



**WORKSHOP & REGULAR MEETING  
OF THE TOWN COUNCIL**

**Tuesday, December 21, 2021**

**6:00 PM**

**Little Elm Town Hall**

**100 W Eldorado Parkway, Little Elm, TX 75068**

1. **Call to Order Council Workshop at 6:00 p.m.**
  - A. Invocation.
  - B. Pledge to Flags.
  - C. Items to be Withdrawn from Consent Agenda.
  - D. Emergency Items if Posted.
  - E. Request by the Town Council for Items to be Placed on a Future Agenda for Discussion and Recognition of Excused Absences.
  - F. Presentation of Monthly Updates.
  - G. Town Council to Highlight Items on the Agenda Needing Further Discussion or Comments Prior to the Regular Session.

2. **Workshop.**

- A. Present and Discuss the **January 4, 2022, Town Council Meeting.**

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

4. **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.*

5. **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 December 7, 2021, Regular Town Council Meeting.**
- B. Consider Action to Approve the **Minutes from the December 14, 2021 Special Council Meeting.**
- C. Consider Action to Approve **Ordinance No. 1652 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.**
- D. Consider Action to Approve **Ordinance No. 1653 Amending the FY 2021-2022 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.**
- E. Consider Action to Approve the **Memorandum of Understanding for Work Share between the EDC and the Chamber of Commerce for Jennifer Eusse.**
- F. Consider Action to Approve the **Collateral Assignment of Payment of Rights between Hurtado Barbecue Little Elm, LLC, 100 Hardwicke LLC, and Little Elm Economic Development Corporation.**

- G. Consider Action to Approve a **Release of Claim between the Village at Lakefront, LLC, Little Elm EDC, and Town of Little Elm to Voluntarily and Knowingly Execute this Release with the Express Intention of Effecting the Extinguishment of all Claims Designated in this Release.**
- H. Consider Action to Approve the **Lessor's Consent and Agreement between Tinman Social and Little Elm Economic Development Corporation; requested by Midwest Regional Bank, Tinman Social's Financial Institution and Loan Provider.**
- I. Consider Action to Approve **Change Order #1 Regarding the Town Hall Expansion Project in an Amount Not to Exceed \$64,720.27.**
- J. Consider Action to Approve a **Professional Services Design Contract with Pacheco-Koch Consulting Engineers, Inc. for the Hill Lane Improvement Project.**
- K. Consider Action to Approve a **Contract with Network Cabling Services (NCS) for Audio/Visual Upgrades at Little Elm Town Hall.**
- L. Consider Action to Approve **Amendment #2 to the Interlocal Agreement Cooperation Agreement between the Town of Little Elm, the City of Frisco, and the Texas Department of Transportation for the Operation and Maintenance of Traffic Signals.**

6. **Public Hearings.**

- A. Hold a Public Hearing, Present, Discuss and Consider Action on **Ordinance No. 1649 Accepting and Approving A Service and Assessment Plan and Assessment Roll for the Spiritas East Public Improvement District.**

**Open Public Hearing:**

**Receive Public Comments:**

**Close Public Hearing:**

**Take Action on Ordinance No. 1649**

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

- A. Present, Discuss, and Consider Action on **Ordinance No. 1650 Approving and Authorizing the Issuance and Sale of the Town of Little Elm, Texas, Special Assessment Revenue Bonds, Series 2022 (Spiritas East Public Improvement District Project); and Approving and Authorizing Related Agreements.**

8. **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.

9. **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.

10. **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 16th day of December 2021 before 5:00 p.m.**



**Date:** 12/21/2021  
**Agenda Item #:** 2. A.  
**Department:** Administrative Services  
**Strategic Goal:** Maintain operational integrity and viability  
**Staff Contact:** Matt Mueller, Town Manager

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**AGENDA ITEM:**

Present and Discuss the **January 4, 2022, Town Council Meeting.**

**DESCRIPTION:**

The Town Manager will discuss options for the January 4, 2022, regular Town Council meeting.

**BUDGET IMPACT:**

There is no budget impact for this item.

**RECOMMENDED ACTION:**

Staff recommends direction from Town Council.

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**Date:** 12/21/2021  
**Agenda Item #:** 5. A.  
**Department:** Administrative Services  
**Strategic Goal:** Maintain operational integrity and viability  
**Staff Contact:** Caitlan Biggs, Director of Administrative Services/Town Secretary

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**AGENDA ITEM:**

Consider Action to Approve the **Minutes from the December 7, 2021, Regular Town Council Meeting.**

**DESCRIPTION:**

The minutes from the December 7, 2021, regular Town Council meeting are attached for approval.

**BUDGET IMPACT:**

There is no budget impact for this item.

**RECOMMENDED ACTION:**

Staff recommends approval.

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**Attachments**

Minutes - December 7, 2021

# 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 DECEMBER 7, 2021 - 6:00 p.m.

Present: Mayor Curtis J. Cornelious; Mayor Pro Tem Neil Blais; Council Member Tony Singh; Council Member Lisa Norman; Council Member Michael McClellan

Absent: Council Member Jeremy Lukas

Staff Present: Joe Florentino, Assistant Town Manager; Matt Mueller, Town Manager; Chad Hyde, Director of Community Services; Deidre Hale, Human Resources Director; Doug Peach, Deputy Town Manager; Fred Gibbs, Director of Development Services; Hayden Brodowsky, Development Services Manager; Jason Shroyer, Director of Public Works; Jennette Espinosa, EDC Executive Director; Kate Graham, Assistant to the Town Manager; Kelly Wilson, Chief Financial Officer; Paul Rust, Fire Chief; Robert Brown, Town Attorney; Rodney Harrison, Police Chief; Caitlan Biggs, Director of Administrative Services/Town Secretary; Erin Mudie, Managing Director of Communications/PIO; Jeremy Wilson, Assistant Fire Chief

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

*Meeting was called to order at 6:00 p.m.*

#### A. Invocation.

*Mayor Pro Tem Neil Blais gave the invocation.*

#### 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.

***None.***

- F. Presentation of Monthly Updates.

***Director of Community Services Chad Hyde gave a recap of the Christmas Parade and commended staff on the great job they did. He stated that there were more floats in the parade than any other previous parade, approximately 70.***

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

***None.***

**2. Presentations.**

- A. Present a **Proclamation Declaring the Month of December 2021 as Christian Heritage Month.**

***Mayor Curtis Cornelious presented the proclamation.***

- B. Present **Town Manager Special Recognition.**

***Town Manager Matt Mueller presented the challenge coins to Kate Graham and Caitlan Biggs.***

**3. Workshop.**

**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.*

***Richard Hayes introduced himself as a candidate for House District 57.***

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

**Vote: 5 - 0 - Unanimously**

- A. Consider Action to Approve the **Minutes from the November 16, 2021 Regular Town Council Meeting.**
- B. Consider Action to Approve the **Minutes from the December 2, 2021 Special Town Council Meeting.**
- C. Consider Action to Approve **Resolution No. 1207202101 Approving an Amendment to the Town's Investment Policy; Authorized Broker/Dealers; Recording the Annual Review; and an Effective Date.**
- D. Consider Action to Approve a **Purchase Sales Agreement between the Town of Little Elm and Integrity Group, LLC of Real Property containing Approximately 4.956 acres in the D.M. Cule Survey, Abstract 226, and being part of Lot 1, Block A, and part of Lot 2, Block A of Dennis Whitsone Addition in the Town of Little Elm, Denton County, Texas.**
- E. Consider Action to Approve **Resolution 1207202103 for the Town of Little Elm Police Department to Receive Grant Funding for Night Vision Devices for the Little Elm Police Department SWAT Team, as required by the Office of the Governor, Criminal Justice Division.**
- F. Consider Action to Approve a **Ground and Tower Lease Agreement with T-Mobile West LLC, for the Installation, Maintenance, and Operation of Telecommunication Equipment and Associated Antenna at the Town's Elevated Storage Tank Located on the Southwest Corner of Little Elm Parkway and Eldorado Parkway.**

**7. Public Hearings.**

- A. Hold a Public Hearing, Present, Discuss, and Consider Action on **Ordinance No. 1647 regarding accepting and approving a Service and Assessment Plan ("SAP") and Assessment Roll for the Valencia Public Improvement District (the "District"); Phase #2B-1.**

**Open Public Hearing:**

**Receive Public Comments:**

**Close Public Hearing:**

**Take Action on Ordinance No. 1647**

**Open Public Hearing: 6:20 p.m.**

**Receive Public Comments:**

- **Robert Miklose, 1800 Valley View Lane Suite 350, Farmers Branch, TX - attorney for property owner who wants it to move forward**

**Close Public Hearing: 6:21 p.m.**

Motion by Mayor Pro Tem Neil Blais, seconded by Council Member Tony Singh **to approve Ordinance 1647.**

**Vote: 5 - 0 - Unanimously**

- B. Hold a Public Hearing, Present, Discuss, and Consider Action on **Ordinance No. 1651 Regarding a Proposed Text Amendment to Chapter 106, Zoning Ordinance, by Amending Sec.106.04.02 Lakefront District, in Order to Clarify Height Requirements.**

**Open Public Hearing:**

**Receive Public Comments:**

**Close Public Hearing:**

**Take Action on Ordinance No. 1651:**

Director of Development Services Fred Gibbs presented an overview of the item. He stated that this item had been discussed with Town Council during a previous workshop item and incorporates feedback received. He stated that this item was brought forward to the Planning and Zoning Commission and was approved 6-0.

**Open Public Hearing: 6:29 p.m.**

**Receive Public Comments: None**

**Close Public Hearing: 6:30 p.m.**

Motion by Council Member Michael McClellan, seconded by Council Member Tony Singh **to approve Ordinance No. 1651.**

**Vote: 5 - 0 - Unanimously**

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

- A. Present, Discuss, and Consider Action on **Ordinance No. 1648 Approving and Authorizing the Issuance and Sale of the Town of Little Elm, Texas, Special Assessment Revenue Bonds, Series 2021 (Valencia Public Improvement District Improvement Area #3 Project); and Approving and Authorizing Related Agreements.**

EDC Executive Director Jennette Espinosa introduced Mark McCliney, the Town's Financial Advisor, to give Council an overview of the item. He also introduced Jordan Sawyer who is with the Town's Bond Council, Norton Fulbright. He gave Council a summary of the bond pricing that is included in the attached presentation.

Motion by Council Member Tony Singh, seconded by Mayor Pro Tem Neil Blais **to approve Ordinance No. 1648.**

**Vote: 5 - 0 - Unanimously**

- B. Present, Discuss, and Consider Action on **Resolution No. 1207202102, Casting 65 Votes for a Candidate for Appointment to the Denton Central Appraisal District Board of Directors.**

Town Manager Matt Mueller gave an overview of the item, stating that their nominee, David Terry, who was agreed upon at a prior Council meeting, had called Council Member Singh and asked the Town to release our votes to him and to vote for David Johnson.

Town Manager Mueller stated that our votes are due next Wednesday and that this item could be pushed to the special meeting next Tuesday, December 14, for consideration.

***Town Council tabled this item to the December 14, 2021, special meeting.***

- C. Present, Discuss, and Consider Action on an **Amendment to the Tax Abatement Agreement between the Town of Little Elm and Retractable Technologies, Inc. for Financial Assistance to Operate the Facility, on Approximately 34 Acres, Generally Located at 511 Lobo Lane, in the Town of Little Elm, Denton County, Texas. Said Property Owned by Retractable Technologies, Inc., is Located in Reinvestment Zone #5 and Thomas J. Shaw, CEO of Retractable Technologies, Inc., is Requesting an Amendment to the Property Tax Abatement.**

EDC Executive Director Jennette Espinosa gave an overview of the item.

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

**Vote:** 5 - 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.
- Section 551.072 to discuss certain matters regarding real property.
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- Section 551.076 to discuss security matters.
- Section 551.087 to discuss Economic Development.

**11. Adjourn.**

***Meeting was adjourned at 6:43 p.m.***



Respectfully,

**Caitlan Biggs**  
Town Secretary

Passed and Approved this 21st day of December 2021



**Date:** 12/21/2021  
**Agenda Item #:** 5. B.  
**Department:** Administrative Services  
**Strategic Goal:** Maintain operational integrity and viability  
**Staff Contact:** Caitlan Biggs, Director of Administrative Services/Town Secretary

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**AGENDA ITEM:**

Consider Action to Approve the **Minutes from the December 14, 2021 Special Council Meeting.**

**DESCRIPTION:**

The minutes from the December 14, 2021, Special Town Council Meeting are attached for approval.

**BUDGET IMPACT:**

There is no budget impact for this item.

**RECOMMENDED ACTION:**

Staff recommends approval.

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**Attachments**

Minutes- December 14, 2021

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 DECEMBER 14, 2021 - 6:00 p.m.

Present: Mayor Curtis J. Cornelious; Mayor Pro Tem Neil Blais; Council Member Tony Singh; Council Member Jeremy Lukas; Council Member Lisa Norman; Council Member Michael McClellan

Staff Present: Matt Mueller, Town Manager; Chad Hyde, Director of Community Services; Deidre Hale, Human Resources Director; Jennette Espinosa, EDC Executive Director; Kate Graham, Assistant to the Town Manager

1. **Call to Order Special Meeting at 6:00 p.m.**

*Meeting was called to order at 6:00 p.m.*

A. Invocation.

*Invocation was given by Council member Jeremy Lukas.*

B. Pledge to Flags.

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

A. Present, Discuss, and Consider Action on **Resolution No. 1214202102, Casting 65 Votes for a Candidate for Appointment to the Denton Central Appraisal District Board of Directors.**

*David Johnson, a candidate for the DCAD Board, was present to ask for support of his nomination.*

Motion by Mayor Pro Tem Neil Blais, seconded by Council Member Jeremy Lukas **to approve Resolution No. 1214202102.**

**Vote:** 6 - 0 - Unanimously

B. Present, Discuss, and Consider Action on **Resolution No. 1214202101 Canvassing the Returns and Declaring the Results of a Special Runoff Election held on Tuesday, December 7, 2021, to Elect One (1) Town Council Member from Place 1 for an Unexpired Term Ending May 7, 2022; Finding that All Matters Set Forth Herein are True and Correct; and Providing for an Immediate Effective Date.**

***Acting Town Secretary Kate Graham presented the results of the Special Runoff Election held on December 7, 2021.***

Motion by Council Member Jeremy Lukas, seconded by Council Member Michael McClellan **to approve Resolution No. 1214202101.**

**Vote:** 6 - 0 - Unanimously

**3. Presentations.**

- A. Present and Issue the **Certificate of Election to Jamell Johnson, Council Member Place 1.**

***Acting Town Secretary Kate Graham presented the Certificate of Election to Jamell Johnson, Council Member Place 1.***

- B. Present and Administer the **Statement of Officer and Oath of Office for Jamell Johnson, Council Member Place 1.**

***Acting Town Secretary Kate Graham administered the Statement of Officer and Oath of Office for Jamell Johnson, Council Member Place 1.***

- C. **Presentation from the Town Manager.**

***Town Manager Matt Mueller gave the Council members a gift of a plaque with a quote on it.***

**4. 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.

***There was no executive session.***

**5. 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.

***There was no executive session.***

**6. Adjourn.**

***Meeting was adjourned at 6:16 p.m.***

Respectfully,

**Caitlan Biggs**  
Town Secretary

Passed and Approved this 21 day of December 2021



## Town Council Meeting

**Date:** 12/21/2021  
**Agenda Item #:** 5. C.  
**Department:** Finance  
**Strategic Goal:** Maintain operational integrity and viability  
**Staff Contact:** Kelly Wilson, Chief Financial Officer

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### AGENDA ITEM:

Consider Action to Approve **Ordinance No. 1652 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.**

### DESCRIPTION:

The Town Charter requires that when budgets are amended that the amendment be by ordinance. This budget amendment addresses several items discussed below.

*“The legal level of budgetary control is at the fund level. The Town Manager is authorized to transfer budgeted amounts between departments within any fund. Any revisions that increases the total expenditures of any fund greater than the original budget must be approved by ordinance of Town Council.”*

### Solid Waste Fund:

Due to growth, the cost of service to provide solid waste services exceeded projected budget. The offset also reflects an increase in revenue billed for services. The budget amendment will provide an increase in both revenue and expenditures within the fund.

### Roadway Impact Fee Fund:

This budget amendment is reflective of the approved CIP projects taken to Council in April 2021 for US 380 Lighting and US 380 Plan Revisions. This amendment is a yearend cleanup of CIP projects for budget authority.

### 2017 Bond Fund - Utilities:

In an effort to close out the funds from the 2017 CO bonds, several approved utility projects allowed the Town to utilize 2017 bond funds. The Town will be closing out this fund as required by the end of the calendar year. This budget amendment reflects the approved CIP plan and provides budget authority within the 2021 budget year.

**2019 CO Bond Funds – General Government:**

Due to the timing of The Cove CIP project, this budget amendment provides budget authority in 2021 from the approved CIP plan. The funding source is the 2019 CO Bonds and the requested budget amendment provides funds to carry into 2021 for approved project expenditures. This amendment is a yearend cleanup of CIP projects to provide budget authority.

**BUDGET IMPACT:**

Amendment to the various funds for FY 2020-2021.

**RECOMMENDED ACTION:**

Staff recommends approval.

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**Attachments**

Ordinance No. 1652 2021 Budget Amendment

Exhibit A - FY 2021 Ordinance No. 1652

**ORDINANCE NO. 1652**

**AN ORDINANCE OF THE TOWN COUNCIL OF LITTLE ELM, TEXAS ("TOWN"), AUTHORIZING CERTAIN BUDGET AMENDMENT PERTAINING TO THE FISCAL YEAR 2020-2021 BUDGET; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Town is required by the Town Charter to approve a budget amendment by ordinance and upon approval such amendment shall become an attachment to the original budget; and

**WHEREAS**, a budget amendment has been prepared for certain appropriations and expenditures in the FY 2020-2021 Budget and submitted to the Town Council for approval and a true and correct copy is attached as Exhibit A.

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

**SECTION 1.** Pursuant to the Town Charter requirements of the Town of Little Elm, Texas, in the year 2020-2021, a Budget Amendment attached as Exhibit A is hereby authorized and approved.

**SECTION 2.** This Ordinance shall take effect immediately from and after its passage as the law in such cases provides.

PASSED AND APPROVED by the Town Council of the Town of Little Elm, Texas this the 21st day of December, 2021.

APPROVED:

\_\_\_\_\_  
Curtis J. Cornelious  
Mayor

ATTEST:

\_\_\_\_\_  
Caitlan Biggs  
Town Secretary



**EXHIBIT "A"**  
**BUDGET AMENDMENT**  
**FISCAL YEAR 2020-2021**  
**December 21, 2021**

<b>Solid Waste Fund</b>		<b>Original Budget</b>	<b>Current Budget</b>	<b>Amended Budget</b>	<b>Increase (Decrease)</b>
<b>Revenue:</b>					
All Revenue Sources		\$ 3,010,258	\$ 3,010,258	\$ 3,160,258	\$ 150,000
<b>Total Revenue</b>		<b>\$ 3,010,258</b>	<b>\$ 3,010,258</b>	<b>\$ 3,160,258</b>	<b>\$ 150,000</b>
<b>Expenditures:</b>					
Total Expenditures		\$ 2,971,722	\$ 2,971,722	\$ 3,121,722	\$ 150,000
<b>Total Expenditures</b>		<b>\$ 2,971,722</b>	<b>\$ 2,971,722</b>	<b>\$ 3,121,722</b>	<b>\$ 150,000</b>
<b>Roadway Impact Fee Fund</b>		<b>Original Budget</b>	<b>Current Budget</b>	<b>Amended Budget</b>	<b>Increase (Decrease)</b>
<b>Revenue:</b>					
All Revenue Sources		\$ 20,000	\$ 20,000	\$ 110,000	\$ 90,000
<b>Total Revenue</b>		<b>\$ 20,000</b>	<b>\$ 20,000</b>	<b>\$ 110,000</b>	<b>\$ 90,000</b>
<b>Expenditures:</b>					
Capital Expenditures		\$ -	\$ -		\$ -
Total Transfers Out		\$ 175,000	\$ 175,000	\$ 265,000	\$ 90,000
<b>Total Expenditures</b>		<b>\$ 175,000</b>	<b>\$ 175,000</b>	<b>\$ 265,000</b>	<b>\$ 90,000</b>
<b>2017 CO Bond Fund</b>		<b>Original Budget</b>	<b>Current Budget</b>	<b>Amended Budget</b>	<b>Increase (Decrease)</b>
<b>Revenue:</b>					
All Revenue Sources		\$ -	\$ -	\$ -	\$ -
<b>Total Revenue</b>		<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>
<b>Expenditures:</b>					
Capital Expenditures			\$ 203,556	\$ 769,456	\$ 565,900
Total Transfers Out		-	-	-	-
<b>Total Expenditures</b>		<b>\$ -</b>	<b>\$ 203,556</b>	<b>\$ 769,456</b>	<b>\$ 565,900</b>
<b>2019 CO Bond Funds</b>		<b>Original Budget</b>	<b>Current Budget</b>	<b>Amended Budget</b>	<b>Increase (Decrease)</b>
<b>Revenue:</b>					
All Revenue Sources		\$ -	\$ -	\$ -	\$ -
<b>Total Revenue</b>		<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>
<b>Expenditures:</b>					
Culture and Recreation		-	80,749	3,958,949	3,878,200
Transfer Out		-	-	-	-
<b>Total Expenditures</b>		<b>\$ -</b>	<b>\$ 80,749</b>	<b>\$ 3,958,949</b>	<b>\$ 3,878,200</b>

<b>Total Revenue</b>	<b>\$ 240,000</b>
<b>Total Expenditures</b>	<b>\$ 4,684,100</b>
<b>Net Effect All Funds</b>	<b>\$ (4,444,100)</b>



## Town Council Meeting

**Date:** 12/21/2021  
**Agenda Item #:** 5. D.  
**Department:** Finance  
**Strategic Goal:** Maintain operational integrity and viability  
**Staff Contact:** Kelly Wilson, Chief Financial Officer

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### AGENDA ITEM:

Consider Action to Approve **Ordinance No. 1653 Amending the FY 2021-2022 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.**

### DESCRIPTION:

The town charter requires that when the budget is amended that the amendment be by ordinance. This budget amendment addresses several items discussed below.

*“The legal level of budgetary control is at the fund level. The Town Manager is authorized to transfer budgeted amounts between departments within any fund. Any revisions that increases the total expenditures of any fund greater than the original budget must be approved by ordinance of Town Council.”*

### General Fund:

Council approved a new contract effective October 1, 2021, to service the Cross Roads area for fire, rescue, and emergency medical services. The Town’s five-year financial plan did not include such revenue from Cross Roads. The approved five-year financial plan budgeted to hire more firefighters to prepare for the new fire station #4 planned to be built on the west side of town. Based on the development and build-out of the new station, hiring for the fire staff was planned to begin in FY 2023-2024 and will be completed staffed in FY 2025-2026. In order to furnish such services for Cross Roads, the Town has hired seven new firefighters to the Fire Department in our current FY 2022. This budget amendment will reflect the revenue stream from the Cross Roads contract and the expenses associated with the new firefighters expedited in the financial plan.

The Town is insured through TML for property insurance. We have received the values of the Town’s property and the premium for such coverage. During the budget process, Finance estimated a 4.25% increase in insurance premium however due to the increased values of the property; the insurance policy increased 18%. This budget amendment is to reflect an increase in the line item to

support the actual costs.

The Town provides Police services to the Paloma Creek water district. This revenue is reflected in the General Fund budget for Police services. The district's board approved to have Little Elm Police Department enter into a contract to include Flock Safety cameras for the Paloma Creek neighborhood. This budget amendment reflects the cost of 10 cameras of \$27,500 and installation costs of \$2,500. The offset is revenue that will be billed to Paloma Creek once the cameras are installed. This is a net neutral to the overall budget.

The Police Department received two grants for various equipment. The first grant comes from the Office of Justice to provide a 3D laser scanner that allows Police to enhance forensic crime scene mapping, data processing, traffic scene investigations, and courtroom presentations. The cost and grant reimbursement will be \$94,766. The other grant comes from the Office of Homeland Security to provide Little Elm Police Department SWAT team night vision devices. The cost and grant reimbursement will be \$28,584.44. Both of these grants are net neutral to the overall budget.

Council approved at the 11/2/2021 meeting to participate in the Statewide Opioid settlement that provides the Town \$69,326, which can be used for a wide variety of services. This budget amendment is reflecting the settlement funds and offsetting expenses associated with the uses of these funds. This is a net neutral to the overall budget.

Council approved at the 12/7/2021 meeting a purchase sales agreement for 4.956 acres with Integrity Group. The sale also includes upsizing and extending the ATMOS gas line through the developer's property to allow for commercial retail sites. This budget amendment reflects the sales of land for the appraised value of \$480,000 and the estimate to upsize the gas line of \$300,000. The Town will show a net effect of \$180,000 reflected in this budget amendment.

After the unaudited closeout of the 2021 financials, the Town's net income exceeded the projections that was used to develop the 2022 – 2026 financial plan. Per the Town's charter, the Town is required to have a committed fund balance of 25% of targeted expenditures to ensure sound financial responsibility. Since our planned reserves exceed this target, the budget amendment is requesting to move \$2,000,000 from the General Fund to earmark for future CIP projects.

#### **Landscape Fund:**

During the budget process, the Wayfinding project was planned to be funded in two phases. FY 2021 had a budget of \$315,000 and in FY 2022 another \$315,000 that was budgeted for this project. In an effort to find cost savings, Development Services has presented both phases to Council at the August 3 meeting for a total cost of \$487,966. This budget amendment is moving the unused 2021 budget into 2022 to allow the project to move forward.

#### **PEG Fund:**

As part of the Town Hall Expansion Project, several upgrades to the existing audio/visual equipment were included in the scope of work. Engineering has on the agenda the contract with Network Cabling Services and this budget amendment is providing a portion of funding for the audio/visual equipment in the Council Chambers and Council Conference Room from the PEG Fund. The new equipment will improve the ability of the audience members to see and hear meeting presentations and will provide video conferencing capabilities in the conference rooms.

#### **Special Revenue Fund:**

The Town receives dedicated revenue for child safety programs. Police is requesting to use these

funds to place school zone flashers in front of Union Park Elementary school. The cost for installation for the school flashers is \$44,420 and the child safety fund has the cash balance to support this expense. Police is requesting to use these funds to place a speed monitoring system in designated school zones that receive a lot of traffic to help enforce speed limits. The cost for this piece of equipment is \$10,589.60 and the child safety fund has the cash balance to support this expense.

**Roadway Impact Fee Fund:**

Engineering has on the agenda a professional services design contract with Pacheco-Koch Consulting Engineers, Inc. as part of a previous Request for Qualifications (RFQ) for professional engineering services. This Work Order proposes to hire them to design paving and drainage improvements required for the expansion of Hill Lane, extending from its intersection with FM 720 to Dickson Lane. The cost for services with a contingency is for \$615,000 and funding from the South Roadway Impact Fee Fund. This budget amendment will provide budget authority to proceed with this contract.

**CIP Fund:**

The design for the Little Elm Park parking lot expansion has begun. This project was planned for in the Capital Improvement project worksheet. The budget amendment is providing the budget authority in 2022's budget to allow the project to continue forward with the design.

**PO Roll Forward:**

The Town of Little Elm continues to utilize the purchase order system to encumber funds and at the end of September 30, 2021, the balances of open purchase orders require an amendment to the FY 2021-2022 budget by increasing the relevant line items in the new fiscal year by shifting budget authority from last fiscal year. The PO roll forward is related to capital projects or contracts for services that cross multiple years. Per the Charter, unencumbered balance of each appropriation shall revert to the fund from which it was appropriated and shall be subject to future appropriations, but appropriations may be made in furtherance of improvements or other objects of work of the Town, which will not be completed within the current year. Another advantage of PO roll forward allows for efficiency in tracking capital projects on the same purchase order.

**BUDGET IMPACT:**

See Exhibit A attached to Ordinance No. 1653 for detail on budget impact to the various funds.

**RECOMMENDED ACTION:**

Staff recommends approval.

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**Attachments**

Ordinance No. 1653 FY 2022 Budget Amendment  
Exhibit A Budget Amendment Support  
2022 Purchase Order Roll Forward Listing

**ORDINANCE NO. 1653**

**AN ORDINANCE OF THE TOWN COUNCIL OF LITTLE ELM, TEXAS ("TOWN"), AUTHORIZING CERTAIN BUDGET AMENDMENT PERTAINING TO THE FISCAL YEAR 2021-2022 BUDGET; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Town is required by the Town Charter to approve a budget amendment by ordinance and upon approval such amendment shall become an attachment to the original budget; and

**WHEREAS**, a budget amendment has been prepared for certain appropriations and expenditures in the FY 2021-2022 Budget and submitted to the Town Council for approval and a true and correct copy is attached as Exhibit A.

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

**SECTION 1.** Pursuant to the Town Charter requirements of the Town of Little Elm, Texas, in the year 2021-2022, a Budget Amendment attached as Exhibit A is hereby authorized and approved.

**SECTION 2.** This Ordinance shall take effect immediately from and after its passage as the law in such cases provides.

PASSED AND APPROVED by the Town Council of the Town of Little Elm, Texas this the 21st day of December, 2021.

APPROVED:

\_\_\_\_\_  
Curtis J Cornelious  
Mayor

ATTEST:

\_\_\_\_\_  
Caitlan Biggs  
Town Secretary

**EXHIBIT "A"**  
**BUDGET AMENDMENT**  
**FISCAL YEAR 2021-2022**  
**December 21, 2021**

<b>General Fund</b>	<b>Original Budget</b>	<b>Current Budget</b>	<b>Amended Budget</b>	<b>Increase (Decrease)</b>
<b>Revenue:</b>				
All Revenue Sources	\$ 41,238,497	\$ 41,238,497	\$ 42,401,973	\$ 1,163,476
<b>Total Revenue</b>	<b>\$ 41,238,497</b>	<b>\$ 41,238,497</b>	<b>\$ 42,401,973</b>	<b>\$ 1,163,476</b>
<b>Expenditures:</b>				
Total Expenditures	\$ 40,213,309	\$ 40,213,309	\$ 42,213,435	\$ 2,000,126
Total Transfers Out	2,126,588	2,126,588	4,126,588	\$ 2,000,000
<b>Total Expenditures</b>	<b>\$ 42,339,897</b>	<b>\$ 42,339,897</b>	<b>\$ 46,340,023</b>	<b>\$ 4,000,126</b>
<b>Landscape Fund</b>	<b>Original Budget</b>	<b>Current Budget</b>	<b>Amended Budget</b>	<b>Increase (Decrease)</b>
<b>Revenue:</b>				
All Revenue Sources	\$ 673,994	\$ 673,994	\$ 673,994	\$ -
<b>Total Revenue</b>	<b>\$ 673,994</b>	<b>\$ 673,994</b>	<b>\$ 673,994</b>	<b>\$ -</b>
<b>Expenditures:</b>				
Total Expenditures	\$ 961,000	\$ 961,000	\$ 1,145,831	\$ 184,831
Total Transfers Out	-	-	-	-
<b>Total Expenditures</b>	<b>\$ 961,000</b>	<b>\$ 961,000</b>	<b>\$ 1,145,831</b>	<b>\$ 184,831</b>
<b>PEG Fund</b>	<b>Original Budget</b>	<b>Current Budget</b>	<b>Amended Budget</b>	<b>Increase (Decrease)</b>
<b>Revenue:</b>				
All Revenue Sources	\$ 42,500	\$ 42,500	\$ 42,500	\$ -
<b>Total Revenue</b>	<b>\$ 42,500</b>	<b>\$ 42,500</b>	<b>\$ 42,500</b>	<b>\$ -</b>
<b>Expenditures:</b>				
PEG Expenditures	\$ 50,000	\$ 50,000	\$ 50,000	-
Total Transfers Out	-	-	110,000	110,000
<b>Total Expenditures</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 110,000</b>	<b>\$ 110,000</b>
<b>Special Revenue Fund</b>	<b>Original Budget</b>	<b>Current Budget</b>	<b>Amended Budget</b>	<b>Increase (Decrease)</b>
<b>Revenue:</b>				
All Revenue Sources	\$ 78,350	\$ 78,350	\$ 78,350	\$ -
<b>Total Revenue</b>	<b>\$ 78,350</b>	<b>\$ 78,350</b>	<b>\$ 78,350</b>	<b>\$ -</b>
<b>Expenditures:</b>				
Municipal Court	\$ 29,000	\$ 29,000	\$ 29,000	-
Public Safety	24,490	24,490	79,500	55,010
Total Transfers Out	6,500	6,500	6,500	-
<b>Total Expenditures</b>	<b>\$ 30,990</b>	<b>\$ 30,990</b>	<b>\$ 86,000</b>	<b>\$ 55,010</b>
<b>Street Maintenance Fund</b>	<b>Original Budget</b>	<b>Current Budget</b>	<b>Amended Budget</b>	<b>Increase (Decrease)</b>
<b>Revenue:</b>				
All Revenue Sources	\$ 1,453,229	\$ 1,453,229	\$ 1,453,229	\$ -
<b>Total Revenue</b>	<b>\$ 1,453,229</b>	<b>\$ 1,453,229</b>	<b>\$ 1,453,229</b>	<b>\$ -</b>
<b>Expenditures:</b>				
Total Expenditures	\$ 2,055,000	\$ 2,055,000	\$ 2,476,178	\$ 421,178
Total Transfers Out	-	-	-	-
<b>Total Expenditures</b>	<b>\$ 2,055,000</b>	<b>\$ 2,055,000</b>	<b>\$ 2,476,178</b>	<b>\$ 421,178</b>
<b>Roadway Impact Fee Fund</b>	<b>Original Budget</b>	<b>Current Budget</b>	<b>Amended Budget</b>	<b>Increase (Decrease)</b>
<b>Revenue:</b>				
All Revenue Sources	\$ 270,000	\$ 270,000	\$ 270,000	\$ -
<b>Total Revenue</b>	<b>\$ 270,000</b>	<b>\$ 270,000</b>	<b>\$ 270,000</b>	<b>\$ -</b>
<b>Expenditures:</b>				
Total Expenditures	\$ -	\$ -	\$ -	\$ -
Total Transfers Out	-	-	615,000	615,000
<b>Total Expenditures</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 615,000</b>	<b>\$ 615,000</b>
<b>VERF</b>	<b>Original Budget</b>	<b>Current Budget</b>	<b>Amended Budget</b>	<b>Increase (Decrease)</b>

<b>Revenue:</b>					
All Revenue Sources	\$	1,460,671	\$	1,460,671	\$ -
<b>Total Revenue</b>	<b>\$</b>	<b>1,460,671</b>	<b>\$</b>	<b>1,460,671</b>	<b>\$ -</b>
<b>Expenditures:</b>					
Total Expenditures	\$	2,887,271	\$	2,887,271	\$ 206,417
Total Transfers Out		-		-	-
<b>Total Expenditures</b>	<b>\$</b>	<b>2,887,271</b>	<b>\$</b>	<b>2,887,271</b>	<b>\$ 206,417</b>
<b>Utility Fund</b>	<b>Original Budget</b>	<b>Current Budget</b>	<b>Amended Budget</b>	<b>Increase (Decrease)</b>	
<b>Revenue:</b>					
All Revenue Sources	\$	20,571,974	\$	20,571,974	\$ -
<b>Total Revenue</b>	<b>\$</b>	<b>20,571,974</b>	<b>\$</b>	<b>20,571,974</b>	<b>\$ -</b>
<b>Expenditures:</b>					
Total Expenditures	\$	12,674,179	\$	12,674,179	\$ 277,316
Total Debt Service		4,326,140		4,326,140	
Total Transfers Out		3,073,871		3,073,871	-
<b>Total Expenditures</b>	<b>\$</b>	<b>20,074,190</b>	<b>\$</b>	<b>20,074,190</b>	<b>\$ 277,316</b>
<b>2017 CO Bonds</b>	<b>Original Budget</b>	<b>Current Budget</b>	<b>Amended Budget</b>	<b>Increase (Decrease)</b>	
<b>Revenue:</b>					
All Revenue Sources	\$	-	\$	-	\$ -
<b>Total Revenue</b>	<b>\$</b>	<b>-</b>	<b>\$</b>	<b>-</b>	<b>\$ -</b>
<b>Expenditures:</b>					
Total Expenditures	\$	-	\$	97,947	\$ 97,947
Total Transfers Out		-		-	-
<b>Total Expenditures</b>	<b>\$</b>	<b>-</b>	<b>\$</b>	<b>97,947</b>	<b>\$ 97,947</b>
<b>Water/WW Capital Improvement Fund</b>	<b>Original Budget</b>	<b>Current Budget</b>	<b>Amended Budget</b>	<b>Increase (Decrease)</b>	
<b>Revenue:</b>					
All Revenue Sources	\$	3,781,275	\$	3,781,275	\$ -
<b>Total Revenue</b>	<b>\$</b>	<b>3,781,275</b>	<b>\$</b>	<b>3,781,275</b>	<b>\$ -</b>
<b>Expenditures:</b>					
Water CIP	\$	4,200,778	\$	4,200,778	\$ 388,187
WW CIP	\$	5,234,431	\$	5,234,431	\$ 117,622
Total Transfers Out		-		-	-
<b>Total Expenditures</b>	<b>\$</b>	<b>9,435,209</b>	<b>\$</b>	<b>9,435,209</b>	<b>\$ 505,809</b>
<b>Storm Drainage Fund</b>	<b>Original Budget</b>	<b>Current Budget</b>	<b>Amended Budget</b>	<b>Increase (Decrease)</b>	
<b>Revenue:</b>					
All Revenue Sources	\$	709,717	\$	709,717	\$ -
<b>Total Revenue</b>	<b>\$</b>	<b>709,717</b>	<b>\$</b>	<b>709,717</b>	<b>\$ -</b>
<b>Expenditures:</b>					
Total Expenditures	\$	499,591	\$	499,591	\$ 7,318
Total Transfers Out		17,977		17,977	-
<b>Total Expenditures</b>	<b>\$</b>	<b>517,568</b>	<b>\$</b>	<b>517,568</b>	<b>\$ 7,318</b>
<b>2019 CO Bonds</b>	<b>Original Budget</b>	<b>Current Budget</b>	<b>Amended Budget</b>	<b>Increase (Decrease)</b>	
<b>Revenue:</b>					
All Revenue Sources	\$	-	\$	-	\$ -
<b>Total Revenue</b>	<b>\$</b>	<b>-</b>	<b>\$</b>	<b>-</b>	<b>\$ -</b>
<b>Expenditures:</b>					
Total CIP Expenditures	\$	-	\$	48,550	\$ 48,550
Total Transfers Out		-		-	-
<b>Total Expenditures</b>	<b>\$</b>	<b>-</b>	<b>\$</b>	<b>48,550</b>	<b>\$ 48,550</b>

<b>Governmental CIP Fund</b>	<b>Original Budget</b>	<b>Current Budget</b>	<b>Amended Budget</b>	<b>Increase (Decrease)</b>
<b>Revenue:</b>				
All Revenue Sources	\$ 5,339,000	\$ 20,339,000	\$ 22,954,000	\$ 2,615,000
<b>Total Revenue</b>	<b>\$ 5,339,000</b>	<b>\$ 20,339,000</b>	<b>\$ 22,954,000</b>	<b>\$ 2,615,000</b>
<b>Expenditures:</b>				
General Government	\$ 125,000	\$ 362,087	\$ 961,295	\$ 599,208
Public Safety	-	-	599,853	599,853
Community Services	-	-	-	-
Streets/Signs/Signals	1,800,000	1,800,000	3,730,465	1,930,465
Culture and Recreation	17,583,525	17,456,525	17,806,079	349,554
Total Transfers Out				
<b>Total Expenditures</b>	<b>\$ 19,508,525</b>	<b>\$ 19,618,612</b>	<b>\$ 23,097,692</b>	<b>\$ 3,479,080</b>

<b>Total Revenue</b>	<b>\$ 3,778,476</b>
<b>Total Expenditures</b>	<b>\$ 10,008,581</b>
<b>Net Effect All Funds</b>	<b>\$ (6,230,105)</b>



TOWN OF LITTLE ELM  
FY 2021-2022  
Purchase Order Roll Forward

Vendor Name	PO #	Date	Original Line Amount	Invoice Payments	Remaining Balance	Account	Account Description	Fund	Dept	Description
P&M HOLDING GROUP, LLP	210478	04/01/21	75,000.00	69,040.00	5,960.00	112-6214-08-00	PROFESSIONAL SERVICES	112	08	Plante Moran - ERP Development
TRC SOLUTIONS, INC.	210528	04/20/21	10,000.00	0.00	9,252.25	112-6214-16-00	PROFESSIONAL SERVICES	112	16	Construction Detail Update per contract
BLAIS & ASSOCIATES, INC.	210529	04/20/21	5,559.00	2,461.50	3,097.50	112-6214-16-00	PROFESSIONAL SERVICES	112	16	Alternative Fueling Facilities Program per contract
BLAIS & ASSOCIATES, INC.	210530	04/20/21	8,715.00	5,486.25	3,228.75	112-6214-16-00	PROFESSIONAL SERVICES	112	16	NTTCCOG Solid Waste/Trash Comp project per contract
DUNAWAY ASSOCIATES, LP	210691	07/29/21	7,500.00	4,457.50	3,042.50	112-6214-16-00	PROFESSIONAL SERVICES	112	16	Aquatic Center / Middleton Property feasibility study
NETSYNC NETWORK SOLUTIONS	210516	04/14/21	61,777.00	30,123.90	31,653.10	112-6328-11-00	IT SERVICES	112	11	Hardware for TOL UC Refresh
NETSYNC NETWORK SOLUTIONS	210516	04/14/21	84,174.00	45,572.40	38,601.60	112-6630-11-00	CAPITAL OUTLAY	112	11	Hardware for TOL UC Refresh
3M COGENT, INC.	210609	06/01/21	2,750.00	0.00	2,750.00	112-6255-30-00	SERVICE CONTRACT OFFICE EQUIPM	112	30	Jail Software
3M COGENT, INC.	210609	06/01/21	274.83	0.00	274.83	112-6309-30-00	JAIL SUPPLIES	112	30	Jail Software
ENTERPRISE FM TRUST	210293	12/17/20	50,213.54	0.00	50,213.54	112-6630-45-00	CAPITAL OUTLAY	112	45	animal control truck
URBAN INFRACONSTRUCTION LLC	210600	05/25/21	1,449,602.16	1,028,424.51	421,177.65	115-6706-50-00	CONTRACT STREET MAINTENANCE	115	50	ASM
DUNAWAY ASSOCIATES, LP	200435	03/05/20	20,200.00	19,856.25	343.75	202-6728-10-00	CONSTRUCTION COSTS	202	10	Bay Ridge SW Design
DUNAWAY ASSOCIATES, LP	200436	03/05/20	29,500.00	28,812.50	687.50	202-6728-10-00	CONSTRUCTION COSTS	202	10	Wynfield SW Design
HAVEN LANDSCAPING & IRRIGATION	210399	02/08/21	29,565.00	18,765.00	10,800.00	202-6728-10-00	CONSTRUCTION COSTS	202	10	fence repairs @ Hart Road
PETRI ELECTRIC, INC.	210633	06/10/21	150,961.50	0.00	150,961.50	500-6630-47-00	CAPITAL OUTLAYS - FACILITY M	500	47	Generator and installation for Public Safety backup
CALDWELL COUNTRY CHEVROLET	210667	07/07/21	55,455.00	0.00	55,455.00	500-6630-58-00	CAPITAL OUTLAYS - FIRE	500	58	2021 Chevrolet 1500 Silverado 4X4 Crew Cab - fire
FREES and NICHOLS	210498	04/07/21	19,822.00	17,470.69	2,351.31	612-6214-73-00	PROFESSIONAL SERVICES	612	73	WWTP TPDES Permit Renewal
HIDELL & ASSOCIATES ARCHITECTS	210616	06/03/21	7,800.00	0.00	7,800.00	612-6214-73-00	PROFESSIONAL SERVICES	612	73	Conceptual Planning Services for potential expansion of TOLE Public Works per contract
Pump Solutions, Inc.	210772	09/13/21	2,785.00	0.00	2,785.00	612-6252-71-00	LIFT STATION MAINTENANCE	612	71	Cable replacement for KSB pump
AIR MAC, INC.	210707	08/05/21	3,226.50	0.00	3,226.50	612-6254-72-00	MACHINERY & EQUIPMENT MAINT	612	72	replacement parts for centrifugal blowers
EVOQUA WATER TECHNOLOGIES LLC	210737	09/02/21	60,000.00	0.00	60,000.00	612-6254-72-00	MACHINERY & EQUIPMENT MAINT	612	72	repair of odor scrubbers for WWTP - Council approved
AQUA-AEROBIC SYSTEMS, INC.	210769	09/10/21	4,260.54	0.00	4,260.54	612-6254-72-00	MACHINERY & EQUIPMENT MAINT	612	72	Undercarriage aqua diamond filter repair kit
EVOQUA WATER TECHNOLOGIES LLC	210737	09/02/21	4,671.99	0.00	4,671.99	612-6255-72-00	SERVICE CONTRACT/OFFICE EQUIP.	612	72	repair of odor scrubbers for WWTP - Council approved
HPS, LLC	210715	08/13/21	19,643.61	0.00	19,643.61	612-6357-61-00	WATER METERS	612	61	water meters
HPS, LLC	210715	08/13/21	7,935.00	0.00	7,935.00	612-6357-61-00	WATER METERS	612	61	water meters
HPS, LLC	210715	08/13/21	7,687.47	0.00	7,687.47	612-6357-61-00	WATER METERS	612	61	water meters
HPS, LLC	210715	08/13/21	3,325.00	0.00	3,325.00	612-6357-61-00	WATER METERS	612	61	water meters
HPS, LLC	210715	08/13/21	3,979.59	0.00	3,979.59	612-6357-61-00	WATER METERS	612	61	water meters
HPS, LLC	210715	08/13/21	1,725.00	0.00	1,725.00	612-6357-61-00	WATER METERS	612	61	water meters
HPS, LLC	210715	08/13/21	14,642.82	0.00	14,642.82	612-6357-61-00	WATER METERS	612	61	water meters
HPS, LLC	210715	08/13/21	6,000.00	0.00	6,000.00	612-6357-61-00	WATER METERS	612	61	water meters
HPS, LLC	210715	08/13/21	33,082.61	0.00	33,082.61	612-6357-61-00	WATER METERS	612	61	water meters
HPS, LLC	210715	08/13/21	11,000.00	0.00	11,000.00	612-6357-61-00	WATER METERS	612	61	water meters
CORE & MAIN LP	210717	08/18/21	3,700.00	0.00	3,700.00	612-6357-61-00	WATER METERS	612	61	water meters
WAUKESHA-PEARCE INDUSTRIES LLC	210172	11/02/20	79,500.00	0.00	79,500.00	612-6630-76-02	CAPITAL OUTLAY - W/WW	612	76	Diesel Generator
FREES and NICHOLS	210602	05/25/21	186,561.00	88,614.33	97,946.67	642-6726-72-02	ENGINEERING FEES	642	72	WWTP Fine Bar Screen Addition
FREES and NICHOLS	210433	03/08/21	9,300.00	1,982.27	7,317.73	715-6214-62-00	PROFESSIONAL SERVICES	715	62	2019 SWMP Compliance Update and Permit Year 2 Annual Report
TEAGUE NALL AND PERKINS INC	210546	04/29/21	51,053.12	0.00	51,053.12	829-6726-61-09	ENGINEERING FEES	829	61	King Road design
ALLIANCE GEOTECHNICAL GROUP IN	210779	09/21/21	10,037.50	0.00	10,037.50	829-6726-61-09	ENGINEERING FEES	829	61	materials inspection and testing services for King Road
FREES and NICHOLS	210719	08/18/21	97,155.00	5,211.96	91,943.04	829-6726-61-10	ENGINEERING FEES	829	61	West Side Water System Study
FREES and NICHOLS	210443	03/15/21	89,840.00	62,204.26	27,635.74	829-6726-61-12	ENGINEERING FEES	829	61	Tasks for the AWIA of 2018 Risk and Resilience Assessment and Emergency Response Plan
CANARY CONSTRUCTION, INC.	210718	08/18/21	207,518.00	0.00	207,518.00	829-6728-61-09	CONSTRUCTION COSTS	829	61	King Rd Water and Sewer Improvements
CANARY CONSTRUCTION, INC.	210718	08/18/21	117,622.00	0.00	117,622.00	829-6728-72-03	CONSTRUCTION COSTS	829	72	King Rd Water and Sewer Improvements
KLAUSNER FURNITURE CORPORATION	210752	09/09/21	48,550.20	0.00	48,550.20	843-6732-55-15	FURNITURE AND FIXTURES	843	55	Furniture for The Cove
BLAIS & ASSOCIATES, INC.	210635	06/14/21	114,570.00	6,133.95	108,436.05	871-6725-50-21	ADMINISTRATIVE EXPENSES	871	50	Grant Management for Lobo Lane Technology Park EDA Grant
BLAIS & ASSOCIATES, INC.	210702	08/03/21	39,640.00	11,210.00	28,430.00	871-6725-55-16	ADMINISTRATIVE EXPENSES	871	55	TP&W Outdoor Recreation Grant Program / Cottonwood
TEAGUE NALL AND PERKINS INC	210546	04/29/21	50,900.00	10,446.87	40,453.13	871-6726-50-01	ENGINEERING FEES	871	50	King Road design
ALLIANCE GEOTECHNICAL GROUP IN	210779	09/21/21	10,037.50	0.00	10,037.50	871-6726-50-01	ENGINEERING FEES	871	50	King Road material inspection and testing
LITTLE ELM ECONOMIC DEV CORP	210159	10/28/20	230,000.00	173,082.10	56,917.90	871-6726-50-15	ENGINEERING FEES	871	50	Design of Lakefront Parking Lot
TRC SOLUTIONS, INC.	210636	06/14/21	89,900.00	27,325.00	62,575.00	871-6726-50-21	ENGINEERING FEES	871	50	Design of Lobo Lane Technology Park
DUNAWAY ASSOCIATES, LP	210480	04/01/21	385,245.00	374,083.50	11,161.50	871-6726-55-16	ENGINEERING FEES	871	55	Cottonwood Park PH 1 Improvements - Engineering Services
DUNAWAY ASSOCIATES, LP	210621	06/08/21	233,475.00	106,487.00	126,988.00	871-6726-55-19	ENGINEERING FEES	871	55	The Lawn at The Lakefront Project Design
ALLIANCE GEOTECHNICAL GROUP IN	210780	09/29/21	6,400.00	0.00	6,400.00	871-6726-55-19	ENGINEERING FEES	871	55	Geotech services for Lawn at the Lakefront
PARKHILL, SMITH & COOPER, INC.	210499	04/07/21	120,000.00	85,300.00	34,700.00	871-6726-55-20	ENGINEERING FEES	871	55	FM 423 Green Ribbon Landscaping Project
HIDELL & ASSOCIATES ARCHITECTS	210331	01/05/21	8,400.00	1,680.00	6,720.00	871-6727-10-05	ARCHITECTURAL FEES	871	10	Feasability Study - Rec Center
AUI PARTNERS, LLC	210658	06/30/21	781,469.00	336,345.75	445,123.25	871-6728-10-09	CONSTRUCTION COSTS	871	10	Town Hall expansion and 2nd floor remodel
AUI PARTNERS, LLC	210658	06/30/21	40,000.00	0.00	40,000.00	871-6728-10-09	CONSTRUCTION COSTS	871	10	Town Hall expansion and 2nd floor remodel
LITTLE ELM ECONOMIC DEV CORP	210556	05/04/21	3,097,193.00	2,127,895.32	969,297.68	871-6728-50-15	CONSTRUCTION COSTS	871	50	Lakefront Parking Lot Expansion
CEC FACILITIES GROUP, LLC	210758	09/10/21	54,748.00	0.00	54,748.00	871-6728-50-19	CONSTRUCTION COSTS	871	50	Installation of elec. vehicle charging stations
CEC FACILITIES GROUP, LLC	210758	09/10/21	13,000.00	0.00	13,000.00	871-6728-50-19	CONSTRUCTION COSTS	871	50	Installation of elec. vehicle charging stations
AUSTIN RAYMOND CONSTRUCTION	210535	04/23/21	411,829.82	355,954.83	55,874.99	871-6728-55-15	CONSTRUCTION COSTS	871	55	Aquatic Center Parking Lot
AUSTIN RAYMOND CONSTRUCTION	210535	04/23/21	50,000.00	0.00	50,000.00	871-6728-55-15	CONSTRUCTION COSTS	871	55	Aquatic Center Parking Lot
STAPLES CONTRACT & COMMERCIAL	210723	08/24/21	27,194.96	0.00	27,194.96	871-6732-10-09	FURNITURE AND EQUIPMENT	871	10	Furniture for TH Remodel
STAPLES CONTRACT & COMMERCIAL	210723	08/24/21	12,338.67	0.00	12,338.67	871-6732-10-09	FURNITURE AND EQUIPMENT	871	10	Furniture for TH Remodel
STAPLES CONTRACT & COMMERCIAL	210723	08/24/21	2,603.96	0.00	2,603.96	871-6732-10-09	FURNITURE AND EQUIPMENT	871	10	Furniture for TH Remodel

TOWN OF LITTLE ELM  
FY 2021-2022  
Purchase Order Roll Forward

Vendor Name	PO #	Date	Original Line Amount	Invoice Payments	Remaining Balance	Account	Account Description	Fund	Dept	Description
STAPLES CONTRACT & COMMERCIAL	210723	08/24/21	2,108.85	0.00	2,108.85	871-6732-10-09	FURNITURE AND EQUIPMENT	871	10	Furniture for TH Remodel
STAPLES CONTRACT & COMMERCIAL	210725	08/25/21	46,112.36	0.00	46,112.36	871-6732-10-09	FURNITURE AND EQUIPMENT	871	10	Furniture for TH Remodel
STAPLES CONTRACT & COMMERCIAL	210725	08/25/21	5,336.92	0.00	5,336.92	871-6732-10-09	FURNITURE AND EQUIPMENT	871	10	Furniture for TH Remodel
STAPLES CONTRACT & COMMERCIAL	210725	08/25/21	11,668.75	0.00	11,668.75	871-6732-10-09	FURNITURE AND EQUIPMENT	871	10	Furniture for TH Remodel
FARBER SPECIALTY VEHICLES	210641	06/16/21	599,853.00	0.00	599,853.00	871-6732-30-01	FURNITURE AND EQUIPMENT	871	30	38' Command Center

**TOTAL: 4,552,520.38**

**FUND BREAKDOWN:**

General Fund	148,074.07
Landscape Fund	11,831.25
Street Maintenance Fund	421,177.65
VERF	206,416.5
Utility Fund	277,316.4
2017 CO Bond Fund	97,946.67
Utility CIP Fund	505,809.4
Storm Drainage Fund	7,317.73
2019 CO Bond Fund	48,550.20
Governmental CIP Fund	2,828,080.47

**Grant Total 4,552,520.38**



**Date:** 12/21/2021  
**Agenda Item #:** 5. E.  
**Department:** Economic Development Corporation  
**Strategic Goal:** Maintain operational integrity and viability  
**Staff Contact:** Jennette Espinosa, EDC Executive Director

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**AGENDA ITEM:**

Consider Action to Approve the **Memorandum of Understanding for Work Share between the EDC and the Chamber of Commerce for Jennifer Eusse.**

**DESCRIPTION:**

This MOU states that the EDC and the Chamber wish to share in the utilization of the skills and abilities of an employee. Details of the MOU are as follows:

- EDC Employee will work 40 hours a week for both Parties at an initial salary of \$60,000 including all benefits offered by the Town of Little Elm
- Chamber will pay the EDC for the hours worked by Employee on Chamber work at 33% of the annual salary including benefits
- The rate paid by the Chamber shall be inclusive of all EDC employee costs including, but not limited to, taxes, vacations, sick leave, retirement, benefits, and base salary

**BUDGET IMPACT:**

EDC has budgeted for these additional employee costs and will submit a detailed invoice of the actual hours worked, to the Chamber, on a quarterly basis for reimbursement of 33% of those costs.

**RECOMMENDED ACTION:**

Staff recommends approval.

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**Attachments**

MOU Work Share EDC and Chamber

## **MEMORANDUM OF UNDERSTANDING**

### **Work Share**

This **MEMORANDUM OF UNDERSTANDING**, (hereinafter referred to as the "MOU" in entered into between the Town of Little Elm Economic Development Corporation (hereinafter referred to as "EDC") and the Little Elm Chamber of Commerce (hereinafter referred to as "Chamber") (collectively the "Parties" for the mutual promises and consideration contained herein.

**WHEREAS**, the LEEDC and the Chamber wish to share in the utilization of the skills and abilities of an employee, Jennifer Eusse (hereinafter "Employee"); and

**WHEREAS**, the Parties agree the Chamber will reimburse the EDC for certain functions related to the operations of the Chamber; and

**WHEREAS**, the MOU is intended to memorialize the respective obligations of the Parties, between the Parties; and

**NOW THEREFORE**, in consideration of the mutual promises and releases contained herein and for other good and valuable consideration, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. EDC Employee will work 40 hours a week for the Parties at an initial salary of \$60,000 including medical, vision, dental, TMRS and any other benefit provided by the Town of Little Elm; (Exhibit A)
2. EDC Employee remains an exempt employee of EDC and the hourly rate of pay will be determined by the Director of the EDC;
3. Chamber will pay the EDC for the hours worked by Employee on Chamber work at 33% of the annual salary including benefits;
4. Chamber will pay staff members (Executive Director, Assistant Director and Development Specialist) commission on both new and renewal memberships.
  - a. New Membership will be 20% commission of membership level amount
  - b. Renewal Membership will be 10% commission of the continued membership level amount
  - c. If a former member chooses to rejoin the Chamber, that membership will be considered a new membership and therefore, a 20% commission.

5. The rate paid by the Chamber shall be inclusive of all EDC employee costs including, but not limited to taxes, vacation, sick leave, retirement, benefits and base salary;
6. EDC Employee's employment remains "at-will;" and services provided by EDC employee may be discontinued at any time;
7. EDC shall submit a detailed invoice of actual hours worked quarterly to the Chamber. Details shall include weekly timesheets as provided documentation.
  - a. Quarterly payments will begin with Employee's start date of November 8, 2021. Therefore, the first quarterly payment will be for November and December 2021.
  - b. EDC will invoice the Chamber within 10 business days of conclusion of each quarter.
  - c. Thereafter, quarterly payments will occur as follows:
    - i. First Quarter: January, February, March
    - ii. Second Quarter: April, May June
    - iii. Third Quarter: July, August, September
    - iv. Fourth Quarter: October, November, December
8. This MOU is subject to termination by either Party with (NO/30 days) notice in writing. Electronic mail suffices for the purposed of "written" notification.

**SIGNED** and agreed to this the \_\_\_\_\_ day in the month of \_\_\_\_\_, 2021

**LITTLE ELM ECONOMIC DEVLEOPMENT CORPORATION**

\_\_\_\_\_  
Ken Eaken, President

**LITTLE ELM CHAMBER OF COMMERCE**

\_\_\_\_\_  
Josh Youngblood, Chamber Chairman



**Date:** 12/21/2021  
**Agenda Item #:** 5. F.  
**Department:** Economic Development Corporation  
**Strategic Goal:** Promote and expand Little Elm's identity  
**Staff Contact:** Jennette Espinosa, EDC Executive Director

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**AGENDA ITEM:**

Consider Action to Approve the **Collateral Assignment of Payment of Rights between Hurtado Barbecue Little Elm, LLC, 100 Hardwicke LLC, and Little Elm Economic Development Corporation.**

**DESCRIPTION:**

On or about July 31, 2021, Hurtado Barbecue Little Elm, LLC and the Little Elm EDC entered into that certain Performance Agreement concerning the construction and installation of improvements on the real property commonly described as 100 Hardwicke Lane, Suites 100 and 120, Little Elm, Texas 75068. Upon satisfaction of conditions set forth in the Performance Agreement, Hurtado Little Elm LLC shall be entitled to reimbursement by Little Elm EDC for a portion of the costs of the Improvements made to the Leased Premises in the amount of \$400,000.00. Hurtado Barbecue is assigning these incentives to 100 Hardwicke, LLC, as he is fronting the money for the finish-out.

**BUDGET IMPACT:**

Little Elm EDC agrees to remit payment of the Little Elm EDC Reimbursement payment of \$400,000.00 when due in accordance with the terms of the Performance Agreement directly to 100 Hardwicke, LLC for application to the balance of the Note then outstanding. Hurtado Barbecue, Little Elm LLC acknowledges and agrees that payment of the Little Elm EDC Reimbursement to 100 Hardwicke, LLC as set forth herein shall be in full satisfaction of Little Elm EDC's obligation to reimburse 100 Hardwicke, LLC for leasehold Improvements as set for in the Performance Agreement.

The Incentive Amount for Qualified Expenditures will be submitted in the amount of, and not to exceed Four Hundred Thousand Dollars (\$400,000.00). This amount has been budgeted in the EDC's annual budget for Incentives for the 2021-2022 Fiscal Year.

**RECOMMENDED ACTION:**

Staff recommends approval.

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**Attachments**

Hurtado Incentive Agreement

## COLLATERAL ASSIGNMENT OF PAYMENT RIGHTS

This Collateral Assignment of Payment Rights (this “Agreement”) is made as of December 13, 2021 by and between Hurtado Barbecue Little Elm, LLC, a Texas limited liability company (“Borrower”), 100 Hardwicke LLC, a Texas limited liability company (“Lender”), and Little Elm Economic Development Corporation, a Texas non-profit corporation (“LEEDC”).

### RECITALS:

A. On or about July 31, 2021, Borrower and LEEDC entered into that certain Performance Agreement (the “Performance Agreement”) concerning the construction and installation of improvements (the “Improvements”) on the real property commonly described as 100 Hardwicke Lane, Suites 100 and 120, Little Elm, Texas 75068 (the “Leased Premises”). A true, correct and complete copy of the Performance Agreement is attached to this Agreement as Exhibit A. Upon satisfaction of conditions as set forth in the Performance Agreement, Borrower shall be entitled to reimbursement by LEEDC for a portion of the cost of the Improvements made to the Leased Premises in the amount of \$400,000.00 (the “LEEDC Reimbursement”).

B. On or about the date hereof, Borrower, Lender, and others entered into that certain Promissory Note (the “Note”) for the purpose of financing the construction of the Improvements (i.e., repairs, improvements, alterations, modifications and additions) and other improvements to the Leased Premises.

C. The Note provides that it will be secured by, among other things, a pledge and assignment of all of Borrower’s right in and to the LEEDC Reimbursement.

D. Borrower and Lender agree that Borrower does pledge and assign all of its rights in and to payment of the LEEDC Reimbursement.

NOW THEREFORE, in consideration of the mutual covenants and promises herein contained, Borrower, Lender, and LEEDC agree as follows:

1. Recitals. The Recitals set forth above are true and correct and are hereby incorporated herein by reference.

2. Assignment of Right to Payment. Borrower hereby pledges, assigns, and delivers to Lender all of its rights in and to the LEEDC Reimbursement, including without limitation the right to receive payment from LEEDC pursuant to the Performance Agreement.

3. Obligation Secured. Lender shall accept assignment of the LEEDC Reimbursement to secure Borrower’s obligations under the Note; provided, however, Lender shall not be responsible for and does not accept, and LEEDC hereby waives and releases any right to pursue or make claims against Lender with respect to, any obligations or responsibilities of Borrower under the Performance Agreement.

4. Extension of Deadlines under Performance Agreement. Given the time that elapsed after the Performance Agreement was executed and before Borrower was able to obtain the permits necessary to start and complete the Improvements, all references in the Performance Agreement to March 1 and April 1, 2022 are hereby replaced and amended to be August 1, 2022 (subject to extension on a day for day basis for any delays arising from events and circumstances beyond the reasonable control of Borrower).



5. Consent, Covenants, Representations and Warranties of LEEDC

a. Notwithstanding anything to the contrary in the Performance Agreement, LEEDC, by its execution of this Agreement, hereby acknowledges and consents to Borrower's assignment of the LEEDC Reimbursement as set forth herein and waives any terms and conditions of the Performance Agreement restricting Borrower's right to assign its right to payment of the LEEDC Reimbursement.

b. LEEDC hereby acknowledges, represents, warrants, covenants and agrees, as applicable, with and to and for the benefit of Lender as follows:

i. LEEDC has the full right, power and authority to enter into this Agreement and to consent to the assignment to Lender of the LEEDC Reimbursement. This Agreement is binding upon LEEDC, its successors and assigns, and is legally enforceable in accordance with its terms.

ii. LEEDC hereby ratifies the Performance Agreement.

iii. LEEDC has not given any notice of a breach or default under the terms and provisions of the Performance Agreement and has no knowledge of any default by any party under the Performance Agreement.

iv. LEEDC will notify Lender at the address specified in this Agreement of any request or attempt by Borrower or any other party to amend, replace, restate or otherwise supplement, or any termination, cancellation or suspension of any of the terms and provisions of the Performance Agreement.

v. If Borrower defaults under the Performance Agreement beyond any applicable notice and cure periods, prior to exercising any remedy with respect to such default, LEEDC shall give Lender at least 30 days prior written notice and an opportunity to cure such default, with such cure period extending so long as Lender is using diligent, reasonable efforts to cure such default.

6. Payment of LEEDC Reimbursement. LEEDC agrees to remit payment of the LEEDC Reimbursement payment when due in accordance with the terms of the Performance Agreement directly to Lender for application to the balance of the Note then outstanding. Borrower acknowledges and agrees that payment of the LEEDC Reimbursement to Lender as set forth herein shall be in full satisfaction of LEEDC's obligation to reimburse Borrower for leasehold Improvements as set forth in the Performance Agreement.

7. Representations and Warranties with Respect to the LEEDC Reimbursement. Borrower represents and warrants to Lender that:

a. *Ownership.* Subject to the terms of this agreement, Borrower is entitled to payment of the LEEDC Reimbursement subject to and as set forth in the Performance Agreement.

b. *Right to Pledge.* Borrower has the full right, power and authority to enter into this Agreement and to assign the LEEDC Reimbursement and all right to payment from LEEDC pursuant to the Performance Agreement. This Agreement is binding upon LEEDC, its successors and assigns, and is legally enforceable in accordance with its terms.

c. *No Assignment.* Borrower has not, and shall not, sell, assign, transfer, encumber or otherwise dispose of any of Borrower's rights in and to the LEEDC Reimbursement, except as set forth herein.

d. *No Violation.* The execution and delivery of this Agreement will not violate any law or agreement governing Borrower or to which Borrower is a party.

8. Financing Statements. Borrower authorizes Lender to file a UCC financing statement, or alternatively, a copy of this Agreement to perfect Lender's security interest. At Lender's request, Borrower additionally agrees to sign and/or authenticate all other documents that are necessary to perfect, protect, and continue Lender's security interest in the LEEDC Reimbursement. Borrower will pay all filing fees, title transfer fees, and other fees and costs involved unless prohibited by law or unless Lender is required by law to pay such fees and costs.

9. Notices. Any notice, request, consent, or demand required hereunder will be in writing unless otherwise provided, and will be delivered by courier services that provide a receipt, personal delivery, or registered or certified mail (postage prepaid), and will be deemed delivered when actually received at the following addresses:

To Borrower: Hurtado Barbecue Little Elm, LLC  
Attn.: Brandon Hurtado  
100 Hardwicke Lane, Suite 100  
Little Elm, Texas 75068

To Lender: 100 Hardwicke LLC  
Attn.: Richard Pray  
2720 Pine Trail Drive  
Little Elm, Texas 75068

To LEEDC: Little Elm Economic Development Corporation  
Attn.: Jennette Espinosa, Executive Director  
100 W. Eldorado Parkway  
Little Elm, Texas 75068

10. Interpretation. The headings of the Articles and Sections of this Agreement are for convenience only and shall not be considered in construing or interpreting any of the terms or provisions hereof. Whenever required by the context, any pronoun used in this Agreement shall include the corresponding masculine, feminine, or neuter forms, and the singular form of nouns, pronouns, and verbs shall include the plural and vice versa. The use of the word "including" in this Agreement shall be by way of example rather than by limitation. Reference to any agreement, document, or instrument means such agreement, document, or instrument as amended or otherwise modified from time to time in accordance with the terms thereof, and if applicable hereof. Wherever required by the context, references to a fiscal year shall refer to a portion thereof. The use of the words "or," "either," and "any" shall not be exclusive. The parties hereto have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties hereto, and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement. Wherever a conflict exists between this Agreement and the Performance Agreement, this Agreement shall control but solely to the extent of such conflict.

11. Attorney's Fees; Expenses. Borrower agrees to pay upon demand all of Lender's costs

and expenses, including Lender's reasonable attorneys' fees and Lender's legal expenses, incurred in connection with the enforcement of this Agreement. Lender may hire or pay someone else to help enforce this Agreement, and Borrower shall pay the costs and expenses of such enforcement. Costs and expenses include Lender's reasonable attorneys' fees and legal expenses whether or not there is a lawsuit, including Lender's reasonable attorneys' fees and legal expenses for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appeals, and any anticipated post-judgment collection services. Borrower also shall pay all court costs and such additional fees as may be directed by the court.

12. Modification, Amendments, and Alterations. All amendments, modifications, and alterations of this Agreement will be made in writing and executed with like formalities hereof.

13. Successors and Assigns; Survival. This Agreement will be binding upon and inure to the benefit of Borrower, Lender and LEEDC and their respective successors and assigns.

14. Assignment. Borrower and LEEDC will not assign or transfer any of the rights under this Agreement without the written consent of Lender. A change of control or ownership shall be considered an assignment.

15. Waiver. Neither the failure nor the delay on the part of Lender to exercise any right, power, or privilege under this Agreement or any other Loan Document will operate as a waiver thereof, nor will any single or partial exercise of any such right, power, or privilege preclude any other or further exercise thereof, or the exercise of any other right, power, or privilege.

16. Severability. If a court of competent jurisdiction finds any provision of this Agreement to be illegal, invalid, or unenforceable as to any circumstance, that finding shall not make the offending provision illegal, invalid, or unenforceable as to any other circumstance. If feasible, the offending provision shall be considered modified so that it becomes legal, valid and enforceable. If the offending provision cannot be so modified, it shall be considered deleted from this Agreement. Unless otherwise required by law, the illegality, invalidity, or unenforceability of any provision of this Agreement shall not affect the legality, validity, or enforceability of any other provision of this Agreement.

17. Governing Law, Construction and Venue. This Agreement will be governed by and construed in accordance with the laws of the State of Texas. To the extent that Lender has greater rights or remedies under federal law, this paragraph shall not be deemed to deprive Lender of such rights and remedies as may be available under federal law. For the purposes of this Agreement, any suit or cause of action as between the parties will be in Denton County, Texas, unless and except a suit is brought in Federal District Court, then it will be brought in the United States District Court for the Northern District of Texas, to which jurisdiction Borrower and LEEDC irrevocably submit and to which venue Borrower and LEEDC waive to the fullest extent permitted by law any defense asserting an inconvenient forum in connection therewith.

18. Waiver of Jury Trial. TO THE FULLEST EXTENT PERMITTED BY LAW, EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY AND EXPRESSLY WAIVES ALL RIGHT TO A TRIAL BY JURY IN ANY ACTION, PROCEEDING, OR COUNTERCLAIM (WHETHER BASED UPON CONTRACT, TORT, OR OTHERWISE) ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE ACTIONS OF LENDER IN THE NEGOTIATION, ADMINISTRATION, OR ENFORCEMENT THEREOF.

19. Consultation with Advisors. Borrower and LEEDC acknowledge that they have had opportunity to, and to the extent that they deemed necessary, have consulted with counsel and with such

other experts and advisors as they have deemed necessary in connection with the negotiation, execution, and delivery of this Agreement. This Agreement shall be construed without regard to any presumption or rule requiring that they be construed against the party causing them or any part thereof to be drafted.

20. Notice of Entire Agreement; Controlling Document. THIS AGREEMENT REPRESENTS THE ENTIRE AGREEMENT BETWEEN THE PARTIES WITH RESPECT TO THE SUBJECT MATTER HEREOF AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS AMONG THE PARTIES. IN THE EVENT OF A CONFLICT BETWEEN THIS AGREEMENT AND ANY OTHER DOCUMENTS, THIS AGREEMENT SHALL CONTROL.


21. Imaging of Loan Documents; Countersignatures. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Signing and sending a counterpart (or a signature page detached from the counterpart) by facsimile or other electronic means to another party will have the same legal effect as signing and delivering an original counterpart to the other party. A copy (including a copy produced by facsimile or other electronic means) of any signature page that has been signed by or on behalf of a party will be as effective as the original signature page for the purpose of proving such party's agreement to be bound.

*[Remainder of page intentionally left blank; signatures appear on following page(s)]*

IN WITNESS WHEREOF, Borrower, Lender and LEEDC have duly executed this Agreement on the date and year first written above.

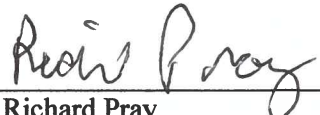
**BORROWER:**

Hurtado Barbecue Little Elm, LLC

By:   
Brandon Hurtado  
Chief Executive Officer

**LENDER:**

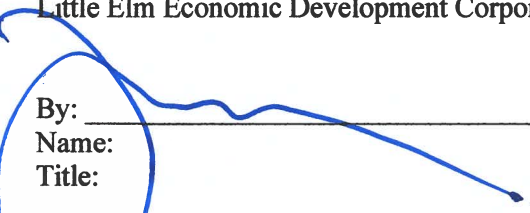
100 Hardwicke LLC

By:   
Richard Pray  
Manager



**LEEDC:**

Little Elm Economic Development Corporation

By:   
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

*[Signature Page to Collateral Assignment of Payment Rights]*

**EXHIBIT A**  
**Copy of the Performance Agreement**

**[Attached]**



## **PERFORMANCE AGREEMENT**

This **PERFORMANCE AGREEMENT** by and between **HURTADO BARBECUE, LITTLE ELM LLC**, a Texas limited liability company (hereinafter referred to as "Developer"), and the **LITTLE ELM ECONOMIC DEVELOPMENT CORPORATION**, a Texas non-profit corporation (hereinafter referred to as the "LEEDC"), is made and executed on the following recitals, terms and conditions.

**WHEREAS**, LEEDC is an economic development corporation operating pursuant to Chapter 504 of the Texas Local Government Code, as amended (also referred to as the "Act"), and the Texas Non-Profit Corporation Act, as codified in the Texas Business Organizations Code, as amended; and

**WHEREAS**, Section 501.103 of the Texas Local Government Code, in pertinent part, defines the term "project" to mean "expenditures that are found by the board of directors to be required or suitable for infrastructure necessary to promote or develop new or expanded business enterprises, limited to: (1) streets and roads, rail spurs, water and sewer utilities, electric utilities, or gas utilities, drainage, site improvements, and related improvements; (2) telecommunications and Internet improvements . . ."; and

**WHEREAS**, Section 501.158 of the Texas Local Government Code prohibits the provision of a direct incentive unless LEEDC enters into an Agreement with Developer providing at a minimum a schedule of additional payroll or jobs to be created or retained by LEEDC's investment; a schedule of capital investments to be made as consideration for any direct incentives provided by LEEDC to Developer; and a provision specifying the terms and conditions upon which repayment must be made should Developer fail to meet the agreed to performance requirements specified in this Agreement; and

**WHEREAS**, Developer has applied to LEEDC for financial assistance necessary for the construction of Qualified Expenditures to be made to the property generally located at 100 Hardwicke, Suite 100 and Suite 120, Town of Little Elm, Texas (hereinafter referred to as the "Property"); and

**WHEREAS**, the LEEDC's Board of Directors have determined the financial assistance provided to Developer for the Qualified Expenditures to be made to the Property is consistent with and meets the definition of "project" as that term is defined in Section 501.103 of the Texas Local Government Code; and the definition of "cost" as that term is defined by Section 501.152 of the Texas Local Government Code; and

**WHEREAS**, Developer agrees and understands that Section 501.073(a) of the Texas Local Government Code requires the Town Council of the Town of Little Elm, Texas, to approve all programs and expenditures of the LEEDC, and accordingly this Agreement is not effective until Town Council has approved this project at a Town Council meeting called and held for that purpose.

**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 LEEDC and Developer agree as follows:

## **SECTION 1. FINDINGS INCORPORATED.**

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

## **SECTION 2. TERM.**

This Agreement shall be effective as of the Effective Date, and shall continue thereafter until **December 31, 2036**, unless terminated sooner under the provisions hereof.

## **SECTION 3. DEFINITIONS.**

The following words shall have the following meanings when used in this Agreement.

- (a) **Act.** The word "Act" means Chapters 501 to 505 of the Texas Local Government Code, as amended.
- (b) **Agreement.** The word "Agreement" means this Performance Agreement, together with all exhibits and schedules attached to this Performance Agreement from time to time, if any.
- (c) **Developer.** The word "Developer" means Hurtado Barbecue, Little Elm LLC, a Texas limited liability company, its successors and assigns, whose address for the purposes of this Agreement is 100 Hardwicke, Suite 100, Little Elm, Texas 75068.
- (d) **Effective Date.** The words "Effective Date" mean the date of the latter to execute this Agreement by and between the LEEDC and Developer.
- (e) **Event of Default.** The words "Event of Default" mean and include any of the Events of Default set forth below in the section entitled "Events of Default."
- (f) **Full-Time Equivalent Employment Position.** The words "Full-Time Equivalent Employment Position" or "Full-Time Equivalent Employment Positions" mean and include a job requiring a minimum of One Thousand Eight Hundred Twenty (1,820) hours of work averaged over a twelve (12) month period.
- (g) **LEEDC.** The term "LEEDC" means the Little Elm Economic Development Corporation, a Texas non-profit corporation, its successors and assigns, whose corporate address for the purposes of this Agreement is 100 W. Eldorado Parkway, Little Elm, Texas 75068.



- (h) **Property.** The word "Property" means 100 Hardwicke, Suite 100 and Suite 120, Little Elm, Texas 75068.
- (i) **Qualified Expenditures.** The words "Qualified Expenditures" mean those expenditures consisting of the construction and installation of improvements, consisting of a minimum 5,935 square foot Hurtado Barbecue Restaurant located on the Property, and those expenses which otherwise meet the definition of "project" as that term is defined by Section 501.103 of the Act, and the definition of "cost" as that term is defined by Section 501.152 of the Act.
- (j) **Term.** The word "Term" means the term of this Agreement as specified in Section 2 of this Agreement.

#### **SECTION 4. AFFIRMATIVE COVENANTS OF DEVELOPER.**

Developer covenants and agrees with LEEDC that, while this Agreement is in effect, it shall comply with the following terms and conditions:

- (a) **Qualified Expenditures.** Developer covenants and agrees to submit to the LEEDC upon request, invoices, receipts, or other documentation of the Qualified Expenditures made to the Property in a form acceptable to the LEEDC prior to any reimbursement. Developer covenants and agrees to provide to the LEEDC upon request said invoices, receipts, or other documentation in the amount not to exceed **Four Hundred Thousand and No/100 Dollars (\$400,000.00)** by **April 1, 2022**.
- (b) **Rules Governing Construction, Additions, and Alterations.** The following rules will govern construction, additions, and alterations of the building or other improvements on the Property and the landlord will have final authority.
  - i. Landlord must at his own expense, engage a licensed architect or engineer to prepare plans and specifications for finish out, improvements, additions and/or alterations to the building and submit the same to the Town of Little Elm for approval in advance of any construction; which such approval shall not be unreasonably withheld or delayed. A simulation of plans for building renovations are depicted in *Exhibit A*.
  - ii. **Building Permit.** The Developer covenants and agrees to make application to receive a building permit by **October 31, 2021** from the Town of Little Elm, Texas, for 5,935 square feet of commercial space located on the land at 100 Hardwicke, Little Elm, Texas. The LEEDC shall cause the Town of Little Elm to waive all permit fees.
  - iii. **Certificate of Occupancy.** Developer covenants and agrees to obtain or cause to be obtained by **March 1, 2022**, a Certificate of Occupancy from the Town of

Little Elm, Texas, for a minimum of 5,935 square feet for Hurtado Barbecue Restaurant space located on the Property.

- (b) **Name of Business.** The Developer agrees not to change the advertised name of the place of business operated in the premises from "Hurtado Barbecue" to another name without the LEEDC's written consent.
- (c) **Operation of Developer's Business.** Throughout the Term, Developer shall keep its business in the Property fully stocked and adequately staffed to meet reasonably anticipatable demand and Developer shall conduct such business in good faith and in a reputable manner. Throughout the Term, Developer shall occupy the entire Property and hold such business open to the public not fewer than six hours per day, six (6) days per week, except that Developer need not be open on legal holidays.
- (d) **Other Locations.** Developer and those owning a majority of the outstanding membership interest of Developer shall not operate a similar business to the business operated at the Property within a 25 minute drive time of the Property during the Term of this Agreement.
- (e) **Operate Hurtado Barbecue Restaurant.** Developer covenants and agrees by March 1, 2022, and during the Term of this Agreement to keep open to the general public the Hurtado Barbecue Restaurant located on the Property, for a term of fifteen (15) years.
- (f) **Job Creation and Retention.** Developer covenants and agrees by March 1, 2022, and during the Term of this Agreement to employ and maintain a minimum of thirty-five (35) Full-Time Equivalent Employment Positions working at the Property. Developer covenants and agrees beginning on April 1, 2023 (for the initial reporting period of March 1, 2022 to February 28, 2023), and during the Term of this Agreement, Developer shall deliver to LEEDC upon request an annual compliance verification signed by a duly authorized representative of Developer that shall certify the number of Full-Time Equivalent Employment Positions, and shall disclose and certify the average wage for all Full-Time Equivalent Employment Positions (the "Annual Compliance Verification"). The Developer covenants and agrees beginning on April 1, 2023, and annually thereafter during the Term of this Agreement, there will be a total of fifteen (15) Annual Compliance Verifications due and submitted to LEEDC covering the Full-Time Equivalent Employment Positions created and maintained during the Term of this Agreement. All Annual Compliance Verifications shall include quarterly IRS 941 returns, or Texas Workforce Commission Employer Quarterly Reports.
- (e) **Chamber of Commerce.** Developer agrees to obtain a Pontoon Level membership or higher prior to opening for business (obtained CO) and agrees to maintain said membership for the Term of this Agreement.
- (f) **Performance Conditions.** Developer agrees to make, execute and deliver to LEEDC

such other promissory notes, instruments, documents and other agreements as LEEDC or its attorneys may reasonably request to evidence this Agreement. Developer agrees to perform and comply with all terms, conditions, and provisions set forth in this Agreement and in all other instruments and agreements between Developer and LEEDC.

- (h) **Property Rights.** All alterations, additions, improvements, floor coverings, fixtures and removable trade fixtures which may be made or installed by any of the parties hereto upon the Property and which in any manner are attached to the floors, roof, walls, or ceilings, and all exterior signs, shall remain at the termination of this agreement become the property thereof without damage or injury to the Property or to such property, or landlord may require removal of any of the same.

## **SECTION 5. AFFIRMATIVE COVENANTS OF LEEDC.**

LEEDC covenants and agrees with Developer that, while this Agreement is in effect, LEEDC shall comply with the following terms and conditions:

- (a) **Financial Assistance.** LEEDC covenants and agrees to submit reimbursement for Qualified Expenditures made by the Developer in the amount of **Four Hundred Thousand and No/100 Dollars (\$400,000.00)** within thirty (30) days of receipt of invoices, receipts, or other documentation in the minimum amount of **Four Hundred Thousand and No/100 Dollars (\$400,000.00)** by **April 1, 2022**, consistent with Section 4(a) of this Agreement, and receives a certificate of occupancy and is open for business consistent with Sections 4(b) and 4(c) of this Agreement.
- (b) **Performance.** LEEDC agrees to perform and comply with all terms, conditions, and provisions set forth in this Agreement and in all other instruments and agreements by and between LEEDC and the Developer.

## **SECTION 6. CESSATION OF ADVANCES.**

If LEEDC has made any commitment to provide financial assistance to Developer, whether under this Agreement or under any other agreement, LEEDC shall have no obligation to advance or disburse financial assistance if: (i) Developer becomes insolvent, files a petition in bankruptcy or similar proceedings, or is adjudged bankrupt; or (ii) an Event of Default occurs.

## **SECTION 7. EVENTS OF DEFAULT.**

Each of the following shall constitute an Event of Default under this Agreement:

- (a) **General Event of Default.** Failure of Developer or LEEDC to comply with or to perform any other term, obligation, covenant or condition contained in this Agreement, or failure of Developer or LEEDC to comply with or to perform any other term, obligation, covenant or condition contained in any other agreement by and between Developer and LEEDC is an



#### Event of Default.

- (b) **False Statements.** Any warranty, representation, or statement made or furnished to LEEDC by or on behalf of Developer under this Agreement that is false or misleading in any material respect, either now or at the time made or furnished is an Event of Default.
- (c) **Insolvency.** Developer's insolvency, appointment of receiver for any part of Developer's property, any assignment for the benefit of creditors of Developer, any type of creditor workout for Developer, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Developer is an Event of Default.
- (d) **Ad Valorem Taxes.** Developer allows its ad valorem taxes owed to the Town of Little Elm, Texas, to become delinquent and fails to timely and properly follow the legal procedures for protest and/or contest of such taxes and to cure such failure within thirty (30) days after written notice thereof from LEEDC and/or Denton County Central Appraisal District is an Event of Default.

#### SECTION 8. EFFECT OF AN EVENT OF DEFAULT.

In the event of default under Section 7 of this Agreement, the non-defaulting party shall give written notice to the other party of any default, and the defaulting party shall have thirty (30) days to cure said default. Should said default remain uncured as of the last day of the applicable cure period, and the non-defaulting party is not otherwise in default, the non-defaulting party shall have the right to immediately terminate this Agreement. In the event, Developer defaults and is unable or unwilling to cure said default within the prescribed time period, the amounts provided by LEEDC to Developer pursuant to Section 5(a) of this Agreement (the "Total Incentive") shall become immediately due and payable by Developer to LEEDC, in the follow manner. The Event of Default occurs:

Effective Date through December 31, 2022	100% of Total Incentive;
Calendar Year 2023	93.33% of Total Incentive;
Calendar Year 2024	86.67% of Total Incentive;
Calendar Year 2025	80.00% of Total Incentive;
Calendar Year 2026	73.33% of Total Incentive;
Calendar Year 2027	66.67% of Total Incentive;
Calendar Year 2028	60.00% of Total Incentive;
Calendar Year 2029	53.33% of Total Incentive;
Calendar Year 2030	46.67% of Total Incentive;
Calendar Year 2031	40.00% of Total Incentive;
Calendar Year 2032	33.33% of Total Incentive;
Calendar Year 2033	26.67% of Total Incentive;
Calendar Year 2034	20.00% of Total Incentive;
Calendar Year 2035	13.33% of Total Incentive; and
Calendar Year 2036	6.67% of Total Incentive.

## **SECTION 9. INDEMNIFICATION.**

Developer shall indemnify, save, and hold harmless LEEDC, its directors, officers, agents, attorneys, and employees (collectively, the "Indemnitees") from and against: (i) any and all claims, demands, actions or causes of action that are asserted against any Indemnatee if the claim, demand, action or cause of action directly or indirectly relates to tortious interference with contract or business interference, or wrongful or negligent use of LEEDC's financial assistance by Developer or its agents and employees; (ii) any administrative or investigative proceeding by any governmental authority directly or indirectly related, to a claim, demand, action or cause of action in which LEEDC is a disinterested party; (iii) any claim, demand, action or cause of action which directly or indirectly contests or challenges the legal authority of LEEDC or Developer to enter into this Agreement; and (iv) any and all liabilities, losses, costs, or expenses (including reasonable attorneys' fees and disbursements) that any Indemnatee suffers or incurs as a result of any of the foregoing; provided, however, that Developer shall have no obligation under this Section to LEEDC with respect to any of the foregoing arising out of the gross negligence or willful misconduct of LEEDC or the breach by LEEDC of this Agreement. If any claim, demand, action or cause of action is asserted against any Indemnatee, such Indemnatee shall promptly notify Developer, but the failure to so promptly notify Developer shall not affect Developer's obligations under this Section unless such failure materially prejudices Developer's right to participate in the contest of such claim, demand, action or cause of action, as hereinafter provided. If requested by Developer in writing, as so long as no Default or Event of Default shall have occurred and be continuing, such Indemnatee shall in good faith contest the validity, applicability and amount of such claim, demand, action or cause of action and shall permit Developer to participate in such contest. Any Indemnatee that proposes to settle or compromise any claim, demand, action, cause of action or proceeding for which Developer may be liable for payment of indemnity hereunder shall give Developer written notice of the terms of such proposed settlement or compromise reasonably in advance of settling or compromising such claim or proceeding and shall obtain Developer's concurrence thereto.

## **SECTION 10. MISCELLANEOUS PROVISIONS.**

The following miscellaneous provisions are a part of this Agreement:

- (a) **Amendments.** This Agreement constitutes the entire understanding and agreement of the parties as to the matters set forth in this Agreement. No alteration of or amendment to this Agreement 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 Agreement shall be governed by and construed in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Denton County, Texas. Venue for any action arising under

this Agreement shall lie in the state district courts of Denton County, Texas.

- (c) **Assignment.** This Agreement may not be assigned without the express written consent of the other party.
- (d) **Binding Obligation.** This Agreement shall become a binding obligation on the signatories upon execution by all signatories hereto. Developer warrants and represents that the individual or individuals executing this Agreement on behalf of Developer has full authority to execute this Agreement and bind Developer to the same. LEEDC warrants and represents that the individual executing this Agreement on its behalf has full authority to execute this Agreement and bind it to the same.
- (e) **Caption Headings.** Caption headings in this Agreement are for convenience purposes only and are not to be used to interpret or define the provisions of the Agreement.
- (f) **Counterparts.** This Agreement 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.
- (g) **Notices.** Any notice or other communication required or permitted by this Agreement (hereinafter referred to as the "Notice") is effective when in writing and (i) personally delivered either by facsimile (with electronic information and a mailed copy to follow) or by hand or (ii) three (3) days after notice is deposited with the U.S. Postal Service, postage prepaid, certified with return receipt requested, and addressed as follows:

if to LEEDC:

Little Elm Economic Development Corporation  
100 W. Eldorado Parkway  
Little Elm, Texas 75068  
Attn: Jennette Espinosa, Executive Director  
Telephone: (214) 975-0455  
jke@littleelm.org

With copy to:

Brown and Hofmeister, LLP.  
740 East Campbell Road, Suite 800  
Richardson, Texas 75081  
Attn: Jeff Moore, Esq.  
214-747-6109  
jmoore@bhlaw.net

if to Developer:

Hurtado Barbecue, Little Elm LLC  
100 Hardwicke Lane, Suite 100  
Little Elm, Texas 75068  
Attn: Brandon Hurtado  
Telephone: 682-401-7888

info@hurtadobbq.com

With copy to:

Kobty Law Firm, PLLC  
900 West Abram Street  
Arlington, Texas 76013  
Attn: Hani Kobty  
817-223-0989  
hani@kobtylawfirm.com

- (h) **Severability.** If a court of competent jurisdiction finds any provision of this Agreement to be invalid or unenforceable as to any person or circumstance, such finding shall not render that provision invalid or unenforceable as to any other persons or circumstances. If feasible, any such offending provision shall be deemed to be modified to be within the limits of enforceability or validity; however, if the offending provision cannot be so modified, it shall be stricken and all other provisions of this Agreement in all other respects shall remain valid and enforceable.
- (i) **Time is of the Essence.** Time is of the essence in the performance of this Agreement.
- (j) **Undocumented Workers.** Developer certifies that the Developer does not and will not knowingly employ an undocumented worker in accordance with Chapter 2264 of the Texas Government Code, as amended. If during the Term of this Agreement, Developer is convicted of a violation under 8 U.S.C. § 1324a(f), Developer shall repay the amount of the public subsidy provided under this Agreement plus interest, at the rate of six percent (6%), not later than the 120<sup>th</sup> day after the date the LEEDC notifies Developer of the violation.

**[The Remainder of this Page Intentionally Left Blank]**



**DEVELOPER ACKNOWLEDGES HAVING READ ALL THE PROVISIONS OF THIS PERFORMANCE AGREEMENT, AND DEVELOPER AGREES TO ITS TERMS. THIS PERFORMANCE AGREEMENT IS EFFECTIVE AS OF THE EFFECTIVE DATE AS DEFINED HEREIN.**



**ATTEST:**

*Jennette Espinosa*

Jennette Espinosa, Executive Director

**LEEDC:**

**LITTLE ELM ECONOMIC  
DEVELOPMENT CORPORATION,**  
a Texas non-profit corporation

By: Ken Eaken, President

Date Signed: August 9, 2021

**DEVELOPER:**

**HURTADO BARBECUE, LITTLE ELM LLC**  
a Texas limited liability company,

By: *Brandon Hurtado*  
Brandon Hurtado, Owner

Date Signed: 7/31/21



***Exhibit A***

**Building Plans for Remodel**



**AO.01**

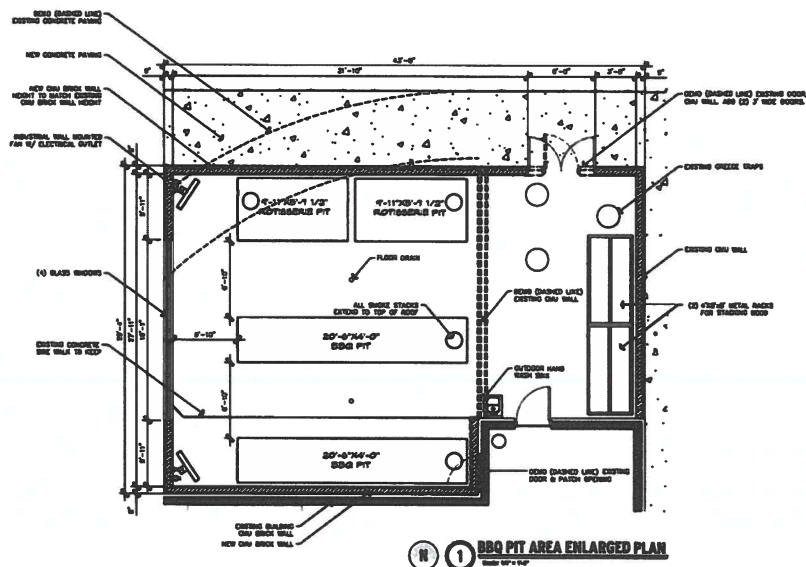
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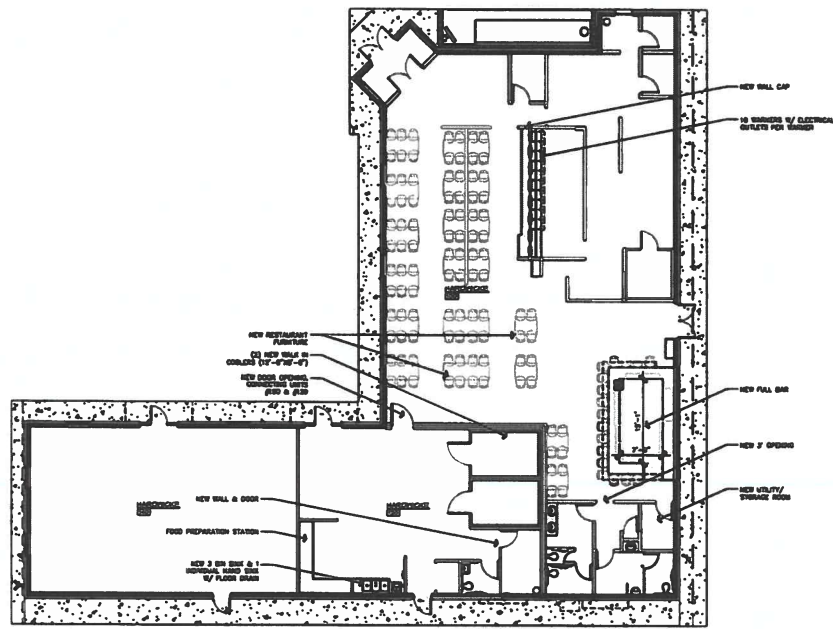


304 S. ONE STREET, STE. 200  
 ROANOKE, VA 24002  
 PH 1 817 430 3382  
 ROARCHITECTS.COM



**PRELIMINARY**  
 NOT FOR CONSTRUCTION OR PERMITTING  
 THIS DRAWING IS THE PROPERTY OF  
 ROARCHITECTS AND SHALL NOT BE  
 REPRODUCED OR USED IN ANY MANNER  
 WITHOUT WRITTEN PERMISSION

**100 HARDWICKE - HURTADO BBO RENOVATION**  
 100 Hardwicke, Fairfax, VA



**1 FINISH FLOOR PLAN**  
 SCALE: 1/8" = 1'-0"

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**Date:** 12/21/2021  
**Agenda Item #:** 5. G.  
**Department:** Economic Development Corporation  
**Strategic Goal:** Maintain operational integrity and viability  
**Staff Contact:** Jennette Espinosa, EDC Executive Director

---

**AGENDA ITEM:**

Consider Action to Approve a **Release of Claim between the Village at Lakefront, LLC, Little Elm EDC, and Town of Little Elm to Voluntarily and Knowingly Execute this Release with the Express Intention of Effecting the Extinguishment of all Claims Designated in this Release.**

**DESCRIPTION:**

Details of the **Release of Claims** are as follows:

- Located in the Buildings is an existing three-inch (3") water line located in the domestic riser room located on the Property.
- The Water Line needs to be split and two (2) water meters installed to accommodate two (2) tenants to be located in the Building

The Town of Little Elm is willing to authorize the installation of the Improvements by the Owner provided the Town receives this release of claim and the following:

- The Owner provides the Town a key to the riser room location on the Property; or
- The Owner installs a keypad entry to the riser room located on the Property; and provides a code for access to Town Staff

**BUDGET IMPACT:**

No budget impact on this item.

**RECOMMENDED ACTION:**

Staff recommends approval.

---

**Attachments**

Release of Claims - Village at Lakefront

## RELEASE OF CLAIMS

STATE OF TEXAS

§

COUNTY OF DENTON

§

§

The undersigned, John L. Bailey, President of Village Management Inc., as Manager of **VILLAGE AT LAKEFRONT, LLC**, a Texas limited liability company (hereinafter referred to as the “Owner”), voluntarily and knowingly executes this release with the express intention of effecting the extinguishment of all claims designated in this release.

**WHEREAS**, the Owner is the owner of a 5,948 square foot Retail Building, and is more particularly described and depicted in *Exhibit A*, which is attached hereto and is incorporated herein for all purposes (hereinafter referred to as the “Building”); located on approximately 0.74-acres of land, owned by the Little Elm EDC, located at 211 E. Eldorado Parkway, within the Town of Little Elm, Denton County, Texas, and

**WHEREAS**, located in the Building is an existing three-inch (3”) water line located in the riser room located on the Property (hereinafter referred to as the “Water Line”); and

**WHEREAS**, Water Line needs to be split and two (2) water meters installed to accommodate two (2) tenants to be located in the Building (hereinafter referred to as the “Improvements”); and

**WHEREAS**, the Town of Little Elm, Texas (hereinafter referred to as the “Town”) is willing to authorize the installation of the Improvements by the Owner provided the Town receives this release of claims and the following:

- (1) the Owner provides the Town a key to the riser room located on the Property; or
- (2) the Owner installs a keypad entry to the riser room located on the Property, and provides a code for access to Town staff.

The undersigned, with the intention of binding the undersigned, and the undersigned’s successors, and assigns, expressly releases and discharges the Town and its successors and assigns, from all claims, demands, actions, judgments, and executions which the undersigned ever had, or now has, or may have, or which the undersigned’s successors or assigns may have, or claim to have, created by, or arising out of the Improvements installed in the Building.

I, the undersigned, have read this release and understand all of its terms. I execute it voluntarily and with full knowledge of its significance.

Dated December \_\_\_\_\_, 2021.

**VILLAGES AT LAKEFRONT:**

**VILLAGES AT LAKEFRONT, LLC,**  
a Texas limited liability company,

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

By: \_\_\_\_\_  
John L. Bailey, President of Manager

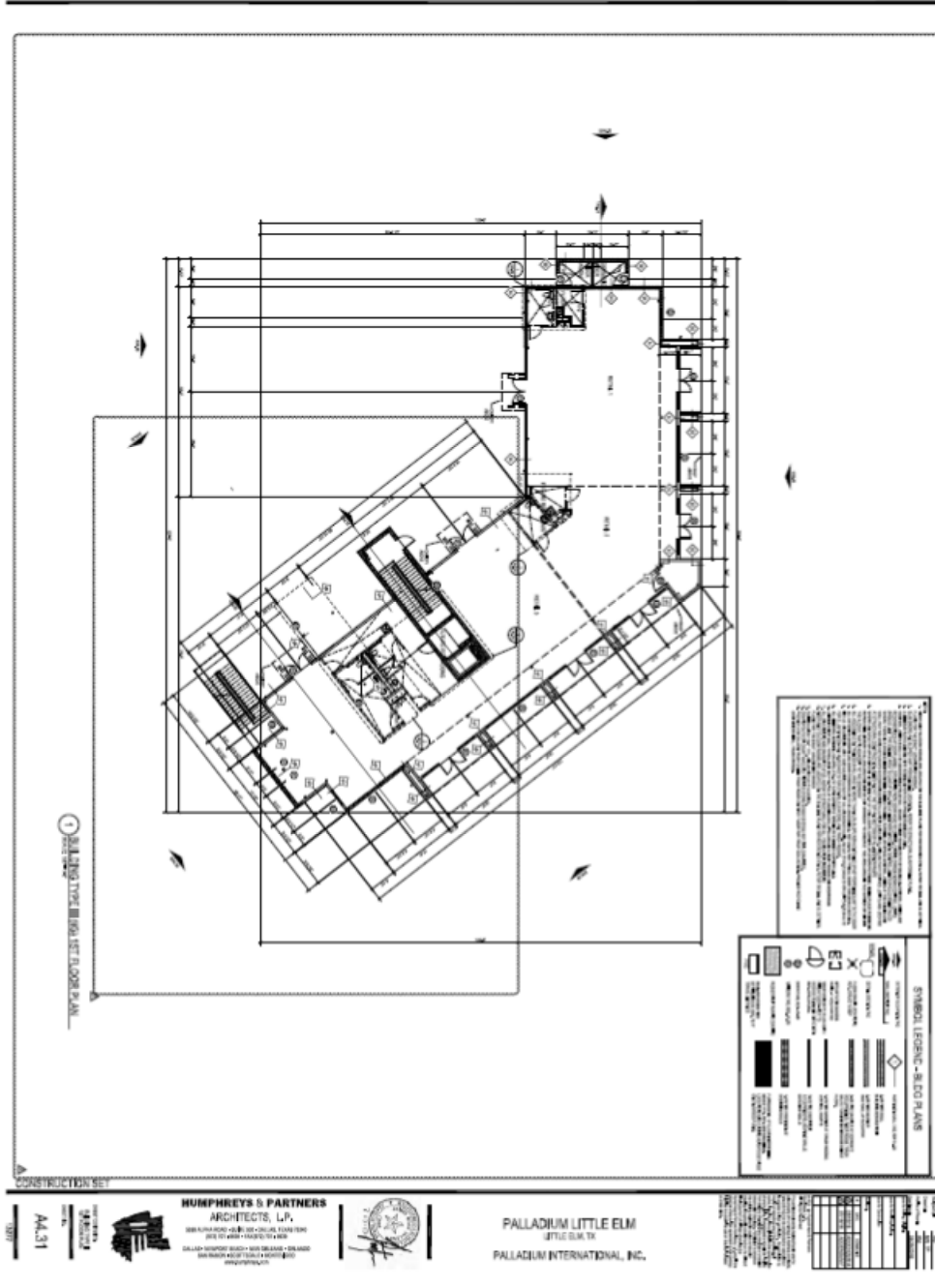
**THE STATE OF TEXAS           §**  
**§**  
**COUNTY OF DENTON           §**

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, of behalf of said company.

\_\_\_\_\_  
Notary Public in and for the State of Texas

*Exhibit A*

Building Plan







**Date:** 12/21/2021  
**Agenda Item #:** 5. H.  
**Department:** Economic Development Corporation  
**Strategic Goal:** Maintain operational integrity and viability  
**Staff Contact:** Jennette Espinosa, EDC Executive Director

---

**AGENDA ITEM:**

Consider Action to Approve the **Lessor's Consent and Agreement between Tinman Social and Little Elm Economic Development Corporation; requested by Midwest Regional Bank, Tinman Social's Financial Institution and Loan Provider.**

**DESCRIPTION:**

This item is required by Midwest Regional Bank (Lender) to provide loan to Kenneth Wynn aka ESC Properties, LLC (Borrower/Tenant) for finish-out of Tinman Social and Little Elm EDC (Lessor).

**BUDGET IMPACT:**

No budget impact with this item.

**RECOMMENDED ACTION:**

Staff recommends approval.

---

**Attachments**

Lessor's Consent Agreement for Tinman Social

## LESSOR'S CONSENT AND AGREEMENT

**Lender:** Midwest Regional Bank  
363 Festus Centre Drive  
Festus, MO 63028

**Borrower:** Tinman Social / ESC Properties

**Lessor:** Kenneth Wynn

**Lease Dated:** November 15, 2021

**Premises:** 199 Main Street, Little Elm Texas, 75068

1. Lessor has executed, a lease agreement with Borrower as Lessee dated **November 15, 2021** for that certain premises located at **199 Main Street, Little Elm Texas, 75068** (hereafter "**Lease**").

2. Lessor states that Borrower is not in default of any of the terms of the Lease.

3 In order to induce Lender to provide Borrower with a loan or other credit facilities (the "**Loan**"), Lessor hereby subordinates, as to Lender, any and all liens, including distraint and levy, that Lessor may have in or against the following property of Borrower, whether now owned or hereafter acquired, all: (a) Equipment; (b) Fixtures; (c) Inventory; (d) Accounts; (e) Instruments; (f) Chattel Paper; and (g) General Intangibles (hereafter collectively "**Secured Property**"). As a result, Lender's security interest in the Secured Property is and shall be prior and superior to any rights that Lessor may have in the Secured Property.

4. Lessor has not previously subordinated its interest in the Secured Property to any other lender or any other party.

5. Lessor has no knowledge of any other party that has an interest or lien in the Secured Property.

6. Lessor agrees that in the event of any default by Tenant under the terms of the Lease, Lessor will not terminate the lease without first giving Lender a sixty (60) day written notice by certified mail ("**Default Notice Period**") of such action at the above address. Lender shall have the right, but not the obligation, to cure such default within thirty (30) days of receipt of the Default Notice ("**Lender Cure Period**"), notwithstanding any applicable cure period provided to Tenant under the Lease.

7. Lessor shall grant access to the Premises to Lender, during the Default Notice Period, to allow Lender to remove any of the Secured Property. Lender shall repair any damage Lender, or its agents, cause to the Premises during the removal of any of the Secured Property. Lender shall remove all such Secured Property from the Premises within the Default Notice Period. Notwithstanding the foregoing, if Borrower retains possession of the Premises and withholds consent to Lender's removal of the Secured Property during the Default Notice Period, then within sixty (60) days after Lender receives written notice from Lessor of Lessor's repossession of the Premises

(“**Repossession Notice**”), Lender shall remove the Secured Property from the Premises (“**Removal Notice Period**”).

8. Borrower hereby assigns to Lender all of Borrowers rights in the Lease, as partial security for the Loan. The parties intend that this assignment will be a present transfer to Lender of all of Borrowers rights under the Lease, subject to Borrowers rights to use the Premises and enjoy the benefits of the Lease while not in default on the Loan or Lease. Upon full performance by Borrower under the Loan, this assignment shall be ended, without the necessity of any further action by any of the parties. This assignment includes all renewals of and amendments to the Lease or the Loan, until the Loan is paid in full. No amendments may be made to the Lease without Lender’s prior written consent, which shall not be unreasonably withheld or delayed.

9. Lessor consents to the above assignment. So long as Lender has not entered the Premises for the purpose of operating a business, Lender will have no liability under the Lease, including without limitation liability for rent, provided Lessor is paid per diem rent of **One Thousand Seven Hundred Forty-Three and 20/100 (\$1,743.20)** per day rent during Lender’s period of possession of the Premises. Whether or not Lender enters into possession of the Premises for any purpose, Borrower will remain fully liable for all obligations of Borrower as lessee under the Lease.

10. Lessor and Borrower certify that the undersigned have full authority to execute this Agreement on behalf of Lessor and Borrower respectively.

11. This Agreement shall be governed by and construed in accordance with the laws of the State of Missouri.

**Lessor:**

(Entity Name Printed): Little Elm Economic Development Corporation

By (Signature): \_\_\_\_\_

(Name Printed): Ken Eaken

Title: Economic Development Corporation President

Date: December 13, 2021

**Borrower:**

(Entity Name Printed): \_\_\_\_\_

By (Signature): \_\_\_\_\_

(Name Printed): Kenneth Wynn

Title: \_\_\_\_\_

Date: \_\_\_\_\_



## Town Council Meeting

**Date:** 12/21/2021  
**Agenda Item #:** 5. I.  
**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 Approve **Change Order #1 Regarding the Town Hall Expansion Project in an Amount Not to Exceed \$64,720.27.**

### DESCRIPTION:

In August 2020, after completing a request for qualifications (RFQ) process, AUI Partners was awarded a Construction Manager at Risk (CMAR) contract to complete the expansion of various town buildings. The project was split into two phases, with the first phase including the recently-completed build-out of existing spaces within the Recreation Center and the Public Safety Building.

Phase 2, awarded in April 2021, involves the renovation and expansion of the Town Hall building. Specific elements of the project include the reconfiguration of the second-floor reception areas and office space within the Development Services and Finance departments, as well as the expansion of the Town Council Executive Room. Other improvements include upgraded audio/visual equipment in the executive room, controlled-access doors, and additional conference spaces on the second floor.

Throughout the construction process, additional upgrades were proposed, including the replacement of all flooring on the 2<sup>nd</sup> floor, as well as aesthetic and audio/visual upgrades to the Town Council Chambers.

### BUDGET IMPACT:

Funding for the project is allocated in the FY 2021-2022 Capital Improvement Program budget:

\$ 781,469.00	Original Contract Amount
<b>\$ 64,720.27</b>	<b>Total Change Order #1</b>
\$ 19,888.77	Council Chambers Upgrades
\$ 44,831.50	Additional Flooring
<b>\$ 846,189.27</b>	<b>New Contract Amount</b>

**RECOMMENDED ACTION:**

Staff recommends approval.

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**Attachments**

Council Chambers Layout

Council Chambers Pricing Information

New Flooring Pricing Information

# Architect's Supplemental Instructions



3033 Kellway Drive, Suite 120  
Carrollton, Texas 75006  
Tel: 972-416-4666  
Fax: 972-416-0169

☒ OWNER ☒ ARCHITECT ☒ CONTRACTOR ☐ FIELD ☐ OTHER

<b>PROJECT:</b> (name, address)	Little Elm City Hall Renovation 100 West Eldorado Parkway Little Elm, TX 75068	<b>ARCHITECT'S SUPPLEMENTAL INSTRUCTION NO:</b>	<b>9</b>
<b>OWNER:</b>	City of Little Elm	<b>DATE OF ISSUANCE:</b>	September 16, 2021
<b>TO:</b> (Contractor)	AUI PARTNERS, INC 13600 Heritage Pkwy – Suite 150 Fort Worth, TX 76177	<b>ARCHITECT'S PROJECT NO:</b>	20216
		<b>CONTRACT FOR:</b>	General Construction

The Work shall be carried out in accordance with the following supplemental instructions issued in accordance with the Contract Documents. Prior to proceeding in accordance with these instructions, indicate your acceptance of these instructions for minor change to the Work as consistent with the Contract Documents and return a copy to the Architect.

- ☒ This ASI is a request by the Owner.
- ☒ Identify any change in the Contract Sum or Contract Time for the work indicated.  
Do not proceed with the work until directed by the Owner/Architect.
- ☐ Identify any change in the Contract Sum or Contract Time for the work indicated.  
Proceed with the work as indicated.

## Description:

This Architect's Supplemental Instruction is issued to add additional scope to the project in the first floor Council Chambers area. The additional scope includes a new stone accent wall, new accent lighting, new flat panel monitors at (4) locations. Reference attached sheets CC-10 and CC-02 for plans, elevations, and details. For the scope in this area.

## Attachments:

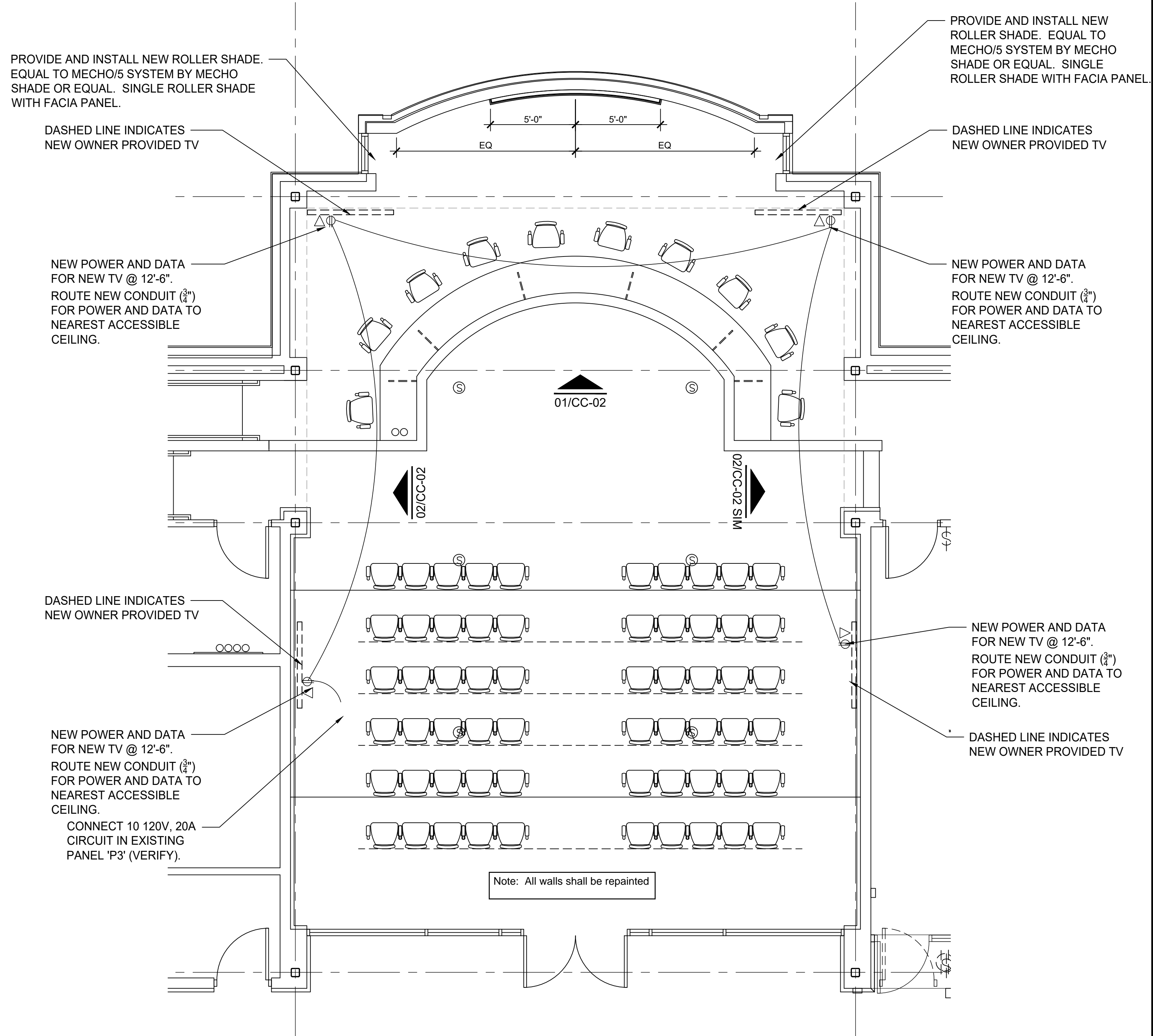
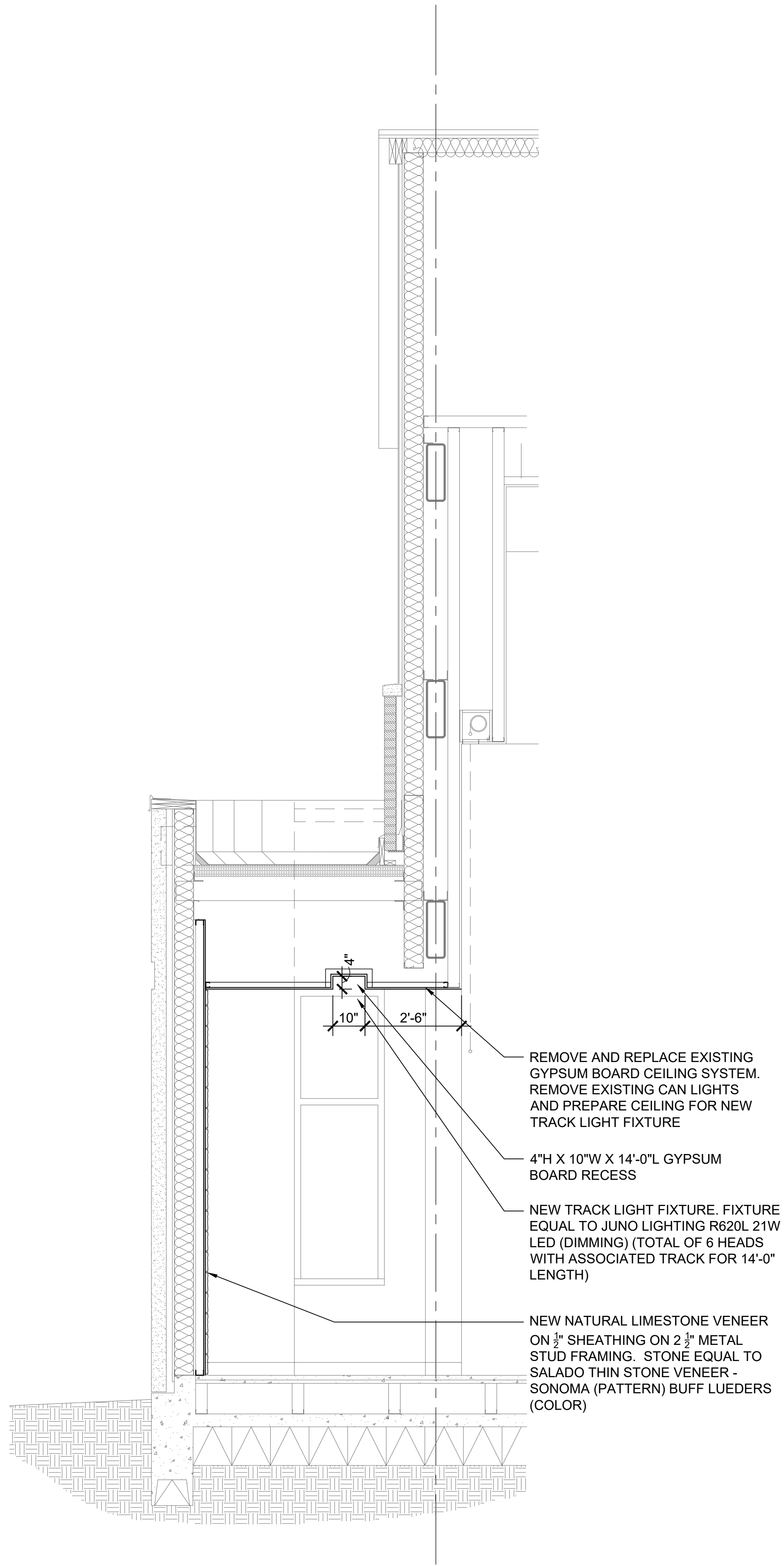
CC-01, CC-02

## ISSUED:

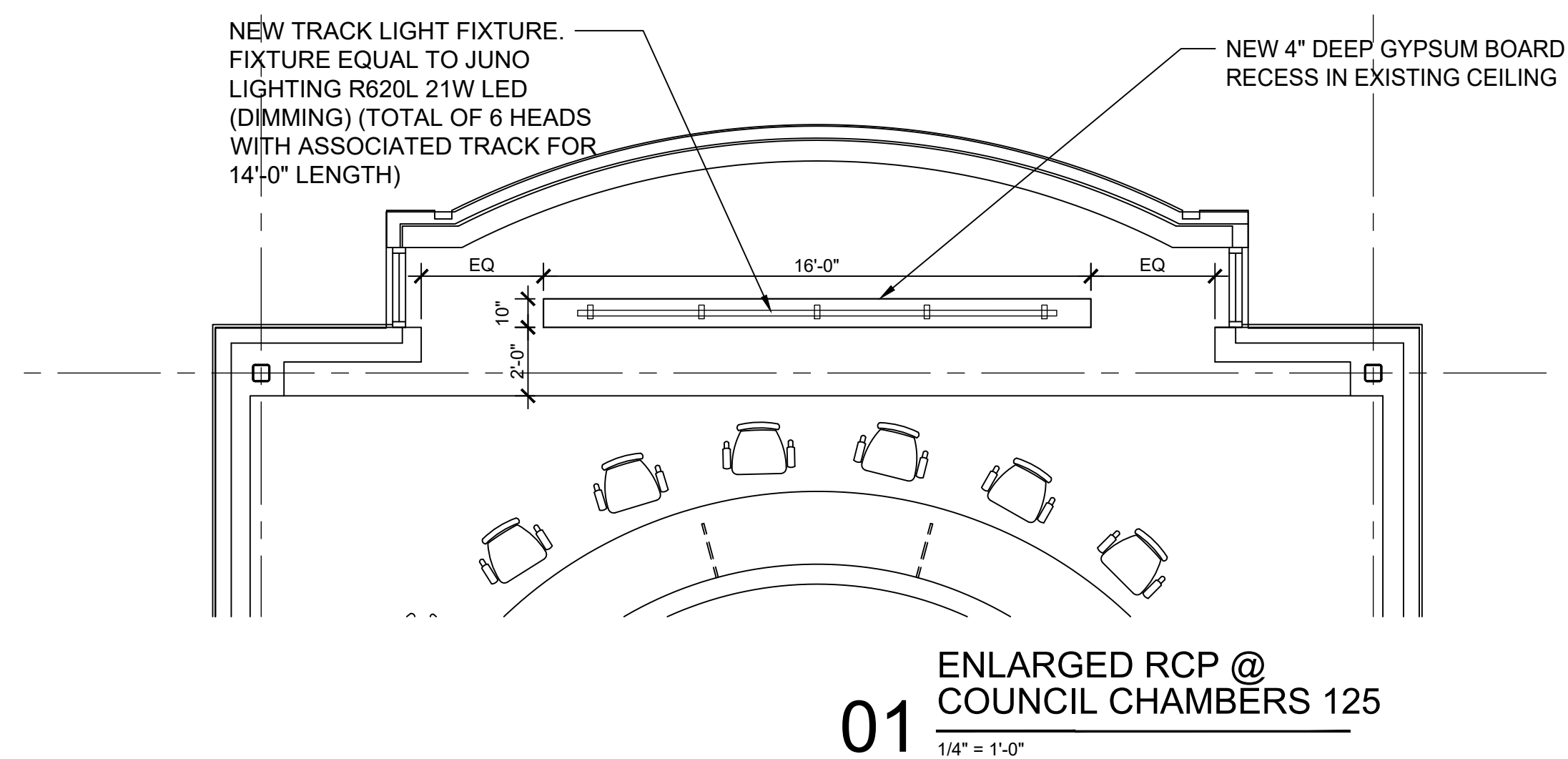
BY Aaron Babcock  
Architect

## ACCEPTED

BY \_\_\_\_\_  
Contractor Date



01 ENLARGED PLAN @ COUNCIL CHAMBERS 125  
1/4" = 1'-0"



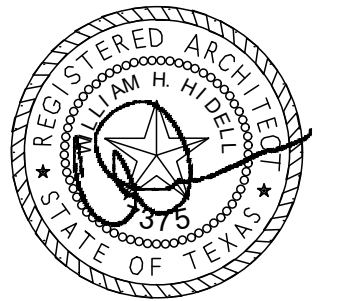
01 ENLARGED RCP @ COUNCIL CHAMBERS 125  
1/4" = 1'-0"

TOWN OF LITTLE ELM  
FACILITY RENOVATIONS

Little Elm, Texas

**HIDELL**  
ASSOCIATES  
ARCHITECTS

3033 KELLWAY DRIVE, SUITE 120  
CARROLLTON, TEXAS 75006 (972) 416-4666  
FAX (972) 416-0169 E-MAIL ababcock@hidell.com



OWNER  
TOWN OF LITTLE ELM  
100 WEST ELDORADO PARKWAY  
LITTLE ELM, TX 75068  
PHONE: (214) 975-0406

MEP ENGINEER  
BASHARAKHAH ENGINEERING  
13101 PRESTON ROAD SUITE 601  
DALLAS, TEXAS 75240  
PHONE: (214) 659-9015  
EMAIL: LLane@beltexas.com

STRUCTURAL ENGINEER  
RLG  
12001 N. CENTRAL EXP., SUITE 300  
DALLAS, TX 75243  
PHONE: (214) 739-8100  
dcumming@rlginc.com

ISSUE FOR PERMIT / GMP

TITLE

ENLARGED PLAN  
COUNCIL CHAMBERS

REVISIONS

9 ASI No. 9 9.16.2021

JOB NO. 20216

Issue Date: 11.13.2020

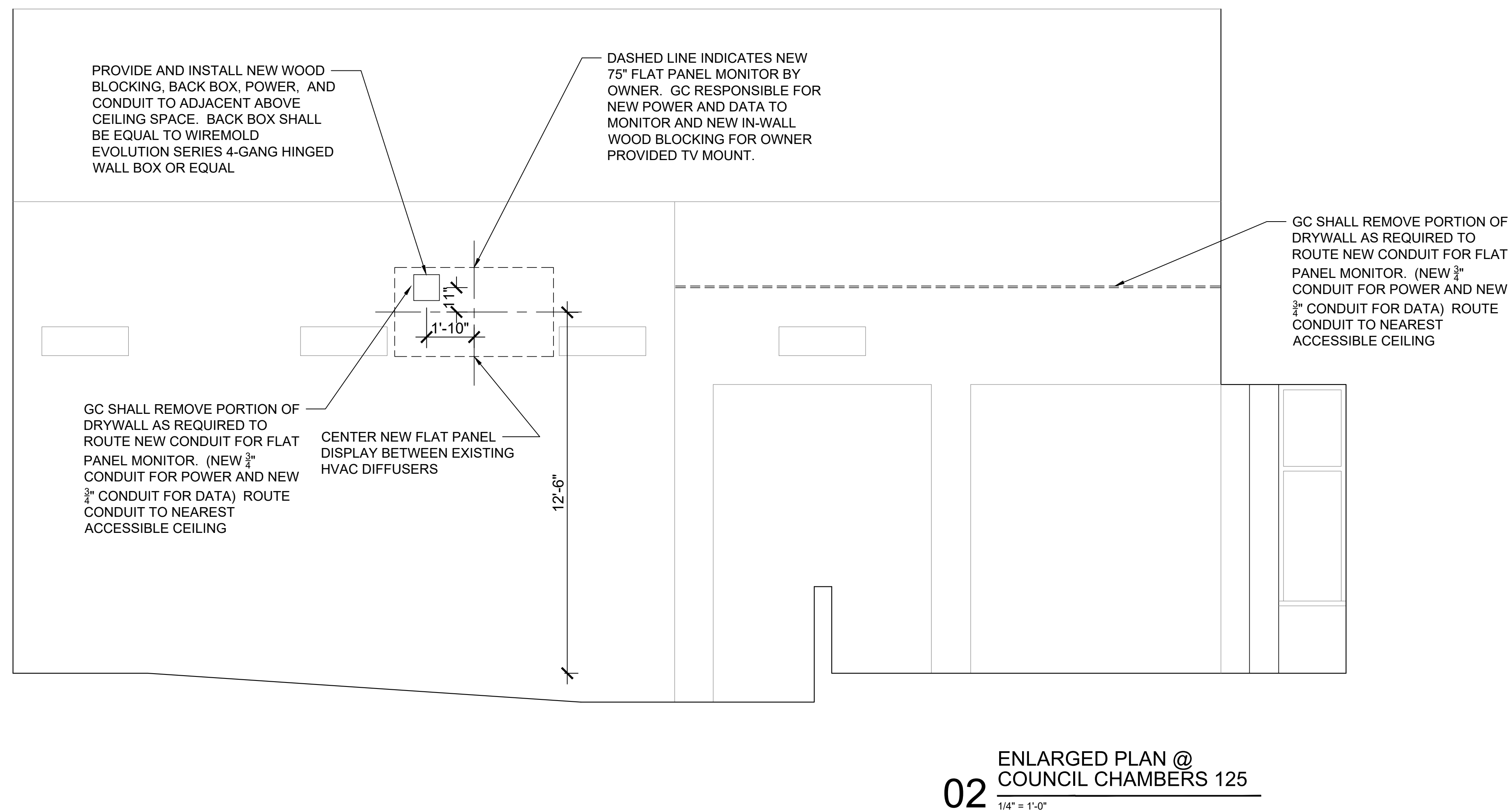
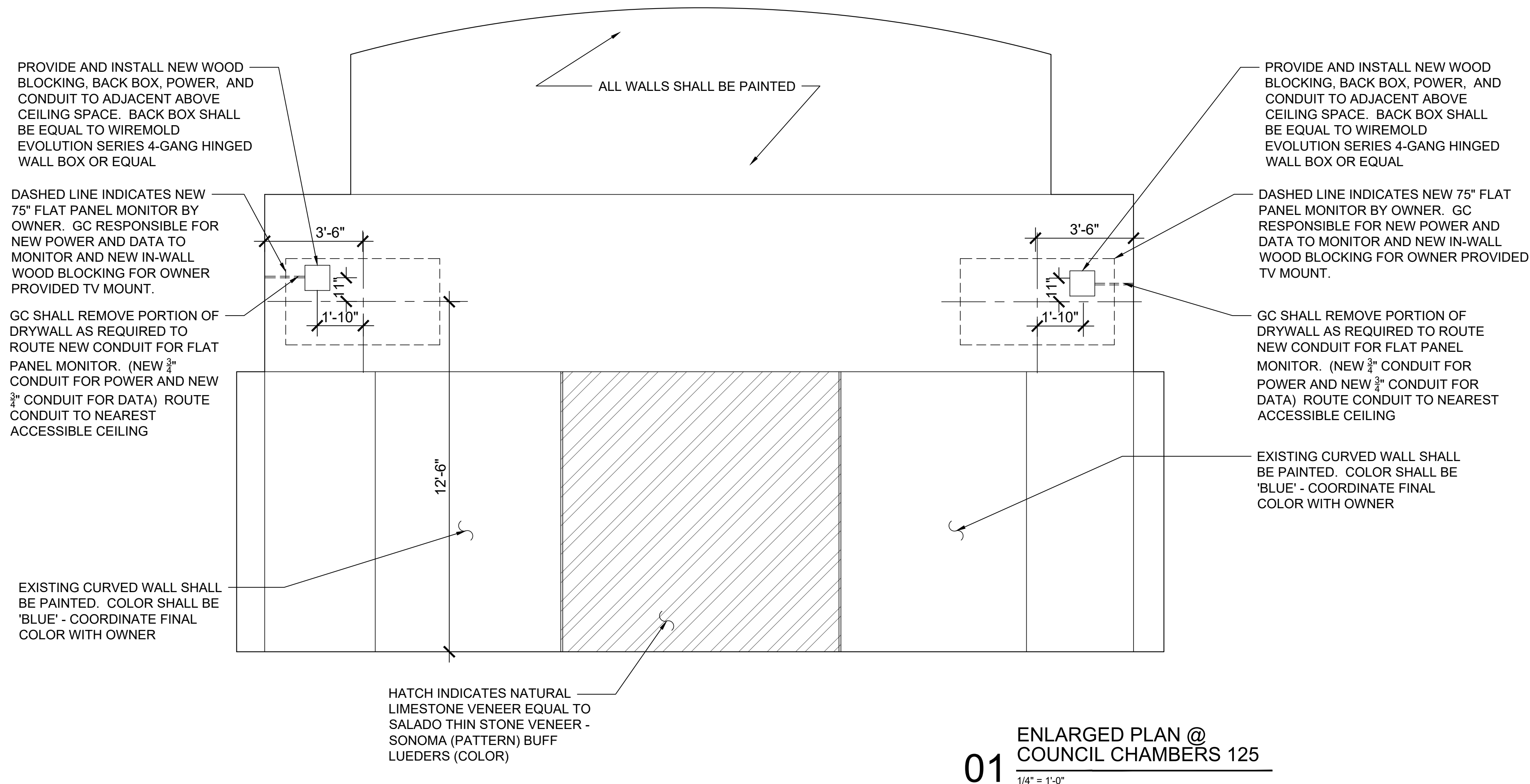
Drawn By:

Checked By:

SHEET NO.

CC-01

ISSUE FOR PERMIT / GMP

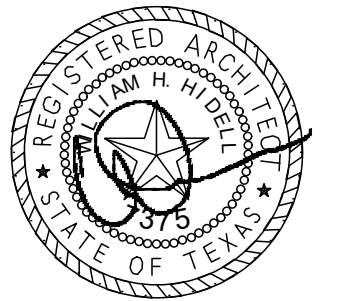


TOWN OF LITTLE ELM  
FACILITY RENOVATIONS

Little Elm, Texas

**HIDELL**  
ASSOCIATES  
ARCHITECTS

3033 KELLWAY DRIVE, SUITE 120  
CARROLLTON, TEXAS 75006 (972) 416-4666  
FAX (972) 416-0169 E-MAIL [ababcock@hidell.com](mailto:ababcock@hidell.com)

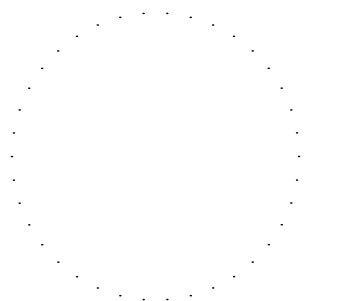


OWNER  
TOWN OF LITTLE ELM  
100 WEST ELDORADO PARKWAY  
LITTLE ELM, TX 75068  
PHONE: (214) 975-0406

MEP ENGINEER  
BASHARKHAH ENGINEERING  
13101 PRESTON ROAD SUITE 601  
DALLAS, TEXAS 75240  
PHONE: (214) 659-9015  
EMAIL: [LLane@beltexas.com](mailto:LLane@beltexas.com)

STRUCTURAL ENGINEER  
RLG  
12001 N. CENTRAL EXP., SUITE 300  
DALLAS, TX 75243  
PHONE: (214) 739-8100  
[dcumming@rlginc.com](mailto:dcumming@rlginc.com)

ISSUE FOR PERMIT / GMP



TITLE

INTERIOR ELEVATIONS  
AND DETAILS

REVISIONS

9 ASI NO. 9 9.16.2021

JOB NO. 20216

Issue Date: 11.13.2020

Drawn By:

Checked By:

SHEET NO.

CC-02

ISSUE FOR PERMIT / GMP





13600 Heritage Parkway, Suite 150  
Fort Worth, TX 76177  
Ph: 817-926-4377  
Fax: 817-926-4387

## PROPOSED CHANGE ORDER

To: Town of Little Elm  
100 West Eldorado Parkway  
Little Elm, TX 75068

Number: 4  
Date: 12/9/2021  
Job: 211224

Description: ASI 9 - Council Chambers

We are pleased to offer the following specification and pricing to make the following changes:

**Provide revisions per ASI 9 as detailed in the attached proposals.**

Description	Price
Framing, Blocking, Drywall	\$5,180.00
Tape, Bed, Paint	\$4,885.00
Limestone Veneer	\$3,528.00
Roller Shades	\$432.59
Electrical	\$4,406.00
	Subtotal: 18,431.59
	Insurance 1.000% 184.32
	18,615.91
	Fee/OH 5.00% 930.80
	Subtotal: 19,546.70
	Bond 1.75% 342.07
	<b>Total 19,888.77</b>

Owner Approval: \_\_\_\_\_

Architect Approval: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_



## Requested Pricing

Date Sent: November 18, 2021

ATTN: Christie Stehling

From: Donnie Keesee

RE: Little Elm ASI's up to #12

Item No	ASI	Drawing	Change
---------	-----	---------	--------

74	9	CC-01	framing, sheathing, gypsum modifications inc. removal/replacement of ceiling as noted <a href="#">\$4,605</a>
75	9	CC-02	wood blocking, remove and repair drywall as needed for conduit install <a href="#">\$575</a>



## McSweeney Commercial Painting

2222 S. Pipeline Rd.  
Euless TX 76040  
817 283-4244

License:

## Change Order

Order#: 2

Order Date: 11/12/2021

**To:** AUI Partners  
13600 Heritage Pkwy  
Ste. 150  
Fort Worth TX 76177

**Project:** 21528  
Little Elm Phase 2  
100 West Eldorado Parkway  
Fort Worth TX 75068

The contractor agrees to perform and the owner agrees to pay for the following changes to this contract.

Plans Attached ☐

**Ordered By:**

**Customer Order:**

Specifications Attached ☐

Description of Work	Amount
Prep and paint walls only through out chambers only. Excludes doors frames and wood panels & trim	3,985.00
Tape bed dry wall repairs for conduits	450.00
Paint of ceiling CO-2	450.00

Negative changes will lower the overall contract price requiring no additional payment by owner.

**Requested Amount of Change**

**4,885.00**

Owner: \_\_\_\_\_ Date: \_\_\_\_\_

Contractor: \_\_\_\_\_ Date: \_\_\_\_\_



# FENIMORE-BLYTHE

Commercial Masonry

(817) 834-6301

Proposal ☐

T&M ☐

Respond By: 11/22/2021

## Change Order #001

November 15, 2021

**AUI**

Attn: Christie Stehling  
13600 Heritage Pkwy, Suite 150  
Fort Worth, Texas 76177

**Project:** Little Elm Town Hall

**Location:** Little Elm

**Office:** 817-926-4377

**Mobile:**

**Fax:**

**Email:** [cstehling@auipartners.com](mailto:cstehling@auipartners.com)

Christie,

Below you will find pricing to add work to our scope of work on the above noted project.

**Description of change: ASI 09 - 10x10 Thin Stone Panel, EXCLUDES: mockup**

	Quantity	Unit of Measure	U/P Labor	Total Labor	U/P & M/E	Total Mat & Equip	Totals
Foreman	2	HRS	\$ 40.00	\$ 80			\$ 80
Bricklayers	24	HRS	\$ 29.00	\$ 696			\$ 696
Laborers	24	HRS	\$ 20.00	\$ 480			\$ 480
Operator	0	HRS	\$ 25.00	\$ -			\$ -
Salado Thin Stone	120	SF		\$ -	\$ 7.30	\$ 876	\$ 876.00
Salado Thin Stone Corners	25	LF			\$ 8.85	\$ 221	\$ 221.25
80lb Mortar	10	EA			\$ 13.55	\$ 136	\$ 135.50
Lathe	7	EA			\$ 5.20	\$ 36	\$ 36.40
SureKlean Vanatrol	5	GAL			\$ 18.00	\$ 90	\$ 90.00
<b>Subtotal:</b>				<b>\$ 1,256</b>	<b>Subtotal:</b>	<b>\$ 1,359</b>	<b>\$ 2,615</b>
Payroll Taxes & Insc @:						35%	\$ 440
						<b>Subtotal:</b>	<b>\$ 3,055</b>
Overhead:						10%	\$ 305
						<b>Subtotal:</b>	<b>\$ 3,360</b>
Profit:						5%	\$ 168
						<b>Subtotal:</b>	<b>\$ 3,528</b>
Tax:						0.00%	\$ -
						<b>Subtotal:</b>	<b>\$ 3,528</b>
Bond:						0%	\$ -
<b>Grand Total This Change Order:</b>						<b>Add</b>	<b>\$ 3,528</b>

Sincerely,

Fenimore-Blythe Commercial Masonry, LLC.

**Davis Wieck**

**Assitant Project Manager**

**Project: Little Elm City Hall Renovation**

**Date: 12/07/2021**

We propose to furnish labor, material, equipment, and the required insurance to complete the Scope of Work in accordance with the Bid Documents referenced above, subject to the terms and qualifications listed herein.

Kenmark Interiors is certified as a Women's Business Enterprise and holds WBENC, WOSB, and HUB certifications.

Quantity	Unit	Vendor	Description	Fabric / Color	Notes	Area / Phase
<b>01 Window Treatment</b>						
2.00	EA	SWF Contract	Manual Roller Shade w/ Specified Top Treatment	Color: tbd	Spring Window Fashions Roller shade - Crosshatch Fabric with 3% Openness, 3 " Anodized Fascia Top Treatments	
<b>Total Estimate</b>						<b>\$432.59</b>

**Qualifications**

- Material, shipping, project management, and labor included; Sales Tax Excluded
- Free use of all facilities; Installation into concrete additional
- All work to be completed during normal business hours
- Proposal valid for 60 days and subject to execution of a mutually acceptable contract
- Current lead time for some materials can be 4-6 weeks from the date of order release

Respectfully submitted,

*Leigh Miller*

Leigh Miller  
Project Engineer, OSHA-30 Certified  
469.606.4507  
lmiller@kenmarkinc.com

# ***GROVES ELECTRICAL SERVICE, INC.***

2410 SQUIRE PLACE, FARMERS BRANCH, TEXAS 75234, 972-484-2717 FAX 972-484-2263

ELECTRICAL and MECHANICAL, CONTRACTING and SERVICE

[www.groveselectric.com](http://www.groveselectric.com) TECL17392

***"SINCE 1968"***

12/8/2021

AUI Partners, LLC  
Christie Stehling  
13600 Heritage Pkwy Suite 150  
Fort Worth, TX 76177  
P- (817)-926-4377

Christian Collazo  
2410 Squire Pl.  
Farmers Branch TX, 75234  
P- (972) 484-2717 ex 115  
Mike@groveselectric.com

## **Little Elm Town Hall Renovation**

**THE FOLLOWING IS NOT PART OF OUR SCOPE OF WORK. PLEASE REVIEW DESCRIBED CHANGES IN OUR SCOPE OF WORK, ACKNOWLEDGE YOUR ACCEPTANCE BY YOUR SIGNATURE AND RETURN THE ORIGINAL. RETAIN A COPY FOR YOUR RECORDS.**

BID # RCO-2179-02

### **SCOPE OF WORK:**

Per ASI#09

Furnish & install (4) duplex receptacles & Data (ring and string) for TV's and new 14ft Track with (6) heads in Council Chambers 125.

**Exclude: Cutting & Patching of walls, ceilings and floor, Integrity of existing electrical. All finishes and low voltage wiring.**

**Total Price: \$4,406.00**



\_\_\_\_\_  
AUTHORIZED SIGNATURE

\_\_\_\_\_  
PO #

\_\_\_\_\_  
Assistant PM, Christian Collazo

For acceptance please sign and return one copy. Payments to be cod or net 10<sup>th</sup> proxy month with approved credit. 70% rough and 30% on completion with approved credit. Price is void after 30 days. General contractor to provide toilet, water, electrical power, on site trash and debris disposal location.

- UNLESS SPECIFICALLY NOTED TO THE CONTRARY HEREIN, COVERAGE OF THESE ITEM ARE SPECIFICALLY EXCLUDED:** Tax, permit fee, rock digging or excavation; erosion control; casing of piers, repair of unmarked underground utilities, conformance with *The International Electrical Energy Conversation Code* (IEECC); excavations of any nature in excess of four feed deep; COMPACTION to a specified density; utility communication co. charges; wage rates; requirements of any "Building Standards"; Specifications by Owner, Architect or Engineer; work show on any drawings, addenda or specification that could be concurred to be within our trade or responsibility other than those listed within our Scope of Work; temporary power or lighting; temporary power usage or deposit; installation of overhead power lines for temporary; bond fees; scheduled overtime; insurance in excess that listed or Builder's Risk; fire or smoke stoppage for devices, light fixtures, raceways or conductors. Regulated by the Texas Department of Licensing and Regulations, PO Box 12157, Austin, TX 78711, 800-803-9202, 512-463-6599; website: [www.license.state.tx.us/complaints](http://www.license.state.tx.us/complaints)

**Job ID:** J2179  
**Project:** Little Elm Town Hall



**IntelliBid**

## Bid Brief Form Report

**Vendor:** EXAMPLE **Labor Level:** GROVES **8 Dec 2021 10:34:42**

**Tax Rate status:** Default **Bid Name:** RCO-2179-02 ASI#09 **Bid Template:** AUI 2179

<u>Description</u>	<u>Amount</u>	<u>Subtotal</u>
<b>Material</b>		
Estimated Material	1,478.37	
Material Adjustment	0.00	
<b>Material Total:</b>		1,478.37
<b>Labor</b>		
Direct Labor Hours	35.50	
Labor Dollars @ \$43/Hour + 46% Labor Burden	2,228.53	
Indirect Labor	0.00	
Labor Escalation	0.00	
Labor Adjustments	0.00	
<b>Labor Total:</b>		2,228.53
<b>Quotes</b>		
Quote Adjustments	0.00	
<b>Quotes Total:</b>		0.00
<b>Equipment</b>		
Equipment Adjustments	0.00	
<b>Equipment Total:</b>		0.00
<b>Direct Job Costs</b>		
Estimated DJC	0.00	
DJC Adjustments	0.00	
<b>Direct Job Costs Total:</b>		0.00
<b>Taxes</b>		
Material Tax (0.0000%)	0.00	
Quote Tax (0.0000%)	0.00	
Labor Tax (0.0000%)	0.00	
Equipment Tax (0.0000%)	0.00	
SubContract Tax (0.0000%)	0.00	
<b>Taxes Total:</b>		0.00
<b>Pre-Overhead and Profit Subtotal:</b>		3,706.90
<b>Overhead</b>		
Material Overhead (10.00% markup)	147.84	
Quotes Overhead (10.00% markup)	0.00	
Labor Overhead (10.00% markup)	222.85	
Equipment Overhead (10.00% markup)	0.00	
SubContracts Overhead (10.00% markup)	0.00	
DJC Overhead (10.00% markup)	0.00	
<b>Overhead Total:</b>		370.69

Groves Electrical Service

2410 Squire Place  
Farmers Branch, TX 75234

**Phone:** 972.484.2717  
**Web:**

<b>Profit</b>		
Material Profit (5.00% markup)	81.31	
Quotes Profit (5.00% markup)	0.00	
Labor Profit (5.00% markup)	122.57	
Equipment Profit (5.00% markup)	0.00	
SubContracts Profit (5.00% markup)	0.00	
DJC Profit (5.00% markup)	0.00	
<b>Profit Total:</b>		203.88
<b>Miscellaneous</b>		
Job Tax (0.00%)	0.00	
Insurnce/Bond (2.90%)	124.16	
<b>Miscellaneous Total:</b>		124.16
<b>Bid Total:</b>		<u>4,405.64</u>



**Job ID:** J2179  
**Project:** Little Elm Town Hall



**IntelliBid**

### Summary by Subtotal

**Vendor:** EXAMPLE **Labor Level:** GROVES **8 Dec 2021 10:35:46**

#### Subtotal 2 - EMT

Item #	Size	Description	Q/M	Quantity	U/M	Material Unit	Mat Result
10046	3/4	EMT	M	135.00	FT	1.9124	258.18
Subtotal totals:							258.18

#### Subtotal 11 - EMT FITTINGS

Item #	Size	Description	Q/M	Quantity	U/M	Material Unit	Mat Result
30128	3/4	EMT STEEL-COMP COUPLING	M	15.00	EA	0.5407	8.11
30198	3/4	EMT STEEL COMP CONNECTOR	M	12.00	EA	0.3865	4.64
160385	3/4	EMT 1-HOLE STEEL STRAP	M	13.00	EA	0.1110	1.44
Subtotal totals:							14.19

#### Subtotal 13 - HANGERS/SUPPORTS

Item #	Size	Description	Q/M	Quantity	U/M	Material Unit	Mat Result
160222		TEK SCREW	M	72.00	EA	0.0374	2.69
630055	3/4	COND SNAP-CLOSE HGR TO METAL-STUD CLIP	M	40.00	EA	0.9708	38.83
630061	3/4	COND SNP-CLOSE HGR TO SCRW-ON STUD-WALL	M	8.00	EA	0.8028	6.42
640000		4-Sq BOX SUPPORT SCREW TO STUD-WALL	M	4.00	EA	0.4532	1.81
Subtotal totals:							49.76

#### Subtotal 14 - GREENFIELD

Item #	Size	Description	Q/M	Quantity	U/M	Material Unit	Mat Result
50002	3/4	FLEXIBLE STEEL CONDUIT	M	10.00	FT	0.7053	7.05
50033	3/4	FLEX CONDUIT STRAIGHT CONNECTOR	M	2.00	EA	2.4394	4.88
Subtotal totals:							11.93

#### Subtotal 21 - DEVICES

Item #	Size	Description	Q/M	Quantity	U/M	Material Unit	Mat Result
140008	20A	DUPLEX RECEPTACLE SPECIFICATION GRADE	M	4.00	EA	4.8020	19.21
Subtotal totals:							19.21

#### Subtotal 22 - PLATES

Item #	Size	Description	Q/M	Quantity	U/M	Material Unit	Mat Result
--------	------	-------------	-----	----------	-----	---------------	------------

Groves Electrical Service

2410 Squire Place  
Farmers Branch, TX 75234

**Phone:** 972.484.2717

**Web:**

**Subtotal 22 - PLATES**

Item #	Size	Description	Q/M	Quantity	U/M	Material Unit	Mat Result
140318		1G PLASTIC-DUPLEX PLATE	M	4.00	EA	0.3555	1.42
<b>Subtotal totals:</b>							<b>1.42</b>

**Subtotal 23 - STEEL BOXES**

Item #	Size	Description	Q/M	Quantity	U/M	Material Unit	Mat Result
150005	1-1/2"DEEP 21.0-CI	4"SQ BOX NO BRACKET CMB KO	M	4.00	EA	1.4600	5.84
150011	1-1/2"DEEP 21.0-CI	4"SQ BOX W/FLAT BRACKET CMB KO	M	5.00	EA	0.8922	4.46
150026	1/2"DEEP 3.8-CI	1G 4"SQ BOX PLASTER-RING	M	4.00	EA	1.3114	5.25
150028	3/4"DEEP 5.8-CI	1G 4"SQ BOX PLASTER-RING	M	5.00	EA	1.6574	8.29
<b>Subtotal totals:</b>							<b>23.83</b>

**Subtotal 29 - MISC WIRE**

Item #	Size	Description	Q/M	Quantity	U/M	Material Unit	Mat Result
500088		PULL LINE (STRING)	M	168.00	FT	0.0157	2.64
<b>Subtotal totals:</b>							<b>2.64</b>

**Subtotal 31 - THHN/THWN CU**

Item #	Size	Description	Q/M	Quantity	U/M	Material Unit	Mat Result
70028	12	THHN/THWN CU (SOLID)	M	132.00	FT	0.2734	36.09
70032	12	THHN/THWN CU (STRANDED)	M	270.00	FT	0.2929	79.08
<b>Subtotal totals:</b>							<b>115.17</b>

**Subtotal 42 - WIRE TERMINATIONS**

Item #	Size	Description	Q/M	Quantity	U/M	Material Unit	Mat Result
100064	18-10	WIRENUTS -RED	M	8.00	EA	0.1203	0.96
100078	#12	PIGTAIL W/GRD SCREW	M	4.00	EA	0.2692	1.08
<b>Subtotal totals:</b>							<b>2.04</b>

**Subtotal 99 - MISCELLANEOUS ITEMS**

Item #	Size	Description	Q/M	Quantity	U/M	Material Unit	Mat Result
6		New 14' Track w/ Heads	M	1.00		980.0000	980.00
<b>Subtotal totals:</b>							<b>980.00</b>
<b>Job totals:</b>							<b>1,478.37</b>



13600 Heritage Parkway, Suite 150  
Fort Worth, TX 76177  
Ph: 817-926-4377  
Fax: 817-926-4387

## PROPOSED CHANGE ORDER

To: Town of Little Elm  
100 West Eldorado Parkway  
Little Elm, TX 75068

Number: 1 R1  
Date: 8/26/2021  
Job: 211224

Description: ASI 3 Flooring Revisions

We are pleased to offer the following specification and pricing to make the following changes:

**Provide flooring revision per ASI 3 and the attached proposals.**

Description	Price
Credit for Ceramic Tile Originally Budgeted for Public Waiting	(\$3,762.50)
Demo Existing Flooring for LVT	\$3,232.00
Prep Floor and Install LVT	\$15,110.71
Demo Existing Flooring & Install Carpet	\$18,031.65
Move Furniture as Needed floor Flooring Installation	\$8,935.00
	Subtotal: 41,546.86
	Insurance 1.000% 415.47
	41,962.33
	Fee/OH 5.00% 2,098.12
	Subtotal: 44,060.45
	Bond 1.75% 771.06
	Total 44,831.50

Owner Approval: Wesley Brandon

Date: 8/26/2021

Architect Approval: \_\_\_\_\_

Date: \_\_\_\_\_



**VECTOR  
CONCEPTS**

9010 N. Royal Lane, Suite 110  
Irving Texas 75063  
972-399-1303 office 972-790-7535 fax  
[www.vectorconcepts.com](http://www.vectorconcepts.com)



Contract #  
641-21 (Sports) & 642-21 (Commercial)

# Change Order Request of Project 9581

Proposal #

Customer PO

Contract #

Date

Sales Person1

Project Manager

Acct # 9  
For: 817-926-4377 Fax 817-926-4387

Job Site:

**AUI PARTNERS, LLC**  
13600 HERITAGE PKWY.  
SUITE 150  
FORT WORTH, TX 76177

**LITTLE ELM TOWN HALL**  
100 WEST ELDORADO PKWY  
LITTLE ELM, TX 75068  
Contact: DUSTIN STIFFLER

Type	Quantity	Product Description Labor Description	Color / Item Number Room	Price	Total
Ceramic Tile					
Materials	-445 SqFt	18X18 PORCELAIN TILE	TBD	\$3.50	-\$1,557.50
Notes	CERAMIC TILE IN PUBLIC WAITING				
Labor					
Labor	-445 SqFt	Install - Tile and Stone, Straight	ENTRY	\$4.00	-\$1,780.00
Notes	CERAMIC TILE LABOR AND SETTING MATERIALS AND TRANSITIONS FOR PUBLIC WAITING				
Ceramic Tile					
Materials	-100 LnFt	CERAMIC TILE BASE		\$3.00	-\$300.00
Notes	CERAMIC BASE FOR PUBLIC WAITING				
Labor					
Labor	-100 LnFt	Custom Labor for Tile	BASE LABOR	\$1.25	-\$125.00

## Information

CREDIT FOR CERAMIC TILE DELETED IN THE LOBBY

## Total

Material & Labor	<input type="text" value="-\$3,762.50"/>
Sales Tax	<input type="text"/>
<b>Grand Total</b>	<input type="text" value="-\$3,762.50"/>
Deposit	<input type="text"/>
Date	<input type="text"/>
Ck #	<input type="text"/>

## PROPOSAL SUBJECT TO CONTRACTUAL AGREEMENT

### 1926.1153 RESPIRABLE CRYSTALLINE SILICA OSHA COMPLIANCE FOR TABLE 1 ONLY

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Continuation For: AUI PARTNERS, LLC, Quote # 33056

Type	Quantity	Product Description Labor Description	Color / Item Number Room	Price	Total
------	----------	--	-----------------------------	-------	-------

manufacture. This proposal is valid for forty-five (45) days.

Buyer: \_\_\_\_\_ Date: \_\_\_\_\_ Seller: \_\_\_\_\_ Date: \_\_\_\_\_



**VECTOR  
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Irving Texas 75063  
972-399-1303 office 972-790-7535 fax  
[www.vectorconcepts.com](http://www.vectorconcepts.com)

Acct # 9  
For: 817-926-4377 Fax 817-926-4387

AUI PARTNERS, LLC  
13600 HERITAGE PKWY.  
SUITE 150  
FORT WORTH, TX 76177



Contract #  
641-21 (Sports) & 642-21 (Commercial)



Job Site:

LITTLE ELM TOWN HALL  
100 WEST ELDORADO PKWY  
LITTLE ELM, TX 75068  
Contact: DUSTIN STIFFLER

Proposal #  
31964  
Customer PO  
Contract #  
Date  
6/8/2021  
Sales Person1  
Luke Herrick  
Project Manager  
Luke Herrick

Type	Quantity	Product Description Labor Description	Color / Item Number Room	Price	Total
<b>Accessories</b>					
<b>Labor</b>	1010 SqFt	I. DEMO CERAMIC TILE INCLUDING THIN SET	EXISTING LOBBY TILE	\$3.20	\$3,232.00
<b>Notes</b> ADD DEMO CERAMIC TILE IN LOBBY					

#### Information

TOWN HALL 2ND FLOOR LOBBY CERAMIC DEMO ADD

#### Total

Material & Labor	\$3,232.00
Sales Tax	
<b>Grand Total</b>	<b>\$3,232.00</b>
Date	Ck #
Deposit	

## PROPOSAL SUBJECT TO CONTRACTUAL AGREEMENT

### 1926.1153 RESPIRABLE CRYSTALLINE SILICA OSHA COMPLIANCE FOR TABLE 1 ONLY

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Buyer: \_\_\_\_\_ Date: \_\_\_\_\_

Seller: \_\_\_\_\_ Date: \_\_\_\_\_



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[www.vectorconcepts.com](http://www.vectorconcepts.com)



Contract #  
641-21 (Sports) & 642-21 (Commercial)

# Change Order Request of Project 9581

Proposal #

Customer PO

Contract #

Date

Sales Person1

Project Manager

Acct # 9  
For: 817-926-4377 Fax 817-926-4387

Job Site:

AUI PARTNERS, LLC  
13600 HERITAGE PKWY.  
SUITE 150  
FORT WORTH, TX 76177

LITTLE ELM TOWN HALL  
100 WEST ELDORADO PKWY  
LITTLE ELM, TX 75068  
Contact: DUSTIN STIFFLER

Type	Quantity	Product Description Labor Description	Color / Item Number Room	Price	Total
<b>Accessories</b>					
<b>Labor</b>	283 SqFt	C. DEMO VCT / LVT REGULAR ADHESIVE AND SCRAPE ADHESIVE (BASE INCLUDED)	BREAKROOM 236	\$0.54	\$152.82
<b>Labor</b>					
<b>Labor</b>	283 SqFt	A. INSTALL 1 PART ADHESIVE	BREAKROOM 236	\$1.12	\$316.96
<b>LVT</b>					
<b>Materials</b>	2100 SqFt	SOUNDScape 6X48 PLANK	FEATHER	\$4.15	\$8,715.00
<b>Labor</b>	2100				
<b>Adhesive</b>					
<b>Materials</b>	3 Each	SHAW 4100 - RESILIENT ADHESIVE	4 GALLON BOX 012VS	\$185.00	\$555.00
<b>Labor</b>					
<b>Labor</b>	2100 SqFt	A. INSTALL 1 PART ADHESIVE	OPEN AREA	\$1.45	\$3,045.00
<b>Wall Base</b>					
<b>Materials</b>	360 LnFt	BASE - (700) - COVE - ROLL - 4"	TBD	\$0.93	\$334.80
<b>Adhesive</b>					
<b>Materials</b>	1 Each	440 COVE BASE ADHESIVE	1 GAL	\$25.05	\$25.05
<b>Reducers/Transitions/Adaptors</b>					
<b>Materials</b>	12 LnFt	177 - TILE/CARPET JOINER 12'	BLACK 100	\$1.34	\$16.08
<b>Floor Prep</b>					
<b>Materials</b>	30	NC 888 PATCHING COMPOUND	10 LB BAG	\$30.00	\$900.00
<b>Labor</b>					
<b>Labor</b>	30 Each	A. 10LB FEATHER FINISH TYPE LABOR	OPEN AREA	\$35.00	\$1,050.00

Continuation For: **AUI PARTNERS, LLC, Quote # 32278**

Type	Quantity	Product Description Labor Description	Color / Item Number Room	Price	Total
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**Information**

INCLUDES DEMO

**Total**Material & Labor Sales Tax Grand Total 

Deposit	Date	Ck #	<input type="text"/>
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**PROPOSAL SUBJECT TO CONTRACTUAL AGREEMENT****1926.1153 RESPIRABLE CRYSTALLINE SILICA OSHA COMPLIANCE FOR TABLE 1 ONLY**

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Buyer: \_\_\_\_\_ Date: \_\_\_\_\_

Seller: \_\_\_\_\_ Date: \_\_\_\_\_





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[www.vectorconcepts.com](http://www.vectorconcepts.com)



# Change Order Request of Project 9581

Proposal #  
  
Customer PO  
  
Contract #  
  
Date  
  
Sales Person1  
  
Project Manager

Acct # 9  
For: 817-926-4377 Fax 817-926-4387

Job Site:

AUI PARTNERS, LLC  
13600 HERITAGE PKWY.  
SUITE 150  
FORT WORTH, TX 76177

LITTLE ELM TOWN HALL  
100 WEST ELDORADO PKWY  
LITTLE ELM, TX 75068  
Contact: DUSTIN STIFFLER

Type	Quantity	Product Description Labor Description	Color / Item Number Room	Price	Total
Accessories					
Labor	630SqYd	B. DEMO DIRECT GLUE CARPET AND SCRAPE ADHESIVE (BASE INCLUDED)	AREAS IN SCOPE OF WORK	\$3.00	\$1,890.00
Notes	ADD CARPET DEMO TO ORIGINAL PRICING				
Accessories					
Labor	395SqYd	B. DEMO DIRECT GLUE CARPET AND SCRAPE ADHESIVE (BASE INCLUDED)	AREAS IN SCOPE OF WORK	\$3.00	\$1,185.00
Notes	ADD CARPET DEMO ASI 3 ADD AREAS				
Cpt Tile					
Materials	395SqYd	PARTNER TILE 24X24	EQUAL	\$22.48	\$8,877.90
Notes	ADD CARPET				
Labor					
Labor	395SqYd	1B DIRECT GLUED STD BACK PATTERN	OPEN AREA	\$3.50	\$1,382.50
Notes	ADD LABOR FOR CARPET TILE INSTALL				
Adhesive					
Materials	10Each	SHAW 5000 - MODULAR CARPET TILE ADHESIVE	4 GALLON 013VS	\$118.46	\$1,184.60
Notes	ADD CARPET ADHESIVE				
Wall Base					
Materials	1080LnFt	BASE - (700) - COVE - 4"	BLACK 100	\$0.88	\$950.40
Notes	ADD RUBBER BASE				
Adhesive					
Materials	5Each	440 COVE BASE ADHESIVE	1 GAL	\$25.05	\$125.25
Notes	ADD RUBBER BASE ADHESIVE				
Labor					
Labor	1080LnFt	B. 2 1/2" & 4" COIL RUBBER	OPEN AREA	\$0.45	\$486.00
Notes	ADD RUBBER BASE LABOR				

# Continuation For: AUI PARTNERS, LLC, Quote # 31963

Type	Quantity	Product Description Labor Description	Color / Item Number Room	Price	Total
Floor Prep					
Materials	30	NC 888 PATCHING COMPOUND	10 LB BAG	\$30.00	\$900.00
Notes	ADD STANDARD FLOOR PREP				
Labor					
Labor	30 Each	A. 10LB FEATHER FINISH TYPE LABOR	OPEN AREA	\$35.00	\$1,050.00
Notes	ADD LABOR FOR STANDARD FLOOR PREP				

## Information

NEW CARPET AREAS ADDED TO SCOPE PER ASI 3  
INCLUDES DEMO CARPET AND SCRAPE OLD ADHESIVE

## Total

Material & Labor	\$18,031.65
Sales Tax	
<b>Grand Total</b>	<b>\$18,031.65</b>

Date	Ck #
Deposit	

## PROPOSAL SUBJECT TO CONTRACTUAL AGREEMENT

### 1926.1153 RESPIRABLE CRYSTALLINE SILICA OSHA COMPLIANCE FOR TABLE 1 ONLY

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Buyer: \_\_\_\_\_ Date: \_\_\_\_\_

Seller: \_\_\_\_\_ Date: \_\_\_\_\_



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Irving Texas 75063

972-399-1303 office 972-790-7535 fax

[www.vectorconcepts.com](http://www.vectorconcepts.com)

Acct # 9

For: 817-926-4377 Fax 817-926-4387

AUI PARTNERS, LLC  
13600 HERITAGE PKWY.  
SUITE 150  
FORT WORTH, TX 76177



Contract #  
641-21 (Sports) & 642-21 (Commercial)



Job Site:

LITTLE ELM TOWN HALL  
100 WEST ELDORADO PKWY  
LITTLE ELM, TX 75068  
Contact: DUSTIN STIFFLER

Proposal #

32781

Customer PO

Contract #

Date

8/4/2021

Sales Person1

Luke Herrick

Project Manager

Luke Herrick

Type	Quantity	Product Description Labor Description	Color / Item Number Room	Price	Total
Labor				\$8,935.00	\$8,935.00
<b>Labor</b>	1 Each	1D FURNITURE MOVING ONLY	FURNITURE MOVING		
<b>Notes</b>	FURNITURE MOVING. INCLUDES MOVING THEATER SEATING IN BOARD MEETING ROOM AND 2 LRG CONFERENCE TABLES				

#### Information

EXCLUDES MOVING ELECTRONICS AND PERSONAL ITEMS.

#### Total

Material & Labor	\$8,935.00
Sales Tax	
<b>Grand Total</b>	<b>\$8,935.00</b>
Date	Ck #
Deposit	

## PROPOSAL SUBJECT TO CONTRACTUAL AGREEMENT

### 1926.1153 RESPIRABLE CRYSTALLINE SILICA OSHA COMPLIANCE FOR TABLE 1 ONLY

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Buyer: \_\_\_\_\_ Date: \_\_\_\_\_

Seller: \_\_\_\_\_ Date: \_\_\_\_\_



## Town Council Meeting

**Date:** 12/21/2021  
**Agenda Item #:** 5. J.  
**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 Approve a **Professional Services Design Contract with Pacheco-Koch Consulting Engineers, Inc. for the Hill Lane Improvement Project.**

### DESCRIPTION:

The Town has a current Master Service Agreement to Furnish Consulting Services with Pacheco-Koch Consulting Engineers, Inc. as part of a previous Request for Qualifications (RFQ) for professional engineering services. This Work Order proposes to hire them to design paving and drainage improvements required for the expansion of Hill Lane, extending from its intersection with FM 720 to Dickson Lane. The total estimated construction cost is approximately \$7.1M.

The general scope of work will include field surveying, soil investigations, as well as the preparation of design drawings, specifications, and contract documents required to complete the project. The consultant will also provide as-needed bidding and construction administration services.

### BUDGET IMPACT:

Funding for the project is identified in the Roadway Impact Fee Fund, as well as the FY 2021-2022 Capital Improvement Program.

\$ 571,200.00	Proposed Contract Amount
\$ 43,800.00	Contingency
<b>\$ 615,000.00</b>	<b>Total Funding Request</b>

### RECOMMENDED ACTION:

Staff recommends approval.

Proposed Work Order  
Preliminary Cost Estimate

## EXHIBIT B - WORK ORDER

MAPS # 2016-1066

MAPS DATE: 01/20/2017

CONSULTANT  
NAME

Pacheco Koch Consulting Engineers, Inc.

Pursuant to and subject to the referenced Master Agreement for Professional Services (MAPS), between the Town of Little Elm, Texas ("Owner"), and Consultant, Owner hereby requests that Consultant perform, and Consultant agrees to perform, the work described below upon the terms set forth in said MAPS and in this Work Order:

Work Order #: 5

Consultant Project #: 005

Project Name: Hill Lane Paving Improvements

### INVOICE SUBMITTAL

Billing Period:	Monthly-Through the end of each month, billed by the 10th of the following month.
Invoice Mailing Instructions:	<p>Mail to: Town of Little Elm Accounts Payable 100 W. Eldorado Pkwy. Little Elm, TX 75068</p> <p>Email to: <a href="mailto:accounts.payable@littleelm.org">accounts.payable@littleelm.org</a></p> <p>Include work order number, PO number, billing period, and project name,</p>

### OWNER OPTIONAL INFORMATION:

1. **Work Site:** Consultant Offices unless otherwise stated.
2. **Work to be performed:** All work shall be in accordance with the scope listed below and as listed in the Master Agreement for Professional Services.
3. **Drawings / Plans are not attached.**
4. **Date and Time to Commence:** Upon Receipt of Purchase Order and Sign Work Order.
5. **Other:**

### CONSULTANT PROVIDED INFORMATION:

1. **Scope of Work:** See Exhibit C
2. **Compensation:** See Exhibit D

**ACCEPTANCE:**

This Work Order is accepted on the terms set forth herein and in the MAPS referenced above, as indicated by the signatures below.

**TOWN OF LITTLE ELM**

**CONSULTANT**

---

Matthew Mueller, Town Manager



---

Signature

Brian D. O'Neill, PE, CFM, Principal

---

Printed Name & Title

---

Date

11/9/2021

---

Date

**EXHIBIT C**

**BASIC ENGINEERING SERVICES  
FOR  
HILL LANE PAVING IMPROVEMENTS**

The project will include the paving and drainage improvements on Hill Lane from Dickson Lane to Oak Grove Parkway (FM 720).

The scope of work for BASIC Engineering Services involves Preliminary and Final Design, Project Plans, Specifications and Estimates on Roadways and Storm Drainage.

**I. PROJECT START UP & COORDINATION**

**A. Design Meetings**

1. The CONSULTANT will meet with the OWNER's staff during the development of the preliminary and final plan phases of the PROJECT.

**B. Project Management, Administration and Coordination**

1. The CONSULTANT will establish and maintain PROJECT schedules and budgets, prepare invoices, and meet with other entities on an as needed basis for the duration of the PROJECT's design.

2. Supervision of Subconsultants

The CONSULTANT will establish a work program and schedule for each subconsultant at the beginning of each phase/section of the PROJECT. The CONSULTANT will be responsible for the coordination, supervision, review and incorporation of work performed by subconsultants.

**C. Data Collection**

1. The CONSULTANT will collect, compile and evaluate existing data collected from the OWNER, or other entities that supply needed existing information for the design of the PROJECT.
2. A location map/schematic will be provided to the affected utility companies. These schematics will be used by the utility companies to show approximate locations of their facilities which are or may be affected by the PROJECT.



3. The CONSULTANT will make every effort to obtain As-Built Drawings, Record Drawings and/or future plans for the following facilities in the PROJECT area including:

- Box Culverts
- Roadway
- Water Lines
- Sanitary Sewer Lines
- Storm Drain Lines
- Southwestern Bell Underground and/or Overhead Lines
- Electric Underground and/or Overhead Lines
- Gas Lines
- Other Utilities Known to Serve the PROJECT Area

Plot the preliminary information obtained above for later use in the field to help surveyors tie existing utility locations. The locations of utilities tied from field surveys will be shown on the paving and drainage plans.

## **II. PRELIMINARY DESIGN PHASE (65% SUBMITTAL)**

### **A. Roadway Design**

1. The CONSULTANT will develop a preliminary design of proposed roadway improvements. The preliminary design will include the proposed horizontal and vertical alignments. These plan sheets will be at a 1" = 20' scale and contain topographic information, existing right-of-way lines, locations of driveways, typical sections, roadway baselines, pavement edges, contours where necessary, limits of structures, limits of retaining walls, if any, drainage structures including pipes, limits of sidewalks, limits of barriers and any other information necessary for pavement construction. Profiles at 1" = 20' horizontal scale and 1" = 2' vertical scale will contain existing ground lines at the proposed profile grade line, limits of structures. Upon completion, the preliminary design will be submitted to the OWNER for review. The preliminary design shall be approved by the OWNER prior to the start of the final design phase.

### **B. Drainage Plans and Details**

1. Drainage area maps will be prepared at a minimum scale of 1" = 200', using available contour maps. Inlets will be located and sub-drainage areas determined. The runoff to each inlet will be calculated in accordance with OWNER drainage criteria.

## 2. Storm Sewer Design

The CONSULTANT will incorporate storm sewer design into the roadway design sheets. These sheets will show the location of inlets, manholes, storm sewers, culverts, and open channel improvements in relation to the PROJECT's roadways. Profiles will show profile information for the proposed storm sewer trunk lines, proposed ground above the storm sewers, existing ground above the storm sewers, and locations of lateral junctions. Profiles of laterals will not be shown unless a proposed or existing utility crosses the lateral. Computation sheets (30% level) will be prepared for storm sewers, culverts, slotted drains and inlets.

### C. Preliminary Quantities and Opinion of Construction Cost

1. PROJECT quantities will be calculated and tabulated for inclusion in the bid proposal and opinion of construction cost.
2. The CONSULTANT's opinion of probable construction costs will be prepared for the entire PROJECT using current unit cost data.

### D. Submit Preliminary Plans for 30% Review

1. Submit two (2) sets of preliminary plans for OWNER review.
2. Submit plans to utility companies for review.

### F. Coordinate with outside agencies

1. The CONSULTANT will coordinate with the appropriate County offices and with the appropriate Texas Department of Transportation offices.

## **III. FINAL DESIGN PHASE (90% & 100% SUBMITTALS)**

### A. Prepare Final Design Plans

1. Incorporate OWNER review comments and directives from the preliminary design plans, in the preparation of final construction plans.
1. Incorporate Other Roadway Design Elements
  - A Project Title Sheet will be prepared as required and included in the Plans.

- Roadway typical sections will be prepared for paving sections along the various roadways of the PROJECT.
  - Roadway horizontal and vertical control and horizontal curve data will be shown on the plans.
  - Sidewalk locations and widths will be shown on the plans.
  - Supplementary intersection layout information will be prepared to properly show the relationship between the profiles of intersecting streets, where deemed necessary by the CONSULTANT.
  - Miscellaneous paving details will be developed as necessary to describe various types of construction such as sidewalks, curbs, etc. when no such OWNER standard details are available.
2. The CONSULTANT will prepare cross-sections along roadways at minimum 50' intervals and will extend 30' beyond the existing right-of-way. These cross-sections will form the basis for the determination of earthwork quantities. Cut and fill quantities will be computed and tabulated, referencing cross-sections.
3. Miscellaneous Drainage Details
- Culvert Plans/Profiles sheets and cross-sections, if necessary, will be provided for new culvert construction.
  - Miscellaneous drainage details will be prepared for any drainage related items which are not covered by OWNER standard details.

#### B. Erosion Control Plan

1. The Consultant will prepare an Erosion Control Plan for the referenced project. The plan will include the location and construction details for erosion/sediment control devices to manage the discharge of storm water runoff from the site during construction activities.

#### C. Calculate Final Quantities and Opinion of Probable Construction Cost

1. Revise the preliminary quantities and opinion of probable construction costs per changes in the final design and OWNER review comments.

D. Prepare Contract Documents and Specifications

1. Compile special provisions necessary for the PROJECT.
2. Compile specifications necessary for the PROJECT. Any special specifications will also be prepared. The OWNER will provide a copy of their contract documents in digital format.
3. Compile and develop a list of general notes necessary for the PROJECT.
4. Prepare complete contract documents and specifications for bidding purposes.

F. Submit final plans, specifications, and opinion of probable construction cost for OWNER review

1. Submit two (2) sets of final bid documents for OWNER review and approval.
2. Submit detailed drawings and plans/specifications to appropriate regulatory agency(ies) and utility companies and obtain clearance.

G. Assist the OWNER in the preparation for and conducting a public meeting with the affected residents.

F. Coordinate with outside agencies

1. The CONSULTANT will coordinate with the appropriate County offices and with the appropriate school district representatives.

#### **IV. BIDDING PHASE**

- A. Assist the OWNER in the advertisement of the PROJECT for bid. The OWNER shall bear the cost of advertisement. The CONSULTANT shall provide all necessary of construction plans, specifications and contract documents for use in obtaining bids, awarding contracts, and constructing the PROJECT. The OWNER shall be responsible for dispersing all plans and specifications from its office to prospective bidders.
- B. Assist the OWNER in the opening and tabulation of the construction bids for the PROJECT and recommend to the OWNER as to the proper action on all proposals received.
- C. Assist in the preparation of formal Contract Documents and in coordinating their execution by the respective parties.

## **V. CONSTRUCTION PHASE**

- A. Represent the OWNER in the non-resident administration of the PROJECT. In this capacity, the CONSULTANT shall have the authority to exercise whatever rights the OWNER may have to disapprove work and materials that fail to conform to the Contract Documents when such failures are brought to the CONSULTANT's attention. (This function of CONSULTANT shall not be construed as supervision of the PROJECT and does not include on-site activities other than occasional site visits to observe overall PROJECT conditions or when specifically requested by OWNER to visit on site for a particular matter (limited to 4 trips). It particularly does not involve exhaustive or continuous on-site inspection to check the quality or quantity of the work or material; nor does it place any responsibility on the CONSULTANT for the techniques and sequences of construction or the safety precaution incident thereto, and CONSULTANT will not be responsible or liable in any degree for the Contractor's failure to perform the construction work in accordance with the Contract Documents.)
- B. Consult and advise the OWNER; issue such instructions to the Contractor as in the judgment of the CONSULTANT are necessary; and prepare routine change orders as required.
- C. Review samples, catalog data, schedules, shop drawings, laboratory, shop and mill tests of material and equipment and other data which the Contractor is required to submit, only for conformance with the design concept of the PROJECT and compliance with the information given by the Contract Documents; and assemble written guarantees which are required by the Contract Documents.
- D. Prepare or review monthly and final estimates for payments to Contractor, and furnish to the OWNER any necessary certifications provided by the Contractor, as to payments to subcontractors and suppliers.
- E. The CONSULTANT will attend monthly coordination meetings.

## **VI. PROJECT COMPLETION**

- A. Conduct, in company with the Contractor, a final inspection of the PROJECT for conformance with the design concept of the PROJECT and compliance with the Contract Documents; and approve in writing final payment to the Contractor.
- B. Revise contract drawings, with the assistance of the OWNER's Resident PROJECT Representative to reflect available information as to how the work was constructed. The OWNER's Resident PROJECT Representative will provide the CONSULTANT a red-lined set of drawings depicting changes during construction. The

CONSULTANT shall revise original design drawings, noting changes during construction, and submit three (3) sets of Record Drawings and one CD-ROM (pdf and dwg format) to the OWNER.

**SPECIAL ENGINEERING SERVICES  
FOR  
STREET IMPROVEMENTS ALONG LAKESHORE DRIVE**

The scope of work for SPECIAL Engineering Services involves Surveys (Easements/Right-of-Way and Design). The scope of work for the Special Engineering Services is more generally described as follows:

**I. SURVEYING**

**A. Design Surveys**

**1. Establish Survey Control**

Establish survey control along each street or intersecting streets as necessary. These control points will be established based on and tied to established OWNER horizontal and vertical control points. The horizontal control for each street in the PROJECT will be established on the State Plane Coordinate System (NAD'83 Surface Coordinates) from OWNER monumentation. Control points will be established using 5/8" iron rods, 18" long. These control points will be established using GPS and conventional surveying methods.

**2. Benchmark Loop**

A benchmark circuit will be established, based on the vertical control points provided. These benchmarks will be located outside of the construction limits and put in such a place so that they may be easily found for future use. Benchmarks will be located at about 1,000' intervals and will be referenced. Benchmarks shall be looped in accordance with good surveying practice prior to field surveys. All control leveling work will be performed using appropriate modified second order procedures with closed loops into the PROJECT vertical control.

**3. Existing Streets and Driveways**

Existing streets and driveways will be profiled and cross-sectioned at 50' intervals and to a point at least 30' outside of the Right-Of-Way line. Low points, high points and other unique features will be noted. Pavement surfacing will be determined by visual inspection only. Intersecting streets will be profiled and cross-sectioned to a point at least 50' beyond the roadway being replaced.

#### 4. Existing Drainage Channels and Drainage Area Verification

Existing drainage channels and swales will be profiled and cross sectioned within the immediate vicinity of the PROJECT, 100' upstream and downstream. Low points, high points and any other unique features will be noted. Additional surveying may be necessary to verify the limits of drainage areas.

#### 5. Existing Underground and/or Overhead Utilities

Utility owner's will be contacted, on an as-needed basis, and requested to assist in locating existing utilities identified for the PROJECT. Above ground features of existing utilities within the proposed Right-Of-Way for the limits of the PROJECT will be field located, including elevations of sanitary and storm sewer manhole flowlines and water/gas valve stems. The location of utilities between above ground features will be determined from visual inspection, utility records, and/or from locations determined by the respective utility companies.

#### 6. Right-Of-Way

Right-Of-Way lines along the PROJECT will be located. This information will be included on the PROJECT's plan sheets.

#### 7. Existing Storm Sewers and Culverts

The size of existing culverts will be measured and tied along with existing headwalls, channels and aprons. The size, length, and flowline elevation of existing storm sewers will be surveyed. Drainage areas contributing to the PROJECT or conveying water from the PROJECT will be determined through field investigations and available topographic mapping.

#### 8. Temporary Signs, Traffic Control, Flags, Safety Equipment, Etc.

The Surveyor will exercise care in completing this surveying assignment by using traffic control devices, flags and safety equipment when necessary.

#### 9. Staking Right-of-Way Parcels

The ENGINEER will be responsible for staking the new Right-of-Way lines and each Right-of-Way acquisition parcel with 5/8-inch iron rods based on the legal description and exhibits prepared by a licensed Surveyor.



## **B. Easement/Right-of-Way Documents**

Easement/Right-of-Way instruments shall be prepared in OWNER approved format(s) and shall include a metes and bounds description and a sketch. Documents shall be signed, dated and sealed by a licensed Professional Land Surveyor registered in the State of Texas.

## **II. GEOTECHNICAL INVESTIGATION**

- A. Through a qualified subcontractor, ENGINEER will perform soil investigations, including field and laboratory tests, borings, related engineering analysis and recommendations for determining soil conditions will be made.
- B. Field and laboratory analysis will be made at reasonable intervals along the project alignments.
- C. A pavement section design will be prepared based on the results.
- D. Recommendations regarding design of trench safety and below ground structure, and suitability of pipe materials and construction technologies will be prepared based on the results.

## **III. STRUCTURAL DESIGN**

- A. Through a qualified subcontractor, ENGINEER will design storm junction boxes.

## EXHIBIT D

### COMPENSATION FOR ENGINEERING SERVICES FOR HILL LANE PAVING IMPROVEMENTS

Consultant proposes to provide the services described above on a Fixed Fee basis for a total fee, inclusive of direct reimbursable costs, as follows:

#### Engineering Services

Project Management & Coordination	\$ 39,440.00
Preliminary Design	\$ 255,220.00
Final Design	\$ 146,125.00
Bidding Phase	\$ 8,370.00
Construction Phase	\$ 29,480.00
Project Completion	\$ 8,200.00
Direct Expenses	<u>\$ 2,015.00</u>

**TOTAL ENGINEERING SERVICES      \$ 488,850.00**

#### Special Services

Topographic Field Survey	\$ 20,000.00
Right of Way Preparation (6 @ \$2,500)	\$ 15,000.00
Structural Design	\$ 38,000.00
Geotechnical Investigation	<u>\$ 9,350.00</u>

**TOTAL SPECIAL SERVICES      \$ 82,350.00**

**GRAND TOTAL      \$ 571,200.00**

Please note that the fees above are based on the assumption that Consultant will perform the above services all together for this project. In the event any item is deleted from the scope of work, Consultant reserves the right to adjust the fees for other items as appropriate.

# EXHIBIT A

HILL LANE  
TOWN OF LITTLE ELM



4060 Bryant Irvin Road  
Fort Worth, TX 76109

November 5, 2021



## KEY TO FEATURES



LIMITS OF SURVEY

## NOTES

BACKGROUND IMAGE FROM  
ESRI AERIALS

## DATUM

NAD 1983 TEXAS STATE PLANE  
NORTH CENTRAL ZONE FIPS 4202



0 250 500  
Feet  
1 inch = 600 feet

Project No.: 0100  
Client: Town of Little Elm  
Project Title: Hill Lane Reconstruction

FEE BUDGET ESTIMATE  
BASIC DESIGN & CONSTRUCTION SERVICES

November 9, 2021

DESCRIPTION OF WORK TASK	BASIS OF EFFORT ESTIMATE QNTY UNIT	LEVEL OF EFFORT BY CLASSIFICATION										TOTAL HRS PER TASK	TOTAL FEE PER TASK
		PROJ MGR \$245.00	SENIOR ENGR \$170.00	STR/ELEC/HYD ENGR \$150.00	PROJECT ENGR \$125.00	DESIGN TECH/EIT \$100.00	TECH. CADD \$85.00	QA/QC REVIEW \$200.00	ADMIN ASST \$75.00				
PROJECT MANAGEMENT	12 MTH	48	8	24								80.0	\$ 16,720.00
PROJECT START-UP AND COORDINATION													
PRELIMINARY CONFERENCE WITH CLIENT	1 N/A	8	8	8	8							32.0	\$ 5,520.00
COORDINATE WITH OUTSIDE AGENCIES / FRANCHISE UTILITY	1 N/A	16		6	16							36.0	\$ 6,820.00
COLLECT & REVIEW EXISTING DATA	1 N/A	2	2		8							12.0	\$ 1,830.00
IDENTIFY & EVALUATE ALTERNATE SOLUTIONS	1 N/A	2	2		4							8.0	\$ 1,330.00
SITE VISIT	1 EACH	8	8	8	12	12						48.0	\$ 7,220.00
PRELIMINARY DESIGN (65% SUBMITTAL)												SUB-TOTAL =	\$ 39,440.00
PAVING PLAN SHEETS	28 SHEET	6	6		80	120	140	6				356.0	\$ 37,590.00
GROSS SECTION SHEETS	30 SHEET	2	2		24	28	32	2				90.0	\$ 9,750.00
HYDROLOGIC AND DETENTION ANALYSIS	1 N/A	8	8	24	120	120	40	8				326.0	\$ 38,920.00
HYDRAULIC ANALYSIS AND DOWNSTREAM ASSESSMENT	1 N/A	8	8	24	120	120	40	8				326.0	\$ 38,920.00
DRAINAGE AREA MAPS / HYD CALCULATION SHEETS	6 SHEET	16		40	100	120	80	12				366.0	\$ 43,620.00
DRAINAGE PLAN AND PROFILE AND LATERAL SHEETS	24 SHEET	8	20	40	160	160	200	4	2			594.0	\$ 65,310.00
EROSION CONTROL PLAN SHEETS	4 SHEET	2			24	16	16	1				58.5	\$ 6,550.00
QUANTITY TAKE-OFF AND OPINION OF COST	N/A	2			24	32		2				60.0	\$ 7,090.00
COORDINATE WITH OUTSIDE AGENCIES	1 N/A	2			4		4		4			14.0	\$ 1,630.00
SITE VISITS / CLIENT CONFERENCE/REVIEW MEETING	1 EACH	12		4	12			4				32.0	\$ 5,040.00
												SUB-TOTAL =	\$ 295,220.00
FINAL DESIGN (95% & 100% SUBMITTALS)													
COVER SHEET / INDEX	1 SHEET				1	4	4					9.0	\$ 865.00
PROJECT LAYOUT / LEGEND / CONTROL / QTY SHEET	4 SHEET	1			4	10	20	1				36.0	\$ 3,645.00
GENERAL NOTES SHEET	3 SHEET	1			4	12	12	2				31.0	\$ 3,365.00
DETAIL SHEETS	15 SHEET	2			10	40	40	2				94.0	\$ 9,540.00
PAVING PLAN SHEETS	28 SHEET	6	6		60	80	80	4				236.0	\$ 25,590.00
GROSS SECTION SHEETS	30 SHEET	4	2		20	24	48	2				100.0	\$ 10,700.00
DRAINAGE AREA MAPS / HYD CALCULATION SHEETS	6 SHEET	2	2	4	8	20	20	2				58.0	\$ 6,530.00
DRAINAGE PLAN AND PROFILE AND LATERAL SHEETS	24 SHEET	4	8	20	100	140	120	8				400.0	\$ 43,640.00
EROSION CONTROL PLAN SHEETS	4 SHEET	2			8	8	20	2				40.0	\$ 4,390.00
CONSTRUCTION PHASING / TOP SHEETS	6 SHEET	8	6		40	56	56	2				166.0	\$ 18,740.00
QUANTITY TAKE-OFF AND OPINION OF COST	N/A	2	0		16	24						42.0	\$ 4,890.00
SPECIFICATIONS	BOOK	4	16		24	8	8		24			84.0	\$ 9,980.00
COORDINATE WITH OUTSIDE AGENCIES	1 N/A	4			8		4		2			18.0	\$ 2,470.00
SITE VISITS / CLIENT CONFERENCE/REVIEW MEETING	1 N/A	4			4				4			12.0	\$ 1,780.00
												SUB-TOTAL =	\$ 146,125.00

Project No.: 0100  
Client: Town of Little Elm  
Project Title: Hill Lane Reconstruction

FEE BUDGET ESTIMATE  
BASIC DESIGN & CONSTRUCTION SERVICES

November 9, 2021

DESCRIPTION OF WORK TASK	BASIS OF EFFORT ESTIMATE		LEVEL OF EFFORT BY CLASSIFICATION										TOTAL		TOTAL	
	QNTY	UNIT	PROJ MGR \$245.00	SENIOR ENGR \$170.00	STR/ELEC/HYD ENGR \$150.00	PROJECT ENGR \$125.00	DESIGN TECH/EIT \$100.00	TECH. CADD \$85.00	QA/QC REVIEW \$200.00	ADMIN ASST \$75.00	HRS PER TASK	FEE PER TASK				
BIDDING PHASE																
COORDINATE PSE REPRODUCTION / DISTRIBUTION	1	N/A	8			8				2	18.0	\$ 3,110.00				
BIDDING ASSISTANCE / PRE-BID MEETING	1	N/A	4			4				2	10.0	\$ 1,630.00				
BID OPENING	1	N/A	4							2	6.0	\$ 1,130.00				
BID TABULATION	1	N/A				2					2.0	\$ 250.00				
RECOMMENDATION OF AWARD	1	N/A	2			0				2	4.0	\$ 640.00				
NOTICE OF AWARD	1	N/A	1			0				1	2.0	\$ 320.00				
REVIEW & ASSEMBLE CONTRACTS	1	N/A	2			4				4	10.0	\$ 1,290.00				
											SUB-TOTAL =	\$ 8,370.00				
CONSTRUCTION PHASE																
NOTICE TO PROCEED		N/A	2								2.0	\$ 490.00				
PRECONSTRUCTION CONFERENCE		N/A	8			8					16.0	\$ 2,960.00				
SHOP DRAWING REVIEW	1	N/A	8			36					44.0	\$ 6,460.00				
SITE VISITS	2	N/A	8			16					24.0	\$ 3,960.00				
TEST REPORT REVIEW	1	N/A	4	4		8					16.0	\$ 2,660.00				
PLAN CLARIFICATIONS / RFIs	1	N/A	6		6	8					20.0	\$ 3,370.00				
MONTHLY CONTRACTORS ESTIMATE		N/A	4			16				8	28.0	\$ 3,580.00				
MONTHLY COORDINATION MEETINGS	4	N/A				48					48.0	\$ 6,000.00				
											SUB-TOTAL =	\$ 29,480.00				
PROJECT COMPLETION																
FINAL INSPECTION		EACH	8			8					16.0	\$ 2,960.00				
RECORD DRAWINGS	121	SHEET	2				12	40		2	56.0	\$ 5,240.00				
											SUB-TOTAL =	\$ 8,200.00				
HOURS SUB-TOTALS			265.0	116.0	208.0	1,189.0	1,166.0	1,024.0	71.5	59.0	4,098.5	\$ 486,835.00				
TOTAL LABOR COSTS			64,925.00	19,720.00	31,200.00	148,625.00	116,600.00	87,040.00	14,300.00	4,425.00						
% OF TOTAL HOURS			6.5%	2.8%	5.1%	29.0%	28.4%	25.0%	1.7%	1.4%	100.0%					

PRINTING & REPRODUCTION EXPENSES										ENGINEERING		
PRINTING - 11 X 17 PLANS (REVIEW SETS)	6	SETS	121	PLOTS/SET	726	1.00	726.00	LABOR COSTS:	\$	486,835.00		
PRINTING - 22 X 34 PLANS (REVIEW SETS)	0	SETS	121	PLOTS/SET	0	1.50	-	DIRECT EXPENSES		2,015.00		
PRINTING - 22 X 34 PLANS (UTILITY CLEARANCE SETS)	0	SETS	121	PLOTS/SET	0	1.50	-	TOTAL ENGINEERING (Basic Services)	\$	488,850.00		
PLOTTING - 22 X 34 PAPER PLOTS	0	SETS	121	PLOTS/SET	0	3.00	-					
PRINTING - 22 X 34 PLANS (BID SETS)	0	SETS	121	PLOTS/SET	0	1.50	-					
PRINTING - 11 X 17 PLANS (BID SETS)	1	SETS	121	PLOTS/SET	121	1.00	121.00	OTHER DIRECT COSTS - (Special Services)				
PRINTING - 22 X 34 PLANS (AS-BUILT SETS)	2	SETS	121	PLOTS/SET	0	3.00	-	FIELD SURVEY	\$	20,000.00		
PRINTING - 11 X 17 PLANS (AS-BUILT SETS)	2	SETS	121	PLOTS/SET	242	1.00	242.00	RIGHT OF WAY PREPARATION (6 @ \$2,500 PER PARCEL)	\$	15,000.00		
MYLAR PREPARATION	0	SETS	121	PLOTS/SET	0	4.00	-	STRUCTURAL DESIGN	\$	38,000.00		
PDF PREPARATION	1	SETS	121	PLOTS/SET	1	8.00	8.00	GEOTECHNICAL INVESTIGATION	\$	9,350.00		
SPECIFICATIONS - 8.5 X 11 PAPER COPIES	6	SETS	100	COPIES/SET	600	0.10	60.00	TOTAL ENGINEERING (Special Services)	\$	82,350.00		
SPECIFICATIONS - 8.5 X 11 PAPER COPIES (BID SETS)	1	SETS	100	COPIES/SET	100	0.10	10.00					
TOTAL PRINTING & REPRODUCTION EXPENSES							\$ 1,167.00	TOTAL DESIGN FEE	\$	571,200.00		
DIRECT EXPENSES												
PLOTTING - 11 X 17 PAPER PLOTS	3	SETS	121	PLOTS/SET	363	1.00	363.00					
REPRODUCTION - 8.5 X 11 PAPER COPIES	250	COPIES			250	0.10	25.00					
DELIVERY SERVICE	5	PKGS			5	15.00	75.00					
AUTO EXPENSE	14	TRIPS	50	MI/TRIP	700	0.55	385.00					
TOTAL PER PHASE DIRECT EXPENSES							\$ 848.00					

## ENGINEER'S PRE-DESIGN OPINION OF CONSTRUCTION COST

CLIENT: Town of Little Elm, Texas  
 DATE: November 4, 2021  
 PROJECT: Hill Lane Paving Improvements  
 LIMITS: Dickson Lane to Oak Grove Parkway  
 LENGTH: 3500 LF  
 WIDTH: Existing 24' ±  
 DESIGN ASSUMPTIONS:

Prepared By: Pacheco Koch Consulting Engineers, Inc.  
 4060 Bryant Irving Road  
 Fort Worth, Texas 76109  
 (817) 412-7155

- ◇ Roadway will be reconstructed to a width of 27' Back to Back.
- ◇ Wellington Dr and Oak Grove Pkwy intersections will be reconstructed to a width of 37' Back to Back for a turn lane.
- ◇ Paving will be constructed with curb and gutter.
- ◇ Existing right-of-way is 60' throughout project limits.
- ◇ Driveways will be concrete pavement constructed to the right-of-way.
- ◇ Roadway section will be 8" concrete on 8" Flex Base.
- ◇ The road will remain open to residents only traffic during construction.
- ◇ Sidewalks will be constructed from French Settlement to Wellington Drive.
- ◇ Water and sanitary sewer has been constructed for this project.
- ◇ Coordinate with TxDOT.
- ◇ Coordinate with Denton County.
- ◇ 860' of 10'X6' RBCB will need to be extended west along Dickson Lane.

ITEM NO.	DESCRIPTION	UNIT	QUANTITY	UNIT PRICE	TOTAL AMOUNT
<b>Paving Improvements:</b>					
1P	Barricades, Signs & Traffic Handling	LS	1	70,000.00	70,000.00
2P	Prepare Right of Way	STA	35	5,000.00	175,000.00
3P	Project Sign	EACH	2	600.00	1,200.00
4P	SW3P Implementation & Maintenance	LS	1	25,000.00	25,000.00
5P	Roadway Excavation	CY	4,000	27.00	108,000.00
6P	8" Flexible Base (Crushed Stone)	SY	11,000	18.00	198,000.00
7P	8" Portland Cement Concrete Pavement	SY	12,000	80.00	960,000.00
8P	6" Concrete Driveway Approaches	SY	150	80.00	12,000.00
9P	8" Concrete Driveway Approaches	SY	115	90.00	10,350.00
10P	5' Wide Concrete Sidewalk	SY	1,100	65.00	71,500.00
11P	4" Thick Topsoil & Sod	SY	800	15.00	12,000.00
12P	4" Thick Topsoil & Seeding	SY	8,200	9.00	73,800.00
13P	Pavement Markings	LS	1	6,000.00	6,000.00
14P	Remove & Replace Mailbox	EACH	14	300.00	4,200.00
	<b>Paving Subtotal</b>				<b>\$ 1,727,050.00</b>
	<b>Contingencies (25%)</b>				<b>\$ 431,760.00</b>
	<b>Paving Total</b>				<b>\$ 2,158,810.00</b>
<b>Drainage Improvements:</b>					
1D	12' Curb Inlet	EA	40	7,000.00	280,000.00
2D	18" Reinforced Concrete Pipe	LF	800	120.00	96,000.00
3D	6'x4' Box Culvert	LF	250	460.00	115,000.00
4D	8'x6' Box Culvert	LF	1,650	675.00	1,113,750.00
5D	10'x6' Box Culvert	LF	2,300	900.00	2,070,000.00
6D	6'x4' Headwall	EA	2	6,000.00	12,000.00
7D	10'x6' Headwall	EA	1	9,000.00	9,000.00
8D	10'x6' Junction Box	EA	1	18,000.00	18,000.00
9D	12'x6' Junction Box	EA	1	22,000.00	22,000.00
10D	Connect to Existing 2-4'X2' box Culverts	EA	1	10,000.00	10,000.00
11D	Asphalt Pavement Repair	SY	2,100	100.00	210,000.00
	<b>Drainage Subtotal</b>				<b>\$ 3,955,750.00</b>
	<b>Contingencies (25%)</b>				<b>\$ 988,940.00</b>
	<b>Drainage Total</b>				<b>\$ 4,944,690.00</b>
	<b>TOTAL OPINION OF CONSTRUCTION COSTS</b>				<b>\$ 7,103,500.00</b>



## Town Council Meeting

**Date:** 12/21/2021  
**Agenda Item #:** 5. K.  
**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

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### AGENDA ITEM:

Consider Action to Approve a **Contract with Network Cabling Services (NCS) for Audio/Visual Upgrades at Little Elm Town Hall.**

### DESCRIPTION:

As part of the Town Hall Expansion Project, several upgrades to the existing audio/visual equipment were included in the scope of work. These upgrades include the installation of large-screen televisions, video conferencing equipment, and microphones in the new 2nd floor conference spaces, as well as the council chambers and executive conference room. The new equipment will improve the ability of the audience members to see and hear meeting presentations and will provide video conferencing capabilities in the conference rooms. New televisions will also be installed within public areas that display important information and updates.

Staff has received price quotes from NCS to provide and install the proposed equipment for each area. NCS is a member of the Texas BuyBoard, a cooperative purchasing organization frequently utilized by the Town.

### BUDGET IMPACT:

Funding for the project is allocated in the FY 2021-2022 budget:

\$	67,471.26	Council Chambers Upgrades
\$	65,257.25	Executive Conference Room
\$	29,834.15	2nd Floor Upgrades
\$	<u>10,000.00</u>	<u>Contingency</u>
\$	<b>172,562.66</b>	<b>Proposed Total Cost</b>

### RECOMMENDED ACTION:

Staff recommends approval.

---

### **Attachments**

Price Quotes





**\*\* Proposal \*\***

**November 05, 2021**

**Project Number: 9609**

**For :**

Council Chambers AV Upgrades

Network Cabling Services  
12626 Fuqua Street  
Houston, TX 77034  
281-484-1777 Fx 281-484-1776

Town of Little Elm  
Scott Westenhoefer  
100 W. Eldorado Parkway  
Little Elm, TX 75068

Tel: 214-975-0406

Mfr-Part No.	Qty	Description	Unit Price	Extended
		TOWN OF LITTLE ELM - COUNCIL CHAMBERS AV UPGRADES REV5		
	1	BUY BOARD		
		SIDE WALL DISPLAYS		
SAMS-QB65R	2	Samsung 65" Commercial 4K LCD Display		
CHIEF-TS525TU	2	THIN SWING ARM (LARGE)		
CHIEF-FHB5147	2	HARDWARE KIT		
CHIEF-PAC525FCW	2	WALL ENC,16X9,MTI-D,PRE/PST INST,CVR-WHT		
SAMS-QB98T	2	Samsung 98" Commercial 4K LCD Display		
CHIEF-PNRUB	2	LFP FOUR ARM DUAL UNIVERSAL		
CHIEF-FHB5147	2	HARDWARE KIT		
CHIEF-PAC526FC	2	WALL ENC,16X16,MTI-D,PRE/PST INST,CVR		
		VIDEO TO DISPLAYS		
CRESTRON-HD-TXC -101-C-E	4	DM Lite« Transmitter for HDMI«, IR, and RS-232 Signal Extension		
CRESTRON-HD-RXC -101-C-E	4	DM Lite û HDMI« over CATx Receiver w/IR & RS-232, Surface Mount		
		DIGITAL SIGNAL PROCESSOR		
BIAMP-TESIRA SERVER-IO	1	Configurable I/O DSP with up to 48 channels of I/O, 1 DSP-2 card		
BIAMP-SIC-4	6	Mic/Line Input Card		
BIAMP-SOC-4	2	Mic/Line Output Card		
BIAMP-TESIRA DAN-1	1	Tesira 64x64 DanteÖ module for use in SERVER or SERVER-IO chassi		
		WIRELESS MIC SYSTEM		
SHUR-MXWANI8	1	8-CH NETWORK INTERFACE		
SHUR-MXWAPT8=-Z 10	1	8-CH ACCESS POINT TRANSCEIVER		

Mfr-Part No.	Qty	Description	Unit Price	Extended
SHUR-MXW2/SM58	2	Handheld Transmitter with SM58« Microphone (Includes one SB902 B		
SHUR-MXW1/O=-Z10	4	Bodypack Transmitter with Integrated Omnidirectional Microphone		
SHUR-WL185	4	Microflex« Cardioid Lavalier Microphone		
SHUR-MXW8=-Z10	2	DESKTOP BASE TRANSCEIVER		
SHUR-MXWNCS8	1	8-CH NETWORKED CHARGING STATION		
BOSE-829682-0110	2	DesignMax DM6SE(Pricing is shown for an individual speaker. DM6		
BOSE-738453-0110	2	RMU Pan and Tilt Bracket		
MIDATL-ERK-4020LR D	1	40SP/20D STANDALONE RACK		
MIDATL-CBS-ERK-20 R	1	FLR-FNDLY CBS20"DPERK		
MIDATL-PD-920R	1	9OTLT20ARKMT PWRWSRG		
MIDATL-VT1	2	1SP PERFORATED VENT PANEL		
MIDATL-EB1	4	1SP FLANGED ECONO BLANK		
MIDATL-EB2	2	2SP FLANGED ECONO BLANK		
MIDATL-EB4	1	4SP FLANGED ECONO BLANK		
MIDATL-UMS1-11.5	2	1SP UM SHELF11.5"D		
MIDATL-D4LK	1	4SP ANOD DRAWER W/LOCK		
XTRM-V80-2000XR	1	Xtreme Power UPS Battery Backup		
LIBERTY-24-4P-P-L6 ANS-BLU	1	CATEGORY 6A NCS CMP BLUE		
LIBERTY-16-2C-P-BLK	0.25	COMMERCIAL 16/2 CMP BLACK		
LIFT	1			
	1	CRESTRON PROGRAMMING		
NCSA-HARDWARE	1	Hardware (Misc. Nuts, Bolts, Cable, Connectors, Access Covers)		
		Equipment Subtotal		47,199.56
		Installation Subtotal		18,833.98

The communications industry is currently experiencing volatile price increases and unusually long lead times on cabling, metal accessories and electronic devices. Due to the rapidly changing conditions of the industry, NCS is only able to guarantee our pricing for fourteen (14) days. Additionally, although we will make our best effort to meet all requested time commitments, we are currently subject to supply chain delays which may impact the project schedule.

No taxes or bond cost are included unless specifically itemized.

This \*\* Proposal \*\* is Valid for 14 Days.

Shipping & Handling: 1,437.72

Shipping & Handling: \$ 1,437.72

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Project Total: \$ 67,471.26

**Customer:** Town of Little Elm

**Project Name:** Large Council Chambers Conf Room (Job#: 9763)  
**Buy Board#:** 563-18

**Date:** November 11, 2021

**Estimator:** Joe Colley (E: [jcolley@ncs-tx.com](mailto:jcolley@ncs-tx.com) M: 972.837.9845)



### **Scope of Work**

This scope of work is designed to provide our customers with a thorough understanding of the nature and functionality of the system they will receive from Network Cabling Services (NCS), as well as defining necessary coordination and requirements from the customer and other trades in order to ensure a successful project. Please review the document carefully to ensure that the proposed system meets the needs of your organization.

### **Scope of Work:**

This proposal is for the Town of Little Elm Council Chambers Large Conference Room AV Systems located on the 1<sup>st</sup> floor. NCS will provide and install the following solution:

- (2) 65" Samsung Flat Panel Displays with Chief tilt wall mounts and TV backboxes, (1) on each side wall for a total of (2). Power and Data Connections will be located in TV backboxes, NCS will coordinate with the Town of Little Elm technical staff
- (1) 98" Samsung Flat Panel Display with Chief fixed wall mount wall mount and TV backbox at the head of the conference room table. Power and Data Connections will be located in TV backboxes, NCS will coordinate with the Town of Little Elm technical staff
- (1) Vaddio PTZ Conferencing Cameras with Extender for signal to the AV Headend Rack.
- (1) 10" Crestron Touch Screen with Table Mount for Control, which will be located on the conference room table
- (1) Crestron DMPS3 video matrix and control system for control and distribution of video signals and control.
- (1) Crestron AirMedia wireless presentation system
- (1) USB 3.0 Extender to transport Audio-Video from the table to the equipment rack for conferencing camera
- (1) Crestron Digital Media device to extend (2) HDMI signals to video Matrix, the conference table will accommodate (2) HDMI AND (2) USB 3.0 connections for laptop connectivity. Owner is to provide Power and Cat6A Data to display locations, credenza AV rack, conference table and podium/wall location. All power requirements are to be coordinated with NCS
- (1) Biamp TesiraForte DSP will manage, route, and provide EQ for the conferencing audios system
- (1) Crestron power amplifier for conferencing audio
- (8) Saros 6.5" 2-way In-Ceiling Speakers for audio coverage
- (1) Crestron DM input plate at the wall/podium location
- (3) Crestron DM receiver end points for video to displays from headend
- (1) Crestron NVX Encoder/Decoder for streaming from remote locations

**(next page)**

**Council Chambers AV Upgrades Total: \$ 65,257.25**

**These are the 3 mic recommendations:**

**Wireless Table Gooseneck Mics - Option 1: \$ 24,578.24**

**Wired Table Mic Arrays - Option 2: \$ 4,970.08**

**Ceiling Mic Arrays - Option 3: \$ 11,828.33**

### **Project Notes, Assumptions and Exclusions**

- The communications industry is currently experiencing volatile price increases and unusually long lead times on cabling, metal accessories and electronic devices. Due to the rapidly changing conditions of the industry, NCS is only able to guarantee our pricing for fourteen (14) days. Additionally, although we will make our best effort to meet all requested time commitments, we are currently subject to supply chain delays which may impact the project schedule.
- This pricing does not include Power, Data Cabling or Data Drops. All Power and Data connections required are provided by others.
- A 3.8% processing fee will be added to the price quoted if payment is made via a credit card or purchasing card.
- NCS shall perform the work described within by the use of non-union employees. If union employment is required, it must be agreed upon and specifically documented by the owner and NCS.
- The project schedule as agreed upon by the owner and NCS prior to purchase shall remain in place throughout the project. Changes to the project schedule resulting from delay by other trades, request by the owner, or in order to meet construction milestones may result in the issuance of a change order to address lost time or overtime incurred by NCS.
- Changes to the scope of work contained within may result in the issuance of a change order to address an increase or decrease in required materials or labor.
- Unless specifically requested and priced in the proposal, all work described herein will be performed during the normal business hours of 8 AM – 5 PM, Monday through Friday.
- On-site parking shall be provided when available. Parking permits where applicable shall be provided free of charge to NCS.
- All necessary building access shall be provided including but not limited to access through doors, elevators, stairwells, etc.
- All security badges, keys or personnel escorts shall be provided as required by the owner.
- The project site shall be ready for NCS to proceed with the work specified within this document upon our scheduled arrival to the site. This includes the site being clean and dust free, free from obstructions, free of other trades, and free of any scheduled events.
- All required infrastructure provided by the owner or other trades shall be complete prior to NCS commencing work on the project unless specifically authorized by NCS. This shall include all electrical power, conduits and junction boxes, and all data lines not being provided by NCS (including POTS, ISDN, and LAN).
- All owner or contractor supplied information regarding site conditions is accurate in detail. Information may include CAD drawings, blueprints, building plans and layouts, or other data types transmitted electronically or through print.

- All owner furnished equipment shall be provided at the start of the project unless otherwise agreed upon. All equipment must be presented in good, working order. No owner furnished equipment shall be covered under any warranty provided by NCS unless specifically requested and agreed upon by the owner and NCS.
- All necessary ceiling trim work, woodworking, millwork, drywall repair and painting shall be provided by the owner or owner furnished contractor. NCS shall not provide these services unless specifically agreed upon in advance and specifically documented.
- All equipment in the project shall become property of the owner once it is physically installed on the site. NCS shall not be liable for any damage or loss of the equipment once it is physically installed unless agreed upon in advance and specifically documented.
- This scope of work and project proposal contains specific proprietary information and intellectual property. It may not be distributed to other parties outside of appropriate owner representatives without prior written authorization by NCS.
- This quote is valid for 30 days from today's date.

The information contained in this scope of work is accurate and to the best of my knowledge represents my understanding of the work to be performed by NCS. I have read the Owner Requirements and agree to provide these items. Further, I agree to the assumptions and exclusions specified by NCS.

**Owner Representative:**

**NCS Representative:**

Signature

*Joe Colley*

Signature

Printed Name and Title

Joe Colley, Design Engineer

Printed Name and Title

Date

11/11/2021

Date



**\*\* Proposal \*\***

**November 08, 2021**

**Project Number: 9771**

**For :**

Conf Rooms & Office AV REV1

Network Cabling Services  
12626 Fuqua Street  
Houston, TX 77034  
281-484-1777 Fx 281-484-1776

Town of Little Elm  
Scott Westenhoefer  
100 W. Eldorado Parkway  
Little Elm, TX 75068

Tel: 214-975-0406

Mfr-Part No.	Qty	Description	Unit Price	Extended
		Town of Little Elm		
	1	BUY BOARD		
		RECEPTION		
SAMS-QB55R	1	Samsung 55" Commercial 4K LCD Display	1,084.57	1,084.57
CHIEF-MTTU	1	MEDIUM TILT THININSTALL UNIVERSAL	145.50	145.50
CHIEF-FHB5147	1	HARDWARE KIT	11.25	11.25
		LOBBY-BILL PAYMENT		
SAMS-QB55R	1	Samsung 55" Commercial 4K LCD Display	1,084.57	1,084.57
CHIEF-TS218SU	1	MEDIUM DUAL ARM THIN SWINGARM	225.75	225.75
CHIEF-FHB5147	1	HARDWARE KIT	11.25	11.25
		BREAKROOM		
SAMS-QB55R	1	Samsung 55" Commercial 4K LCD Display	1,084.57	1,084.57
CHIEF-TS218SU	1	MEDIUM DUAL ARM THIN SWINGARM	225.75	225.75
CHIEF-FHB5147	1	HARDWARE KIT	11.25	11.25
		OFFICES		
SAMS-QB65R	2	Samsung 65" Commercial 4k LCD Display	1,162.04	2,324.08
CHIEF-MTM1U	2	Micro-Adjust Tilt Wall Mount, Medium	170.25	340.50
CHIEF-FHB5147	2	HARDWARE KIT	11.25	22.50
CRES-AM-3100-WF	2	AirMedia Series 3 Wireless Presentation System	595.24	1,190.48
		CONFERENCE ROOM (SMALL)		
SAMS-QB65R	1	Samsung 65" Commercial 4k LCD Display	1,162.04	1,162.04
CHIEF-MSM1U	1	Micro-Adjust Fixed Wall Mount, Medium	141.75	141.75
CHIEF-FHB5147	1	HARDWARE KIT	11.25	11.25
CHIEF-PAC525FC	1	WALL ENC,16X9,MTI-D,PST INST,CVR	106.50	106.50
LIBERTY-E-USB3AB-15	1	USB 3.0 MOLDED AM-BM 15' BLACK	7.24	7.24
CRES-AM-3100-WF	1	AirMedia Series 3 Wireless Presentation System	595.24	595.24

Mfr-Part No.	Qty	Description	Unit Price	Extended
	1	CONN-CONNECTRAC OVER-FLOOR RACEWAY W/POWER	1,149.82	1,149.82
BOSE-842415-1110	1	BOSE VIDEOBAR VB1	1,199.54	1,199.54
LIBERTY-DL-ARDA	1	Adapter Ring	272.01	272.01
		CONFERENCE ROOM (MEDIUM)		
SAMS-QB85R	1	Samsung 85" Commercial 4K LCD Display	3,227.89	3,227.89
CHIEF-LSM1U	1	Micro-Adjust Fixed Wall Mount, Large	188.25	188.25
CHIEF-PAC525FC	1	WALL ENC,16X9,MTI-D,PRE/PST INST,CVR	106.50	106.50
CHIEF-FHB5147	1	HARDWARE KIT	11.25	11.25
BOSE-842415-1110	1	BOSE VIDEOBAR VB1	1,199.54	1,199.54
LIBERTY-INT-USB3.1 CX	1	USB 3.1 CATX EXTENDER SET	1,164.91	1,164.91
LIBERTY-E-USB3AA- 10	1	USB 3.0 MOLDED AM-AM 10' BLACK	5.99	5.99
CRESTRON-DM-TX- 4KZ-202-C	1	DigitalMedia 8G+« 4K60 4:4:4 HDR Transmitters 202	892.86	892.86
CRESTRON-DM-RM C-4KZ-100-C	1	DigitalMedia 8G+« 4K60 4:4:4 HDR Receiver & Room Controller 100	535.71	535.71
CRESTRON-PW-241 2WU	2	Wall Mount Power Pack, 24 VDC, 1.25 A, 2.1 mm, Universal	41.67	83.34
CRES-AM-3100-WF	1	AirMedia Series 3 Wireless Presentation System	595.24	595.24
LIBERTY-DL-ARDA	0.25	Adapter Ring	272.01	68.00
LIBERTY-24-4P-P-L6 ANS-BLU	0.25	CATEGORY 6A NCS CMP BLUE	851.32	212.83
NCSA-HARDWARE	1	Hardware (Misc. Nuts, Bolts, Cable, Connectors, Access Covers)	657.89	657.89
		Equipment Subtotal		21,357.61
		Installation Subtotal		7,826.78

The communications industry is currently experiencing volatile price increases and unusually long lead times on cabling, metal accessories and electronic devices. Due to the rapidly changing conditions of the industry, NCS is only able to guarantee our pricing for fourteen (14) days. Additionally, although we will make our best effort to meet all requested time commitments, we are currently subject to supply chain delays which may impact the project schedule.

No taxes or bond cost are included unless specifically itemized.

This \*\* Proposal \*\* is Valid for 14 Days.

Shipping & Handling: 649.76

Shipping & Handling: \$ 649.76

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Project Total: \$ 29,834.15



**Date:** 12/21/2021  
**Agenda Item #:** 5. L.  
**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

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**AGENDA ITEM:**

Consider Action to Approve **Amendment #2 to the Interlocal Agreement Cooperation Agreement between the Town of Little Elm, the City of Frisco, and the Texas Department of Transportation for the Operation and Maintenance of Traffic Signals.**

**DESCRIPTION:**

The purpose of this agreement is to add two (2) new traffic signals on FM 423 that are planned to be installed by TxDOT within the next year. These signals are located at Smotherman Road and Martin Way.

**BUDGET IMPACT:**

There is no budget impact for this item as TxDOT will reimburse the City of Frisco for the cost to maintain the State-owned signals.

**RECOMMENDED ACTION:**

Staff recommends approval.

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**Attachments**

ICA Amendment



STATE OF TEXAS       §

COUNTY OF TRAVIS   §

**AMENDMENT TO VOLUNTARY INTERLOCAL COOPERATION AGREEMENT  
FOR THE OPERATION AND MAINTENANCE OF TRAFFIC SIGNALS  
Amendment Number 2**

**THIS INTERLOCAL AMENDMENT** It is made by and between the State of Texas acting by and through the Texas Department of Transportation, (TxDOT), the City of Frisco and the Town of Little Elm (Local Government), and shall become effective when fully executed by both parties.

It is mutually understood and agreed by and between the undersigned contracting parties to the above numbered Interlocal Contract to amend the contract as follows:

The Town of Prosper shall be deleted from the agreement in it's entirety.

**AGREEMENT**

Article 4 – Compensation (a) shall be voided in its entirety and replaced with the following:

Article 4 – Compensation (a) The maximum amount payable under this Agreement is **\$87,654.00** per year.

Exhibit 1-A shall be voided in its entirety and replaced with the attached EXHIBIT 1-B.

Exhibit 2-A shall be voided in its entirety and replaced with the attached EXHIBIT 2-B.

All other terms and conditions of the above numbered Interlocal Contract not hereby amended remain in full force and effect.

**ADMINISTRATOR – CITY OF FRISCO**

By \_\_\_\_\_ Date \_\_\_\_\_  
AUTHORIZED SIGNATURE  
Name George Purefoy  
TYPED OR PRINTED NAME  
Title City Manager  
TYPED OR PRINTED TITLE

**ADMINISTRATOR – TOWN OF LITTLE ELM**

By \_\_\_\_\_ Date \_\_\_\_\_  
AUTHORIZED SIGNATURE  
Name Matt Mueller  
TYPED OR PRINTED NAME  
Title Town Manager  
TYPED OR PRINTED TITLE

**THE STATE OF TEXAS**

By \_\_\_\_\_ Date \_\_\_\_\_  
Mohamed K Bur, P.E.  
Dallas District Engineer

**EXHIBIT 1-B**

Signalized intersections on State Highways located within the Town of Little Elm

1. FM 423 at FM 720
2. FM 720 at FM 720 (West Connector)
3. FM 720 at Lobo Lane
4. FM 720 at Fire Station Emergency Signal
5. FM 720 Clark/Harwicke
6. FM 720 at Hart Road
7. FM 720 at Wynfield Drive
8. FM 720 at Preston on the Lakes Blvd. (4<sup>th</sup> Street)
9. FM 720 at Witt Road/Woodlake
10. FM 720 at Little Elm Connector (East Connector)
11. FM 720 at Sunland Park Drive/Pine Trail Pk.
12. FM 720 at Hill Lane
- 13. FM 423 at Martin Way**
- 14. FM 423 at Smotherman Road**

**EXHIBIT 2-B**

**REIMBURSEMENT CALCULATION WORKSHEET**

Signals shall be reimbursed at **\$6,261.00** per intersection per year

Calculations: Locations x 14 = **\$87,654.00**

The total amount payable per year = **\$87,654.00**

Exact amount paid to the Performing Agency will be based upon whether a monthly, quarterly, or yearly payment schedule is selected. The actual payment to be made per billing cycle will be calculated by means of dividing the total amount per year by the number of payments to be made per year.



**Date:** 12/21/2021  
**Agenda Item #:** 6. A.  
**Department:** Economic Development Corporation  
**Strategic Goal:** Promote and expand Little Elm's identity  
**Staff Contact:** Jennette Espinosa, EDC Executive Director

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**AGENDA ITEM:**

Hold a Public Hearing, Present, Discuss and Consider Action on **Ordinance No. 1649 Accepting and Approving A Service and Assessment Plan and Assessment Roll for the Spiritas East Public Improvement District.**

**Open Public Hearing:**

**Receive Public Comments:**

**Close Public Hearing:**

**Take Action on Ordinance No. 1649**

**DESCRIPTION:**

The Town Council will conduct a public hearing to consider testimony and act upon Ordinance No. 1649 accepting and approving a Service and Assessment Plan and Assessment Roll for the Spiritas East Public Improvement District; making a finding of special benefit to the property in the District; levying assessments against property within the District and establishing a lien on such property; providing for the method of assessment and the payment of the assessment in accordance with Chapter 372, Texas Local Government Code, as amended.

**BUDGET IMPACT:**

There is no budget impact for this item.

**RECOMMENDED ACTION:**

Staff recommends holding the Public Hearing for discussion and approval of Ordinance No. 1649, Accepting and Approving a Service and Assessment Plan and Assessment Roll for the Spiritas East Public Improvement Distirct.

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**Attachments**

LE Spiritas East Ordinance No. 1649



## **ORDINANCE NO. 1649**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LITTLE ELM, TEXAS ACCEPTING AND APPROVING A SERVICE AND ASSESSMENT PLAN AND ASSESSMENT ROLL FOR THE SPIRITAS EAST PUBLIC IMPROVEMENT DISTRICT; MAKING A FINDING OF SPECIAL BENEFIT TO THE PROPERTY IN THE DISTRICT; LEVYING ASSESSMENTS AGAINST PROPERTY WITHIN THE DISTRICT AND ESTABLISHING A LIEN ON SUCH PROPERTY; PROVIDING FOR THE METHOD OF ASSESSMENT AND THE PAYMENT OF THE ASSESSMENTS IN ACCORDANCE WITH CHAPTER 372, TEXAS LOCAL GOVERNMENT CODE, AS AMENDED; PROVIDING PENALTIES AND INTEREST ON DELINQUENT ASSESSMENTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, a petition was submitted and filed with the Town Secretary or Acting Town Secretary (either, the "Town Secretary") of the Town of Little Elm, Texas (the "Town") pursuant to the Public Improvement District Assessment Act, Chapter 372, Texas Local Government Code, as amended (the "PID Act"), requesting the creation of a public improvement district located within the corporate limits of the Town; and

**WHEREAS**, the petition contained the signature of the owner of taxable property representing more than fifty percent of the appraised value of taxable real property liable for assessment within the proposed District, as determined by the then current ad valorem tax rolls of the Denton Central Appraisal District, and the signature of the record owner of taxable real property that constitutes more than fifty percent of the area of all taxable property that is liable for assessment by the proposed District; and

**WHEREAS**, on November 16, 2021, after due notice, the Town Council of the Town (the "Town Council") held the public hearing in the manner required by law on the advisability of the improvement projects and services described in the petition as required by Section 372.009 of the PID Act and on November 16, 2021, the Town Council made the findings required by Section 372.009(b) of the PID Act and, by Resolution No. 1116202103 (the "Authorization Resolution"), adopted by a majority of the members of the Town Council, authorized the District in accordance with its finding as to the advisability of the improvement projects and services and also made findings and determinations relating to the estimated total costs of certain Authorized Improvements; and

**WHEREAS**, on November 17, 2021, the Town Secretary filed a copy of Resolution No. 1116202103 with the county clerk of each county in which all or a part of the District is located in accordance with the provisions of the PID Act; and

**WHEREAS**, no written protests of the District from any owners of record of property within the District were filed with the Town Secretary within 20 days after November 16, 2021, and

**WHEREAS**, on November 16, 2021, the Town Council adopted a resolution approving a preliminary service and assessment plan, including a proposed assessment roll for the District; calling for a public hearing to consider an ordinance levying assessments on property within the District (the “Assessments”); authorizing and directing the Town Secretary of the Town to file the proposed assessment roll for the District and make such assessment roll available for public inspection; authorizing and directing the publication of notice of a public hearing to consider the levying of the Assessments against the property within the District (the “Levy and Assessment Hearing”); authorizing and directing the mailing of notice of the Levy and Assessment Hearing to owners of property liable for assessment; and directing related action; and

**WHEREAS**, on November 17, 2021, the Town Secretary or the Acting Town Secretary, filed the Assessment Roll (defined below) and made the same available for public inspection; and

**WHEREAS**, the Town Secretary or the Acting Town Secretary, pursuant to Section 372.016(b) of the PID Act, published notice of the Levy and Assessment Hearing on November 21, 2021 in the *Denton Record-Chronicle*, a newspaper of general circulation in the Town; and

**WHEREAS**, the Town Secretary, pursuant to Section 372.016(c) of the PID Act, mailed the notice of the Levy and Assessment Hearing to the last known addresses of the owners of the property liable for the Assessments; and

**WHEREAS**, on December 21, 2021, the Town Council convened the Levy and Assessment Hearing, at which all persons who appeared, or requested to appear, in person or by their attorney, were given the opportunity to contend for or contest the Assessment Roll, and the proposed Assessments, and to offer testimony pertinent to any issue presented on the amount of the Assessments, the allocation of the Actual Costs of the improvements to be undertaken for the benefit of the District (the “Authorized Improvements”), the purposes of the Assessments, the special benefits of the Authorized Improvements, and the penalties and interest on annual installments and on delinquent annual installments of the Assessments; and

**WHEREAS**, the Town Council finds and determines that the Assessment Roll and the Spiritas East Public Improvement District Service and Assessment Plan, dated December 21, 2021, in a form substantially similar to the attached *Exhibit A*, which final form shall be approved by the Town Manager and the Town’s advisors (as updated, the “Service and Assessment Plan”), and which is incorporated herein for all purposes, should be approved and that the Assessments should be levied as provided in this Ordinance and the Service and Assessment Plan and the assessment roll attached thereto as Appendix G (the “Assessment Roll”); and

**WHEREAS**, the Town Council further finds that there were no objections or evidence submitted to the Town Secretary in opposition to the Service and Assessment Plan, the allocation of the Actual Costs of the Authorized Improvements (as described in the Service and Assessment Plan), the Assessment Roll, or the levy of the Assessments against the Assessed Property (as defined in the Service and Assessment Plan); and



**WHEREAS**, the owners (the “Landowners”), or their representatives, of the majority of the privately-owned and taxable property located within the District, who are the persons to be assessed pursuant to this Ordinance, have previously indicated their approval and acceptance of the Service and Assessment Plan, approval of the Assessment Roll, approval of this Ordinance, and approval of the levy of the Assessments against their property; and

**WHEREAS**, the Town Council closed the hearing, and, after considering all written and documentary evidence presented at the hearing, including all written comments and statements filed with the Town, determined to proceed with the adoption of this Ordinance in conformity with the requirements of the PID Act.

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

**Section 1. Terms.**

Terms not otherwise defined herein are defined in the Service and Assessment Plan.

**Section 2. Findings.**

The findings and determinations set forth in the preambles hereof are hereby incorporated by reference and made a part of this Ordinance for all purposes as if the same were restated in full in this Section. The Town Council hereby finds, determines, and ordains, as follows:

(a) The apportionment of the Actual Costs of Authorized Improvements (as reflected in the Service and Assessment Plan), and the Administrative Expenses (as defined in and as described by the Service and Assessment Plan) is fair and reasonable, reflects an accurate presentation of the special benefit each parcel of Assessed Property will receive from the construction of the Authorized Improvements identified in the Service and Assessment Plan, and is hereby approved;

(b) The Service and Assessment Plan (i) covers a period of at least five years, (ii) defines the annual indebtedness and projected costs for the Authorized Improvements, and (iii) includes a copy of the notice form required by Section 5.014 of the Texas Property Code, as amended;

(c) The Service and Assessment Plan apportions the Actual Costs of the Authorized Improvements to be assessed against the Assessed Property as Assessments and such apportionment is made on the basis of special benefits accruing to the property because of the Authorized Improvements;

(d) All of the real property in the District which is being assessed in the amounts shown in the Assessment Roll will be benefited by the Authorized Improvements proposed to be constructed as described in the Service and Assessment Plan, and each parcel of Assessed Property will receive special benefits during the term of the Assessments equal to or greater than the total amount assessed;

(e) The method of apportionment of the Actual Costs of the Authorized Improvements and Administrative Expenses set forth in the Service and Assessment Plan results in imposing equal shares of the Actual Costs of the Authorized Improvements and Administrative Expenses on property similarly benefited, and results in a reasonable classification and formula for the apportionment of the Actual Costs of the Authorized Improvements;

(f) The Service and Assessment Plan should be approved as the service plan and assessment plan for the District as described in Sections 372.013 and 372.014 of the PID Act;

(g) The Assessment Roll should be approved as the assessment roll for the District;

(h) The provisions of the Service and Assessment Plan relating to due and delinquency dates for the Assessments, interest on Annual Installments, interest and penalties on delinquent Assessments and delinquent Annual Installments, and procedures in connection with the imposition and collection of Assessments should be approved and will expedite collection of the Assessments in a timely manner in order to provide the services and improvements needed and required for the District; and

(i) A written notice of the date, hour, place and subject of this meeting of the Town Council was posted at a place convenient to the public for the time required by law preceding this meeting, as required by the Open Meetings Act, Chapter 551, Texas Government Code, as amended, and this meeting has been open to the public as required by law at all times during which this Ordinance and the subject matter hereof has been discussed, considered, and formally acted upon.

### **Section 3. Service and Assessment Plan.**

The Service and Assessment Plan is hereby accepted and approved pursuant to Sections 372.013 and 372.014 of the PID Act as the service plan and the assessment plan for the District.

### **Section 4. Assessment Roll.**

The Assessment Roll is hereby accepted and approved pursuant to Section 372.016 of the PID Act as the assessment roll for the District.

### **Section 5. Levy and Payment of Assessments for Actual Costs of Authorized Improvements.**

(a) The Town Council hereby levies an assessment on each parcel of Assessed Property (excluding Non-Benefitted Property, as defined in the Service and Assessment Plan), as shown and described in the Service and Assessment Plan and the Assessment Roll, in the respective amounts shown on the Assessment Roll, as a special assessment on the properties set forth in the Assessment Roll.

(b) The levy of the Assessments shall be effective on the date of the adoption of this Ordinance levying the Assessments and strictly in accordance with the terms of the Service and Assessment Plan and the PID Act.

(c) The collection of the Assessments shall be as described in the Service and Assessment Plan and the PID Act.

(d) Each Assessment may be paid in a lump sum at any time or may be paid in Annual Installments pursuant to the terms of the Service and Assessment Plan.

(e) Each Assessment shall bear interest at the rate or rates specified in the Service and Assessment Plan.

(f) Each Annual Installment shall be collected each year in the manner set forth in the Service and Assessment Plan.

(g) The Administrative Expenses for the Assessed Property shall be calculated and collected pursuant to the terms of the Service and Assessment Plan.

**Section 6. Method of Assessment.**

The method of apportioning the Actual Costs of the Authorized Improvements and Administrative Expenses is set forth in the Service and Assessment Plan.

**Section 7. Penalties and Interest on Delinquent Assessments.**

Delinquent Assessments shall be subject to the penalties, interest, procedures, and foreclosure sales set forth in the Service and Assessment Plan and as allowed by law.

**Section 8. Prepayments of Assessments.**

As provided in Section VI of the Service and Assessment Plan, the owner of any Assessed Property subject to an Assessment may prepay the Assessments levied by this Ordinance.

**Section 9. Lien Priority.**

The Town Council and the Landowners intend for the obligations, covenants and burdens on the Landowners of each parcel of Assessed Property, including without limitation such Landowners' obligations related to payment of the Assessments and the Annual Installments thereof, to constitute covenants that shall run with the land. The Assessments and the Annual Installments thereof which are levied hereby shall be binding upon the Landowners, as the owners of each parcel of Assessed Property, and their respective transferees, legal representatives, heirs, devisees, successors and assigns in the same manner and for the same period as such parties would be personally liable for the payment of ad valorem taxes under applicable law. Assessments shall have lien priority as specified in the Service and Assessment Plan and the PID Act.

**Section 10. Appointment of Administrator and Collector of Assessments.**

(a) **Appointment of Administrator.**

MuniCap, Inc., is hereby appointed and designated to initially serve, or until otherwise determined by the Town Council, as the Administrator of the Service and Assessment Plan and of the Assessments levied by this Ordinance. The Administrator shall perform the duties of the Administrator described in the Service and Assessment Plan and in this Ordinance. The Administrator's fees, charges and expenses for providing such service shall constitute an Administrative Expense.

(b) **Appointment of Collector.**

The Tax Assessor/Collector of Denton County is hereby appointed and designated as the collector of the Assessments.

**Section 11. Applicability of Tax Code.**

To the extent not inconsistent with this Ordinance, and not inconsistent with the PID Act or the other laws governing public improvement districts, the provisions of the Texas Tax Code shall be applicable to the imposition and collection of the Assessments by the Town.

**Section 12. Filing in Land Records.**

The Town Secretary is directed to cause a copy of this Ordinance, including the Service and Assessment Plan and the Assessment Roll, to be recorded in the real property records of Denton County, not later than the seventh day after the date the Town Council adopts this Ordinance approving the Service and Assessment Plan. The Town Secretary is further directed to similarly file each Annual Service Plan Update (as defined in the Service and Assessment Plan) approved by the Town Council not later than the seventh day after the date that the Town Council approves each Annual Service Plan Update.

**Section 13. Severability.**

If any provision, section, subsection, sentence, clause, or phrase of this Ordinance, or the application of the same to 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 Ordinance or the application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the Town Council that no portion hereof, or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality, voidness, or invalidity or any other portion hereof, and all provisions of this ordinance are declared to be severable for that purpose.

**Section 14. Effective Date.**

This Ordinance shall take effect, and the levy of the Assessments, and the provisions and terms of the Service and Assessment Plan shall be and become effective upon passage hereof.

**PASSED AND APPROVED**, this the 21<sup>st</sup> day of December, 2021.

TOWN OF LITTLE ELM, TEXAS

\_\_\_\_\_  
Cornelious J. Curtis, Mayor

ATTEST:

\_\_\_\_\_  
Caitlan Biggs, Town Secretary

\_\_\_\_\_  
Matt Mueller, Town Manager

(Town Seal)

APPROVED AS TO FORM:

\_\_\_\_\_  
Robert Brown, Town Attorney

STATE OF TEXAS                   §  
   §  
COUNTY OF DENTON           §

This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, 2021 by Cornelious J. Curtis, Matt Mueller, Caitlan Biggs, and Robert Brown, Mayor, Town Manager, Town Secretary, and Town Attorney, respectively, of the Town of Little Elm, Texas on behalf of said Town.

\_\_\_\_\_  
Notary Public, State of Texas

(SEAL)

**EXHIBIT A**

Service and Assessment Plan

# SPIRITAS EAST PUBLIC IMPROVEMENT DISTRICT

TOWN OF LITTLE ELM, TEXAS

## SERVICE AND ASSESSMENT PLAN

December 21, 2021

**PREPARED BY:**

**MUNICAP, INC.**  
— PUBLIC FINANCE —

# SPIRITAS EAST PUBLIC IMPROVEMENT DISTRICT

## SERVICE AND ASSESSMENT PLAN

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## ***I. PLAN DESCRIPTION AND DEFINED TERMS***

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### **A. INTRODUCTION**

On November 16, 2021 (the “Creation Date”) the Town Council (the “Town Council”) of the Town of Little Elm, Texas (the “Town”) passed and approved Resolution No. 1116202103 approving and authorizing the creation of the Spiritas East Public Improvement District (the “PID”) to finance the costs of certain public improvements for the benefit of property in such public improvement district (the “Authorized Improvements”), all of which is located within the Town.

The property in the PID is proposed to be developed as one phase, and the PID will finance public improvements as the property is developed. Assessments will be imposed on the property that receives a special benefit from the Authorized Improvement’s for the public improvements to be constructed.

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 East 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 (i) cover a period of at least five years; (ii) define the annual indebtedness and the projected costs for improvements; and (iii) include a copy of the notice form required by Section 5.014, Property Code.” The service plan is described in Section IV of this Service and Assessment Plan. The copy of the notice form required by Section 5.014 of the Texas Property Code, as amended, is attached hereto as Appendix E.

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 Authorized Improvement Costs 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 Roll for the PID is included in this Service and Assessment Plan. The Assessments as shown on the 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 payment request in a form 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 (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.

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 payment request in a form that has been reviewed and approved by the Town. 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.

**“Additional Interest”** means the 0.50% additional interest rate charged on Assessments (if applicable) pursuant to Section 372.018 of the PID Act.

**“Additional Interest Component”** means the amount collected by application of the Additional Interest.

**“Additional Interest Reserve”** has the meaning set forth in Section V.F of this Service and Assessment Plan.

**“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) issuing, 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 or any other cost of issuance associated with the bonds. Administrative Expenses collected and not expended for actual Administrative Expenses shall be carried forward and applied to reduce Administrative Expenses in subsequent years to avoid the over-collection of amounts to pay Administrative Expenses.

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

**“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 G, as applicable, or in an Annual Service Plan Update, and calculated as provided in Section VI of this Service and Assessment Plan, (ii) the Administrative Expenses, and (iii) the Additional Interest described in Section V.F. of this Service and Assessment Plan.

**“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 any property that benefits from the Authorized Improvements within the PID on which Assessments have been imposed as shown in the Assessment Roll, as the 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 and amounts 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 received by or on behalf of the Town from the collection of Assessments.

**“Assessment Roll”** or **“Assessment Rolls”** means collectively or separately, as applicable, the Assessment Roll included in this Service and Assessment Plan as Appendix G or any other Assessment Roll in an amendment or supplement to this Service and Assessment Plan or in an

Annual Service Plan Update, as each may be updated, modified, or amended from time to time in accordance with the procedures set forth in this Service and Assessment Plan and in the PID Act.

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

**“Authorized Improvement Costs”** mean the Actual Costs or the Budgeted Costs, as applicable, of all or any portion of the Authorized Improvements, as shown in Appendix B.

**“Bonds”** mean any bonds, including the Series 2022 PID Bonds, issued in one or more series for financing the Authorized Improvements and secured in whole or in part by the Assessment Revenues.

**“Budgeted Cost(s)”** means the amounts budgeted to construct the Authorized Improvements as used in the preparation of this Service and Assessment Plan.

**“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, which may be in segments or sections.

**“County”** means Denton County, Texas.

**“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.

**“Developer”** means MM Little Elm 43, LLC, a Texas limited liability company and its successors and assigns.

**“Development Agreement”** means that certain Spiritas East Development Agreement relating to the PID executed by and between the Developer and the Town effective November 16, 2021, as the same may be amended from time to time.

**“Equivalent Units”** mean, as to any Parcel the number of dwelling units by lot type expected to be built on the Parcel multiplied by the factors calculated and shown in Appendix F attached hereto.

**“Homeowner Association”** means a homeowners’ association or property owners’ association established for the benefit of property owners within the PID.

**“Homeowner Association Property”** means property within the PID owned by or irrevocably offered for dedication to, whether in fee simple or through an easement, a Homeowners’

Association established for the benefit of a group of homeowners or property owners within the PID.

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

**“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 final average home value for each lot as of the date of the recorded subdivision plat, 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.

**“Maximum Assessment Per Unit”** means an Assessment per unit for each applicable Lot Type as follows:

Lot Type 1 (50 Ft Lot) - \$52,860.13

Lot Type 2 (40 Ft Lot) - \$26,641.51

**“MSUD”** means Mustang Special Utility District.

**“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. 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 official public records for real property in Denton County.

**“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 allowed by applicable law, reasonably expected to be incurred by or imposed upon the Town as a result of any prepayment of an Assessment.

**“Public Property”** means property, right of way and easements 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 or political subdivision, whether in fee simple or through an exclusive use easement.

**“Series 2022 PID Bonds”** mean those certain Town of Little Elm Texas, Special Assessment Revenue Bonds, Series 2022 (Spiritas East Public Improvement District) that are secured primarily by the Assessment Revenues.

**“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.

**“Trust Indenture”** means an indenture of trust, ordinance or similar document setting forth the terms and other provisions relating to the Bonds, as modified, amended, and/or supplemented from time to time.

**“Trustee”** means the fiscal agent or trustee as specified in a Trust Indenture, including a substitute fiscal agent or trustee.

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## ***II. PROPERTY INCLUDED IN THE PID***

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### **A. PROPERTY INCLUDED IN THE PID**

The PID is presently located within the Town and contains approximately 38.468 acres of land. A map of the property within the PID is shown on Appendix A and described in Appendix C to this Service and Assessment Plan.

At completion, the PID is expected to consist of approximately 146 single family residential units, landscaping, and infrastructure necessary to provide roadways, drainage, and utilities to the PID. The estimated number of lots and the classification of each lot are based upon the proposed development plan.

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

**Table II-A**  
**Proposed Development within the PID**

<b>Proposed Development</b>	<b>Quantity</b>	<b>Measurement</b>
Single-Family - 50 Ft	29	Units
Single-Family - 40 Ft	117	Units
<b>Total</b>	<b>146</b>	<b>Units</b>

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.

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### ***III. DESCRIPTION OF THE AUTHORIZED IMPROVEMENTS***

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#### **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. on the following page and shown in the opinion of probable costs included as Appendix B and on the

diagrams included as Appendix D 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 OF THE AUTHORIZED IMPROVEMENTS**

The descriptions of the Authorized Improvements are presented below. The Budgeted Costs are shown in Table III-A and may be revised in an Annual Service Plan Update as needed.

A description of the Authorized Improvements are as follows:

### Roadway Improvements

The roadway improvements within the PID consist of the construction of road improvements, including related paving, drainage, curbs, gutters, sidewalks, retaining walls, signage, and traffic control devices, which benefit the Assessed Property. All roadway improvements 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 improvements within the PID consist of construction and installation of a looped water main network, waterlines, mains, pipes, valves, and appurtenances, necessary for the portion of the water distribution system that will service the 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 improvements within the PID consist of construction and installation of various sized gravity sewer lines, pipes, service lines, manholes, encasements, and appurtenances necessary to provide sanitary sewer service to 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 improvements within the PID consist of reinforced concrete pipes, reinforced concrete boxes, and multi-reinforced box culverts, 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.

### Soft and Miscellaneous Costs

The soft and miscellaneous costs include costs related to designing, constructing, and installing the Authorized Improvements including land planning and design, town fees, engineering, soil

testing, survey, construction management, contingency, district formation costs, legal fees, consultant fees, and other similar costs.

The Budgeted Costs of the Authorized Improvements shown in Table III-A may be revised in Annual Service Plan Updates. Savings from one line item may be applied to a cost increase in another line item. These savings may be applied only to increases in costs of the Authorized Improvements (i.e., the improvements for the benefit of property within the PID). Additional details of the Authorized Improvements are shown in Appendix B attached to this Service and Assessment Plan. The method of cost allocation is explained in Section V.C.

**Table III-A**  
**Estimated Authorized Improvement Costs**

<b>Description</b>	<b>Total</b>
Roadway improvements	\$1,777,602
Water improvements	\$422,136
Sanitary sewer improvements	\$644,200
Storm drainage improvements	\$681,241
Other soft and miscellaneous costs	\$760,499
<b>Total Authorized Improvements</b>	<b>\$4,285,678</b>

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## ***IV. SERVICE PLAN***

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### **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 18 months to construct the Authorized Improvements.

The Budgeted Costs for the Authorized Improvements plus costs related to the issuance of the Series 2022 PID Bonds and payment of expenses incurred in the establishment, administration and operation of the PID are \$5,417,100 as shown in Table IV-A. The service plan shall be reviewed and updated at least annually for the purpose of determining the annual budget for Administrative Expenses, updating the Actual Costs of the Authorized Improvements, and updating the Assessment Roll. Any update to this Service and Assessment Plan is herein referred to as an “Annual Service Plan Update.”

Table IV-A on the following page shows the estimated sources and uses of funds for the Authorized Improvements.

The Series 2022 PID Bonds shown in Table IV-A are anticipated to be issued in 2022 and will be used to finance the Authorized Improvement Costs.

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**Table IV-A**  
**Estimated Sources and Uses**

<b>Sources of Funds</b>	<b>Total</b>
Par amount	\$4,650,000
Other funding sources <sup>(1)</sup>	\$767,100
<b>Total Sources</b>	<b>\$5,417,100</b>
<b>Uses of Funds</b>	
<i><u>Authorized Improvement<sup>(2)</sup>:</u></i>	
Roadway improvements	\$1,777,602
Water improvements	\$422,136
Sanitary sewer improvements	\$644,200
Storm drainage improvements	\$681,241
Other soft and miscellaneous costs	\$760,499
<i>Subtotal</i>	<i>\$4,285,678</i>
<i><u>Bond Issuance Costs:</u></i>	
Cost of issuance	\$302,247
Capitalized interest	\$348,750
Reserve fund	\$300,925
Administrative Expense	\$40,000
Underwriter's discount	\$139,500
<i>Subtotal</i>	<i>1,131,422</i>
<b>Total Uses</b>	<b>\$5,417,100</b>

<sup>1</sup>Funds to be deposited by the developer at the time of the closing of the Series 2022 Bonds to complete the Authorized Improvements and which will not be reimbursed to the developer.

<sup>2</sup>See Table III-A for details.

## **B. FIVE -YEAR SERVICE PLAN**

The annual projected costs and annual projected indebtedness are shown in Table IV-B. The annual projected costs and indebtedness are 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.

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**Table IV-B**  
**Annual Projected Costs and Annual Projected Indebtedness**

<b>Year</b>	<b>Annual Projected Cost</b>	<b>Annual Projected Indebtedness</b>	<b>Sources other than PID Bonds<sup>(1)</sup></b>	<b>Projected Annual Installments</b>
2022	\$5,417,100	\$4,650,000	\$767,100	\$168,675
2023	\$0	\$0	\$0	\$259,491
2024	\$0	\$0	\$0	\$365,448
2025	\$0	\$0	\$0	\$366,547
2026	\$0	\$0	\$0	\$362,413
2027	\$0	\$0	\$0	\$363,296
<b>Total</b>	<b>\$5,417,100</b>	<b>\$4,650,000</b>	<b>\$767,100</b>	<b>\$1,885,871</b>

<sup>1</sup>Funds to be deposited by the developer at the time of the closing of the Series 2022 Bonds to complete the Authorized Improvements and which will not be reimbursed to the developer.

The annual projected costs shown in Table IV-B are the annual expenditures relating to the Authorized Improvements shown in Table III-A, the costs associated with creating the PID and costs of issuing the Series 2022 PID Bonds, including reserves shown in Table IV-A. The difference between the annual projected cost and the annual projected indebtedness, if any, represents an amount funded by the Developer.

### **C. HOMEBUYER DISCLOSURE**

The PID Act requires that this Service and Assessment Plan, and each Annual Service Plan Update, include a copy of the Notice form (required by Section 5.014 of the Texas Property Code). The homebuyer disclosure is attached hereto as Appendix E and may be updated in an Annual Service Plan Update.

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## ***V. ASSESSMENT PLAN***

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### **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 Budgeted Costs of the Authorized Improvements shall be allocated as described below:

1. The Authorized Improvement Costs shall be allocated on the basis of Equivalent Units 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 Town Council has concluded that larger more expensive homes are likely to be built on the larger lots, and that larger more expensive homes are likely to make greater use of and receive greater benefit from the Authorized Improvements. In determining the relative values of Parcels, the Town Council has taken into consideration (i) the type of development (i.e., residential, commercial, etc.), (ii) single-family lot sizes and the size of homes likely to be built on lots of different sizes, (iii) current and projected home prices provided by the Developer, (iv) the Authorized Improvements to be provided and the estimated costs, and (v) the ability of different property types to utilize and benefit from the Authorized Improvements.
3. The Assessed Property is classified into different Lot Types as described in Appendix F based on the type and size of proposed development on each Parcel.
4. Equivalent Units are calculated for each Lot Type based on the relative value of each Lot Type.

This section of this Service and Assessment Plan (i) describes the special benefit received by each Parcel within the Assessed Property as a result of the Authorized Improvements, (ii) provides the basis and justification for the determination that this special benefit equals or exceeds the amount of the Assessments to be levied on the Assessed Property, and (iii) establishes the methodologies by which the Town Council allocates and reallocates the special benefit of the Authorized Improvements to the Assessed Property in a manner that results in equal shares of the Actual Costs

of such improvements being apportioned to the Assessed Property 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.

## **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) and the costs of issuance and payment of costs incurred in the establishment of the PID shown in Table IV-A 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.

The special assessments will repay financing that is on advantageous terms, as the Bonds issued to finance the Authorized Improvements will pay interest that is exempt from federal income tax.



As a result, all other terms being equal (e.g., maturity, fixed vs. variable rate, credit quality), the tax- exempt bonds will have a lower interest rate than debt that is not tax-exempt. The Bonds also have a longer term than other available financings and may either be repaid or assumed by a buyer at the buyer's option. As a result of these advantageous terms, the financing provided by the PID is the most beneficial means of financing 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 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);
4. Financing of the costs of the Authorized Improvements through the PID is determined to be the most beneficial means of providing for the Authorized Improvements; and,
5. As a result, the special benefit to the Assessed Property from the Authorized Improvements will be equal to or greater than the Assessments.

### **C. 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 Authorized Improvements*

For purpose of this Service and Assessment Plan, the Town Council has determined that the Budgeted Costs of the Authorized Improvements to be financed with the Bonds shall be allocated to the Assessed Property by spreading the entire Assessment across the Parcels based on the estimated Equivalent Units anticipated to be developed on each Parcel within the PID.

Based on the Budgeted Costs of the Authorized Improvements, as set forth in Table III-A, the Town Council has determined that the benefit to the Assessed Property of the Authorized Improvements is at least equal to the Assessments levied on the 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 Equivalent Units at the time residential Lots are platted to the total estimated Equivalent Units of all Lots in the platted Parcel, as calculated and shown in Appendix F using the types, number and average home value of Lots anticipated to be developed on each Parcel.

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

### **D. ASSESSMENTS**

The Assessments will be levied on each Parcel according to the Assessment Roll, attached hereto as Appendix G. The Annual Installments of the Assessments will be collected at the time and in the amounts shown on the Assessment Roll, subject to any revisions made during an Annual Service Plan Update.

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

### **E. 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 the Assessment Roll, which may be revised based on actual costs incurred in Annual Service Plan Updates.

## **F. ADDITIONAL INTEREST RESERVE**

Pursuant to the PID Act, the interest rate for Assessments may exceed the actual interest rate per annum paid on the related Bonds by no more than one half of one percent (0.50%) (the “Additional Interest”). The interest rate used to determine the Assessments is one half of one percent (0.50%) per annum higher than the actual rate paid on the Bonds, with the Additional Interest Component of the Annual Installments allocated to fund a reserve to be used for paying interest associated with a prepayment and to offset any possible delinquency related costs (the “Additional Interest Reserve”). The Additional Interest Reserve shall be funded until it reaches 5.50% of the outstanding Bonds unless otherwise stipulated in the Bond documents. Once the Additional Interest Reserve is funded in full, the Town may allocate the Additional Interest Component of the Annual Installments as provided in the applicable Trust Indenture.

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## ***VI. TERMS OF THE ASSESSMENTS***

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### **A. AMOUNT OF ASSESSMENTS AND ANNUAL INSTALLMENTS FOR PARCELS LOCATED WITHIN THE PID**

The Assessment and Annual Installments for each Assessed Property located within the PID is shown on the Assessment Roll, attached as Appendix G, 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 the Assessed Property in an amount sufficient to pay (i) principal and interest on the Series 2022 PID Bonds, (ii) to fund the Additional Interest Reserve described in Section V, and (iii) to pay Administrative Expenses related to the PID. The Annual Installment for each Parcel in the PID shall be calculated by taking into consideration any available capitalized interest applicable to the Parcel.

### **B. 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 total Equivalent Units to be built on each new subdivided Parcel
- D = the sum of the estimated total Equivalent units to be built on all of the new subdivided Parcels

The calculation of the estimated Equivalent 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 Equivalent 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.

### **C. 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 applicable Maximum Assessment per Unit shown 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 applicable Maximum 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.

### **D. REDUCTION OF ASSESSMENTS**

1. If after all Authorized Improvements to be funded with a series of Bonds have been completed and Actual Costs for such Authorized Improvements are less than the Actual Costs of the Authorized Improvements used to calculate the Assessments securing such series of Bonds, resulting in excess Bond proceeds being available to redeem Bonds of such series, and such excess Bond proceeds shall be applied to redeem Bonds as provided in the Indenture, then the Assessment securing such series of Bonds for each Parcel of Assessed Property shall be reduced by the Town Council pro rata 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 related outstanding series of Bonds. 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 all the Authorized Improvements are not undertaken, resulting in excess Bond proceeds being available to redeem Bonds, and such excess Bond proceeds shall be applied to redeem Bonds as provided in the Indenture, then the Assessments and Annual Installments for each Parcel shall be appropriately reduced by the Town Council to reflect only the amounts required to repay the Bonds, including interest on the Bonds and Administrative Expenses. The Town Council may reduce the Assessments and the Annual Installments for each Parcel (i) in an amount that represents the Authorized Improvements provided for each Parcel or (ii) by an equal percentage calculated based on number of units, if determined by the Town Council to be the most fair and practical means of reducing the Assessments for each Parcel, such that the sum of the resulting reduced Assessments equals the amount required to repay the Bonds, including interest on the Bonds and Administrative Expenses. The principal portion of the Assessment for each Parcel shall be reduced pro rata to the reduction in the Assessments for each Parcel such that the sum of the resulting reduced principal portion of the Bonds is equal to the outstanding principal amount of the Bonds.

## **E. PAYMENT OF ASSESSMENTS**

### **1. Payment in Full**

- (a) The Assessment for any Parcel may be paid in full at any time. Such payment shall include all Prepayment Costs. If prepayment in full will result in redemption of Bonds, the payment amount shall be reduced by the amount, if any, of interest through the date of redemption of Bonds and reserve funds applied to the redemption under the Trust Indenture, net of any other costs applicable to the redemption of Bonds.
- (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 in an amount sufficient to allow for a convenient redemption of Bonds 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 PID Act provides that an Assessment for a Parcel may be paid in full at any time. If not paid in full, the PID Act authorizes the Assessment to be paid in installments and additionally allows the Town to collect interest, administrative expenses and other authorized charges in installments. An Assessment for a Parcel that is not paid in full will be collected in Annual Installments each

year in the amounts shown on the Assessment Roll, as updated as provided for herein, which include interest, Administrative Expenses, and payments required for the Additional Interest Reserve. Payment of the Annual Installments shall commence with tax bills mailed after the issuance of the Bonds.

Each Assessment levied against the Assessed Property shall be paid with interest of no more than the actual interest rate paid on the Series 2022 PID Bonds and Additional Interest; the Assessment Roll sets forth for each year the Annual Installment for each parcel based on an interest rate of 4.5% on the Series 2022 PID Bonds and Additional Interest at the rate of 0.5% for the Additional Interest Reserve. Furthermore, the Annual Installments may not exceed the amounts shown on the Assessment Roll. The Assessment Roll is shown as Appendix G.

The Annual Installments shall be reduced to equal the Actual Costs of repaying the Series 2022 PID Bonds 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.

The Town reserves and shall have the right and option to refund the Bonds in accordance with Section 372.027 of the PID Act. In the event of such refunding, the Administrator shall recalculate the Annual Installments, and if necessary, may adjust, or decrease, the amount of the Annual Installments so that total Annual Installments of Assessments will be produced in annual amounts that are required to pay the refunding bonds when due and payable as required by and established in the ordinance and/or the indenture authorizing and securing the refunding bonds, and such refunding bonds shall constitute Bonds for purposes of this Service and Assessment Plan.

#### **F. 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 an updated Assessment Roll 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. Each Annual Installment shall be reduced by any credits applied under the applicable Trust Indenture, including capitalized interest, interest earnings on any account balances, and any other funds available to the Trustee for such purpose, and including any existing deposits to a prepayment reserve. 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 Act.

Any sale of Assessed Property for nonpayment of the Annual Installments shall be subject to the lien established for the remaining unpaid Annual Installments against such Assessed Property and such Assessed 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 Assessed Property as they become due and payable.

Each Annual Installment, including the interest on the unpaid amount of an Assessment, shall be updated annually. Each Annual Installment together with interest thereon shall be delinquent if not paid prior to February 1 of the following year. Collection of the initial Annual Installments relating to the Authorized Improvements that benefit the Assessed Property will be due when billed, and will be delinquent if not paid prior to the first February 1 following the earlier of (i) the recording of a final subdivision plat in the official public records of the County for the Assessed Property, (ii) upon issuance of the Series 2022 PID Bonds, or (iii) the second anniversary of the date of levy of the Assessment.

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## ***VII. THE ASSESSMENT ROLL***

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### **A. ASSESSMENT ROLL**

The Town Council has evaluated each Parcel in the PID 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 Authorized Improvements, and other development factors deemed relevant by the Town Council to determine the amount of Assessed Property within the PID.

The Assessed Property has been assessed for the special benefits conferred upon the property resulting from the Authorized Improvements. Table VII-A summarizes the \$5,417,100 in special benefit received by the Assessed Property from the Authorized Improvements, including costs of PID formation and the Series 2022 PID Bonds issuance costs. The par amount of the Series 2022 PID Bonds is \$4,650,000 which is less than the benefit received by the Assessed Property. Accordingly, the total Assessment to be applied to all the Assessed Property is \$4,650,000, plus the Additional Interest Component and annual Administrative Expenses. The Assessment for each Assessed Property is calculated based on the allocation methodologies described in Section V.C. The Assessment Roll is attached hereto as Appendix G.

**Table VII-A**  
**Special Benefit Summary**

<b>Special Benefit</b>	<b>Total Cost</b>
Total Authorized Improvements <sup>(1)</sup>	\$4,285,678
<b><u>Bond Issuance Costs:</u></b>	
Cost of issuance	\$302,247
Capitalized interest	\$348,750
Reserve fund	\$300,925
Administrative Expense	\$40,000
Underwriter's discount	\$139,500
<b><i>Subtotal Bond Issuance Costs</i></b>	<b>\$1,131,422</b>
<b>Total Special Benefit</b>	<b>\$5,417,100</b>
<b><u>Special Benefit:</u></b>	
Total Special Benefit	\$5,417,100
Projected Special Assessment	\$4,650,000
<b>Excess Benefit</b>	<b>\$767,100</b>

<sup>(1)</sup>See Table III-A for details.

## **B. ANNUAL ASSESSMENT ROLL UPDATES**

The Administrator shall prepare, and shall submit to the Town Council for approval, annual updates to the 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 and 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.E. of this Service and Assessment Plan.

Once Bonds are issued, the Assessment Roll shall be updated, which update may be done in the next Annual Service Plan Update, to reflect any changes resulting from the issuance of the Bonds. This update shall reflect the actual interest on the Bonds on which the Annual Installments shall be paid, any reduction in the Assessments, and any revisions in the Actual Costs to be funded by the Bonds and Developer funds.

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## ***VIII. MISCELLANEOUS PROVISIONS***

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### **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; (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, and (iv) as may be required by the Attorney General of Texas in connection with the issuance of any series of Bonds.

#### **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.

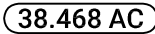
#### **E. SEVERABILITY**

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.

**APPENDIX A**  
**PID MAP**

(VARIABLE WIDTH R.O.W.)  
STATE OF TEXAS  
VOL. 310, PG. 599 RPRDCT



SITUATED IN THE  
MARCELLA JONES SURVEY,  
ABSTRACT NO. 662  
TOWN OF LITTLE ELM,  
DENTON COUNTY, TEXAS



PAGE 3 OF 3

TECH=CJG  
SCALE 1"=300'




The bearings shown and recited hereon are referenced to the Texas Coordinate System of 1983 ~ North Central Zone No. 4202 - NAD 83. (All distances are surface distances with a surface to grid scale factor of 0.999849393).

●	POINT FOR CORNER
○	MONUMENT FOUND
AC	ACRES
IRF	IRON ROD FOUND
CIRF	CAPPED IRON ROD FOUND
COE	ARMY CORPS OF ENGINEERS MONUMENT FOUND
R.O.W	RIGHT-OF-WAY
VOL., PG.	VOLUME, PAGE
INST. NO.	INSTRUMENT NUMBER
RPRDCT	REAL PROPERTY RECORDS DENTON COUNTY, TEXAS



S:\2019\2019017-E Spiritas Ranch East\CAD\EXHIBITS\201901700LP32cSpiritasEastPID10272021.dwg Nov 10, 2021 - 10:01 am - chancock




Spiritas East Ranch Concept Plan 2	
DATA    TABLE	
Gross Site Area:	43+/-
Residential Product Type:	Total
 40'x 130' Lot (Courtyard Lots)	28
 40'x 115' Lot	89
 50'x 370'(avg) Lot	29
Total Lots	146



**APPENDIX B**  
**ESTIMATED COSTS OF AUTHORIZED IMPROVEMENTS**



<b>COMMUNITY NAME:</b> Spiritas Ranch		<b>GROSS ACREAGE:</b>	43.9
<b>PHASES:</b> East		<b>NET ACREAGE:</b>	28.9
<b>CITY OR TOWN:</b> Town of Little Elm, Denton County		<b>TOTAL LOTS:</b>	<b>146</b>
		<b>TOTAL DENSITY:</b>	5.05
		<b>LANDPLAN:</b>	2
		<b>CREATED BY:</b>	CH
		<b>REVIEWED BY:</b>	AB
		<b>CREATED:</b>	05/21/21
		<b>REVISED:</b>	<b>09/22/21</b>
<b>Direct Phase Costs</b>		<b>EAST PHASE</b>	
	Lot Count		<b>146</b>
1 Engineering		\$	266,209
2 Grading Site Preparation		\$	-
3 Water		\$	261,136
4 Sanitary Sewer		\$	494,200
5 Storm Drain		\$	561,241
6 Street Improvements		\$	1,087,602
7 Screening/Landscape Walls			
8 Ret Walls			
9 Dry Utilities			
10 Contingency 0%		\$	-
11 N/A			
	Total	\$	2,670,387
	Cost per Lot	\$	18,290
<b>Major Improvements Costs</b>		<b>EAST PHASE</b>	
	Lot Count		<b>146</b>
1 Engineering		\$	219,290
2 Grading Site Preparation		\$	-
3 Water		\$	161,000
4 Sanitary Sewer		\$	150,000
5 Storm Drain		\$	120,000
6 Street Improvements - Turn Lanes		\$	690,000
7 Screening/Landscape Walls			
8 Dry Utilities			
9 Common Area Amenities & Trails		\$	168,939
10 Contingency 0%		\$	-
11 District Formation Costs		\$	275,000
	Total	\$	1,784,230
	Cost per Lot	\$	12,221
		<b>PID TOTALS</b>	<b>\$ 4,454,618</b>
		<b>PID per lot</b>	<b>\$ 30,511</b>
<b>Private Costs</b>		<b>EAST PHASE</b>	
	Lot Count		<b>146</b>
1 Engineering		\$	214,324
2 Grading Site Preparation		\$	885,229
3 Water			
4 Sanitary Sewer			
5 Storm Drain			
6 Street Improvements			
7 Screening/Landscape Walls		\$	280,000
8 Ret Walls		\$	405,250
9 Dry Utilities		\$	146,000
10 Contingency 10%		\$	193,080
11 N/A			
	Total	\$	2,123,883
	Cost per Lot	\$	14,547
		<b>GRAND TOTALS</b>	<b>\$ 6,578,500</b>
		<b>GRAND TOTAL per lot</b>	<b>\$ 45,058</b>
		40' Cottage Lots	28
		40' Lots	89
		50' Lots	29
		Total Lots	<b>146</b>
<b>THIS OPINION OF PROBABLE COST WAS PREPARED BASED ON BEST AVAILABLE INFORMATION AND SHOULD BE USED FOR PROJECT</b>			

#### NOTES

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

<sup>2</sup> Development cost does not include: Rock Excavation

<sup>3</sup> Professional Fees do not include: SWPPP Administration

<sup>4</sup> Unit costs in this OPC were provided to Barraza Consulting Group, LLC by RES

**APPENDIX C**  
**LEGAL DESCRIPTION**

**DESCRIPTION  
38.468 ACRE TRACT**

BEING that certain tract of land situated in the Marsella Jones Survey, Abstract No. 662, in the Town of Little Elm, Denton County, Texas, and being part of that certain tract of land described in deed to Robert G. Penley recorded in Volume 623, Page 106, of the Real Property Records of Denton County, Texas (RPRDCT), and part of that certain tract of land described in deed to Robert G. Penley and Faith Penley recorded in Volume 2210, Page 648, RPRDCT, and being more particularly described by metes and bounds as follows:

BEGINNING at a Army Corps of Engineers monument found at the northeast corner of said Robert G. Penley tract recorded in Volume 623, Page 106, RPRDCT, said monument being located on the south right-of-way line of US Highway 380 (a variable-width right-of-way), and also being located on the west "take line" of Lake Lewisville;

THENCE with said west "take line", the following courses to Army Corps of Engineers monuments found:

South 27°07'16" West, a distance of 875.52 feet;

South 40°18'51" West, a distance of 544.09 feet;

South 09°54'29" East, a distance of 217.10 feet;

South 57°22'24" West, a distance of 298.04 feet;

North 82°50'29" West, a distance of 641.93 feet;

North 05°25'44" East, a distance of 396.40 feet;

And South 42°17'36" West, a distance of 385.19 feet, said monument being located on the east line of that certain tract of land described in deed to MM Little Elm 548, LLC recorded in Instrument No. 2020-123025, RPRDCT;

THENCE with said east line, the following courses:

North 05°42'19" East, a distance of 621.88 feet to a 5/8" iron rod found;

And South 88°08'15" East, a distance of 170.04 feet to a 5/8" capped iron rod found;

THENCE North 03°11'21" East, continuing with said east line of the MM Little Elm 548, LLC tract, and the east line of that certain tract of land described in deed to Spiritas Ranch Enterprises recorded in Volume 2737, Page 126, RPRDCT, a distance of 653.60 feet;

THENCE departing said east line of the Spiritas Ranch Enterprises tract, and over and across said Robert G. Penley tract recorded in Volume 623, Page 106, RPRDCT, the following courses:

South 84°22'49" East, a distance of 502.60 feet;

And North 05°15'54" East, a distance of 200.74 feet to a point located in said south right-of-way line of US Highway 380;

THENCE South 84°36'22" East, with said south right-of-way line of US Highway 380, a distance of 80.00 feet;

THENCE departing said south right-of-way line of US Highway 380, the following courses:

South 05°15'54" West, a distance of 201.00 feet;

South 87°10'23" East, a distance of 514.31 feet;

And North 01°53'44" East, a distance of 209.31 feet to a point located on said south right-of-way line of US Highway 380;

THENCE South 88°16'39" East with said south right-of-way line of US Highway 380, a distance of 50.00 feet;

THENCE departing said south right-of-way line of US Highway 380, and over and across said Robert G. Penley tract recorded in Volume 623, Page 106, RPRDCT, the following courses:

South 01°53'44" West, a distance of 210.27 feet;

South 87°10'23" East, a distance of 52.86 feet;

North 41°38'43" East, a distance of 60.89 feet;

North 41°48'16" East, a distance of 45.80 feet;

North 43°25'46" East, a distance of 25.15 feet;

North 51°51'09" East, a distance of 24.67 feet;

North 54°02'19" East, a distance of 12.14 feet;

North 48°36'19" East, a distance of 10.43 feet;

North 37°47'16" East, a distance of 9.58 feet;

North 15°43'13" East, a distance of 5.97 feet;

North 12°02'26" East, a distance of 10.27 feet;

North 00°46'57" West, a distance of 14.90 feet;

North 11°51'34" West, a distance of 38.07 feet;

And North 14°47'27" West, a distance of 5.08 feet to a point located in said south right-of-way line of US Highway 380;

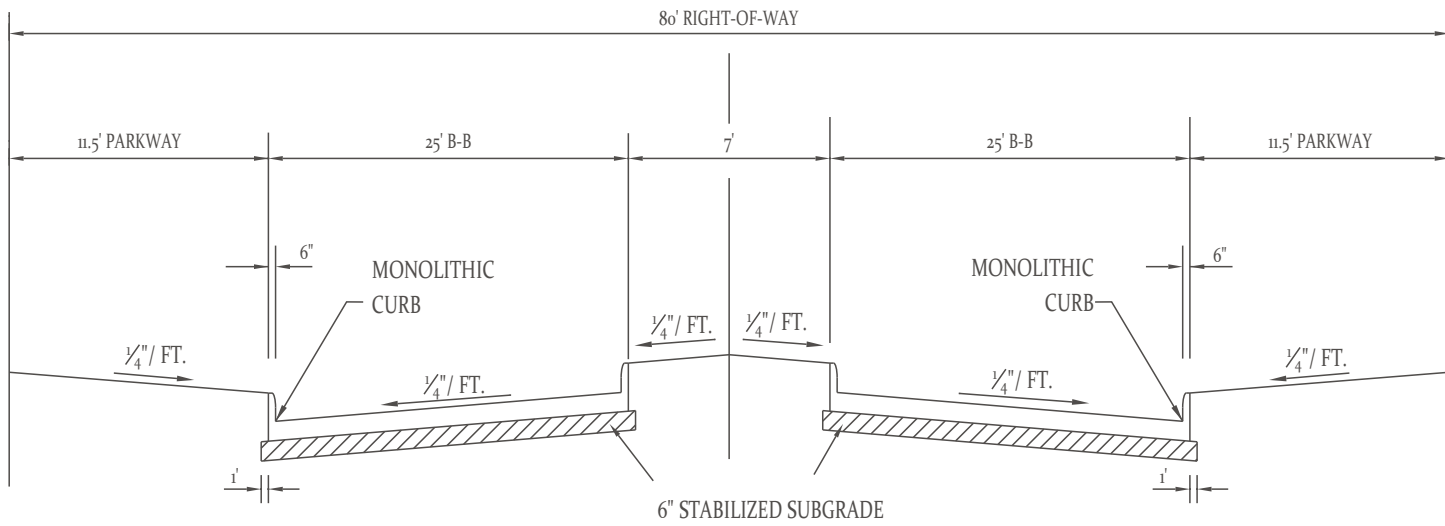
THENCE South 88°16'39" East with said south right-of-way line of US Highway 380, a distance of 233.52 feet to the POINT OF BEGINNING, containing an area of 38.468 acres of land.

#### NOTES:

The bearings shown and recited hereon are referenced to the Texas Coordinate System of 1983 ~ North Central Zone No. 4202 - NAD 83. (All distances are surface distances with a surface to grid scale factor of 0.999849393).

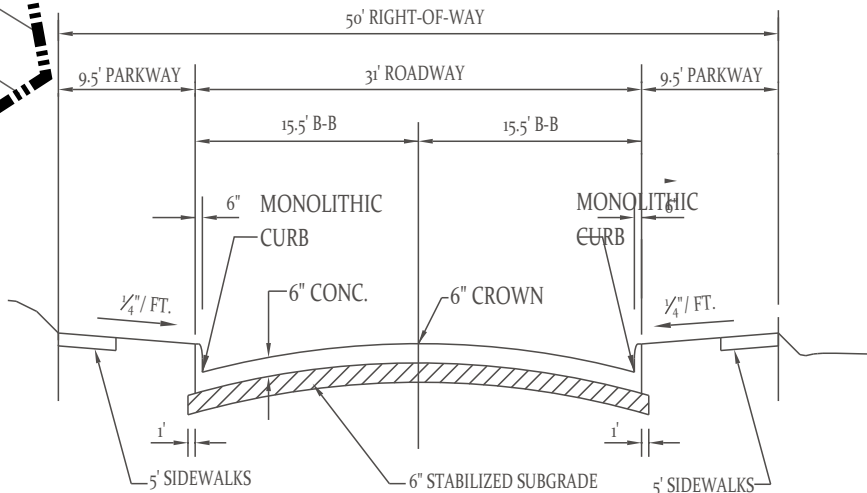
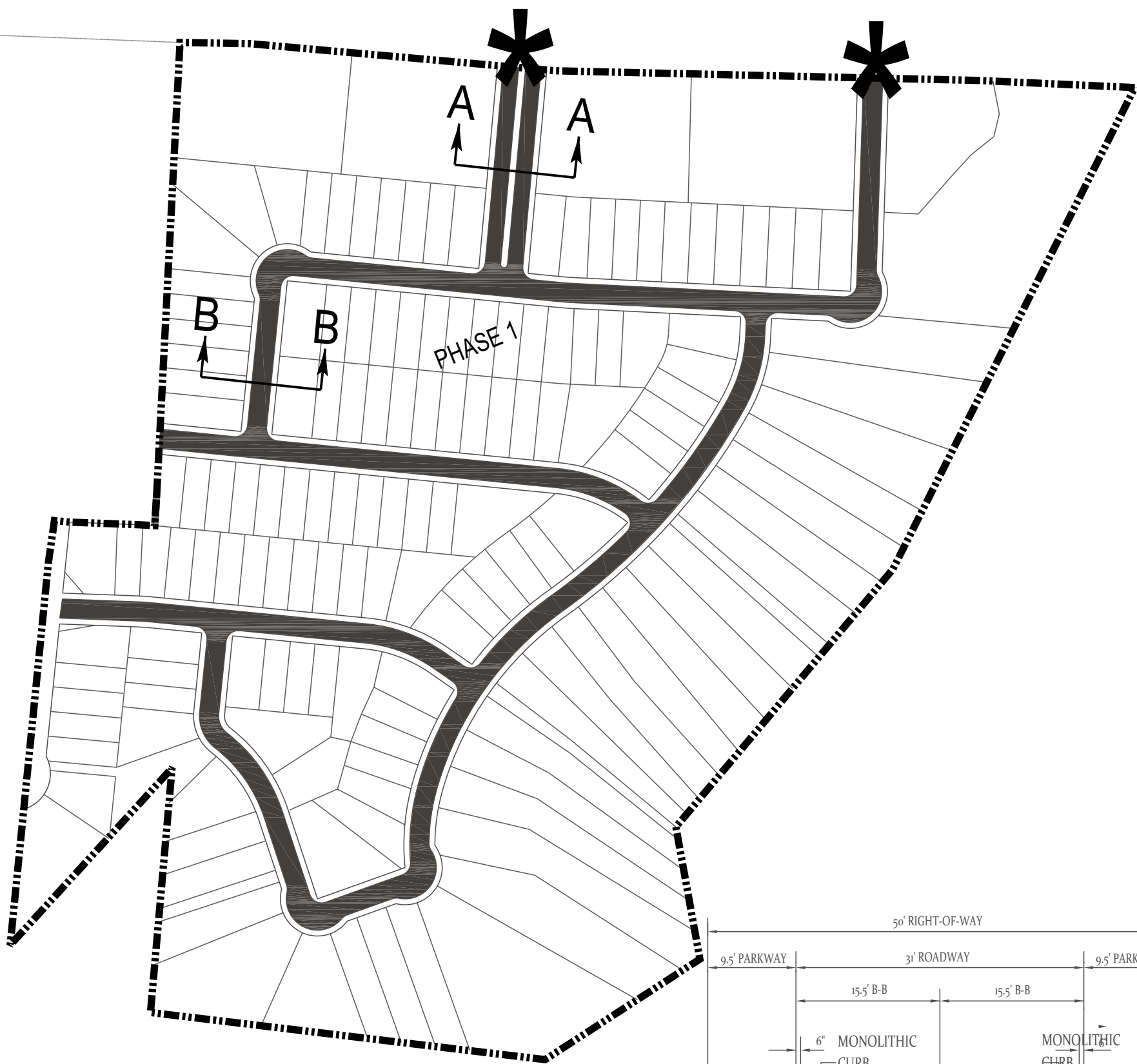
This document was prepared under 22 TAC Â§663.21, does not reflect the results of an on the ground survey, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared.

**APPENDIX D**  
**DIAGRAMS OF THE AUTHORIZED IMPROVEMENTS**



**A-A ROADWAY PAVING SECTION**  
SCALE: NTS

US HIGHWAY 380



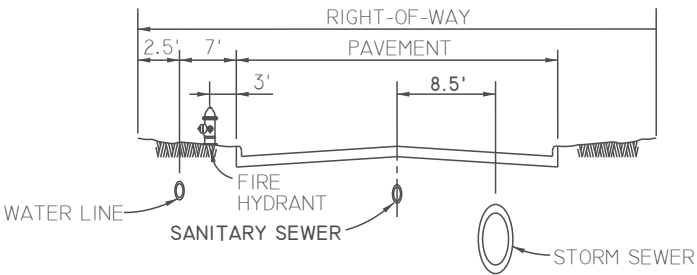
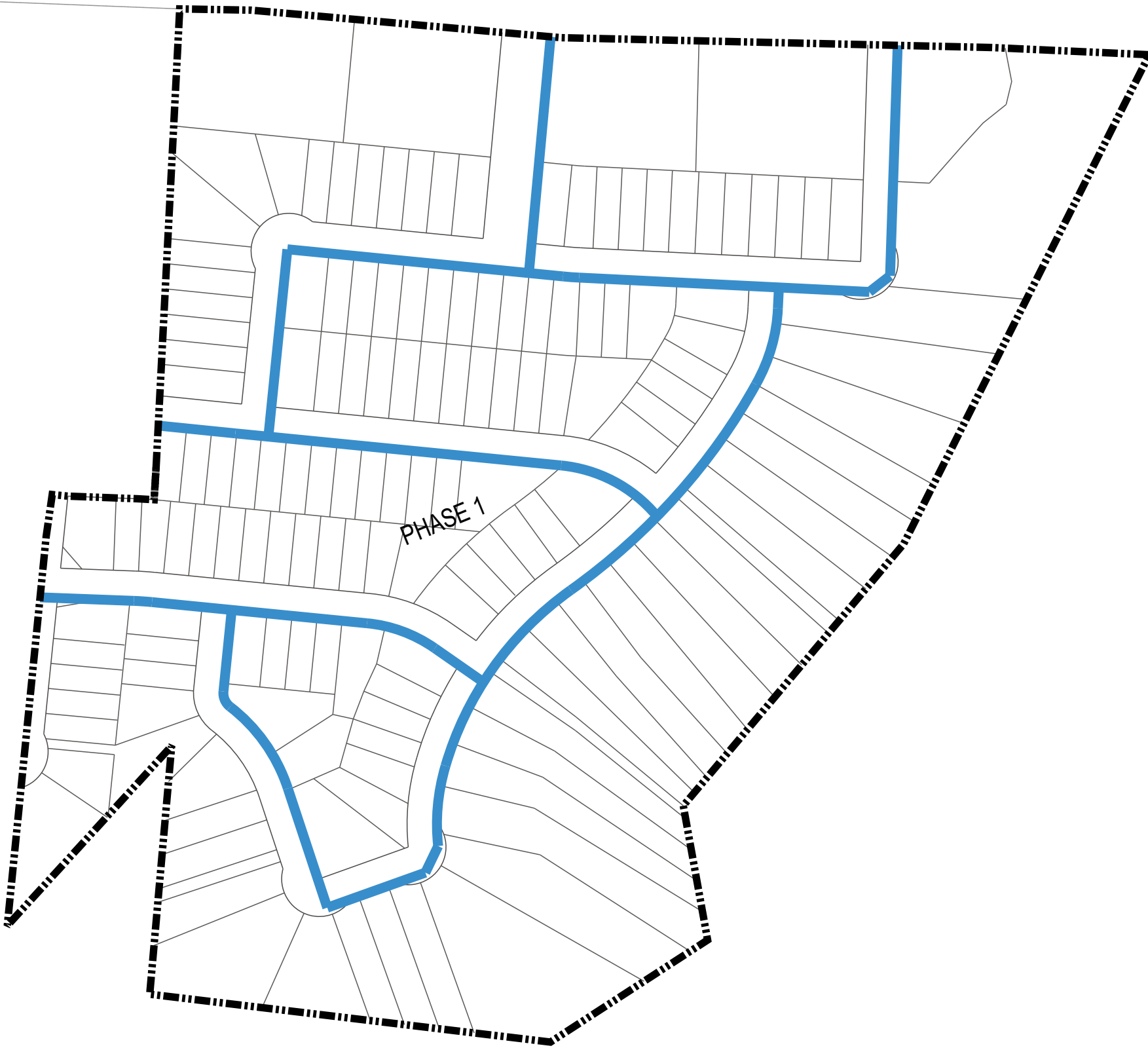
**TYPICAL 31' B-B ROADWAY PAVING SECTION**  
SCALE: NTS



PROPOSED TURN-LANE LOCATIONS

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

US HIGHWAY 380



TYPICAL WATER LOCATION  
N.T.S.

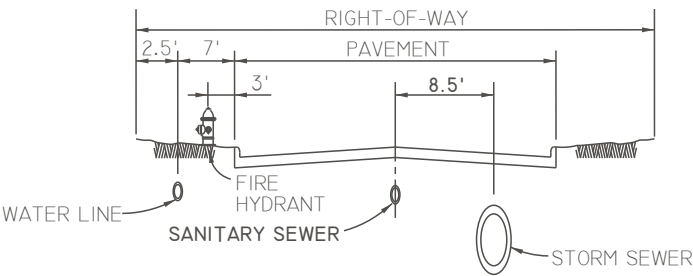
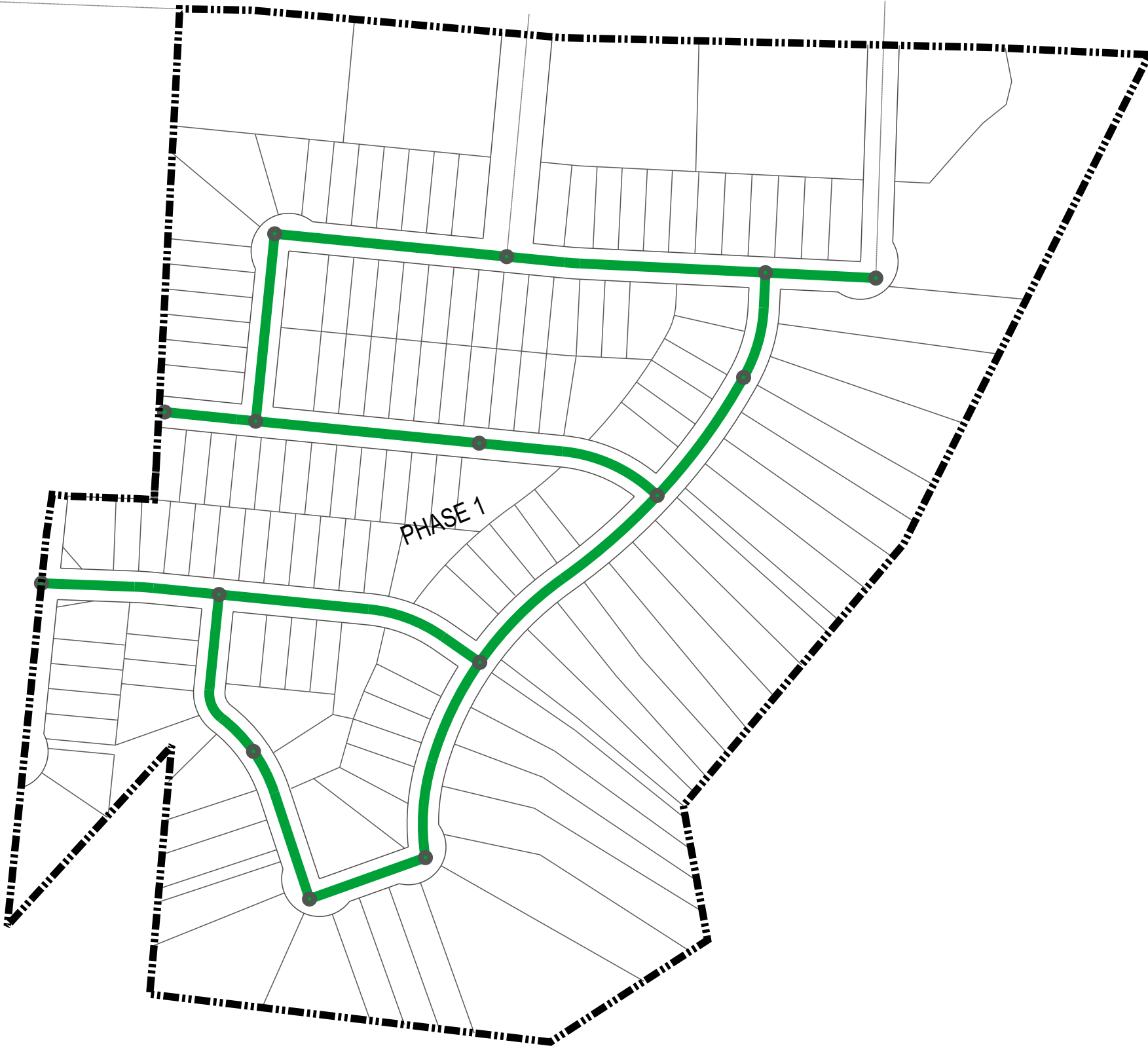
8" WATER LINE

NOTE:  
MAJOR WATER IMPROVEMENTS CONSIST OF 12" WATER TO  
SPIRITAS RANCH.

WATER IMPROVEMENTS  
SPIRITAS EAST PUBLIC IMPROVEMENT DISTRICT  
TOWN OF LITTLE ELM, DENTON COUNTY, TEXAS



US HIGHWAY 380



TYPICAL SEWER LOCATION  
N.T.S.

SEWER LINE

NOTE:  
MAJOR SEWER IMPROVEMENTS CONSIST OF UPGRADING SPIRITAS  
RANCH LIFT STATION.

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



**APPENDIX E**  
**HOMEBUYER DISCLOSURE**

AFTER RECORDING RETURN TO:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_]<sup>1</sup>

NOTICE OF OBLIGATION TO PAY IMPROVEMENT DISTRICT ASSESSMENT TO  
TOWN OF LITTLE ELM, TEXAS  
CONCERNING THE FOLLOWING PROPERTY

\_\_\_\_\_  
STREET ADDRESS

LOT TYPE \_\_\_\_\_ PRINCIPAL ASSESSMENT: \$\_\_\_\_\_

As the purchaser of the real property described above, you are obligated to pay assessments to the Town of Little Elm, Texas (the "Town"), for the costs of a portion of a public improvement or services project (the "Authorized Improvements") undertaken for the benefit of the property within ***Spiritas East Public Improvement District*** (the "District") created under Subchapter A, Chapter 372, Local Government Code.

AN ASSESSMENT HAS BEEN LEVIED AGAINST YOUR PROPERTY FOR THE AUTHORIZED IMPROVEMENTS, WHICH MAY BE PAID IN FULL AT ANY TIME. IF THE ASSESSMENT IS NOT PAID IN FULL, IT WILL BE DUE AND PAYABLE IN ANNUAL INSTALLMENTS THAT WILL VARY FROM YEAR TO YEAR DEPENDING ON THE AMOUNT OF INTEREST PAID, COLLECTION COSTS, ADMINISTRATIVE COSTS, AND DELINQUENCY COSTS.

The exact amount of the assessment may be obtained from the Town. The exact amount of each annual installment will be approved each year by the Town Council in the annual service plan update for the district. More information about the assessments, including the amounts and due dates, may be obtained from the Town.

Your failure to pay any assessment or any annual installment may result in penalties and interest being added to what you owe or in a lien on and the foreclosure of your property.

\_\_\_\_\_  
<sup>1</sup> To be included in separate copy of the notice required by Section 5.0143, Tex. Prop. Code, to be executed at the closing of the purchase and sale and to be recorded in the deed records of Denton County.

[The undersigned purchaser acknowledges receipt of this notice before the effective date of a binding contract for the purchase of the real property at the address described above.

DATE:

DATE:

\_\_\_\_\_  
SIGNATURE OF  
PURCHASER

\_\_\_\_\_  
SIGNATURE OF  
PURCHASER

The undersigned seller acknowledges providing this notice to the potential purchaser before the effective date of a binding contract for the purchase of the real property at the address described above.

DATE:

DATE:

\_\_\_\_\_  
SIGNATURE OF SELLER

\_\_\_\_\_  
SIGNATURE OF SELLER]<sup>2</sup>

\_\_\_\_\_  
<sup>2</sup> To be included in copy of the notice required by Section 5.014, Tex. Prop. Code, to be executed by seller in accordance with Section 5.014(a-1), Tex. Prop. Code.

[The undersigned purchaser acknowledges receipt of this notice before the effective date of a binding contract for the purchase of the real property at the address described above. The undersigned purchaser acknowledged the receipt of this notice including the current information required by Section 5.0143, Texas Property Code, as amended.

DATE:

DATE:

\_\_\_\_\_  
SIGNATURE OF  
PURCHASER

\_\_\_\_\_  
SIGNATURE OF  
PURCHASER

STATE OF TEXAS                   §  
  §  
COUNTY OF DENTON           §

The foregoing instrument was acknowledged before me by \_\_\_\_\_ and \_\_\_\_\_, known to me to be the person(s) whose name(s) is/are subscribed to the foregoing instrument and acknowledged to me that he or she executed the same for the purposes therein expressed.

Given under my hand and seal of office on this \_\_\_\_\_, 20\_\_.

Notary Public, State of Texas]<sup>3</sup>

\_\_\_\_\_

<sup>3</sup> To be included in separate copy of the notice required by Section 5.0143, Tex. Prop. Code, to be executed at the closing of the purchase and sale and to be recorded in the deed records of Denton County.

The undersigned seller acknowledges providing a separate copy of the notice required by Section 5.014 of the Texas Property Code including the current information required by Section 5.0143, Texas Property Code, as amended, at the closing of the purchase of the real property at the address above.

DATE:

DATE:

\_\_\_\_\_  
SIGNATURE OF SELLER

\_\_\_\_\_  
SIGNATURE OF SELLER

STATE OF TEXAS

§

§

COUNTY OF DENTON

§

The foregoing instrument was acknowledged before me by \_\_\_\_\_ and \_\_\_\_\_, known to me to be the person(s) whose name(s) is/are subscribed to the foregoing instrument and acknowledged to me that he or she executed the same for the purposes therein expressed.

Given under my hand and seal of office on this \_\_\_\_\_, 20\_\_.

Notary Public, State of Texas]<sup>4</sup>

\_\_\_\_\_  
<sup>4</sup> To be included in separate copy of the notice required by Section 5.0143, Tex. Prop. Code, to be executed at the closing of the purchase and sale and to be recorded in the deed records of Denton County.

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

## **Appendix F**

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

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

### **A) Proposed Development**

Table F-1 shows the proposed residential units to be developed within the PID.

**Table F-1**  
**Proposed Development within the PID**

<b>Description</b>	<b>Proposed Development</b>	
Lot Type 1 (50 Ft)	29	Units
Lot Type 2 (40 Ft)	117	Units
<b>Total</b>	<b>146</b>	<b>Units</b>

### **B) Calculation of Equivalent Units**

As explained under Section IV, for purpose of this Service and Assessment Plan, the Town Council has determined that the Budgeted Costs of the Authorized Improvements to be financed with the Bonds shall be allocated to the Assessed Property by spreading the entire Assessment across the Parcels based on the estimated Equivalent Units.

For purposes of this Plan, the Town Council has determined that the Assessments shall be allocated to the 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., 50 Ft lots, 40 Ft lots, 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 (50 Ft Lots) representing the highest value to Lot Type 2 (40 Ft Lot) representing the lowest value for residential lots are set forth in Table F-2 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 (50 Ft Lots) to 1.0.

**Table F-2**  
**Equivalent Unit Factors**

<b>Lot Type</b>	<b>Estimated Average Value</b>	<b>Equivalent Unit Factor</b>	
Lot Type 1 (50 Ft)	\$500,000	1.00	per dwelling unit
Lot Type 2 (40 Ft)	\$252,000	0.50	per dwelling unit

The total Equivalent Units for the PID are shown in Table F-3 below as calculated based on the Equivalent Unit factors shown above in Table F-2, estimated Lot Types and number of units estimated to be built within the PID.

**Table F-3**  
**Equivalent Units- PID**

<b>Description</b>	<b>Planned No. of Units</b>	<b>Equivalent Unit Factor</b>	<b>Total Equivalent Units</b>
Lot Type 1 (50 Ft)	29	1.00	29.00
Lot Type 2 (40 Ft)	117	0.80	58.97
<b>Total</b>	<b>146</b>		<b>87.97</b>

**C) Allocation of Assessments to Lots within the PID**

The total amount of the Series 2022 PID Bonds, which represents the total Assessment to be allocated on all Parcels within the PID, is \$4,650,000. As shown in Table F-3, there are a total of 87.97 Equivalent Units resulting in an Assessment per Unit of \$52,860.13 (i.e., \$4,650,000 ÷ 87.97 = \$52,860.13).

Table F-4 on the below sets forth the Assessment per dwelling unit within the PID.

**Table F-4**  
**Assessment Per Unit – PID**

<b>Description</b>	<b>Planned No. of Units</b>	<b>Assessment per Equivalent Unit</b>	<b>Equivalent Unit Factor</b>	<b>Assessment per Unit</b>	<b>Total Assessments</b>
Lot Type 1 (50 Ft)	29	\$52,860.13	1.00	\$52,860.13 per dwelling unit	\$1,532,944
Lot Type 2 (40 Ft)	117	\$52,860.13	0.50	\$26,641.51 per dwelling unit	\$3,117,056
<b>Total</b>	<b>146</b>				<b>\$4,650,000</b>



The projected leverage calculated based on the estimated land values, finished lot values and home values for each unit is shown in Table F-5 below.

**Table F-5**  
**Projected Leverage – PID**

<b>Description</b>	<b>Planned No. of Units/1,000 GSF</b>	<b>Estimated Finished Lot Value per unit</b>	<b>Projected Home Value per unit</b>	<b>Assessment per Unit</b>	<b>Leverage (Lot Value)</b>	<b>Leverage (Home Value)</b>
Lot Type 1 (50 Ft)	29	\$130,000	\$500,000	\$52,860.13	2.46	9.46
Lot Type 2 (40 Ft)	117	\$80,000	\$252,000	\$26,641.51	3.00	9.46

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 F-6 below.

**Table F-6**  
**Estimated Tax Rate Equivalent per unit – PID**

<b>Description</b>	<b>Planned No. of Units</b>	<b>Estimated Finished Lot Value per unit</b>	<b>Projected Home Value per unit</b>	<b>Projected Average Annual Installment per unit</b>	<b>Tax Rate Equivalent (per \$100 Lot Value)</b>	<b>Tax Rate Equivalent (per \$100 Home Value)</b>
Lot Type 1 (50 Ft)	29	\$130,000	\$500,000	\$4,135	\$3.18	\$0.8270
Lot Type 2 (40 Ft)	117	\$80,000	\$252,000	\$2,084	\$2.61	\$0.8270

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

**APPENDIX G**  
**ASSESSMENT ROLL**

**Appendix G-1**  
**Assessment Roll**

**Parcel  
Equivalent Units  
Assessment**

**All Parcels  
87.97  
\$4,650,000**

Year	Principal	Interest <sup>(1)</sup>	Administrative Expenses <sup>(2)</sup>	Additional Interest Reserve	Debt Service Reserve Fund	Capitalized Interest	Total Annual Installment
9/30/22	\$0	\$139,500	\$40,000	\$0	\$0	(\$139,500)	\$40,000
9/30/23	\$0	\$209,250	\$40,800	\$23,250	\$0	(\$104,625)	\$168,675
9/30/24	\$90,000	\$209,250	\$41,616	\$23,250	\$0	(\$104,625)	\$259,491
9/30/25	\$95,000	\$205,200	\$42,448	\$22,800	\$0	\$0	\$365,448
9/30/26	\$100,000	\$200,925	\$43,297	\$22,325	\$0	\$0	\$366,547
9/30/27	\$100,000	\$196,425	\$44,163	\$21,825	\$0	\$0	\$362,413
9/30/28	\$105,000	\$191,925	\$45,046	\$21,325	\$0	\$0	\$363,296
9/30/29	\$110,000	\$187,200	\$45,947	\$20,800	\$0	\$0	\$363,947
9/30/30	\$115,000	\$182,250	\$46,866	\$20,250	\$0	\$0	\$364,366
9/30/31	\$120,000	\$177,075	\$47,804	\$19,675	\$0	\$0	\$364,554
9/30/32	\$125,000	\$171,675	\$48,760	\$19,075	\$0	\$0	\$364,510
9/30/33	\$130,000	\$166,050	\$49,735	\$18,450	\$0	\$0	\$364,235
9/30/34	\$135,000	\$160,200	\$50,730	\$17,800	\$0	\$0	\$363,730
9/30/35	\$140,000	\$154,125	\$51,744	\$17,125	\$0	\$0	\$362,994
9/30/36	\$145,000	\$147,825	\$52,779	\$16,425	\$0	\$0	\$362,029
9/30/37	\$150,000	\$141,300	\$53,835	\$15,700	\$0	\$0	\$360,835
9/30/38	\$160,000	\$134,550	\$54,911	\$14,950	\$0	\$0	\$364,411
9/30/39	\$165,000	\$127,350	\$56,010	\$14,150	\$0	\$0	\$362,510
9/30/40	\$175,000	\$119,925	\$57,130	\$13,325	\$0	\$0	\$365,380
9/30/41	\$180,000	\$112,050	\$58,272	\$12,450	\$0	\$0	\$362,772
9/30/42	\$190,000	\$103,950	\$59,438	\$11,550	\$0	\$0	\$364,938
9/30/43	\$195,000	\$95,400	\$60,627	\$10,600	\$0	\$0	\$361,627
9/30/44	\$205,000	\$86,625	\$61,839	\$9,625	\$0	\$0	\$363,089
9/30/45	\$215,000	\$77,400	\$63,076	\$8,600	\$0	\$0	\$364,076
9/30/46	\$225,000	\$67,725	\$64,337	\$7,525	\$0	\$0	\$364,587
9/30/47	\$235,000	\$57,600	\$65,624	\$6,400	\$0	\$0	\$364,624
9/30/48	\$245,000	\$47,025	\$66,937	\$5,225	\$0	\$0	\$364,187
9/30/49	\$255,000	\$36,000	\$68,275	\$4,000	\$0	\$0	\$363,275
9/30/50	\$270,000	\$24,525	\$69,641	\$2,725	\$0	\$0	\$366,891
9/30/51	\$275,000	\$12,375	\$71,034	\$1,375	(\$300,925)	\$0	\$58,859
<b>Total</b>	<b>\$4,650,000</b>	<b>\$3,942,675</b>	<b>\$1,622,723</b>	<b>\$422,575</b>	<b>(\$300,925)</b>	<b>(\$348,750)</b>	<b>\$9,988,298</b>

<sup>1</sup>Annual Installments are calculated using an interest rate of 4.5% on the Series 2022 PID Bonds.

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

**Appendix G-2**  
**Assessment Roll by Lot Type**

**Parcel  
Equivalent Units  
Assessment**

**Lot Type 1 (50 Ft)**  
**\$52,860.13**  
**1.00**

Year	Principal	Interest <sup>(1)</sup>	Administrative Expenses <sup>(2)</sup>	Additional Interest Reserve	Debt Service Reserve Fund	Capitalized Interest	Total Annual Installment
9/30/22	\$0	\$1,586	\$455	\$0	\$0	(\$1,586)	\$455
9/30/23	\$0	\$2,379	\$464	\$264	\$0	(\$1,189)	\$1,917
9/30/24	\$1,023	\$2,379	\$473	\$264	\$0	(\$1,189)	\$2,950
9/30/25	\$1,080	\$2,333	\$483	\$259	\$0	\$0	\$4,154
9/30/26	\$1,137	\$2,284	\$492	\$254	\$0	\$0	\$4,167
9/30/27	\$1,137	\$2,233	\$502	\$248	\$0	\$0	\$4,120
9/30/28	\$1,194	\$2,182	\$512	\$242	\$0	\$0	\$4,130
9/30/29	\$1,250	\$2,128	\$522	\$236	\$0	\$0	\$4,137
9/30/30	\$1,307	\$2,072	\$533	\$230	\$0	\$0	\$4,142
9/30/31	\$1,364	\$2,013	\$543	\$224	\$0	\$0	\$4,144
9/30/32	\$1,421	\$1,952	\$554	\$217	\$0	\$0	\$4,144
9/30/33	\$1,478	\$1,888	\$565	\$210	\$0	\$0	\$4,141
9/30/34	\$1,535	\$1,821	\$577	\$202	\$0	\$0	\$4,135
9/30/35	\$1,591	\$1,752	\$588	\$195	\$0	\$0	\$4,126
9/30/36	\$1,648	\$1,680	\$600	\$187	\$0	\$0	\$4,115
9/30/37	\$1,705	\$1,606	\$612	\$178	\$0	\$0	\$4,102
9/30/38	\$1,819	\$1,530	\$624	\$170	\$0	\$0	\$4,143
9/30/39	\$1,876	\$1,448	\$637	\$161	\$0	\$0	\$4,121
9/30/40	\$1,989	\$1,363	\$649	\$151	\$0	\$0	\$4,154
9/30/41	\$2,046	\$1,274	\$662	\$142	\$0	\$0	\$4,124
9/30/42	\$2,160	\$1,182	\$676	\$131	\$0	\$0	\$4,149
9/30/43	\$2,217	\$1,084	\$689	\$120	\$0	\$0	\$4,111
9/30/44	\$2,330	\$985	\$703	\$109	\$0	\$0	\$4,128
9/30/45	\$2,444	\$880	\$717	\$98	\$0	\$0	\$4,139
9/30/46	\$2,558	\$770	\$731	\$86	\$0	\$0	\$4,145
9/30/47	\$2,671	\$655	\$746	\$73	\$0	\$0	\$4,145
9/30/48	\$2,785	\$535	\$761	\$59	\$0	\$0	\$4,140
9/30/49	\$2,899	\$409	\$776	\$45	\$0	\$0	\$4,130
9/30/50	\$3,069	\$279	\$792	\$31	\$0	\$0	\$4,171
9/30/51	\$3,126	\$141	\$807	\$16	(\$3,421)	\$0	\$669
<b>Total</b>	<b>\$52,860</b>	<b>\$44,819</b>	<b>\$18,447</b>	<b>\$4,804</b>	<b>(\$3,421)</b>	<b>(\$3,965)</b>	<b>\$113,545</b>

<sup>1</sup>Annual Installments are calculated using an interest rate of 4.5% on the Series 2022 PID Bonds.

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

**Appendix G-3**  
**Assessment Roll by Lot Type**

**Parcel  
Equivalent Units  
Assessment**

**Lot Type 2 (40 Ft)**  
**\$26,641.51**  
**0.80**

<b>Year</b>	<b>Principal</b>	<b>Interest<sup>(1)</sup></b>	<b>Administrative Expenses<sup>(2)</sup></b>	<b>Additional Interest Reserve</b>	<b>Debt Service Reserve Fund</b>	<b>Capitalized Interest</b>	<b>Total Annual Installment</b>
9/30/22	\$0	\$799	\$229	\$0	\$0	(\$799)	\$229
9/30/23	\$0	\$1,199	\$234	\$133	\$0	(\$599)	\$966
9/30/24	\$516	\$1,199	\$238	\$133	\$0	(\$599)	\$1,487
9/30/25	\$544	\$1,176	\$243	\$131	\$0	\$0	\$2,094
9/30/26	\$573	\$1,151	\$248	\$128	\$0	\$0	\$2,100
9/30/27	\$573	\$1,125	\$253	\$125	\$0	\$0	\$2,076
9/30/28	\$602	\$1,100	\$258	\$122	\$0	\$0	\$2,081
9/30/29	\$630	\$1,073	\$263	\$119	\$0	\$0	\$2,085
9/30/30	\$659	\$1,044	\$269	\$116	\$0	\$0	\$2,088
9/30/31	\$688	\$1,015	\$274	\$113	\$0	\$0	\$2,089
9/30/32	\$716	\$984	\$279	\$109	\$0	\$0	\$2,088
9/30/33	\$745	\$951	\$285	\$106	\$0	\$0	\$2,087
9/30/34	\$773	\$918	\$291	\$102	\$0	\$0	\$2,084
9/30/35	\$802	\$883	\$296	\$98	\$0	\$0	\$2,080
9/30/36	\$831	\$847	\$302	\$94	\$0	\$0	\$2,074
9/30/37	\$859	\$810	\$308	\$90	\$0	\$0	\$2,067
9/30/38	\$917	\$771	\$315	\$86	\$0	\$0	\$2,088
9/30/39	\$945	\$730	\$321	\$81	\$0	\$0	\$2,077
9/30/40	\$1,003	\$687	\$327	\$76	\$0	\$0	\$2,093
9/30/41	\$1,031	\$642	\$334	\$71	\$0	\$0	\$2,078
9/30/42	\$1,089	\$596	\$341	\$66	\$0	\$0	\$2,091
9/30/43	\$1,117	\$547	\$347	\$61	\$0	\$0	\$2,072
9/30/44	\$1,175	\$496	\$354	\$55	\$0	\$0	\$2,080
9/30/45	\$1,232	\$443	\$361	\$49	\$0	\$0	\$2,086
9/30/46	\$1,289	\$388	\$369	\$43	\$0	\$0	\$2,089
9/30/47	\$1,346	\$330	\$376	\$37	\$0	\$0	\$2,089
9/30/48	\$1,404	\$269	\$384	\$30	\$0	\$0	\$2,087
9/30/49	\$1,461	\$206	\$391	\$23	\$0	\$0	\$2,081
9/30/50	\$1,547	\$141	\$399	\$16	\$0	\$0	\$2,102
9/30/51	\$1,576	\$71	\$407	\$8	(\$1,724)	\$0	\$337
<b>Total</b>	<b>\$26,642</b>	<b>\$22,589</b>	<b>\$9,297</b>	<b>\$2,421</b>	<b>(\$1,724)</b>	<b>(\$1,998)</b>	<b>\$57,227</b>

<sup>1</sup>Annual Installments are calculated using an interest rate of 4.5% on the Series 2022 PID Bonds.

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



**Date:** 12/21/2021  
**Agenda Item #:** 7. A.  
**Department:** Economic Development Corporation  
**Strategic Goal:** Maintain operational integrity and viability  
**Staff Contact:** Jennette Espinosa, EDC Executive Director

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**AGENDA ITEM:**

Present, Discuss, and Consider Action on **Ordinance No. 1650 Approving and Authorizing the Issuance and Sale of the Town of Little Elm, Texas, Special Assessment Revenue Bonds, Series 2022 (Spiritas East Public Improvement District Project); and Approving and Authorizing Related Agreements.**

**DESCRIPTION:**

The Town is authorized by the PID Act to issue its revenue bonds payable from the Assessments (the “Bonds”) and other revenues received for the purposes of (i) paying a portion of the Actual Costs of the Authorized Improvements of Spiritas East Public Improvement District, (ii) paying a portion of the interest on the Bonds during and after the period of acquisition and construction of the Authorized Improvements, (iii) funding a reserve fund for payment of principal and interest on the Bonds, (iv) paying a portion of the costs incidental to the organization and administration of the District, and (v) paying costs of issuance of the Bonds.

The Town Council will determine if it is in the best interests of the Town to issue its bonds to be designated “Town of Little Elm, Texas, Special Assessment Revenue Bonds, Series 2022 (Spiritas East Public Improvement District)(the “Bonds”), such series to be payable from and secured by the Trust Estate, Wilmington Trust, National Association, defined in the Indenture.

The Town Council hereby finds and determines to (i) approve the issuance of the Bonds to finance a portion of the actual costs of the Authorized Improvements as identified in the Service and Assessment Plan, (ii) approve the form, terms and provisions on an indenture securing the Bonds and authorized hereby, (iii) approve the form terms and provisions of a Bond Purchase Agreement between the Town of Little Elm and the purchaser of the Bonds, (iv) approve a preliminary Limited Offering Memorandum, (v) approve the form, terms and provisions of a Continuing Disclosure Agreement, (vi) approve the form, terms and provisions of a Construction, Funding, and Acquisition Agreement, (vii) approve the form, terms and provisions of a Landowner Agreement.

**BUDGET IMPACT:**

The Town's budget is not impacted with the issuance of said Bonds. These Bonds will be assessed to the homeowners in said District.

**RECOMMENDED ACTION:**

Staff recommends approval of Ordinance No. 1650 which includes the following documents:

- Indenture of Trust
- Bond Purchase Agreement
- Preliminary Limited Offering Memorandum and a Limited Offering Memorandum
- Continuing Disclosure Agreement
- Construction, Funding and Acquisition Agreement
- MM Little Elm 43, LLC Landowner Agreement

---

**Attachments**

Ordinance 1650 - Approving Bonds for Spiritas East

## **ORDINANCE NO. 1650**

### **AN ORDINANCE APPROVING AND AUTHORIZING THE ISSUANCE AND SALE OF THE TOWN OF LITTLE ELM, TEXAS, SPECIAL ASSESSMENT REVENUE BONDS, SERIES 2022 (SPIRITAS EAST PUBLIC IMPROVEMENT DISTRICT PROJECT); AND APPROVING AND AUTHORIZING RELATED AGREEMENTS.**

**WHEREAS**, the Town of Little Elm, Texas (the "Town"), pursuant to and in accordance with the terms, provisions and requirements of the Public Improvement District Assessment Act, Chapter 372, Texas Local Government Code (the "PID Act"), has previously established the "Spiritas East Public Improvement District" (the "District"), pursuant to Resolution No. 1116202103 adopted by the Town Council of the Town (the "Town Council") on November 16, 2021; and

**WHEREAS**, pursuant to the PID Act, the Town Council published notice of and convened a public hearing on December 21, 2021 regarding the levy of special assessments against benefitted property located within the District and, after hearing testimony at such public hearing, the Town Council closed the public hearing and adopted Ordinance No. 1649 (the "Assessment Ordinance") on December 21, 2021; and

**WHEREAS**, in the Assessment Ordinance, the Town Council approved and accepted the Spiritas East Public Improvement District Service and Assessment Plan (the "Service and Assessment Plan"), relating to the District and levied special assessments (the "Assessments") against the Assessed Property (as defined in the Service and Assessment Plan), as shown on the assessment roll that was attached to the Service and Assessment Plan as Exhibit G (the "Assessment Roll"); and

**WHEREAS**, capitalized terms used in this Ordinance and not otherwise defined herein shall have the meanings assigned to them in the Service and Assessment Plan; and

**WHEREAS**, the Town is authorized by the PID Act to issue its revenue bonds payable from the Assessments (the "Bonds") and other revenues received for the purposes of (i) paying a portion of the Actual Costs of the Authorized Improvements, (ii) paying a portion of the interest on the Bonds during and after the period of acquisition and construction of the Authorized Improvements, (iii) funding a reserve fund for payment of principal and interest on the Bonds, (iv) paying a portion of the costs incidental to the organization and administration of the District, and (v) paying costs of issuance of the Bonds; and

**WHEREAS**, the Town Council hereby finds and determines that it is in the best interests of the Town to issue its bonds to be designated "Town of Little Elm, Texas, Special Assessment Revenue Bonds, Series 2022 (Spiritas East Public Improvement District Project)" (the "Bonds"), such series to be payable from and secured by the Trust Estate (as defined in the Indenture); and

**WHEREAS**, the Town Council hereby finds and determines to (i) approve the issuance of the Bonds to finance a portion of the Actual Costs of the Authorized Improvements, as identified in the Service and Assessment Plan, (ii) approve the form, terms, and provisions of an Indenture (defined below) securing the Bonds authorized hereby, (iii) approve the form, terms and provisions of a Bond Purchase Agreement (defined below) between the Town and the purchaser of the Bonds, (iv) approve a Preliminary Limited Offering Memorandum (defined below) and a Limited Offering Memorandum (defined below), (v) approve the form, terms and provisions of a Continuing Disclosure Agreement (defined below), (vi) approve the form, terms



and provisions of a Construction, Funding, and Acquisition Agreement (defined below), (vii) approve the form, terms and provisions of a Landowner Agreement (defined below); and

**WHEREAS**, the meeting at which this Ordinance is considered is open to the public as required by law, and the public notice of the time, place and purpose of said meeting was given as required by Chapter 551, Texas Government Code; now, therefore

**BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF LITTLE ELM, TEXAS:**

**SECTION 1. Approval of Issuance of Bonds and Indenture of Trust.**

(a) The issuance of the Bonds in the principal amount of \$\_\_\_\_\_ for the purpose of providing funds for (i) paying a portion of the Actual Costs of the Authorized Improvements, (ii) paying a portion of the interest on the Bonds during and after the period of acquisition and construction of the Authorized Improvements, (iii) funding a reserve fund for payment of principal and interest on the Bonds, (iv) paying a portion of the costs incidental to the organization and administration of the District, and (v) paying costs of issuance of the Bonds, is hereby authorized and approved.

(b) The Bonds shall be issued and secured under that certain Indenture of Trust (the "Indenture") dated as of January 1, 2022, between the Town and Wilmington Trust, National Association, as trustee (the "Trustee"), which Indenture is hereby approved in substantially the form attached hereto as **Exhibit A**, which is incorporated herein as a part hereof for all purposes, with such changes or additions thereto as may be approved by the Mayor or Mayor Pro Tem of the Town (upon the advice of the Town Manager and the Town's advisors) as evidenced by the execution and delivery thereof. The Mayor or Mayor Pro Tem of the Town is hereby authorized and directed to execute the Indenture and the Town Secretary is hereby authorized and directed to attest such signature of the Mayor or Mayor Pro Tem and such officials are hereby authorized to deliver the Indenture.

(c) The Bonds shall be dated, shall mature on the date or dates and in the principal amounts, shall bear interest, shall be subject to redemption and shall have such other terms and provisions as set forth in the Indenture. The Bonds shall be in substantially the form set forth in the Indenture with such insertions, omissions and modifications as may be required to conform the form of bond to the actual terms of the Bonds. The Bonds shall be payable from and secured by the Pledged Revenues (as defined in the Indenture) and other assets of the Trust Estate pledged to such series, and shall never be payable from ad valorem taxes.

**SECTION 2. Sale of Bonds; Approval of Bond Purchase Agreement.** The Bonds shall be sold to FMSbonds, Inc. (the "Underwriter") under that certain Bond Purchase Agreement (the "Bond Purchase Agreement"), dated the date hereof, between the Town and the Underwriter, substantially in the form attached hereto as **Exhibit B** which is incorporated herein as a part hereof for all purposes, which terms of sale are declared to be in the best interests of the Town at the price and on the terms and provisions set forth in the Bond Purchase Agreement. The form, terms and provisions of the Bond Purchase Agreement are hereby authorized and approved with such changes as may be necessary or desirable to carry out the intent of this Ordinance and as approved by the Town Manager and the Town's advisors, such approval to be evidenced by the execution and delivery of the Bond Purchase Agreement by the Mayor or Mayor Pro Tem of the Town. The Mayor or Mayor Pro Tem of the Town is hereby authorized and directed to execute and deliver the Bond Purchase Agreement.

**SECTION 3. Preliminary Limited Offering Memorandum and Limited Offering Memorandum.** The form and substance of the Preliminary Limited Offering Memorandum for the Bonds (the "Preliminary Limited Offering Memorandum") and any addenda, supplement or amendment thereto and the final Limited Offering Memorandum (the "Limited Offering Memorandum") are hereby in all respects approved and adopted. The Preliminary Limited Offering Memorandum and the Limited Offering Memorandum as thus approved and delivered, with such appropriate variations as shall be approved by the Mayor or Mayor Pro Tem of the City and the Underwriter, may be used by the Underwriter in the offering and sale of the Bonds. The Town Secretary is hereby authorized and directed to include and maintain a copy of the Preliminary Limited Offering Memorandum and Limited Offering Memorandum and any addenda, supplement or amendment thereto thus approved among the permanent records of this meeting. The use and distribution of the Preliminary Limited Offering Memorandum in the offering of the Bonds is hereby ratified, approved and confirmed and the Preliminary Limited Offering Memorandum is hereby deemed "final" as of its date, within the meaning of Rule 15c2-12 of the Securities and Exchange Commission. Notwithstanding the approval and delivery of such Preliminary Limited Offering Memorandum and Limited Offering Memorandum by the Mayor or Mayor Pro Tem, this Town Council, including the Mayor and Mayor Pro Tem, are not responsible for and proclaim no specific knowledge of the information contained in the Preliminary Limited Offering Memorandum and Limited Offering Memorandum pertaining to the Development (as described in the Limited Offering Memorandum), the Developer (as defined in the Limited Offering Memorandum) or its financial ability, or regarding any builders or landowners, or the appraisal of the property in the District.

**SECTION 4. Continuing Disclosure Agreement.** That certain "Town of Little Elm, Texas, Special Assessment Revenue Bonds, Series 2022 (Spiritas East Public Improvement District Project) Continuing Disclosure Agreement of the Issuer" (the "Continuing Disclosure Agreement") by and among the Town, MuniCap, Inc., as Administrator, and MuniCap, Inc., as dissemination agent, is hereby authorized and approved in substantially the form attached hereto as **Exhibit C** which is incorporated herein as a part hereof for all purposes and the Mayor and Mayor Pro Tem of the Town is authorized and directed to execute and deliver such Continuing Disclosure Agreement with such changes as may be required to carry out the purpose of this Ordinance and as approved by the Mayor or Mayor Pro Tem, such approval to be evidenced by the execution thereof.

**SECTION 5. Construction, Funding, and Acquisition Agreement.** That certain "Spiritas East Public Improvement District Construction, Funding, and Acquisition Agreement" (the "Construction, Funding, and Acquisition Agreement") between the Town and MM Little Elm 43, LLC, is hereby authorized and approved in substantially the form attached hereto as **Exhibit D** which is incorporated herein as a part hereof for all purposes and the Town Manager, Mayor, and Mayor Pro Tem of the Town is authorized and directed to execute and deliver such Construction, Funding, and Acquisition Agreement with such changes as may be required to carry out the purpose of this Ordinance and as approved by the Town Manager, Mayor or Mayor Pro Tem, such approval to be evidenced by the execution thereof.

**SECTION 6. Landowner Agreement.** That certain "Spiritas East Public Improvement District Landowner Agreement" (the "Landowner Agreement") between the Town and MM Little Elm 43, LLC, is hereby authorized and approved in substantially the form attached hereto as **Exhibit E** which is incorporated herein as a part hereof for all purposes and the Town Manager, Mayor, and Mayor Pro Tem of the Town is authorized and directed to execute and deliver such Landowner Agreement with such changes as may be required to carry out the purpose of this

Ordinance and as approved by the Town Manager, Mayor or Mayor Pro Tem, such approval to be evidenced by the execution thereof.

**SECTION 7. Additional Actions.** The Mayor, the Mayor Pro Tem, the Town Manager, the Deputy Town Manager, the Chief Financial Officer of the Town, and the Town Secretary are each hereby authorized and directed to take any and all actions on behalf of the Town necessary or desirable to carry out the intent and purposes of this Ordinance and to issue the Bonds in accordance with the terms of this Ordinance. The Mayor, the Mayor Pro Tem, the Town Manager, the Deputy Town Manager, the Chief Financial Officer of the Town, and the Town Secretary are each hereby authorized and directed to execute and deliver any and all certificates, agreements, notices, instruction letters, requisitions, and other documents which may be necessary or advisable in connection with the sale, issuance and delivery of the Bonds and the carrying out of the purposes and intent of this Ordinance or any other certificates, agreements, or other documents subsequent to the delivery of the Bonds which may be necessary or appropriate to carry out or fulfill the purpose and intent of the Service and Assessment Plan and the acquisition and construction of the Authorized Improvements.

**SECTION 8. Governing Law.** This Ordinance shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

**SECTION 9. Effect of Headings.** The Section headings herein are for convenience only and shall not affect the construction hereof.

**SECTION 10. Severability.** If any provision of this Ordinance or the application thereof to any circumstance shall be held to be invalid, the remainder of this Ordinance or the application thereof to other circumstances shall nevertheless be valid, and this governing body hereby declares that this Ordinance would have been enacted without such invalid provision.

**SECTION 11. Construction of Terms.** If appropriate in the context of this Ordinance, words of the singular number shall be considered to include the plural, words of the plural number shall be considered to include the singular, and words of the masculine, feminine or neuter gender shall be considered to include the other genders.

**SECTION 12. Incorporation of Findings and Determinations.** The findings and determinations of the Town Council contained in the preamble of this Ordinance are hereby incorporated by reference and made a part of this Ordinance for all purposes as if the same were restated in full in this Section.

**SECTION 13. Effective Date.** This Ordinance shall take effect and be in force immediately from and after its adoption on the date shown below in accordance with Texas Government Code, Section 1201.028, as amended.

[Remainder of Page Intentionally Left Blank]

**PASSED AND APPROVED**, this the 21<sup>st</sup> day of December, 2021.

TOWN OF LITTLE ELM, TEXAS

---

Cornelious J. Curtis, Mayor

ATTEST:

---

Caitlan Biggs, Town Secretary

---

Matt Mueller, Town Manager

(Town Seal)

APPROVED AS TO FORM:

---

Robert Brown, Town Attorney

**EXHIBIT A**  
**INDENTURE OF TRUST**

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INDENTURE OF TRUST

By and Between

TOWN OF LITTLE ELM, TEXAS

and

WILMINGTON TRUST, NATIONAL ASSOCIATION,  
as Trustee

DATED AS OF JANUARY 1, 2022

SECURING

\$ \_\_\_\_\_  
TOWN OF LITTLE ELM, TEXAS,  
SPECIAL ASSESSMENT REVENUE BONDS, SERIES 2022  
(SPIRITAS EAST PUBLIC IMPROVEMENT DISTRICT PROJECT)

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## INDENTURE OF TRUST

THIS INDENTURE OF TRUST, dated as of January 1, 2022 is by and between the TOWN OF LITTLE ELM, TEXAS (the "Town"), and WILMINGTON TRUST, NATIONAL ASSOCIATION, as trustee (together with its successors, the "Trustee"). Capitalized terms used in the preambles, recitals and granting clauses and not otherwise defined shall have the meanings assigned thereto in Article I.

WHEREAS, a petition was submitted and filed with the Town Secretary of the Town (the "Town Secretary") pursuant to the Public Improvement District Assessment Act, Texas Local Government Code, Chapter 372, as amended (the "PID Act"), requesting the creation of a public improvement district located within the corporate limits of the Town to be known as the Spiritas East Public Improvement District (the "District"); and

WHEREAS, the petition contained the signature of the owner of taxable property representing more than fifty percent of the appraised value of taxable real property liable for assessment within the District, as determined by the then current ad valorem tax rolls of the Denton Central Appraisal District, and the signature of the record owner of taxable real property that constitutes more than fifty percent of the area of all taxable property that is liable for assessment by the District; and

WHEREAS, on November 16, 2021, after due notice, the Town Council of the Town (the "Town Council") held the public hearing in the manner required by law on the advisability of the improvement projects and services described in the petition as required by Section 372.009 of the PID Act and on November 16, 2021, the Town Council made the findings required by Section 372.009(b) of the PID Act and, by Resolution No. 1116202103, adopted by a majority of the members of the Town Council, authorized the District in accordance with its finding as to the advisability of the improvement projects and services and also made findings and determinations relating to the estimated total costs of certain Authorized Improvements; and

WHEREAS, on November 17, 2021, the Town Secretary filed a copy of Resolution No. 1116202103 with the county clerk of each county in which all or a part of the District is located in accordance with the provisions of the PID Act; and

WHEREAS, no written protests of the District from any owners of record of property within the District were filed with the Town Secretary within 20 days after November 16, 2021, and

WHEREAS, on November 16, 2021, the Town Council by Resolution No. 1116202104 made findings and determinations relating to the Actual Costs of certain Authorized Improvements allocable to the property within the District, received and accepted a preliminary Service and Assessment Plan, including a proposed assessment roll for the District, called a public hearing for December 21, 2021, and directed Town staff to: (i) file said proposed assessment roll with the Town Secretary and make it available for public inspection as required by Section 372.016(b) of the PID Act, and (ii) publish such notice of the December 21, 2021 hearing as required by Section 372.016(b) of the PID Act; and

WHEREAS, on November 21, 2021, the Town Council, pursuant to Section 372.016(b) of the PID Act, published notice of the public hearing in the *Denton Record-Chronicle*, a newspaper of general circulation in the Town, to consider the proposed "Assessment Roll" and

the "Spiritas East Public Improvement District Service and Assessment Plan" (as updated, amended, or restated, the "Service and Assessment Plan"), and the levy of the "Assessments" on property in the District; and

WHEREAS, the Town Council, pursuant to Section 372.016(c) of the PID Act, mailed notice of the public hearing to consider the proposed Assessment Roll, and the Service and Assessment Plan and the levy of the Assessments on property in the District to the last known addresses of the owners of the property liable for the Assessments; and

WHEREAS, on December 21, 2021, the Town Council convened the public hearing with respect to the Assessments, at which time, all persons who appeared, or requested to appear, in person or by their attorney, were given the opportunity to contend for or contest the Service and Assessment Plan, the proposed Assessment Roll and Assessments, and to offer testimony pertinent to any issue presented on the amount of the Assessments, the allocation of the Actual Costs of the Authorized Improvements (as defined herein), the purposes of the Assessments, the special benefits of the Authorized Improvements, and the penalties and interest on Annual Installments (as defined herein) and on delinquent Annual Installments of the Assessments, and there were no written protests, objections or evidence submitted to the Town Secretary in opposition to the Service and Assessment Plan, the allocation of Actual Costs of the Authorized Improvements, the Assessment Roll, and the levy of the Assessments; and

WHEREAS, the Town Council closed the hearing with respect to the Assessments, and, after considering all written and documentary evidence presented at the hearing, including all written comments and statements filed with the Town, the Town Council approved Ordinance No. 1649 (the "Assessment Ordinance"), which levied the Assessments and approved and accepted the Service and Assessment Plan as the service and assessment plan in conformity with the requirements of the PID Act and the Town Council found and determined that the Assessments should be levied as provided in the Service and Assessment Plan and the Assessment Roll; and

WHEREAS, the Town Secretary will file a copy of the Assessment Ordinance with the county clerk of each county in which all or a part of the District is located not later than the seventh day after the Town approved the Assessment Ordinance in accordance with the provisions of the PID Act; and

WHEREAS, the Town Council is authorized by the PID Act to issue its revenue bonds payable from the Assessments for the purpose of (i) paying a portion of the Actual Costs of the Authorized Improvements, (ii) paying a portion of the interest on the Bonds (as defined herein) during and after the period of acquisition and construction of the Authorized Improvements, (iii) funding a reserve fund for payment of principal and interest on the Bonds, (iv) paying a portion of the costs incidental to the organization and administration of the District, and (v) paying costs of issuance of the Bonds; and

WHEREAS, the Town Council now desires to issue revenue bonds, in accordance with the PID Act, such bonds to be entitled "Town of Little Elm, Texas, Special Assessment Revenue Bonds, Series 2022 (Spiritas East Public Improvement District Project)" (the "Bonds"), such Bonds being payable solely from the Trust Estate (defined below) and for the purposes set forth in the preamble of this Indenture; and

WHEREAS, the Trustee has agreed to accept the trusts herein created upon the terms set forth in this Indenture;

NOW, THEREFORE, the Town, in consideration of the foregoing premises and acceptance by the Trustee of the trusts herein created, of the purchase and acceptance of the

Bonds by the Owners thereof, and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, does hereby GRANT, CONVEY, PLEDGE, TRANSFER, ASSIGN, and DELIVER to the Trustee for the benefit of the Owners, a security interest in all of the moneys, rights and properties described in the Granting Clauses hereof, as follows (collectively, the "Trust Estate"):

#### FIRST GRANTING CLAUSE

The Pledged Revenues, as herein defined, and all moneys and investments held in the Pledged Funds, including any and all proceeds thereof and any contract or any evidence of indebtedness related thereto or other rights of the Town to receive any of such moneys or investments, whether now existing or hereafter coming into existence, and whether now or hereafter acquired; and

#### SECOND GRANTING CLAUSE

Any and all other property or money of every name and nature which is, from time to time hereafter by delivery or by writing of any kind, conveyed, pledged, assigned or transferred, to the Trustee as additional security hereunder by the Town or by anyone on its behalf or with its written consent, and the Trustee is hereby authorized to receive any and all such property or money at any and all times and to hold and apply the same subject to the terms thereof;

TO HAVE AND TO HOLD the Trust Estate, whether now owned or hereafter acquired, unto the Trustee and its successors or assigns;

IN TRUST NEVERTHELESS, upon the terms and trusts herein set forth for the benefit of all present and future Owners of the Bonds from time to time issued under and secured by this Indenture, and for enforcement of the payment of the Bonds in accordance with their terms, and for the performance of and compliance with the obligations, covenants, and conditions of this Indenture;

PROVIDED, HOWEVER, that if and to the extent any Assessments have been prepaid, the lien on real property associated with such Assessment prepayment shall be released and any rights of the Trustee and the Owners as provided in this Indenture to request the Town proceed with foreclosure procedures for the purpose of protecting and enforcing the rights of the Owners with respect to such property shall terminate;

PROVIDED, FURTHER, HOWEVER, if the Town or its assigns shall well and truly pay, or cause to be paid, the principal or Redemption Price (as defined herein) of and the interest on all the Bonds at the times and in the manner stated in the Bonds, according to the true intent and meaning thereof, then this Indenture and the rights hereby granted shall cease, terminate and be void; otherwise this Indenture is to be and remain in full force and effect;

THIS INDENTURE FURTHER WITNESSETH, and it is expressly declared, that all Bonds issued and secured hereunder are to be issued, authenticated, and delivered and the Trust Estate hereby created, assigned, and pledged is to be dealt with and disposed of under, upon and subject to the terms, conditions, stipulations, covenants, agreements, trusts, uses, and purposes as hereinafter expressed, and the Town has agreed and covenanted, and does hereby agree and covenant, with the Trustee and with the respective Owners from time to time of the Bonds as follows:

## ARTICLE I

### DEFINITIONS, FINDINGS AND INTERPRETATION

#### Section 1.1. Definitions.

Unless otherwise expressly provided or unless the context clearly requires otherwise in this Indenture, the following terms shall have the meanings specified below:

“Account” means any of the accounts established pursuant to Section 6.1 of this Indenture.

“Actual Costs” means, with respect to the Authorized Improvements, 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 Costs 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, and taxes, (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 such 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, and development fees), insurance premiums, and miscellaneous expenses.

“Additional Interest” means the amount collected by application of the Additional Interest Rate.

“Additional Interest Rate” means the 0.50% additional interest rate charged on the Assessments pursuant to Section 372.018 of the PID Act.

“Additional Interest Reserve Account” means the reserve account administered by the Town and segregated from other funds of the Town in accordance with the provisions of Section 6.7 of this Indenture.

“Additional Interest Reserve Requirement” means an amount equal to 5.50% of the principal amount of the Outstanding Bonds to be funded from Assessment Revenues to be deposited to the Pledged Revenue Fund and transferred to the Additional Interest Reserve Account.

“Additional Obligations” means any bonds or obligations, including specifically, any installment contracts, reimbursement agreements, temporary notes or time warrants secured in whole or in part by an assessment, other than the Assessments securing the Bonds, levied against property within the District in accordance with the PID Act.

“Administrative Expenses” mean the administrative, organization, maintenance and operation costs associated with, or incident to, the administration, organization, maintenance and operation of the District, including, but not limited to, the costs of: (i) creating and organizing

the District, 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 District, (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) issuing, 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.

“Administrative Fund” means that Fund established by Section 6.1 and administered pursuant to Section 6.9 hereof.

“Administrator” means an employee of the Town or third-party designee of the Town who shall have the responsibilities provided in the Service and Assessment Plan, this Indenture, or any other agreement or document approved by the Town related to the duties and responsibilities of the administration of the District. The initial Administrator is MuniCap, Inc.

“Annual Debt Service” means, for each Bond Year, the sum of (i) the interest due on the Outstanding Bonds in such Bond Year, assuming that the Outstanding Bonds are retired as scheduled (including by reason of Sinking Fund Installments), and (ii) the principal amount of the Outstanding Bonds due in such Bond Year (including any Sinking Fund Installments due in such Bond Year).

“Annual Installment” means, with respect to each Assessed Parcel, each annual payment of the Assessments as shown on the Assessment Roll attached to the Service and Assessment Plan as Appendix G as it relates to the Authorized Improvements; which annual payment includes Administrative Expenses and the Additional Interest collected on each annual payment of the Assessments as described in Section 6.7 herein and as defined and calculated in the Service and Assessment Plan or in any Annual Service Plan Update.

“Annual Service Plan Update” means the annual review and update of the Service and Assessment Plan required by the PID Act and the Service and Assessment Plan.

“Applicable Laws” means the PID Act, and all other laws or statutes, rules, or regulations, and any amendments thereto, of the State of Texas or of the United States, by which the Town and its powers, securities, operations, and procedures are governed or from which its powers may be derived.

“Assessed Parcel” means each respective parcel of land located within the District against which an Assessment has been levied in accordance with the Assessment Ordinance in accordance with the Service and Assessment Plan.

“Assessed Property” means, collectively, all Assessed Parcels.

“Assessment Ordinance” means, Ordinance No. 1649 adopted by the Town Council on December 21, 2021, that levied the Assessments on the Assessed Property.

"Assessments" means, collectively the aggregate Assessments as shown on the Assessment Roll. The singular of such term means the assessment levied against an Assessed Parcel including the portion to be paid for Administrative Expenses, as shown on the Assessment Roll, subject to the reallocation upon the subdivision of an Assessed Parcel or reduction according to the provisions of the Service and Assessment Plan and the PID Act.

"Assessment Revenue" means monies collected by or on behalf of the Town from any one or more of the following: (i) an Assessment levied against the Assessed Property, or Annual Installment payment thereof, including any interest on such Assessment, or Annual Installment thereof, during any period of delinquency, (ii) a Prepayment, and (iii) Foreclosure Proceeds.

"Assessment Roll" means the Assessment Roll attached as Appendix G to the Service and Assessment Plan or any other assessment roll in an amendment or supplement to the Service and Assessment Plan or in an Annual Service Plan Update, showing the total amount of the Assessments against each Assessed Parcel related to the Bonds and the Authorized Improvements, as updated, modified, or amended from time to time, in accordance with the terms of the Service and Assessment Plan and the PID Act.

"Authorized Denomination" means \$100,000 and any integral multiple of \$1,000 in excess thereof; provided, however, that if the total principal amount of any Outstanding Bond is less than \$100,000 then the Authorized Denomination of such Outstanding Bond shall be the amount of such Outstanding Bond.

"Authorized Improvements" means collectively, the Authorized Improvements to be constructed within the District, as described in Section III of the Service and Assessment Plan.

"Authorized Improvements Account" means the Account of such name established pursuant to Section 6.1.

"Bond" means any of the Bonds.

"Bond Counsel" means Norton Rose Fulbright US LLP or any other attorney or firm of attorneys designated by the Town that is nationally recognized for expertise in rendering opinions as to the legality and tax-exempt status of securities issued by public entities.

"Bond Date" means the date designated as the initial date of the Bonds by Section 3.2(a) of this Indenture.

"Bond Fund" means the Fund of such name established pursuant to Section 6.1 and administered as provided in Section 6.4.

"Bond Ordinance" means Ordinance No. 1650 adopted by the Town Council on December 21, 2021, authorizing the issuance of the Bonds pursuant to this Indenture.

"Bond Pledged Revenue Account" means the Account of such name established pursuant to Section 6.1.

"Bond Year" means the one-year period beginning on September 1 in each year and ending on August 31 in the following year.

“Bonds” means the Town's bonds authorized to be issued by Section 3.1 of this Indenture entitled “Town of Little Elm, Texas, Special Assessment Revenue Bonds, Series 2022 (Spiritas East Public Improvement District Project)”.

“Business Day” means any day other than a Saturday, Sunday or legal holiday in the State of Texas observed as such by the Town or the Trustee.

“Capitalized Interest Account” means the Account of such name established pursuant to Section 6.1.

“Certification for Payment” means a certificate substantially in the form of Exhibit B attached to the Construction, Funding, and Acquisition Agreement and or otherwise approved by the Developer and a Town Representative executed by a Person approved by a Town Representative, delivered to the Town Representative and the Trustee specifying the amount of work performed related to the Authorized Improvements and the Actual Costs thereof, and requesting payment for such Actual Costs from money on deposit in the proper account of the Project Fund, as further described in the Construction, Funding, and Acquisition Agreement and Section 6.5 herein.

“Closing Date” means the date of the initial delivery of and payment for the Bonds.

“Code” means the Internal Revenue Code of 1986, as amended, including applicable regulations, published rulings and court decisions.

“Construction, Funding and Acquisition Agreement” means the “Spiritas East Public Improvement District Construction, Funding and Acquisition Agreement” by and between the Town and the Developer dated as of December 21, 2021 which provides, in part, for the deposit of proceeds from the issuance and sale of the Bonds and the payment of costs of Authorized Improvements within the District, the issuance of bonds, the use of the funds in the Developer Improvement Account, and other matters related thereto.

“Costs of Issuance Account” means the Account of such name established pursuant to Section 6.1.

“Defeasance Securities” means Investment Securities then authorized by applicable law for the investment of funds to defease public securities.

“Delinquent Collection Costs” means the costs related to the foreclosure on an Assessed Parcel and the costs of collection of the respective delinquent Assessment, in accordance with the PID Act, including penalties and reasonable attorney's fees actually paid, but excluding amounts representing interest and penalty interest.

“Designated Payment/Transfer Office” means (i) with respect to the initial Paying Agent/Registrar named in this Indenture, the transfer/payment office located in Wilmington, Delaware, or such other location designated by the Paying Agent/Registrar and (ii) with respect to any successor Paying Agent/Registrar, the office of such successor designated and located as may be agreed upon by the Town and such successor.



"Developer" means MM Little Elm 43, LLC a Texas limited liability company, and its successors and assigns.

"Developer Improvement Account" means the Account of such name established pursuant to Section 6.1.

"District Administration Account" means the Account of such name established pursuant to Section 6.1.

"DTC" shall mean The Depository Trust Company of New York, New York, or any successor securities depository.

"DTC Participant" shall mean brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations on whose behalf DTC was created to hold securities to facilitate the clearance and settlement of securities transactions among DTC Participants.

"Foreclosure Proceeds" means the proceeds, including interest and penalty interest, received by the Town from the enforcement of the Assessments against any Assessed Parcel or Assessed Parcels, whether by foreclosure of lien or otherwise, but excluding and net of all Delinquent Collection Costs.

"Fund" means any of the funds established pursuant to Section 6.1 of this Indenture.

"Indenture" means this Indenture of Trust as originally executed or as it may be from time to time supplemented or amended by one or more indentures supplemental hereto and entered into pursuant to the applicable provisions hereof.

"Independent Financial Consultant" means any consultant or firm of such consultants appointed by the Town who, or each of whom: (i) is judged by the Town, as the case may be, to have experience in matters relating to the issuance and/or administration of the Bonds; (ii) is in fact independent and not under the domination of the Town; (iii) does not have any substantial interest, direct or indirect, with or in the Town, or any owner of real property in the District, or any real property in the District; and (iv) is not connected with the Town as an officer or employee of the Town, but who may be regularly retained to make reports to the Town.

"Initial Bond" means the Initial Bond as set forth in Exhibit A to this Indenture.

"Interest Payment Date" means the date or dates upon which interest on the Bonds is scheduled to be paid until their respective dates of maturity or prior redemption, such dates being on March 1 and September 1 of each year, commencing September 1, 2022.

"Investment Securities" means those authorized investments described in the Public Funds Investment Act, Texas Government Code, Chapter 2256, as amended; and provided further such investments are, at the time made, included in and authorized by the Town's official investment policy as approved by the Town Council from time to time.

"Maximum Annual Debt Service" means the largest Annual Debt Service for any Bond Year after the calculation is made through the final maturity date of any Outstanding Bonds.

“Minor Amount Redemption” means a redemption, pursuant to Section 4.4 of this Indenture of a principal amount, of Bonds that is less than 10% of the Outstanding principal amount of the Bonds.

“Outstanding” means, as of any particular date when used with reference to Bonds, all Bonds authenticated and delivered under this Indenture except (i) any Bond that has been canceled by the Trustee (or has been delivered to the Trustee for cancellation) at or before such date, (ii) any Bond for which the payment of the principal or Redemption Price of and interest on such Bond shall have been made as provided in Article IV, and (iii) any Bond in lieu of or in substitution for which a new Bond shall have been authenticated and delivered pursuant to Section 3.10 herein.

“Owner” means the Person who is the registered owner of a Bond or Bonds, as shown in the Register, which shall be Cede & Co., as nominee for DTC, so long as the Bonds are in book-entry only form and held by DTC as securities depository in accordance with Section 3.11 herein.

“Paying Agent/Registrar” means initially the Trustee, or any successor thereto as provided in this Indenture.

“Person” or “Persons” means any individual, corporation, partnership, limited liability company, joint venture, association, joint-stock company, trust, unincorporated organization or government or any agency or political subdivision thereof.

“PID Act” means Texas Local Government Code, Chapter 372, as amended.

“Pledged Funds” means the Pledged Revenue Fund, the Bond Fund, the Project Fund (but excluding the Developer Improvement Account), the Reserve Fund, and the Redemption Fund.

“Pledged Revenue Fund” means that fund of such name established pursuant to Section 6.1 and administered pursuant to Section 6.3 herein.

“Pledged Revenues” means the sum of (i) Assessment Revenue less the Administrative Expenses and (ii) any additional revenues that the Town may pledge to the payment of Bonds.

“Prepayment” means the payment of all or a portion of an Assessment before the due date thereof.

“Principal and Interest Account” means the Account of such name established pursuant to Section 6.1.

“Project Fund” means that fund of such name established pursuant to Section 6.1 and administered pursuant to Section 6.5 herein.

“Purchaser” means the initial purchaser of the Bonds.

“Rebate Amount” has the meaning set forth in Section 1.148-1(b) of the Regulations.

“Rebate Fund” means that fund of such name established pursuant to Section 6.1 and administered pursuant to Section 6.8 herein.

“Record Date” means the close of business on the fifteenth calendar day (whether or not a Business Day) of the month next preceding an Interest Payment Date.

“Redemption Fund” means that fund of such name established pursuant to Section 6.1 and administered pursuant to Section 6.6 herein.

“Redemption Price” means, when used with respect to any Bond or portion thereof subject to optional redemption pursuant to the provisions hereof, the applicable redemption price shown in Article IV of this Indenture.

“Refunding Bonds” means bonds issued pursuant to the PID Act and/or Chapter 1207 of the Texas Government Code or any other applicable law of the State of Texas (each as amended) to refund all or any portion of the then-Outstanding Bonds.

“Register” means the register specified in Article III of this Indenture.

“Reserve Account” means the Account of such name established pursuant to Section 6.1.

“Reserve Account Requirement” means the least of: (i) Maximum Annual Debt Service on the Bonds as of the Closing Date, (ii) 125% of average Annual Debt Service on the Bonds as of the Closing Date, or (iii) 10% of the lesser of the principal amount of the Outstanding Bonds or the original issue price of the Bonds. As of the Closing Date, the Reserve Account Requirement is \$\_\_\_\_\_ which is an amount equal to Maximum Annual Debt Service on the Bonds as of the Closing Date.

“Reserve Fund” means that fund of such name established pursuant to Section 6.1 and administered in Section 6.7 herein.

“Service and Assessment Plan” means the “Spiritas East Public Improvement District, Service and Assessment Plan”, dated December 21, 2021, including the Assessment Roll, as amended, updated, and/or restated by an Annual Service Plan Update or otherwise, a version of which is attached as an exhibit to the Assessment Ordinance.

“Sinking Fund Installment” means the amount of money to redeem or pay at maturity the portion of the principal of Bonds payable from such installments at the times and in the amounts provided in Section 4.2 herein.

“Stated Maturity” means the date the Bonds, or any portion of the Bonds, as applicable, are scheduled to mature without regard to any redemption or prepayment.

“Substantial Amount Redemption” means a redemption, pursuant to Section 4.4 of this Indenture, of a principal amount of Bonds that is greater than or equal to 10% of the Outstanding principal amount of the Bonds.

“Supplemental Indenture” means an indenture which has been duly executed by the Trustee and the Town Representative pursuant to an ordinance adopted by the Town Council and which indenture amends or supplements this Indenture, but only if and to the extent that such indenture is specifically authorized hereunder.

“Tax Certificate” means the Certificate as to Tax Exemption delivered by the Town on the Closing Date for the Bonds setting forth the facts, estimates and circumstances in existence on the Closing Date which establish that it is not expected that the proceeds of the Bonds will be used in a manner that would cause the interest on such Bonds to be included in the gross income of the Owners thereof for Federal income tax purposes.

“Town Certificate” means a certificate signed by a Town Representative and delivered to the Trustee.

“Town Representative” means any official or agent of the Town authorized by the Town Council to undertake the action referenced herein.

“Trust Estate” means the Trust Estate described in the granting clauses of this Indenture.

“Trustee” means Wilmington Trust, National Association, Dallas, Texas and its successors, and any other corporation or association that may at any time be substituted in its place, as provided in Article IX, such entity to serve as Trustee and Paying Agent/Registrar for the Bonds.

Section 1.2. Findings.

The declarations, determinations and findings declared, made and found in the preamble to this Indenture are hereby adopted, restated and made a part of the operative provisions hereof.

Section 1.3. Table of Contents, Titles and Headings.

The table of contents, titles, and headings of the Articles and Sections of this Indenture have been inserted for convenience of reference only and are not to be considered a part hereof and shall not in any way modify or restrict any of the terms or provisions hereof and shall never be considered or given any effect in construing this Indenture or any provision hereof or in ascertaining intent, if any question of intent should arise.

Section 1.4. Interpretation.

(a) Unless the context requires otherwise, words of the masculine gender shall be construed to include correlative words of the feminine and neuter genders and vice versa, and words of the singular number shall be construed to include correlative words of the plural number and vice versa.

(b) Words importing persons include any individual, corporation, limited liability company, partnership, joint venture, association, joint stock company, trust, unincorporated organization or government or agency or political subdivision thereof.

(c) Any reference to a particular Article or Section shall be to such Article or Section of this Indenture unless the context shall require otherwise.

(d) This Indenture and all the terms and provisions hereof shall be liberally construed to effectuate the purposes set forth herein to sustain the validity of this Indenture.

## ARTICLE II

### THE BONDS

#### Section 2.1. Security for the Bonds.

The Bonds, as to both principal and interest, are and shall be equally and ratably secured by and payable from a first lien on and pledge of the Trust Estate.

The lien on and pledge of the Trust Estate shall be valid and binding and fully perfected from and after the Closing Date, without physical delivery or transfer of control of the Trust Estate, the filing of this Indenture or any other act; all as provided in Texas Government Code, Chapter 1208, as amended, which applies to the issuance of the Bonds and the pledge of the Trust Estate granted by the Town under this Indenture, and such pledge is therefore valid, effective and perfected. If Texas law is amended at any time while the Bonds are Outstanding such that the pledge of the Trust Estate granted by the Town under this Indenture is to be subject to the filing requirements of Texas Business and Commerce Code, Chapter 9, as amended, then in order to preserve to the Owners of the Bonds the perfection of the security interest in said pledge, the Town agrees to take such measures as it determines are reasonable and necessary under Texas law to comply with the applicable provisions of Texas Business and Commerce Code, Chapter 9, as amended, and enable a filing to perfect the security interest in said pledge to occur.

#### Section 2.2. Limited Obligations.

The Bonds are special and limited obligations of the Town, payable solely from and secured solely by the Trust Estate, including the Pledged Revenues and the Pledged Funds; and the Bonds shall never be payable out of funds raised or to be raised by taxation or from any other revenues, properties or income of the Town.

#### Section 2.3. Authorization for Indenture.

The terms and provisions of this Indenture and the execution and delivery hereof by the Town to the Trustee have been duly authorized by official action of the Town Council of the Town. The Town has ascertained and it is hereby determined and declared that the execution and delivery of this Indenture is necessary to carry out and effectuate the purposes set forth in the preambles of this Indenture and that each and every covenant or agreement herein contained and made is necessary, useful or convenient in order to better secure the Bonds and is a contract or agreement necessary, useful and convenient to carry out and effectuate the purposes herein described.

#### Section 2.4. Contract with Owners and Trustee.

(a) The purposes of this Indenture are to establish a lien and the security for, and to prescribe the minimum standards for the authorization, issuance, execution and delivery of, the Bonds and to prescribe the rights of the Owners, and the rights and duties of the Town and the Trustee.

(b) In consideration of the purchase and acceptance of any or all of the Bonds by those who shall purchase and hold the same from time to time, the provisions of this Indenture shall be a part of the contract of the Town with the Owners, and shall be deemed to be and shall constitute a contract among the Town, the Owners, and the Trustee.

## ARTICLE III

### AUTHORIZATION; GENERAL TERMS AND PROVISIONS REGARDING THE BONDS

#### Section 3.1. Authorization.

The Bonds are hereby authorized to be issued and delivered in accordance with the Constitution and laws of the State of Texas, including particularly the PID Act, as amended. The Bonds shall be issued in the aggregate principal amount of \$\_\_\_\_\_ for the purpose of (i) paying a portion of the Actual Costs of the Authorized Improvements, (ii) paying a portion of the interest on the Bonds during and after the period of acquisition and construction of the Authorized Improvements, (iii) funding a reserve fund for payment of principal and interest on the Bonds, (iv) paying a portion of the costs incidental to the organization and administration of the District, and (v) paying costs of issuance of the Bonds.

#### Section 3.2. Date, Denomination, Maturities, Numbers and Interest.

(a) The Bonds shall be dated January 1, 2022 (the "Bond Date") and shall be issued in Authorized Denominations. The Bonds shall be in fully registered form, without coupons, and shall be numbered separately from R-1 upward, except the Initial Bond, which shall be numbered T-1.

(b) Interest shall accrue and be paid on each Bond from the later of the Closing Date or the most recent Interest Payment Date to which interest has been paid or provided for, at the rate per annum set forth below until the principal thereof has been paid or otherwise provided for. Such interest shall be payable semiannually on March 1 and September 1 of each year, commencing September 1, 2022, computed on the basis of a 360-day year of twelve 30-day months.

(c) The Bonds shall mature on September 1 in the years and in the principal amounts and shall bear interest as set forth below:

<u>Year</u>	<u>Principal Amount(\$)</u>	<u>Interest Rate (%)</u>
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(d) The Bonds shall be subject to mandatory sinking fund redemption, optional redemption, and extraordinary optional redemption prior to maturity as provided in Article IV herein, and shall otherwise have the terms, tenor, denominations, details, and specifications as set forth in the form of Bond set forth in Exhibit A to this Indenture.

#### Section 3.3. Conditions Precedent to Delivery of Bonds.

The Bonds shall be executed by the Town and delivered to the Trustee, whereupon the Trustee shall authenticate the Bonds and, upon payment of the purchase price of the Bonds, shall deliver the Bonds upon the order of the Town, but only upon delivery to the Trustee of:

- (a) a certified copy of the executed Assessment Ordinance;
- (b) a copy of the executed Bond Ordinance;

- (c) a copy of the executed Construction, Funding, and Acquisition Agreement;
- (d) a copy of this Indenture executed by the Trustee and the Town; and
- (e) a Town Certificate directing the authentication and delivery of the Bonds, describing the Bonds to be authenticated and delivered, designating the purchasers to whom the Bonds are to be delivered, stating the purchase price of the Bonds and stating that all items required by this Section are therewith delivered to the Trustee in form and substance satisfactory to the Town.

Section 3.4. Medium, Method and Place of Payment.

(a) Principal of and interest on the Bonds shall be paid in lawful money of the United States of America, as provided in this Section.

(b) Interest on the Bonds shall be payable to the Owners thereof as shown in the Register at the close of business on the relevant Record Date; provided, however, that in the event of nonpayment of interest on a scheduled Interest Payment Date, and for 30 days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Trustee, if and when funds for the payment of such interest have been received from or on behalf of the Town. Notice of the Special Record Date and of the scheduled payment date of the past due interest (the "Special Payment Date," which shall be 15 days after the Special Record Date) shall be sent at least five Business Days prior to the Special Record Date by United States mail, first-class, postage prepaid, to the address of each Owner of a Bond appearing on the books of the Trustee at the close of business on the last Business Day preceding the date of mailing such notice.

(c) Interest on the Bonds shall be paid by check, dated as of the Interest Payment Date, and sent, United States mail, first-class, postage prepaid, by the Paying Agent/Registrar to each Owner at the address of each Owner as such appears in the Register or by such other customary banking arrangement acceptable to the Paying Agent/Registrar and the Owner; provided, however, the Owner shall bear all risk and expense of such other banking arrangement.

(d) The principal of each Bond shall be paid to the Owner of such Bond on the due date thereof, whether at the maturity date or the date of prior redemption thereof, upon presentation and surrender of such Bond at the Designated Payment/Transfer Office of the Paying Agent/Registrar.

(e) If the date for the payment of the principal of or interest on the Bonds shall be a Saturday, Sunday, legal holiday, or day on which banking institutions in the city where the Designated Payment/Transfer Office of the Paying Agent/Registrar is located are required or authorized by law or executive order to close, the date for such payment shall be the next succeeding day that is not a Saturday, Sunday, legal holiday, or day on which such banking institutions are required or authorized to close, and payment on such date shall for all purposes be deemed to have been made on the due date thereof as specified in Section 3.2 of this Indenture.

(f) Unclaimed payments of amounts due hereunder shall be segregated in a special account and held in trust, uninvested by the Paying Agent/Registrar, for the account of the Owner of the Bonds to which such unclaimed payments pertain. Subject to any escheat, abandoned property, or similar law of the State of Texas, any such payments remaining

unclaimed by the Owners entitled thereto for two years after the applicable payment or redemption date shall be applied to the next payment or payments on such Bonds thereafter coming due and, to the extent any such money remains after the retirement of all Outstanding Bonds, shall be paid to the Town to be used for any lawful purpose. Thereafter, none of the Town, the Paying Agent/Registrar, or any other Person shall be liable or responsible to any Owners for any further payment of such unclaimed moneys or on account of any such Bonds, subject to any applicable escheat law or similar law of the State of Texas.

Section 3.5.        Execution and Registration of Bonds.

(a)        The Bonds shall be executed on behalf of the Town by the Mayor or Mayor Pro Tem and Town Secretary, by their manual or facsimile signatures, and the official seal of the Town shall be impressed or placed in facsimile thereon. Such facsimile signatures on the Bonds shall have the same effect as if each of the Bonds had been signed manually and in person by each of said officers, and such facsimile seal on the Bonds shall have the same effect as if the official seal of the Town had been manually impressed upon each of the Bonds.

(b)        In the event that any officer of the Town whose manual or facsimile signature appears on the Bonds ceases to hold such office before the authentication of such Bonds or before the delivery thereof, such manual or facsimile signature nevertheless shall be valid and sufficient for all purposes as if such officer had remained in such office.

(c)        Except as provided below, no Bond shall be valid or obligatory for any purpose or be entitled to any security or benefit of this Indenture unless and until there appears thereon the Certificate of Trustee substantially in the form provided herein, duly authenticated by manual execution by an officer or duly authorized signatory of the Trustee. It shall not be required that the same officer or authorized signatory of the Trustee sign the Certificate of Trustee on all of the Bonds. In lieu of the executed Certificate of Trustee described above, the Initial Bond delivered at the Closing Date shall have attached thereto the Comptroller's Registration Certificate substantially in the form provided herein, manually executed by the Comptroller of Public Accounts of the State of Texas, or by his or her duly authorized agent, which certificate shall be evidence that the Initial Bond has been duly approved by the Attorney General of the State of Texas, is a valid and binding obligation of the Town, and has been registered by the Comptroller of Public Accounts of the State of Texas.

(d)        On the Closing Date, one Initial Bond representing the entire principal amount of all Bonds, payable in stated installments to the Purchaser, or its designee, executed with the manual or facsimile signatures of the Mayor or Mayor Pro Tem and the Town Secretary, approved by the Attorney General, and registered and manually signed by the Comptroller of Public Accounts, will be delivered to the Purchaser or its designee. Upon payment for the Initial Bond, the Trustee shall cancel the Initial Bond and deliver to DTC on behalf of the Purchaser one registered definitive Bond for each year of maturity of the Bonds, in the aggregate principal amount of all Bonds for such maturity, registered in the name of Cede & Co., as nominee of DTC.

Section 3.6.        Ownership.

(a)        The Town, the Trustee, the Paying Agent/Registrar and any other Person may treat the Person in whose name any Bond is registered as the absolute owner of such Bond for the purpose of making and receiving payment as provided herein (except interest shall be paid to the Person in whose name such Bond is registered on the relevant Record Date) and for all



other purposes, whether or not such Bond is overdue, and neither the Town nor the Trustee, nor the Paying Agent/Registrar, shall be bound by any notice or knowledge to the contrary.

(b) All payments made to the Owner of any Bond shall be valid and effectual and shall discharge the liability of the Town, the Trustee and the Paying Agent/Registrar upon such Bond to the extent of the sums paid.

Section 3.7. Registration, Transfer and Exchange.

(a) So long as any Bond remains Outstanding, the Town shall cause the Paying Agent/Registrar to keep at the Designated Payment/Transfer Office a Register in which, subject to such reasonable regulations as it may prescribe, the Paying Agent/Registrar shall provide for the registration and transfer of Bonds in accordance with this Indenture. The Paying Agent/Registrar represents and warrants that it will, upon written instruction, file and maintain a copy of the Register with the Town, and shall cause the Register to be current with all registration and transfer information as from time to time may be applicable.

(b) A Bond shall be transferable only upon the presentation and surrender thereof at the Designated Payment/Transfer Office of the Paying Agent/Registrar with such endorsement or other evidence of transfer as is acceptable to the Paying Agent/Registrar. No transfer of any Bond shall be effective until entered in the Register.

(c) The Bonds shall be exchangeable upon the presentation and surrender thereof at the Designated Payment/Transfer Office of the Paying Agent/Registrar for a Bond or Bonds of the same maturity and bearing the same interest rate and in any Authorized Denomination and in an aggregate principal amount equal to the unpaid principal amount of the Bond presented for exchange.

(d) The Trustee is hereby authorized to authenticate and deliver Bonds transferred or exchanged for other Bonds in accordance with this Section. A new Bond or Bonds will be delivered by the Paying Agent/Registrar, in lieu of the Bond being transferred or exchanged, at the Designated Payment/Transfer Office, or sent by United States mail, first-class, postage prepaid, to the Owner or his designee. Each transferred Bond delivered by the Paying Agent/Registrar in accordance with this Section shall constitute an original contractual obligation of the Town and shall be entitled to the benefits and security of this Indenture to the same extent as the Bond or Bonds in lieu of which such transferred Bond is delivered.

(e) Each exchange Bond delivered in accordance with this Section shall constitute an original contractual obligation of the Town and shall be entitled to the benefits and security of this Indenture to the same extent as the Bond or Bonds in lieu of which such exchange Bond is delivered.

(f) No service charge shall be made to the Owner for the initial registration, subsequent transfer, or exchange for a different Authorized Denomination of any of the Bonds. The Paying Agent/Registrar, however, may require the Owner to pay a sum sufficient to cover any tax or other governmental charge that is authorized to be imposed in connection with the registration, transfer, or exchange of a Bond.

(g) Neither the Town nor the Paying Agent/Registrar shall be required to issue, transfer, or exchange any Bond or portion thereof called for redemption prior to maturity within 45 days prior to the date fixed for redemption; provided, however, such limitation shall not be

applicable to an exchange by the Owner of the uncalled principal balance of a Bond redeemed in part.

Section 3.8. Cancellation.

All Bonds paid or redeemed before scheduled maturity in accordance with this Indenture, and all Bonds in lieu of which exchange Bonds or replacement Bonds are authenticated and delivered in accordance with this Indenture, shall be cancelled, and proper records shall be made regarding such payment, redemption, exchange, or replacement. The Paying Agent/Registrar shall dispose of cancelled Bonds in accordance with the records retention requirements of the Trustee.

Section 3.9. Temporary Bonds.

(a) Following the delivery and registration of the Initial Bond and pending the preparation of definitive Bonds, the proper officers of the Town may execute and, upon the Town's request, the Trustee shall authenticate and deliver, one or more temporary Bonds that are printed, lithographed, typewritten, mimeographed or otherwise produced, in any denomination, substantially of the tenor of the definitive Bonds in lieu of which they are delivered, without coupons, and with such appropriate insertions, omissions, substitutions and other variations as the officers of the Town executing such temporary Bonds may determine, as evidenced by their signing of such temporary Bonds.

(b) Until exchanged for Bonds in definitive form, such Bonds in temporary form shall be entitled to the benefit and security of this Indenture.

(c) The Town, without unreasonable delay, shall prepare, execute and deliver to the Trustee the Bonds in definitive form; thereupon, upon the presentation and surrender of the Bond or Bonds in temporary form to the Paying Agent/Registrar, the Paying Agent/Registrar shall cancel the Bonds in temporary form and the Trustee shall authenticate and deliver in exchange therefor a Bond or Bonds of the same maturity and series, in definitive form, in an Authorized Denomination, and in the same aggregate principal amount, as the Bond or Bonds in temporary form surrendered. Such exchange shall be made without the making of any charge therefor to any Owner.

Section 3.10. Replacement Bonds.

(a) Upon the presentation and surrender to the Paying Agent/Registrar of a mutilated Bond, the Trustee shall authenticate and deliver in exchange therefor a replacement Bond of like tenor and principal amount, bearing a number not contemporaneously outstanding. The Town or the Paying Agent/Registrar may require the Owner of such Bond to pay a sum sufficient to cover any tax or other governmental charge that is authorized to be imposed in connection therewith and any other expenses connected therewith.

(b) In the event that any Bond is lost, apparently destroyed or wrongfully taken, the Trustee, pursuant to the applicable laws of the State of Texas and in the absence of notice or knowledge that such Bond has been acquired by a bona fide purchaser, shall authenticate and deliver a replacement Bond of like tenor and principal amount bearing a number not contemporaneously outstanding, provided that the Owner first complies with the following requirements:

(i) furnishes to the Paying Agent/Registrar satisfactory evidence of his or her ownership of and the circumstances of the loss, destruction or theft of such Bond;

(ii) furnishes such security or indemnity as may be required by the Paying Agent/Registrar and the Trustee to save them and the Town harmless;

(iii) pays all expenses and charges in connection therewith, including, but not limited to, printing costs, legal fees, fees of the Trustee and the Paying Agent/Registrar and any tax or other governmental charge that is authorized to be imposed; and

(iv) satisfies any other reasonable requirements imposed by the Town and the Trustee.

(c) After the delivery of such replacement Bond, if a bona fide purchaser of the original Bond in lieu of which such replacement Bond was issued presents for payment such original Bond, the Town and the Paying Agent/Registrar shall be entitled to recover such replacement Bond from the Person to whom it was delivered or any Person taking therefrom, except a bona fide purchaser, and shall be entitled to recover upon the security or indemnity provided therefor to the extent of any loss, damage, cost, or expense incurred by the Town, the Paying Agent/Registrar or the Trustee in connection therewith.

(d) In the event that any such mutilated, lost, apparently destroyed or wrongfully taken Bond has become or is about to become due and payable, the Paying Agent/Registrar, in its discretion, instead of issuing a replacement Bond, may pay such Bond if it has become due and payable or may pay such Bond when it becomes due and payable.

(e) Each replacement Bond delivered in accordance with this Section shall constitute an original additional contractual obligation of the Town and shall be entitled to the benefits and security of this Indenture to the same extent as the Bond or Bonds in lieu of which such replacement Bond is delivered.

### Section 3.11. Book-Entry Only System.

The Bonds shall initially be issued in book-entry-only form and shall be deposited with DTC, which is hereby appointed to act as the securities depository therefor, in accordance with the letter of representations from the Town to DTC. On the Closing Date, the definitive Bonds shall be issued in the form of a single typewritten certificate for each maturity thereof registered in the name of Cede & Co., as nominee for DTC.

With respect to Bonds registered in the name of Cede & Co., as nominee of DTC, the Town and the Paying Agent/Registrar shall have no responsibility or obligation to any DTC Participant or to any Person on behalf of whom such a DTC Participant holds an interest in the Bonds. Without limiting the immediately preceding sentence, the Town and the Paying Agent/Registrar shall have no responsibility or obligation with respect to (i) the accuracy of the records of DTC, Cede & Co. or any DTC Participant with respect to any ownership interest in the Bonds, (ii) the delivery to any DTC Participant or any other Person, other than an Owner, as shown on the Register, of any notice with respect to the Bonds, including any notice of redemption, or (iii) the payment to any DTC Participant or any other Person, other than an Owner, as shown in the Register of any amount with respect to principal of, premium, if any, or interest on the Bonds. Notwithstanding any other provision of this Indenture to the contrary, the Town and the Paying Agent/Registrar shall be entitled to treat and consider the Person in

whose name each Bond is registered in the Register as the absolute owner of such Bond for the purpose of payment of principal of, premium, if any, and interest on Bonds, for the purpose of giving notices of redemption and other matters with respect to such Bond, for the purpose of registering transfer with respect to such Bond, and for all other purposes whatsoever. The Paying Agent/Registrar shall pay all principal of, premium, if any, and interest on the Bonds only to or upon the order of the respective Owners as shown in the Register, as provided in this Indenture, and all such payments shall be valid and effective to fully satisfy and discharge the Town's obligations with respect to payment of principal of, premium, if any, and interest on the Bonds to the extent of the sum or sums so paid. No Person other than an Owner, as shown in the Register, shall receive a Bond certificate evidencing the obligation of the Town to make payments of amounts due pursuant to this Indenture. Upon delivery by DTC to the Paying Agent/Registrar of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., and subject to the provisions in this Indenture with respect to interest checks or drafts being mailed to the registered owner at the close of business on the relevant Record Date, the word "Cede & Co." in this Indenture shall refer to such new nominee of DTC.

Section 3.12.      Successor Securities Depository: Transfer Outside Book-Entry-Only System.

In the event that the Town determines that DTC is incapable of discharging its responsibilities described herein and in the letter of representations from the Town to DTC, the Town shall (i) appoint a successor securities depository, qualified to act as such under Section 17A of the Securities and Exchange Act of 1934, as amended, notify DTC and DTC Participants of the appointment of such successor securities depository and transfer one or more separate Bonds to such successor securities depository; or (ii) notify DTC and DTC Participants of the availability through DTC of certificated Bonds and cause the Paying Agent/Registrar to transfer one or more separate registered Bonds to DTC Participants having Bonds credited to their DTC accounts. In such event, the Bonds shall no longer be restricted to being registered in the Register in the name of Cede & Co., as nominee of DTC, but may be registered in the name of the successor securities depository, or its nominee, or in whatever name or names Owners transferring or exchanging Bonds shall designate, in accordance with the provisions of this Indenture.

Section 3.13.      Payments to Cede & Co.

Notwithstanding any other provision of this Indenture to the contrary, so long as any Bonds are registered in the name of Cede & Co., as nominee of DTC, all payments with respect to principal of, premium, if any, and interest on such Bonds, and all notices with respect to such Bonds shall be made and given, respectively, in the manner provided in the blanket letter of representations from the Town to DTC.

## ARTICLE IV

### REDEMPTION OF BONDS BEFORE MATURITY

Section 4.1.      Limitation on Redemption.

The Bonds shall be subject to redemption before their scheduled maturity only as provided in this Article IV.

Section 4.2. Mandatory Sinking Fund Redemption.

(a) The Bonds are subject to mandatory sinking fund redemption prior to their Stated Maturity and will be redeemed by the Town in part at the price of par plus accrued and unpaid interest to the redemption date (the "Redemption Price") from moneys available for such purpose in the Principal and Interest Account of the Bond Fund pursuant to Article VI, on the dates and in the respective Sinking Fund Installments as set forth in the following schedule:

<u>Term Bonds Maturing September 1, 20</u>	
<u>Redemption Date</u>	<u>Sinking Fund Installment (\$)</u>

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\* maturity

(b) At least 45 days prior to each mandatory sinking fund redemption date, and subject to any prior reduction authorized by subparagraphs (c) and (d) of this Section 4.2, the Trustee shall select a principal amount of Bonds (in accordance with Section 4.5) of such maturity equal to the Sinking Fund Installment amount of such Bonds to be redeemed, shall call such Bonds for redemption on such scheduled mandatory redemption date, and shall give notice of such redemption, as provided in Section 4.6.

(c) The principal amount of Bonds of a Stated Maturity required to be redeemed on any mandatory sinking fund redemption date pursuant to subparagraph (a) of this Section 4.2 shall be reduced, at the option of the Town, by the principal amount of any Bonds of such maturity which, at least 45 days prior to the sinking fund redemption date shall have been acquired by the Town at a price not exceeding the principal amount of such Bonds plus accrued

and unpaid interest to the date of purchase thereof, and delivered to the Trustee for cancellation.

(d) The principal amount of Bonds required to be redeemed on any mandatory sinking fund redemption date pursuant to subparagraph (a) of this Section 4.2 shall be reduced on a pro rata basis among Sinking Fund Installments by the principal amount of any Bonds which, at least 45 days prior to the sinking fund redemption date, shall have been redeemed pursuant to the optional redemption or extraordinary optional redemption provisions hereof and not previously credited to a mandatory sinking fund redemption.

#### Section 4.3. Optional Redemption.

The Town reserves the right and option to redeem Bonds maturing on or after September 1, 20\_\_, before their respective scheduled maturity date, in whole or in part, on any date on or after September 1, 20\_\_, at the Redemption Price.

#### Section 4.4. Extraordinary Optional Redemption.

Notwithstanding any provision in this Indenture to the contrary, the Town reserves the right and option to redeem Bonds before their respective scheduled maturity dates, in whole or in part and in an amount specified in a Town Certificate, on the first day of any month, at the Redemption Price of 100% of the principal amount of such Bonds, or portions thereof, to be redeemed plus accrued interest to the date of redemption from amounts on deposit in the Redemption Fund as a result of Prepayments (including related transfers to the Redemption Fund made pursuant to the terms of this Indenture) or as a result of unexpended amounts transferred from the Project Fund pursuant to the terms of this Indenture or any other transfers to the Redemption Fund pursuant to the terms of this Indenture. The Town will provide the Trustee a Town Certificate directing the Bonds to be redeemed pursuant to this Section 4.4, in accordance with the provisions of Section 4.5 hereof.

#### Section 4.5. Partial Redemption.

(a) If less than all of the Bonds are to be redeemed pursuant to Sections 4.2, 4.3, or 4.4, Bonds shall be redeemed in minimum principal amounts of \$1,000 or any integral multiple thereof. Each Bond shall be treated as representing the number of Bonds that is obtained by dividing the principal amount of such Bond by \$1,000. No redemption shall result in a Bond in a denomination of less than the Authorized Denomination in effect at that time; provided, however, if the amount of the Outstanding Bond is less than an Authorized Denomination after giving effect to such partial redemption, a Bond in the principal amount equal to the unredeemed portion, but not less than \$1,000, may be issued.

(b) In selecting the Bonds to be redeemed pursuant to Section 4.2, the Trustee may select Bonds in any method that results in a random selection.

(c) In selecting the Bonds to be redeemed pursuant to Section 4.3, the Trustee may rely on the directions provided in a Town Certificate.

(d) If less than all of the Bonds are called for extraordinary optional redemption pursuant to Section 4.4 hereof, the Bonds to be redeemed shall be selected by the Town in the following manner:

(i) with respect to a Substantial Amount Redemption, the principal amount called for redemption shall be allocated on a pro rata basis among all Outstanding Bonds of all maturities; and

(ii) with respect to a Minor Amount Redemption, the Outstanding Bonds or Bonds of all maturities, as applicable, shall be redeemed in inverse order of maturity.

(e) Upon surrender of any Bond for redemption in part, the Trustee in accordance with Section 3.7 of this Indenture, shall authenticate and deliver an exchange Bond or Bonds in an aggregate principal amount equal to the unredeemed portion of the Bond so surrendered, such exchange being without charge.

#### Section 4.6. Notice of Redemption to Owners.

(a) The Trustee shall give notice of any redemption of Bonds by sending notice by United States mail, first-class, postage prepaid, not less than 30 days before the date fixed for redemption, to the Owner of each Bond or portion thereof to be redeemed, at the address shown in the Register. So long as the Bonds are in book-entry-only form and held by DTC as security depository, references to Owner in this Indenture means Cede & Co., as nominee for DTC.

(b) The notice shall state the redemption date, the Redemption Price or the amount of principal and accrued and unpaid interest due at such redemption, the place at which the Bonds are to be surrendered for payment, and, if less than all the Bonds Outstanding are to be redeemed, and subject to Section 4.5 hereof, an identification of the Bonds or portions thereof to be redeemed, any conditions to such redemption and that on the redemption date, if all conditions, if any, to such redemption have been satisfied, such Bond shall become due and payable.

(c) Any notice given as provided in this Section shall be conclusively presumed to have been duly given, whether or not the Owner receives such notice.

(d) The Town has the right to rescind any optional redemption or extraordinary optional redemption described in Section 4.3 or 4.4 by written notice to the Trustee on or prior to the date fixed for redemption. Any notice of redemption shall be cancelled and annulled if for any reason funds are not available on the date fixed for redemption for the payment in full of the Bonds then called for redemption, and such cancellation shall not constitute an Event of Default under the Indenture. The Trustee shall mail notice of rescission of redemption in the same manner notice of redemption was originally provided.

(e) With respect to any optional redemption of the Bonds, unless the Trustee has received funds sufficient to pay the principal or Redemption Price of and interest amount due on the Bonds to be redeemed before giving of a notice of redemption, the notice may state the Town may condition redemption on the receipt of such funds by the Trustee on or before the date fixed for the redemption, or on the satisfaction of any other prerequisites set forth in the notice of redemption. If a conditional notice of redemption is given and such prerequisites to the redemption are not satisfied and sufficient funds are not received, the notice shall be of no force and effect, the Town shall not redeem the Bonds and the Trustee shall give notice, in the manner in which the notice of redemption was given, that the Bonds have not been redeemed.

#### Section 4.7. Payment Upon Redemption.

(a) The Trustee shall make provision for the payment of the Bonds to be redeemed on such date by setting aside and holding in trust an amount from the Redemption Fund or otherwise received by the Trustee from the Town and shall use such funds solely for the

purpose of paying the principal or Redemption Price of and interest on such Bonds being redeemed.

(b) Upon presentation and surrender of any Bond called for redemption at the Designated Payment/Transfer Office of the Trustee on or after the date fixed for redemption, the Trustee shall pay the principal or Redemption Price of and interest on such Bond to the date of redemption from the moneys set aside for such purpose.

Section 4.8. Effect of Redemption.

Notice of redemption having been given as provided in Section 4.6 of this Indenture, the Bonds or portions thereof called for redemption shall become due and payable on the date fixed for redemption provided that funds for the payment of the principal or Redemption Price of and interest on such Bonds to the date fixed for redemption are on deposit with the Trustee; thereafter, such Bonds or portions thereof shall cease to bear interest from and after the date fixed for redemption, whether or not such Bonds are presented and surrendered for payment on such date.

## ARTICLE V

### FORM OF THE BONDS

Section 5.1. Form Generally.

(a) The Bonds, including the Registration Certificate of the Comptroller of Public Accounts of the State of Texas, the Certificate of the Trustee, and the Assignment to appear on each of the Bonds, (i) shall be substantially in the form set forth in Exhibit A to this Indenture with such appropriate insertions, omissions, substitutions, and other variations as are permitted or required by this Indenture, and (ii) may have such letters, numbers, or other marks of identification (including identifying numbers and letters of the Committee on Uniform Securities Identification Procedures of the American Bankers Association) and such legends and endorsements (including any reproduction of an opinion of counsel) thereon as, consistently herewith, may be determined by the Town or by the officers executing such Bonds, as evidenced by their execution thereof.

(b) Any portion of the text of any Bonds may be set forth on the reverse side thereof, with an appropriate reference thereto on the face of the Bonds.

(c) The definitive Bonds shall be typewritten, printed, lithographed, or engraved, and may be produced by any combination of these methods or produced in any other similar manner, all as determined by the officers executing such Bonds, as evidenced by their execution thereof.

(d) The Initial Bond submitted to the Attorney General of the State of Texas may be typewritten and photocopied or otherwise reproduced.

Section 5.2. CUSIP Registration.

The Town may secure identification numbers through the CUSIP Services, managed by S&P Global Market Intelligence on behalf of The American Bankers Association, New York, New York, and authorizes the printing of such numbers on the face of the Bonds. It is expressly provided, however, that the presence or absence of CUSIP numbers on the Bonds shall be of no significance or effect as regards the legality thereof; and, none of the Town, the Trustee, nor the attorneys approving said Bonds as to legality are to be held responsible for CUSIP numbers



incorrectly printed on the Bonds. The Trustee may include in any redemption notice a statement to the effect that the CUSIP numbers on the Bonds have been assigned by an independent service and are included in such notice solely for the convenience of the Owners of the Bonds and that neither the Town nor the Trustee shall be liable for any inaccuracies of such numbers.

Section 5.3. Legal Opinion.

The approving legal opinion of Bond Counsel may be printed on or attached to each Bond over the certification of the Town Secretary of the Town, which may be executed in facsimile.

## ARTICLE VI

### FUNDS AND ACCOUNTS

Section 6.1. Establishment of Funds and Accounts.

(a) Creation of Funds. The following Funds are hereby created and established under this Indenture:

- (i) Pledged Revenue Fund;
- (ii) Bond Fund;
- (iii) Project Fund;
- (iv) Reserve Fund;
- (v) Redemption Fund;
- (vi) Rebate Fund; and
- (vii) Administrative Fund.

(b) Creation of Accounts.

(i) The following Account is hereby created and established under the Pledged Revenue Fund:

- (A) Bond Pledged Revenue Account.

(ii) The following Accounts are hereby created and established under the Bond Fund:

- (A) Capitalized Interest Account; and
- (B) Principal and Interest Account.

(iii) The following Accounts are hereby created and established under the Project Fund:

- (A) Authorized Improvements Account;
- (B) Developer Improvement Account; and

(C) Costs of Issuance Account.

(iv) The following Accounts are hereby created and established under the Reserve Fund:

(A) Reserve Account; and

(B) Additional Interest Reserve Account.

(v) The following Account is hereby created and established under the Administrative Fund:

(A) District Administration Account.

(c) Each Fund and each Account created within such Fund shall be maintained by the Trustee separate and apart from all other funds and accounts of the Town. The Pledged Funds shall constitute trust funds which shall be held in trust by the Trustee as part of the Trust Estate solely for the benefit of the Owners of the Bonds.

(d) Interest earnings and profit on each respective Fund and Account established by this Indenture shall be applied or withdrawn for the purposes of such Fund or Account as specified below.

Section 6.2. Initial Deposits to Funds and Accounts.

(a) The proceeds from the sale of the Bonds shall be paid to the Trustee and deposited or transferred by the Trustee as follows:

(i) to the Capitalized Interest Account of the Bond Fund: \$\_\_\_\_\_;

(ii) to the Reserve Account of the Reserve Fund: \$\_\_\_\_\_;

(iii) to the Authorized Improvements Account of the Project Fund: \$\_\_\_\_\_;

(iv) to the Costs of Issuance Account of the Project Fund: \$\_\_\_\_\_; and

(v) to the District Administration Account of the Administrative Fund: \$\_\_\_\_\_.

(b) Funds received from the Developer in the amount of \$\_\_\_\_\_ shall be paid to the Trustee and deposited or transferred by the Trustee into the Developer Improvement Account of the Project Fund.

Section 6.3. Pledged Revenue Fund.

(a) On or before February 15 of each year while the Bonds are Outstanding and beginning February 15, 2022 the Town shall deposit or cause to be deposited the Pledged Revenues into the Pledged Revenue Fund. From amounts deposited into the Pledged Revenue Fund, the Town shall deposit or cause to be deposited Pledged Revenues as follows:

(i) first, to the Bond Pledged Revenue Account of the Pledged Revenue Fund in an amount sufficient to pay debt service on the Bonds next coming due in such calendar year, (ii) second, if necessary, to the Reserve Account of the Reserve Fund in an amount to cause the amount in the Reserve Account to equal the Reserve Account Requirement in accordance with Section 6.7(a) hereof, (iii) third, to the Additional Interest Reserve Account of the Reserve Fund in an amount equal to the Additional Interest collected in accordance with Section 6.7(b) hereof, (iv)

fourth, to pay Actual Costs of the Authorized Improvements, and (v) fifth, to pay other costs permitted by the PID Act.

(b) From time to time as needed to pay the obligations relating to the Bonds, but no later than five Business Days before each Interest Payment Date, the Trustee shall withdraw from the Bond Pledged Revenue Account and transfer to the Principal and Interest Account of the Bond Fund, an amount, taking into account any amounts then on deposit in such Principal and Interest Account and any expected transfers from the Capitalized Interest Account to the Principal and Interest Account, such that the amount on deposit in the Principal and Interest Account equals the principal (including any Sinking Fund Installments) and interest due on the Bonds on the next Interest Payment Date.

(c) If, after the foregoing transfers and any transfer from the Reserve Fund as provided in Section 6.7 herein, there are insufficient funds to make the payments provided in paragraph (b) above, the Trustee shall apply the available funds in the Principal and Interest Account first, to the payment of interest and second, to the payment of principal (including any Sinking Fund Installments) on the Bonds, as described in Section 11.4(a) hereof.

(d) Notwithstanding Section 6.3(a) hereof, the Trustee shall deposit Prepayments to the Pledged Revenue Fund and as soon as practicable after such deposit shall transfer such Prepayments to the Redemption Fund.

(e) Notwithstanding Section 6.3(a) hereof, the Trustee shall deposit Foreclosure Proceeds to the Pledged Revenue Fund and as soon as practicable after such deposit shall transfer Foreclosure Proceeds first, to the Reserve Account to restore any transfers from the Reserve Account made with respect to the Assessed Parcel(s) to which the Foreclosure Proceeds relate, second, to the Additional Interest Reserve Account to restore any transfers from the Additional Interest Reserve Account made with respect to the Assessed Parcel(s) to which the Foreclosure Proceeds relate, and third, to the Redemption Fund

(f) After satisfaction of the requirement to provide for the payment of the principal and interest on the Bonds and to fund any deficiency that may exist in an account of the Reserve Fund, the Town may direct the Trustee by Town Certificate, to apply Assessments for any lawful purposes permitted by the PID Act for which Assessments may be paid.

(g) Any additional Pledged Revenues remaining after the satisfaction of the foregoing shall be applied by the Trustee, as instructed by the Town pursuant to a Town Certificate, for any lawful purpose permitted by the PID Act for which such additional Pledged Revenues may be used, including transfers to other Funds and Accounts created pursuant to this Indenture.

#### Section 6.4. Bond Fund.

(a) On each Interest Payment Date, the Trustee shall withdraw from the Principal and Interest Account and transfer to the Paying Agent/Registrar the principal (including any Sinking Fund Installments) and/or interest then due and payable on the Bonds, less any amount to be used to pay interest on the Bonds on such Interest Payment Date from the Capitalized Interest Account, as provided below.

(b) If amounts in the Principal and Interest Account are insufficient for the purposes set forth in paragraph (a) above, the Trustee shall withdraw from the Reserve Fund amounts to cover the amount of such insufficiency in the order described in Section 6.7(f) hereof. Amounts so withdrawn from the Reserve Fund shall be deposited in the Principal and Interest Account and transferred to the Paying Agent/Registrar.

(c) Moneys in the Capitalized Interest Account shall be used for the payment of interest on the Bonds on the following dates and in the following amounts:

<u>Date</u>	<u>Amount (\$)</u>
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Any amounts on deposit in the Capitalized Interest Account after the payment of interest on the dates and in the amounts listed above shall be transferred to the Authorized Improvements Account of the Project Fund, pursuant to directions provided in a Town Certificate, or, if the Authorized Improvements Account of the Project Fund has been closed as provided in Section 6.5(e) herein, such amounts shall be transferred to the Redemption Fund to be used to redeem Bonds and the Capitalized Interest Account shall be closed.

Section 6.5. Project Fund.

(a) Money on deposit in the Project Fund shall be used for the purposes specified in Section 3.1 hereof.

(b) Disbursements from the Costs of Issuance Account of the Project Fund shall be made by the Trustee to pay costs of issuance of the Bonds pursuant to one or more Town Certificates. Disbursements from the Authorized Improvements Account of the Project Fund to pay Actual Costs of the Authorized Improvements shall be made by the Trustee upon receipt by the Trustee of either a properly executed and completed Certification for Payment or written direction from the Town or its designee approving the disbursement to the Developer or the Developer's designee. The disbursement of funds from the Accounts of the Project Fund shall be pursuant to and in accordance with the disbursement procedures described in the Construction, Funding and Acquisition Agreement or as provided in such written direction from the Town. Such provisions and procedures related to such disbursement contained in the Construction, Funding and Acquisition Agreement, and no other provisions of the Construction, Funding and Acquisition Agreement, are herein incorporated by reference and deemed set forth herein in full, provided that the Trustee shall be permitted to rely fully on any Town Certificate or other written direction received pursuant to this section of the Indenture without investigation. Notwithstanding the foregoing, no funds may be disbursed from the Developer Improvement Account to pay for or reimburse the Developer for costs paid in connection with an Authorized Improvements so long as funds are available to pay for such Authorized Improvement in the Authorized Improvements Account of the Project Fund.

(c) If a Town Representative determines in his or her sole discretion that amounts then on deposit in the Authorized Improvements Account are not expected to be expended for the purposes of the Authorized Improvements Account, due to the abandonment, or constructive abandonment, of the Authorized Improvements, as the case may be, such that, in the opinion of the Town Representative, it is unlikely that the amounts in the Authorized Improvements Account, will ever be expended for the purposes of such Account, the Town Representative shall file a Town Certificate with the Trustee which identifies the amounts then on deposit in the Authorized Improvements Account that are not expected to be used for purposes of such Account. If such Town Certificate is so filed, the amounts on deposit in the Authorized Improvements Account, shall be transferred to the Redemption Fund to redeem

Bonds on the earliest practicable date after notice of redemption has been provided in accordance with the Indenture.

(d) In making any determination pursuant to this Section, the Town Representative may conclusively rely upon a certificate of an Independent Financial Consultant.

(e) Upon the filing of a Town Certificate stating that all Authorized Improvements have been completed and that all Actual Costs of the Authorized Improvements have been paid, or that any such Actual Costs of the Authorized Improvements are not required to be paid from the Authorized Improvements Account of the Project Fund pursuant to a Certification for Payment or written direction from the Town or its designee, the Trustee (i) shall transfer the amount, if any, remaining within the Authorized Improvements Account of the Project Fund to the Bond Fund, and (ii) shall close the Authorized Improvements Account of the Project Fund. If the Authorized Improvements Account of the Project Fund have been closed pursuant to the provisions of this Section, the Trustee shall transfer any amounts remaining in the Developer Improvement Account of the Project Fund to the Developer and shall close the Developer Improvement Account. If all other Accounts of the Project Fund have been closed as described above and the Cost of Issuance Account of the Project Fund has been closed pursuant to the provisions of Section 6.5(f), the Project Fund shall be closed.

(f) Not later than 6 months following the Closing Date, or upon an earlier determination by the Town Representative that all costs of issuance of the Bonds have been paid, any amounts remaining in the Costs of Issuance Account shall be transferred to another Account of the Project Fund and used to pay the Actual Costs of the respective Authorized Improvements, or to the Principal and Interest Account of the Bond Fund and used to pay interest on the Bonds, as directed by the Town in a Town Certificate filed with the Trustee, and the Costs of Issuance Account shall be closed.

#### Section 6.6. Redemption Fund.

(a) The Trustee shall cause to be deposited to the Redemption Fund from the Bond Pledged Revenue Account of the Pledged Revenue Fund an amount sufficient to redeem Bonds as provided in Sections 4.3 and 4.4 on the dates specified for redemption as provided in Sections 4.3 and 4.4. Amounts on deposit in the Redemption Fund shall be used and withdrawn by the Trustee to redeem Bonds as provided in Article IV.

#### Section 6.7. Reserve Fund.

(a) The Town agrees with the Owners of the Bonds to accumulate from the deposits described in Section 6.3(a) hereof, and when accumulated, maintain in the Reserve Account of the Reserve Fund, an amount equal to not less than the Reserve Account Requirement except to the extent such deficiency is due to the application of Section 6.7(d) hereof. All amounts deposited in the Reserve Account of the Reserve Fund shall be used and withdrawn by the Trustee for the purpose of making transfers to the Principal and Interest Account of the Bond Fund as provided in this Indenture.

(b) The Trustee, if needed, will transfer from the Bond Pledged Revenue Account of the Pledged Revenue Fund to the Additional Interest Reserve Account on March 1 and September 1 of each year, commencing March 1, 2022, an amount equal to the Additional Interest collected, if any, until the Additional Interest Reserve Requirement has been accumulated in the Additional Interest Reserve Account. If the amount on deposit in the Additional Interest Reserve Account shall at any time be less than the Additional Interest

Reserve Requirement, the Trustee shall notify the Town, in writing, of the amount of such shortfall, and the Town shall resume collecting the Additional Interest and shall file a Town Certificate with the Trustee instructing the Trustee to resume depositing the Additional Interest from the Bond Pledged Revenue Account of the Pledged Revenue Fund into the Additional Interest Reserve Account until the Additional Interest Reserve Requirement has been accumulated in the Additional Interest Reserve Account; provided, however, that the Town shall not be required to replenish the Additional Interest Reserve Account in the event funds are transferred from the Additional Interest Reserve Account to the Redemption Fund as a result of an extraordinary optional redemption of Bonds from the proceeds of a Prepayment pursuant to Section 4.4 of this Indenture. In the event the amount on deposit in the Additional Interest Reserve Account is less than the Additional Interest Reserve Requirement then the deposits described in the immediately preceding sentence shall continue until the Additional Interest Reserve Account has been fully replenished to the Additional Interest Reserve Requirement. If, after such deposits, there is surplus Additional Interest remaining, the Trustee shall transfer such surplus Additional Interest to the Redemption Fund, and shall notify the Town of such transfer in writing. In calculating the amounts to be transferred pursuant to this Section, the Trustee may conclusively rely on the Annual Installments as shown on the Assessment Roll in the Service and Assessment Plan or an Annual Service Plan Update unless and until it receives a Town Certificate directing that a different amount be used.

(c) Whenever a transfer is made from an Account of the Reserve Fund to the Bond Fund due to a deficiency in the Bond Fund, the Trustee shall provide written notice thereof to the Town, specifying the amount withdrawn and the source of said funds.

(d) Whenever Bonds are to be redeemed with the proceeds of Prepayments pursuant to Section 4.4, the Trustee shall transfer, on the Business Day prior to the redemption date (or on such other date as agreed to by the Town and the Trustee), from the Reserve Account of the Reserve Fund to the Redemption Fund, an amount specified in a Town Certificate to be applied to the redemption of the Bonds. The amount so transferred from the Reserve Account of the Reserve Fund shall be equal to the principal amount of Bonds to be redeemed with Prepayments multiplied by the lesser of: (i) the amount required to be in the Reserve Account of the Reserve Fund divided by the principal amount of Outstanding Bonds prior to the redemption, and (ii) the amount actually in the Reserve Account of the Reserve Fund divided by the principal amount of Outstanding Bonds prior to the redemption. If after such transfer, and after applying investment earnings on the Prepayments toward payment of accrued interest, there are insufficient funds in the Redemption Fund to pay the principal amount plus accrued and unpaid interest to the date fixed for redemption of the Bonds to be redeemed, as identified in a Town Certificate as a result of such Prepayments and as a result of the transfer from the Reserve Account under this Section 6.7(d), the Trustee shall transfer an amount equal to the shortfall, and/or any additional amounts necessary to permit the Bonds to be redeemed in minimum principal amounts of \$1,000, from the Additional Interest Reserve Account to the Redemption Fund to be applied to the redemption of the Bonds.

(e) Whenever, on any Interest Payment Date, or on any other date at the written request of a Town Representative, the amount in the Reserve Account exceeds the Reserve Account Requirement, the Trustee shall provide written notice to the Town Representative of the amount of the excess. Such excess shall be transferred to the Principal and Interest Account to be used for the payment of debt service on the Bonds on the next Interest Payment Date in accordance with Section 6.4 hereof, unless within thirty days of such notice to the Town Representative, the Trustee receives a Town Certificate instructing the Trustee to apply such excess: (i) to pay amounts due under Section 6.8 hereof, (ii) to an Account of the Project Fund

if such application and the expenditure of funds is expected to occur within three years of the date hereof, or (iii) for such other use specified in such Town Certificate if the Town receives a written opinion of counsel nationally recognized in the field of municipal bond law to the effect that such alternate use will not adversely affect the exemption from federal income tax of the interest on any Bond.

(f) Whenever, on any Interest Payment Date, the amount on deposit in the Bond Fund is insufficient to pay the debt service on the Bonds due on such date, the Trustee shall transfer first, from the Additional Interest Reserve Account of the Reserve Fund to the Bond Fund and second, from the Reserve Account of the Reserve Fund to the Bond Fund the amounts necessary to cure such deficiency.

(g) At the final maturity of the Bonds, the amount on deposit in the Reserve Account and the Additional Interest Reserve Account shall be transferred to the Principal and Interest Account of the Bond Fund and applied to the payment of the principal of the Bonds.

(h) If, after a Reserve Account withdrawal pursuant to Section 6.7(f) hereof, the amount on deposit in the Reserve Account of the Reserve Fund is less than the Reserve Account Requirement, the Trustee shall transfer from the Pledged Revenue Fund to the Reserve Account of the Reserve Fund the amount of such deficiency, in accordance with Section 6.3.

(i) If the amount held in the Reserve Fund together with the amount held in the Bond Fund and Redemption Fund is sufficient to pay the principal amount and Redemption Price (if applicable) of all Outstanding Bonds on the next Interest Payment Date, together with the unpaid interest accrued on such Outstanding Bonds as of such Interest Payment Date, the moneys shall be transferred to the Redemption Fund and thereafter used to redeem all Outstanding Bonds as of such Interest Payment Date.

#### Section 6.8. Rebate Fund; Rebate Amount.

(a) There is hereby established a special fund of the Town to be designated "Town of Little Elm, Texas, Rebate Fund" (the "Rebate Fund") to be held by the Trustee in accordance with the terms and provisions of this Indenture. Amounts on deposit in the Rebate Fund shall be used solely for the purpose of paying amounts relating to the Bonds that are due the United States Government in accordance with the Code.

(b) In order to assure that Rebate Amount is paid to the United States rather than to a third party, investments of funds on deposit in the Rebate Fund shall be made in accordance with the Code and the Tax Certificate.

(c) The Trustee conclusively shall be deemed to have complied with the provisions of this Section and Section 7.5(h) and shall not be liable or responsible if it follows the instructions of the Town and shall not be required to take any action under this Section and Section 7.5(h) in the absence of written instructions from the Town.

(d) If, on the date of each annual calculation, the amount on deposit in the Rebate Fund exceeds the Rebate Amount, the Town may direct the Trustee, pursuant to a Town Certificate, to transfer the amount in excess of the Rebate Amount to the Bond Fund.

Section 6.9. Administrative Fund.

(a) The Town shall deposit or cause to be deposited to the District Administration Account of the Administrative Fund the amounts collected each year to pay Administrative Expenses and Delinquent Collection Costs.

(b) Moneys in the District Administration Account of the Administrative Fund shall be held by the Trustee separate and apart from the other Funds created and administered hereunder and used as directed by a Town Certificate solely for the purposes set forth in the Service and Assessment Plan.

Section 6.10. Investment of Funds.

(a) Money in any Fund or Account established pursuant to this Indenture shall be invested by the Trustee, as directed by the Town pursuant to a Town Certificate, filed with the Trustee at least two days in advance of the making of such investment. The money in any Fund or Account shall be invested in time deposits or certificates of deposit secured in the manner required by law for public funds, or be invested in direct obligations of, including obligations the principal and interest on which are unconditionally guaranteed by, the United States of America, in obligations of any agencies or instrumentalities thereof, or in such other investments as are permitted under the Public Funds Investment Act Texas Government Code, Chapter 2256, as amended, or any successor law, as in effect from time to time; provided that all such deposits and investments shall be made in such manner (which may include repurchase agreements for such investment with any primary dealer of such agreements) that the money required to be expended from any Fund will be available at the proper time or times. Notwithstanding the preceding sentence, amounts in the Additional Interest Reserve Account may not be invested above the Yield (as defined in Section 7.5(a) hereof) on the Bonds, unless and until the Town receives a written opinion of counsel nationally recognized in the field of municipal bond law to the effect that such investment and/or the failure to comply with such yield restriction will not adversely affect the exemption from federal income tax of the interest on any Bond. Investments shall be valued each year in terms of current market value as of September 30. For purposes of maximizing investment returns, to the extent permitted by law, money in such Funds may be invested in common investments of the kind described above, or in a common pool of such investment which shall be kept and held at an official depository bank, which shall not be deemed to be or constitute a commingling of such money or funds provided that safekeeping receipts or certificates of participation clearly evidencing the investment or investment pool in which such money is invested and the share thereof purchased with such money or owned by such Fund or Account are held by or on behalf of each such Fund or Account. If necessary, such investments shall be promptly sold to prevent any default. To ensure that cash on hand is invested, if the Town does not give the Trustee written or timely instructions with respect to investments of funds, the Trustee is hereby directed to invest and re-invest cash balances in Wilmington U.S. Government Money Market Fund – Institutional Share Class (CUSIP 97181C605); provided, however, that money required to be expended from any Fund or Account will be available at the proper time or times.

(b) Obligations purchased as an investment of moneys in any Fund or Account shall be deemed to be part of such Fund or Account, subject, however, to the requirements of this Indenture for transfer of interest earnings and profits resulting from investment of amounts in Funds and Accounts. Whenever in this Indenture any moneys are required to be transferred by the Town to the Trustee, such transfer may be accomplished by transferring a like amount of Investment Securities.



(c) The Trustee and its affiliates may act as sponsor, advisor, depository, principal or agent in the acquisition or disposition of any investment. The Trustee shall have no investment discretion and the Trustee's only responsibility for investments shall be to follow the written instructions contained in a Town Certificate. The Trustee shall not incur any liability for losses arising from any investments made pursuant to this Section. The Trustee shall not be required to determine the suitability or legality of any investments. The Parties acknowledge that the Trustee is not providing investment supervision, recommendations, or advice.

(d) Investments in any and all Funds and Accounts may be commingled in a separate fund or funds for purposes of making, holding and disposing of investments, notwithstanding provisions herein for transfer to or holding in or to the credit of particular Funds or Accounts of amounts received or held by the Trustee hereunder, provided that the Trustee shall at all times account for such investments strictly in accordance with the Funds and Accounts to which they are credited and otherwise as provided in this Indenture.

(e) The Trustee will furnish the Town and the Administrator monthly cash transaction statements which include detail for all investment transactions made by the Trustee hereunder; and, unless the Trustee receives a written request, the Trustee is not required to provide brokerage confirmations so long as the Trustee is providing such monthly cash transaction statements.

(f) The Trustee may conclusively rely on Town Certificates pursuant to Section 6.10(a) that such an investment will comply with the Town's investment policy and with the Public Funds Investment Act, Chapter 2256, Texas Government Code, as amended.

#### Section 6.11. Security of Funds.

All Funds or Accounts heretofore created, to the extent not invested as herein permitted, shall be secured in the manner and to the fullest extent required by law for the security of public funds, and such Funds or Accounts shall be used only for the purposes and in the manner permitted or required by this Indenture.

### ARTICLE VII

#### COVENANTS

#### Section 7.1. Confirmation of Assessments.

The Town hereby confirms, covenants, and agrees that the Assessments to be collected from the Assessed Property, is reflected in the Service and Assessment Plan (as it may be updated from time to time) and, in accordance with the Assessment Ordinance, it has levied the Assessments against the respective Assessed Parcels from which the Pledged Revenues will be collected and received.

#### Section 7.2. Collection and Enforcement of Assessments.

(a) For so long as any Bonds are Outstanding and/or amounts are due to the Developer to pay it for funds it has contributed to pay Actual Costs of the Authorized Improvements, the Town covenants, agrees and warrants that it will take and pursue all actions permissible under Applicable Laws to cause the Assessments to be collected and the liens thereof enforced continuously, in the manner and to the maximum extent permitted by

Applicable Laws, and, to the extent permitted by Applicable Laws, to cause no reduction, abatement or exemption in the Assessments.

(b) The Town will determine or cause to be determined, no later than February 15 of each year, whether or not any Annual Installment is delinquent and, if such delinquencies exist, the Town will order and cause to be commenced as soon as practicable any and all appropriate and legally permissible actions to obtain such Annual Installment, and any delinquent charges and interest thereon, including diligently prosecuting an action in district court to foreclose the currently delinquent Annual Installment. Notwithstanding the foregoing, the Town shall not be required under any circumstances to purchase or make payment for the purchase of the delinquent Assessment or the corresponding Assessed Parcel. Furthermore, nothing shall obligate the Town, the Town Attorney, or any appropriate designee to undertake collection or foreclosure actions against delinquent accounts in violation of applicable state law, court order, or existing contractual provisions between the Town and its appropriate collections enforcement designees.

#### Section 7.3. Against Encumbrances.

(a) Other than Refunding Bonds issued to refund all or a portion of the Bonds, or liens created in connection with indebtedness issued in compliance with Section 13.2 hereof, the Town shall not create and, to the extent Pledged Revenues are timely received, shall not suffer to remain, any lien, encumbrance or charge upon the Trust Estate, other than that specified in Section 9.6 of this Indenture, or upon any other property pledged under this Indenture other than the pledge created for the security of the Bonds.

(b) So long as Bonds are Outstanding hereunder, and except as set forth in Section 13.2 hereof, the Town shall not issue any bonds, notes or other evidences of indebtedness other than the Bonds and Refunding Bonds issued to refund all or a portion of the Bonds, secured by any pledge of or other lien or charge on the Pledged Revenues or other property pledged under this Indenture.

#### Section 7.4. Records, Accounts, Accounting Reports.

The Town hereby covenants and agrees that so long as any of the Bonds or any interest thereon remain Outstanding and unpaid, and/or the obligation to the Developer to pay it for funds it has contributed to pay Actual Costs of the Authorized Improvements remain outstanding and unpaid, it will keep and maintain a proper and complete system of records and accounts pertaining to the Assessments. The Trustee and Owner(s) of any Bonds or any duly authorized agent or agents of such Owners shall have the right at all reasonable times to inspect all such records, accounts, and data relating thereto, upon written request to the Town by the Trustee or duly authorized representative, as applicable. The Town shall provide the Trustee or duly authorized representative, as applicable, an opportunity to inspect such books and records relating to the Bonds during the Town's regular business hours and on a mutually agreeable date not later than 30 days after the Town receives such request.

#### Section 7.5. Covenants to Maintain Tax-Exempt Status.

(a) Definitions. When used in this Section, the following terms shall have the following meanings:

*“Closing Date”* means the date on which the Bonds are first authenticated and delivered to the initial purchasers against payment therefor.

*“Code”* means the Internal Revenue Code of 1986, as amended by all legislation, if any, effective on or before the Closing Date.

*“Computation Date”* has the meaning set forth in Section 1.148-1(b) of the Regulations.

*“Gross Proceeds”* means any proceeds as defined in Section 1.148-1(b) of the Regulations, and any replacement proceeds as defined in Section 1.148-1(c) of the Regulations, of the Bonds.

*“Investment”* has the meaning set forth in Section 1.148-1(b) of the Regulations.

*“Nonpurpose Investment”* means any investment property, as defined in Section 148(b) of the Code, in which Gross Proceeds of the Bonds are invested and which is not acquired to carry out the governmental purposes of the Bonds.

*“Regulations”* means any proposed, temporary or final Income Tax Regulations issued pursuant to Sections 103 and 141 through 150 of the Code, and 103 of the Internal Revenue Code of 1954, which are applicable to the Bonds. Any reference to any specific Regulation shall also mean, as appropriate, any proposed, temporary or final Income Tax Regulation designed to supplement, amend or replace the specific Regulation referenced.

*“Yield”* of (1) any Investment has the meaning set forth in Section 1.148-5 of the Regulations; and (2) the Bonds has the meaning set forth in Section 1.148-4 of the Regulations.

(b) Not to Cause Interest to Become Taxable. The Town shall not use, permit the use of, or omit to use Gross Proceeds or any other amounts (or any property the acquisition, construction or improvement of which is to be financed directly or indirectly with Gross Proceeds) in a manner which if made or omitted, respectively, would cause the interest on any Bond to become includable in the gross income, as defined in Section 61 of the Code, of the owner thereof for federal income tax purposes. Without limiting the generality of the foregoing, unless and until the Town receives a written opinion of counsel nationally recognized in the field of municipal bond law to the effect that failure to comply with such covenant will not adversely affect the exemption from federal income tax of the interest on any Bond, the Town shall comply with each of the specific covenants in this Section.

(c) No Private Use or Private Payments. Except as permitted by Section 141 of the Code and the Regulations and rulings thereunder, the Town shall at all times prior to the last Stated Maturity of Bonds:

(i) exclusively own, operate and possess all property the acquisition, construction or improvement of which is to be financed or refinanced directly or indirectly

with Gross Proceeds of the Bonds, and not use or permit the use of such Gross Proceeds (including all contractual arrangements with terms different than those applicable to the general public) or any property acquired, constructed or improved with such Gross Proceeds in any activity carried on by any person or entity (including the United States or any agency, department and instrumentality thereof) other than a state or local government, unless such use is solely as a member of the general public; and

(ii) not directly or indirectly impose or accept any charge or other payment by any person or entity who is treated as using Gross Proceeds of the Bonds or any property the acquisition, construction or improvement of which is to be financed or refinanced directly or indirectly with such Gross Proceeds, other than taxes of general application within the Town or interest earned on investments acquired with such Gross Proceeds pending application for their intended purposes.

(d) No Private Loan.

(i) Except to the extent permitted by Section 141 of the Code and the Regulations and rulings thereunder, the Town shall not use Gross Proceeds of the Bonds to make or finance loans to any person or entity other than a state or local government. For purposes of the foregoing covenant, such Gross Proceeds are considered to be "loaned" to a person or entity if: (1) property acquired, constructed or improved with such Gross Proceeds is sold or leased to such person or entity in a transaction which creates a debt for federal income tax purposes; (2) capacity in or service from such property is committed to such person or entity under a take-or-pay, output or similar contract or arrangement; or (3) indirect benefits, or burdens and benefits of ownership, of such Gross Proceeds or any property acquired, constructed or improved with such Gross Proceeds are otherwise transferred in a transaction which is the economic equivalent of a loan.

(ii) The Town covenants and agrees that the levied Assessments will meet the requirements of the "tax assessment loan exception" within the meaning of Section 1.141-5(d) of the Regulations on the date the Bonds are delivered and will ensure that the Assessments continue to meet such requirements for so long as the Bonds are outstanding hereunder.

(e) Not to Invest at Higher Yield. Except to the extent permitted by Section 148 of the Code and the Regulations and rulings thereunder, the Town shall not at any time prior to the final Stated Maturity of the Bonds directly or indirectly invest Gross Proceeds in any Investment (or use Gross Proceeds to replace money so invested) if, as a result of such investment, the Yield from the Closing Date of all Investments acquired with Gross Proceeds (or with money replaced thereby), whether then held or previously disposed of, exceeds the Yield of the Bonds.

(f) Not Federally Guaranteed. Except to the extent permitted by Section 149(b) of the Code and the Regulations and rulings thereunder, the Town shall not take or omit to take any action which would cause the Bonds to be federally guaranteed within the meaning of Section 149(b) of the Code and the Regulations and rulings thereunder.

(g) Information Report. The Town shall timely file the information required by Section 149(e) of the Code with the Secretary of the Treasury on Form 8038-G or such other form and in such place as the Secretary may prescribe.

(h) Rebate of Arbitrage Profits. Except to the extent otherwise provided in Section 148(f) of the Code and the Regulations and rulings thereunder:

(i) The Town shall account for all Gross Proceeds (including all receipts, expenditures and investments thereof) on its books of account separately and apart from all other funds (and receipts, expenditures and investments thereof) and shall retain all records of accounting for at least six years after the day on which the last outstanding Bond is discharged. However, to the extent permitted by law, the Town may commingle Gross Proceeds of the Bonds with other money of the Town, provided that the Town separately accounts for each receipt and expenditure of Gross Proceeds and the obligations acquired therewith.

(ii) Not less frequently than each Computation Date, the Town shall calculate the Rebate Amount in accordance with rules set forth in Section 148(f) of the Code and the Regulations and rulings thereunder. The Town shall maintain such calculations with its official transcript of proceedings relating to the issuance of the Bonds until six years after the final Computation Date.

(iii) As additional consideration for the purchase of the Bonds by the Purchasers and the loan of the money represented thereby and in order to induce such purchase by measures designed to insure the excludability of the interest thereon from the gross income of the owners thereof for federal income tax purposes, the Town shall, pursuant to a Town Certificate, direct the Trustee to transfer to the Rebate Fund from the funds or subaccounts designated in such Town Certificate and direct the Trustee to pay to the United States from the Rebate Fund the amount that when added to the future value of previous rebate payments made for the Bonds equals (i) in the case of a Final Computation Date as defined in Section 1.148-3(e)(2) of the Regulations, one hundred percent (100%) of the Rebate Amount on such date; and (ii) in the case of any other Computation Date, ninety percent (90%) of the Rebate Amount on such date. In all cases, the rebate payments shall be made at the times, in the installments, to the place and in the manner as is or may be required by Section 148(f) of the Code and the Regulations and rulings thereunder, and shall be accompanied by Form 8038-T or such other forms and information as is or may be required by Section 148(f) of the Code and the Regulations and rulings thereunder.

(iv) The Town shall exercise reasonable diligence to assure that no errors are made in the calculations and payments required by paragraphs (ii) and (iii), and if an error is made, to discover and promptly correct such error within a reasonable amount of time thereafter (and in all events within one hundred eighty (180) days after discovery of the error), including payment to the United States of any additional Rebate Amount owed to it, interest thereon, and any penalty imposed under Section 1.148-3(h) of the Regulations.

(i) Not to Divert Arbitrage Profits. Except to the extent permitted by Section 148 of the Code and the Regulations and rulings thereunder, the Town shall not, at any time prior to the earlier of the Stated Maturity or final payment of the Bonds, enter into any transaction that reduces the amount required to be paid to the United States pursuant to Subsection (h) of this Section because such transaction results in a smaller profit or a larger loss than would have resulted if the transaction had been at arm's length and had the Yield of the Bonds not been relevant to either party.

(j) Elections. The Town hereby directs and authorizes the Mayor, Mayor Pro Tem, Town Manager, Deputy Town Manager, Chief Financial Officer, or Town Secretary, individually or jointly, to make elections permitted or required pursuant to the provisions of the Code or the Regulations, as they deem necessary or appropriate in connection with the Bonds, in the Tax Certificate or similar or other appropriate certificate, form or document.

## ARTICLE VIII

### LIABILITY OF TOWN

The Town shall not incur any responsibility in respect of the Bonds or this Indenture other than in connection with the duties or obligations explicitly herein or in the Bonds assigned to or imposed upon it. The Town shall not be liable in connection with the performance of its duties hereunder, except for its own willful default or act of bad faith. The Town shall not be bound to ascertain or inquire as to the performance or observance of any of the terms, conditions covenants or agreements of the Trustee herein or of any of the documents executed by the Trustee in connection with the Bonds, or as to the existence of a default or Event of Default thereunder.

In the absence of bad faith, the Town may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Town and conforming to the requirements of this Indenture. The Town shall not be liable for any error of judgment made in good faith unless it shall be proved that it was negligent in ascertaining the pertinent facts.

No provision of this Indenture, the Bonds, the Assessment Ordinance, or any agreement, document, instrument, or certificate executed, delivered or approved in connection with the issuance, sale, delivery, or administration of the Bonds (the "Bond Documents"), shall require the Town to expend or risk its own general funds or otherwise incur any financial liability (other than with respect to the Pledged Revenues and the Administrative Expenses) in the performance of any of its obligations hereunder, or in the exercise of any of its rights or powers, if in the judgment of the Town there are reasonable grounds for believing that the repayment of such funds or liability is not reasonably assured to it.

Neither the Owners nor any other Person shall have any claim against the Town or any of its officers, officials, agents, employees, or any person designated by the Town Council to act on behalf of the Town, for damages suffered as a result of the Town's failure to perform, in any respect, any covenant, undertaking, or obligation under any Bond Documents or as a result of the incorrectness of any representation in, or omission from, any of the Bond Documents, except to the extent that any such claim relates to an obligation, undertaking, representation, or covenant of the Town, in accordance with the Bond Documents and the PID Act. Any such claim shall be payable only from the Pledged Revenues, the funds available for such payment in any of the Pledged Funds, if any, or the amounts collected to pay Administrative Expenses on deposit in the Administrative Fund. Nothing contained in any of the Bond Documents shall be construed to preclude any action or proceeding in any court or before any governmental body, agency, or instrumentality against the Town or any of its officers, officials, agents, employees, or any person designated by the Town Council to act on behalf of the Town to enforce the provisions of any of the Bond Documents or to enforce all rights of the Owners of the Bonds by mandamus or other proceeding at law or in equity.

The Town may rely on and shall be protected in acting or refraining from acting upon any notice, resolution, request, consent, order, certificate, report, warrant, bond, or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or proper parties. The Town may consult with counsel with regard to legal questions, and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by it hereunder in good faith and in accordance therewith.

Whenever in the administration of its duties under this Indenture, the Town shall deem it necessary or desirable that a matter be proved or established prior to taking or suffering any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may, in the absence of willful misconduct on the part of the Town, be deemed to be conclusively proved and established by a certificate of the Trustee, an Independent Financial Consultant, an independent inspector, or Town Manager or other independent third party designated by the Town Council to so act on behalf of the Town, and such certificate shall be full warrant to the Town for any action taken or suffered under the provisions of this Indenture upon the faith thereof, but in its discretion the Town may, in lieu thereof, accept other evidence of such matter or may require such additional evidence as to it may seem reasonable.

In order to perform its duties and obligations hereunder, the Town may employ such persons or entities as it deems necessary or advisable. The Town shall not be liable for any of the acts or omissions of such persons or entities employed by it in good faith hereunder, and shall be entitled to rely, and shall be fully protected in doing so, upon the opinions, calculations, determinations, and directions of such persons or entities.

## ARTICLE IX

### THE TRUSTEE

#### Section 9.1. Trustee as Paying Agent/Registrar.

The Trustee is hereby designated and agrees to act as Paying Agent/Registrar for and in respect to the Bonds.

#### Section 9.2. Trustee Entitled to Indemnity.

The Trustee shall be under no obligation to spend its own funds, to institute any suit, or to undertake any proceeding under this Indenture, or to enter any appearance or in any way defend in any suit in which it may be made defendant, or to take any steps in the execution of the trusts hereby created or in the enforcement of any rights and powers hereunder, until it shall be indemnified, to the extent permitted by law and the provisions of this Indenture, to its satisfaction against any and all costs and expenses, outlays, and counsel fees and other reasonable disbursements, and against all liability except as a consequence of its own negligence or willful misconduct; provided, however, that in no event shall the Trustee request or require indemnification as a condition to making any deposits, payments, or transfers (provided such payment or transfer is prior to an Event of Default) when required hereunder, or to delivering any notice when required hereunder. Nevertheless, the Trustee may begin suit, or appear in and defend suit, or do anything else in its judgment proper to be done by it as the Trustee, without indemnity, and in such case the Trustee may, to the extent permitted pursuant to the provisions of this Indenture, make transfers from the District Administration Account of the Administrative Fund, and to the extent moneys in the District Administration Account of the Administrative Fund are insufficient, from the Pledged Revenue Fund, to pay all costs and

expenses, outlays, and counsel fees and other reasonable disbursements properly incurred in connection therewith and shall, to the extent permitted by law, be entitled to a preference therefor over any Bonds Outstanding hereunder.

Section 9.3.           Responsibilities of the Trustee.

The Trustee accepts the trusts imposed upon it by this Indenture, and agrees to observe and perform those trusts, but only upon and subject to the terms and conditions set forth in this Article, to all of which the parties hereto and the Owners agree.

(a)     Prior to the occurrence of an Event of Default of which the Trustee has been notified, and after the cure or waiver of all defaults or Events of Default which may have occurred,

(i)     the Trustee undertakes to perform only those duties and obligations which are set forth specifically in this Indenture, and no duties or obligations shall be implied to the Trustee, these duties shall be deemed purely ministerial in nature, and the Trustee shall not be liable except for the performance of such duties, and no implied covenants shall be read into this Indenture against the Trustee; and

(ii)    the Trustee may request and rely conclusively, as to the due execution, the truth of the statements, and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture, and shall incur no liability and shall be fully protected in acting or refraining from acting in accordance therewith; but in the case of any such certificates or opinions which by any provision hereof are required specifically to be furnished to the Trustee, the Trustee shall be under a duty to examine the same to determine whether or not they conform on their face to the requirements of this Indenture.

(b)     In case an Event of Default has occurred and is continuing hereunder (of which the Trustee has been notified in writing, or is deemed to have notice), the Trustee shall exercise those rights and powers vested in it by this Indenture and shall use the same degree of care and skill in their exercise as a prudent person would exercise or use under the circumstances in the conduct of his own affairs.

(c)     No provision of this Indenture shall be construed to relieve the Trustee from liability for its own negligent action, its own negligent failure to act, or its own willful misconduct, except that

(1)     this subparagraph shall not be construed to affect the limitation of the Trustee's duties and obligations provided in subparagraph (a)(1) of this Section or the Trustee's right to rely on the truth of statements and the correctness of opinions as provided in subparagraph (a)(2) of this Section;

(2)     the Trustee shall not be liable for any actions taken, or error of judgment, made in good faith by any one of its officers, employees or agents unless it shall be established that the Trustee was negligent in ascertaining the pertinent facts;

(3)     the Trustee shall not be liable with respect to any action taken or omitted to be taken by it in accordance with the direction of the controlling Owners relating to the time, method and place of conducting any proceeding for any remedy available to the



Trustee, or exercising any trust or power conferred upon the Trustee, under this Indenture; and

(4) no provision of this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers if it shall have grounds for believing that repayment of such funds or adequate indemnity against such risk or liability is not assured to it.

(d) The recitals contained in this Indenture and in the Bonds shall be taken as the statements of the Town and the Trustee assumes no responsibility for the correctness of the same. The Trustee makes no representations as to the validity or sufficiency of the offering documents, this Indenture, or the Bonds or with respect to the security afforded by this Indenture, and the Trustee shall incur no liability with respect thereto. Except as otherwise expressly provided in this Indenture, the Trustee shall have no responsibility or duty with respect to: (i) the issuance of Bonds for value; (ii) the application of the proceeds thereof, except to the extent that such proceeds are received by it in its capacity as Trustee; (iii) the application of any moneys paid to the Town or others in accordance with this Indenture, except as to the application of any moneys paid to it in its capacity as Trustee; or (iv) any calculation of arbitrage or rebate under the Code. The Trustee has the right to act through agents and attorneys and shall have no liability for the acts or omissions of any of the agents and attorneys appointed by it with due care.

(e) The duties and obligations of the Trustee shall be determined by the express provisions of this Indenture, and the Trustee shall not be liable except for the performance of such duties and obligations as are specifically set forth in this Indenture.

(f) The Trustee shall not be liable for any action taken or omitted by it in the performance of its duties under this Indenture, except for such losses, damages, or expenses which have been fully adjudicated by a court of competent jurisdiction to have directly resulted from the Trustee's own negligence or willful misconduct. In no event shall the Trustee be liable for incidental, indirect, punitive, special or consequential loss or damage whatsoever (including, but not limited to, loss of profit) in connection with or arising from this Indenture, irrespective of whether the Trustee has been advised of the likelihood of such loss or damage and regardless of the form of action. The Trustee will not be liable with respect to any action taken or omitted to be taken in good faith in accordance with the direction of the Owners of not less than a majority in principal amount of the Bonds then Outstanding relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee, under this Indenture.

(g) The Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents or attorneys and the Trustee shall not be responsible for any misconduct or negligence on the part of any agent or attorney appointed with due care.

(h) Except for its certificate of authentication on the Bonds, the Trustee shall not be responsible for:

(1) the validity, priority, recording, re-recording, filing or re-filing of this Indenture or any Supplemental Indenture,

- (2) any instrument or document of further assurance or collateral assignment,
- (3) the filing, execution, delivery, recording, or authorization of any financing statements, amendments thereto or continuation statements,
- (4) insurance of the Authorized Improvements or collection of insurance money,
- (5) the validity of the execution by the Town of this Indenture, any Supplemental Indenture or instruments or documents of further assurance, or
- (6) the sufficiency of the security for the Bonds issued hereunder or intended to be secured hereby.

(i) The Trustee shall not be accountable for the application by any Person of the proceeds of any Bonds authenticated or delivered hereunder; provided the Trustee follows the instructions provided by the Town with respect to the use of the proceeds of the Bonds.

(j) The Trustee may request, conclusively rely on and shall be protected in acting upon any notice, request, direction, consent, certificate, order, affidavit, letter, telegram or other paper or document believed by it to be genuine and correct and to have been signed or sent by the proper Person or Persons, not only as to due execution, validity, and effectiveness, but also as to the truth and accuracy of any information contained therein. Any action taken by the Trustee pursuant to this Indenture upon the direction, request, authority or consent of any Person who is the Owner of any Bonds at the time of making the request or giving the authority or consent, shall be conclusive and binding upon all future Owners of the same Bond and of Bonds issued in exchange therefor or in place thereof.

(k) The Trustee shall not be required to take notice, and shall not be deemed to have notice, of any default or Event of Default, except Events of Default described in Section 11.1(a)(1), unless the Trustee shall be notified specifically of the default or Event of Default in a written instrument or document delivered to it by the Town or by the Owners of more than 66-2/3% of the aggregate outstanding principal amount of Bonds. In the absence of delivery of a notice satisfying those requirements, the Trustee may assume conclusively that there is no Event of Default, except as noted above.

(l) The Trustee shall not be required to give any bond or surety with respect to the execution of these trusts and powers or otherwise in respect of the premises.

(m) Any resolution by the Town, and any opinions, certificates and other instruments and documents for which provision is made in this Indenture, may be accepted by the Trustee, in the absence of bad faith on its part, as conclusive evidence of the facts and conclusions stated therein and shall be full warrant, protection and authority to the Trustee for its actions taken hereunder.

(n) The Trustee shall be entitled to file proofs of claim in bankruptcy at the direction of no less than 66-2/3% of the Owners. Ordinary trustee and paying agent/registrar fees and expenses and extraordinary fees and expenses of the Trustee and the Paying Agent/Registrar incurred hereunder are intended to constitute administrative expenses in bankruptcy.

(o) The Trustee's immunities and protections from liability and its right to indemnification in connection with the performance of its duties under this Indenture shall extend to the Trustee's officers, directors, agents, attorneys and employees. Such immunities and protections and rights to indemnification, together with the Trustee's right to compensation for trustee and paying agent/registrars services, subject to the limitations set forth herein, shall survive the Trustee's resignation or removal, the discharge of this Indenture, and final payment of the Bonds.

(p) In no event shall the Trustee be responsible or liable for special, indirect, punitive or consequential loss or damage of any kind whatsoever (including, but not limited to, loss of profit), irrespective of whether the Trustee has been advised of the likelihood of such loss or damage and regardless of the form of action.

(q) The Trustee shall have no responsibility with respect to any information, statement or recital in any official statement, offering memorandum or any other disclosure material prepared or distributed with respect to the Bonds, except for any information provided by the Trustee, and shall have no responsibility for compliance with any state or federal securities laws in connection with the Bonds.

(r) The permissive right of the Trustee to do things enumerated in this Indenture shall not be construed as a duty and, with respect to such permissive rights, the Trustee shall not be answerable for other than its negligence or willful misconduct.

(s) The Trustee shall not be responsible or liable for the environmental condition or any contamination of the Authorized Improvements or any real property or improvements related thereto or for any diminution in value of the same as a result of any contamination by any hazardous substance, hazardous material, pollutant or contaminant. The Trustee shall not be liable for any claims by or on behalf of the Owners or any other person or entity arising from contamination by any hazardous substance, hazardous material, pollutant or contaminant, and shall have no duty or obligation to assess the environmental condition of the Authorized Improvements or any real property or improvements related thereto or with respect to compliance thereof under state or federal laws pertaining to the transport, storage, treatment or disposal of, hazardous substances, hazardous materials, pollutants, or contaminants or regulations, permits or licenses issued under such laws.

(t) Neither the Trustee nor any of its directors, officers, employees, agents or affiliates shall be responsible for nor have any duty to monitor the performance or any action of the Town, or any of its directors, members, officers, agents, affiliates or employee, nor shall it have any liability in connection with the malfeasance or nonfeasance by such party. The Trustee may assume performance by all Persons of their respective obligations. The Trustee shall have no enforcement or notification obligations relating to breaches of representations or warranties of any other Person.

(u) In the event that any assets held hereunder shall be attached, garnished or levied upon by any court order, or the delivery thereof shall be stayed or enjoined by an order of a court, or any order, judgment or decree shall be made or entered by any court order affecting such assets, the Trustee is hereby expressly authorized, in its sole discretion, to respond as it deems appropriate or to comply with all writs, orders or decrees so entered or issued, or which it is advised by legal counsel of its own choosing is binding upon it, whether with or without jurisdiction. In the event that the Trustee obeys or complies with any such writ, order or decree it shall not be liable to any of the Parties or to any other person, firm or

corporation, should, by reason of such compliance notwithstanding, such writ, order or decree be subsequently reversed, modified, annulled, set aside or vacated.

(v) The Trustee shall not be responsible or liable for any failure or delay in the performance of its obligations under this Indenture arising out of or caused, directly or indirectly, by circumstances beyond its control, including without limitation, any act or provision of any present or future law or regulation or governmental authority; acts of God; earthquakes; fires; floods; wars; terrorism; civil or military disturbances; sabotage; epidemics; riots; interruptions, loss or malfunctions of utilities, computer (hardware or software) or communications service; accidents; labor disputes; acts of civil or military authority or governmental actions; or the unavailability of the Federal Reserve Bank wire or telex or other wire or communication facility.

#### Section 9.4. Property Held in Trust.

All moneys and securities held by the Trustee at any time pursuant to the terms of this Indenture shall be held by the Trustee in trust for the purposes and under the terms and conditions of this Indenture.

#### Section 9.5. Trustee Protected in Relying on Certain Documents.

The Trustee may request and rely upon any order, notice, request, consent, waiver, certificate, statement, affidavit, requisition, bond, or other document provided to the Trustee in accordance with the terms of this Indenture that it shall in good faith reasonably believe to be genuine and to have been adopted or signed by the proper board or Person or to have been prepared and furnished pursuant to any of the provisions of this Indenture, or upon the written opinion of any counsel, architect, engineer, insurance consultant, management consultant, or accountant reasonably believed by the Trustee to be qualified in relation to the subject matter, and the Trustee shall be under no duty to make any investigation or inquiry into any statements contained or matters referred to in any such instrument. Subject to Section 9.1 and 9.3 hereof, the Trustee may consult with counsel, selected by the Trustee with due care, who may or may not be Bond Counsel, and the opinion of such counsel shall be full and complete authorization and protection in respect of, and the Trustee shall not be liable for, any action taken, suffered, or omitted to be taken by it in good faith and in accordance therewith.

Whenever the Trustee shall deem it necessary or desirable that a matter be proved or established prior to taking or suffering any action under this Indenture, such matter may be deemed to be conclusively proved and established by a Town Certificate, unless other evidence in respect thereof be hereby specifically prescribed. Such Town Certificate shall be full warrant for any action taken or suffered in good faith under the provisions hereof, but in its sole discretion the Trustee may in lieu thereof accept other evidence of such fact or matter or may require such further or additional evidence as it may deem reasonable. Except as otherwise expressly provided herein, any request, order, notice, or other direction required or permitted to be furnished pursuant to any provision hereof by the Town to the Trustee shall be sufficiently executed if executed in the name of the Town by the Town Representative.

The Trustee shall not be under any obligation to see to the recording or filing of this Indenture, or otherwise to the giving to any Person of notice of the provisions hereof except as expressly required in Section 9.13 herein.

Section 9.6.        Compensation.

The Town hereby agrees to compensate the Trustee, from the amount collected each year for Administrative Expenses and in the manner set forth in this section, for the Trustee's services as Trustee and as Paying Agent/Registrar; provided, however, notwithstanding anything herein to the contrary, the aggregate value of this Indenture shall not exceed the dollar limitation set forth in Section 2274.002(a)(2) of the Texas Government Code. The Trustee hereby agrees that the fees it is to be paid for the current fiscal year will not cause the aggregate compensation received by the Trustee pursuant to the terms of this Indenture to exceed the limitation set forth in Section 2274.002(a)(2).

Unless otherwise provided by contract with the Trustee and subject to the limitations set forth above, the Trustee shall transfer from the District Administration Account of the Administrative Fund, from time to time, reasonable compensation for all services rendered by it hereunder, including its services as Paying Agent/Registrar, together with all its reasonable expenses, charges, and other disbursements and those of its counsel, agents and employees, incurred in and about the administration and execution of the trusts hereby created and the exercise of its powers and the performance of its duties hereunder, subject to any limit on the amount of such compensation or recovery of expenses or other charges as shall be prescribed by specific agreement, and the Trustee shall have a lien therefor on any and all funds at any time held by it in the Administrative Fund. None of the provisions contained in this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur financial liability in the performance of any of its duties or in the exercise of any of its rights or powers, if in the judgment of the Trustee there are reasonable grounds for believing that the repayment of such funds or liability is not reasonably assured to it. If the Town shall fail to make any payment required by this Section, the Trustee may make such payment from any moneys in its possession in the Administrative Fund, subject to the limitations set forth herein.

In the event that the Trustee renders any service not contemplated in this Indenture, or if any material controversy arises hereunder, or the Trustee is made a party to any litigation pertaining to this Indenture or the subject matter hereof, then the Trustee shall, subject to the limitations set forth herein, be compensated from any and all funds at any time held by it for such extraordinary services and any services or work performed by Trustee in connection with any delay, controversy, litigation or event, and reimbursed for all costs and expenses, including reasonable attorneys' fees and expenses, occasioned by any such delay, controversy, litigation or event.

Section 9.7.        Permitted Acts.

The Trustee and its directors, officers, employees, or agents may become the owner of or may in good faith buy, sell, own, hold and deal in Bonds and may join in any action that any Owner of Bonds may be entitled to take as fully and with the same rights as if it were not the Trustee. The Trustee may act as depository, and permit any of its officers or directors to act as a member of, or in any other capacity with respect to, the Town or any committee formed to protect the rights of Owners or to effect or aid in any reorganization growing out of the enforcement of the Bonds or this Indenture, whether or not such committee shall represent the Owners of a majority in aggregate outstanding principal amount of the Bonds.

Section 9.8.        Resignation of Trustee.

The Trustee may at any time resign and be discharged of its duties and obligations hereunder by giving not fewer than 30 days' written notice, specifying the date when such resignation shall take effect, to the Town and each Owner of any Outstanding Bond. Such resignation shall take effect upon the appointment of a successor as provided in Section 9.10 and the acceptance of such appointment by such successor.

Section 9.9.        Removal of Trustee.

The Trustee may be removed at any time on 30 days' advance written notice to the Trustee by (i) the Owners of at least a majority of the aggregate Outstanding principal of the Bonds by an instrument or concurrent instruments in writing signed and acknowledged by such Owners or by their attorneys-in-fact, duly authorized and delivered to the Town, or (ii) the Town, so long as the Town is not in default under this Indenture. Copies of each such instrument shall be delivered by the Town to the Trustee and any successor thereof. The Trustee may also be removed at any time for any breach of trust or for acting or proceeding in violation of, or for failing to act or proceed in accordance with, any provision of this Indenture with respect to the duties and obligations of the Trustee by any court of competent jurisdiction upon the application of the Town or the Owners of not less than 10% of the aggregate Outstanding principal of the Bonds.

Section 9.10.      Successor Trustee.

(a) If the Trustee shall resign, be removed, be dissolved, or become incapable of acting, or shall be adjudged as bankrupt or insolvent, or if a receiver, liquidator, or conservator of the Trustee or of its property shall be appointed, or if any public officer shall take charge or control of the Trustee or of its property or affairs, the position of the Trustee hereunder shall thereupon become vacant.

(b) If the position of Trustee shall become vacant for any of the foregoing reasons or for any other reason, a successor Trustee may be appointed within one year after any such vacancy shall have occurred by the Owners of at least 25% of the aggregate outstanding principal of the Bonds by an instrument or concurrent instruments in writing signed and acknowledged by such Owners or their attorneys-in-fact, duly authorized and delivered to such successor Trustee, with notification thereof being given to the predecessor Trustee and the Town.

(c) Until such successor Trustee shall have been appointed by the Owners of the Bonds, the Town shall forthwith (and in no event in excess of 30 days after such vacancy occurs) appoint a Trustee to act hereunder. Copies of any instrument of the Town providing for any such appointment shall be delivered by the Town to the Trustee so appointed. The Town shall mail notice of any such appointment to each Owner of any Outstanding Bonds within 30 days after such appointment. Any appointment of a successor Trustee made by the Town immediately and without further act shall be superseded and revoked by an appointment subsequently made by the Owners of Bonds.

(d) If in a proper case no appointment of a successor Trustee shall be made within 45 days after the giving by any Trustee of any notice of resignation in accordance with Section 9.8 herein or after the occurrence of any other event requiring or authorizing such appointment, the Trustee or any Owner of Bonds may apply to any court of competent jurisdiction for the

appointment of such a successor, and the court may thereupon, after such notice, if any, as the court may deem proper, appoint such successor and the Town shall be responsible for the costs of such appointment process.

(e) Any successor Trustee appointed under the provisions of this Section shall be a commercial bank or trust company or national banking association (i) having a capital and surplus and undivided profits aggregating at least \$50,000,000, if there be such a commercial bank or trust company or national banking association willing and able to accept the appointment on reasonable and customary terms, and (ii) authorized by law to perform all the duties of the Trustee required by this Indenture and Applicable Laws.

(f) Each successor Trustee shall mail, in accordance with the provisions of the Bonds, notice of its appointment to the Trustee, any rating agency which, at the time of such appointment, is providing a rating on the Bonds and each of the Owners of the Bonds.

(g) Trustee shall not be responsible for or liable for the acts or omissions of any successor trustee, nor shall it be responsible or liable for any costs of appointment or transition of such successor trustee.

#### Section 9.11. Transfer of Rights and Property to Successor Trustee.

Any successor Trustee appointed under the provisions of Section 9.10 shall execute, acknowledge, and deliver to its predecessor and the Town an instrument in writing accepting such appointment, and thereupon such successor, without any further act, deed, or conveyance, shall become fully vested with all moneys, estates, properties, rights, immunities, powers, duties, obligations, and trusts of its predecessor hereunder, with like effect as if originally appointed as Trustee. However, the Trustee then ceasing to act shall nevertheless, on request of the Town or of such successor, execute, acknowledge, and deliver such instruments of conveyance and further assurance and do such other things as may reasonably be required for more fully and certainly vesting and confirming in such successor all the rights, immunities, powers, and trusts of such Trustee and all the right, title, and interest of such Trustee in and to the Trust Estate, and shall pay over, assign, and deliver to such successor any moneys or other properties subject to the trusts and conditions herein set forth. Should any deed, conveyance, or instrument in writing, including any supplement or amendment to this Indenture, from the Town be required by such successor for more fully and certainly vesting in and confirming to it any such moneys, estates, properties, rights, powers, duties, or obligations, any and all such deeds, conveyances, and instruments in writing, on request and so far as may be authorized by law, shall be executed, acknowledged, and delivered by the Town.

#### Section 9.12. Merger, Conversion or Consolidation of Trustee.

Any corporation or association into which the Trustee may be converted or merged, or with which it may be consolidated or any corporation or association resulting from any merger, conversion or consolidation to which it shall be a party or any corporation or association to which the Trustee may sell or transfer all or substantially all of its corporate trust business shall be the successor to such Trustee hereunder and will have and succeed to the rights, powers, duties, immunities and privileges as predecessor, without any further act, deed or conveyance, provided that such corporation or association shall be a commercial bank or trust company or national banking association qualified to be a successor to such Trustee under the provisions of Section 9.10, or a trust company that is a wholly-owned subsidiary of any of the foregoing.

Section 9.13. Trustee to File Continuation Statements.

If necessary, the Trustee may file or cause to be filed, such continuation statements as are delivered to the Trustee by the Town, or on behalf of the Town, and which may be required by the Texas Uniform Commercial Code, as from time to time in effect (the "UCC"), in order to continue perfection of the security interest of the Trustee in such items of tangible or intangible personal property and any fixtures as may have been granted to the Trustee pursuant to this Indenture in the time, place and manner required by the UCC.

Section 9.14. Construction of Indenture.

The Trustee may construe any of the provisions of this Indenture insofar as the same may appear to be ambiguous or inconsistent with any other provision hereof, and any construction of any such provisions hereof by the Trustee in good faith shall be binding upon the Owners of the Bonds. Permissive rights of the Trustee are not to be construed as duties.

ARTICLE X

MODIFICATION OR AMENDMENT OF THIS INDENTURE

Section 10.1. Amendments Permitted.

This Indenture and the rights and obligations of the Town and of the Owners of the Bonds may be modified or amended at any time by a Supplemental Indenture, except as provided below, pursuant to the affirmative vote at a meeting of Owners of the Bonds, or with the written consent without a meeting, of the Owners of at least fifty-one percent (51%) of the aggregate principal amount of the Bonds then Outstanding. No such modification or amendment shall (i) extend the maturity of any Bond or reduce the interest rate thereon, or otherwise alter or impair the obligation of the Town to pay the principal of, and the interest and any premium on, any Bond, without the express consent of the Owner of such Bond, or (ii) permit the creation by the Town of any pledge or lien upon any portion of the Trust Estate superior to or on a parity with the pledge and lien created for the benefit of the Bonds (except as otherwise permitted by both Applicable Laws and this Indenture), or reduce the percentage of Owner of Bonds required for the amendment of this Indenture, as provided herein. Any such amendment may not modify any of the rights or obligations of the Trustee without its written consent.

This Indenture and the rights and obligations of the Town and of the Owners may also be modified or amended at any time by a Supplemental Indenture, without the consent of any Owners, only to the extent permitted by law and only for any one or more of the following purposes:

- (i) to add to the covenants and agreements of the Town in this Indenture contained, other covenants and agreements thereafter to be observed, or to limit or surrender any right or power herein reserved to or conferred upon the Town;
- (ii) to make modifications not adversely affecting any Outstanding Bonds in any material respect;
- (iii) to make such provisions for the purpose of curing any ambiguity, or of curing, correcting or supplementing any defective provision contained in this Indenture,



or in regard to questions arising under this Indenture, as the Town and the Trustee may deem necessary or desirable and not inconsistent with this Indenture, and that shall not adversely affect the rights of the Owners of the Bonds;

(iv) to provide for the issuance of Refunding Bonds as set forth in Section 13.2 herein;

(v) to appoint or accept a successor trustee in accordance with the provisions of Section 9.10 hereof; provided, however, in no event shall this provision limit the Owners ability to appoint a successor trustee pursuant to Section 9.10(b) hereof; and

(vi) to make such additions, deletions or modifications as may be necessary or desirable to assure exemption from federal income taxation of interest on the Bonds.

Any modification or amendment made pursuant to this paragraph shall not be subject to the notice procedures specified in Section 10.3 below.

Notwithstanding the above, no Supplemental Indenture under this Section shall be effective unless the Town first delivers to the Trustee an opinion of Bond Counsel to the effect that such amendment or supplement (i) is permitted under Applicable Laws and the provisions of this Indenture in effect after taking into account the proposed amendment or supplement; (ii) will not adversely affect the interests of the Owners in any material respect; provided however, that an appointment of a successor trustee in accordance with the provisions hereof is deemed to not be a material adverse effect for purposes of such opinion; and (iii) will not adversely affect the exclusion of interest on any Bond from gross income for purposes of federal income taxation.

#### Section 10.2. Owners' Meetings.

The Town may at any time call a meeting of the Owners of the Bonds. In such event the Town is authorized to fix the time and place of said meeting and to provide for the giving of notice thereof, and to fix and adopt reasonable rules and regulations for the conduct of said meeting.

#### Section 10.3. Procedure for Amendment with Written Consent of Owners.

The Town and the Trustee may at any time adopt a Supplemental Indenture amending the provisions of the Bonds or of this Indenture, to the extent that such amendment is permitted by Section 10.1 herein, to take effect when and as provided in this Section. A copy of such Supplemental Indenture, together with a request to Owners for their consent thereto, shall be mailed by first-class mail, by the Trustee to each Owner of Bonds from whom consent is required under this Indenture, but failure to mail copies of such Supplemental Indenture and request shall not affect the validity of the Supplemental Indenture when assented to as in this Section provided.

Such Supplemental Indenture shall not become effective unless there shall be filed with the Trustee the written consents of the Owners as required by this Indenture, and a notice shall have been mailed as hereinafter in this Section provided and the Town or Bond Counsel, acting on the Town's behalf, has delivered to the Trustee an opinion of Bond Counsel to the effect that such amendment is permitted and will not adversely affect the exclusion of interest on any Bond from gross income for purposes of federal income taxation. Each such consent shall be

effective only if accompanied by proof of ownership of the Bonds for which such consent is given, which proof shall be such as is permitted by Section 11.6 herein. Any such consent shall be binding upon the Owner of the Bonds giving such consent and on any subsequent Owner (whether or not such subsequent Owner has notice thereof), unless such consent is revoked in writing by the Owner giving such consent or a subsequent Owner by filing such revocation with the Trustee prior to the date when the notice hereinafter in this Section provided for has been mailed.

After the Owners of the required percentage of Bonds shall have filed their consents to the Supplemental Indenture, the Town shall mail a notice to the Owners in the manner hereinbefore provided in this Section for the mailing of the Supplemental Indenture, stating in substance that the Supplemental Indenture has been consented to by the Owners of the required percentage of Bonds and will be effective as provided in this Section (but failure to mail copies of said notice shall not affect the validity of the Supplemental Indenture or consents thereto). Proof of the mailing of such notice shall be filed with the Trustee. A record, consisting of the papers required by this Section 10.3 to be filed with the Trustee, shall be proof of the matters therein stated until the contrary is proved. The Supplemental Indenture shall become effective upon the filing with the Trustee of the proof of mailing of such notice, and the Supplemental Indenture shall be deemed conclusively binding (except as otherwise hereinabove specifically provided in this Article) upon the Town and the Owners of all Bonds at the expiration of 60 days after such filing, except in the event of a final decree of a court of competent jurisdiction setting aside such consent in a legal action or equitable proceeding for such purpose commenced within such forty-five day period; provided, however, that the Trustee during such forty-five day period and any such further period during which any such action or proceeding may be pending shall be entitled in its sole discretion to take such action, or to refrain from taking such action, with respect to such Supplemental Indenture, as it may deem expedient; provided, further, that the Trustee shall have no obligation to take or refrain from taking any such action and the Trustee shall have no liability with respect to any action taken or any instance of inaction.

#### Section 10.4. Effect of Supplemental Indenture.

From and after the time any Supplemental Indenture becomes effective pursuant to this Article X, this Indenture shall be deemed to be modified and amended in accordance therewith, the respective rights, duties, and obligations under this Indenture of the Town, the Trustee, and all Owners of Bonds Outstanding shall thereafter be determined, exercised and enforced hereunder subject in all respects to such modifications and amendments, and all the terms and conditions of any such Supplemental Indenture shall be deemed to be part of the terms and conditions of this Indenture for any and all purposes.

#### Section 10.5. Endorsement or Replacement of Bonds Issued After Amendments.

The Town may determine that Bonds issued and delivered after the effective date of any action taken as provided in this Article X shall bear a notation, by endorsement or otherwise, in form approved by the Town, as to such action. In that case, upon demand of the Owner of any Bond Outstanding at such effective date and presentation of his Bond for that purpose at the designated office of the Trustee or at such other office as the Town may select and designate for that purpose, a suitable notation shall be made on such Bond. The Town may determine that new Bonds, so modified as in the opinion of the Town is necessary to conform to such Owners' action, shall be prepared, executed, and delivered. In that case, upon demand of the Owner of any Bonds then Outstanding, such new Bonds shall be exchanged at the designated

office of the Trustee without cost to any Owner, for Bonds then Outstanding, upon surrender of such Bonds.

Section 10.6. Amendatory Endorsement of Bonds.

The provisions of this Article X shall not prevent any Owner from accepting any amendment as to the particular Bonds held by such Owner, provided that due notation thereof is made on such Bonds.

Section 10.7. Waiver of Default

Subject to the second and third sentences of Section 10.1 hereof, with the written consent of at least fifty-one (51%) of the Owners in aggregate principal amount of the Bonds then Outstanding, the Owners may waive non-compliance by the Town and certain past defaults under the Indenture and their consequences. Any such consent shall be conclusive and binding upon the Owners and upon all future Owners. For the avoidance of doubt, any waiver given pursuant to this Section shall be subject to Section 11.5 hereof.

Section 10.8. Execution of Supplemental Indenture.

In executing, or accepting the additional trusts created by, any Supplemental Indenture permitted by this Article or the modification thereby of the trusts created by this Indenture, the Trustee shall receive, and shall be fully protected in relying upon, an opinion of counsel addressed and delivered to the Trustee and the Town stating that the execution of such Supplemental Indenture is permitted by and in compliance with this Indenture. The Trustee may, but shall not be obligated to, enter into any such Supplemental Indenture which affects the Trustee's own rights, duties and immunities under this Indenture or otherwise.

## ARTICLE XI

### DEFAULT AND REMEDIES

Section 11.1. Events of Default.

(a) Each of the following occurrences or events shall be and is hereby declared to be an "Event of Default," to wit:

(i) The failure of the Town to deposit the Pledged Revenues to the Bond Pledged Revenue Account of the Pledged Revenue Fund;

(ii) The failure of the Town to enforce the collection of the Assessments, including the prosecution of foreclosure proceedings;

(iii) The failure to make payment of the principal of or interest on any of the Bonds when the same becomes due and payable and such failure is not remedied within 30 days; provided, however, that the payments are to be made only from Pledged Revenues or other funds currently available in the Pledged Funds and available to the Town to make the payments; and

(iv) Default in the performance or observance of any covenant, agreement or obligation of the Town under this Indenture and the continuation thereof for a period of 90 days after written notice to the Town by the Trustee, or by the Owners of at least 25%

of the aggregate outstanding principal of the Bonds with a copy to the Trustee, specifying such default and requesting that the failure be remedied.

(b) Nothing in Section 11.1(a) will be an Event of Default if action necessary to prevent the same would be a violation of any applicable state law or court order.

Section 11.2. Immediate Remedies for Default.

(a) Subject to Article VIII, upon the happening and continuance of any of the Events of Default described in Section 11.1, the Trustee may, and at the written direction of the Owners of at least 25% of the aggregate outstanding principal of the Bonds then Outstanding and its receipt of indemnity satisfactory to it, shall proceed against the Town for the purpose of protecting and enforcing the rights of the Owners under this Indenture, by action seeking mandamus or by other suit, action, or special proceeding in equity or at law, in any court of competent jurisdiction, for any relief to the extent permitted by this Indenture or by Applicable Laws, including, but not limited to, the specific performance of any covenant or agreement contained herein, or injunction; provided, however, that no action for money damages against the Town may be sought or shall be permitted. The Trustee retains the right to obtain the advice of counsel in its exercise of remedies of default.

(b) THE PRINCIPAL OF THE BONDS SHALL NOT BE SUBJECT TO ACCELERATION UNDER ANY CIRCUMSTANCES.

(c) If the assets of the Trust Estate are sufficient to pay all amounts due with respect to all Outstanding Bonds, in the selection of Trust Estate assets to be used in the payment of Bonds due under this Article, the Town shall determine, in its absolute discretion, and shall instruct the Trustee by Town Certificate, which Trust Estate assets shall be applied to such payment and shall not be liable to any Owner or other Person by reason of such selection and application. In the event that the Town shall fail to deliver to the Trustee such Town Certificate, the Trustee shall select and liquidate or sell Trust Estate assets as provided in the following paragraph, and shall not be liable to any Owner, or other Person, or the Town by reason of such selection, liquidation or sale.

(d) Whenever moneys are to be applied pursuant to this Article XI, irrespective of and whether other remedies authorized under this Indenture shall have been pursued in whole or in part, the Trustee may cause any or all of the assets of the Trust Estate, including Investment Securities, to be sold. The Trustee may so sell the assets of the Trust Estate and all right, title, interest, claim and demand thereto and the right of redemption thereof, in one or more parts, at any such place or places, and at such time or times and upon such notice and terms as the Trustee may deem appropriate and as may be required by law and apply the proceeds thereof in accordance with the provisions of this Section. Upon such sale, the Trustee may make and deliver to the purchaser or purchasers a good and sufficient assignment or conveyance for the same, which sale shall be a perpetual bar both at law and in equity against the Town, and all other Persons claiming such properties. No purchaser at any sale shall be bound to see to the application of the purchase money proceeds thereof or to inquire as to the authorization, necessity, expediency, or regularity of any such sale. Nevertheless, if so requested by the Trustee, the Town shall ratify and confirm any sale or sales by executing and delivering to the Trustee or to such purchaser or purchasers all such instruments as may be necessary or, in the reasonable judgment of the Trustee, proper for the purpose which may be designated in such request.

Section 11.3.      Restriction on Owner's Action.

(a) No Owner shall have any right to institute any action, suit or proceeding at law or in equity for the enforcement of this Indenture or for the execution of any trust thereof or any other remedy hereunder, unless (i) a default has occurred and is continuing of which the Trustee has been notified in writing, (ii) such default has become an Event of Default and the Owners of not less than 25% of the aggregate principal amount of the Bonds then Outstanding have made written request to the Trustee and offered it reasonable opportunity either to proceed to exercise the powers hereinbefore granted or to institute such action, suit or proceeding in its own name, (iii) the Owners have furnished to the Trustee indemnity as provided in Section 9.2 herein, (iv) the Trustee has for 90 days after such notice failed or refused to exercise the powers hereinbefore granted, or to institute such action, suit, or proceeding in its own name, (v) no written direction inconsistent with such written request has been given to the Trustee during such 90-day period by the Owners of at least 51% of the aggregate principal amount of the Bonds then Outstanding, and (vi) notice of such action, suit, or proceeding is given to the Trustee; however, no one or more Owners of the Bonds shall have any right in any manner whatsoever to affect, disturb, or prejudice this Indenture by its, his or their action or to enforce any right hereunder except in the manner provided herein, and that all proceedings at law or in equity shall be instituted and maintained in the manner provided herein and for the equal benefit of the Owners of all Bonds then Outstanding. The notification, request and furnishing of indemnity set forth above shall, at the option of the Trustee, as advised by counsel, be conditions precedent to the execution of the powers and trusts of this Indenture and to any action or cause of action for the enforcement of this Indenture or for any other remedy hereunder.

(b) Subject to Article VIII, nothing in this Indenture shall affect or impair the right of any Owner to enforce, by action at law, payment of any Bond at and after the maturity thereof, or on the date fixed for redemption or the obligation of the Town to pay each Bond issued hereunder to the respective Owners thereof at the time and place, from the source and in the manner expressed herein and in the Bonds.

(c) In case the Trustee or any Owners shall have proceeded to enforce any right under this Indenture and such proceedings shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Trustee or any Owners, then and in every such case the Town, the Trustee and the Owners shall be restored to their former positions and rights hereunder, and all rights, remedies and powers of the Trustee shall continue as if no such proceedings had been taken.

Section 11.4.      Application of Revenues and Other Moneys After Default.

(a) All moneys, securities, funds and Pledged Revenues and other assets of the Trust Estate and the income therefrom received by the Trustee pursuant to any right given or action taken under the provisions of this Article shall, after payment of the cost and expenses of the proceedings resulting in the collection of such amounts, the expenses (including its counsel), liabilities, and advances incurred or made by the Trustee and the fees of the Trustee in carrying out this Indenture, during the continuance of an Event of Default, notwithstanding Section 11.2 hereof, shall be applied by the Trustee, on behalf of the Town, to the payment of interest and principal or Redemption Price then due on Bonds, as follows:

FIRST: To the payment to the Owners entitled thereto all installments of interest then due in the direct order of maturity of such installments, and, if the amount

available shall not be sufficient to pay in full any installment, then to the payment thereof ratably, according to the amounts due on such installment, to the Owners entitled thereto, without any discrimination or preference; and

SECOND: To the payment to the Owners entitled thereto of the unpaid principal of Outstanding Bonds, or Redemption Price of any Bonds which shall have become due, whether at maturity or by call for redemption, in the direct order of their due dates and, if the amounts available shall not be sufficient to pay in full all the Bonds due on any date, then to the payment thereof ratably, according to the amounts of principal due and to the Owners entitled thereto, without any discrimination or preference.

Within 10 days of receipt of such good and available funds, the Trustee may fix a record and payment date for any payment to be made to Owners pursuant to this Section 11.4.

(b) In the event funds are not adequate to cure any of the Events of Default described in Section 11.1, the available funds shall be allocated to the Bonds that are Outstanding in proportion to the quantity of Bonds that are currently due and in default under the terms of this Indenture.

(c) The restoration of the Town to its prior position after any and all defaults have been cured, as provided in Section 11.3, shall not extend to or affect any subsequent default under this Indenture or impair any right consequent thereon.

#### Section 11.5. Effect of Waiver.

No delay or omission of the Trustee, or any Owner, to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein; and every power and remedy given by this Indenture to the Trustee or the Owners, respectively, may be exercised from time to time and as often as may be deemed expedient.

#### Section 11.6. Evidence of Ownership of Bonds.

(a) Any request, consent, revocation of consent or other instrument which this Indenture may require or permit to be signed and executed by the Owners of Bonds may be in one or more instruments of similar tenor, and shall be signed or executed by such Owners in person or by their attorneys duly appointed in writing. Proof of the execution of any such instrument, or of any instrument appointing any such attorney, or the holding by any Person of the Bonds shall be sufficient for any purpose of this Indenture (except as otherwise herein expressly provided) if made in the following manner:

(i) The fact and date of the execution of such instruments by any Owner of Bonds or the duly appointed attorney authorized to act on behalf of such Owner may be provided by a guarantee of the signature thereon by a bank or trust company or by the certificate of any notary public or other officer authorized to take acknowledgments of deeds, that the Person signing such request or other instrument acknowledged to him the execution thereof, or by an affidavit of a witness of such execution, duly sworn to before such notary public or other officer. Where such execution is by an officer of a corporation or association or a member of a partnership, on behalf of such corporation,

association or partnership, such signature guarantee, certificate, or affidavit shall also constitute sufficient proof of his authority.

(ii) The ownership of Bonds and the amount, numbers and other identification and date of holding the same shall be proved by the Register.

(b) Except as otherwise provided in this Indenture with respect to revocation of a consent, any request or consent by an Owner of Bonds shall bind all future Owners of the same Bonds in respect of anything done or suffered to be done by the Town or the Trustee in accordance therewith.

Section 11.7. No Acceleration.

In the event of the occurrence of an Event of Default under Section 11.1 hereof, the right of acceleration of any Stated Maturity is not granted as a remedy hereunder and the right of acceleration under this Indenture is expressly denied.

Section 11.8. Mailing of Notice.

Any provision in this Article for the mailing of a notice or other document to Owners shall be fully complied with if it is mailed, first-class postage prepaid, only to each Owner at the address appearing upon the Register.

Section 11.9. Exclusion of Bonds.

Bonds owned or held by or for the account of the Town will not be deemed Outstanding for the purpose of consent or other action or any calculation of Outstanding Bonds provided for in this Indenture, and the Town shall not be entitled with respect to such Bonds to give any consent or take any other action provided for in this Indenture.

Section 11.10. Remedies Not Exclusive.

No remedy herein conferred upon or reserved to the Trustee or to the Owners is intended to be exclusive of any other remedy and each and every such remedy shall be cumulative and shall be in addition to any other remedy given hereunder or now or hereafter existing at law or in equity, by statute or by contract.

## ARTICLE XII

### GENERAL COVENANTS AND REPRESENTATIONS

Section 12.1. Representations as to Trust Estate.

(a) The Town represents and warrants that it is authorized by Applicable Laws to authorize and issue the Bonds, to execute and deliver this Indenture and to pledge the Trust Estate in the manner and to the extent provided in this Indenture, and that the Pledged Revenues and the Trust Estate are and will be and remain free and clear of any pledge, lien, charge, or encumbrance thereon or with respect thereto prior to, or of equal rank with, the pledge and lien created in or authorized by this Indenture except as expressly provided herein.

(b) The Town shall at all times, to the extent permitted by Applicable Laws, defend, preserve and protect the pledge of the Trust Estate and all the rights of the Owners and the Trustee, under this Indenture against all claims and demands of all Persons whomsoever.

(c) The Town will take all steps reasonably necessary and appropriate, and will direct the Trustee to take all steps reasonably necessary and appropriate, to collect all delinquencies in the collection of the Assessments and any other amounts pledged to the payment of the Bonds to the fullest extent permitted by the PID Act and other Applicable Laws.

(d) To the extent permitted by law, notice of the Annual Installments shall be sent by, or on behalf of the Town, to the affected property owners on the same statement or such other mechanism that is used by the Town, so that such Annual Installments are collected simultaneously with 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.

Section 12.2. Accounts, Periodic Reports and Certificates.

The Trustee shall keep or cause to be kept proper books of record and account (separate from all other records and accounts) in which complete and correct entries shall be made of its transactions relating to the Funds and Accounts established by this Indenture and which shall at all times be subject to inspection by the Town and the Owner or Owners of not less than 10% in principal amount of any Bonds then Outstanding or their representatives duly authorized in writing.

Section 12.3. General.

The Town shall do and perform or cause to be done and performed all acts and things required to be done or performed by or on behalf of the Town under the provisions of this Indenture.

## ARTICLE XIII

### SPECIAL COVENANTS

Section 13.1. Further Assurances; Due Performance.

(a) At any and all times the Town will duly execute, acknowledge and deliver, or will cause to be done, executed and delivered, all and every such further acts, conveyances, transfers, and assurances in a manner as the Trustee shall reasonably require for better conveying, transferring, pledging, and confirming unto the Trustee, all and singular, the revenues, Funds, Accounts and properties constituting the Pledged Revenues, and the Trust Estate hereby transferred and pledged, or intended so to be transferred and pledged.

(b) The Town will duly and punctually keep, observe and perform each and every term, covenant and condition on its part to be kept, observed and performed, contained in this Indenture.



Section 13.2. Additional Obligations and Other Liens.

(a) The Town reserves the right, subject to the provisions contained in this Section 13.2, to issue Additional Obligations under other indentures, assessment ordinances, or similar agreements or other obligations that do not constitute or create a lien on any portion of the Trust Estate and are not payable from the Pledged Revenues.

(b) Other than Refunding Bonds issued to refund all or a portion of the Bonds, the Town will not create or voluntarily permit to be created any debt, lien or charge on the Trust Estate, and will not do or omit to do or suffer to be or omit to be done any matter or things whatsoever whereby the lien of this Indenture or the priority hereof might or could be lost or impaired.

(c) Additionally, the Town has reserved the right to issue bonds or other obligations secured by and payable from Pledged Revenues so long as such pledge is subordinate to the pledge of the Pledged Revenues securing payment of the Bonds.

(d) Notwithstanding anything to the contrary herein, no Refunding Bonds, Additional Obligations, or subordinate obligations described by Section 13.2(c) may be issued by the Town unless: (1) the principal (including sinking fund installments) of such Refunding Bonds, Additional Obligations or subordinate obligations are scheduled to mature on September 1 of the years in which principal is scheduled to mature, and (2) the interest on such Refunding Bonds, Additional Obligations, or subordinate obligations must be scheduled to be paid on March 1 and/or September 1 of the years in which interest is scheduled to be paid.

Section 13.3. Books of Record.

(a) The Town shall cause to be kept full and proper books of record and accounts, in which full, true and proper entries will be made of all dealing, business and affairs of the Town, which relate to the Pledged Revenues, the Pledged Funds, the Trust Estate and the Bonds.

(b) The Trustee shall have no responsibility with respect to the financial and other information received by it pursuant to this Section 13.3 except to receive and retain the same, subject to the Trustee's document retention policies, and to distribute the same in accordance with the provisions of this Indenture. Specifically, but without limitation, the Trustee shall have no duty to review such information, is not considered to have notice of the contents of such information or a default based on such contents, and has no duty to verify the accuracy of such information.

ARTICLE XIV

PAYMENT AND CANCELLATION OF THE BONDS AND SATISFACTION OF THE  
INDENTURE

Section 14.1. Trust Irrevocable.

The trust created by the terms and provisions of this Indenture is irrevocable until the Bonds secured hereby are fully paid or provision is made for their payment as provided in this Article.

Section 14.2.        Satisfaction of Indenture.

If the Town shall pay or cause to be paid, or there shall otherwise be paid to the Owners, principal of and interest on all of the Bonds, at the times and in the manner stipulated in this Indenture, and all amounts due and owing with respect to the Bonds have been paid or provided for, then the pledge of the Trust Estate and all covenants, agreements, and other obligations of the Town to the Owners of such Bonds, shall thereupon cease, terminate, and become void and be discharged and satisfied. In such event, the Trustee shall execute and deliver to the Town copies of all such documents as it may have evidencing that principal of and interest on all of the Bonds has been paid so that the Town may determine if the Indenture is satisfied; if so, the Trustee shall pay over or deliver all moneys held by it in the in Funds and Accounts held hereunder to the Person entitled to receive such amounts, or, if no Person is entitled to receive such amounts, then to the Town.

Section 14.3.        Bonds Deemed Paid.

All Outstanding Bonds shall, prior to the Stated Maturity or redemption date thereof be deemed to have been paid and to no longer be deemed Outstanding if (i) in case any such Bonds are to be redeemed on any date prior to their Stated Maturity, the Trustee shall have given notice of redemption on said date as provided herein, (ii) there shall have been deposited with the Trustee either moneys in an amount which shall be sufficient, or Defeasance Securities the principal of and the interest on which when due will provide moneys which, together with any moneys deposited with the Trustee for such purpose, shall be sufficient to pay when due the principal of and interest to become due on such Bonds on and prior to the redemption date or maturity date thereof, as the case may be, (iii) the Trustee shall have received a report by an independent certified public accountant selected by the Town verifying the sufficiency of the moneys and/or Defeasance Securities deposited with the Trustee to pay when due the principal of and interest to become due on such Bonds on and prior to the redemption date or maturity date thereof, as the case may be, and (iv) if the Bonds are then rated, the Trustee shall have received written confirmation from each rating agency then publishing a rating on the Bonds that such deposit will not result in the reduction or withdrawal of the rating on the Bonds. Neither Defeasance Securities nor moneys deposited with the Trustee pursuant to this Section nor principal or interest payments on any such Defeasance Securities shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the principal of and interest on the Bonds. Any cash received from such principal of and interest on such Defeasance Securities deposited with the Trustee, if not then needed for such purpose, shall, be reinvested in Defeasance Securities as directed in writing by the Town maturing at times and in amounts sufficient to pay when due the principal of and interest on the Bonds on and prior to such redemption date or maturity date thereof, as the case may be. Any payment for Defeasance Securities purchased for the purpose of reinvesting cash as aforesaid shall be made only against delivery of such Defeasance Securities.

ARTICLE XV

MISCELLANEOUS

Section 15.1.        Benefits of Indenture Limited to Parties.

Nothing in this Indenture, expressed or implied, is intended to give to any Person other than the Town, the Trustee and the Owners, any right, remedy, or claim under or by reason of this Indenture. Any covenants, stipulations, promises or agreements in this Indenture by and on behalf of the Town shall be for the sole and exclusive benefit of the Owners and the Trustee.

This Indenture and the exhibits hereto set forth the entire agreement and understanding of the parties related to this transaction and supersedes all prior agreements and understandings, oral or written.

Section 15.2.        Successor is Deemed Included in All References to Predecessor.

Whenever in this Indenture or any Supplemental Indenture either the Town or the Trustee is named or referred to, such reference shall be deemed to include the successors or assigns thereof, and all the covenants and agreements in this Indenture contained by or on behalf of the Town or the Trustee shall bind and inure to the benefit of the respective successors and assigns thereof whether so expressed or not.

Section 15.3.        Execution of Documents and Proof of Ownership by Owners.

Any request, declaration, or other instrument which this Indenture may require or permit to be executed by Owners may be in one or more instruments of similar tenor, and shall be executed by Owners in person or by their attorneys duly appointed in writing.

Except as otherwise herein expressly provided, the fact and date of the execution by any Owner or his attorney of such request, declaration, or other instrument, or of such writing appointing such attorney, may be proved by the certificate of any notary public or other officer authorized to take acknowledgments of deeds to be recorded in the state in which he purports to act, that the Person signing such request, declaration, or other instrument or writing acknowledged to him the execution thereof, or by an affidavit of a witness of such execution, duly sworn to before such notary public or other officer.

Except as otherwise herein expressly provided, the ownership of registered Bonds and the amount, maturity, number, and date of holding the same shall be proved by the Register.

Any request, declaration or other instrument or writing of the Owner of any Bond shall bind all future Owners of such Bond in respect of anything done or suffered to be done by the Town or the Trustee in good faith and in accordance therewith.

Section 15.4.        Waiver of Personal Liability.

No member, officer, agent, employee of the Town, nor any person designated by the Town Council to act on behalf of the Town shall be individually or personally liable for the payment of the principal of, or interest or any premium on, the Bonds; but nothing herein contained shall relieve any such member, officer, agent, or employee from the performance of any official duty provided by law.

Section 15.5.        Notices to and Demands on Town and Trustee.

(a) Except as otherwise expressly provided in this Indenture, all notices or other instruments required or permitted under this Indenture, including any Town Certificate, shall be in writing and shall be telexed, cabled, delivered by hand, mailed by first-class mail, postage prepaid, or transmitted by facsimile or e-mail and addressed as follows:

If to the Town:	Town of Little Elm, Texas
	100 West Eldorado Parkway
	Little Elm, Texas 75068

Attention: Chief Financial Officer

If to the Trustee  
or the Paying Agent/Registrar:

Wilmington Trust, National Association  
Attention: Regina Velasquez  
15950 N. Dallas Parkway, Suite 550  
Dallas, Texas 75248

Any such notice, demand, or request may also be transmitted to the appropriate party by telephone and shall be deemed to be properly given or made at the time of such transmission if, and only if, such transmission of notice shall be confirmed in writing and sent as specified above.

Any of such addresses may be changed at any time upon written notice of such change given to the other party by the party effecting the change. Notices and consents given by mail in accordance with this Section shall be deemed to have been given five Business Days after the date of dispatch; notices and consents given by any other means shall be deemed to have been given when received.

(b) The Trustee shall mail to each Owner of a Bond notice of (i) any substitution of the Trustee; or (ii) the redemption or defeasance of all Bonds Outstanding.

(c) The Trustee shall have the right to accept and act upon instructions, including funds transfer instructions ("Instructions") given pursuant to this Indenture and delivered using Electronic Means ("Electronic Means" means the following communications methods: e-mail, facsimile transmission, secure electronic transmission containing applicable authorization codes, passwords and/or authentication keys issued by the Trustee, or another method or system specified by the Trustee as available for use in connection with its services hereunder); provided, however, that the Town shall provide to the Trustee an incumbency certificate listing officers with the authority to provide such Instructions ("Authorized Officers") and containing specimen signatures of such Authorized Officers, which incumbency certificate shall be amended by the Town whenever a person is to be added or deleted from the listing. If the Town elects to give the Trustee Instructions using Electronic Means and the Trustee in its discretion elects to act upon such Instructions, the Trustee's understanding of such Instructions shall be deemed controlling. The Town understands and agrees that the Trustee cannot determine the identity of the actual sender of such Instructions and that the Trustee shall conclusively presume that directions that purport to have been sent by an Authorized Officer listed on the incumbency certificate provided to the Trustee have been sent by such Authorized Officer. The Town shall be responsible for ensuring that only Authorized Officers transmit such Instructions to the Trustee and the Town and all Authorized Officers are solely responsible to safeguard the use and confidentiality of applicable user and authorization codes, passwords and/or authentication keys upon receipt by the Town. The Trustee shall not be liable for any losses, costs or expenses arising directly or indirectly from the Trustee's reliance upon and compliance with such Instructions notwithstanding such directions conflict or are inconsistent with a subsequent written instruction. The Town agrees: (i) to assume all risks arising out of the use of Electronic Means to submit Instructions to the Trustee, including without limitation the risk of the Trustee acting on unauthorized Instructions, and the risk of interception and misuse by third parties; (ii) that it is fully informed of the protections and risks associated with the various methods of transmitting Instructions to the Trustee and that there may be more secure methods of transmitting Instructions than the method(s) selected by the Town; (iii) that the security procedures (if any) to be followed in connection with its transmission of Instructions

provide to it a commercially reasonable degree of protection in light of its particular needs and circumstances; and (iv) to notify the Trustee immediately upon learning of any compromise or unauthorized use of the security procedures.

Section 15.6. Partial Invalidity.

If any Section, paragraph, sentence, clause, or phrase of this Indenture shall for any reason be held illegal or unenforceable, such holding shall not affect the validity of the remaining portions of this Indenture. The Town hereby declares that it would have adopted this Indenture and each and every other Section, paragraph, sentence, clause, or phrase hereof and authorized the issue of the Bonds pursuant thereto irrespective of the fact that any one or more Sections, paragraphs, sentences, clauses, or phrases of this Indenture may be held illegal, invalid, or unenforceable.

Section 15.7. Applicable Laws.

This Indenture shall be governed by and enforced in accordance with the laws of the State of Texas applicable to contracts made and performed in the State of Texas. With respect to this Indenture and any conflicts arising therefrom, the parties hereby (i) irrevocably submit to the exclusive jurisdiction of any federal district or state district court with jurisdiction in Denton County, Texas, (ii) waive any objection to laying of venue in any such action or proceeding in such courts, and (iii) waive any objection that such courts are an inconvenient forum or do not have jurisdiction over any party. Each of the parties hereto hereby waives the right to trial by jury with respect to any litigation directly or indirectly arising out of, under or in connection with this Indenture.

Section 15.8. Payment on Business Day.

In any case where the date of the maturity of interest or of principal (and premium, if any) of the Bonds or the date fixed for redemption of any Bonds or the date any action is to be taken pursuant to this Indenture is other than a Business Day, the payment of interest or principal (and premium, if any) or the action need not be made on such date but may be made on the next succeeding day that is a Business Day with the same force and effect as if made on the date required and no interest shall accrue for the period from and after such date.

Section 15.9. Counterparts.

This Indenture may be executed in counterparts, each of which shall be deemed an original. The City and the Trustee agree that electronic signatures to this Indenture may be regarded as original signatures.

Section 15.10. No Boycott of Israel.

The Trustee hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not boycott Israel and, to the extent this Indenture is a contract for goods or services, will not boycott Israel during the term of this Indenture. The foregoing verification is made solely to enable the Town to comply with Section 2271.002, Texas Government Code, and to the extent such Section does not contravene applicable Federal law. As used in the foregoing verification, 'boycott Israel' means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or

entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes. As used in this Section, the Trustee understands 'affiliate' to mean an entity that controls, is controlled by, or is under common control with the Trustee within the meaning of SEC Rule 133(f), 17 C.F.R. § 230.133(f), and exists to make a profit.

Section 15.11. Iran, Sudan, and Foreign Terrorist Organizations.

The Trustee represents that neither it nor any of its parent company, wholly- or majority-owned subsidiaries, and other affiliates is a company identified on a list prepared and maintained by the Texas Comptroller of Public Accounts under Section 2252.153 or Section 2270.0201, Texas Government Code, and posted on any of the following pages of such officer's internet website: <https://comptroller.texas.gov/purchasing/docs/sudan-list.pdf>, <https://comptroller.texas.gov/purchasing/docs/iran-list.pdf>, or <https://comptroller.texas.gov/purchasing/docs/fto-list.pdf>. The foregoing representation is made solely to enable the Town to comply with Section 2252.152, Texas Government Code, and to the extent such Section does not contravene applicable Federal law and excludes the Trustee and each of its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, that the United States government has affirmatively declared to be excluded from its federal sanctions regime relating to Sudan or Iran or any federal sanctions regime relating to a foreign terrorist organization. As used in this Section, the Trustee understands 'affiliate' to mean an entity that controls, is controlled by, or is under common control with the Trustee within the meaning of SEC Rule 133(f), 17 C.F.R. § 230.133(f), and exists to make a profit.

*[Remainder of Page Intentionally Left Blank]*

IN WITNESS WHEREOF, the Town and the Trustee have caused this Indenture of Trust to be executed all as of the date hereof.

TOWN OF LITTLE ELM, TEXAS

By: \_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
Town Secretary

[TOWN SEAL]

WILMINGTON TRUST, NATIONAL ASSOCIATION,  
as Trustee

By: \_\_\_\_\_  
Authorized Officer

**EXHIBIT A**

(a) Form of Bond.

NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE STATE OF TEXAS, THE TOWN, OR ANY OTHER POLITICAL CORPORATION, SUBDIVISION OR AGENCY THEREOF, IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF OR INTEREST ON THIS BOND.

REGISTERED  
No. \_\_\_\_\_

REGISTERED  
\$ \_\_\_\_\_

United States of America  
State of Texas

TOWN OF LITTLE ELM, TEXAS  
SPECIAL ASSESSMENT REVENUE BOND, SERIES 2022  
(SPIRITAS EAST PUBLIC IMPROVEMENT DISTRICT PROJECT)

<u>INTEREST RATE</u>	<u>MATURITY DATE</u>	<u>DATE OF DELIVERY</u>	<u>CUSIP NUMBER</u>
_____ %	September 1, 20____	_____	_____

The Town of Little Elm, Texas (the "Town"), for value received, hereby promises to pay, solely from the Trust Estate, to

\_\_\_\_\_

or registered assigns, on the Maturity Date, as specified above, the sum of

\_\_\_\_\_ DOLLARS

unless this Bond shall have been sooner called for redemption and the payment of the principal hereof shall have been paid or provision for such payment shall have been made, and to pay interest on the unpaid principal amount hereof from the later of the Date of Delivery, as specified above, or the most recent Interest Payment Date to which interest has been paid or provided for until such principal amount shall have been paid or provided for, at the per annum rate of interest specified above, computed on the basis of a 360-day year of twelve 30-day months, such interest to be paid semiannually on March 1 and September 1 of each year, commencing, September 1, 2022, until maturity or prior redemption.

Capitalized terms appearing herein that are defined terms in the Indenture defined below, have the meanings assigned to them in the Indenture. Reference is made to the Indenture for such definitions and for all other purposes.

The principal of this Bond shall be payable without exchange or collection charges in lawful money of the United States of America upon presentation and surrender of this Bond at the corporate trust office in Wilmington, Delaware (the "Designated Payment/Transfer Office"), of Wilmington Trust, National Association, as trustee and paying agent/registrar (the "Trustee", which term includes any successor trustee under the Indenture), or, with respect to a successor



trustee and paying agent/registrar, at the Designated Payment/Transfer Office of such successor. Interest on this Bond is payable by check dated as of the Interest Payment Date, mailed by the Trustee to the registered owner at the address shown on the registration books kept by the Trustee or by such other customary banking arrangements acceptable to the Trustee, requested by, and at the risk and expense of, the Person to whom interest is to be paid. For the purpose of the payment of interest on this Bond, the registered owner shall be the Person in whose name this Bond is registered at the close of business on the "Record Date," which shall be the fifteenth calendar day of the month next preceding such Interest Payment Date; provided, however, that in the event of nonpayment of interest on a scheduled Interest Payment Date, and for 30 days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Trustee, if and when funds for the payment of such interest have been received from the Town. Notice of the Special Record Date and of the scheduled payment date of the past due interest (the "Special Payment Date," which shall be 15 days after the Special Record Date) shall be sent at least five Business Days prior to the Special Record Date by United States mail, first-class, postage prepaid, to the address of each Owner of a Bond appearing on the books of the Trustee at the close of business on the last Business Day preceding the date of mailing such notice.

If a date for the payment of the principal of or interest on the Bonds is a Saturday, Sunday, legal holiday, or a day on which banking institutions in the city in which the Designated Payment/Transfer Office is located are authorized by law or executive order to close, then the date for such payment shall be the next succeeding Business Day, and payment on such date shall have the same force and effect as if made on the original date payment was due.

This Bond is one of a duly authorized issue of assessment revenue bonds of the Town having the designation specified in its title (herein referred to as the "Bonds"), dated January 1, 2022 and issued in the aggregate principal amount of \$\_\_\_\_\_ and issued, with the limitations described herein, pursuant to an Indenture of Trust, dated as of January 1, 2022 (the "Indenture"), by and between the Town and the Trustee, to which Indenture reference is hereby made for a description of the amounts thereby pledged and assigned, the nature and extent of the lien and security, the respective rights thereunder to the Owners of the Bonds, the Trustee, and the Town, and the terms upon which the Bonds are, and are to be, authenticated and delivered and by this reference to the terms of which each Owner of this Bond hereby consents. All Bonds issued under the Indenture are equally and ratably secured by the amounts thereby pledged and assigned. The Bonds are being issued for the purpose of (i) paying a portion of the Actual Costs of the Authorized Improvements, (ii) paying a portion of the interest on the Bonds during and after the period of acquisition and construction of the Authorized Improvements, (iii) funding a reserve fund for payment of principal and interest on the Bonds, (iv) paying a portion of the costs incidental to the organization and administration of the District, and (v) paying costs of issuance of the Bonds.

The Bonds are limited obligations of the Town payable solely from the Trust Estate as defined in the Indenture. Reference is hereby made to the Indenture, copies of which are on file with and available upon request from the Trustee, for the provisions, among others, with respect to the nature and extent of the duties and obligations of the Town, the Trustee and the Owners. The Owner of this Bond, by the acceptance hereof, is deemed to have agreed and consented to the terms, conditions and provisions of the Indenture.

Notwithstanding any provision hereof, the Indenture may be released and the obligation of the Town to make money available to pay this Bond may be defeased by the deposit of money and/or certain direct or indirect Defeasance Securities sufficient for such purpose as described in the Indenture.

The Bonds are issuable as fully registered bonds only in Authorized Denominations, subject to the provisions of the Indenture authorizing redemption in denominations of \$100,000 and any multiple of \$1,000 in excess thereof.

The Bonds are subject to sinking fund redemption prior to their respective maturities and will be redeemed by the Town in part at a price equal to the principal amount thereof plus accrued and unpaid interest thereon to the date set for redemption from moneys available for such purpose in the Redemption Fund pursuant to Article VI of the Indenture, on the dates and in the Sinking Fund Installment amounts as set forth in the following schedule:

<b><u>Term Bonds Maturing September 1, 20</u></b>	
<u>Redemption Date</u>	<u>Sinking Fund Installment (\$)</u>

---

\* maturity

At least 45 days prior to each mandatory sinking fund redemption date, and subject to any prior reduction authorized by the Indenture, the Trustee shall select for redemption, pursuant to the provisions of the Indenture, a principal amount of Bonds of such maturity equal to the Sinking Fund Installments of such Bonds to be redeemed, shall call such Bonds for redemption on such scheduled mandatory sinking fund redemption date, and shall give notice of such redemption, as provided in the Indenture.

The principal amount of Bonds required to be redeemed on any mandatory sinking fund redemption date shall be reduced, at the option of the Town, by the principal amount of any Bonds of such maturity which, at least 45 days prior to the mandatory sinking fund redemption

date shall have been acquired by the Town at a price not exceeding the principal amount of such Bonds plus accrued and unpaid interest to the date of purchase thereof, and delivered to the Trustee for cancellation.

The principal amount of Bonds required to be redeemed on any mandatory sinking fund redemption date shall be reduced on a pro rata basis among Sinking Fund Installments by the principal amount of any Bonds which, at least 45 days prior to the sinking fund redemption date, shall have been redeemed pursuant to the optional redemption or extraordinary optional redemption provisions hereof and not previously credited to a mandatory sinking fund redemption.

The Town reserves the right and option to redeem Bonds maturing on or after September 1, 20\_\_, before their respective scheduled maturity date, in whole or in part, on any date on or after September 1, 20\_\_, at the Redemption Price.

Bonds are subject to extraordinary optional redemption prior to maturity in whole or in part, on the first day of any month, at a redemption price equal to 100% of the principal amount of the Bonds called for redemption, plus accrued and unpaid interest to the date fixed for redemption, pursuant to the provisions of the Indenture, from amounts on deposit in the Redemption Fund as a result of Prepayments, other transfers to the Redemption Fund pursuant to the Indenture, or as a result of unexpended amounts transferred from the Project Fund as provided in the Indenture.

The Trustee shall give notice of any redemption of Bonds by sending notice by United States mail, first-class, postage prepaid, not less than 30 days before the date fixed for redemption, to the Owner of each Bond (or part thereof) to be redeemed, at the address shown on the Register. The notice shall state the redemption date, the redemption price, the place at which the Bonds are to be surrendered for payment, and, if less than all the Bonds Outstanding are to be redeemed, an identification of the Bonds or portions thereof to be redeemed. Any notice so given shall be conclusively presumed to have been duly given, whether or not the Owner receives such notice.

With respect to any optional redemption of the Bonds, unless the Trustee has received funds sufficient to pay the redemption price of the Bonds to be redeemed before giving of a notice of redemption, the notice may state the Town may condition redemption on the receipt of such funds by the Trustee on or before the date fixed for the redemption, or on the satisfaction of any other prerequisites set forth in the notice of redemption. If a conditional notice of redemption is given and such prerequisites to the redemption are not satisfied and sufficient funds are not received, the notice shall be of no force and effect, the Town shall not redeem the Bonds and the Trustee shall give notice, in the manner in which the notice of redemption was given, that the Bonds have not been redeemed.

The Indenture permits, with certain exceptions as therein provided, the amendment thereof and the modification of the rights and obligations of the Town and the rights of the Owners of the Bonds under the Indenture at any time Outstanding affected by such modification. The Indenture also contains provisions permitting the Owners of specified percentages in aggregate principal amount of the Bonds at the time Outstanding, on behalf of the Owners of all the Bonds, to waive compliance by the Town with certain past defaults under the Bond Ordinance or the Indenture and their consequences. Any such consent or waiver by the Owner of this Bond or any predecessor Bond evidencing the same debt shall be conclusive and binding upon such Owner and upon all future Owners thereof and of any Bond issued upon the transfer thereof or in exchange thereof or in lieu thereof, whether or not notation of such consent or waiver is made upon this Bond.

As provided in the Indenture, this Bond is transferable upon surrender of this Bond for transfer at the Designated Payment/Transfer Office, with such endorsement or other evidence of transfer as is acceptable to the Trustee, and upon delivery to the Trustee of such certifications and/or opinion of counsel as may be required under the Indenture for the transfer of this Bond. Upon satisfaction of such requirements, one or more new fully registered Bonds of the same Stated Maturity, of Authorized Denominations, bearing the same rate of interest, and for the same aggregate principal amount will be issued to the designated transferee or transferees.

Neither the Town nor the Trustee shall be required to issue, transfer or exchange any Bond called for redemption where such redemption is scheduled to occur within 45 calendar days of the transfer or exchange date; provided, however, such limitation shall not be applicable to an exchange by the registered owner of the uncalled principal balance of a Bond redeemed in part.

The Town, the Trustee, and any other Person may treat the Person in whose name this Bond is registered as the owner hereof for the purpose of receiving payment as herein provided (except interest shall be paid to the Person in whose name this Bond is registered on the Record Date or Special Record Date, as applicable) and for all other purposes, whether or not this Bond be overdue, and neither the Town nor the Trustee shall be affected by notice to the contrary.

The Town has reserved the right to issue Additional Obligations on the terms and conditions specified in the Indenture.

NEITHER THE FULL FAITH AND CREDIT NOR THE GENERAL TAXING POWER OF THE TOWN OF LITTLE ELM, TEXAS, THE STATE OF TEXAS, OR ANY POLITICAL SUBDIVISION THEREOF, IS PLEDGED TO THE PAYMENT OF THE BONDS.

IT IS HEREBY CERTIFIED AND RECITED that the issuance of this Bond and the series of which it is a part is duly authorized by law; that all acts, conditions and things required to be done precedent to and in the issuance of the Bonds have been properly done and performed and have happened in regular and due time, form and manner, as required by law; and that the total indebtedness of the Town, including the Bonds, does not exceed any Constitutional or statutory limitation.

IN WITNESS WHEREOF, the Town Council of the Town has caused this Bond to be executed under the official seal of the Town.

---

Mayor, Town of Little Elm, Texas

---

Town Secretary, Town of Little Elm, Texas

[Town Seal]

(b) Form of Comptroller's Registration Certificate.

The following Registration Certificate of Comptroller of Public Accounts shall appear on the Initial Bond:

REGISTRATION CERTIFICATE OF  
COMPTROLLER OF PUBLIC ACCOUNTS

OFFICE OF THE COMPTROLLER §  
OF PUBLIC ACCOUNTS §  
§  
THE STATE OF TEXAS §

REGISTER NO. \_\_\_\_\_

I HEREBY CERTIFY THAT there is on file and of record in my office a certificate to the effect that the Attorney General of the State of Texas has approved this Bond, and that this Bond has been registered this day by me.

WITNESS MY SIGNATURE AND SEAL OF OFFICE this \_\_\_\_\_

\_\_\_\_\_  
Comptroller of Public Accounts  
of the State of Texas

[SEAL]

(c) Form of Certificate of Trustee.

CERTIFICATE OF TRUSTEE

It is hereby certified that this is one of the Bonds of the series of Bonds referred to in the within mentioned Indenture.

WILMINGTON TRUST,  
NATIONAL ASSOCIATION,  
Dallas, Texas, as Trustee

DATED: \_\_\_\_\_

By: \_\_\_\_\_  
Authorized Signatory

(d) Form of Assignment.

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned hereby sells, assigns, and transfers unto (print or typewrite name, address and zip code of transferee):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(Social Security or other identifying number: \_\_\_\_\_) the within Bond and all rights hereunder and hereby irrevocably constitutes and appoints

\_\_\_\_\_ attorney to transfer the within Bond on the books kept for registration hereof, with full power of substitution in the premises.

Date: \_\_\_\_\_

Signature Guaranteed By:

\_\_\_\_\_  
\_\_\_\_\_

NOTICE: The signature on this Assignment must correspond with the name of the registered owner as it appears on the face of the within Bond in every particular and must be guaranteed in a manner acceptable to the Trustee.

Authorized Signatory

(e) The Initial Bond shall be in the form set forth in paragraphs (a) through (d) of this Exhibit A, except for the following alterations:

(i) immediately under the name of the Bond the heading "INTEREST RATE" and "MATURITY DATE" shall both be completed with the expression "As Shown Below," and the reference to the "CUSIP NUMBER" shall be deleted;

(ii) in the first paragraph of the Bond, the words "on the Maturity Date specified above, the sum of \_\_\_\_\_ DOLLARS" shall be deleted and the following will be inserted: "on September 1 in each of the years, in the principal installments and bearing interest at the per annum rates set forth in the following schedule:

<u>Year</u>	<u>Principal Amount (\$)</u>	<u>Interest Rate (%)</u>
-------------	----------------------------------	------------------------------

(Information to be inserted from Section 3.2(c) hereof); and

(iii) the Initial Bond shall be numbered T-1.

**EXHIBIT B**  
**BOND PURCHASE AGREEMENT**

**\$(PAR AMOUNT)**  
**TOWN OF LITTLE ELM, TEXAS,**  
**SPECIAL ASSESSMENT REVENUE BONDS, SERIES 2022**  
**(SPIRITAS EAST PUBLIC IMPROVEMENT DISTRICT PROJECT)**

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**BOND PURCHASE AGREEMENT**

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December 21, 2021

Town of Little Elm  
100 W. Eldorado Parkway  
Little Elm, Texas 75068

Ladies and Gentlemen:

The undersigned, FMSbonds, Inc. (the “Underwriter”), offers to enter into this Bond Purchase Agreement (this “Agreement”) with the Town of Little Elm, Texas (the “Town”), which will be binding upon the Town and the Underwriter upon the acceptance of this Agreement by the Town. This offer is made subject to its acceptance by the Town by execution of this Agreement and its delivery to the Underwriter on or before 10:00 p.m., Central Time, on the date hereof and, if not so accepted, will be subject to withdrawal by the Underwriter upon written notice delivered to the Town at any time prior to the acceptance hereof by the Town. All capitalized terms not otherwise defined herein shall have the meanings given to such terms in the Indenture (defined herein) between the Town and Wilmington Trust, National Association, as trustee (the “Trustee”), authorizing the issuance of the Bonds (defined herein), and in the Limited Offering Memorandum (defined herein).

1. Purchase and Sale of Bonds. Upon the terms and conditions and upon the basis of representations, warranties, and agreements hereinafter set forth, the Underwriter hereby agrees to purchase from the Town, and the Town hereby agrees to sell to the Underwriter, all (but not less than all) of the \$(PAR AMOUNT) aggregate principal amount of the “Town of Little Elm, Texas, Special Assessment Revenue Bonds, Series 2022 (Spiritas East Public Improvement District Project)” (the “Bonds”), at a purchase price of \$\_\_\_\_\_ (representing the aggregate principal amount of the Bonds less an Underwriter’s discount of \$\_\_\_\_\_).

Inasmuch as this purchase and sale represents a negotiated transaction, the Town understands, and hereby confirms, that the Underwriter is not acting as a municipal advisor or fiduciary of the Town (including, without limitation, a Municipal Advisor (as such term is defined in Section 975(e) of the Dodd Frank Wall Street Reform and Consumer Protection Act)), but rather is acting solely in its capacity as Underwriter for its own account. The Town acknowledges and agrees that (i) the purchase and sale of the Bonds pursuant to this Agreement is an arm’s length commercial transaction between the Town and the Underwriter and the Underwriter has financial and other interests that differ from any other party to this Agreement, (ii) in connection therewith



and with the discussions, undertakings, and procedures leading up to the consummation of this transaction, the Underwriter is and has been acting solely as a principal and is not acting as the agent, municipal advisor, financial advisor, or fiduciary of the Town, (iii) the Underwriter has not assumed an advisory or fiduciary responsibility in favor of the Town with respect to the offering described herein or the discussions, undertakings, and procedures leading thereto (regardless of whether the Underwriter has provided other services or is currently providing other services to the Town on other matters) and the Underwriter has no obligation to the Town with respect to the offering described herein except the obligations expressly set forth in this Agreement, (iv) the Town has consulted its own legal, financial and other advisors to the extent it has deemed appropriate, (v) the Underwriter has financial and other interests that differ from those of the Town, and (vi) the Underwriter has provided to the Town prior disclosures under Rule G-17 of the Municipal Securities Rulemaking Board (“MSRB”), which have been received by the Town. The Town further acknowledges and agrees that following the issuance and delivery of the Bonds, the Underwriter has indicated that it may have periodic discussions with the Town regarding the expenditure of Bond proceeds and the construction of the Authorized Improvements financed with the Bonds and, in connection with such discussions, the Underwriter shall be acting solely as a principal and will not be acting as the agent or fiduciary of, and will not be assuming an advisory or fiduciary responsibility in favor of, the Town.

The Bonds shall be dated January 1, 2022 and shall have the maturities and redemption features, if any, and bear interest at the rates per annum shown on Schedule I hereto. Payment for and delivery of the Bonds, and the other actions described herein, shall take place on January 14, 2022 (or such other date as may be agreed to by the Town and the Underwriter) (the “Closing Date”).

2. Authorization Instruments and Law. The Bonds were authorized by an ordinance enacted by the Town Council of the Town (the “Town Council”) on December 21, 2021 (the “Bond Ordinance”) and shall be issued pursuant to the provisions of Subchapter A of Chapter 372, Texas Local Government Code, as amended (the “Act”), and the Indenture of Trust, dated as of January 1, 2022, between the Town and the Trustee, authorizing the issuance of the Bonds (the “Indenture”). The Bonds shall be substantially in the form described in, and shall be secured under the provisions of, the Indenture.

The Bonds and interest thereon shall be secured by the proceeds of special assessments (the “Assessments”) levied on the assessable parcels within the Spiritas East Public Improvement District (the “District”). The District was established by a resolution enacted by the Town Council on November 16, 2021 (the “Creation Resolution”) in accordance with the Act. A Service and Assessment Plan (the “Service and Assessment Plan”) which sets forth the costs of the Authorized Improvements and the method of payment of the Assessments levied against assessable property located within the District, was approved pursuant to an ordinance adopted by the Town Council on December 21, 2021 (the “Assessment Ordinance” and, together with the Creation Resolution, the Indenture and the Bond Ordinance, the “Authorizing Documents”). The Bonds shall be further secured by certain applicable funds and accounts created under the Indenture.

The Bonds shall be as described in Schedule I, the Indenture, and the Limited Offering Memorandum (defined herein). The proceeds of the Bonds shall be used for (i) paying a portion of the costs of the Authorized Improvements, (ii) paying a portion of the interest on the Bonds

during and after the period of acquisition and construction of the Authorized Improvements, (iii) funding a reserve fund for the payment of principal of and interest on the Bonds, (iv) paying a portion of the costs incidental to the organization and administration of the District and (v) paying the cost of issuance of the Bonds.

3. Limited Public Offering. The Underwriter agrees to make a bona fide limited public offering of all of the Bonds in accordance with Section 11 hereof. On or before the third (3<sup>rd</sup>) business day prior to the Closing Date, the Underwriter shall execute and deliver to Bond Counsel the Issue Price Certificate (as defined herein), in substantially the form attached hereto as Appendix B.

4. Limited Offering Memorandum.

(a) Delivery of Limited Offering Memorandum. The Town previously has delivered, or caused to be delivered, to the Underwriter the Preliminary Limited Offering Memorandum for the Bonds dated [PLOM DATE], 2021 (the “Preliminary Limited Offering Memorandum”), in a “designated electronic format,” as defined in MSRB Rule G-32 (“Rule G-32”). The Town will prepare, or cause to be prepared, a final Limited Offering Memorandum relating to the Bonds (the “Limited Offering Memorandum”) which will be (i) dated the date of this Agreement, (ii) complete within the meaning of the United States Securities and Exchange Commission’s Rule 15c2-12, as amended (“Rule 15c2-12”), (iii) in a “designated electronic format,” and (iv) substantially in the form of the most recent version of the Preliminary Limited Offering Memorandum provided to the Underwriter before the execution hereof. The Limited Offering Memorandum, including the cover page thereto, all exhibits, schedules, appendices, maps, charts, pictures, diagrams, reports, and statements included or incorporated therein or attached thereto, and all amendments and supplements thereto that may be authorized for use with respect to the Bonds are collectively referred to herein as the “Limited Offering Memorandum.” Until the Limited Offering Memorandum has been prepared and is available for distribution, the Town shall provide to the Underwriter sufficient quantities (which may be in electronic format) of the Preliminary Limited Offering Memorandum as the Underwriter reasonably deems necessary to satisfy the obligation of the Underwriter under Rule 15c2-12 with respect to distribution to each potential customer, upon request, of a copy of the Preliminary Limited Offering Memorandum.

(b) Preliminary Limited Offering Memorandum Deemed Final. The Preliminary Limited Offering Memorandum has been prepared for use by the Underwriter in connection with the offering, sale, and distribution of the Bonds. The Town hereby represents and warrants that the Preliminary Limited Offering Memorandum has been deemed “final” by the Town as of its date, except for the omission of such information which is dependent upon the final pricing of the Bonds for completion, all as permitted to be excluded by Section (b)(1) of Rule 15c2-12.

(c) Use of Limited Offering Memorandum in Offering and Sale. The Town hereby authorizes the Limited Offering Memorandum and the information therein contained to be used by the Underwriter in connection with the offering and the sale of the Bonds. The Town consents to the use by the Underwriter prior to the date hereof of the

Preliminary Limited Offering Memorandum in connection with the offering of the Bonds. The Town shall provide, or cause to be provided, to the Underwriter as soon as practicable after the date of the Town's acceptance of this Agreement (but, in any event, not later than the earlier of the Closing Date or seven (7) business days after the Town's acceptance of this Agreement) copies of the Limited Offering Memorandum which is complete as of the date of its delivery to the Underwriter. The Town shall provide the Limited Offering Memorandum, or cause the Limited Offering Memorandum to be provided, (i) in a "designated electronic format" consistent with the requirements of Rule G-32 and (ii) in a printed format in such quantity as the Underwriter shall reasonably request in order for the Underwriter to comply with Section (b)(4) of Rule 15c2-12 and the rules of the MSRB.

(d) Updating of Limited Offering Memorandum. If, after the date of this Agreement, up to and including the date the Underwriter is no longer required to provide a Limited Offering Memorandum to potential customers who request the same pursuant to Rule 15c2-12 (the earlier of (i) ninety (90) days from the "end of the underwriting period" (as defined in Rule 15c2-12) and (ii) the time when the Limited Offering Memorandum is available to any person from the MSRB, but in no case less than the 25th day after the "end of the underwriting period" for the Bonds), the Town becomes aware of any fact or event which might or would cause the Limited Offering Memorandum, as then supplemented or amended, to contain any untrue statement of a material fact or to omit to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading, or if it is necessary to amend or supplement the Limited Offering Memorandum to comply with law, the Town will notify the Underwriter (and for the purposes of this clause provide the Underwriter with such information as it may from time to time request), and if, in the reasonable judgment of the Underwriter, such fact or event requires preparation and publication of a supplement or amendment to the Limited Offering Memorandum, the Town will forthwith prepare and furnish, at no expense to the Underwriter (in a form and manner approved by the Underwriter), either an amendment or a supplement to the Limited Offering Memorandum so that the statements therein as so amended and supplemented will not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading or so that the Limited Offering Memorandum will comply with law; provided, however, that for all purposes of this Agreement and any certificate delivered by the Town in accordance herewith, (i) the Town makes no representations with respect to the descriptions in the Preliminary Limited Offering Memorandum or the Limited Offering Memorandum of The Depository Trust Company, New York, New York ("DTC"), or its book-entry-only system, and (ii) the Town makes no representation with respect to the information in the Preliminary Limited Offering Memorandum or the Limited Offering Memorandum under the captions and subcaptions "PLAN OF FINANCE — Development Plan and Plan of Finance," "BOOK-ENTRY ONLY SYSTEM," "THE AUTHORIZED IMPROVEMENTS," "THE DEVELOPMENT," "THE DEVELOPMENT AGREEMENT," "THE DEVELOPER," "BONDHOLDERS' RISKS" (only as it pertains to the Developer, the Authorized Improvements and the Development), "THE ADMINISTRATOR," "LEGAL MATTERS — Litigation — The Developer," "CONTINUING DISCLOSURE — The Developer", "UNDERWRITING," and "INFORMATION RELATING TO THE TRUSTEE" (collectively, the "Non-Town

Disclosures”). If such notification shall be subsequent to the Closing Date, the Town, at no expense to the Underwriter, shall furnish such legal opinions, certificates, instruments, and other documents as the Underwriter may reasonably deem necessary to evidence the truth and accuracy of such supplement or amendment to the Limited Offering Memorandum. The Town shall provide any such amendment or supplement, or cause any such amendment or supplement to be provided, (i) in a “designated electronic format” consistent with the requirements of Rule G-32 and (ii) in a printed format in such quantity as the Underwriter shall reasonably request in order for the Underwriter to comply with Section (b)(4) of Rule 15c2-12 and the rules of the MSRB.

(e) Filing with MSRB. The Underwriter hereby agrees to timely file the Limited Offering Memorandum with the MSRB through its Electronic Municipal Market Access (“EMMA”) system within one business day after receipt but no later than the Closing Date. Unless otherwise notified in writing by the Underwriter, the Town can assume that the “end of the underwriting period” for purposes of Rule 15c2-12 is the Closing Date.

(f) Limited Offering. The Underwriter hereby represents, warrants and covenants that the Bonds were initially sold pursuant to a limited offering. The Bonds were sold to not more than thirty-five persons that qualify as “Accredited Investors” (as defined in Rule 501 of Regulation D under the Securities Act (as defined herein)) or “Qualified Institutional Buyers” (within the meaning of Rule 144A under the Securities Act).

5. Town Representations, Warranties and Covenants. The Town represents, warrants and covenants that:

(a) Due Organization, Existence and Authority. The Town is a political subdivision of the State of Texas (the “State”), and has, and at the Closing Date will have, full legal right, power and authority:

(i) to enter into:

(1) this Agreement;

(2) the Indenture;

(3) the “Spiritas East Development Agreement” between the Town and Centurion American Acquisitions, LLC, a Texas limited liability company, effective as of November 16, 2021 (the “Development Agreement”), as assigned to MM Little Elm 43, LLC, a Texas limited liability company (the “Developer”) pursuant to **[ASSIGNMENT DOCUMENT]** between Centurion American Acquisitions, LLC and the Developer (the “Development Agreement Assignment”);

(4) the “Spiritas East Public Improvement District Construction, Funding, and Acquisition Agreement” between the Developer and the Town dated as of December 21, 2021 (the “CFA Agreement”),

(5) the “Continuing Disclosure Agreement of the Issuer” with respect to the Bonds, dated as of January 1, 2022 (the “Town Continuing Disclosure Agreement”), executed and delivered by the Town, MuniCap, Inc., as Administrator and MuniCap, Inc., as Dissemination Agent; and

(6) the “Spiritas East Public Improvement District Landowner Agreement” effective as of December 21, 2021 executed by the Town and the Developer (the “Landowner Agreement”);

(ii) to issue, sell, and deliver the Bonds to the Underwriter as provided herein; and

(iii) to carry out and consummate the transactions on its part described in (1) the Authorizing Documents, (2) this Agreement, (3) the Development Agreement, (4) the CFA Agreement, (5) the Town Continuing Disclosure Agreement, (6) the Landowner Agreement, (7) the Limited Offering Memorandum, and (8) any other documents and certificates described in any of the foregoing (the documents described by subclauses (1) through (7) being referred to collectively herein as the “Town Documents”).

(b) Due Authorization and Approval of Town. By all necessary official action of the Town, the Town has duly authorized and approved the adoption or execution and delivery by the Town of, and the performance by the Town of the obligations on its part contained in, the Town Documents and, as of the date hereof, such authorizations and approvals are in full force and effect and have not been amended, modified or rescinded, except as may have been approved by the Underwriter. When validly executed and delivered by the other parties thereto, the Town Documents will constitute the legally valid and binding obligations of the Town enforceable upon the Town in accordance with their respective terms, except insofar as enforcement may be limited by principles of governmental immunity, bankruptcy, insolvency, reorganization, moratorium, or similar laws or equitable principles relating to or affecting creditors’ rights generally. The Town has complied, and will at the Closing (as defined herein) be in compliance, in all material respects, with the obligations on its part to be performed on or prior to the Closing Date under the Town Documents.

(c) Due Authorization for Issuance of the Bonds. The Town has duly authorized the issuance and sale of the Bonds pursuant to the Bond Ordinance, the Indenture, and the Act. The Town has, and at the Closing Date will have, full legal right, power and authority (i) to enter into, execute, deliver, and perform its obligations under this Agreement and the other Town Documents, (ii) to issue, sell and, deliver the Bonds to the Underwriter pursuant to the Indenture, the Bond Ordinance, the Act, and as provided herein, and (iii) to carry out, give effect to and consummate the transactions on the part of the Town described by the Town Documents and the Bond Ordinance.

(d) No Breach or Default. As of the time of acceptance hereof, and to its knowledge, the Town is not, and as of the Closing Date the Town will not be, in breach of or in default in any material respect under any applicable constitutional provision, law or

administrative rule or regulation of the State or the United States, or any applicable judgment or decree or any trust agreement, loan agreement, bond, note, resolution, ordinance, agreement or other instrument related to the Bonds and to which the Town is a party or is otherwise subject, and no event has occurred and is continuing which, with the passage of time or the giving of notice, or both, would constitute a default or event of default under any such instrument which breach, default or event could have a material adverse effect on the Town's ability to perform its obligations under the Bonds or the Town Documents; and, as of such times, the authorization, execution and delivery of the Bonds and the Town Documents and compliance by the Town with obligations on its part to be performed in each of such agreements or instruments does not and will not conflict with or constitute a breach of or default under any applicable constitutional provision, law or administrative rule or regulation of the State or the United States, or any applicable judgment, decree, license, permit, trust agreement, loan agreement, bond, note, resolution, ordinance, agreement or other instrument to which the Town (or any of its officers in their respective capacities as such) is subject, or by which it or any of its properties are bound, nor will any such authorization, execution, delivery or compliance result in the creation or imposition of any lien, charge or other security interest or encumbrance of any nature whatsoever upon any of its assets or properties or under the terms of any such law, regulation or instrument, except as may be permitted by the Town Documents.

(e) No Litigation. At the time of acceptance hereof there is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, government agency, public board or body (collectively and individually, an "Action") pending against the Town with respect to which the Town has been served with process, nor to the knowledge of the Town is any Action threatened against the Town, in which any such Action (i) in any way questions the existence of the Town or the rights of the members of the Town Council to hold their respective positions, (ii) in any way questions the formation or existence of the District, (iii) affects, contests or seeks to prohibit, restrain or enjoin the issuance or delivery of any of the Bonds, or the payment or collection of any amounts pledged or to be pledged to pay the principal of and interest on the Bonds, or in any way contests or affects the validity of the Town Documents or the consummation of the transactions on the part of the Town described therein, or contests the exclusion of the interest on the Bonds from federal income taxation, or (iv) which may result in any material adverse change in the financial condition of the Town; and, as of the time of acceptance hereof, to the Town's knowledge, there is no basis for any action, suit, proceeding, inquiry, or investigation of the nature described in clauses (i) through (iv) of this sentence.

(f) Bonds Issued Pursuant to Indenture. The Town represents that the Bonds, when issued, executed, and delivered in accordance with the Indenture and sold to the Underwriter as provided herein, will be validly issued and outstanding obligations of the Town subject to the terms of the Indenture, entitled to the benefits of the Indenture and the security of the pledge of the proceeds of the levy of the Assessments received by the Town, all to the extent provided for in the Indenture. The Indenture creates a valid pledge of the monies in certain funds and accounts established pursuant to the Indenture to the extent provided for in the Indenture, including the investments thereof, subject in all cases to the provisions of the Indenture permitting the application thereof for the purposes and on the terms and conditions set forth therein.

(g) Assessments. The Assessments constituting the security for the Bonds have been levied by the Town in accordance with the Act on those parcels of land identified in the Assessment Roll (as defined in the Service and Assessment Plan). According to the Act, such Assessments constitute a valid and legally binding first and prior lien against the properties assessed, superior to all other liens and claims, except liens or claims for State, county, school district, or municipality ad valorem taxes.

(h) Consents and Approvals. All authorizations, approvals, licenses, permits, consents, elections, and orders of or filings with any governmental authority, legislative body, board, agency, or commission having jurisdiction in the matters which are required by the Closing Date for the due authorization of, which would constitute a condition precedent to or the absence of which would adversely affect the due performance by the Town of, its obligations in connection with the Town Documents have been duly obtained or made and are in full force and effect, except the approval of the Bonds by the Attorney General of the State, registration of the Bonds by the Comptroller of Public Accounts of the State, and the approvals, consents and orders as may be required under Blue Sky or securities laws of any jurisdiction.

(i) Public Debt. Prior to the Closing, the Town will not offer or issue any bonds, notes or other obligations for borrowed money or incur any material liabilities, direct or contingent, payable from or secured by a pledge of the Assessments which secure the Bonds without the prior approval of the Underwriter.

(j) Preliminary Limited Offering Memorandum. The information contained in the Preliminary Limited Offering Memorandum is true and correct in all material respects, and such information does not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided, however, that the Town makes no representations with respect to the Non-Town Disclosures.

(k) Limited Offering Memorandum. At the time of the Town's acceptance hereof and (unless the Limited Offering Memorandum is amended or supplemented pursuant to paragraph (d) of Section 4 of this Agreement) at all times subsequent thereto during the period up to and including the 25<sup>th</sup> day subsequent to the "end of the underwriting period," the information contained in the Limited Offering Memorandum does not and will not contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading; provided, however, that the Town makes no representations with respect to the Non-Town Disclosures and further provided, however, that if the Town notifies the Underwriter of any fact or event as required by Section 4(d) hereof, and the Underwriter determines that such fact or event does not require preparation and publication of a supplement or amendment to the Limited Offering Memorandum, then the Limited Offering Memorandum in its then-current form shall be conclusively deemed to be complete and correct in all material respects.

(l) Supplements or Amendments to Limited Offering Memorandum. If the Limited Offering Memorandum is supplemented or amended pursuant to paragraph (d) of Section 4 of this Agreement, at the time of each supplement or amendment thereto and (unless subsequently again supplemented or amended pursuant to such paragraph) at all times subsequent thereto during the period up to and including the 25th day subsequent to the “end of the underwriting period,” the Limited Offering Memorandum as so supplemented or amended will not contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading; provided, however, that if the Town notifies the Underwriter of any fact or event as required by Section 4(d) hereof, and the Underwriter determines that such fact or event does not require preparation and publication of a supplement or amendment to the Limited Offering Memorandum, then the Limited Offering Memorandum in its then-current form shall be conclusively deemed to be complete and correct in all material respects.

(m) Compliance with Rule 15c2-12. During the past five years, the Town has complied in all material respects with its previous continuing disclosure undertakings made by it in accordance with Rule 15c2-12, except as disclosed in the Limited Offering Memorandum.

(n) Use of Bond Proceeds. The Town will apply, or cause to be applied, the proceeds from the sale of the Bonds as provided in and subject to all of the terms and provisions of the Indenture and will not take or omit to take any action which action or omission will adversely affect the exclusion from gross income for federal income tax purposes of the interest on the Bonds.

(o) Blue Sky and Securities Laws and Regulations. The Town will furnish such information and execute such instruments and take such action in cooperation with the Underwriter as the Underwriter may reasonably request, at no expense to the Town, (i) to (y) qualify the Bonds for offer and sale under the Blue Sky or other securities laws and regulations of such states and other jurisdictions in the United States as the Underwriter may designate and (z) determine the eligibility of the Bonds for investment under the laws of such states and other jurisdictions and (ii) to continue such qualifications in effect so long as required for the initial distribution of the Bonds by the Underwriter (provided, however, that the Town will not be required to qualify as a foreign corporation or to file any general or special consents to service of process under the laws of any jurisdiction) and will advise the Underwriter immediately of receipt by the Town of any notification with respect to the suspension of the qualification of the Bonds for sale in any jurisdiction or the initiation or threat of any proceeding for that purpose.

(p) Certificates of the Town. Any certificate signed by any official of the Town authorized to do so in connection with the transactions described in this Agreement shall be deemed a representation and warranty by the Town to the Underwriter as to the statements made therein and can be relied upon by the Underwriter as to the statements made therein.



(q) Intentional Actions Regarding Representations and Warranties. The Town covenants that between the date hereof and the Closing it will not intentionally take actions which will cause the representations and warranties made in this Section to be untrue as of the Closing.

(r) Financial Advisor. The Town has engaged SAMCO Capital Markets, Inc. as its financial advisor in connection with its offering and issuance of the Bonds.

By delivering the Limited Offering Memorandum to the Underwriter, the Town shall be deemed to have reaffirmed, with respect to the Limited Offering Memorandum, the representations, warranties and covenants set forth above.

6. Developer Letter of Representations and Closing Certificate. At the signing of this Agreement, the Town and Underwriter shall receive from the Developer, an executed Developer Letter of Representations (the “Developer Letter of Representations”) in the form of Appendix A hereto, and at the Closing, a certificate signed by the Developer in the form of Appendix E hereto.

7. The Closing. At 10:00 a.m., Central time, on the Closing Date, or at such other time or on such earlier or later business day as shall have been mutually agreed upon by the Town and the Underwriter, (i) the Town will deliver or cause to be delivered to DTC through its “FAST” System, the Bonds in the form of one fully registered Bond for each maturity, registered in the name of Cede & Co., as nominee for DTC, duly executed by the Town and authenticated by the Trustee as provided in the Indenture, and (ii) the Town will deliver the closing documents hereinafter mentioned to Norton Rose Fulbright US LLP (“Bond Counsel”), or a place to be mutually agreed upon by the Town and the Underwriter. Settlement will be through the facilities of DTC. The Underwriter will accept delivery and pay the purchase price of the Bonds as set forth in Section 1 hereof by wire transfer in federal funds payable to the order of the Town or its designee. These payments and deliveries, together with the delivery of the aforementioned documents, are herein called the “Closing.” The Bonds will be made available to the Underwriter for inspection not less than twenty-four (24) hours prior to the Closing.

8. Underwriter’s Closing Conditions. The Underwriter has entered into this Agreement in reliance upon the representations and covenants herein and the performance by the Town of its obligations under this Agreement, both as of the date hereof and as of the Closing Date. Accordingly, the Underwriter’s obligations under this Agreement shall be conditioned upon the performance by the Town of its obligations to be performed hereunder at or prior to Closing and shall also be subject to the following additional conditions:

(a) Bring-Down Representations of the Town. The representations and covenants of the Town contained in this Agreement shall be true and correct in all material respects as of the date hereof and at the time of the Closing, as if made on the Closing Date.

(b) Executed Agreements and Performance Thereunder. At the time of the Closing (i) the Town Documents shall be in full force and effect, and shall not have been amended, modified, or supplemented except with the written consent of the Underwriter; (ii) the Authorizing Documents shall be in full force and effect; (iii) there shall be in full force and effect such other resolutions or actions of the Town as, in the opinion of Bond

Counsel and counsel to the Underwriter (“Underwriter’s Counsel”), shall be necessary on or prior to the Closing Date in connection with the transactions on the part of the Town described in this Agreement and the Town Documents; (iv) there shall be in full force and effect such other resolutions or actions of the Developer as, in the opinion of Miklos Cinclair, PLLC (“Developer’s Counsel”), shall be necessary on or prior to the Closing Date in connection with the transactions on the part of the Developer described in the Developer Letter of Representations, the Development Agreement, the Development Agreement Assignment, the CFA Agreement, the Landowner Agreement, the Continuing Disclosure Agreement of the Developer with respect to the Bonds, dated as of January 1, 2022, executed and delivered by the Developer, MuniCap, Inc. as Administrator, and MuniCap, Inc., as dissemination agent (the “Continuing Disclosure Agreement of the Developer,”) and together with the Developer Letter of Representations, the Development Agreement, the Development Agreement Assignment, the CFA Agreement, and the Landowner Agreement, the “Developer Documents”); and (v) the Town shall perform or have performed its obligations required or specified in the Town Documents to be performed at or prior to Closing.

(c) No Default. At the time of the Closing, no default shall have occurred or be existing and no circumstances or occurrences that, with the passage of time or giving of notice, shall constitute an event of default under this Agreement, the Indenture, the Town Documents, the Developer Documents or other documents relating to the financing and construction of the Authorized Improvements and the Development, and the Developer shall not be in default in the payment of principal or interest on any of its indebtedness which default shall materially adversely impact the ability of such Developer to pay the Assessments when due.

(d) Closing Documents. At or prior to the Closing, the Underwriter or Underwriter’s Counsel shall have received each of the documents required under Section 9 below.

(e) Termination Events. The Underwriter shall have the right to cancel its obligation to purchase the Bonds and to terminate this Agreement without liability therefor by written notification to the Town if, between the date of this Agreement and the Closing, in the Underwriter’s sole and reasonable judgment, the market price or marketability of the Bonds, or the ability of the Underwriter to enforce contracts for the sale of the Bonds, shall be materially adversely affected by the occurrence of any of the following:

(i) legislation shall have been introduced in or enacted by the Congress of the United States or adopted by either House thereof, or legislation pending in the Congress of the United States shall have been amended, or legislation shall have been recommended to the Congress of the United States or otherwise endorsed for passage (by press release, other form of notice, or otherwise) by the President of the United States, the Treasury Department of the United States, or the Internal Revenue Service or legislation shall have been proposed for consideration by either the U.S. Senate Committee on Finance or the U.S. House of Representatives Committee on Ways and Means or legislation shall have been favorably reported for passage to either House of the Congress of the United States by a Committee of such House to

which such legislation has been referred for consideration, or a decision by a court of the United States or the Tax Court of the United States shall be rendered or a ruling, regulation, or order (final, temporary, or proposed) by or on behalf of the Treasury Department of the United States, the Internal Revenue Service, or other federal agency shall be made, which would result in federal taxation of revenues or other income of the general character expected to be derived by the Town or upon interest on securities of the general character of the Bonds or which would have the effect of changing, directly or indirectly, the federal income tax consequences of receipt of interest on securities of the general character of the Bonds in the hands of the holders thereof, and which in either case, makes it, in the reasonable judgment of the Underwriter, impracticable or inadvisable to proceed with the sale and delivery of the Bonds on the terms and in the manner described in the Limited Offering Memorandum; or

(ii) legislation shall be enacted by the Congress of the United States, or a decision by a court of the United States shall be rendered, or a stop order, ruling, regulation or no action letter by, or on behalf of, the Securities and Exchange Commission (“SEC”) or any other governmental agency having jurisdiction of the subject matter shall be issued or made to the effect that the issuance, offering or sale of obligations of the general character of the Bonds, or the issuance, offering or sale of the Bonds, including all underlying obligations, as described herein or by the Limited Offering Memorandum, is in violation or would be in violation of, or that obligations of the general character of the Bonds, or the Bonds, are not exempt from registration under, any provision of the federal securities laws, including the Securities Act, or that the Indenture needs to be qualified under the Trust Indenture Act of 1939, as amended and as then in effect (the “Trust Indenture Act”); or

(iii) a general suspension of trading in securities on the New York Stock Exchange, the establishment of minimum prices on such exchange, the establishment of material restrictions (not in force as of the date hereof) upon trading securities generally by any governmental authority or any national securities exchange, a general banking moratorium declared by federal, State of New York, or State officials authorized to do so; or

(iv) there shall have occurred any outbreak of hostilities (including, without limitation, an act of terrorism) or other national or international calamity or crisis, including, but not limited to, an escalation of hostilities that existed prior to the date hereof, and the effect of any such event on the financial markets of the United States shall be such as would make it impracticable, in the reasonable judgment of the Underwriter, for it to sell the Bonds on the terms and in the manner contemplated by the Limited Offering Memorandum; or

(v) there shall have occurred since the date of this Agreement any materially adverse change in the affairs or financial condition of the Town, except as disclosed in or contemplated by the Limited Offering Memorandum; or

(vi) any state blue sky or securities commission or other governmental agency or body in any state in which more than 10% of the Bonds have been offered and sold shall have withheld registration, exemption or clearance of the offering of the Bonds as described herein, or issued a stop order or similar ruling relating thereto; or

(vii) any amendment to the federal or state Constitution or action by any federal or state court, legislative body, regulatory body, or other authority materially adversely affecting the tax status of the Town, its property, income, securities (or interest thereon), or the validity or enforceability of the Assessments to pay principal of and interest on the Bonds; or

(viii) the New York Stock Exchange or other national securities exchange or any governmental authority shall impose, as to the Bonds or as to obligations of the general character of the Bonds, any material restrictions not now in force, or increase materially those now in force, with respect to the extension of credit by, or the charge to the net capital requirements of, the Underwriter; or

(ix) any event occurring, or information becoming known which, in the reasonable judgment of the Underwriter, makes untrue in any material respect any statement or information contained in the Limited Offering Memorandum, or has the effect that the Limited Offering Memorandum contains any untrue statement of material fact or omits to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, which change shall occur subsequent to the date of this Agreement and shall not be due to the malfeasance, misfeasance or nonfeasance of the Underwriter; or

(x) any fact or event shall exist or have existed that, in the Underwriter's reasonable judgment, requires or has required an amendment of or supplement to Limited Offering Memorandum; or

(xi) a general banking moratorium shall have been declared by federal or State authorities having jurisdiction and be in force; or

(xii) a material disruption in securities settlement, payment or clearance services shall have occurred; or

(xiii) a decision by a court of the United States shall be rendered, or a stop order, release, regulation or no-action letter by or on behalf of the SEC or any other governmental agency having jurisdiction of the subject matter shall have been issued or made, to the effect that the issuance, offering or sale of the Bonds, including the underlying obligations as contemplated by this Agreement or by the Limited Offering Memorandum, or any document relating to the issuance, offering or sale of the Bonds, is or would be in violation of any provision of the federal securities laws on the date of Closing, including the Securities Act, the Securities Exchange Act of 1934 (the "Securities Exchange Act") and the Trust Indenture Act; or

(xiv) the purchase of and payment for the Bonds by the Underwriter, or the resale of the Bonds by the Underwriter, on the terms and conditions herein provided shall be prohibited by any applicable law, governmental authority, board, agency or commission, which prohibition shall occur subsequent to the date hereof and shall not be due to the malfeasance, misfeasance, or nonfeasance of the Underwriter.

With respect to the conditions described in subparagraphs (viii), (xiii) and (xiv) above, the Underwriter is not aware of any current, pending or proposed law or government inquiry or investigation as of the date of execution of this Agreement which would permit the Underwriter to invoke its termination rights hereunder.

9. Closing Documents. At or prior to the Closing, the Underwriter's Counsel shall receive the following documents:

(a) Bond Opinion. The approving opinion of Bond Counsel, dated the Closing Date and substantially in the form included as Appendix C to the Limited Offering Memorandum, together with a reliance letter from Bond Counsel, dated the date of the Closing and addressed to the Underwriter, which may be included in the supplemental opinion required by Section 9(b), to the effect that the foregoing opinion may be relied upon by the Underwriter to the same extent as if such opinion were addressed to it.

(b) Supplemental Opinion. A supplemental opinion of Bond Counsel dated the Closing Date and addressed to the Town and the Underwriter, in form and substance acceptable to counsel for the Underwriter, to the following effect:

(i) Except to the extent noted therein, Bond Counsel has not verified and is not passing upon, and does not assume any responsibility for, the accuracy, completeness or fairness of the statements and information contained in the Limited Offering Memorandum but that such firm has reviewed the statements and information describing the Bonds and appearing in the Limited Offering Memorandum under the captions or subcaptions "PLAN OF FINANCE — The Bonds", "DESCRIPTION OF THE BONDS", "SECURITY FOR THE BONDS", "ASSESSMENT PROCEDURES" (except for the subcaptions "Assessment Methodology" and "Assessment Amounts"), "THE DISTRICT," "TAX MATTERS," "LEGAL MATTERS — Legal Proceedings," "LEGAL MATTERS — Legal Opinions," "SUITABILITY FOR INVESTMENT," "CONTINUING DISCLOSURE" (except for the subcaptions "The Town's Compliance with Prior Undertakings" and "The Developer"), "REGISTRATION AND QUALIFICATION OF BONDS FOR SALE," "LEGAL INVESTMENT AND ELIGIBILITY TO SECURE PUBLIC FUNDS IN TEXAS" and "APPENDIX A," and Bond Counsel is of the opinion that the information relating to the Bonds and legal issues contained under such captions and subcaptions is an accurate and fair description of the laws and legal issues addressed therein and, with respect to the Bonds, such information conforms to the Bond Ordinance and Indenture;

(ii) The Bonds are not subject to the registration requirements of the Securities Act, and the Indenture is exempt from qualification pursuant to the Trust Indenture Act;

(iii) The Town has full power and authority to adopt the Creation Resolution, the Assessment Ordinance, and the Bond Ordinance (collectively, the foregoing documents are referred to herein as the “Town Actions”) and perform its obligations thereunder and the Town Actions have been duly adopted, are in full force and effect and have not been modified, amended or rescinded; and

(iv) The Indenture, the Development Agreement, the CFA Agreement, the Landowner Agreement, the Town Continuing Disclosure Agreement and the Bond Purchase Agreement have been duly authorized, executed and delivered by the Town and, assuming the due authorization, execution and delivery of such instruments, documents, and agreements by the other parties thereto, constitute the legal, valid, and binding agreements of the Town, enforceable in accordance with their respective terms, except as enforcement thereof may be limited by bankruptcy, insolvency, or other laws affecting enforcement of creditors’ rights, or by the application of equitable principles if equitable remedies are sought and to the application of Texas law relating to governmental immunity applicable to local governmental entities.

(c) Town Legal Opinion. An opinion of an attorney for the Town, dated the Closing Date and addressed to the Underwriter, Underwriter’s Counsel, the Town and the Trustee, with respect to matters relating to the Town, substantially in the form of Appendix C hereto or in form otherwise agreed upon by the Underwriter.

(d) Opinion of Developer’s Counsel. An opinion of Developer’s Counsel, substantially in the form of Appendix D hereto, dated the Closing Date and addressed to the Town, Bond Counsel, the Attorney for the Town, the Underwriter, Underwriter’s Counsel and the Trustee.

(e) Developer Certificate. The certificate of the Developer dated as of the Closing Date, signed by an authorized officer of the Developer in substantially the form of Appendix E hereto.

(f) Town Certificate. A certificate of the Town, dated the Closing Date, to the effect that, to an authorized Town official’s knowledge:

(i) the representations and warranties of the Town contained herein and in the Town Documents are true and correct in all material respects on and as of the Closing Date as if made on the date thereof;

(ii) the Authorizing Documents and Town Documents are in full force and effect and have not been amended, modified, or supplemented;

(iii) except as disclosed in the Limited Offering Memorandum, no litigation or proceeding against the Town is pending or, to the knowledge of such

person, threatened in any court or administrative body nor is there a basis for litigation which would (a) contest the right of the members or officials of the Town to hold and exercise their respective positions, (b) contest the due organization and valid existence of the Town or the establishment of the District, (c) contest the validity, due authorization and execution of the Bonds or the Town Documents, or (d) attempt to limit, enjoin or otherwise restrict or prevent the Town from levying and collecting the Assessments pledged to pay the principal of and interest on the Bonds, or the pledge thereof; and

(iv) the Town has, to such person's knowledge, complied with all agreements and covenants and satisfied all conditions set forth in the Town Documents, on its part to be complied with or satisfied hereunder at or prior to the Closing.

(g) Trustee's Certificate. A certificate of the Trustee, dated the date of Closing, in form and substance acceptable to counsel for the Underwriter to the following effect:

(i) The Trustee is duly organized and validly existing as a national banking association organized under the laws of the United States of America, having the full power and authority, including trust powers, to accept and perform its duties under the Indenture; and

(ii) No consent, approval, authorization or other action by any governmental authority having jurisdiction over the Trustee that has not been obtained is or will be required for the authentication of the Bonds or the consummation by the Trustee of the other transactions contemplated to be performed by the Trustee in connection with the authentication of the Bonds and the acceptance and performance of the obligations created by the Indenture;

(h) Underwriter Counsel's Opinion. An opinion, dated the Closing Date and addressed to the Underwriter, of Winstead PC, Underwriter's Counsel, to the effect that:

(i) based on (A) such counsel's review of the Bond Ordinance, the Indenture, and the Limited Offering Memorandum; (B) its discussions with Bond Counsel and with the Underwriter; (C) its review of the documents, certificates, opinions and other instruments delivered at the closing of the sale of the Bonds on the date hereof; and (D) such other matters as it deems relevant, such counsel is of the opinion that the Bonds are exempt securities under the Securities Act, and the Trust Indenture Act, and it is not necessary, in connection with the offering and sale of the Bonds, to register the Bonds under the Securities Act and the Indenture is not required to be qualified under the Trust Indenture Act;

(ii) based on (A) such counsel's review of Rule 15c2-12 and interpretive guidance published by the SEC relating thereto; (B) its review of the continuing disclosure undertaking of the Town contained in the Town Continuing Disclosure Agreement; and (C) the inclusion in the Limited Offering Memorandum of a description of the specifics of such undertaking, and assuming that the Bond

Ordinance, the Indenture, and the Town Continuing Disclosure Agreement have been duly adopted by the Town and are in full force and effect, such undertaking provides a suitable basis for the Underwriter, to make a reasonable determination that the Town has met the qualifications of paragraph (b)(5)(i) of Rule 15c2-12; and

(iii) although such counsel has not verified and is not passing upon, and does not assume any responsibility for, the accuracy, completeness or fairness of the information contained in the Limited Offering Memorandum, it has participated in the preparation of the Limited Offering Memorandum and without independent verification, no facts came to its attention that caused it to believe that the Limited Offering Memorandum (except for the Appendices as well as any other financial, engineering and statistical data contained therein or included therein by reference or any litigation disclosed therein, as to which it expresses no view) as of its date contained any untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(i) Limited Offering Memorandum. The Limited Offering Memorandum and each supplement or amendment, if any, thereto.

(j) Delivery of Town Documents and Developer Documents. The Town Documents and Developer Documents shall have been executed and delivered in form and content satisfactory to the Underwriter.

(k) Form 8038-G. Evidence that the federal tax information form 8038-G has been prepared by Bond Counsel for filing.

(l) Federal Tax Certificate. A certificate of the Town in form and substance satisfactory to Bond Counsel and Underwriter's Counsel setting forth the facts, estimates and circumstances in existence on the date of the Closing, which establish that it is not expected that the proceeds of the Bonds will be used in a manner that would cause the Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended (the "Code"), and any applicable regulations (whether final, temporary or proposed), issued pursuant to the Code.

(m) Attorney General Opinion and Comptroller Registration. The approving opinion of the Attorney General of the State regarding the Bonds and the Comptroller of the State's Certificate of Registration for the Initial Bond.

(n) Continuing Disclosure Agreements. The Town Continuing Disclosure Agreement and the Continuing Disclosure Agreement of the Developer shall have been executed by the parties thereto in substantially the forms attached to the Limited Offering Memorandum as Appendix D-1 and Appendix D-2.

(o) Letter of Representation of Administrator. Letter of Representation of the Administrator, substantially in the form of Appendix F hereto, addressed to the Town, Bond Counsel, the Underwriter, Underwriter's Counsel, and the Trustee, or in form otherwise agreed upon by the Underwriter.



(p) Evidence of Filing of Creation Resolution, Assessment Ordinance, and Landowner Agreement. Evidence that (i) the Creation Resolution, including legal description of the District by metes and bounds, (ii) the Assessment Ordinance, including the Assessment Roll and a statement indicating the contact for and address of where a copy of the Service and Assessment Plan, and any updates thereto may be obtained or viewed, and (iii) the Landowner Agreement have been filed of record in the real property records of Denton County, Texas.

(q) Rule 15c2-12 Certification. A resolution or certificate of the Town (which may be included in the Bond Ordinance) whereby the Town has deemed the Preliminary Limited Offering Memorandum “final” as of its date, except for permitted omissions, as contemplated by Rule 15c2-12 in connection with the offering of the Bonds.

(r) Lender Consent Certificate. Lender Consent Certificate of International Bank of Commerce and any other lienholder on land in the District, consenting to and acknowledging the creation of the District, the adoption of the Assessment Ordinance, the levy of the Assessments, and the subordination of its lien to the lien created by the Assessments in a form acceptable to the Underwriter.

(s) Dissemination Agent. Evidence acceptable to the Underwriter in its sole discretion that the Town has engaged a dissemination agent acceptable to the Underwriter for the Bonds, with the execution of the Town Continuing Disclosure Agreement and the Continuing Disclosure Agreement of the Developer by other parties thereto being conclusive evidence of such acceptance by the Underwriter.

(t) BLOR. A copy of the Blanket Letter of Representation to DTC relating to the Bonds and signed by the Town.

(u) Additional Documents. Such additional legal opinions, certificates, instruments, and other documents as the Underwriter or their counsel may reasonably deem necessary.

10. Town’s Closing Conditions. The obligation of the Town hereunder to deliver the Bonds shall be subject to receipt on or before Closing Date of the purchase price set forth in Section 1 hereof, and the opinion of Bond Counsel described in Section 9(a) hereof.

11. Establishment of Issue Price.

(a) The Underwriter agrees to assist the Town in establishing the issue price of the Bonds and shall execute and deliver to the Town on or before Closing an “issue price” or similar certificate, together with the supporting pricing wires or equivalent communications, substantially in the form attached hereto as Appendix B, with such modifications as may be appropriate or necessary, in the reasonable judgment of the Underwriter, the Town and Bond Counsel, to accurately reflect, as applicable, the sales price or prices or the initial offering price or prices to the public of the Bonds. All actions to be taken by the Town under this Section to establish the issue price of the Bonds may be taken on behalf of the Town by the Town’s Financial Advisor identified herein and any

notice or report to be provided to the Town may be provided to the Town's Financial Advisor or Bond Counsel.

(b) The Underwriter confirms that it has offered all the Bonds of each maturity to the public on or before the date of this Agreement at the respective offering price (the "initial offering price"), or at the corresponding yield or yields, set forth in Schedule I attached hereto, except as otherwise set forth therein. At or promptly after the execution of this Agreement, the Underwriter shall report to the Town as of the sale date the first price at which the Underwriter has sold to the public at least 10% of each maturity of Bonds (the "10% test"), and shall identify to the Town as of the sale date those maturities of the Bonds for which the 10% test has not been satisfied. If different interest coupons apply within a maturity, each separate CUSIP number within that maturity will be treated as a separate maturity for this purpose.

(c) The Town and the Underwriter agree that the restrictions set forth in the next sentence shall apply to those maturities of the Bonds for which the 10% test has not been met as of the sale date, which will allow the Town to treat the initial offering price to the public of each such maturity as of the sale date as the issue price of that maturity (the "hold-the-offering-price rule"). So long as the hold-the-offering-price rule remains applicable to any maturity of the Bonds, the Underwriter will neither offer nor sell unsold Bonds of that maturity to any person at a price that is higher than the initial offering price to the public during the period starting on the sale date and ending on the earlier of the following:

- (1) the close of the fifth (5th) business day after the sale date; or
- (2) the date on which the Underwriter has sold at least 10% of that maturity of the Bonds to the public at a price that is no higher than the initial offering price to the public.

The Underwriter shall promptly advise the Town when the Underwriter has sold 10% of that maturity of the Bonds to the public at a price that is no higher than the initial offering price to the public, if such sale occurs prior to the close of the fifth (5th) business day after the sale date.

(d) The Underwriter confirms that any selling group agreement and each third-party distribution agreement relating to the initial sale of the Bonds to the public, together with the related pricing wires, contains or will contain language obligating each dealer who is a member of the selling group, and each broker-dealer that is a party to such third-party distribution agreement, as applicable, to (A) comply with the hold-the-offering-price rule, if applicable, if and for so long as directed by the Underwriter and as set forth in the related pricing wires, (B) promptly notify the Underwriter of any sales of Bonds that, to its knowledge, are made to a purchaser who is a related party to an underwriter participating in the initial sale of the Bonds to the public, and (C) acknowledge that, unless otherwise advised by the dealer or broker-dealer, the Underwriter shall assume that each order submitted by the dealer or broker-dealer is a sale to the public. The Town acknowledges that, in making the representation set forth in this subsection, the Underwriter will rely on

(i) in the event a selling group has been created in connection with the initial sale of the Bonds to the public, the agreement of each dealer who is a member of the selling group to comply with the requirements for establishing issue price of the Bonds, including, but not limited to, its agreement to comply with the hold-the-offering-price rule, if applicable to the Bonds, as set forth in a selling group agreement and the related pricing wires and (ii) in the event that the Underwriter is a party to a third-party distribution agreement that was employed in connection with the initial sale of the Bonds to the public, the agreement of each broker-dealer that is a party to such agreement to comply with the requirements for establishing issue price of the Bonds, including, but not limited to, its agreement to comply with the hold-the-offering-price rule, if applicable to the Bonds, as set forth in the third-party distribution agreement and the related pricing wires. The Town further acknowledges that the Underwriter shall not be liable for the failure of any dealer who is a member of a selling group or of any broker-dealer that is a party to a third-party distribution agreement, to comply with its corresponding agreement to comply with the requirements for establishing issue price of the Bonds, including, but not limited to, its agreement to comply with the hold-the-offering-price rule, if applicable to the Bonds.

(e) The Underwriter acknowledges that sales of any Bonds to any person that is a related party to the Underwriter shall not constitute sales to the public for purposes of this Section. Further, for purposes of this Section:

(i) “public” means any person other than an underwriter or a related party,

(ii) “underwriter” means (A) any person that agrees pursuant to a written contract with the Town (or with the lead underwriter to form an underwriting syndicate) to participate in the initial sale of the Bonds to the public and (B) any person that agrees pursuant to a written contract directly or indirectly with a person described in clause (A) to participate in the initial sale of the Bonds to the public (including a member of a selling group or a party to a retail distribution agreement participating in the initial sale of the Bonds to the public),

(iii) a purchaser of any of the Bonds is a “related party to an underwriter” if the underwriter and the purchaser are subject, directly or indirectly, to (i) at least 50% common ownership of the voting power or the total value of their stock, if both entities are corporations (including direct ownership by one corporation of another), (ii) more than 50% common ownership of their capital interests or profits interests, if both entities are partnerships (including direct ownership by one partnership of another), or (iii) more than 50% common ownership of the value of the outstanding stock of the corporation or the capital interests or profit interests of the partnership, as applicable, if one entity is a corporation and the other entity is a partnership (including direct ownership of the applicable stock or interests by one entity of the other), and

(iv) “sale date” means the date of execution of this Agreement by all parties.

12. Consequences of Termination. If the Town shall be unable to satisfy the conditions contained in this Agreement or if the obligations of the Underwriter shall be terminated for any reason permitted by this Agreement, this Agreement shall terminate and the Underwriter and the Town shall have no further obligation hereunder, except as further set forth in Sections 13, 15 and 16 hereof.

13. Costs and Expenses.

(a) The Underwriter shall be under no obligation to pay, and the Town shall cause to be paid from proceeds of the Bonds the following expenses incident to the issuance of the Bonds and performance of the Town's obligations hereunder: (i) the costs of the preparation and printing of the Bonds; (ii) the cost of preparation, printing, and mailing of the final Limited Offering Memorandum and any supplements and amendments thereto; (iii) the fees and disbursements of the Town's financial advisor and legal counsel, the Trustee's counsel, Bond Counsel, Developers' Counsel, the Trustee, the Underwriter, and Underwriter's Counsel relating to the issuance of the Bonds, (iv) the Attorney General's review fees, (v) the fees and disbursements of accountants, advisers and any other experts or consultants retained by the Town or the Developer, including but not limited to the fees and expenses of the Administrator, and (vi) the expenses incurred by or on behalf of Town employees and representatives that are incidental to the issuance of the Bonds and the performance by the Town of its obligations under this Agreement.

(b) The Underwriter shall pay the following expenses: (i) all advertising expenses in connection with the Bonds and (ii) all other expenses, including CUSIP fees (including out-of-pocket expenses and related regulatory expenses), incurred by it in connection with its offering and distribution of the Bonds, except as noted in Subsection 13(a) above.

(c) The Town agrees that the Underwriter will pay from the Underwriter's expense allocation of the underwriting discount the applicable per bond assessment charged by the Municipal Advisory Council of Texas, a nonprofit corporation whose purpose is to collect, maintain, and distribute information relating to issuing entities of municipal securities.

14. Notice. Any notice or other communication to be given to the Town under this Agreement may be given by delivering the same in writing to: Town of Little Elm, Texas, 100 W. Eldorado Parkway, Little Elm, Texas 75068, Attention: Town Manager. Any notice or other communication to be given to the Underwriter under this Agreement may be given by delivering the same in writing to: FMSbonds, Inc., 5 Cowboys Way, Suite 300-25, Frisco, Texas 75034, Attention: Tripp Davenport, Director.

15. Entire Agreement. This Agreement is made solely for the benefit of the Town and the Underwriter (including their respective successors and assigns), and no other person shall acquire or have any right hereunder or by virtue hereof. All of the Town's representations, warranties, and agreements contained in this Agreement shall remain operative and in full force

and effect regardless of: (i) any investigations made by or on behalf of the Underwriter, provided the Town shall have no liability with respect to any matter of which the Underwriter has actual knowledge prior to the purchase of the Bonds; or (ii) delivery of any payment for the Bonds pursuant to this Agreement. The agreements contained in this Section and in Sections 16 and 18 shall survive any termination of this Agreement.

16. Survival of Representations and Warranties. All representations and warranties of the parties made in, pursuant to or in connection with this Agreement shall survive the execution and delivery of this Agreement, notwithstanding any investigation by the parties. All statements contained in any certificate, instrument, or other writing delivered by a party to this Agreement or in connection with the transactions described in by this Agreement constitute representations and warranties by such party under this Agreement to the extent such statement is set forth as a representation and warranty in the instrument in question.

17. Counterparts. This Agreement may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same instrument.

18. Severability. In case any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof.

19. State Law Governs. The validity, interpretation, and performance of this Agreement shall be governed by the laws of the State of Texas.

20. No Assignment. The rights and obligations created by this Agreement shall not be subject to assignment by the Underwriter or the Town without the prior written consent of the other parties hereto.

21. No Personal Liability. None of the members of the Town Council, nor any officer, representative, agent, or employee of the Town, shall be charged personally by the Underwriter with any liability, or be held liable to the Underwriter under any term or provision of this Agreement, or because of execution or attempted execution, or because of any breach or attempted or alleged breach of this Agreement.

22. Form 1295. Submitted herewith or on a date prior hereto is a completed Form 1295 in connection with the Underwriter's participation in the execution of this Agreement generated by the Texas Ethics Commission's (the "TEC") electronic filing application in accordance with the provisions of Section 2252.908 of the Texas Government Code and the rules promulgated by the TEC (the "Form 1295"). The Town hereby confirms receipt of the Form 1295 from the Underwriter. The Underwriter and the Town understand and agree that, with the exception of information identifying the Town and the contract identification number, neither the Town nor its consultants are responsible for the information contained in the Form 1295; that the information contained in the Form 1295 has been provided solely by the Underwriter; and, neither the Town nor its consultants have verified such information.

23. Anti-Boycott Verification. The Underwriter hereby verifies that the Underwriter and its parent companies, wholly- or majority-owned subsidiaries, and other affiliates, if any, do

not boycott Israel and, to the extent this Contract is a contract for goods or services, will not boycott Israel during the term of this Contract. The foregoing verification is made solely to comply with Section 2271.002, Texas Government Code, and to the extent such Section does not contravene applicable State or Federal Law. As used in the foregoing verification, ‘boycott Israel’ means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes. The Underwriter understands “affiliate” to mean an entity that controls, is controlled by, or is under common control with the Underwriter within the meaning of SEC Rule 405, 17. C.F.R. § 230.405 and exists to make a profit.

24. Iran, Sudan and Foreign Terrorist Organizations. The Underwriter hereby represents that neither the Underwriter nor any of its parent companies, wholly- or majority-owned subsidiaries, and other affiliates is a company identified on a list prepared and maintained by the Texas Comptroller of Public Accounts under Section 2252.153 or Section 2270.0201, Texas Government Code, and posted on any of the following pages of such officer’s internet website: <https://comptroller.texas.gov/purchasing/docs/sudan-list.pdf>, <https://comptroller.texas.gov/purchasing/docs/iran-list.pdf>, or <https://comptroller.texas.gov/purchasing/docs/fto-list.pdf>. The foregoing representation is made solely to comply with Section 2252.152, Texas Government Code, and to the extent such Section does not contravene applicable State or Federal law and excludes the Underwriter and each of its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, that the United States government has affirmatively declared to be excluded from its federal sanctions regime relating to Sudan or Iran or any federal sanctions regime relating to a foreign terrorist organization. The Underwriter understands “affiliate” to mean an entity that controls, is controlled by, or is under common control with the Underwriter within the meaning of SEC Rule 405, 17. C.F.R. § 230.405 and exists to make a profit.

25. Verification Regarding Energy Company Boycotts. To the extent this Agreement constitutes a contract for goods or services for which a written verification statement is required under Section 2274.002 (as added by Senate Bill 13 in the 87th Texas Legislative Session), Texas Government Code, as amended, the Underwriter hereby verifies that it and its parent company, wholly- or majority- owned subsidiaries, and other affiliates, if any, do not boycott energy companies and, will not boycott energy companies during the term of this Agreement. The foregoing verification is made solely to comply with Section 2274.002, Texas Government Code, as amended, to the extent Section 2274.002, Texas Government Code does not contravene applicable Texas or federal law. As used in the foregoing verification, “boycott energy companies” shall mean, without an ordinary business purpose, refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations with a company because the company (A) engages in the exploration, production, utilization, transportation, sale, or manufacturing of fossil fuel-based energy and does not commit or pledge to meet environmental standards beyond applicable federal and state law; or (B) does business with a company described by (A) above. The Underwriter understands “affiliate” to mean an entity that controls, is controlled by, or is under common control with the Underwriter within the meaning of SEC Rule 405, 17. C.F.R. § 230.405 and exists to make a profit.

26. Verification Regarding Discrimination Against Firearm Entity or Trade Association. To the extent this Agreement constitutes a contract for goods or services for which a written verification statement is required under Section 2274.002 (as added by Senate Bill 19 in the 87th Texas Legislative Session, “SB 19”), Texas Government Code, as amended, the Underwriter hereby verifies that it and its parent company, wholly- or majority- owned subsidiaries, and other affiliates, if any

- (1) do not have a practice, policy, guidance or directive that discriminates against a firearm entity or firearm trade association based solely on its status as a firearm entity or firearm trade association; and
- (2) will not discriminate during the term of this Agreement against a firearm entity or firearm trade association based solely on its status as a firearm entity or firearm trade association.

The foregoing verification is made solely to comply with Section 2274.002, Texas Government Code, as amended, to the extent Section 2274.002, Texas Government Code does not contravene applicable Texas or federal law. As used in the foregoing verification, “discriminate against a firearm entity or firearm trade association” (A) means, with respect to the entity or association, to (i) refuse to engage in the trade of any goods or services with the entity or association based solely on its status as a firearm entity or firearm trade association; (ii) refrain from continuing an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association; or (iii) terminate an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association; and (B) does not include: (i) the established policies of a merchant, retail seller, or platform that restrict or prohibit the listing or selling of ammunition, firearms, or firearm accessories; and (ii) a company’s refusal to engage in the trade of any goods or services, decision to refrain from continuing an existing business relationship, or decision to terminate an existing business relationship: (aa) to comply with federal, state, or local law, policy, or regulations or a directive by a regulatory agency; or (bb) for any traditional business reason that is specific to the customer or potential customer and not based solely on an entity’s or association’s status as a firearm entity or firearm trade association. The Underwriter understands “affiliate” to mean an entity that controls, is controlled by, or is under common control with the Underwriter within the meaning of SEC Rule 405, 17. C.F.R. § 230.405 and exists to make a profit.

*[Remainder of this page intentionally left blank]*

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the date first set forth above.

**FMSBONDS, INC.,**  
as Underwriter

By: \_\_\_\_\_  
Name: Theodore A. Swinarski  
Title: Senior Vice President, Trading



Accepted at \_\_\_\_\_ a.m./p.m. central time on the  
date first stated above.

**TOWN OF LITTLE ELM, TEXAS**

By: \_\_\_\_\_  
Mayor

## SCHEDULE I

\$[PAR AMOUNT]  
TOWN OF LITTLE ELM, TEXAS  
SPECIAL ASSESSMENT REVENUE BONDS, SERIES 2022  
(SPIRITAS EAST PUBLIC IMPROVEMENT DISTRICT PROJECT)

Interest Accrues From: Date of Delivery

\$ \_\_\_\_\_ % Term Bonds, Due September 1, 20\_\_, Priced to Yield \_\_\_\_% (a), (c)

\$ \_\_\_\_\_ % Term Bonds, Due September 1, 20\_\_, Priced to Yield \_\_\_\_% (a), (c)

\$ \_\_\_\_\_ % Term Bonds, Due September 1, 20\_\_, Priced to Yield \_\_\_\_% (a), (b), (c)

\$ \_\_\_\_\_ % Term Bonds, Due September 1, 20\_\_, Priced to Yield \_\_\_\_% (a), (b), (c)

- (a) The initial prices or yields of the Bonds are furnished by the Underwriter, have been determined in accordance with the "10% test", and represent the initial offering prices or yields to the public, which may be changed by the Underwriter at any time.
- (b) The Bonds are subject to redemption, in whole or in part, prior to stated maturity, at the option of the Town, on any date on or after September 1, 20\_\_, at the price of par plus accrued interest to the date of redemption, as set forth in the Limited Offering Memorandum under "DESCRIPTION OF THE BONDS — Redemption Provisions."
- (c) The Bonds are also subject to extraordinary optional redemption as described in the Limited Offering Memorandum under "DESCRIPTION OF THE BONDS — Redemption Provisions."

The Bonds are subject to mandatory sinking fund redemption on the dates and in the respective Sinking Fund Installments as set forth in the following schedule.

**\$ \_\_\_\_\_ Term Bonds Maturing September 1, 20\_\_**

<b><u>Redemption Date</u></b>	<b><u>Sinking Fund Installment</u></b>
September 1, 20__	\$
September 1, 20__	
September 1, 20__†	

**\$ \_\_\_\_\_ Term Bonds Maturing September 1, 20\_\_**

<b><u>Redemption Date</u></b>	<b><u>Sinking Fund Installment</u></b>
September 1, 20__	\$
September 1, 20__	
September 1, 20__†	

† Final Maturity

## APPENDIX A

### FORM OF DEVELOPER LETTER OF REPRESENTATIONS

**\$(PAR AMOUNT)**  
**TOWN OF LITTLE ELM, TEXAS,**  
**SPECIAL ASSESSMENT REVENUE BONDS, SERIES 2022**  
**(SPIRITAS EAST PUBLIC IMPROVEMENT DISTRICT PROJECT)**

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**DEVELOPER LETTER OF REPRESENTATIONS**

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December 21, 2021

Town of Little Elm, Texas  
100 W. Eldorado Parkway  
Little Elm, Texas 75068

FMSbonds, Inc.  
5 Cowboys Way, Suite 300-25  
Frisco, Texas 75034

Ladies and Gentlemen:

This letter is being delivered to the Town of Little Elm, Texas (the “Town”) and FMSbonds, Inc. (the “Underwriter”), in consideration for your entering into the Bond Purchase Agreement dated the date hereof (the “Bond Purchase Agreement”) for the sale and purchase of the \$(PAR AMOUNT) “Town of Little Elm, Texas, Special Assessment Revenue Bonds, Series 2022 (Spiritas East Public Improvement District Project)” (the “Bonds”). Pursuant to the Bond Purchase Agreement, the Underwriter has agreed to purchase from the Town, and the Town has agreed to sell to the Underwriter, the Bonds. In order to induce the Town to enter into the Bond Purchase Agreement and as consideration for the execution, delivery, and sale of the Bonds by the Town and the purchase of them by the Underwriter, the undersigned, MM Little Elm 43, LLC, a Texas limited liability company (the “Developer”) makes the representations, warranties, and covenants contained in this Developer Letter of Representations. Unless the context clearly indicates otherwise, each capitalized term used in this Developer Letter of Representations will have the meaning set forth in the Bond Purchase Agreement.

1. Purchase and Sale of Bonds. Inasmuch as the purchase and sale of the Bonds represents a negotiated transaction, the Developer understands, and hereby confirms, that the Underwriter is not acting as a fiduciary of the Developer, but rather is acting solely in its capacity as Underwriter of the Bonds for its own account.

2. Updating of the Limited Offering Memorandum. If, after the date of this Developer Letter of Representations, up to and including the date the Underwriter is no longer required to provide a Limited Offering Memorandum to potential customers who request the same pursuant to Rule 15c2-12 (the earlier of (i) ninety (90) days from the “end of the underwriting period” (as defined in Rule 15c2-12) and (ii) the time when the Limited Offering Memorandum is available to any person from the MSRB, but in no case less than twenty-five (25) days after the “end of the underwriting period” for the Bonds), the Developer becomes aware of any fact or event which might or would cause the Preliminary Limited Offering Memorandum or the Limited Offering Memorandum, as then supplemented or amended, to contain any untrue statement of a material fact or to omit to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading, or if it is necessary to amend or supplement the Preliminary Limited Offering Memorandum or the Limited Offering Memorandum to comply with law, the Developer will notify the Underwriter (and for the purposes of this clause provide the Underwriter with such information as it may from time to time request); however, that for the purposes of this Developer Letter of Representations and any certificate delivered by the Developer in accordance with the Bond Purchase Agreement, the Developer makes no representations with respect to (i) the descriptions in the Preliminary Limited Offering Memorandum or the Limited Offering Memorandum of The Depository Trust Company, New York, New York, or its book-entry-only system and (ii) the information in the Limited Offering Memorandum under the captions “THE TOWN,” “THE DISTRICT,” “BONDHOLDERS’ RISKS” (except as it pertains to the Developer, the Authorized Improvements and the Development, as defined in the Limited Offering Memorandum), “TAX MATTERS,” “LEGAL MATTERS — Litigation — The Town,” “CONTINUING DISCLOSURE — The Town,” and “— The Town’s Compliance with Prior Undertakings,” and “INFORMATION RELATING TO THE TRUSTEE.”

3. Developer Documents. The Developer has executed or caused the execution of and delivered each of the below listed documents (individually, a “Developer Document” and collectively, the “Developer Documents”) in the capacity provided for in each such Developer Document, and each such Developer Document constitutes a valid and binding obligation of Developer, enforceable against Developer in accordance with its terms:

- (a) this Developer Letter of Representations;
- (b) the Development Agreement;
- (c) the Development Agreement Assignment;
- (d) the CFA Agreement;
- (e) the Continuing Disclosure Agreement of the Developer; and
- (f) the Landowner Agreement.

The Developer has complied in all material respects with all of the Developer’s agreements and covenants and satisfied all conditions required to be complied with or satisfied by the Developer under the Developer Documents on or prior to the date hereof.

4. Developer Representations, Warranties and Covenants. The Developer represents, warrants, and covenants to the Town and the Underwriter that:

(a) Due Organization and Existence. The Developer is duly formed and validly existing as a limited liability company under the laws of the State of Texas.

(b) Organizational Documents. The copies of the organizational documents of the Developer provided by the Developer (the “Developer Organizational Documents”) to the Town and the Underwriter are fully executed, true, correct, and complete copies of such documents and such documents have not been amended or supplemented and are in full force and effect as of the date hereof.

(c) No Breach. The execution and delivery of the Developer Documents by the Developer does not violate any judgment, order, writ, injunction or decree binding on the Developer or any indenture, agreement, or other instrument to which the Developer is a party.

(d) No Litigation. Other than as described in the Preliminary Limited Offering Memorandum or the Limited Offering Memorandum, there are no proceedings pending or threatened in writing before any court or administrative agency against the Developer that is either not covered by insurance or which singularly or collectively would have a material, adverse effect on the ability of Developer to perform its obligations under the Developer Documents in all material respects or that would reasonably be expected to prevent or prohibit the development of the Development in accordance with the description thereof in the Preliminary Limited Offering Memorandum or the Limited Offering Memorandum.

(e) Information. The information prepared and submitted by the Developer to the Town or the Underwriter in connection with the preparation of the Preliminary Limited Offering Memorandum or the Limited Offering Memorandum was, and is, as of this date, and will be as of the date of the Limited Offering Memorandum, true and correct in all material respects.

(f) Preliminary Limited Offering Memorandum. The Developer represents and warrants that the information set forth in the Preliminary Limited Offering Memorandum under the captions “PLAN OF FINANCE — Development Plan and Plan of Finance,” “THE AUTHORIZED IMPROVEMENTS” “THE DEVELOPMENT,” “THE DEVELOPER,” “CONTINUING DISCLOSURE – The Developer”, and, to the best of the Developer’s knowledge after due inquiry, under the captions “BONDHOLDERS’ RISKS” (only as it pertains to the Developer, the Authorized Improvements and the Development, as defined in the Limited Offering Memorandum) and “LEGAL MATTERS — Litigation — The Developer” is true and correct and does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading. The Developer agrees to provide a certificate dated the Closing Date affirming, as of such date, the representations contained in this subsection (f) with respect to the Preliminary Limited Offering Memorandum or the Limited Offering Memorandum.

(g) Events of Default. No “Event of Default” or “event of default” by the Developer under any of the Developer Documents, any documents to which Developer is a party described in the Preliminary Limited Offering Memorandum or the Limited Offering Memorandum, or under any material documents relating to the financing and construction of the Authorized Improvements to which the Developer is a party, or event that, with the passage of time or the giving of notice or both, would constitute such “Event of Default” or “event of default,” by the Developer has occurred and is continuing.

5. Indemnification.

(a) The Developer will indemnify and hold harmless the Town and the Underwriter and each of their officers, directors, employees and agents against any losses, claims, damages or liabilities to which any of them may become subject, under the Securities Act or otherwise, insofar as such losses, claims, damages or liabilities (or actions in respect thereof) arise out of or are based upon an untrue statement or alleged untrue statement of a material fact contained or incorporated by reference in the Preliminary Limited Offering Memorandum or the Limited Offering Memorandum under the captions “PLAN OF FINANCE — Development Plan and Plan of Finance,” “THE AUTHORIZED IMPROVEMENTS,” “THE DEVELOPMENT,” “THE DEVELOPER,” “BONDHOLDERS’ RISKS” (only as it pertains to the Developer, the Authorized Improvements, and the Development, as defined in the Limited Offering Memorandum), “LEGAL MATTERS — Litigation – The Developer,” and “CONTINUING DISCLOSURE – The Developer” or any amendment or supplement to the Limited Offering Memorandum amending or supplementing the information contained under the aforementioned captions (as qualified above), or arise out of or are based upon the omission or alleged untrue statement or omission to state therein a material fact necessary to make the statements under the aforementioned captions (as qualified above) not misleading under the circumstances under which they were made and will reimburse any indemnified party for any reasonable legal or other expenses reasonably incurred by them in connection with investigating or defending any such action or claim as such expenses are incurred.

(b) Promptly after receipt by an indemnified party under subsection (a) above of notice of the commencement of any action, such indemnified party shall, if a claim in respect thereof is to be made against the indemnifying party under such subsection, notify the indemnifying party in writing of the commencement thereof; but the omission so to notify the indemnifying party shall not relieve the indemnifying party from any liability which it may have to the indemnified party otherwise than under such subsection, unless such indemnifying party was prejudiced by such delay or lack of notice. In case any such action shall be brought against an indemnified party, it shall promptly notify the indemnifying party of the commencement thereof, the indemnifying party shall be entitled to participate therein and, to the extent that it shall wish, to assume the defense thereof, with counsel reasonably satisfactory to such indemnified party (who shall not, except with the consent of the indemnified party, be counsel to the indemnifying party), and, after notice from the indemnifying party to such indemnified party of its election so to assume the defense thereof, the indemnifying party shall not be liable to such indemnified party under such subsection for any legal expenses of other counsel or any other expenses, in each case subsequently incurred by such indemnified party, in connection with the defense

thereof other than reasonable costs of investigation. The indemnifying party shall not be liable for any settlement of any such action effected without its consent, but if settled with the consent of the indemnifying party or if there is a final judgment for the plaintiff in any such action, the indemnifying party will indemnify and hold harmless any indemnified party from and against any loss or liability by reason of such settlement or judgment. The indemnity herein shall survive delivery of the Bonds and shall survive any investigation made by or on behalf of the Town, the Developer or the Underwriter.

6. Survival of Representations, Warranties and Covenants. All representations, warranties, and agreements in this Developer Letter of Representations will survive regardless of (a) any investigation or any statement in respect thereof made by or on behalf of the Underwriter, (b) delivery of any payment by the Underwriter for the Bonds hereunder, and (c) any termination of the Bond Purchase Agreement.

7. Binding on Successors and Assigns. This Developer Letter of Representations will be binding upon the Developer and its successors and assigns and inure solely to the benefit of the Underwriter and the Town, and no other person or firm or entity will acquire or have any right under or by virtue of this Developer Letter of Representations.

*[Signature pages to follow]*

**DEVELOPER:**

**MM LITTLE ELM 43, LLC,**  
a Texas limited liability company

By: MMM Ventures, LLC,  
a Texas limited liability company  
Its Manager

By: 2M Ventures, LLC,  
a Delaware limited liability company  
Its Manager

By: \_\_\_\_\_  
Name: Mehrdad Moayedi  
Its: Manager



**APPENDIX B**  
**\$(PAR AMOUNT)**  
**TOWN OF LITTLE ELM, TEXAS,**  
**SPECIAL ASSESSMENT REVENUE BONDS, SERIES 2022**  
**(SPIRITAS EAST PUBLIC IMPROVEMENT DISTRICT PROJECT)**

**ISSUE PRICE CERTIFICATE**

The undersigned, on behalf of FMSbonds, Inc. (“FMS”), hereby certifies as set forth below with respect to the sale and issuance of the above-captioned obligations (the “Bonds”) of the Town of Little Elm, Texas (the “Issuer”).

1. ***Sale of the General Rule Maturities.*** As of the date of this certificate, for each Maturity of the General Rule Maturities, the first price at which at least 10% of such Maturity was sold to the Public is the respective price listed in Schedule A.

2. ***Initial Offering Price of the Hold-the-Offering-Price Maturities.***

(a) FMS offered the Hold-the-Offering-Price Maturities to the Public for purchase at the respective initial offering prices listed in Schedule A (the “Initial Offering Prices”) on or before the Sale Date. A copy of the pricing wire or equivalent communication for the Bonds is attached to this certificate as Schedule B.

(b) As set forth in the Bond Purchase Agreement, FMS agreed in writing on or prior to the Sale Date that, (i) for each Maturity of the Hold-the-Offering-Price Maturities, it would neither offer nor sell any of the Bonds of such Maturity to any person at a price that is higher than the Initial Offering Price for such Maturity during the Holding Period for such Maturity (the “hold-the-offering-price rule”), and (ii) any selling group agreement shall contain the agreement of each dealer who is a member of the selling group, and any retail or other third-party distribution agreement shall contain the agreement of each broker-dealer who is a party to the retail or other third-party distribution agreement, to comply with the hold-the-offering-price rule. Pursuant to such agreement, no Underwriter (as defined below) offered or sold any Maturity of the Hold-the-Offering-Price Maturities at a price that is higher than the respective Initial Offering Price for that Maturity of the Bonds during the Holding Period.

3. ***Defined Terms.***

(a) ***General Rule Maturities*** means those Maturities of the Bonds listed in Schedule A hereto as the “General Rule Maturities.”

(b) ***Hold-the-Offering-Price Maturities*** means those Maturities of the Bonds listed in Schedule A hereto as the “Hold-the-Offering-Price Maturities.”

(c) ***Holding Period*** means, with respect to a Hold-the-Offering-Price Maturity, the period starting on the Sale Date and ending on the earlier of (i) the close of the fifth business day after the Sale Date, or (ii) the date on which FMS sold at least 10% of such Hold-the-Offering-Price Maturity to the Public at prices that are no higher than the Initial Offering Price for such Hold-the-Offering-Price Maturity.

(d) ***Maturity*** means Bonds with the same credit and payment terms. Bonds with different maturity dates, or Bonds with the same maturity date but different stated interest rates, are treated as separate maturities.

(e) *Public* means any person (including an individual, trust, estate, limited liability company, association, company, or corporation) other than an Underwriter or a related party to an Underwriter. The term “related party” for purposes of this certificate generally means any two or more persons who have greater than 50 percent common ownership, directly or indirectly.

(f) *Sale Date* means the first day on which there is a binding contract in writing for the sale of a Maturity of the Bonds. The Sale Date of the Bonds is December 21, 2021.

(g) *Underwriter* means (i) any person that agrees pursuant to a written contract with the Issuer (or with the lead underwriter to form an underwriting syndicate) to participate in the initial sale of the Bonds to the Public, and (ii) any person that agrees pursuant to a written contract directly or indirectly with a person described in clause (i) of this paragraph to participate in the initial sale of the Bonds to the Public (including a member of a selling group or a party to a retail distribution agreement participating in the initial sale of the Bonds to the Public).

The representations set forth in this certificate are limited to factual matters only. Nothing in this certificate represents FMS’s interpretation of any laws, including specifically Sections 103 and 148 of the Internal Revenue Code of 1986, as amended, and the Treasury Regulations thereunder. The undersigned understands that the foregoing information will be relied upon by the Issuer with respect to certain of the representations set forth in the Certificate as to Tax Exemption with respect to the Bonds and with respect to compliance with the federal income tax rules affecting the Bonds, and by Norton Rose Fulbright US LLP in connection with rendering its opinion that the interest on the Bonds is excluded from gross income for federal income tax purposes, the preparation of the Internal Revenue Service Form 8038-G, and other federal income tax advice that it may give to the Issuer from time to time relating to the Bonds.

EXECUTED and DELIVERED this \_\_\_\_\_, 2021.

FMSbonds, Inc.

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**SCHEDULE A**

**SALE PRICES OF THE GENERAL RULE MATURITIES AND INITIAL OFFERING PRICES  
OF THE HOLD-THE-OFFERING MATURITIES**

*(Attached)*

**SCHEDULE B**

**PRICING WIRE OR EQUIVALENT WRITTEN COMMUNICATION**

*(Attached)*

## APPENDIX C

[LETTERHEAD OF BROWN & HOFMEISTER, L.L.P.]

January 14, 2022

FMSbonds, Inc.  
5 Cowboys Way, Suite 300-25  
Frisco, Texas 75034

Wilmington Trust, National Association  
15950 North Dallas Parkway, Suite 550  
Dallas, Texas 75248

Winstead PC  
500 Winstead Building  
2728 N. Harwood Street  
Dallas, Texas 75201

Town of Little Elm  
Attn: Town Manager  
100 W. Eldorado Parkway  
Little Elm, Texas 75068

\$[PAR AMOUNT]  
TOWN OF LITTLE ELM, TEXAS,  
SPECIAL ASSESSMENT REVENUE BONDS, SERIES 2022  
(SPIRITAS EAST PUBLIC IMPROVEMENT DISTRICT PROJECT)

Ladies and Gentlemen:

I am the Town Attorney of the Town of Little Elm, Texas (the “Town”) and render this opinion in connection with the issuance and sale of \$[PAR AMOUNT] “Town of Little Elm, Texas, Special Assessment Revenue Bonds, Series 2022 (Spiritas East Public Improvement District Project)” (the “Bonds”), by the Town, a political subdivision of the State of Texas (the “State”).

The Bonds are authorized pursuant to Ordinance No. [\_\_\_\_\_] and enacted by the Town Council of the Town (the “Town Council”) on December 21, 2021 (the “Bond Ordinance”) and shall be issued pursuant to the provisions of Subchapter A of the Public Improvement District Assessment Act, Chapter 372, Texas Local Government Code, as amended (the “Act”) and the Indenture of Trust dated as of January 1, 2022 (the “Indenture”) by and between the Town and Wilmington Trust, National Association, as trustee (the “Trustee”). The Bonds are being sold to FMSbonds, Inc. pursuant to the Bond Purchase Agreement dated December 21, 2021 between the Town and FMSbonds, Inc. (the “Bond Purchase Agreement”). This opinion is being delivered pursuant to Section 9(c) of the Bond Purchase Agreement. Capitalized terms not defined herein shall have the same meanings as in the Indenture, unless otherwise stated herein.

In connection with rendering this opinion, I have reviewed:

(a) Resolution No. 1116202103 (the “Creation Resolution”), enacted by the Town Council on November 16, 2021;

(b) Ordinance No. [ ] approved by the Town Council on December 21, 2021, (the “Assessment Ordinance”) and the Service and Assessment Plan (the “Service and Assessment Plan”) attached as an exhibit thereto;

(c) The Bond Ordinance;

(d) The Indenture;

(e) The Bond Purchase Agreement;

(f) That certain “Spiritas East Development Agreement” between the Town and Centurion American Acquisitions, LLC, a Texas limited liability company, effective as of November 16, 2021 (the “Development Agreement”), as assigned to MM Little Elm 43, LLC, a Texas limited liability company (the “Developer”) ;

(g) That certain Continuing Disclosure Agreement of Issuer with respect to the Bonds, dated as of January 1, 2022 (the “Town Continuing Disclosure Agreement”), executed and delivered by the Town, MuniCap, Inc., as Administrator, and MuniCap, Inc., as Dissemination Agent;

(h) That certain “Spiritas East Public Improvement District Landowner Agreement” effective as of December 21, 2021 executed by the Town and the Developer (the “Landowner Agreement”);

(i) That certain Spiritas East Public Improvement District Construction, Funding, and Acquisition Agreement between the Developer and the Town dated December 21, 2021 (the “CFA Agreement”);

(j) Such other documents, records, agreements or certificates as we have deemed necessary or appropriate to enable us to render the opinions expressed below.

The Creation Resolution, the Assessment Ordinance, the Indenture and the Bond Ordinance shall hereinafter be collectively referred to as the “Authorizing Documents” and the remaining documents shall hereinafter be collectively referred to as the “Town Documents.”

In all such examinations, I have assumed that all signatures on documents and instruments executed by the Town are genuine and that all documents submitted to me as copies conform to the originals. In addition, for purposes of this opinion, I have assumed the due authorization, execution and delivery of the Town Documents by all parties other than the Town.

Based upon and subject to the foregoing and the additional qualifications and assumptions set forth herein, I am of the opinion that:

1. The Town is a Texas political subdivision and has all necessary power and authority to enter into and perform its obligations under the Authorizing Documents and the Town Documents. The Town has taken or obtained all actions, approvals, consents and authorizations required of it by applicable laws in connection with the execution of the Authorizing Documents and the Town Documents and the performance of its obligations thereunder.

2. To the best of my knowledge, there is no action, suit, proceeding, inquiry or investigation at law or in equity, before or by any court, public board or body, pending, or threatened against the Town: (a) affecting the existence of the Town or the titles of its officers to their respective offices, (b) in any way questioning the formation or existence of the District, (c) affecting, contesting or seeking to prohibit, restrain or enjoin the delivery of any of the Bonds, or the payment, collection or application of any amounts pledged or to be pledged to pay the principal of and interest on the Bonds, including the Assessments in the District pursuant to the provisions of the Assessment Ordinance and the Service and Assessment Plan referenced therein, (d) contesting or affecting the validity or enforceability or the Town's performance of the Town Documents, (e) contesting the exclusion of the interest on the Bonds from federal income taxation, or (f) which may result in any material adverse change relating to the financial condition of the Town.

3. The Authorizing Documents were duly enacted by the Town and remain in full force and effect on the date hereof.

4. The Town Documents have been duly authorized, executed and delivered by the Town and are legal, valid and binding obligations of the Town enforceable against the Town in accordance with their respective terms. However, the enforceability of the obligations of the Town under such Town Documents may be limited or otherwise affected by (a) bankruptcy, insolvency, reorganization, moratorium and other laws affecting the rights of creditors generally, (b) principles of equity, whether considered at law or in equity, or (c) the application of State law relating to action by future councils and relating to governmental immunity applicable to governmental entities.

6. No further consent, approval, authorization, or order of any court or governmental agency or body or official is required to be obtained by the Town as a condition precedent to the performance by the Town of its obligations under the Authorizing Documents and the Town Documents (other than those that have been or will be obtained prior to the delivery of the Bonds, including the opinion of the Texas Attorney General).

7. The Town has duly authorized and delivered the Limited Offering Memorandum.

8. Based upon my limited participation in the preparation of the Limited Offering Memorandum, the statements and information contained in the Limited Offering Memorandum with respect to the Town under the captions and subcaptions "ASSESSMENT PROCEDURES – Assessment Methodology" and " – Assessment Amounts," "THE TOWN," "THE DISTRICT," "THE DEVELOPMENT AGREEMENT," "LEGAL MATTERS – Litigation – The Town," "CONTINUING DISCLOSURE – The Town" and "– The Town's Compliance with Prior Undertakings" and "APPENDIX A" are a fair and accurate summary of the laws and the documents and facts summarized therein.

9. The adoption of the Authorizing Documents, the execution and delivery of the Town Documents and the compliance with the provisions of the Authorizing Documents and the Town Documents under the circumstances contemplated thereby, to the best of my knowledge: (a) do not and will not in any material respect conflict with or constitute on the part of the Town a breach of or default under any agreement to which the Town is a party or by which it is bound,



and (b) do not and will not in any material respect conflict with or constitute on the part of the Town a violation, breach of or default under any existing law, regulation, constitutional provision, court order or consent decree to which the Town is subject.

This opinion letter has been rendered solely for the benefit of the addressees named above in connection with the transactions described therein, and may not be used, circulated, quoted, relied upon or otherwise referred to for any other purpose or by any other person without our prior written consent. This opinion letter does not constitute a warranty or guarantee or an opinion as to matters of fact and should not be construed or relied upon as such. This opinion letter is as of the date hereof only, and I undertake no, and hereby disclaim any, obligation to advise you of any change in any matter set forth herein.

Very truly yours,

**BROWN & HOFMEISTER, L.L.P.**

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## APPENDIX D

[LETTERHEAD OF MIKLOS CINCLAIR]

January 14, 2022

Town of Little Elm, Texas  
100 W. Eldorado Parkway  
Little Elm, Texas 75068

FMSbonds, Inc.  
5 Cowboys Way, Suite 300-25  
Frisco, Texas 75034

Wilmington Trust, National Association  
15950 North Dallas Parkway, Suite 550  
Dallas, Texas 75248

Winstead PC  
2728 N. Harwood Street  
Dallas, Texas 75201

Norton Rose Fulbright US LLP  
2200 Ross Avenue, Suite 3600  
Dallas, Texas 75201

Town of Little Elm  
Attn: Town Attorney  
100 W. Eldorado Parkway  
Little Elm, Texas 75068

\$[PAR AMOUNT]  
TOWN OF LITTLE ELM, TEXAS,  
SPECIAL ASSESSMENT REVENUE BONDS, SERIES 2022  
(SPIRITAS EAST PUBLIC IMPROVEMENT DISTRICT PROJECT)

Ladies & Gentlemen:

We have acted as special counsel to MM Little Elm 43, LLC, a Texas limited liability company (the “*Developer*”) in connection with the issuance and sale by the Town of Little Elm, Texas (the “*Town*”), of \$[PAR AMOUNT] Town of Little Elm, Texas, Special Assessment Revenue Bonds, Series 2022 (Spiritas East Public Improvement District Project) (the “*Bonds*”), pursuant to the Indenture of Trust dated as of January 1, 2022 (the “*Indenture*”), by and between the Town and Wilmington Trust, National Association, as trustee (the “*Trustee*”). Proceeds from the sale of the Bonds will be used, in part, to fund certain public infrastructure improvements in the development known as “Spiritas East” (the “*Development*”) located in the Town.

The Bonds are being sold by FMSbonds, Inc. (the “*Underwriter*”), pursuant to that certain Bond Purchase Agreement dated December 21, 2021 (the “*Bond Purchase Agreement*”), between the Town and the Underwriter.

All capitalized terms used herein and not otherwise defined shall have the meanings ascribed thereto in the Bond Purchase Agreement.

In our capacity as special counsel to the Developer, and for purposes of rendering the opinions set forth herein, we have examined originals or copies, certified or otherwise identified to our satisfaction, of:

(a) The following documents (collectively, the “*Material Documents*”):

(1) the *Spiritas East Development Agreement* between the Town and the Centurion American Acquisitions, LLC, a Texas limited liability company, effective as of November 16, 2021, as assigned to the Developer pursuant to [ASSIGNMENT DOCUMENT] between Centurion American Acquisitions, LLC and the Developer;

(2) the *Spiritas East Public Improvement District Construction, Funding, and Acquisition Agreement* between the Developer and the Town dated December 21, 2021;

(3) the *Continuing Disclosure Agreement of the Developer* dated as of January 1, 2022 among the Developer, MuniCap, Inc., as Administrator and MuniCap, Inc., as Dissemination Agent;

(4) the *Spiritas East Public Improvement Landowner Agreement* effective as of December 21, 2021 executed by the Town and the Developer; and

(5) the *Developer Letter of Representations* dated as of December 21, 2021;

(b) General Certificate of the Developer and the Closing Certificate of the Developer, each dated as of the date hereof (together, the “*Developer Certificate*”);

(c) The final Limited Offering Memorandum, dated December 21, 2021, relating to the issuance of the Bonds (the “*Limited Offering Memorandum*”); and

(d) Such other documents, records, agreements and certificates of the Developer as we have deemed necessary or appropriate to render the opinions expressed below.

In basing the opinions and other matters set forth herein on “our knowledge,” the words “our knowledge” signify that, in the course of our representation of the Developer the principal attorneys in this firm involved in the current actual transaction do not have actual knowledge or actual notice that any such opinions or other matters are not accurate or that any of the documents, certificates, reports and information on which we have relied are not accurate and complete. Except as otherwise stated herein, we have undertaken no independent investigation or certification of such matters. The words “our knowledge” and similar language used herein are intended to be limited to the knowledge of the attorneys within our firm who have worked on the matters contemplated by our representation as special counsel.

In rendering the opinions set forth herein, we have assumed, without independent investigation (other than the Developer), that: (i) the due authorization, execution, and delivery of each of the documents referred to in this opinion letter by all parties thereto and that each such document constitutes a valid, binding, and enforceable obligation of each party thereto, (ii) all of the parties to the documents referred to in this opinion letter are duly organized, validly existing, in good standing and have the requisite power, authority (corporate, limited liability company, partnership or other) and legal right to execute, deliver, and perform its obligations under such documents (except to the extent set forth in our opinions set forth herein regarding valid existence

and power and authority of the Developer to execute, deliver, and perform its obligations under the Material Documents), (iii) each certificate from governmental officials reviewed by us is accurate, complete, and authentic, and all official public records are accurate and complete, (iv) the legal capacity of all natural persons, (v) the genuineness of all signatures (other than those of the Developer in respect of the Material Documents), (vi) the authenticity and accuracy of all documents submitted to us as originals, (vii) the conformity to original documents of all documents submitted to us as photostatic or certified copies, (viii) that no laws or judicial, administrative, or other action of any governmental authority of any jurisdiction not expressly opined to herein would adversely affect the opinions set forth herein, and (ix) that the execution and delivery by each party of, and performance of its agreements in, the Material Documents do not breach or result in a default under any existing obligation of such party under any agreements, contracts or instruments to which such party is a party to or otherwise subject to or any order, writ, injunction or decree of any court applicable to such party.

In addition, we have assumed that the Material Documents accurately reflect the complete understanding of the parties with respect to the transactions contemplated thereby and the rights and obligations of the parties thereunder. We have also assumed that the terms and conditions of the transaction as reflected in the Material Documents have not been amended, modified or supplemented, directly or indirectly, by any other agreement or understanding of the parties or waiver of any of the material provisions of the Material Documents.

We assume that none of the parties to the Material Documents (other than Developer) is a party to any court or regulatory proceeding relating to or otherwise affecting the Material Documents or is subject to any order, writ, injunction or decree of any court or federal, state or local governmental agency or commission that would prohibit the execution and delivery of the Material Documents, or the consummation of the transactions therein contemplated in the manner therein provided, or impair the validity or enforceability thereof. We assume that each of the parties to the Material Documents (other than Developer) has full authority to close this transaction in accordance with the terms and provisions of the Material Documents.

We assume that neither the Underwriter nor the Town nor their respective counsel has any current actual knowledge of any facts not known to us or any law or judicial decision which would make the opinions set forth herein incorrect, and that no party upon whom we have relied for purposes of this opinion letter has perpetrated a fraud.

We have only been engaged by our clients in connection with the Material Documents (and the transactions contemplated in the Material Documents) and do not represent these clients generally.

### **Opinions and Assurances**

Based solely upon the foregoing, and subject to the assumptions and limitations set forth herein, we are of the opinion that:

1. The execution and delivery by the Developer of the Material Documents and the performance by the Developer of its obligations under the Material Documents will not (i) violate any applicable law; or (ii) conflict with or result in the breach of any court decree or order of any governmental body identified in the Developer Certificate or otherwise actually known to the

lawyers who have provided substantive attention to the representation reflected in this opinion binding upon or affecting the Developer, the conflict with which or breach of which would have a material, adverse effect on the ability of the Developer to perform its obligations under the Material Documents to which it is a party.

2. To our knowledge, no governmental approval which has not been obtained or taken is required to be obtained or taken by the Developer on or before the date hereof as a condition to the performance by the Developer of its obligations under the Material Documents to which it is a party, except for governmental approvals that may be required to comply with certain covenants contained in the Material Documents (including, without limitation, covenants to comply with applicable laws).

3. The Developer has duly executed and delivered each of the Material Documents to which it is a party, and each of the Material Documents constitute the legal, valid, and binding obligations of the Developer, enforceable against the Developer in accordance with their respective terms, subject to the following qualifications: (i) the effect of applicable bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting the rights of creditors generally, and (ii) the effect of the exercise of judicial discretion in accordance with general principles of equity (whether applied by a court of law or of equity), and (iii) the effect that enforceability of the indemnification provisions therein may be limited, in whole or in part. The execution, delivery, and performance by the Developer of its obligations under the Material Documents do not violate any existing laws of the State of Texas applicable to the Developer.

4. To our knowledge after reasonable inquiry, there are no actions, suits or proceedings pending or threatened against the Developer identified in the Developer Certificate or otherwise actually known to the lawyers who have provided substantive attention to the representation reflected in this opinion in any court of law or equity, or before or by any governmental instrumentality with respect to the validity or enforceability against it of such Material Documents or the transactions described therein.

5. The execution and delivery of the Material Documents do not, and the transactions described therein may be consummated and the terms and conditions thereof may be observed and performed in a manner that does not, conflict with or constitute a breach of or default under any loan agreement, Indenture, bond note, resolution, agreement or other instrument to which the Developer is a party or is otherwise subject and which have been identified in the Developer Certificate which violation, breach or default would materially adversely affect the Developer or its performance of its obligations under the transactions described in the Material Documents; nor will any such execution, delivery, adoption, fulfillment, or compliance result in the creation or imposition of any lien, charge, or other security interest or encumbrance of any nature whatsoever upon any of the property or assets of the Developer, except as expressly described in the Material Documents (a) under applicable law or (b) under any such loan agreement, indenture, bond note, resolution, agreement, or other instrument.

6. The information set forth in the Limited Offering Memorandum under the captions “*PLAN OF FINANCE — Development Plan and Plan of Finance*,” “*THE AUTHORIZED IMPROVEMENTS*,” “*THE DEVELOPMENT*,” “*THE DEVELOPER*,” “*BONDHOLDERS’ RISKS*” (only as it pertains to the Developer, the Authorized Improvements, and the Development, as defined in the Limited Offering Memorandum),” “*LEGAL MATTERS — Litigation — The*

*Developer,” and “CONTINUING DISCLOSURE – The Developer,”* adequately and fairly describe the information summarized under such captions and are correct as to matters of law.

7. Subject to the below qualifications and based upon our participation in the preparation of the Limited Offering Memorandum and our participation at conferences with representatives of the Underwriter and its Counsel, of the Town and its counsel, and with representatives of the Developer at which the Limited Offering Memorandum and related matters were discussed, and although we have not independently verified the information in the Limited Offering Memorandum and are not passing upon and do not assume any responsibility for the accuracy, completeness or fairness of the statements contained in the Limited Offering Memorandum and any amendment or supplement thereto, no facts have come to our attention that lead us to believe that the information set forth under the captions referenced in the preceding paragraph as of the date of the Limited Offering Memorandum and the date hereof, contained or contains any untrue statement of a material fact, or omitted or omits to state any material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

### **Qualifications**

In addition to any assumptions, qualifications and other matters set forth elsewhere herein, the opinions set forth above are subject to the following assumptions and qualifications:

(a) We have not examined any court dockets, agency files or other public records regarding the entry of any judgments, writs, decrees or orders or the pendency of any actions, proceedings, investigations or litigation.

(b) We have relied upon the Developer Certificate, as well as the representations of the Developer contained in the Material Documents, with respect to certain facts material to our opinion. Except as otherwise specifically indicated herein, we have made no independent investigation regarding any of the foregoing documents or the representations contained therein.

(c) Our opinion delivered pursuant to Section 3 above is subject to the effect of any applicable bankruptcy, insolvency, reorganization, fraudulent conveyance, moratorium or other laws affecting creditors' rights generally and to the effect of general principles of equity, including (without limitation) remedies of specific performance and injunctive relief and concepts of materiality, reasonableness, good faith and fair dealing (regardless of whether considered in a proceeding in equity or at law).

(d) Except for the Material Documents, we have not reviewed, and express no opinion as to, any other contracts or agreements to which the Developer is a party or by which the Developer is or may be bound.

(e) The opinions expressed herein are based upon and limited to the applicable laws of the State of Texas and the laws of the United States of America, excluding the principles of conflicts of laws thereof, as in effect as of the date hereof, and our knowledge of the facts relevant to such opinions on such date. In this regard, we note that we are members of the Bar of the State of Texas, we do not express any opinion herein as to matters governed by the laws of any other jurisdiction, except the United States of America, we do not purport to be experts in any other laws

and we can accept no responsibility for the applicability or effect of any such laws. In addition, we assume no obligation to supplement the opinions expressed herein if any applicable laws change after the date hereof, or if we become aware of any facts or circumstances that affect the opinions expressed herein.

(f) This letter is strictly limited to the matters expressly set forth herein and no statements or opinions should be inferred beyond such matters.

(g) Notwithstanding anything contained herein to the contrary, we express no opinion whatsoever concerning the status of title to any real or personal property.

(h) The opinions expressed herein regarding the enforceability of the Material Documents are subject to the qualification that certain of the remedial, waiver or other provisions thereof may not be enforceable; but such unenforceability will not, in our judgment, render the Material Documents invalid as a whole or substantially interfere with the practical realization of the principal legal benefits provided in the Material Documents, except to the extent of any economic consequences of any procedural delays which may result therefrom.

(i) The opinion expressed herein as to the enforceability of the Material Documents is specifically subject to the qualification that enforceability of the Material Documents is limited by the following: (i) the rights of the United States under the Federal Tax Lien Act of 1966, as amended; (ii) principles of equity, public policy and unconscionability which may limit the availability of certain remedies; (iii) bankruptcy, insolvency, reorganization, fraudulent conveyance, liquidation, probate, conservatorship and other laws applicable to creditors' rights or the collection of debtors' obligations generally; and (iv) requirements of due process under the United States Constitution, the Constitution of the State of Texas and other laws or court decisions limiting the rights of creditors to repossess, foreclose or otherwise realize upon the property of a debtor without appropriate notice or hearing or both.

(j) We express no opinion as to whether a court would grant specific performance or any other equitable remedy with respect to the enforcement of the Material Documents.

(k) We express no opinion as to the validity, binding effect, or enforceability of: (i) provisions which purport to waive rights or notices, including rights to trial by jury, counterclaims or defenses, jurisdiction or venue; (ii) provisions relating to consent judgments, waivers of defenses or the benefits of statutes of limitations, marshaling of assets, the transferability of any assets which by their nature are nontransferable, sales in inverse order of alienation, or severance; (iii) provisions purporting to waive the benefits of present or of future laws relating to exemptions, appraisal, valuation, stay of execution, redemption, extension of time for payment, setoff and similar debtor protection laws; or (iv) provisions requiring a party to pay fees and expenses regardless of the circumstances giving rise to such fees or expenses or the reasonableness thereof.

(l) The opinions expressed herein are subject to the effect of generally applicable rules of law that provide that forum selection clauses in contracts are not necessarily binding on the court(s) in the forum selected.

(m) We express no opinion as to the enforceability of any provisions in the Material Documents purporting to entitle a party to indemnification in respect of any matters arising in whole or in part by reason of any negligent, illegal or wrongful act or omission of such party.

This opinion is furnished to those parties addressed in this letter solely in connection with the transactions, for the purposes and on the terms described above and may not be relied upon for any other purpose or by any other person in any manner or for any purpose.

Very truly yours,  
Miklos Cinclair, PLLC

By: \_\_\_\_\_  
Name: \_\_\_\_\_



## APPENDIX E

### CLOSING CERTIFICATE OF DEVELOPER

MM Little Elm 43, LLC, a Texas limited liability company (“Developer”), DOES HEREBY CERTIFY the following as of the date hereof. All capitalized terms not otherwise defined herein shall have the meaning given to such term in the Bond Purchase Agreement.

1. The Developer is a limited liability company organized, validly existing and in good standing under the laws of the State of Texas.

2. Representatives of the Developer have provided information to the Town of Little Elm, Texas (the “Town”) and FMSbonds, Inc. (the “Underwriter”) to be used in connection with the offering by the Town of its \$[PAR AMOUNT] aggregate principal amount of Special Assessment Revenue Bonds, Series 2022 (Spiritas East Public Improvement District Project) (the “Bonds”), pursuant to the Town’s Limited Offering Memorandum dated December 21, 2021 (the “Limited Offering Memorandum”).

3. The Developer has delivered to the Underwriter and the Town true, correct, complete and fully executed copies of the Developer’s organizational documents, and such documents have not been amended or supplemented and are in full force and effect as of the date hereof.

4. The Developer has delivered to the Underwriter and the Town a (i) Certificate of Status from the Texas Secretary of State and (ii) verification of franchise tax account status from the Texas Comptroller of Public Accounts for the Developer.

5. The Developer has executed or caused the execution of, and delivered each of the below listed documents (individually, a “Developer Document” and collectively, the “Developer Documents”) in the capacity provided for in each such Developer Document, and each such Developer Document constitutes a valid and binding obligation of Developer, enforceable against Developer in accordance with its terms:

- (a) the Developer Letter of Representations;
- (b) the Development Agreement;
- (c) the Development Agreement Assignment;
- (d) the CFA Agreement;
- (e) the Landowner Agreement; and
- (f) the Continuing Disclosure Agreement of the Developer.

6. The Developer has complied in all material respects with all of the Developer’s agreements and covenants and satisfied all conditions required to be complied with or satisfied by the Developer under the Developer Documents on or prior to the date hereof.

7. The execution and delivery of the Developer Documents by the Developer does not violate any judgment, order, writ, injunction or decree binding on the Developer or any indenture, agreement, or other instrument to which the Developer is a party. To the Developer's knowledge, after due inquiry, there are no proceedings pending or threatened in writing before any court or administrative agency against the Developer that is either not covered by insurance or which singularly or collectively would have a material, adverse effect on the ability of the Developer to perform its obligations under the Developer Documents in all material respects or that would reasonably be expected to prevent or prohibit the development of the Development in accordance with the description thereof in the Limited Offering Memorandum.

8. The Developer has reviewed and approved the information contained in the Limited Offering Memorandum under the captions "PLAN OF FINANCE – Development Plan and Plan of Finance," "THE AUTHORIZED IMPROVEMENTS," "THE DEVELOPMENT," "THE DEVELOPER," "BONDHOLDERS' RISKS" (only as it pertains to the Developer, the Authorized Improvements, and the Development), "LEGAL MATTERS — Litigation — The Developer," and "CONTINUING DISCLOSURE – The Developer", and certifies that the same does not contain any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements made therein, in the light of the circumstances under which they are made, not misleading respecting such Developer and the portion of the Development owned by such Developer, provided, however, that the foregoing certification is not a certification as to the accuracy, completeness or fairness of any of the other statements contained in the Limited Offering Memorandum.

9. The Developer is in compliance in all material respects with all provisions of applicable law in all material respects relating to the Developer in connection with the Development. Except as otherwise described in the Limited Offering Memorandum: (a) there is no default of any zoning condition, land use permit or development agreement binding upon the Developer or any portion of the Development that would materially and adversely affect Developer's ability to complete or cause to be completed the development of such portion of the Development as described in the Limited Offering Memorandum; and (b) we have no reason to believe that any additional permits, consents and licenses required to complete the Development as and in the manner described in the Limited Offering Memorandum will not be reasonably obtainable in due course.

10. The Developer is not insolvent and has not made an assignment for the benefit of creditors, filed or consented to a petition in bankruptcy, petitioned or applied (or consented to any third party petition or application) to any tribunal for the appointment of a custodian, receiver or any trustee or commenced any proceeding under any bankruptcy, reorganization, arrangement, readjustment of debt, dissolution or liquidation law or statute of any jurisdiction.

11. The levy of the Assessments (as defined in the Limited Offering Memorandum) on property in the District owned by the Developer will not conflict with or constitute a breach of or default under any agreement, indenture or other instrument to which the Developer is a party or to which the Developer or any of its property or assets is subject.

12. The Developer is not in default under any mortgage, trust indenture, lease or other instrument to which it or any of its assets is subject, which default would have a material and adverse effect on the Bonds or the development of the Development.

13. The Developer has no knowledge of any physical condition of the Development owned or to be developed by Developer that currently requires, or currently is reasonably expected to require in the process of development investigation or remediation under any applicable federal, state or local governmental laws or regulations relating to the environment in any material and adverse respect.

Dated: \_\_\_\_\_, 2022

**DEVELOPER:**

**MM LITTLE ELM 43, LLC,**  
a Texas limited liability company

By: MMM Ventures, LLC,  
a Texas limited liability company  
Its Manager

By: 2M Ventures, LLC,  
a Delaware limited liability company  
Its Manager

By: \_\_\_\_\_  
Name: Mehrdad Moayed  
Its: Manager

## APPENDIX F

### [LETTERHEAD OF ADMINISTRATOR]

January 14, 2022

Town of Little Elm, Texas  
100 W. Eldorado Parkway  
Little Elm, Texas 75068

FMSbonds, Inc.  
5 Cowboys Way, Suite 300-25  
Frisco, Texas 75034

Norton Rose Fulbright US LLP  
2200 Ross Avenue, Suite 3600  
Dallas, Texas 75201

Wilmington Trust, National Association  
15950 North Dallas Parkway, Suite 550  
Dallas, Texas 75248

Winstead PC  
2728 N. Harwood Street  
Dallas, Texas 75201

Re: Town of Little Elm, Texas, Special Assessment Revenue Bonds, Series 2022  
(Spiritas East Public Improvement District Project) (the “Bonds”)

Ladies and Gentlemen:

The undersigned, \_\_\_\_\_, of MuniCap, Inc., (“MuniCap”), consultant in connection with the creation by the Town of Little Elm, Texas (the “Town”), of the Spiritas East Public Improvement District (the “District”), does hereby represent the following:

1. MuniCap has supplied certain information contained in the Preliminary Limited Offering Memorandum for the Bonds, dated on or about [PLOM DATE], 2021 and the Limited Offering Memorandum for the Bonds, dated on or about December 21, 2021 (together, the “Limited Offering Memorandum”) relating to the issuance of the Bonds by the Town, as described above. The information I provided for the Limited Offering Memorandum is located (a) under the captions “ASSESSMENT PROCEDURES — Assessment Methodology” and “— Assessment Amounts”, and “THE ADMINISTRATOR,” and (b) in the Service and Assessment Plan (the “SAP”) for the Town located in APPENDIX B to the Limited Offering Memorandum.

2. To our professional knowledge and belief, the portions of the Limited Offering Memorandum described above do not contain an untrue statement of a material fact as to the information and data set forth therein, and do not omit to state a material fact necessary to make the statements made therein, in the light of the circumstances under which they were made, not misleading.

3. We agree to the inclusion of the SAP in the Limited Offering Memorandum and to the use of the name of my firm in the Limited Offering Memorandum for the Bonds.

4. We agree that, to the best of my ability, we will inform you immediately should we learn of any event(s) or information of which you are not aware subsequent to the date of this letter

and prior to the actual time of delivery of the Bonds (anticipated to occur on or about January 14, 2022) which would render any such information in the Limited Offering Memorandum untrue, incomplete, or incorrect, in any material fact or render any such information materially misleading.

5. The undersigned hereby represents that he has been duly authorized to execute this letter of representation.

Sincerely yours,

**MUNICAP, INC.**

By: \_\_\_\_\_  
Its: \_\_\_\_\_

**EXHIBIT C**  
**CONTINUING DISCLOSURE AGREEMENT**

**TOWN OF LITTLE ELM, TEXAS,  
SPECIAL ASSESSMENT REVENUE BONDS, SERIES 2022  
(SPIRITAS EAST PUBLIC IMPROVEMENT DISTRICT PROJECT)**

**CONTINUING DISCLOSURE AGREEMENT OF THE ISSUER**

This Continuing Disclosure Agreement of the Issuer dated as of January 1, 2022 (this “Disclosure Agreement”) is executed and delivered by and between the Town of Little Elm, Texas (the “Issuer”), MuniCap, Inc. (the “Administrator”), and MuniCap, Inc. (the “Dissemination Agent”), with respect to the Issuer’s “Special Assessment Revenue Bonds, Series 2022 (Spiritas East Public Improvement District Project)” (the “Bonds”). The Issuer, the Administrator, and the Dissemination Agent covenant and agree as follows:

Section 1. Purpose of the Disclosure Agreement. This Disclosure Agreement is being executed and delivered by the Issuer, the Administrator and the Dissemination Agent for the benefit of the Owners (defined below) and beneficial owners of the Bonds. Unless and until a different filing location is designated by the MSRB (defined below) or the SEC (defined below), all filings made by the Dissemination Agent pursuant to this Agreement shall be filed with the MSRB through EMMA (defined below).

Section 2. Definitions. In addition to the definitions set forth above and in the Indenture of Trust dated as of January 1, 2022, between the Issuer and the Trustee relating to the Bonds (the “Indenture”), which apply to any capitalized term used in this Disclosure Agreement unless otherwise defined in this Section, the following capitalized terms shall have the following meanings:

“Administrative Expenses” shall have the meaning assigned to such term in the Indenture.

“Administrator” shall mean MuniCap, Inc., or an officer or employee of the Town, or third party designee of the Town who is not an officer or employee thereof, identified in any indenture of trust relating to the Bonds, the District’s Service and Assessment Plan, or any other agreement or document approved by the Issuer related to the duties and responsibilities of the administration of the District.

“Affiliate” shall have the meaning assigned to such term in Section 2 of the Disclosure Agreement of the Developer.

“Annual Financial Information” shall mean annual financial information as such term is used in paragraph (b)(5)(i) of the Rule and specified in Section 4(a) of this Disclosure Agreement.

“Annual Installment” shall have the meaning assigned to such term in the Indenture.

“Annual Issuer Report” shall mean any Annual Issuer Report provided by the Issuer pursuant to, and as described in, Sections 3 and 4 of this Disclosure Agreement.

“Assessments” shall mean the “Assessments” as defined in the Indenture.

“Authorized Improvements” shall have the meaning given to it in the Service and Assessment Plan.

“Business Day” shall mean any day other than a Saturday, Sunday, or legal holiday in the State of Texas observed as such by the Issuer or the Trustee.

“Developer” shall mean MM Little Elm 43, LLC, a Texas limited liability company, and its successors and assigns, including any Affiliate.

“Disclosure Agreement of the Developer” shall mean the Continuing Disclosure Agreement of the Developer, dated as of January 1, 2022 executed and delivered by the Developer, the Administrator, and the Dissemination Agent.

“Disclosure Representative” shall mean the Chief Financial Officer of the Issuer or his or her designee, or such other officer or employee as the Issuer may designate in writing to the Dissemination Agent from time to time.

“Dissemination Agent” shall mean MuniCap, Inc., or any successor Dissemination Agent designated in writing by the Issuer and which has filed with the Trustee a written acceptance of such designation.

“District” shall mean Spiritas East Public Improvement District.

“EMMA” shall mean the Electronic Municipal Market Access System administered by the MSRB which, as of the date of this Disclosure Agreement, is available on the internet at <http://emma.msrb.org>.

“Fiscal Year” shall mean the calendar year from October 1 through September 30.

“Listed Events” shall mean any of the events listed in Section 5(a) of this Disclosure Agreement.

“MSRB” shall mean the Municipal Securities Rulemaking Board or any other entity designated or authorized by the SEC to receive reports pursuant to the Rule.

“Outstanding” shall have the meaning given to it in the Indenture.

“Owner(s)” shall mean the registered owner(s) of any Bonds, as shown on the register maintained by the Trustee.

“Participating Underwriter” means FMSBonds, Inc. and its successors and assigns.

“Prepayment” shall mean the payment of all or a portion of an Assessment before the due date thereof. Amounts received at the time of a Prepayment which represent principal, interest or penalties on a delinquent installment of an Assessment are not to be considered a Prepayment, but rather are to be treated as the payment of the regularly scheduled Assessment.

“Rule” shall mean Rule 15c2-12 adopted by the SEC under the Securities Exchange Act of 1934, as the same may be amended from time to time.

“SEC” shall mean the United States Securities and Exchange Commission.

“Service and Assessment Plan” shall have the meaning assigned to such term in the Indenture.



“Trust Estate” shall have the meaning assigned to such term in the Indenture.

“Trustee” shall mean Wilmington Trust, National Association, or any successor trustee pursuant to the Indenture.

Section 3. Provision of Annual Issuer Reports.

(a) The Issuer shall cause and hereby directs the Administrator to compile and prepare the Annual Issuer Report. The Administrator shall provide such Annual Issuer Report to the Issuer and the Dissemination Agent no later than 10 Business Days before the expiration of six months after the end of each Fiscal Year.

(b) The Issuer shall cause and hereby directs the Dissemination Agent to provide or cause to be provided to the MSRB, in the electronic or other format required by the MSRB, commencing with the Fiscal Year ended September 30, 2022, an Annual Issuer Report provided to the Dissemination Agent which is consistent with the requirements of and within the time periods specified in Section 4 of this Disclosure Agreement; provided that the audited financial statements of the Issuer, if prepared and available, may be submitted separately from the Annual Financial Information, and later than the date required in this paragraph for the filing of the Annual Issuer Report if audited financial statements are not available by such date; provided further, however, that the Annual Issuer Report must be submitted not later than six months after the end of the Issuer’s Fiscal Year, commencing with the Fiscal Year ended September 30, 2022. The Issuer will provide the audited financial statements as provided herein; notwithstanding such requirements, the Bonds are special obligations of the Issuer payable solely from the Pledged Revenues and other funds comprising the Trust Estate, as and to the extent provided for and defined in the Indenture. The Bonds do not give rise to a charge against the general credit or taxing power of the Issuer and are payable solely from the sources identified in the Indenture.

The Annual Issuer Report may be submitted as a single document or as separate documents comprising a package and may include by reference other information as provided in Section 4 of this Disclosure Agreement. If the Issuer’s Fiscal Year changes, it shall give notice of such change in the same manner as for a Listed Event under Section 5(a). All documents provided to the MSRB shall be accompanied by identifying information as prescribed by the MSRB.

(c) The Issuer shall or shall cause the Dissemination Agent pursuant to written direction to:

(1) determine the filing address or other filing location of the MSRB each year within ten (10) Business Days prior to filing the Annual Issuer Report on the date required in Section 4;

(2) file the Annual Issuer Report (excluding the audited financial statements of the Issuer, if any, which shall be filed by the Issuer or the Dissemination Agent upon receipt from the Issuer) containing or incorporating by reference the information set forth in Section 4 hereof;

(3) file audited financial statements of the Issuer pursuant to Section 4(b) herein; and

(4) if the Issuer has provided the Dissemination Agent with the completed Annual Issuer Report and the Dissemination Agent has filed such Annual Issuer Report with the MSRB, then the Dissemination Agent shall file a report with the Issuer certifying that the Annual Issuer

Report has been provided pursuant to this Disclosure Agreement, stating the date it was provided and that it was filed with the MSRB.

Section 4. Content and Timing of Annual Issuer Reports. The Annual Issuer Report for the Bonds shall contain or incorporate by reference, and the Issuer agrees to provide or cause to be provided to the Dissemination Agent to file, the following:

- (a) Within six months after the end of each Fiscal Year the following Annual Financial Information (any or all of which may be unaudited):
  - (i) Tables setting forth the following information, as of the end of such Fiscal Year:
    - (A) For the Bonds, the maturity date or dates, the interest rate or rates, the original aggregate principal amount and principal amount remaining Outstanding;
    - (B) The amounts in the funds and accounts securing the Bonds; and
  - (ii) The principal and interest paid on the Bonds during the most recent Fiscal Year and the minimum scheduled principal and interest required to be paid on the Bonds in the next Fiscal Year.
  - (iii) Any changes to the land use designation for the property in the District from the purposes identified in the Service and Assessment Plan.
  - (iv) Updates to the information in the Service and Assessment Plan as most recently amended or supplemented (a “SAP Update”), including any changes to the methodology for levying the Assessments in the District.
  - (v) The aggregate taxable assessed valuation for parcels or lots within the District based on the most recent certified tax roll available to the Issuer.
  - (vi) With respect to single-family residential lots, until building permits have been issued for parcels or lots representing, in the aggregate, 95% of the total Assessments levied within the District, such SAP Update shall include the following:
    - (A) the number of new homes in the District for which a certificate of occupancy has been issued during such Fiscal Year; and
    - (B) the aggregate number of new homes within the District for which a certificate of occupancy has been issued since filing the initial Annual Issuer Report for Fiscal Year ended September 30, 2022.
  - (vii) With respect to single-family residential lots, until building permits have been issued for parcels or lots representing, in the aggregate, 95% of the total Assessments levied within the District, such SAP Update shall include the following:

- (A) the number of new homes in the District for which a certificate of occupancy has been issued during such Fiscal Year; and
  - (B) the aggregate number of new homes within the District for which a certificate of occupancy has been issued since filing the initial Annual Issuer Report for Fiscal Year ended September 30, 2022.
- (viii) Listing of any property or property owners in the District representing more than twenty percent (20%) of the levy of the Assessments, the amount of the levy of the Assessments against such landowners, and the percentage of such Assessments relative to the entire levy of the Assessments, all as of the October 1 billing date for the Fiscal Year.
- (ix) Collection and delinquency history of the Assessments within the District for the past five Fiscal Years, in the following format:

**Collection and Delinquency History of Assessments in the District**

Collected in Fiscal Year <u>Ending 9/30</u>	Assessment <u>Billed</u>	Parcels <u>Levied</u>	Delinquent Amount <u>as of 3/1</u>	Delinquent Percentage <u>as of 3/1</u>	Delinquent Amount <u>as of 9/1</u>	Delinquent Percentage <u>as of 9/1</u>	Total Assessments <u>Collected<sup>(1)</sup></u>
20__	\$			—	—		\$

<sup>(1)</sup> Collected as of \_\_\_\_\_, 20\_\_. Includes \$ \_\_\_\_\_ attributable to Prepayments.

- (x) Total amount of Prepayments collected, as of the April 1 of the calendar year immediately succeeding such Fiscal Year, in each case with respect to the most recent billing period (generally, October 1 of the preceding calendar year through January 31 of the current calendar year).
- (xi) The amount of delinquent Assessments by Fiscal Year:
- (A) which are subject to institution of foreclosure proceedings (but as to which such proceedings have not been instituted);
  - (B) which are currently subject to foreclosure proceedings which have not been concluded;
  - (C) which have been reduced to judgment but not collected;
  - (D) which have been reduced to judgment and collected; and
  - (E) the result of any foreclosure sales of assessed property within the District if the assessed property represents more than one percent (1%) of the total amount of the Assessments, as applicable.
- (xii) A description of any amendment to this Disclosure Agreement and a copy of any restatements to the Issuer's audited financial statements during such Fiscal Year.

- (b) If not provided with the financial information provided under subsection 4(a) above, if prepared and when available, the audited financial statements of the Issuer for the most recently ended Fiscal Year, prepared in accordance with generally accepted accounting principles applicable from time to time to the Issuer. If audited financial statements are not included with the financial information provided under subsection 4(a) above, unaudited financial statements shall be included with such financial information within twelve months of the end of the Issuer's fiscal year.

See Exhibit B hereto for a form for submitting the information set forth in the preceding paragraphs. The Issuer has designated MuniCap, Inc. as the initial Administrator. The Administrator, and if no Administrator is designated, Issuer's staff, shall prepare the Annual Financial Information.

Any or all of the items listed above may be included by specific reference to other documents, including disclosure documents of debt issues of the Issuer, which have been submitted to and are publicly accessible from the MSRB. If the document included by reference is a final offering document, it must be available from the MSRB. The Issuer shall clearly identify each such other document so included by reference.

#### Section 5. Reporting of Significant Events.

(a) Pursuant to the provisions of this Section 5, each of the following is a Listed Event with respect to the Bonds:

1. Principal and interest payment delinquencies.
2. Non-payment related defaults, if material.
3. Unscheduled draws on debt service reserves reflecting financial difficulties.
4. Unscheduled draws on credit enhancements reflecting financial difficulties.
5. Substitution of credit or liquidity providers, or their failure to perform.
6. Adverse tax opinions, the issuance by the IRS of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the Bonds, or other material events affecting the tax status of the Bonds.
7. Modifications to rights of Owners, if material.
8. Bond calls, if material.
9. Defeasances.
10. Release, substitution, or sale of property securing repayment of the Bonds, if material.
11. Rating changes.

12. Bankruptcy, insolvency, receivership, or similar event of the Issuer.

13. The consummation of a merger, consolidation, or acquisition of the Issuer, or the sale of all or substantially all of the assets of the Issuer, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material.

14. Appointment of a successor or additional trustee under the Indenture or the change of name of a trustee, if material.

15. Incurrence of a financial obligation of the obligated person, if material, or agreements to covenants, events of default, remedies, priority rights, or other similar terms of a financial obligation of the obligated person, any of which affect security holders if material.

16. Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a financial obligation of the obligated person, any of which reflect financial difficulties.

The Issuer does not intend for any sale by the Developer of real property within the District to be considered a significant event for the purposes of number (10) above.

For these purposes, “financial obligation” means (i) a debt obligation; (ii) derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation; or (iii) guarantee of (i) or (ii). The term “financial obligation” shall not include municipal securities as to which a final official statement has been provided to the Municipal Securities Rulemaking Board consistent with the Rule. The Issuer intends the words used in numbers (15) and (16) and the definition of “financial obligation” to have the meanings ascribed to them in SEC Release No. 34-83885 (August 20, 2018).

For these purposes, any event described in the immediately preceding number (12) is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent, or similar officer for the Issuer in a proceeding under the United States Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the Issuer, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement, or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the Issuer.

Upon the occurrence of a Listed Event, the Issuer shall promptly notify the Dissemination Agent in writing and the Issuer shall direct the Dissemination Agent to file a notice of such occurrence with the MSRB; provided, however, the Issuer shall deliver such written notice to the Dissemination Agent within eight (8) business days of the occurrence of such Listed Event in order for the Dissemination Agent to timely file such notice in a timely manner with the MSRB through EMMA. The Dissemination Agent shall file such notice no later than the second Business Day immediately following the day on which it receives written notice of such occurrence from the Issuer. Any such notice is required to be filed within ten (10) Business Days of the occurrence of such Listed Event; provided that the Dissemination Agent shall not be liable for the filing of notice of any Listed Event more than ten (10) Business Days after the

occurrence of such Listed Event if notice of such Listed Event is received from the Issuer more than ten (10) Business Days after the occurrence of such Listed Event; provided, however, the failure of the Issuer to provide timely written notice to the Dissemination Agent in accordance with this paragraph shall not constitute a failure of the Dissemination Agent to comply with the MSRB's ten (10) business day filing requirement.

Additionally, the Dissemination Agent shall notify the MSRB, in a timely manner, of any failure by the Issuer to provide annual audited financial statements or Annual Financial Information as required under this Disclosure Agreement. The form for submitting such notice is attached hereto as Exhibit A.

Any notice under the preceding paragraphs shall be accompanied with the text of the disclosure that the Issuer desires to make, the written authorization of the Issuer for the Dissemination Agent to disseminate such information as provided herein, and the date the Issuer desires for the Dissemination Agent to disseminate the information (which written direction from the Issuer to the Dissemination Agent shall be within eight (8) business days after the occurrence of the Listed Event or failure to file and date of such filing provided by the Issuer shall not be more than ten (10) Business Days after the occurrence of the Listed Event or failure to file).

In all cases, the Issuer shall have the sole responsibility for the content, design, and other elements comprising substantive contents of all disclosures. In addition, the Issuer shall have the sole responsibility to ensure that any notice required to be filed under this Section 5 is filed within ten (10) Business Days of the occurrence of the Listed Event.

(b) The Dissemination Agent shall, within two (2) Business Days of obtaining actual knowledge of the occurrence of any Listed Event with respect to the Bonds, notify the Disclosure Representative of such Listed Event. The Dissemination Agent shall not be required to file a notice of the occurrence of such Listed Event with the MSRB unless and until it receives written instructions from the Disclosure Representative to do so. If the Dissemination Agent has been instructed in writing by the Disclosure Representative on behalf of the Issuer to report the occurrence of a Listed Event under this subsection (b), the Dissemination Agent shall file a notice of such occurrence with the MSRB no later than 2 Business Days following the day on which it receives such written instructions. It is agreed and understood that the duty to make or cause to be made the disclosures herein is that of the Issuer and not that of the Trustee or the Dissemination Agent. It is agreed and understood that the Dissemination Agent has agreed to give the foregoing notice to the Issuer as an accommodation to assist it in monitoring the occurrence of such event, but is under no obligation to investigate whether any such event has occurred. As used above, "actual knowledge" means the actual fact or statement of knowing, without a duty to make any investigation with respect thereto. In no event shall the Dissemination Agent be liable in damages or in tort to the Issuer or any Owner or beneficial owner of any interests in the Bonds as a result of its failure to give the foregoing notice or to give such notice in a timely fashion.

(c) If in response to a notice from the Dissemination Agent under subsection (b), the Issuer determines that the Listed Event under number 2, 7, 8, 10, 13, 14 or 15 of subsection (a) above is not material under applicable federal securities laws, the Issuer shall promptly, but in no case more than five (5) Business Days after the occurrence of the event, notify the Dissemination Agent and the Trustee (if the Dissemination Agent is not the Trustee) in writing and instruct the Dissemination Agent not to report the occurrence pursuant to subsection (d).

(d) If the Dissemination Agent has been instructed by the Issuer to report the occurrence of a Listed Event, the Dissemination Agent shall immediately file a notice of such occurrence with the MSRB (which date shall not be more than ten (10) Business Days after the occurrence of the Listed Event or failure to file).

Section 6. Termination of Reporting Obligations. The obligations of the Issuer and the Dissemination Agent under this Disclosure Agreement shall terminate upon the legal defeasance, prior redemption, or payment in full of all of the Bonds, when the Issuer is no longer an obligated person with respect to the Bonds, or upon delivery by the Disclosure Representative to the Dissemination Agent of an opinion of nationally recognized bond counsel to the effect that continuing disclosure is no longer required. So long as any of the Bonds remain Outstanding, the Dissemination Agent may assume that the Issuer is an obligated person with respect to the Bonds until it receives written notice from the Disclosure Representative stating that the Issuer is no longer an obligated person with respect to the Bonds, and the Dissemination Agent may conclusively rely upon such written notice with no duty to make investigation or inquiry into any statements contained or matters referred to in such written notice. If such termination occurs prior to the final maturity of the Bonds, the Issuer shall give notice of such termination in the same manner as for a Listed Event with respect to such series of Bonds under Section 5(a).

Section 7. Dissemination Agent. The Dissemination Agent agrees to perform the duties set forth in this Agreement. The Issuer may, from time to time, appoint or engage a Dissemination Agent or successor Dissemination Agent to assist it in carrying out its obligations under this Disclosure Agreement, and may discharge such Dissemination Agent with or without appointing a successor Dissemination Agent. The Dissemination Agent may resign at any time with thirty (30) days' notice to the Issuer. If at any time there is not any other designated Dissemination Agent, the Issuer shall be the Dissemination Agent. The initial Dissemination Agent appointed hereunder is set forth in Section 2.

Section 8. Amendment; Waiver. Notwithstanding any other provisions of this Disclosure Agreement, the Issuer and the Dissemination Agent may amend this Disclosure Agreement (and the Dissemination Agent shall not unreasonably withhold its consent to any amendment so requested by the Issuer), and any provision of this Disclosure Agreement may be waived, provided that the following conditions are satisfied:

(a) If the amendment or waiver relates to the provisions of Sections 3(a), 4, or 5(a), it may only be made in connection with a change in circumstances that arises from a change in legal requirements, change in law, or change in the identity, nature, or status of an obligated person with respect to the Bonds, or the type of business conducted;

(b) The undertaking, as amended or taking into account such waiver, would, in the opinion of nationally recognized bond counsel, have complied with the requirements of the Rule at the time of the delivery of the Bonds, after taking into account any amendments or interpretations of the Rule, as well as any change in circumstances; and

(c) The amendment or waiver either (i) is approved by the Owners of the Bonds in the same manner as provided in the Indenture for amendments to the Indenture with the consent of Owners, or (ii) does not, in the opinion of nationally recognized bond counsel, materially impair the interests of the Owners or beneficial owners of the Bonds.

In the event of any amendment or waiver of a provision of this Disclosure Agreement, the Issuer shall describe such amendment in the next related Annual Issuer Report, and shall include, as applicable, a narrative explanation of the reason for the amendment or waiver and its impact on the type (or in the case of a change of accounting principles, on the presentation) of financial information or operating data being presented by the Issuer. In addition, if the amendment relates to the accounting principles to be followed in preparing financial statements, (i) notice of such change shall be given in the same manner as for a Listed Event under Section 5(a), and (ii) the Annual Issuer Report for the year in which the change is made should present a comparison (in narrative form and also, if feasible, in quantitative form) between the financial statements as prepared on the basis of the new accounting principles and those prepared on the basis of the former accounting principles. No amendment which adversely affects the Dissemination Agent may be made without its prior written consent (which consent will not be unreasonably withheld or delayed).

Section 9. Additional Information. Nothing in this Disclosure Agreement shall be deemed to prevent the Issuer from disseminating any other information, using the means of dissemination set forth in this Disclosure Agreement or any other means of communication, or including any other information in any Annual Issuer Report or notice of occurrence of a Listed Event, in addition to that which is required by this Disclosure Agreement. If the Issuer chooses to include any information in any Annual Issuer Report or notice of occurrence of a Listed Event in addition to that which is specifically required by this Disclosure Agreement, the Issuer shall have no obligation under this Disclosure Agreement to update such information or include it in any future Annual Issuer Report or notice of occurrence of a Listed Event.

Section 10. Default. In the event of a failure of the Issuer to comply with any provision of this Disclosure Agreement, the Dissemination Agent may and the Trustee may (and, at the request of any Participating Underwriter or the Owners of more than twenty-five percent (25%) aggregate principal amount of Outstanding Bonds, shall, upon being indemnified to its satisfaction as provided in the Indenture), or any Owner or beneficial owner of the Bonds may, take such actions as may be necessary and appropriate to cause the Issuer, as the case may be, to comply with its obligations under this Disclosure Agreement. A default under this Disclosure Agreement shall not be deemed an Event of Default under the Indenture with respect to the Bonds, and the sole remedy under this Disclosure Agreement in the event of any failure of the Issuer to comply with this Disclosure Agreement shall be an action for mandamus or specific performance. A default under this Disclosure Agreement by the Issuer shall not be deemed a default under the Disclosure Agreement of the Developer by the Developer, and a default under the Disclosure Agreement of the Developer by the Developer shall not be deemed a default under this Disclosure Agreement by the Issuer.

Section 11. Duties, Immunities and Liabilities of Dissemination Agent. The Dissemination Agent shall not have any duty with respect to the content of any disclosures made pursuant to the terms hereof. The Dissemination Agent shall have only such duties as are specifically set forth in this Disclosure Agreement, and no implied covenants shall be read into this Disclosure Agreement with respect to the Dissemination Agent. To the extent permitted by law, the Issuer agrees to hold harmless the Dissemination Agent, its officers, directors, employees, and agents, but only with funds to be provided by the Developer or from Assessments collected from the property owners in the District against any loss, expense and liabilities which it may incur arising out of or in the exercise or performance of its powers and duties hereunder, including the costs and expenses (including attorneys' fees) of defending against any claim of liability, but excluding liabilities due to the Dissemination



Agent's gross negligence or willful misconduct; provided, however, that nothing herein shall be construed to require the Issuer to indemnify the Dissemination Agent for losses, expenses, or liabilities arising from information provided to the Dissemination Agent by the Developer or the failure of the Developer to provide information to the Dissemination Agent as and when required under the Disclosure Agreement of the Developer. The obligations of the Issuer under this Section shall survive resignation or removal of the Dissemination Agent and payment in full of the Bonds. Nothing in this Disclosure Agreement shall be construed to mean or to imply that the Dissemination Agent is an "obligated person" under the Rule. The Dissemination Agent is not acting in a fiduciary capacity in connection with the performance of its respective obligations hereunder. The fact that the Dissemination Agent may have a banking or other business relationship with the Issuer or any person with whom the Issuer contracts in connection with the transaction described in the Indenture, apart from the relationship created by the Indenture or this Disclosure Agreement, shall not be construed to mean that the Dissemination Agent has actual knowledge of any event described in Section 5 above, except as may be provided by written notice to the Dissemination Agent pursuant to this Disclosure Agreement.

The Dissemination Agent may, from time to time, consult with legal counsel of its own choosing in the event of any disagreement or controversy, or question or doubt as to the construction of any of the provisions hereof or their respective duties hereunder, and the Dissemination Agent shall not incur any liability and shall be fully protected in acting in good faith upon the advice of such legal counsel.

The Administrator shall not have any responsibility for the (1) accuracy of any information provided by third parties or the Issuer for the disclosures made pursuant to the terms hereof, or (2) the untimeliness of any information provided by third parties or the Issuer for the disclosures made pursuant to the terms hereof, except where such untimeliness is attributable to the actions or inactions of the Administrator. The Administrator shall have only such duties as are specifically set forth in Sections 3 and 4 of this Disclosure Agreement, and no implied covenants shall be read into this Disclosure Agreement with respect to the Administrator. To the extent permitted by law, the Issuer agrees to hold harmless the Administrator, its officers, directors, employees and agents, but only with funds to be provided by the Developer or from Assessments collected from the property owners in the District against any loss, expense and liabilities which it may incur arising out of or in the exercise or performance of its powers and duties hereunder, including the costs and expenses (including attorneys' fees) of defending against any claim of liability resulting from information provided to the Administrator by the Issuer, but excluding liabilities due to the Administrator's negligence or willful misconduct; provided, however, that nothing herein shall be construed to require the Issuer to indemnify the Administrator for losses, expenses or liabilities arising from information provided to the Administrator by third parties or the Developer, or the failure of any third party or the Developer to provide information to the Administrator as and when required under this Agreement. The obligations of the Issuer under this Section shall survive resignation or removal of the Administrator and payment in full of the Bonds. Nothing in this Disclosure Agreement shall be construed to mean or to imply that the Administrator is an "obligated person" under the Rule. The Administrator is not acting in a fiduciary capacity in connection with the performance of its respective obligations hereunder. The Administrator shall not in any event incur any liability with respect to any action taken or omitted to be taken in reliance upon any document delivered to the Administrator and believed to be genuine and to have been signed or presented by the proper party or parties.

The Administrator may, from time to time, consult with legal counsel of its own choosing in the event of any disagreement or controversy, or question or doubt as to the construction of any of the

provisions hereof or their respective duties hereunder, and the Administrator shall not incur any liability and shall be fully protected in acting in good faith upon the advice of such legal counsel.

UNDER NO CIRCUMSTANCES SHALL THE DISSEMINATION AGENT, THE ADMINISTRATOR OR THE ISSUER BE LIABLE TO THE OWNER OR BENEFICIAL OWNER OF ANY BOND OR ANY OTHER PERSON, IN CONTRACT OR TORT, FOR DAMAGES RESULTING IN WHOLE OR IN PART FROM ANY BREACH BY THE ISSUER, THE ADMINISTRATOR OR THE DISSEMINATION AGENT, RESPECTIVELY, WHETHER NEGLIGENT OR WITHOUT FAULT ON ITS PART, OF ANY COVENANT SPECIFIED IN THIS DISCLOSURE AGREEMENT, BUT EVERY RIGHT AND REMEDY OF ANY SUCH PERSON, IN CONTRACT OR TORT, FOR OR ON ACCOUNT OF ANY SUCH BREACH SHALL BE LIMITED TO AN ACTION FOR MANDAMUS OR SPECIFIC PERFORMANCE. NEITHER THE DISSEMINATION AGENT NOR THE ADMINISTRATOR ARE UNDER ANY OBLIGATION NOR ARE THEY REQUIRED TO BRING SUCH AN ACTION.

Section 12. Assessment Timeline. The basic expected timeline for the collection of Assessments and the anticipated procedures for pursuing the collection of delinquent Assessments are set forth in Exhibit C which is solely intended to illustrate the general procedures expected to generally be followed in enforcing the payment of delinquent Assessments.

Section 13. No Personal Liability. No covenant, stipulation, obligation or agreement of the Issuer, the Administrator or the Dissemination Agent contained in this Disclosure Agreement shall be deemed to be a covenant, stipulation, obligation or agreement of any present or future council members, officer, agent or employee of the Issuer, the Administrator or the Dissemination Agent in other than that person's official capacity.

Section 14. Severability. In case any section or provision of this Disclosure Agreement, or any covenant, stipulation, obligation, agreement, act or action, or part thereof made, assumed, entered into, or taken thereunder or any application thereof, is for any reasons held to be illegal or invalid, such illegality or invalidity shall not affect the remainder thereof or any other section or provision thereof or any other covenant, stipulation, obligation, agreement, act or action, or part thereof made, assumed, entered into, or taken thereunder (except to the extent that such remainder or section or provision or other covenant, stipulation, obligation, agreement, act or action, or part thereof is wholly dependent for its operation on the provision determined to be invalid), which shall be construed and enforced as if such illegal or invalid portion were not contained therein, nor shall such illegality or invalidity of any application thereof affect any legal and valid application thereof, and each such section, provision, covenant, stipulation, obligation, agreement, act or action, or part thereof shall be deemed to be effective, operative, made, entered into or taken in the manner and to the full extent permitted by law.

Section 15. Sovereign Immunity. The Dissemination Agent agrees that nothing in this Disclosure Agreement shall constitute or be construed as a waiver of the Issuer's sovereign or governmental immunities regarding liability or suit.

Section 16. Beneficiaries. This Disclosure Agreement shall inure solely to the benefit of the Issuer, the Administrator, the Dissemination Agent and the Owners and the beneficial owners from time to time of the Bonds, and shall create no rights in any other person or entity. Nothing in this Disclosure

Agreement is intended or shall act to disclaim, waive or otherwise limit the duties of the Issuer under federal and state securities laws.

Section 17. Dissemination Agent and Administrator Compensation. The fees and expenses incurred by the Dissemination Agent and the Administrator for their services rendered in accordance with this Disclosure Agreement constitute Administrative Expenses and will be included in the Annual Installments as provided in the annual updates to the Service and Assessment Plan. The Issuer shall pay or reimburse the Dissemination Agent and the Administrator, but only with funds to be provided from Assessments collected from the property owners in the District, for its fees and expenses for their respective services rendered in accordance with this Disclosure Agreement.

Section 18. Governing Law. This Disclosure Agreement shall be governed by the laws of the State of Texas.

Section 19. Counterparts. This Disclosure Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 20. Disclosure Agreement of the Developer. Concurrently with the execution and delivery of this Disclosure Agreement, the Dissemination Agent and Administrator have entered into the Disclosure Agreement of the Developer. Except as provided in Section 6 of the Disclosure Agreement of the Developer, the parties agree that the Issuer has no obligation to assume any of the duties of the Developer under the terms of the Disclosure Agreement of the Developer.

Section 21. Form 1295. Submitted by the Administrator herewith is a completed Form 1295 in connection with the execution of this Agreement generated by the Texas Ethics Commission's (the "TEC") electronic filing application in accordance with the provisions of Section 2252.908 of the Texas Government Code and the rules promulgated by the TEC (the "Form 1295"). The Issuer hereby confirms receipt of the Form 1295 from the Administrator. The Administrator and the Issuer understand and agree that, with the exception of information identifying the Issuer and the contract identification number, neither the Issuer nor its consultant is responsible for the information contained in the Form 1295; that the information contained in the Form 1295 has been provided solely by the Administrator; and, neither the Issuer nor its consultant has verified such information.

Section 22. Anti-Boycott Verification. The Dissemination Agent and the Administrator hereby verify that neither the Dissemination Agent, the Administrator nor any parent company, wholly- or majority-owned subsidiaries, and other affiliates of the Dissemination Agent or the Administrator, if any, do not boycott Israel and, to the extent this Disclosure Agreement is a contract for goods or services, will not boycott Israel during the term of this Disclosure Agreement. The foregoing verification is made solely to comply with Section 2271.002, Texas Government Code, and to the extent such Section does not contravene applicable Federal law. As used in the foregoing verification, "boycott Israel" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes. The Dissemination Agent and the Administrator understand "affiliate" to mean an entity that controls, is controlled by, or is under common control with the

Dissemination Agent or the Administrator within the meaning of SEC Rule 405, 17 C.F.R. §230.405 and exists to make a profit.

Section 23. Iran, Sudan and Foreign Terrorist Organizations. Pursuant to Subchapter F, Chapter 2252, Texas Government Code, the Dissemination Agent and the Administrator represent that neither the Dissemination Agent, the Administrator, nor any parent company, wholly- or majority-owned subsidiaries, and other affiliates of the Dissemination Agent or the Administrator is a company identified on a list prepared and maintained by the Texas Comptroller of Public Accounts under Section 2252.153 or Section 2270.0201, Texas Government Code, and posted on any of the following pages of such officer's internet website: <https://comptroller.texas.gov/purchasing/docs/sudan-list.pdf>, <https://comptroller.texas.gov/purchasing/docs/iran-list.pdf>, or <https://comptroller.texas.gov/purchasing/docs/fto-list.pdf>. The foregoing representation is made solely to comply with Section 2252.152, Texas Government Code, and to the extent such Section does not contravene applicable state or federal law and excludes the Dissemination Agent, the Administrator and each parent company, wholly- or majority-owned subsidiaries, and other affiliates of the Dissemination Agent or the Administrator, if any, that the United States government has affirmatively declared to be excluded from its federal sanctions regime relating to Sudan or Iran or any state or federal sanctions regime relating to a foreign terrorist organization. The Dissemination Agent and the Administrator understand "affiliate" to mean any entity that controls, is controlled by, or is under common control with the Dissemination Agent or the Administrator within the meaning of SEC Rule 405, 17 C.F.R. §230.405 and exists to make a profit

Section 24. Verification Regarding Energy Company Boycotts. To the extent this Agreement constitutes a contract for goods or services for which a written verification statement is required under Section 2274.002 (as added by Senate Bill 13 in the 87th Texas Legislative Session), Texas Government Code, as amended, the Dissemination Agent and the Administrator hereby verify that they and their parent companies, wholly- or majority- owned subsidiaries, and other affiliates, if any, do not boycott energy companies and, will not boycott energy companies during the term of this Agreement. The foregoing verification is made solely to comply with Section 2274.002, Texas Government Code, as amended, to the extent Section 2274.002, Texas Government Code does not contravene applicable Texas or federal law. As used in the foregoing verification, "boycott energy companies" shall have the meaning assigned to the term "boycott energy company" in Section 809.001, Texas Government Code. The Dissemination Agent and the Administrator understand "affiliate" to mean an entity that controls, is controlled by, or is under common control with the Dissemination Agent and the Administrator within the meaning of SEC Rule 405, 17 C.F.R. §230.405 and exists to make a profit.

Section 25. Verification Regarding Discrimination Against Firearm Entity or Trade Association. To the extent this Agreement constitutes a contract for goods or services for which a written verification statement is required under Section 2274.002 (as added by Senate Bill 19 in the 87th Texas Legislative Session, "SB 19"), Texas Government Code, as amended, the Dissemination Agent and the Administrator hereby verify that they and their parent company, wholly- or majority- owned subsidiaries, and other affiliates, if any:

- (1) do not have a practice, policy, guidance or directive that discriminates against a firearm entity or firearm trade association based solely on its status as a firearm entity or firearm trade association; and

(2) will not discriminate during the term of this Agreement against a firearm entity or firearm trade association based solely on its status as a firearm entity or firearm trade association.

The foregoing verification is made solely to comply with Section 2274.002, Texas Government Code, as amended, to the extent Section 2274.002, Texas Government Code does not contravene applicable Texas or federal law. As used in the foregoing verification, “discriminate against a firearm entity or firearm trade association,” “firearm entity,” and “firearm trade association” shall have the meanings set forth in Sections 2274.001(3), 2274.001(6), and 2274.001(7), respectively, of the Texas Government Code. The Dissemination Agent and the Administrator understand “affiliate” to mean an entity that controls, is controlled by, or is under common control with the Dissemination Agent or the Administrator within the meaning of SEC Rule 405, 17. C.F.R. § 230.405 and exists to make a profit.

[Remainder of page intentionally left blank]

**TOWN OF LITTLE ELM, TEXAS**

By: \_\_\_\_\_  
Mayor

**DISSEMINATION AGENT:**

**MUNICAP, INC.**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**ADMINISTRATOR:**

**MUNICAP, INC.**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**EXHIBIT A**

**NOTICE TO MSRB OF FAILURE TO FILE  
ANNUAL ISSUER REPORT**

Name of Issuer: Town of Little Elm, Texas  
Name of Bond Issue: Special Assessment Revenue Bonds, Series 2022  
(Spiritas East Public Improvement District Project)  
Date of Delivery: \_\_\_\_\_

NOTICE IS HEREBY GIVEN that the Town of Little Elm, Texas, has not provided [an Annual Issuer Report][annual audited financial statements] with respect to the above-named bonds as required by the Continuing Disclosure Agreement dated January 1, 2022, between the Issuer, MuniCap, Inc. as Administrator and MuniCap, Inc., as Dissemination Agent. The Issuer anticipates that [the Annual Issuer Report][annual audited financial statements] will be filed by \_\_\_\_\_.

Dated: \_\_\_\_\_

MUNICAP, INC., on behalf of the Town of  
Little Elm, Texas  
(as Dissemination Agent)

By: \_\_\_\_\_  
Title: \_\_\_\_\_

cc: Town of Little Elm, Texas

**EXHIBIT B**

**TOWN OF LITTLE ELM, TEXAS  
SPECIAL ASSESSMENT REVENUE BONDS, SERIES 2022  
(SPIRITAS EAST PUBLIC IMPROVEMENT DISTRICT PROJECT)**

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**ANNUAL ISSUER REPORT\***

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Delivery Date: \_\_\_\_\_, 20\_\_

CUSIP NOS: [insert CUSIP NOs.]

**BONDS OUTSTANDING**

CUSIP Number	Maturity Date	Interest Rate	Original Principal Amount	Outstanding Principal Amount	Outstanding Interest Amount
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**INVESTMENTS**

Fund/ Account Name	Investment Description	Par Value	Book Value	Market Value
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\*Excluding Audited Financial Statements of the Issuer

**BALANCE OF FUNDS AND ACCOUNTS SECURING THE BONDS**

Bonds (Principal Balance)	_____
Funds and Accounts [list]	_____
<b>TOTAL ASSETS</b>	_____

**Form of Accounting**    ☐ Cash    ☐ Accrual    ☐ Modified Accrual

**ITEMS REQUIRED BY SECTIONS 4(a)(ii) – (vii)**

**[Insert a line item for each applicable listing]**



**SECTION 4(a)(viii) COLLECTION AND DELINQUENCY HISTORY OF THE ASSESSMENTS WITHIN THE DISTRICT FOR THE PAST FIVE FISCAL YEARS, IN THE FOLLOWING FORMAT:**

**Collection and Delinquency History of Assessments in the District**

Collected in Fiscal Year	Assessment	Parcels	Delinquent Amount	Delinquent Percentage	Delinquent Amount	Delinquent Percentage	Total Assessments
<u>Ending 9/30</u>	<u>Billed</u>	<u>Levied</u>	<u>as of 3/1</u>	<u>as of 3/1</u>	<u>as of 9/1</u>	<u>as of 9/1</u>	<u>Collected<sup>(1)</sup></u>
20__	\$			—	—		\$

<sup>(1)</sup> Collected as of \_\_\_\_\_, 20\_. Includes \$ \_\_\_\_\_ attributable to Prepayments.

**ITEMS REQUIRED BY SECTIONS 4(a)(xii) – (xii)**

**[Insert a line item for each applicable listing]**

## EXHIBIT C

### BASIC EXPECTED TIMELINE FOR ASSESSMENT COLLECTIONS AND PURSUIT OF DELINQUENCIES\*

<u>Date</u>	<u>Delinquency Clock (Days)</u>	<u>Activity</u>
January 31		Assessments are due.
February 1	1	Assessments delinquent if not received
February 15	15	Issuer forwards payment to Trustee for all collections received as of February 15, along with detailed breakdown. Subsequent payments and relevant details will follow monthly thereafter.
		Issuer and/or Administrator should be aware of actual and specific delinquencies
		<p>Administrator shall be aware if Reserve Fund needs to be utilized for debt service payments during the corresponding Fiscal Year. <b>If there is to be a shortfall of any Annual Installments due to be paid that Fiscal Year, the Trustee and Dissemination Agent shall be immediately notified by Administrator</b></p> <p>Administrator shall determine if previously collected surplus funds, if any, plus actual Annual Installment collections will be fully adequate for debt service in the corresponding March and September.</p> <p>At this point, if total delinquencies are under 5% and if there is adequate funding for March and September payments, no further action is anticipated for collection of Assessments except that the Issuer or Administrator, working with the Town Attorney or an appropriate designee, will begin process to cure deficiency. <b>For properties delinquent by more than one year or if the delinquency exceeds \$10,000 the matter will be referred for commencement of foreclosure.</b></p> <p><b>If there are over 5% delinquencies or if there is insufficient funding in the Pledged Revenue Fund for transfer to the Principal and Interest Account of such amounts as shall be required</b></p>

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\* Illustrates anticipated dates and procedures for pursuing the collection of delinquent Assessments, which dates and procedures are subject to adjustment.

		<b>for the full March and September payments, the collection-foreclosure procedure will proceed against all delinquent properties.</b>
March 1	28/29	Trustee pays bond interest payments to bondholders.
		Issuer, or the Trustee on behalf of the Issuer, to notify Dissemination Agent of the occurrence of draw on the Reserve Fund and, following receipt of such notice, Dissemination Agent to notify MSRB of such draw or the Reserve Fund.
<b>July 1</b>	<b>150/151</b>	Issuer, or the Administrator on behalf of the Issuer, determines whether or not any Annual Installments are delinquent and, if such delinquencies exist, the Issuer commences as soon as practicable appropriate and legally permissible actions to obtain such delinquent Annual Installments.
		<b>Issuer and/or Administrator to notify Dissemination Agent for disclosure to MSRB of all delinquencies.</b>
		<b>Preliminary Foreclosure activity commences, and Issuer to notify Dissemination Agent of the commencement of preliminary foreclosure activity.</b>  If Dissemination Agent has not received Foreclosure Schedule and Plan of Collections, Dissemination Agent to request same from the Issuer.
		If the Issuer has not provided the Dissemination Agent with Foreclosure Schedule and Plan of Collections, and if instructed by the bondholders under Section 11.2 of the Indenture, Dissemination Agent requests that the Issuer commence foreclosure or provide plan for collection.
August 15	195/196	The designated lawyers or law firm will be preparing the formal foreclosure documents and will provide periodic updates to the Dissemination Agent for dissemination to those bondholders who have requested to be notified of collections

		progress. The goal for the foreclosure actions is a filing by no later than August 15 (day 195/196).
		<b>Foreclosure action to be filed with the court.</b>
		<b>Issuer notifies Trustee and Dissemination Agent of Foreclosure filing status.</b> Dissemination Agent notifies bondholders.
		If bondholders and Dissemination Agent have not been notified of a foreclosure action, Dissemination Agent will notify the Issuer that it is appropriate to file action.

**EXHIBIT D**  
**CONSTRUCTION, FUNDING, AND ACQUISITION AGREEMENT**

**SPIRITAS EAST PUBLIC IMPROVEMENT DISTRICT CONSTRUCTION, FUNDING,  
AND ACQUISITION AGREEMENT**

**THIS SPIRITAS EAST PUBLIC IMPROVEMENT DISTRICT CONSTRUCTION, FUNDING, AND ACQUISITION AGREEMENT** (this “Agreement”), dated as of December 21, 2021, is by and between the **TOWN OF LITTLE ELM, TEXAS**, a home-rule municipality of the State of Texas (the “Town”), and **MM LITTLE ELM 43, LLC**, a Texas limited liability company, (the “Developer”).

**ARTICLE I  
DEFINITIONS**

The following terms shall have the meanings ascribed to them in this Article I for purposes of this Agreement. Unless otherwise indicated, any other terms, capitalized or not, when used herein shall have the meanings ascribed to them in the Indenture (as hereinafter defined).

“**Act**” means the Public Improvement District Assessment Act, Texas Local Government Code, Chapter 372, as amended.

“**Actual Costs**” means the costs of the Authorized Improvements actually paid or incurred for construction and installation of the Authorized Improvements in accordance with the Service and Assessment Plan.

“**Administrator**” means, initially, MuniCap, Inc., or any other individual or entity designated by the Town to administer the District.

“**Annual Service Plan Update**” means the annual update to the Service and Assessment Plan conducted by the Administrator pursuant to the Service and Assessment Plan.

“**Authorized Improvements**” means improvements authorized by Section 372.003 of the Act, including and as listed in Section III of the Service and Assessment Plan. An individual Authorized Improvement, including a completed segment, section or part, shall be referred to as an Authorized Improvement.

“**Authorized Improvements Account**” means the account of such name in the Project Fund created under Section 6.1 of the Indenture.

“**Bond Ordinance**” means the ordinance adopted by the Town Council on December 21, 2021, authorizing the issuance of the Bonds pursuant to the Indenture.

“**Bonds**” means the Town’s bonds designated "Town of Little Elm, Texas, Special Assessment Revenue Bonds, Series 2022 (Spiritas East Public Improvement District Project)".

“**Budgeted Costs**” means the anticipated, agreed upon costs of the Authorized Improvements as shown in Section III of the Service and Assessment Plan.

**“Certification for Payment”** means a certificate, substantially in the form of **Exhibit B** hereto or otherwise agreed to by the Developer, the Administrator and the Town Representative, executed by an engineer, construction manager or other person or entity acceptable to the Town, as evidenced by the signature of a Town Representative, provided no more frequently than once per each month to the Town Representative and the Trustee, specifying the amount of work performed and the amount charged for that work, including materials and labor costs, presented to the Trustee to request payment for Actual Costs of Authorized Improvements under the Indenture.

**“Closing Disbursement Request”** means the certificate, substantially in the form of **Exhibit A** hereto or otherwise mutually agreed to by the Developer, Administrator, and Town Representative, executed by an engineer, construction manager or other person or entity acceptable to the Town, as evidenced by the signature of a Town Representative, specifying the amounts to be disbursed for the costs related to the creation of the District and the costs of issuance of the Bonds.

**“Construction Contracts”** means the contracts for the construction of an Authorized Improvement. **“Construction Contract”** means any one of the Construction Contracts.

**“Cost”** means the Budgeted Costs or the cost of an Authorized Improvement as reflected in a Construction Contract, if greater than the Budgeted Costs.

**“Costs of Issuance Account”** means the account of such name in the Project Fund created under Section 6.1 of the Indenture.

**“Cost Overrun”** means, with respect to each Authorized Improvement, the Actual Cost, as appropriate, of such Authorized Improvement in excess of the Budgeted Cost.

**“Developer Improvement Account”** means the account of such name in the Project Fund created under Section 6.1 of the Indenture.

**“Development Agreement”** means that certain Spiritas East Development Agreement executed by and between the Town and Centurion American Acquisitions, LLC, effective November 16, 2021, as may be amended, and as assigned to the Developer pursuant to that certain Assignment of Spiritas East Development Agreement, effective as of \_\_\_\_\_, 2021.

**“District”** shall mean the Spiritas East Public Improvement District created on November 16, 2021.

**“Final Completion”** means completion of an Authorized Improvement in compliance with existing Town standards for dedication under the Town’s ordinances and the Development Agreement.

**“Indenture”** means that certain Indenture of Trust between the Town and Wilmington Trust, National Association, as trustee, dated as of January 1, 2022, relating to the Bonds.

**“Mustang SUD”** means Mustang Special Utility District.

**“Plans”** means the plans, specifications, schedules and related construction contracts for the Authorized Improvements, respectively, approved pursuant to the applicable standards, ordinances, procedures, policies and directives of the Town or Mustang SUD, as applicable, the Development Agreement, and any other applicable governmental entity.

**“Project Fund”** means the fund, including the accounts created and established under such fund, where monies from the proceeds of the sale of the Bonds and funds received from the Developer, excluding those deposited in other funds in accordance with the Indenture, shall be deposited, and the fund by such name created under the Indenture.

**“Service and Assessment Plan”** means the Spiritas East Public Improvement District Service and Assessment Plan adopted by a Town ordinance on December 21, 2021, by the Town Council, prepared pursuant to the Act.

**“Substantial Completion”** means the time at which the construction of an Authorized Improvement (or specified segment, section or part thereof) has progressed to the point where such Authorized Improvement (or a specified segment, section or part thereof) is sufficiently complete in accordance with the Construction Contracts related thereto so that such Authorized Improvement (or a specified segment, section or part thereof) can be utilized for the purposes for which it is intended.

**“Supplement”** means a written document agreed upon by the parties to this Agreement amending, supplementing or otherwise modifying this Agreement and any exhibit hereto.

**“Town Inspector”** means an individual employed by or an agent of the Town whose job is, in part or in whole, to inspect infrastructure to be owned by the Town for compliance with all rules and regulations applicable to the development and the infrastructure inspected.

**“Town Manager”** means the Town Manager of the Town, or its designee.

**“Town Representative”** means the Town Manager, or any other official or agent of the Town later authorized by the Town to undertake the action referenced herein.

## **ARTICLE II RECITALS**

### **Section 2.01. The District and the Authorized Improvements.**

(a) The Town has created the District under the Act for the financing of, among other things, the acquisition, construction and installation of the Authorized Improvements.

(b) The Town has authorized the issuance of the Bonds in accordance with the provisions of the Act, the Bond Ordinance and the Indenture, the proceeds of which Bonds shall



be used, in part, to finance all or a portion of the Authorized Improvements in accordance with the terms and limitations of the Development Agreement, this Agreement, and the Service and Assessment Plan.

(c) All Authorized Improvements are eligible to be financed with proceeds of the Bonds to the extent specified herein.

(d) The proceeds from the issuance and sale of the Bonds and funds received from the Developer concurrently with the closing of the Bonds shall be deposited in accordance with the Indenture.

(e) The Developer will undertake, oversee, or ensure the construction and development of the Authorized Improvements for acquisition and acceptance by the Town or Mustang SUD, in accordance with the terms and conditions contained in the Development Agreement and this Agreement.

Section 2.02. Agreements. In consideration of the mutual promises and covenants set forth herein, and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Town and the Developer agree that the foregoing recitals, as applicable to each, are true and correct and further make the agreements set forth herein.

### **ARTICLE III FUNDING**

#### **Section 3.01. Bonds.**

(a) The Town, in connection with this Agreement, is proceeding with the issuance and delivery of the Bonds.

(b) The projects to be financed in part with the proceeds of the Bonds are the Authorized Improvements. The payment of costs from the proceeds of the Bonds for such Authorized Improvements shall be made from the Authorized Improvements Account of the Project Fund established under the Indenture. The payment of costs of the Authorized Improvements from the Development Improvement Account of the Project Fund established under the Indenture shall be made in accordance with the provisions of Section 5.03 hereof and the terms of the Indenture.

(c) The Town's obligation with respect to the payment of the Authorized Improvements shall be limited to the lesser of the Actual Costs or Budgeted Costs, and shall be payable solely from amounts on deposit for the payment of such costs as provided herein and in the Indenture. The Developer agrees and acknowledges that it is responsible for all Cost Overruns and all expenses related to the Authorized Improvements, qualified, however, by the distribution of Cost Underrun (as defined in Section 4.04 hereof) monies, as detailed in Section 4.04.

(d) The Town shall have no responsibility whatsoever to the Developer with respect to the investment of any funds held in the Project Fund by the Trustee under the provisions of the Indenture, including any loss of all or a portion of the principal invested or any penalty for liquidation of an investment.

(e) The Developer acknowledges that any lack of availability of amounts in the funds or accounts established in the Indenture to pay the Costs of the Authorized Improvements shall in no way diminish any obligation of the Developer with respect to the construction of or contributions for the Authorized Improvements required by this Agreement, the Development Agreement, or any other agreement to which the Developer is a party or any governmental approval to which the Developer or any land within the District is subject.

Section 3.02 Accounts. All disbursements from the Authorized Improvements Account of the Project Fund and the Developer Improvement Account of the Project Fund shall be made by the Town in accordance with provisions of the Development Agreement, the Service and Assessment Plan, this Agreement, and the Indenture.

## **ARTICLE IV CONSTRUCTION OF THE AUTHORIZED IMPROVEMENTS**

### **Section 4.01. Duty of Developer to Construct.**

(a) All Authorized Improvements shall be constructed by or at the direction of the Developer in accordance with the Plans and in accordance with this Agreement and the Development Agreement. The Developer shall perform, or cause to be performed, all of its obligations and shall conduct, or cause to be conducted, all operations with respect to the construction of Authorized Improvements in a good, workmanlike and commercially reasonable manner, with the standard of diligence and care normally employed by duly qualified persons utilizing their commercially reasonable efforts in the performance of comparable work and in accordance with generally accepted practices appropriate to the activities undertaken. The Developer shall employ at all times adequate staff or consultants with the requisite experience necessary to administer and coordinate all work related to the design, engineering, acquisition, construction and installation of all Authorized Improvements, to be acquired and accepted by the Town or Mustang SUD, from the Developer as provided in this Agreement.

(b) The Developer shall not be relieved of its obligation to construct or cause to be constructed each Authorized Improvement and, upon completion, inspection, and acceptance, convey each such Authorized Improvement to the Town or Mustang SUD, where applicable, in accordance with the terms hereof, even if there are insufficient funds in the Project Fund to pay the Actual Costs thereof. In any event, this Agreement shall not affect any obligation of the Developer under any other agreement to which the Developer is a party or any governmental approval to which the Developer or any land within the District is subject, with respect to the

Authorized Improvements required in connection with the development of the land within the District.

Section 4.02. No Competitive Bidding. The Authorized Improvements shall not require competitive bidding pursuant to Section 252.022(a)(9) of the Texas Local Government Code, as amended.

Section 4.03. Independent Contractor. In performing this Agreement, the Developer is an independent contractor and not the agent or employee of the Town or Mustang SUD with respect to the Authorized Improvements.

Section 4.04. Remaining Funds After Completion of an Authorized Improvement. Upon the Final Completion of an Authorized Improvement and payment of all outstanding invoices for such Authorized Improvement, if the Actual Cost of such Authorized Improvement is less than the Budgeted Cost (a “Cost Underrun”), any remaining Budgeted Cost may be made available to pay Cost Overruns on any other Authorized Improvement. The Town shall promptly confirm to the Administrator that such remaining amounts are available to pay such Cost Overruns, and the Developer, the Administrator and the Town Representative will agree how to use such moneys to secure the payment and performance of the work for other Authorized Improvements and shall include this update in the next Annual Service Plan Update. Any Cost Underrun for any Authorized Improvement is available to pay Cost Overruns on any other Authorized Improvement.

Section 4.05. Contracts and Change Orders. The Developer shall be responsible for entering into all contracts and any supplemental agreements (herein referred to as “change orders”) required for the construction of the Authorized Improvements. Developer or its contractors may approve and implement any change orders, even if such change order would increase the Cost of an Authorized Improvement, but the Developer shall be solely responsible for payment of any Cost Overruns resulting from such change orders except to the extent amounts are available pursuant to Section 4.04. If any change order is for work that requires changes to be made by an engineer to the construction and design documents and plans previously approved under Section 4.01, then such revisions made by an engineer must be submitted to the Town for approval by the Town’s engineer prior to execution of the change order.

## **ARTICLE V**

### **ACQUISITION, CONSTRUCTION, AND PAYMENT**

Section 5.01. Payment Requests for Disbursements at Closing. In order to receive the disbursement from the Costs of Issuance Account of the Project Fund or from the Authorized Improvements Account of the Project Fund at closing of the Bonds related to costs of issuance of the Bonds or costs incurred in the creation of the District, the Developer shall execute a Closing Disbursement Request, substantially in the form of **Exhibit A** hereto or otherwise acceptable and agreed to by the Town, to be delivered to the Town no less than five (5) business days prior to the

scheduled Closing Date for the Bonds for payment in accordance with the provisions of the Indenture. In order to receive the disbursement for an Authorized Improvement from the respective Authorized Improvements Account of the Project Fund or the Developer Improvement Account of the Project Fund at closing of the Bonds, the Developer shall execute a Certification for Payment, substantially in the form of **Exhibit B** hereto or otherwise agreed to by the Town, to be delivered to the Town no later than five (5) business days prior to the scheduled Closing Date for the Bonds for payment in accordance with the provisions of the Indenture. Upon approval by the Town, the Town shall submit a Closing Disbursement Request or a Certification for Payment, as applicable, to the Trustee for disbursement to be made from the Costs of Issuance Account of the Project Fund, the Authorized Improvements Account of the Project Fund or the Developer Improvement Account of the Project Fund, as applicable.

Section 5.02. Certification for Payment for an Authorized Improvement.

(a) No payment hereunder shall be made from the Project Fund to the Developer for work on an Authorized Improvement until a Certification for Payment is received from the Developer. Upon receipt of a Certification for Payment substantially in the form of **Exhibit B** hereto (and all accompanying documentation required by the Town) from the Developer, the Town Inspector (for a Town owned Authorized Improvement) shall conduct a review in order to confirm that such request is complete, that the work with respect to such Authorized Improvement identified therein for which payment is requested was completed in accordance with all applicable governmental laws, rules and regulations and applicable Plans therefor and with the terms of this Agreement, the Development Agreement, and to verify and approve the Actual Cost of such work specified in such Certification for Payment (collectively, the “Developer Compliance Requirements”). The Town Inspector and/or the Town Representative shall also conduct such review as is required in his discretion to confirm the matters certified in the Certification for Payment. The Developer agrees to cooperate with the Town Inspector and/or Town Representative in conducting each such review and to provide the Town Inspector and/or Town Representative with such additional information and documentation as is reasonably necessary for the Town Inspector and/or Town Representative to conclude each such review.

(b) Within fifteen (15) business days of receipt of any Certification for Payment, the Town Representative shall either (i) approve and execute the Certification for Payment and forward the same to the Administrator for approval and delivery to the Trustee for payment to the Developer in accordance with Section 5.03(a) hereof or (ii) in the event the Town Representative disapproves the Certification for Payment, give written notification to the Developer of the Town Representative’s disapproval, in whole or in part, of such Certification for Payment, specifying the reasons for such disapproval and the additional requirements to be satisfied for approval of such Certification for Payment. If a Certification for Payment seeking reimbursement is approved only in part, the Town Representative shall specify the extent to which the Certification for Payment is approved and shall deliver such partially approved Certification for Payment to the Administrator

for approval in accordance with Section 5.03 hereof and delivery to the Developer in accordance with Section 5.02(c) hereof, and any such partial work shall be processed for payment under Section 5.03 notwithstanding such partial denial.

(c) If the Town Representative denies the Certification for Payment, the denial must be in writing, stating the reason(s) for denial. The denial may be appealed to the Town Council by the Developer in writing within thirty (30) days of being denied by the Town Representative. Denial of the Certification for Payment by the Town Council shall be attempted to be resolved by half-day mediation between the parties in the event an agreement is not otherwise reached by the parties, with the mediator's fee being paid by Developer. The Certification for Payment shall not be forwarded to the Trustee for payment until the dispute is resolved by the Town and the Developer.

(d) The Developer shall deliver the approved or partially approved Certification for Payment to the Trustee for payment and the Trustee shall make such payment from the Project Fund in accordance with Section 5.03 below.

Section 5.03. Payment for an Authorized Improvement.

(a) Upon receipt of a reviewed and approved Certification for Payment, the Trustee shall make payment from the following funds: (1) first from the Authorized Improvements Account of the Project Fund; and then (2) second from the Developer Improvement Account of the Project Fund and designated in the Certification for Payment pursuant to the terms of the Certification for Payment and the Indenture in an amount not to exceed the Budgeted Cost for the particular Authorized Improvement, unless a Cost Overrun amount has been approved for a particular Authorized Improvement. If a Cost Overrun amount has been approved, then the amount reimbursed shall not exceed the Budgeted Amount plus the approved Cost Overrun amount.

(b) Approved Certifications for Payment that await reimbursement shall not accrue interest.

(c) Notwithstanding any other provisions of this Agreement, when payment is made, the Trustee shall make payment directly to the general contractor or supplier of materials or services or jointly to Developer (or any permitted assignee of such Developer) and the general contractor or supplier of materials or services, as indicated in an approved Certification for Payment, out of available and appropriate funds in the Project Fund. If the request for payment results in ninety percent (90%) or more of the Budgeted Costs for such Authorized Improvement identified in such request for payment being paid, then Trustee shall hold the payment until work with respect to that Authorized Improvement has been completed and accepted by the Town. If an unconditional lien release related to the items referenced in the Certification for Payment is attached to such Certification for Payment, the Trustee shall make such payment to the Developer or any permitted assignee of the Developer. In the event the Developer provides a general

contractor's or supplier of materials' unconditional lien release for a portion of the work covered by a Certification for Payment, the Trustee will make such payment directly to the Developer or any permitted assignee of the Developer to the extent of such lien release.

(d) Withholding Payments.

Nothing in this Agreement shall be deemed to prohibit the Developer or the Town from contesting in good faith the validity or amount of any mechanics or materialman's lien and/or judgment nor limit the remedies available to the Developer or the Town with respect thereto, including the withholding of any payment that may be associated with the exercise of such remedy, so long as such delay in performance shall not subject the Authorized Improvement to foreclosure, forfeiture, or sale. In the event that any such mechanics or materialman's lien and/or judgment with respect to any Authorized Improvement is contested, the Developer shall post or cause delivery of a surety bond in the amount determined by the Town or Town may decline to accept the Authorized Improvements until such mechanics or materialman's lien and/or judgment is satisfied.

## **ARTICLE VI**

### **OWNERSHIP AND TRANSFER OF AN AUTHORIZED IMPROVEMENT**

Section 6.01. Authorized Improvement to be Owned by the Town or Mustang SUD– Title Evidence. If required by the Town or Mustang SUD, as applicable, the Developer shall furnish to the Town or Mustang SUD, as applicable, a preliminary title report for land with respect to an Authorized Improvement to be acquired and accepted by the Town or Mustang SUD, as applicable, from the Developer and not previously dedicated or otherwise conveyed to the Town or Mustang SUD, as applicable, for review and approval at least thirty (30) calendar days prior to the transfer of title of an Authorized Improvement to the Town. The Town shall approve the preliminary title report unless it reveals a matter which, in the reasonable judgment of the Town, could materially affect the Town's clean title or use and enjoyment of any part of the property or easement covered by the preliminary title report. In the event the Town does not approve the preliminary title report, the Town shall not be obligated to accept title to the Authorized Improvement until the Developer has cured such objections to title to the satisfaction of the Town.

Section 6.02. Authorized Improvement Constructed on Town Land or Developer Land. If the Authorized Improvement is on land owned by the Town, the Town hereby grants to the Developer a license to enter upon such land for purposes related to construction (and maintenance pending acquisition and acceptance) of the Authorized Improvement. If the Authorized Improvement is on land owned by the Developer, the Developer hereby grants to the Town an easement to enter upon such land for purposes related to inspection and maintenance (pending acquisition and acceptance) of the Authorized Improvement. The grant of the permanent easement shall not relieve the Developer of any obligation to grant the Town or Mustang SUD title to property and/or easements related to the Authorized Improvement as required by the Development

Agreement or as should in the Town's reasonable judgment be granted to provide for convenient access to and routine and emergency maintenance of such Authorized Improvement. The provisions for inspection and acceptance of such Authorized Improvement otherwise provided herein shall apply.

## **ARTICLE VII**

### **REPRESENTATIONS, WARRANTIES AND COVENANTS**

Section 7.01. Representations, Covenants and Warranties of the Developer. The Developer represents and warrants for the benefit of the Town as follows:

(a) Organization. The Developer consists of one limited liability company duly formed, organized and validly existing under the laws of the State of Texas, is in compliance with the laws of the State of Texas, and has the power and authority to own its properties and assets and to fulfill its obligations in this Agreement and the Development Agreement and to carry on its business in the State of Texas as now being conducted as hereby contemplated.

(b) Authority. The Developer has the power and authority to enter into this Agreement and has taken all action necessary to cause this Agreement to be executed and delivered, and this Agreement has been duly and validly executed and delivered by the Developer.

(c) Binding Obligation. This Agreement is a legal, valid and binding obligation of the Developer, enforceable against the Developer in accordance with its terms, subject to bankruptcy and other equitable principles.

(d) Compliance with Law. The Developer shall not commit, suffer or permit any act to be done in, upon or to the lands in the District or the Authorized Improvements in violation of any law, ordinance, rule, regulation or order of any governmental authority or any covenant, condition or restriction now or hereafter affecting the lands in the District or the Authorized Improvements.

(e) Requests for Payment. The Developer represents and warrants that (i) it will not request payment from the Project Fund for the acquisition construction or installation of any improvements that are not part of the costs associated with the Authorized Improvements, and (ii) it will diligently follow all procedures set forth in this Agreement with respect to the Certification for Payments.

(f) Financial Records. For a period of two years after completion of the Authorized Improvements, the Developer covenants to maintain proper books of record and account for the construction of the Authorized Improvements and all Costs related thereto. Such accounting books shall be maintained in accordance with generally accepted accounting principles, and shall be available for inspection by the Town or its agents at any reasonable time during regular business hours on reasonable notice.

(g) Plans. The Developer represents that it has obtained or will obtain approval of the Plans from all appropriate departments of the Town and from any other public entity or public utility from which such approval must be obtained. The Developer further agrees that, subject to the terms hereof, the Authorized Improvements have been or will be constructed in full compliance with such Plans and any change orders thereto consistent with the Act, this Agreement and the Development Agreement. Developer shall provide as-built plans for all Authorized Improvements to the Town.

(h) Additional Information. The Developer agrees to cooperate with all reasonable written requests for nonproprietary information by the initial purchaser of the Bonds, the Town Manager and the Town Representative related to the status of construction of the Authorized Improvements within the District, the anticipated completion dates for future improvements and any other matter that the initial purchaser of the Bonds or Town Representative deems material to the investment quality of the Bonds.

(i) Continuing Disclosure Agreement. The Developer agrees to provide the information required pursuant to the Continuing Disclosure Agreement executed by the Developer in connection with the Bonds.

(j) Tax Certificate. The Town will deliver a certificate relating to the Bonds (such certificate, as it may be amended and supplemented from time to time, being referred to herein as the “Tax Certificate”) containing covenants and agreements designed to satisfy the requirements of 26 U.S. Code Sections 103 and 141 through 150, inclusive, and the federal income tax regulations issued thereunder relating to the use of the proceeds of the Bonds or of any monies, securities or other obligations on deposit to the credit of any of the funds and accounts created by the Indenture or this Agreement or otherwise that may be deemed to be proceeds of the Bonds within the meaning of 26 U.S. Code Section 148 (collectively, “Bond Proceeds”).

The Developer covenants to provide, or cause to be provided, such facts and estimates as the Town reasonably considers necessary to enable it to execute and deliver its Tax Certificate. The Developer further covenants that (i) such facts and estimates will be based on its reasonable expectations on the date of issuance of the Bonds and will be, to the best of the knowledge of the officers of the Developer providing such facts and estimates, true, correct and complete as of that date, and (ii) the Developer will make reasonable inquiries to ensure such truth, correctness and completeness. The Developer covenants that it will not make, or (to the extent that it exercises control or direction) permit to be made, any use or investment of the Bond Proceeds (including, but not limited to, the use of the Authorized Improvements) that would cause any of the covenants or agreements of the Town contained in the Tax Certificate to be violated or that would otherwise have an adverse effect on the tax-exempt status of the interest payable on the Bonds for federal income tax purposes.



(k) Financial Resources. The Developer represents and warrants that it has the financial resources, or the ability to obtain sufficient financial resources, to meet its obligations under this Agreement, the Service and Assessment Plan and the Development Agreement.

Section 7.02. Indemnification and Hold Harmless. THE DEVELOPER SHALL INDEMNIFY AND HOLD HARMLESS THE TOWN INSPECTOR, THE TOWN, ITS OFFICIALS, EMPLOYEES, OFFICERS, REPRESENTATIVES AND AGENTS (EACH AN "INDEMNIFIED PARTY"), FROM AND AGAINST ALL ACTIONS, DAMAGES, CLAIMS, LOSSES OR EXPENSE OF EVERY TYPE AND DESCRIPTION TO WHICH THEY MAY BE SUBJECTED OR PUT: (I) BY REASON OF, OR RESULTING FROM THE BREACH OF ANY PROVISION OF THIS AGREEMENT BY THE DEVELOPER; (II) THE NEGLIGENT DESIGN, ENGINEERING, AND/OR CONSTRUCTION BY THE DEVELOPER OR ANY ARCHITECT, ENGINEER OR CONTRACTOR HIRED BY THE DEVELOPER OF ANY OF THE AUTHORIZED IMPROVEMENTS ACQUIRED FROM THE DEVELOPER HEREUNDER; (III) THE DEVELOPER'S NONPAYMENT UNDER CONTRACTS BETWEEN THE DEVELOPER AND ITS CONSULTANTS, ENGINEERS, ADVISORS, CONTRACTORS, SUBCONTRACTORS AND SUPPLIERS IN THE PROVISION OF THE AUTHORIZED IMPROVEMENTS; (IV) ANY CLAIMS OF PERSONS EMPLOYED BY THE DEVELOPER OR ITS AGENTS TO CONSTRUCT THE AUTHORIZED IMPROVEMENTS; OR (V) ANY CLAIMS AND SUITS OF THIRD PARTIES, INCLUDING BUT NOT LIMITED TO DEVELOPER'S RESPECTIVE PARTNERS, OFFICERS, DIRECTORS, EMPLOYEES, REPRESENTATIVES, AGENTS, SUCCESSORS, ASSIGNEES, VENDORS, GRANTEEES AND/OR TRUSTEES, REGARDING OR RELATED TO THE AUTHORIZED IMPROVEMENTS OR ANY AGREEMENT OR RESPONSIBILITY REGARDING THE AUTHORIZED IMPROVEMENTS, INCLUDING CLAIMS AND CAUSES OF ACTION WHICH MAY ARISE OUT OF THE SOLE OR PARTIAL NEGLIGENCE OF AN INDEMNIFIED PARTY (THE "CLAIMS"). NOTWITHSTANDING THE FOREGOING, NO INDEMNIFICATION IS GIVEN HEREUNDER FOR ANY ACTION, DAMAGE, CLAIM, LOSS OR EXPENSE DETERMINED BY A COURT OF COMPETENT JURISDICTION TO BE DIRECTLY ATTRIBUTABLE TO THE WILLFUL MISCONDUCT OF ANY INDEMNIFIED PARTY, DEVELOPER IS EXPRESSLY REQUIRED TO DEFEND TOWN AGAINST ALL SUCH CLAIMS, AND TOWN IS REQUIRED TO REASONABLY COOPERATE AND ASSIST DEVELOPER IN PROVIDING SUCH DEFENSE.

IN ITS REASONABLE DISCRETION, TOWN SHALL HAVE THE RIGHT TO APPROVE OR SELECT DEFENSE COUNSEL TO BE RETAINED BY DEVELOPER IN FULFILLING ITS OBLIGATIONS HEREUNDER TO DEFEND AND INDEMNIFY THE INDEMNIFIED PARTIES, UNLESS SUCH RIGHT IS EXPRESSLY WAIVED BY TOWN IN WRITING. THE INDEMNIFIED PARTIES RESERVE THE RIGHT TO PROVIDE A PORTION OR ALL OF THEIR/ITS OWN DEFENSE, AT THEIR/ITS SOLE COST; HOWEVER, INDEMNIFIED PARTIES ARE UNDER NO OBLIGATION TO DO SO. ANY

SUCH ACTION BY AN INDEMNIFIED PARTY IS NOT TO BE CONSTRUED AS A WAIVER OF DEVELOPER'S OBLIGATION TO DEFEND INDEMNIFIED PARTIES OR AS A WAIVER OF DEVELOPER'S OBLIGATION TO INDEMNIFY INDEMNIFIED PARTIES, PURSUANT TO THIS AGREEMENT. DEVELOPER SHALL RETAIN TOWN-APPROVED DEFENSE COUNSEL WITHIN SEVEN (7) BUSINESS DAYS OF WRITTEN NOTICE FROM AN INDEMNIFIED PARTY THAT IT IS INVOKING ITS RIGHT TO INDEMNIFICATION UNDER THIS AGREEMENT. IF DEVELOPER FAILS TO RETAIN COUNSEL WITHIN SUCH TIME PERIOD, INDEMNIFIED PARTIES SHALL HAVE THE RIGHT TO RETAIN DEFENSE COUNSEL ON ITS OWN BEHALF, AND DEVELOPER SHALL BE JOINTLY AND SEVERALLY LIABLE FOR ALL REASONABLE COSTS INCURRED BY INDEMNIFIED PARTIES.

THIS SECTION 7.02 SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

THE PARTIES AGREE AND STIPULATE THAT THIS INDEMNIFICATION COMPLIES WITH THE CONSPICUOUSNESS REQUIREMENT AND THE EXPRESS NEGLIGENCE TEST, AND IS VALID AND ENFORCEABLE AGAINST THE DEVELOPER.

Section 7.03. Use of Monies by Town; Changes to Indenture. The Town agrees not to take any action or direct the Trustee to take any action to expend, disburse or encumber the monies held in the Project Fund and any monies to be transferred thereto for any purpose other than the purposes permitted by the Indenture. Prior to the acceptance of all the Authorized Improvements, the Town agrees not to modify or supplement the Indenture without the approval of the Developer if as a result or as a consequence of such modification or supplement: (a) the amount of monies that would otherwise have been available under the Indenture for disbursement for the Costs of the Authorized Improvements is reduced, delayed or deferred, (b) the obligations or liabilities of the Developer is or may be substantially increased or otherwise adversely affected in any manner, or (c) the rights of the Developer is or may be modified, limited, restricted or otherwise substantially adversely affected in any manner.

Section 7.04. No Reduction of Assessments. The Developer agrees not to take any action or actions to reduce the total amount of such Assessments to be levied as of the effective date of this Agreement.

## **ARTICLE VIII TERMINATION**

Section 8.01. Mutual Consent. This Agreement may be terminated by the mutual, written consent of the Town and the Developer, in which event the Town may either execute contracts for or perform any remaining work related to the Authorized Improvements not accepted by the Town or other appropriate entity and use all or any portion of funds on deposit in the Project Fund or

other amounts transferred to the Project Fund under the terms of the Indenture to pay for same, and the Developer shall have no claim or right to any further payments for the Costs of a Authorized Improvement hereunder, except as otherwise may be provided in such written consent.

Section 8.02. Town's Election for Cause.

(a) The Town, upon notice to Developer and the passage of the cure period identified in subsection (b) below, may terminate this Agreement, without the consent of the Developer if the Developer shall breach any material covenant or default in the performance of any material obligation hereunder.

(b) If any such event described in Section 8.02(a) occurs, the Town shall give written notice of its knowledge of such event to the Developer, and the Developer agrees to promptly meet and confer with the Town Inspector and other appropriate Town staff and consultants as to options available to assure timely completion, subject to the terms of this Agreement, of the Authorized Improvements. Such options may include, but not be limited to, the termination of this Agreement by the Town. If the Town elects to terminate this Agreement, the Town shall first notify the Developer (and any mortgagee or trust deed beneficiary specified in writing by the Developer to the Town to receive such notice) of the grounds for such termination and allow the Developer a minimum of 45 days to eliminate or to mitigate to the satisfaction of the Town the grounds for such termination. Such period may be extended, at the sole discretion of the Town, if the Developer, to the reasonable satisfaction of the Town, is proceeding with diligence to eliminate or mitigate such grounds for termination. If at the end of such period (and any extension thereof), as determined reasonably by the Town, the Developer has not eliminated or completely mitigated such grounds to the satisfaction of the Town, the Town may then terminate this Agreement. In the event of the termination of this Agreement, the Developer is entitled to payment for work accepted by the Town related to an Authorized Improvement only as provided for under the terms of the Indenture and this Agreement prior to the termination date of this Agreement. Notwithstanding the foregoing, so long as the Developer has breached any material covenant or defaulted in the performance of any material obligation hereunder, notice of which has been given by the Town to the Developer, and such event has not been cured or otherwise eliminated by the Developer, the Town may in its discretion cause the Trustee to cease making payments for the Actual Costs of Authorized Improvements, provided that the Developer shall receive payment of the Actual Costs of any Authorized Improvements that were accepted by the Town at the time of the occurrence of such breach or default by the Developer upon submission of the documents and compliance with the other applicable requirements of this Agreement.

(c) If this Agreement is terminated by the Town for cause, the Town may either execute contracts for or perform any remaining work related to the Authorized Improvements not accepted by the Town and use all or any portion of the funds on deposit in the Project Fund or other amounts transferred to the Project Fund and the Developer shall have no claim or right to any further payments for the Authorized Improvements hereunder, except as otherwise may be provided upon

the mutual written consent of the Town and the Developer or as provided for in the Reimbursement Agreement. The Town shall have no obligation to perform any work related to an Authorized Improvement or to incur any expense or cost in excess of the remaining balance of the Project Fund.

Section 8.03. Termination Upon Redemption or Defeasance of Bonds. This Agreement will terminate automatically and with no further action by the Town or the Developer upon the redemption or defeasance of all outstanding Bonds (including any refunding bonds issued to fund the Bonds) issued under the Indenture.

Section 8.04. Construction of the Authorized Improvements Upon Termination of this Agreement. Notwithstanding anything to the contrary contained herein, upon the termination of this Agreement pursuant to this Article VIII, the Developer shall perform its obligations with respect to the Authorized Improvements in accordance with this Agreement and the Development Agreement.

Section 8.05. Force Majeure. Whenever performance is required of a party hereunder, that party shall use all due diligence and take all necessary measures in good faith to perform, but if completion of performance is delayed by reasons of floods, earthquakes or other acts of God, war, civil commotion, riots, strikes, picketing or other labor disputes, damage to work in progress by casualty or by other cause beyond the reasonable control of the party (financial inability excepted) (“Force Majeure”), then the specified time for performance shall be extended by the amount of the delay actually so caused. The extension of time to perform allowed by this Section 8.05 shall not apply unless, upon the occurrence of an event of Force Majeure, the party needing additional time to perform notifies the other party of the event of Force Majeure and the amount of additional time reasonably required within ten (10) business days of the occurrence of the event of Force Majeure.

## **ARTICLE IX MISCELLANEOUS**

Section 9.01. Limited Liability of Town. The Developer agrees that any and all obligations of the Town arising out of or related to this Agreement are special obligations of the Town, and the Town’s obligations to make any payments hereunder are restricted entirely to the moneys, if any, in the Project Fund and from no other source. Neither the Town, the Town Inspector, Town Representative nor any other Town employee, officer, official or agent shall incur any liability hereunder to the Developer or any other party in their individual capacities by reason of their actions hereunder or execution hereof.

Section 9.02. Audit. The Town Inspector, Town Representative or a finance officer of the Town shall have the right, during normal business hours and upon the giving of three business days’ prior written notice to a Developer, to review all books and records of the Developer

pertaining to costs and expenses incurred by the Developer with respect to any of the Authorized Improvements and any bids taken or received for the construction thereof or materials therefor.

Section 9.03. Notices. Any notice, payment or instrument required or permitted by this Agreement to be given or delivered to any party shall be deemed to have been received when personally delivered or transmitted by telecopy or facsimile transmission (which shall be immediately confirmed by telephone and shall be followed by mailing an original of the same within 24 hours after such transmission) or 72 hours following deposit of the same in any United States Post Office, registered or certified mail, postage prepaid, addressed as follows:

To the Town:           Attn: Matt Mueller, Town Manager  
Town of Little Elm, Texas  
100 W. Eldorado Parkway  
Little Elm, Texas 75068

With a copy to:       Attn: Robert Brown  
Brown & Hofmeister, LLP  
740 E. Campbell Rd., Ste. 800  
Richardson, Texas 75081

And to:               Attn: Bond Counsel  
Robert Dransfield  
Norton Rose Fulbright US LLP  
2200 Ross Avenue, Suite 3600  
Dallas, Texas 75201

To the Developer:    Attn: Mehrdad Moayed  
MM Little Elm 43, LLC  
1800 Valley View Lane, Suite 300  
Farmers Branch, Texas 75234

With a copy to:       Attn: Robert Miklos  
Miklos Cinclair, PLLC  
1800 Valley View Lane, Suite 360  
Farmers Branch, Texas 75234

Any party may change its address or addresses for delivery of notice by delivering written notice of such change of address to the other party.

The Town shall advise the Developer of the name and address of any person who is to receive any notice or other communication pursuant to this Agreement.

Section 9.04. Severability. If any part of this Agreement is held to be illegal or unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall be given effect to the fullest extent possible.

Section 9.05. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto. Any receivables due under this Agreement may be assigned by the Developer without the consent of, but upon written notice to the Town pursuant to Section 9.03 of this Agreement. The obligations, requirements, or covenants of this Agreement shall be able to be assigned to an affiliate or related entity of the Developer, or any lien holder on the Property, without prior written consent of the Town. The obligations, requirements, or covenants of this Agreement shall not be assigned by the Developer to a non-affiliate or non-related entity of the Developer without prior written consent of the Town Manager, except pursuant to a collateral assignment to any person or entity providing construction financing to the Developer for the Developer for an Authorized Improvement, provided such person or entity expressly agrees to assume all obligations of the Developer hereunder if there is a default under such financing and such Person elects to complete the Authorized Improvement. No such assignment shall be made by the Developer or any successor or assignee of the Developer that results in the Town being an “obligated person” within the meaning of Rule 15c2-12 of the United States Securities and Exchange Commission without the express written consent of the Town. In connection with any consent of the Town, the Town may condition its consent upon the acceptability of the financial condition of the proposed assignee, upon the assignee’s express assumption of all obligations of the Developer hereunder and/or upon any other reasonable factor which the Town deems relevant in the circumstances. In any event, any such assignment shall be in writing, shall clearly identify the scope of the rights and/or obligations assigned. The Town may assign by a separate writing certain rights as described in this Agreement and in the Indenture, to the Trustee and the Developer hereby consents to such assignment.

Section 9.06. Other Agreements. The obligations of the Developer hereunder shall be those of a party hereto and not as an owner of property in the District. Nothing herein shall be construed as affecting the Town’s or the Developer’s rights or duties to perform their respective obligations under other agreements, use regulations, ordinances or subdivision requirements relating to the development of the lands in the District, including the applicable Construction Contracts and the Development Agreement. To the extent there is a conflict between this Agreement and the Development Agreement, the Development Agreement shall control. To the extent there is a conflict between this Agreement and the Indenture, the Indenture shall control.

Section 9.07. Waiver. Failure by a party to insist upon the strict performance of any of the provisions of this Agreement by any other party, or the failure by a party to exercise its rights upon the default of any other party, shall not constitute a waiver of such party’s right to insist and demand strict compliance by such other party with the terms of this Agreement thereafter.

Section 9.08. Merger. No other agreement, statement or promise made by any party or any employee, officer or agent of any party with respect to any matters covered hereby that is not in writing and signed by all the parties to this Agreement shall be binding.

Section 9.09. Parties in Interest. Nothing in this Agreement, expressed or implied, is intended to or shall be construed to confer upon or to give to any person or entity other than the Town and the Developer any rights, remedies or claims under or by reason of this Agreement or any covenants, conditions or stipulations hereof, and all covenants, conditions, promises and agreements in this Agreement contained by or on behalf of the Town or the Developer shall be for the sole and exclusive benefit of the Town and the Developer.

Section 9.10. Amendment. Except as otherwise provided in Section 9.05, upon agreement by the parties, this Agreement may be amended, from time to time in a manner consistent with the Act, the Indenture, and the Bond Ordinance by written supplement hereto and executed in counterparts, each of which shall be deemed an original.

Section 9.11. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original.

Section 9.12. Effective Date. This Agreement has been dated as of the date first above written solely for the purpose of convenience of reference and shall become effective upon its execution and delivery, on the Closing Date of the Bonds, by the parties hereto. All representations and warranties set forth therein shall be deemed to have been made on the Closing Date of the Bonds.

Section 9.13. Term. The term of this Agreement, other than the provisions contained in Section 7.02, which shall survive the termination of this Agreement, shall be thirty (30) years or upon redemption or defeasance of the Bonds (including any refunding bonds issued to refund the Bonds) issued under the Indenture. If the Developer defaults under this Agreement, or the Development Agreement, this Agreement and the Development Agreement shall not terminate with respect to the costs of the Authorized Improvements that have been approved by the Town pursuant to a Certification for Payment prior to the date of default.

Section 9.14. No Waiver of Powers or Immunity. The Town does not waive or surrender any of its governmental powers, immunities, or rights except as necessary to allow Developer to enforce its remedies under this Agreement.

Section 9.15. No Boycott Israel. To the extent this Agreement constitutes a contract for goods or services for which a written verification is required under Section 2271.002, Texas Government Code, the Developer hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not boycott Israel and will not boycott Israel during the term of this Agreement. The foregoing verification is made solely to enable the Town to comply with such Section and to the extent such Section does not contravene applicable Federal law. As used in the foregoing verification, 'boycott Israel,' a term defined in Section 2271.001, Texas Government Code, by reference to Section 808.001(1), Texas Government Code, means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes. The Developer understands 'affiliate' to mean an entity that controls, is controlled by, or is under common control with the Developer within the meaning of SEC Rule 405, 17 C.F.R. § 230.405, and exists to make a profit.

Section 9.16. Not a Listed Company. The Developer represents that neither it nor any of its parent company, wholly- or majority-owned subsidiaries, and other affiliates is a company identified on a list prepared and maintained by the Texas Comptroller of Public Accounts under

Section 2252.153 or Section 2270.0201, Texas Government Code, and posted on any of the following pages of such officer's internet website: <https://comptroller.texas.gov/purchasing/docs/sudan-list.pdf>, <https://comptroller.texas.gov/purchasing/docs/iran-list.pdf>, or <https://comptroller.texas.gov/purchasing/docs/fto-list.pdf>. The foregoing representation is made solely to enable the Town to comply with Section 2252.152, Texas Government Code, and to the extent such Section does not contravene applicable Federal law and excludes the Developer and each of its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, that the United States government has affirmatively declared to be excluded from its federal sanctions regime relating to Sudan or Iran or any federal sanctions regime relating to a foreign terrorist organization. As used in this Section, the Developer understands 'affiliate' to mean an entity that controls, is controlled by, or is under common control with the Developer within the meaning of SEC Rule 133(f), 17 C.F.R. § 230.133(f), and exists to make a profit.

Section 9.17. Verification Regarding Energy Company Boycotts. To the extent this Agreement constitutes a contract for goods or services for which a written verification is required under Section 2274.002 (as added by Senate Bill 13 in the 87th Texas Legislature, Regular Session), Texas Government Code, as amended, the Developer hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not boycott energy companies and will not boycott energy companies during the term of this Agreement. The foregoing verification is made solely to enable the Town to comply with such Section and to the extent such Section does not contravene applicable Texas or federal law. As used in the foregoing verification, "boycott energy companies," a term defined in Section 2274.001(1), Texas Government Code (as enacted by such Senate Bill) by reference to Section 809.001, Texas Government Code (also as enacted by such Senate Bill), shall mean, without an ordinary business purpose, refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations with a company because the company (A) engages in the exploration, production, utilization, transportation, sale, or manufacturing of fossil fuel-based energy and does not commit or pledge to meet environmental standards beyond applicable federal and state law; or (B) does business with a company described by (A) above. As used in this Section, the Developer understands 'affiliate' to mean an entity that controls, is controlled by, or is under common control with the Developer within the meaning of SEC Rule 133(f), 17 C.F.R. § 230.133(f), and exists to make a profit.

Section 9.18. Verification Regarding Discrimination Against Firearm Entity or Trade Association.

To the extent this Agreement constitutes a contract for goods or services for which a written verification is required under Section 2274.002 (as added by Senate Bill 19 in the 87th Texas Legislature, Regular Session), Texas Government Code, as amended, the Developer hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates,



if any, do not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and will not discriminate against a firearm entity or firearm trade association during the term of this Agreement. The foregoing verification is made solely to enable the Town to comply with such Section and to the extent such Section does not contravene applicable Texas or federal law. As used in the foregoing verification and the following definitions:

(i) ‘discriminate against a firearm entity or firearm trade association,’ a term defined in Section 2274.001(3), Texas Government Code (as enacted by such Senate Bill), (A) means, with respect to the firearm entity or firearm trade association, to (i) refuse to engage in the trade of any goods or services with the firearm entity or firearm trade association based solely on its status as a firearm entity or firearm trade association, (ii) refrain from continuing an existing business relationship with the firearm entity or firearm trade association based solely on its status as a firearm entity or firearm trade association, or (iii) terminate an existing business relationship with the firearm entity or firearm trade association based solely on its status as a firearm entity or firearm trade association and (B) does not include (i) the established policies of a merchant, retail seller, or platform that restrict or prohibit the listing or selling of ammunition, firearms, or firearm accessories and (ii) a company’s refusal to engage in the trade of any goods or services, decision to refrain from continuing an existing business relationship, or decision to terminate an existing business relationship (aa) to comply with federal, state, or local law, policy, or regulations or a directive by a regulatory agency or (bb) for any traditional business reason that is specific to the customer or potential customer and not based solely on an entity’s or association’s status as a firearm entity or firearm trade association;

(ii) ‘firearm entity,’ a term defined in Section 2274.001(6), Texas Government Code (as enacted by such Senate Bill), means a manufacturer, distributor, wholesaler, supplier, or retailer of firearms (defined in Section 2274.001(4), Texas Government Code, as enacted by such Senate Bill, as weapons that expel projectiles by the action of explosive or expanding gases), firearm accessories (defined in Section 2274.001(5), Texas Government Code, as enacted by such Senate Bill, as devices specifically designed or adapted to enable an individual to wear, carry, store, or mount a firearm on the individual or on a conveyance and items used in conjunction with or mounted on a firearm that are not essential to the basic function of the firearm, including detachable firearm magazines), or ammunition (defined in Section 2274.001(1), Texas Government Code, as enacted by such Senate Bill, as a loaded cartridge case, primer, bullet, or propellant powder with or without a projectile) or a sport shooting range (defined in Section 250.001, Texas Local Government Code, as a business establishment, private club, or association that operates an area for the discharge or other use of firearms for silhouette, skeet, trap, black powder, target, self-defense, or similar recreational shooting); and

(iii) ‘firearm trade association,’ a term defined in Section 2274.001(7), Texas Government Code (as enacted by such Senate Bill), means any person, corporation, unincorporated association, federation, business league, or business organization that (i) is not organized or operated for profit (and none of the net earnings of which inures to the benefit of any private shareholder or individual), (ii) has two or more firearm entities as members, and (iii) is exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, as an organization described by Section 501(c) of that code.

As used in this Section, the Developer understands ‘affiliate’ to mean an entity that controls, is controlled by, or is under common control with the Developer within the meaning of SEC Rule 133(f), 17 C.F.R. § 230.133(f), and exists to make a profit.

*[Execution pages follow.]*

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as of December 21, 2021.

**TOWN OF LITTLE ELM, TEXAS**

By: \_\_\_\_\_  
Name: Curtis J. Cornelious  
Title: Mayor

ATTEST:

\_\_\_\_\_  
Name: Caitlan Biggs  
Title: Town Secretary

(Town Seal)

APPROVED AS TO FORM

\_\_\_\_\_  
Robert Brown, Attorney for the Town

**DEVELOPER:**

MM Little Elm 43, LLC,  
a Texas limited liability company

By: MMM Ventures, LLC,  
a Texas limited liability company  
Its Manager

By: 2M Ventures, LLC,  
a Delaware limited liability company  
Its Manager

By: \_\_\_\_\_  
Name: Mehrdad Moayed  
Its: Manager

**Exhibit A**

**FORM OF CLOSING DISBURSEMENT REQUEST**

The undersigned is an agent for MM Little Elm 43, LLC, (the “Developer”) and requests payment from:

[the Costs of Issuance Account of the Project Fund][the Authorized Improvements Account of the Project Fund] (as defined in the Spiritas East Public Improvement District Construction, Funding, and Acquisition Agreement) from Wilmington Trust, National Association, (the “Trustee”) in the amount of \_\_\_\_\_ DOLLARS (\$\_\_\_\_\_) for costs incurred in the establishment, administration, and operation of the Spiritas East Public Improvement District (the “District”), as follows:

<b>Closing Costs Description</b>	<b>Cost</b>	<b>PID Allocated Cost</b>
<b>TOTAL</b>		

In connection to the above referenced payments, the Developer represents and warrants to the Town as follows:

1. The undersigned is a duly authorized officer of the Developer, is qualified to execute this Closing Disbursement Request on behalf of the Developer, and is knowledgeable as to the matters set forth herein.
2. The payment requested for the above referenced establishment, administration, and operation of the District at the time of the delivery of the Bonds has not been the subject of any prior payment request submitted to the Town.
3. The amount listed for the above itemized costs is a true and accurate representation of the Actual Costs incurred by Developer with the establishment of the District at the time of the delivery of the Bonds, and such costs are in compliance with the Service and Assessment Plan.
4. The Developer is in compliance with the terms and provisions of the Spiritas East Public Improvement District Construction, Funding, and Acquisition Agreement, the Indenture, and the Service and Assessment Plan.
5. All conditions set forth in the Indenture (as defined in the Spiritas East Public Improvement District Construction, Funding, and Acquisition Agreement) for the payment hereby requested have been satisfied.

6. The Developer agrees to cooperate with the Town in conducting its review of the requested payment, and agrees to provide additional information and documentation as is reasonably necessary for the Town to complete said review.

**Payments requested hereunder shall be made as directed below:**

- a. X amount to Person or Account Y for Z goods or services.
- b. Etc.

I hereby declare that the above representations and warranties are true and correct.

**MM LITTLE ELM 43, LLC**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**APPROVAL OF REQUEST BY TOWN**

The Town is in receipt of the attached Closing Disbursement Request. After reviewing the Closing Disbursement Request, the Town approves the Closing Disbursement Request and shall include said payments in the Town Certificate submitted to the Trustee directing payments to be made from the Costs of Issuance Account of the Project Fund and/or the Authorized Improvements Account of the Project Fund, as applicable, upon delivery of the Bonds. The Town's approval of the Closing Disbursement Request shall not have the effect of estopping or preventing the Town from asserting claims under the Spiritas East Public Improvement District Construction, Funding and Acquisition Agreement, the Indenture, the Service and Assessment Plan, any other agreement between the parties or that there is a defect in an Authorized Improvement.

**TOWN OF LITTLE ELM, TEXAS**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

## **Exhibit B**

### **CERTIFICATION FOR PAYMENT FORM – AUTHORIZED IMPROVEMENTS**

The undersigned is a lawfully authorized representative for MM Little Elm 43, LLC, (the “Developer”) and requests payment from the [Authorized Improvements Account of the Project Fund] [Developer Improvement Account of the Project Fund] from Wilmington Trust, National Association (the “Trustee”) in the amount of \_\_\_\_\_ for labor, materials, fees, and/or other general costs related to the construction and installation of the following Authorized Improvements related to the Spiritas East Public Improvement District (the “Authorized Improvements”):

*[insert specific Authorized Improvement this request is for here]*

Unless otherwise defined, any capitalized terms used herein shall have the meanings ascribed to them in the Spiritas East Public Improvement District Construction, Funding, and Acquisition Agreement.

In connection to the above referenced payment, the Developer represents and warrants to the Town as follows:

1. The undersigned is a duly authorized officer of the Developer, is qualified to execute this Certification for Payment Form on behalf of the Developer, and is knowledgeable as to the matters set forth herein.
2. The payment requested for the below referenced Authorized Improvement(s) has not been the subject of any prior payment request submitted for the same work to the Town or, if previously requested, no disbursement was made with respect thereto.
3. The itemized amounts listed for the Authorized Improvement(s) below is a true and accurate representation of the Actual Costs incurred by Developer with the construction and installation of said Authorized Improvement(s) identified above, and such costs (i) are in compliance with the Spiritas East Public Improvement District Construction, Funding and Acquisition Agreement, and (ii) are consistent with the Service and Assessment Plan.
4. The Developer is in compliance with the terms and provisions of the Spiritas East Public Improvement District Construction, Funding and Acquisition Agreement, the Indenture, and the Service and Assessment Plan.
5. All conditions set forth in the Indenture (as defined in the Spiritas East Public Improvement District Construction, Funding and Acquisition Agreement) for the payment hereby requested have been satisfied.
6. The work with respect to the Authorized Improvement(s) identified above (or its completed segment, portion or segment) has been completed and the Town has inspected



or may begin inspection of the Authorized Improvement(s). If this request for payment results in ninety percent (90%) or more of the Budgeted Costs for the Authorized Improvement(s) identified above being paid, then the work with respect to the Authorized Improvement(s) have been completed and the Town or Mustang Special Utility District, as applicable has inspected AND accepted the Authorized Improvement(s).

7. The Developer agrees to cooperate with the Town in conducting its review of the requested payment, and agrees to provide additional information and documentation as is reasonably necessary for the Town to complete said review.

**Payments requested are as follows:**

<b>Payee / Description of Authorized Improvement</b>	<b>Total Cost of Authorized Improvement</b>	<b>Budgeted Cost of Authorized Improvement</b>	<b>Amount to be paid from the Project Fund</b>

Attached hereto, are receipts, purchase orders, change orders, and similar instruments which support and validate the above requested payments.

Pursuant to the Spiritas East Public Improvement District Construction, Funding and Acquisition Agreement, after receiving this Payment Request, the Town is authorized to inspect the Authorized Improvement (or completed segment, portion or segment) and confirm that said work has been completed in accordance with all applicable governmental laws, rules, and Plans.

I hereby declare that the above representations and warranties are true and correct.

**MM LITTLE ELM 43, LLC**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**APPROVAL OF REQUEST BY TOWN**

The Town is in receipt of the attached Certification for Payment. After reviewing the Certification for Payment, the Town approves the Certification for Payment and shall include said payments in the Town Certificate submitted to the Trustee directing payments to be made from appropriate Project Fund account. The Town's approval of the Certification for Payment shall not have the effect of estopping or preventing the Town from asserting claims under the Spiritas East Public Improvement District Construction, Funding and Acquisition Agreement, the Indenture, the Service and Assessment Plan, any other agreement between the parties or that there is a defect in the Authorized Improvements.

**TOWN OF LITTLE ELM, TEXAS**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**EXHIBIT E**  
**LANDOWNER AGREEMENT**

## **SPIRITAS EAST PUBLIC IMPROVEMENT DISTRICT LANDOWNER AGREEMENT**

This **SPIRITAS EAST PUBLIC IMPROVEMENT DISTRICT LANDOWNER AGREEMENT** (the “Agreement”), is entered into as of December 21, 2021 between the Town of Little Elm, Texas (the “Town”), a home rule municipality of the State of Texas (the “State”), and MM Little Elm 43, LLC, a Texas limited liability company (the “Landowner”).

### **RECITALS:**

**WHEREAS**, Landowner owns the Assessed Property described by a metes and bounds description attached as **Exhibit I** to this Agreement and which is incorporated herein for all purposes, comprising all of the non-exempt, privately-owned land described in **Exhibit I** (the “Landowner’s Parcel”) which is located (i) within the Spiritas East Public Improvement District (the “District”) and (ii) within the corporate limits of the Town; and

**WHEREAS**, the Town Council has adopted an Assessment Ordinance for the Authorized Improvements (including all exhibits and attachments thereto, the “Assessment Ordinance”) and the Service and Assessment Plan included as an **Exhibit A** to the Assessment Ordinance (the “Service and Assessment Plan”) and which is incorporated herein for all purposes, and has levied an assessment on each parcel of Assessed Property in the District (as identified in the Service and Assessment Plan) that will be pledged as the security for the payment of bonds or other obligations (the “Bonds”) to be issued for the purpose of paying the costs of certain Authorized Improvements that will benefit the Assessed Property; and

**WHEREAS**, the Covenants, Conditions and Restrictions attached to this Agreement as **Exhibit II** and which are incorporated herein for all purposes, include the statutory notification required by Texas Property Code, Section 5.014, as amended, to be provided by the seller of residential property that is located in a public improvement district established under Chapter 372 of the Texas Local Government Code, as amended (the “PID Act”), to the purchaser.

**NOW, THEREFORE**, for and in consideration of the mutual promises, covenants, obligations and benefits hereinafter set forth, the Town and the Landowner hereby contract, covenant and agree as follows:

### **DEFINITIONS; APPROVAL OF AGREEMENTS**

Definitions. Capitalized terms used but not defined herein (including each exhibit hereto) shall have the meanings ascribed to them in the Service and Assessment Plan.

Affirmation of Recitals. The findings set forth in the Recitals of this Agreement are hereby incorporated as the official findings of the Town Council.

### **I. AGREEMENTS OF LANDOWNER**

A. Affirmation and Acceptance of Agreements and Findings of Benefit. Landowner hereby ratifies, confirms, accepts, agrees to, and approves:

(i) the creation and boundaries of the District, and the boundaries of the Landowner's Parcel, as shown on **Exhibit I**, and the location and development of the Authorized Improvements on the Landowner's Parcel and on the property within the District;

(ii) the determinations and findings as to the benefits by the Town Council in the Service and Assessment Plan and the Assessment Ordinance;

(iii) the Assessment Ordinance and the Service and Assessment Plan.

B. Acceptance and Approval of Assessments and Lien on Property. Landowner consents to, agrees to, acknowledges and accepts the following:

(i) each Assessment levied by the Town on the Landowner's Parcel within the District as shown on the assessment roll attached as Appendix G to the Service and Assessment Plan (the "Assessment Roll");

(ii) the Authorized Improvements specially benefit the District, and the Landowner's Parcel, in an amount in excess of the Assessment levied on Assessed Property within the District, as such Assessment is shown on the Assessment Roll;

(iii) each Assessment is final, conclusive and binding upon Landowner and any subsequent owner of the Landowner's Parcel, regardless of whether such landowner may be required to prepay a portion of, or the entirety of, such Assessment upon the occurrence of a mandatory prepayment event as provided in the Service and Assessment Plan;

(iv) the obligation to pay the Assessment levied on the Landowner's Parcel owned by it when due and in the amount required by and stated in the Service and Assessment Plan and the Assessment Ordinance;

(v) each Assessment or reassessment, with interest, the expense of collection, and reasonable attorney's fees, if incurred, is a first and prior lien against the Landowner's Parcel, superior to all other liens and monetary claims except liens or monetary claims for state, county, school district, or municipal ad valorem taxes, and is a personal liability of and charge against the owner of the Landowner's Parcel regardless of whether such owner is named;

(vi) the Assessment lien on the Landowner's Parcel is a lien and covenant that runs with the land and is effective from the date of the Assessment Ordinance and continues until the Assessment is paid and may be enforced by the governing body of the Town in the same manner that an ad valorem tax lien against real property may be enforced by the Town;

(vii) delinquent installments of the Assessment shall incur and accrue interest, penalties, and attorney's fees as provided in the PID Act;

(viii) the owner of the Landowner's Parcel may pay at any time the entire Assessment, with interest that has accrued on the Assessment, including on any lot within the Landowner's Parcel;

(ix) the Annual Installments of the Assessments may be adjusted, decreased and extended; and, the assessed parties shall be obligated to pay their respective revised amounts of the annual installments, when due, and without the necessity of further action, assessments or reassessments by the Town, the same as though they were expressly set forth herein; and

(x) Landowner has received, or hereby waives, all notices required to be provided to it under Texas law, including the PID Act, prior to the Effective Date (defined herein).

C. Mandatory Prepayment of Assessments. Landowner agrees and acknowledges that Landowner or subsequent landowners may have an obligation to prepay an Assessment upon the occurrence of a mandatory prepayment event, at the sole discretion of the Town and as provided in the Service and Assessment Plan, as amended or updated.

D. Notice of Assessments. Landowner further agrees as follows:

(i) the Covenants, Conditions and Restrictions attached hereto as **Exhibit II** shall be terms, conditions and provisions running with the Landowner's Parcel and shall be recorded (the contents of which shall be consistent with the Assessment Ordinance and the Service and Assessment Plan as reasonably determined by the Town), in the records of the County Clerk of Denton County, as a lien and encumbrance against such Landowner's Parcel, and Landowner hereby authorizes the Town to so record such documents against the Landowner's Parcel owned by Landowner;

(ii) reference to the Covenants, Conditions and Restrictions attached hereto as **Exhibit II** shall be included on all recordable subdivision plats and such plats shall be recorded in the real property records of Denton County, Texas;

(iii) in the event of any subdivision, sale, transfer or other conveyance by the Landowner of the right, title or interest of the Landowner in the Landowner's Parcel or any part thereof, the Landowner's Parcel, or any such part thereof, shall continue to be bound by all of the terms, conditions and provisions of such Covenants, Conditions and Restrictions and any purchaser, transferee or other subsequent owner shall take such Landowner's Parcel subject to all of the terms, conditions and provisions of such Covenants, Conditions and Restrictions; and

(iv) Landowner shall comply with, and shall contractually obligate (and promptly provide written evidence of such contractual provisions to the Town) any party who purchases the Landowner's Parcel owned by Landowner, or any portion thereof, for the purpose of constructing residential properties that are eligible for "homestead" designations under State law, to comply with, the Homebuyer Education Program described on **Exhibit III** to this Agreement. Such compliance obligation shall terminate as to each Lot (as defined in the Service and Assessment Plan) if, and when, (i) a final certificate of occupancy for a residential unit on such Lot is issued by the Town, and (ii) there is a sale of a Lot to an individual homebuyer, it being the intent of the undersigned that the Homebuyer Education Program shall apply only to a commercial builder who is in the business of constructing and/or selling

residences to individual home buyers (a “Builder”) but not to subsequent sales of such residence and Lot by an individual home buyer after the initial sale by a Builder.

Notwithstanding the provisions of this Section, upon the Landowner’s request and the Town’s consent, in the Town’s sole and absolute discretion, the Covenants, Conditions and Restrictions may be included with other written restrictions running with the land on property within the District, provided they contain all the material provisions and provide the same material notice to prospective property owners as does the document attached as **Exhibit II**.

## **II. OWNERSHIP AND CONSTRUCTION OF THE AUTHORIZED IMPROVEMENTS**

A. Ownership and Transfer of Authorized Improvements. Landowner acknowledges that all of the Authorized Improvements and the land (or easements, as applicable) needed therefor shall be owned by the Town and/or Mustang Special Utility District (“MSUD”), as applicable, as constructed and/or conveyed to the Town and/or MSUD and Landowner will execute such conveyances and/or dedications of public rights of way and easements as may be reasonably required to evidence such ownership, as generally described on the current plats of the property within the District.

B. Grant of Easement and License, Construction of the Authorized Improvements.

(i) Any subsequent owner of the Landowner’s Parcel shall, upon the request of the Town or Landowner, grant and convey to the Town or Landowner and its contractors, materialmen and workmen a temporary license and/or easement, as appropriate, to construct the Authorized Improvements on the property within the District, to stage on the property within the District construction trailers, building materials and equipment to be used in connection with such construction of the Authorized Improvements and for passage and use over and across parts of the property within the District as shall be reasonably necessary during the construction of the Authorized Improvements. Any subsequent owner of the Landowner’s Parcel may require that each contractor constructing the Authorized Improvements cause such owner of the Landowner’s Parcel to be indemnified and/or named as an additional insured under liability insurance reasonably acceptable to such owner of the Landowner’s Parcel. The right to use and enjoy any easement and license provided above shall continue until the construction of the Authorized Improvements is complete; provided, however, any such license or easement shall automatically terminate upon the recording of the final plat for the Landowner’s Parcel in the real property records of Denton County, Texas.

(ii) Landowner hereby agrees that any right or condition imposed by the Development Agreement, or other agreement, with respect to the Assessments has been satisfied, and that Landowner shall not have any rights or remedies against the Town under the Development Agreement, or under any law or principles of equity concerning the Assessments, with respect to the formation of the District, approval of the Service and Assessment Plan and the Town’s levy and collection of the Assessments.

### III. COVENANTS AND WARRANTIES; MISCELLANEOUS

#### A. Special Covenants and Warranties of Landowner.

Landowner represents and warrants to the Town as follows:

(i) Landowner is duly organized, validly existing and, as applicable, in good standing under the laws of the state of its organization and has the full right, power and authority to enter into this Agreement, and to perform all the obligations required to be performed by Landowner hereunder.

(ii) This Agreement has been duly and validly executed and delivered by, and on behalf of, Landowner and, assuming the due authorization, execution and delivery thereof by and on behalf of the Town and the Landowner, constitutes a valid, binding and enforceable obligation of such party enforceable in accordance with its terms. This representation and warranty is qualified to the extent the enforceability of this Agreement may be limited by applicable bankruptcy, insolvency, moratorium, reorganization or other similar laws of general application affecting the rights of creditors in general.

(iii) Neither the execution and delivery hereof, nor the taking of any actions contemplated hereby, will conflict with or result in a breach of any of the provisions of, or constitute a default, event of default or event creating a right of acceleration, termination or cancellation of any obligation under, any instrument, note, mortgage, contract, judgment, order, award, decree or other agreement or restriction to which Landowner is a party, or by which Landowner or the Landowner's Parcel is otherwise bound.

(iv) Landowner is, subject to all matters of record in the Denton County, Texas Real Property Records, the sole owner of the Landowner's Parcel.

(v) The Landowner's Parcel owned by Landowner is not subject to, or encumbered by, any covenant, lien, encumbrance or agreement which would prohibit (i) the creation of the District, (ii) the levy of the Assessments, or (iii) the construction of the Authorized Improvements on those portions of the property within the District which are to be owned by the Town and/or MSUD, as applicable, as generally described on the current plats of the property within the District (or, if subject to any such prohibition, the approval or consent of all necessary parties thereto has been obtained).

(vi) Landowner covenants and agrees to execute any and all documents necessary, appropriate or incidental to the purposes of this Agreement, as long as such documents are consistent with this Agreement and do not create additional liability of any type to, or reduce the rights of, such Landowner by virtue of execution thereof.

B. Waiver of Claims Concerning the Authorized Improvements. The Landowner, with full knowledge of the provisions, and the rights thereof pursuant to such provisions, of applicable law, waives any claims against the Town and its successors, assigns and agents, pertaining to the installation of the Authorized Improvements.



C. Notices.

Any notice or other communication to be given to the Town or Landowner under this Agreement shall be given by delivering the same in writing to:

To the Town:	Town of Little Elm, Texas Attn: Town Manager 100 West Eldorado Parkway Little Elm, Texas 75068 Telephone: (972) 377-1882
With a copy to:	Town Attorney Attn: Robert Brown Brown & Hofmeister 740 E. Campbell Road, Suite 800 Richardson, Texas 75081
To the Landowner:	MM Little Elm 43, LLC Attn: Mehrdad Moayed 1800 Valley View Lane, Suite 300 Farmers Branch, Texas 75234
With a copy to:	Miklos Cinclair, PLLC Attn: Robert Miklos 1800 Valley View Lane, Suite 360 Farmers Branch, Texas 75234

Any notice sent under this Agreement (except as otherwise expressly required) shall be written and mailed, or sent by electronic or facsimile transmission confirmed by mailing written confirmation at substantially the same time as such electronic or facsimile transmission, or personally delivered to an officer of the recipient as the address set forth herein.

Each recipient may change its address by written notice in accordance with this Section. Any communication addressed and mailed in accordance with this provision shall be deemed to be given when so mailed, any notice so sent by electronic or facsimile transmission shall be deemed to be given when receipt of such transmission is acknowledged, and any communication so delivered in person shall be deemed to be given when receipted for, or actually received by, the addressee.

D. Parties in Interest.

This Agreement is made solely for the benefit of the Town and the Landowner and is not assignable, except, in the case of Landowner, in connection with the sale or disposition of all or substantially all of the parcels which constitute the Landowner's Parcel. However, the parties expressly agree and acknowledge that the Town, the Landowner, each current owner of any parcel which constitutes the Landowner's Parcel, and the holders of or trustee for any bonds secured by Assessment revenues of the Town or any part thereof to finance the costs of the Authorized Improvements, are express beneficiaries of this Agreement and shall be entitled to pursue any and all

remedies at law or in equity to enforce the obligations of the parties hereto. This Agreement shall be recorded in the real property records of Denton County, Texas.

E. Amendments.

This Agreement may be amended only by written instrument executed by the Town and the Landowner. No termination or amendment shall be effective until a written instrument setting forth the terms thereof has been executed by the then-current owners of the property within the District and recorded in the Real Property Records of Denton County, Texas.

F. Effective Date.

This Agreement shall become and be effective (the "Effective Date") upon the date of final execution by the latter of the Town and the Landowner and shall be valid and enforceable on said date and thereafter.

G. Estoppels.

Within 10 days after written request from a party hereto, the other party shall provide a written certification, indicating whether this Agreement remains in effect as to the Landowner's Parcel, and whether any party is then in default hereunder.

H. Termination.

This Agreement shall terminate and be of no further force and effect as to the Landowner's Parcel upon payment in full of the Assessment(s) against such Landowner's Parcel.

I. No Boycott of Israel.

To the extent this Agreement constitutes a contract for goods or services for which a written verification is required under Section 2271.002, Texas Government Code, the Landowner hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not boycott Israel and will not boycott Israel during the term of this Agreement. The foregoing verification is made solely to enable the City to comply with such Section and to the extent such Section does not contravene applicable Federal law. As used in the foregoing verification, 'boycott Israel,' a term defined in Section 2271.001, Texas Government Code, by reference to Section 808.001(1), Texas Government Code, means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes. The Landowner understands 'affiliate' to mean an entity that controls, is controlled by, or is under common control with the Landowner within the meaning of SEC Rule 405, 17 C.F.R. § 230.405, and exists to make a profit.

J. No Business With Sanctioned Countries.

The Landowner represents that neither it nor any of its parent company, wholly- or majority-owned subsidiaries, and other affiliates is a company identified on a list prepared and maintained by the Texas Comptroller of Public Accounts under Section 2252.153 or Section 2270.0201, Texas Government Code, and posted on any of the following pages of such officer's internet website: <https://comptroller.texas.gov/purchasing/docs/sudan-list.pdf>,  
<https://comptroller.texas.gov/purchasing/docs/iran-list.pdf>, or

<https://comptroller.texas.gov/purchasing/docs/fto-list.pdf>. The foregoing representation is made solely to enable the City to comply with Section 2252.152, Texas Government Code, and to the extent such Section does not contravene applicable Federal law and excludes the Landowner and each of its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, that the United States government has affirmatively declared to be excluded from its federal sanctions regime relating to Sudan or Iran or any federal sanctions regime relating to a foreign terrorist organization. As used in this Section, the Landowner understands ‘affiliate’ to mean an entity that controls, is controlled by, or is under common control with the Landowner within the meaning of SEC Rule 133(f), 17 C.F.R. § 230.133(f), and exists to make a profit.

K. Verification Regarding Energy Company Boycotts.

To the extent this Agreement constitutes a contract for goods or services for which a written verification is required under Section 2274.002 (as added by Senate Bill 13 in the 87th Texas Legislature, Regular Session), Texas Government Code, as amended, the Landowner hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not boycott energy companies and will not boycott energy companies during the term of this Agreement. The foregoing verification is made solely to enable the City to comply with such Section and to the extent such Section does not contravene applicable Texas or federal law. As used in the foregoing verification, “boycott energy companies,” a term defined in Section 2274.001(1), Texas Government Code (as enacted by such Senate Bill) by reference to Section 809.001, Texas Government Code (also as enacted by such Senate Bill), shall mean, without an ordinary business purpose, refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations with a company because the company (A) engages in the exploration, production, utilization, transportation, sale, or manufacturing of fossil fuel-based energy and does not commit or pledge to meet environmental standards beyond applicable federal and state law; or (B) does business with a company described by (A) above. As used in this Section, the Landowner understands ‘affiliate’ to mean an entity that controls, is controlled by, or is under common control with the Landowner within the meaning of SEC Rule 133(f), 17 C.F.R. § 230.133(f), and exists to make a profit.

L. Verification Regarding Discrimination Against Firearm Entity or Trade Association.

To the extent this Agreement constitutes a contract for goods or services for which a written verification is required under Section 2274.002 (as added by Senate Bill 19 in the 87th Texas Legislature, Regular Session), Texas Government Code, as amended, the Landowner hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and will not discriminate against a firearm entity or firearm trade association during the term of this Agreement. The foregoing verification is made solely to enable the City to comply with such Section and to the extent such Section does not contravene applicable Texas or federal law. As used in the foregoing verification and the following definitions:

(i) ‘discriminate against a firearm entity or firearm trade association,’ a term defined in Section 2274.001(3), Texas Government Code (as enacted by such Senate Bill), (A) means, with respect to the firearm entity or firearm trade association, to (i) refuse to engage in the trade of any goods or services with the firearm entity or firearm trade association based solely on its status as a firearm entity or firearm trade association, (ii) refrain from continuing an existing business relationship with the firearm entity or firearm trade association based solely on its status as a firearm entity or firearm trade association, or (iii) terminate an existing business relationship with the firearm entity or firearm trade association based solely on its status as a firearm entity or firearm trade association and (B) does not include (i) the

established policies of a merchant, retail seller, or platform that restrict or prohibit the listing or selling of ammunition, firearms, or firearm accessories and (ii) a company's refusal to engage in the trade of any goods or services, decision to refrain from continuing an existing business relationship, or decision to terminate an existing business relationship (aa) to comply with federal, state, or local law, policy, or regulations or a directive by a regulatory agency or (bb) for any traditional business reason that is specific to the customer or potential customer and not based solely on an entity's or association's status as a firearm entity or firearm trade association;

(ii) 'firearm entity,' a term defined in Section 2274.001(6), Texas Government Code (as enacted by such Senate Bill), means a manufacturer, distributor, wholesaler, supplier, or retailer of firearms (defined in Section 2274.001(4), Texas Government Code, as enacted by such Senate Bill, as weapons that expel projectiles by the action of explosive or expanding gases), firearm accessories (defined in Section 2274.001(5), Texas Government Code, as enacted by such Senate Bill, as devices specifically designed or adapted to enable an individual to wear, carry, store, or mount a firearm on the individual or on a conveyance and items used in conjunction with or mounted on a firearm that are not essential to the basic function of the firearm, including detachable firearm magazines), or ammunition (defined in Section 2274.001(1), Texas Government Code, as enacted by such Senate Bill, as a loaded cartridge case, primer, bullet, or propellant powder with or without a projectile) or a sport shooting range (defined in Section 250.001, Texas Local Government Code, as a business establishment, private club, or association that operates an area for the discharge or other use of firearms for silhouette, skeet, trap, black powder, target, self-defense, or similar recreational shooting); and

(iii) 'firearm trade association,' a term defined in Section 2274.001(7), Texas Government Code (as enacted by such Senate Bill), means any person, corporation, unincorporated association, federation, business league, or business organization that (i) is not organized or operated for profit (and none of the net earnings of which inures to the benefit of any private shareholder or individual), (ii) has two or more firearm entities as members, and (iii) is exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, as an organization described by Section 501(c) of that code.

As used in this Section, the Landowner understands 'affiliate' to mean an entity that controls, is controlled by, or is under common control with the Landowner within the meaning of SEC Rule 133(f), 17 C.F.R. § 230.133(f), and exists to make a profit.

[Signature pages to follow]

EXECUTED by the Town and Landowner on the respective dates stated below.

Date: December 21, 2021

**TOWN OF LITTLE ELM, TEXAS**

By: \_\_\_\_\_  
Curtis J. Cornelious, Mayor

STATE OF TEXAS                   §  
   §  
COUNTY OF DENTON           §

This instrument was acknowledged before me on the \_\_ day of \_\_\_\_\_, 2021 by Curtis J. Cornelious, Mayor of the Town of Little Elm, Texas on behalf of said Town.

(SEAL)

\_\_\_\_\_  
Notary Public, State of Texas

\_\_\_\_\_  
Name printed or typed

Commission Expires: \_\_\_\_\_

[Signature Page Landowner Agreement]

**LANDOWNER**

MM Little Elm 43, LLC,  
a Texas limited liability company

By: MMM Ventures, LLC,  
a Texas limited liability company  
Its Manager

By: 2M Ventures, LLC,  
a Delaware limited liability company  
Its Manager

By: \_\_\_\_\_  
Name: Mehrdad Moayed  
Its: Manager

STATE OF TEXAS       §  
                                  §  
COUNTY OF DALLAS   §

This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, 2021  
by Mehrdad Moayed, Manager of 2M Ventures, LLC, as Manager of MMM Ventures, LLC, as  
Manager of MM Little Elm 43, LLC, a Texas limited liability company on behalf of said company.

\_\_\_\_\_  
Notary Public, State of Texas

[Signature Page Landowner Agreement]

# **LANDOWNER AGREEMENT - EXHIBIT I**

## **METES AND BOUNDS DESCRIPTION OF LANDOWNER'S PARCEL**

### **DESCRIPTION 38.468 ACRE TRACT**

BEING that certain tract of land situated in the Marsella Jones Survey, Abstract No. 662, in the Town of Little Elm, Denton County, Texas, and being part of that certain tract of land described in deed to Robert G. Penley recorded in Volume 623, Page 106, of the Real Property Records of Denton County, Texas (RPRDCT), and part of that certain tract of land described in deed to Robert G. Penley and Faith Penley recorded in Volume 2210, Page 648, RPRDCT, and being more particularly described by metes and bounds as follows:

BEGINNING at a Army Corps of Engineers monument found at the northeast corner of said Robert G. Penley tract recorded in Volume 623, Page 106, RPRDCT, said monument being located on the south right-of-way line of US Highway 380 (a variable-width right-of-way), and also being located on the west "take line" of Lake Lewisville;

THENCE with said west "take line", the following courses to Army Corps of Engineers monuments found:

South 27°07'16" West, a distance of 875.52 feet;

South 40°18'51" West, a distance of 544.09 feet;

South 09°54'29" East, a distance of 217.10 feet;

South 57°22'24" West, a distance of 298.04 feet;

North 82°50'29" West, a distance of 641.93 feet;

North 05°25'44" East, a distance of 396.40 feet;

And South 42°17'36" West, a distance of 385.19 feet, said monument being located on the east line of that certain tract of land described in deed to MM Little Elm 548, LLC recorded in Instrument No. 2020-123025, RPRDCT;

THENCE with said east line, the following courses:

North 05°42'19" East, a distance of 621.88 feet to a 5/8" iron rod found;

And South 88°08'15" East, a distance of 170.04 feet to a 5/8" capped iron rod found;

THENCE North 03°11'21" East, continuing with said east line of the MM Little Elm 548, LLC tract, and the east line of that certain tract of land described in deed to Spiritas Ranch Enterprises recorded in Volume 2737, Page 126, RPRDCT, a distance of 653.60 feet;

THENCE departing said east line of the Spiritas Ranch Enterprises tract, and over and across said Robert G. Penley tract recorded in Volume 623, Page 106, RPRDCT, the following courses:

South 84°22'49" East, a distance of 502.60 feet;

And North 05°15'54" East, a distance of 200.74 feet to a point located in said south right-of-way line of US Highway 380;

THENCE South 84°36'22" East, with said south right-of-way line of US Highway 380, a distance of 80.00 feet;

THENCE departing said south right-of-way line of US Highway 380, the following courses:

South 05°15'54" West, a distance of 201.00 feet;

South 87°10'23" East, a distance of 514.31 feet;

And North 01°53'44" East, a distance of 209.31 feet to a point located on said south right-of-way line of US Highway 380;

THENCE South 88°16'39" East with said south right-of-way line of US Highway 380, a distance of 50.00 feet;

THENCE departing said south right-of-way line of US Highway 380, and over and across said Robert G. Penley tract recorded in Volume 623, Page 106, RPRDCT, the following courses:

South 01°53'44" West, a distance of 210.27 feet;

South 87°10'23" East, a distance of 52.86 feet;

North 41°38'43" East, a distance of 60.89 feet;

North 41°48'16" East, a distance of 45.80 feet;

North 43°25'46" East, a distance of 25.15 feet;

North 51°51'09" East, a distance of 24.67 feet;

North 54°02'19" East, a distance of 12.14 feet;

North 48°36'19" East, a distance of 10.43 feet;

North 37°47'16" East, a distance of 9.58 feet;

North 15°43'13" East, a distance of 5.97 feet;

North 12°02'26" East, a distance of 10.27 feet;

North 00°46'57" West, a distance of 14.90 feet;

North 11°51'34" West, a distance of 38.07 feet;

And North 14°47'27" West, a distance of 5.08 feet to a point located in said south right-of-way line of US Highway 380;

THENCE South 88°16'39" East with said south right-of-way line of US Highway 380, a distance of 233.52 feet to the POINT OF BEGINNING, containing an area of 38.468 acres of land.

NOTES:

The bearings shown and recited hereon are referenced to the Texas Coordinate System of 1983 ~ North Central Zone No. 4202 - NAD 83. (All distances are surface distances with a surface to grid scale factor of 0.999849393).

This document was prepared under 22 TAC Â§663.21, does not reflect the results of an on the ground survey, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared.



## **LANDOWNER AGREEMENT - EXHIBIT II**

### **DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**

This **DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS** (as it may be amended from time to time, this “Declaration”) is made as of December 21, 2021 by MM Little Elm 43, LLC, a Texas limited liability company (the “Landowner”).

#### **RECITALS:**

- A. The Landowner holds record title to that portion of the real property located in Denton County, Texas, which is described in the attached **Exhibit I** (the “Landowner’s Parcel”).
- B. The Town Council of the Town of Little Elm (the “Town Council”) upon a petition requesting the establishment of a public improvement district covering the property within the District to be known as the Spiritas East Public Improvement District (the “District”) by the then owners of more than 50% of the appraised value of the taxable real property and owners of more than 50% of the area of all taxable real property within the area requested to be included in the District created such District, in accordance with the Public Improvement District Assessment Act, Chapter 372, Texas Local Government Code, as amended (the “PID Act”).
- C. The Town Council has adopted an Assessment Ordinance to levy assessments for certain Authorized Improvements (including all exhibits and attachments thereto, the “Assessment Ordinance”) and the Service and Assessment Plan included as an exhibit to the Assessment Ordinance (as amended from time to time, the “Service and Assessment Plan”), and has levied the assessments (as amended from time to time, the “Assessments”) on property in the District.
- D. The statutory notification required by Texas Property Code, Section 5.014, as amended, to be provided by the seller of residential property that is located in a public improvement district established under Chapter 372 of the Texas Local Government Code, as amended, to the purchaser, is incorporated into these Covenants, Conditions and Restrictions.

#### **DECLARATIONS:**

NOW, THEREFORE, the Landowner hereby declares that the Landowner’s Parcel is and shall be subject to, and hereby imposes on the Landowner’s Parcel, the following covenants, conditions and restrictions:

##### **1. Acceptance and Approval of Assessments and Lien on Property:**

- (a) Landowner accepts each Assessment levied on the Landowner’s Parcel owned by such Landowner.
- (b) The Assessment (including any reassessment, the expense of collection, and reasonable attorney’s fees, if incurred) is (a) a first and prior lien (the “Assessment Lien”) against the property assessed, superior to all other liens or claims except for

liens or claims for state, county, school district or municipality ad valorem property taxes whether now or hereafter payable, and (b) a personal liability of and charge against the owners of the property to the extent of their ownership regardless of whether the owners are named. The Assessment Lien is effective from the date of the Assessment Ordinance until the Assessments are paid and may be enforced by the Town in the same manner as an ad valorem property tax levied against real property that may be enforced by the Town. The owner of any Assessed Property may pay, at any time, the entire Assessment levied against any such property. Foreclosure of an ad valorem property tax lien on property within the District will not extinguish the Assessment or any unpaid but not yet due annual installments of the Assessment, and will not accelerate the due date for any unpaid and not yet due annual installments of the Assessment.

It is the clear intention of all parties to these Declarations of Covenants, Conditions and Restrictions, that the Assessments, including any annual installments of the Assessments (as such annual installments may be adjusted, decreased or extended), are covenants that run with the Landowner's Parcel and specifically binds the Landowner, its successors and assigns.

In the event of delinquency in the payment of any annual installment of the Assessment, the Town is empowered to order institution of an action in district court to foreclose the related Assessment Lien, to enforce personal liability against the owner of the real property for the Assessment, or both. In such action the real property subject to the delinquent Assessment may be sold at judicial foreclosure sale for the amount of such delinquent property taxes and Assessment, plus penalties, interest and costs of collection.

**2. Landowner or any subsequent owner of the Landowner's Parcel waives:**

- (a) any and all defects, irregularities, illegalities or deficiencies in the proceedings establishing the District and levying and collecting the Assessments or the annual installments of the Assessments;
- (b) any and all notices and time periods provided by the PID Act including, but not limited to, notice of the establishment of the District and notice of public hearings regarding the levy of Assessments by the Town Council concerning the Assessments;
- (c) any and all defects, irregularities, illegalities or deficiencies in, or in the adoption of, the Assessment Ordinance by the Town Council;
- (d) any and all actions and defenses against the adoption or amendment of the Service and Assessment Plan, the Town's finding of a 'special benefit' pursuant to the PID Act and the Service and Assessment Plan, and the levy of the Assessments; and
- (e) any right to object to the legality of any of the Assessments or the Service and Assessment Plan or to any of the previous proceedings connected therewith which occurred prior to, or upon, the Town Council's levy of the Assessments.

3. **Amendments:** This Declaration may be terminated or amended only by a document duly executed and acknowledged by the then-current owner(s) of the Landowner's Parcel and the Town. No such termination or amendment shall be effective until a written instrument setting forth the terms thereof has been executed by the parties by whom approval is required as set forth above and recorded in the real Property Records of Denton County, Texas.
4. **Third Party Beneficiary:** The Town is a third party beneficiary to this Declaration and may enforce the terms hereof.
5. **Notice to Subsequent Purchasers:** Upon the sale of a dwelling unit within the District, the purchaser of such property shall be provided a written notice that reads substantially similar to the following:

**TEXAS PROPERTY CODE SECTION 5.014**

**NOTICE OF OBLIGATION TO PAY PUBLIC IMPROVEMENT DISTRICT ASSESSMENT TO THE TOWN OF LITTLE ELM, DENTON COUNTY, TEXAS CONCERNING THE PROPERTY AT [Street Address]**

As the purchaser of this parcel of real property, you are obligated to pay an assessment to the Town of Little Elm, Texas, for improvement projects undertaken by a public improvement district under Chapter 372 of the Texas Local Government Code, as amended. The assessment may be due in periodic installments.

The amount of the assessment against your property may be paid in full at any time together with interest to the date of payment. If you do not pay the assessment in full, it will be due and payable in annual installments (including interest and collection costs). More information concerning the District, the amount of the assessment and the due dates of that assessment may be obtained from (i) the Town of Little Elm (the "Town"), located at 100 West Eldorado Parkway, Little Elm, Texas 75068 and available by telephone at (972) 377-1882 and (ii) Municap, Inc., the District administrator for the Town, located at 600 E. John Carpenter Freeway, Suite 333, Irving, Texas 75062 and available by telephone at (469) 490-2800 or (866) 648-8482 (toll free).

Your failure to pay the assessment or the annual installments could result in a lien and in the foreclosure of your property.

Signature of Purchaser(s) \_\_\_\_\_ Date: \_\_\_\_\_

The seller shall deliver this notice to the purchaser before the effective date of an executory contract binding the purchaser to purchase the property. The notice may be given separately, as part of the contract during negotiations, or as part of any other notice the seller delivers to the purchaser. If the notice is included as part of the executory contract or another notice, the title of the notice prescribed by this section, the references to the street address and date in the notice, and the purchaser's signature on the notice may be omitted.

EXECUTED by the undersigned on the date set forth below to be effective as of the date first above written.

**LANDOWNER**

MM Little Elm 43, LLC,  
a Texas limited liability company

By: MMM Ventures, LLC,  
a Texas limited liability company  
Its Manager

By: 2M Ventures, LLC,  
a Delaware limited liability company  
Its Manager

By: \_\_\_\_\_  
Name: Mehrdad Moayed  
Its: Manager

STATE OF TEXAS       §  
                                  §  
COUNTY OF DALLAS   §

This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, 2021 by Mehrdad Moayed, Manager of 2M Ventures, LLC, as Manager of MMM Ventures, LLC, as Manager of MM Little Elm 43, LLC, a Texas limited liability company on behalf of said company.

\_\_\_\_\_  
Notary Public, State of Texas

## **LANDOWNER AGREEMENT - EXHIBIT III**

### **HOMEBUYER EDUCATION PROGRAM**

As used in this **Exhibit III**, the recorded Assessment Ordinance and the Covenants, Conditions and Restrictions in **Exhibit II** of this Agreement are referred to as the “Recorded Notices.”

1. Any Landowner, who is a Builder, shall attach the Recorded Notices and the final Assessment Roll for such Assessed Property (or if the Assessment Roll is not available for such Assessed Property, then a schedule showing the maximum 30-year payment for such Assessed Property) as an addendum to any residential homebuyer’s contract.
2. Any Landowner who is a Builder shall provide evidence of compliance with 1 above, signed by such residential homebuyer, to the Town.
3. Any Landowner who is a Builder shall prominently display signage in its model homes, if any, substantially in the form of the Recorded Notices.
4. If prepared and provided by the Town, any Landowner who is a Builder shall distribute informational brochures about the existence and effect of the District in prospective homebuyer sales packets.
5. Any Landowner who is a Builder shall include Assessments in estimated property taxes, if such Builder estimates monthly ownership costs for prospective homebuyers.