



WORKSHOP & REGULAR MEETING OF THE TOWN COUNCIL

Tuesday, February 16, 2021

6:00 PM

VIRTUAL ONLY

<https://zoom.us/j/99209938734>

1. Notice Regarding Public Participation and Town Council/Town Staff Attendance.

Due to the COVID-19 (coronavirus) public health emergency, and in an effort to reduce in-person meetings that assemble large groups of people, Governor Greg Abbott has granted a temporary suspension of certain rules to allow for (1) town council members and town employees to participate in a town council meeting via videoconference call or other remote electronic means without a physical quorum of council members being present at the site of the meeting; and (2) the use of videoconferencing and other remote means to allow the public to observe the meeting and, when required, to participate in the public meeting.

In an effort to reduce the spread of the virus, for the February 16, 2021, Town Council meeting, individuals will be able to address the Council on any topic through submission of the web form below. Forms received will be recorded into the record and be given to the Town Council. To access the videoconference online, follow these instructions:

- To join the Zoom meeting, click <https://zoom.us/j/99209938734>
- To view the live stream meeting, click <https://www.littleelm.org/1258/Agendas-Minutes-Video>

Individuals who wish to speak directly to Town Council may fill out the form below. Forms received prior to the meeting will be recorded and read into the record:

<https://www.littleelm.org/FormCenter/Administration-5/LE-Town-Council-Presentation-and-Announc-87>

2. Call to Order Council Workshop at 6:00 p.m.

- A. Invocation.
- B. Items to be Withdrawn from Consent Agenda.
- C. Emergency Items if Posted.
- D. Request by the Town Council for Items to be Placed on a Future Agenda for Discussion and Recognition of Excused Absences.

- E. Presentation of Monthly Updates.
- F. Town Council to Highlight Items on the Agenda Needing Further Discussion or Comments Prior to the Regular Session.

3. **Workshop.**

- A. Present and Discuss an **Update on the 2021 Resident Survey.**

4. **Roll Call/Call to Order Regular Town Council Immediately Following Council Workshop.**

5. **Public Comments**

Persons may address the Town Council on any issue. This is the appropriate time for citizens to address the Council on any concern whether on this agenda or not. In accordance with the State of Texas Open Meeting Act, the council may not comment or deliberate such statements during this period, except as authorized by Section 551.072, Texas Government Code.

6. **Consent Agenda**

All matters listed under the Consent Agenda are considered to be routine by the Town Council and require little or no deliberation. There will not be a separate discussion of these items and the agenda will be enacted by one vote. If the Council expresses a desire to discuss a matter listed, that item will be removed from the consent agenda and considered separately.

- A. Consider Action to **Approve the Minutes from the February 2, 2021, Regular Town Council Meeting.**
- B. Consider Action to Approve **Resolution No. 0216202101 for the Submission of a Grant Application to the Office of the Governor for a 3D Laser Scanner for Fiscal Year 2021.**
- C. Consider Action to Approve the **First Amendment to Ground Lease Purchase Agreement and HUD Addendum for Certain Multi-Family Property in Little Elm, Denton County, Texas, and the HUD Addendum.**
- D. Consider Action to Approve **Resolution 0216202103 of the Town of Little Elm Determining the Costs of Certain Authorized Improvements to be Financed by the Spiritas Ranch Public Improvement District, Calling for a Public Hearing for March 16, 2021.**
- E. Consider Action to Award a **Construction Contract to GRod Construction for Repairs to the McCord Trail and Wastewater System near the Kings Crossing Subdivision in an amount not to exceed \$188,630.**

7. **Public Hearings.**

- A. Hold a Public Hearing, Present, Discussion, and Consider Action on **Proposed Text Amendments to Section 106.01.14 (Land Use Definitions) of the Town's Zoning Ordinance.**

- B. Continue a Public Hearing, Present, Discuss, and Consider Action to **Rezone Approximately 4.4 acres of Land from Lakefront (LF) w/ Specific Use Permit for Child Care Center to Planned Development-Lakefront (PD-LF) to Allow for the Use of Mixed-Use and Commercial with Modified Development Standards, Generally Located at the Southwest Corner of Eldorado Parkway and Hillside Drive, within Little Elm's Town Limits.**

8. **Reports and Requests for Town Council Consideration.**

9. **Convene in Executive Session pursuant to Texas Government Code:**

- Section 551.071 for private consultation with the Town Attorney to discuss the COVID-19 pandemic and municipal authority to respond to the COVID-19 outbreak and to seek legal advice with respect to pending and contemplated litigation and including all matters on this agenda to which the Town Attorney has a duty under the Texas Rules of Discipline and Professional conduct regarding confidential communication with the Town Council.
- Section 551.072 to discuss certain matters regarding real property.
- Section 551.074 of the Texas Government Code to discuss and deliberate personal matters to evaluate performance duties, of a public officer or employee(s).
- Section 551.076 to discuss security matters.
- Section 551.087 to discuss Economic Development.

10. **Reconvene into Open Session**

Discussion and consideration to take any action necessary as the result of the Executive Session:

- COVID-19 Pandemic and the Town's response thereto, including the consideration of an emergency declaration ordinance.
- Section 551.071 for private consultation with the Town Attorney to discuss the COVID-19 pandemic and municipal authority to respond to the COVID-19 outbreak and to seek legal advice with respect to pending and contemplated litigation and including all matters on this agenda to which the Town Attorney has a duty under the Texas Rules of Discipline and Professional conduct regarding confidential communication with the Town Council.
- Section 551.072 to discuss certain matters regarding real property.
- Section 551.074 of the Texas Government Code to discuss and deliberate personal matters to evaluate performance duties, of a public officer or employee(s).
- Section 551.076 to discuss security matters.
- Section 551.087 to discuss Economic Development.

11. **Adjourn.**

Pursuant to the Texas Open Meeting Act, (Chapter 551, Texas Government Code), one or more of the above items will be taken or conducted in open session following the conclusion of the executive closed session.

Persons with disabilities who plan to attend this meeting and who may need auxiliary aide of service such as interpreters for the hearing impaired, reader or large print are requested to contact the secretary at 214-975-0452 two days prior to the meeting so appropriate arrangements can be made. **BRILLE IS NOT PROVIDED.**

Respectfully,

Town Secretary

This is to certify that the above notice was posted on the Town's website this 15th day of February 2021 before 5:00 p.m.



Town Council Meeting

Date: 02/16/2021
Agenda Item #: 3. A.
Department: Administrative Services
Strategic Goal: Provide a safe and welcoming environment for Little Elm residents and visitors
Staff Contact: Caitlan Biggs, Director of Administrative Services/Town Secretary

AGENDA ITEM:

Present and Discuss an **Update on the 2021 Resident Survey.**

DESCRIPTION:

The Town of Little Elm is contracting with Polco, an online community engagement polling platform, to conduct a resident satisfaction survey this spring. A sample size of 2,700 households has been identified throughout the Town to participate in this survey. Residents will be notified in late February and will have until April 7 to complete the survey. Residents who are not selected to participate will be able to complete the survey through a link published on our social media sites in late March.

The final report will be available in early May.

BUDGET IMPACT:

The total cost for this service is \$15,615 and is budgeted for in the General Fund operating budget.

RECOMMENDED ACTION:

Information only, no action required.



Town Council Meeting

Date: 02/16/2021
Agenda Item #: 6. A.
Department: Administrative Services
Strategic Goal: Maintain operational integrity and viability
Staff Contact: Caitlan Biggs, Director of Administrative Services/Town Secretary

AGENDA ITEM:

Consider Action to **Approve the Minutes from the February 2, 2021, Regular Town Council Meeting.**

DESCRIPTION:

The minutes from the February 2, 2021, regular Town Council meeting are attached for approval.

BUDGET IMPACT:

There is no budget impact for this item.

RECOMMENDED ACTION:

Staff recommends approval.

Attachments

Minutes - February 2, 2021 Regular Town Council Meeting

DRAFT

Minutes
Town of Little Elm
100 W Eldorado Parkway
Little Elm, Texas 75068
214-975-0404
<http://www.littleelm.org>

REGULAR TOWN COUNCIL MEETING TUESDAY FEBRUARY 2, 2021 - 6:00 p.m.

Present: Mayor David Hillock; Council Member Tony Singh; Council Member Curtis Cornelious; Council Member Nick Musteen; Council Member Lisa Norman; Council Member Michael McClellan

Absent: Mayor Pro Tem Neil Blais

Staff Present: Caitlan Biggs, Director of Administrative Services/Town Secretary; Joe Florentino, Assistant Town Manager; Matt Mueller, Town Manager; Chad Hyde, Director of Community Services; Fred Gibbs, Director of Development Services; Jennette Espinosa, EDC Executive Director; Kelly Wilson, Chief Financial Officer; Paul Rust, Fire Chief; Robert Brown, Town Attorney; Rodney Harrison, Police Chief; Skye Thibodeaux, Planning Manager; Kate Graham, Assistant to the Town Manager

1. Notice Regarding Public Participation and Town Council/Town Staff Attendance.

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Individuals who wish to speak directly to Town Council may attend the meeting in-person.

2. Call to Order Council Workshop at 6:00 p.m.

Meeting called to order at 6:01 p.m.

A. Invocation.

The invocation was given by Council Member Curtis Cornelious.

- B. Pledge to Flags.
- C. Items to be Withdrawn from Consent Agenda.

None.

- D. Emergency Items if Posted.

None.

- E. Request by the Town Council for Items to be Placed on a Future Agenda for Discussion and Recognition of Excused Absences.

Mayor Hillock recognized an excused absence for Mayor Pro Tem Neil Blais.

- F. Presentation of Monthly Updates.

Town Manager Matt Mueller introduced the new Assistant to the Town Manager Kate Graham.

- G. Town Council to Highlight Items on the Agenda Needing Further Discussion or Comments Prior to the Regular Session.

None.

3. Workshop.

- A. Present, Discuss, and Receive Direction on the **Current Planning & Zoning Commission and Board of Adjustment Roster.**

Planning Manager Skye Thibodeaux presented an overview of the current Planning and Zoning Commission Roster and some challenges experienced by a few commissioners who needed to step down. Director of Development Services Fred Gibbs asked Town Council if they would approve switching the two alternates with Brandy Moser and John Ekes since the alternates have been attending regularly to fill the void.

Mayor Hillock asked staff to provide attendance information for P&Z, Alternates, and BZA to the interview committee and suggested following the usual interview process since one of the places (Brandy Moser) that the alternates would be filling are up for re-appointment at the end of February and the other places (John Ekes) has one year remaining.

After discussion among Council, Mayor Hillock asked if the interview committee could take this information into consideration during the interviews. Council agreed.

- B. Present and Discuss a **Progress Update on The Cove at the Lakefront.**

Director of Community Services Chad Hyde provided an update on The Cove at the Lakefront.

- C. Presentation to **Recognize Danny Weakley for Receiving the 26th District Congressional Veteran Commendation for 2020.**

Mayor David Hillock presented a Certificate of Recognition to Danny Weakley.

4. **Roll Call/Call to Order Regular Town Council Immediately Following Council Workshop.**

5. **Public Comments**

Persons may address the Town Council on any issue. This is the appropriate time for citizens to address the Council on any concern whether on this agenda or not. In accordance with the State of Texas Open Meeting Act, the council may not comment or deliberate such statements during this period, except as authorized by Section 551.072, Texas Government Code.

Ericca Cordier, PO Box 511, Little Elm, TX 75068, stated that she was proud that the west Eldorado initiative is happening and hopes Council will consider a parking garage in this area. She also stated that she has a meeting with the Corps of Engineers regarding fixes on the cove.

George McCallaugh, 4508 Driscoll Cove Drive, stated that he and his wife are recently retired and would like to help the city and plan to apply for boards as soon as they can. He also stated that there is a lot of development going on around Lloyd's Road and would like to discuss a traffic light where it intersects with Oak Grove Parkway. He also stated that he is trying to get a lay of the land of the city and looked at the strategic plan and is wondering what development and density on the west side looks like.

6. **Consent Agenda**

All matters listed under the Consent Agenda are considered to be routine by the Town Council and require little or no deliberation. There will not be a separate discussion of these items and the agenda will be enacted by one vote. If the Council expresses a desire to discuss a matter listed, that item will be removed from the consent agenda and considered separately.

Motion by Council Member Lisa Norman, seconded by Council Member Michael McClellan ***to approve the Consent Agenda.***

Vote: 6 - 0 - Unanimously

- A. Consider Action to Approve the **Minutes from the January 19, 2021 Regular Meeting.**
- B. Consider Action to Approve an **Agreement between the Town of Little Elm and the Texas Department of Transportation regarding Illumination Improvements along US 380.**
- C. Consider Action to Approve the **Quarterly Investment Report for the Period Ending December 31, 2020.**
- D. Consider Action to Approve the **Unaudited Quarterly Budget to Actual Report for the Quarter Ending December 31, 2020.**

- E. Consider Action to Approve Resolution No. 0202202101 Authorizing and Creating the Spiritas Ranch Public Improvement District in Accordance with Chapter 372 of the Texas Local Government Code.
- F. Consider Action to Award a Construction Contract for the Little Elm Aquatic Center North Parking Addition Project (Contract #2021-06).
- G. Consider Action to Approve the Fire Department to Apply for This Year's FEMA/Department of Homeland Security's Assistance to Firefighters Grant.
- H. Consider Action to Approve Ordinance No. 1594 Amending the FY 2020-2021 Annual Budget in Accordance with Existing Statutory Requirements; Appropriating the Various Amounts herein; Repealing all Prior Ordinances and Actions in Conflict herewith; and Providing for an Effective Date.

7. Public Hearings.

- A. Continue a Public Hearing, Present, Discuss, and Consider Action to Rezone Approximately 4.4 acres of Land from Lakefront (LF) w/ Specific Use Permit for Child Care Center to Planned Development-Lakefront (PD-LF) to Allow for the Use of Mixed-Use and Commercial with Modified Development Standards, Generally Located at the Southwest Corner of Eldorado Parkway and Hillside Drive, within Little Elm's Town Limits.

Director of Development Services Fred Gibbs asked Council to table this item to February 16, 2021.

Motion by Council Member Curtis Cornelious, seconded by Council Member Tony Singh *to table this item until the February 16, 2021 meeting.*

Vote: 6 - 0 - Unanimously

8. Reports and Requests for Town Council consideration.

- A. Present, Discuss, and Consider Action to Approve Ordinance No. 1593 Ordering a General and Special Election to be held on May 1, 2021.

Motion by Council Member Nick Musteen, seconded by Council Member Curtis Cornelious *to approve Ordinance 1593.*

Vote: 6 - 0 - Unanimously

- B. Present, Discuss, and Consider Action to Approve the Joint Election Agreement and Contract for Election Services with the Denton County Elections Administrator.

Motion by Council Member Curtis Cornelious, seconded by Council Member Nick Musteen *to approve the Joint Election agreement and give Caitlan Biggs the ability to add in an additional voting location located on US 380 between Navo Road and FM 423 and incur the associated cost.*

Vote: 6 - 0 - Unanimously

- C. Present, Discuss, and Consider Action on a **Developers Agreement between the Town of Little Elm and MM Little Elm 548, LLC (Spiritas Ranch Development Agreement)**.

Director of Development Services Fred Gibbs gave an overview of the Spiritas development.

Applicant Sean Terry clarified that the amenity center would be for residents of the development and wouldn't require a zoning change. Mayor Hillock asked about the plan for overhead utilities along US380 and FM 720. Applicant stated that everything would be underground along US380 but would remain as is on FM 720. Mayor Hillock requested a future conversation regarding the utilities along FM 720, not to impact the agreement before Council tonight.

Town Attorney Robert Brown stated that there is an addition of section 8.3 from the version of the agreement in the agenda packet. It is a standard clause that is in all development agreements that was inadvertently knocked out. It does not change any substance in the development agreement.

Motion by Council Member Curtis Cornelious, seconded by Council Member Nick Musteen **to approve the Spiritas Development Agreement.**

Vote: 6 - 0 - Unanimously

- D. Present, Discuss, and Consider Action on the **6th Amendment to the Valencia on the Lake Pre-Annexation Agreement, Development Agreement, Public Improvement District Agreement, and Tax Increment Reinvestment Zone Agreement.**

Director of Development Services Fred Gibbs presented an overview of the amendment. Mayor Hillock requested that the applicant coordinate with staff on the landscaping of the medians and they agreed.

Motion by Council Member Nick Musteen, seconded by Council Member Curtis Cornelious **to approve the 6th Amendment to the Valencia on the Lake Pre-Annexation Agreement.**

Vote: 6 - 0 - Unanimously

9. Convene in Executive Session pursuant to Texas Government Code:

- Section 551.071 for private consultation with the Town Attorney to discuss the COVID-19 pandemic and municipal authority to respond to the COVID-19 outbreak and to seek legal advice with respect to pending and contemplated litigation and including all matters on this agenda to which the Town Attorney has a duty under the Texas Rules of Discipline and Professional conduct regarding confidential communication with the Town Council.
- Section 551.072 to discuss certain matters regarding real property.
- Section 551.074 of the Texas Government Code to discuss and deliberate personal matters to evaluate performance duties, of a public officer or employee(s).
- Section 551.076 to discuss security matters.
- Section 551.087 to discuss Economic Development.

No Executive Session.

10. Reconvene into Open Session

Discussion and consideration to take any action necessary as the result of the Executive Session:

- COVID-19 Pandemic and the Town's response thereto, including the consideration of an emergency declaration ordinance.
- Section 551.071 for private consultation with the Town Attorney to discuss the COVID-19 pandemic and municipal authority to respond to the COVID-19 outbreak and to seek legal advice with respect to pending and contemplated litigation and including all matters on this agenda to which the Town Attorney has a duty under the Texas Rules of Discipline and Professional conduct regarding confidential communication with the Town Council.
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- Section 551.076 to discuss security matters.
- Section 551.087 to discuss Economic Development.

None.

11. Adjourn.

Meeting was adjourned at 7:40 p.m.

Respectfully,

Caitlan Biggs
Town Secretary

Passed and Approved this 16th day of February 2021



Town Council Meeting

Date: 02/16/2021
Agenda Item #: 6. B.
Department: Administrative Services
Strategic Goal: Ensure excellence in public services while keeping up with the growth in the community
Staff Contact: Rodney Harrison, Police Chief

AGENDA ITEM:

Consider Action to Approve **Resolution No. 0216202101 for the Submission of a Grant Application to the Office of the Governor for a 3D Laser Scanner for Fiscal Year 2021.**

DESCRIPTION:

The Town of Little Elm is seeking grant funding for the purchase of a three dimensional (3D) laser scanner to enhance our forensic crime scene mapping and data processing, traffic crash scene reconstruction investigations, and court room presentations. The use of a 3D laser scanner will allow Crime Scene and Accident Investigators to process the scene faster, with greater precision, and collect more detailed information than the system currently in place. This will produce greater confidence in the criminal justice system by enabling investigators to conclude and refer case to the District Attorney's Office for prosecution.

This resolution approves the submission of the grant application.

BUDGET IMPACT:

Reimbursable grant. If the Town is not awarded such grant, the equipment will not be purchased in this budget year.

RECOMMENDED ACTION:

Staff recommends approval.

Attachments

Resolution 0216202101 - Police Jag Grant

TOWN OF LITTLE ELM, TEXAS RESOLUTION

NO. 0216202101

A RESOLUTION BY THE TOWN OF LITTLE ELM APPROVING THE SUBMISSION OF A GRANT APPLICATION TO THE OFFICE OF THE GOVERNOR FOR A 3D LASER SCANNER FOR FISCAL YEAR 2021.

WHEREAS, The Town Council of the Town of Little Elm finds it in the best interest of the citizens of the Town of Little Elm that the Little Elm Police Department is issued a 3D Laser Scanner for fiscal year 2021; and

WHEREAS, the Town Council of the Town of Little Elm agrees that in the event of loss or misuse of the Office of the Governor funds, the Town Council of the Town of Little Elm assures that the funds will be returned to the Office of the Governor in full.

WHEREAS, the Town Council of the Town of Little Elm designates the Town Manager as the grantee's authorized official. The authorized official is given the power to apply for, accept, reject, alter or terminate the grant on behalf of the applicant agency.

NOW THEREFORE BE IT RESOLVED BY THE COUNCIL OF THE TOWN OF LITTLE ELM, TEXAS:

SECTION 1. Approves submission of the grant application for a 3D Laser Scanner Project to the Office of the Governor.

PASSED AND APPROVED this 16th day of February, 2021.

Grant Number: 4242801

David Hillock, Mayor
Town of Little Elm, Texas

ATTEST:

Caitlan Biggs, Town Secretary



Town Council Meeting

Date: 02/16/2021
Agenda Item #: 6. C.
Department: Economic Development Corporation
Strategic Goal: Promote and expand Little Elm's identity
Staff Contact: Jennette Espinosa, EDC Executive Director

AGENDA ITEM:

Consider Action to Approve the **First Amendment to Ground Lease Purchase Agreement and HUD Addendum for Certain Multi-Family Property in Little Elm, Denton County, Texas, and the HUD Addendum.**

DESCRIPTION:

This agreement is between the Little Elm Economic Development Corporation (Landlord) and Village at Lakefront, LLC (Ground Lessee). ChadNic purchased this development from Palladium/NE on December 29th and the original agreement was executed at the January 19, 2021, Council Meeting.

Amendment: Per HUD's request for their loan application, ChadNic is requesting an extension to the Term of the Agreement. They are requesting that this Agreement be extended an additional 5 years so that only fifty (50) years remain at the time this agreement is executed.

Addendum: HUD, the lender for Chadnic, is requesting an Addendum be included in the Ground Lease Purchase Agreement between Little Elm Economic Development Corporation (Landlord) and Village at Lakefront, LLC (Ground Lessee), that is specific to HUD requirements.

The Lease Amendment and Addendum is required in connection with a mortgage loan insured by the U.S. Department of Household and Urban Development (HUD) for multifamily projects pursuant to the National Housing Act.

BUDGET IMPACT:

Lease amount and terms remain the same as in the original Executed Agreement.

Rent remains at \$69,696.00 annually of which payments started 12 months after the C.O. was obtained December 5, 2017. Option for "eligible to purchase" is applicable the 8th lease year after obtaining their CO for the amount of \$1,115,000.00.

RECOMMENDED ACTION:

Staff recommends approval.

Attachments

First Amendment Ground Lease for Certain Multi Family Property
Hud Lease Addendum

**FIRST AMENDMENT
TO
GROUND LEASE PURCHASE AGREEMENT
FOR CERTAIN MULTI-FAMILY PROPERTY IN LITTLE ELM, DENTON COUNTY,
TEXAS**

THIS FIRST AMENDMENT TO GROUND LEASE PURCHASE AGREEMENT (this “**First Amendment**”) is made and entered into on the ____ day of _____, 2021 (the “**Effective Date**”) by and between **LITTLE ELM ECONOMIC DEVELOPMENT CORPORATION**, a Texas non-profit corporation, having its principal address as 100 W. Eldorado Parkway, Little Elm, Texas 75068-5060 (“**Landlord**” or “**Little Elm EDC**”), and **VILLAGE AT LAKEFRONT, LLC**, a Texas limited liability company, or its permitted assigns (“**Ground Lessee**” or “**Village at Lakefront**”).

RECITALS:

WHEREAS, on or about **January 19, 2021**, the Landlord and Ground Lessee entered into the Ground Lease Purchase Agreement concerning an approximate 6.4 acres of land (the “**Original Agreement**”); and

WHEREAS, the Landlord and Ground Lessee now desire to amend Section 2.2 of the Original Agreement to provide for a fifty-five (55) year lease term.

NOW, THEREFORE, for and in consideration of the agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Landlord and Ground Lessee agree as follows:

SECTION 1. FINDINGS INCORPORATED.

The foregoing recitals are hereby incorporated into the body of this First Amendment and shall be considered part of the mutual covenants, consideration and promises that bind the parties.

SECTION 2. AMENDMENT TO ORIGINAL AGREEMENT.

(a) **Amendment to Original Agreement.** That Section 2.2 of the Original Agreement is hereby amended to read as follows:

“2.2 **Term of Agreement.** The term of the Agreement (the “**Term**”) shall commence on the Effective Date and shall terminate fifty-five (55) Lease Years after the Commencement Date for the Multifamily Development. This Agreement will terminate without further notice when the Term specified in this **Section 2.2** expires and any holding over by Ground Lessee after the Term expires will not constitute a renewal of this Agreement or give Ground Lessee any rights under the Agreement in or to the Premises. In connection therewith, Ground Lessee shall have the right at Ground Lessee’s expense, to examine and copy all books, records, files, documents, reports, and other information of the Landlord relating to the Premises,

including all leases, service agreements, insurance policies, and construction and maintenance related documents; provided that such examination and copying shall not interfere with the Landlord's business operations."

SECTION 3. MISCELLANEOUS PROVISIONS.

The following miscellaneous provisions are a part of this First Amendment:

- (a) **Amendments.** This First Amendment constitutes the entire understanding and agreement of the parties as to the matters set forth in this First Amendment. No alteration of or amendment to this First Amendment shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment.
- (b) **Applicable Law and Venue.** This First Amendment shall be governed by and construed in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Denton County, Texas. Venue for any action arising under this First Amendment shall lie in the state district courts of Denton County, Texas.
- (c) **Binding Obligation.** This First Amendment shall become a binding obligation on the signatories upon execution by all signatories hereto. Landlord warrants and represents that the individual executing this First Amendment on behalf of Landlord has full authority to execute this First Amendment and bind Landlord to the same. Ground Lessee warrants and represents that the individual executing this First Amendment on Ground Lessee's behalf has full authority to execute this First Amendment and bind it to the same.
- (d) **Caption Headings.** Caption headings in this First Amendment are for convenience purposes only and are not to be used to interpret or define the provisions of the First Amendment.
- (e) **Counterparts.** This First Amendment may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall constitute one and the same document.
- (f) **Effective Date.** The effective date (the "Effective Date") of this First Amendment shall be the date of the latter to execute this First Amendment by the Landlord and Ground Lessee.
- (g) **Original Amendment and Any Other Amendments.** All of the terms, conditions, and obligations of the Original Amendment and any other amendments remain in full force and effect except where specifically modified by this First Amendment.
- (h) **Severability.** The provisions of this First Amendment are severable. If any paragraph, section, subdivision, sentence, clause, or phrase of this First Amendment is for any reason held by a court of competent jurisdiction to be contrary to law or contrary to any rule or regulation have the force and effect of the law, the remaining portions of the First Amendment shall be enforced as if the invalid provision had never been included.

Initial for Identification: _____
Little Elm EDC

Village at Lakefront

- (i) **Time is of the Essence.** Time is of the essence in the performance of this First Amendment.

[The Remainder of this Page Intentionally Left Blank]

Initial for Identification: _____
Little Elm EDC

Village at Lakefront

EXECUTED IN MULTIPLE ORIGINAL COUNTERPARTS, which constitute but one and the same instrument, as of the day and year first above written. Upon the final execution hereof by Landlord and Ground Lessee, the last to sign of such parties shall complete the date on the first page thereof.

LANDLORD:

**LITTLE ELM ECONOMIC
DEVELOPMENT CORPORATION**

a Texas non-profit corporation

By: _____

Ken Eaken, President

Date: _____

STATE OF TEXAS

§

§

COUNTY OF DENTON

§

This instrument was acknowledged before me on the ____ day of _____, 2021, by Ken Eaken, President of the Little Elm Economic Development Corporation, a Texas non-profit corporation, on behalf of said non-profit corporation.

Notary Public, State of Texas

Initial for Identification: _____
Little Elm EDC

Village at Lakefront

GROUND LESSEE:

VILLAGE AT LAKEFRONT, LLC,
a Texas limited liability company,

By: Village Management, Inc.,
a Texas corporation, Manager

By: _____
John L. Bailey, President of Manager

STATE OF TEXAS

§

§

COUNTY OF DALLAS

§

This instrument was acknowledged before me on the _____ day of _____, 2021,
by John L. Bailey, President of Village Management, Inc., as Manager of Village at Lakefront,
LLC, a Texas limited liability company, on behalf of said Texas company.

Notary Public, State of Texas

Initial for Identification: _____
Little Elm EDC

Village at Lakefront

Lease Addendum - Multifamily

U.S. Department of Housing
and Urban Development
Office of Housing

OMB Approval No. 2502-0598
(Exp. 9/30/2021)

Public Reporting Burden for this collection of information is estimated to average 0.5 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Response to this request for information is required in order to receive the benefits to be derived. This agency may not collect this information, and you are not required to complete this form unless it displays a currently valid OMB control number. While no assurance of confidentiality is pledged to respondents, HUD generally discloses this data only in response to a Freedom of Information Act request.

Warning: Federal law provides that anyone who knowingly or willfully submits (or causes to submit) a document containing any false, fictitious, misleading, or fraudulent statement/certification or entry may be criminally prosecuted and may incur civil administrative liability. Penalties upon conviction can include a fine and imprisonment, as provided pursuant to applicable law, which includes, but is not limited to, 18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802, 24 C.F.R. Parts 25, 28 and 30, and 2 C.F.R. Parts 180 and 2424.

Project Name: _____
HUD Project No: _____

THIS **LEASE ADDENDUM** is attached to and made part of that certain lease agreement entered into on the 15 day of February, 2021, between **LITTLE ELM ECONOMIC DEVELOPMENT CORPORATION**, a Texas non-profit corporation ("Landlord") and **VILLAGE AT LAKEFRONT, LLC**, a Texas limited liability company ("Tenant") (collectively, the "**Parties**") (the "**Ground Lease**").

The Lease Addendum is required in connection with a mortgage loan insured by the U.S. Department of Housing and Urban Development ("**HUD**") for multifamily projects pursuant to the National Housing Act, as amended, found at 12 U.S.C. § 1701, *et seq.* ("**Act**"), and made by the following HUD-approved lender, Dwight Capital, LLC, ("**Lender**"). The insured loan is secured by a Security Instrument on the leasehold estate set forth in the Ground Lease.

The definition of any capitalized term or word used in this Lease Addendum and not otherwise defined can be found in the Security Instrument and/or Note between Lender and Tenant; or the Regulatory Agreement between Tenant and HUD. The terms "HUD" and "Lender" as used in the Lease Addendum shall also include their successors and assigns, and the Tenant is the same legal entity as the Borrower under the Security Instrument. All references to "days" in this Lease Addendum shall mean calendar days.

Notwithstanding anything else in the **Ground Lease** to which this Lease Addendum is attached, and for valuable consideration, the receipt and sufficiency of which the Parties hereto hereby acknowledge and agree, and to induce the Lender to make the Loan to the Tenant described in the Security Instrument, and to induce HUD to insure said Loan, so long as this leasehold estate is subject to a security instrument insured, reinsured, or held by HUD or given to HUD in connection with a resale, or the Property is acquired and held by HUD because of a default under the Security Instrument, Landlord and Tenant acknowledge and agree to the following provisions.

Ground Lease

The leasehold estate consists of the ground (land) only; all buildings, improvements, alterations and fixtures now or in the future located thereon are owned in fee simple by the Tenant. As such, the term “**Property**” means the legally described land subject to the Ground Lease **except** the buildings, improvements, alterations and fixtures now or in the future located on the land.

1. **Compliance with HUD Requirements.** Pursuant to the Act, the following provisions may not be waived under any circumstances, whether for a new ground lease or an existing ground lease:
 - (a) the term of the Ground Lease and all other Ground Lease provisions comply with the section of the Act and related federal regulations under which the Note is endorsed for mortgage insurance;
 - (b) the Landlord owns the Property in fee simple, and the leasehold estate is granted directly by the Landlord to the Tenant;
 - (c) the leasehold estate underlying the Ground Lease constitutes a mortgageable real property interest under state law;
 - (d) the Ground Lease and related Ground Lease documents do not conflict with any Program Obligations^[1] promulgated by HUD with respect to such mortgage insurance; and
 - (e) all ground rent amounts have prior written approval by HUD.
2. **Modifications.** The Ground Lease and this Lease Addendum shall not be modified without the written consent of HUD and Lender. Modifications of the Ground Lease and this Lease Addendum that are not authorized in writing by HUD and Lender are void and unenforceable.
3. **Conflict Provision.** The provisions of this Lease Addendum benefit Lender and HUD and are specifically declared to be enforceable against the parties to the Ground Lease and all other persons by Lender and HUD. In the event of any conflict, inconsistency or ambiguity between the provisions of this Lease Addendum and the provisions of any other part of the Ground Lease, the provisions of this Lease Addendum shall prevail and control.

^[1] “**Program Obligations**” means (1) all applicable statutes and any regulations issued by the Secretary pursuant thereto that apply to the Project, including all amendments to such statutes and regulations, as they become effective, except that changes subject to notice and comment rulemaking shall become effective only upon completion of the rulemaking process, and (2) all current requirements in HUD handbooks and guides, notices, and mortgagee letters that apply to the Project, and all future updates, changes and amendments thereto, as they become effective, except that changes subject to notice and comment rulemaking shall become effective only upon completion of the rulemaking process, and provided that such future updates, changes and amendments shall be applicable to the Project only to the extent that they interpret, clarify and implement terms in this Lease Addendum rather than add or delete provisions from such document. Handbooks, guides, notices, and mortgagee letters are available on “HUDCLIPS,” at www.hud.gov.

4. Recording. The full Ground Lease agreement and incorporated HUD Lease Addendum, or a memorandum of ground lease (if permitted under state law), must be recorded in the applicable land records office. If a memorandum of ground lease or a short form ground lease is to be recorded, it must set forth the following information, in addition to compliance with state law requirements:

- (a) names of the Parties;
- (b) legal description;
- (c) term and renewals;
- (d) reference to the HUD Lease Addendum; and
- (e) specific reference to HUD's option to purchase in Section 7 (unless Section 7 is expressly waived in writing by HUD in accordance with Program Obligations).

5. Estoppel Certificate. As a condition of HUD's acceptance of a ground lease transaction, an estoppel certificate identifying the Ground Lease documents and signed by the Landlord, dated within thirty (30) days of the Note endorsement, must be provided to Lender and HUD at closing. The Landlord must confirm in writing to Lender and HUD that the Security Instrument is authorized, the Ground Lease is in full force and effect, there are no defaults or pending defaults under the Ground Lease or conditions that would give rise to defaults given the passage of time, and that the legal description of the Property is correct. The document must provide the language required by 24 CFR Section 200.62, and also include the "Warning" language found at the beginning of this Lease Addendum.

Upon a reasonable request from Tenant, Lender, or HUD, Landlord further agrees to promptly provide from time to time an estoppel certificate to confirm the terms of, and no default under, the Ground Lease.

6. Consent for Mortgage. Landlord agrees that the Tenant is authorized to obtain a loan, the repayment of which is to be insured by HUD and secured by the Security Instrument on this leasehold estate and the Improvements. The Tenant is further authorized to execute all documents necessary as determined by Lender or HUD and otherwise to comply with Program Obligations for obtaining such an insured loan.

7. HUD Option to Purchase. *Intentionally Omitted.*

8. Conveyance by Tenant. If approved in writing by HUD in advance, the Tenant may convey, assign, transfer, lease, sublease or sell all or any part of its leasehold interest in the Property without the need for approval or consent by any other person or entity.

9. Insurance.

- (a) Insurance policies shall be in an amount, and with such company or companies and in such form, and against such risks and hazards, as shall be approved

by Lender and HUD in accordance with Program Obligations.

- (b) The Landlord shall not take out separate insurance concurrent in form or contributing in the event of loss with that specifically required to be furnished by the Tenant to Lender. The Landlord may at its own expense, however, take out separate insurance which is not concurrent in form or not contributing in the event of loss with that specifically required to be furnished by the Tenant to Lender.

10. Condemnation.

- (a) If all or any part of the Property or the Improvements or the leasehold estate shall be taken or damaged by condemnation, that portion of any award attributable to the Improvements or the Tenant's interest in the leasehold estate or damage to the Improvements or the Tenant's interest in the leasehold estate shall be paid to Lender or otherwise disposed of as may be provided in the Security Instrument. Any portion of the award attributable solely to the underlying fee estate (exclusive of any Improvements) shall be paid to the Landlord. After the date of taking, the annual ground rent shall be reduced ratably by the proportion which the award paid to the Landlord bears to the total value of the Property as established by the amount HUD is to pay, as set forth in Section 7 of this Lease Addendum.
- (b) In the event of a negotiated sale of all or a portion of the Property and/or the Improvements, in lieu of condemnation, the proceeds shall be distributed and annual ground rent reduced as provided in cases of condemnation above, but the approval of HUD and Lender shall be required as to the amount and division of the payments to be received.

11. Tenant Default on Ground Lease; Cure Rights; Termination. The Landlord may terminate the Ground Lease prior to the expiration day of the full term of this Ground Lease (“**Expiration Date**”) after a Tenant default under this Ground Lease (“**Ground Lease Event of Default**”), but only under the following circumstances and procedures.

- (a) If any Ground Lease Event of Default shall occur, then and in any such event, the Landlord shall at any time thereafter during the continuance of such Ground Lease Event of Default and prior to any cure, give written notice of such default(s) (“**Notice of Default**”) to the Tenant, Lender, and HUD, specifying the Ground Lease Event of Default and the methods of cure, or declaring that a Ground Lease Event of Default is incurable. If the Ground Lease Event of Default is a failure to pay money, the Landlord shall specify and itemize the amounts of such default. Failure to pay money shall be specified as a separate default and not combined with a non-monetary Ground Lease Event of Default.

- (b) Within sixty (60) days from the date of giving the Notice of Default to the Tenant, the Tenant must cure a monetary default by paying the Landlord all amounts specified in the Notice of Default and must cure any specified Ground Lease Event of Default that is capable of being cured within such period.
- (c) During the period of one hundred-eighty (180) days commencing upon the date Notice of Default received by Lender and HUD, Lender or HUD may:
 - (1) cure any Ground Lease Event of Default; and
 - (2) commence foreclosure proceedings or institute other state or federal procedures to enforce Lender's or HUD's rights with respect to the Property or the Tenant Improvements.
- (d) If HUD or Lender commences foreclosure or other enforcement action within such one hundred-eighty (180) days, then its cure period shall be extended during the period of the foreclosure or other action and for ninety (90) days after the ownership of the Tenant's rights under the Ground Lease is established in or assigned to HUD or such Lender or a purchaser at any foreclosure sale pursuant to such foreclosure or other action. The transfer of the Tenant's rights under the Ground Lease to Lender, HUD or purchaser, pursuant to such foreclosure or other action shall be deemed a termination of any incurable Ground Lease Event of Default and such terminated Ground Lease Event of Default shall not give the Landlord any right to terminate the Ground Lease. Such purchaser may cure a curable Ground Lease Event of Default within said ninety (90) days.
- (e) If the Tenant, Lender or HUD reasonably undertake to cure any Ground Lease Event of Default during the applicable cure period and diligently pursues such cure, the Landlord shall grant such further reasonable time as is necessary to complete such cure. If, after the expiration of all of the foregoing cure periods, no cure, or termination of an existing Ground Lease Event of Default has been achieved as aforesaid, then and in that event, the Ground Lease shall terminate, and, on such date, the term of this Ground Lease shall expire and terminate and all rights of the Tenant under the Ground Lease shall cease and the Improvements, subject to the Security Instrument and the rights of Lender thereunder, shall be and become the property of the Landlord. All costs and expenses incurred by or on behalf of the Landlord (including, without limitation, reasonable attorneys' fees and expenses) occasioned by any default by the Tenant under this Ground Lease shall constitute additional rent hereunder. The Landlord shall have no right to terminate this Ground Lease except as provided in this Section 11.

12. Lender/HUD Option for New Ground Lease.

- (a) Upon termination of this Ground Lease pursuant to Section 11 above, the Landlord shall immediately seek to obtain possession of the Property and

Improvements. Upon acquiring such possession, the Landlord shall notify HUD and Lender in writing. Lender and HUD shall each have six (6) months from the date of receipt of such notice of acquisition to elect to take, as Tenant, a new ground lease on the Property and on the Improvements.

- (b) Such new ground lease shall have a term equal to the unexpired portion of the term of this Ground Lease immediately prior to such termination and shall, except as otherwise provided herein, be on the same terms and conditions as contained in this Ground Lease, including without limitation, the option to purchase set forth under Section 7 above, except that Lender's or HUD's liability for ground rent shall not extend beyond their occupancy under such ground lease. The Landlord shall tender such new ground lease to Lender or HUD within thirty (30) days after a request for such ground lease and shall deliver possession of the Property and Improvements immediately upon execution of the new ground lease.
- (c) Upon executing a new ground lease, Lender or HUD shall pay to the Landlord any unpaid ground rent due or that would have become due under this Ground Lease to the date of the execution of the new ground lease, including any taxes which were liens on the Property or the Improvements and which were paid by the Landlord, less any net rentals or other income which the Landlord may have received on account of the Property and Improvements since the date of default under this Ground Lease.

13. Landlord Cooperation for Needed Authorizations. The Landlord agrees that within ten (10) days after receipt of written request from the Tenant, it will join in any and all applications for permits, licenses or other authorizations required by any Governmental Authority in connection with any work which the Tenant may do hereunder and will also join in any grants for easements for electric, telephone, telecommunications, cable, gas, water, sewer and such other public utilities and facilities as may be reasonably necessary in the operation of the Property or of any Improvements and if, at the expiration of such ten (10) day period, the Landlord shall not have joined in any such application, or grants for easements, the Tenant shall have the right to execute such application and grants in the name of the Landlord, and for that purpose, the Landlord hereby irrevocably appoints the Tenant as its attorney-in-fact to execute such papers on behalf of the Landlord, only to the extent that a public body as Landlord may do so within the exercise of its municipal powers and responsibilities.

14. Taxes. Nothing in this Ground Lease shall require the Tenant to pay any franchise, estate, inheritance, succession, capital levy or transfer tax of the Landlord or any income excess profits or revenue tax, or any other tax, assessment charge or levy upon the rent payable by the Tenant under this Ground Lease.

15. Notices. All notices, demands and requests which are required to be given by the Landlord, Tenant, Lender or HUD in connection with the Ground Lease and this Lease

Addendum shall be in writing and shall be sent by registered or certified mail, postage prepaid, and addressed to the address of the party as given in this instrument unless a request for a change in this address has been sent to the party giving the notice by registered or certified mail prior to the time when such notice is given.

All notices shall be addressed as follows:

If to Lender: Dwight Capital, LLC
C/O Peaseley & Derryberry
504 Autumn Springs Court, Suite 26
Franklin, TN 37067
Attn: Felicia Frasch
931-273-3032

If to HUD: _____

If to Tenant: Village at Lakefront, LLC
14109 Inwood Road
Farmers Branch, Texas 75244-8232
Attn: John L. Bailey
Telephone: 214-865-6777

If to Landlord: Little Elm Economic Development Corporation
100 W. Eldorado Parkway
Little Elm, Denton County, Texas 75068-5060
Attn: Jennette Espinosa, Executive Director
Telephone: 214-975-0455

16.No Merger. There shall be no merger of this Ground Lease or the leasehold estate created by this Ground Lease with the fee estate of the Property or of the Improvements or any interest therein by reason of the fact that the same person or entity may acquire or hold, directly or indirectly, this Ground Lease or the leasehold estate hereby created or any interest therein and the fee estate of the Property or of the Improvements. No such merger shall occur unless and until HUD specifically consents and agrees in writing to such merger.

Each signatory below hereby certifies that each of their statements and representations contained in Ground Lease and this Lease Addendum and all their supporting documentation thereto are true, accurate, and complete. This Lease Addendum has been made, presented, and delivered for the purpose of influencing an official action of HUD in insuring the Loan, and may be relied upon by HUD as a true statement of the facts contained therein.

IN WITNESS WHEREOF, the parties hereto have executed this Lease Addendum as of the day and year first written above.

LANDLORD:

**LITTLE ELM ECONOMIC
DEVELOPMENT CORPORATION**

a Texas non-profit corporation

By: _____
Ken Eaken, President

Date: _____

STATE OF TEXAS §

§

COUNTY OF DENTON §

This instrument was acknowledged before me on the ____ day of _____, 2021, by Ken Eaken, President of the Little Elm Economic Development Corporation, a Texas non-profit corporation, on behalf of said non-profit corporation.

Notary Public, State of Texas

TENANT:

VILLAGE AT LAKEFRONT, LLC,
a Texas limited liability company,

By: Village Management, Inc.,
a Texas corporation, Manager

By: _____
John L. Bailey, President of Manager

STATE OF TEXAS

§

§

COUNTY OF DALLAS

§

This instrument was acknowledged before me on the _____ day of _____, 2021,
by John L. Bailey, President of Village Management, Inc., as Manager of Village at Lakefront,
LLC, a Texas limited liability company, on behalf of said Texas company.

Notary Public, State of Texas



Town Council Meeting

Date: 02/16/2021
Agenda Item #: 6. D.
Department: Economic Development Corporation
Strategic Goal: Ensure excellence in public services while keeping up with the growth in the community
Staff Contact: Jennette Espinosa, EDC Executive Director

AGENDA ITEM:

Consider Action to Approve **Resolution 0216202103 of the Town of Little Elm Determining the Costs of Certain Authorized Improvements to be Financed by the Spiritas Ranch Public Improvement District, Calling for a Public Hearing for March 16, 2021.**

DESCRIPTION:

The purpose of this item is to:

- Approve a preliminary service plan and assessment plan, including proposed assessment rolls;
- Call Public Hearing for March 16, 2021, to
 - Consider ordinances levying assessments on property located within the Spiritas Ranch Public Improvement District
 - Directing the filling of the proposed assessment rolls with the Town Secretary to make available for Public Inspection
 - Directing the Town Staff to publish and mail notice of said public hearing
 - Resolving other matters incident and related thereto.

BUDGET IMPACT:

The total costs of the Authorized Improvements that benefit the entire District (the "Major Improvements") and the Authorized Improvements that benefit Phase #1 of the District (the "Phase #1 Improvements"), including the costs of creating the District and issuing the bonds, is approximately \$45,000,000, which will be paid out of Bond proceeds.

RECOMMENDED ACTION:

Staff recommends approval.

Attachments

Resolution 0216202103 Determining Costs for Spiritas

TOWN OF LITTLE ELM, TEXAS

RESOLUTION NO. 0216202103

A RESOLUTION OF THE TOWN OF LITTLE ELM, TEXAS DETERMINING THE COSTS OF CERTAIN AUTHORIZED IMPROVEMENTS TO BE FINANCED BY THE SPIRITAS RANCH PUBLIC IMPROVEMENT DISTRICT; APPROVING A PRELIMINARY SERVICE PLAN AND ASSESSMENT PLAN, INCLUDING PROPOSED ASSESSMENT ROLLS; CALLING A REGULAR MEETING AND NOTICING A PUBLIC HEARING FOR *MARCH 16, 2021* TO CONSIDER ORDINANCES LEVYING ASSESSMENTS ON PROPERTY LOCATED WITHIN THE SPIRITAS RANCH PUBLIC IMPROVEMENT DISTRICT; DIRECTING THE FILING OF THE PROPOSED ASSESSMENT ROLLS WITH THE TOWN SECRETARY TO MAKE AVAILABLE FOR PUBLIC INSPECTION; DIRECTING TOWN STAFF TO PUBLISH AND MAIL NOTICE OF SAID PUBLIC HEARING; AND RESOLVING OTHER MATTERS INCIDENT AND RELATED THERETO.

RECITALS

WHEREAS, the Public Improvement District Assessment Act, Texas Local Government Code, Chapter 372, as amended (the “Act”) authorizes the governing body (the “Town Council”) of the Town of Little Elm, Texas (the “Town”) to create a public improvement district within the Town and within the extraterritorial jurisdiction of the Town (the “ETJ”); and

WHEREAS, on May 12, 2020, the Town Council conducted a public hearing to consider a petition received by the Town on November 12, 2020 titled “Petition for the Creation of a Public Improvement District Within the Town of Little Elm, Texas and Within the Extraterritorial Jurisdiction of the Town of Little Elm, Texas for the Spiritas Ranch Public Improvement District” requesting the creation of a public improvement district; and

WHEREAS, on February 2, 2021, the Town Council approved Resolution No. 0202202101 (the “Authorization Resolution”), authorizing, establishing, and creating the Spiritas Ranch Public Improvement District (the “District”); and

WHEREAS, the Town authorized the creation of the District and the issuance of up to \$65,000,000.00 in bonds for the District to finance certain public improvements authorized by the Act for the benefit of the property within the District (the “Authorized Improvements”); and

WHEREAS, the Town Council and the Town staff have been presented a “Spiritas Ranch Public Improvement District Preliminary Service and Assessment Plan”, including the proposed

assessment rolls attached thereto (the “Proposed Assessment Rolls”), dated February 16, 2021 (collectively, the “Preliminary SAP”), a copy of which is attached hereto as **Exhibit A** and is incorporated herein for all purposes; and

WHEREAS, the Preliminary SAP sets forth the estimated total costs of certain Authorized Improvements to be financed by the District for the initial phase of development and the Proposed Assessment Rolls state the assessments proposed to be levied against each parcel of land in the District as determined by the method of assessment chosen by the Town; and

WHEREAS, the Act requires that the Proposed Assessment Rolls be filed with the Town Secretary of the Town (the “Town Secretary”) and be subject to public inspection; and

WHEREAS, the Act requires that public hearings (collectively, the “Assessment Hearing”) be called to consider proposed assessments and requires the Town Council to hear and pass on any objections to the proposed assessments at, or on the adjournment of, the Assessment Hearing; and

WHEREAS, the Act requires that notice of the Assessment Hearing be mailed to property owners liable for assessment and published in a newspaper of general circulation in the Town and in the part of the Town’s ETJ in which the District is located or in which the Authorized Improvements are to be undertaken before the tenth (10th) day before the date of the Assessment Hearing.

NOW THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF LITTLE ELM, TEXAS AS FOLLOWS:

SECTION 1. THAT the recitals set forth above in this Resolution are true and correct and are hereby adopted as findings of the Town Council and are incorporated into the body of this Resolution as if fully set forth herein.

SECTION 2. THAT the Town Council does hereby accept the Preliminary SAP for the District, including the Proposed Assessment Rolls, a copy of which is attached hereto as **Exhibit A** and is incorporated herein for all purposes. All capitalized terms not otherwise defined herein shall have the meanings given to such terms in the Preliminary SAP.

SECTION 3. THAT the Town Council hereby determines that the total costs of the Major Improvements (as defined in the Preliminary SAP) to be financed by the District are as set forth in Table III-A of the Preliminary SAP and the total costs of the Phase #1 Improvements (as defined in the

Preliminary SAP) to be financed by the District are as set forth in Table III-B of the Preliminary SAP, which costs do include the payment of expenses incurred in the administration of the District or related to the issuance of any bonds.

SECTION 4. THAT the Town Council's final determination and approval of the costs of the Major Improvements and the Phase #1 Improvements, or any portion thereof, shall be subject to and contingent upon Town Council approval of a final Service and Assessment Plan which will include final Assessment Rolls, after the properly noticed and held Assessment Hearing.

SECTION 5. THAT the Proposed Assessment Rolls state the assessment proposed to be levied against each parcel of land in the District as determined by the method of assessment chosen by the Town in the Authorization Resolution and as more fully described in the Preliminary SAP.

SECTION 6. THAT the Town Council expressly defers the levy of assessments against property within future phases of the District for phase-specific improvements that will benefit only the property within each subsequent phase until such time as the costs of such phase-specific improvements can be determined with certainty as referenced in the Preliminary SAP.

SECTION 7. THAT the Town Council hereby authorizes and directs the filing of the Proposed Assessment Rolls with the Town Secretary and the same shall be available for public inspection.

SECTION 8. THAT the Town Council hereby authorizes, and calls, a meeting and a public hearing (the Assessment Hearing as defined above) to be held on *March 16, 2021 at or after 6:00 p.m. at Little Elm Town Hall, 100 W. Eldorado Pkwy, Little Elm, Texas 75068*, at which the Town Council shall, among other actions, hear and pass on any objections to the proposed assessments; and, upon the adjournment of the Assessment Hearing, the Town Council will consider ordinances levying the assessments as special assessments on property within the District that benefit from the Authorized Improvements (which ordinance shall specify the method of payment of the assessments).

SECTION 9. THAT the Town Council hereby authorizes and directs the Town Secretary to publish notice of the Assessment Hearing to be held on *March 16, 2021*, in substantially the form attached hereto as **Exhibit B** and incorporated herein for all purposes, in a newspaper of general circulation in the Town and in the part of the Town's ETJ in which the District is located or in which the Authorized Improvements are to be undertaken, on or before March 5, 2021, which is before the

tenth (10th) day before the date of the Assessment Hearing, as required by Section 372.016(b) of the Act.

SECTION 10. THAT when the Proposed Assessment Rolls are filed with the Town Secretary, the Town Council hereby authorizes and directs the Town Secretary to mail to owners of property liable for assessment notice of the Assessment Hearing to be held on *March 16, 2021*, on or before March 5, 2021, as required by Section 372.016(c) of the Act.

SECTION 11. THAT Town staff is authorized and directed to take such other actions as are required (including, but not limited to, notice of the public hearing as required by the Texas Open Meetings Act) to place the public hearing on the agenda for the *March 16, 2021* meeting of the Town Council.

SECTION 12. THAT this Resolution shall become effective from and after its date of passage in accordance with law.

[Remainder of page intentionally left blank; signatures follow]

PASSED AND APPROVED on this the 16th day of February, 2021.

ATTEST:

David Hillock, Mayor

Caitlan Biggs, Town Secretary

Matt Mueller, Town Manager

APPROVED AS TO FORM:

_____,
Robert Brown, Town Attorney

EXHIBIT A

PRELIMINARY SERVICE AND ASSESSMENT PLAN

SPIRITAS RANCH PUBLIC IMPROVEMENT DISTRICT

TOWN OF LITTLE ELM, TEXAS

PRELIMINARY SERVICE AND ASSESSMENT PLAN

_____, 2021

PREPARED BY:

MUNICAP, INC.
— PUBLIC FINANCE —

SPIRITAS RANCH PUBLIC IMPROVEMENT DISTRICT

PRELIMINARY SERVICE AND ASSESSMENT PLAN

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APPENDIX A - PID MAP

APPENDIX B - ESTIMATED COSTS OF THE AUTHORIZED IMPROVEMENTS

APPENDIX C - DIAGRAMS OF THE AUTHORIZED IMPROVEMENTS

**APPENDIX D - ASSESSMENT PER EQUIVALENT UNIT, PROJECTED LEVERAGE AND
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APPENDIX E - PROPOSED PHASES #2-4 MAJOR IMPROVEMENT ASSESSMENT ROLL

APPENDIX F - PROPOSED PHASE #1 ASSESSMENT ROLL

I. PLAN DESCRIPTION AND DEFINED TERMS

A. INTRODUCTION

On February 3, 2021, (the “Creation Date”) the Town Council of the Town of Little Elm (the “Town Council”) passed and approved Resolution No. 020202101 approving and authorizing the creation of Spiritas Ranch Public Improvement District (the “PID”) to finance the costs of certain public improvements for the benefit of property in the PID, a portion of which is presently located within the Town of Little Elm (the “Town”) and a portion of which is located within the extraterritorial jurisdiction of the Town.

The property in the PID is proposed to be developed in multiple phases, and the PID will finance public improvements for each phase as each phase is developed. Assessments will be imposed on all property in the PID for the public improvements that benefit the entire PID and on the property in each phase for the public improvements to be constructed for the benefit of that phase.

Chapter 372 of the Texas Local Government Code, the “Public Improvement District Assessment Act” (as amended, the “PID Act”), governs the creation and operation of public improvement districts within the State of Texas. The Spiritas Ranch Public Improvement District Service and Assessment Plan (the “Service and Assessment Plan”) has been prepared in accordance with the PID Act and specifically Sections 372.013, 372.014, 372.015 and 372.016, which address the requirements of a service and assessment plan and the assessment roll. According to Section 372.013 of the PID Act, a service plan “must cover a period of at least five years and must also define the annual indebtedness and the projected costs for improvements. The plan shall be reviewed and updated annually for the purpose of determining the annual budget for improvements.” The service plan is described in Section IV of this Service and Assessment Plan.

Section 372.014 of the PID Act requires that “an assessment plan must be included in the annual service plan.” The assessment plan is described in Section V of this Service and Assessment Plan.

Section 372.015 of the PID Act requires that “the governing body of the municipality or county shall apportion the cost of an improvement to be assessed against property in an improvement district.” The method of assessing the costs of the Authorized Improvements and apportionment of such costs to the property in the PID is included in Section V of this Service and Assessment Plan.

Section 372.016 of the PID Act requires that “after the total cost of an improvement is determined, the governing body of the municipality or county shall prepare a proposed assessment roll. The roll must state the assessment against each parcel of land in the district, as determined by the method of assessment chosen by the municipality or county under this subchapter.” The Assessment Rolls for the PID are included as Appendix E and Appendix F of this Service and Assessment Plan. The Assessments as shown on each Assessment Roll are based on the method of assessment and apportionment of costs described in Section V of this Service and Assessment Plan.

B. Definitions

Capitalized terms used herein shall have the meanings ascribed to them as follows:

“Actual Cost(s)” means, with respect to an Authorized Improvement, the demonstrated, reasonable, allocable, and allowable costs of constructing such Authorized Improvement, as specified in a Certification for Payment that has been reviewed and approved by the Town. Actual Cost may include (a) the costs for the design, planning, financing, administration, management, acquisition, installation, construction and/or implementation of such Authorized Improvement, including general contractor construction management fees, if any, (b) the costs of preparing the construction plans for such Authorized Improvement, (c) the fees paid for obtaining permits, licenses or other governmental approvals for such Authorized Improvement, (d) the costs for external professional costs associated with such Authorized Improvement, such as engineering, geotechnical, surveying, land planning, architectural landscapers, advertising, marketing and research studies, appraisals, legal, accounting and similar professional services, taxes (property and franchise) (e) the costs of all labor, bonds and materials, including equipment and fixtures, incurred by contractors, builders and material men in connection with the acquisition, construction or implementation of the Authorized Improvements, (f) all related permitting, zoning and public approval expenses, architectural, engineering, legal, and consulting fees, financing charges, taxes, governmental fees and charges (including inspection fees, Town permit fees, development fees), insurance premiums, miscellaneous expenses, and all advances and payments for Administrative Expenses.

Actual Costs include general contractor’s fees in an amount up to a percentage equal to the percentage of work completed and accepted by the Town or construction management fees in an amount up to five percent of the eligible Actual Costs described in a Certification for Payment. The amounts expended on legal costs, taxes, governmental fees, insurance premiums, permits, financing costs, and appraisals shall be excluded from the base upon which the general contractor and construction management fees are calculated.

“Administrator” means the employee or designee of the Town, identified in any indenture of trust relating to any Bonds or in any other agreement approved by the Town Council, who shall have the responsibilities provided for herein.

“Administrative Expenses” mean the administrative, organization, maintenance and operation costs associated with, or incident to, the administration, organization, maintenance and operation of the PID, including, but not limited to, the costs of: (i) creating and organizing the PID, including conducting hearings, preparing notices and petitions, and all costs incident thereto, including engineering fees, legal fees and consultant fees, (ii) the annual administrative, organization, maintenance, and operation costs and expenses associated with, or incident and allocable to, the administration, organization, and operation of the PID, (iii) computing, levying, billing and collecting Assessments or the Annual Installments thereof, (iv) maintaining the record of installments of the Assessments and the system of registration and transfer of the Bonds, (v) paying and redeeming the Bonds, (vi) investing or depositing of monies, (vii) complying with the PID Act and other laws applicable to the Bonds, (viii) the Trustee fees and expenses relating to

the Bonds, including reasonable fees, (ix) legal counsel, engineers, accountants, financial advisors, investment bankers or other consultants and advisors, and (x) administering the construction of the Authorized Improvements. Administrative Expenses do not include payment of the actual principal of, redemption premium, if any, and interest on the Bonds. Administrative Expenses collected and not expended for actual Administrative Expenses in one year shall be carried forward and applied to reduce Administrative Expenses in subsequent years to avoid the over-collection of amounts to pay Administrative Expenses.

“Annual Installment” means, with respect to each Parcel, each annual payment of: (i) the Assessments, including any applicable interest, as shown on the Assessment Roll attached hereto as Appendix E and Appendix F, as applicable, or in an Annual Service Plan Update, and calculated as provided in Section VI of this Service and Assessment Plan, and (ii) Administrative Expenses.

“Annual Service Plan Update” has the meaning set forth in the second paragraph of Section IV of this Service and Assessment Plan.

“Assessed Property” means the property that benefits from the Authorized Improvements to be provided by the PID on which Assessments have been imposed as shown in each Assessment Roll, as each Assessment Roll is updated each year by the Annual Service Plan Update. Assessed Property includes Parcels within the PID other than Non-Benefited Property.

“Assessment” means an assessment levied against a Parcel imposed pursuant to an Assessment Ordinance and the provisions herein, as shown on any Assessment Roll, subject to reallocation upon the subdivision of such Parcel or reduction according to the provisions herein and the PID Act. An Assessment for a Parcel consists of the Annual Installments to be collected in all years including the portion of those Annual Installments collected to pay Administrative Expenses and interest on all Assessments.

“Assessment Ordinance” means an Assessment Ordinance adopted by the Town Council approving the Service and Assessment Plan (including amendments or supplements to the Service and Assessment Plan) and levying the Assessments.

“Assessment Revenues” mean the revenues actually received by or on behalf of the Town from the collection of Assessments.

“Assessment Roll” means, as applicable, the Phases #2-4 Major Improvement Assessment Roll, the Phase #1 Assessment Roll or any other Assessment Roll in an amendment or supplement to this Service and Assessment Plan or in an Annual Service Plan Update.

“Authorized Improvements” mean those public improvements described in Appendix B of this Service and Assessment Plan and Section 372.003 of the PID Act, constructed and installed in accordance with this Service and Assessment Plan, and any future updates and/or amendments.

“Bonds” mean any bonds issued in one or more series for financing the Authorized Improvements and secured in whole or in part by the Assessment Revenues.

“Certification for Payment” means the certificate to be provided by the Developer, or his designee, to substantiate the Actual Cost of one or more Authorized Improvements.

“Delinquent Collection Costs” mean interest, penalties and expenses incurred or imposed with respect to any delinquent installment of an Assessment in accordance with the PID Act and the costs related to pursuing collection of a delinquent Assessment and foreclosing the lien against the Assessed Property, including attorney’s fees.

“Development Agreement” means that certain “Spiritas Ranch Development Agreement” by and between the Town and the Developer, a Texas limited liability company, and related to the development of the Property effective February 3, 2021, as the same may be amended from time to time.

“Developer” means MM Little Elm 548, LLC, a Texas limited liability company.

“Future Phases” means Phases that are fully developed after Phase #1, as such areas are generally depicted in Appendix A. The Future Phases are subject to adjustment and are shown for example only.

“Homeowner Association” means a homeowner’s association or property owners’ association established for the benefit of property owners within the boundaries of the PID.

“Homeowner Association Property” means property within the boundaries of the PID that is owned by or irrevocably offered for dedication to, whether in fee simple or through an exclusive use easement, a homeowner’s association.

“Lot” means a tract of land described as a “lot” in a subdivision plat recorded in the official public records of Denton County, Texas.

“Lot Type” means a classification of final building lots with similar characteristics (e.g. commercial, light industrial, multifamily residential, single family residential, etc.), as determined by the Administrator and confirmed by the Town Council. In the case of single family residential lots, the Lot Type shall be further defined by classifying the residential lots by the estimated average home value for each home at the time of assessment levy (as shown in Appendix D for the calculation of Equivalent Units), considering factors such as density, lot size, proximity to amenities, view premiums, location, and any other factors that may impact the average home value on the lot, as determined by the Administrator and confirmed by the Town Council.

“Major Improvements” or “MI” mean the Authorized Improvements which benefit all Assessed Property within the PID and are described in Section III.B.

“Non-Benefited Property” means Parcels that accrue no special benefit from the Authorized Improvements, including Homeowner Association Property, Public Property and easements that create an exclusive use for a public utility provider to the extent they accrue no special benefit.

Property identified as Non-Benefited Property at the time the Assessments (i) are imposed or (ii) are reallocated pursuant to a subdivision of a Parcel, is not assessed. Assessed Property converted to Non-Benefited Property, if the Assessments may not be reallocated pursuant to the provisions herein, remains subject to the Assessments and requires the Assessments to be prepaid as provided for in Section VI.E.

“Parcel” or “Parcels” means a parcel or parcels within the PID identified by either a tax map identification number assigned by the Denton Central Appraisal District for real property tax purposes or by lot and block number in a final subdivision plat recorded in the real property records of Denton County.

“Phase” means one or more Parcels within the PID that will be developed in the same general time period. The Parcels within a Phase will be assessed in connection with the execution of a reimbursement agreement and/or issuance and/or issuance of Bonds for Authorized Improvements (or the portion thereof) designated in an update to this Service and Assessment Plan that specially benefit the Parcels within the Phase.

“Phase #1” means the initial Phase to be developed and generally shown in Appendix A, as specifically depicted and described as the sum of all Parcels shown in Appendix F.

“Phase #1 Assessed Property” means all Parcels within Phase #1 other than Non-Benefited Property and shown in the Phase #1 Assessment Roll against which an Assessment relating to the Phase #1 Projects is levied.

“Phases #1 Assessment Revenues” mean the actual revenues received by or on behalf of the Town from the collection of Assessments levied against Phase #1 Assessed Property, or the Annual Installments thereof, for the Phase #1 Projects.

“Phase #1 Assessment Roll” means the document included in this Service and Assessment Plan as Appendix F, as updated, modified or amended from time to time in accordance with the procedures set forth herein and in the PID Act, including updates prepared in connection with any Annual Service Plan Update.

“Phase #1 Projects” mean (i) the pro rata portion of the Major Improvements allocable to Phase #1, and (ii) the Phase #1 Improvements.

“Phase #1 Improvements” mean the Authorized Improvements which only benefit Phase #1 Assessed Property, which are described in Section III.C.

“Phase #1 Reimbursement Agreement” means that certain Spiritas Ranch Public Improvement District Phase #1 Reimbursement Agreement expected to be dated by and between the Town and the Developer in which the Developer agrees to fund certain Actual Costs of Authorized Improvements and the Town agrees to reimburse the Developer for a portion of such Actual Costs funded by the Developer with interest as permitted by the PID Act.

“Phases #2-4” mean the property within the PID excluding Phase #1 which is to be developed subsequent to Phase #1 and generally depicted in Appendix A of this Service and Assessment Plan or any Annual Service Plan Update.

“Phases #2-4 Assessed Property” means, for any year, all Parcels within the PID other than (a) Non-Benefited Property, and (b) Parcels within Phase #1.

“Phases #2-4 Major Improvements” mean the pro rata portion of the Major Improvements allocable to Phases #2-4, which are described in Section III.

“Phases #2-4 Major Improvement Assessment Revenues” mean the revenues actually received by or on behalf of the Town from the collection of Assessments levied against Phases #2-4 Assessed Property, or the Annual Installments thereof, for the Phases #2-4 Major Improvements.

“Phases #2-4 Major Improvement Assessment Roll” means the document included in this Service and Assessment Plan as Appendix E, as updated, modified or amended from time to time in accordance with the procedures set forth herein and in the PID Act, including updates prepared in connection with any Annual Service Plan Update.

“Phases #2-4 Major Improvement Reimbursement Agreement” means that certain Spiritas Ranch Public Improvement District Phases #2-4 Major Improvement Reimbursement Agreement expected to be dated by and between the Town and the Developer in which the Developer agrees to fund certain Actual Costs of Authorized Improvements and the Town agrees to reimburse the Developer for a portion of such Actual Costs funded by the Developer with interest as permitted by the PID Act.

“PID” has the meaning set forth in Section I.A of this Service and Assessment Plan.

“PID Act” means Texas Local Government Code Chapter 372, Public Improvement District Assessment Act, Subchapter A, Public Improvement Districts, as amended.

“Prepayment Costs” mean interest and expenses to the date of prepayment, plus any additional expenses related to the prepayment, reasonably expected to be incurred by or imposed upon the Town as a result of any prepayment of an Assessment.

“Public Property” means property within the boundaries of the PID that is owned by or irrevocably offered for dedication to the federal government, the State of Texas, Denton County, the Town, a school district or any other public agency, whether in fee simple or through an exclusive use easement.

“Service and Assessment Plan” means this Service and Assessment Plan prepared for the PID pursuant to the PID Act, as the same may be amended from time to time.

“Town” means the Town of Little Elm, Texas.

“Town Council” means the duly elected governing body of the Town.

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II. PROPERTY INCLUDED IN THE PID

A. PROPERTY INCLUDED IN THE PID

The PID is presently located within the Town and contains approximately 545 acres of land. A map of the property within the PID is shown on Appendix A to this Service and Assessment Plan.

At completion, the PID is expected to consist of approximately 2,135 single family residential units, landscaping, and infrastructure necessary to provide roadways, drainage, and utilities to the PID.

The property within the PID is proposed to be developed as follows:

Table II-A
Proposed Development

Proposed Development	Quantity	Measurement
Single-Family - 40 Ft	868	Units
Single-Family - 50 Ft	962	Units
Single-Family - 60 Ft	305	Units
Total	2,135	Units

B. PROPERTY INCLUDED IN PHASE #1 AND PHASES #2-4

Phase #1 consists of approximately 251 acres and is projected to consist of 1,044 single family residential units, to be developed as Phase #1, as further described in Section III. Phases #2-4 consist of approximately 294 acres and are projected to consist of approximately 1,091 residential units. A map of the property within Phase #1 and Phases #2-4 and depicting the boundaries of each proposed Phase is shown in Appendix A.

C. PROPERTY INCLUDED IN FUTURE PHASES

As Future Phases are developed, this Service and Assessment Plan will be updated to add additional details of each new Phase(s) as shown for Phase #1 in Section II.B. A map of the projected property within each Future Phase is shown in Appendix A. The Future Phases are shown for illustrative purposes only and are subject to adjustment. The current Parcels in the PID are shown on the Assessment Rolls included as Appendix E and Appendix F.

The estimated number of units at the build-out of the PID is based on the land use approvals for the property, the anticipated subdivision of property in the PID, and the Developer's estimate of the highest and best use of the property within the PID.

III. DESCRIPTION OF THE AUTHORIZED IMPROVEMENTS

A. AUTHORIZED IMPROVEMENT OVERVIEW

372.003. Authorized Improvements

(a) If the governing body of a municipality or county finds that it promotes the interests of the municipality or county, the governing body may undertake an improvement project that confers a special benefit on a definable part of the municipality or county or the municipality's extraterritorial jurisdiction. A project may be undertaken in the municipality or county or the municipality's extraterritorial jurisdiction.

(b) A public improvement may include:

- (i) landscaping;
- (ii) erection of fountains, distinctive lighting, and signs;
- (iii) acquiring, constructing, improving, widening, narrowing, closing, or rerouting of sidewalks or of streets, any other roadways, or their rights-of way;
- (iv) construction or improvement of pedestrian malls;
- (v) acquisition and installation of pieces of art;
- (vi) acquisition, construction, or improvement of libraries;
- (vii) acquisition, construction, or improvement of off-street parking facilities;
- (viii) acquisition, construction, improvement, or rerouting of mass transportation facilities;
- (ix) acquisition, construction, or improvement of water, wastewater, or drainage facilities or improvements;
- (x) the establishment or improvement of parks;
- (xi) projects similar to those listed in Subdivisions (i)-(x);
- (xii) acquisition, by purchase or otherwise, of real property in connection with an authorized improvement;
- (xiii) special supplemental services for improvement and promotion of the district, including services relating to advertising, promotion, health and sanitation, water and wastewater, public safety, security, business recruitment, development, recreation, and cultural enhancement;
- (xiv) payment of expenses incurred in the establishment, administration and operation of the district; and
- (xv) the development, rehabilitation, or expansion of affordable housing

After analyzing the public improvement projects authorized by the PID Act, the Town has determined at this time to undertake only Authorized Improvements listed in Section III.B and III.C. below and shown in the opinion of probable costs and on the diagrams included as Appendix B for the benefit of the Assessed Property. Any change to the list of Authorized Improvements will require the approval of the Town and an update to this Service and Assessment Plan.

B. DESCRIPTIONS AND COSTS OF MAJOR IMPROVEMENTS

The Major Improvements benefit the entire PID. The costs of the Major Improvements are allocated proportionally throughout the entire PID, excluding Non-Benefited Property, in a manner that anticipates planned development of the PID based on the anticipated number of lots. Each of Phase #1 and Phases #2-4 will be proportionally allocated the costs of the Major Improvements, as shown on Table III-A below.

The Major Improvements descriptions are presented below as provided by the project engineer. The costs of the Major Improvements are shown in Table III-A. The costs shown in Table III-A are estimates and may be revised in Annual Service Plan Updates, including such other improvements as deemed necessary to further improve the properties within the PID.

A description of the Major Improvements follows:

Roadway Improvements

The roadway improvement portion of the Major Improvements consists of the construction of 5,700 liner feet of Ryan Spiritas Parkway (FM 2931) with a one hundred forty foot (140') right-of-way, 1,900 liner feet of the New HEB Road with a one hundred foot (100') right-of-way, 1,600 liner feet of a Collector Road with a sixty foot (60') right-of-way and entrance road improvements, including turn lanes. The roadway improvements include related paving, drainage, curbs, gutters, sidewalks, retaining walls, signage, and traffic control devices, which benefit the Assessed Property. All roadway projects will be designed and constructed in accordance with Town standards and specifications and will be owned and maintained by the Town.

Water Improvements

The water improvement portion of the Major Improvements consists of construction and installation of 6,400 liner feet of 16-inch waterline, 3,500 liner feet of 12-inch waterline, mains, pipes, valves, and appurtenances, necessary for the water distribution system that will service the Assessed Property. The water improvements will be designed and constructed according to Mustang Special Utility District ("MSUD") and Town standards and specifications and will be owned and operated by the MSUD.

Sanitary Sewer Improvements

The sanitary sewer improvement portion of the Major Improvements consists of construction and installation of a lift station, 3,200 liner feet of 15-inch gravity sewer line, 6,200 liner feet of 6-inch sewer force main, pipes, service lines, manholes, encasements, and appurtenances necessary to provide sanitary sewer service to the Assessed Property. The sanitary sewer improvements will be designed and constructed according to MSUD and Town standards and specifications and will be owned and operated by the MSUD.

Storm Drainage Improvements

The storm drainage improvement portion of the Major Improvements consist of three (3) retention/detention pond, including excavation, fine grading, and the associated drainage improvements for each pond. Underground reinforced concrete storm sewer pipes, inlets and rock riprap protection at outfalls will also be installed at each pond, which benefit the Assessed Property. The storm drainage collection system improvements will be designed and constructed in accordance with Town standards and specifications and will be owned and maintained by the Town.

Parks, Landscaping, and Hardscaping Improvements

Park, Landscaping, and Hardscaping Improvements within the PID Major Improvements areas include grading, irrigation, landscaping, site furnishings, and site elements. All Park, Landscaping, and Hardscaping Improvement projects will be designed and constructed in accordance with Town standards and specifications and will be maintained by a Homeowners Association (HOA).

Table III-A
Estimated Major Improvement Costs

Authorized Improvements	Total Major Improvement Costs	Phase #1 Allocated Amount¹ (48.33%)¹	Phases #2-4 Allocated Amount (51.67%)¹
Roadway Improvements	\$4,006,306	\$1,936,196	\$2,070,110
Water Improvements	\$616,541	\$297,966	\$318,575
Sanitary Sewer Improvements	\$2,114,663	\$1,021,990	\$1,092,673
Storm Drainage Improvements	\$548,480	\$265,073	\$283,407
Parks, Landscaping, and Hardscaping	\$2,722,430	\$1,315,716	\$1,406,714
Other Soft and Miscellaneous Costs	\$7,083,305	\$3,423,271	\$3,660,034
Total Authorized Improvements	\$17,091,725	\$8,260,212	\$8,831,513

Note: Costs provided by Barraza Consulting Group, LLC. The figures shown in Table III-A may be revised in Annual Service Plan Updates and may be reallocated between line items so long as the Total Authorized Improvements amount relating to Phase #1, and Phases #2-4 does not change.

¹Based on allocation and percentages as shown in Table V-A

C. DESCRIPTIONS AND COSTS OF PHASE #1 IMPROVEMENTS

The Phase #1 Improvements descriptions are presented below as provided by the project engineer. The Phase #1 Projects include Phase #1's proportionate share of the costs of the Major Improvements and the costs of the Phase #1 Improvements. The costs of the Phase #1 Projects are shown in Table III-B. The costs shown in Table III-B are estimates and may be revised in Annual Service Plan Updates, including such other improvements as deemed necessary to further improve the properties within the PID.

A description of the Phase #1 Improvements follows, and a description of the Major Improvements that are a portion of the Phase #1 Projects can be found in Section III-B above.

Road Improvements

The road improvement portion of the Phase #1 Improvements consists of the construction of 49,000 liner feet of road improvements, including related paving, drainage, curbs, gutters, sidewalks, retaining walls, signage, and traffic control devices, which benefit the Phase #1 Assessed Property. All roadway projects will be designed and constructed in accordance with Town standards and specifications and will be owned and maintained by the Town.

Water Improvements

The water improvement portion of the Phase #1 Improvements consists of construction and installation 39,000 liner feet of a looped 8-inch water main network, waterlines, mains, pipes, valves, and appurtenances, necessary for the portion of the water distribution system that will service the Phase #1 Assessed Property. The water improvements will be designed and constructed according to MSUD and Town standards and will be owned and operated by the MSUD.

Sanitary Sewer Improvements

The wastewater improvement portion of the Phase #1 Improvements consists of construction and installation of 2,600 liner feet of 10-inch gravity sewer line, 39,000 liner feet of 8-inch gravity sewer line, pipes, service lines, manholes, encasements, and appurtenances necessary to provide sanitary sewer service to Phase #1 Assessed Property. The sanitary sewer improvements will be designed and constructed according to MSUD and Town standards and specifications and will be owned and operated by the MSUD.

Storm Drainage Improvements

The storm drainage improvement portion of the Phase #1 Improvements consist of reinforced concrete pipes, reinforced concrete boxes, and multi-reinforced box culverts, which benefit the Phase #1 Assessed Property. The storm drainage collection system improvements will be designed and constructed in accordance with Town standards and specifications and will be owned and maintained by the Town.

Parks, Landscaping, and Hardscaping Improvements

The Park, Landscaping, and Hardscaping Improvements within the PID include grading, irrigation, landscaping, site furnishings, and site elements. All Park, Landscaping, and Hardscaping Improvement projects will be designed and constructed in accordance with Town standards and specifications and will be maintained by a HOA.

Table III-B
Estimated Phase #1 Projects Costs

Authorized Improvements	Proportional Share of Major Improvements	Phase #1 Improvement Costs	Total
Roadway Improvements	\$1,936,196	\$7,677,642	\$9,613,838
Water Improvements	\$297,966	\$2,136,700	\$2,434,666
Sanitary Sewer Improvements	\$1,021,990	\$3,721,056	\$4,743,046
Storm Drainage Improvements	\$265,073	\$4,456,317	\$4,721,390
Parks, Landscaping, and Hardscaping	\$1,315,716	\$0	\$1,315,716
Right-Of-Way Acquisition	\$0	\$5,905,516	\$5,905,516
Other Soft and Miscellaneous Costs	\$3,423,271	\$3,269,210	\$6,692,481
Total Authorized Improvements	\$8,260,212	\$27,166,441	\$35,426,653

Note: Costs provided by Barraza Consulting Group, LLC. The figures shown in Table III-B may be revised in Annual Service Plan Updates and may be reallocated between line items so long as the total Authorized Improvements amount does not change.

D. FUTURE PHASES

As Future Phases are developed, in association with execution of a reimbursement agreement and/or issuance of Bonds for such Future Phase, this SAP will be amended to identify the specific Authorized Improvements that confer a special benefit to the property inside each Future Phase (e.g. a Table III-C will be added to show the costs for the specific Authorized Improvements financed within the specific Future Phase being developed.)

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IV. SERVICE PLAN

A. SOURCES AND USES OF FUNDS

The PID Act requires the service plan to cover a period of at least five years. The service plan is required to define the annual projected costs and indebtedness for the Authorized Improvements undertaken within the PID during the five year period. It is anticipated that it will take approximately 12-14 months to construct the Phases #2-4 Major Improvements and approximately 12-14 months for the Phase #1 Projects to be constructed. At some point after all or a portion of the Phases #2-4 Major Improvements and Phase #1 Projects are constructed, phase #2 will begin development. After phase #2 is developed, it is anticipated that phase #3 will begin development, with each Future Phase to be subsequently developed corresponding to the Service and Assessment Plan to be updated with that development.

The Actual Costs for Phases #2-4 Major Improvements are \$8,831,513 as shown in Table IV-A. The Actual Costs for Phase #1 Projects are \$35,426,653 as shown in Table IV-B. The service plan shall be reviewed and updated at least annually for the purpose of determining the annual budget for Administrative Expenses, updating the estimated Authorized Improvement costs, and updating the Assessment Roll(s). Any update to this Service and Assessment Plan is herein referred to as an “Annual Service Plan Update.”

As Future Phases are developed in connection with the execution of a reimbursement agreement and/or issuance of Bonds, this Service and Assessment Plan will be amended (e.g. Table IV-C will be added for phase #2, etc.).

The Phases #2-4 Major Improvement Reimbursement Agreement shown in Table IV-A is anticipated to be executed in 2021 and will be used to reimburse the Developer for a portion of the costs of the Phases #2-4 Major Improvements.

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Table IV-A
Estimated Sources and Uses – Phases #2-4 Major Improvement Area

Sources of Funds	Phases #2-4 Major Improvement Reimbursement Agreement
Assessments	\$8,831,513
Other funding sources	\$0
Total Sources	\$8,831,513
Uses of Funds	
<i>Major Improvements:</i>	
Roadway Improvements	\$2,070,110
Water Improvements	\$318,575
Sanitary Sewer Improvements	\$1,092,673
Storm Drainage Improvements	\$283,407
Parks, Landscaping, and Hardscaping	\$1,406,714
Other Soft and Miscellaneous Costs	\$3,660,034
<i>Subtotal</i>	<i>\$8,831,513</i>
Total Uses	\$8,831,513

The Phase #1 Reimbursement Agreement is anticipated to be executed in 2021 and will be used to reimburse the Developer for a portion of the costs of the Phase #1 Projects.

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Table IV-B
Estimated Sources and Uses – Phase #1

Sources of Funds	Phase #1 Reimbursement Agreement
Assessment	\$35,426,653
Other funding sources	\$0
Total Sources	\$35,426,653
Uses of Funds	
<i>Major Improvements:</i>	
Roadway Improvements	\$1,936,196
Water Improvements	\$297,966
Sanitary Sewer Improvements	\$1,021,990
Storm Drainage Improvements	\$265,073
Parks, Landscaping, and Hardscaping	\$1,315,716
Other Soft and Miscellaneous Costs	\$3,423,271
<i>Subtotal</i>	<i>\$8,260,212</i>
<i>Phase #1 Improvements:</i>	
Roadway Improvements	\$7,677,642
Water Improvements	\$2,136,700
Sanitary Sewer Improvements	\$3,721,056
Storm Drainage Improvements	\$4,456,317
Parks, Landscaping, and Hardscaping	\$0
Right-Of-Way Acquisition	\$5,905,516
Other Soft and Miscellaneous Costs	\$3,269,210
<i>Subtotal</i>	<i>\$27,166,441</i>
Total Uses	\$35,426,653

As Future Phases are developed, this Service and Assessment Plan will be updated to include costs of Authorized Improvements for those Future Phases and the additional Major Improvements, if any, benefiting the Future Phases.

The annual projected costs and annual projected indebtedness is shown by Table IV-C. The annual projected costs and indebtedness is subject to revision and each shall be updated in the Annual Service Plan Update to reflect any changes in the costs or indebtedness expected for each year.

Table IV-C
Annual Projected Costs and Annual Projected Indebtedness

Year	Annual Projected Cost	Annual Projected Indebtedness	Other Funding Sources	Projected Phases #2-4 Major Improvement Annual Installments	Projected Phase #1 Annual Installments
2021	\$44,258,166	\$44,258,166	\$0	\$593,073	\$2,303,181
2022	\$0	\$0	\$0	\$592,843	\$2,303,568
2023	\$0	\$0	\$0	\$592,945	\$2,304,105
2024	\$0	\$0	\$0	\$592,304	\$2,304,564
2025	\$0	\$0	\$0	\$592,919	\$2,302,720
Total	\$44,258,166	\$44,258,166	\$0	\$2,964,085	\$11,518,138

The annual projected costs shown in Table IV-C are the annual expenditures relating to the Major Improvements shown in Table III-A and the Phase #1 Projects shown in Table III-B (including the portion of the Major Improvements allocated to Phase #1). The difference between the total projected cost and the total projected indebtedness, if any, is the amount contributed by the Developer. As Future Phases are developed, in association with the execution of a reimbursement agreement and/or issuance of Bonds for each Future Phase, this Table IV-C will be updated to identify the Authorized Improvements of each new phase and the projected indebtedness resulting from each additional reimbursement agreement and/or issuance of Bonds.

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V. ASSESSMENT PLAN

A. INTRODUCTION

The PID Act requires the Town Council to apportion the costs of the Authorized Improvements on the basis of special benefits conferred upon the property because of the Authorized Improvements. The PID Act provides that the costs of the Authorized Improvements may be assessed: (i) equally per front foot or square foot; (ii) according to the value of the property as determined by the governing body, with or without regard to improvements on the property; or (iii) in any other manner that results in imposing equal shares of the cost on property similarly benefited. The PID Act further provides that the governing body may establish by ordinance or order reasonable classifications and formulas for the apportionment of the cost between the municipality and the area to be assessed and the methods of assessing the special benefits for various classes of improvements.

For purposes of this Service and Assessment Plan, the Town Council has determined that the costs of the Phases #2-4 Major Improvements and Phase #1 Projects shall be allocated as described on the following page:

1. The costs of the Phase #1 Improvements and the Major Improvements that only benefit Phase #1 shall be allocated on the basis of the relative value of Parcels once such property is developed, and that such method of allocation will result in the imposition of equal shares of the costs of the Authorized Improvements to Parcels similarly benefited.
2. The Major Improvement costs are proportionally allocated to the Phases #2-4 Assessed Property and the Phase #1 Assessed Property based on the ratio of total estimated number of units for the Phases #2-4 Assessed Property and the Phase #1 Assessed Property.
3. The Phases #2-4 Assessed Property's proportional share of the costs for the Major Improvements is allocated to each Parcel within the Phases #2-4 Assessed Property based on the total estimated number of units for each Parcel.
4. The Phase #1 Projects costs are allocated to each Parcel within the Phase #1 Assessed Property based on the total estimated number of units for each Parcel.

Table V-A provides the estimated allocation of costs of the Authorized Improvements constituting Major Improvements.

At this time it is impossible to determine with absolute certainty the amount of special benefit each Parcel within Future Phases will receive from the direct Authorized Improvements that will benefit each individual phase. Therefore, Parcels will only be assessed for the special benefits conferred upon the Parcel at this time because of the Major Improvements and Phase #1 Improvements, as applicable.

This section of this Service and Assessment Plan currently (i) describes the special benefit received by each Parcel within the PID as a result of the Major Improvements and Phase #1 Improvements, as applicable, (ii) provides the basis and justification for the determination that this special benefit exceeds the amount of the Assessments to be levied on the Phase #1 Assessed Property and Phases #2-4 Assessed Property for such improvements, and (iii) establishes the methodologies by which the Town Council allocates and reallocates the special benefit of the Major Improvements and Phase #1 Improvements, as applicable, to Parcels in a manner that results in equal shares of the Actual Costs of such improvements being apportioned to Parcels similarly benefited. The determination by the Town Council of the assessment methodologies set forth below is the result of the discretionary exercise by the Town Council of its legislative authority and governmental powers and is conclusive and binding on the Developer and all future owners and developers of the Assessed Property.

As Future Phases are developed, in connection with execution of a reimbursement agreement and/or issuance of Bonds, this Service and Assessment Plan will be updated based on the Town's determination of the assessment methodology for each Future Phase.

B. SPECIAL BENEFIT

Assessed Property must receive a direct and special benefit from the Authorized Improvements, and this benefit must be equal to or greater than the amount of the Assessments. The Authorized Improvements are provided specifically for the benefit of the Assessed Property. The Authorized Improvements (more particularly described in line-item format in Appendix B to this Service and Assessment Plan) are authorized by the PID Act. These Authorized Improvements are provided specifically for the benefit of the Assessed Property.

Each owner of the Assessed Property has acknowledged that the Authorized Improvements confer a special benefit on the Assessed Property and has consented to the imposition of the Assessments to pay for the Actual Costs associated therewith. Each of the owners is acting in its interest in consenting to this apportionment and levying of the Assessments because the special benefit conferred upon the Assessed Property by the Authorized Improvements exceeds the amount of the Assessments.

The Authorized Improvements provide a special benefit to the Assessed Property as a result of the close proximity of these improvements to the Assessed Property and the specific purpose of these improvements of providing infrastructure for the Assessed Property. In other words, the Assessed Property could not be used in the manner proposed without the construction of the Authorized Improvements. The Authorized Improvements are being provided specifically to meet the needs of the Assessed Property as required for the proposed use of the property.

The Assessments are being levied to provide the Authorized Improvements that are required for the highest and best use of the Assessed Property (i.e., the use of the property that is most valuable, including any costs associated with that use). Highest and best use can be defined as "the reasonably probable and legal use of property, which is physically possible, appropriately supported, financially feasible, and that results in the highest value." (*Dictionary of Real Estate*

Appraisal, Third Edition.) The Authorized Improvements are expected to be required for the proposed use of the Assessed Property to be physically possible, appropriately supported, financially feasible, and maximally productive.

The Developer has evaluated the potential use of the property and has determined that the highest and best use of the property is the use intended and the legal use for the property as described in Section II of this Service and Assessment Plan. The use of the Assessed Property as described herein will require the construction of the Authorized Improvements.

Each owner of the Assessed Property will ratify, confirm, accept, agree to and approve: (i) the determinations and finding by the Town Council as to the special benefits described in this Service and Assessment Plan and the Assessment Ordinance; (ii) the Service and Assessment Plan and the Assessment Ordinance, and (iii) the levying of Assessments on the Assessed Property. Use of the Assessed Property as described in this Service and Assessment Plan and as authorized by the PID Act requires that Authorized Improvements be acquired, constructed, installed, and/or improved. Funding the Actual Costs of the Authorized Improvements through the PID has been determined by the Town Council to be the most beneficial means of doing so. As a result, the Authorized Improvements result in a special benefit to the Assessed Property, and this special benefit exceeds the amount of the Assessment. This conclusion is based on and supported by the evidence, information, and testimony provided to the Town Council.

In summary, the Authorized Improvements result in a special benefit to the Assessed Property for the following reasons:

1. The Authorized Improvements are being provided specifically for the use of the Assessed Property, are necessary for the proposed best use of the property and provide a special benefit to the Assessed Property as a result;
2. The Developer has consented to the imposition of the Assessments for the purpose of providing the Authorized Improvements and the Developer is acting in its interest by consenting to this imposition;
3. The Authorized Improvements are required for the highest and best use of the property;
4. The highest and best use of the Assessed Property is the use of the Assessed Property that is most valuable (including any costs associated with the use of the Assessed Property);
5. Financing of the costs of the Authorized Improvement through the PID is determined to be the most beneficial means of providing for the Authorized Improvements; and,
6. As a result, the special benefits to the Assessed Property from the Authorized Improvements will be equal to or greater than the Assessments.

C. ALLOCATION OF COSTS TO ASSESSED PROPERTY

The Major Improvements will provide a special benefit to all property in the PID. Accordingly, the estimated Major Improvement costs must be allocated throughout all Assessed Property in the District. Table V-A summarizes the allocation of Actual Costs for each type of Major Improvement. The costs shown in Table V-A are estimates and may be revised in Annual Service Plan Updates, but the related Assessment may not be increased.

Phase #1 is projected to contain 1,044 residential units. As shown in Appendix D, the total Equivalent Units for Phase #1 is calculated as 814.50. Phases #2-4 is projected to contain 1,091 residential units resulting in a total of 870.83 Equivalent Units as shown in Appendix D. The Total projected Equivalent Units in the PID is, therefore, calculated to be 1,685.33 (i.e., $814.50 + 870.83 = 1,685.33$). As a result, 48.33 percent of the estimated costs of Major Improvements (i.e. $814.50 \div 1,685.33 = 48.33\%$) are allocated to the Phase #1 Assessed Property and 51.67 percent of the estimated costs Major Improvements (i.e., $870.83 \div 1,685.33 = 51.67\%$) are allocated to the Phases #2-4 Major Improvement Assessed Property. The Phases #2-4 Major Improvement Reimbursement Agreement will reimburse the Developer for the proportionate share of the estimated costs of the Major Improvement allocated to the Phases #2-4; and, Phase #1 Reimbursement Agreement will reimburse the Developer for Phase #1's proportionate share of the estimated costs of the Major Improvements.

Table V-A
Allocation of Major Improvement Costs

Authorized Improvement	Estimated Costs
Roadway Improvements	\$4,006,306
Water Improvements	\$616,541
Sanitary Sewer Improvements	\$2,114,663
Storm Drainage Improvements	\$548,480
Parks, Landscaping, and Hardscaping	\$2,722,430
Other Soft and Miscellaneous Costs	\$7,083,305
Total Major Improvements	\$17,091,725
Phase #1	
Projected total Equivalent units	814.50
% of Total Equivalent Units	48.33%
Proportionate Share of Costs	\$8,260,212
Phases #2-4	
Projected total Equivalent units	870.83
% of Total Equivalent Units	51.67%
Proportionate Share of Costs	\$8,831,513

D. ASSESSMENT METHODOLOGY

The costs of the Authorized Improvements may be assessed by the Town Council against the Assessed Property so long as the special benefit conferred upon the Assessed Property by the Authorized Improvements equals or exceeds the Assessments. The costs of the Authorized Improvements may be assessed using any methodology that results in the imposition of equal shares of the Actual Costs on Assessed Property similarly benefited.

1. Assessment Methodology for the Major Improvements for Phases #2-4

For purpose of this Service and Assessment Plan, the Town Council determined that the portion of the Major Improvement costs to be allocated to Phases #2-4 shall be allocated to the Phases #2-4 Assessed Property by spreading the entire Assessment for such improvements across the Parcels based on the estimated number of units anticipated to be developed on each Parcel.

Upon subsequent divisions of any Parcel, the Assessment applicable to it will then be apportioned pro rata based on the estimated equivalent units of each newly created Parcel. For residential Lots, when final residential building sites are platted, Assessments will be apportioned proportionately among each Parcel based on the ratio of the estimated number of units at the time residential Lots are platted to the total estimated number of all Lots in the platted Parcel, as determined by the Administrator and confirmed by the Town Council.

The Assessment and Annual Installments for each Parcel or Lot located within Phases #2-4 is shown on the Phases #2-4 Major Improvement Assessment Roll, attached as Appendix E, and no Assessment shall be changed except as authorized by this Service and Assessment Plan or the PID Act.

2. Assessment Methodology for Phase #1

For purpose of this Service and Assessment Plan, the Town Council has determined that the Actual Costs of the Phase #1 Projects shall be allocated to the Phase #1 Assessed Property by spreading the entire Assessment across the Parcels based on the estimated number of units anticipated to be developed on each Parcel within Phase #1.

Based on the estimates of the costs of the Phase #1 Projects, as set forth in Table III-B, the Town Council has determined that the benefit to Phase #1 Assessed Property of the Phase #1 Projects is at least equal to the Assessments levied on the Phase #1 Assessed Property.

Upon subsequent divisions of any Parcel, the Assessment applicable to it will then be apportioned pro rata based on the estimated equivalent units of each newly created Parcel. For residential Lots, when final residential building sites are platted, Assessments will be apportioned proportionately among each Parcel based on the ratio of the estimated number of units at the time residential Lots are platted to the total estimated number of all Lots in the platted Parcel, as determined by the Administrator and confirmed by the Town Council.

The Assessment and Annual Installments for each Parcel or Lot located within Phase #1 is shown on the Phase #1 Assessment Roll, attached as Appendix F, and no Assessment shall be changed except as authorized by this Service and Assessment Plan or the PID Act.

3. Assessment Methodology for Future Phases

When any given Future Phase is developed, and reimbursement agreement executed for that Future Phase and/or issuance of Bonds, this Service and Assessment Plan will be amended to determine the assessment methodology that results in the imposition of equal shares of the Actual Costs on Assessed Property similarly benefited within that Phase.

E. ASSESSMENTS

The Assessments for the Phases #2-4 Major Improvement Reimbursement Agreement and the Phase #1 Reimbursement Agreement will be levied on each Parcel or Lot according to the Phases #2-4 Major Improvement Assessment Roll and the Phase #1 Assessment Roll, as applicable. The Annual Installments for the Phases #2-4 Major Improvement Reimbursement Agreement and the Phase #1 Reimbursement Agreement will be collected on the dates and in the amounts shown on the Phases #2-4 Major Improvement Assessment Roll and the Phase #1 Assessment Roll, respectively, subject to revisions made during an Annual Service Plan Update. Non-Benefited Property will not be subject to any Assessments.

See Appendix D for Assessment per equivalent unit, leverage, and estimated tax rate equivalent calculation details.

F. ADMINISTRATIVE EXPENSES

The cost of administering the PID and collecting the Annual Installments shall be paid for on a pro rata basis by each Parcel based on the amount of Assessment levied against the Parcel. The Administrative Expenses shall be collected as part of and in the same manner as Annual Installments in the amounts shown on each Assessment Roll, which may be revised based on actual costs incurred in Annual Service Plan Updates.

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VI. TERMS OF THE ASSESSMENTS

A. AMOUNT OF ASSESSMENTS AND ANNUAL INSTALLMENTS FOR PARCELS LOCATED WITHIN PHASES #2-4

The Assessment and Annual Installments for each Assessed Property located within Phases #2-4 are shown on the Phases #2-4 Major Improvement Assessment Roll, attached as Appendix E, and no Assessment shall be changed except as authorized by this Service and Assessment Plan and the PID Act.

The Annual Installments shall be collected from Phases #2-4 Assessed Property in an amount sufficient to pay (i) principal and interest on the Phases #2-4 Major Improvement Reimbursement Agreement, and (ii) to pay Administrative Expenses related to the PID. The Annual Installment for each Parcel shall be calculated by taking into consideration any available funds to reduce the Annual Installments.

B. AMOUNT OF ASSESSMENTS AND ANNUAL INSTALLMENTS FOR PARCELS LOCATED WITHIN PHASE #1

The Assessment and Annual Installments for each Assessed Property located within Phase #1 is shown on the Phase #1 Assessment Roll, attached as Appendix F, and no Assessment shall be changed except as authorized by this Service and Assessment Plan and the PID Act.

The Annual Installments shall be collected from Phase #1 Assessed Property in an amount sufficient to pay (i) principal and interest on the Phase #1 Reimbursement Agreement, and (ii) to pay Administrative Expenses related to the PID. The Annual Installment for each Parcel shall be calculated by taking into consideration any available funds to reduce the Annual Installments.

C. AMOUNT OF ASSESSMENTS AND ANNUAL INSTALLMENTS FOR PARCELS LOCATED WITHIN FUTURE PHASES

As Future Phases are developed, this Service and Assessment Plan will be amended to determine the Assessment and Annual Installments for each Assessed Property located within Future Phases (e.g., an Appendix will be added as the Assessment Roll for phase #2, etc.). The Assessments shall not exceed the benefit received by the Assessed Property.

D. REALLOCATION OF ASSESSMENTS

1. Subdivision

Upon the subdivision of any Parcel, the Assessment for the Parcel prior to the subdivision shall be reallocated among the new subdivided Parcels according to the following formula:

$$A = B \times (C \div D)$$

Where the terms have the following meanings:

- A = the Assessment for each new subdivided Parcel
- B = the Assessment for the Parcel prior to subdivision
- C = the estimated Equivalent Units to be built on each new subdivided Parcel
- D = the sum of the estimated Equivalent Units to be built on all of the new subdivided Parcels

The calculation of the estimated number of units to be built on a Parcel shall be performed by the Administrator and confirmed by the Town Council based on the information available regarding the use of the Parcel. The estimate as confirmed shall be conclusive. The number of units to be built on a Parcel may be estimated by net land area and reasonable density ratios.

The sum of the Assessments for all newly subdivided Parcels shall equal the Assessment for the Parcel prior to subdivision. The calculation shall be made separately for each newly subdivided Parcel. The reallocation of an Assessment for a Parcel that is a homestead under Texas law may not exceed the Assessment prior to the reallocation and to the extent the reallocation would exceed such amount, it shall be prepaid by such amount by the party requesting the subdivision of the Parcels. Any reallocation pursuant to this section shall be reflected in an Annual Service Plan Update approved by the Town Council.

2. Consolidation

Upon the consolidation of two or more Parcels, the Assessment for the consolidated Parcel shall be the sum of the Assessments for the Parcels prior to consolidation. The reallocation of an Assessment for a Parcel that is a homestead under Texas law may not exceed the Assessment prior to the reallocation and to the extent the reallocation would exceed such amount, it shall be prepaid by such amount by the party requesting the consolidation of the Parcels. Any reallocation pursuant to this section shall be reflected in an Annual Service Plan Update approved by the Town Council.

E. MANDATORY PREPAYMENT OF ASSESSMENTS

1. If a Parcel subject to Assessments is transferred to a party that is exempt from the payment of the Assessment under applicable law, or if an owner causes a Parcel subject to Assessments to become Non-Benefited Property, the owner of such Parcel shall pay to the Town the full amount of the principal portion of the Assessment on such Parcel, plus all Prepayment Costs, prior to any such transfer or act.

2. If at any time the Assessment per Unit on a Parcel exceeds the Assessment per Unit calculated in this Service and Assessment Plan as a result of any changes in land use, subdivision, consolidation or reallocation of the Assessment authorized by this Service and Assessment Plan and initiated by the owner of the Parcel, then such owner shall pay to the Town prior to the recordation of the document subdividing the Parcel the amount calculated by the Administrator by which the Assessment per Unit for the Parcel exceeds the Assessment per Unit calculated in this Service and Assessment Plan.

3. The payments required above shall be treated the same as any Assessment that is due and owing under the PID Act, the Assessment Ordinance, and this Service and Assessment Plan, including the same lien priority, penalties, procedures, and foreclosure specified by the PID Act.

F. REDUCTION OF ASSESSMENTS

1. If after all Authorized Improvements to be funded with the reimbursement agreements have been completed, including any additional Authorized Improvements described herein, and Actual Costs for such Authorized Improvements are less than the Actual Costs used to calculate the Assessments securing such reimbursement obligations, then the Assessment securing such reimbursement obligations for each Parcel of Assessed Property shall be reduced by the Town Council prorata such that the sum of the resulting reduced Assessments for all Assessed Properties equals the actual reduced Actual Costs. The Assessments shall not be reduced to an amount less than the outstanding reimbursement obligations. If all of the Authorized Improvements are not completed, the Town may reduce the Assessments in another method if it determines such method would better reflect the benefit received by the Parcels from the Authorized Improvements completed.

2. If the Authorized Improvements to be funded with the respective reimbursement agreements, including any additional Authorized Improvements described herein, are not undertaken by the Town, the Assessment securing such reimbursement obligations for each Assessed Property shall be reduced by the Town Council to reflect only the Actual Costs that were expended. The Town Council shall reduce such Assessments for each Assessed Property pro rata such that the sum of the resulting reduced Assessments equals the Actual Costs with respect to such Authorized Improvements that were undertaken. The Assessments shall not be reduced to an amount less than the related outstanding reimbursement obligations.

G. PAYMENT OF ASSESSMENTS

1. Payment in Full

(a) The Assessment for any Parcel may be paid in full at any time. Payment shall include all Prepayment Costs.

(b) If an Annual Installment has been billed prior to payment in full of an Assessment, the Annual Installment shall be due and payable and shall be credited against the payment-in-full amount.

(c) Upon payment in full of the Assessment and all Prepayment Costs, the Town shall deposit the payment in accordance with the Trust Indenture; whereupon, the Assessment shall be reduced to zero, and the owner's obligation to pay the Assessment and Annual Installments thereof shall automatically terminate.

(d) At the option of the owner, the Assessment on any Parcel plus Prepayment Costs may be paid in part as determined by the Administrator. Upon the payment of such amounts for a Parcel, the Assessment for the Parcel shall be reduced, the Assessment Roll shall be updated to reflect such partial payment, and the obligation to pay the Annual Installment for such Parcel shall be reduced to the extent the partial payment is made.

2. Payment in Annual Installments

The Act provides that an Assessment for a Parcel may be paid in full at any time. If not paid in full, the Act authorizes the Town to collect interest and collection costs on the outstanding Assessment. An Assessment for a Parcel that is not paid in full will be collected in Annual Installments each year in the amounts shown in the Phase #2 Major Improvements Assessment Roll and Phase #1 Assessment Roll, which includes interest on the outstanding Assessment and Administrative Expenses.

Each Assessment shall be paid with interest based on an interest rate of 7.58% per annum for years 1 through 5 and 4.58% per annum following the fifth Annual Installment. Each Assessment shall be paid at a rate not to exceed five hundred basis points above the highest average index rate for tax-exempt bond reported in a daily or weekly bond index approved by the Town and reported in the month prior to the establishment of the Assessments and continuing for a period of five years from such date. Such rate shall then adjust and shall not exceed two hundred basis points above the bond index rate described above and shall continue until the Assessments are paid in full. The index approved by the Town is the Bond Buyer Index for which the highest average rate during January 2021 was 2.58%. The Town has determined that the Assessments shall bear interest at the rate of 7.58% per annum for years 1 through 5 and 4.58% per annum following the fifth Annual Installment, which rate are equal to both the initial maximum allowable rate of interest of 7.58% as well as the maximum allowable rate of interest following the fifth Annual Installment, which would be 4.58%. Furthermore, the principal and interest component of the Annual Installments may not exceed the amounts shown on the Assessment Roll. The Assessment Rolls, updated with the actual interest rate on the respective reimbursement agreements, are shown in Appendix E and Appendix F.

The Annual Installments shall be reduced to equal the actual costs of repaying the reimbursement obligation under the applicable reimbursement agreement and actual Administrative Expenses (as provided for in the definition of such term), taking into consideration any other available funds for these costs, such as interest income on account balances.

H. COLLECTION OF ANNUAL INSTALLMENTS

No less frequently than annually, the Administrator shall prepare, and the Town Council shall consider, an Annual Service Plan Update to allow for the billing and collection of Annual Installments. Each Annual Service Plan Update shall include updated Assessment Rolls and a calculation of the Annual Installment for each Parcel. Administrative Expenses shall be allocated among Parcels in proportion to the amount of the Annual Installments for the Parcels. Annual Installments shall be collected by the Town in the same manner and at the same time as ad valorem taxes and shall be subject to the same penalties, procedures, and foreclosure sale in case of

delinquencies as are provided for ad valorem taxes of the Town. The Town Council may provide for other means of collecting the Annual Installments to the extent permitted under the PID Act. The Assessments shall have lien priority as specified in the PID Act.

The collection of the first Annual Installment for a Lot or Parcel within Phase #1 and Phases #2-4 Major Improvement Area shall commence upon the earlier of: (i) with tax bills sent the first October following the recording of plats for Phase #1 Assessed Property and Phases #2-4 Assessed Property, (ii) with tax bills sent the first October after issuance of any Bonds secured by the respective reimbursement agreement for Phase #1 Assessed Property and Phases #2-4 Major Improvement Area Assessed Property, or (iii) with tax bills sent the first October following the second anniversary of the levy of Assessments on the Phases #1 Assessed Property and Phases #2-4 Assessed Property such that all Assessments in the applicable Phase begin collection immediately after the expiration of such two year period. Such first Annual Installment for a Phase #1 and Phases #2-4 Major Improvement Area Lot or Parcel for which collection has begun, shall be due by January 31st of the following calendar year.

Any sale of property for nonpayment of the Annual Installments shall be subject to the lien established for the remaining unpaid Annual Installments against such property and such property may again be sold at a judicial foreclosure sale if the purchaser thereof fails to make timely payment of the non-delinquent Annual Installments against such property as they become due and payable.

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VII. THE ASSESSMENT ROLL

A. PHASES #2-4 MAJOR IMPROVEMENT ASSESSMENT ROLL

The Town Council has evaluated each Parcel within Phases #2-4 (based on numerous factors such as the applicable zoning for developable area, the use of proposed Homeowner Association Property, the Public Property, the types of public improvements, and other development factors deemed relevant by the Town Council) to determine the amount of Assessed Property within Phases #2-4.

The Phases #2-4 Assessed Property has been assessed for the special benefits conferred upon the property resulting from the Phases #2-4 Major Improvements. Table VII-A summarizes the \$8,831,513 in special benefit received by the Phases #2-4 Assessed Property from the Phases #2-4 Major Improvements. The Assessment amount of the Phases #2-4 Major Improvement Reimbursement Agreement is \$8,831,513, which is greater than the benefit received by the Phases #2-4 Major Improvement Assessed Property. Accordingly, the total Assessment to be applied to all the Phases #2-4 Assessed Property is \$8,831,513 plus annual Administrative Expenses. The Assessment for each Phases #2-4 Assessed Property is calculated based on the allocation methodologies described in Section V.D. The Phases #2-4 Major Improvement Assessment Roll is attached hereto as Appendix E.

Table VII-A
Phases #2-4 Major Improvement Area
Special Benefit Summary

Special Benefit	Total Cost
Phases #2-4 Major Improvement Reimbursement Agreement	
<i>Total Authorized Improvements (a)</i>	<i>\$8,831,513</i>
Total Special Benefit	\$8,831,513
Special Benefit	
Total Special Benefit	\$8,831,513
Projected Special Assessment	\$8,831,513
Excess Benefit	\$0

(a) See Table III-A for details.

B. PHASE #1 ASSESSMENT ROLL

The Town Council has evaluated each Parcel in Phase #1 (based on numerous factors such as the applicable zoning for developable area, the use of proposed Homeowner Association Property, the Public Property, the types of public improvements, and other development factors deemed relevant by the Town Council) to determine the amount of Assessed Property within the Phase #1.

The Phase #1 Assessed Property has been assessed for the special benefits conferred upon the property resulting from the Phase #1 Projects. Table VII-B summarizes the \$35,426,653 in special benefit received by the Phase #1 Assessed Property from the Phase #1 Projects. The Assessment amount of the Phase #1 Reimbursement Agreement is \$35,426,653, which is equal to the benefit received by the Phase #1 Assessed Property. Accordingly, the total Assessment to be applied to all the Phase #1 Assessed Property is \$35,426,653 plus annual Administrative Expenses. The Assessment for each Phase #1 Assessed Property is calculated based on the allocation methodologies described in Section V.D. The Phase #1 Assessment Roll is attached hereto as Appendix F.

Table VII-B
Phase #1
Special Benefit Summary

Special Benefit	Total Cost
Phase #1 Reimbursement Agreement	
<i>Total Authorized Improvements (a)</i>	<i>\$35,426,653</i>
Total Special Benefit	\$35,426,653
Special Benefit	
Total Special Benefit	\$35,426,653
Projected Special Assessment	\$35,426,653
Excess Benefit	\$0

(a) See Table III-B for details.

C. FUTURE PHASE ASSESSMENT ROLL

As Future Phases are developed, this SAP will be amended to determine the Assessment for each Parcel or Lot located within such Future Phase (e.g. an appendix will be added as the Assessment Roll for each Future Phase).

D. ANNUAL ASSESSMENT ROLL UPDATES

The Administrator shall prepare, and shall submit to the Town Council for approval, annual updates to the Phases #2-4 Major Improvement Assessment Roll and Phase #1 Assessment Roll in conjunction with the Annual Service Plan Update to reflect the following matters, together with any other changes helpful to the Administrator or the Town and permitted by the PID Act: (i) the identification of each Parcel (ii) the Assessment for each Parcel of Assessed Property, including any adjustments authorized by this Service and Assessment Plan or in the PID Act; (iii) the Annual Installment for the Assessed Property for the year (if the Assessment is payable in installments); and (iv) payments of the Assessment, if any, as provided by Section VI.G of this Service and Assessment Plan.

VIII. MISCELLANEOUS PROVISIONS

A. ADMINISTRATIVE REVIEW

The Town may elect to designate a third party to serve as Administrator. The Town shall notify Developer in writing at least thirty (30) days in advance before appointing a third party Administrator.

To the extent consistent with the PID Act, an owner of an Assessed Parcel claiming that a calculation error has been made in the Assessment Roll(s), including the calculation of the Annual Installment, shall send a written notice describing the error to the Town not later than thirty (30) days after the date any amount which is alleged to be incorrect is due prior to seeking any other remedy. The Administrator shall promptly review the notice, and if necessary, meet with the Assessed Parcel owner, consider written and oral evidence regarding the alleged error, and decide whether, in fact, such a calculation error occurred.

If the Administrator determines that a calculation error has been made and the Assessment Roll should be modified or changed in favor of the Assessed Parcel owner, such change or modification shall be presented to the Town Council for approval to the extent permitted by the PID Act. A cash refund may not be made for any amount previously paid by the Assessed Parcel owner (except for the final year during which the Annual Installment shall be collected or if it is determined there are sufficient funds to meet the expenses of the PID for the current year), but an adjustment may be made in the amount of the Annual Installment to be paid in the following year. The decision of the Administrator regarding a calculation error relating to the Assessment Roll may be appealed to the Town Council. Any amendments made to the Assessment Roll(s) pursuant to calculation errors shall be made pursuant to the PID Act.

The decision of the Administrator, or if such decision is appealed to the Town Council, the decision of the Town Council shall be conclusive as long as there is a reasonable basis for such determination. This procedure shall be exclusive and its exhaustion by any property owner shall be a condition precedent to any other appeal or legal action by such owner.

B. TERMINATION OF ASSESSMENTS

Each Assessment shall be extinguished on the date the Assessment is paid in full, including unpaid Annual Installments and Delinquent Collection Costs, if any. After the extinguishment of an Assessment and the collection of any delinquent Annual Installments and Delinquent Collection Costs, the Town shall provide the owner of the affected Parcel a recordable “Notice of the PID Assessment Termination”.

C. AMENDMENTS

Amendments to the Service and Assessment Plan can be made as permitted or required by the PID Act and under Texas law.

The Town Council reserves the right to the extent permitted by the PID Act to amend this Service and Assessment Plan without notice under the PID Act and without notice to property owners of Parcels: (i) to correct mistakes and clerical errors; (ii) to clarify ambiguities; and (iii) to provide procedures for the collection and enforcement of Assessments, Prepayment Costs, Collection Costs, and other charges imposed by the Service and Assessment Plan.

D. ADMINISTRATION AND INTERPRETATION OF PROVISIONS

The Town Council shall administer the PID, this Service and Assessment Plan, and all Annual Service Plan Updates consistent with the PID Act, and shall make all interpretations and determinations related to the application of this Service and Assessment Plan unless stated otherwise herein or in the Trust Indenture, such determination shall be conclusive.

E. SEVERABILITY

If any provision, section, subsection, sentence, clause or phrase of this Service and Assessment Plan or the application of same to an Assessed Parcel or any person or set of circumstances is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this Service and Assessment Plan or the application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the Town Council in adopting this Service and Assessment Plan that no part hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality, voidness or invalidity of any other part hereof, and all provisions of this Service and Assessment Plan are declared to be severable for that purpose.

If any provision of this Service and Assessment Plan is determined by a court to be unenforceable, the unenforceable provision shall be deleted from this Service and Assessment Plan and the unenforceable provision shall, to the extent possible, be rewritten to be enforceable and to give effect to the intent of the Town.

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APPENDIX A
PID MAP

APPENDIX B
ESTIMATED COSTS OF AUTHORIZED IMPROVEMENTS

COMMUNITY NAME: Spiritas Ranch								GROSS ACREAGE:	548.0
PHASES: Full Development								NET ACREAGE:	439.0
CITY OR TOWN: Town of Little Elm, Denton County								TOTAL LOTS:	2,135
								TOTAL DENSITY:	4.86
								LANDPLAN:	25
								CREATED BY:	MC
								REVIEWED BY:	AB
								CREATED:	04/06/20
								REVISED:	01/12/21
Direct Phase Costs		TOTALS	PHASE 1	PHASE 1L	PHASE 1M	PHASE 1H	PHASE 2M	FUTURE PHASES	
	Lot Count	2135	540	109	155	240	145	946	
1 Engineering		\$ 4,609,407	\$ 1,245,710	\$ 225,382	\$ 333,499	\$ 452,194	\$ 289,678	\$ 2,062,943	
2 Grading Site Preparation		\$ 988,257	\$ 228,241	\$ 46,902	\$ 57,239	\$ 63,202	\$ 39,056	\$ 553,618	
3 Water		\$ 4,294,761	\$ 1,277,555	\$ 165,683	\$ 322,987	\$ 370,475	\$ 261,903	\$ 1,896,159	
4 Sanitary Sewer		\$ 6,617,983	\$ 2,180,113	\$ 452,883	\$ 512,075	\$ 575,985	\$ 352,315	\$ 2,544,613	
5 Storm Drain		\$ 9,992,686	\$ 2,965,160	\$ 311,678	\$ 621,496	\$ 557,983	\$ 561,212	\$ 4,975,158	
6 Street Improvements		\$ 14,784,454	\$ 4,223,124	\$ 696,504	\$ 1,126,189	\$ 1,236,241	\$ 809,081	\$ 6,693,316	
7a Screening/Landscape Walls		\$ -							
7b Ret Walls		\$ -							
8 Dry Utilities		\$ -							
9 Contingency 5%		\$ 2,064,377	\$ 605,995	\$ 94,952	\$ 148,674	\$ 162,804	\$ 115,662	\$ 936,290	
10 District Formation Costs		\$ -							
11 Turn Lane Improvements		\$ -							
12 N/A		\$ -							
Total		\$ 43,351,926	\$ 12,725,898	\$ 1,993,983	\$ 3,122,159	\$ 3,418,883	\$ 2,428,906	\$ 19,662,097	
Cost per Lot		\$ 20,305	\$ 23,566	\$ 18,293	\$ 20,143	\$ 14,245	\$ 16,751	\$ 20,784	
Major Improvements Costs		TOTALS	PHASE 1	PHASE 1L	PHASE 1M	PHASE 1H	PHASE 2M	FUTURE PHASES	
	Lot Count	2135	540	109	155	240	145	946	
1 Engineering		\$ 3,198,142	\$ 1,073,940	\$ 183,836	\$ 195,082	\$ 181,860	\$ 128,415	\$ 1,435,008	
2 Grading Site Preparation		\$ -							
3 Water		\$ 1,071,650	\$ 407,883	\$ 103,810	\$ 47,028	\$ 57,820	\$ 32,215	\$ 422,894	
4 Sanitary Sewer		\$ 5,954,900	\$ 1,823,800	\$ 40,013	\$ -	\$ 250,850	\$ -	\$ 3,840,238	
5 Storm Drain		\$ 2,455,591	\$ 319,720	\$ -	\$ 228,760	\$ -	\$ -	\$ 1,907,111	
6 Street Improvements		\$ 4,155,459	\$ 1,815,889	\$ 477,567	\$ 266,755	\$ 411,095	\$ 8,170	\$ 1,175,983	
7a Screening/Landscape Walls		\$ 3,450,000	\$ 1,260,000	\$ 460,000	\$ 260,000	\$ 350,000	\$ 370,000	\$ 750,000	
8 Dry Utilities - Spiritas Median		\$ 1,362,125	\$ 1,189,125	\$ 173,000	\$ -	\$ -	\$ -	\$ -	
9 Contingency 5%		\$ 1,265,977	\$ 507,095	\$ 73,455	\$ 67,131	\$ 62,581	\$ 44,190	\$ 511,524	
10 District Formation Costs		\$ 1,200,000	\$ 1,200,000						
11 Turn Lane Improvements		\$ 1,725,000	\$ 690,000	\$ -	\$ 345,000	\$ -	\$ 345,000	\$ 345,000	
12 Common Area Amenities & Trails		\$ 746,670	\$ 361,550	\$ 30,880	\$ -	\$ -	\$ -	\$ 354,240	
Total		\$ 26,585,514	\$ 10,649,001	\$ 1,542,561	\$ 1,409,757	\$ 1,314,207	\$ 927,990	\$ 10,741,998	
Cost per Lot		\$ 12,452	\$ 19,720	\$ 14,152	\$ 9,095	\$ 5,476	\$ 6,400	\$ 11,355	
Private Costs		TOTALS	PHASE 1	PHASE 1L	PHASE 1M	PHASE 1H	PHASE 2M	FUTURE PHASES	
	Lot Count	2135	540	109	155	240	145	946	
1 Engineering		\$ 1,480,306	\$ 388,427	\$ 75,580	\$ 104,985	\$ 162,558	\$ 99,335	\$ 649,422	
2 Grading Site Preparation		\$ 7,623,125	\$ 2,065,538	\$ 405,299	\$ 541,305	\$ 848,853	\$ 528,299	\$ 3,233,831	
3 Water		\$ -							
4 Sanitary Sewer		\$ -							
5 Storm Drain		\$ -							
6 Street Improvements		\$ -							
7a Screening/Landscape Walls		\$ -							
7b Ret Walls		\$ 4,903,000	\$ 1,383,000	\$ 234,300	\$ 318,400	\$ 482,300	\$ 298,400	\$ 2,186,600	
8 Dry Utilities		\$ 2,135,000	\$ 540,000	\$ 109,000	\$ 155,000	\$ 240,000	\$ 145,000	\$ 946,000	
9 Contingency 5%		\$ 957,072	\$ 318,848	\$ 41,209	\$ 55,984	\$ 86,686	\$ 103,552	\$ 350,793	
10 District Formation Costs		\$ -							
11 Turn Lane Improvements		\$ -							
12 Amenity Center		\$ 3,000,000	\$ 2,000,000	\$ -	\$ -	\$ -	\$ 1,000,000	\$ -	
Total		\$ 20,098,502	\$ 6,695,813	\$ 865,388	\$ 1,175,674	\$ 1,820,397	\$ 2,174,585	\$ 7,366,645	
Cost per Lot		\$ 9,414	\$ 12,400	\$ 7,939	\$ 7,585	\$ 7,585	\$ 14,997	\$ 7,787	
TOTALS		\$ 90,035,942	\$ 30,070,712	\$ 4,401,932	\$ 5,707,590	\$ 6,553,487	\$ 5,531,482	\$ 37,770,740	
per lot		\$ 42,171	\$ 55,687	\$ 40,385	\$ 36,823	\$ 27,306	\$ 38,148	\$ 39,927	
40' Lots		868	175	0	80	143	71	399	
50' Lots		962	300	109	75	97	74	307	
60' Lots		305	65	0	0	0	0	240	
Total Lots		2135	540	109	155	240	145	946	

THIS OPINION OF PROBABLE COST WAS PREPARED BASED ON BEST AVAILABLE INFORMATION AND SHOULD BE USED FOR PROJECT EVALUATION ONLY.

NOTES

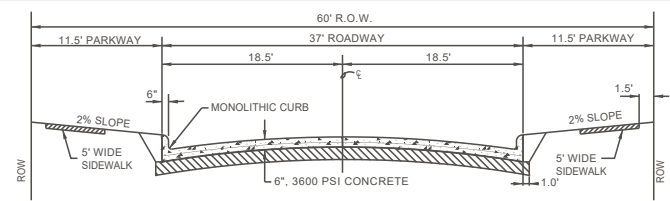
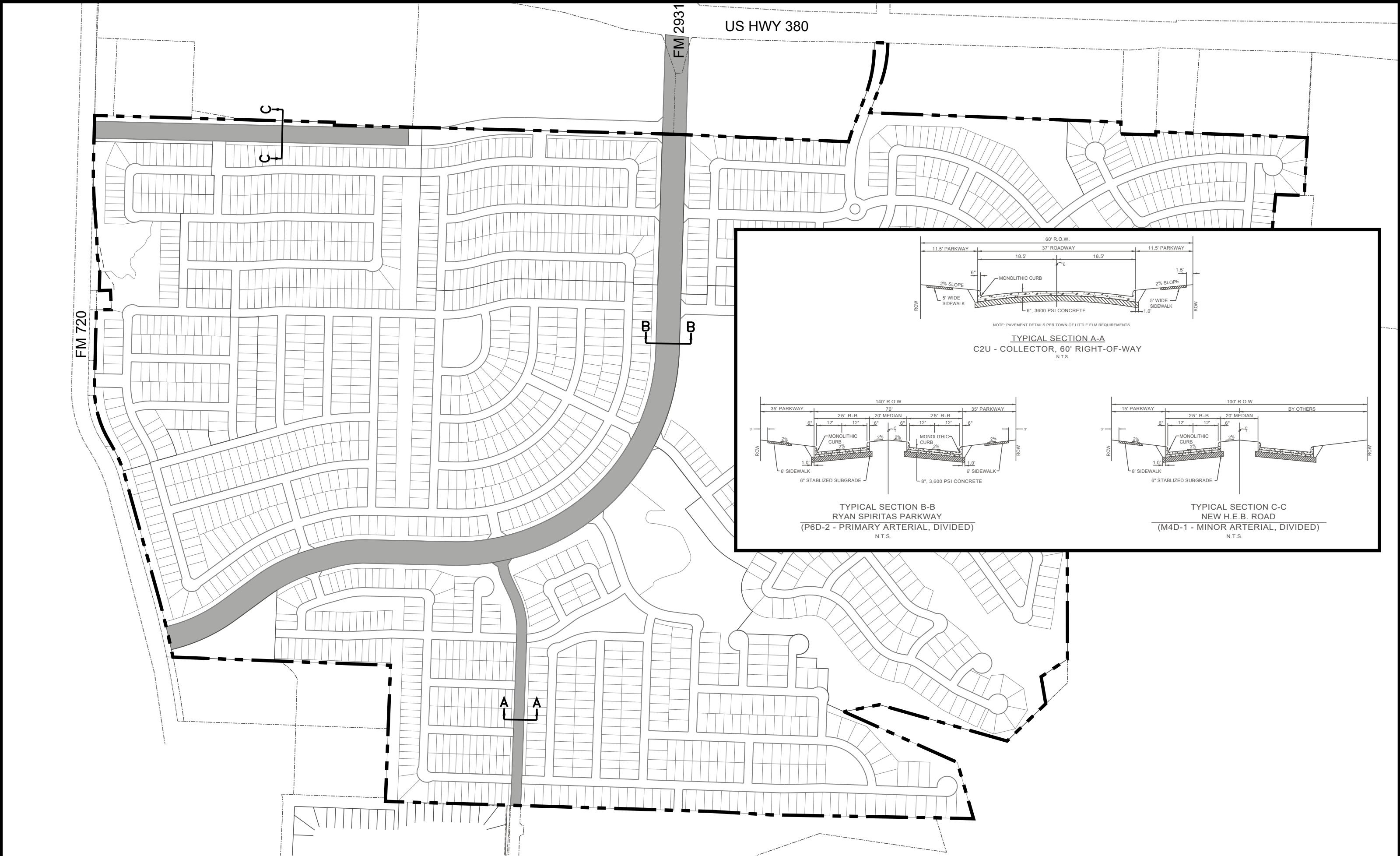
¹ Development cost does not include: City/District/County Fees, Bonds, & Permits

² Development cost does not include: Rock Excavation, Landscaping, Irrigation, Monumentation, or Common Area Amenities

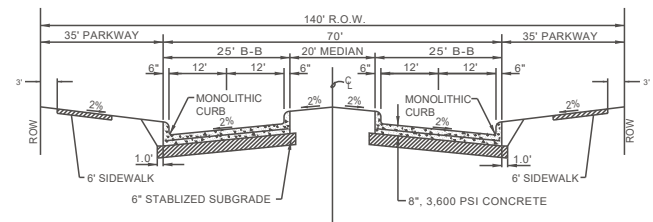
³ Professional Fees do not include: Land Entitlements, Feasibility, Boundary Survey, Topographic Survey, Tree Survey, Flood Studies, Geotechnical, Environmental, Wetlands SWPPP Administration, or Traffic Studies.

APPENDIX C
DIAGRAMS OF THE AUTHORIZED IMPROVEMENTS

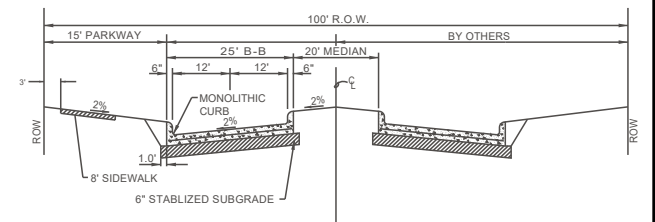
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TYPICAL SECTION A-A
C2U - COLLECTOR, 60' RIGHT-OF-WAY
N.T.S.



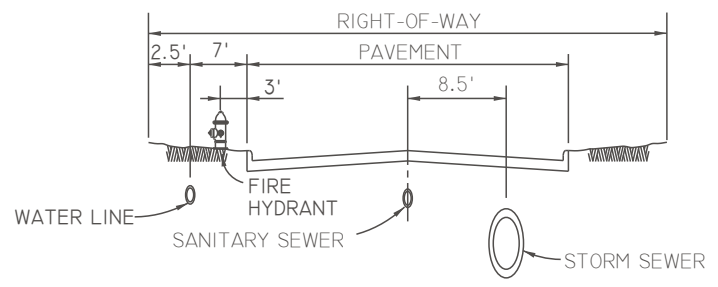
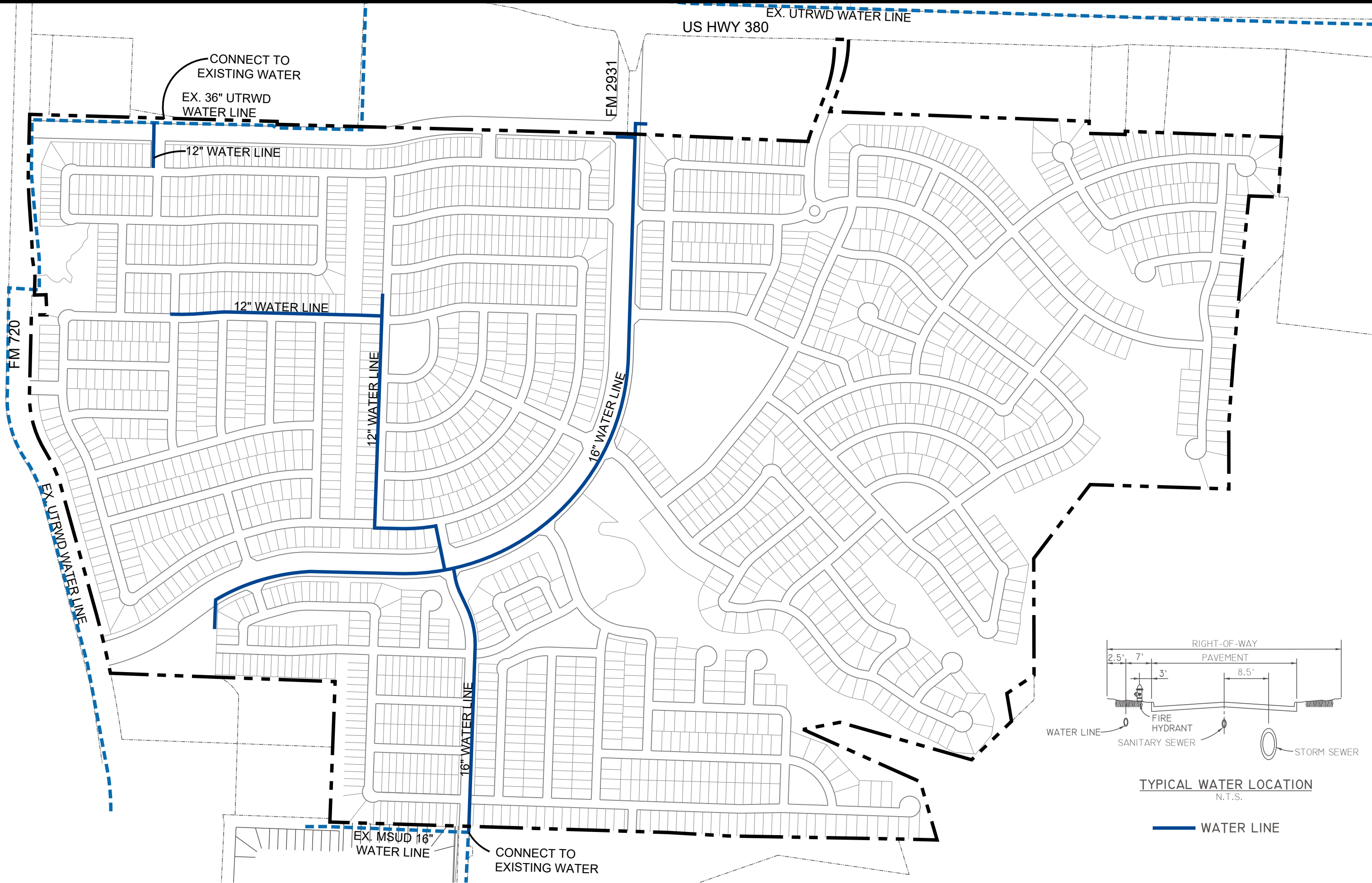
TYPICAL SECTION B-B
RYAN SPIRITAS PARKWAY
(P6D-2 - PRIMARY ARTERIAL, DIVIDED)
N.T.S.



TYPICAL SECTION C-C
NEW H.E.B. ROAD
(M4D-1 - MINOR ARTERIAL, DIVIDED)
N.T.S.

MAJOR ROADWAY IMPROVEMENTS
SPIRITAS RANCH PUBLIC IMPROVEMENT DISTRICT
TOWN OF LITTLE ELM, DENTON COUNTY, TEXAS

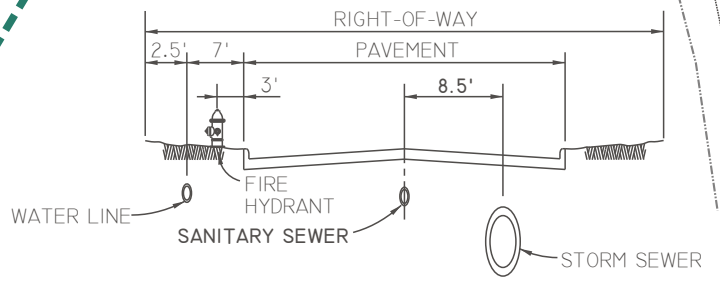
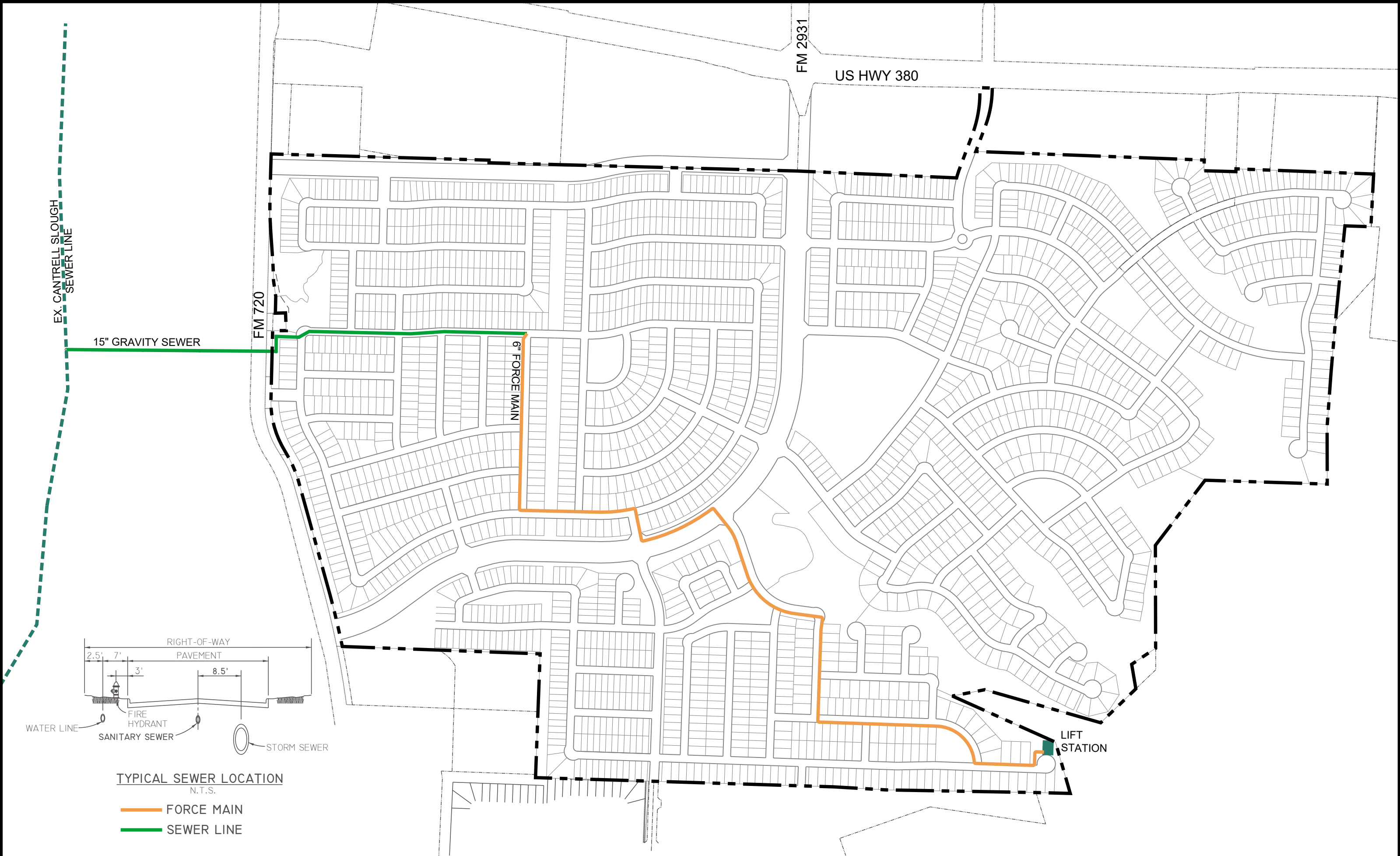
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TYPICAL WATER LOCATION
N.T.S.

— WATER LINE

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TYPICAL SEWER LOCATION
N.T.S.

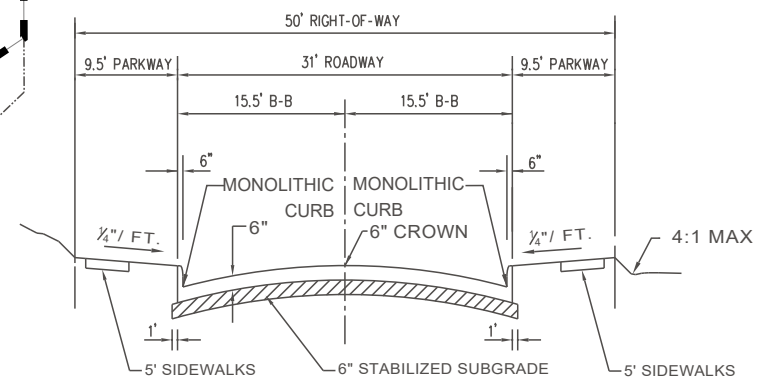
— FORCE MAIN
— SEWER LINE

MAJOR SEWER IMPROVEMENTS
SPIRITAS RANCH PUBLIC IMPROVEMENT DISTRICT
TOWN OF LITTLE ELM, DENTON COUNTY, TEXAS

EM 2931

FM 720

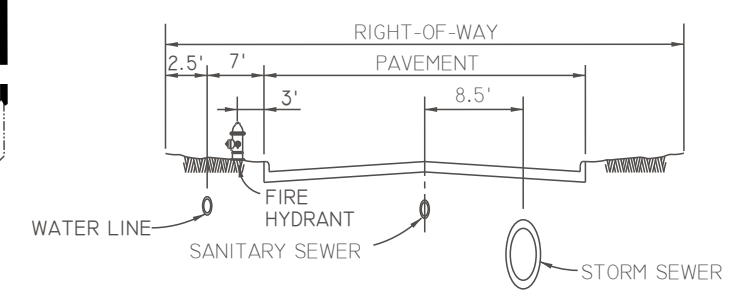
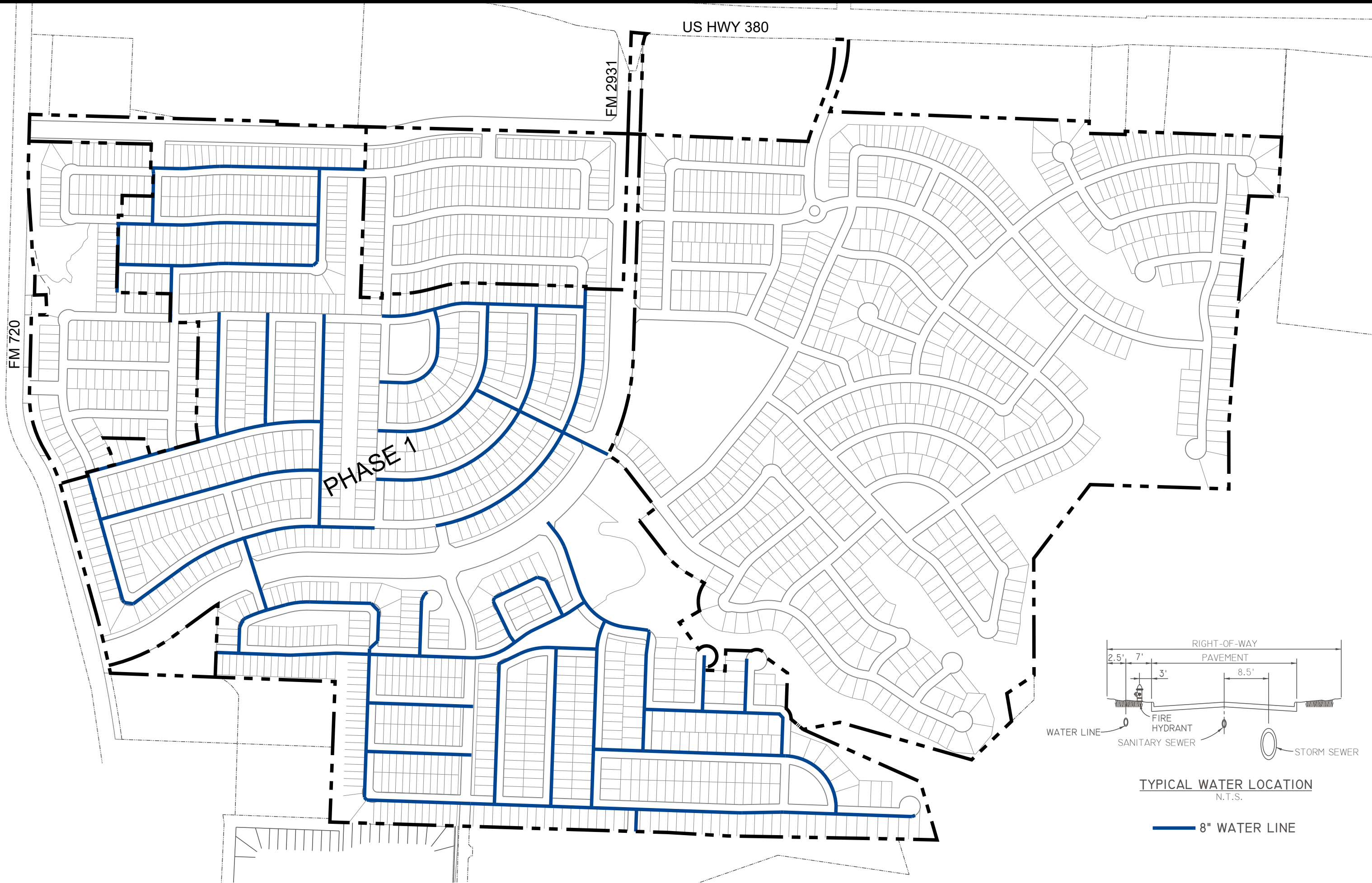
PHASE 1



TYPICAL 31' A-A ROADWAY PAVING SECTION
SCALE: NTS

PHASE 1 ROADWAY IMPROVEMENTS
SPIRITAS RANCH PUBLIC IMPROVEMENT DISTRICT
TOWN OF LITTLE ELM, DENTON COUNTY, TEXAS

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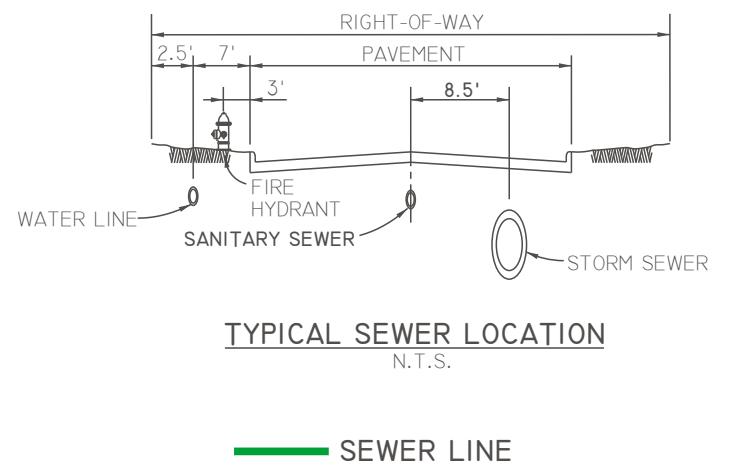
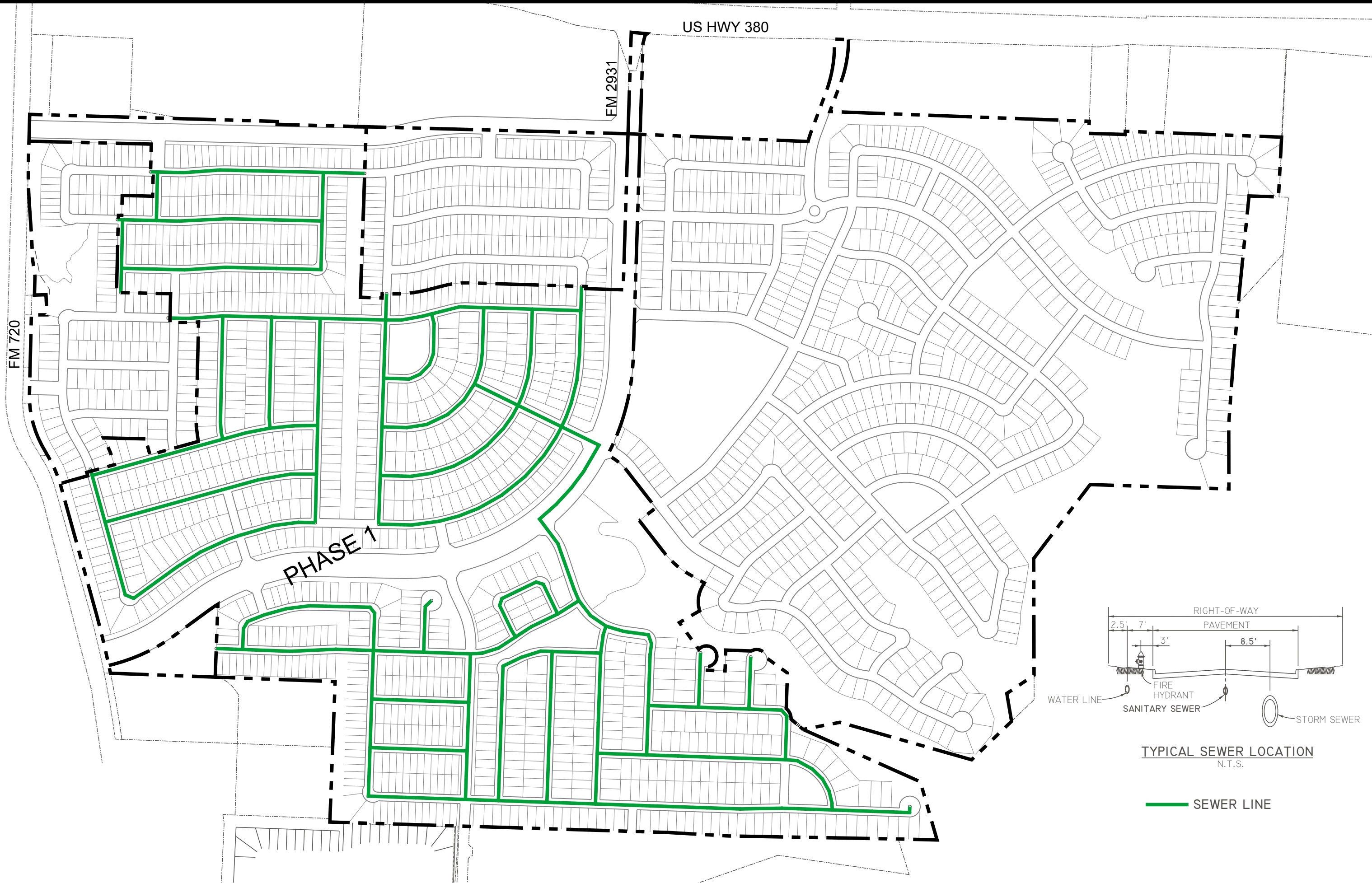


TYPICAL WATER LOCATION
N.T.S.

— 8" WATER LINE

PHASE 1 WATER IMPROVEMENTS
SPIRITAS RANCH PUBLIC IMPROVEMENT DISTRICT
TOWN OF LITTLE ELM, DENTON COUNTY, TEXAS

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PHASE 1 SEWER IMPROVEMENTS
SPIRITAS RANCH PUBLIC IMPROVEMENT DISTRICT
TOWN OF LITTLE ELM, DENTON COUNTY, TEXAS

APPENDIX D
**ASSESSMENT PER EQUIVALENT UNIT, PROJECTED LEVERAGE AND
PROJECTED TAX RATE EQUIVALENTS**

Appendix D

For purposes of calculating and allocating the Assessments, the Assessed Property has been classified in one of three Lot Types.

“**Lot Type 1**” means lots identified as such on the Assessment Roll, being lots typically with a Lot width of approximately 60 feet.

“**Lot Type 1**” means lots identified as such on the Assessment Roll, being lots typically with a Lot width of approximately 50 feet.

“**Lot Type 1**” means lots identified as such on the Assessment Roll, being lots typically with a Lot width of approximately 40 feet.

A) Proposed Development

The following table shows the proposed residential units to be developed within the PID.

Table D-1
Proposed Development within the PID

Description	Proposed Development	
60 Ft Lots	305	Units
50 Ft Lots	962	Units
40 Ft Lots	868	Units
	2,135	Units

Table D-2 below shows the proposed residential units within Phase #1.

Table D-2
Proposed Development – Phase #1

Description	Proposed Development	
60 Ft Lots	65	Units
50 Ft Lots	581	Units
40 Ft Lots	398	Units
	1,044	Units

Table D-3 on the following page shows the proposed residential Lot Types within Phases #2-4.

Table D-3
Proposed Development – Phases #2-4

Description	Proposed Development	
60 Ft Lots	240	Units
50 Ft Lots	381	Units
40 Ft Lots	470	Units
	1,091	Units

B) Calculation of Equivalent Units

As explained under Section IV.D, for purpose of this Service and Assessment Plan, the Town Council has determined that the Actual Costs of the portion of the Major Improvements to be financed with the Phases #2-4 Major Improvement Reimbursement Agreement shall be allocated to the Phases #2-4 Major Improvement Assessed Property by spreading the entire Assessment across the Parcels based on the estimated Equivalent Units.

For purposes of this Service and Assessment Plan, the Town Council has determined that the Assessments shall be allocated to the Phases #2-4 Major Improvement Assessed Property on the basis of the average home value of each Lot Type, and that such method of allocation will result in the imposition of equal shares of the Assessments on Parcels similarly benefited. In determining the average home value of each Lot Type, the Town Council has taken into consideration (i) the type of lots (i.e., 60 Ft, 50 Ft, etc.); (ii) current and projected home prices; (iii) the costs of the Authorized Improvements, and (iv) the ability of different property types to utilize and benefit from the Authorized Improvements.

Having taken into consideration the matters described above, the Town Council has determined that allocating the Assessments among Parcels based on average home value is best accomplished by creating classifications of benefited Parcels based on the “Lot Types” defined above. These classifications (from Lot Type 1 (60 Ft Lots) representing the highest value to Lot Type 3 (40 Ft Lot) representing the lowest value for residential lots are set forth in Table D-4 below. Assessments are allocated to each Lot Type on the basis of the average home value for each class of lots. This is accomplished by giving each Lot Type an Equivalent Unit factor. Equivalent Units are the ratio of the average value of lots within each assessment class, setting the Equivalent Unit factor for Lot Type 1 (60 Ft Lots) to 1.0.

Table D-4
Equivalent Unit Factors

Lot Type	Estimated Average Unit Value	Equivalent Unit Factor
Lot Type 1 (60' Lot)	\$378,000	1.00 per dwelling unit
Lot Type 2 (50' Lot)	\$315,000	0.83 per dwelling unit
Lot Type 3 (40' Lot)	\$252,000	0.67 per dwelling unit

The total estimated Equivalent Units for Phase #1 are shown in Table D-5 below as calculated based on the Equivalent Unit factors shown above, estimated Lot Types and number of units estimated to be built within Phase 1.

Table D-5
Estimated Equivalent Units - Phase #1

Lot Type	Planned No. of units	Equivalent Unit Factor	Total Equivalent Units
Lot Type 1 (60' Lot)	65	1.00	65.00
Lot Type 2 (50' Lot)	581	0.83	484.17
Lot Type 3 (40' Lot)	398	0.67	265.33
Total Equivalent Units	1,044		814.50

The total estimated Equivalent Units for Phases #2-4 Major Improvement Area are shown in Table D-6 below as calculated based on the Equivalent Unit factors shown in Table D-4, estimated Lot Types and number of units estimated to be built within Phases #2-4 Major Improvement Area.

Table D-6
Estimated Equivalent Units - Phases #2 -3 Major Improvement Area

Lot Type	Planned No. of units	Equivalent Unit Factor	Total Equivalent Units
Lot Type 1 (60' Lot)	240	1.00	240.00
Lot Type 2 (50' Lot)	381	0.83	317.50
Lot Type 3 (40' Lot)	470	0.67	313.33
Total Equivalent Units	1,091		870.83

C) Allocation of Assessments to Lots within Phase #1

As shown in Section IV of this Service and Assessment Plan, the total amount of the Phase #1 Reimbursement Agreement, which represents the total Assessment to be allocated on all Parcels within Phase #1, is \$35,426,653. As shown in Table D-5, there are a total of 814.50 estimated Equivalent Units in Phase #1, resulting in an Assessment per Equivalent Unit of \$43,494.97.

The Assessment per dwelling unit in Phase #1 (“Assessment er Unit”) is calculated as the product of (i) \$43,585.02 multiplied by (ii) the applicable Equivalent Unit value for each Lot Type. For example, the Assessment for a Lot Type 1 (60 Ft Lot) dwelling unit is \$43,494.97 (i.e. \$43,494.97 × 1.00). The Assessment for a Lot Type 2 (50 Ft Lot) dwelling unit is \$36,245.81 (i.e. \$43,494.97 × 0.83). The Assessment for a Lot Type 3 (40 Ft Lot) dwelling unit is \$28,996.65 (i.e. \$43,494.97 × 0.67). Table D-7 on the following page sets forth the Assessment per Unit for each Lot Type in Phase #1.

Table D-7
Assessment Per Unit – Phase #1

Type	Planned No. of Units	Assessment per Equivalent Unit	Equivalent Unit Factor	Assessment per Unit	Total Assessments
Lot Type 1 (60' Lot)	65	\$43,494.97	1.00	\$43,494.97 per dwelling unit	\$2,827,173
Lot Type 2 (50' Lot)	581	\$43,494.97	0.83	\$36,245.81 per dwelling unit	\$21,058,815
Lot Type 3 (40' Lot)	398	\$43,494.97	0.67	\$28,996.65 per dwelling unit	\$11,540,665
Total	1,044				\$35,426,653

The projected leverage calculated based on the estimated land values, finished lot values and home values for each unit is shown in Table D-8 below.

Table D-8
Projected Leverage – Phase #1

Description	Planned No. of Units	Estimated Finished Lot Value per unit	Projected Home Value per unit	Assessment per Unit¹	Leverage (Lot Value)	Leverage (Home Value)
60 Ft Lots	65	\$45,500	\$378,000	\$43,494.97	1.05	8.69
50 Ft Lots	581	\$45,500	\$315,000	\$36,245.81	1.26	8.69
40 Ft Lots	398	\$45,500	\$252,000	\$28,996.65	1.57	8.69

1 – Amounts are rounded to the nearest dollar amount.

The projected tax rate equivalent per unit calculated based on the estimated finished lot values and home values for each unit is shown in Table D-9 below.

Table D-9
Estimated Tax Rate Equivalent per unit – Phase #1

Description	Planned No. of Units	Estimated Finished Lot Value per unit	Projected Home Value per unit	Projected Average Annual Installment per unit	Tax Rate Equivalent (per \$100 Lot Value)	Tax Rate Equivalent (per \$100 Home Value)
60 Ft Lots	65	\$45,500	\$378,000	\$2,823	\$6.20	\$0.75
50 Ft Lots	581	\$45,500	\$315,000	\$2,352	\$5.17	\$0.75
40 Ft Lots	398	\$45,500	\$252,000	\$1,882	\$4.14	\$0.75

The Assessment and Annual Installments for each Parcel or Lot located within Phase #1 is shown on the Phase #1 Assessment Roll, attached as Appendix F, and no Assessment shall be changed except as authorized by this Service and Assessment Plan and the PID Act.

D) Allocation of Phases #2-4 Major Improvement Assessments to Lot Types in Phases #2-4

As shown in Section IV of this Service and Assessment Plan, the total amount of the Phases #2-4 Major Improvement Reimbursement Agreement, which represents the total Assessment to be allocated on all Parcels within Phases #2-4, is \$8,831,513. As shown in Table D-6, there are a total of 870.83 estimated Equivalent Units in Phases #2-4, resulting in an Assessment per Equivalent Unit of \$10,141.45.

The Assessment per Unit is calculated as the product of (i) \$10,057.22 multiplied by (ii) the applicable Equivalent Unit value for each Lot Type. For example, the Assessment for a Lot Type 1 (60 Ft Lot) dwelling unit is \$10,141.45 (i.e. \$10,141.45 × 1.00). The Assessment for a Lot Type 2 (50 Ft Lot) dwelling unit is \$8,451.21 (i.e. \$10,141.45 × 0.83). The Assessment for a Lot Type 3 (40 Ft Lot) dwelling unit is \$6,760.97 (i.e. \$10,141.45 × 0.67). Table D-10 below sets forth the Assessment per Unit for each Lot Type in Phases #2-4.

Table D-10
Assessment Per Unit – Phases #2-4 Major Improvements

Type	Planned No. of Units	Assessment per Equivalent Unit	Equivalent Unit Factor	Assessment per Unit	Total Assessments
Lot Type 1 (60' Lot)	240	\$10,141	1.00	\$10,141.45 per dwelling unit	\$2,433,948
Lot Type 2 (50' Lot)	381	\$10,141	0.83	\$8,451.21 per dwelling unit	\$3,219,910
Lot Type 3 (40' Lot)	470	\$10,141	0.67	\$6,760.97 per dwelling unit	\$3,177,654
Total	1,091				\$8,831,513

The projected leverage calculated based on the estimated land values, finished lot values and home values for each unit within Phases #2-4 is shown in Table D-11 below.

Table D-11
Projected Leverage – Phases #2-4 Major Improvements

Description	Planned No. of Units	Estimated Finished Lot Value per unit	Projected Home Value per unit	Assessment per Unit ¹	Leverage (Lot Value)	Leverage (Home Value)
60 Ft Lots	240	\$45,500	\$378,000	\$10,141.45	4.49	37.27
50 Ft Lots	381	\$45,500	\$315,000	\$8,451.21	5.38	37.27
40 Ft Lots	470	\$45,500	\$252,000	\$6,760.97	6.73	37.27

¹ – Amounts are rounded to the nearest dollar amount.

The projected tax rate equivalent per unit calculated based on the estimated finished lot values and home values for each unit within Phases #2-4 is shown in Table D-12 on the below.

Table D-12
Estimated Tax Rate Equivalent per unit – Phases #2-4 Major Improvements

Description	Planned No. of Units	Estimated Finished Lot Value per unit	Projected Home Value per unit	Projected Average Annual Installment per unit	Tax Rate Equivalent (per \$100 Lot Value)	Tax Rate Equivalent (per \$100 Home Value)
60 Ft Lots	240	\$45,500	\$378,000	\$681.52	\$1.50	\$0.18
50 Ft Lots	381	\$45,500	\$315,000	\$567.93	\$1.25	\$0.18
40 Ft Lots	470	\$45,500	\$252,000	\$454.35	\$1.00	\$0.18

The Assessment and Annual Installments for each Parcel or Lot located within Phases #2-4 is shown on the Phases #2-4 Major Improvement Assessment Roll, attached as Appendix F, and no Assessment shall be changed except as authorized by this Service and Assessment Plan and the PID Act.

APPENDIX E
PROPOSED PHASES #2-4 MAJOR IMPROVEMENT ASSESSMENT ROLL

Appendix E-1
Proposed Phases #2-4 Major Improvement Assessment Roll

**Parcel
Equivalent Units
Assessment**

**All Parcels
870.83
8,831,513**

Year ¹	Principal	Interest	Administrative Expenses²	Total Annual Installment³
9/30/2021	\$131,000	\$427,073	\$35,000	\$593,073
9/30/2022	\$140,000	\$417,143	\$35,700	\$592,843
9/30/2023	\$150,000	\$406,531	\$36,414	\$592,945
9/30/2024	\$160,000	\$395,161	\$37,142	\$592,304
9/30/2025	\$172,000	\$383,033	\$37,885	\$592,919
9/30/2026	\$184,000	\$369,996	\$38,643	\$592,639
9/30/2027	\$192,000	\$361,569	\$39,416	\$592,984
9/30/2028	\$200,000	\$352,775	\$40,204	\$592,979
9/30/2029	\$208,000	\$343,615	\$41,008	\$592,623
9/30/2030	\$217,000	\$334,089	\$41,828	\$592,917
9/30/2031	\$226,000	\$324,150	\$42,665	\$592,815
9/30/2032	\$236,000	\$313,799	\$43,518	\$593,317
9/30/2033	\$245,000	\$302,990	\$44,388	\$592,379
9/30/2034	\$256,000	\$291,769	\$45,276	\$593,046
9/30/2035	\$267,000	\$280,045	\$46,182	\$593,226
9/30/2036	\$281,000	\$267,816	\$47,000	\$595,816
9/30/2037	\$293,000	\$254,946	\$47,000	\$594,946
9/30/2038	\$307,000	\$241,527	\$47,000	\$595,527
9/30/2039	\$321,000	\$227,466	\$47,000	\$595,466
9/30/2040	\$336,000	\$212,764	\$47,000	\$595,764
9/30/2041	\$351,000	\$197,376	\$47,000	\$595,376
9/30/2042	\$367,000	\$181,300	\$47,000	\$595,300
9/30/2043	\$384,000	\$164,491	\$47,000	\$595,491
9/30/2044	\$401,000	\$146,904	\$47,000	\$594,904
9/30/2045	\$420,000	\$128,538	\$47,000	\$595,538
9/30/2046	\$439,000	\$109,302	\$47,000	\$595,302
9/30/2047	\$459,000	\$89,196	\$47,000	\$595,196
9/30/2048	\$480,000	\$68,174	\$47,000	\$595,174
9/30/2049	\$502,000	\$46,190	\$47,000	\$595,190
9/30/2050	\$506,513	\$23,198	\$47,000	\$576,711
Total	\$8,831,513	\$7,662,931	\$1,310,270	\$17,804,713

1 – The 9/30/XX dates represent the fiscal year end for the Reimbursement Agreement.

2- Administrative Expenses are estimated and will be updated each year in the Annual Service Plan Updates. Assumes a 2% increase per year.

3- Annual Installments are calculated assuming an estimated 7.58% interest rate for years 1 through 5 and 4.58% thereafter on the Phases #2-4 Major Improvement Reimbursement Agreement plus the Administrative Expenses.

Appendix E-2
Proposed Assessment Roll by Lot Type

Lot Type
Assessment
Equivalent Unit

Lot Type 1 (60 Ft)
\$10,141
1.00

Year	Principal¹	Interest²	Administrative Expenses²	Annual Installment³
9/30/2021	\$150	\$490	\$40	\$681
9/30/2022	\$161	\$479	\$41	\$681
9/30/2023	\$172	\$467	\$42	\$681
9/30/2024	\$184	\$454	\$43	\$680
9/30/2025	\$198	\$440	\$44	\$681
9/30/2026	\$211	\$425	\$44	\$681
9/30/2027	\$220	\$415	\$45	\$681
9/30/2028	\$230	\$405	\$46	\$681
9/30/2029	\$239	\$395	\$47	\$681
9/30/2030	\$249	\$384	\$48	\$681
9/30/2031	\$260	\$372	\$49	\$681
9/30/2032	\$271	\$360	\$50	\$681
9/30/2033	\$281	\$348	\$51	\$680
9/30/2034	\$294	\$335	\$52	\$681
9/30/2035	\$307	\$322	\$53	\$681
9/30/2036	\$323	\$308	\$54	\$684
9/30/2037	\$336	\$293	\$54	\$683
9/30/2038	\$353	\$277	\$54	\$684
9/30/2039	\$369	\$261	\$54	\$684
9/30/2040	\$386	\$244	\$54	\$684
9/30/2041	\$403	\$227	\$54	\$684
9/30/2042	\$421	\$208	\$54	\$684
9/30/2043	\$441	\$189	\$54	\$684
9/30/2044	\$460	\$169	\$54	\$683
9/30/2045	\$482	\$148	\$54	\$684
9/30/2046	\$504	\$126	\$54	\$684
9/30/2047	\$527	\$102	\$54	\$683
9/30/2048	\$551	\$78	\$54	\$683
9/30/2049	\$576	\$53	\$54	\$683
9/30/2050	\$582	\$27	\$54	\$662
Total	\$10,141	\$8,800	\$1,505	\$20,446

1 - The interest is calculated assuming an estimated 7.58% interest rate for years 1 through 5 and 4.58% thereafter on the Phases #2-4 Major Improvement Reimbursement Agreement

2 - The Administrative Expenses shown include the estimated PID administration and assessment collection costs.

Appendix E-3
Proposed Assessment Roll by Lot Type

Lot Type
Assessment
Equivalent Unit

Lot Type 2 (50 Ft)
\$8,451
0.83

Year	Principal¹	Interest²	Administrative Expenses²	Annual Installment³
9/30/2021	\$125	\$409	\$33	\$568
9/30/2022	\$134	\$399	\$34	\$567
9/30/2023	\$144	\$389	\$35	\$567
9/30/2024	\$153	\$378	\$36	\$567
9/30/2025	\$165	\$367	\$36	\$567
9/30/2026	\$176	\$354	\$37	\$567
9/30/2027	\$184	\$346	\$38	\$567
9/30/2028	\$191	\$338	\$38	\$567
9/30/2029	\$199	\$329	\$39	\$567
9/30/2030	\$208	\$320	\$40	\$567
9/30/2031	\$216	\$310	\$41	\$567
9/30/2032	\$226	\$300	\$42	\$568
9/30/2033	\$234	\$290	\$42	\$567
9/30/2034	\$245	\$279	\$43	\$568
9/30/2035	\$256	\$268	\$44	\$568
9/30/2036	\$269	\$256	\$45	\$570
9/30/2037	\$280	\$244	\$45	\$569
9/30/2038	\$294	\$231	\$45	\$570
9/30/2039	\$307	\$218	\$45	\$570
9/30/2040	\$322	\$204	\$45	\$570
9/30/2041	\$336	\$189	\$45	\$570
9/30/2042	\$351	\$173	\$45	\$570
9/30/2043	\$367	\$157	\$45	\$570
9/30/2044	\$384	\$141	\$45	\$569
9/30/2045	\$402	\$123	\$45	\$570
9/30/2046	\$420	\$105	\$45	\$570
9/30/2047	\$439	\$85	\$45	\$570
9/30/2048	\$459	\$65	\$45	\$570
9/30/2049	\$480	\$44	\$45	\$570
9/30/2050	\$485	\$22	\$45	\$552
Total	\$8,451	\$7,333	\$1,254	\$17,038

1 - The interest is calculated assuming an estimated 7.58% interest rate for years 1 through 5 and 4.58% thereafter on the Phases #2-4 Major Improvement Reimbursement Agreement

2 - The Administrative Expenses shown include the estimated PID administration and assessment collection costs.

Appendix E-4
Proposed Assessment Roll by Lot Type

Lot Type
Assessment
Equivalent Unit

Lot Type 3 (40 Ft)
\$6,761
0.67

Year	Principal¹	Interest²	Administrative Expenses²	Annual Installment³
9/30/2021	\$100	\$327	\$27	\$454
9/30/2022	\$107	\$319	\$27	\$454
9/30/2023	\$115	\$311	\$28	\$454
9/30/2024	\$122	\$303	\$28	\$453
9/30/2025	\$132	\$293	\$29	\$454
9/30/2026	\$141	\$283	\$30	\$454
9/30/2027	\$147	\$277	\$30	\$454
9/30/2028	\$153	\$270	\$31	\$454
9/30/2029	\$159	\$263	\$31	\$454
9/30/2030	\$166	\$256	\$32	\$454
9/30/2031	\$173	\$248	\$33	\$454
9/30/2032	\$181	\$240	\$33	\$454
9/30/2033	\$188	\$232	\$34	\$453
9/30/2034	\$196	\$223	\$35	\$454
9/30/2035	\$204	\$214	\$35	\$454
9/30/2036	\$215	\$205	\$36	\$456
9/30/2037	\$224	\$195	\$36	\$455
9/30/2038	\$235	\$185	\$36	\$456
9/30/2039	\$246	\$174	\$36	\$456
9/30/2040	\$257	\$163	\$36	\$456
9/30/2041	\$269	\$151	\$36	\$456
9/30/2042	\$281	\$139	\$36	\$456
9/30/2043	\$294	\$126	\$36	\$456
9/30/2044	\$307	\$112	\$36	\$455
9/30/2045	\$322	\$98	\$36	\$456
9/30/2046	\$336	\$84	\$36	\$456
9/30/2047	\$351	\$68	\$36	\$456
9/30/2048	\$367	\$52	\$36	\$456
9/30/2049	\$384	\$35	\$36	\$456
9/30/2050	\$388	\$18	\$36	\$442
Total	\$6,761	\$5,866	\$1,003	\$13,630

1 - The interest is calculated assuming an estimated 7.58% interest rate for years 1 through 5 and 4.58% thereafter on the Phases #2-4 Major Improvement Reimbursement Agreement

2 - The Administrative Expenses shown include the estimated PID administration and assessment collection costs.

APPENDIX F
PROPOSED PHASE #1 ASSESSMENT ROLL

Appendix F-1
Proposed Phase #1 Assessment Roll

**Parcel
Equivalent Units
Assessment**

**All Parcels
814.50
35,426,653**

Year ¹	Principal	Interest	Administrative Expenses²	Total Annual Installment³
9/30/2021	\$516,000	\$1,712,181	\$75,000	\$2,303,181
9/30/2022	\$554,000	\$1,673,068	\$76,500	\$2,303,568
9/30/2023	\$595,000	\$1,631,075	\$78,030	\$2,304,105
9/30/2024	\$639,000	\$1,585,974	\$79,591	\$2,304,564
9/30/2025	\$684,000	\$1,537,538	\$81,182	\$2,302,720
9/30/2026	\$735,000	\$1,485,690	\$82,806	\$2,303,496
9/30/2027	\$766,000	\$1,452,027	\$84,462	\$2,302,489
9/30/2028	\$800,000	\$1,416,945	\$86,151	\$2,303,096
9/30/2029	\$835,000	\$1,380,305	\$87,874	\$2,303,179
9/30/2030	\$872,000	\$1,342,062	\$89,632	\$2,303,693
9/30/2031	\$910,000	\$1,302,124	\$91,425	\$2,303,548
9/30/2032	\$949,000	\$1,260,446	\$93,253	\$2,302,699
9/30/2033	\$991,000	\$1,216,982	\$95,118	\$2,303,100
9/30/2034	\$1,035,000	\$1,171,594	\$97,020	\$2,303,614
9/30/2035	\$1,080,000	\$1,124,191	\$98,961	\$2,303,152
9/30/2036	\$1,127,000	\$1,074,727	\$100,000	\$2,301,727
9/30/2037	\$1,178,000	\$1,023,110	\$100,000	\$2,301,110
9/30/2038	\$1,232,000	\$969,158	\$100,000	\$2,301,158
9/30/2039	\$1,289,000	\$912,732	\$100,000	\$2,301,732
9/30/2040	\$1,348,000	\$853,696	\$100,000	\$2,301,696
9/30/2041	\$1,409,000	\$791,958	\$100,000	\$2,300,958
9/30/2042	\$1,474,000	\$727,426	\$100,000	\$2,301,426
9/30/2043	\$1,542,000	\$659,916	\$100,000	\$2,301,916
9/30/2044	\$1,612,000	\$589,293	\$100,000	\$2,301,293
9/30/2045	\$1,686,000	\$515,463	\$100,000	\$2,301,463
9/30/2046	\$1,763,000	\$438,244	\$100,000	\$2,301,244
9/30/2047	\$1,844,000	\$357,499	\$100,000	\$2,301,499
9/30/2048	\$1,928,000	\$273,044	\$100,000	\$2,301,044
9/30/2049	\$2,017,000	\$184,741	\$100,000	\$2,301,741
9/30/2050	\$2,016,653	\$92,363	\$100,000	\$2,209,016
Total	\$35,426,653	\$30,755,569	\$2,797,006	\$68,979,228

1 – The 9/30/XX dates represent the fiscal year end for the Reimbursement Agreement

2- Administrative Expenses are estimated and will be updated each year in the Annual Service Plan Updates. Assumes a 2% increase per year.

3- Annual Installments are calculated assuming an estimated 7.58% interest rate for years 1 through 5 and 4.58% thereafter on the Phases #2-4 Major Improvement Reimbursement Agreement plus the Administrative Expenses.

Appendix F-2
Proposed Assessment Roll by Lot Type

Lot Type
Assessment
Equivalent Unit

Lot Type 1 (60 Ft)
\$43,495
1.00

Year	Principal¹	Interest²	Administrative Expenses²	Annual Installment³
9/30/2021	\$634	\$2,102	\$92	\$2,828
9/30/2022	\$680	\$2,054	\$94	\$2,828
9/30/2023	\$731	\$2,003	\$96	\$2,829
9/30/2024	\$785	\$1,947	\$98	\$2,829
9/30/2025	\$840	\$1,888	\$100	\$2,827
9/30/2026	\$902	\$1,824	\$102	\$2,828
9/30/2027	\$940	\$1,783	\$104	\$2,827
9/30/2028	\$982	\$1,740	\$106	\$2,828
9/30/2029	\$1,025	\$1,695	\$108	\$2,828
9/30/2030	\$1,071	\$1,648	\$110	\$2,828
9/30/2031	\$1,117	\$1,599	\$112	\$2,828
9/30/2032	\$1,165	\$1,548	\$114	\$2,827
9/30/2033	\$1,217	\$1,494	\$117	\$2,828
9/30/2034	\$1,271	\$1,438	\$119	\$2,828
9/30/2035	\$1,326	\$1,380	\$121	\$2,828
9/30/2036	\$1,384	\$1,319	\$123	\$2,826
9/30/2037	\$1,446	\$1,256	\$123	\$2,825
9/30/2038	\$1,513	\$1,190	\$123	\$2,825
9/30/2039	\$1,583	\$1,121	\$123	\$2,826
9/30/2040	\$1,655	\$1,048	\$123	\$2,826
9/30/2041	\$1,730	\$972	\$123	\$2,825
9/30/2042	\$1,810	\$893	\$123	\$2,826
9/30/2043	\$1,893	\$810	\$123	\$2,826
9/30/2044	\$1,979	\$724	\$123	\$2,825
9/30/2045	\$2,070	\$633	\$123	\$2,826
9/30/2046	\$2,165	\$538	\$123	\$2,825
9/30/2047	\$2,264	\$439	\$123	\$2,826
9/30/2048	\$2,367	\$335	\$123	\$2,825
9/30/2049	\$2,476	\$227	\$123	\$2,826
9/30/2050	\$2,476	\$113	\$123	\$2,712
Total	\$43,495	\$37,760	\$3,434	\$84,689

1 - The interest is calculated assuming an estimated 7.58% interest rate for years 1 through 5 and 4.58% thereafter on the Phases #2-4 Major Improvement Reimbursement Agreement

2 - The Administrative Expenses shown include the estimated PID administration and assessment collection costs.

Appendix F-3
Proposed Assessment Roll by Lot Type

Lot Type
Assessment
Equivalent Unit

Lot Type 2 (50 Ft)
\$36,321
0.83

Year	Principal¹	Interest²	Administrative Expenses²	Annual Installment³
9/30/2021	\$528	\$1,752	\$77	\$2,356
9/30/2022	\$567	\$1,712	\$78	\$2,357
9/30/2023	\$609	\$1,669	\$80	\$2,357
9/30/2024	\$654	\$1,623	\$81	\$2,358
9/30/2025	\$700	\$1,573	\$83	\$2,356
9/30/2026	\$752	\$1,520	\$85	\$2,357
9/30/2027	\$784	\$1,486	\$86	\$2,356
9/30/2028	\$818	\$1,450	\$88	\$2,356
9/30/2029	\$854	\$1,412	\$90	\$2,356
9/30/2030	\$892	\$1,373	\$92	\$2,357
9/30/2031	\$931	\$1,332	\$94	\$2,357
9/30/2032	\$971	\$1,290	\$95	\$2,356
9/30/2033	\$1,014	\$1,245	\$97	\$2,356
9/30/2034	\$1,059	\$1,199	\$99	\$2,357
9/30/2035	\$1,105	\$1,150	\$101	\$2,356
9/30/2036	\$1,153	\$1,100	\$102	\$2,355
9/30/2037	\$1,205	\$1,047	\$102	\$2,354
9/30/2038	\$1,260	\$992	\$102	\$2,354
9/30/2039	\$1,319	\$934	\$102	\$2,355
9/30/2040	\$1,379	\$873	\$102	\$2,355
9/30/2041	\$1,442	\$810	\$102	\$2,354
9/30/2042	\$1,508	\$744	\$102	\$2,355
9/30/2043	\$1,578	\$675	\$102	\$2,355
9/30/2044	\$1,649	\$603	\$102	\$2,355
9/30/2045	\$1,725	\$527	\$102	\$2,355
9/30/2046	\$1,804	\$448	\$102	\$2,354
9/30/2047	\$1,887	\$366	\$102	\$2,355
9/30/2048	\$1,973	\$279	\$102	\$2,354
9/30/2049	\$2,064	\$189	\$102	\$2,355
9/30/2050	\$2,063	\$94	\$102	\$2,260
Total	\$36,246	\$31,467	\$2,862	\$70,574

1 - The interest is calculated assuming an estimated 7.58% interest rate for years 1 through 5 and 4.58% thereafter on the Phases #2-4 Major Improvement Reimbursement Agreement

2 - The Administrative Expenses shown include the estimated PID administration and assessment collection costs.

Appendix F-4
Proposed Assessment Roll by Lot Type

Lot Type
Assessment
Equivalent Unit

Lot Type 3 (40 Ft)
\$29,057
0.67

Year	Principal¹	Interest²	Administrative Expenses²	Annual Installment³
9/30/2021	\$422	\$1,401	\$61	\$1,885
9/30/2022	\$453	\$1,369	\$63	\$1,885
9/30/2023	\$487	\$1,335	\$64	\$1,886
9/30/2024	\$523	\$1,298	\$65	\$1,886
9/30/2025	\$560	\$1,258	\$66	\$1,885
9/30/2026	\$602	\$1,216	\$68	\$1,885
9/30/2027	\$627	\$1,188	\$69	\$1,885
9/30/2028	\$655	\$1,160	\$71	\$1,885
9/30/2029	\$683	\$1,130	\$72	\$1,885
9/30/2030	\$714	\$1,098	\$73	\$1,886
9/30/2031	\$745	\$1,066	\$75	\$1,885
9/30/2032	\$777	\$1,032	\$76	\$1,885
9/30/2033	\$811	\$996	\$78	\$1,885
9/30/2034	\$847	\$959	\$79	\$1,886
9/30/2035	\$884	\$920	\$81	\$1,885
9/30/2036	\$922	\$880	\$82	\$1,884
9/30/2037	\$964	\$837	\$82	\$1,883
9/30/2038	\$1,008	\$793	\$82	\$1,883
9/30/2039	\$1,055	\$747	\$82	\$1,884
9/30/2040	\$1,103	\$699	\$82	\$1,884
9/30/2041	\$1,153	\$648	\$82	\$1,883
9/30/2042	\$1,206	\$595	\$82	\$1,884
9/30/2043	\$1,262	\$540	\$82	\$1,884
9/30/2044	\$1,319	\$482	\$82	\$1,884
9/30/2045	\$1,380	\$422	\$82	\$1,884
9/30/2046	\$1,443	\$359	\$82	\$1,884
9/30/2047	\$1,509	\$293	\$82	\$1,884
9/30/2048	\$1,578	\$223	\$82	\$1,883
9/30/2049	\$1,651	\$151	\$82	\$1,884
9/30/2050	\$1,651	\$76	\$82	\$1,808
Total	\$28,997	\$25,173	\$2,289	\$56,459

1 - The interest is calculated assuming an estimated 7.58% interest rate for years 1 through 5 and 4.58% thereafter on the Phases #2-4 Major Improvement Reimbursement Agreement

2 - The Administrative Expenses shown include the estimated PID administration and assessment collection costs.

EXHIBIT B
TOWN OF LITTLE ELM, TEXAS
NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN THAT a public hearing will be conducted by the Town Council of Little Elm, Texas on *March 16, 2021 at or after 6:00 p.m. at Little Elm Town Hall, 100 W. Eldorado Parkway, Little Elm, Texas 75068*. The public hearing will be held to consider proposed assessments to be levied against the assessable property within the Spiritas Ranch Public Improvement District (the “District”) pursuant to the provisions of Chapter 372 of the Texas Local Government Code, as amended (the “Act”).

The general nature of the proposed public improvements (collectively, the “Authorized Improvements”) may include: (i) street and roadway improvements, including related sidewalks, drainage, utility relocation, signalization, landscaping, lighting, signage, off-street parking and right-of-way; (ii) establishment or improvement of parks and open space, together with the design, construction and maintenance of any ancillary structures, features or amenities such as trails, playgrounds, walkways, lighting and any similar items located therein; (iii) sidewalks and landscaping, including entry monuments and features, fountains, lighting and signage; (iv) acquisition, construction, and improvement of water, wastewater and drainage improvements and facilities; (v) projects similar to those listed in subsections (i) - (iv) above authorized by the Act, including similar off-site projects that provide a benefit to the property within the District; (vi) special supplemental services for improvement and promotion of the district; (vii) payment of costs associated with operating and maintaining the public improvements listed in subparagraphs (i) - (vii) above; and (viii) payment of costs associated with developing and financing the public improvements listed in subparagraphs (i) - (vii) above, and costs of establishing, administering and operating the District. These Authorized Improvements shall promote the interests of the Town and confer a special benefit upon the Property .

The total costs of the Authorized Improvements that benefit the entire District (the “Major Improvements”) and the Authorized Improvements that benefit Phase #1 of the District (the “Phase #1 Improvements”), including the costs of creating the District and issuing the bonds, is approximately \$45,000,000.

The District is proposed to include approximately 545 acres of land generally located *south of U.S. HWY 380, east of FM 720, and west of Lewisville Lake*, located partially within the Town and partially within the extraterritorial jurisdiction of the Town and as more particularly described by a metes and bounds description available at Little Elm Town Hall and available for public inspection.

All written or oral objections on the proposed assessment within the District will be considered at the public hearing.

A copy of the Phase #1 Assessment Roll relating to the Phase #1 Improvements and the portion of the Major Improvements allocated to Phase #1 Assessed Property, and Phases # 2-4 Major Improvements Assessment Roll relating to the Major Improvements allocated to Phases #2-4 Assessed Property (collectively, the

“Assessment Rolls”), which Assessment Rolls include the assessments to be levied against each parcel in the District for the Phase #1 Improvements and the Major Improvements, is available for public inspection at the office of the Town Secretary, 100 W. Eldorado Pkwy, Little Elm, Texas 75068.



Town Council Meeting

Date: 02/16/2021
Agenda Item #: 6. E.
Department: Development Services
Strategic Goal: Ensure excellence in public services while keeping up with the growth in the community
Staff Contact: Wesley Brandon, Town Engineer

AGENDA ITEM:

Consider Action to Award a **Construction Contract to GRod Construction for Repairs to the McCord Trail and Wastewater System near the Kings Crossing Subdivision in an amount not to exceed \$188,630.**

DESCRIPTION:

Over the past several months, staff has noted severe erosion and soil movement along a section of Cottonwood Branch located north of Dragonback Pass and west of Witt Road. This soil movement has caused failures to the concrete-paved McCord Trail and an existing wastewater manhole located nearby. The existing manhole is leaning in a way that, if left in its current state, could jeopardize the function of the wastewater lines connected to it. Staff is currently working with geotechnical and civil engineering consultants to identify the root cause of the soil movement and offer long-term design recommendations to prevent future failures. Staff has also received a proposal from GRod Construction, LLC, to install measures that will temporarily remedy the erosion concerns, remove damaged trail sections, install a safe, soft-surface walking path, and repair the existing manhole (replacing it if needed).

Section 252.022 of the Texas Local Government Code provides exemptions to the competitive procurement process for expenditures that are necessary to protect the public health or safety of the municipality's residents, or because of unforeseen damage to property. Due to the risk of further soil movement, continued failure of the existing trail and manhole, and public safety concerns, staff is recommending approval of the proposed construction contract utilizing these exemptions.

The contractor is ready to mobilize and perform the work. The expected completion date is in early Spring 2021.

BUDGET IMPACT:

Funding for the project has been allocated in the FY 2020-2021 budget from the Drainage Fund and Utility CIP Fund.

	\$	100,930.00	Trail Repair Costs (Drainage Fund)
	\$	67,700.00	Wastewater Line Repair Costs (Utility
Fund)			
	\$	20,000.00	Contingency
	\$	188,630.00	Total Contract Amount

RECOMMENDED ACTION:

Staff recommends approval.

Attachments

Site Map and Photos

Cost Proposal

Standard Form of Agreement

H:\WORK IN PROGRESS\LITTLE ELM\VARIOUS EROSION PROJECTS\DRAWINGS\EXHIBITS\COTTONWOOD CREEK EROSION.DWG - 5/14/19



TRC ENGINEERS, INC.
700 HIGHLANDER BLVD., SUITE 210, ARLINGTON, TEXAS 76015
T.B.P.E. FIRM REGISTRATION # F-8632
(817) 522 - 1000

TOWN OF LITTLE ELM
COTTONWOOD CREEK EROSION
KINGS CROSSING





Proposal



G Rod Construction, LLC

889 E.Rock Island Avenue

Boyd, Texas 76023

Contact: Guillermo Rodriguez

Phone: 682 302 3219

Fax: 682 204 0191

Quote To: Wesley Brandon
Little Elm

Phone: 214-975-0489

Fax:

Job Name: King Crossing Park Erosion Repair

Date of Plans: N/A

Revision Date:

Estimate # 201104B

ITEM	DESCRIPTION	QUANTITY	UNIT	UNIT PRICE	AMOUNT
01	Mobilization	1.00	LS	2,000.00	2,000.00
02	Remove Concrete Trail & Haul Off	2,000.00	SF	4.00	8,000.00
03	Embankment Common Fill Import	40.00	LD	350.00	14,000.00
04	Labor & Equipment For Embankment Import	3.00	DAY	4,500.00	13,500.00
05	18" RCP	24.00	LF	120.00	2,880.00
06	18" SET	2.00	EA	1,400.00	2,800.00
07	Dig & Repair Existing Manhole	1.00	LS	35,000.00	35,000.00
08	New Precast Manhole Extensions If Needed	3.00	EA	1,800.00	5,400.00
09	Sewer Main Line Repair	200.00	LF	124.00	24,800.00
10	Trench Safety	1.00	LS	2,500.00	2,500.00
11	Rip Rap Stone Material to Backfill	10.00	LD	1,150.00	11,500.00
12	Labor & Equipment to Install Rip Rap	4.00	DAY	3,700.00	14,800.00
13	Filter Fabric For Rip Rap	1.00	ROLL	400.00	400.00
14	Temporary Fencing To Block Pedestrians	150.00	LF	8.00	1,200.00
15	4" Flexbase	50.00	TON	65.00	3,250.00
16	4" Decompose Granit	50.00	TON	105.00	5,250.00
17	4" Metal Edging	400.00	LF	3.50	1,400.00
18	Revegetate Area	2,000.00	SY	7.00	14,000.00
19	Concrete Trail Repair if Needed	200.00	SF	14.00	2,800.00
20	Barricades	1.00	LS	1,350.00	1,350.00
21	Stone Wall Removal & Haul Off	1.00	LS	1,800.00	1,800.00

GRAND TOTAL

\$168,630.00

NOTES:

EXCLUSIONS & CLARIFICATIONS

Exclusions:

-Sales Tax, -Stone Retaining Wall, -Flexbase Material, -Traffic Control Plan, -Flagman, -Survey & Layout, -Material Testing, -

Site ROW Prep, -Utilities Adjustments, -Fire Hydrant Meter & Water Usage Cost, -Erosion Control, -Engineering Excluded, -
City fees, -City Permits, -P&P Bond, -Maint Bond, -Landscaping, -Irrigation, -No off site hauling

Clarifications:

Work not listed billed separately

Pricing to be modified if scope removed from bid

Proposal Valid for 30 Days

Please contact me with any questions,

Thank you,

G Rod Construction, LLC

(682) 302-3219

grod@grodconstruction.com

SECTION 00522
STANDARD FORM OF AGREEMENT

This Agreement is by and between the Town of Little Elm (Owner) and **GRod Construction** (Contractor). Owner and Contractor, in mutual consideration, agree as follows:

ARTICLE 1 - THE WORK

1.01 Work

- A. Work includes all labor, materials, equipment, services, and documentation necessary to construct the Project defined herein. The Work may include related services such as testing, start-up, and commissioning, all as required by the Contract Documents.
- B. The Contractor shall complete all Work as specified or indicated in the Contract Documents. The Project is generally described as follows:
 - 1. **Kings Crossing / McCord Trail Erosion Repair:** Repair of concrete trail section and wastewater manhole.
 - 2. The Site of the Work includes property, easements, and designated work areas described in detail in the Contract Documents but generally located **north of Dragonback Pass and west of Witt Road.**

ARTICLE 2 - CONTRACT DOCUMENTS

2.01 Intent of Contract Documents

- A. It is the intent of the Contract Documents to describe a functionally complete project. The Contract Documents do not indicate or describe all of the Work required to complete the Project. Additional details required for the correct installation of selected products are to be provided by the Contractor and coordinated with the Owner and Engineer. This Contract supersedes prior negotiations, representations, and agreements, whether written or oral. The Contract Documents are complementary; what is required by one part of the Contract Documents is as binding as if required by other parts of the Contract Documents.
- B. During the performance of the Work and until final payment, Contractor and Owner shall submit all matters in question concerning the requirements of the Contract Documents, or relating to the acceptability of the Work under the Contract Documents to the Engineer. Engineer will be the initial interpreter of the requirements of the Contract Documents, and judge of the acceptability of the Work thereunder.
- C. Engineer will render a written clarification, interpretation, or decision on the issue submitted, or initiate a modification to the Contract Documents.
- D. Contractor, and its subcontractors and suppliers, shall not have or acquire any title to or ownership rights to any of the Drawings, Specifications, or other documents (including copies or electronic media editions) prepared by Engineer or its consultants.

2.02 Contract Documents Defined

- A. The Contract Documents consist of the following documents:
 - 1. This Contract.
 - 2. Performance bond.
 - 3. Payment bond.

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4. Maintenance bond.
5. Specifications listed in the Table of Contents.
6. Drawings as listed on the Drawing Sheet Index.
7. Addenda.
8. Exhibits to this Contract (enumerated as follows):
 - a. Exhibit 1 – Contractor’s Bid
9. The following which may be delivered or issued on or after the Effective Date of the Contract:
 - a. Work Change Directives (EJCDC C-940).
 - b. Change Orders (EJCDC C-941).
 - c. Field Orders.

ARTICLE 3 - ENGINEER

3.01 Engineer

- A. The Engineer for this Project is: **Town of Little Elm, Wesley Brandon, PE**

ARTICLE 4 - CONTRACT TIMES

4.01 Contract Times

- A. The Work will be substantially completed within **60** days after the Effective Date of the Contract and completed and ready for final payment within **90** days after the Effective Date of the Contract.

4.02 Liquidated Damages

- A. Contractor and Owner recognize that time is of the essence in the performance of the Contract, and that Owner will incur damages if Contractor does not complete the Work according to the requirements of Paragraph 4.01. Because such damages for delay would be difficult and costly to determine, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty) Contractor shall pay Owner **\$500** for each day that expires after the Contract Time for substantial completion.

4.03 Delays in Contractor’s Progress

- A. If Owner, Engineer, or anyone for whom Owner is responsible, delays, disrupts, or interferes with the performance or progress of the Work, then Contractor may be entitled to an equitable adjustment in the Contract Times and Contract Price. Contractor’s entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor’s ability to complete the Work within the Contract Times, and conditioned on the agreement of Contractor and Owner.
- B. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for delay, disruption, or interference caused by or within the control of Contractor or their subcontractors or suppliers.
- C. If Contractor’s performance or progress is delayed, disrupted, or interfered with by unanticipated causes not the fault of and beyond the control of Owner, Contractor, and those for which they are responsible, then Contractor may be entitled to an equitable adjustment in Contract Times.

- D. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for any delay, disruption, or interference if such delay is concurrent with a delay, disruption, or interference caused by or within the control of Contractor or Contractor's subcontractors or suppliers.

4.04 Progress Schedules

- A. Contractor shall develop a progress schedule and submit to the Engineer for review and comment before starting Work on the Site. The Contractor shall modify the schedule in accordance with the comments provided by the Engineer.
- B. The Contractor shall update and submit the progress schedule to the Engineer each month. The Owner may withhold payment if the Contractor fails to submit the schedule.

ARTICLE 5 - CONTRACT PRICE

5.01 Payment

- A. Owner shall pay Contractor in accordance with the Contract Documents at the following unit prices for each unit of Work completed:

Base Bid: **\$168,630.00**

Payment will be made in an amount equal to the total of all extended prices for actual Work completed. The extended price is determined by multiplying the unit price times the actual quantity of that Work item completed. Actual quantities installed will be determined by the Engineer.

ARTICLE 6 - BONDS AND INSURANCE

6.01 Bonds

- A. Before starting Work, Contractor shall furnish a performance bond and a payment bond from surety companies that are duly licensed or authorized to issue bonds in the required amounts in the jurisdiction in which the Project is located. Each bond shall be in an amount equal to the Contract Price, as security for the faithful performance and payment of all of Contractor's obligations under the Contract. These bonds shall remain in effect until the completion of the correction period specified in Paragraph 7.12 but in any case, not less than one year after the date when final payment becomes due.

6.02 Insurance

- A. Before starting Work, Contractor shall furnish evidence of insurance from companies that are duly licensed or authorized in the State of Texas in which the Project is located with a minimum AM Best rating of A-VII or better. **Contractor shall provide insurance in accordance with the Town's Standard Insurance Requirements.**
- B. The Contractor shall provide property insurance covering physical loss or damage during construction to structures, materials, fixtures, and equipment, including those materials, fixtures, or equipment in storage or transit.
- C. If Contractor has failed to obtain and maintain required insurance, Owner may exclude the Contractor from the Site, impose an appropriate set-off against payment, and exercise Owner's termination rights under Article 15.

ARTICLE 7 - CONTRACTOR'S RESPONSIBILITIES

7.01 Supervision and Superintendence

- A. Contractor shall supervise and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance

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with the Contract Documents. Contractor shall be solely responsible for the means, methods, techniques, sequences, safety, and procedures of construction.

- B. Contractor shall assign a competent resident superintendent who is to be present at all times during the execution of the Work. This resident superintendent shall not be replaced without written notice to and approval by the Owner and Engineer except under extraordinary circumstances.
- C. Contractor shall at all times maintain good discipline and order at the Site.
- D. Except as otherwise required for the safety or protection of persons or the Work or property at the Site or adjacent thereto, and except as otherwise stated in the Contract Documents, all Work at the Site shall be performed during regular working hours, Monday through Friday.

7.02 Other Work at the Site

- A. In addition to and apart from the Work of the Contractor, other work may occur at or adjacent to the Site. Contractor shall take reasonable and customary measures to avoid damaging, delaying, disrupting, or interfering with the work of Owner, any other contractor, or any utility owner performing other work at or adjacent to the Site.

7.03 Services, Materials, and Equipment

- A. Unless otherwise specified in the Contract Documents, Contractor shall provide and assume full responsibility for all services, materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities, and all other facilities and incidentals necessary for the performance, testing, start up, and completion of the Work, whether or not such items are specifically called for in the Contract Documents.
- B. All materials and equipment incorporated into the Work shall be new, of good quality and shall be stored, applied, installed, connected, erected, protected, used, cleaned, and conditioned in accordance with instructions of the applicable supplier, except as otherwise may be provided in the Contract Documents.

7.04 Subcontractors and Suppliers

- A. Contractor may retain subcontractors and suppliers for the performance of parts of the Work. Such subcontractors and suppliers must be acceptable to Owner.

7.05 Quality Management

- A. Contractor is fully responsible for the managing quality to ensure Work is completed in accordance with the Contract Documents.

7.06 Licenses, Fees and Permits

- A. Contractor shall pay all license fees and royalties and assume all costs incident to performing the Work or the incorporation in the Work of any invention, design, process, product, or device which is the subject of patent rights or copyrights held by others.
- B. Contractor shall obtain and pay for all construction permits and licenses unless otherwise provided in the Contract Documents.

7.07 Laws and Regulations; Taxes

- A. Contractor shall give all notices required by and shall comply with all local, state, and federal Laws and Regulations applicable to the performance of the Work. Except where otherwise expressly required by

applicable Laws and Regulations, neither Owner nor Engineer shall be responsible for monitoring Contractor's compliance with any Laws or Regulations.

- B. Contractor shall bear all resulting costs and losses, and shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages if Contractor performs any Work or takes any other action knowing or having reason to know that it is contrary to Laws or Regulations.
- C. Contractor shall pay all applicable sales, consumer, use, and other similar taxes Contractor is required to pay in accordance with Laws and Regulations.

7.08 Record Documents

- A. Contractor shall maintain one printed record copy of all Drawings, Specifications, Addenda, Change Orders, Work Change Directives, Field Orders, written interpretations and clarifications, and approved shop drawings in a safe place at the Site. Contractor shall annotate them to show changes made during construction. Contractor shall deliver these record documents to Engineer upon completion of the Work.

7.09 Safety and Protection

- A. Contractor shall be solely responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Work.
- B. Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury, or loss to:
 - 1. All persons on the Site or who may be affected by the Work;
 - 2. All the Work and materials and equipment to be incorporated therein, whether in storage on or off the Site; and
 - 3. Other property at the Site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, other work in progress, utilities, and underground facilities not designated for removal, relocation, or replacement in the course of construction.
- C. All damage, injury, or loss to any property caused, directly or indirectly, in whole or in part, by Contractor, or anyone for whose acts the Contractor may be liable, shall be remedied by Contractor at its expense (except damage or loss attributable to the fault of Contract Documents or to the acts or omissions of Owner or Engineer and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of Contractor).
- D. Contractor shall be responsible for coordinating any exchange of material safety data sheets or other hazard communication information required to be made available to or exchanged between or among employers at the Site in accordance with Laws or Regulations.
- E. In emergencies affecting the safety or protection of persons or the Work or property at the Site or adjacent thereto, Contractor shall act to prevent threatened damage, injury, or loss. Contractor shall give Engineer prompt written notice if Contractor believes that any significant changes in the Work or variations from the Contract Documents have been caused thereby or are required as a result thereof. If Engineer determines that a change in the Contract Documents is required because of the action taken by Contractor in response to such an emergency, a Work Change Directive or Change Order will be issued.

7.10 Shop Drawings, Samples, and Other Submittals

- A. Contractor shall review and coordinate the shop drawing and samples with the requirements of the Work and the Contract Documents and shall verify all related field measurements, quantities, dimensions, specified performance and design criteria, installation requirements, materials, catalog numbers, and similar information.
- B. Each submittal shall bear a stamp or specific written certification that Contractor has satisfied Contractor's obligations under the Contract Documents with respect to Contractor's review of that submittal, and that Contractor approves the submittal.
- C. With each submittal, Contractor shall give Engineer specific written notice, in a communication separate from the submittal, of any variations that the shop drawing or sample may have from the requirements of the Contract Documents.
- D. Engineer will provide timely review of shop drawings and samples.
- E. Engineer's review and approval will not extend to means, methods, techniques, sequences, or procedures of construction or to safety precautions or programs.
- F. Engineer's review and approval of a separate item does not indicate approval of the assembly in which the item functions.
- G. Contractor shall make corrections required by Engineer and shall return the required number of corrected copies of shop drawings and submit, as required, new samples for review and approval. Contractor shall direct specific attention in writing to revisions other than the corrections called for by Engineer on previous submittals.
- H. Shop drawings are not Contract Documents.

7.11 Warranties and Guarantees

- A. Contractor warrants and guarantees to Owner that all Work will be in accordance with the Contract Documents and will not be defective. Engineer and its officers, directors, members, partners, employees, agents, consultants, and subcontractors shall be entitled to rely on Contractor's warranty and guarantee.

7.12 Correction Period

- A. If within two years after the date of Final Acceptance by Owner, any Work is found to be defective, or if the repair of any damages to the Site, adjacent areas that Contractor has arranged to use through construction easements or otherwise, and other adjacent areas used by Contractor as permitted by Laws and Regulations, is found to be defective, then Contractor shall promptly and without cost to Owner, correct such defective Work. Final Acceptance by Owner is the date of acceptance by the governing body of the Town.

7.13 Indemnification

- A. To the fullest extent permitted by Laws and Regulations, and in addition to any other obligations of Contractor under the Contract or otherwise, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the performance of the Work, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom but only to the extent caused by any act

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or omission of Contractor, any subcontractor, any supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work or anyone for whose acts they may be liable.

ARTICLE 8 - OWNER'S RESPONSIBILITIES

8.01 Owner's Responsibilities

- A. Except as otherwise provided in the Contract Documents, Owner shall issue all communications to Contractor through Engineer.
- B. Owner shall make payments to Contractor as provided in this Contract.
- C. Owner shall provide Site and easements required to construct the Project.
- D. If Owner intends to contract with others for the performance of other work at or adjacent to the Site, unless stated elsewhere in the Contract Documents, Owner shall have sole authority and responsibility for such coordination.
- E. The Owner shall be responsible for performing inspections and tests required by applicable codes.
- F. The Owner shall not supervise, direct, or have control or authority over, nor be responsible for, Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Owner will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.
- G. While at the Site, Owner's employees and representatives shall comply with the specific applicable requirements of Contractor's safety programs of which Owner has been informed.
- H. Owner shall furnish copies of any applicable Owner safety programs to Contractor.

ARTICLE 9 - ENGINEER'S STATUS DURING CONSTRUCTION

9.01 Engineer's Status

- A. Engineer will be Owner's representative during construction. The duties and responsibilities and the limitations of authority of Engineer as Owner's representative during construction are set forth in this Contract.
- B. Neither Engineer's authority or responsibility under this Article 9 or under any other provision of the Contract, nor any decision made by Engineer in good faith either to exercise or not exercise such authority or responsibility or the undertaking, exercise, or performance of any authority or responsibility by Engineer, shall create, impose, or give rise to any duty in contract, tort, or otherwise owed by Engineer to Contractor, any subcontractor, any supplier, any other individual or entity, or to any surety for or employee or agent of any of them.
- C. Engineer will make visits to the Site at intervals appropriate to the various stages of construction. Engineer will not be required to make exhaustive or continuous inspections on the Site to check the quality or quantity of the Work.
- D. Engineer has the authority to reject Work if Contractor fails to perform Work in accordance with the Contract Documents.
- E. Engineer will render decisions regarding the requirements of the Contract Documents, and judge the acceptability of the Work.
- F. Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and

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programs, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Engineer will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.

ARTICLE 10 - CHANGES IN THE WORK

10.01 Authority to Change the Work

- A. Without invalidating the Contract and without notice to any surety, Owner may, at any time or from time to time, order additions, deletions, or revisions in the Work.

10.02 Change Orders

- A. Owner and Contractor shall execute appropriate Change Orders covering:
 - 1. Changes in the Contract Price or Contract Times which are agreed to by the parties, including any undisputed sum or amount of time for Work actually performed in accordance with a Work Change Directive;
 - 2. Changes in the Work which are: (a) ordered by Owner or (b) agreed to by the parties or (c) resulting from the Engineer's decision, subject to the need for Engineer's recommendation if the change in the Work involves the design (as set forth in the Drawings, Specifications, or otherwise), or other engineering or technical matters; and
 - 3. Changes in the Contract Price or Contract Times or other changes, which embody the substance of any final binding results under Article 12.
- B. If the provisions of any bond require notice to be given to a surety of any change affecting the general scope of the Work or the provisions of the Contract Documents (including, but not limited to, Contract Price or Contract Times), the giving of any such notice will be Contractor's responsibility. The amount of each applicable bond will be adjusted to reflect the effect of any such change.

ARTICLE 11 - DIFFERING SUBSURFACE OR PHYSICAL CONDITIONS

11.01 Differing Conditions Process

- A. If Contractor believes that any subsurface or physical condition including but not limited to utilities or other underground facilities that are uncovered or revealed at the Site either differs materially from that shown or indicated in the Contract Documents or is of an unusual nature, and differs materially from conditions ordinarily encountered and generally recognized as inherent in Work of the character provided for in the Contract Documents then Contractor shall, promptly after becoming aware thereof and before further disturbing the subsurface or physical conditions or performing any Work in connection therewith (except in an emergency), notify Owner and Engineer in writing about such condition. Contractor shall not further disturb such condition or perform any Work in connection therewith (except with respect to an emergency) until receipt of a written statement permitting Contractor to do so.
- B. After receipt of written notice, Engineer will promptly:
 - 1. Review the subsurface or physical condition in question;
 - 2. Determine necessity for Owner obtaining additional exploration or tests with respect to the condition;
 - 3. Determine whether the condition falls within the differing site condition as stated herein;
 - 4. Obtain any pertinent cost or schedule information from Contractor;

5. Prepare recommendations to Owner regarding the Contractor's resumption of Work in connection with the subsurface or physical condition in question and the need for any change in the Drawings or Specifications; and
 6. Advise Owner in writing of Engineer's findings, conclusions, and recommendations.
- C. After receipt of Engineer's written findings, conclusions, and recommendations, Owner shall issue a written statement to Contractor regarding the subsurface or physical condition in question, addressing the resumption of Work in connection with such condition, indicating whether any change in the Drawings or Specifications will be made, and adopting or rejecting Engineer's written findings, conclusions, and recommendations, in whole or in part.

ARTICLE 12 - CLAIMS AND DISPUTE RESOLUTION

12.01 Claims Process

- A. The party submitting a claim shall deliver it directly to the other party to the Contract and the Engineer promptly (but in no event later than 10 days) after the start of the event-giving rise thereto.
- B. The party receiving a claim shall review it thoroughly, giving full consideration to its merits. The two parties shall seek to resolve the claim through the exchange of information and direct negotiations. All actions taken on a claim shall be stated in writing and submitted to the other party.
- C. If efforts to resolve a claim are not successful, the party receiving the claim may deny it by giving written notice of denial to the other party. If the receiving party does not take action on the claim within 45 days, the claim is deemed denied.
- D. If the dispute is not resolved to the satisfaction of the parties, Owner or Contractor shall give written notice to the other party of the intent to submit the dispute to a court of competent jurisdiction unless the Owner and Contractor both agree to an alternative dispute resolution process.

ARTICLE 13 - TESTS AND INSPECTIONS; CORRECTION OF DEFECTIVE WORK

13.01 Tests and Inspections

- A. Owner and Engineer will have access to the Site and the Work at reasonable times for their observation, inspection, and testing. Contractor shall provide them proper and safe conditions for such access.
- B. Contractor shall give Engineer timely notice of readiness of the Work for all required inspections and tests, and shall cooperate with inspection and testing personnel to facilitate required inspections and tests.
- C. If any Work that is to be inspected, tested, or approved is covered by Contractor without written concurrence of Engineer, Contractor shall, if requested by Engineer, uncover such Work for observation. Such uncovering shall be at Contractor's expense.

13.02 Defective Work

- A. Contractor shall ensure that the Work is not defective.
- B. Engineer has the authority to determine whether Work is defective, and to reject defective Work.
- C. Prompt notice of all defective Work of which Owner or Engineer has actual knowledge will be given to Contractor.
- D. The Contractor shall promptly correct all such defective Work.

- E. When correcting defective Work, Contractor shall take no action that would void or otherwise impair Owner's special warranty and guarantee, if any, on said Work.
- F. If the Work is defective or Contractor fails to supply sufficient skilled workers or suitable materials or equipment, or fails to perform the Work in such a way that the completed Work will conform to the Contract Documents, then Owner may order Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated.

ARTICLE 14 - PAYMENTS TO CONTRACTOR

14.01 Progress Payments

- A. The Contractor shall prepare a schedule of values that will serve as the basis for progress payments. The schedule of values will be in a form of application for payment acceptable to Owner and Engineer. The unit price breakdown submitted with the bid will be used for unit price work. Break lump sum items into units that will allow for measurement of Work in progress.

14.02 Applications for Payments:

- A. Contractor shall submit an application for payment in a form acceptable to the Owner and Engineer, by the tenth (10th) of each month for the prior month (1st – 31st), to Engineer. Applications for payment will be prepared and signed by Contractor. Contractor shall provide supporting documentation required by the Contract Documents. Payment will be paid for Work completed as of the date of the application for payment.
- B. Beginning with the second application for payment, each application shall include an affidavit of Contractor stating that all previous progress payments received on account of the Work have been applied on account to discharge Contractor's legitimate obligations associated with prior applications for payment.

14.03 Retainage

- A. The Owner shall retain five percent (5%) of each progress payment until the Work is substantially complete.

14.04 Review of Applications

- A. Within 10 days after receipt of each application for payment, the Engineer will either indicate in writing a recommendation for payment and present the application for payment to Owner or return the application for payment to Contractor indicating in writing Engineer's reasons for refusing to recommend payment. The Contractor will make the necessary corrections and resubmit the application for payment.
- B. Engineer will recommend reductions in payment (set-offs) which, in the opinion of the Engineer, are necessary to protect Owner from loss because the Work is defective and requires correction or replacement.
- C. The Owner is entitled to impose set-offs against payment based on any claims that have been made against Owner on account of Contractor's conduct in the performance of the Work, incurred costs, losses, or damages on account of Contractor's conduct in the performance of the Work, or liquidated damages that have accrued as a result of Contractor's failure to complete the Work.

14.05 Contractor's Warranty of Title

- A. Contractor warrants and guarantees that title to all Work, materials, and equipment furnished under the Contract will pass to Owner free and clear of (1) all liens and other title defects, and (2) all patent,

licensing, copyright, or royalty obligations, no later than seven days after the time of payment by Owner.

14.06 Substantial Completion

- A. The Contractor shall notify Owner and Engineer in writing that the Work is substantially complete and request the Engineer issue a certificate of substantial completion when Contractor considers the Work ready for its intended use. Contractor shall at the same time submit to Owner and Engineer an initial draft of punch list items to be completed or corrected before final payment.
- B. Engineer will inspect the Work with the Owner and Contractor to determine the status of completion. If Engineer does not consider the Work substantially complete, Engineer will notify Contractor and Owner in writing giving the reasons therefor.
- C. If Engineer considers the Work substantially complete or upon resolution of all reasons for non-issuance of a certificate identified in 14.06.B, Engineer will deliver to Owner a certificate of substantial completion, which shall fix the date of substantial completion and include a punch list of items to be completed or corrected before final payment.

14.07 Final Inspection

- A. Upon written notice from Contractor that the entire Work is complete, Engineer will promptly make a final inspection with Owner and Contractor and will notify Contractor in writing of all particulars in which this inspection reveals that the Work, or agreed portion thereof, is incomplete or defective. Contractor shall immediately take such measures as are necessary to complete such Work or remedy such deficiencies.

14.08 Final Payment

- A. Contractor may make application for final payment after Contractor has satisfactorily completed all Work defined in the Contract, including providing all maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance, certificates of inspection, annotated record documents and other documents.
- B. The final application for payment shall be accompanied (except as previously delivered) by:
 - 1. All documentation called for in the Contract Documents;
 - 2. Consent of the surety to final payment;
 - 3. Satisfactory evidence that all title issues have been resolved such that title to all Work, materials, and equipment has passed to Owner free and clear of any liens or other title defects, or will so pass upon final payment;
 - 4. A list of all disputes that Contractor believes are unsettled; and
 - 5. Complete and legally effective releases or waivers (satisfactory to Owner) of all lien rights arising out of the Work and of liens filed in connection with the Work.
- C. The Work is complete (subject to surviving obligations) when it is ready for final payment as established by the Engineer's written recommendation of final payment.

14.09 Waiver of Claims

- A. The making of final payment will not constitute a waiver by Owner of claims or rights against Contractor.
- B. The acceptance of final payment by Contractor will constitute a waiver by Contractor of all claims and rights against Owner other than those pending matters that have been duly submitted.

ARTICLE 15 - SUSPENSION OF WORK AND TERMINATION

15.01 Owner May Suspend Work

- A. At any time and without cause, Owner may suspend the Work or any portion thereof for a period of not more than 60 consecutive days by written notice to Contractor and Engineer. Such notice will fix the date on which Work will be resumed. Contractor shall resume the Work on the date so fixed. Contractor may be entitled to an adjustment in the Contract Price or an extension of the Contract Times, or both, directly attributable to any such suspension.

15.02 Owner May Terminate for Cause

- A. Contractor's failure to perform the Work in accordance with the Contract Documents or other failure to comply with a material term of the Contract Documents will constitute a default by Contractor and justify termination for cause.
- B. If Contractor defaults in its obligations, then after giving Contractor and any surety seven days written notice that Owner is considering a declaration that Contractor is in default and termination of the Contract, Owner may proceed to:
 - 1. Declare Contractor to be in default, and give Contractor and any surety notice that the Contract is terminated; and
 - 2. Enforce the rights available to Owner under any applicable performance bond.
- C. Owner may not proceed with termination of the Contract under Paragraph 15.02.B if Contractor within seven days of receipt of notice of intent to terminate begins to correct its failure to perform and proceeds diligently to cure such failure.
- D. Subject to the terms and operation of any applicable performance bond, if Owner has terminated the Contract for cause, Owner may exclude Contractor from the Site, take possession of the Work, incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere, and complete the Work as Owner may deem expedient.
- E. In the case of a termination for cause, if the cost to complete the Work, including related claims, costs, losses, and damages, exceeds the unpaid contract balance, Contractor shall pay the difference to Owner.

15.03 Owner May Terminate for Convenience

- A. Upon seven days written notice to Contractor, Owner may, without cause and without prejudice to any other right or remedy of Owner, terminate the Contract. In such case, Contractor shall be paid for, without duplication of any items:
 - 1. Completed and acceptable Work executed in accordance with the Contract Documents prior to the date of Owner's notice of termination, including fair and reasonable sums for overhead and profit on such Work;
 - 2. Expenses sustained prior to the date of Owner's notice of termination in performing services and furnishing labor, materials, or equipment as required by the Contract Documents in connection with uncompleted Work, plus fair and reasonable sums for overhead and profit on such expenses; and
 - 3. Other reasonable expenses directly attributable to termination, including costs incurred to prepare a termination for convenience cost proposal.
- B. Contractor shall not be paid because of loss of anticipated overhead, profits, or revenue, or other economic loss arising out of or resulting from such termination.

15.04 Contractor May Stop Work or Terminate

- A. If, through no act or fault of Contractor, (1) the Work is suspended for more than 90 consecutive days by Owner or under an order of court or other public authority, or (2) Owner fails for 30 days to pay Contractor any sum finally determined to be due, then Contractor may, upon seven days written notice to Owner, and provided Owner does not remedy such suspension or failure within that time, either stop the Work until payment is received, or terminate the Contract and recover payment from the Owner.

ARTICLE 16 - CONTRACTOR'S REPRESENTATIONS

16.01 Contractor Representations

- A. Contractor makes the following representations when entering into this Contract:
1. Contractor has examined and carefully studied the Contract Documents, and any data and reference items identified in the Contract Documents.
 2. Contractor has visited the Site, conducted a thorough visual examination of the Site and adjacent areas, and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
 3. Contractor is familiar with and is satisfied as to all Laws and Regulations that may affect cost, progress, and performance of the Work.
 4. Contractor has considered the information known to Contractor itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Contract Documents; and the Site-related reports and drawings identified in the Contract Documents, with respect to the effect of such information, observations, and documents on:
 - a. The cost, progress, and performance of the Work;
 - b. The means, methods, techniques, sequences, and procedures of construction to be employed by Contractor; and
 - c. Contractor's safety precautions and programs.
 5. Based on the information and observations referred to in the preceding paragraph, Contractor agrees that no further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract.
 6. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.
 7. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.
 8. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
 9. Contractor's entry into this Contract constitutes an incontrovertible representation by Contractor that, without exception, all prices in the Contract are premised upon performing and furnishing the Work required by the Contract Documents.

ARTICLE 17 - MISCELLANEOUS

17.01 Cumulative Remedies

- A. The duties and obligations imposed by this Contract and the rights and remedies available hereunder to the parties hereto are in addition to, and are not to be construed in any way as a limitation of, any rights and remedies available to any or all of them which are otherwise imposed or available by Laws or Regulations, by special warranty or guarantee, or by other provisions of the Contract. The provisions of this paragraph will be as effective as if repeated specifically in the Contract Documents in connection with each particular duty, obligation, right, and remedy to which they apply.

17.02 Limitation of Damages

- A. Neither Owner, Engineer, nor any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, shall be liable to Contractor for any claims, costs, losses, or damages sustained by Contractor on or in connection with any other project or anticipated project.

17.03 No Waiver

- A. A party's non-enforcement of any provision shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Contract.

17.04 Survival of Obligations

- A. All representations, indemnifications, warranties, and guarantees made in, required by, or given in accordance with the Contract, as well as all continuing obligations indicated in the Contract, will survive final payment, completion, and acceptance of the Work or termination or completion of the Contract or termination of the services of Contractor.

17.05 Contractor's Certifications

- A. Contractor certifies that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract.

17.06 Controlling Law

- A. This Contract is governed by the laws of the state of Texas.

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IN WITNESS WHEREOF, Owner and Contractor have signed this Contract.

This Contract will be effective on _____ (which is the Effective Date of the Contract).

OWNER:

CONTRACTOR:

By: Matthew Mueller
Title: Town Manager

By: _____
Title: _____
(If Contractor is a corporation, a partnership, or a joint venture, attach evidence of authority to sign.)

Attest: _____
Title: _____

Attest: _____
Title: _____

Address for giving notices:

Address for giving notices:

Town of Little Elm
100 West Eldorado Pkwy
Little Elm, TX 75068
contracts@littleelm.org

License No.: _____
(where applicable)



Town Council Meeting

Date: 02/16/2021
Agenda Item #: 7. A.
Department: Development Services
Strategic Goal: Promote and expand Little Elm's identity
Staff Contact: Skye Thibodeaux, Planning Manager

AGENDA ITEM:

Hold a Public Hearing, Present, Discussion, and Consider Action on **Proposed Text Amendments to Section 106.01.14 (Land Use Definitions) of the Town's Zoning Ordinance.**

DESCRIPTION:

Recently, the Town adopted the use of Business Service within Section 106.01.14 (Land Use Definitions) of the Zoning Ordinance in order to provide an appropriate use for business establishments that have certain activities not elsewhere classified that require approval by the Planning & Zoning Commission and Town Council via the Specific Use Permit (SUP) process. A good example of this type of use is a business that primarily functions like a traditional general office use, but has ancillary elements like a small fleet of service vehicles that need to be stored on site.

However, with recent Certificate of Occupancy (CO) requests through the Building Department, staff has found that the definition adopted with the new use can create a little confusion with the specified language associated with the types of businesses listed. Staff is proposing to modify the definition to allow for better interpretation as shown in the attached exhibit.

Additionally, during analysis, staff discovered that the use of Personal Service (other than listed) found in the Ordinance's schedule of uses (Section 106.05.01) is not defined.

At the January 21, 2021, Planning & Zoning Commission meeting, the Commission agreed with staff's analysis and recommended a few minor adjustments to staff's

proposed amendments along with recommending the removal of Custom Personal Service from the list of land use definitions while moving the businesses listed in the definition to the proposed definition for Personal Service (other than listed). The attached exhibit outlines the Planning & Zoning Commission's recommended changes.

BUDGET IMPACT:

There is no budget impact for this item.

RECOMMENDED ACTION:

The Planning & Zoning Commission recommended approval of the proposed text amendments unanimously.

Attachments

Proposed Text Amendments

Sec. 106.01.14 - Land use definitions.

Accessory structure. Any structure, either attached or detached from the main building, located on the same lot, the use of which is incidental to that of the main structure. Accessory structures include, but are not limited to, patio covers, arbors, gazebos, cabanas, outdoor kitchens, recreational fire enclosures, trellis, and structures/sheds or the like. A permit is required for many accessory structures (see sections 106.05.02.1(a) and (b), "accessory uses - residential" and "accessory uses - nonresidential," respectively, for regulations).

Adult Day Service. A daytime care establishment that supports the health, nutritional, social, and daily living needs of adults in a professionally staffed, group setting.

Airport or landing field. A landing facility for fixed or rotary wing aircraft containing a minimum of 60 acres (see section 106.05.02.2(a), "airport/helipad/heliport" for regulations).

Airport/heliport. A place where aircraft and/or helicopters can land and take off, usually equipped with hangars, facilities for refueling and repair, and various accommodations for pilots and passengers (see section 106.05.02.2(a), "airport/helipad/heliport" for regulations).

Alternative energy systems.

- (1) *Solar devices.* A solar panel or device is a structure that is intended to capture the light from the sun and transfer that energy to electricity for general use (see section 106.05.02.2(b), "alternative energy sources - solar" for regulations.)
- (2) *Wind energy conversion system (WECS).* Any mechanical device, such as a wind charger, windmill, or wind turbine, which is designed to extract kinetic energy from the wind and converts or stores it for practical use or a form of usable energy. (see section 106.05.02.2(c), "alternative energy sources - wind energy" for regulations)

Alternative financial services. A check cashing business, payday advance or loan business, money transfer business, car title loan business or pawn shop (see section 106.05.02.2(d), "alternative financial services" for regulations).

- (1) *Bank, savings and loan or credit union.* An establishment, open to the public, for the deposit, custody, loan, exchange or issue of money, the extension of credit, and/or facilitating the transmission of funds and that is typically licensed by the appropriate state or federal agency as a bank, savings and loan association, or credit union. This includes businesses' activities listed under SIC Codes 60 and 61, but excludes pawnshops, check cashing businesses, payday advance/loan businesses and car title loan businesses.
- (2) *Car title and loan services.* An establishment that makes small consumer loans that leverage the equity value of a car or other vehicle as collateral where the title to such vehicle is owned free and clear by the loan applicant and any existing liens on the car or vehicle cancel the application. The loan terms are often for 30 days and failure to repay the loan or make interest payments to extend the loan allows the lender to take possession of the car or vehicle. This excludes state or federally chartered banks, savings and loan associations or credit unions engaged primarily in the business of making longer term loans and which make loans that leverage the total equity value of a car or vehicle as collateral.
- (3) *Check cashing business.* An establishment that provides to the customer an amount of money that is equal to the face of the check or the amount specified in the written authorization for an electronic transfer of money, less any fee charged for the transaction, and where there is an agreement not to cash the check or execute an electronic transfer of money for a specified period of time, the business of cashing checks, warrants, drafts, money orders, or other commercial paper serving the same purpose for compensation by any person or entity other than a retail seller engaged primarily in the business of selling consumer goods, including consumables to retail buyers, that cashes checks or money orders or issues money orders or money transfers for a minimum flat fee as a service that is incidental to its main purpose or business. This definition excludes a state or federally chartered bank, savings and loan

association or credit union, pawnshop, grocery store or gas station, so long as the gas station does not handle more than 100 such transactions within any calendar month.

- (4) *Pawn shop.* A shop that lends money in exchange for valuable personal property as security deposited with it or pledged to it. This definition includes the sale of such securities after repossession and the sale of merchandise generally found in retail stores.
- (5) *Payday advance or loan business.* An establishment that makes small consumer loans, usually backed by postdated check or authorization to make an electronic debit against an existing financial account, where the check or debit is held for an agreed-upon term, or until an applicant's next payday, and then cashed unless the customer repays the loan to reclaim such applicant's check. ?

Amenity center. A recreational facility, including, but not limited to, clubhouse, swimming pool, or play area, operated for the exclusive use of private residents or neighborhood groups and their guests, and not open to the general public.

Antenna. An instrument or device consisting of wires, poles, rods, or reflecting discs, designed for transmitting or receiving any portion of the radio, microwave, or electromagnetic spectrum (see section 106.05.02.2(h), "communications antennas" for regulations)

Antenna support structure. Any tower, mast, pole, tripod, box frame, or other structure utilized for the purpose of transmission, retransmission, and/or reception of electromagnetic, radio, television, or microwave signals and used for commercial broadcasting or telecommunication purposes. This definition shall also include a satellite dish exceeding 12 feet in diameter and a microwave-transmitting tower. All radiating equipment must comply with Federal Communications Commission (FCC), Environmental Protection Agency (EPA), Occupational Health and Safety Administration (OSHA), and all other applicable state and federal regulatory agency requirements and guidelines for human safety, as they exist or may be amended. Definition includes ancillary ground equipment. (See section 106.05.02.2(i), "communications support structures/towers" for regulations)

Antenna, stealth. A stealth antenna is a commercial antenna that is designed to be non-obtrusive, or virtually transparent or invisible to the surrounding neighborhood. Stealth antennas include, but are not limited to:

- (1) Antennas within a building's attic space,
- (2) Antennas on the roof of a minimum three-story building and not visible from the property line of the lot on which the antenna is located,
- (3) Antennas on a public utility structure, such as a water tower or high transmission line support tower, and painted to match the structure,
- (4) Antennas located within a structure such as a flagpole, church steeple, lamppost, subdivision monument, clock tower, or similar architectural feature, and antennas located on an athletic field light pole.

Antique shop and used furniture. A retail establishment engaged in the selling of works of art, furniture, or other artifacts of an earlier period, with all sales and storage occurring inside a building.

Arcade. An establishment in which there are located six or more skill or pleasure machines used for compensation found in the schedule of uses as "Commercial Amusement, Indoor."

Assembly uses. A building or structure for the gathering together of persons for purposes of civic, social or religious functions.

Athletic stadium or field, private. A private field and/or structure used for sporting events with associated spectator seating, either permanent or temporary.

Athletic stadium or field, public. A field and/or structure owned and operated by the town and/or a local independent school district used for sporting events with associated spectator seating, either permanent or temporary. The stadium may include other accessory buildings such as a food service or catering facility and/or dressing rooms/showers.

Automated dispenser machine. An unmanned, freestanding structure that dispenses goods that may include, but are not limited to, water, ice, entertainment videos or CDs, newspapers, and soft drinks, that may be located outside of or separate from the primary structure.

Automated intake machine. An unmanned, freestanding structure that is designed to receive certain goods that include, but are not limited to, recycling items, library books and donations, that may be located outside of or separate from the primary structure.

Automated teller machine (ATM). An unmanned, freestanding structure that performs banking financial functions at a location that may be separate from the controlling financial institution.

Automobile. A self-propelled mechanical vehicle designed for use on streets and highways for the conveyance of goods and people, including, but not limited to, passenger cars, trucks, buses, motor scooters, and motorcycles.

Automobile and boat repair, major. A building or portion thereof whose principal use is for the repair, servicing, equipping, or maintenance of motor vehicles or motor vehicle components, including engines, radiators, starters, transmissions, brakes, tires and wheels, seats and similar components that may require overnight outdoor storage of vehicles awaiting or under repair, if screened in compliance with all applicable regulations. General repair or reconditioning of engines, air-conditioning systems, and transmissions for automobiles; wrecker or towing service with on-site storage of vehicles; collision services including body, frame, or fender straightening or repair; customizing; painting; vehicle steam cleaning; tire retreading; insurance estimations with on-site storage; undercoating and rust proofing, and other similar uses.

Automobile and boat repair, minor. A daytime retail operation wherein the sale, installation, and/or inspection of tires, batteries, brakes and other related minor parts or accessories is carried on; specifically intended to exclude major automotive repair and overnight outdoor storage of vehicles awaiting or under repair.

Automobile and boat sales, accessories. A retail shop that sells parts or accessories for vehicles that does not include any installation of same.

Automobile and boat sales, new. Retail sales or leasing of new automobiles, light load vehicles or boats. Sales, rental, and/or leasing of new automobiles or light load vehicles, including, as accessory uses: sales, repair, and automobile storage.

Automobile and boat sales, outside display. The use of any land area for the display and sale of new or used vehicles and accessory parts, including tires, for automobiles, trucks, vans, trailers, or recreation vehicles.

Automobile and boat sales, used. Retail sales or offering for sale of used automobiles, light load vehicles or boats.

Automobile and boat/rv storage. The storage on a lot or tract of operable motor vehicles for the purpose of holding such vehicles for sale, distribution or storage.

Automobile parking garage. A structure for the parking of automobiles.

Automobile parking lot. An area where a fee is charged for parking automobiles.

Automobile wash, automated secondary use. A facility for the washing of motor vehicles, including a self-service operation, operated in conjunction with another primary use, such as fueling stations or convenience stores.

Automobile wash, full service. A facility where a customer may have an automobile, motorcycle, or other vehicles washed in exchange for financial remuneration. This definition generally includes detailing of the vehicle and may include other services, such as leather or upholstery cleaning.

Automobile wash, self service. A facility, typically coin or token operated, used by the customer to wash their own automobiles, motorcycles, and other vehicles.

Bakery, candy or ice-cream shop. A relatively small retail establishment that primarily sells baked goods, candy and other confections, and/or ice-cream/yogurt for on-premises consumption or take-out.

Bar. An establishment principally for the sale and consumption of alcoholic beverages on the premises that derives 75 percent or more of its gross revenue on a quarterly (three-month) basis from the sale or service of alcoholic beverages, as defined in the Texas Alcoholic Beverage Code, for on-premises consumption. If an establishment is located in a hotel or motel, the gross revenues of the particular establishment, rather than the gross revenues of the entire hotel or motel, will be used in calculating the percentage of revenues derived from the sale or service of alcoholic beverages. (See section 106.05.02.2(e), "bar or brewpub" for regulations)

Bed and breakfast inn. An owner-occupied private home which offers lodging for paying guests not to exceed one week in duration, and which serves breakfast to these guests and which contains one or more guest bedrooms. (See section 106.05.02.2(f), "bed and breakfast" for regulations)

Body art studio. An establishment whose services include tattooing and/or body piercing. Tattooing shall mean the placing of designs, letters, figures, symbols or other marks upon or under the skin of any person, using ink or other substances that result in the permanent coloration of the skin by means of the use of needles or other instruments designed to contact or puncture the skin. Body piercing shall mean the creation of an opening in an individual's body, other than ear piercing, to insert jewelry or other decoration.

Brewpub. An establishment where the on-site brewing of beer occurs as well as tasting and/or retail sales. (See section 106.05.02.2(e), "bar or brewpub" for regulations)

Building material and hardware sales, major. An establishment for the sale of materials customarily used in the construction of buildings and other structures, including outside storage or display of materials or merchandise and may include the rental of construction tools and/or vehicles.

Building material and hardware sales, minor. An establishment for the sale of materials customarily used in the construction of buildings and other structures, without any outside storage or display of materials or merchandise.

Business Service. This group includes establishments primarily engaged in providing off-site services not elsewhere classified to business enterprises on a fee contract basis including, but not limited to, advertising agencies, computer programming, and software services, tutoring services excluding trade schools, and office equipment sales, rental, leasing, or repair. Examples include, but are not limited to, plumbing services, cleaning services, computer/equipment repair services with certain on-site storage needs such as fleet vehicles used to provide off-site services to customers.

Campground or RV park. Any area that is designed for occupancy by transients using tents, mobile trailers, or recreational vehicles for temporary sleeping purposes. Also, a tract of land on which two or more campsites are located, established, or maintained as temporary living quarters for recreation, education or vacation purposes.

Caretaker's/guard's residence. A residence located on a premises with a main nonresidential use and occupied only by a caretaker or guard, and his/her family, employed on the premises. (see section 106.05.02.2(g), "caretaker or guard residence" for regulations)

Catering service. A business which offers prepared food and drink for consumption elsewhere.

Child care center, incidental. A place designed solely for the care of children belonging to employees and/or patrons of the primary use. The center shall be completely contained within the primary use and shall not constitute more than 15 percent of the main use. The operating hours of the center shall be the same as the primary use and shall not include overnight lodging, medical treatment, counseling, or rehabilitation services. This use may be subject to regulation by the Texas Department of Family and Protective Services.

Child care center. A facility that is licensed to care for any number of children for less than 24 hours per day, at a location other than the permit holder's primary residence. Included in this definition are daycare services, Montessori schools.

Child care, group home. An adult and/or child caring facility licensed by the state, designed to provide resident services to individuals who are physically handicapped, mentally ill, mentally retarded, or developmentally disabled, in which no more than eight such individuals reside with one or more resident

counselors or other staff persons. For the purposes of this section, mental illness and developmental disability shall not include illegal use of or addiction to a controlled substance or any criminal behavior.

Child care, foster family home (independent). Per the definition of the department of family and protective services (DFPS) or as amended by the DFPS, a single independent home that is the primary residence of the foster parents and licensed to provide care for up to six children up to the age of 18 years.

Child care, foster group home (independent). Per the definition of the department of family and protective services (DFPS) or as amended by the DFPS, a single independent home that is the primary residence of the foster parents licensed to provide care for seven to 12 children up to the age of 18 years.

Child care, licensed child care center. Per the definition of the department of family and protective services (DFPS) or as amended by the DFPS, an operation providing care for seven or more children younger than 14 years old for less than 24 hours per day at a location other than the permit holder's home.

Child care, licensed child care home. Per the definition of the department of family and protective services (DFPS) or as amended by the DFPS, the primary caregiver provides care in the caregiver's own residence for children from birth through 13 years. The total number of children in care varies with the ages of the children, but the total number of children in care at any given time, including the children related to the caregiver, must not exceed 12.

Child care, listed family home. Per the definition of the department of family and protective services (DFPS) or as amended by the DFPS, a caregiver at least 18 years old who provides care in her own home for compensation, for three or fewer children unrelated to the caregiver, ages birth through 13 years. Regular care is provided, which is care provided for at least four hours a day, three or more days a week, and more than nine consecutive weeks. The total number of children in care, including children related to the caregiver, may not exceed 12.

Child care, registered child care home. Per the definition of the department of family and protective services (DFPS) or as amended by the DFPS, a caregiver who provides regular care in her own home for not more than six children from birth through 13 years. Child day care can be provided for six additional school-aged children before and after the customary school day. The total number of children in care at any given time, including the children related to the caregiver, must not exceed 12.

Clinic, animal (no outside runs). An animal medical facility designed for immediate and short term care (i.e. not requiring the animal to be boarded or kept within the facility overnight), for diagnosis, treatment of household pets including but not limited to dogs, cats, and birds.

Clinic, animal (with outside runs). A facility for diagnosis, treatment or hospitalization of household pets including but not limited to dogs, cats, birds, and horses.

Clinic/medical lab. Offices for one or more physicians, surgeons or dentists engaged in treating sick or injured persons, but not including rooms for the lodging of patients. The facility may also conduct the testing of blood and other tissue samples for the purpose of diagnosis of diseases.

College, university, or trade school. An institution established for educational purposes offering courses for study beyond the secondary education level, including trade schools and commercial schools offering training or instruction in a trade, art, or occupation.

Commercial amusement, indoor. An enterprise providing for indoor recreational activities, services, amusements, and instruction, usually for an admission fee. Uses may include, but are not limited to, bowling alleys, ice or roller skating rinks, bingo parlors, amusement arcades, and/or sports practice areas. Such business shall be constructed to limit noise by installing adequate acoustic barriers.

Commercial amusement, outdoor. An enterprise providing for outdoor recreational activities, services, amusements, and instruction, usually for an admission fee, including, but not limited to, batting cages, miniature golf, go-kart tracks, and carnivals.

Commissary. A facility that is the home base for a restaurant-equipped vehicle that serves as a mobile food vendor. The commissary also is used for the storage and partial production of food items that are delivered to customers by the mobile food vendor located away from the commissary location.

Communication tower/antenna. Any tower, mast, pole, tripod, box frame, or other structure utilized for the purpose of transmission, retransmission, and/or reception of electromagnetic, radio, television, or microwave signals. See also "antenna support structure." (See section 106.05.02.2(h), "communication antennas" for regulations)

Concrete batch plant, permanent. A permanent manufacturing facility for the production of concrete or asphalt.

Concrete batch plant, temporary. A temporary manufacturing facility for the on-site production of concrete or asphalt during construction of a project, and to be removed when the project is completed. Following removal, the tract shall be returned to its previous condition. (See section 106.05.03(a), "batch plants, temporary" for regulations)

Construction yard, field office, temporary. A building, structure, or storage/assembly yard used in conjunction with a development project for housing temporary supervisory or administrative functions related to development, construction, or the sale of real estate properties within the development and subject to removal at completion of construction. A facility used for the temporary office and material storage in connection with a project under construction or remodel. (See section 106.05.03(d), "construction yard, temporary" for regulations)

Contractor's shop. A facility for the contractor's office and the storage and maintenance of contractor's supplies and operational equipment.

~~*Custom personal service.* A shop, such as tailor, shoe repair, barbershop, beauty shop, health studio, spa/salon, or travel consultant.~~

Dwelling, assisted living facility. A private facility that provides care for chronically ill, aged, or disabled persons who need some health supervision and related care but not including hospital care. Such facilities do not contain facilities for surgical care or the treatment of alcoholism, drug addiction, communicable disease or injury. A facility designed for adults or children with special needs and/or who need assistance with daily living, including but not limited to the production of meals, assistance with shopping, management of medications and personal grooming. Typically, the resident occupies a room or suite of rooms and eats the majority of meals communally.

Dwelling, assisted living home. A facility located in a private residential home designed for adults who need or desire assistance with daily living, including but not limited to the production of meals, assistance with shopping, management of medications and personal grooming. (See section 106.05.02.2(j), "home child care" for regulations)

Dwelling, boardinghouse or rooming house. A building other than a hotel where lodging and/or meals for three or more persons are provided for compensation.

Dwelling, duplex. A building containing two single-family dwelling units totally separated from each other by an unpierced fire wall from basement to roof, intended or designed for occupancy by two families.

Dwelling, factory-built home. Any manufactured single-family mobile home constructed prior to June 15, 1976. (See also dwelling, HUD-Code manufactured home)

Dwelling, group home. An adult and/or child care facility, licensed by the state, designed to provide resident services to individuals who are physically handicapped, mentally impaired, or developmentally disabled, but does not provide services to individuals with psychiatric, addiction, substance abuse or who exhibit criminal behavior. (See section 106.05.02.2(j), "home child care" for regulations)

Dwelling, HUD-Code manufactured home. A HUD-Code compliant single-family structure constructed after June 15, 1976, designed for long-term residential use that is constructed elsewhere and is moved from the factory or sales location to its permanent site (see also dwelling, factory-built home)

Dwelling, listed family home. A home that provides child care for compensation for three or fewer children, excluding children who are related to the caretaker, for at least four hours a day, three or more days a week, for more than nine consecutive weeks in the caretaker's own residence and that is required to [be] listed with the state. (See section 106.05.02.2(j), "home child care" for regulations)

Dwelling, live-work. A dwelling unit that contains, to a limited extent, a separate commercial component on the ground floor and is typically in the form similar to a townhouse or store with residential quarters above or behind the commercial use.

Dwelling, mobile home. Any manufactured single-family mobile home constructed prior to June 15, 1976.

Dwelling, multifamily. Any building or portion thereof, which is designed, built, rented, leased, or let to be occupied as three or more dwelling units or apartments or which is occupied as a home or place of residence by three or more families living in independent dwelling units. Though residential in use, it is considered a commercial development in regard to and application of development standards and regulations. A building containing three or more dwelling units on a single lot or tract designed to be occupied by three or more families living independent of one another.

Dwelling, patio home. A dwelling on a separate lot with open space setbacks on at least three sides.

Dwelling, single-family, detached. A platted lot containing one dwelling unit, not attached to any other dwelling by any means and is surrounded by open space or yards, designed and constructed for occupancy by one family and has no physical connection to a building located on any other separate lot or tract.

Dwelling, townhome. A structure containing three or more dwelling units with each unit designed for occupancy by one household and each unit attached by a common fire wall.

Electrical power generating plant. All equipment, fixtures, and property operated or maintained in connection with the production of electricity and transmission of electricity produced.

Electrical substation. A location for transforming electricity prior to the distribution of electricity to individual customers.

Fairgrounds/exhibition area. An area that may include structures or outside areas for the exhibition of rodeos, conventions and similar special events.

Farm accessory building. A structure located on an active farm, ranch, or orchard in which livestock, feed, equipment, vehicles, or accessories necessary for the running of the business are kept, including but not limited to, barns, silos, sheds and exercise pavilions.

Farm, ranch, stable, garden or orchard. An area of five acres or more which is used for growing of usual farm products, vegetables, fruits, trees and grain and for the raising thereon of the usual farm poultry and farm animals such as horses, cattle, and sheep and including the necessary accessory uses for raising, treating, and storing products raised on the premises, but not including the commercial feeding of offal or garbage to swine or other animals and not including any type of agriculture or husbandry specifically prohibited by ordinance or law.

Farmers market. An area containing individual vendors who offer fruits, vegetables, herbs, spices, edible seeds, nuts, live plants, flowers, and honey for sale. This definition does include the sale of meat, fish, poultry, eggs, refrigerated dairy products, or home canned or packaged items when the proper health rules and regulations are followed and/or health permit obtained. (See section 106.05.03(c), "farmers market, temporary" for regulations)

Florist. A facility for the retail sale of flowers, ornamental plants, and accessory items. This definition does not include a nursery with outside display. (See also Greenhouse and Nursery)

Fraternal organization, lodge, civic club, fraternity or sorority. A group of people whose membership is restricted by a set of bylaws or regulations.

Funeral home/crematorium. A place for the storage of human bodies prior to their burial or cremation, or a building used for the preparation of the deceased for burial or cremation, where cremation

occurs within the building, with or without place where ceremonies or gatherings connected to the deceased may occur.

Funeral home/mortuary. A place for the storage of human bodies prior to their burial, or a building used for the preparation of the deceased for burial and the display of the deceased, a place where ceremonies or gatherings connected to the deceased may occur, but does not allow the cremation of human remains.

Gas pumps/fuel sales. A retail fuel sales facility selling fuel for motor vehicles including, but not limited to, automobiles, motorcycles, buses, or recreational vehicles with no ancillary services such as vehicle service, vehicle repair, or sale of items other than fuel. The fueling or gasoline station may be attended or automated.

Golf course, tennis club, polo club, or country club (private). An area of 20 acres or more containing a golf course, polo facilities, tennis facilities and/or a clubhouse and available only to private specific membership; such a club may contain adjunct facilities such as private club, dining room, swimming pool, retail sales, and similar recreational or service facilities. A tract of land with at least nine holes for playing the game of golf that may include a clubhouse, dining and snack bar, pro shop, practice facility and other accessory uses.

Greenhouse or nursery for retail plant sales. A facility that may include the outside display of plants offered for sale when such display is located behind the front yard line established in the district in which the nursery or greenhouse is located.

Gun or archery range, indoor. Any indoor facility open to the public and occupying all or a portion of a building where firearms are discharged or arrows are shot for either testing or recreation purposes. Such business shall be constructed to limit noise by installing adequate acoustic barriers.

Gunsmith. A retail establishment for the sale and service of guns and related items.

Gymnastics/dance studio/martial arts. A building or portion of a building used by a gymnast, dancer, or martial artist for practice or for instructional classes in gymnastics, dance, or martial arts and similar activities.

Health/fitness center. A facility which promotes physical fitness, weight control, exercise, and personal improvement that may also include massage or bathing.

Heavy machinery sales, service, and storage. A retail or wholesale facility that sells, services and stores heavy machinery such as farm equipment, dredging equipment, paving equipment, etc.

Helipad. A place, typically on the roof of a building or a small ground area where helicopters may land and take off, but without any service or fueling capabilities. (See section 106.05.02.2(a), "airport/helipad/heliport" for regulations)

Home occupation. An occupation, which is secondary to the primary use of a dwelling as a residence, conducted on residential premises by the occupant of the residence. Home occupations shall be subject to the conditions set forth in section 106.05.02.2(k), "home occupations." Any activity carried out for personal gain in a dwelling unit by a resident of the premises, which occupation is secondary to the residential purpose of the premises.

Hospital. An institution or place where sick or injured patients are given medical or surgical care either at public (charity) or private expense.

Hotel. A building or group of buildings designed for and occupied as a temporary abiding place of individuals with access to the rooms from an indoor corridor and providing six or more room units where customary services such as linen, maid service, telephone, and upkeep of furniture are provided for a daily fee.

Hotel, extended stay (also called "residence hotel"). A building or group of buildings used as a temporary dwelling place for individuals in exchange for financial consideration where customary hotel services such as linen, housekeeping service, and telephone are provided. Residence hotel room units are designed to be suitable for long term occupancy with financial consideration typically being calculated on a weekly and/or monthly basis. Typical residence hotel attributes include, but are not limited to, kitchen

facilities, and external doorways into room units. (See section 106.05.02.2(l), hotel, extended stay" for regulations)

Hotel, full-service. A full service hotel is considered a top tier hotel in terms of amenities and service provided to the clientele. (See section 106.05.02.2(m), "hotel, full-service" for regulations)

Hotel, limited service. A limited service hotel provides travelers an economical choice with fewer amenities than a full service hotel. (See section 106.05.02.2(n), "hotel, limited-service" for regulations)

Household appliance service and repair. A retail establishment where household appliances are serviced and repaired on site. May also include sales of new or used household appliances.

Incidental retail and service uses. Defined as operating within another establishment, such as a bank branch, nail salon, eyewear service, tax service, etc. within a "big box" store. May also be located within an office complex or hotel, such as a deli, convenience store, or restaurant for the use of the employees and guests.

Kennel, indoor. An establishment where domesticated animals (four or more dogs, cats or other domestic animals at least four months of age) are housed, groomed, bred, boarded, trained, or sold for commercial purposes that does not include outside pens or runs.

Kennel, outdoor. An establishment where domesticated animals (four or more dogs, cats or other domestic animals at least four months of age) are housed, groomed, bred, boarded, trained, or sold for commercial purposes that includes outdoor pens or runs.

Laundry and/or dry cleaning, commercial. A plant for cleaning garments, fabrics, rugs, uniforms, draperies, or other similar items on a commercial or bulk basis.

Laundry and/or dry cleaning, pickup and receiving station. A facility that only receives and dispenses laundry and dry cleaning that is processed in bulk by a commercial laundry or dry cleaning facility located elsewhere.

Laundry and/or dry cleaning, self-service. A facility for washing and/or dry cleaning garments and similar items where typically the customer supervises and handles the cleaning of his/her garments and items, such as a laundromat. Machines for use are typically of a similar size as found in the home and not a commercial laundry or cleaning plant.

Laundry and/or dry cleaning, small custom shop. A retail establishment for the cleaning of individual garments, fabrics, rugs, draperies or other similar items on the premises, which may include minor garment repair. A custom cleaning shop not exceeding 5,000 square feet of floor area or a pickup station.

Liquor store. A facility for the sale of beer, wine, and/or liquor not for on-premises consumption that derives 75 percent or more of its gross revenue from the on-premises sale of beer, wine, and/or liquor. (See section 106.05.02.2(o), "liquor stores" for regulations).

Machine/welding shop. A facility in which materials are processed by machining, cutting, grinding, welding, etc.

Manufactured home. Any manufactured single-family mobile home constructed prior to June 15, 1976. (See also Dwelling, factory-built home. (See section 106.05.02.2(p), "manufactured home replacement" for replacement regulations)

Manufactured/mobile home display and sales. The offering for sale, storage, or display of trailers, HUD-Code manufactured homes or mobile homes on a parcel of land but excluding the use of such facilities as dwellings either on a temporary or permanent basis. Such use may be permitted with the approval of the town council in the MH Mobile Home District to permit sale of mobile homes or HUD-Code manufactured homes owned by the mobile home park owner or operator for placement in the mobile home park.

Manufacturing and industrial, heavy. A facility that involves assembly and fabrication activities and the use of machines, tools and labor to make items for use or sale and typically requires access to major thoroughfares, major highways, and/or other means of transportation such as the railroad for transfer of parts and final products. May also include warehousing, research and development, wholesaling

operations with infrequent customer or client visits, and may include related office and shipping areas. Heavy industry involves one or more of the following characteristics such as large and heavy products; large and heavy equipment and facilities (such as heavy equipment, large machine tools, and spacious buildings); or complex and numerous processes. The labor for heavy industry often must be highly skilled. Examples of heavy industry include, but are not limited to, steel manufacturing, automotive assembly, machine tool design and construction, boat or aircraft manufacturing, and power plants.

Manufacturing and industrial, light. A facility that involves assembly and fabrication activities and the use of machines, tools and labor to make items for use or sale. May also include warehousing, research and development, wholesaling operations with infrequent customer or client visits, and may include related office and shipping areas. Light industry is often assembly-based and is typically consumer-oriented (i.e., most light industrial products are sold to retail stores or end users rather than as intermediate parts for use by other industries). Light industry generally has less environmental impact than those associated with heavy industry. Light industry may employ lower skilled workers with only moderate training and often employ large numbers of people. Light industries require a relatively small amount of raw materials, area and power. Examples of light industry include, but are not limited to, plastic items, clothing, shoes, foods, beverages, personal care and home care products, cosmetics, drugs, furniture, consumer electronics, and home appliances.

Media studio. A facility where the production, editing, storage, and/or transmittal of audio/visual media occurs. Includes, but is not limited to, a TV studio, a radio studio, a production or editing facility. (See section 106.05.02.2(q), media studio" for regulations)

Mini-warehouse/self storage. A building containing separate, individual self-storage units for rent or lease. The conduct of sales, business, or any activity other than storage is prohibited within any individual storage unit.

Mixed-use building. A vertical mixed use building that includes a variety of retail, office, and/or residential uses such as lofts, live-work units, apartments and condominiums, but contains nonresidential use in a majority of the ground floor.

Mobile food vendor, food truck. Any person who operates and sells food from a motorized vehicle capable of moving from place to place during the course of the day and may include some preparation of food or drink for sale.

Mobile food vendor, stationary. Any person or persons who operates and sells food from a stationary cart or trailer mounted on a chassis, for a period of 15 calendar days or more per year. Stationary mobile food vendors include, but are not limited to, snow-cone stands, hot-dog carts, and ice-cream carts. Any similar facility that operates for 14 calendar days or less shall be considered a "temporary food establishment" as defined by the town health ordinance, as it exists or may be amended.

Model home. A single-family dwelling in a developing subdivision located on a legally platted lot of record that is limited to temporary use as a sales office for the subdivision and to provide an example of the dwellings which have been built or which are proposed to be built in the same subdivision. (See section 106.05.03(e), "model home, temporary" for regulations)

Motel. A facility offering short-term overnight lodging accommodations on a daily rate to the general public and having direct access to individual guest rooms from the parking area or outside balconies.

Motorcycle sales/service. A facility that sells, leases, and services motorcycles, usually defined as two-wheeled, self-propelled vehicle having one or two saddles or seats, and may have a sidecar attached. For purposes of this chapter, motorbikes, motor-scooters, mopeds and similar vehicles are classified as motorcycles.

Municipal uses operated by the Town of Little Elm. Any structure, park, open space, or roadway owned and/or operated by the Town of Little Elm, including but not limited to town hall, libraries, recreation centers, parks, and roadways.

Museum/art gallery. A building serving as a repository for a collection of natural, scientific, artistic, or literary objects of interest, and designed to be used for viewing, with or without an admission charge, and which may include as an accessory use the sale of goods related to the collection.

Office, administrative, medical, or professional. A building used for the provision of executive, management, or administrative services. Typical uses include, but are not limited to, administrative offices and services including real estate, property management, investment, medical, architect, engineer, travel, secretarial services, accounting organizations and associations, and vehicle rental office without on-site storage of fleet vehicles.

Office, showroom. A building that primarily consists of sales offices and sample display areas for products and/or services delivered or performed off-premises. Catalog and telephone sales facilities are examples. Incidental retail sales of products associated with the primary products and/or services are also permitted. Warehousing facilities shall not exceed 50 percent of the total floor area. This designation does not include contractor's shop and storage yard.

Office, warehouse, distribution center. A building primarily devoted to storage, warehousing, and distribution of goods, merchandise, supplies, and equipment. Accessory uses may include retail and wholesale sales areas, sales offices, and display areas for products sold and distributed from the storage and warehousing areas. Also referred to as "flex space."

Open storage and display, permanent. A secondary land use providing outdoor storage or display of commodities, materials, goods, equipment, vehicles, or merchandise in its normal day-to-day business activities. This definition excludes new and used sale or lease of automobiles, motorcycles recreational vehicles, boats, or watercrafts. This definition does not include temporary outside merchandise display, such as a sidewalk sale. (See section 106.05.02.2(s), "open storage, permanent or ongoing" for regulations)

Open storage and display, temporary. The temporary display of merchandise for sale outside of a building. (See section 106.05.03(f), "open storage, temporary" for regulations)

Open storage and display, under eave display, temporary. The temporary display of merchandise for sale located immediately outside the main entrance to the building and generally in the area that is adjacent to the building and between the building and the walkway/entrance. Items include, but are not limited to, firewood, plants, pumpkins, shopping carts, and other similar items. (See section 106.05.03(g), "open storage, temporary, under eave display" for regulations)

Park or playground. An open recreation facility or park owned and operated by a public agency such as the municipal park department or school board and available to the general public.

Personal Service (other than listed). Establishments primarily engaged in providing on-site services to consumers based on intellectual or manual efforts. Examples include, but are not limited to, a licensed massage business, tutoring service, tailor, shoe repair service, barbershop, beauty shop, health studio, spa/salon, or travel consultant.

Portable building sales. A retail establishment that sells portable buildings meant to be used as accessory uses only and not for habitation.

Print shop, major industrial plant. An establishment specializing in long-run printing operations including, but not limited to, book, magazine, and newspaper publishing using engraving, die cutting, lithography, and thermography processes.

Print shop, minor retail shop. An establishment specializing in short-run operations to produce newsletters, flyers, resumes, maps, construction documents and plans, and similar materials using photocopying, duplicating, and blue printing processes. This definition shall include mailing and shipping services, but excludes the on-site storage of heavy load fleet vehicles, such as a Kinko's.

Printing plant, reprographic shop. A facility for the reproduction of materials or drawings on a job order or bulk basis utilizing lithography, off-set printing, or other printing techniques.

Private club. A facility that caters to a limited clientele that requires membership standing in order to participate. May include, but is not limited to, cigar clubs, gaming clubs, pool rooms, or other similar type uses. May require additional licenses from TABC or the state for operation. Does not include not-for-profit gaming operations, such as Bingo, offered by charitable organizations.

Religious facility. A building used primarily for religious assembly and worship and those accessory activities which are customarily associated therewith, and the place of residence for ministers, priests, nuns, rabbis, or other religious personnel on the premises (tax exempt as defined by state law). For the purposes of this chapter, Bible study and other similar activities that occur in a person's primary residence do not constitute a "religious facility."

Research and development center. Facilities for research including laboratories, experimental equipment and operations involving compounding or testing of materials or equipment. Any facility that is determined by health, fire, or building official to be a hazard or nuisance to adjacent property or the community at large, due to the possible emission of excessive smoke, noise, gas, fumes, dust, odor, or vibration, or the danger of fire, explosion, or radiation is not to be included in this category.

Restaurant. A building or portion of a building where food and drink is served for consumption in the building, and where provisions may be made for serving food on the premises outside the building.

Restaurant, dine-in only. An establishment where food and drink are prepared, served and consumed by the general public within an indoor dining area and may include an outdoor seating area.

Restaurant, dine-in only with alcoholic beverages. An establishment where food and drink, including alcoholic beverages, are prepared, served and consumed by the general public within an indoor dining area and may include an outdoor seating area.

Restaurant, drive-in. An eating establishment where food or drink is served to customers in motor vehicles or where facilities are provided on the premises which encourage the serving and consumption of food in automobiles on or near the restaurant premises. An establishment where food and drink are prepared and ordered via service screens and served to customers either in an outdoor seating area or in their motor vehicles that are temporarily parked and which the food will generally be consumed in their vehicles or off-premises.

Restaurant, drive-through service. An establishment where food and drink are prepared, served and consumed by customers who are given the option of dining within the indoor dining area, the outdoor seating area or via a service window and drive-through lane to customers in motor vehicles who will be consuming the food off-premises.

Restaurant, pick-up or delivery only. An establishment preparing food to the general public in which the food, once prepared, is either picked up for consumption off-premises, or is delivered to the end user by the restaurant staff.

Restaurant, temporary. A retail food establishment that operates at a fixed location for a limited period of time.

Restaurant, with micro-brewery. An establishment that serves food and alcoholic beverages that prepares handcrafted natural beer or ale intended for consumption on the premises as an accessory use.

Salvage yard, wrecking yard. Any lot upon which four or more motor vehicles of any kind which are incapable of being operated due to condition or a lack of license or have been placed for the purpose of obtaining parts for recycling or resale.

School, charter. An alternative institution to the public school system licensed and funded by the state which provides a basic academic education comparable to that provided in the public schools and receives funding from the state and charges no admission fees to its attendees.

School, private or parochial. A school under the sponsorship of a private or religious agency having a curriculum generally equivalent to public elementary or secondary schools, but not including private or trade or commercial schools, and receives no funding from any governmental agency. Establishments that provide cooperative education (co-op) are included in this definition.

School, public. An educational institution regulated by the state which is operated by the public or an independent school district, having a curriculum that includes kindergarten, elementary or secondary education, but not including private, business, commercial, trade, or craft schools.

Seasonal sales. Temporary display and sale of items customarily associated with a particular season, such as Christmas trees, holiday decorations, firewood; pumpkins, or any other similar product for sale during a recognized holiday.

Senior living facility. A multiple family dwelling means any building or portion thereof which is designed, built, rented, leased or let to contain three or more age-restricted (55 or older) dwelling units or apartments on a single lot, or which is occupied as a home or place of residence by three or more age-restricted (55 or older) families living in independent dwelling units.

Sewage pump station. A facility for transporting sewer including pumps, piping, valves and controls.

Sewage treatment plant. A facility that treats sewage so that it may be returned to the natural water supply without negative effects. Water from a sewage treatment plant is considered "gray water" and is suitable for irrigation but no consumption.

Sexually oriented businesses. Sexually oriented establishments and businesses as defined in town Ordinance No. 628 as it exists or may be amended. Sexually oriented uses include, but are not limited to, adult bookstore, adult video store, adult theater, adult cabaret, sexual encounter center, and nude modeling center. (See section 106.05.02.2(v), "sexually oriented businesses" and the aforementioned town ordinances for regulations)

Smoking establishment. An establishment that sells products and devices primarily for the purpose of smoking or vaping in various forms. These establishments sometime provide a contained area with a separate ventilation system for the purpose of smoking within the associated structure.

Store, big box. A retail establishment with a single-tenant that comprises more than 50,000 square feet, such as Target or Walmart.

Store, convenience. A retail establishment providing for the sale of food items, nonprescription drugs, small household items and gifts. Gasoline and diesel fuel may also be offered for sale. Maximum size of the establishment shall be no more than 6,000 square feet, not including storage areas and administrative offices.

Store, discount, variety or department. A retail establishment offering a wide variety of merchandise in departments and exceeding 6,000 square feet in floor area.

Store, drugstore or pharmacy. A retail establishment for preparing, preserving, compounding and dispensing of drugs and medicines; and may include the display and sale of other merchandise such as cosmetics, notions, fountain service and similar items.

Store, feed. A retail establishment for the sale of grain, prepared feed, and forage for pets, livestock and fowl, but not involving the grinding, mixing, or commercial compounding of such items. An establishment for the selling of corn, grain, and other foodstuffs for animals and livestock and including other implements and goods related to agricultural processes, but not including farm machinery.

Store, furniture, home furnishings and appliance store. A retail facility that sells primarily goods for the home, such as furniture, carpet, appliances, and accessories.

Store, grocery. A retail establishment that displays and sells consumable goods and sundries and may include secondary uses such as a pharmacy, photo shop, banking service, delicatessen, bakery and/or prepared foods.

Store, hardware and home improvement. A retail establishment that sells building materials, paint, cutlery, tools, utensils, screws, nails, etc. This definition does not include "big box" hardware/lumber/home improvement type stores with outdoor display.

Store, incidental retail or service uses. Located within an office or other employment center, such uses include barbershop or beauty shop, smoke shop, candy counter, restaurant, pharmacy, or other incidental activity secondary to the primary office or employment occupancy.

Store, pet shop. A retail establishment offering small animals, fish, or birds for sale as pets and where all such creatures are housed within the building.

Store, shopping center. A group of retail, service, commercial, and restaurant establishments planned, constructed and managed as a single entity with customer and employee parking provided on-site, provision for goods delivery separated from customer access, provision of aesthetically appropriate design and protection from the elements.

Street, private. A thoroughfare which affords access to property abutting thereon for residents of that property and service vehicles only via controlled gate access. The land on which the street is constructed is owned by a homeowners association and the street is maintained by that entity. (See sections 106.05.02.2(t), "private street development/gated communities - existing subdivisions" and (u), "private street development/gated communities - new subdivisions", for regulations)

Street, public. A thoroughfare which affords principal means of access to property abutting thereon. The land on which the street is constructed is owned by a governmental entity and the pavement is maintained by that entity.

Telephone exchange. A telecommunications facility to which subscribers' telephones connect that switches calls among subscribers or to other exchanges for further routing.

Theater, drive-in. An outdoor facility arranged so that patrons can view the screen and receive the sound in the privacy of their cars, or while seated outside.

Theater, indoor. A facility for showing motion pictures to an audience inside an enclosed structure.

Transit center/bus terminal. Passenger terminal or loading facilities for franchised private or publicly-owned transit system.

Truck terminal. An area where trucks used to transport goods are stored or parked between trips.

Truck/trailer/heavy equipment/RV/bus repair. An establishment providing major and minor automobile repair services to heavy load vehicles defined as self-propelled vehicles having a manufacturer's recommended gross vehicle weight (GVW) of greater than 11,000 pounds, such as large recreational vehicles, tractor trailers, buses and other similar vehicles. Such vehicle repair may occur within a structure or outside the structure due to the size of the vehicles.

Truck/trailer/heavy equipment/RV/bus sales. A facility which sells or leases vehicles having a manufacturer's recommended gross vehicle weight (GVW) of greater than 11,000 pounds, such as large recreational vehicles, tractor trailers, buses and other similar vehicles. The term "truck" shall be construed to mean "heavy load vehicle" unless specifically stated otherwise. The sales and leasing facility includes outdoor storage and display of the vehicles listed.

Utility distribution/transmission line. Facilities, including subsidiary stations, that serve to distribute, transmit, transform, or reduce the pressure of gas, water, or electric current, including, but not limited to, electrical transmission lines, gas transmission lines, and metering stations.

Vending kiosk, commercial. An unmanned structure that provides a product for remuneration. Examples are ice machines, video vending machines (see section 106.05.02.2(w), "vending kiosk, commercial" for regulations).

Vending kiosk, not-for-profit. An unmanned structure that provides a product. The fee for such product may be reduced or waived. (See section 106.05.02.2(x), "vending kiosk, not-for-profit" for regulations)

Warehouse. A large facility used primarily for the storage of goods and may include an office incidental to the primary use.

Water pumping station. A facility for transporting water including pumps, piping, valves and controls.

Water reservoir or well. An artesian well or manmade underground reservoir where water is collected and kept in quantity for use by a water system.

Water treatment plant. A facility for the purifying, storage, and distribution of town water including a system of reservoirs, channels, and mains.

Wholesale and distribution center. An establishment engaged in the receipt, storage, and distribution of goods, products, cargo, and materials to retailers, wholesalers, agents, brokers, and/or to industrial, commercial, institutional, or professional business users and may include an office incidental to the primary use.

Winery/brewery retail sales. An establishment operated by the holder of a winery or brewery permit which has been lawfully issued to the permittee for the premises by the Texas Alcoholic Beverage Commission (or any successor entity thereto) in accordance with V.T.C.A., Alcoholic Beverage Code ch. 16 for the on-premises consumption of wine and or beer.

Winery/brewery/distillery. A manufacturing plant designed to distill alcoholic spirits such as wine, beer, ale or liquor. No on-premises individual sales of alcoholic drinks are allowed.



Town Council Meeting

Date: 02/16/2021
Agenda Item #: 7. B.
Department: Development Services
Strategic Goal: Promote and expand Little Elm's identity
Staff Contact: Skye Thibodeaux, Planning Manager

AGENDA ITEM:

Continue a Public Hearing, Present, Discuss, and Consider Action to **Rezone Approximately 4.4 acres of Land from Lakefront (LF) w/ Specific Use Permit for Child Care Center to Planned Development-Lakefront (PD-LF) to Allow for the Use of Mixed-Use and Commercial with Modified Development Standards, Generally Located at the Southwest Corner of Eldorado Parkway and Hillside Drive, within Little Elm's Town Limits.**

DESCRIPTION:

At the January 5, 2021 Town Council meeting, Town Council directed the applicant to provide the following:

- More detailed information associated with the proposed elevations regarding materials and color palettes for garages along with additional details regarding exterior and interior finish materials.
- Additions to the proposed landscape plan providing additional tree plantings along the western boundary to mitigate visibility between Eldorado Parkway and the western facing garages.
- A POA document formed and executed for the property including language for shared use of dumpsters.

At the February 2, 2021 Town Council meeting, Council voted to continue the item to the February 16, 2021 Town Council meeting as the applicant had provided updated plans to staff but had not yet formed and executed the above mentioned POA document. At this time, the applicant is still in the process of forming and executing the POA document.

BUDGET IMPACT:

There is no budget impact for this item.

RECOMMENDED ACTION:

In order to provide additional time for the applicant to form and execute a POA document for the subject property with shared use language, staff is requesting that this item be continued to the March 2, 2021 Town Council meeting.
