



**AGENDA
CITY OF ALLEN
CITY COUNCIL REGULAR MEETING
AUGUST 24, 2021 - 7:00 PM
CITY COUNCIL CHAMBERS
ALLEN CITY HALL
305 CENTURY PARKWAY
ALLEN, TX 75013**

Call to Order and Announce a Quorum is Present.

Pledge of Allegiance.

Public Recognition.

1. Citizen's Comments.

[The City Council invites citizens to speak to the Council on any topic not on the agenda or not already scheduled for Public Hearing. Prior to the meeting, please complete a "Public Meeting Appearance Card" and present it to the City Secretary. The time limit is three minutes per speaker, not to exceed a total of fifteen minutes for all speakers.]

2. Recognition of the Allen Police Department - Public Safety Communications Unit for Obtaining the Association of Public-Safety Communications Officials Project 33 Agency Training Program Certification.

Consent Agenda.

[Routine Council business. Consent Agenda is approved by a single majority vote. Items may be removed for open discussion by a request from a Councilmember or member of staff.]

3. Approve Minutes of the August 10, 2021, Regular City Council Meeting.
4. Approve Minutes of the August 13-15, 2021, City Council Budget Workshop.
5. Adopt an Ordinance Approving a Negotiated Settlement Between the Atmos Cities Steering Committee and Atmos Energy Corporation, Mid-Tex Division Regarding the Company's 2021 Rate Review Mechanism (RRM) Filing.
6. Adopt an Ordinance Abandoning Certain Public Right-of-Way for The Farm Development Project.
7. Authorize the City Manager to Execute a Contract with Birkhoff, Hendricks &

Carter, LLP, for Professional Engineering Services Related to the Rowlett Elevated Storage Tank, Custer Elevated Storage Tank, and Custer Ground Storage Reservoirs #1 and #2 in the Amount of \$146,500.

8. Authorize the City Manager to Execute a Contract with CLASP Companies, LLC, (dba) Valley Quest Design for Design of the Trailhead at the Rowlett Creek Trail along the Eugene McDermott Property in the Amount of \$102,060.
9. Authorize the City Manager to Execute a Contract with Parkhill, Smith & Cooper, Inc., (dba) Parkhill / Schrickel Rollins for the Development of the Molsen Farm Master Plan and Design of the Trailhead and Trail Connection in the Amount of \$222,190.

Regular Agenda.

10. Conduct a Public Hearing and Adopt an Ordinance Granting a Specific Use Permit for a Fitness and Health Center use for 2,353± Square Foot Portion of a Building Located on Lot 1A, Eagle Plaza Shopping Center; Generally Located Directly South of Main Street and East of Jupiter Road (and commonly known as 602 E. Main Street). [Vibe Yoga]
11. Conduct a Public Hearing and Adopt an Ordinance to Amend the Development Regulations of Planned Development No. 58 with a Base Zoning of Shopping Center and to Adopt a Zoning Exhibit, Concept Plan, and Elevations for Lots 6A and 6B, Block A, CLA Allen Addition; Generally Located at the Northeastern Corner of the Intersection of Exchange Parkway and U.S. Highway 75. [Exchange Business Center - Office-Showroom/Warehouse]
12. Conduct a Public Hearing and Adopt an Ordinance to Establish a Planned Development Zoning District with a Base Zoning of Light Industrial and to Adopt a Zoning Exhibit, Concept Plan, Landscape Plan, and Elevations for Lot 1, Block 3, Millennium Business Park (and commonly known as 415 Century Parkway). [Credit Union of Texas]
13. Conduct a Public Hearing and Adopt an Ordinance to Amend the Allen Land Development Code to Amend Section 6.03.2, "Private Clubs," and Section 6.03.5, "Restaurants with food and beverage certificates - Geographic Locations," by Allowing Drive-Through Service for Off-Premise Consumption of Alcoholic Beverages, and to Amend Section 6.06.11, "Solar Panels," to Amend Provisions Relating to Installation of Solar Panel Systems to Conform to State Law.

Other Business.

14. Calendar.
15. Items of Interest. [*Council announcements regarding local civic and charitable events, meetings, fundraisers, and awards.*]

Executive Session. (As needed)

Legal, Section 551.071.

As authorized by Section 551.071(2) of the Texas Government Code, the Workshop Meeting and/or the Regular Agenda may be Convened into Closed

Executive Session for the Purpose of Seeking Confidential Legal Advice from the City Attorney on any Agenda Item Listed Herein.
(Closed to Public as Provided in the Texas Government Code.)

16. Reconvene and Consider Action on Items Resulting from Executive Session.

Adjournment.

This notice was posted at Allen City Hall, 305 Century Parkway, Allen, Texas, at a place convenient and readily accessible to the public at all times. Said notice was posted on Friday, August 20, 2021, at 5:00 p.m..

Shelley B. George, City Secretary

Allen City Hall is wheelchair accessible. Access to the building and special parking are available at the entrance facing Century Parkway. Requests for sign interpreters or special services must be received forty-eight (48) hours prior to the meeting time by calling the City Secretary at 214.509.4105.

CITY COUNCIL AGENDA COMMUNICATION

AGENDA DATE: August 24, 2021

SUBJECT: Recognition of the Allen Police Department - Public Safety Communications Unit for Obtaining the Association of Public-Safety Communications Officials Project 33 Agency Training Program Certification.

STAFF RESOURCE: Brian E. Harvey, Chief of Police
Shellie Taylor, Public Safety Communications Manager
Courtney Purser, Police / Fire Communications Supervisor

BACKGROUND

The Association of Public-Safety Communications Officials (APCO) International is the world's oldest and largest organization of public safety communications professionals and supports the largest U.S. membership base of any public safety association. Training for Public Safety Telecommunicators, initial and continuing, is exceedingly important as they provide essential services to the public in an ever-expanding and rapidly changing public safety environment. The APCO Project 33 Agency Training Program Certification (ATPC) is a formal mechanism for public safety agencies to certify their training programs as meeting APCO American National Standards (ANS). Agencies applying for certification submit their curriculum, training materials, and supporting documentation to be checked for compliance. The primary objective of the Agency Training Program Certification is to advance the training and professional development of public safety communications officials through the certification of an agency's training program.

On November 4, 2019, the City of Allen expressed interest in pursuing APCO Project 33 Training Program Certification (P33) that was being offered as a full scholarship from the North Central Texas 9-1-1 District (NCT9-1-1). The extensive standards attached identifies the minimum training requirements for both new and veteran Public Safety Telecommunicators and defines training in certain knowledge and skills for the Agency to provide to Telecommunicators. After many months of diligent efforts during exceptionally challenging circumstances, notification was received on June 30, 2021, that the Allen Police Department Communications Center had completed the requirements for APCO Agency Training Program Certification. The City of Allen Public Safety Communications Center became part of the select group of 92 other international agencies to attain this prestigious classification and the fourth in Texas. APCO recognized the 2021 ATPC Recipients at the APCO2021 Conference in San Antonio at the Food For Thought Luncheon that took place on Wednesday, August 18, 2021.

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| CITY COUNCIL AGENDA COMMUNICATION |
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AGENDA DATE:

August 24, 2021

SUBJECT:

Approve Minutes of the August 10, 2021, Regular City Council Meeting.

STAFF RESOURCE:

Shelley B. George, City Secretary

ATTACHMENTS:

Minutes

ALLEN CITY COUNCIL

REGULAR MEETING

AUGUST 10, 2021

Present:

Kenneth M. Fulk, Mayor

Councilmembers:

Baine Brooks, Mayor Pro Tem (absent)

Daren Meis

Carl Clemencich

Dave Cornette

Chris Schulmeister

Dave Shafer

City Staff:

Eric Ellwanger, City Manager

Eric Strong, Deputy City Manager

Tim Dentler, Assistant City Manager (absent)

Rebecca Vice, Assistant City Manager

Shelley B. George, City Secretary

Teresa Warren, Director, Public and Media Relations

Rocio Gonzalez, Deputy City Secretary (absent)

Pete Smith, City Attorney

Workshop Session

With a quorum of the Councilmembers present, the Workshop Session of the Allen City Council was called to order by Mayor Fulk at 6:00 p.m. on Tuesday, August 10, 2021, in the Basement Meeting Rooms of Allen City Hall, 305 Century Parkway, Allen, Texas.

- 1. Introduction of Kirk Arnold, Boardmember of the Allen Convention and Visitors Bureau.**
- 2. Introduction to the FY2021-22 Proposed Budget.**
- 3. Committee Updates from City Council Liaisons.**
- 4. Questions on Current Agenda.**

With no further discussion, the Workshop Session of the Allen City Council was adjourned at 6:51 p.m. on Tuesday, August 10, 2021.

Call to Order and Announce a Quorum is Present

With a quorum of the Councilmembers present, the Regular Meeting of the Allen City Council was called to order by Mayor Fulk at 7:00 p.m. on Tuesday, August 10, 2021, in the City Council Chambers of Allen City Hall, 305 Century Parkway, Allen, Texas.

Pledge of Allegiance

Public Recognition

1. Citizen's Comments.

Ken Byler, 204 Allenwood, Allen, Texas, expressed his support for naming the courtyard at the Allen Public Library after Ruth Pringle.

The following individuals expressed support for holding the Council Budget Workshop in Allen:

- Paula Cheek, 903 Glen Rose Drive, Allen, Texas;
- Jeff Lytle, 107 Windsong Way, Allen, Texas;
- Matt Thorsen, 600 Ridgemont Drive, Allen, Texas; and
- Elle Larkin, 818 Rushmore Drive, Allen, Texas.

2. Recognition of the Budget Division for Receipt of the GFOA Distinguished Budget Presentation Award for the Fiscal Year beginning October 1, 2020.

3. Presentation of the Allen Convention and Visitors Bureau Annual Report by Boardmember Kirk Arnold.

Consent Agenda

Councilmember Meis requested item 7 be removed from the Consent Agenda.

MOTION: Upon a motion made by Councilmember Shafer and a second by Councilmember Meis, the Council voted six (6) for and none (0) opposed to adopt the remaining items on the Consent Agenda as follows:

4. Approve Minutes of the July 27, 2021, Regular City Council Meeting.

5. Adopt an Ordinance Amending the Code of Ordinances, Chapter 8, "Licenses and Business Regulations," Article II, "Alcoholic Beverages," Section 8-16, "Sale of Alcoholic Beverages from a Package Liquor Store Prohibited Near Churches, Schools and Hospitals," by Amending Section 8-16 Regulating the "Sale of Alcoholic Beverages from a Package Liquor Store Prohibited Near Churches, Schools and Hospitals."

ORDINANCE NO. 3843-8-21: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, AMENDING THE CODE OF ORDINANCES BY RETITLING AND AMENDING SECTION 8-16 "SALE OF ALCOHOLIC BEVERAGES FROM A PACKAGE LIQUOR STORE PROHIBITED NEAR CHURCHES, SCHOOLS, AND HOSPITALS"; PROVIDING FOR A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000) FOR EACH OFFENSE; AND PROVIDING FOR AN EFFECTIVE DATE.

6. Award Bid and Authorize the City Manager to Execute a Contract with North Rock Construction, LLC, for Parking Lot Improvements at Spirit Park in the Amount of \$266,010.

The motion carried.

7. **Authorize the City Manager to Execute a Professional Services Agreement with Alliance Geotechnical Group, Inc., for Professional Testing and Special Inspection Services for the Stephen G. Terrell Recreation Center in the Amount of \$355,760.**

MOTION: Upon a motion made by Councilmember Meis and a second by Councilmember Schulmeister, the Council voted six (6) for and none (0) opposed to execute a Professional Services Agreement with Alliance Geotechnical Group, Inc., for Professional Testing and Special Inspection Services for the Stephen G. Terrell Recreation Center in the Amount of \$355,760. The motion carried.

Regular Agenda

8. **Conduct a Public Hearing and Adopt an Ordinance to Establish a Planned Development Zoning District with a Base Zoning of Community Facilities and to Adopt Development Regulations, Concept Plan and Sign Elevations on Lot 1R, Block A, Ridgeview Memorial Park; Generally Located at the Southwestern Corner of the Intersection of Ridgeview Drive and U.S. Highway 75. [Turrentine Jackson Morrow]**

Mayor Fulk opened the public hearing and asked anyone wishing to speak for or against this item to do so at this time.

With no one speaking, Mayor Fulk closed the Public Hearing.

ORDINANCE NO. 3844-8-21: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, AMENDING THE ALLEN LAND DEVELOPMENT CODE AND ZONING MAP, AS PREVIOUSLY AMENDED, BY CHANGING THE ZONING REGULATIONS RELATING TO THE USE AND DEVELOPMENT OF LOT 1R, BLOCK A, RIDGEVIEW MEMORIAL PARK, FROM COMMUNITY FACILITIES (CF) TO PLANNED DEVELOPMENT NO. 144 (PD-144) FOR COMMUNITY FACILITIES USES; ADOPTING DEVELOPMENT REGULATIONS, A CONCEPT PLAN, AND SIGN ELEVATIONS; PROVIDING FOR A CONFLICTS RESOLUTION CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000) FOR EACH OFFENSE; AND PROVIDING AN EFFECTIVE DATE.

MOTION: Upon a motion made by Councilmember Shafer and a second by Councilmember Cornette, the Council voted six (6) for and none (0) opposed to approve Ordinance No. 3844-8-21, as previously captioned, to establish Planned Development No. 144 with a base zoning of Community Facilities and to adopt a Concept Plan and Sign Elevations for Lot 1R, Block A, Ridgeview Memorial Park. The motion carried.

9. **Conduct a Public Hearing and Adopt an Ordinance to Amend the Development Regulations of Planned Development No. 55 with a Base Zoning of Commercial/Office for Lot 3R-2, Block A, Millennium Office Park By Amending the Regulations Pertaining to Temporary Events; Generally Located at the Northeastern Corner of the Intersection of Watters Creek Boulevard and Bethany Drive. [Marriott - Temporary Events]**

Mayor Fulk opened the public hearing and asked anyone wishing to speak for or against this item to do so at this time.

With no one speaking, Mayor Fulk closed the Public Hearing.

ORDINANCE NO. 3845-8-21: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, AMENDING THE ALLEN LAND DEVELOPMENT CODE AND ZONING MAP, AS PREVIOUSLY AMENDED, BY AMENDING THE USE AND DEVELOPMENT REGULATIONS OF LOT 3R-2, BLOCK A, MILLENNIUM OFFICE PARK, LOCATED IN AND SUBJECT TO THE REGULATIONS OF TRACT 10A-1 OF PLANNED DEVELOPMENT "PD" NO. 55 TO ALLOW SAID PROPERTY TO CHANGE REGULATIONS PERTAINING TO TEMPORARY USES; PROVIDING FOR A CONFLICTS RESOLUTION CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000) FOR EACH OFFENSE; AND PROVIDING AN EFFECTIVE DATE.

MOTION: Upon a motion made by Councilmember Clemencich and a second by Councilmember Schulmeister, the Council voted four (4) for and two (2) opposed with Councilmember Shafer and Councilmember Cornette casting the negative votes, to approve Ordinance No. 3845-8-21, as previously captioned, to amend the Development Regulations of Planned Development No. 55 with a base zoning of Commercial/Office for Lot 3R-2, Block A, Millennium Office Park. The motion carried.

- 10. Conduct a Public Hearing and Adopt an Ordinance to Amend the Allen Land Development Code, Amending: Section 4.06 The Application Process For Zoning Amendments; Sections 4.08.19, 4.15.1.1, 6.04.1.4, 6.06.9, 6.06.10, And 7.04.1.2 Changing The Word "Church" To "Religious Facility"; Section 4.10 Regarding Building Permit Requirements For Accessory Structures; Article IV Adding Section 4.11 "Commercial Accessory Use Regulations; Section 4.15.1 To Clarify Certain Setback Regulation; Section 4.20.2 By Removing The Uses "Beer & Wine Package Sales," "Beer & Wine Package Sales With Greater Than 50% Revenue From Beer & Wine" And "Dance/Martial Arts Studios" And Changing "Church, Temple Or Rectory" To Read "Religious Facility"; Section 4.20.3 By Removing The Use "Gymnastics/Dance Studio" And Adding The Use "Personal Service Business"; Section 4.20.4 By Changing The Word "Church" To "Religious Facility," Adding The Uses "Fitness And Health Center" And "Personal Service Business" And Changing The Phrase "Restaurant/Private Club" To "Private Club"; Section 4.20.5 "Schedule Of Accessory Uses - Central Business District" By Amending The Uses "Fitness And Health Center" And "Personal Service Business"; Section 6.01.1 "Purpose Of Specific Use Permits"; Section 6.03.6 "Restaurants With Food And Beverage Certificates—Permit Process," By Changing "Planning And Development Department" To Read "Community Development Department"; Repealing Section 6.03.8. "Beer And Wine Package Sales—Regulations" And Section 6.03.9 "Beer And Wine Package Sales Permit Process"; Section 6.04.1.4 By Amending Certain Regulations Regarding Seasonal Sales And Temporary Sales; Section 6.06.8 By Amending Regulations Pertaining To Donation Boxes; Section 7.03.4 "Outdoor Lighting" To Prohibit High Pressure Sodium Lamp Types And Permit Additional Types Of Parking Lot Lighting Elements; Table 7.04.1 By Changing "Church, Temple Or Rectory" To Read "Religious Facility"; Section 7.04.2 "Off-Street Loading" By Changing "SH 5" To Read "Greenville Avenue"; Section 7.07 "Fences And Walls" By Deleting The Reference To "Appendix F" In Subsection 2.a, And Changing "Wrought Iron" To "Metal" In Subsection 4.f.; Section 7.08.4.a "Performance Standards" To Exclude Certain Residential Devices.; Section 8.03.3 "Preliminary Plat" And Section 8.03.4 "Final Plat" By Amending Certain Required Plat Notes Relating To**

Open Space; Section 8.11 By Amending Regulations Relating To The Types Of Permitted And Prohibited Streetlight Fixtures And Related Design And Installation Regulations; And Appendix A "Definitions," By Deleting Definitions For "Beer And Wine Package Sales," "Church, Temple Or Rectory," "Dance/Martial Arts Studio," "Gymnastics Training Center," And "Personal Service," Amending The Definition Of "Personal Service Business," Adding Definition For "Religious Facility;" Renumbering and/or Reformatting Sections 6.06.2, 6.06.3, 6.06.8, 6.06.10, 6.06.11, 6.06.13, 6.06.14, 6.06.15 Without Changing Any Text Except Otherwise Set Forth In This Ordinance.

Mayor Fulk opened the public hearing and asked anyone wishing to speak for or against this item to do so at this time.

With no one speaking, Mayor Fulk closed the Public Hearing.

ORDINANCE NO. 3846-8-21: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, AMENDING THE ALLEN LAND DEVELOPMENT CODE, AS AMENDED, BY AMENDING: SECTION 4.06 "CHANGES AND AMENDMENTS" REGARDING THE APPLICATION PROCESS FOR ZONING AMENDMENTS; SECTIONS 4.08.19, 4.15.1.1, 6.04.1.4, 6.06.9, 6.06.10, AND 7.04.1.2 BY CHANGING THE WORD "CHURCH" TO "CHURCH OR OTHER RELIGIOUS FACILITY"; SECTION 4.10 "RESIDENTIAL ACCESSORY USE REGULATIONS" REGARDING BUILDING PERMIT REQUIREMENTS FOR ACCESSORY STRUCTURES; ARTICLE IV "ZONING REGULATIONS" BY ADDING SECTION 4.11 "COMMERCIAL ACCESSORY USE REGULATIONS; SECTION 4.15.1 "GENERAL HEIGHT AND AREA PROVISION" TO CLARIFY CERTAIN SETBACK REGULATION; SECTION 4.20.2 "SCHEDULE OF PRINCIPAL USES" BY REMOVING THE USES "BEER & WINE PACKAGE SALES," "BEER & WINE PACKAGE SALES WITH GREATER THAN 50% REVENUE FROM BEER & WINE" AND "DANCE/MARTIAL ARTS STUDIOS" AND CHANGING "CHURCH, TEMPLE OR RECTORY" TO READ "CHURCH, TEMPLE, RECTORY, OR OTHER RELIGIOUS FACILITY" WHERE IT APPEARS; SECTION 4.20.3 "SCHEDULE OF ACCESSORY USES" BY REMOVING THE USE "GYMNASTICS/DANCE STUDIO" AND ADDING THE USE "PERSONAL SERVICE BUSINESS"; SECTION 4.20.4 "SCHEDULE OF PRINCIPAL USES—CENTRAL BUSINESS DISTRICT" BY CHANGING THE WORD "CHURCH" TO READ "CHURCH OR OTHER RELIGIOUS FACILITY," ADDING THE USES "FITNESS AND HEALTH CENTER" AND "PERSONAL SERVICE BUSINESS" AND CHANGING THE PHRASE "RESTAURANT/PRIVATE CLUB" TO READ "PRIVATE CLUB"; SECTION 4.20.5 "SCHEDULE OF ACCESSORY USES - CENTRAL BUSINESS DISTRICT" BY AMENDING THE USES "FITNESS AND HEALTH CENTER" AND "PERSONAL SERVICE BUSINESS"; SECTION 6.01.1 "PURPOSE OF SPECIFIC USE PERMITS"; SECTION 6.03.6 "RESTAURANTS WITH FOOD AND BEVERAGE CERTIFICATES—PERMIT PROCESS," BY CHANGING "PLANNING AND DEVELOPMENT DEPARTMENT" TO READ "COMMUNITY DEVELOPMENT DEPARTMENT"; REPEALING SECTION 6.03.8. "BEER AND WINE PACKAGE SALES—REGULATIONS" AND SECTION 6.03.9 "BEER AND WINE PACKAGE SALES PERMIT PROCESS"; SECTION 6.04.1.4 "TYPES OF TEMPORARY USE PERMITS" BY AMENDING CERTAIN REGULATIONS REGARDING SEASONAL SALES AND TEMPORARY SALES; SECTION 6.06.8 "OUTDOOR STORAGE AND DISPLAY" BY AMENDING REGULATIONS PERTAINING TO DONATION BOXES; SECTION 7.03.4 "OUTDOOR LIGHTING" TO PROHIBIT HIGH PRESSURE SODIUM LAMP TYPES AND PERMIT ADDITIONAL TYPES OF PARKING LOT LIGHTING ELEMENTS; TABLE 7.04.1 IN SECTION 7.04.1. "VEHICLE PARKING" BY CHANGING "CHURCH, TEMPLE OR RECTORY" TO READ "CHURCH, TEMPLE, RECTORY, OR OTHER RELIGIOUS FACILITY"; SECTION 7.04.2 "OFF-

STREET LOADING” BY CHANGING “SH 5” TO READ “GREENVILLE AVENUE”; SECTION 7.07 “FENCES AND WALLS” BY DELETING THE REFERENCE TO “APPENDIX F” IN SUBSECTION 2.a, AND CHANGING “WROUGHT IRON” TO READ “METAL” IN SUBSECTION 4.f.; SECTION 7.08 “PERFORMANCE STANDARDS” TO EXCLUDE CERTAIN RESIDENTIAL DEVICES FROM THE REQUIREMENTS OF SECTION 7.08.4.a.; SECTION 8.03.3 “PRELIMINARY PLAT” AND SECTION 8.03.4 “FINAL PLAT” BY AMENDING THE TEXT OF CERTAIN REQUIRED PLAT NOTES RELATING TO OPEN SPACE; SECTION 8.11 “STREET LIGHTS” BY AMENDING REGULATIONS RELATING TO THE TYPES OF PERMITTED AND PROHIBITED STREETLIGHT FIXTURES AND RELATED DESIGN AND INSTALLATION REGULATIONS; AND APPENDIX A “DEFINITIONS,” BY DELETING THE DEFINITIONS FOR “BEER AND WINE PACKAGE SALES,” “CHURCH, TEMPLE OR RECTORY,” “DANCE/MARTIAL ARTS STUDIO,” “GYMNASTICS TRAINING CENTER,” AND “PERSONAL SERVICE,” AMENDING THE DEFINITION OF “PERSONAL SERVICE BUSINESS,” AND ADDING A DEFINITION FOR “CHURCH OR OTHER RELIGIOUS FACILITY;” RENUMBERING AND/OR REFORMATTING SECTIONS 6.06.2., 6.06.3, 6.06.8, 6.06.10, 6.06.11, 6.06.13, 6.06.14, 6.06.15 WITHOUT CHANGING ANY TEXT EXCEPT OTHERWISE SET FORTH IN THIS ORDINANCE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND (\$2,000) DOLLARS FOR EACH OFFENSE; AND PROVIDING FOR AN EFFECTIVE DATE.

MOTION: Upon a motion made by Councilmember Schulmeister and a second by Councilmember Cornette, the Council voted six (6) for and none (0) opposed to approve Ordinance No. 3846-8-21, as previously captioned, to amend the Allen Land Development Code with an amendment changing “Religious Facility” to “Church or Religious Facility.” The motion carried.

Other Business

11. Calendar.

- August 13-15 – City Council Budget Workshop, Tanglewood Resort and Conference Center

12. Items of Interest.

- Council wished happy birthday to Councilmember Clemencich.
- Councilmember Schulmeister announced the relocation of the World Headquarters of MD7 to Allen.

Executive Session

The Executive Session was not held.

13. Reconvene and Consider Action on Items Resulting from Executive Session.

Adjournment

MOTION: Upon a motion made by Councilmember Shafer and a second by Councilmember Cornette, the Council voted six (6) for and none (0) opposed to adjourn the Regular Meeting of the Allen City Council at 8:40 p.m. on Tuesday, August 10, 2021. The motion carried.

**ALLEN CITY COUNCIL
REGULAR MEETING
AUGUST 10, 2021**

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These minutes approved on the 10th day of August 2021.

APPROVED:

Kenneth M. Fulk, MAYOR

ATTEST:

Shelley B. George, TRMC, CITY SECRETARY

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| CITY COUNCIL AGENDA COMMUNICATION |
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AGENDA DATE:

August 24, 2021

SUBJECT:

Approve Minutes of the August 13-15, 2021, City Council Budget Workshop.

STAFF RESOURCE:

Shelley B. George, City Secretary

ATTACHMENTS:

Minutes

**ALLEN CITY COUNCIL
FY 2021-2022 BUDGET WORKSHOP
MINUTES**

Present:

Kenneth M. Fulk, Mayor

Councilmembers:

Baine Brooks, Mayor Pro Tem
Daren Meis
Carl Clemencich (absent August 13)
Dave Cornette
Chris Schulmeister
Dave Shafer

City Staff Present:

Eric Ellwanger, City Manager
Eric Strong, Deputy City Manager
Tim Dentler, Assistant City Manager (absent)
Rebecca Vice, Assistant City Manager
Shelley B. George, City Secretary
Pete Smith, City Attorney
Pete Phillis, Chief Financial Officer

City Staff Present Through August 14:

Chris Landrum, Assistant Financial Officer
Stephen Massey, Community Services Director
John Phillips, Community Services Assistant Director
Chris Flanigan, Engineering Director
Marc Kurbansade, Community Development Director
Lee Battle, Community Enhancement Director
Jon Boyd, Fire Chief
Brian Harvey, Chief of Police
Dan Bowman, Allen Economic Development Director
Monika Kretschmer, Human Resources Director
Eric Matthews, Information Technology Director
Kevin Cameron, Enterprise Application Manager
Kate Meacham, Parks and Recreation Director
Brian Bristow, Parks and Recreation Assistant Director
Teresa Warren, Public and Media Relations Director
Rebecca Brack, Budget Officer
Ryan Patterson, Strategic Services Auditor

City Staff Present on August 13 Only:

Brian Bristow, Parks and Recreation Assistant Director

City Staff Present on August 14 Only:

Rocio Gonzalez, Deputy City Secretary
Joseph Cotton, Engineering Assistant Director
Claudia Wayland, Library Youth Services Manager
David Cannaday, Assistant Fire Chief
Greg Grimes, Assistant Fire Chief
Richard Vaughn, Assistant Fire Chief
Hayley Angel, Planning Manager
Robert Flores, Deputy Police Chief
Ken Myers, Deputy Police Chief
Darrin Whitman, Police Lieutenant

FRIDAY, AUGUST 13, 2021

With a quorum of the Councilmembers present, the FY 2021-2022 Budget Workshop Session was called to order by Mayor Fulk the meeting to order at 1:01 p.m. on Friday, August 13, 2021, in the Maritime Ballroom of Tanglewood Resort Hotel and Conference Center, 290 Tanglewood Circle, Pottsboro, Texas.

Welcome and Introduction of Budget Process

- Kenneth Fulk, Mayor
- Eric Ellwanger, City Manager

**ALLEN CITY COUNCIL
WORKSHOP SESSION
AUGUST 13, 14, AND 15, 2021**

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Budget Overview

- Eric Strong, Deputy City Manager

Overview of City Revenue

- Pete Phillis, Chief Financial Officer
- Chris Landrum, Assistant Chief Financial Officer

Question and Answer Session

Break

Capital Improvement Program

- Chris Flanigan, Director of Engineering
- Kate Meacham, Director of Parks and Recreation

Information Technology Budget

- Eric Mathews, Director of Information Technology

Question and Answer Session

The Budget Workshop Session was recessed at 5:24 p.m. on Friday, August 13, 2021.

SATURDAY, AUGUST 14, 2021

With a quorum of the Councilmembers present, the FY 2021-2022 Budget Workshop Session was reconvened by Mayor Fulk at 9:00 a.m. on Saturday, August 14, 2021, in the Maritime Ballroom of Tanglewood Resort Hotel and Conference Center, 290 Tanglewood Circle, Pottsboro, Texas.

Non-Bond (Unprogrammed General Capital Projects Funds)

- Eric Strong, Deputy City Manager
- Chris Landrum, Assistant Chief Financial Officer

Parks and Recreation Budget

- Kate Meacham, Director of Parks and Recreation

Question and Answer Session

Break

Community Enhancement Budget

- Lee Battle, Director of Community Enhancement

Fire Budget

- Jon Boyd, Fire Chief

Lunch, Tanglewood Dining Room

Police Budget

- Brian Harvey, Chief of Police

**ALLEN CITY COUNCIL
WORKSHOP SESSION
AUGUST 13, 14, AND 15, 2021**

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Question and Answer Session

Break

Community Services Budget

- Steve Massey, Community Services Director

Council Discussion and Questions

The Budget Workshop Session was recessed at 4:58 p.m. on Saturday, August 14, 2021.

SUNDAY, AUGUST 15, 2021

With a quorum of the Councilmembers present, the FY 2021-2022 Budget Workshop Session was reconvened by Mayor Fulk at 9:02 a.m. on Sunday, August 15, 2021, in the Maritime Ballroom of Tanglewood Resort Hotel and Conference Center, 290 Tanglewood Circle, Pottsboro, Texas.

Council Discussion Regarding the Proposed Budget

Break

Annual Board Appointment Process Update

Annual Review of Council Rules of Order and Procedure

- Shelley George, City Secretary
- Peter G. Smith, City Attorney

Items of Interest [*Council announcements regarding local civic and charitable events, meetings, fundraisers, and awards.*]

EXECUTIVE SESSION: An Executive Session was not held.

Adjourn

Mayor Fulk Adjourned FY 2021-2021 Budget Workshop Session at 11:56 a.m. on Sunday, August 15, 2021, in the Maritime Ballroom of Tanglewood Resort Hotel and Conference Center, 290 Tanglewood Circle, Pottsboro, Texas. The motion carried.

These minutes approved on the 24th day of August 2021.

APPROVED:

Kenneth M. Fulk, MAYOR

ATTEST:

Shelley B. George, CITY SECRETARY

CITY COUNCIL AGENDA COMMUNICATION

AGENDA DATE: August 24, 2021

SUBJECT: Adopt an Ordinance Approving a Negotiated Settlement Between the Atmos Cities Steering Committee and Atmos Energy Corporation, Mid-Tex Division Regarding the Company's 2021 Rate Review Mechanism (RRM) Filing.

STAFF RESOURCE: Rebecca Vice, Assistant City Manager

PREVIOUS COUNCIL ACTION: On September 8, 2020, City Council adopted an Ordinance approving a negotiated settlement between the Atmos Cities Steering Committee and Atmos Energy Corporation, Mid-Tex Division regarding the company's 2020 Rate Review Mechanism (RRM) filing.

ACTION PROPOSED: Adopt an Ordinance Approving a Negotiated Settlement Between the Atmos Cities Steering Committee and Atmos Energy Corporation, Mid-Tex Division Regarding the Company's 2021 Rate Review Mechanism (RRM) Filing.

BACKGROUND

The City of Allen, along with 171 other Mid-Texas cities served by Atmos Energy Corporation, Mid-Tex Division ("Atmos Mid-Tex" or "Company"), is a member of the Atmos Cities Steering Committee ("ACSC").

In 2007, ACSC and Atmos Mid-Tex settled a rate application filed by the Company pursuant to Section 104.301 of the Texas Utilities Code for an interim rate adjustment commonly referred to as a GRIP filing (arising out of the Gas Reliability Infrastructure Program legislation). That settlement created a substitute rate review process, referred to as Rate Review Mechanism ("RRM"), as a substitute for future filings under the GRIP statute.

Since 2007, there have been several modifications to the original RRM Tariff. The most recent iteration of an RRM Tariff was reflected in an ordinance adopted by ACSC members in 2018. On or about April 1, 2021, the Company filed a rate request pursuant to the RRM Tariff adopted by ACSC members. The Company claimed that its cost-of-service in a test year ending December 31, 2020, entitled it to additional system-wide revenues of \$43.4 million. Application of the standards set forth in ACSC's RRM Tariff required Atmos to reduce its request to \$40.5 million, \$29.3 million of which would be applicable to ACSC members. ACSC's consultants concluded that the system-wide deficiency under the RRM regime should be \$22.34 million instead of the claimed \$40.5 million. The amount of the \$22.34 million deficiency applicable to ACSC members would be \$16.8 million.

After the Company reviewed ACSC's consultants' report, ACSC's Executive Committee and the Company negotiated a settlement whereby the Company would receive an increase of \$22.78 million from ACSC Cities,

but with a two-month delay in the Effective Date until December 1, 2021. This should save ACSC cities approximately \$3.8 million.

The Executive Committee recommends a settlement at \$22.78 million. The Effective Date for new rates is December 1, 2021. ACSC members should take action approving the Ordinance before October 1, 2021.

PROOF OF REVENUES. Atmos generated proof that the rate tariffs attached to the Ordinance will generate \$22.78 million in additional revenues from ACSC Cities. ACSC consultants have agreed that Atmos' Proof of Revenues is accurate. (See attached Proof of Revenue.)

BILL IMPACT. The impact of the settlement on average residential rates is an increase of \$1.28 on a monthly basis, or 2.2 percent. The increase for average commercial usage will be \$4.03 or 1.61 percent. (See attached Bill Impact.)

SUMMARY OF ACSC'S OBJECTION TO THE UTILITIES CODE SECTION 104.301 GRIP PROCESS. ACSC strongly opposed the GRIP process because it constitutes piecemeal ratemaking by ignoring declining expenses and increasing revenues while rewarding the Company for increasing capital investment on an annual basis. The GRIP process does not allow any review of the reasonableness of capital investment and does not allow cities to participate in the Railroad Commission's review of annual GRIP filings or allow recovery of Cities' rate case expenses. The Railroad Commission undertakes a mere administrative review of GRIP filings (instead of a full hearing) and rate increases go into effect without any material adjustments. In ACSC's view, the GRIP process unfairly raises customers' rates without any regulatory oversight. In contrast, the RRM process has allowed for a more comprehensive rate review and annual evaluation of expenses and revenues, as well as capital investment.

RRM SAVINGS OVER GRIP. While residents outside municipal limits must pay rates governed by GRIP, there are some cities served by Atmos Mid-Tex that chose to remain under GRIP rather than adopt RRM. Additionally, the City of Dallas adopted a variation of RRM which is referred to as DARR. When new rates become effective on December 1, 2021, ACSC residents will maintain a slight economic monthly advantage over GRIP and DARR rates. (See attached RRM Monthly Savings Over GRIP and DARR Rates.)

EXPLANATION OF "BE IT ORDAINED" PARAGRAPHS:

1. This section approves all findings in the Ordinance.
2. This section adopts the RRM rate tariffs and finds the adoption of the new rates to be just, reasonable, and in the public interest.
3. This section makes it clear that Cities may challenge future costs associated with gas leaks like the explosion in North Dallas or the evacuation in Georgetown.
4. This section finds that existing rates are unreasonable. Such finding is a necessary predicate to establishment of new rates. The new tariffs will permit Atmos Mid-Tex to recover an additional \$22.78 million from ACSC Cities.
5. This section approves an exhibit that establishes a benchmark for pensions and retiree medical benefits to be used in future rate cases or RRM filings.
6. This section approves an exhibit to be used in future rate cases or RRM filings regarding recovery of regulatory liabilities, such as excess deferred income taxes.
7. This section requires the Company to reimburse the City for expenses associated with review of the RRM filing, settlement discussions, and adoption of the Ordinance approving new rate tariffs.
8. This section repeals any resolution or ordinance that is inconsistent with the Ordinance.
9. This section finds that the meeting was conducted in compliance with the Texas Open Meetings Act, Texas Government Code, Chapter 551.
10. This section is a savings clause, which provides that if any section is later found to be unconstitutional or invalid, that finding shall not affect, impair, or invalidate the remaining provisions of this Ordinance. This

section further directs that the remaining provisions of the Ordinance are to be interpreted as if the offending section or clause never existed.

11. This section provides for an effective date upon passage. December 1, 2021 represents a two month delay in the Effective Date established by the RRM tariff.

12. This section directs that a copy of the signed Ordinance be sent to a representative of the Company and legal counsel for ACSC.

CONCLUSION. The Legislature's GRIP process allowed gas utilities to receive annual rate increases associated with capital investments. The RRM process has proven to result in a more efficient and less costly (both from a consumer rate impact perspective and from a ratemaking perspective) than the GRIP process. Given Atmos Mid-Tex's claim that its historic cost of service should entitle it to recover \$43.4 million in additional system-wide revenues, the RRM settlement at \$22.78 million for ACSC Cities reflects substantial savings to ACSC Cities. Settlement at \$22.78 million (plus \$3.8 of additional savings due to the two-month delay) is fair and reasonable. The ACSC Executive Committee consisting of city employees of 18 ACSC members urges all ACSC members to pass the Resolution before October 1, 2021. New rates become effective December 1, 2021.

STAFF RECOMMENDATION

Staff recommends that the City Council adopt an Ordinance approving a negotiated settlement between the Atmos Cities Steering Committee and Atmos Energy Corporation, Mid-Tex Division regarding the company's 2021 Rate Review Mechanism (RRM) filing.

MOTION

I make a motion to adopt Ordinance No. _____ approving a negotiated settlement between the Atmos Cities Steering Committee and Atmos Energy Corporation, Mid-Tex Division regarding the company's 2021 Rate Review Mechanism (RRM) filing.

ATTACHMENTS:

Ordinance

FAQs Re: ACSC History and RRM Ratemaking Process

Proof of Revenues

Bill Impact

RRM Monthly Savings Over GRIP and DARR Rates

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, APPROVING A NEGOTIATED SETTLEMENT BETWEEN THE ATMOS CITIES STEERING COMMITTEE (“ACSC”) AND ATMOS ENERGY CORP., MID-TEX DIVISION REGARDING THE COMPANY’S 2019 RATE REVIEW MECHANISM FILING; DECLARING EXISTING RATES TO BE UNREASONABLE; ADOPTING TARIFFS THAT REFLECT RATE ADJUSTMENTS CONSISTENT WITH THE NEGOTIATED SETTLEMENT; FINDING THE RATES TO BE SET BY THE ATTACHED SETTLEMENT TARIFFS TO BE JUST AND REASONABLE AND IN THE PUBLIC INTEREST; APPROVING AN ATTACHED EXHIBIT ESTABLISHING A BENCHMARK FOR PENSIONS AND RETIREE MEDICAL BENEFITS; APPROVING AN ATTACHED EXHIBIT REGARDING AMORTIZATION OF REGULATORY LIABILITY; REQUIRING THE COMPANY TO REIMBURSE ACSC’S REASONABLE RATEMAKING EXPENSES; DETERMINING THAT THIS ORDINANCE WAS PASSED IN ACCORDANCE WITH THE REQUIREMENTS OF THE TEXAS OPEN MEETINGS ACT; ADOPTING A SAVINGS CLAUSE; DECLARING AN EFFECTIVE DATE; AND REQUIRING DELIVERY OF THIS ORDINANCE TO THE COMPANY AND THE ACSC’S LEGAL COUNSEL.

WHEREAS, the City of Allen, Texas (“City”) is a gas utility customer of Atmos Energy Corp., Mid-Tex Division (“Atmos Mid-Tex” or “Company”), and a regulatory authority with an interest in the rates, charges, and services of Atmos Mid-Tex; and,

WHEREAS, the City is a member of the Atmos Cities Steering Committee (“ACSC”), a coalition of similarly-situated cities served by Atmos Mid-Tex (“ACSC Cities”) that have joined together to facilitate the review of, and response to, natural gas issues affecting rates charged in the Atmos Mid-Tex service area; and,

WHEREAS, ACSC and the Company worked collaboratively to develop a Rate Review Mechanism (“RRM”) tariff that allows for an expedited rate review process by ACSC Cities as a substitute to the Gas Reliability Infrastructure Program (“GRIP”) process instituted by the Legislature, and that will establish rates for the ACSC Cities based on the system-wide cost of serving the Atmos Mid-Tex Division; and,

WHEREAS, the current RRM tariff was adopted by the City in a rate ordinance in 2018; and,

WHEREAS, on about April 1, 2021, Atmos Mid-Tex filed its 2021 RRM rate request with ACSC Cities based on a test year ending December 31, 2020; and,

WHEREAS, ACSC coordinated its review of the Atmos Mid-Tex 2021 RRM filing through its Executive Committee, assisted by ACSC’s attorneys and consultants, to resolve issues identified in the Company’s RRM filing; and,

WHEREAS, the Executive Committee, as well as ACSC’s counsel and consultants, recommend that ACSC Cities approve an increase in base rates for Atmos Mid-Tex of \$22.78 million applicable to ACSC Cities with an Effective Date of December 1, 2021; and,

WHEREAS, ACSC agrees that Atmos plant-in-service is reasonable; and,

WHEREAS, with the exception of approved plant-in-service, ACSC is not foreclosed from future reasonableness evaluation of costs associated with incidents related to gas leaks; and,

WHEREAS, the two month delayed Effective Date from October 1 to December 1 will save ACSC ratepayers approximately \$3.8 million off new rates imposed by the attached tariffs (Exhibit A), the impact on ratepayers should approximate the reasonable value of the rate filing found by the ACSC Consultants' Report, which was \$81 million; and,

WHEREAS, the attached tariffs (Exhibit A) implementing new rates are consistent with the recommendation of the ACSC Executive Committee, are agreed to by the Company, and are just, reasonable, and in the public interest; and,

WHEREAS, the settlement agreement sets a new benchmark for pensions and retiree medical benefits (Exhibit B); and,

WHEREAS, the settlement agreement establishes an amortization schedule for regulatory liability prepared by Atmos Mid-Tex (Exhibit C); and,

WHEREAS, the RRM Tariff contemplates reimbursement of ACSC's reasonable expenses associated with RRM applications.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, THAT:

SECTION 1. The findings set forth in this Ordinance are hereby in all things approved.

SECTION 2. Without prejudice to future litigation of any issue identified by ACSC, the City Council finds that the settled amount of an increase in revenues of \$22.78 million for ACSC Cities represents a comprehensive settlement of gas utility rate issues affecting the rates, operations, and services offered by Atmos Mid-Tex within the municipal limits arising from Atmos Mid-Tex's 2021 RRM filing, is in the public interest, and is consistent with the City's authority under Section 103.001 of the Texas Utilities Code.

SECTION 3. Despite finding Atmos Mid-Tex's plant-in-service to be reasonable, ACSC is not foreclosed in future cases from evaluating the reasonableness of costs associated with incidents involving leaks of natural gas.

SECTION 4. The existing rates for natural gas service provided by Atmos Mid-Tex are unreasonable. The new tariffs attached hereto and incorporated herein as Exhibit A, are just and reasonable, and are designed to allow Atmos Mid-Tex to recover annually an additional \$22.78 million from customers in ACSC Cities, over the amount allowed under currently approved rates. Such tariffs are hereby adopted.

SECTION 5. The ratemaking treatment for pensions and retiree medical benefits in Atmos Mid-Tex's next RRM filing shall be as set forth on Exhibit B, attached hereto and incorporated herein.

SECTION 6. Subject to any future settlement or decision regarding the balance of Excess Deferred Income Tax to be refunded to ratepayers, the amortization of regulatory liability shall be consistent with the schedule found in Exhibit C, attached hereto and incorporated herein.

SECTION 7. Atmos Mid-Tex shall reimburse the reasonable ratemaking expenses of the ACSC in processing the Company's 2021 RRM filing.

SECTION 8. To the extent any resolution or ordinance previously adopted by the Council is inconsistent with this Ordinance, it is hereby repealed.

SECTION 9. The meeting at which this Ordinance was approved was in all things conducted in strict compliance with the Texas Open Meetings Act, Texas Government Code, Chapter 551.

SECTION 10. If any one or more sections or clauses of this Ordinance is adjudged to be unconstitutional or invalid, such judgment shall not affect, impair, or invalidate the remaining provisions of this Ordinance, and the remaining provisions of the Ordinance shall be interpreted as if the offending section or clause never existed.

SECTION 11. Consistent with the City Ordinance that established the RRM process, this Ordinance shall become effective from and after its passage with rates authorized by attached tariffs to be effective for bills rendered on or after December 1, 2021.

SECTION 12. A copy of this Ordinance shall be sent to Atmos Mid-Tex, care of Chris Felan, Vice President of Rates and Regulatory Affairs Mid-Tex Division, Atmos Energy Corporation, 5420 LBJ Freeway, Suite 1862, Dallas, Texas 75240, and to Thomas Brocato, General Counsel to ACSC, at Lloyd Gosselink Rochelle & Townsend, P.C., 816 Congress Avenue, Suite 1900, Austin, Texas 78701.

ULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, ON THIS THE 24TH DAY OF AUGUST 2021.

APPROVED:

Kenneth M. Fulk, MAYOR

APPROVED AS TO FORM:

ATTEST:

Peter G. Smith, CITY ATTORNEY

Shelley B. George, TRMC, CITY SECRETARY

FREQUENTLY ASKED QUESTIONS REGARDING ACSC HISTORY AND THE RRM RATEMAKING PROCESS

What is the role of Cities in ratemaking?

Cities have historically exercised original jurisdiction over the level of gas rates charged within their boundaries. Generally, gas distribution utilities have filed rate cases at the City level and have only gone to the Railroad Commission of Texas (“RCT” or “Commission”) with an appeal of City action or when they could not reach a settlement with Cities. If a utility and Cities reach an agreement, the utility may then file a case at the RCT to implement the same rates approved by Cities in areas outside municipal boundaries.

Once a case is at the RCT, the Commission Staff generally expects Cities to intervene and do most of the discovery, cross-examination, briefing, and sponsor opposing witnesses. There is no consumer advocate at the RCT. If Cities do not participate in hearings at the RCT, the request of a regulated utility is likely to be rubber-stamped.

How and why was the Atmos Cities Steering Committee created?

The Atmos pipeline and distribution systems were built, owned, and operated by Lone Star Gas (“LSG”), which maintained over 200 rate jurisdictions until it sold its assets to Texas Utilities (“TXU”) in the late 1990’s. That meant that many Cities had their own unique distribution rates and that individual Cities had to process rate cases at the local level. LSG-Pipeline served all 200-plus distribution systems, and pipeline rates were set by the RCT.

From the early 1980’s through the late 1990’s, LSG filed no pipeline or system-wide rate cases at the RCT. When LSG was finally brought before the RCT to show cause why its rates should not be reduced, approximately 80 Cities intervened and created an *ad hoc* group known as the Steering Committee of Cities Served by Lone Star. In Gas Utilities Division (“GUD”) docket number 8664, three separate groups of Cities and a number of independent Cities (jointly the “Aligned Cities”) participated and coordinated their efforts to oppose the rate increase.

TXU purchased the LSG assets in the late 1990’s and immediately commenced consolidating 200-plus ratemaking jurisdictions into regions. As regional cases were filed, Cities within each region created an *ad hoc* committee to form a common strategy and negotiating position. Once TXU had aggregated the Cities into five or six jurisdictions, each with a different rate, Texas Utilities Gas Company filed a system-wide case to bring all of the old LSG territory under one common rate. The different City regional committees then united and formed the Allied Coalition of Cities (“ACC”). While the gas utility assets were owned and controlled by TXU, the coalition transformed itself from an *ad hoc* group that came together only in response to rate filings by the utility into a permanent standing coalition.

In Gas Utilities Docket (“GUD”) No. 9400 in 2004, TXU’s request for a \$61.6 million system-wide increase was aggressively opposed by ACC. Cities achieved disallowances of \$42.9 million of a regulatory asset and \$87.8 million of capitalized gas utility plant. The company received only a \$2.01 million increase. Unhappy with that result, TXU decided that owning a gas system was neither as fun nor as profitable as the deregulated electric system, and they sold the system to Atmos Energy Corporation (“Atmos” or “Company”). ACC was then transformed into the Steering

Committee of Cities Served by Atmos and then renamed Atmos Cities Steering Committee to obtain an easy to remember acronym, “ACSC.”

What is the Atmos Cities Steering Committee?

ACSC is a coalition of 175 Cities that unite in common purpose to address gas utility rate and franchise issues related to Atmos Energy Corporation. Its objectives are to: (1) ensure that gas utility rates charged to Cities and their residents are fair and reasonable; (2) maintain safe and reliable gas utility service; (3) protect cities’ original jurisdiction over rates and services; (4) maintain reasonable franchise revenue for cities; and (5) promote sound ratemaking policies in the public interest.

Cities join the permanent standing committee by passing a resolution and agreeing to support the work of ACSC through modest occasional *per capita* assessments that support ongoing administrative and legislative advocacy and all expenses where Cities are not entitled to reimbursement. Each member City designates a representative to ACSC. Member representatives may volunteer to serve on the ACSC Executive Committee. The Executive Committee sets policy, hires legal counsel and consultants, directs litigation, establishes a legislative agenda, sets assessments on members as needed, and meets quarterly with Atmos executives. The Settlement Committee is directly involved in negotiating resolution of contested matters with Atmos executives. The list of current members is attached.

What is the benefit of membership in ACSC?

One hundred seventy Cities speaking as one voice is much more effective in advocacy before the Railroad Commission and legislature than any one City or multiple small groups of Cities.

The legislature has given gas utilities a right to an annual increase in rates. Resources (both financial and human) of individual Cities are conserved by membership in ACSC. Additionally, membership enhances institutional memory of ratemaking issues, public policy debates, and right-of-way and franchise fee battles.

What has ACSC accomplished?

ACSC has been instrumental in saving consumers from paying hundreds of millions of unreasonable gas utility costs. This advocacy helps taxpayers and the Texas economy.

ACSC is involved in the legislative process to make sure consumers and taxpayers are represented on gas utility matters. ACSC advocates for reasonable rates and safe and reliable service. ACSC has maintained a watchful eye on the process to ensure that provisions that could harm the interest of gas utility ratepayers are excluded from the legislation.

ACSC has also resolved a major issue involving franchise fees. In 2010, Atmos unilaterally, without notice, ceased inclusion of franchise fees in the calculations of gross receipts regardless of whether specific franchises included such payments. Several Cities were willing to pursue the matter through litigation. However, counsel for ACSC was able to negotiate a resolution that allowed each member City to determine whether it desired an increase in franchise fee payments based on inclusion of franchise fees in the calculation of gross receipts. If a City opted for inclusion of fee-on-fee revenues, it had the further option of retroactive payments back to the point in time that Atmos decided to curtail fee-on-fee payments. Each member had these options regardless of the wording of

the then-valid franchise agreement. This resolution spared significant litigation costs and anxiety and was only possible because of the clout of the ACSC membership.

One of the most significant accomplishments of ACSC occurred in 2007 via a settlement of the then-pending, system-wide rate case. Approximately 50 ACSC City representatives showed up in Arlington for a meeting with Atmos executives who were shocked at the vocal opposition to Atmos' practices, the unfairness of annual Gas Reliability Infrastructure Program ("GRIP") rate filings that precluded City and citizen review, and the Company's lack of coordination with Cities. That meeting led to the creation of the Rate Review Mechanism ("RRM") process and improved ongoing communications between the Company and ACSC.

In 2010, these improved communications between ACSC and the Company led to a workable solution to the need to replace steel service lines in a manner that accommodated Cities' needs to control their rights-of-way, while moderating the rate impact and focusing first on the riskiest service lines based on leak repair histories. This compromise precluded a more onerous (from a City and consumer perspective) program threatened by the RCT.

What is an RRM case?

The concept of an RRM proceeding emerged as a three-year experimental substitute for GRIP cases as part of the settlement of Atmos Mid-Tex's 2007 system-wide rate case. In 2003, the Texas Legislature added Section 104.301, Interim Adjustment for Changes in Investment, to the Gas Utility Regulatory Act. While not identified as such in the law, § 104.301 was referred to as the Gas Reliability Infrastructure Program or GRIP. The GRIP adjustments allowed gas companies to recover changes to invested capital without a review of whether increased revenues or declining expenses offset the invested capital costs. Both Atmos Pipeline and Atmos Mid-Tex filed GRIP cases as soon as the RCT adopted rules to implement the interim adjustments. As explained below, it quickly became apparent that the GRIP adjustments were terrible public policy.

As an alternative to GRIP, ACSC entered into a negotiated agreement with Atmos in 2007 to establish the RRM process. Unlike GRIP, the RRM provided for an annual review of all portions of Mid-Tex's cost of service. It fixed an authorized rate of return on equity for the three-year period at 9.6% (which was less than what the RCT would have authorized) and set caps on the extent to which expenses or investments could increase from one year to the next. More importantly, it allowed Cities to make a comprehensive evaluation of all aspects of the utility's business—investment, operation and maintenance expenses, and revenues—unlike GRIP that only allows consideration of changes to invested capital.

Why is RRM superior to GRIP?

GRIP cases guarantee a one-sided, rubber-stamp approval of the utility's rate request. ACSC attempted to participate in the first two GRIP proceedings filed by both Atmos Pipeline and Atmos Mid-Tex at the RCT. Not only were Cities' motions to intervene denied, but also, ACSC's comments were ignored. At the City level, ACSC consultants determined that Atmos was not only including items such as artwork, chairs, computers, and meals in interim rate adjustments that were allegedly intended to promote pipeline safety, but the Company was also over-earning its previously authorized rate of return. ACSC attacked the Commission's rule in court because it denied City participation, denied a hearing on a contested matter, and denied Cities' recovery of any expenses

associated with resisting GRIP rate increases. In 2011, the Texas Supreme Court upheld the Commission’s rule implementing the GRIP statute.

Cities have contended that the GRIP process is terrible public policy since it authorizes what would, from the perspective of a history of public interest regulation, be regarded as unlawful—piecemeal ratemaking. GRIP allows rates to increase if the utility’s invested capital net of depreciation increases year-over-year. An increase in rates is mandated under GRIP if investment increases, even if increasing revenues and declining expenses more than offset the costs associated with increased investment.

The RRM process negotiated by ACSC solves the piecemeal ratemaking problem by providing for a comprehensive review of Atmos’ expenses and revenues. Furthermore, the RRM process benefitted ACSC by: (1) allowing Cities’ participation that would be denied under GRIP; (2) allowing Cities to recover, at utility shareholders’ expense, all their ratemaking costs; and (3) avoiding both litigation and RCT jurisdiction.

The legislature has functionally authorized annual increases in gas utility rates through the GRIP process. Since consumers are otherwise stuck with annual rate increases, it is better to have Cities participate in the comprehensive RRM process than be unable to participate in a piecemeal process.

What has been the history of the RRM efforts?

A total of thirteen RRM filings have been made by the Company. These filings all resulted in settlements at the City level, except for the 2014 filing, which the ACSC Cities denied. The Company appealed the denial to the RCT, and ACSC was ultimately able to settle that proceeding before it reached the stage of a final RCT order. The results of these filings from a system-wide perspective are as follows (continued on next page):

| RRM Filing | Year | Atmos Request | ACSC Settlement |
|-------------------|-------------|----------------------|------------------------|
| #1 | 2008 | \$33.5 million | \$20 million |
| #2 | 2009 | \$20.2 million | \$2.6 million |
| #3 | 2010 | \$70.2 million | \$27 million |
| #4 | 2011 | \$15.7 million | \$6.6 million |
| #5 | 2013 | \$22.7 million | \$16.6 million |
| #6 | 2014 | \$45.7 million | \$43.8 million |
| #7 | 2015 | \$28.8 million | \$22.8 million |
| #8 | 2016 | \$35.4 million | \$29.6 million |
| #9 | 2017 | \$7.4 million | \$48 million |
| #10 | 2018 | \$27.4 million | \$24.9 million |
| #11 | 2019 | \$54.1 million | \$48.7 million |
| #12 | 2020 | \$136.3 million | \$124.3 million |
| #13 | 2021 | \$40.5 million | \$31.5 million |

Unable to reach agreement to perpetuate the original RRM terms, Atmos filed a traditional rate case with Cities in 2012 (GUD No. 10170), which was then appealed to the Railroad Commission. A final order in that case was entered in December 2012. The ratemaking decisions of the Commission then became the basis of renewal negotiations on the RRM process. The renewed RRM included some modifications that enhanced the original RRM process. Among these modifications were:

- A limit on the percentage of increase to be included in the monthly customer charge;
- A prohibition against capital post-test year adjustments;
- A time limit for known and measurable adjustments to operating and maintenance expenses;
- A guaranteed reduction in the Company's requested increase of at least \$3 million annually; and
- A limitation on the amount of equity in the Company's capital structure.

Changes to the RRM process

As noted in a communication to ACSC in May 2017, the rate of return on equity ("ROE") embedded in the RRM process between 2013 and 2017 of 10.5% is excessive by at least 100 basis points, based upon a reasonable rate of return that reflects the market conditions in which the Company, and its parent Atmos Energy, operates. Because this ROE cannot be altered except by (1) changing the terms of the RRM tariff, or (2) a Commission order coming out of a new rate case, ACSC informed the Company that the 2017 RRM will be the last filing by the Company under the current tariff. Atmos agreed to renegotiate the terms and conditions of a revised RRM tariff in 2017.

In February and March 2018, ACSC adopted a new RRM tariff ordinance that implemented new procedures and criteria for the RRM process. The revised RRM tariff reduced the allowed ROE from 10.5% to 9.8% and captured the reduced federal income tax rate of 21%. The new tariff expanded Cities' review period from three months to five months. It also required Atmos Mid-Tex to accept ACSC's position regarding incentive compensation related to Atmos' Shared Services Unit. The 2019 RRM filing is the second under the new tariff.

When must Cities approve new rates?

ACSC's Tariff Ordinance adopted around March 2018 declares that new rates become effective October 1st of each year. Due to Covid the rate increases were delayed in 2020 and 2021 until December 1 of each year. The deadline for city action remained at October 1 under the RRM tariff in those years. While it is preferable that ordinances or resolutions adopting new tariffs are passed before the end of September, there is no adverse consequence if final action cannot take place until sometime in October. The only thing that will frustrate new rates becoming effective on October 1 (or December 1 in 2020 and 2021) is City action that specifically denies the increase.

What would happen if a City Council denies the RRM rate increase?

Atmos would either appeal the denial to the Railroad Commission or initiate imposition of GRIP rates or both. Rates for residents of that City would be higher than rates of other ACSC member residents. Rate case expenses (both the City and Company) associated with litigation at the Railroad Commission would likely be surcharged back to the City that denied the increase.

If you have other questions please contact Thomas Brocato at (512) 322-5857 and/or tbrocato@lglawfirm.com (512) 322-5832.

**Attachment 1 to
Model Staff Report**

2021 RRM

Proof of Revenues

**ATMOS ENERGY CORP., MID-TEX DIVISION
RRM CITIES RATE REVIEW MECHANISM
PROOF OF REVENUES - RRM CITIES
TEST YEAR ENDING DECEMBER 31, 2020**

| Line No. | Customer Class | Current | Proposed | Bills | Ccf/MmBtu | Current Revenues | Proposed Revenues | Increase |
|----------|--|-------------|-------------|------------|-------------|------------------------------|------------------------------|-----------------------------|
| | (a) | (b) | (c) | (d) | (e) | (f) | (g) | (h) |
| 1 | Residential | | | | | | | |
| 2 | Customer Charge | \$ 20.25 | \$ 20.85 | 13,861,632 | | \$ 280,698,048 | \$ 289,015,027 | \$ 8,316,979 |
| 3 | Consumption Charge | 0.26651 | 0.27979 | | 627,298,034 | 167,181,199 | 175,511,717 | \$ 8,330,518 |
| 4 | Revenue Related Taxes | | | | | 30,398,805 | 31,528,717 | |
| 5 | Total Class Revenue | | | | | <u>\$ 478,278,052</u> | <u>\$ 496,055,461</u> | <u>\$ 17,777,409</u> |
| 6 | | | | | | | | |
| 7 | Commercial | | | | | | | |
| 8 | Customer Charge | \$ 54.50 | \$ 56.50 | 1,094,352 | | \$ 59,642,184 | \$ 61,830,888 | \$ 2,188,704 |
| 9 | Consumption Charge | 0.11728 | 0.12263 | | 363,850,875 | 42,672,431 | 44,619,033 | \$ 1,946,602 |
| 10 | Revenue Related Taxes | | | | | 6,944,376 | 7,225,051 | |
| 11 | Total Class Revenue | | | | | <u>\$ 109,258,991</u> | <u>\$ 113,674,972</u> | <u>\$ 4,415,981</u> |
| 12 | | | | | | | | |
| 13 | Industrial & Transportation | | | | | | | |
| 14 | Customer Charge | \$ 1,014.50 | \$ 1,054.75 | 7,056 | | \$ 7,158,312 | \$ 7,442,316 | \$ 284,004 |
| 15 | Consumption Charge Tier 1 | \$ 0.4157 | \$ 0.4330 | | 7,479,741 | 3,109,328 | 3,238,728 | \$ 129,400 |
| 16 | Consumption Charge Tier 2 | \$ 0.3044 | \$ 0.3171 | | 8,282,846 | 2,521,298 | 2,626,490 | \$ 105,192 |
| 17 | Consumption Charge Tier 3 | \$ 0.0653 | \$ 0.0680 | | 13,018,926 | 850,136 | 885,287 | \$ 35,151 |
| 18 | Revenue Related Taxes | | | | | 925,722 | 963,306 | |
| 19 | Total Class Revenue | | | | | <u>\$ 14,564,796</u> | <u>\$ 15,156,127</u> | <u>\$ 591,331</u> |
| 20 | | | | | | | | |
| 21 | Total Excluding Other Revenue | | | | | <u><u>\$ 602,101,840</u></u> | <u><u>\$ 624,886,561</u></u> | <u><u>\$ 22,784,721</u></u> |
| 22 | | | | | | | | |
| 23 | | | | | | | | |
| 24 | Revenue Related Tax Factor | 6.7873% | | | | | | |

**Attachment 2
to 2021 RRM Staff Report**

Bill Impact

**ATMOS ENERGY CORP., MID-TEX DIVISION
AVERAGE BILL COMPARISON - BASE RATES
TEST YEAR ENDING DECEMBER 31, 2020**

| Line No. | <u>Rate R @ 45.2 Ccf</u> | <u>Current</u> | <u>Proposed</u> | <u>Change</u> |
|----------|---------------------------|----------------|-----------------|---------------|
| 1 | Customer charge | \$ 20.25 | | |
| 2 | Consumption charge | = | | |
| 3 | Rider GCR Part A | = | | |
| 4 | Rider GCR Part B | = | | |
| 5 | Subtotal | \$ 54.59 | | |
| 6 | Rider FF & Rider TAX | = | | |
| 7 | Total | \$ 58.30 | | |
| 8 | | | | |
| 9 | | | | |
| 10 | Customer charge | | \$ 20.85 | |
| 11 | Consumption charge | | 12.65 | |
| 12 | Rider GCR Part A | | 7.23 | |
| 13 | Rider GCR Part B | | 15.06 | |
| 14 | Subtotal | | 55.79 | |
| 15 | Rider FF & Rider TAX | | 3.79 | 1.28 |
| 16 | Total | | 59.58 | 2.20% |
| 17 | | | | |
| 18 | | | | |
| 19 | <u>Rate C @ 332.5 Ccf</u> | <u>Current</u> | <u>Proposed</u> | <u>Change</u> |
| 20 | Customer charge | \$ 54.50 | | |
| 21 | Consumption charge | = | | |
| 22 | Rider GCR Part A | = | | |
| 23 | Rider GCR Part B | = | | |
| 24 | Subtotal | \$ 234.20 | | |
| 25 | Rider FF & Rider TAX | = | | |
| 26 | Total | \$ 250.10 | | |
| 27 | | | | |
| 28 | Customer charge | | \$ 56.50 | |
| 29 | Consumption charge | | 40.77 | |
| 30 | Rider GCR Part A | | 53.20 | |
| 31 | Rider GCR Part B | | 87.51 | |
| 32 | Subtotal | | 237.98 | |
| 33 | Rider FF & Rider TAX | | 16.15 | 4.03 |
| 34 | Total | | 254.13 | 1.61% |
| 35 | | | | |

**Attachment 3
to 2021 RRM Staff Report**

RRM Monthly Savings Over GRIP and DARR Rates

**ATMOS ENERGY CORP., MID-TEX DIVISION
RESIDENTIAL AVERAGE BILL COMPARISON
(EXCLUDING GAS COSTS)**

| | ACSC Settled | DARR Settled | ATM Filing | ENVIRONS Filing |
|----------------------|-------------------------|-------------------------|-----------------------|----------------------------|
| Customer Charge | \$20.85 | \$23.80 | \$27.68 | \$25.90 |
| Monthly Ccf [1] | 45.2 | 52.7 | 45.2 | 45.2 |
| Consumption Charge | \$0.27979 | \$0.19526 | \$0.14846 | \$0.18653 |
| Average Monthly Bill | \$33.50 | \$34.09 | \$34.39 | \$34.33 |
| | | -\$0.60 | -\$0.89 | -\$0.83 |

[1] Recognizes that average normal usage for Dallas residential customers is greater than Mid-Tex average.

CITY COUNCIL AGENDA COMMUNICATION

AGENDA DATE: August 24, 2021

SUBJECT: Adopt an Ordinance Abandoning Certain Public Right-of-Way for The Farm Development Project.

STAFF RESOURCE: Chris Flanigan, Engineering Director

ACTION PROPOSED: Adopt an Ordinance Abandoning Certain Public Right-of-Way for The Farm Development Project.

BACKGROUND

When the developers of the Farm Mixed-Use Development Project submitted a final plat for the project, it included a tract that was reserved for single-family townhomes to be constructed by others. The tract was developed with concepts in-mind of how the residential lots would layout; however, it was known all along that this townhome tract would eventually be developed by others, more specialized in residential development. Consequently, the plat illustrated the dedication of right-of-way for two public streets (Hay Bale Drive and Fishing Pond Drive) that would cross through the proposed townhome residential neighborhood, connecting into the remainder of the overall mixed-use property. Now that the townhome builder/developer has examined the property, created more detailed engineering design, and finalized their lot layout, the street right-of-way for Hay Bale Drive requires modification to match their plans.

They desire modification of the right-of-way that was dedicated by plat for Hay Bale Drive, but does not yet have a street built within that area. The segment of street considered will only be constructed by the townhome developer anyway.

The City Attorney has reviewed the request, advised that the simplest solution is for the Allen City Council to abandon the right-of-way previously dedicated by plat, and then allow renewed dedication of right-of-way by re-platting the townhome tract (acceptance of right-of-way by the Planning & Zoning Commission is customary).

STAFF RECOMMENDATION

Staff Recommends that the Council Adopt an Ordinance Abandoning Certain Public Right-of-Way for The Farm Development Project.

MOTION

I make motion to adopt Ordinance No. _____ abandoning certain public right-of-way for The Farm Development Project.

ATTACHMENTS:

Ordinance

The Farm ROW exhibit

Location Map

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, ABANDONING PORTIONS OF HAY BALE DRIVE OUT OF THE FARM, AN ADDITION TO THE CITY OF ALLEN, TEXAS, AS DESCRIBED IN EXHIBIT “A” HERETO; RESERVING ALL EXISTING EASEMENT RIGHTS OF OTHERS, IF ANY, WHETHER APPARENT OR NON-APPARENT, AERIAL, SURFACE, UNDERGROUND OR OTHERWISE; PROVIDING FOR THE FURNISHING OF A CERTIFIED COPY OF THIS ORDINANCE FOR RECORDING IN THE OFFICIAL PUBLIC RECORDS OF COLLIN COUNTY, TEXAS, AS A QUITCLAIM DEED; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the owner of the property described as Lot 1, Block L and Lot 1, Block M, The Farm, an addition to the City of Allen, Collin County, Texas, according to the plat thereof recorded as Instrument No. 20210224010000520, Official Public Records, Collin County, Texas (the “Property”), has requested abandonment of the right-of-way Hay Bale Drive as a public street adjacent to said lots in order to facilitate the replat of the Property and the realignment of said segment of Hay Bale Drive; and

WHEREAS, the proposed replat of the Property, including abandonment of the requested rights-of-way is consistent with development plans for the Property previously approved by the City and a pending replat application for the Property; and

WHEREAS, the City Council of the City of Allen, Texas, acting pursuant to State law and to facilitate the development and replat of the Property deems it advisable and in the public interest to abandon and quitclaim the hereinafter described rights-of-way, and is of the opinion and finds that said rights-of-way are not needed for public use as a public street and should be abandoned and quitclaimed, subject to the reservations and conditions of this Ordinance.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ALLEN, TEXAS, THAT:

SECTION 1. Subject to the reservations set forth in Section 2 of this Ordinance, the City of Allen, Texas, hereby abandons, quitclaims, and vacates in favor of the abutting property owners all of the City’s right, title, and interest of the public of any kind or nature in and to the segment of the right-of-way of Hay Bale Drive described on Exhibit “A” attached hereto and made a part hereof for all purposes, the same as if fully copied herein, together with all improvements constructed on or below the surface thereof, if any.

SECTION 2. The abandonment, vacation, and quitclaim of the right-of-way described in Exhibit “A” hereto is subject to all existing easement rights of others, if any, whether apparent or non-apparent, aerial, surface, underground or otherwise owned by third-parties. Further, that the abandonment, vacation, and quitclaim of the right-of-way described in Exhibit “A” hereto shall not be construed as an abandonment of any after-acquired title to easements or rights-of-way conveyed by separate instrument or dedicated by a replat of the Property executed or approved on or after the date of approval of this Ordinance.

SECTION 3. The abandonment of the street right-of-way herein is subject to, conditioned on, and shall not be effective until, approval by the Planning and Zoning Commission of a replat of the Property which dedicates the street right-of-way for Hay Bale Drive substantially as shown on Exhibit “B” attached hereto and incorporated herein by reference and the recording of such plat in the Plat Records of Collin County, Texas.

SECTION 4. Upon the satisfaction of the conditions precedent set forth in Section 3, above, the City Secretary is authorized and directed to prepare a certified copy of this ordinance, and the recording of this abandonment ordinance in the Official Public Records of Collin County, Texas, which shall serve as the quitclaim deed of the City of Allen, Texas, in and to the street rights-of-way described in Exhibit "A", subject to the limitations and reservations of this Ordinance.

SECTION 5. The City Manager is authorized to execute additional documents necessary to complete the abandonment and quitclaim contemplated herein, if any.

SECTION 6. This ordinance shall take effect immediately from and after its passage in accordance with its provisions of the Charter of the City of Allen, and it is accordingly so ordained.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, ON THIS THE 24TH DAY OF AUGUST 2021.

APPROVED:

Kenneth M. Fulk, MAYOR

APPROVED AS TO FORM:

ATTEST:

Peter G. Smith, CITY ATTORNEY
(kbl:8/16/21:124161)

Shelley B. George, CITY SECRETARY

EXHIBIT "A"
DESCRIPTION OF PORTIONS OF RIGHT-OF-WAY TO BE ABANDONED

LEGAL DESCRIPTION – Sheet 1 of 3
R.O.W. Abandonment – Hay Bale

BEING, a tract of land situated in the John Phillips Survey, Abstract No. 718, being part of Hay Bale Drive, out of The Farm, an addition to the City of Allen, Texas, as described in Doc. No. 2021-85, in the Plat Records of Collin County, Texas, being more particularly described as follows:

BEGINNING, at a ½ inch iron rod found at the northwest corner of Lot 1 Block M out of said The Farm;

THENCE, along the west line of said Lot 1 Block M being along a non-tangent curve to the right, having a radius of 656.50 feet, a central angle of 15°26'39";

THENCE, continuing along said west line and with said curve to the right for an arc distance of 176.96 feet (Chord Bearing South 08°42'51" West – 176.42 feet), to a ½ inch iron rod found;

THENCE, South 04°07'18" West, continuing along said west line, for a distance of 63.60 feet, to a ½ inch iron rod found at the point of curvature of a curve to the left, having a radius of 225.00 feet, a central angle of 06°46'54";

THENCE, continuing along said west line and with said curve the left for an arc distance of 26.63 feet (Chord Bearing South 00°43'51" West – 26.62 feet), to a ½ inch iron rod found at the point of tangency;

THENCE, South 02°39'36" East, continuing along said west line, for a distance of 16.64 feet, to a ½ inch iron rod found;

THENCE, South 46°50'44" East, continuing along said west line, for a distance of 43.03 feet, to a ½ inch iron rod found being the southwest corner of said Lot 1 Block M and being in the north line of Ridgeview Drive (Variable R.O.W.);

THENCE, South 89°07'35" West, along the north line of said Ridgeview Drive, for a distance of 15.54 feet, to the point of curvature of a curve to the left, having a radius of 1265.50 feet, a central angle of 04°16'36";

THENCE, continuing along said north line for an arc distance of 94.46 feet (Chord Bearing South 86°59'17" West – 94.44 feet), to a ½ inch iron rod found at the southeast corner of Lot 1 Block L out of said The Farm;

THENCE, North 41°26'04" East, departing said north line and along the east line of said Lot 1 Block L, for a distance of 43.09 feet, to a ½ inch iron rod found;

THENCE, North 02°39'36" West, continuing along said east line, for a distance of 16.64 feet, to a ½ inch iron rod found at the point of curvature of a curve to the right, having a radius of 275.00 feet, a central angle of 09°34'30";

THENCE, continuing east line and with said curve to the right for an arc distance of 45.96 feet (Chord Bearing North 02°07'39" East – 45.90 feet), to a ½ inch iron rod found;

THENCE, North 21°04'40" East, continuing along said east line, for a distance of 59.62 feet, to a ½ inch iron rod found on a non-tangent curve to the left, having a radius of 623.50 feet, a central angle of 10°58'18";

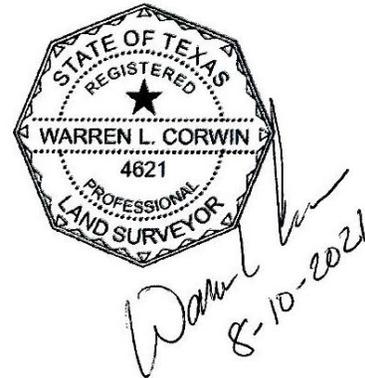
THENCE, continuing along said east line and with said curve to the left for an arc distance of 119.39 feet (Chord Bearing North 10°58'13" East – 119.21 feet), to a ½ inch iron rod found;

THENCE, North 43°18'18" West, continuing along said east line, for a distance of 20.03 feet, to a ½ inch iron rod found at the most northerly northeast corner of said Lot 1 Block L;

THENCE, North 01°41'31" West, for a distance of 33.00 feet, to a ½ inch iron rod set with a yellow cap stamped "Corwin Eng. Inc.", in the south line of Lot 1 Block J out of said The Farm, being on a curve to the right, having a radius of 1533.00 feet, a central angle of 01°53'11";

THENCE, along the south line of said Lot 1 Block J and with said curve to the right for an arc distance of 50.48 feet (Chord Bearing North 89°15'05" East – 50.47 feet), to the POINT OF BEGINNING and containing 0.320 acres of land.

Prepared by:
Corwin Engineering, Inc.
Firm No. 10031700
200 W. Belmont
Allen, Texas 75013



0



SCALE: 1" = 50'



THE FARM
LOT 1 BLOCK M
DOC. NO. 2021-85

PROPOSED R.O.W.

HAY BALE DRIVE

DORIS MAY DR.
(33' R.O.W.)

THE FARM
LOT 1 BLOCK L
DOC. NO. 2021-85

EX. R.O.W.
(GREEN LINE)

RIDGEVIEW DR.
(VARIABLE R.O.W.)



CORWIN ENGINEERING, INC.

200 W. Belmont, Suite E Allen, Texas 75013 (972) 396-1200
TBPLS*10031700

EXHIBIT 'A' - SHEET 3 OF 3
R.O.W. ABANDONMENT - 0.320 AC.

WATTERS EDGE AT THE FARM
CITY OF ALLEN
COLLIN COUNTY, TEXAS

Location of Proposed Abandonment of Right of Way for The Farm Development



CITY COUNCIL AGENDA COMMUNICATION

AGENDA DATE: August 24, 2021

SUBJECT: Authorize the City Manager to Execute a Contract with Birkhoff, Hendricks & Carter, LLP, for Professional Engineering Services Related to the Rowlett Elevated Storage Tank, Custer Elevated Storage Tank, and Custer Ground Storage Reservoirs #1 and #2 in the Amount of \$146,500.

STAFF RESOURCE: Chris Flanigan, Director of Engineering

ACTION PROPOSED: Authorize the City Manager to Execute a Contract with Birkhoff, Hendricks & Carter, LLP, for professional Engineering services related to the Rowlett Elevated Storage Tank, Custer Elevated Storage Tank, and Custer Ground Storage Reservoirs #1 and #2 in the Amount of \$146,500.

BACKGROUND

Our tank exterior coating systems on steel and concrete water storage structures will typically last 12 to 15 years before maintenance of the coating is needed. Rowlett Tower was last painted in 2001, the Custer Tower was last painted in 2000 and are showing they need to be recoated to prevent corrosion to them. The Custer Ground Storage Reservoirs #1 and #2 were previously painted over 15 years ago and need to be recoated as well.

On October 31, 2018, a total of eighty-five (85) vendors submitted a Settlement of Qualifications for thirteen various professional services. Qualified firms have been considered for a maximum of two categories. All proposals submitted were evaluated based on firm experience, services, and references. Six (6) City of Allen professionals of various backgrounds represented the evaluation committee. Our goal was to select vendors with the capacity to provide the best combination of experience, quality, and services. Birkhoff, Hendricks & Carter, LLP, have been selected to provide services for two categories: Water/Wastewater and Roadways.

The proposed contract with Birkhoff, Hendricks and Carter, LLP, will further evaluate the water storage tanks, produce design specifications for bid, assist in coordination of temporary communication equipment relocation, assist in the administration of the construction contract for this project, and perform quality control testing on the new coating systems during construction.

BUDGETARY IMPACT

This project will be funded through unallocated water/sewer funds, and is in accordance with the estimates and capital outlay on Page U-10 of the 2022-2026 draft Capital Improvement Plan.

STAFF RECOMMENDATION

Staff Recommends that the City Council Authorize the City Manager to Execute a Contract with Birkhoff, Hendricks & Carter, LLP, for Professional Engineering Services Related to the Rowlett Elevated Storage Tank, Custer Elevated Storage Tank, and Custer Ground Storage Reservoirs #1 and #2 in the Amount of \$146,500.

MOTION

I make a motion to authorize the City Manager to execute a contract with Birkhoff, Hendricks & Carter, LLP, for professional engineering services related to the Rowlett Elevated Storage Tank, Custer Elevated Storage Tank, and Custer Ground Storage Reservoirs #1 and #2 in the Amount of \$146,500.

ATTACHMENTS:

Agreement for Professional Services
Location Map

STATE OF TEXAS §
 §
COUNTY OF COLLIN §

AGREEMENT FOR PROFESSIONAL SERVICES

This agreement (“Agreement”) is made by and between the City of Allen, Texas (“City”) and BIRKHOFF, HENDRICKS, & CARTER, L.L.P., a Texas Limited Liability Partnership (“Professional”) (each a “Party” and collectively the “Parties”), acting by and through their authorized representatives.

RECITALS:

WHEREAS, the City desires to engage the services of the Professional as an independent contractor, and not as an employee, to provide the services described in Exhibit “A” (the “Scope of Services”) to assist the City in Custer Elevated Storage Tank Exterior Repaint, Rowlett Elevated Storage Tank Exterior Repaint, and Custer Ground Storage Reservoir Nos. 1 and 2 Exterior Repaint (the “Project”) on the terms and conditions set forth in this Agreement; and

WHEREAS, the Professional desires to render services for the City on the terms and conditions set forth in this Agreement;

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

Article I
Term

1.1 This Agreement shall commence on the last date of execution hereof (“Effective Date”) and continue until completion of the services, unless sooner terminated as provided herein.

1.2 Either Party may terminate this Agreement by giving thirty (30) days prior written notice to the other Party. In the event of such termination the Professional shall deliver to City all finished and unfinished documents, data, studies, surveys, drawings, maps, models, reports, photographs or other items prepared by the Professional in connection with this Agreement. Professional shall be entitled to compensation for any services completed to the reasonable satisfaction of the City in accordance with this Agreement prior to such termination.

Article II
Scope of Service

2.1 The Professional shall perform the services in connection with the Project as set forth in the Scope of Services. The Professional shall perform the services: (i) with the professional skill and care ordinarily provided by competent engineers or architects, as the case may be, practicing in the same or similar locality and under the same or similar circumstances and professional license; and (ii) as expeditiously as is prudent considering the ordinary professional

skill and care of a competent engineer or architect, as the case may be. If the Professional is not a licensed engineer or registered architect, the Professional shall perform the services: (i) with the skill and care ordinarily provided by similar consultants practicing in the same or similar locality and under the same circumstances and applicable licenses or certifications; and (ii) as expeditiously as is prudent considering the ordinary skill and care of similar competent consultants.

2.2 The City shall, prior to commencement of services, provide the Professional with the information set forth in the Scope of Services, if any.

2.3 Licenses. Professional represents to City that Professional possesses any and all licenses which may be required by the State of Texas or any other governmental entity having jurisdiction as may be necessary for the performance of Professional's services pursuant to this Agreement.

2.4 The Parties acknowledge and agree that any and all opinions provided by the Professional in connection with the Scope of Services represent the professional judgment of the Professional, in accordance with the standard of care applicable by law to the services performed hereunder.

2.5 Upon execution of this Agreement the City has the right to use the Professional's instruments of service, including but not limited to reports, maps, cost estimates, recommendations or other deliverables for the Project, provided that the City substantially performs its obligations, including prompt payment of all sums when due, under this Agreement. The City's employees, agents, contractors and subcontractors may reproduce applicable portions of the instruments of service for use in performing services or construction for the Project. Upon payment of all amounts due Professional hereunder, all deliverables, materials and reports prepared by the Professional in connection with this Agreement shall become the property of the City. The City shall have the right to publish, disclose, distribute and otherwise use such deliverables, materials and reports only for those purposes for which they were intended. Subject to the foregoing, Professional shall, upon completion of the services, or earlier termination, provide the City with the deliverables, drawings, reports, maps, and materials prepared by Professional as set forth in the Scope of Services.

Article III Schedule of Work

The Professional agrees to complete the required services in accordance with the Project Schedule outlined in the Scope of Services.

Article IV Compensation and Method of Payment

4.1 Professional will be compensated in accordance with the payment schedule and amounts set forth in the Scope of Services. Unless otherwise provided herein, payment to the

Professional shall be monthly based on the Professional’s monthly progress report and detailed monthly itemized statement for services that shows the names of the Professional’s employees, agents, contractors performing the services, the time worked, the actual services performed, the rates charges for such service, reimbursable expenses, and the amount due and payable as of the current statement, in a form reasonably acceptable to the City. Monthly statements shall include authorized non-salary expenses with supporting itemized invoices and documentation. The City shall pay such monthly statements within thirty (30) days after receipt and City verification of the services and expenses unless otherwise provided herein. The final payment of the compensation shall be made after satisfactory completion of the services following the City acceptance of the study, report, recommendation or other work set forth in the Scope of Services, and the submittal of “AS BUILT” drawings, or record drawings, as applicable.

4.2 Unless otherwise provided in the Scope of Services the Professional shall be responsible for all expenses related to the services provided pursuant to this Agreement including, but not limited to, travel, copying and facsimile charges, telephone, internet and email charges.

4.3 The hourly rates set forth in the Scope of Services, if any shall remain in effect during the term of this Agreement. Any changes to established hourly rates shall require the prior written consent of the City.

Article V
Devotion of Time; Personnel; and Equipment

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

5.2 To the extent reasonably necessary for the Professional to perform the services under this Agreement, the Professional shall be authorized to engage the services of any agents, assistants, persons, or corporations that the Professional may deem proper to aid or assist in the performance of the services under this Agreement. The Professional shall provide written notice to and obtain written approval from the City prior to engaging services not referenced in the Scope of Services. The cost of such personnel and assistance shall be included as part of the total compensation to be paid Professional hereunder and shall not otherwise be reimbursed by the City unless otherwise provided herein.

5.3 The Professional shall furnish the facilities, equipment and personnel necessary to perform the services required under this Agreement unless otherwise provided herein.

5.4 The Professional shall submit monthly progress reports and attend monthly progress meetings scheduled by the City or more frequently as may be required by the City from

time to time based upon Project demands. Each progress report shall detail the work accomplished and special problems or delays experienced on the Project during the previous report period, and the planned work activities and special problems or delays anticipated for the next report period.

Article VI Miscellaneous

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

6.2 Assignment. The Professional may not assign this Agreement without the prior written consent of City. In the event of an assignment by the Professional to which the City has consented, the assignee shall agree in writing with the City to personally assume, perform, and be bound by all the covenants, and obligations contained in this Agreement.

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

6.4 Governing Law. The laws of the State of Texas shall govern this Agreement without regard to any conflict of law rules; and venue for any action concerning this Agreement shall be in the State District Court of Collin County, Texas. The Parties agree to submit to the personal and subject matter jurisdiction of said court.

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

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

6.7 Independent Contractor. It is understood and agreed by and between the Parties that the Professional, in satisfying the conditions of this Agreement, is acting independently, and that the City assumes no responsibility or liabilities to any third party in connection with these actions. All services to be performed by Professional pursuant to this Agreement shall be in the capacity of an independent contractor, and not as an agent or employee of the City. Professional shall supervise the performance of its services and shall be entitled to control the manner and means by which its services are to be performed, subject to the terms of this Agreement.

6.8 Right-of-Access. The Professional shall not enter onto private property without lawful right-of-access to perform the required surveys, or other necessary investigations. The Professional will take reasonable precautions to minimize damage to the private and public

property in the performance of such surveys and investigations. Any right-of-access to public or private property shall be obtained in accordance with the Scope of Services.

6.9 Notice. Any notice required or permitted to be delivered hereunder may be sent by first class mail, courier or by confirmed telefax or facsimile to the address specified below, or to such other Party or address as either Party may designate in writing, and shall be deemed received three (3) days after delivery or on the day actually received if sent by courier or otherwise hand delivered:

If intended for City:

Eric Ellwanger
City Manager
City of Allen, Texas
3rd Floor, Allen City Hall
305 Century Parkway
Allen, Texas 75013
214.509.4110 - telephone
214.509.4118 - fax

With a copy to:

Peter G. Smith
Nichols, Jackson, Dillard, Hager & Smith, L.L.P.
1800 Ross Tower
500 North Akard Street
Dallas, Texas 75201
214.965.9900 – telephone
214.965.0010 - fax

If intended for Professional:

Birkhoff, Hendricks & Carter, L.L.P.

Attn: John W. Birkhoff, P.E.
Managing Partner
11910 Greenville Ave., Suite 600
Dallas, Texas 75243
214-361-7900 - telephone
214-461-8390 - fax

6.10 Insurance.

- (a) Professional shall during the term hereof maintain in full force and effect the following insurance: (i) a commercial general liability policy of insurance for bodily injury, death and property damage including the property of the City, its council, officers, contractors, agents and employees (collectively referred to as the “City”) insuring against all claims, demands or actions relating to the work and services provided by the Professional pursuant to this Agreement with a minimum limit per occurrence for injury to persons (including death), and for property damage and \$2,000,000.00 aggregate including products and completed operations; (ii) automobile liability insurance covering all vehicles owned, non-owned and

hired and/or operated by Professional, its officers, agents, independent contractors and employees, and used in the performance of this Agreement with policy limits of not less than \$1,000,000.00 combined single limit for bodily injury, death and property damage; (iii) statutory Worker's Compensation and Employers Liability covering all of Professional's employees involved in the provision of services under this Agreement with policy limit of not less than \$1,000,000.00; and (iv) Professional Liability with policy limit of not less than \$1,000,000.00 per claim and \$2,000,000.00 in the aggregate, covering negligent acts, errors and omissions by Professional, its contractors, sub-contractors, consultants and employees in the performance of services pursuant to this Agreement. Such professional liability insurance shall be annually renewed and remain in effect for not less than twenty-four (24) months after substantial completion of the services.

- (b) All insurance shall be endorsed to provide the following provisions: (1) name the City, its council, officers, and employees as additional insureds as to all applicable coverage with the exception of Workers Compensation Insurance and Professional Liability; (2) provide for a waiver of subrogation against the City for injuries, including death, property damage, or any other loss to the extent the same is covered by the proceeds of insurance, except for Professional Liability Insurance. A specific endorsement needs to be added to all policies, with a copy of the endorsement provided to the City that indicates the insurance company will provide to the City at least a thirty (30) day prior written notice for cancellation, non-renewal, and/or material changes of the policy. In the event the companies providing the required insurance are prohibited by law to provide any such specific endorsements, the Consultant shall provide at least thirty (30) days prior written notice to the City of any cancellation, non-renewal and/or material changes to any of the policies of insurance. All policies must be written on a primary basis, non-contributory with any insurance coverage and/or self-insurance maintained by the City
- (c) All insurance companies providing the required insurance shall be authorized to transact business in Texas and rated at least "A" by AM Best or other equivalent rating service.
- (d) A certificate of insurance and copies of policy endorsements evidencing the required insurance shall be submitted to the City prior to commencement of services. On every date of renewal of the required insurance policies, the Professional shall cause a certificate of insurance and policy endorsements to be issued evidencing the required insurance herein and delivered to the City. In addition, the Professional shall within ten (10) business days after written request provide the City with certificates of insurance and policy endorsements for the insurance required herein. The delivery of the certificates of insurance and policy endorsements to the City is a condition precedent to the payment of any amounts due to Professional by the City. The failure to provide valid certificates of

insurance and policy endorsements shall be deemed a default and/or breach of this Agreement.

6.11 Debarment and Suspension.

- (a) In accordance with 2 CFR section 180.300, the principal of this contract as described in 2 CFR section 180.995 being duly sworn or under penalty of perjury under the laws of the United States, certifies that neither this company nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any federal department or agency, the State of Texas or any of its departments or agencies.
- (b) If during the contract period the principal becomes debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation, the principal shall immediately inform the City of Allen.
- (c) For contracts that are financed by Federal or State grants, the principal agrees that this section will be enforced on each of its subcontractors and will inform the City of Allen of any violations of this section by subcontractors to the contract.
- (d) The certification in this section is a material representation of fact relied upon by the City in entering into this contract.

6.12 Indemnification. PROFESSIONAL DOES HEREBY COVENANT AND CONTRACT TO WAIVE ANY AND ALL CLAIMS, RELEASE, DEFEND, INDEMNIFY, AND HOLD HARMLESS THE CITY, ITS CITY COUNCIL, OFFICERS, EMPLOYEES, AND AGENTS, FROM AND AGAINST ALL LIABILITY, CAUSES OF ACTION, CITATIONS, CLAIMS, COSTS, DAMAGES, DEMANDS, EXPENSES, FINES, JUDGMENTS, LOSSES, PENALTIES OR SUITS, CAUSED BY OR RESULTING FROM THE NEGLIGENCE, INTENTIONAL TORT, INTELLECTUAL PROPERTY INFRINGEMENT, OR FAILURE TO PAY A SUBCONTRACTOR OR SUPPLIER COMMITTED BY THE PROFESSIONAL, ITS AGENT, ITS CONSULTANT UNDER CONTRACT, OR ANY OTHER ENTITY OVER WHICH THE PROFESSIONAL EXERCISES CONTROL SUBJECT TO THE LIMITATIONS IN TEXAS LOCAL GOVERNMENT CODE § 271.904 AND TEXAS CIVIL PRACTICE AND REMEDIES CODE, § 130.002 (B).

INDEMNIFIED ITEMS SHALL INCLUDE REASONABLE ATTORNEYS' FEES AND COSTS, COURT COSTS, AND SETTLEMENT COSTS.

THE PROFESSIONAL'S OBLIGATIONS UNDER THIS SECTION SHALL NOT BE LIMITED TO THE LIMITS OF COVERAGE OF INSURANCE MAINTAINED OR REQUIRED TO BE MAINTAINED BY PROFESSIONAL UNDER THIS AGREEMENT. THIS PROVISION SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

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

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

6.15 Prohibition of Boycott Israel. Professional verifies that it does not Boycott Israel and agrees that during the term of this Agreement will not Boycott Israel as that term is defined in Texas Government Code Section 808.001, as amended. This section does not apply if the Professional is a sole proprietor, a non-profit entity or a governmental entity; and only applies if: (i) the Professional has ten (10) or more fulltime employees and (ii) this Agreement has a value of \$100,000.00 or more to be paid under the terms of this Agreement.

(Signature Page to Follow)

EXECUTED this _____ day of _____, 2021.

CITY OF ALLEN, TEXAS

By: _____
Eric Ellwanger, City Manager

ATTEST:

By: _____
Shelley B. George, City Secretary

APPROVED AS TO FORM:

By: _____
Peter G. Smith, City Attorney

EXECUTED this 9th day of AUGUST, 2021.

Birkhoff, Hendricks & Carter, L.L.P.

By: John W Birkhoff
Name: John Birkhoff. P.E.
Title: Managing Partner

EXHIBIT "A"
SCOPE OF SERVICES
(TO BE ATTACHED)

EXHIBIT “A”

ENGINEERING SERVICES FOR

CUSTER ELEVATED STORAGE TANK EXTERIOR REPAINT ROWLETT ELEVATED STORAGE TANK EXTERIOR REPAINT CUSTER GROUND STORAGE RESERVOIR NOS. 1 AND 2 EXTERIOR REPAINT

PART 1: PRELIMINARY DESIGN

Provide engineering services to prepare specifications and bidding documents for the Exterior Repaint of the Custer Elevated Storage Tank, Exterior Repaint of the Rowlett Elevated Storage Tank, and the Exterior Coating of the Custer Ground Storage Reservoir No. 1 and 2 (precast concrete).

- 1) Complete topographic surveys at the sites to identify current conditions, locate existing fence, locate access, and locate wireless buildings and structures on the Custer and Rowlett Elevated Storage Tank sites and the Custer Pump Station Site.
- 2) Complete site visit to each site to visually see site and determine working constraints.
- 3) Prepare preliminary plan sheets for Custer Elevated Storage Tank, Rowlett Elevated Tank Site and Custer Ground Storage Reservoir No. 1 and 2 Site. Plans will include site plan, photo sheet, aerial photograph sheets, and any details determined from site visit and field surveys.
- 4) Prepare specifications for abrasive blasting & coating the exterior of the Custer Elevated Tank and the Rowlett Elevated Tank. Specifications will include requirement for containment system including roof bonnet.
- 5) Prepare specifications for water blasting and coating the exterior of the Custer Ground Storage Reservoir No. 1 and 2.
- 6) Include in specifications and proposal for removal of ladder cages and upgrade fall protection systems to Honeywell Sol Glidelock Systems.

- 7) Elevated Tank Plans will include City of Allen logo to include dimensional take-offs from tanks to achieve appropriate logo scale.
- 8) The project will be put together in two parts and bid as two separate bid packages.
 - Part 1 - Custer Elevated Tank and Custer Ground Storage Reservoir No. 1.
 - Part 2 - Rowlett Elevated Storage Tank and Custer Ground Storage Reservoir No. 2
- 9) Submit Preliminary Plans, Technical Specifications, and Competitive Low Proposal Requirements in electronic format to the City for review.
- 10) Meet with the City of Allen to discuss preliminary plans and specifications.

PART 2: FINAL DESIGN

- A. Revise and finalize Preliminary Plan Sheets, Specifications, and Competitive Low Proposal Requirements, incorporating City comments.
- B. Formulate opinion of probable construction cost based on final plans.
- C. Prepare final bid documents including bid proposal forms, construction plans, specifications and front-end contract documents. Front end contract documents will be provided by City.
- D. Submit 95% Plans, Technical Specifications, Proposal and Bid Schedule, and Competitive Low Proposal Requirements in electronic format to the City for review.

PART 3: ADDITIONAL SERVICES

A. SEALED COMPETITIVE PROPOSALS (BID PHASE)

- 1) Submit one set of Final Plans, Technical Specifications, Bid Schedule, and Competitive Low Proposal (bidding) Documents in PDF format to the City for their use in electronically advertising and distributing documents. The project will have two separate bid packages. The first bid package, Part 1 being painted in 2021-2022 and the second bid package, Part 2 being painted in 2022-2023.
- 2) BHC will send Notice of Proposal to painting contractors.

- 3) Assist City during opening of proposals.
- 4) Check references provided for all proposal packages received.
- 5) Review submittal and compile material, and check if requested information was submitted at time of bid, complete in spreadsheet.
- 6) Follow-up with each proposer that did not submit full package and request missing data, if allowed by City Purchasing Department.
- 7) Provide spreadsheet to City selection committee of data received, reference comments and original submittal data for evaluation.
- 8) Assist selection committee in selection process.

B. CONSTRUCTION PHASE

- 1) Attend City's Pre-Construction Conference at City Facilities.
- 2) No paper copies of the conformed plans will be issued. All documents will be in PDF format for construction purposes.
- 3) Review shop drawings and other submittal information which the Contractor submits. This review is for the benefit of the Owner and covers only general conformance with information given by the Contract Documents. The contractor is to review and stamp their approval on submittals prior to submitting to the Engineer. Review of shop drawing submissions is solely for their conformance with the design intent and conformance with information given in the construction documents. Birkhoff, Hendricks & Carter L.L.P. shall not be responsible for any aspects of a shop drawing submission that affect or are affected by the means, methods, techniques, sequences and operation of construction, safety precautions and programs incidental thereto, all of which are the Contractors responsibility. Electronic copy of shop drawings in which no exceptions, or make corrections noted are taken by Birkhoff, Hendricks & Carter L.L.P. will be provided to the City. All shop drawings will be completed electronically in PDF format.
- 4) Provide written responses to requests for information or clarification.

- 5) Accompany the City during their final inspection of the project. This will include climbing the tank.
- 6) The design engineer will visit the site as requested by the City. These visits specifically exclude any responsibility by the Engineer for job safety or means and methods of construction.
- 7) Change orders will be prepared by the City. BHC will assist in the preparation and review as requested by the city.
- 8) Monthly pay requests will be prepared by the City. BHC will review and validate the pay request as requested by the city.

C. QUALITY CONTROL SERVICE:

- 1) Quality Control Services will be provided by Henley-Johnston of Dallas, Texas. Services will include observation and confirmation of surface preparation, monitoring of ambient conditions and the testing of the applied coatings.
- 2) Daily field reports will be prepared for each site visit and will include photographs.
- 3) Custer Elevated Storage Tank includes a budget for 30 site visits
- 4) Rowlett Elevated Storage Tank includes a budget for 30 site visits.
- 5) Custer Ground Storage Reservoir No. 1 includes a budget for 5 site visits.
- 6) Custer Ground Storage Reservoir No. 2 includes a budget for 5 site visits.

D. RECORD DRAWINGS

Prepare record drawings utilizing City and Contractor record information, if requested by the City. Submit record drawings in electronic format, PDF and .dwg.

E. COMMUNICATION EQUIPMENT REMOVAL

Assist City Staff working with wireless providers, City and County Emergency Services Staff/Vendors for the removal of equipment to provide a safe working space for the City's painting contractor. This assistance is on an as needed basis as required by the City.

PART 4: EXCLUSIONS

The intent of this scope of services is to include only the services specifically listed herein and none others. Services specifically excluded from this scope of services include, but are not necessarily limited to the following:

- A. Certification that work is in accordance with plans and specifications.
- B. Fees for permits or advertising
- C. On-site safety precautions, programs and responsibility.
- D. Phasing of Contractors work.
- E. Providing an on-site representative.
- F. Revisions and/or change orders as a result of revisions after completion of original design (unless to correct error on plans).
- G. Preparation of bidding documents.
- H. Preparation of change orders.
- I. Paper copies of documents. All documents to be electronic.

PART 6: INFORMATION TO BE PROVIDED BY THE CITY

- A. Record drawings of the Custer Elevated Storage Tank.
- B. Record drawings for the Rowlett Elevated Storage Tank.
- C. Record drawings of the Custer Ground Storage Reservoir No. 1 and 2.
- D. Access to the elevated tank sites and access to the Custer Road and Custer Road Pump Station site.

PART 7: PROJECT SCHEDULE

| | |
|---|--------------------|
| Notice to Proceed | August 11, 2021 |
| Begin Field Surveys | August 13, 2021 |
| Submit Preliminary Plans to City for Review | September 10, 2021 |
| Receive Review Comments from City | September 17, 2021 |
| Complete Final Plans | September 24, 2021 |
| Advertise Project Part One | September 26, 2021 |
| Open Part One Proposals | October 12, 2021 |
| Evaluate Part One Proposals | October 20, 2021 |
| Award Part One Contract | November 9, 2021 |
| Bidding of Part Two projects will be scheduled for fall of 2022 | |

PART 8: COMPENSATION

Payment for Basic Engineering Services shall be lump sum, and payment for Additional Engineering Services shall be on the basis of salary cost times 2.40, with expenses at invoice cost times 1.15. Field Survey Crew will be billed at a rate of \$175.00 per hour. Maximum fee not to exceed amount of \$146,500.00.

SUMMARY OF BASIC SERVICES

Custer Elevated Storage Exterior Repaint:

Preparation of Bidding Documents (Lump Sum) \$25,000.00

Rowlett Elevated Storage Exterior Repaint:

Preparation of Bidding Documents (Lump Sum) \$25,000.00

Custer Ground Storage Reservoir Exterior Repaints:

Preparation & Bidding Documents (Lump Sum) \$15,000.00

Total Amount for Basic Services **\$65,000.00**

SUMMARY OF ADDITIONAL SERVICES

Bidding (2 bids Part I Fall of 2021 and Part 2 Fall of 2022) \$13,500.00

Construction (2 phases- Part 1 2021-2022 and Part 2 2022-2023 \$10,000 each phase) \$20,000.00

Quality Control (2 phases - \$20,000 each phase) \$40,000.00

Record Drawings \$1,000.00

Communication Equipment Removal \$7,000.00

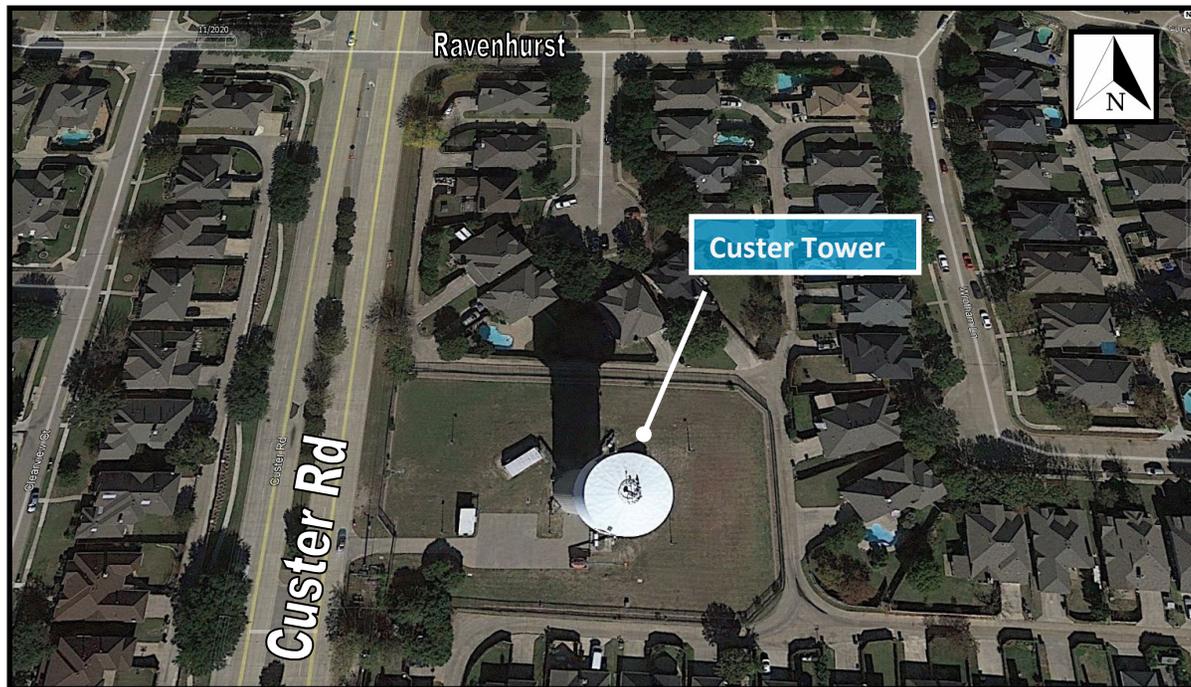
Total Amount for Additional Services **\$81,500.00**

TOTAL: **\$146,500.00**

Payments are to be made monthly based on percent complete as determined by Birkhoff, Hendricks & Carter, L.L.P. Invoices shall include a breakdown of costs by task, a summary of billings to date of invoice for each task, and the balance remaining for each task (as well as the total contract remaining). City agrees to pay within 30-days upon receipt.

Water Tank and Tower Repaint

CIP # WA2105



CITY COUNCIL AGENDA COMMUNICATION

AGENDA DATE: August 24, 2021

SUBJECT: Authorize the City Manager to Execute a Contract with CLASP Companies, LLC, (dba) Valley Quest Design for Design of the Trailhead at the Rowlett Creek Trail along the Eugene McDermott Property in the Amount of \$102,060.

STAFF RESOURCE: Kate Meacham, Director of Parks and Recreation
Brian Bristow, Assistant Director of Parks and Recreation
Debra Morris, Purchasing Manager

ACTION PROPOSED: Authorize the City Manager to Execute a Contract with CLASP Companies, LLC, (dba) Valley Quest Design for Design of the Trailhead at the Rowlett Creek Trail along the Eugene McDermott Property in the Amount of \$102,060.

BACKGROUND

In 2018, the City was deeded a 105 acre tract of land by the Estate of Margaret McDermott and deemed as Eugene McDermott Park. The land is encumbered by a conservation easement with the intent to preserve the open space character for outdoor recreation for the general public. The conservation easement agreement on the land identifies the conservation purposes as protection and conservation of habitats and riparian values, preservation of scenic enjoyment, and assurance of areas available for non-intensive outdoor recreation such as hiking, nature observation, and enjoyment of open space. The specific use of this land by the city has been identified as a landmark trailhead to serve as a destination and access point to the regional Rowlett Trail corridor.

Trailheads are important to the public access to the city trail system. They provide a transition, create unique entryways to the trail system, encourage the use of trails, and provide access to a number of destinations accessible by trail. The Trailhead for Rowlett Creek Trail is a key, high priority gateway to the Rowlett Trail, which is one of the City's four primary greenbelt trails. The Overall Recommendations Phasing Map (pg. 82) in the Trails and Bikeways Master Plan prioritizes the Rowlett Creek Trail and the amenities that serve the trail, the trailhead being the primary amenity. In December of 2019, the Purchasing Division issued a Request for Qualifications for various Professional Services for Parks and Recreation Capital Improvement Projects. On January 30, 2020, forty-three (43) vendors responded to the RFQ and Valley Quest Design (VQ) was among the firms that were short listed for two categories; Landscape Architectural and Planning.

VQ will conduct a site analysis that explores opportunities to design a trailhead that tells the history of Allen, the surrounding landscape, Rowlett Creek, and acknowledges the sizeable donation by Mrs. McDermott. As a primary trailhead, a number of amenities are planned, including a 50 space parking lot, seating, shade, site furniture, restroom facilities, vehicular and pedestrian circulation, interpretive signage, and environmental design

features such as bio-swales, native planting, and an overlook. The scope of the design project will adhere to the City of Allen Trails and Bikeway Master Plan and the Conservation Easement Agreement. This contract is strictly for design of the trailhead. The city will construct the trailhead at a later date through a competitive bidding procedure leading to a construction contract.

BUDGETARY IMPACT

Funds for this design in the amount of \$112,266 are a combination of grant funding awarded by the Collin County Parks Foundation Advisory Board and Allen Community Development Corporation dollars designated for trail projects. Funding provided by Collin County is specified for Eugene McDermott Park/Rowlett Trail projects in the amount of \$140,365. Staff has identified the use of \$6,000 from this fund for this design contract. Remaining funds will be used for future design and construction of the trail and its connection to the trailhead. These funds cover this design contract of \$102,060 and additionally provide for a 10% contingency of \$10,206 to establish the project budget.

Funds are available in Parks' CIP Project PR1806, totaling \$112,266 as follows:

| PR1806 - Trailhead for Rowlett Creek Trail | |
|---|-------------------|
| Project Cost Estimate | |
| Design Contract | \$ 102,060 |
| Contingency 10% | \$ 10,206 |
| Total | \$ 112,266 |

| PR1806 - Trailhead for Rowlett Creek Trail | |
|---|------------------|
| Project Funding | |
| CDC Funding for Trail Design | \$106,266 |
| Collin County Parks & Open Space Funding | \$ 6,000 |
| Total | \$112,266 |

STAFF RECOMMENDATION

Staff Recommends that the City Council Authorize the City Manager to Execute a Contract with CLASP Companies, LLC, (dba) Valley Quest Design, for Design of the Trailhead at the Rowlett Creek Trail along the Eugene McDermott Property in the Amount of \$102,060.

MOTION

I make a motion to authorize the City Manager to execute a contract with CLASP Companies, LLC, (dba) Valley Quest Design for design of the Trailhead at the Rowlett Creek Trail along the Eugene McDermott Property in the amount of \$102,060.

ATTACHMENTS:

Contract
Exhibit A - Proposal
Trailhead Location Map
Overall Location Map

ordinary professional skill and care of a competent engineer or architect, as the case may be. If the Professional is not a licensed engineer or registered architect, the Professional shall perform the services: (i) with the skill and care ordinarily provided by similar consultants practicing in the same or similar locality and under the same circumstances and applicable licenses or certifications; and (ii) as expeditiously as is prudent considering the ordinary skill and care of similar competent consultants.

2.2 The City shall, prior to commencement of services, provide the Professional with the information set forth in the Scope of Services, if any.

2.3 Licenses. Professional represents to City that Professional possesses any and all licenses which may be required by the State of Texas or any other governmental entity having jurisdiction as may be necessary for the performance of Professional's services pursuant to this Agreement.

2.4 The Parties acknowledge and agree that any and all opinions provided by the Professional in connection with the Scope of Services represent the professional judgment of the Professional, in accordance with the standard of care applicable by law to the services performed hereunder.

2.5 Upon execution of this Agreement the City has the right to use the Professional's instruments of service, including but not limited to reports, maps, cost estimates, recommendations or other deliverables for the Project, provided that the City substantially performs its obligations, including prompt payment of all sums when due, under this Agreement. The City's employees, agents, contractors and subcontractors may reproduce applicable portions of the instruments of service for use in performing services or construction for the Project. Upon payment of all amounts due Professional hereunder, all deliverables, materials and reports prepared by the Professional in connection with this Agreement shall become the property of the City. The City shall have the right to publish, disclose, distribute and otherwise use such deliverables, materials and reports only for those purposes for which they were intended. Subject to the foregoing, Professional shall, upon completion of the services, or earlier termination, provide the City with the deliverables, drawings, reports, maps, and materials prepared by Professional as set forth in the Scope of Services.

Article III Schedule of Work

The Professional agrees to complete the required services in accordance with the Project Schedule outlined in the Scope of Services.

Article IV Compensation and Method of Payment

4.1 Professional will be compensated in accordance with the payment schedule and amounts set forth in the Scope of Services. Unless otherwise provided herein, payment to the

Professional shall be monthly based on the Professional's monthly progress report and detailed monthly itemized statement for services that shows the names of the Professional's employees, agents, contractors performing the services, the time worked, the actual services performed, the rates charges for such service, reimbursable expenses, and the amount due and payable as of the current statement, in a form reasonably acceptable to the City. Monthly statements shall include authorized non-salary expenses with supporting itemized invoices and documentation. The City shall pay such monthly statements within thirty (30) days after receipt and City verification of the services and expenses unless otherwise provided herein. The final payment of the compensation shall be made after satisfactory completion of the services following the City acceptance of the study, report, recommendation or other work set forth in the Scope of Services, and the submittal of "AS BUILT" drawings, or record drawings, as applicable.

4.2 Unless otherwise provided in the Scope of Services the Professional shall be responsible for all expenses related to the services provided pursuant to this Agreement including, but not limited to, travel, copying and facsimile charges, telephone, internet and email charges.

4.3 The hourly rates set forth in the Scope of Services, if any shall remain in effect during the term of this Agreement. Any changes to established hourly rates shall require the prior written consent of the City.

Article V Devotion of Time; Personnel; and Equipment

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

5.2 To the extent reasonably necessary for the Professional to perform the services under this Agreement, the Professional shall be authorized to engage the services of any agents, assistants, persons, or corporations that the Professional may deem proper to aid or assist in the performance of the services under this Agreement. The Professional shall provide written notice to and obtain written approval from the City prior to engaging services not referenced in the Scope of Services. The cost of such personnel and assistance shall be included as part of the total compensation to be paid Professional hereunder and shall not otherwise be reimbursed by the City unless otherwise provided herein.

5.3 The Professional shall furnish the facilities, equipment and personnel necessary to perform the services required under this Agreement unless otherwise provided herein.

5.4 The Professional shall submit monthly progress reports and attend monthly progress meetings scheduled by the City or more frequently as may be required by the City from

time to time based upon Project demands. Each progress report shall detail the work accomplished and special problems or delays experienced on the Project during the previous report period, and the planned work activities and special problems or delays anticipated for the next report period.

Article VI Miscellaneous

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

6.2 Assignment. The Professional may not assign this Agreement without the prior written consent of City. In the event of an assignment by the Professional to which the City has consented, the assignee shall agree in writing with the City to personally assume, perform, and be bound by all the covenants, and obligations contained in this Agreement.

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

6.4 Governing Law. The laws of the State of Texas shall govern this Agreement without regard to any conflict of law rules; and venue for any action concerning this Agreement shall be in the State District Court of Collin County, Texas. The Parties agree to submit to the personal and subject matter jurisdiction of said court.

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

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

6.7 Independent Contractor. It is understood and agreed by and between the Parties that the Professional, in satisfying the conditions of this Agreement, is acting independently, and that the City assumes no responsibility or liabilities to any third party in connection with these actions. All services to be performed by Professional pursuant to this Agreement shall be in the capacity of an independent contractor, and not as an agent or employee of the City. Professional shall supervise the performance of its services and shall be entitled to control the manner and means by which its services are to be performed, subject to the terms of this Agreement.

6.8 Right-of-Access. The Professional shall not enter onto private property without lawful right-of-access to perform the required surveys, or other necessary investigations. The Professional will take reasonable precautions to minimize damage to the private and public

property in the performance of such surveys and investigations. Any right-of-access to public or private property shall be obtained in accordance with the Scope of Services.

6.9 Notice. Any notice required or permitted to be delivered hereunder may be sent by first class mail, courier or by confirmed telefax or facsimile to the address specified below, or to such other Party or address as either Party may designate in writing, and shall be deemed received three (3) days after delivery or on the day actually received if sent by courier or otherwise hand delivered:

If intended for City:

Eric Ellwanger
City Manager
City of Allen, Texas
3rd Floor, Allen City Hall
305 Century Parkway
Allen, Texas 75013
214.509.4110 - telephone
214.509.4118 - fax

With a copy to:

Peter G. Smith
Nichols, Jackson, Dillard, Hager & Smith, L.L.P.
1800 Ross Tower
500 North Akard Street
Dallas, Texas 75201
214.965.9900 – telephone
214.965.0010 - fax

If intended for Professional:

Attn: CLASP Companies, LLC (dba) Valley Quest Design
212 S. Elm Street
Denton, TX 76201
214-597-1415- telephone

6.10 Insurance.

- (a) Professional shall during the term hereof maintain in full force and effect the following insurance: (i) a commercial general liability policy of insurance for bodily injury, death and property damage including the property of the City, its council, officers, contractors, agents and employees (collectively referred to as the “City”) insuring against all claims, demands or actions relating to the work and services provided by the Professional pursuant to this Agreement with a minimum limit per occurrence for injury to persons (including death), and for property damage and \$2,000,000.00 aggregate including products and completed operations; (ii) automobile liability insurance covering all vehicles owned, non-owned and hired and/or operated by Professional, its officers, agents, independent contractors and employees, and used in the performance of this Agreement with policy limits of not less than \$1,000,000.00 combined single limit for bodily injury, death and property damage; (iii) statutory Worker’s Compensation and Employers Liability

covering all of Professional's employees involved in the provision of services under this Agreement with policy limit of not less than \$1,000,000.00; and (iv) Professional Liability with policy limit of not less than \$1,000,000.00 per claim and \$2,000,000.00 in the aggregate, covering negligent acts, errors and omissions by Professional, its contractors, sub-contractors, consultants and employees in the performance of services pursuant to this Agreement. Such professional liability insurance shall be annually renewed and remain in effect for not less than twenty-four (24) months after substantial completion of the services.

- (b) All insurance shall be endorsed to provide the following provisions: (1) name the City, its council, officers, and employees as additional insureds as to all applicable coverage with the exception of Workers Compensation Insurance and Professional Liability; (2) provide for a waiver of subrogation against the City for injuries, including death, property damage, or any other loss to the extent the same is covered by the proceeds of insurance, except for Professional Liability Insurance. A specific endorsement needs to be added to all policies, with a copy of the endorsement provided to the City that indicates the insurance company will provide to the City at least a thirty (30) day prior written notice for cancellation, non-renewal, and/or material changes of the policy. In the event the companies providing the required insurance are prohibited by law to provide any such specific endorsements, the Consultant shall provide at least thirty (30) days prior written notice to the City of any cancellation, non-renewal and/or material changes to any of the policies of insurance. All policies must be written on a primary basis, non-contributory with any insurance coverage and/or self-insurance maintained by the City
- (c) All insurance companies providing the required insurance shall be authorized to transact business in Texas and rated at least "A" by AM Best or other equivalent rating service.
- (d) A certificate of insurance and copies of policy endorsements evidencing the required insurance shall be submitted to the City prior to commencement of services. On every date of renewal of the required insurance policies, the Professional shall cause a certificate of insurance and policy endorsements to be issued evidencing the required insurance herein and delivered to the City. In addition, the Professional shall within ten (10) business days after written request provide the City with certificates of insurance and policy endorsements for the insurance required herein. The delivery of the certificates of insurance and policy endorsements to the City is a condition precedent to the payment of any amounts due to Professional by the City. The failure to provide valid certificates of insurance and policy endorsements shall be deemed a default and/or breach of this Agreement.

6.11 Debarment and Suspension.

- (a) In accordance with 2 CFR section 180.300, the principal of this contract as described in 2 CFR section 180.995 being duly sworn or under penalty of perjury under the laws of the United States, certifies that neither this company nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any federal department or agency, the State of Texas or any of its departments or agencies.
- (b) If during the contract period the principal becomes debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation, the principal shall immediately inform the City of Allen.
- (c) For contracts that are financed by Federal or State grants, the principal agrees that this section will be enforced on each of its subcontractors and will inform the City of Allen of any violations of this section by subcontractors to the contract.
- (d) The certification in this section is a material representation of fact relied upon by the City in entering into this contract.

6.12 Indemnification. PROFESSIONAL DOES HEREBY COVENANT AND CONTRACT TO WAIVE ANY AND ALL CLAIMS, RELEASE, DEFEND, INDEMNIFY, AND HOLD HARMLESS THE CITY, ITS CITY COUNCIL, OFFICERS, EMPLOYEES, AND AGENTS, FROM AND AGAINST ALL LIABILITY, CAUSES OF ACTION, CITATIONS, CLAIMS, COSTS, DAMAGES, DEMANDS, EXPENSES, FINES, JUDGMENTS, LOSSES, PENALTIES OR SUITS, CAUSED BY OR RESULTING FROM THE NEGLIGENCE, INTENTIONAL TORT, INTELLECTUAL PROPERTY INFRINGEMENT, OR FAILURE TO PAY A SUBCONTRACTOR OR SUPPLIER COMMITTED BY THE PROFESSIONAL, ITS AGENT, ITS CONSULTANT UNDER CONTRACT, OR ANY OTHER ENTITY OVER WHICH THE PROFESSIONAL EXERCISES CONTROL SUBJECT TO THE LIMITATIONS IN TEXAS LOCAL GOVERNMENT CODE § 271.904 AND TEXAS CIVIL PRACTICE AND REMEDIES CODE, § 130.002 (B).

INDEMNIFIED ITEMS SHALL INCLUDE REASONABLE ATTORNEYS' FEES AND COSTS, COURT COSTS, AND SETTLEMENT COSTS.

THE PROFESSIONAL'S OBLIGATIONS UNDER THIS SECTION SHALL NOT BE LIMITED TO THE LIMITS OF COVERAGE OF INSURANCE MAINTAINED OR REQUIRED TO BE MAINTAINED BY PROFESSIONAL UNDER THIS AGREEMENT. THIS PROVISION SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

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

of any number of copies hereof each signed by less than all, but together signed by all of the Parties hereto.

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

6.15 Prohibition of Boycott Israel. Professional verifies that it does not Boycott Israel and agrees that during the term of this Agreement will not Boycott Israel as that term is defined in Texas Government Code Section 808.001, as amended. This section does not apply if the Professional is a sole proprietor, a non-profit entity or a governmental entity; and only applies if: (i) the Professional has ten (10) or more fulltime employees and (ii) this Agreement has a value of \$100,000.00 or more to be paid under the terms of this Agreement.

(Signature Page to Follow)

EXECUTED this _____ day of _____, 2021.

CITY OF ALLEN, TEXAS

By: _____
Eric Ellwanger, City Manager

ATTEST:

By: _____
Shelley George, City Secretary

APPROVED AS TO FORM:

By: _____
Peter G. Smith, City Attorney

EXECUTED this 18th day of May, 2021.

**CLASP COMPANIES, LLC (DBA) VALLEY QUEST
DESIGN**

By: 
Andrew Cousins, RLA

EXHIBIT "A"
SCOPE OF SERVICES
(TO BE ATTACHED)



EXHIBIT A

PROJECT:

Landscape Architecture: *Rowlett Trail & Eugene McDermott Trailhead – Allen, TX*

UNDERSTANDING:

The CLIENT is of the opinion that the CONSULTANT has the necessary qualifications, experience, and abilities to provide the services described herein.

The CONSULTANT is agreeable to providing the services to the CLIENT on the terms and conditions set out in this agreement.

The CLIENT understands that the CONSULTANT will not be responsible for any program or planning decisions made prior to being contracted for the scope described within.

It is understood by the CLIENT that the scope and fees described herein are being prepared by the CONSULTANT as one bid package.

It is understood that if the CLIENT expands the program significantly beyond what is listed in the anticipated program below, additional services will be requested.

It is understood by the CONSULTANT that the project limits reside within an existing Conservation Easement, and the proposed improvements must meet the restrictions set out in said easement.

It is understood by the CONSULTANT that the adjacent trail extension project is completely separate from this contract.

It is understood by the CONSULTANT that the construction of the project will be managed, primarily by City park staff.

It is understood by both the CLIENT and the CONSULTANT that the terms of this proposal are good for 45 days from the time of receipt. Proposal fee is subject to adjustment thereafter.

The CLIENT agrees to engage the CONSULTANT to provide the CLIENT with the basic services consisting of consisting of design services for the development of a new trailhead facility in Allen, TX comprised of approximately **4.85** acres.

SCOPE OF SERVICES:

The SUBCONSULTANT will perform the work associated with *the planning and design of a Trailhead for Rowlett Creek Trail*. The CLIENT agrees to engage the CONSULTANT to provide the CLIENT with the basic services consisting of conceptual design, design development and preparation of permitting and construction documents for the trail improvements.

CONSULTANT services will include concept development, design and construction tasks associated with the following potential site program elements:

1. Demolition and removal of existing site elements to allow for installation of the new park improvements.
2. New deceleration lane for right turn into trailhead facility from McDermott Drive.
3. A custom-built restroom facility.
4. A main kiosk with an overall trail system map, possibly incorporating some shade.
5. An overlook, rest area with interpretive signage.
6. A plan for future opportunities for public artwork display (separate from this contract and scope)

Valley Quest DESIGN

t: 214.597.1415
e: andrew@vq-design.com

212 South Elm Street
Denton, Texas 76201

www.vq-design.com



7. Architectural theming for the trailhead, with consideration towards environmentally sound practices. Architectural design of any vertical elements will complement the selected theme.
8. CPTED design considerations for safety and environmental consciousness.
9. A curb-less parking lot with 50 parking spaces, allowing storm water to be treated with a bio-swale / bio-retention elements- including interpretive signage highlighting such features.
10. New, low maintenance landscape associated with proposed park elements, plus the required irrigation,
 - a. incorporating a naturalized approach, including use of decorative rock, boulders, etc.
11. Pedestrian facilities (hardscape/paving) that establish a connection from the parking lot and trailhead to the trail, and to a sidewalk along McDermott Drive.
12. Site amenities, such as litter receptacles, benches, bike racks and picnic tables.
13. Lighting design associated with trailhead, parking and entry areas, including the required, associated electrical distribution.
14. An outdoor drinking fountain, including the associated water service and drainage.
15. Wayfinding / interpretive site signage.
16. Consideration given to the adjacent land uses.

CONSULTANT will engage multiple sub-consultants as independent contractors to provide the basic scope of work. Sub-consulting team may include the following disciplines and services:

1. Architecture
 - a. Custom Restroom facility design
 - i. Code review, floor plans, elevations, sections, COMCheck
 - b. Includes MEP engineering
2. Electrical
 - a. Site lighting design
 - b. Restroom lighting design
3. Structural Engineering
 - a. Restroom structural design
 - b. Site elements foundation design
4. Irrigation
 - a. Irrigation system design for proposed plantings
5. Estimator
 - a. To provide opinions of probable construction costs at various design stages as indicated
6. Civil Engineering
 - a. On-site drainage and utility design
 - b. Deceleration lane
 - c. Grading
 - d. Erosion control
7. Geotechnical Engineer
 - a. Soils reporting
 - b. Engineering recommendations
8. Surveying
 - a. Platting
9. Understands the civil engineer for the adjacent trail extension project (as part of a separate contract) will be providing the topographical and tree survey as well as the environmental impact statement, which will include the trailhead project limits.

Consulting services will include the following:

1.01 SITE INVESTIGATION SERVICES

1. Site Inventory and Analysis, including the following services:



- a. Site visit, research, photography and related activities to gather information on the existing site, surroundings and neighborhood context.
 - b. Analysis of site findings contained in a report and/or graphic exhibit displaying the existing site features and factors impacting the project. This exhibit will be geared towards informing the CLIENT of the unique opportunities and constraints involved in developing the intended park use at the proposed project location.
 - c. Review of the existing Conservation Easement between the landowner and the Connemara Conservancy Foundation, which dictates what can be proposed/constructed within the Conservation Easement.
2. Geotechnical investigation and recommendations of the proposed site (to occur after a final concept has been selected/approved) that include the following:
- a. Engaging a third-party subcontractor to complete borings as follows with truck-mounted drilling equipment:
 - i. 1 boring to a depth of 25' beneath the proposed building site.
 - ii. 1 boring to a depth of 15' beneath the proposed monument sign.
 - iii. 1 boring to a depth of 5' beneath the proposed pavement area.
 - iv. *depths of borings may be modified depending on field conditions*
 - b. A maximum of one site visit to determine the location of borings
 - c. Testing on the soil samples with type and amount of testing to be determined by the Engineer:
 - i. Moisture Content, Atterberg Limits, Swell Tests, Unconfined Compression Testing, Pocket Penetrometer Readings, Determination of Suction Values, Hydrometer, % fine clay readings, % Passing #200 Sieve, Unit Weight Determinations
 - d. Written Geotechnical Report to include:
 - i. Report and Recommendations for alternate foundation types, bearing values,
 - ii. Potential Vertical Movement estimates, and required soil modification to reduce the PVM for the proposed site
 - iii. Boring Logs with full testing data

1.02 CONCEPT DESIGN SERVICES

1. Participate in one (1) virtual "kickoff" meeting with city staff to confirm scope, discuss the project approach, the objectives, the schedule, and the budget.
2. City municipal code requirements research, including a coordination meeting/phone call with the City of Allen's Park and Recreation Department staff.
3. Review of any applicable existing master planning, needs assessments, facilities inventories, or public surveys, etc.
4. Preparation of two (2) alternative concept plans using existing survey information and incorporating the desired program elements. These concept plans will incorporate the layout of proposed site improvements listed in the Scope of Work in a simple sketch and will also illustrate the proposed architectural theme. Deliverables will be pdf copies of the plan. Plans will include a display of precedent images and park product cut sheets to illustrate/support the design intent.
5. Participation in one (1) virtual meeting with City staff to present/discuss the concept plans. The intention of this meeting will be to illustrate how the stakeholder recommendations were incorporated into the direction for the concepts and confirm the proposed and program and design meets the city's intentions.
6. Preparation of one (1) final concept plan using stakeholder and park staff recommendations. The concept plan will incorporate the layout of proposed site improvements listed in the Scope of Work, plus one "bird's eye" and one "ground level" perspective rendering. Deliverables will be pdf copies of the plan. Plan will be a color-rendered presentation graphic that will clearly layout out all of the proposed improvements and will include a display of precedent images and park product cut sheets to illustrate/support the final design.



7. Preparation of a preliminary opinion of probable construction costs (OPC) based on the approved concept plan. This OPC will not be prepared by a third-party estimator.
8. Participate in one (1) virtual meeting with city staff and stakeholder to present the final, preferred concept.
9. Coordination with the trail extension civil engineer (other contract) to determine where and how the connection between the trailhead and the trail should be made.

1.03 DESIGN DEVELOPMENT SERVICES

1. One (1) pre-development meeting with City Parks Department staff.
2. Preparation of Design Development documents that illustrate an approximate 60% level of Construction Document completion.
3. The CONSULTANT will prepare a set of construction documents that will incorporate the comments on the approved Concept Plan. The Design Development documents will include plans/sections/elevations, showing critical dimensions and features for the following:
 - a. Site layout (pedestrian circulation, overlook plaza, parking and access drive layout, main trail kiosk structure, restroom facility, park entry).
 - b. Layout of deceleration lane along McDermott Drive.
 - c. Floor plan of the restroom building.
 - d. Selection of surface finishes (i.e. paving, pavers, special paving, aggregate, turf).
 - e. Lighting fixture selection and layout.
 - f. Layout of the power and electrical distribution system.
 - g. Preliminary sections and elevations to illustrate design intent.
 - h. Preliminary grading plan.
 - i. Preliminary utility plan (for restroom and drinking fountain). (By others)
 - j. Preliminary drainage plan. (By others)
 - k. Preliminary planting layout.
 - l. Irrigation mainline routing, point of connection and sleeving.
4. The Design Development documents will be submitted to the CLIENT for review and approval in pdf format.
5. Preparation of an opinion of probable construction costs based on the design development documents. This version will not be prepared by a third-party estimator.
6. Participation in one (1) progress review meeting with the CLIENT.
7. Coordination with various vendors to select and lay out the site furnishings, etc. including obtaining new or updated quotes.

1.04 CONSTRUCTION DOCUMENTS

1. Preparation of Construction Documents that illustrate a 95% and Final level of completion after approval of the Design Development and Site Plan has been given.
2. The CONSULTANT will prepare a set of construction documents that will incorporate the comments on the Design Development and will document the following:
 - a. Existing Conditions and Demolition Plan.
 - b. Erosion Control Plan that includes associated details and regulatory language that meets City of Allen and TCEQ requirements. (By others)
 - c. Construction Layout Plan for all "hardscape" improvements and site amenities such as trash receptacles, benches, and bike racks.
 - d. Horizontal Control/Grading/Paving Plan and Details / Typical Sections / Drainage & Utilities Layout and Details / Regulatory Signage / Erosion Control for the deceleration lane improvements on McDermott Drive.
 - e. Preparation of a Grading Plan that includes existing and proposed contour lines, spot grades, top of wall elevations, finish floor elevations and top of inlet elevations. The Grading Plan will illustrate compliance with TDLR requirements for accessible route from the sidewalks along McDermott Drive to the trailhead facilities and from the parking lot to each proposed park element.



- f. Utility Plan that includes water line, sewer line and utility design details that comply with city standards. (By others)
 - g. Drainage Plan that includes storm drainage collection lines and a drainage area map. Accompanying the Drainage Plan will be storm drainage details that comply with city standards. (By others)
 - h. Architectural Plans, Sections, Elevations, and Details for the Restroom Facility
 - i. Site Electrical Plans, Details and Schedules.
 - j. Electrical and Power Distribution Plan and Details.
 - k. Structural Details for the restroom facility foundation and all site improvements requiring structural foundations, footings, etc.
 - l. Planting Plan that includes size, quantity and plant locations for each plant type, as well as associated planting details. Planting Plan will also include the turf grass in the common areas as well as the open play area.
 - m. Irrigation Plan and Details.
 - n. Site Construction details (signage, pedestrian paving, play features, site amenities, specialty paving, etc.). City of Allen standard details will be applied where applicable.
3. Preparation of an opinion of probable construction costs based on the 95% construction documents.
 4. Preparation / compilation of a Project Manual consisting of Bid and Contract Requirements (templates provided by CLIENT) and Technical Specifications.
 5. Participation in one (1) progress review meeting with the CLIENT at each submittal.
 6. Design modifications will be made, as required, to balance the project scope and construction budget.
 7. Construction drawings will be submitted for engineering and building permit review upon completion of construction documents.
 8. Construction documents will be revised to address review comments received from the CLIENT at each submittal.
 9. Provide final, signed and sealed construction documents by all required licensed professionals.
 10. Design coordination and progress meetings will be held as needed via web conference with the Design Team during the Construction Document Phase.
 11. Preparation of a plat, that includes the following:
 - a. Plat preparation – obtaining all the necessary information in order to plat.
 - b. Plat representation – preparing the materials for submission.
 - c. Plat submission – submitting the plat and addressing comments.
 - d. Final plat – recording the final document for the city records.
 12. Coordinate submittal of construction documents to the Texas Department of Licensing and Regulation (TDLR) if project exceeds \$50,000 or a designated independent reviewer for review and inspection. Application fees for the reviews will be designated as a direct expense and are subject to reimbursement as described in the Compensation portion of this Agreement. CONSULTANT will work with accessibility review staff for final plan approval and inspection. The plans will be revised as needed to obtain approval.
 13. CONSULTANT will be responsible for preparing the application and payment of associated registration, review and inspection fees (to be included in our reimbursable expenses).

DESIGN DELIVERABLES

1. Coordination products: sketches, redlines, calculations, etc.
2. A digital pdf copy of the Design Development (60%) documents.
3. A digital pdf copy of the 95% and Final Construction documents.
4. A digital pdf copy of the Specifications Book.
5. A digital copy of the opinion of probable construction cost review.
6. Digital copy of all meeting notes.
7. Digital copy of engineering and building permit review construction drawings.



1.05 BIDDING ASSISTANCE

1. Participate in a Pre-Bid Conference facilitated by the CLIENT.
2. Address inquiries from Bidders during the bid phase and issue addendums to the Construction Documents if required.
3. This agreement excludes value engineering to align bid amount to the project budget.

DELIVERABLES

1. Four (4) sets of construction drawings, full size.
2. Four (4) sets of bid documents and technical specifications.
3. Digital copy of each Addendum.

1.06 CONSTRUCTION ASSISTANCE

1. Participate in a pre-construction conference facilitated by the CLIENT
2. Review of requests for information (RFI's), shop drawings, submittals, requested substitutions; providing clarifications as required.
3. Provide written responses to RFIs submitted by the Contractor in the form of Proposal Requests, Change Orders or Construction Change Directives. Responses will be provided within 7 to 14 days of the submitted requests whenever possible.
4. Provide the Contractor and the City with the final design CAD files.

DELIVERABLES

1. Digital copy of each proposal request, change order and construction change directive.

1.07 CLIENT RESPONSIBILITIES

1. Public outreach for notification of public meetings or requests for public surveys.
2. Scheduling and coordination of all public and city meetings.
3. Topographical and tree surveys.
4. Provide plan review and administrative coordination during each project phase.
5. Approval of budgets prior to advancing to further phases of design.
6. Approval of scheduling.
7. Front-end (boiler plate) Bid documents for inclusion in the project manual.
8. Digital files of existing improvements, environmental reports, needs assessments, public surveys, design guidelines, etc. if available.
9. Associated legal documents for all encumbrances (old or new) within or adjacent to the proposed site.
10. Access rights to the property and adjacent properties (if necessary) for the purposes of this project.
11. Applicable city standard details and specifications.
12. Coordination and assistance with plan review involving other city departments.
13. Coordination with bidders regarding the plan changes.
14. City review or permitting fees.
15. Principal construction administration services, including daily management of construction, progress reporting, meetings, construction project accounting, inspections, materials testing

1.08 ASSUMPTIONS

1. This project and the subsequent work involved will not be subject to city planning and zoning or site plan approvals.
2. This project will be bid and constructed in one phase.
3. Preparation and submittal of reports, calculations, and drawings to FEMA for a proposed revision to the Flood Insurance Rate Map are not included.
4. Existing utility connections will be used. No extension of City mains is included



5. No Traffic Impact Study, Rezoning, Re-platting is required for this project/site.
6. No Storm Water detention is required for this site, the site will be designed to be sheet flow.
7. The existing onsite utilities have adequate capacity to serve the proposed facility. Sanitary sewer service and water supply will be provided by connection to the existing onsite utilities without any improvements or modification.
8. Repair of pavement or grading of sites after completion of testing due to drilling rig causing damage to property due to the weight of the machine will be performed by a third party.
9. Use of ATV Buggy rig to access the site due to soil and site conditions may be necessary. Additional costs will be associated with this service. This work will only be performed after authorization from the client.
10. A maximum of one site visit will be required for the location of borings.
11. Design of lift stations, grinder pumps, septic systems, aerobic systems, etc. to be performed by a third party.
12. Design of fire alarm system to be performed by a third party if required.
13. Design of data, security, and communication systems to be performed by a third party if required.

1.09 ITEMS NOT INCLUDED IN THIS SCOPE OF SERVICES:

1. Planning and zoning assistance.
2. Topographical and tree survey.
3. Offsite or downstream Topographic Surveys.
4. Public Involvement or council presentations.
5. Construction sequencing.
6. Traffic Control Plan
7. Street lighting or Signalization design along McDermott Drive
8. Continuous On-Site Observation or Quality Control
9. Construction materials testing.
10. Traffic Impact Analysis
11. Perimeter street paving design.
12. Value engineering.
13. Preparation of flood studies LOMR, CLOMR, FEMA, etc.
14. Environmental services.
15. Design of any off-site improvements.
16. Franchise utility design.
17. LEED design.
18. Alternate Bid Items
19. Zoning or entitlements.
20. Landscape / low voltage lighting.
21. Record drawings.
22. Major modifications to design/plans after final concept has been selected (greater than 20% of site improvement area).

1.10 SCHEDULE:

The CLIENT agrees to a reasonable schedule for delivery of the scope of services, to be determined by the CLIENT as project milestones are set by the CLIENT. Tentative schedule, subject to change during the project, is as follows:

1. Notice to proceed (Council approval): **July 21st, 2021**
2. Topo Survey/Discovery Phase: **August 30th, 2021**
3. Concept Development Completion: **September 30th, 2021**
4. Bid documents complete: **February 6th, 2022**
5. Construction Start: **July 2022**

COMPENSATION:

The CLIENT agrees to compensate the SUBCONSULTANT for performing the basic services as listed in the scope of services at hourly fee rates, not to exceed a total sum of



\$102,060.00; one hundred two thousand sixty dollars and zero cents broken down as follows:

1. For the SITE INVESTIGATION SERVICES (Task 1.01) a lump sum of **\$3,970.00; three thousand nine hundred seventy dollars and zero cents.**
2. For the CONCEPT DESIGN SERVICES (Task 1.02) a lump sum of **\$16,000.00; sixteen thousand dollars and zero cents.**
3. For the DESIGN DEVELOPMENT SERVICES (Task 1.03) a lump sum of **\$23,900.00; twenty-three thousand nine hundred dollars and zero cents.**
4. For the CONSTRUCTION DOCUMENT SERVICES (Task 1.04) a lump sum of **\$50,690.00; fifty thousand six hundred ninety dollars and zero cents.**
5. For the BIDDING ASSISTANCE SERVICES (Task 1.05) a lump sum of **\$1,500.00; one thousand five hundred dollars and zero cents.**
6. For the CONSTRUCTION ADMINISTRATION SERVICES (Task 1.06) a lump sum of **\$6,000.00; six thousand dollars and zero cents.**
7. Reimbursable expense costs are not included in the amounts above and shall be billed at cost, plus 10%. These costs include, but are not limited to courier fees, reprographics, mileage, accessibility review/inspection fees and travel expenses.

Monthly progress or milestone invoices for basic services and additional services submitted by Consultant are due upon receipt and shall be considered past due if not paid within thirty (30) calendar days. Payments shall be delivered by wire or check to the address for Consultant set forth on Page 1. A service charge on all past due accounts will accrue at the rate of 1½% per month or the maximum allowed by law, whichever is less.

ADDITIONAL SERVICES:

The CONSULTANT may provide services beyond the CONSULTANT's basic service listed in the scope of services upon written authorization from the CLIENT. Additional services shall be provided on either a fixed-fee or hourly basis with a mutually agreed, not-to-exceed amount.

1. Additional meetings or site visits beyond those listed in basic scope.
2. Additional topographic or tree surveys.
3. Plan presentation graphics beyond those listed above.
4. Grant writing assistance.
5. Plan revisions due to owner-requested change in land use or other building/site changes resulting in modifications to 20% or more of the site design after concept approval.
6. Additional plans required for planning approval or permitting, beyond those listed in TASK 1.02. Additional revisions requested will be performed on an hourly basis with hourly rates as follows:

| | |
|--------------------------------|----------|
| a. Principal in Charge..... | \$160.00 |
| b. Project Principal..... | \$140.00 |
| c. Deputy Project Manager..... | \$90.00 |
| d. Landscape Designer..... | \$85.00 |
| e. Cad Operator | \$80.00 |
| f. Clerical..... | \$50.00 |

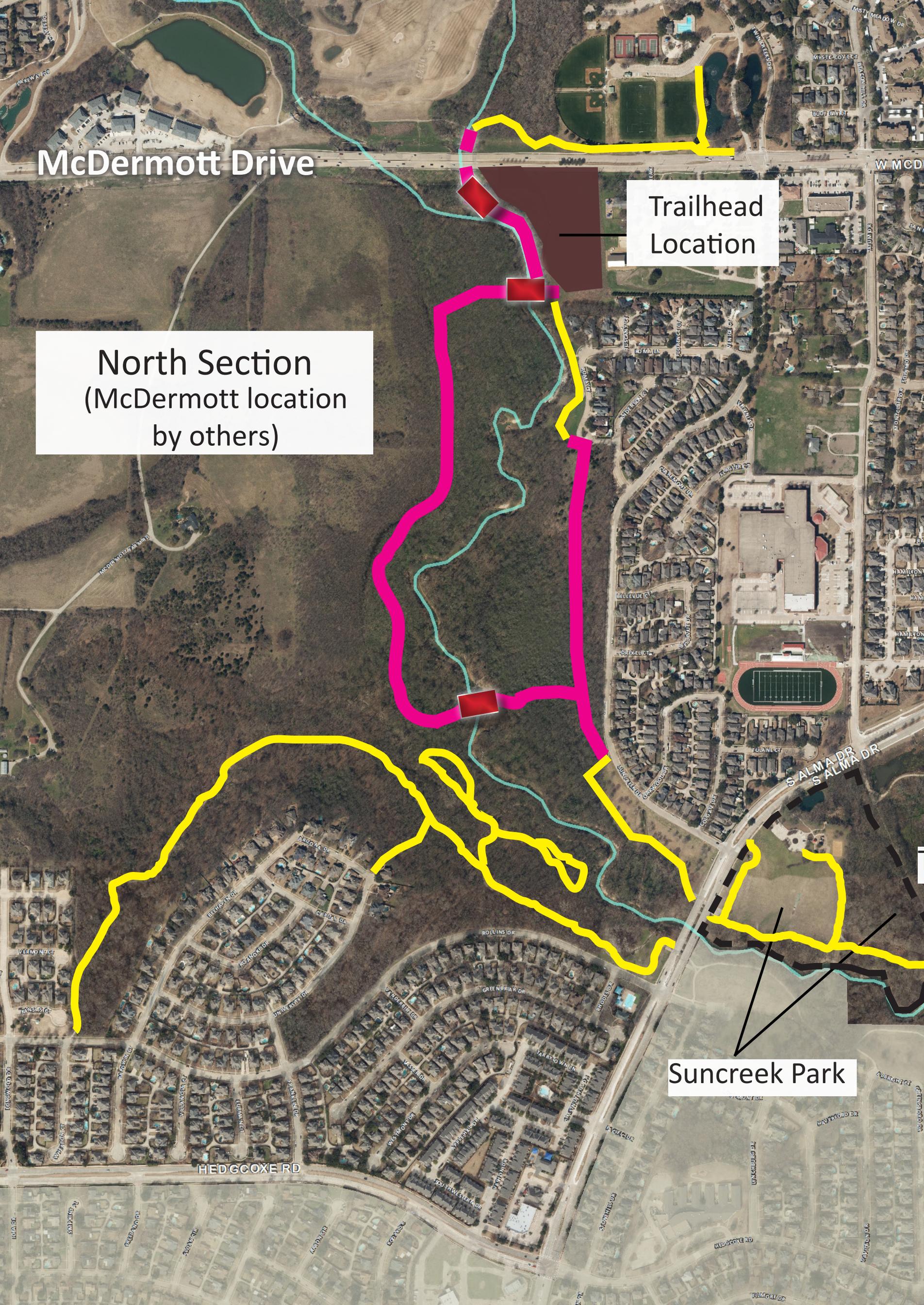
**Subconsultant hourly rates available upon request.*

McDermott Drive

Trailhead Location

North Section
(McDermott location
by others)

Suncreek Park





McDermott Drive

Trailhead Location

Project Location

North Section
(McDermott location)

Alma Drive

Bethany Drive

Tree Farm

Suncreek Park

Middle Section
(Connemara Location: On Hold)

South Section

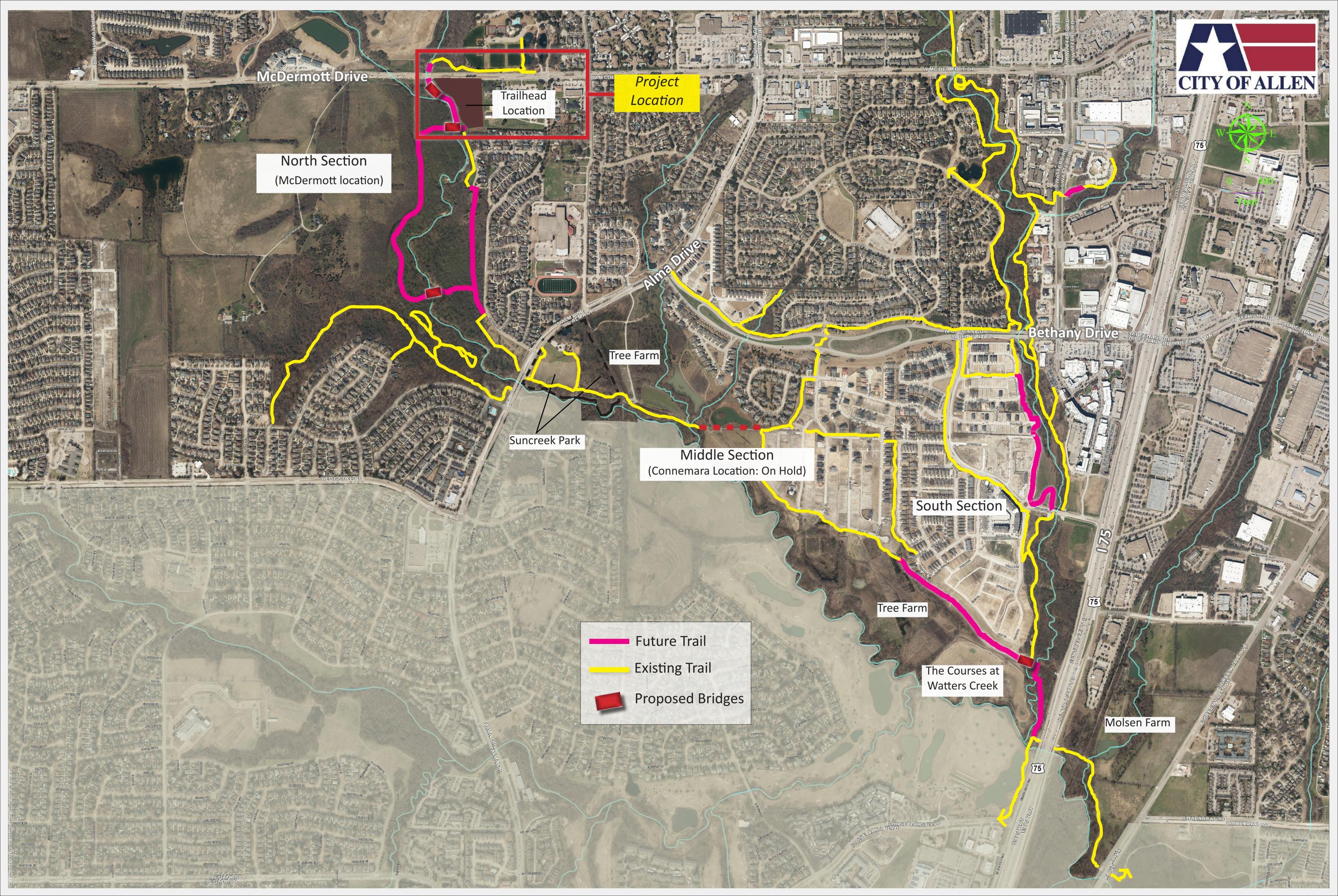
Tree Farm

The Courses at
Watters Creek

Molsen Farm

Legend:

-  Future Trail
-  Existing Trail
-  Proposed Bridges



CITY COUNCIL AGENDA COMMUNICATION

- AGENDA DATE:** August 24, 2021
- SUBJECT:** Authorize the City Manager to Execute a Contract with Parkhill, Smith & Cooper, Inc., (dba) Parkhill / Schrickel Rollins for the Development of the Molsen Farm Master Plan and Design of the Trailhead and Trail Connection in the Amount of \$222,190.
- STAFF RESOURCE:** Kate Meacham, Director of Parks and Recreation
Brian Bristow, Assistant Director of Parks and Recreation
Debra Morris, Purchasing Manager
- PREVIOUS COUNCIL ACTION:** December 8, 2009, Allen City Council Adopted Resolution No. 2876-12-09 to Accept Collin County Funding Assistance for the Design of Molsen Farm, Phase 1.

December 11, 2012, Allen City Council authorized the Phase I Design Contract.
- ACTION PROPOSED:** Authorize the City Manager to Execute a Contract with Parkhill, Smith & Cooper, Inc., (dba) Parkhill / Schrickel Rollins for the Development of the Molsen Farm Master Plan and Design of the Trailhead and Trail Connection in the Amount of \$222,190.

BACKGROUND

As a part of the Allen Parks, Recreation & Open Space Master Plan, the Molsen Farm Master Plan update revisits the need to preserve natural open spaces within the community and to make spaces available for passive recreation. After purchase of the initial 52.4 acres in 2006, the Allen Community Development Corporation approved \$150,000 for the Molsen Farm project in 2008. In 2009, these funds were proposed as the City's required match toward the Master Plan and Design of Molsen Farm for Collin County Parks and Open Space funding assistance program.

In the Fall of 2009, the Collin County Commissioners Court approved recommendations by the Collin County Parks Foundation Advisory Board which included the award of \$150,000 toward design of improvements at Molsen Farm. In 2010 the city completed the original master plan, and subsequently the design and construction of a one-half mile section of the Rowlett Trail through Molsen Farm. This project included the first trail passage beneath US Highway 75 and one of very few trail tunnel crossings through the DART right-of-way.

Following the trail construction and completion of the initial master plan, the city executed the first phase of Molsen Farm design. This effort was limited to initial surveying, data collection and visioning concepts developed for the existing homestead, which were completed in 2013.

In 2016 the city acquired an additional 14 acre frontage parcel along Greenville Ave. The addition of this large and highly visible parcel brings forward the need to revisit the original master plan which did not account for such expansion of the farm, or possibilities of trail connectivity and associated amenities such as a trailhead that will provide the residents access to the Rowlett Trail corridor.

In December of 2020, the Purchasing Division issued a Request for Qualifications for various Professional Services for Parks and Recreation Capital Improvement Projects. On January 30, 2021, forty-three (43) vendors responded to the RFQ and Parkhill, Smith & Cooper, Inc., is among firms that are pre-qualified for two categories: Landscape Architectural and Civil Engineering.

Parkhill, Smith & Cooper, Inc., (PSC) will be responsible for civil, structural, mechanical, and electrical engineering, surveying, environmental, architectural, landscape architectural, and irrigation design services in developing the new master plan, based on an historical farm setting. PSC will also prepare design and construction documents for a trailhead and trail connections in accordance with The City of Allen Trails and Bikeways Master Plan.

BUDGETARY IMPACT

Funds for the master plan and trail design in the amount of \$244,409 are to be funded through existing bond dollars (\$1,888,626) identified in the Parks and Recreation CIP Project PR0805. These funds cover this design contract of \$222,190 and additionally provide for a 10% contingency of \$22,219 to establish the project budget of \$244,409.

This contract is strictly for the master plan of the overall farm property and design of the trailhead and trail connection. The city will construct the trailhead and trail in the near future through a separate construction contract.

| Molsen Farm Master Plan & Trailhead/Trail Design Project Cost Estimate | |
|---|-------------------|
| Design Contract | \$ 222,190 |
| Contingency 10% | \$ 22,219 |
| Total | \$ 244,409 |

| Molsen Farm Master Plan & Trailhead/Trail Design Project Funding | |
|---|--------------------|
| Total Bond Funding Available | \$1,888,626 |
| Proposed Project Cost | (\$ 244,409) |
| Remaining Bond Total | \$1,644,217 |

STAFF RECOMMENDATION

Staff Recommends that the City Council Authorize the City Manager to Execute a Contract with Parkhill, Smith & Cooper, Inc., (dba) Parkhill / Schrickel Rollins for the Development of the Molsen Farm Master Plan and Design of the Trailhead and Trail Connection in the Amount of \$222,190.

MOTION

I make a motion to authorize the City Manager to execute a contract with Parkhill, Smith & Cooper, Inc., (dba) Parkhill / Schrickel Rollins for the development of the Molsen Farm Master Plan and

Design of the Trailhead and Trail Connection in the amount of \$222,190.

ATTACHMENTS:

Professional Services Agreement

Exhibit A Scope of Services

Location Map

STATE OF TEXAS §
 §
COUNTY OF COLLIN §

AGREEMENT FOR PROFESSIONAL SERVICES

This agreement (“Agreement”) is made by and between the City of Allen, Texas (“City”) and Parkhill, Smith & Cooper Inc. d/b/a Parkhill | Schrickel Rollins (“Professional”) (each a “Party” and collectively the “Parties”), acting by and through their authorized representatives.

RECITALS:

WHEREAS, the City desires to engage the services of the Professional as an independent contractor, and not as an employee, to provide the services described in Exhibit “A” (the “Scope of Services”) to assist the City in developing a Master Plan for a park based on an historical farm - Molsen Farm Park (the “Project”) on the terms and conditions set forth in this Agreement; and

WHEREAS, the Professional desires to render services for the City on the terms and conditions set forth in this Agreement;

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

**Article I
Term**

1.1 This Agreement shall commence on the last date of execution hereof (“Effective Date”) and continue until completion of the services, unless sooner terminated as provided herein.

1.2 Either Party may terminate this Agreement by giving thirty (30) days prior written notice to the other Party. In the event of such termination the Professional shall deliver to City all finished and unfinished documents, data, studies, surveys, drawings, maps, models, reports, photographs or other items prepared by the Professional in connection with this Agreement. Professional shall be entitled to compensation for any services completed to the reasonable satisfaction of the City in accordance with this Agreement prior to such termination.

**Article II
Scope of Service**

2.1 The Professional shall perform the services in connection with the Project as set forth in the Scope of Services. The Professional shall perform the services: (i) with the professional skill and care ordinarily provided by competent engineers and architects practicing in the same or similar locality and under the same or similar circumstances and professional license; and (ii) as expeditiously as is prudent considering the ordinary professional skill and care of a competent engineer and architect.

2.2 The City shall, prior to commencement of services, provide the Professional with the information set forth in the Scope of Services, if any.

2.3 Licenses. Professional represents to City that Professional possesses any and all licenses which may be required by the State of Texas or any other governmental entity having jurisdiction as may be necessary for the performance of Professional's services pursuant to this Agreement.

2.4 The Parties acknowledge and agree that any and all opinions provided by the Professional in connection with the Scope of Services represent the professional judgment of the Professional, in accordance with the standard of care applicable by law to the services performed hereunder.

2.5 Upon execution of this Agreement the City has the right to use the Professional's instruments of service, including but not limited to reports, maps, cost estimates, recommendations or other deliverables for the Project, provided that the City substantially performs its obligations, including prompt payment of all sums when due, under this Agreement. The City's employees, agents, contractors and subcontractors may reproduce applicable portions of the instruments of service for use in performing services or construction for the Project. Upon payment of all amounts due Professional hereunder, all deliverables, materials and reports prepared by the Professional in connection with this Agreement shall become the property of the City. The City shall have the right to publish, disclose, distribute and otherwise use such deliverables, materials and reports only for those purposes for which they were intended. Subject to the foregoing, Professional shall, upon completion of the services, or earlier termination, provide the City with the deliverables, drawings, reports, maps, and materials prepared by Professional as set forth in the Scope of Services.

Article III Schedule of Work

The Professional agrees to complete the required services in accordance with the Project Schedule outlined in the Scope of Services.

Article IV Compensation and Method of Payment

4.1 Professional will be compensated in accordance with the payment schedule and amounts set forth in the Scope of Services. The final payment of the compensation shall be made after satisfactory completion of the services following the City acceptance of the study, report, recommendation or other work set forth in the Scope of Services, and the submittal of "AS BUILT" drawings, or record drawings, as applicable.

4.2 Unless otherwise provided in the Scope of Services the Professional shall be responsible for all expenses related to the services provided pursuant to this Agreement including, but not limited to, travel, copying and facsimile charges, telephone, internet, and email charges.

4.3 The hourly rates set forth in the Scope of Services, if any shall remain in effect during the term of this Agreement. Any changes to established hourly rates shall require the prior written consent of the City.

Article V Devotion of Time; Personnel; and Equipment

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

5.2 To the extent reasonably necessary for the Professional to perform the services under this Agreement, the Professional shall be authorized to engage the services of any agents, assistants, persons, or corporations that the Professional may deem proper to aid or assist in the performance of the services under this Agreement. The Professional shall provide written notice to and obtain written approval from the City prior to engaging services not referenced in the Scope of Services. The cost of such personnel and assistance shall be included as part of the total compensation to be paid Professional hereunder and shall not otherwise be reimbursed by the City unless otherwise provided herein.

5.3 The Professional shall furnish the facilities, equipment and personnel necessary to perform the services required under this Agreement unless otherwise provided herein.

5.4 The Professional shall submit monthly progress reports and attend monthly progress meetings scheduled by the City or more frequently as may be required by the City from time to time based upon Project demands. Each progress report shall detail the work accomplished and special problems or delays experienced on the Project during the previous report period, and the planned work activities and special problems or delays anticipated for the next report period.

Article VI Miscellaneous

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

6.2 Assignment. The Professional may not assign this Agreement without the prior written consent of City. In the event of an assignment by the Professional to which the City has consented, the assignee shall agree in writing with the City to personally assume, perform, and be bound by all the covenants, and obligations contained in this Agreement.

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

6.4 Governing Law. The laws of the State of Texas shall govern this Agreement without regard to any conflict of law rules; and venue for any action concerning this Agreement shall be in the State District Court of Collin County, Texas. The Parties agree to submit to the personal and subject matter jurisdiction of said court.

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

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

6.7 Independent Contractor. It is understood and agreed by and between the Parties that the Professional, in satisfying the conditions of this Agreement, is acting independently, and that the City assumes no responsibility or liabilities to any third party in connection with these actions. All services to be performed by Professional pursuant to this Agreement shall be in the capacity of an independent contractor, and not as an agent or employee of the City. Professional shall supervise the performance of its services and shall be entitled to control the manner and means by which its services are to be performed, subject to the terms of this Agreement.

6.8 Right-of-Access. The Professional shall not enter onto private property without lawful right-of-access to perform the required surveys, or other necessary investigations. The Professional will take reasonable precautions to minimize damage to the private and public property in the performance of such surveys and investigations. Any right-of-access to public or private property shall be obtained in accordance with the Scope of Services.

6.9 Notice. Any notice required or permitted to be delivered hereunder may be sent by first class mail, courier or by confirmed telefax or facsimile to the address specified below, or to such other Party or address as either Party may designate in writing, and shall be deemed received three (3) days after delivery or on the day actually received if sent by courier or otherwise hand delivered:

If intended for City:

Eric Ellwanger
City Manager
City of Allen, Texas
3rd Floor, Allen City Hall
305 Century Parkway
Allen, Texas 75013
214.509.4110 - telephone
214.509.4118 - fax

With a copy to:

Peter G. Smith
Nichols, Jackson, Dillard,
Hager & Smith, L.L.P.
1800 Ross Tower
500 North Akard Street
Dallas, Texas 75201
214.965.9900 – telephone
214.965.0010 - fax

If intended for Professional:

Parkhill | Schrickel Rollins
255 N. Center Street, Suite 100
Arlington, Texas 76011

6.10 Insurance.

- (a) Professional shall during the term hereof maintain in full force and effect the following insurance: (i) a commercial general liability policy of insurance for bodily injury, death and property damage including the property of the City, its council, officers, contractors, agents and employees (collectively referred to as the “City”) insuring against all claims, demands or actions relating to the work and services provided by the Professional pursuant to this Agreement with a minimum limit per occurrence of \$1,000,000.00 for injury to persons (including death), and for property damage and \$2,000,000.00 aggregate including products and completed operations; (ii) automobile liability insurance covering all vehicles owned, non-owned and hired and/or operated by Professional, its officers, agents, independent contractors and employees, and used in the performance of this Agreement with policy limits of not less than \$1,000,000.00 combined single limit for bodily injury, death and property damage; (iii) statutory Worker’s Compensation and Employers Liability covering all of Professional’s employees involved in the provision of services under this Agreement with policy limit of not less than \$1,000,000.00; and (iv) Professional Liability with policy limit of not less than \$1,000,000.00 per claim and \$2,000,000.00 in the aggregate, covering negligent acts, errors and omissions by Professional, its contractors, sub-contractors, consultants and employees in the performance of services pursuant to this Agreement. Such professional liability insurance shall be annually renewed and remain in effect for not less than twenty-four (24) months after substantial completion of the services.
- (b) All insurance shall be endorsed to provide the following provisions: (1) the City, its council, officers, and employees as additional insureds as to all applicable coverage with the exception of Workers Compensation Insurance and Professional

Liability; (2) provide for a waiver of subrogation against the City for injuries, including death, property damage, or any other loss to the extent the same is covered by the proceeds of insurance, except for Professional Liability Insurance. A specific endorsement needs to be added to all policies, with a copy of the endorsement provided to the City that indicates the insurance company will provide to the City at least a thirty (30) day prior written notice for cancellation of the policy. In the event the companies providing the required insurance are prohibited by law to provide any such specific endorsements, the Consultant shall provide at least thirty (30) days prior written notice to the City of any cancellation, non-renewal and/or material changes to any of the policies of insurance. All policies must be written on a primary basis, non-contributory with any insurance coverage and/or self-insurance maintained by the City

- (c) All insurance companies providing the required insurance shall be authorized to transact business in Texas and rated at least "A" by AM Best or other equivalent rating service.
- (d) A certificate of insurance and copies of policy endorsements evidencing the required insurance shall be submitted to the City prior to commencement of services. On every date of renewal of the required insurance policies, the Professional shall cause a certificate of insurance and policy endorsements to be issued evidencing the required insurance herein and delivered to the City. In addition, the Professional shall within ten (10) business days after written request provide the City with certificates of insurance and policy endorsements for the insurance required herein. The delivery of the certificates of insurance and policy endorsements to the City is a condition precedent to the payment of any amounts due to Professional by the City. The failure to provide valid certificates of insurance and policy endorsements shall be deemed a default and/or breach of this Agreement.

6.11 Debarment and Suspension.

- (a) In accordance with 2 CFR section 180.300, the principal of this contract as described in 2 CFR section 180.995 being duly sworn or under penalty of perjury under the laws of the United States, certifies that neither this company nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any federal department or agency, the State of Texas or any of its departments or agencies.
- (b) If during the contract period the principal becomes debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation, the principal shall immediately inform the City of Allen.

- (c) For contracts that are financed by Federal or State grants, the principal agrees that this section will be enforced on each of its subcontractors and will inform the City of Allen of any violations of this section by subcontractors to the contract.
- (d) The certification in this section is a material representation of fact relied upon by the City in entering into this contract.

6.12 Indemnification. PROFESSIONAL DOES HEREBY COVENANT AND CONTRACT TO WAIVE ANY AND ALL CLAIMS, RELEASE, DEFEND, INDEMNIFY, AND HOLD HARMLESS THE CITY, ITS CITY COUNCIL, OFFICERS, AND EMPLOYEES, FROM AND AGAINST ALL LIABILITY, CAUSES OF ACTION, CITATIONS, CLAIMS, COSTS, DAMAGES, DEMANDS, EXPENSES, FINES, JUDGMENTS, LOSSES, PENALTIES OR SUITS, TO THE EXTENT CAUSED BY OR RESULTING FROM THE NEGLIGENCE, INTENTIONAL TORT, INTELLECTUAL PROPERTY INFRINGEMENT, OR FAILURE TO PAY A SUBCONTRACTOR OR SUPPLIER COMMITTED BY THE PROFESSIONAL, ITS CONSULTANT UNDER CONTRACT, OR ANY OTHER ENTITY OVER WHICH THE PROFESSIONAL EXERCISES CONTROL SUBJECT TO THE LIMITATIONS IN TEXAS LOCAL GOVERNMENT CODE § 271.904 AND TEXAS CIVIL PRACTICE AND REMEDIES CODE, § 130.002 (B).

INDEMNIFIED ITEMS SHALL INCLUDE REASONABLE ATTORNEYS' FEES AND COSTS, COURT COSTS, AND SETTLEMENT COSTS.

THE PROFESSIONAL'S OBLIGATIONS UNDER THIS SECTION SHALL NOT BE LIMITED TO THE LIMITS OF COVERAGE OF INSURANCE MAINTAINED OR REQUIRED TO BE MAINTAINED BY PROFESSIONAL UNDER THIS AGREEMENT. THIS PROVISION SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

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

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

6.15 Prohibition of Boycott Israel. Professional verifies that it does not Boycott Israel and agrees that during the term of this Agreement will not Boycott Israel as that term is defined in Texas Government Code Section 808.001, as amended. This section does not apply if the Professional is a sole proprietor, a non-profit entity or a governmental entity; and only applies if: (i) the Professional has ten (10) or more fulltime employees and (ii) this Agreement has a value of \$100,000.00 or more to be paid under the terms of this Agreement.

(Signature Page to Follow)

EXECUTED this _____ day of _____, 2021.

CITY OF ALLEN, TEXAS

By: _____
Eric Ellwanger, City Manager

ATTEST:

By: _____
Shelley B. George, City Secretary

APPROVED AS TO FORM:

By: Peter G. Smith
Peter G. Smith, City Attorney

EXECUTED this 19th day of July, 2021.

PARKHILL, SMITH & COOPER, INC.,
dba PARKHILL | SCHRICKEL ROLLINS

By: [Signature]
Name: Victor W. BATEL
Title: Director of Business Development
Landscape Architecture

EXHIBIT "A"
SCOPE OF SERVICES



CITY OF ALLEN
MOLSEN FARM PARK

SUMMARY OF PROJECT

- A. Project consists of:
 - 1. Developing a Master Plan for a park based on an historical farm.
 - 2. Construction Documents and Construction Phase Services for the construction of a trailhead and trail connection to the existing regional trail. Proposed development will include passive recreation opportunities and natural amenities to fit the needs of the growing city.
- B. Consultant shall perform Basic Professional and Special Services for Phases of Project for which this Agreement applies. Services include, but are not limited to, civil, structural, mechanical, and electrical engineering services; surveying; environmental services; architectural; landscape architectural services, and irrigation design.
- C. For purposes of this Service Agreement and its Exhibits, the term "Engineer," where appropriate, shall be interchangeable with the terms "Landscape Architect," "Architect," or "Consultant." Parkhill | Schrickel Rollins is a firm composed of practicing planners, registered engineers, registered architects, and registered landscape architects. The firm does not represent itself solely as an Engineer nor solely as a practitioner of landscape architecture or architecture as defined in the applicable State of Texas registration laws.
- D. The following consumer information is required by the Landscape Architects Registration Law, Article 249c, VTCS: Texas Board of Architectural Examiners has jurisdiction over individuals licensed under the above named Act. Their address and telephone number are: 8213 Shoal Creek Blvd., Suite 107; Austin, Texas 78758-7589; (512) 458-4126.
- E. Project Site: Project site is an area bounded by South Greenville Ave., Rowlett Creek, DART Railroad Right-of-Way, and Ridgemont Drive.

PART I

- A. Park Elements: Program of development shall include, but not be limited to, the following elements. It is understood that the cost of the total development will exceed the allocated funds for Project. Master Plan will focus on full development of the park, and will use the prior Molsen Farm Master Plan as a reference. Strategies for phasing and funding sources will be incorporated into the Plan.
 - 1. Park Elements
 - a. Historic farm setting

EXHIBIT "A"
SCOPE OF SERVICES

- b. Public gathering areas
 - c. Demonstration gardens
 - d. Educational programs
 - e. Greenhouse and tree farm
 - f. Community garden
 - g. Farmers market
 - h. Prairie restoration
2. Facilities
- a. Restroom buildings (number depends on park layout).
 - b. Maintenance area
 - c. Administration office/support building
 - d. Large open-air pavilion or enclosed barn
 - e. Satellite shelters
 - f. Amphitheater
 - g. Playgrounds
 - h. Greenhouse(s)
3. Miscellaneous
- a. Recreational trails
 - b. Open space
 - c. Historical/heritage components
 - Reproduction historic structures
 - Themed architecture or elements
 - d. Security lighting
 - e. Tree plantings
 - f. Ponds (dam repair)
 - g. Natural areas
 - h. Picnic areas
4. Utilities
- a. Sewer connections
 - b. Water service, fire protection, and irrigation supply
 - c. Review of water well evaluation prepared previously by others.
 - d. Electrical distribution and controls
 - e. Irrigation control
 - f. Stormwater to meet applicable stormwater requirements
5. Park Roads, Parking, and Site Structures
- a. Park roads and drives
 - b. Vehicular crossings
 - c. Parking areas
- B. Park Master Planning Phase: Owner has established the general program elements as expressed by the citizens of Allen and staff, but is aware that the program elements may change through the master planning process. It is understood that previous studies have been done on this property by other consultants, and those studies will be used as reference materials. Additionally, the prior Molsen Farm Master Plan should be referenced as a foundational element setting the general direction of future park development. However, it is the Owner's intent that Consultant has the flexibility and creativity to provide a unique Plan with as many of the program elements as possible.

EXHIBIT "A"
SCOPE OF SERVICES

1. Project Goals:
 - a. Develop a complete Master Plan for an agriculture history-based park which will provide facilities and passive/natural amenities that satisfy the needs of the citizens of Allen to improve the quality of life in the City.
 - b. Implement and enforce Project scope, criteria, and requirements for this Project in coordination with the City of Allen program and project managers.
 - c. Maximize Project budget in coordination with the City of Allen program and project managers.
 - d. Implement Project schedule and Project phasing in coordination with City of Allen program and project managers.
 - e. Implement a public outreach plan including stakeholders and public in the development and implementation of Project.

2. Services. Consultant will provide/perform the following Master Planning Phase Services:
 - a. Conduct reconnaissance of the park site (and surrounding parcels for context).
 - b. Analyze the capabilities and limitations of the park site and prepare descriptive graphics in a study of development feasibility.
 - c. Conduct a work session with City Staff to determine a Program of Development for the park site which includes the Elements referenced above in Part 1.A.
 - d. Gather stakeholder and public input (see meetings below for description).
 - e. Prepare conceptual park development plan alternatives in sketch form.
 - f. Prepare an Interpretive Plan that is coordinated with the development plan of the park and that establishes a theme, subthemes, and a story line and message to park visitors. Plan will include potential improvements, graphics, interpretive opportunities focused on nature, the agricultural history of North Central Texas and sustainability.
 - g. Conduct a visual review of the existing water well system. Provide recommendations for maintenance and replacement of existing equipment, potential viability of the well for future use, and any additional exploratory studies that may be needed. Provide recommendations for whether or not to use domestic water supply in lieu of or in addition to well.
 - h. Present the most viable plan alternatives in a work session with the staff for review and further development.
 - i. Prepare a first draft of the Master Plan for staff review and revisions prior to public presentations.
 - j. Prepare general opinions of probable cost and recommendations for construction phasing. Increments of development will correspond to park budget plans.
 - k. Present the final draft Master Plan, opinion of probable cost and phasing recommendations once each, to the Parks and Recreation Board, Community Development Corporation, and to the City Council.
 - l. Upon final approval and authorization to proceed, make final revisions to the Master Plan.

3. Instruments of Service. The following instruments of service will be provided by Consultant in completion of the Master Plan:
 - a. Color rendering of the Master Plan, size as needed.
 - b. Opinion of probable cost and recommended phasing.
 - c. Digital file of the Master Plan in format specified by City.
 - d. Printing costs for the items listed above shall be included in the lump sum fee. Additional printing shall be provided as an additional service.

4. Meetings:
 - a. Consultant will prepare for and attend one meeting with the Stakeholders, Owners, and public for the purpose of gathering input.

EXHIBIT "A"
SCOPE OF SERVICES

- b. One presentation will be made each, to Parks and Recreation Board, Community Development Corporation, and City Council.
- c. In addition to the above, Consultant will attend a total of five (5) meetings with staff, including kick-off meeting. (Other staff meetings may occur before or after Advisory Committee and City Council meetings at no additional charge.)
- d. Additional meetings may be scheduled with additional compensation to Consultant, as mutually agreed to in writing in advance of any such meeting(s).
- e. City will be responsible for advertising all meetings, if needed. Consultant will prepare any materials for the advertising.
- f. City will be responsible for assembling and coordinating with Advisory Committee made up of representatives of Ad Hoc groups and other stakeholders, and deemed necessary by City.

PART II - BASE MAP AND SURVEYING

- A. While existing base information is sufficient for overall planning, it is not sufficient for detailed design and preparation of Construction Documents for improvements on site. A new Topographic Survey of the existing areas within Project limits of the Trailhead will be required (approximately 18 acres). The survey will identify one-foot contours, existing facilities, utilities, trees with 8-inch or greater caliper, boundary lines, and adjacent public streets and utilities (boundary survey to be supplied by City).

PART III - CONSTRUCTION DOCUMENTS PHASE 1 TRAILHEAD

- A. Scope:
 - 1. Drive Approach and Access Drive connecting to Greenville Avenue.
 - 2. Parking Lot: Development of a 25-car parking lot to serve the trailhead.
 - 3. Small Restroom Building with one or two toilets connected to City sewer and water service.
 - 4. Drinking fountain.
 - 5. Twelve-foot-wide trail connecting the parking lot to the Regional Trail.
 - 6. Utility extensions to serve Project: Electric, water, and other necessary utilities to serve the facility.
- B. Services: Consultant will provide/perform the following Construction Documents Phase Services.
 - 1. All Drawings and Details will be produced in AutoCAD in a version compatible with City of Allen licensed software. All Specifications will be produced in MS Word.
 - 2. Construction Documents. Phase deliverables shall include, but not be limited to:
 - a. Plan sheets illustrating plans, elevations, sections and details of construction.
 - b. Technical Specifications.
 - c. Graphic products in electronic file format (pdf).
 - 3. Review documents will be submitted to City at 50% and 90% completion.

EXHIBIT "A"
SCOPE OF SERVICES

4. Construction Documents shall be submitted to City's Project Manager and to City of Allen Planning Department at the 90% completion state. Consultant to address up to two rounds of City comments.

PART IV - BIDDING PHASE – PHASE 1 - TRAILHEAD

- A. Services: Consultant will provide/perform the following Bidding Phase Services for Phase I.
 1. Answer questions from Bidders and prepare addenda as necessary.
 2. Review "or-equal" submittals from Contractor.
 3. Attend pre-bid meeting.
 4. Attend bid opening.
 5. Assist City in pre-qualification of Bidders.
 6. Assist City staff in a pre-construction conference, if needed.
 7. Consultant will provide all documents electronically to City who will upload the documents to an electronic distribution site.
 8. Consultant will register Project with Texas Department of Licensing and Registration (TDLR) for compliance with Texas Accessibility Standards (TAS). Review and inspection fees shall be paid for by Owner or reimbursed to Consultant. Registered Accessibility Specialist (RAS) shall be selected and/or approved by Owner.

PART V - CONTRACT ADMINISTRATION – PHASE 1 TRAILHEAD

- A. Services: Consultant will provide/perform the following Construction Administration Phase Services.
 1. Provide site observation visits appropriate to the stage and quality of Contractor's works in progress. Site observation visits shall be provided for the purpose of ascertaining for the City that the work is in substantial or general conformance with the Contract Documents and design intent. Generally, site observation visits will be made twice a month.
 - a. Should nonconforming or defective work be observed, Consultant will immediately inform City's representative that conforming or remedial action is required.
 - b. The number of site observation visits to be provided by Consultant at times in the judgment of the City's representative appropriate to the works, or as otherwise requested/directed by City, shall not exceed an aggregate total of 8 visits over the period of Contractor's construction contract.
 - c. On-site meetings shall be approximately twice a month.
 - d. Site observation visits provided by Consultant as necessary to correct errors or omissions or to clarify ambiguities in the plans will not accrue against the visits described above.
 2. Review shop Drawings and other submittal information for the purpose of ascertaining conformance with the design intent and Construction Documents. Provide Owner a binder (two copies) of all product submittals and/or cut sheets used on Project.

EXHIBIT "A"
SCOPE OF SERVICES

3. Provide written responses to requests for information or clarification.
4. Recommend change orders, if required.
5. Assist the City in conducting the substantial completion and final completion observations.
- B. Consultant's Status During Construction: Consultant will not be responsible for Contractor's means, methods, techniques, sequences or procedures of construction or the safety precautions and programs incident hereto. Consultant will not be responsible for Contractor's failure to perform or furnish the work in accordance with the Construction Documents. Consultant will not be responsible for any delays in the execution of the Work caused by Contractor.

PART VI - SPECIAL SERVICES

- A. Services: The services described below are optional and may or may not be required. Consultant will provide the following related services/products in addition to basic services as needed. Separate fees will be charged for each of the Special Services in addition to Basic Services. Services for each will only be performed upon written authorization by the City.
 1. Topographic Survey for design. While existing base information is sufficient for overall master planning, it is not sufficient for detailed schematic design and preparation of Construction Documents for improvements on site. At the appropriate time, a new topographic survey with a minimum contour interval of one foot will be required. The survey will show the property boundary, existing facilities, the utilities, trees with 8" caliper or greater, adjacent public streets or roads and other miscellaneous items. The survey should comply with standard City of Allen requirements. Trailhead shall include an area of approximately 18 acres.
 2. Plat Preparation. This property is currently unplatted. Prior to development of the first phase of Project, a plat may be required. The plat must conform to City of Allen requirements.
 3. Storm Water Pollution Prevention Plan (SWPPP). Services shall include preparation of the SWPPP document, Notice of Intent, and one initial inspection of the construction site. Continued monitoring and inspections shall be provided by the City or by others throughout the construction phase of Project.
 4. Record Drawings. Consultant will transfer information provided by Contractor on his mark-ups after construction is complete to AutoCAD file format. Digital files will be provided to the City with PDF.
 5. 3-D Animation of the Master Plan.
 6. Environmental Services. The following sections describe the environmental services that could be required on the entire area of site or selected areas of site.
 - a. Phase One Environmental Assessment

EXHIBIT "A"
SCOPE OF SERVICES

PART VII - EXCLUSIONS

- A. The intent of this Scope of Services, Exhibit "A" is to include only the services specifically listed herein for this Project. Services specifically excluded from this scope of services include, but are not necessarily limited to, the following:
1. Geotechnical Investigation and Report. City will secure the services of an independent geotechnical engineering company to investigate the engineering properties of the soils and to make recommendations on the design of Trailhead Improvements.
 2. Field surveying or production of related maps for purposes of determining off-site utility locations, or construction control and layout.
 3. Design of off-site utility services or drainage facilities to more than a distance of 100 feet from any boundary of Project site.
 4. Full-time or otherwise frequent and detailed inspection of Contractor's works in progress.
 5. Designs for trench safety.
 6. Signalization.
 7. Traffic Impact Analysis.
 8. Testing services during construction phase.
 9. Asbestos Abatement Survey.

PART VIII - REIMBURSABLE EXPENSES

- A. City will reimburse Consultant for the actual cost of the following:
1. Printing and reproductions of Construction Documents.
 2. Texas Department of Licensing and Regulation (TDLR) registration, review, and/or inspection fees.
 3. Travel expenses. (Travel expenses for meetings stipulated above are included in the Compensation. Travel expenses will only be charged for scope that is above and beyond the normal course of business and shall be approved in advance by the Owner.)
 4. Postage/delivery services.
 5. Other permits.

PART IX - ADDITIONAL SERVICES

- A. The following services are not included in this Agreement, but are available to City upon written authorized approval and mutual agreement:
1. If the budget is increased by more than ten (10%) percent or if Scope is increased beyond that listed previously, Professional Services required to include said changes shall be considered Additional Services, and compensation for Consultant's services shall be

EXHIBIT "A"
SCOPE OF SERVICES

adjusted appropriately according to the magnitude of the change. Budget increases due to inflation or underestimation of costs will not be considered a change in scope, and will not be considered additional services. If the budget change is due to additional work being added to the scope, then additional compensation will be considered based upon the level of effort required by Consultant. All changes in service shall be agreed to in writing by both City and Consultant prior to any additional services being provided.

2. Assistance by Consultant to City in the resolution of construction-contract disputes between City and its Contractor, or Contract-related claims against City, are not a part of the scope of this Proposal. However, such services may be provided as Additional Services by separate agreement or amendment, as provided for herein, to this Agreement. This relates to issues that may be over and above those described in PART V – Contract Administration – Phase 1 Trailhead.
3. With the exception of services listed in PARTS I-VIII, services related to easements, permitting, platting, or re-platting required by City, or required by other governmental authorities for the construction of Project, will be provided by City, or provided by Consultant by separate agreement or amendment, as provided for herein, to this Agreement.
4. Development Services Review for park facilities not included in the scope of Phase I - Trailhead Project.
 - a. Additional renderings, models, or mock-ups requested by Owner.
 - b. Water Supply Study.
 - c. Regulatory Submittals and Reports outside City of Allen jurisdiction.
 - d. Easements/R.O.W. Documents and Field Surveying.
 - e. Hydraulics and Hydrology Studies or Flood Plain Reclamation Plans.
5. Additional Property Acquisitions: If additional properties are acquired and added to the park, adjustments to the professional services agreement may be required.

EXHIBIT "A"
SCOPE OF SERVICES

FEE SCHEDULE

Park Master Plan

- | | | |
|----|--|----------|
| a. | Master Plan for park site | \$90,000 |
| b. | Interpretive Plan | \$17,500 |
| c. | 3-D Animation (Minimum charge for 30-second animation; additional time will be charged at a rate of \$300/second). | \$10,000 |

Subtotal Master Plan Services \$117,500

2. Phase 1 – Trailhead

- | | | |
|----|-----------------------------|----------|
| a. | Contract Documents | \$57,360 |
| b. | Bidding Administration | \$3,580 |
| c. | Construction Administration | \$19,750 |

Subtotal Phase 1 Services \$80,690

B. Special Services

- | | | |
|----|---|------------------|
| 1. | Topographic Survey (18 acres) | \$15,000 |
| 2. | SWPPP | \$3,500 |
| 3. | Record Drawings | \$2,500 |
| 4. | Plat Preparation Preliminary and Final (18 acres) | To be determined |
| 5. | Project Website (hourly labor rates) | Hourly as needed |

Total Related Services \$21,000

- Items 4 and 5 not included in total

C. Reimbursable Expenses (Allowance – not to exceed) \$3,000

D. Construction Documents, Bidding, and Construction Administration for the remainder of the site will be determined at the conclusion of the Master Plan and approved by City Council prior to commencement of any Work.

Additional Charges for Related Services such as Topographic Surveying, Boundary Survey, and Geotechnical Investigations may be required.

Total Fee \$222,190

City Obligations

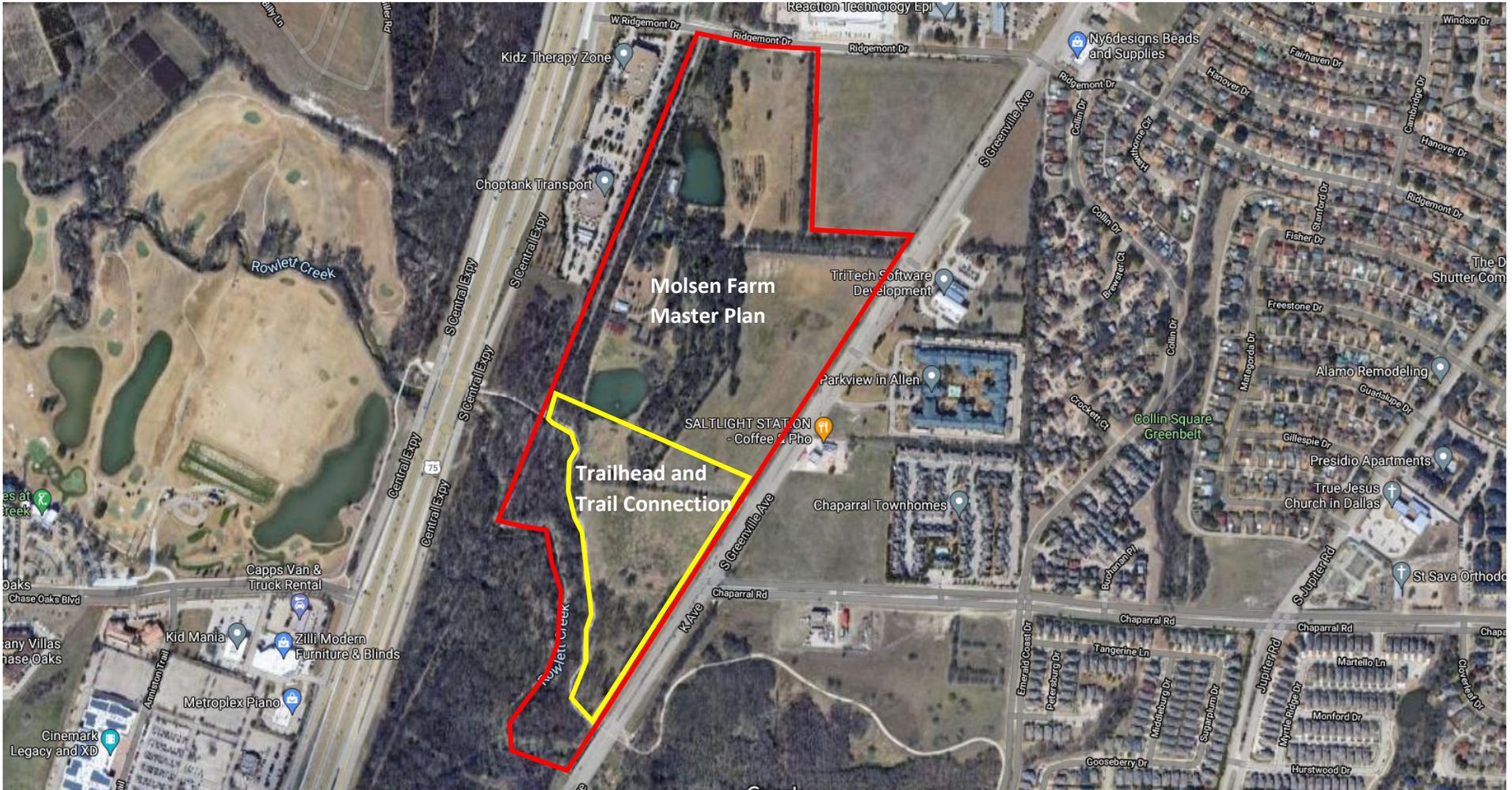
The City will provide the following to the Consultant in the performance of the Project upon request:

- A. Provide existing data on file concerning the Project, if available.
- B. Provide available as-built Plans for existing facilities and utilities, if available.

EXHIBIT "A"
SCOPE OF SERVICES

- C. Assist Consultant, as necessary, in obtaining any required data and information from local utility companies.
- D. Provide standard Details and Specifications in digital format.
- E. Assist Consultant by requiring appropriate utility companies to expose underground utilities within the right-of-way or easements, when required. Exposure of utilities may require Subsurface Utility Engineering (SUE) as an additional service.
- F. Give prompt written notice to Consultant whenever City observes or otherwise becomes aware of any development that affects the scope or timing of the Consultant's services.
- G. Secure the services of an independent laboratory for Geotechnical Testing and Construction Phase Testing.
- H. Provide a Boundary Survey or metes and bounds property description for each of the four tracts of City-owned land that comprise Molsen Farm Park property.

Location Map



Molsen Farm, Allen, Tx

CITY COUNCIL AGENDA COMMUNICATION

| | |
|-----------------------------------|--|
| AGENDA DATE: | August 24, 2021 |
| SUBJECT: | Conduct a Public Hearing and Adopt an Ordinance Granting a Specific Use Permit for a Fitness and Health Center use for 2,353± Square Foot Portion of a Building Located on Lot 1A, Eagle Plaza Shopping Center; Generally Located Directly South of Main Street and East of Jupiter Road (and commonly known as 602 E. Main Street). [Vibe Yoga] |
| STAFF RESOURCE: | Hayley Angel, Planning Manager |
| BOARD / COMMISSION ACTION: | On August 3, 2021, the Planning and Zoning Commission voted 4 in favor (Commissioners Trahan, Platt, Metevier, Shaikh), and 0 opposed to recommend approval of the request. |
| ACTION PROPOSED: | Conduct a Public Hearing and Adopt an Ordinance Granting a Specific Use Permit for a Fitness and Health Center use for 2,353± Square Foot Portion of a Building Located on Lot 1A, Eagle Plaza Shopping Center; Generally Located Directly South of Main Street and East of Jupiter Road (and commonly known as 602 E. Main Street). [Vibe Yoga] |

BACKGROUND

The property is generally located south of Main Street and east of Jupiter Road. The property to the north (across Main Street) is zoned Planned Development No. 125 with a base zoning of Community Facilities. The properties to the east are zoned Planned Development No. 89 with a base zoning of Shopping Center (SC). The property to the south and west is zoned SC.

The applicant is proposing to tenant a suite in an existing building for a yoga studio. Staff categorizes this type of use as a Fitness and Health Center use. The property is zoned SC. The Allen Land Development Code (ALDC) requires a Specific Use Permit (SUP) for a Fitness and Health Center use within the SC zoning district.

The applicant submitted a business summary in conjunction with the SUP application. The following is a summary of the proposed business operations:

- Hours of operation: Daily with class times ranging from 8:00 a.m. - 6:00 p.m.
- Average staff count: 1-2
- Average people at any given time for classes: 8-10

There are no outdoor activities being proposed.

The lease space of 2,353± square feet requires a total of 12 parking spaces. The subject property does not have adequate parking to serve the existing uses and the proposed tenant. However, when the subject property and the adjacent lot, commonly known as 600 E. Main Street, are reviewed together, there are adequate spaces for current tenants on both lots and the proposed Fitness and Health Center use. A parking agreement has been executed which allows the applicant to utilize parking spaces on this adjacent lot.

There are no proposed changes to the exterior of the building.

The Specific Use Permit request has been reviewed by staff and meets the standards of the ALDC.

On August 3, 2021, the Planning and Zoning Commission voted to recommend approval of this request.

LEGAL NOTICES

Public Hearing Sign - July 23, 2021
Property Owner Notices - July 23, 2021
Newspaper Notice - August 5, 2021

STAFF RECOMMENDATION

Staff recommends approval.

MOTION

I make a motion to adopt Ordinance No. _____ for Specific Use Permit No. 181 for a Fitness and Health Center use.

ATTACHMENTS:

Ordinance
Property Notification Map
Draft Minutes for the August 3, 2021 Planning and Zoning Meeting

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, AMENDING THE ALLEN LAND DEVELOPMENT CODE AND ZONING MAP AS PREVIOUSLY AMENDED, BY GRANTING SPECIFIC USE PERMIT NO. 181 AUTHORIZING AN APPROXIMATELY 2,353± SQUARE FOOT PORTION OF A BUILDING LOCATED ON LOT 1A, BLOCK A, EAGLE PLAZA SHOPPING CENTER, PRESENTLY ZONED FOR SHOPPING CENTER (SC) TO BE USED FOR A FITNESS AND HEALTH CENTER USE; PROVIDING A CONFLICTS RESOLUTION CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000) FOR EACH OFFENSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Commission and the governing body of the City of Allen, Texas, in compliance with the laws of the State of Texas and the Ordinances of the City of Allen, Texas, have given the requisite notices by publication and otherwise, and after holding due hearings and affording a full and fair hearing to all the property owners generally and to all persons interested and situated in the affected area, and in the vicinity thereof, and in the exercise of its legislative discretion, the City Council has concluded that the Allen Land Development Code Zoning Regulations and Zoning Map of the City of Allen, Texas, as previously amended, should be further amended as follows.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, THAT:

SECTION 1. The Allen Land Development Code Zoning Regulations and Zoning Map of the City of Allen, Collin County, Texas, be amended by granting Specific Use Permit No. 181 authorizing an approximately 2,353± square foot portion of a building located on Lot 1A, Block A, Eagle Landing Shopping Center, an addition to the City of Allen, Collin County, Texas, according to the Plat recorded in Volume F, Page 349, Plat Records, Collin County, Texas, as shown on Exhibit “A” attached hereto and incorporated herein by reference (“the Property”), which is presently zoned Shopping Center (SC) to be used for a Fitness and Health Center use.

SECTION 2. The Property shall be used only in the manner and for the purposes provided for in the Allen Land Development Code Zoning Regulations, as heretofore amended, with respect to property located in a Shopping Center (SC) Zoning District, and, if developed and used for a Fitness and Health Center, shall be subject to the following special conditions:

- A.** The Property shall be developed as shown on the SUP Site Plan attached hereto as Exhibit “A” and incorporated herein by reference; and
- B.** Only Vibe Yoga, or a legal entity owned or controlled by Erudio, Inc. is authorized by this Ordinance to use the Property for a Fitness and Health Center use.

SECTION 3. To the extent of any irreconcilable conflict with the provisions of this ordinance and other ordinances of the City of Allen governing the use and development of the Property and which are not expressly amended by this ordinance, the provisions of this ordinance shall be controlling.

SECTION 4. Should any word, sentence, paragraph, subdivision, clause, phrase or section of this ordinance, or of the Allen Land Development Code Zoning Regulations, as amended hereby, be adjudged or held to be void or

unconstitutional, the same shall not affect the validity of the remaining portions of said ordinance or the Allen Land Development Code Zoning Regulations, as amended hereby, which shall remain in full force and effect.

SECTION 5. An offense committed before the effective date of this ordinance is governed by prior law and the provisions of the Allen Land Development Code Zoning Regulations, as amended, in effect when the offense was committed, and the former law is continued in effect for this purpose.

SECTION 6. Any person, firm or corporation violating any of the provisions or terms of this ordinance shall be subject to the same penalty as provided for in Allen Land Development Code Zoning Regulations of the City of Allen, as previously amended, and upon conviction shall be punished by a fine not to exceed the sum of Two Thousand Dollars (\$2,000) for each offense.

SECTION 7. This ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Charter of the City of Allen, and it is accordingly so ordained.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, ON THIS 24TH DAY OF AUGUST 2021.

APPROVED:

Kenneth M. Fulk, MAYOR

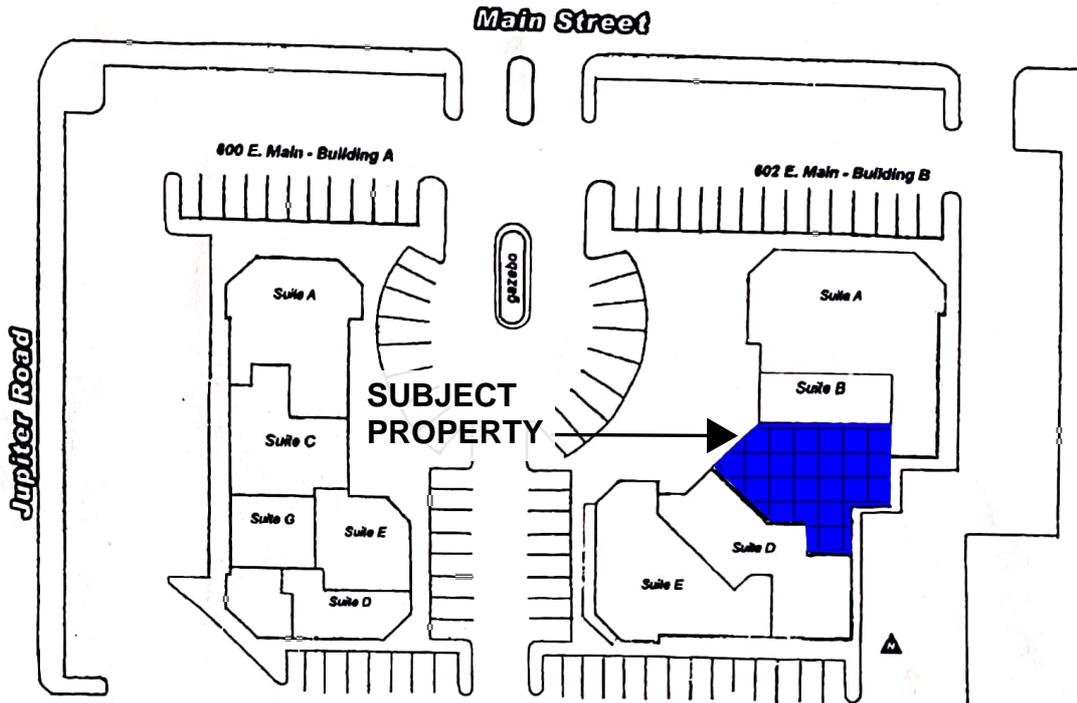
APPROVED AS TO FORM:

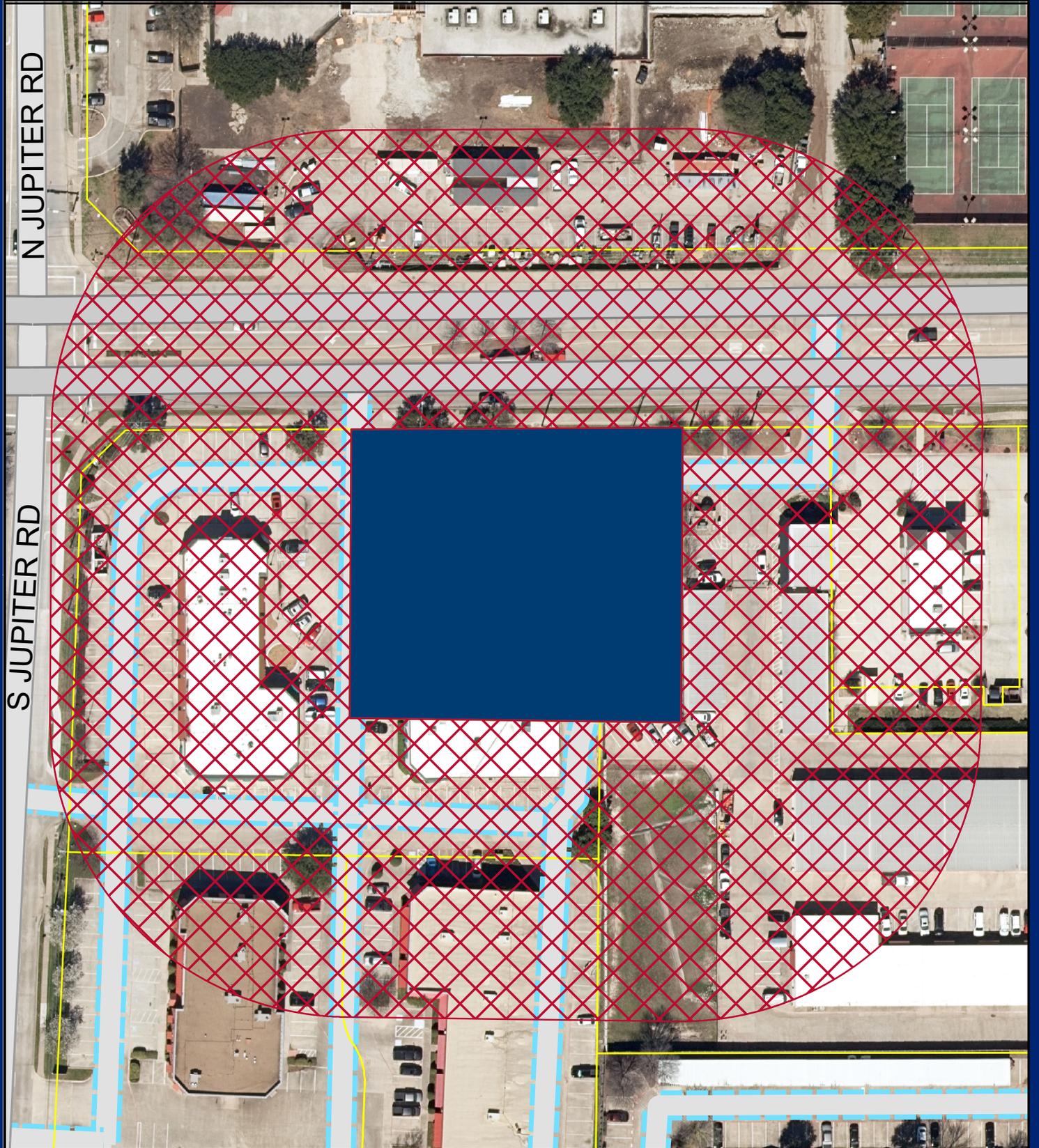
ATTEST:

Peter G. Smith, CITY ATTORNEY
(kbl:6/21/21:123155)

Shelley B. George, TRMC, CITY SECRETARY

SUP SITE PLAN VIBE YOGA

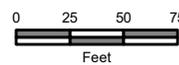




Location Map
Vibe Yoga
602 E. Main St.
Suite C

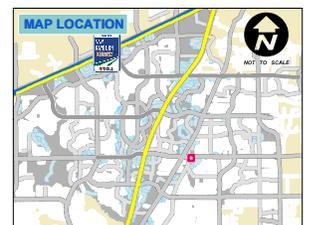
Map Legend

-  VibeYogaBuffer
-  VibeYoga
-  CollinCAD Parcels



Community Development - Planning

Date Saved: 6/2/2021



NOTE: This map is only for illustration purpose only, please contact the City of Allen Planning & Development Department for specific rules and regulations.

August 3, 2021 Planning and Zoning Commission Meeting Minutes

Public Hearing - Conduct a Public Hearing and Consider a Request for a Specific Use Permit SUP for a Fitness and Health Center Use for 2,353± Square Foot Portion of a Building Located on Lot 1A, Eagle Plaza Shopping Center; Generally Located Directly South of Main Street and Approximately 186± Feet East of Jupiter Road (and Commonly Known as 602 E. Main Street). (SUP-061121-0003) [Vibe Yoga]

Ms. Russell, Planner, presented the item to the Commission.

Ms. Russell noted that the Specific Use Permit meetings the requirements of the Allen Land Development Code. She noted that staff is in support of the agenda item.

Chair Trahan opened the public hearing.

With no one speaking, Chair Trahan closed the public hearing.

The Commission discussed the parking agreement.

Motion: Upon a motion by 2nd Vice-Chair Metevier, and a second by 1st Vice-Chair Platt, the Commission voted 4 IN FAVOR and 0 OPPOSED to recommend approval of a Specific Use Permit for a Fitness and Health Center use for a portion of Lot 1A, Eagle Plaza Shopping Center, as presented.

The motion carried.

ATTENDANCE:

Commissioners Present:

Ben Trahan, Chair
Stephen Platt, Jr., 1st Vice-Chair
Dan Metevier, 2nd Vice-Chair
Elias Shaikh

Absent:

Jeff Burkhardt
John Ogrizovich
Michael Smiddy

CITY COUNCIL AGENDA COMMUNICATION

AGENDA DATE: August 24, 2021

SUBJECT: Conduct a Public Hearing and Adopt an Ordinance to Amend the Development Regulations of Planned Development No. 58 with a Base Zoning of Shopping Center and to Adopt a Zoning Exhibit, Concept Plan, and Elevations for Lots 6A and 6B, Block A, CLA Allen Addition; Generally Located at the Northeastern Corner of the Intersection of Exchange Parkway and U.S. Highway 75. [Exchange Business Center - Office-Showroom/Warehouse]

STAFF RESOURCE: Hayley Angel, Planning Manager

PREVIOUS COUNCIL ACTION: Planned Development No. 58 - Approved March, 1996
Planned Development No. 58 - Approved October, 2014

BOARD / COMMISSION ACTION: On August 3, 2021, the Planning and Zoning Commission voted 4 in favor (Commissioners Trahan, Platt, Metevier, and Shaikh) and 0 opposed to recommend approval of the request.

ACTION PROPOSED: Conduct a Public Hearing and Adopt an Ordinance to Amend the Development Regulations of Planned Development No. 58 with a Base Zoning of Shopping Center and to Adopt a Zoning Exhibit, Concept Plan, and Elevations for Lots 6A and 6B, Block A, CLA Allen Addition; Generally Located at the Northeastern Corner of the Intersection of Exchange Parkway and U.S. Highway 75. (Exchange Business Center - Office-Showroom/Warehouse)

BACKGROUND

The property is located directly east of U.S. Highway 75 and north of Exchange Parkway. The properties to the north and east are zoned Planned Development No. 58 (PD-58) with a base zoning of Shopping Center (SC). The properties to the south (across Exchange Parkway) are zoned Planned Development No. 21 with a base zoning of Garden Office. The properties to the west (across U.S. Highway 75) are zoned Planned Development No. 54 with a base zoning of Corridor Commercial.

The property is currently zoned PD-58 with a base zoning of SC. The applicant is requesting to amend the Concept Plan and development regulations to allow the development of office-showroom/warehouse and office uses.

The subject property is comprised of three proposed lots. The applicant is proposing to subdivide Lot 6B into two lots. These two lots are shown as Lot 6B-1 and 6B-2 on the Concept Plan. Lot 6A is approximately 3.636± acres with a 43,861± square foot building for an office-showroom/warehouse use. Lot 6B-1 is approximately 1.083± acres with a 10,664± building with office and storage. Lot 6B-2 is approximately 1.092± acres with a 10,607± building with office and storage.

The development regulations include a modification to the definition of office-showroom/warehouse. Currently, the Allen Land Development Code stipulates that an office-showroom/warehouse use must have a minimum of 75% of the total floor area dedicated to storage and warehousing not accessible to the general public. The proposed regulations decrease the minimum amount of total floor area dedicated to storage and warehousing to 50%. As the Building and Parking Summary shows, this allows more floor area to be dedicated to office uses on Lot 6A.

There is a total of five access points into the development--four through Fire Lane, Access, and Utility easements on adjacent properties and one through Exchange Parkway. The concept plan shows a proposed deceleration lane on Exchange Parkway to be constructed and completed prior to the issuance of a Certificate of Occupancy of any building on the property.

On Lot 6A, the building elevations show an approximately 40-foot-tall masonry building with concrete tilt wall as the primary building material. On Lots 6B-1 and 6B-2, the building elevations show two approximately 25-foot-tall buildings with concrete tilt wall as the primary building material. While building materials cannot be regulated by the proposed ordinance, these materials are shown for illustrative purposes.

The development regulations include the permitted uses and traffic improvements.

This request has been reviewed by the Technical Review Committee. The request is in general conformance with the future land use map in the adopted Comprehensive Plan and is compatible with the surrounding uses.

On August 3, 2021, the Planning and Zoning Commission voted in favor of this request.

LEGAL NOTICES

Public Hearing Notices - July 23, 2021

Public Hearing Sign - July 23, 2021

Newspaper Notices - August 5, 2021

STAFF RECOMMENDATION

Staff recommends approval.

MOTION

I move to adopt Ordinance No. _____ to amend the Development Regulations of Planned Development No. 58 with a base zoning of Shopping Center for Lots 6A and 6B, Block A, CLA Allen Addition.

ATTACHMENTS:

Ordinance

Property Notification Map

Draft Minutes for the August 3, 2021 Planning and Zoning Meeting

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, AMENDING THE ALLEN LAND DEVELOPMENT CODE AND ZONING MAP, AS PREVIOUSLY AMENDED, BY AMENDING THE USE AND DEVELOPMENT REGULATIONS OF TRACT 1 OF PLANNED DEVELOPMENT PD NO. 58 WITH A BASE ZONING OF SHOPPING CENTER “SC” RELATING TO THE DEVELOPMENT OF LOTS 6A AND 6B, BLOCK A, CLA ALLEN ADDITION, BY ADOPTING A ZONING EXHIBIT, CONCEPT PLAN, AND BUILDING ELEVATIONS; PROVIDING FOR A CONFLICTS RESOLUTION CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000) FOR EACH OFFENSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Commission and the governing body of the City of Allen, Texas, in compliance with the laws of the State of Texas and the ordinances of the City of Allen, Texas, have given the requisite notices by publication and otherwise, and after holding due hearings and affording a full and fair hearing to all the property owners generally and to all persons interested and situated in the affected area, and in the vicinity thereof, and in the exercise of its legislative discretion, have concluded that Allen Land Development Code Zoning Regulations and Zoning Map of the City of Allen, Texas, as previously amended, should be amended.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, THAT:

SECTION 1. The Allen Land Development Code Zoning Regulations and the Zoning Map of the City of Allen, Collin County, Texas, as previously amended, be further amended by amending as set forth in Section 2, below, the regulations of Planned Development “PD” No. 58 Shopping Center “SC” relating to the development and use of property described as Lots 6A and 6B, Block A, CLA Allen Addition, an addition to the City of Allen, Collin County, Texas, according to the plat thereof recorded in Volume 2015, Page 435, Plat Records, Collin County, Texas, and depicted in Exhibit “A,” attached hereto and incorporated herein by reference (“the Property”).

SECTION 2. The Property shall be developed and used in accordance with the applicable provisions of the Allen Land Development Code, as amended, (“ALDC”) and the development and use regulations of Tract 1 of Planned Development “PD” No. 58 as set forth in Ordinance No. 3262-10-14 and Ordinance No. 1409-3-96, as such regulations have been amended, except to the extent modified by the Development Regulations set forth below:

- A. CONCEPT PLAN:** The Property shall be developed in general conformance with the Concept Plan attached hereto as Exhibit “B” and incorporated herein by reference (the “Concept Plan”). Minor modifications to streets/driveways that do not alter the general alignment shown on the Concept Plan may be made at the time of Site Plan approval.
- B. BUILDING ELEVATIONS:** The buildings shall be designed and constructed in generally conformance with the Building Elevations attached hereto as Exhibit “C” and incorporated herein by reference (“Building Elevations”).
- C. PERMITTED USES:** In addition to uses currently permitted, the Property may be used and developed as an “Office-Showroom/Warehouse” use. For the purposes of this ordinance, “Office-

Showroom/Warehouse” shall be defined as “an establishment with a minimum of 50 percent of its total floor area devoted to storage and warehousing but not accessible to the general public. The remaining area may include retail and wholesale sales areas, sales offices, and display areas for products sold and distributed from the storage and warehousing areas.”

D. TRAFFIC IMPROVEMENTS: The deceleration lane on Exchange Parkway as shown on the Concept Plan shall be constructed and completed prior to issuance of a Certificate of Occupancy for any building constructed on the Property.

SECTION 3. To the extent of any irreconcilable conflict with the provisions of this Ordinance and other ordinances of the City of Allen governing the use and development of the Property and which are not expressly amended by this Ordinance, the provisions of this Ordinance shall be controlling.

SECTION 4. Should any word, sentence, paragraph, subdivision, clause, phrase or section of this Ordinance, or of the Allen Land Development Code Zoning Regulations, as amended hereby, be adjudged or held to be void or unconstitutional, the same shall not affect the validity of the remaining portions of said ordinance or the Allen Land Development Code Zoning Regulations, as amended hereby, which shall remain in full force and effect.

SECTION 5. An offense committed before the effective date of this Ordinance is governed by prior law and the provisions of the Allen Land Development Code Zoning Regulations, as amended, in effect when the offense was committed, and the former law is continued in effect for this purpose.

SECTION 6. Any person, firm or corporation violating any of the provisions or terms of this Ordinance shall be subject to the same penalty as provided for in Allen Land Development Code Zoning Regulations of the City of Allen, as previously amended, and upon conviction shall be punished by a fine not to exceed the sum of Two Thousand Dollars (\$2,000) for each offense.

SECTION 7. This Ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Charter of the City of Allen, and it is accordingly so ordained.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, ON THIS THE 24TH DAY OF AUGUST 2021.

APPROVED:

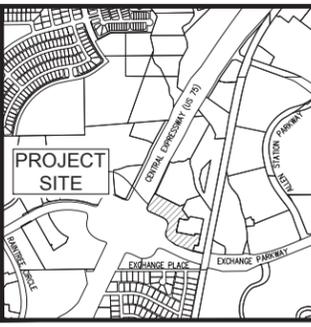
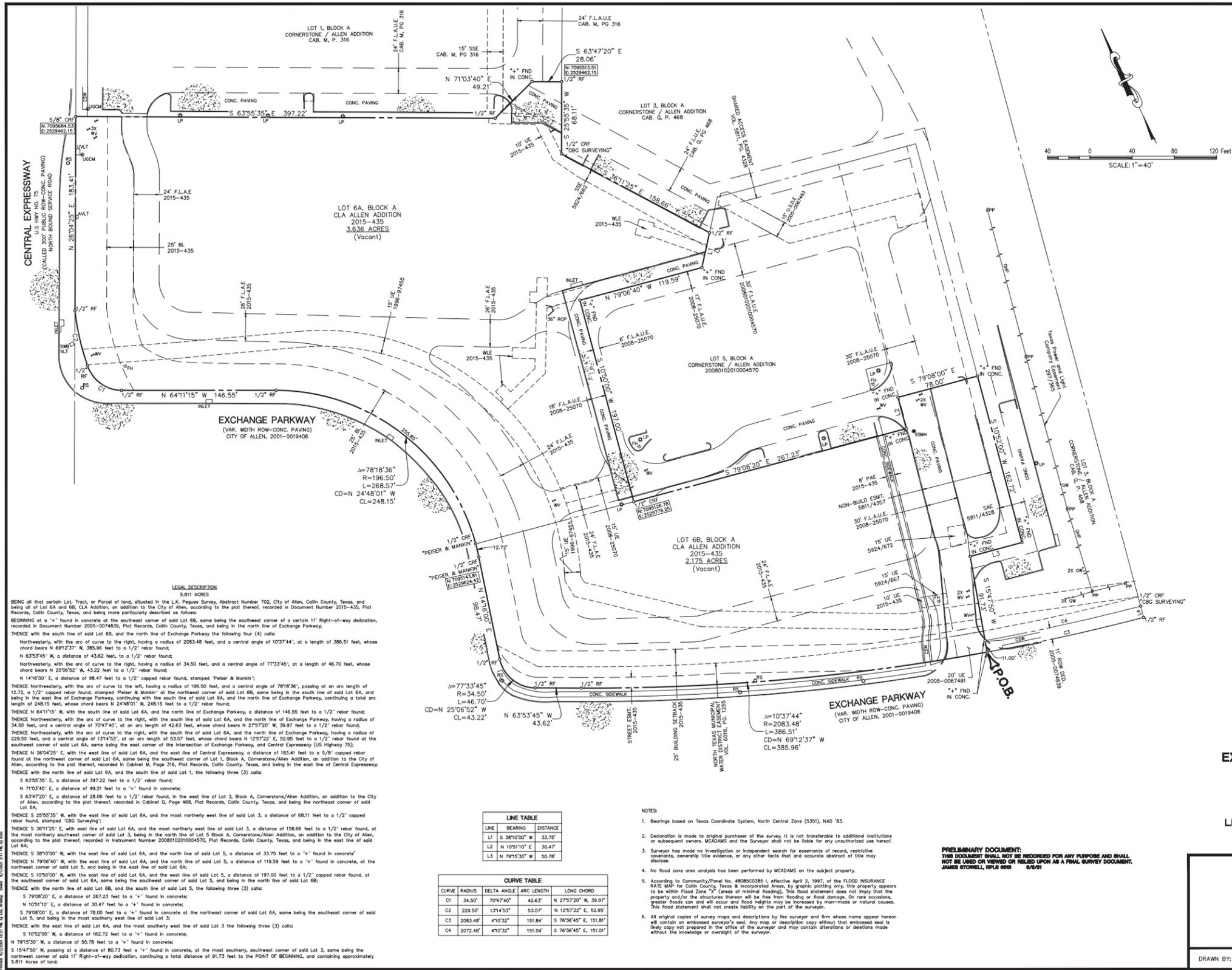
Kenneth M. Fulk, MAYOR

APPROVED AS TO FORM:

ATTEST:

Peter G. Smith, CITY ATTORNEY
(kbl.)

Shelley B. George, TRMC, CITY SECRETARY



LEGEND

- RF = REBAR FOUND
- CRS = CAPPED REBAR SET
- BL = BUILDING LINE
- UE = UTILITY EASEMENT
- CRF = CAPPED REBAR FOUND
- SE = SANITARY SEWER EASEMENT
- WLE = WATER LINE EASEMENT
- PP = POWER POLE
- LP = LIGHT POLE
- OW = OVER HEAD WIRE
- OWP = OVER HEAD POWER
- WV = WATER VALVE
- FH = FIRE HYDRANT
- RSD = ROAD SIGN
- UCM = UNDERGROUND CABLE MARKER
- COW = CONCRETE SIDEWALK
- UVLT = UTILITY VAULT
- AVT = AT&T VAULT
- SWB VLT = SOUTHWESTERN BELL VAULT
- FLA.E = FIRE LINE AND ACCESS EASEMENT
- FLA.U.E = FIRE LINE AND UTILITY EASEMENT
- U.S.D.E = UTILITY AND STORM DRAIN EASEMENT
- RSP = REINFORCED CONCRETE PIPE
- SAE = SHARED ACCESS EASEMENT
- PAE = PEDESTRIAN ACCESS EASEMENT

LEGAL DESCRIPTION

5.811 ACRES

BEING all that certain Lot, Tract, or Parcel of land, situated in the L.K. Pegues Survey, Abstract Number 702, City of Allen, Collin County, Texas, and being all of Lot 6A and 6B, CLA Addition, an addition to the City of Allen, according to Document Number 2015-435, Plat Records, Collin County, Texas, and being more particularly described as follows:

BEGINNING at a "4" found in concrete at the southeast corner of said Lot 6B, same being the southwest corner of a certain 11' Right-of-way dedication, recorded in Document Number 2005-0074839, Plat Records, Collin County, Texas, and being in the north line of Exchange Parkway;

THENCE with the south line of said Lot 6B, and the north line of Exchange Parkway the following four (4) calls:

Northwesterly, with the arc of curve to the right, having a radius of 203.45 feet, and a central angle of 103°7'44", at a length of 385.51 feet, whose chord bears N 69°12'37" W, 385.96 feet to a 1/2" rebar found;

N 63°53'45" W, a distance of 43.62 feet, to a 1/2" rebar found;

Northwesterly, with the arc of curve to the right, having a radius of 34.50 feet, and a central angle of 77°33'45", at a length of 46.70 feet, whose chord bears N 25°00'52" W, 43.22 feet to a 1/2" rebar found;

N 14°40'00" E, a distance of 98.47 feet to a 1/2" capped rebar found, stamped "Peiser & Mankin";

THENCE Northwesterly, with the arc of curve to the left, having a radius of 196.50 feet, and a central angle of 78°18'36", passing at an arc length of 12.72, a 1/2" capped rebar found, stamped "Peiser & Mankin" at the northwest corner of said Lot 6B, same being in the south line of said Lot 6A, and being in the east line of Exchange Parkway, continuing with the south line of said Lot 6A, and the north line of Exchange Parkway, continuing a total arc length of 248.15 feet, whose chord bears N 24°48'01" W, 248.15 feet to a 1/2" rebar found;

THENCE N 64°11'15" W, with the south line of said Lot 6A, and the north line of Exchange Parkway, a distance of 146.55 feet to a 1/2" rebar found;

THENCE Northwesterly, with the arc of curve to the right, having a radius of 42.63 feet, whose chord bears N 27°57'20" W, 39.97 feet to a 1/2" rebar found;

THENCE Northwesterly, with the arc of curve to the right, with the south line of said Lot 6A, and the north line of Exchange Parkway, having a radius of 229.50 feet, and a central angle of 124°43'33", at an arc length of 53.07 feet, whose chord bears N 12°57'22" E, 52.95 feet to a 1/2" rebar found at the southwest corner of said Lot 6A, same being the east corner of the intersection of Exchange Parkway, and Central Expressway (US Highway 75);

THENCE N 26°04'25" E, with the west line of said Lot 6A, and the east line of Central Expressway, a distance of 183.41 feet to a 5/8" capped rebar found at the northwest corner of said Lot 6A, same being the southwest corner of Lot 1, Block A, Cornerstone/Allen Addition, an addition to the City of Allen, according to the plat thereof, recorded in Cabinet M, Page 316, Plat Records, Collin County, Texas, and being in the east line of Central Expressway;

THENCE with the north line of said Lot 6A, and the south line of said Lot 1, the following three (3) calls:

S 63°50'30" E, a distance of 397.22 feet to a 1/2" rebar found;

N 71°03'40" E, a distance of 49.21 feet to a "4" found in concrete;

S 63°47'20" E, a distance of 28.06 feet to a 1/2" rebar found, in the west line of Lot 3, Block A, Cornerstone/Allen Addition, an addition to the City of Allen, according to the plat thereof, recorded in Cabinet Q, Page 468, Plat Records, Collin County, Texas, and being the northeast corner of said Lot 6A;

THENCE S 25°50'35" W, with the east line of said Lot 6A, and the most northerly west line of said Lot 3, a distance of 68.11 feet to a 1/2" capped rebar found, stamped "CBG Surveying";

THENCE S 38°10'00" W, with the east line of said Lot 6A, and the most northerly west line of said Lot 3, a distance of 33.75 feet to a "4" found in concrete;

THENCE N 79°06'40" W, with the east line of said Lot 6A, and the north line of said Lot 5, a distance of 119.59 feet to a "4" found in concrete, at the northwest corner of said Lot 5, and being in the east line of said Lot 6A;

THENCE S 10°50'00" W, with the east line of said Lot 6A, and the west line of said Lot 5, a distance of 197.00 feet to a 1/2" capped rebar found, at the southeast corner of said Lot 6A, same being the southwest corner of said Lot 5, and being in the north line of said Lot 6B;

THENCE with the north line of said Lot 6B, and the south line of said Lot 5, the following three (3) calls:

S 79°08'20" E, a distance of 267.23 feet to a "4" found in concrete;

S 10°50'00" W, a distance of 30.47 feet to a "4" found in concrete;

S 79°08'00" E, a distance of 78.00 feet to a "4" found in concrete at the northeast corner of said Lot 6A, same being the southeast corner of said Lot 5, and being in the most southerly west line of said Lot 3;

THENCE with the east line of said Lot 6A, and the most southerly west line of said Lot 3 the following three (3) calls:

S 10°50'00" W, a distance of 162.72 feet to a "4" found in concrete;

S 79°08'00" E, a distance of 50.78 feet to a "4" found in concrete;

S 15°47'50" W, passing at a distance of 80.73 feet to a "4" found in concrete, at the most southerly, southwest corner of said Lot 3, same being the northeast corner of said 11' Right-of-way dedication, continuing a total distance of 91.73 feet to the POINT OF BEGINNING, and containing approximately 5.811 Acres of land.

LINE TABLE

| LINE | BEARING | DISTANCE |
|------|---------------|----------|
| L1 | S 38°10'00" W | 33.75' |
| L2 | N 10°51'10" E | 30.47' |
| L3 | N 79°19'30" W | 50.78' |

CURVE TABLE

| CURVE | RADIUS | DELTA ANGLE | ARC LENGTH | LONG CHORD |
|-------|----------|-------------|------------|------------------------|
| C1 | 34.50' | 70°47'40" | 42.63' | N 27°57'20" W, 39.97' |
| C2 | 229.50' | 124°43'33" | 53.07' | N 12°57'22" E, 52.95' |
| C3 | 2083.48' | 47°02'32" | 151.84' | S 78°36'45" E, 151.81' |
| C4 | 2072.48' | 47°02'32" | 151.04' | S 78°36'45" E, 151.01' |

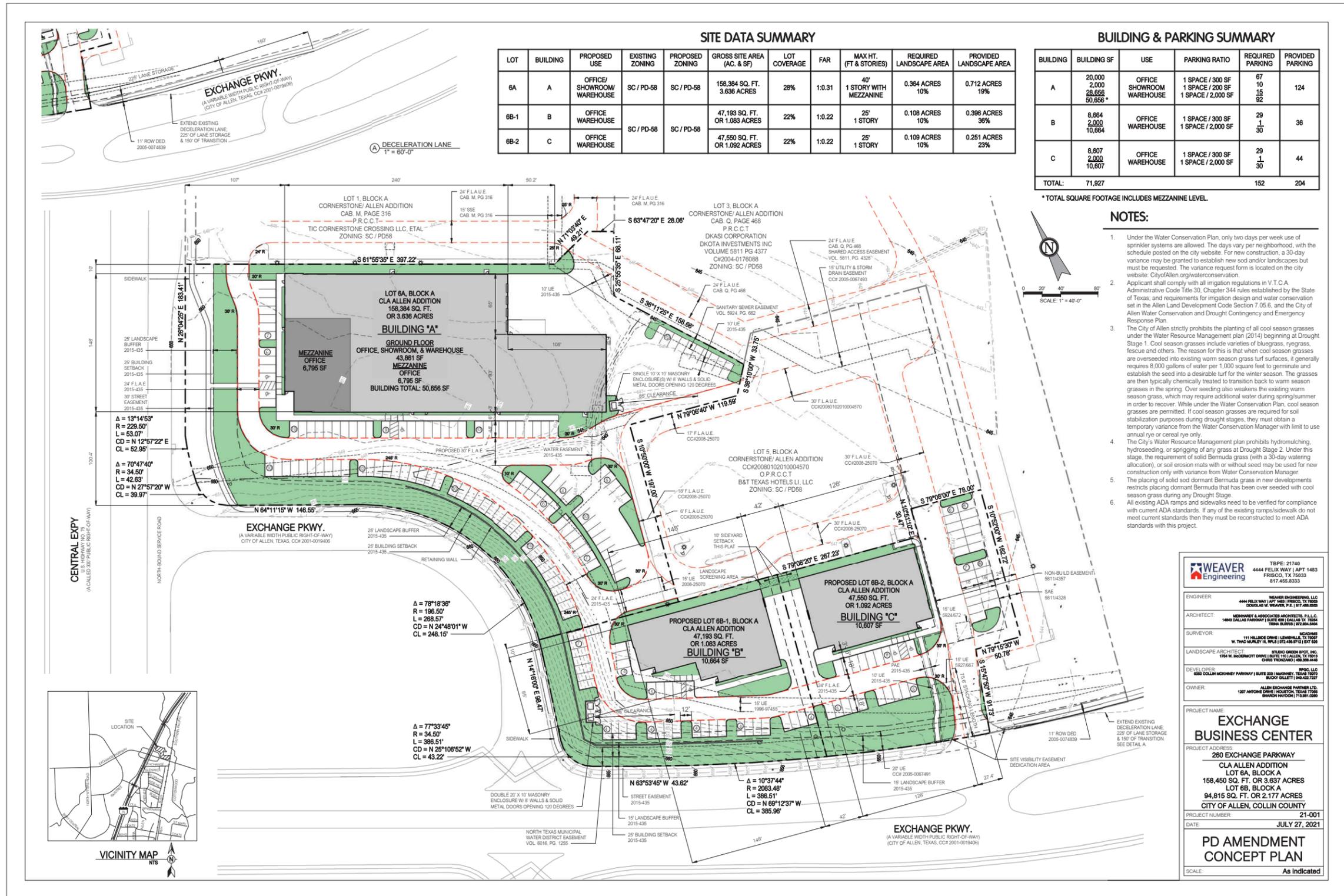
- NOTES:**
- Bearings based on Texas Coordinate System, North Central Zone (5351), NAD '83.
 - Declaration is made to original purchaser of the survey. It is not transferable to additional institutions or subsequent owners. MCADAMS and the Surveyor shall not be liable for any unauthorized use hereof.
 - Surveyor has made no investigation or independent search for encumbrances, restrictive covenants, easements, or other facts that affect and accurate abstract of title may disclose.
 - No flood zone area analysis has been performed by MCADAMS on the subject property.
 - According to Community/Panel No. 480850285 L, effective April 2, 1997, of the FLOOD INSURANCE RATE MAP for Collin County, Texas and incorporated herein, by graphic plotting only, this property appears to be within Flood Zone "X" (Area of Minimal Flooding). This flood statement does not imply that the property and/or the structures thereon will be free from flooding or flood damage. On rare occasions, greater floods can and will occur and flood heights may be increased by man-made or natural causes. This flood statement shall not create liability on the part of the surveyor.
 - All original copies of survey maps and descriptions by the surveyor and firm whose name appear hereon will contain an embossed surveyor's seal. Any map or description copy without that embossed seal is likely copy not prepared in the office of the surveyor and may contain alterations or deletions made without the knowledge or oversight of the surveyor.

PRELIMINARY DOCUMENT:
THIS DOCUMENT SHALL NOT BE RECORDED FOR ANY PURPOSE AND SHALL NOT BE USED OR VIEWED OR RELIED UPON AS A FINAL SURVEY DOCUMENT.
JAMES STOWELL, RPLS 609 6/2/21

**PD AMENDMENT
ZONING EXHIBIT
EXCHANGE BUSINESS CENTER
5.811 Acres
CLA ADDITION
Lots 6A & 6B, Block A
in the
L.K. PEGUES SURVEY, ABSTRACT NO. 702
CITY OF ALLEN
COLLIN COUNTY, TEXAS**

The John R. McAdams Company, Inc.
111 Hillside Drive
Lewisville, Texas 75057
972-438-9712
201 Courtney View Drive
Roanoke, Texas 76202
940-240-1012
TSBP: 19162 TBP#: 10194440
www.gacn.com
www.mcadamsco.com

DRAWN BY: BC DATE: 6/1/2021 SCALE: 1"=40' JOB NO. WEAVERENG 2021310237



WEAVER Engineering
4444 FELIX WAY | APT 1483
FRISCO, TX 75033
972.455.8333

ENGINEER: WEAVER ENGINEERING, L.L.C.
4444 FELIX WAY | APT 1483 | FRISCO, TX 75033
DOKUAB W. WEAVER, P.E. | 972.455.8333

ARCHITECT: BERHARDT & ASSOCIATES ARCHITECTS, P.L.L.C.
14403 DALLAS PARKWAY | SUITE 400 | DALLAS, TX 75244
TRINA BLAIR | 972.824.8464

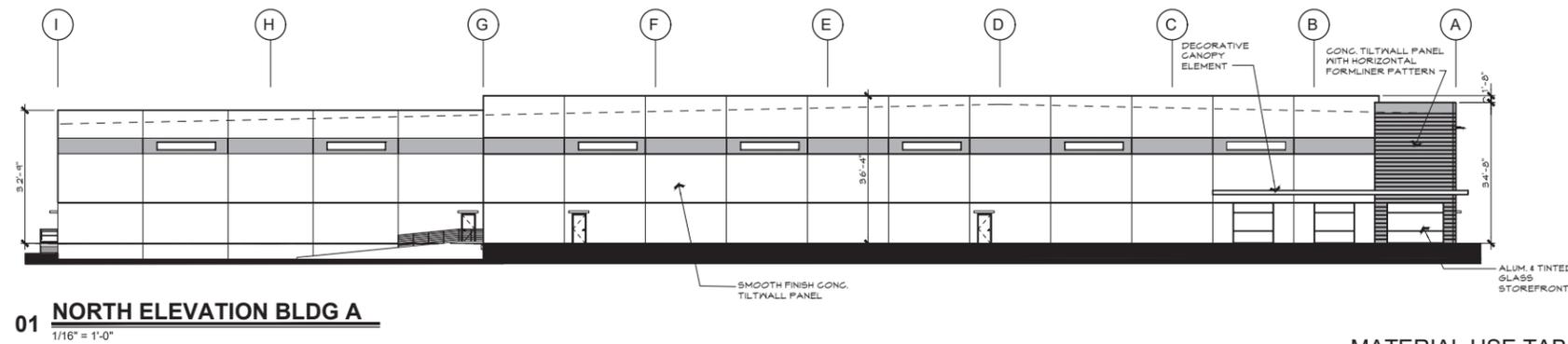
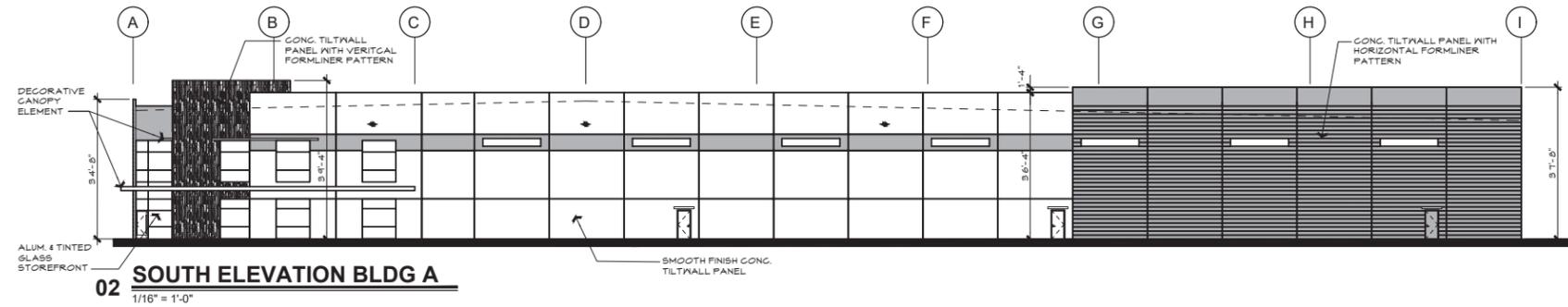
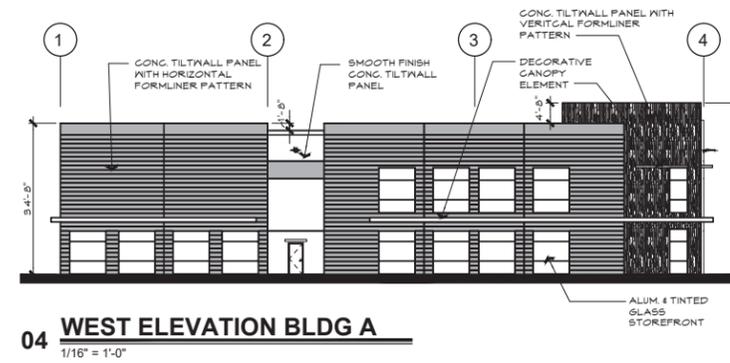
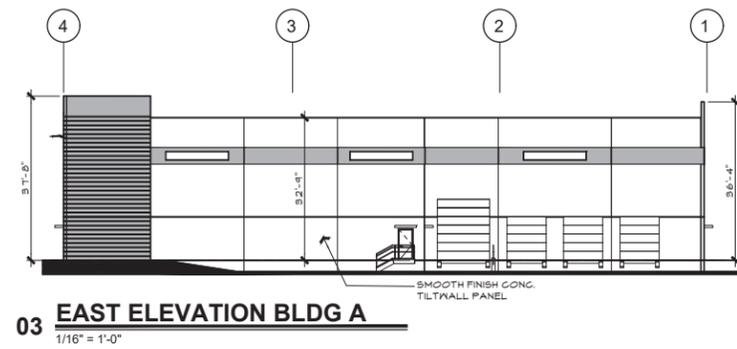
SURVEYOR: MCDONNELL & ASSOCIATES, L.L.C.
111 HILLBROOK DRIVE | LEWISVILLE, TX 75040
W. THOMAS MURLEY, II, P.L.S. | 972.426.9712 | EXT 626

LANDSCAPE ARCHITECT: STEPHEN GREEN SPUR, INC.
1704 W. MCNEIGHT DRIVE | SUITE 100 | KILLAM, TX 75118
CHRIS TRONCADO | 409.388.6646

DEVELOPER: WACO, L.L.C.
3000 COLLIN MCKINNEY PARKWAY | SUITE 203 | WACO, TX 76798
BOBBY BELLETTI | 817.862.7227

OWNER: ALLEN BUSINESS CENTER, L.L.C.
1207 ANTONIO DRIVE | HOUSTON, TEXAS 77056
SIVACHA WITKORN | 713.891.5589

PROJECT NAME: EXCHANGE BUSINESS CENTER
PROJECT ADDRESS: 260 EXCHANGE PARKWAY
CLA ALLEN ADDITION
LOT 6A, BLOCK A
158,450 SQ. FT. OR 3.537 ACRES
LOT 6B, BLOCK A
94,815 SQ. FT. OR 2.177 ACRES
CITY OF ALLEN, COLLIN COUNTY
PROJECT NUMBER: 21-001
DATE: JULY 27, 2021
PD AMENDMENT CONCEPT PLAN
SCALE: As Indicated



MATERIAL USE TABLE- BLDG A

| MATERIAL | NORTH ELEV. | SOUTH ELEV. | EAST ELEV. | WEST ELEV. |
|---|----------------------|----------------------|---------------------|---------------------|
| 1. TOTAL FACADE S.F. | 12,127 S.F. | 12,739 S.F. | 4,624 S.F. | 5,234 S.F. |
| 2. FACADE (EXCLUSIVE OF DOOR AND WINDOWS) | 11,514 S.F. | 11,760 S.F. | 4,375 S.F. | 4,105 S.F. |
| 3. DOORS AND WINDOWS S.F. | 613 S.F. | 979 S.F. | 549 S.F. | 1,129 S.F. |
| 4. CONCRETE TILT WALL S.F. | 11,514 S.F. and 100% | 11,760 S.F. and 100% | 4,375 S.F. and 100% | 4,105 S.F. and 100% |

ALLEN EXCHANGE QUALGEAR
 ALLEN, TEXAS
 COLLIN COUNTY


 MEINHARDT & ASSOCIATES
 ARCHITECTS, P.L.L.C.
 14643 DALLAS PARKWAY
 SUITE 600
 DALLAS TEXAS 75254
 972.980.8980

NOT FOR REGULATORY APPROVAL, PERMITTING, OR CONSTRUCTION

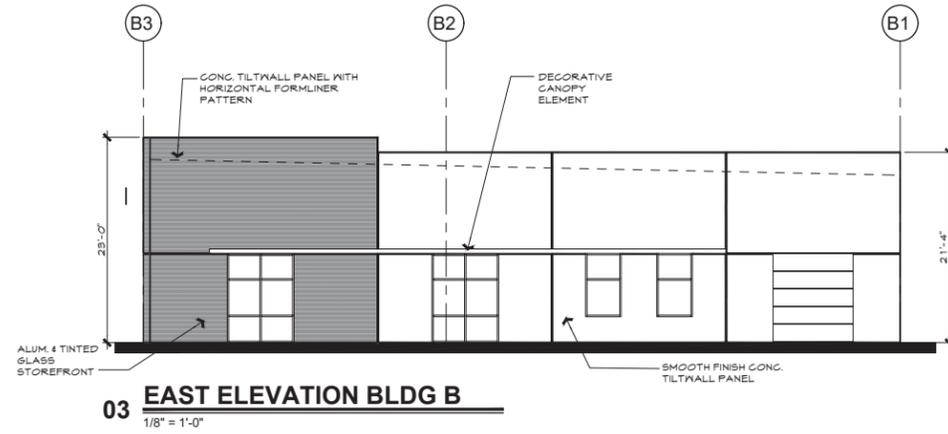
06.04.21
Job # 21-234

SHEET:

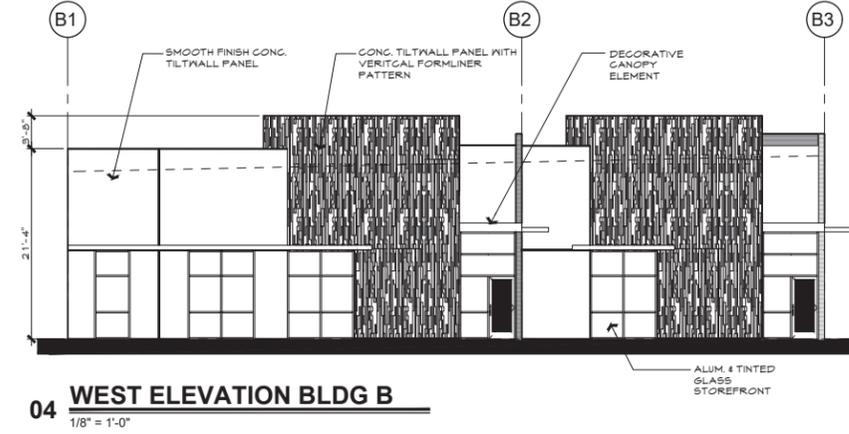
A

ATTACHMENT "E"

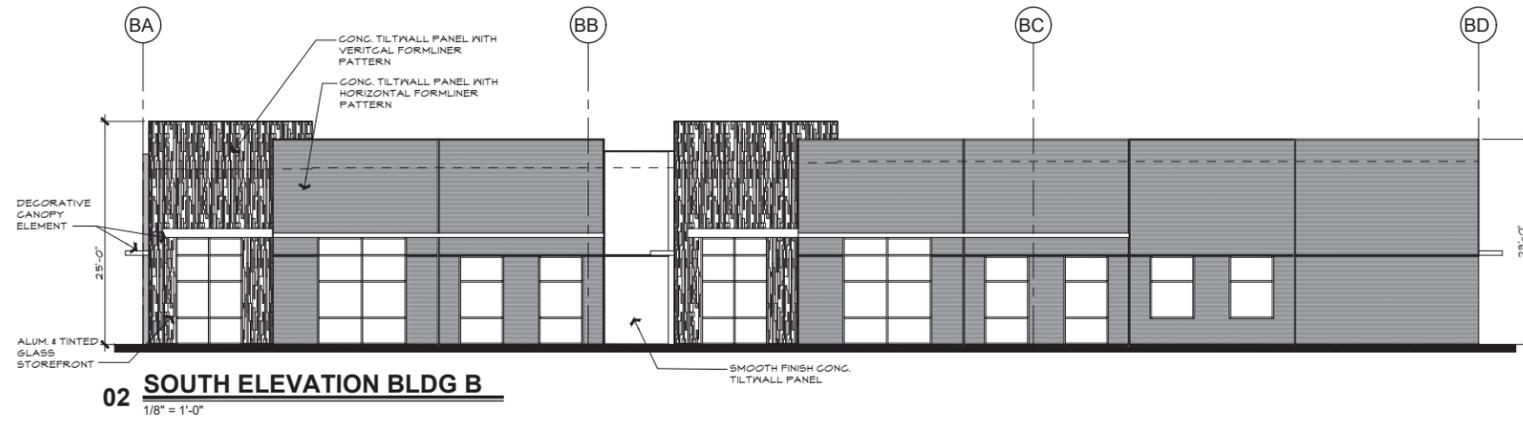
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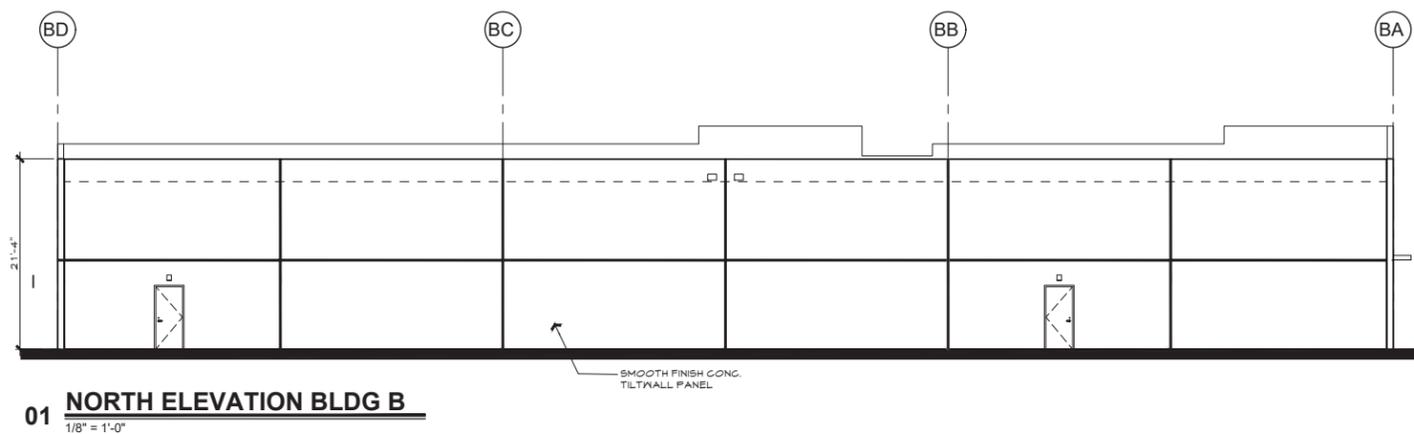
03 EAST ELEVATION BLDG B
1/8" = 1'-0"



04 WEST ELEVATION BLDG B
1/8" = 1'-0"



02 SOUTH ELEVATION BLDG B
1/8" = 1'-0"



01 NORTH ELEVATION BLDG B
1/8" = 1'-0"

MATERIAL USE TABLE- BLDG B

| MATERIAL | NORTH ELEV. | SOUTH ELEV. | EAST ELEV. | WEST ELEV. |
|---|---------------------|---------------------|---------------------|---------------------|
| 1. TOTAL FACADE S.F. | 3,247 S.F. | 3,496 S.F. | 1,857 S.F. | 1,982 S.F. |
| 2. FACADE (EXCLUSIVE OF DOOR AND WINDOWS) | 3,200 S.F. | 2,806 S.F. | 1,563 S.F. | 1,565 S.F. |
| 3. DOORS AND WINDOWS S.F. | 42 S.F. | 690 S.F. | 294 S.F. | 417 S.F. |
| 4. CONCRETE TILT WALL S.F. | 3,200 S.F. and 100% | 2,806 S.F. and 100% | 1,563 S.F. and 100% | 1,565 S.F. and 100% |

COLLIN COUNTY
ALLEN EXCHANGE GILLETT
ALLEN, TEXAS

MEINHARDT & ASSOCIATES
ARCHITECTS, P.L.L.C.
4543 DALLAS PARKWAY
SUITE 636
DALLAS TEXAS 75254
972.960.8980

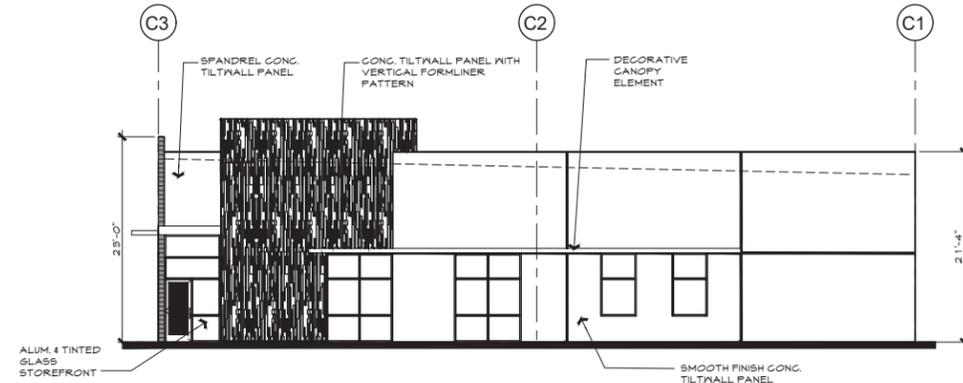
NOT FOR REGULATORY
APPROVAL, PERMITTING,
OR CONSTRUCTION

06.04.21
Job # 21-233

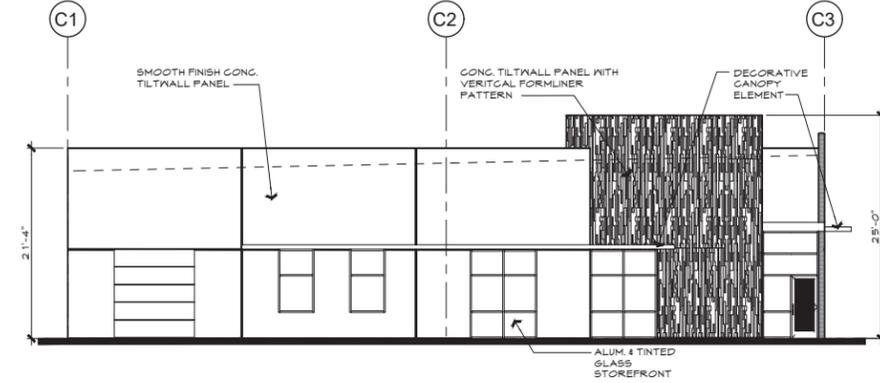
SHEET:

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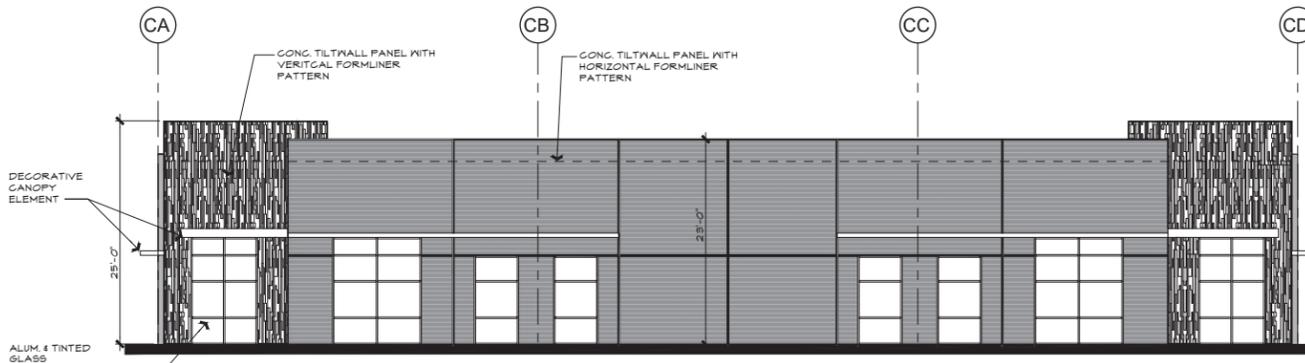
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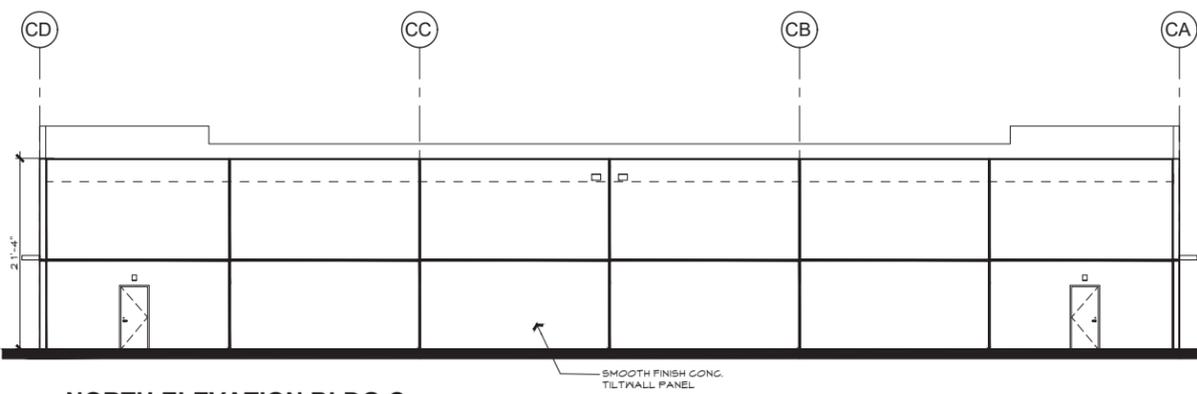
03 EAST ELEVATION BLDG C
1/8" = 1'-0"



04 WEST ELEVATION BLDG C
1/8" = 1'-0"



02 SOUTH ELEVATION BLDG C
1/8" = 1'-0"



01 NORTH ELEVATION BLDG C
1/8" = 1'-0"

MATERIAL USE TABLE- BLDG C

| MATERIAL | NORTH ELEV. | SOUTH ELEV. | EAST ELEV. | WEST ELEV. |
|---|---------------------|---------------------|---------------------|---------------------|
| 1. TOTAL FACADE S.F. | 2,773 S.F. | 2,987 S.F. | 1,894 S.F. | 1,894 S.F. |
| 2. FACADE (EXCLUSIVE OF DOOR AND WINDOWS) | 2,731 S.F. | 2,367 S.F. | 1,612 S.F. | 1,432 S.F. |
| 3. DOORS AND WINDOWS S.F. | 42 S.F. | 620 S.F. | 282 S.F. | 462 S.F. |
| 4. CONCRETE TILT WALL S.F. | 2,731 S.F. and 100% | 2,367 S.F. and 100% | 1,612 S.F. and 100% | 1,432 S.F. and 100% |

COLLIN COUNTY
ALLEN EXCHANGE GILLETT
ALLEN, TEXAS

MEINHARDT & ASSOCIATES
ARCHITECTS, P.L.L.C.
4543 DALLAS PARKWAY
SUITE 636
DALLAS TEXAS 75254
972.960.8980

NOT FOR REGULATORY
APPROVAL, PERMITTING,
OR CONSTRUCTION

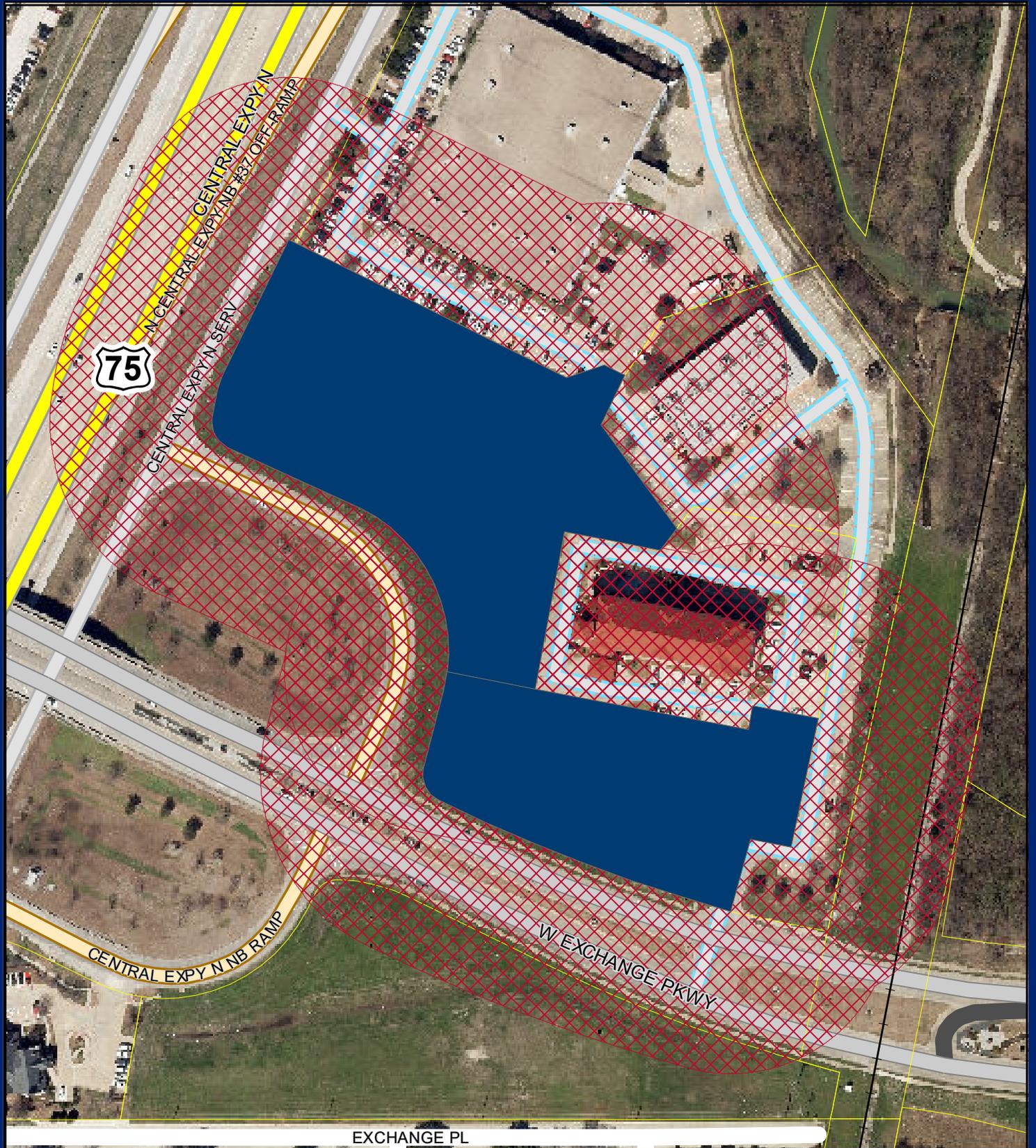
06.04.21
Job # 21-233

SHEET:

C

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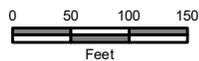


Location Map

Exchange Business Center
260 W. Exchange Pkwy.

Map Legend

-  Subject Property
-  Buffer
-  Railroad
-  CollinCAD Parcels



Community Development - Planning

Date Saved: 6/2/2021

NOTE: This map is only for illustration purpose only, please contact the City of Allen Planning & Development Department for specific rules and regulations.



August 3, 2021 Planning and Zoning Commission Meeting Minutes

Conduct a Public Hearing and Consider a Request to Amend the development Regulations of Planned Development No. 58 with a Base Zoning of Shopping Center and to Adopt a Zoning Exhibit, Concept Plan, and Elevations for Lots 6A and 6B, Block A, CLA Allen Addition; Generally Located at the Northeastern Corner of the Intersection of Exchange Parkway and U.S. Highway 75. (ZN-060421-0005) [Exchange Business Center]

Ms. Angel, Planning Manager, presented the item to the Commission.

Ms. Angel stated that staff is in support of the agenda item.

Chair Trahan opened the public hearing.

The following individual spoke in opposition of the project:

- Helen Du, 1220 N. Central Expwy, Allen, TX, Owner of La Quinta Inn

Doug Weaver, Applicant, 4444 Felix Way, Frisco, TX gave a brief description of the project.

With no one else speaking, Chair Trahan closed the public hearing.

The Commission discussed the following:

- Access to the site;
- Screening requirements;
- Proposed definition of the office-showroom/warehouse;
- Building height of the property and adjacent properties;
- Proposed and allowed uses;
- Noise concerns; and
- Timing of traffic improvements.

Motion: Upon a motion by 1st Vice-Chair Platt, and a second by 2nd Vice-Chair Metevier, the Commission voted 4 IN FAVOR, and 0 OPPOSED to recommend approval of the request to amend the Development Regulations of Planned Development No. 58 with a base zoning of Shopping Center and to adopt a Concept Plan and Building Elevations for Lots 6A and 6B, CLA Allen Addition, as presented.

The motion carried.

ATTENDANCE:

Commissioners Present:

Ben Trahan, Chair

Stephen Platt, Jr., 1st Vice-Chair

Dan Metevier, 2nd Vice-Chair

Elias Shaikh

Commissioners Absent:

Jeff Burkhardt

John Ogrizovich

Michael Smiddy

DRAFT

CITY COUNCIL AGENDA COMMUNICATION

- AGENDA DATE:** August 24, 2021
- SUBJECT:** Conduct a Public Hearing and Adopt an Ordinance to Establish a Planned Development Zoning District with a Base Zoning of Light Industrial and to Adopt a Zoning Exhibit, Concept Plan, Landscape Plan, and Elevations for Lot 1, Block 3, Millennium Business Park (and commonly known as 415 Century Parkway). [Credit Union of Texas]
- STAFF RESOURCE:** Marc Kurbansade, Director of Community Development
- BOARD / COMMISSION ACTION:** On August 3, 2021, the Planning and Zoning Commission voted 4 in favor (Commissioners Trahan, Platt, Metevier, and Shaikh), and 0 opposed to recommend approval of the request.
- ACTION PROPOSED:** Conduct a Public Hearing and Adopt an Ordinance to Establish a Planned Development Zoning District with a Base Zoning of Light Industrial and to Adopt a Zoning Exhibit, Concept Plan, Landscape Plan, and Elevations for Lot 1, Block 3, Millennium Business Park (and commonly known as 415 Century Parkway). [Credit Union of Texas]

BACKGROUND

The subject property is located at 415 Century Parkway, which is on the east side of Century Parkway, approximately 525 feet south of the intersection of Century Parkway and Butler Drive. The properties to the north and south retain zoning designations of Light Industrial (LI). The property to the west (across Century Parkway) retains a zoning designation of Planned Development No. 117 with a base zoning district of LI. The properties to the east (across the Dallas Area Rapid Transit (DART) right-of-way) retain zoning designations of Single-Family Residential (R-2 and R-3).

The subject property is 3.999± acres and retains a zoning designation of LI. The applicant is requesting to amend the existing zoning designation by adopting a new Planned Development District with associated development regulations, and a Zoning Exhibit, Concept Plan, Conceptual Landscape Plan, and Conceptual Building Elevations.

The attached concept plan shows the single platted lot, including the existing one-story building. The existing building has a total floor area of 65,850± square feet (38,790± square feet of office use and 27,060± square feet of warehouse use). The proposed zoning would permit the occupation of the building by an office showroom / warehouse use as well as an automotive sales component. It should be noted that the automotive sales component and associated minor maintenance would only be permitted within the enclosed building. Additionally, vehicle delivery is not permitted by a commercial vehicle hauler, and all vehicles must be stored in the interior portion of

the building.

There is a total of two access points into the development--both via access easements to the adjacent properties to the north and south of the subject site. Additionally, the applicant is proposing to limit access within the property via two gates, which would be located on the north and south fire lanes. These gates will be required to meet all requirements by the Fire Department for emergency access.

The building elevations show minor enhancements to the existing 33-foot± tall building. While building materials cannot be regulated by the proposed ordinance, these materials are shown for illustrative purposes.

The Conceptual Landscape Plan shows minor enhancements to the landscaping on the property, particularly adjacent to the west façade of the existing building.

This request has been reviewed by the Technical Review Committee. The request is in general conformance with the future land use map in the adopted Comprehensive Plan and is compatible with the surrounding uses.

On August 3, 2021, the Planning and Zoning Commission voted to recommend approval of this request.

LEGAL NOTICES

Public Hearing Sign - July 23, 2021

Property Owner Notices - July 23, 2021

Newspaper Notice - August 5, 2021

STAFF RECOMMENDATION

Staff recommends approval.

MOTION

I make a motion to adopt Ordinance No. _____ to establish Planned Development No. ____ with a base zoning of Light Industrial and to adopt a Zoning Exhibit, Concept Plan, Landscape Plan, and Elevations for Lot 1, Block 3, Millennium Business Park.

ATTACHMENTS:

Ordinance

Property Notification Map

Draft Minutes for the August 3, 2021 Planning and Zoning Meeting

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, AMENDING THE ALLEN LAND DEVELOPMENT CODE AND ZONING MAP, AS PREVIOUSLY AMENDED, BY AMENDING THE REGULATIONS RELATING TO THE DEVELOPMENT AND USE OF LOT 1, BLOCK 3, MILLENNIUM BUSINESS PARK ADDITION, BY CHANGING THE ZONING FROM LIGHT INDUSTRIAL “LI” TO PLANNED DEVELOPMENT “PD” NO. 145 FOR LIGHT INDUSTRIAL “LI”; ADOPTING DEVELOPMENT REGULATIONS, A CONCEPT PLAN, A ZONING EXHIBIT, A CONCEPTUAL LANDSCAPE PLAN, AND CONCEPTUAL BUILDING ELEVATIONS; PROVIDING FOR A CONFLICTS RESOLUTION CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000) FOR EACH OFFENSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Commission and the governing body of the City of Allen, Texas, in compliance with the laws of the State of Texas and the ordinances of the City of Allen, Texas, have given the requisite notices by publication and otherwise, and after holding due hearings and affording a full and fair hearing to all the property owners generally and to all persons interested and situated in the affected area, and in the vicinity thereof, and in the exercise of its legislative discretion, have concluded that Allen Land Development Code Zoning Regulations and Zoning Map of the City of Allen, Texas, as previously amended, should be amended.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, THAT:

SECTION 1. The Allen Land Development Code Zoning Regulations and the Zoning Map of the City of Allen, Collin County, Texas, as previously amended, be further amended by amending relating to the development and use of Lot 1, Block 3, Millennium Business Park Addition, an addition to the City of Allen, Collin County, Texas, according to the plat thereof recorded in Cabinet J, Page 802, Plat Records, Collin County, Texas, and depicted in Exhibit “A,” attached hereto and incorporated herein by reference (“the Property”) by changing the zoning from Light Industrial “LI” to Planned Development “PD” No. 145 for Light Industrial “LI” subject to Section 2 of this Ordinance.

SECTION 2. The Property shall be developed and used in accordance with the applicable provisions of the Allen Land Development Code, as amended, (“ALDC”), except to the extent modified by the Development Regulations set forth below:

- A. **BASE ZONING DISTRICT:** The Property shall be developed and used in accordance with the use and development regulations of Light Industrial “LI” except as otherwise provided below.
- B. **CONCEPT PLAN:** The Property shall be developed in general conformance with the Concept Plan attached hereto as Exhibit “B” and incorporated herein by reference (the “Concept Plan”).
- C. **PERMITTED USES:** In addition to all uses otherwise permitted within the Light Industrial “LI” zoning district, the Property may be developed and used for the following additional purposes:
 - (1) Used Vehicle Sales;

- (2) Minor automotive repairs shall be permitted only within a building located on the Property, and shall be limited to include the following:
 - (a) paintless dent repair;
 - (b) minor repairs (e.g., bulb replacements, windshield wiper replacement, minor brake repairs);
 - (c) windshield replacement;
 - (d) wheel repairs;
 - (e) interior repairs; and
 - (f) other similar minor repairs needed to prepare a vehicle for re-sale; and
- (3) Cleaning and/or detailing of vehicles shall be permitted only within a building located on the Property.

D. VEHICLE DELIVERY AND STORAGE: Reclaimed or repossessed vehicles shall be driven individually to the Property; delivery of vehicles to the Property by a commercial vehicle hauler is prohibited. Overnight or extended term vehicle storage is limited to the interior portion of the building. Only vehicles owned by the owner of the Property, or to which the owner of the Property holds a lien in accordance with applicable provisions of the Texas Transportation Code, may be stored on the Property.

E. BUILDING ELEVATIONS: The building constructed on the Property shall be designed and constructed in general conformance with the Building Elevations attached hereto as Exhibit “C” and incorporated herein by reference (“Building Elevations”).

F. CONCEPTUAL LANDSCAPE PLAN: The landscaping improvements constructed on the Property shall be installed in general conformance with the Conceptual Landscape Plan attached hereto as Exhibit “D” and incorporated herein by reference (“Conceptual Landscape Plan”).

SECTION 3. To the extent of any irreconcilable conflict with the provisions of this Ordinance and other ordinances of the City of Allen governing the use and development of the Property and which are not expressly amended by this Ordinance, the provisions of this Ordinance shall be controlling.

SECTION 4. Should any word, sentence, paragraph, subdivision, clause, phrase or section of this Ordinance, or of the Allen Land Development Code Zoning Regulations, as amended hereby, be adjudged or held to be void or unconstitutional, the same shall not affect the validity of the remaining portions of said ordinance or the Allen Land Development Code Zoning Regulations, as amended hereby, which shall remain in full force and effect.

SECTION 5. An offense committed before the effective date of this Ordinance is governed by prior law and the provisions of the Allen Land Development Code Zoning Regulations, as amended, in effect when the offense was committed, and the former law is continued in effect for this purpose.

SECTION 6. Any person, firm or corporation violating any of the provisions or terms of this Ordinance shall be subject to the same penalty as provided for in Allen Land Development Code Zoning Regulations of the City of Allen, as previously amended, and upon conviction shall be punished by a fine not to exceed the sum of Two Thousand Dollars (\$2,000) for each offense.

SECTION 7. This Ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Charter of the City of Allen, and it is accordingly so ordained.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, ON THIS THE 24TH DAY OF AUGUST 2021.

APPROVED:

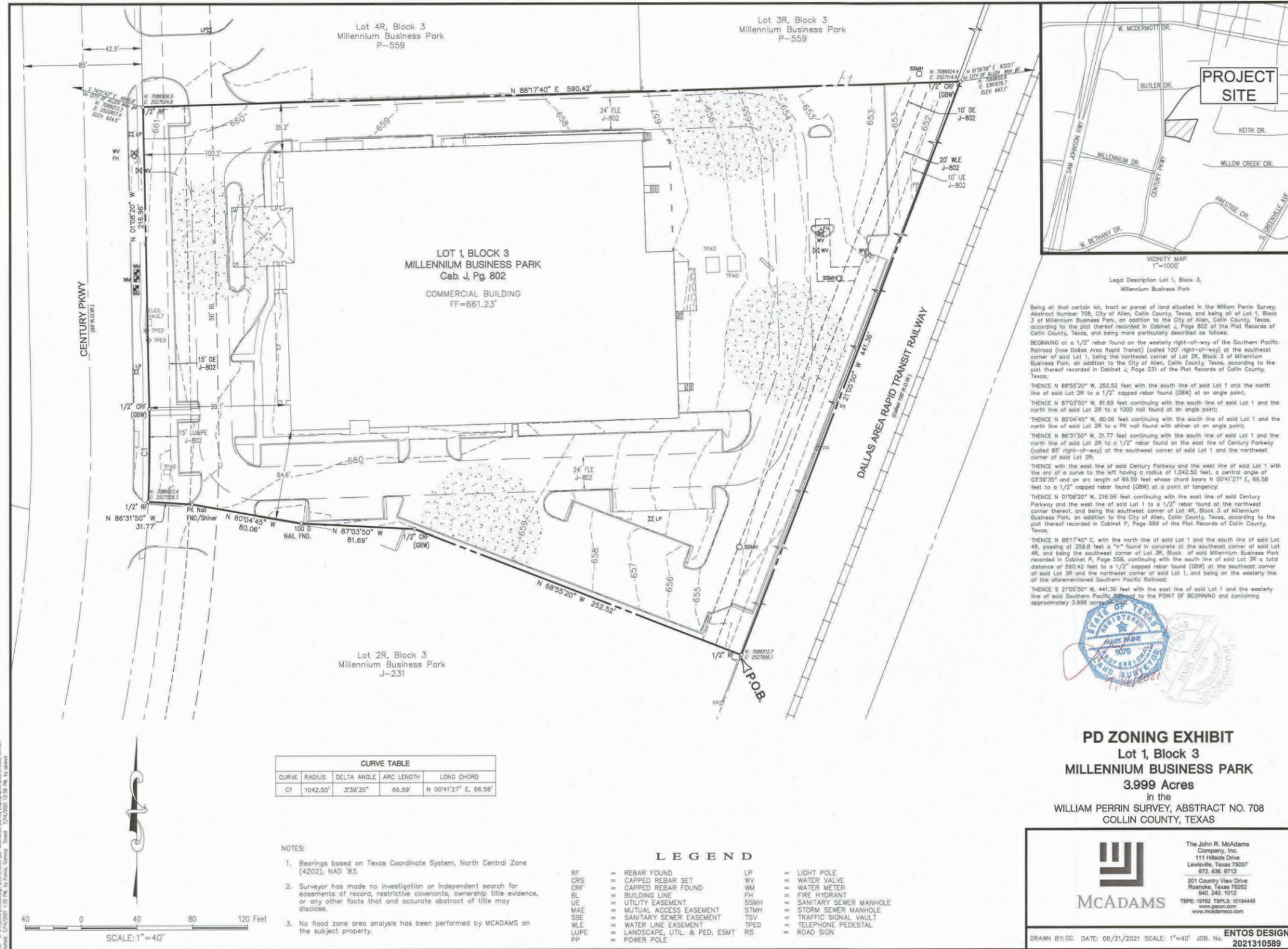
Kenneth M. Fulk, MAYOR

APPROVED AS TO FORM:

ATTEST:

Peter G. Smith, CITY ATTORNEY
(kbl:7/29/2021:123728)

Shelley B. George, TRMC, CITY SECRETARY



Being all that certain lot, tract or parcel of land situated in the William Perrin Survey, Abstract Number 708, City of Allen, Collin County, Texas, and being all of Lot 1, Block 3 of Millennium Business Park, an addition to the City of Allen, Collin County, Texas, according to the plat thereof recorded in Cabinet J, Page 802 of the Plat Records of Collin County, Texas, and being more particularly described as follows:

BEGINNING at a 1/2" rebar found on the westerly right-of-way of the Southern Pacific Railroad (now Dallas Area Rapid Transit) (called 100' right-of-way) at the southeast corner of said Lot 1, being the northeast corner of Lot 2R, Block 3 of Millennium Business Park, an addition to the City of Allen, Collin County, Texas, according to the plat thereof recorded in Cabinet J, Page 231 of the Plat Records of Collin County, Texas;

THENCE N 88°55'20" W, 252.52 feet with the south line of said Lot 1 and the north line of said Lot 2R to a 1/2" capped rebar found (GBW) at an angle point;

THENCE N 87°03'50" W, 81.69 feet continuing with the south line of said Lot 1 and the north line of said Lot 2R to a 1000' nail found at an angle point;

THENCE N 80°04'45" W, 80.06 feet continuing with the south line of said Lot 1 and the north line of said Lot 2R to a PK nail found with shiner at an angle point;

THENCE N 86°31'50" W, 31.77 feet continuing with the south line of said Lot 1 and the north line of said Lot 2R to a 1/2" rebar found on the east line of Century Parkway (called 85' right-of-way) at the southwest corner of said Lot 1 and the northwest corner of said Lot 2R;

THENCE with the east line of said Century Parkway and the west line of said Lot 1 with the arc of a curve to the left having a radius of 1,042.50 feet, a central angle of 03°39'30" and an arc length of 66.59 feet whose chord bears N 00°41'27" E, 66.58 feet to a 1/2" capped rebar found (GBW) at a point of tangency;

THENCE N 01°08'20" W, 216.96 feet continuing with the east line of said Century Parkway and the west line of said Lot 1 to a 1/2" rebar found at the northwest corner thereof, and being the southwest corner of Lot 4R, Block 3 of Millennium Business Park, an addition to the City of Allen, Collin County, Texas, according to the plat thereof recorded in Cabinet P, Page 559 of the Plat Records of Collin County, Texas;

THENCE N 88°17'40" E, with the north line of said Lot 1 and the south line of said Lot 4R, passing at 359.8 feet a "x" found in concrete at the southeast corner of said Lot 4R, and being the southwest corner of Lot 3R, Block 3 of said Millennium Business Park recorded in Cabinet P, Page 559, continuing with the south line of said Lot 3R a total distance of 590.42 feet to a 1/2" capped rebar found (GBW) at the southeast corner of said Lot 3R and the northeast corner of said Lot 1, and being on the westerly line of the aforementioned Southern Pacific Railroad;

THENCE S 1°05'50" W, 441.38 feet with the east line of said Lot 1 and the westerly line of said Southern Pacific Railroad to the POINT OF BEGINNING and containing approximately 3.999 acres.

| CURVE TABLE | | | | |
|-------------|----------|-------------|------------|-----------------------|
| CURVE | RADIUS | DELTA ANGLE | ARC LENGTH | LONG CHORD |
| C1 | 1042.50' | 3°39'35" | 66.59' | N 00°41'27" E, 66.58' |

- NOTES:**
- Bearings based on Texas Coordinate System, North Central Zone (4202), NAD '83.
 - Surveyor has made no investigation or independent search for easements of record, restrictive covenants, ownership title evidence, or any other facts that and accurate abstract of title may disclose.
 - No flood zone area analysis has been performed by MCADAMS on the subject property.

- LEGEND**
- RF = REBAR FOUND
 - CRS = CAPPED REBAR SET
 - CRF = CAPPED REBAR FOUND
 - BL = BUILDING LINE
 - UE = UTILITY EASEMENT
 - MAE = MUTUAL ACCESS EASEMENT
 - SSE = SANITARY SEWER EASEMENT
 - WLE = WATER LINE EASEMENT
 - LUPE = LANDSCAPE, UTIL. & PED. ESMT
 - PP = POWER POLE
 - LP = LIGHT POLE
 - WV = WATER VALVE
 - WM = WATER METER
 - FH = FIRE HYDRANT
 - SSMH = SANITARY SEWER MANHOLE
 - STMH = STORM SEWER MANHOLE
 - TSV = TRAFFIC SIGNAL VAULT
 - TPED = TELEPHONE PEDESTAL
 - RS = ROAD SIGN

PD ZONING EXHIBIT
Lot 1, Block 3
MILLENNIUM BUSINESS PARK
3.999 Acres
in the
WILLIAM PERRIN SURVEY, ABSTRACT NO. 708
COLLIN COUNTY, TEXAS

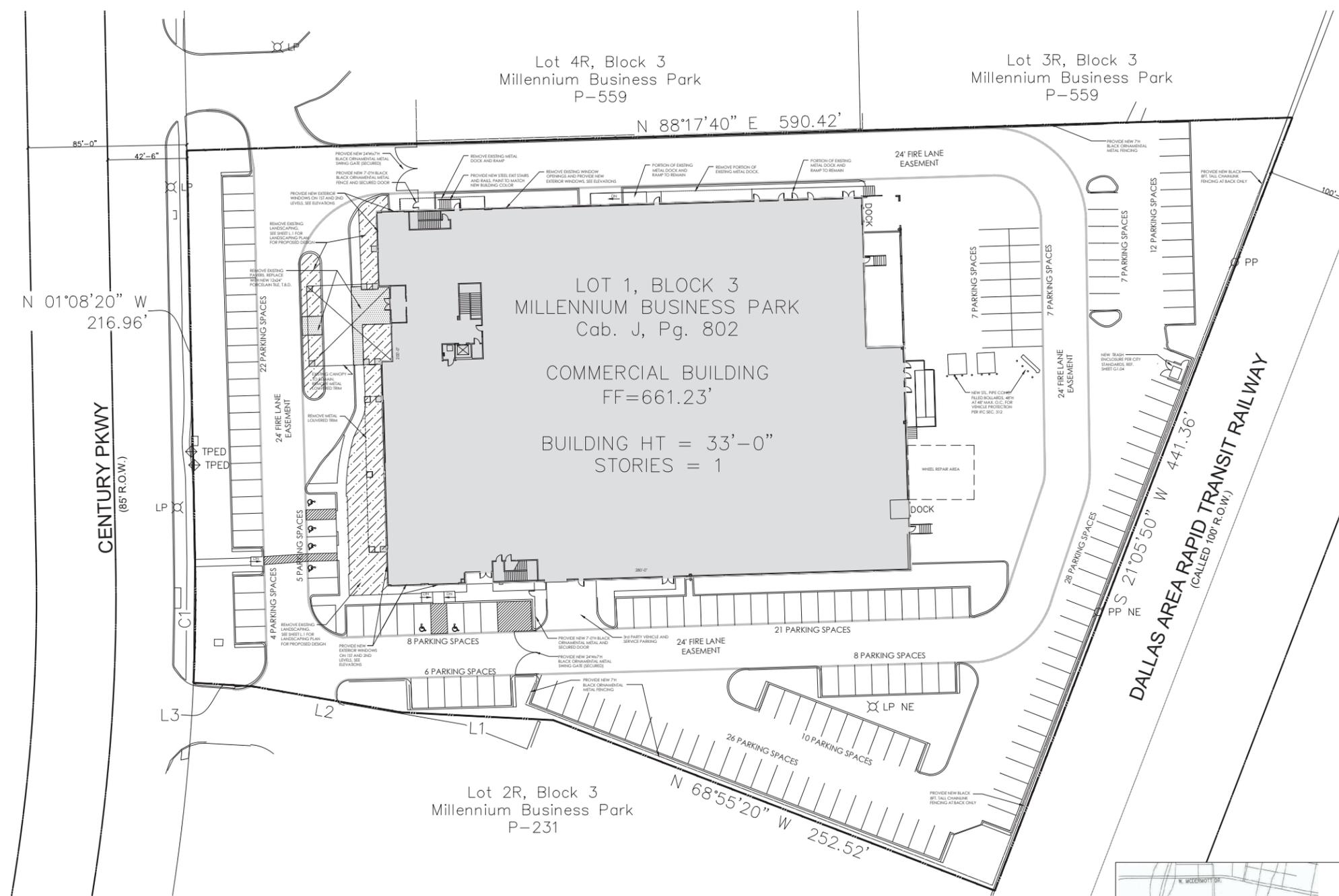
McADAMS

The John R. McAdams Company, Inc.
111 Hillside Drive
Lewisville, Texas 75057
972-436-9712
201 Country View Drive
Roanoke, Texas 75282
940-242-1012
TDRP-18782 TRPLS-10194440
www.gacon.com
www.mcadamsco.com

ENTOS DESIGN
2021310589

DRAWN BY: CC DATE: 06/21/2021 SCALE: 1"=40' JOB. No.

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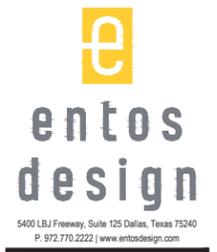
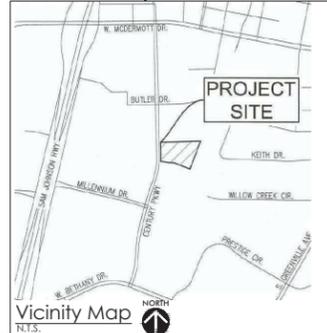
PREPARED BY: RT
CHECKED BY: RT

| SITE DATA TABLE | | | | | | | |
|--|--|------------------|-------------------------|------------------------|-------------------------------|--|-------------|
| ADDRESS | BUILDING FLOOR AREA (SF) | CURRENT ZONING | PROPOSED ZONING | PRIMARY STATE CODE | PROPERTY ID # / GEOGRAPHIC ID | LEGAL DESCRIPTION | SUBDIVISION |
| 415 CENTURY PARKWAY | 65,850 | LIGHT INDUSTRIAL | PD FOR LIGHT INDUSTRIAL | F2 (INDUSTRIAL - REAL) | 2023682 / R-3148-003-0010-1 | MILLENNIUM BUSINESS PARK, BLK 3, LOT 1 | S3148 |
| PROPOSED USE: OFFICE SHOWROOM/ WAREHOUSE | INTERIOR VEHICLE SALES, AS ANCILLARY USE | | | | | | |
| TOTAL SITE AREA | 4 ACRES (174,240 SQ. FT) | | | | | | |

| LANDSCAPING DATA TABLE | |
|---|----------------------|
| TOTAL AREA OF SITE | 4 ACRES |
| FLOOR AREA RATIO | 0.32 |
| REQUIRED LANDSCAPE AREA OF TOTAL SITE (MINIMUM) | 17,424 SQ. FT. (10%) |
| ACTUAL LANDSCAPED AREA OF TOTAL SITE | 22,586 SQ. FT. (13%) |

| PARKING SUMMARY | | | |
|------------------|--------------------------|---------------|------------------|
| USE | BUILDING FLOOR AREA (SF) | PARKING RATIO | REQUIRED PARKING |
| OFFICE | 38,790 | 300 | 130 |
| WAREHOUSE | 27,060 | 2000 | 14 |
| TOTAL | 65,850 | - | 144 |
| PARKING PROVIDED | - | - | 171 |

01 Concept Plan SCALE: 1" = 20'



5400 LBJ Freeway, Suite 125 Dallas, Texas 75240
P. 972.770.2222 | www.entosdesign.com

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Approved: _____ Date: _____

PD AMENDMENT CONCEPT PLAN
LOT 1, ZONE 3
MILLENNIUM BUSINESS PARK
3.999 ACRES

as per
WILLIAM FERRIN SURVEY, ABSTRACT No. 708
CITY OF ALLEN, COUSIN COUNTY
JULY 14, 2021

Rev. #1 (parking space count) 07/27/2021
SUP Review Comments 2 07/23/2021
SUP Review Comments 1 07/14/2021
For SUP Review #1 06/25/2021

No. Issued _____ Date _____

Credit Union of Texas

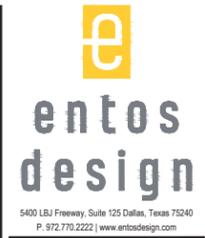
415 Century Pkwy
Allen, Texas 75013

Project ID: 18-1096-L005

Sheet Title
Concept Plan
PD/PD Amendment
Zoning Exhibit

Sheet Number
G1.01

CAUTION: IF THIS PRINT IS NOT 30" X 42" THEN IT IS A REDUCED PRINT



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Approved: _____ Date: _____

PD AMENDMENT CONCEPT PLAN
LOT 1, ZONE 3
MILLENNIUM BUSINESS PARK
3.999 ACRES
in the
WILLIAM FERREN SURVEY - ABSTRACT No. 708
CITY OF ALLEN, COLLIN COUNTY
JULY 14, 2021

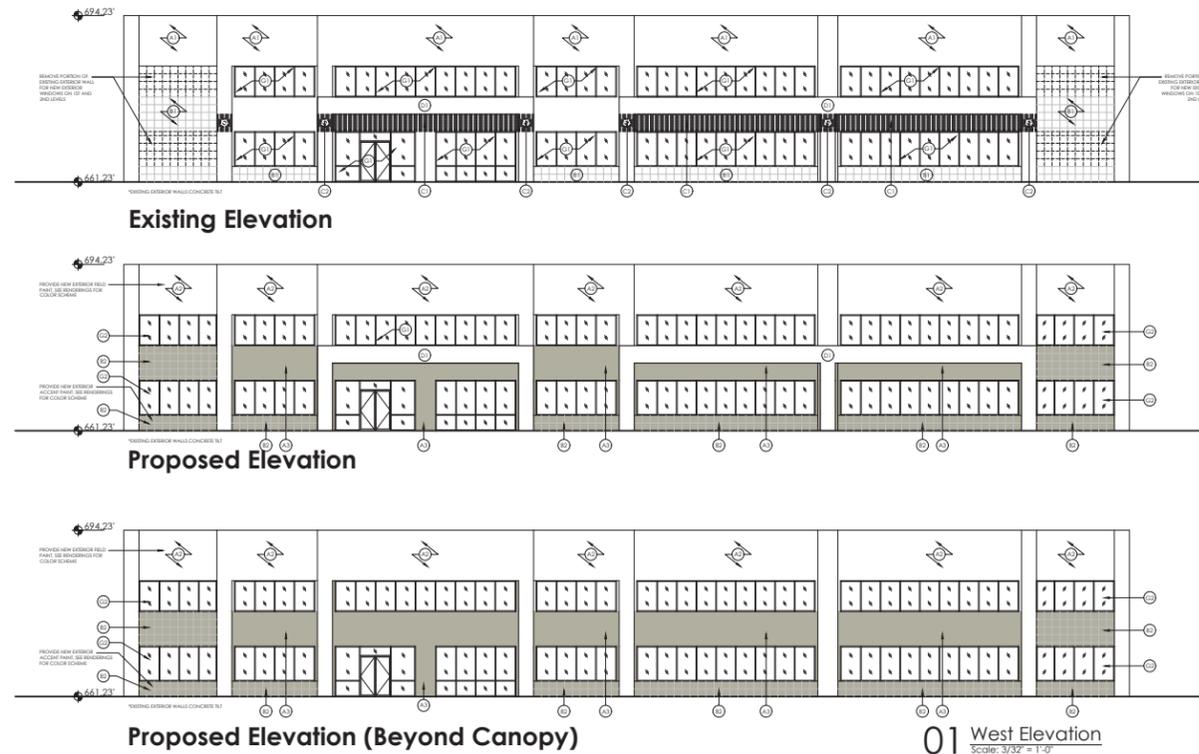
SUP Review Comments 1 07/14/2021
For SUP Review #1 06/05/2021
No. issued Date

Credit Union
of Texas
415 Century Pkwy
Allen, Texas 75013

Project ID: 18-1096-1005

Sheet Title
Exterior Elevations

Sheet Number
G1.02



BUILDING ELEVATION FINISH KEY LEGEND

- ⊙ EXISTING CONCRETE TILT WALL: WHITE PAINT.
- ⊙ EXISTING CONCRETE TILT WALL: NEW FIELD PAINT.
- ⊙ EXISTING CONCRETE TILT WALL: NEW ACCENT PAINT.
- ⊙ EXISTING CONCRETE TILT WALL WITH REVEAL GRID PATTERN: GRAY ACCENT PAINT.
- ⊙ EXISTING CONCRETE TILT WALL WITH REVEAL GRID PATTERN: NEW ACCENT PAINT.
- ⊙ EXISTING TUBULAR METAL SUNSCREEN: WHITE.
- ⊙ EXISTING TUBULAR METAL ACCENT MEDALLION: WHITE.
- ⊙ EXISTING CONCRETE COLUMN AND LINTEL ASSEMBLY: PAINT TO MATCH WALL.
- ⊙ EXISTING CHAIN-LINK SCREEN.
- ⊙ EXISTING HOLLOW METAL DOOR: PAINT.
- ⊙ EXISTING SECTIONAL OVERHEAD DOOR: PAINT.
- ⊙ EXISTING ALUMINUM FRAMED FENESTRATION.
- ⊙ NEW ALUMINUM FRAMED FENESTRATION.

| MATERIAL CALCULATIONS (WEST ELEVATION) | | | |
|--|---|-----------|------|
| KEY NOTE | MATERIAL | AREA (SF) | % |
| ⊙ | MASONRY - TEXTURED/ PAINTED CONCRETE TILT WALL | 3,672 | 54% |
| ⊙ | MASONRY - TEXTURED/ PAINTED GRID PATTERN CONCRETE TILT WALL | 636 | 9% |
| ⊙ | MASONRY - TEXTURED/ PAINTED CONCRETE COLUMN AND LINTEL ASSEMBLY | 2,536 | 37% |
| | TOTALS | 6,844 | 100% |



PREPARED BY: RT CHECKED BY: RT

01 West Elevation
Scale: 3/32" = 1'-0"

CAUTION: IF THIS PRINT IS NOT 30" X 42" THEN IT IS A REDUCED PRINT

Existing Elevation

Proposed Elevation

03 North Elevation
Scale: 3/32" = 1'-0"

Existing Elevation

Proposed Elevation

02 East Elevation
Scale: 3/32" = 1'-0"

Existing Elevation

Proposed Elevation

01 South Elevation
Scale: 3/32" = 1'-0"

MATERIAL CALCULATIONS (NORTH ELEVATION)

| KEY NOTE | MATERIAL | AREA (SF) | % |
|----------|---|-----------|------|
| Ⓞ | MASONRY - TEXTURED/ PAINTED CONCRETE TILT WALL | 8,392 | 97% |
| Ⓟ | MASONRY - TEXTURED/ PAINTED GRID PATTERN CONCRETE TILT WALL | 242 | 3% |
| TOTALS | | 8,634 | 100% |

MATERIAL CALCULATIONS (EAST ELEVATION)

| KEY NOTE | MATERIAL | AREA (SF) | % |
|----------|--|-----------|------|
| Ⓞ | MASONRY - TEXTURED/ PAINTED CONCRETE TILT WALL | 5,954 | 100% |
| TOTALS | | 5,954 | 100% |

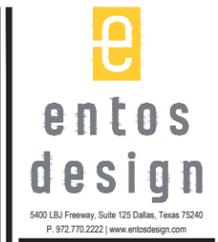
BUILDING ELEVATION FINISH KEY LEGEND

- Ⓞ EXISTING CONCRETE TILT WALL: WHITE PAINT.
- Ⓟ EXISTING CONCRETE TILT WALL: NEW FIELD PAINT.
- Ⓠ EXISTING CONCRETE TILT WALL: NEW ACCENT PAINT.
- Ⓡ EXISTING CONCRETE TILT WALL WITH REVEAL GRID PATTERN: GRAY ACCENT PAINT.
- Ⓢ EXISTING CONCRETE TILT WALL WITH REVEAL GRID PATTERN: NEW ACCENT PAINT.
- Ⓣ EXISTING TUBULAR METAL SUNSCREEN: WHITE.
- Ⓤ EXISTING TUBULAR METAL ACCENT MEDALLION: WHITE.
- Ⓥ EXISTING CONCRETE COLUMN AND LINTEL ASSEMBLY: PAINT TO MATCH WALL.
- Ⓦ EXISTING CHAIN-LINK SCREEN.
- Ⓧ EXISTING HOLLOW METAL DOOR: PAINT.
- Ⓨ EXISTING SECTIONAL OVERHEAD DOOR: PAINT.
- Ⓩ EXISTING ALUMINUM FRAMED FENESTRATION.
- ⓐ NEW ALUMINUM FRAMED FENESTRATION.

MATERIAL CALCULATIONS (SOUTH ELEVATION)

| KEY NOTE | MATERIAL | AREA (SF) | % |
|----------|---|-----------|------|
| Ⓞ | MASONRY - TEXTURED/ PAINTED CONCRETE TILT WALL | 8,118 | 94% |
| Ⓟ | MASONRY - TEXTURED/ PAINTED GRID PATTERN CONCRETE TILT WALL | 539 | 6% |
| TOTALS | | 8,657 | 100% |

PREPARED BY: RT
CHECKED BY: RT



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Approved: _____ Date: _____

PD AMENDMENT CONCEPT PLAN
LOT 1, ZONE 3
MILLENNIUM BUSINESS PARK
3.999 ACRES
in the
WILLIAM FERREN SURVEY, ABSTRACT NO. 708
CITY OF ALLEN, COULSON COUNTY
JULY 14, 2021

| No. | Issued | Date |
|-----|--------|------------|
| 1 | | 07/14/2021 |
| 2 | | 08/05/2021 |

Credit Union of Texas

415 Century Pkwy
Allen, Texas 75013

Project ID: 18-1096-L005
Sheet Title
Exterior Elevations
Sheet Number
G1.03

SECTION 02900 - LANDSCAPE

PART 1 - GENERAL

1.1 REFERENCED DOCUMENTS

Refer to bidding requirements, special provisions, and schedules for additional requirements.

1.2 DESCRIPTION OF WORK

Work included: Furnish all supervision, labor, materials, services, equipment and appliances required to complete the work covered in conjunction with the landscaping covered in these specifications and landscaping plans, including:

1. Planting (trees, shrubs, and grass)
2. Bed preparation and fertilization
3. Notification of sources
4. Water and Maintenance until final acceptance
5. Guarantee

1.3 REFERENCE STANDARDS

- A. American Standard for Nursery Stock published by American Association of Nurserymen: 27 October 1980. Edition by American National Standards Institute, Inc. (Z90.1) - plant material
- B. American Joint Committee on Horticultural Nomenclature: 1942 Edition of Standardized Plant Names
- C. Texas Association of Nurserymen, Grades and Standards.
- D. Harris Third, 1915 - Cornell University

1.4 NOTIFICATION OF SOURCES AND SUBMITTALS

- A. The Contractor shall, within ten (10) days following acceptance of bid, notify the Architect/Owner of the sources of plant materials and bed preparation required for the project.
- B. Samples: Provide representative quantities of sandy loam soil, mulch, bed mix material, gravel, and crushed stone. Samples shall be approved by Architect before use on project.
- C. Product Data: Submit complete product data and specifications on all other specified materials.
- D. Submit three representative samples of each variety of ornamental trees, shrubs, and groundcover plants for Architect's approval. When approved, tag, install, and maintain as representative samples for final installed plant materials.
- E. File Certificates of Inspection of plant material by state, county, and federal authorities with Architect, if required.
- F. Soil Analysis: Provide sandy loam soil analysis if requested by the Architect.

PART 3 - EXECUTION

3.1 BED PREPARATION & FERTILIZATION

- A. Landscape Contractor to inspect all existing conditions and report any deficiencies to the Owner.
- B. All planting areas shall be conditioned as follows:
 1. Prepare new planting beds by scraping away existing grass and weeds as necessary. Till existing soil to a depth of six (6") inches prior to placing compost and fertilizer. Apply fertilizer as per manufacturers recommendations. Add six (6") inches of compost and till into a depth of six (6") inches of the topsoil. Apply organic fertilizer such as Sustane or Green Series at the rate of twenty (20) pounds per one thousand (1,000) square feet.
 2. All planting areas shall receive a two (2") inch layer of specified mulch.
 3. Backfill for tree pits shall be as follows: Use existing top soil on site (use imported topsoil as needed) free from large clumps, rocks, debris, catclaw, subscale, etc., placed in nine (9") inch layers and watered in thoroughly.
- C. Grass Areas:
 1. Areas to be Solid Sod Bermudagrass: Blocks of sod should be laid joint to joint (staggered joints) after fertilizing the ground first. Roll grass areas to achieve a smooth, even surface. The joints between the blocks of sod should be filled with topsoil where they are evidently gaped open. Then watered thoroughly.
 2. Areas to be Hydromulch Common Bermudagrass: Hydromulch with bermudagrass seed at a rate of two (2) pounds per one thousand (1,000) square feet. Use a 4" x 8" batter board against the bed areas.

3.2 INSTALLATION

- A. Maintenance of plant materials shall begin immediately after each plant is delivered to the site and shall continue until all construction has been satisfactorily accomplished.
- B. Plant materials shall be delivered to the site only after the beds are prepared and area ready for planting. All shipments of nursery materials shall be thoroughly protected from the drying winds during transit. All plants which cannot be planted at once, after delivery to the site, shall be well protected against the possibility of drying by wind and sun. Balls of earth of B & B plants shall be kept covered with soil or other acceptable material. All plants remain the property of the Contractor until final acceptance.
- C. Position the trees and shrubs in their intended location as per plan.
- D. Notify the Landscape Architect for inspection and approval of all positioning of plant materials.
- E. Excavate pits with vertical sides and horizontal bottom. Tree pits shall be large enough to permit handling and planting without injury to balls of earth or roots and shall be of such depth that, when planted and settled, the crown of the plant shall bear the same relationship to the finish grade as it did to soil surface in original place of growth.

3.3 CLEANUP AND ACCEPTANCE

- A. Cleanup: During the work, the premises shall be kept neat and orderly at all times. Storage areas for all materials shall be so organized that they, too, are neat and orderly. All trash and debris shall be removed from the site as work progresses. Keep paved areas clean by sweeping or hosing at end of each days work.

END OF SECTION

JOB CONDITIONS

- A. General Contractor to complete the following punch list: Prior to Landscape Contractor installing any portion of landscape installation, General Contractor shall leave planting bed areas three (3) inches below finish grade of sidewalks, drives and curbs as shown on the drawings. All lean areas to receive solid sod shall be left one (1") inch below the finish grade of sidewalks, drives, and curbs. All construction debris shall be removed prior to Landscape Contractor beginning any work.
- B. General Contractor shall provide topsoil as described in Section 02200 - Earthwork.
- C. Storage of materials and equipment at the job site will be at the risk of the Landscape Contractor. The Owner cannot be held responsible for theft or damage.

1.6 MAINTENANCE AND GUARANTEE

- A. Maintenance:
 1. The Landscape Contractor will be held responsible for the maintenance of all work from the time of planting until final acceptance by the Owner. No trees, shrubs, groundcover or grass will be accepted unless they show a healthy growth and satisfactory foliage conditions.
 2. Maintenance shall include watering of trees and plants, cultivation, weeding, spraying, edging, pruning of trees, mowing of grass, cleaning up and all other work necessary of maintenance.
 3. A written notice requesting final inspection and acceptance should be submitted to the Owner at least seven (7) days prior to completion. An on-site inspection by Owner and Landscape Contractor will be completed prior to written acceptance.
 4. After final acceptance of installation, the Landscape Contractor will not be required to do any of the above listed work.
- B. Guarantee:
 1. Trees shall be guaranteed for a twelve (12) month period after acceptance. Shrubs and groundcover shall be guaranteed for twelve (12) months. The Contractor shall replace or dead material as soon as weather permits and upon notification of the Owner. Plants, including trees, which have partially died so that shape, size, or symmetry has been damaged, shall be considered subject to replacement. In such cases, the option of the Owner shall be final.
 - a. Plants used for replacement shall be of the same size and kind as those originally planted and shall be planted as originally specified. All work, including materials, labor and equipment used in replacements, shall carry a twelve (12) month guarantee. Any damage, including ruts in lawn or bed areas, incurred as a result of making replacements shall be immediately repaired.
 - b. At the direction of the Owner, plants may be replaced at the start of the next year's planting season. In such cases, dead plants shall be removed from the premises immediately.
 - c. When plant replacements are made, plants, soil mix, fertilizer and mulch are to be utilized as originally specified and reinspected for full compliance with Contract requirements. All replacements are to be included under "Work" of this section.

2. The Owner agrees that for the guarantee to be effective, he will water plants at least twice a week during dry periods and cultivate beds once a month after final acceptance.
3. The above guarantee shall not apply where plants die after acceptance because of injury from storms, hail, freeze, insects, diseases, injury by humans, machines or theft.
4. Acceptance for all landscape work shall be given after final inspection by the Owner provided the job is in a completed, undamaged condition, and there is a stand of grass in all lawn areas. At this time, the Owner will assume maintenance on the accepted work.

1.7 QUALITY ASSURANCE

- A. General: Comply with applicable Federal, State, County and Local regulations governing landscape materials and work.
- B. Personnel: Employ only experienced personnel who are familiar with the required work. Provide full time supervision by a qualified foreman acceptable to Landscape Architect.
- C. Selection of Plant Material:

1. Make contact with suppliers immediately upon obtaining notice of contract acceptance to select and book materials. Develop a program of maintenance (pruning and fertilization) which will insure the purchased materials will meet and/or exceed project specifications.
2. Landscape Architect will provide a key identifying each tree location on site. Written verification will be required to document material selection, source and delivery schedules to site.
3. Owner and/or Architect shall inspect all plant materials when reasonable at place of growth for compliance with requirements for genus, species, cultivar/variety, size and quality.
4. Owner and/or Architect retains the right to further inspect all plant material upon arrival at the site and during installation for size and condition of root balls, limbs, branching habits, insects, injuries, and latent defects.
5. Owner and/or Architect may reject unsatisfactory or defective material at any time during the process of work. Remove rejected materials from the site immediately. Plants damaged in transit or at job site shall be rejected.

1.8 PRODUCT DELIVERY, STORAGE AND HANDLING

- A. Preparation:
 1. Balled and Burlapped (BBB) Plants: Dig and prepare shipment in a manner that will not damage roots, branches, shape, and future development.
 2. Container Grown Plants: Deliver plants in rigid container to hold ball shape and protect root mass.

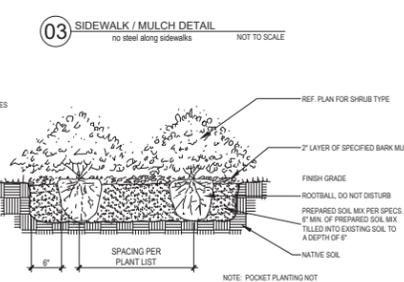
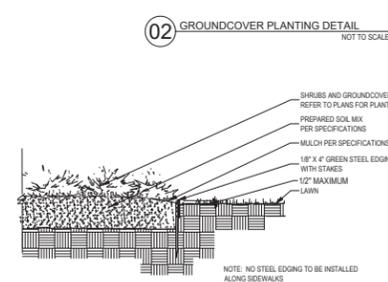
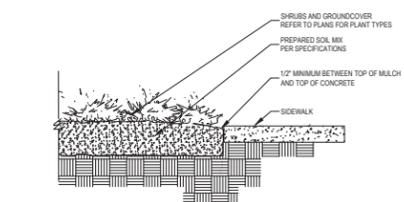
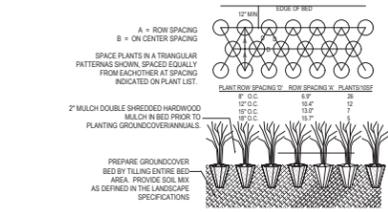
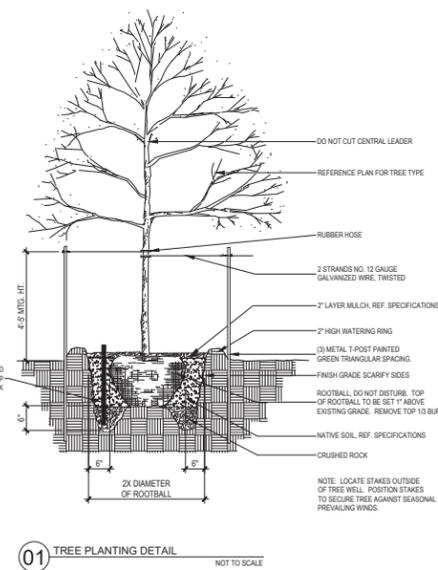
A. Delivery.

1. Deliver packaged materials in sealed containers showing weight, analysis and name of manufacturer. Protect materials from deterioration during delivery and while stored at site.
2. Deliver only plant materials that can be planted in one day unless adequate storage and watering facilities are available on job site.
3. Protect root balls by heeling in with sawdust or other approved moisture retaining material if not planted within 24 hours of delivery.
4. Protect plants during delivery to prevent damage to root balls or dissociation of leaves. Keep plants moist at all times. Cover all materials during transport.
5. Notify Architect of delivery schedule 72 hours in advance so plant material may be observed upon arrival at job site.
6. Remove rejected plant material immediately from site.
7. To avoid damage or stress, do not lift, move, adjust to plants, or otherwise manipulate plants by trunk or stems.

PART 2 - PRODUCTS

2.1 PLANTS

- A. General: Well-formed No. 1 grade or better nursery grown stock. Lotted plant heights are from tops of root balls to normal tops of plants. Plant spread refers to normal outer width of the plant, not to the outer leaf tips. Plants will be individually approved by the Architect and his decision as to their acceptability shall be final.
- B. Quantities: The drawings and specifications are complementary. Anything called for on one and not the other is as binding as if shown and called for on both. The plant schedule is an aid to bidders only. Confirm all quantities on plan.
- C. Quality and size: Plant materials shall conform to the size given on the plan, and shall be healthy, symmetrical, well-shaped, full branched, and well rooted. The plants shall be free from injurious insects, diseases, injuries to the bark or roots, broken branches, objectionable disfigurements, insect eggs and larvae and are to be of specimen quality.
- D. Approval: All plant materials shall be subject to the approval of the Owner. All plants which are found unsuitable in growth, or in any unhealthiness, badly shaped, or undersized condition, will be rejected by the Landscape Architect, either before or after planting, and shall be removed at the expense of the Landscape Contractor and replaced with acceptable plants as specified.
- E. Trees shall be healthy, full-branched, well-shaped and shall meet the trunk diameter and height requirements of the plant schedule. Balls shall be firm, neat, slightly tapered, and well wrapped in burlap. Any tree whose trunk is in the ball or with broken ball at time of planting will be rejected. Balls shall be ten (10") inches in diameter for each one (1") inch of trunk diameter. Measured six (6") inches above ball.
- F. Pruning: All pruning of trees and shrubs, as directed by the Landscape Architect, shall be executed by the Landscape Contractor at no additional cost to the Owner.



LANDSCAPE ARCHITECT
STUDIO GREEN SPOT, INC.
1333 W. McDERMOTT DR.
ALLEN, TEXAS 75013
(469) 369-4448
CHRIS@STUDIOGREENSPOT.COM



CREDIT UNION OF TEXAS
415 CENTURY PARKWAY
ALLEN, TEXAS

ISSUE:
FOR APPROVAL 06.21.2021

DATE:
06.21.2021

SHEET NAME:
LANDSCAPE SPECIFICATIONS

SHEET NUMBER:
L.2

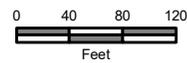


Location Map

Credit Union of Texas
415 Century Pkwy

Map Legend

-  Buffer
-  Subject Property
-  CollinCAD Parcels



Community Development - Planning

Date Saved: 6/2/2021



NOTE: This map is only for illustration purpose only, please contact the City of Allen Planning & Development Department for specific rules and regulations.

August 3, 2021 Planning and Zoning Commission Meeting Minutes

Conduct a Public Hearing and Consider a Request to Establish a Planned Development Zoning District with a Base Zoning of Light Industrial and to Adopt a Zoning Exhibit, Concept Plan, Landscape Plan, and Elevations for Lot 1, Block 3, Millennium Business Park, Generally Located on the east side of Century Parkway, approximately 525 feet south of the intersection of Century Parkway and Butler Drive (and Commonly Known as 415 Century Parkway). (ZN-062521-0009) [Credit Union of Texas].

Mr. Kurbansade, Director of Community Development, presented the item to the Commission.

Mr. Kurbansade stated that staff is in support of the agenda item.

Chair Trahan opened the public hearing.

Maxwell Fisher, Applicant, 2595 Dallas Parkway, Frisco, TX, and James Post, Applicant, 900 W. Bethany Dr. Allen, TX gave a brief presentation and overview of the project.

Chair Trahan mentioned receipt of the following letter in support of this item:

- Kenneth Shaw, 415 Century Parkway, Allen, TX

Chair Trahan closed the public hearing.

The Commission discussed the following:

- City enforcement of flatbed trucks and outside storage of vehicles inside fenced area;
- Potential functionality as an additional Credit Union of Texas branch; and
- Maximum car capacity inside the building.

Motion: **Upon a motion by Commissioner Shaikh, and a second by 1st Vice-Chair Platt, the Commission voted 4 IN FAVOR, and 0 OPPOSED to *recommend* approval of the request to establish a Planned Development Zoning District with a base zoning of Light Industrial and to adopt a Zoning Exhibit, Concept Plan, Landscape Plan, and Elevations for Lot 1, Block 3, Millennium Business Park, as presented.**

The motion carried.

ATTENDANCE:

Commissioners Present:

Ben Trahan, Chair
Stephen Platt, Jr., 1st Vice-Chair
Dan Metevier, 2nd Vice-Chair
Elias Shaikh

Commissioners Absent:

Jeff Burkhardt
John Ogrizovich
Michael Smiddy

DRAFT

CITY COUNCIL AGENDA COMMUNICATION

AGENDA DATE: August 24, 2021

SUBJECT: Conduct a Public Hearing and Adopt an Ordinance to Amend the Allen Land Development Code to Amend Section 6.03.2, "Private Clubs," and Section 6.03.5, "Restaurants with food and beverage certificates - Geographic Locations," by Allowing Drive-Through Service for Off-Premise Consumption of Alcoholic Beverages, and to Amend Section 6.06.11, "Solar Panels," to Amend Provisions Relating to Installation of Solar Panel Systems to Conform to State Law.

STAFF RESOURCE: Hayley Angel, Planning Manager

BOARD / COMMISSION ACTION: On August 3, 2021, the Planning and Zoning Commission voted 4 in favor (Commissioners Trahan, Platt, Metevier, and Shaikh) and 0 opposed to recommend approval of the request.

ACTION PROPOSED: Conduct a Public Hearing and Adopt an Ordinance to Amend the Allen Land Development Code to Amend Section 6.03.2, "Private Clubs," and Section 6.03.5, "Restaurants with food and beverage certificates - Geographic Locations," by Allowing Drive-Through Service for Off-Premise Consumption of Alcoholic Beverages, and to Amend Section 6.06.11, "Solar Panels," to Amend Provisions Relating to Installation of Solar Panel Systems to Conform to State Law.

BACKGROUND

The Allen Land Development Code (ALDC) is periodically amended to improve the effectiveness and efficiency of the Code, to address changing development trends and new technologies, and to make changes necessary for compliance with state and federal laws. The proposed changes with this set of amendments are in response to two bills from the recent legislative session.

Section 6.03.2, "Private Clubs," and Section 6.03.5, "Restaurants with food and beverage certificates - Geographic Locations," are being amended to allow for the pickup and delivery of alcoholic beverages for off-premise consumption in accordance with H.B. 1024.

Section 6.06.11, "Solar Panels," is being amended to remove regulations that restrict or prohibit the installation of a solar energy device by a residential customer in accordance with S.B. 398.

Attached is a redline of the proposed amendments. The proposed amendments have gone through a review process with participation from the City Attorney as well as other City staff.

On August 3, 2021, the Planning and Zoning Commission voted in favor of this request.

LEGAL NOTICES

Newspaper Notice - July 15, 2021

STAFF RECOMMENDATION

Staff recommends approval.

MOTION

I make a motion to adopt Ordinance No. _____ to amend the Allen Land Development Code.

ATTACHMENTS:

Ordinance

ALDC Amendments Strikeout Underline

Draft Minutes for the August 3, 2021 Planning and Zoning Meeting

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, AMENDING THE ALLEN LAND DEVELOPMENT CODE, AS AMENDED, BY AMENDING ASECTION 6.03.2 “PRIVATE CLUBS – OPERATIONAL REGULATIONS” SECTION 6.03.5 “RESTAURANTS WITH FOOD AND BEVERAGE CERTIFICATES—GEOGRAPHIC LOCATIONS” TO CONFORM SAID SECTIONS TO AMENDMENTS IN STATE LAW RELATING TO THE SERVICE OF ALCHOLIC BEVERAGES “TO-GO” BY HOLDERS OF A FOOD AND BEVERAGE CERTIFICATE; AMENDING SECTION 6.06.11 “SOLAR PANELS” TO ELIMINATE REGULATIONS PRE-EMPTED BY STATE LAW; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND (\$2,000.00) DOLLARS FOR EACH OFFENSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Commission and the governing body of the City of Allen, Texas, in compliance with the laws of the State of Texas and the Ordinances of the City of Allen, Texas, have given the requisite notices by publication and otherwise, and after holding due hearings and affording a full and fair hearing to all persons interested and in the exercise of its legislative discretion, the City Council has concluded that the Allen Land Development Code Zoning Regulations of the City of Allen, Texas, as previously amended, should be further amended as follows.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, THAT:

SECTION 1. Article VI “Special Zoning Provisions” of the Allen Land Development Code, is amended as follows:

A. Section 6.03.2 “Private Clubs – Operational Regulations” is amended to read as follows:

Sec. 6.03.2. - Private clubs—Operational regulations.

1. A private club that holds a private club registration permit and a food and beverage certificate pursuant to Chapter 32 of the Texas Alcoholic Beverage Code may provide service of alcoholic beverages from a drive-in window, curb service, or drive-through service for off-premise consumption only in accordance with Section 32.155 of the Texas Alcoholic Beverage Code.
2. Except as provided in paragraph 3, below, a private club shall only provide inside service of alcoholic beverages for on-premise consumption.
3. A private club may serve alcoholic beverages on the exterior of a restaurant provided such service occurs in an attached patio or garden area accessible by customers only from the main dining area of the restaurant.
4. The private club operator shall maintain a valid state license for the sale of alcoholic beverages.

B. Section 6.03.5 “Restaurants with Food and Beverage Certificates—Geographic Locations” is amended to read as follows:

Sec. 6.03.5. - Restaurants with food and beverage certificates—Geographic locations.

1. Restaurants may serve alcohol for on-site consumption by right if they are located on property that was within the city limits as of May 15, 2004. For restaurants located on property that was annexed after May 15, 2004, a private club specific use permit (SUP) must be obtained for the ability to serve alcohol.
2. Restaurants holding a mixed beverage permit with a food and beverage certificate pursuant to Chapter 28 of the Texas Alcoholic Beverage Code may provide service of alcoholic beverages from a drive-in window, curb service, or drive-through service for off-premise consumption only in accordance with Section 28.1001 of the Texas Alcoholic Beverage Code.
3. Restaurants are permitted by right as indicated in section 4.20.2.
4. Restaurant/private clubs will be allowed to continue operation as before May 15, 2004, with the same rules in effect at that time.
5. The following distance separation criteria are effective for restaurants serving alcoholic beverages holding a food and beverage certificate:
 - a. Cannot locate closer than 300 feet to a church or hospital. The measurement of the distance between the place of business where alcoholic beverages are sold and the church or public hospital shall be along the property lines of the street fronts and from front door to front door, and in direct line across intersections.
 - b. Cannot locate closer than 300 feet to a school (public or private). The measurement of the distance between the place of business where alcoholic beverages are sold and the public or private school shall be:
 - i. In a direct line from the property line of the public or private school to the property line of the place of business, and in a direct line across intersections; or
 - ii. If the permit or license holder is located on or above the fifth story of a multistory building, in a direct line from the property line of the public or private school to the property line of the place of business, in a direct line across intersections, and vertically up the building at the property line to the base of the floor on which the permit or license holder is located.
6. The distance separation criteria set forth in section 6.03.5.5 shall not apply to a restaurant located on property within the prohibited areas described in section 6.03.5.5 if:
 - a. The restaurant is classified as a "restaurant (no drive-in or through)" or "restaurant (with drive-through)" as defined in Appendix A;
 - b. The applicant for a permit or license from the Texas Alcoholic Beverage Commission to serve alcoholic beverages on such property obtains and delivers to the city a letter signed by an officer of the school (whether public or private), church, or hospital located within the prohibited distance consenting to the location of a restaurant serving alcoholic beverages with a food and beverage certificate on the property identified, said letter including identifying the property to which the exception is to apply and containing a representation that the officer signing the letter is fully authorized to act on behalf of the school, church, or hospital and its governing body when signing and delivering said letter of consent to the city; and

- c. The applicant who obtained the letter required by paragraph b. of this section 6.03.5 obtains a license or permit to sell alcoholic beverages on the property on or before the 180th day after the date said letter was signed.

Subject to the provisions of V.T.C.A., Alcoholic Beverage Code § 109.59, as amended, the exception granted in accordance with this section 6.03.5 shall terminate if the license or permit from the Texas Alcoholic Beverage Commission to serve alcoholic beverages in the establishment on the property to which the exception applied expires or is terminated. Nothing in this section 6.03.5 shall be construed as prohibiting the city council from exercising its discretion to grant a variance to the provisions of section 6.03.5 as authorized by V.T.C.A., Alcoholic Beverage Code § 109.33(e).

C. Section 6.06.11 “Solar Panels” is amended to read as follows:

Sec. 6.06.11. - Solar panels.

An applicant's submittal for a building permit, and electrical permit, for locating a solar panel within the city must demonstrate compliance with the following standards.

1. *Permit requirements.* All solar panel systems shall comply with the current adopted International Building Code and International Fire Code, as amended.
2. *Maintenance.* The owner of the property with a solar panel system shall maintain the system so that it does not create a safety issue for surrounding property owners. Solar panels that are not in use shall be disengaged so as to prevent accidental electrical charges to property or persons.

SECTION 2. In the event of an irreconcilable conflict between the provisions of another previously adopted ordinance of the City of Allen and the provisions of this Ordinance, the provisions of this Ordinance shall be controlling

SECTION 3. Should any word, sentence, paragraph, subdivision, clause, phrase or section of this Ordinance, or of the Allen Land Development Code Zoning Regulations, as amended hereby, be adjudged or held to be void or unconstitutional, the same shall not affect the validity of the remaining portions of said ordinance or the Allen Land Development Code Zoning Regulations, as amended hereby, which shall remain in full force and effect.

SECTION 4. An offense committed before the effective date of this Ordinance is governed by prior law and the provisions of the Allen Land Development Code Zoning Regulations, as amended, in effect when the offense was committed, and the former law is continued in effect for this purpose.

SECTION 5 Any person, firm or corporation violating any of the provisions or terms of this Ordinance shall be subject to the same penalty as provided for in Allen Land Development Code Zoning Regulations of the City of Allen, as previously amended, and upon conviction shall be punished by a fine not to exceed the sum of Two Thousand Dollars (\$2,000) for each offense.

SECTION 6. This Ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Charter of the City of Allen, and it is accordingly so ordained.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, ON THIS THE 24TH DAY OF AUGUST 2021.

APPROVED:

Kenneth M. Fulk, MAYOR

APPROVED AS TO FORM:

ATTEST:

Peter G. Smith, CITY ATTORNEY
(kbl:7/29/2021:123831)

Shelley B. George, TRMC, CITY SECRETARY

Sec. 6.03. - Private clubs and businesses with alcoholic beverage sales.

...

Sec. 6.03.2. - Private clubs—Operational regulations.

1. A private club [that holds a private club registration permit and a food and beverage certificate pursuant to Chapter 32 of the Texas Alcoholic Beverage Code](#) may ~~not~~ provide service of alcoholic beverages from a drive-in window, curbside service, or drive-through service ~~of any kind for off-premise consumption only in accordance with Section 32.155 of the Texas Alcoholic Beverage Code.~~
2. Except as provided in paragraph 3, below, a private club shall only provide inside service of alcoholic beverages [for on-premise consumption.](#)
3. A private club may serve alcoholic beverages on the exterior of a restaurant provided such service occurs in an attached patio or garden area accessible by customers only from the main dining area of the restaurant.
4. The private club operator shall maintain a valid state license for the sale of alcoholic beverages.

...

Sec. 6.03.5. - Restaurants with food and beverage certificates—Geographic locations.

1. Restaurants may serve alcohol for on-site consumption by right if they are located on property that was within the city limits as of May 15, 2004. For restaurants located on property that was annexed after May 15, 2004, a private club specific use permit (SUP) must be obtained for the ability to serve alcohol.
2. [Restaurants holding a mixed beverage permit with a food and beverage certificate pursuant to Chapter 28 of the Texas Alcoholic Beverage Code may provide service of alcoholic beverages from a drive-in window, curbside service, or drive-through service for off-premise consumption only in accordance with Section 28.1001 of the Texas Alcoholic Beverage Code.](#)
- ~~2.3.~~ Restaurants are permitted by right as indicated in section 4.20.2.
- ~~3.4.~~ Restaurant/private clubs will be allowed to continue operation as before May 15, 2004, with the same rules in effect at that time.
- ~~4.5.~~ The following distance separation criteria are effective for restaurants serving alcoholic beverages holding a food and beverage certificate:
 - a. Cannot locate closer than 300 feet to a church or hospital. The measurement of the distance between the place of business where alcoholic beverages are sold and the church or public hospital shall be along the property lines of the street fronts and from front door to front door, and in direct line across intersections.
 - b. Cannot locate closer than 300 feet to a school (public or private). The measurement of the distance between the place of business where alcoholic beverages are sold and the public or private school shall be:
 - i. In a direct line from the property line of the public or private school to the property line of the place of business, and in a direct line across intersections; or
 - ii. If the permit or license holder is located on or above the fifth story of a multistory building, in a direct line from the property line of the public or private school to the property line of the place of business, in a direct line across intersections, and vertically up the building at the property line to the base of the floor on which the permit or license holder is located.
- ~~5.6.~~ The distance separation criteria set forth in section 6.03.5.4 shall not apply to a restaurant located on property within the prohibited areas described in section 6.03.5.4 if:

- a. The restaurant is classified as a "restaurant (no drive-in or through)" or "restaurant (with drive-through)" as defined in appendix A;
- b. The applicant for a permit or license from the Texas Alcoholic Beverage Commission to serve alcoholic beverages on such property obtains and delivers to the city a letter signed by an officer of the school (whether public or private), church, or hospital located within the prohibited distance consenting to the location of a restaurant serving alcoholic beverages with a food and beverage certificate on the property identified, said letter including identifying the property to which the exception is to apply and containing a representation that the officer signing the letter is fully authorized to act on behalf of the school, church, or hospital and its governing body when signing and delivering said letter of consent to the city; and
- c. The applicant who obtained the letter required by paragraph b. of this section 6.03.5.5 obtains a license or permit to sell alcoholic beverages on the property on or before the 180th day after the date said letter was signed.

Subject to the provisions of V.T.C.A., Alcoholic Beverage Code § 109.59, as amended, the exception granted in accordance with this section 6.03.5.5 shall terminate if the license or permit from the Texas Alcoholic Beverage Commission to serve alcoholic beverages in the establishment on the property to which the exception applied expires or is terminated. Nothing in this section 6.03.5.5 shall be construed as prohibiting the city council from exercising its discretion to grant a variance to the provisions of section 6.03.5.4 as authorized by V.T.C.A., Alcoholic Beverage Code § 109.33(e).

...

Sec. 6.06.11. - Solar panels.

An applicant's submittal for a building permit, and electrical permit, for locating a solar panel within the city must demonstrate compliance with the following standards.

~~1. Location and design requirements.~~

~~a. Solar panel systems shall be allowed as an accessory use in all zoning districts.~~

~~b. Rooftop installations.~~

~~i. Solar panels may be installed on the roof of any primary structure or permitted accessory structure (such as a patio cover or storage building), subject to verification of structural load requirements.~~

~~ii. Solar panel systems shall not directly face any public street regardless of screening.~~

~~iii. Roof mounted solar panel systems shall not extend past the roofline and shall be mounted parallel with the existing slope of the roof system.~~

~~iv. On a flat roof, solar panels shall not exceed the height requirement for the zoning district in which it is located, and shall be screened as rooftop mechanical from the public right of way as required by this Code.~~

~~c. Ground mounted installations.~~

- ~~i. Solar panel systems shall be located behind the front building line and shall meet all applicable building setback provisions for accessory structures.~~
- ~~ii. Panels and equipment shall be separated from public view on all sides by a solid fence or wall.~~

~~2. Additional requirements.~~

1. *Permit requirements.* All solar panel systems shall be in compliance with the current adopted International Building Code and International Fire Code, as amended.
 - ~~a. *Glare.* A solar panel shall be designed and located to avoid glare or reflection onto adjacent properties and adjacent roadways and shall not interfere with traffic or create a safety hazard. A solar panel system, or any component thereof, that creates glare or reflection onto adjacent properties or roadways is determined to constitute a nuisance. If a solar panel system or any component thereof is deemed to constitute a nuisance or a safety hazard, the city has the authority to require the owner to remove, redesign or screen the solar panels to the extent necessary to eliminate the glare onto the adjacent property or roadway.~~
2. *Maintenance.* The owner of the property with a solar panel system shall maintain the system so that it does not create a safety issue for surrounding property owners. Solar panels that are not in use shall be disengaged so as to prevent accidental electrical charges to property or persons.

August 3, 2021 Planning and Zoning Commission Meeting Minutes

Conduct a Public Hearing and Consider the Proposed Amendments to the Allen Land Development Code to Amend Section 6.03.2, "Private Clubs," and Section 6.03.5, "Restaurants with food and beverage certificates - Geographic Locations," by Allowing Drive-Through Service for Off-Premise Consumption of Alcoholic Beverages, and to Amend Section 6.06.11, "Solar Panels," to Amend Provisions Relating to Installation of Solar Panel Systems to Conform to State Law. [State Law Updates].

Ms. Angel, Planning Manager, presented the item to the Commission.

Ms. Angel stated that staff is in support of the agenda item.

Chair Trahan opened the public hearing.

With no one speaking, Chair Trahan closed the public hearing.

The Commission discussed the effective dates of the state laws.

Motion: **Upon a motion by 2nd Vice-Chair Metevier, and a second by Commissioner Shaikh, the Commission voted 4 IN FAVOR, and 0 OPPOSED to recommend approval of the proposed amendments to the Allen Land Development Code.**

The motion carried.

ATTENDANCE:

Commissioners Present:

Ben Trahan, Chair
Stephen Platt, Jr., 1st Vice-Chair
Dan Metevier, 2nd Vice-Chair
Elias Shaikh

Commissioners Absent:

Jeff Burkhardt
John Ogrizovich
Michael Smiddy