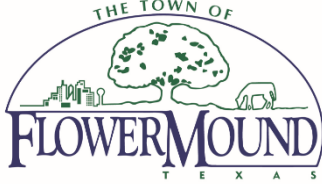


Town Council Regular Meeting



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

6:00 p.m.

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

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. PUBLIC COMMENT

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

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

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

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

E. ANNOUNCEMENTS

1. Announcements from the mayor and council members

F. TOWN MANAGER'S REPORT

1. Capital Improvement Projects
2. Economic Development Projects
3. Organizational Updates
 - a. Holiday Service Projects
4. Legislative Priorities Update

G. FUTURE AGENDA ITEM(S)

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

H. COORDINATION OF CALENDARS

1. January 6 - Regular Meeting
2. January 16 - Work Session

I. CONSENT ITEM(S)

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

1. Minutes - 12/2 - Consider approval of the minutes from a regular meeting held on December 2, 2024.
2. PSA Water/Wastewater Master Plan Updates and Impact Fee Updates - Consider approval of a Professional Services Agreement with Kimley-Horn and Associates, Inc., for the professional services associated with the Water and Wastewater Master Plan Updates and the Water, Wastewater, and Roadway Impact Fee Updates project, in the amount of \$599,200.00; and authorization for the Mayor to execute same on behalf of the Town.
3. Change Order - Colonial Drive - Consider approval of Change Order No. 1 & Final for the construction of the Colonial Drive Reconstruction Phase II (Whitney Lane to Homestead Street) project, amending the contract with Quality Excavation, LLC, to provide for an increase to the contract in the amount of \$95,198.21; and authorization for the Mayor to execute same on behalf of the Town.
4. SCADA Upgrade - Consider approval of a Professional Service Agreement with Plummer Associates, Inc., for services to upgrade the Town's Supervisory Control and Data Acquisition (SCADA) system, in the amount of \$259,728; and authorization for the Mayor to execute same on behalf of the Town.
5. PSA Flow Monitoring/Analysis_Inflow/Infiltration Project - Consider approval of the Professional Services Agreement with RJN Group, Inc., for Flow Monitoring and Analysis associated with the Inflow and Infiltration project, in the amount of \$254,032.00; and authorization for the Mayor to execute same on the behalf of the Town.
6. Antenna Space Lease Agreement - Freeman Water Tower - Consider approval of a lease agreement with Cellco Partnership, a Delaware general partnership d/b/a Verizon Wireless to lease antenna space on the Town elevated water storage tower located at 4400 Freeman Road and ground space for an equipment building for the purpose of installing, operating, and maintaining facilities to provide commercial mobile radio services, and authorization for the Mayor to execute same on behalf of the Town.
7. PSA Cityworks Improvements - Consider approval of a Professional Services Agreement with Burns & McDonnell Engineering Company, Inc., for Work Order System Analysis and Improvement services for the Utility Asset Management

- project, in the amount of \$123,500.00; and authorization for the Mayor to execute same on behalf of the Town.
8. Light Tower Transfer - Consider approval of a Memorandum of Understanding (MOU) to accept the transfer of the Public Works Emergency Response Team (PWERT) light tower from the City of Rowlett that was awarded to the City as part of the Homeland Security Grant Program; and authorization for the Mayor to execute same on behalf of the Town.
 9. Ambulance Addition to Fleet - Consider approval of the purchase of a 2025 Ford F550 Frazer ambulance for the Fire and Emergency Services Department from Sterling McCall Ford through the Houston-Galveston Area Council of Governments Contract (HGAC) #AM10-23 in the amount of \$380,000.00 and authorization for the Mayor to execute same on behalf of the Town.
 10. Vehicle Purchase - Ford F-250 4x4 SD Crew Cab - Fire Dept. - Consider approval of the purchase of a 2025 Ford F-250 4x4 SD Crew Cab for Fire and Emergency Services Department from Chastang Ford in the amount of \$135,725.00 and authorization for the Mayor to execute same on behalf of the Town.
 11. Bluebonnet Trail Repairs - Consider approval of the purchase of concrete removal and replacement services from Apex Concrete Construction Inc, for work associated with the Trail Master Plan Implementation - Bluebonnet Trail project, through the Town of Flower Mound contract No. 2021-72-B, Utility Cut Repairs and Park Improvements, in the amount of \$118,888.99.

J. REGULAR ITEM(S)

1. Reinsurance Contract (health plan) - Consider approval of a reinsurance contract for the Town's Group Health Plan with Voya Financial for the amount of \$2,103,730 and an agreement with Quantify Specialty Care; and authorization for the Mayor to execute the same on behalf of the Town.
2. TIRZ #2 - Amended and Restated Plan - Public Hearing to consider an ordinance amending and restating the Project and Finance Plan of Tax Increment Reinvestment Zone No. 2 (TIRZ #2).
3. TIRZ #2 - Participation Agreement - Consider authorizing the Town Manager to execute a participation agreement with Denton County for Reinvestment Zone No. 2 (TIRZ #2).
4. 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).
5. MISC24-0001 - Radionov Lot-to-Lot Drainage Exception - Consider a request for an exception (MISC24-0001 – Radionov Lot-to-Lot Drainage Exception) to the Engineering Design Criteria and Construction Standards adopted through Chapter 32 of the Code of Ordinances in order to allow lot-to-lot drainage. The property is generally located west of Morriss Road and south of Hazy Meadows Lane. (PZ recommended approval by a vote of 6 to 0 at its December 9, 2024, meeting.)
6. ZPD23-0007 - Cachet Salons & Spa at Lakeside Crossing, Lot 3 - Public Hearing to consider an ordinance for rezoning (ZPD23-0007 – Cachet Salons &

Spa at Lakeside Crossing, Lot 3) to amend Planned Development No. 153 (PD-153) with Campus Commercial uses for both residential and non-residential uses by adding new concept plans and elevations for Lot 3, Block A, of the Lakeside Crossing Addition and to modify development standards. The property is generally located south of Lakeside Parkway along and between Long Prairie Road and Northwood Drive. (PZ recommended approval by a vote of 6 to 0 at its December 9, 2024, meeting.)

7. ZPD24-0004 – Marty B's at Lakeside Crossing, Lot 2 - Public Hearing to consider an ordinance for rezoning (ZPD24-0004 – Marty B's at Lakeside Crossing, Lot 2) to amend Planned Development No. 153 (PD-153) with Campus Commercial uses for both residential and non-residential uses to include new concept plans and elevations for Lot 2, Block A, Lakeside Crossing, to modify development standards, and to request certain exceptions, modifications, and waivers to the Code of Ordinances. The property is generally located south of Lakeside Parkway along and between Long Prairie Road and Northwood Drive. (PZ recommended approval by a vote of 5 to 1 at its December 9, 2024, meeting.)

K. BOARDS/COMMISSIONS

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

1. Present and discuss the Blue Ribbon Bond Committee's recommendation of proposed capital improvements for the May 2025 election.

L. CLOSED MEETING

The Town Council to convene into closed meeting pursuant to Texas Government Code Chapter 551, including, but not limited to, Sections 551.071, 551.072, 551.074, and 551.087 for consultation with Town Attorney, and to discuss matters relating to real property, personnel, and economic development negotiations, as indicated below. The Town Council may convene in executive session to conduct a private consultation with its attorney on any legally posted agenda item, when the Town Council seeks the advice of its attorney about pending or contemplated litigation, a settlement offer, or on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with the provisions of Chapter 551, including the below-referenced items.

1. Consultation with Town Attorney.
 - a. TIRZ #1 and TIRZ #2 Participation Agreements
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.

M. RECONVENE

N. ADJOURN

I do hereby certify that the Notice of Meeting was posted on the bulletin board at the Town Hall for the Town of Flower Mound, Texas, in a place convenient and readily accessible to the general public at all times and said Notice was also posted on the Town's website in accordance with GC Section 551.056 on the following date and time: December 13, 2024, at 3:42 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



December 2, 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
Blake Manuel, Management Analyst

B. INVOCATION

Chaplain Liles 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. Announcement and recognition of 2024 Outstanding Citizen Award winners.

Scott Morgan, Chair of the Outstanding Citizen Award selection committee, provided background information on the program and announced the 2024 recipients of this award as follows:

Kirti Patel, Individual category

Samadhe Basnayake, Youth category

New Century Lions Club, Group category

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.	Jacque Narrell, 4801 Lusk Ln	Christmas Open House/Parade
2.	Tim Whisenant, 2300 Olympia Dr	Screech Owls/Rodents
3.	David McCarty, 1412 Stapleton	Rodenticides
4.	Van Inman, 2200 Norwich St	Rodenticides

** Indicates person did not wish to speak*

F. ANNOUNCEMENTS

1. Announcements from the mayor and council members
There were announcements from the Council regarding:
 - Blue Ribbon Bond Committee open house
 - Upcoming Christmas events

G. TOWN MANAGER'S REPORT

1. Capital Improvement Projects
2. Economic Development Projects

3. Organizational Updates

Mr. Childers recognized Detective Michelle Horridge for receiving the Hope Recognition Award from the National Alliance of Mental Illness (North Texas Chapter).

a. Employee Survey Results

Mr. Manuel gave a presentation identifying or noting:

- background information
- overview of results
- benchmark comparison results
- survey highlights
- what we focused on
- conclusion (next survey, current focus, things to monitor)

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

- organizational culture
- mid-year market adjustment idea
- benefits
- departmental rankings

H. FUTURE AGENDA ITEM(S)

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

Councilmember(s) requested future agenda items to discuss screech owls, the current use of rodenticides, and residential and commercial pest management in general. There was Council consensus to have a future agenda item on the topic(s).

I. COORDINATION OF CALENDARS

Mayor Moore confirmed that all members of Council plan to attend the following meetings, excluding December 19.

1. December 16 - Regular Meeting
2. December 19 - Work Session (Canceled)
3. January 6 - Regular Meeting
4. January 16 - Work Session

J. CONSENT ITEM(S)

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

ACTION: Brian Taylor moved to approve Consent items 1 - 11 as presented in the agenda caption. Janvier Werner seconded the motion.
AYES: None
NAYS: None
ABSTAIN: None
RESULT: 0 : 0

1. Minutes: 11/18 and 11/21 - Consider approval of the minutes from a regular meeting held on November 18, 2024 and a work session held on November 21, 2024.
2. Juvenile Case Manager - Consider approval of a resolution adopting ethical and training standards for a juvenile case manager employed by the Town of Flower Mound.

RESOLUTION NO. 23_24

A RESOLUTION ADOPTING ETHICAL AND TRAINING STANDARDS FOR A JUVENILE CASE MANAGER EMPLOYED BY THE TOWN OF FLOWER MOUND, TEXAS, PROVIDING FOR IMPLEMENTATION OF SAID STANDARDS, AND PROVIDING FOR PERIODIC REVIEW TO ENSURE IMPLEMENTATION OF THE REQUISITE STANDARDS.

3. Security Card Readers - Consider approval of a proposal from Schneider Electric in the amount of \$106,200.00 to perform the upgrade conversion to replace (160) obsolete existing low frequency low security card readers with new high security card readers that work with high frequency (13.56 Mhz) access cards on Town buildings. Schneider Electric is the sole provider of this equipment and software.
4. Historical Items Collection Policy - Consider approval of the Town of Flower Mound Historical Items Collection Policy. (The Historical Commission recommended approval by a vote of 9 to 0 at its November, 14, 2024, meeting.)
5. Opioid Settlement - Kroger - Consider approval of a resolution authorizing the Town Manager to execute global opioid settlement documents relating to the Kroger settlement and authorizing the Town Manager to execute any and all future opioid settlement documents; authorizing the Town Manager to transmit those documents to the Attorney General; and providing an effective date.

RESOLUTION NO. 24_24

A RESOLUTION AUTHORIZING THE TOWN MANAGER TO EXECUTE

GLOBAL OPIOID SETTLEMENT DOCUMENTS RELATING TO THE KROGER SETTLEMENT AND AUTHORIZING THE TOWN MANAGER TO EXECUTE ANY AND ALL FUTURE OPIOID SETTLEMENT DOCUMENTS; AUTHORIZING THE TOWN MANAGER TO TRANSMIT THOSE DOCUMENTS TO THE ATTORNEY GENERAL; AND PROVIDING FOR AN EFFECTIVE DATE.

6. PY2023 CDBG CAPER - Consider approval of a resolution authorizing the adoption of the Program Year 2023 Consolidated Annual Performance & Evaluation Report for the Community Development Block Grant; and authorization for the Mayor to execute same on behalf of the Town and submit to the U.S. Department of Housing and Urban Development.

RESOLUTION NO. 25_24

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, PROVIDING FOR THE ADOPTION OF FLOWER MOUND'S PROGRAM YEAR 2023 CONSOLIDATED ANNUAL PERFORMANCE AND EVALUATION REPORT UNDER THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM; AUTHORIZING THE MAYOR TO EXECUTE SAID REPORT; AND PROVIDING AN EFFECTIVE DATE.

7. Judge Janke Reappointment - Consider approval of an ordinance to reappoint Presiding Municipal Judge Alissa Janke for the period of January 1, 2025, through December 31, 2026.

ORDINANCE NO. 58-24

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS APPOINTING THE JUDGE OF THE MUNICIPAL COURT OF RECORD IN THE TOWN OF FLOWER MOUND; PROVIDING THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

8. Grant Agreement - Consider acceptance of a Grant Agreement and funding awarded by the Texas A&M Forest Service, for a vehicle in the amount of \$649,621.00 under the Texas Intrastate Fire Mutual Aid System (TIFMAS); and authorization for the Mayor to execute same on behalf of the Town.
9. Spring Lake Park Improvements - Consider approval of the purchase and installation of a new picnic pavilion, demolition of the existing pavilion, and site amenities for the Spring Lake Park Improvements project, from Child's Play, Inc., through the Texas Local Government Purchasing Cooperative, in the amount of \$111,333.00
10. Professional Services Agreement - Promoter Line, Inc. - Consider approval of a Professional Services Contract with Promoter Line, Inc., to provide professional event production and planning services for the 2025 Independence Fest, in an amount not-to-exceed \$344,000.00 and authorization for the Mayor to execute same on behalf of the Town.

11. DCAD Board of Directors vote - Discuss and consider adopting a Resolution casting votes for candidate(s) in the election of the Denton Central Appraisal District Board of Directors.

RESOLUTION NO 27_24

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, EXERCISING THEIR RIGHT TO CAST VOTES FOR CANDIDATE(S) IN THE ELECTION OF THE DENTON CENTRAL APPRAISAL DISTRICT BOARD OF DIRECTORS.

K. REGULAR ITEM(S)

1. Consider approval of a resolution urging the Lewisville Independent School District (LISD) Board of Trustees to consider all available options in lieu of closing Garden Ridge Elementary, located at 2220 S. Garden Ridge Blvd, Flower Mound, Texas, and providing an effective date.
Mr. Childers provided background information on the item. There was Council discussion regarding:
 - resident input
 - special education language in the action section of the resolution
 - overall impact on the children
 - importance of having a collaborative approach with LISD
 - clarification or modification of language considered to be vague or too broad
 - what happens to the property if closes/carrying cost until they decide what to do with it

Mindy Bumgarner, Chair, School Liaison Committee, responded to questions regarding:

- future legislation/additional funding
- timeline for LISD's binding decision
- clarification regarding the SLC recommendation to review the report calculations and the impact on the children
- impact on Donald Elementary and Forest Vista that may be absorbing the students
- special education emphasis

ACTION: Ann Martin moved to approve K.1. as presented, with the following resolution amendments:

- for point "c" in the LISD requested action, consider the impact on children, including the high population of special education students and their families and teachers, instead of the "growth and population numbers".

- "take a serious look" to "take action to resolve"

Chris Drew seconded the motion. 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 7:30 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 8:20 p.m., and no action was taken on the above items.

O. ADJOURN

Mayor Moore adjourned the meeting at 8:20 p.m. and all were in favor.

TOWN OF FLOWER MOUND, TEXAS

CHERYL MOORE, MAYOR

ATTEST:

THERESA SCOTT, TOWN SECRETARY



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

DATE: December 16, 2024
FROM: Brian Waltenburg, Assistant Director of Engineering
ITEM: **Consider approval of a Professional Services Agreement with Kimley-Horn and Associates, Inc., for the professional services associated with the Water and Wastewater Master Plan Updates and the Water, Wastewater, and Roadway Impact Fee Updates project, in the amount of \$599,200.00; and authorization for the Mayor to execute same on behalf of the Town.**

BACKGROUND: Per Chapter 395 of the Texas Local Government Code, the Town must update its impact fee ordinance every five years. The last impact fee update was completed in 2020, making this project a critical step in maintaining compliance and ensuring sustainable growth. Impact fees allow the town to recoup costs associated with infrastructure needed to serve new development. As part of the Impact Fee update, the Town will perform updates to the current water and wastewater master plans, including updating the Town's water and wastewater models to account for changes in existing and projected demands, land uses changes, and completed capital improvement projects. This project will also include recommendations for updates to the Town's five-year Water and Wastewater Capital Improvements Program. The efforts performed within the scope of the master plan updates will also serve as the beginning of the town's water, wastewater and roadway impact fee update process.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES: N/A

FISCAL IMPACT: \$599,200.00

Proposed Expenditure/(Revenue)
\$599,200.00

Account Number(s):

Streets:

550-117-XXXXXX-6160

550-118-XXXXXX-6160

550-119-XXXXXX-6160

Sewer:

600-971-XXXXXX-6180

600-972-XXXXXX-6180

Water:

601-900-XXXXXX-6170

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 - Impact Fee Update
2. Form 1295 (Internal Use)

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

THE STATE OF TEXAS §
COUNTY OF DENTON §

**PROFESSIONAL SERVICES AGREEMENT WITH
KIMLEY-HORN and ASSOCIATES, INC.**

This contract is entered into on this 16th of December, 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 **Kimley-Horn and Associates, Inc.**, (“hereinafter referred to as “CONSULTANT”) whose address is 13455 Noel Road Two Galleria Office Tower, #700, Dallas, TX 75240.

RECITALS

WHEREAS, TOWN desires to obtain professional services from CONSULTANT relative to Water and Wastewater Master Plan updates and Water, Wastewater, and Roadway Impact Fee update project; and

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

TERMS OF AGREEMENT

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

I.

Employment of Consultant

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

II.

Scope of Services

CONSULTANT shall perform such services as are necessary to provide services for the Water and Wastewater Master Plan updates and Water, Wastewater, and Roadway Impact Fee update 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 Ninety Nine Thousand Two Hundred and No/100 Dollars (\$599,200). This total payment for services includes CONSULTANT's ordinary expenses. Additional expenses and charges, which are extraordinary in nature, must be approved in advance by TOWN in writing signed by the parties. Such extraordinary expenses may be paid as incurred and billed to the TOWN pursuant to this Contract over and above the total payment amount identified in this provision. Any extraordinary expenses or charges not approved in writing in advance by the TOWN shall remain the sole responsibility of the CONSULTANT. If CONSULTANT retains any subcontractors to perform any of the work, CONSULTANT acknowledges that payments to such subcontractors are due and payable in accordance with the provisions of Texas Government Code Section 2251.022, and that interest on unpaid and overdue amounts shall accrue in accordance with Texas Government Code Section 2251.025.

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

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

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

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

IV.

Revisions of the Scope of Services

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

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

V.

Term

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

VI.

Contract Termination Provision

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

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

VII.

Ownership of Documents

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

VIII.

Insurance

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

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

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

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:

Brian Waltenburg, P.E.,
Assistant Director of Engineering
Town of Flower Mound
2121 Cross Timbers Road
Flower Mound, Texas 75028
972-874-6234 Telephone

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

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

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

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

D. CONSULTANT agrees to the following:

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

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

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

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

IX.

Right to Inspect Records

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

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

X.
Successors and Assigns

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

XI.
CONSULTANT's Liability

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

XII.
Indemnification

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

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

XIII.
Independent Contractor

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

XIV.
Default

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

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

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

XV.
Provisions Surviving Termination

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

XVI.
Changes

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

XVII.
Conflicts of Interest

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

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

XVIII.
Confidential Information

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

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

XIX.
Notice Information

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

Brian Waltenburg, P.E.,
Assistant Director of Engineering
Town of Flower Mound
2121 Cross Timbers Road
Flower Mound, Texas 75028
972-874-6234 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:

Ashlyn Morgan, PE
Kimley-Horn and Associates, Inc.
13455 Noel Road, Two Galleria
Office Tower, Suite 700
Dallas, Texas 75240
972-770-1387 Telephone
Ashlyn.Morgan@kimley-horn.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

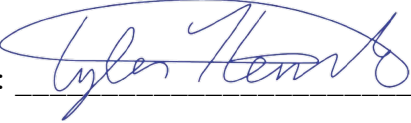
with TOWN or CONSULTANT or both; and (2) the terms of this Contract are not intended to release, either by contract or operation of law, any third person or entity from obligations owing by them to either TOWN or CONSULTANT.

[Signature Page to Follow]

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

**CONSULTANT:
KIMLEY-HORN AND
ASSOCIATES, INC.**

THE TOWN OF FLOWER MOUND, TEXAS

By: _____

Name: Tyler Henrichs, PE

Title: Associate

Dated: 12/5/2024

By: _____

Name: _____

Title: _____

Dated: _____

ATTACHMENT A

SCOPE OF SERVICES

PROJECT NAME: Water and Wastewater Master Plan Updates and
Water, Wastewater, and Roadway Impact Fee Updates

PROJECT UNDERSTANDING

The Town has requested Kimley-Horn and Associates, Inc. (Kimley-Horn) to assist with updating their current water and wastewater models and master plans. In 2020, the Town completed water and wastewater master plan updates. The Town desires to update the models and corresponding master plans to account for changes in existing and projected water demands and wastewater flows, land uses, and projected capital improvement projects. Kimley-Horn will prepare technical memorandums to be used as amendments to the 2009 master plan documents.

Kimley-Horn will also update the Town's water, wastewater, and roadway impact fees. Kimley-Horn will provide the Town with the technical analysis required by Chapter 395 of the Texas Local Government Code to determine the maximum water, wastewater, and roadway impact fees that may be assessed. Kimley-Horn will also assist the Town with the various presentations required during the public hearing and adoption process. Kimley-Horn will utilize the water and wastewater master plan updates and capital improvement plans as part of the impact fee update process.

SCOPE OF PROFESSIONAL SERVICES SECTION 1: WATER AND WASTEWATER MASTER PLAN UPDATES

TASK 1 – WATER MASTER PLAN UPDATE

A. Model Conversion

Prior model updates were completed in the InfoWater extension of ArcMap. ArcMap has been discontinued. Kimley-Horn will convert the existing model into InfoWater Pro, which functions as an extension in ArcGIS Pro.

B. Systems Operations Meeting

- Meet with Town staff to discuss water system operations, including east/west valving, elevated tank operating bands, pump/tank control, and seasonal variations.
- Update the existing conditions model to reflect the control logic.

C. Demand Evaluation

This task involves evaluating the historic demands in the Town's water system and comparing them to those projected in the model.

- Incorporate new developments from the past year into the model demand sets. Developments are anticipated to include:
 - i. Urgent Care Facility
 - ii. CNIK Addition
 - iii. Lakeside Industrial (McIver)
 - iv. HTeaO
 - v. Mustang Creek Estates
 - vi. Roach Addition
 - vii. Canyon Falls Village 4B
 - viii. Salad and Go Flower Mound
- Request water meter billing records, historic system SCADA data, and population information from the Town
- Use data to evaluate water usage per land use type and revise duty factors as needed.
- Identify the top ten individual water users. If these users' water usage rate is higher than the rate for their assigned land use, users will be uniquely coded into the model.
- Review historic demands from the previous five years and reevaluate existing peaking factors and diurnal curves.
- Evaluate irrigation and domestic demands from Lakeside Reuse Master Plan. Determine appropriate model loading for 10-year and buildout model scenarios to account for using reuse water for irrigation.
- Revise the model loading, if necessary, for current reuse scenarios in Denton Creek.

D. Model Infrastructure Update

- Revise future pipeline alignments to follow right-of-way based on most recent Thoroughfare Plan.
- Add new infrastructure built since the FY 22-23 model update.
 - i. Water pipeline projects 12-inch and larger will be incorporated into the model.
 - ii. Any facilities projects affecting system hydraulics will be incorporated into the model.
 - iii. Smaller diameter water pipeline projects will be updated in the GIS database but will not be added to the model.
- Add any new infrastructure (12-inch diameter and larger) built since the 2018 annual model update.
- Create new point features to represent meters for new single family lot developments.
- Revise model Thiessen polygons as needed based on revised pipeline alignments.

E. Master Planning and Capital Improvement Project (CIP) Development

This task includes updating the water model to develop a CIP list.

- Create water model scenarios with unique demand sets.

- i. Existing Maximum Day
 - ii. 5-year Maximum Day
 - iii. 10-year Maximum Day
 - 1. 10-year Maximum Day with reuse supply removed from potable demands (Denton Creek and Lakeside District)
 - iv. Buildout Maximum Day
 - 1. Buildout Max Day with reuse supply removed from potable demands (Denton Creek and Lakeside District)
- Calibrate existing maximum day scenario based on historic SCADA data.
- Evaluate above model scenarios in two conditions to determine required infrastructure sizing:
 - i. Maximum Day 24-hour Extended Phase Simulation (EPS) condition. TCEQ requires that system infrastructure be designed to maintain 35 psi during the peak hour of the maximum day scenario.
 - ii. Maximum Day + Fire Flow Steady State condition. TCEQ requires that system infrastructure be designed to maintain 20 psi during the maximum day + fire flow scenario.
- Compare Town system with regulatory and industry water system requirements or guidelines (i.e. TCEQ elevated storage requirements, AWWA recommendations on tank fill and drain rates, etc.)
- Develop revised 5-year, 10-year, and buildout CIP lists based on anticipated demand increases. CIP projects will be reflected in model infrastructure sets.

F. Deliverables and Meetings

- Prepare a technical memorandum detailing the changes to the 2009 Water Master Plan. The 2025 memo will replace and supersede the amendments provided as part of the 2020 updates. The memo is anticipated to include the following sections:
 - i. 1.1A Background Supplemental
 - ii. 1.2 Study Area update
 - iii. 1.3.2 Master Planning Scenarios
 - iv. 1.4.2 Hydraulic Analysis Criteria (Ground Storage section)
 - v. 2.2 Ground Storage
 - vi. 2.3 Elevated Storage
 - vii. Figure 3: Existing Water Distribution System
 - viii. 2.4 Pumping Stations
 - ix. 2.5 Distribution System
 - x. 3.1 Population
 - xi. 3.2.1 Current Water System Demands
 - xii. 3.2.2 Projected Water System Demands
 - xiii. 3.3.A Land Use Supplemental
 - xiv. 4.1.1 Water Supplies
 - xv. 4.1.2 Ground Storage

- xvi. 4.1.3 Elevated Storage
- xvii. 4.2.1 System Improvements
- xviii. 4.2.2 5-Year CIP
- xix. 4.2.3 Beyond 5-Year CIP
- xx. Proposed Water System figure
- xxi. Capital Improvement Projects figure
- xxii. OPCCs for appendices
- The above master planned CIP and associated materials will reflect growth-driven (capacity) improvements. Kimley-Horn will not prepare maps or OPCCs for non-capacity (rehabilitation or in-kind replacement) projects as part of this scope.
- This task includes one meeting with Town staff to review the preliminary CIP map.
- Kimley-Horn will provide a digital copy of the draft memorandum and figures and will address up to two rounds of comments. Deliverables will include one digital copy and five hard copies of the final technical memorandums.

G. Planning and Zoning Commission, Council Presentations: See Task 8 for anticipated meetings and presentations.

TASK 2 – WASTEWATER MASTER PLAN UPDATE

As part of the 2024 Master Plan Updates, the Town desires to develop a future model and master plan for wastewater collection and conveyance infrastructure in its western wastewater service area, composed of the Prairie Vista and Denton Creek basins. The Town does not provide wastewater treatment to the western service area; this area discharges to existing Trinity River Authority (TRA) interceptors. Previously, the Town only tracked development and projected flow into TRA's system and maintained an existing conditions hydraulic model. The tasks detailed below will be completed for both the eastern wastewater service area (Long Prairie + Lakeside basins) and the western service area unless specific east-west differences are described.

A. Model Conversion

- Prior model updates for the eastern service area were completed in the InfoSewer extension of ArcMap. ArcMap has been discontinued. Kimley-Horn will convert the existing models into InfoWorks ICM, which has replaced InfoSewer and which functions as an extension in ArcGIS Pro.

B. Systems Operations Meeting

- Meet with Town staff to discuss wastewater system operations, including lift station set points, force main operations, and WWTP influent lift station operations. Discuss system operations and inflow/infiltration.

C. Dry Weather Load Evaluation

This task involves evaluating the historic wastewater flows in the Town's wastewater system and comparing them to those projected in the model.

- Use historic precipitation data to identify historic dry weather periods for analysis.
- Request permanent flow meter data from the Town for eastern service area analysis. Coordinate with the Town and TRA to obtain TRA point-of-entry meter data for western service area analysis. Kimley-Horn estimates analyzing two dry weather periods in each of the past five years.
- Request wastewater treatment plant flows (both total influent and flows to the influent pump station) and lift station SCADA data from the past five years (eastern service area only).
- Determine appropriate wastewater duty factors for residential and non-residential land uses.

D. Wet Weather Load Evaluation

- Calculate Harmon's peaking factor based on population of each subbasin.
 - i. There are twelve existing subbasins in the eastern wastewater service area.
 - ii. Subbasins will be developed for the western service area.
 - iii. Peaking factors will be calculated per subbasin per timestep (existing, 5-year, 10-year, and buildout).
- Inflow and Infiltration Review: Evaluate existing meter information and compare dry weather versus wet weather flows to compare Harmon's peak flows with observed peak flows.

E. Model Infrastructure Update

- Eastern Service Area
 - i. Update model infrastructure to reflect the recently completed lift station decommissionings. Add any other new infrastructure (12-inch diameter and larger, or critical for inclusion to reflect less developed areas) built since the FY 22-23 annual model update.
- Western Service Area
 - i. Add new infrastructure (12-inch diameter and larger, or critical for inclusion to reflect less developed areas) built since the FY 22-23 annual model update.
 - ii. TRA's interceptors will be displayed on maps but will not be modeled. Points of entry to TRA's system are modeled as discharge points in the software.

F. Master Planning and Capital Improvement Project (CIP) Development

This task includes updating the wastewater model to develop a CIP list.

- Revise the wastewater model scenarios based on loading changes. Scenarios will include dry day and wet weather scenarios for existing, 5-year, 10-year, and buildout conditions.
- Calibrate existing dry and wet scenarios based on historic SCADA/metering data.
- Develop revised 5-year, 10-year, and buildout CIP lists based on anticipated flow increases. CIP projects will be reflected in model infrastructure sets. Note this is a new task for the western service area. Master planned pipelines will be laid out in conjunction with the Town's Thoroughfare Plan and known planned developments within the western service area.

G. Deliverables and Meetings

- This task includes preparing a technical memorandum detailing the changes to the 2009 Wastewater Master Plan. The 2025 memo will replace and supersede the amendments provided as part of the 2020 updates. The memo is anticipated to include the sections listed below. Sections will include subcategories for both the eastern and western service areas where appropriate.
 - i. 1.2 Project Scope Updated
 - ii. 2.3 Calculation of System Loads
 - iii. 3.1 Dry Weather Flows
 - iv. 3.2 Wet Weather Flows
 - v. 3.3 Metering Stations
 - vi. 3.4 Wastewater Treatment Plant
 - vii. 3.5 Lakeside Business District
 - viii. 3.6 TRA Service Area
 - ix. 4.1 Population Projections
 - x. 4.2 Land Use and System Loads
 - xi. 4.3.5 5-Year CIP
 - xii. 4.4 10-Year CIP
 - xiii. 4.5 Buildout CIP
 - xiv. Wastewater Service Area Exhibit (Town Service Area)
 - xv. Wastewater Service Area Exhibit (Western Service Area)
 - xvi. Proposed Wastewater System Exhibit (Town Service Area)
 - xvii. Proposed Wastewater system Exhibit (Western Service Area)
 - xviii. TRA Service Area Flow Tracking Map to be deleted
 - xix. OPCCs for appendices
- The above master planned CIP and associated materials will reflect growth-driven (capacity) improvements. Kimley-Horn will not prepare maps or OPCCs for non-capacity (rehabilitation or in-kind replacement) projects as part of this scope.

- Kimley-Horn will provide a revised manhole connection map for the eastern service area and a new manhole connection map to guide development points of connection for the western service area.
- This task includes one meeting with Town staff to review the preliminary CIP map.
- Kimley-Horn will provide a digital copy of the draft memorandum and figures and will address up to two rounds of comments. Deliverables will include one digital copy and five hard copies of the final technical memorandums.

H. Planning and Zoning Commission, Council Presentations: See Task 8 for anticipated meetings and presentations.

SCOPE OF PROFESSIONAL SERVICES: SECTION 2:
WATER, WASTEWATER, AND ROADWAY IMPACT FEE UPDATES

TASK 3 – LAND USE ASSUMPTIONS

Kimley-Horn will prepare the Land Use Assumptions for Impact Fees in conformance with Chapter 395 of the Local Government Code. The Land Use Assumptions task shall include the following:

- A. Data Collection. Coordinate with the Town to obtain the following data:
- Town Contacts – The Town shall provide the organization structure and contact information for the applicable Town staff involved with the land use assumptions.
 - The Town's most recent comprehensive master plans.
 - Building Permit History – The Town shall provide available building permit history (both residential and non-residential) for the previous ten (10) years.
 - Currently adopted Land Use Assumptions for Water, Wastewater, and Roadway Impact Fees assessed by the Town.
 - Maps – The Town shall provide the most recent AutoCAD or GIS shapefiles, associated databases, and layer files in ESRI ArcGIS 8.x format. All data shall be projected in NAD 83 State Plane, South Central Texas Zone coordinates. Data should include:
 - o Current Zoning Map;
 - o Future Land Use Plan Map (PDF and GIS shapefile formats);
 - o Town Limits and ETJ Map; and
 - o Most recent digital orthophotograph (DOQ) of the Town.
- B. Service Area Boundaries. Coordinate with the Town to develop the water, wastewater, and roadway impact fee service area boundaries (within the existing Town limits for roadway impact fees) consistent with state law requirements.

No changes to the existing service areas boundaries are anticipated for water or roadway (one (1) for water and three (3) for roadway impact fees). Wastewater service area boundaries will be evaluated as part of the Impact Fee analysis. The Town desires to evaluate combining the Long Prairie and Lakeside service areas in the east portion of the Town, and Prairie Vista/Denton Creek service areas in the west side of Town. Up to four wastewater service areas are included in this scope consistent with the current service areas.

- C. Existing Land Use Assumptions. Prepare the existing land use information in a format suitable for use in the impact fee update. The information will be presented in tabular form by service area for each infrastructure system. For each service area, population (persons and number of dwelling units) and employment (amount of square footage of basic, service, and retail land uses) will be summarized. The existing land use assumptions will be completed for the year 2025.
- D. Build out Land Use Assumptions. Develop the build out demographics (population and employment) within the proposed service areas in a tabular format for each service area. The development of these demographics will be an interactive process with the Town. One (1) meeting will be held with the Town during this task. The purpose of the meeting will be to review anticipated densities of development throughout the Town and to review the demographics developed. Kimley-Horn will use the future land use data collected in Task 3.A. to determine future land uses in undeveloped areas within each service area.
- E. Ten-Year Land Use Assumptions. Chapter 395 of the Texas Local Government Code states that impact fees may only be used to pay for items included in the Impact Fee capital improvements plan and attributable to new service units projected over a period of time not to exceed ten (10) years. Based on guidance from the Town regarding projected development patterns and growth rates, Kimley-Horn will develop the Ten-Year Land Use Assumptions for 2025 – 2035.
- F. Conduct one (1) meeting with the Town to receive the projections for anticipated percentage of residential and non-residential land uses within each service area to be developed within the next ten years. Based upon the data collected in Task 3.D, the percentage of the projected build out can be utilized to assist in this task. Using the information collected during this meeting, Kimley-Horn will complete the demographic table for each service area.
- G. Documentation. Prepare Land Use Assumptions report and submit an electronic (.pdf) version.
- H. Meetings. Prepare for and attend up to four (4) meetings (including the two (2) meetings identified in the scope above) with Town staff to discuss and review the proposed Service Area boundaries and Land Use Assumptions.

TASK 4 – WATER IMPACT FEE ANALYSIS

Kimley-Horn will prepare the water impact fee update in conformance with Chapter 395 of the Local Government Code. Water Impact Fee analysis will also include future Reuse infrastructure planned in the Denton Creek and Lakeside areas. The water impact fee update task shall include the following:

- A. Data Collection. Coordinate with the Town to obtain the following data:
 - Water usage history, which includes annual water usage and maximum day usage records for the past ten (10) years for development of the service unit projection.
 - Upper Trinity River Water District (UTRWD) wholesale water contract with the Town.
 - UTRWD rate calculation with regards to the Town's cost obligation for UTRWD water delivery facilities.
- B. Infrastructure Capacity Criteria. Coordinate with the Town to obtain the criterion for determining the ten (10) year capacity of the following infrastructure:
 - Future Transmission Lines (12-inch and larger)
 - Existing and Future Elevated Storage Tanks
 - Existing and Future Ground Storage Tanks
 - Existing and Future Pump Stations

An analysis of the UTRWD rate calculation will be done to determine if existing or future UTRWD facilities may be accounted for as part of the Impact Fee Capital Improvements Plan. Utilize the water model for analysis of pipeline capacities.

- C. Water Impact Fee Capital Improvements Plan. Coordinate with the Town to develop the Water Impact Fee Capital Improvements Plan. It will include the following infrastructure:
 - Future Transmission Lines (12-inch and larger)
 - Existing and Future Elevated Storage Tanks
 - Existing and Future Ground Storage Tanks
 - Existing and Future Pump Stations

Results of the UTRWD rate analysis will determine whether UTRWD facilities will be included in the Impact Fee Capital Improvements Plan. Utilize the water model for analysis of pipeline capacities.

- D. Maximum Assessable Water Impact Fee Calculation. Calculate the additional service units based on the Land Use Assumptions. Calculate the Impact Fee per service unit, unit equivalents by meter size and the Maximum Assessable Water Impact Fee table by meter size. Incorporate the financial analysis

performed in Task 8 to determine the maximum assessable impact fee by service unit.

- E. Water Impact Fee Update Report. Incorporate the information necessary for the water impact fee update into a formal document. Prepare and submit an electronic (.pdf) version of the draft report. Provide final copies of the report once it has been approved.
- F. Meetings. Prepare for and attend the following meetings:
 - One (1) meeting with the Town to kick-off the water impact fee update (to be held in conjunction with the wastewater impact fee update kick-off meeting);
 - One (1) meeting with staff to review Water Impact Fee Capital Improvements Plan; and
 - One (1) meeting with staff to review Maximum Assessable Water Impact Fees.

TASK 5 – WASTEWATER IMPACT FEE ANALYSIS

Kimley-Horn will prepare the wastewater impact fee update in conformance with Chapter 395 of the Local Government Code. The wastewater impact fee update shall include the following:

- A. Data Collection. Coordinate with the Town to obtain the following data:
 - Wastewater usage history, which includes annual wastewater usage and peak usage records for the past ten (10) years for development of the service unit projection.
 - Trinity River Authority (TRA) wholesale wastewater contract with the Town.
 - TRA rate calculation with regards to the Town's cost obligation for various TRA wastewater collection facilities.
- B. Infrastructure Capacity Criteria. Coordinate with the Town to obtain the criterion for determining the ten (10) year capacity of the following infrastructure:
 - Existing Trunk Lines that are 10-inch and larger
 - Future Trunk Lines (8-inch and larger)
 - Existing and Future Lift Stations
 - Existing and Future Force Mains

An analysis of the TRA rate calculation will be done to determine if existing or future TRA facilities may be accounted for as part of the Impact Fee Capital Improvements Plan.

- C. Wastewater Impact Fee Capital Improvements Plan. Coordinate with the Town to develop the Wastewater Impact Fee Capital Improvements Plan. It will include the following infrastructure:
- Existing Trunk Lines that are 10-inch and larger
 - Future Trunk Lines (8-inch and larger)
 - Existing and Future Lift Stations
 - Existing and Future Force Mains

Results of the TRA rate analysis will determine whether TRA facilities will be included in the Impact Fee Capital Improvements Plan. Utilize the wastewater water model for analysis of pipeline capacities

- D. Wastewater Service Area Combination Analysis. Perform a high-level analysis to determine any financial benefit and legal ramifications and feasibility of combining the Long Prairie and Lakeside wastewater service areas in the east and combining the Prairie Vista and Denton Creek service areas in the west. Results of the analysis will be included as a section in the impact fee report.
- E. Maximum Assessable Wastewater Impact Fee Calculation. Calculate the additional service units based on the Land Use Assumptions. Calculate the Impact Fee per service unit, unit equivalents by meter size and the Maximum Assessable Wastewater Impact Fee table by meter size. Kimley-Horn will incorporate the financial analysis performed in Task 8 to determine the maximum assessable impact fee by service unit.
- F. Wastewater Impact Fee Update Report. Kimley-Horn will incorporate the information necessary for the wastewater impact fee update into a formal document. Prepare and submit an electronic (.pdf) version of the draft report. Provide final copies of the report once it has been approved.
- G. Meetings. Prepare for and attend the following meetings:
- One (1) meeting with the Town to kick-off the wastewater impact fee update (to be held in conjunction with the water impact fee update kick-off meeting);
 - One (1) meeting with staff to review Wastewater Impact Fee Capital Improvements Plan and feasibility of combining wastewater service areas; and
 - One (1) meeting with staff to review Maximum Assessable Wastewater Impact Fees.

TASK 6 – ROADWAY IMPACT FEE ANALYSIS

Prepare the roadway impact fee analysis in conformance with Chapter 395 of the Local Government Code. The roadway impact fee update shall include the following:

- A. Data Collection. Coordinate with the Town to obtain the following data:
- Town contacts – Town shall provide the organization structure and contact information for the applicable Town staff involved with the completion of the roadway capacity analysis and roadway impact fee Capital Improvements Plan (CIP).
 - Master Thoroughfare Plan –Utilize the most recent thoroughfare plan adopted by the Town.
 - Traffic Counts – The Town shall provide any available traffic count data (current and historical) for all roadway segments on the current Master Thoroughfare Plan. Kimley-Horn will also obtain recently completed traffic counts for state highway facilities from TxDOT. Kimley-Horn will collect new PM peak hour traffic count data at up to ten (10) locations within the Town for use in the roadway impact fee analysis.
 - Historical Project Costing Information – The Town shall provide available data on the actual Town costs for previously completed arterial roadway improvement projects to assist in the development of planning level project costs for future projects and to include any project costs for previously completed projects with excess capacity available to serve future growth.
- B. Ten-Year Growth Projections and Capacity Analysis
- In consultation with Town staff, Kimley-Horn will determine land use categories to be included in the land use vehicle-mile equivalency table.
 - Identify the service units for new development and the average trip length. Using the 8th Edition of the Institute of Transportation Engineer's (ITE) Trip Generation Manual and incorporate trip generation and pass-by trip rates.
 - Perform an analysis of existing conditions. This will include a determination of roadway capacities, volumes, vehicle-miles of supply, vehicle-miles of demand, existing excess capacity, and existing deficiencies.
 - Project traffic conditions for the ten-year planning period, the target year for the impact fee growth projections. This will include growth and new demand by service area. Determine the capacity available for new growth.
- C. Roadway Impact Fee Capital Improvements Plan. Assist the Town in developing a Roadway Impact Fee Capital Improvements Plan (CIP) which will include cost projections for anticipated projects to be included in the study. The Roadway Impact Fee Capital Improvements Plan will include existing oversized facilities and proposed facilities designed to serve future development. The Roadway Impact Fee Capital Improvements Plan shall

include a general description of the project and a project cost projection. Planning level cost projections for future projects will be prepared based on discussion with local roadway construction contractors, Town staff, and previous experience with roadway construction costs. The Town shall provide actual Town cost information for previously completed projects with excess capacity and any cost contribution to County, State, Federal, or developer constructed projects.

Due to the variety of unknowns associated with roadway project costs projections (ROW acquisition, utility relocations, etc.), the planning level project cost projections utilized in the roadway impact fee analysis should not be used for any future capital improvement planning within the Town.

Identify the portion of projected improvements required to serve existing demand and the portion of project improvements required to serve new development within the 10-year planning period.

- D. Maximum Assessable Roadway Impact Fee Calculation. Using the newly developed ten-year growth projections, roadway impact fee Capital Improvements Plan, and capacity available for new growth, and determine the cost of roadway improvements by service area, the maximum costs per service unit, and the resulting maximum assessable roadway impact fees by service area. Kimley-Horn will incorporate the financial analysis performed in Task 8 to determine the maximum assessable impact fee per service unit.
- E. Roadway Impact Fee Update Report. Kimley-Horn will incorporate the information necessary for the roadway impact fee update into a formal document and will prepare and submit an electronic (.pdf) version of the draft report. Provide final copies of the report once it has been approved.
- F. Meetings. Prepare for and attend the following meetings:
 - Three (3) meetings with Town staff to discuss and review the Roadway Impact Fee CIP;
 - One (1) meeting with Town staff to review the proposed Maximum Assessable Roadway Impact Fees; and
 - One (1) meeting with Town staff to discuss the public hearings and approval process.

TASK 7 – FINANCIAL ANALYSIS AND IMPACT FEE CREDIT DETERMINATION

A financial subconsultant will calculate maximum assessable impact fees for the designated ten-year period for each service function (i.e. water, wastewater, and roadways), as well as determine the water, wastewater, and roadway impact fee credits in conformance with Chapter 395 of the Local Government Code.

- A. Financial Analysis. Using the impact fee eligible capital improvement costs and projected service units, the financial subconsultant will calculate maximum assessable full-cost recovery impact fees for the designated ten-year period for water, wastewater, and roadway facilities. The financial subconsultant will provide forecasted cash flows for the maximum assessable impact fee for the ten-year period based on projected capital improvement program's implementation schedule (if available) and growth in projected service units. Kimley-Horn will work in conjunction with the financial subconsultant to incorporate the financial analysis into the appropriate document, as identified in Tasks 4, 5, and 6.

TASK 8 – PUBLIC HEARINGS AND APPROVAL

Perform the following tasks as part of the public hearing and approval process:

- A. Growth Projections Presentation: prepare a PowerPoint presentation for Town staff to present growth projections to a joint session of the Capital Improvements Advisory Committee (CIAC) and Town Council. One virtual preparation meeting is included. Kimley-Horn staff will not present or attend the presentation.
- B. Advance Workshop: in advance of the required public hearing, prepare for and attend a session with the CIAC. One preparation meeting is included. Topics will be:
- Overview of the impact fee process
 - Land Use Assumptions, with any updates from the Growth Projections Presentation (Task 8A) included
 - Capital Improvement Plans for roadway, water, and wastewater
 - Maximum Assessable Impact Fees for roadway, water, and wastewater
- C. Public hearing: Prepare for and attend one Town Council meeting to hold a public hearing to present the Land Use Assumptions, Capital Improvement Projects, and Maximum Assessable Impact Fees. One preparation meeting is included. No detailed information or presentations about the Master Planning process or amendments to the Town's master plan is included.
- D. Updates
- Kimley-Horn will make one round of revisions to maps or CIP recommendations as needed based on comments from the Town as part of the Growth Projections Presentation or Advance Workshop.

ADDITIONAL SERVICES

Any services not specifically provided for in the above scope will be considered additional services and can be performed at our then current hourly rates.

Additional services we can provide include, but are not limited to, the following:

- Additional public hearing presentations or support.
- Mapping or cost estimates for non-capacity projects, such as rehabilitation or in-kind replacement.
- Performing fire flow testing for water model calibration.
- Setting temporary pressure loggers in the water distribution system for water model calibration.
- Performing temporary flow monitoring for wastewater model calibration.
- Providing design services for water and wastewater transmission and distribution pipelines.
- Providing professional services associated with the construction phase of the project.
- Additional assistance in developing the land use assumptions outside of that described in this agreement;
- Preparation for and attendance at additional public meetings not specifically identified in the Scope of Services;
- Furnish additional copies of documents in excess of the number of the same identified in the Scope of Services;
- Reanalysis or recalculation to reflect project scope changes or policy changes requested by the Town, addressing changes in direction previously approved by the Town, or mandated by changing governmental laws.
- Assisting Town or Contractor in the defense or prosecution of litigation in connection with or in addition to those services contemplated by this Agreement. Such services, if any, shall be furnished by Kimley-Horn on a fee basis negotiated by the respective parties outside of and in addition to this Agreement.
- Preparing applications and supporting documents for government grants, loans, or planning advances, and providing data for detailed applications.
- Appearing before regulatory agencies or courts as an expert witness in any litigation with third parties or condemnation proceedings arising from the development or construction of the Project, including the preparation of engineering data and reports for assistance to the Town.
- Providing construction staking, additional platting, or surveying services.
- Providing additional documentation required by the Town's legal representative during condemnation proceedings.
- Any services not listed in the Scope of Services.

ATTACHMENT B

COMPENSATION

Kimley-Horn will provide the Scope of Services for a lump sum fee.

SECTION 1: WATER AND WASTEWATER MASTER PLAN UPDATES	
Task 1 - Water Master Plan Update	\$ 138,500
Task 2 - Wastewater Master Plan Update	\$ 188,600
<i>Subtotal</i>	<i>\$ 327,100</i>
SECTION 2: WATER, WASTEWATER, AND ROADWAY IMPACT FEE UPDATES	
Task 3 - Land Use Assumptions	\$ 38,600
Task 4 - Water Impact Fee Update	\$ 52,000
Task 5 - Wastewater Impact Fee Update	\$ 60,000
Task 6 - Roadway Impact Fee Update	\$ 74,500
Task 7 - Financial Analysis and Impact Fee Credit Determination	\$ 40,000
Task 8 - Public Hearings and Approval	\$ 7,000
<i>Subtotal</i>	<i>\$ 272,100</i>
Total	\$ 599,200

* Tasks 3, 7, and 8 include services that are required for each of the impact fee updates (Water, Wastewater, and Roadway). 1/3 of the total fee for each of these tasks can be attributable to each respective impact fee update. Therefore, the following breakdown of lump sum fees can be used for budgeting purposes:

Water Impact Fee Update (Task 4 plus 1/3 of Tasks 3, 7, and 8):	\$80,533.33
Wastewater Impact Fee Update (Task 5 plus 1/3 of Tasks 3, 7, and 8)	\$88,533.33
Roadway Impact Fee Update (Task 6 plus 1/3 of Tasks 3, 7, and 8):	\$103,033.33

Additional services will be negotiated at the time they are identified.



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

DATE: December 16, 2024

FROM: Blake Hummel, Senior Project Engineer

ITEM: **Consider approval of Change Order No. 1 & Final for the construction of the Colonial Drive Reconstruction Phase II (Whitney Lane to Homestead Street) project, amending the contract with Quality Excavation, LLC, to provide for an increase to the contract in the amount of \$95,198.21; and authorization for the Mayor to execute same on behalf of the Town.**

BACKGROUND: On April 5, 2021, Quality Excavation was awarded the construction contract for the Colonial Drive Reconstruction Phase II (Whitney Lane to Homestead Street) project. The original contract was awarded in the amount of \$1,432,054.00.

Change Order No. 1 & Final proposes to increase the contract in the amount of \$95,198.21, for a revised contract amount of \$1,527,252.21. The change order allows for line-item quantities to be reconciled based on actual quantities installed. It also allows for additional pavement and ADA improvements located at the Colonial Drive & Superior Place intersection that were not originally planned with the design of the project. Additionally, the existing storm junction box uncovered at the intersection of Colonial Drive and Colonial Place was found to be in a failing condition and was required to be rebuilt to connect newly installed storm lines adequately while mitigating infiltration of the surrounding soil into the storm system and undermining the newly installed roadway paving. During construction it was also discovered that several areas of the existing pavement subgrade that were tested by the Town's material testing lab were flagged for higher sulfate levels. Original intent on this project was to utilize lime treatment to the subgrade however in areas that high sulfate levels exist this could cause swelling and heaving of the ground and damage new pavement. Town's material lab recommendation was to remove and replace the higher sulfate soil with TxDOT standard flexible base material. Detailed descriptions of all items are provided in Attachment 1.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES: If the proposed change order is not approved by Town Council, staff would not be able to reconcile final quantities to close the project.

FISCAL IMPACT: \$95,198.21

Proposed Expenditure/(Revenue)
\$95,198.21

Account Number(s):
316-560-78101-6160

LEGAL REVIEW: The Town's standard change order 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. Change Order No. 1 & Final

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

CHANGE ORDER No. 1 & FINAL

Effective Date: Upon execution by the Mayor

Owner: Town of Flower Mound

Contractor: Quality Excavation, LLC

Project: COLONIAL DRIVE RECONSTRUCTION PHASE II (WHITNEY LANE TO HOMESTEAD STREET)

CHANGE ORDER NO. 1 & FINAL

The compensation agreed upon in this Change Order is a full, complete, and final payment for all costs the Contractor incurs as a result of or relating to the change, whether said costs are known, unknown, foreseen, or unforeseen at this time, including without limitation, any costs for delay, extended overhead, ripple or impact costs, or any other effect on changed or unchanged work as a result of this change.

You are directed to make the following changes in the Contract Documents:

Item No.	Description	Unit	Add/ Deduct	Qty.	Unit Price	Extended Amount
7	6" Concrete Pavement (3,600 PSI)	SY	Add	203.4	\$51.00	\$ 10,373.40
10	Barrier Free Ramp (Type R-1)	EA	Add	2	\$1,600.00	\$ 3,200.00
13	4" Concrete Sidewalk (3,600 PSI)	SY	Deduct	165.9	\$52.00	\$ (8,626.80)
14	6" Integral Concrete Curb	LF	Add	175	\$3.00	\$ 525.00
15	6" Concrete Driveway Approach (3,600 PSI)	SY	Deduct	19.4	\$60.00	\$ (1,164.00)
19	Pavement Header at Existing Pavement (Includes Sawcut)	LF	Deduct	291.5	\$19.00	\$ (5,538.50)
23	Remove Concrete Driveway	SY	Deduct	9.4	\$9.00	\$ (84.60)
26	Remove and Replace Sign Panel and Post	EA	Deduct	5	\$875.00	\$ (4,375.00)
33	Remove 8" PVC Sanitary Sewer	LF	Add	12	\$12.00	\$ 144.00
35	8" PVC Sanitary Sewer (SDR-35)	LF	Add	15	\$100.00	\$ 1,500.00
38	Trench Safety (Utilities)	LF	Add	15	\$2.00	\$ 30.00
59	Water Main Lowering	EA	Add	2	\$5,300.00	\$ 10,600.00
CO1-A	Storm Junction Box Reconstruction	EA	Add	1	\$12,216.79	\$ 12,216.79
CO1-B	Complete Water Service Line - Conflict with Storm Line	EA	Add	2	\$1,000.00	\$ 2,000.00
CO1-C	Flex Base Preparation & Material	SY	Add	1015.94	\$82.68	\$ 83,997.92
CO1-D	Liquidated Damage - Substantial Completion	DAY	Deduct	10	\$240.00	\$ (2,400.00)
CO1-E	Liquidated Damage - Final Completion	DAY	Deduct	30	\$240.00	\$ (7,200.00)
TOTAL						\$ 95,198.21

JUSTIFICATION

Change Order No. 1 provides for the following.

Item 7 – 6" Concrete Pavement (3,600 PSI) – allows additional payment to be made for concrete pavement at required at the Colonial Drive and Homestead Street, Colonial Place and Superior Place intersections.

Item 10 – Barrier Free Ramp (Type R-1) – allows additional payment to be made for barrier free ramps to be installed at the Colonial Drive and Superior Place intersection.

Item 13 – 4" Concrete Sidewalk (3,600 PSI) – allows for the deduction of concrete sidewalk not required for the project.

Item 14 – 6" Integral Concrete Curb – allows additional payment to be made for concrete curb due to increased limits of reconstruction at the Colonial Drive and Superior Place intersection.

Item 15 – 6" Concrete Driveway Approach (3,600 PSI) – allows for the deduction of concrete driveway paving not required for the project.

Item 19 – Pavement Header at Existing Pavement (Includes Sawcut) – allows for the deduction pavement headers not required for the project.

Item 23 – Remove Concrete Driveway – allows for the deduction of concrete driveway removal not required for the project.

Item 26 – Remove and Replace Sign Panel and Post – allows for the deduction removal and replacement of signage that was installed by Town crews.

Item 33 – Remove 8" PVC Sanitary Sewer – Item 35 – 8" PVC Sanitary Sewer (SDR-35) – allows additional payment to be made for the removal of sanitary sewer based on actual location discovered onsite.

Item 35 – 8" PVC Sanitary Sewer (SDR-35) – allows additional payment to be made for the installation of new sanitary sewer based on actual location discovered onsite.

Item 38 – Trench Safety (Utilities) – allows additional payment to be made for the required trench safety of reconstructed utilities along Colonial Drive.

Item 59 – Water Main Lowering – allows additional payment to be made for the reconstruction of failing storm junction box at the Colonial Drive and Colonial Place intersection.

C01-A – Storm Junction Box Reconstruction – allows additional payment to be made for the reconstruction of failing storm junction box at the Colonial Drive and Colonial Place intersection.

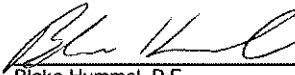
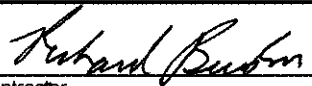
C01-B – Complete Water Service Line – Conflict with Storm Line – allows additional payment to be made for the installation new water service lines that were discovered to be in conflict with the rehabilitated storm line installation.

C01-C – Flex Base Preparation & Material – allows additional payment to be made for the installation of flexible base subgrade. Existing material was tested by Alliance Geotechnical Group, Inc. and found to not be suitable for additional lime treatment. Alliance Geotechnical Group, Inc. recommended to substitute the 8-inches of lime treated subgrade with 8-inches of flexible base as an acceptable alternative.

C01-D – Liquidated Damage – Substantial Completion – allows deduction of payment to be made for substantial completion liquidated damages.

C01-E – Liquidated Damage – Final Completion – allows deduction of payment to be made for final completion liquidated damages.

Original Contract	\$	1,432,054.00
Change Order #1	\$	95,198.21
Revised Contract Price	\$	1,527,252.21
Original Substantial Completion Days		120
Original Final Completion Days		150

Recommended for Approval	 Blake Hummel, P.E. Senior Project Engineer	10/25/24 Date	 Contractor President	10/28/24 Date
Approved	Cheryl Moore Mayor	Date		



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

DATE: December 16, 2024
FROM: Manuel Palacios, Assistant Director of Public Works
ITEM: **Consider approval of a Professional Service Agreement with Plummer Associates, Inc., for services to upgrade the Town's Supervisory Control and Data Acquisition (SCADA) system, in the amount of \$259,728; and authorization for the Mayor to execute same on behalf of the Town.**

BACKGROUND: The supervisory control and data acquisition (SCADA) system serving the Town's water and wastewater treatment and distribution system facilities was installed in the late 1980's and upgraded to the current system in 1999. The SCADA system is critical to operating the Town's water and wastewater distribution system as it allows Staff within a centralized control room to view in real time the system status and to operate and control equipment at remote facilities, like pump stations, storage tanks, and meter stations. The system includes both hardware and software components, some of which are proprietary in nature, including the master servers, the radio communication equipment, field control and data transmittal devices, and the software interface. The Town recently had a consultant assess our existing SCADA system to ensure proper communications, system redundancy, and system security. The assessment provided a detailed report of our current SCADA system condition with recommendations for improvements. Some of the issues identified were that the system is running on outdated software versions and the hardware environment is running on older servers. The recommendation is to upgrade the SCADA system from the existing Rockwell FactoryTalk System to a new VTSCADA HMI System. This new VTSCADA HMI System will require fewer computer servers and HMI software with lower annual maintenance costs. In addition, by using software that can communicate with different equipment, the computing environment is simplified, minimizing the potential for failure. Public Works and Information Technology departments worked together to ensure the improvements meet all security and departmental needs.

The project includes project management, testing, and deployment of a new HMI System utilizing VTSCADA. Plummer has teamed up with the Town's SCADA consultant Application Control Engineering (ACE) for this project. Plummer has worked on many water and wastewater projects for the Town. Plummer is currently the design consultant for the water reuse project. Plummer has a good reputation with the Town and has the expertise for this type of work.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES: Continue using out of date software and hardware at higher annual cost.

FISCAL IMPACT: \$259,728

Proposed Expenditure/(Revenue)

\$259,728

Account Number(s):

630-960-98940-6170

630-970-98940-6180

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 SCADA System
2. Form 1295 (For Internal Use)

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

THE STATE OF TEXAS §
COUNTY OF DENTON §

**PROFESSIONAL SERVICES AGREEMENT WITH
PLUMMER ASSOCIATE, INC**

This contract is entered into on this 16th day of December, 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 **Plummer Associates, Inc**, (“hereinafter referred to as “CONSULTANT”) whose address is 1320 South University Drive, Suite 300, Fort Worth, Texas 76107.

RECITALS

WHEREAS, TOWN desires to obtain professional services from CONSULTANT relative to upgrading the wastewater treatment facility Supervisory Control and Data Acquisition (SCADA) system project; and

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

TERMS OF AGREEMENT

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

**I.
Employment of Consultant**

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

II.

Scope of Services

CONSULTANT shall perform such services as are necessary to provide services for the upgrade of Town's water and wastewater treatment facility SCADA system including, but not necessarily limited to, the tasks enumerated more fully in Attachment "A" hereto entitled "Scope of Work" (hereafter referred to as the "Project"). Attachment "A" is hereby incorporated herein by reference and made a part hereof as if written word for word. However, in case of conflict in the language of Attachment "A" and this Contract, the terms and conditions of this Contract shall be final and binding upon both parties hereto.

III.

Payment for Services

Total payment for services described herein shall be a sum not to exceed Two Hundred Fifty Nine Seven Hundred Twenty Eight and No/100 Dollars (\$259,728). 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 according to their unit cost fee schedule on certain services provided combined with a flat fee for specific tests performed in accordance with Attachment "B"; provided however that this Contract shall control in the event of any conflict between the language in Attachment "B" and the language in this Contract. If additional services, trips or expenses are requested, CONSULTANT will not provide such additional services until authorized by TOWN in writing to proceed. The scope of services shall be strictly limited. TOWN shall not be required to pay any amount in excess of the amount identified in the preceding paragraph unless TOWN shall have approved in writing in advance (prior to the performance of additional work) the payment of additional amounts.

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

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

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

IV.

Revisions of the Scope of Services

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

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

V.

Term

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

VI.

Contract Termination Provision

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

entering into contracts for supplies, assistance, facilities or materials in connection with this Contract and shall proceed to promptly cancel all existing contracts insofar as they are related to this Contract.

VII.

Ownership of Documents

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

VIII.

Insurance

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

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

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

The following policies and coverage shall be required:

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

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

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

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

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

Manny Palacios Jr.
Town of Flower Mound
2121 Cross Timbers Road
Flower Mound, Texas 75028
972-874-6414 Telephone

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

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

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

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

D. CONSULTANT agrees to the following:

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

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

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

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

IX.

Right to Inspect Records

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

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

X.
Successors and Assigns

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

XI.
CONSULTANT's Liability

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

XII.
Indemnification

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

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

XIII.

Independent Contractor

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

XIV.

Default

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

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

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

XV.
Provisions Surviving Termination

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

XVI.
Changes

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

XVII.
Conflicts of Interest

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

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

XVIII.
Confidential Information

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

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

XIX.

Notice Information

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

Manny Palacios Jr.
Town of Flower Mound
2121 Cross Timbers Road
Flower Mound, Texas 75028
972-874-6414 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:

Paula Monaco, PhD, PE
Wastewater Treatment Team Leader
1320 S. University, Suite 300
Fort Worth, Texas 76107
817-806-1700 Telephone
817-806-1718 Direct
pmonaco@plummer.com

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

XX.

Applicable Law

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

XXI. Non-Discrimination

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

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

XXII. Arbitration

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

XXIII. No Waiver of Governmental Immunity

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

XXIV. Severability

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

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

XXV.
Remedies

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

XXVI.
Entire Agreement

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

XXVII.
Non-Waiver

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

XXVIII.
Headings

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

XXIX.
Venue

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

XXX.
No Third Party Beneficiary

For purposes of this Contract, including its intended operation and effect, the parties (TOWN and CONSULTANT) specifically agree and contract that: (1) the Contract only affects matters/disputes between the parties to this Contract, and is in no way intended by the parties to benefit or otherwise affect any third person or entity notwithstanding the fact that such third person or entity may be in contractual relationship with TOWN or CONSULTANT or both; and (2) the terms of this Contract are not intended to release, either by contract or operation of law, any third person or entity from obligations owing by them to either TOWN or CONSULTANT.

[The remainder of this page is left blank intentionally]

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

THE TOWN OF FLOWER MOUND, TEXAS

By: _____

The Honorable Cheryl Moore
Mayor, Town of Flower Mound

Date Signed: _____

Attest:

Town Secretary

CONSULTANT:
Plummer

By: Paula A. Monaco
Name: Paula Monaco, PhD, PE
Title: Wastewater Treatment Leader
Date Signed: December 5, 2024

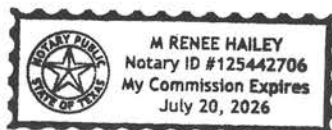
State of Texas County §
 §
of Tarrant §

This instrument was acknowledged before me on the 5th day of December, 2024, by Paula A. Monaco in her capacity as Wastewater Treatment Leader of Plummer Associates, Inc., a Texas Corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged that she executed the same on behalf of and as the act of Authorized Representative.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS THE 5th DAY OF
DECEMBER, 2024

M. Renee Hailey
Notary Public, State of Texas

My Commission Expires:
July 20, 2026





PLUMMER

11/22/2024

Mr. Manuel Palacios
Assistant Director of Public Works
Town Of Flower Mound
2121 Cross Timbers Road
Flower Mound, TX 75028

Re: WWTF SCADA Proposal

Dear Manuel:

Plummer is pleased to present the Town with a proposal to upgrade the wastewater treatment facility SCADA system from the existing Rockwell FactoryTalk system to a new VTSCADA HMI system. As recommended in our technical memo, we support the decision to move to a newer HMI platform, that will require fewer computer servers and HMI software with lower annual maintenance costs. In addition, by using software that can communicate with different equipment, the computing environment is simplified, minimizing the potential for failure.

We have teamed up with the Town's trusted control system provider, Ron Wise, Application Control Engineering (ACE) to provide the Town with a complete scope of services. We have attached our detailed proposal in this document, including Ron Wise's proposal as a sub-consultant to Plummer.

We propose to support Ron and the Town by providing project management services, testing, and guidance where necessary to ensure smooth and efficient project delivery.

Feel free to contact us with any questions or comments that you have regarding this project.

Sincerely Yours,

PLUMMER

Nicholas Toussaint
Principal

NET

Enclosures (Scope of Work, Fee Schedules, project Schedule)

cc: Ron Wise, ACE
Paula Monaco, PE, PHD
Jeff Caffey, PE

**Attachment A
TOWN OF FLOWER MOUND
WASTEWATER TREATMENT PLANT
SCADA AND HMI SERVICES
BASIC ENGINEERING SERVICES**

This Attachment is part of the Agreement between Plummer Associates, Inc. (Plummer) (the “Engineer”) and the Town of Flower Mound (the “Town”) for the project generally described as:

**System Replacement
WWTF SCADA and HMI Services**

Introduction

The scope of this work is to provide services required for travel to the WWTF, project management, testing, and deployment of a new HMI System utilizing VTSCADA. ACE will provide the computer servers, VTSCADA software, and will provide configuration services on the project and will develop the VTSCADA system database, graphical screens, alarms and reporting systems in parallel with the operating existing FactoryTalk system. Plummer will provide project management services, testing, and oversight to the project on an as-needed basis. ACE will operate as a sub-consultant to Plummer.

CITY SERVICES

Per the scope of work documented herein, the Town of Flower Mound (Town) responsibilities will include the following:

- Provide Alan Plummer Associates, Inc. (PLUMMER) with requested information as needed, including, but not limited to, previous studies, record drawings, operational data, etc.
- Provide Plummer with access to the Town’s facilities as needed to complete the work.
- Review materials submitted by APAI related to the project and provide comments back as requested.
- Provide Plummer with access to SCADA servers and workstations and Administrator Username/password access to FactoryTalk HMI systems.
- Provide Plummer with IT support to access the historian database to make a system backup for off-site analysis
- Town IT to provide monitor for configuration as needed.

PLUMMER SERVICES

Services include the following:

Task 1 – Project Management & Meetings

- 1.1 Plummer will conduct regular project status meetings to inform the Town of current and anticipated activities twice per month as the project development progresses. We may move the meetings to a weekly timeframe as the project goes into the field verification stage.
- 1.2 Plummer will maintain the project schedule, and advise the Town of anticipated delays and any steps needed to mitigate the delays

Task 2 – Project Review and Oversight

2.1 In addition to the regular project meetings, Plummer will review the SCADA upgrade work product performed by ACE. Plummer will provide review services to the Town, and provide input when questions arise during the configuration services.

2.2 Plummer will participate in the side-by-side reviews of the database and graphic screen development. Plummer will the development activities and generate an inspection deficiencies list, and re-test any areas that have owner concern. This review is not meant to replace the system testing, but to have interim reviews that would allow the owner an opportunity to review progress and adherence to consistency in the development as well as verify operation of the new database, communications, and screen navigation and operation.

2.3 Plummer will provide the Town with a network diagram in ACAD and PDF format with layers. Diagram layers will allow IP and gateway addresses to be hidden as needed.

Task 3 – System Testing

3.1 Plummer will participate in end-to-end testing from each I/O component in every PLC connected to the HMI system to verify successful configuration services.

3.2 Plummer will work directly with ACE and a Town staff member to perform testing services.

3.3 Testing will follow a testing plan (to be provided by Plummer) and will include data validation against the existing SCADA system.

Task 3– Expenses

- Estimated travel costs including travel time, mileage, meals and accommodations for a total of 8 days anticipated testing

ATTACHMENT B Engineering Fees

This Attachment is part of the Agreement between Plummer Associates, Inc. (Plummer) (the “Engineer”) and the Town of Flower Mound (the “Town”) for the project generally described as:

System Upgrade WWTF SCADA and HMI Upgrade

Fees

The fees listed below includes costs for the scope items listed in Exhibit B-Scope of Services

Services include the following:

Task	Description	Hours	Cost
1	Project Management & Meetings	40	\$9,900
1B	Travel Expenses & Project Markups		\$19,998
2	Project Review & Oversight	60	\$13,480
3	System Testing	110	\$23,350
4	Sub-Consultant Equipment and Services	896	193,000
	Total Estimated Cost:		\$259,728

**Application
Control
Engineering**

709 Carlisle Court
Lake Dallas, Texas 75065

Plummer

11-21-2024

Attn: Nicholas Toussaint, P.E., PMP

re: Flower Mound SCADA System Replacement Proposal

Gentlemen,

This proposal includes all labor necessary to load and configure VTSCADA software on new SCADA System Servers being supplied by the Town of Flower Mound. Below is a list of the equipment and services being provided on this project.

Equipment

- 1) VTSCADA Dual Server Premium 5000 I/O Software
 - a) Includes 1 year of VTSCADA Support Plus & 24/7 Emergency Support
 - b) Additional 4 years VTSCADA Support Plus & 24/7 Emergency Support

Services

- 1) Install & configure VTSCADA Dual Server software
- 2) Assign SCADA network compatible IP address
- 3) VTSCADA database generation
- 4) VTSCADA screen development
- 5) VTSCADA Alarm Notification configuration of SMS text messaging
- 6) Report Development
- 7) Testing & Startup
- 8) Operator Training
- 9) System Documentation

Listed below are the majority of the screens needed to adequately illustrate current SCADA system entities. Some secondary support screens may be required.

Water Production Screens

- 1) Water Distribution System Overview
- 2) Pintail Pump Station
- 3) Stonehill Pump Station
- 4) Western Pump Station
- 5) Regency Park Pump Station
- 6) Bruton EST
- 7) Freeman EST
- 8) Waketon EST
- 9) Pintail Trend
- 10) Stonehill Trend
- 11) Western Trend
- 12) Regency Park Trend

Wastewater Collection System

- 1) Wastewater Collection System Overview
- 2) Bakersfield Park Lift Station
- 3) Bella Lago Lift Station
- 4) Chin Chapel Lift Station
- 5) Emerald Bay Lift Station
- 6) Garden Ridge Lift Station
- 7) Glen Chester Lift Station
- 8) Justin Road Lift Station
- 9) Kirkpatrick Lift Station
- 10) Kipling Lift Station
- 11) LaSalle Lift Station
- 12) Oak Street Lift Station
- 13) Park Bend Lift Station
- 14) Point Noble Lift Station
- 15) Sanctuary Lift Station
- 16) Southside Lift Station
- 17) Sunset Point Lift Station
- 18) Twin Coves Lift Station
- 19) Wichita I Lift Station
- 20) Wichita II Lift Station
- 21) Wickersham Lift Station
- 22) Yucca Road Lift Station

Wastewater Plant Screens

- 1) Plant Overview
- 2) Raw Water Lift Station
- 3) Preliminary Treatment Area
- 4) Bar Screens
- 5) Flow Splitter Box
- 6) Aeration & Nitrification
- 7) Aeration Blowers AB1-AB6
- 8) Sludge Handling
- 9) Gravity Belt Thickener
- 10) Dewatering
- 11) Belt Presses BP1 & BP2
- 12) Lime System
- 13) Final Clarifiers
- 14) Return Activated Sludge Pumps RAS1-RAS6
- 15) Filters
- 16) UV Disinfection
- 17) Effluent Flow Metering
- 18) Plant Water Pump Station
- 19) Storm Water Pump Station
- 20) Electrical Power
- 21) Local Area Network
- 22) PLC Equipment Status
- 23) Plant Flow Controls
- 24) Dissolved Oxygen Controls
- 25) Sludge Mixing Controls
- 26) Waste Activated Sludge Pump Controls
- 27) RAS Pump Controls
- 28) UV System Controls
- 29) Navigation Menu
- 30) Report Interface
- 31) SBR Plant Overview
- 32) SBR Controls
- 33) SBR Blower Controls
- 34) SBR Wasting Controls
- 35) Active Alarm Summary
- 36) Historical Alarm Summary
- 37) Process Flow Trend
- 38) Sludge Handling Trend
- 39) Dissolved Oxygen Trend
- 40) Gravity Thickener Trend
- 41) Belt Press Trend
- 42) UV System Trend
- 43) Effluent Flow Trend
- 44) AB1 Trend
- 45) AB2 Trend
- 46) AB3 Trend
- 47) AB4 Trend
- 48) AB5 Trend
- 49) AB6 Trend
- 50) SBR1 Trend
- 51) SBR2 Trend
- 52) SBR3 Trend
- 53) Wasting Trend

Reports

- 1) Daily Plant Flow Totals
- 2) Daily Plant Equipment Runtimes
- 3) Daily Lift Station Flow Totals
- 4) Daily Lift Station Runtimes
- 5) Daily Pump Station Runtimes
- 6) Daily Water Quality
- 7) Monthly Plant Flow Totals
- 8) Monthly Plant Equipment Runtimes
- 9) Monthly Pump Station Flow Totals
- 10) Monthly Pump Station Runtimes

Equipment

VTSCADA 5000 Tag Dual Server Premium Software	\$27,695
Markup	\$2,769
VTSCADA 2 nd – 5 th Year Support Plus	\$16,616
VTSCADA 2 nd – 5 th Year 24/7 Emergency Support	\$6,000
Total Equipment Price.....	\$53,080

Services

	<u>Hours</u>
VTSCADA Software Installation	8
VTSCADA SMS Alarm Configuration	16
Database Generation	40
Wastewater Plant Screen Screens	452
Wastewater Collection System Screens	88
Water Distribution System Screens	76
Report Development	192
Training & Documentation	24
Subtotal	896
Rate	\$120
Services.....	\$107,520

Total Base Bid amount to provide the Equipment & Services listed above.....\$160,600

The Alarm Notification methods available for VTSCADA are with VOIP.MS and Twilio.com SMS platforms. The VOIP.MS interface is billed monthly at \$0.85 per phone number and \$0.0075 per SMS message. The Twilio.com interface is billed monthly at \$0.0079 per SMS message. Either method will require the Town of Flower Mound to setup an account online for recurring charges.

Additive Alternate No.1

There are three Main Switchboards in the wastewater plant. In order to monitor both incoming mains at each of the three switchboards, one Power Quality Meter along with the associated devices must be installed in each incoming 480vac main feeder compartment. A single ¾" conduit will connect the switchgear to the SCADA cabinet at each of the three locations. A Cat-6 ethernet cable will be run from each of the PQM's Modbus TCP ethernet communication module back to the network switch in the SCADA cabinet. A remote PQM display will be mounted on the door of each main feeder compartment and connected to the PQM base unit mounted inside.

Equipment

- 1) (6) Power Quality Meter
- 2) (6) Ethernet Module
- 3) (6) Remote Display
- 4) (18) 2000:5 Amp Split Core Current Transformer
- 5) (6) Current Transformer Shorting Block
- 6) (6) 3 Phase Fuse Block
- 7) (18) Potential Input Fuse

Services

- 1) Install Power Quality Meter base units, CTs, Fuse Blocks, Fuses & Shorting Blocks in switchgear
- 2) Install Remote PQM Display(s) on door(s) of switchgear
- 3) Run conduit & Cat-6 cable from PQM Communication Module(s) to the network switch in SCADA cabinet
- 4) Configure Power Quality Meters
- 5) Terminate Cat-6 network cables
- 6) Modify SCADA system to include new Power monitoring screen
- 7) Add database points & display Average Phase Voltage, Average Phase Current, Apparent Power (KVA), Reactive Power (KVAR), Total Power (KW), Power Factor, and Total Usage (KWH) for both Main-A & Main-B feeders for all three switchboards.

Total amount to provide the Equipment & Services for Additive Alternate No.1.....\$32,400

Total amount including Base Bid and Additive Alternate No.1.....\$193,000

Call or email if you have any questions.

Sincerely,

Ron Wise
Email: rwwace@gmail.com
Phone: 214-534-9178



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

1/8/2024

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

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

PRODUCER Risk Strategies 12801 North Central Expy. Suite 1725 Dallas, TX 75243	CONTACT NAME: Joe Bryant PHONE (A/C, No, Ext): (214) 323-4602 E-MAIL ADDRESS: RSCcertrequest@risk-strategies.com FAX (A/C, No): (214) 503-8899														
INSURED Plummer Associates, Inc. 1320 South University Drive Ste. 300 Fort Worth TX 76107	<table><tr><th>INSURER(S) AFFORDING COVERAGE</th><th>NAIC #</th></tr><tr><td>INSURER A : XL Specialty Insurance Company</td><td>37885</td></tr><tr><td>INSURER B : Hartford Underwriters Insurance Company</td><td>30104</td></tr><tr><td>INSURER C : Hartford Accident and Indemnity Company</td><td>22357</td></tr><tr><td>INSURER D : Twin City Fire Insurance Company</td><td>29459</td></tr><tr><td>INSURER E : LLOYD's of London</td><td>04893</td></tr><tr><td>INSURER F :</td><td></td></tr></table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A : XL Specialty Insurance Company	37885	INSURER B : Hartford Underwriters Insurance Company	30104	INSURER C : Hartford Accident and Indemnity Company	22357	INSURER D : Twin City Fire Insurance Company	29459	INSURER E : LLOYD's of London	04893	INSURER F :	
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INSURER F :															

COVERAGES**CERTIFICATE NUMBER:** 78136165**REVISION NUMBER:**

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
B	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR ☒ XCU Coverage ☒ Contractual Liability GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☒ PRO-JECT ☐ LOC OTHER:	☒	☒	84SBWAH8X07	9/30/2023	9/30/2024	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$1,000,000 MED EXP (Any one person) \$10,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMP/OP AGG \$2,000,000 Valuable Papers \$500,000
C	AUTOMOBILE LIABILITY ☒ ANY AUTO ☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☐ HIRED AUTOS ONLY ☐ NON-OWNED AUTOS ONLY	☒	☒	84UEGAC4597	9/30/2023	9/30/2024	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
B	☒ UMBRELLA LIAB ☒ OCCUR ☐ EXCESS LIAB ☐ CLAIMS-MADE DED ☒ RETENTION \$10,000	☒	☒	84SBWAH8X07	9/30/2023	9/30/2024	EACH OCCURRENCE \$5,000,000 AGGREGATE \$5,000,000 \$
D	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	☒	☒	84WEGBA2E4C	9/30/2023	9/30/2024	☒ PER STATUTE ☐ OTH-ER E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE - EA EMPLOYEE \$1,000,000 E.L. DISEASE - POLICY LIMIT \$1,000,000
A	Professional Liability & Pollution Liability	☒	☒	DPR5012945	5/9/2023	5/9/2024	Per Claim \$3,000,000 Annual Aggregate \$3,000,000
E	Cyber Liability	☒	☒	ESM0139760445	8/25/2023	8/25/2024	Limit of Liability \$2,000,000

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

The claims made professional liability coverage is the total aggregate limit for all claims presented within the annual policy period and is subject to a deductible. Thirty (30) day notice of cancellation in favor of certificate holder on all policies.
Town of Flower Mound is named additional insured on the General Liability, Auto Liability and Umbrella Liability coverage as required by written contract. A waiver of subrogation is shown in favor of the additional insured on Workers' Compensation as required by written contract.
Re: Flower Mound Wastewater Treatment Plant SCADA and HMI Programming Assessment Plummer #0523-065 O-1766.

CERTIFICATE HOLDER**CANCELLATION**

Town of Flower Mound
Attn: Purchasing
2121 Cross Timbers Rd.
Flower Mound TX 75028

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

AUTHORIZED REPRESENTATIVE

Joe Bryant

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ACORD 25 (2016/03)

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.



BLANKET ADDITIONAL INSURED BY CONTRACT

This endorsement modifies insurance provided under the following:

BUSINESS LIABILITY COVERAGE FORM

Except as otherwise stated in this endorsement, the terms and conditions of the Policy apply.

A. The following is added to Section C. WHO IS AN INSURED:

Additional Insureds When Required By Written Contract, Written Agreement Or Permit

The person(s) or organization(s) identified in Paragraphs a. through f. below are additional insureds when you have agreed, in a written contract or written agreement, or when required by a written permit issued by a state or governmental agency or subdivision or political subdivision that such person or organization be added as an additional insured on your Coverage Part, provided the injury or damage occurs subsequent to the execution of the contract or agreement, or the issuance of the permit.

A person or organization is an additional insured under this provision only for that period of time required by the contract, agreement or permit.

However, no such person or organization is an additional insured under this provision if such person or organization is included as an additional insured by any other endorsement issued by us and made a part of this Coverage Part.

The insurance afforded to such additional insured will not be broader than that which you are required by the contract, agreement, or permit to provide for such additional insured.

The insurance afforded to such additional insured only applies to the extent permitted by law.

The limits of insurance that apply to additional insureds are described in Section **D. LIABILITY AND MEDICAL EXPENSES LIMITS OF INSURANCE**. How this insurance applies when other insurance is available to an additional insured is described in the Other Insurance Condition in Section **E. LIABILITY AND MEDICAL EXPENSES GENERAL CONDITIONS**.

a. Vendors

Any person(s) or organization(s) (referred to below as vendor), but only with respect to "bodily injury" or "property damage" arising out of "your products" which are distributed or sold in the regular course of the vendor's business and only if this Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".

(1) The insurance afforded to the vendor is subject to the following additional exclusions:

This insurance does not apply to:

- (a)** "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement;
- (b)** Any express warranty unauthorized by you;
- (c)** Any physical or chemical change in the product made intentionally by the vendor;
- (d)** Repackaging, except when unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;
- (e)** Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products;
- (f)** Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;
- (g)** Products which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for the vendor; or



(h) "Bodily injury" or "property damage" arising out of the sole negligence of the vendor for its own acts or omissions or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:

- (i) The exceptions contained in Paragraphs (d) or (f); or
- (ii) Such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products.

(2) This insurance does not apply to any insured person or organization from whom you have acquired such products, or any ingredient, part or container, entering into, accompanying or containing such products.

b. Lessors Of Equipment

(1) Any person or organization from whom you lease equipment; but only with respect to their liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your maintenance, operation or use of equipment leased to you by such person or organization.

(2) With respect to the insurance afforded to these additional insureds, this insurance does not apply to any "occurrence" which takes place after you cease to lease that equipment.

c. Lessors Of Land Or Premises

(1) Any person or organization from whom you lease land or premises, but only with respect to liability arising out of the ownership, maintenance or use of that part of the land or premises leased to you.

(2) With respect to the insurance afforded to these additional insureds, this insurance does not apply to:

- (a) Any "occurrence" which takes place after you cease to lease that land or be a tenant in that premises; or
- (b) Structural alterations, new construction or demolition operations performed by or on behalf of such person or organization.

d. Architects, Engineers Or Surveyors

(1) Any architect, engineer, or surveyor, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

- (a) In connection with your premises; or
- (b) In the performance of your ongoing operations performed by you or on your behalf.

(2) With respect to the insurance afforded to these additional insureds, the following additional exclusion applies:

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

- (i) The preparing, approving, or failure to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders, designs or drawings and specifications; or
- (ii) Supervisory, surveying, inspection, architectural or engineering activities.

This exclusion applies even if the claims allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by an insured, if the "bodily injury", "property damage", or "personal and advertising injury" arises out of the rendering of or the failure to render any professional service.

(b) This insurance does not apply to "bodily injury" or "property damage" included within the "products-completed operations hazard".

e. State Or Governmental Agency Or Subdivision Or Political Subdivision Issuing Permit

(1) Any state or governmental agency or subdivision or political subdivision, but only with respect to operations performed by you or on your behalf for which the state or governmental agency or subdivision or political subdivision has issued a permit.

(2) With respect to the insurance afforded to these additional insureds, this insurance does not apply to:

- (a) "Bodily injury", "property damage" or "personal and advertising injury" arising out of operations performed for the federal government, state or municipality; or



(b) "Bodily injury" or "property damage" included within the "products-completed operations hazard".

f. Any Other Party

(1) Any other person or organization who is not in one of the categories or classes listed above in Paragraphs **a.** through **e.** above, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

(a) In the performance of your ongoing operations performed by you or on your behalf;

(b) In connection with your premises owned by or rented to you; or

(c) In connection with "your work" and included within the "products-completed operations hazard", but only if:

(i) The written contract, written agreement or permit requires you to provide such coverage to such additional insured; and

(ii) This Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".

(2) With respect to the insurance afforded to these additional insureds, the following additional exclusion applies:

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

(a) The preparing, approving, or failure to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders, designs or drawings and specifications; or

(b) Supervisory, surveying, inspection, architectural or engineering activities.

This exclusion applies even if the claims allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by an insured, if the "bodily injury", "property damage", or "personal and advertising injury" arises out of the rendering of or the failure to render any professional service described in Paragraphs **f.(2)(a)** or **f.(2)(b)** above.



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

DATE: December 16, 2024
FROM: Manuel Palacios, Assistant Director of Public Works
ITEM: **Consider approval of the Professional Services Agreement with RJN Group, Inc., for Flow Monitoring and Analysis associated with the Inflow and Infiltration project, in the amount of \$254,032.00; and authorization for the Mayor to execute same on the behalf of the Town.**

BACKGROUND: The proposed professional services are with RJN Group Inc. and will be for sanitary sewer evaluation study (SSES) and manhole rehabilitation services. The project is to study the Denton Creek North and South Basins located west of the Town around the U.S. Highway Number 377 Highway corridor and Canyon Fall Development. The Town has a contract with Trinity River Authority of Texas (TRA) to accept all sanitary sewer flow into their Denton Creek regional wastewater system. Recently, the Town has been notified by TRA about high flows into their sanitary sewer system during peak rain events. To determine the possible infiltration and inflow (I&I) in the Town's sanitary sewer system, the Town has asked RJN to perform a sanitary sewer evaluation study of this area. This Professional Services Agreement will provide services to help address this issue of reducing Inflow & Infiltration that can lead to sanitary sewer overflows and/or TRA wastewater treatment permit violations.

The scope of this project is to perform a Sanitary Sewer Evaluation Study (SSES) that consists of smoke testing the mains, visually inspecting the condition of manholes, televising the condition of the mains, inflow and infiltration analysis, and manhole rehabilitation design. The project consists of evaluating 74,000 linear feet of sewer lines, 279 sewer manholes and 6,000 linear feet of closed caption television inspections.

RJN Group Inc., has performed previous sanitary sewer evaluation studies in the past for the Town. The most recent project was for an inflow and infiltration project along the Long Prairie and Lakeside service areas. RJN has a good reputation with the Town and is available to perform this project. The proposed Professional Services Agreement provides for professional engineering services for the 2024 SSES and Manhole Rehabilitation Design project in the amount of \$254,032.00. The proposed SSES and Manhole Rehabilitation Design project will be funded through the Inflow/Infiltration/Evaluation and Repair project as approved on the current 5-year capital improvement plan.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES: A decision not to approve the Professional Service Agreement would result in ongoing sanitary sewer inflow and infiltration issues that would cause TCEQ permit violations for the Town and Denton Creek Regional Wastewater Treatment Plant.

FISCAL IMPACT: \$254,032.00

Proposed Expenditure/(Revenue)

Account Number(s):

\$254,032.00

630-970-98030-6180

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 & Scope RJN Denton Creek I&I
2. Form 1295 (For Internal Use) Denton Creek and South Basin

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

THE STATE OF TEXAS §
COUNTY OF DENTON §

**PROFESSIONAL SERVICES AGREEMENT WITH
RJN Group, Inc.**

This contract is entered into on this _____ day of _____, 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 **RJN Group, Inc.**, ("hereinafter referred to as "CONSULTANT") whose address is 14755 Preston Road, Suite 710, Dallas, TX 75254.

RECITALS

WHEREAS, TOWN desires to obtain professional services from CONSULTANT relative to the Sanitary Sewer Inflow and Infiltration Monitoring and Analysis project; and

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

TERMS OF AGREEMENT

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

I.

Employment of Consultant

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

II.
Scope of Services

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

III.
Payment for Services

Total payment for services described herein shall be a sum not to exceed Two Hundred Fifty-Four Thousand Thirty-Two and No/100 Dollars (\$254,032.00). 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 according to their unit cost fee schedule on certain services provided combined with a flat fee for specific tests performed in accordance with Attachment "B"; provided however that this Contract shall control in the event of any conflict between the language in Attachment "B" and the language in this Contract. If additional services, trips or expenses are requested, CONSULTANT will not provide such additional services until authorized by TOWN in writing to proceed. The scope of services shall be strictly limited. TOWN shall not be required to pay any amount in excess of the amount identified in the preceding paragraph unless TOWN shall have approved in writing in advance (prior to the performance of additional work) the payment of additional amounts.

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

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

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

IV.

Revisions of the Scope of Services

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

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

V.

Term

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

VI.

Contract Termination Provision

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

entering into contracts for supplies, assistance, facilities or materials in connection with this Contract and shall proceed to promptly cancel all existing contracts insofar as they are related to this Contract.

VII.
Ownership of Documents

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

VIII.
Insurance

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

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

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

The following policies and coverage shall be required:

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

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

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

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

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

Manny Palacios Jr.
Town of Flower Mound
2121 Cross Timbers Road
Flower Mound, Texas 75028
972-874-6414 Telephone

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

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

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

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

D. CONSULTANT agrees to the following:

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

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

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

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

IX. Right to Inspect Records

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

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

X.

Successors and Assigns

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

XI.

CONSULTANT's Liability

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

XII.

Indemnification

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

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

**XIII.
Independent Contractor**

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

**XIV.
Default**

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

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

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

XV.

Provisions Surviving Termination

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

XVI.

Changes

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

XVII.

Conflicts of Interest

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

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

XVIII.

Confidential Information

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

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

XIX.
Notice Information

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

Manny Palacios Jr.
Town of Flower Mound
2121 Cross Timbers Road
Flower Mound, Texas 75028
972-874-6414 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:

Tristan Nickel, PE, AWAM
Engineering Supervisor
RJN Group, Inc.
14755 Preston Rd. Suite 710
Dallas, Texas 75254
972-437-4300 Telephone
tnickel@rjnmail.com

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

XX.

Applicable Law

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

XXI. Non-Discrimination

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

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

XXII. Arbitration

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

XXIII. No Waiver of Governmental Immunity

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

XXIV. Severability

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

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

XXV.
Remedies

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

XXVI.
Entire Agreement

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

XXVII.
Non-Waiver

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

XXVIII.
Headings

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

XXIX.
Venue

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

XXX.
No Third Party Beneficiary

For purposes of this Contract, including its intended operation and effect, the parties (TOWN and CONSULTANT) specifically agree and contract that: (1) the Contract only affects matters/disputes between the parties to this Contract, and is in no way intended by the parties to benefit or otherwise affect any third person or entity notwithstanding the fact that such third person or entity may be in contractual relationship with TOWN or CONSULTANT or both; and (2) the terms of this Contract are not intended to release, either by contract or operation of law, any third person or entity from obligations owing by them to either TOWN or CONSULTANT.

[The remainder of this page is left blank intentionally]

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

THE TOWN OF FLOWER MOUND, TEXAS

By: _____
The Honorable Cheryl Moore
Mayor, Town of Flower Mound

Date Signed: _____

Attest:

Town Secretary

CONSULTANT:
RJN Group, Inc.

By: Don Jackson
Name: Daniel Jackson
Title: Sr. Vice President

Date Signed: 12/9/24

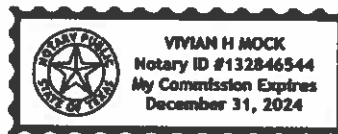
State of Texas §
 §
County of Dallas §

This instrument was acknowledged before me on the 9 day of December,
2024, by Daniel Jackson in his capacity as Sr. Vice President of
RJN Group, a Illinois Corporation, known to me to be the person
whose name is subscribed to the foregoing instrument, and acknowledged that he
executed the same on behalf of and as the act of _____.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS THE 9th
DAY OF December, 2024.

Vivian H Mock
Notary Public, State of Texas

My Commission Expires:





December 4, 2024

Tony Criss
Utility Line Maintenance Supervisor
Town of Flower Mound
201 Spinks Road
Flower Mound, Texas 75028

**SUBJECT: PROPOSAL FOR PROFESSIONAL ENGINEERING SERVICES
FLOWER MOUND PHASE IV SSES**

Dear Mr. Criss:

RJN Group, Inc. is pleased to submit this proposal to the Town of Flower Mound for sanitary sewer evaluation study (SSES) and manhole rehabilitation services.

RJN, established in 1975, is a professional engineering consulting firm focused on providing innovative engineering solutions and field services. With more than 90% of our clients being municipalities and public utilities, and over 85% of our work focused on sewer collection systems, we are uniquely qualified for this project.

Key Project Goals and Objectives

The project will include the following:

- Manhole Inspections
- Smoke Testing
- Dye Water Flooding
- CCTV Inspection
- Inflow and Infiltration Analysis
- Manhole Rehabilitation Design

ASSURING QUALITY AND SAFETY

Quality Assurance

RJN is committed to providing **quality** deliverables. The completion of these inspections is critical in providing actionable results for the Town. As collection system specialists, RJN has built data review processes that ensure that data is accurate. Our engineers and field inspection crews hold industry-standard NASSCO certifications for defect coding, and are extensively trained on all field inspection tasks. RJN's internal Quality Control tools, as well as our corporate training and Quality Assurance processes in place, will ensure that the program will provide value for the Town.

Safety

As an employee-owned firm, RJN's commitment to the **safety** of our employees, Town staff, and the public is paramount. RJN demonstrates that commitment to safety in our internally developed and audited safety program where our goal is to have all field staff, engineers, and project managers "RJN Safety Certified." Every project follows RJN's health and safety guidelines when completing any field work.

PRICE AND SCHEDULE SUMMARY

This project will be invoiced on a unit price and lump sum basis for a total not-to-exceed fee of \$254,032.00. RJN will complete the study within twelve months of an Agreement. Complete Scope of Services, Pricing, and Schedule are provided in the following exhibits:

- Exhibit A – Scope of Services
- Exhibit B – Pricing
- Exhibit C – Schedule
- Exhibit D – Maps

We are looking forward to the opportunity to work with the Town of Flower Mound on this important project. It is our pleasure to submit this proposal to you. Please feel free to contact Tristan Nickel at (972) 437-4300 if you would like to discuss this proposal or have any questions.

Sincerely,



Tristan Nickel, PE, AWAM
Engineering Manager
(972) 437-4300

EXHIBIT A

SCOPE OF SERVICES

RJN is proposing the following scope of services for SSES in the Denton Creek North and South Basins.

Project Administration and Management

Project Administration

1. Meet with Town staff to discuss progress of the various tasks throughout the project. Meetings will be held periodically at significant project milestones with written documentation of each meeting provided.
2. Prepare schedule of work activities and maintain throughout project with monthly milestone status reports and projections provided to the Town via SharePoint and/or RJN Clarity platform.
3. Tailor RJN's standard operating procedures to accommodate project requirements and establish internal project controls to ensure schedule, budget and quality control procedures are being maintained.
4. Perform administration and coordination of sub-consultants including, but not limited to ensuring Town's contracting rules for procurement and services are met, contract finalization, performance coordination, quality control and payment request verification.

Condition Assessment

Manhole Inspections

1. Utilizing industry standard safety procedures and appropriate traffic control, subsurface manhole components will be inspected. Manholes accessible by vehicle will be scanned utilizing 3D Optical Manhole Scanner technology, where applicable. Manholes located within the study not accessible by vehicle will be visually inspected where condition of components and photos of defects will be recorded. Inspections will be conducted according to NASSCO MACP Level 2 standards.
2. RJN shall notify the Town of manholes that are inaccessible, not found, buried, or believed to be non-existent. RJN's field crew will make a reasonable effort to locate manholes as shown on the provided GIS. The effort will include up to 10 minutes of onsite investigation including a metal detector, probe, and shovel. Manholes found to be buried less than 6 inches below grade in non-paved unobstructed areas shall be uncovered and inspected. If the manhole cannot be located within 10 minutes of arriving onsite, buried in a paved area, or greater than 6 inches below grade in a non-paved area, RJN will be compensated at the reduced inaccessible rate. If the Town makes accessible or exposes the manhole prior to data delivery deadline, Town shall notify RJN. RJN will make a second visit to inspect the manhole at no additional charge.

Public Relations and Notifications

1. RJN will prepare and deliver notices necessary for the performance of smoke testing. Every reasonable effort will be made to distribute notices two (2) days prior to smoke testing; however, Town will allow the RJN to distribute notices up to a minimum of one day in advance of smoke testing.
2. RJN may distribute notices up to a maximum of fourteen (14) days prior to smoke testing. If conditions do not allow smoke testing to be performed during this period, RJN will redistribute notices. If redistribution of smoke notices is required, testing may be performed within one (1) day of noticing.
3. RJN, Town, Town of Flower Mound Fire Department, and Town of Flower Mound Police Departments will be notified daily of smoke testing via email.

Smoke Testing

1. Smoke testing will be conducted using dual axial blowers. Each 12-inch diameter and smaller segment shall be isolated by sandbagging, up to two segments at a time. Smoke testing lengths shall be limited to two-line segments between the upstream and downstream blower locations. Smoke testing will be performed only during dry ground periods.
2. Flags shall be placed at observed smoke locations and digital images shall be captured. Smoke defect locations shall be recorded by obtaining GPS coordinates. Private sector smoke defect images shall be entered into the field inspection database.
3. Main line defects and service lateral defects shall be carefully scrutinized to ensure that a conservative determination of public vs. private side defects is made. If necessary, the line shall be earmarked for television inspection.

Dyed Water Flooding

1. Dyed water flooding shall be conducted to verify the existence of inflow and infiltration sources. Dyed water flooding shall be performed at suspected storm sewer cross-connections, streams, creeks, ditches, and other ponding areas that may be contributing to higher levels of inflow. Estimated leakage rates shall be provided for each positive dye test. Water for the dyed water flooding will be provided by Town of Flower Mound at no charge to RJN.

Sewer Cleaning and Television Inspection (Ace Pipe Cleaning to perform task)

1. Sanitary sewer lines will be cleaned in order to facilitate the televised inspection activities. Standard cleaning rates are based on three passes with a jet cleaner.
2. During cleaning operations, sludge, debris, etc. shall be removed from the sewer and disposed of at a location provided by the Town. The Town shall provide water for the cleaning operation at no charge to RJN. The data shall be provided in digital format.
3. If light cleaning proves inadequate, heavy cleaning shall be recommended. Lines approved for heavy cleaning shall be cleaned with mechanical cleaning equipment. If tap removal/root cutting is necessary, it will be recommended to the Town.

4. Television inspections shall be performed on the non-plastic line segments and line segments which show evidence of deterioration, tested positive during smoke testing, or are critical to the collection system.
5. Television inspection will be performed using high quality color equipment and coded using NASSCO's PACP standards.

TV Video Review

1. RJN will review and analyze the TV Inspection data. Review of the data will consist of viewing the TV footage to ensure that NASSCO PACP standards are met, codes are applied accurately, and the sewer lines identified for TV inspection are either inspected or justification of why it was not inspected is provided.

Data Management

1. Collect and review existing information including maps, as built records, and other pertinent information. Town will provide updated ArcGIS shape files of the wastewater system. RJN shall prepare preliminary field maps for project use from existing Town shape files.
2. Update the maps as differences are found during the field investigations and provide them to the Town. Updates shall include new lines, manholes, and mainline cleanouts, which will be provided electronically in the form of shapefiles to be compatible with GIS.
3. Data shall be recorded by field crews on RJN's electronic forms for each specified activity. Field inspection data shall be entered into a computerized data management system from which rehabilitation recommendations shall be made. Field inspection data and photos will be provided in digital format to the Town.
4. Clarity® is RJN's secure, proprietary project and data management reporting platform that provides our clients accessible data and powerful analytical tools in easily interpreted GIS map format. Live basin data is accessible via most web-capable devices.

Defect Analysis

1. At the conclusion of the field investigation services, an engineering analysis of field survey data shall be performed to develop recommendations for prioritizing I/I source repairs. A description of field investigations, engineering analysis, and recommended action to reduce I/I will be included in the report. RJN shall deliver a comprehensive rehabilitation and improvement strategy as coordinated with the Town.
2. MACP inspection data will be evaluated, and an estimated inflow/infiltration rate will be applied to recorded defects, as applicable. The defect rates will then be combined into one overall inflow/infiltration rate for each manhole.
3. MACP defects will be scored per NASSCO guidelines to provide an overall condition rating.
4. MACP inspection data will be compared to smoke testing to ensure that all manholes that could be inspected have a corresponding inspection record, and inspected data corresponds across inspection methods.
5. Defects recorded during smoke testing will be evaluated against manhole inspection data to ensure quality and accuracy. The recorded defects will be assigned an inflow/infiltration rate where applicable.

6. Depth and velocity measurements taken prior to and upon completion of the dyed water flooding, will be evaluated using Manning's Equation to calculate the flow in the sewer line at that time. The initial flow rate will then be subtracted from the peak flow rate to determine the amount of inflow entering the sanitary sewer system during the test.
7. PACP inspection data will be evaluated, and an estimated inflow/infiltration rate will be applied to all recorded defects. The defect rates will then be combined into one overall inflow/infiltration rate for each manhole.

Reporting

1. Reports will be prepared at key points during the Project to summarize completed tasks. In addition to the Project status meetings, a meeting will be held with the Town of Flower Mound prior to the delivery of the draft report to discuss the outline and general content of the report. The draft report will contain estimated costs for recommendations presented. The final report will incorporate comments from the Town and recommendations and cost estimates will be updated accordingly.

Engineering Design for Manhole Rehabilitation

It is estimated that 75 manholes of the 279 manholes to be inspected as part of the Phase IV SSES will enter the design phase of the project.

Engineering Design

1. Evaluate manhole defect repair alternatives including replacing frame and cover, coat the interior of the manhole, grout lower 18" and the manhole, resealing or replacing grade adjustments, or complete replacement of the manhole.
2. Using RJN's basic specifications in conjunction with Town specifications, prepare project specifications which shall: (1) bidding documents, (2) contractual documents, (3) conditions of the contract, (4) standard project forms, (5) technical specifications, (6) schedule of manhole rehabilitation, (7) location map and (8) general details.
3. Prepare ENGINEER's Opinion of Probable Construction Cost.
4. Submit two (2) copies of the draft contract documents to TOWN for review.
5. Perform final changes to contract documents based on Town review.
6. Submit two (2) copies of the final contract documents to TOWN.

Bidding Services

1. Distribute bid documents for the project. Bidders will bear the cost of the documents. One (1) set of bid documents is anticipated for this project.
2. Participate in one (1) Pre-Bid Conference.
3. Attend Bid Opening, develop bid tabulations and submit a recommendation of contract award along with three (3) copies of the bid tabulation to the TOWN.
4. Prepare hard copies of Contract Documents for execution.
5. Attend Pre-Construction Meeting
6. Prepare Issue for Construction Drawings

Copper Canyon Meter Troubleshooting

1. RJN will perform site troubleshooting to investigate the negative flow readings that are currently experienced at this site.
2. RJN will work with the Town and the meter manufacturer as necessary during this process.
3. It may be necessary to visit the site a differing times to investigate if the negative readings are valid.

SPECIAL SERVICES

Construction Phase Services

1. RJN will assist the Town and its inspectors in conducting on-site visits during construction. RJN will assist with verifying that the Contractor is performing the work items in line with the specifications. RJN will also make on-site visits to assist the Town in answering any questions or potential issues that may arise during construction.
2. RJN will review contractor submittals as needed (up to 12 submittals)
3. RJN will plan 5 site visits to inspect construction.
4. RJN will provide Record Drawings at the completion of construction.

Rain Gauge Network Expansion

RJN will expand the Town's rain gauge network to include the Denton Creek North and Denton Creek South Basins.

Equipment Purchase

1. RJN will purchase one (1) Texas Electronics rain gauges on behalf of the Town.

Rain Gauge Site Investigations and Installations

1. RJN will work with the Town to Identify target rain gauge sites.
2. RJN will investigate the target rain gauge sites for accessibility.
3. Should a target site be accessible the Town will make the site accessible, or another site will be chosen for rain gauge installation.
4. RJN will install all rain gauge equipment at selected sites ensuring operation prior to departure of installation crew.

ITEMS REQUESTED FROM THE TOWN

1. Updated GIS geodatabases, shape files, or CADD atlases for the sanitary sewer collection system. Any design and/or record drawings, maintenance and repair records, past inspection data, and any other related data.
2. Access to sanitary structures for inspection. Assistance locating or opening seized/buried manholes as required.
3. Email addresses for daily smoke testing notification.



EXHIBIT B

PRICING

Pricing for the Phase IV SSES project is as follows:

Pricing Terms for Invoicing: Unit Price/ Lump Sum
Not-To-Exceed Total Cost: \$254,032.00

COST SCHEDULE

Task	Quantity	Units	Unit Rate	Fee
Project Management and Administration	1	LS	\$22,824.00	\$22,824.00
Manhole Inspection	279	EA	\$190.00	\$53,010.00
Manhole Inspection – Inaccessible		EA	\$75.00	
Smoke Testing	74,000	LF	\$0.58	\$42,920.00
Public Relations	74,000	LF	\$0.12	\$8,880.00
Dyed Water Flooding	4	EA	\$575.00	\$2,300.00
CCTV Inspection/Cleaning	1	LS	\$26,400.00	\$26,400.00
CCTV Review	6,000	LF	\$0.55	\$3,300.00
Data Management	1	LS	\$28,982.00	\$28,982.00
Analysis and Report	1	LS	\$29,464.00	\$29,464.00
Manhole Rehabilitation Design	1	LS	\$24,552.00	\$24,552.00
Copper Canyon Meter Support	1	LS	\$7,000.00	\$7,000.00
Rain Gauge Network Expansion	1	LS	\$4,400.00	\$4,400.00
Total				\$254,032.00
Special Services				
Construction Phase Services	1	LS	\$21,700.00	\$21,700.00

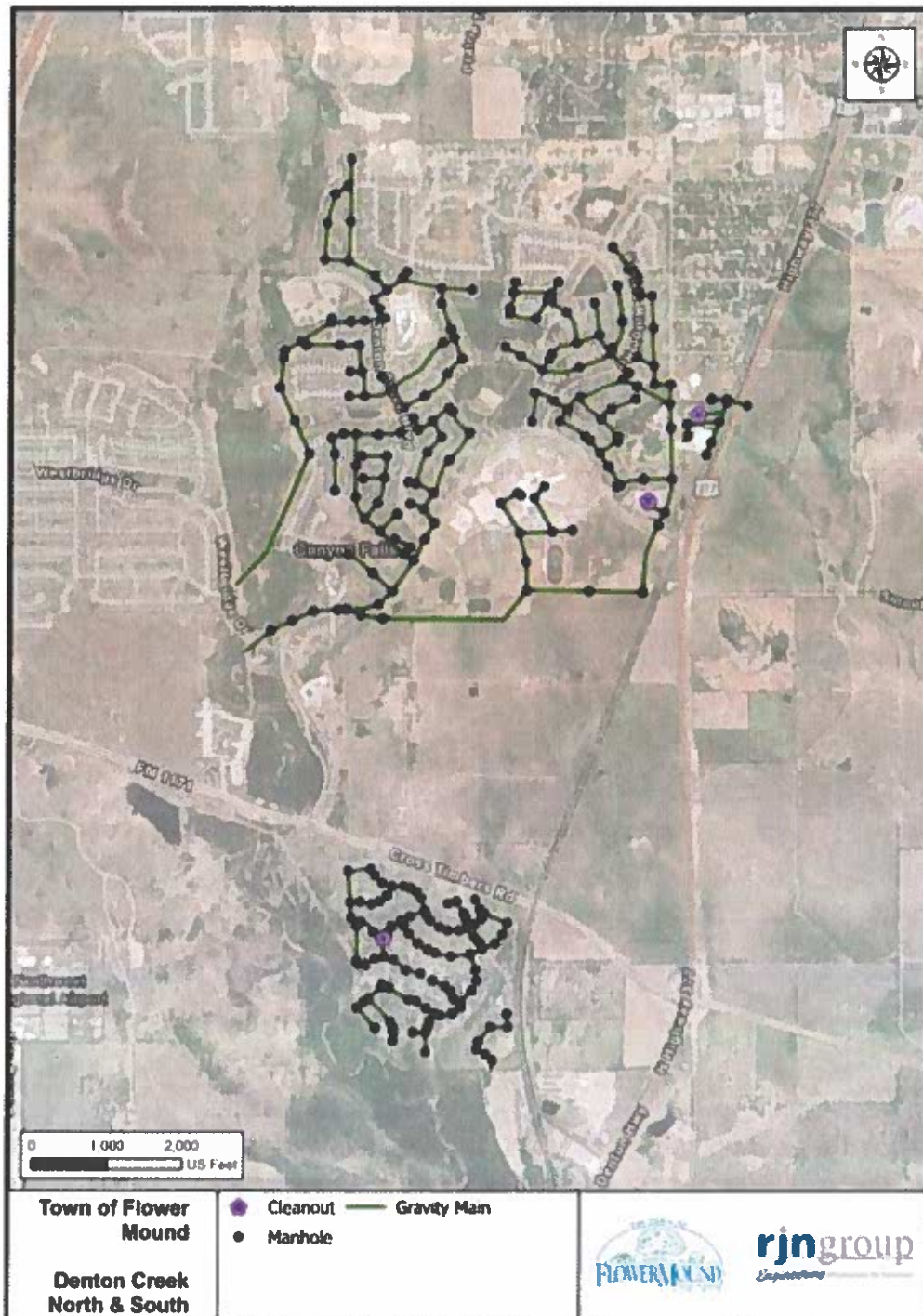
PRICING NOTES

- Manholes that are unable to be inspected will be invoiced at the inaccessible rate.
- CCTV Inspection and Cleaning to be performed by Ace Pipe
- Special Services will only be authorized with Town approval after construction contract has been awarded

rjn group **EXHIBIT C**
PROPOSED SCHEDULE

RJN is prepared to start work immediately upon an Agreement.

Task	Timeline
Manhole Inspections	3 months during Spring 2025
Smoke Testing	2 months during Summer 2025
Dye Water Flooding	1 week upon completion of Smoke Testing
CCTV Inspection/Cleaning	1 month upon completion of all other field activities
Data Analysis	To be completed in the fall of 2025
Reporting	Draft report to be turned in 11 months after NTP
Manhole Rehabilitation	Draft documents to be submitted in fall 2025
Copper Canyon Meter Troubleshooting	To take place during spring 2025





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

DATE: December 16, 2024

FROM: Clayton Riggs, Director of Public Works

ITEM: Consider approval of a lease agreement with Cellco Partnership, a Delaware general partnership d/b/a Verizon Wireless to lease antenna space on the Town elevated water storage tower located at 4400 Freeman Road and ground space for an equipment building for the purpose of installing, operating, and maintaining facilities to provide commercial mobile radio services, and authorization for the Mayor to execute same on behalf of the Town.

BACKGROUND: This agreement allows for Verizon Wireless to lease antenna space on the Town's elevated water tower located at 4400 Freeman Road as well as utilize a portion of the property for placement of an equipment building. Verizon Wireless will lease the tower and ground space for \$24,325.40 annually for the first five years, with the rent increasing by 15% every fifth year. The lease provides for four five-year renewals at the end of 25 years.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES: Not approve the lease agreement.

FISCAL IMPACT: \$(24,325.40)

Proposed Expenditure/(Revenue)
\$(24,325.40) annually

Account Number(s):
100-4510

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

ATTACHMENTS:

1. Lease Agreement
2. Lease Memorandum

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

GROUND AND WATER TOWER LEASE AGREEMENT

THIS GROUND AND TOWER LEASE AGREEMENT ("Lease") is entered into as of this 16th day of December, 2024 (the "Effective Date"), by and between City of Flower Mound, Texas, a municipal corporation ("LESSOR"), and Cellco Partnership, a Delaware general partnership d/b/a Verizon Wireless, with its principal offices located at One Verizon Way, Mail Stop 4AW100, Basking Ridge, New Jersey 07920 ("LESSEE").

In consideration of the premises and of the mutual obligations and agreements in this Lease, the parties agree as follows:

1. THE PROPERTY

A. LESSOR is the fee owner of that certain real property commonly known as the Freeman Road Water Tower at 4400 Freeman Road, City of Flower Mound, Denton County, Texas ("LESSOR'S Property") which is described on the attached Exhibit "A".

B. LESSEE hereby desires to lease a portion of LESSOR'S Property containing approximately two hundred twenty (220) square feet (the "Ground Premises") and certain space on the elevated water tower ("Tower") located on LESSOR'S Property necessary for LESSEE's communications equipment, together with obtaining a right of access from a public right-of-way (the "Access Right of Way") and a right to install utilities (the "Utility Right of Way" and collectively with the Ground Premises and the Access Right of Way, the "Property"), at such locations as previously agreed to, and approved by, LESSOR and as set forth in Exhibit "B". The Property and landscaping requirements, including any fencing, are to be determined by the LESSOR. In addition, LESSEE shall have the right to run cables and wires under, over and across LESSOR'S Property to connect LESSEE'S equipment on the Tower to its equipment in its facility located on the Property as approved by LESSOR. LESSEE may park its vehicles on LESSOR'S Property when LESSEE is constructing, removing, replacing, and/or servicing its communications facility.

C. LESSEE covenants and agrees that it has inspected the Tower and the Property and that it does not rely on any representation of LESSOR as to the condition of the Property or Tower or their suitability for the purpose and uses herein intended.

D. LESSOR and LESSEE further agree that the Ground Premises, Access Right of Way, and Utility Right of Way may be surveyed by a licensed surveyor at the sole cost of LESSEE, and such survey shall then replace Exhibit "B" and become a part hereof and shall control to describe the Property in the event of any discrepancy between such survey and the description contained in Subsection 1.B. above.

2. LEASE AND EASEMENT. LESSOR grants to LESSEE (during the term of this Lease) (a) non-exclusive use of the Access Right of Way for the purpose of accessing the Ground Premises and the Tower from a public right-of-way (seven [7] days a week, twenty-four [24] hours a day) and (b) non-exclusive use of the Utility Right of Way for the purposes of installing, removing, replacing, and maintaining wires, cables, conduits, and pipes running between and among the various portions of the Property and to the source(s) of all necessary electrical, telephone, fiber and other similar support services (collectively, the "Support Services") located within LESSOR's Property or the nearest public right of way, at such locations as mutually agreed to and as depicted in Exhibit B. In the event it is necessary, LESSOR agrees to grant LESSEE or the service provider the right to install additional, or to upgrade the existing, Support Services, on, through, over and/or under LESSOR's Property, provided the location of such additional or upgraded Support Services shall be reasonably approved by LESSOR.

LESSOR agrees the LESSEE shall have free access to the Tower at all times for the purpose of installing and maintaining the equipment described in Exhibit "C" attached hereto, subject to the access requirements set forth in Section 20 below. LESSOR shall furnish LESSEE with necessary means of access for the purpose of ingress and egress to the Tower. It is agreed, however, that only authorized engineers, employees or properly authorized contractors of LESSEE or persons under their direct supervision will be permitted to enter the Property.

3. OPTION, TERM AND RENT

A. This Lease shall be for an initial term of five (5) years, beginning on the first day of the month immediately following the earlier of (i) the date LESSEE commences installation at the Property or (ii) the date that is six (6) months after the Effective Date ("Commencement Date"). Rental payments shall begin on the Commencement Date and be due at a total annual rental of Twenty-Four Thousand Three Hundred Twenty Five and 40/100 Dollars (\$24,325.40), to be paid in equal monthly installments on the first day of the month, in advance, to LESSOR at 2121 Cross Timbers Road, Flower Mound, TX 75028 or to such other person, firm, or place as LESSOR may, from time to time, designate in writing at least 30 days in advance of any rental payment date by notice given in accordance with Section 21 below. LESSOR and LESSEE acknowledge and agree that the initial rental payment shall not be delivered by LESSEE until 60 days after the Commencement Date. Upon agreement of the Parties, LESSEE may pay rent by electronic funds transfer and in such event, LESSOR agrees to provide to LESSEE bank routing information for such purpose upon request of LESSEE.

B. LESSEE shall pay LESSOR a late payment charge equal to five percent (5%) of the late payment for any payment not paid within ten (10) days of when due. In addition to the late payment charge, any amounts not paid within ten (10) days of when due shall bear interest until paid at the lesser of the rate of one and three quarters percent (1¾%) per month or the highest rate permitted by law.

C. LESSEE is granted options to extend this Lease on these same terms and conditions for four (4) five (5) year extension periods after the initial term expires. This Lease shall automatically be extended for each extension period unless LESSEE terminates it at the end of the then current term by giving LESSOR written notice of the intent to terminate at least three (3) months prior to the end of the then current term or if this Lease is otherwise terminated in accordance with the terms of this Lease.

D. The annual rental for each of the four (4) additional five (5) year extension periods shall be increased by an amount equal to fifteen percent (15%) of the annual rent due during the immediately preceding five (5) year term.

E. For any party to whom rental payments are to be made, LESSOR or any successor in interest of LESSOR hereby agrees to provide to LESSEE (i) a completed, current version of Internal Revenue Service Form W-9, or equivalent; (ii) complete and fully executed state and local withholding forms if required; (iii) LESSEE's payment direction form, and (iv) other documentation to verify LESSOR's or such other party's right to receive rental as is reasonably requested by LESSEE. Rental shall accrue in accordance with this Lease, but LESSEE shall have no obligation to deliver rental payments until the requested documentation has been received by LESSEE. Upon receipt of the requested documentation, LESSEE shall deliver the accrued rental payments as directed by LESSOR.

F. Rental shall increase every five years thereafter by an amount equal to fifteen percent (15 %) of the Rent in effect during the previous Should this Lease still be in effect at the conclusion of all the extension periods provided for herein, this Lease shall continue in effect upon the same terms other than Annual Rent which shall change to an amount one hundred and fifty percent (150%) of the previous year's rent for a further period of one (1) year, and for like annual periods thereafter, until and unless terminated by either party by giving to the other at least six (6) months written notice of its intention to so terminate before the date this Lease expires.

4. USE OF THE PROPERTY

A. LESSEE may only use the Property for the operation of a communications facility ("Communications Facility") and for the purpose of any construction, removal, replacement, maintenance, security and operation of said Communications Facility. The Communications Facility may include, without limitation, up to 12 antennas, 15 radios, 3 OVP boxes, and 3 coax/hybrid lines, all as set forth in Exhibit "C" to this Lease. LESSEE shall not use or permit the Property to be used for any purposes other than described above without the written consent of LESSOR, which consent will not be unreasonably withheld, conditioned or delayed.

B.

1. This Lease authorizes the LESSEE, subject to Subsection 4.B(4) below, to install the antennas and equipment on the Tower as set forth on Exhibit "C". LESSEE may not add additional equipment or antennas from that shown on Exhibit "C" without the approval of LESSOR, such approval not to be unreasonably conditioned, withheld, or delayed, and satisfaction with all FCC and/or Federal Aviation Administration rules. For each additional antenna installed by LESSEE beyond the size of the initial array described in Exhibit "C", LESSEE shall pay additional rent in the amount of Twenty-Five and 00/100 Dollars (\$25.00) per month, which shall become part of the annual rent and which shall increase annually under the same terms provided in Section 3.D.

2. Notwithstanding Subsection 4.B(1) above, with respect to its equipment mounted on the Tower, LESSEE shall be permitted to make Like-for-Like Modifications (as defined below) without LESSOR approval and without incurring any increase in the then-current rent, provided, however, that LESSEE shall provide LESSOR with at least thirty (30) days' prior written notice of any Like-for-Like Modifications. For purposes of this Lease, "Like-for-Like Modifications" means the removal of all or any portion of LESSEE's antennas and/or equipment installed on the Tower and replacing the same with similar and comparable antennas and/or equipment (collectively, the "Replacement Equipment"), but only so long as the Replacement Equipment does not result in an increase of the loading of the Tower or adversely impact the structural integrity of the Tower.

3. LESSEE may add equipment within its Ground Premises so long as the equipment is permitted under this Lease and LESSEE complies with all applicable laws, regulations and rules. LESSEE shall not make any modification outside the Ground Premises without LESSOR'S written consent, which consent will not be unreasonably withheld, conditioned or delayed so long as LESSEE's modifications comply with all applicable laws, rules and regulations.

4. Any improvement of the Property to meet LESSEE'S needs shall be at LESSEE'S sole expense, and LESSEE shall maintain such improvements to the Property in a reasonable condition throughout the term.

5. LESSEE shall not commence improvements or modifications to the Property or the Tower unless LESSOR has approved the plans and the contractor performing the work. If LESSOR fails to approve or deny LESSEE's request for use of any contractor within ten (10) business days of receipt thereof, LESSOR shall be deemed to have approved such contractor. Notwithstanding the foregoing, no LESSOR approval of any LESSEE contractor shall be required in cases of emergency.

C.

1. No materials may be used in the installation of the antennas and related equipment and lines that will cause corrosion or rust or deterioration of the Tower structure or its appurtenances.

2. All antenna(s) on the Tower must be identified by a marking fastened securely to its bracket on the Tower and all transmission lines are to be tagged at the conduit opening where it enters any LESSEE's equipment space.

3. Not later than fifteen (15) days following the execution of this Lease, LESSOR shall supply to LESSEE copies of all structural analysis reports that have done with respect to the Tower and throughout the Term, LESSOR shall supply to LESSEE copies of all structural analysis reports that are done with respect to the Tower promptly after the completion of the same.

4. If any work by LESSEE on the Tower requires any overtime work by LESSOR's employees,

then LESSEE shall reimburse LESSOR for the cost of such overtime work upon receipt of an invoice and reasonable supporting documentation. Notwithstanding the foregoing, LESSEE shall not be required to reimburse any overtime work by LESSOR's employees at a rate that exceeds sixty-five and 0/100 Dollars (\$65.00) per hour.

5. Upon request of the LESSOR, LESSEE agrees to relocate its equipment on a temporary basis to another location on the Property, hereinafter referred to as the "Temporary Relocation", for the purpose of LESSOR performing maintenance, repair or similar work at the Property or on the Tower provided:

a. The Temporary Relocation is similar to LESSEE's existing location in size and is fully compatible for LESSEE's use, in LESSEE's reasonable determination;

b. LESSEE pays all costs incurred by LESSEE for relocating LESSEE's equipment to the Temporary Relocation and improving the Temporary Relocation so that it is fully compatible for the LESSEE's use, in LESSEE's reasonable determination;;

c. LESSOR gives LESSEE at least ninety (90) days written notice prior to requiring LESSEE to relocate (except in the case of an emergency);

d. LESSEE's use at the Premises is not interrupted or diminished during the relocation and LESSEE is allowed, if necessary, in LESSEE's reasonable determination, to place a temporary installation on the Property during any such relocation; and

e. Upon the completion of any maintenance, repair or similar work by LESSOR, LESSEE is permitted to return to its original location from the temporary location with all costs for the same being paid by LESSEE.

D. LESSOR acknowledges that LESSEE'S ability to use the Property for its intended purposes is contingent upon LESSEE'S obtaining and maintaining, both before and after the Commencement Date, all of the certificates, permits, licenses and other approvals (collectively, "Governmental Approvals") that may be required by any federal, state or local authority for the foregoing uses and improvements to the Property desired by LESSEE. LESSOR shall cooperate with LESSEE in LESSEE'S efforts to obtain such Governmental Approvals and shall take no action that would knowingly or intentionally adversely affect LESSEE'S obtaining or maintaining such Governmental Approvals, so long as LESSEE is in compliance with applicable provisions of federal, state, and local laws and regulations.

E. Nothing in this Lease shall preclude LESSOR from leasing other space for communications equipment to any person or entity including a party which may be in competition with LESSEE. Lease of other space for communications equipment or radio transmission will be in accordance with Section 18 of this Lease.

F. The parties understand and agree that the primary function of the property is to serve as a water tower for the LESSOR and that the interests of LESSEE are superseded by the public health, safety, and welfare of the citizens of Flower Mound served by the Tower. In the event that the Flower Mound City Council or the Flower Mound City Manager declares a public emergency or if there exists a threat to the Tower facilities or potable water supply that would detrimentally impact public health, safety and welfare such that immediate action is necessary, LESSEE shall promptly remove its improvements from the Property. LESSOR agrees to provide LESSEE with as much notice as reasonably possible subject to the circumstances of the emergency before LESSEE will be required to remove its improvements. If possible, subject to the circumstances of the emergency, LESSEE shall be permitted to operate a temporary communications facility at a mutually agreed-upon location on LESSOR's Property until such time that LESSEE can relocate to a replacement site or return to the original site. All terms and conditions of this Lease shall apply to LESSEE's operation of such temporary communications facility except that LESSEE shall have no obligation to pay rent under this Lease beginning upon the date it removes its improvements from the Tower until

the date it returns its improvements to the original site. In the event LESSEE is not able to promptly respond, LESSOR may remove LESSEE'S improvements without incurring liability for damages of any type. Costs of removal and reattachment of improvements shall be borne by LESSEE.

5. TERMINATION

A. Provided LESSEE is not in default hereunder, if any of the following occurs, LESSEE shall have the right to immediately terminate this Lease by giving written notice to LESSOR of such termination.

1. LESSEE determines, in its sole discretion, that it will be unable to obtain all necessary Governmental Approvals for LESSEE intended use of and improvements to the Property desired by LESSEE or that it will be too time consuming or expensive to obtain such Governmental Approvals; or

2. LESSEE'S application for any Governmental Approvals necessary for LESSEE'S use of the Property and improvements desired by LESSEE'S is denied; or

3. Any Governmental Approvals necessary for LESSEE'S use of the Property and/or improvements to the Property, whether now or hereafter desired by LESSEE, are canceled, expired, lapsed or are otherwise, terminated or denied so that LESSEE, in its reasonable judgment, determines that it will no longer be able to use the Property for LESSEE'S intended use; or

4. The Federal Communications Commission allocates the frequencies at which LESSEE may operate its antennas and equipment and may from time to time change such frequencies. Any change of this nature that, in LESSEE'S reasonable judgment, renders its operation of a wireless communications facility at the Property obsolete; or

5. If LESSEE determines that the Property has become unsuitable for LESSEE'S operations due to changes in system or network design or in the types of equipment used in such operations or LESSEE'S operations at the Property become unprofitable; provided however, for a termination for such purpose to become effective, LESSEE shall tender thirty (30) days of rental payments at the then rate in effect with LESSEE'S notice to LESSOR to terminate for this reason; or

6. If LESSOR commits a breach of this Lease and fails to cure such breach within thirty (30) days after notice of the breach and requests to cure from LESSEE.

B. Provided LESSOR is not in default hereunder, LESSOR shall have the right to terminate this Lease at any time after five (5) years from execution of this Lease upon at least one (1) year prior written notice to LESSEE. In addition, LESSEE shall have the right to terminate this lease at any time after ten (10) years from execution of this Lease upon six (6) months' prior written notice to LESSOR, provided LESSEE is not in default hereunder and shall have paid all rents and sums due and payable to LESSOR by LESSEE through the effective date of such termination.

C. Notwithstanding anything herein to the contrary, an Event of Default, as defined by Section 11 of this Lease, by LESSEE shall be cause for termination of this Lease by LESSOR in the manner set forth in this Subsection. LESSOR shall deliver to LESSEE ten (10) days prior written notice of its intention to terminate this Lease, including in such notice a reasonable description of the Event of Default. If LESSEE shall fail or refuse to cure, adjust or correct the Event of Default within said ten (10) days, LESSEE may terminate this Lease. Upon termination of this Lease, all rights, powers and privileges of LESSEE hereunder shall cease and terminate, and LESSEE shall vacate the Property and remove all of its improvements, fixtures and equipment. In the event LESSEE does not vacate the Property within the Removal Period (as defined in Section 10 below), LESSOR may, without being deemed guilty of trespass, and without any liability whatsoever on the part of LESSOR, enter upon and take full possession of the Property and remove any and all improvements, fixtures and equipment not belonging to LESSOR that may be found upon the Property without being liable for damages.

D. Any termination notice rendered by LESSEE or LESSOR pursuant to this Subsection shall cause this Lease to expire with the same force and effect as though the date set forth in such notice were the date originally set as the expiration date of this Lease and the parties shall make an appropriate adjustment, as of such termination date, with respect to payments due to the other under this Lease.

6. ASSIGNMENT AND SUBLETTING

A. LESSEE shall not assign this Lease, or allow it to be assigned, in whole or in part, by operation of law or otherwise or mortgage or pledge the same, or sublet the Property, or any part thereof, without the prior written consent of LESSOR except as follows: LESSEE will have the right to assign, sell or transfer its interest under this Lease to LESSEE'S parent company or any affiliate or subsidiary of, or partner in, LESSEE or its parent company or to any entity which acquires all or substantially all of the LESSEE'S assets in the market defined by the Federal Communications Commission in which the Property is located by reason of a merger, acquisition, or other business reorganization. In such event, LESSEE shall provide written notice to LESSOR of such assignment, transfer or sale within a reasonable time thereafter. LESSEE may not otherwise assign this Lease without LESSOR'S consent, LESSOR'S consent not to be unreasonably withheld, conditioned or delayed.

B. No consent by LESSOR to any assignment or sublease by LESSEE shall relieve LESSEE of any obligation to be performed by LESSEE under this Lease, whether arising before or after the assignment or sublease. The consent by LESSOR to any assignment or sublease shall not relieve LESSEE from the obligation to obtain LESSOR'S express written consent to any other assignment or sublease and any assignment shall not become effective unless the assignee agrees in writing to be bound by the obligations imposed upon Lessee by this Lease.

C. Any sale or other transfer, including by consolidation, merger or reorganization, of a majority of the voting stock of LESSEE, if LESSEE is a corporation, or any sale or other transfer of a majority in interest (whether of profits, losses, capital or voting power) or a majority of the persons composing the managers of the partnership, if LESSEE is a partnership, shall not be an assignment for purposes of this Section 6.

7. FIRE OR OTHER CASUALTY

A. LESSEE shall immediately notify LESSOR of any and all damages to the Property and LESSOR'S property surrounding the Property, including but not limited to structural damages, electrical damages, damages to fencing, irrigation systems or landscaping, caused by LESSEE'S operations and/or by the acts or omissions of LESSEE, its agents, employees, and invitees. LESSEE shall be responsible for the costs and the repair of all such damages, except to the extent such damages are caused by the negligence or willful misconduct of LESSOR, its agents, employees, and invitees; any such repairs and/or replacements for which LESSEE is responsible shall be completed in a timely manner acceptable to LESSOR.

B. If the Tower, or access to it, is damaged or destroyed by a casualty, LESSOR shall deliver written notice to LESSEE within twenty (20) days after receipt of notice from LESSOR'S insurance company, which notice from LESSOR sets forth LESSOR'S election (a) not to repair, restore and/or reconstruct the Tower, or (b) to repair, restore and/or reconstruct the Tower. If, as a result of any such casualty, the Property becomes totally or partially unusable by LESSEE, rent shall abate during the period of repair in the same proportion to the total rent as the portion of the Property rendered unusable bears to the entire Property. If LESSOR elects to repair, then LESSOR shall promptly commence appropriate repairs (to be diligently prosecuted to completion entirely at LESSOR'S expense), and this Lease shall continue in full force and effect.

C. Notwithstanding anything contained herein to the contrary, LESSOR is under no duty or obligation to repair the Tower in a manner that would accommodate LESSEE'S equipment or antenna array. In the event that following repairs, the Tower is no longer suitable for LESSEE'S intended use, LESSEE'S sole remedy shall be to terminate this Lease.

D. If LESSOR (a) undertakes the repair, restoration and/or reconstruction of the Tower or of any access thereto but fails to complete such repair, restoration, and/or reconstruction within forty-five (45) days after the casualty, or (b) notifies LESSEE of LESSOR'S intention not to repair, restore and/or reconstruct the Tower, or fails to deliver to LESSEE the written notice required under Subsection 7.B. within twenty (20) days, then LESSEE may immediately cancel this Lease by giving written notice of its election to cancel to LESSOR.

8. INDEMNIFICATION AND INSURANCE

A. EXCEPT TO THE EXTENT THAT ANY CLAIM (AS DEFINED BELOW) IS CAUSED BY THE NEGLIGENCE, GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF ANY INDEMNITEE, LESSEE SHALL, AT ITS SOLE COST AND EXPENSE, INDEMNIFY AND HOLD HARMLESS LESSOR AND ALL ITS OFFICERS, BOARDS, COMMISSIONS, EMPLOYEES, AND AGENTS (HEREINAFTER REFERRED TO AS "INDEMNITEES"), FROM AND AGAINST:

1. ANY AND ALL LIABILITY, OBLIGATIONS, DAMAGES, PENALTIES, CLAIMS, LIENS, COSTS, CHARGES, LOSSES AND EXPENSES (INCLUDING, WITHOUT LIMITATION, REASONABLE FEES AND EXPENSES OF ATTORNEYS, EXPERT WITNESSES AND CONSULTANTS) (EACH, A "CLAIM" AND COLLECTIVELY, THE "CLAIMS"), WHICH MAY BE IMPOSED UPON, INCURRED BY OR BE ASSERTED AGAINST THE INDEMNITEES BY REASON OF ANY ACT OR OMISSION OF LESSEE, ITS PERSONNEL, EMPLOYEES, AGENTS, CONTRACTORS OR SUBCONTRACTORS, RESULTING IN PERSONAL INJURY, BODILY INJURY, SICKNESS, DISEASE OR DEATH TO ANY PERSON OR DAMAGE TO, LOSS OF OR DESTRUCTION OF TANGIBLE OR INTANGIBLE PROPERTY, LIBEL, SLANDER, INVASION OF PRIVACY AND UNAUTHORIZED USE OF ANY TRADEMARK, TRADE NAME, COPYRIGHT, PATENT, SERVICE MARK OR ANY OTHER RIGHT OF ANY PERSON, FIRM OR CORPORATION, WHICH MAY ARISE OUT OF, OR IS CONNECTED TO, LESSEE'S CONSTRUCTION, INSTALLATION, OPERATION, MAINTENANCE, USE, OR CONDITION OF THE PROPERTY OR LESSEE'S FACILITIES OR THE LESSEE'S FAILURE TO COMPLY WITH ANY FEDERAL, STATE OR LOCAL STATUTE, ORDINANCE OR REGULATION AT THE PROPERTY.

2. ANY AND ALL CLAIMS WHICH ARE IMPOSED UPON, INCURRED BY OR ASSERTED AGAINST THE INDEMNITEES BY REASON OF ANY CLAIM OR LIEN ARISING OUT OF WORK, LABOR, MATERIALS OR SUPPLIES PROVIDED OR SUPPLIED TO LESSEE, ITS CONTRACTORS OR SUBCONTRACTORS, FOR THE INSTALLATION, CONSTRUCTION, OPERATION, MAINTENANCE OR USE OF THE PROPERTY OR LESSEE'S ANTENNA FACILITIES, AND, UPON THE WRITTEN REQUEST OF LESSOR, LESSEE SHALL CAUSE SUCH CLAIM OR LIEN COVERING LESSOR'S PROPERTY TO BE DISCHARGED OR BONDED WITHIN 30 DAYS FOLLOWING SUCH REQUEST.

B. IT IS THE INTENT OF THE PARTIES BY AGREEMENT TO THIS SECTION 8 THAT IF A CLAIM IS MADE IN ANY FORUM AGAINST INDEMNITEES FOR ANY OF THE REASONS REFERRED TO IN SECTION 8, AND UPON RESOLUTION OF THE CLAIM THERE IS NO FINDING BY A COURT OF COMPETENT JURISDICTION THAT INDEMNITEES WERE NEGLIGENT IN CONNECTION WITH ANY OF THE REASONS REFERRED TO IN SECTION 8, LESSEE SHALL HOLD INDEMNITEES HARMLESS AND INDEMNIFY THEM FOR ANY DAMAGE, LOSS, EXPENSE, OR LIABILITY RESULTING FROM THE CLAIM, INCLUDING ALL ATTORNEY'S FEES, COSTS, AND PENALTIES INCURRED.

C. In the event any action or proceeding shall be brought against the Indemnitees by reason of any matter for which the Indemnitees are indemnified hereunder, LESSEE shall, upon notice from any of the Indemnitees, at LESSEE'S sole cost and expense, defend the same; provided, however, that LESSEE shall not admit liability in any such matter on behalf of the Indemnitees without the written consent of LESSOR and provided further that Indemnitees shall not admit liability for, nor enter into any compromise or settlement of, any claim for which they are indemnified hereunder, without the prior written consent of LESSEE.

D. THE PROVISIONS OF THIS SECTION ARE SOLELY FOR THE BENEFIT OF THE PARTIES HERETO AND ARE NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR

ENTITY.

E. LESSOR shall give LESSEE prompt notice of the making of any claim or the commencement of any action, suit or other proceeding covered by the provisions of this Lease. Nothing herein shall be deemed to prevent LESSOR from cooperating with LESSEE and participating in the defense of any litigation by LESSOR'S own counsel at its own expense.

F. The indemnifications in this Section 8 shall survive the termination of this Lease.

G. Without limiting any of the other obligations or liabilities of the LESSEE, during the term of the Agreement, the LESSEE shall purchase and maintain the following minimum insurance coverage with companies duly approved to do business in the State of Texas. Coverage shall be of the following types and not less than the specified amounts:

1. Worker's compensation as required by Texas law, as required by law; employer's liability insurance with limits of One Million Dollars (\$1,000,000.00) each accident/disease/policy limit.

2. Commercial general liability insurance with limits of \$1,000,000 per occurrence for bodily injury and property damage and \$2,000,000 general aggregate.

3. Commercial automobile liability insurance in an amount of \$1,000,000 combined single limit each accident for bodily injury and property damage covering owned, hired and non-owned vehicles.

4. The commercial general liability and commercial automobile liability insurance policies to be furnished by LESSEE shall include the LESSOR as an additional insured as their interest may appear under this Lease.

5. All policies are to be written through companies duly licensed, authorized or permitted to transact that class of insurance in the State of Texas.

6. All insurance carriers shall be rated A- or better by A.M. Best Company.

7. Throughout the Term, LESSOR shall maintain, at LESSOR's sole cost and expense, Commercial General Liability insurance coverage of not less than \$1,000,000 per occurrence and \$2,000,000 aggregate. All such policies shall be endorsed to include LESSEE as an additional insured. Subject to the policy minimums set forth above in this Subsection G, the insurance required of LESSOR hereunder may be maintained by a blanket or master policy that includes properties other than the Property.

8. LESSOR and LESSEE agree to the following:

i. LESSOR and LESSEE, respectively, each hereby waive all subrogation rights for loss or damage to the extent same are covered by insurance. Insurers shall have no right of recovery or subrogation against the LESSOR and LESSEE, it being the parties' intention that the insurance policies shall protect all parties to the contract and be primary coverage for all losses covered by the policies;

ii. Companies issuing the insurance policies and the parties shall have no recourse against either party for payment of any premiums or assessments for any deductibles, as all such premiums and deductibles are the sole responsibility and risk of the respective insured;

iii. Approval, disapproval or failure to act by the LESSOR regarding any insurance supplied by the LESSEE (or any Sublessees or contractors) shall not relieve the LESSEE of full responsibility or liability for damages and accidents as set forth in this Lease. Neither shall be

bankruptcy, insolvency or denial of liability by the insurance company exonerate the LESSEE from liability;

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

v. Prior to commencement of operations pursuant to this Lease, the LESSEE shall furnish the LESSOR with certificates of insurance evidencing the required insurance coverage in amounts as required herein;

vi. LESSEE shall provide notice of any actual or potential claim or litigation that would affect required insurance coverage to the LESSOR in a timely manner;

vii. LESSEE agrees to require its contractors and subcontractors to maintain substantially the same insurance coverage as specified for the LESSEE with limits commensurate with the work or service to be provided.

Likewise, LESSOR shall provide notice of any actual or potential claim or litigation that would affect required insurance coverage to the LESSEE in a timely manner; and

viii. Upon written request from LESSOR, LESSEE shall deliver to the LESSOR a certificate of insurance.

9. UTILITIES

A. LESSEE shall be responsible directly to the serving entities for all utilities required by LESSEE'S use of the Property; however, LESSOR agrees to cooperate with LESSEE in its efforts to obtain utilities from any location provided by the LESSOR or the servicing utility. If permitted by the local utility company serving the Premises, LESSEE shall furnish and install an electrical meter at the Premises for the measurement of electrical power used by LESSEE at the Property, and LESSEE shall pay the utility company directly. Should electric power be provided by LESSOR, LESSEE will install an electric meter and LESSEE'S usage shall be read by LESSOR or, at LESSOR'S option, by LESSEE, on an annual basis and the cost of electricity used by LESSEE shall be paid by LESSEE to LESSOR annually as a payment separate from rent and shall be computed at the then-current public utility rate.

B. Should a power outage occur so that LESSEE is unable to operate using power from the electric utility, LESSEE may operate with an electric generator, but only until electric utility power is restored to the site.

10. RIGHTS TO EQUIPMENT; CONDITION ON SURRENDER. LESSEE'S antennas and equipment shall remain personal to and the property of LESSEE. Within ninety (90) days of the expiration or any earlier termination of this Lease (the "Removal Period"), LESSEE shall remove its antennas and/or equipment. LESSEE shall repair any damage caused by such removal, and shall otherwise surrender the Property at the expiration of the term, as same may have been extended, or earlier termination thereof, in good condition, ordinary wear and tear, damage by fire and other casualty excepted. Any of LESSEE'S equipment or other property that has not been removed from the Property within the Removal Period shall be deemed abandoned by LESSEE and LESSOR shall be free to dispose of the same in any manner LESSOR chooses and without any liability to LESSEE therefore. During the Removal Period, LESSEE shall continue to pay rent at the rate in effect during the month immediately preceding such expiration or earlier termination. If LESSEE fails to remove its antennas and equipment within the Removal Period, LESSEE shall pay rent at a rate equal to one hundred twenty five percent (125%) of the rent applicable during the month immediately preceding such expiration or earlier termination until such time as LESSEE'S antennas and equipment have been removed.

11. DEFAULTS; DISPUTE RESOLUTION

A. The occurrence of any one or more of the following events shall constitute an "Event of Default" hereunder by LESSEE:

1. The failure by LESSEE to make any payment of rent or any other payment required to be made by LESSEE hereunder, as and when due, where such failure shall continue for a period of twenty (20) days after written notice thereof is received by LESSEE from LESSOR.

2. The failure by LESSEE to observe or perform any of the covenants or provisions of this Lease to be observed or performed by LESSEE, other than specified in Subsection 11. A. (1), where such failure shall continue for a period of twenty (20) days after written notice thereof is received by LESSEE from LESSOR; provided however, that it shall not be deemed an Event of Default by LESSEE if LESSEE shall commence to cure such failure within said twenty (20) days period and thereafter diligently prosecutes such cure to completion.

B. If there occurs an Event of Default by LESSEE, in addition to any other remedies available to LESSOR at law or in equity, LESSOR shall have the option to terminate this Lease and all rights of LESSEE hereunder as set forth in Section 5 of this Lease.

C. If LESSOR fails to observe or perform any of the covenants or provisions of this Lease to be observed or performed by LESSOR for a period of thirty (30) days after written notice thereof is received by LESSOR from LESSEE, such failure shall constitute an "Event of Default" hereunder by LESSOR; provided however, that it shall not be deemed an Event of Default by LESSOR if LESSOR shall commence to cure such failure within said thirty (30) days period and thereafter diligently prosecutes such cure to completion. If LESSOR remains in default beyond any applicable cure period, LESSEE will have the right to terminate this Lease or to pursue a resolution pursuant to Section 11(D) below as its sole remedies.

D. If LESSEE and LESSOR fail to resolve any claim, dispute, or controversy of whatever nature arising out of or relating to this Lease, or concerning the interpretation, effect, termination, validity, performance, indemnification under, and/or breach of this Lease (a "Dispute"), the Parties shall refer the Dispute by way of written notification to the designated senior officers of LESSEE and LESSOR for an attempted resolution by good faith negotiations, which shall occur within the thirty (30) day period following the date of such written notification. If such Dispute is not resolved by the end of the thirty (30) day period, or such extended period as the Parties may agree, LESSEE and LESSOR may refer any outstanding issues to be determined by non-binding mediation by a mutually agreed upon mediator. Except where clearly prevented by the nature of the Dispute, both Parties agree to continue performing their obligations under this Lease while any Dispute is being resolved pursuant to this Section 10(D) until the Dispute is resolved or until this Lease is terminated in accordance with the provisions herein.

12. NOTICES

All notices hereunder must be in writing and shall be deemed validly given if sent by certified mail, postage prepaid, addressed as shown below (or to any other address that the party to be notified may have designated to the sender by like notice):

LESSEE: Cellco Partnership
d/b/a Verizon Wireless
180 Washington Valley Road
Bedminster, New Jersey 07921
Attention: Network Real Estate

With a copy to:

Basking Ridge Mail Hub
Attn: Legal Intake
One Verizon Way
Basking Ridge, NJ 07920

LESSOR: Town of Flower Mound, Texas
2121 Cross Timbers Road
Flower Mound, TX 75028

13. SALE OR TRANSFER BY LESSOR. Should LESSOR, at any time during the term of this Lease, (a) sell, lease, transfer or otherwise convey all or any part of LESSOR'S Property to any transferee other than LESSEE or (b) grant to a third party by easement or other legal instrument an interest in and to any portion of the Property, then such transfer shall be under and subject to this Lease and all of LESSEE'S rights hereunder, and any such purchaser or transferee shall recognize LESSEE's rights hereunder. In the event that LESSOR completes any such sale, lease transfer, conveyance, or grant described in this Paragraph without executing an assignment of this Lease whereby the third party agrees in writing to assume all obligations of LESSOR under this Lease, then LESSOR shall not be released from its obligations to LESSEE under this Lease, and LESSEE shall have the right to look to LESSOR and the third party for the full performance of the Lease.

14. HAZARDOUS SUBSTANCES

A. LESSOR warrants that to its knowledge, as of the Commencement Date, there are no hazardous materials, as that term is defined in Environmental Regulations, on the Property. Upon request, LESSOR shall make available to LESSEE copies of all environmental assessments regarding the Property.

B. LESSEE represents, warrants, and covenants to LESSOR that LESSEE shall at no time during the term of this Lease Agreement use or permit the Property to be used in violation of any Environmental Regulations. LESSEE will not exercise any control over any activities, under this Lease, at or near the Property that involve the generation, storage, treatment, or disposal of any hazardous substance, material, chemical or waste, **except for the use of a generator, batteries or solvents and chemicals as are commonly used in the ordinary course of LESSEE'S business which shall be used in a manner which does not violate any Environmental Regulations.**

C. LESSEE agrees to defend, indemnify and hold LESSOR harmless from and against any and all claims, causes of action, demands and liability including, but not limited to, damages, costs, expenses, assessments, penalties, fines, losses, judgments and attorney's fees that LESSOR may suffer due to (i) the existence or discovery of any Hazardous Substance on the LESSOR'S Property or (ii) LESSEE's violation of any applicable Environmental Regulations but only to the extent such claims, causes of action, demands and liability result from LESSEE'S activities in connection with this Lease on the Property.

D. The Parties recognize that LESSEE is only leasing a small portion of LESSOR'S Property and that LESSEE shall not be responsible for any environmental condition or issue except to the extent resulting from LESSEE's specific activities and responsibilities.

E. LESSEE and LESSOR also agree that LESSEE'S use of the Property will not involve the subsurface, except for the placement of a foundation for LESSEE'S equipment and the necessary utility runs and connections from the public right of way to the Tower.

F. For the purposes of this Section, the term "Environmental Regulations" shall mean any law, statute, regulation, order or rule now or hereafter promulgated by any Governmental Authority, whether local, state or federal, relating to air pollution, water pollution, noise control and/or transporting, storing, handling, discharge, disposal or recovery of on-site or off-site hazardous substances or materials, as same may be amended from time to time, including without limitation the following: (i) the Clean Air Act (42 U.S.C. § 7401 et seq.); (ii) Marine Protection,

Research and Sanctuaries Act (33 U.S.C. § 1401-1445); (iii) the Clean Water Act (33 U.S.C. § 1251 et seq.); (iv) Resource Conservation and Recovery Act, as amended by the Hazardous and Solid Waste Amendments of 1984 (42 U.S.C. § 6901 et seq.); (v) Comprehensive Environmental Response Compensation and Liability Act, as amended by the Superfund Amendments and Reauthorization Act of 1986 (42 U.S.C. § 9601 et seq.); (vi) Toxic Substances Control Act (15 U.S.C. § 2601 et seq.); (vii) the Federal Insecticide, Fungicide and Rodenticide Act as amended (7 U.S.C. § 135 et seq.); (viii) the Safe Drinking Water Act (42 U.S.C. § 300 (f) et seq.); (ix) Occupational Health and Safety Act (29 U.S.C. § 651 et seq.); (x) the Hazardous Liquid Pipeline Safety Act (49 U.S.C. § 2001 et seq.); (xi) the Hazardous Materials Transportation Act (49 U.S.C. § 1801 et seq.); (xii) the Noise Control Act of 1972 (42 U.S.C. § 4901 et seq.); (xiii) Emergency Planning and Community Right to Know Act (42 U.S.C. §§ 11001- 11050); and (xiv) the National Environmental Policy Act (42 U.S.C. §§ 4321–4347).

G. NOTWITHSTANDING THE PROVISIONS OF SECTION 14, IT IS THE INTENT OF THE PARTIES THAT IF A CLAIM IS MADE IN ANY FORUM AGAINST INDEMNITEES CONCERNING THE GENERATION, RELEASE, DISPOSAL, STORAGE, OR TRANSPORTATION OF A HAZARDOUS SUBSTANCE OR MATERIAL, AS THOSE TERMS ARE DEFINED IN “ENVIRONMENTAL REGULATIONS”, ON THE PROPERTY BY LESSEE, ITS AGENTS, EMPLOYEES, OR CONTRACTORS, AND UPON RESOLUTION OF THE CLAIM THERE IS NO FINDING BY A COURT OF COMPETENT JURISDICTION THAT INDEMNITEES WERE NEGLIGENT IN CONNECTION WITH THE GENERATION, RELEASE, DISPOSAL, STORAGE OR TRANSPORTATION OF THE HAZARDOUS SUBSTANCE, LESSEE SHALL HOLD INDEMNITEES HARMLESS AND INDEMNIFY THEM FOR ANY DAMAGE, LOSS, EXPENSE, OR LIABILITY RESULTING FROM THE CLAIM, INCLUDING ALL ATTORNEYS’ FEES, COSTS, AND PENALTIES INCURRED.

H. This Section shall survive the expiration or termination of this Lease.

15. CONDEMNATION

A. In the event the whole of LESSOR’S Property, including without limitation the Property and Tower, shall be taken or condemned, either temporarily or permanently, for public purposes, or sold to a condemning authority under threat of condemnation to prevent taking, then this Lease shall forthwith automatically cease and terminate as of the date of such taking or condemnation.

B. In the event any portion of the Property, including without limitation the Tower, shall be taken or condemned, either temporarily or permanently, for public purposes, or sold to a condemning authority under threat of condemnation to prevent taking, then LESSOR agrees that LESSEE may use and/or construct upon an alternative portion of LESSOR’S Property which is equally suitable for LESSEE’S purposes, provided such space is available. The exact site to which LESSEE may relocate will be determined by LESSOR, and it may be upon any portion of LESSOR’S Property (or other property owned or controlled by LESSOR) provided that LESSEE reasonably approves the site as equally suitable for LESSEE’S intended uses. LESSOR will designate a site to which LESSEE may relocate prior to the taking, condemnation or sale. In the event that LESSEE determines, in its sole reasonable discretion, that no alternative portion of the LESSOR’S Property is equally suitable for the purposes of LESSEE, then LESSEE may terminate this Lease.

C. LESSOR shall receive the entire condemnation award for land, Tower and such other LESSOR improvements as are paid for by LESSOR, and LESSEE hereby expressly assigns to LESSOR any and all right, title and interest of LESSEE now or hereafter arising in and to any such award. LESSEE shall have the right to recover from such authority but not from LESSOR, any compensation as may be awarded to LESSEE on account of the leasehold interest of LESSEE and any of LESSEE’S improvements. LESSEE shall have the right to recover from such authority, but not from LESSOR, any compensation as may be awarded to LESSEE on account of the leasehold interest, moving and relocation expenses, and the value of the personal property and fixtures of LESSEE.

16. LIENS. LESSEE shall keep the Property free from any liens arising out of any work performed, materials furnished, or obligations incurred by or for LESSEE. LESSEE shall, within thirty (30) days following the imposition of any such lien, cause the same to be released of record by payment or posting of a proper bond. No work which LESSOR permits LESSEE to perform on the Property shall be deemed to be for the use and benefit of LESSOR so that

no mechanics or other lien shall be allowed against the estate of LESSOR by reason of its consent to such work. LESSOR shall have the right to post notices that it is not responsible for payment for any such work.

17. TAXES. If LESSOR is required by law to collect any federal, state, or local tax, fee, or other governmental imposition (each, a "Tax") from LESSEE with respect to the transactions contemplated by this Lease, then LESSOR shall bill such Tax to LESSEE in the manner and for the amount required by law, LESSEE shall promptly pay such billed amount of Tax to LESSOR, and LESSOR shall remit such Tax to the appropriate tax authorities as required by law; provided, however, that LESSOR shall not bill to or otherwise attempt to collect from, LESSEE any Tax with respect to which LESSEE has provided LESSOR with an exemption certificate or other reasonable basis for relieving LESSOR of its responsibility to collect such tax from LESSEE. Except as provided in this Section 17, LESSOR shall bear the costs of all Taxes that are assessed against or are otherwise the legal responsibility of LESSOR with respect to itself, its property, and the transactions contemplated by this Lease. LESSEE shall be responsible for all Taxes that are assessed against or are otherwise the legal responsibility of LESSEE with respect to itself, its property, and the transactions contemplated by this Lease.

18. QUIET ENJOYMENT AND NON-INTERFERENCE.

A. LESSOR warrants and agrees that LESSEE, upon paying the rent and performing the covenants herein provided, shall peaceably and quietly have and enjoy the Property.

B. LESSEE covenants and agrees that LESSEE'S equipment, its installation, operation and maintenance will:

1. Not interfere with the operation of radio equipment at the Tower existing as of the Effective Date, whether operated by LESSOR or other operators. LESSEE shall coordinate with LESSOR and all other operators of existing radio equipment at the Tower to ensure that LESSEE'S frequencies and antenna locations will be compatible with said radio equipment existing as of the Effective Date. In the event there is harmful interference to said electronic equipment, LESSEE will promptly take all steps to eliminate said harmful interference within ten (10) days after notice from LESSOR or such other operator to LESSEE advising of the interference. If said interference cannot be eliminated within thirty (30) days of notice thereof, LESSEE agrees to suspend operation of the interfering equipment at the Property while the interference problems are studied and a means found to mitigate them. If said interference cannot be eliminated, then LESSEE shall remove its equipment and personal property from LESSOR'S Property, and this Lease shall thereupon be terminated. In addition, in the event LESSOR desires to install its own additional radio equipment on the Tower in the future, LESSEE agrees to work with LESSOR to eliminate any interference with said radio equipment. However, in no event shall (a) LESSEE be required to eliminate any interference with equipment installed after the date upon which LESSEE's equipment was installed or (b) LESSEE be required to deactivate or move its antennas or equipment on the Tower or within its Ground Premises.

2. During the term of this Lease or any extension thereof, LESSOR shall not permit other tenants, to place or operate any equipment, which would interfere with LESSEE'S equipment or operations on the LESSOR'S Property or Property. LESSOR shall cause that all subsequent tenants on the Tower to first coordinate with LESSEE to ensure that their frequencies and antenna locations will be compatible with LESSEE'S and to agree to a clause similar to this Section 18.B.(1) herein, promising to immediately eliminate harmful interference if said tenant's radio equipment should interfere with that of LESSEE herein.

C. LESSEE, as well as LESSEE'S property, shall comply with all applicable rules and regulations of the Federal Communications Commission, state laws and Federal laws, City Ordinances and electrical codes of City of Flower Mound and for State of Texas. Under this Lease, the LESSOR assumes no responsibility for the licensing, operations and/or maintenance of LESSEE'S equipment, antennas, transmission lines or attachments.

19. RF EMISSIONS. Prior to its initial installation of LESSEE's equipment on the Tower, LESSEE shall, at its sole

cost and expense, prepare and deliver to LESSOR, or cause to be prepared and delivered to LESSOR, an evaluation of the radio frequency emissions from the Tower site as required by the Federal Communications Commission, taking into consideration the addition of the LESSEE'S radio communications equipment. In the event the LESSEE determines that such radio communications equipment would cause the Tower site not to comply with the radio frequency exposure limits promulgated under 47 C.F.R. §1.1307, et. Seq. (1997, as amended from time to time), LESSOR at its sole discretion may modify or cause modifications of equipment or conditions on the Tower site in order to permit location of LESSEE'S radio communications equipment at Tower in compliance with the RF Emissions Regulations. If LESSOR elects not to effect such modifications, it shall so notify LESSEE, and LESSEE shall thereafter have the right to terminate this Lease without penalty, upon notice to LESSOR. LESSOR grants LESSEE the right to place electromagnetic energy warning signs proximate to its Communication Facility and radio communications equipment so long as such warning signs are in compliance with applicable law.

20. COORDINATION OF OPERATION

A. LESSOR agrees (i) to use its diligent efforts to minimize inconvenience to LESSEE by using its diligent efforts not to cause or permit any interruption or interfere with the operations of LESSEE'S antennas or equipment, and (ii) to give LESSEE notice of any repairs, alterations, additions or improvements to be made with respect to the maintenance and operation of the Tower and the Property or of any planned shut downs associated with the Tower for scheduled or routine maintenance that might adversely affect the operation of LESSEE'S wireless communications facility, antennas or equipment at least thirty (30) days written notice before the repair, alteration, addition, improvement or shut down of the tower.

B. Except in cases of emergency, LESSEE shall provide LESSOR with at least three (3) days' prior notice of any need to access the Property by calling [972-874-6410]. No such prior notice shall be required in cases of emergency, provided, however, that LESSEE shall notify LESSOR of any emergency access as soon as reasonably practicable thereafter.

C. Notwithstanding Subsection 20.B above and subject to the provisions of this Subsection 20.C, access to the interior of Tower or to the top of the Tower shall be accomplished only with the presence of the LESSOR's Utility Operations Manager or his or her representative. Such access shall be obtained by calling [972-874-6410]. LESSOR's Utility Operations Manager or his or her representative shall arrange such access (i) within forty-eight (48) hours in cases of customary maintenance, repairs, or alterations and (ii) within four (4) hours in cases of emergency, otherwise the requirement for the presence of the LESSOR's Utility Operations Manager or his or her representative shall be waived. Only qualified and adequately insured employees, agents, contractors or persons under LESSEE'S direct supervision will be permitted to climb the Tower and to install, maintain, or remove LESSEE'S antennas and/or equipment from the Tower. LESSOR retains the right to permit its own employees and agents and employees and agents of the subsequent users of the Tower to climb the Tower for the purpose of repair and maintenance or for any other purposes that do not interfere with LESSEE'S use of the Tower, and so long as LESSEE complies with the provisions of Section 18 of this Lease.

D. LESSOR shall not permit any person, including without limitation any contractor, employee, agent, tenant, or invitee, to work within a ten (10) foot radius of LESSEE'S antennas unless LESSEE is notified, except in the case of an emergency, prior to such activity. LESSOR agrees to give LESSEE reasonable advance written notice (except in the case of emergency where advance written notice cannot be reasonably given, in which event, LESSOR shall give LESSEE telephonic notice by calling LESSEE'S Network Management Center at 800-264-6620) of repairs, alterations, additions, or improvements to be made with respect to the maintenance and operation of the Tower and the Property within such radius of LESSEE's antennas.

E. In the event that LESSOR determines that any equipment or operation of LESSEE causes radio interference, as defined and regulated by the Federal Communications Commission, or interferes with the operation or use of the Tower or with any of LESSOR'S facilities or LESSOR'S equipment on the Tower, then LESSEE shall have thirty (30) days within which to correct such radio interference, pursuant to Section 18.B, unless such interference

is with LESSOR'S emergency communications; then such interference shall be corrected immediately. If said interference cannot be eliminated within the foregoing time periods, LESSEE agrees to suspend operation of the interfering equipment at the Property until the interference can be cured. In no event will LESSOR be entitled to terminate this Lease or relocate LESSEE's equipment as long as LESSEE is making a good faith effort to remedy the interference issue.

F. It is further understood and agreed that LESSOR may perform reasonable routine maintenance, painting, etc. of the Tower without compensation or liability to LESSEE, even though such maintenance and painting may cause interference with LESSEE'S operations. LESSOR shall notify LESSEE at least sixty (60) days prior to any scheduled maintenance or painting on the Tower that will be likely to interfere with the operation of LESSEE'S equipment and shall allow LESSEE to construct and operate temporary facilities on LESSOR'S Property. LESSOR shall not be required to notify LESSEE prior to performing any emergency maintenance on the Tower but shall provide LESSEE with notice of any such emergency maintenance as soon as reasonably practicable thereafter.

G. To the extent that any shut down, repair, alteration, addition or improvement of the Tower might adversely affect the operation of LESSEE'S Wireless Communications facility, antennas or equipment for a period in excess of fourteen (14) days, the rent shall be abated for the relevant time period during which LESSEE'S operations are adversely affected.

21. LIGHTING OF ANTENNAS. LESSOR hereby agrees that, if because of LESSEE'S operations on the Property any laws or regulations of the Federal Aviation Administration, Federal Communications Commission or any other relevant governmental agency or body require or recommend that LESSEE'S antennas and/or the Tower be lit and/or marked, LESSEE may install and maintain such lighting and markings. In no event, however, shall LESSEE be responsible for the installation or maintenance of any lighting or markings required by the operations of LESSOR or any other tenant in the Tower. LESSOR will permit LESSEE access to all portions of the Tower that LESSEE may need in order to check and replace such required or recommended lighting or marking.

22. BROKERS. LESSOR and LESSEE represent to each other that they have not negotiated with any real estate broker in connection with this Lease.

23. ESTOPPEL CERTIFICATES

A. LESSOR, at the request of LESSEE, shall provide LESSEE with a certificate stating: (1) whether LESSOR has any claim against LESSEE and if so, stating the nature of such claim; (2) that LESSOR recognizes LESSEE'S right to LESSEE'S antennas, equipment and other property; (3) that LESSEE has the right to remove LESSEE'S equipment and other property from the Property notwithstanding that same may be considered a fixture under local law; and (4) that LESSOR has no interest in and disclaims any interest to LESSEE'S equipment and other property.

B. LESSEE, at the request of LESSOR, shall provide LESSOR with a certificate stating: (1) that this Lease is unmodified and in full force and effect (or, if there has been any modification, that the same is in full force and effect as modified and stating the modification); (2) whether or not, to LESSEE'S knowledge, there are then existing any set-offs, or defenses against the enforcement of any of the agreements, terms, covenants or conditions hereof upon the part of LESSEE to be performed or complied with (and, if so specifying the same); and (3) the dates, if any, to which the rent has been paid in advance.

24 MISCELLANEOUS PROVISIONS

A. INTENTIONALLY OMITTED.

B. LESSOR warrants and agrees that LESSOR is seized of good and sufficient title to and interest in the Property and has full authority to enter into and execute this Lease and that there are no undisclosed liens, judgments or impediments of title on LESSOR'S Property that would affect this Lease.

C. This Lease, including attached exhibits which are hereby incorporated by reference, incorporates all agreements and understandings between LESSOR and LESSEE, and no verbal agreements or understandings shall be binding upon either LESSOR or LESSEE, and any addition, variation, or modification to this Lease shall be ineffective unless made in writing and signed by the parties.

D. LESSOR agrees that LESSOR'S Property (including, without limitation, the Tower) and all improvements comply, and during the term of this Lease, shall continue to comply with all applicable building, life/safety, disability and other laws, codes and regulations of any governmental or quasi-governmental authority. All such compliance shall be accomplished at LESSOR'S sole cost and expense. Except for improvements made by LESSEE, LESSOR, at its sole cost, shall maintain in good condition and repair, the Tower and other improvements upon which the Property is located. LESSEE agrees that LESSEE'S property and all equipment and improvements erected hereunder shall comply, and during the term of this Lease, shall continue to comply, with all applicable building, life/safety, disability and other laws, codes and regulations of any governmental or quasi-governmental authority. All such compliance shall be accomplished at LESSEE'S sole cost and expense. LESSEE, at its sole cost and expense, shall maintain the appearance of all such equipment and improvements in a manner or condition not materially different from that at the time of installation.

E. This Lease and the performance hereof shall be governed, interpreted, construed and regulated by the laws of the State of Texas. Venue for any litigation concerning this Lease shall be in Denton County, Texas or in any federal court having jurisdiction over Denton County, Texas.

F. This Lease, and each and every covenant and condition herein, is intended to benefit the Property and shall extend to and bind the heirs, personal representatives, successors and assigns of the parties.

G. The parties agree that all of the provisions hereof shall be construed as both covenants and conditions the same as if the words importing such covenants and conditions had been used in each separate subsection.

H. The parties acknowledge that each has had an opportunity to review and negotiate this Lease and have executed this Lease only after such review and negotiation. The language of each part of this Lease shall be construed simply and according to its fair meaning, and this Lease shall not be construed more strictly in favor or against either party.

I. If any portion of this Lease is declared by a court of competent jurisdiction to be invalid or unenforceable, then such portion shall be deemed modified to the extent necessary in such court's opinion to render such condition enforceable and, as so modified, such portion and the balance of this Lease shall continue in full force and effect.

J. In addition to the other remedies provided for in this Lease, LESSOR and LESSEE shall be entitled to immediate restraint by injunction of any violation of any of the covenants, conditions, or provisions of this Lease.

K. The captions of the sections and subsections of this Lease are for convenience of reference only and shall not affect the interpretation of this Lease.

M. Each party represents that it has not been represented by a broker in the approval process of this Lease.

N. LESSOR agrees to execute a Memorandum of this Lease which LESSEE may record with the appropriate recording officer. The date set forth in the Memorandum of Lease is for recording purposes only and bears no reference to commencement of either the Term or rent payments. The Memorandum of Agreement must accurately reflect the terms of this Lease.

O. The parties agree that this Lease does not affect, limit or impair any sovereign immunity the LESSOR may have under the Texas Constitution and Statutes.

[Signatures appear on the following page.]

[Remainder of page intentionally left blank. Signature pages and exhibits follow.]

IN WITNESS WHEREOF, the Parties have set their hands and affixed their respective seals on the dates below, effective the day and year first above written.

LESSOR:

CITY OF FLOWER MOUND, TEXAS, a municipal corporation

By: _____

Name: _____

Title: _____

Date: _____

LESSEE:

CELLCO PARTNERSHIP
d/b/a Verizon Wireless

By: _____

Name: _____

Title: _____

Date: _____

EXHIBIT A

Legal Description of the Property

Being all that certain lot, tract or parcel of land situated in the N. Thompson Survey, Abstract Number 1270, Town of Flower Mound, Denton County, Texas, being part of that certain called 27.4102 acre tract of land described in deed to Tom W. Kindred recorded in Volume 1379, Page 438 of the Real Property Records of Denton County, Texas, and being more particularly described as follows:

BEGINNING at a 5/8" rebar found at the southwest corner of said Kindred tract, being the northwest corner of that certain tract of land described in deed to Robert P. Lufborrow recorded in Volume 1054, Page 366 of the Deed Records of Denton County, Texas, and being on the east line of that certain tract of land described in deed to Alan Powdermaker and Francois Uhler, a Partnership (Powdermaker), recorded in Volume 1130, Page 498 of the Deed Records of Denton County, Texas, and being on the west line of a 40' Perpetual Road Easement recorded in Volume 629, Page 479, Deed Records, Denton County, Texas, Volume 2116, Page 648, Real Property Records, Denton County, Texas, and Volume 2563, Page 234 of said Real Property Records;

THENCE N 00°23'10" W, 291.31 feet, along the east line of said Powdermaker tract and the west line of said Kindred tract and said 40' Perpetual Road Easement, to a 1/2" capped rebar (G & A) set;

THENCE N 89°36'50" E, 375.00 feet, to a 1/2" capped rebar (G & A) set;

THENCE S 00°23'10" E, 235.00 feet, to a 1/2" capped rebar (G & A) set on the south line of said Kindred tract and the north line of that certain tract of land described in deed to Flower Mound Equest, LLC., recorded in Document Number 2007-34103 of the Real Property Records of Denton County, Texas;

THENCE S 81°11'45" W, 90.26 feet, along the south line of said Kindred tract and the north line of said Flower Mound Equest tract, to a 1/2" rebar found at the northwest corner thereof, being the northeast corner of Lot 1, Block 1, Equiplex Veterinary Clinic, an addition to the Town of Flower Mound according to the plat thereof recorded in Cabinet 1, Page 400 of the Plat Records of Denton County, Texas;

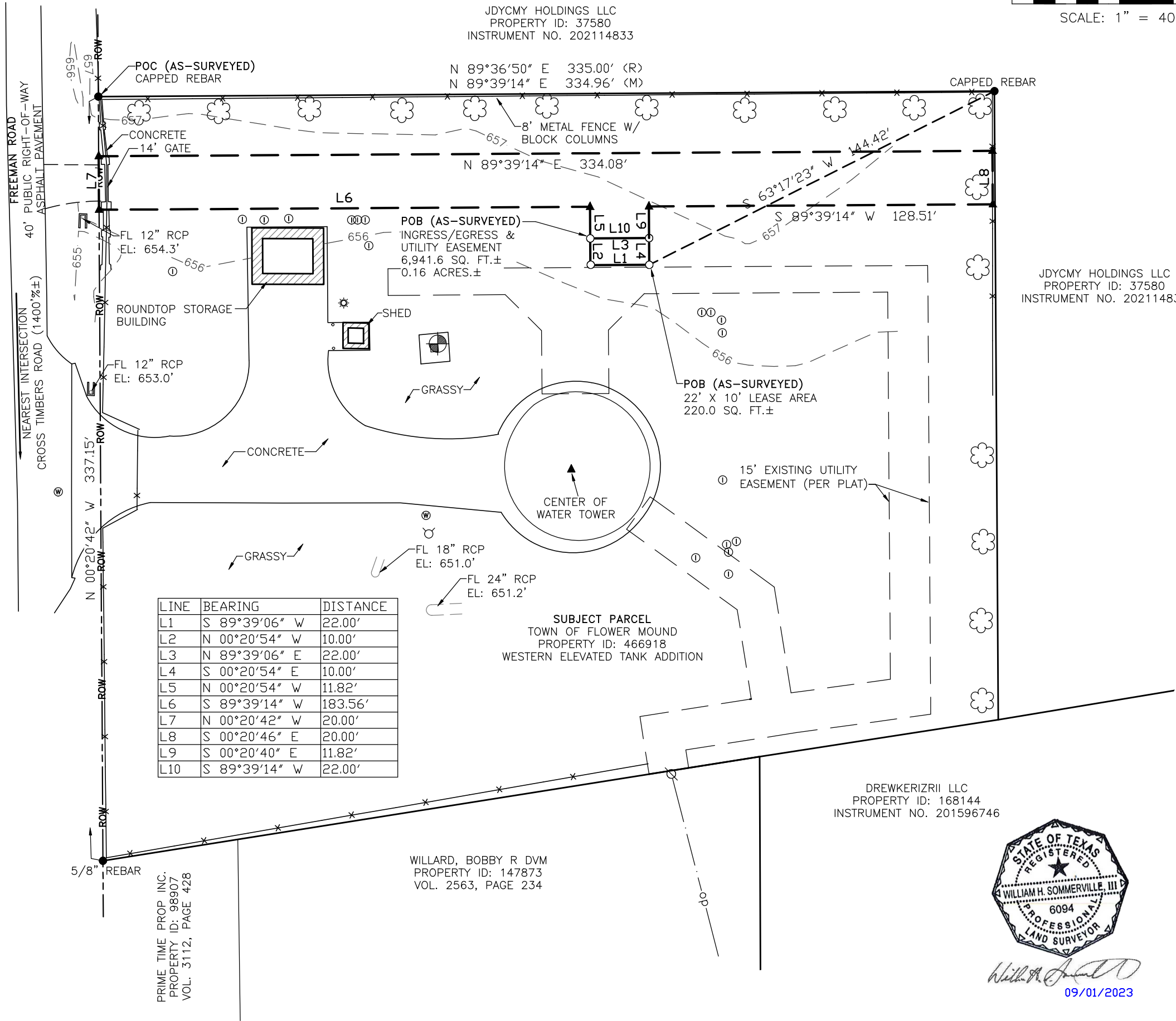
THENCE S 81°02'10" W, 288.94 feet, continuing along the south line of said Kindred tract and the north line of said Lot 1, Block 1, Equiplex Veterinary Clinic, passing the northwest corner thereof, to the POINT OF BEGINNING and containing approximately 2.265 acres of land.

Bearings based on Texas Coordinate System, North Central Zone
NAD '83

EXHIBIT B

Description of the Property

[See attached four (4) pages.]



TOWER INFO

CENTER OF TOWER:

LATITUDE: 33°02'49.172" NORTH
LONGITUDE: 97°09'17.975" WEST
(NAD 83)
GROUND ELEVATION: 655.0'
ABOVE MEAN SEA LEVEL (NAVD88)

TOP OF WATER TOWER: 188.5'
ABOVE GRADE

HIGHEST APPURTENANCE: (SAT DISH)
194.5' ABOVE GRADE

SITE ADDRESS:
FREEMAN ROAD
FLOWER MOUND, TEXAS 35211

VICINITY MAP

NOT TO SCALE

TEXAS NORTH CENTRAL

GRID NORTH
GRID TO TRUE NORTH
CONVERGENCE
0°44'00.81338

TRUE NORTH TO MAGNETIC
DECLINATION
3°3.55' E

COMBINED SCALE FACTOR
0.999841303

LEGEND

- = 5/8" REBAR SET
- = FOUND PROPERTY MARKER
- POB = POINT OF BEGINNING
- POC = POINT OF COMMENCEMENT
- ▲ = CALCULATED POINT
- (R) = REFERENCED INFORMATION
- (M) = MEASURED
- ⊗ = POWER POLE
- ⊕ = WATER VALVE
- ⊙ = IRRIGATION CONTROL VALVE
- ⊛ = LIGHT POLE
- ⊙ = FIRE HYDRANT
- ⊙ = TEMPORARY BENCHMARK
- "X" IN CONCRETE AREA
STORM DRAIN INLET
ELEVATION: 655.18'

--- ROW --- RIGHT-OF-WAY
--- op --- OVERHEAD POWER

FLOOD NOTE

By graphic plotting only, the subject property appears to lie in Zone "X" of the Flood Insurance Rate Map Community Panel No. 48121C0520G, which bears an effective date of April 18, 2011 and is NOT in a special flood hazard area. Zone 'X': Areas determined to be outside the 0.2% annual chance floodplain.

STALLION CIRCLE

FUZE: 16119360 MDG #: 5000058733
N. THOMPSON SURVEY
ABSTRACT NO. 1270
DENTON COUNTY, TEXAS

NO. 1 2

PROJECT NO. 21-10948

DRAWN BY: PM
CHECKED BY: PMK
FIELD CREW: BM
APPROVED BY: WHS
DATE: 09/07/21
SCALE: 1" = 40'

SHEET 1 OF 2

RAWLAND TOWER SURVEY

FOR:

SMW Engineering Group, Inc.
158 Business Center Drive
Birmingham, Alabama 35244
Ph: 205-252-6985
www.smweng.com

verizon

TEXAS NORTH CENTRAL
GRID NORTH
GRID TO TRUE NORTH
CONVERGENCE
0°44'00.81338

TRUE NORTH TO MAGNETIC
DECLINATION
3°3.55' E

COMBINED SCALE FACTOR
0.999841303

SUBJECT PARCEL (FROM TITLE)

Being all that certain lot, tract or parcel of land situated in the N. Thompson Survey, Abstract Number 1270, Town of Flower Mound, Denton County, Texas, being part of that certain called 27.4102 acre tract of land described in deed to Tom W. Kindred recorded in Volumed 1379, Page 438 of the Real Property Records of Denton County, Texas, and being more particularly described as follows:
BEGINNING at a 5/8" rebar found at the southwest corner of said Kindred tract, being the northwest corner of that certain tract of land described in deed to Robert P. Lufborrow recorded in Volume 1054, Page 366 of the Deed Records of Denton County, Texas and being on the east line of that certain tract of land described in deed to Alan Powdermaker and Francois Uhler, a Partnership (Powdermaker), recorded in Volume 1130, Page 498 of the Deed Records of Denton County, Texas, and being on the west line of a 40' Perpetual Road Easement recorded in Volume 629, Page 479, Deed Records, Denton County, Texas, Volume 2116, Page 648, Real Property Records, Denton County, Texas, and Volume 2563, Page 234 of said Real Property Records;
THENCE N 00°23'10"W, 291.31 feet, along the east line of said Powdermaker tract and the west line of said Kindred Tract and said 40' perpetual Road Easement, to a 1/2" capped rebar (G & A) set;
THENCE N 89°36'50"E, 375.00 feet, to a 1/2" capped rebar (G & A) set;
THENCE S 00°23'10"E, 235.00 feet, to a 1/2" capped rebar (G & A) set on the south line of said Kindred tract and the north line of that certain tract of land described in deed to Flower Mound Equest, LLC. Recorded in Document Number 2007-34103 of the Real Property Records of Denton County, Texas;
THENCE S 81°11'45"W, 90.26 feet, along the south line of said Kindred tract and the north line of said Flower Mound Equest tract, to a 1/2" rebar found at the northwest corner thereof, being the northeast corner of Lot 1, Block 1, Equiplex Veterinary Clinic, an addition to the Town of Flower Mound according to the plat thereof recorded in Cabinet 1, Page 400 of the Plat Records of Denton County, Texas;
THENCE S 81°02'10"W, 288.94 feet, continuing along the south line of said Kindred tract and the north line of said Lot 1, Block 1, Equiplex Veterinary Clinic, passing the northwest corner thereof, to the POINT OF BEGINNING and containing approximately 2.265 acres of land.

22' X 10' LEASE AREA (AS-SURVEYED)

Being a portion of Western Elevated Tank Addition as recorded in Document Number 2011-112, Plat Records of Denton County, Texas, and lying in the N. Thompson Survey, Abstract Number 1270, Town of Flower Mound, Denton County, Texas, and being more particularly described as follows:

Commencing at a capped rebar found on the East right-of-way line of Freeman Road at the northwest corner of said Western Elevated Tank Addition; thence N 89°39'14"E a distance of 334.96 feet to a capped rebar found at the northeast corner of Western Elevated Tank Addition; thence S 63°17'23"W a distance of 144.42 feet to a 5/8" rebar set and the Point of Beginning; thence S 89°39'06"W a distance of 22.00 feet to a 5/8" rebar set; thence N 00°20'54"W a distance of 10.00 feet to a 5/8" rebar set; thence N 89°39'06"E a distance of 22.00 feet to a 5/8" rebar set; thence S 00°20'54"E a distance of 10.00 feet to the Point of Beginning. Said above-described Lease Area contains 220.00 square feet, more or less.

INGRESS/EGRESS & UTILITY EASEMENT (AS-SURVEYED)

Being a portion of Western Elevated Tank Addition as recorded in Document Number 2011-112, Plat Records of Denton County, Texas, and lying in the N. Thompson Survey, Abstract Number 1270, Town of Flower Mound, Denton County, Texas, and being more particularly described as follows:

Commencing at a capped rebar found on the East right-of-way line of Freeman Road at the northwest corner of said Western Elevated Tank Addition; thence N 89°39'14"E a distance of 334.96 feet to a capped rebar found at the northeast corner of Western Elevated Tank Addition; thence S 63°17'23"W a distance of 144.42 feet to a 5/8" rebar set; thence S 89°39'06"W a distance of 22.00 feet to a 5/8" rebar set; thence N 00°20'54"W a distance of 10.00 feet to a 5/8" rebar set and the Point of Beginning; thence N 00°20'54"W a distance of 11.82 feet to a point; thence S 89°39'14"W a distance of 183.56 feet to a point on said east right-of-way line of Freeman Road; thence N 00°20'42"W, along said eastern right-of-way line, a distance of 20.00 feet to a point; thence N 89°39'14"E a distance of 334.08 feet to a point; thence S 00°20'46"E a distance of 20.00 feet to a point; thence S 89°39'14"W a distance of 128.51 feet to a point; thence S 00°20'40"E a distance of 11.82 feet to a 5/8" rebar set; thence S 89°39'14"W a distance of 22.00 feet to the Point of Beginning. Said above-described Ingress/Egress & Utility Easement contains 6,941.6 square feet or 0.16 acres, more or less.

SURVEYOR'S NOTES

1. This is a Rawland Tower Survey, made on the ground under the supervision of a Texas Registered Land Surveyor. Date of field survey is September 1, 2021.
2. The following surveying instruments were used at time of field visit: Topcon GM-55 and Topcon Hiper SR G.P.S. receiver, (R.T.K. network capable).
3. Bearings are based on Texas North Central State Plane Coordinates NAD 83 by GPS observation.
4. No underground utilities, underground encroachments or building foundations were measured or located as a part of this survey, unless otherwise shown. Trees and shrubs not located, unless otherwise shown.
5. Benchmark used is a GPS Continuously Operating Reference Station, PID DF8986. Onsite benchmark is as shown hereon. Elevations shown are in feet and refer to NAVD 88.
6. This survey was conducted for the purpose of a Rawland Tower Survey only, and is not intended to delineate the regulatory jurisdiction of any federal, state, regional or local agency, board, commission or other similar entity.
7. Attention is directed to the fact that this survey may have been reduced or enlarged in size due to reproduction. This should be taken into consideration when obtaining scaled data.
8. This Survey was conducted in reference to a Title Search Report, Order Number HA312001, by Hollerbach & Associates Inc, with an effective date of April 29, 2022.
9. Surveyor hereby states the Geodetic Coordinates and the elevation shown for the proposed centerline of the tower are accurate to within +/- 20 feet horizontally and to within +/- 3 feet vertically (FAA Accuracy Code 1A).
10. Survey shown hereon conforms to the Minimum Requirements as set forth by the State Board for a Class "A" Survey.
11. Field data upon which this map or plat is based has a closure precision of not less than one-foot in 15,000 feet (1':15,000') and an angular error that does not exceed 10 seconds times the square root of the number of angles turned. Field traverse was not adjusted.
12. This survey is not valid without the original signature and the original seal of a state licensed surveyor.
13. This survey does not constitute a boundary survey of the Parent Tract. Any parent tract property lines shown hereon are from supplied information and may not be field verified.

PLOTTABLE EXCEPTIONS
Hollerbach & Associates, Inc.
Title Search Report Order No. HA312001
Date April 28, 2022 @ 8:00 am
Exceptions

Instrument	Comment
Book 2231, Page 442	Does not affect Lease Area or Easement.
Book 2314, Page 961	Does not affect Lease Area or Easement.
Instrument No. 2010-122225	Does not affect Lease Area or Easement.
Book 1292, Page 424	Does not affect Lease Area or Easement.
Book 2116, Page 648	Does not affect Lease Area or Easement.
Book 2563, Page 234	Does not affect Lease Area or Easement.

SURVEYOR'S CERTIFICATION



I certify to that all parts of this survey and drawing have been completed in accordance with the current requirements of the Standards of Practice for Surveying in the State of Texas to the best of my knowledge, information, and belief.

William H. Sommerville, III
William H. Sommerville, III 09/01/2023
Texas License No. 6094

STALLION CIRCLE
FUZE: 16119360 MDG #: 5000058733
N. THOMPSON SURVEY
ABSTRACT NO. 1270
DENTON COUNTY, TEXAS

SMW Engineering Group, Inc.
158 Business Center Drive
Birmingham, Alabama 35244
Ph: 205-252-6985
www.smweng.com

FOR:
RAWLAND TOWER SURVEY
VERIZON WIRELESS
600 HIDDEN RIDGE
IRVING, TEXAS 75038

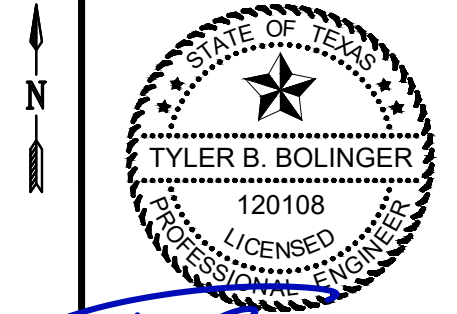
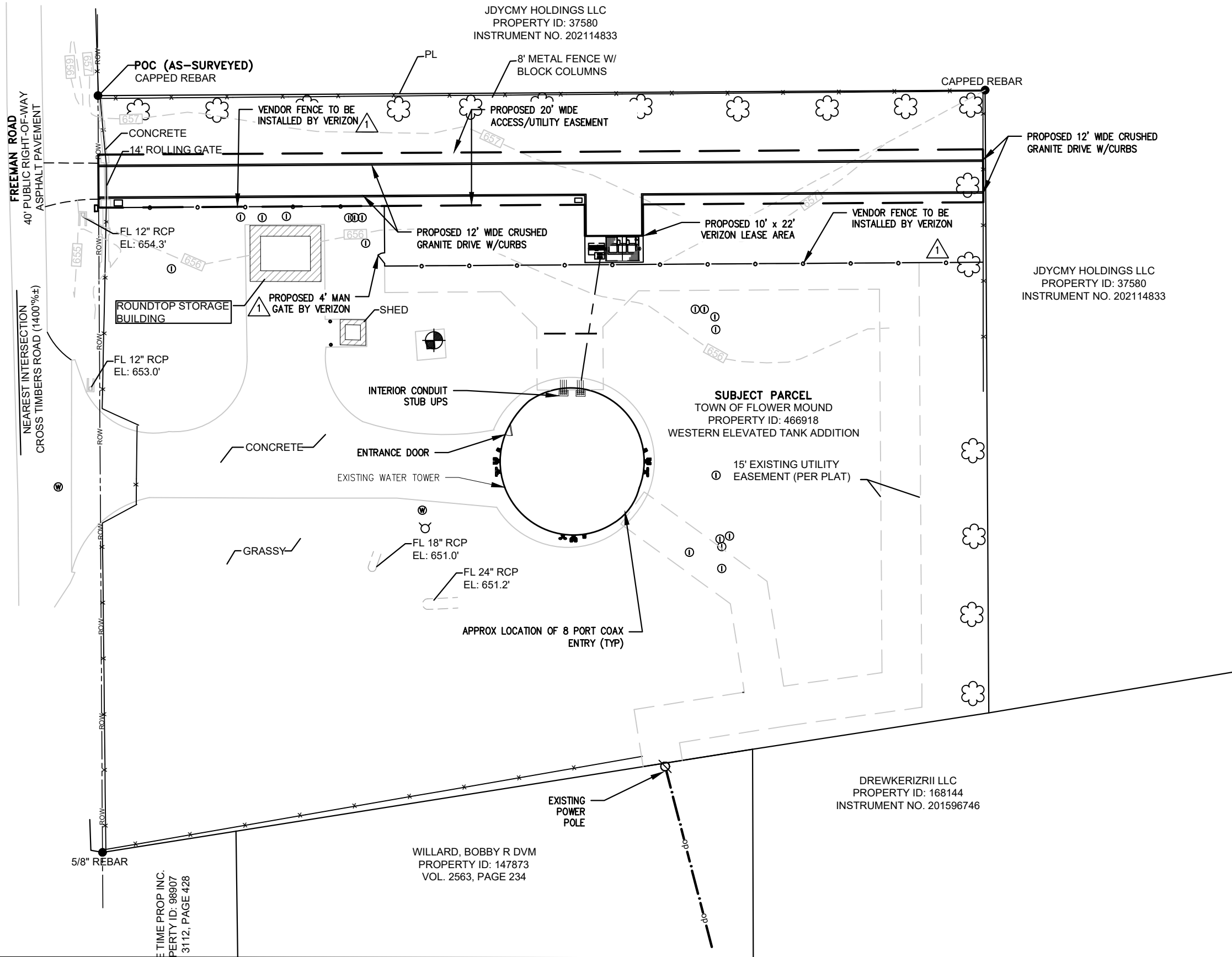
SHEET 2 OF 2

PROJECT NO.
21-10948

NO. 1
REVISED LEASE/EASEMENT
TITLE COMMITMENT
DATE: 09/07/21
SCALE: N.T.S.

DATE 06/19/23
BY PWK

DATE 07/06/23
BY PM



01/30/2024

KGI WIRELESS, INC. TEXAS FIRM NO. F-15692
FIRM REGISTRATION RENEWAL 12/31/2024
PE LICENSE RENEWAL 03/31/2024



KGI WIRELESS, INC.
805 LAS CIMAS PKWY
BUILDING THREE, SUITE 370
AUSTIN, TX 78746
TEL: 512.345.9595
FAX: 512.345.9898

SITE NAME:
STALLION CIRCLE
LOCATION CODE:
5000058733 [675914]

SITE ADDRESS:
4400 FREEMAN RD
FLOWER MOUND, TX 75022
DENTON COUNTY

THESE DRAWINGS ARE THE PROPERTY OF VERIZON WIRELESS. THEY ARE INTENDED FOR THE EXCLUSIVE USE OF THIS PROJECT ONLY. ANY RE-USE OF THESE PLANS (DRAWINGS) WITHOUT THE EXPRESS WRITTEN CONSENT OF VERIZON WIRELESS IS PROHIBITED.

ISSUED FOR:		DATE
REVIEW REV A		04/25/2022
CONSTRUCTION REV 0		06/28/2022
CONSTRUCTION REV 1		09/05/2023
CONSTRUCTION REV 2		01/30/2024

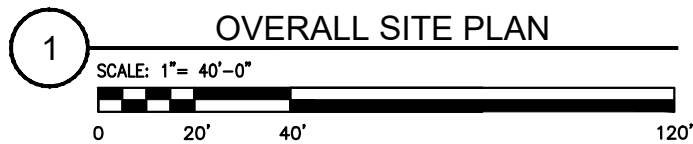
REVISION			
NO	DESCRIPTION	BY	DATE
1	FENCE UPDATE	CM	03/28/23
1	EXTEND DRIVE TO PL	CM	06/22/23

SHEET TITLE:
OVERALL SITE PLAN

SHEET NUMBER:
C1



Know what's below.
Call before you dig.



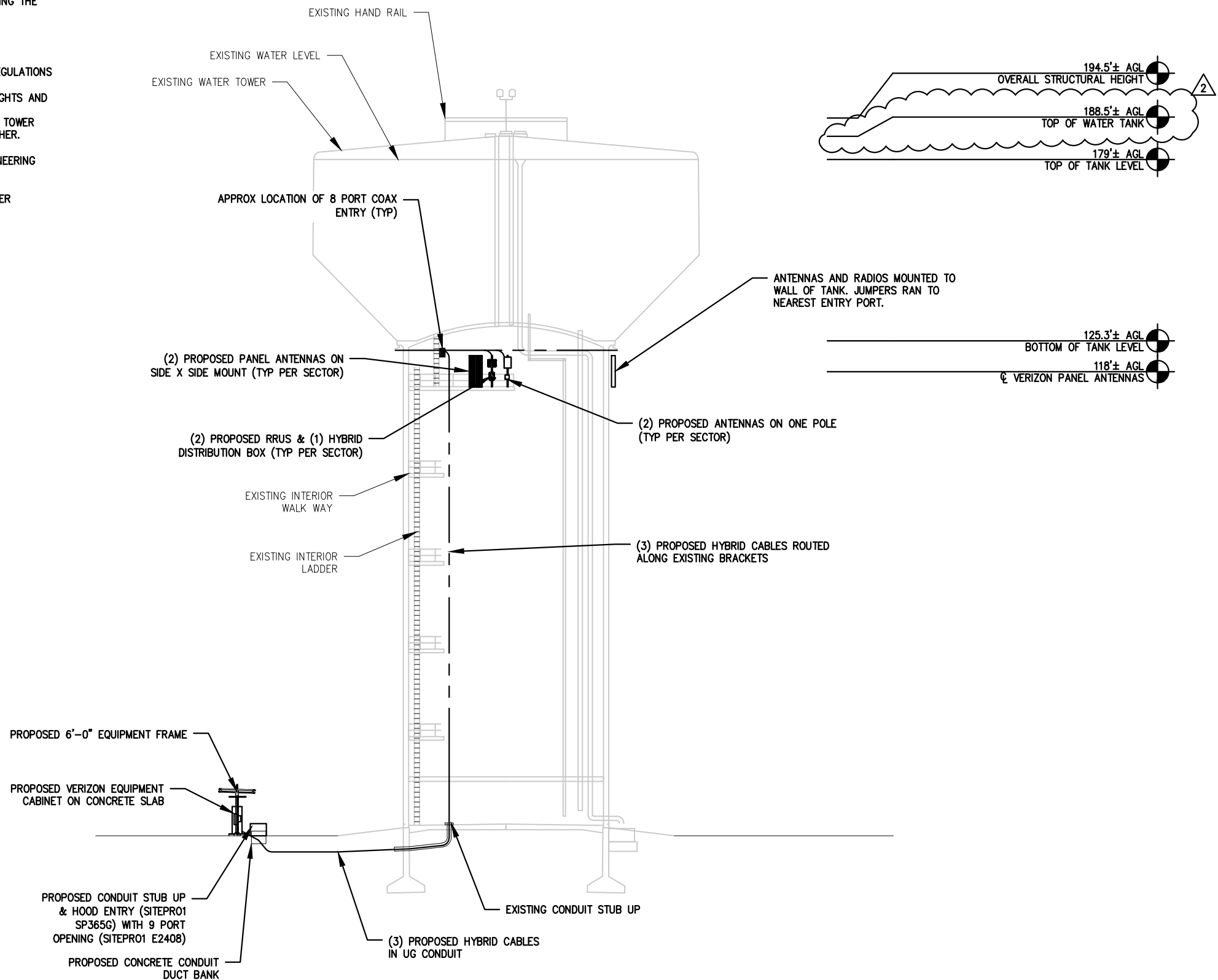
UTILITIES NOTE:
UTILITY ROUTES TO BE DETERMINED AFTER
UTILITY COORDINATION WITH PROVIDERS

TOWER VERIFICATION NOTES:
THE GENERAL CONTRACTOR SHALL VERIFY THE TOWER TYPE AND HEIGHT WITH THE TOWER OWNER PRIOR TO ORDERING OR CONSTRUCTING THE TOWER.

GENERAL NOTES:
1. SUBCONTRACTOR TO COMPLY WITH ALL FCC AND FAA REGULATIONS ON THIS PROJECT.
2. ON TOWERS OVER 200' TALL, ADD AIRCRAFT WARNING LIGHTS AND CONTROLS PER FAA REGULATIONS.
3. THIS SITE ELEVATION IS A GENERALIZATION OF SITE AND TOWER COMPONENTS AND THEIR RELATIONSHIPS WITH ONE ANOTHER.

REFERENCE 'STRUCTURAL ANALYSIS REPORT' BY TOWER ENGINEERING PROFESSIONALS JUNE 10, 2022

REFERENCE 'MOUNT MODIFICATION ANALYSIS REPORT' BY TOWER ENGINEERING PROFESSIONALS JUNE 7, 2022



3 PROPOSED ELEVATION
SCALE: N.T.S.

TYLER B. BOLINGER
120108
LICENSED PROFESSIONAL ENGINEER
01/30/2024

KGI WIRELESS, INC. TEXAS FIRM NO. F-15692
FIRM REGISTRATION RENEWAL 12/31/2024
PE LICENSE RENEWAL 03/31/2024

KGI WIRELESS, INC.
805 LAS CIMAS PKWY
BUILDING THREE, SUITE 370
AUSTIN, TX 78746
TEL: 512.345.9595
FAX: 512.345.9898

SITE NAME:
STALLION CIRCLE
LOCATION CODE:
5000058733 [675914]
SITE ADDRESS:
4400 FREEMAN RD
FLOWER MOUND, TX 75022
DENTON COUNTY

THESE DRAWINGS ARE THE PROPERTY OF VERIZON WIRELESS. THEY ARE INTENDED FOR THE EXCLUSIVE USE OF THIS PROJECT ONLY. ANY RE-USE OF THESE PLANS (DRAWINGS) WITHOUT THE EXPRESS WRITTEN CONSENT OF VERIZON WIRELESS IS PROHIBITED.

ISSUED FOR:		DATE	
REVIEW REV A		04/25/2022	
CONSTRUCTION REV 0		06/28/2022	
CONSTRUCTION REV 1		09/05/2023	
CONSTRUCTION REV 2		01/30/2024	

REVISION			
NO	DESCRIPTION	BY	DATE
1	ADD TANK HEIGHT	IP	01/30/24

SHEET TITLE:
TOWER ELEVATION & ANTENNA PLAN

SHEET NUMBER:
C4

EXHIBIT C

LESSEE's Tower Equipment

- Four (4) Commscope NHH-45C-R2B antennas
- Two (2) Commscope NHH-65C-R2B antennas
- Three (3) Samsung XXDWMM-12.5-65-8TCBRS antennas
- Three (3) Samsung MT6407-77A antennas
- Up to Fifteen (15) remote radio units
- Three (3) OVP boxes
- Three (3) coax/hybrid lines

Bonnie Bolz Merkt, Esq.
Ginsberg Jacobs LLC
300 South Wacker Drive, Suite 2750
Chicago, Illinois 60606

STATE OF TEXAS)
)
COUNTY OF DENTON)

MEMORANDUM OF GROUND AND TOWER LEASE AGREEMENT

1. LESSOR is the fee owner of that certain real property commonly known as the Freeman Road Water Tower at 4400 Freeman Road, City of Flower Mound, Denton County, Texas (“LESSOR’S Property”) which is described on Exhibit “A” attached hereto and incorporated herein by reference.
2. LESSOR and LESSEE entered into a Ground and Tower Lease Agreement (the “Agreement”) on December 16, 2024, for an initial term of five (5) years, beginning on the first day of the month immediately following the earlier of (i) the date LESSEE commences installation at the Property (as defined in the Agreement) or (ii) the date that is six (6) months after the Effective Date of the Agreement. The Agreement shall automatically be extended for four (4) additional five (5) year periods unless LESSEE terminates it at the end of the then current term by giving LESSOR written notice of the intent to terminate at least three (3) months prior to the end of the then current term.

3. Pursuant to the Agreement, LESSOR leases to LESSEE a portion of LESSOR'S Property containing approximately two hundred twenty (220) square feet (the "Ground Premises") and certain space on the elevated water tower located on LESSOR'S Property necessary for LESSEE's communications equipment, together with obtaining a right of access from a public right-of-way and a right to install utilities, at such locations as previously agreed to, and approved by, LESSOR and as set forth in Exhibit "B" attached hereto and incorporated herein by reference.
4. The terms, covenants and provisions of the Agreement, the terms of which are hereby incorporated by reference into this Memorandum, shall extend to and be binding upon the respective executors, administrators, heirs, successors and assigns of LESSOR and LESSEE. Any capitalized terms not otherwise defined herein shall have the meanings attributed to them in the Agreement.

[Signatures appear on the following page.]

IN WITNESS WHEREOF, hereunto and to a duplicate hereof, LESSOR and LESSEE have caused this Memorandum to be duly executed on the date first written hereinabove.

LESSOR:

CITY OF FLOWER MOUND, TEXAS, a municipal corporation

By: _____

Name: _____

Its: _____

Date: _____

LESSEE:

CELLCO PARTNERSHIP d/b/a Verizon Wireless

By: _____

Name: _____

Its: _____

Date: _____

STATE OF _____)
)
COUNTY OF _____)

LESSOR ACKNOWLEDGMENT

I, _____, do hereby certify that _____ personally came before me this day and acknowledged that he/she is the _____ of **CITY OF FLOWER MOUND, TEXAS**, a municipal corporation, and that he/she, being authorized to do so, executed the foregoing **MEMORANDUM OF GROUND AND TOWER LEASE AGREEMENT** on behalf of said municipal corporation. He/she is personally known to me or has produced _____ as identification.

WITNESS my hand and official Notarial Seal, this ____ day of _____, 202__.

Notary Public

My Commission Expires:

STATE OF _____)
)
COUNTY OF _____)

LESSEE ACKNOWLEDGMENT

I, _____, do hereby certify that _____ personally came before me this day and acknowledged that he/she is the _____ of **Cellco Partnership d/b/a Verizon Wireless**, a Delaware general partnership, and that he/she, being authorized to do so, executed the foregoing **MEMORANDUM OF GROUND AND TOWER LEASE AGREEMENT** on behalf of said general partnership. He/She is personally known to me.

WITNESS my hand and official Notarial Seal, this ____ day of _____, 202__.

Notary Public

My Commission Expires:

EXHIBIT A

Legal Description of LESSOR's Property

Being all that certain lot, tract or parcel of land situated in the N. Thompson Survey, Abstract Number 1270, Town of Flower Mound, Denton County, Texas, being part of that certain called 27.4102 acre tract of land described in deed to Tom W. Kindred recorded in Volume 1379, Page 438 of the Real Property Records of Denton County, Texas, and being more particularly described as follows:

BEGINNING at a 5/8" rebar found at the southwest corner of said Kindred tract, being the northwest corner of that certain tract of land described in deed to Robert P. Lufborrow recorded in Volume 1054, Page 366 of the Deed Records of Denton County, Texas, and being on the east line of that certain tract of land described in deed to Alan Powdermaker and Francois Uhler, a Partnership (Powdermaker), recorded in Volume 1130, Page 498 of the Deed Records of Denton County, Texas, and being on the west line of a 40' Perpetual Road Easement recorded in Volume 629, Page 479, Deed Records, Denton County, Texas, Volume 2116, Page 648, Real Property Records, Denton County, Texas, and Volume 2563, Page 234 of said Real Property Records;

THENCE N 00°23'10" W, 291.31 feet, along the east line of said Powdermaker tract and the west line of said Kindred tract and said 40' Perpetual Road Easement, to a 1/2" capped rebar (G & A) set;

THENCE N 89°36'50" E, 375.00 feet, to a 1/2" capped rebar (G & A) set;

THENCE S 00°23'10" E, 235.00 feet, to a 1/2" capped rebar (G & A) set on the south line of said Kindred tract and the north line of that certain tract of land described in deed to Flower Mound Equest, LLC., recorded in Document Number 2007-34103 of the Real Property Records of Denton County, Texas;

THENCE S 81°11'45" W, 90.26 feet, along the south line of said Kindred tract and the north line of said Flower Mound Equest tract, to a 1/2" rebar found at the northwest corner thereof, being the northeast corner of Lot 1, Block 1, Equiplex Veterinary Clinic, an addition to the Town of Flower Mound according to the plat thereof recorded in Cabinet 1, Page 400 of the Plat Records of Denton County, Texas;

THENCE S 81°02'10" W, 288.94 feet, continuing along the south line of said Kindred tract and the north line of said Lot 1, Block 1, Equiplex Veterinary Clinic, passing the northwest corner thereof, to the POINT OF BEGINNING and containing approximately 2.265 acres of land.

Bearings based on Texas Coordinate System, North Central Zone
NAD '83

EXHIBIT B

[See attached two (2) pages.]

SUBJECT PARCEL (FROM TITLE)

Being all that certain lot, tract or parcel of land situated in the N. Thompson Survey, Abstract Number 1270, Town of Flower Mound, Denton County, Texas, being part of that certain called 27.4102 acre tract of land described in deed to Tom W. Kindred recorded in Volumned 1379, Page 438 of the Real Property Records of Denton County, Texas, and being more particularly described as follows:
BEGINNING at a 5/8" rebar found at the southwest corner of said Kindred tract, being the northwest corner of that certain tract of land described in deed to Robert P. Lufborrow recorded in Volume 1054, Page 366 of the Deed Records of Denton County, Texas and being on the east line of that certain tract of land described in deed to Alan Powdermaker and Francois Uhler, a Partnership (Powdermaker), recorded in Volume 1130, Page 498 of the Deed Records of Denton County, Texas, and being on the west line of a 40' Perpetual Road Easement recorded in Volume 629, Page 479, Deed Records, Denton County, Texas, Volume 2116, Page 648, Real Property Records, Denton County, Texas, and Volume 2563, Page 234 of said Real Property Records;
THENCE N 00°23'10"W, 291.31 feet, along the east line of said Powdermaker tract and the west line of said Kindred Tract and said 40' perpetual Road Easement, to a 1/2" capped rebar (G & A) set;
THENCE N 89°36'50"E, 375.00 feet, to a 1/2" capped rebar (G & A) set;
THENCE S 00°23'10"E, 235.00 feet, to a 1/2" capped rebar (G & A) set on the south line of said Kindred tract and the north line of that certain tract of land described in deed to Flower Mound Equest, LLC. Recorded in Document Number 2007-34103 of the Real Property Records of Denton County, Texas;
THENCE S 81°11'45"W, 90.26 feet, along the south line of said Kindred tract and the north line of said Flower Mound Equest tract, to a 1/2" rebar found at the northwest corner thereof, being the northeast corner of Lot 1, Block 1, Equiplex Veterinary Clinic, an addition to the Town of Flower Mound according to the plat thereof recorded in Cabinet 1, Page 400 of the Plat Records of Denton County, Texas;
THENCE S 81°02'10"W, 288.94 feet, continuing along the south line of said Kindred tract and the north line of said Lot 1, Block 1, Equiplex Veterinary Clinic, passing the northwest corner thereof, to the POINT OF BEGINNING and containing approximately 2.265 acres of land.

22' X 10' LEASE AREA (AS-SURVEYED)

Being a portion of Western Elevated Tank Addition as recorded in Document Number 2011-112, Plat Records of Denton County, Texas, and lying in the N. Thompson Survey, Abstract Number 1270, Town of Flower Mound, Denton County, Texas, and being more particularly described as follows:

Commencing at a capped rebar found on the East right-of-way line of Freeman Road at the northwest corner of said Western Elevated Tank Addition; thence N 89°39'14"E a distance of 334.96 feet to a capped rebar found at the northeast corner of Western Elevated Tank Addition; thence S 63°17'23"W a distance of 144.42 feet to a 5/8" rebar set and the Point of Beginning; thence S 89°39'06"W a distance of 22.00 feet to a 5/8" rebar set; thence N 00°20'54"W a distance of 10.00 feet to a 5/8" rebar set; thence N 89°39'06"E a distance of 22.00 feet to a 5/8" rebar set; thence S 00°20'54"E a distance of 10.00 feet to the Point of Beginning. Said above-described Lease Area contains 220.00 square feet, more or less.

INGRESS/EGRESS & UTILITY EASEMENT (AS-SURVEYED)

Being a portion of Western Elevated Tank Addition as recorded in Document Number 2011-112, Plat Records of Denton County, Texas, and lying in the N. Thompson Survey, Abstract Number 1270, Town of Flower Mound, Denton County, Texas, and being more particularly described as follows:

Commencing at a capped rebar found on the East right-of-way line of Freeman Road at the northwest corner of said Western Elevated Tank Addition; thence N 89°39'14"E a distance of 334.96 feet to a capped rebar found at the northeast corner of Western Elevated Tank Addition; thence S 63°17'23"W a distance of 144.42 feet to a 5/8" rebar set; thence S 89°39'06"W a distance of 22.00 feet to a 5/8" rebar set; thence N 00°20'54"W a distance of 10.00 feet to a 5/8" rebar set and the Point of Beginning; thence N 00°20'54"W a distance of 11.82 feet to a point; thence S 89°39'14"W a distance of 183.56 feet to a point on said east right-of-way line of Freeman Road; thence N 00°20'42"W, along said eastern right-of-way line, a distance of 20.00 feet to a point; thence N 89°39'14"E a distance of 334.08 feet to a point; thence S 00°20'46"E a distance of 20.00 feet to a point; thence S 89°39'14"W a distance of 128.51 feet to a point; thence S 00°20'40"E a distance of 11.82 feet to a 5/8" rebar set; thence S 89°39'14"W a distance of 22.00 feet to the Point of Beginning. Said above-described Ingress/Egress & Utility Easement contains 6,941.6 square feet or 0.16 acres, more or less.

SURVEYOR'S NOTES

1. This is a Rawland Tower Survey, made on the ground under the supervision of a Texas Registered Land Surveyor. Date of field survey is September 1, 2021.
2. The following surveying instruments were used at time of field visit: Topcon GM-55 and Topcon Hiper SR G.P.S. receiver, (R.T.K. network capable).
3. Bearings are based on Texas North Central State Plane Coordinates NAD 83 by GPS observation.
4. No underground utilities, underground encroachments or building foundations were measured or located as a part of this survey, unless otherwise shown. Trees and shrubs not located, unless otherwise shown.
5. Benchmark used is a GPS Continuously Operating Reference Station, PID DF8986. Onsite benchmark is as shown hereon. Elevations shown are in feet and refer to NAVD 88.
6. This survey was conducted for the purpose of a Rawland Tower Survey only, and is not intended to delineate the regulatory jurisdiction of any federal, state, regional or local agency, board, commission or other similar entity.
7. Attention is directed to the fact that this survey may have been reduced or enlarged in size due to reproduction. This should be taken into consideration when obtaining scaled data.
8. This Survey was conducted in reference to a Title Search Report, Order Number HA312001, by Hollerbach & Associates Inc, with an effective date of April 29, 2022.
9. Surveyor hereby states the Geodetic Coordinates and the elevation shown for the proposed centerline of the tower are accurate to within +/- 20 feet horizontally and to within +/- 3 feet vertically (FAA Accuracy Code 1A).
10. Survey shown hereon conforms to the Minimum Requirements as set forth by the State Board for a Class "A" Survey.
11. Field data upon which this map or plat is based has a closure precision of not less than one-foot in 15,000 feet (1':15,000') and an angular error that does not exceed 10 seconds times the square root of the number of angles turned. Field traverse was not adjusted.
12. This survey is not valid without the original signature and the original seal of a state licensed surveyor.
13. This survey does not constitute a boundary survey of the Parent Tract. Any parent tract property lines shown hereon are from supplied information and may not be field verified.

PLOTTABLE EXCEPTIONS
Hollerbach & Associates, Inc.
Title Search Report Order No. HA312001
Date April 28, 2022 @ 8:00 am
Exceptions

Instrument	Comment
Book 2231, Page 442	Does not affect Lease Area or Easement.
Book 2314, Page 961	Does not affect Lease Area or Easement.
Instrument No. 2010-122225	Does not affect Lease Area or Easement.
Book 1292, Page 424	Does not affect Lease Area or Easement.
Book 2116, Page 648	Does not affect Lease Area or Easement.
Book 2563, Page 234	Does not affect Lease Area or Easement.

SURVEYOR'S CERTIFICATION



I certify to that all parts of this survey and drawing have been completed in accordance with the current requirements of the Standards of Practice for Surveying in the State of Texas to the best of my knowledge, information, and belief.

William H. Sommerville, III
William H. Sommerville, III 09/01/2023
Texas License No. 6094

STALLION CIRCLE
FUZE: 16119360 MDG #: 5000058733
N. THOMPSON SURVEY
ABSTRACT NO. 1270
DENTON COUNTY, TEXAS

SMW Engineering Group, Inc.
158 Business Center Drive
Birmingham, Alabama 35244
Ph: 205-252-6985
www.smweng.com

FOR:
RAWLAND TOWER SURVEY
VERIZON WIRELESS
600 HIDDEN RIDGE
IRVING, TEXAS 75038

SHEET 2 OF 2

PROJECT NO.
21-10948

NO. 1
REVISED LEASE/EASEMENT
TITLE COMMITMENT
DATE: 09/07/21
SCALE: N.T.S.

DATE 06/19/23
BY PWK

DATE 07/06/23
BY PWK



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

DATE: December 16, 2024
FROM: Clayton Riggs, Director of Public Works
ITEM: **Consider approval of a Professional Services Agreement with Burns & McDonnell Engineering Company, Inc., for Work Order System Analysis and Improvement services for the Utility Asset Management project, in the amount of \$123,500.00; and authorization for the Mayor to execute same on behalf of the Town.**

BACKGROUND: The Public Works and Parks & Recreation utilize Cityworks as the departmental work order systems. The system is in need of network setup upgrades and workflow processes to improve efficiencies. This scope of work will identify opportunities for improvements with the usage of Cityworks and best practices. In addition an assessment of workflows and GIS webservices and webmaps (map services, feature services, basemap services) published to the Town's ArcGIS Server / ArcGIS Enterprise environment that is integrated with Cityworks. All findings will be summarized in a technical memorandum and provide for implementation and improvements to the current environment and workflows to improve efficiencies in the departments.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES: Continue with normal practice that is limiting and inefficient.

FISCAL IMPACT: \$123,500.00

Proposed Expenditure/(Revenue)
\$123,500.00

Account Number(s):
630-960-96004-6170

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 Cityworks
2. Form 1295 (For Internal Use)
3. PSA Burns McDonald Health Check

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



PROPOSAL FOR

Cityworks Current State Assessment, System Updates, As Needed Support

Submitted To: City of Flower Mound, TX

Date: December 9, 2024





December 9, 2024

Mr. Clay Riggs | Public Works Director
City of Flower Mound, TX
201 Spinks Rd.
Flower Mound, TX 75028

Re: Proposal for Cityworks Current State Assessment and Future State Recommendations, User Training, and As Needed Support

Dear Mr. Riggs

The City of Flower Mound, TX (the City) has been a user of the Cityworks platform for many years and the system is critical for effectively managing and maintaining the City's assets. Over time, the City's needs and expectations of the system have evolved and so has the technology. New departments have begun using the system and staff turnover has occurred for existing users.

1898 & Co., a division of Burns & McDonnell, is providing the proposal below to help the City assess the current state of Cityworks usage, provide support for system updates or improvements, user training and change management, and as needed support. The goal of the project is to help the City improve asset management practices, provide higher levels of service to stakeholders, and realize the greatest return on the City's investment in Cityworks and their GIS systems.

We are the right partner to assist the City with this important effort. We are a gold Cityworks business partner with over 10 years' experience implementing the Cityworks Asset Management System, a gold Esri Business Partner with the ArcGIS Utility Network specialty for the Water/Wastewater Industry, and we have deep industry knowledge of public works and water infrastructure from more than 100 years of experience designing and constructing water, wastewater, and municipal infrastructure for clients like Flower Mound.

If you have any questions about our proposal, please contact me at 816-652-2820 or brian.hiller@1898andco.com

Sincerely,

Brian Hiller, Director, Geospatial Technologies



Introduction

Staying in stride with the modern world takes intelligent investment and optimized business strategy. Experienced consultants prepare you to meet the demands of changing markets so you can face the future with confidence.

Because the future won't wait. The consultants at 1898 & Co, combine experience with business strategy know-how to bring new answers to your challenges.

Burns & McDonnell has been building the future since 1898. Our corporation has had a front seat to witnessing our clients' desire for sustainable growth in a world transforming before their eyes. 1898 & Co. was launched by Burns & McDonnell to better serve you by looking beyond your individual projects and programs, delivering the strategic insights that will help you prosper in an ever-evolving world. 1898 & Co. delivers practical, data driven strategies through business optimization and strategic asset planning, digital transformation and software solutions, and security and compliance consulting.

An integral part of Burns & McDonnell

As part of Burns & McDonnell, our team can draw upon the vast experience created by the firm's 120+ years of architectural, engineering and construction history; after all, 1898 is the year Burns & McDonnell was founded. We not only effectively optimize and integrate business solutions, but also build the infrastructure you need to use them.

This background also gives us the unique ability to understand the entire life cycle of an asset - no matter the industry. In this way, we unlock the solutions that drive smarter business decisions, improving your organization and growing value. At 1898 & Co., we know the future won't wait. We strive to show you the way forward, then deliver it.

Optimize your business

Today's industries are ever-changing to meet the needs of the modern world. Your business must do the same. Optimizing your decisions and your strategy gives you better insight and unlocks the future.

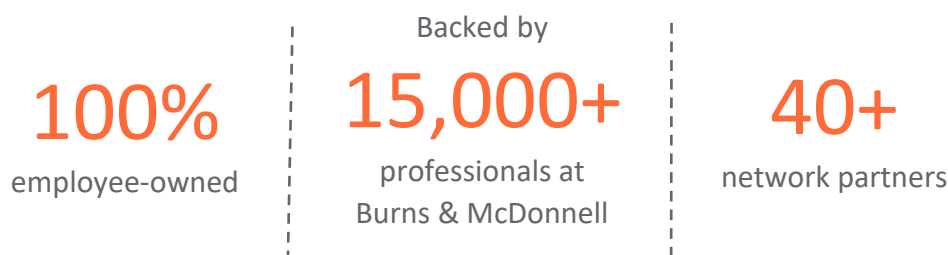


Industries we serve

- Aviation
- Chemicals, Oil & Gas
- Commercial, Retail & Institutional
- Construction
- Environmental
- Government, Military & Municipal
- Manufacturing & Industrial
- Power
- Telecommunications
- Transportation
- Water



We provide data-driven management consulting and business strategies to strengthen your people and assets by identifying opportunities for improvement. No matter your business objectives, we help you take an effective approach to tomorrow's challenges.



Digitally transform

Finding a path through the maze of emerging technologies means staying ahead of disruptions and forecasting where industries are headed. But digital transformation is about more than simply implementing new tools. Maintaining organizational agility also means shifting culturally to meet the changes as they come.

We offer innovative strategies and solutions that scale with your business objectives. Our technology approach brings these strategies to life to help you accelerate growth and remain competitive in fluctuating markets.

Manage your risk

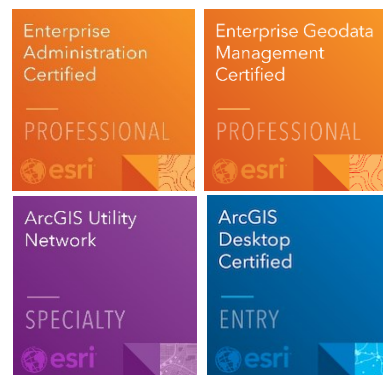
Threats to the cyber and physical assets of your business continue to evolve, and more threats become apparent every day. Protecting your assets is key to maintaining the reliability of your equipment, systems, and output to deliver consistent services to customers.

With a deep understanding of complex industries and the regulatory landscape, we bring insights to your business, building a systematic, structured, and holistic approach to risk management that meets your needs and remains cost-effective.

GIS and Cityworks Qualifications

With a team of technology professionals around the world, many of whom specialize in the usage, planning, implementation, and extension of Geographic Information Systems (GIS), 1898 & Co. has the people, skills, and experience necessary to help you with your GIS project.

1898 & Co. has experience with a wide variety of data formats and all facets of GIS, from backend systems to end-user applications. Our team of GIS consultants work across a range of industries, and we bring that breadth of experience to help solve some of the world's biggest challenges.





We have experience supporting the following types of projects:



Utility Network Management
Specialty



ArcGIS Indoors
Specialty



Release Ready
Specialty



ArcGIS Online
Specialty



- Enterprise system deployments and upgrades
- System integration efforts
- Application development
- Asset management & Cityworks implementations
- Enterprise GIS consulting
- Geospatial analytics
- Site/route selection
- Utility network model Geospatial analysis
- Mobile application deployment and project management
- Geospatial roadmap and strategic plan development
- GIS managed services
- GIS staff augmentation
- ArcGIS Utility Network implementations
- Project ArcGIS Online Environments
- Safe Software FME Consulting and Implementation



1898 & Co. is a Gold level Business Partner with GIS software leader Esri. We have been a business partner since 2005 and have actively participated in the Business Partner Advantage Program since 2015. 1898 & Co. helps our clients stay up to date with the latest advancements in the ArcGIS platform. Our staff is actively engaged with Esri on existing technology offerings and participates in alpha and beta testing opportunities to guide and mold the future of the ArcGIS platform. Esri has recognized 1898 & Co.'s experience with the ArcGIS Utility Network, ArcGIS Online, and ArcGIS Indoors by awarding us the ArcGIS Utility Network, ArcGIS Online, and ArcGIS Indoors specialty business partner designations. 1898 & Co. staff members are certified at the highest levels in Esri Enterprise System Administration and Enterprise System Design.



1898 & Co. is a Gold Level Cityworks implementation partner. We have been helping water and wastewater client's setup and configure Cityworks for over a decade. We have experience helping organizations implement the Cityworks Asset Management System (AMS) and Cityworks Permitting, Licensing, and Land (PLL).

1898 & Co. has helped client's setup Cityworks specific workflows to respond to Sanitary Sewer Overflows (SSOs), manage Fats, Oil, and Grease (FOG) programs, track capital projects and warranty information and other water/sewer specific workflows. In addition, we have helped setup and design unidirectional flushing programs, water-main break response tools, large-scale hydrant inspection programs, private Inflow/Infiltration (I/I) programs, and sewer, rehabilitation programs.



Objectives, Purpose, and Background

The City has been using Cityworks for many years and there have been a variety of opportunities identified to improve the use of the system and realize a greater return on the City's investment in the platform.

To help the City fully leverage its investment in Cityworks and support the overall asset management program, 1898 & Co. consultants will meet with Cityworks users and stakeholders identified by public works leadership, collect current state information and opportunities for improvement and share our knowledge on best practices for Cityworks usage. After the current state assessment and the knowledge transfer sessions, the 1898 & Co. team will provide a technical memorandum and executive presentation with recommendations for improvements along with 100 hours of adhoc consulting support to assist with implementing the recommended improvements.

Scope of Work, Consultant's Responsibilities and Deliverables

Project Kickoff Meeting

To kick off the project 1898 & Co. proposes holding a remote meeting with the primary stakeholders for the current state of Cityworks and GIS for the organization.

The kickoff meeting will confirm goals and requirements for the project, provide a draft project schedule, identify project tasks, list stakeholders that should be engaged throughout the project and discuss administrative items such as project status meetings and invoicing requirements.

Task 1 - Onsite Stakeholder Interviews, Current State Assessment, and Knowledge Transfer Sessions

To assist the city with identifying opportunities for improvement with the usage of Cityworks and sharing knowledge on best practices, 1898 & Co. consultants will engage with public works leadership to identify stakeholders to engage throughout the current state assessment task.

Current state assessment sessions will be held onsite at the city offices during a three-day onsite visit and conducted remotely by 1898 & Co. consultants with Cityworks and GIS expertise and may include subject matter experts. Current state assessment sessions will focus on educating staff on Cityworks best practices and collecting information to help identify opportunities for improvement and capture the stakeholder's goals for the use of the system or workflows associated with it.

1898 & Co. anticipates holding meetings with up-to 8-10 different stakeholder groups, including, but not limited to the following divisions:

- Signals
- Signs

- Sewer
- Water
- Warehousing
- Drainage
- Streets
- GIS/Information Technology
- Public Works Leadership
- Water/Sewer Facilities
- Parks & Recreation

Assumptions:

Stakeholder interviews will be conducted during a three-day onsite visit during which multiple stakeholder meetings can be scheduled. If follow up information is needed or stakeholders from the City are unavailable during the scheduled onsite visit Microsoft Teams virtual meetings will be held.

Task 2. Existing GIS and Cityworks Data and System Configuration Review

1898 & Co. consultants will review the existing GIS asset data and the current Cityworks configuration. Assessment will also include a review of the existing asset data creation workflows and the GIS webservices and webmaps (map services, feature services, basemap services) that are published to the City's ArcGIS Server / ArcGIS Enterprise environment that is integrated with Cityworks.

Assumptions:

The City will provide 1898 & Co. consultants with remote access to the existing GIS, Cityworks environments for review.

Task 3. Key Findings and Recommendations Technical Memorandum and Executive Presentation

After meeting with the stakeholders and performing an assessment of the GIS data and existing Cityworks configuration and data, the 1898 & Co. team will develop a brief technical memorandum and provide an executive overview presentation that summarizes the information collected during the stakeholder interviews along with a listing of recommendations for improvements. The technical memorandum and executive presentation will provide an overview of the findings and allow the City's staff to provide feedback on next steps.

Deliverables:

- Technical memorandum in Microsoft Word and PDF format along with an executive presentation outlining information gathered and recommendations for opportunities for improvement by business unit.



Task 4. 100 Hours of Ad Hoc Support for Cityworks and GIS Updates and Improvements

The 1898 & Co. team will use the information gathered during the stakeholder interviews, the data review process, and feedback provided by the city to assist with implementing identified improvements to the Cityworks and GIS systems. Improvements will be prioritized and authorized by City’s staff prior to commencing work. A monthly report will show how many hours of the 100 support hours have been used and how many support hours remain. In addition to the 100 hours of ad-hoc support, 1898 & Co. has included a budget for one three-day trip for two consultants to be used to support the City of Flower Mound during the as-needed support phase of the project.

Support may include, but is not limited to, the following activities:

- Cityworks AMS system updates (work activity template creation, updates, etc.)
- User training
- Business process redesign and standard operating procedure updates
- Implementation of Cityworks mobile technology (Cityworks Respond or native mobile apps)
- Implementation of Cityworks Insights
- GIS data model updates
- Data cleanup
- Report updates
- Cityworks configuration updates
- Dashboard development support
- ArcGIS Enterprise / Portal implementation support

For assistance beyond 100 hours of consulting support, individual projects may be scoped and budgeted or an annual support agreement may be put in place to provide as-needed assistance.

Compensation, Invoicing, and Contracting

Based on the scope of work identified above, we propose to perform these services on a lump-sum basis for \$123,500. Invoices will be delivered monthly, and the project will be billed based on the completion percentage of the tasks listed in the table below. The services provided will adhere to the terms and conditions of the professional services agreement between the Town of Flower Mound and Burns & McDonnell Engineering Company, Inc., for Work Order System Migration and GIS services for the Utility Asset Management dated July 24, 2023, and entered on 08/21/2023 and executed by the Town on 08/23/2023.

Task	Fee
Task 1 - Onsite Stakeholder Interviews, Current State Assessment, and Knowledge Transfer Sessions	\$42,500
Task 2 - Existing GIS and Cityworks Data and System Configuration Review	\$24,000
Task 3 - Key Findings and Recommendations Technical Memorandum and Executive Presentation	\$28,500
Task 4 - 100 Hours of Ad hoc Support and Onsite Training for Cityworks and GIS Updates and Improvements	\$28,500
Total	\$123,500



Assumptions

This lump sum proposal is based on the following assumptions:

- ▶ The City's staff will be available and provide input during the information-gathering sessions.
- ▶ A maximum of 10 stakeholder interviews will be conducted.
- ▶ The City will provide remote access to Cityworks and GIS environments with the necessary privileges to assist with the data review and system configuration updates.
- ▶ Unless otherwise stated, meetings and training sessions will be held remotely via Microsoft Teams

Performance Period & Project Location

1. Scope of Work Start Date: January of 2025
2. Anticipated Scope of Work Completion Date: September of 2025
3. Location of Performance: Two onsite visits to the City's facilities plus remote meetings with Microsoft Teams

We are excited about the opportunity to assist the city with this important project. If you have any questions concerning this proposal, please contact Brian Hiller at 816-652-2820 or brian.hiller@1898andco.com.

Sincerely,

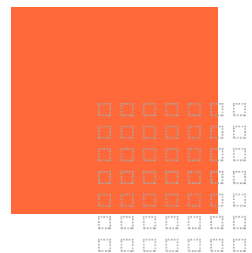


Brian Hiller, Director, Geospatial Technologies



9400 Ward Parkway
Kansas City, MO 64114
816-333-9400

1898andCo.com



THE STATE OF TEXAS §
COUNTY OF DENTON §

**PROFESSIONAL SERVICES AGREEMENT WITH
BURNS & MCDONNELL ENGINEERING COMPANY, INC.**

This contract is entered into on this 16th day of December, 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 **BURNS & MCDONNELL ENGINEERING COMPANY, INC.** (“hereinafter referred to as “CONSULTANT/ENGINEER”) whose address is 9400 Ward Parkway, Kansas City, MO 64114

RECITALS

WHEREAS, TOWN desires to obtain professional services from CONSULTANT/ENGINEER relative to general project management, ESRI software consulting and project management, Cityworks software consulting and software management, Geographic Information Systems (GIS) consulting and project management, and GIS engineering; and

WHEREAS, CONSULTANT/ENGINEER is an engineering and consulting 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/ Engineer

CONSULTANT/ENGINEER 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 general project management, software programming, software project management, GIS project management and engineering, 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. CONSULTANT/ENGINEER has represented or is representing that it has expertise in the services set forth in Attachment A to be utilized in this Contract, and CONSULTANT/ENGINEER agrees to perform those services to the appropriate local, regional and national professional standards.

II.

Scope of Services

CONSULTANT/ENGINEER shall perform such services as are necessary for the ESRI software, Cityworks software, and GIS engineering 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 Attachment A 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 the amount set forth in Attachment A. This total payment for services includes CONSULTANT/ENGINEER’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/ENGINEER. If CONSULTANT/ENGINEER retains any subcontractors to perform any of the work, CONSULTANT/ENGINEER 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/ENGINEER will bill TOWN in accordance with Attachment “A”; provided however that this Contract shall control in the event of any conflict between the language in Attachment “A” and the language in this Contract. If additional services, trips or expenses are requested, CONSULTANT/ENGINEER 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.

CONSULTANT/ENGINEER will submit to TOWN an invoice for payment to CONSULTANT/ENGINEER in accordance with Attachment A. Each invoice shall also

state the 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/ENGINEER'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/ENGINEER 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

The parties may agree to revise or expand the scope of services after due approval CONSULTANT/ENGINEER by the parties pursuant to Section XVI. In CONSULTANT/ENGINEER such case, CONSULTANT/ENGINEER shall provide TOWN a written proposal for the entire costs involved in performing such additional services. Prior to CONSULTANT/ENGINEER 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/ENGINEER 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/ENGINEER thirty (30) days written notice of such termination. Upon receipt of such notice, CONSULTANT/ENGINEER 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. If so terminated, TOWN shall pay CONSULTANT/ENGINEER all amounts due CONSULTANT/ENGINEER for all services properly rendered and expenses incurred to the date of receipt of notice of termination, plus reasonable costs incurred by CONSULTANT/ENGINEER in terminating the services.

VII.

Ownership of Documents

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

VIII.

Insurance

A. CONSULTANT/ENGINEER shall, at its own expense, purchase, maintain and keep in force during the term of this Contract such insurance as set forth below. CONSULTANT/ENGINEER shall not commence work under this Contract until CONSULTANT/ENGINEER has obtained all the insurance required under this Contract and such insurance certificate has been provided to TOWN, nor shall CONSULTANT/ENGINEER allow any subcontractor to commence work on its own subcontract until all similar insurance of the subcontractor has been obtained and evidenced. 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” is purchased if coverage expires and is not replaced. The insurance requirements shall remain in effect throughout the term of this Contract. TOWN and CONSULTANT/ENGINEER and their respective officers, directors, agents, or employees release each other and waive all rights of subrogation against each other, and their respective officers, directors, agents, or employees, for property damage and property loss covered by their respective property insurance (including deductibles and self-insurance) during and after the completion of CONSULTANT/ENGINEER’s services on the project.

CONSULTANT/ENGINEER shall provide the Town certificates of insurance indicating the coverage required. The certificates are to be signed by a person authorized by that insurer to bind coverage on its behalf. Certificates of Insurance similar to the ACORD Form are acceptable. Town will not accept Memorandums of Insurance or Binders as proof of insurance. Certificates shall reference the Project and be addressed as follows:

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

The following policies and coverage shall be required:

1. Worker's Compensation Insurance (as required by law) with the policy endorsed to provide a waiver of subrogation as to TOWN; such policy to provide for Employers' Liability Insurance of \$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 CONSULTANT/ENGINEER and insuring CONSULTANT/ENGINEER'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 combined single limits of \$1,000,000 per occurrence, \$2,000,000 Products/Completed Operations Aggregate and \$2,000,000 general aggregate. 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 combined bodily injury and property damage limit of \$1,000,000.00 each accident; and
4. Professional Liability Insurance: CONSULTANT/ENGINEER 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" is purchased if coverage expires and is not replaced. Limits of liability shall be \$1,000,000 per claim and \$1,000,000 annual aggregate.

If any of the foregoing insurance is written on a claims-made form, coverage shall be maintained (by renewal or extended reporting period) for thirty-six (36) months following completion of CONSULTANT/ENGINEER's services/work. All such insurance shall be purchased from an insurance company that meets a financial rating of A-VI or better as assigned by A.M. Best Company or equivalent.

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

1. The TOWN shall be included as an additional insured on the Commercial General Liability policy, by using endorsements CG 203 7 07/04 or equivalent;
2. The TOWN shall also be included as an additional insured on the Business Automobile Liability policy;
3. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled or non-renewed by either party, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the Town to:

Clay Riggs, PE, CFM
Director of Public Works
Town of Flower Mound
2121 Cross Timbers Road
Flower Mound, Texas 75028
972-874-6411 Telephone

In the event the companies providing the required insurance are prohibited by law to provide any such specific endorsements, the Consultant shall provide at least thirty (30) days prior written notice to the City of any cancellation, non-renewal and/or material changes to any of the policies of insurance. Failure to provide notification shall be deemed a default and/or breach of contract.

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 Commercial General Liability and Business Automobile Liability policies providing additional insured coverage to TOWN shall be primary and non-contributory; and
- 6.

C. Concerning insurance to be furnished by CONSULTANT/ENGINEER, 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/ENGINEER. 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;
3. All liability policies required herein, save and except Professional Liability Insurance, shall be written with an "occurrence" basis coverage trigger.

D. CONSULTANT/ENGINEER agrees to the following:

1. CONSULTANT/ENGINEER hereby waives subrogation rights for loss or damage to the extent same are covered by the Commercial General Liability and Business Automobile Liability insurance. The Commercial General Liability and Business Automobile Liability 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 losses covered by the policies where additional insured coverage is provided;
2. Companies issuing the insurance policies and CONSULTANT/ENGINEER 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/ENGINEER;
3. Approval, disapproval or failure to act by TOWN regarding any insurance supplied by CONSULTANT/ENGINEER (or any subcontractors) shall not relieve CONSULTANT/ENGINEER 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/ENGINEER from liability; and
4. No special payments shall be made for any insurance that the CONSULTANT/ENGINEER 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.
Intentionally Deleted**

X.
Successors and Assigns

TOWN and CONSULTANT/ENGINEER 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/ENGINEER shall assign or transfer its interest herein without the prior written consent of the other.

XI.
CONSULTANT/ENGINEER Limitation of Liability

Neither party is liable for any special, indirect, incidental, punitive, or consequential damages to the other. The excluded damages include, but are not limited to, by way of example, loss of profits; loss of savings or revenue; loss of use of the equipment, sublicensed software, licensed software, services, or data; cost of capital; cover costs, or cost of any substitute performance or replacement of equipment, facilities or services; third party consequential damages; and damage or loss property.

Notwithstanding any other provision herein, CONSULTANT/ENGINEER's maximum aggregate liability to TOWN for all claims arising out of or related to this Contract shall be limited to the specific remedies provided herein, but shall not exceed \$3,000,000. The limitations of liability provided herein in this Section XI shall apply should it be judicially determined that the specific remedies provided elsewhere in this Contract fail in their essential purpose.

XII.
Intentionally Deleted

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XIII.
Independent Contractor

CONSULTANT/ENGINEER'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/ENGINEER or TOWN under this Contract shall be construed as changing that status. CONSULTANT/ENGINEER 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/ENGINEER, 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/ENGINEER.

XIV. Default

If at any time during the term of this Contract, CONSULTANT/ENGINEER 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/ENGINEER 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/ENGINEER'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/ENGINEER hereunder, CONSULTANT/ENGINEER shall be liable for and shall reimburse TOWN for such excess.

TOWN's remedies for CONSULTANT/ENGINEER'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. Intentionally Deleted

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/ENGINEER shall be incorporated by written modification to this Contract.

XVII. Conflicts of Interest

CONSULTANT/ENGINEER covenants and agrees that CONSULTANT/ENGINEER 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/ENGINEER pursuant to this Contract will be conducted by employees, associates or subcontractors of CONSULTANT/ENGINEER.

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/ENGINEER 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/ENGINEER 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/ENGINEER 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/ENGINEER, was known to CONSULTANT/ENGINEER prior to the date of this Contract free of any obligation to keep it confidential, that the receiving party can demonstrate was independently developed by the receiving party without reliance on or reference to the disclosing party's Confidential Information, or are required to be disclosed by a governmental authority or by law. The obligations described in this Article XVIII shall expire two (2) years following the termination or completion of this Contract.

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/ENGINEER is otherwise notified:

Clay Riggs PE, CFM
Director of Public Works
Town of Flower Mound
2121 Cross Timbers Road
Flower Mound, Texas 75028
972-874-6411 Telephone

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

Brian Hiller
Director, Geospatial Technologies
1898 & Co., a division Burns & McDonnell Engineering Company,
Inc.
9400 Ward Parkway
Kansas City, MO 64114
816-652-2820 Telephone
brian.hiller@1898andco.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/ENGINEER 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/ENGINEER's income.

XXI.

Non-Discrimination

CONSULTANT/ENGINEER 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 ensure that all such persons are treated equally during their employment without regard to their race, age, color, religion, sex, or national origin. If CONSULTANT/ENGINEER 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/ENGINEER ineligible for future TOWN contracts until it is determined to be in compliance.

XXII. Arbitration

CONSULTANT/ENGINEER 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

Except where exclusive remedies are provided or damages are waived or limited herein, no other 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. The parties expressly agree that this Contract includes (i) this Professional Services Agreement; (ii) Exhibit A; and (iii) the Town of Flower Mound's Addendum to this Professional Services Agreement. Collectively, these documents will be known as the Contract and additionally referred to as the "Contract Documents").

XXVII.
Non-Waiver

It is further agreed that one (1) or more instances of forbearance by either party 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. EACH PARTY HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS CONTRACT.

XXX.
No Third Party Beneficiary

For purposes of this Contract, including its intended operation and effect, the parties (TOWN and CONSULTANT/ENGINEER) 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/ENGINEER 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/ENGINEER.

[The remainder of this page is left blank intentionally]

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

THE TOWN OF FLOWER MOUND, TEXAS

By: _____
The Honorable Cheryl Moore
Mayor, Town of Flower Mound

Date Signed: _____

Attest:

Town Secretary

CONSULTANT/ENGINEER:

**Burns & McDonnell Engineering Company,
Inc.**

By: 
Name: Brian Hiller
Title: Director
Date Signed: 12/12/2024

State of Texas §
 §
County of Denton §

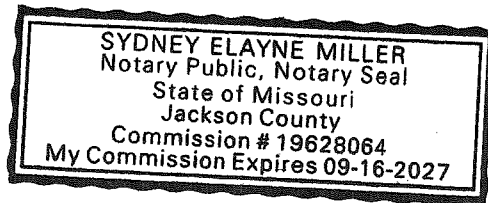
This instrument was acknowledged before me on the 12 day of December,
2024, by Brian Hiller in his capacity as Director of
Burns & McDonnell Engineering Company Inc Missouri Corporation, known to me to be the person
whose name is subscribed to the foregoing instrument, and acknowledged that he
executed the same on behalf of and as the act of Director.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS THE 12
DAY OF 12, 2024.
December

Sydney Elayne Miller
Notary Public, State of ~~Texas~~ Missouri sem

My Commission Expires:

09-10-2027





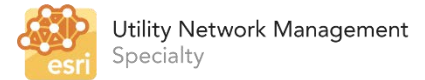
PROPOSAL FOR

Cityworks Current State Assessment, System Updates, As Needed Support

Submitted To: City of Flower Mound, TX

Date: December 9, 2024





December 9, 2024

Mr. Clay Riggs | Public Works Director
City of Flower Mound, TX
201 Spinks Rd.
Flower Mound, TX 75028

Re: Proposal for Cityworks Current State Assessment and Future State Recommendations, User Training, and As Needed Support

Dear Mr. Riggs

The City of Flower Mound, TX (the City) has been a user of the Cityworks platform for many years and the system is critical for effectively managing and maintaining the City's assets. Over time, the City's needs and expectations of the system have evolved and so has the technology. New departments have begun using the system and staff turnover has occurred for existing users.

1898 & Co., a division of Burns & McDonnell, is providing the proposal below to help the City assess the current state of Cityworks usage, provide support for system updates or improvements, user training and change management, and as needed support. The goal of the project is to help the City improve asset management practices, provide higher levels of service to stakeholders, and realize the greatest return on the City's investment in Cityworks and their GIS systems.

We are the right partner to assist the City with this important effort. We are a gold Cityworks business partner with over 10 years' experience implementing the Cityworks Asset Management System, a gold Esri Business Partner with the ArcGIS Utility Network specialty for the Water/Wastewater Industry, and we have deep industry knowledge of public works and water infrastructure from more than 100 years of experience designing and constructing water, wastewater, and municipal infrastructure for clients like Flower Mound.

If you have any questions about our proposal, please contact me at 816-652-2820 or brian.hiller@1898andco.com

Sincerely,

Brian Hiller, Director, Geospatial Technologies



Introduction

Staying in stride with the modern world takes intelligent investment and optimized business strategy. Experienced consultants prepare you to meet the demands of changing markets so you can face the future with confidence.

Because the future won't wait. The consultants at 1898 & Co, combine experience with business strategy know-how to bring new answers to your challenges.

Burns & McDonnell has been building the future since 1898. Our corporation has had a front seat to witnessing our clients' desire for sustainable growth in a world transforming before their eyes. 1898 & Co. was launched by Burns & McDonnell to better serve you by looking beyond your individual projects and programs, delivering the strategic insights that will help you prosper in an ever-evolving world. 1898 & Co. delivers practical, data driven strategies through business optimization and strategic asset planning, digital transformation and software solutions, and security and compliance consulting.

An integral part of Burns & McDonnell

As part of Burns & McDonnell, our team can draw upon the vast experience created by the firm's 120+ years of architectural, engineering and construction history; after all, 1898 is the year Burns & McDonnell was founded. We not only effectively optimize and integrate business solutions, but also build the infrastructure you need to use them.

This background also gives us the unique ability to understand the entire life cycle of an asset - no matter the industry. In this way, we unlock the solutions that drive smarter business decisions, improving your organization and growing value. At 1898 & Co., we know the future won't wait. We strive to show you the way forward, then deliver it.

Optimize your business

Today's industries are ever-changing to meet the needs of the modern world. Your business must do the same. Optimizing your decisions and your strategy gives you better insight and unlocks the future.



Industries we serve

- Aviation
- Chemicals, Oil & Gas
- Commercial, Retail & Institutional
- Construction
- Environmental
- Government, Military & Municipal
- Manufacturing & Industrial
- Power
- Telecommunications
- Transportation
- Water



We provide data-driven management consulting and business strategies to strengthen your people and assets by identifying opportunities for improvement. No matter your business objectives, we help you take an effective approach to tomorrow's challenges.



Digitally transform

Finding a path through the maze of emerging technologies means staying ahead of disruptions and forecasting where industries are headed. But digital transformation is about more than simply implementing new tools. Maintaining organizational agility also means shifting culturally to meet the changes as they come.

We offer innovative strategies and solutions that scale with your business objectives. Our technology approach brings these strategies to life to help you accelerate growth and remain competitive in fluctuating markets.

Manage your risk

Threats to the cyber and physical assets of your business continue to evolve, and more threats become apparent every day. Protecting your assets is key to maintaining the reliability of your equipment, systems, and output to deliver consistent services to customers.

With a deep understanding of complex industries and the regulatory landscape, we bring insights to your business, building a systematic, structured, and holistic approach to risk management that meets your needs and remains cost-effective.

GIS and Cityworks Qualifications

With a team of technology professionals around the world, many of whom specialize in the usage, planning, implementation, and extension of Geographic Information Systems (GIS), 1898 & Co. has the people, skills, and experience necessary to help you with your GIS project.

1898 & Co. has experience with a wide variety of data formats and all facets of GIS, from backend systems to end-user applications. Our team of GIS consultants work across a range of industries, and we bring that breadth of experience to help solve some of the world's biggest challenges.



We have experience supporting the following types of projects:



Utility Network Management
Specialty



ArcGIS Indoors
Specialty



Release Ready
Specialty



ArcGIS Online
Specialty



- Enterprise system deployments and upgrades
- System integration efforts
- Application development
- Asset management & Cityworks implementations
- Enterprise GIS consulting
- Geospatial analytics
- Site/route selection
- Utility network model Geospatial analysis
- Mobile application deployment and project management
- Geospatial roadmap and strategic plan development
- GIS managed services
- GIS staff augmentation
- ArcGIS Utility Network implementations
- Project ArcGIS Online Environments
- Safe Software FME Consulting and Implementation



1898 & Co. is a Gold level Business Partner with GIS software leader Esri. We have been a business partner since 2005 and have actively participated in the Business Partner Advantage Program since 2015. 1898 & Co. helps our clients stay up to date with the latest advancements in the ArcGIS platform. Our staff is actively engaged with Esri on existing technology offerings and participates in alpha and beta testing opportunities to guide and mold the future of the ArcGIS platform. Esri has recognized 1898 & Co.'s experience with the ArcGIS Utility Network, ArcGIS Online, and ArcGIS Indoors by awarding us the ArcGIS Utility Network, ArcGIS Online, and ArcGIS Indoors specialty business partner designations. 1898 & Co. staff members are certified at the highest levels in Esri Enterprise System Administration and Enterprise System Design.



1898 & Co. is a Gold Level Cityworks implementation partner. We have been helping water and wastewater client's setup and configure Cityworks for over a decade. We have experience helping organizations implement the Cityworks Asset Management System (AMS) and Cityworks Permitting, Licensing, and Land (PLL).

1898 & Co. has helped client's setup Cityworks specific workflows to respond to Sanitary Sewer Overflows (SSOs), manage Fats, Oil, and Grease (FOG) programs, track capital projects and warranty information and other water/sewer specific workflows. In addition, we have helped setup and design unidirectional flushing programs, water-main break response tools, large-scale hydrant inspection programs, private Inflow/Infiltration (I/I) programs, and sewer, rehabilitation programs.



Objectives, Purpose, and Background

The City has been using Cityworks for many years and there have been a variety of opportunities identified to improve the use of the system and realize a greater return on the City's investment in the platform.

To help the City fully leverage its investment in Cityworks and support the overall asset management program, 1898 & Co. consultants will meet with Cityworks users and stakeholders identified by public works leadership, collect current state information and opportunities for improvement and share our knowledge on best practices for Cityworks usage. After the current state assessment and the knowledge transfer sessions, the 1898 & Co. team will provide a technical memorandum and executive presentation with recommendations for improvements along with 100 hours of adhoc consulting support to assist with implementing the recommended improvements.

Scope of Work, Consultant's Responsibilities and Deliverables

Project Kickoff Meeting

To kick off the project 1898 & Co. proposes holding a remote meeting with the primary stakeholders for the current state of Cityworks and GIS for the organization.

The kickoff meeting will confirm goals and requirements for the project, provide a draft project schedule, identify project tasks, list stakeholders that should be engaged throughout the project and discuss administrative items such as project status meetings and invoicing requirements.

Task 1 - Onsite Stakeholder Interviews, Current State Assessment, and Knowledge Transfer Sessions

To assist the city with identifying opportunities for improvement with the usage of Cityworks and sharing knowledge on best practices, 1898 & Co. consultants will engage with public works leadership to identify stakeholders to engage throughout the current state assessment task.

Current state assessment sessions will be held onsite at the city offices during a three-day onsite visit and conducted remotely by 1898 & Co. consultants with Cityworks and GIS expertise and may include subject matter experts. Current state assessment sessions will focus on educating staff on Cityworks best practices and collecting information to help identify opportunities for improvement and capture the stakeholder's goals for the use of the system or workflows associated with it.

1898 & Co. anticipates holding meetings with up-to 8-10 different stakeholder groups, including, but not limited to the following divisions:

- Signals
- Signs

- 
- 
- Sewer
 - Water
 - Warehousing
 - Drainage
 - Streets
 - GIS/Information Technology
 - Public Works Leadership
 - Water/Sewer Facilities
 - Parks & Recreation

Assumptions:

Stakeholder interviews will be conducted during a three-day onsite visit during which multiple stakeholder meetings can be scheduled. If follow up information is needed or stakeholders from the City are unavailable during the scheduled onsite visit Microsoft Teams virtual meetings will be held.

Task 2. Existing GIS and Cityworks Data and System Configuration Review

1898 & Co. consultants will review the existing GIS asset data and the current Cityworks configuration. Assessment will also include a review of the existing asset data creation workflows and the GIS webservices and webmaps (map services, feature services, basemap services) that are published to the City's ArcGIS Server / ArcGIS Enterprise environment that is integrated with Cityworks.

Assumptions:

The City will provide 1898 & Co. consultants with remote access to the existing GIS, Cityworks environments for review.

Task 3. Key Findings and Recommendations Technical Memorandum and Executive Presentation

After meeting with the stakeholders and performing an assessment of the GIS data and existing Cityworks configuration and data, the 1898 & Co. team will develop a brief technical memorandum and provide an executive overview presentation that summarizes the information collected during the stakeholder interviews along with a listing of recommendations for improvements. The technical memorandum and executive presentation will provide an overview of the findings and allow the City's staff to provide feedback on next steps.

Deliverables:

- Technical memorandum in Microsoft Word and PDF format along with an executive presentation outlining information gathered and recommendations for opportunities for improvement by business unit.



Task 4. 100 Hours of Ad Hoc Support for Cityworks and GIS Updates and Improvements

The 1898 & Co. team will use the information gathered during the stakeholder interviews, the data review process, and feedback provided by the city to assist with implementing identified improvements to the Cityworks and GIS systems. Improvements will be prioritized and authorized by City's staff prior to commencing work. A monthly report will show how many hours of the 100 support hours have been used and how many support hours remain. In addition to the 100 hours of ad-hoc support, 1898 & Co. has included a budget for one three-day trip for two consultants to be used to support the City of Flower Mound during the as-needed support phase of the project.

Support may include, but is not limited to, the following activities:

- Cityworks AMS system updates (work activity template creation, updates, etc.)
- User training
- Business process redesign and standard operating procedure updates
- Implementation of Cityworks mobile technology (Cityworks Respond or native mobile apps)
- Implementation of Cityworks Insights
- GIS data model updates
- Data cleanup
- Report updates
- Cityworks configuration updates
- Dashboard development support
- ArcGIS Enterprise / Portal implementation support

For assistance beyond 100 hours of consulting support, individual projects may be scoped and budgeted or an annual support agreement may be put in place to provide as-needed assistance.

Compensation, Invoicing, and Contracting

Based on the scope of work identified above, we propose to perform these services on a lump-sum basis for \$123,500. Invoices will be delivered monthly, and the project will be billed based on the completion percentage of the tasks listed in the table below. The services provided will adhere to the terms and conditions of the professional services agreement between the Town of Flower Mound and Burns & McDonnell Engineering Company, Inc., for Work Order System Migration and GIS services for the Utility Asset Management dated July 24, 2023, and entered on 08/21/2023 and executed by the Town on 08/23/2023.

Task	Fee
Task 1 - Onsite Stakeholder Interviews, Current State Assessment, and Knowledge Transfer Sessions	\$42,500
Task 2 - Existing GIS and Cityworks Data and System Configuration Review	\$24,000
Task 3 - Key Findings and Recommendations Technical Memorandum and Executive Presentation	\$28,500
Task 4 - 100 Hours of Ad hoc Support and Onsite Training for Cityworks and GIS Updates and Improvements	\$28,500
Total	\$123,500



Assumptions

This lump sum proposal is based on the following assumptions:

- ▶ The City's staff will be available and provide input during the information-gathering sessions.
- ▶ A maximum of 10 stakeholder interviews will be conducted.
- ▶ The City will provide remote access to Cityworks and GIS environments with the necessary privileges to assist with the data review and system configuration updates.
- ▶ Unless otherwise stated, meetings and training sessions will be held remotely via Microsoft Teams

Performance Period & Project Location

1. Scope of Work Start Date: January of 2025
2. Anticipated Scope of Work Completion Date: September of 2025
3. Location of Performance: Two onsite visits to the City's facilities plus remote meetings with Microsoft Teams

We are excited about the opportunity to assist the city with this important project. If you have any questions concerning this proposal, please contact Brian Hiller at 816-652-2820 or brian.hiller@1898andco.com.

Sincerely,

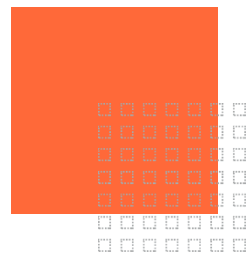


Brian Hiller, Director, Geospatial Technologies



9400 Ward Parkway
Kansas City, MO 64114
816-333-9400

1898andCo.com





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

DATE: December 16, 2024

FROM: Jeremy Brudwick, Grants and Financial Analyst

ITEM: **Consider approval of a Memorandum of Understanding (MOU) to accept the transfer of the Public Works Emergency Response Team (PWERT) light tower from the City of Rowlett that was awarded to the City as part of the Homeland Security Grant Program; and authorization for the Mayor to execute same on behalf of the Town.**

BACKGROUND: The City of Rowlett applied for and was awarded a grant through the Office of the Governor as part of the Homeland Security Grant Program. This funding was utilized to purchase various light towers to be added to the existing regional cache of equipment spread across the north central Texas region. This equipment was identified by the North Central Texas Public Works Emergency Response Team (PWERT) member jurisdictions as a critical need for before, during and after a possible terrorism incident.

One of these light towers is being transferred from the City of Rowlett to the Town of Flower Mound so that it can be utilized regionally to aid in emergency responses as well as incidents within the Town of Flower Mound. Once the transfer is made, the light tower will become Town of Flower Mound property and will be maintained and stored by the Town.

An MOU detailing the terms and conditions of the transfer must be signed by the Town.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES: N/A

FISCAL IMPACT: N/A

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

ATTACHMENTS:

1. Regional Equipment Transfer MOU
2. Grant Requirements

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

Regional Equipment Transfer MOU

Between

CITY OF ROWLETT

Sub-Recipient

and

TOWN OF FLOWER MOUND

Receiving Jurisdiction/Agency

Purpose

This Memorandum of Understanding (MOU) sets forth the terms, conditions and understanding between the City of Rowlett and the Town of Flower Mound in regard to transferring and receiving equipment purchased with State and/or Federal grant funds.

Duration

This MOU shall become effective upon signature by the authorized officials from each party and may be modified, and/or terminated, upon mutual consent of both authorized officials.

Certification

This is to certify that the equipment being transferred was acquired by the expenditure of grant funds awarded to the Sub-recipient.

The Receiving Jurisdiction/Agency certifies that they have received a copy of the Grantee Conditions and Responsibilities Memo (Attachment A) and have knowledge of, and are in compliance with the laws, rules and regulations of the grant, including compliance with all state and federal grant eligibility requirements.

The Receiving Jurisdiction/Agency further certifies that they have received a copy of the Sub-Recipient's Grant Award (Attachment B) and agrees to be bound by all the contract covenants and exhibits to the Sub-Recipient's award and any modifications or amendments to that award. Sub-Recipient certifies that all Grant Award documents and amendments are included in Attachment B.

The Sub-Recipient and Receiving Jurisdiction/Agency further certify that they are duly authorized and empowered by their governing body to enter into this agreement.

Equipment being transferred:

Item Description:	Generac Mobile Diesel Light Tower
Inventory Number:	N/A
Serial Number/VIN:	7FSBL1418PB169821
Model Number:	MLT4060KVLED-STD4
Acquisition Date:	April 22, 2024
Unit Cost/Fair Market Value:	\$14,429.50
% of Cost Federally Funded:	100
Grant Year/Program:	2023
FAIN:	EMW-2023-SS-00025
eGrants Grant Number:	4827501

Regional Equipment Transfer MOU

Sub-recipient Responsibilities:

The Sub-recipient agrees to:

Notify receiving jurisdiction/agency of any known modifications to applicable award requirements within 15 business days of receipt.

Receiving Jurisdiction/Agency Responsibilities:

The Receiving Jurisdiction/Agency agrees to:

- Maintain compliance with the requirements of federal and state granting agencies;
- Maintain all aspects of the asset including property records, physical inventory, control system, maintenance procedures, records retention, disposition, and comply with all grant requirements;
- Make available to federal and state granting agencies or the Texas State Auditor's Office, or designees of these agencies, any equipment items and related records upon request;
- Ensure the Sub-recipient is notified when pass-through equipment is disposed of by the receiving entity in accordance with 2 CFR 200.313 (e) and the Uniform Grant Management Standards. Notification should be made by email to the City of Rowlett Office of Emergency Management (oem@rowlett.com). (UGMS) Part III, Subpart C, Sec. 32 (e) Disposition;
- Ensure the equipment is maintained in good working order;
- Ensure a physical inventory is conducted every 2 years;
- Ensure the equipment is used only as allowable under the grant; and
- Ensure any deployable equipment will be made available during an event requiring a regional, statewide, or national response.

Certified & Agreed by:

City of Rowlett

Name of Sub-Recipient

4000 Main Street, Rowlett, 75088, Dallas County

Street/Mailing Address, City, Zip, County

David Hall - City Manager

Printed Name and Title

Signature

Date

11/20/2024

Certified & Agreed by:

Town of Flower Mound

Name of Receiving Jurisdiction/Agency

Street/Mailing Address, City, County, Zip

Printed Name and Title

Signature

Date

Date of Transfer: 11/25/24

Sub-Recipient Signature

Receiving Jurisdiction Signature

ED BALDERAS, EMC
Printed Name and Title

Manny Palacio, Jr.
Printed Name and Title

CERTIFICATE OF ORIGIN FOR A VEHICLE

MOBILE LIGHT

DATE 2024/04/15

INVOICE NO
95511048

VEHICLE IDENTIFICATION NO
7FSBL1418PB169821

YEAR
2023

MAKE
Generac Power Systems, Inc.

BODY TYPE
MOBILE LIGHT

SHIPPING WEIGHT
2200.005

H.P. (SAE)
10.50

G.V.W.
2200 lb

NO. CYLS
3

SERIAL NO
MET4000KVED-STD4

I, the undersigned authorized representative of the company, firm or corporation named below, hereby certify that the new vehicle described above is the property of the said company, firm or corporation and is transferred on the above date and under the Invoice Number indicated to the following distributor or dealer.

NAME OF DISTRIBUTOR, DEALER, ETC.

FEDERAL CONTRACTS CORP
12918 N NEBRASKA AVE
TAMPA FL 33612

SERIAL NUMBER: 3014169821

It is further certified that this was the first transfer of such new vehicle in ordinary trade and commerce.

GENERAC POWER SYSTEMS INC.

BY: 

(SIGNATURE OF AUTHORIZED REPRESENTATIVE)

(AGENT)

No 00044988

FORM # VINEZE - GPS

WAUKESHA, WI 53189

CITY-STATE

DISTRIBUTION-DEALER ASSIGNMENT NUMBER 1	Each undersigned seller certifies to the best of his knowledge, information and belief under penalty of law that the vehicle is new and has not been registered in this or any state at the time of delivery and the vehicle is not subject to any security interests other than those disclosed herein and warrant title to the vehicle. FOR VALUE RECEIVED I TRANSFER THE VEHICLE DESCRIBED ON THE FACE OF THIS CERTIFICATE TO: NAME OF PURCHASER(S) <u>City of Rowlett</u> ADDRESS _____ I certify to the best of my knowledge that the odometer reading is _____ DEALER <u>Federal Contracts Corp</u> BY: <u>Pete Pierson</u> NAME OF DEALERSHIP _____ DEALER'S LICENSE NUMBER _____ State of <u>FL</u> Being duly sworn upon oath says that the statements set forth are true and correct. Subscribed and sworn to me before this <u>4</u> day of <u>Nov</u> 20<u>24</u>. County of <u>Hillsborough</u> <u>Christopher Ray</u> Notary Public USE NOTARIZATION ONLY IF REQUIRED IN TITLING JURISDICTION
DISTRIBUTION-DEALER ASSIGNMENT NUMBER 2	NAME OF PURCHASER(S) <u>TOWN OF FLOWER MOUND</u> ADDRESS <u>201 SPINKS ROAD, FLOWER MOUND, TX 75025</u> I certify to the best of my knowledge that the odometer reading is <u>N/A</u> DEALER <u>CITY OF ROWLETT</u> BY: <u>DAVID HALL</u> NAME OF DEALERSHIP _____ DEALER'S LICENSE NUMBER _____ State of <u>Texas</u> <u>STACEY CHADWICK</u> Notary Public, State of Texas County of <u>Dallas</u> <u>20th</u> day of <u>November</u> 20<u>24</u> Comm. Expires <u>07-31-2026</u> <u>Stacey Chadwick</u> Notary Public Notary ID <u>125781064</u> USE NOTARIZATION ONLY IF REQUIRED IN TITLING JURISDICTION
DISTRIBUTION-DEALER ASSIGNMENT NUMBER 3	NAME OF PURCHASER(S) _____ ADDRESS _____ I certify to the best of my knowledge that the odometer reading is _____ No Tenths DEALER _____ BY: _____ NAME OF DEALERSHIP _____ DEALER'S LICENSE NUMBER _____ State of _____ Being duly sworn upon oath says that the statements set forth are true and correct. Subscribed and sworn to me before this _____ day of _____ 20____. County of _____ Notary Public USE NOTARIZATION ONLY IF REQUIRED IN TITLING JURISDICTION
DISTRIBUTION-DEALER ASSIGNMENT NUMBER 4	NAME OF PURCHASER(S) _____ ADDRESS _____ I certify to the best of my knowledge that the odometer reading is _____ No Tenths DEALER _____ BY: _____ NAME OF DEALERSHIP _____ DEALER'S LICENSE NUMBER _____ State of _____ Being duly sworn upon oath says that the statements set forth are true and correct. Subscribed and sworn to me before this _____ day of _____ 20____. County of _____ Notary Public USE NOTARIZATION ONLY IF REQUIRED IN TITLING JURISDICTION
ODOMETER DISCLOSURE FOR RETAIL SALE	Federal Law requires you to state the odometer mileage in connection with the transfer of ownership. Failure to complete or providing a false statement may result in fines and/or imprisonment. I certify to the best of my knowledge that the odometer reading is the actual mileage of the vehicle unless one of the following statements is checked. Odometer Reading _____ No Tenths ☐ The mileage stated is in excess of its mechanical limits. ☐ The odometer reading is not the actual mileage. Signature(s) of Seller(s) _____ Date of Statement _____ Date of Sale _____ Printed Name(s) of Seller(s) _____ Dealer's No _____ Being duly sworn upon oath says that the statements set forth are true and correct. Subscribed and sworn to me before this _____ day of _____ 20____. Signature(s) of Purchaser(s) _____ Notary Public Printed Name(s) of Purchaser(s) _____ State of _____ Company Name (If Applicable) _____ County of _____ Address of Purchaser(s) _____ USE NOTARIZATION ONLY IF REQUIRED IN TITLING JURISDICTION
LIENHOLDER	1st lien in favor of _____ whose address is _____ 2nd lien in favor of _____ whose address is _____

CHRISTOPHER REY
Notary Public
State of Florida
Comm# HH355103
Expires 3/20/2027

NOTARY ASSOCIATION

PMCS3245215



12918 N. Nebraska Ave.
Tampa, FL 33612
UEI: TK67EL9NPMD9
Cage Code: 3VCK4
FEIT: 42-1613127
DUNS: 094261935

POC: Ed Balderas
TO: City of Rowlett
C/O Town of Flower Mound Public Works
201 Spinks Road
Flower Mound, TX 75028

Sales Quote QU0004913
Date: 3/8/2024

Phone: 214-557-9506
E-Mail edbalderas@rowlett.com

Certs: HUBZone SB

Qty.	Manufacturer	Item No.	Description	Unit Price	Total Price
1	Generac	MLT4060KVLED-STD1	Generac MLT4060KVLED Mobile Diesel Light Tower	\$12,769.50	\$12,769.50
1	Generac	FREIGHT	Delivery to Flower Mound, Texas	\$1,660.00	\$1,660.00

FOB: Destination
Delivery Time: 60 Days ARO

City of Rowlett Order Number: 22400484

(1) Generac MLT4060KVLED Mobile Diesel Light Tower

Sourcwell Member ID 19737
Generac Sourcwell Contract 020923-GNR

Subtotal: \$14,429.50
Total Sales Tax: \$0.00
Total: \$14,429.50

Terms and Conditions:
• Quote valid for 30 days
• Terms: Net 30
• Unless otherwise specified, full dock or off-loading capabilities required to avoid additional charges.
• If using a purchase card, a credit card surcharge may apply.
• Certificate of Origin/MSO will not be released until payment in full has been received.

Jay Johnson,
O. (813)631-0000
F. (813)631-0008
jay@federalcontractscorp.com

Page 1



City of Rowlett
Official Copy

4000 Main Street
Rowlett, TX 75088
www.rowlett.com

Resolution: RES-119-23

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ROWLETT, TEXAS, AUTHORIZING THE CITY MANAGER TO ACCEPT THE ST/CP – 2023 SHSP - CITY OF ROWLETT – PWERT CACHE ENHANCEMENT #1 (#4827301) GRANT AWARD IN THE AMOUNT OF \$25,000.00 AND THE ST/CP – 2023 SHSP – CITY OF ROWLETT – PWERT CACHE ENHANCEMENT #2 (#4827501) GRANT AWARD IN THE AMOUNT OF \$19,000.00 AND EXECUTE REGIONAL EQUIPMENT TRANSFER AGREEMENTS FOR GRANT AWARDED EQUIPMENT UNDER THE 2023 STATE HOMELAND SECURITY PROGRAM; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the ST/CP – 2023 SHSP - City of Rowlett – PWERT Cache Enhancement #1 (#4827301) and ST/CP – 2023 SHSP – City of Rowlett – PWERT Cache Enhancement #2 (#4827501) grant projects are designed to increase the region's preparedness and response capabilities for terrorism-related emergencies; and

WHEREAS, the grant awards requires the transfer, upon project completion, of the purchased equipment to North Central Texas (NCT) Public Works Emergency Response Team (PWERT) members identified by the NCT PWERT Working Group; and

WHEREAS, the Rowlett City Council has adopted a strategic priority of ensuring a safe community through, among other goals, an emphasis on preparedness in emergency management; and

WHEREAS, the City Council finds it is in the best interest of the citizens of Rowlett and citizens of other PWERT-member jurisdictions that these projects be implemented under the 2023 State Homeland Security Grant Program; and

WHEREAS, the City Council agrees that in the event of loss or misuse of the Office of the Governor funds, the City Council assures that the funds will be returned to the Office of the Governor in full; and

WHEREAS, the City Council designates the City Manager as the grant's authorized official who is given the authority and power to apply for, accept, reject, alter or terminate the grant on behalf of the City, the applicant agency.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ROWLETT, TEXAS:

SECTION 1: The City Council hereby approves acceptance of awarded funds in the amount of \$25,000.00 for the ST/CP – 2023 SHSP - City of Rowlett – PWERT Cache Enhancement #1 (#4827301) grant project and \$19,000.00 for the ST/CP – 2023 SHSP – City of Rowlett – PWERT Cache Enhancement #2 (#4827501).

SECTION 2: That the terms, provisions, and conditions of the 2023 State Homeland Security Program will be adhered to.

SECTION 3: The City Manager, or his designee, is hereby given the authority and power to apply for, accept, reject, alter, or terminate the grants on behalf of

the City, and is further authorized to take those steps necessary to comply with the intent of this resolution.

SECTION 4: That the City Council of the City of Rowlett, Texas does hereby accept and approve agreements, attached hereto and incorporated herein as Exhibit A, authorizing a regional equipment transfer of a dynamic message boards and a mobile light tower to North Central Texas (NCT) Public Works Emergency Response Team (PWERT) members identified by the PWERT working group.

SECTION 5: That the City Council hereby authorizes the City Manager to negotiate and execute regional equipment transfer agreements on the City's behalf to give effect to this resolution and to execute such related documents as may be necessary or appropriate.

SECTION 6: This resolution shall become effective immediately upon its passage.

At a meeting of the City Council on October 10, 2023, this Resolution be adopted. The motion carried by the following vote:

Ayes: 6 Mayor Margolis, Mayor Pro Tem Shinder, Deputy Mayor Pro Tem Winget, Councilmember Bowers, Councilmember Britton and Councilmember Schupp

(The remainder of this page was intentionally left blank.)

Approved by Blake Mangels
Mayor

Date October 10, 2023

Approved to form by [Signature]
City Attorney

Date October 10, 2023

Certified by Erith Whitehead
Interim City Secretary

The seal of the City of Bowlett, Texas, is a circular emblem. It features a five-pointed star in the center, surrounded by a wreath. The words "CITY OF BOWLETT, TEXAS" are inscribed around the perimeter of the seal.

Date October 10, 2023



Office of the Governor

Public Safety Office

Criminal Justice Division &
Homeland Security Grants Division

Grantee Standard Conditions and Responsibilities

September 2020

About This Document

In this document, grantees (also referred to as subrecipients) will find state and federal requirements and conditions applicable to grant funds administered by the Office of the Governor (OOG). These requirements and conditions are incorporated into the Grant Agreement accepted by a grant's Authorized Official.

These requirements are in addition to those that can be found on the eGrants system – including the Grant Application and Grant Award – or in documents identified there, to which grantees agreed when applying for and accepting the grant. Other state and federal requirements and conditions may apply to your grant, including but not limited to: 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards; Chapter 783 of the Texas Government Code; Title 34, Part 1, Chapter 20, Subchapter E, Division 4 of the Texas Administrative Code; the Uniform Grant Management Standards (UGMS) developed by the Comptroller of Public Accounts; the state Funding Announcement or Solicitation under which the grant application was made; for federal funding, the Funding Announcement or Solicitation under which OOG was awarded funds; and any applicable documents referenced in the documents listed above. For grants awarded from the U.S. Department of Justice (DOJ), the current applicable version of the Department of Justice Grants Financial Guide and any applicable provisions in Title 28 of the CFR apply. For grants awarded from the Federal Emergency Management Agency (FEMA), all Information Bulletins and Policies published by the FEMA Grants Program Directorate apply. OOG reserves the right to add additional responsibilities and requirements, with or without advance notice to the grantee.

It is important for grantees to review all of these policies to successfully manage their grant, maintain eligibility for funding, and avoid violating the terms of the Grant Agreement, any of which could result in the revocation of funding or other actions.

For clarification or further information, please see the Guide to Grants and other support materials at <http://eGrants.Gov.Texas.Gov> or contact the grant manager assigned to the relevant grant. If no grant manager has been assigned, please contact the eGrants help desk via email at: eGrants@gov.texas.gov, or via telephone at: (512) 463-1919 or dial 7-1-1 for relay services.

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1 Grant Agreement Requirements and Conditions

1.1 *Applicability of Grant Agreement and Provisions*

The Grant Agreement is intended to be the full and complete expression of and constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and all prior and contemporaneous understandings, agreements, promises, representations, terms and conditions, both oral and written, are superseded and replaced by this Grant Agreement.

If any term or provision of this Grant Agreement is found to be invalid or unenforceable, such construction shall not affect the legality or validity of any of its other provisions. The invalid term or invalid provision shall be deemed severable and stricken from the Grant Agreement as if it had never been incorporated herein, but all other provisions shall continue in full force and effect.

Notwithstanding any expiration or termination of this Grant Agreement, the rights and obligations pertaining to the grant close-out, maximum liability of OOG, cooperation and provision of additional information, return of grant funds, audit rights, records retention, public information, disclaimers and limitation of liability, indemnification, and any other provision implying survivability shall remain in effect after the expiration or termination of this Grant Agreement.

1.2 *Legal Authority to Apply*

The grantee certifies that it possesses legal authority to apply for the grant. A resolution, motion or similar action has been or will be duly adopted or passed as an official act of the applicant's governing body, authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative, or their designee of the organization to act in connection with the application and to provide such additional information as may be required. State agencies are not required to adopt a resolution.

1.3 *Amendments and Changes to the Grant Agreement*

OOG and the grantee may agree to make adjustments to the grant budget and detailed budget as documented in eGrants. Adjustments include, but are not limited to, modifying the scope of the grant project, adding funds to previously un-awarded cost items or categories, or changing funds in any awarded cost items or category or changing grant officials. OOG, at its sole discretion, and upon written notice by OOG to the grantee of any proposed adjustment, and after the grantee has had an opportunity to respond to the proposed adjustment, may adjust the grantee's Budget, Grant Narrative, Special Conditions, Period of Performance, and/or any other items as deemed appropriate by OOG, at any time, during the term of this Grant Agreement.

The grantee has no right or entitlement to reimbursement with grant funds. OOG and grantee agree that any act, action or representation by either Party, their agents or employees that purports to waive or alter the terms of the Grant Agreement or increase the maximum liability of OOG is void unless a written amendment to this Grant Agreement is first executed and documented in eGrants. The grantee agrees that nothing in this Grant Agreement will be interpreted to create an obligation or liability of OOG in excess of the "Maximum Liability of the OOG" as set forth in the Statement of Grant Award (SOGA).

Any alterations, additions, or deletions to the terms of this Grant Agreement must be documented in eGrants to be binding upon the Parties.

1.4 General Responsibility

The grantee is responsible for the integrity of the fiscal and programmatic management of the grant project; accountability for all funds awarded; and compliance with OOG administrative rules, policies and procedures, and applicable federal and state laws and regulations.

Grant funds may be used only for the purposes in the grantee's approved application. The recipient shall not undertake any work or activities that are not described in the grant application, and that use staff, equipment, or other goods or services paid for with grant funds, without prior written approval from OOG.

The grantee will maintain an appropriate grant administration system to ensure that all terms, conditions and specifications of the grant are met. The Texas Uniform Grant Management Standards (UGMS), or any other guidance published by the Texas Comptroller of Public Accounts that supersedes UGMS, has more guidance on this topic.

1.5 Terms and Conditions

The grantee will comply with the terms and conditions as set forth and required in the funding announcement under which the approved application was submitted, the application, and award in eGrants. Notwithstanding the imposition of corrective actions, financial hold, and/or sanctions, the grantee remains responsible for complying with these terms and conditions. Corrective action plans, financial hold and/or sanctions do not excuse or operate as a waiver of prior failure to comply with the grant agreement. The failure of OOG to insist upon strict performance of any of the terms or conditions herein, irrespective of the length of time of such failure, shall not be a waiver of OOG's right to demand strict compliance in the future. No consent or waiver, express or implied, to or of any breach or default in the performance of any obligation under this grant agreement shall constitute a consent or waiver to or of any breach or default in the performance of the same or any other obligation of this grant agreement.

To the extent the terms and conditions of this grant agreement do not address a particular circumstance or are otherwise unclear or ambiguous, such terms and conditions are to be construed consistent with the general objectives, expectations and purposes of this grant agreement and in all cases, according to its fair meaning. The parties acknowledge that each party and its counsel have reviewed this grant agreement and that any rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this grant agreement. Any vague, ambiguous or conflicting terms shall be interpreted and construed in such a manner as to accomplish the purpose of the grant agreement.

1.6 Special Conditions

Special Conditions may be imposed by OOG, at its sole discretion and at any time, without amending this Grant Agreement. Failure by OOG to provide notice does not absolve grantee of compliance with any special conditions. OOG may place grantee on immediate financial hold, without further notice, until all Special Conditions, if any, are met.

1.7 Public Information

Notwithstanding any provisions of this Grant Agreement to the contrary, the grantee acknowledges that the State of Texas, OOG, and this Grant Agreement are subject to the Texas Public Information Act, Texas Government Code Chapter 552 (the "PIA"). The grantee acknowledges that OOG will comply with the PIA, as interpreted by judicial opinions and opinions of the Attorney General of the State of Texas.

The grantee acknowledges that information created or exchanged in connection with this Grant Agreement, including all reimbursement documentation submitted to OOG, is subject to the PIA, whether created or produced by the grantee or any third party, and the grantee agrees that information not otherwise excepted from disclosure under the PIA, will be available in a format that is accessible by the public at no additional charge to OOG or State of Texas. The grantee will cooperate with OOG in the production of documents or information responsive to a request for information.

Information provided by or on behalf of the grantee under, pursuant to, or in connection with this Grant Agreement that the grantee considers proprietary, financial, trade secret, or otherwise confidential information (collectively "Confidential Information") shall be designated as such when it is provided to OOG or State of Texas or any other entity in accordance with this Grant Agreement. Merely making a blanket claim that the all documents are protected from disclosure because they may contain some proprietary or confidential information may not render the whole of the information confidential. Any information which is not clearly identified as proprietary or confidential is subject to release in accordance with the Act. OOG agrees to notify the grantee in writing within a reasonable time from receipt of a request for information covering the grantee's Confidential Information. OOG will make a determination whether to submit a Public Information Act request to the Attorney General.

The grantee agrees to maintain the confidentiality of information received from OOG or State of Texas during the performance of this Grant Agreement, including information which discloses confidential personal information particularly, but not limited to, personally identifying information, personal financial information and social security numbers.

The grantee must immediately notify and provide a copy to OOG of any Public Information Request or other third-party request for the disclosure of information it receives related to this Grant award.

1.8 Remedies for Non-Compliance

If OOG determines that the grantee materially fails to comply with any term of this grant agreement, whether stated in a federal or state statute or regulation, an assurance, in a state plan or application, a notice of award, or any other applicable requirement, OOG, in its sole discretion and consistent with any applicable OOG Administrative Rules, may take actions including:

1. Temporarily withholding cash payments pending correction of the deficiency or more severe enforcement action by OOG;
2. Disallowing or denying use of funds for all or part of the cost of the activity or action not in compliance;
3. Disallowing claims for reimbursement;
4. Wholly or partially suspending or terminating this grant;
5. Requiring return or offset of previous reimbursements;

6. Prohibiting the grantee from applying for or receiving additional funds for other grant programs administered by OOG until repayment to OOG is made and any other compliance or audit finding is satisfactorily resolved;
7. Reducing the grant award maximum liability of OOG;
8. Terminating this Grant Agreement;
9. Imposing a corrective action plan;
10. Withholding further awards; or
11. Taking other remedies or appropriate actions.

The grantee costs resulting from obligations incurred during a suspension or after termination of this grant are not allowable unless OOG expressly authorizes them in the notice of suspension or termination or subsequently.

OOG, at its sole discretion, may impose sanctions without first requiring a corrective action plan.

1.9 False Statements by Grantee

By acceptance of this grant agreement, the grantee makes all the statements, representations, warranties, guarantees, certifications and affirmations included in this grant agreement. If applicable, the grantee will comply with the requirements of 31 USC § 3729, which set forth that no grantee of federal payments shall submit a false claim for payment.

If any of the statements, representations, certifications, affirmations, warranties, or guarantees are false or if the grantee signs or executes the grant agreement with a false statement or it is subsequently determined that the grantee has violated any of the statements, representations, warranties, guarantees, certifications or affirmations included in this grant agreement, then OOG may consider this act a possible default under this grant agreement and may terminate or void this grant agreement for cause and pursue other remedies available to OOG under this grant agreement and applicable law. False statements or claims made in connection with OOG grants may result in fines, imprisonment, and debarment from participating in federal grants or contract, and/or other remedy available by law, potentially including the provisions of 38 USC §§ 3801-3812, which details the administrative remedies for false claims and statements made.

1.10 Conflict of Interest Safeguards

The grantee will establish safeguards to prohibit its employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest or personal gain, whether for themselves or others, particularly those with whom they have family, business, or other ties. The grantee will operate with complete independence and objectivity without actual, potential, or apparent conflict of interest with respect to its performance under this Grant Agreement.

The grantee must disclose, in writing, within fifteen (15) calendar days of discovery, any existing, actual or potential conflicts of interest relative to its performance under this Grant Agreement.

The grantee is and shall remain in compliance during the term of this Grant Agreement with Texas Government Code, Section 669.003, Contracting with Executive Head of State Agency; and Section 572, Employment of Former State Officer or Employee of State Agency. The grantee certifies that it is not ineligible to receive this Grant Agreement under Texas Government Code, section 2155.004, regarding

the financial participation by a person who received compensation from OOG or another state agency to participate in preparing the specifications or request for proposals on which the bid or contract is based, and acknowledges that this Grant Agreement may be terminated and payment withheld if this certification is inaccurate.

The grantee has not given or offered to give, nor does the grantee intend to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant or employee of OOG, at any time during the award of this grant or in connection with this Grant Agreement, except as allowed under relevant state or federal law. The grantee nor its personnel or entities employed in rendering services under this grant agreement have, nor shall they knowingly acquire, any interest that would be adverse to or conflict in any manner with the performance of the grantee's obligations under this grant agreement.

1.11 Fraud, Waste, and Abuse

- A. The grantee understands that OOG does not tolerate any type of fraud, waste, or misuse of funds received from OOG. OOG's policy is to promote consistent, legal, and ethical organizational behavior, by assigning responsibilities and providing guidelines to enforce controls. Any violations of law, OOG policies, or standards of ethical conduct will be investigated, and appropriate actions will be taken. The grantee understands and agrees that misuse of award funds may result in a range of penalties, including suspension of current and future funds, suspension or debarment from federal and state grants, recoupment of monies provided under an award, and civil and/or criminal penalties.

In the event grantee becomes aware of any allegation or a finding of fraud, waste, or misuse of funds received from OOG that is made against the grantee, the grantee is required to immediately notify OOG of said allegation or finding and to continue to inform OOG of the status of any such on-going investigations. The grantee must also promptly refer to OOG any credible evidence that a principal, employee, agent, subrecipient, contractor, subcontractor, or other person has -- (1) submitted a claim for award funds that violates the False Claims Act; or (2) committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving award funds. Grantees must also immediately notify OOG in writing of any misappropriation of funds, fraud, theft, embezzlement, forgery, or any other serious irregularities indicating noncompliance with grant requirements. Grantees must notify the local prosecutor's office of any possible criminal violations. Grantees must immediately notify OOG in writing if a project or project personnel become involved in any litigation, whether civil or criminal, and the grantee must immediately forward a copy of any demand, notices, subpoenas, lawsuits, or indictments to OOG. If a federal or state court or administrative agency renders a judgement or order finding discrimination by a grantee based on race, color, national origin, sex, age, or handicap, the grantee agrees to immediately forward a copy of the judgement or order to OOG.

The grantee is expected to report any possible fraudulent or dishonest acts, waste, or abuse to OOG's Fraud Coordinator or Ethics Advisor at (512) 463-1788 or in writing to: Ethics Advisor, Office of the Governor, P.O. Box 12428, Austin, Texas 78711.

- B. Restrictions and certifications regarding non-disclosure agreements and related matters. No grantee or subgrantee under this award, or entity that receives a procurement contract or subcontract with any funds under this award, may require any employee or contractor to sign an internal confidentiality agreement or statement that prohibits or otherwise restricts, or purports to prohibit or restrict, the reporting (in accordance with law) of waste, fraud, or abuse to an

investigative or law enforcement representative of a state or federal department or agency authorized to receive such information.

The foregoing is not intended, and shall not be understood by the agency making this award, to contravene requirements applicable to Standard Form 312 (which relates to classified information), Form 4414 (which relates to sensitive compartmented information), or any other form issued by a federal department or agency governing the nondisclosure of classified information.

1. In accepting this award, the recipient:
 - a. Represents that it neither requires nor has required internal confidentiality agreements or statements from employees or contractors that currently prohibit or otherwise currently restrict (or purport to prohibit or restrict) employees or contractors from reporting waste, fraud, or abuse as described above; and
 - b. Certifies that, if it learns or is notified that it is or has been requiring its employees or contractors to execute agreements or statements that prohibit or otherwise restrict (or purport to prohibit or restrict), reporting of waste, fraud, or abuse as described above, it will immediately stop any further obligations of award funds, will provide prompt written notification to OOG, and will resume (or permit resumption of) such obligations only if expressly authorized to do so by that federal agency.
2. If the recipient does or is authorized under this award to make subawards ("subgrants") or procurement contracts, or both:
 - a. It represents that:
 - i. It has determined that no other entity that the recipient's application proposes may or will receive award funds (whether through a subaward ("subgrant"), procurement contract, or subcontract under a procurement contract) either requires or has required internal confidentiality agreements or statements from employees or contractors that currently prohibit or otherwise currently restrict (or purport to prohibit or restrict) employees or contractors from reporting waste, fraud, or abuse as described above; and
 - ii. It has made appropriate inquiry, or otherwise has an adequate factual basis, to support this representation; and
 - b. It certifies that, if it learns or is notified that any subgrantee, contractor, or subcontractor entity that receives funds under this award is or has been requiring its employees or contractors to execute agreements or statements that prohibit or otherwise restrict (or purport to prohibit or restrict), reporting of waste, fraud, or abuse as described above, it will immediately stop any further obligations of award funds to or by that entity, will provide prompt written notification to OOG, and will resume (or permit resumption of) such obligations only if expressly authorized to do so by OOG.

These provisions apply to all grantees and subgrantees or subcontractors.

1.12 Dispute Resolution

The Parties' representatives will meet as needed to implement the terms of this Grant Agreement and will make a good faith attempt to informally resolve any disputes.

Notwithstanding any other provision of this Grant Agreement to the contrary, unless otherwise

requested or approved in writing by OOG, the grantee shall continue performance and shall not be excused from performance during the period any breach of Grant Agreement claim or dispute is pending.

The laws of the State of Texas govern this Grant Agreement and all disputes arising out of or relating to this Grant Agreement, without regard to any otherwise applicable conflict of law rules or requirements.

Venue for any grantee-initiated action, suit, litigation or other proceeding arising out of or in any way relating to this Grant Agreement shall be commenced exclusively in the Travis County District Court or the United States District Court, Western District of Texas - Austin Division. Venue for any OOG-initiated action, suit, litigation or other proceeding arising out of or in any way relating to this Grant Agreement may be commenced in a Texas state district court or a United States District Court selected by OOG in its sole discretion.

The grantee hereby irrevocably and unconditionally consents to the exclusive jurisdiction of the courts referenced above for the purpose of prosecuting and/or defending such litigation. The grantee hereby waives and agrees not to assert by way of motion, as a defense, or otherwise, in any suit, action or proceeding, any claim that the grantee is not personally subject to the jurisdiction of the above-named courts; the suit, action or proceeding is brought in an inconvenient forum; and/or the venue is improper.

1.13 Funds Limited by Agreement and Subject to Availability

The grantee agrees that nothing in this grant will be interpreted to create an obligation or liability of OOG in excess of the funds delineated in this grant. The grantee agrees that funding for this grant is subject to the actual receipt by OOG of grant funds (state and/or federal) appropriated to OOG for the grant program. The grantee agrees that the grant funds, if any, received from OOG may be limited by the term of each state biennium and by specific appropriation authority to and the spending authority of OOG for the purpose of this grant. The grantee agrees that notwithstanding any other provision of this grant, if OOG is not appropriated the funds or if OOG does not receive the appropriated funds for this grant program, or if the funds appropriated to OOG for this grant program are required to be reallocated to fund other federal or state programs or purposes, OOG is not liable to pay the grantee the maximum liability amount specified in the SOGA or any other remaining balance of unpaid funds. If OOG or the program fund becomes subject to legislative change, revocation of statutory authority, lack of appropriated funds, or unavailability of funds which would render performance under this grant agreement impossible, this grant agreement may be immediately terminated without recourse, liability, or penalty against OOG upon written notice to grantee.

1.14 Termination of the Agreement

OOG may, at its sole discretion, terminate this Grant Agreement, without recourse, liability or penalty against OOG, upon written notice to grantee. In the event grantee fails to perform or comply with an obligation or a term, condition or provision of this Grant Agreement, OOG may, upon written notice to grantee, terminate this agreement for cause, without further notice or opportunity to cure. Such notification of Termination for Cause will state the effective date of such termination, and if no effective date is specified, the effective date will be the date of the notification.

OOG and grantee may mutually agree to terminate this Grant Agreement. OOG in its sole discretion will determine if, as part of the agreed termination, grantee is required to return any or all of the

disbursed grant funds.

Termination is not an exclusive remedy, but will be in addition to any other rights and remedies provided in equity, by law, or under this Grant Agreement. Following termination by OOG, grantee shall continue to be obligated to OOG for the return of grant funds in accordance with applicable provisions of this Grant Agreement. In the event of termination under this Section, OOG's obligation to reimburse grantee is limited to allowable costs incurred and paid by the grantee prior to the effective date of termination, and any allowable costs determined by OOG in its sole discretion to be reasonable and necessary to cost-effectively terminate the grant. Termination of this Grant Agreement for any reason or expiration of this Grant Agreement shall not release the Parties from any liability or obligation set forth in this Grant Agreement that is expressly stated to survive any such termination or expiration.

1.15 Communication with Grantee

Notice may be given to the grantee via eGrants, email, hand-delivery, delivery service, or United States Mail. Notices to the grantee will be sent to the name and address supplied by grantee in eGrants.

1.16 Limitation of Liability

To the extent allowed by law, the grantee agrees to indemnify and hold harmless OOG, the State of Texas and its employees, agents, officers, representatives, contractors, and/or designees from any and all liability, actions, claims, demands or suits whatsoever, including any litigation costs, attorneys' fees, and expenses, relating to tax liability, unemployment insurance and/or workers' compensation in grantee's performance under this grant agreement. The grantee shall be liable to pay all costs of defense including attorneys' fees. The defense shall be coordinated by grantee with OOG and the Office of the Attorney General when OOG, the State of Texas or its employees, agents, officers, representatives, contractors and/or designees are named defendants in any lawsuit and grantee may not agree to any settlement without first obtaining the concurrence from OOG and the Office of the Attorney General. The grantee and OOG agree to furnish timely written notice to each other of any such claims.

The grantee further agrees to indemnify and hold harmless, to the extent allowed by law, the OOG, the State of Texas and its employees, agents, officers, representatives, contractors, and/or designees from any and all liability, actions, claims, demands, or suits, whatsoever, including any litigation costs, attorneys' fees, and expenses, that arise from any acts or omissions of grantee or any of its officers, employees, agents, contractors, and assignees, relating to this grant agreement regardless of whether the act or omission is related to this grant agreement. The defense shall be coordinated by grantee, OOG and the Office of the Attorney General when OOG, the State of Texas or its employees, agents, officers, representatives, contractors and/or designees are named defendants in any lawsuit and grantee may not agree to any settlement without first obtaining the concurrence from OOG and the Office of the Attorney General. The grantee and OOG agree to furnish timely written notice to each other of any such claims.

The grantee agrees that no provision of this Grant Agreement is in any way intended to constitute a waiver by OOG, its officers, employees, agents, or contractors or the State of Texas of any privileges, rights, defenses, remedies, or immunities from suit and liability that OOG or the State of Texas may have by operation of law.

1.17 Liability for Taxes

The grantee agrees and acknowledges that grantee shall be entirely responsible for the liability and payment of grantee's and grantee's employees' taxes of whatever kind, arising out of the performances in this Grant Agreement. The grantee agrees to comply with all state and federal laws applicable to any such persons, including laws regarding wages, taxes, insurance, and workers' compensation. OOG and/or the State of Texas shall not be liable to the grantee, its employees, agents, or others for the payment of taxes or the provision of unemployment insurance and/or workers' compensation or any benefit available to a state employee or employee of OOG.

1.18 Force Majeure

Neither the grantee nor OOG shall be required to perform any obligation under this Grant Agreement or be liable or responsible for any loss or damage resulting from its failure to perform so long as performance is delayed by force majeure or acts of God, including but not limited to strikes, lockouts or labor shortages, embargo, riot, war, revolution, terrorism, rebellion, insurrection, flood, natural disaster, or interruption of utilities from external causes. Each Party must inform the other in writing, with proof of receipt, within three (3) business days of the existence of such force majeure, or otherwise waive this right as a defense.

1.19 Debt to State

The grantee agrees, to the extent grantee owes any debt (child support or other obligation) or delinquent taxes to the State of Texas, any payments grantee is owed under this Grant Agreement may be applied by the Comptroller of Public Accounts toward any such debt or delinquent taxes until such debt or delinquent taxes are paid in full.

1.20 Grantee an Independent Contractor

The grantee expressly agrees that it is an independent contractor and under no circumstances shall any owner, incorporator, officer, director, employee, or volunteer of grantee be considered an employee, agent, servant, joint venturer, joint enterpriser or partner of OOG or the State of Texas. The grantee is not a "governmental body" solely by virtue of this Grant Agreement or receipt of grant funds under this Grant Agreement. All persons furnished, used, retained, or hired by or on behalf of the grantee or any of the grantee's contractors shall be considered to be solely the employees or agents of the grantee or the grantee's contractors. The grantee or grantee's contractors shall be responsible for ensuring that any and all appropriate payments are made, such as unemployment, workers compensation, social security, any benefit available to a state employee as a state employee, and other payroll taxes for such persons, including any related assessments or contributions required by law. The grantee agrees to take such steps as may be necessary to ensure that each contractor of the grantee will be deemed to be an independent contractor and will not be considered or permitted to be an agent, servant, joint venturer, joint enterpriser or partner of OOG or the State of Texas. The grantee is responsible for all types of claims whatsoever due to actions or performance under this Grant Agreement, including, but not limited to, the use of automobiles or other transportation, taken by its owners, incorporators, officers, directors, employees, volunteers or any third parties.

1.21 No Assignment of Rights or Obligations

The grantee may not assign this Grant Agreement or any of its rights or obligations under this Grant Agreement to any third party or entity. Any attempted assignment without OOG's prior written consent is void and may result in the termination of this Grant Agreement.

1.22 Funds Are for Sole Benefit of Grantee

It is expressly agreed that any solicitation for or receipt of funds of any type by the grantee is for the sole benefit of the grantee and is not a solicitation for or receipt of funds on behalf of OOG or the Governor of the State of Texas.

1.23 Permission for Use of OOG Name and Labeling

Other than the required statements listed in this document, grantee shall not use OOG's name or refer to OOG directly or indirectly in any media release, public service announcement, or public service disclosure relating to this Grant Agreement or any acquisition pursuant hereto, including in any promotional or marketing materials, without first obtaining written consent from OOG. This Section is not intended to and does not limit the grantee's ability to comply with its obligations and duties under the Texas Open Meetings Act and/or the Texas Public Information Act. This Section is not intended to and does not limit OOG's duties and obligations to report this Grant Agreement, any grant payments made under this Grant Agreement, any contract compliance or performance information or other state or federal reporting requirements applicable to OOG.

1.24 Acknowledgement of Funding and Disclaimer

All publications, including websites, produced in full or in part with grant funds awarded by OOG must include an acknowledgement of the funding and a disclaimer of non-endorsement by the funding agency. In general, no publication may convey OOG's or any federal funding agency's (i.e. DOJ or FEMA) official recognition or endorsement of the recipient's project simply based on having received funding. For websites, the acknowledgement should be present somewhere on all major entry pages. Acknowledgement language for grants made through state fund sources is below and language for grants made through specific federal fund sources is included within the fund specific conditions memo.

For any state grant program: "This [website/report/study/project/etc.] is funded [insert "in part", if applicable] through a grant from the Public Safety Office of the Texas Office of the Governor. Neither the Office of the Governor nor any of its components operate, control, are responsible for, or necessarily endorse, this website (including, without limitation, its content, technical infrastructure, and policies, and any services or tools provided)."

1.25 Royalty-Free License

Pursuant to 2 CFR 200.315(b), the grantee may copyright any work that is subject to copyright and was developed, or for which ownership was acquired, under this award. OOG (and the federal funding agency, if the work is funded with a federal grant) reserves a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, or otherwise use, and authorize others to use (in whole or in part, including in connection with derivative works), for state (or Federal) purposes:

- A. Any work subject to copyright developed under an award or subaward; and
- B. Any rights of copyright to which a grantee or subgrantee or subcontractor purchases ownership with state (or Federal) support.

The recipient acknowledges that OOG (and the federal funding agency) have the right to:

- A. Obtain, reproduce, publish, or otherwise use the data first produced under an award or subaward; and
- B. Authorize others to receive, reproduce, publish or otherwise use such data for state (or federal) purposes. "Data" includes data as defined in Federal Acquisition Regulation (FAR) provision 52.227-14 (Rights in Data-general).

It is the responsibility of the grantee (and of each subgrantee or subcontractor if applicable) to ensure that this condition is included in any subaward under this award. The grantee has the responsibility to obtain from subgrantees, contractors, and subcontractors (if any) all rights and data necessary to fulfill the recipient's obligations to the Government under this award. If a proposed subgrantee contractor, or subcontractor refuses to accept terms affording the Government such rights, the grantee shall promptly bring such refusal to the attention of the OOG program manager for the award and not proceed with the agreement in question without further authorization from OOG.

1.26 Project Period

The performance period for this Grant is listed on the Statement of Grant Award. All goods must be obligated and all services must be received within the performance period. OOG will not be obligated to reimburse expenses incurred after the performance period.

1.27 Project Commencement

The grantee must take reasonable steps to commence project activities upon receiving notice of a grant award. If a project is not operational within 90 days of the original start date of the award period or grant award date as noted on this memorandum, whichever is later, the grantee must submit a statement to OOG explaining the implementation delay. Upon receipt of the 90-day letter, OOG may cancel the project and redistribute the funds to other project areas. OOG may also, where extenuating circumstances warrant, extend the implementation date of the project past the 90-day period.

1.28 Project Close Out

OOG will close-out the grant award when it determines that all applicable administrative actions and all required work of the Grant have been completed by the grantee.

The grantee must submit all financial, performance, and other reports as required by the terms and conditions of the grant award. Submission of the final Financial Status Report will initiate grant close out with OOG.

The grantee must promptly refund any balances of unobligated cash that OOG paid in advance or paid and that are not authorized to be retained by the grantee for use in other projects.

1.29 Federal Program Laws, Rules, and Guidelines

The grantee must comply with applicable provisions of federal and state law and regulations, terms and conditions applicable to the federal awards providing funding for the grant award, and any applicable program guidelines, which may include:

- A. The Omnibus Crime Control and Safe Streets Act of 1968 (as amended - 42 U.S.C 3711 etseq.);
- B. Victims of Crime Act (VOCA) program guidelines, including the VOCA Final Rule effective August 8, 2016 and included in 28 CFR 94;
- C. Violence Against Women Act (VAWA) relevant statutory and regulatory requirements, including the Violence Against Women Act of 1994 (P.L., 103-322), the Violence Against Women Act of 2000 (P.L. 106-386), the Violence Against Women and Department of Justice Reauthorization Act of 2005 (P.L. 109-162), the Violence Against Women Reauthorization Act of 2013 (P.L. 113- 4), the Office on Violence Against Women's (OVW) implementing regulations at 28 CFR Part 90, OVW's general terms and conditions available at <http://www.justice.gov/ovw/grantees> (these do not supersede any specific conditions in the grant agreement), and the financial and administrative requirements set forth in the current edition of the Office on Violence Against Women (OVW) Financial Grants Management Guide;
- D. The provisions of the current edition of the Department of Justice Grants Financial Guide;
- E. If the grantee uses grant funds to undertake research involving human subjects, the grantee may be subject to Department of Justice (DOJ) Office of Justice (OJP) policies and requirements adopted by OOG related to human subjects found in 28 CFR Part 46;
- F. Section 2002 of the Homeland Security Act of 2002, as amended (P.L. 107-296) (6 U.S.C. § 603);
- G. If grantee receives a grant award in excess of \$150,000, it will comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. § 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. § 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA). Any subgrants or contracts made by the grantee in excess of \$150,000 must contain this provision.
- H. All other applicable Federal laws, orders, circulars, or regulations.

1.30 Applicability of Part 200 Uniform Requirements for Federally Funded Awards

The Uniform Administrative Requirements, Cost Principles, and Audit Requirements in 2 CFR Part 200 apply to any grants funded through an award from a Federal agency.

1.31 Required State Assurances

The grantee must comply with the applicable State Assurances included within the State Uniform Grant Management Standards (UGMS), Section III, Subpart B, __.14, or any other guidance published by the Texas Comptroller of Public Accounts that supersedes UGMS, which are incorporated here by reference in the award terms and conditions.

2 Organizational Eligibility

2.1 *Good Standing for Eligible Grantees*

- A. The grantee is in good standing under the laws of the State in which it was formed or organized, and has provided OOG with any requested or required documentation to support this certification.
- B. The grantee agrees to remain in good standing with any state or federal governmental bodies related to the grantee's right to conduct its business in Texas, including but not limited to the Texas Secretary of State and the Texas Comptroller of Public Accounts, as applicable.
- C. The grantee owes no delinquent taxes to any taxing unit of this State as of the effective date of this Grant Agreement.
- D. The grantee is non-delinquent in its repayment of any Federal debt. Examples of relevant debt include delinquent payroll and other taxes, audit disallowances, and benefit overpayments. See OMB Circular A-129 for additional information and guidance.
- E. The grantee has or will obtain all licenses, certifications, permits, and authorizations necessary to perform its obligations under this Grant Agreement, without costs to OOG.
- F. The grantee is currently in good standing with all licensing, permitting or regulatory bodies that regulate any or all aspects of grantee's business or operations.
- G. The grantee agrees to comply with all applicable licenses, legal certifications, inspections, and any other applicable local ordinance or state or federal laws.
- H. The grantee shall comply with any applicable federal, state, county, local and municipal laws, ordinances, resolutions, codes, decisions, orders, rules, and regulations, in connection with its obligations under this Grant Agreement.
- I. The grantee does not have any existing claims against or unresolved audit exceptions with the State of Texas or any agency of the State of Texas.

2.2 *System for Award Management (SAM) Requirements*

- A. The grantee agrees to comply with applicable requirements regarding registration with the System for Award Management (SAM) (or with a successor government-wide system officially designated by OMB and, if applicable, the federal funding agency). These requirements include maintaining current registrations and the currency of the information in SAM. The grantee will review and update information at least annually until submission of the final financial report required under the award or receipt of final payment, whichever is later, as required by 2 CFR Part 25.
- B. Applicable to this Grant Agreement is the President's Executive Order (EO) 13224, Executive Order on Terrorist Financing - Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism, effective September 24, 2001, and any subsequent changes made to it via cross-referencing respondents/vendors with the Federal General Services Administration's System for Award Management (SAM), <https://www.sam.gov>, which is inclusive of the United States Treasury's Office of Foreign Assets Control (OFAC) Specially Designated National (SDN) list.
- C. The grantee will comply with Executive Orders 12549 and 12689 that requires "a contract award

(see 2 CFR 180.220) must not be made to parties listed on the government-wide exclusions in the System for Award Management (SAM)", in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority. The grantee certifies it will verify each vendor's status to ensure the vendor is not debarred, suspended, otherwise excluded or declared ineligible by checking the SAM before doing/renewing business with that vendor.

- D. The grantee certifies that it and its principals are eligible to participate in this Grant Agreement and have not been subjected to suspension, debarment, or similar ineligibility determined by any federal, state or local governmental entity and the grantee is in compliance with the State of Texas statutes and rules relating to procurement and that the grantee is not listed on the federal government's terrorism watch list as described in Executive Order 13224.

2.3 Criminal History Reporting

Counties or other governmental entities required to maintain and report criminal history records per the Texas Code of Criminal Procedure, Ch. 60, must maintain compliance with that statute and Governor's Executive Order GA-07, Order 8, in order to obtain or maintain eligibility for OOG grant funds.

2.4 Uniform Crime Reporting

Local units of governments receiving funds from OOG must comply with all requirements for uniform crime reporting and must ensure that prompt reporting will remain current throughout the grant period.

2.5 National Incident-Based Reporting System

The Texas Department of Public Safety (DPS) has established a goal set by the Texas Legislature for all local law enforcement agencies to implement and report crime statistics data by using the requirements of the National Incident-Based Reporting System (NIBRS). Additionally, the Federal Bureau of Investigations (FBI) will collect required crime statistics solely through the NIBRS starting January 1, 2021. Local units of governments receiving funds from OOG must be actively working to transition to a NIBRS-based reporting system.

2.6 Immigration Related Matters

Compliance with 8 USC §§ 1373 & 1644 – In order to foster state and local cooperation in the enforcement of our nation's immigration laws, federal law provides that a government entity or official may NOT prohibit or otherwise restrict any government entity or official from exchanging information with federal immigration authorities about the immigration or citizenship status of any individual.

Furthermore, no individual or entity may prohibit or otherwise restrict a government entity from: (1) sending or receiving citizenship or immigration related information to and from federal immigration authorities; (2) maintaining the information; or (3) exchanging the information with any other federal,

state, or local government entity. Any grant applicant or recipient that has policies or practices (written or unwritten) that contravene the restrictions outlined above is not eligible for a grant that is awarded by or through the Office of the Governor.

Local units of government, including cities, counties and other general purpose political subdivisions, as appropriate, and institutions of higher education that operate a law enforcement agency, must comply with all aspects of the programs and procedures utilized by the U.S. Department of Homeland Security (“DHS”) to: (1) notify DHS of all information requested by DHS related to illegal aliens in Agency’s custody; and (2) detain such illegal aliens in accordance with requests by DHS. Additionally, counties and municipalities may NOT have in effect, purport to have in effect, or make themselves subject to or bound by, any law, rule, policy, or practice (written or unwritten) that would: (1) require or authorize the public disclosure of federal law enforcement information in order to conceal, harbor, or shield from detection fugitives from justice or aliens illegally in the United States; or (2) impede federal officers from exercising authority under 8 U.S.C. § 1226(a), § 1226(c), § 1231(a), § 1357(a), § 1366(1), or § 1366(3).

Local units of government, including cities, counties and other general purpose political subdivisions, as appropriate, and institutions of higher education that operate a law enforcement agency, must comply with all provisions, policies, and penalties found in Chapter 752, Subchapter C of the Texas Government Code which prohibits local entity or campus police departments from: (1) adopting, enforcing, or endorsing a policy under which the entity or department prohibits or materially limits the enforcement of immigration laws; (2) as demonstrated by pattern or practice, prohibiting or materially limiting the enforcement of immigration laws; or (3) for an entity that is a law enforcement agency or for a department, as demonstrated by pattern or practice, intentionally violate Article 2.251, Code of Criminal Procedure.

2.7 E-Verify

- A. The grantee shall comply with the requirements of the Immigration Reform and Control Acts of 1986 and 1990 (“IRCA”) 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 in the United States of America under this Grant Agreement, if any, and the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (“IIRIRA”) enacted on September 30, 1996.
- B. The grantee certifies and ensures that it utilizes and will continue to utilize, for the term of this Grant Agreement, the U.S. Department of Homeland Security’s E-Verify system to determine the eligibility of:
 1. All persons employed to perform duties within Texas, during the term of the Grant; and
 2. All persons employed or assigned by the grantee to perform work pursuant to the Grant Agreement, within the United States of America.

If this certification is falsely made, the Grant Agreement may be terminated.

- C. If applicable, grantee will comply with Executive Order RP-80 regarding the U.S. Department of Homeland Security’s E-Verify system.

2.8 Deceptive Trade Practices Violations

The grantee represents and warrants that it has not been the subject of allegations of Deceptive Trade Practices violations under Chapter 17 of the Texas Business and Commerce Code, or allegations of any unfair business practice in any administrative hearing or court suit and that the grantee has not been found to be liable for such practices in such proceedings. The grantee certifies that it has no officers who have served as officers of other entities who have been the subject of allegations of Deceptive Trade Practices violations or allegations of any unfair business practices in an administrative hearing or court suit, and that such officers have not been found to be liable for such practices in such proceedings. The grantee shall notify OOG in writing within five (5) calendar days if grantee or any of its officers are subject to allegations of Deceptive Trade Practices or are the subject of alleged violations of any unfair business practices in an administrative hearing or court suit, and that the grantee or officers have been found to be liable for such practices in such proceedings.

2.9 Hurricane Contract Violations

Texas law prohibits OOG from awarding a contract to any person who, in the past five years, has been convicted of violating a federal law or assessed a penalty in connection with a contract involving relief for Hurricane Rita, Hurricane Katrina, Hurricane Harvey, or any other disaster, as defined by section 418.004 of the Texas Government Code, occurring after September 24, 2005. Under section 2155.006 of the Texas Government Code, the grantee certifies that the entity named in this Grant Agreement is not ineligible from entering into this Grant Agreement and acknowledges that this Grant Agreement may be terminated and payment withheld or return of grant funds required if this certification is inaccurate or false.

2.10 Terminated Contracts

The grantee has not had a contract terminated or been denied the renewal of any contract for non-compliance with policies or regulations of any state or federally funded program within the past five (5) years nor is it currently prohibited from contracting with a governmental agency. If the grantee does have such a terminated contract, the grantee shall identify the contract and provide an explanation for the termination. The grantee acknowledges that this Grant Agreement may be terminated and payment withheld or return of grant funds required if this certification is inaccurate or false.

2.11 Special Requirements for Units of Local Government

Grant funds may not be expended by a unit of local government unless the following limitations and reporting requirements are satisfied:

- A. Texas General Appropriations Act, Art. IX, Parts 2, 3, and 5, except there is no requirement for increased salaries for local government employees;
- B. Texas Government Code Sections 556.004, 556.005, and 556.006, which prohibits using any money or vehicle to support the candidacy of any person for office, influencing positively or negatively the payment, loan, or gift to a person or political organization for a political purpose, and using grant funds to influence the passage or defeat of legislation including not assisting with the funding of a lobbyist, or using grant funds to pay dues to an organization with a registered lobbyist;

- C. Texas Government Code, Sections 2113.012 and 2113.101, which prohibits using grant funds to compensate any employee who uses alcoholic beverages on active duty and grantee may not use grant funds to purchase an alcoholic beverage and may not pay or reimburse any travel expense for an alcoholic beverage;

2.12 Special Requirements for Non-Profit Grantees

Each non-profit corporation receiving funds from OOG must obtain and have on file a blanket fidelity bond that indemnifies OOG against the loss or theft of the entire amount of grant funds, including matching funds. The fidelity bond should cover at least the OOG grant period.

By accepting funds under this award, any non-profit grantee certifies and affirmatively asserts that it is a non-profit organization and that it keeps on file, and is available upon audit, either:

- A. A copy of the recipient's 501(c)(3) designation letter;
- B. A letter from the State of Texas stating that the recipient is a non-profit organization operating within Texas; or
- C. A copy of the grantee's Texas certificate of incorporation that substantiates its non-profit status.

Grantees that are local non-profit affiliates of state or national non-profits should have available proof of (1), (2), or (3), and a statement by the state or national parent organization that the recipient is a local non-profit affiliate.

Non-profit recipients of Victims of Crime Act (VOCA) funding that are not a 501(c)(3) organization finally certified by the Internal Revenue Service must make their financial statements available online.

Non-profit recipients of funds provided under the Juvenile Justice and Delinquency Prevention Act must have 501(c)(3) status recognized by the Internal Revenue Service.

Church, mosque, and synagogue recipients of Nonprofit Security Grant Program funding are not required to apply for and receive a recognition of exemption under section 501(c)(3). Such organizations are automatically exempt if they meet the requirements of section 501(c)(3).

2.13 Special Requirements for Facilities or Entities that Collect Sexual Assault/Sex Offense Evidence or Investigates/Prosecutes Sexual Assault or other Sex Offenses

Texas Government Code, Section 420.034, requires any facility or entity that collects evidence for sexual assault or other sex offenses or investigates or prosecutes a sexual assault or other sex offense for which evidence has been collected, to participate in a statewide electronic tracking system developed and implemented by the Texas Department of Public Safety.

3 Civil Rights

3.1 Compliance with Civil Rights and Nondiscrimination Requirements

- A. The grantee will comply with all State and Federal statutes relating to civil rights and nondiscrimination and ensure, in accordance with federal civil rights laws, that the grantee shall not retaliate against individuals for taking action or participating in action to secure rights protected by these laws.

- B. The grantee will comply, and all its contractors and subgrantees will comply, with all federal statutes and rules relating to civil rights and nondiscrimination. These include but are not limited to:
1. Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin;
 2. Title IX of the Education Amendments of 1972, as amended (20 USC §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex;
 3. Section 504 of the Rehabilitation Act of 1973, as amended (29 USC § 794), which prohibits discrimination on the basis of handicaps and the Americans With Disabilities Act of 1990 (42 USC § 12131-34);
 4. The Age Discrimination Act of 1974, as amended (42 USC §§ 6101-6107), which prohibits discrimination on the basis of age;
 5. The Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse;
 6. The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to the nondiscrimination on the basis of alcohol abuse or alcoholism;
 7. Sections §§ 523 and 527 of the Public Health Service Act of 1912 (42 USC 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records;
 8. Title VIII of the Civil Rights Act of 1968 (42 USC § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing;
 9. Any other nondiscrimination provisions in the specific statute(s) or the state or federal solicitation or funding announcement under which application for grant funds is being made, including but not limited to:
 - i. **Section 809(c) of Title I of the Omnibus Crime Control and Safe Streets Act of 1968** (codified at 34 U.S.C. 10228(c); see also 34 U.S.C. 11182(b)),
 - ii. **Section 1407(e) of the Victims of Crime Act of 1984** (codified at 34 U.S.C. 20110(e))
 - iii. **Section 40002(b)(13) of the Violence Against Women Act of 1994** (codified at 34 U.S.C. 12291(b)(13))
- C. A nondiscrimination provision that deals with discrimination in employment on the basis of religion is read *together* with the pertinent provisions of the Religious Freedom Restoration Act of 1993. As a result, even if an otherwise-applicable nondiscrimination provision states that a recipient or subrecipient may not discriminate in employment based on religion, an OJP recipient or subrecipient that is a faith-based organization *may* consider religion in hiring, *provided* it satisfies particular requirements. Additional information on those requirements can be found at <https://ojp.gov/funding/Explore/LegalOverview/CivilRightsRequirements.htm#4>.
- D. Collectively, these federal laws prohibit a grantee from discriminating either in employment (subject to the exemption for certain faith-based organizations discussed in C. above) or in the delivery of services or benefits on the basis of race, color, national origin, sex, religion, or disability.
- E. In the event any federal or state court or federal or state administrative agency makes a finding of

discrimination after a due process hearing on the grounds of race, color, religion, national origin (including limited English proficiency), or sex against the grantee, or the grantee settles a case or matter alleging such discrimination, the grantee must forward a copy of the complaint and findings to OOG and, as applicable, the Office of Justice Programs Office for Civil Rights (OCR), or the DHS awarding office and the DHS Office of Civil Rights and Civil Liberties.

- F. **All recipients of Department of Justice Grants** must review the Information on Civil Rights for grantees posted on the eGrants website available at: https://egrants.gov.texas.gov/FileDirectory/Civil_Rights_Presentation_11-2013.pdf. More information on Civil Rights and Nondiscrimination requirements for grantees receiving funding originating from the Department of Justice can be found at <https://ojp.gov/about/ocr/statutes.htm>.

3.2 *Limited English Proficiency*

The grantee will comply with Title VI of the Civil Rights Act of 1964, which prohibits grantees from discriminating on the basis of national origin in the delivery of services or benefits, entails taking reasonable steps to ensure that persons with limited English proficiency (LEP) have meaningful access to funded programs or activities. An LEP person is one whose first language is not English and who has a limited ability to read, write, speak, or understand English. Meaningful access may entail providing language assistance services, including oral interpretation and written translation, where necessary. In order to facilitate compliance with Title VI, grantees are encouraged to consider the need for language services for LEP persons served or encountered in developing program budgets. More information can be found at <http://www.LEP.gov>.

3.3 *Equal Employment Opportunity Plan*

All recipients of Department of Justice grants must submit the Equal Employment Opportunity Plan (EEOP) certification information to the Office of Civil Rights, Office of Justice Programs through their on-line [EEOP Reporting Tool](#). For more information and guidance on how to complete and submit the federal EEOP certification information, please visit the US Department of Justice, Office of Justice Programs website at <https://ojp.gov/about/ocr/eeop.htm>.

The grantee acknowledges that failure to submit an acceptable EEOP (if recipient is required to submit one), that is approved by the Office for Civil Rights, is a violation of the Grant Agreement and may result in suspension or termination of funding, until such time as the recipient is in compliance.

4 Personnel

4.1 *Overtime*

Overtime is allowable to the extent that it is included in the OOG-approved budget, the grantee agency has an overtime policy approved by its governing body, and both grant-funded and non-grant funded personnel are treated the same with regards to the application of overtime policy(ies). In addition, in no case is dual compensation allowable. That is, an employee of a grantee agency may not receive compensation for hours worked (including paid leave) from his/her agency AND from an award for a single period of time, even though such work may benefit both activities. Overtime payments issued

outside of these guidelines are the responsibility of the grantee agency.

4.2 Notification of Grant-Contingent Employees

Staff whose salaries are supported by this award must be made aware that continued funding is contingent upon the availability of appropriated funds as well as the outcome of the annual application review conducted by OOG.

5 Travel

5.1 Travel Policies

The grantee must follow their established policies and good fiscal stewardship related to travel expenses. If the grantee does not have established written policies regarding in-state and out-of-state travel, grantee must use the travel guidelines established for state employees.

6 Contracts and Procurement

6.1 Procurement Practices and Policies

The grantee must follow applicable Federal and State law, Federal procurement standards specified in regulations governing Federal awards to non-Federal entities, their established policy, and best practices for procuring goods or services with grant funds. Contracts must be routinely monitored for delivery of services or goods.

- A. Procurement (contract) transactions should be competitively awarded unless circumstances preclude competition.
- B. When any contractual or equipment procurement is anticipated to be in excess of Simplified Acquisition Threshold, grantees must submit a Procurement Questionnaire <https://eGrants.gov.texas.gov/updates.aspx> to OOG for approval prior to procurement. Grantees must ensure these contracts address administrative, contractual, or legal remedies in instance where contractors violate or breach contract terms and provide for such sanctions and penalties as appropriate.
- C. When contractual or equipment procurement is anticipated to be in excess of \$10,000, grantees must address termination for cause and for convenience by the grantee including the manner by which it will be affected and the basis for settlement.

6.2 Subcontracting

The grantee may not subcontract any of its rights or duties under this Grant Agreement without the prior written approval of OOG. It is within OOG's sole discretion to approve any subcontracting. In the event OOG approves subcontracting by the grantee, the grantee will ensure that its contracts with others shall require compliance with the provisions of this Grant Agreement to the extent compliance is needed to support the grantee's compliance with this Grant Agreement. The grantee, in subcontracting for any performances specified herein, expressly understands and agrees that it is not relieved of its responsibilities for ensuring that all performance is in compliance with this Grant

Agreement and that OOG shall not be liable in any manner to any grantee subcontractor.

6.3 Buy Texas

If applicable with respect to any services purchased pursuant to this Grant Agreement, the grantee will buy Texas products and materials for use in providing the services authorized herein when such products and materials are available at a comparable price and within a comparable period of time when compared to non-Texas products and materials.

6.4 Contract Provisions Under Federal Awards

All contracts made by a grantee under a federal award must contain the provisions outlined in 2 CFR 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, Appendix II to Part 200 Contract Provisions for Non-Federal Entity Contracts Under Federal Awards.

7 Equipment Requirements

7.1 Property Management and Inventory

The grantee must ensure equipment purchased with grant funds is used for the purpose of the Grant and as approved by OOG. The grantee must develop and implement a control system to prevent loss, damage or theft of property and investigate and document any loss, damage or theft of property funded under this Grant.

The grantee must account for any real and personal property acquired with grant funds or received from the Federal Government in accordance with 2 CFR 200.310 Insurance coverage through 200.316 Property trust relationship and 200.329 Reporting on real property. This documentation must be maintained by the grantee, according to the requirements listed herein, and provided to OOG upon request, if applicable.

When original or replacement equipment acquired under this award by the grantee is no longer needed for the original project or program or for other activities currently or previously supported by the federal awarding agency or OOG, the grantee must make proper disposition of the equipment pursuant to 2 CFR 200 and/or the Uniform Grant Management Standards (UGMS), as applicable.

The grantee shall not give any security interest, lien or otherwise encumber any item of equipment purchased with grant funds.

The grantee will maintain specified equipment management and inventory procedures for equipment (including replacement equipment), whether acquired in whole or in part with grant funds, until disposition takes place, with a per-unit cost of \$5,000 or greater, any firearms, any items on the Prohibited or Controlled Expenditures list, and the following equipment with costs between \$500 and \$4,999: sound systems and other audio equipment, still and video cameras, TVs, video players/recorders, desktop computers, laptop computers, data projectors, smartphones, tablets, other hand held devices, mobile/portable radios, and unmanned aerial vehicle (UAV) drones. (See Texas Government Code, Sec. 403.271(b) for further information. Users of these standards should contact

the Texas Comptroller of Public Accounts' property accounting staff or review the Comptroller's State Property Accounting Process User's Guide, Appendix A, available on the internet, for the most current listing.) The equipment and inventory procedures include:

- A. The grantee must keep an inventory report on file containing equipment purchased with any grant funds during the grant period. The inventory report must agree with the approved grant budget and the final Financial Status Report and shall be available to OOG at all times upon request.
- B. At least every two (2) years, grantee must take a physical inventory and reconcile the results with property records.
- C. The grantee must maintain property/inventory records which, at minimum, include a description of the property, a serial number or other identification number, the source of property, who holds title, the acquisition date, the cost of the property, the percentage of Federal participation in the cost of the property, the location, use and condition of the property, and any ultimate disposition data including the date of disposal and sale price of the property.
- D. The grantee shall permanently identify all such equipment by appropriate tags or labels affixed to the equipment.

Upon termination of this Grant Agreement, title, use, and disposal of equipment by the grantee shall be in conformity with the UGMS; however, as between OOG and the grantee title for equipment will remain with the grantee, unless UGMS requires otherwise.

7.2 Maintenance and Repair

The grantee will maintain, repair, and protect all equipment purchased in whole or in part with grant funds so as to ensure the full availability and usefulness of such equipment. In the event the grantee is indemnified, reimbursed, or otherwise compensated for any loss of, destruction of, or damage to the equipment purchased under this Grant Agreement, the grantee shall use the proceeds to repair or replace said equipment.

7.3 Automated License Plate Readers

Any grantee requesting funds for Automated License Plate Readers (ALPR) must have a written policy regarding use of the ALPR and related data retention. Subrecipients also must enter into a User Agreement with the Texas Department of Public Safety (DPS), Crime Records Division to gain access to the Texas Automated License Plate Reader (LPR) Database so that data may be shared among all participating local, state, and federal agencies. DPS Crime Records Division will provide written certification of your jurisdiction's participation upon request. Grantees must provide OOG with a copy of the certification received from DPS Crime Records Division.

8 Information Technology

8.1 Accessibility Requirements

If applicable, the grantee will comply with the State of Texas Accessibility requirements for Electronic

and Information Resources specified in Title 1, Chapter 213 of the Texas Administrative Code when such products are available in the commercial marketplace or when such products are developed in response to a procurement solicitation. Likewise, if applicable, the grantee shall provide the Texas Department of Information Resources (DIR) with the URL to its Voluntary Product Accessibility Template (VPAT) for reviewing compliance with the State of Texas Accessibility requirements (based on the federal standards established under Section 508 of the Rehabilitation Act), or indicate that the product/service accessibility information is available from the General Services Administration “Buy Accessible Wizard” (<http://www.buyaccessible.gov>). A company not listed with the “Buy Accessible Wizard” or supplying a URL to their VPAT must provide DIR with a report that addresses the same accessibility criteria in substantively the same format. Additional information regarding the “Buy Accessible Wizard” or obtaining a copy of the VPAT is located at <http://www.section508.gov/>.

8.2 Criminal Intelligence System Operating Procedures

Any information technology system funded or supported by these funds must comply with 28 CFR Part 23, Criminal Intelligence Systems Operating Policies. Any grant-funded individual responsible for entering information into or retrieving information from an intelligence database must complete continuing education training on operating principles described by 28 CFR Part 23 at least once for each continuous two-year period that the person has responsibility for entering data into or retrieving data from an intelligence database.

8.3 Blocking Pornographic Material

The recipient understands and agrees that - (a) No award funds may be used to maintain or establish a computer network unless such network blocks the viewing, downloading, and exchanging of pornography, and (b) Nothing in subsection (a) limits the use of funds necessary for any Federal, State, tribal, or local law enforcement agency or any other entity carrying out criminal investigations, prosecution, or adjudication activities.

9 Indirect Costs

9.1 Approved Indirect Cost Rate

If indirect costs are allowable under an award, the Indirect Cost Budget Category will be available on the Budget tab. With the exception of grantees of federal awards who have never received a negotiated indirect cost rate as described in 2 CFR § 200.414(f), grantees choosing to apply indirect costs to the award must have an approved indirect cost rate agreement with their cognizant agency. A copy of the approval letter from the cognizant agency must be uploaded to the grant application for the grantee to be eligible for the indirect cost rate for the associated award.

Indirect cost rates are not generally allowed for state-funded grants, but may be approved by OOG at its sole discretion.

The indirect cost rate cited in the budget denotes the approved indirect rate at the time the grant was awarded. It is the grantee’s responsibility to ensure the appropriate indirect rate is charged throughout the term of the grant award even if the approved indirect rate expires or changes during the grant period. Indirect costs are subject to monitoring and the grantee must be able to produce evidence of an approved indirect cost rate upon request.

9.2 *De Minimis Rate*

In accordance with 2 CFR § 200.414(f), grantees of federal funds that have never received a negotiated indirect cost rate may elect to charge a de minimis rate of 10% of modified total direct costs, which may be used indefinitely. A grantee that is eligible to use the de minimis indirect cost rate, and that elects to use the de minimis indirect cost rate, must advise OOG in writing, in the grant application, before any such funds are obligated of both its eligibility and its election, and must comply with all associated requirements in 2 CFR § 200.414(f).

10 Audit and Records Requirements

10.1 *Grantee Subject to Audits*

The grantee understands and agrees that grantee is subject to relevant audit requirements present in state or federal law or regulation or by the terms of this award. For federally funded grants, audit requirements can be found in 2 CFR Part 200 or OMB Circular A-133. For state funded awards, audit requirements can be found in the Uniform Grant Management Standards.

10.2 *Single Audit Requirements*

Any grantee expending more than \$750,000 in state or \$750,000 in federal funds in a fiscal year is subject to Single Audit Requirements in 2 CFR, Part 200, Subpart F – Audit Requirements or the requirements in the Texas Single Audit Circular, at <http://comptroller.texas.gov/procurement/catrad/ugms.pdf>.

The audit must be completed and the data collection and reporting package described in 2 CFR 200.512 must be submitted to the Federal Audit Clearinghouse (FAC) within 30 calendar days after receipt of the auditor's report(s), or nine months after the end of the audit period, whichever is earlier.

Grantees who are not required to have an audit for the grantee's fiscal year in which the state or federal awards were made or expended, shall so certify in writing to OOG. The grantee's chief executive officer or chief financial officer shall make the certification within 60 days of the end of the grantee's fiscal year.

10.3 *Cooperation with Monitoring, Audits, and Records Requirements*

- A. In addition to and without limitation on the other audit provisions of this Grant Agreement, pursuant to Section 2262.154 of the Texas Government Code, the State Auditor's Office or successor agency, may conduct an audit or investigation of the grantee or any other entity or person receiving funds from the State directly under this Grant Agreement or indirectly through a subcontract under this Grant Agreement. The acceptance of funds by the grantee or any other entity or person directly under this Grant Agreement or indirectly through a subcontract under this Grant Agreement acts as acceptance of the authority of the State Auditor's Office, under the direction of the Legislative Audit Committee, to conduct an audit or investigation in connection with those funds. Under the direction of the Legislative Audit Committee, the grantee or another entity that is the subject of an audit or investigation by the State Auditor's Office shall provide the State Auditor's Office with prompt access

to any information the State Auditor's Office considers relevant to the investigation or audit. The grantee further agrees to cooperate fully with the State Auditor's Office in the conduct of the audit or investigation, including providing all records requested. The grantee shall ensure that this paragraph concerning the authority to audit funds received indirectly by subcontractors through the grantee and the requirement to cooperate is included in any subcontract it awards. The State Auditor's Office shall at any time have access to and the right to examine, audit, excerpt, and transcribe any pertinent books, documents, working papers, and records of the grantee related to this Grant Agreement. This Grant Agreement may be amended unilaterally by OOG to comply with any rules and procedures of the State Auditor's Office in the implementation and enforcement Section 2262.154 of the Texas Government Code.

- B. The grantee agrees to comply with the grant monitoring guidelines, protocols, and procedures established by OOG and any federal funding agency, and to cooperate with OOG and any relevant federal agency generally, including on any compliance review or complaint investigation conducted by the Federal sponsoring agency or OOG and on all grant monitoring requests, including requests related to desk reviews and/or site visits.
- C. The grantee shall maintain adequate records that enable OOG and any relevant federal agency to complete monitoring tasks, including to verify all reporting measures, requests for reimbursements, and expenditure of match funds related to this Grant Agreement. The grantee shall maintain such records as are deemed necessary by OOG, the State Auditor's Office, other auditors of the State of Texas, the federal government or such other persons or entities designated or authorized by OOG to ensure proper accounting for all costs and performances related to this Grant Agreement.
- D. OOG may request documented proof of payment. Acceptable proof of payment includes, but is not necessarily limited to, a receipt or other documentation of a paid invoice, a general ledger detailing the specific revenue and expenditures, a monthly bank statement evidencing payment of the specific expenditure, bank reconciliation detail, copies of processed checks, or a printed copy of an electronic payment confirmation evidencing payment of the specific expenditure to which the reimbursement relates.
- E. The grantee authorizes OOG, the State Auditor's Office, the Comptroller General, and any relevant federal agency, and their representatives, the right to audit, examine, and copy all paper and electronic records, books, documents, accounting procedures, practices, and any other requested records, in any form; relevant to the grant, the operation and management of the grantee, and compliance with this grant agreement and applicable state or federal laws and regulations; and will make them readily available upon request. The grantee will similarly permit access to facilities, personnel, and other individuals and information as may be necessary.
- F. If requested, the grantee shall submit to OOG a copy of its most recent independent financial audit. If requested, the grantee shall submit to OOG any audited financial statements, related management letters and management responses of grantee, and financial audit documents or portions thereof that are directly related to the grantee's performance of its obligations under this Grant Agreement.
- G. OOG may make unannounced monitoring visits at any time but will, whenever practical as determined at the sole discretion of OOG, provide the grantee with up to five (5) business days advance notice of any such examination or audit. Any audit of records shall be conducted at the grantee's principal place of business and/or the location(s) of the grantee's operations during the grantee's normal business hours. The grantee shall provide to OOG or its designees, on the grantee's premises (or if the audit is being performed of a subcontractor, the subcontractor's

premises if necessary) private space, office furnishings (including lockable cabinets), telephone services and Internet connectivity, utilities, and office-related equipment and duplicating services as OOG or its designees may reasonably require to perform the audits described in this Grant Agreement.

- H. In addition to the information contained in the required reports, other information may be required as requested by OOG, including OOG asking for more information regarding project performance or funds expenditures. In the event OOG requires additional information regarding the information or data submitted, the grantee will promptly provide the additional information. The grantee also agrees to assist OOG in responding to questions and assisting in providing information responsive to any audit, legislative request, or other inquiry regarding the grant award. Upon the request of OOG, the grantee must submit to OOG any additional documentation or explanation OOG may desire to support or document the requested payment or report submitted under this Grant Agreement.
- I. If after a written request by OOG or a relevant federal agency, the grantee fails to provide required reports, information, documentation, or other information within reasonable deadlines set by OOG or the relevant federal agency, as required by this Grant Agreement, or fails to fulfil any requirement in this section, then OOG may consider this act a possible default under this Grant Agreement, and the grantee may be subject to sanctions including but not limited to, withholdings and/or other restrictions on the recipient's access to grant funds; referral to relevant agencies for audit review; designation of the recipient as a high-risk grantee; or termination of awards.
- J. The grantee agrees to hold any subcontractors or subgrantees to the provisions of this section and to require and maintain the documentation necessary to complete monitoring tasks performed by any subcontractor or subgrantee. The grantee shall ensure that this section concerning the authority to audit funds received indirectly by subcontractors through grantee and the requirement to cooperate is included in any subcontract it awards related to this grant. The grantee will direct any other entity, person, or contractor receiving funds directly under this Grant Agreement or through a subcontract under this Grant Agreement to likewise permit access to, inspection of, and reproduction of all books, records, and other relevant information of the entity, person, or contractor that pertain to this Grant Agreement.

10.4 Requirement to Address Audit Findings

If any audit, financial or programmatic monitoring, investigations, review of awards, or other compliance review reveals any discrepancies, inadequacies, or deficiencies which are necessary to correct in order to maintain compliance with this Grant Agreement, applicable laws, regulations, or the grantee's obligations hereunder, the grantee agrees to propose and submit to OOG a corrective action plan to correct such discrepancies or inadequacies within thirty (30) calendar days after the grantee's receipt of the findings. The grantee's corrective action plan is subject to the approval of OOG.

OOG, at its sole discretion, may impose remedies as part of a corrective action plan, including, but not limited to: increasing monitoring visits; requiring that additional or more detailed financial and/or programmatic reports be submitted; requiring prior approval for expenditures; requiring additional technical or management assistance and/or making modifications in business practices; reducing the grant award amount; and/or terminating this Grant Agreement. The foregoing are not exclusive remedies, and OOG may impose other requirements that OOG determines will be in the best interest of the State.

The grantee understands and agrees that the grantee must make every effort to address and resolve all outstanding issues, findings, or actions identified by OOG (and/or, in the case of federally funded grant, a relevant federal agency) through the corrective action plan or any other corrective plan. Failure to promptly and adequately address these findings may result in grant funds being withheld, other related requirements being imposed, or other sanctions and penalties. The grantee agrees to complete any corrective action approved by OOG within the time period specified by OOG and to the satisfaction of OOG, at the sole cost of the grantee. The grantee shall provide to OOG periodic status reports regarding the grantee's resolution of any audit, corrective action plan, or other compliance activity for which the grantee is responsible.

10.5 *Records Retention*

- A. The grantee shall maintain appropriate audit trails to provide accountability for all expenditures of grant funds, reporting measures, and funds received from OOG under this Grant Agreement. Audit trails maintained by the grantee will, at a minimum, identify the supporting documentation prepared by the grantee to permit an audit of its accounting systems and payment verification with respect to the expenditure of any funds awarded under this Grant Agreement. The grantee's automated systems, if any, must provide the means whereby authorized personnel have the ability to audit and to verify performance and to establish individual accountability for any action that can potentially cause access to, generation of, or modification of payment information.
- B. The grantee must maintain fiscal records and supporting documentation for all expenditures resulting from this Grant Agreement pursuant to 2 CFR 200.333, UGMS, and state law.
 - 1. The grantee must retain these records and any supporting documentation for a minimum of three (3) years from the later of the completion of this project's public objective, submission of the final expenditure report, any litigation, dispute, or audit.
 - 2. Records related to real property and equipment acquired with grant funds shall be retained for three (3) years after final disposition.
 - 3. For all training and exercises paid for by this Grant, grantee must complete, deliver to the appropriate source, and then retain copies of all after-action reports and certificates of training completion for the time period specified in this Section.
 - 4. OOG or the Federal Funding Agency may direct a grantee to retain documents for longer periods of time or to transfer certain records to OOG or federal custody when OOG or the Federal Funding Agency determines that the records possess long term retention value.
 - 5. The grantee must give the Federal Funding Agency, the Comptroller General of the United States, the Texas State Auditor's Office, OOG, or any of their duly authorized representatives, access to and the right to examine all books, accounts, records, reports, files, other papers, things or property belonging to or in use by grantee pertaining to this Grant including records concerning the past use of grant funds. Such rights to access shall continue as long as the records are maintained.

The grantee must include the substance of this Section in all subcontracts.

- C. If the grantee collects personally identifiable information, it will have a publically-available privacy policy that describes what information it collects, how it uses the information, whether it shares the information with third parties, and how individuals may have their information corrected where appropriate. The grantee shall establish a method to secure the confidentiality of any

records related to the grant program that are required to be kept confidential by applicable federal or state law or rules. This provision shall not be construed as limiting OOG's access to such records and other information under any provision of this Grant Agreement.

11 Prohibited and Regulated Activities and Expenditures

11.1 Inherently Religious Activities

A grantee may not use grant funding to engage in inherently religious activities, such as proselytizing, scripture study, or worship. Grantees may, of course, engage in inherently religious activities; however, these activities must be separate in time or location from the federally assisted program. Moreover, grantees must not compel program beneficiaries to participate in inherently religious activities. Grantees must also not discriminate against a program beneficiary or prospective program beneficiary on the basis of religion or religious belief in the delivery of services or benefits funded by the grant. These requirements apply to all grantees, not just faith-based organizations.

11.2 Political Activities

Grant funds may not be used in connection with the following acts by agencies or individuals employed by grant funds:

- A. Unless specifically authorized to do so by federal law, grant recipients or their subgrantees or contractors are prohibited from using grant funds directly or indirectly for political purposes, including lobbying or advocating for legislative programs or changes; campaigning for, endorsing, contributing to, or otherwise supporting political candidates or parties; and voter registration or get-out-the-vote campaigns. Generally, organizations or entities which receive federal funds by way of grants, contracts, or cooperative agreements do not lose their rights as organizations to use their own, private, non-federal resources for "political" activities because of or as a consequence of receiving such federal funds. These recipient organizations must thus use private or other non-federal money, receipts, contributions, or dues for their political activities, and may not charge off to or be reimbursed from federal contracts or grants for the costs of such activities.
- B. Grant officials or grant funded employees may not use official authority or influence or permit the use of a program administered by the grantee agency of which the person is an officer or employee to interfere with or affect the result of an election or nomination of a candidate or to achieve any other political purpose.
- C. Grant-funded employees may not coerce, attempt to coerce, command, restrict, attempt to restrict, or prevent the payment, loan, or contribution of anything of value to a person or political organization for a political purpose.
- D. Grant funds will not be used, either directly or indirectly, in support of the enactment, repeal, modification, or adoption of any law, regulation or policy, at any level of government, without the express prior approval of OOG and applicable federal funding agencies. If any non-grant funds have been or will be used in support of the enactment, repeal, modification, or adoption of any law, regulation or policy, at any level of government, it will notify OOG to obtain the appropriate disclosure form.

- E. Grant funds may not be used to employ, as a regular full-time or part-time or contract employee, a person who is required by Chapter 305 of the Government Code to register as a lobbyist. Furthermore, grant funds may not be used to pay, on behalf of the agency or an officer or employee of the agency, membership dues to an organization that pays part or all of the salary of a person who is required by Chapter 305 of the Government Code to register as a lobbyist.
- F. Grant funds – whether expended by the grantee or by any subgrantee or subcontractor – will not be used for political polling. This prohibition regarding political polling does not apply to a poll conducted by an academic institution as a part of the institution’s academic mission that is not conducted for the benefit of a particular candidate or party.
- G. As applicable, the grantee will comply with 31 USC § 1352, which provides that none of the funds provided under an award may be expended by the grantee to pay any person to influence, or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any Federal action concerning the award or renewal.

The grantee will include the language of this section in the award documents for all subawards at all tiers and will require all subrecipients to certify accordingly.

11.3 *Generally Prohibited Expenditures*

The following items and activities are specifically prohibited from being funded under this Grant Agreement:

- A. Costs of advertising and public relations designed solely to promote the governmental unit;
- B. Costs of international travel¹;
- C. Costs of entertainment, including amusement, diversion, and social activities and any costs directly associated with such costs (such as tickets to shows or sports events, meals, lodging, rentals, transportation, and gratuities);
- D. Fundraising;
- E. Lobbying;
- F. Alcoholic beverages;
- G. Costs to support any activity that has as its objective funding of sectarian worship, instruction, or proselytization; and
- H. Promotional items and memorabilia, including models, gifts, and souvenirs.

11.4 *Acorn*

The grantee understands and agrees that it cannot use any federal funds, either directly or indirectly, in support of any contract or subaward to either the Association of Community Organizations for Reform Now (ACORN) or its subsidiaries, without the express prior written approval of OOG.

¹ In certain circumstances international travel may be allowed under the Homeland Security Grant Program with prior written approval from the US Department of Homeland Security, Federal Emergency Management Agency (FEMA).

11.5 Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment

The John S. McCain National Defense Authorization Act for Fiscal Year 2019 (FY 2019 NDAA), Pub. L. No. 115-232 (2018), prohibits the purchase of certain telecommunications and video surveillance services or equipment from specified entities. For more information on this prohibition please refer to Public Law No. 115-232 at <https://www.congress.gov/bill/115th-congress/house-bill/5515/text?format=txt>.

12 Financial Requirements

12.1 Financial Status Reports

Financial Status Reports must be submitted to OOG via eGrants. Unless otherwise specified by OOG, Reports may be submitted monthly but must be submitted at least quarterly. Reports are due after each calendar quarter regardless of when the grant was awarded. Due dates are:

1. April 22 (January-March quarter)
2. July 22 (April-June quarter)
3. October 22 (July-September quarter)
4. January 22 (October-December quarter)

A grant liquidation date will be established in eGrants. The final Financial Status Report must be submitted to OOG on or before the liquidation date or the grant funds may lapse and OOG will provide them as grants to others who need the funding. Payments will be generated based on expenditures reported in the reports. Upon OOG approval of the report, OOG will issue a payment through direct deposit or electronic transfer.

12.2 Approval of Financial Status Report

Grant payments will be generated based on expenditures as reported in the Financial Status Reports in eGrants or, if authorized by OOG, through Advance Payment Requests. Upon OOG approval of a Financial Status Report or Advance Payment Request, a payment will issue through direct deposit or electronic transfer, though additional documentation may be required and this statement does not override other rules, laws or requirements. It is the policy of OOG to make prompt payment on the approval of a properly prepared and submitted Financial Status Report and any other required documentation.

12.3 Reimbursements

OOG will be obligated to reimburse the grantee for the expenditure of actual and allowable allocable costs incurred and paid by the grantee pursuant to this Grant Agreement. Each item of expenditure shall be specifically attributed to the eligible cost category as identified in the Grant Budget. The Grant Budget is established as provided in eGrants and is the approved budget for the planned expenditure of awarded grant funds, with expenditures identified by approved cost category. OOG is not obligated to pay unauthorized costs or to reimburse expenses that were incurred by the grantee prior to the commencement or after the termination of this Grant Agreement.

By submission of a Financial Status Report, the grantee is warranting the following: (1) all invoices have been carefully reviewed to ensure that all invoiced services or goods have been performed or delivered; (2) that the services or goods have been performed or delivered in compliance with all terms of this Grant Agreement; (3) that the amount of each new Financial Status Report added together with all previous Financial Status Reports do not exceed the Maximum Liability of OOG; and (5) the charges and expenses shown on the Request for Reimbursement are reasonable and necessary.

12.4 Generally Accepted Accounting Principles

The grantee shall adhere to Generally Accepted Accounting Principles (GAAP) promulgated by the American Institute of Certified Public Accountants, unless other recognized accounting principles are required by the grantee. The grantee shall follow OOG fiscal management policies and procedures in processing and submitting requests for reimbursement and maintaining financial records related to this Grant Agreement.

12.5 Program Income

"Program income" means gross income received by the grantee or subgrantee directly generated by a grant supported activity, or earned only as a result of the grant agreement during the grant period. Unless otherwise required under the terms of this Grant Agreement, any program income shall be used by the grantee to further the program objectives of the project or activity funded by this grant, and the program income shall be spent on the same project or activity in which it was generated. Program income shall be used to offset the grant award. The grantee shall identify and report this income in accordance with OOG's reporting instructions. The grantee shall expend program income during the term of this Grant Agreement; program income not expended during the term of this Grant Agreement shall be refunded to OOG.

12.6 Refunds and Deductions

If OOG determines that the grantee has been overpaid any grant funds under this Grant Agreement, including payments made inadvertently or payments made but later determined to not be actual and allowable allocable costs, the grantee shall return to OOG the amount identified by OOG as an overpayment. The grantee shall refund any overpayment to OOG within thirty (30) calendar days of the receipt of the notice of the overpayment from OOG unless an alternate payment plan is specified by OOG.

12.7 Liquidation Period

The liquidation date is ninety (90) calendar days after the grant end date, unless otherwise noted in the original grant award or a grant adjustment. Funds not obligated by the end of the grant period and not expended by the liquidation date will revert to OOG.

12.8 Duplication of Funding

If grantees receive any funding that is duplicative of funding received under this grant, they will notify OOG as soon as possible. OOG may issue an adjustment modifying the budget and project activities to

eliminate the duplication. Further, the grantee agrees and understands that any duplicative funding that cannot be re-programmed to support non-duplicative activities within the program's statutory scope will be de-obligated from this award and returned to OOG.

12.9 Supplanting

Awarded funds must be used to supplement existing funds for program activities and not replace (supplant) funds that have been appropriated, allocated or disbursed for the same purpose. Grant monitors and auditors will look for potential supplanting during reviews. Violations may result in a range of penalties, including suspension of future funds, suspension or debarment from receiving federal or state grants, recoupment of monies provided under the grant, and civil or criminal penalties. For additional information on supplanting, refer to the Guide to Grants at <https://eGrants.gov.texas.gov/updates.aspx>.

13 Required Reports

13.1 Measuring, Reporting, and Evaluating Performance

Grantees should regularly collect and maintain data that measure the performance and effectiveness of activities under this award, in the manner, and within the timeframes specified in the program solicitation, or as otherwise specified by OOG. This evaluation includes a reassessment of project activities and services to determine whether they continue to be effective.

Grantees must submit required reports regarding grant information, performance, and progress towards goals and objectives in accordance with the instructions provided by OOG or its designee. If requested by OOG, the grantee shall report on the progress towards completion of the grant project and other relevant information as determined by OOG. To remain eligible for funding, the grantee must be able to show the scope of services provided and their impact, quality, and levels of performance against approved goals, and that their activities and services effectively address and achieve the project's stated purpose.

13.2 Report Formats, Submissions, and Timelines

The grantee shall provide to OOG all applicable reports in a format and method specified by OOG. The grantee shall ensure that it submits each report or document required by OOG in an accurate, complete, and timely manner to OOG or the Federal sponsoring agency, as specified by this Grant Agreement or OOG, and will maintain appropriate backup documentation to support the reports. Unless filing dates are given herein, all other reports and other documents that the grantee is required to forward to OOG shall be promptly forwarded.

13.3 Failure to File Required Reports

Failure to comply with submission deadlines for required reports, Financial Status Reports, or other requested information may result in OOG, at its sole discretion, placing the grantee on immediate financial hold without further notice to the grantee and without first requiring a corrective action plan. No reimbursements will be processed until the requested information is submitted. If the grantee is

placed on financial hold, OOG, at its sole discretion, may deny reimbursement requests associated with expenses incurred during the time the grantee was placed on financial hold.



Office of the Governor

Public Safety Office

Homeland Security Grants Division
Fund Specific Grant Conditions

Homeland Security Grant Program
FFY 2020 Award

September 2020

About This Document

In this document, grantees (also referred to as subrecipients) will find fund specific federal requirements and conditions applicable to the grant award administered by the Office of the Governor (OOG). These requirements and conditions are incorporated into the Grant Agreement accepted by a grant's Authorized Official.

These requirements are in addition to those that can be found on the eGrants system – including the Grant Application and Grant Award – or in documents identified there, to which grantees agreed when applying for and accepting the grant. Other state and federal requirements and conditions may apply to your grant, including but not limited to: 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards; Chapter 783 of the Texas Government Code; Title 34, Part 1, Chapter 20, Subchapter E, Division 4 of the Texas Administrative Code; the Uniform Grant Management Standards (UGMS) developed by the Comptroller of Public Accounts; the state Funding Announcement or Solicitation under which the grant application was made; for federal funding, the Funding Announcement or Solicitation under which OOG was awarded funds; and any applicable documents referenced in the documents listed above. For grants awarded from the U.S. Department of Justice (DOJ), the current applicable version of the Department of Justice Grants Financial Guide and any applicable provisions in Title 28 of the CFR apply. For grants awarded from the Federal Emergency Management Agency (FEMA), all Information Bulletins and Policies published by the FEMA Grants Program Directorate apply. OOG reserves the right to add additional responsibilities and requirements, with or without advance notice to the grantee.

Any rights or privileges reserved or attributed to the federal awarding agency are also reserved or attributed to OOG, which may exercise them at its discretion.

It is important for grantees to review all of these policies to successfully manage their grant, maintain eligibility for funding, and avoid violating the terms of the Grant Agreement, any of which could result in the revocation of funding or other actions.

For clarification or further information, please see the Guide to Grants and other support materials at <http://eGrants.Gov.Texas.Gov> or contact the grant manager assigned to the relevant grant. If no grant manager has been assigned, please contact the eGrants help desk via email at: eGrants@gov.texas.gov, or via telephone at: (512) 463-1919 or dial 7-1-1 for relay services.

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Article I. Activities Conducted Abroad

Recipients and subrecipients must ensure that project activities carried on outside the United States are coordinated as necessary with appropriate government authorities and that appropriate licenses, permits, or approvals are obtained.

Article II. Trafficking Victims Protection Act of 2000

Recipients and subrecipients must comply with the requirements of the government-wide financial assistance award term which implements Section 106(g) of the Trafficking Victims Protection Act of 2000, (TVPA), codified as amended by 22 U.S.C. Section 7104. The award term is located at 2 C.F.R. Section 175.15, the full text of which is incorporated here by reference.

Article III. Federal Leadership on Reducing Text Messaging While Driving

All recipients and subrecipients are encouraged to adopt and enforce policies that ban text messaging while driving as described in E.O. 13513, including conducting initiatives described in Section 3(a) of the Order when on official government business or when performing any work for or on behalf of the federal government.

Article IV. Debarment and Suspension

Recipients and subrecipients are subject to the non-procurement debarment and suspension regulations implementing Executive Orders (E.O.) 12549 and 12689, and 2 C.F.R. Part 180 as adopted by DHS at 2 C.F.R. Part 3000. These regulations restrict federal financial assistance awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in federal assistance programs or activities.

Article V. Fly America Act of 1974

Recipients and subrecipients must comply with Preference for U.S. Flag Air Carriers (air carriers holding certificates under 49 U.S.C. Section 41102) for international air transportation of people and property to the extent that such service is available, in accordance with the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. Section 40118) and the interpretative guidelines issued by the Comptroller General of the United States in the March 31, 1981 amendment to Comptroller General Decision B-138942.

Article VI. Civil Rights and Nondiscrimination

Section 6.01 *Americans with Disabilities Act of 1990*

Recipients and subrecipients must comply with the requirements of Titles I, II, and III of the Americans with Disabilities Act, Pub. L. No. 101-336 (1990) (codified as amended at 42 U.S.C. Sections 12101-12213), which prohibits recipients from discriminating on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities.

Section 6.02 *Civil Rights Act of 1968*

Recipients and subrecipients must comply with Title VIII of the Civil Rights Act of 1968, Pub. L. No. 90-284, as amended through Pub. L. 113-4, which prohibits recipients from discriminating in the sale, rental, financing, and advertising of dwellings, or in the provision of services in connection therewith, on

the basis of race, color, national origin, religion, disability, familial status, and sex (see 42 U.S.C. Section 3601 et seq.), as implemented by the U.S. Department of Housing and Urban Development at 24 C.F.R. Part 100. The prohibition on disability discrimination includes the requirement that new multifamily housing with four or more dwelling units-i.e., the public and common use areas and individual apartment units (all units in buildings with elevators and ground-floor units in buildings without elevators)-be designed and constructed with certain accessible features. (See 24 C.F.R. Section 100, Subpart D)

Section 6.03 Limited English Proficiency (Civil Rights Act of 1964, Title VI)

Recipients and subrecipients must comply with the Title VI of the Civil Rights Act of 1964 (42 U.S.C. Section 2000d et seq.) prohibition against discrimination on the basis of national origin, which requires that recipients of federal financial assistance take reasonable steps to provide meaningful access to persons with limited English proficiency (LEP) to their programs and services. For additional assistance and information regarding language access obligations, please refer to the DHS Recipient Guidance <https://www.dhs.gov/guidance-published-help-department-supported-organizations-provide-meaningful-access-people-limited> and additional resources on <http://www.lep.gov>.

Section 6.04 Civil Rights Act of 1964 – Title VI

Recipients and subrecipients must comply with the requirements of Title VI of the Civil Rights Act of 1964 (codified as amended at 42 U.S.C. Section 2000d et seq.), which provides that no person in the United States will, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. DHS implementing regulations for the Act are found at 6 C.F.R. Part 21 and 44 C.F.R. Part 7.

Section 6.05 Rehabilitation Act of 1973

Recipients and subrecipients must comply with the requirements of Section 504 of the Rehabilitation Act of 1973, Pub. L. No. 93-112 (1973) (codified as amended at 29 U.S.C. Section 794), as amended, which provides that no otherwise qualified handicapped individuals in the United States will, solely by reason of the handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

Section 6.06 Nondiscrimination in Matters Pertaining to Faith-Based Organizations

It is DHS policy to ensure the equal treatment of faith-based organizations in social service programs administered or supported by DHS or its component agencies, enabling those organizations to participate in providing important social services to beneficiaries. Recipients and subrecipients must comply with the equal treatment policies and requirements contained in 6 C.F.R. Part 19 and other applicable statutes, regulations, and guidance governing the participations of faith-based organizations in individual DHS programs.

Section 6.07 Education Amendments of 1972

Recipients and subrecipients must comply with the requirements of Title IX of the Education Amendments of 1972, Pub. L. No. 92-318 (1972) (codified as amended at 20 U.S.C. Section 1681 et seq.), which provide that no person in the United States will, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational

program or activity receiving federal financial assistance. DHS implementing regulations are codified at 6 C.F.R. Part 17 and 44 C.F.R. Part 19.

Section 6.08 *Age Discrimination Act of 1975*

Recipients and subrecipients must comply with the requirements of the Age Discrimination Act of 1975 , Pub. L. No. 94-135 (1975) (codified as amended at Title 42 U.S. Code, Section 6101 et seq.), which prohibits discrimination on the basis of age in any program or activity receiving federal financial assistance.

Article VII. Duplication of Benefit

Any cost allocable to a particular federal financial assistance award provided for in 2 C.F.R. Part 200, Subpart E may not be charged to other federal financial assistance awards to overcome fund deficiencies, to avoid restrictions imposed by federal statutes, regulations, or federal financial assistance award terms and conditions, or for other reasons. However, these prohibitions would not preclude recipients from shifting costs that are allowable under two or more awards in accordance with existing federal statutes, regulations, or the federal financial assistance award terms and conditions.

Article VIII. Copyrights

Recipients and subrecipients must affix the applicable copyright notices of 17 U.S.C. Sections 401 or 402 and an acknowledgement of U.S. Government sponsorship (including the award number) to any work first produced under federal financial assistance awards.

Article IX. Best Practices for Collection and Use of Personally Identifiable Information (PII)

Recipients and subrecipients who collect PII are required to have a publically-available privacy policy that describes standards on the usage and maintenance of PII they collect. DHS defines personally identifiable information (PII) as any information that permits the identity of an individual to be directly or indirectly inferred, including any information that is linked or linkable to that individual. Recipients may also find the DHS Privacy Impact Assessments: Privacy Guidance and Privacy template as useful resources respectively.

Article X. Hotel and Motel Fire Safety Act of 1990

In accordance with Section 6 of the Hotel and Motel Fire Safety Act of 1990, (15 U.S.C. Section 2225a), recipients and subrecipients must ensure that all conference, meeting, convention, or training space funded in whole or in part with federal funds complies with the fire prevention and control guidelines of the Federal Fire Prevention and Control Act of 1974, as amended, (15 U.S.C. Section 2225).

Article XI. Disposition of Equipment

When original or replacement equipment acquired under this award by the recipient or its subrecipients is no longer needed for the original project or program or for other activities currently or previously supported by DHS/FEMA, the state must request instructions from DHS/FEMA to make proper disposition of the equipment pursuant to 2 C.F.R. Section 200.313. Subrecipients should contact HSGD for instructions.

Article XII. Patents and Intellectual Property Rights

Recipients and subrecipients are subject to the Bayh-Dole Act, 35 U.S.C. section 200, unless otherwise provided by law. Recipients are subject to the specific requirements governing the development, reporting, and disposition of rights to inventions and patents resulting from federal financial assistance awards located at 37 C.F.R. Part 401 and the standard patent rights clause located at 37 C.F.R. Section 401.14.

Article XIII. DHS Specific Acknowledgements and Assurances

All recipients, subrecipients, successors, transferees, and assignees must acknowledge and agree to comply with applicable provisions governing DHS access to records, accounts, documents, information, facilities, and staff.

1. Recipients must cooperate with any compliance reviews or compliance investigations conducted by DHS.
2. Recipients must give DHS access to, and the right to examine and copy, records, accounts, and other documents and sources of information related to the federal financial assistance award and permit access to facilities, personnel, and other individuals and information as may be necessary, as required by DHS regulations and other applicable laws or program guidance.
3. Recipients must submit timely, complete, and accurate reports to the appropriate DHS officials and maintain appropriate backup documentation to support the reports.
4. Recipients must comply with all other special reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.

Article XIV. Procurement of Recovered Materials

States, political subdivisions of states, and their contractors (or subrecipients) must comply with Section 6002 of the Solid Waste Disposal Act, Pub. L. No. 89-272 (1965) (codified as amended by the Resource Conservation and Recovery Act, 42 U.S.C. section 6962). The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R. Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition.

Article XV. Terrorist Financing

Recipients and subrecipients must comply with E.O. 13224 and U.S. law that prohibit transactions with, and the provisions of resources and support to, individuals and organizations associated with terrorism. Recipients are legally responsible to ensure compliance with the Order and laws.

Article XVI. Acknowledgement of Federal Funding from DHS

Recipients and subrecipients must acknowledge their use of federal funding when issuing statements, press releases, requests for proposal, bid invitations, and other documents describing projects or programs funded in whole or in part with federal funds.

Article XVII. False Claims Act and Program Fraud Civil Remedies

Recipients and subrecipients must comply with the requirements of The False Claims Act (31 U.S.C. Section 3729-3733) which prohibits the submission of false or fraudulent claims for payment to the federal government. (See 31 U.S.C. Section 3801-3812 which details the administrative remedies for false claims and statements made.)

Article XVIII. Lobbying Prohibition

Recipients and subrecipients must comply with 31 U.S.C. Section 1352, which provides that none of the funds provided under an federal financial assistance award may be expended by the recipient to pay any person to influence, or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any federal action related to a federal award or contract, including any extension, continuation, renewal, amendment, or modification.

Article XIX. National Environmental Policy Act

Recipients and subrecipients must comply with the requirements of the National Environmental Policy Act (NEPA) of 1969, Pub. L. No. 91-190 (1970) (codified as amended at 42 U.S.C. section 4321 et seq.) and the Council on Environmental Quality (CEQ) Regulations for Implementing the Procedural Provisions of NEPA, which requires recipients to use all practicable means within their authority, and consistent with other essential considerations of national policy, to create and maintain conditions under which people and nature can exist in productive harmony and fulfill the social, economic, and other needs of present and future generations of Americans.

Article XX. USA Patriot Act of 2001

Recipients and subrecipients must comply with requirements of section 817 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT Act), PUB. L. No 107.56, which amends 18 U.S.C. Sections 175-175c.

Article XXI. Non-Supplanting Requirement

Recipients and subrecipients receiving federal financial assistance awards made under programs that prohibit supplanting by law must ensure that federal funds do not replace (supplant) funds that have been budgeted for the same purpose through non-federal sources.

Article XXII. Energy Policy and Conservation Act

Recipients and subrecipients must comply with the requirements of The Energy Policy and Conservation Act, Pub. L. No. 94-163 (1975) (codified as amended at 42 U.S.C. Section 6201 et seq.) which contain policies relating to energy efficiency that are defined in the state energy conservation plan issued in compliance with this Act.

Article XXIII. Whistleblower Protections

Recipients and subrecipients must comply with the statutory requirements for whistleblower protections (if applicable) at 10 U.S.C Section 2409, 41 U.S.C. 4712, and 10 U.S.C. Section 2324, 41 U.S.C. Sections 4304 and 4310.

Article XXIV. Federal Debt

Recipients and subrecipients are required to be non-delinquent in their repayment of any federal debt. Examples of relevant debt include delinquent payroll and other taxes, audit disallowances, and benefit overpayments. (See OMB Circular A-129.)

Article XXV. Use of DHS Seal, Logo and Flags

Recipients and subrecipients must obtain permission from their DHS FAO, prior to using the DHS seal(s), logos, crests or reproductions of flags or likenesses of DHS agency officials, including use of the United States Coast Guard seal, logo, crests or reproductions of flags or likenesses of Coast Guard officials.

Article XXVI. Notice of Funding Opportunity

All of the instructions, guidance, limitations, and other conditions set forth in the federal Notice of Funding Opportunity (NOFO) for this program are incorporated here by reference in the award terms and conditions. All recipients and subrecipients must comply with any such requirements set forth in the federal program NOFO.

Article XXVII. SAFECOM

Recipients and subrecipients receiving federal financial assistance awards made under programs that provide emergency communication equipment and its related activities must comply with the SAFECOM Guidance for Emergency Communication Grants, including provisions on technical standards that ensure and enhance interoperable communications.

Article XXVIII. Operation Stonegarden Program Hold

The subrecipient is prohibited from drawing down Operation Stonegarden (OPSG) funding provided through this award until each unique, specific or modified county level, tribal or equivalent Operations Order or Fragmentary Order (Frago) has been reviewed by FEMA/GPD and Customs and Border Protection/United State Border Patrol (CBP/USBP). HSGD will receive the official notification of approval from FEMA/GPD and then notify the subrecipient.

Article XXIX. National Incident Management System (NIMS)

During the performance period of this Grant, the subrecipient must implement the NIMS in a manner consistent with the NIMS Implementation Objectives outlined by FEMA at <https://www.fema.gov/emergency-managers/nims/implementation-training>. As subrecipients of Federal preparedness (non-disaster) grant awards, jurisdictions and organizations must achieve or be actively working to achieve all of the NIMS Implementation Objectives.



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

DATE: December 16, 2024

FROM: Paul Henley, Fire Chief

ITEM: Consider approval of the purchase of a 2025 Ford F550 Frazer ambulance for the Fire and Emergency Services Department from Sterling McCall Ford through the Houston-Galveston Area Council of Governments Contract (HGAC) #AM10-23 in the amount of \$380,000.00 and authorization for the Mayor to execute same on behalf of the Town.

BACKGROUND: The Fire and Emergency Services Department has an approved FY24-25 decision package to purchase an ambulance which will be an addition to our Fleet. This vehicle is a 2025 Ford F550 model to be purchased through HGAC contract # AM10-23 in the amount of \$380,000.00. This request is in accordance with the Fleet Department's recommendation.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES: N/A

FISCAL IMPACT: \$380,000.00

Proposed Expenditure/(Revenue)

\$380,000.00

Account Number(s):

319-560-63000-6130/319-560-63000-6190

LEGAL REVIEW: N/A

ATTACHMENTS:

1. Fleet Requisition - new ambulance
2. HGAC Quote #4466
3. Frazer Quote# Q4466-0001
4. Bid Award Recommendation-new ambulance

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

VEHICLE-EQUIPMENT PURCHASE REQUISITION

(For Purchase Process)

Date: 12/28/2023
 Suggested Vendor: Sterling McCall
 Contact (if known): Pablo Cantu
 Address (if available): 6445 Southwest Freeway
Houston, TX 77074
 Phone/Fax: 281-588-5007



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

G/L Account # (if Decision Package)	\$ Budget Estimate	Qty.	Unit Description (Specifications)	\$ Updated Quote	Amount
319-560-63000-6130		1	New Ford F550 Gas Ambulance-Frazer	\$ 380,000.00	\$ 380,000.00
					-
					-
					-
					-
All Pickups come equipped w/ Spray-In Liner, Headache Rack, Across-the-bed Locking Toolbox, and Lights				TOTAL:	\$ 380,000.00

Name/Phone Ext.: Paul Henley - 6201
 Approved By: _____
 Unit #(s) to be replaced
 or specify NEW Unit: NEW Unit
 Spec Name: Frazer/Ford Q4466-0001

APPROVALS:

Fleet Manager: Billy Sterner

Bid/Solicitation #: _____

Co-Op/Contract #: HGAC #AM10-23

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

**CONTRACT PRICING WORKSHEET**
For MOTOR VEHICLES OnlyContract
No.:

AM10-23

Date
Prepared:

11/27/2024

Due to global supply chain constraints, any delivery date contained herein is a good faith estimate as of the date of this order/contract. As needed, delivery updates will be provided as soon as possible.

Buying Agency:	Flower Mound Fire Department	Contractor:	Sterling McCall Ford	4466	HGAC
Contact Person:	Robert Adcock	Prepared By:	Pablo Cantu		
Phone:		Phone:	(281) 588-5007		
Fax:		Fax:	(281) 588-5150		
Email:	robert.adcock@flowermound.gov	Email:	pcantu@sterlingmccallford.com		

Product Description	Type I - 14'Ford F-550 Gas 4x4 Reg Cab-108"CA w/ AL wheels
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A. Product Item Base Unit Price Per Contractor's H-GAC Contract: AM10-23	\$228,000.00
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B. Published Options - Itemize below - Attach additional sheet(s) if necessary.

(Note: Published Options are "manufacturer standard options" which were submitted and priced in Contractor's proposal.)

Description	Cost	Description	Cost
Door Forward	\$6,750.00	Cabinet to the Rear of the CPR Seat	\$1,350.00
Paint Two Tone	\$8,200.00	Grill Guard Full Replacement Bumper	\$1,750.00
LiquidSpring	\$17,050.00	Acrylic Holder and Sharps at Squad Bench	\$1,200.00
Kussmual 30/20 Shorepower	\$850.00	Triple Squad Bench Cabiner	\$1,350.00
Current Voyager Product Catalog List Price	\$2,400.00	Current Stryker Catalog List Price	\$2,450.00
Dual 10" & 12" Air Horns	\$1,600.00	Valor's Captain's Chair	\$2,225.00
Fast Recover Compressor	\$2,075.00	Blackout	\$2,100.00
MEPS	\$20,775.00	Module Blind Spot Camera	\$825.00
Graphics Package Standard	\$6,200.00	6pt Harness (each) (includes structure)	\$775.00
Ground lights on perimeter of module and chassis steps	\$4,400.00	6pt Harness (each) (includes structure)	\$775.00
GTT Opticom on Front Wall	\$2,725.00	6pt Harness (each) (includes structure)	\$775.00
Current Whelen Automotive Distributor Catalog List Price	\$13,925.00	New Door Locks on Compartments and Entry Doors	\$6,450.00
Secure-Idle Anti-Theft System	\$950.00	Customer Provided Medvault	\$700.00
After-market Vinyl Seats in Truck Cab	\$1,225.00	Current Technimount System Catalog List Price	\$2,175.00
Stacked Cabinet with Medevault Opening and Fridge	\$3,925.00	Current HAAS Alert List Price	\$725.00
Electric O2 with Monitor	\$2,525.00		
		Subtotal B:	\$121,200.00

C. Customization Category Totals - Itemize below / Attach additional sheet(s) if necessary.

(Note: Customization options are "manufacturer non-standard options" which were submitted and priced in Contractor's proposal.)

Description	Cost	Description	Cost
Module Interior Customer Requested Unpublished Custom Options	\$12,050.00	Module Exterior Customer Requested Unpublished Custom Options	\$13,150.00
Chassis Interior Customer Requested Unpublished Custom Options	\$4,600.00		
		Subtotal C:	\$29,800.00

Check: Total cost of Customization Categories (C) cannot exceed 25% of the total of the Base Unit Price plus Published Options (A+B).**For this transaction the percentage is:**

8.53%

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

Quantity Ordered:	1	X Subtotal of A + B + C:	\$379,000.00	=	Subtotal D:	\$379,000.00
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E. H-GAC Order Processing Charge (Amount Per Current Policy)**Subtotal E:** \$1,000.00**F. Trade-Ins / Special Discounts / Other Allowances / Freight / Installation / Miscellaneous Charges**

Description	Cost	Description	Cost
		Subtotal F:	\$0.00

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

\$380,000.00

Customer Quote



11/7/2024 1:03:59 PM

Estimate No: Q4466-0001
Quote Date: 11/7/2024
Expiration Date: 12/23/2024
Salesperson: LL
Payment Terms: Due on Delivery

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

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

Order Instructions:

PAYMENT TERMS: A progress payment for the chassis portion will be invoiced and is due within 30 days of the chassis arriving at the dealership. The remaining balance will be invoiced 30 days prior to completion and is to be settled at the time of inspection and acceptance of the fully completed unit.

Policy on Customer Provided Items for Installation:

To ensure optimal performance and longevity of installed equipment, we require that all customer-provided items be new in the box, with the following exceptions: cot retention systems, Knox MedVaults, and Knox KeySecures. In the event that a used cot retention system is provided, it must be accompanied by a new floor plate, wiring harness, and mounting hardware to guarantee functionality and safety. Failure to provide new in the box items, as requested, may result in the equipment not being installed and returned loose with the completed vehicle.

All customer provided items must be at Frazer 60 days prior to the projected production start date. This allows us time to inventory and inspect all items prior to production beginning. Failure to provide the items on time, as requested, may result in the equipment not being installed and returned loose with the completed vehicle.

No.	Item	Qty	U/M:		Unit Price		Net Amount
1	MODULE Type I 14' Module	1.00	EA	\$	306,000.00	\$	306,000.00
2	CHASSIS 2025 Ford F-550 Gas 4x4	1.00	EA	\$	73,000.00	\$	73,000.00
This chassis price is derived from the latest information provided by Ford. The exact pricing details will not be available until the chassis physically arrives at the dealership, at which juncture adjustments to this price may be made. In the event of any price adjustment, you will receive written notification detailing the changes.							
3	DELIVERY Customer Pick Up - FOB Frazer	1.00	M	\$	0.00	\$	0.00
Customer must pick up in Houston at Frazer or additional delivery charges will apply.							
4	HGAC-NEW Contract No. AM10-23	1.00	EA	\$	1,000.00	\$	1,000.00

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

Customer Quote



11/7/2024 1:03:59 PM

Estimate No: Q4466-0001
Quote Date: 11/7/2024
Expiration Date: 12/23/2024
Salesperson: LL
Payment Terms: Due on Delivery

Order Instructions:

No.	Item	Qty	U/M:		Unit Price		Net Amount
5	SpecDoc	1.00	EA	\$	0.00	\$	0.00
Configurable item to create the SpecDoc							

Remit To:

Frazer, Ltd.
7219 Rampart Street
Houston TX 77081

Sale Amount: 380,000.00
Order Disc(0.0000%): 0.00
Surcharge: N/A
Sales Tax: 0.00
Misc Charges: 0.00
Total Amount: 380,000.00

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



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For your convenience, all pricing has been itemized below per quote Q4466-0001 for Flower Mound Fire Department

Base Module	\$ 161,200.00
Chassis Exterior	\$ 38,750.00
Module Exterior	\$ 66,775.00
Chassis Interior	\$ 5,975.00
Module Interior	\$ 33,300.00
Total \$	306,000.00

Items included in above totals:

- | | |
|---|-------------|
| 1. Type I 14' Module - Side Entry Door Forward of Front I/O Configuration | \$ 6,750.00 |
| 2. This is a CAAS GVS v3.0 Unit | \$ incl |

Chassis Exterior:

- | | |
|--|--------------|
| 3. Chassis Paint Layout: Paint All Two Tone - Red - Pierce 90 (FLNA 3042) and Frazer Black (FLNA 4123) | \$ 8,200.00 |
| 4. Chassis : 2025 Ford F-550, Gas, 4x4, Regular Cab, 108" Cab to Axle, Z1 - Oxford White | \$ incl |
| 5. Suspension: LiquidSpring | \$ 17,050.00 |
| 6. Camera System: Voyager 7" Monitor with Back-Up Camera | \$ 2,400.00 |
| 7. Black Back-up Camera | \$ incl |
| 8. Wheel type: Factory Aluminum | \$ incl |
| 9. Road Force Elite tire and wheel balancing | \$ incl |
| 10. Chassis Steps: Luverne Running Boards | \$ 1,500.00 |
| 11. Grille Guard: Full Replacement Bumper | \$ 1,925.00 |
| 12. 10" and 12" Air Horns | \$ 1,600.00 |
| 13. Manual Air Horn Air Drain Valve | \$ 650.00 |
| 14. Compressor Type: Fast Recovery | \$ 2,075.00 |
| 15. Air Horn Switching Options: Momentary | \$ 150.00 |
| 16. Window Tint (35% VLT) on Chassis Doors | \$ 425.00 |
| 17. Exhaust Removal System: Plymovent (magnetic) | \$ 1,000.00 |
| 18. Disable Clear Lights in Park Light Pattern | \$ 925.00 |
| 19. Passenger's side Grille Light: Whelen M4 Red Light | \$ incl |
| 20. Driver's side Grille Light: Whelen M4 Red Light | \$ incl |
| 21. Passenger's side Intersect Light: Whelen M4 Clear Light | \$ incl |
| 22. Driver's side Intersect Light: Whelen M4 Clear Light | \$ incl |



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23. Driver Fender Light: Whelen M4 Red Light	\$	425.00
24. Passenger Fender Light: Whelen M4 Red Light	\$	425.00
25. *Note to Engineering: Use smaller, 1/4-turn valve for air horn drain line	\$	incl
Chassis Exterior Subtotal		\$ 38,750.00
Module Exterior:		
26. Power Source: MEPS	\$	20,775.00
27. Module Paint Layout: Non-White One Tone - Pierce Red 90 (FLNA 3042)	\$	3,675.00
28. Roof Color: Frazer White	\$	incl
29. Blackout cladding: All diamond plating (treadbrite) powdercoated black and rear bumper coated with black bedliner	\$	2,100.00
30. No Design Package	\$	incl
31. Frazer Provided Tier 2 - Standard Graphics	\$	6,200.00
32. Solid Color Conspicuity Squares on Entry Doors	\$	500.00
33. Conspicuity Strips with Chevrons on Compartment Doors	\$	425.00
34. Body Drop on the Passenger's Side Forward of Rear Wheels	\$	incl
35. Compartment Keys: J210 in the Electrical Compartment	\$	incl
36. Dri-Deck in Applicable Exterior Compartments	\$	425.00
37. Ground Lights: Perimeter of Module and Under Chassis Steps	\$	4,400.00
38. GTT Opticom (Infrared)	\$	2,725.00
39. Opticom Switching: On/Off Switch and Cut-off with park	\$	incl
40. Whelen TAM85 Traffic Advisor	\$	2,075.00
41. Shore Power: Dual 20/30 Amp Kussmaul Auto Eject w/ Red covers on Rear Wall	\$	850.00
42. Pigtail/Plug Option: Pigtail	\$	incl
43. Coax 1: Run coax from location 1 to Chassis	\$	incl
44. Coax 2: Run coax from location 2 to Chassis	\$	incl
45. Coax 3: Run coax from location 3 to Electrical Compartment	\$	incl
46. Coax 4: Run coax from location 4 to Electrical Compartment	\$	incl
47. UNOC #2981 - Furnish and install Green LED above 20 Amp auto-eject shore power outlet	\$	125.00
48. Front Scene: Whelen Pioneer Plus Dual Panel LED (Recessed)	\$	2,775.00
49. Front Wall Light Layout: Lower 5 Lights	\$	incl
50. Front Wall Light #1: Whelen M6 Clear Light	\$	incl
51. Front Wall Light #2: Whelen M6 Red Light	\$	incl
52. Front Wall Light #3: Whelen M6 Clear Light	\$	incl

53. Front Wall Light #4: Whelen M6 Red Light	\$	incl
54. Front Wall Light #5: Whelen M6 Clear Light	\$	incl
55. Front Wall Driver Side Box Light: Whelen M9 Red Light	\$	200.00
56. Front Wall Passenger Box Light: Whelen M9 Red Light	\$	200.00
57. *Note to Engineering: Mount Opticom emitter between front scene light and front wall light #3; relocate plating in front wall (see E-4161)	\$	incl
58. Driver Wall Front Box Light: Whelen M9 Red Light	\$	200.00
59. Driver Wall Rear Box Light: Whelen M9 Red Light	\$	200.00
60. Driver Wheel Well Light: Whelen M6 Red Light	\$	incl
61. Side Scene Lights: Whelen Pioneer Plus Dual Panel LED (Recessed)	\$	4,125.00
62. O2 Compartment Style: 76" O2 Standup with Divider	\$	incl
63. O2 Cylinder Bracket Type: Ratchet Straps for H Cylinder	\$	incl
64. O2 Cylinder Changing Wrench	\$	150.00
65. Intermediate Compartment Style: Intermediate Storage with Flatbars for SCBA Brackets	\$	350.00
66. (1) SC-50-H-6-SF SCBA brackets raised 10" off the Floor of the Compartment	\$	775.00
67. Coat Hooks: Four Hooks - 1 on Front Wall, 1 on Rear Wall, and 2 on an angle on the Ceiling	\$	350.00
68. Electrical Compartment Style: Taller Electrical Compartment	\$	incl
69. Dometic Self-Contained A/C with Exhaust Fan	\$	incl
70. Rear Storage Compartment Style: Rear Storage with Flatbars for SCBA Brackets	\$	350.00
71. (1) SC-50-H-6-SF SCBA brackets raised 10" off the Floor of the Compartment	\$	775.00
72. Coat Hooks: Four Hooks - 1 on Front Wall, 1 on Rear Wall, and 2 on an angle on the Ceiling	\$	350.00
73. Driver Side Blind Spot Camera - White	\$	825.00
74. UNOC #195 - Install customer provided Cradlepoint modem in electrical compartment with antenna on module roof	\$	300.00
75. UNOC #3293 - Furnish and run (2) Cat-5 cables from modem in electrical compartment:	\$	175.00
- (1) to docking station pole mount on P/S in Chassis		
- (1) to docking station pole mount on P/S in Chassis		
76. Module Window Option: Sliding Window	\$	incl
77. Window Tint (5% VLT) on Rear and Side Entry Doors	\$	425.00
78. Upper Rear Wall Light Layout: 5 Across	\$	incl



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79. Upper Light #1: Whelen M6 Amber Light	\$	425.00
80. Upper Light #2: Whelen M6 Load Light	\$	incl
81. Upper Light #3: Whelen M6 Green Light	\$	200.00
82. Upper Light #4: Whelen M6 Load Light	\$	incl
83. Upper Light #5: Whelen M6 Amber Light	\$	425.00
84. Lower Light #1: Whelen M6 Brake/Tail/Turn Red Light	\$	incl
85. Lower Light #2: Whelen M6 Brake/Tail/Turn Red Light	\$	incl
86. Lower Light #3: Whelen M6 Red Light	\$	incl
87. Lower Light #4: Whelen M6 Red Light	\$	incl
88. Rear Wall Driver Box Light: Whelen M9 Red Light	\$	200.00
89. Rear Wall Passenger Box Light: Whelen M9 Red Light	\$	200.00
90. Lower BTTs: 2 M6 Lights on each side	\$	1,050.00
91. Rear Bumper	\$	incl
92. Door Grabbers	\$	incl
93. License Plate Light	\$	incl
94. Passenger Wall Front Box Light: Whelen M9 Red Light	\$	200.00
95. Passenger Wall Rear Box Light: Whelen M9 Red Light	\$	200.00
96. Passenger Wheel Well Light: Whelen M6 Red Light	\$	incl
97. Passenger Scene Light Activated with Side Entry Door	\$	475.00
98. Interior Step Option: Double Step Well	\$	incl
99. Passenger Rear Compartment Style: Passenger Side Storage Compartment	\$	incl
100. Passenger Side Blind Spot Camera - White	\$	825.00
101. Door Locks on Entry Doors and Compartments	\$	4,125.00
102. Gas Hold Open on All Compartments	\$	1,650.00
Module Exterior Subtotal		\$ 66,775.00

Chassis Interior:

103. Siren Speakers: Whelen SA 315 Speakers	\$	incl
104. Tap-2 on Primary Siren	\$	incl
105. Siren Option: Whelen C9 Siren in Console	\$	incl
106. Mic 1 shipped loose	\$	incl
107. HAAS Alert System: HAAS Alert Responder to Vehicle - 5 Year Sub	\$	725.00
108. Slot 1: Single Slot Switch Panel	\$	incl
109. Slot 2: Siren 1	\$	incl



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110. Slot 3: Radio Plate: 7.5 L X 2.5 W opening dims Item ID 2398	\$	incl
111. Slot 4: Traffic Advisor Head	\$	incl
112. Console Switch Layout : Primary - Secondary - Opticom - Front Scene - Side Scene (Driver's Side) - Side Scene (Passenger's Side) - Rear Load - Interior Lights - Air Horn -	\$	incl
113. New Armrest	\$	350.00
114. Console Layout: 4-Slot Console	\$	incl
115. Front Base of Console: 120VAC	\$	775.00
116. Floor in Front of Console: Gamber Johnson Heavy Dual Cup Holder	\$	275.00
117. Rear of Console: Double Mapholder	\$	550.00
118. Chassis Rear Wall: 3 High Glove Box Holder	\$	350.00
119. Map Light: Light on passenger side	\$	350.00
120. Secure-Idle Anti-Theft System	\$	950.00
121. Aftermarket Vinyl Seats	\$	1,225.00
122. UNOC #729 - Set Traffic Advisor to "Random Flash" with Primary	\$	125.00
123. UNOC #3121 - Install Voyager monitor low, in front of console (see E-4161)	\$	300.00

Chassis Interior Subtotal \$ 5,975.00

Module Interior:

124. Protek Cushions	\$	incl
125. Gunmetal Grey Interior	\$	incl
126. Stainless Steel Countertops	\$	incl
127. Yellow Grab Rails	\$	350.00
128. Stacked Cabinet with Medvault Opening and Refrigerator	\$	3,925.00
129. Customer Provided Medvault	\$	700.00
130. Refrigerator Lock	\$	375.00
131. (2) Glove Box Holders on the Front Wall	\$	500.00
132. UNOC #2198 - Stacked cabinet configuration to be: - Fridge on bottom - Medvault cabinet in the middle - Cabinet with shelves and Lexan doors on top - Relocate 120VAC outlet to accomodate fridge	\$	incl
133. UNOC #2112 - Furnish and install SmithWorks IV warmer on bottom shelf of top cabinet; install 120VAC duplex outlet in top cabinet to plug IV warmer into	\$	1,150.00
134. UNOC #1977 - Install customer provided Knox Medvault Mini in Medvault section of stacked cabinets, in lieu of standard Medvault (14' door forward unit)	\$	incl

135. UNOC ???? - Remove lowest shelf in cabinet with shelves and lexan doors on top.	\$	incl
136. Location 1: 8 Switch panel	\$	incl
137. Location 2: Double O2 Outlet	\$	incl
138. Location 3: Electric O2 panel with monitor	\$	2,525.00
139. Location 4: Thermostat	\$	incl
140. Location 6: Blank	\$	incl
141. Location 7: Blank	\$	incl
142. Location 8: Quad 120 VAC	\$	incl
143. Location 9: Suction	\$	incl
144. Door Lock Switch at Action Wall	\$	200.00
145. (1) Kusmaul USB/USB-C Device(s) at Action Wall	\$	350.00
146. Action Wall Switch Layout : Interior Lights; Dimmer; Ventilation Fan; Electric O2; Kusmaul USB/USB-C; Module Heater - Hi/Off/Low; Unlock/Lock; Blank;	\$	incl
147. Technimount ZOLL X Monitor Mount (Heavy Duty) on the Action Wall Countertop	\$	2,175.00
148. Sharps Container at Action Wall	\$	incl
149. New Action Wall Acrylic Holder	\$	incl
150. Double CPR Seat	\$	incl
151. New 6pt Harness at the CPR Seat	\$	775.00
152. Cabinet Aft CPR Seat	\$	1,350.00
153. A/C Vent Plate Perko Clip	\$	100.00
154. Rear Door Switch Layout : Blank; Blank; Dump/Bypass (Suspension); Rear Load;	\$	incl
155. UNOC #1464 - Furnish and install 2-high D cylinder holder inside the CPR seat storage, laying down and facing the rear; ribbed rubber on bottom of compartment; narrow strips of ribbed rubber in the bottom of each section of the holder	\$	175.00
156. Latching Double Interior Squad Bench Storage	\$	incl
157. Two Seating Positions at the Squad Bench - 1 and 2	\$	incl
158. Harness Type for Seat Position 1: New 6pt Harness	\$	775.00
159. Harness Type for Seat Position 2: New 6pt Harness	\$	775.00
160. Acrylic Holder and Sharps at Squad Bench	\$	1,200.00
161. Triple Squad Bench Cabinet	\$	1,350.00
162. Trashcan With Lid at the Head of the Squad Bench	\$	incl
163. Door Forward Front I/O with Hospital Grade Power Strip with Lexan Doors	\$	incl
164. Duplex Outlet Above the Front I/O	\$	incl
165. Large Black Trashcan at the Side Entry Door	\$	275.00



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166. UNOC #2872 - Furnish and install custom, wider, front I/O compartment with double doors:	\$	2,875.00
- Forward 12" of the compartment will be exterior access only for stair chair storage - Aft of stair chair storage will be standard area for I/O space - Outside only space below floor may not be full depth due to forward liquid spring bracket		
167. UNOC #2873 - Furnish and install custom compartment above P/S rear storage compartment with (3) adjustable shelves:	\$	2,875.00
- Inside/outside access with double hinged door - Full height door with rear box light on compartment door - ICC light between trim and compartment insert, if possible - Step below P/S rear storage compartment for access to custom compartment - Gas shock hold open on door		
(see E-4161)		
- Inside/outside access with double hinged Lexan doors to open toward aisle - Full height divider to be 12" from front wall - (4) adjustable shelves forward of divider		
(similar to UNOC #2635, but bottom of hinged doors to be 9" lower)		
168. UNOC #3244 - Custom front I/O cabinet to be 4" taller than standard to accommodate drawer without taking up I/O space; furnish and install full width, 4" deep drawer that opens toward aisle; seal around Wise trim on countertop with Silver RTV	\$	825.00
169. UNOC #3123 - Furnish and install double squad bench with underseat storage (reference UNOC #2635)	\$	incl
170. UNOC #3122 - Furnish and install small acrylic holder, in lieu of standard, at squad bench, forward of position 1; install sharps container on bottom of custom backboard cabinet, in lieu of standard location (see E-4161)	\$	incl
171. UNOC #2558 - Furnish and install double squad bench cabinet, in lieu of triple (on 14' module), due to custom backboard cabinet on rear wall	\$	incl
172. Single O2 Outlet in Ceiling Raceway	\$	500.00
173. IV Hanger on Ceiling Raceway	\$	incl
174. Driver and Passenger Side Yellow Powdercoated Ceiling Grab Rails for 14' Unit	\$	725.00
175. IV Hanger on Squad Bench Ceiling	\$	incl
176. Rear Headknocker Options: With Clock only	\$	700.00
177. Stryker cot tower only (no antler and bar)	\$	incl
178. Customer Provided Stryker Power-LOAD - Gen 2	\$	2,450.00
179. Loncoin II Onyx Floor	\$	incl
180. Captain's Chair Type: Valor's Captain's Chair with 4pt. Harness	\$	2,225.00
181. Module Heater : New	\$	incl



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182. Customer Provided Items Processing Fee	\$	1,100.00
Module Interior Subtotal	\$	33,300.00



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Last edited by trussell on November 07 2024

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

Remit To:

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

Sterling McCall Ford
6445 Southwest Freeway
Houston, TX 77074

Standard Terms and Conditions

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

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

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

CANCELLATION POLICY: Cancellation of orders must be submitted in writing to sales@frazerbilt.com at least 120 days before the projected production start date. Failure to adhere to this timeline may result in the application of a cancellation fee amounting to 25% of the total purchase order price.

CHASSIS PAYMENT CONSIDERATION: Please note that payment for the chassis may have been issued prior to the 120-day cancellation window. Therefore, cancellation requests or refunds pertaining to the chassis will be at the discretion of the respective dealerships.



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

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

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

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

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



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

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

Customer Initials: _____

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

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



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

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

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

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

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

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

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



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

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



Bid Award Recommendation

Date: 12/2/2024– Decision Pkg. – FY24-25

Description: **New Frazer Medic Body on a New Ford F550 4x4 DRW Chassis**

Qty.: 1

Replaces: None – New Fleet Addition – Fire, Emergency Medical Services

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

Item: 1 – New Frazer Medic Body on a New Ford F550 7.3L Gasoline Engine 4x4 DRW Chassis with Equipment and Options as Per Specifications Identified on HGACBuy Cooperative Contract# AM10-23 Worksheet Dated 11/27/24 and Frazer TOFM Estimate Q4466--0001 Dated 11/7/2024.

Total Cost of Vehicles, Equipment & Installation:

\$380,000.00

It is Fleet Services recommendation to award the bid to **Sterling McCall Ford** in the amount of **\$380,000.00** utilizing the **HGACBuy Cooperative Contract # AM10-23**.

Fleet Services Manager

12/2/2024

Date



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

DATE: December 16, 2024

FROM: Paul Henley, Fire Chief

ITEM: Consider approval of the purchase of a 2025 Ford F-250 4x4 SD Crew Cab for Fire and Emergency Services Department from Chastang Ford in the amount of \$135,725.00 and authorization for the Mayor to execute same on behalf of the Town.

BACKGROUND: The Fire and Emergency Services Department is requesting the purchase of one (1) 2025 Ford F-250 4x4 Crew Cab from Chastang Ford with specifications noted on Quote# FMOUN25W2B in the amount of \$135,725.00 to replace Fleet unit #63000-10 (a 2018 Chevrolet Suburban) under the Town's Vehicle Equipment Replacement program (VERF). The new unit will be purchased under Houston/Galveston Area Council (HGAC) Contract #FS12-23 and the mobile router/communications unit (Cradlepoint) purchased under Texas Department of Information Resources (DIR) contract # DIR-CPO-4920 and DIR-CPO-4751 at a later date.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES: N/A

FISCAL IMPACT: \$135,725.00

Proposed Expenditure/(Revenue)
\$135,725.00

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

LEGAL REVIEW: N/A

ATTACHMENTS:

1. Vehicle Purchase Request 63000-10-approved
2. HGAC Pricing Worksheet-updated
3. Siddons UpFit Specifications
4. Bid Award Recommendation 63000-10

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

VEHICLE-EQUIPMENT PURCHASE REQUISITION

(For Purchase Process)

Date: 10/2/2023
 Suggested Vendor: Chastang Ford
 Contact (if known): Ed Miller
 Address (if available): 6200 N Loop East
Houston, TX 77026
 Phone/Fax: 713-678-5007 (cell 281-961-921)



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

G/L Account # (if Decision Package)	\$ Budget Estimate	Qty.	Unit Description (Specifications)	\$ Updated Quote	Amount
VERF	\$ 115,538	1	2025 Ford F250 4x4 SD Crew Cab 6.75' Box XLT.with extendo bed and emergency equipment pkg.	\$ 135,725.00	\$ 135,725.00
					-
					-
					-
					-
All Pickups come equipped w/ Spray-In Liner, Headache Rack, Across-the-bed Locking Toolbox, and Lights				TOTAL:	\$ 135,725.00

Name/Phone Ext.: Brandon Barth / 6203
 Approved By: _____
 Unit #(s) to be replaced
 or specify NEW Unit: 63000-10
 Spec Name: _____

APPROVALS:

Fleet Manager: Bill Sterner

Bid/Solicitation #: _____

Co-Op/Contract #: HGACBuy AM10-23

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



CONTRACT PRICING WORKSHEET
For MOTOR VEHICLES Only

Contract
No.:

FS12-23

Date
Prepared:

12/3/2024

Due to global supply chain constraints, any delivery date contained herein is a good faith estimate as of the date of this order/contract. As needed, delivery updates will be provided as soon as possible.

Buying Agency:	TOWN OF FLOWER MOUND	Contractor:	CHASTANG \FORD
Contact Person:		Prepared By:	ED MILLER
Phone:		Phone:	713-678-5007
Fax:		Fax:	713-678-5001
Email:		Email:	emiller@chastangautogroup.com

Product Description	F2	2025 FORD F250 COMMAND UNIT
---------------------	----	-----------------------------

A. Product Item Base Unit Price Per Contractor's H-GAC Contract:	98,798
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B. Published Options - Itemize below - Attach additional sheet(s) if necessary.

(Note: Published Options are "manufacturer standard options" which were submitted and priced in Contractor's proposal.)

Description	Cost	Description	Cost
99N - 7.3L V8	1,000		
10 SPEED AUTO	INCL		
X3E - 3.73 ELEC LOCKING AXLE	430		
CC1 - CREW CAB UPGRADE	4295		
XLT - XLT UPGRADE	1995		
F5H- 4WD UPGRADE	2950		
66S - UPFITTER SWITCHES	165		
67B- 410 AMP ALTERNATOR	115		
86M - DUAL BATTERY	210		
FLR1 - FLOOR PLAN INTEREST 120 X 20	2400	Subtotal From Additional Sheet(s):	
IN1 - LOT INSURANCE 120 X 110	1200	Subtotal B:	14,760

C. Customization Category Totals - Itemize below / Attach additional sheet(s) if necessary.

(Note: Customization options are "manufacturer non-standard options" which were submitted and priced in Contractors's proposal.)

Description	Cost	Description	Cost
SIDDONS MARTIN EQUIP ADD ON	28,547		
		Subtotal From Additional Sheet(s):	
		Subtotal C:	28,547

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

For this transaction the percentage is:

25%

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

Quantity Ordered:	1	X Subtotal of A + B + C:	142,105	=	Subtotal D:	142105
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E. H-GAC Order Processing Charge (Amount Per Current Policy)	Subtotal E:	1,000
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F. Trade-Ins / Special Discounts / Other Allowances / Freight / Installation / Miscellaneous Charges

Description	Cost	Description	Cost
		DISCOUNT	-7380
		Subtotal F:	-7380

Delivery Date: TBD

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

135,725



EVS
1364 E Richey Rd
Houston, TX, 77073
USA
Phone: 800-784-6806

Sales Order #:
400-0002166

Customer Info:

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

Document Info:

Quote #: 400-0000500
Taken By: James George

Item #:	Description:	Quantity / Unit:
008009	2025 Ford F250 4x4 SD Crew Cab 6.75 Box XLT CHASTANG FORD HGAC ...	1.00 / EA
008009	CUSTOM POLY BOX FROM SMEG POLY DIVISION ...	1.00 / EA
153020	153020 Quote Requested EXTENDEBOD	1.00 / EA
008009	RANCH HAND REPLACEMENT BUMPER QUOTE REQUESTED FROM AOP ...	1.00 / EA
162592	LIBERTY II DUO WC 54" CTR DKDK INCLUDES OPTICOM IJ2DKDK	1.00 / EA
007158	WHELEN LIGHTBAR STRAP KIT f250,f350 #38 STPKT38	1.00 / EA
004865	CENCOM CORE WCX CONTROL CENTER C399	1.00 / EA
143155	WeCanX 16 OUTPUT EXPANSION MOD CEM16	4.00 / EA
004930	WeCanX EXTERNAL AMPLIFIER CEXAMP	1.00 / EA
006791	SA315U SPEAKER, BLACK PLASTIC SA315U	2.00 / EA
006798	SA-315 MOUNT KIT UNIVERSAL SAK1	1.00 / EA
143646	WCX LOW FREQUENCY SIREN SYSTEM CHOWLER	1.00 / EA
005877	HOWLER UNIVERSAL MTG BKT PAIR HWLRB23	1.00 / EA



EVS
1364 E Richey Rd
Houston, TX, 77073
USA
Phone: 800-784-6806

Sales Order #:
400-0002166

007583	warn light clear lens, red light 2 EACH SIDE OF CAMPER WIONS MCR	6.00 / EA
191494	NFPA SURFACE MT ION AMB CHROME 2 ON REAR OF CAMPER WIONS MCA	2.00 / EA
175981	18 LED STRIP LIGHT COMPARTMENT 1 EACH DOOR 2 IN CAMPER PSC0 C DCR	5.00 / EA
159009	CAMPER PROP SWITCH H9401	3.00 / EA
085084	3" ROUND SPLIT RED/WHT DOME LIGHT 3SRCCDCR	1.00 / EA
004956	8.5" Heavy Duty Telescoping Pole, s C-HDM-204	1.00 / EA
005876	SLIDE OUT LOCKING SWING ARM WITH MOTION ADPT HVS-C-MD-112	1.00 / EA
145978	CUSTOMER SUPPLIED DOCKING STATION CSP	1.00 / EA
011458	KUSSMAUHL DUAL AUTO CHARGER 091-11-12	1.00 / EA
011656	SUPER AUTO EJECT 120 VOLT AC 20 AMP SIDE WIRE RED 091-55-20-120	1.00 / EA
175450	2019 FORD SUPER DUTY NOTCHED FP PP-2017-FSD-FS-N	1.00 / EA
013949	12VDC Socket Dual USB Output 5V 2.1A 1016B	2.00 / EA
171130	NMO KIT WITH CONNECTOR AND 25 RG58 CABLE NMO-60-300-M1-N	2.00 / EA
161796	MOTOROLA EXTERNAL RADIO SPEAKER HSN4019B	2.00 / EA
006238	MAGNETIC MIC. CONVERSION KIT MMSU-1	5.00 / EA



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Sales Order #:
400-0002166

	CAMPER SHELL BY ARE	
142482	HALF DRIVER SIDE BOX, FULL PASSENGER BOX DOUBLE DOORS-SIDE OPENING REAR CAMPER ARE	1.00 / EA
157890	CUSTOM GRAPHICS PACKAGE GRAPHICS EVS	1.00 / EA
156151	36 LED double stack mini brow. 40" length FT-MB-2.36-FT-B	2.00 / EA
176577	3000W PURE SINE WAVE POWER INVERTER 12V DC Puresine3000	1.00 / EA
182615	SURVIVOR ORANGE W/ CHARGER SL-90503	2.00 / EA
185780	500 DUO T/A PKG 8 AMB/RED TADF8-80000	1.00 / EA
182356	LONG L BRKT SID001	1.00 / EA
007415	UHF2150A HEADLIGHT FLASHER UHF2150A	1.00 / EA
187510	ION T-SERIES LINEAR DUO RW SMK 3 EACH RUNNING BOARD TLI2DX	6.00 / EA
097275	BLUE SEA ST Blade Compact Fuse Block-8 Circuits 5046B	1.00 / EA
184451	Whelen universal solid state tail light flasher SSF5150D	1.00 / EA
	WINDOW TINT	
187330	LEGAL LIMIT FRONT LIMO REAR TINT	1.00 / EA
000056	FREIGHT/ NDA	1.00 / EA
148549	DELIVERY TO CUSTOMER DELIVERY	1.00 / EA
162719	WIRE, LOOM, FUSES, BREAKERS RELAYS, HEAT SHRINK INSTALLKIT	1.00 / EA



EVS
1364 E Richey Rd
Houston, TX, 77073
USA
Phone: 800-784-6806

Sales Order #:
400-0002166

166458	LABOR TO INSTALL ABOVE LISTED EQUIPMENT LABOR	1.00 / EA
008009	POWER STRIP IN BOTH CAMPER TOOL BOXES ...	1.00 / EA
162772	SURFACE MT ION LT GREEN REAR OF CAMPER IONSMG	2.00 / EA
136736	Wheel to Wheel running boards AOP	1.00 / EA
022665	DUAL USB Power port with cover INSIDE CONSOLE AND ON THE REAR OF CONSOLE 12VUSB	2.00 / EA
097275	BLUE SEA ST Blade Compact Fuse Block-8 Circuits 5046B	1.00 / EA
097206	ST Blade Split Bus Fuse Block 12circ w/gnd/cvr 5032B	2.00 / EA
118677	ATD Automatic Timer Disconnect 7615B	1.00 / EA
289948	SCANport KIT FOR C399 CHEVY 24+ C399SP	1.00 / EA
181982	QUOTE ATTACHED SETCOM	1.00 / EA
173788	Dual Panel Pioneer Plus™ Combination Flood/Spot ON FRONT BUMPER PCH2B	1.00 / EA
173691	PIONEER DUAL SIDE MT BAIL BLK PBA206BU	1.00 / EA
008009	CUSTOM UNDER REAR SEAT BOX FROM SMEG POLY ...	1.00 / EA
008009	CHANGE ORDER ...	1.00 / EA



Bid Award Recommendation

Date: 12/3/2024 – VERF – FY24-25

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

Qty.: 1

Replaces: 63000-10, a 2018 Chevrolet Suburban – Fire Services

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

Item: 1 – New Ford F250 4x4 Crew Cab, RED with 6.75 Foot Bed to Include Vehicle Options and Upfit as Identified on HGACBuy Worksheet and Siddons Upfit Quote #400-0000500.

Total Cost of Vehicles, Equipment & Installation:

\$135,725.00

It is Fleet Services recommendation to award the bid to **Chastang Ford** in the amount of **\$135,725.00** utilizing the **HGACBuy Cooperative Contract # FS12-23**.

Fleet Services Manager

12/3/2024

Date



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

DATE: December 16, 2024
FROM: Brennon Peltier, Park Development Manager
ITEM: **Consider approval of the purchase of concrete removal and replacement services from Apex Concrete Construction Inc, for work associated with the Trail Master Plan Implementation - Bluebonnet Trail project, through the Town of Flower Mound contract No. 2021-72-B, Utility Cut Repairs and Park Improvements, in the amount of \$118,888.99.**

BACKGROUND: Town staff has identified an approximately 3,250 linear foot section of the existing Bluebonnet hike and bike trail that has many sections in need of replacement and repair or are no longer in compliance with ADA accessibility guidelines. The section of the trail is located in the greenbelt that runs through the Bluebonnet Park, bounded by Long Prairie Road on the west and Lake Forest Boulevard on the east. The work will consist of removing and replacing approximately 1,000 square yards of existing 8' wide trail and associated grading/backfill. The work will be performed by Apex Concrete Construction, Inc. through the Utility Cut Repairs and Park Improvements Contract No. 2021-72-B.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES: N/A

FISCAL IMPACT: \$118,888.99

Proposed Expenditure/(Revenue)
\$118,888.99

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

LEGAL REVIEW: N/A

ATTACHMENTS:

1. Estimate

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

Grapevine, TX 76099
817-454-1995
Fax 817-337-8958

Estimate

Date	Estimate #
12/11/2024	1037

Name / Address
Town of Flower Mound Parks Attn: Brennon Peltier

Ship To
Bluebonnet Park

Project

Qty	Item	Description	Rate	Total
1,012	sidewalk	Item # 4 Remove 6" REINFORCED CONCRETE PAVEMENT	32.18	32,566.16
1,012	concrete	Item # 68 INSTALL 5.5" REINFORCED CONCRETE TRAIL	80.19	81,152.28
253	grading	Item # 165 FINISH GRADING	9.35	2,365.55
30	top soil	Item # 166 TOPSOIL PROVIDED WITH GRADING	93.50	2,805.00
		Bid # 2021-72-B		
Total				\$118,888.99



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

DATE: December 16, 2024

FROM: Lynda Bolitho, Director of HR

ITEM: **Consider approval of a reinsurance contract for the Town's Group Health Plan with Voya Financial for the amount of \$2,103,730 and an agreement with Quantify Specialty Care; and authorization for the Mayor to execute the same on behalf of the Town.**

BACKGROUND: The Town is self-insured for health, dental, vision, and prescription drug benefits for employees and dependents covered under its group health insurance plan. To manage financial risk, the Town purchases reinsurance, which limits liability for any individual participant's claims to \$165,000 per year. Additionally, the reinsurance covers the total aggregate claims for all employees within a given calendar year. In November 2024, the Human Resources Division, in collaboration with the Town's health insurance consultant, McGriff, Seibels & Williams of Texas, Inc. (MSW), solicited bids from twelve reinsurance carriers for the Town's specific and aggregate reinsurance coverage for Plan Year 2025. Eight insurers declined to provide quotes, citing uncompetitive rates or ongoing large claims. Ultimately, the Town received proposals from four carriers: the incumbent Blue Cross Blue Shield of Texas (BCBSTX), Sun Life Financial, HCC Life Insurance Company, and Voya Financial. The current carrier, BCBSTX, presented three renewal options:

- **Option 1:** No lasers or coverage exclusions, with a 49% increase in the annual premium.
- **Option 2:** Exclusion of one member from all coverage, resulting in a 15.5% increase in the annual premium.
- **Option 3:** Exclusion of two members from all coverage, with no change to the 2024 annual premium.

Sun Life Financial proposed a 6.4% increase to the annual premium, with four lasers totaling \$3,050,000. HCC Life Insurance Company quoted a 13% reduction in the annual premium, with four lasers totaling between \$2,675,000 and \$8,550,000, depending on individual therapies for two of the lasered members. Voya Financial submitted a quote reflecting a 35% reduction in the annual premium, with four lasers totaling \$4,000,000. Lasering is a standard practice in the reinsurance industry where higher deductibles are applied to specific plan members based on their prior claims experience or the likelihood of becoming high-cost claimants in the future.

To mitigate rising costs, the Town is proposing a partnership with Quantify Specialty Care, a fully-integrated specialty infusion therapy provider that specializes in high-touch therapies, biologics, and pharmaceuticals for patients with rare diseases. Members with complex medical conditions require additional support, and Quantify will offer a personalized clinical support system. This includes care plans, clinical coordination, 24/7 support, and, importantly, home infusion therapy at no additional cost to the members. Quantify's services are expected to deliver a 26% discount on the top two highest-cost specialty medications currently covered under the plan.

Based on the proposals received, the Town recommends awarding the reinsurance contract to Voya

Financial. This decision is strongly influenced by the proposed cost reduction and the complementary partnership with Quantify. The Town believes that working with Quantify will significantly help reduce specialty medication costs for both members and the Town, further enhancing the overall value of the Town's employee health care plan.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES:

FISCAL IMPACT: \$

Proposed Expenditure/(Revenue)

\$2,103,730

Account Number(s):

840-710-17600-8510

LEGAL REVIEW: Cara White of Taylor, Olson, Adkins, Sralla, & Elam L.L.P., has reviewed the services agreement for Quantify Specialty Care as to form and legality.

ATTACHMENTS:

1. Stop Loss Marketing Analysis
2. 12.16.24_J1b_BAA standard Quantify signed by QSC_
3. Voya Financial Application
4. Voya Financial Agreement

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

Town of Flower Mound

Stop Loss Renewal Analysis - \$165K

Effective Date: 1/1/2025

	Current	Renewal	Renewal -Opt 1	Renewal-Opt 2	Proposed	Proposed	Proposed
Stop Loss Carrier	BCBS	BCBS	BCBS	BCBS	HCC	Sun Life	Voya
AM Best Rating	A	A	A	A	A++	A+	A
SPECIFIC RETENTION	\$165,000	\$165,000	\$165,000	\$165,000	\$165,000	\$165,000	\$165,000
Contract	Paid	Paid	Paid	Paid	Paid	Paid	Paid
Coverages	Medical & Rx	Medical & Rx	Medical & Rx	Medical & Rx	Medical & Rx	Medical & Rx	Medical & Rx
Specific Rates							
Composite 605	\$438.75	\$657.61	\$508.45	\$438.75	\$374.62	\$466.91	\$285.53
Specific Monthly Premium	\$265,443.75	\$397,854.05	\$307,612.25	\$265,443.75	\$226,645.10	\$282,480.55	\$172,745.65
Specific Annual Premium 605	\$3,185,325.00	\$4,774,248.60	\$3,691,347.00	\$3,185,325.00	\$2,719,741.20	\$3,389,766.60	\$2,072,947.80
Aggregate Rate							
Employee	\$3.76	\$3.09	\$3.30	\$3.51	\$9.44	\$3.71	\$4.24
Aggregate Monthly Premium	\$2,274.80	\$1,869.45	\$1,996.50	\$2,123.55	\$5,711.20	\$2,244.55	\$2,565.20
Aggregate Annual Premium	\$27,297.60	\$22,433.40	\$23,958.00	\$25,482.60	\$68,534.40	\$26,934.60	\$30,782.40
TOTAL ANNUAL REINSURANCE COST	\$3,212,622.60	\$4,796,682.00	\$3,715,305.00	\$3,210,807.60	\$2,788,275.60	\$3,416,701.20	\$2,103,730.20
% Increase Compared to Current			15.65%	-0.06%	-13.21%	6.35%	-34.52%
AGGREGATE RETENTION							
Contract	Paid	Paid	Paid	Paid	Paid	Paid	Paid
Coverages	Medical & Rx	Medical & Rx	Medical & Rx	Medical & Rx	Medical & Rx	Medical & Rx	Medical & Rx
Maximum Reimbursement	\$1,000,000	\$1,000,000	\$1,000,000	\$1,000,000	\$1,000,000	\$1,000,000	\$1,000,000
Aggregate Factors Composite 605	\$2,389.89	\$2,031.56	\$2,004.40	\$1,974.11	\$2,043.48	\$1,998.89	\$2,043.34
Monthly Attachment Factor	\$1,445,883.45	\$1,229,093.80	\$1,212,662.00	\$1,194,336.55	\$1,236,305.40	\$1,209,328.45	\$1,236,220.70
Annual Attachment Factor 605	\$17,350,601.40	\$14,749,125.60	\$14,551,944.00	\$14,332,038.60	\$14,835,664.80	\$14,511,941.40	\$14,834,648.40
Total Fixed Costs							
Monthly Fixed Costs	\$267,718.55	\$399,723.50	\$309,608.75	\$267,567.30	\$232,356.30	\$284,725.10	\$175,310.85
Annual Fixed Costs	\$3,212,622.60	\$4,796,682.00	\$3,715,305.00	\$3,210,807.60	\$2,788,275.60	\$3,416,701.20	\$2,103,730.20
Annual Fixed Costs - SL Credit	\$3,212,623	\$4,796,682	\$3,715,305	\$3,210,808	\$2,788,276	\$3,416,701	\$2,103,730
% Increase	0.00%	49.31%	15.65%	-0.06%	-13.21%	6.35%	-34.52%
Notes	No Lasers	No Lasers	Laser (1 Excluded from SL Policy)	Laser (1 & 2 Excluded from SL Policy)	Lasers 1 @\$500K 1 Contingent @\$3.5M if gene therapy 2 @\$625K 2 Contingent @\$3.5M if gene therapy 3 \$550K 4 @\$1M Included w/45% rate cap Firm Through 11/22	Lasers 1 @\$500K 2 @\$750K 3 @\$1M 4 @\$750K Included w/ 50% rate cap Firm Through 11/27	Lasers 1 @\$1M 2 @\$1M 3 @\$1M 4 @\$1M Included w/ 50% rate cap Firm through 12/13
Disclaimer:	The rates and benefits shown in this proposal are for an illustrative comparison only. Please refer to the carrier's certificate of coverage or policy for a complete description of benefits, exclusions, and limitations. In the event of a discrepancy, the carrier's contract will always govern. Rates shown are not final until final underwriting is approved by the carrier.						

BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement between Quantify Specialty Care (“Business Associate”) and the Town of Flower Mound, Texas (the “Covered Entity”) establishes specific legal obligations regarding the terms of the relationship between Business Associate and the Covered Entity, as it relates to the Health Insurance Portability and Accountability Act of 1996, Public Law No. 104-191 (“HIPAA”) and 45 C.F.R. Parts 160 and 164, subparts A, C and E (the “HIPAA Regulations”) (this “Agreement”);

WHEREAS, the Covered Entity and the Business Associate are parties to an agreement pursuant to which the Business Associate will provide services for the Covered Entity (“Underlying Agreement”) and, in connection with the provision of those support services, the Covered Entity discloses to the Business Associate certain Protected Health Information (“PHI”) (as defined in 45 C.F.R. §160.103), that is subject to protection under HIPAA and the HIPAA Regulations;

WHEREAS, the Quantify Specialty Care is a “Business Associate” of the Town of Flower Mound and the Town of Flower Mound is a “Covered Entity” as those terms are defined in HIPAA and the HIPAA Regulations;

WHEREAS, pursuant to the HIPAA Regulations, the Covered Entity and the Business Associate must agree in writing to certain mandatory provisions regarding the Use and Disclosure of PHI;

WHEREAS, the purpose of this Agreement is to comply with the requirements of the HIPAA Regulations, including, without limitation, the Business Associate Agreement requirements regarding Individual rights with respect to PHI, requirements regarding the Use and Disclosure of PHI, and regulations safeguarding the confidentiality, integrity and availability of PHI that it maintains or transmits in an electronic format (“ePHI”); and

WHEREAS, the Covered Entity and the Business Associate intends to protect the privacy and provide for the confidentiality, integrity and availability of PHI disclosed by Covered Entity to Business Associate, or collected or created by the Business Associate pursuant to the Underlying Agreement, in compliance with HIPAA, and the regulations promulgated thereunder, including, without limitation, the HIPAA Regulations; and the Health Information Technology for Economic and Clinical Health Act, as incorporated in the American Recovery and Reinvestment Act of 2009, (the “HITECH Act”) and its implementing regulations and guidance issued by the Secretary of the Department of Health and Human Services (the “Secretary”), the Texas Medical Records Privacy

Act found in Chapter 181 of the Texas Health and Safety Code, and other applicable federal and State laws, all as amended from time to time.

NOW THEREFORE, in consideration of the mutual promises and covenants contained herein, the parties agree as follows:

1. Definitions.

Capitalized terms used herein without definition shall have the meanings ascribed to them in HIPAA, the HIPAA Regulations or the HITECH Act, as applicable unless otherwise defined herein.

2. Obligations of Business Associate.

(a) Permitted Uses and Disclosures. Business Associate shall only Use or Disclose PHI for the purposes of (i) performing Business Associate's obligations under the Underlying Agreement; or (ii) as permitted or required by law; or (iii) as otherwise permitted by this Agreement. Further, Business Associate shall not Use or Disclose PHI in any manner that would constitute a violation of HIPAA, the HIPAA Regulations, the HITECH Act or the Texas Medical Records Privacy Act if so used by Covered Entity, except that Business Associate may Use PHI (i) for the proper management and administration of Business Associate; and (ii) to carry out the legal responsibilities of Business Associate. Business Associate may Disclose PHI for the proper management and administration of Business Associate, to carry out its legal responsibilities or for Payment as specified in 45 C.F.R. § 164.506(c), including but not limited to Disclosure to a business associate on behalf of a covered entity or health care provider for Treatment or Payment of such covered entity or Health Care Provider, with the expectation that such parties will provide reciprocal assistance to Covered Entity with respect to any such Disclosure if either: (i) the Disclosure is Required by Law; or (ii) the Disclosure is permitted by law. Business Associate shall obtain a written agreement from the person to whom the PHI is to be Disclosed that such person will hold the PHI in confidence and will not Use and further Disclose such PHI except as required by law or for the purpose(s) for which it was Disclosed by Business Associate to such person, and that such person will notify Business Associate of any instances of which it is aware in which the confidentiality of the PHI has been Breached.

(b) Appropriate Safeguards. Business Associate shall implement administrative, physical, and technical safeguards that (i) reasonably and appropriately protect the confidentiality, integrity, and availability of electronic PHI that it creates, receives, maintains or transmits on behalf of Covered Entity, and (ii) prevent the Use or Disclosure of PHI other than as contemplated by the Underlying Agreement and this Agreement

(c) Compliance with Security Provisions. Business Associate shall (i) use appropriate safeguards to prevent the use or disclosure of PHI other than as permitted by the Underlying Agreement and this Agreement; (ii) implement and maintain reasonable and appropriate administrative safeguards, as required by 45 C.F.R. § 164.308, physical safeguards, as required by 45 C.F.R. § 164.310, and technical safeguards, as required by 45 C.F.R. § 164.312, that protect the confidentiality, integrity and availability of ePHI that it creates, receives, maintains or transmits on behalf of Covered Entity; (iii) implement and document reasonable and appropriate policies and procedures as required by 45 C.F.R. § 164.316; (iv) appropriately safeguard ePHI in accordance with the standards specified at 45 CFR § 164.314(a); (v) utilize device and media controls and encrypt ePHI as further described in Section 2(f); and (vi) comply with HIPAA, HIPAA Regulations, the HITECH Act and the Texas Medical Records Privacy Act requirements related to the confidentiality, the integrity and availability of PHI.

(d) Compliance with Privacy Provisions. Business Associate shall only Use and Disclose PHI in compliance with each applicable requirement of 45 C.F.R. § 164.504(e). Business Associate shall comply with all requirements of HIPAA, HIPAA Regulations, the HITECH Act related to privacy and applicable as if Business Associate were a “covered entity,” as such term is defined in HIPAA.

(e) Duty to Mitigate. Business Associate agrees to mitigate, to the extent practicable and mandated by law, any harmful effect that is known to Business Associate of a Use or Disclosure of PHI by Business Associate in violation of the requirements of this Agreement. Business Associate agrees that it will be solely responsible for the cost of any and all mitigation and corrective action required by the Secretary or the Texas Office of the Attorney General.

(f) Encryption. Business Associate agrees that all PHI provided or transmitted pursuant to the Underlying Agreement shall be provided or transmitted in a manner which renders such PHI Unusable, Unreadable or Indecipherable to Unauthorized Individuals, through the use of a technology or methodology specified by the Secretary in the guidance issued under section 13402(h)(2) of the HITECH Act on the HHS Web site. Business Associate acknowledges that failure to do so could contribute to or permit a Breach requiring patient notification under the HITECH Act and further agrees that Covered Entity shall have no civil liability for any Breach caused by such failure.

(g) Training. Business Associate agrees to provide appropriate training for its employees. Such training shall address federal and State law as it relates to the Covered Entity’s course of business regarding PHI, each employee’s scope of employment regarding PHI, safeguarding Individual rights afforded by HIPAA Regulations, compliance with Business Associate’s security policies and detecting and reporting a Security Incident. Pursuant to section 181.101 of the Texas Medical Records Privacy Act, Business Associate agrees to complete training

for new employees within sixty (60) calendar days of the employee's hire by Business Associate and complete training for current employees at least every two (2) years.

3. Reporting.

(a) Security Incidents and/or Unauthorized Use or Disclosure. Business Associate shall report to Covered Entity a Security Incident or any Use and/or Disclosure of PHI other than as provided for by this Agreement or permitted by applicable law within a reasonable time of becoming aware of such Security Incident and/or unauthorized Use or Disclosure but not later than ten (10) business days thereafter, in accordance with the notice provisions set forth herein. Business Associate shall take (i) prompt action to cure any such deficiencies as reasonably requested by Covered Entity, and (ii) any action pertaining to such Security Incident and/or unauthorized Use or Disclosure required by applicable federal and State laws and regulations. If such successful Security Incident or unauthorized Use or Disclosure results in a Breach as defined in the HITECH Act, then Covered Entity shall comply with the requirements of Section 3(b) below.

(b) Breach of Unsecured PHI. The provisions of this Section are effective with respect to the Discovery of a Breach of Unsecured PHI occurring on or after September 23, 2009. With respect to any unauthorized access, acquisition, Use or Disclosure of Covered Entity's PHI by Business Associate, its agents or subcontractors, Business Associate shall (i) investigate such unauthorized acquisition, access, Use or Disclosure; (ii) determine whether such unauthorized access, acquisition, Use or Disclosure constitutes a reportable Breach under the HITECH Act; and (iii) document and retain its findings under clauses (i) and (ii) for a minimum of six (6) years. If the Business Associate Discovers that a reportable Breach has occurred, Business Associate shall notify Covered Entity of such reportable Breach in writing within ten (10) business days of the date Business Associate Discovers such Breach. Business Associate shall be deemed to have discovered a Breach as of the first day that the Breach is either known to Business Associate or any of its employees, officers or agents, other than the person who committed the Breach, or by exercising reasonable diligence should have been known to Business Associate or any of its employees, officers or agents, other than the person who committed the Breach. To the extent the information is available to Business Associate, Business Associate's written notice shall include the information required by 45 C.F.R. § 164.410 and Texas Business and Commerce Code § 521.053. Business Associate shall promptly supplement the written report with additional information regarding the Breach as it obtains such information. With respect to such Breach, Business Associate shall cooperate with Covered Entity in meeting the Covered Entity's obligations under the HITECH Act or Chapter 521 of the Texas Business and Commerce Code, the "Identity Theft Enforcement and Protection Act," as applicable.

4. Business Associate's Agents. To the extent that Business Associate uses one or more subcontractors or agents to provide services under the Underlying Agreement, and such subcontractors or agents receive or have access to PHI, Business Associate shall sign an agreement with such subcontractors or agents containing substantially the same provisions as this Agreement.

5. Rights of Individuals.

(a) Access to PHI. Within ten (10) business days of receipt of a request by Covered Entity, Business Associate shall make an Individual's PHI maintained in a Designated Record Set available to Covered Entity or, as directed by Covered Entity, to such Individual to enable Covered Entity to fulfill its obligations under 45 C.F.R. § 164.524 and Texas Health and Safety Code § 181.102. Subject to Section 5(b) below, (i) in the event that any Individual requests access to PHI directly from Business Associate in connection with a routine billing inquiry, Business Associate shall directly respond to such request pursuant to 45 C.F.R. § 164.524; and (ii) in the event such request appears to be for a purpose other than a routine billing inquiry, Business Associate shall forward a copy of such request to Covered Entity and shall fully cooperate with Covered Entity in responding to such request. In either case, a denial of access to requested PHI shall not be made without the prior written consent of Covered Entity.

(b) Access to Electronic Health Records. If Business Associate uses or maintains ePHI on behalf of Covered Entity then, to the extent an Individual has the right to request a copy of ePHI pursuant to 45 C.F.R. § 164.524 and makes such a request directly to Business Associate, Business Associate shall provide such Individual with a copy of ePHI in an electronic format and, if the Individual gives authorization, transmit such copy directly to an entity or person designated by the Individual. At Covered Entity's request, Business Associate shall provide Covered Entity with a copy of an Individual's PHI maintained in an electronic format within ten (10) business days of the Individual's request to allow Covered Entity to comply with 45 C.F.R. § 164.524(b), as amended by the HITECH Act, or the Texas Medical Records Privacy Act § 181.102(a).

(c) Amendment of PHI. Business Associate agrees to make any amendment(s) to PHI in a Designated Record Set to which the Covered Entity agrees, pursuant to a Covered Entity's or an Individual's request made under 45 C.F.R. § 164.526 within twenty (20) calendar days of the Individual's request. If Covered Entity does not agree to make such an amendment, Business Associate agrees to include a statement of disagreement should an Individual submit a request to Covered Entity.

(d) Accounting of Disclosures of Electronic Health Records. Business Associate shall maintain an accounting of any Disclosures made unless such Disclosure was made for Treatment, Payment or Health Care Operations. Such accounting shall include (i) the date of the disclosure; (ii) the name of the entity or person who received the protected health information and, if known,

the address of such entity or person; (iii) a brief description of the PHI disclosed; and (iv) a brief statement of the purpose of the disclosure that reasonably informs the Individual of the basis for the disclosure; or, in lieu of such statement, a copy of a written request for a disclosure.

(e) Accounting Rights. Business Associate shall make available to Covered Entity, in response to a request from an Individual or an Individual's legally authorized representative, information required for an accounting of disclosures of PHI with respect to the Individual, in accordance with 45 C.F.R. § 164.528, incorporating exceptions to such accounting designated under such regulation. Such accounting is limited to disclosures that were made in the six (6) years prior to the request and is not required to include any disclosures that were made prior to the compliance date of the HITECH Act. In response to such request, Business Associate agrees to provide (i) the date of the disclosure; (ii) the name of the entity or person who received the protected health information and, if known, the address of such entity or person; (iii) a brief description of the PHI disclosed; and (iv) a brief statement of the purpose of the disclosure that reasonably informs the Individual of the basis for the disclosure; or, in lieu of such statement, a copy of a written request for a disclosure within twenty (20) calendar days of Covered Entity's request. Upon request by Covered Entity, Business Associate shall provide such accounting to Covered Entity within twenty (20) calendar days of the Individual's request. Such accounting must be provided without cost to Covered Entity if it is the first accounting requested by an Individual within any twelve (12) month period; however, a reasonable, cost-based fee may be charged for subsequent accountings if Business Associate informs the Covered Entity to advance written notice of the fee to allow the Individual or the Individual's legally authorized representative an opportunity to withdraw or modify the request. These accounting obligations shall survive termination of this Agreement and shall continue as long as Business Associate maintains PHI created by Covered Entity.

(f) Agreement to Restrict Disclosure. If Covered Entity is required to comply with a restriction on the Disclosure of PHI pursuant to Section 13405 of the HITECH Act, then Covered Entity shall, to the extent necessary to comply with such restriction, provide written notice to Business Associate of the name of the Individual requesting the restriction and the PHI affected thereby. Upon receipt of such notification, Business Associate shall not Disclose the identified PHI to any health plan for the purposes of carrying out Payment or Health Care Operations, except as otherwise required by law. Covered Entity shall also notify Business Associate of any other restriction to the Use or Disclosure of PHI that Covered Entity has agreed to in accordance with 45 C.F.R. § 164.522(a).

(g) Agreement to Make Confidential Communications. Business Associate agrees to abide by any reasonable request from an Individual to receive communications of PHI by alternative means to which Covered Entity agrees, pursuant to a Covered Entity's or an Individual's request made under 45 C.F.R. § 164.522(b). Upon receipt of such notification,

Business Associate shall communicate with Individual via the alternative means specified by Covered Entity. A Business Associate shall not seek an explanation from the Individual as to the basis for the request as a condition of providing communications on a confidential basis.

(h) Agreement to Obtain Consent to Re-identify an Individual. Business Associate agrees that it shall not re-identify or attempt to re-identify an Individual who is the subject of any PHI without obtaining the Individual's consent or authorization.

6. Remuneration and Marketing.

(a) Remuneration for PHI. Business Associate agrees that it shall not, directly or indirectly, receive remuneration in exchange for any PHI of Covered Entity without obtaining the Individual's consent or authorization as required under Texas Health and Safety Code § 181.152.

(b) Limitations on Use of PHI for Marketing Purposes. Business Associate shall not Use or Disclose PHI for the purpose of making a communication about a product or service that encourages recipients of the communication to purchase or use the product or service, unless Covered Entity or the Business Associate obtains clear and unambiguous permission in written or electronic form to Use or Disclose PHI for any marketing communication. Such permission is not required if the communication is: (i) in the form of a face-to-face communication to an Individual; (ii) in the form of a promotional gift of nominal value provided by the Business Associate; (iii) necessary for administration of a patient assistance program or other prescription drug savings or discount program; or (iv) made at the oral request of the Individual. If such permission is obtained, the Business Associate Uses or Discloses PHI to send a written marketing communication through the mail, the communication must be sent in an envelope showing only the names and addresses of sender and recipient and must state the name and toll-free number of the entity sending the marketing communication and explain the recipient's right to have the recipient's name removed from the sender's mailing list. Upon receipt of a request to remove a person's name from a mailing list, the Business Associate shall remove the person's name within thirty (30) calendar days of Business Associate's receipt of such request. A Business Associate that makes a marketing communication pursuant to an Individual's oral request may only make such a communication if clear and unambiguous oral permission for the Use or Disclosure of the PHI is obtained. The marketing communication must be limited to the scope of the oral permission and any further marketing communication must comply with the requirements of Texas Health and Safety Code § 181.152.

7. Governmental Access to Records. Business Associate shall make its internal practices, books and records relating to the Use and Disclosure of PHI available to the Secretary for purposes of determining Covered Entity's compliance with the HIPAA Regulations and the HITECH Act. Except to the extent prohibited by law, Business Associate agrees to notify Covered Entity of all

requests served upon Business Associate for information or documentation by or on behalf of the Secretary. Business Associate shall provide to Covered Entity a copy of any PHI that Business Associate provides to the Secretary concurrently with providing such PHI to the Secretary.

8. Minimum Necessary. To the extent required by the HITECH Act, Business Associate shall limit its Use, Disclosure or request of PHI to the Limited Data Set or, if needed, to the minimum necessary to accomplish the intended Use, Disclosure or request, respectively. Effective on the date the Secretary issues guidance on what constitutes “minimum necessary” for purposes of the HIPAA Regulations, Business Associate shall limit its Use, Disclosure or request of PHI to only the minimum necessary as set forth in such guidance.

9. State Privacy Laws. Business Associate shall comply with laws of the State of Texas that are More Stringent than HIPAA Regulations because the laws provide greater privacy protections for PHI or provide greater rights to individuals with respect to PHI, including without limitation the Texas Medical Records Privacy Act, chapter 181 of the Texas Health and Safety Code and the Identity Theft Enforcement and Protection Act, chapter 521 of the Texas Business and Commerce Code.

10. Termination.

(a) Breach by Business Associate. If Covered Entity knows of a pattern of activity or practice of Business Associate that constitutes a material breach or violation of Business Associate’s obligations under this Agreement, then Covered Entity shall promptly notify Business Associate. With respect to such breach or violation, Covered Entity shall (i) take reasonable steps to cure such breach or end such violation, if possible; or (ii) terminate its relationship with Business Associate upon written notice to Business Associate if such steps are either not possible or are unsuccessful; or (iii) if termination is not feasible, report the Business Associate’s breach or violation to the Secretary.

(b) Breach by Covered Entity. If Business Associate knows of a pattern of activity or practice of Covered Entity that constitutes a material breach or violation of Covered Entity’s obligations under this Agreement, then Business Associate shall promptly notify Covered Entity. With respect to such breach or violation, Business Associate shall (i) take reasonable steps to cure such breach or end such violation, if possible; or (ii) terminate its relationship with Covered Entity upon written notice to Covered Entity if such steps are either not possible or are unsuccessful; or (iii) if termination is not feasible, report the Covered Entity’s breach or violation to the Secretary.

(c) Effect of Termination. Upon termination of this Agreement for any reason, Business Associate shall either return or destroy all PHI that Business Associate or its agents or subcontractors still maintain in any form in the manner requested by Covered Entity, and shall not

retain any copy of such PHI. If Covered Entity requests that Business Associate return PHI, such PHI shall be returned in a format and timeframe as mutually agreed upon. If Business Associate reasonably determines that return or destruction is infeasible, Business Associate shall continue to extend the protections of this Agreement to such PHI, and limit further Use and Disclosure of such PHI to those purposes that make the return or destruction of such PHI infeasible. If Business Associate is asked to destroy the PHI, Business Associate shall destroy PHI in a manner that renders the PHI Unusable, Unreadable or indecipherable to unauthorized individuals as specified in the HITECH Act.

11. Indemnification. Business Associate agrees to indemnify and hold Covered Entity, its officers, employees, and agents harmless from any and all liabilities and costs, and against any claim, suit, fine, or damages, including loss of profits, reasonable attorneys' fees, or interest, or any incidental, indirect, special, or consequential damages incurred as a result of any loss or damage due to an actual or alleged violation of local, State or federal laws, including but not limited to HIPAA, HIPAA Regulations, the HITECH Act, the Texas Medical Records Privacy Act or any other laws or regulations relating to medical record privacy, the security or confidentiality of PHI or consumer rights.

12. Amendment of This Agreement. The parties acknowledge that State and federal laws relating to data security and medical record privacy are rapidly evolving and that amendment of this Agreement may be required to ensure compliance with such developments. The parties specifically agree to take such action as is necessary to implement any new or modified standards or requirements of HIPAA, the HIPAA Regulations, the HITECH Act, the Texas Medical Records Privacy Act and other laws or regulations relating to the medical record privacy, the security or confidentiality of PHI or consumer rights. Upon the request of Covered Entity, Business Associate agrees to promptly enter into negotiation concerning the terms of an amendment to this Agreement incorporating any such changes.

13. Audit and Inspection Rights. Business Associate agrees to make its internal policies and procedures relating to the Use and Disclosure of PHI and the Security of ePHI, practices, books and records available to Covered Entity, or, at the request of Covered Entity, to the Secretary, the Texas Office of the Attorney General, or any officer employee to whom the Secretary or has delegated such authority for the purpose of determining Covered Entity's compliance with the HIPAA Regulations and/or the Texas Medical Records Privacy Act, as applicable. Such information shall be made available in a time and manner designated by Covered Entity, the Secretary or the Texas Office of the Attorney General.

14. No Third Party Beneficiaries. Nothing express or implied in this Agreement is intended to confer, nor shall anything herein confer, upon any person other than Covered Entity,

Business Associate and their respective successors or assigns, any rights, remedies, obligations, or liabilities whatsoever.

15. Effect on Underlying Agreement. In the event of any conflict between this Agreement and the Underlying Agreement, the terms of this Agreement shall control.

16. Survival. The provisions of this Agreement shall survive the termination or expiration of the Underlying Agreement.

17. Interpretation. This Agreement shall be interpreted as broadly as necessary to implement and comply with HIPAA, the HIPAA Regulations and the HITECH Act. The parties agree that any ambiguity in this Agreement shall be resolved in favor of a meaning that complies and is consistent with such laws.

18. Governing Law. This Agreement shall be construed in accordance with the laws of the State of Texas. Venue shall lie in the courts of competent jurisdiction located in Denton County, Texas.

19. Notices. All notices required or permitted under this Agreement shall be in writing and sent to the other party as directed below or as otherwise directed by either party, from time to time, by written notice to the other. All such notices shall be deemed validly given upon receipt of such notice by certified mail, postage prepaid, facsimile transmission, e-mail or personal or courier delivery:

If to Covered Entity: Town of Flower Mound
 2121 Cross Timbers Road
 Flower Mound, Texas 75028
 Attn: Town Manager

If to Business Associate: Quantify Health Specialty Care
 4226 Penrith Ct.
 Dublin, OH 43016
 Attn: Legal

IN WITNESS WHEREOF, the parties hereto have agreed to be bound by the terms of this Agreement as part of the Underlying Agreement between the parties, evidenced by the signature of the Underlying Agreement though each party or each party's duly authorized representative effective as of the 1st day of January, 2025.

QUANTIFY SPECIALTY CARE

By: 

Name: Justin Goldston
Title: President

TOWN OF FLOWER MOUND

By: _____

Name: Cheryl Moore
Title: Mayor

EXCESS RISK APPLICATION

ReliaStar Life Insurance Company
("ReliaStar Life")

Home Office: Minneapolis, Minnesota 55440

Plan Sponsor hereby applies for the Excess Risk Policy.

PLAN INFORMATION

Name of Plan Sponsor (exact legal name) Town of Flower Mound
Address (number and street) 2121 Cross Timbers Road
City Flower Mound State TX Zip 75028

☐ Corporation ☐ Partnership ☐ Sole Proprietorship ☒ Other. Specify: Municipality

Nature of Plan Sponsor's Business Public Order and Safety SIC Code 9199

Are subsidiaries, affiliates or other associated entities to be included? ☐ Yes ☒ No

If "Yes," give Names.

Relationship to Plan Sponsor _____

Please provide the number of individuals covered as noted below:

Eligible Individuals	_____	Covered Persons Only	_____	Covered Persons with Dependents	_____
Enrolled Individuals	<u>600</u>	Covered Persons Only	<u>220</u>	Covered Persons with Dependents	<u>380</u>
Individuals Covered Elsewhere	_____	Covered Persons Only	_____	Covered Persons with Dependents	_____

The initial Contract Period is from January 1, 2025 through December 31, 2025

CLAIM ADMINISTRATOR INFORMATION (Claim Administrator for coverages checked below for the Employee Benefit Plan)

Name of Claim Administrator (exact legal name of entity) BlueCross BlueShield (TX), Prime Therapeutics LLC - RX

Address (number and street) N/A

City N/A State N/A Zip N/A

* Claim Administrator must be approved by ReliaStar Life prior to acceptance of this Application

INDIVIDUAL EXCESS RISK

Individual Excess Risk: ☒ Yes ☐ No

Benefits To Be Covered: ☒ Medical ☒ Other (Please specify) Prescription Drugs

Initial Coverage Period:

☐ Incurred and Paid in 12 months ☐ Incurred in 12 months and Paid in 15 months
☐ Incurred in 15 months and Paid in 12 months ☒ Incurred in 24 months and Paid in 12 months
☐ Paid in 12 months
☐ Other _____

Individual Excess Risk Deductible \$ 165,000 per Individual

Individuals subject to the Individual Adjusted Deductible as identified in the disclosure process

Claimant 1 – \$ 1,000,000

Claimant 2 – \$ 1,000,000

Claimant 3 – \$ 1,000,000

Claimant 4 – \$ 1,000,000

Claims for Individuals subject to the Individual Adjusted Deductible that exceed the Individual Excess Risk Deductible amount are excluded under any Aggregate Excess Risk Insurance.

Benefit percentage 100%

INDIVIDUAL EXCESS RISK (Continued)**Maximum Individual Benefit:**

Individual Excess Risk Lifetime Maximum: \$ Unlimited Individual Excess Risk Annual Maximum: \$ Unlimited
Other _____ \$ _____

Optional Endorsements:

- ☐ Individual Terminal Liability ☐ 3 months ☐ 6 months
☒ Individual Advanced Funding
☐ Individual Step-Down Deductible
☐ Individual Gapless Renewal (Only available for 12/15 or 12/18)
☐ Aggregating Individual Deductible: \$ _____ (Individual Excess Risk must be elected)
☒ Plan Mirroring Coordination
☒ Renewal Rate Cap
☐ Other: _____

AGGREGATE EXCESS RISK

Aggregate Excess Risk: ☒ Yes ☐ No

Benefits To Be Covered: ☒ Medical ☐ Vision ☒ Prescription Drugs ☐ Dental ☐ Other (Specify) _____

Initial Coverage Period:

- ☐ Incurred and Paid in 12 months ☐ Incurred in 12 months and Paid in 15 months
☐ Incurred in 15 months and Paid in 12 months ☒ Incurred in 24 months and Paid in 12 months
☐ Paid in 12 months
☐ Other _____

Aggregate Adjustment Corridor: 125 %

Minimum Annual Aggregate Deductible: See Excess Risk Schedule

ReliaStar Life's Limit of Liability: \$ 1,000,000 per Coverage Period

Optional Endorsements:

- ☒ Plan Mirroring Coordination
☐ Monthly Aggregate Reimbursement
☐ Aggregate Terminal Liability ☐ 3 months ☐ 6 months (Individual Terminal Liability must also be elected)
☐ Other _____

Are retirees covered? ☒ Yes ☐ No

Are retirees age 65 and over covered? ☒ Yes ☐ No

Attached to and incorporated in this Application is a copy of the Employee Benefit Plan that relates to the Excess Risk Policy being applied for.

The Producer/Agent of Record (provided he/she is duly licensed as required by law) is:

Stealth Partner Group

This insurance is to be effective on January 1, 2025 at 12:01 a.m. Standard Time at the Plan Sponsor's place of business, provided that the first premium is paid in full and that the Disclosure Agreement and this Application are accepted by ReliaStar Life.

An advance deposit of \$ N/A is attached. (The deposit is to equal the first premium.) The deposit will be applied toward payment of the premiums on the insurance requested if the application is accepted by ReliaStar Life. If not accepted, the deposit will be refunded to the Plan Sponsor Applicant.

ACKNOWLEDGEMENT & SIGNATURES

By signing this Application below, the Plan Sponsor Applicant represents that all statements, answers and information made above in this application and in the Disclosure Agreement are complete and true to the best of its knowledge and belief. Plan Sponsor Applicant further acknowledges and agrees (i) that such statements, answers and information in this Application and in the Disclosure Agreement, together with a copy of the Employee Benefit Plan and other information attached to this application or furnished to ReliaStar Life, are submitted by the Plan Sponsor Applicant as an inducement to, and will be relied upon by, ReliaStar Life, in underwriting this risk and determining whether to accept this application and issue the Excess Risk Policy being applied for; (ii) if such statements, answers and information is/are incomplete or untrue, and such incompleteness or falsity is material to the risk to be insured by ReliaStar Life, any policy issued by ReliaStar Life may be rescinded and/or any benefits that might otherwise be payable thereunder may be denied; and (iii) the Plan Sponsor Applicant has fully read and understands this completed Application and the Disclosure Agreement.

Plan Sponsor Applicant Town of Flower Mound

Name of Signer *(Please print)* _____

 By _____ Title _____

DISCLOSURE AGREEMENT

ReliaStar Life Insurance Company, Minneapolis, MN
A member of the *Voya® family of companies*
(the "Company")



Policy Effective Date January 01, 2025

Plan Sponsor Name Town of Flower Mound

INSTRUCTIONS FOR COMPLETION

Please provide the information described in the Disclosure Reports Section below and then have an authorized representative of the Plan Sponsor submit the Disclosure Agreement. Prior to submitting this Disclosure Agreement and Disclosure Reports to the Company, please consult with your current Claim Administrator(s), Utilization Review Firm(s), Case Management, and Pharmacy Benefits Manager(s) (collectively, "Claim Vendors"), and Plan Sponsor's Broker or other insurance advisor. The Disclosure Reports must be provided to the Company no earlier than 90 calendar days prior to the Policy's Effective Date or renewal date, as applicable. Please note the required monthly claim reporting provided on behalf of the Plan Sponsor to Company will suffice for renewal purposes. Should the Company require any additional information, it will notify the Plan Sponsor and/or its designated representative in writing no later than 20 calendar days following receipt of the Disclosure Reports. Any firm quote is void unless accepted by the Plan Sponsor in writing within 30 days from the date quoted by the Company.

DISCLOSURE REPORTS *Plan Sponsor has provided the following reports or data (which include claimant name and primary ICD-10 diagnosis) on the following date(s):* _____

- Any individual with paid claims that has exceeded 50% of the stop loss deductible during the applicable current policy year (minimum 9 months);
- Any individual with denied and/or pended claims that has exceeded \$25,000 during the applicable current policy year (minimum of 9 months);
- Any individual evaluated and/or listed for an organ, stem cell or bone marrow transplant;
- Any individual, including claim amounts for that individual, who is or was in case management or whose condition or diagnosis would be referred to case management during the applicable current policy year (minimum 9 months) by your claims Administrator based upon the ICD-10 codes used by your Claims Administrator for referral to case management;
- Any individual, including claim amounts for that individual, whose condition or diagnosis during the applicable current policy year (minimum 9 months) is represented by any of the ICD-10 codes contained in the attached list.

DISCLOSURE AGREEMENT

The Plan Sponsor represents to the Company, to the best of its knowledge and belief, and after making a diligent and good faith inquiry, that it has fully read and understands this Disclosure Agreement; and as of the date of submitting this Disclosure Agreement there are no known potential catastrophic claims other than those disclosed on the submitted Disclosure Reports.

The Plan Sponsor understands and agrees that the Company will rely on this Disclosure Agreement and the attached Disclosure Reports to:

- underwrite this risk,
- determine whether or not to issue (or renew) a Policy, and
- If the Company agrees to issue or renew a Policy, determine the terms, conditions, limitations and rates of or for such Policy.

The Plan Sponsor further understands and agrees that if there are any undisclosed claimants known to the plan sponsor that are material to the risk to be insured by the Company, any Policy issued or renewed by the Company may be rescinded, any benefits that might otherwise be payable thereunder may be denied, and/or the premium rates, deductibles, terms, conditions and limitations of the Policy may be revised by the Company; and, the requirement to submit any required Disclosure Report may not be waived by the Company without a written representation by the Plan Sponsor that there are no reports or data with respect to any individual required to be included on any of the Disclosure Reports above.

To be eligible for a claim of reimbursement under the Policy, the Plan Sponsor or the Claims Administrator must request payment and provide complete and accurate Proof of Loss, in the form and content acceptable to the Company, to support a claim within 180 days after the end of the Coverage Period of the Policy.

ICD-10 CODES FOR DISCLOSURE NOTIFICATION

The following ICD-10 Codes for Disclosure Notification provide conditions or diagnosis which must be disclosed. Please list all Plan Participants who have been diagnosed with or treated for any of the Codes listed under the following categories during the current Benefit Period. Where a range of Codes is shown, any and all conditions or diagnosis within that range must be disclosed.

A00-B99 Infectious Diseases

B17.1-B17.11 Hepatitis C

C00-D49 Neoplasms

C00-C14 Malignancies of oral cavity and pharynx
C15-C26 Malignant neoplasm of digestive organs
C30-C39 Malignant neoplasm of respiratory
C43-C44 Melanoma
C50-C50 Breast Malignancies
C51-C68 Genitourinary Malignancies
C69-C72 Malignancies of Nervous System
C81-C96 Leukemias, Lymphomas and Myelomas

D50-D89 Hematologic Disorders

D57.1 Sickle Cell Anemia
D61.01 Aplastic Anemia
D66 Hemophilia/Hereditary Factor VIII Deficiency
D81.0 Severe Combined Immune Deficiency (SCID)
D82.1 DiGeorge Syndrome
D83.1 Immune Deficiency T Cells (AIDS)
D84.1 Alpha 1-Antitrypsin

E70-E88 Metabolic Disorders

E75.22 Gaucher's Disease
E84.0 Cystic Fibrosis

G00-G99 Disease of the Nervous System

G12.21 Lou Gehrig's disease (ALS)
G61.0 Guillain-Barre Syndrome
G82.50 Quadriplegia
G91.1 Obstructive Hydrocephalus

I00-I99 Disease of Circulatory System

I27.0 Primary Pulmonary Hypertension
I42.0-I42.9 Cardiomyopathy
I46.9 Cardiac Arrest
I60.9 Subarachnoid Hemorrhage

J00-J99 Disease of Respiratory System

J96.00-J96.92 Respiratory Failure

K00-K95 Disease of Digestive System

K70.0-K74.69 Chronic Liver Disease
K72.00-K72.91 Liver Failure

M86 Diseases of Musculoskeletal System and Connective Tissue

M86 Osteomyelitis

N00-N99 Disease of Genitourinary System

N18.1-N18.9 Chronic Renal Failure

O00-O9A Pregnancy, Childbirth & Puerperium

O30.10--O30.109 Triplet Pregnancy
O30.20-O30.209 Quadruplet Pregnancy
O60.00--O60.14 Preterm Labor

P00-P96 Perinatal Conditions

P07.00-P07.36 Preterm Infant
P22.0 Respiratory Distress Syndrome of Newborn

Q00-Q99 Congenital Malformations

Q20-Q28 Congenital Heart Diseases
Q39.0-Q39.4 Tracheoesophageal Fistula
Q89.7 Multiple Anomalies

S00-T88 Injury, Poisoning and Trauma

S06.0-S06.9 Brain Injuries
S12-S14 Spinal Cord Injuries
S88 Amputations
T07 Multiple Trauma Injuries
T20-T32 Burns
T79 Early Complications of Trauma

T86-Z94 Complications Peculiar to Certain Specified Conditions

T86.00-T86.02 Graft vs. Host Disease
T86.00-T86.09 Graft vs. Host Disease
T86.90-T86.92 Complications of Transplants
T86.90-T89.99 Complications of Transplants
Z94 Transplants

ADMINISTRATION AGREEMENT

ReliaStar Life Insurance Company, Minneapolis, MN
 ReliaStar Life Insurance Company of New York, Woodbury, NY
Members of the Voya® family of companies
 (the "Company")



Policyholder Name (the "Policyholder") Town of Flower Mound

Policy Effective Date 01/01/2025

Insurance Contracts. The Company issues insurance policies and certificates based on your application and our state approved products (the "Policies"). Our obligations are determined solely by the terms of the policies we issue.

EXCESS RISK COVERAGE

Claim Administration. Upon determination of a potential claim under the Policy, you will confirm employees' eligibility for coverage and provide required eligibility and claim documentation to the Company, either directly or through your health claim administrator. The Company shall be responsible for all claim reviews, determinations and payments under the Policy.

Confidentiality. We will keep confidential all information provided to us by you or your health claims administrator in connection with the Policy, in compliance with applicable law. You authorize your health claims administrator, if any, to release to the Company information and data regarding claims paid to be used in connection with the Policy.

GROUP ANNUAL TERM LIFE, PERSONAL ACCIDENT INSURANCE, DISABILITY, CRITICAL ILLNESS, ACCIDENT AND/OR HOSPITAL CONFINEMENT INDEMNITY COVERAGE

Policy Administration. Your group policy will be "Self-Administered". This means that you or a third party that you engage will be responsible to maintain all enrollment, beneficiary, and billing records for the Policies (as applicable). The records you keep must provide the ability for you and/or your employees to:

- appropriately apply Policy limits and rules
- know how much coverage the employee has at all times
- provide the employee with the appropriate "Conversion" and/or "Portability" documentation (as applicable)
- set up any payroll deductions correctly
- pay premium to the insurance company with supporting documentation
- file a claim

The parties agree that the Policies will be self-administered by Policyholder and that the insurance charges reflect that arrangement.

Communications. All forms and other materials we provide to you must be presented to employees without alteration. Any benefit and eligibility descriptions you or your third party service provider communicates to employees must be consistent with the materials and guidelines we provide to you. We will work carefully with you to make corrections in the case of any inadvertent error in communications. However, you are responsible for any costs incurred in correcting errors caused by incorrect data you provide to employees or to Company, including incorrect benefit descriptions and eligibility determinations.

Evidence of Insurability. If evidence of insurability is required in connection with an application for coverage under the terms of a Policy, you will apply the evidence of insurability rules appropriately, obtain the necessary forms from any applicant for such coverage and provide those forms to the Company.

Claim Administration. Upon receipt of notice of a potential claim under a Policy, you will confirm employees' eligibility for coverage and provide required claim documentation at the Company's request. The Company shall be responsible for all claim reviews, determinations and payments.

Certificates of Insurance and Summary Plan Description. If you request that we provide Summary Plan Description(s) ("SPD") for distribution to ERISA plan participants, we will provide the SPD using our standard language and format unless otherwise directed by you. If we agree to electronically post certificates of insurance and/or SPDs for access by your employees, you are responsible for assuring that each covered employee is informed how the documents can be accessed and that each employee has access or otherwise receives a copy(ies) of these documents. Any legal advice as to the style, format, content or distribution of the SPD or distribution of the certificate of insurance must be provided by your legal counsel. We are unable to provide legal advice to your plan and assume no responsibility for meeting ERISA's disclosure requirements.

Indemnity. To the extent permitted by Texas law, each party shall indemnify and hold the other harmless against any and all losses, claims, damages, costs or expenses (including reasonable attorneys' fees) which the indemnified party may become obligated to pay resulting from 1) the indemnifying party's error or omission in performing obligations under this Agreement, except to the extent that the indemnified party has caused or significantly contributed to such error or omission, and 2) any breach by the indemnifying party of any of its obligations under this Agreement regardless of whether such breach is either willful or negligent.

GENERAL ADMINISTRATION – ALL PRODUCTS:

Record Keeping. You agree to maintain accurate books and records documenting the administration of the Policies, including employee demographics, eligibility records, dependent data, coverage amounts, enrollment history, payroll deductions, benefit elections and beneficiary designations (as applicable). Such records must be maintained for a period of seven (7) years following termination of the Policies to which they relate. Upon reasonable notice, we shall have the right to review, inspect and audit, at our expense, the books, records, data files or other information maintained by you or your vendor related to the Policies.

Transmission of Data. You are responsible for the accuracy and security of data transmitted to us, including data transmitted by any third party service provider you engage to assist in administration of your benefit plans. Each party will establish and maintain (1) administrative, technical and physical safeguards against the destruction, loss or alteration of data, and (2) appropriate security measures to protect data, which measures are consistent with all state and federal regulations relating to personal information security, including, without limitation, the Gramm-Leach-Bliley Act.

Premium payment. If you engage a third party to submit premium to us, we will not consider the premium paid until it is received in our Home Office.

General terms. This Agreement will remain in effect during the duration of the Policy and will terminate automatically upon termination of all Policies. This Agreement may be amended only in writing signed by both parties. In the event of any conflict or inconsistency between the terms of this Agreement and the terms of any Policy, the terms of the Policy shall control.

Governing law. This Agreement shall be governed in all respects, including validity, interpretation and effect, without regard to principles of conflict of laws, by the law of the state where the Policy is issued.

Accepted and Agreed to:

Policyholder Name (Please print.) Town of Flower Mound

 Policyholder Authorized Signature _____ Date _____

Print signer's name and title _____

RELIASTAR LIFE INSURANCE COMPANY
RELIASTAR LIFE INSURANCE COMPANY OF NEW YORK

 Company Authorized Signature Mona Zielke _____ Date 12/11/2024

Print signer's name and title Mona Zielke, Vice President



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

DATE: December 16, 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. 2 (TIRZ #2).**

BACKGROUND: The purpose of this item is to consider an ordinance amending the TIRZ #2 (Zone) final project and finance plan (Plan) to increase the Town's participation in the Zone from 50% to 80%. The Zone was initially created by Ordinance 47-23 on [November 6, 2023](#), and the final project and financing plan for the Zone was created by Ordinance 11-24 on [March 18, 2024](#).

Since that time, the Town partnered with the Denton County Judge and the County's office of economic development to identify economic development programs to attract development for the purpose of providing long-term economic benefits including, but not limited to, increased real property tax base and sales tax for all taxing units in the Zone.

The Town collaborated with the County to identify an economic development fund and program (ED Program) for a defined area within the Zone designed to aid the financial success of the Zone, Town, and County. In this partnership with the County, the Town would dedicate 30% of its 80% participation rate to the ED Program, leaving the remaining 50% dedicated to the previously identified infrastructure projects outlined in the final plan created by Ordinance 11-24.

The Judge and the County are considering an 80% participation rate which is currently on the Denton County Commissioners Court agenda for [December 17, 2024](#) (the Town's companion item is J3 on this agenda). Since the County's funds cannot go towards economic development, the Judge has offered the County's participation toward infrastructure projects identified as Tier 1 and Tier 2 projects (specifically roads, water, water reuse, sewer, drainage, parks, including infrastructure supporting parks, and trail projects) within the plan to facilitate economic development in the Town and southern Denton County.

Allocation of the funds and details of the ED Program, including developer obligations, are outlined in Section 12 and Section 13 respectively. The plan also grants Chapter 380 powers to the TIRZ #2 Board of Directors in administering the ED Program.

The plan incorporates additional maps of the projects for clarity and does not expand the boundaries or extend the term of the Zone.

BOARD REVIEW/CITIZEN FEEDBACK: The TIRZ #2 Board of Directors will consider adopting the amended and restated plan at their December 16, 2024, meeting.

ALTERNATIVES: The Council may approve, deny, or make changes to the amended and restated plan.

FISCAL IMPACT: N/A

N/A

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

ATTACHMENTS:

1. Draft Amended and Restated Plan

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

**TOWN OF FLOWER MOUND, TEXAS
ORDINANCE NO. [REDACTED]**

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, APPROVING AN AMENDED AND RESTATED PROJECT AND FINANCE PLAN FOR REINVESTMENT ZONE NUMBER TWO, 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 November 6, 2023, the Town Council of the Town of Flower Mound, Texas (the "Town Council"), by the adoption of Ordinance No. 47-23, created Reinvestment Zone Number Two, 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 December 16, 2024, the Board of Directors of the Zone adopted and recommended approval of the *Reinvestment Zone Number Two, 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, 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 16th day of December 2024.

Cheryl Moore, Mayor

ATTEST:

Theresa Scott, Town Secretary

Exhibit A

Reinvestment Zone Number Two, Town of Flower Mound, Texas
Amended and Restated Project and Finance Plan



REINVESTMENT ZONE NUMBER TWO,
TOWN OF FLOWER MOUND, TEXAS
AMENDED AND RESTATED FINAL PROJECT AND
FINANCE PLAN
DECEMBER 16, 2024

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SECTION 1: DEFINITIONS

Capitalized terms used in this Amended Plan shall have the meanings given to them in **Section I** 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.

“**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.

“**Amended Plan**” means this *Amended and Restated Tax Increment Financing Reinvestment Zone Number Two, Town of Flower Mound, Texas, Final Project and Finance Plan*.

“**Amending Ordinance**” means Ordinance No. , considered by the Town Council on December 16, 2024, which serves to approve this Amended Plan.

“**Appraisal District**” means the Denton Central Appraisal District.

“**Board**” means the Board of Directors for the Zone.

“**Captured Appraised Value**” means the new taxable value generated in addition to the Tax Increment Base on a parcel-by-parcel basis for each year during the term of the Zone, as calculated and confirmed annually by the Appraisal District.

“**County**” means Denton County, Texas.

“**CIP Eligible Projects**” means those certain Tier One Projects and Tier Two Projects from the Town’s Capital Improvement Plan, which can be reimbursed first through Impact Fees and then are eligible for funding from the Town TIRZ Increment within the Infrastructure Fund.

“**County TIRZ Increment**” means the portion of the County’s ad valorem tax increment equal to eighty percent (80%) of the ad valorem real property taxes collected and received by the County on the Captured Appraised Value in the Zone, pursuant to the County Participation Agreement.

“**County Participation Agreement**” means that certain agreement to be entered into by the City and the County detailing the County’s participation in the Zone.

“Creation Ordinance” means Ordinance No. 47-23 adopted by the Town Council on November 6, 2023, designating the creation of the Zone and the Board.

“Developer” means any entity or its assignees who entered into a TIRZ Agreement to be reimbursed for the costs to construct or for the costs to acquire Public Improvements under the Economic Development Program.

“Economic Development Fund” means the subaccount within the TIRZ No. 2 Fund in which a portion of the Town TIRZ Increment shall be deposited, as further described in **Section 12.2**, and which such funds shall be used for the Economic Development Program.

“Economic Development Provision” means Section 311.010(h) of the Act, Chapter 380 of the Texas Local Government Code, and Article III, Section 52-a, Texas Constitution, as amended.

“Economic Development Program” means the economic development program authorized by the Economic Development Provision, which allows the Board, subject to the approval of the Town Council, to establish and provide for the administration of one or more programs necessary or convenient to implement and achieve the purposes of this Amended Plan, which programs are for the public purposes of developing and diversifying the economy of the Zone and developing business and commercial activity within the Zone, and may include programs to make grants of any lawfully available money from the TIRZ No. 2 Fund, including activities that benefit the Zone and stimulate business and commercial activity in the Zone.

“Feasibility Study” means the economic feasibility study as evaluated over the term of the Zone and focused only on direct financial benefits, as shown on **Exhibit F**.

“Final Plan” means the *Reinvestment Zone Number Two, Town of Flower Mound, Texas Final Project and Finance Plan*, approved by the Town Council on March 18, 2024.

“Infrastructure Fund” means the subaccount within the TIRZ No. 2 Fund, in which a portion of the Town TIRZ Increment and the County TIRZ Increment shall be deposited, as further described in **Section 12.2**, and which such funds shall be used to fund Tier One Projects and Tier Two Projects.

“Municipal Services” means those certain costs required for the Town to provide services to the Property, including but not limited to police, fire, and emergency services attributable to the Zone.

“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 C**.

“Planned Development” means approximately 1,610.236 acres of land within the Zone which boundary is collectively described in Ordinance No. 48-22 and Ordinance No. 10-22, and is depicted on **Exhibit B**.

“Preliminary Plan” means the *Reinvestment Zone Number Two, Town of Flower Mound, Texas Preliminary Project and Finance Plan*, approved by the Town Council on November 6, 2023.

“Project Costs” means the total costs for projects in the Zone, including actual costs of the Public Improvements, the Administrative Costs, Municipal Services, and the Economic Development Program, as listed in **Exhibit D**.

“Property” means 3,962.176 acres of land as depicted on **Exhibit A** and identified on **Exhibit I**.

“Public Improvements” means the proposed Tier One Projects and Tier Two Projects to be financed by the Zone, as detailed on **Exhibit D** and depicted on **Exhibit H**.

“Remainder Property” means the entirety of the Zone save and except the Planned Development.

“Tax Increment Base” means total appraised value of taxable real property in the Zone at the time of creation of the Zone, as calculated and certified by the Appraisal District.

“Tier One Projects” means the proposed public improvements to be financed by the Zone which includes streets, storm sewer, water, water reuse, wastewater, parks, soft costs, and contingency, as detailed on **Exhibit D** and depicted on **Exhibit H**.

“Tier Two Projects” means the proposed public improvements to be financed by the Zone which includes trails, public open space improvements, monumentation, public facilities, soft costs, and contingency, as detailed on **Exhibit D** and depicted on **Exhibit H**.

“TIRZ Agreement” means any current or future reimbursement agreement entered into between the Town, the Board, and a Developer.

“TIRZ No. 2 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 equal to eighty percent (80%) of the ad valorem real property taxes collected and received by the Town on the Captured Appraised Value of the Zone.

“Zone” means Reinvestment Zone Number Two, Town of Flower Mound, Texas, as depicted on **Exhibit A**, and parcels identified on **Exhibit I**.

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 determined that development or redevelopment would not occur solely through private investment in the reasonably foreseeable future, that the Zone is economically 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 Property within the Zone is currently located within the corporate limits of the Town as shown on **Exhibit A**. The Property is predominantly open, undeveloped or underdeveloped, and substantially impairs and arrests the sound growth of the Town. Due to its size, location, and physical characteristics development would not occur solely through private investment in the foreseeable future. At the time of creation, the Property used for residential purposes within the Zone did not exceed thirty percent (30%), and the Zone did not exceed fifty percent (50%) of the total appraised value of taxable real property in the Town and in industrial districts created by the Town. The Property lacks public infrastructure and requires economic incentive to attract development 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 developed to take full advantage of the opportunity to bring to the Town, and County, a quality development.

2.4 Preliminary Plan and Hearing

Before the Town Council adopted the Creation Ordinance, the Town Council prepared the Preliminary Plan 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 preliminary reinvestment zone financing plan was satisfied by the Preliminary 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 were determined by the Preliminary 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 and finding the following:

- 1) that development or redevelopment of the Property would not occur solely through private investment in the reasonably foreseeable future,
- 2) that the Zone was feasible,
- 3) that improvements in the Zone will significantly enhance the value of all the taxable real property in the Zone and will be of general benefit to the Town, and
- 4) that the Zone meets the eligibility requirements of the Act.

Among other provisions required by the Act, the Creation Ordinance appointed the Board.

2.6 Board Recommendations

After the creation of the Zone, the Board reviewed the Final Plan and recommended its approval to the Town Council. On December 16, 2024, the Board shall review this Amended Plan and recommend its approval to the Town Council, pursuant to which the Town shall contribute the Town TIRZ increment into the TIRZ No. 2 Fund to pay a portion of the Project Costs benefiting the Zone. If the County participates in the Zone, then pursuant to the County Participation Agreement, the County shall contribute the County TIRZ Increment into the TIRZ No. 2 Fund to pay a portion of the Project Costs 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 and amend the Town TIRZ Increment.

SECTION 3: DESCRIPTION AND MAPS

3.1 Existing Uses and Conditions

The Property is within the corporate limits of the Town, and is currently zoned water recreation, commercial, open space, mixed use, interim holding, single family, and multi-family. The Property is primarily undeveloped or underdeveloped, and there is no public infrastructure to support development. Development requires extensive public infrastructure that: (1) the Town could not provide, and (2) would not be provided solely through private investment in the foreseeable future.

3.2 Proposed Uses

The proposed uses of the Property in the Town include residential and commercial, as shown on Exhibit G.

SECTION 4: PROPOSED CHANGES TO ORDINANCES, PLANS, CODES, RULES, AND REGULATIONS

The Property is wholly located in the corporate limits of the Town and is subject to the Town's zoning regulations. 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 at this time. Should zoning changes be desired or needed, request will follow Town subdivision ordinance.

SECTION 5: RELOCATION OF DISPLACED PERSONS

No persons were displaced and in need of relocation due to the creation of the Zone or shall be due to the implementation of this Amended Plan.

SECTION 6: ESTIMATED NON-PROJECT COSTS

Non-Project Costs are costs 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 C** and are estimated to be approximately \$1,129,106,311.

SECTION 7: PROPOSED PUBLIC IMPROVEMENTS

7.1 Categories of Public Improvements

All Public Improvements shall be designed and constructed in accordance with all applicable Town standards and 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 Location of Public Improvements

The estimated locations of the proposed Public Improvements are depicted on **Exhibit H**. 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 for the Zone, which includes the cost of Public Improvements, Municipal Services, the Economic Development Program, and Administrative Costs are estimated to be \$828,000,360, as detailed on **Exhibit D**.

8.2 Estimated Public Improvement Costs

The estimated cost of Public Improvements within the Zone, which includes Tier One Projects and Tier Two Projects, is approximately \$605,083,622, as shown on **Exhibit D**.

8.3 Estimated Cost of Municipal Services

The estimated costs of Municipal Services within the Zone are approximately \$107,872,317, as shown on **Exhibit D**.

8.4 Estimated Economic Development Program Costs

The estimated cost of the Economic Development Program within the Zone is approximately \$114,233,060, as shown on **Exhibit D**.

8.5 Estimated Administrative Costs

The Administrative Costs are estimated to be \$20,000 annually and escalating at two percent (2%) thereafter and shall be paid each year from the TIRZ No. 2 Fund before any other Project Costs are paid.

8.6 Estimated Timeline of Incurred Costs

The Administrative Costs, Municipal Services, and Economic Development Program will be incurred annually for the duration of the Zone. It is estimated the Public Improvements will be constructed between 2024 and 2053, as shown on **Exhibit E**, and funded annually over the remaining term of the Zone.

SECTION 9: ECONOMIC FEASIBILITY

The Feasibility Study focuses on only direct financial benefits (i.e. ad valorem tax revenues from the development of Public Improvements in the Zone). Based on the Feasibility Study, during the term of the Zone, the Property will generate approximately \$558,656,623 in total new real property tax revenue for the participating taxing entities. Approximately \$354,055,420 will be deposited into the TIRZ No. 2 Fund (or the appropriate subaccount) to pay for the Project Costs over the life of the Zone. The remaining real property tax revenue over that period, estimated at \$204,601,203, shall be retained by the participating taxing entities as shown in **Exhibit F**.

The Feasibility Study shows the cumulative Town TIRZ Increment is estimated to be \$304,621,493, 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 \$70,498,651 over the term.

The Feasibility Study shows the cumulative County TIRZ Increment, if applicable, is estimated to be \$49,433,928, which will be available to pay a portion of the Project Costs, subject to the County Participation Agreement, 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 \$134,102,551 over the term.

One hundred percent (100%) of all taxing revenues generated for other taxing entities by the new development 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 or public indebtedness by the Town secured by the tax increments pursuant to the Act is contemplated at this time. The Town reserves the right, at its discretion, to issue bond indebtedness utilizing revenue from TIRZ No. 2 Fund.

SECTION 11: APPRAISED VALUE

11.1 Tax Increment Base

The Tax Increment Base is estimated to be \$9,135,805 and shall be confirmed by the Appraisal District. Each year, the Appraisal District shall confirm the Captured Appraised Value of the Zone.

11.2 Estimated Captured Appraised Value

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 \$9,441,201,520, as shown on **Exhibit F**. The actual Captured Appraised Value, as certified by the Appraisal District each year, will be used to calculate the Town TIRZ Increment, and if applicable, the County TIRZ Increment, pursuant to the County Participation Agreement.

SECTION 12: METHOD OF FINANCING

12.1 TIRZ Fund Contributions

This Amended Plan shall obligate the Town to deposit the Town TIRZ Increment into the TIRZ No. 2 Fund each year for the duration of the Zone. For example, in FY 2024, the Town's ad valorem tax rate was \$0.387278 per \$100 of taxable value, therefore the Town would contribute \$0.309822 per \$100 of the Captured Appraised Value in the Zone levied and collected, to the TIRZ No. 2 Fund (or appropriate subaccount).

If applicable, the County Participation Agreement shall obligate the County to deposit the County TIRZ Increment into the TIRZ No. 2 Fund each year for the duration of the County Participation Agreement. For example, in FY 2024, the County's ad valorem tax rate was \$0.189485 per \$100 of taxable value, therefore the Town would contribute \$0.151588 per \$100 of the Captured Appraised Value in the Zone levied and collected, to the TIRZ No. 2 Fund (or appropriate subaccount).

12.2 Funding Mechanisms

All payments of Project Costs shall be made solely from the TIRZ No. 2 Fund and from no other funds of the Town or County, unless otherwise approved by their respective governing bodies. The TIRZ No. 2 Fund shall only be used to pay the Project Costs. The Town may amend this Amended Plan in compliance with the Act, the TIRZ Agreement, and/or County Participation Agreement including but not limited to what is considered a Project Cost.

Commencing on the TIRZ creation date and continuing for the term of the Zone, the participating entities shall cause to be deposited into the TIRZ No. 2 Fund (or appropriate subaccount) the Town TIRZ Increment and the County TIRZ Increment intended to pay Project Costs, pursuant to the TIRZ Agreement. Deposits into the TIRZ No. 2 Fund (or appropriate subaccount) shall be prioritized and allocated as follows:

- 1) For TIRZ Revenues generated within the Planned Development:
 - a. To pay pro rata portion of Administrative Costs; then
 - b. To calculate and deposit fifty percent (50%) of the Town TIRZ Increment, after the prorated portion of the Administrative Costs, into the Infrastructure Fund of the TIRZ No. 2 Fund to pay for Tier One Projects, pursuant to any TIRZ Agreement, and after obligation of Tier One Projects, to pay for Tier Two Projects, pursuant to any TIRZ Agreement; then
 - c. To calculate and deposit all of the County TIRZ Increment, after the prorated portion of the Administrative Costs, into the Infrastructure Fund of the TIRZ No. 2 Fund to pay for Tier One Projects, pursuant to any TIRZ Agreement, and Tier Two Projects, as depicted on **Exhibit H**, pursuant to any TIRZ Agreement; then
 - d. To calculate and deposit thirty percent (30%) of the Town TIRZ Increment, after the prorated portion of the Administrative Costs, into the Economic Development Fund of the TIRZ No. 2 Fund to pay for the Economic Development Program, pursuant to any TIRZ Agreement; then
 - e. At the discretion of the Town Council in accordance with the Act.
- 2) For TIRZ Revenues generated within the Remainder Property:
 - a. To pay pro rata portion of Administrative Costs; then
 - b. To calculate and deposit fifty percent (50%) the Town TIRZ Increment, after the prorated portion of the Administrative Costs, into the Infrastructure Fund of the TIRZ No. 2 Fund to pay for Tier One Projects, pursuant to any TIRZ Agreement; then
 - c. To calculate and deposit thirty percent (30%) the Town TIRZ Increment, after the prorated portion of the Administrative Costs, into the Infrastructure Fund of the TIRZ No. 2 Fund to pay for Tier Two Projects, pursuant to any TIRZ Agreement; then

- d. To calculate and deposit fifty percent (50%) the County TIRZ Increment, after the prorated portion of the Administrative Costs, into the Infrastructure Fund of the TIRZ No. 2 Fund to pay for Tier One Projects, pursuant to any TIRZ Agreement; then
- e. To calculate and deposit thirty percent (30%) the County TIRZ Increment, after the prorated portion of the Administrative Costs, into the Infrastructure Fund of the TIRZ No. 2 Fund to pay for Tier Two Projects, pursuant to any TIRZ Agreement; then
- f. At the discretion of the Town Council in accordance with the Act.

SECTION 13: ECONOMIC DEVELOPMENT PROGRAM

13.1 Economic Development Program

The Town Council and the Board have determined it to be necessary and convenient to the accomplishment of the objectives of the Zone to establish and provide for the administration of the Economic Development Program that may be used to incentivize development. The Economic Development Program established in this Section is authorized by the Economic Development Provision. Pursuant to the Economic Development Provision, the Town Council grants the Board all the powers of the Town under Chapter 380 of the Texas Local Government Code.

The Economic Development Program will further the public purpose of developing and diversifying the economy of the Zone. All grants that are part of the Economic Development Program serve the public purpose of attracting new business and commercial activity to the Zone for the purpose of providing long-term economic benefits including, but not limited to, increases in the real property tax base for all taxing units within the Zone, and increased job opportunities

for residents of the Town, County, and the region. Examples of development to be considered for incentives through the Economic Development Program are identified on **Exhibit I**.

13.2 Developer Performance Plan

In order to be eligible to receive grant funding through the Economic Development Program, the Developer shall perform the following Developer obligations:

- 1) Construct the horizontal infrastructure necessary to serve the property to be incentivized; and
- 2) Construct the vertical infrastructure and private infrastructure to the standards set forth by the Town in the applicable planned development ordinances and necessary to serve the property to be incentivized; and
- 3) Receive a Town issued certificate of occupancy for an entity that meets the requirements detailed on **Exhibit I**.

13.3 Payments Under Economic Development Program

In order to receive payments from the Economic Development Fund within the TIRZ No. 2 Fund for projects eligible under the Economic Development Program, pursuant to a TIRZ Agreement, the Developer must file a written request for payment, substantially in for attached as **Exhibit J**. At a minimum, the request for payment shall include (i) the amount requested for payment from the TIRZ No. 2 Fund as determined by the Town's TIRZ administrator, (ii) the payees, and (iii) the wiring information for such payees.

SECTION 14: DURATION OF THE ZONE, TERMINATION

14.1 Duration

The stated term of the Zone shall commence on the creation of the Zone, and shall continue for thirty (30) years, with the last payment being due by January 31, 2054, unless otherwise terminated in accordance with the Creation Ordinance.

14.2 Termination

The Zone will terminate prior to the expiration of its stated term if the Project Costs have been fully funded. If upon expiration of the stated term of the Zone, the Project Costs have not been collected into the TIRZ No. 2 Fund, the Town and, if applicable, the County shall have no obligation to pay the shortfall, and the term shall not be extended. 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	Map of the Planned Development
Exhibit C	Non-Project Costs
Exhibit D	Project Costs
Exhibit E	Estimated Timeline of Incurred Costs
Exhibit F	Feasibility Study
Exhibit G	Proposed Uses of the Property
Exhibit H	Maps of the Public Improvements
Exhibit I	Economic Development Program Projects
Exhibit J	Form of Request for Payment
Exhibit K	Parcel Identification

EXHIBIT A – MAP OF THE ZONE

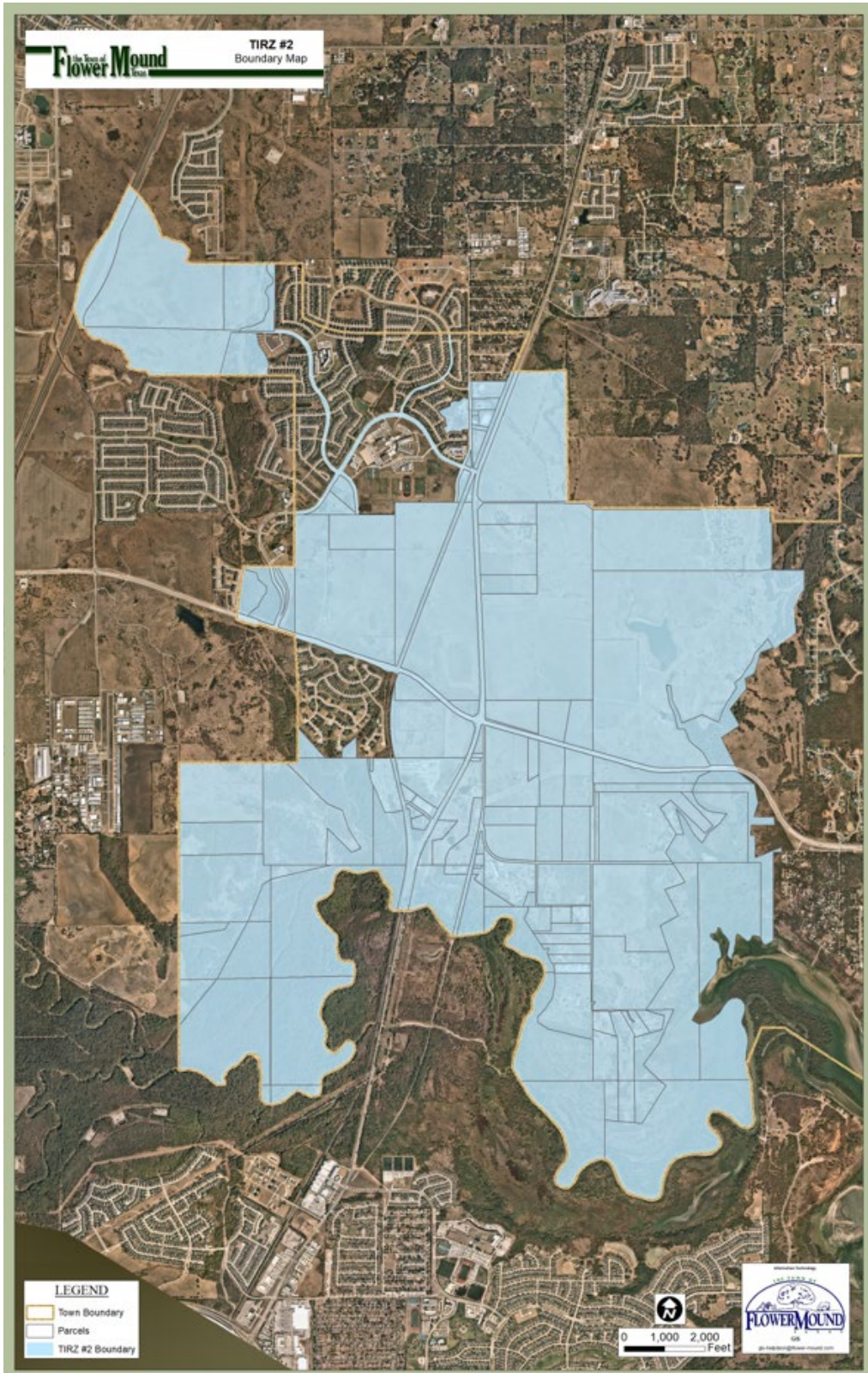
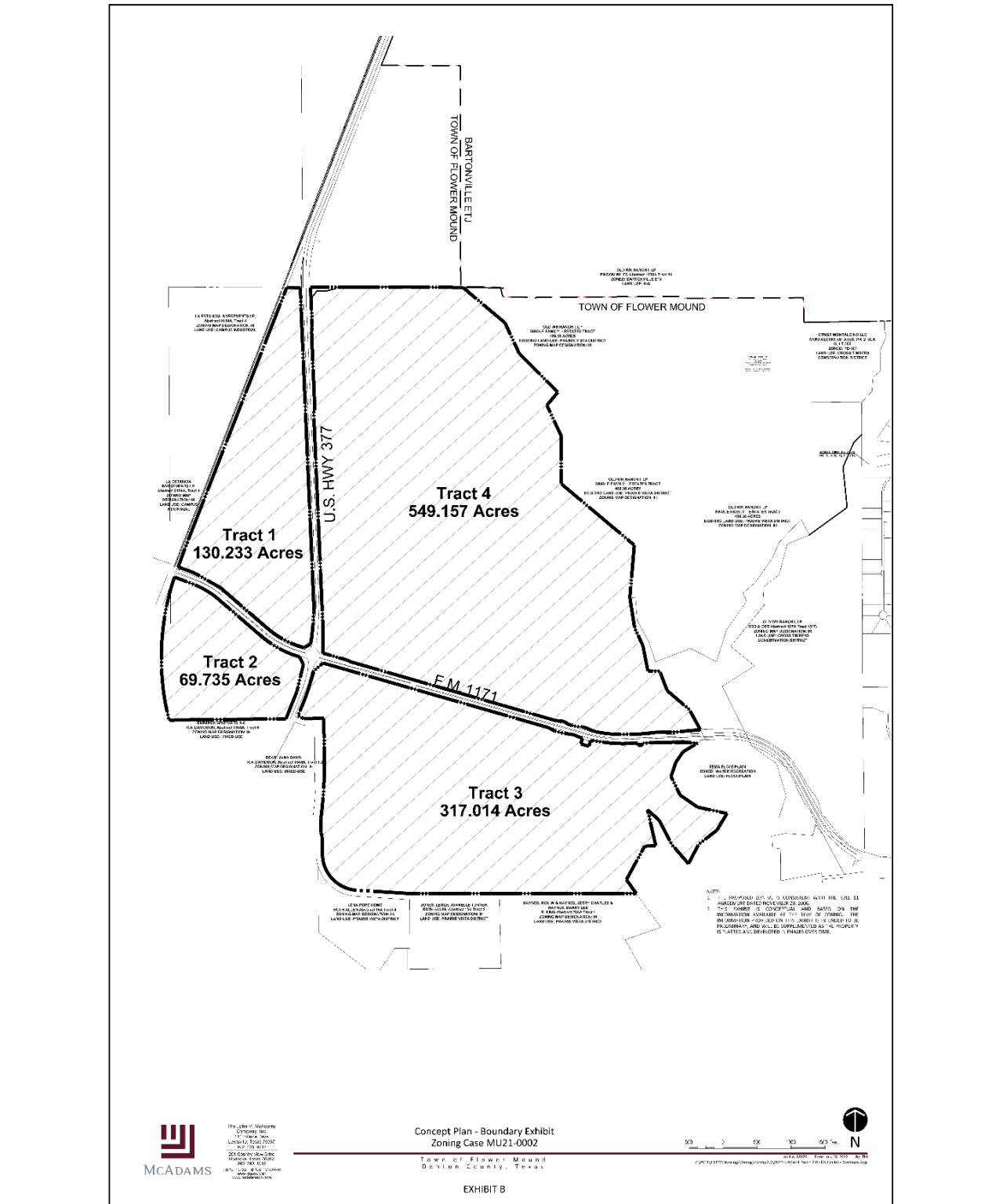


EXHIBIT B – MAP OF THE PLANNED DEVELOPMENT

Furst Ranch MU Area: Ordinance 48-22



[illegible]

EXHIBIT C – NON-PROJECT COSTS

Reinvestment Zone Number Two, Town of Flower Mound, Texas Non-Project Costs	
Category	Total ^[a]
STREETS / STORM SEWER	\$ 359,578,249
WATER	\$ 99,457,428
WASTEWATER	\$ 54,459,916
PUBLIC TRAIL LINKAGES AND EXTENSIONS	\$ 3,946,645
IMPROVEMENTS AND LANDSCAPING IN PUBLIC OPEN SPACE (EXCLUDING TRAILS)	\$ 50,268,699
IMPROVEMENTS AND LANDSCAPING IN CONSERVATION OPEN SPACE (EXCLUDING TRAILS)	\$ 54,803,881
PUBLIC PARKWAY IMPROVEMENTS (EXCLUDING TRAILS)	\$ 27,680,790
SOFT COSTS	\$ 381,381,382
CONTINGENCY	\$ 97,529,341
Total	\$ 1,129,106,331
Footnotes:	
[a] Costs shown for illustrative purposes only, subject to change.	

EXHIBIT D – PROJECT COSTS

Reinvestment Zone Number Two, Town of Flower Mound, Texas Project Costs	
Category	Costs ^[a]
Tier One Projects	
STREETS / STORM SEWER	\$ 116,517,700
WATER	\$ 42,198,000
WATER REUSE	\$ 36,517,000
WASTEWATER	\$ 30,972,500
PARKS	\$ 103,100,000
SOFT COSTS	\$ 49,220,843
CONTINGENCY	\$ 19,941,053
Tier Two Projects	
MASTER PLAN TRAILS	\$ 14,471,179
PUBLIC OPEN SPACE IMPROVEMENTS (EXCLUDING TRAILS)	\$ 21,000,000
REQUIRED MONUMENTATION	\$ 1,450,000
SOFT COSTS	\$ 7,896,276
CONTINGENCY	\$ 4,879,071
PUBLIC FACILITIES	\$ 156,920,000
Public Improvements Subtotal	\$ 605,083,622
Municipal Services	\$ 107,872,317
Economic Development Program	\$ 114,233,060
Administrative Costs	\$ 811,362
Total Project Costs	\$ 828,000,360
Footnotes:	
[a] Costs shown for illustrative purposes only, subject to change.	

EXHIBIT E – ESTIMATED TIMELINE OF INCURRED PROJECT COSTS

Reinvestment Zone Number Two, Town of Flower Mound, Texas Estimated Timeline of Incurred Project Costs									
Zone Year	Calendar Year	Administrative Costs ^[a]	Economic Development Program ^[b]	CIP Eligible Projects	Major Improvements	Public Facilities	Parks	Municipal Services	Total Cost ^[c]
Base	2023								
1	2024	\$ 20,000	\$ 3,807,769	\$ -	\$ -	\$ -		\$ -	\$ 3,827,769
2	2025	\$ 20,400	\$ 3,807,769	\$ -	\$ -	\$ -		\$ -	\$ 3,828,169
3	2026	\$ 20,808	\$ 3,807,769	\$ 7,137,128	\$ 1,078,624	\$ 3,736,168	\$ 2,454,747	\$ -	\$ 18,235,244
4	2027	\$ 21,224	\$ 3,807,769	\$ 7,351,241	\$ 1,110,983	\$ 3,848,253	\$ 2,528,390	\$ -	\$ 18,667,860
5	2028	\$ 21,649	\$ 3,807,769	\$ 7,571,779	\$ 1,144,312	\$ 3,963,701	\$ 2,604,241	\$ -	\$ 19,113,451
6	2029	\$ 22,082	\$ 3,807,769	\$ 7,798,932	\$ 1,178,642	\$ 4,082,612	\$ 2,682,369	\$ -	\$ 19,572,405
7	2030	\$ 22,523	\$ 3,807,769	\$ 8,032,900	\$ 1,214,001	\$ 4,205,090	\$ 2,762,840	\$ -	\$ 20,045,123
8	2031	\$ 22,974	\$ 3,807,769	\$ 8,273,887	\$ 1,250,421	\$ 4,331,243	\$ 2,845,725	\$ -	\$ 20,532,018
9	2032	\$ 23,433	\$ 3,807,769	\$ 8,273,887	\$ 1,250,421	\$ 4,331,243	\$ 2,845,725	\$ -	\$ 20,532,478
10	2033	\$ 23,902	\$ 3,807,769	\$ 8,273,887	\$ 1,250,421	\$ 4,331,243	\$ 2,845,725	\$ -	\$ 20,532,947
11	2034	\$ 24,380	\$ 3,807,769	\$ 8,522,104	\$ 1,287,934	\$ 4,461,180	\$ 2,931,097	\$ 2,913,421	\$ 23,947,884
12	2035	\$ 24,867	\$ 3,807,769	\$ 8,777,767	\$ 1,326,572	\$ 4,595,016	\$ 3,019,030	\$ 3,237,134	\$ 24,788,154
13	2036	\$ 25,365	\$ 3,807,769	\$ 12,771,223	\$ 1,930,097	\$ 6,685,524	\$ 4,392,541	\$ 3,498,231	\$ 33,110,751
14	2037	\$ 25,872	\$ 3,807,769	\$ 8,830,472	\$ 1,334,537	\$ 4,622,606	\$ 3,037,157	\$ 3,759,328	\$ 25,417,741
15	2038	\$ 26,390	\$ 3,807,769	\$ 9,095,386	\$ 1,374,573	\$ 4,761,284	\$ 3,128,272	\$ 4,020,425	\$ 26,214,099
16	2039	\$ 26,917	\$ 3,807,769	\$ 9,368,248	\$ 1,415,810	\$ 4,904,123	\$ 3,222,120	\$ 4,281,523	\$ 27,026,509
17	2040	\$ 27,456	\$ 3,807,769	\$ 9,649,295	\$ 1,458,285	\$ 5,051,247	\$ 3,318,784	\$ 4,542,620	\$ 27,855,454
18	2041	\$ 28,005	\$ 3,807,769	\$ 9,938,774	\$ 1,502,033	\$ 5,202,784	\$ 3,418,347	\$ 4,803,717	\$ 28,701,428
19	2042	\$ 28,565	\$ 3,807,769	\$ 9,938,774	\$ 1,502,033	\$ 5,202,784	\$ 3,418,347	\$ 5,064,814	\$ 28,963,086
20	2043	\$ 29,136	\$ 3,807,769	\$ 9,938,774	\$ 1,502,033	\$ 5,202,784	\$ 3,418,347	\$ 5,325,911	\$ 29,224,754
21	2044	\$ 29,719	\$ 3,807,769	\$ 10,236,937	\$ 1,547,094	\$ 5,358,867	\$ 3,520,897	\$ 5,587,008	\$ 30,088,292
22	2045	\$ 30,313	\$ 3,807,769	\$ 10,544,045	\$ 1,593,507	\$ 5,519,633	\$ 3,626,524	\$ 5,848,105	\$ 30,969,897
23	2046	\$ 30,920	\$ 3,807,769	\$ 13,592,383	\$ 2,054,198	\$ 7,115,388	\$ 4,674,971	\$ 6,076,029	\$ 37,351,656
24	2047	\$ 31,538	\$ 3,807,769	\$ 14,000,154	\$ 2,115,824	\$ 7,328,849	\$ 4,815,220	\$ 6,303,952	\$ 38,403,306
25	2048	\$ 32,169	\$ 3,807,769	\$ 14,420,159	\$ 2,179,299	\$ 7,548,715	\$ 4,959,677	\$ 6,531,875	\$ 39,479,662
26	2049	\$ 32,812	\$ 3,807,769	\$ 14,852,764	\$ 2,244,678	\$ 7,775,176	\$ 5,108,467	\$ 6,759,798	\$ 40,581,464
27	2050	\$ 33,468	\$ 3,807,769	\$ 15,298,347	\$ 2,312,018	\$ 8,008,432	\$ 5,261,721	\$ 6,987,722	\$ 41,709,476
28	2051	\$ 34,138	\$ 3,807,769	\$ 15,757,297	\$ 2,381,378	\$ 8,248,684	\$ 5,419,573	\$ 7,215,645	\$ 42,864,484
29	2052	\$ 34,820	\$ 3,807,769	\$ 15,757,297	\$ 2,381,378	\$ 8,248,684	\$ 5,419,573	\$ 7,443,568	\$ 43,093,090
30	2053	\$ 35,517	\$ 3,807,769	\$ 15,757,297	\$ 2,381,378	\$ 8,248,684	\$ 5,419,573	\$ 7,671,491	\$ 43,321,710
Total		\$ 811,362	\$ 114,233,060	\$ 299,761,136	\$ 45,302,486	\$ 156,920,000	\$ 103,100,000	\$ 107,872,317	\$ 828,000,360
Footnotes									
[a] Values increased at 2% annually.									
[b] Costs are estimated and distributed equally for the duration of the Zone for illustrative purposes only.									
[c] Costs shown for illustrative purposes only, subject to change.									

EXHIBIT F – FEASIBILITY STUDY

Reinvestment Zone Number Two, Town of Flower Mound, Texas Feasibility Study																	
Zone Year	Calendar Year	Value Growth/ Year ^[a]	Total Added Development Value ^[b]	Total New Taxable Value	Total Incremental Value	Town TIRZ Increment			County TIRZ Increment ^[c]			Total TIRZ No. 2 Fund Contribution		Infrastructure Fund ^[d]		Economic Development Program ^[e]	
						%	Annual	Cumulative	%	Annual	Cumulative	Annual	Cumulative	Annual	Cumulative	Annual	Cumulative
Base	2023			\$ 9,135,805													
1	2024	3%	\$ -	\$ 44,207,028	\$ 35,071,223	80%	\$ -	\$ -	80%	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
2	2025	3%	\$ -	\$ 45,533,239	\$ 36,397,434	80%	\$ 108,659	\$ 108,659	80%	\$ 53,164	\$ 53,164	\$ 161,822	\$ 161,822	\$ 121,075	\$ 121,075	\$ 40,747	\$ 40,747
3	2026	3%	\$ 100,267,925	\$ 147,167,161	\$ 138,031,356	80%	\$ 112,767	\$ 221,426	80%	\$ 55,174	\$ 108,338	\$ 167,942	\$ 329,764	\$ 125,654	\$ 246,729	\$ 42,288	\$ 83,035
4	2027	3%	\$ 103,275,963	\$ 254,858,139	\$ 245,722,334	80%	\$ 427,652	\$ 649,078	80%	\$ 209,239	\$ 317,577	\$ 636,891	\$ 966,655	\$ 476,522	\$ 723,251	\$ 160,370	\$ 243,404
5	2028	3%	\$ 106,374,242	\$ 368,878,124	\$ 359,742,319	80%	\$ 761,303	\$ 1,410,381	80%	\$ 372,486	\$ 690,062	\$ 1,133,788	\$ 2,100,443	\$ 848,300	\$ 1,571,550	\$ 285,489	\$ 528,893
6	2029	3%	\$ 109,565,469	\$ 489,509,937	\$ 480,374,132	80%	\$ 1,114,562	\$ 2,524,943	80%	\$ 545,326	\$ 1,235,389	\$ 1,659,888	\$ 3,760,332	\$ 1,241,928	\$ 2,813,478	\$ 417,961	\$ 946,854
7	2030	3%	\$ 112,852,433	\$ 617,047,668	\$ 607,911,863	80%	\$ 1,488,307	\$ 4,013,250	80%	\$ 728,190	\$ 1,963,578	\$ 2,216,496	\$ 5,976,828	\$ 1,658,381	\$ 4,471,859	\$ 558,115	\$ 1,504,969
8	2031	3%	\$ 116,238,006	\$ 751,797,104	\$ 742,661,299	80%	\$ 1,883,447	\$ 5,896,697	80%	\$ 921,521	\$ 2,885,100	\$ 2,804,969	\$ 8,781,796	\$ 2,098,676	\$ 6,570,535	\$ 706,293	\$ 2,211,261
9	2032	0.00%	\$ 116,238,006	\$ 868,035,110	\$ 858,899,305	80%	\$ 2,300,931	\$ 8,197,628	80%	\$ 1,125,785	\$ 4,010,885	\$ 3,426,716	\$ 12,208,513	\$ 2,563,867	\$ 9,134,402	\$ 862,849	\$ 3,074,110
10	2033	0.00%	\$ 1,116,238,006	\$ 1,984,273,116	\$ 1,975,137,311	80%	\$ 2,661,062	\$ 10,858,690	80%	\$ 1,301,988	\$ 5,312,873	\$ 3,963,051	\$ 16,171,564	\$ 2,965,152	\$ 12,099,555	\$ 997,898	\$ 4,072,009
11	2034	3%	\$ 119,725,146	\$ 2,163,526,455	\$ 2,154,390,650	80%	\$ 6,119,418	\$ 16,978,108	80%	\$ 2,994,071	\$ 8,306,944	\$ 9,113,489	\$ 25,285,053	\$ 6,818,707	\$ 18,918,262	\$ 2,294,782	\$ 6,366,791
12	2035	3%	\$ 123,316,900	\$ 2,351,749,150	\$ 2,342,613,345	80%	\$ 6,674,785	\$ 23,652,893	80%	\$ 3,265,798	\$ 11,572,742	\$ 9,940,583	\$ 35,225,635	\$ 7,437,538	\$ 26,355,800	\$ 2,503,044	\$ 8,869,835
13	2036	3%	\$ 179,420,089	\$ 2,601,721,713	\$ 2,592,585,908	80%	\$ 7,257,941	\$ 30,910,834	80%	\$ 3,551,121	\$ 15,123,863	\$ 10,809,062	\$ 46,034,697	\$ 8,087,334	\$ 34,443,134	\$ 2,721,728	\$ 11,591,563
14	2037	3%	\$ 124,057,345	\$ 2,803,830,709	\$ 2,794,694,904	80%	\$ 8,032,412	\$ 38,943,246	80%	\$ 3,930,049	\$ 19,053,912	\$ 11,962,461	\$ 57,997,158	\$ 8,950,307	\$ 43,393,441	\$ 3,012,154	\$ 14,603,717
15	2038	3%	\$ 127,779,065	\$ 3,015,724,696	\$ 3,006,588,891	80%	\$ 8,658,591	\$ 47,601,837	80%	\$ 4,236,422	\$ 23,290,334	\$ 12,895,013	\$ 70,892,171	\$ 9,648,041	\$ 53,041,482	\$ 3,246,972	\$ 17,850,689
16	2039	3%	\$ 131,612,437	\$ 3,237,808,874	\$ 3,228,673,069	80%	\$ 9,315,086	\$ 56,916,922	80%	\$ 4,557,628	\$ 27,847,962	\$ 13,872,714	\$ 84,764,885	\$ 10,379,557	\$ 63,421,039	\$ 3,493,157	\$ 21,343,846
17	2040	3%	\$ 135,560,810	\$ 3,470,503,951	\$ 3,461,368,146	80%	\$ 10,003,152	\$ 66,920,075	80%	\$ 4,894,281	\$ 32,742,243	\$ 14,897,433	\$ 99,662,318	\$ 11,146,251	\$ 74,567,290	\$ 3,751,182	\$ 25,095,028
18	2041	3%	\$ 139,627,635	\$ 3,714,246,704	\$ 3,705,110,899	80%	\$ 10,724,094	\$ 77,644,169	80%	\$ 5,247,019	\$ 37,989,262	\$ 15,971,113	\$ 115,633,430	\$ 11,949,577	\$ 86,516,867	\$ 4,021,535	\$ 29,116,563
19	2042	0.00%	\$ 139,627,635	\$ 3,853,874,339	\$ 3,844,738,534	80%	\$ 11,479,264	\$ 89,123,432	80%	\$ 5,616,504	\$ 43,605,765	\$ 17,095,767	\$ 132,729,197	\$ 12,791,043	\$ 99,307,910	\$ 4,304,724	\$ 33,421,287
20	2043	0.00%	\$ 1,139,627,635	\$ 4,993,501,974	\$ 4,984,366,169	80%	\$ 11,911,861	\$ 101,035,293	80%	\$ 5,828,162	\$ 49,433,928	\$ 17,740,023	\$ 150,469,221	\$ 13,273,075	\$ 112,580,986	\$ 4,466,948	\$ 37,888,235
21	2044	3%	\$ 143,816,464	\$ 5,287,123,497	\$ 5,277,987,692	80%	\$ 15,442,683	\$ 116,477,976	0%	\$ -	\$ 49,433,928	\$ 15,442,683	\$ 165,911,904	\$ 9,651,677	\$ 122,232,663	\$ 5,791,006	\$ 43,679,241
22	2045	3%	\$ 148,130,958	\$ 5,593,868,160	\$ 5,584,732,355	80%	\$ 16,352,388	\$ 132,830,364	0%	\$ -	\$ 49,433,928	\$ 16,352,388	\$ 182,264,292	\$ 10,220,243	\$ 132,452,905	\$ 6,132,146	\$ 49,811,387
23	2046	3%	\$ 190,956,375	\$ 5,952,640,580	\$ 5,943,504,775	80%	\$ 17,302,752	\$ 150,133,116	0%	\$ -	\$ 49,433,928	\$ 17,302,752	\$ 199,567,044	\$ 10,814,220	\$ 143,267,125	\$ 6,488,532	\$ 56,299,919
24	2047	3%	\$ 196,685,067	\$ 6,327,904,864	\$ 6,318,769,059	80%	\$ 18,414,309	\$ 168,547,425	0%	\$ -	\$ 49,433,928	\$ 18,414,309	\$ 217,981,353	\$ 11,508,943	\$ 154,776,068	\$ 6,905,366	\$ 63,205,285
25	2048	3%	\$ 202,585,619	\$ 6,720,327,628	\$ 6,711,191,823	80%	\$ 19,576,962	\$ 188,124,387	0%	\$ -	\$ 49,433,928	\$ 19,576,962	\$ 237,558,315	\$ 12,235,601	\$ 167,011,670	\$ 7,341,361	\$ 70,546,645
26	2049	3%	\$ 208,663,187	\$ 7,130,600,645	\$ 7,121,464,840	80%	\$ 20,792,776	\$ 208,917,163	0%	\$ -	\$ 49,433,928	\$ 20,792,776	\$ 258,351,090	\$ 12,995,485	\$ 180,007,154	\$ 7,797,291	\$ 78,343,936
27	2050	3%	\$ 214,923,083	\$ 7,559,441,747	\$ 7,550,305,942	80%	\$ 22,063,893	\$ 230,981,056	0%	\$ -	\$ 49,433,928	\$ 22,063,893	\$ 280,414,984	\$ 13,789,933	\$ 193,797,088	\$ 8,273,960	\$ 86,617,896
28	2051	3%	\$ 221,370,775	\$ 8,007,595,775	\$ 7,998,459,970	80%	\$ 23,392,539	\$ 254,373,595	0%	\$ -	\$ 49,433,928	\$ 23,392,539	\$ 303,807,523	\$ 14,620,337	\$ 208,417,425	\$ 8,772,202	\$ 95,390,098
29	2052	0.00%	\$ 221,370,775	\$ 8,228,966,550	\$ 8,219,830,745	80%	\$ 24,781,021	\$ 279,154,616	0%	\$ -	\$ 49,433,928	\$ 24,781,021	\$ 328,588,543	\$ 15,488,138	\$ 223,905,562	\$ 9,292,883	\$ 104,682,981
30	2053	0.00%	\$ 1,221,370,775	\$ 9,450,337,325	\$ 9,441,201,520	80%	\$ 25,466,877	\$ 304,621,493	0%	\$ -	\$ 49,433,928	\$ 25,466,877	\$ 354,055,420	\$ 15,916,798	\$ 239,822,361	\$ 9,550,079	\$ 114,233,060
Total			\$ 7,211,277,826			\$ 304,621,493			\$ 49,433,928			\$ 354,055,420		\$ 239,822,361		\$ 114,233,060	

Assumptions

Tax Increment Base

\$ 9,135,805

2024 Town AV Rate

\$ 0.387278

2024 County AV Rate^[c]

\$ 0.189485

Footnotes

[a] Values increased at 3% annually with two years of no growth each decade to simulate an economic downturn.

[b] Added Development Value based on the Town's actual growth.

[c] County has not yet agreed to participate and is shown for illustrative purposes only.

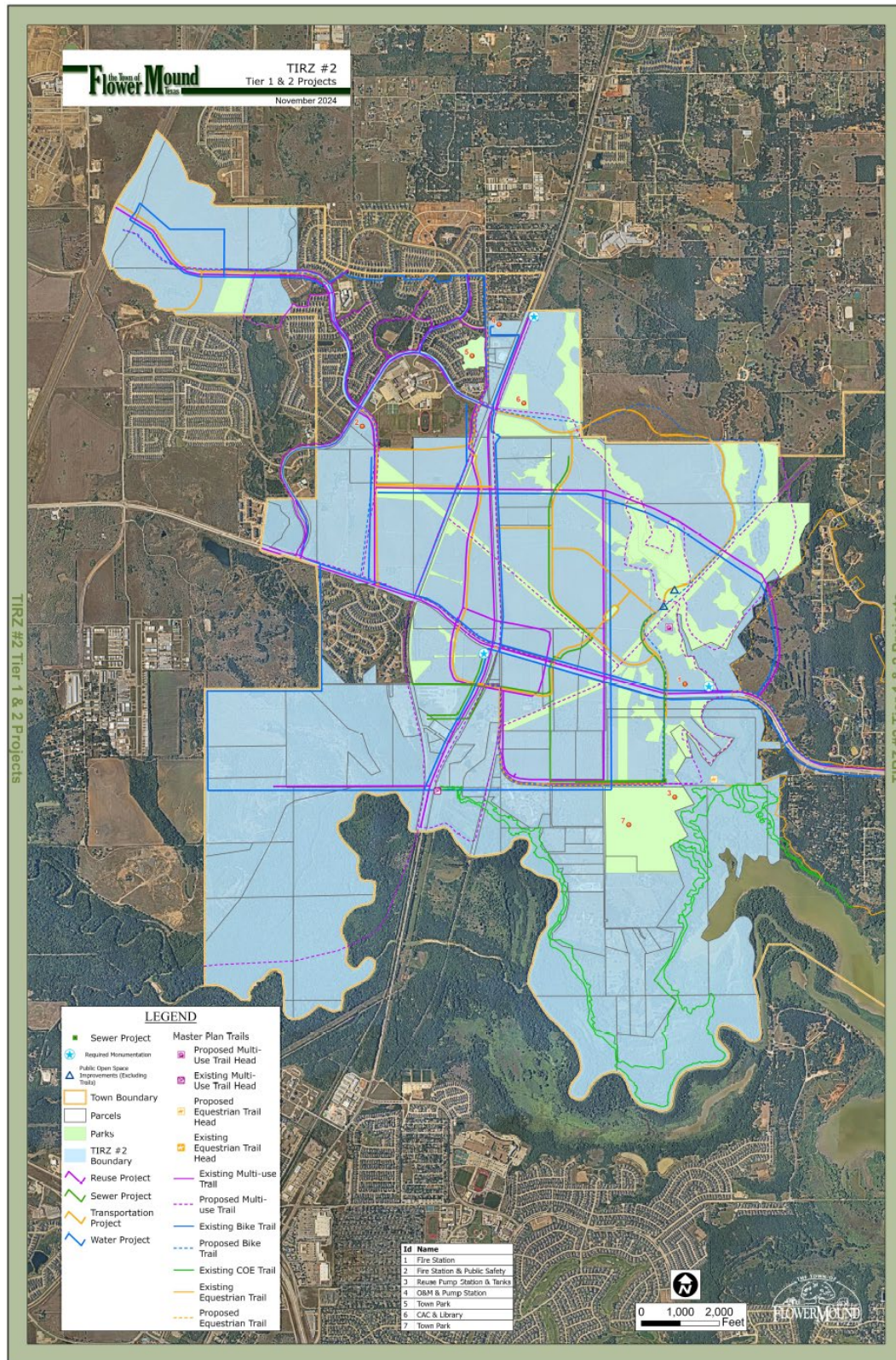
[d] 50% of the Town TIRZ Increment shall be contributed to the Infrastructure Fund for CIP Eligible Projects and the 80% County TIRZ Increment to be contributed to the Infrastructure Fund for Tier One Projects.

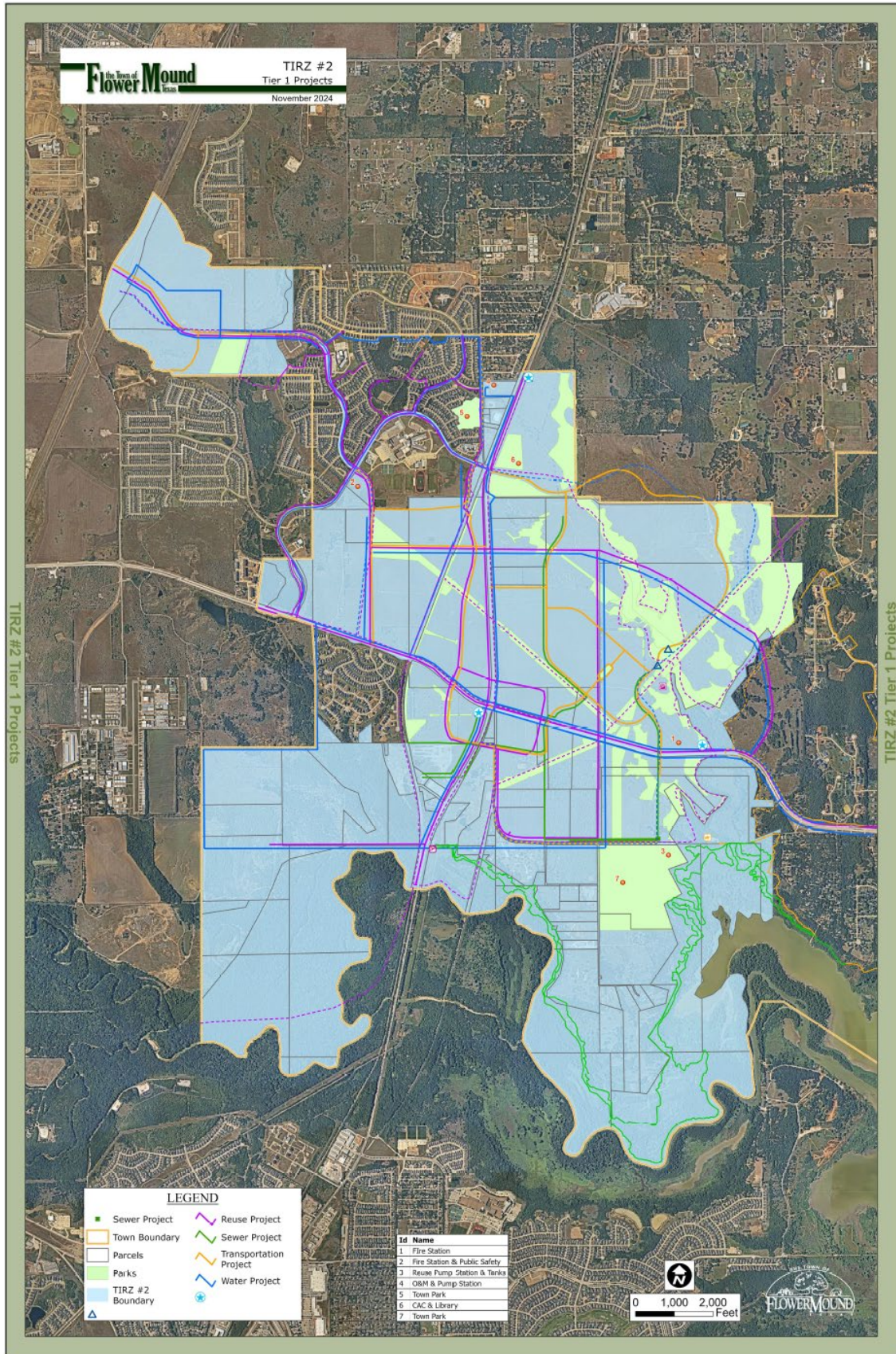
[e] Remaining 30% of the Town TIRZ Increment shall fund the Economic Development Program and Municipal Services, or any project identified in the Amended Plan.

EXHIBIT G – PROPOSED USES OF THE PROPERTY



EXHIBIT H – MAPS OF THE PUBLIC IMPROVEMENTS





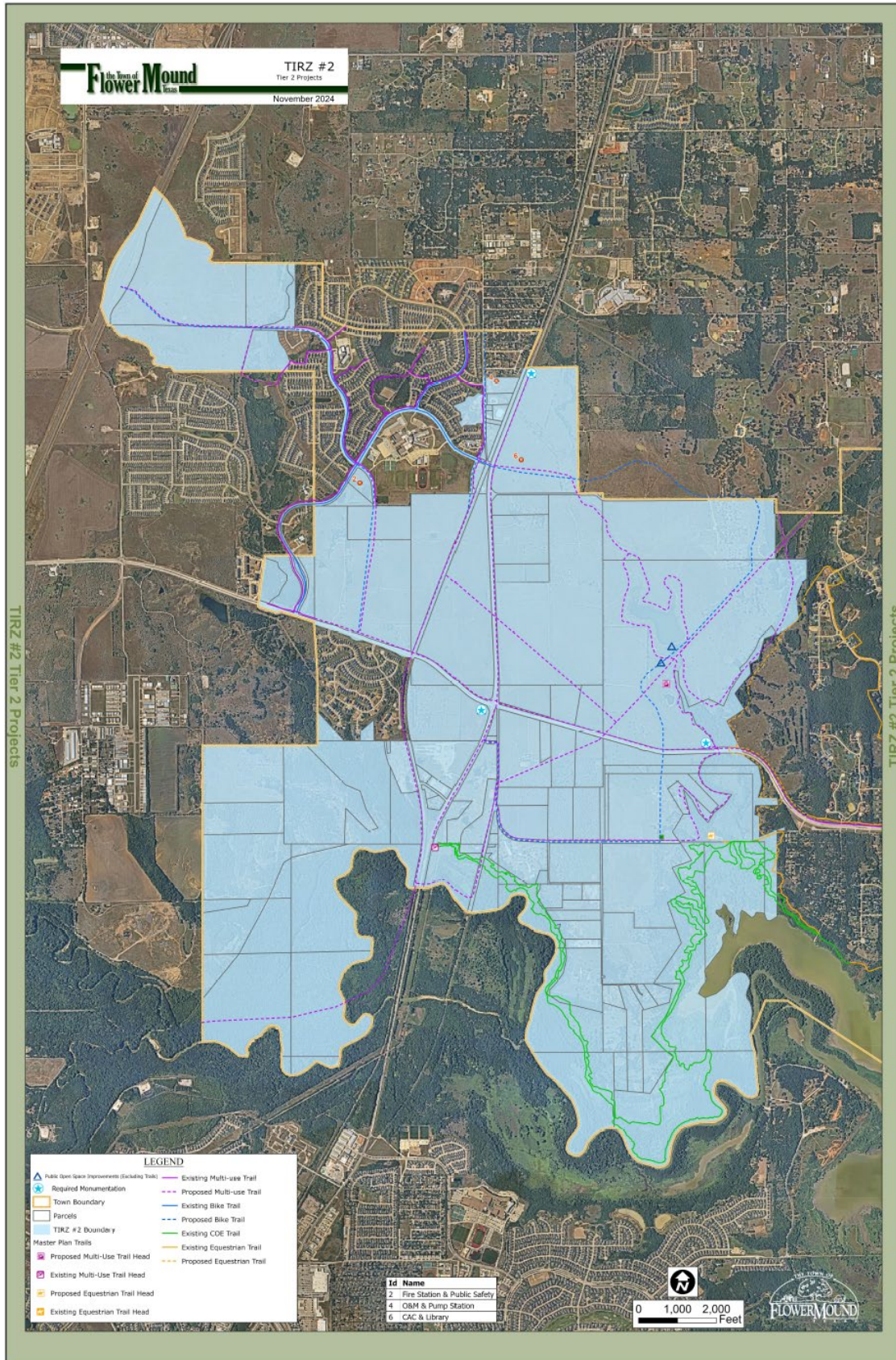


EXHIBIT I – ECONOMIC DEVELOPMENT PROGRAM PROJECTS

1) Upscale Specialty Retailers

Such retail and restaurant uses that are typically categorized as "Class A" including, but not limited to, Upscale Specialty Retailers such as, but not limited to, Apple Store, Lululemon, Anthropologie, Crate and Barrel, Williams Sonoma, Pottery Barn, and REI, and generally found in high-end projects such as The Shops at Legacy or Legacy West in Plano, Texas, Southlake Town Square in Southlake, Texas, Highland Park Village, Dallas, Texas, or comparable high-end projects elsewhere.

2) Specialty and Gourmet Grocers

Regional or neighborhood grocery stores that provide an upscale grocery experience, including, but not limited to, Central Market, Trader Joe's, and H-E-B, or other high-quality Specialty and Gourmet Grocers.

3) Quality Wholesale and Lifestyle Essential Store

A retail or wholesale store that typically sells a higher-end variety of upscale products for home, health, personal care, groceries, electronics and auto. These stores are usually 125,000-150,000 square feet in size and most wholesale are membership only. This category includes, but is not limited to, Costco, Target and BJ's Wholesale.

4) Upscale Restaurant

Any restaurant that focuses on quality food and a refined atmosphere and offers full table service with a premium menu. Examples include, but are not limited to, Capital Grille, Truluck's, Bob's Steak and Chop House, Texas de Brazil, Al Biernet's, Del Frisco's Grille and Perry's Steak House. Upscale Restaurant explicitly excludes casual dining, fast casual dining, and fast-food restaurant, with or without a drive-thru.

5) Super Retail Store

Large-scale, high-volume retail stores specializing in furniture, home goods, or sporting goods that attract shoppers from a wide geographic region, including, but not limited to IKEA, Scheels, Bass Pro Shop, Cabela's, and NFM.

6) Shopping Center

A multi-tenant, multi-building shopping center consisting of buildings comprising a minimum of 250,000 square feet for retail, office, medical office, personal service, and restaurant uses, as those terms are defined in the Town's Code of Ordinances or uses otherwise allowed within the Town's Mixed-Use Transition – Major Roadway character zone of the Town's Mixed Used Zoning District Regulations. To be eligible, the combined building square footage of the Shopping Center must include uses from the Economic

Development Program Projects that comprise of at least fifty percent (50%) of the Shopping Center square footage.

7) Class A Office Space

High-quality office projects designed to attract professional businesses and corporate tenants, and regional and national headquarters, offering premier amenities, advanced technology infrastructure, and high-end finishes that align with Class A office buildings in Denton and Collin Counties, Texas.

8) Upscale Hospitality

A full-service hotel or lodging use rated “Upper Upscale” or better by the Smith Travel Research report, commonly referred to as the STAR report.

9) Entertainment District

A type of arts district with a high concentration of theatres, both live and digital, performing arts venues, cultural attractions (museums, galleries and other cultural institutions), which includes retail space with experiential entertainment such as Chicken and Pickle, interactive gaming and specialty restaurants.

10) Recreation Facilities

Public buildings and grounds for community entertainment, relaxation, social activity and other leisure activities. These can be both indoor or outdoor and may include stages, amphitheaters, botanical gardens, and waterparks are a few examples.

In the event of a dispute regarding whether a particular use meets one of the above definitions, such determination shall be reviewed and determined by the TIRZ Board, or their designee.

EXHIBIT J – FORM OF REQUEST FOR PAYMENT

REQUEST FOR PAYMENT

The undersigned is an agent for _____ (the “Requestor”) and requests payment from Economic Development Fund of Reinvestment Zone Number Two, Town of Flower Mound, Texas (TIRZ No. 2) from the Town of Flower Mound, Texas (the “Town”) in the amount of \$ _____ (the “Chapter 380 Grant”). All capitalized terms not otherwise defined herein shall have meaning given to such term in that certain Chapter 380 Economic Development Agreement, entered in to as of _____, by and between the Town and the Developer (the “TIRZ Agreement”).

In connection to the above referenced payment, the Requestor represents and warrants to the Town as follows:

1. The undersigned is a duly authorized officer of the Requestor, is qualified to execute this Request for Payment on behalf of the Requestor and is knowledgeable as to the matters set forth herein.
2. The Chapter 380 Grant requested has been reviewed by the TIRZ administrator and TIRZ Board and found to be compliant with the Chapter 380 Economic Development Program.
3. The Chapter 380 Grant requested has not been the subject of any prior payment request submitted to the Town or, if previously requested, no disbursement was made with respect thereto.
4. The Town is hereby instructed to provide the Chapter 380 Grant to the following payee(s) pursuant to the attached wiring instructions.
5. The Developer Obligations as set forth in Section _____ of the TIRZ Agreement have been fulfilled.

[REQUESTOR SIGNATURE BLOCK]

By: _____

Name: _____

Signature: _____

Title: _____

Date: _____

EXHIBIT K – PARCEL IDENTIFICATION

Property IDs					
757322	68296	64905	464314	165014	1024797
757321	68015	64902	331390	165013	1024796
757320	67692	64791	331389	165012	1024795
752733	67691	64776	303674	165011	1024793
752732	67690	64776	296969	165010	1024792
731177	67689	64622	268308	165009	1024791
731175	67688	64620	258635	162981	1024790
72913	67274	64618	247046	156651	1024789
72908	658831	64596	239350	154820	1024788
715469	657617	64590	219487	151184	1024787
70718	64956	64588	219483	149229	1024786
70663	64955	64588	219477	123004	1024785
70662	64955	64587	219475	122452	1024784
692510	64954	64587	208365	122037	1024783
68684	64953	64583	208108	111156	1024782
68682	64951	64581	208051	111155	1024781
68680	64949	64540	208047	1024803	1024780
68678	64948	64535	208045	1024802	1024779
68669	64945	64530	208044	1024801	1024778
68387	64943	64530	208044	1024800	1024777
68309	64939	537189	178736	1024799	1024776
68307	64937	468689	178735	1024798	



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

DATE: December 16, 2024

FROM: Tommy Dalton, Assistant Town Manager

ITEM: **Consider authorizing the Town Manager to execute a participation agreement with Denton County for Reinvestment Zone No. 2 (TIRZ #2).**

BACKGROUND: The purpose of this item is to authorize the Town Manager to execute a participation agreement with Denton County in TIRZ #2. The agreement includes the County's participation in TIRZ #2 for 20 years.

The Denton County Commissioners Court will consider this participation agreement on [December 17, 2024](#).

Under this agreement the County is proposing to participate at 80% and use its increment for roads, water, water reuse, sewer, drainage, parks, including infrastructure supporting parks, and trail projects. The County will not participate in funding for police stations, fire stations, and municipal services for police, fire and emergency medical services.

Like the termination clause in the TIRZ #1 participation agreement (Item J4 on this agenda), the County desired to include a provision that the County and Town mutually agree on the participation in both TIRZ #1 and TIRZ #2. The County agrees that their ability to terminate their participation in TIRZ #2 expires on the one-year anniversary of the effective date of this agreement.

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 #2.

FISCAL IMPACT: N/A

N/A

LEGAL REVIEW: Bryn Meridith, 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
PARTICIPATION AGREEMENT
REINVESTMENT ZONE NUMBER TWO, TOWN OF FLOWER MOUND, TEXAS**

THIS PARTICIPATION AGREEMENT, ("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. 47-23 (the "Creation Ordinance") on November 6th, 2023, creating, establishing and designating "*Reinvestment Zone Number Two, Town of Flower Mound, Texas*" (the "Zone") under the Act; and

WHEREAS, the Town adopted Ordinance No. [REDACTED] (the "Amending Ordinance") on December 2, 2024, which serves to implement the Reinvestment Zone Number Two, Town of Flower Mound, Texas, Amended and Restated Project and Finance Plan (the "Amended Plan") for the Zone 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.

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) For and in consideration of this Agreement, the County agrees to participate in the Zone by contributing eighty percent (80%) of its tax rate on the annually calculated tax increment produced in the Zone attributable to the County to the TIRZ Fund until the expiration or termination of this Agreement.
- 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 for roads, water, water reuse, sewer, drainage, parks, including infrastructure supporting parks, and trails projects, as described in the Amended Plan. It shall not be used for police stations, fire stations, and municipal services for police, fire and emergency medical services projects, as described in the Amended Plan.

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 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 appraised value of the real property within the boundaries of the Zone for the year in which the Creation Ordinance was passed shall establish 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 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 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 Denton 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 Infrastructure Fund shall be returned to the County, and (ii) any Town Tax Increment remaining in the Infrastructure Fund or Economic Development Fund shall be returned to the Town in accordance with the Act.

Termination of Agreement. The County shall have the right terminate this 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.

Should the Town and County fail to reach a mutually satisfactory County participation agreement for Tax Increment Financing Reinvestment Zone Number One, the County reserves the right to terminate its participation in Reinvestment Zone Number Two; provided, however, the County's right to terminate under this paragraph shall expire on the one-year anniversary of the Effective Date of this Agreement.

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 the Town has furnished documentation, evidence and assurances satisfactory to the Board of Directors of the Zone 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 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) January 31, 2044, 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 Agreement shall be administered by the Town Manager or designee.

SECTION 6.

Whenever this 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 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 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. The Agreement may be amended, modified, or supplemented only by an instrument in writing executed by Town and County.

SECTION 9.

The provisions of this 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 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.

[Remainder of this page intentionally left blank.]

EXECUTED as of the later date below (“Effective Date”):

TOWN OF FLOWER MOUND, TEXAS

By: _____

Town Manager

Date: _____

ATTEST:

By: _____

Town Secretary

DENTON COUNTY, TEXAS

By: _____

County Judge

Date: _____

ATTEST:

By: _____

County Clerk

EXHIBIT A

ORDINANCE NO. [REDACTED] OF THE TOWN OF FLOWER MOUND, TEXAS
APPROVING THE REINVESTMENT ZONE NUMBER TWO, TOWN OF FLOWER
MOUND, TEXAS, AMENDED AND RESTATED PROJECT AND FINANCE PLAN; AND
ALL ASSOCIATED EXHIBITS.

[Remainder of this page intentionally left blank.]

EXHIBIT B

RESOLUTION OF DENTON COUNTY APPROVING PARTICIPATION IN
REINVESTMENT ZONE NUMBER TWO, TOWN OF FLOWER MOUND, TEXAS

[Remainder of this page intentionally left blank.]



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

DATE: December 16, 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).**

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 Town Council initially approved this agreement at their [November 18, 2024 meeting](#). However, the County requested a few revisions to the agreement, which are as follows:

1. Added a Cultural Arts Center Collaboration clause: During the [October 7, 2024](#), Town Council meeting, staff provided an update to the Council on extending TIRZ #1 for the primary purpose of constructing a cultural arts center within the River Walk at Central Park. TIRZ #1 was extended by the Council on [November 18, 2024](#). The collaboration clause in the agreement memorializes the Town and County's partnership to further the Town and County's commitment of establishing a central hub for arts, and cultural and creative programing within the Town.
2. Parking Provision Clause: The County and Town want to ensure there is adequate parking available for the cultural arts center and that programmed events do not interfere with parking for the adjacent private businesses. As with all developments in the Town, the Town and County will perform a parking analysis during the design phase of the cultural center to fully understand the parking impacts within the River Walk at Central Park.
3. Termination of Agreement: Termination clauses are standard in this type of agreement. However, the County desired to include a provision that the County and Town mutually agree on the participation in both TIRZ #1 and TIRZ #2. The County agrees that their ability to terminate their participation in TIRZ #1 expires if and when the Town issues debt to fund the cultural arts center.

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. This participation agreement is on the Denton County Commissioners Court agenda for [December 17, 2024](#).

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. 57-24 (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.

Cultural Arts Center Collaboration. The Town and the County shall collaborate to develop and approve a mutually agreed-upon design for the Cultural Arts Center, including its naming. The partnership between the Town and the County shall be prominently acknowledged in all signage, promotional materials, and official communications related to the Cultural Arts Center. This acknowledgment shall reflect the financial contributions and collaborative efforts of both entities in the development and success of the Cultural Arts Center.

Parking Provision. During the design phase of the Cultural Arts Center (the “Center”), a parking analysis will be conducted to determine the parking requirements for the Center along with the available parking spaces within the River Walk at Central Park that can be used to satisfy the parking requirements for the Center. If, based on the results of the parking analysis, it is determined that the parking requirements for the Center necessitates the use of spaces within the existing parking garage located at 4345 Courtyard Way (“Parking Garage”), the Town shall work in good faith with commercial property owners to ensure that parking spaces used in the Parking Garage for the operation of the Center do not negatively impact the use of parking spaces within the Parking Garage used by adjacent private businesses. The Town shall consult with the County during this process to maintain transparency and collaboration in alignment with the shared goals of the Center project. Should the County determine that the Center will negatively impact the use of parking spaces within the Parking Garage used by adjacent private businesses, the County may unilaterally terminate this Amended Agreement; provided, however, the County’s right to terminate under this paragraph shall expire if and when the Town issues debt to fund the Center project. The Town agrees to not issue debt to fund the Center project until it has reached final design. “Final Design” shall mean that the County has provided written acceptance of the design and a site plan for the Center has been approved by the Town.

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.

Should the Town and County fail to reach a mutually satisfactory County participation agreement for Reinvestment Zone Number Two, the County reserves the right to terminate its participation in Tax Increment Financing Reinvestment Zone Number One; provided, however, the County's right to terminate under this paragraph shall expire if and when the Town issues debt to fund the Center project. The Town agrees to not issue debt to fund the Center project until it has reached Final Design.

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: _____

DENTON COUNTY, TEXAS

By: _____

County Judge

Date: _____

ATTEST:

By: _____

Town Secretary

ATTEST:

By: _____

County Clerk

EXHIBIT A

ORDINANCE NO. 57-24 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.

**TOWN OF FLOWER MOUND, TEXAS
ORDINANCE NO. 57-24**

**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

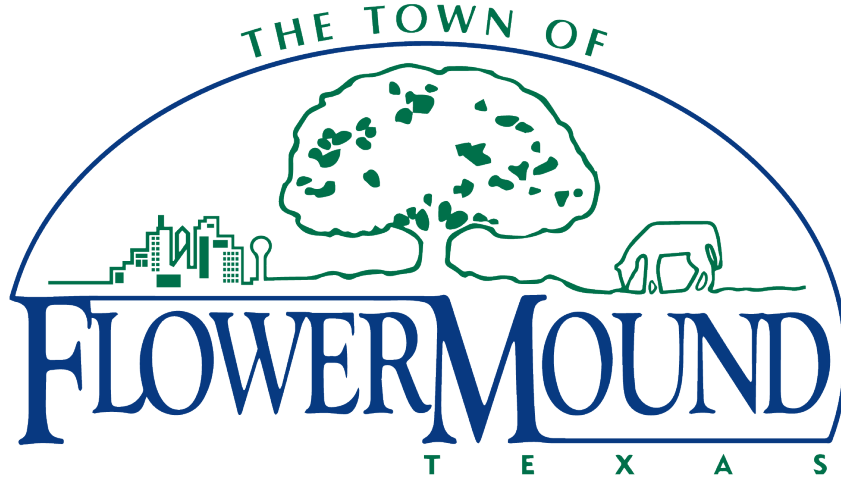
ATTEST:



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**

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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. 57-24 considered by the Town Council on November 18, 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

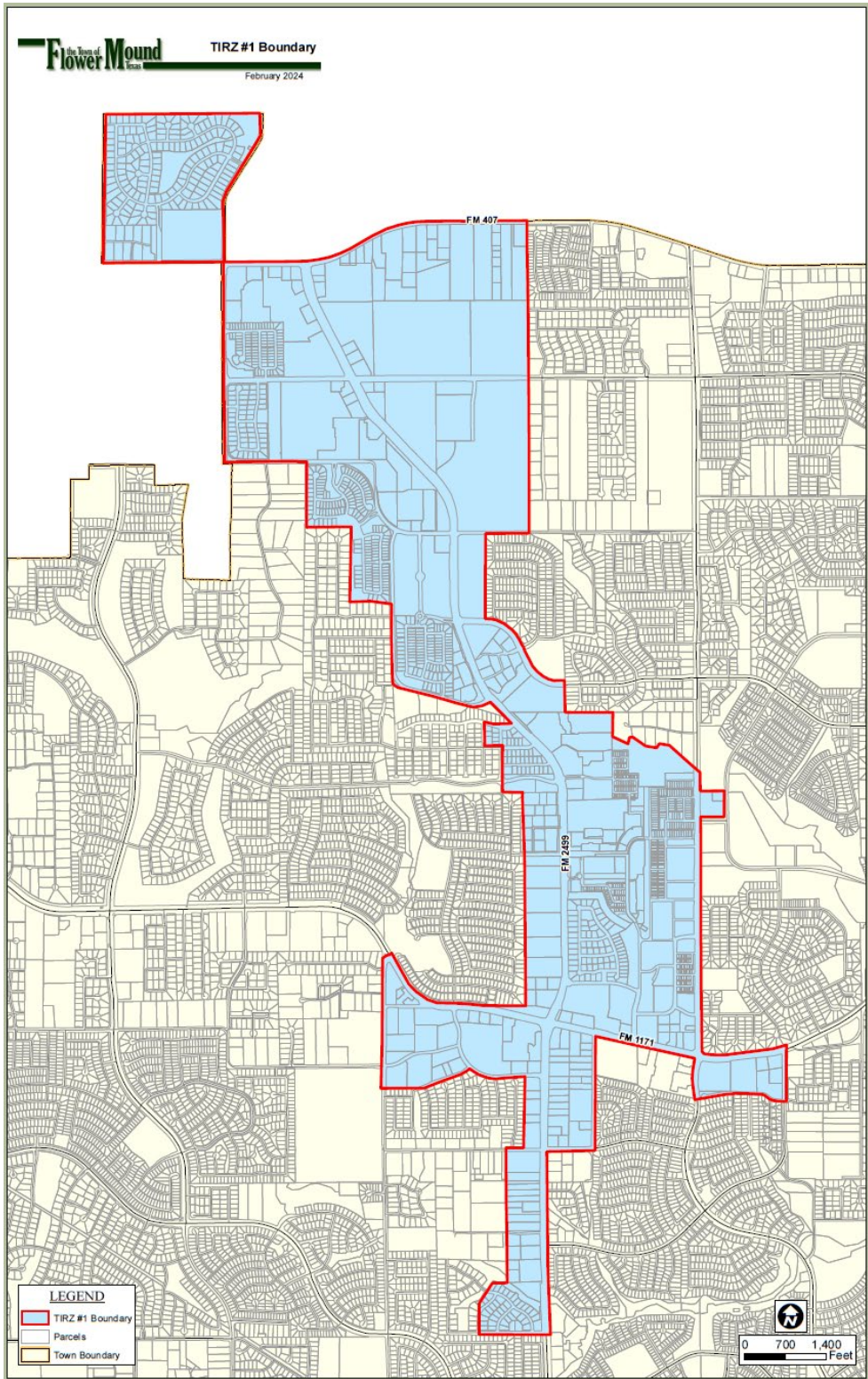


EXHIBIT B – NON-PROJECT COSTS

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	Morris 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]		County ^[d]		Town			County			Current Total	Total Cash Available		
				New Taxable Value	Incremental Value	New Taxable Value	Incremental Value	TIRZ Increment		Fund Balance ^[d]		TIRZ Increment		Fund Balance ^[d]		Obligations ^[e]	
								%	Annual	Annual	Cumulative	%	Annual	Annual		Cumulative	Annual
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		
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		
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		
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		
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		
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		
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

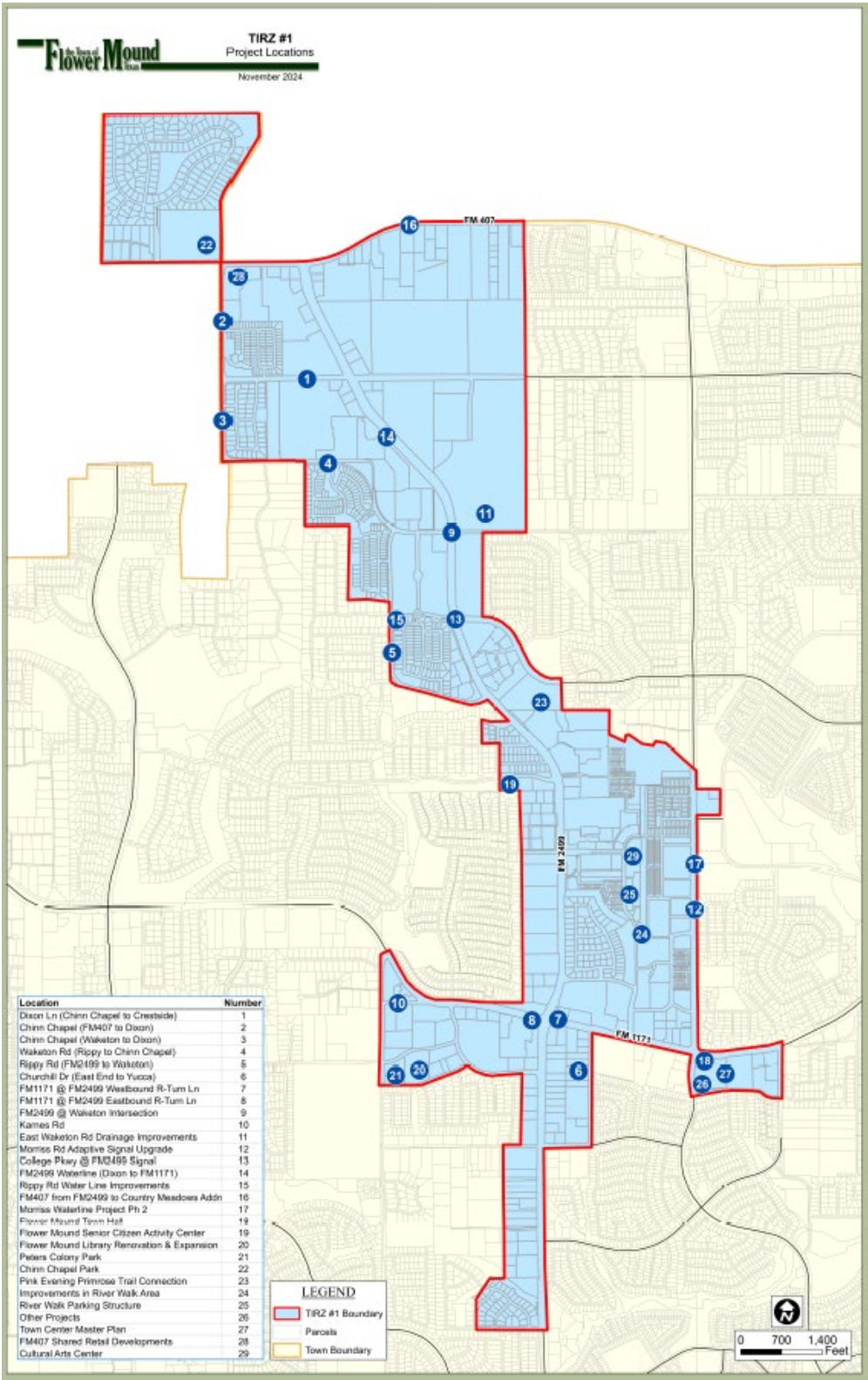


EXHIBIT H – PARCEL IDENTIFICATION

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
566815	633802	652990	652959	652935
566814	633801	652989	652958	652936
566831	633800	652987	652957	652937
566872	633799	652984	652956	652938
566843	633798	653037	652955	652939
566811	633796	653036	652986	652940
568221	633806	653027	652953	652941
624079	633807	653035	652952	652942
563269	633808	653034	652998	652943
633797	633809	653033	652999	652944
633822	633810	653032	653000	652945
633839	633837	653031	653001	268202
633789	633841	653030	653002	268200

Property ID	Property ID	Property ID	Property ID	Property ID
648033	675259	675220	677426	677474
693500	675272	675221	677423	677467
667656	675260	675222	677425	677466
667598	675261	677511	677427	677477
648074	675262	677513	677428	677465
648076	675237	677510	677421	677464
675263	675252	677512	677420	677463
715621	675255	677509	677430	677462
657699	675253	677403	677404	677461
658812	675245	677448	677409	677460
667618	675246	677434	677414	677476
667619	675247	677433	677411	677475
667415	675248	677505	677413	677452
667417	675254	677432	677407	677454
613379	675249	677450	677405	677451
667416	675250	677449	677408	677453
667421	675251	677504	677406	677456
496678	675243	677502	677410	677446
675285	675242	677482	677412	677507
675275	675241	677484	677416	677444
675279	675240	677483	677492	677445
675284	675244	677478	677488	677447
675282	675239	677479	677486	677455
675283	675238	677480	677487	677503
675280	675234	677481	677489	677458
675281	675236	677435	677490	677457
675276	675224	677440	677491	677459
675277	675227	677439	677485	677514
675278	675228	677438	677497	679991
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
675266	675216	677508	677471	693475
675265	675217	677431	677468	693473
675256	675218	677422	677469	693467
675257	675226	677429	677472	693469
675258	675219	677424	677470	693472

Property ID	Property ID	Property ID	Property ID	Property ID
693471	693481	667632	667657	716921
693466	693480	667601	667653	716922
693524	693499	667633	705222	716930
693523	523658	667600	757922	716925
693513	744740	667634	667423	716915
693516	705225	667599	744741	716914
693512	655447	667654	744742	716916
693515	655450	667675	748964	716918
693514	711952	667673	748966	716917
693517	649996	667637	701932	716912
693519	653038	667672	716945	716911
693521	744738	667638	716953	716913
693520	667635	667671	716897	716923
693522	667617	667639	716951	716924
693518	667615	667670	716949	716909
693501	667614	667640	716950	716908
693498	667620	667669	716946	716907
693495	667613	667641	716948	716906
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693493	667612	667642	716938	716904
693494	667622	667667	716935	716903
693496	667611	667643	716936	716902
693491	667623	667666	716926	716901
693490	667610	667644	716928	716900
693489	667624	667665	716929	716899
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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
693509	667629	667660	716937	715531
693478	667604	667650	716931	715599
693479	667630	667659	716920	715600
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693484	667602	667652	716932	715595

Property ID	Property ID	Property ID	Property ID	Property ID
715596	715581	733730	733673	705220
715597	715556	733734	733694	705219
715598	715580	733733	733696	705217
715612	715573	733725	733695	705223
715604	715579	733750	733697	769890
715609	715575	733726	733688	769918
715611	715578	733735	733684	769903
715608	715577	733736	733685	769904
715601	715548	733737	733686	769905
715603	715559	733738	733687	769889
715610	715572	733739	733692	769906
715606	715576	733740	733691	769916
715602	715551	733741	733690	769895
715607	715552	733742	733693	769896
715605	715555	733743	733689	769897
715588	715557	733744	1007483	769894
715583	715582	733745	733678	769892
715589	715549	733746	733674	769891
715585	715550	733719	733679	769893
715584	715553	733720	733676	769907
715591	715574	733721	733683	769909
715586	715571	733722	733682	769908
715590	715563	733723	733680	769900
715592	715561	733724	733681	769902
715587	715568	733700	733675	769901
715542	715567	733710	733659	769899
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
715544	715564	733707	733669	769866
715536	733748	733708	733670	769865
715543	733751	733701	733668	769864
715534	733709	733717	733660	769862
715532	733698	733711	733667	769861
715539	733749	733712	733666	769867
715538	733727	733714	733664	769851
715537	733728	733713	733665	769849
715546	733729	733716	733658	769850
715547	733732	733715	705218	769848
715554	733731	733718	705216	769847

Property ID
769846
769852
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Property ID
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Property ID
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Property ID
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757923

Property ID
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750725
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748959
748958
966109
966108
966110
19637
994884

EXHIBIT B

RESOLUTION OF DENTON COUNTY APPROVING PARTICIPATION IN TAX
INCREMENT FINANCING REINVESTMENT ZONE NUMBER ONE, TOWN OF FLOWER
MOUND, TEXAS

[Remainder of this page intentionally left blank.]



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

DATE: December 16, 2024
FROM: Chuck Russell, Principal Planner
ITEM: **Consider a request for an exception (MISC24-0001 – Radionov Lot-to-Lot Drainage Exception) to the Engineering Design Criteria and Construction Standards adopted through Chapter 32 of the Code of Ordinances in order to allow lot-to-lot drainage. The property is generally located west of Morriss Road and south of Hazy Meadows Lane. (PZ recommended approval by a vote of 6 to 0 at its December 9, 2024, meeting.)**

BACKGROUND:

- Size – Approximately 1.07 acres
- Zoning – Single-Family Estate (SF-E) District.
- Request – Approve an exception to Engineering Design Criteria and Construction Standards to allow surface water to drain from the subject lot to the residential lots immediately west and south of the subject lot.
- SMARTGrowth – N/A
- Traffic Analysis – N/A
- Incentives - N/A
- [Planning and Zoning Commission Staff Report Link](#)

BOARD REVIEW/CITIZEN FEEDBACK: The Planning & Zoning Commission recommended approval by a vote of 6 to 0 at its December 9, 2024, meeting with the following conditions:

1. Development of the site, including any impervious surfaces, is restricted to what is noted on the proposed Drainage and Grading Plans.
2. An amended plat to include a note about the development restrictions listed above must be filed with the County prior to a building permit being issued.

ALTERNATIVES: N/A

FISCAL IMPACT: N/A

LEGAL REVIEW: N/A

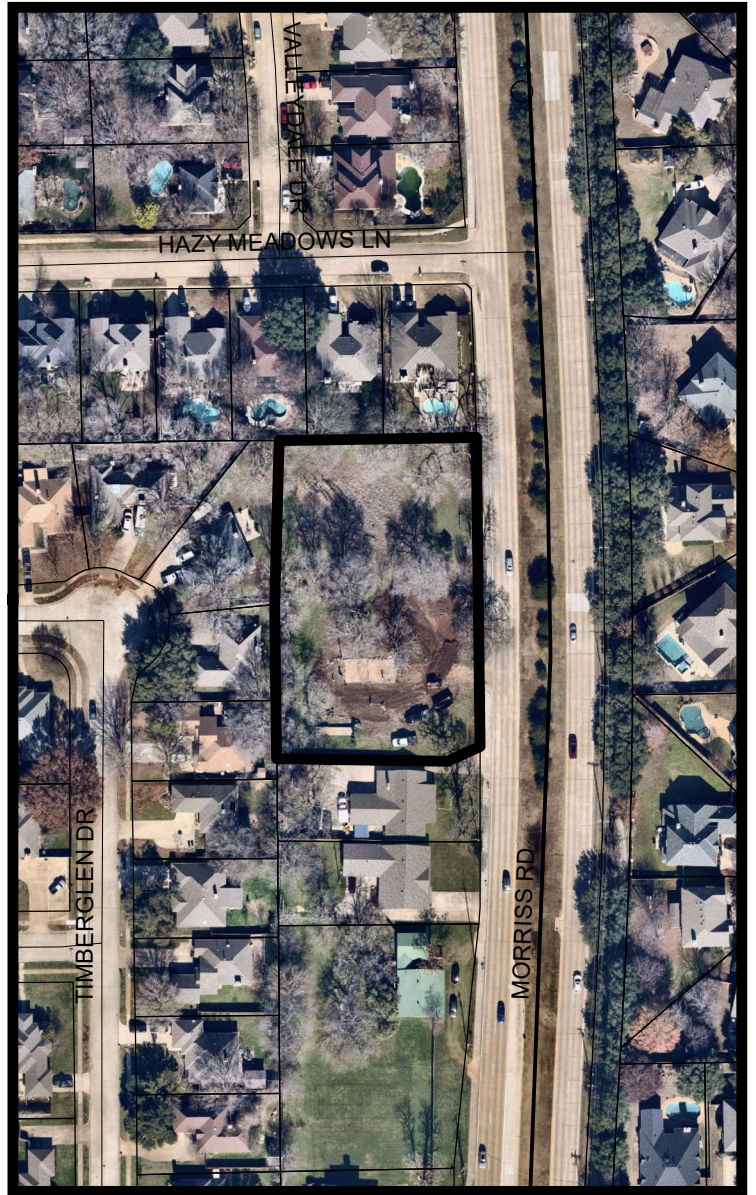
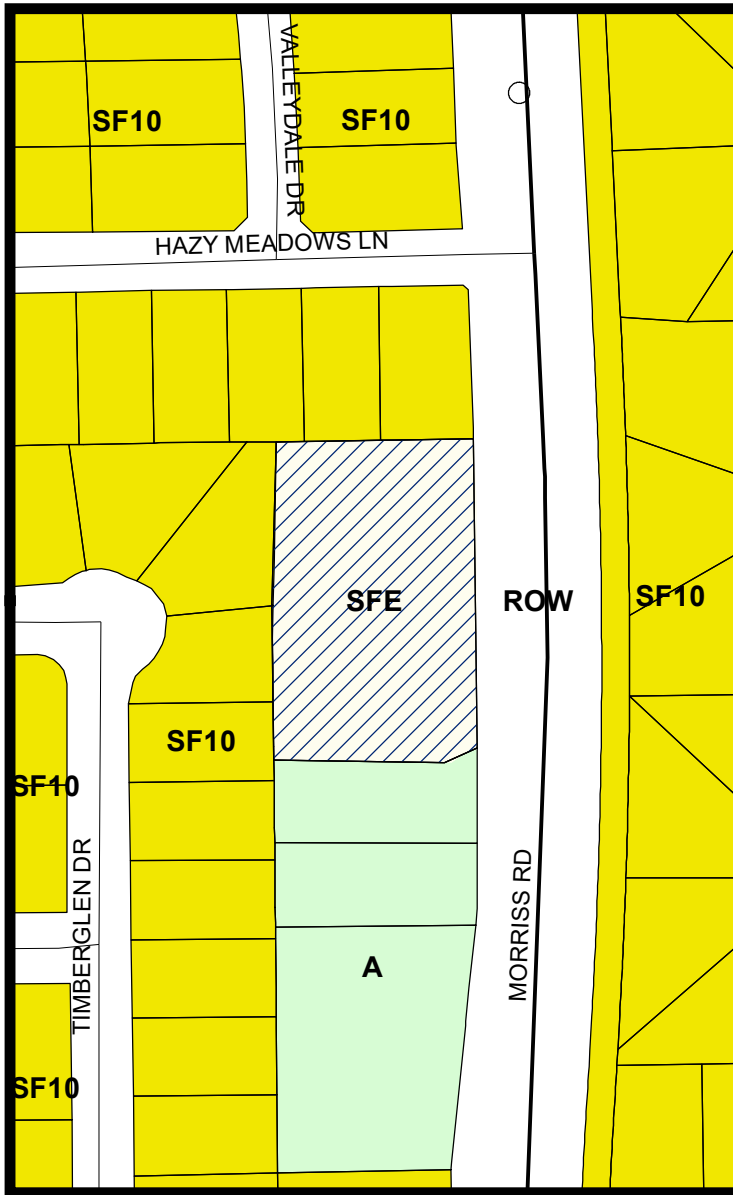
ATTACHMENTS:

1. Zoning & Aerial Map

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

Vicinity Map

MISC24-0001: Radionov Lot to Lot Drainage Exception



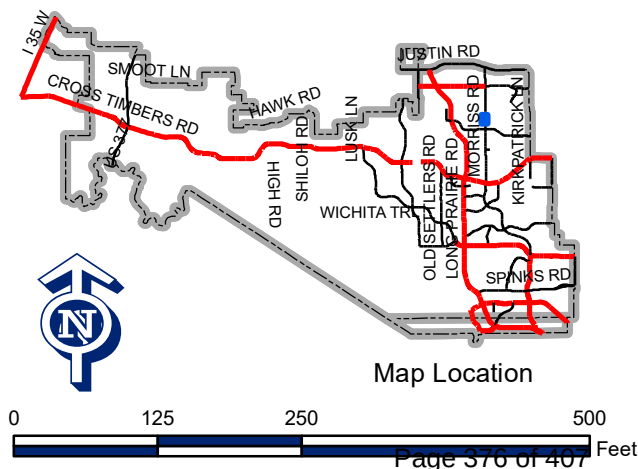
LEGEND

 Agriculture  Single Family 10  Single Family Estate

 Subject Property

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.



Map Location



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

DATE: December 16, 2024
FROM: Poornima Kashyap, Planning Manager
ITEM: **Public Hearing to consider an ordinance for rezoning (ZPD23-0007 – Cachet Salons & Spa at Lakeside Crossing, Lot 3) to amend Planned Development No. 153 (PD-153) with Campus Commercial uses for both residential and non-residential uses by adding new concept plans and elevations for Lot 3, Block A, of the Lakeside Crossing Addition and to modify development standards. The property is generally located south of Lakeside Parkway along and between Long Prairie Road and Northwood Drive. (PZ recommended approval by a vote of 6 to 0 at its December 9, 2024, meeting.)**

BACKGROUND:

- Size – 0.647 acres
- Existing Zoning – Planned Development District-153 (PD-153) for Campus Commercial uses for both residential and non-residential uses
- Proposed Amendments specific to Lot 3, Block A, Lakeside Crossing Addition are:
 1. To propose alternate mixed-use, time-based shared parking percentages for a salon use
 2. To provide updated conceptual plans and elevations for the proposed salon
- SMARTGrowth – Passed/Previously completed
- Traffic Analysis – Passed with the previous zoning amendment application. The difference between the previously approved office building and the proposed use is minor. This building was taken into account during the updated Lakeside Center Traffic Impact Analysis (TIA). There was no additional analysis needed for the new facility.
- 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 December 9, 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:

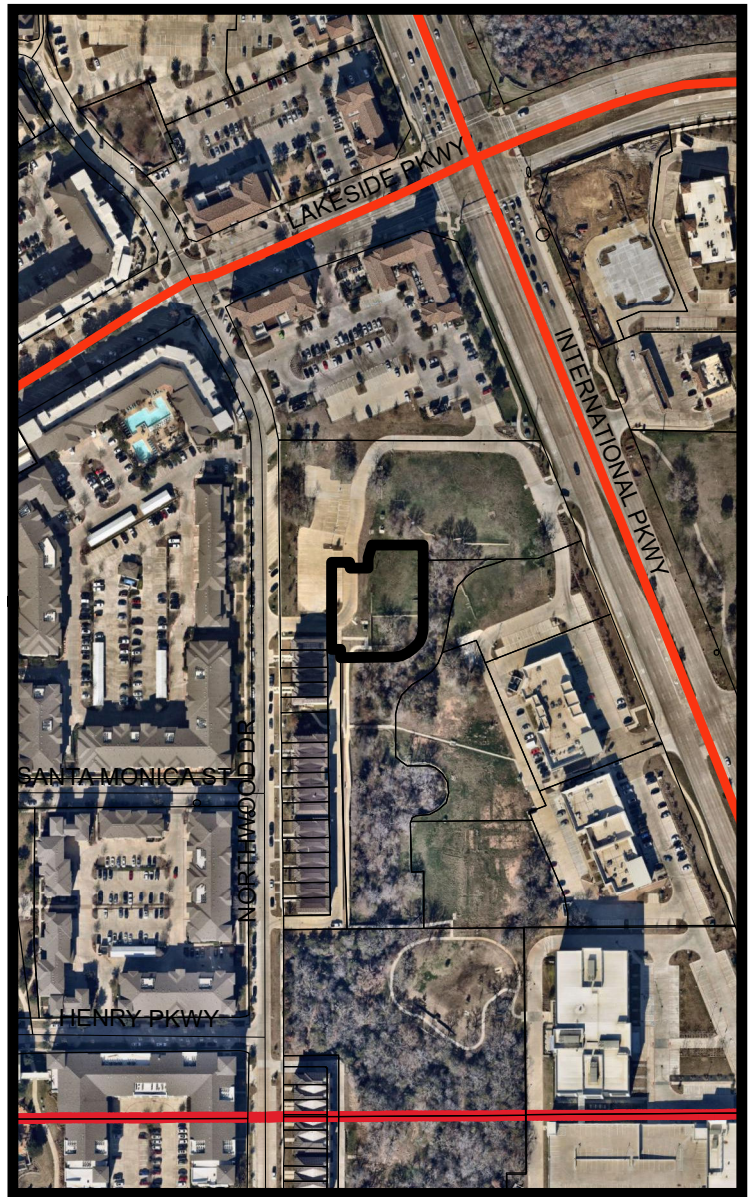
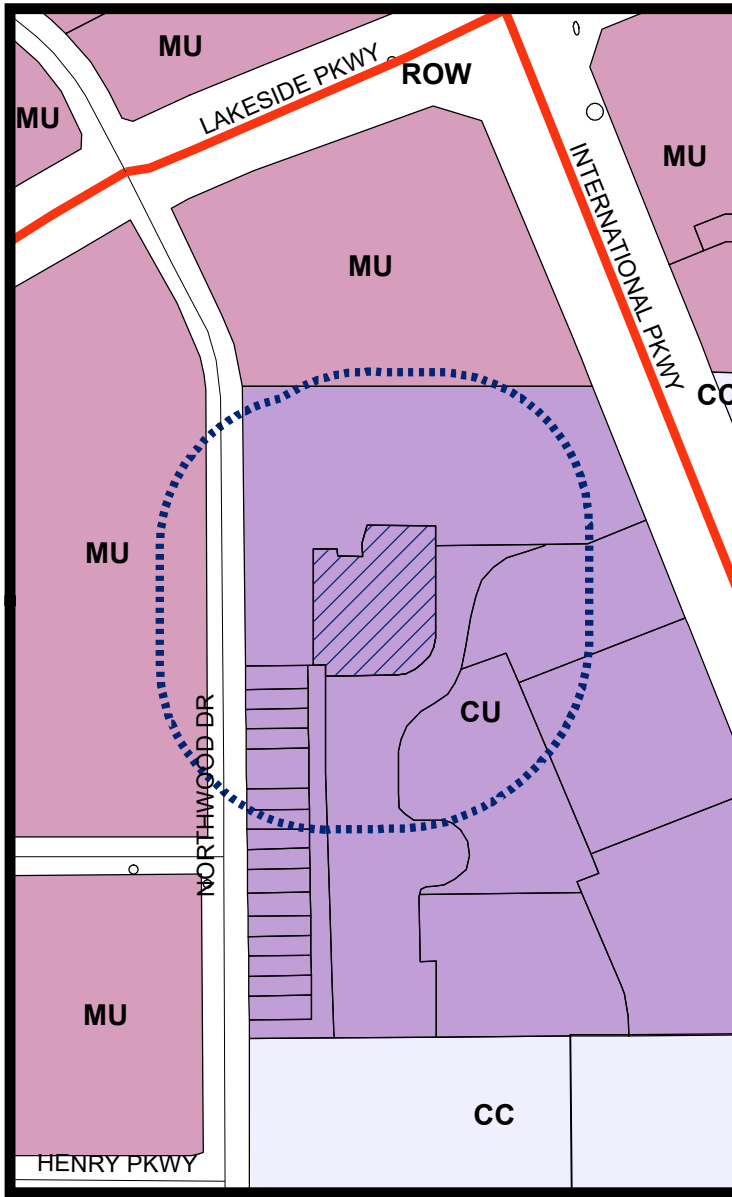
1. Zoning & Aerial Map

2. FINAL Ord ZPD23-0007 no exhibits
3. DRAFT Exhibits

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

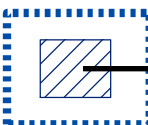
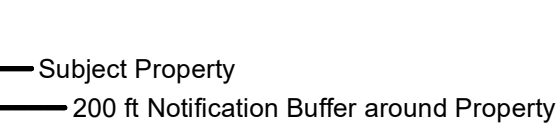
Vicinity Map

ZPD23-0007: Cachet Salons & Spa at Lakeside Crossing



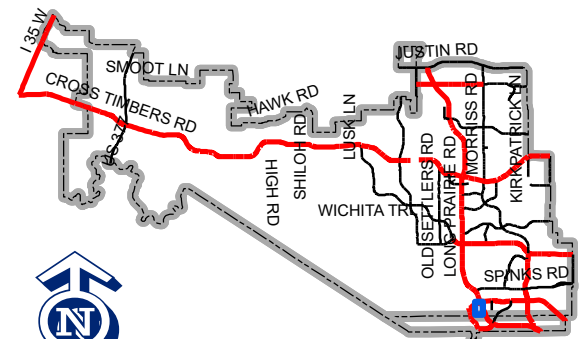
LEGEND

-  Campus Commercial
-  *Combined Uses-See Ordinance
-  Mixed Use

-  Subject Property
-  200 ft Notification Buffer around Property

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.



Map Location



TOWN OF FLOWER MOUND, TEXAS
ORDINANCE NO. _____

AN ORDINANCE OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING ORDINANCE NO. 25-17, AS AMENDED BY ORDINANCE NOS. 03-18, 22-21, AND 41-23, WHICH ESTABLISHED AND LATER AMENDED PLANNED DEVELOPMENT DISTRICT NO. 153 (PD-153) ON CERTAIN PROPERTY DESCRIBED AS APPROXIMATELY 10.91 ACRES OF LAND AND BEING ALL OF LOTS 1, 2, 3, 4, 5, 6, 7, AND 8X, BLOCK A, LAKESIDE CROSSING ADDITION, BY MODIFYING DEVELOPMENT STANDARDS, AMENDING THE CONCEPT PLANS AND ELEVATIONS FOR LOT 3, BLOCK A, AND INCLUDING COMPREHENSIVE SIGN PACKAGE FOR LOT 3, BLOCK A OF LAKESIDE CROSSING; PROVIDING THIS ORDINANCE SHALL BE CUMULATIVE OF ORDINANCE NO. 25-17, AS AMENDED; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY CLAUSE; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

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

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

WHEREAS, in accordance with Chapter 78 of the Land Development Regulations, the owner of the property described as approximately 0.647 acres of land and being all of Lot 3, Block A, Lakeside Crossing Addition, Denton County, Texas (the “Property”), applied for a Zoning Planned Development amendment to amend Ordinance No. 25-17, as amended by Ordinance Nos. 03-18, 22-21, and 41-23, for Planned Development District No. 153 (PD-153), seeking to modify development standards including but not limited to establishing alternative parking standards and updating conceptual plans and elevations for Building 3 to be located on Lot 3, Block A of the Lakeside Crossing Addition; and,

WHEREAS, the Planning and Zoning Commission of the Town held a public hearing on December 9, 2024, and the Town Council held a public hearing on December 16, 2024, with respect to the proposed Zoning Planned Development amendment as described herein; and,

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

WHEREAS, the Town Council finds that amendment of Ordinance No. 25-17, as amended by Ordinance Nos. 03-18, 22-21, and 41-23, for Planned Development District No. 153 (PD-153) as outlined herein is in the best interest of the Town and will promote the health, safety, and general welfare of the citizens of the Town and the general public;

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

SECTION 1

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

0.647 acres of land and being all of Lot 3, Block A, Lakeside Crossing Addition, Denton County, Texas.

- A. Exhibit B, "Development Standards," for Planned Development District No. 153 (PD-153), as amended, is hereby amended by replacing mixed use parking table under III. A.2 and adding new subsections 6 and 7 to Paragraph III.A., "PARKING," to read as follows:

"

Use	Weekdays		Weekends		Everyday
	Daytime	Evening	Daytime	Evening	Night
	6AM - 6PM	6PM - 12AM	6AM - 6PM	6PM - 12AM	12AM - 6AM
Hotel*	90%	100%	81%	100%	100%
Drive-Through Coffee Shop*	100%	34%	100%	34%	30%
Salon Suites*	100%	41%	31%	2%	0%
General or Professional Office	100%	10%	10%	5%	5%
Medical or Dental Office	100%	10%	10%	5%	5%
Retail	50%	90%	100%	70%	5%
Restaurant	50%	100%	100%	100%	10%

See Exhibit D for more detailed time-of-day percentages.

Hotel percentage is not approved as a part of this ordinance and is for informational purposes only. "

6. Lot 3, Block A, may utilize the parking standard calculations described in the Lakeside Crossing Parking Study Results (Exhibit "D") if Lots 1, 2, and 3, Block

- A, are to be developed as contemplated in the parking study (i.e., Lot 1, Block A, is proposed as a Hotel; Lot 2, Block A, is proposed as a Drive-Through Coffee Shop; and Lot 3, Block A, is proposed as a Salon Suites use).
- B. Exhibit C, "Concept Plan," for Planned Development District No. 153 (PD-153), as amended, is hereby amended by adding a Concept Plan for Lot 3, Block A, Lakeside Crossing Addition attached hereto as Exhibit "A" and incorporated herein, the prior Concept Plan shall remain in effect for all other purposes.
- C. Exhibit D, "Concept Landscape Plan," for Planned Development District No. 153 (PD-153), as amended, is hereby amended by adding a Concept Landscape Plan for Lot 3, Block A, Lakeside Crossing Addition attached hereto as Exhibit "B" and incorporated herein, the prior Concept Landscape Plan shall remain in effect for all other purposes.
- D. Exhibit F, "Architectural Imagery Package," for Planned Development District No. 153 (PD-153), as amended, is hereby amended by replacing the conceptual elevations for Building No. 3 of the Lakeside Crossing development with the new conceptual elevations attached hereto as Exhibit "C" and incorporated herein, the prior Architectural Imagery Package shall remain in effect for all other purposes.
- E. Exhibit D, "Mixed Use Time Based Shared Parking Table," for Planned Development District No. 153 (PD-153), as amended, is hereby incorporated as Exhibit "D."

SECTION 2

The use of the Property described above shall be subject to all restrictions, terms, and conditions contained herein, as well as the applicable regulations contained in Ordinance No. 25-17, as amended by Ordinance Nos. 03-18, 22-21, and 41-23 for Planned Development District No. 153 (PD-153), the Land Development Regulations, and all other applicable and pertinent ordinances of the Town.

SECTION 3

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

SECTION 4

It is hereby declared to be the intention of the Town Council that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable, and if any section, paragraph, sentence, clause, or phrase of this Ordinance shall be declared

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

SECTION 5

Any person, firm, or corporation who violates any provision of this Ordinance as adopted by the Town Council shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine as provided in Section 1-13 of the Code of Ordinances, Town of Flower Mound, Texas. Each day any such violation or violations exist shall constitute a separate offense and shall be punishable as such.

SECTION 6

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

SECTION 7

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

SECTION 8

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

DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, BY A VOTE OF ____ TO ____, ON THIS THE 16TH DAY OF DECEMBER, 2024.

ORDINANCE NO. _____

Page 5

APPROVED:

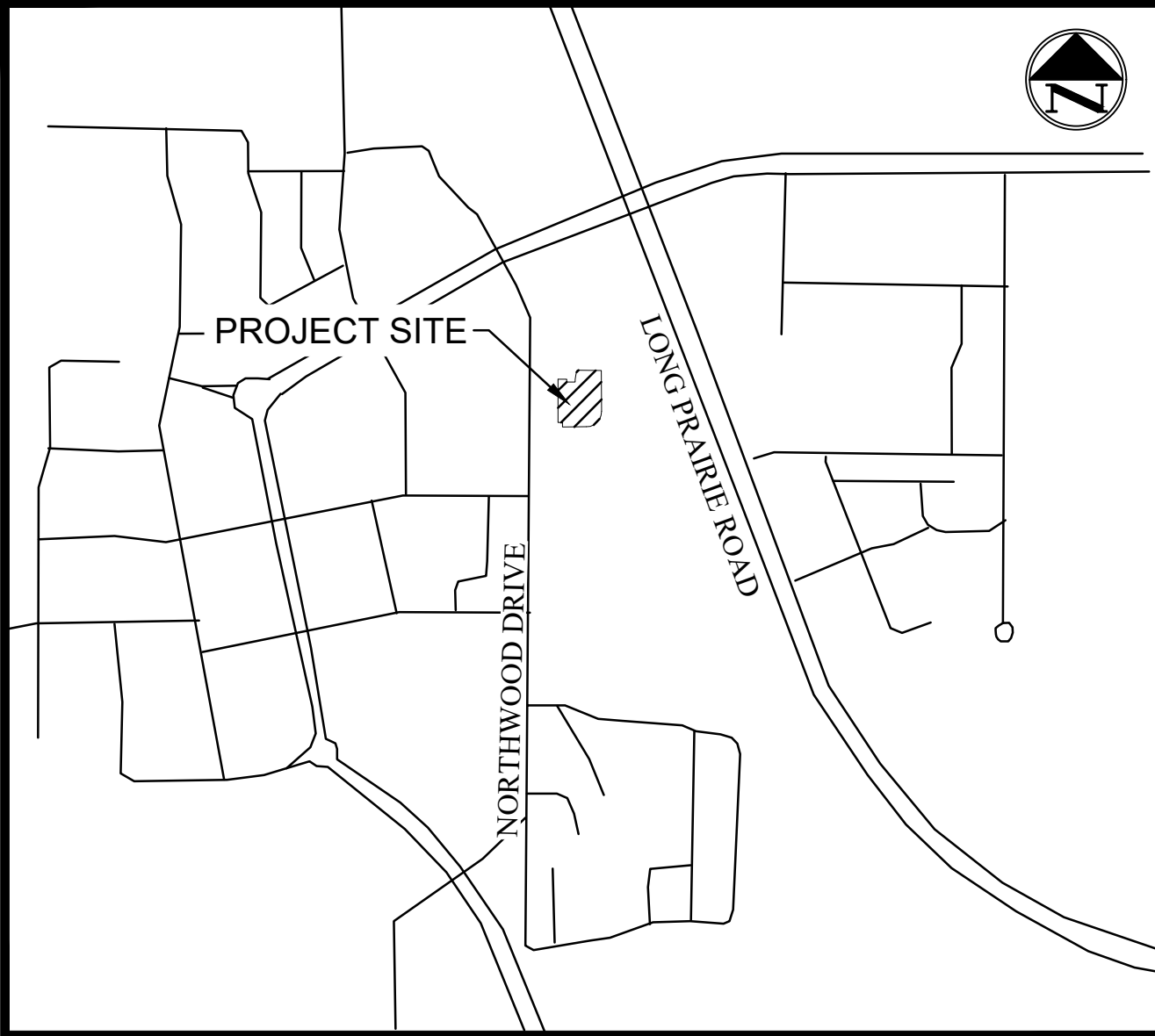
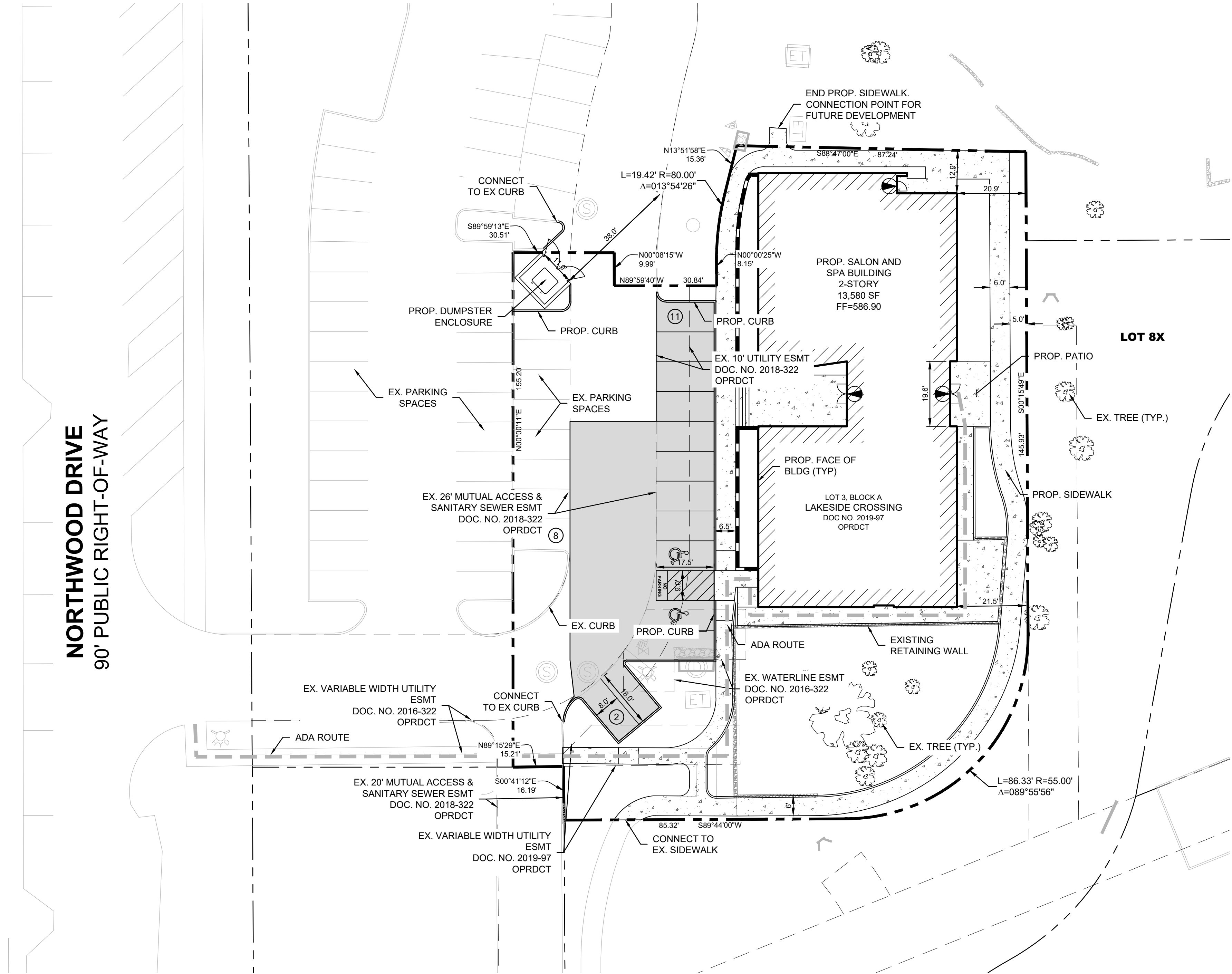
Cheryl Moore, MAYOR

ATTEST:

Theresa Scott, TOWN SECRETARY

EXHIBIT "A" - CONCEPT PLAN

File F:\2021-05 97w2021-05-29 Cachet Salons\CAD\LOT SHEETS\LOT SHEETS\IC-2.0 Site Plan.dwg || Date Plotted: 12/2/2024 7:05 AM || Plotted By: rlan



VICINITY MAP
N.T.S.

SITE DATA TABLE	
PHYSICAL ADDRESS	LOT 3, BLOCK A
GROSS SITE AREA	0.647 AC (28,178 SF)
NET SITE AREA	0.647 AC (28,178 SF)
ZONING	PD-153
CURRENT USE	VACANT
LOT COVERAGE DATA	
BUILDING COVERAGE	25% (7,240 SF)
IMPERVIOUS AREA	72% (20,193 SF)
PERVIOUS AREA	28% (7,985 SF)
PARKING SUMMARY	
CUSTOM SERVICES PERSONAL	54
ON-SITE	21
OFF-SITE	33
TOTAL PARKING	54 (100%)
BUILDING DATA	
BUILDING STORIES	2
PEAK HEIGHT	29' 6"
MEAN HEIGHT	29' 6"
TOTAL SQUARE FOOTAGE	13,580 SF

NOTE: THIS DEVELOPMENT IS PART OF THE MASTER PLANNED - LAKESIDE CROSSING DEVELOPMENT. FOR ADDITIONAL INFORMATION PLEASE REFER TO THE APPROVED SITE PLAN FROM THE PD FOR THE OVERALL DEVELOPMENT PARKING CALCULATIONS. PLEASE REFER TO THE LAKESIDE CROSSING PARKING STUDY PROVIDED BY REALTY CAPITAL.

LEGEND

- PROPOSED CONCRETE PAVEMENT
- PROPOSED SIDEWALK PAVEMENT
- ADA ROUTE

NOTES

- ALL DIMENSIONS ARE TO FACE OF CURB, FACE OF WALL, FACE OF BUILDING, CENTER OF STRIPING, AND PROPERTY LINE UNLESS OTHERWISE NOTED.
- REFER TO ARCHITECTURAL AND STRUCTURAL PLANS FOR BUILDING AND DUMPSTER ENCLOSURE LAYOUT AND DESIGN.
- REFER TO LANDSCAPE PLANS FOR FENCE AND HARDSCAPE LAYOUT AND DESIGN.
- ALL SIGNAGE IS APPROVED VIA A SEPARATE PERMIT THROUGH THE BUILDING SAFETY DIVISION.
- ALL MECHANICAL EQUIPMENT, DUMPSTERS, ROOFTOP UNITS, ETC SHALL BE SCREENED IN COMPLIANCE WITH THE ZONING ORDINANCE.
- ALL LIGHTING SHALL COMPLY WITH THE ZONING ORDINANCE.
- ANY ALTERATION TO THE SITE PLAN, INCLUDING BUILDING ELEVATION AND LANDSCAPE SUBSTITUTIONS, REQUIRE TOWN APPROVAL THROUGH A REVISED PLAN, STAMPED BY STAFF.
- ALL STRIPING WITHIN DEVELOPMENT TO BE PAINTED WHITE.
- ALL PROPOSED RAMPS TO FOLLOW THE ARCHITECTURAL BARRIERS TEXAS ACCESSIBILITY STANDARDS (TAS).
- ALL RETAINING/DETAINING WALL, TURN-DOWN CURBS, TREE RETAINING WALLS SHALL BE CLAD IN A MATERIAL TO MATCH THE MATERIALS ON THE MAIN BUILDING.
- ALL GROUND-BASED HVAC SHALL BE SCREENED WITH LIVE SCREENING OR MASONRY ENCLOSURE. MASONRY ENCLOSURES SHALL BE CLAD IN THE SAME MATERIAL AS THE MAIN BUILDING.
- ALL ROOF-MOUNTED MECHANICAL UNITS AND/OR EQUIPMENT SHALL BE SCREENED FROM VIEW IN ACCORDANCE WITH SECTION 82-273 - ROOF MOUNTED UNITS AND/OR EQUIPMENT.
- DUMPSTER SCREENING WALL SHALL BE CLAD IN A MATERIAL TO MATCH THE MATERIALS ON THE MAIN BUILDING.
- DUMPSTER SCREENING WALL REQUIRES A SEPARATE BUILDING PERMIT.
- 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.
- FLAG POLES MUST COMPLY WITH THE REGULATIONS IN SECTION 86-4 - PROHIBITED SIGNS.
- MINIMUM 20% OF TYPE D (EAST) FACADE SHALL HAVE TRANSPARENT WINDOWS PROVIDING VIEW OF THE STREAM/OPEN SPACE AREA.

ADA NOTES

- CONTRACTOR TO ASSURE SITE ADA ACCESS AREAS AND ROUTES WITHIN:
- ASSURE THE RUNNING SLOPE AT THE WALKS ALONG THE ACCESSIBLE ROUTE HAVE A RUNNING SLOPE OF 1:20 OR 5% MAXIMUM (EXCEPT AT THE CURB RAMPS, WHICH CAN BE UP TO 1:12 OR 8.33%) AND A CROSS SLOPE OF 1:48 OR 2% MAXIMUM. THIS INCLUDES AT THE CROSSING OF DRIVE LANES (A COMMON ISSUE).
 - ASSURE THE MANEUVERING CLEARANCE AT THE EXTERIOR SIDE OF ALL ENTRY DOORS HAVE A SLOPE OF 1:48 OR 2% MAXIMUM IN ANY DIRECTION. ASSURE A 30" X48" CLEAR FLOOR SPACE IS PROVIDED ADJACENT TO THE EXTERIOR SITE ELEMENTS SUCH AS THE BENCHES, TRASH CANS AND BIKE RACKS AND HAVE A SLOPE OF 1:48 OR 2% MAXIMUM IN ANY DIRECTION.
 -

FLOODPLAIN NOTE

- PROJECT SITE IS WITHIN ZONE X (AREA OF MINIMAL FLOOD HAZARD) PER FEMA PANEL 48121C0680G DATED 4/18/2011

ENGINEER

FLANAGAN
5049 EDWARDS RANCH ROAD, SUITE 300
FORT WORTH, TEXAS 76109
TEL: 940-327-7963
EMAIL: REECE@FLANAGAN-LS.COM
CONTACT: REECE FLANAGAN

ARCHITECT

STUDIO 97W, LLC
901 S. MAIN STREET
FORT WORTH, TEXAS 76104
TEL: 817-882-6940
EMAIL: STEVENHALLIDAY@STUDIO97W.COM
CONTACT: STEVEN HALLIDAY

OWNER

CACHET SALONS & SPA
451 S. MAIN STREET, SUITE 100
FORT WORTH, TEXAS 76104
TEL: 408-362-1754
EMAIL: MATT@CACHETLSALONS.COM
CONTACT: MATT MUSE



Know what's below.
Call before you dig.

(@ least 48 hours prior to digging)

CACHET SALONS

LOT 3, BLOCK A
FLOWER MOUND, TEXAS

CONCEPT PLAN

Revision Description

No. Date

PROJECT NO.: 2021-05-29

THESE PLANS ARE ISSUED FOR THE PURPOSE OF PRELIMINARY REVIEW AND ARE NOT INTENDED FOR CONSTRUCTION. WHEN ISSUED IN FINAL FORM, THEY WILL BE SIGNED, SEALED, AND DATED BY:

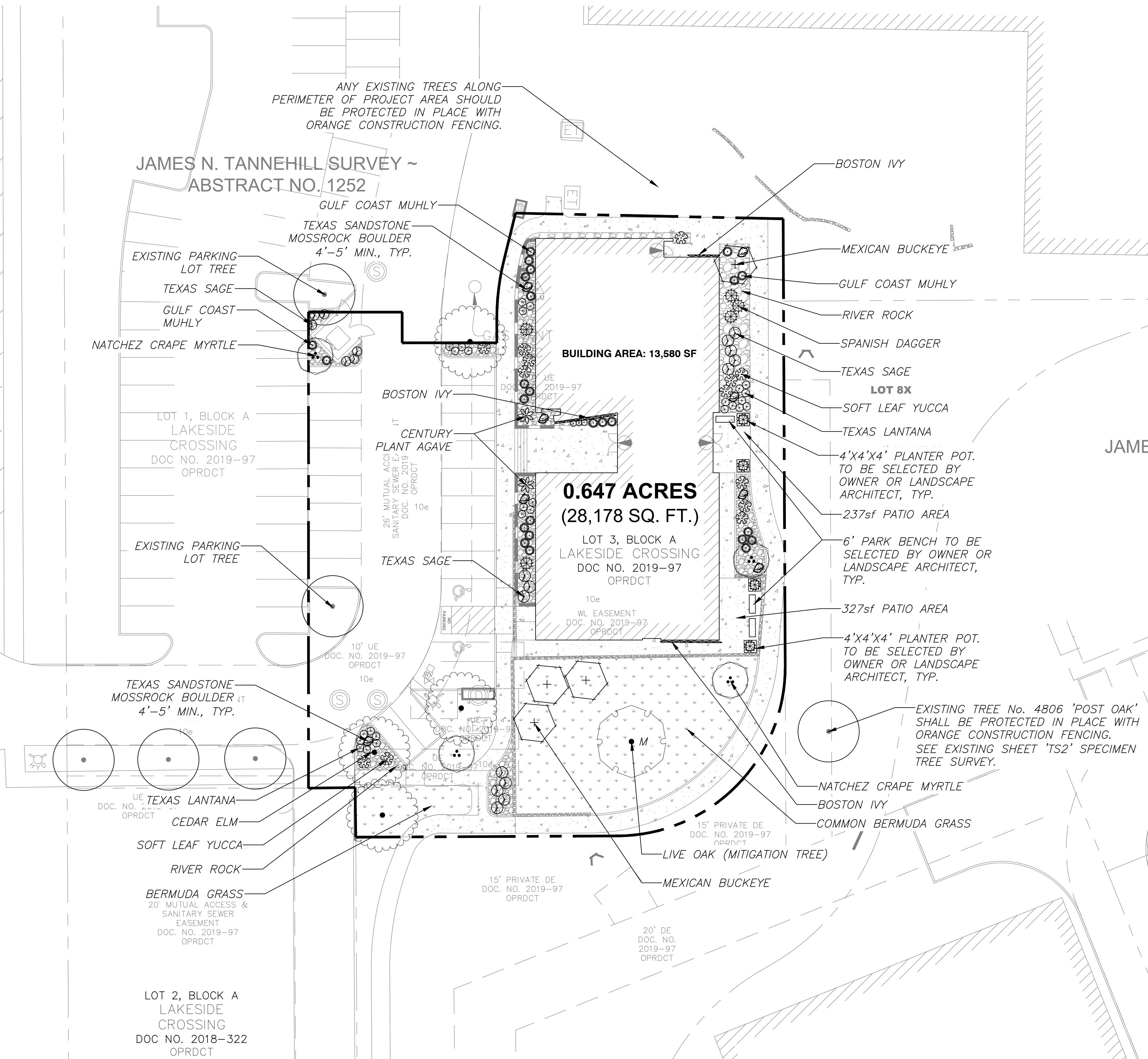
M. REECE FLANAGAN, P.E.
TEXAS REGISTRATION NO. 129781

SHEET NUMBER
C-3.0

T:\24-0112 - Cachet Lakeside Crossing - Flowermound\Design\LS 1.0 Landscape Plan.dwg Dec 03, 2024 - 9:42AM tempus

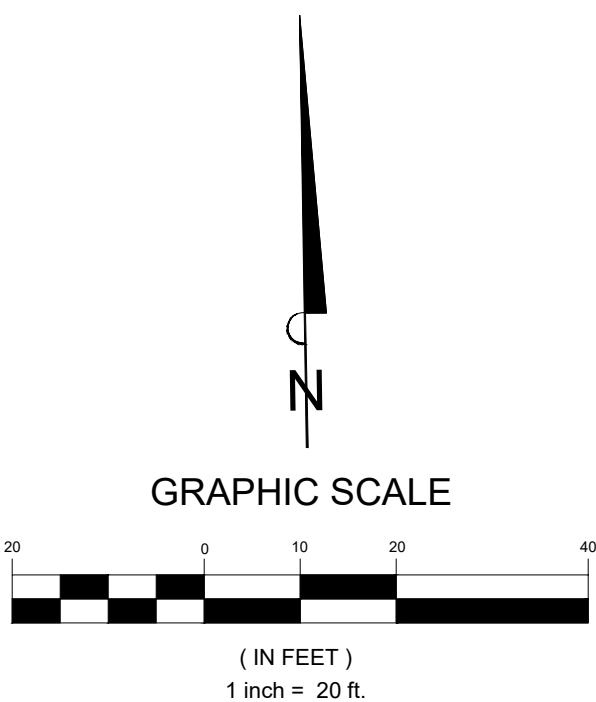
EXHIBIT "B" - CONCEPT LANDSCAPE PLAN

NORTHWOOD DRIVE
90' PUBLIC RIGHT-OF-WAY



PLANT SCHEDULE			
LARGE TREES	CODE	QTY	COMMON / BOTANICAL NAME
	ET	N/A	EXISTING TREES TO REMAIN - SEE EXISTING PD LANDSCAPE PLANS FOR REFERENCE
	LO	1	SOUTHERN LIVE OAK QUERCUS VIRGINIANA NURSERY GROWN
	CE	4	CEDAR ELM ULMUS CRASSIFOLIA NURSERY GROWN
ORNAMENTAL TREES	CODE		COMMON / BOTANICAL NAME
	NC	4	NATCHEZ CRAPE MYRTLE LAGERSTROEMIA INDICA 'NATCHEZ' MULTI-TRUNK
	NC	4	MEXICAN BUCKEYE UNGNADIA SPECIOSA MULTI-TRUNK
SHRUBS	CODE		COMMON / BOTANICAL NAME
	CPA	2	CENTURY PLANT (AGAVE) AGAVE AMERICANA
	YGV	9	SPANISH DAGGER YUCCA GLORIOSA 'VARIEGATA'
	SLY	13	SOFT LEAF YUCCA YUCCA RECURVIFOLIA
	GCM	25	GULF COAST MUHLY GRASS MUHLENBERGIA CAPILLARIS (LAM.) TRIN.
	TSD	19	TEXAS SAGE 'DESAPARADO' LEUCOPHYLLUM FRUTESCENS 'DESAPARADO'
	TL	30	TEXAS LANTANA (Pollinator Plant) LANTANA URTICOIDES (L. HORRIDA)
	BI	19	BOSTON IVY PARTHENOCISSUS TRICUSPIDATA (PLANT 24" O.C. AND USE TEMPORARY TRELLIS TO TRAIN ON WALL)
GROUND COVERS	CODE		COMMON / BOTANICAL NAME
	CB		COMMON BERMUDA GRASS CYNODON DACTYLON
	RR		4"-6" ARIZONA COBBLE LARGE - 4" DEPTH MINIMUM WHIZ-Q-STONE - 817.429.0822 OR APPROVED EQUAL

TOWN OF FLOWER MOUND ZONING ORDINANCE COMPLIANCE, PD 153-A 25-17 (LOT 3)			
PROPOSED USE	DATA OR REQUIREMENT	REQUIRED	PROVIDED
PROPOSED USE	COMMERCIAL		
CURRENT ZONING	PD 153-A 25-17		
GROSS SITE AREA	28,178 SQ. FT. (0.64 ACRES)		
ENHANCED LANDSCAPE	ENHANCED LANDSCAPE BEDS PER EXHIBIT 'D'	FRONT LANDSCAPE BEDS	YES
PARKING LOTS TREES	TREES REQUIRED IN ISLANDS PER EXHIBIT 'D'	PARKING LOT ISLAND TREES - EACH PARKING STALL SHALL BE WITHIN 50' OF TREE	YES
PARKING LOT TREES	1 TREE PER 10 SPACES	21 PARKING SPACES/10 = 2 PARKING LOT TREES	4 + 1 EXISTING
PARKING LOT LANDSCAPE	80SF OF LANDSCAPE PER 12 SPACES	21 SPACES/12x90 = 158SF	339SF OF PARKING LOT LANDSCAPE
CANOPY TREES	CANOPY TREES REQUIRED PER EXHIBIT 'D'	2 CANOPY TREES	YES
ORNAMENTAL TREES	ORNAMENTAL TREES REQUIRED PER EXHIBIT 'D'	5 ORNAMENTAL TREES	YES



Know what's below.
Call before you dig.
(@ least 48 hours prior to digging)

CONCEPT LANDSCAPE PLAN

CACHET SALONS
520 NORTHWOOD DRIVE
FLOWER MOUND, TEXAS 75022



TEMPUS LAND SOLUTIONS, LLC
DFW AND GREATER TEXAS
817.223.8489
michael@tempus-lls.com

SHEET NO.
LS - 1.1

EXHIBIT "C" - CONCEPT ELEVATIONS

NOTES:

1. FACADE TYPE D (EAST FACADE) SHALL HAVE MINIMUM 20% TRANSPARENT WINDOWS.
2. SIGNS REQUIRE A SEPERATE 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 REGULATION.
3. ANY EXTERNAL ELECTRICAL PANELS WILL BE PAINTED/TEXTURED TO MATCH THE MATERIAL AND COLOR OF THE BUILDING.

4

1/8" = 1'-0"

EXTERIOR ELEVATION - WEST FACADE

+33'-0"
T.O. PARAPET
 +28'-0"
T.O. ROOF
 +27'-0"
T.O. ROOF
 +23'-0"
HEAD HEIGHT
 +16'-0"
ALL HEIGHT
 +13'-0"
LEVEL 2 F.F.
 +10'-0"
HEAD HEIGHT
 +0'-0"
ALL HEIGHT
 0'-0"
FINISHED FLOOR
 -0.5 5/8' F.F.
GRADE

-	6	KEYED ELEVATION TAGS & MATERIAL CALCULATION	5
N.T.S.		N.T.S.	

The image displays two architectural elevation drawings of a building named "CACHET".

Left Elevation (Front View): This drawing shows the front facade of the building. It features a central entrance with a glass door and a sign above it that reads "CACHET". The entrance is flanked by large glass windows. To the left of the entrance, there are five vertical window units, each consisting of a glass pane at the top, a horizontal wooden slat section in the middle, and a glass pane at the bottom. To the right of the entrance, there are four vertical window units, each consisting of a glass pane at the top, a horizontal wooden slat section in the middle, and a glass pane at the bottom. The building has a flat roof and a base with a stone wall and landscaping. Height markers on the left indicate: ~33'-6" T.O. PARAPET, ~28'-6" T.O. ROOF, ~27'-0" T.O. ROOF, ~23'-0" HEAD HEIGHT, ~18'-2" SILL HEIGHT, ~15'-0" LEVEL 2 F.F., ~10'-0" HEAD HEIGHT, ~3'-0" SILL HEIGHT, ~0'-8" SILL HEIGHT, ~0'-0" FINISHED FLOOR.

Right Elevation (Side View): This drawing shows the side facade of the building. It features a large glass window unit with a horizontal wooden slat section in the middle. The building has a flat roof and a base with a stone wall and landscaping. Height markers on the right indicate: ~33'-6" T.O. PARAPET, ~28'-6" T.O. ROOF, ~27'-0" T.O. ROOF, ~23'-0" HEAD HEIGHT, ~18'-2" SILL HEIGHT, ~15'-0" LEVEL 2 F.F., ~10'-0" HEAD HEIGHT, ~3'-0" SILL HEIGHT, ~0'-0" FINISHED FLOOR, ~0'-5'-5/8" B.F.F. GRADE.

EXTERIOR ELEVATION - WEST FACADE 1/8" = 1'-0" 4	EXTERIOR ELEVATION - SOUTH FACADE 1/8" = 1'-0" 3
+33'-6" T.O. PARAPET +28'-6" T.O. ROOF +27'-0" T.O. ROOF +23'-0" HEAD HEIGHT +16'-2" SILL HEIGHT +15'-0" LEVEL 2 F.F. +10'-0" HEAD HEIGHT +0'-0" SILL HEIGHT 0'-0" FINISHED FLOOR 0'-5 5/8" S.F.F. GRADE	+33'-6" T.O. PARAPET +28'-6" T.O. ROOF +27'-0" T.O. ROOF +23'-0" HEAD HEIGHT +16'-2" SILL HEIGHT +15'-0" LEVEL 2 F.F. +10'-0" HEAD HEIGHT +0'-0" SILL HEIGHT 0'-0" FINISHED FLOOR
EXTERIOR ELEVATION - EAST FACADE 1/8" = 1'-0" 2	EXTERIOR ELEVATION - NORTH FACADE 1/8" = 1'-0" 1



901 SOUTH MAIN STREET
FORT WORTH, TX 76104
e:info@studio97w.com

PROJECT NO.	23115
SCALE	VARIES
SHEET TITLE	CONCEPTUAL COLOR EXTERIOR ELEVATIONS
SHEET NUMBER	A2.02

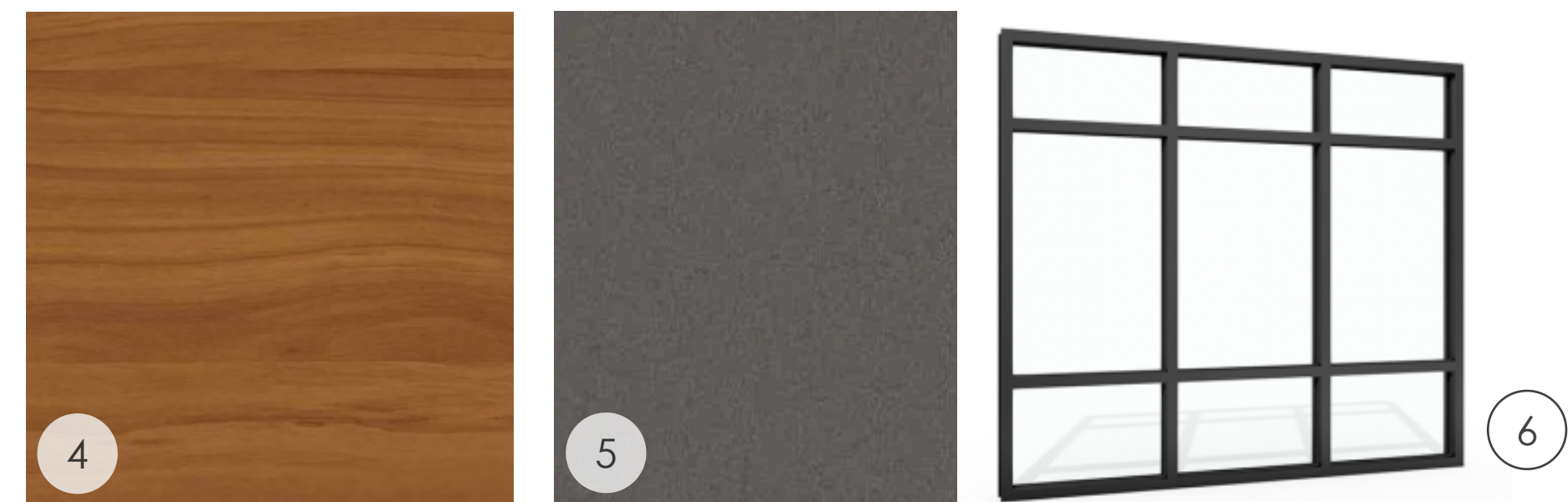
Page 387 of 407

NOTES:

1. FACADE TYPE D (EAST FACADE) SHALL HAVE MINIMUM 20% TRANSPARENT WINDOWS.
2. 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 REGULATION.
3. ANY EXTERNAL ELECTRICAL PANELS WILL BE PAINTED/TEXTURED TO MATCH THE MATERIAL AND COLOR OF THE BUILDING.

KEYED NOTES:

- *Brick - In the event Old Texas Brick in Silver Port or Purple Oak are discontinued, a similar brick colorway to complement what was originally approved may be utilized.



901 SOUTH MAIN STREET
FORT WORTH, TX 76104
e:info@studio97w.com

CACHET SALONS + SPA
AT LAKESIDE
LOT 3, BLOCK A
TOWN OF FLOWER MOUND
DENTON COUNTY, TEXAS

"THESE DOCUMENTS ARE INCOMPLETE
AND FOR INTERIM REVIEW ONLY.
THEY ARE NOT TO BE USED FOR
REGULATORY APPROVAL, PERMIT OR
CONSTRUCTION" ARCHITECT NAME:
JASON EGGENBURGER REG. No.
23759

Lakeside Crossing Parking Study

EXHIBIT "D" - MIXED USE TIME BASED SHARED PARKING TABLE

Proposed Required Parking

Table 5

BLDG	USE	TENANT	Weekdays																					
			12 AM	1 AM	2 AM	3 AM	4 AM	5 AM	6 AM	7 AM	8 AM	9 AM	10 AM	11 AM	12 PM	1 PM	2 PM	3 PM	4 PM	5 PM	6 PM	7 PM	8 PM	9 PM
1	Hotel	Residence Inn	108	108	108	108	108	97	97	97	97	86	80	72	70	66	64	63	66	65	67	70	76	81
2	Coffee Shop	Marty B's Coffee Co.	0	0	0	0	0	1	9	15	21	21	21	21	20	18	15	14	15	11	10	9	5	3
3	Salon Suites	Cachet Salons	0	0	0	0	0	1	1	2	9	35	54	49	48	46	41	42	43	37	22	7	1	0
4 & 5	Mixed Use	Mixed Use	57	57	57	57	57	57	152	152	152	152	152	152	152	152	152	152	152	152	197	197	197	197
Total Required:			165	165	165	165	165	156	259	266	279	294	307	294	290	282	272	271	276	265	296	283	279	281
Total Provided:			322	322	322	322	322	322	322	322	322	322	322	322	322	322	322	322	322	322	322	322	322	322
Surplus / (Deficiency):			157	157	157	157	157	166	63	56	43	28	15	28	32	40	50	51	46	57	26	39	43	41

Table 5 illustrates the Site's parking capabilities relative to weekday parking demand after integrating ITE Data and Client Data.

Table 6

BLDG	USE	TENANT	Weekends																					
			12 AM	1 AM	2 AM	3 AM	4 AM	5 AM	6 AM	7 AM	8 AM	9 AM	10 AM	11 AM	12 PM	1 PM	2 PM	3 PM	4 PM	5 PM	6 PM	7 PM	8 PM	9 PM
1	Hotel	Residence Inn	108	108	108	108	108	97	86	87	86	85	76	70	66	62	52	54	59	64	71	82	82	84
2	Coffee Shop	Marty B's Coffee Co.	0	0	0	0	0	1	8	13	21	21	21	21	21	19	15	15	16	12	9	8	5	3
3	Salon Suites	Cachet Salons	0	0	0	0	0	0	1	2	4	14	17	14	13	11	9	6	4	2	1	0	0	0
4 & 5	Mixed Use	Mixed Use	57	57	57	57	57	57	200	200	200	200	200	200	200	200	200	200	200	200	189	189	189	189
Total Required:			165	165	165	165	165	155	295	302	311	320	314	305	300	292	276	275	279	278	270	279	276	276
Total Provided:			322	322	322	322	322	322	322	322	322	322	322	322	322	322	322	322	322	322	322	322	322	322
Surplus / (Deficiency):			157	157	157	157	157	167	27	20	11	2	8	17	22	30	46	47	43	44	52	43	46	46

Table 6 illustrates the Site's parking capabilities relative to weekend parking demand after integrating ITE Data and Client Data.



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

DATE: December 16, 2024

FROM: Poornima Kashyap, Planning Manager

ITEM: **Public Hearing to consider an ordinance for rezoning (ZPD24-0004 – Marty B's at Lakeside Crossing, Lot 2) to amend Planned Development No. 153 (PD-153) with Campus Commercial uses for both residential and non-residential uses to include new concept plans and elevations for Lot 2, Block A, Lakeside Crossing, to modify development standards, and to request certain exceptions, modifications, and waivers to the Code of Ordinances. The property is generally located south of Lakeside Parkway along and between Long Prairie Road and Northwood Drive. (PZ recommended approval by a vote of 5 to 1 at its December 9, 2024, meeting.)**

BACKGROUND:

- Size – 0.838 acres
- Existing Zoning – Planned Development District-153 (PD-153) for Campus Commercial uses for both residential and non-residential uses
- Proposed Amendments specific to Lot 2, Block A, Lakeside Crossing Addition are:
 1. To allow a Coffee Shop with a drive thru to be permitted by right and to provide a definition for a Coffee Shop
 2. To reduce the width of the landscape buffer from 25 feet to 15 feet for a portion of the lot frontage on Long Prairie Road
 3. To modify certain existing architectural standards for non-residential buildings specific to the proposed building
 4. To propose alternate parking ratio and mixed-use, time-based shared parking percentages for a Coffee Shop
 5. To request a Comprehensive Sign Package to allow two (2) wall murals measuring 300 square-feet each to be painted on the north and south facades of the proposed Coffee Shop
 6. To allow up to 60 percent doors and windows on the east façade for the proposed building
 7. To provide updated conceptual plans and elevations for the proposed Coffee Shop
 8. To modify development standards to include a requirement for the installation of two off-site stop signs at the northern entrance to this development from Long Prairie Road. This requirement was included in response to traffic concerns raised by Lakeside Crossing townhome residents.
- SMARTGrowth – Passed/Previously completed
- Traffic Analysis – Passed with the previous zoning amendment application. A stacking and queuing analysis for a Coffee Shop shall be required at the time of site plan application. It is anticipated that approximately 90 percent of all trips to a coffee establishment will be pass by trips, meaning that those trips are already accounted for on Long Prairie Road. The additional trips beyond pass by trips will not exceed the SMARTGrowth threshold for public infrastructure.

- Incentives – None requested
- [Planning and Zoning Commission Staff Report Link](#)

BOARD REVIEW/CITIZEN FEEDBACK: The Planning & Zoning Commission recommended approval with the condition that a definition for a ‘coffee shop’ be included in the ordinance by a vote of 5 to 1 at its December 9, 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.

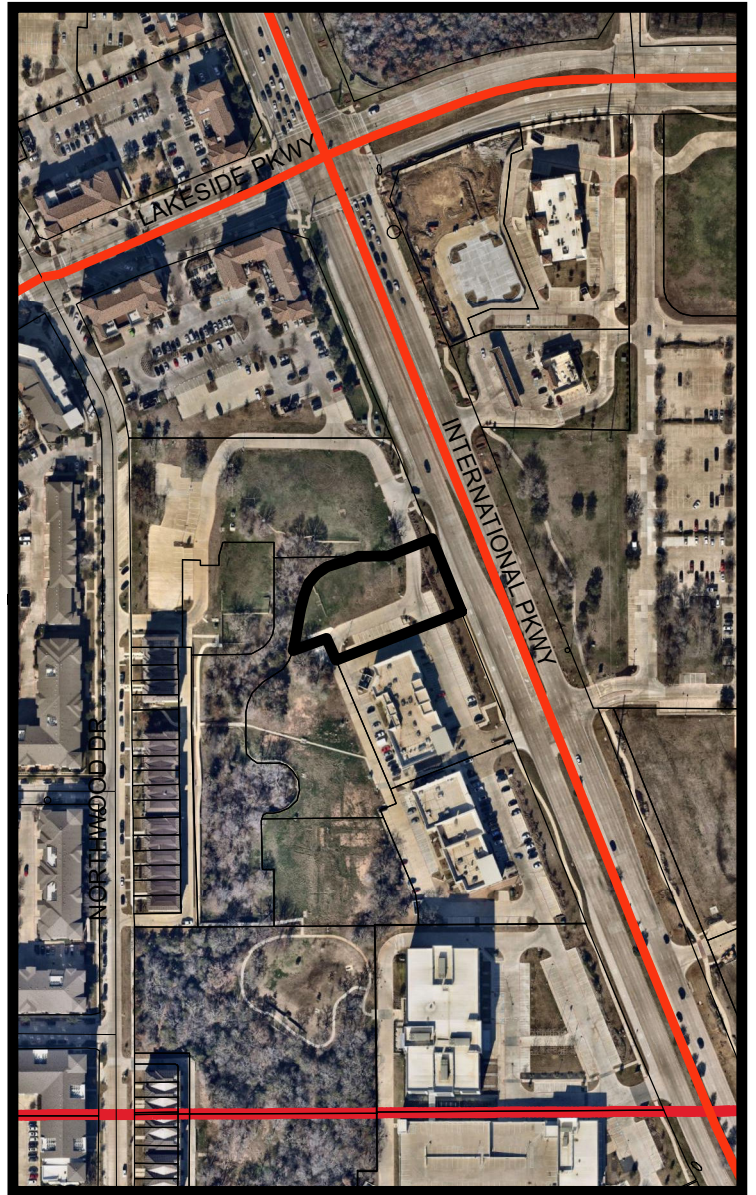
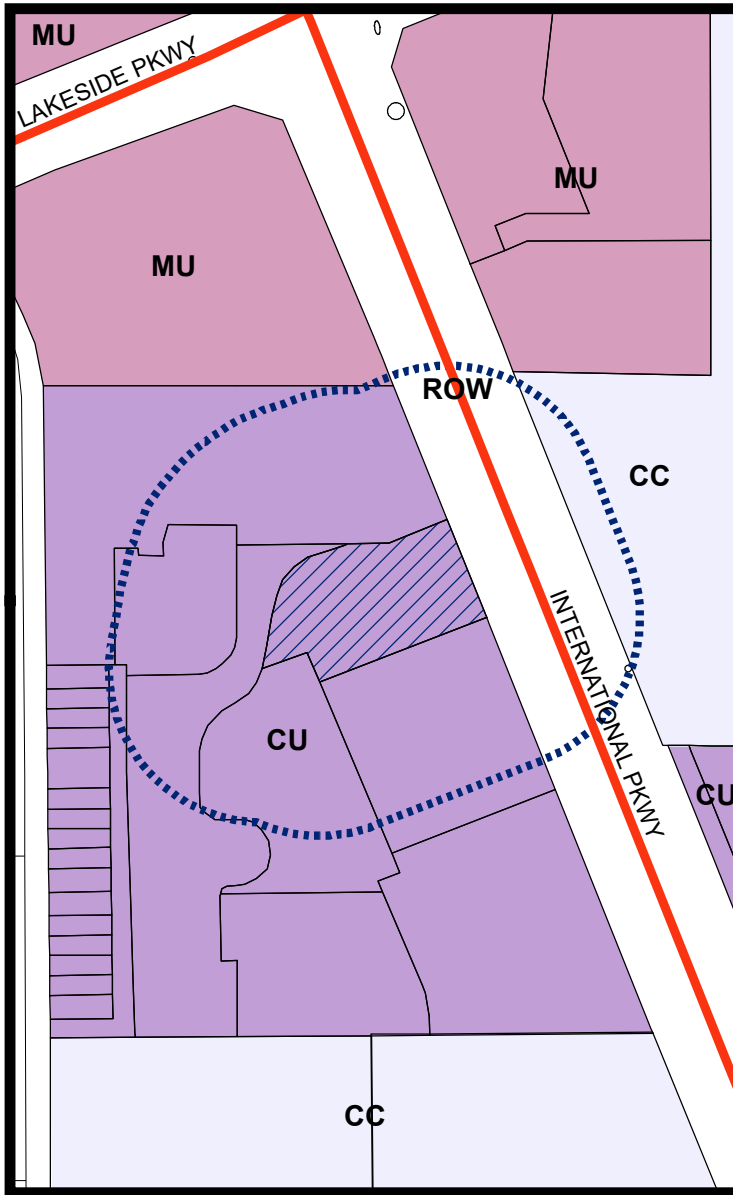
ATTACHMENTS:

1. Zoning & Aerial Map
2. DRAFT Ordinance
3. DRAFT Exhibits

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

Vicinity Map

ZPD24-0004: Lakeside Crossing Marty B's



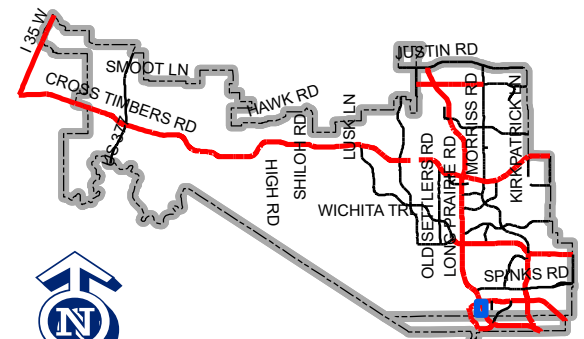
LEGEND

Campus Commercial
 *Combined Uses-See Ordinance
 Mixed Use

Subject Property
 200 ft Notification Buffer around Property

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.



Map Location



TOWN OF FLOWER MOUND, TEXAS
ORDINANCE NO. _____

AN ORDINANCE OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING ORDINANCE NO. 25-17, AS AMENDED BY ORDINANCE NOS. 03-18, 22-21, AND 41-23, WHICH ESTABLISHED AND LATER AMENDED PLANNED DEVELOPMENT DISTRICT NO. 153 (PD-153) ON CERTAIN PROPERTY DESCRIBED AS APPROXIMATELY 10.91 ACRES OF LAND AND BEING ALL OF LOTS 1, 2, 3, 4, 5, 6, 7, AND 8X, BLOCK A, LAKESIDE CROSSING ADDITION, BY MODIFYING DEVELOPMENT STANDARDS, AMENDING THE CONCEPT PLANS AND ELEVATIONS FOR BUILDING NO. 2, AND INCLUDING COMPREHENSIVE SIGN PACKAGE FOR BUILDING NO. 2 OF LAKESIDE CROSSING; PROVIDING THIS ORDINANCE SHALL BE CUMULATIVE OF ORDINANCE NO. 25-17, AS AMENDED; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY CLAUSE; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

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

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

WHEREAS, in accordance with Chapter 78 of the Land Development Regulations, the owner of the property described as approximately 0.838 acres of land and being all of Lot 2, Block A, Lakeside Crossing Addition, Denton County, Texas (the "Property"), applied for a Zoning Planned Development amendment to amend Ordinance No. 25-17, as amended by Ordinance Nos. 03-18, 22-21, and 41-23, for Planned Development District No. 153 (PD-153), seeking to modify development standards including but not limited to establishing alternative parking standards, proposing a Comprehensive Sign Package, and updating conceptual plans and elevations for Building 2 to be located on Lot 2, Block A of the Lakeside Crossing Addition; and,

WHEREAS, the Planning and Zoning Commission of the Town held a public hearing on December 9, 2024, and the Town Council held a public hearing on December 16, 2024, with respect to the proposed Zoning Planned Development amendment as described herein; and,

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

WHEREAS, the Town Council finds that amendment of Ordinance No. 25-17, as amended by Ordinance Nos. 03-18, 22-21, and 41-23, for Planned Development District No. 153 (PD-153) as outlined herein is in the best interest of the Town and will promote the health, safety, and general welfare of the citizens of the Town and the general public;

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

SECTION 1

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

0.838 acres of land and being all of Lot 2, Block A, Lakeside Crossing Addition, Denton County, Texas.

- A. Exhibit B, "Development Standards," for Planned Development District No. 153 (PD-153), as amended, is hereby amended by adding a new subsection 8 to Paragraph I.A., "PERMITTED USES," to read as follows:

8. "For Lot 2, Block A only, a drive through coffee shop as defined below shall be permitted without the approval of a Specific Use Permit (SUP) by the Town Council.

"Coffee Shops are retail food and beverage establishments that focus on selling coffee and / or coffee-related products, among other goods and services, to consumers by way of drive-through and / or walk-in operations".

- B. Exhibit B, "Development Standards," for Planned Development District No. 153 (PD-153), as amended, is hereby amended by adding a new subsection 6 to Paragraph I.E., "LANDSCAPE, HARDSCAPE AND SCREENING," to read as follows:

6. "Lot 2, Block A, Lakeside Crossing Addition may reduce the minimum landscape buffer to fifteen feet (15') to accommodate two (2) accessible parking space as identified on Exhibit "A" Concept Plan."

- C. Exhibit B, "Development Standards," for Planned Development District No. 153 (PD-153), as amended, is hereby amended by adding new subsections 9 and 10 to Paragraph I.H., "NON-RESIDENTIAL ARCHITECTURAL STANDARDS," to read as follows:

9. "The building on Lot 2, Block A shall be exempt from the following requirements:

- a. Paragraph I.H.6.d
 - b. Paragraph I.H.8.a
10. The building on Lot 2, Block A shall comply with the following requirements:
- a. The façade fronting the stream shall comply with the Type C – Rear Façade requirements in Paragraph I.H.6.c.
 - b. Principal roofs shall have a maximum pitch of 12:12.
 - c. Shed-style roofs shall have a maximum pitch of 3:12.”
- D. Exhibit B, “Development Standards,” for Planned Development District No. 153 (PD-153), as amended, is hereby amended by replacing mixed use parking table under III. A.2 and adding new subsections 6 and 7 to Paragraph III.A., “PARKING,” to read as follows:

“

Use	Weekdays		Weekends		Everyday
	Daytime	Evening	Daytime	Evening	Night
	6AM - 6PM	6PM - 12AM	6AM - 6PM	6PM - 12AM	12AM - 6AM
Hotel*	90%	100%	81%	100%	100%
Drive-Through Coffee Shop*	100%	34%	100%	34%	30%
Salon Suites*	100%	41%	31%	2%	0%
General or Professional Office	100%	10%	10%	5%	5%
Medical or Dental Office	100%	10%	10%	5%	5%
Retail	50%	90%	100%	70%	5%
Restaurant	50%	100%	100%	100%	10%

See Exhibit F for more detailed time-of-day percentages.

Hotel percentage is not approved as a part of this ordinance and is for informational purposes only.

- 6. A stacking and queuing analysis for a fast food restaurant on Lot 2, Block A, illustrating sufficient vehicular stacking in the drive through lanes shall be submitted at the time of site plan application.
- 7. Lot 2, Block A, may utilize the parking standard calculations described in the Lakeside Crossing Parking Study Results (Exhibit “D”) if Lots 1, 2, and 3, Block A, are to be developed as contemplated in the parking study (i.e., Lot 1, Block A, is proposed as a Hotel; Lot 2, Block A, is proposed as a Drive-Through Coffee Shop; and Lot 3, Block A, is proposed as a Salon Suites use). The proposed parking ratios included in Exhibit D are as follows:

- a. Drive-Through Coffee Shop
 - i. $\text{Parking Supply} = 0.0103 \text{ parking spaces per square foot} * \text{square footage}$
 - ii. $\text{Peak Parking Demand} = \text{Parking Supply} * 50\%$
 - iii. $\text{Parking Ratio} = 1 \text{ space per } 198 \text{ square feet}$
- E. Exhibit B, "Development Standards," for Planned Development District No. 153 (PD-153), as amended, is hereby amended by amending subsection 6 and adding a new subsection 7 to Paragraph III.D., "SIGNAGE," to read as follows:
 - 6. "All other signs for the hotel, drive through coffee shop and other buildings within Lakeside Crossing shall meet the Town's Sign Ordinance, unless a Comprehensive Sign Package is requested in the future for any sign not described above.
 - 7. The proposed building signs on the drive through coffee shop at Lot 2, Block A, shall be permitted as shown Conceptual Elevations, Exhibit "C", specifically, for the proposed drive through coffee shop, and shall be subject to the following:
 - a. This section III.D.7. shall apply to the attached building sign and exterior wall murals on the drive through coffee shop for Lot 2, Block A only.
 - b. The drive through coffee shop signage shall consist of an attached building sign on the front façade and one wall mural on each side façade.
 - c. The wall murals shall comply with the following requirements:
 - i. Max Height: 20 feet
 - ii. Max Width: 25 feet
 - iii. Murals shall be hand-painted or issue the appearance of being hand-painted.
 - d. The text included within signs in Exhibit "C" is conceptual and may change provided it is consistent with the design of the sign."
- F. Exhibit B, "Development Standards," for Planned Development District No. 153 (PD-153), as amended, is hereby amended by replacing Paragraph III.F.2, "Intermediate Phase," to read as follows:
 - 2. "Intermediate Phase: A Certificate of Occupancy (CO) shall not be issued to the third building fully constructed within this development until all the improvements listed below are complete.
 - a. Installation of improvements within Lot 8x, Block A, as indicated on Exhibit E, "Concept Lighting Plan," for Lot 8x.
 - b. Installation of two traffic stop signs located at the northernmost driveway from FM 2499, positioned to stop vehicles travelling North and South on the interior driveway and to give vehicles exiting FM 2499 the right of way when entering the development."

- G. Exhibit B, "Development Standards," for Planned Development District No. 153 (PD-153), as amended, is hereby amended by replacing Paragraph III.G.2, "EXCEPTIONS," to read as follows:
2. "Façade Materials – Urban Design Plan, Section 4.1.
 - a. Type D facades may have up to 60% doors and windows.
 - b. Lot 2, Block A may utilize up to 60% doors and windows on the East façade (Type A / Front Façade)."
- H. Exhibit C, "Concept Plan," for Planned Development District No. 153 (PD-153), as amended, is hereby amended by adding a Concept Plan for only Lot 2, Block A, Lakeside Crossing Addition attached hereto as Exhibit "A" and incorporated herein, the prior Concept Plan shall remain in effect for all other purposes.
- I. Exhibit D, "Concept Landscape Plan," for Planned Development District No. 153 (PD-153), as amended, is hereby amended by adding a Concept Landscape Plan for only Lot 2, Block A, Lakeside Crossing Addition attached hereto as Exhibit "B" and incorporated herein, the prior Concept Landscape Plan shall remain in effect for all other purposes.
- J. Exhibit F, "Architectural Imagery Package," for Planned Development District No. 153 (PD-153), as amended, is hereby amended by replacing the conceptual elevations for only Building No. 2 of the Lakeside Crossing development with the new conceptual elevations attached hereto as Exhibit "C" and incorporated herein, the prior Architectural Imagery Package shall remain in effect for all other purposes.
- K. Exhibit D, "Mixed Use Time Based Shared Parking Table," for Planned Development District No. 153 (PD-153), as amended, is hereby incorporated as Exhibit "D."

SECTION 2

The use of the Property described above shall be subject to all restrictions, terms, and conditions contained herein, as well as the applicable regulations contained in Ordinance No. 25-17, as amended by Ordinance Nos. 03-18, 22-21, and 41-23 for Planned Development District No. 153 (PD-153), the Land Development Regulations, and all other applicable and pertinent ordinances of the Town.

SECTION 3

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

code, in which event the conflicting provisions of such ordinances and such code are hereby repealed.

SECTION 4

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

SECTION 5

Any person, firm, or corporation who violates any provision of this Ordinance as adopted by the Town Council shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine as provided in Section 1-13 of the Code of Ordinances, Town of Flower Mound, Texas. Each day any such violation or violations exist shall constitute a separate offense and shall be punishable as such.

SECTION 6

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

SECTION 7

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

SECTION 8

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

DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, BY A VOTE OF ____ TO ____, ON THIS THE 16TH DAY OF DECEMBER, 2024.

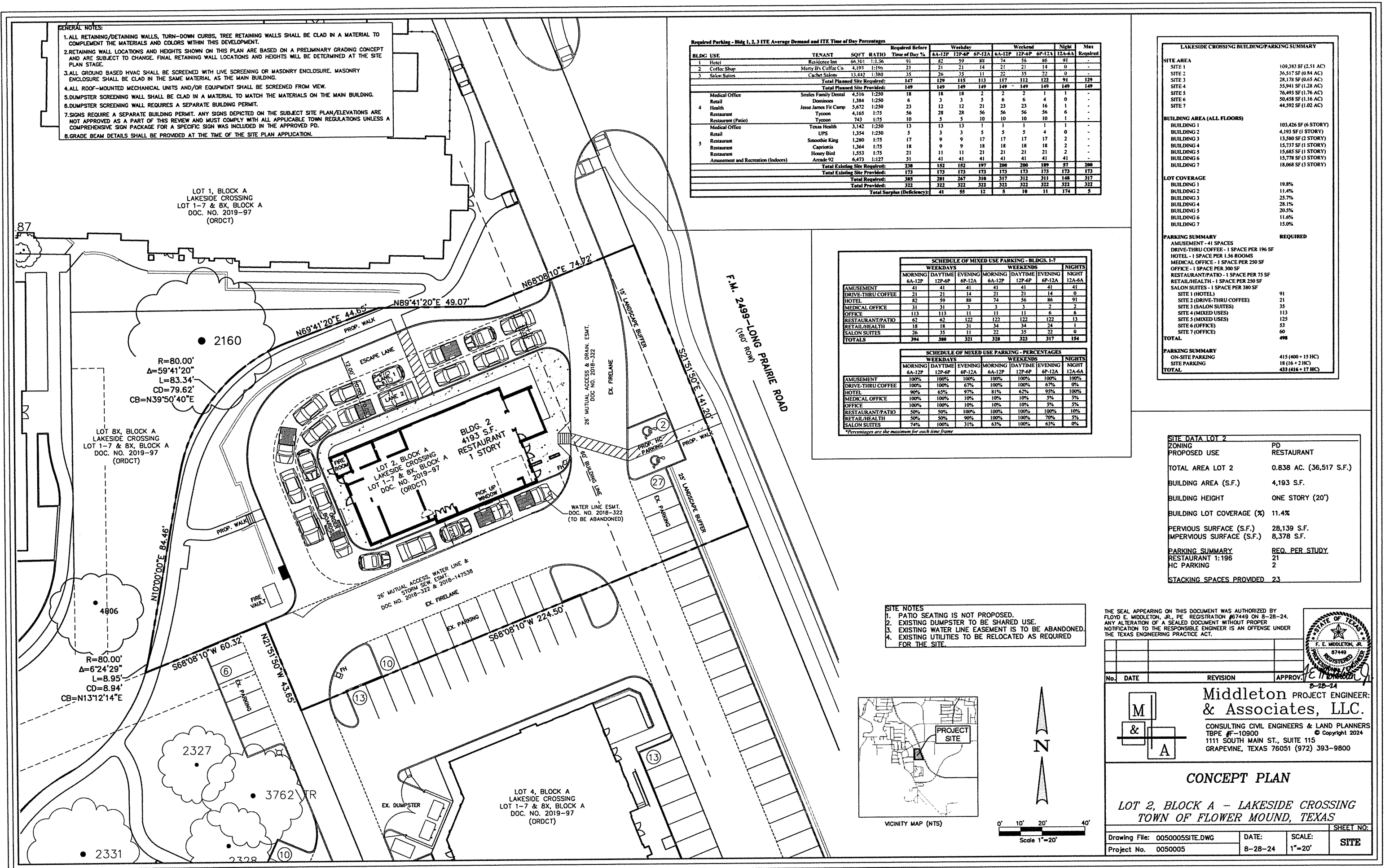
APPROVED:

Cheryl Moore, MAYOR

ATTEST:

Theresa Scott, TOWN SECRETARY

EXHIBIT "A" - CONCEPT PLAN



- GENERAL NOTES:
1. 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.
 2. RETAINING WALL LOCATIONS AND HEIGHTS SHOWN ON THIS PLAN ARE BASED ON A PRELIMINARY GRADING CONCEPT AND ARE SUBJECT TO CHANGE. FINAL RETAINING WALL LOCATIONS AND HEIGHTS WILL BE DETERMINED AT THE SITE PLAN STAGE.
 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 BUILDING 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 UNLESS A COMPREHENSIVE SIGN PACKAGE FOR A SPECIFIC SIGN WAS INCLUDED IN THE APPROVED PD.
 8. GRADE BEAM DETAILS SHALL BE PROVIDED AT THE TIME OF THE SITE PLAN APPLICATION.

Required Parking - Bldg 1, 2, 3 ITE Average Demand and ITE Time of Day Percentages					Required Before										Night	Max
BLDG	USE	TENANT	SQFT	RATIO	Time of Day %	Weekday			Weekend			12A-6A	Required			
						6A-12P	12P-6P	6P-12A	6A-12P	12P-6P	6P-12A					
1	Hotel	Residence Inn	66,301	1:1.56	91	82	59	83	74	56	86	91	-			
2	Coffee Shop	Marty B's Coffee Co.	4,193	1:196	21	21	14	21	21	14	0	0	-			
3	Salon Suites	Cachet Salons	13,442	1:380	35	26	35	11	22	35	22	0	-			
Total Planned Site Required:					147	129	115	113	117	112	122	91	129			
Total Planned Site Provided:					149	149	149	149	149	149	149	149	149			
4	Medical Office	Smiles Family Dental	4,516	1:250	18	18	18	2	2	2	1	1	-			
	Retail	Dominos	1,384	1:250	6	3	3	5	6	6	4	0	-			
	Health	Jesse James Fit Camp	5,672	1:250	23	12	12	21	23	23	16	1	-			
	Restaurant	Tycoon	4,165	1:75	56	28	28	56	56	56	56	6	-			
	Restaurant (Patio)	Tycoon	743	1:75	10	5	5	10	10	10	10	1	-			
5	Medical Office	Texas Health	3,142	1:250	13	13	13	1	1	1	1	1	-			
	Retail	UPS	1,354	1:250	5	3	3	5	5	5	4	0	-			
	Restaurant	Smoothie King	1,280	1:75	17	9	9	17	17	17	17	2	-			
	Restaurant	Capriccio	1,364	1:75	18	9	9	18	18	18	18	2	-			
	Restaurant	Honey Bird	1,553	1:75	21	11	11	21	21	21	21	2	-			
	Amusement and Recreation (Indoors)	Arcade 92	6,473	1:127	51	41	41	41	41	41	41	41	-			
	Total Existing Site Required:					238	152	152	197	200	200	189	57	200		
Total Existing Site Provided:					173	173	173	173	173	173	173	173	-			
Total Required:					385	291	287	310	317	312	311	148	317			
Total Provided:					322	322	322	322	322	322	322	322	-			
Total Surplus (Deficiency):					41	85	12	5	10	11	174	5	-			

SCHEDULE OF MIXED USE PARKING - BLDGS. 1-7

	WEEKDAYS				WEEKENDS				NIGHTS
	MORNING 6A-12P	DAYTIME 12P-6P	EVENING 6P-12A	NIGHTS 12A-6A	MORNING 6A-12P	DAYTIME 12P-6P	EVENING 6P-12A	NIGHTS 12A-6A	
AMUSEMENT	41	41	41	41	41	41	41	41	41
DRIVE-THRU COFFEE	21	21	14	21	21	21	14	0	0
HOTEL	82	59	88	74	56	86	91	91	91
MEDICAL OFFICE	31	31	3	3	3	3	2	2	2
OFFICE	113	113	11	11	11	11	6	6	6
RESTAURANT/PATIO	62	62	122	122	122	122	122	13	13
RETAIL/HEALTH	18	18	31	34	34	34	24	1	1
SALON SUITES	26	35	11	22	35	22	0	0	0
TOTALS	394	380	321	328	323	323	317	154	154

SCHEDULE OF MIXED USE PARKING - PERCENTAGES

	WEEKDAYS				WEEKENDS				NIGHTS
	MORNING 6A-12P	DAYTIME 12P-6P	EVENING 6P-12A	NIGHTS 12A-6A	MORNING 6A-12P	DAYTIME 12P-6P	EVENING 6P-12A	NIGHTS 12A-6A	
AMUSEMENT	100%	100%	100%	100%	100%	100%	100%	100%	100%
DRIVE-THRU COFFEE	100%	100%	100%	100%	100%	100%	67%	0%	0%
HOTEL	90%	65%	97%	81%	62%	93%	100%	100%	100%
MEDICAL OFFICE	100%	100%	10%	10%	10%	10%	5%	5%	5%
OFFICE	100%	100%	10%	10%	10%	10%	5%	5%	5%
RESTAURANT/PATIO	50%	50%	100%	100%	100%	100%	100%	100%	100%
RETAIL/HEALTH	50%	50%	90%	100%	100%	100%	70%	5%	5%
SALON SUITES	74%	100%	31%	63%	100%	63%	0%	0%	0%

*Percentages are the maximum for each time frame

LAKESIDE CROSSING BUILDING/PARKING SUMMARY

SITE AREA		109,383 SF (2.51 AC)
SITE 1		36,517 SF (0.84 AC)
SITE 2		28,178 SF (0.65 AC)
SITE 3		55,941 SF (1.28 AC)
SITE 4		76,493 SF (1.76 AC)
SITE 5		50,458 SF (1.16 AC)
SITE 6		44,592 SF (1.02 AC)
SITE 7		
BUILDING AREA (ALL FLOORS)		
BUILDING 1		103,426 SF (6 STORY)
BUILDING 2		4,193 SF (1 STORY)
BUILDING 3		13,580 SF (2 STORY)
BUILDING 4		15,737 SF (1 STORY)
BUILDING 5		15,685 SF (1 STORY)
BUILDING 6		15,778 SF (3 STORY)
BUILDING 7		18,068 SF (3 STORY)
LOT COVERAGE		
BUILDING 1		19.8%
BUILDING 2		11.4%
BUILDING 3		25.7%
BUILDING 4		28.1%
BUILDING 5		20.5%
BUILDING 6		11.6%
BUILDING 7		15.0%
PARKING SUMMARY		
AMUSEMENT - 41 SPACES		
DRIVE-THRU COFFEE - 1 SPACE PER 196 SF		
HOTEL - 1 SPACE PER 156 ROOMS		
MEDICAL OFFICE - 1 SPACE PER 250 SF		
OFFICE - 1 SPACE PER 300 SF		
RESTAURANT/PATIO - 1 SPACE PER 75 SF		
RETAIL/HEALTH - 1 SPACE PER 250 SF		
SALON SUITES - 1 SPACE PER 380 SF		
SITE 1 (HOTEL)		91
SITE 2 (DRIVE-THRU COFFEE)		21
SITE 3 (SALON SUITES)		35
SITE 4 (MIXED USES)		113
SITE 5 (MIXED USES)		125
SITE 6 (OFFICE)		53
SITE 7 (OFFICE)		60
TOTAL		498
PARKING SUMMARY		
ON-SITE PARKING		415 (400 + 15 HC)
SITE PARKING		18 (16 + 2 HC)
TOTAL		433 (416 + 17 HC)

<u>SITE DATA LOT 2</u>	
ZONING	PD
PROPOSED USE	RESTAURANT
TOTAL AREA LOT 2	0.838 AC. (36,517 S.F.)
BUILDING AREA (S.F.)	4,193 S.F.
BUILDING HEIGHT	ONE STORY (20')
BUILDING LOT COVERAGE (%)	11.4%
PERVIOUS SURFACE (S.F.)	28,139 S.F.
IMPERVIOUS SURFACE (S.F.)	8,378 S.F.
<u>PARKING SUMMARY</u>	<u>REQ. PER STUDY</u>
RESTAURANT 1:196	21
HC PARKING	2
<u>STACKING SPACES PROVIDED</u>	<u>23</u>

- SITE NOTES
1. PATIO SEATING IS NOT PROPOSED.
 2. EXISTING DUMPSTER TO BE SHARED USE.
 3. EXISTING WATER LINE EASEMENT IS TO BE ABANDONED.
 4. EXISTING UTILITIES TO BE RELOCATED AS REQUIRED FOR THE SITE.

THE SEAL APPEARING ON THIS DOCUMENT WAS AUTHORIZED BY FLOYD E. MIDDLETON, JR., PE REGISTRATION #67449 ON 8-28-24. ANY ALTERATION OF A SEALED DOCUMENT WITHOUT PROPER NOTIFICATION TO THE RESPONSIBLE ENGINEER IS AN OFFENSE UNDER THE TEXAS ENGINEERING PRACTICE ACT.



No. DATE REVISION APPROV. 8-28-24

Middleton PROJECT ENGINEER:
& Associates, LLC.

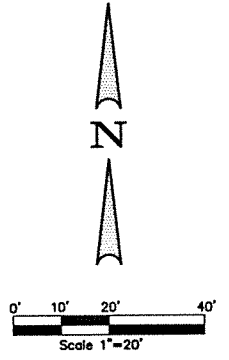
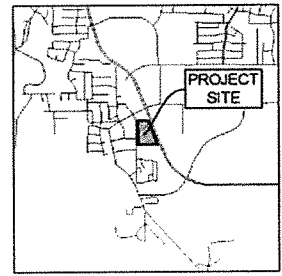
CONSULTING CIVIL ENGINEERS & LAND PLANNERS
TBPE #F-10900 © Copyright 2024
1111 SOUTH MAIN ST., SUITE 115
GRAPEVINE, TEXAS 76051 (972) 393-9800

CONCEPT PLAN

LOT 2, BLOCK A - LAKESIDE CROSSING
TOWN OF FLOWER MOUND, TEXAS

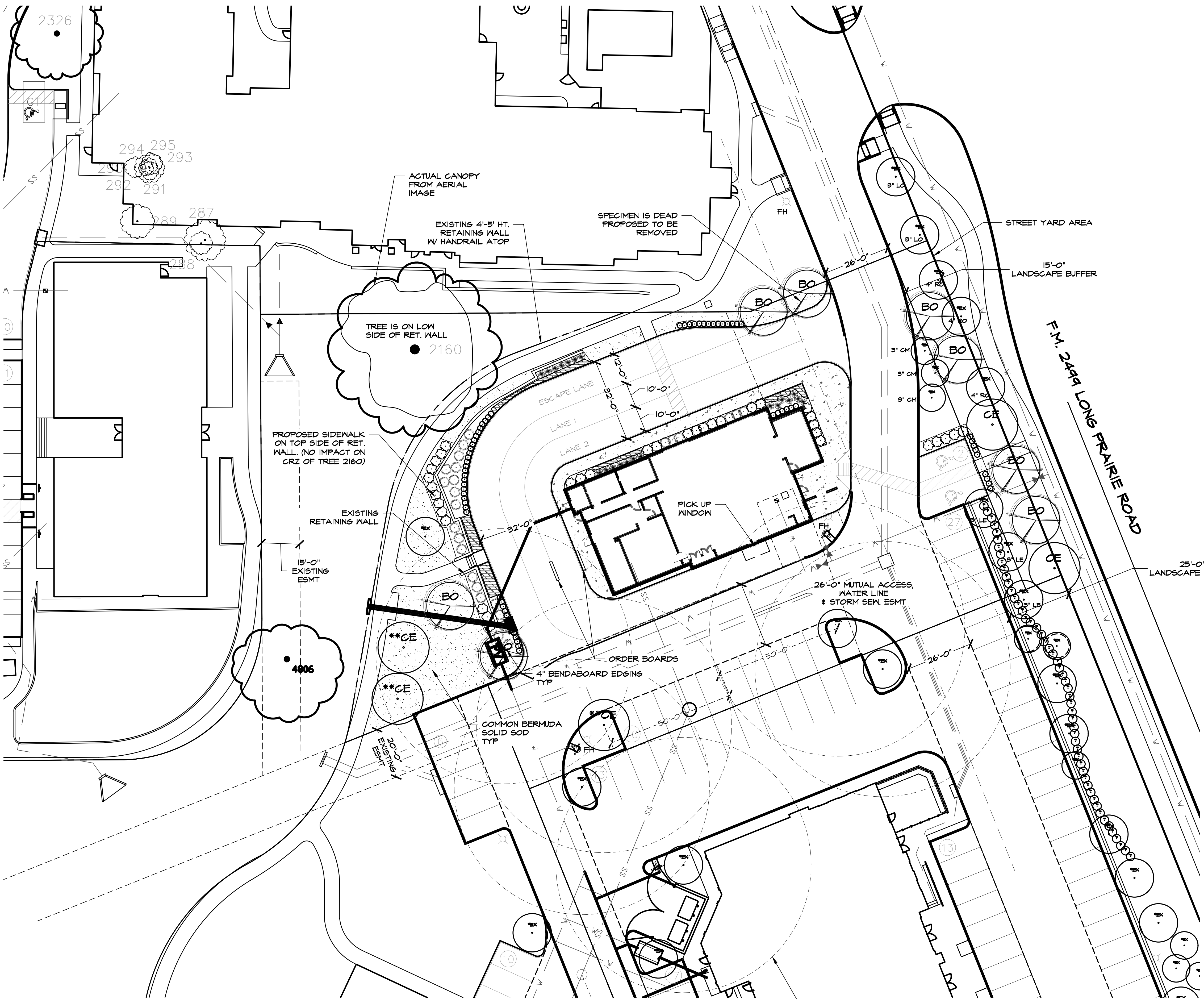
Drawing File: 0050005SITE.DWG DATE: 8-28-24 SCALE: 1"=20' SHEET NO: SITE

Project No. 0050005



Plotted By: Station10 Plot Date: 10/10/2024 9:46 AM

Drawing: W:\Shared With Me\shared\Projects\RCC011 - Marty B's DWG\RCC011-LS.dwg Saved By: Station10 Save Time: 10/8/2024 5:07 PM



ACCESSIBILITY GENERAL NOTES

1. ALL ACCESSIBLE ROUTES AND RAMPS SHALL CONFORM TO THE TEXAS ACCESSIBILITY STANDARDS (T.A.S.)
2. PUBLIC ACCESSIBLE ROUTES SHALL NOT HAVE A RUNNING SLOPE GREATER THAN 1:20 AND CROSS SLOPE GREATER THAN 1:50.
3. RAMPS SHALL NOT HAVE A RUNNING SLOPE GREATER THAN 1:12 AND A CROSS SLOPE GREATER THAN 1:50.
4. HANDRAILS WILL BE REQUIRED IF RAMP IS LONGER THAN 12 INCHES WITH A MAXIMUM RUNNING SLOPE OF 1:12.

****WARNING****
EXISTING UNDERGROUND UTILITIES. FIELD
VERIFY LOCATION PRIOR TO CONSTRUCTION
OR EXCAVATION.

LANDSCAPE LEGEND

- EXISTING TREES TO REMAIN
LO - LIVE OAK (3" CALIPER)
RO - RED OAK (4" CALIPER)
LE - LACEBARK ELM (3" CALIPER)
- EXISTING ORNAMENTAL TREES TO REMAIN
CM - GRAPE MYRTLE (MULTI-TRUNK 3" CALIPER)
- EXISTING SHRUBS TO REMAIN
- BO - BUR OAK / QUERCUS MICROCARPUS 4" CALIPER
- CE - CEDAR ELM / ULMUS CRASSIFOLIA 4" CALIPER

- DWARF PAMPAS GRASS (3 GALLON)
- COLOR GUARD YUCCA / YUCCA FILAMENTOSA "COLOR GUARD" (3 GALLON)
- TEXAS SAGE / LEUCOPHYLLUM FRUTESCENS (3 GALLON)
- DWARF YAUPOH HOLLY (3 GALLON)
- LITTLE BLUESTEM GRASS / SCHIZACHYRIUM SCOPARIUM (1 GALLON, PLANTS SPACED 24" O.C.)
- COMMON BERMUDA SOD (MINIMUM 100% COVERAGE)
- ** INDICATES TREE PLANTED AS TREE REPLACEMENT FOR DEAD OR REMOVED SPECIMEN TREES (S) TREES DEAD OR REMOVED - #3160, #3163, #2151

LANDSCAPE NOTES

- A. MINIMUM FIFTEEN (15) FOOT LANDSCAPE EDGE PROVIDED
- B. ENHANCED LANDSCAPING WITHIN STREET BUFFER ALONG PARKING AREAS
- C. ENHANCED PAVEMENT, SUCH AS PATTERNED OR STAMPED CONCRETE, SHALL BE USED AT PEDESTRIAN CROSSINGS IN DRIVING AISLES AND AT MAIN ENTRANCE.
- D. DETENTION AREAS MAY BE EITHER GRASS SLOPED EDGES OR HARD EDGES AND SHALL BE PERMITTED IN CENTRAK OPEN SPACE AREA.
- E. RETAINING WALLS FOUR FEET OR TALLER SHALL BE LANDSCAPED TO RELIEVE THE VISUAL EFFECT OF THE LONG EXPANSE OF THE GLAZED WALL.

STREET YARD LANDSCAPING			
STANDARD	TOTAL STREET YARD (SQUARE FEET)	REQUIRED	PROVIDED
MIN. 20% OF STREET YARD	1,460 SF	2,212 SF	3,651.6 SF
STREET YARD TREES			
STANDARD	TOTAL STREET YARD (SQUARE FEET)	REQUIRED	PROVIDED
10,000-100,000 SF = 1 PER 2,500 SF + 10 TREES	1,460 SF	11	8 EXISTING 8 PROPOSED
STREET BUFFER LANDSCAPING			
ROAD	REQUIRED BUFFER WIDTH	PROVIDED BUFFER WIDTH	
F.M. 2499 LONG PRAIRIE ROAD	15 FEET	15 FEET	
STREET BUFFER TREES			
STANDARD	STREET FRONTAGE (LINEAR FEET)	REQUIRED	PROVIDED
1 PER 30 LF	F.M. 2499 LONG PRAIRIE ROAD = 141.2 LF	5	6 EXISTING 6 PROPOSED

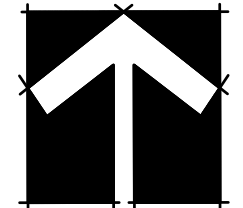
EXISTING BUFFER TREES:
3 - 3" GRAPE MYRTLES = 1 TREE EQUIVALENT
3 - 4" RED OAK
2 - 3" LACEBARK ELM



Studio 13 Design Group, PLLC.
386 W. Main Street
Lewisville, Texas 75057
469-635-1900
TBAE Firm #BR643



September 3, 2024



20 10 0 10 20
1" = 20' - 0"

Bar is one inch on original drawing. If not one inch on this sheet, adjust scale as necessary.

One Inch

LANDSCAPE AND SCREENING

Landscape Plan
Marty B's Coffee - Lakeside
Town of Flower Mound, Denton County, Texas

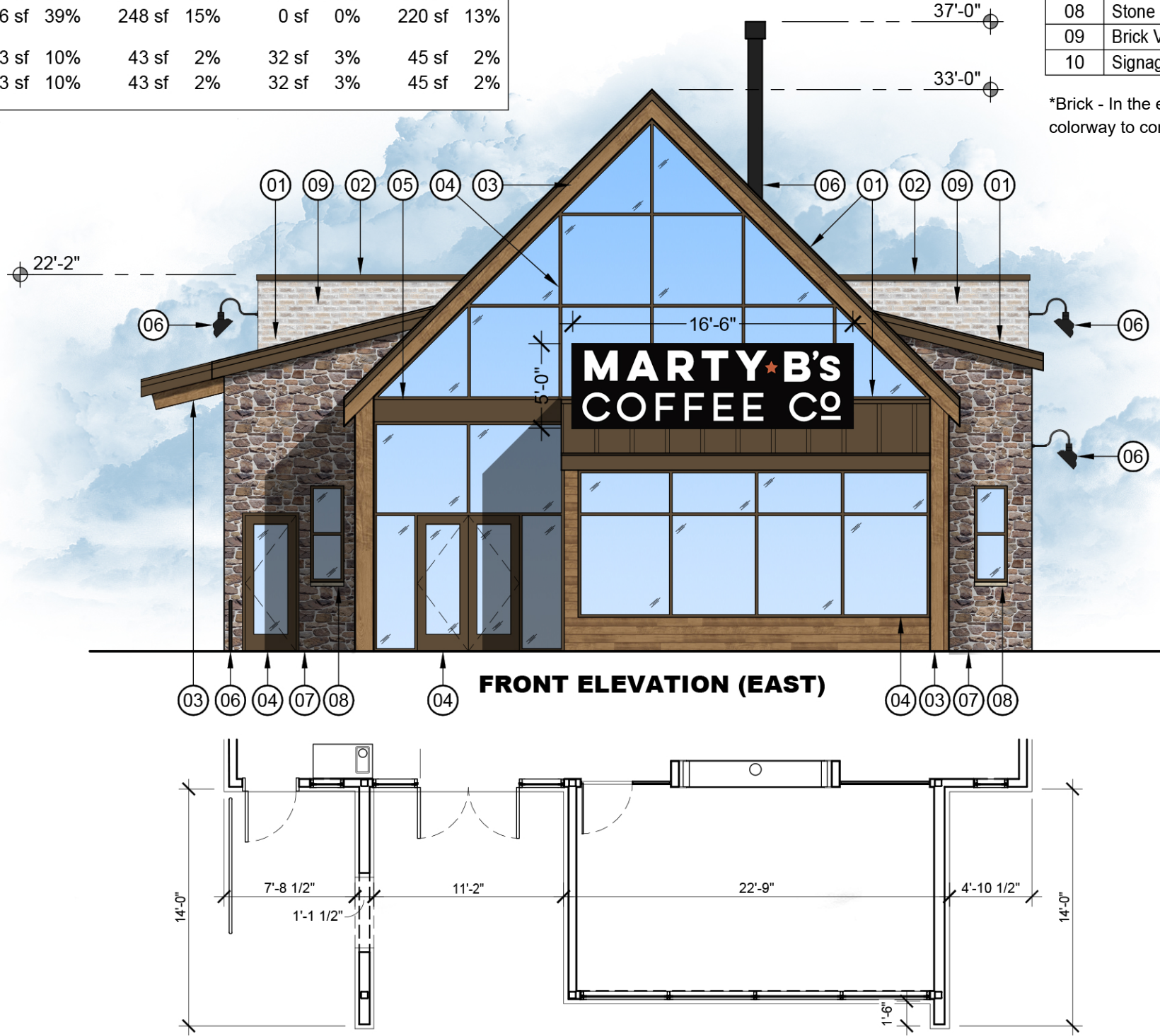
BY	DATE	PLAN REVIEW REVISIONS
LWR	10.10.2024	
		Addressed city comments
#	1	

PROJECT	
RCC011	
PLATE	SHEET
1	LS1

MATERIAL CALCULATIONS							
	East		North		West		South
Total Facade	1,174 sf		2,935 sf		1,174 sf		2,935 sf
Doors, Windows, & Metal Roof S.F.	754 sf		1,208 sf		117 sf		1,115 sf
Facade S.F. (minus doors, windows, & roof)	420 sf		1,727 sf		1,059 sf		1,780 sf
Primary Masonry Totals - Min 80%	377 sf	90%	1,684 sf	98%	1,025 sf	97%	1,735 sf 98%
Stone square feet	172 sf	46%	713 sf	42%	34 sf	3%	786 sf 45%
Brick square feet	59 sf	15%	723 sf	43%	991 sf	97%	729 sf 42%
Aluminum (wood) panel square feet	146 sf	39%	248 sf	15%	0 sf	0%	220 sf 13%
Secondary Material Totals - Max 20%	43 sf	10%	43 sf	2%	32 sf	3%	45 sf 2%
Metal flashing and parapet coping	43 sf	10%	43 sf	2%	32 sf	3%	45 sf 2%

FINISH SCHEDULE		
Type	Description	Vendor / Manufacture
01	Standing Seam Roof	Berridge Manufacturing Company - Medium Bronze
02	Metal Coping	18 GA Metal Coping - Medium Bronze to match 01
03	Metal Wall Panel	Reynobond - Wood Aluminum Panel - Mahogany Brown
04	Storefront	Kawneer - TriFab 601 UT - Medium Bronze
05	Paint	Sherwin Williams - Color to match 01
06	Paint	Sherwin Williams - SW 6258 Tricorn Black
07	Stone Veneer	Coronado Stone - French Country Villa - Champagne
08	Stone Sill	Coronado Stone - Chiseled Stone Sill - Lompoc
09	Brick Veneer	Old Texas Brick - Modular - Silver Port / Mortar - White
10	Signage	Graphics and Signage by Owner

*Brick - In the event Old Texas Brick in Silver Port or Purple Oak are discontinued, a similar brick colorway to complement what was originally approved may be utilized.



FINISH SCHEDULE		
Type	Description	Vendor / Manufacture
01	Standing Seam Roof	Berridge Manufacturing Company - Medium Bronze
02	Metal Coping	18 GA Metal Coping - Medium Bronze to match 01
03	Metal Wall Panel	Reynobond - Wood Aluminum Panel - Mahogany Brown
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08	Stone Sill	Coronado Stone - Chiseled Stone Sill - Lompoc
09	Brick Veneer	Old Texas Brick - Modular - Silver Port / Mortar - White
10	Signage	Graphics and Signage by Owner



SIDE ELEVATION (NORTH)

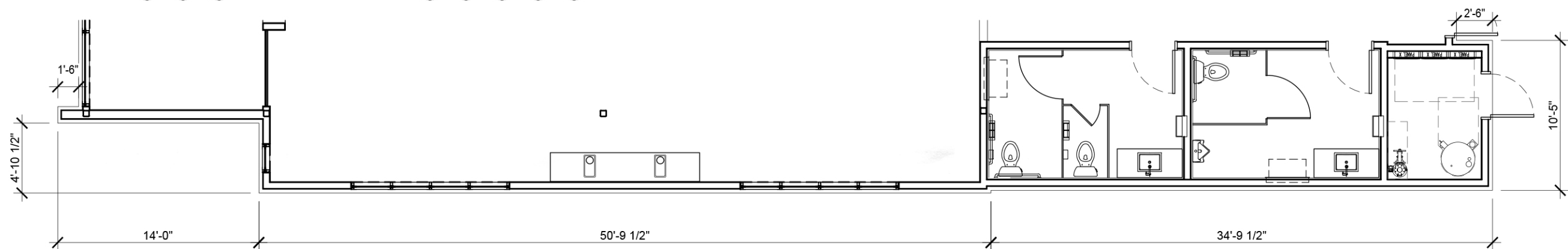


EXHIBIT "C" - CONCEPT ELEVATIONS

FINISH SCHEDULE		
Type	Description	Vendor / Manufacture
01	Standing Seam Roof	Berridge Manufacturing Company - Medium Bronze
02	Metal Coping	18 GA Metal Coping - Medium Bronze to match 01
03	Metal Wall Panel	Reynobond - Wood Aluminum Panel - Mahogany Brown
04	Storefront	Kawneer - TriFab 601 UT - Medium Bronze
05	Paint	Sherwin Williams - Color to match 01
06	Paint	Sherwin Williams - SW 6258 Tricorn Black
07	Stone Veneer	Coronado Stone - French Country Villa - Champagne
08	Stone Sill	Coronado Stone - Chiseled Stone Sill - Lompoc
09	Brick Veneer	Old Texas Brick - Modular - Silver Port / Mortar - White
10	Signage	Graphics and Signage by Owner

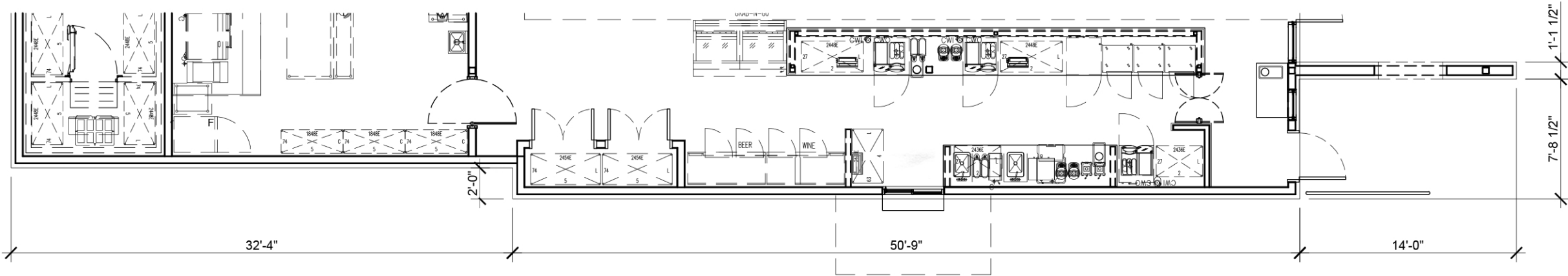
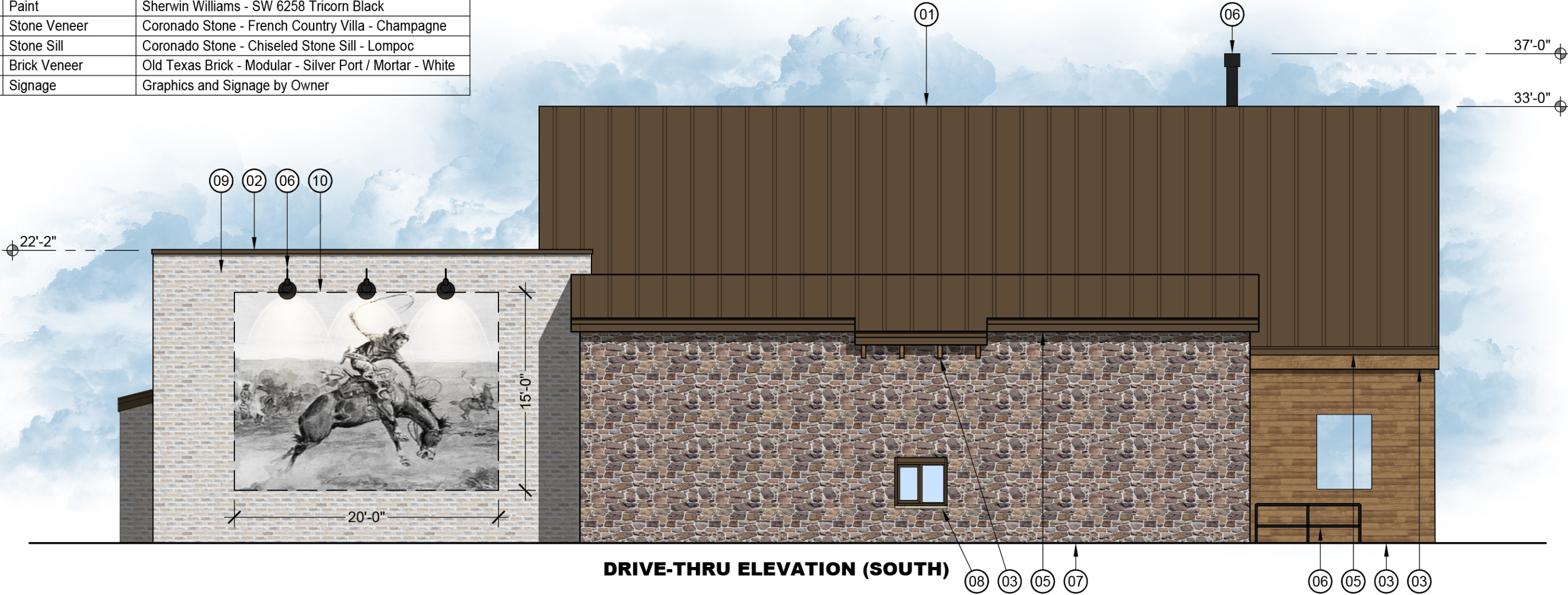
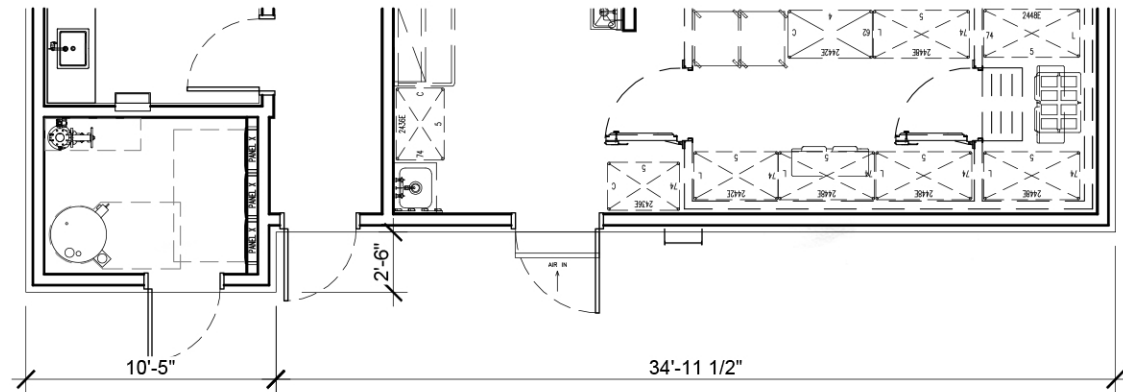
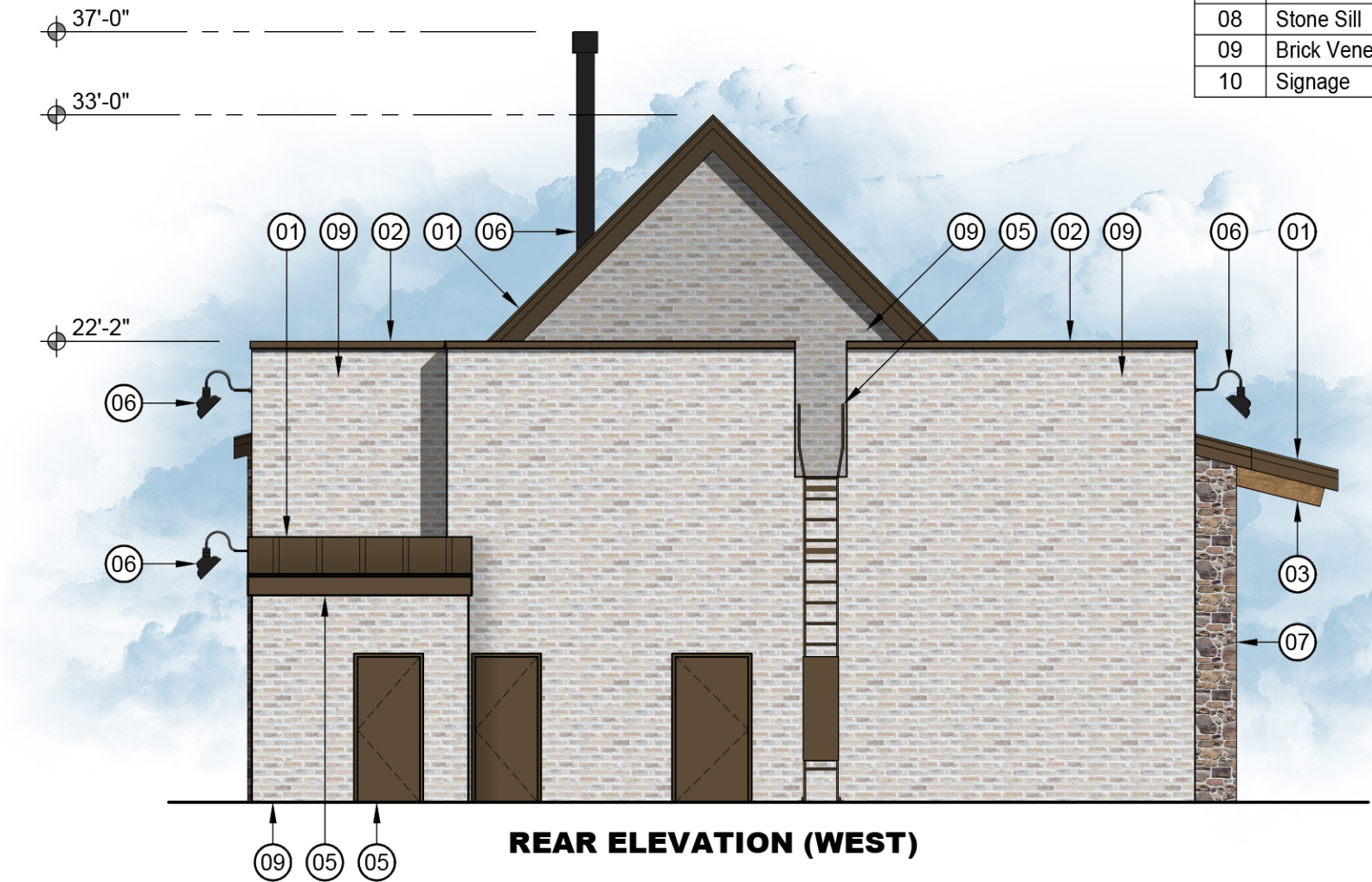


EXHIBIT "C" - CONCEPT ELEVATIONS

FINISH SCHEDULE		
Type	Description	Vendor / Manufacture
01	Standing Seam Roof	Berridge Manufacturing Company - Medium Bronze
02	Metal Coping	18 GA Metal Coping - Medium Bronze to match 01
03	Metal Wall Panel	Reynobond - Wood Aluminum Panel - Mahogany Brown
04	Storefront	Kawneer - TriFab 601 UT - Medium Bronze
05	Paint	Sherwin Williams - Color to match 01
06	Paint	Sherwin Williams - SW 6258 Tricorn Black
07	Stone Veneer	Coronado Stone - French Country Villa - Champagne
08	Stone Sill	Coronado Stone - Chiseled Stone Sill - Lompoc
09	Brick Veneer	Old Texas Brick - Modular - Silver Port / Mortar - White
10	Signage	Graphics and Signage by Owner



Lakeside Crossing Parking Study

EXHIBIT "D" - MIXED USE TIME BASED SHARED PARKING TABLE

Proposed Required Parking

Table 5

BLDG	USE	TENANT	Weekdays																					
			12 AM	1 AM	2 AM	3 AM	4 AM	5 AM	6 AM	7 AM	8 AM	9 AM	10 AM	11 AM	12 PM	1 PM	2 PM	3 PM	4 PM	5 PM	6 PM	7 PM	8 PM	9 PM
1	Hotel	Residence Inn	108	108	108	108	108	97	97	97	97	86	80	72	70	66	64	63	66	65	67	70	76	81
2	Coffee Shop	Marty B's Coffee Co.	0	0	0	0	0	1	9	15	21	21	21	21	20	18	15	14	15	11	10	9	5	3
3	Salon Suites	Cachet Salons	0	0	0	0	0	1	1	2	9	35	54	49	48	46	41	42	43	37	22	7	1	0
4 & 5	Mixed Use	Mixed Use	57	57	57	57	57	57	152	152	152	152	152	152	152	152	152	152	152	152	197	197	197	197
Total Required:			165	165	165	165	165	156	259	266	279	294	307	294	290	282	272	271	276	265	296	283	279	281
Total Provided:			322	322	322	322	322	322	322	322	322	322	322	322	322	322	322	322	322	322	322	322	322	322
Surplus / (Deficiency):			157	157	157	157	157	166	63	56	43	28	15	28	32	40	50	51	46	57	26	39	43	41

Table 5 illustrates the Site's parking capabilities relative to weekday parking demand after integrating ITE Data and Client Data.

Table 6

BLDG	USE	TENANT	Weekends																					
			12 AM	1 AM	2 AM	3 AM	4 AM	5 AM	6 AM	7 AM	8 AM	9 AM	10 AM	11 AM	12 PM	1 PM	2 PM	3 PM	4 PM	5 PM	6 PM	7 PM	8 PM	9 PM
1	Hotel	Residence Inn	108	108	108	108	108	97	86	87	86	85	76	70	66	62	52	54	59	64	71	82	82	84
2	Coffee Shop	Marty B's Coffee Co.	0	0	0	0	0	1	8	13	21	21	21	21	21	19	15	15	16	12	9	8	5	3
3	Salon Suites	Cachet Salons	0	0	0	0	0	0	1	2	4	14	17	14	13	11	9	6	4	2	1	0	0	0
4 & 5	Mixed Use	Mixed Use	57	57	57	57	57	57	200	200	200	200	200	200	200	200	200	200	200	200	189	189	189	189
Total Required:			165	165	165	165	165	155	295	302	311	320	314	305	300	292	276	275	279	278	270	279	276	276
Total Provided:			322	322	322	322	322	322	322	322	322	322	322	322	322	322	322	322	322	322	322	322	322	322
Surplus / (Deficiency):			157	157	157	157	157	167	27	20	11	2	8	17	22	30	46	47	43	44	52	43	46	46

Table 6 illustrates the Site's parking capabilities relative to weekend parking demand after integrating ITE Data and Client Data.



TOWN COUNCIL AGENDA K.1. BOARDS/COMMISSIONS

DATE: December 16, 2024
FROM: John Zagurski, Chief Financial Officer
ITEM: **Present and discuss the Blue Ribbon Bond Committee's recommendation of proposed capital improvements for the May 2025 election.**

BACKGROUND: The Town Council approved Resolution 13-24 on September 16, 2024, which established a Blue Ribbon Bond Committee (BRBC) outlining its structure, defining its purpose and scope of work, and setting a sunset date. The BRBC consists of twelve (12) regular members appointed by a majority vote of the Town Council with a Chair serving as a non-voting member and an objective to evaluate potential facilities, parks and trails, and street reconstruction projects for a possible bond election in May 2025.

The BRBC has met over the course of five (5) meetings since August 27, 2024, with the phases of establishment, orientation, listening, deliberation and recommendation. Public Engagement Opportunities were accomplished with public open houses, social media, emails and an online survey. The final meeting was held December 10, 2024, to deliberate on proposed capital improvements and funding recommendations for the Town Council's consideration on December 16, 2024.

In addition, the BRBC's recommendations for the May 2025 bond election and the financial strategy of the bond issuance will be presented at the January 16, 2025, Town Council Work Session.

BOARD REVIEW/CITIZEN FEEDBACK: The BRBC approved the recommendation for Town Council on December 10, 2024.

ALTERNATIVES: N/A

FISCAL IMPACT: \$112,000,000.00

LEGAL REVIEW: The Town's Bond Counsel, Norton Rose Fulbright US LLP, has provided guidance to the BRBC and staff on roles and responsibilities with respect to the bond election process.

ATTACHMENTS:

None

DRAFT MOTION: Discuss and provide staff with direction.