more of the voting shares of the business entity or own either 10 percent or more or $15,000 or more of its fair market value;
2. You received funds from the business entity exceeding 10 percent of your gross income for the previous year.

You have a substantial interest in real property if the interest is an equitable or legal ownership with a fair market value of $2,500 or more.

You have a substantial interest if your close relative within the first degree of consanguinity and affinity has a substantial interest.

A violation of chapter 171 is a Class A misdemeanor.

If you think you have a Chapter 171 conflict, contact the staff liaison prior to the meeting to sign the required affidavit. The affidavit must be signed prior to the item being considered. You, or the presiding officer, should also announce that you have a conflict at the meeting and excuse yourself from the room while the item is being considered. You should not participate on the matter, including contacting members of the board or staff concerning the matter.

Click here for the memo written by the Town Attorney on this topic.

3.02.1 Appearance of Conflict

There are times you will have a perceived conflict of interest even though it is not a conflict that is prohibited by law. In those cases, you should make a judgment call as to whether you should abstain from the matter. If you think the perceived conflict affects your ability of independent judgment or there is a strong appearance that you lack the ability to remove yourself from the perceived conflict in making a decision, you should carefully consider whether abstention is appropriate. Often, these are difficult judgment calls for which there are no absolute right answers. In making your decision, you should weigh the harm of participating against your general duty to serve on the board. You have a duty to participate and vote on all matters that come before the board, unless you have a conflict, or you lack information to decide the issue. Do not hesitate to consult with the Town Attorney's office for guidance.

3.02.2 Chapter 176 Conflicts Disclosure

Chapter 176 of the Texas Local Government Code requires you to file a Conflict Disclosure Statement with the Town Secretary if you or your family member:

a) Has an employment or business relationship with a Town contractor or vendor that results in taxable income.

b) Received or accepted one or more gifts from a Town contractor or vendor (excluding gifts of food, lodging, transportation, or entertainment accepted

as a guest) with an aggregate value of $250 in the preceding 12 months. You are required to file the form within seven days after you become aware of the relationship with the Town. The Conflict Disclosure Statement is signed under penalty of perjury, and it is a Class C misdemeanor to fail to timely file the form. However, it is a defense to prosecution if you file the Conflict Disclosure Statement not later than the seventh day after you receive notice of violation. Therefore, you have two chances to comply.

3.02.3 Incompatibility of Office

The common law doctrine of incompatibility of office prohibits you from holding two conflicting public offices. You cannot hold another public office that conflicts with your duties with the board. Because this is very fact sensitive, you should consult with the Town Attorney's office if you hold another public office. You should do this prior to serving as a governmental board member, as your acceptance of the governmental board appointment may result in the automatic forfeiture of your other public office.

ARTICLE IV TEXAS OPEN MEETINGS ACT

Most Town boards must comply with the Texas Open Meetings Act (the "Act")(Government Code Chapter 551). There are exceptions for some recommending boards or committees based on their duties or how they are structured.

The act generally provides that meetings of a governmental body shall be public. Written notice must be given of dates, times, and locations of all meetings. Minutes of each meeting must be taken, and a record of votes and decisions kept as public record. The board liaison will ensure the agenda is properly posted and minutes are taken, as applicable. There are criminal penalties for holding an unauthorized closed meeting for boards with decision-making authority.

When a quorum is anticipated in any given place where Town business is being discussed, the meeting should be posted as a precautionary measure to avoid the accusation of attempting to conduct Town business in private. Board discussion during meetings should be limited to only those items listed on the posted agenda. Conversation or action on items not posted on the agenda would be considered a violation of the act. The Open Meetings Act does not apply to purely social gatherings, conventions, or workshops. Any specific questions or issues should be referred to the Town Attorney's office through the staff liaison.

All board members must take the Texas Open Meetings training within 90 days of their appointment.

For more detailed information about the Act, such as what constitutes a meeting, notice requirements, open/closed session rules, and penalties and remedies for violations of the act, see click on the following link for the Texas Open Meetings Act Handbook produced by the Texas Attorney General.

ARTICLE V PUBLIC INFORMATION ACT

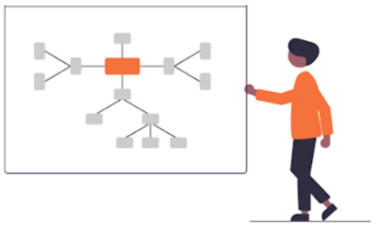
The Texas Public Information Act (the "Act"), provides all public records must be open to inspection and copying unless otherwise made confidential by law. All board members are subject to the Act. For this reason, it is a good approach to always presume that the public has access to the contents of board files and records, including email, text messages, and social media as it relates to Town business. Treat the contents of all communication in a professional manner.

Rule of Thumb: Ask yourself, would I want to see what I wrote in the local paper, posted in social media, or recited during a public meeting?

As part of your orientation as a new board member, and in accordance with Government Code 552.024 you will be asked to complete a form that indicates your preference as to what information you would allow the public access to as it relates to home address, home telephone number, emergency contact information, or that reveals whether the person has family members. This form should be completed and signed no later than the 14th day after appointment.

The Town seeks emergency contact information from all board members in the event a medical emergency should arise during your time of service.

ARTILE VI BOARDS, COMMISSIONS, AND COMMITTEES



The Town has fifteen (15) active boards that serve the citizens of Flower Mound. Some carry decision making authority and others provide recommendations to Council for final approval. The board recommendation is made known at the end of an agenda caption in the Town Council agenda (i.e. *(name of board) recommended approval by a vote of X to X at its (date), meeting.)* or included in the staff report for that item.

Ad hoc boards may be temporarily created and terminate upon completion of a specific task or special purpose for which it was created, or when abolished by a majority vote of the Town Council.

The Town Council appoints members to some external boards, such as the Denton County Transportation Authority, in that Flower Mound is allocated one member to serve on the board due to population.

Each Town board is listed below, and includes:

a) Overview
b) Powers and duties
c) Member makeup
d) Meeting frequency
e) Board URL or additional information
f) Board liaison or staff contact

Some items require action from multiple boards for a recommendation, as illustrated below:

K. REGULAR ITEMS

3. **College Parkway Extension (MPA15-0006)** **Public Hearing**

Public Hearing to consider a request for a Master Plan Amendment (MPA15-0006 – College Parkway Extension) to amend Section 3, Specific Plans, and Section 7.0, Thoroughfare Plan, to change the designation and design of the College Parkway Extension west of Long Prairie Road, and to amend corresponding sections and development controls outlined within Specific Plan Area 5 (SPA 5) that apply to the College Parkway Extension, and to consider adopting an ordinance providing for said amendment. The property is generally located west of Long Prairie Road and north and east of Rippy Road. *(The Transportation Commission recommended approval of the Thoroughfare Plan amendment by a vote of 4 to 0 at its April 14, 2015, meeting.) (The Planning and Zoning Commission recommended approval by a vote of 6 to 0 at its April 27, 2015, meeting.)*

6.01 Animal Services Board

Overview: Serves in an advisory capacity to the Town Council in matters pertaining to the animal shelter complying with the laws set forth in the Texas Rabies Control Act. The board shall assist the animal shelter in complying with the requirements of Chapter 823 of the Health and Safety Code.

Powers & Duties:

a) The board will serve in an advisory capacity to the Town Council in matters pertaining to the animal shelter and/or animal control issues. The board may provide recommendations to the Town Council regarding its compliance with the Texas Rabies Control Act of 1981, as amended, and may recommend improvements to the efficiency and cost effectiveness of the Town's animal control program.

b) The board shall assist the animal shelter in complying with the requirements of Health and Safety Code, Ch. 823, as amended.

c) The board shall perform such other duties as prescribed by the Town Council by ordinance or resolution.

Members: Seven members and two alternates, including:

a) One licensed veterinarian.

b) One county or municipal official.

c) One person whose duties include the daily operation of the animal shelter.

d) One representative from an animal welfare organization.

Members and alternates shall be resident citizens, Town employees or business owners in the Town.

Meetings: Must meet a minimum of three times per year, and typically with a 6:30 p.m. start time.

Board URL: Animal Services Board

Board email: ASB@flowermound.gov

Staff Liaison: Animal Services Manager, 972.874.6389

6.02 Board of Adjustment

Overview: A quasi-judicial board which hears and decides on matters related to property rights for appeals, variances, and special exceptions.

Powers & Duties: Shall have the power to impose reasonable conditions to ensure compliance and protect adjacent property:

a) To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official of the Town in the enforcement of subpart B of the code, pursuant to section 78-84, appeals.

b) To permit variances or modifications of the height, yard, area, coverage, and parking regulations, pursuant to section 78-85, variances.

c) To hear and decide special exceptions to the terms of subpart B of the code, pursuant to section 78-86, special exceptions.

Members: Five regular members and three alternates.

Meetings: Second Wednesday of the month as needed, and typically with a 6:30 p.m. start time.

Board URL: Board Of Adjustment

Board email: BOA@flowermound.gov

Staff Liaison(s): Administrative Assistant, 972.874.6356, buildinginspections@flowermound.gov

6.03 Capital Improvements Advisory Committee

Overview: Committee required to fulfill the duties required by state law (Local Government Code 395) pertaining to the assessment and collection of impact fees.

Powers & Duties: The committee reviews projects, collects impact fees, and streets, water, and wastewater plans.

Members: The Planning and Zoning Commission serves as the members of this board (two year terms), including one real estate representative and one development community representative (three year terms).

Meetings: Bi-annually as needed and typically in conjunction with a scheduled Planning and Zoning meeting, and typically at 6:00 p.m.

Board URL: Capital Improvement Advisory Committee

Board email: PZ@flowermound.gov

Staff Liaison(s): Planning Services, 972.874.6350, planning@flowermound.gov

6.04 Community Development Corporation

Overview: Accomplish public purpose of, and to act on behalf of, the Town of Flower Mound, and the specific purposes for which the corporation is organized and as further defined below.

Powers & Duties: With Town Council approval, may issue bonds on behalf of the Town and expend the proceeds of any sales and use tax levied for projects authorized by Section 4B of Article 5190.6 of the Texas Revised Civil Statutes, as amended, for land, building, equipment, facilities, and improvements required or suitable for use for public park purposes and events, including parks and park facilities, and the maintenance and operation expenses for any of the above described projects.

Members: Seven directors. Not more than four directors shall be persons who are employees, officers, or members of the governing body.

Meetings: As needed.

Board URL and Additional Information: Community Development Commission

CDC Articles of Incorporation

Board email: CDC@flowermound.gov

Staff Liaison: Parks and Recreation Services, 972.874.6342, parks@flowermound.gov

6.05 Cultural Arts Commission

Overview: Serves in an advisory capacity to the Town Council and Town staff on policies, services, and programs related to cultural arts programs, art in public places, and library services.

Powers & Duties:

a) Meetings will be held as needed to accomplish the goals of the commission.

b) Will advise the Town Council and Town staff regarding policies, services and programs, including but not limited to, cultural arts programs, art in public places, library programs, and library collection development and fines.

c) Will review and make a final determination of any request for reconsideration for the removal of library materials.

d) Will guide the vision for public art in the Town of Flower Mound, maintain a roster of artists, solicit and recommend to the Town Council art for both permanent and temporary displays in the Town.

e) Will be responsible for identifying and securing funding for the purchase of art work or for the installation of donated art work.

f) Will have those other responsibilities as outlined in the Public Arts Policy or as assigned by the Town Council.

g) The recording of minutes of all commission meetings shall be the responsibility of the Town staff.

Members: Six regular members and two alternates.

Meetings: Meets the fourth Thursday of January, March, May, July, September, and October at 6:30 p.m.

Board URL: Cultural Arts Commission

Board email: ArtsCommission@flowermound.gov

Staff Liaison: Library Services, 972.874.6200, fmpl@flowermound.gov

6.06 Environmental Conservation Commission

Overview: Serves in an advisory capacity on matters pertaining to the conservation of natural resources and building an environmentally sustainable community.

Powers & Duties:

a) Open space. Promote the Town's open space plan and its components and facilitate relations between landowners and land trusts. Develop and implement appropriate land protection techniques and tools for preserving open, productive agricultural, natural and scenic lands, while creating compatible recreational resources where appropriate.

b) Conservation projects. Review, evaluate and/or propose conservation projects in relation to objectives expressed in the open space plan and advise Town Council on appropriateness of conservation incentives.

c) Water quality and conservation. Advise the Town Council relative to water conservation and the future character and health of the Town's bodies of water, stormwater, ground water, and surface water to include reviewing water quality and conservation program activities, prioritizing actions and plans, and public education.

d) Tree preservation. Oversee and advise the Town Council and staff in policy matters relative to tree preservation. Promote

tree care, planting, and the proper management of urban forests.

e) Special matters. Consider, investigate, report and/or recommend upon any special matter or question coming before the commission within the scope of its duties and responsibilities or referred to it by the Town Council or Town Manager.

f) Outdoor learning area. Assist in the enhancement, promotion, and preservation of the Town's tree farm and outdoor learning area.

g) Recruitment and funding. Assist and advise the Town Council and staff in recruitment of volunteers, facilitating grant applications, and seeking contributions to support environmental initiatives.

h) Public engagement. Promote public awareness and community outreach programs related to environmental initiatives.

i) Advisory resources. The commission may form subcommittees, recruit unpaid advisors, hold public hearings, encourage the interest of other organizations in its objectives, and engage in similar activities which in its judgment may assist it in making recommendations and promoting environmental conservation.

j) Regulations. The commission may propose adoption, amendment, or repealment of regulations to Town Council as deemed necessary or desirable in order to carry out its powers and duties.

k) Reporting. The commission shall submit to the Town Council, not less than every 12 months, a report of its progress and recommendations.

l) Sustainability. The commission shall develop, oversee, and promote the Town's sustainability plan and its components.

Members: Seven regular and three alternates.

Meetings: First Tuesday of the month at 6:30 p.m.

Board URL: Environmental Conservation Commission

Board email: ECC@flowermound.gov

Staff Liaison: Environmental Services, 972.874.6340, EnvironmentalServices@flowermound.gov

6.07 Historical Commission

Overview: The purpose of the Historical Commission is to identify, collect, and preserve information and artifacts relevant to the Town's history,

emphasizing the authenticity of all historical data and items received.

Powers & Duties:

1. Collection of historical items and information.

a. The Commission shall act as a clearinghouse for items and information of important historical significance to the Town.

b. The Commission shall develop a policy for the acceptance, deaccession, loan, and maintenance of items and information of historical significance, including criteria and procedures, as adopted by Town Council.

c. The Commission shall acquire items and information that have a historical significance to the Town using established acceptance criteria and predetermined procedures as outlined in the policy document. Once accepted, these same items would be considered Town property.

d. Written property owner consent is required to enter private property to review or secure items of historical significance

2. Historical projects.

a. Develop procedures and guidelines for conducting oral history interviews, including coordination with staff.

b. Coordinate with staff to create a web presence for significant historical locations in Flower Mound.

c. Advise staff regarding any issues or updates to the recorded history of Flower Mound in the book *Sweet Flower Mound Land*.

d. Submit articles of historical significance to staff for possible use in various Town publications.

e. Identify historical landmarks located in Flower Mound and provide recommendations for their care and maintenance to the proper authority.

f. Coordinate with Town departments for various special projects that align with the Commission's purpose.

g. Suggest sources of funds for preservation initiatives, including but not limited to state and federal grant opportunities.

3. Public engagement.

a. Increase public awareness of the importance of preserving the Town's history by developing and participating in public education programs.

b. Serve as a resource for the Gibson Grant Log House by assisting in programs, tours, exhibits, or events, and train or serve as docents.

c. Coordinate with Town departments for opportunities to showcase the Town's history at current or future events.

d. Listen to citizen input relative to preserving the Town's history.

4. Advisory resources.

a. Make recommendations to the Town Council, the Cultural Arts Commission, and Town staff on the use of historic icons throughout the community.

b. Establish working relationships with individuals or organizations interested in preserving the Town's history, including but not limited to The Flower Mound Foundation.

c. The Commission may use the services of volunteers through the Town's volunteer application process to help carry out the duties and responsibilities of the Commission.

d. Collaborate with the Parks Board for the naming and renaming of parks, trails, greenbelts, and facilities specific to historical figures.

e. Utilize the OHC as a resource and as outlined in the Memorandum of Understanding between the Town and Denton County.

5. Reporting.

a. Staff liaisons will seek input from the Commission for work topics and priorities for council discussion and consideration during their annual strategic planning session.

b. The Commission will provide a report to Town Council on current or future projects during the annual board and commission reporting process.

6. Other.

a. The Commission may perform such other duties as prescribed by the Town Council by ordinance or resolution.

b. As the Commission serves in an advisory capacity only, the Commission and its individual members may not legally or financially bind the Town in any respect.

Members: Seven regular members and one representative from the Denton County Office of History and Culture shall serve as an ex-officio non-voting member.

Meetings: Second Thursday of each month at 6:30 p.m.

Board URL: https://www.flowermound.gov/2287/Historical-Commission

Board email: historicalcommission@flowermound.gov

Staff Liaison: Strategic Services, Senior Management Analyst, 972.874.6087

6.08 Oil and Gas Board of Appeals

Overview: Hear and decide appeals of orders, decisions, or determinations made by the oil and gas inspector relative to the application and interpretation of Code of Ordinance.

Powers & Duties: The Oil and Gas Board of Appeals performs the following duties:

a) Hears and decides appeals of orders, decisions, or determinations made by the oil and gas inspector.

b) Hears and decides variance requests to Chapter 34 Oil and Natural Gas Drilling Ordinance.

c) Hears and determines appeals where it is alleged there is error or abuse of discretion regarding the issuance of an oil, gas, or combined well permit or the revocation or suspension of any permit issued.

d) Decisions by the board may be presented by the applicant to a court of record for an alternate decision.

Members: Comprised of the Board of Adjustment members.

Meetings: Third Wednesday of the month, as needed, 6:30 p.m.

Board URL: Oil & Gas Board of Appeals

Board email: BOA@flowermound.gov

Staff Liaison(s): Environmental Services, 972.874.6340
EnvironmentalServices@flowermound.gov

6.09 Parks Board

Overview: The Parks Board serves in an advisory capacity to the Town Council and staff in policy matters regarding parks and recreation.

Powers & Duties:

a) Advise the Town Council and staff in policy matters regarding parks and recreation, including goals, objectives, and programs.

b) Assist the Town Council and staff in the planning process for parks and recreation programs.

c) Promote parks and recreation participation.

d) Assist the Town Council and staff in the recruitment of volunteers.

e) Advise the Town Council and staff regarding policies, services and programs provided or sponsored by the community services department. This includes but is not limited to: parks and recreation programming, senior citizen activities, and fees for community services programs and activities.

f) Advise the Town Council and staff regarding revenues and expenditures from dedicated funding sources including the special activities fund, park development funds and any similar fund created to support the community services department.

g) Promote the benefits of community services facilities, programs, and activities, and when necessary, solicit public volunteer assistance.

h) Oversee and advise the Town Council and staff regarding any issues or updates to the recorded history of Flower Mound in the book *Sweet Flower Mound Land*.

i) Consider, investigate, make findings, report and recommend upon any special matter or question coming before the board within the scope of its duties and responsibilities or referred to it by the Town Council or Town Manager.

Members: Seven regular members and three alternates.

Meetings: First Thursday of each month.

Board URL: Parks Board

Board email: ParksBoard@flowermound.gov

Staff Liaison(s): Parks Department, 972.874.6425, parks@flowermound.gov

6.10 Planning and Zoning Commission

Overview: The Planning & Zoning Commission is part advisory to the Town Council and part quasi-judicial. The Commission exercises the duties and powers as may be now or hereafter conferred by the

Town's Comprehensive Zoning Ordinance or applicable laws of the State of Texas.

Powers & Duties:

a) Hears, recommends, or determines any matter relating to zoning, planning, or subdivision control as they may be specified or required under the Town's Comprehensive Zoning Ordinance or applicable laws of the State of Texas

b) Recommends the boundaries of the various zoning districts and appropriate regulations to be enforced therein under the Town's Comprehensive Zoning Ordinance or the laws of the State of Texas to the Town Council and to recommend approval or denial of zoning changes and regulations under the Town's Comprehensive Zoning Ordinance

c) To recommend to the Town Council the boundaries of the various zoning districts and appropriate regulations to be enforced therein under subpart B of the code or the laws of the state and to recommend approval or denial of zoning changes and regulations under this subpart B.

d) To hear, recommend or determine any matter relating to zoning, planning or subdivision control as they may be specified or required under subpart B of the code or applicable laws of the state.

e) To exercise the duties and powers as may be now or hereafter conferred by subpart B of the code or applicable laws of the state.

Members: Seven regular members and two alternates. Planning and Zoning members also serve on the Town's SMARTGrowth Commission and Capital Improvement Advisory Committee.

Meetings: Second and fourth Mondays of the month.

Board URL: Planning and Zoning Commission

Board email: PZ@flowermound.gov

Staff Liaison(s): Planning Services, 972.874.6350, planning@flowermound.gov

6.11 School Liaison Committee

Overview: This committee was created to enhance the Town's current relationships with local educational institutions that serve the students and residents of Flower Mound. The purpose of this committee is to have representatives serve in an advisory and participant role on matters involving education that impact the citizens of Flower Mound.

Powers & Duties:

a) Create and maintain an education information resource on the Town's website.

b) Work with various boards, Town Staff, the public and other organizations, to serve in both advisory and participative roles as it relates to coordinating activities and announcements.

c) Help to foster a working relationship between the Town and schools.

d) The School Liaison Committee may have other responsibilities as authorized or assigned by the Town Council.

Members: Five members, with a Chair, vice-chair, and secretary from among the membership.

Meetings: At least quarterly.

Board URL: School Liaison Committee

Board email: SLC@flowermound.gov

Staff Contact: Town Secretary, 972.874.6076, Townsecretary@flowermound.gov

6.12 SMARTGrowth Commission

Overview: SMARTGrowth analysis, as required, shall apply to, and occur in conjunction with all applications for master plan amendments, zoning amendments, development plans, record plats and/or site plans, where applicable.

Powers & Duties: Performs duties below and all other powers as may be conferred by the Town Council:

a) Conducts a review of the effectiveness of the SMARTGrowth Program in achieving its stated objectives.

b) Conducts public hearings and meetings as necessary to obtain the requisite public comment and input to perform the powers and duties.

c) Determines whether compliance with the SMARTGrowth Criteria has been maintained by all development applications and projects previously approved.

d) Determines whether compliance with the SMARTGrowth Criteria is likely to be maintained in the future, based on short-range (one-to-two years) and mid-range (three-to-five years) forecasts.

e) Performs the duties and responsibilities of the capital improvements advisory committee required by Chapter 395 of the Texas Local Government Code pertaining to the assessment and collection of impact fees.

Members: Planning and Zoning members and one representative from the real estate industry, and one representative from the development

industry. The Town Manager and Town Attorney, directors of planning and environmental services shall serve as ex-officio members.

Meetings: As needed .

Board URL: SMARTGrowth Commission

Board email: PZ@flowermound.gov

Staff Liaison: Planning Services, 972.874.6350, planning@flowermound.gov

6.13 Tax Increment Reinvestment Zone No. 1

Overview: The Tax Increment Reinvestment Zone No. 1 (TIRZ) district was created in 2005. TIRZs are used as forms of tax increment financing, which is an economic development tool to incentivize both development and redevelopment. A TIRZ is not an additional tax. Instead, it establishes a "base tax value" for a designated geographic area. Once that base tax value is established, a TIRZ reallocates some or all of the additional ad valorem property taxes in the zone.

Powers & Duties: This board carries out tasks designated by the Town Council along with the following duties:

a) Ensures compliance of Chapter 311 in the Texas Tax Code for the operation of the TIRZ district.

b) Reviews the annual report to be distributed to the chief executive officer of each taxing unit that levies property taxes on the real property in the reinvestment zone.

c) Reviews the finance plan and the project plan making recommendations to Town Council for approval.

Members: Three members appointed by the Town Council; two members appointed by the commissioner's court of Denton County. The Flower Mound Mayor and Town Manager shall serve as ex officio non-voting members.

Meetings: At least once per year, on an as-needed basis.

Board URL & Additional Information: Tax Increment Reinvestment Zone

TIRZ FAQ's

Board email: NA

Staff Liaison: Economic Development, 972.874.6044

6.14 Transportation Commission

Overview:

a) Advise Town Council staff regarding changes to regulatory traffic control, prioritization of transportation improvements, changes to the thoroughfare plan, and implementation of reduced neighborhood speed limit policy.

b) Advise Town Council and staff regarding the implementation of the neighborhood traffic management policy.

c) Provide recommendations to the Town Council and staff regarding the short-term and long-term transportation needs of the Town.

d) Listen to unique citizen concerns relative to transportation.

e) Perform such other duties as the Town Council may prescribe by ordinance or resolution.

Powers & Duties:

a) Provide recommendations to the Town Council and staff regarding the short-term and long-term transportation needs of the Town.

b) Advise the Town Council and staff regarding the implementation of the neighborhood traffic management policy.

c) Advise the Town Council and staff regarding changes to regulatory traffic control, prioritization of transportation improvements, changes to the thoroughfare plan, and implementation of the reduced neighborhood speed limit policy.

d) Listen to unique citizen concerns relative to transportation.

e) Perform such other duties as the Town Council may prescribe by ordinance or resolution.

Members: Seven regular members, two alternates.

Meetings: Second Tuesday of the month (subject to change; however, at least four times per year).

Board URL: Transportation Commission

Board email: TRC@flowermound.gov

Staff Liaison: Transportation Services, 972.874.6303, transportation@flowermound.gov

6.15 Veterans Liaison Board

Overview: The Veterans Liaison Board was created to enhance the Town's current programs and services that honor our community's men and women who served, or are currently serving, in the U.S. Armed Forces. The purpose of the board is to have representatives from

the Veteran community serve in an advisory and participative role on matters pertaining to Veteran's affairs.

Powers & Duties:

a) Serve as an information resource on the Town's Veterans portal website.

b) Work with various boards, Town staff, the public and other organizations, to serve in both an advisory and participative role in coordinating Veterans events, activities, and announcements.

c) Help to maintain a positive relationship between the Town and Denton County Veterans and other area Veteran support organizations.

d) The Veterans Liaison Board may have other responsibilities as authorized or assigned by the Town Council.

Members: Nine members total, with eight of the nine required to be currently serving in the military or hold a Veteran status.

Meetings: Meets quarterly or as-needed.

Board URL: Veterans Liaison Board

Board email: VLB@flowermound.gov

Staff Contact: Parks and Recreation, 972.874.6300, parks@flowermound.gov

ARTICLE VII CONTACTS AND RESOURCES

The following organizations or contacts are provided to assist you in gaining local government knowledge that may be helpful and applicable in your role as a board member:

American Planning Association (APA)	National League of Cities
National Recreation and Park Association	North Central Texas Council of Governments (NCTCOG)
North Texas Commission	Regional Transportation Council
Taylor Olson Adkins Sralla Elam LLP Town Attorney 6000 Western Place, Ste 200 Fort Worth, Texas 76107 817.332.2580	Texas Municipal League 1821 Rutherford Lane, Suite 400 Austin, Texas 78754 512.231.7400

Contact staff liaison prior to the Town Attorney's office if possible.	
Texas Attorney General's Office Open Government Hotline: 877.673.6839	Town of Flower Mound 2121 Cross Timbers Rd Flower Mound, Texas 972.874.6000 (main number) 972.874.6076 (Town Secretary) Townsecretary@flowermound.gov

This manual was originally adopted by the Town Council on September 19, 2022, by Resolution 16-22. Administrative updates will be made as warranted.

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

DATE: November 18, 2024
FROM: Leandro Rodriguez, CIP Manager
ITEM: **Consider approval of a professional services agreement with Innovative Transportation Solutions, Inc. to provide professional transportation consultation services in the amount of $75,000.00 annually, with four one-year renewal options; and authorization for the Mayor to execute the same on behalf of the Town.**

BACKGROUND: The scope of services identified in the attached agreement with Innovative Transportation Solutions (ITS) includes pursuing all transportation issues identified by the Town, with an emphasis on funding issues affecting the Town. The scope of services is included as an attachment to the professional services agreement.

As indicated in the agreement, the Town would provide compensation to ITS in the amount of $6,250.00 per month, from the Roadway Amenities project, for unlimited transportation services. The term of the contract is for one year, beginning January 1, 2025, with four one-year renewal options.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES: N/A

FISCAL IMPACT: $75,000

Proposed Expenditure/(Revenue)	**Account Number(s):**
$75,000	505-220-70622-6160

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. PSA - ITS 2025

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

THE STATE OF TEXAS §
COUNTY OF DENTON §

PROFESSIONAL SERVICES AGREEMENT WITH INNOVATIVE TRANSPORTATION SOLUTIONS, INC.

This contract is entered into on this 18th day of November, 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 **Innovative Transportation Solutions, Inc.,** (hereinafter referred to as "CONSULTANT") whose address is 2701 Valley View Lane, Farmers Branch, Texas 75234.

RECITALS

WHEREAS, TOWN desires to obtain professional services from CONSULTANT; and

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

III.
Payment for Services

Total payment for services described herein shall be a sum not to exceed Seventy-Five Thousand and No/100 Dollars ($75,000.00) per year. 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 monthly 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 actual services performed 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 January 1st, after the date first written above, and shall continue for a period of one year with four automatic one-year extensions, unless the TOWN 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@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 <u>require</u> 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:

Leandro (Lee) Rodriguez, CIP Manager
Town of Flower Mound
2121 Cross Timbers Road
Flower Mound, Texas 75028
972-874-6374 Telephone

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

4. The term "Owner" or "TOWN" shall include all authorities, boards, bureaus, commissions, divisions, departments and offices of TOWN and the individual members, employees and agents thereof in their official capacities, and/or while acting on behalf of TOWN;

5. The policy phrase "Other Insurance" shall not apply to TOWN where TOWN is an additional insured on the policy; and

6. All provisions of the Contract concerning liability, duty and standards of care together with the indemnification provision shall be underwritten by contractual liability coverage sufficient to include such obligations within applicable policies.

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

1. Any policy submitted shall not be subject to limitations, conditions or restrictions deemed inconsistent with the intent of the insurance requirements to be fulfilled by CONSULTANT. The TOWN's decision(s) thereon shall be final;

2. All policies are to be written through companies duly approved to transact that class of insurance in the State of Texas; and
3. All liability policies required herein, save and except Professional Liability Insurance, shall be written with an "occurrence" basis coverage trigger.

D. CONSULTANT agrees to the following:

1. CONSULTANT hereby waives subrogation rights for loss or damage to the extent same are covered by insurance. Insurers shall have no right of recovery or subrogation against TOWN, it being the intention that the

insurance policies shall protect all parties to this Contract and be primary coverage for all losses covered by the policies;

2. Companies issuing the insurance policies and CONSULTANT shall have no recourse against TOWN for payment of any premiums, or assessments for any deductible, as all such premiums are the sole responsibility and risk of CONSULTANT;

3. Approval, disapproval or failure to act by TOWN regarding any insurance supplied by CONSULTANT (or any subcontractors) shall not relieve CONSULTANT of full responsibility or liability for damages and accidents as set forth in the Contract documents. Neither shall the insolvency or denial of liability by the insurance company exonerate CONSULTANT from liability; and

4. No special payments shall be made for any insurance that the CONSULTANT and subcontractors are required to carry; all are included in the contract price and the contract unit prices.

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

IX.
Right to Inspect Records

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

If TOWN agrees that CONSULTANT may retain any subcontractors, CONSULTANT further agrees to include in subcontract(s), if any, a provision that any subcontractor or engineer agrees that TOWN shall have access to and the right to examine any directly pertinent books, documents, papers and records of such engineer or 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, INCLUDING PAYMENT OF TOWN'S REASONABLE ATTORNEYS' FEES. IN THE EVENT OF A CLAIM IS BROUGHT AGAINST TOWN, TOWN SHALL HAVE THE RIGHT TO RETAIN LEGAL COUNSEL OF ITS CHOOSING IN DEFENSE OF SUCH A CLAIM, AND SUCH ELECTION SHALL NOT RELIEVE CONTRACTOR OF ITS OBLIGATIONS UNDER THIS SECTION.

XIII.
Independent Contractor

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

XIV.
Default

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

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

(a) Specific performance of the Contract;

(b) Re-performance of this Contract at no extra charge to TOWN; or

(c) Monetary damages.

XV.
Provisions Surviving Termination

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

XVI.
Changes

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

XVII.
Conflicts of Interest

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

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

XVIII.
Confidential Information

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

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

XIX.
Notice Information

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

Leandro (Lee) Rodriguez, CIP Manager
Town of Flower Mound
2121 Cross Timbers Road
Flower Mound, Texas 75028
972-874- 6374 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:

John R. Polster, P.E.
Innovative Transportation Solutions, Inc.
2701 Valley View Lane
Farmers Branch, Texas 75234
972/484-2525 Telephone
972/484-4545 Facsimile
Include Email Address

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:
INNOVATIVE TRANSPORTATION SOLUTIONS, INC.

By: _____

Name: John R. Polster

Title: President

Dated: OCT 29, 2024

THE TOWN OF FLOWER MOUND, TEXAS

By: _____

Name: _____

Title: _____

Dated: _____

ATTACHMENT "A"

SCOPE OF SERVICES

Innovative Transportation Services Inc., (ITS) will provide the following Transportation Consultation services for the Town:

ITS will provide transportation consulting services as directed by the Town Manager or Town Engineer. As a part of this contract, ITS will actively pursue all transportation related issues as identified by the Town with the understanding that the current focus will be on transportation programming and funding issues in the Town. ITS will maintain dialogue with the Town and appropriate Town staff to ascertain the relative priority of each project to other projects and attend Town of Flower Mound Council meeting, when appropriate, to provide updates on transportation activities. ITS will perform tasks, as assigned by the Town Manager or his designee, related to advancing projects to address the transportation needs of the Town of Flower Mound. Other services include, but are not limited to, the following:

TASK 1: ***Act as a Liaison between TOWN and other Local, State and Federal Transportation Bodies.***

When requested and appropriate, ITS will act as liaison between The TOWN and other local, state and national transportation groups. As liaison, ITS will act as the transportation advocate for The TOWN by working positively and efficiently with other transportation groups toward completion of projects critical to The TOWN. ITS will interact, on behalf of The TOWN, with the Federal Highway Administration, the Texas Transportation Commission and Texas Department of Transportation and the North Texas Tollway Authority (NTTA). In addition, ITS will act as liaison between The TOWN and other groups such as the Regional Transportation Council of the North Central Texas Council of Governments, Project Specific Task Force Groups, Dallas Regional Mobility Coalition, the Denton County Transit Authority, The T, North Texas Commission, and the Partners in Mobility.

TASK 2: ***Implement Cost Reduction Strategies.***

ITS has an unparalleled history of identifying cost reductions for clients. For the TOWN, the following is a list of possible cost reduction strategies:

1. ***Leveraging funding*** - Transportation Infrastructure funding is almost always a partnership process. ITS will strive to maximize the TOWN's transportation dollars by "leveraging" those funds with eligible funding sources. In many cases, ITS will be able to

leverage funds to capture "non-Town" sources that will increase funding to the project by 300% to 500%.

2. ***Certification*** - Certification refers to the process a municipality follows to receive authorization by TxDOT to retain services on behalf of the State. Certification allows the TOWN to be reimbursed by the federal government up to 90% of expenditures for authorized services. ITS has unique knowledge of the certification process and will assist the TOWN in acquiring this certification, if directed.

TASK 3. ***ITS will provide other transportation consulting services as directed by the Town.***

As a part of this Enhancement Proposal, ITS will actively pursue all transportation related issues as identified by the Town. ITS will continue to dialogue with Town staff to ascertain the relative priority of each project to other projects and attend Town meeting as directed to updates on all transportation activities.

ATTACHMENT "B"

COMPENSATION

In consideration for professional services rendered monthly by ITS, Flower Mound agrees to pay ITS a reasonable and customary annual fee of SEVENTY-FIVE THOUSAND DOLLARS ($75,000.00), per year (the "Annual Fee"). Flower Mound agrees to pay ITS the amount of SIX THOUSAND TWO HUNDRED FIFTY DOLLARS ($6,250.00) per month (the "Monthly Payment") towards satisfaction of the Town's Annual Fee obligation. Flower Mound shall make the Monthly Payment, processing the itemized statement in its usual and customary fashion, making all reasonable efforts to process the Monthly Payment within thirty (30) days from Town of Flower Mound's receipt of each monthly statement.

ITS's Standard Hourly Billing rates are attached as Exhibit A.

ITS shall submit its monthly statements and semi-annual certificates to the Town Manager, 2121 Cross Timbers Road, Flower Mound, Texas 75028.

EXHIBIT "A"

STANDARD RATE SCHEDULE

1.1 STANDARD RATE SCHEDULE

The services related to this project will be based upon the following Standard Billing Rates. Standard Billing Rates are subject to change at the beginning of each calendar year.

Professional	Standard Billing Rate
Principal Engineer	$200
Principal Engineer	$175
Senior Engineer	$175
Engineer	$150
Technical Associate	$100
Staff Support	$75

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

DATE: November 18, 2024
FROM: Manuel Palacios, Assistant Director of Public Works
ITEM: **Consider approval of the annual purchase contract for road and utility construction materials from CJA Enterprises, through a City of Denton contract number 7841 for an estimated annual amount of $25,000 and authorization for the Mayor to execute same on behalf of the Town.**

BACKGROUND: This item is for the annual purchase of construction material (i.e. Flex base, utility rock, sand, etc.) used by the Public Works Department for street and utility maintenance and repairs, using the City of Denton's contract number 7841 with CJA Enterprises, for an estimated annual expenditure of $25,000. The current contract term expires on January 25, 2025, and there is one-year renewal option that could extend the contract through January 24, 2026. The City of Denton has elected to extend the current contract one more year. The contract extension will begin January 25, 2025, and will expire January 24, 2026. We intend to continue utilizing the contract into 2026 if renewed by the City of Denton.

Local governments are authorized by the Interlocal Cooperation Act, V.T.C.A Government Code, Chapter 791, to enter into joint contracts and agreements for the performance of governmental functions and services, including administrative functions normally associated with the operation of government (such as purchasing necessary material and equipment). The Town of Flower Mound and the City of Denton entered into an interlocal agreement effective June 6, 2023, and the agreement remains in effect until terminated by either party with thirty (30) days written notice to the other party.

BOARD REVIEW/CITIZEN FEEDBACK:

ALTERNATIVES: N/A

FISCAL IMPACT: $25,000

Proposed Expenditure/(Revenue)	**Account Number(s):**
$25,000.00	200-690-92320-4311; 100-690-92240-4311

LEGAL REVIEW: N/A

ATTACHMENTS:
1. 7841 - Amendment 1 Executed - CJA
2. 7841 - Contract Executed - CJA
3. Interlocal Purchasing Agreement

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

Docusign Transmittal Coversheet

File Name	7841 - Supply of Construction Material - Amendment #1
Purchasing Contact	Cori Power
Contract Expiration	1/24/2026

DocuSign Envelope ID: F225D3A0-0390-409E-ABE0-E3577CC60594

Procurement & Compliance
901 B Texas St., Denton, TX 76209 • (940) 349-7100

June 3, 2022

Mrs. Carla Peacock
CJA Enterprises LLP
362 Crossroads Rd
Collinsville, TX 76233
astrideapp@msn.com

Re: Letter Agreement to Amend (this "Amendment") File 7841 – Supply of Construction Material between the City of Denton ("COD") and CJA Enterprises LLP, dated January 25, 2022 (the "Contract") – Amendment #1

Dear Mrs. Peacock,

Thank you for being such a valued partner. By signing this Amendment below, COD and CJA Enterprises LLP agree that the Contract is hereby deemed amended to the updated Schedule of Charges, as shown in Attachment A.

Except as amended by this Amendment, the Contract is not otherwise amended and all other terms and conditions of the Contract remain in full force and effect, as amended hereby. This Amendment may be executed in any number of counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument. Signatures transmitted electronically shall have the same effect as the delivery of original signatures.

The City of Denton reserves the right to re-evaluate pricing as the market conditions change and can ask your firm to provide updated proposed pricing, including, but not limited to, a decrease in pricing, as a result of any such change.

We look forward to future business with your firm.

Regards,

DocuSigned by:
Cori Power
5F15E1663F7B4FE...
Cori Power, Senior Buyer
Procurement
City of Denton

DocuSigned by:
1D3EA62DD6E8418...
Carla Peacock, Partner/Owner
CJA Enterprises LLP

DS
Daniel K.

Attachment A

7841 - Supply of Construction Materials - CJA Pricing Log

			CJA Enterprises		
Line #	**Description**	**QTY**	**UOM**	**Unit**	**Amendment #1 Price Increase**
1	**SECTION A- BULK UTILITY PRODUCTS SUPPLY OF SOIL, SAND, LIME AGGREGATE**				
2	Top Soil Screened	7525	Cu. Yd	$21.56	
2a	Top Soil Screened (Per Ton UOM Price)	9406.25	tons	$17.25	**$19.35**
3	Field Sand - Backfill	1500	Cu. Yd	$12.81	
3a	Field Sand - Backfill (Per Ton UOM Price)	1875	tons	$10.25	**$12.35**
4	Screened Sand	16000	Cu. Yd	$12.81	
4a	Screened Sand (Per Ton UOM Price)	20000	tons	$10.25	**$12.35**
5	Pit Sand (Concrete)	1000	Tons	$23.50	**$26.15**
6	Manufactured Sand for Concrete Mixture	2800	Tons	$17.45	**$20.60**
7	Concrete Aggregate Class A, 1" - #4 Rock (Rewashed & Screened)	1000	Tons	$18.95	**$22.10**
8	Concrete Aggregate 3/8" Down Rock	500	Tons	$17.95	**$21.10**
9	1-3/4" + Down Flexible Base	1250	Tons	$16.70	**$19.85**
10	1-1/2" + Down Flexible Base	5500	Tons	$16.45	**$19.60**
11	5/8" + Down Flexible Base	5500	Tons	$16.70	**$19.85**
12	Type A, Grade 1 Flexible Base	3000	Tons	$16.70	**$19.85**
13	Crushed Stone #6-20 (for ice and snow control of city streets)	1500	Tons	$17.45	**$20.60**
14	Limestone Screening	400	Tons	$16.95	**$20.10**
15	1 1/2" Rock, Limestone (Washed & Screened)	200	Tons	$18.95	**$22.10**
16	4" - 7 1/2" Gabion Limestone	100	Tons	$24.75	**$28.90**
17	3/4" Rock, Limestone Utility Stone (Not Washed)	520	Tons	$18.95	**$22.10**
18	8-12" Rip Rap Limestone	420	Tons	$30.00	**$34.20**
19	12-18" Rip Rap Limestone	400	Tons	$30.00	**$34.20**
20	24" Rip Rap Limestone	100	Tons	$45.50	**$51.00**
21	30" Rip Rap Limestone	100	Tons	$45.50	**$51.00**
22	36" Rip Rap Limestone	100	Tons	$48.00	**$53.40**
23	Pea Gravel (Unwashed)	100	Tons	$18.50	**$22.65**
24	Pea Gravel (Washed)	1300	Tons	$18.50	**$22.65**
25	Select Fill	15250	Cu. Yd.	$12.56	**$14.50**
26	R.A.P. (Asphalt Millings)	5000	Cu. Yd.	$22.81	
26a	R.A.P. (Asphalt Millings) (Per Ton UOM Price)	6250	tons	$18.25	**$20.15**
27	Decomposed Granite	300	Tons	$23.50	**$29.50**
28	4-8" Colorado River Rock	80	Tons	$165.00	**$200.00**
28a	There will be a fuel surcharge per load if no load available going north to pick up the rock		Per Load	$400.00	
29	3-5" Bull Rock	25	Tons	$93.00	**$125.00**
	NEW LINE ITEMS				
30	ice sand special blend (priced for streets)		Tons		**$30.00**
31	1/2 belt run (priced for warehouse)		Tons		**$39.70**

DocuSign

Certificate Of Completion

Envelope Id: F225D3A00390409EABE0E3577CC60594

Status: Completed

Subject: ***Purchasing Approval*** 7841- Price Increase Amendment #1

Source Envelope:

Document Pages: 3

Signatures: 2

Certificate Pages: 5

Initials: 1

AutoNav: Enabled

EnvelopeId Stamping: Enabled

Time Zone: (UTC-06:00) Central Time (US & Canada)

Envelope Originator:
Cori Power
901B Texas Street
Denton, TX 76209
cori.power@cityofdenton.com
IP Address: 198.49.140.104

Record Tracking

Status: Original
6/3/2022 9:49:02 AM

Holder: Cori Power
cori.power@cityofdenton.com

Location: DocuSign

Signer Events	Signature	Timestamp
Cori Power cori.power@cityofdenton.com Senior Buyer City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign	**Completed** Signed by link sent to cori.power@cityofdenton.com Using IP Address: 198.49.140.104	Sent: 6/3/2022 9:52:28 AM Viewed: 6/3/2022 9:52:38 AM Signed: 6/3/2022 9:55:11 AM
Carla Peacock astrideapp@msn.com partner/owner Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 11/30/2017 11:48:59 AM ID: e044db71-9894-4519-8dcb-d1247604fedb	DocuSigned by: 1D3FA62DD6E8418... Signature Adoption: Drawn on Device Signed by link sent to astrideapp@msn.com Using IP Address: 67.210.148.7	Sent: 6/3/2022 9:55:12 AM Viewed: 6/3/2022 6:14:37 PM Signed: 6/3/2022 6:15:10 PM
Daniel K. Danielk@pavecon.com President Pavecon Ltd Co Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 6/3/2022 8:31:56 PM ID: 6b132798-d01b-4253-afe7-4ef8d20a2b22	DS Signature Adoption: Drawn on Device Signed by link sent to Danielk@pavecon.com Using IP Address: 172.225.14.82 Signed using mobile	Sent: 6/3/2022 6:15:11 PM Viewed: 6/3/2022 8:31:56 PM Signed: 6/3/2022 8:33:36 PM
Cori Power cori.power@cityofdenton.com Senior Buyer City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign	DocuSigned by: Cori Power 5F1FE1663F7B4FE... Signature Adoption: Pre-selected Style Signed by link sent to cori.power@cityofdenton.com Using IP Address: 107.77.197.9 Signed using mobile	Sent: 6/3/2022 8:33:38 PM Viewed: 6/6/2022 7:57:41 AM Signed: 6/6/2022 7:57:53 AM

In Person Signer Events	Signature	Timestamp

Editor Delivery Events	Status	Timestamp

Agent Delivery Events	Status	Timestamp

Intermediary Delivery Events	Status	Timestamp

Certified Delivery Events	Status	Timestamp

Carbon Copy Events	Status	Timestamp
Cheyenne Defee cheyenne.defee@cityofdenton.com Procurement Administration Supervisor City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign	COPIED	Sent: 6/6/2022 7:57:54 AM
Tina Ek Tina.Ek@cityofdenton.com Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 3/7/2022 9:09:59 AM ID: 6f63e42b-ee00-42d4-8395-a4ca0574d659	COPIED	Sent: 6/6/2022 7:57:54 AM
Jeremy Wilks Jeremy.Wilks@cityofdenton.com Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign	COPIED	Sent: 6/6/2022 7:57:55 AM

Witness Events	Signature	Timestamp

Notary Events	Signature	Timestamp

Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	6/3/2022 9:52:29 AM
Certified Delivered	Security Checked	6/6/2022 7:57:41 AM
Signing Complete	Security Checked	6/6/2022 7:57:53 AM
Completed	Security Checked	6/6/2022 7:57:55 AM

Payment Events	Status	Timestamps

Electronic Record and Signature Disclosure

ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

From time to time, City of Denton (we, us or Company) may be required by law to provide to you certain written notices or disclosures. Described below are the terms and conditions for providing to you such notices and disclosures electronically through your DocuSign, Inc. (DocuSign) Express user account. Please read the information below carefully and thoroughly, and if you can access this information electronically to your satisfaction and agree to these terms and conditions, please confirm your agreement by clicking the 'I agree' button at the bottom of this document.

Getting paper copies

At any time, you may request from us a paper copy of any record provided or made available electronically to you by us. For such copies, as long as you are an authorized user of the DocuSign system you will have the ability to download and print any documents we send to you through your DocuSign user account for a limited period of time (usually 30 days) after such documents are first sent to you. After such time, if you wish for us to send you paper copies of any such documents from our office to you, you will be charged a $0.00 per-page fee. You may request delivery of such paper copies from us by following the procedure described below.

Withdrawing your consent

If you decide to receive notices and disclosures from us electronically, you may at any time change your mind and tell us that thereafter you want to receive required notices and disclosures only in paper format. How you must inform us of your decision to receive future notices and disclosure in paper format and withdraw your consent to receive notices and disclosures electronically is described below.

Consequences of changing your mind

If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. To indicate to us that you are changing your mind, you must withdraw your consent using the DocuSign 'Withdraw Consent' form on the signing page of your DocuSign account. This will indicate to us that you have withdrawn your consent to receive required notices and disclosures electronically from us and you will no longer be able to use your DocuSign Express user account to receive required notices and consents electronically from us or to sign electronically documents from us.

All notices and disclosures will be sent to you electronically

Unless you tell us otherwise in accordance with the procedures described herein, we will provide electronically to you through your DocuSign user account all required notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you during the course of our relationship with you. To reduce the chance of you inadvertently not receiving any notice or disclosure, we prefer to provide all of the required notices and disclosures to you by the same method and to the same address that you have given us. Thus, you can receive all the disclosures and notices electronically or in paper format through the paper mail delivery system. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the consequences of your electing not to receive delivery of the notices and disclosures electronically from us.

How to contact City of Denton:
You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:
To contact us by email send messages to: purchasing@cityofdenton.com

To advise City of Denton of your new e-mail address
To let us know of a change in your e-mail address where we should send notices and disclosures electronically to you, you must send an email message to us at melissa.kraft@cityofdenton.com and in the body of such request you must state: your previous e-mail address, your new e-mail address. We do not require any other information from you to change your email address..
In addition, you must notify DocuSign, Inc to arrange for your new email address to be reflected in your DocuSign account by following the process for changing e-mail in DocuSign.
To request paper copies from City of Denton
To request delivery from us of paper copies of the notices and disclosures previously provided by us to you electronically, you must send us an e-mail to purchasing@cityofdenton.com and in the body of such request you must state your e-mail address, full name, US Postal address, and telephone number. We will bill you for any fees at that time, if any.
To withdraw your consent with City of Denton
To inform us that you no longer want to receive future notices and disclosures in electronic format you may:

i. decline to sign a document from within your DocuSign account, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;
ii. send us an e-mail to purchasing@cityofdenton.com and in the body of such request you must state your e-mail, full name, IS Postal Address, telephone number, and account number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

Required hardware and software

Operating Systems:	Windows2000? or WindowsXP?
Browsers (for SENDERS):	Internet Explorer 6.0? or above
Browsers (for SIGNERS):	Internet Explorer 6.0?, Mozilla FireFox 1.0, NetScape 7.2 (or above)
Email:	Access to a valid email account
Screen Resolution:	800 x 600 minimum
Enabled Security Settings:	•Allow per session cookies •Users accessing the internet behind a Proxy Server must enable HTTP 1.1 settings via proxy connection

** These minimum requirements are subject to change. If these requirements change, we will provide you with an email message at the email address we have on file for you at that time providing you with the revised hardware and software requirements, at which time you will have the right to withdraw your consent.

Acknowledging your access and consent to receive materials electronically
To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please verify that you were able to read this electronic disclosure and that you also were able to print on paper or electronically save this page for your future reference and access or that you were able to e-mail this disclosure and consent to an address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format on the terms and conditions described above, please let us know by clicking the 'I agree' button below.
By checking the 'I Agree' box, I confirm that:

- I can access and read this Electronic CONSENT TO ELECTRONIC RECEIPT OF ELECTRONIC RECORD AND SIGNATURE DISCLOSURES document; and

- I can print on paper the disclosure or save or send the disclosure to a place where I can print it, for future reference and access; and

- Until or unless I notify City of Denton as described above, I consent to receive from exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to me by City of Denton during the course of my relationship with you.

Docusign City Council Transmittal Coversheet

IFB	7841
File Name	Supply of Construction Material
Purchasing Contact	Cori Power
City Council Target Date	JANUARY 25, 2022
Piggy Back Option	Yes
Contract Expiration	JANUARY 25, 2026
Ordinance	22-138

DS
LH

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CONTRACT BY AND BETWEEN
CITY OF DENTON, TEXAS AND CJA ENTERPRISES LLP
(Contract #7841)

THIS CONTRACT is made and entered into this date 01/25/2022, by and **CJA Enterprises LLP**, a Texas Limited Liability Partnership, whose address is 362 Crossroads Rd, Collinsville, TX 76233, hereinafter referred to as "Contractor," and the **CITY OF DENTON, TEXAS**, a home rule municipal corporation, hereinafter referred to as "City," to be effective upon approval of the Denton City Council and subsequent execution of this Contract by the Denton City Manager or his duly authorized designee.

For and in consideration of the covenants and agreements contained herein, and for the mutual benefits to be obtained hereby, the parties agree as follows:

SCOPE OF SERVICES

Contractor shall provide products in accordance with the City's IFB #7841 - Supply of Construction Material, a copy of which is on file at the office of Purchasing Agent and incorporated herein for all purposes. The Contract consists of this written agreement and the following items which are attached hereto, or on file, and incorporated herein by reference:

(a) Special Terms and Conditions **(Exhibit "A");**
(b) City of Denton's IFB #7841 **(Exhibit "B" on file at the office of the Purchasing Agent**);
(c) City of Denton Standard Terms and Conditions **(Exhibit "C");**
(d) Certificate of Interested Parties Electronic Filing **(Exhibit "D");**
(e) Contractor's Proposal (**Exhibit "E"**);
(f) Form CIQ – Conflict of Interest Questionnaire **(Exhibit "F")**

These documents make up the Contract documents and what is called for by one shall be as binding as if called for by all. In the event of an inconsistency or conflict in any of the provisions of the Contract documents, the inconsistency or conflict shall be resolved by giving precedence first to the written agreement then to the contract documents in the order in which they are listed above. These documents shall be referred to collectively as "Contract Documents."

Prohibition on Contracts with Companies Boycotting Israel
Contractor acknowledges that in accordance with Chapter 2270 of the Texas Government Code, City is prohibited from entering into a contract with a company for goods or services unless the contract contains a written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract. The terms "boycott Israel" and "company" shall have the meanings ascribed to those terms in Section 808.001 of the Texas Government Code. ***By signing this agreement, Contractor certifies that Contractor's signature provides written verification to the City that Contractor: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the agreement.*** Failure to meet or maintain the requirements under this provision will be considered a material breach.

Prohibition on Contracts with Companies Doing Business with Iran, Sudan, or a Foreign Terrorist Organization
Section 2252 of the Texas Government Code restricts CITY from contracting with companies that do business with Iran, Sudan, or a foreign terrorist organization. ***By signing this agreement, Contractor***

certifies that Contractor's signature provides written verification to the City that Contractor, pursuant to Chapter 2252, is not ineligible to enter into this agreement and will not become ineligible to receive payments under this agreement by doing business with Iran, Sudan, or a foreign terrorist organization. Failure to meet or maintain the requirements under this provision will be considered a material breach.

The parties agree to transact business electronically. Any statutory requirements that certain terms be in writing will be satisfied using electronic documents and signing. Electronic signing of this document will be deemed an original for all legal purposes.

IN WITNESS WHEREOF, the parties of these presents have executed this agreement in the year and day first above written.

CONTRACTOR

DocuSigned by:

BY: _____

1D3FA63DD6E8418...

AUTHORIZED SIGNATURE

Printed Name: Carla Peacock

Title: partner/owner

540-840-1960

PHONE NUMBER

astrideapp@msn.com

EMAIL ADDRESS

2021-834813

TEXAS ETHICS COMMISSION
1295 CERTIFICATE NUMBER

CITY OF DENTON, TEXAS

DocuSigned by:

BY: Sara Hensley

5239DE296D79423...

SARA HENSLEY, INTERIM CITY MANAGER

ATTEST:
ROSA RIOS, CITY SECRETARY

DocuSigned by:

BY: Rosa Rios

1C5CA8C5E175493...

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

DocuSigned by:

BY: Marcella Lunn

4B070831B4AA438...

THIS AGREEMENT HAS BEEN
BOTH REVIEWED AND APPROVED
as to financial and operational obligations
and business terms.

DocuSigned by:

ethan cox

A83AA619E731BDT...

SIGNATURE

ethan cox

PRINTED NAME

General Manager of Public Works

TITLE

Public Works

DEPARTMENT

Exhibit A
Special Terms and Conditions

1. The Quantities

The quantities indicated on Exhibit E are estimates based upon the best available information. The City reserves the right to increase or decrease the quantities to meet its actual needs without any adjustments in the bid price. Individual purchase orders will be issued on an as needed basis.

2. Product Changes During Contract Term

The Contractor shall not change specifications during the contract term without prior approval. Any deviation in the specifications or change in the product must be approved in advance by the City of Denton. Notice of a change shall be submitted in writing to purchasing@cityofdenton.com, with the above file number in the subject line, for review. Products found to have changed specifications without notification, and acceptance, will be returned at the contractor's expense. Products that have been installed will be replaced at the contractor's expense.

3. Authorized Distributor

The Contractor shall be the manufacturer or authorized distributor of the proposed products. The distributor shall be authorized to sell to the City of Denton, and make available the manufacturer's representative as needed by the City.

4. Contract Terms

The contract term will be one (1) year, effective from date of award. The City and the Contractor shall have the option to renew this contract for an additional three (3) one-year periods.

The Contract shall commence upon the issuance of a Notice of Award by the City of Denton and shall automatically renew each year, from the date of award by City Council. The Contractor's request to not renew the contract must be submitted in writing to the Purchasing Manager at least 60 days prior to the contract renewal date for each year. At the sole option of the City of Denton, the Contract may be further extended as needed, not to exceed a total of six (6) months.

5. Price Escalation and De-escalation

On Contractor's request in the form stated herein, the City will implement an escalation/de-escalation price adjustment annually based on these special terms. Any request for price adjustment must be based on the, U.S Department of Labor, Bureau of Labor Statistics, Producer Price Index (PPI) or the manufacturer published pricing list. The maximum escalation will not exceed +/- 8% for any individual year. The escalation will be determined annually at the renewal date. The price will be increased or decreased based upon the annual percentage change in the PPI or the percentage change in the manufacturer's price list. Should the PPI or manufacturer price list change exceed a minimum threshold value of +/-1%, then the stated eligible bid prices shall be adjusted in accordance with the percent change not to exceed the 8% limit per year. The Contractor should provide documentation as percentage of each cost associated with the unit prices quoted for consideration.

Request must be submitted in writing with supporting evidence for need of such increase to the Purchasing Manager at least 60 days prior to contract expiration of each year. Respondent must also provide supporting documentation as justification for the request. If no request is made, then it will be assumed that the current contract price will be in effect.

Upon receipt of such request, the City of Denton reserves the right to either: accept the escalation as competitive with the general market price at the time, and become effective upon the renewal date of the contract award or reject the increases within 30 calendar days after receipt of a properly submitted request. If a properly submitted increase is rejected, the Contractor may request cancellation of such items from the Contract by giving the City of Denton written notice. Cancellation will not go into effect for 15 calendar days after a determination has been issued. Pre-price increase prices must be honored on orders dated up to the official date of the City of Denton approval and/or cancellation.

The request can be sent by e-mail to: purchasing@cityofdenton.com noting the solicitation number.

The City of Denton reserves the right to accept, reject, or negotiate the proposed price changes.

6. Total Contract Amount

CJA Enterprises LLP is awarded as the primary contractor for Section A – Bulk Utility Products Supply of Soil, Sand, Lime Aggregate and pricing shall be per Exhibit E attached. The cumulative contract for primary and secondary contractors for contract 7841 shall not exceed $5,200,000.

The primary contractor is expected to respond to the *initial contact** from The City within 4 hours during normal business hours. Normal business hours are Monday – Friday 7am- 4pm. If no response from primary contractor is received within 24 hours, the City has the right to call secondary contractor. Secondary contractor must also respond to *initial contact** within 4 hours. Calling upon a secondary contractor does not affect the contract with primary contractor.

**Initial Contact: The first phone call placed, or email sent from the City to the contractor.*

7. Delivery Lead Time

Contractor must provide a twenty-four (24) hour telephone number to receive messages from the City. The City will give a twelve (12) hour notice of intent to receive materials and attempt to give six (6) hour notice of cancellation.

*Response time*** for scheduled supply of construction materials is not to exceed 7 business days after the initial contact for standard requests. After the initial contact response, the supplier has three (3) business day to deliver materials to designated City location. If the Supplier can't meet the delivery schedule, then they must get written approval from the City department requesting the material.

If primary contractor is not able to meet delivery deadline, the City reserves the right to call secondary contractor. Calling upon a secondary contractor does not affect the contract with the primary vendor.

***Response time: Time elapsed between initial contact from the City and the time contractor must be on-site working.*

8. Performance Liquidated Damages

The Contractor shall incur contractual payment losses, as initiated by the City for performance that falls short of specified performance standards as outlined below:

- Delivery beyond contracted lead times
- Performance below contracted levels (services only)

The Contractor shall be assessed a one (1%) percent fee each month when any one of the performance standards outlined above are not met in full. The Contractor shall be assessed a two (2%) percent profit fee each month when any two (2) or more performance standards outlined above are not met in full. At the end of each month, the City will review the monthly reports and determine the percentage of penalty to be assessed to the Contractor's monthly profit margin.

9. Supplemental Terms and Conditions

Authorized personnel shall have access to any Contractor's place of business for the purpose of inspecting merchandise. Tests shall be performed on samples taken from regular shipments. If products tested fail to meet or exceed all conditions and requirements of the specifications, the cost of the sample and the cost of the testing shall be borne by the Contractor.

Payment will be made within 30 days after (1) applicable tests have been completed and materials are found to meet specifications or (2) the day on which the invoice for the materials was received.

All items must be F.O.B. delivered to the City of Denton Service Center or job site as directed at the time of the order, unless the City opts to pick up the materials.

A purchase order number should be referenced on all packing/delivery slips, shipping tickets, invoices, etc. Invoices and statements should be directed to:

CITY OF DENTON
ACCOUNTS PAYABLE
215 E. McKinney St.
Denton, Texas 76201

Exhibit C
City of Denton
Standard Purchase Terms and Conditions

These standard Terms and Conditions and the Terms and Conditions, Specifications, Drawings and other requirements included in the City of Denton's contract are applicable to contracts/purchase orders issued by the City of Denton hereinafter referred to as the City or Buyer and the Seller or respondent herein after referred to as Contractor or Supplier. Any deviations must be in writing and signed by a representative of the City's Procurement Department and the Supplier. No Terms and Conditions contained in the seller's proposal response, invoice or statement shall serve to modify the terms set forth herein. If there is a conflict between the provisions on the face of the contract/purchase order these written provisions will take precedence.

The Contractor agrees that the contract shall be governed by the following terms and conditions, unless exceptions are duly noted and fully negotiated. Unless otherwise specified in the contract, Sections 3, 4, 5, 6, 7, 8, 20, 21, and 36 shall apply only to a solicitation to purchase goods, and sections 9, 10, 11, 22 and 32 shall apply only to a solicitation to purchase services to be performed principally at the City's premises or on public rights-of-way.

1. **CONTRACTOR'S OBLIGATIONS**. The Contractor shall fully and timely provide all deliverables described in the Solicitation and in the Contractor's Offer in strict accordance with the terms, covenants, and conditions of the Contract and all applicable Federal, State, and local laws, rules, and regulations.

2. **EFFECTIVE DATE/TERM**. Unless otherwise specified in the Solicitation, this Contract shall be effective as of the date the contract is signed by the City, and shall continue in effect until all obligations are performed in accordance with the Contract.

3. **CONTRACTOR TO PACKAGE DELIVERABLES**: The Contractor will package deliverables in accordance with good commercial practice and shall include a packing list showing the description of each item, the quantity and unit price unless otherwise provided in the Specifications or Supplemental Terms and Conditions, each shipping container shall be clearly and permanently marked as follows: (a) The Contractor's name and address, (b) the City's name, address and purchase order or purchase release number and the price agreement number if applicable, (c) Container number and total number of containers, e.g. box 1 of 4 boxes, and (d) the number of the container bearing the packing list. The Contractor shall bear cost of packaging. Deliverables shall be suitably packed to secure lowest transportation costs and to conform to all the requirements of common carriers and any applicable specification. The City's count or weight shall be final and conclusive on shipments not accompanied by packing lists.

4. **SHIPMENT UNDER RESERVATION PROHIBITED**: The Contractor is not authorized to ship the deliverables under reservation and no tender of a bill of lading will operate as a tender of deliverables.

5. **TITLE & RISK OF LOSS**: Title to and risk of loss of the deliverables shall pass to the City only when the City actually receives and accepts the deliverables.

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6. **DELIVERY TERMS AND TRANSPORTATION CHARGES**: Deliverables shall be shipped F.O.B. point of delivery unless otherwise specified in the Supplemental Terms and Conditions. Unless otherwise stated in the Offer, the Contractor's price shall be deemed to include all delivery and transportation charges. The City shall have the right to designate what method of transportation shall be used to ship the deliverables. The place of delivery shall be that set forth the purchase order.

7. **RIGHT OF INSPECTION AND REJECTION**: The City expressly reserves all rights under law, including, but not limited to the Uniform Commercial Code, to inspect the deliverables at delivery before accepting them, and to reject defective or non-conforming deliverables. If the City has the right to inspect the Contractor's, or the Contractor's Subcontractor's, facilities, or the deliverables at the Contractor's, or the Contractor's Subcontractor's, premises, the Contractor shall furnish, or cause to be furnished, without additional charge, all reasonable facilities and assistance to the City to facilitate such inspection.

8. **NO REPLACEMENT OF DEFECTIVE TENDER**: Every tender or delivery of deliverables must fully comply with all provisions of the Contract as to time of delivery, quality, and quantity. Any non-complying tender shall constitute a breach and the Contractor shall not have the right to substitute a conforming tender; provided, where the time for performance has not yet expired, the Contractor may notify the City of the intention to cure and may then make a conforming tender within the time allotted in the contract.

9. **PLACE AND CONDITION OF WORK**: The City shall provide the Contractor access to the sites where the Contractor is to perform the services as required in order for the Contractor to perform the services in a timely and efficient manner, in accordance with and subject to the applicable security laws, rules, and regulations. The Contractor acknowledges that it has satisfied itself as to the nature of the City's service requirements and specifications, the location and essential characteristics of the work sites, the quality and quantity of materials, equipment, labor and facilities necessary to perform the services, and any other condition or state of fact which could in any way affect performance of the Contractor's obligations under the contract. The Contractor hereby releases and holds the City harmless from and against any liability or claim for damages of any kind or nature if the actual site or service conditions differ from expected conditions.

The contractor shall, at all times, exercise reasonable precautions for the safety of their employees, City Staff, participants and others on or near the City's facilities.

10. **WORKFORCE**

A. The Contractor shall employ only orderly and competent workers, skilled in the performance of the services which they will perform under the Contract.

B. The Contractor, its employees, subcontractors, and subcontractor's employees may not while engaged in participating or responding to a solicitation or while in the course and scope of delivering goods or services under a City of Denton contract or on the City's property .

i. use or possess a firearm, including a concealed handgun that is licensed under state law, except as required by the terms of the contract; or

ii. use or possess alcoholic or other intoxicating beverages, illegal drugs or controlled substances, nor may such workers be intoxicated, or under the influence of alcohol or drugs, on the job.

C. If the City or the City's representative notifies the Contractor that any worker is incompetent, disorderly or disobedient, has knowingly or repeatedly violated safety regulations, has possessed any firearms, or has possessed or was under the influence of alcohol or drugs on the job, the Contractor shall immediately remove such worker from Contract services, and may not employ such worker again on Contract services without the City's prior written consent.
Immigration: The Contractor represents and warrants that it shall comply with the requirements of the Immigration Reform and Control Act of 1986 and 1990 regarding employment verification and retention of verification forms for any individuals hired on or after November 6, 1986, who will perform any labor or services under the Contract and the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 ("IIRIRA) enacted on September 30, 1996.

11. **COMPLIANCE WITH HEALTH, SAFETY, AND ENVIRONMENTAL REGULATIONS**: The Contractor, it's Subcontractors, and their respective employees, shall comply fully with all applicable federal, state, and local health, safety, and environmental laws, ordinances, rules and regulations in the performance of the services, including but not limited to those promulgated by the City and by the Occupational Safety and Health Administration (OSHA). In case of conflict, the most stringent safety requirement shall govern. The Contractor shall indemnify and hold the City harmless from and against all claims, demands, suits, actions, judgments, fines, penalties and liability of every kind arising from the breach of the Contractor's obligations under this paragraph.

Environmental Protection: The Respondent shall be in compliance with all applicable standards, orders, or regulations issued pursuant to the mandates of the Clean Air Act (42 U.S.C. §7401 *et seq*.) and the Federal Water Pollution Control Act, as amended, (33 U.S.C. §1251 *et seq*.).

12. **INVOICES**:
A. The Contractor shall submit separate invoices in duplicate on each purchase order or purchase release after each delivery. If partial shipments or deliveries are authorized by the City, a separate invoice must be sent for each shipment or delivery made.
B. **Proper Invoices must include a unique invoice number, the purchase order or delivery order number and the master agreement number if applicable, the Department's Name, and the name of the point of contact for the Department**. Invoices shall be itemized and transportation charges, if any, shall be listed separately. A copy of the bill of lading and the freight waybill, when applicable, shall be attached to the invoice. The Contractor's name, remittance address and, if applicable, the tax identification number on the invoice must exactly match the information in the Vendor's registration with the City. Unless otherwise instructed in writing, the City may rely on the remittance address specified on the Contractor's invoice.
C. Invoices for labor shall include a copy of all time-sheets with trade labor rate and deliverables order number clearly identified. Invoices shall also include a tabulation of work-hours at the appropriate rates and grouped by work order number. Time billed for labor shall be limited to hours actually worked at the work site.
D. Unless otherwise expressly authorized in the Contract, the Contractor shall pass through all Subcontract and other authorized expenses at actual cost without markup.
E. Federal excise taxes, State taxes, or City sales taxes must not be included in the invoiced amount.
The City will furnish a tax exemption certificate upon request.

13. **PAYMENT**:
A. All proper invoices need to be sent to Accounts Payable. Approved invoices will be paid within thirty (30) calendar days of the City's receipt of the deliverables or of the invoice being received in Accounts Payable, whichever is later.
B. **If payment is not timely made, (per paragraph A); interest shall accrue on the unpaid balance at the lesser of the rate specified in Texas Government Code Section 2251.025 or the maximum lawful rate; except, if payment is not timely made for a reason for which the City may withhold payment hereunder, interest shall not accrue until ten (10) calendar days after the grounds for withholding payment have been resolved.**
C. If partial shipments or deliveries are authorized by the City, the Contractor will be paid for the partial shipment or delivery, as stated above, provided that the invoice matches the shipment or delivery.
D. The City may withhold or set off the entire payment or part of any payment otherwise due the Contractor to such extent as may be necessary on account of:

i. delivery of defective or non-conforming deliverables by the Contractor;
ii. third party claims, which are not covered by the insurance which the Contractor is required to provide, are filed or reasonable evidence indicating probable filing of such claims;
iii. failure of the Contractor to pay Subcontractors, or for labor, materials or equipment;
iv. damage to the property of the City or the City's agents, employees or contractors, which is not covered by insurance required to be provided by the Contractor;
v. reasonable evidence that the Contractor's obligations will not be completed within the time specified in the Contract, and that the unpaid balance would not be adequate to cover actual or damages for the anticipated delay;
vi. failure of the Contractor to submit proper invoices with purchase order number, with all required attachments and supporting documentation; or
vii. failure of the Contractor to comply with any material provision of the Contract Documents.

E. Notice is hereby given that any awarded firm who is in arrears to the City of Denton for delinquent taxes, the City may offset indebtedness owed the City through payment withholding.
F. Payment will be made by check unless the parties mutually agree to payment by credit card or electronic transfer of funds. The Contractor agrees that there shall be no additional charges, surcharges, or penalties to the City for payments made by credit card or electronic funds transfer.
G. The awarding or continuation of this contract is dependent upon the availability of funding. The City's payment obligations are payable only and solely from funds Appropriated and available for this contract. The absence of Appropriated or other lawfully available funds shall render the Contract null and void to the extent funds are not Appropriated or available and any deliverables delivered but unpaid shall be returned to the Contractor. The City shall provide the Contractor written notice of the failure of the City to make an adequate Appropriation for any fiscal year to pay the amounts due under the Contract, or the reduction of any Appropriation to an amount insufficient to permit the City to pay its obligations under the Contract. In the event of none or inadequate appropriation of funds, there will be no penalty nor removal fees charged to the City.

14. **TRAVEL EXPENSES**: All travel, lodging and per diem expenses in connection with the Contract shall be paid by the Contractor, unless otherwise stated in the contract terms. During the term of this contract, the contractor shall bill and the City shall reimburse contractor for all reasonable and approved out of pocket expenses which are incurred in the connection with the performance of duties hereunder. Notwithstanding the foregoing, expenses for the time spent by

the contractor in traveling to and from City facilities shall not be reimbursed, unless otherwise negotiated.

15. **FINAL PAYMENT AND CLOSE-OUT**:
A. If a DBE/MBE/WBE Program Plan is agreed to and the Contractor has identified Subcontractors, the Contractor is required to submit a Contract Close-Out MBE/WBE Compliance Report to the Purchasing Manager no later than the 15th calendar day after completion of all work under the contract. Final payment, retainage, or both may be withheld if the Contractor is not in compliance with the requirements as accepted by the City.
B. The making and acceptance of final payment will constitute:
i. a waiver of all claims by the City against the Contractor, except claims (1) which have been previously asserted in writing and not yet settled, (2) arising from defective work appearing after final inspection, (3) arising from failure of the Contractor to comply with the Contract or the terms of any warranty specified herein, (4) arising from the Contractor's continuing obligations under the Contract, including but not limited to indemnity and warranty obligations, or (5) arising under the City's right to audit; and ii. a waiver of all claims by the Contractor against the City other than those previously asserted in writing and not yet settled.

16. **SPECIAL TOOLS & TEST EQUIPMENT**: If the price stated on the Offer includes the cost of any special tooling or special test equipment fabricated or required by the Contractor for the purpose of filling this order, such special tooling equipment and any process sheets related thereto shall become the property of the City and shall be identified by the Contractor as such.

17. **RIGHT TO AUDIT**:
A. The City shall have the right to audit and make copies of the books, records and computations pertaining to the Contract. The Contractor shall retain such books, records, documents and other evidence pertaining to the Contract period and five years thereafter, except if an audit is in progress or audit findings are yet unresolved, in which case records shall be kept until all audit tasks are completed and resolved. These books, records, documents and other evidence shall be available, within ten (10) business days of written request. Further, the Contractor shall also require all Subcontractors, material suppliers, and other payees to retain all books, records, documents and other evidence pertaining to the Contract, and to allow the City similar access to those documents. All books and records will be made available within a 50 mile radius of the City of Denton. The cost of the audit will be borne by the City unless the audit reveals an overpayment of 1% or greater. If an overpayment of 1% or greater occurs, the reasonable cost of the audit, including any travel costs, must be borne by the Contractor which must be payable within five (5) business days of receipt of an invoice.
B. Failure to comply with the provisions of this section shall be a material breach of the Contract and shall constitute, in the City's sole discretion, grounds for termination thereof. Each of the terms "books", "records", "documents" and "other evidence", as used above, shall be construed to include drafts and electronic files, even if such drafts or electronic files are subsequently used to generate or prepare a final printed document.

18. **SUBCONTRACTORS**:
A. If the Contractor identified Subcontractors in a DBE/MBE/WBE agreed to Plan, the Contractor shall comply with all requirements approved by the City. The Contractor shall not initially employ any Subcontractor except as provided in the Contractor's Plan. The Contractor shall not substitute any Subcontractor identified in the Plan, unless the substitute has been accepted by the City in

writing. No acceptance by the City of any Subcontractor shall constitute a waiver of any rights or remedies of the City with respect to defective deliverables provided by a Subcontractor. If a Plan has been approved, the Contractor is additionally required to submit a monthly Subcontract Awards and Expenditures Report to the Procurement Manager, no later than the tenth calendar day of each month.

B. Work performed for the Contractor by a Subcontractor shall be pursuant to a written contract between the Contractor and Subcontractor. The terms of the subcontract may not conflict with the terms of the
Contract, and shall contain provisions that:

i. require that all deliverables to be provided by the Subcontractor be provided in strict accordance with the provisions, specifications and terms of the Contract;

ii. prohibit the Subcontractor from further subcontracting any portion of the Contract without the prior written consent of the City and the Contractor. The City may require, as a condition to such further subcontracting, that the Subcontractor post a payment bond in form, substance and amount acceptable to the City;

iii. require Subcontractors to submit all invoices and applications for payments, including any claims for additional payments, damages or otherwise, to the Contractor in sufficient time to enable the Contractor to include same with its invoice or application for payment to the City in accordance with the terms of the Contract;

iv. require that all Subcontractors obtain and maintain, throughout the term of their contract, insurance in the type and amounts specified for the Contractor, with the City being a named insured as its interest shall appear; and

v. require that the Subcontractor indemnify and hold the City harmless to the same extent as the Contractor is required to indemnify the City.

C. The Contractor shall be fully responsible to the City for all acts and omissions of the Subcontractors just as the Contractor is responsible for the Contractor's own acts and omissions. Nothing in the Contract shall create for the benefit of any such Subcontractor any contractual relationship between the City and any such Subcontractor, nor shall it create any obligation on the part of the City to pay or to see to the payment of any moneys due any such Subcontractor except as may otherwise be required by law.

D. The Contractor shall pay each Subcontractor its appropriate share of payments made to the Contractor not later than ten (10) calendar days after receipt of payment from the City.

19. **WARRANTY-PRICE**:

A. The Contractor warrants the prices quoted in the Offer are no higher than the Contractor's current prices on orders by others for like deliverables under similar terms of purchase.

B. The Contractor certifies that the prices in the Offer have been arrived at independently without consultation, communication, or agreement for the purpose of restricting competition, as to any matter relating to such fees with any other firm or with any competitor.

C. In addition to any other remedy available, the City may deduct from any amounts owed to the Contractor, or otherwise recover, any amounts paid for items in excess of the Contractor's current prices on orders by others for like deliverables under similar terms of purchase.

20. **WARRANTY – TITLE**: The Contractor warrants that it has good and indefeasible title to all deliverables furnished under the Contract, and that the deliverables are free and clear of all liens, claims, security interests and encumbrances. The Contractor shall indemnify and hold the City harmless from and against all adverse title claims to the deliverables.

21. **WARRANTY – DELIVERABLES**: The Contractor warrants and represents that all deliverables sold the City under the Contract shall be free from defects in design, workmanship or manufacture, and conform in all material respects to the specifications, drawings, and descriptions in the Solicitation, to any samples furnished by the Contractor, to the terms, covenants and conditions of the Contract, and to all applicable State, Federal or local laws, rules, and regulations, and industry codes and standards. Unless otherwise stated in the Solicitation, the deliverables shall be new or recycled merchandise, and not used or reconditioned.

A. Recycled deliverables shall be clearly identified as such.

B. The Contractor may not limit, exclude or disclaim the foregoing warranty or any warranty implied by law; and any attempt to do so shall be without force or effect.

C. Unless otherwise specified in the Contract, the warranty period shall be at least one year from the date of acceptance of the deliverables or from the date of acceptance of any replacement deliverables. If during the warranty period, one or more of the above warranties are breached, the Contractor shall promptly upon receipt of demand either repair the non-conforming deliverables, or replace the non-conforming deliverables with fully conforming deliverables, at the City's option and at no additional cost to the City. All costs incidental to such repair or replacement, including but not limited to, any packaging and shipping costs shall be borne exclusively by the Contractor. The City shall endeavor to give the Contractor written notice of the breach of warranty within thirty (30) calendar days of discovery of the breach of warranty, but failure to give timely notice shall not impair the City's rights under this section.

D. If the Contractor is unable or unwilling to repair or replace defective or non-conforming deliverables as required by the City, then in addition to any other available remedy, the City may reduce the quantity of deliverables it may be required to purchase under the Contract from the Contractor, and purchase conforming deliverables from other sources. In such event, the Contractor shall pay to the City upon demand the increased cost, if any, incurred by the City to procure such deliverables from another source.

E. If the Contractor is not the manufacturer, and the deliverables are covered by a separate manufacturer's warranty, the Contractor shall transfer and assign such manufacturer's warranty to the City. If for any reason the manufacturer's warranty cannot be fully transferred to the City, the Contractor shall assist and cooperate with the City to the fullest extent to enforce such manufacturer's warranty for the benefit of the City.

22. **WARRANTY – SERVICES**: The Contractor warrants and represents that all services to be provided the City under the Contract will be fully and timely performed in a good and workmanlike manner in accordance with generally accepted industry standards and practices, the terms, conditions, and covenants of the Contract, and all applicable Federal, State and local laws, rules or regulations.

A. The Contractor may not limit, exclude or disclaim the foregoing warranty or any warranty implied by law, and any attempt to do so shall be without force or effect.

B. Unless otherwise specified in the Contract, the warranty period shall be at least one year from the Acceptance Date. If during the warranty period, one or more of the above warranties are breached, the Contractor shall promptly upon receipt of demand perform the services again in accordance with above standard at no additional cost to the City. All costs incidental to such additional performance shall be borne by the Contractor. The City shall endeavor to give the Contractor written notice of the breach of warranty within thirty (30) calendar days of discovery of the breach warranty, but failure to give timely notice shall not impair the City's rights under this section.

C. If the Contractor is unable or unwilling to perform its services in accordance with the above

standard as required by the City, then in addition to any other available remedy, the City may reduce the amount of services it may be required to purchase under the Contract from the Contractor, and purchase conforming services from other sources. In such event, the Contractor shall pay to the City upon demand the increased cost, if any, incurred by the City to procure such services from another source.

23. **ACCEPTANCE OF INCOMPLETE OR NON-CONFORMING DELIVERABLES**: If, instead of requiring immediate correction or removal and replacement of defective or non-conforming deliverables, the City prefers to accept it, the City may do so. The Contractor shall pay all claims, costs, losses and damages attributable to the City's evaluation of and determination to accept such defective or non-conforming deliverables. If any such acceptance occurs prior to final payment, the City may deduct such amounts as are necessary to compensate the City for the diminished value of the defective or non-conforming deliverables. If the acceptance occurs after final payment, such amount will be refunded to the City by the Contractor.

24. **RIGHT TO ASSURANCE**: Whenever one party to the Contract in good faith has reason to question the other party's intent to perform, demand may be made to the other party for written assurance of the intent to perform. In the event that no assurance is given within the time specified after demand is made, the demanding party may treat this failure as an anticipatory repudiation of the Contract.

25. **STOP WORK NOTICE**: The City may issue an immediate Stop Work Notice in the event the Contractor is observed performing in a manner that is in violation of Federal, State, or local guidelines, or in a manner that is determined by the City to be unsafe to either life or property. Upon notification, the Contractor will cease all work until notified by the City that the violation or unsafe condition has been corrected. The Contractor shall be liable for all costs incurred by the City as a result of the issuance of such Stop Work Notice.

26. **DEFAULT**: The Contractor shall be in default under the Contract if the Contractor (a) fails to fully, timely and faithfully perform any of its material obligations under the Contract, (b) fails to provide adequate assurance of performance under Paragraph 24, (c) becomes insolvent or seeks relief under the bankruptcy laws of the United States or (d) makes a material misrepresentation in Contractor's Offer, or in any report or deliverable required to be submitted by the Contractor to the City.

27. **TERMINATION FOR CAUSE:** In the event of a default by the Contractor, the City shall have the right to terminate the Contract for cause, by written notice effective ten (10) calendar days, unless otherwise specified, after the date of such notice, unless the Contractor, within such ten (10) day period, cures such default, or provides evidence sufficient to prove to the City's reasonable satisfaction that such default does not, in fact, exist. In addition to any other remedy available under law or in equity, the City shall be entitled to recover all actual damages, costs, losses and expenses, incurred by the City as a result of the Contractor's default, including, without limitation, cost of cover, reasonable attorneys' fees, court costs, and prejudgment and post-judgment interest at the maximum lawful rate. Additionally, in the event of a default by the Contractor, the City may remove the Contractor from the City's vendor list for three (3) years and any Offer submitted by the Contractor may be disqualified for up to three (3) years. All rights and remedies under the Contract are cumulative and are not exclusive of any other right or remedy provided by law.

28. **TERMINATION WITHOUT CAUSE**: The City shall have the right to terminate the Contract, in whole or in part, without cause any time upon thirty (30) calendar days' prior written notice. Upon receipt of a notice of termination, the Contractor shall promptly cease all further work pursuant to the Contract, with such exceptions, if any, specified in the notice of termination. The City shall pay the Contractor, to the extent of funds Appropriated or otherwise legally available for such purposes, for all goods delivered and services performed and obligations incurred prior to the date of termination in accordance with the terms hereof.

29. **FRAUD**: Fraudulent statements by the Contractor on any Offer or in any report or deliverable required to be submitted by the Contractor to the City shall be grounds for the termination of the Contract for cause by the City and may result in legal action.

30. **DELAYS**:
A. The City may delay scheduled delivery or other due dates by written notice to the Contractor if the City deems it is in its best interest. If such delay causes an increase in the cost of the work under the Contract, the City and the Contractor shall negotiate an equitable adjustment for costs incurred by the Contractor in the Contract price and execute an amendment to the Contract. The Contractor must assert its right to an adjustment within thirty (30) calendar days from the date of receipt of the notice of delay. Failure to agree on any adjusted price shall be handled under the Dispute Resolution process specified in paragraph 49. However, nothing in this provision shall excuse the Contractor from delaying the delivery as notified.
B. Neither party shall be liable for any default or delay in the performance of its obligations under this Contract if, while and to the extent such default or delay is caused by acts of God, fire, riots, civil commotion, labor disruptions, sabotage, sovereign conduct, or any other cause beyond the reasonable control of such Party. In the event of default or delay in contract performance due to any of the foregoing causes, then the time for completion of the services will be extended; provided, however, in such an event, a conference will be held within three (3) business days to establish a mutually agreeable period of time reasonably necessary to overcome the effect of such failure to perform.

31. **INDEMNITY**:
A. Definitions:

i. "Indemnified Claims" shall include any and all claims, demands, suits, causes of action, judgments and liability of every character, type or description, including all reasonable costs and expenses of litigation, mediation or other alternate dispute resolution mechanism, including attorney and other professional fees for: (1) damage to or loss of the property of any person (including, but not limited to the City, the Contractor, their respective agents, officers, employees and subcontractors; the officers, agents, and employees of such subcontractors; and third parties); and/or (2) death, bodily injury, illness, disease, worker's compensation, loss of services, or loss of income or wages to any person (including but not limited to the agents, officers and employees of the City, the Contractor, the Contractor's subcontractors, and third parties), ii. "Fault" shall include the sale of defective or non-conforming deliverables, negligence, willful misconduct or a breach of any legally imposed strict liability standard.

B. **THE CONTRACTOR SHALL DEFEND (AT THE OPTION OF THE CITY), INDEMNIFY, AND HOLD THE CITY, ITS SUCCESSORS, ASSIGNS, OFFICERS,**

EMPLOYEES AND ELECTED OFFICIALS HARMLESS FROM AND AGAINST ALL INDEMNIFIED CLAIMS DIRECTLY ARISING OUT OF, INCIDENT TO, CONCERNING OR RESULTING FROM THE FAULT OF THE CONTRACTOR, OR THE CONTRACTOR'S AGENTS, EMPLOYEES OR SUBCONTRACTORS, IN THE PERFORMANCE OF THE CONTRACTOR'S OBLIGATIONS UNDER THE CONTRACT. NOTHING HEREIN SHALL BE DEEMED TO LIMIT THE RIGHTS OF THE CITY OR THE CONTRACTOR (INCLUDING, BUT NOT LIMITED TO, THE RIGHT TO SEEK CONTRIBUTION) AGAINST ANY THIRD PARTY WHO MAY BE LIABLE FOR AN INDEMNIFIED CLAIM.

32. **INSURANCE**: The following insurance requirements are applicable, in addition to the specific insurance requirements detailed in **Appendix A** for services only**.** The successful firm shall procure and maintain insurance of the types and in the minimum amounts acceptable to the City of Denton. The insurance shall be written by a company licensed to do business in the State of Texas and satisfactory to the City of Denton.

A. General Requirements:

i. The Contractor shall at a minimum carry insurance in the types and amounts indicated and agreed to, as submitted to the City and approved by the City within the procurement process, for the duration of the Contract, including extension options and hold over periods, and during any warranty period.

ii. The Contractor shall provide Certificates of Insurance with the coverage's and endorsements required to the City as verification of coverage prior to contract execution and within fourteen (14) calendar days after written request from the City. Failure to provide the required Certificate of Insurance may subject the Offer to disqualification from consideration for award. The Contractor must also forward a Certificate of Insurance to the City whenever a previously identified policy period has expired, or an extension option or hold over period is exercised, as verification of continuing coverage.

iii. The Contractor shall not commence work until the required insurance is obtained and until such insurance has been reviewed by the City. Approval of insurance by the City shall not relieve or decrease the liability of the Contractor hereunder and shall not be construed to be a limitation of liability on the part of the Contractor.

iv. The Contractor must submit certificates of insurance to the City for all subcontractors prior to the subcontractors commencing work on the project.

v. The Contractor's and all subcontractors' insurance coverage shall be written by companies licensed to do business in the State of Texas at the time the policies are issued and shall be written by companies with A.M. Best ratings of **A- VII or better**. The City will accept workers' compensation coverage written by the Texas Workers' Compensation Insurance Fund.

vi. All endorsements naming the City as additional insured, waivers, and notices of cancellation endorsements as well as the Certificate of Insurance shall contain the solicitation number and the following information:

City of Denton
Materials Management Department
901B Texas Street
Denton, Texas 76209

vii. The "other" insurance clause shall not apply to the City where the City is an additional insured shown on any policy. It is intended that policies required in the Contract, covering both the City and the Contractor, shall be considered primary coverage as applicable.

viii. If insurance policies are not written for amounts agreed to with the City, the Contractor shall carry Umbrella or Excess Liability Insurance for any differences in amounts specified. If Excess Liability Insurance is provided, it shall follow the form of the primary coverage.
ix. The City shall be entitled, upon request, at an agreed upon location, and without expense, to review certified copies of policies and endorsements thereto and may make any reasonable requests for deletion or revision or modification of particular policy terms, conditions, limitations, or exclusions except where policy provisions are established by law or regulations binding upon either of the parties hereto or the underwriter on any such policies.
x. The City reserves the right to review the insurance requirements set forth during the effective period of the Contract and to make reasonable adjustments to insurance coverage, limits, and exclusions when deemed necessary and prudent by the City based upon changes in statutory law, court decisions, the claims history of the industry or financial condition of the insurance company as well as the Contractor.
xi. The Contractor shall not cause any insurance to be canceled nor permit any insurance to lapse during the term of the Contract or as required in the Contract.
xii. The Contractor shall be responsible for premiums, deductibles and self-insured retentions, if any, stated in policies. All deductibles or self-insured retentions shall be disclosed on the Certificate of Insurance.
xiii. The Contractor shall endeavor to provide the City thirty (30) calendar days' written notice of erosion of the aggregate limits below occurrence limits for all applicable coverage's indicated within the Contract.
xiv. The insurance coverage's specified in within the solicitation and requirements are required minimums and are not intended to limit the responsibility or liability of the Contractor.

B. Specific Coverage Requirements: Specific insurance requirements are contained in the solicitation instrument.

33. **CLAIMS**: If any claim, demand, suit, or other action is asserted against the Contractor which arises under or concerns the Contract, or which could have a material adverse effect on the Contractor's ability to perform thereunder, the Contractor shall give written notice thereof to the City within ten (10) calendar days after receipt of notice by the Contractor. Such notice to the City shall state the date of notification of any such claim, demand, suit, or other action; the names and addresses of the claimant(s); the basis thereof; and the name of each person against whom such claim is being asserted. Such notice shall be delivered personally or by mail and shall be sent to the City and to the Denton City Attorney. Personal delivery to the City Attorney shall be to City Hall, 215 East McKinney Street, Denton, Texas 76201.

34. **NOTICES**: Unless otherwise specified, all notices, requests, or other communications required or appropriate to be given under the Contract shall be in writing and shall be deemed delivered three (3) business days after postmarked if sent by U.S. Postal Service Certified or Registered Mail, Return Receipt Requested. Notices delivered by other means shall be deemed delivered upon receipt by the addressee. Routine communications may be made by first class mail, telefax, or other commercially accepted means. Notices to the Contractor shall be sent to the address specified in the Contractor's Offer, or at such other address as a party may notify the other in writing. Notices to the City shall be addressed to the City at 901B Texas Street, Denton, Texas 76209 and marked to the attention of the Purchasing Manager.

35. **RIGHTS TO BID, PROPOSAL AND CONTRACTUAL MATERIAL**: All material submitted by the Contractor to the City shall become property of the City upon receipt. Any portions of such material claimed by the Contractor to be proprietary must be clearly marked as such. Determination of the public nature of the material is subject to the Texas Public Information Act, Chapter 552, and Texas Government Code.

36. **NO WARRANTY BY CITY AGAINST INFRINGEMENTS**: The Contractor represents and warrants to the City that: (i) the Contractor shall provide the City good and indefeasible title to the deliverables and (ii) the deliverables supplied by the Contractor in accordance with the specifications in the Contract will not infringe, directly or contributorily, any patent, trademark, copyright, trade secret, or any other intellectual property right of any kind of any third party; that no claims have been made by any person or entity with respect to the ownership or operation of the deliverables and the Contractor does not know of any valid basis for any such claims. The Contractor shall, at its sole expense, defend, indemnify, and hold the City harmless from and against all liability, damages, and costs (including court costs and reasonable fees of attorneys and other professionals) arising out of or resulting from: (i) any claim that the City's exercise anywhere in the world of the rights associated with the City's' ownership, and if applicable, license rights, and its use of the deliverables infringes the intellectual property rights of any third party; or (ii) the Contractor's breach of any of Contractor's representations or warranties stated in this Contract. In the event of any such claim, the City shall have the right to monitor such claim or at its option engage its own separate counsel to act as co-counsel on the City's behalf. Further, Contractor agrees that the City's specifications regarding the deliverables shall in no way diminish Contractor's warranties or obligations under this paragraph and the City makes no warranty that the production, development, or delivery of such deliverables will not impact such warranties of Contractor.

37. **CONFIDENTIALITY**: In order to provide the deliverables to the City, Contractor may require access to certain of the City's and/or its licensors' confidential information (including inventions, employee information, trade secrets, confidential know-how, confidential business information, and other information which the City or its licensors consider confidential) (collectively, "Confidential Information"). Contractor acknowledges and agrees that the Confidential Information is the valuable property of the City and/or its licensors and any unauthorized use, disclosure, dissemination, or other release of the Confidential Information will substantially injure the City and/or its licensors. The Contractor (including its employees, subcontractors, agents, or representatives) agrees that it will maintain the Confidential Information in strict confidence and shall not disclose, disseminate, copy, divulge, recreate, or otherwise use the Confidential Information without the prior written consent of the City or in a manner not expressly permitted under this Agreement, unless the Confidential Information is required to be disclosed by law or an order of any court or other governmental authority with proper jurisdiction, provided the Contractor promptly notifies the City before disclosing such information so as to permit the City reasonable time to seek an appropriate protective order. The Contractor agrees to use protective measures no less stringent than the Contractor uses within its own business to protect its own most valuable information, which protective measures shall under all circumstances be at least reasonable measures to ensure the continued confidentiality of the Confidential Information.

38. **OWNERSHIP AND USE OF DELIVERABLES**: The City shall own all rights, titles, and interests throughout the world in and to the deliverables.
A. Patents. As to any patentable subject matter contained in the deliverables, the Contractor agrees

to disclose such patentable subject matter to the City. Further, if requested by the City, the Contractor agrees to assign and, if necessary, cause each of its employees to assign the entire right, title, and interest to specific inventions under such patentable subject matter to the City and to execute, acknowledge, and deliver and, if necessary, cause each of its employees to execute, acknowledge, and deliver an assignment of letters patent, in a form to be reasonably approved by the City, to the City upon request by the City.

B. Copyrights. As to any deliverables containing copyrightable subject matter, the Contractor agrees that upon their creation, such deliverables shall be considered as work made-for-hire by the Contractor for the City and the City shall own all copyrights in and to such deliverables, provided however, that nothing in this Paragraph 38 shall negate the City's sole or joint ownership of any such deliverables arising by virtue of the City's sole or joint authorship of such deliverables. Should by operation of law, such deliverables not be considered works made-for-hire, the Contractor hereby assigns to the City (and agrees to cause each of its employees providing services to the City hereunder to execute, acknowledge, and deliver an assignment to the City of) all worldwide right, title, and interest in and to such deliverables. With respect to such work made-for-hire, the Contractor agrees to execute, acknowledge, and deliver and cause each of its employees providing services to the City hereunder to execute, acknowledge, and deliver a work-made-for-hire agreement, in a form to be reasonably approved by the City, to the City upon delivery of such deliverables to the City or at such other time as the City may request.

C. Additional Assignments. The Contractor further agrees to, and if applicable, cause each of its employees to, execute, acknowledge, and deliver all applications, specifications, oaths, assignments, and all other instruments which the City might reasonably deem necessary in order to apply for and obtain copyright protection, mask work registration, trademark registration and/or protection, letters patent, or any similar rights in any and all countries and in order to assign and convey to the City, its successors, assigns and nominees, the sole and exclusive right, title, and interest in and to the deliverables. The Contractor's obligations to execute, acknowledge, and deliver (or cause to be executed, acknowledged, and delivered) instruments or papers such as those described in this Paragraph 38 a., b., and c. shall continue after the termination of this Contract with respect to such deliverables. In the event the City should not seek to obtain copyright protection, mask work registration or patent protection for any of the deliverables, but should desire to keep the same secret, the Contractor agrees to treat the same as Confidential Information under the terms of Paragraph 37 above.

39. **PUBLICATIONS**: All published material and written reports submitted under the Contract must be originally developed material unless otherwise specifically provided in the Contract. When material not originally developed is included in a report in any form, the source shall be identified.

40. **ADVERTISING**: The Contractor shall not advertise or publish, without the City's prior consent, the fact that the City has entered into the Contract, except to the extent required by law.

41. **NO CONTINGENT FEES**: The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure the Contract upon any agreement or understanding for commission, percentage, brokerage, or contingent fee, excepting bona fide employees of bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the City shall have the right, in addition to any other remedy available, to cancel the Contract without liability and to deduct from any amounts owed to the Contractor, or otherwise recover, the full amount of such commission,

percentage, brokerage or contingent fee.

42. **GRATUITIES**: The City may, by written notice to the Contractor, cancel the Contract without liability if it is determined by the City that gratuities were offered or given by the Contractor or any agent or representative of the Contractor to any officer or employee of the City of Denton with a view toward securing the Contract or securing favorable treatment with respect to the awarding or amending or the making of any determinations with respect to the performing of such contract. In the event the Contract is canceled by the City pursuant to this provision, the City shall be entitled, in addition to any other rights and remedies, to recover or withhold the amount of the cost incurred by the Contractor in providing such gratuities.

43. **PROHIBITION AGAINST PERSONAL INTEREST IN CONTRACTS**: No officer, employee, independent consultant, or elected official of the City who is involved in the development, evaluation, or decision-making process of the performance of any solicitation shall have a financial interest, direct or indirect, in the Contract resulting from that solicitation as defined in the City's Ethic Ordinance 18-757 and in the City Charter chapter 2 article XI(Ethics). Any willful violation of this section shall constitute impropriety in office, and any officer or employee guilty thereof shall be subject to disciplinary action up to and including dismissal. Any violation of this provision, with the knowledge, expressed or implied, of the Contractor shall render the Contract voidable by the City. The Contractor shall complete and submit the City's Conflict of Interest Questionnaire.

44. **INDEPENDENT CONTRACTOR**: The Contract shall not be construed as creating an employer/employee relationship, a partnership, or a joint venture. The Contractor's services shall be those of an independent contractor. The Contractor agrees and understands that the Contract does not grant any rights or privileges established for employees of the City of Denton, Texas for the purposes of income tax, withholding, social security taxes, vacation or sick leave benefits, worker's compensation, or any other City employee benefit. The City shall not have supervision and control of the Contractor or any employee of the Contractor, and it is expressly understood that Contractor shall perform the services hereunder according to the attached specifications at the general direction of the City Manager of the City of Denton, Texas, or his designee under this agreement. The contractor is expressly free to advertise and perform services for other parties while performing services for the City.

45. **ASSIGNMENT-DELEGATION**: The Contract shall be binding upon and ensure to the benefit of the City and the Contractor and their respective successors and assigns, provided however, that no right or interest in the Contract shall be assigned and no obligation shall be delegated by the Contractor without the prior written consent of the City. Any attempted assignment or delegation by the Contractor shall be void unless made in conformity with this paragraph. The Contract is not intended to confer rights or benefits on any person, firm or entity not a party hereto; it being the intention of the parties that there are no third party beneficiaries to the Contract.

The Vendor shall notify the City's Purchasing Manager, in writing, of a company name, ownership, or address change for the purpose of maintaining updated City records. The president of the company or authorized official must sign the letter. A letter indicating changes in a company name or ownership must be accompanied with supporting legal documentation such as an updated W-9, documents filed with the state indicating such change, copy of the board of director's resolution approving the action, or an executed

merger or acquisition agreement. Failure to do so may adversely impact future invoice payments.

46. **WAIVER**: No claim or right arising out of a breach of the Contract can be discharged in whole or in part by a waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is in writing signed by the aggrieved party. No waiver by either the Contractor or the City of any one or more events of default by the other party shall operate as, or be construed to be, a permanent waiver of any rights or obligations under the Contract, or an express or implied acceptance of any other existing or future default or defaults, whether of a similar or different character.

47. **MODIFICATIONS**: The Contract can be modified or amended only by a writing signed by both parties. No pre-printed or similar terms on any the Contractor invoice, order or other document shall have any force or effect to change the terms, covenants, and conditions of the Contract.

48. **INTERPRETATION**: The Contract is intended by the parties as a final, complete and exclusive statement of the terms of their agreement. No course of prior dealing between the parties or course of performance or usage of the trade shall be relevant to supplement or explain any term used in the Contract. Although the Contract may have been substantially drafted by one party, it is the intent of the parties that all provisions be construed in a manner to be fair to both parties, reading no provisions more strictly against one party or the other. Whenever a term defined by the Uniform Commercial Code, as enacted by the State of Texas, is used in the Contract, the UCC definition shall control, unless otherwise defined in the Contract.

49. **DISPUTE RESOLUTION**:
A. If a dispute arises out of or relates to the Contract, or the breach thereof, the parties agree to negotiate prior to prosecuting a suit for damages. However, this section does not prohibit the filing of a lawsuit to toll the running of a statute of limitations or to seek injunctive relief. Either party may make a written request for a meeting between representatives of each party within fourteen (14) calendar days after receipt of the request or such later period as agreed by the parties. Each party shall include, at a minimum, one (1) senior level individual with decision-making authority regarding the dispute. The purpose of this and any subsequent meeting is to attempt in good faith to negotiate a resolution of the dispute. If, within thirty (30) calendar days after such meeting, the parties have not succeeded in negotiating a resolution of the dispute, they will proceed directly to mediation as described below. Negotiation may be waived by a written agreement signed by both parties, in which event the parties may proceed directly to mediation as described below.
B. If the efforts to resolve the dispute through negotiation fail, or the parties waive the negotiation process, the parties may select, within thirty (30) calendar days, a mediator trained in mediation skills to assist with resolution of the dispute. Should they choose this option; the City and the Contractor agree to act in good faith in the selection of the mediator and to give consideration to qualified individuals nominated to act as mediator. Nothing in the Contract prevents the parties from relying on the skills of a person who is trained in the subject matter of the dispute or a contract interpretation expert. If the parties fail to agree on a mediator within thirty (30) calendar days of initiation of the mediation process, the mediator shall be selected by the Denton County Alternative Dispute Resolution Program (DCAP). The parties agree to participate in mediation in good faith for up to thirty (30) calendar days from the date of the first mediation session. The City and the Contractor will share the mediator's fees equally and the parties will bear their own costs of

participation such as fees for any consultants or attorneys they may utilize to represent them or otherwise assist them in the mediation.

50. **JURISDICTION AND VENUE**: The Contract is made under and shall be governed by the laws of the State of Texas, including, when applicable, the Uniform Commercial Code as adopted in Texas, V.T.C.A., Bus. & Comm. Code, Chapter 1, excluding any rule or principle that would refer to and apply the substantive law of another state or jurisdiction. All issues arising from this Contract shall be resolved in the courts of Denton County, Texas and the parties agree to submit to the exclusive personal jurisdiction of such courts. The foregoing, however, shall not be construed or interpreted to limit or restrict the right or ability of the City to seek and secure injunctive relief from any competent authority as contemplated herein.

51. **INVALIDITY**: The invalidity, illegality, or unenforceability of any provision of the Contract shall in no way affect the validity or enforceability of any other portion or provision of the Contract. Any void provision shall be deemed severed from the Contract and the balance of the Contract shall be construed and enforced as if the Contract did not contain the particular portion or provision held to be void. The parties further agree to reform the Contract to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this section shall not prevent this entire Contract from being void should a provision which is the essence of the Contract be determined to be void.

52. **HOLIDAYS:** The following holidays are observed by the City:

New Year's Day (observed)
Martin Luther King, Jr. Day
Memorial Day
Juneteenth
Independence Day
Labor Day
Veterans Day
Thanksgiving
Friday After Thanksgiving
Christmas Eve (observed)
Christmas Day (observed)

If a Legal Holiday falls on Saturday, it will be observed on the preceding Friday. If a Legal Holiday falls on Sunday, it will be observed on the following Monday. Normal hours of operation shall be between 8:00 am and 4:00 pm, Monday through Friday, excluding City of Denton Holidays. Any scheduled deliveries or work performance not within the normal hours of operation **must be approved** by the City Manager of Denton, Texas or his authorized designee.

53. **SURVIVABILITY OF OBLIGATIONS:** All provisions of the Contract that impose continuing obligations on the parties, including but not limited to the warranty, indemnity, and confidentiality obligations of the parties, shall survive the expiration or termination of the Contract.

54. **NON-SUSPENSION OR DEBARMENT CERTIFICATION:**
The City of Denton is prohibited from contracting with or making prime or sub-awards to parties that are suspended or debarred or whose principals are suspended or debarred from Federal, State,

or City of Denton Contracts. By accepting a Contract with the City, the Vendor certifies that its firm and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the General Services Administration List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Denton.

55. **EQUAL OPPORTUNITY**

A. **Equal Employment Opportunity:** No Offeror, or Offeror's agent, shall engage in any discriminatory employment practice. No person shall, on the grounds of race, sex, sexual orientation, age, disability, creed, color, genetic testing, or national origin, be refused the benefits of, or be otherwise subjected to discrimination under any activities resulting from this RFQ.

B. **Americans with Disabilities Act (ADA) Compliance:** No Offeror, or Offeror's agent, shall engage in any discriminatory employment practice against individuals with disabilities as defined in the ADA.

56. **BUY AMERICAN ACT-SUPPLIES (Applicable to certain federally funded requirements)**

The following federally funded requirements are applicable. A. Definitions. As used in this paragraph –

i. "Component" means an article, material, or supply incorporated directly into an end product.

ii. "Cost of components" means -

(1) For components purchased by the Contractor, the acquisition cost, including transportation costs to the place of incorporation into the end product (whether or not such costs are paid to a domestic firm), and any applicable duty (whether or not a duty-free entry certificate is issued); or

(2) For components manufactured by the Contractor, all costs associated with the manufacture of the component, including transportation costs as described in paragraph (1) of this definition, plus allocable overhead costs, but excluding profit. Cost of components does not include any costs associated with the manufacture of the end product.

iii. "Domestic end product" means-

(1) An unmanufactured end product mined or produced in the United States; or

(2) An end product manufactured in the United States, if the cost of its components mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. Components of foreign origin of the same class or kind as those that the agency determines are not mined, produced, or manufactured in sufficient and reasonably available commercial quantities of a satisfactory quality are treated as domestic. Scrap generated, collected, and prepared for processing in the United States is considered domestic.

iv. "End product" means those articles, materials, and supplies to be acquired under the contract for public use.

v. "Foreign end product" means an end product other than a domestic end product.

vi. "United States" means the 50 States, the District of Columbia, and outlying areas.

B. The Buy American Act (41 U.S.C. 10a - 10d) provides a preference for domestic end products for supplies acquired for use in the United States.

C. The City does not maintain a list of foreign articles that will be treated as domestic for this Contract; but will consider for approval foreign articles as domestic for this product if the articles are on a list approved by another Governmental Agency. The Offeror shall submit documentation with their Offer demonstrating that the article is on an approved Governmental list.

D. The Contractor shall deliver only domestic end products except to the extent that it specified delivery of foreign end products in the provision of the Solicitation entitled "Buy American Act

Certificate".

57. **RIGHT TO INFORMATION:** The City of Denton reserves the right to use any and all information presented in any response to this contract, whether amended or not, except as prohibited by law. Selection of rejection of the submittal does not affect this right.

58. **LICENSE FEES OR TAXES:** Provided the solicitation requires an awarded contractor or supplier to be licensed by the State of Texas, any and all fees and taxes are the responsibility of the respondent.

59. **PREVAILING WAGE RATES:** The contractor shall comply with prevailing wage rates as defined by the United States Department of Labor Davis-Bacon Wage Determination at http://www.dol.gov/whd/contracts/dbra.htm and at the Wage Determinations website www.wdol.gov for Denton County, Texas (WD-2509).

60. **COMPLIANCE WITH ALL STATE, FEDERAL, AND LOCAL LAWS:** The contractor or supplier shall comply with all State, Federal, and Local laws and requirements. The Respondent must comply with all applicable laws at all times, including, without limitation, the following: (i) §36.02 of the Texas Penal Code, which prohibits bribery; (ii) §36.09 of the Texas Penal Code, which prohibits the offering or conferring of benefits to public servants. The Respondent shall give all notices and comply with all laws and regulations applicable to furnishing and performance of the Contract.

61. **FEDERAL, STATE, AND LOCAL REQUIREMENTS:** Respondent shall demonstrate on-site compliance with the Federal Tax Reform Act of 1986, Section 1706, amending Section 530 of the Revenue Act of 1978, dealing with issuance of Form W-2's to common law employees. Respondent is responsible for both federal and State unemployment insurance coverage and standard Workers' Compensation insurance coverage. Respondent shall ensure compliance with all federal and State tax laws and withholding requirements. The City of Denton shall not be liable to Respondent or its employees for any Unemployment or Workers' Compensation coverage, or federal or State withholding requirements. Contractor shall indemnify the City of Denton and shall pay all costs, penalties, or losses resulting from Respondent's omission or breach of this Section.

62. **DRUG FREE WORKPLACE:** The contractor shall comply with the applicable provisions of the Drug-Free Work Place Act of 1988 (Public Law 100-690, Title V, Subtitle D; 41 U.S.C. 701 ET SEQ.) and maintain a drug-free work environment; and the final rule, government-wide requirements for drug-free work place (grants), issued by the Office of Management and Budget and the Department of Defense (32 CFR Part 280, Subpart F) to implement the provisions of the Drug-Free Work Place Act of 1988 is incorporated by reference and the contractor shall comply with the relevant provisions thereof, including any amendments to the final rule that may hereafter be issued.

63. **RESPONDENT LIABILITY FOR DAMAGE TO GOVERNMENT PROPERTY:** The Respondent shall be liable for all damages to government-owned, leased, or occupied property and equipment caused by the Respondent and its employees, agents, subcontractors, and suppliers, including any delivery or cartage company, in connection with any performance pursuant to the Contract. The Respondent shall notify the City of Denton Procurement Manager in writing of any such damage within one (1) calendar day.

64. **FORCE MAJEURE:** The City of Denton, any Customer, and the Respondent shall not be responsible for performance under the Contract should it be prevented from performance by an act of war, order of legal authority, act of God, or other unavoidable cause not attributable to the fault or negligence of the City of Denton. In the event of an occurrence under this Section, the Respondent will be excused from any further performance or observance of the requirements so affected for as long as such circumstances prevail and the Respondent continues to use commercially reasonable efforts to recommence performance or observance whenever and to whatever extent possible without delay. The Respondent shall immediately notify the City of Denton Procurement Manager by telephone (to be confirmed in writing within five (5) calendar days of the inception of such occurrence) and describe at a reasonable level of detail the circumstances causing the non-performance or delay in performance.

65. **NON-WAIVER OF RIGHTS:** Failure of a Party to require performance by another Party under the Contract will not affect the right of such Party to require performance in the future. No delay, failure, or waiver of either Party's exercise or partial exercise of any right or remedy under the Contract shall operate to limit, impair, preclude, cancel, waive or otherwise affect such right or remedy. A waiver by a Party of any breach of any term of the Contract will not be construed as a waiver of any continuing or succeeding breach.

66. **NO WAIVER OF SOVEREIGN IMMUNITY:** The Parties expressly agree that no provision of the Contract is in any way intended to constitute a waiver by the City of Denton of any immunities from suit or from liability that the City of Denton may have by operation of law.

67. **RECORDS RETENTION:** The Respondent shall retain all financial records, supporting documents, statistical records, and any other records or books relating to the performances called for in the Contract. The Respondent shall retain all such records for a period of four (4) years after the expiration of the Contract, or until the CPA or State Auditor's Office is satisfied that all audit and litigation matters are resolved, whichever period is longer. The Respondent shall grant access to all books, records and documents pertinent to the Contract to the CPA, the State Auditor of Texas, and any federal governmental entity that has authority to review records due to federal funds being spent under the Contract.

Should a conflict arise between any of the contract documents, it shall be resolved with the following order of precedence (if applicable). In any event, the final negotiated contract shall take precedence over any and all contract documents to the extent of such conflict.

1. **Final negotiated contract**
2. **RFP/Bid documents**
3. **City's standard terms and conditions**
4. **Purchase order**
5. **Contractor terms and conditions**

Exhibit D
Certificate of Interested Parties Electronic Filing

In 2015, the Texas Legislature adopted House Bill 1295, which added section 2252.908 of the Government Code. The law states that the City may not enter into this contract unless the Contractor submits a disclosure of interested parties (Form 1295) to the City at the time the Contractor submits the signed contract. The Texas Ethics Commission has adopted rules requiring the business entity to file Form 1295 electronically with the Commission.

Contractor will be required to furnish a Certificate of Interest Parties before the contract is awarded, in accordance with Government Code 2252.908.

The contractor shall:

1. Log onto the State Ethics Commission Website at : https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm
2. Register utilizing the tutorial provided by the State
3. Print a copy of the completed Form 1295
4. Enter the Certificate Number on page 2 of this contract.
5. Complete and sign the Form 1295
6. Email the form to purchasing@cityofdenton.com with the contract number in the subject line. (EX: Contract 1234 – Form 1295)

The City must acknowledge the receipt of the filed Form 1295 not later than the 30th day after Council award. Once a Form 1295 is acknowledged, it will be posted to the Texas Ethics Commission's website within seven business days.

Exhibit E

Line #	Description	QTY	UOM	Unit
1	SECTION A- BULK UTILITY PRODUCTS SUPPLY OF SOIL, SAND, LIME AGGREGATE			
2	Top Soil Screened	7525	Cu. Yd	$21.56
2a	Top Soil Screened (Per Ton UOM Price)	9406.25	tons	$17.25
3	Field Sand - Backfill	1500	Cu. Yd	$12.81
3a	Field Sand - Backfill (Per Ton UOM Price)	1875	tons	$10.25
4	Screened Sand	16000	Cu. Yd	$12.81
4a	Screened Sand (Per Ton UOM Price)	20000	tons	$10.25
5	Pit Sand (Concrete)	1000	Tons	$23.50
6	Manufactured Sand for Concrete Mixture	2800	Tons	$17.45
7	Concrete Aggregate Class A, 1" - #4 Rock (Rewashed & Screened)	1000	Tons	$18.95
8	Concrete Aggregate 3/8" Down Rock	500	Tons	$17.95
9	1-3/4" + Down Flexible Base	1250	Tons	$16.70
10	1-1/2" + Down Flexible Base	5500	Tons	$16.45
11	5/8" + Down Flexible Base	5500	Tons	$16.70
12	Type A, Grade 1 Flexible Base	3000	Tons	$16.70
13	Crushed Stone #6-20 (for ice and snow control of city streets)	1500	Tons	$17.45
14	Limestone Screening	400	Tons	$16.95
15	1 1/2" Rock, Limestone (Washed & Screened)	200	Tons	$18.95
16	4" - 7 1/2" Gabion Limestone	100	Tons	$24.75
17	3/4" Rock, Limestone Utility Stone (Not Washed)	520	Tons	$18.95
18	8-12" Rip Rap Limestone	420	Tons	$30.00
19	12-18" Rip Rap Limestone	400	Tons	$30.00
20	24" Rip Rap Limestone	100	Tons	$45.50
21	30" Rip Rap Limestone	100	Tons	$45.50
22	36" Rip Rap Limestone	100	Tons	$48.00
23	Pea Gravel (Unwashed)	100	Tons	$18.50
24	Pea Gravel (Washed)	1300	Tons	$18.50
25	Select Fill	15250	Cu. Yd.	$12.56
26	R.A.P. (Asphalt Millings)	5000	Cu. Yd.	$22.81
26a	R.A.P. (Asphalt Millings) (Per Ton UOM Price)	6250	tons	$18.25
27	Decomposed Granite	300	Tons	$23.50
28	4-8" Colorado River Rock	80	Tons	$165.00
28a	There will be a fuel surcharge per load if no load available going north to pick up the rock		Per Load	$400.00
29	3-5" Bull Rock	25	Tons	$93.00

Exhibit F

CONFLICT OF INTEREST QUESTIONNAIRE - FORM CIQ

For vendor or other person doing business with local governmental entity

This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.

This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).

By law this questionnaire must be filed with the records administrator of the local government entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. *See* Section 176.006(a-1), Local Government Code.

A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.

1 **Name of vendor who has a business relationship with local governmental entity.** CJA Enterprises LLP

2 ☐ **Check this box if you are filing an update to a previously filed questionnaire.**

(The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)

3 **Name of local government officer about whom the information in this section is being disclosed.**

none known

Name of Officer

This section, (item 3 including subparts A, B, C & D), must be completed for each officer with whom the vendor has an employment or other business relationship as defined by Section 176.001(1-a), Local Government Code. Attach additional pages to this Form CIQ as necessary.

A. Is the local government officer named in this section receiving or likely to receive taxable income, other than investment income, from the vendor?

☐ Yes ☐ No

B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer named in this section AND the taxable income is not received from the local governmental entity?

☐ Yes ☐ No

C. Is the filer of this questionnaire employed by a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership of one percent or more?

☐ Yes ☐ No

D. Describe each employment or business and family relationship with the local government officer named in this section.

none known

4 ☒ **I have no Conflict of Interest to disclose.**

5 DocuSigned by:

1D3FA62DD6F8418...

Signature of vendor doing business with the governmental entity

1/2/2022

Date

DocuSign

Certificate Of Completion

Envelope Id: 356BE01E847043229987051A5D2C0C90

Status: Completed

Subject: Please DocuSign: City Council Contract 7841 - Supply of Construction Material - CJA Primary

Source Envelope:

Document Pages: 28

Signatures: 6

Initials: 1

Certificate Pages: 6

AutoNav: Enabled

EnvelopeId Stamping: Enabled

Time Zone: (UTC-06:00) Central Time (US & Canada)

Envelope Originator:
Cori Power
901B Texas Street
Denton, TX 76209
cori.power@cityofdenton.com
IP Address: 198.49.140.104

Record Tracking

Status: Original
12/27/2021 4:02:30 PM

Holder: Cori Power
cori.power@cityofdenton.com

Location: DocuSign

Signer Events	Signature	Timestamp
Cori Power cori.power@cityofdenton.com Senior Buyer City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign	**Completed** Using IP Address: 198.49.140.104	Sent: 12/27/2021 4:10:44 PM Viewed: 12/27/2021 4:10:52 PM Signed: 12/28/2021 5:01:07 PM
Lori Hewell lori.hewell@cityofdenton.com Purchasing Manager City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign	DS LH Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.104	Sent: 12/28/2021 5:01:09 PM Viewed: 12/29/2021 8:03:46 AM Signed: 12/29/2021 8:04:22 AM
Marcella Lunn marcella.lunn@cityofdenton.com Catherine Clifton, Interim City Attorney City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign	DocuSigned by: Marcella Lunn 4B070831B4AA438... Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.104	Sent: 12/29/2021 8:04:25 AM Viewed: 12/29/2021 9:14:06 AM Signed: 12/29/2021 9:17:39 AM
Carla Peacock astrideapp@msn.com partner/owner Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 11/30/2017 11:48:59 AM ID: e044db71-9894-4519-8dcb-d1247604fedb	DocuSigned by: 1D3FA62DD6E8418... Signature Adoption: Drawn on Device Using IP Address: 67.44.192.87	Sent: 12/29/2021 9:17:41 AM Viewed: 12/30/2021 5:16:30 PM Signed: 1/2/2022 7:42:46 PM

Signer Events	Signature	Timestamp
ethan cox ethan.cox@cityofdenton.com General Manager of Public Works Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 8/7/2018 4:24:18 PM ID: feebacc3-151e-47bb-af6d-be8889ffcb35	DocuSigned by: ethan cox A83AA619E7314D7... Signature Adoption: Pre-selected Style Using IP Address: 47.187.93.66	Sent: 1/2/2022 7:42:49 PM Viewed: 1/3/2022 8:17:22 AM Signed: 1/3/2022 8:17:39 AM
Cheyenne Defee cheyenne.defee@cityofdenton.com Contract Administrator City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign	**Completed** Using IP Address: 198.49.140.104	Sent: 1/3/2022 8:17:41 AM Viewed: 1/26/2022 8:41:06 AM Signed: 1/26/2022 8:41:29 AM
Sara Hensley sara.hensley@cityofdenton.com Interim City Manager City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign	DocuSigned by: Sara Hensley 5236DB296270423... Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 1/26/2022 8:41:32 AM Viewed: 1/26/2022 8:42:22 AM Signed: 1/26/2022 8:42:29 AM
Rosa Rios rosa.rios@cityofdenton.com City Secretary Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 1/26/2022 9:51:20 AM ID: ad345f20-af02-46da-8f8c-ff0afa488011	DocuSigned by: Rosa Rios 1C5CA8C5E175493... Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.104	Sent: 1/26/2022 8:42:33 AM Viewed: 1/26/2022 9:51:20 AM Signed: 1/26/2022 9:51:44 AM

In Person Signer Events	Signature	Timestamp

Editor Delivery Events	Status	Timestamp

Agent Delivery Events	Status	Timestamp

Intermediary Delivery Events	Status	Timestamp

Certified Delivery Events	Status	Timestamp

Carbon Copy Events	Status	Timestamp
Cheyenne Defee cheyenne.defee@cityofdenton.com Contract Administrator City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign	COPIED	Sent: 12/28/2021 5:01:09 PM

Carbon Copy Events	Status	Timestamp
Gretna Jones gretna.jones@cityofdenton.com Legal Secretary City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign	COPIED	Sent: 1/3/2022 8:17:41 AM Viewed: 1/3/2022 9:01:52 AM
City Secretary Office citysecretary@cityofdenton.com Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign	COPIED	Sent: 1/26/2022 9:51:47 AM
Daniel Kremer Daniel.Kremer@cityofdenton.com Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 12/23/2021 1:11:35 PM ID: 4bb60410-152d-4917-b877-ed2e9278d939	COPIED	Sent: 1/26/2022 9:51:48 AM
Tina Ek Tina.Ek@cityofdenton.com Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 1/7/2022 8:54:17 AM ID: 6dc1f10e-d623-49fc-8804-8ca8b1569f82	COPIED	Sent: 1/26/2022 9:51:49 AM Viewed: 1/26/2022 10:09:23 AM
Cheyenne Defee cheyenne.defee@cityofdenton.com Contract Administrator City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign	COPIED	Sent: 1/26/2022 9:51:50 AM

Witness Events	Signature	Timestamp

Notary Events	Signature	Timestamp

Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	12/27/2021 4:10:44 PM
Certified Delivered	Security Checked	1/26/2022 9:51:20 AM
Signing Complete	Security Checked	1/26/2022 9:51:44 AM
Completed	Security Checked	1/26/2022 9:51:50 AM

Payment Events	Status	Timestamps

Electronic Record and Signature Disclosure

ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

From time to time, City of Denton (we, us or Company) may be required by law to provide to you certain written notices or disclosures. Described below are the terms and conditions for providing to you such notices and disclosures electronically through your DocuSign, Inc. (DocuSign) Express user account. Please read the information below carefully and thoroughly, and if you can access this information electronically to your satisfaction and agree to these terms and conditions, please confirm your agreement by clicking the 'I agree' button at the bottom of this document.

Getting paper copies

At any time, you may request from us a paper copy of any record provided or made available electronically to you by us. For such copies, as long as you are an authorized user of the DocuSign system you will have the ability to download and print any documents we send to you through your DocuSign user account for a limited period of time (usually 30 days) after such documents are first sent to you. After such time, if you wish for us to send you paper copies of any such documents from our office to you, you will be charged a $0.00 per-page fee. You may request delivery of such paper copies from us by following the procedure described below.

Withdrawing your consent

If you decide to receive notices and disclosures from us electronically, you may at any time change your mind and tell us that thereafter you want to receive required notices and disclosures only in paper format. How you must inform us of your decision to receive future notices and disclosure in paper format and withdraw your consent to receive notices and disclosures electronically is described below.

Consequences of changing your mind

If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. To indicate to us that you are changing your mind, you must withdraw your consent using the DocuSign 'Withdraw Consent' form on the signing page of your DocuSign account. This will indicate to us that you have withdrawn your consent to receive required notices and disclosures electronically from us and you will no longer be able to use your DocuSign Express user account to receive required notices and consents electronically from us or to sign electronically documents from us.

All notices and disclosures will be sent to you electronically

Unless you tell us otherwise in accordance with the procedures described herein, we will provide electronically to you through your DocuSign user account all required notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you during the course of our relationship with you. To reduce the chance of you inadvertently not receiving any notice or disclosure, we prefer to provide all of the required notices and disclosures to you by the same method and to the same address that you have given us. Thus, you can receive all the disclosures and notices electronically or in paper format through the paper mail delivery system. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the consequences of your electing not to receive delivery of the notices and disclosures electronically from us.

How to contact City of Denton:
You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:
To contact us by email send messages to: purchasing@cityofdenton.com

To advise City of Denton of your new e-mail address
To let us know of a change in your e-mail address where we should send notices and disclosures electronically to you, you must send an email message to us at melissa.kraft@cityofdenton.com and in the body of such request you must state: your previous e-mail address, your new e-mail address. We do not require any other information from you to change your email address..
In addition, you must notify DocuSign, Inc to arrange for your new email address to be reflected in your DocuSign account by following the process for changing e-mail in DocuSign.
To request paper copies from City of Denton
To request delivery from us of paper copies of the notices and disclosures previously provided by us to you electronically, you must send us an e-mail to purchasing@cityofdenton.com and in the body of such request you must state your e-mail address, full name, US Postal address, and telephone number. We will bill you for any fees at that time, if any.
To withdraw your consent with City of Denton
To inform us that you no longer want to receive future notices and disclosures in electronic format you may:

i. decline to sign a document from within your DocuSign account, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;
ii. send us an e-mail to purchasing@cityofdenton.com and in the body of such request you must state your e-mail, full name, IS Postal Address, telephone number, and account number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

Required hardware and software

Operating Systems:	Windows2000? or WindowsXP?
Browsers (for SENDERS):	Internet Explorer 6.0? or above
Browsers (for SIGNERS):	Internet Explorer 6.0?, Mozilla FireFox 1.0, NetScape 7.2 (or above)
Email:	Access to a valid email account
Screen Resolution:	800 x 600 minimum
Enabled Security Settings:	•Allow per session cookies •Users accessing the internet behind a Proxy Server must enable HTTP 1.1 settings via proxy connection

** These minimum requirements are subject to change. If these requirements change, we will provide you with an email message at the email address we have on file for you at that time providing you with the revised hardware and software requirements, at which time you will have the right to withdraw your consent.

Acknowledging your access and consent to receive materials electronically
To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please verify that you were able to read this electronic disclosure and that you also were able to print on paper or electronically save this page for your future reference and access or that you were able to e-mail this disclosure and consent to an address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format on the terms and conditions described above, please let us know by clicking the 'I agree' button below.
By checking the 'I Agree' box, I confirm that:

- I can access and read this Electronic CONSENT TO ELECTRONIC RECEIPT OF ELECTRONIC RECORD AND SIGNATURE DISCLOSURES document; and

- I can print on paper the disclosure or save or send the disclosure to a place where I can print it, for future reference and access; and

- Until or unless I notify City of Denton as described above, I consent to receive from exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to me by City of Denton during the course of my relationship with you.

Docusign City Council Transmittal Coversheet

FILE	8278
File Name	Interlocal Town of Flower Mound
Purchasing Contact	Lori Hewell
City Council Target Date	6/6/2023
Piggy Back Option	Not Applicable
Contract Expiration	NA
Ordinance	23-1107

DocuSign Envelope ID: BA741DF4-CD52-4562-9B84-2DC0ADECBB6C

INTERLOCAL COOPERATIVE PURCHASING AGREEMENT BETWEEN TOWN OF FLOWER MOUND, TEXAS AND CITY OF DENTON, TEXAS

STATE OF TEXAS

COUNTY OF DENTON

THIS INTERLOCAL COOPERATIVE PURCHASING AGREEMENT (the "Agreement") is made on the 5 day of April 2023, between the City of Denton, and the Town of Flower Mound; jointly referred to herein as "parties" and each separately as a "party."

WHEREAS, each party is authorized by Chapter 791 of the Texas Government Code (the "Interlocal Cooperation Act"), to enter into joint contracts and agreements for the performance of governmental functions and services including administrative functions normally associated with the operation of government such as purchasing necessary materials and supplies;

WHEREAS, Section 271.102 of the Texas Local Government Code authorizes a local government to participate in a cooperative purchasing program with another local government or a local cooperative organization;

WHEREAS, the parties recognize that participation in this cooperative purchasing program will be highly beneficial to the taxpayers of the parties through anticipated savings to be realized;

WHEREAS, the parties cannot normally obtain the best possible purchase price for materials and supplies acting individually and without cooperation;

WHEREAS, it is deemed in the best interest of all parties that said governments enter into a mutually satisfactory agreement for the purchase of certain materials and supplies; and

WHEREAS, the parties, in performing governmental functions or in paying for the performance of governmental functions hereunder, shall make that performance or those payments from current revenues legally available to that party;

NOW, THEREFORE, the parties hereto, in consideration of the mutual covenants and conditions contained herein and pursuant to the authority permitted under the Interlocal Cooperation Act, promise and agree as follows:

I.
Purpose

A. The purpose of this Agreement is to establish a cooperative purchasing program between the parties, which will allow each party to purchase goods and services under each other's competitively bid contracts pursuant to Subchapter F, Chapter 271 of the Texas Local Government Code.

II.
Duration of Agreement

A. This Agreement shall be in full force and effect from the date it is duly executed by all parties until terminated by either party to this Agreement. Any party may modify and/or terminate this Agreement in accordance with the following terms and conditions:

- The terms and conditions of this Agreement may be modified upon the mutual consent of all parties. Mutual consent will be demonstrated by approval of the governing body of each party hereto. No modification to this Agreement shall be effective and binding unless and until it is reduced to writing and signed by duly authorized representatives of all parties.

- This Agreement may be terminated at any time by either party, with or without cause, upon thirty days' written notice to the other party. Unless otherwise specified, written notice shall be deemed to have been duly served if delivered in person, sent (i) as an attachment to an email, (ii) by fax with a successful send confirmation, or (iii) by certified mail to the address as listed herein:

City of Denton:	Procurement Division Attn: Purchasing Manager City of Denton 901 B Texas Street Denton, TX 76209 Phone: 940-349-7100 Fax: 940-293-1837 purchasing@cityofdenton.com
Town of Flower Mound:	Purchasing Division Attn: Purchasing Manager Town of Flower Mound 2121 Cross Timbers Road Flower Mound, TX 75028 Phone: 972-874-6007 Fax: 972-874-6478 purchasing@flower-mound.com

III.
Relationship of Parties

A. It is agreed that the parties, in receiving products and/or services specified in this Agreement, shall each act as an independent purchaser and shall have control of its needs and the way any such products and/or services are acquired. Neither party is an agent, employee or joint enterprise of the other, and each party is responsible for its own actions, forbearance,

negligence and deeds, and for those of its agents or employees, in conjunction with the utilization and/or cooperative solicitation of any supplier agreement obtained in accordance with Texas law.

B. The parties shall notify, using the notice procedures set forth in Section II.A, all participating entities of available contracts to include terms of contract, commodity cost, contact names and addresses, and shall keep participating parties informed of all changes to the list of contracts available for cooperative purchasing.

C. Each party shall ensure that all applicable laws and ordinances have been satisfied with respect to any action taken by such party pursuant to this Agreement.

D. Nothing in this Agreement shall prevent any participating party from accepting and awarding bids for commodities subject to this Agreement individually and on its own behalf.

E. Purchasing Agent or their designee, is the official representative to act for the City of Denton in all matters relating to this Agreement.

F. Purchasing Manager or their designee, is the official representative to act for Town of Flower Mound in all matters relating to this Agreement.

IV.
Purchase of Goods and Services

A. All products and services shall be procured in accordance with all appropriate procedures governing competitive bids and competitive proposals, as required by the laws of the State of Texas.

B. The parties will be able to purchase from those contracts established by the other party where notice has been given in the bid specifications and the successful bidder has accepted terms for cooperative purchasing agreements for local governments.

C. The parties hereto agree that the ordering of products and services through this Agreement shall be their individual responsibility and that the successful bidder or bidders shall bill each party directly or, if deemed advantageous by the parties, to both parties.

D. The parties agree to pay successful bidders directly for all products or services received from current revenues available for such purchase. Each party shall be liable to the successful bidder only for products and services ordered by and received by such party and shall not, by the execution of this Agreement, assume any additional liability.

E. The parties do not warrant and are not responsible for the quality or delivery of products or services from the successful bidder. The participating parties shall receive all warranties provided by the successful bidder for the products or services purchased.

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F. If any dispute arises between individual parties and a successful bidder, such dispute shall be handled by and between the participating party's governmental body and the bidder.

V.
Liability and Immunity Provisions

A. It is understood and agreed between the parties that each party hereto shall be responsible for its own and its employees' acts of negligence in connection with this Agreement. Neither party shall be responsible for any negligent act or omission of the other party or its employees in connection with this Agreement. It is specifically agreed that, as between the parties, each party to this Agreement shall be individually and respectively responsible for responding to, dealing with, insuring against, defending, and otherwise handling and managing liability and potential liability of itself and its employees pursuant to this Agreement.

B. Notwithstanding the foregoing, each party hereto reserves and expressly does not waive any immunity or defense available at law or in equity, including governmental immunity, for any claim or cause of action whatsoever that may arise or result from the services provided and/or any circumstances arising under this Agreement. These provisions are solely for the benefit of the parties hereto and are not for the benefit of any person or entity not a party hereto; this Agreement shall not be interpreted nor construed to give any claim or cause of action to any third party. Neither party shall be held legally liable for any claim or cause of action arising pursuant to or out of the services provided under this Agreement, except as specifically provided by law. Where injury or property damages results from the joint or concurrent negligence of both parties, liability, if any, shall be shared by each party based on comparative responsibility in accordance with the applicable laws of the State of Texas, subject to all defenses available to them, including governmental immunity.

C. This Agreement is expressly made subject to the parties' governmental immunity under the Texas Civil Practice and Remedies Code and all applicable federal, state, and local laws, rules, regulations, ordinances, and policies. Nothing in this Agreement shall be deemed to waive, modify, or amend any legal defense available at law or in equity to either party or to create any legal rights or claim on behalf of any third party. Neither party waive, modify, or alter, to any extent whatsoever, the availability of the defense of governmental immunity under the laws of the State of Texas.

VI.
Miscellaneous

A. Each party has the full power and authority to enter into and perform this Agreement and the person signing this Agreement on behalf of each party has been properly authorized and empowered to enter into this Agreement. The persons executing this Agreement hereby represent that they have authorization to sign on behalf of their respective party.

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

C. This Agreement shall be binding upon the parties hereto, their successors, heirs, personal representatives, and assigns. Neither party will assign or transfer an interest in this Agreement without the prior written consent of the other party.

D. By entering into this Agreement, the parties do not create any obligations, express or implied, other than those set forth herein, and this Agreement shall not create any rights in, or claims by, third parties who are not signatories to this Agreement.

E. This Agreement shall be interpreted in accordance with the laws of the State of Texas and venue of any cause of action concerning this Agreement shall be in a court of competent jurisdiction sitting in Denton County, Texas.

F. This Agreement, together with any referenced exhibits and attachments, constitutes the entire agreement between the parties hereto, and any prior agreement, assertion, statement, understanding, or other commitment occurring during the term of this Agreement, or subsequent thereto, has no legal force or effect whatsoever, unless properly executed in writing in accordance with Section II.A, and if appropriate, recorded as an amendment of this Agreement.

G. Failure of any party, at any time, to enforce a provision of this Agreement, shall in no way constitute a waiver of that provision nor in any way affect the validity of this Agreement or the right of either party thereafter to enforce each provision hereof. No term of this Agreement shall be deemed waived or any breach excused unless the waiver shall be in writing and signed by the party claimed to have waived. Furthermore, any consent to or waiver of a breach will not constitute consent to or waiver or excuse of any other different or subsequent breach.

H. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument.

I. Each party agrees that this Agreement and any other documents to be delivered in connection herewith may be electronically signed, and that any electronic signatures appearing on this Agreement or such other documents are the same as handwritten signatures for the purposes of validity, enforceability, and admissibility.

[*Signature Page to Follow*]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their authorized officers thereon the day and the year first above written.

[_____]

_____
[_____]

ATTEST:
[_____]

BY: _____

APPROVED AS TO LEGAL FORM:
[_____]

BY: _____

CITY OF DENTON, TEXAS

DocuSigned by:
Sara Hensley
5236DB296270423...
CITY MANAGER

ATTEST: Jesus Salazar
Interim CITY SECRETARY

BY: DocuSigned by:
Jesus Salazar
2437C77B897541D...

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: DocuSigned by:
Marcella Lunn
4B070831B4AA438...

EXECUTED this 5 day of April, 2023.

TOWN OF FLOWER MOUND, TEXAS

By: _____
JAMES W. CHILDERS, TOWN MANAGER

2121 CROSS TIMBERS ROAD
FLOWER MOUND, TX 75028

ATTEST:

By: Theresa Scott
TOWN SECRETARY

Signature Page to Interlocal Cooperative Purchasing Agreement

DocuSign

Certificate Of Completion

Envelope Id: BA741DF4CD5245629B842DC0ADECBB6C

Status: Completed

Subject: Please DocuSign: City Council Contract 8278 - Interlocal Flower Mound

Source Envelope:

Document Pages: 7

Signatures: 3

Certificate Pages: 6

Initials: 0

AutoNav: Enabled

EnvelopeId Stamping: Enabled

Time Zone: (UTC-06:00) Central Time (US & Canada)

Envelope Originator:
Lori Hewell
901B Texas Street
Denton, TX 76209
lori.hewell@cityofdenton.com
IP Address: 198.49.140.10

Record Tracking

Status: Original
5/24/2023 4:13:16 PM

Holder: Lori Hewell
lori.hewell@cityofdenton.com

Location: DocuSign

Signer Events	Signature	Timestamp
Lori Hewell lori.hewell@cityofdenton.com Purchasing Manager City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign	**Completed** Using IP Address: 198.49.140.10	Sent: 5/24/2023 4:17:15 PM Viewed: 5/24/2023 4:17:27 PM Signed: 5/24/2023 4:19:04 PM
Marcella Lunn marcella.lunn@cityofdenton.com Mack Reinwand City Attorney City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign	DocuSigned by: Marcella Lunn 4B070831B4AA438... Signature Adoption: Pre-selected Style Using IP Address: 47.24.7.77 Signed using mobile	Sent: 5/24/2023 4:19:06 PM Viewed: 5/25/2023 11:18:16 AM Signed: 5/25/2023 11:19:17 AM
Cheyenne Defee cheyenne.defee@cityofdenton.com Procurement Administration Supervisor City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign	**Completed** Using IP Address: 198.49.140.10	Sent: 5/25/2023 11:19:19 AM Viewed: 6/7/2023 7:52:00 AM Signed: 6/7/2023 10:39:06 AM
Sara Hensley sara.hensley@cityofdenton.com City Manager City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign	DocuSigned by: Sara Hensley 5236DB296270423... Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 6/7/2023 10:39:08 AM Viewed: 6/7/2023 10:53:29 AM Signed: 6/7/2023 10:53:37 AM

Signer Events	Signature	Timestamp
Jesus Salazar jesus.salazar@cityofdenton.com Security Level: Email, Account Authentication (None)	DocuSigned by: Jesus Salazar 2437C77B897541D... Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 6/7/2023 10:53:39 AM Viewed: 6/7/2023 10:55:25 AM Signed: 6/7/2023 10:58:02 AM

Electronic Record and Signature Disclosure:
Accepted: 6/7/2023 10:55:25 AM
ID: 83e0e940-861c-4aad-9ff8-051ec40bac6b

In Person Signer Events	Signature	Timestamp

Editor Delivery Events	Status	Timestamp

Agent Delivery Events	Status	Timestamp

Intermediary Delivery Events	Status	Timestamp

Certified Delivery Events	Status	Timestamp

Carbon Copy Events	Status	Timestamp
Cheyenne Defee cheyenne.defee@cityofdenton.com Procurement Administration Supervisor City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign	COPIED	Sent: 5/24/2023 4:19:05 PM
Gretna Jones gretna.jones@cityofdenton.com Legal Secretary City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign	COPIED	Sent: 5/25/2023 11:19:18 AM Viewed: 5/25/2023 12:34:38 PM
City Secretary Office citysecretary@cityofdenton.com Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign	COPIED	Sent: 6/7/2023 10:58:04 AM Viewed: 6/7/2023 11:03:07 AM

Witness Events	Signature	Timestamp

Notary Events	Signature	Timestamp

Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	5/24/2023 4:17:15 PM
Envelope Updated	Security Checked	6/7/2023 9:29:48 AM
Certified Delivered	Security Checked	6/7/2023 10:55:25 AM
Signing Complete	Security Checked	6/7/2023 10:58:02 AM
Completed	Security Checked	6/7/2023 10:58:04 AM

Payment Events	Status	Timestamps
Electronic Record and Signature Disclosure		

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Getting paper copies

At any time, you may request from us a paper copy of any record provided or made available electronically to you by us. For such copies, as long as you are an authorized user of the DocuSign system you will have the ability to download and print any documents we send to you through your DocuSign user account for a limited period of time (usually 30 days) after such documents are first sent to you. After such time, if you wish for us to send you paper copies of any such documents from our office to you, you will be charged a $0.00 per-page fee. You may request delivery of such paper copies from us by following the procedure described below.

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All notices and disclosures will be sent to you electronically

Unless you tell us otherwise in accordance with the procedures described herein, we will provide electronically to you through your DocuSign user account all required notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you during the course of our relationship with you. To reduce the chance of you inadvertently not receiving any notice or disclosure, we prefer to provide all of the required notices and disclosures to you by the same method and to the same address that you have given us. Thus, you can receive all the disclosures and notices electronically or in paper format through the paper mail delivery system. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the consequences of your electing not to receive delivery of the notices and disclosures electronically from us.

How to contact City of Denton:
You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:
To contact us by email send messages to: purchasing@cityofdenton.com

To advise City of Denton of your new e-mail address
To let us know of a change in your e-mail address where we should send notices and disclosures electronically to you, you must send an email message to us at melissa.kraft@cityofdenton.com and in the body of such request you must state: your previous e-mail address, your new e-mail address. We do not require any other information from you to change your email address..
In addition, you must notify DocuSign, Inc to arrange for your new email address to be reflected in your DocuSign account by following the process for changing e-mail in DocuSign.
To request paper copies from City of Denton
To request delivery from us of paper copies of the notices and disclosures previously provided by us to you electronically, you must send us an e-mail to purchasing@cityofdenton.com and in the body of such request you must state your e-mail address, full name, US Postal address, and telephone number. We will bill you for any fees at that time, if any.
To withdraw your consent with City of Denton
To inform us that you no longer want to receive future notices and disclosures in electronic format you may:

i. decline to sign a document from within your DocuSign account, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;
ii. send us an e-mail to purchasing@cityofdenton.com and in the body of such request you must state your e-mail, full name, IS Postal Address, telephone number, and account number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

Required hardware and software

Operating Systems:	Windows2000? or WindowsXP?
Browsers (for SENDERS):	Internet Explorer 6.0? or above
Browsers (for SIGNERS):	Internet Explorer 6.0?, Mozilla FireFox 1.0, NetScape 7.2 (or above)
Email:	Access to a valid email account
Screen Resolution:	800 x 600 minimum
Enabled Security Settings:	•Allow per session cookies •Users accessing the internet behind a Proxy Server must enable HTTP 1.1 settings via proxy connection

** These minimum requirements are subject to change. If these requirements change, we will provide you with an email message at the email address we have on file for you at that time providing you with the revised hardware and software requirements, at which time you will have the right to withdraw your consent.

Acknowledging your access and consent to receive materials electronically
To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please verify that you were able to read this electronic disclosure and that you also were able to print on paper or electronically save this page for your future reference and access or that you were able to e-mail this disclosure and consent to an address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format on the terms and conditions described above, please let us know by clicking the 'I agree' button below.
By checking the 'I Agree' box, I confirm that:

- I can access and read this Electronic CONSENT TO ELECTRONIC RECEIPT OF ELECTRONIC RECORD AND SIGNATURE DISCLOSURES document; and

- I can print on paper the disclosure or save or send the disclosure to a place where I can print it, for future reference and access; and

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

DATE: November 18, 2024
FROM: Brennon Peltier, Park Development Manager
ITEM: **Consider approval of a Professional Services Agreement with MHS Planning & Design, LLC., for the design services associated with the Trotter Park project, in the amount of $589,200.00; and authorization for the Mayor to execute same on behalf of the Town.**

BACKGROUND: This item is to enter into a Professional Services Agreement with MHS Planning & Design, LLC., to implement the approved master plan for the dedicated park land of 13.11 acres within the Townlake Phase 4 development located at 4551 Cross Timbers Road. The master plan was recommended by the Parks Board at their June 6, 2024, regular meeting by a vote of 6-0; and approved during the July 15, 2024, Town Council meeting by a vote of 5-0. The park master plan includes two tennis courts, 12 pickleball courts, a basketball court, playground, plaza area, native landscaping/planing, parking, a restroom with septic system, soft surface & concrete trails, and a detention pond. The preliminary estimate for construction costs is $9,027,900.00, which includes required utility & engineering work.

If approved, this agreement would provide for the full design and construction plans for Trotter Park that will be used for construction bidding of the project. A progress update of the design will be provided to the Parks Board when the plans are approximately 70% complete to ensure that the design is in line with the approved master plan. The contract will also provide for assistance during the bidding phase of the project.

BOARD REVIEW/CITIZEN FEEDBACK: The master plan was recommended by the Parks Board at their June 6, 2024, meeting by a vote of 6-0; and approved during the July 15, 2024, Town Council meeting by a vote of 5-0.

ALTERNATIVES: If not approved, implementation of the approved master plan will be delayed.

FISCAL IMPACT: $589,200.00

Proposed Expenditure/(Revenue)	**Account Number(s):**
$589,200.00	310-320-XXXXX-6070

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

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

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

THE STATE OF TEXAS §
COUNTY OF DENTON §

PROFESSIONAL SERVICES AGREEMENT WITH
MHS PLANNING & DESIGN, LLC.

This contract is entered into on this 18 day of November 2024, by and between the **TOWN OF FLOWER MOUND, TEXAS,** a municipal corporation located in Denton County, Texas, (hereinafter referred to as "TOWN"), acting by and through its Mayor, and **MHS PLANNING & DESIGN, LLC.**, ("hereinafter referred to as "CONSULTANT") whose address is 12222 Merit Drive, Dallas, TX 75251.

RECITALS

WHEREAS, TOWN desires to obtain professional services from CONSULTANT relative to surveying, design and providing construction documents for the Trotter Park project; and

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

TERMS OF AGREEMENT

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

I.
Employment of Consultant

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

II.
Scope of Services

CONSULTANT shall perform such services as are necessary to provide services for Trotter Park 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 Five Hundred Eighty-Nine Thousand Two Hundred and No/100 Dollars ($589,200.00). This total payment for services includes CONSULTANT's ordinary expenses. Additional expenses and charges, which are extraordinary in nature, must be approved in advance by TOWN in writing signed by the parties. Such extraordinary expenses may be paid as incurred and billed to the TOWN pursuant to this Contract over and above the total payment amount identified in this provision. Any extraordinary expenses or charges not approved in writing in advance by the TOWN shall remain the sole responsibility of the CONSULTANT. If CONSULTANT retains any subcontractors to perform any of the work, CONSULTANT acknowledges that payments to such subcontractors are due and payable in accordance with the provisions of Texas Government Code Section 2251.022, and that interest on unpaid and overdue amounts shall accrue in accordance with Texas Government Code Section 2251.025.

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

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

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

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

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

IV.
Revisions of the Scope of Services

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

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

V.
Term

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

VI.
Contract Termination Provision

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

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

VII.
Ownership of Documents

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

VIII.
Insurance

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

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

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

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

4. The term "Owner" or "TOWN" shall include all authorities, boards, bureaus, commissions, divisions, departments and offices of TOWN and the individual members, employees and agents thereof in their official capacities, and/or while acting on behalf of TOWN;

5. The policy phrase "Other Insurance" shall not apply to TOWN where TOWN is an additional insured on the policy; and

6. All provisions of the Contract concerning liability, duty and standards of care together with the indemnification provision shall be underwritten by contractual liability coverage sufficient to include such obligations within applicable policies.

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

1. Any policy submitted shall not be subject to limitations, conditions or restrictions deemed inconsistent with the intent of the insurance requirements to be fulfilled by CONSULTANT. The TOWN's decision(s) thereon shall be final;

2. All policies are to be written through companies duly approved to transact that class of insurance in the State of Texas; and
3. All liability policies required herein, save and except Professional Liability Insurance, shall be written with an "occurrence" basis coverage trigger.

D. CONSULTANT agrees to the following:

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

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

2. Companies issuing the insurance policies and CONSULTANT shall have no recourse against TOWN for payment of any premiums, or assessments for any deductible, as all such premiums are the sole responsibility and risk of CONSULTANT;

3. Approval, disapproval or failure to act by TOWN regarding any insurance supplied by CONSULTANT (or any subcontractors) shall not relieve CONSULTANT of full responsibility or liability for damages and accidents as set forth in the Contract documents. Neither shall the insolvency or denial of liability by the insurance company exonerate CONSULTANT from liability; and

4. No special payments shall be made for any insurance that the CONSULTANT and subcontractors are required to carry; all are included in the contract price and the contract unit prices.

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

IX.
Right to Inspect Records

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

If TOWN agrees that CONSULTANT may retain any subcontractors, CONSULTANT further agrees to include in subcontract(s), if any, a provision that any subcontractor or engineer agrees that TOWN shall have access to and the right to examine any directly pertinent books, documents, papers and records of such engineer or 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, INCLUDING PAYMENT OF TOWN'S REASONABLE ATTORNEYS' FEES. IN THE EVENT OF A CLAIM IS BROUGHT AGAINST TOWN, TOWN SHALL HAVE THE RIGHT TO RETAIN LEGAL COUNSEL OF ITS CHOOSING IN DEFENSE OF SUCH A CLAIM, AND SUCH ELECTION SHALL NOT RELIEVE CONSULTANT OF ITS OBLIGATIONS UNDER THIS SECTION.

XIII.
Independent Contractor

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

XIV.
Default

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

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

(a) Specific performance of the Contract;

(b) Re-performance of this Contract at no extra charge to TOWN; or

(c) Monetary damages.

XV.
Provisions Surviving Termination

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

XVI.
Changes

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

XVII.
Conflicts of Interest

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

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

XVIII.
Confidential Information

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

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

XIX.
Notice Information

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

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

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

David B. Shipp
Landscape Architect & Partner
MHS PLANNING & DESIGN, LLC
12222 Merit Drive
Dallas, Texas 75251
214-845-7008
dshipp@mhsplanning.com

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

XX.
Applicable Law

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

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

XXI.
Non-Discrimination

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

(a) Cancel, terminate, or suspend the Contract in whole or in part; or

(b) Declare CONSULTANT ineligible for future TOWN contracts until it is determined to be in compliance.

XXII.
Arbitration

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

XXIII.
No Waiver of Governmental Immunity

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

XXIV.
Severability

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

XXV.
Remedies

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

XXVI.
Entire Agreement

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

XXVII.
Non-Waiver

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

XXVIII.
Headings

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

XXIX.
Venue

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

XXX.
No Third Party Beneficiary

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

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

[Signature Page to Follow]

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

CONSULTANT: **MHS PLANNING & DESIGN, INC.**	**THE TOWN OF FLOWER MOUND, TEXAS**
By: _____	By: _____
Name: David B. Shipp	Name: _____
Title: PLA, Partner	Title: _____
Dated: 11. 7. 24	Dated: _____

November 7, 2024

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

RE: Trotter Park 13.3 acre – Discovery / Design Development / Construction Documents / Bidding

Mr. Jennings,

It is our pleasure to submit this proposal for professional services with the development of Trotter Park located in the Town of Flower Mound as shown in Exhibit 'A'. Proposed elements for the project include two tennis courts, 12 pickleball courts, 1 basketball court, sports lighting, pre-fabricated restroom building, parking and driveways, playground/inclusive design, concrete and soft loop trail, entry plaza adjacent to natural turf, utilities to include water main line @ Cross Timbers, potential detention pond, large shade canopy at plaza, shaded court side seating areas, masonry project signage, loop trail lighting, parking lot lighting, irrigation and landscaping to include native material.

Upon your review of this proposal, we would appreciate the opportunity to meet with you to review and further clarify any items and the scope as presented. If you agree with the scope of services and fees as presented, please sign and return to our office.

Based on our understanding of the project, we propose the following scope of services:

1. Discovery Phase

a. Work in conjunction with the Owner to finalize a site plan layout for the project based on the approved Town Council master plan of project.
b. Preliminary Geotechnical Investigation.
c. Preliminary Layout (Grading & Drainage).
d. Research and review previously prepared construction plans, record documents, land records, or other pertinent documents on file in the county real property records.
e. Incorporate aerial, topographic, and planimetric survey data currently available or provided by others.
f. Tree Survey (6" caliper and above).
g. Confirm general location of underground utilities and easements from client provided data/survey information.
h. Provide preliminary site plan.

i. General coordination meetings with Town staff.
j. Recommend as required Subsurface Utility Engineering (SUE) or Level A utility investigation or any special surveys or tests, which, in the reasonable opinion of the Consultant, may be required for a proper design of the project and arrange for such work, after approval by the Town, at the Town's expense.

2. Design Development Phase

a. Revise and refine the preferred design based on public engagement data, staff direction, Parks Board, and Town Council. Owner to provide comments.
b. Provide revised final site plan from comments.
c. Provide preliminary drainage map.
d. Design Development presentation to determine styles and themes for the proposed improvements.
e. Prepare supplemental sketches as required to illustrate the design intent.
f. Provide probable cost estimate for construction.
g. From approved final design provide a detailed color rendering (plan view and perspectives) of project.
h. General coordination meetings with Town staff.

3. Construction Documents Phase

a. Based on the approved preliminary design documents, coordinate and/or prepare detailed construction drawings and specifications for erosion control, grading, paving, drainage, utilities (water, septic, electric), landscaping, and other site improvements for the Project. The construction drawings and specifications shall be prepared for the full project.
b. Furnish to the Owner construction plans and specifications (PDF). Plans for review at 60%, 90% and 100% along with updated cost estimates. Submittal documents typically include the following sheets, but all may not be required for this project:

1. Cover Sheet with Sheet Index and Project Location map
2. General Notes and Legends
3. Project Site Layout Plan
4. Quantity Summary
5. Plant Protection and Tree Mitigation Plan
6. Layout and Dimensioning Plan
7. Typical Sections
8. Demolition Plan
9. Paving Plan and Profile
10. Pavement Markings
11. Project Mansory Entry Signage
12. Sport Court Foundation Plan and Details
13. Median and Driveway Layout
14. Retaining Wall Layout and Details
15. Construction Sequencing and Traffic Control (Utilities)

16. Construction Sequencing and Traffic Control (Paving)
17. Electrical Plans and Details
18. Drainage Area Map
19. Runoff, Inlet, and Storm Sewer Calculations
20. Storm Sewer Plan and Profile
21. Culvert Plan and Profile
22. Channel Profiles and Cross-Sections
23. Special Drainage Details
24. Water Line Plan and Profile (12" of Larger)
25. Wastewater Plan and Profile (septic system anticipated)
26. All Special Water and Wastewater Construction Details
27. Storm Water Pollution Prevention or Erosion Control Plans
28. Project Details
29. Hardscape Plans and Details
30. Landscape Plans and Details
31. Irrigation Plans and Details
32. Roadway Cross-Sections at 50 feet intervals and driveway curb lines
33. Earthwork Summary
34. Technical Specifications and/or Special Provisions for the project

c. Coordinate with the relevant utility services of the Town and franchise utilities, as necessary to determine conflicts.
d. Final Geotechnical Report to include recommendations for pavements, foundations, and other site program design elements proposed.
e. General coordination meetings with Town staff.
f. Parks Board update @ 70% progress (Construction Documents).
g. Submit Plan Set to TDLR for review and approval.

   Following completion of the Construction Documents, the Consultant will coordinate with a RAS for the purposes of reviewing the plans for the Project for conformance with the Texas Accessibility Standards (TAS). The Consultant will use a RAS subconsultant for the Texas Department of Licensing and Regulation (TDLR) required plan review and project inspection. The Consultant will coordinate with the RAS for project registration with the TDLR prior to bidding and project inspection upon completion of construction. The Consultant will prepare plans in general conformance with TAS and will make one (1) round of revisions to the plans based on comments received from the RAS.

4. Bidding Phase

a. Coordination of bidding and award of the project. Attend Pre-Bid and Pre-Construction Conferences and cooperate with the Town as needed to interpret, clarify, amend, or expand the bid documents. Deliverables - Provide up to Five (5) Final Bid Set of Construction Documents (Signed and sealed w/Town Issued for Construction Stamp), Tabulated Bid Form and Bid Summary Letter.

Based on the above scope of services, our lump sum fee for the project is **$589,200.00.** This fee is based on a total construction budget of $9,027,900.00. This fee does include estimated reimbursables of ($15,000) such as reproductions, TDLR project registration, mileage, etc. and will be invoiced based on the attached rate sheet. This proposal is subject to the general terms and conditions described in Exhibit 'B'.

~~***Additional Professional Service:***~~

~~**5. Construction Administration Phase**~~

~~a. This fee assumes that the project will be constructed within a 12-month timeframe after the Town approval of award of construction to a General Contractor within 90 days of bids received.~~

~~b. As requested by the Owner, the Consultant shall visit the site and consult with the Client and the contractor to resolve construction and design related problems.~~

~~c. Monthly site visits to observe the progress and quality of work.~~

~~d. Review, respond and document Requests for Information (RFIs).~~

~~e. Monthly Update Meetings with Owner Staff and Contractor.~~

~~f. Check samples, catalog data, laboratory testing, shop drawings, mill tests of materials and equipment, and other data which the Contractor is required to submit, only for the conformance with the design concept.~~

~~g. Review and request approval of the contractor's pay applications based on the on-site observations of design professional.~~

~~h. Conduct a substantial completion and final inspection of the Project for conformance with the design and recommend in writing final payment to the contractor. Consultant to submit and receive final payment with the written final inspection report.~~

~~i. Provide Record Drawings with the as-built changes as provided by contractor or on-site survey provided by others. Provide drawings in PDF and in AutoCAD (.dwg format) to the Owner. The page size shall be 24" x 36" with a minimum resolution of 300 dpi.~~

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

Traffic Impact Analysis	TxDOT Permits	Final Plat
Flood Studies	USACE Permitting Fee	Off-Site Roadway Design
Off-Site Utilities	Environmental Survey	Three-way Contracts w/ City

If our services are needed for additional items, we can prepare a separate proposal or bill you hourly based on the attached rate sheet.

Sincerely,

David B. Shipp, PLA, ASLA
Partner / Landscape Architect

Summary of services:

Discovery Phase	*$87,400*
Design Development Phase	*$101,200*
Construction Documents Phase	*$355,800*
Bidding Phase	*$29,800*
Total Professional Fees:	***$574,200***
Reimbursable Expenses Estimate	*$15,000*
Total:	*$589,200*

~~***Additional Professional Services / Reimbursable Expenses***~~

~~*Construction Administration Phase*~~	~~*$138,900*~~
~~*Reimbursable Expenses Estimate*~~	~~*$5,000*~~

CONCEPTUAL SITE MASTER PLAN

Trotter Park - Flower Mound, Texas

Draft Published: 07/26/24

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

DATE: November 18, 2024
FROM: Travis Cunniff, Assistant Director of Parks and Recreation
ITEM: **Consider approval of the sale and consumption of alcoholic beverages (beer and wine) at Bakersfield Park, during the 2025 Independence Fest. (The Parks Board recommended approval by a vote of 6 to 0 at the October 3, 2024 meeting.)**

BACKGROUND: Staff is requesting approval of the sale of alcoholic beverages (beer and wine) at the 2025 Independence Fest that will be held on Friday, July 4, 2025 at Bakersfield Park. On January 16, 2024, the Town Council unanimously approved alcohol sales for the festival that was held on July 4, 2024. There have been no major issues or concerns related to the sale of alcoholic beverages during the previous 13 Independence Fest signature events.

The sale of beer and wine on park property requires Parks Board consideration and the Town Council's approval since the event will be held at Bakersfield Park. An excerpt from the Code of Ordinances states:

- It shall be unlawful to possess alcoholic beverages in any portion of a public park or recreation facility, with the exception that the use of alcoholic beverages may be permitted during designated activities upon recommendation of the Town's Parks Board and with approval of the Town Council.

Similar to what has been planned for previous events, the Town, will secure a third-party retailer to handle the sale of alcoholic beverages. The retailer will take on the risk and liability of selling alcohol at the festival. Additionally, the retailer will acquire all appropriate licenses and permits from the Texas Alcoholic Beverage Commission and name the Town as an additional insured on their liability insurance. The Town will be paid a 25% commission of the total beverage sales.

If approved for the event, alcohol would be prohibited from being taken out of the fenced-in festival area. Similar to previous years, this would be controlled by fencing, signage, police officers, and festival security staff. With the festival taking place on Independence Day, the Town has instructed the Flower Mound Youth Sports Association to not schedule any baseball tournaments the week leading up to July 4th.

If the sale of alcohol is not approved for the event, the Town could lose sponsorship opportunities and the revenue stream created by the sale of alcoholic beverages. For the 2024 festival, Ben E. Keith sponsored the festival by contributing $3,000, donating the backdrops for the stage, and producing event signage. In addition, the Town received $12,659 in commissions from the sale of beverages for the 2024 event.

BOARD REVIEW/CITIZEN FEEDBACK: The Parks Board recommended approval by a unanimous vote of 6 to 0 at its October 3, 2024, regular meeting.

ALTERNATIVES: If the sale of alcohol is not approved for the event, the Town will still run the event but would lose the revenue stream created by the sale of alcoholic beverages and possibly lose sponsorship opportunities.

FISCAL IMPACT: N/A
N/A

LEGAL REVIEW: N/A

ATTACHMENTS:
None

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

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

DATE: November 18, 2024
FROM: Travis Cunniff, Assistant Director of Parks and Recreation
ITEM: **Consider approval of Standards of Care for Youth Recreation Programs operated by the Town, in accordance with the Texas Human Resources Code-Section 42.041 and to adopt an Ordinance providing for said Standards. (The Parks Board recommended approval by a vote of 6 to 0 at its November 7, 2024 meeting).**

BACKGROUND: The State of Texas Department of Family and Protective Services administers state regulations and general licensing procedures for all child-care facilities. Municipalities are exempted from the licensing requirement for programs provided for elementary aged youth so long as the Town Council annually adopts local standards of care by ordinance after a public hearing. Additionally, the following criteria must be met in order to receive the exemption:

- Standards of care are provided to the parents of each program participant.
- Ordinance includes at a minimum: staffing ratios; staff qualifications; facility, health, and safety standards; and mechanisms for monitoring and enforcing the adopted local standards.
- Parents are informed that the program is not operated or advertised as a licensed day care.

The request for the exemption is necessary as the Town currently offers different day camps and programs throughout the year for elementary-age youth (5 – 13 years of age). The Town officially received its exempt status from the State in 2011. On December 4, 2023, the Town Council enacted Ordinance No. 54-23, which adopted Standards of Care for the Town's Parks and Recreation youth recreation programs.

A representative from the Texas Department of Family and Protective Services was contacted to confirm there had not been any newly mandated Standards of Care changes that the Town needed to include in the document.

BOARD REVIEW/CITIZEN FEEDBACK: The Parks Board recommended approval of the Standards of Care by a vote of 6 to 0 at its November 7, 2024 regular meeting.

ALTERNATIVES: N/A

FISCAL IMPACT: N/A
N/A

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

ATTACHMENTS:
1. Proposed Standards of Care Town Ordinance 2024

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

TOWN OF FLOWER MOUND, TEXAS
ORDINANCE NO. _____

AN ORDINANCE AMENDING THE CODE OF ORDINANCES, TOWN OF FLOWER MOUND, TEXAS; AMENDING CHAPTER 54, "PARKS AND RECREATION," SECTION 54-202, "ADOPTION;" ADOPTING UPDATED STANDARDS OF CARE FOR YOUTH RECREATION PROGRAMS; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Flower Mound, Texas ("Town") is a home rule municipal corporation organized and existing by virtue of the Constitution and laws of the State of Texas and by its Home Rule Charter, adopted November 3, 1981; and

WHEREAS, the Town operates a recreation program for elementary age children as a service to residents of the Town, and surrounding communities; and

WHEREAS, the State of Texas has adopted licensing requirements and regulations under Chapter 42 of the Texas Human Resources Code for facilities providing care to children, with which all facilities must comply, unless an exemption under Section 42.041(b) applies; and

WHEREAS, Section 42.041(b)(14) of the Texas Human Resources Code provides an exemption from the requirements of Chapter 42 to a municipality operating a recreation program for elementary age children (5-13 years); and

WHEREAS, on February 11, 2011, the Town received an exemption from the requirements of Chapter 42 of the Texas Human Resources Code from the Texas Department of Family and Protective Services ("TDFPS"); and

WHEREAS, the TDFPS will not monitor the Town's Parks and Recreation's youth recreation programs because the exempt status has been granted, and the TDFPS will not be responsible for investigating complaints regarding the Town's Parks and Recreation's youth recreation programs, so that any complaints shall be made to the Town Parks and Recreation Department; and

WHEREAS, the Town adopted Ordinance No. 54-23 on December 4, 2023 setting forth the standards of care for the Town Parks and Recreation's youth recreation programs; and

WHEREAS, the Town's standards of care for the Town Parks and Recreation's youth recreation programs must be adopted annually by the Town of Flower Mound Town Council, after public hearing, in order to maintain the exemption under Section 42.041(b)(14) of the Texas Human Resources Code; and

WHEREAS, the Director of the Town Parks and Recreation Services Department has recommended no changes be made to the standards of care adopted on December 4, 2023, and in accordance with Section 42.041(b)(14) of the Texas Human Resources Code and Section 54-206 of the Code of Ordinances, Town of Flower Mound, Texas; and

WHEREAS, a public hearing was held on November 7, 2024, by the Parks Board regarding the revised standards of care, and the adoption of such revised standards of care by the Town Council of the Town of Flower Mound ("Town Council") has been recommended by the Parks Board; and

WHEREAS, the Town Council finds that it is in the best interest of the Town of Flower Mound and will promote the health, safety and general welfare of the citizens of the Town of Flower Mound and the general public to adopt the revised standards of care as recommended by the Parks Board.

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

SECTION 1

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

SECTION 2

The Town Council hereby adopts local standards of care for the Parks and Recreation Services Department ("Department") youth recreation programs in compliance with the requirements of Texas Human Resources Code Section 42.041(b)(14) and pursuant to Section 54-206 of the Code of Ordinances of the Town of Flower Mound. The standards of care adopted by this Ordinance are available for inspection in the office of the Town Secretary and in the Town Parks and Recreation Services Department office.

SECTION 3

That Section 54-202, "Adoption," of the Code of Ordinances, Town of Flower Mound, Texas, is hereby amended to read as follows:

"**Sec. 54-202. Adoption.**

The local standards of care ("Standards of Care"), as set forth in Exhibit "A" which is attached to the ordinance adopting the Standards of Care are incorporated by reference for all purposes as if written word for word herein, and are hereby adopted by the Town Council as the Standards of Care for the Parks and Recreation Services Department of the Town of Flower Mound. The Standards of Care are available for inspection in the office of the Town Secretary and in the Town Parks and Recreation Services Department office."

SECTION 4

This Ordinance shall be cumulative of all provisions of ordinances of the Town of Flower Mound, Texas, except where the provisions of this Ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed.

SECTION 5

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

SECTION 6

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

DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, BY A VOTE OF ___ TO ___, ON THIS THE 18th DAY OF NOVEMBER, 2024.

APPROVED:

_____
Cheryl Moore, MAYOR

ATTEST:

_____
Theresa Scott, TOWN SECRETARY

Parks & Recreation Department

Standards of Care For Youth Programs

Parks and Recreation Department
1200 Gerault Road
Flower Mound, TX 75028
972.874.6300
972.874.6471 (Fax)
www.flower-mound.com

Table of Contents

Standards of Care

General Administration 3

Organization 3

Definitions 4

Objectives of Youth Programs 5

Inspections/Monitoring/Enforcement 5

Enrollment 6

Suspected Abuse 7

Staffing – Responsibilities and Training 7

Camp Director Qualifications 7

Camp Director Job Functions 8

Program Employees Qualifications 9

Program Employees Job Functions 9

Personnel Restriction 10

Training/Orientation 10

Service Standards 10

Appearance 10

Interaction with Parents & Participants 11

Additional Staff Responsibilities 11

Operations 11

Staff/Participant Ratio 11

Discipline 12

Programming 12

Communication 13

Transportation 13

Facility Standards 13

Safety 13

Fire 14

Health 14

Participants 16

General 16

FLOWER MOUND YOUTH PROGRAMS

STANDARDS OF CARE

The following Standards of Care have been adopted by the Town Council of the Town of Flower Mound, Texas, to comply with Chapter 42 of the Texas Human Resources Code, specifically Section 42.014(b)(14) regarding an exemption for the Town of Flower Mound's Youth Programs, as defined herein. These Standards of Care are intended to be minimum standards by which the Town of Flower Mound Parks and Recreation Department will operate the Town's youth programs. The Youth Programs are recreational in nature and are not child-care facilities or day care programs.

General Administration

1. Organization

A. The governing body of the Town of Flower Mound youth programs is the Town of Flower Mound Town Council.

B. Implementation of the Youth Programs Standards of Care ("Standards of Care") is the responsibility of the Director of Parks and Recreation and departmental employees.

C. These Standards of Care apply to all Youth Programs operated by the Department, including but not limited to: the Day Camp Program, Holiday Day Camp Program, and Spring Break Day Camp Program.

D. Each Program Site will have available for public, and staff review a current copy of the Standards of Care.

E. Parents of participants may obtain a copy of the Standards of Care from the Town during the registration process, or the Standards of Care can be accessed on the Town's website at: www.flower-mound.com/cac.

F. Criminal background checks are conducted on all prospective Program Employees. If the results of a criminal background check indicate that a prospective Program Employee has been convicted of any of the following offenses, he or she will not be considered for employment:

(1) A felony or a misdemeanor classified as an offense against a person or family member.
(2) A felony or misdemeanor classified as public indecency.
(3) Any offense involving moral turpitude.

(4) Any offense that, in the Director's sole opinion, would place the participants of the Youth Programs at risk.

2. Definitions

A. Camp Director: A temporary Department employee who is assigned responsibility to implement and direct a Youth Program and oversee the Program Employees that are assigned to the corresponding Youth Program.

B. Community Activity Center or CAC: Town of Flower Mound Community Activity Center located at 1200 Gerault Road, Flower Mound, TX, 75028, 972.874.7275.

C. Department: Parks and Recreation Department of the Town of Flower Mound.

D. Employee(s): Term used to describe people who have been hired to work for the Town of Flower Mound and have been assigned responsibility for managing, administering, or implementing some portions of the Youth Programs.

E. Parent(s): This term will be used to represent one or both parent(s) or legal guardian(s) who have legal custody and authority to enroll their child(ren) in the Youth Programs.

F. Participant: A Youth whose parent(s) or legal guardian(s) have completed all required registration procedures and determined to be eligible for the Youth Programs.

G. Recreation Programs Coordinator or Coordinator: A full-time Department employee who has been assigned administrative responsibility for the Youth Programs and oversees the Camp Directors.

H. Program Employee: A temporary Department employee who is assigned to work with participants of a Youth Program at a Program Site.

I. Program Manual: Notebook of policies, procedures, required forms, and organizational and programming information relevant to Youth Programs.

J. Program Site: The facilities and surrounding property where Youth Programs are held, consisting of, but not limited to, the Community Activity Center and Gerault Park.

K. Recreation Programs & Events Supervisor: A full-time Department employee who oversees the Program Coordinator and operations of all Youth Programs.

L. Director: Town of Flower Mound Parks and Recreation Director, or his or her designee.

M. Town: Town of Flower Mound, Texas.

N. Town Council: Town Council of the Town of Flower Mound.

O. Youth: A school aged person between the ages of 6 and 13 as of the enrollment date of the Youth Program.

P. Youth Programs: The Town of Flower Mound youth programs consisting of the Summer Day Camp Programs, Holiday Day Camp Programs, and Spring Break Day Camp Program. A single camp may be referred to as a Youth Program.

3. Objectives of Youth Programs

A. To provide Youth with the opportunity of recreational activities, which may include sports, games, arts and crafts, education, dance, drama, special events, field trips, tournaments, etc.

B. To provide an encouraging atmosphere by emphasizing the positive development of physical skills, emotional development and growth of self-confidence.

C. To provide a safe environment by promoting good health and welfare for all participants.

D. To teach Youth how to spend their leisure time wisely in an effort to meet the emotional, physical and social needs of the Youth.

4. Inspections/Monitoring/Enforcement

A. The Town has established these Standards of Care in order to obtain an exemption from the State regarding the Youth Programs. Once the exemption is established, the State will not monitor the Youth Programs. These Standards of Care will be reviewed annually and brought before the Town Council for consideration, regarding any amendments recommended by the Director, and approval after a public hearing regarding the Standards of Care is held, pursuant to Texas Human Resources Code § 42.041(b)(14).

B. A monthly inspection report will be prepared and submitted to the Recreation Programs & Events Supervisor by the Coordinator to confirm the Standards of Care are being adhered to.

(1) Monthly inspection reports will be sent to the Director or his/her designee for review and maintained by the Town in accordance with applicable record retention policies.

(2) The Director or his/her designee will review the monthly inspection report and shall establish deadlines and criteria for compliance with the Standards of Care where failure to comply is noted.

C. The Director or his/her designee will make visual inspections of the Youth Programs based on the following schedule.

1. Youth Programs operating during the summer will be inspected no less than twice during the Youth Program's summer schedule.

2. Youth Programs, which operate during the regular Lewisville Independent School District school year, for two (2) weeks or less, will be inspected at least once during the Youth Program's schedule.

D. Complaints regarding enforcement of the Standards of Care will be directed to the Coordinator. The Coordinator will be responsible to take the necessary steps to address the complaint and resolve the problem, if any. Complaints regarding enforcement of the Standards of Care and resolution of complaints arising under the Standards of Care will be recorded by the Coordinator. All complaints regarding enforcement of the Standards of Care where a deficiency is noted will be forwarded to the Director with the complaint and the resolution noted.

5. Enrollment

Before a child may be enrolled in a Youth Program, the parents must sign registration forms that contain the following information about the child:

(1) Name, home address, home telephone number;

(2) Name and address of parent(s) and contact telephone number(s) during Youth Program hours;

(3) The names and telephone numbers of people to whom the child can be released;

(4) If requested, a statement of the child's physical health, including a physician's signed statement detailing any special needs the child may have;

(5) Emergency medical authorization, current shot records, and valid health insurance information.

(6) Proof of CAC Membership or Non-Membership, when appropriate; and

(7) A signed liability waiver.

6. Suspected Abuse

Program Employees will report suspected child abuse or neglect in accordance with the Texas Family Code. In a situation where an Employee is involved in an incident with a child that could be considered to be child abuse, the incident shall be immediately reported to the Program Supervisor. The Recreation Programs & Events Supervisor will immediately notify the Police Department and any other agency, as may be appropriate.

Texas State law requires the Employees of Youth Programs to report any suspected abuse or neglect of a child to the Texas Department of Family and Protective Services or a law enforcement agency. Failure to report suspected abuse is punishable by fines up to $1000 and/or confinement up to one hundred eighty (180) days. Reports of abuse may be made by calling 1.800.252.5400.

A complete copy of the Texas Family Code regulations regarding child abuse can be found at www.statutes.legis.state.tx.us/docs/FA/htm/FA.261.htm.

Staffing - Responsibilities and Training

1. Camp Director

A. Qualifications. A Camp Director must:

(1) Consistently exhibit competency, good judgment, and self-control when working with Youth and other Town employees.

(2) Interact with Youth with courtesy, respect, tolerance, and patience.

(3) Successfully complete a course in first aid, CPR, and AED, in compliance with American Red Cross standards.

(4) Pass a background investigation and testing for illegal substances.

(5) Be mature, responsible, and able to complete duties with minimal supervision.

(6) Communicate effectively with the public.

(7) Possess a valid Texas driver's license.

(8) Have previous experience in supervising Youth of varying age levels in a group setting and possess knowledge of recreational games, crafts, and activities.

(9) Complete Town-mandated training.

(10) Be at least eighteen (18) years of age.

B. Job Functions. A Camp Director shall endeavor to:

(1) Direct and supervise Program Employees. Hiring and training of staff shall be the responsibility of the Coordinator with assistance from the Camp Director.

(2) Complete and submit proper records, including Youth Program schedules, Program Employee schedules, accident/incident reports, and Participant attendance.

(3) Schedule appropriate activities in accordance with the philosophy of the Youth Program and coordinate with the Coordinator to ensure appropriate reservations and transportation are secured in order to complete activities.

(4) Maintain an orderly, clean and safe environment for the Youth while promoting a non-competitive program directed toward accentuating positive behaviors, physical development, and emotional growth.

(5) Maintain supplies, equipment and all necessary documentation for the operation of the Youth Program.

(6) Communicate with Parent(s) as necessary.

(7) Conduct on-going evaluations regarding the Youth Program and implement approved recommendations as needed.

(8) Provide reports to Coordinator on a weekly basis regarding Youth Program activities.

(9) Know and follow all Town, Department, and Program Manual standards, policies, and procedures that apply to Youth Programs.

(10) Ensure that Participants are released only to a Parent or an adult designated by the Parent. All Program Sites will have a copy of the Department approved plan to verify the identity of a person authorized to pick-up a Participant if that person is not known to the Camp Director.

2. Program Employees

A. Qualifications. A Program Employee must:

(1) Consistently exhibit competency, good judgment, and self-control when working with Youth.

(2) Interact with Youth with courtesy, respect, tolerance, and patience.

(3) Successfully complete a course in first aid, CPR, and AED, in compliance with American Red Cross standards.

(4) Pass a background investigation and testing for illegal substances.

(5) Be mature, responsible, and able to complete duties with minimal supervision.

(6) Possess a valid Texas driver's license.

(7) Have previous experience in working with Youth of varying age levels in a group setting and possess knowledge of recreational games, crafts, and activities.

(8) Complete Town-mandated training.

(9) Be at least sixteen (16) years of age.

B. Essential Job Functions. A Program Employee shall endeavor to:

(1) Promote a non-competitive, positive, image-enhancing environment for each Participant through the direction of fun, varied, and well-organized activities.

(2) Directly lead activities using a method that will provide opportunities for the involvement of all Participants on an equal basis.

(3) Exhibit enthusiasm for the activity to impart a feeling of excitement in the Participants.

(4) Follow procedures for Youth Programs drop-off and pick-up, and preparation of accident/incident reports.

(5) Follow guidelines for safety and storage of equipment and notify Camp Director regarding supply inventories.

(6) Ensure safety of Youth at Program Site and on field trips.

(7) Provide and adhere to Standards of Care.

3. Personnel Restriction

A person will not be employed as an Employee in a Youth Program if:

(1) The person would be permanently barred from being present at a childcare operation while children are in care under the Texas Administrative Code Title 40, Part 19, Chapter 745 (Licensing); or

(2) The Director determines that, based on the criminal history and other relevant and credible information, the person poses a risk to the safety or health of participants.

4. Training/Orientation

A. The Department is responsible to provide training and orientation to all Youth Program employees who work with children regarding their specific job responsibilities. Coordinator will provide each Camp Director with a staff program manual specific to each Youth Program.

B. Employees must be familiar with these Standards of Care for Youth Programs.

C. Employees will be trained in appropriate procedures to handle emergencies.

D. Employees will be trained in Town, Department, and Program Manual policies and procedures applicable to Youth Programs.

E. Employees will be required to sign an acknowledgment that they received the required training.

<u>Service Standards</u>

1. Appearance

A. Youth Program shirts and name badges will be worn and clearly visible.

B. The Town's dress code policy shall be adhered to at all times. Failure to comply with the dress code will result in an Employee being sent home.

2. Interaction with Parents and Participants

A. Participants and Parents will be treated with respect at all times.

B. Program Employees and Camp Directors will keep Parents continuously informed of activities and schedules. A weekly schedule will be distributed, and copies will be kept with the daily sign in sheets.

C. Staff will note details of behavior of Participants (accomplishments, discipline problems, general activities, etc.) and update Parents as much as possible.

D. The Camp Director will listen to complaints and forward to Coordinator as appropriate. All complaints will be followed up within 24-hours if they are not resolved on site. All complaints must be recorded, including resolution, and forwarded to Coordinator.

3. Additional Staff Responsibilities

A. Program Employees will monitor the sign in/out log at all times.

B. Program Employees will spend 100% of their time actively involved with Participants and/or Parents.

C. Program Employees will pick up the area used by their group after each activity.

D. Prior to beginning work each day, all staff will check in at the appointed location for any messages, instructions, or information.

<u>Operations</u>

1. Staff/Participant Ratio

A. Pursuant to Texas mandated standards, the maximum ratio of Participants to Program Employees will be 12 to 1. In the event an employee is unable to report to the Program Site, a replacement will be assigned.

B. Each Participant shall have a Program Employee who is responsible for him or her and who is aware of the Participant's habits, interests, and any special needs, as identified by the Participant's Parent(s) during the registration process.

2. Discipline

A. Program Employees will implement discipline and guidance in a consistent manner based on the best interests of the program participants.

B. There must be no cruel, harsh or corporal punishment used as a method of discipline.

C. Program Employees may use brief, supervised separation from the group if necessary. Participants will be informed of Youth Program rules.

D. As necessary, Program Employees will initiate discipline reports to the Parent(s) of Participants. Parents will be asked to sign discipline reports to indicate they have been advised about specific problems or incidents.

E. A sufficient number and/or severe nature of discipline reports as detailed in the program manual may result in a Participant being suspended or removed from the Youth Program. Parents will be contacted to pick up their Youth immediately.

F. In instances where there is a danger to Participants or Employees, offending Participants will be removed from the Program Site immediately.

G. Any person(s) creating a nuisance, causing a disturbance, or creating an unsafe environment at any Program Site will be subject to ejection from the site and possible arrest and legal action.

3. Programming

A. Program Employees will attempt to provide activities for each group according to the Participant's age, interests, and abilities. The activities must be appropriate to Participants' health, safety, and well-being. The activities also must be flexible and promote the Participants' emotional, social, and mental growth.

B. Program Employees will attempt to provide indoor and outdoor time periods, weather permitting, that include:

(1) Alternating active and passive activities; and

(2) Opportunity for individual and group activities.

C. Program Employees will be attentive and considerate of the Participants' safety on field trips and during any transportation provided by the Youth Programs. Participants must

be counted before leaving the Program Site and before boarding the transportation to return to the Program Site.

(1) During trips, Program Employees supervising Participants must have immediate access to Participant forms and emergency contact information for each Participant;

(2) Program Employees must have a written list of the Participants in the group and must check the attendance frequently; and

(3) Program Employees must have First Aid supplies, a guide to First Aid and emergency care available on field trips.

4. Communication

The Program Site will have a telephone to allow the Program Employees to be contacted by Parks and Recreation personnel or for making emergency calls.

5. Transportation

A. First Aid supplies and a First Aid and emergency care guide will be available in all Youth Program vehicles that transport Youth.

B. All Program vehicles used for transporting Participants must have available a 6-BC portable fire extinguisher in the vehicle, which must be accessible to the adult occupants.

<u>Facility Standards</u>

1. Safety

A. Program Employees will inspect the Program Site daily to detect sanitation and safety concerns that might affect the health and safety of the Participants. A daily inspection report will be completed by Camp Director and kept on file by the Program Coordinator.

B. Buildings, grounds, and equipment on the Program Site will be inspected, cleaned, repaired, and maintained to protect the health of the Participants.

C. Program equipment and supplies must be safe for Participant use.

D. Program Employees must have First Aid supplies available at the Program Site, during transportation, and for the duration of any off-site activity.

E. Program Employees must have First Aid supplies and a guide to First Aid and emergency care readily available in a designated location.

2. Fire

A. In case of fire, danger of fire, explosion, or other emergency, Program Employee's first priority is to evacuate the Participants to a designated safe area. Emergency evacuation and relocation plans will be posted within the Program Site.

B. The Program Site will have an annual fire inspection by the local Fire Marshal, and the resulting report will detail any safety concerns observed. The report will be forwarded to the Director or his/her designee who will review and establish deadlines and criteria for compliance.

C. Each Program Site must have at least one (1) fire extinguisher approved by the Fire Marshal readily available to all Program Employees. The fire extinguisher is to be inspected monthly by the Program Coordinator, and a monthly report will be forwarded to the Recreation Programs & Events Supervisor who will keep the report on file for a minimum of two (2) years. All Employees will be trained in the proper use of a fire extinguisher.

D. Fire drills shall be conducted monthly.

3. Health

A. Illness or Injury

(1) Participants shall have and maintain immunizations in accordance with those required by the Texas Department of Health for public school attendance according to age.

(2) Illnesses and injuries will be handled in a manner to protect the health of all Participants and employees. Parents will be notified in cases of illness or injury. Paramedics will be notified in the event of an injury that cannot be remedied through basic first aid. An accident report shall be completed for all injuries and forwarded to the Camp Director.

(3) An ill Youth will not be allowed to attend or participate if the Youth is suspected of having a temperature and/or accompanied by behavior changes or other signs or symptoms until a medical evaluation indicating that the Youth can return to the Youth Program.

(4) Employees will follow the recommendation of the Texas Department of Health concerning the admission or readmission of any Participant after a communicable disease.

B. Program Employees will administer medication only if:

(1) Parent(s) complete and sign a Medicine Dispensation Form that provides authorization for Employees to dispense medication with details as to time(s) and dosage(s).

(2) Prescription medications are in original containers labeled with the Youth's name, a date, directions, and the prescribing physician's name. Employees will administer the medication only as stated on the label. Employees will not administer medication after the expiration date.

(3) Non-prescription medications are labeled with the Youth's name and the date the medication was brought to the Youth Program. Non-prescription medication must be in the original container. The Employees will administer non-prescription medications only according to label direction.

(4) Medications dispensed will be limited to routine oral ingestion not requiring special knowledge or skills on the part of Program Employees.

(5) Program Employees must ensure medications are inaccessible to Participants.

C. Toilet Facilities

(1) The Program Site will have adequate indoor toilets and lavatories located and equipped so Youth can use them independently and Program Employees can supervise as needed.

(2) There must be one (1) flush toilet for every thirty (30) Participants. Urinals may be counted in the ratio of toilets to Participants but must not exceed fifty percent (50%) of the total number of toilets.

D. Sanitation

(1) The Program Site must have adequate light, ventilation, and heat.

(2) The Program Site must have an adequate supply of water meeting the standards of the Texas Department of Health for drinking water and ensure that it will be supplied to the Participants in a safe and sanitary manner.

(3) Program Employees must see that garbage is removed from buildings daily.

Participants

1. General

A. Participants must wear tennis shoes daily. Sandals or thongs are not permitted unless approved by Program Employees on certain occasions.

B. Shoes must be worn at all times, unless the Youth is in the swimming pool or participating in an activity that requires shoes to not be worn.

C. Youth must respect the Employees, the Program Site, Program Rules, and each other.

D. Youth may not use the Youth Programs telephone unless it is an emergency with the permission of a Program Employee.

E. Cati's Act requires childcare organizations to get written notice from parents/guardians stating whether their child can swim and requires camp staff to put U.S. Coast Guard-approved lifejackets on those children at risk of injury or death when swimming or otherwise accessing a body of water. Camp registration forms have been updated to reflect this new law and parents/guardians will be required to provide this information.

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

DATE: November 18, 2024
FROM: Jeremy Brudwick, Grants and Financial Analyst
ITEM: **Consider approval of a resolution authorizing the acceptance of grant funds from the Public Library Association for the purpose of providing digital literacy classes; authorizing the Library Director to act on behalf of Flower Mound as the grantee's official; pledging that the Town of Flower Mound will comply with all program requirements of the grant program; and providing an effective date.**

BACKGROUND: The Town applied for and was awarded a grant in the amount of $5,000.00 from the Public Library Association as part of its digital literacy incentive programs. The purpose of these programs is to provide the funding and resources necessary for libraries to teach basic digital literacy skills.

If approved, the grant will be used to enable the library to provide digital literacy classes by purchasing computers.

All funds must be spent by May 30, 2025, with a final report due by June 16, 2025.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES: N/A

FISCAL IMPACT: $0.00

Proposed Revenue	**Account Number(s):**
$5,000.00	370-4605
Proposed Expenditure	**Account Number(s):**
$5,000.00	Fund 370

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

ATTACHMENTS:
1. Resolution

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

TOWN OF FLOWER MOUND, TEXAS
RESOLUTION NO. _____

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, AUTHORIZING THE ACCEPTANCE OF GRANT FUNDS FROM THE PUBLIC LIBRARY ASSOCIATION FOR THE PURPOSE OF PROVIDING DIGITAL LITERACY CLASSES; AUTHORIZING THE LIBRARY DIRECTOR TO ACT ON BEHALF OF FLOWER MOUND AS THE GRANTEE'S OFFICIAL; PLEDGING THAT THE TOWN OF FLOWER MOUND WILL COMPLY WITH ALL PROGRAM REQUIREMENTS OF THE GRANT PROGRAM; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Flower Mound (the "Town") applied for and was awarded a grant in the amount of $5,000.00 from the Public Library Association as part of its Digital Literacy Workshop Incentive Program, for the purpose of providing Digital Literacy classes; and,

WHEREAS, the Town Council finds that it is in the best interest of the health, safety, and general welfare of the citizens of the Town to accept the awarded grant funds to provide Digital Literacy classes.

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

SECTION 1

The Town of Flower Mound approves and accepts the awarded grant amount of $5,000.00 from the Public Library Association as part of its Digital Literacy Workshop Incentive Program.

SECTION 2

The Town Council designates the Library Director as the Town's authorized official. The authorized official is given the power to apply for, accept, alter, or terminate the grant on behalf of the Town, and may take any actions necessary to effectuate this resolution.

SECTION 3

The grant funds are hereby authorized to be used to fund equipment and activities in accordance with the grant award and will be used only for the purposes for which they are intended under the program.

SECTION 4

This Resolution shall become effective upon its adoption.

DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, BY A VOTE OF _____ TO _____, ON THIS THE 18th DAY OF NOVEMBER, 2024.

RESOLUTION NO. _____

APPROVED:

_____
Cheryl Moore, MAYOR

ATTEST:

_____
Theresa Scott, TOWN SECRETARY

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

DATE: November 18, 2024
FROM: Shane Jennings, Assistant Chief of Police
ITEM: **Consider approval of a multi-year agreement for the acquisition of sixty-two (62) Axon electric control devices (ECD or Taser), including renewal certificates, upgraded and new devices for a combined total of $268,998.48, and authorization for the Mayor to execute the same on behalf of the Town.**

BACKGROUND: Using ECDs, specifically Axon Enterprise, Inc. Taser, is a law enforcement best practice and norm for safely detaining subjects displaying active aggression towards others. The Flower Mound Police Department has effectively incorporated Tasers to safely de-escalate encounters with actively aggressive subjects over the last ten years. Often, active-aggressive individuals will voluntarily comply following a warning of impending Taser deployment. This acquisition of 52 Tasers replaces 14 at the end of service life and provides an additional 38 to ensure all officers are equipped with this essential tool. The Flower Mound Police Department trains and recertifies annually with Tasers following departmental policy and industry best practice guidelines.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES: No viable market alternatives.

FISCAL IMPACT: $268,998.48

Proposed Expenditure/(Revenue)	Account Number(s):
$268,998.48	100-640-43500-5020

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

ATTACHMENTS:
1. Flower Mound PD-Axon MSPA
2. Axon Taser 7 Bundle Q-557933
3. Axon Taser 7 True Up Q-557996
4. Axon Taser 7 True Up Q-558546

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

This Master Services and Purchasing Agreement ("**Agreement**") is between Axon Enterprise, Inc. ("**Axon**"), and the customer listed below or, if no customer is listed below, the customer on the Quote attached hereto ("**Customer**"). This Agreement is effective as of the later of the (a) last signature date on this Agreement or (b) date of acceptance of the Quote ("**Effective Date**"). Axon and Customer are each a "**Party**" and collectively "**Parties**". This Agreement governs Customer's purchase and use of the Axon Devices and Services detailed in the Quote as defined below. It is the intent of the Parties that this Agreement will govern all subsequent purchases by Customer for the same Axon Devices and Services in the Quote, and all such subsequent quotes accepted by Customer shall be also incorporated into this Agreement by reference as a Quote. The Parties agree as follows:

1. **Definitions**.

   1.1. "**Axon Cloud Services**" means Axon's web services, including but not limited to, Axon Evidence, Axon Records, Axon Dispatch, FUSUS services and interactions between Axon Evidence and Axon Devices or Axon client software. Axon Cloud Service excludes third-party applications, hardware warranties, and my.evidence.com.

   1.2. "**Axon Device**" means all hardware provided by Axon under this Agreement. Axon-manufactured Devices are a subset of Axon Devices.

   1.3. "**Quote**" means an offer to sell and is only valid for devices and services on the offer at the specified prices. Any inconsistent or supplemental terms within Customer's purchase order in response to a Quote will be void. Orders are subject to prior credit approval. Changes in the deployment estimated ship date may change charges in the Quote. Shipping dates are estimates only. Axon is not responsible for typographical errors in any Quote by Axon, and Axon reserves the right to cancel any orders resulting from such errors.

   1.4. "**Services**" means all services provided by Axon under this Agreement, including software, Axon Cloud Services, and professional services.

2. **Term**. This Agreement begins on the Effective Date and continues until all subscriptions hereunder have expired or have been terminated ("**Term**").

   2.1. All subscriptions including Axon Evidence, Axon Fleet, Officer Safety Plans, Technology Assurance Plans, and TASER 7 or TASER 10 plans begin on the date stated in the Quote. Each subscription term ends upon completion of the subscription stated in the Quote ("**Subscription Term**").

   2.2. Upon completion of the Subscription Term, the Subscription Term will automatically renew for an additional 5 years ("**Renewal Term**"). For purchase of TASER 7 or TASER 10 as a standalone, Axon may increase pricing to its then-current list pricing for any Renewal Term. For all other purchases, Axon may increase pricing on all line items in the Quote by up to 3% at the beginning of each year of the Renewal Term. New devices and services may require additional terms. Axon will not authorize services until Axon receives a signed Quote or accepts a purchase order, whichever is first.

3. **Payment**. Axon invoices for Axon Devices upon shipment, or on the date specified within the invoicing plan in the Quote. Payment is due net 30 days from the invoice date. Axon invoices for Axon Cloud Services on an upfront annual basis prior to the beginning of the Subscription Term and upon the anniversary of the Subscription Term. Payment obligations are non-cancelable. Unless otherwise prohibited by law, Customer will pay interest on all past-due sums at the lower of one-and-a-half percent (1.5%) per month or the highest rate allowed by law. Customer will pay invoices without setoff, deduction, or withholding. If Axon sends a past due account to collections, Customer is responsible for collection and attorneys' fees.

4. **Taxes**. Customer is responsible for sales and other taxes associated with the order unless Customer provides Axon a valid tax exemption certificate.

5. **Shipping**. Axon may make partial shipments and ship Axon Devices from multiple locations. All shipments are EXW (Incoterms 2020) via common carrier. Title and risk of loss pass to Customer upon Axon's delivery to the common carrier. Customer is responsible for any shipping charges in the Quote.

6. **Returns**. All sales are final. Axon does not allow refunds or exchanges, except warranty returns or as provided by state or federal law.

7. **Warranty**.

   7.1. **Limited Warranty**. Axon warrants that Axon-manufactured Devices are free from defects in workmanship and materials for one (1) year from the date of Customer's receipt, except Signal Sidearm which Axon warrants for thirty (30) months from Customer's receipt and Axon-manufactured accessories, which Axon warrants for ninety (90) days from Customer's receipt , respectively, from the date of Customer's receipt. Used conducted energy weapon ("**CEW**") cartridges are deemed to have operated properly. Extended warranties run from the expiration of the one (1) year hardware warranty through the extended warranty term purchased.

7.2. **Disclaimer. All software and Axon Cloud Services are provided "AS IS," without any warranty of any kind, either express or implied, including without limitation the implied warranties of merchantability, fitness for a particular purpose and non-infringement. Axon Devices and Services that are not manufactured, published or performed by Axon ("Third-Party Products") are not covered by Axon's warranty and are only subject to the warranties of the third-party provider or manufacturer.**

7.3. **Claims**. If Axon receives a valid warranty claim for an Axon-manufactured Device during the warranty term, Axon's sole responsibility is to repair or replace the Axon-manufactured Device with the same or like Axon-manufactured Device, at Axon's option. A replacement Axon-manufactured Device will be new or like new. Axon will warrant the replacement Axon-manufactured Device for the longer of (a) the remaining warranty of the original Axon-manufactured Device or (b) ninety (90) days from the date of repair or replacement.

7.3.1. If Customer exchanges an Axon Device or part, the replacement item becomes Customer's property, and the replaced item becomes Axon's property. Before delivering an Axon-manufactured Device for service, Customer must upload Axon-manufactured Device data to Axon Evidence or download it and retain a copy. Axon is not responsible for any loss of software, data, or other information contained in storage media or any part of the Axon-manufactured Device sent to Axon for service.

7.4. **Spare Axon Devices**. At Axon's reasonable discretion, Axon may provide Customer a predetermined number of spare Axon Devices as detailed in the Quote ("**Spare Axon Devices**"). Spare Axon Devices are intended to replace broken or non-functioning units while Customer submits the broken or non-functioning units, through Axon's warranty return process. Axon will repair or replace the unit with a replacement Axon Device. Title and risk of loss for all Spare Axon Devices shall pass to Customer in accordance with shipping terms of this Agreement. Axon assumes no liability or obligation in the event Customer does not utilize Spare Axon Devices for the intended purpose.

7.5. **Limitations**. Axon's warranty excludes damage related to: (a) failure to follow Axon Device use instructions; (b) Axon Devices used with equipment not manufactured or recommended by Axon; (c) abuse, misuse, or intentional damage to Axon Device; (d) force majeure; (e) Axon Devices repaired or modified by persons other than Axon without Axon's written permission; or (f) Axon Devices with a defaced or removed serial number. Axon's warranty will be void if Customer resells Axon Devices.

7.5.1. To the extent permitted by law, the above warranties and remedies are exclusive. Axon disclaims all other warranties, remedies, and conditions, whether oral, written, statutory, or implied. If statutory or implied warranties cannot be lawfully disclaimed, then such warranties are limited to the duration of the warranty described above and by the provisions in this Agreement. Customer confirms and agrees that in deciding whether to sign this Agreement, Customer has not relied on any statement or representation by Axon or anyone acting on behalf of Axon related to the subject matter of this Agreement that is not in this Agreement.

7.5.2. Axon's cumulative liability to any party for any loss or damage resulting from any claim, demand, or action arising out of or relating to this Agreement will not exceed the purchase price paid to Axon for the Axon Device, or if for Services, the amount paid for such Services over the twelve (12) months preceding the claim. Neither Party will be liable for special, indirect, incidental, punitive or consequential damages, however caused, whether for breach of warranty or contract, negligence, strict liability, tort or any other legal theory.

7.6. **Online Support Platforms**. Use of Axon's online support platforms (e.g., Axon Academy and MyAxon) is governed by the Axon Online Support Platforms Terms of Use Appendix available at www.axon.com/sales-terms-and-conditions.

7.7. **Third-Party Software and Services**. Use of software or services other than those provided by Axon is governed by the terms, if any, entered into between Customer and the respective third-party provider, including, without limitation, the terms applicable to such software or services located at www.axon.com/sales-terms-and-conditions, if any.

7.8. **Axon Aid**. Upon mutual agreement between Axon and Customer, Axon may provide certain products and services to Customer, as a charitable donation under the Axon Aid program. In such event, Customer expressly waives and releases any and all claims, now known or hereafter known, against Axon and its officers, directors, employees, agents, contractors, affiliates, successors, and assigns (collectively, "**Releasees**"), including but not limited to, on account of injury, death, property damage, or loss of data, arising out of or attributable to the Axon Aid program whether arising out of the negligence of any Releasees or otherwise. Customer agrees not to make or bring any such claim against any Releasee, and forever release and discharge all Releasees from liability under such claims. Customer expressly allows Axon to publicly announce its participation in Axon Aid and use its name in marketing materials. Axon may terminate the Axon Aid program without cause immediately

upon notice to the Customer.

8. **Statement of Work**. Certain Axon Devices and Services, including Axon Interview Room, Axon Channel Services, and Axon Fleet, may require a Statement of Work that details Axon's Service deliverables ("**SOW**"). In the event Axon provides an SOW to Customer, Axon is only responsible for the performance of Services described in the SOW. Additional services are out of scope. The Parties must document scope changes in a written and signed change order. Changes may require an equitable adjustment in fees or schedule. The SOW is incorporated into this Agreement by reference.

9. **Axon Device Warnings**. See www.axon.com/legal for the most current Axon Device warnings.

10. **Design Changes**. Axon may make design changes to any Axon Device or Service without notifying Customer or making the same change to Axon Devices and Services previously purchased by Customer.

11. **Bundled Offerings**. Some offerings in bundled offerings may not be generally available at the time of Customer's purchase. Axon will not provide a refund, credit, or additional discount beyond what is in the Quote due to a delay of availability or Customer's election not to utilize any portion of an Axon bundle.

12. **Insurance**. Axon will maintain General Liability, Workers' Compensation, and Automobile Liability insurance. Upon request, Axon will supply certificates of insurance.

13. **IP Rights**. Axon owns and reserves all right, title, and interest in Axon-manufactured Devices and Services and suggestions to Axon, including all related intellectual property rights. Customer will not cause any Axon proprietary rights to be violated.

14. **IP Indemnification**. Axon will indemnify Customer against all claims, losses, and reasonable expenses from any third-party claim alleging that the use of Axon-manufactured Devices, Axon Cloud Services or Axon software ("**Axon Products**") infringes or misappropriates the third-party's intellectual property rights. Customer must promptly provide Axon with written notice of such claim, tender to Axon the defense or settlement of such claim at Axon's expense and cooperate fully with Axon in the defense or settlement of such claim. Axon's IP indemnification obligations do not apply to claims based on (a) modification of Axon Products by Customer or a third-party not approved by Axon; (b) use of Axon Products in combination with hardware or services not approved by Axon; (c) use of Axon Products other than as permitted in this Agreement; or (d) use of Axon Products that is not the most current software release provided by Axon.

15. **Customer Responsibilities**. Customer is responsible for (a) Customer's use of Axon Devices; (b)Customer or an end user's breach of this Agreement or violation of applicable law; (c) disputes between Customer and a third-party over Customer's use of Axon Devices; (d) secure and sustainable destruction and disposal of Axon Devices at Customer's cost; and (e) any regulatory violations or fines, as a result of improper destruction or disposal of Axon Devices.

16. **Termination**.

    16.1. **For Breach**. A Party may terminate this Agreement for cause if it provides thirty (30) days written notice of the breach to the other Party, and the breach remains uncured thirty (30) days after written notice. If Customer terminates this Agreement due to Axon's uncured breach, Axon will refund prepaid amounts on a prorated basis based on the effective date of termination.

    16.2. **By Customer**. If sufficient funds are not appropriated or otherwise legally available to pay the fees, Customer may terminate this Agreement. Customer will deliver notice of termination under this section as soon as reasonably practicable.

    16.3. **Effect of Termination**. Upon termination of this Agreement, Customer rights immediately terminate. Customer remains responsible for all fees incurred before the effective date of termination. If Customer purchases Axon Devices for less than the manufacturer's suggested retail price ("**MSRP**") and this Agreement terminates before the end of the Term, Axon will invoice Customer the difference between the MSRP for Axon Devices received, including any Spare Axon Devices, and amounts paid towards those Axon Devices. Only if terminating for non-appropriation, Customer may return Axon Devices to Axon within thirty (30) days of termination. MSRP is the standalone price of the individual Axon Device at the time of sale. For bundled Axon Devices, MSRP is the standalone price of all individual components.

17. **Confidentiality**. "**Confidential Information**" means nonpublic information designated as confidential or, given the nature of the information or circumstances surrounding disclosure, should reasonably be understood to be confidential. Each Party will take reasonable measures to avoid disclosure, dissemination, or unauthorized use of the other Party's Confidential Information. Unless required by law, neither Party will disclose the other Party's Confidential Information during the Term and for five (5) years thereafter. To the extent permissible by law, Axon pricing is Confidential Information and competition sensitive. If Customer receives a public records request to disclose Axon

Confidential Information, to the extent allowed by law, Customer will provide notice to Axon before disclosure. Axon may publicly announce information related to this Agreement.

18. **General**.

18.1. **Force Majeure**. Neither Party will be liable for any delay or failure to perform due to a cause beyond a Party's reasonable control.

18.2. **Independent Contractors**. The Parties are independent contractors. Neither Party has the authority to bind the other. This Agreement does not create a partnership, franchise, joint venture, Customer, fiduciary, or employment relationship between the Parties.

18.3. **Third-Party Beneficiaries**. There are no third-party beneficiaries under this Agreement.

18.4. **Non-Discrimination**. Neither Party nor its employees will discriminate against any person based on race; religion; creed; color; sex; gender identity and expression; pregnancy; childbirth; breastfeeding; medical conditions related to pregnancy, childbirth, or breastfeeding; sexual orientation; marital status; age; national origin; ancestry; genetic information; disability; veteran status; or any class protected by local, state, or federal law.

18.5. **Export Compliance**. Each Party will comply with all import and export control laws and regulations.

18.6. **Assignment**. Neither Party may assign this Agreement without the other Party's prior written consent. Axon may assign this Agreement, its rights, or obligations without consent: (a) to an affiliate or subsidiary; or (b) for purposes of financing, merger, acquisition, corporate reorganization, or sale of all or substantially all its assets. This Agreement is binding upon the Parties respective successors and assigns.

18.7. **Waiver**. No waiver or delay by either Party in exercising any right under this Agreement constitutes a waiver of that right.

18.8. **Severability**. If a court of competent jurisdiction holds any portion of this Agreement invalid or unenforceable, the remaining portions of this Agreement will remain in effect.

18.9. **Survival**. The following sections will survive termination: Payment, Warranty, Axon Device Warnings, Indemnification, IP Rights, Customer Responsibilities and any other Sections detailed in the survival sections of the Appendices.

18.10. **Governing Law**. The laws of the country, state, province, or municipality where Customer is physically located, without reference to conflict of law rules, govern this Agreement and any dispute arising from it. The United Nations Convention for the International Sale of Goods does not apply to this Agreement.

18.11. **Notices**. All notices must be in English. Notices posted on Customer's Axon Evidence site are effective upon posting. Notices by email are effective on the sent date of the email. Notices by personal delivery are effective immediately. Notices to Customer shall be provided to the address on file with Axon. Notices to Axon shall be provided to Axon Enterprise, Inc., Attn: Legal, 17800 North 85th Street, Scottsdale, Arizona 85255 with a copy to legal@axon.com.

18.12 **Entire Agreement**. This Agreement, the Appendices, including any applicable Appendices not attached herein for the products and services purchased, which are incorporated by reference and located in the Master Purchasing and Services Agreement located at https://www.axon.com/sales-terms-and-conditions, Quote and any SOW(s), represents the entire agreement between the Parties. This Agreement supersedes all prior agreements or understandings, whether written or verbal, regarding the subject matter of this Agreement. This Agreement may only be modified or amended in a writing signed by the Parties.

Each Party, by and through its respective representative authorized to execute this Agreement, has duly executed and delivered this Agreement as of the date of signature.

AXON:

Axon Enterprise, Inc.

Signature: _____

Name: _____

Title: _____

Date: _____

CUSTOMER:

_____

Signature: _____

Name: _____

Title: _____

Date: _____

Axon Cloud Services Terms of Use Appendix

1. **Definitions**.

    a. **"Customer Content"** is data uploaded into, ingested by, or created in Axon Cloud Services within Customer's tenant, including media or multimedia uploaded into Axon Cloud Services by Customer. Customer Content includes Evidence but excludes Non-Content Data.

    b. "**Evidence**" is media or multimedia uploaded into Axon Evidence as 'evidence' by a Customer. Evidence is a subset of Customer Content.

    c. "**Non-Content Data**" is data, configuration, and usage information about Customer's Axon Cloud Services tenant, Axon Devices and client software, and users that is transmitted or generated when using Axon Devices. Non-Content Data includes data about users captured during account management and customer support activities. Non-Content Data does not include Customer Content.

    d. "**Provided Data**" means de-identified, de-personalized, data derived from Customer's TASER energy weapon deployment reports, related TASER energy weapon logs, body-worn camera footage, and incident reports.

    e. "**Transformed Data**" means the Provided Data used for the purpose of quantitative evaluation of the performance and effectiveness of TASER energy weapons in the field across a variety of circumstances.

2. **Access**. Upon Axon granting Customer a subscription to Axon Cloud Services, Customer may access and use Axon Cloud Services to store and manage Customer Content. Customer may not exceed more end users than the Quote specifies. Axon Air requires an Axon Evidence subscription for each drone operator. For Axon Evidence Lite, Customer may access and use Axon Evidence only to store and manage TASER CEW and TASER CAM data ("**TASER Data**"). Customer may not upload non-TASER Data to Axon Evidence Lite.

3. **Customer Owns Customer Content**. Customer controls and owns all right, title, and interest in Customer Content. Except as outlined herein, Axon obtains no interest in Customer Content, and Customer Content is not Axon's business records. Customer is solely responsible for uploading, sharing, managing, and deleting Customer Content. Axon will only have access to Customer Content for the limited purposes set forth herein. Customer agrees to allow Axon access to Customer Content to (a) perform troubleshooting, maintenance, or diagnostic screenings; and (b) enforce this Agreement or policies governing use of the Axon products.

4. **Security**. Axon will implement commercially reasonable and appropriate measures to secure Customer Content against accidental or unlawful loss, access or disclosure. Axon will maintain a comprehensive information security program to protect Axon Cloud Services and Customer Content including logical, physical access, vulnerability, risk, and configuration management; incident monitoring and response; encryption of uploaded digital evidence; security education; and data protection. Axon agrees to the Federal Bureau of Investigation Criminal Justice Information Services Security Addendum for its digital evidence or records management systems.

5. **Customer Responsibilities**. Customer is responsible for (a) ensuring Customer owns Customer Content or has the necessary rights to use Customer Content (b) ensuring no Customer Content or Customer end user's use of Customer Content or Axon Cloud Services violates this Agreement or applicable laws; (c) maintaining necessary computer equipment and Internet connections for use of Axon Cloud Services and (d) verify the accuracy of any auto generated or AI generated reports. If Customer becomes aware of any violation of this Agreement by an end user, Customer will immediately terminate that end user's access to Axon Cloud Services.

    a. Customer will also maintain the security of end usernames and passwords and security and access by end users to Customer Content. Customer is responsible for ensuring the configuration and utilization of Axon Cloud Services meet applicable Customer regulation and standards. Customer may not sell, transfer, or sublicense access to any other entity or person. If Customer provides access to unauthorized third-parties, Axon may assess additional fees along with suspending Customer's access. Customer shall contact Axon immediately if an unauthorized party may be using Customer's account or Customer Content, or if account information is lost or stolen.

6. **Privacy**. Customer's use of Axon Cloud Services is subject to the Axon Cloud Services Privacy Policy, a current version of which is available at https://www.axon.com/legal/cloud-services-privacy-policy. Customer agrees to allow Axon access to Non-Content Data from Customer to (a) perform troubleshooting, maintenance, or diagnostic

screenings; (b) provide, develop, improve, and support current and future Axon products and related services; and (c) enforce this Agreement or policies governing the use of Axon products.

7. **Axon Body Wi-Fi Positioning**. Axon Body cameras may offer a feature to enhance location services where GPS/GNSS signals may not be available, for instance, within buildings or underground. Customer administrators can manage their choice to use this service within the administrative features of Axon Cloud Services. If Customer chooses to use this service, Axon must also enable the usage of the feature for Customer's Axon Cloud Services tenant. Customer will not see this option with Axon Cloud Services unless Axon has enabled Wi-Fi Positioning for Customer's Axon Cloud Services tenant.

8. **Storage**. For Axon Unlimited Device Storage subscriptions, Customer may store unlimited data in Customer's Axon Evidence account only if data originates from Axon Capture or anAxon Device. Axon may charge Customer additional fees for exceeding purchased storage amounts. Axon may place Customer Content that Customer has not viewed or accessed for six (6) months into archival storage. Customer Content in archival storage will not have immediate availability and may take up to twenty-four (24) hours to access.

   For Third-Party Unlimited Storage the following restrictions apply: (i) it may only be used in conjunction with a valid Axon's Evidence.com user license; (ii) is limited to data of the law enforcement Customer that purchased the Third-Party Unlimited Storage and the Axon's Evidence.com end user or Customer is prohibited from storing data for other law enforcement agencies; and (iii) Customer may only upload and store data that is directly related to: (1) the investigation of, or the prosecution of a crime; (2) common law enforcement activities; or (3) any Customer Content created by Axon Devices or Evidence.com.

9. **Location of Storage**. Axon may transfer Customer Content to third-party subcontractors for storage. Axon will determine the locations of data centers for storage of Customer Content. For United States agencies, Axon will ensure all Agency Content stored in Axon Cloud Services remains within the United States. Ownership of Customer Content remains with Customer.

10. **Suspension**. Axon may temporarily suspend Customer's or any end user's right to access or use any portion or all of Axon Cloud Services immediately upon notice, if Customer or end user's use of or registration for Axon Cloud Services may (a) pose a security risk to Axon Cloud Services or any third-party; (b) adversely impact Axon Cloud Services, the systems, or content of any other customer; (c) subject Axon, Axon's affiliates, or any third-party to liability; or (d) be fraudulent. Customer remains responsible for all fees incurred through suspension. Axon will not delete Customer Content because of suspension, except as specified in this Agreement.

11. **Axon Cloud Services Warranty**. Axon disclaims any warranties or responsibility for data corruption or errors before Customer uploads data to Axon Cloud Services.

12. **TASER Data Science Program**. Axon will provide a quantitative evaluation on the performance and effectiveness of TASER energy weapons in the field across a variety of circumstances.

    If Customer purchases the TASER Data Science Program, Customer grants Axon, its affiliates, and assignees an irrevocable, perpetual, fully paid, royalty-free, and worldwide right and license to use Provided Data solely for the purposes of this Agreement and to create Transformed Data. Customer shall own all rights and title to Provided Data. Axon shall own all rights and title to Transformed Data and any derivatives of Transformed Data.

    Axon grants to Customer an irrevocable, perpetual, fully paid, royalty-free, license to use to TASER Data Science report provided to Customer for its own internal purposes. **The Data Science report is provided "as is" and without any warranty of any kind.**

    In the event Customer seeks Axon's deletion of Provided Data, it may submit a request to privacy@axon.com. Where reasonably capable of doing so, Axon will implement the request but at a minimum will not continue to collect Provided Data from Customer.

13. **Axon Records**. Axon Records is the software-as-a-service product that is generally available at the time Customer purchases an OSP 7 or OSP 10 bundle. During Customer's Axon Records Subscription Term, if any, Customer will be entitled to receive Axon's Update and Upgrade releases on an if-and-when available basis.

    a. The Axon Records Subscription Term will end upon the completion of the Axon Records Subscription as documented in the Quote, or if purchased as part of an OSP 7 or OSP 10 bundle, upon completion of the OSP 7 or OSP 10 Term ("**Axon Records Subscription**")

b. An "**Update**" is a generally available release of Axon Records that Axon makes available from time to time. An "**Upgrade**" includes (i) new versions of Axon Records that enhance features and functionality, as solely determined by Axon; and/or (ii) new versions of Axon Records that provide additional features or perform additional functions. Upgrades exclude new products that Axon introduces and markets as distinct products or applications.

c. New or additional Axon products and applications, as well as any Axon professional services needed to configure Axon Records, are not included. If Customer purchases Axon Records as part of a bundled offering, the Axon Record subscription begins on the later of the (1) start date of that bundled offering, or (2) date Axon provisions Axon Records to Customer.

d. Users of Axon Records at the Customer may upload files to entities (incidents, reports, cases, etc) in Axon Records with no limit to the number of files and amount of storage. Notwithstanding the foregoing, Axon may limit usage should the Customer exceed an average rate of one-hundred (100) GB per user per year of uploaded files. Axon will not bill for overages.

14. **Axon Cloud Services Restrictions**. Customer and Customer end users (including employees, contractors, agents, officers, volunteers, and directors), may not, or may not attempt to:

    a. reverse engineer, disassemble, or decompile Axon Cloud Services or apply any process to derive any source code included in Axon Cloud Services, or allow others to do the same;

    b. copy, modify, tamper with, repair, or create derivative works of any part of Axon Cloud Services;

    c. access or use Axon Cloud Services with the intent to gain unauthorized access, avoid incurring fees or exceeding usage limits or quotas;

    d. use Axon Cloud Serves as a service bureau, or as part of an Customer infrastructure as a service;

    e. use trade secret information contained in Axon Cloud Services, except as expressly permitted in this Agreement;

    f. access Axon Cloud Services to build a competitive device or service or copy any features, functions, or graphics of Axon Cloud Services;

    g. remove, alter, or obscure any confidentiality or proprietary rights notices (including copyright and trademark notices) of Axon's or Axon's licensors on or within Axon Cloud Services; or

    h. use Axon Cloud Services to store or transmit infringing, libelous, or other unlawful or tortious material; material in violation of third-party privacy rights; or malicious code.

15. **Draft One** Axon may impose usage restrictions if a single user generates more than one hundred (100) reports per month for two or more consecutive months.

16. **After Termination**. Axon will not delete Customer Content for ninety (90) days following termination. Axon Cloud Services will not be functional during these ninety (90) days other than the ability to retrieve Customer Content. Customer will not incur additional fees if Customer downloads Customer Content from Axon Cloud Services during this time. Axon has no obligation to maintain or provide Customer Content after these ninety (90) days and will thereafter, unless legally prohibited, delete all Customer Content. Upon request, Axon will provide written proof that Axon successfully deleted and fully removed all Customer Content from Axon Cloud Services.

17. **Post-Termination Assistance**. Axon will provide Customer with the same post-termination data retrieval assistance that Axon generally makes available to all customers. Requests for Axon to provide additional assistance in downloading or transferring Customer Content, including requests for Axon's data egress service, will result in additional fees and Axon will not warrant or guarantee data integrity or readability in the external system.

18. **U.S. Government Rights**. If Customer is a U.S. Federal department or using Axon Cloud Services on behalf of `a U.S. Federal department, Axon Cloud Services is provided as a "commercial item," "commercial computer software," "commercial computer software documentation," and "technical data", as defined in the Federal Acquisition Regulation and Defense Federal Acquisition Regulation Supplement. If Customer is using Axon Cloud Services on behalf of the U.S. Government and these terms fail to meet the U.S. Government's needs or are inconsistent in any respect with federal law, Customer will immediately discontinue use of Axon Cloud Services.

19. **Survival**. Upon any termination of this Agreement, the following sections in this Appendix will survive: Customer Owns Customer Content, Privacy, Storage, Axon Cloud Services Warranty, Customer Responsibilities and Axon Cloud Services Restrictions.

Axon Customer Experience Improvement Program Appendix

1. **Axon Customer Experience Improvement Program (ACEIP)**. The ACEIP is designed to accelerate Axon's development of technology, such as building and supporting automated features, to ultimately increase safety within communities and drive efficiency in public safety. To this end, subject to the limitations on Axon as described below, Axon, where allowed by law, may make limited use of Customer Content from all of its customers to provide, develop, improve, and support current and future Axon products (collectively, "ACEIP Purposes"). However, at all times, Axon will comply with its obligations pursuant to the Axon Cloud Services Terms of Use Appendix to maintain a comprehensive data security program (including compliance with the CJIS Security Policy for Criminal Justice Information), privacy program, and data governance policy, including high industry standards of de-identifying Personal Data, to enforce its security and privacy obligations for the ACEIP. ACEIP has 2 tiers of participation, Tier 1 and Tier 2. By default, Customer will be a participant in ACEIP Tier 1. If Customer does not want to participate in ACEIP Tier 1, Customer can revoke its consent at any time. If Customer wants to participate in Tier 2, as detailed below, Customer can check the ACEIP Tier 2 box below. If Customer does not want to participate in ACEIP Tier 2, Customer should leave box unchecked. At any time, Customer may revoke its consent to ACEIP Tier 1, Tier 2, or both Tiers.

2. **ACEIP Tier 1.**

   2.1. When Axon uses Customer Content for the ACEIP Purposes, Axon will extract from Customer Content and may store separately copies of certain segments or elements of the Customer Content (collectively, "**ACEIP Content**"). When extracting ACEIP Content, Axon will use commercially reasonable efforts to aggregate, transform or de-identify Customer Content so that the extracted ACEIP Content is no longer reasonably capable of being associated with, or could reasonably be linked directly or indirectly to a particular individual ("**Privacy Preserving Technique(s)**"). For illustrative purposes, some examples are described in footnote 1[1]. For clarity, ACEIP Content will still be linked indirectly, with an attribution, to the Customer from which it was extracted. This attribution will be stored separately from the data itself, but is necessary for and will be solely used to enable Axon to identify and delete all ACEIP Content upon Customer request. Once de-identified, ACEIP Content may then be further modified, analyzed, and used to create derivative works. At any time, Customer may revoke the consent granted herein to Axon to access and use Customer Content for ACEIP Purposes. Within 30 days of receiving the Customer's request, Axon will no longer access or use Customer Content for ACEIP Purposes and will delete any and all ACEIP Content. Axon will also delete any derivative works which may reasonably be capable of being associated with, or could reasonably be linked directly or indirectly to Customer. In addition, if Axon uses Customer Content for the ACEIP Purposes, upon request, Axon will make available to Customer a list of the specific type of Customer Content being used to generate ACEIP Content, the purpose of such use, and the retention, privacy preserving extraction technique, and relevant data protection practices applicable to the Customer Content or ACEIP Content ("**Use Case**"). From time to time, Axon may develop and deploy new Use Cases. At least 30 days prior to authorizing the deployment of any new Use Case, Axon will provide Customer notice (by updating the list of Use Case at https://www.axon.com/aceip and providing Customer with a mechanism to obtain notice of that update or another commercially reasonable method to Customer designated contact) ("**New Use Case**").

   2.2. **Expiration of ACEIP Tier 1**. Customer consent granted herein will expire upon termination of the Agreement. In accordance with section 1.1.1, within 30 days of receiving the Customer's request, Axon will no longer access or use Customer Content for ACEIP Purposes and will delete ACEIP Content. Axon will also delete any derivative works which may reasonably be capable of being associated with, or could reasonably be linked directly or indirectly to, Customer.

3. **ACEIP Tier 2**. In addition to ACEIP Tier 1, if Customer wants to help further improve Axon's services, Customer may choose to participate in Tier 2 of the ACEIP. ACEIP Tier 2 grants Axon certain additional rights to use Customer

[1] For example; (a) when extracting specific text to improve automated transcription capabilities, text that could be used to directly identify a particular individual would not be extracted, and extracted text would be disassociated from identifying metadata of any speakers, and the extracted text would be split into individual words and aggregated with other data sources (including publicly available data) to remove any reasonable ability to link any specific text directly or indirectly back to a particular individual; (b) when extracting license plate data to improve Automated License Plate Recognition (ALPR) capabilities, individual license plate characters would be extracted and disassociated from each other so a complete plate could not be reconstituted, and all association to other elements of the source video, such as the vehicle, location, time, and the surrounding environment would also be removed; (c) when extracting audio of potential acoustic events (such as glass breaking or gun shots), very short segments (<1 second) of audio that only contains the likely acoustic events would be extracted and all human utterances would be removed.

Content, in addition to those set forth in Tier 1 above, without the guaranteed deployment of a Privacy Preserving Technique to enable product development, improvement, and support that cannot be accomplished with aggregated, transformed, or de-identified data.

☐ Check this box if Customer wants to help further improve Axon's services by participating in ACEIP Tier 2 in addition to Tier 1. Axon will not enroll Customer into ACEIP Tier 2 until Axon and Customer agree to terms in writing providing for such participation in ACEIP Tier 2.

Professional Services Appendix

If any of the Professional Services specified below are included on the Quote, this Appendix applies.

1. **Utilization of Services**. Customer must use professional services as outlined in the Quote and this Appendix within six (6) months of the Effective Date.

2. **Axon Full Service (Axon Full Service)**. Axon Full Service includes advance remote project planning and configuration support and up to four (4) consecutive days of on-site service and a professional services manager to work with Customer to assess Customer's deployment and determine which on-site services are appropriate. If Customer requires more than four (4) consecutive on-site days, Customer must purchase additional days. Axon Full Service options include:

System set up and configuration • Instructor-led setup of Axon View on smartphones (if applicable) • Configure categories and custom roles based on Customer need • Register cameras to Customer domain • Troubleshoot IT issues with Axon Evidence and Axon Dock ("**Dock**") access • One on-site session included
Dock configuration • Work with Customer to decide the ideal location of Docks and set configurations on Dock • Authenticate Dock with Axon Evidence using admin credentials from Customer • On-site assistance, not to include physical mounting of docks
Best practice implementation planning session • Provide considerations for the establishment of video policy and system operations best practices based on Axon's observations with other agencies • Discuss the importance of entering metadata in the field for organization purposes and other best practices for digital data management • Provide referrals of other agencies using the Axon camera devices and Axon Evidence • Recommend rollout plan based on review of shift schedules
System Admin and troubleshooting training sessions Step-by-step explanation and assistance for Customer's configuration of security, roles & permissions, categories & retention, and other specific settings for Axon Evidence
Axon instructor training (Train the Trainer) Training for Customer's in-house instructors who can support Customer's Axon camera and Axon Evidence training needs after Axon has fulfilled its contractual on-site obligations
Evidence sharing training Tailored workflow instruction for Investigative Units on sharing Cases and Evidence with local prosecuting agencies
End user go-live training and support sessions • Assistance with device set up and configuration • Training on device use, Axon Evidence, and Evidence Sync
Implementation document packet Axon Evidence administrator guides, camera implementation guides, network setup guide, sample policies, and categories & roles guide
Post go-live review

3. **Body-Worn Camera Starter Service (Axon Starter)**. Axon Starter includes advance remote project planning and configuration support and one (1) day of on-site Services and a professional services manager to work closely with Customer to assess Customer's deployment and determine which Services are appropriate. If Customer requires more than one (1) day of on-site Services, Customer must purchase additional on-site Services. The Axon Starter options include:

System set up and configuration (Remote Support)

• Instructor-led setup of Axon View on smartphones (if applicable) • Configure categories & custom roles based on Customer need • Troubleshoot IT issues with Axon Evidence and Dock access
Dock configuration • Work with Customer to decide the ideal location of Dock setup and set configurations on Dock • Authenticate Dock with Axon Evidence using "Administrator" credentials from Customer • Does not include physical mounting of docks
Axon instructor training (Train the Trainer) Training for Customer's in-house instructors who can support Customer's Axon camera and Axon Evidence training needs after Axon's has fulfilled its contracted on-site obligations
End user go-live training and support sessions • Assistance with device set up and configuration • Training on device use, Axon Evidence, and Evidence Sync
Implementation document packet Axon Evidence administrator guides, camera implementation guides, network setup guide, sample policies, and categories & roles guide

4. **Body-Worn Camera Virtual 1-Day Service (Axon Virtual)**. Axon Virtual includes all items in the BWC Starter Service Package, except one (1) day of on-site services.

5. **CEW Services Packages**. CEW Services Packages are detailed below:

System set up and configuration • Configure Axon Evidence categories & custom roles based on Customer need. • Troubleshoot IT issues with Axon Evidence. • Register users and assign roles in Axon Evidence. • **For the CEW Full Service Package**: On-site assistance included • **For the CEW Starter Package**: Virtual assistance included
Dedicated Project Manager Assignment of specific Axon representative for all aspects of planning the rollout (Project Manager). Ideally, Project Manager will be assigned to Customer 4–6 weeks before rollout
Best practice implementation planning session to include: • Provide considerations for the establishment of CEW policy and system operations best practices based on Axon's observations with other agencies • Discuss the importance of entering metadata and best practices for digital data management • Provide referrals to other agencies using TASER CEWs and Axon Evidence • **For the CEW Full Service Package:** On-site assistance included • **For the CEW Starter Package:** Virtual assistance included
System Admin and troubleshooting training sessions On-site sessions providing a step-by-step explanation and assistance for Customer's configuration of security, roles & permissions, categories & retention, and other specific settings for Axon Evidence
Axon Evidence Instructor training • Provide training on the Axon Evidence to educate instructors who can support Customer's subsequent Axon Evidence training needs. • **For the CEW Full Service Package:** Training for up to 3 individuals at Customer • **For the CEW Starter Package:** Training for up to 1 individual at Customer
TASER CEW inspection and device assignment Axon's on-site professional services team will perform functions check on all new TASER CEW Smart weapons and assign them to a user on Axon Evidence.
Post go-live review **For the CEW Full Service Package**: On-site assistance included. **For the CEW Starter Package**: Virtual assistance included.

6. **Smart Weapon Transition Service**. The Smart Weapon Transition Service includes:

Archival of CEW Firing Logs Axon's on-site professional services team will upload CEW firing logs to Axon Evidence from all TASER CEW

Smart Weapons that Customer is replacing with newer Smart Weapon models.
Return of Old Weapons Axon's on-site professional service team will ship all old weapons back to Axon's headquarters. Axon will provide Customer with a Certificate of Destruction

*Note: CEW Full Service packages for TASER 7 or TASER 10 include Smart Weapon Transition Service instead of 1-Day Device Specific Instructor Course.

7. **VR Services Package.** VR Service includes advance remote project planning and configuration support and one (1) day of on-site service and a professional services manager to work with Customer to assess Customer's deployment and determine which Services are appropriate. The VR Service training options include:

System set up and configuration (Remote Support) • Instructor-led setup of Axon VR headset content • Configure Customer settings based on Customer need • Troubleshoot IT issues with Axon VR headset
Axon instructor training (Train the Trainer) Training for up to five (5) Customer's in-house instructors who can support Customer's Axon VR CET and SIM training needs after Axon's has fulfilled its contracted on-site obligations
Classroom and practical training sessions Step-by-step explanation and assistance for Customer's configuration of Axon VR CET and SIM functionality, basic operation, and best practices

8. **Axon Air, On-Site Training.** Axon Air, On-Site training includes advance remote project planning and configuration support and one (1) day of on-site Services and a professional services manager to work closely with Customer to assess Customer's deployment and determine which Services are appropriate. If Customer's requires more than one (1) day of on-site Services, Customer must purchase additional on-site Services. The Axon Air, On-Site training options include:

System set up and configuration (Remote Support) • Instructor-led setup of Axon Air App (ASDS) • Configure Customer settings based on Customer need • Configure drone controller • Troubleshoot IT issues with Axon Evidence
Axon instructor training (Train the Trainer) Training for Customer's in-house instructors who can support Customer's Axon Air and Axon Evidence training needs after Axon's has fulfilled its contracted on-site obligations
Classroom and practical training sessions Step-by-step explanation and assistance for Customer's configuration of Axon Respond+ livestreaming functionality, basic operation, and best practices

9. **Axon Air, Virtual Training.** Axon Air, Virtual training includes all items in the Axon Air, On-Site Training Package, except the practical training session, with the Axon Instructor training for up to four hours virtually.

10. **Signal Sidearm Installation Service**.

    a. **Purchases of 50 SSA units or more**: Axon will provide one (1) day of on-site service and one professional services manager and will provide train the trainer instruction, with direct assistance on the first of each unique holster/mounting type. Customer is responsible for providing a suitable work/training area.

    b. **Purchases of less than 50 SSA units:** Axon will provide a 1-hour virtual instruction session on the basics of installation and device calibration.

11. **Out of Scope Services**. Axon is only responsible to perform the professional services described in the Quote and this Appendix. Any additional professional services are out of scope. The Parties must document scope changes in a written and signed change order. Changes may require an equitable adjustment in the charges or schedule.

12. **Delivery of Services**. Axon personnel will work Monday through Friday, 8:30 a.m. to 5:30 p.m., except holidays. Axon will perform all on-site tasks over a consecutive timeframe. Axon will not charge Customer travel time by Axon

personnel to Customer premises as work hours.

13. **Access Computer Systems to Perform Services**. Customer authorizes Axon to access relevant Customer computers and networks, solely for performing the Services. Axon will work to identify as soon as reasonably practicable resources and information Axon expects to use and will provide an initial itemized list to Customer. Customer is responsible for and assumes the risk of any problems, delays, losses, claims, or expenses resulting from the content, accuracy, completeness, and consistency of all data, materials, and information supplied by Customer.

14. **Site Preparation**. Axon will provide a hardcopy or digital copy of current user documentation for the Axon Devices ("**User Documentation**"). User Documentation will include all required environmental specifications for the professional services and Axon Devices to operate per the Axon Device User Documentation. Before installation of Axon Devices (whether performed by Customer or Axon), Customer must prepare the location(s) where Axon Devices are to be installed ("**Installation Site**") per the environmental specifications in the Axon Device User Documentation. Following installation, Customer must maintain the Installation Site per the environmental specifications. If Axon modifies Axon Device User Documentation for any Axon Devices under this Agreement, Axon will provide the update to Customer when Axon generally releases it

15. **Acceptance**. When Axon completes professional services, Axon will present an acceptance form ("**Acceptance Form**") to Customer. Customer will sign the Acceptance Form acknowledging completion. If Customer reasonably believes Axon did not complete the professional services in substantial conformance with this Agreement, Customer must notify Axon in writing of the specific reasons for rejection within seven (7) calendar days from delivery of the Acceptance Form. Axon will address the issues and re-present the Acceptance Form for signature. If Axon does not receive the signed Acceptance Form or written notification of reasons for rejection within seven (7) calendar days of delivery of the Acceptance Form, Axon will deem Customer to have accepted the professional services.

16. **Customer Network**. For work performed by Axon transiting or making use of Customer's network, Customer is solely responsible for maintenance and functionality of the network. In no event will Axon be liable for loss, damage, or corruption of Customer's network from any cause.

Technology Assurance Plan Appendix

If Technology Assurance Plan ("**TAP**") or a bundle including TAP is on the Quote, this appendix applies.

1. **TAP Warranty**. The TAP warranty is an extended warranty that starts at the end of the one- (1-) year hardware limited warranty.
2. **Officer Safety Plan**. If Customer purchases an Officer Safety Plan ("**OSP**"), Customer will receive the deliverables detailed in the Quote. Customer must accept delivery of the TASER CEW and accessories as soon as available from Axon.
3. **OSP 7 or OSP 10 Term**. OSP 7 or OSP 10 begins on the date specified in the Quote ("**OSP Term**").
4. **TAP BWC Upgrade**. If Customer has no outstanding payment obligations and purchased TAP, Axon will provide Customer a new Axon body-worn camera ("**BWC Upgrade**") as scheduled in the Quote. If Customer purchased TAP, Axon will provide a BWC Upgrade that is the same or like Axon Device, at Axon's option. Axon makes no guarantee the BWC Upgrade will utilize the same accessories or Axon dock.
5. **TAP Dock Upgrade**. If Customer has no outstanding payment obligations and purchased TAP, Axon will provide Customer a new Axon Dock as scheduled in the Quote ("**Dock Upgrade**"). Accessories associated with any Dock Upgrades are subject to change at Axon discretion. Dock Upgrades will only include a new Axon dock bay configuration unless a new Axon dock core is required for BWC compatibility. If Customer originally purchased a single-bay Axon dock, the Dock Upgrade will be a single-bay Axon dock model that is the same or like Axon Device, at Axon's option. If Customer originally purchased a multi-bay Axon dock, the Dock Upgrade will be a multi-bay Axon dock that is the same or like Axon Device, at Axon's option.
6. **Upgrade Delay**. Axon may ship the BWC and Dock Upgrades as scheduled in the Quote without prior confirmation from Customer unless the Parties agree in writing otherwise at least ninety (90) days in advance. Axon may ship the final BWC and Dock Upgrade as scheduled in the Quote sixty (60) days before the end of the Subscription Term without prior confirmation from Customer.
7. **Upgrade Change**. If Customer wants to upgrade Axon Device models from the current Axon Device to an upgraded Axon Device, Customer must pay the price difference between the MSRP for the current Axon Device and the MSRP for the upgraded Axon Device. If the model Customer desires has an MSRP less than the MSRP of the offered BWC Upgrade or Dock Upgrade, Axon will not provide a refund. The MSRP is the MSRP in effect at the time of the upgrade.
8. **Return of Original Axon Device**. Within thirty (30) days of receiving a BWC or Dock Upgrade, Customer must return the original Axon Devices to Axon or destroy the Axon Devices and provide a certificate of destruction to Axon including serial numbers for the destroyed Axon Devices. If Customer does not return or destroy the Axon Devices, Axon will deactivate the serial numbers for the Axon Devices received by Customer.
9. **Termination**. If Customer's payment for TAP, OSP, or Axon Evidence is more than thirty (30) days past due, Axon may terminate TAP or OSP. Once TAP or OSP terminates for any reason:
   - 9.1. TAP and OSP coverage terminate as of the date of termination and no refunds will be given.
   - 9.2. Axon will not and has no obligation to provide the Upgrade Models.
   - 9.3. Customer must make any missed payments due to the termination before Customer may purchase any future TAP or OSP.

TASER Device Appendix

This TASER Device Appendix applies to Customer's TASER 7/10, OSP 7/10, OSP Plus, or OSP 7/10 Plus Premium purchase from Axon, if applicable.

1. **Duty Cartridge Replenishment Plan**. If the Quote includes "**Duty Cartridge Replenishment Plan**", Customer must purchase the plan for each CEW user. A CEW user includes officers that use a CEW in the line of duty and those that only use a CEW for training. Customer may not resell cartridges received. Axon will only replace cartridges used in the line of duty.

2. **Training**. If the Quote includes a TASER On Demand Certification subscription, Customer will have on-demand access to TASER Instructor and TASER Master Instructor courses only for the duration of the TASER Subscription Term. Axon will issue a maximum of ten (10) TASER Instructor vouchers and ten (10) TASER Master Instructor vouchers for every thousand TASER Subscriptions purchased. Customer shall utilize vouchers to register for TASER courses at their discretion however Customer may incur a fee for cancellations less than 10 business days prior to a course date or failure to appear to a registered course. The voucher has no cash value. Customer cannot exchange voucher for any other device or service. Any unused vouchers at the end of the Term will be forfeited. A voucher does not include any travel or other expenses that might be incurred related to attending a course.

3. **Extended Warranty**. If the Quote includes an extended warranty, the extended warranty coverage period warranty will be for a five- (5-) year term, which includes the hardware manufacturer's warranty plus the four- (4-) year extended term.

4. **Trade-in**. If the Quote contains a discount on CEW-related line items and that discount is contingent upon the trade-in of hardware, Customer must return used hardware and accessories associated with the discount ("**Trade-In Units**") to Axon within the below prescribed timeline. Customer must ship batteries via ground shipping. Axon will pay shipping costs of the return. If Axon does not receive Trade-In Units within the timeframe below, Axon will invoice Customer the value of the trade-in credit. Customer may not destroy Trade-In Units and receive a trade-in credit.

Customer Size	**Days to Return from Start Date of TASER 10 Subscription**
Less than 100 officers	60 days
100 to 499 officers	90 days
500+ officers	180 days

5. **TASER Device Subscription Term**. The TASER Device Subscription Term for a standalone TASER Device purchase begins on shipment of the TASER Device. The TASER Device Subscription Term for OSP 7/10 begins on the OSP 7/10 start date.

6. **Access Rights**. Upon Axon granting Customer a TASER Device Axon Evidence subscription, Customer may access and use Axon Evidence for the storage and management of data from TASER Devices devices during the TASER Device Subscription Term. Customer may not exceed the number of end users the Quote specifies.

7. **Customer Warranty.** If Customer is located in the US, Customer warrants and acknowledges that TASER 10 is classified as a firearm and is being acquired for official Customer use pursuant to a law enforcement Customer transfer under the Gun Control Act of 1968.

8. **Purchase Order.** To comply with applicable laws and regulations, Customer must provide a purchase order to Axon prior to shipment of TASER 10.

9. **Apollo Grant (US only).** If Customer has received an Apollo Grant from Axon, Customer must pay all fees in the Quote prior to upgrading to any new TASER Device offered by Axon.

10. **Termination**. If payment for TASER Device is more than thirty (30) days past due, Axon may terminate Customer's TASER Device plan by notifying Customer. Upon termination for any reason, then as of the date of termination:

    10.1. TASER Device extended warranties and access to Training Content will terminate. No refunds will be given.
    10.2. Axon will invoice Customer the remaining MSRP for TASER Devices received before termination. If terminating for non-appropriations, Axon will not invoice Customer if Customer returns the TASER Device, rechargeable battery, holster, dock, core, training suits, and unused cartridges to Axon within thirty (30) days of the date of

termination.

10.3. Customer will be responsible for payment of any missed payments due to the termination before being allowed to purchase any future TASER Device plan.

Axon Auto-Tagging Appendix

If Auto-Tagging is included on the Quote, this Appendix applies.

1. **Scope.** Axon Auto-Tagging consists of the development of a module to allow Axon Evidence to interact with Customer's Computer-Aided Dispatch ("**CAD**") or Records Management Systems ("**RMS**"). This allows end users to auto-populate Axon video meta-data with a case ID, category, and location-based on data maintained in Customer's CAD or RMS.

2. **Support**. For thirty (30) days after completing Auto-Tagging Services, Axon will provide up to five (5) hours of remote support at no additional charge. Axon will provide free support due to a change in Axon Evidence, if Customer maintains an Axon Evidence and Auto-Tagging subscription. Axon will not provide support if a change is required because Customer changes its CAD or RMS.

3. **Changes**. Axon is only responsible to perform the Services in this Appendix. Any additional Services are out of scope. The Parties must document scope changes in a written and signed change order. Changes may require an equitable adjustment in fees or schedule.

4. **Customer Responsibilities**. Axon's performance of Auto-Tagging Services requires Customer to:

   4.1. Make available relevant systems, including Customer's current CAD or RMS, for assessment by Axon (including remote access if possible);

   4.2. Make required modifications, upgrades or alterations to Customer's hardware, facilities, systems and networks related to Axon's performance of Auto-Tagging Services;

   4.3. Provide access to the premises where Axon is performing Auto-Tagging Services, subject to Customer safety and security restrictions, and allow Axon to enter and exit the premises with laptops and materials needed to perform Auto-Tagging Services;

   4.4. Provide all infrastructure and software information (TCP/IP addresses, node names, network configuration) necessary for Axon to provide Auto-Tagging Services;

   4.5. Promptly install and implement any software updates provided by Axon;

   4.6. Ensure that all appropriate data backups are performed;

   4.7. Provide assistance, participation, and approvals in testing Auto-Tagging Services;

   4.8. Provide Axon with remote access to Customer's Axon Evidence account when required;

   4.9. Notify Axon of any network or machine maintenance that may impact the performance of the module at Customer; and

   4.10. Ensure reasonable availability of knowledgeable staff and personnel to provide timely, accurate, complete, and up-to-date documentation and information to Axon.

5. **Access to Systems**. Customer authorizes Axon to access Customer's relevant computers, network systems, and CAD or RMS solely for performing Auto-Tagging Services. Axon will work diligently to identify the resources and information Axon expects to use and will provide an initial list to Customer. Customer is responsible for and assumes the risk of any problems, delays, losses, claims, or expenses resulting from the content, accuracy, completeness, and consistency of all data, materials, and information supplied by Customer.

Axon Fleet Appendix

If Axon Fleet is included on the Quote, this Appendix applies.

1. Customer Responsibilities.

   1.1. Customer must ensure its infrastructure and vehicles adhere to the minimum requirements to operate Axon Fleet 2 Axon Fleet 3 or a future Fleet iteration (collectively, "**Axon Fleet**") as established by Axon during the qualifier call and on-site assessment at Customer and in any technical qualifying questions. If Customer's representations are inaccurate, the Quote is subject to change.

   1.2. Customer is responsible for providing a suitable work area for Axon or Axon third-party providers to install Axon Fleet systems into Customer vehicles. Customer is responsible for making available all vehicles for which installation services were purchased, during the agreed upon onsite installation dates, Failure to make vehicles available may require an equitable adjustment in fees or schedule.

2. **Cradlepoint**. If Customer purchases Cradlepoint Enterprise Cloud Manager, Customer will comply with Cradlepoint's end user license agreement. The term of the Cradlepoint license may differ from the Axon Evidence Subscription. If Customer requires Cradlepoint support, Customer will contact Cradlepoint directly.

3. **Third-party Installer**. Axon will not be liable for the failure of Axon Fleet hardware to operate per specifications if such failure results from installation not performed by, or as directed by Axon.

4. Wireless Offload Server.

   4.1. **License Grant**. Axon grants Customer a non-exclusive, royalty-free, worldwide, perpetual license to use Wireless Offload Server ("**WOS**"). "Use" means storing, loading, installing, or executing WOS solely for data communication with Axon Devices for the number of licenses purchased. The WOS term begins upon the start of the Axon Evidence Subscription.

   4.2. **Restrictions**. Customer may not: (a) modify, alter, tamper with, repair, or create derivative works of WOS; (b) reverse engineer, disassemble, or decompile WOS, apply any process to derive the source code of WOS, or allow others to do so; (c) access or use WOS to avoid incurring fees or exceeding usage limits; (d) copy WOS in whole or part; (e) use trade secret information contained in WOS; (f) resell, rent, loan or sublicense WOS; (g) access WOS to build a competitive device or service or copy any features, functions or graphics of WOS; or (h) remove, alter or obscure any confidentiality or proprietary rights notices (including copyright and trademark notices) of Axon or Axon's licensors on or within WOS.

   4.3. **Updates**. If Customer purchases WOS maintenance, Axon will make updates and error corrections to WOS ("**WOS Updates**") available electronically via the Internet or media as determined by Axon. Customer is responsible for establishing and maintaining adequate Internet access to receive WOS Updates and maintaining computer equipment necessary for use of WOS. The Quote will detail the maintenance term.

   4.4. **WOS Support**. Upon request by Axon, Customer will provide Axon with access to Customer's store and forward servers solely for troubleshooting and maintenance.

5. Axon Vehicle Software.

   5.1. **License Grant**. Axon grants Customer a non-exclusive, royalty-free, worldwide, perpetual license to use ViewXL or Dashboard (collectively, "**Axon Vehicle Software**".) "Use" means storing, loading, installing, or executing Axon Vehicle Software solely for data communication with Axon Devices. The Axon Vehicle Software term begins upon the start of the Axon Evidence Subscription.

   5.2. **Restrictions**. Customer may not: (a) modify, alter, tamper with, repair, or create derivative works of Axon Vehicle Software; (b) reverse engineer, disassemble, or decompile Axon Vehicle Software, apply any process to derive the source code of Axon Vehicle Software, or allow others to do so; (c) access or use Axon Vehicle Software to avoid incurring fees or exceeding usage limits; (d) copy Axon Vehicle Software in whole or part; (e) use trade secret information contained in Axon Vehicle Software; (f) resell, rent, loan or sublicense Axon Vehicle Software; (g) access Axon Vehicle Software to build a competitive device or service or copy any features, functions or graphics of Axon Vehicle Software; or (h) remove, alter or obscure any confidentiality or proprietary rights notices (including copyright and trademark notices) of Axon or Axon's licensors on or within Axon Vehicle Software.

6. **Acceptance Checklist**. If Axon provides services to Customer pursuant to any statement of work in connection with Axon Fleet, within seven (7) days of the date on which Customer retrieves Customer's vehicle(s) from the Axon installer, said vehicle having been installed and configured with tested and fully and properly operational in-car hardware and software identified above, Customer will receive a Professional Services Acceptance Checklist to submit to Axon indicating acceptance or denial of said deliverables.

7. **Axon Fleet Upgrade**. If Customer has no outstanding payment obligations and has purchased the "Fleet Technology Assurance Plan" (Fleet TAP), Axon will provide Customer with the same or like model of Fleet hardware ("**Axon Fleet Upgrade**") as scheduled on the Quote.

   7.1. If Customer would like to change models for the Axon Fleet Upgrade, Customer must pay the difference between the MSRP for the offered Axon Fleet Upgrade and the MSRP for the model desired. The MSRP is the MSRP in effect at the time of the upgrade. Customer is responsible for the removal of previously installed hardware and installation of the Axon Fleet Upgrade.

   7.2. Within thirty (30) days of receiving the Axon Fleet Upgrade, Customer must return the original Axon Devices to Axon or destroy the Axon Devices and provide a certificate of destruction to Axon, including serial numbers of the destroyed Axon Devices. If Customer does not destroy or return the Axon Devices to Axon, Axon will deactivate the serial numbers for the Axon Devices received by Customer.

8. **Axon Fleet Termination.** Axon may terminate Customer's Fleet subscription for non-payment. Upon any termination:

   8.1. Axon Fleet subscription coverage terminates, and no refunds will be given.

   8.2. Axon will not and has no obligation to provide the Axon Fleet Upgrade.

   8.3. Customer will be responsible for payment of any missed payments due to the termination before being allowed to purchase any future Fleet TAP.

Axon Respond Appendix

This Axon Respond Appendix applies to both Axon Respond and Axon Respond Plus, if either is included on the Quote.

1. **Axon Respond Subscription Term**. If Customer purchases Axon Respond as part of a bundled offering, the Axon Respond subscription begins on the later of the (1) start date of that bundled offering, or (2) date Axon provisions Axon Respond to Customer. If Customer purchases Axon Respond as a standalone, the Axon Respond subscription begins the later of the (1) date Axon provisions Axon Respond to Customer, or (2) first day of the month following the Effective Date. The Axon Respond subscription term will end upon the completion of the Axon Evidence Subscription associated with Axon Respond.

2. **Scope of Axon Respond**. The scope of Axon Respond is to assist Customer with real-time situational awareness during critical incidents to improve officer safety, effectiveness, and awareness. In the event Customer uses Axon Respond outside this scope, Axon may initiate good-faith discussions with Customer on upgrading Customer's Axon Respond to better meet Customer's needs.

3. **Axon Body LTE Requirements**. Axon Respond is only available and usable with an LTE enabled body-worn camera. Axon is not liable if Customer utilclzes the LTE device outside of the coverage area or if the LTE carrier is unavailable. LTE coverage is only available in the United States, including any U.S. territories. Axon may utilize a carrier of Axon's choice to provide LTE service. Axon may change LTE carriers during the Term without Customer's consent.

4. **Axon Fleet LTE Requirements.** Axon Respond is only available and usable with a Fleet system configured with LTE modem and service. Customer is responsible for providing LTE service for the modem. Coverage and availability of LTE service is subject to Customer's LTE carrier.

5. **Axon Respond Service Limitations**. Customer acknowledges that LTE service is made available only within the operating range of the networks. Service may be temporarily refused, interrupted, or limited because of: (a) facilities limitations; (b) transmission limitations caused by atmospheric, terrain, other natural or artificial conditions adversely affecting transmission, weak batteries, system overcapacity, movement outside a service area or gaps in coverage in a service area, and other causes reasonably outside of the carrier's control such as intentional or negligent acts of third parties that damage or impair the network or disrupt service; or (c) equipment modifications, upgrades, relocations, repairs, and other similar activities necessary for the proper or improved operation of service.

   5.1. With regard to Axon Body, Partner networks are made available as-is and the carrier makes no warranties or representations as to the availability or quality of roaming service provided by carrier partners, and the carrier will not be liable in any capacity for any errors, outages, or failures of carrier partner networks. Customer expressly understands and agrees that it has no contractual relationship whatsoever with the underlying wireless service provider or its affiliates or contractors and Customer is not a third-party beneficiary of any agreement between Axon and the underlying carrier.

6. **Termination**. Upon termination of this Agreement, or if Customer stops paying for Axon Respond or bundles that include Axon Respond, Axon will end Axon Respond services, including any Axon-provided LTE service.

Add-on Services Appendix

This Appendix applies if Axon Community Request, Axon Redaction Assistant, and/or Axon Performance are included on the Quote.

1. **Subscription Term**. If Customer purchases Axon Community Request, Axon Redaction Assistant, or Axon Performance as part of OSP 7 or OSP 10, the subscription begins on the later of the (1) start date of the OSP 7 or OSP 10 Term, or (2) date Axon provisions Axon Community Request Axon Redaction Assistant, or Axon Performance to Customer.

1.1. If Customer purchases Axon Community Request, Axon Redaction Assistant, or Axon Performance as a standalone, the subscription begins the later of the (1) date Axon provisions Axon Community Request, Axon Redaction Assistant, or Axon Performance to Customer, or (2) first day of the month following the Effective Date.

1.2. The subscription term will end upon the completion of the Axon Evidence Subscription associated with the add-on.

2. **Axon Community Request Storage**. For Axon Community Request, Customer may store an unlimited amount of data submitted through the public portal ("**Portal Content**"), within Customer's Axon Evidence instance. The post-termination provisions outlined in the Axon Cloud Services Terms of Use Appendix also apply to Portal Content.

3. **Performance Auto-Tagging Data**. In order to provide some features of Axon Performance to Customer, Axon will need to store call for service data from Customer's CAD or RMS.

Axon Auto-Transcribe Appendix

This Appendix applies if Axon Auto-Transcribe is included on the Quote.

1. **Subscription Term.** If Customer purchases Axon Auto-Transcribe as part of a bundle or Axon Cloud Services subscription, the subscription begins on the later of the (1) start date of the bundle or Axon Cloud Services license term, or (2) date Axon provisions Axon Auto-Transcribe to Customer. If Customer purchases Axon Auto-Transcribe minutes as a standalone, the subscription begins on the date Axon provisions Axon Auto-Transcribe to Customer.

   1.1. If Customer cancels Auto-Transcribe services, any amounts owed by the Parties will be based on the amount of time passed under the annual subscription, rather than on the number of minutes used, regardless of usage.

2. **Auto-Transcribe A-La-Carte Minutes.** Upon Axon granting Customer a set number of minutes, Customer may utilize Axon Auto-Transcribe, subject to the number of minutes allowed on the Quote. Customer will not have the ability to roll over unused minutes to future Auto-Transcribe terms. Axon may charge Customer additional fees for exceeding the number of purchased minutes. Axon Auto-Transcribe minutes expire one year after being provisioned to Customer by Axon.

3. **Axon Unlimited Transcribe.** Upon Axon granting Customer an Unlimited Transcribe subscription to Axon Auto-Transcribe, Customer may utilize Axon Auto-Transcribe with no limit on the number of minutes. Unlimited Transcribe includes automatic transcription of all Axon BWC and Axon Capture footage. With regard to Axon Interview Room, Axon Fleet, Axon Citizen, or third-party transcription, transcription must be requested on demand. Notwithstanding the foregoing, Axon may limit usage after 5,000 minutes per user per month for multiple months in a row. Axon will not bill for overages.

4. **Warranty.** Axon disclaims all warranties, express or implied, for Axon Auto-Transcribe.

Axon Virtual Reality Content Terms of Use Appendix

If Virtual Reality is included on the Quote, this Appendix applies.

1. **Term**. The Quote will detail the products and license duration, as applicable, of the goods, services, and software, and contents thereof, provided by Axon to Customer related to virtual reality (collectively, "**Virtual Reality Media**").

2. **Headsets**. Customer may purchase additional virtual reality headsets from Axon. In the event Customer decides to purchase additional virtual reality headsets for use with Virtual Reality Media, Customer must purchase those headsets from Axon.

3. **License Restrictions**. All licenses will immediately terminate if Customer does not comply with any term of this Agreement. If Customer utilizes more users than stated in this Agreement, Customer must purchase additional Virtual Reality Media licenses from Axon. Customer may not use Virtual Reality Media for any purpose other than as expressly permitted by this Agreement. Customer may not:

   3.1. modify, tamper with, repair, or otherwise create derivative works of Virtual Reality Media;

   3.2. reverse engineer, disassemble, or decompile Virtual Reality Media or apply any process to derive the source code of Virtual Reality Media, or allow others to do the same;

   3.3. copy Virtual Reality Media in whole or part, except as expressly permitted in this Agreement;

   3.4. use trade secret information contained in Virtual Reality Media;

   3.5. resell, rent, loan or sublicense Virtual Reality Media;

   3.6. access Virtual Reality Media to build a competitive device or service or copy any features, functions, or graphics of Virtual Reality Media; or

   3.7. remove, alter, or obscure any confidentiality or proprietary rights notices (including copyright and trademark notices) of Axon or Axon's licensors on or within Virtual Reality Media or any copies of Virtual Reality Media.

4. **Privacy**. Customer's use of the Virtual Reality Media is subject to the Axon Virtual Reality Privacy Policy, a current version of which is available at https://www.axon.com/axonvrprivacypolicy.

5. **Termination**. Axon may terminate Customer's license immediately for Customer's failure to comply with any of the terms in this Agreement.

Axon Evidence Local Software Appendix

This Appendix applies if Axon Evidence Local is included on the Quote.

1. **License**. Axon owns all executable instructions, images, icons, sound, and text in Axon Evidence Local. All rights are reserved to Axon. Axon grants a non-exclusive, royalty-free, worldwide right and license to use Axon Evidence Local. "Use" means storing, loading, installing, or executing Axon Evidence Local exclusively for data communication with an Axon Device. Customer may use Axon Evidence Local in a networked environment on computers other than the computer it installs Axon Evidence Local on, so long as each execution of Axon Evidence Local is for data communication with an Axon Device. Customer may make copies of Axon Evidence Local for archival purposes only. Axon shall retain all copyright, trademark, and proprietary notices in Axon Evidence Local on all copies or adaptations.

2. **Term**. The Quote will detail the duration of the Axon Evidence Local license, as well as any maintenance. The term will begin upon installation of Axon Evidence Local.

3. **License Restrictions**. All licenses will immediately terminate if Customer does not comply with any term of this Agreement. Customer may not use Axon Evidence Local for any purpose other than as expressly permitted by this Agreement. Customer may not:

   3.1. modify, tamper with, repair, or otherwise create derivative works of Axon Evidence Local;

   3.2. reverse engineer, disassemble, or decompile Axon Evidence Local or apply any process to derive the source code of Axon Evidence Local, or allow others to do the same;

   3.3. access or use Axon Evidence Local to avoid incurring fees or exceeding usage limits or quotas;

   3.4. copy Axon Evidence Local in whole or part, except as expressly permitted in this Agreement;

   3.5. use trade secret information contained in Axon Evidence Local;

   3.6. resell, rent, loan or sublicense Axon Evidence Local;

   3.7. access Axon Evidence Local to build a competitive device or service or copy any features, functions, or graphics of Axon Evidence Local; or

   3.8. remove, alter, or obscure any confidentiality or proprietary rights notices (including copyright and trademark notices) of Axon or Axon's licensors on or within Axon Evidence Local or any copies of Axon Evidence Local.

4. **Support**. Axon may make available updates and error corrections ("**Updates**") to Axon Evidence Local. Axon will provide Updates electronically via the Internet or media as determined by Axon. Customer is responsible for establishing and maintaining adequate access to the Internet to receive Updates. Customer is responsible for maintaining the computer equipment necessary to use Axon Evidence Local. Axon may provide technical support of a prior release/version of Axon Evidence Local for six (6) months from when Axon made the subsequent release/version available.

5. **Termination**. Axon may terminate Customer's license immediately for Customer's failure to comply with any of the terms in this Agreement. Upon termination, Axon may disable Customer's right to login to Axon Evidence Local.

Axon Application Programming Interface Appendix

This Appendix applies if Axon's API Services or a subscription to Axon Cloud Services is included on the Quote.

1. **Definitions**.

   1.1. "**API Client**" means the software that acts as the interface between Customer's computer and the server, which is already developed or to be developed by Customer.

   1.2. "**API Interface**" means software implemented by Customer to configure Customer's independent API Client Software to operate in conjunction with the API Service for Customer's authorized Use.

   1.3. "**Axon Evidence Partner API, API or Axon API**" (collectively "**API Service**") means Axon's API which provides a programmatic means to access data in Customer's Axon Evidence account or integrate Customer's Axon Evidence account with other systems.

   1.4. "**Use**" means any operation on Customer's data enabled by the supported API functionality.

2. **Purpose and License**.

   2.1. Customer may use API Service and data made available through API Service, in connection with an API Client developed by Customer. Axon may monitor Customer's use of API Service to ensure quality, improve Axon devices and services, and verify compliance with this Agreement. Customer agrees to not interfere with such monitoring or obscure from Axon Customer's use of API Service. Customer will not use API Service for commercial use.

   2.2. Axon grants Customer a non-exclusive, non-transferable, non-sublicensable, worldwide, revocable right and license during the Term to use API Service, solely for Customer's Use in connection with Customer's API Client.

   2.3. Axon reserves the right to set limitations on Customer's use of the API Service, such as a quota on operations, to ensure stability and availability of Axon's API. Axon will use reasonable efforts to accommodate use beyond the designated limits.

3. **Configuration**. Customer will work independently to configure Customer's API Client with API Service for Customer's applicable Use. Customer will be required to provide certain information (such as identification or contact details) as part of the registration. Registration information provided to Axon must be accurate. Customer will inform Axon promptly of any updates. Upon Customer's registration, Axon will provide documentation outlining API Service information.

4. **Customer Responsibilities**. When using API Service, Customer and its end users may not:

   4.1. use API Service in any way other than as expressly permitted under this Agreement;

   4.2. use in any way that results in, or could result in, any security breach to Axon;

   4.3. perform an action with the intent of introducing any viruses, worms, defect, Trojan horses, malware, or any items of a destructive nature to Axon Devices and Services;

   4.4. interfere with, modify, disrupt or disable features or functionality of API Service or the servers or networks providing API Service;

   4.5. reverse engineer, decompile, disassemble, or translate or attempt to extract the source code from API Service or any related software;

   4.6. create an API Interface that functions substantially the same as API Service and offer it for use by third parties;

   4.7. provide use of API Service on a service bureau, rental or managed services basis or permit other individuals or entities to create links to API Service;

   4.8. frame or mirror API Service on any other server, or wireless or Internet-based device;

   4.9. make available to a third-party, any token, key, password or other login credentials to API Service;

   4.10. take any action or inaction resulting in illegal, unauthorized or improper purposes; or

   4.11. disclose Axon's API manual.

5. **API Content**. All content related to API Service, other than Customer Content or Customer's API Client content, is considered Axon's API Content, including:

5.1. the design, structure and naming of API Service fields in all responses and requests;

5.2. the resources available within API Service for which Customer takes actions on, such as evidence, cases, users, or reports;

5.3. the structure of and relationship of API Service resources; and

5.4. the design of API Service, in any part or as a whole.

6. **Prohibitions on API Content**. Neither Customer nor its end users will use API content returned from the API Interface to:

6.1. scrape, build databases, or otherwise create permanent copies of such content, or keep cached copies longer than permitted by the cache header;

6.2. copy, translate, modify, create a derivative work of, sell, lease, lend, convey, distribute, publicly display, or sublicense to any third-party;

6.3. misrepresent the source or ownership; or

6.4. remove, alter, or obscure any confidentiality or proprietary rights notices (including copyright and trademark notices).

7. **API Updates**. Axon may update or modify the API Service from time to time ("**API Update**"). Customer is required to implement and use the most current version of API Service and to make any applicable changes to Customer's API Client required as a result of such API Update. API Updates may adversely affect how Customer's API Client access or communicate with API Service or the API Interface. Each API Client must contain means for Customer to update API Client to the most current version of API Service. Axon will provide support for one (1) year following the release of an API Update for all depreciated API Service versions.

Advanced User Management Appendix

This Appendix applies if Axon Advanced User Management is included on the Quote.

1. **Scope**. Advanced User Management allows Customer to (a) utilize bulk user creation and management, (b) automate user creation and management through System for Cross-domain Identity Management ("**SCIM**"), and (c) automate group creation and management through SCIM.

2. **Advanced User Management Configuration**. Customer will work independently to configure Customer's Advanced User Management for Customer's applicable Use. Upon request, Axon will provide general guidance to Customer, including documentation that details the setup and configuration process.

FUSUS APPENDIX

1. **Access**. Upon Axon granting Customer a subscription to FUSUS cloud services in the Quote, Customer may access and use FūsusONE Real Time Interoperability Solution services to for the purpose of viewing and managing Customer Content. Some Customer content contained in Axon's Evidence.com may not be accessible or transferable to the FUSUS cloud services.

2. **Product Limits**. The following limitations apply to the below products:

	Lite	Basic	Pro	Enterprise	Enterprise Plus
Total Number of Managed End Points	150	150	500	1500	4500
Max Number of Video Streams Connected	0	150	500	1500	4500
Indefinite Cloud Storage		2TB	5TB	10TB	30TB

Overages may result in additional fees or the need to upgrade products.

3. **Disclaimer**. Customer is responsible for use of any internet access devices and/or all third-party hardware, software, services, telecommunication services (including Internet connectivity), or other items used by Customer to access the service ("Third-Party Components") are the sole and exclusive responsibility of Customer, and Axon has no responsibility for such Third-party Components, FUSUS cloud services, or Customer relationships with such third parties. Customer agrees to at all times comply with the lawful terms and conditions of agreements with such third parties. Axon does not represent or warrant that the FUSUS cloud services and the Customer Content are compatible with any specific third-party hardware or software or any other Third-Party Components. Customer is responsible for providing and maintaining an operating environment as reasonably necessary to accommodate and access the FUSUS cloud services.

4. **Data Privacy**. Axon may collect, use, transfer, disclose and otherwise process Customer Content in the context of facilitating communication of data with Customer through their use of FUSUS cloud services FUSUS app (iOS or Android interface), complying with legal requirements, monitoring the Customer's use of FUSUS systems, and undertaking data analytics. Customer Content saved in Axon Cloud Services is the sole property of Customer and may not be distributed by Axon to any third parties outside of the Customer's organization without the Customer's expressed written consent.

Axon Channel Services Appendix

This Appendix applies if Customer purchases Axon Channel Service, as set forth on the Quote.

1. Definitions.

   1.1. "**Axon Digital Evidence Management System**" means Axon Evidence or Axon Evidence Local, as specified in the attached Channel Services Statement of Work.

   1.2. "**Active Channel**" means a third-party system that is continuously communicating with an Axon Digital Evidence Management System.

   1.3. "**Inactive Channel**" means a third-party system that will have a one-time communication to an Axon Digital Evidence Management System.

2. **Scope**. Customer currently has a third-party system or data repository from which Customer desires to share data with Axon Digital Evidence Management. Axon will facilitate the transfer of Customer's third-party data into an Axon Digital Evidence Management System or the transfer of Customer data out of an Axon Digital Evidence Management System as defined in the Channel Services Statement of Work ("**Channel Services SOW**"). Channel Services will not delete any Customer Content. Customer is responsible for verifying all necessary data is migrated correctly and retained per Customer policy.

3. **Changes**. Axon is only responsible to perform the Services described in this Appendix and Channel Services SOW. Any additional services are out of scope. The Parties must document scope changes in a written and signed change order. Changes may require an equitable adjustment in the charges or schedule.

4. **Purpose and Use**. Customer is responsible for verifying Customer has the right to share data from and provide access to third-party system as it relates to the Services described in this Appendix and the Channel Services SOW. For Active Channels, Customer is responsible for any changes to a third-party system that may affect the functionality of the channel service. Any additional work required for the continuation of the Service may require additional fees. An Axon Field Engineer may require access to Customer's network and systems to perform the Services described in the Channel Services SOW. Customer is responsible for facilitating this access per all laws and policies applicable to Customer.

5. **Project Management**. Axon will assign a Project Manager to work closely with Customer's project manager and project team members and will be responsible for completing the tasks required to meet all contract deliverables on time and budget.

6. **Warranty.** Axon warrants that it will perform the Channel Services in a good and workmanlike manner.

7. **Monitoring**. Axon may monitor Customer's use of Channel Services to ensure quality, improve Axon devices and services, prepare invoices based on the total amount of data migrated, and verify compliance with this Agreement. Customer agrees not to interfere with such monitoring or obscure from Axon Customer's use of channel services.

8. **Customer's Responsibilities.** Axon's successful performance of the Channel Services requires Customer:

   8.1. Make available its relevant systems for assessment by Axon (including making these systems available to Axon via remote access);

   8.2. Provide access to the building facilities and where Axon is to perform the Channel Services, subject to safety and security restrictions imposed by the Customer (including providing security passes or other necessary documentation to Axon representatives performing the Channel Services permitting them to enter and exit Customer premises with laptop personal computers and any other materials needed to perform the Channel Services);

   8.3. Provide all necessary infrastructure and software information (TCP/IP addresses, node names, and network configuration) for Axon to provide the Channel Services;

   8.4. Ensure all appropriate data backups are performed;

   8.5. Provide Axon with remote access to the Customer's network and third-party systems when required for Axon to perform the Channel Services;

   8.6. Notify Axon of any network or machine maintenance that may impact the performance of the Channel Services; and

   8.7. Ensure the reasonable availability by phone or email of knowledgeable staff, personnel, system administrators,

and operators to provide timely, accurate, complete, and up-to-date documentation and information to Axon (these contacts are to provide background information and clarification of information required to perform the Channel Services).

VIEVU Data Migration Appendix

This Appendix applies if Customer purchases Migration services, as set forth on the Quote.

1. **Scope**. Customer currently has legacy data in the VIEVU solution from which Customer desires to move to Axon Evidence. Axon will work with Customer to copy legacy data from the VIEVU solution into Axon Evidence ("**Migration**"). Before Migration, Customer and Axon will work together to develop a Statement of Work ("**Migration SOW**") to detail all deliverables and responsibilities. The Migration will require the availability of Customer resources. Such resources will be identified in the SOW. On-site support during Migration is not required. Upon Customer's request, Axon will provide on-site support for an additional fee. Any request for on-site support will need to be pre-scheduled and is subject to Axon's resource availability.

   1.1. A small amount of unexposed data related to system information will not be migrated from the VIEVU solution to Axon Evidence. Upon request, some of this data can be manually exported before Migration and provided to Customer. The Migration SOW will provide further detail.

2. **Changes**. Axon is only responsible to perform the Services described in this Appendix and Migration SOW. Any additional services are out of scope. The Parties must document scope changes in a written and signed change order. Changes may require an equitable adjustment in the charges or schedule.

3. **Project Management**. Axon will assign a Project Manager to work closely with Customer's project manager and project team members and will be responsible for completing the tasks required to meet all contract deliverables on time and budget.

4. **Downtime**. There may be downtime during the Migration. The duration of the downtime will depend on the amount of data that Customer is migrating. Axon will work with Customer to minimize any downtime. Any VIEVU mobile application will need to be disabled upon Migration.

5. **Functionality Changes**. Due to device differences between the VIEVU solution and the Axon's Axon Evidence solution, there may be functionality gaps that will not allow for all migrated data to be displayed the same way in the user interface after Migration.

6. **Acceptance**. Once the Migration is complete, Axon will notify Customer and provide an acceptance form. Customer is responsible for verifying that the scope of the project has been completed and all necessary data is migrated correctly and retained per Customer policy. Customer will have ninety (90) days to provide Axon acceptance that the Migration was successful, or Axon will deem the Migration accepted.

   6.1. In the event Customer does not accept the Migration, Customer agrees to notify Axon within a reasonable time. Customer also agrees to allow Axon a reasonable time to resolve any issue. In the event Customer does not provide Axon with a written rejection of the Migration during these ninety (90) days, Customer may be charged for additional monthly storage costs. After Customer provides acceptance of the Migration, Axon will delete all data from the VIEVU solution ninety (90) days after the Migration.

7. **Post-Migration**. After Migration, the VIEVU solution may not be supported and updates may not be provided. Axon may end of life the VIEVU solution in the future. If Customer elects to maintain data within the VIEVU solution, Axon will provide Customer ninety (90) days' notice before ending support for the VIEVU solution.

8. **Warranty.** Axon warrants that it will perform the Migration in a good and workmanlike manner.

9. **Monitoring**. Axon may monitor Customer's use of Migration to ensure quality, improve Axon Devices and Services, prepare invoices based on the total amount of data migrated, and verify compliance with this Agreement. Customer agrees not to interfere with such monitoring or obscure Customer's use of Migration from Axon.

10.

Axon Technical Account Manager Appendix

This Appendix applies if Axon Support Engineer services are included on the Quote.

1. **Axon Technical Account Manager Payment.** Axon will invoice for Axon Technical Account Manager ("**TAM**") services, as outlined in the Quote, when the TAM commences work on-site at Customer.

2. **Full-Time TAM Scope of Services.**

   2.1. A Full-Time TAM will work on-site four (4) days per week, unless an alternate schedule or reporting location is mutually agreed upon by Axon and Customer.

   2.2. Customer's Axon sales representative and Axon's Customer Success team will work with Customer to define its support needs and ensure the Full-Time TAM has skills to align with those needs. There may be up to a six- (6-) month waiting period before the Full-Time TAM can work on-site, depending upon Customer's needs and availability of a Full-Time TAM.

   2.3. The purchase of Full-Time TAM Services includes two (2) complimentary Axon Accelerate tickets per year of the Agreement, so long as the TAM has started work at Customer, and Customer is current on all payments for the Full-Time TAM Service.

   2.4. The Full-Time TAM **Service options are listed below:**

Ongoing System Set-up and Configuration Assisting with assigning cameras and registering docks Maintaining **Customer's Axon Evidence account** Connecting Customer to "Early Access" programs for new devices
Account Maintenance Conducting on-site training on new features and **devices for Customer leadership team(s)** Thoroughly documenting issues and workflows and suggesting new workflows to improve **the effectiveness of the Axon program** Conducting weekly meetings to cover current issues and program status
Data Analysis Providing on-demand Axon usage data to identify trends and insights for improving daily workflows Comparing **Customer's Axon usage and trends to peers to establish best practices** Proactively monitoring the health of Axon equipment and coordinating returns when needed
Direct Support Providing on-site, Tier 1 and Tier 2 (as defined in Axon's Service Level Agreement) technical support for Axon Devices Proactively monitoring the health of **Axon equipment** Creating and monitoring RMAs **on-site** Providing Axon app support Monitoring and testing new firmware and workflows before they are released to Customer's production environment
Customer Advocacy Coordinating bi-**annual voice of customer meetings with Axon's Device Management team** Recording and tracking Customer feature requests and major bugs

3. **Regional TAM Scope of Services**

   3.1. A Regional TAM will work on-site for three (3) consecutive days per quarter. Customer must schedule the on-site days at least two (2) weeks in advance. The Regional TAM will also be available by phone and email during regular business hours up to eight (8) hours per week.

   3.2. There may be up to a six- (6-) month waiting period before Axon assigns a Regional TAM to Customer, depending upon the availability of a Regional TAM.

   3.3. The purchase of Regional TAM Services includes two (2) complimentary Axon Accelerate tickets per year of the Agreement, so long as the TAM has started work at Customer and Customer is current on all payments for the Regional TAM Service.

   3.4. The Regional TAM service options are listed below:

Account Maintenance Conducting remote training on new features and **devices for Customer's leadership** Thoroughly documenting issues and workflows and suggesting new **workflows to improve the effectiveness of the Axon program** Conducting weekly conference calls to cover **current issues and program status** Visiting Customer quarterly (up to 3 consecutive days) to perform a quarterly business review, discuss Customer's goals for your Axon program, and continue to ensure a successful deployment of Axon Devices
Direct Support **Providing remote, Tier 1 and Tier 2 (As defined Axon's Service Level Agreement) technical support for Axon Devices** Creating and monitoring RMAs remotely
Data Analysis Providing quarterly Axon **usage data to identify trends and program efficiency opportunities** Comparing an **Customer's Axon usage and trends to peers to establish best practices** Proactively monitoring the health of Axon equipment and coordinating returns when needed
Customer Advocacy Coordinating bi-yearly Voice of **Customer meetings with Device Management team** Recording and tracking Customer feature requests and major bugs

4. **Out of Scope Services.** The TAM is responsible to perform only the Services described in this Appendix. Any additional Services discussed or implied that are not defined explicitly in this Appendix will be considered out of the scope.

5. **TAM Leave Time**. The TAM will be allowed up seven (7) days of sick leave and up to fifteen (15) days of vacation time per each calendar year. The TAM will work with Customer to coordinate any time off and will provide Customer with at least two (2) weeks' notice before utilizing any vacation days.

Axon Investigate Appendix

If the Quote includes Axon's On Prem Video Suite known as Axon Investigate or Third Party Video Support License, the following appendix shall apply.

1. **License Grant**. Subject to the terms and conditions specified below and upon payment of the applicable fees set forth in the Quote, Axon grants to Customer a nonexclusive, nontransferable license to install, use, and display the Axon Investigate software ("**Software**") solely for its own internal use only and for no other purpose, for the duration of subscription term set forth in the Quote. This Agreement does not grant Customer any right to enhancements or updates, but if such are made available to Customer and obtained by Customer they shall become part of the Software and governed by the terms of this Agreement.

2. **Third-Party Licenses**. Axon licenses several third-party codecs and applications that are integrated into the Software. Users with an active support contract with Axon are granted access to these additional features. By accepting this agreement, Customer agrees to and understands that an active support contract is required for all of the following features: DNxHD output formats, decoding files via the "fast indexing" method, proprietary file metadata, telephone and email support, and all future updates to the software. If Customer terminates the annual support contract with Axon, the features listed above will be disabled within the Software. It is recommended that users remain on an active support contract to maintain the full functionality of the Software.

3. **Restrictions on Use**. Customer may not permit any other person to use the Software unless such use is in accordance with the terms of this Agreement. Customer may not modify, translate, reverse engineer, reverse compile, decompile, disassemble or create derivative works with respect to the Software, except to the extent applicable laws specifically prohibit such restrictions. Customer may not rent, lease, sublicense, grant a security interest in or otherwise transfer Customer's rights to or to use the Software. Any rights not granted are reserved to Axon.

4. **Term**. For purchased perpetual Licenses only—excluding Licenses leased for a pre-determined period, evaluation licenses, companion licenses, as well as temporary licenses--the license shall be perpetual unless Customer fails to observe any of its terms, in which case it shall terminate immediately, and without additional prior notice. The terms of Paragraphs 1, 2, 3, 5, 6, 8 and 9 shall survive termination of this Agreement. For licenses leased for a pre-determined period, for evaluation licenses, companion licenses, as well as temporary licenses, the license is granted for a period beginning at the installation date and for the duration of the evaluation period or temporary period as agreed between Axon and Customer.

5. **Title**. Axon and its licensors shall have sole and exclusive ownership of all right, title, and interest in and to the Software and all changes, modifications, and enhancements thereof (including ownership of all trade secrets and copyrights pertaining thereto), regardless of the form or media in which the original or copies may exist, subject only to the rights and privileges expressly granted by Axon. This Agreement does not provide Customer with title or ownership of the Software, but only a right of limited use.

6. **Copies**. The Software is copyrighted under the laws of the United States and international treaty provisions. Customer may not copy the Software except for backup or archival purposes, and all such copies shall contain all Axon's notices regarding proprietary rights as contained in the Software as originally provided to Customer. If Customer receives one copy electronically and another copy on media, the copy on media may be used only for archival purposes and this license does not authorize Customer to use the copy of media on an additional server.

7. **Actions Required Upon Termination**. Upon termination of the license associated with this Agreement, Customer agrees to destroy all copies of the Software and other text and/or graphical documentation, whether in electronic or printed format, that describe the features, functions and operation of the Software that are provided by Axon to Customer ("**Software Documentation**") or return such copies to Axon. Regarding any copies of media containing regular backups of Customer's computer or computer system, Customer agrees not to access such media for the purpose of recovering the Software or online Software Documentation.

8. **Export Controls**. None of the Software, Software Documentation or underlying information may be downloaded or otherwise exported, directly or indirectly, without the prior written consent, if required, of the office of Export Administration of the United States, Department of Commerce, nor to any country to which the U.S. has embargoed goods, to any person on the U.S. Treasury Department's list of Specially Designated Nations, or the U.S. Department of Commerce's Table of Denials.

9. **U.S. Government Restricted Rights**. The Software and Software Documentation are Commercial Computer Software provided with Restricted Rights under Federal Acquisition Regulations and Customer supplements to them. Use, duplication or disclosure by the U.S. Government is subject to restrictions as set forth in subparagraph (c)(1)(ii) of the Rights in Technical Data and Computer Software clause at DFAR 255.227-7013 et. Seq. or 252.211-7015, or

subparagraphs (a) through (d) of the Commercial Computer Software Restricted Rights at FAR 52.227-19, as applicable, or similar clauses in the NASA FAR Supplement. Contractor/manufacturer is Axon Enterprise, Inc., 17800 North 85th Street, Scottsdale, Arizona 85255.

My90 Terms of Use Appendix

Definitions.

1.1. "**My90**" means Axon's proprietary platform and methodology to obtain and analyze feedback, and other related offerings, including, without limitation, interactions between My90 and Axon products.

1.2. "**Recipient Contact Information**" means contact information, as applicable, including phone number or email address (if available) of the individual whom Customer would like to obtain feedback.

1.3. "**Customer Data**" means

1.3.1. "My90 Customer Content" which means data, including Recipient Contact Information, provided to My90 directly by Customer or at their direction, or by permitting My90 to access or connect to an information system or similar technology. My90 Customer Content does not include My90 Non-Content Data.

1.3.2. "My90 Non-Content Data" which means data, configuration, and usage information about Customer's My90 tenant, and client software, users, and survey recipients that is Processed (as defined in Section 1.6 of this Appendix) when using My90 or responding to a My90 Survey. My90 Non-Content Data includes data about users and survey recipients captured during account management and customer support activities. My90 Non-Content Data does not include My90 Customer Content.

1.3.3. "Survey Response" which means survey recipients' response to My90 Survey.

1.4. "**My90 Data**" means

1.4.1. "My90 Survey" which means surveys, material(s) or content(s) made available by Axon to Customer and survey recipients within My90.

1.4.2. "Aggregated Survey Response" which means Survey Response that has been de-identified and aggregated or transformed so that it is no longer reasonably capable of being associated with, or could reasonably be linked directly or indirectly to, a particular individual.

1.5. "**Personal Data**" means any information relating to an identified or identifiable natural person. An identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural, or social identity of that natural person.

1.6. "**Processing**" means any operation or set of operations which is performed on data or on sets of data, whether or not by automated means, such as collection, recording, organization, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure, or destruction.

1.7. "**Sensitive Personal Data**" means Personal Data that reveals an individual's health, racial or ethnic origin, sexual orientation, disability, religious or philosophical beliefs, or trade union membership.

2. **Access**. Upon Axon granting Customer a subscription to My90, Customer may access and use My90 to store and manage My90 Customer Content, and applicable My90 Surveys and Aggregated Survey Responses. This Appendix is subject to the Terms and Conditions of Axon's Master Service and Purchasing Agreement or in the event you and Axon have entered into a prior agreement to govern all future purchases, that agreement shall govern.

3. **IP address**. Axon will not store survey respondents' IP address.

4. **Customer Owns My90 Customer Content**. Customer controls or owns all right, title, and interest in My90 Customer Content. Except as outlined herein, Axon obtains no interest in My90 Customer Content, and My90 Customer Content is not Axon's business records. Except as set forth in this Agreement, Customer is responsible for uploading, sharing, managing, and deleting My90 Customer Content. Axon will only have access to My90 Customer Content for the limited purposes set forth herein. Customer agrees to allow Axon access to My90 Customer Content to (a) perform troubleshooting, maintenance, or diagnostic screenings; and (b) enforce this Agreement or policies governing use of My90 and other Axon products.

5. **Details of the Processing**. The nature and purpose of the Processing under this Appendix are further specified in Schedule 1 Details of the Processing, to this Appendix.

6. **Security**. Axon will implement commercially reasonable and appropriate measures to secure Customer Data against accidental or unlawful loss, access, or disclosure. Axon will maintain a comprehensive information security program to protect Customer Data including logical, physical access, vulnerability, risk, and configuration management; incident monitoring and response; security education; and data protection. Axon will not treat Customer Data in accordance with FBI CJIS Security Policy requirements and does not agree to the CJIS Security Addendum for this engagement or any other security or privacy related commitments that have been established between Axon and Customer, such as ISO 27001 certification or SOC 2 Reporting.

7. **Privacy**. Customer use of My90 is subject to the My90 Privacy Policy, a current version of which is available at https://www.axon.com/legal/my90privacypolicy. Customer agrees to allow Axon access to My90 Non-Content Data from Customer to (a) perform troubleshooting, maintenance, or diagnostic screenings; (b) provide, develop, improve, and support current and future Axon products including My90 and related services; and (c) enforce this Agreement or policies governing the use of My90 or other Axon products.

8. **Location of Storage**. Axon may transfer Customer Data to third-party subcontractors for Processing. Axon will determine the locations for Processing of Customer Data. For all Customer, Axon will Process and store Customer Data within the country Customer is based. Ownership of My90 Customer Content remains with Customer.

9. **Required Disclosures**. Axon will not disclose Customer Data that Customer shares with Axon except as compelled by a court or administrative body or required by any law or regulation. Axon will notify Customer if any disclosure request is received for Customer Data so Customer may file an objection with the court or administrative body, unless prohibited by law.

10. **Data Sharing**. Axon may share data only with entities that control or are controlled by or under common control of Axon, and as described below:

    10.1. Axon may share Customer Data with third parties it employs to perform tasks on Axon's behalf to provide products or services to Customer.

    10.2. Axon may share Aggregated Survey Response with third parties, such as other Axon customers, local city agencies, private companies, or members of the public that are seeking a way to collect analysis on general policing and community trends. Aggregated Survey Response will not be reasonably capable of being associated with or reasonably be linked directly or indirectly to a particular individual.

11. **License and Intellectual Property**. Customer grants Axon, its affiliates, and assignees the irrevocable, perpetual, fully paid, royalty-free, and worldwide right and license to use Customer Data for internal use including but not limited to analysis and creation of derivatives. Axon may not release Customer Data to any third party under this right that is not aggregated and de-identified. Customer acknowledges that Customer will have no intellectual property right in any media, good or service developed or improved by Axon. Customer acknowledges that Axon may make any lawful use of My90 Data and any derivative of Customer Data including, without limitation, the right to monetize, redistribute, make modification of, and make derivatives of the surveys, survey responses and associated data, and Customer will have no intellectual property right in any good, service, media, or other product that uses My90 Data.

12. **Customer Use of Aggregated Survey Response**. Axon will make available to Customer Aggregated Survey Response and rights to use for any Customer purpose.

13. **Data Subject Rights**. Taking into account the nature of the Processing, Axon shall assist Customer by appropriate technical and organizational measures, insofar as this is reasonable, for the fulfilment of Customer's obligation to respond to a Data Subject Request regarding any Personal Data contained within My90 Customer Content. If in regard to My90 Customer Content, Axon receives a Data Subject Request from Customer's data subject to exercise one or more of its rights under applicable Data Protection Law, Axon will redirect the data subject within seventy-two (72) hours, to make its request directly to Customer. Customer will be responsible for responding to any such request.

14. **Assistance with Requests Related to My90 Customer Content**. With regard to the processing of My90 Customer Content, Axon shall, if not prohibited by applicable law, notify Customer without delay after receipt, if Axon: (a) receives a request for information from the Supervisory Authority or any other competent authority regarding My90 Customer Content; (b) receives a complaint or request from a third party regarding the obligations of Customer or Axon under applicable Data Protection Law; or (c) receives any other communication which directly or indirectly pertains to My90 Customer Content or the Processing or protection of My90 Customer Content. Axon

shall not respond to such requests, complaints, or communications, unless Customer has given Axon written instructions to that effect or if such is required under a statutory provision. In the latter case, prior to responding to the request, Axon shall notify Customer of the relevant statutory provision and Axon shall limit its response to what is necessary to comply with the request.

15. **Axon Evidence Partner Sharing**. If Axon Evidence partner sharing is used to share My90 Customer Content, Customer will manage the data sharing partnership with Axon and access to allow only for authorized data sharing with Axon. Customer acknowledges that any applicable audit trail on the original source data will not include activities and processing performed against the instances, copies or clips that has been shared with Axon. Customer also acknowledges that the retention policy from the original source data is not applied to any data shared with Axon. Except as provided herein, data shared with Axon may be retained indefinitely by Axon.

16. **Data Retention**. Phone numbers provided to Axon directly by Customer or at their direction, or by permitting My90 to access or connect to an information system or similar technology will be retained for twenty-four (24) hours. Axon will not delete Aggregated Survey Response for four (4) years following termination of this Agreement. There will be no functionality of My90 during these four (4) years other than the ability to submit a request to retrieve Aggregated Survey Response. Axon has no obligation to maintain or provide Aggregated Survey Response after these four years and may thereafter, unless legally prohibited, delete all Aggregated Survey Response.

17. **Termination**. Termination of an My90 Agreement will not result in the removal or modification of previously shared My90 Customer Content or the potential monetization of Survey Response and Aggregated Survey Response.

18. **Managing Data Shared**. Customer is responsible for:

18.1. Ensuring My90 Customer Content is appropriate for use in My90. This includes, prior to sharing: (a) applying any and all required redactions, clipping, removal of metadata, logs, etc. and (b) coordination with applicable public disclosure officers and related legal teams;

18.2. Ensuring that only My90 Customer Content that is authorized to be shared for the purposes outlined is shared with Axon. Customer will periodically monitor or audit this shared data;

18.3. Using an appropriately secure data transfer mechanism to provide My90 Customer Content to Axon;

18.4. Immediately notifying Axon if My90 Customer Content that is not authorized for sharing has been shared. Axon may not be able to immediately retrieve or locate all instances, copies or clips of My90 Customer Content in the event Customer requests to un-share previously shared My90 Customer Content;

19. **Prior to enrollment in My90**. Prior to enrolling in My90, Customer will:

19.1. determine how to use My90 in accordance with applicable laws and regulations including but not limited to consents, use of info or other legal considerations;

19.2. develop a set of default qualification criteria of what My90 Customer Content may be shared with Axon; and

19.3. assign responsibilities for managing what My90 Customer Content is shared with Axon and educate users on what data may or not be shared with Axon.

20. **Customer Responsibilities**. Customer is responsible for:

20.1. ensuring no My90 Customer Content or Customer end user's use of My90 Customer Content or My90 violates this Agreement or applicable laws;

20.2. providing, and will continue to provide, all notices and has obtained, and will continue to obtain, all consents and rights necessary under applicable laws for Axon to process Customer Data in accordance with this Agreement; and

20.3. maintaining necessary computer equipment and Internet connections for use of My90. If Customer becomes aware of any violation of this Agreement by an end user, Customer will immediately terminate that end user's access to My90. Customer will also maintain the security of end usernames and passwords and security and access by end users to My90 Customer Content. Customer is responsible for ensuring the configuration and utilization of My90 meets applicable Customer regulations and standards. Customer may not sell, transfer, or sublicense access to any other entity or person. Customer shall contact Axon

immediately if an unauthorized party may be using Customer's account or My90 Customer Content or if account information is lost or stolen.

21. **Suspension**. Axon may temporarily suspend Customer's or any end user's right to access or use any portion or all of My90 immediately upon notice, if Customer or end user's use of or registration for My90 may (a) pose a security risk to Axon products including My90, or any third-party; (b) adversely impact My90, the systems, or content of any other customer; (c) subject Axon, Axon's affiliates, or any third-party to liability; or (d) be fraudulent. Customer remains responsible for all fees, if applicable, incurred through suspension. Axon will not delete My90 Customer Content or Aggregated Survey Response because of suspension, except as specified in this Agreement.

22. **My90 Restrictions.** Customer and Customer end users (including employees, contractors, agents, officers, volunteers, and directors), may not, or may not attempt to:

22.1. copy, modify, tamper with, repair, or create derivative works of any part of My90;

22.2. reverse engineer, disassemble, or decompile My90 or apply any process to derive any source code included in My90, or allow others to do the same;

22.3. access or use My90 with the intent to gain unauthorized access, avoid incurring fees or exceeding usage limits or quotas;

22.4. use trade secret information contained in My90, except as expressly permitted in this Agreement;

22.5. access My90 to build a competitive product or service or copy any features, functions, or graphics of My90;

22.6. remove, alter, or obscure any confidentiality or proprietary rights notices (including copyright and trademark notices) of Axon's or Axon's licensors on or within My90; or

22.7. use My90 to store or transmit infringing, libelous, or other unlawful or tortious material; to store or transmit material in violation of third-party privacy rights; or to store or transmit malicious code.

Schedule 1- Details of the Processing

1. **Nature and Purpose of the Processing.** To help Customer obtain feedback from individuals, such as members of their community, staff, or officers. Features of My90 may include:

   1.1. Survey Tool where Customer may create, distribute, and analyze feedback from individuals it designates. Customer may designate members of the community, staff or officers from whom they would like to obtain feedback;

   1.2. Creation of custom forms for surveys. Customer may select questions from a list of pre-drafted questions or create their own;

   1.3. Distribution of survey via multiple distribution channels such as text message;

   1.4. Ability to access and analyze Survey Response. Axon may also provide Customer Aggregated Survey Responses which contain analysis and insights from the Survey Response;

   1.5. Direct integrations into information systems including Computer Aided Dispatch ("**CAD**"). This will enable Customer to share contact information easily and quickly with Axon of any individuals from whom it wishes to obtain feedback, enabling Axon to communicate directly with these individuals;

   1.6. Data Dashboard Beta Test ("**Data Dashboard**") where Survey Response and Aggregated Survey Response will be displayed for Customer use. Customer will be able to analyze, interpret, and share results of the Survey Response. My90 may provide beta versions of the Data Dashboard that are specifically designed for Customer to test before they are publicly available;

   1.7. Survey Responses will be aggregated and de-identified and may be subsequently distributed and disclosed through various mediums to: (1) Customer; (2) other Axon Customer; (3) private companies; and (4) members of the public. The purpose of disclosure is to provide ongoing insights and comparisons on general policing and community trends. Prior to disclosing this information, Axon will ensure that the Survey Response has been de-identified and aggregated or transformed so that it is no longer reasonably capable of being associated with, or could reasonably be linked directly or indirectly to a particular individual; and

   1.8. Provide services and materials to engage Customer stakeholders, market the partnership to the public, and facilitate training.

Axon Event Offer Appendix

If the Agreement includes the provision of, or Axon otherwise offers, ticket(s), travel and/or accommodation for select events hosted by Axon ("Axon Event"), the following shall apply:

1. **General**. Subject to the terms and conditions specified below and those in the Agreement, Axon may provide Customer with one or more offers to fund Axon Event ticket(s), travel and/or accommodation for Customer-selected employee(s) to attend one or more Axon Events. By entering into the Agreement, Customer warrants that it is appropriate and permissible for Customer to receive the referenced Axon Event offer(s) based on Customer's understanding of the terms and conditions outlined in this Axon Event Offer Appendix.

2. **Attendee/Employee Selection**. Customer shall have sole and absolute discretion to select the Customer employee(s) eligible to receive the ticket(s), travel and/or accommodation that is the subject of any Axon Event offer(s).

3. **Compliance**. It is the intent of Axon that any and all Axon Event offers comply with all applicable laws, regulations and ethics rules regarding contributions, including gifts and donations. Axon's provision of ticket(s), travel and/or accommodation for the applicable Axon Event to Customer is intended for the use and benefit of Customer in furtherance of its goals, and not the personal use or benefit of any official or employee of Customer. Axon makes this offer without seeking promises or favoritism for Axon in any bidding arrangements. Further, no exclusivity will be expected by either party in consideration for the offer. Axon makes the offer with the understanding that it will not, as a result of such offer, be prohibited from any procurement opportunities or be subject to any reporting requirements. If Customer's local jurisdiction requires Customer to report or disclose the fair market value of the benefits provided by Axon, Customer shall promptly contact Axon to obtain such information, and Axon shall provide the information necessary to facilitate Customer's compliance with such reporting requirements.

4. **Assignability**. Customer may not sell, transfer, or assign Axon Event ticket(s), travel and/or accommodation provided under the Agreement.

5. **Availability.** The provision of all offers of Axon Event ticket(s), travel and/or accommodation is subject to availability of funds and resources. Axon has no obligation to provide Axon Event ticket(s), travel and/or accommodation.

6. **Revocation of Offer**. Axon reserves the right at any time to rescind the offer of Axon Event ticket(s), travel and/or accommodation to Customer if Customer or its selected employees fail to meet the prescribed conditions or if changes in circumstances render the provision of such benefits impractical, inadvisable, or in violation of any applicable laws, regulations, and ethics rules regarding contributions, including gifts and donations

Axon Training Pod

1. **Customer Responsibilities**. Customer is responsible for: (i) all permits to use the Axon Training Pod; (ii) complying with all applicable laws pertaining to the use of the Axon Training Pod; (iii) any maintenance required for the Axon Training Pod; and (iv) disposal of the Axon Training Pod.

2. **Warranties**. **TO THE EXTENT NOT PROHIBITED BY LAW, AXON TRAINING POD IS SOLD "AS IS" WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT.**

3. **Placement**. Axon will make its best efforts to work with Customer on the initial placement of the Axon Training Pod. After the initial placement, it is the Customer's responsibility to make any adjustments to the Axon Training Pod's placement.

Axon Enterprise, Inc.
17800 N 85th St.
Scottsdale, Arizona 85255
United States
VAT: 86-0741227
Domestic: (800) 978-2737
International: +1.800.978.2737

Q-557933-45589.616JW

Issued: 10/24/2024

Quote Expiration: 11/30/2024

Estimated Contract Start Date: 12/01/2024

Account Number: 157674

Payment Terms: N30

Delivery Method:

SHIP TO	BILL TO
Flower Mound Police Dept. - TX 4150 Kirkpatrick Ln Flower Mound, TX 75028-1400 USA	Flower Mound Police Dept. - TX 2121 Cross Timbers Rd Flower Mound TX 75028-2602 USA Email:

SALES REPRESENTATIVE	PRIMARY CONTACT
Jerrod Wilson Phone: 903-830-5660 Email: jewilson@axon.com Fax:	Darren Branch Phone: 972-874-6587 Email: darren.branch@flower-mound.com Fax:

Quote Summary

Program Length	60 Months
TOTAL COST	$160,534.80
ESTIMATED TOTAL W/ TAX	$160,534.80

Discount Summary

Average Savings Per Year	$4,897.44
TOTAL SAVINGS	$24,487.20

Payment Summary

Date	Subtotal	Tax	Total
Oct 2024	$32,106.96	$0.00	$32,106.96
Oct 2025	$32,106.96	$0.00	$32,106.96
Oct 2026	$32,106.96	$0.00	$32,106.96
Oct 2027	$32,106.96	$0.00	$32,106.96
Oct 2028	$32,106.96	$0.00	$32,106.96
Total	**$160,534.80**	**$0.00**	**$160,534.80**

Quote Unbundled Price:	**$185,022.00**
Quote List Price:	**$160,534.80**
Quote Subtotal:	**$160,534.80**

Pricing

All deliverables are detailed in Delivery Schedules section lower in proposal

Item	Description	Qty	Term	Unbundled	List Price	Net Price	Subtotal	Tax	Total
Program									
T7Cert	TASER 7 Certification Bundle	38	60	$81.15	$70.41	$70.41	$160,534.80	$0.00	$160,534.80
Total							**$160,534.80**	**$0.00**	**$160,534.80**

Delivery Schedule

Hardware

Bundle	Item	Description	QTY	Shipping Location	Estimated Delivery Date
TASER 7 Certification Bundle	20008	AXON TASER 7 - HANDLE - HIGH VIS GRN LASER CLASS 3R YLW	1	1	11/01/2024
TASER 7 Certification Bundle	20008	AXON TASER 7 - HANDLE - HIGH VIS GRN LASER CLASS 3R YLW	38	1	11/01/2024
TASER 7 Certification Bundle	20018	AXON TASER - BATTERY PACK - TACTICAL	45	1	11/01/2024
TASER 7 Certification Bundle	20160	AXON TASER 7 - HOLSTER - SAFARILAND RH+CART CARRIER	2	1	11/01/2024
TASER 7 Certification Bundle	20161	AXON TASER 7 - HOLSTER - SAFARILAND LH+CART CARRIER	36	1	11/01/2024
TASER 7 Certification Bundle	22175	AXON TASER 7 - CARTRIDGE - LIVE STANDOFF (3.5-DEGREE) NS	114	1	11/01/2024
TASER 7 Certification Bundle	22175	AXON TASER 7 - CARTRIDGE - LIVE STANDOFF (3.5-DEGREE) NS	76	1	11/01/2024
TASER 7 Certification Bundle	22176	AXON TASER 7 - CARTRIDGE - LIVE CLOSE QUART (12-DEGREE) NS	114	1	11/01/2024
TASER 7 Certification Bundle	22176	AXON TASER 7 - CARTRIDGE - LIVE CLOSE QUART (12-DEGREE) NS	76	1	11/01/2024
TASER 7 Certification Bundle	22177	AXON TASER 7 - CARTRIDGE - HALT STANDOFF NS	76	1	11/01/2024
TASER 7 Certification Bundle	22178	AXON TASER 7 - CARTRIDGE - HALT CLOSE QUART NS	76	1	11/01/2024
TASER 7 Certification Bundle	22179	AXON TASER 7 - CARTRIDGE - INERT STANDOFF (3.5-DEGREE) NS	38	1	11/01/2024
TASER 7 Certification Bundle	22181	AXON TASER 7 - CARTRIDGE - INERT CLOSE QUART (12-DEGREE) NS	38	1	11/01/2024
TASER 7 Certification Bundle	70033	AXON - DOCK WALL MOUNT - BRACKET ASSY	1	1	11/01/2024
TASER 7 Certification Bundle	71019	AXON BODY - DOCK POWERCORD - NORTH AMERICA	1	1	11/01/2024
TASER 7 Certification Bundle	74200	AXON TASER - DOCK - SIX BAY PLUS CORE	1	1	11/01/2024
TASER 7 Certification Bundle	80087	AXON TASER - TARGET - CONDUCTIVE PROFESSIONAL RUGGEDIZED	1	1	11/01/2024
TASER 7 Certification Bundle	80090	AXON TASER - TARGET FRAME - PROFESSIONAL 27.5 IN X 75 IN	1	1	11/01/2024
TASER 7 Certification Bundle	22175	AXON TASER 7 - CARTRIDGE - LIVE STANDOFF (3.5-DEGREE) NS	76	1	11/01/2025
TASER 7 Certification Bundle	22176	AXON TASER 7 - CARTRIDGE - LIVE CLOSE QUART (12-	76	1	11/01/2025

Hardware

Bundle	Item	Description	QTY	Shipping Location	Estimated Delivery Date
		DEGREE) NS			
TASER 7 Certification Bundle	22175	AXON TASER 7 - CARTRIDGE - LIVE STANDOFF (3.5-DEGREE) NS	76	1	11/01/2026
TASER 7 Certification Bundle	22176	AXON TASER 7 - CARTRIDGE - LIVE CLOSE QUART (12-DEGREE) NS	76	1	11/01/2026
TASER 7 Certification Bundle	22177	AXON TASER 7 - CARTRIDGE - HALT STANDOFF NS	76	1	11/01/2026
TASER 7 Certification Bundle	22178	AXON TASER 7 - CARTRIDGE - HALT CLOSE QUART NS	76	1	11/01/2026
TASER 7 Certification Bundle	22175	AXON TASER 7 - CARTRIDGE - LIVE STANDOFF (3.5-DEGREE) NS	76	1	11/01/2027
TASER 7 Certification Bundle	22176	AXON TASER 7 - CARTRIDGE - LIVE CLOSE QUART (12-DEGREE) NS	76	1	11/01/2027
TASER 7 Certification Bundle	22175	AXON TASER 7 - CARTRIDGE - LIVE STANDOFF (3.5-DEGREE) NS	76	1	11/01/2028
TASER 7 Certification Bundle	22176	AXON TASER 7 - CARTRIDGE - LIVE CLOSE QUART (12-DEGREE) NS	76	1	11/01/2028

Software

Bundle	Item	Description	QTY	Estimated Start Date	Estimated End Date
TASER 7 Certification Bundle	20248	AXON TASER - EVIDENCE.COM LICENSE	38	12/01/2024	11/30/2029
TASER 7 Certification Bundle	20248	AXON TASER - EVIDENCE.COM LICENSE	1	12/01/2024	11/30/2029

Services

Bundle	Item	Description	QTY
TASER 7 Certification Bundle	20246	AXON TASER 7 - REPLACEMENT ACCESS PROGRAM - DUTY CARTRIDGE	38

Warranties

Bundle	Item	Description	QTY	Estimated Start Date	Estimated End Date
TASER 7 Certification Bundle	80374	AXON TASER - EXT WARRANTY - BATTERY PACK T7/T10	45	11/01/2025	11/30/2029
TASER 7 Certification Bundle	80395	AXON TASER 7 - EXT WARRANTY - HANDLE	38	11/01/2025	11/30/2029
TASER 7 Certification Bundle	80395	AXON TASER 7 - EXT WARRANTY - HANDLE	1	11/01/2025	11/30/2029
TASER 7 Certification Bundle	80396	AXON TASER - EXT WARRANTY - DOCK SIX BAY T7/T10	1	11/01/2025	11/30/2029

Shipping Locations

Location Number	Street	City	State	Zip	Country
1	4150 Kirkpatrick Ln	Flower Mound	TX	75028-1400	USA

Payment Details

Oct 2024

Invoice Plan	Item	Description	Qty	Subtotal	Tax	Total
Year 1	T7Cert	TASER 7 Certification Bundle	38	$32,106.96	$0.00	$32,106.96
Total				**$32,106.96**	**$0.00**	**$32,106.96**

Oct 2025

Invoice Plan	Item	Description	Qty	Subtotal	Tax	Total
Year 2	T7Cert	TASER 7 Certification Bundle	38	$32,106.96	$0.00	$32,106.96
Total				**$32,106.96**	**$0.00**	**$32,106.96**

Oct 2026

Invoice Plan	Item	Description	Qty	Subtotal	Tax	Total
Year 3	T7Cert	TASER 7 Certification Bundle	38	$32,106.96	$0.00	$32,106.96
Total				**$32,106.96**	**$0.00**	**$32,106.96**

Oct 2027

Invoice Plan	Item	Description	Qty	Subtotal	Tax	Total
Year 4	T7Cert	TASER 7 Certification Bundle	38	$32,106.96	$0.00	$32,106.96
Total				**$32,106.96**	**$0.00**	**$32,106.96**

Oct 2028

Invoice Plan	Item	Description	Qty	Subtotal	Tax	Total
Year 5	T7Cert	TASER 7 Certification Bundle	38	$32,106.96	$0.00	$32,106.96
Total				**$32,106.96**	**$0.00**	**$32,106.96**

Tax is estimated based on rates applicable at date of quote and subject to change at time of invoicing. If a tax exemption certificate should be applied, please submit prior to invoicing.

Standard Terms and Conditions

Axon Enterprise Inc. Sales Terms and Conditions

Axon Master Services and Purchasing Agreement:

This Quote is limited to and conditional upon your acceptance of the provisions set forth herein and Axon's Master Services and Purchasing Agreement (posted at https://www.axon.com/sales-terms-and-conditions), as well as the attached Statement of Work (SOW) for Axon Fleet and/or Axon Interview Room purchase, if applicable. In the event you and Axon have entered into a prior agreement to govern all future purchases, that agreement shall govern to the extent it includes the products and services being purchased and does not conflict with the Axon Customer Experience Improvement Program Appendix as described below.

ACEIP:

The Axon Customer Experience Improvement Program Appendix, which includes the sharing of de-identified segments of Agency Content with Axon to develop new products and improve your product experience (posted at www.axon.com/legal/sales-terms-and-conditions), is incorporated herein by reference. By signing below, you agree to the terms of the Axon Customer Experience Improvement Program.

Acceptance of Terms:

Any purchase order issued in response to this Quote is subject solely to the above referenced terms and conditions. By signing below, you represent that you are lawfully able to enter into contracts. If you are signing on behalf of an entity (including but not limited to the company, municipality, or government agency for whom you work), you represent to Axon that you have legal authority to bind that entity. If you do not have this authority, please do not sign this Quote.

Signature

Date Signed

10/24/2024

Axon Enterprise, Inc.
17800 N 85th St.
Scottsdale, Arizona 85255
United States
VAT: 86-0741227
Domestic: (800) 978-2737
International: +1.800.978.2737

Q-557996-45574.875JW

Issued: 10/09/2024

Quote Expiration: 11/30/2024

Estimated Contract Start Date: 01/15/2025

Account Number: 157674

Payment Terms: N30

Delivery Method:

SHIP TO	BILL TO
Flower Mound Police Dept. - TX 4150 Kirkpatrick Ln Flower Mound, TX 75028-1400 USA	Flower Mound Police Dept. - TX 2121 Cross Timbers Rd Flower Mound TX 75028-2602 USA Email:

SALES REPRESENTATIVE	PRIMARY CONTACT
Samuel Searcy Phone: 2059150320 Email: ssearcy@axon.com Fax:	Darren Branch Phone: 972-874-6587 Email: darren.branch@flower-mound.com Fax:

Quote Summary

Program Length	48 Months
TOTAL COST	$54,936.00
ESTIMATED TOTAL W/ TAX	$54,936.00

Discount Summary

Average Savings Per Year	$4,168.08
TOTAL SAVINGS	$16,672.32

Payment Summary

Date	Subtotal	Tax	Total
Dec 2024	$11,592.00	$0.00	$11,592.00
Jan 2025	$8,568.00	$0.00	$8,568.00
Dec 2025	$11,592.00	$0.00	$11,592.00
Dec 2026	$11,592.00	$0.00	$11,592.00
Dec 2027	$11,592.00	$0.00	$11,592.00
Total	**$54,936.00**	**$0.00**	**$54,936.00**

Quote Unbundled Price:	**$71,608.32**
Quote List Price:	**$54,936.00**
Quote Subtotal:	**$54,936.00**

Pricing

All deliverables are detailed in Delivery Schedules section lower in proposal

Item	Description	Qty	Term	Unbundled	List Price	Net Price	Subtotal	Tax	Total
Program									
20245	TRUE UP - TASER 7 CERTIFICATION PLAN TRUE UP	14	12		$51.00	$51.00	$8,568.00	$0.00	$8,568.00
T7Cert	TASER 7 Certification Bundle	14	48	$93.81	$69.00	$69.00	$46,368.00	$0.00	$46,368.00
Total							**$54,936.00**	**$0.00**	**$54,936.00**

Delivery Schedule

Hardware

Bundle	Item	Description	QTY	Shipping Location	Estimated Delivery Date
TASER 7 Certification Bundle	20008	AXON TASER 7 - HANDLE - HIGH VIS GRN LASER CLASS 3R YLW	14	1	12/01/2024
TASER 7 Certification Bundle	20018	AXON TASER - BATTERY PACK - TACTICAL	16	1	12/01/2024
TASER 7 Certification Bundle	20160	AXON TASER 7 - HOLSTER - SAFARILAND RH+CART CARRIER	14	1	12/01/2024
TASER 7 Certification Bundle	22175	AXON TASER 7 - CARTRIDGE - LIVE STANDOFF (3.5-DEGREE) NS	28	1	12/01/2024
TASER 7 Certification Bundle	22175	AXON TASER 7 - CARTRIDGE - LIVE STANDOFF (3.5-DEGREE) NS	42	1	12/01/2024
TASER 7 Certification Bundle	22176	AXON TASER 7 - CARTRIDGE - LIVE CLOSE QUART (12-DEGREE) NS	28	1	12/01/2024
TASER 7 Certification Bundle	22176	AXON TASER 7 - CARTRIDGE - LIVE CLOSE QUART (12-DEGREE) NS	42	1	12/01/2024
TASER 7 Certification Bundle	22177	AXON TASER 7 - CARTRIDGE - HALT STANDOFF NS	28	1	12/01/2024
TASER 7 Certification Bundle	22178	AXON TASER 7 - CARTRIDGE - HALT CLOSE QUART NS	28	1	12/01/2024
TASER 7 Certification Bundle	22179	AXON TASER 7 - CARTRIDGE - INERT STANDOFF (3.5-DEGREE) NS	14	1	12/01/2024
TASER 7 Certification Bundle	22181	AXON TASER 7 - CARTRIDGE - INERT CLOSE QUART (12-DEGREE) NS	14	1	12/01/2024
TASER 7 Certification Bundle	70033	AXON - DOCK WALL MOUNT - BRACKET ASSY	1	1	12/01/2024
TASER 7 Certification Bundle	71019	AXON BODY - DOCK POWERCORD - NORTH AMERICA	1	1	12/01/2024
TASER 7 Certification Bundle	74200	AXON TASER - DOCK - SIX BAY PLUS CORE	1	1	12/01/2024
TASER 7 Certification Bundle	80087	AXON TASER - TARGET - CONDUCTIVE PROFESSIONAL RUGGEDIZED	1	1	12/01/2024
TASER 7 Certification Bundle	80090	AXON TASER - TARGET FRAME - PROFESSIONAL 27.5 IN X 75 IN	1	1	12/01/2024
TASER 7 Certification Bundle	22175	AXON TASER 7 - CARTRIDGE - LIVE STANDOFF (3.5-DEGREE) NS	28	1	12/01/2025
TASER 7 Certification Bundle	22176	AXON TASER 7 - CARTRIDGE - LIVE CLOSE QUART (12-DEGREE) NS	28	1	12/01/2025
TASER 7 Certification Bundle	22175	AXON TASER 7 - CARTRIDGE - LIVE STANDOFF (3.5-DEGREE)	28	1	12/01/2026

Hardware

Bundle	Item	Description	QTY	Shipping Location	Estimated Delivery Date
		NS			
TASER 7 Certification Bundle	22176	AXON TASER 7 - CARTRIDGE - LIVE CLOSE QUART (12-DEGREE) NS	28	1	12/01/2026
TASER 7 Certification Bundle	22177	AXON TASER 7 - CARTRIDGE - HALT STANDOFF NS	28	1	12/01/2026
TASER 7 Certification Bundle	22178	AXON TASER 7 - CARTRIDGE - HALT CLOSE QUART NS	28	1	12/01/2026
TASER 7 Certification Bundle	22175	AXON TASER 7 - CARTRIDGE - LIVE STANDOFF (3.5-DEGREE) NS	28	1	12/01/2027
TASER 7 Certification Bundle	22176	AXON TASER 7 - CARTRIDGE - LIVE CLOSE QUART (12-DEGREE) NS	28	1	12/01/2027
TASER 7 Certification Bundle	22175	AXON TASER 7 - CARTRIDGE - LIVE STANDOFF (3.5-DEGREE) NS	28	1	12/01/2028
TASER 7 Certification Bundle	22176	AXON TASER 7 - CARTRIDGE - LIVE CLOSE QUART (12-DEGREE) NS	28	1	12/01/2028

Software

Bundle	Item	Description	QTY	Estimated Start Date	Estimated End Date
TASER 7 Certification Bundle	20248	AXON TASER - EVIDENCE.COM LICENSE	14	01/15/2025	01/14/2029
TASER 7 Certification Bundle	20248	AXON TASER - EVIDENCE.COM LICENSE	1	01/15/2025	01/14/2029

Services

Bundle	Item	Description	QTY
TASER 7 Certification Bundle	20246	AXON TASER 7 - REPLACEMENT ACCESS PROGRAM - DUTY CARTRIDGE	14

Warranties

Bundle	Item	Description	QTY	Estimated Start Date	Estimated End Date
TASER 7 Certification Bundle	80374	AXON TASER - EXT WARRANTY - BATTERY PACK T7/T10	16	12/01/2025	01/14/2029
TASER 7 Certification Bundle	80395	AXON TASER 7 - EXT WARRANTY - HANDLE	14	12/01/2025	01/14/2029
TASER 7 Certification Bundle	80396	AXON TASER - EXT WARRANTY - DOCK SIX BAY T7/T10	1	12/01/2025	01/14/2029

Shipping Locations

Location Number	Street	City	State	Zip	Country
1	4150 Kirkpatrick Ln	Flower Mound	TX	75028-1400	USA

Payment Details

Dec 2024

Invoice Plan	Item	Description	Qty	Subtotal	Tax	Total
Year 1	T7Cert	TASER 7 Certification Bundle	14	$11,592.00	$0.00	$11,592.00
Total				**$11,592.00**	**$0.00**	**$11,592.00**

Jan 2025

Invoice Plan	Item	Description	Qty	Subtotal	Tax	Total
Invoice Upon Fulfillment	20245	TRUE UP - TASER 7 CERTIFICATION PLAN TRUE UP	14	$8,568.00	$0.00	$8,568.00
Total				**$8,568.00**	**$0.00**	**$8,568.00**

Dec 2025

Invoice Plan	Item	Description	Qty	Subtotal	Tax	Total
Year 2	T7Cert	TASER 7 Certification Bundle	14	$11,592.00	$0.00	$11,592.00
Total				**$11,592.00**	**$0.00**	**$11,592.00**

Dec 2026

Invoice Plan	Item	Description	Qty	Subtotal	Tax	Total
Year 3	T7Cert	TASER 7 Certification Bundle	14	$11,592.00	$0.00	$11,592.00
Total				**$11,592.00**	**$0.00**	**$11,592.00**

Dec 2027

Invoice Plan	Item	Description	Qty	Subtotal	Tax	Total
Year 4	T7Cert	TASER 7 Certification Bundle	14	$11,592.00	$0.00	$11,592.00
Total				**$11,592.00**	**$0.00**	**$11,592.00**

Sky-hero products are manufactured in European Union and are classified as military grade, transfer and re-export is strictly prohibited.

Tax is estimated based on rates applicable at date of quote and subject to change at time of invoicing. If a tax exemption certificate should be applied, please submit prior to invoicing.

Standard Terms and Conditions

Axon Enterprise Inc. Sales Terms and Conditions

Axon Master Services and Purchasing Agreement:

This Quote is limited to and conditional upon your acceptance of the provisions set forth herein and Axon's Master Services and Purchasing Agreement (posted at https://www.axon.com/sales-terms-and-conditions), as well as the attached Statement of Work (SOW) for Axon Fleet and/or Axon Interview Room purchase, if applicable. In the event you and Axon have entered into a prior agreement to govern all future purchases, that agreement shall govern to the extent it includes the products and services being purchased and does not conflict with the Axon Customer Experience Improvement Program Appendix as described below.

ACEIP:

The Axon Customer Experience Improvement Program Appendix, which includes the sharing of de-identified segments of Agency Content with Axon to develop new products and improve your product experience (posted at www.axon.com/legal/sales-terms-and-conditions), is incorporated herein by reference. By signing below, you agree to the terms of the Axon Customer Experience Improvement Program.

Acceptance of Terms:

Any purchase order issued in response to this Quote is subject solely to the above referenced terms and conditions. By signing below, you represent that you are lawfully able to enter into contracts. If you are signing on behalf of an entity (including but not limited to the company, municipality, or government agency for whom you work), you represent to Axon that you have legal authority to bind that entity. If you do not have this authority, please do not sign this Quote.

Signature

Date Signed

10/9/2024

Axon Enterprise, Inc.
17800 N 85th St.
Scottsdale, Arizona 85255
United States
VAT: 86-0741227
Domestic: (800) 978-2737
International: +1.800.978.2737

Q-558546-45574.874JW

Issued: 10/09/2024

Quote Expiration: 11/30/2024

Estimated Contract Start Date: 01/15/2025

Account Number: 157674

Payment Terms: N30

Delivery Method:

SHIP TO	BILL TO
Flower Mound Police Dept. - TX 4150 Kirkpatrick Ln Flower Mound, TX 75028-1400 USA	Flower Mound Police Dept. - TX 2121 Cross Timbers Rd Flower Mound TX 75028-2602 USA Email:

SALES REPRESENTATIVE	PRIMARY CONTACT
Samuel Searcy Phone: 2059150320 Email: ssearcy@axon.com Fax:	Darren Branch Phone: 972-874-6587 Email: darren.branch@flower-mound.com Fax:

Quote Summary

Program Length	48 Months
TOTAL COST	$53,527.68
ESTIMATED TOTAL W/ TAX	$53,527.68

Discount Summary

Average Savings Per Year	$9,302.40
TOTAL SAVINGS	$37,209.60

Payment Summary

Date	Subtotal	Tax	Total
Dec 2024	$13,381.92	$0.00	$13,381.92
Dec 2025	$13,381.92	$0.00	$13,381.92
Dec 2026	$13,381.92	$0.00	$13,381.92
Dec 2027	$13,381.92	$0.00	$13,381.92
Total	**$53,527.68**	**$0.00**	**$53,527.68**

Quote Unbundled Price:	**$90,737.28**
Quote List Price:	**$53,527.68**
Quote Subtotal:	**$53,527.68**

Pricing

All deliverables are detailed in Delivery Schedules section lower in proposal

Item	Description	Qty	Term	Unbundled	List Price	Net Price	Subtotal	Tax	Total
Program									
20233	TRUE UP - TASER 7 CERTIFICATION PLAN ADD-ON TRUE UP PAYMENT	48	12		$12.25	$12.25	$7,056.00	$0.00	$7,056.00
C00012	BUNDLE - TASER 7 CERTIFICATION ADD-ON	48	48	$36.32	$20.17	$20.17	$46,471.68	$0.00	$46,471.68
Total							**$53,527.68**	**$0.00**	**$53,527.68**

Delivery Schedule

Hardware

Bundle	Item	Description	QTY	Shipping Location	Estimated Delivery Date
BUNDLE - TASER 7 CERTIFICATION ADD-ON	20050	AXON TASER - HOOK-AND-LOOP TRAINING (HALT) SUIT	1	1	12/15/2024
BUNDLE - TASER 7 CERTIFICATION ADD-ON	22175	AXON TASER 7 - CARTRIDGE - LIVE STANDOFF (3.5-DEGREE) NS	144	1	12/15/2024
BUNDLE - TASER 7 CERTIFICATION ADD-ON	22175	AXON TASER 7 - CARTRIDGE - LIVE STANDOFF (3.5-DEGREE) NS	96	1	12/15/2024
BUNDLE - TASER 7 CERTIFICATION ADD-ON	22176	AXON TASER 7 - CARTRIDGE - LIVE CLOSE QUART (12-DEGREE) NS	96	1	12/15/2024
BUNDLE - TASER 7 CERTIFICATION ADD-ON	22176	AXON TASER 7 - CARTRIDGE - LIVE CLOSE QUART (12-DEGREE) NS	144	1	12/15/2024
BUNDLE - TASER 7 CERTIFICATION ADD-ON	22177	AXON TASER 7 - CARTRIDGE - HALT STANDOFF NS	96	1	12/15/2024
BUNDLE - TASER 7 CERTIFICATION ADD-ON	22178	AXON TASER 7 - CARTRIDGE - HALT CLOSE QUART NS	96	1	12/15/2024
BUNDLE - TASER 7 CERTIFICATION ADD-ON	22179	AXON TASER 7 - CARTRIDGE - INERT STANDOFF (3.5-DEGREE) NS	48	1	12/15/2024
BUNDLE - TASER 7 CERTIFICATION ADD-ON	22181	AXON TASER 7 - CARTRIDGE - INERT CLOSE QUART (12-DEGREE) NS	48	1	12/15/2024
BUNDLE - TASER 7 CERTIFICATION ADD-ON	80087	AXON TASER - TARGET - CONDUCTIVE PROFESSIONAL RUGGEDIZED	1	1	12/15/2024
BUNDLE - TASER 7 CERTIFICATION ADD-ON	80090	AXON TASER - TARGET FRAME - PROFESSIONAL 27.5 IN X 75 IN	1	1	12/15/2024
BUNDLE - TASER 7 CERTIFICATION ADD-ON	22175	AXON TASER 7 - CARTRIDGE - LIVE STANDOFF (3.5-DEGREE) NS	96	1	12/15/2025
BUNDLE - TASER 7 CERTIFICATION ADD-ON	22176	AXON TASER 7 - CARTRIDGE - LIVE CLOSE QUART (12-DEGREE) NS	96	1	12/15/2025
BUNDLE - TASER 7 CERTIFICATION ADD-ON	22175	AXON TASER 7 - CARTRIDGE - LIVE STANDOFF (3.5-DEGREE) NS	96	1	12/15/2026
BUNDLE - TASER 7 CERTIFICATION ADD-ON	22176	AXON TASER 7 - CARTRIDGE - LIVE CLOSE QUART (12-DEGREE) NS	96	1	12/15/2026
BUNDLE - TASER 7 CERTIFICATION ADD-ON	22177	AXON TASER 7 - CARTRIDGE - HALT STANDOFF NS	96	1	12/15/2026
BUNDLE - TASER 7 CERTIFICATION ADD-ON	22178	AXON TASER 7 - CARTRIDGE - HALT CLOSE QUART NS	96	1	12/15/2026
BUNDLE - TASER 7 CERTIFICATION ADD-ON	22175	AXON TASER 7 - CARTRIDGE - LIVE STANDOFF (3.5-DEGREE)	96	1	12/15/2027

Hardware

Bundle	Item	Description	QTY	Shipping Location	Estimated Delivery Date
		NS			
BUNDLE - TASER 7 CERTIFICATION ADD-ON	22176	AXON TASER 7 - CARTRIDGE - LIVE CLOSE QUART (12-DEGREE) NS	96	1	12/15/2027

Software

Bundle	Item	Description	QTY	Estimated Start Date	Estimated End Date
BUNDLE - TASER 7 CERTIFICATION ADD-ON	20248	AXON TASER - EVIDENCE.COM LICENSE	48	01/15/2025	01/14/2029

Services

Bundle	Item	Description	QTY
BUNDLE - TASER 7 CERTIFICATION ADD-ON	101193	AXON TASER - ON DEMAND CERTIFICATION	1
BUNDLE - TASER 7 CERTIFICATION ADD-ON	20246	AXON TASER 7 - REPLACEMENT ACCESS PROGRAM - DUTY CARTRIDGE	48

Shipping Locations

Location Number	Street	City	State	Zip	Country
1	4150 Kirkpatrick Ln	Flower Mound	TX	75028-1400	USA

Payment Details

Dec 2024

Invoice Plan	Item	Description	Qty	Subtotal	Tax	Total
Co-term	20233	TRUE UP - TASER 7 CERTIFICATION PLAN ADD-ON TRUE UP PAYMENT	48	$1,764.00	$0.00	$1,764.00
Co-term	C00012	BUNDLE - TASER 7 CERTIFICATION ADD-ON	48	$11,617.92	$0.00	$11,617.92
Total				**$13,381.92**	**$0.00**	**$13,381.92**

Dec 2025

Invoice Plan	Item	Description	Qty	Subtotal	Tax	Total
Year 3	20233	TRUE UP - TASER 7 CERTIFICATION PLAN ADD-ON TRUE UP PAYMENT	48	$1,764.00	$0.00	$1,764.00
Year 3	C00012	BUNDLE - TASER 7 CERTIFICATION ADD-ON	48	$11,617.92	$0.00	$11,617.92
Total				**$13,381.92**	**$0.00**	**$13,381.92**

Dec 2026

Invoice Plan	Item	Description	Qty	Subtotal	Tax	Total
Year 4	20233	TRUE UP - TASER 7 CERTIFICATION PLAN ADD-ON TRUE UP PAYMENT	48	$1,764.00	$0.00	$1,764.00
Year 4	C00012	BUNDLE - TASER 7 CERTIFICATION ADD-ON	48	$11,617.92	$0.00	$11,617.92
Total				**$13,381.92**	**$0.00**	**$13,381.92**

Dec 2027

Invoice Plan	Item	Description	Qty	Subtotal	Tax	Total
Year 5	20233	TRUE UP - TASER 7 CERTIFICATION PLAN ADD-ON TRUE UP PAYMENT	48	$1,764.00	$0.00	$1,764.00
Year 5	C00012	BUNDLE - TASER 7 CERTIFICATION ADD-ON	48	$11,617.92	$0.00	$11,617.92
Total				**$13,381.92**	**$0.00**	**$13,381.92**

Sky-hero products are manufactured in European Union and are classified as military grade, transfer and re-export is strictly prohibited.

Tax is estimated based on rates applicable at date of quote and subject to change at time of invoicing. If a tax exemption certificate should be applied, please submit prior to invoicing.

Standard Terms and Conditions

Axon Enterprise Inc. Sales Terms and Conditions

Axon Master Services and Purchasing Agreement:

This Quote is limited to and conditional upon your acceptance of the provisions set forth herein and Axon's Master Services and Purchasing Agreement (posted at https://www.axon.com/sales-terms-and-conditions), as well as the attached Statement of Work (SOW) for Axon Fleet and/or Axon Interview Room purchase, if applicable. In the event you and Axon have entered into a prior agreement to govern all future purchases, that agreement shall govern to the extent it includes the products and services being purchased and does not conflict with the Axon Customer Experience Improvement Program Appendix as described below.

ACEIP:

The Axon Customer Experience Improvement Program Appendix, which includes the sharing of de-identified segments of Agency Content with Axon to develop new products and improve your product experience (posted at www.axon.com/legal/sales-terms-and-conditions), is incorporated herein by reference. By signing below, you agree to the terms of the Axon Customer Experience Improvement Program.

Acceptance of Terms:

Any purchase order issued in response to this Quote is subject solely to the above referenced terms and conditions. By signing below, you represent that you are lawfully able to enter into contracts. If you are signing on behalf of an entity (including but not limited to the company, municipality, or government agency for whom you work), you represent to Axon that you have legal authority to bind that entity. If you do not have this authority, please do not sign this Quote.

Signature

Date Signed

10/9/2024

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

DATE: November 18, 2024
FROM: Kendall Leonard, Captain CID
ITEM: **Consider approval of purchasing for the police department (1) 2024 Ford F150 Crew Cab XLT 4X4 from Sam Pack's Five Star Ford for $55,328.00 utilizing the HGAC Cooperative Contract # CE05-24 and the purchase of (1) 2024 Chevrolet Silverado 1500 crew cab from Lake Country Chevrolet for $67,317.51 utilizing the TIPS USA contract #210907, for a total of $122,645.51.**

BACKGROUND: The Ford F150 replaces an existing vehicle that was totaled in a collision. The Chevrolet Silverado replaces (1) current unit which is scheduled to rotate out of service. The purchase and replacement of this vehicle is part of the approved Fiscal Year 24-25 budget and Vehicle Equipment Replacement Fund (VERF).

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES: Nothing that provides the same benefits and availability.

FISCAL IMPACT: $122,645.51

Proposed Expenditure/(Revenue)	**Account Number(s):**
Ford $ 55,328.00	565-450-84500-6110/6130
Chevrolet $ 67,317.51	565-450-84500-6130

LEGAL REVIEW: N/A

ATTACHMENTS:
1. Quote Ford F150
2. Fleet Req for Ford 150
3. Bid Award Recommendation Ford 150
4. Quote Chevrolet Silverado
5. Fleet Req for Chevrolet Silverado
6. Quote-Defender Install Silverado
7. Quote-Complete Vehicle Silverado
8. Bid Award Recommendation Chevrolet Silverado

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

Sam Pack's Five Star Chevorlet
1735 S. IH 35E Carrollton Texas, 75006
972-389-6700 x6731 - 740-491-2988 (Cell)

CUSTOMIZED PRODUCT PRICING SUMMARY BASED ON CONTRACT

Cars and Light Trucks

Team Members - John Butler - Kevin Moore - Casey Marshall - Jorge Guerra - Alan Rosner

H-GAC VE05-24

End User: FLOWER MOUND **Sam Pack's Rep:** KEVIN MOORE

Contact: BILLY STERNER **Date:** 10.30.24

Contact TN/Email Phone #

Product Description: 2024 F150 CREW CAB XLT 4X4 Color Code WHITE

A. Bid Line # **Base Price:** **$ 38,565.00**

B. Published Options (Itemize Each Below)

Code	Description	Bid Price	Code	Description	Bid Price
	Automatic	INCLUDED	50M	MOBILE OFFICE PKG	$ 1,045.00
	Air Conditoning - Power Steering/Brakes	INCLUDED		AT TIRE	$ 295.00
	POWER GROUP	INCLUDED			
	CRUISE	INCLUDED			
	CREW CAB OPTION	$ 3,788.00			
	4X4	$ 3,925.00			
	3.5L ECO BOOST	$ 975.00			
	301A XLT	$ 3,796.00			
	3.55 E-LOCK RR AXLE	$ 425.00			
	DARK SLATE CLOTH	INCLUDED			
	SKID PLATES	$ 160.00			
	TOW/HAUL PKG	$ 785.00			
				Total of B. - Published Options	**$ 15,194.00**

C. Dealer Published Options

Code	Description	Bid Price	Code	Description	Bid Price
				STOCK UNIT	
				Total of C. - Dealer Published Options	**$ -**

D. Off Menu Options

Code	Description	Bid Price	Code	Description	Bid Price
	TINT	$275.00			
	SPRAY IN	$495.00			

Off Menu Options limited to 25% of Published Price Current % **1.43%** **Total of D. - Off Menu Options** **$770.00**

Delivery Charges	**100 Miles @ $1.99/mile**	**$ 199.00**
Manufacturer Options Discount		
	Total Each	**$ 54,728.00**
Quantity Ordered 1	**X F =**	**$ 54,728.00**
Administrative Fee		**$ 600.00**
Trade In Allowance - Non-Equipment debits and credits		**$ -**
TOTAL PURCHASE PRICE INCLUDING ADMIN FEE		**$55,328.00**

Sam Pack's Five Star Ford - Aftermarket Build Sheet

PO# Parts		PO # Labor	
Date Parts Ordered		Date to Chevy	
Agency Name	FLOWER MOUND	Last Part ETA	
Vehicle Type		Vehicle ETA	
Salesperson	KEVIN MOORE	Quantity of Vehicle order	1

Stock #s

Parts Total **$0.00** **Total of Build** **$0.00** **Labor Hours** **0** **Labor Price** **$0.00**

Part Name	Part Number	QTY	Price Each	Total Price		Part Name	Part Number	QTY	Price	Total Price
				$0.00						$0.00
				$0.00						$0.00
				$0.00						$0.00
				$0.00						$0.00
				$0.00						$0.00
				$0.00						$0.00
				$0.00						$0.00
				$0.00						$0.00
				$0.00						$0.00
				$0.00						$0.00
				$0.00						$0.00
				$0.00						$0.00
				$0.00						$0.00
				$0.00						$0.00
				$0.00						$0.00
				$0.00						$0.00
				$0.00						$0.00
				$0.00						$0.00
				$0.00						$0.00
				$0.00						$0.00

VEHICLE-EQUIPMENT PURCHASE REQUISITION

(For Purchase Process)

Date:	11/1/2024	Ship/Bill To:	Town of Flower Mound
Suggested Vendor:	Sam Pack Five Star Ford	ATTN:	FLEET SERVICES
Contact (if known):	Kevin Moore	Address:	1101 Duncan Lane
Address (if available):	1735 S. IN 35E		Flower Mound, TX 75028
	Carrollton Tx 75006	PO #:	
Phone/Fax:	740-491-2988	Department Name:	Operating Services

G/L Account # (if Decision Package)	$ Budget Estimate	Qty.	Unit Description (Specifications)	$ Updated Quote	Amount
VERF	$55,328.00	1	2024 Ford F150 Crewcab Pick-Up	$55,328.00	$55,328.00
					-
					-
					-
					-
	All Pickups come equipped w/ Spray-In Liner, Headache Rack, Across-the-bed Locking Toolbox, and Lights			**TOTAL:**	**$55,328.00**

Name/Phone Ext.:	Darren Branch	**APRROVALS:**	
Approved By:		Fleet Manager:	**Billy Sterner**
Unit #(s) to be replaced or specify NEW Unit:	43500-134		
		Bid/Solicitation #:	
Spec Name:	2024 F150 Crewcabxlt 4X4	Co-Op/Contract #:	H-GAC VE05-24

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

Bid Award Recommendation

Date: 11/1/2024– VERF – FY24-25

Description: **2024 Ford F150 4x4 Crew Cab ½ Ton Pick-up with 5.5′ bed**

Qty.: 1

Replaces: 43500-134, a 2024 F150 Pick-up That was totaled - Police

Bidder: Sam Packs Five Star Ford, Kevin Moore 888-835-3389, KevinMoore@spford.com

Item: **One - 2023 Ford F150 4x4 XLT Crew Cab ½ ton Pick-up with 5.5′ bed, Spray-in bed liner and vehicle options as identified on attached Flower Mound F150 Cooperative Quote Dated 10/30/2024.**

Total Cost of Vehicles, Equipment & Installation:

$55,328.00

It is Fleet Services recommendation to award the bid to **Sam Pack Five Star Ford** in the amount of **$55.328.00** utilizing the **H-GAC Cooperative Contract # VE05-24**.

11/1/2024

Fleet Services Manager

Date

Sam Pack's Five Star Chevorlet
1735 S. IH 35E Carrollton Texas, 75006
972-389-6700 x6731 - 740-491-2988 (Cell)

CUSTOMIZED PRODUCT PRICING SUMMARY BASED ON CONTRACT

Cars and Light Trucks

Team Members - John Butler - Kevin Moore - Casey Marshall - Jorge Guerra - Alan Rosner

H-GAC VE05-24

End User: FLOWER MOUND **Sam Pack's Rep:** KEVIN MOORE

Contact: BILLY STERNER **Date:** 10.30.24

Contact TN/Email Phone #

Product Description: 2024 F150 CREW CAB XLT 4X4 Color Code WHITE

A. Bid Line # **Base Price:** **$ 38,565.00**

B. Published Options (Itemize Each Below)

Code	Description	Bid Price	Code	Description	Bid Price
	Automatic	INCLUDED	50M	MOBILE OFFICE PKG	$ 1,045.00
	Air Conditoning - Power Steering/Brakes	INCLUDED		AT TIRE	$ 295.00
	POWER GROUP	INCLUDED			
	CRUISE	INCLUDED			
	CREW CAB OPTION	$ 3,788.00			
	4X4	$ 3,925.00			
	3.5L ECO BOOST	$ 975.00			
	301A XLT	$ 3,796.00			
	3.55 E-LOCK RR AXLE	$ 425.00			
	DARK SLATE CLOTH	INCLUDED			
	SKID PLATES	$ 160.00			
	TOW/HAUL PKG	$ 785.00			
				Total of B. - Published Options	**$ 15,194.00**

C. Dealer Published Options

Code	Description	Bid Price	Code	Description	Bid Price
				STOCK UNIT	
				Total of C. - Dealer Published Options	**$ -**

D. Off Menu Options

Code	Description	Bid Price	Code	Description	Bid Price
	TINT	$275.00			
	SPRAY IN	$495.00			

Off Menu Options limited to 25% of Published Price Current % **1.43%** **Total of D. - Off Menu Options** **$770.00**

Delivery Charges **100** **Miles @ $1.99/mile** **$ 199.00**

Manufacturer Options Discount

Total Each **$ 54,728.00**

Quantity Ordered **1** **X F =** **$ 54,728.00**

Administrative Fee **$ 600.00**

Trade In Allowance - Non-Equipment debits and credits **$ -**

TOTAL PURCHASE PRICE INCLUDING ADMIN FEE **$55,328.00**

Sam Pack's Five Star Ford - Aftermarket Build Sheet

PO# Parts		PO # Labor	
Date Parts Ordered		Date to Chevy	
Agency Name	FLOWER MOUND	Last Part ETA	
Vehicle Type		Vehicle ETA	
Salesperson	KEVIN MOORE	Quantity of Vehicle order	1

Stock #s

Parts Total **$0.00** **Total of Build** **$0.00** **Labor Hours** **0** **Labor Price** **$0.00**

Part Name	Part Number	QTY	Price Each	Total Price		Part Name	Part Number	QTY	Price	Total Price
				$0.00						$0.00
				$0.00						$0.00
				$0.00						$0.00
				$0.00						$0.00
				$0.00						$0.00
				$0.00						$0.00
				$0.00						$0.00
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				$0.00						$0.00
				$0.00						$0.00
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				$0.00						$0.00
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				$0.00						$0.00
				$0.00						$0.00
				$0.00						$0.00
				$0.00						$0.00
				$0.00						$0.00

VEHICLE-EQUIPMENT PURCHASE REQUISITION

(For Purchase Process)

Date:	9/18/2024	Ship/Bill To:	Town of Flower Mound
Suggested Vendor:	Lake Country Chevrolet	ATTN:	FLEET SERVICES
Contact (if known):	Seth Gamblin	Address:	1101 Duncan Lane
Address (if available):	1211 Hwy 96 N		Flower Mound, TX 75028
	Silsbee, TX 77656	PO #:	
Phone/Fax:	512-436-1313	Department Name:	Police Department

G/L Account # (if Decision Package)	$ Budget Estimate	Qty.	Unit Description (Specifications)	Updated Quote	Amount
VERF	$70,000.00	1	2024 Chevrolet Silverado 4x2	$52,626.51	$52,626.51
		1	Defender Supply Emergency Vehicle Up-Fit	$14,691.00	$14,691.00
					-
					-
					-
	All Pickups come equipped w/ Spray-In Liner, Headache Rack, Across-the-bed Locking Toolbox, and Lights			**TOTAL:**	**$67,317.51**

Name/Phone Ext.:	Darren Branch / #6587	**APRROVALS:**	
Approved By:		Fleet Manager:	**Billy Sterner**
Unit #(s) to be replaced or specify NEW Unit:	43500-76		
		Bid/Solicitation #:	
Spec Name:	Chevrolet Silverado 1500	Co-Op/Contract #:	TIPS USA #210907

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

DEFENDER SUPPLY™

Argyle, TX 76226

Date	9/3/2024
Estimate #	40083
Estimate By	Mike
	mike@defendersupply.com
	903-771-1089

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

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

Item	Description	Location	Qty	Price	Total
	2024 Chevrolet Silverado SSV				
Tint-4Door-Truck	Window Tint - All Windows - Crew Cab Truck Limo Tint All including AS1 Line		1	227.00	227.00T
Misc	Black Horse Rugged Grille Guard (or similar) PART #:RU-CHSI19-B		1	772.00	772.00T
Misc	80130 RealTruck BAK Revolver X4s (hard roll-up)		1	1,379.00	1,379.00T
Misc	1250 AnyGlide Standard 60 Truck Bed Storage		1	1,851.00	1,851.00T
DSP-SIL-VISOR-HANDH...	Defender Supply SILVERADO Visor Light Handheld Controller Package - Full Function Tri Color LED Low Profile Visor Light Bar with Full Across Take Down, Progressing Flash Patterns with Slide Switch, Cruise, Low Power (R/B/W), 100 Watt Speaker and Bracket, Core with Hand Held Controller, Sync Module, Expansion Module, Defender Supply Power Distribution and Main Harness. Includes Installation.		1	5,367.00	5,367.00T
DSP-SIL-REARTA-X	Defender Supply SILVERADO Traffic Advisor Package - 1 Eight Dual Color Module Super LED Full Function Light Stick (R/A, B/A) with Progressing Flash Patterns with Slide Switch, Cruise, Low Power Functions Mounted in the Rear Window with Vehicle Specific Shroud and Brackets.		1	1,230.00	1,230.00T
WH-TLI3JC	Whelen Ion T-Series Linear Super-LED Lighthead with Clear Lens in Red/Blue/ White Behind Grill		2	132.00	264.00T
WH-TLMI2J	MINI ION T-SERIES LT RED/BLUE 2-Side of Push Bumper 2-Rear Bumper Corner Step		4	93.00	372.00T
DSP-REARSIDEGLASS	Defender Supply Rear Side Window Lighting Package - Includes Two Tri Color Super LED Light Heads (R/B/W) Mounted 1 on Each Rear Side Window. Progressing Flash Patterns with Slide Switch, Alley, Low Power and Cruise Functions Available (Core/Carbide Only). Includes Installation.		1	483.00	483.00T

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

DEFENDER SUPPLY™

Argyle, TX 76226

Date	9/3/2024
Estimate #	40083
Estimate By	Mike
	mike@defendersupply.com
	903-771-1089

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

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

Item	Description	Location	Qty	Price	Total
DSP-HIDEAWAY-TAIL-C...	Defender Supply Tail Light Hide-Away Lighting Package -Includes 2, Dual Color Super LED Light Heads (1x R/W, 1x B/W) Inserted in the Reverse Section of the Tail Lights. Cruise, Low Power and White in Reverse Function Available (Configuration 2 Core/Carbide Only). Includes Installation.		1	429.00	429.00T
WH-3SRCCDCR	Whelen LED Flush Mount Compartment Light in Red & White Cab Area		2	49.00	98.00T
DSP-HEADLIGHTFLASH...	Defender Supply Headlight Flasher - Headlight Light Flashing Module. Includes Installation.		1	280.00	280.00T
DSP-TAILLIGHTFLASHER	Defender Supply Universal Tail Light Flasher - Tail Light Flasher Module, Hardwired. Includes Installation.		1	259.00	259.00T
Install	Installation of Above Items not covered in groups		1	1,680.00	1,680.00T
	Texas Government or Municipality - No Sales Tax			0.00%	0.00

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

Vehicle & Emergency Equipment Total **$14,691.00**

Signature _____

PRODUCT PRICING SUMMARY

TIPS USA 210907 Automobiles

VENDOR--LAKE COUNTRY CHEVY 1211 Hwy 96 N., Silsbee TX 77656

End User: TOWN OF FLOWER MOUND
Prepared by: SETH GAMBLIN
Contact:
Phone: 512.436.1313
Email:
Email: SGAMBLIN.SILSBEEFLEET@GMA
Product Description: CHEVROLET SILVERADO 1500
Date: November 6, 2024

A. **Bid Item:** _____ **A. Base Price:** $ 41,907.00

B. Factory Options

Code	Options	Bid Price	Code	Options	Bid Price
CC10543	2024 1500 SILVERADO SHORT CREW	$ -			
1LT	1 LT PACKAGE 2W			17" BRIGHT SILVER PAINTED	
L84	ENGINE 5.3L ECO TEC3 V8	$ 1,595.00		ALUMINUM WHEELS	
MQB	10 SPEED TRANS	$ -			

Total of B. Published Options: $ 1,595.00

Published Option Discount (5%) $ (1,157.99)

C. Additional Options $= 34.2 %

Options	Bid Price	Options	Bid Price
		EXTERIOR COLOR-BLACK	$ -
DEFENDER INSTALL 40083	$ 14,691.00	INTERIOR HOU JET BLACK CLOTH	
1 ADDITIONAL KEY /FOB 3 TOTAL	$ 195.00		
		UNIT ON THE GROUND NOW**	
		2GCPACED2R1225563	

Total of C. Unpublished Options: $ 14,886.00

D. **Floor Plan Interest (for in-stock and/or equipped vehicles):** $ 475.00

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

F. **Contract Price Adjustment:** 1LT UPGRADE $ 9,175.00

G. **Additional Delivery Charge:** 250 **miles** $ 437.50

H. **Subtotal:** $ 67,317.51

I. **Quantity Ordered** 1 **x K =** $ 67,317.51

J. **Trade in:** _____ $ -

K.

L. **Total Purchase Price** $ 67,317.51

Bid Award Recommendation

Date: 11/6/2024 – VERF FY24-25

Description: **2024 Half Ton Crew Cab Pick-Up**

Qty.: 1

Replaces: *43500-76, a 2020 Chevrolet Tahoe - Police*

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

Item: **1 – Black, Chevrolet 1500 Crew Cab Pick-Up Truck with Spray-In Bedliner and Options as Identified on "Chevrolet Silverado 1500" Quote Dated 11/6/2024. Includes Defender Emergency Vehicle Upfit Quote #40083**

Total Cost of Vehicles, Equipment & Installation:
$67,317.51

It is Fleet Services recommendation to award the bid to **Lake Country Chevrolet** in the amount of **$67,317.51** utilizing the **TIPS USA Cooperative Contract #210907**.

Fleet Services Manager

11/6/2024
Date

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

DATE: November 18, 2024
FROM: Jon Olson, Meter Services Manager
ITEM: **Consider a request to amend the Town's Code of Ordinances by amending Appendix A, "Fee Schedule," Referenced in Chapter 70, "Utilities" by amending Section 70-56(d), entitled "Water Meter Fee Schedule," by repealing all conflicting ordinances; providing a severability clause; and providing an effective date.**

BACKGROUND: Due to the escalation of the Consumer Price Index (CPI) and the Producer Price Index (PPI), material costs have increased over the past 24 months for the Town's water meter and meter reading software vendor, Neptune Technology Group (Neptune). Neptune is proposing a 5.0% price increase to the current Water Meter and Meter Reading Equipment Services contract effective January 1, 2025. Neptune has passed through this price increase to help recover core material costs for the manufacturing of their products with an increase of 6.3% for (CPI), 13.4% for (PPI) in raw materials, and 8.3% (PPI) for electronic components this past year. Meter purchases are for both new developments, where the cost is passed through to the developer, and replacement of aging meters, in which the town absorbs the cost.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES: N/A

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. Proposed Ordinance
2. Neptune Technology Price Increase Notice
3. Contract No. 2019-22-A Changer Order #5
4. Neptune Bid 2019-22A

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, AMENDING APPENDIX A, "FEE SCHEDULE," REFERENCED IN CHAPTER 70, "UTILITIES," BY AMENDING 70-56(d), ENTITLED "WATER METER FEE SCHEDULE," BY REPEALING ALL CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Flower Mound, Texas (the "Town") is a home rule municipal corporation organized and existing by virtue of the Constitution and laws of the State of Texas and by its Home Rule Charter adopted November 3, 1981; and,

WHEREAS, the Town possesses all the rights, powers, and authority possessed by a home rule municipality pursuant to Article XI, Section 5 of the Texas Constitution, Section 51.072 of the Texas Local Government Code, and the Town's Home Rule Charter, to regulate utility meter services and the fees for services provided; and,

WHEREAS, Appendix A "Fee Schedule," Chapter 70, "Utilities" of the Code of Ordinances of the Town of Flower Mound, Texas, establishes new Town ordinances; attached hereto; and,

WHEREAS, due to changes in the Town's costs to procure water meters, the Town has determined that it is necessary to amend Appendix A "Fee Schedule," Chapter 70, "Utilities".

SECTION 1

NOW THEREFORE, BE IT ORDAINED (RESOLVED) BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, THAT all the above premises are hereby found to be true and correct legislative and factual findings of the Town of Flower Mound and are hereby incorporated into the body of this Ordinance as if copied in their entirety.

SECTION 2

From and after the adoption of this ordinance, amending Section 70-56(d), entitled "Water Meter Fee Schedule" of Appendix A, Chapter 70, "Utilities," of the Code of Ordinances of the Town of Flower Mound, Texas, is adopted to read as follows:

(d) Water Meter Fee Schedule for the Town of Flower Mound.

Water Meter Size	Water Meter Fees	Administrative/ Parts Fee	Total
5/8x3/4 ProCoder R900i DL	$ 221.14	$ 75.00	**$ 296.14**
1" ProCoder R900i DL	$ 304.81	$ 75.00	**$ 379.81**
1-1/2 ProCoder R900i DL (DOM)	$ 475.75	$ 75.00	**$ 550.75**
1-1/2 HPT ProCoder R900i DL (IRR)	$ 657.44	$ 75.00	**$ 732.44**

2" ProCoder R900i DL (DOM)	$ 584.52	$ 75.00	**$ 659.52**
2" HPT ProCoder R900i (IRR)	$ 687.32	$ 75.00	**$ 762.32**
3"X17" Mach 10 R900i (DOM)	$ 2,336.50	$ 75.00	**$ 2,411.50**
3"X12" Mach 10 R900i (IRR)	$ 2,287.50	$ 75.00	**$ 2,362.50**
4"X20" Mach 10 R900i (DOM)	$ 2,998.50	$ 75.00	**$ 3,073.50**
4"X14" Mach 10 R900i (IRR)	$ 2,909.00	$ 75.00	**$ 2,984.00**
6"X24" Mach 10 R900i (DOM)	$ 4,887.00	$ 75.00	**$ 4,962.00**

SECTION 3

This Ordinance shall be cumulative of all provisions of Ordinances of the Town of Flower Mound, Texas, except where the provisions of this Ordinance are in direct conflict with the provisions of such Ordinances, in which event the conflicting provisions of such Ordinances are hereby repealed.

SECTION 4

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 a 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 the 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 5

This Ordinance shall take effect and be in full force beginning January 1, 2025, as provided by the laws 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 ___ TO ___, ON THIS THE 18TH DAY OF NOVEMBER 2024.

APPROVED:

_____
Cheryl Moore, MAYOR

ATTEST:

_____
Theresa Scott, TOWN SECRETARY

September 23, 2024

Marquita Shamlin
Town of Flower Mound
Purchasing Buyer
2121 Cross Timbers Road
Flower Mound, TX 75028

Marquita,

Neptune Technology Group is pleased to offer the Town of Flower Mound our new full line of Mach 10 Ultrasonic Water Meters 5/8" thru 12". These have been released to offer the market a solid-state meter which has no moving parts to wear out and has an accuracy guarantee of 20 years for the 5/8" through 1" sizes.

We have added these meters to your price list for your convenience to review and see if you would like to purchase any. These have been released to eventually replace some of our mechanical Turbines and Compound meters in the future.

We are including your new pricing on your price sheet for our mechanical meters. Since we have not had an increase on them in 2 years and are having to hold the new pricing until 1/1/26, we are having to go up about 5% on everything excluding the 3" FH Meter, which is going up around 15%. These increases are due to the cost of raw material, labor, and especially brass/ingot. Below are the 3 main indexes we base our increases on for our industry.

1. PPI Commodity data for Metals and metal products-Copper base castings: PPI Percent Increase Aug 22 to Aug 2024: **13.4%**

2. PPI industry data for Other electronic component mfg.: PPI Percent Increase Aug 22 to Aug 2024: **8.3%**

3. Consumer Price Index (CPI): **6.3%**

I have also attached tabs for each of these indexes for your review.

If you have any questions, please do not hesitate to call. Neptune appreciates your past business and looks forward to supplying your metering needs in the future.

Sincerely,

Charlie Trimble
Senior Territory Manager

1600 Alabama
Highway 229
Tallassee, AL 36078

800-633-8754
neptunetg.com

TOWN OF FLOWER MOUND **CONTRACT AMENDMENT**	Contract No.: 2019-22-A Change Order #: 5 Effective Date: January 1, 2025

ISSUED BY:
Purchasing Division
2121 Cross Timbers Road
Flower Mound, Texas 75028

Contract Title: Purchase of Water Meters & Meter Reading Equipment Services	
Contractor Name/Address: **Attn: Charlie Trimble, Sr. Territory Manager** Neptune Technology Group, Inc. 1600 Alabama Hwy 229 Tallassee, AL 36078	Reference Documents: See attached price increase email request from Neptune Technology Group, Inc.
Contract Adjustment: The Contract Amount is: ☒ Increased ☐ Decreased ☐ Not Changed In the Amount of : See below Description	Contract Term: The Contract Time is: ☐ Increased ☐ Decreased ☒ Not Changed Contract Expiration Date: 01/01/2025 thru 01/01/2026

Description of Change:

This Change Order No. 5 is to acknowledge the Town of Flower Mound's acceptance of Neptune Technology Group, Inc. price increase of 5% on all R900i meters sizes and all R900i Retrofit Register sizes as well as a 15% increase for 3" Fire Hydrant meters, along with the 36% discount of Neptune parts list and to confirm the contract renewal for an additional one (1) year period term from 01/01/2025 through 01/01/2026.

Neptune is also included pricing for the new full line of Mach 10 Ultrasonic water meters 5/8" thru 12" – The meters have been released to offer the market solid state meter which has no moving parts to wear out and has an accuracy guarantee of 20 years for the 5/8" through 1" sizes. They are also expected to replace some of the mechanical turbine and compound meter in the future.

****All other items remain unchanged during the renewal period****

No claims for further compensation or extensions of time, whether for delay, overhead, profit, fees, acceleration, force majeure, disruption, or any other reason, shall be made by the Contractor as a result of the changes contained in this Change Order, as payment specified hereunder constitutes compensation in full for the Work as altered herein.

Accepted By: **Neptune Technology Group, Inc.** By: Charlie Trimble AUTHORIZED REPRESENTATIVE Date: 10/24/24	Accepted By: **Town of Flower Mound** By: _____ AUTHORIZED REPRESENTATIVE Date: _____
Print/Type Name and Title:	Marquita Shamlin – Buyer Purchasing Division

CONTRACTOR'S RECEIPT OF AN EXECUTED COPY OF THIS FORM SHALL SERVE AS A CONTRACTOR'S OFFICIAL NOTICE TO PROCEED WITH THE CHANGE TO WORK INCLUDED HEREIN.

TOWN OF FLOWER MOUND
CONTRACT FOR SERVICES
Contract No. 2019-22-A

This Contract is made by the Town of Flower Mound, Texas, a municipal Corporation ("Town") and Neptune Technology Group, Inc. ("Contractor"). The Town and Contractor agree:

1. **EMPLOYMENT OF THE CONTRACTOR.** The Town agrees to retain the Contractor, and the Contractor agrees to provide services relative to: Water Meters and Meter Reading Equipment Services (hereinafter referred to as "Services") in connection with the terms and conditions as set forth in the Contract Documents, attached hereto and incorporated by reference.

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

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

4. **CONTRACT PERIOD.** The initial contract period is for twelve (12) months from date of award of contract. All pricing is to remain firm during the contract period. After the Initial Term, this Agreement shall auto renew upon written agreement between both parties for an additional one-year term. This agreement may be terminated by either party with written notice at least ninety (90) days prior to the current term renewal date, indicating their intent not to renew.

5. **COMPENSATION.** Contractor's total compensation for services to be performed and expenses to be incurred is specified in Attachment A.

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

7. **PRICING ESCALATION:** Unless otherwise stated in the specification herein, prices must remain firm for the initial term of the contract. The contracted vendor may request an adjustment at the time of contract renewal by submitted a request in written form to the Purchasing

Manager. Basis for price escalation should be based on the consumer price index for the most recent twelve-month period reported for the Dallas-Fort Worth area. The contracted vendor shall provide the Town with copies of the appropriate indices for verification purposes. The Town of Flower Mound reserves the right to approve or reject any and all request for price escalations.

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

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

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

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

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

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

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

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

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

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

15. **TERMINATION OF CONTRACT.** Town may terminate this contract upon sixty (60) days written notice to Contractor, except in the event (i) Contractor is in breach of this Contract or (ii) Contractor fails to comply with the terms of Exhibit A. If either of the foregoing conditions exists, Town shall notify Contractor and Contractor shall be given two (2) days to cure such breach. Should Contractor fail to cure to the satisfaction of the Town, Town may terminate this Contract upon written notice.

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

    b. In the event of any termination hereunder, the Contractor consents to Town's selection of another Contractor to assist the Town in any way in completing the Services. Contractor further agrees to

cooperate and provide any information requested by Town in connection with the completion of the Services.

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

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

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

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

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

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

to reflect any difference in the Contractor's costs occasioned by such substitution.

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

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

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

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

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

    Name: Charlie Trimble
    Title: Sr. Territory Manager
    Company Name: Neptune Technology Group Inc.
    Address: 1600 Alabama Hwy 229
    City, State, Zip: Tallassee, AL 36078

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

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

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

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

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

AGREED TO BY:

Neptune Technology Group, Inc.

By: Lawrence M Russo
Name: Lawrence M. Russo
Title: VP, Finance

Date: December 27, 2018

TOWN OF FLOWER MOUND, TEXAS

By: Steve Dixon

Mayor Steve Dixon

Date: 12/28/2018 | 5:07 AM PST

NEPTUNE WATER METERS				PRICE	QTY	TOTAL
5/8X3/4	T-10 PRO-READ US GAL 6 WHEEL	W/PIGTAIL WIRE		N/A	500	N/A
1	T-10 PRO-READ US GAL 6 WHEEL	W/PIGTAIL WIRE		N/A	25	N/A
1.5"	T-10 PRO-READ US GAL 6 WHEEL		W/FLG KIT	N/A	1	N/A
1.5"	HPT PRO-READ US GAL 6 WHEEL		W/FLG KIT	N/A	1	N/A
2	T-10 PRO-READ US GAL 6 WHEEL		W/FLG KIT	N/A	1	N/A
2	HPT PRO-READ US GAL 6 WHEEL		W/FLG KIT	N/A	1	N/A
3	TRU-FLO PRO-READ US GAL 6 WHL		W/FLG KIT	N/A	1	N/A
4	TRU-FLO PRO-READ US GAL 6 WHL		W/FLG KIT	N/A	1	N/A
6	TRU-FLO PRO-READ US GAL 6 WHL		W/FLG KIT	N/A	1	N/A
	R900V4 RADIO READ UNIT			$111.24	500	$55,620.00
5/8X3/4	T-10 R900I DL US GAL	W/STUB ANTENNA		$190.55	1500	$285,825.00
1	T-10 R900I DL US GAL	W/STUB ANTENNA		$262.65	75	$19,698.75
1.5"	T-10 R900I DL US GAL	W/STUB ANTENNA	W/FLG KIT - 4 bolts, 4 nuts, 4 washers, 2 gaskets, 1 flange	$409.94	25	$10,248.50
1.5"	HPT R900I DL US GAL	W/STUB ANTENNA	W/FLG KIT - 4 bolts, 4 nuts, 4 washers, 2 gaskets, 1 flange	$566.50	25	$14,162.50
2	T-10 R900I DL US GAL	W/STUB ANTENNA	W/FLG KIT - 4 bolts, 4 nuts, 4 washers, 2 gaskets, 1 flange	$503.67	25	$12,591.75
2	HPT R900I DL US GAL	W/STUB ANTENNA	W/FLG KIT - 4 bolts, 4 nuts, 4 washers, 2 gaskets, 1 flange	$592.25	25	$14,806.25
2	TRU-FLO R900I COMPOUND US GAL	W/20' ANTENNA	W/FLG KIT - 4 bolts, 4 nuts, 4 washers, 2 gaskets, 1 flange	$1,529.55	1	$1,529.55
3	TRU-FLO R900I COMPOUND US GAL	W/20' ANTENNA	W/bolt & gaskets kit – no flange	$1,783.96	1	$1,783.96
3	HPT R900I DL US GAL	W/20' ANTENNA	W/bolt & gaskets kit – no flange	$963.05	1	$963.05

4"	TRU-FLO R900I COMPOUND US	W/20' ANTENNA	W/bolt & gaskets kit – no flange	$2,428.74	1	$2,428.74
4"	HPT R900I DL US GAL	W/20' ANTENNA	W/bolt & gaskets kit – no flange	$1,215.40	1	$1,215.40
6"	TRU-FLO R900I COMPOUND US	W/20' ANTENNA	W/bolt & gaskets kit – no flange	$3,553.50	1	$3,553.50
3"	FIRE HYDRANT METERS US GAL 6	(no gate valve)		$849.75	1	$849.75
1.5/2"	HPT PRO-READ US GAL 6WHL UME	W/PIGTAIL WIRE		$438.37	50	$21,918.50
	R900I DL REGISTERS	W/STUB ANTENNA		$164.80	100	$16,480.00

METER READING EQUIPMENT AND METER PARTS LIST		PRICE	QTY	TOTAL
MOBILE DATA COLLECTOR	MRX920V3	$5,150.00	1	$5,150.00
TRIMBLE NOMAD B W/BELT CLIP RF RECEIVER		$5,459.00	4	$21,836.00
TRIMBLE NOMAD CHARGING & COMM CRADLE		$309.00	4	$1,236.00
TRIMBLE NOMAD PROGRAMMING MOUSE		$515.00	4	$2,060.00
TRADE-IN ALLOWANCE	CE5320 HAND HELDS	N/A	3	N/A
NEPTUNE WATER METER PARTS	PERCENTAGE OFF LIST	36%		

CUSTOMER SUPPORT AND METER READING EQUIPMENT MAINTENANCE				PRICE	QTY	TOTAL
12 MONTHS	ADVANTANGE II COMPLETE	AG0677	12517-300	Under contract	1	Under contract
12 MONTHS	ADVANTANGE II COMPLETE	AG0705	12517-300	Under contract	1	Under contract
12 MONTHS	ADVANTANGE II COMPLETE	AG0711	12517-300	Under contract	1	Under contract
12 MONTHS	ADVANTANGE II COMPLETE	AG6399	12517-300	Under contract	1	Under contract
12 MONTHS	TRIMBLE NOMAD CHARGING AND COMM CRADLE	(new handhelds)		Not available	1	Not available
12 MONTHS	TRIMBLE NOMAD CHARGING AND COMM CRADLE	(new handhelds)		Not available	1	Not available
12 MONTHS	TRIMBLE NOMAD CHARGING AND COMM CRADLE	(new handhelds)		Not available	1	Not available
12 MONTHS	TRIMBLE NOMAD CHARGING AND COMM CRADLE	(new handhelds)		Not available	1	Not available
12 MONTHS	TRIMBLE NOMAD B W/BELT CLIP RF RECEIVER	(new handhelds)		$750.00	1	$750.00
12 MONTHS	TRIMBLE NOMAD B W/BELT CLIP RF RECEIVER	(new handhelds)		$750.00	1	$750.00
12 MONTHS	TRIMBLE NOMAD B W/BELT CLIP RF RECEIVER	(new handhelds)		$750.00	1	$750.00
12 MONTHS	TRIMBLE NOMAD B W/BELT CLIP RF RECEIVER	(new handhelds)		$750.00	1	$750.00
12 MONTHS	MRX920V2 ASSEMBLY COMPLETE	MRX0446V2	13120-000	Under contract	1	Under contract
12 MONTHS	MRX920V2 ASSEMBLY COMPLETE	MRX0719V2	13120-000	Under contract	1	Under contract
12 MONTHS	MRX920V2 ASSEMBLY COMPLETE	MRX0788V2	13120-000	Under contract	1	Under contract
12 MONTHS	HOST SOFTWARE <50,000 SERVICES	N_SIGHT MOBILE-FLC	12661-100	Under contract	1	Under contract
12 MONTHS	POCKET PROREADER RF	PRF2693	12110-100	Under contract	1	Under contract
12 MONTHS	POCKET PROREADER RF	PRF3494	12110-100	Under contract	1	Under contract
12 MONTHS	POCKET PROREADER SYSTEM	SPP0113	12123-000	Under contract	1	Under contract

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

DATE: November 18, 2024
FROM: Jose Mendez, Director of Information Technology
ITEM: **Consider approval of a three-year renewal agreement with Centre Technologies for network equipment, software, support, and maintenance for $107,332.83**

BACKGROUND: The Town of Flower Mound has invested in maintaining and modernizing its network infrastructure to ensure reliable and secure connectivity across all facilities. Last year, the Town replaced its primary and secondary firewalls, core network switches, and sixty-one switches across thirteen Town facilities. These upgrades were essential to support the growing technological needs of the Town's operations and safeguard against cybersecurity threats.
To continue protecting this critical infrastructure, access to software updates, security patches, and technical support provided by the manufacturer must be maintained. A three-year renewal agreement will ensure uninterrupted support for the Town's network equipment, enabling the Town to sustain high levels of network performance, security, and reliability.

This renewal agreement aligns with the Town's commitment to proactive infrastructure management and the long-term protection of our assets. Approval of this agreement will secure the necessary resources to support the Town's technology infrastructure for the next three years.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES: N/A

FISCAL IMPACT: $35,777.61 per year, $107,332.83 over the 3-year renewal.

Proposed Expenditure/(Revenue)	**Account Number(s):**
$107,332.83	100-655-59100-5130

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

ATTACHMENTS:
1. Fortinet 3 Year Quote

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

BUSINESS TECHNOLOGY SOLUTIONS FOR:

Town of Flower Mound - Fortinet (3 Year Term - Annual Payments)

Quote # 066406
Version 2

PREPARED FOR:

Town of Flower Mound

Jose Mendez
jose.mendez@flower-mound.com

100 N. Central Expressway
Suite 200
Richardson, TX 75080
www.centretechnologies.com
(214) 550-3574

Town of Flower Mound - Fortinet (3 Year Term - Annual Payments)

Prepared by:

Centre Technologies - Dallas

Bryan Bender
on behalf of Rick Essex
(214) 550-3574
bbender@centretechnologies.com

Prepared for:

Town of Flower Mound
Jose Mendez
Ship To:
2121 Cross Timbers Road
Flower Mound, TX 75028
(972) 874-6051
jose.mendez@flower-mound.com

Quote Information:

Quote #: 066406

Version: 2
Delivery Date: 10/17/2024
Expiration Date: 11/30/2024

Town of Flower Mound - Fortinet (3 Year Term - Annual Payments)

DIR-TSO-4288

Fortinet Terms / Payment Schedule

Description	Qty

Town of Flower Mound, TX agrees that this is an Extended Payment Plan for **3** years. The Assets listed on this quote were significantly discounted on their behalf for purchasing it upfront. They are priced and provided as a single asset fully delivered upon acceptance. **Town of Flower Mound, TX** deems this a valid and beneficial contract, and they acknowledge that they have the essential need for the assets for the full term.

In the event of a Termination for Convenience, the termination must be in whole and not in part, and **Town of Flower Mound, TX** agrees to pay to Contractor the amount due for the Assets already accepted under the Purchase Order which shall be equal to the balance of the remaining unpaid payments to include all remaining years in the Term plus any outstanding amounts due as of the termination date.

Customer shall not suspend, replace, or otherwise substitute the use of these assets during the term of the agreement.

These terms will take precedence over any conflicting terms with respect to the payments noted below:

- Payment 1: **$35,777.61** due Net **30** of purchase order date
- Payment 2: **$35,777.61** due 1 year after original purchase order date per net terms
- Payment 3: **$35,777.61** due 2 years after original purchase order date per net terms

***The payments mentioned above do not include shipping and taxes (if applicable). Taxes will be calculated at the time of invoicing while shipping will be billed as invoiced from vendor/carrier.

Please be aware of all terms listed in this agreement. By referencing the Centre Technologies Quote #66406 on your order, **Town of Flower Mound, TX** incorporates, confirms and agrees to the above terms and conditions herein.

PO must be a fully funded PO and the Centre quote # must be referenced on the PO.

Includes:

100 N. Central Expressway
Suite 200
Richardson, TX 75080
www.centretechnologies.com
(214) 550-3574

Fortinet Terms / Payment Schedule

Description	Qty

Serial Number	Earliest Start Date	Support Description
S448ENTF23006028	2025-01-30	24x7 Email,24x7 Comprehensive Support,Advance HW,Firmware & General Updates
S448ENTF23005582	2025-01-30	24x7 Email,24x7 Comprehensive Support,Advance HW,Firmware & General Updates
S448EFTF23020793	2025-01-30	24x7 Email,24x7 Comprehensive Support,Advance HW,Firmware & General Updates
S448EFTF23020700	2025-01-30	24x7 Email,24x7 Comprehensive Support,Advance HW,Firmware & General Updates
S424ENTF23000603	2025-01-30	24x7 Email,24x7 Comprehensive Support,Advance HW,Firmware & General Updates
S424ENTF22002498	2025-01-30	24x7 Email,24x7 Comprehensive Support,Advance HW,Firmware & General Updates
S424EFTF23008209	2025-01-30	24x7 Email,24x7 Comprehensive Support,Advance HW,Firmware & General Updates
S424EFTF23008080	2025-01-30	24x7 Email,24x7 Comprehensive Support,Advance HW,Firmware & General Updates
S124FFTF24015404	2024-08-02	24x7 Email,24x7 Comprehensive Support,Advance HW,Firmware & General Updates
S124FFTF24015238	2024-08-02	24x7 Email,24x7 Comprehensive Support,Advance HW,Firmware & General Updates
S108FFTV23010458	2025-01-30	24x7 Email,24x7 Comprehensive Support,Advance HW,Firmware & General Updates
S108FFTV23010313	2025-01-30	24x7 Email,24x7 Comprehensive Support,Advance HW,Firmware & General Updates
FS1E48T423003002	2025-01-30	24x7 Email,24x7 Comprehensive Support,Advance HW,Firmware & General Updates

100 N. Central Expressway
Suite 200
Richardson, TX 75080
www.centretechnologies.com
(214) 550-3574

Fortinet Terms / Payment Schedule

Description			Qty
FS1E48T423001011	2025-01-30	24x7 Email,24x7 Comprehensive Support,Advance HW,Firmware & General Updates	
FS1E24TF23004282	2025-01-30	24x7 Email,24x7 Comprehensive Support,Advance HW,Firmware & General Updates	
FS1E24TF23004281	2025-01-30	24x7 Email,24x7 Comprehensive Support,Advance HW,Firmware & General Updates	
FGT91GTK23002069	2025-07-29	UTM Protection (24x7 FortiCare plus Application Control, IPS, AV, Web Filtering and Antispam Services)AV,FortiGuard IPS Service,FortiGuard URL, DNS & Video Filtering Service,AS,24x7 Email,24x7 Comprehensive Support,Advance HW,Firmware & General Updates	
FGT60FTK22049288	2024-11-30	UTM Protection (24x7 FortiCare plus Application Control, IPS, AV, Web Filtering and Antispam Services)AV,FortiGuard IPS Service,FortiGuard URL, DNS & Video Filtering Service,AS,24x7 Email,24x7 Comprehensive Support,Advance HW,Firmware & General Updates	
FGT60FTK22043295	2024-11-30	UTM Protection (24x7 FortiCare plus Application Control, IPS, AV, Web Filtering and Antispam Services)AV,FortiGuard IPS Service,FortiGuard URL, DNS & Video Filtering Service,AS,24x7 Email,24x7 Comprehensive Support,Advance HW,Firmware & General Updates	
FG6H0ETB22900057	2024-11-30	24x7 Email,24x7 Comprehensive Support,Advance HW,Firmware & General Updates	
FG6H0ETB21908580	2024-11-30	24x7 Email,24x7 Comprehensive Support,Advance HW,Firmware & General Updates	
FG4H0FT923906535	2025-02-23	UTM Protection (24x7 FortiCare plus Application Control, IPS, AV, Web Filtering and Antispam Services)AV,FortiGuard IPS Service,FortiGuard URL, DNS & Video Filtering Service,AS,24x7 Email,24x7 Comprehensive Support,Advance HW,Firmware & General Updates	
FG4H0FT923906521	2025-02-23	UTM Protection (24x7 FortiCare plus Application Control, IPS, AV, Web Filtering and Antispam Services)AV,FortiGuard IPS Service,FortiGuard URL, DNS & Video Filtering Service,AS,24x7 Email,24x7 Comprehensive Support,Advance HW,Firmware & General Updates	
FG200FT922910447	2024-11-30	UTM Protection (24x7 FortiCare plus Application Control, IPS, AV, Web Filtering and Antispam Services)AV,FortiGuard IPS Service,FortiGuard URL, DNS & Video Filtering Service,AS,24x7 Email,24x7 Comprehensive Support,Advance HW,Firmware & General Updates	
FCTEMS8824008731	2024-08-02	24x7 FC support ZTNA	
FCTBPS0000001806	2024-08-02	Forticare Best Practice Service	
FAZVMSTM24000428	2025-01-23	FortiGuard Indicators of Compromise (IOC) Service,VM license,24x7 Email,24x7 Comprehensive Support,FortiAnalyzer Security Automation with Unrestricted Playbook Usage,FAZ Outbreak Alert Service,Firmware & General Updates	

Annual Billing - Year 1

Description	Qty	Price	Ext. Price
Fortinet Support - 27 Total Devices (see screenshot above)	1	$35,777.61	$35,777.61
		Subtotal:	**$35,777.61**

100 N. Central Expressway
Suite 200
Richardson, TX 75080
www.centretechnologies.com
(214) 550-3574

Centre TECHNOLOGIES

Annual Billing - Year 2

Description	Qty	Price	Ext. Price
Fortinet Support - 27 Total Devices (see screenshot above)	1	$35,777.61	$35,777.61
		Subtotal:	**$35,777.61**

Annual Billing - Year 3

Description	Qty	Price	Ext. Price
Fortinet Support - 27 Total Devices (see screenshot above)	1	$35,777.61	$35,777.61
		Subtotal:	**$35,777.61**

Quote Summary

Description	Amount
Annual Billing - Year 1	$35,777.61
Annual Billing - Year 2	$35,777.61
Annual Billing - Year 3	$35,777.61
Total:	**$107,332.83**

This Quote is between Centre Technologies, Inc. a Texas corporation (sometimes referred to as “we,” “us,” “our,” OR “Provider”), and the Customer found on the applicable Quote (sometimes referred to as “you,” “your,” OR “Customer”). Collectively, these two entities are “the Parties”. The Quote, together with the MSA, relevant Service Attachments, and the Addendum to Agreement between Town of Flower Mound and Centre Technologies, Inc. (the “Addendum”), forms the Agreement between the Parties. This Quote is effective as of the date the Parties sign below, (“Services Start Date”). If there is a conflict between this Quote, the Master Services Agreement, the Product Terms and Conditions, and any Service Attachment, amendment, or schedule, this Quote will control for the items in this Quote only. If there is a conflict between the Addendum and this Quote, the Master Service Agreement, the Product Terms and Conditions, or an Service Attachment, amendment, or schedule, the Addendum will control.

The definitions and the Term are set forth in the MSA. Customer hereby acknowledges that all of the Agreements and Quotes contained herein are subject to the applicable tax (e.g., international, federal, state and local sales tax), shipping, handling and other associated fees. The Uniform Commercial Code, as adopted by the Texas Business and Commerce Code, shall apply where appropriate. Provider reserves the right to cancel or amend orders arising from pricing or other errors contained in the attached Quote and will notify the Customer.

This Order and its accompanying Agreements supersede all prior negotiations, discussions, proposals, communications, or previous Orders or Agreements between the parties.

By signing below, the Parties acknowledge, represent, and warrant that they have read and agree to the terms and conditions of the Agreement, including all related agreements, schedules, Service Attachments, and/or amendments identified at the end of this Quote. The Party hereby represents that the electronic signature to this Quote shall be relied upon and serves to bind them/it to the obligations stated herein. Each Party hereby warrants and represents that he/she/it has the express authority to execute this Agreement(s).

100 N. Central Expressway
Suite 200
Richardson, TX 75080
www.centretechnologies.com
(214) 550-3574

E-Signature Confirmation for Town of Flower Mound

Signature: _____

Name: _____

Title: _____

Date: _____

16801 Greenspoint Park Drive
Suite 200
Houston, TX 77060
centretechnologies.com
(281) 506-2480

Agreements Overview

I. TERMS AND CONDITIONS

a. Centre Technologies' Product Terms and Conditions
https://centretechnologies.com/hubfs/Agreements/PTC-Centre_Technologies-v2.3-090121.pdf

b. Third Party Terms and Conditions
For Third-Party Manufacturers, additional terms and conditions may apply.

II. AGREEMENTS

a. Mutual Non-Disclosure Agreement (MNDA)
https://centretechnologies.com/hubfs/Agreements/MNDA-Centre_Technologies-v1.7-090221.pdf

b. Master Services Agreement (MSA)
https://centretechnologies.com/hubfs/Agreements/MSA-Centre_Technologies-v1.3-CT0412023.pdf

c. Acceptable Use Policy (AUP) for All Services
https://centretechnologies.com/hubfs/Agreements/AUP-Centre_Technologies-v1.2-083121.pdf

d. Service Level Objectives (SLO) for All Services
https://centretechnologies.com/hubfs/Agreements/SLO-Centre_Technologies-v1.4-CT041223.pdf

e. Microsoft Cloud Volume Licensing Agreement
https://centretechnologies.com/hubfs/Agreements/Microsoft_Cloud_Agreement-2019_oct.pdf

f. Microsoft SPLA End User License Terms
https://centretechnologies.com/hubfs/Agreements/MS_SPLA_End_User-Centre_Technologies-v1.2-081820.pdf

g. Service Attachment (SA) for Secure Managed Services
https://centretechnologies.com/hubfs/Agreements/SA-Secure_Managed_Services-Centre_Technologies-v1.9-092021.pdf

h. Service Attachment (SA) for Secure Managed Services Express
https://centretechnologies.com/hubfs/Agreements/SA-SMSE-Managed_Services_Express-Centre_Technologies-v1.0-01312023.pdf

i. Service Attachment (SA) for Cloud Services
https://centretechnologies.com/hubfs/Agreements/SA-Cloud_Services-Centre_Technologies-v1.3-06162023CT.pdf

j. Service Attachment (SA) for Endpoint Detection and Response Services
https://centretechnologies.com/hubfs/Agreements/SA-Endpoint_Detection_and_Response_Services-Centre_Technologies-v1.2-083121.pdf

k. Service Attachment (SA) for Network Detection and Response Services
https://centretechnologies.com/hubfs/Agreements/SA-Network_Detection_and_Response_Services-Centre_Technologies-v1.2-083121.pdf

l. Service Attachment (SA) for Cloud Detection and Response Services
https://centretechnologies.com/hubfs/Agreements/SA-Cloud_Detection_and_Response_Services-Centre_Technologies-v1.3-083121.pdf

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

DATE: November 18, 2024
FROM: Lynda Bolitho, Director of HR
ITEM: **Consider approval of an ordinance adopting benefit plan design changes to plan provisions for the Town of Flower Mound in the Texas Municipal Retirement System as allowed by the Texas Municipal Retirement System Act.**

BACKGROUND: The Town has been a member of TMRS since 1973, a statewide retirement system providing benefits for municipal employees. Each individual municipality that is a member of TMRS selects their retirement plan from a limited range of options including employee contributions, employer contribution match, vesting and retirement eligibility criterion, updated service credits and annuity increases. The Town's current plan provisions include a 7% employee contribution rate, 2:1 employer match, 5 year vesting, retirement eligibility at age 60 with 5 years of service or 20 years of service at any age, and updated service credits.

Prior to 2008, the Town of Flower Mound did have a cost of living adjustment (COLA) at 70%, but with a large-scale change in actuarial methods, the Town chose to discontinue the COLA. Reinstating a retroactive COLA represents a substantive increase in benefits for both current and past Town employees. One of the largest concerns of those who retire is that inflation goes up, but their retirement annuity payments do not increase. This change will address that need. The past few years have brought rampant inflation, and our retirees have felt it most of all. We are one of two communities out of our comparator cities that do not have a COLA. The COLA can be either 0%, 30%, 50%, or 70%. We are proposing a 30% retroactive COLA.

BOARD REVIEW/CITIZEN FEEDBACK:

ALTERNATIVES: The Town Council may approve, deny, or postpone approval of the attached Ordinance.

FISCAL IMPACT: $1,741,860

Proposed Expenditure/(Revenue)	**Account Number(s):**
$1,741,860	XXX-XXX-XXXXX-1170

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

ATTACHMENTS:
1. A-1 Flower Mound TMRS Ordinance 30% COLA

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

TOWN OF FLOWER MOUND, TEXAS
ORDINANCE NO. _____

AN ORDINANCE REGARDING THE TOWN OF FLOWER MOUND'S TEXAS MUNICIPAL RETIREMENT SYSTEM BENEFITS AUTHORIZING: (1) ANNUALLY ACCRUING UPDATED SERVICE CREDITS AND TRANSFER UPDATED SERVICE CREDITS; (2) ANNUALLY ACCRUING ANNUITY INCREASES, ALSO REFERRED TO AS COST OF LIVING ADJUSTMENTS (COLAS) FOR RETIREES AND THEIR BENEFICIARIES; AND (3) ACTUARIALLY DETERMINED CITY CONTRIBUTION RATE PAYMENTS.

WHEREAS, the Town of Flower Mound, Texas (the "Town"), elected to participate in the Texas Municipal Retirement System (the "System" or "TMRS") pursuant to Subtitle G of Title 8, Texas Government Code, as amended (which subtitle is referred to as the "TMRS Act"); and,

WHEREAS, each person who is or becomes an employee of the Town on or after the effective date of the Town's participation in the System in a position that normally requires services of 1,000 hours or more per year ("Employee") shall be a member of the System ("Member") as a condition of their employment; and,

WHEREAS, the Town Council finds that it is in the public interest to: (1) in accordance with TMRS Act §853.404 and §854.203(h), reauthorize annually accruing Updated Service Credits and transfer Updated Service Credits, (2) in accordance with TMRS Act §854.203 and §853.404, authorize annually accruing annuity increases, also referred to as cost of living adjustments ("COLAs") for retirees and their beneficiaries, and (3) authorize actuarially determined city contribution rate payments.

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

SECTION 1

Authorization of Annually Accruing Updated Service Credits and Transfer Updated Service Credits.

(a) As authorized by TMRS Act §854.203(h) and §853.404, and on the terms and conditions set out in TMRS Act §§853.401 through 853.404, the Town authorizes each Member who on the first day of January of the calendar year immediately preceding the January 1 on which the Updated Service Credits will take effect (i) has current service credit or prior service credit in the System by reason of service to the Town, (ii) has at least 36 months of credited service with the System, and (iii) is a TMRS-contributing Employee of the Town, to receive "Updated Service Credit," as that term is defined and calculated in accordance with TMRS Act §853.402.

(b) The Town authorizes and provides that each Employee of the Town who (i) is eligible for Updated Service Credits under Subsection (a) above, and (ii) who has unforfeited prior service credit and/or current service credit with another System-participating municipality or municipalities by reason of previous employment, shall be credited with Updated Service Credits pursuant to, calculated in accordance with, and subject to adjustment as set forth in TMRS Act §853.601 (also known as "Transfer USC"), both as to the initial grant and all future grants under this Ordinance.

(c) The Updated Service Credit authorized and provided under this Ordinance shall be **100%** of the "base Updated Service Credit" of the TMRS Member calculated as provided in TMRS Act §853.402.

(d) Each Updated Service Credit authorized and provided by this Ordinance shall replace any Updated Service Credit, prior service credit, special prior service credit, or antecedent service credit previously authorized for part of the same service.

(e) The initial Updated Service Credit authorized by this Section shall be effective on January 1 immediately following the year in which this Ordinance is approved, subject to receipt by the System prior to such January 1 and approval by the Board of Trustees ("Board") of the System. Pursuant to TMRS Act §853.404, the authorization and grant of Updated Service Credits in this Section shall be effective on January 1 of each subsequent year, using the same percentage of the "base Updated Service Credit" stated in Subsection (c) in computing Updated Service Credits for each future year, provided that, as to such subsequent year, the actuary for the System has made the determination set forth in TMRS Act §853.404(d), until this Ordinance ceases to be in effect as provided in TMRS Act §853.404(e).

SECTION 2

Authorization of Annual Increases in Retirement Annuities, or COLAs.

(a) On the terms and conditions set out in TMRS Act §854.203 and §853.404, the City authorizes and provides for payment of the increases described by this Section to the annuities paid to retired Town Employees and beneficiaries of deceased Town retirees (such increases also called COLAs). An annuity increased under this Section replaces any annuity or increased annuity previously granted to the same person.

(b) The amount of the annuity increase under this Section is computed as the sum of the prior service and current service annuities on the effective date of retirement of the person on whose service the annuities are based, multiplied by **30%** of the percentage change in Consumer Price Index for All Urban Consumers, from December of the year immediately preceding the effective date of the person's retirement to the December that is 13 months before the effective date of the increase under this Section.

(c) An increase in an annuity that was reduced because of an option selection is reducible in the same proportion and in the same manner that the original annuity was reduced.

(d) If a computation under this Section does not result in an increase in the amount of an annuity, the amount of the annuity will not be changed under this Section.

(e) The amount by which an increase under this Section exceeds all previously granted increases to an annuitant is an obligation of the Town and of its account in the benefit accumulation fund of the System (the "Town's BAF").

(f) The initial increase in annuities authorized by this Section shall be effective on January 1 immediately following the year in which this Ordinance is approved, subject to receipt by the System prior to such January 1 and approval by the System's Board. Pursuant to TMRS Act §853.404, an increase in retirement annuities shall be made on January 1 of each subsequent year, provided that, as to such subsequent year, the actuary for the System has made the determination set forth in TMRS Act §853.404(d), until this Ordinance ceases to be in effect as provided in TMRS Act §853.404(e).

SECTION 3

Removal of Maximum Contribution Rate Limit.

(a) Pursuant to TMRS Act §855.407, the Town elects to make normal service and prior service contributions to the Town's BAF at the combined rate of the total compensation paid to its Employees who are System Members as the System's actuary annually determines is necessary to fund all obligations chargeable to the Town's BAF, within the amortization period determined as applicable to the Town under the TMRS Act and regardless of other TMRS Act provisions limiting the combined rate of Town contributions.

(b) The removal of the maximum contribution rate limit under this Section shall be effective on the first day of the month of January, 2025.

DULY PASSED, APPROVED, AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, BY A VOTE OF __ TO __ ON THIS 18th DAY OF NOVEMBER, 2024.

APPROVED:

_____

Cheryl Moore, MAYOR

ATTEST:

_____
Theresa Scott, TOWN SECRETARY

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

DATE: November 18, 2024

FROM: Travis Cunniff, Assistant Director of Parks and Recreation, Jaime Jaco-Cooper, Senior Center Manager

ITEM: **Consider approval of the naming request for the library at the Flower Mound Senior Center as the Mary Kay Walker Library. (The Parks Board recommended approval by a vote of 6 to 0 at the November 7, 2024 meeting.)**

BACKGROUND: The naming or renaming of Town parks, trails, greenbelts and facilities is the responsibility of the Parks Board with final approval from Town Council. This also includes the naming of parts of a recreation facility such as gardens, playgrounds, athletic fields, structures, swimming pools and meeting rooms. A specific request has been made by the Seniors In Motion Auxiliary (SIMA) to name the Library at the Flower Mound Senior Center after longtime resident and volunteer Mary Kay Walker. This request is also supported and recommended by the Seniors in Motion Advisory Board (SIM Board).

Mary Kay Walker was a very active volunteer whose positive impact can be seen throughout the community and especially at the Flower Mound Senior Center. She was an original founder of SIMA and served as president from 2009 to 2023, where she was the architect of numerous fundraisers resulting in raising over $100,000 dollars for seniors in the community. Further, her community service record was far-reaching, including but not limited to the following: Town of Flower Mound Parks Board, Town of Flower Mound Transportation Commission, All Together Flower Mound, Texas Health Presbyterian Hospital Volunteer Coordinator, Meadows Cross Timbers HOA Treasurer, Youth & Family Counseling Board Member, Retired Seniors Volunteer Program Board Member, Texas Agrilife Extension Volunteer and President of Magic Group at First Baptist Church of Lewisville. Due to her record of service, she was recognized for the difference she made with the Texas Recreation and Park Society North Region Advocate of the Year (2014), Corporation for National Community Service President's Lifetime Achievement Award (2016) and Town of Flower Mound Outstanding Citizen of the Year (2023).

At the October 3, 2024, regular meeting, the Chair of the Parks Board appointed a committee that was tasked with reviewing the request and making a recommendation to the full board to consider. The committee consisted of board members Chris Chastain, Holly Royer and Doug Graves. The committee met with staff virtually through a Microsoft Teams call on October 29, 2024, to review the request.

Utilizing information provided by staff as well as SIMA and the SIM Board, the committee recommended that the Parks Board consider naming the library at the Flower Mound Senior Center the Mary Kay Walker Library. At the November 7, 2024, Parks Board Meeting, the recommendation to send this item to the Town Council for consideration passed by a vote of 6 to 0.

BOARD REVIEW/CITIZEN FEEDBACK: The Parks Board recommended approval by a unanimous vote of 6 to 0 at its November 7, 2024, regular meeting.

ALTERNATIVES: N/A

FISCAL IMPACT: N/A
N/A

LEGAL REVIEW: N/A

ATTACHMENTS:
None

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

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

DATE: November 18, 2024
FROM: Codie Freeman, Planner
ITEM: **Public Hearing to consider an ordinance granting Specific Use Permit No. 492 (SUP24-0003 – Lakeside Kiddie Academy) to permit a day care center use. The property is generally located east of International Parkway and south of Lakeside Parkway. (PZ recommended approval by a vote of 6 to 0 at its November 11, 2024, meeting.)**

BACKGROUND: SUMMARY DATA:

- Lot Size – Approximately 1.56 acres
- Zoning – Planned Development District No. 31 with Campus Commercial uses
- Proposed use – Day care center
- Building Size – Approximately 10,765 square feet of the proposed 15,151 square-foot single-story building will be occupied by the proposed day care center
- SMARTGrowth – Passed
- Traffic Analysis – Passed. Per the request of the Town's traffic engineer, the applicant also provided a parking study to confirm adequate parking on site during peak pick-up and drop-off times.
- Incentives – None requested
- Planning and Zoning Commission Staff Report Link

BOARD REVIEW/CITIZEN FEEDBACK: The Planning & Zoning Commission recommended approval by a vote of 6 to 0 at its November 11, 2024, meeting.

ALTERNATIVES: N/A

FISCAL IMPACT: N/A

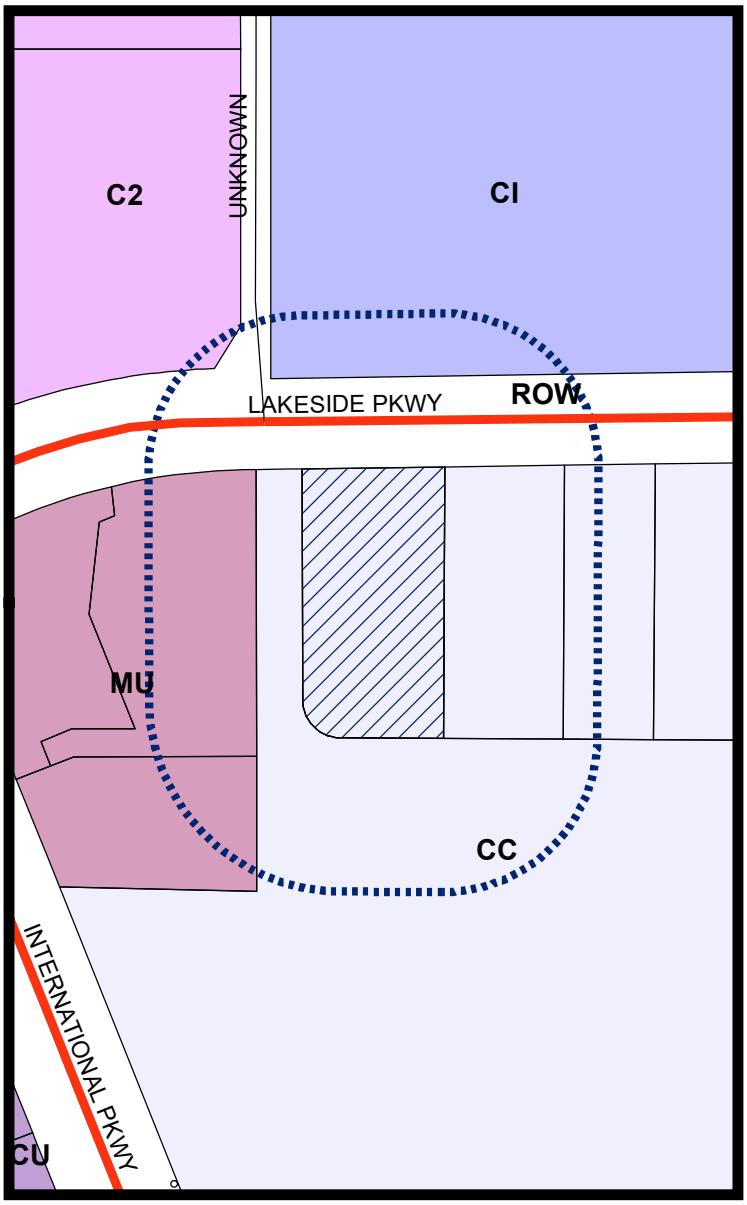
LEGAL REVIEW: Alicia Kreh, of Taylor, Olson, Adkins, Sralla, & Elam L.L.P., has reviewed the ordinance as to form and legality.

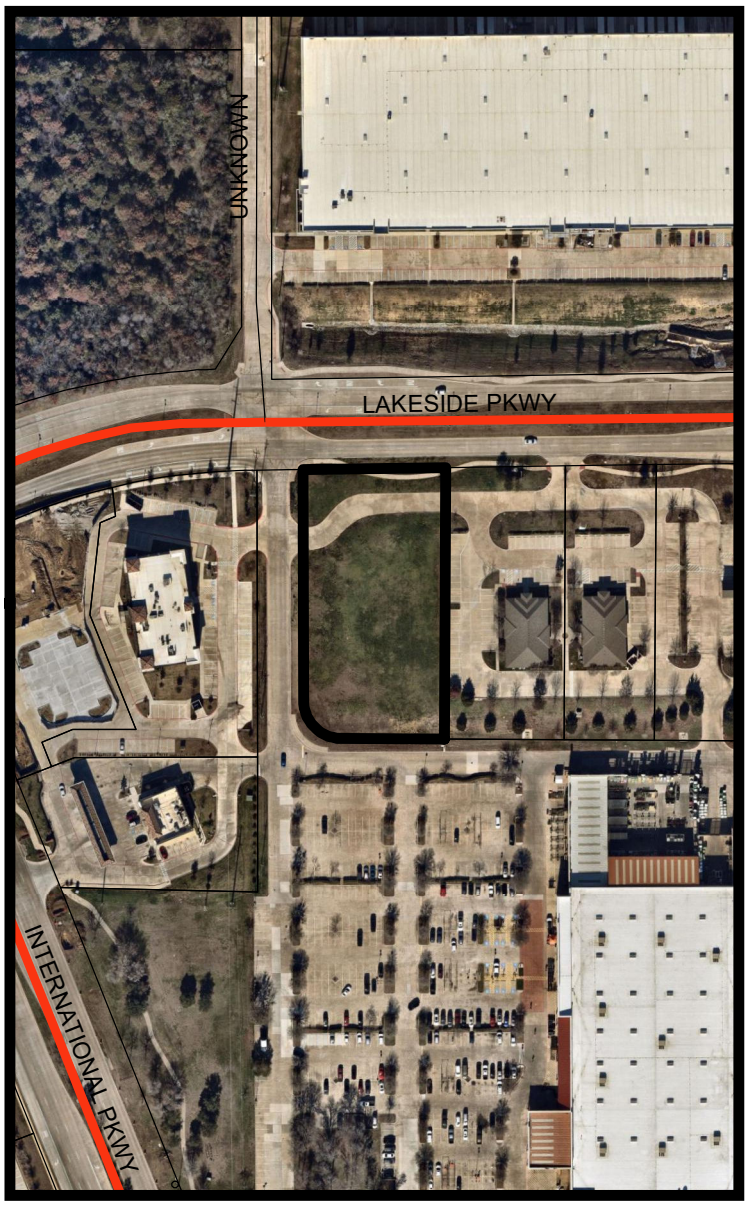
ATTACHMENTS:
1. Zoning & Aerial Map
2. DRAFT Ordinance
3. DRAFT Exhibits

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

Vicinity Map

SUP24-0003: Lakeside Kiddie Academy



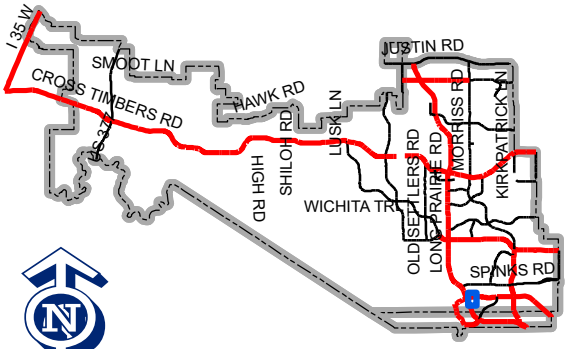


LEGEND

- Campus Commercial
- Campus Industrial
- Commercial 2
- Mixed Use

Subject Property

200 ft Notification Buffer around Property



Map Location

0 187.5 375 750 Feet

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

Visit https://www.flowermound.gov/notifyme to sign up for text message and/or email alerts for future projects.

TOWN OF FLOWER MOUND, TEXAS
ORDINANCE NO._____

AN ORDINANCE OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING THE OFFICIAL ZONING MAP, EXHIBIT "A," OF SUBPART B, "LAND DEVELOPMENT REGULATIONS," OF THE CODE OF ORDINANCES, TOWN OF FLOWER MOUND, TEXAS, BY APPROVING SPECIFIC USE PERMIT NO. 492 (SUP-492) FOR A DAY CARE CENTER USE ON CERTAIN PROPERTY DESCRIBED AS 1.56 ACRES OF LAND AND BEING ALL OF LOT 1R, BLOCK A OF THE HOME DEPOT - SILVERON ADDITION, DENTON COUNTY, TEXAS, AND ZONED PLANNED DEVELOPMENT DISTRICT NO. 31 (PD-31) WITH CAMPUS COMMERCIAL (CC) DISTRICT USES; PROVIDING THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.

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

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

WHEREAS, in accordance with Chapter 78 of the Land Development Regulations, the owner of the property described as 1.56 acres of land and being all of Lot 1R, Block A of the Home Depot - Silveron Addition, Denton County, Texas (the "Property"), has filed an application for a Specific Use Permit to allow a day care center use; and,

WHEREAS, the Town Council previously approved PD-31 for the Property, with CC Campus Commercial District uses; and,

WHEREAS, PD-31 permits day care center uses within the planned development only upon Town Council's approval of a specific use permit; and,

WHEREAS, the Planning and Zoning Commission of the Town, held a public hearing on November 11, 2024, and the Town Council of the Town held a public hearing on November 18, 2024, with respect to the Specific Use Permit described herein; and,

WHEREAS, the Town has complied with all requirements of Chapter 211 of the Local Government Code, Chapter 78 of the Land Development Regulations, and all other laws dealing with notice, publication, and procedural requirements for the approval of a Specific Use Permit on the Property described herein; and,

WHEREAS, the Town Council finds that the Specific Use Permit should be granted as outlined herein as it is in the best interest of the Town and will promote the health, safety, and general welfare of the citizens of the Town and the general public;

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

SECTION 1

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

1.56 acres of land, being all of Lot 1R, Block A of the Home Depot - Silveron Addition, Denton County, Texas, and zoned Planned Development District No. 31 (PD-31) with CC Campus Commercial District Uses.

The Property shall remain in the Planned Development District No. 31 (PD-31) zoning district and Specific Use Permit No. 492 (SUP-492) is hereby approved to allow a day care center use as more fully described in the exhibits attached hereto and incorporated herein, subject to the following conditions:

1. Queuing for pick-up and drop-off shall not be permitted. All pick-up and drop-off traffic is required to utilize parking spaces.

SECTION 2

The Zoning Exhibit, Conceptual Site Plan, Conceptual Landscape Plan, and Conceptual Elevations of the proposed day care center use, attached hereto as Exhibits “A,” “B,” “C”, and “D” and incorporated herein for all purposes allowed by law, are hereby approved as the Zoning Exhibit, Conceptual Site Plan, Conceptual Landscape Plan, and Conceptual Elevations for Specific Use Permit No. 492 (SUP-492).

SECTION 3

The official Zoning Map of the Town is amended and the Director of Development Services is directed to revise the official Zoning Map to reflect the approved Specific Use Permit No. 492 (SUP-492), as set forth above.

SECTION 4

The use of the Property described above shall be subject to the terms and conditions contained herein, all applicable regulations contained in the Land Development Regulations, including the regulations contained in Planned Development District-31 (PD-31), and all other applicable and pertinent ordinances of the Town.

SECTION 5

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

SECTION 6

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

SECTION 7

Any person, firm, or corporation who violates any provision of this Ordinance as adopted by the Town Council of the Town shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine as provided in Section 1-13 of the Code of Ordinances, Town of Flower Mound, Texas. Each day any such violation or violations exist shall constitute a separate offense and shall be punishable as such.

SECTION 8

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

SECTION 9

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

DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, BY A VOTE OF ___ TO ___, ON THIS THE 18TH DAY OF NOVEMBER, 2024.

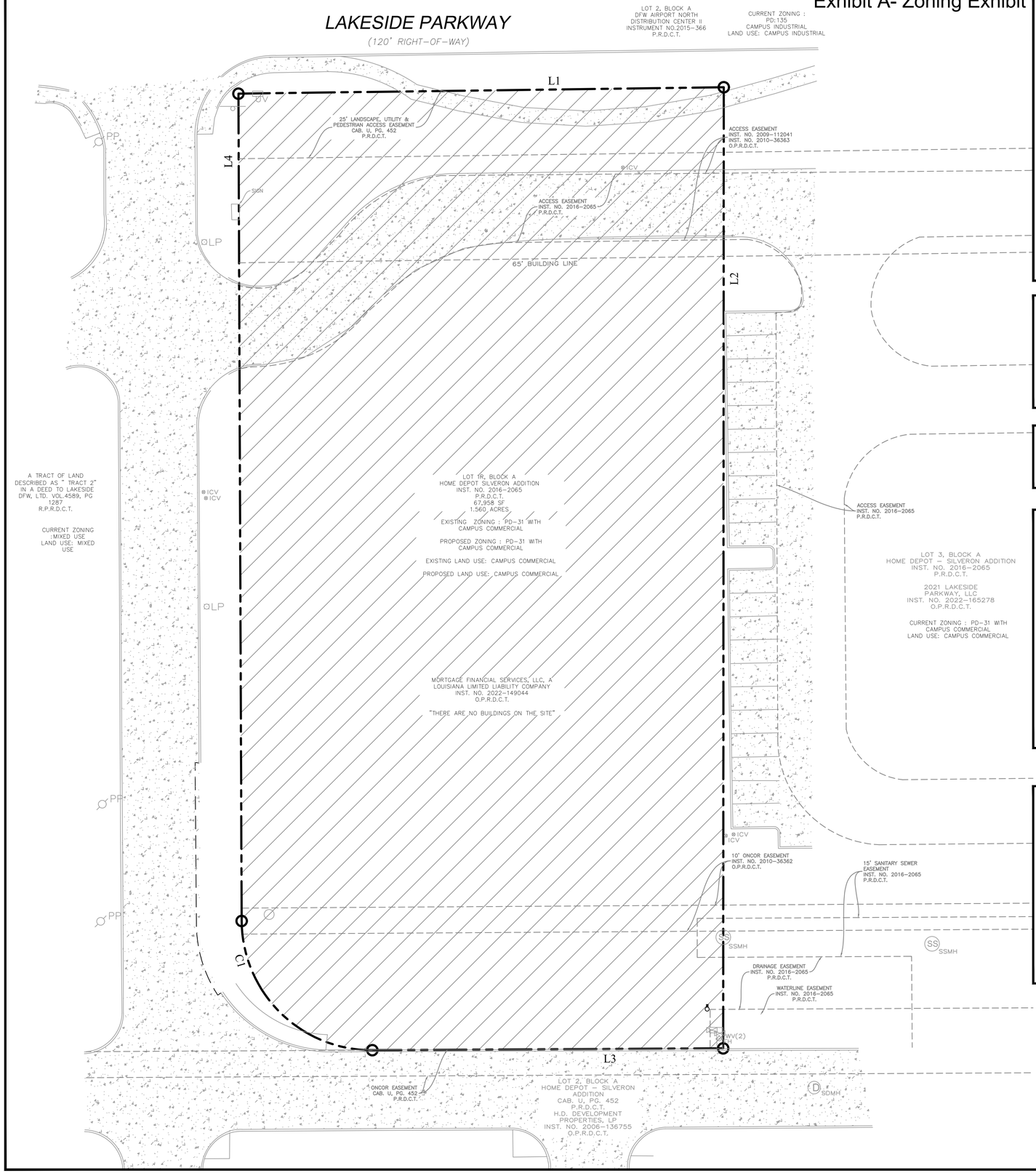
APPROVED:

_____
Cheryl Moore, MAYOR

ATTEST:

_____
Theresa Scott, TOWN SECRETARY

Exhibit A- Zoning Exhibit



EXISTING LEGEND

1/2" IR FOUND	IRRIGATION VALVE	NO PARKING
1/2" IR SET	WATER VALVE	CONCRETE
5/8" IR FOUND	FIRE HYDRANT	GRAVEL
3/8" IR FOUND	IR. VALVE	BRICK
60-D NAIL FOUND	UTILITY POLE	STONE
PK NAIL SET	WATER METER	WOOD DECK
1/2" IP FOUND	GAS METER	BUILDING WALL
X-FOUND	A.C. PAD	TILE
X-SET	TRANS. BOX	BUILDING LINE
1" IR FOUND	GAS MARKER	EASEMENT
1" IP FOUND	OVERHEAD UTILITY LINE	BOUNDARY
POINT FOR CORNER	GUY WIRE ANCHOR	HIGHBANK LINE
CON. MONUMENT	BARBED WIRE FENCE	PARKING STRIPE
3/4" IP FOUND	IRON FENCE	HANDICAP SPACE
TELE. BOX	CHAINLINK FENCE	
CABLE BOX	WOOD FENCE	
ELECTRIC BOX	PIPE RAIL FENCE	
BRICK COLUMN	COVERED AREA	
STONE COLUMN	ASPHALT	
STORM DRAIN MH.	FIRE LANE STRIPE	
SAN. SEW. CO.	BRICK RET. WALL	
BOLLARD POST	STONE RET. WALL	
LIGHT POLE	CON. RET. WALL	
SAN. SEW. MH.		

BOUNDARY LINE DATA

LINE NO.	BEARING	DISTANCE
L1	N 89°14'29" E	186.60'
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BOUNDARY CURVE DATA

CURVE NO.	RADIUS	LENGTH	DELTA	CHORD BEARING	CHORD DISTANCE
C1	50.00'	78.45'	89°54'06"	N 45°19'32" W	70.65'

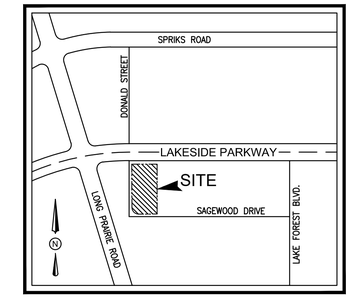
MASTER PLAN 2001 FEATURES

LAND USE PLAN	CAMPUS COMMERCIAL
AREA PLAN	LAKESIDE BUSINESS DISTRICT
PARKS & TRAILS	NOT APPLICABLE
OPEN SPACE PLAN	NOT APPLICABLE
THOROUGHFARE PLAN	LAKESIDE PARKWAY-MAJOR ARTERIAL
WATER PLAN	LAKESIDE BUSINESS DISTRICT-EXISTING 16 INCH WATER LINE
WASTE WATER PLAN	LAKESIDE BUSINESS DISTRICT-EXISTING 8 INCH SEWER LINE
URBAN DESIGN PLAN	SITE ELEVATION WILL BE IN COMPLIANCE WITH THE PD-31 STANDARDS AND MASTER URBAN DESIGN PLAN.PLEASE REFER TO MATERIAL TABLE ON SHEETS FP-1 & FP-2, FP-4 & FP-5. • MORE THAN 80% MASONRY FINISH IS PROVIDED ON ALL FOUR SIDES. • EVERY FACADE HAS LESS THAN 50% FENESTRATIONS/GLASS. • NO FACADE EXTENDS FOR MORE THAN 80' WITHOUT PROVIDING REQUIRED ARTICULATION OF MINIMUM 2'-0".

ZONING : PD-31 WITH CAMPUS COMMERCIAL USE

MIN. LOT AREA	NO MIN. LOT AREA
MIN. LOT WIDTH	NO MIN. LOT WIDTH
MIN. FLOOR AREA / UNIT	NO MIN. FLOOR AREA
MIN. FRONT YARD	THE MIN. FRONT YARD IS 65 FEET
MIN. SIDE YARD	NO MIN. SIDE YARD
MIN. REAR YARD	MIN. REAR YARD IS 15 FEET
MAX. LOT COVERAGE	MAX. BUILDING LOT COVERAGE IS 50 PERCENT.
MAX. FLOOR AREA RATIO	MAX. FLOOR AREA RATIO IS 1:1
MAX. HEIGHT	MAX.HEIGHT OF BUILDING AND STRUCTURES IS BE TEN STORIES ABOVE GRADE OR 120 FEET FOR ALL USES.

0 20 40
Scale: 1" = 20' Feet



VICINITY MAP
N.T.S.

PROJECT CONTACT LIST

ENGINEER TRIANGLE ENGINEERING LLC 1782 McDERMOTT DR. ALLEN, TX. 75013 KARTAVYA PATEL 214-609-9271	OWNER/DEVELOPER SKS GROWTH PARTNERS 2209 LORING DRIVE, ALLEN, TX 75013 SHAI PATEL 214-684-5111
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811 Know what's **below.** **Call** before you dig.

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STATE OF TEXAS
KARTAVYA S. PATEL
97534
LICENSED PROFESSIONAL ENGINEER
10/28/2024

ZONING EXHIBIT

KIDDIE ACADEMY

2031 LAKESIDE PARKWAY

TOWN OF FLOWER MOUND

DENTON COUNTY, TX 75028

LOT 1R, BLOCK A, HOME DEPOT- SILVERON ADDITION

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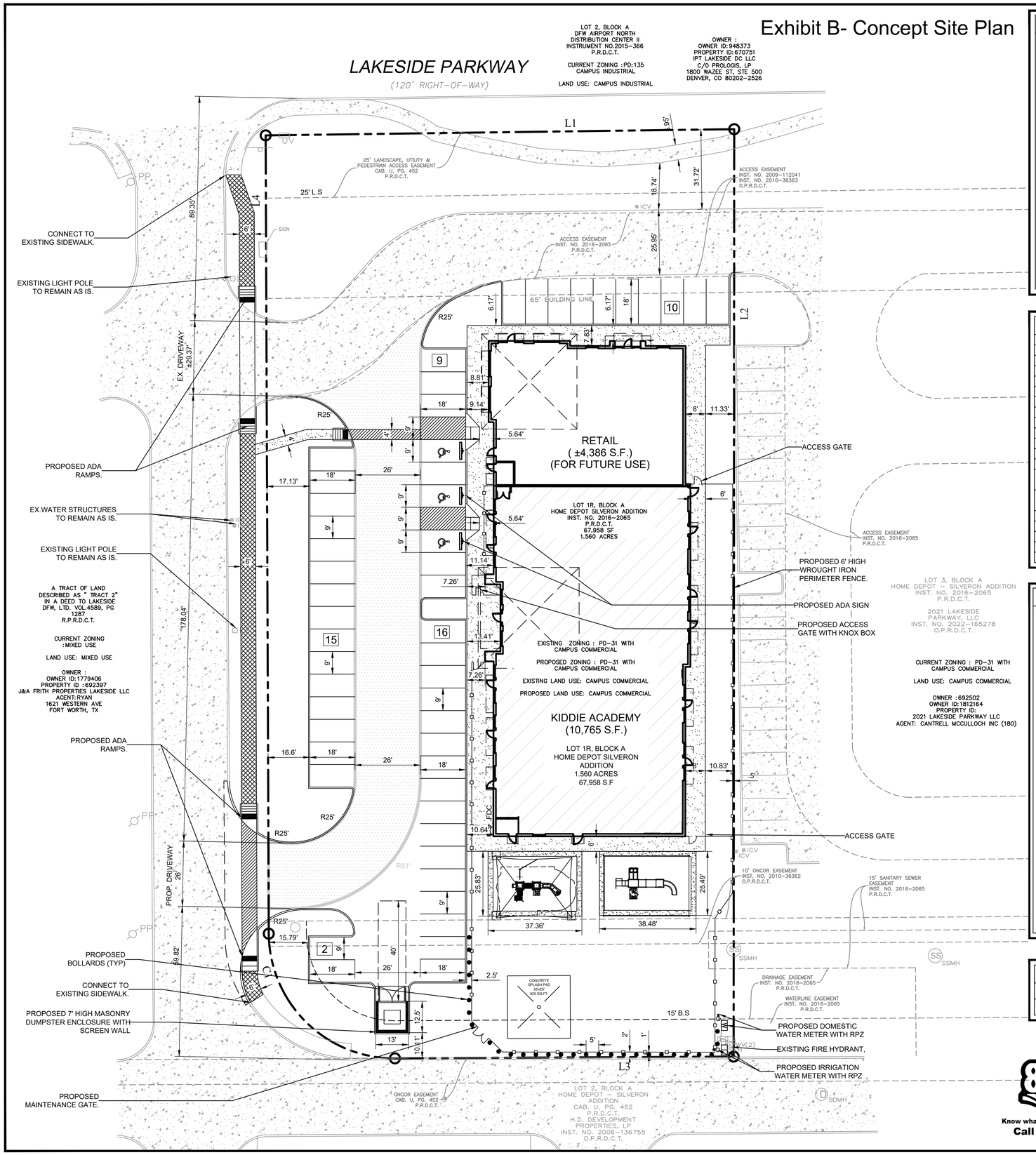
Planning | Civil Engineering | Construction Management

P.E.	DES.	DATE	SCALE	PROJECT NO.	SHEET NO.
KP	AP	06-26-24	SEE SCALE BAR	088-24	ZE

TX. P.E. FIRM #11525

Exhibit B- Concept Site Plan



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BOLLARD POST	STONE RET. WALL	
LIGHT POLE	CON. RET. WALL	
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SITE DATA SUMMARY TABLE

SITE ACREAGE:	1.560 ACRES (67,958 S.F.)
ZONING:	PD-31 WITH CAMPUS COMMERCIAL
PROPOSED USE:	DAY CARE
TOTAL BUILDING AREA:	15,151 S.F.
DAY CARE BUILDING AREA:	10,765 SF
RETAIL BUILDING AREA	4,386 SF
NUMBER OF STORIES:	1
BUILDING MEAN HEIGHT:	31'-8"
BUILDING PEAK HEIGHT:	37'-11"
BUILDING COVERAGE:	22.29 %
FLOOR AREA RATIO:	0.22
IMPERVIOUS AREA:	46,069 S.F. (68.11%)
PERVIOUS/LANDSCAPE AREA:	21,579 S.F. (31.89%)
REGULAR PARKING REQUIRED(DAYCARE): 1 SP PER 4 PEOPLE	47 SPACES
REGULAR PARKING REQUIRED (OFFICE): 1 SPACE PER 250 S.F	4,386 S.F 18 SPACE
TOTAL PARKING REQUIRED	65 SPACE (DAYCARE+OFFICE)
REGULAR PARKING PROVIDED:	49 SPACES
HANDICAP PARKING REQUIRED:	3 SPACES (1 VAN ACCESSIBLE)
HANDICAP PARKING PROVIDED:	3 SPACES (1 VAN ACCESSIBLE)
TOTAL PARKING PROVIDED:	52 SPACES

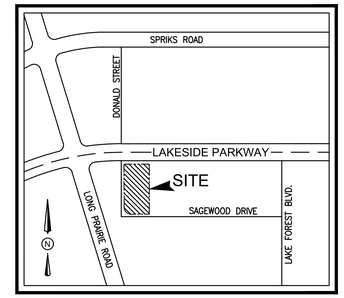
SITE LEGEND

CONCRETE CURB
SAW-CUT LINE
FENCE
FIRE LANE
STRIPING
PUBLIC SIDEWALK
PARKING SPACES
MONUMENT/PYLON SIGN
WHEEL STOPS
HANDICAP LOGO
HANDICAP SIGN
RAMP
BOLLARD
TRAFFIC ARROW
FIRE HYDRANT
DUMPSTER
SANITARY SEWER MANHOLE
SANITARY SEWER CLEANOUT
SANITARY SEWER DOUBLE CLEANOUT
SANITARY SEWER SAMPLE PORT
GREASE TRAP
DOMESTIC WATER METER
IRRIGATION METER
GAS METER

BOUNDARY CURVE DATA

CURVE NO.	RADIUS	LENGTH	DELTA	CHORD BEARING	CHORD DISTANCE
C1	50.00'	78.45'	89°54'06"	N 45°19'32" W	70.65'

Scale: 1" = 20' Feet



VICINITY MAP
N.T.S.

SITE GENERAL NOTES

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3. WHERE EXISTING UTILITIES OR SERVICE LINES ARE CUT, BROKEN OR DAMAGED, THE CONTRACTOR SHALL REPLACE OR REPAIR THE UTILITIES OR SERVICE LINES WITH THE SAME TYPE OF ORIGINAL MATERIAL AND CONSTRUCTION, OR BETTER, UNLESS OTHERWISE SHOWN OR NOTED ON THE PLANS, AT HIS OWN COST AND EXPENSE. THE CONTRACTOR SHALL IMMEDIATELY NOTIFY THE ENGINEER AT ONCE OF ANY CONFLICTS WITH UTILITIES.
4. ALL EXCAVATIONS, TRENCHING AND SHORING OPERATIONS SHALL COMPLY WITH THE REQUIREMENTS OF THE U. S. DEPARTMENT OF LABOR, OSHA, CONSTRUCTION SAFETY AND HEALTH REGULATIONS AND ANY AMENDMENTS THERETO.
5. THE CONTRACTOR SHALL RESTORE ALL AREAS DISTURBED BY CONSTRUCTION TO ORIGINAL CONDITION OR BETTER. RESTORED AREAS INCLUDE, BUT ARE NOT LIMITED TO TRENCH BACKFILL, SIDE SLOPES, FENCES, DRAINAGE DITCHES, DRIVEWAYS, PRIVATE YARDS AND ROADWAYS.
6. ANY CHANGES NEEDED AFTER CONSTRUCTION PLANS HAVE BEEN RELEASED, SHALL BE APPROVED BY THE CITY ENGINEER. THESE CHANGES MUST BE RECEIVED IN WRITING.
7. THE CONTRACTOR SHALL PROVIDE "RED LINED" MARKED PRINTS TO THE ENGINEER PRIOR TO FINAL INSPECTION INDICATING ALL CONSTRUCTION WHICH DEVIATED FROM THE PLANS OR WAS CONSTRUCTED IN ADDITION TO THAT INDICATED ON THE PLANS.
8. ALL CURB RADIUS TO BE 10' OR 2' UNLESS OTHERWISE NOTED ON THE SITE PLAN.

NOTE

1. ALL RETAINING/DETAINING WALLS, TURN-DOWN CURBS, TREE RETAINING WALLS SHALL BE CLAD IN A MATERIAL TO MATCH THE MATERIALS ON THE MAIN BUILDING.
2. OR ALL RETAINING/DETAINING WALLS, TURN-DOWN CURBS, TREE RETAINING WALLS SHALL BE CLAD IN A MATERIAL TO COMPLEMENT THE MATERIALS AND COLORS WITHIN THIS DEVELOPMENT.
3. ALL GROUND BASED HVAC SHALL BE CLAD IN THE SAME MATERIAL AS THE MAIN BUILDING.
4. ALL ROOF MOUNTED MECHANICAL UNITS AND/OR EQUIPMENT SHALL BE SCREENED FROM VIEW.
5. DUMPSTER SCREENING WALL SHALL BE CLAD IN A MATERIAL TO MATCH THE MATERIALS ON THE MAIN BUILDING.
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7. SIGNS REQUIRE A SEPARATE BUILDING PERMIT.ANY SIGNS DEPICTED ON THE SUBJECT SITE PLAN/ELEVATION ARE NOT APPROVED AS A PART OF THIS REVIEW AND MUST COMPLY WITH ALL APPLICABLE TOWN REGULATIONS.
8. FLAG POLES MUST COMPLY WITH THE REGULATIONS IN SECTION 86-4-PROHIBITED SIGNS.
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BOUNDARY LINE DATA

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STATE OF TEXAS
KARTAVYA S. PATEL
97534
LICENSED
PROFESSIONAL ENGINEER
10/28/2024

CONCEPT SITE PLAN

KIDDIE ACADEMY
2031 LAKESIDE PARKWAY
TOWN OF FLOWER MOUND
DENTON COUNTY, TX 75028
LOT 1R, BLOCK A, HOME DEPOT- SILVERON ADDITION

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KP	AP	06-26-24	SEE SCALE BAR	088-24	C-3.0

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BENCHMARKS

THE BENCHAMRKS AND ELEVATIONS SHOWN ARE BASED ON THE NORTH AMERICAN VERTICAL DATUM 1988 (NAVD88) BY USING GPS OBSERVATIONS IN CONJUCTION WITH THE ALLTERRA RTK NETWORK.

TOWN BENCHMARK NO.2=591.60'
TOWN BENCHMARK NO.1=600.65'

BENCHMARK NO.1.
FROM THE NORTHEAST CORNER OF THE HEREIN DESCRIBED TRACT:86.78'
SOUTH THENCE 0.35' EAST.
ELEVATION=607.06'.

BENCHMARK NO.2.
FROM THE NORTHWEST CORNER OF THE HEREIN DESCRIBED TRACT:45.03'
WEST THENCE 303.52' EAST.
ELEVATION=601.61'.

FLOOD PLAIN NOTE

NO PORTION OF THE SUBJECT PROPERTY SHOWN HEREON LIES WIHIN THE 100 YEAR FLOOD HAZARD AREA ACCORDING TO THE FLOOD INSURANCE RATE MAP, COMMUNITY PANEL NO.48121C0685G, DATED APRIL 18,2011.THE SUBJECT PROPERTY IS LOCATED IN THE AREA DESIGNATED AS ZONE "Z", (AREA DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOOD PLAIN)

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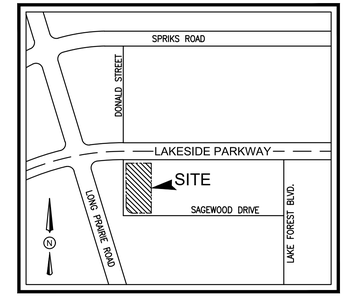
NOTE

TOWN CODE PERMITS UP TO 20% DEVIATION OF PROVIDING LESS PARKING OR MORE PARKING THAN WHAT THE CALCULATED AMOUNT REQUIRED IS FOR PARKING BASED ON USE.

N

0 1 40
Scale: 1" = 20' Feet



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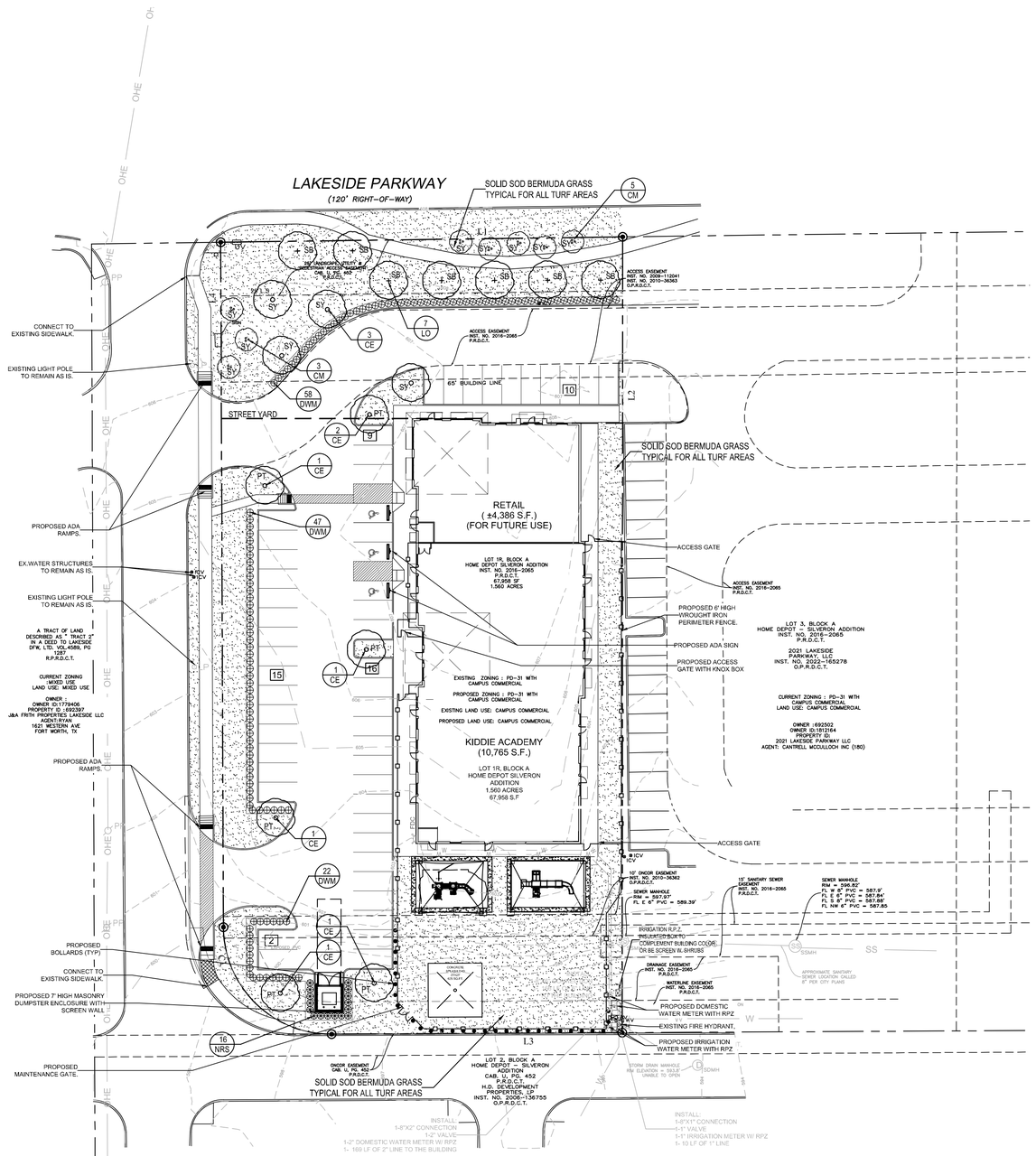
TX. P.E. FIRM #11525

Exhibit C- Concept Landscape Plan



GENERAL LAWN NOTES

1. FINE GRADE AREAS TO ACHIEVE FINAL CONTOURS INDICATED ON CIVIL PLANS.
2. ADJUST CONTOURS TO ACHIEVE POSITIVE DRAINAGE AWAY FROM BUILDINGS. PROVIDE UNIFORM ROUNDING AT TOP AND BOTTOM OF SLOPES AND OTHER BREAKS IN GRADE. CORRECT IRREGULARITIES AND AREAS WHERE WATER MAY STAND.
3. ALL LAWN AREAS TO RECEIVE SOLID SOD SHALL BE LEFT IN A MAXIMUM OF 1" BELOW FINAL FINISH GRADE. CONTRACTOR TO COORDINATE OPERATIONS WITH ON-SITE CONSTRUCTION MANAGER.
4. IMPORTED TOPSOIL SHALL BE NATURAL, FRIABLE SOIL FROM THE REGION, KNOWN AS BOTTOM AND SOIL, FREE FROM LUMPS, CLAY, TOXIC SUBSTANCES, ROOTS, DEBRIS, VEGETATION, STONES, CONTAINING NO SALT AND BLACK TO BROWN IN COLOR.
5. *ALL LAWN AREAS TO BE FINE GRADED, IRRIGATION TRENCHES COMPLETELY SETTLED, AND FINISH GRADE APPROVED BY THE OWNER'S CONSTRUCTION MANAGER OR ARCHITECT PRIOR TO INSTALLATION.*
6. *ALL ROCKS 3/4" DIAMETER AND LARGER, DIRT CLODS, STICKS, CONCRETE SPOILS, ETC. SHALL BE REMOVED PRIOR TO PLACING TOPSOIL AND ANY LAWN INSTALLATION*
7. CONTRACTOR SHALL PROVIDE (1") ONE INCH OF IMPORTED TOPSOIL ON ALL AREAS TO RECEIVE LAWN.

SOLID SOD NOTES

1 FINE GRADE AREAS TO ACHIEVE FINAL CONTOURS INDICATED. LEAVE AREAS TO RECEIVE TOPSOIL 3" BELOW FINAL DESIRED GRADE IN PLANTING AREAS AND 1" BELOW FINAL GRADE IN TURF AREAS.

2. ADJUST CONTOURS TO ACHIEVE POSITIVE DRAINAGE AWAY FROM BUILDINGS. PROVIDE UNIFORM ROUNDING AT TOP AND BOTTOM OF SLOPES AND OTHER BREAKS IN GRADE. CORRECT IRREGULARITIES AND AREAS WHERE WATER MAY STAND.
3. ALL LAWN AREAS TO RECEIVE SOLID SOD SHALL BE LEFT IN A MAXIMUM OF 1" BELOW FINAL FINISH GRADE. CONTRACTOR TO COORDINATE OPERATIONS WITH ON-SITE CONSTRUCTION MANAGER.
4. CONTRACTOR TO COORDINATE WITH ON-SITE CONSTRUCTION MANAGER FOR AVAILABILITY OF EXISTING TOPSOIL.
5. PLANT SOD BY HAND TO COVER INDICATED AREA COMPLETELY. INSURE EDGES OF SOD ARE TOUCHING. TOP DRESS JOINTS BY HAND WITH TOPSOIL TO FILL VOIDS.
6. ROLL GRASS AREAS TO ACHIEVE A SMOOTH, EVEN SURFACE, FREE FROM UNNATURAL UNDULATIONS.
7. WATER SOD THOROUGHLY AS SOD OPERATION PROGRESSES.
8. CONTRACTOR SHALL MAINTAIN ALL LAWN AREAS UNTIL FINAL ACCEPTANCE. THIS SHALL INCLUDE, BUT NOT LIMITED TO: MOWING, WATERING, WEEDING, CULTIVATING, CLEANING AND REPLACING DEAD OR BARE AREAS TO KEEP PLANTS IN A VIGOROUS, HEALTHY CONDITION.
9. CONTRACTOR SHALL GUARANTEE ESTABLISHMENT OF AN ACCEPTABLE TURF AREA AND SHALL PROVIDE REPLACEMENT FROM LOCAL SUPPLY IF NECESSARY.
10. IF INSTALLATION OCCURS BETWEEN SEPTEMBER 1 AND MARCH 1, ALL SOD AREAS TO BE OVER-SEEDED WITH WINTER RYEGRASS, AT A RATE OF (4) POUNDS PER ONE THOUSAND (1000) SQUARE FEET.

LANDSCAPE LEGEND

SB- STREET BUFFER TREES
SY- STREET YARD TREES
PT- PARKING TREES

LANDSCAPE NOTES

1. CONTRACTOR SHALL VERIFY ALL EXISTING AND PROPOSED SITE ELEMENTS AND NOTIFY ARCHITECT OF ANY DISCREPANCIES. SURVEY DATA OF EXISTING CONDITIONS WAS SUPPLIED BY OTHERS.
2. CONTRACTOR SHALL LOCATE ALL EXISTING UNDERGROUND UTILITIES AND NOTIFY ARCHITECT OF ANY CONFLICTS. CONTRACTOR SHALL EXERCISE CAUTION WHEN WORKING IN THE VICINITY OF UNDERGROUND UTILITIES.
3. CONTRACTOR IS RESPONSIBLE FOR OBTAINING ALL REQUIRED LANDSCAPE AND IRRIGATION PERMITS.
4. CONTRACTOR TO PROVIDE A MINIMUM 2% SLOPE AWAY FROM ALL STRUCTURES.
5. ALL PLANTING BEDS AND LAWN AREAS TO BE SEPARATED BY STEEL EDGING. NO STEEL TO BE INSTALLED ADJACENT TO SIDEWALKS OR CURBS.
6. ALL LANDSCAPE AREAS TO BE 100% IRRIGATED WITH AN UNDERGROUND AUTOMATIC IRRIGATION SYSTEM AND SHALL INCLUDE RAIN AND FREEZE SENSORS.
7. ALL LAWN AREAS TO BE SOLID SOD BERMUDAGRASS, UNLESS OTHERWISE NOTED ON THE DRAWINGS.

IRRIGATION NOTE

1. ALL LANDSCAPE TO BE 100% IRRIGATED.

LANDSCAPE TABULATIONS

Street Buffer Landscaping			
Street		**Required Buffer Width**	**Provided Buffer Width**
Lakeshore Pkwy.		25'	25'
Street Buffer Trees			
Standard	**Street Frontage**	**Required**	**Provided**
1 Tree per 30 L.F.	Lakeshore Pkwy. - 187 L.F.	7 Trees (3" cal.)	7 Trees (3" cal.)
Street Yard Trees			
Standard	**Total Street Yard (Square Feet)**	**Required**	**Provided**
10,000 - 110,000 S.F. = 10 +1 tree every 2,500 S.F. After 10,000 S.F.	15,464 S.F.	12 Trees (3" cal.)	12 Trees (3" cal.)
Parking Area Landscaping			
Standard	**No. of Parking Spaces**	**Required**	**Provided**
90 S.F. per 12 Spaces	52 Spaces	390 S.F.	1,516 S.F.
Parking Area Trees			
Standard	**No. of Parking Spaces**	**Required**	**Provided**
1 Tree per 10 Spaces	52 Spaces	5 Trees (3" cal.)	5 Trees (3" cal.)
All parking spaces to be located within 50' of a parking lot tree			
Parking Area Screening			
Standard		**Required**	**Provided**
All head in parking to be screened from street view		Landscape berm or screening shrubs (3' Ht.)	Screening Shrubs (3' Ht.)

PLANT MATERIAL SCHEDULE

SYMBOL	TREES TYPE	QTY	COMMON NAME	BOTANICAL NAME	SIZE	REMARKS
+	LO	7	Southern Live Oak	*Quercus virginiana*	4" cal.	container, 13' ht., 5' spread, 6' clear straight trunk
○	CE	10	Cedar Elm	*Ulmus crassifolia*	4" cal.	container, 13' ht., 5' spread, 6' clear straight trunk
⊛	CM	8	Crepe Myrtle	*Lagerstroemia indica*	3" cal.	B&B, 10' ht., multi-trunk- 3 trunks, 5' spread
SYMBOL	**SHRUBS TYPE**	**QTY**	**COMMON NAME**	***BOTANICAL NAME***	**SIZE**	**REMARKS**
⊕⊕⊕	DWM	127	Dwarf Wax Myrtle	*Myrica cerifera*	10 gal.	container, 36" ht., 32" spread
⊛⊛⊛	NRS	16	Nellie R. Stevens	*Ilex x 'Nellie R. Stevens'*	7 gal.	container, 36" ht., 30" spread
	GROUNDCOVERS TYPE	**QTY**	**COMMON NAME**	***BOTANICAL NAME***	**SIZE**	**REMARKS**
			'419' Bermudagrass	*Cynodon dactylon '419'*	solid sod	refer to solid sod notes

NOTE: Plant list is an aid to bidders only. Contractor shall verify all quantities on plan. All heights and spreads are minimums. All plant material shall meet or exceed remarks as indicated. All trees to have straight trunks and be matching within varieties.

01 CONCEPT LANDSCAPE PLAN

SCALE 1"=30'-0"

0 15 30 60

LANDSCAPE ARCHITECT
STUDIO GREEN SPOT, INC.
1782 W. McDERMOTT DR.
ALLEN, TEXAS 75013
(469) 369-4448
CHRIS@STUDIOGREENSPOT.COM

REGISTERED LANDSCAPE ARCHITECT CHRIS IRONZAMORA 2442 STATE OF TEXAS

10.25.2024

KIDDIE ACADEMY

2031 LAKESHORE PKWY. FLOWER MOUND, TEXAS

ISSUE:
FOR APPROVAL 08.13.2024
CITY COMMENTS 10.02.2024
CITY COMMENTS 10.25.2024

DATE:
10.25.2024

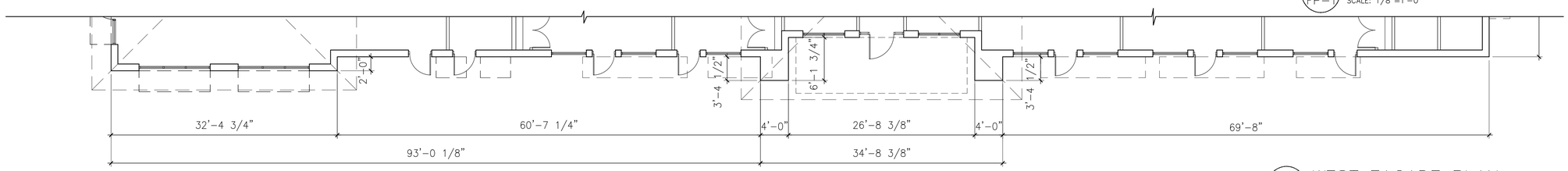
SHEET NAME:
CONCEPT LANDSCAPE PLAN

SHEET NUMBER:

L.1

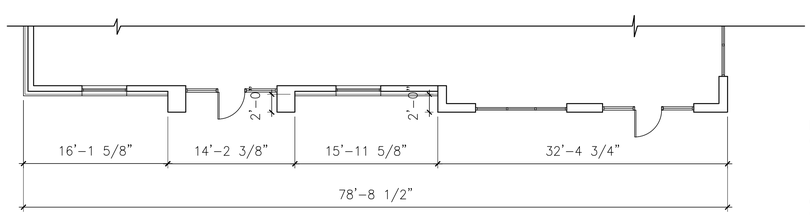
Exhibit D- Concept Elevation Plan

1 FP-1 WEST ELEVATION
SCALE: 1/8"=1'-0"



2 FP-1 WEST FACADE PLAN
SCALE: 1/8"=1'-0"

3 FP-1 NORTH ELEVATION
SCALE: 1/8"=1'-0"



4 FP-1 NORTH FACADE PLAN
SCALE: 1/8"=1'-0"

	NORTH	SOUTH	EAST	WEST
TOTAL FACADE AREA	1890 SF	1722 SF	4395 SF	4705 SF
DOOR/WINDOWS AREA	468 SF (28%)	100 SF (6%)	468 SF (11%)	980 SF (21%)
NET FACADE AREA	1422 SF	1622 SF	3927 SF	3725 SF
PRIMARY MASONRY AREA	1398 SF (98%)	1592 SF (98%)	3830 SF (98%)	3507 SF (98%)
BRICK AREA	445 SF (31%)	1132 SF (70%)	2686 SF (69%)	1672 SF (45%)
STONE AREA	295 SF (21%)	180 SF (11%)	428 SF (11%)	769 SF (21%)
STUCCO AREA	658 SF (46%)	280 SF (17%)	716 SF (18%)	1166 SF (32%)
SECONDARY MATERIALS AREA EIFS	24 SF (02%)	30 SF (02%)	97 SF (02%)	118 SF (02%)

FINISHES:

STUCCO PLASTER
COLOR: SW-7039
VIRTUAL TAUPE

NATURAL STONE
AUSTIN CREAM

ASPHALT ROOF SHINGLES
OWENS CORNING
COLOR: DESERT TAN

BRICK VENEER
-BY ACME BRICK
SIZE: KING SIZE BRICK
COLOR: CLIFF SIDE BRICK

ALUMINUM AWNINGS &
INSULATED MTL DOORS
COLOR: VICTORY AWNING
MEDIUM BRONZE

EIFS TRIM
COLOR: SW-7008
ALABASTER

CAST STONE
COLOR: WHITE

STUCCO PLASTER: COLOR: SW-7039 VIRTUAL TAUPE
CLICK LINK HERE:
https: //www.sherwin-williams.com/en-us/color/color-family/neutral-paint-colors/SW7039-virtual-taupe

EIFS TRIM COLOR: SW-7008 ALABASTER
CLICK LINK HERE:
https: //www.sherwin-williams.com/en-us/color/color-family/neutral-paint-colors/SW7008

NATURAL STONE: AUSTIN CREAM STONE
CLICK LINK BELOW:
https: //www.southwestboulder.com/products/austin-cream-stone-veneer

ASPHALT ROOF SHINGLES BY OWENS CORNING- SUPREME SHINGLES- DESERT TAN
CLICK LINK BELOW:
https: //www.homedepot.com/p/GAF-Timberline-HD-Driftwood-Lifetime-Architectural-Shingles-33-3-sq-ft-per-Bundle-0632258/202725168

BRICK VENEER -BY ACME BRICK, SIZE: KING SIZE BRICK, COLOR: CLIFFSIDE
CLICK LINK BELOW:
https: //brick.com/827448

METAL COLOR: MBCI, MEDIUM BRONZE ALUMINUM AWNINGS & INSULATED MTL DOORS
CLICK LINK BELOW:
https: //www.mbci.com/resources/color-charts/

ELEVATION NOTES	
01	STUCCO PLASTER COLOR-SHERWIN WILLIAMS (SW-7039) VIRTUAL TAUPE
02	BRICK VENEER- BY ACME BRICK SIZE: KING SIZE BRICK COLOR: CLIFF SIDE BRICK
02A	SOLDIER BRICK COURSE- BY ACME BRICK SIZE: KING SIZE BRICK COLOR: CLIFF SIDE BRICK
03	NATURAL STONE VENEER AUSTIN CREAM
04	CAST STONE WATER TABLE/ WINDOW SILL PIECE COLOR: WHITE
05	ALUMINUM STOREFRONT EQUAL TO KAWNEER- TRIFAB-451 W/ 1" INSULATED CLEAR GLASS COLOR-BLACK#29
06	DOUBLE PANE, LOW-E, PRE-FINISHED, VINYL FRAME WINDOWS-BY ELEVATE U-0.35, SHGC-0.23 INSIDE COLOR- WHITE, OUTSIDE COLOR- BLACK
07	INSULATED HOLLOW METAL PAINTED DOOR TO MATCH VICTORY AWNING MEDIUM BRONZE COLOR U-VALUE-0.7
08	INSULATED METAL/GLASS DOOR TO MATCH VICTORY AWNING MEDIUM BRONZE COLOR U-VALUE-0.7
09	OWENS CORNING SUPREME ASPHALT ROOF SHINGLES COLOR: DESERT TAN
10	PRE-FINISHED METAL PARAPET CAP FLASHING COLOR-LOW GLOSS WHITE
11	ALUMINUM AWNING WITH HANG RODS BY VICTORY AWNING COMPANY COLOR: MEDIUM BRONZE
11A	SLOPED ALUMINUM AWNING BY VICTORY AWNING COMPANY COLOR: MEDIUM BRONZE
12	PAINTED EIFS FOAM TRIM COLOR-SW 7008 ALABASTER
12A	PAINTED EIFS FOAM BRACKET COLOR-MATCH VICTORY AWNING MEDIUM BRONZE COLOR

NOTE:
A. BUILDING DESIGN FOLLOWS UNIFIED DESIGN THEME PER CITY AS THERE ARE THREE OR MORE BUILDINGS WITHIN THIS DEVELOPMENT.

B. ANY EXTERNAL ELECTRICAL PANELS WILL BE PAINTED TO MATCH THE ADJACENT MATERIAL AND COLOR OF THE BUILDING.

C. THERE IS NO CANOPY STRUCTURES FOR PLAY GROUND.

KIDDIE ACADEMY (CONCEPT ELEVATION PLAN)
2301 LAKESIDE PARKWAY
LOT 1R, BLOCK A, HOME DEPOT-SILVERON ADDITION, TOWN OF FLOWER MOUND, DENTON COUNTY, TX-75028
DATE OF PREPARATION :08/27/2024

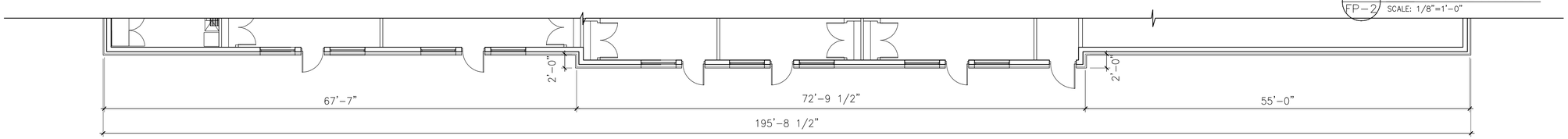
OWNER/DEVELOPER	#	REVISION DATE
SKJ GROWTH PARTNERS CONTACT: SHAI PATEL	1	09/23/2024
	2	11/01/2024
Cell: 214-684-5111 Fax: 1-844-456-0623 Email: shai@ascendgrowth.com		

REGISTERED ARCHITECT RASHMINDER CHANDEL 19047 STATE OF TEXAS 08/27/2024

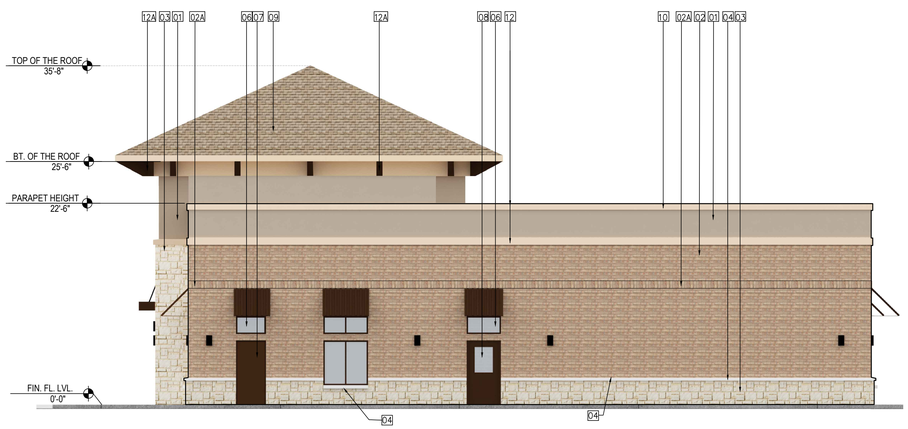
rashmi C Inc.
ARCHITECTURE. PLANNING. INTERIORS
4117 OLD PLEASANT RIDGE RD. ARLINGTON, TX-76016
CONTACT: RASHMINDER CHANDEL
PH. NO. (817) 891-7918 EMAIL: rashmi@rashmic.com

SHEET NO.
FP-1

1 FP-2 EAST ELEVATION
SCALE: 1/8"=1'-0"



2 FP-2 EAST FACADE PLAN
SCALE: 1/8"=1'-0"



3 FP-2 SOUTH ELEVATION
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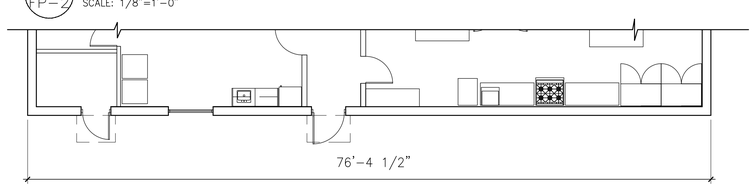

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OWENS CORNING
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-BY ACME BRICK
SIZE: KING SIZE BRICK
COLOR: CLIFF SIDE BRICK

ALUMINUM AWNINGS &
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COLOR: VICTORY AWNING
MEDIUM BRONZE

EIFS TRIM
COLOR: SW-7008
ALABASTER

CAST STONE
COLOR: WHITE

STUCCO PLASTER: COLOR: SW-7039 VIRTUAL TAUPE
CLICK LINK HERE:
https://www.sherwin-williams.com/en-us/color/color-family/neutral-paint-colors/SW7039-virtual-taupe

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C. THERE IS NO CANOPY STRUCTURES FOR PLAY GROUND.

KIDDIE ACADEMY (CONCEPT ELEVATION PLAN)
2301 LAKESIDE PARKWAY

LOT 1R, BLOCK A, HOME DEPOT-SILVERON ADDITION, TOWN OF FLOWER MOUND, DENTON COUNTY, TX-75028

DATE OF PREPARATION :08/27/2024

OWNER/DEVELOPER
SKJ GROWTH PARTNERS
CONTACT: SHAI PATEL

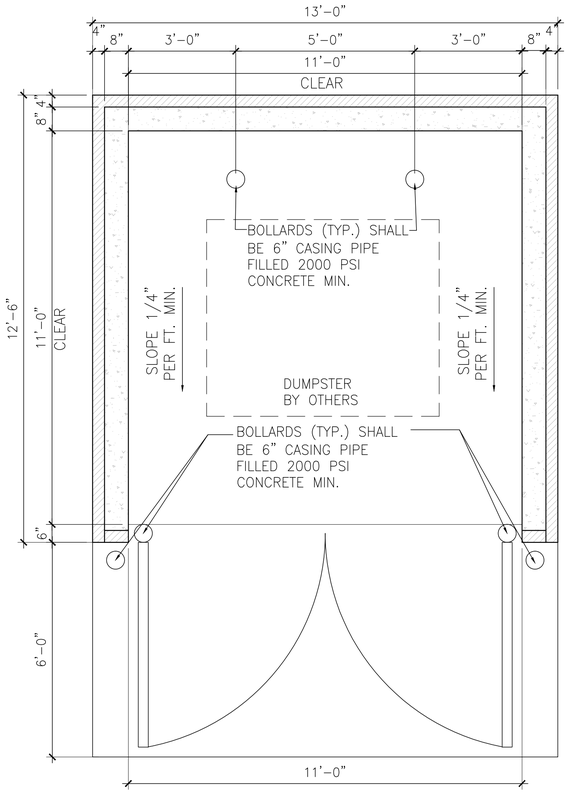
Cell: 214-684-5111
Fax: 1-844-456-0623
Email: shai@ascendgrowth.com

#	REVISION DATE
1	09/23/2024
2	11/01/2024

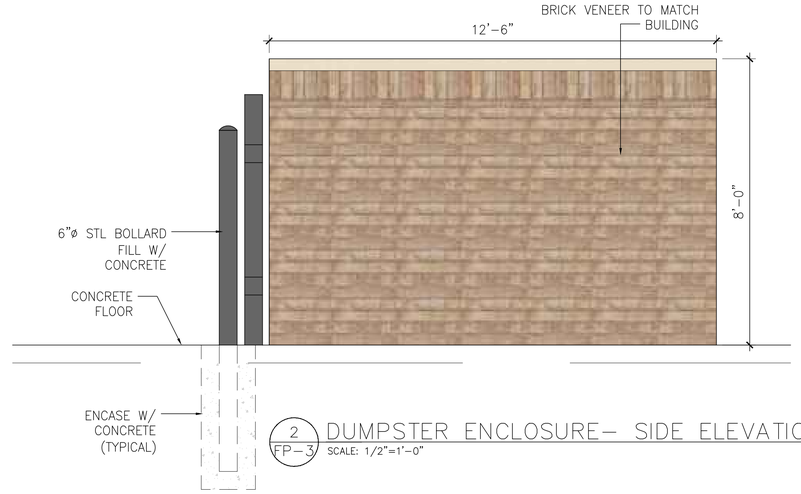
REGISTERED ARCHITECT RASHMINDER CHANDEL 10478 STATE OF TEXAS
08/27/2024

rashmi C Inc.
ARCHITECTURE. PLANNING. INTERIORS
4117 OLD PLEASANT RIDGE RD. ARLINGTON, TX-76016
CONTACT: RASHMINDER CHANDEL
PH. NO. (817) 891-7918 EMAIL: rashmi@rashmic.com

SHEET NO.
FP-2



1 FP-3 DUMPSTER ENCLOSURE- PLAN
SCALE: 1/2"=1'-0"



2 FP-3 DUMPSTER ENCLOSURE- SIDE ELEVATION
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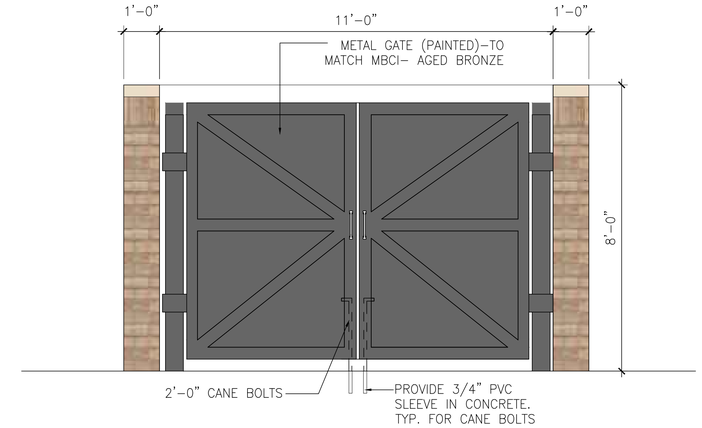

3 FP-3 DUMPSTER ENCLOSURE-FRONT ELEVATION
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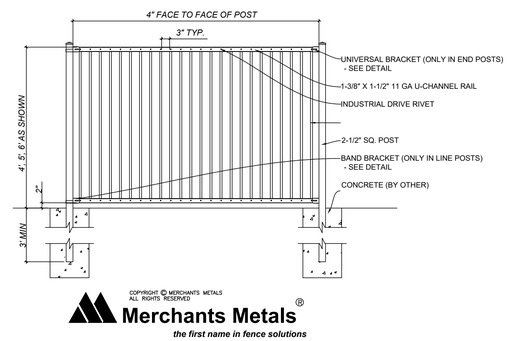

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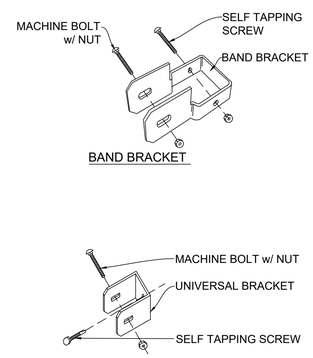
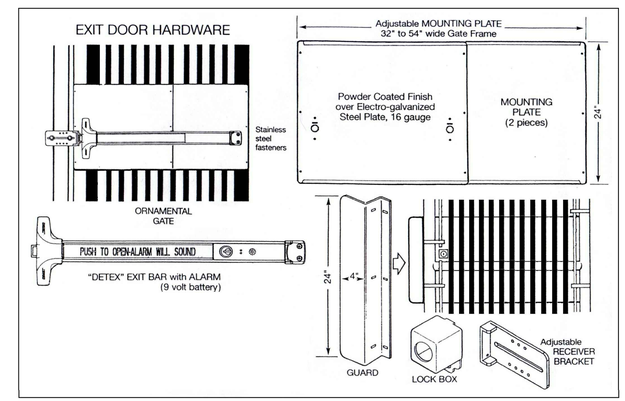
Merchants Metals®
the first name in fence solutions

NOTES:
1. SPECIFICATIONS SHOWN CAN BE CHANGED BY THE MANUFACTURER ONLY.
2. ALL COMPONENTS OF THE PANEL TO BE COATED BLACK.
3. VERIFY POST DEPTH AND FOOTING DIMENSIONS WITH LOCAL CODES AND SITE CONDITIONS.

7 FP-3 TYPICAL FENCE PANEL DETAIL
SCALE: 1/4"=1'-0"

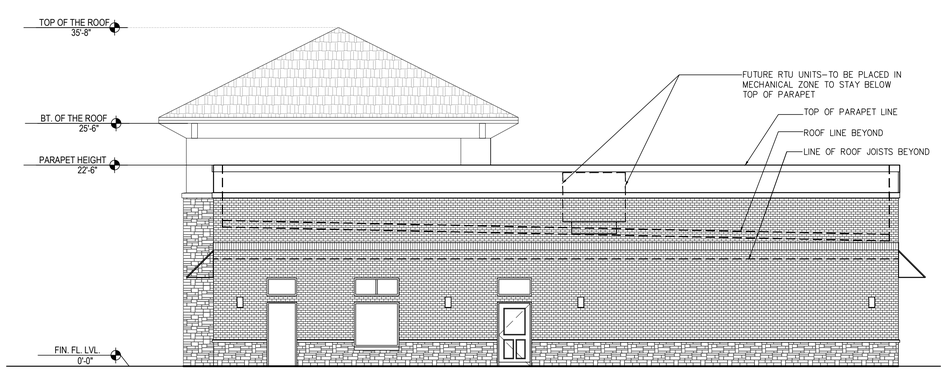


8 FP-3 TYPICAL FENCE BRACKET DETAIL
SCALE: NTS

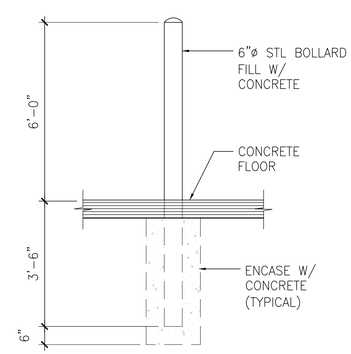


FOR EXTERIOR USE
V4008BN x EB X W (08BN)

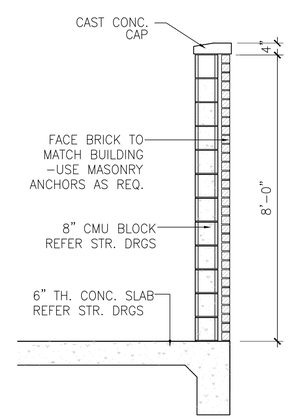
9 FP-3 TYPICAL FENCE GATE EXIT DEVICE
SCALE: NTS



6 FP-3 GRAPHICAL REPRESENTATION FOR FUTURE RTU UNITS SCREENING
SCALE: 1/8"=1'-0"



4 FP-3 BOLLARD DETAIL
SCALE: 1/2"=1'-0"



5 FP-3 DUMPSTER ENCLOSURE- WALL SECTION
SCALE: 1/2"=1'-0"

KIDDIE ACADEMY (CONCEPT ELEVATION PLAN)
2301 LAKESIDE PARKWAY
LOT 1R, BLOCK A, HOME DEPOT-SILVERON ADDITION, TOWN OF FLOWER MOUND, DENTON COUNTY, TX-75028
DATE OF PREPARATION :08/27/2024

OWNER/DEVELOPER	#	REVISION DATE
SKJ GROWTH PARTNERS CONTACT: SHAI PATEL	1	09/23/2024
	2	11/01/2024
Cell: 214-684-5111 Fax: 1-844-456-0623 Email: shai@ascendgrowth.com		

REGISTERED ARCHITECT RASHMINDER CHANDEL 04476 STATE OF TEXAS
09/27/2024

rashmi C Inc.
ARCHITECTURE. PLANNING. INTERIORS
4117 OLD PLEASANT RIDGE RD. ARLINGTON, TX-76016
CONTACT: RASHMINDER CHANDEL
PH. NO. (817) 891-7918 EMAIL: rashmi@rashmic.com

SHEET NO.
FP-3

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

DATE: November 18, 2024
FROM: Codie Freeman, Planner
ITEM: **Public Hearing to consider an ordinance amending the Master Plan (MPA24-0001 – Wager Road Nursing or Congregate Facility) to amend Section 1.0, Land Use Plan, of the Master Plan, to change the current land use designation from Estate Residential uses to Office uses. The property is generally located west of Garden Ridge Boulevard and south of Kirkpatrick Lane. (PZ recommended approval by a vote of 6 to 0 at its November 11, 2024, meeting.)**

BACKGROUND: BACKGROUND:

- Size - Approximately 1.43 acres
- Request – Change land use from Estate Density Residential uses to Office uses.
- SMARTGrowth - Passed
- Traffic Analysis - Passed
- Incentives - None requested
- Planning and Zoning Commission Staff Report Link

BOARD REVIEW/CITIZEN FEEDBACK: The Planning & Zoning Commission recommended approval by a vote of 6 to 0 at its November 11, 2024, meeting.

ALTERNATIVES: N/A

FISCAL IMPACT: N/A

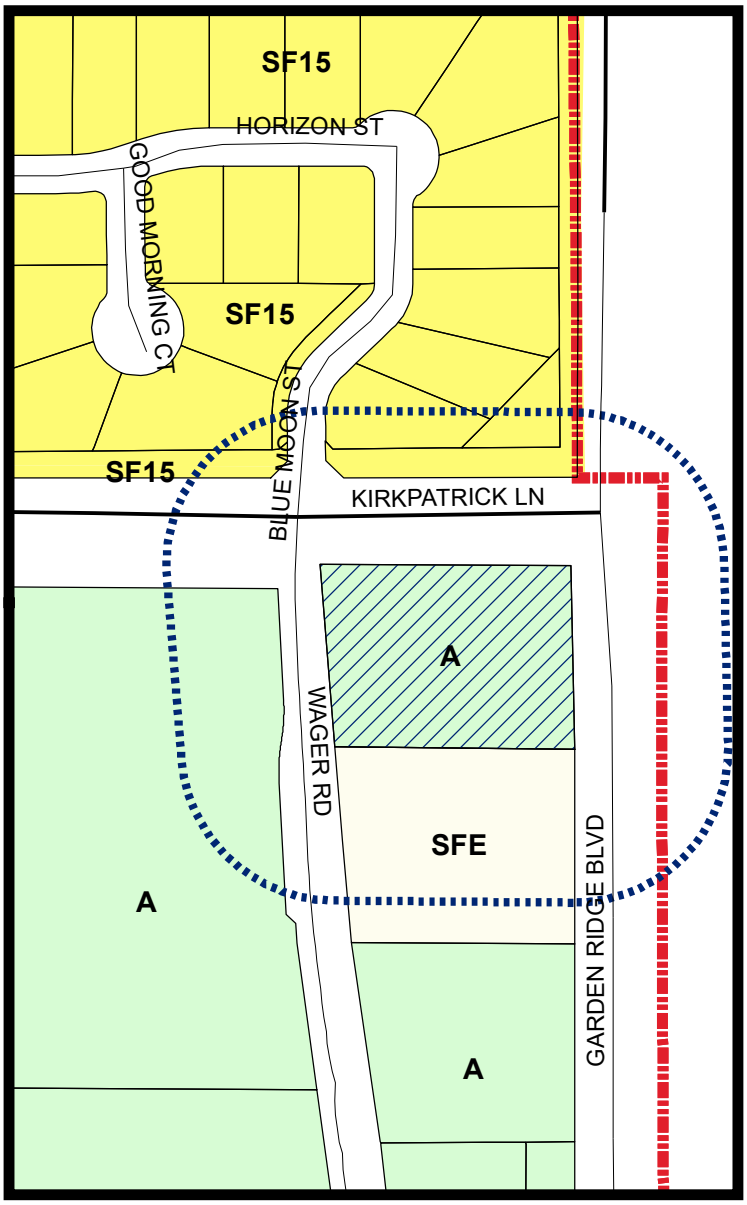
LEGAL REVIEW: Alicia Kreh, of Taylor, Olson, Adkins, Sralla, & Elam L.L.P., has reviewed the ordinance as to form and legality.

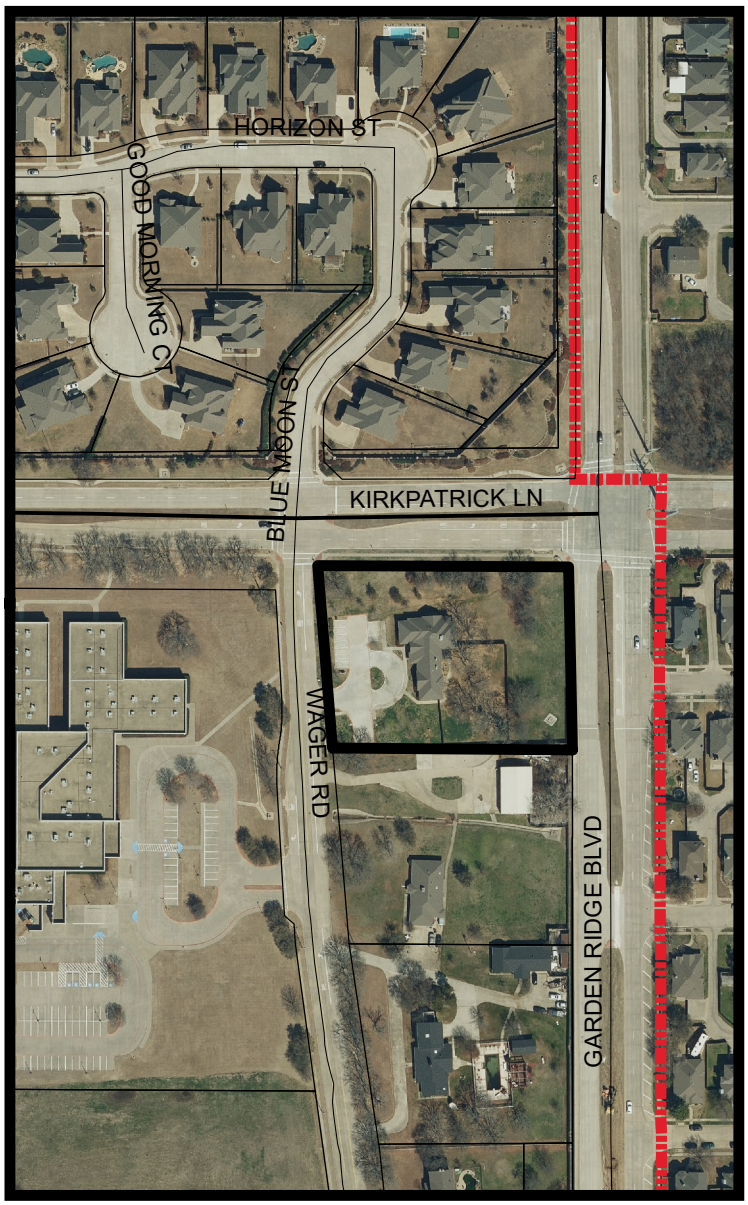
ATTACHMENTS:
1. Zoning & Aerial Map
2. DRAFT Ordinance
3. DRAFT Exhibit

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

Vicinity Map

MPA24-0001 & ZPD23-0011: Wager Road Assisted Living

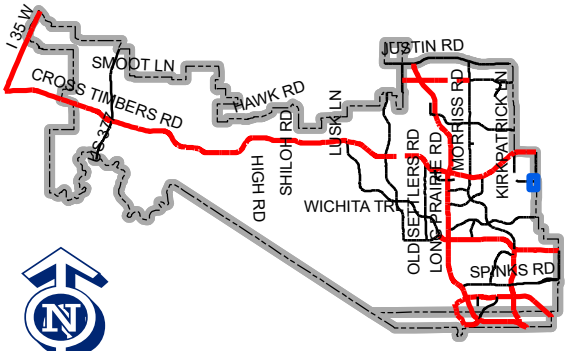




LEGEND

- Agriculture
- Single Family 15
- Single Family Estate

- Subject Property
- 200 ft Notification Buffer around Property



Map Location

0 187.5 375 750 Feet

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

Visit https://www.flowermound.gov/notifyme to sign up for text message and/or email alerts for future projects.

TOWN OF FLOWER MOUND, TEXAS
ORDINANCE NO._____

AN ORDINANCE OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING THE FLOWER MOUND 2001 MASTER PLAN BY AMENDING ORDINANCE NO. 24-01, WHICH ADOPTED THE MASTER PLAN, BY AMENDING SECTION 1.0, "LAND USE PLAN," TO CHANGE THE CURRENT LAND USE DESIGNATION WITHIN AND REFLECTED ON THE LAND USE PLAN MAP FROM ESTATE DENSITY USES TO OFFICE USES ON CERTAIN PROPERTY DESCRIBED AS AN APPROXIMATELY 1.43 ACRE TRACT OF LAND IN THE M.J. OWENS SURVEY, ABSTRACT NO. 981, DENTON COUNTY, TEXAS; PROVIDING THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.

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

WHEREAS, on March 19, 2001, the Town Council of the Town (the "Town Council") adopted the Flower Mound 2001 Master Plan (the "Master Plan"), which consists of nineteen component plans, including the Land Use Plan and Area Plans; and,

WHEREAS, the Master Plan establishes and articulates a community-based vision to preserve the country atmosphere and natural environment that makes the Town a unique and desirable community, mitigates the ill effects of rapid and intense urbanization, creates a balanced tax base to ensure the Town's long-term economic health and prosperity, and ensures all development is of enduring and exemplary quality; and,

WHEREAS, the Area Plan contained in the Master Plan indicates the land use designation for tracts of land within various areas of the Town, and the Land Use Plan Map contained in the Land Use Plan of the Master Plan depicts, by distinct colors, the various land uses in the Town; and,

WHEREAS, in accordance with Chapter 78 of the Land Development Regulations, the owners of the property described as being approximately 1.43 acres of land in the M.J. Owens Survey, Abstract No. 981, Denton County, Texas, as more fully described in the attached Exhibit "A," "Master Plan Exhibit," attached hereto and incorporated herein (the "Property"), have filed an application for a Master Plan Amendment to change the current land use designation from Estate Density Uses to Office Uses; and,

WHEREAS, the Planning and Zoning Commission of the Town held a public hearing on November 11, 2024, and the Town Council of the Town held a public hearing on November 18, 2024, with respect to the proposed rezoning as described

herein; and,

WHEREAS, the Town has complied with all requirements of Chapter 213 of the Local Government Code; Chapter 78 of the Land Development Regulations; and all other laws dealing with notice, publication, and procedural requirements for the approval of a Master Plan Amendment on the Property; and,

WHEREAS, upon due deliberation and consideration of the recommendation of the Planning and Zoning Commission and of all testimony and information submitted during the public hearings, the Town Council has determined that it is in the best interest of the citizens of the Town that the Master Plan be amended to change the Area Plan and Land Use Plan as described herein;

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

SECTION 1

The Master Plan of the Town, as amended, is hereby amended to change the land use designation on the hereinafter described Property and area as shown below:

Approximately 1.43 acres of land in the M.J. Owens Survey, Abstract No. 981, Denton County, Texas, as more fully described in Exhibit "A."

The Land Use Plan Map contained in Section 1.0, "Land Use Plan," of the Master Plan is hereby amended to change the current land use designation from Estate Density Uses to Office Uses on the above-referenced Property, as depicted in Exhibit "A."

SECTION 2

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

SECTION 3

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

SECTION 4

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

SECTION 5

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

DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, BY A VOTE OF ___ TO ___, ON THIS THE 18TH DAY OF NOVEMBER, 2024.

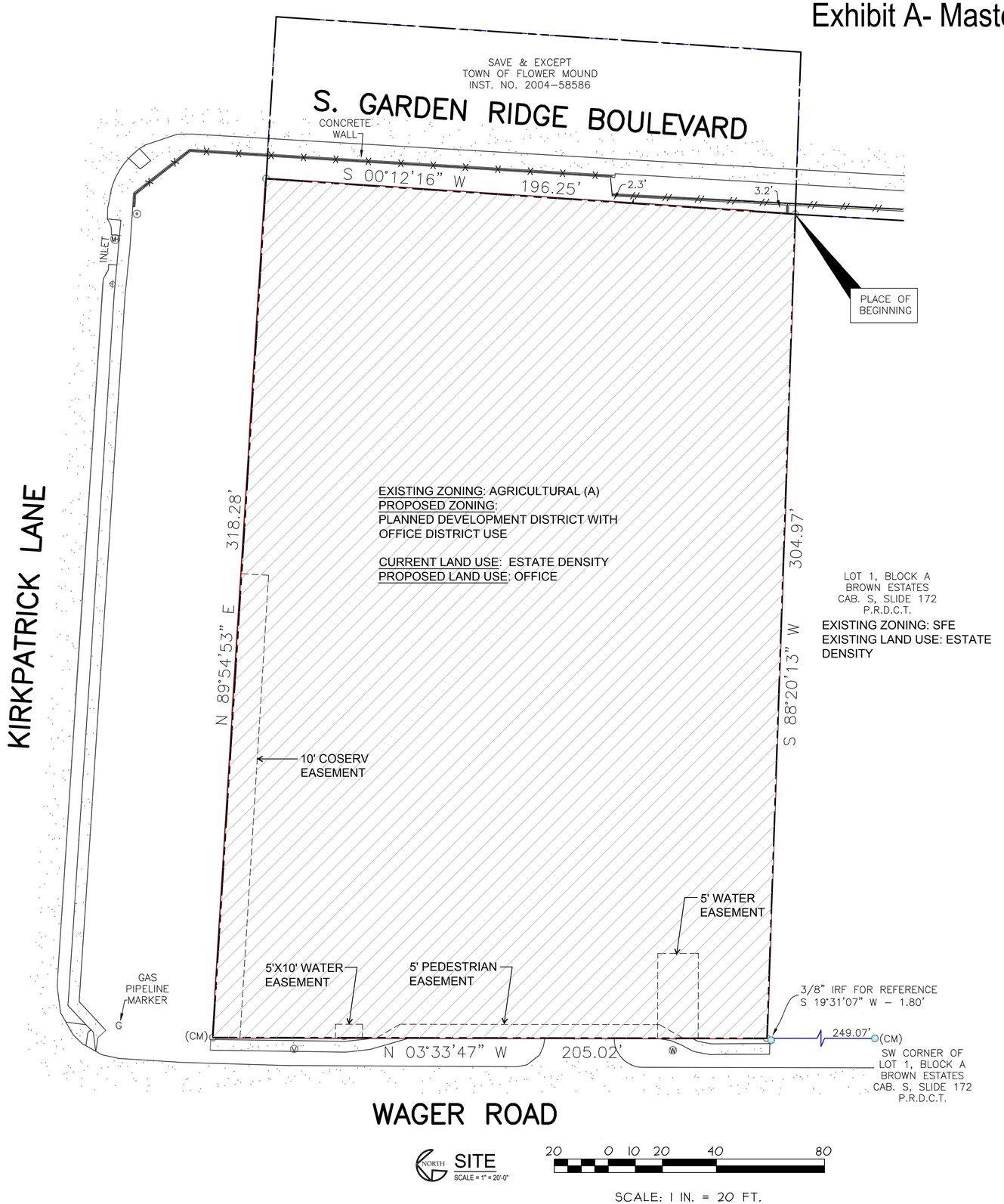
APPROVED:

_____
Cheryl Moore, MAYOR

ATTEST:

_____
Theresa Scott, TOWN SECRETARY

Exhibit A- Master Plan Exhibit



BEING all that certain lot, tract or parcel of land situated in the M.J. Owens Survey, Abstract No. 981, Denton County, Texas, being a tract of land described in deed to George and Elise Bennett Living Trust, recorded under Instrument No. 11219, Deed Records, Denton County, Texas (D.R.D.C.T.), and being more particularly described by the following metes and bounds description:

BEGINNING at a 1/2 inch yellow–capped iron rod set for corner in the West line of S. Garden Ridge Boulevard, at the Northeast corner of Lot 1, Block A, Brown Estates, an Addition to the Town of Flower Mound, Denton County, Texas, according to the Plat thereof recorded in Cabinet S, Slide 172, Plat Records, Denton County, Texas (P.R.D.C.T.), being the Southeast corner of said Bennett tract;

THENCE South 88 deg. 20 min. 13 sec. West, a distance of 304.97 feet to a 1/2 inch iiron rod found for corner in the East line of Wager Road, at the Northwest corner of said Lot 1, from which a 3/8 inch iron rod found for reference bears South 19 deg. 31 min. 07 sec. West, a distance of 1.80 feet;

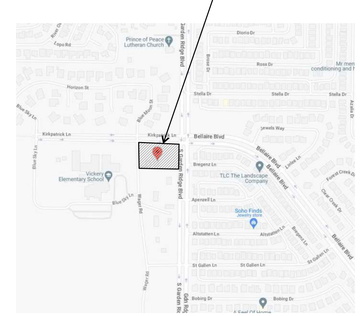
THENCE North 03 deg. 33 min. 47 sec. West, a distance of 205.02 feet to a 1/2 inch iron rod found for corner at the intersecting East line of Wager Road and the South line of Kirkpatrick Lane;

THENCE North 89 deg. 54 min. 53 sec. East, a distance of 318.28 feet to a 1/2 inch yellow–capped iron rod set for corner at the intersecting South line of Kirkpatrick Lane and the West line of S. Garden Ridge Boulevard;

THENCE South 00 deg. 12 min. 16 sec. West, a distance of 196.25 feet to the PLACE OF BEGINNING and containing 62,477 square feet or 1.43 acres of land.

ZONING STANDARD	PROPOSED: PLANNED DEVELOPMENT DISTRICT WITH OFFICE DISTRICT USE	EXISTING: AGRICULTURAL (A)
MIN. LOT AREA	NO MIN. LOT AREA	2 ACRES OR 87,120 SF
MIN. LOT WIDTH	NO MIN. LOT WIDTH AREA	200 FT.
MIN. FLOOR AREA	NO MIN. FLOOR AREA	1,800 SF.
MIN. FRONT YARD	NO MIN. FRONT YARD AREA REQUIREMENT : SUBJECT TO SECTION 98-1026	40 FT.
MIN. SIDE YARD	NO MIN. SIDE YARD AREA REQUIREMENT : SUBJECT TO SECTION 98-1027	25 FT.
MIN. REAR YARD	MIN. 15' REAR YARD : SUBJECT TO SECTION 98-1028	20 FT.
MAX. LOT COVERAGE	50% - SUBJECT TO SECTION 98-1027	25 %
MAX HEIGHT (stories/ft)	3 / 35 FT. - SUBJECT TO SECTION 98-1027	3 / 35 FT.
MAX FLOOR AREA RATIO	1:1	
MASTER PLAN FEATURES		
LAND USE PLAN	EXISTING: ESTATE DENSITY PROPOSED: OFFICE	
SPECIFIC PLANS	NONE	
URBAN DESIGN PLAN	Existing building is in compliance with the Master Plan	
OPEN SPACE PLAN	N/A	
THOROUGHFARE PLAN	S GARDEN RIDGE BLVD - MAJOR ARTERIAL KIRKPATRICK LANE - URBAN MINOR ARTERIAL	
WATER PLAN	CONNECTED TO EXISTING 8" ON WAGER ROAD	
WASTEWATER PLAN	CONNECTED TO EXISTING 6" SANITARY SYSTEM ON WAGER ROAD	
PARKING		
EXISTING PARKING TOTAL	9	
EXISTING ACCESSIBLE PARKING	1	

PROJECT LOCATION



VICINITY MAP
N.T.S.

KTL WAGER ROAD

3428 WAGER RD
FLOWER MOUND
TEXAS 75028
DENTON COUNTY

OWNER: KTL CAPITAL INC.
CONTACT: KENNETH LIN
EMAIL: ktlcapitalinc@gmail.com

ISSUE LOG

DATE ISSUE	DESCRIPTION
04/21/24	MASTER PLAN EXHIBIT

KTL WAGER ROAD
MASTER PLAN EXHIBIT

Fanning Phillips DESIGN
PATRA PHILLIPS, RA
Reg # 26877
patra@fanningphillips.com
214-284-8734

ARCH. PROJ. #:	SCALE:
24700	1" = 20'-0"

SHEET NO.

1

MASTER PLAN
AMENDMENT EXHIBIT

TOWN COUNCIL
AGENDA K.4.
REGULAR ITEM(S)

DATE: November 18, 2024
FROM: Codie Freeman, Planner
ITEM: **Public Hearing to consider an ordinance amending the zoning (ZPD23-0011 – Wager Road Nursing or Congregate Facility) from Agricultural District (A) uses to Planned Development District-205 (PD-205) with Office District (O) uses with an exception to Section 82-302, Compatibility buffer, of the Code of Ordinances. The property is generally located west of Garden Ridge Boulevard and south of Kirkpatrick Lane. (PZ recommended approval with conditions by a vote of 6 to 0 at its November 11, 2024, meeting.)**

BACKGROUND:

- Size – Approximately 1.43 acres
- Zoning – Agricultural District
- Request – Planned Development District No. 205 (PD-205) with Office District uses.
- Proposed Buildings – Existing 4,615 square foot one-story building.
- SMARTGrowth – Passed
- Traffic Analysis – Passed. The Town's Traffic Engineer determined that an updated TA was not required as the site was previously approved and used for a nursing or congregate care facility
- Exception – The applicant is requesting an exception to the six-foot masonry wall and landscaping requirements along the southern property line
- Incentives – None requested
- Planning and Zoning Commission Staff Report Link
- Office Zoning District Standards Link

BOARD REVIEW/CITIZEN FEEDBACK:
The Planning & Zoning Commission recommended approval of the application with a condition to limit Office District zoning uses to include a nursing or congregate facility, certain required uses such as institutional uses, and certain uses that would have limited impact on the surrounding community, by a vote of 6 to 0 at its November 11, 2024, meeting.

Based on the Planning & Zoning Commission's motion, staff worked with the applicant to narrow down the list of permitted and specific uses within the Office zoning district.

1. PERMITTED USES: Only the following permitted uses listed herein may be allowed by right in the area designated on Exhibit "C" as Office District (O) uses:

   a. Accessory retail/service uses
   b. Accessory use, general, subject to section 98-972
   c. Building material yard and construction office, town
   d. Community center, public

e. Custom personal service
f. Fire station/public safety
g. Local utility line
h. Office, general business and professional
i. Office, medical and dental
j. Park or playground, public
k. Personal improvement services
l. Religious assembly/institution or rectory
m. School, business
n. School, elementary or secondary
o. Sewage pump station
p. Solar panel systems, subject to section 98-1002
q. Telephone equipment station
r. Travel bureau of consultant

In addition to the uses listed as permitted uses the following Office use may be permitted by right:

a. Nursing or congregate care facility

2. SPECIFIC USES: Only the following specific use permit uses shall be permitted in the area designated on Exhibit "C" as Office District (O) uses upon approval of a Specific Use Permit by the Town Council in accordance with Section 98-543, "Specific uses," as amended:

a. Day care center
b. Communication tower, commercial, subject to section 98-977
c. Private franchise utility (not listed)
d. Transmission pipeline (98-997)
e. Veterinary hospital (inside pens), subject to section (98-998)

ALTERNATIVES: N/A

FISCAL IMPACT: N/A

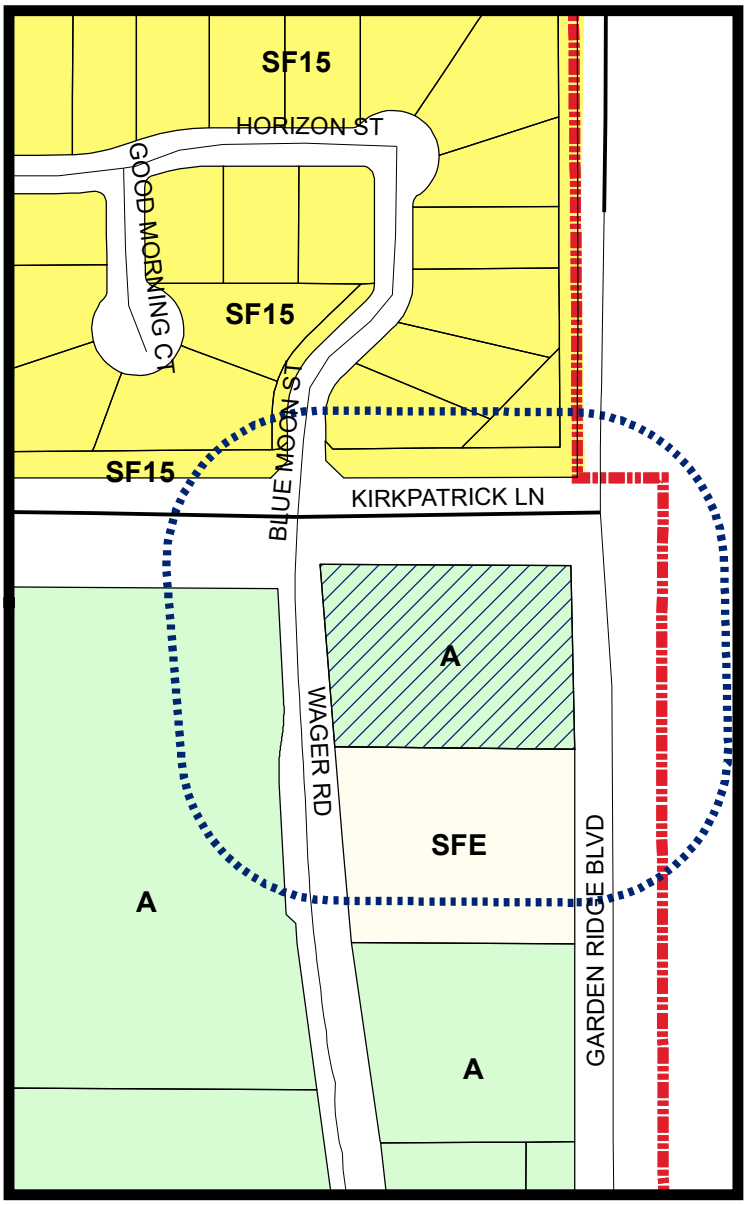
LEGAL REVIEW: Alicia Kreh, of Taylor, Olson, Adkins, Sralla, & Elam L.L.P., has reviewed the ordinance as to form and legality.

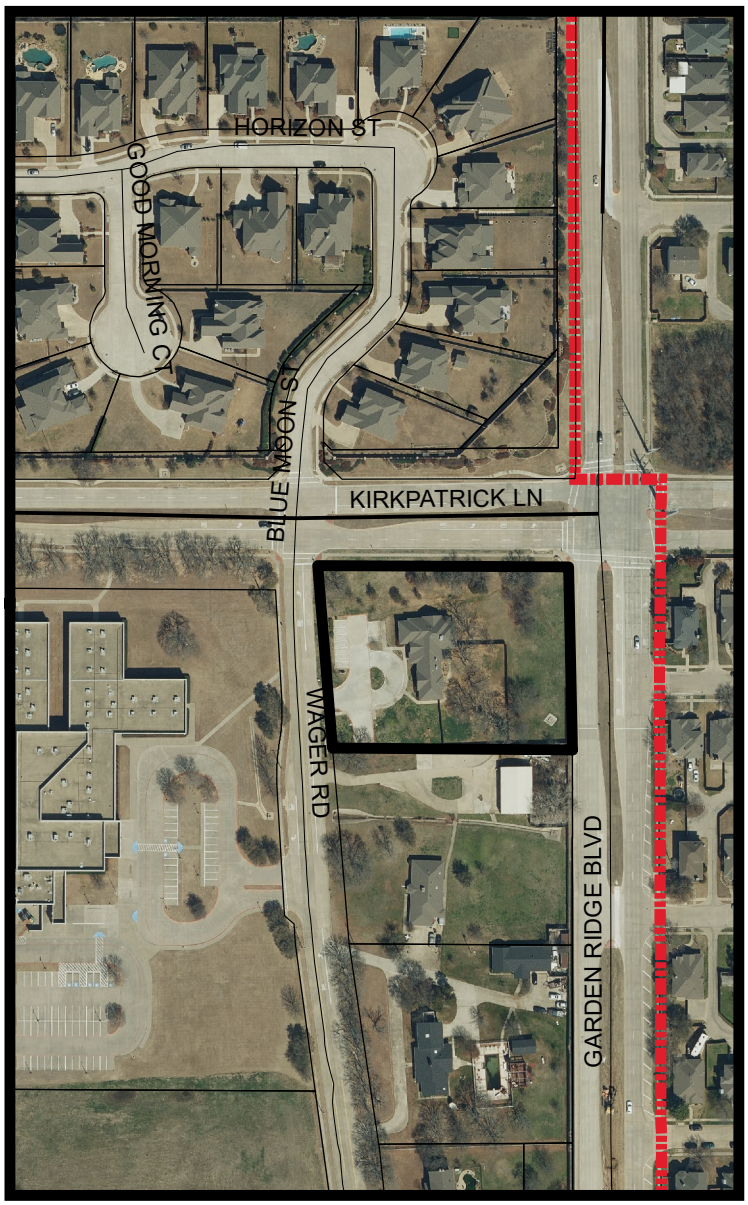
ATTACHMENTS:
1. Zoning & Aerial Map
2. DRAFT Ordinance
3. DRAFT Exhibits

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

Vicinity Map

MPA24-0001 & ZPD23-0011: Wager Road Assisted Living



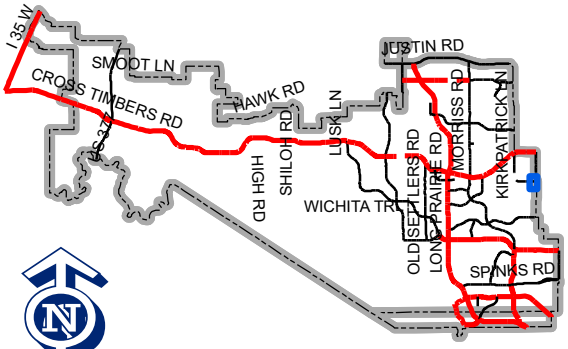


LEGEND

- Agriculture
- Single Family 15
- Single Family Estate

Subject Property

200 ft Notification Buffer around Property



Map Location

0 187.5 375 750 Feet

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

Visit https://www.flowermound.gov/notifyme to sign up for text message and/or email alerts for future projects.

TOWN OF FLOWER MOUND, TEXAS
ORDINANCE NO. _____

AN ORDINANCE OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING THE OFFICIAL ZONING MAP, EXHIBIT "A," OF SUBPART B, "LAND DEVELOPMENT REGULATIONS," OF THE CODE OF ORDINANCES, TOWN OF FLOWER MOUND, TEXAS, BY CHANGING THE ZONING ON CERTAIN PROPERTY DESCRIBED AS AN APPROXIMATELY 1.43 ACRE TRACT OF LAND IN THE M.J. OWENS SURVEY, ABSTRACT NO. 981, DENTON COUNTY, TEXAS, FROM A AGRICULTURAL DISTRICT TO PLANNED DEVELOPMENT DISTRICT-205 (PD-205) WITH O OFFICE DISTRICT USES IN ACCORDANCE WITH THE TOWN'S MASTER PLAN AND SPECIFIC REQUIREMENTS AND EXHIBITS INCORPORATED HEREIN; PROVIDING THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

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

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

WHEREAS, in accordance with Chapter 78 of the Land Development Regulations, the owners of the property described as being approximately 1.43 acres of land in the M.J. Owens Survey, Abstract No. 981, Denton County, Texas, as more fully described in Exhibit "A" attached hereto and incorporated herein (the "Property"), have filed an application to change the zoning from A Agricultural District to Planned Development District-205 (PD-205) with O Office District uses; and,

WHEREAS, the Planning and Zoning Commission of the Town held a public hearing on November 11, 2024, and the Town Council of the Town held a public hearing on November 18, 2024, with respect to the proposed rezoning as described herein; and,

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

WHEREAS, the Town Council finds that amendment of the official Zoning Map as outlined herein is in the best interest of the Town and will promote the health, safety, and general welfare of the citizens of the Town and the general public;

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

SECTION 1

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

Approximately 1.43 acres of land in the M.J. Owens Survey, Abstract No. 981, Denton County, Texas, as more fully described in Exhibit "A."

Planned Development District-205 (PD-205) with O Office District uses.

SECTION 2

The Development Standards, Conceptual Site Plan, Conceptual Landscape Plan, and Conceptual Elevations of the proposed Planned Development District No. 205 (PD-205), attached hereto as Exhibits "B," "C," "D," and "E" for each incorporated herein for all purposes allowed by law, are hereby approved as the Development Standards, Conceptual Site Plan, Conceptual Landscape Plan, and Conceptual Elevations for this Planned Development District No. 205 (PD-205).

SECTION 3

The official Zoning Map of the Town is hereby amended and the Director of Development Services is directed to revise the official Zoning Map to reflect the approved Planned Development District No. 205 (PD-205), as set forth above.

SECTION 4

The use of the Property shall be subject to all restrictions, terms, and conditions contained herein and in Exhibits "B," "C," "D," and "E" attached hereto, as well as the applicable regulations contained in the Land Development Regulations and all other applicable and pertinent ordinances of the Town.

SECTION 5

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

SECTION 6

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

SECTION 7

Any person, firm, or corporation who violates any provision of this Ordinance as adopted by the Town Council shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine as provided in Section 1-13 of the Code of Ordinances, Town of Flower Mound, Texas. Each day any such violation or violations exist shall constitute a separate offense and shall be punishable as such.

SECTION 8

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

SECTION 9

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

SECTION 10

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

DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, BY A VOTE OF ___ TO ___, ON THIS THE 18TH DAY OF NOVEMBER, 2024.

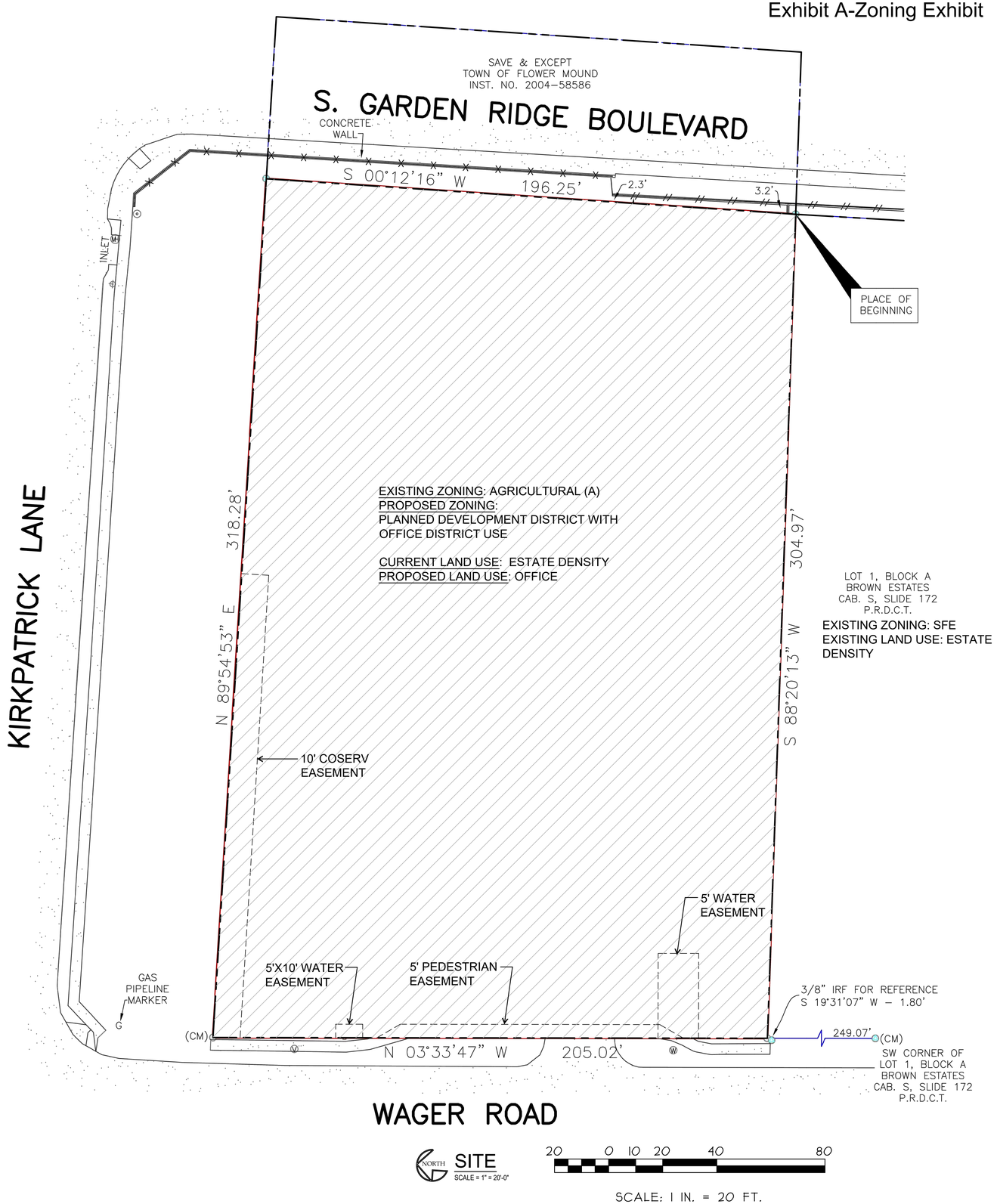
APPROVED:

_____
Cheryl Moore, MAYOR

ATTEST:

_____
Theresa Scott, TOWN SECRETARY

Exhibit A-Zoning Exhibit



BEING all that certain lot, tract or parcel of land situated in the M.J. Owens Survey, Abstract No. 981, Denton County, Texas, being a tract of land described in deed to George and Elise Bennett Living Trust, recorded under Instrument No. 11219, Deed Records, Denton County, Texas (D.R.D.C.T.), and being more particularly described by the following metes and bounds description:

BEGINNING at a 1/2 inch yellow–capped iron rod set for corner in the West line of S. Garden Ridge Boulevard, at the Northeast corner of Lot 1, Block A, Brown Estates, an Addition to the Town of Flower Mound, Denton County, Texas, according to the Plat thereof recorded in Cabinet S, Slide 172, Plat Records, Denton County, Texas (P.R.D.C.T.), being the Southeast corner of said Bennett tract;

THENCE South 88 deg. 20 min. 13 sec. West, a distance of 304.97 feet to a 1/2 inch iiron rod found for corner in the East line of Wager Road, at the Northwest corner of said Lot 1, from which a 3/8 inch iron rod found for reference bears South 19 deg. 31 min. 07 sec. West, a distance of 1.80 feet;

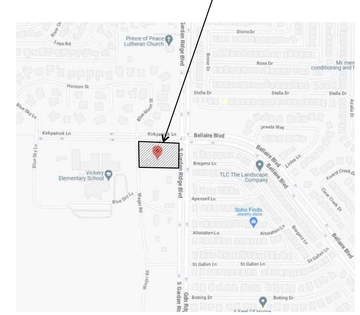
THENCE North 03 deg. 33 min. 47 sec. West, a distance of 205.02 feet to a 1/2 inch iron rod found for corner at the intersecting East line of Wager Road and the South line of Kirkpatrick Lane;

THENCE North 89 deg. 54 min. 53 sec. East, a distance of 318.28 feet to a 1/2 inch yellow–capped iron rod set for corner at the intersecting South line of Kirkpatrick Lane and the West line of S. Garden Ridge Boulevard;

THENCE South 00 deg. 12 min. 16 sec. West, a distance of 196.25 feet to the PLACE OF BEGINNING and containing 62,477 square feet or 1.43 acres of land.

ZONING STANDARD	PROPOSED: PLANNED DEVELOPMENT DISTRICT WITH OFFICE DISTRICT USE	EXISTING: AGRICULTURAL (A)
MIN. LOT AREA	NO MIN. LOT AREA	2 ACRES OR 87,120 SF
MIN. LOT WIDTH	NO MIN. LOT WIDTH AREA	200 FT.
MIN. FLOOR AREA	NO MIN. FLOOR AREA	1,800 SF.
MIN. FRONT YARD	NO MIN. FRONT YARD AREA REQUIREMENT : SUBJECT TO SECTION 98-1026	40 FT.
MIN. SIDE YARD	NO MIN. SIDE YARD AREA REQUIREMENT : SUBJECT TO SECTION 98-1027	25 FT.
MIN. REAR YARD	MIN. 15' REAR YARD : SUBJECT TO SECTION 98-1028	20 FT.
MAX. LOT COVERAGE	50% - SUBJECT TO SECTION 98-1027	25 %
MAX HEIGHT (stories/ft)	3 / 35 FT. - SUBJECT TO SECTION 98-1027	3 / 35 FT.
MAX FLOOR AREA RATIO	1:1	
MASTER PLAN FEATURES		
LAND USE PLAN	EXISTING: ESTATE DENSITY PROPOSED: OFFICE	
SPECIFIC PLANS	NONE	
URBAN DESIGN PLAN	Existing building is in compliance with the Master Plan	
OPEN SPACE PLAN	N/A	
THOROUGHFARE PLAN	S GARDEN RIDGE BLVD - MAJOR ARTERIAL KIRKPATRICK LANE - URBAN MINOR ARTERIAL	
WATER PLAN	CONNECTED TO EXISTING 8" ON WAGER ROAD	
WASTEWATER PLAN	CONNECTED TO EXISTING 6" SANITARY SYSTEM ON WAGER ROAD	
PARKING		
EXISTING PARKING TOTAL	9	
EXISTING ACCESSIBLE PARKING	1	

PROJECT LOCATION



VICINITY MAP
N.T.S.

KTL WAGER ROAD

3428 WAGER RD
FLOWER MOUND
TEXAS 75028
DENTON COUNTY

OWNER: KTL CAPITAL INC.
CONTACT: KENNETH LIN
EMAIL: ktlcapitalinc@gmail.com

ISSUE LOG

DATE ISSUE	DESCRIPTION
04/21/24	MASTER PLAN EXHIBIT

KTL WAGER ROAD
ZONING EXHIBIT

FanningPhillips DESIGN
PATRA PHILLIPS, RA
Reg # 26877
patra@fanningphillips.com
214-284-8734

ARCH. PROJ. #:	SCALE:
24700	1" = 20'-0"

SHEET NO.

1

MASTER PLAN
AMENDMENT EXHIBIT

Exhibit "B"

DEVELOPMENT STANDARDS
Planned Development District No. 205 (PD-205)

Wager Road Nursing or Congregate Facility

The development on the property comprising approximately 1.43 acres of land within the corporate limits of the Town of Flower Mound ("Town") shall be in accordance with the Town of Flower Mound Master Plan and the Land Development Regulations of the Town of Flower Mound, Texas, as amended, and shall be subject to the following conditions and requirements:

A. Exhibits:

1. The following Exhibits are incorporated into this Planned Development.
   a. Exhibit "C": Conceptual Site Plan.
   b. Exhibit "D": Conceptual Landscape Plan.
   c. Exhibit "E": Conceptual Elevations.

B. O Office District uses:

Development of PD-205 comprising approximately 1.43 acres as depicted on Exhibit "C," the Concept Plan, shall be in compliance with all regulations applicable to O Office District contained in the Town's Land Development Regulations as amended, except as otherwise provided in this Ordinance.

1. PERMITTED USES: Only the following permitted uses listed herein may be allowed by right the in area designated on Exhibit "C" as Office District (O) uses:

   a. Accessory retail/service uses
   b. Accessory use, general, subject to section 98-972
   c. Building material yard and construction office, town
   d. Community center, public
   e. Custom Personal Service
   f. Fire station/public safety
   g. Local utility line
   h. Office general business and professional
   i. Office, medical and dental
   j. Park or playground, public
   k. Personal improvement services
   l. Religious assembly/institution or rectory
   m. School business
   n. School, elementary or secondary
   o. Sewage Pump Station
   p. Solar panel systems, subject to section 98-1002
   q. Telephone equipment station
   r. Travel bureau of consultant

In addition to the uses listed as permitted uses the following Office use may be permitted by right:

a. Nursing or congregate care facility.

2. SPECIFIC USES: Only the following specific use permit uses listed herein shall be permitted in the area designated on Exhibit "C" as Office District (O) uses upon approval of a Specific Use Permit by the Town Council in accordance with Section 98-543, "Specific uses," as amended:

   a. Day care center
   b. Communication tower, commercial, subject to section 98-977
   c. Transmission pipeline (98-997)
   d. Veterinary hospital (inside pens) (98-998)
   e. Private franchise utility (not listed)

3. TEMPORARY USES: The uses listed as Temporary Uses in O Office District in the Town's Zoning Ordinance may be permitted on the Property Depicted on Exhibit "C" upon approval of a Temporary Use Permit by the Town Council in accordance with Section 98-544 of the Land Development Code, "Temporary Uses," as amended.

4. DIMENSIONAL REGULATIONS: The dimensions listed in Section 98-545 of the Town's Zoning Ordinance shall apply in areas designated O Office District as designated on Exhibit "C".

C. Supplementary Standards

1. Site plan shall substantially comply with the approved Conceptual Plan, Exhibit "C."

2. Landscape shall substantially comply with the approved Conceptual Landscape Plan, Exhibit "D," and shall be in accordance with the Town's Landscape Ordinance, as amended.

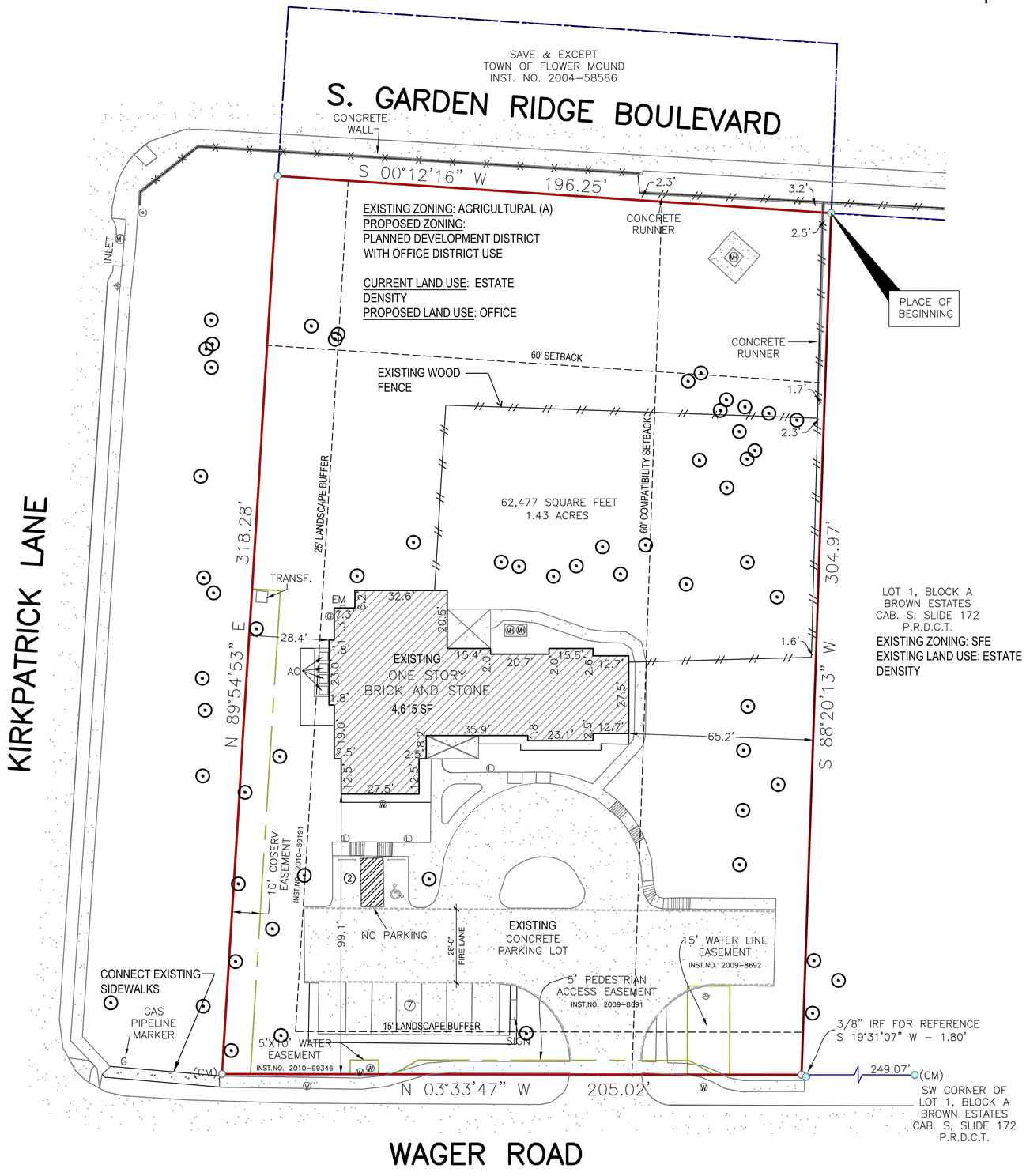
3. Luminaires, as defined by Section 74-3, as amended, shall not be located within 25 feet of the southern property line.

D. Exceptions

The following exceptions and waivers shall apply to this Planned Development.

1. Compatibility Buffer-Section 82-302.
   a. The compatibility buffer and the masonry wall requirements shall not apply along the southern property line.

Exhibit C- Concept Site Plan



CONCEPT SITE PLAN

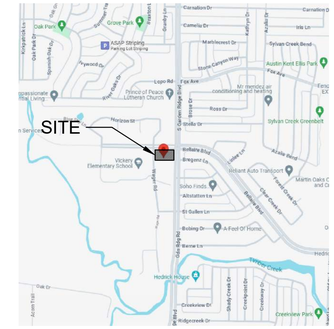
SCALE = 1" = 20'-0"

20 0 10 20 40 80

SCALE: 1 IN. = 20 FT.

LEGEND

WOOD FENCE — IRON FENCE
CHAIN LINK — WIRE FENCE
BOUNDARY LINE
EASEMENT SETBACK
CM – CONTROLLING MONUMENT
MRD – MONUMENTS OF RECORD DIGNITY
1/2" IRON ROD FOUND
1/2" YELLOW-CAPPED IRON ROD SET
SET 'X' FOUND 'X'
3/8" IRON ROD FOUND
5/8" IRON ROD FOUND
PK NAIL FOUND EM – ELECTRIC METER
(C) – CABLE (E) – ELECTRIC
(o) – CLEAN OUT PE – POOL EQUIP
(G) – GAS METER (●) – POWER POLE
– FIRE HYDRANT (T) – TELEPHONE
(L) – LIGHT POLE (W) – WATER METER
(MH) – MANHOLE (V) – WATER VALVE
(UNLESS OTHERWISE NOTED)



VICINITY MAP

NTS

NORTH

ZONING STANDARD	PROPOSED: PLANNED DEVELOPMENT DISTRICT WITH OFFICE DISTRICT USE	EXISTING: AGRICULTURAL (A)
MIN. LOT AREA	NO MIN. LOT AREA	2 ACRES OR 87,120 SF
MIN. LOT WIDTH	NO MIN. LOT WIDTH AREA	200 FT.
MIN. FLOOR AREA	NO MIN. FLOOR AREA	1,800 SF.
MIN. FRONT YARD	NO MIN. FRONT YARD AREA REQUIREMENT : SUBJECT TO SECTION 98-1026	40 FT.
MIN. SIDE YARD	NO MIN. SIDE YARD AREA REQUIREMENT : SUBJECT TO SECTION 98-1027	25 FT.
MIN. REAR YARD	MIN. 15' REAR YARD : SUBJECT TO SECTION 98-1028	20 FT.
MAX. LOT COVERAGE	50% - SUBJECT TO SECTION 98-1027	25 %
MAX HEIGHT (stories/ft)	3 / 35 FT. - SUBJECT TO SECTION 98-1027	3 / 35 FT.
MAX FLOOR AREA RATIO	1:1	
MASTER PLAN FEATURES		
LAND USE PLAN	EXISTING: ESTATE DENSITY PROPOSED: OFFICE	
SPECIFIC PLANS	NONE	
URBAN DESIGN PLAN	Existing building is in compliance with the Master Plan	
OPEN SPACE PLAN	N/A	
THOROUGHFARE PLAN	S GARDEN RIDGE BLVD - MAJOR ARTERIAL KIRKPATRICK LANE - URBAN MINOR ARTERIAL	
WATER PLAN	CONNECTED TO EXISTING 8" ON WAGER ROAD	
WASTEWATER PLAN	CONNECTED TO EXISTING 6" SANITARY SYSTEM ON WAGER ROAD	
PARKING		
EXISTING PARKING TOTAL	9	
EXISTING ACCESSIBLE PARKING	1	

GENERAL NOTES:

1. ALL RETAINING / DETAINING WALLS, TURN-DOWN CURBS, TREE RETAINING WALLS SHALL BE CLAD IN A MATERIAL TO MATCH THE MATERIALS ON THE MAIN BUILDING.
2. OR ALL RETAINING / DETAINING WALL, TURN-DOWN CURBS, TREE RETAINING WALLS SHALL BE CLAD IN A MATERIAL TO COMPLEMENT THE MATERIALS AND COLORS WITHIN THIS DISTRICT.
3. ALL GROUND BASED HVAC SHALL BE SCREENED WITH LIVE SCREENING OR MASONRY ENCLOSURE, MASONRY ENCLOSURE SHALL BE CLAD IN THE SAME MATERIAL AS THE MAIN BUILDING.
4. ALL ROOF-MOUNTED MECHANICAL UNITS AND / OR EQUIPMENT SHALL BE SCREENED FROM VIEW.
5. DUMPSTER SCREENING WALL SHALL BE CLAD IN A MATERIAL TO MATCH THE MATERIALS ON THE MAIN BUILDING.
6. DUMPSTER SCREENING WALL REQUIRES A SEPARATE PERMIT.
7. SIGNS REQUIRE A SEPARATE BUILDING PERMIT. ANY SIGNS DEPICTED ON THE SUBJECT SITE PLAN / ELEVATIONS ARE NOT APPROVED AS A PART OF THIS REVIEW AND MUST COMPLY WITH ALL APPLICABLE TOWN REGULATIONS.
8. FLAG POLES MUST COMPLY WITH THE REGULATIONS IN SECTION 86-4. - PROHIBITED SIGNS.
9. LUMINARES LOCATED WITHIN THE COMPATIBILITY BUFFER BETWEEN DISSIMILAR USES ARE PROHHIBITED

SITE DATA TABLE

PHYSICAL ADDRESS	3428 WAGER ROAD	
GROSS SITE AREA	1.43 ACRES / 62,477 SQUARE FEET	
NET SITE AREA	1.37 ACRES / 59,688 SQUARE FEET	
ZONING		
EXISTING ZONING	AGRICULTURE	
PROPOSED ZONING	PD-205 WITH OFFICE DISTRICT USE	
CURRENT USE	ESTATE DENSITY	
PROPOSED ZONING	OFFICE DISTRICT	
LOT COVERAGE DATA		
BUILDING COVERAGE	7.39% 4,615 SF	
IMPERVIOUS AREA	26.28% 16,419 SF	
PERVIOUS AREA	73.72% 46,058 SF	
PARKING SUMMARY	REQ'D	PROVIDED
OFFICE (2 SP / 3 BEDS) 16 BEDS	11	9
HANDICAPPED	1	1
TOTAL PARKING	11	9
BUILDING DATA		
BUILDING	EXISTING ONE STORY STRUCTURE	
BUILDING HEIGHT	MAX: 23'-3" MEAN: 15'X11-1/2"	
TOTAL BUILDING SF	4,615 SF	

KTL WAGER ROAD

3428 WAGER RD
FLOWER MOUND
TEXAS 75028
DENTON COUNTY

OWNER: KTL CAPITAL INC.
CONTACT: KENNETH LIN
EMAIL: ktlcapitalinc@gmail.com

ISSUE LOG

DATE ISSUE	DESCRIPTION
08/12/24	SITE PLAN

KTL WAGER ROAD
CONCEPT SITE PLAN

Fanning Philips DESIGN
PATRA PHILIPS, RA
Reg # 26877
patra@fanningphilips.com
214-284-8734

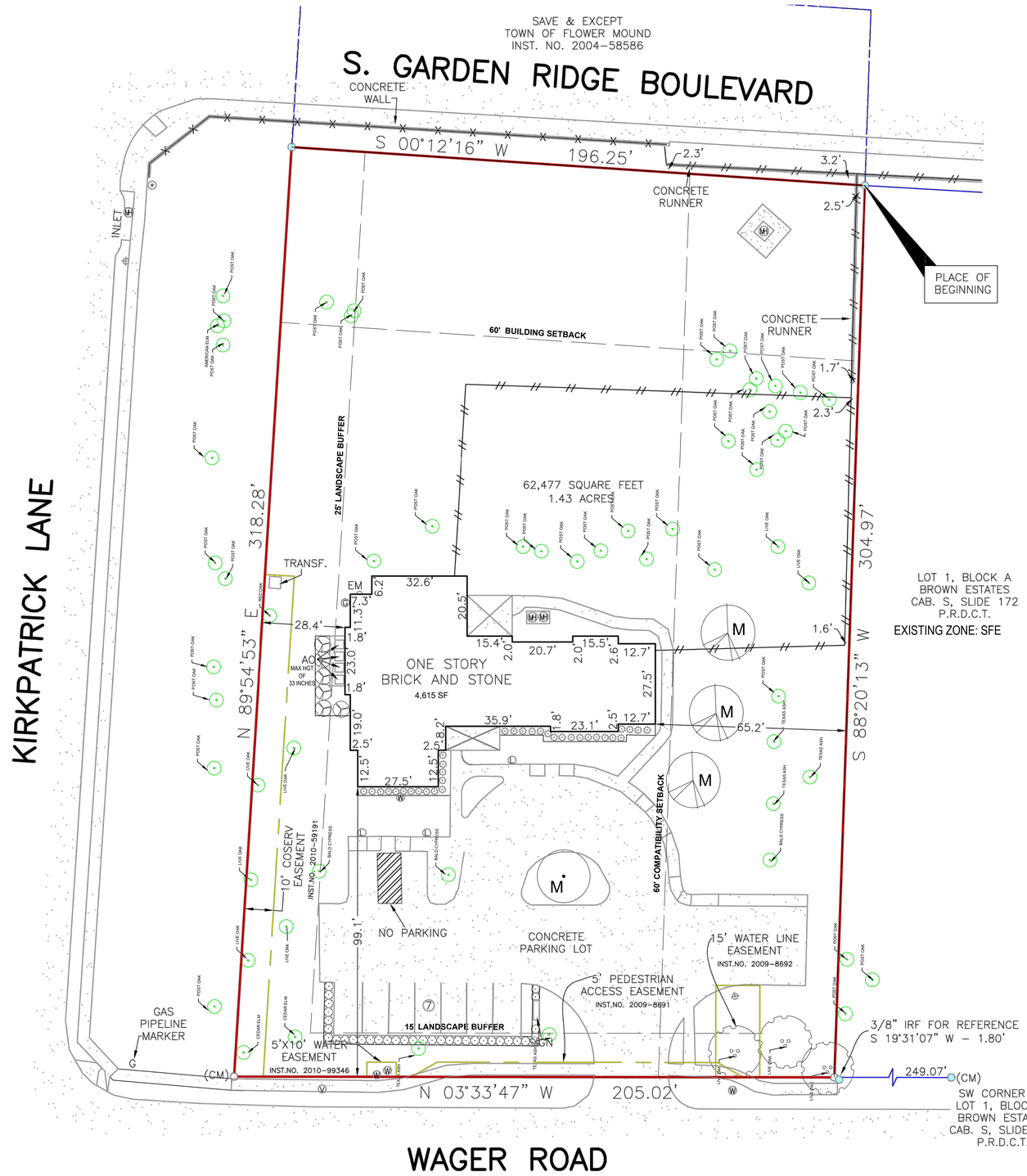
ARCH. PROJ. #: 24700
SCALE: 1" = 20'-0"

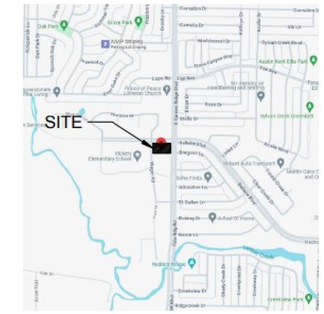
SHEET NO.

2

SITE PLAN

Exhibit D- Concept Landscape Plan





VICINITY MAP

NTS

NORTH

STREET YARD LANDSCAPING			
STANDARD	TOTAL STREET YARD (SQUARE FEET)	REQUIRED	PROVIDED
MIN. 20% OF STREETYARD	25,474 SQ. FT.	5,095 SQ. FT.	17,105 SQ. FT.
STREET YARD TREES			
STANDARD	TOTAL STREET YARD (SQUARE FEET)	REQUIRED	PROVIDED
STREETYARDS OF 10,000 SF TO 100,000 SF PROVIDE 1 TREE PER 2500 SF OVER 10,000 PLUS 10 TREES	25,474 SQ. FT.	17 TREES	21 NEW TREES 1- EX. 30" TREE 6 TREE CREDITS
STREET BUFFER LANDSCAPING			
STANDARD	REQUIRED BUFFER WIDTH	REQUIRED	PROVIDED
KIRKPATRICK LANE	25 FT.	25 FT.	25 FT.
WAGER ROAD	15 FT.	15 FT.	15 FT.
STREET BUFFER TREES			
STANDARD	STREET FRONTAGE (LINEAR FEET)	REQUIRED	PROVIDED
1 PER 30 L.F.	KIRKPATRICK LANE = 320.9 LF	11 TREES	12 EXISTING TREES
1 PER 30 L.F.	WAGER ROAD = 204.84 LF	7 TREES	3 NEW TREES 4 EXISTING TREES
PARKING AREA LANDSCAPING			
STANDARD	NO. OF PARKING SPACES	REQUIRED	PROVIDED
90 S.F. PER 12 SPACES	9	90 S.F.	810 S.F.
PARKING AREA TREES			
STANDARD	NO. OF PARKING SPACES	REQUIRED	PROVIDED
1 PER 10 PARKING SPACES	9	1 TREE	3 TREES
ALL PARKING SPACES ARE LOCATED WITHIN 50 FT. OF A TREE.			

NOTE: COMPATIBILITY BUFFER REQUIREMENT REQUESTED TO BE WAIVED PER PREVIOUS APPROVAL

NEW PLANT MATERIAL LIST SUMMARY CHART

SYM	QNTY	COMMON NAME	SIZE
	LARGE CANOPY TREES		
	1	PECAN	4" CAL.; 12' MIN HT; 90 GAL MIN. CONT.
	3	LACEBARK ELM	4" CAL.; 12' MIN HT; 90 GAL MIN. CONT.
	3	BALD CYPRESS	4" CAL.; 12' MIN HT; 90 GAL MIN. CONT.
	2	WESTERN SOAPBERRY	4" CAL.; 12' MIN HT; 90 GAL MIN. CONT.
	SHRUBS		
	34	SUNSHINE LIGUSTRUM	2' HGT; 5 GALLON CONT.; 3' O.C.
	6	ABELIA 'ROSE CREEK'	2' HGT; 3 GALLON CONT.; 3' O.C.
	34	TEXAS SAGE 'GREEN CLOUD'	3' HGT; 5 GALLON CONT.; 3' O.C.

EXISTING TREE TO REMAIN; PRESERVE & PROTECT; SPECIES AS SPECIFIED ON PLAN

GENERAL LANDSCAPE NOTES:

1. All landscape areas are to be received within .1' of proposed finish grade and free from all trash and debris.
2. All trees are to be planted in pits twice the diameter of the tree ball and no deeper than the depth of the ball. Scarify all tree pit sides prior to planting. All trees are to be planted plumb and at or slightly above finish grade. All tree pits are to have a 3" watering saucer formed around the perimeter of the pit. All tree pits are to be top dressed with a 2" layer of shredded hardwood mulch. Stake and/or guy trees only at the direction of the landscape architect.
3. Rotovate the existing soil of all planting beds to a minimum depth of 6". Add a 3" layer of premium compost as supplied by Living Earth Technology and till into the top 3" of the existing soil. Install all shrubs 1" above finish grade and fertilize with Agri-form slow release fertilizer tablets at the manufacturer's recommended rates of application. Top dress all planting beds with a 2" layer of shredded hardwood mulch.
4. All planting beds not formed by a concrete curb or sidewalk are to edged with Steel Edging (1/8"x4" painted green) or an approved equal. All edging stakes are to be placed to the inside of the bed and the top of the edging is to be no less than 1" and no more than 1.5" above proposed finish grade.
5. All turf areas are to be sodded with common bermuda sod laid parallel to the contour of the land. All sod on slopes greater than 1:4 is to be pinned with 1"x1"x12" wooden stakes. All sod is to be laid with tight joints and with all joints staggered. Roll all sod with a water ballast lawn roller upon installation and fertilize with a complete fertilizer (13-13-13) at the rate of 1.5# actual nitrogen per 1000 square feet. Water all sod thoroughly.
6. All irrigation meter(s) are to be by utility contractors as per local codes. Irrigation sleeves to be installed by licensed irrigation contractor as per the plan.
7. All irrigation controllers are to have mini-click freeze and rain stats installed as per manufacturer's recommendations.
8. All irrigation sleeves to be by licensed irrigation contractor. All sleeves to be PVC schedule 40 with 90 degree elbows on both ends with extensions protruding 18" above proposed finish grade.
9. All turf and planting beds to be zoned separately. All planting bed heads to be on 12" pop-up risers. All turf heads to be on 4" pop-up risers. All valves to be plastic valves. All equipment to be Rainbird or approved equal.
10. All mainline and lateral line to have a minimum of 12" of cover and to be SDR (class 200) pipe.

NORTH

1A

CONCEPT
LANDSCAPE PLAN

SCALE: 1" = 20'-0"

20 0 10 20 40 80

3428 WAGER ROAD

FLOWER MOUND, TEXAS

CONSULTANTS:

EBA LANDSCAPE ARCHITECTS
E. BROOKE ASSOCIATES
P: 817.219.2665
E: erin@ebrooke.com

11/13/2024

SHEET TITLE:

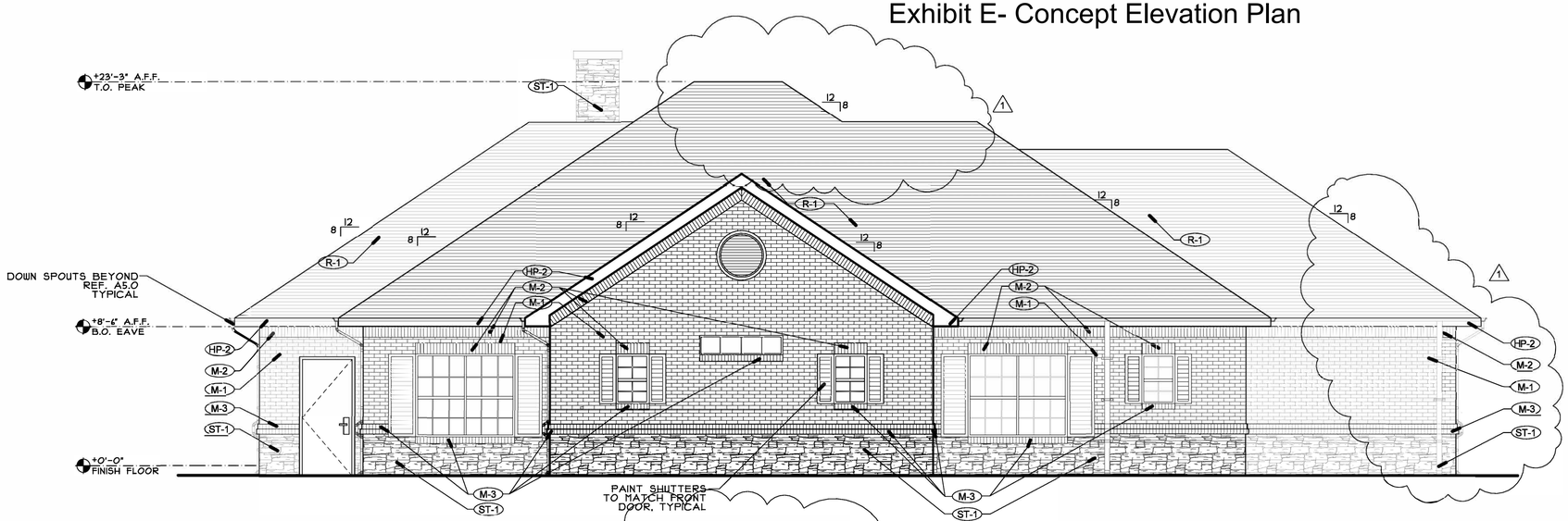
LANDSCAPE PLAN
3428 WAGER ROAD FLOWER MOUND, TX
TOWN OF FLOWER MOUND

REVIEW BY	DRAWN BY	DATE	SHEET
EBF	EBF	11-13-2024	L-1

SHEET NUMBER:

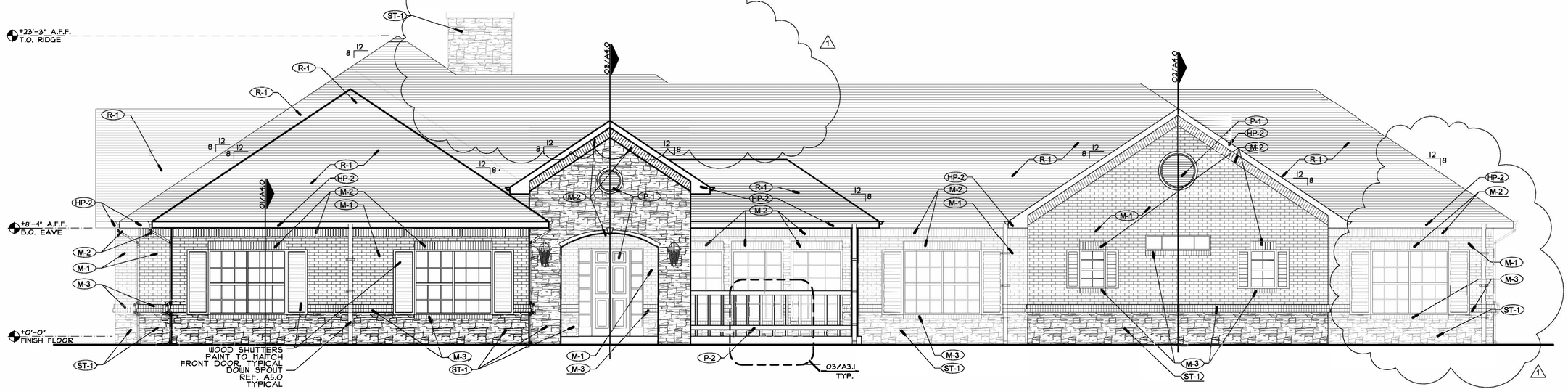
L-1A

Exhibit E- Concept Elevation Plan



02 EXTERIOR ELEVATION- NORTH ELEVATION

SCALE: 1/4" = 1'-0"



01 EXTERIOR ELEVATION- WEST ELEVATION

SCALE: 1/4" = 1'-0"

The Following Plat/Graphic
Case Number SUP/SP 378-08
Was Administratively Approved
On Date 10/29/2009

ELEVATION CALCULATIONS

		NORTH		SOUTH		EAST		WEST	
		S.F.	%	S.F.	%	S.F.	%	S.F.	%
FACADE S.F.		686		744		1,212		1,244	
DOORS AND WINDOWS		83		111		190		237	
TOTAL FACADE S.F. (MINUS DOORS AND WINDOWS)		603		515		830		841	
PRIMARY MASONRY MIN. 80%									
	BRICK (M-1, M-2, M-3)	437	72.5%	382	74%	589	71%	615	73%
	STONE (ST-1)	166	27.5%	133	26%	239	29%	226	27%
	TOTAL	603	100%	515	100%	830	100%	841	100%

AVERAGE ROOF HEIGHT: 15'-11 1/2"

MAX ROOF HEIGHT: 23'-3"

EXTERIOR MATERIAL LIST

STONE

ST-1 BLACKSON BRICK CO.-- CEDAR HILL CREAM, 2008 QUALITY

MASONRY VENEER

M-1 MODULAR BRICK-- CLOUD CERAMICS- OLD HERITAGE
M-2 SOLDIER COURSE-- CLOUD CERAMICS- OLD HERITAGE
M-3 ROWLOCK COURSE-- CLOUD CERAMICS- OLD HERITAGE

SIDING

HP-1 HARDIE PLANK 1X6 SIDING-- COLOR PLUS- KHAKI BROWN (JH20-30)
HP-2 HARDIE PLANK 1X6 TRIM-- COLOR PLUS- AUTUMN TAN (JH20-20)
HP-3 HARDIE PLANK 1X4 TRIM-- COLOR PLUS- AUTUMN TAN (JH20-20)

ROOFING

R-1 COMPOSITION SHINGLE — ELK COMPOSITION ASPHAULT 30 YEAR-- WEATHERED WOOD

PAINT

P-1- SMOKE HOUSE- SW1040
P-2- WHOLE WHEAT- SW6121

NOTES:

-KEY STONES TO BE CAST STONE
-FASCIA'S TO BE HARDIETRIM AND TO BE TRUE COLOR- AUTUMN TAN
-SOFFITS TO BE HARDIESOFFIT CONTINUOUSLY VENTED
TO BE JH TRUE COLOR- KHAKI BROWN
-FRONT DOOR AND ATTIC VENTS TO BE P-1
-ALL PORCH RAILING, GUTTERS, DOWNSPOUTS, BACK DOOR TO BE P-2
-ALL HP-3 PIECES AROUND WINDOWS TO BE HP TRUE COLOR- AUTUMN TAN
-ALL HP LAP SIDING TO BE HP TRUE COLOR- KHAKI BROWN
-CONTACT CRAIG BENEKE WITH BLACKSON BRICK COMPANY FOR ALL BRICK AND STONE: 214-855-5051

CREATION ARCHITECTURE P. L. L. C.
INTELLIGENT DESIGN SOLUTIONS
1870 CROWN DRIVE- SUITE 1510
DALLAS, TEXAS 75234
PH:214-461-7740 F:214-461-7741

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COUNTRY PLACE LIVING
3128 WAGER ROAD
FLOWER MOUND, TEXAS 75028

REGISTERED ARCHITECT JOHN STEPHEN BENEKE 19066 STATE OF TEXAS
09/29/09

COUNTRY PLACE LIVING

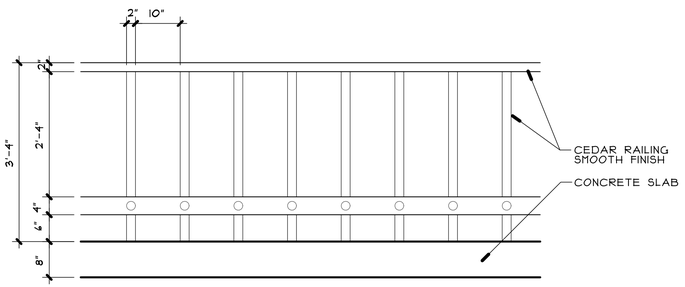
	07/01/09	FOR PERMIT
1	10/15/09	REVISION 1

EXTERIOR ELEVATIONS

08032-01
JOB NUMBER

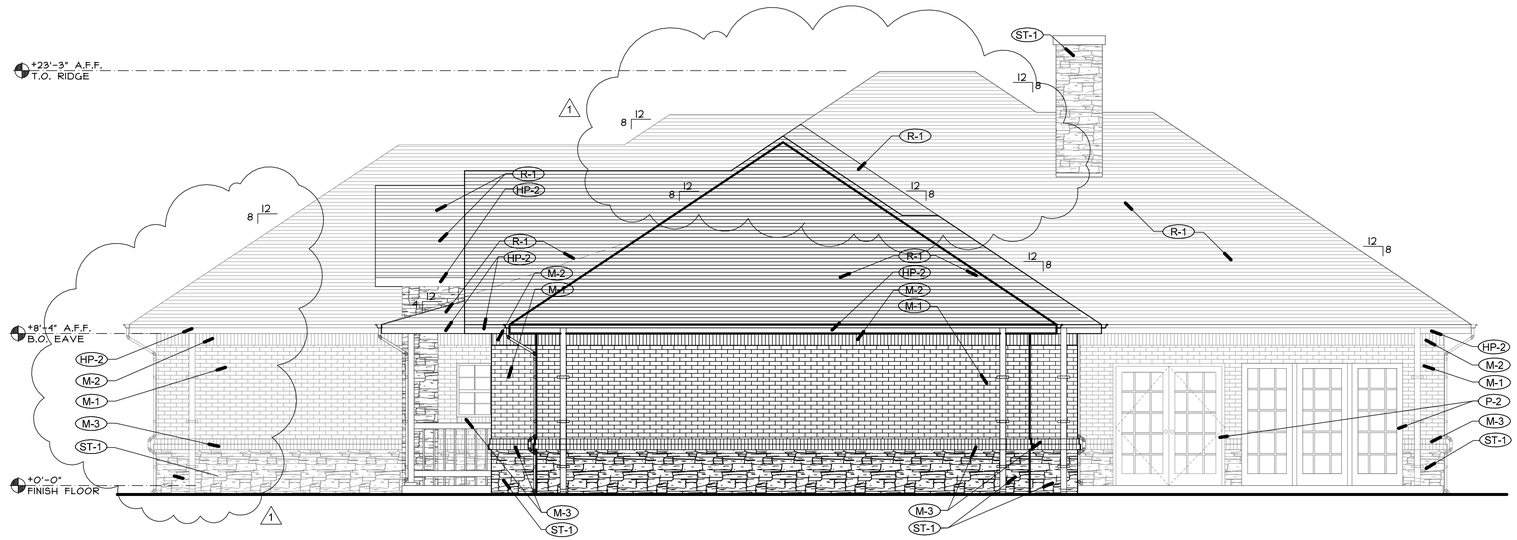
A3.0
SHEET:

Exhibit E- Concept Elevation Plan



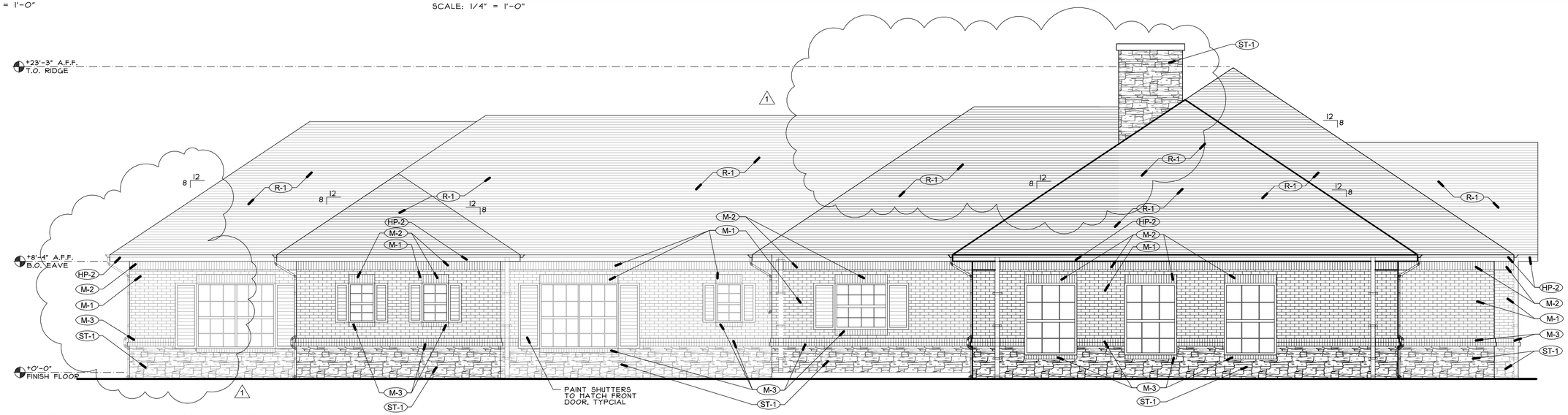
03 FENCE RAILING DETAIL

SCALE: 3/4" = 1'-0"



02 EXTERIOR ELEVATION-SOUTH ELEVATION

SCALE: 1/4" = 1'-0"



01 EXTERIOR ELEVATION- EAST ELEVATION

SCALE: 1/4" = 1'-0"

The Following Plat/Graphic
Case Number SUP/SP 378-08
Was Administratively Approved
On Date 10/29/2009

ELEVATION CALCULATIONS

		NORTH		SOUTH		EAST		WEST	
		S.F.	%	S.F.	%	S.F.	%	S.F.	%
FACADE S.F.		686		744		1,212		1,244	
DOORS AND WINDOWS		83		111		190		237	
TOTAL FACADE S.F. (MINUS DOORS AND WINDOWS)		603		515		830		841	
PRIMARY MASONRY MIN. 80%									
	BRICK (M-1, M-2, M-3)	437	72.5%	382	74%	589	71%	615	73%
	STONE (ST-1)	166	27.5%	133	26%	239	29%	226	27%
	TOTAL	603	100%	515	100%	830	100%	841	100%

AVERAGE ROOF HEIGHT: 15'-11 1/2"

MAX ROOF HEIGHT: 23'-3"

EXTERIOR MATERIAL LIST

STONE

ST-1 BLACKSON BRICK CO.-- CEDAR HILL CREAM, 2008 QUALITY

MASONRY VENEER

M-1 MODULAR BRICK-- CLOUD CERAMICS- OLD HERITAGE
M-2 SOLDIER COURSE-- CLOUD CERAMICS- OLD HERITAGE
M-3 ROWLOCK COURSE-- CLOUD CERAMICS- OLD HERITAGE

SIDING

HP-1 HARDIE PLANK 1X6 SIDING-- COLOR PLUS- KHAKI BROWN (JH20-30)
HP-2 HARDIE PLANK 1X6 TRIM-- COLOR PLUS- AUTUMN TAN (JH20-20)
HP-3 HARDIE PLANK 1X4 TRIM-- COLOR PLUS- AUTUMN TAN (JH20-20)

ROOFING

R-1 COMPOSITION SHINGLE — ELK COMPOSITION ASPHAULT 30 YEAR-- WEATHERED WOOD

PAINT

P-1- SMOKE HOUSE- SW7040
P-2- WHOLE WHEAT- SW421

NOTES:

-KEY STONES TO BE CAST STONE
-FASCIA'S TO BE HARDIETRIM AND TO BE TRUE COLOR- AUTUMN TAN
-SOFFITS TO BE HARDIESOFFIT CONTINUOUSLY VENTED
TO BE JH TRUE COLOR- KHAKI BROWN
-FRONT DOOR AND ATTIC VENTS TO BE P-1
-ALL PORCH RAILING, GUTTERS, DOWNSPOUTS, BACK DOOR TO BE P-2
-ALL HP-3 PIECES AROUND WINDOWS TO BE HP TRUE COLOR- AUTUMN TAN
-ALL HP LAP SIDING TO BE HP TRUE COLOR- KHAKI BROWN
-CONTACT CRAIG BENEKE WITH BLACKSON BRICK COMPANY FOR ALL BRICK AND STONE: 214-855-5051

CREATION ARCHITECTURE
P. L. L. C.
INTELLIGENT DESIGN SOLUTIONS
1870 CROWN DRIVE- SUITE 1510
DALLAS, TEXAS 75234
PH:214-461-7740 F:214-461-7741

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COUNTRY PLACE LIVING

3128 WAGER ROAD
FLOWER MOUND, TEXAS 75028

REGISTERED ARCHITECT JOHN STEPHEN BENEKE 19066 STATE OF TEXAS
07/29/09

COUNTRY PLACE LIVING

1	07/01/09	FOR PERMIT
	10/15/09	REVISION 1

EXTERIOR ELEVATIONS

08032-01 — JOB NUMBER
A3.1 — SHEET

TOWN COUNCIL
AGENDA K.5.
REGULAR ITEM(S)

DATE: November 18, 2024
FROM: Tommy Dalton, Assistant Town Manager
ITEM: **Public Hearing to consider an ordinance amending and restating the Project and Finance Plan of Tax Increment Reinvestment Zone No. 1 (TIRZ #1), Town of Flower Mound, TX, ratifying the previous TIRZ # 1 Board actions relative to projects authorized, adding additional projects already approved by the TIRZ #1 Board. (The TIRZ #1 Board of Directors recommended approval by a vote of 3 to 0 at their April 3, 2024, meeting.)**

BACKGROUND: The purpose of this item is to consider an amended and restated Project and Finance Plan for TIRZ #1 (The Plan). Staff presented an update on TIRZ #1 during the October 7, 2024, Town Council meeting (staff report / video).

The Plan addresses the following items:

1. Ratifies the previous TIRZ # 1 Board actions relative to projects authorized
2. Adds additional projects already approved by the TIRZ #1 Board
3. Adds an arts center to the project plan
4. Extends the term of TIRZ #1 another five years until 2030.

As presented on October 7, 2024, Denton County has indicated their interest in extending their participation in the zone for the purpose of constructing the arts center. The partnership with the County is critical in funding a right-sized arts center with the shortest possible extension. The Town Council is considering a draft participation agreement with the County on the same agenda (Item K.6).

The TIRZ #1 Board adopted and recommended approval of The Plan at their April 3, 2024, meeting. Since that time, the arts center project has been added to The Plan along with the five-year extension. No further action is necessary from the TIRZ #1 Board, and final approval of The Plan is reserved for the Town Council.

BOARD REVIEW/CITIZEN FEEDBACK: The TIRZ #1 Board adopted the Amended and Restated Plan on April 3, 2024.

ALTERNATIVES: If the Town Council chooses not to extend the TIRZ, it will expire on December 31, 2024.

FISCAL IMPACT: N/A
N/A

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

ATTACHMENTS:

1. TIRZ #1 Draft Ordinance and Project and Finance Plan

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

TOWN OF FLOWER MOUND, TEXAS
ORDINANCE NO. _____

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, APPROVING AN AMENDED AND RESTATED PROJECT AND FINANCE PLAN FOR TAX INCREMENT FINANCING REINVESTMENT ZONE NUMBER ONE, TOWN OF FLOWER MOUND, TEXAS; MAKING CERTAIN FINDINGS; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, on September 19, 2005, the Town Council of the Town of Flower Mound, Texas (the "Town Council"), by the adoption of Ordinance No. 78-05, created Tax Increment Financing Reinvestment Zone Number One, Town of Flower Mound, Texas (the "Zone"); and

WHEREAS, Section 311.011(d), Texas Tax Code, provides that the Town Council must approve a project plan and reinvestment zone finance plan after its adoption by the board of the reinvestment zone; and

WHEREAS, on April 3, 2024, the Board of Directors of the Zone adopted and recommended approval of the *Tax Increment Financing Reinvestment Zone Number One, Town of Flower Mound, Texas, Amended and Restated Project and Finance Plan* (the "Amended and Restated Project and Finance Plan"), a copy of which is attached hereto as **Exhibit A**; and

WHEREAS, pursuant to Section 311.011(d), Texas Tax Code, the Town Council finds that the Amended and Restated Project and Finance Plan is feasible.

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

SECTION 1.

That the recitals, findings, and determinations contained in the preamble to this Ordinance are incorporated into the body of this Ordinance as if fully set forth in this Section and are hereby found and declared to be true and correct legislative findings and are adopted as part of this Ordinance for all purposes.

SECTION 2.

That the Town Council does hereby approve the Amended and Restated Project

and Finance Plan for Tax Increment Financing Reinvestment Zone Number One, Town of Flower Mound, Texas, a copy of which is attached hereto as **Exhibit A** and incorporated herein for all purposes.

SECTION 3.

This Ordinance shall be cumulative of all provisions of ordinances and of the Code of Ordinances, Town of Flower Mound, Texas, as amended, except 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.

That if any provision, section, subsection, sentence, clause or phrase of this Ordinance, or the application of same to any person or set of circumstances, is for any reason held to be invalid, the validity of the remaining provisions of this Ordinance or their application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the Town Council in adopting this Ordinance that no provision of this Ordinance shall become inoperative because of the invalidity of another provision; and, therefore, all provisions of this Ordinance are declared severable for that purpose.

SECTION 5.

This Ordinance shall take effect immediately upon its passage as provided by law.

PASSED AND APPROVED on this 18th day of November 2024.

_____
Cheryl Moore, MAYOR

ATTEST:

_____
Theresa Scott, Town Secretary

Exhibit A

Tax Increment Financing Reinvestment Zone Number One, Town of Flower Mound, Texas
Amended and Restated Project and Finance Plan

TAX INCREMENT FINANCING REINVESTMENT ZONE NUMBER ONE, TOWN OF FLOWER MOUND, TEXAS AMENDED AND RESTATED PROJECT AND FINANCE PLAN

NOVEMBER 18, 2024

TABLE OF CONTENTS

Table of Contents 1
Section 1: Definitions 1
Section 2: Introduction 4
Section 3: Description and Maps 6
Section 4: Proposed Changes to Ordinances, Plans, Codes, Rules, and Regulations 6
Section 5: Relocation of Displaced Persons 7
Section 6: Estimated Non-Project Costs 7
Section 7: Proposed Public Improvements 7
Section 8: Estimated Project Costs 7
Section 9: Feasibility Study 8
Section 10: Estimated Bonded Indebtedness 8
Section 11: Appraised Value 9
Section 12: Method of Financing 9
Section 13: Duration of the Zone, Termination 10
List of Exhibits 11
Exhibit A – Map of the Zone 12
Exhibit B – Non-Project Costs 13
Exhibit C – Project Costs 14
Exhibit D – Estimated Timeline of Incurred Costs 15
Exhibit E – Feasibility Study 16
Exhibit F – Proposed Uses of the Zone 17
Exhibit G – Map of the Public Improvements 18
Exhibit H – Parcel Identification 19

SECTION 1: DEFINITIONS

Capitalized terms used in this Amended Plan shall have the meanings given to them in **Section I** below unless otherwise defined in this Amended Plan or unless the context in which a term is used clearly requires a different meaning. Unless otherwise defined, a reference to a "Section," or an "Exhibit," shall be a reference to a Section of this Amended Plan or an Exhibit attached to and made a part of this Amended Plan for all purposes.

"**Act**" means Chapter 311, Texas Tax Code, Tax Increment Financing Act, as amended.

"Additional Projects" means those projects incorporated in this Amended Plan and to be funded in part or in whole from the Town TIRZ Increment only, as described in **Exhibit C**, with the exception of the Cultural Arts Center which shall be funded in part or in whole by both the Town TIRZ Increment and County TIRZ Increment.

"**Administrative Costs**" means the actual, direct costs paid or incurred by or on behalf of the Town to administer the Zone, including planning, engineering, legal services, organizational costs, publicizing costs, or implementations costs paid by or on behalf of the Town that are directly related to the administration of the Zone. Administrative Costs shall include costs incurred prior to the adoption of this Amended Plan.

"**Amended Plan**" means this *Amended and Restated Tax Increment Financing Reinvestment Zone Number One, Town of Flower Mound, Texas, Final Project and Finance Plan*.

"**Amending Ordinance**" means Ordinance No. _____ considered by the Town Council on October 7, 2024.

"**Appraisal District**" means the Denton Central Appraisal District.

"**Board**" means the Board of Directors for the Zone.

"**Captured Appraised Value**" means the taxable value of the Zone, on a parcel-by-parcel basis for each year during the term of the Zone, as calculated and confirmed annually by the Appraisal District, less the Tax Increment Base.

"**Creation Ordinance**" means Ordinance No. 78-05 adopted by the Town Council on September 19, 2005, designating the creation of the Zone and the Board.

"**County**" means Denton County, Texas.

"**County TIRZ Increment**" means the portion of the County's ad valorem tax increment collected and received by the County on the Captured Appraised Value in the Zone and to be deposited into the TIRZ No. 1 Fund. Pursuant to the County Participation Agreement, the County TIRZ Increment will be equal to one hundred percent (100%) of the ad valorem real property taxes in years 1-5, ninety percent (90%) in years 6-10, eighty-five percent (85%) in years 11-15, eighty percent (80%) in years 16-21, and decreasing five percent (5%) every year thereafter for the extension term.

"**County Participation Agreement**" means that certain Interlocal Agreement entered into by the Town and the County on August 7, 2006, detailing the Town and County's participation in the Zone, and any future amendments.

"**Cultural Arts Center**" means the proposed cultural arts center project to be constructed by the Town and funded in part or in full by the Town TIRZ Increment and the County TIRZ Increment, as shown on **Exhibit C**.

"**Feasibility Study**" means the economic feasibility study as prepared at the creation of the Final Plan as updated and amended by this Amended Plan, and focuses only on direct financial benefits, as further described in **Section 9** and shown on **Exhibit E**.

"Final Plan" means the *Tax Increment Financing Reinvestment Zone Number One, Town of Flower Mound, Texas, Project Plan* and the *Tax Increment Financing Reinvestment Zone Number One, Town of Flower Mound, Texas, Finance Plan*, approved by the Town Council on September 19, 2005.

"**Non-Project Costs**" means those certain costs that will be spent to develop in the Zone, but will not be financed by the Zone, and will be financed by private funds, as described in **Section 6** and shown on **Exhibit B**.

"**Original Projects**" means those projects included in the Final Plan and to be funded in part or in whole from the Town TIRZ Increment and County TIRZ Increment, as described in **Exhibit C**.

"**Project Costs**" means the total actual costs for projects in the Zone, including the cost of Original Projects, the cost of Additional Projects, and the Administrative Costs.

"**Property**" means approximately 1,465 acres of land as depicted on **Exhibit A** and described in **Exhibit H**.

"**Public Improvements**" means the public improvements including streets, signals, water, facilities, Riverwalk/Forum improvements, parks, other projects, and related infrastructure that serves the Property, including Original Projects and Additional Projects.

"**Tax Increment Base**" means total appraised value of taxable real property in the Zone at the time of creation of the Zone.

"**TIRZ No. 1 Fund**" means the tax increment fund created by the Town and segregated from all other funds of the Town.

"**Town**" means the Town of Flower Mound, Texas.

"**Town Council**" means the governing body of the Town.

"**Town TIRZ Increment**" means the portion of the Town's ad valorem tax increment collected and received by the Town on the Captured Appraised Value in the Zone, as further described in **Section 13.1**. The Town TIRZ Increment will equal one hundred percent (100%) of the ad valorem real property taxes in years 1-20, eighty percent (80%) in year 21, and decreasing five percent (5%) every year thereafter for the extension term.

"**Zone**" means Tax Increment Financing Reinvestment Zone Number One, Town of Flower Mound, Texas, as depicted on **Exhibit A** and identified on **Exhibit H**.

SECTION 2: INTRODUCTION

2.1 Authority and Purpose

The Town has the authority under the Act to designate a contiguous or noncontiguous geographic area within the corporate limits or extraterritorial jurisdiction of the Town as a tax increment reinvestment zone to promote development or redevelopment of the area because the Town Council has determined that development or redevelopment would not occur solely through private investment in the reasonably foreseeable future, that the Zone is feasible, and that creation of the Zone is in the best interest of the Town and the property in the Zone. The purpose of the Zone is to facilitate such development or redevelopment by financing the costs of public works, public improvements, programs, and other projects benefiting the Zone, plus other costs incidental to those expenditures, all of which costs are authorized by the Act.

2.2 Eligibility Requirements

An area is eligible under the Act to be designated as a tax increment reinvestment zone if the area:

1) substantially arrests or impairs the sound growth of the municipality designating the Zone, retard the provision of housing accommodations, or constitutes an economic or social liability and is a menace to the public health, safety, morals, or welfare in its present condition; or
2) is predominantly open or undeveloped and, because of obsolete platting, deterioration of structures or site improvements, or other factors, substantially impairs or arrests the sound growth of the Town; or
3) is in a federally assisted new community located in the Town or in an area immediately adjacent to a federally assisted new community; or
4) is in an area described in a petition requesting that the area be designated as a reinvestment zone, if the petition is submitted to the governing body of the Town by the owners of property constituting at least fifty percent (50%) of the appraised value of the property in the area according to the most recent certified appraisal roll for the county in which the area is located.

The Town cannot, however, designate a zone if more than thirty percent (30%) of the property in the proposed zone, excluding property that is publicly owned, is used for residential purposes, or if the total appraised value of taxable real property in the proposed zone and in existing reinvestment zones exceeds fifty percent (50%) of the total appraised value of taxable real property in the Town and in industrial districts created by the Town.

2.3 The Zone

The Town Council created the Zone which includes the Property. The Property is currently zoned single family, agriculture, retail, commercial, industrial, office, and central business district. The Property was primarily open, undeveloped, or underdeveloped, and due to its size, location, and physical characteristics, development would not have occurred solely through private investment in the foreseeable future. The Property substantially impaired and arrested the sound growth of the Town because it was predominately open and undeveloped due to factors such as the lack of public infrastructure and the need for economic incentive to attract development to the Zone for the purpose of providing long-term economic benefits including, but not limited to, increased real property tax base for all taxing units in the Zone. If the Public Improvements are financed as contemplated by this Amended Plan, the Town envisions that the Property will be further developed to take full advantage of the opportunity to bring to the Town and County, a quality development.

2.4 Final Plan and Hearing

The Town Council prepared a Final Plan for the Zone in accordance with the Act and held a public hearing on the creation of the Zone and its benefits to the Town and to the Property, at which public hearing interested persons were given the opportunity to speak for and against the creation of the Zone, the boundaries of the Zone and the concept of tax increment financing, and at which hearing the owners of the Property were given a reasonable opportunity to protest the inclusion of their Property in the Zone. The requirement of the Act for a reinvestment zone financing plan was satisfied by the Final Plan, the purpose of which was to describe, in general terms, the Public Improvements that will be undertaken and financed by the Zone. A description of how such public improvements and projects will be undertaken and financed is provided within this Amended Plan, which requires approval by the Board and by the Town Council.

2.5 Creation of the Zone

Upon the closing of the above referenced public hearing, the Town Council adopted the Creation Ordinance in accordance with the Act creating the Zone finding that (1) development or redevelopment of the Property would not occur solely through private investment in the reasonably foreseeable future, (2) the Zone was feasible, (3) improvements in the Zone would significantly enhance the value of all the taxable real property in the Zone and be of general benefit to the Town, and (4) that the Zone met the eligibility requirements of the Act. Among other provisions required by the Act, the Creation Ordinance appointed the Board,

2.6 Board Recommendations

On September 18, 2005, the Board reviewed the Final Plan and recommended its approval to the Town Council. On April 3, 2024, the Board reviewed this Amended Plan and recommended its

approval to the Town Council, pursuant to which the Town will contribute the Town TIRZ Increment into the TIRZ No. 1 Fund to fund the costs of the Public Improvements benefiting the Zone.

2.7 Council Action

The Town Council will take into consideration the recommendations of the Board and consider the Amending Ordinance, which serves to implement this Amended Plan, extend the duration of the TIRZ, and amend the Town TIRZ Increment. The Town Council will consider the Amended County Participation Agreement, which will amend the County's TIRZ Increment to eighty percent (80%) in year 21, and decreasing five percent (5%) every year thereafter for the extension term.

SECTION 3: DESCRIPTION AND MAPS

3.1 Existing Uses and Conditions

The Property is currently located within the corporate limits of the Town and is zoned single family, agriculture, retail, commercial, industrial, office, and central business district, in accordance with the Town's zoning ordinance. The Property was undeveloped and underdeveloped at the time of creation, and there was limited public infrastructure to support development. Development required extensive public infrastructure that: (1) the Town could not provide, and (2) would not be provided solely through private investment in the foreseeable future. A map of the Property and the Zone is shown on **Exhibit A**.

3.2 Land Uses

The land uses of the Property are expected to be single-family residential, commercial, retail, industrial, institutional, office, and mixed use.

3.3 Parcel Identification

The parcels identified on **Exhibit H** provide sufficient detail to identify with ordinary and reasonable certainty the territory included in the Zone.

SECTION 4: PROPOSED CHANGES TO ORDINANCES, PLANS, CODES, RULES, AND REGULATIONS

The Property is wholly located within the corporate limits of the Town and is subject to the Town's zoning regulation. The Town has exclusive jurisdiction over the subdivision and platting of the property within the Property and the design, construction, installation, and inspection of water, sewer, drainage, roadway, and other public infrastructure. No proposed changes to zoning

ordinances, comprehensive plan, building codes, subdivision rules, or other municipal ordinances are planned.

SECTION 5: RELOCATION OF DISPLACED PERSONS

No persons were displaced and in need of relocation due to the creation of the Zone or will be due to the implementation of this Amended Plan.

SECTION 6: ESTIMATED NON-PROJECT COSTS

Non-Project Costs are private funds that will be spent to develop the Zone but will not be financed by the Zone and will be financed by other funds. The list of Non-Project Costs is shown on **Exhibit B** and are estimated to be approximately $1,467,112,000.

SECTION 7: PROPOSED PUBLIC IMPROVEMENTS

7.1 Categories of Public Improvements

The Public Improvements financed or to be financed by the Zone are shown on **Exhibit C**. All Public Improvements were or shall be designed and constructed in accordance with all applicable Town standards and were or shall otherwise be inspected, approved, and accepted by the Town. At the Town's option, the Public Improvements may be expanded to include any other category of improvements authorized by the Act.

7.2 Locations of Public Improvements

The estimated locations of the Public Improvements are depicted on **Exhibit G**. These locations may be revised, with the approval of the Town, from time to time without amending this Amended Plan.

SECTION 8: ESTIMATED PROJECT COSTS

8.1 Project Costs

The total Project Costs were originally estimated to be $34,540,000 and have been amended to $115,007,408, as shown on **Exhibit C.** The Public Improvements are split between two categories, the Original Projects, now estimated at $38,695,825, and the Additional Projects, estimated at $76,248,502. The Cultural Arts Center is estimated to cost $50,000,000 and is included in the Additional Projects. Payments have been made from the TIRZ No. 1 Fund equaling $42,667,175, and therefore, the remaining cost of Public Improvements are estimated to be $72,340,233.

8.2 Estimated Administrative Costs

The Administrative Costs are estimated to be $10,000 in 2024 and escalate at two percent (2%) annually thereafter. The Administrative Costs shall be paid each year from the TIRZ No. 1 Fund before any other Project Costs are paid.

8.3 Estimated Timeline of Incurred Costs

It is estimated the remaining costs of Public Improvements will be incurred between calendar years 2025-2028, as shown on **Exhibit D**.

SECTION 9: FEASIBILITY STUDY

For purposes of this Amended Plan, the economic feasibility of the Zone has been demonstrated, as shown on **Exhibit E**. This evaluation focuses on only direct financial benefits (i.e. ad valorem tax revenues from the development of Public Improvements in the Zone). During the term of the Zone, new development (which would not have occurred but for the Zone) will generate approximately $123,812,131 in total new real property tax revenue, and the contributing taxing entities will retain $18,993,059. The remaining additional revenue will be deposited in the TIRZ No. 1 Fund to pay Project Costs.

The Feasibility Study shows the cumulative Town TIRZ Increment is estimated to be $70,441,649, which will be available to pay a portion of the Project Costs, until the term expires or is otherwise terminated. The remainder of the new Town real property tax revenue generated within the Zone and retained by the Town is estimated to be $10,213,666 over the remaining term.

The Feasibility Study shows the cumulative County TIRZ Increment is estimated to be $34,377,424, which will be available to pay a portion of the Project Costs, until the term expires or is otherwise terminated. The remainder of the new County real property tax revenue generated within the Zone and retained by the County is estimated to be $8,779,392 over the remaining term.

The remainder of the new real property tax revenue generated within the Zone will be available to pay Project Costs, until the term expires or is otherwise terminated. Upon expiration or termination of the Zone, one hundred percent (100%) of all tax revenue generated within the Zone will be retained by the respective taxing entities. Based on the foregoing, the feasibility of the Zone has been demonstrated.

SECTION 10: ESTIMATED BONDED INDEBTEDNESS

No tax increment reinvestment zone bonds, issued by the Town pursuant to the Act, are contemplated at this time.

SECTION 11: APPRAISED VALUE

11.1 Tax Increment Base

The Tax Increment Base of the Zone is $228,290,889, as provided by the Appraisal District, in accordance with the Act.

11.2 Estimated Captured Appraised Value

At the time of this Amended Plan, the total taxable value of the Zone is $1,934,347,026. It is estimated that upon expiration of the term of the Zone, the total Captured Appraised Value of taxable real property in the Zone will be approximately $1,948,833,730, as shown on **Exhibit E**. The actual Captured Appraised Value, as certified by the Appraisal District, for each year, will be used to calculate the Town TIRZ Increment and the County TIRZ Increment to be deposited into the TIRZ No. 1 Fund pursuant to this Amended Plan.

SECTION 12: METHOD OF FINANCING

At the time of this Amended Plan, the TIRZ No. 1 Fund balance was $20,636,815, as provided by the Town, which includes unencumbered funds and funds for the project to be undertaken by the extension.

This Amended Plan shall obligate the Town to deposit the Town TIRZ Increment into the TIRZ No. 1 Fund each year for the duration of the Zone. For example, in FY 2024, the Town's ad valorem tax rate was $0.38730 per $100 of taxable value, therefore the Town would contribute $0.38730 per $100 of the Captured Appraised Value in the Zone levied and collected, to the TIRZ No. 1 Fund.

The County Participation Agreement obligates the County to deposit the County TIRZ Increment into the TIRZ No. 1 Fund each year for the duration of the Zone. For example, in FY 2024, the County's ad valorem tax rate was $0.18949 per $100 of taxable value, therefore the County would contribute $0.1515880 per $100 of the Captured Appraised Value in the Zone levied and collected, to the TIRZ No. 1 Fund.

Funds deposited into the TIRZ No. 1 Fund shall always first be applied to pay the Administrative Costs. After the Administrative Costs have been paid, funds in the TIRZ No. 1 Fund shall next be used to fund the Public Improvements. All payments of Project Costs shall be made solely from the TIRZ No. 1 Fund and from no other funds of the Town unless otherwise approved by the governing body, and the TIRZ No. 1 Fund shall only be used to pay the Project Costs in accordance with this Amended Plan. The Town may amend this Amended Plan including but not limited to what is considered a Project Cost.

SECTION 13: DURATION OF THE ZONE, TERMINATION

13.1 Duration

The original term of the Zone commenced at the creation of the Zone and was to continue until December 31, 2024, unless otherwise terminated in accordance with the Creation Ordinance. The Amending Ordinance serves to extend the duration of the Zone until December 31, 2029, with the last payment due by January 31, 2030, unless otherwise terminated in accordance with the Amending Ordinance.

13.2 Termination

The Zone will terminate prior to the expiration of its stated term if the Project Costs have been fully funded. If upon the expiration of the stated term of the Zone, the Project Costs have not been fully funded, the Town and County shall have no obligation to pay the shortfall, and the term of the Zone shall not be extended. The provisions of this section shall be included in the County Participation Agreement. Nothing in this section is intended to prevent the Town from extending the term of the Zone in accordance with the Act.

LIST OF EXHIBITS

Unless otherwise stated, all references to "Exhibits" contained in this Amended Plan shall mean and refer to the following exhibits, all of which are attached to and made a part of this Amended Plan for all purposes.

Exhibit A	Map of the Zone
Exhibit B	Non-Project Costs
Exhibit C	Project Costs
Exhibit D	Estimated Timeline of Incurred Costs
Exhibit E	Feasibility Study
Exhibit F	Proposed Uses of the Zone
Exhibit G	Map of the Public Improvements
Exhibit H	Parcel Identification

EXHIBIT A – MAP OF THE ZONE

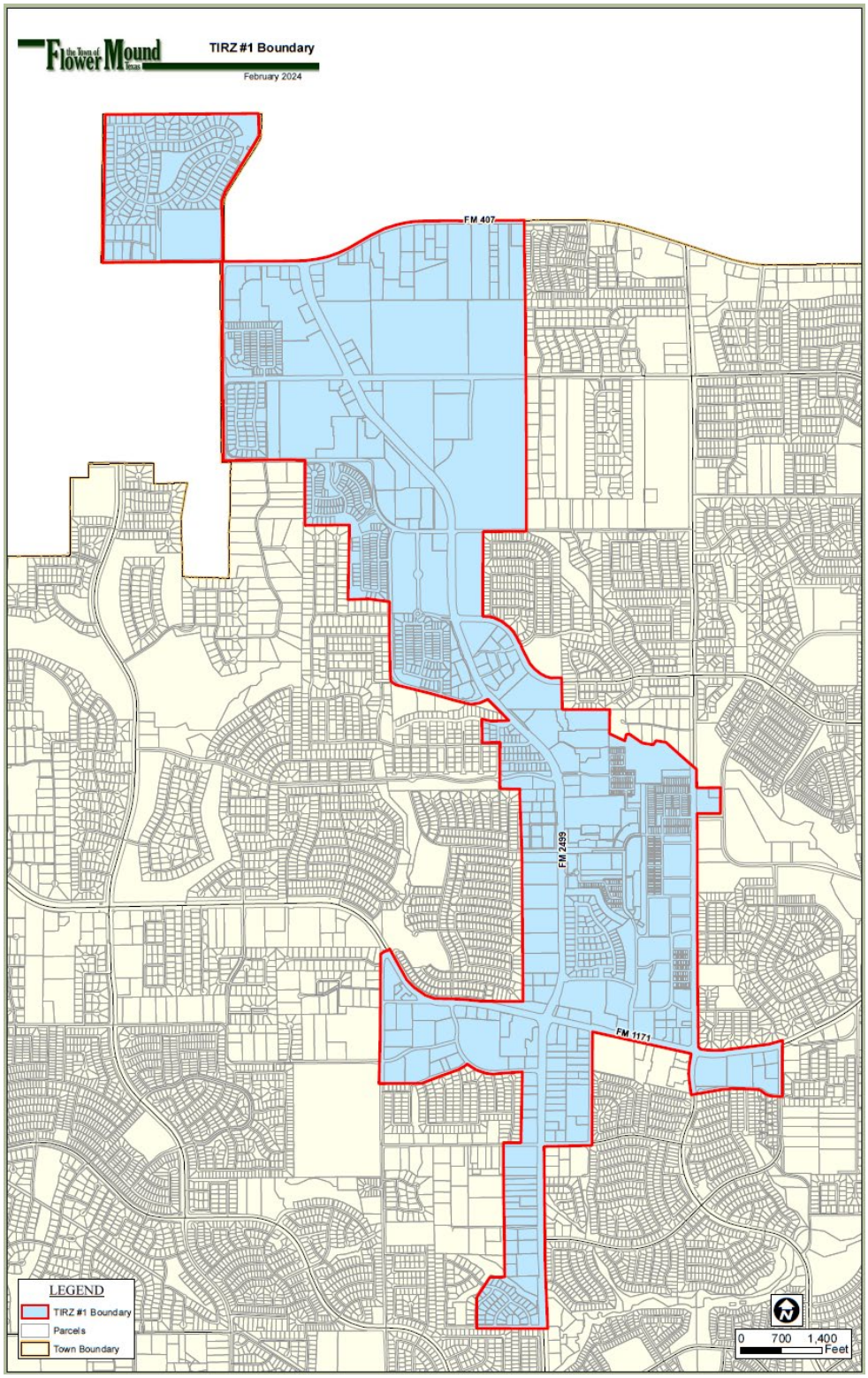


EXHIBIT B – NON-PROJECT COSTS

Non-Project Costs[a],[b]		
Captured Appraised Value	$	1,948,833,730
Public Improvement Costs	$	114,944,327
Estimated Non-Project Costs	**$**	**1,467,112,000**

Footnotes
[a] Non-Project Costs are estimated to be approximately 80% of the Captured Appraised Value less the Public Improvement Costs.
[b] Provided for illustrative purposes only, and subject to change.

EXHIBIT C – PROJECT COSTS

Reinvestment Zone Number One, Town of Flower Mound, Texas
Project Costs

Project Number	Project Name	2005 Budget	2024 Budget	Expended Costs	Remaining Balance
	Original Projects[a]				
Streets					
1	Dixon Lane (Chinn Chapel to Crestside)	$ 3,500,000	$ 2,685,267	$ 2,685,267	$ -
2	Chinn Chapel (FM 407 to Dixon)	$ 425,000	$ 1,387,500	$ 1,387,500	$ -
3	Chinn Chapel (Dixon to Waketon)	$ 750,000	$ 941,305	$ 941,305	$ -
4	Waketon Road (Rippy to Chinn Chapel)	$ 400,000	$ 5,439,161	$ 4,993,608	$ 445,553
5	Rippy Road (FM 2499 to Waketon)	$ 2,115,000	$ 8,500,000	$ 2,788,913	$ 5,711,087
6	Churchill Drive (East End to Yucca)	$ 560,000	$ 400,000	$ 400,000	$ -
Signals					
13	College Parkway at FM 2499	$ 150,000	$ 115,000	$ 115,000	$ -
Water					
14	FM 2499 West Side Waterline (FM 1171 to Dixon)	$ 1,175,000	$ 906,605	$ 906,605	$ -
16	FM 407 from FM 2499 to Country Meadows Addition	$ 465,000	$ 438,039	$ 438,039	$ -
Facilities					
18	Town Hall	$ 12,000,000	$ 11,266,856	$ 7,550,068	$ 3,716,788
19	Senior Citizen Activity Center	$ 8,000,000	$ 4,886,092	$ 4,886,092	$ -
Riverwalk Improvements					
24	Improvements in Riverwalk Area	$ 5,000,000	$ 730,000	$ -	$ 730,000
25	Riverwalk Parking Structure	$ -	$ 1,000,000	$ 1,000,000	$ -
	Original Projects Subtotal	**$ 34,540,000**	**$ 38,695,825**	**$ 28,092,397**	**$ 10,603,428**
	Additional Projects[b]				
Streets					
7	FM 1171 at FM 2499 Westbound Right Turn Lane	$ -	$ 1,048,000	$ 254,231	$ 793,769
8	FM 1171 at FM 2499 Eastbound Right Turn Lane	$ -	$ 432,752	$ 432,752	$ -
9	FM 2499 at Waketon Intersection	$ -	$ 1,900,000	$ 1,461,176	$ 438,824
10	Karnes Road	$ -	$ 830,000	$ 84,882	$ 745,118
11	East Waketon Road Drainage Improvements	$ -	$ 1,900,000	$ 287,497	$ 1,612,503
Signals					
12	Morris Road Adaptive Traffic Signal Upgrade	$ -	$ 178,000	$ 122,222	$ 55,778
Water					
15	Rippy Road Water Line Improvements	$ -	$ 400,000	$ -	$ 400,000
17	Morriss Waterline Project Phase 2	$ -	$ 2,317,153	$ 2,317,153	$ -
Facilities					
20	Library Renovation and Expansion	$ -	$ 12,027,346	$ 7,825,459	$ 4,201,887
Parks					
21	Peter's Colony Memorial Park	$ -	$ 2,955,000	$ 346,309	$ 2,608,691
22	Chinn Chapel Park	$ -	$ 650,000	$ 613,950	$ 36,050
23	Pink Evening Primrose Trail Connection (Bridge & Trail)	$ -	$ 915,000	$ 598,462	$ 316,538
Other Projects					
27	Town Center Master Plan	$ -	$ 50,685	$ 50,685	$ -
28	FM 407 Shared Retail Development	$ -	$ 180,000	$ 180,000	$ -
26	Other Projects	$ -	$ 464,566	$ -	$ 464,566
29	Cultural Arts Center	$ -	$ 50,000,000	$ -	$ 50,000,000
	Additional Projects Subtotal	**$ -**	**$ 76,248,502**	**$ 14,574,778**	**$ 61,673,724**
	Administrative Costs	**$ -**	**$ 63,081**	**$ -**	**$ 63,081**
	Total Project Costs	**$ 34,540,000**	**$ 115,007,408**	**$ 42,667,175**	**$ 72,340,233**

Footnotes

[a] Original Projects are funded by Town TIRZ Increment and County TIRZ Increment.
[b] Additional Projects are funded by Town TIRZ Increment only, with the exception of Cultural Arts Center which shall be funded by both the Town TIRZ Increment and the County TIRZ Increment.

EXHIBIT D – ESTIMATED TIMELINE OF INCURRED COSTS

Zone Year	Calendar Year	Total Project Costs[a]	
		Annual	Cumulative
20	2024	$ -	$ 42,667,175
21	2025	$ 18,085,058	$ 60,752,233
22	2026	$ 23,510,576	$ 84,262,809
23	2027	$ 23,510,576	$ 107,773,385
24	2028	$ 7,234,023	$ 115,007,408
25	2029	$ -	$ 115,007,408
Total		**$ 72,340,233**	**$ 115,007,408**

Footnotes
[a] Estimate provided for illustrative purposes only.

EXHIBIT E – FEASIBILITY STUDY

Reinvestment Zone Number One, Town of Flower Mound, Texas
Feasibility Study - 5 Year Extension

Zone Year	Calendar Year	Growth/ Year[a]	Added Development Value[b]	Town[c] New Taxable Value	Town[c] Incremental Value	County[c] New Taxable Value	County[c] Incremental Value	Town TIRZ Increment %	Town TIRZ Increment Annual	Town Fund Balance[d] Annual	Town Fund Balance[d] Cumulative	County TIRZ Increment %	County TIRZ Increment Annual	County Fund Balance[d] Annual	County Fund Balance[d] Cumulative	Current Total Obligations[e] Annual	Total Cash Available
1	2005			$ 228,290,889		$ 229,382,705											
2	2006	3%	$ 59,757,614	$ 294,897,230	$ 66,606,341	$ 295,969,292	$ 66,586,587	100%	$ -	$ -	$ -	100%	$ -	$ -	$ -	$ -	$ -
3	2007	3%	$ 51,984,316	$ 355,728,463	$ 127,437,574	$ 356,587,442	$ 127,204,737	100%	$ 299,529	$ -	$ -	100%	$ 154,428	$ -	$ -	$ -	$ -
4	2008	3%	$ 67,392,076	$ 433,792,393	$ 205,501,504	$ 432,633,064	$ 203,250,359	100%	$ 573,087	$ -	$ -	100%	$ 300,063	$ -	$ -	$ -	$ -
5	2009	0.0%	$ 8,430,372	$ 442,222,765	$ 213,931,876	$ 443,177,566	$ 213,794,861	100%	$ 924,140	$ -	$ -	100%	$ 479,203	$ -	$ -	$ -	$ -
6	2010	0.0%	$ 16,774,166	$ 458,996,931	$ 230,706,042	$ 459,984,122	$ 230,601,417	100%	$ 962,052	$ -	$ -	100%	$ 534,060	$ -	$ -	$ -	$ -
7	2011	3%	$ -	$ 455,928,159	$ 227,637,270	$ 496,122,405	$ 266,739,700	100%	$ 1,037,485	$ -	$ -	90%	$ 631,617	$ -	$ -	$ -	$ -
8	2012	3%	$ 4,794,758	$ 474,400,762	$ 246,109,873	$ 509,896,485	$ 280,513,780	100%	$ 1,023,685	$ -	$ -	90%	$ 665,839	$ -	$ -	$ -	$ -
9	2013	3%	$ 46,228,979	$ 534,861,764	$ 306,570,875	$ 569,561,761	$ 340,179,056	100%	$ 1,106,756	$ -	$ -	90%	$ 714,133	$ -	$ -	$ -	$ -
10	2014	3%	$ 94,021,222	$ 644,928,839	$ 416,637,950	$ 684,016,199	$ 454,633,494	100%	$ 1,378,649	$ -	$ -	90%	$ 872,296	$ -	$ -	$ -	$ -
11	2015	3%	$ 51,858,555	$ 716,135,259	$ 487,844,370	$ 755,052,950	$ 525,670,245	100%	$ 1,829,041	$ -	$ -	90%	$ 1,113,761	$ -	$ -	$ -	$ -
12	2016	3%	$ 97,660,910	$ 835,280,227	$ 606,989,338	$ 874,647,918	$ 645,265,213	100%	$ 2,141,637	$ -	$ -	85%	$ 1,239,530	$ -	$ -	$ -	$ -
13	2017	3%	$ 102,477,486	$ 962,816,120	$ 734,525,231	$ 1,004,278,811	$ 774,896,106	100%	$ 2,664,683	$ -	$ -	85%	$ 1,362,462	$ -	$ -	$ -	$ -
14	2018	3%	$ 105,870,572	$ 1,097,571,176	$ 869,280,287	$ 1,140,498,867	$ 911,116,162	100%	$ 3,224,566	$ -	$ -	85%	$ 1,566,377	$ -	$ -	$ -	$ -
15	2019	0.0%	$ 167,829,902	$ 1,265,401,078	$ 1,037,110,189	$ 1,315,269,604	$ 1,085,886,899	100%	$ 3,816,140	$ -	$ -	85%	$ 1,746,955	$ -	$ -	$ -	$ -
16	2020	0.0%	$ 79,519,655	$ 1,344,920,733	$ 1,116,629,844	$ 1,351,015,424	$ 1,121,632,719	100%	$ 4,526,986	$ -	$ -	85%	$ 2,079,325	$ -	$ -	$ -	$ -
17	2021	3%	$ 42,289,426	$ 1,427,557,781	$ 1,199,266,892	$ 1,391,223,757	$ 1,161,841,052	100%	$ 4,874,089	$ -	$ -	80%	$ 2,144,980	$ -	$ -	$ -	$ -
18	2022	3%	$ 190,985,714	$ 1,661,370,228	$ 1,433,079,339	$ 1,759,640,527	$ 1,530,257,822	100%	$ 4,857,031	$ -	$ -	80%	$ 2,166,471	$ -	$ -	$ -	$ -
19	2023	3%	$ 156,454,447	$ 1,867,665,782	$ 1,639,374,893	$ 1,830,026,148	$ 1,600,643,443	100%	$ 5,803,971	$ -	$ -	80%	$ 2,663,175	$ -	$ -	$ -	$ -
20	2024	3%	$ 10,651,271	$ 1,934,347,026	$ 1,706,056,137	$ 1,895,578,203	$ 1,666,195,498	100%	$ 5,710,664	$ 16,347,479	$ 16,347,479	80%	$ 2,785,670	$ 12,785,670	$ 12,785,670	$ 9,155,443	$ 19,977,706
21	2025	3%	$ -	$ 1,992,377,437	$ 1,764,086,548	$ 1,952,445,549	$ 1,723,062,844	80%	$ 5,285,744	$ 5,285,744	$ 21,633,223	80%	$ 2,525,752	$ 2,525,752	$ 15,311,423	$ 2,639,350	$ 25,149,853
22	2026	3%	$ -	$ 2,052,148,760	$ 1,823,857,871	$ 2,011,018,916	$ 1,781,636,211	75%	$ 5,020,077	$ 5,020,077	$ 26,653,300	75%	$ 2,380,465	$ 2,380,465	$ 17,691,887	$ 2,639,400	$ 29,910,994
23	2027	3%	$ -	$ 2,113,713,223	$ 1,885,422,334	$ 2,071,349,483	$ 1,841,966,778	70%	$ 4,745,966	$ 4,745,966	$ 31,399,266	70%	$ 2,233,269	$ 2,233,269	$ 19,925,156	$ -	$ 36,890,229
24	2028	3%	$ -	$ 2,177,124,619	$ 1,948,833,730	$ 2,133,489,967	$ 1,904,107,262	65%	$ 4,463,381	$ 4,463,381	$ 35,862,648	65%	$ 2,084,220	$ 2,084,220	$ 22,009,376	$ -	$ 43,437,831
25	2029	0%	$ -	$ 2,177,124,619	$ 1,948,833,730	$ 2,197,494,667	$ 1,968,111,962	60%	$ 4,172,289	$ 4,172,289	$ 40,034,937	60%	$ 1,933,373	$ 1,933,373	$ 23,942,749	$ -	**$ 49,543,493**
Total			**$ 1,354,981,442**						**$ 70,441,649**	**$ 40,034,937**			**$ 34,377,424**	**$ 23,942,749**		**$ 14,434,193**	

Assumptions	
Base Taxable Value	$ 228,290,889
2024 Town AV Rate[f]	0.387278
2023 County AV Rate[g]	0.189485

Footnotes

[a] Assumes 3% growth annually with two years of no growth each decade to simulate an economic downturn.
[b] Added Development Value based on Town's actual growth.
[c] Per information provided by the Town.
[d] Includes $20,636,815 fund balance as of 2024, per information provided by the Town, allocated between the Town and the County.
[e] Does not include Community Arts Center.
[f] Assumes the Town tax rate will decrease by 2.03% every year from 2025-2029.
[g] Assumes the County tax rate will decrease by 2.79% every year from 2025-2029.

EXHIBIT F – PROPOSED USES OF THE ZONE

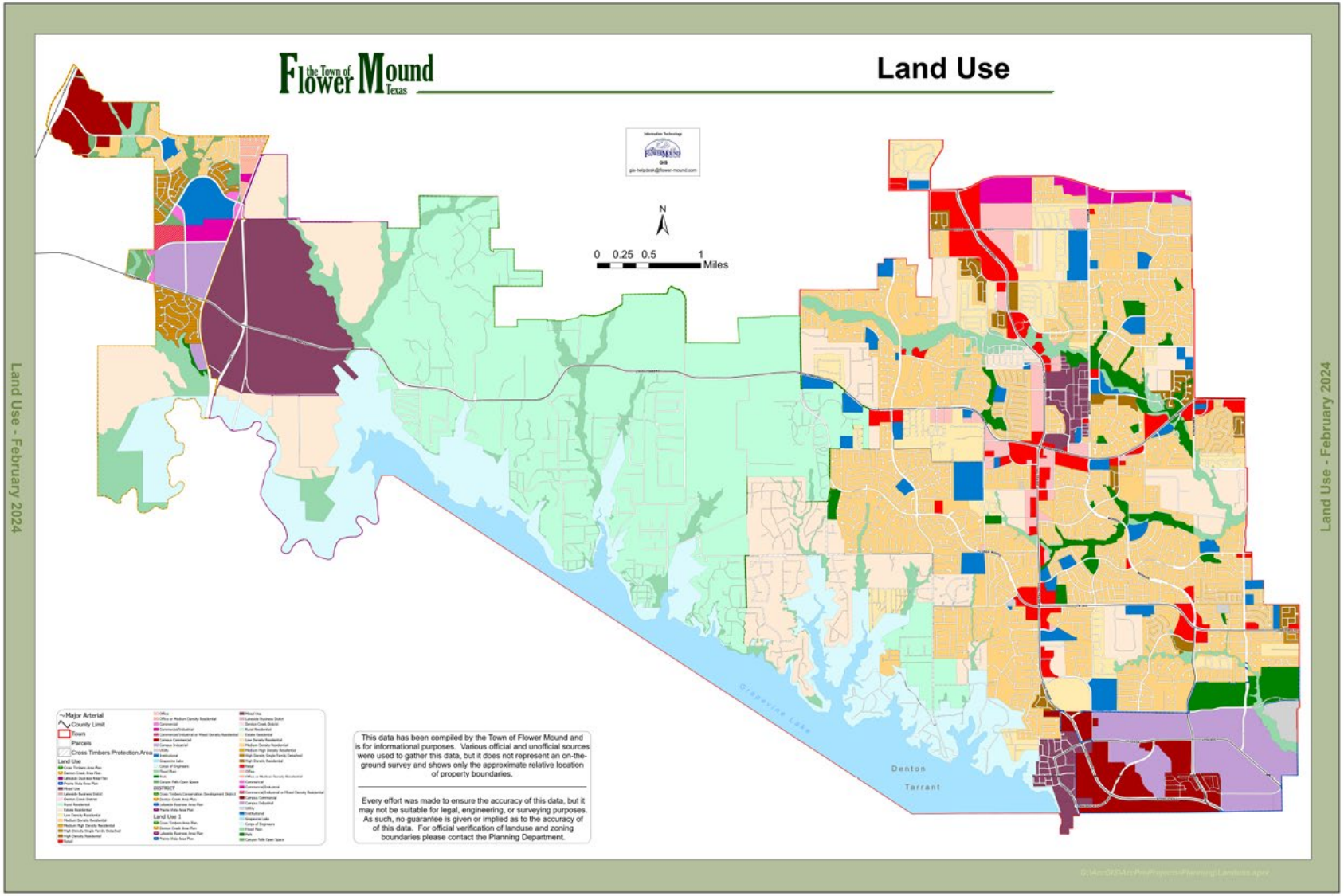
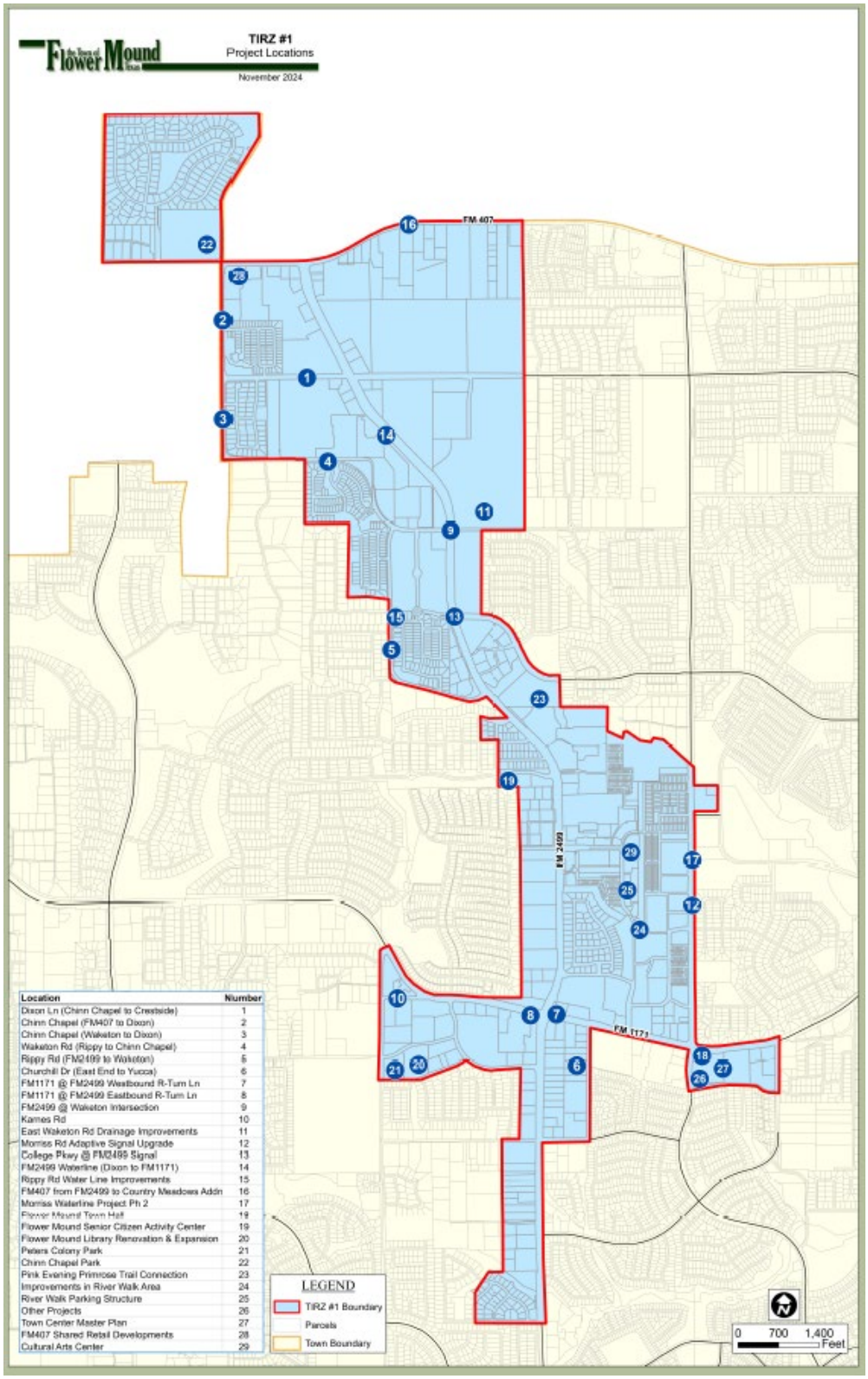


EXHIBIT G – MAP OF THE PUBLIC IMPROVEMENTS



Location	Number
Dixon Ln (Chinn Chapel to Creekside)	1
Chinn Chapel (FM407 to Dixon)	2
Chinn Chapel (Waketon to Dixon)	3
Waketon Rd (Rippy to Chinn Chapel)	4
Rippy Rd (FM2499 to Waketon)	5
Churchill Dr (East End to Yucca)	6
FM1171 @ FM2499 Westbound R-Turn Ln	7
FM1171 @ FM2499 Eastbound R-Turn Ln	8
FM2499 @ Waketon Intersection	9
Karnes Rd	10
East Waketon Rd Drainage Improvements	11
Morriss Rd Adaptive Signal Upgrade	12
College Pkwy @ FM2499 Signal	13
FM2499 Waterline (Dixon to FM1171)	14
Rippy Rd Water Line Improvements	15
FM407 from FM2499 to Country Meadows Addn	16
Morriss Waterline Project Ph 2	17
Flower Mound Town Hall	18
Flower Mound Senior Citizen Activity Center	19
Flower Mound Library Renovation & Expansion	20
Peters Colony Park	21
Chinn Chapel Park	22
Pink Evening Primrose Trail Connection	23
Improvements in River Walk Area	24
River Walk Parking Structure	25
Other Projects	26
Town Center Master Plan	27
FM407 Shared Retail Developments	28
Cultural Arts Center	29

EXHIBIT H – PARCEL IDENTIFICATION

Property ID	Property ID	Property ID	Property ID	Property ID
18953	248866	05373	560711	130907
18957	248868	05369	130688	130912
210772	164978	05396	660513	130916
18978	248867	05399	130640	130932
18992	248869	05403	130694	130939
612925	248871	05407	130834	130588
18982	243061	05429	130698	130759
757325	248870	05423	187777	130980
19005	248874	05409	130639	130975
978908	248872	05412	130707	130969
18990	189137	05416	130828	130941
561915	243055	05420	130842	130963
73953	748957	130720	130634	1008217
18974	17375	130880	130817	130752
18985	182469	130750	130806	130593
200727	05547	130598	130810	130895
99047	06103	130986	130795	966338
200727	05485	676472	130632	130781
18971	05439	288382	130710	130550
561336	05436	05366	130714	130765
18964	05489	05357	498016	130558
244815	770998	05354	130630	130573
244816	06101	05349	130885	130562
244812	713650	05347	205965	130565
244817	05490	05344	130877	130771
244814	05393	05337	130873	130768
269686	05391	05339	130871	288379
18967	06098	05333	130734	288380
621841	05499	748961	130613	288381
244813	05492	117208	130846	966339
754891	05502	117209	130741	180599
241382	05495	05342	130855	130684
269691	05505	07254	130857	130642
966111	770999	496334	130869	187776
556877	05559	130680	130865	130763
700004	05387	130676	130604	130584
189486	05383	130673	130746	185168
199388	05380	130653	675223	747107
248864	05376	130648	130754	273096

Property ID	Property ID	Property ID	Property ID	Property ID
273097	04722	310054	136333	ROW
273095	99043	701931	563268	619922
130835	271992	677506	208066	619924
156105	271991	310058	112327	619921
698539	17809	310056	308273	619923
273094	17805	310059	17693	330530
201522	231221	136308	661719	330535
180345	04717	19419	716919	698397
180346	04702	301603	308405	698544
657697	658813	301602	18980	730057
273092	17841	301609	21839	330532
273091	17792	305981	698525	330534
196229	291025	202316	648075	338780
178351	291023	305999	248873	338780
187872	269687	305998	523665	559735
149103	273892	661718	523343	624078
657698	301605	310059	611125	496677
04740	301606	18357	611126	496680
04778	301604	647857	523342	496681
184824	301607	136317	523482	496679
04742	301608	17720	523481	667412
765498	301610	315313	523480	715613
185169	733699	18359	523483	496684
173490	769914	18361	525339	471420
184825	19017	18362	523652	471421
19637	561917	18364	523656	471418
193012	279855	18366	523657	471419
201524	279853	305982	523658	716910
765499	279854	269690	523659	471389
261754	234830	301933	523655	471388
04780	234828	557415	523654	471390
184826	163555	557416	523653	471394
179529	234829	262309	523660	471392
179530	153570	661714	523661	471391
261752	284001	303221	523651	471417
04735	698398	303237	04765	471416
149099	303218	303220	04786	471415
698750	303219	303235	18376	471414
171666	303216	303214	534962	471413
04731	303212	303236	534963	471412
17814	310057	303211	526684	471395
04726	310055	585223	613379	471393

Property ID	Property ID	Property ID	Property ID	Property ID
471387	495651	556841	556836	566794
471382	495650	556894	556837	566793
471372	495645	556887	556838	566792
471373	495644	556891	556854	566791
471374	495643	556890	556846	566790
471375	495642	556892	556847	566789
471376	495641	556889	556845	566788
471377	495640	556893	556848	566787
471378	495639	556888	556844	566786
471379	495652	556895	556849	566785
471380	495654	556886	556843	566784
471381	495656	556884	556850	566783
471384	495655	500868	556842	566806
471383	495657	556865	556851	566782
471385	495658	556856	556840	566781
471386	495659	556857	556853	566780
471370	495660	556858	ROW	566779
471369	495661	556859	667413	566778
471371	495662	556860	310059	566777
471396	495663	556861	298749	566776
471398	495679	556862	561337	566833
471403	495667	556863	648032	566834
471402	211192	556864	566832	566835
471401	495649	556866	566867	566836
471400	495665	556867	728529	566837
471399	495668	556868	566845	566848
471397	495653	556869	566847	566838
681982	495648	556870	566805	566839
471405	498971	556871	566810	566840
471406	633845	556872	566809	566841
471407	301932	556873	566808	566842
471408	498969	556874	566807	566844
471409	498970	556875	566804	566830
471410	498972	556876	566803	566829
471411	211192	556878	566802	566828
471422	211192	556883	566801	566827
495664	211192	556882	566800	566826
495638	211192	556881	566799	566825
495671	211192	556880	566798	566824
495672	211192	556879	566797	566823
495647	568222	537589	566796	566822
495646	211192	556839	566795	566821

Property ID	Property ID	Property ID	Property ID	Property ID
566820	633811	633838	653029	653003
566861	633842	633840	653028	653004
566853	633836	633824	653015	653005
566871	633829	633819	653016	653006
566849	633835	633820	653021	652985
566870	633834	633821	653026	744724
566850	633833	633823	653020	652970
566869	633832	633825	653019	652972
566851	633831	633827	653018	652971
566868	633830	633816	653017	652969
566852	633828	633814	653025	652968
566866	633847	633812	653024	652967
566854	633848	633813	653023	652966
566860	633849	633815	653022	652965
566865	633850	471322	653011	652964
566864	633844	633851	653012	652963
566863	633846	652946	653013	744725
566862	633843	653009	653014	744723
566855	633795	653010	652982	652951
566856	633794	649981	652973	652947
566857	633793	653007	652974	652948
566859	633792	652988	652975	652949
566858	633791	652997	652976	652950
566812	633790	652996	652977	652983
566813	633818	652995	652978	652930
566819	633817	652994	652979	652931
566818	633805	652993	652980	652932
566817	633804	652992	652981	652933
566816	633803	652991	652954	652934
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633797	633809	653033	652999	652944
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648074	675262	677513	677428	677465
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675285	675242	677482	677412	677507
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675279	675240	677483	677492	677445
675284	675244	677478	677488	677447
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675280	675234	677481	677489	677458
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675270	675229	677437	677494	748963
675264	675230	677436	677496	693511
675274	675231	677441	677499	693502
675271	675235	677442	677500	693477
675269	675232	677419	677498	693470
675268	675233	677417	677495	693474
675267	675225	677418	677493	693476
675273	675215	677501	677473	693468
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675265	675217	677431	677468	693473
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693513	744740	667634	667423	716915
693516	705225	667599	744741	716914
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693515	655450	667675	748964	716918
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693488	667609	667645	716927	716898
693487	667625	667674	716957	715622
693486	667608	667655	716955	715616
693485	667626	667664	716956	715620
693510	667607	667646	716954	715570
693503	667636	667663	716952	715558
693504	667616	667647	716943	715618
693507	667627	667662	716942	715619
693508	667606	667648	716941	715614
693506	667628	667661	716940	715615
693505	667605	667649	716939	715617
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715607	715552	733742	733693	769896
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715587	715568	733700	733675	769901
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715545	715566	733702	733672	769898
715535	715569	733703	733671	769913
715540	715562	733704	733663	769845
715541	715560	733705	733662	769868
715533	715565	733706	733661	769863
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TOWN COUNCIL
AGENDA K.6.
REGULAR ITEM(S)

DATE: November 18, 2024
FROM: Tommy Dalton, Assistant Town Manager
ITEM: **Consider authorizing the Town Manager to execute an amended and restated participation agreement with Denton County in Tax Increment Financing Reinvestment Zone No. 1 (TIRZ #1), Town of Flower Mound, Texas.**

BACKGROUND: The purpose of this item is to authorize the Town Manager to execute an amended and restated participation agreement with Denton County in TIRZ #1. The County has participated in TIRZ #1 since it was created in 2005. The proposed amended agreement would replace the original agreement in its entirety. The amended agreement includes extending the County's participation in TIRZ #1 for an additional five years, if TIRZ #1 is extended. The extension of TIRZ #1 is a companion item (Item K.5) on the same agenda. Details regarding the extension can be found in Item K.5.

It is expected that the Denton County Commissioners Court will consider this participation agreement at one of their meetings in December.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES: The Council may approve, deny, or make changes to the draft participation agreement. If the Council denies the agreement, the County will not participate in TIRZ #1.

FISCAL IMPACT: N/A
N/A

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

ATTACHMENTS:
1. Draft Participation Agreement

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

TOWN OF FLOWER MOUND AND DENTON COUNTY
AMENDED AND RESTATED PARTICIPATION AGREEMENT
TAX INCREMENT FINANCING REINVESTMENT ZONE NUMBER ONE, TOWN OF FLOWER MOUND, TEXAS

THIS AMENDED AND RESTATED PARTICIPATION AGREEMENT, ("Amended Agreement") is made and entered into by and between the Town of Flower Mound, Texas ("Town"), and Denton County, ("County"), Texas.

RECITALS

WHEREAS, in accordance with the provisions of the Tax Increment Financing Act, Tax Code, Chapter 311 (the "Act"), the Town Council adopted Ordinance No. 78-05 (the "Creation Ordinance") on September 19, 2005, creating, establishing and designating "*Tax Increment Financing Reinvestment Zone Number One, Town of Flower Mound, Texas*" (the "Zone") under the Act; and

WHEREAS, the Town adopted Ordinance No. ____ (the "Amending Ordinance") on November 18, 2024, which serves to extend and implement the Tax Increment Financing Reinvestment Zone Number One, Town of Flower Mound, Texas, Amended and Restated Project and Finance Plan (the "Amended Plan") for the Zone in substantially the form of the Amended Plan attached hereto as **Exhibit A** and incorporated herein by reference; and

WHEREAS, the Act provides that each taxing unit levying taxes on real property in a Zone is not required to pay into the tax increment fund created by the Town and segregated from all other funds of the Town (the "TIRZ Fund") any of its tax increment produced from property located in the reinvestment zone unless such taxing unit enters into an agreement to do so with the governing body of the municipality that created the Zone; and

WHEREAS, an agreement to participate in a Zone created under the Act may be entered into any time before or after the Zone is created, and such agreement may include any conditions for payment of the tax increment into the TIRZ Fund and must specify the portion of the tax increment to be paid into the TIRZ Fund and the years for which that tax increment is to be paid into the TIRZ Fund; and

WHEREAS, the Town and the County entered into an interlocal agreement (the "Original Agreement") on August 7, 2006, which detailed the County's participation in the Zone; and

WHEREAS, this Amended Agreement serves to replace the Original Agreement in its entirety.

NOW, THEREFORE, the Town and the County, in consideration of the terms, conditions, and covenants contained herein, hereby agree as follows:

SECTION 1.

The Town and County hereby agree to pay into the TIRZ Fund established by the Town for the Zone a percentage of the ad valorem tax collections on the captured appraised value of real property in the Zone as follows and subject to the following terms and conditions.

a) The County hereby agrees to pay into the TIRZ Fund, a portion of the ad valorem tax collections on the captured appraised value of real property in the Zone for the remainder of the term of the Zone (the "County Tax Increment"), as detailed in the table below:

1.	Year 21	80%
2.	Year 22	75%
3.	Year 23	70%
4.	Year 24	65%
5.	Year 25	60%

b) The County shall not pay into the TIRZ Fund the applicable portion of its tax increment that is attributable to delinquent taxes.

c) The County Tax Increment shall be used solely to fund the Original Projects and the Cultural Arts Center, as defined and identified in the Amended Plan.

d) The percentages shown in Section 1(a) are a reflection of the Town Tax Increment, as further described in the Amended Plan. However, at no time will the County Tax Increment be higher than the Town.

Boundary. The boundaries of the Zone are and shall be those boundaries described in the Creation Ordinance, or an amendment thereto revising the boundaries duly approved by the Zone Board of Directors and the Town Council of the Town.

Purpose and Program. Any additions, changes, revisions, or modifications to the Amended Plan made after the date of this Amended Agreement may only be made by the Zone Board of Directors and the Town Council, subject to the termination provision described in this Section.

Appraised Value. The real property within the boundaries of the Zone was appraised at the time of the Creation Ordinance and established the tax increment base referenced in Section 311.012 of the Act.

Use of TIRZ Funds. All amounts paid into the TIRZ Fund shall be used solely to pay or reimburse cash expenditures for project costs or the principal of and interest on any tax increment bonds or notes issued to finance project costs under the Act, and to pay direct costs properly chargeable under the Act and under generally accepted accounting principles to the administration of the Zone, all in accordance with the Amended Plan.

Deposit of TIRZ Funds. The Town and the County shall provide for the collection of its taxes in the Zone as for any other property taxed by the Town or County. Each participating

taxing authority shall pay into the TIRZ Fund an amount equal to the tax increment produced by the authority noted in this Section and subject to the termination provision described in this Section. The Town shall invoice the County not later than sixty (60) days after the delinquency date of property taxes in the Zone. Pursuant to the Act, (Section 311.013(c)) the Town and County shall make payment to the TIRZ Fund, pursuant to this Amended Agreement, not later than ninety (90) days after the delinquency date of property taxes in the Zone.

Limits of Obligation of the County. Except for payment to the TIRZ Fund as specified in this Amended Agreement of the County ad valorem tax collections on the captured appraised value of real property in the Zone, and subject to the terms and conditions set forth herein, the County shall have no obligation for any costs or expenses associated with the operation of the Zone, including, without limitation, any obligation to pay or repay any debt issued by the Town, the Zone, or the Zone Board of Directors, or any costs associated with the operation of Zone or any projects relating thereto.

Expansion of Zone. The obligation of the County to participate in the Zone is limited to the area described in the Creation Ordinance. The County's participation does not extend to the tax increment on any additional property added to the Zone by the Town or any amendment to the Amended Plan by the Town that would increase the total amount of project costs unless the County specifically agrees to participate in the additional area or amendment to the Amended Plan.

County Representation. The County shall have the right to appoint and maintain two (2) voting members on the Board of Directors of the Zone at all times. Failure of the County to appoint a person to the Board of Directors of the Zone shall not be deemed a waiver of the County's right to amend an appointment by a later date.

Termination of Zone. Upon the expiration or termination of the Zone, (i) any County Tax Increment remaining in the TIRZ Fund shall be returned to the County, and (ii) any Town Tax Increment on deposit in the TIRZ Fund shall be returned to the Town.

Termination of Agreement. The County shall have the right to terminate this Amended Agreement prior to expiration in the event that the Town or Board of Directors of the Zone implements any additions, changes, revisions, modifications, or amendments to the Amended Plan without first seeking approval from the County on such changes to the Amended Plan. For the avoidance of doubt, the Board of Directors may take such action to amend the Amended Plan. However, prior to the Town Council action to adopt such amendment, the County Commissioners Court would act to ratify the amendment.

SECTION 2.

The Town agrees that Town bonds or tax increment bonds of the Zone will not be issued to finance projects contemplated in the Amended Plan until (a) a final Plan has been prepared and adopted by the Board of Directors of the Zone and approved by the Town Council, and (b) the Town has furnished documentation, evidence and assurances satisfactory to the Town to the effect that funds necessary to support cash expenditures and/or the retirement of tax

increment bonds will be available either from revenues of the TIRZ Fund or from other funds provided by the Town.

SECTION 3.
This Amended Agreement shall become effective as of the date of the approval by the Town or approval by the County Commissioners Court, whichever occurs later, and shall remain in effect until the earlier of: (i) December 31, 2029, or (ii) the date on which the Amended Plan has been fully implemented and all project costs, tax increment bonds, interest on such tax increment bonds, interest on any other obligations at set forth in the Amended Plan, contractual reimbursement obligations or other contractual obligations payable from the TIRZ Fund have been paid in full, as set forth in the Amended Plan.

SECTION 4.
To the extent of their respective liabilities, the Town and the County shall be responsible for the sole negligent acts of their officers, agents, employees, or separate contractors. In the event of joint and concurrent negligence of both Town and County, responsibility, if any, shall be apportioned comparatively in accordance with the laws of the State of Texas, without however, waiving any governmental immunity available to the Town and County under Texas law and without waiving any defenses of the parties under Texas law.

SECTION 5.
This Amended Agreement shall be administered by the Town Manager or designee.

SECTION 6.
Whenever this Amended Agreement requires or permits any consent, approval, notice, request, proposal, or demand from one party to another, the consent, approval, notice, request, proposal, or demand must be in writing to be effective and shall be delivered to the party intended to receive it at the addresses shown below:

If intended for Town, to:

Town Manager
2121 Cross Timbers Road
Flower Mound, Texas 75028

If intended for County, to:

County Judge
1 Courthouse Drive
Suite 3100
Denton, Texas 76208

or to such other addresses as the parties may request, in writing from time to time.

SECTION 7.
This Amended Agreement is made subject to the provisions of the charter and ordinances of the Town, as amended; the policies of the County's Commissioners Court; the Texas Constitution, codes, and statutes; and all other applicable state and federal laws, regulations and requirements, as amended. The venue shall be exclusively in Denton County, Texas.

SECTION 8.
This Amended Agreement embodies the complete understanding of Town and County with respect to the subject matter hereof superseding all oral or written previous and contemporary agreements between the parties relating to matters herein. This Amended Agreement may be amended, modified, or supplemented only by an instrument in writing executed by Town and County.

SECTION 9.
The provisions of this Amended Agreement are severable, and the invalidity or unenforceability of any provision hereof shall not affect the validity or enforceability of any other provision. It is the intention of the parties that each provision hereof be construed in a manner designed to effectuate the purposes of such provision to the maximum extent enforceable under applicable law.

SECTION 10.
Failure of either party hereto to insist on the strict performance of any of the covenants or agreements herein contained or to exercise any rights or remedies accruing hereunder upon default or failure of performance shall not be considered a waiver of the right to insist on, and to enforce by any appropriate remedy, strict compliance with any other obligation hereunder or to exercise any right or remedy occurring as a result of any future default or failure of performance.

SECTION 11.
No party hereto waives or relinquishes any immunity or defense on behalf of itself, its trustees, officers, employees, or agents as a result of its execution of this Amended Agreement and performance of the covenants contained herein.

Executed by the parties, by and through their respective authorized officials following approval by their respective governing bodies, on the dates set forth below.

EXECUTED as of the later date below:

TOWN OF FLOWER MOUND, TEXAS

By: _____

Town Manager

Date: _____

APPROVED AS TO FORM/LEGALITY:

By: _____

Town Attorney

ATTEST:

By: _____

Town Secretary

DENTON COUNTY, TEXAS

By: _____

County Judge

Date: _____

APPROVED AS TO FORM

By: _____

County Attorney

ATTEST:

By: _____

County Clerk

EXHIBIT A

ORDINANCE NO. _____ OF THE TOWN OF FLOWER MOUND, TEXAS APPROVING THE TAX INCREMENT FINANCING REINVESTMENT ZONE NUMBER ONE, TOWN OF FLOWER MOUND, TEXAS, AMENDED AND RESTATED PROJECT AND FINANCE PLAN, AND ALL ASSOCIATED EXHIBITS.

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EXHIBIT B

RESOLUTION OF DENTON COUNTY APPROVING PARTICIPATION IN TAX INCREMENT FINANCING REINVESTMENT ZONE NUMBER ONE, TOWN OF FLOWER MOUND, TEXAS

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