# CITY OF THE COLONY
# CITY COUNCIL AGENDA
# TUESDAY, DECEMBER 7, 2021
# 6:30 PM

## TO ALL INTERESTED PERSONS

Notice is hereby given of a **REGULAR SESSION of the CITY COUNCIL** of the City of The Colony, Texas to be held at **6:30 PM** on **TUESDAY, DECEMBER 7, 2021** at **CITY HALL, 6800 MAIN ST., THE COLONY, TX,** at which time the following items will be addressed:

***1 ROUTINE ANNOUNCEMENTS, RECOGNITIONS AND PROCLAMATIONS***

1.1 Call to Order

1.2 Invocation

1.3 Pledge of Allegiance to the United States Flag

1.4 Salute to the Texas Flag

1.5 Recognize the Sutton Creek Channel Sewer Reconstruction Project for receiving Public Works Environmental Project of the Year from the Texas Chapter of the American Public Works Association at their annual conference. (Hartline)

1.6 Recognize members of The Colony Police and Fire Department Honor Guards for their contributions to the 20th Anniversary of the September 11th World Trade Center attack this year at the Firehouse #4 9/11 Memorial Park. (Thompson)

1.7 Recognize members of The Colony Community Center for recent artistic contributions to the facility decor. (Holland)

1.8 2021 Arbor Day Proclamation (Council)

1.9 Items of Community Interest

1.10 Receive presentation from Parks and Recreation regarding upcoming events and activities. (Stansell)

***2 CITIZEN INPUT***

*This portion of the meeting is to allow up to five (5) minutes per speaker with a maximum of thirty (30) minutes for items not posted on the current agenda. The council may not discuss these items, but may respond with factual data or policy information, or place the item on a future agenda. Those wishing to speak shall submit a Request Form to the City Secretary.*

***3 WORK SESSION***

*The Work Session is for the purpose of exchanging information regarding public business or policy. No action is taken on Work Session items. Citizen input will not be heard during this portion of the agenda.*

3.1 Receive a presentation from The Colony Roadrunners Club regarding the 2021 The Colony Half Marathon. (Shallenburger)

3.2 Special presentations acknowledging former Mayor Joe McCourry and Council member Place 1 Kirk Mikulec. (Council)

3.3 Council to provide direction to staff regarding future agenda items. (Council)

## *4 CONSENT AGENDA*

*The Consent Agenda contains items which are routine in nature and will be acted upon in one motion. Items may be removed from this agenda for separate discussion by a Council member.*

4.1 Consider approving City Council Special Session meeting minutes for November 15, 2021 and Regular Session meeting minutes for November 16, 2021. (Stewart)

4.2 Consider approving a resolution authorizing the City Manager to execute a Professional Services Contract with Dunkin Sims Stoffels Inc. in the amount of $63,250.00 for Kids Colony Splash Park Phase 2, with funding from the Community Development Corporation. (Morgan)

4.3 Consider approving a resolution authorizing the City Manager to issue a purchase order in the amount of $96,508.39 to TORO for the purchase of two grass mowers and an infield groomer for Parks and Recreation. (Kopsa)

4.4 Consider approving a resolution authorizing the City Manager to issue a purchase order in the amount of $ 123,126.60 to Rush Truck Center for the purchase of an F-550 Bucket Truck. (Hartline)

4.5 Consider approving a resolution authorizing the City Manager to execute an amendment to Impact Fee Waiver Agreement and Amended and Restated Development Agreement with TMGN 121, LLC and LUNACROSSING, LTD to modify contract language and combine waived fees for two previous agreements that were signed with the city. (Hartline)

4.6 Consider approving a resolution authorizing the City Manager to execute an Engineering Services Contract in the amount of $ 48,180.00 with Halff Associates, Inc. to prepare construction plans and specifications for the North Colony Boulevard Pedestrian Hybrid Beacon Project. (Hartline)

## *5 REGULAR AGENDA ITEMS*

5.1 Discuss and consider approving a resolution authorizing the City Manager to execute any and all necessary documentation reflecting to participate in the proposed Opioid Settlements brought by the State of Texas and other Jurisdictions against various pharmaceutical companies for their roles in the National Opioid Crisis. (Council)

5.2 Discuss and consider an ordinance regarding the Site Plan application of “Building E,” for an approximately 27,438 square-foot building for indoor “commercial amusement” within Area 5 of the Lifestyle Center at Grandscape. The subject site is located southwest of the southwest intersection of

Destination Drive and Grandscape Boulevard within the Planned Development 25 (PD-25). (Williams)

5.3 Discuss and receive direction regarding the installation of a dedicated right turn lane from West Lake Highlands Boulevard to FM 423 from the Eastvale Subdivision. (Hartline)

5.4 Consider approving an ordinance amending the budget adding a project to the approved Fiscal Year 2021-2022 GF Capital Projects Fund in the amount of $238,000.00 for engineering design and construction services for the West Lake Highlands Right Turn Lane Project. (Hartline)

5.5 Discuss and consider approving the City Council meeting schedule for 2022. (Council)

5.6 Discuss and elect Mayor Pro Tem and Deputy Mayor Pro Tem according to the Code of Ordinances, Chapter 2, Section 2-4 (b). (Council)

5.7 Discuss and consider making appointments to the Tax Increment Reinvestment Zone Number One Board of Directors. (Council)

5.8 Discuss and consider appointing a member of the Tax Increment Reinvestment Zone Number One Board of Directors to serve as Chairman for a one-year term. (Council)

5.9 Discuss and consider making appointments to the Tax Increment Reinvestment Zone Number Two Board of Directors. (Council)

5.10 Discuss and consider appointing a member of the Tax Increment Reinvestment Zone Number Two Board of Directors as Chairman for a one year term. (Council)

5.11 Discuss and consider making appointments to the Local Development Corporation Board of Directors. (Council)

5.12 Discuss and consider appointing a member of the Local Development Corporation Board of Directors to serve as Chairman for a one-year term. (Council)

5.13 Discuss and consider making appointments to the Hotel Development Corporation Board of Directors. (Council)

5.14 Discuss and consider appointing a member to the Hotel Development Corporation Board of Directors to serve as Chairman for a one-year term. (Council)

5.15 Discuss and consider rescheduling or canceling the December 21, 2021 City Council meeting (Observance of Christmas) and provide direction to staff (Council)

5.16 Discuss and consider making appointments to Council committees and appoint liaisons to the various Council appointed boards. (Council)

## *6 EXECUTIVE SESSION*

6.1 A. Council shall convene into a closed executive session pursuant to Section 551.071 of the Texas

Government Code to seek legal advice from the city attorney regarding hotel project and Chapter 1205 declaratory judgment action concerning the City's receipt of certain state tax revenues, including the state's sales and use tax, hotel occupancy tax, mixed beverage taxes, and related matters.

B. Council shall convene into a closed executive session pursuant to Section 551.072 of the Texas Government Code to deliberate the purchase, exchange, lease, or value of real property.

C. Council shall convene into a closed executive session pursuant to Section 551.074 of the TEXAS GOVERNMENT CODE to deliberate the appointment, evaluation, reassignment, discipline, or dismissal of a Library Board member.

***7 EXECUTIVE SESSION ACTION***

7.1 A. Any action as a result of executive session regarding hotel project and Chapter 1205 declaratory judgment action concerning the City's receipt of certain state tax revenues, including the state's sales and use tax, hotel occupancy tax, mixed beverage taxes, and related matters.

B. Any action as a result of executive session regarding the purchase, exchange, lease, or value of real property.

C. Any action as a result of executive session regarding the appointment, evaluation, reassignment, discipline, or dismissal of a Library Board member.

***EXECUTIVE SESSION NOTICE***

*Pursuant to the Texas Open Meeting Act, Government Code Chapter 551 one or more of the above items may be considered in executive session closed to the public, including but not limited to consultation with attorney pursuant to Texas Government Code Section 551.071 arising out of the attorney's ethical duty to advise the city concerning legal issues arising from an agenda item. Any decision held on such matter will be taken or conducted in open session following the conclusion of the executive session.*

***ADJOURNMENT***

*Persons with disabilities who plan to attend this meeting who may need auxiliary aids such as interpreters for persons who are deaf or hearing impaired, readers or, large print are requested to contact the City Secretary's Office, at 972-624-3105 at least two (2) working days prior to the meeting so that appropriate arrangements can be made.*

***CERTIFICATION***

*I hereby certify that above notice of meeting was posted outside the front door of City Hall by 5:00 p.m. on the ___ day of __________, 2017.*

______________________________________

*Tina Stewart, TRMC, City Secretary*

Agenda Item No:1.5

# CITY COUNCIL Agenda Item Report

Meeting Date: December 7, 2021
Submitted by: Ron Hartline
Submitting Department: Engineering
Item Type: Discussion
Agenda Section:

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**Subject:**
Recognize the Sutton Creek Channel Sewer Reconstruction Project for receiving Public Works Environmental Project of the Year from the Texas Chapter of the American Public Works Association at their annual conference. (Hartline)

**Suggested Action:**
See attached project award submission for additional details.

**Attachments**:
Project Award.pdf

# 2021 APWA
## PROJECT OF THE YEAR

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**SUTTON CREEK CHANNEL SEWER RECONSTRUCTION PROJECT**

THE COLONY
City by the Lake

HALFF®

# 2021 APWA
## PROJECT OF THE YEAR

### SUTTON CREEK CHANNEL SEWER RECONSTRUCTION PROJECT

| | |
|---|---|
| Name of Client: | The City of The Colony |
| Name of Firm: | Halff Associates, Inc. |
| Project Category: | Environment |
| Division: | Projects of less than $2 million |
| Construction Period: | September 2019 to June 2020 |
| Construction Cost: | $869,556.25 |

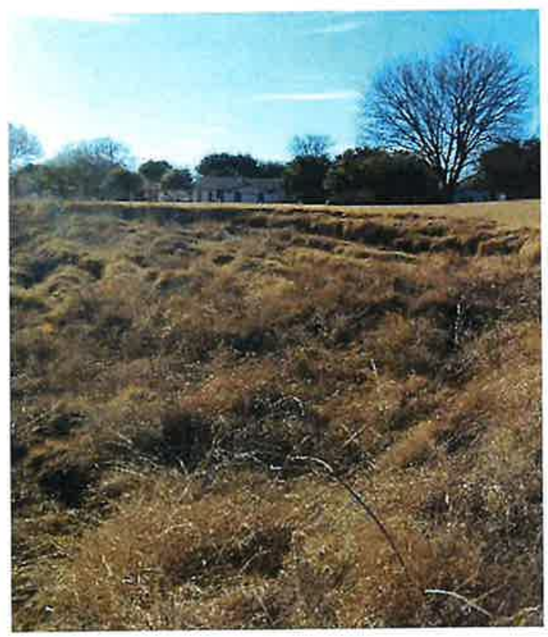
## BACKGROUND

As early as 2016, The City of the Colony staff began noticing erosion on the Sutton Creek channel as it approached the crossing of FM 423. As the area continued to erode, it exposed a 12-inch sanitary sewer transmission main. This line served the neighborhoods north of South Colony Boulevard.

As City staff assessed the situation, heavy rains caused a global slope failure, resulting in a significant drop-off almost immediately behind Good Shepherd Lutheran Church.

The public interest was to protect the sanitary sewer main, but a secondary concern was the potential damage to the structure of the church. Since the church property was unfenced, neighborhood children also used the large open space behind the church as a play area.

If these issues were not addressed, the erosion problems could have led to the exposure, movement and/or damage of the City-owned 12-inch wastewater trunk line and manholes located in the creek area behind the church.



*Examples of slope failure behind Good Shepherd Lutheran Church*

## PLANNING AND DESIGN

Halff Associates Inc. was selected to develop a design solution to address the issues. The close proximity of the church necessitated obtaining permission from Church leadership to enter the property and access the worst parts of the erosion. Therefore, an early decision was made to partner with the Church.

Halff's solution was to build a soldier wall on the south side of Sutton Creek. This would allow for the relocation of the sanitary sewer line behind the soldier wall to protect the line from future erosion and stabilize the bank and private property.


*Project constraints*

## CONSTRUCTION

Construction began in September 2019. Western Municipal Construction of Texas LLC was awarded the contract to build the improvements. The initial phase of the project called for erecting a cofferdam and then setting up bypass pumps for stormwater. The next phase included constructing the soldier wall and new sanitary sewer line.

Once the new sanitary sewer line was completed, flow was diverted to the new line. The old line was partially removed where it was exposed, while the portion that was buried was abandoned in place.

The final phase involved armoring Sutton Creek and restoration. During the erosion control repair, the City also corrected a slope failure problem for a neighboring yard across the creek from the church to prevent property damage to that private property.

*Form liners for soldier wall*

*Backfilling completed soldier wall*

## SPECIAL CHALLENGES

Since the slope failures were located on private property and within the flow line of the existing creek, coordination between the City and the Church personnel for access to the site was critical. No equipment could utilize the existing church parking lot, so an access point had to be constructed so equipment could maneuver to the site without driving on the existing parking lot.

The City also had to obtain the required easements for the City-owned 12-inch wastewater trunk line from the Church. Having a strong relationship with Church leaders led to a successful working relationship. Construction meetings were held at the church and having a pastor at the meetings even led to more civil conversations during the usual conflicts that happen on a major construction project.

## SUCCESSES

Church leadership was very happy with completion of the project. The Church can now utilize more of its property for activities, and the area was sloped flat enough that it could still be mowed. The area is safe, and the church building is no longer in danger of being damaged from slope failures.

The City-owned 12-inch wastewater trunk line is now relocated and is safe from exposure and failure from the past slope erosion issues. In addition to the original scope of work, a slope failure problem for a neighboring yard across the creek from the church was corrected, which prevented property damage to that family's private property.

Another success realized is with the established erosion protection, the City believes there will be less silt/suspended solids in the stream, which will improve water quality in Lake Lewisville, directly downstream of this location.

Safety was on point as well throughout the construction phase. No accidents were reported to the City by the contractor.

*Construction of new north-south drainage channel connecting to Sutton Creek*

## LESSONS LEARNED

The project prompted City staff members to walk all of the creek areas within City limits and to identify similar existing erosion problems and stormwater issues. City staff developed a list of identified areas that will need to be corrected for future capital improvement projects using available stormwater funding.

## POST CONSTRUCTION

Church members now feel safe walking and playing in the area that was corrected with this project. Neighborhood children are once more playing in the open field. The city has a new functioning sanitary sewer line that is now protected from erosion for the foreseeable future.

*Final construction*

Agenda Item No:1.6

# CITY COUNCIL Agenda Item Report

Meeting Date: December 7, 2021
Submitted by: Shannon Stephens
Submitting Department: Fire
Item Type: Recognition
Agenda Section:

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**Subject:**
Recognize members of The Colony Police and Fire Department Honor Guards for their contributions to the 20th Anniversary of the September 11th World Trade Center attack this year at the Firehouse #4 9/11 Memorial Park. (Thompson)

**Suggested Action:**

**Attachments**:

# CITY COUNCIL Agenda Item Report

Meeting Date: December 7, 2021
Submitted by: David Swain
Submitting Department: Parks & Recreation
Item Type: Recognition
Agenda Section:

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**Subject:**
Recognize members of The Colony Community Center for recent artistic contributions to the facility decor. (Holland)

**Suggested Action:**

**Attachments**:

# CITY COUNCIL Agenda Item Report

Meeting Date: December 7, 2021
Submitted by: Eve Morgan
Submitting Department: Parks & Recreation
Item Type: Proclamation
Agenda Section:

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**Subject:**
2021 Arbor Day Proclamation (Council)

**Suggested Action:**

**Attachments**:
TX ArborDayPresentation.pdf

# *MAYORAL PROCLAMATION*

***WHEREAS,*** *in 1872, J. Sterling Morton proposed to the Nebraska Board of Agriculture that a special day be set aside for the planting of trees; and,*

***WHEREAS,*** *the holiday, called "Arbor Day", was first observed with the planting of more than a million trees in Nebraska; and,*

***WHEREAS,*** *Arbor Day is now celebrated nationwide around the world; and,*

***WHEREAS,*** *trees can reduce the erosion of our precious topsoil by wind and water, lower our heating and cooling costs, moderate the temperature, clean the air, produce oxygen, and provide habitat for wildlife; and,*

***WHEREAS,*** *trees are a renewable resource giving us paper and wood for our homes, fuel for our fires, and countless other wood products; and,*

***WHEREAS,*** *trees in our city increase property values, enhance the economic vitality of our business areas, and beautify our community; and,*

***WHEREAS,*** *trees, wherever they are planted, provide a source of joy and spiritual renewal.*

***NOW, THEREFORE,*** *I, Richard Boyer, Mayor of The Colony, Texas, do hereby proclaim Tuesday, December 7, 2021 as*

## *ARBOR DAY*

*in the City of The Colony, and I encourage all citizens and businesses to join me in the celebration thereof and to support efforts to protect our trees and woodlands, by preserving both the natural and urban forest and by planting trees in our communities to promote the well-being of this and all future generations.*

***SIGNED AND SEALED this 7th day of December, 2021.***

*Richard Boyer, Mayor*
*City of The Colony, Texas*

***ATTEST:***

Tina Stewart, TRMC, City Secretary

Agenda Item No:1.9

# CITY COUNCIL Agenda Item Report

Meeting Date: December 7, 2021
Submitted by:
Submitting Department: City Secretary
Item Type: Miscellaneous
Agenda Section:

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**Subject:**
Items of Community Interest

**Suggested Action:**

**Attachments**:

# CITY COUNCIL Agenda Item Report

Meeting Date: December 7, 2021
Submitted by: Lindsey Stansell
Submitting Department: Parks & Recreation
Item Type: Announcement
Agenda Section:

**Subject:**
Receive presentation from Parks and Recreation regarding upcoming events and activities. (Stansell)

**Suggested Action:**

**Attachments**:

Agenda Item No:3.1

# CITY COUNCIL Agenda Item Report

Meeting Date: December 7, 2021
Submitted by: Brant Shallenburger
Submitting Department: General Admin
Item Type: Presentation
Agenda Section:

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**Subject:**
Receive a presentation from The Colony Roadrunners Club regarding the 2021 The Colony Half Marathon. (Shallenburger)

**Suggested Action:**

**Attachments**:

Agenda Item No:3.2

# CITY COUNCIL Agenda Item Report

Meeting Date: December 7, 2021
Submitted by: Tina Stewart
Submitting Department: City Secretary
Item Type: Recognition
Agenda Section:

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**Subject:**
Special presentations acknowledging former Mayor Joe McCourry and Council member Place 1 Kirk Mikulec. (Council)

**Suggested Action:**

**Attachments**:

Agenda Item No:3.3

# CITY COUNCIL Agenda Item Report

Meeting Date: December 7, 2021
Submitted by:
Submitting Department: City Secretary
Item Type: Miscellaneous
Agenda Section:

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**Subject:**
Council to provide direction to staff regarding future agenda items. (Council)

**Suggested Action:**

**Attachments**:

Agenda Item No:4.1

# CITY COUNCIL Agenda Item Report

Meeting Date: December 7, 2021
Submitted by:
Submitting Department: City Secretary
Item Type: Minutes
Agenda Section:

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**Subject:**
Consider approving City Council Special Session meeting minutes for November 15, 2021 and Regular Session meeting minutes for November 16, 2021. (Stewart)

**Suggested Action:**

**Attachments**:
November 15, 2021 Special Session DRAFT Minutes.doc

November 16, 2021 DRAFT Minutes.docx

**MINUTES OF CITY COUNCIL SPECIAL SESSION**
**HELD ON**
**NOVEMBER 15, 2021**

**The Special Session of the City Council of the City of The Colony, Texas, was called to order at 6:30 p.m. on the 15th day of November, 2021, at City Hall, 6800 Main Street, The Colony, Texas, with the following roll call:**

| | | |
|---|---|---|
| Joe McCourry | Mayor | Present |
| Kirk Mikulec | Deputy Mayor Pro Tem | Absent (Business) |
| Richard Boyer | Mayor Pro Tem | Present |
| Brian Wade | Councilmember | Present |
| David Terre | Councilmember | Absent (Business) |
| Perry Schrag | Councilmember | Absent (Business) |
| Joel Marks | Councilmember | Present |

And with 4 council members present a quorum was established and the following items were addressed in this meeting remotely via videoconference.

**1. CALL TO ORDER**
*Mayor McCourry called the meeting to order at 6:30 p.m.*

**2. CANVASS THE ELECTION**
2.1 Discuss and consider approving an ordinance canvassing the returns and declaring the results of an election held on Tuesday, November 2, 2021, for the purpose of electing three (3) councilmembers for said city; providing the candidate for Mayor, Place 1 and Place 2 elected to office.
*Mayor McCourry read excerpts from the canvassing ordinance of the General Election held on November 2, 2021.*

***Motion to approve- Marks; second by Wade, motion carried with all ayes.***

**ORDINANCE NO. 2021-2454**

**3. ADJOURN**
*With there being no further business to discuss the meeting adjourned at 6:32 p.m.*

**APPROVED:**

______________________________
Joe McCourry, Mayor
City of The Colony

**ATTEST:**

______________________________

Tina Stewart, TRMC, CMC, City Secretary

**MINUTES OF THE CITY COUNCIL REGULAR SESSION HELD ON NOVEMBER 16, 2021**

**The Regular Session of the City Council of the City of The Colony, Texas, was called to order at 7:01 p.m. on the 16th day of November 2021, at City Hall, 6800 Main Street, The Colony, Texas, with the following roll call:**

| | |
|---|---|
| Joe McCourry, Mayor | Present |
| Kirk Mikulec, Deputy Mayor Pro Tem | Present |
| Richard Boyer, Mayor Pro Tem | Present |
| Brian Wade, Councilmember | Present |
| David Terre, Councilmember | Present |
| Perry Schrag, Councilmember | Absent (Business) |
| Joel Marks, Councilmember | Present |
| Judy Ensweiler, Councilmember | Present |
| Robyn Holtz, Councilmember | Present |

And with 8 council members present a quorum was established and the following items were addressed:

***1.0 ROUTINE ANNOUNCEMENTS, RECOGNITIONS and PROCLAMATIONS***

1.1 Call to Order
*Mayor McCourry called the meeting to order at 7:01 p.m.*

1.2 Invocation
*Councilman Terre delivered the invocation.*

1.3 Pledge of Allegiance to the United States Flag
*The Pledge of Allegiance to the United States Flag was recited.*

1.4 Salute to the Texas Flag
*Salute to the Texas Flag was recited.*

1.5 Items of Community Interest

***2.0 OATH OF OFFICE***

2.1 Oath of Office for elected City Council members of Mayor, Place1 and Place 2.
*City Secretary, Tina Stewart, administered the Oath of Office to Richard Boyer, Judy Ensweiler and Robyn Holtz.*

*Former Mayor Joe McCourry and Councilmember Kirk Mikulec left the meeting.*

***3.0 CITIZEN INPUT***
*None*

[1] These items are strictly public service announcements. Expressions of thanks, congratulations or condolences; information regarding holiday schedules; honorary recognition of city officials, employees or other citizens; reminders about upcoming **events sponsored by the City or other entity that are scheduled to be attended by a city official or city employee. No action will** be taken and no direction will be given regarding these items.

### *4.0 WORK SESSION*

4.1 Discuss and provide direction to staff regarding the City Boards and Commissions Annual Banquet.
*Council provided discussion on this item and directed staff to move forward in planning this event.*

4.2 Council to provide direction to staff regarding future agenda items.
*None*

### *5.0 CONSENT AGENDA*

***Motion to approve all items from the Consent Agenda with the exception of Agenda Item 5.3 for separate consideration- Wade; second by Marks, motion carried with all ayes.***

5.1 Consider approving City Council Regular Session meeting minutes for November 3, 2021.

5.2 Consider approving Adam Venable's resignation from Keep The Colony Beautiful Board.

*****ITEM REMOVED FROM AGENDA FOR SEPARATE CONSIDERATION*****

5.3 Consider approving Richard Ensweiler's resignation from the Economic Development Corporation Board.

***Motion to approve- Terre; second by Marks, motion carried with all ayes with abstention from Councilwoman Ensweiler.***

5.4 Consider approving a resolution casting the city's votes for David Terre to serve on the Denton Central Appraisal District Board of Directors for a two-year term beginning January 1, 2022.

**RESOLUTION NO. 2021-076**

5.5 Consider approving a resolution authorizing the Mayor to execute an Interlocal Agreement with Denton County for Library Services.

**RESOLUTION NO. 2021-077**

***6.0 REGULAR AGENDA ITEMS***

6.1 Discuss and consider an ordinance regarding a Site Plan application for the Live Oak Logistics Center, Phase IIA, Lot 2, Block A, a multi-building commercial development located on an approximately 46.66 acre tract of land, west of the northwest intersection of F.M. 423 (Main Street) and Memorial Drive, within the Planned Development 19 (PD-19) and Gateway Overlay District.
*Senior Planner, Isaac Williams, presented the proposed ordinance to Council. Mr. Williams provided an overview on various development phases outlining land use buffering, parking, landscaping, overall phasing and timing of infrastructure and utilities conceptually inflected in the amendments to Planned Development-19 (PD-19). The Development Review Committee finds the proposed ordinance meets the requirements of the Zoning Ordinance where applicable. On October 26, 2021, the Planning and Zoning Commission voted 5-1 to approve the proposed ordinance.*

***Motion to approve- Ensweiler; second by Holtz, motion carried with all ayes.***

**ORDINANCE NO. 2021-2455**

6.2 Discuss and consider approving a resolution authorizing the City Manager to execute a Construction Services Contract in the amount of $210,880.80 with URETEC USA, Inc. for the Avondale Court and Kennoway Drainage Improvement Projects.
*Director of Engineering, Ron Hartline, presented the proposed resolution to Council.*

***Motion to approve- Marks; second by Ensweiler, motion carried with all ayes.***

**RESOLUTION NO. 2021-078**

*Executive Session was convened at 7:40 p.m.*

***7.0 EXECUTIVE SESSION***

7.1. A. Council shall convene into a closed executive session pursuant to Section 551.071 of the Texas Government Code to receive legal advice on the Open Meetings Act rules and requirements.

*Regular Session was reconvened at 8:25 p.m.*

***8.0 EXECUTIVE SESSION ACTION***

8.1 A. Any action as a result of executive session regarding the legal advice on the Open Meetings Act rules and requirements.
*No Action*

***ADJOURNMENT***
*With there being no further business to discuss the meeting adjourned at 8:26 p.m.*

**APPROVED:**

___________________________________
Richard Boyer, Mayor
City of The Colony

**ATTEST:**

___________________________________
Tina Stewart, TRMC, CMC
City Secretary

Agenda Item No:4.2

# CITY COUNCIL Agenda Item Report

Meeting Date: December 7, 2021
Submitted by: Tina Stewart
Submitting Department: Parks & Recreation
Item Type: Resolution
Agenda Section:

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**Subject:**
Consider approving a resolution authorizing the City Manager to execute a Professional Services Contract with Dunkin Sims Stoffels Inc. in the amount of $63,250.00 for Kids Colony Splash Park Phase 2, with funding from the Community Development Corporation. (Morgan)

**Suggested Action:**

**Attachments**:
Kids Colony Splash Park Phase 2 Professional Services Agreement wit Exhibits.pdf

Res. 2021-xxx Kids Colony Splash Park Phase 2 Professional Services Agreement wit Exhibits.doc

| | | |
|---|---|---|
| **STATE OF TEXAS** | **§** | **CITY OF THE COLONY, TEXAS** |
| | **§** | **AGREEMENT FOR PROFESSIONAL SERVICES** |
| **COUNTY OF DENTON** | **§** | |

This Agreement for Professional Services ("Agreement") is made by and between the City of The Colony, Texas, a municipal corporation located in Denton County, Texas ("City"), and DUNKIN SIMS STOFFELS, INC ("Professional") (individually, each a "Party" and collectively, "Parties"), acting by and through the Parties' authorized representatives.

**Recitals:**

**WHEREAS**, City desires to engage the services of Professional as an independent contractor and not as an employee in accordance with the terms and conditions set forth in this Agreement; and

**WHEREAS**, Professional desires to render professional services for City for KID'S COLONY SPLASH PARK PHASE II ("Project") in accordance with the terms and conditions set forth in this Agreement.

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

## Article I
## <u>Employment of Professional</u>

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

## Article II
## <u>Term</u>

2.1 The term of this Agreement shall begin on the last date of execution hereof by all parties hereto (the "Effective Date") and shall continue until completion of the services provided by Professional to City under this Agreement.

2.2 Professional may terminate this Agreement by giving thirty (30) days prior written notice to City. In the event of such termination by Professional, Professional shall be entitled to compensation for services satisfactorily completed in accordance with this Agreement prior to the date of such termination.

2.3 City may terminate this Agreement by giving ten (10) days prior written notice to Professional. In the event of such termination by City, Professional shall be entitled to compensation for services satisfactorily completed in accordance with this Agreement prior to the date of such termination. Upon receipt of such notice from City, Professional shall immediately terminate working on, placing orders or entering into contracts for supplies, assistance, facilities or materials in connection with this Agreement and shall proceed to promptly cancel all existing contracts insofar as they are related to this Agreement.

**Article III**
**Scope of Services**

3.1 Professional shall perform the services specifically set forth in **Exhibit A**, attached hereto and incorporated herein by reference, entitled "Scope of Services". In case of conflict with the language of **Exhibit A** and the provisions of this Agreement, the provisions of this Agreement shall control.

3.2 The Parties acknowledge and agree that any and all opinions provided by Professional represent the best judgment of Professional.

3.3 Schematic Design Documents, Design Development Documents, Contract Documents, Drawings, Plans, Specifications and other documents, including those in electronic form, prepared by Professional and its consultants, agents, representatives, and/or employees in connection with the Project ("Project Documents") are intended for the use and benefit of City. Professional and its consultants, agents, representatives, and/or employees shall be deemed the authors of their respective part of said Project Documents. Notwithstanding the foregoing, City shall own, have, keep and retain all rights, title and interest in and to all Project Documents, including all ownership, common law, statutory, and other reserved rights, including copyrights, in and to all such Project Documents, whether in draft form or final form, which are produced at City's request and in furtherance of this Agreement or for the Project. City shall have full authority to authorize contractor(s), subcontractors, sub-subcontractors, City consultants, and material or equipment suppliers to reproduce applicable portions of the Project Documents to and for use in their execution of the work or for any other purpose. All materials and reports prepared by Professional in connection with this Agreement are "works for hire" and shall be the property of City. Professional shall, upon completion of the services provided under this Agreement, or upon earlier termination of this Agreement, provide City with reproductions of all materials, reports, and exhibits prepared by Professional pursuant to this Agreement, and shall provide same in electronic format if requested by City. Any re-use of the Project Documents by the City on any other project not contemplated or included under this Agreement shall be at the City's sole risk, without liability to Professional.

**Article IV**
**Schedule of Work**

4.1 Professional agrees to commence services upon written direction from City and to complete the tasks set forth in **Exhibit A**, Scope of Services, in accordance with a work schedule established by City (the "Work Schedule"), which is attached hereto and incorporated as **Exhibit C**.

4.2 In the event Professional's performance of this Agreement is delayed or interfered with by acts of City or others, Professional may request an extension of time for the performance of same as hereinafter provided, and City shall determine whether to authorize any increase in fee or price, or to authorize damages or additional compensation as a consequence of such delays, within a reasonable time after receipt of Professional's request.

4.3 No allowance of any extension of time, for any cause whatsoever, shall be claimed or made by Professional, unless Professional shall have made written request upon City for such extension not later than five (5) business days after the occurrence of the cause serving as the basis for such extension request, and unless City and Professional have agreed in writing upon the allowance of such additional time.

## Article V
## Compensation and Method of Payment

5.1 City shall pay Professional for the services specifically as set forth in **Exhibit B** by payment of a fee not to exceed **$63,250.00**.

5.2 Each month Professional shall submit to City an invoice supporting the amount for which payment is sought. Each invoice shall also state the percentage of work completed on the Project through the end of the then submitted billing period, the total of the current invoice amount, and a running total balance for the Project to date.

5.3 Within thirty (30) days of receipt of each such monthly invoice, City shall make monthly payments in the amount shown by Professional's approved monthly invoice and other documentation submitted.

5.4 Professional shall be solely responsible for the payment of all costs and expenses related to the services provided pursuant to this Agreement including, but not limited to, travel, copying and facsimile charges, reproduction charges, and telephone, internet, e-mail, and postage charges, except as set forth in **Exhibit A**.

5.5 Nothing contained in this Agreement shall require City to pay for any services that is unsatisfactory as determined by City or which is not performed in compliance with the terms of this Agreement, nor shall failure to withhold payment pursuant to the provisions of this section constitute a waiver of any right, at law or in equity, which City may have if Professional is in default, including the right to bring legal action for damages or for specific performance of this Agreement. Waiver of any default under this Agreement shall not be deemed a waiver of any subsequent default.

## Article VI
## Devotion of Time, Personnel, and Equipment

6.1 Professional shall devote such time as reasonably necessary for the satisfactory performance of the services under this Agreement. City reserves the right to revise or expand the scope of services after due approval by City as City may deem necessary, but in such event City shall pay Professional compensation for such services at mutually agreed upon charges or rates, and within the time schedule prescribed by City, and without decreasing the effectiveness of the performance of services required under this Agreement. In any event, when Professional is directed to revise or expand the scope of services under this Agreement, Professional shall provide City a written proposal for the entire costs involved in performing such additional services. Prior to Professional undertaking any revised or expanded services as directed by City under this Agreement, City must authorize in writing the nature and scope of the services and accept the method and amount of compensation and the time involved in all phases of the Project.

6.2 It is expressly understood and agreed to by Professional that any compensation not specified in this Agreement may require approval by the City Council of the City of The Colony and may be subject to current budget year limitations.

6.3 To the extent reasonably necessary for Professional to perform the services under this Agreement, Professional shall be authorized to engage the services of any agents, assistants, persons, or corporations that Professional may deem proper to aid or assist in the performance of the services under this Agreement. The cost of such personnel and assistance shall be borne exclusively by Professional.

6.4 Professional shall furnish the facilities, equipment, telephones, facsimile machines, email facilities, and personnel necessary to perform the services required under this Agreement unless otherwise provided herein.

## Article VII
## <u>Relationship of Parties</u>

7.1 It is understood and agreed by and between the Parties that in satisfying the conditions and requirements of this Agreement, Professional is acting as an independent contractor, and City assumes no responsibility or liability to any third party in connection with the services provided by Professional under this Agreement. 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, servant, representative, or employee of City. Professional shall supervise the performance of its services and shall be entitled to control the manner, means and methods by which Professional's services are to be performed, subject to the terms of this Agreement. As such, City shall not train Professional, require Professional to complete regular oral or written reports, require Professional to devote his full-time services to City, or dictate Professional's sequence of work or location at which Professional performs Professional's work, except as may be set forth in **Exhibit A**.

7.2 Professional shall be responsible for the professional quality, technical accuracy, and the coordination of all designs, drawings, specifications, plans, and other services furnished by Professional under this Agreement. Professional shall, without additional compensation, correct or revise any errors or deficiencies in the Project Documents and other services provided under this Agreement. Neither City's review, approval, nor acceptance of, nor payment for any of, the services provided under this Agreement, shall be construed to operate as a waiver of any rights under this Agreement, and Professional shall be and remain liable to City in accordance with applicable law for all damages to City caused by Professional's negligent performance of any of the services furnished under this Agreement.

## Article VIII
## Insurance

8.1 Before commencing work, Professional shall, at its own expense, procure, pay for and maintain during the term of this Agreement the following insurance written by companies approved by the state of Texas and acceptable to City. Professional shall furnish to the City Manager certificates of insurance executed by the insurer or its authorized agent stating coverages, limits, expiration dates and compliance with all applicable required provisions. Certificates shall reference the project/contract number and be addressed as follows:

City of The Colony, Texas
Attention: City Manager
6800 Main Street
The Colony, Texas 75056

A. Commercial General Liability insurance, including, but not limited to Premises/Operations, Personal & Advertising Injury, Products/Completed Operations, Independent Contractors and Contractual Liability, with minimum combined single limits of $1,000,000 per occurrence, $1,000,000 Products/Completed Operations Aggregate, and $1,000,000 general aggregate. Coverage must be written on an occurrence form. The General Aggregate shall apply on a per project basis.

B. Workers' Compensation insurance with statutory limits; and Employers' Liability coverage with minimum limits for bodily injury: 1) by accident, $100,000 each accident, and 2) by disease, $100,000 per employee with a per policy aggregate of $500,000.

C. Business Automobile Liability insurance covering owned, hired and non-owned vehicles, with a minimum combined bodily injury and property damage limit of $1,000,000 per occurrence.

D. Professional Liability Insurance to provide coverage against any claim which the Professional and all professionals engaged or employed by the Professional become legally obligated to pay as damages arising out of the performance of professional services caused by error, omission or negligent act with minimum limits of $2,000,000 per claim, $2,000,000 annual aggregate.

NOTE: If the insurance is written on a claims-made form, coverage shall be continuous (by renewal or extended reporting period) for not less than thirty-six (36) months following completion of this Agreement and acceptance by City.

8.2 With reference to the foregoing required insurance, Professional shall endorse applicable insurance policies as follows:

A. A waiver of subrogation in favor of City, its officials, employees, and officers shall be contained in the Workers' Compensation insurance policy.

B. The City, its officials, employees and officers shall be named as additional insureds on the Commercial General Liability policy, by using endorsement CG2026 or broader .

C. All insurance policies shall be endorsed to the effect that City will receive at least thirty (30) days notice prior to cancellation, non-renewal, termination, or material change of the policies.

8.3 All insurance shall be purchased from an insurance company that meets a financial rating of B+VI or better as assigned by A.M. Best Company or equivalent.

## Article IX
## Right to Inspect Records

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

9.2 Professional further agrees to include in subcontract(s), if any, a provision that any subcontractor agrees that City shall have access to and the right to examine any directly pertinent books, documents, papers and records of such subcontractor involving transactions related to the subcontract, and further, that City shall have access during normal working hours to all such subcontractor facilities and shall be provided adequate and appropriate work space, in order to conduct audits in compliance with the provisions of this section. City shall give any such subcontractor reasonable advance notice of intended audits.

## Article X
## Miscellaneous

10.1 Entire Agreement. This Agreement and any and all Exhibits attached hereto constitutes the sole and only agreement between the Parties and supersedes any prior or contemporaneous understandings, written agreements or oral agreements between the Parties with respect to the subject matter of this Agreement.

10.2 Authorization. Each Party represents that it has full capacity and authority to grant all rights and assume all obligations granted and assumed under this Agreement.

10.3 Assignment. Professional may not assign this Agreement in whole or in part without the prior written consent of City. In the event of an assignment by 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.

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

10.5 Governing Law and Exclusive Venue. The laws of the State of Texas shall govern this Agreement, and exclusive venue for any legal action concerning this Agreement shall be in a District Court with appropriate jurisdiction in Denton County, Texas. The Parties agree to submit to the personal and subject matter jurisdiction of said court.

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

10.7 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 by a court of competent jurisdiction, such invalidity, illegality or unenforceability shall not affect any other provision in this Agreement, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in this Agreement.

10.8 Survival of Covenants and Terms. Any of the representations, warranties, covenants, and obligations of the Parties, as well as any rights and benefits of the Parties, pertaining to a period of time following the termination of this Agreement shall survive termination, including, but not limited to, Section 3.3, Article X, and, in particular, Sections 10.13 and 10.14.

10.9 Recitals. The recitals to this Agreement are incorporated herein.

10.10 Notice. Any notice required or permitted to be delivered hereunder may be sent by first class mail, overnight 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 set forth herein:

If intended for City:
Troy C. Powell
City Manager
City of The Colony
6800 Main Street
The Colony, Texas 75056

With Copy to:
Pam Nelson
Community Services Director
City of The Colony
5151 N. Colony
The Colony, Texas 75056

If intended for Professional:
Bob Stoffels, RLA
Dunkin Sims Stoffels, Inc.
622 West State Street
Garland, Texas 75040

10.11 Counterparts. This Agreement may be executed by the Parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed 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.

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

10.13 Professional's Liability. Acceptance of the Project Documents by City shall not constitute nor be deemed a release of the responsibility and liability of Professional, its employees, associates, agents or subcontractors for the accuracy and competency of their designs, working drawings, specifications or other documents and work; nor shall such acceptance be deemed an assumption of responsibility by City for any defect in the Project Documents or other documents and work prepared by Professional, its employees, associates, agents or sub-consultants.

10.14 Indemnification. **PROFESSIONAL AGREES TO DEFEND, INDEMNIFY AND HOLD HARMLESS CITY FROM AND AGAINST ANY AND ALL LIABILITIES, DAMAGES, CLAIMS, SUITS, COSTS (INCLUDING COURT COSTS, ATTORNEY'S FEES AND COSTS OF INVESTIGATION) AND ACTIONS BY REASON OF INJURY TO OR DEATH OF ANY PERSON OR DAMAGE TO OR LOSS OF PROPERTY TO THE EXTENT CAUSED BY PROFESSIONAL'S PERFORMANCE OF SERVICES UNDER THIS AGREEMENT OR BY REASON OF ANY ACT OR OMISSION ON THE PART OF PROFESSIONAL, ITS OFFICERS, DIRECTORS, SERVANTS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, SUBCONTRACTORS, LICENSEES, SUCCESSORS OR PERMITTED ASSIGNS (EXCEPT WHEN SUCH LIABILITY, CLAIMS, SUITS, COSTS, INJURIES, DEATHS OR DAMAGES ARISE FROM OR ARE ATTRIBUTED TO THE SOLE NEGLIGENCE OF THE CITY). IF ANY ACTION OR PROCEEDING SHALL BE BROUGHT BY OR AGAINST CITY IN CONNECTION WITH ANY SUCH LIABILITY OR CLAIM, THE PROFESSIONAL, ON NOTICE FROM CITY, SHALL DEFEND SUCH ACTION OR PROCEEDINGS AT PROFESSIONAL'S EXPENSE, BY OR THROUGH ATTORNEYS REASONABLY SATISFACTORY TO CITY. 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. IF THIS AGREEMENT IS A CONTRACT FOR ENGINEERING OR ARCHITECTURAL SERVICES, THEN THIS SECTION IS LIMITED BY, AND TO BE READ AS BEING IN COMPLIANCE WITH, THE INDEMNITY SPECIFIED IN § 271.904 OF THE TEXAS LOCAL GOVERNMENT CODE, AS AMENDED. THIS SECTION SHALL SURVIVE TERMINATION OF THIS AGREEMENT**

10.15 Conflicts of Interests. Professional represents that no official or employee of City has any direct or indirect pecuniary interest in this Agreement. Any misrepresentation by

Professional under this section shall be grounds for termination of this Agreement and shall be grounds for recovery of any loss, cost, expense or damage incurred by City as a result of such misrepresentation.

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

10.17 Confidential Information. Professional hereby acknowledges and agrees that its representatives may have access to or otherwise receive information during the furtherance of Professional's obligations in accordance with this Agreement, which is of a confidential, non-public or proprietary nature. Professional shall treat any such information received in full confidence and will not disclose or appropriate such Confidential Information for Professional's own use or the use of any third party at any time during or subsequent to this Agreement. As used herein, "Confidential Information" means all oral and written information concerning the City, its affiliates and subsidiaries, and all oral and written information concerning City or its activities, that is of a non-public, proprietary or confidential nature including, without limitation, information pertaining to customer lists, services, methods, processes and operating procedures, together with all analyses, compilations, studies or other documents, whether prepared by Professional or others, which contain or otherwise reflect such information. The term "Confidential Information" shall not include such information that is or becomes generally available to the public other than as a result of disclosure to Professional, or is required to be disclosed by a governmental authority under applicable law.

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

10.19 No Third Party Beneficiary. For purposes of this Agreement, including the intended operation and effect of this Agreement, the Parties specifically agree and contract that: (1) this Agreement only affects matters between the Parties to this Agreement, and is in no way intended by the Parties to benefit or otherwise affect any third person or entity notwithstanding the fact that such third person or entity may be in contractual relationship with City or Professional or both; and (2) the terms of this Agreement are not intended to release, either by contract or operation of law, any third person or entity from obligations owing by them to either City or Professional.

**EXECUTED** this _______ day of ______________________, 20___.

**City of The Colony, Texas**

By: ________________________________________

City Manager

Attest:

________________________________________

City Secretary

**EXECUTED** this _______ day of ______________________, 20___.

**Professional**

By: ________________________________________

Name: ________________________________________

Title: ________________________________________

Attest:

________________________________________

Corporate Secretary

EXHIBIT A

**DUNKIN SIMS STOFFELS Inc.**

September 16, 2021

Eve Morgan
Park Development Manager
City of The Colony
5151 North Colony Blvd
The Colony, Texas 75056

Dear Ms. Morgan:

We appreciate the opportunity to submit this scope of services for the Kid's Colony Splash Park – Phase II. Dunkin Sims Stoffels (DSS), working with the City of The Colony, will develop design and construction documents for the Kid's Colony Splash Park – Phase II.

## PROJECT SCOPE

A schematic master plan for the Kid's Colony Playground was prepared in 2009. Phases I and II were completed in 2011 and 2014, respectively. Kids Colony Splash Park – Phase I is currently under construction. Kid's Colony Splash Park – Phase II is the continued construction of the City's premier community playground. Facilities included in Kids Colony Splash Park – Phase II development include the enhanced spray features in the splash park, fitness area, parking lot expansion, restroom building, shade canopies and associated site pavement and utilities.

### Schematic Design

DSS, with input from City Staff and the manufacturer's representatives of the splash park features, restroom building and fitness equipment will refine the Kids Colony Splash Park – Phase II site plan. An opinion of probable cost (OPC) will be prepared for construction of the Kids Colony Splash Park – Phase II features. DSS will submit the schematic design and OPC to City Staff for their review and comment.

### Design Development

DSS will further analyze the Kids Colony Splash Park – Phase II and propose refined design recommendations and solutions for additional review and comment by City Staff. The OPC will be refined and updated to reflect design modifications proposed within the design development phase.


622 West State Street Garland, Texas 75040 (214) 553-5778

## Construction Documents and Specifications

Construction documents and specifications will be prepared for the Kids Colony Splash Park – Phase II components outlined within the project scope. Dunkin Sims Stoffels, Inc. will perform the following tasks in this section of the project:

- Grading plan
- Erosion Control plan
- Layout Plan(s) locating the park features, shade canopies, parking lot expansion, concrete pavement, restroom building, fitness equipment, utilities, etc.
- Construction Details providing plans, sections, and/or elevations of the individual elements of the project.
- Assist with preparation of forms for BuyBoard Proposals.
- Prepare the project specification manual.
- Prepare the final opinion of probable cost.

## BuyBoard Proposals

The Consultant will assist City Staff in procuring BuyBoard proposals from the various manufacturers for the construction of Phase II of the Kids Colony Splash Park.

## Construction Observation

The Consultant will perform the following professional services during construction of Kids Colony Splash Park – Phase II:

- Consultation and provide advice to the City.
- Preparation of elementary and supplementary sketches required to resolve field conditions.
- Approval of submittals and shop drawings submitted by contractor for conformance with the design concept.
- The Consultant shall make periodic site visits to determine if the project is proceeding in accordance with the contract documents. The Consultant shall not be responsible or liable for the Contractor's failure to perform the construction work in accordance with the contract documents. DSS has included seven (7) site visits within our construction observation scope; based upon an anticipated construction length of three months.
- Review and approval of all certificates for payment submitted by the Contractor.
- Prepare Change Orders for the City's approval and execution.
- Coordinate final site walk through with the City at the conclusion of the construction and provide a punch list to Contractor to complete the project.

Following substantial completion and/or final acceptance, the Consultant will prepare one set of record drawings. The record drawings will be based on written record of observations by the City's Inspectors and information provided by the Contractor through written records and construction mark-ups made to the project record drawings and specifications. If desired the Consultant will provide AutoCAD, version 2018 drawing files of the record drawings. This AutoCAD file will be one drawing file with all of the information encompassed within it and paper space delineation of each individual sheet. There will not be a separate AutoCAD drawing file for each sheet within the drawing set.

**Additional Services**

*Project Meetings* - The Consultant has allowed for a total of two (2) meetings within the schematic design, design development and construction document phases. Additional meetings or public hearings with City Boards or other governmental bodies will be considered additional services and billed at the hourly rates outlined within this agreement.

*Design Changes/Increased Scope* - Any substantial design changes following preparation of design development documents and/or commencement of construction documents, as well as, increased project scope will be considered an additional service and the Consultant may invoice for the resultant changes to the construction documents and increased services at the hourly rates outlined within this agreement.

*Preparation of Alternates* – Should the City request design alternates be prepared for bidding that increase the project scope or exceed the current construction budget the Consultant may invoice the City, in addition to the original contract amount, for the hours expended in preparing the alternates; at the hourly rates outlined within this agreement.

**COMPENSATION**

The Consultant's professional fee for the scope of services, exclusive of the subsidiary services and reimbursable expenses delineated within this proposal, is $59,000.00*, this fee shall not be exceeded without written authorization.

The professional fees for the services outlined within the separate phases of work delineated within the proposal are as follows:

| | |
|---|---|
| Schematic Design | $ 2,950.00 |
| Design Development | $ 5,900.00 |
| Construction Documents | $ 29,500.00 |
| BuyBoard Proposals | $ 5,900.00 |
| Construction Observation | $ 14,750.00 |
| Total Professional Fee: * | $ 59,000.00 |

* Exclusive of reimbursable expenses

For billing purposes and additional services, the following hourly rates shall be used:

| | |
|---|---|
| DSS Principal | \$150.00 per hour |
| Landscape Architect | \$110.00 per hour |
| Project Manager – C.E. | \$140.00 per hour |
| Civil Engineer | \$130.00 per hour |
| Electrical Engineer | \$130.00 per hour |
| LiDAR Scanning (Survey) | \$250.00 per hour |
| Survey Field Crew (3 man) | \$140.00 per hour |
| Survey Field Crew (2 man) | \$120.00 per hour |
| GPS Field Crew (1 man) | \$100.00 per hour |
| Surveyor (RPLS) | \$100.00 per hour |
| Surveyor in Training (SIT) | \$ 80.00 per hour |
| Survey Technician | \$ 70.00 per hour |
| CAD Technician | \$ 90.00 per hour |
| Technical Support | \$ 75.00 per hour |
| Administrative | \$ 50.00 per hour |

*Reimbursable Expenses:* Reimbursable items may include delivery charges, postage, CAD Plots, commercial printing/reproduction charges, preparation of presentation boards. The cost for the reimbursable items represents an 'out-of-pocket' expense to the consultant and shall be billed at the consultant's direct incurred cost.

Another reimbursable cost is the fee for submittal of the plans and specifications to a third party Registered Accessibility Specialist (RAS) for the required Texas Department of Licensing and Regulation's (TDLR) Architectural Barriers plan review and post-construction inspection. There is also a TDLR project registration fee. Any cost associated with certification of ADA compliance, if applicable, will be considered a reimbursable expense.

The following list delineates anticipated costs for reimbursable expenses, as defined within this proposal.

| | |
|---|---|
| Reimbursable Expenses – Budgetary | \$ 2,500.00 |
| TAS Registration, Plan Review & Post Construction Inspection | \$ 1,750.00 |
| Total: | \$ 4,250.00 |

Consultant Invoices will be submitted monthly as the professional services are completed. Invoices will be based on percentage of work completed per identifiable unit of work. The City agrees to make prompt payments for all approved invoices.

**INDEMNIFICATION**

The Consultant shall indemnify and does hereby hold harmless, the City, its agents and employees from and against all claims, damages, losses and expenses, including attorney's fees, arising out of or resulting from the negligent performance of the services on this project performed by the Consultant, its employees, sub-contractors, agents and representatives and others from whom the Consultant is legally liable.

**TERMINATION**

This Agreement may be terminated without cause at any time prior to completion of the Consultant's services, by the City or by the Consultant with cause, upon seven days written notice to the City at the address of record. Termination shall release each party from all obligations of this Agreement. Upon notice of termination, the Consultant shall prepare and submit to City a final invoice within thirty (30) days.

**AUTHORIZATION**

DSS is prepared to initiate work on this project upon receipt of a signed copy of this agreement or upon execution of a professional services agreement with the City of The Colony. We look forward to working with The Colony's Park and Recreation Department on Kid's Colony Splash Park – Phase II.

Sincerely,

**Dunkin Sims Stoffels, Inc.**

Bob Stoffels

Bob Stoffels, RLA

**ACCEPTED AND APPROVED BY:**

____________________________
(Signature)

____________________________
(Typed Name)

____________________________
(Title)

**AUTHORIZED TO EXECUTE AGREEMENTS FOR:**

____________________________

EXHIBIT B

**ATTACHMENT 'A'**

**PROFESSIONAL FEE SCHEDULE**
**Kid's Colony Splash Park – Phase II**
The Colony, Texas

**PROFESSIONAL DESIGN SERVICES**

| | | |
|---|---|---|
| Schematic Design | $ 2,950.00 | |
| Design Development | $ 5,900.00 | |
| Construction Documents | $ 29,500.00 | |
| BuyBoard Proposals | $ 5,900.00 | |
| Construction Observation | $ 14,750.00 | |
| Professional Design Services Total: | | $ 59,000.00 |
| Reimbursable Expenses: | | $ 2,500.00 |
| TAS Registration, Plan Review & Post Construction Inspection: | | $ 1,750.00 |
| TOTAL: | | $ 63,250.00 |

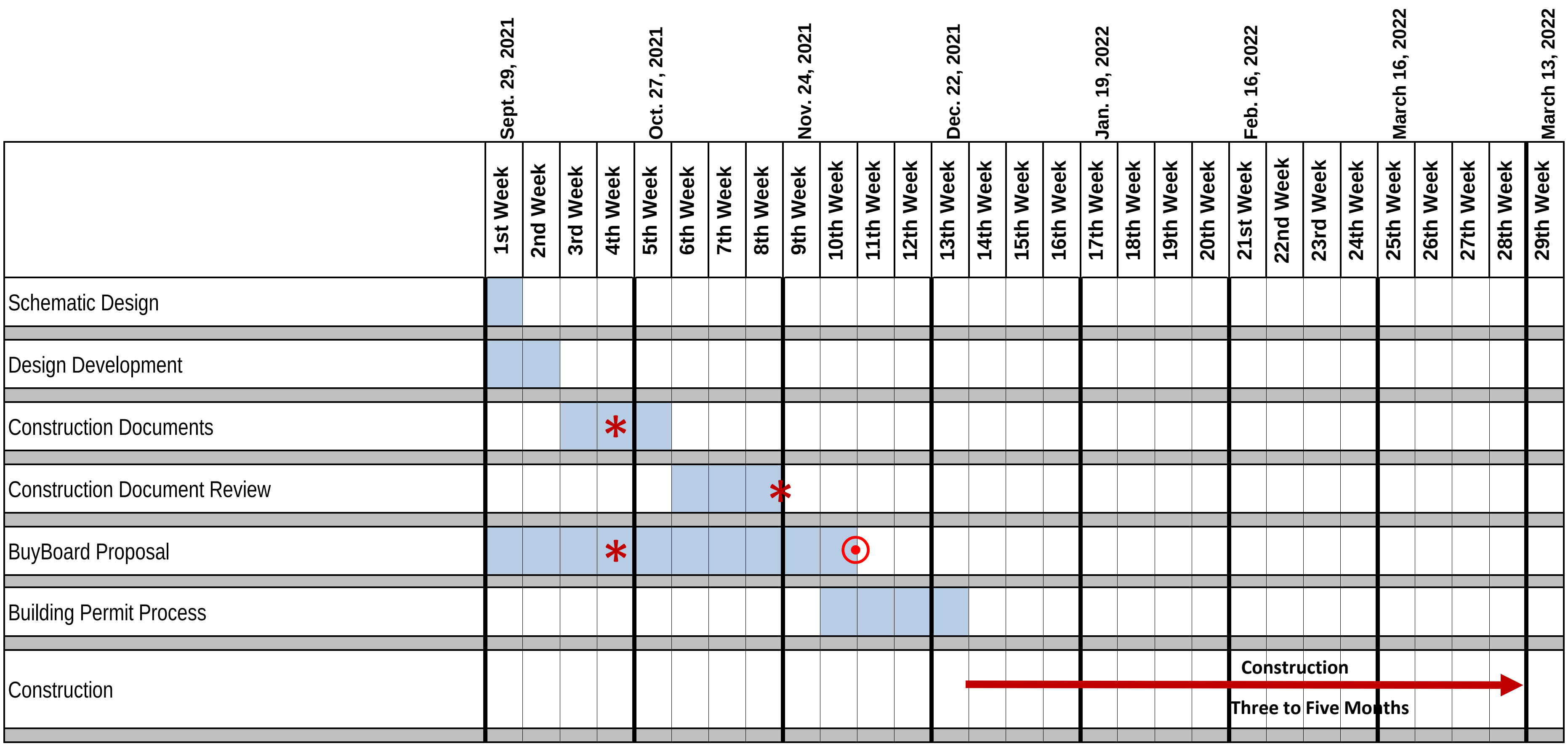
EXHIBIT C

# Project Timeline

## KIDS' COLONY PHASE III

## The Colony, Texas

September 16, 2021




Meeting with City Staff *

Construction Contract Approval

**CITY OF THE COLONY, TEXAS**
**RESOLUTION NO. 2021 - _______**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF THE COLONY, TEXAS, AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT FOR PROFESSIONAL SERVICES TO DUNKIN SIMS STOFFELS, INC., FOR THE KIDS COLONY SPLASH PARK PHASE 2; PROVIDING AN EFFECTIVE DATE**

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF THE COLONY, TEXAS:**

**Section 1.** That the City Council of the City of The Colony, Texas, has duly reviewed and considered the agreement for the Kids Colony Splash Park Phase 2 by and between the City of The Colony and Dunkin Sims Stoffels, Inc., with funding from the Community Development Corporation.

**Section 2.** That this agreement is found to be acceptable and in the best interest of the City and its citizens, and the City Manager is hereby authorized to execute the agreement on behalf of the City of The Colony, Texas, with the terms and conditions as stated therein.

**Section 3.** That with this agreement the City of The Colony is agreeing to pay the sum not to exceed the estimated amount of $63,250.00 for such work.

**Section 4.** That this resolution shall take effect immediately from and after its passage.

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF THE COLONY, TEXAS THIS 7TH DAY OF DECEMBER 2021.**

____________________________
Richard Boyer, Mayor
City of The Colony, Texas

**ATTEST:**

__________________________________
Tina Stewart, TRMC, CMC City Secretary

**APPROVED AS TO FORM:**

__________________________________
Jeff Moore, City Attorney

Agenda Item No:4.3

# CITY COUNCIL Agenda Item Report

Meeting Date: December 7, 2021
Submitted by: Jackie Kopsa
Submitting Department: Parks & Recreation
Item Type: Resolution
Agenda Section:

---

**Subject:**
Consider approving a resolution authorizing the City Manager to issue a purchase order in the amount of $96,508.39 to TORO for the purchase of two grass mowers and an infield groomer for Parks and Recreation. (Kopsa)

**Suggested Action:**
The total cost of the three pieces of equipment is $96,353 were approved in the 21-22 CIP.

**Attachments**:
Package quote 11-22-2021.pdf

Res. 2021-xxx TORO Purchase Order.docx

Professional Turf Products, L.P.
1010 North Industrial Blvd.
Euless, Texas 76039
Will Dutton
(972) 746-7637
duttonw@proturf.com

| | | | |
|---|---|---|---|
| Ship To | City Of The Colony - Fleet Services | Date: | 11/22/2018 |
| Bill To | BUYBOARD (CONTRACT # 611-20) - Credit Cards Not Accepted | Tax Rate | |
| Contact | Jackie Kopsa | Destination | 4.50% |
| Address | 6800 Main St., The Colony, TX 76262-5420 | Trade-In | |
| | | Finance | |
| Phone | | Account Type | Contract |
| Email | | QMS: ID | Q88432 |
| Comments: | | | |

# Proposal

| Qty | Model # | Description | Unit | Extended |
|---|---|---|---|---|
| 1 | 30495 | Groundsmaster 7200 No Deck | | |
| 1 | 30052 | 400 Hour MVP Filter Kit | | |
| 1 | 30481 | 72 Inch Side Discharge Deck | | |
| | | **Groundsmaster 7200 No Deck** | **$** | **24,294.17** |
| 1 | 30695 | Groundsmaster 7210 No Deck (T4) | | |
| 1 | 31101 | 100 Inch Rear Discharge Deck | | |
| 1 | 31104 | Deck Attachment Kit For 100 Inch Deck | | |
| 1 | 30382 | 12V Power Port/Electrical Accessory Kit | | |
| 1 | 30261 | 400 Hour MVP Filter Kit | | |
| | | **Groundsmaster 7210 No Deck (T4)** | **$** | **43,280.03** |
| 1 | 08743 | Sand Pro 3040 | | |
| 1 | 08751 | Tooth Rake | | |
| 1 | 08752 | Spring Rake | | |
| 1 | TM GL650 7200-C | Groomer with Heavy Duty and Springtine Scarifier | | |
| 1 | Freight | Freight Small Groomers | | |
| | | **Sand Pro 3040** | **$** | **24,778.33** |

| | | |
|---|---|---|
| **SubTotal** | **$** | **92,352.53** |
| **Destination** | **$** | **4,155.86** |
| **Tax (Estimated)** | **$** | **-** |
| **TOTAL** | **$** | **96,508.39** |

***Comments:***

**For all New Equipment, Demo units may be available for up to 20% savings.**

For all New Equipment, Refurbished units may be available for up to 40% savings.
Due to unexpected issues with much of our supply chain, we are experiencing longer lead times than we have seen in the past. We are doing

Terms & Conditions:
1. Prices & Finance Rates are subject to change at any time.
2. Due to the volatility of inflation, rising transportation costs, and supply shortages, some orders may incur additional cost increases that are
3. Order cancellations are subject to fees up to 10% of the original order value.
4. New equipment delivery time will be estimated once credit is approved & documents are executed. Delivery time contingent on Manufacturer
5. Payments by Credit Card are subject to convenience fee.
6. Used and Demo equipment is in high demand and availability is subject to change.
   A. Upon firm customer commitment to purchase & credit is approved, said equipment availability will be determined.
   B. In the event equipment is unavailable at time of order, PTP will employ every resource to secure an acceptable substitute.
   C. PTP strongly advises the customer to issue a firm PO as quickly as possible after acceptance of quotation.
7. "Trade In Allowances" will be treated as a credit for future parts purchases on PTP account unless other arrangements have been made.

Returns Policy:
1. All returns are subject to restocking, refurbishing, usage, and shipping fees.
2. All returns must be able to be sold as new.
3. Items missing parts are non returnable.
4. Professional Turf Products will have sole discretion as to the resalable condition of the product.
5. This policy does not apply to items that are defective, or shipped incorrectly by PTP or one of its vendors.

Payment:
1. Terms are net 10 unless prior arrangements have been made.
2. Quoted prices are subject to credit approval.
   A. PTP will work with third party financial institutions to secure leases when requested to do so.
   B. When using third party financiers, documentation fees & advance payments may be required.
   C. For convenience, monthly payments are estimated based on third party rate factors in effect at time of the quotation.
   D. PTP assumes no liability in the event credit becomes unavailable or rates change during the approval process.
3. There will be a service charge equal to 1.5% per month (18% per annum) on all past due invoices.
4. By Law we are required to file a "Notice to Owner" of our intent to file lien in the event of payment default.
   This notice must be sent within 60 days of the date the original invoice and will happen automatically regardless
   of any special payment arrangements that may have been made.

Authorized Signature: ______________________________ Date: ____________________

**CITY OF THE COLONY, TEXAS**
**RESOLUTION NO. 2021 - ________**

**A RESOLUTION OF THE CITY OF THE COLONY, TEXAS AUTHORIZING THE CITY MANAGER TO APPROVE A PURCHASE ORDER FOR TWO TORO GRASS MOWERS AND AN INFIELD GROMER, ALL WITH ATTACHMENTS; PROVIDING AN EFFECTIVE DATE.**

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF THE COLONY, TEXAS:**

**Section 1.** That the City Council of the City of The Colony, Texas hereby authorizes the City Manager to approve the purchase of two Toro grass mowers and an infield groomer.

**Section 2.** That the City Manager or his designee is authorized to approve the purchase order in the amount of $96,508.39.

**Section 3.** That this resolution shall take effect immediately from and after its passage.

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF THE COLONY, TEXAS THIS 7TH DAY OF DECEMBER 2021.**

______________________
Richard Boyer, Mayor
City of The Colony, Texas

ATTEST:

______________________
Tina Stewart, TRMC, CMC, City Secretary

APPROVED AS TO FORM:

______________________
Jeff Moore, City Attorney

Agenda Item No:4.4

# CITY COUNCIL Agenda Item Report

Meeting Date: December 7, 2021
Submitted by: Ron Hartline
Submitting Department: Engineering
Item Type: Resolution
Agenda Section:

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**Subject:**
Consider approving a resolution authorizing the City Manager to issue a purchase order in the amount of $ 123,126.60 to Rush Truck Center for the purchase of an F-550 Bucket Truck. (Hartline)

**Suggested Action:**
This Item is for the purchase of an F-550 Bucket Truck to be used for traffic signal service and repair activities. Our traffic repair team will utilize this truck to repair and maintain 36 signalized intersections and 34 School Zone flashers throughout the city. Funding for this truck was included in the 20201/2022 CIP budget (895-669-6630 - Project No. 2202). A copy of the proposal from Rush Truck Center using Buy Board pricing is attached for review.

**Attachments**:
Bucket Truck Quote.pdf

Res. 2021-xxx Rush Truck Center Purchase Order.docx

# TEXAS LOCAL GOVERNMENT PURCHASING COOPERATIVE
## *BUYBOARD*

| | | | |
|---|---|---|---|
| Vendor | *RUSH TRUCK CENTER* | Date Prepared | *11/10/2021* |
| Contact for Vendor: | *Mike Foley* | Phone 214 215 3536 | |
| End User: | *City of the Colony* | | |
| End User Contact: | ***Dustin Smith*** | Phone/Fax | *972 625 1756* |
| Product Description: | ***2022 Ford F-550*** | | |

| | | | |
|---|---|---|---|
| A: Base Price in Bid/Proposal Number: 601-19 | Series: | **F-550** | $27,945.00 |

B: Published Options(*Itemize Below*)

| | DESCRIPTION | AMOUNT | OPT # | DESCRIPTION | AMOUNT |
|---|---|---|---|---|---|
| Ford | F5G | $ 5,098.60 | RTC-0051 | OEM Safety Inspection | $ 1,236.00 |
| Ford | Traction Tires/4:88 rear | $ 550.00 | RTC-1059 | Lot Insurance | $ 836.00 |
| Ford | Payload+/Power eq | $ 2,070.00 | RTC-1060 | Floor Plan Interest | $ 1,426.00 |
| Ford | running boards/brake cont | $ 590.00 | RTC-1190 | Body prep pkg | $ 3,395.00 |
| Ford | Jack/PTO/Utility lts | $ 495.00 | RTC-1090 | SST-40-EIH | $ 73,135.00 |
| Ford | backup alarm/rear camera | $ 555.00 | Ford | Xl Value Pkg | $ 395.00 |
| Subtotal Column 1: | $ 14,358.60 | | Subtotal Column 2: | $ 80,423.00 | |
| Published Options added to Base Price(*Subtotal of "Col 1" & "Col 2"*) | | | | | $ 94,781.60 |

| | |
|---|---|
| C: Subtotal of A + B | $122,726.60 |
| D: Non Published Options | |
| Subtotal Column 1: | Subtotal Column 2: |
| Unpublished Options added to Base price (*Subtotal "Col 1 + Col 2"*) | |
| E: Contract Price Adjustment (*If any, explain here*) | |
| F: Total of C + D +/- E | $ 122,726.60 |
| G: Quantity ordere( Units: 1.00 x F | $ 122,726.60 |
| H: BUYBOARD Administrative Fee | $ 400.00 |
| I: Non-Equipment Charges & Credits (*I.e.: Ext. Warranty, Trade-In, Delivery, etc.)* | |
| J: TOTAL PURCHASE PRICE INCLUDING (G+H+I) | $123,126.60 |

**Prepared for: Dustin Smith, City of the Colony**

2022 F-550 Chassis 4x2 SD Regular Cab 169" WB DRW XL (F5G)

Price Level: 240

**Client Proposal**

Prepared by:
MIKE FOLEY
Office: 214-215-3536
Email: foleym@rushenterprises.com
Quote ID: 10282021-1
Date: 10/29/2021

2022 F-550 Chassis 4x2 SD Regular Cab 169" WB DRW XL (F5G)

Price Level: 240 | Quote ID: 10282021-1

**Dustin Smith, City of the Colony**

Re: Quote ID 10282021-1 10/29/2021

Dear Dustin,

Thank you very much for your interest in acquiring a vehicle from our dealership. We concur that your interest is well deserved. We hope that an outstanding product lineup and our dedication to customer service will enhance your ownership experience should you decide to buy a vehicle from us.

Attached, please find additional information that I hope will assist you in making a more informed decision. Please feel free to contact me at any time as I would truly appreciate the opportunity to be of service to you.

Sincerely,

**MIKE FOLEY**
Municipal Sales Dir.
214-215-3536
foleym@rushenterprises.com

**Prepared for: Dustin Smith**
City of the Colony
Prepared by: MIKE FOLEY
10/29/2021

Rush Medium Duty Truck Center, Dallas | 4000 Irving Blvd. Dallas Texas | 752475816

2022 F-550 Chassis 4x2 SD Regular Cab 169" WB DRW XL (F5G)

Price Level: 240 | Quote ID: 10282021-1

# As Configured Vehicle

| Code | Description |
|---|---|
| **Base Vehicle** | |
| F5G | Base Vehicle Price (F5G) |
| **Packages** | |
| 660A | Order Code 660A<br>*Includes:<br>- Engine: 7.3L 2V DEVCT NA PFI V8 Gas<br>- Transmission: TorqShift 10-Speed Automatic<br>10R140 with neutral idle and selectable drive modes: normal, tow/haul, eco, deep sand/snow and slippery.<br>- Wheels: 19.5" x 6" Argent Painted Steel<br>Hub covers/center ornaments not included.<br>- HD Vinyl 40/20/40 Split Bench Seat<br>Includes center armrest, cupholder, storage and driver's side manual lumbar.<br>- Radio: AM/FM Stereo w/MP3 Player<br>Includes 4 speakers.<br>- SYNC Communications & Entertainment System<br>Includes enhanced voice recognition, 911 Assist, 4.2" LCD center stack screen, AppLink, 1 smart-charging USB port and steering wheel audio controls.* |
| **Powertrain** | |
| 99N | Engine: 7.3L 2V DEVCT NA PFI V8 Gas |
| 44G | Transmission: TorqShift 10-Speed Automatic<br>*10R140 with neutral idle and selectable drive modes: normal, tow/haul, eco, deep sand/snow and slippery.* |
| X8L | Limited Slip w/4.88 Axle Ratio |
| 68M | GVWR: 19,500 lb Payload Plus Upgrade Package<br>*Includes upgraded frame, rear-axle and low deflection/high capacity springs. Increases max RGAWR to 14, 706. Note: See Order Guide Supplemental Reference for further details on GVWR.* |
| **Wheels & Tires** | |
| TGM | Tires: 225/70Rx19.5G BSW Traction<br>*Includes 4 traction tires on the rear and 2 A/P tires on the front.* |
| 64Z | Wheels: 19.5" x 6" Argent Painted Steel<br>*Hub covers/center ornaments not included.* |
| **Seats & Seat Trim** | |
| A | HD Vinyl 40/20/40 Split Bench Seat<br>*Includes center armrest, cupholder, storage and driver's side manual lumbar.* |

# As Configured Vehicle (cont'd)

| Code | Description |
|---|---|
| **Other Options** | |
| PAINT | Monotone Paint Application |
| 169WB | 169" Wheelbase |
| STDRD | Radio: AM/FM Stereo w/MP3 Player<br>*Includes 4 speakers.*<br>*Includes:*<br>*- SYNC Communications & Entertainment System*<br>*Includes enhanced voice recognition, 911 Assist, 4.2" LCD center stack screen, AppLink, 1 smart-charging USB port and steering wheel audio controls.* |
| 96V | XL Value Package<br>*Includes:*<br>*- XL Decor Group*<br>*- Chrome Front Bumper*<br>*- Steering Wheel-Mounted Cruise Control* |
| 90L | Power Equipment Group<br>*Deletes passenger side lock cylinder. Includes upgraded door-trim panel.*<br>*Includes:*<br>*- Accessory Delay*<br>*- Advanced Security Pack*<br>*Includes SecuriLock Passive Anti-Theft System (PATS) and inclination/intrusion sensors.*<br>*- Folding Trailer Tow Mirrors w/Power Heated Glass*<br>*Includes manual telescoping, heated convex spotter mirror and integrated clearance lamps/turn signals.*<br>*- MyKey*<br>*Includes owner controls feature.*<br>*- Power Front Side Windows*<br>*Includes 1-touch up/down driver/passenger window.*<br>*- Power Locks*<br>*- Remote Keyless Entry* |
| 61J | 6-Ton Hydraulic Jack |
| 62R | Transmission Power Take-Off Provision<br>*Includes mobile and stationary PTO modes.* |
| 63A | Utility Lighting System<br>*Includes LED side-mirror spotlights.* |
| 52B | Trailer Brake Controller<br>*Includes smart trailer tow connector. Verified to be compatible with electronic actuated drum brakes only.* |
| 18B | Platform Running Boards |
| 872 | Rear View Camera & Prep Kit<br>*Pre-installed content includes cab wiring and frame wiring to the rear most cross member. Upfitters kit includes camera with mounting bracket, 20' jumper wire and camera mounting/aiming instructions.* |
| 153 | Front License Plate Bracket |

# As Configured Vehicle (cont'd)

| Code | Description |
|---|---|
| | Standard in states requiring 2 license plates and optional to all others. |
| 76C | Exterior Backup Alarm (Pre-Installed) |
| **Fleet Options** | |
| 525_ | Steering Wheel-Mounted Cruise Control |
| 942 | Daytime Running Lamps (DRL) (LPO) |
| | Requires valid FIN code. |
| | *The non-controllable 942 Daytime Running Lamps (DRL) replace the standard Daytime Running Lamps (DRL) on/off cluster controllable.* |
| **Emissions** | |
| 425 | 50-State Emissions System |
| **Interior Color** | |
| AS_01 | Medium Earth Gray |
| **Exterior Color** | |
| Z1_01 | Oxford White |
| **Upfit Options** | |
| 68432155 | Versalift SST-40-EIH |
| 0000 | BUYBOARD DISCOUNT |

Versalift Southwest L.L.C.
1200 Texas Central Pkwy
Waco, Texas 76712-1415
254.420.5330

VERSALIFT SOUTHWEST
A TIME MANUFACTURING COMPANY

# QUOTATION

**VSW-22802**

| | |
|---|---|
| **Customer:** | **Rush Truck** |
| **Attn:** | **Mike Foley** |
| **Email:** | foleym@rushenterprises.com |

| | |
|---|---|
| **Date:** | **October 28, 2021** |
| **Model:** | **SST-40-EIH** |

| | |
|---|---|
| **Ref:** | **City of The Colony, TX** |
| **Contact:** | **Dustin Smith** |
| **Email:** | dsmith@thecolonytx.gov |

We are pleased to quote the VERSALIFT SST-40-EIH; insulated end mounted 40 ft. (12.2m) telescopic aerial platform lift, 45 ft. (13.7 m) working height, 27 ft. 9 in. (8.5 m) horizontal reach including the following items *(based on a 40" frame height)*:

## AERIAL LIFT SPECIFICATIONS

**PLATFORM** - The fiberglass platform is 24 in. x 30 in. x 42 in. (0.61 m x 0.76 m x 1.07 m) deep with an inside and outside step for easy access. The platform capacity is 300 lbs. (136 kg). A tubular rubber support for the platform is provided.

**PLATFORM LINER AND VINYL COVER** - A 50 kV rated liner and soft vinyl cover are supplied for the platform.

**PERSONNEL RESTRAINT SYSTEM** – An arc flash rated safety harness and lanyard are supplied. The anchor for the lanyard is attached to the upper platform support.

**ROTATING PLATFORM** – Provides 180° hydraulic platform rotation.

**SINGLE STICK 3-AXIS PLATFORM CONTROL** - The Unitrol 3-Axis single-stick control consists of a multi-jointed handle which operates the control valve. A safety trigger located on the underside of the single stickhandle will not allow boom movement until it is depressed. The control valve is full pressure and full flow. The operator can feather between the three control movements to provide multi-function boom action. An emergency stop control is provided.

**TRUGUARD™ 2.0** - This advance upper controls isolation system provides 4" of electrical isolation from the entire upper controls, including the control dash panel. This system also includes a protective shield which helps prevent environmental and work related contaminants from making direct contact with the isolating surfaces.

**HYDRAULIC TOOL CIRCUIT AT THE PLATFORM** - This system is designed to use open-center hydraulic tools. The tool circuit provides 5 gpm (19 lpm) at 2250 psi (158 kg/cm$^2$). Includes quick disconnect fittings.

**HYDRAULIC PLATFORM LEVELING** - Platform leveling is controlled by a master and slave cylinder arrangement. The platform leveling system can be activated from the upper controls to adjust platform leveling, tilt the platform for cleaning, or to ease the removal of an injured operator.

**OUTER/INNER BOOM ASSEMBLY**- The outer/inner boom assembly includes an outer boom, telescopic inner boom, extension system, and hose assemblies. The outer boom consists of a 6 in. x 8 in. (150 mm x 200 mm) steel section and a 7.5 in. x 9.5 in. (190 mm x 240 mm) fiberglass section (Electroguard) that maintains a 42 in. (1.08 m) insulation gap with the inner boom fully retracted. The 5 in. x 7 in. (130 mm x 180 mm) rectangular fiberglass inner boom is housed within the outer boom. The extension system consists of a hydraulic cylinder, two holding valves, and a hose carrier housed entirely within the boom assembly. The hoses routed through the outer/inner boom assembly are non-conductive and fully contained within the boom assembly. The outer/inner boom assembly articulates from 14° below horizontal to 74° above horizontal. Actuated by a double acting cylinder with a holding valve, the outer/inner boom assembly is offset to one side to provide easy access to the platform. A tie-down strap is included.

**PINS** - Pins are high-strength alloy steel which are chrome plated for a hard finish and corrosion resistance. Pins are bolted in place with a welded pin tab at one end and a pin cap at the other for redundant retention.

**COMPENSATED LOWER BOOM** - The lower boom consists of a 6 in. (150 mm) square steel section. The SST-40 lower boom articulates from 5° below horizontal to vertical for a total travel of 95°. A compensation link forms a parallelogram linkage to maintain the outer/inner boom assembly at a constant angle to the turret.

**CYLINDERS** - Both the outer and lower boom cylinders are a threaded end-cap design. The lower boom and extension cylinders are equipped with two holding valves to prevent down creep and to lock the booms in position in the event of hose failure. The outer boom cylinder is equipped with one holding valve.

**TURRET** - The turret wings are ½ in. (13 mm) thick steel plate. A steel tube is welded between the turret wings to support the boom cylinder and provide rigidity. The turret plate is machined flat to support the rotation bearing. A bearing cover is provided to prevent foreign material from interfering with lift rotation.

**ROTATION** - Rotation is 370°, non-continuous with a mechanical stop. Continuous, unrestricted rotation is available as an option (see option descriptions). Rotation is accomplished by a hydraulically driven worm and spur gear set acting on a shear-ball rotation bearing. The critical bolts holding the turret to the rotation bearing and the bearing to the pedestal are grade 8 hex head cap screws. These critical bolts are marked with a torque seal indicator to provide a quick means to inspect for relative movement. A slotted adjustment is provided for pinion and rotation gear clearances. An external hex drive is provided for manual rotation in case of hydraulic failure.

**PEDESTAL** - The pedestal is a round shape with an access opening on both sides. The 12 gallon (45 l) hydraulic reservoir is built integral to the pedestal. A 100-mesh suction screen and 10-micron return line filter are located inside the pedestal. The top plate is 1 ¼ in. (32 mm) thick and machined flat to support the rotation bearing.

**HYDRAULIC OIL RESERVOIR** - A 17 gallon (64.4 l) hydraulic oil reservoir is built integral to the pedestal. Two sight gauges allow quick hydraulic fluid level checks.

**INDIVIDUAL LOWER CONTROLS** - Individual full pressure controls at the turret actuate all boom functions. The lower control station is equipped with a selector valve to override the upper controls.

**LEVELING CONTROL AT LOWER CONTROLS** - The platform leveling system can be activated from the lower controls to adjust platform leveling, tilt the platform for clean out, or to ease the removal of an injured operator.

**CONTINUOUS ROTATION** - Rotation is continuous and unrestricted in either direction. An electric and hydraulic collector ring assembly provides a path for hydraulic oil and electric signals from the pedestal to turret. Rotation is accomplished by a hydraulically driven worm and spur gear set acting on a shear-ball rotation bearing. The critical bolts holding the turret to the rotation bearing and the bearing to the pedestal are grade 8 hex head cap screws. These critical bolts are marked with a torque seal indicator to provide a quick means to inspect for relative movement. A slotted adjustment is provided for pinion and rotation gear clearances. An external hex drive is provided for manual rotation in case of hydraulic failure.

**LUBRICATION** - Non-lube bearings are used at all points of motion. The rotation bearing is the only component that requires periodic lubrication.

**HYDRAULIC SYSTEM** - The open-center hydraulic system operates at 5 gpm (18.9 lpm) at 2250 psi (158 kg/cm$^2$). The pump draws oil through a 100-mesh suction screen. A 10-micron return line filter with bypass valve is included. Fluid level gages are furnished for checking fluid level.

**HOSES AND FITTINGS** - The hoses routed through the booms are high pressure and non-conductive with swaged hose end fittings. Nylon sleeves are installed over hoses at points of movement. Reusable fittings can be installed if a hose is damaged.

**BACKUP PUMP** - An auxiliary hydraulic pump designed to bring the booms down in case the main hydraulic source fails. This system consists of a hydraulic pump driven by a 12V DC motor, which is powered by the truck engine battery. The system is connected in parallel with the main pump and is designed for non-continuous operation. An air cylinder at the platform and a toggle switch at the pedestal energize this system. When used with continuous rotation, an additional pass in the collector assembly is usually required.

**AUTOMATIC BOOM LATCH** - The automatic boom latch is designed to automatically restrain the upper boom in the cradle when stowed and automatically release the boom when the lift is operated. The latch is actuated be a hydraulic cylinder and includes a manual over-ride to open the latch without hydraulic power.

**AUTOMATIC THROTTLE CONTROL** - Automatically advances the engine idle speed when the PTO is engaged.

**ENGINE START/STOP AND MASTER CONTROL** - The start/stop circuit has been designed so that the lift cannot be operated unless the truck ignition key is in the "run" position and the master switch is "on." This feature makes it difficult for unauthorized individuals to operate the lift when the truck is locked. An air cylinder at the platform and a toggle switch at the turret are provided to actuate the engine start/stop control.

**LIFT EYE** - Mounted to the outer boom, which allows lifting loads up to 500 lbs. (227 kg) with the platform empty and the inner boom retracted.

**CHASSIS INSULATION SYSTEM (Lower Boom Insert) –** The fiberglass insert provides an insulation gap of 20". The insert is mounted on the steel boom sections, and then adhesive is pumped in under pressure to fill all voids. After curing, 16 bolts are added to assure maximum strength. A fiberglass section in the compensation link maintains the 12 in. insulation gap in all boom positions. A stainless steel stud is provided at each end of the insert to shunt the system during electrical testing. The insert is tested per ANSI A92.2.

**ELECTRICAL INSULATION SPECIFICATIONS** - The outer/inner boom assembly is tested and certified for electrical work at 46 KV and below in accordance with ANSI A92.2 requirements. The outer/inner boom assembly is fully insulated even in a retracted position.

**PAINT** - The complete unit is primed and painted prior to assembly. The standard color is white urethane.

**INDEPENDENT H-FRAME OUTRIGGERS** - Outriggers are shear-plate mounted to the frame and are equipped with pilot operated check valves, internal thermal relief valves and separate controls. The outriggers furnish 90 ½ in. (2.3 m) of spread and a maximum of 9 in. (.23 m) of penetration with 15 in. (.38 m) of ground clearance. Outrigger pivot feet are standard.

**OUTRIGGER BOOM INTERLOCK SYSTEM** - The outrigger/boom interlock system is a feature designed to prevent the lift from being operated until the outriggers contact the ground. The interlock also prevents the outriggers from being retracted before the lower boom is properly stored.

**SLOPE INDICATORS** - Slope indicators are required on Versalift units and supplied by Time Manufacturing Co. Slope indicators shall be installed to indicate the level of the rotation bearing relative to the ground.

**MANUALS** - Two (2) Operator's Manuals, two (2) Service Manuals, one (1) Manual of Responsibilities, and one (1) EMI Safety Manual are included with each aerial lift.

## CHASSIS SPECIFICATIONS

**Minimum Chassis Specifications:**

- Clean Cab to Axle Dimension (tops, sides & bottoms) ............ 84 in. (2.14 m)
- Frame Resisting Bending Moment ............ 500,000 in-lbs. (57,000 N-m)
- GVWR ............ 19,500 lbs. (8845 kg)
- Front GAWR ............ 7,500 lbs. (3402 kg)
- Rear GAWR ............ 13,500 lbs. (6120 kg)
- Approximate Curb Weight for Stability ............ 13,000 lbs. (5900 kg)
- PTO Provision
- Rear Fuel Tank Only
- 2022 Ford F-550 4x2 Regular Cab
- Diesel Engine with Automatic Transmission
- Rear Back-up Camera
- Black Tubular Side Steps
- Bright White Clearcoat Exterior

## BODY SPECIFICATIONS

**Steel Service Body:**
132" Service Body 40 inches high X 94 inches wide.

**Body Dimensions:**

- 20 Inch compartment depth.

- 54 Inch bed area.
- 24 Inch top of floor to top of body.
- 18 Inch horizontal compartment height.

**Body Materials:**

- 12 Ga Treadplate Wheel wells.
- 16 Ga. Galvanneal body materials.
- 12 Ga. Hot rolled treadplate floor.
- 12 Ga. Hot rolled treadplate compartment tops.

**Door Details:**

- Stainless Steel Automotive rotary type door latches
- Latch Covers on All doors.
- Stainless steel rod and socket type door hinges.
- Gas Cylinder door holders on all vertical hinged doors
- Chain stops on horizontals.
- Spring Retainers on Horizontal Doors
- Double Panel Body Doors.

**Body Features:**

- Rubber rolled crown type fenders.
- Master door lock system.
- Automotive Bulb Type Weatherstripping.
- Front bulk head.
- Shelving / Hooks installed on DUAL Uni-Strut for infinite adjustment.
- Two (2) formed angle Mudflap brackets

**Streetside Compartmentation:**
**1st Vertical:**

- 30 Inches wide with Two (2) shelves each with adjustable dividers on 4" centers.

**2nd Vertical:**

- 24 Inches wide with Two (2) shelves each with adjustable dividers on 4" centers.

**Horizontal:**

- 54 Inch wide with One (1) material drawers with Adjustable dividers installed on 4" centers
- Drawers are mounted on Roller Bearing Slides.
- Each drawer has twist style T-Handle activating latches on each side of drawer.
- One fixed shelf installed on top of drawer set.

**Rear Vertical:**

- 24 Inches wide with Five (5) fixed material hooks 1-3-1.

**Curbside Compartmentation:**
**1st Vertical:**

- 30 Inches wide with Two (2) shelves each with adjustable dividers on 4" centers.

**2nd Vertical:**

- 24 Inches wide with One (1) shelf with adjustable dividers on 4" centers.

**Horizontal:**

- 54 Inch with One (1) material drawer adjustable dividers installed on 4" centers.
- Drawers are mounted on Roller Bearing Slides.
- Each drawer has twist style T-Handle activating latches on each side of drawer.
- One fixed shelf installed on top of drawer set.

**Rear Vertical:**

- 24 Inch wide gripstrut access steps to bed area.

**Tailshelf:**

- Treadplate tailshelf 30 inches long X Full width of body x 6 inches high
- 7-Lamp light bar installed at rear.

**Rear Lighting L.E.D in Tailshelf:**
- Rubber mounted recessed rear lighting kit with harness
- Two (2) stop/tail/turn lights - Peterson Brand M826R-7 L.E.D.
- Two (2) clear back up lights - Peterson Brand M826C - 7 LED
- Two (2) front clearance lights reflector style- Peterson brand M173A L.E.D
- Two (2) side clearance lights reflector style- Peterson brand M173R L.E.D
- Two (2) rear clearance lights reflector style - Peterson brand M173R L.E.D
- Three (3) light center cluster reflector Style - Peterson brand M173R L.E.D

**Wheel Chock Storage:**
- One each side built into body wheel wells.
- Pendulum Retainers.

**Outrigger Pad Storage:**
- Two (2) Single Outrigger Pad Storage Brackets
- Pendulum Retainers.

**Belted Step:**
- One (1) Rubber Belted type step at side access.
- One (1) Rubber Belted type step at rear of tailshelf - Curbside.
- Flat on top of step

**Grab Handles:**
- Two (2) Bolt-On Type at side access of body.
- Two (2) Pool type grab handles top of tailshelf.

**Punched Steel Headache Rack:**
- 94" wide x 24" High 14 gauge galvanneal Punched with Tube Construction.

**Paint:**
- Prime Paint Gray Interior
- Rubberized protective undercoating.

## INSTALLATION DETAILS

- Furnish and install mounting hardware, PTO, and pump
- Install VERSALIFT SST-40-EIH
- Furnish and install hydraulic diagnostic test ports
- Furnish and install body and accessories
- Furnish and install park brake interlock
- Furnish and install slope indicators
- Furnish and install backup alarm
- Furnish and install 4-corner LED amber/blue strobe system. Mounted two at the grill, two at the tailshelf.
- Furnish and install an ICC bumper
- Furnish and install a pintle plate with D-ring each side
- Furnish and install a receiver tube with pint and clip
- Furnish and install a 6 prong trailer receptacle
- Furnish and install mud flaps
- Furnish and install travel height decal in the cab
- Furnish and install a protective eyebrow over the back up camera eye at the rear
- Paint body to match cab and chassis
- Paint treadplate floor with black no-skid
- Furnish two (2) Dica model D1818, 18" x 18" x 1" black poly outrigger pads
- Furnish a fire extinguisher and a 3-piece triangle reflector kit
- Furnish two (2) rubber wheel chocks
- Test ride completed unit for 1 hour
- Test and certify per ANSI A92.2

## PRICE SUMMARY

| | |
|---|---|
| **Aerial, Body, Accessories and Installation:** | **$ 71,228.00** |
| **Chassis (2022 Ford F-550):** | **$To Be Supplied** |
| **SUBTOTAL:** | **$ 71,228.00** |
| **NET PRICE FOB THE COLONY, TEXAS:** | **$ 71,228.00** |

## OPTIONS

| | | | |
|---|---|---|---|
| **Option 1:** | 1200W Pure Sinewave Inverter: *Mounted in curbside 1st vertical. Does not include auxiliary battery* | **ADD TO NET PRICE:** | **$ 1,907.00** |
| **Option 2:** | Gas engine chassis vs diesel: | **DEDUCT FROM NET PRICE:** | **($ 123.00)** |

## NOTES

1. Your Terms This Order: Net 30 Days pending credit approval.

2. Days to Delivery: Approximately 330-360 Days after receipt of order or 60 days after receipt of chassis, whichever is later. Delivery times are subject to change without prior notice.

3. This Quotation Valid For: 30 Days

4. This quotation does not include any applicable sales tax, title, license or state inspection.

5. If Versalift Southwest is not supplying the chassis; it is the customer's responsibility to deliver the chassis to our facility in Waco, Texas.

6. Chassis specification must accompany purchase order. If the chassis specification does not meet minimum requirements for the application additional charges may be incurred to meet those requirements. This is necessary to order the correct mounting hardware to accommodate the particular chassis to be used.

Thank you for considering ***Versalift Southwest*** to meet your utility equipment needs. We look forward to earning your business.

Sincerely,

Josh Petty
Regional Sales Manager
Phone: (254) 717-0074
JoshPetty@Versalift.com

Signature: ______________________ Date: ______________

P.O. #: ______________ Quantity: __________ Options: ______________

**Please sign and date this quote if you would like to purchase this unit as stated in the quotation listed above. Indicate any options that you wish to include on your unit by the option number in the space provided above. Please fax this with your PO to (254) 776-8025 or email to staceymetayer@versalift.com.**

**CITY OF THE COLONY, TEXAS**
**RESOLUTION NO. 2021 - ________**

**A RESOLUTION OF THE CITY OF THE COLONY, TEXAS AUTHORIZING THE CITY MANAGER TO APPROVE A PURCHASE ORDER FOR THE PURCHASE OF AN F-550 BUCKET TRUCK; PROVIDING AN EFFECTIVE DATE.**

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF THE COLONY, TEXAS:**

**Section 1.** That the City Council of the City of The Colony, Texas hereby authorizes the City Manager to approve the purchase of an F-550 Bucket Truck from Rush Truck Center to be used for traffic signal service and repair activities.

**Section 2.** That the City Manager or his designee is authorized to approve the purchase order in the amount of $123,126.60.

**Section 3.** That this resolution shall take effect immediately from and after its passage.

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF THE COLONY, TEXAS THIS 7TH DAY OF DECEMBER 2021.**

______________________
Richard Boyer, Mayor
City of The Colony, Texas

ATTEST:

______________________
Tina Stewart, TRMC, CMC, City Secretary

APPROVED AS TO FORM:

______________________
Jeff Moore, City Attorney

# CITY COUNCIL Agenda Item Report

Meeting Date: December 7, 2021
Submitted by: Ron Hartline
Submitting Department: Engineering
Item Type: Resolution
Agenda Section:

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**Subject:**
Consider approving a resolution authorizing the City Manager to execute an amendment to Impact Fee Waiver Agreement and Amended and Restated Development Agreement with TMGN 121, LLC and LUNACROSSING, LTD to modify contract language and combine waived fees for two previous agreements that were signed with the city. (Hartline)

**Suggested Action:**
History of Agreements:

On or about January 10, 2014, the City and Colony 5 Partners, LLC, a Delaware limited liability company (hereinafter referred to as “Colony 5 Partners”), and RTG Colony Partners, LLC, a Delaware limited liability company (hereinafter referred to as “RTG Colony Partners”) entered into an Impact Fee Waiver Agreement (hereinafter referred to as the “Impact Fee Waiver Agreement”) to facilitate construction of certain public improvements within the City of The Colony, Texas, whereby Colony 5 Partners and RTG Colony Partners agreed to provide certain right-of-way and mutual access easement for the widening of South Colony Boulevard, Memorial Drive, and State Highway 121, in exchange for the waiver of roadway impact fees in favor of the Colony 5 Partners and RTG Colony Partners in an amount not to exceed One Million Two Hundred Forty-Eight Thousand Dollars ($1,248,000.00) as applied to Property A, a depiction of the Property A is attached for review.

On or about January 10, 2020, Colony 5 Partners and RTG Colony Partners assigned the Impact Fee Waiver Agreement to Colony 6 Partners, LLC, a Delaware limited liability company (hereinafter referred to as “Colony 6 Partners”); and

On or about March 5, 2020, Colony 6 Partners assigned all rights, titles, and interest in the Impact Fee Waiver Agreement to LUNA. ; and

On or about February 25, 2014, the City, Triangle Property 01, Ltd., a Texas limited liability partnership, and Triangle Property 04, Ltd., a Texas limited liability partnership (collectively referred to as “Triangle Properties”), entered into an original Development Agreement, whereby Triangle Properties agreed to provide certain rights-of-way to the City for the South Colony Overpass project and Memorial Drive widening project, in exchange for the City waiving certain costs recovery fees in the amount not to exceed Seven Hundred Eighty Thousand Eight Hundred Seventy and No/100 Dollars ($780,870.00) as applied to Property B, a depiction of the Property B is attached for review.

On or about January 21, 2015, the City and the Triangle Properties entered into an Amended and Restated Development Agreement (the original Development Agreement and the Amended and Restated Development Agreement for Property B; and

On or about November 4, 2015, the City approved an Assignment of Rights Under Development Agreement, whereby Triangle Properties assigned its rights under the Amended and Restated Development Agreement to TMGN 121.

Current Request:

LUNA and TMGN have now requested from the City that the various fee waivers and remaining fees applicable to Property A may be applied to both Property A and Property B, and the various fee waivers and remaining fees applicable to Property B may be applied to both Property A and Property B. A copy of the revised Amendment to Impact Fee Waiver Agreement and Amended and Reinstated Development Agreement is attached for review and approval.

Based on previous direction from City Council, staff has worked with our legal staff, LUNA and TMGN 121 to develop the attached agreement and recommend approval.

**Attachments**:

Property A.pdf

Property B.pdf

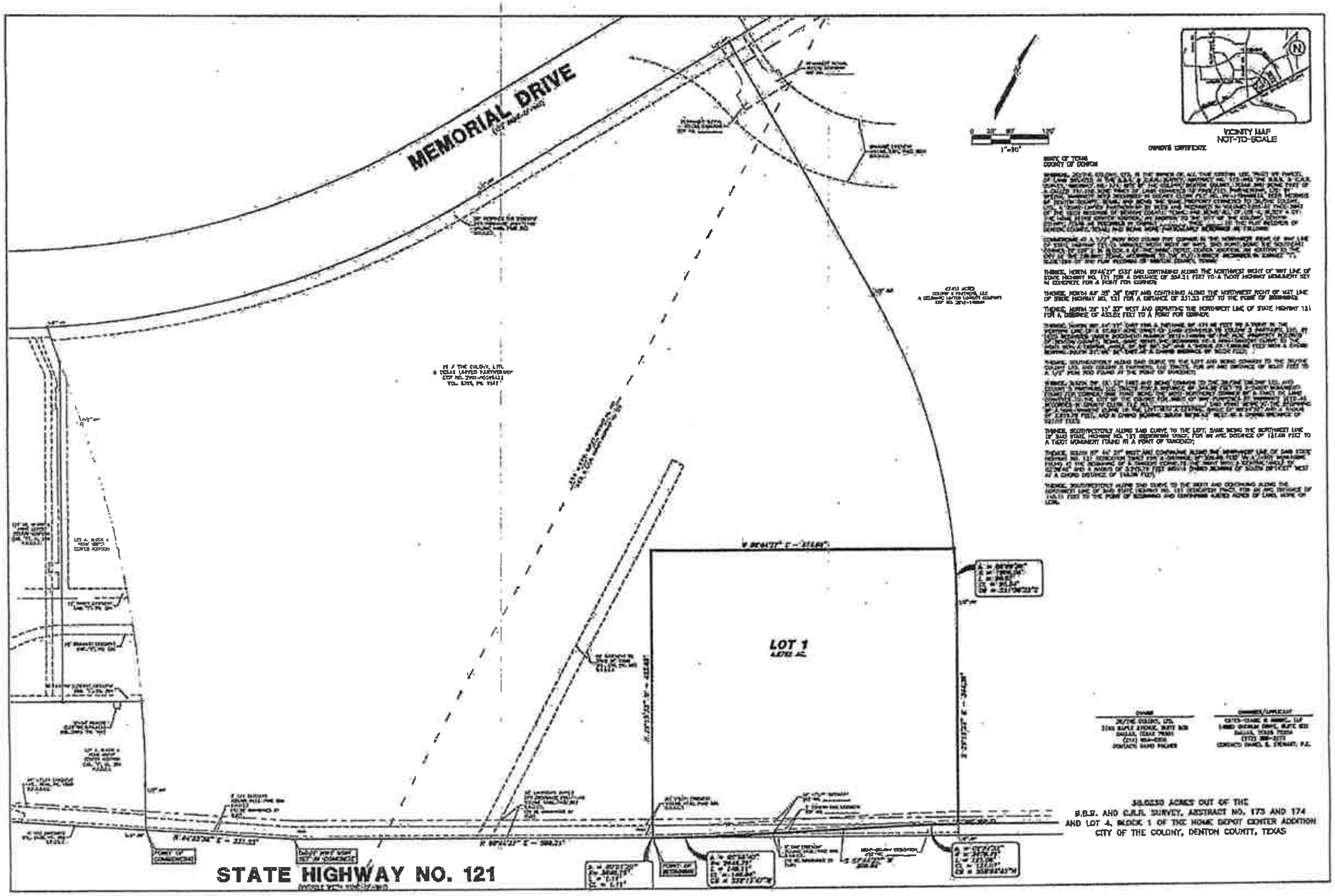
Amendment to Impact Fee Waiver Agreement.pdf

Res. 2021-xxx Lunacrossing and TMGN Waiver of Fees Agreement.docx

***Exhibit A***

[Legal Description and/or Depiction of Property A]

Description of the Property




2070.010\36839.6

[includes 47 acres owned by Colony 5 Partners LLC and the five acres to be acquired by RTG Colony Partners LLC]

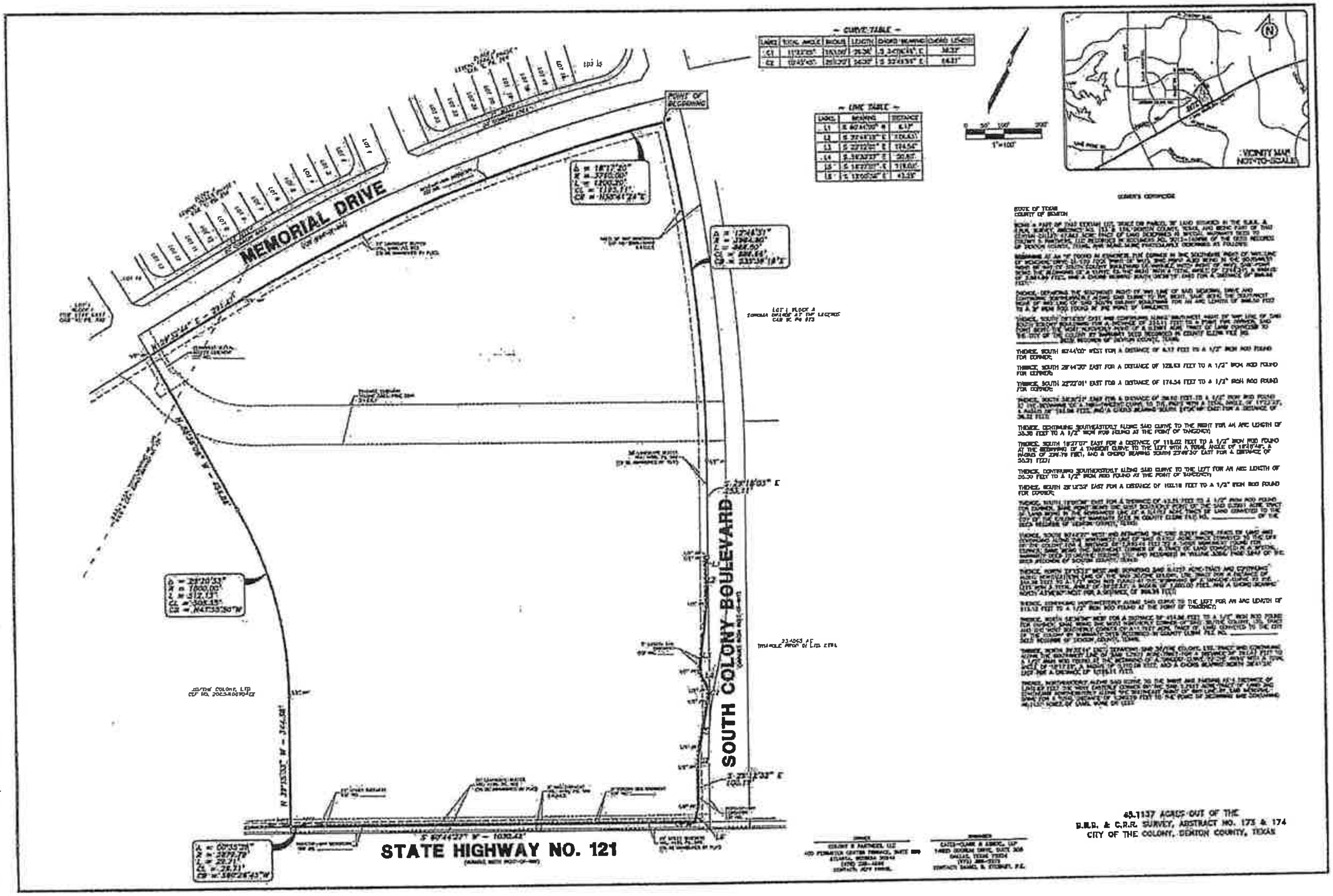



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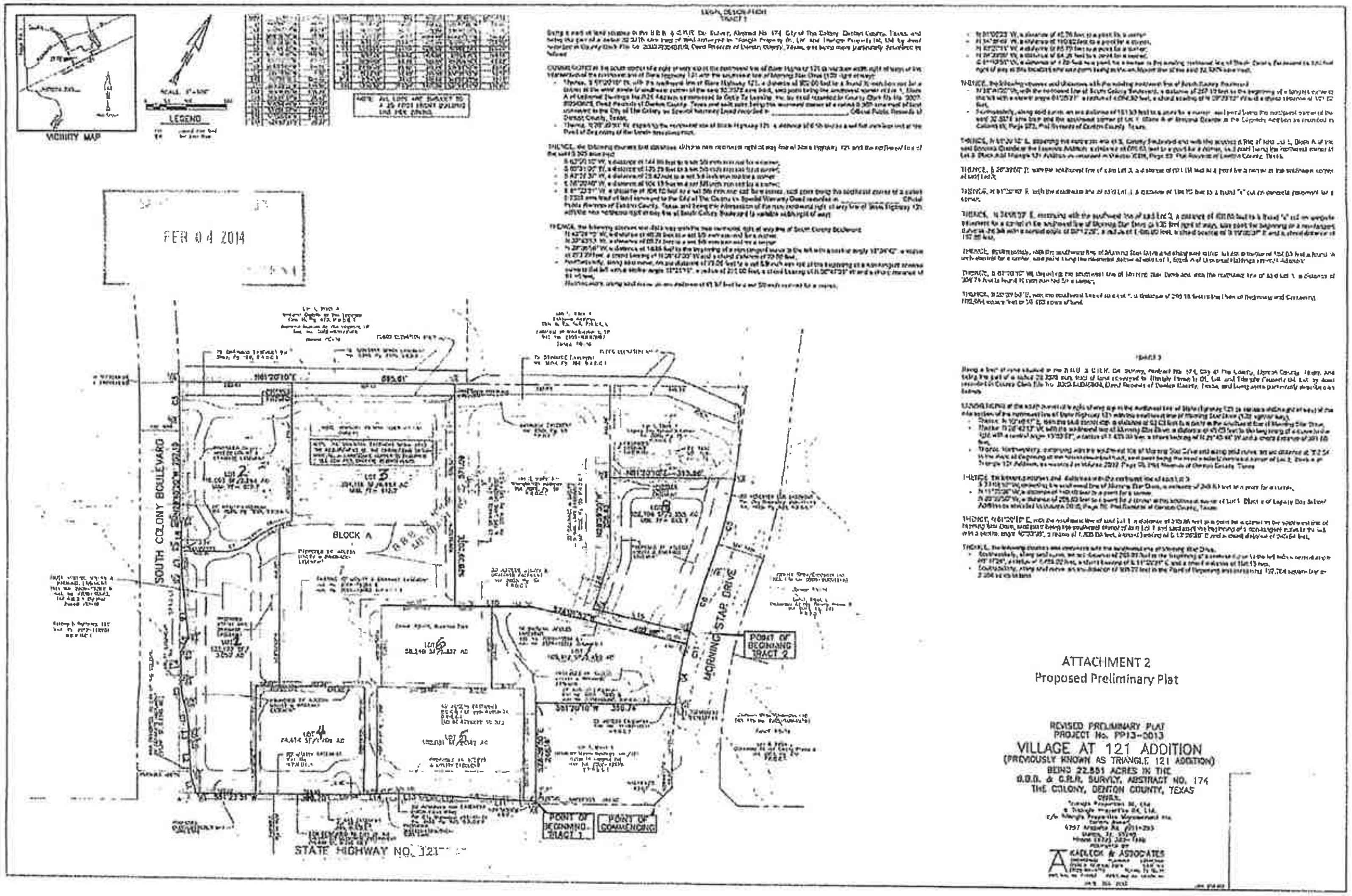
***Exhibit B***

[Legal Description and/or Depiction of Property B]




ATTACHMENT 2
Proposed Preliminary Plat

STATE OF TEXAS § AMENDMENT TO
§ IMPACT FEE WAIVER AGREEMENT
COUNTY OF DENTON § AND
AMENDED AND RESTATED
DEVELOPMENT AGREEMENT

This Amendment to Impact Fee Waiver Agreement and Amended and Restated Development Agreement (hereinafter referred to as the "Agreement") is made by and between the **CITY OF THE COLONY, TEXAS**, a Texas home-rule municipality (hereinafter referred to as the "City"), and **TMGN 121, LLC**, a Texas limited liability company (hereinafter referred to as "TMGN"), and **LUNACROSSING, LTD**, a Texas limited partnership (hereinafter referred to as "LUNA"), (the City and TMGN and LUNA are referred to individually as a "Party" and collectively as the "Parties").

## RECITALS

**WHEREAS,** on or about January 10, 2014, the City and Colony 5 Partners, LLC, a Delaware limited liability company (hereinafter referred to as "Colony 5 Partners"), and RTG Colony Partners, LLC, a Delaware limited liability company (hereinafter referred to as "RTG Colony Partners") entered into an Impact Fee Waiver Agreement (hereinafter referred to as the "Impact Fee Waiver Agreement") to facilitate construction of certain public improvements within the City of The Colony, Texas, whereby Colony 5 Partners and RTG Colony Partners agreed to provide certain right-of-way and mutual access easement for the widening of South Colony Boulevard, Memorial Drive, and State Highway 121, in exchange for the waiver of roadway impact fees in favor of the Colony 5 Partners and RTG Colony Partners in an amount not to exceed **One Million Two Hundred Forty-Eight Thousand Dollars ($1,248,000.00)** as applied to Property A, a depiction of the Property A is attached hereto as ***Exhibit A*** of this Agreement, and is incorporated herein for all purposes; and

**WHEREAS,** on or about January 10, 2020, Colony 5 Partners and RTG Colony Partners assigned the Impact Fee Waiver Agreement to Colony 6 Partners, LLC, a Delaware limited liability company (hereinafter referred to as "Colony 6 Partners"); and

**WHEREAS,** on or about March 5, 2020, Colony 6 Partners assigned all rights, titles, and interest in the Impact Fee Waiver Agreement to LUNA, a copy of said Assignment of Impact Fee Waiver Agreement, is attached hereto as ***Exhibit C***, and is incorporated herein for all purposes; and

**WHEREAS,** on or about February 25, 2014, the City, Triangle Property 01, Ltd., a Texas limited liability partnership, and Triangle Property 04, Ltd., a Texas limited liability partnership (collectively referred to as "Triangle Properties"), entered into an original Development Agreement, whereby Triangle Properties agreed to provide certain rights-of-way to the City for the South Colony Overpass project and Memorial Drive widening project, in exchange for the City waiving certain costs recovery fees in the amount not to exceed **Seven Hundred Eighty Thousand Eight Hundred Seventy and No/100 Dollars ($780,870.00)** as applied to Property B, a depiction of the Property B is attached hereto as ***Exhibit B*** of this Agreement, and is incorporated herein for all purposes; and

**WHEREAS,** on or about January 21, 2015, the City and the Triangle Properties entered into an Amended and Restated Development Agreement (the original Development Agreement and the Amended and Restated Development Agreement are collectively referred to as the "Amended and Restated Development Agreement"); and

**WHEREAS,** on or about November 4, 2015, the City approved an Assignment of Rights Under Development Agreement, a copy of which is attached hereto as ***Exhibit D***, and is incorporated herein for all purposes, whereby Triangle Properties assigned its rights under the Amended and Restated Development Agreement to TMGN; and

**WHEREAS,** LUNA and TMGN have requested from the City that the various fee waivers applicable to Property A may be applied to both Property A and Property B, and the various fee waivers applicable to Property B may be applied to both Property A and Property B; and

**NOW, THEREFORE,** for and in consideration of the above and foregoing premises, and other good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged, the Parties hereby agree as follows:

**SECTION 1. FINDINGS INCORPORATED.**

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

**SECTION 2. DEFINITIONS.**

(a) **Agreement.** The word "Agreement" means this Amendment to Impact Fee Waiver Agreement and Amended and Restated Development Agreement, together with all exhibits and schedules attached to this Agreement from time to time, if any.

(b) **Amended and Restated Development Agreement.** The words "Amended and Restated Development Agreement" mean collectively the original Development Agreement and the Amended and Restated Development Agreement which was entered into by the City and Triangle Properties on or about January 21, 2015, concerning Property B.

(c) **City.** The word "City" means the City of The Colony, Texas, a Texas home-rule municipality.

(d) **Effective Date.** The words "Effective Date" mean the date of the latter to execute this Agreement by and between the City, LUNA, and TMGN.

(e) **Impact Fee Waiver Agreement.** The words "Impact Fee Waiver Agreement" mean the Impact Fee Waiver Agreement entered into by the City, Colony 5 Partners, and RTG Colony Partners, LLC, a Delaware limited liability company, on or about January 10, 2014, concerning Property A.

(f) **LUNA.** The word "LUNA" means LUNACROSSING, LTD., a Texas limited partnership, and owner of all right, title, and interest in the Impact Fee Waiver Agreement applicable to Property A.

(g) **Property A.** The phrase "Property A" means the property described and/or depicted in ***Exhibit A*** of this Agreement, which is attached hereto and is incorporated herein for all purposes, and has the same meaning as Exhibit G of the Impact Fee Waiver Agreement.

(h) **Property B.** The phrase "Property B" means the property described and/or depicted in ***Exhibit B*** of this Agreement, which is attached hereto and is incorporated herein for all purposes, and has the same meaning as Exhibit C of the Amended and Restated Development Agreement.

(i) **TMGN.** The term "TMGN" means TMGN 121, LLC, a Texas limited liability company, and owner of all right, title, and interest in the Amended and Restated Development Agreement applicable to Property B.

**SECTION 3. AMENDMENT TO IMPACT FEE WAIVER AGREEMENT.**

(a) **Amendment to Impact Fee Waiver Agreement.** That Section 3.2. B. of the Impact Fee Waiver Agreement is hereby amended to read as follows:

"B. The City waives the assessment and payment of cost recovery fees in connection with the development of Property A and Property B in the remaining amount of **One Million One Hundred Five Thousand Eight Hundred Twenty-Six and 66/100 Dollars ($1,105,826.66).** Without limiting the foregoing, the City waives the right to deny any plat, building permit, or other type of City permit or approval for the development of the Property A or Property B or any portion thereof based on the non-payment of the cost recovery fees waived by this Section 3.2(B). Cost recovery fees shall include, but not be limited to, administrative charges, meter costs, all permit fees, building inspection fees, fire prevention fees, capital recovery fees, tap fees, roadway and other impact fees (excluding drainage impact fees), planning and zoning fees, and subdivision fees. To the extent that cost recovery fees are due in connection with the development of Property A or Property B or any portion thereof after the waiver/credit described in this Section 3.2(B) has been applied to the Property A or Property B, as applicable, LUNA and TMGN has the right to determine which portion of Property A or Property B receives the benefit of the waiver/credit."

**SECTION 4. AMENDMENT TO AMENDED AND RESTATED DEVELOPMENT AGREEMENT.**

(a) **Amendment to Amended and Restated Development Agreement**. That Section 3.2. B. of the Amended and Restated Development Agreement is hereby amended to read as follows:

"B. The City agrees to waive the LUNA and TMGN assessment and payment of cost recovery fees, if any, in the remaining amount not to exceed **Four Hundred Eighty Thousand Four Hundred Nine and 87/100 Dollars ($480,409.87),** for Property A and Property B. Without limiting the foregoing, the City waives the right to deny any plat, building permit, or other type of City permit or approval for the development of the Property A or Property B or any portion thereof based on the non-payment of the cost recovery fees waived by this Section 3.2(B). Cost recovery fees shall include, but not be limited to, administrative charges, meter costs, all permit fees, building inspection fees, fire prevention fees, capital recovery fees, tap fees, roadway and other impact fees (excluding drainage impact fees), planning and zoning fees, and subdivision fees. To the extent that cost recovery fees are due in connection with the development of Property A or Property B or any portion thereof after the waiver/credit described in this Section 3.2(B) has been applied to the Property A or Property B, as applicable, LUNA and TMGN has the right to determine which portion of Property A or Property B receives the benefit of the waiver/credit. LUNA and TMGN will be responsible for paying to the City all monthly utility fees, including water, sewer, and storm water, for the LUNA and TMGN facilities. In no event shall the City waive drainage impact fees for Property A or Property B."

**SECTION 5. MISCELLANEOUS PROVISIONS.**

The following miscellaneous provisions are a part of this Agreement:

(a) **Amendments.** This Agreement constitutes the entire understanding and agreement of the parties as to the matters set forth in this Agreement. No alteration of or amendment to this Agreement shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment.

(b) **Applicable Law and Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Denton County, Texas. Venue for any action arising under this Agreement shall lie in the state district courts of Denton County, Texas.

(c) **Assignment.** This Agreement may be assigned in whole or in part by TMGN and LUNA to future purchasers by providing a written notification with detailed explanation of the assignment to the City. Approval of the Assignment shall not be unreasonably withheld.

(d) **Binding Obligation.** This Agreement shall become a binding obligation on the signatories upon execution by all signatories hereto. The City warrants and represents that the individual executing this Agreement on behalf of the City has full authority to execute this Agreement and bind the City to the same. LUNA warrants and represents that the individual executing this Agreement on LUNA's behalf has full authority to execute this Agreement and bind it to the same. TMGN warrants and represents that the individual executing this Agreement on TMGN's behalf has full authority to execute this Agreement and bind it to the same.

(e) **Caption Headings.** Caption headings in this Agreement are for convenience purposes only and are not to be used to interpret or define the provisions of the Agreement.

(f) **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall constitute one and the same document.

(g) **Effective Date.** The effective date (the "Effective Date") of this Agreement shall be the date of the latter to execute this Agreement by and between the City, LUNA, and TMGN.

(h) **Original Agreements and any Amendments.** All of the terms, conditions, and obligations of the Amended and Restated Development Agreement and Impact Fee Waiver Agreement, and any amendments remain in full force and effect except where specifically modified by this Agreement.

(i) **Severability.** The provisions of this Agreement are severable. If any paragraph, section, subdivision, sentence, clause, or phrase of this Agreement is for any reason held by a court of competent jurisdiction to be contrary to law or contrary to any rule or regulation have the force and effect of the law, the remaining portions of the Agreement shall be enforced as if the invalid provision had never been included.

(j) **Time is of the Essence.** Time is of the essence in the performance of this Agreement.

**[The remainder of page intentionally left blank]**

**IN WITNESS WHEREOF,** each of the Parties hereto has caused this Agreement to be executed by its undersigned duly authorized representative as of the date herein above first mentioned.

**EXECUTED** on this the ____day of ________________________, 2021.

**CITY OF THE COLONY, TEXAS,**
a Texas home-rule municipality

By: ______________________________
Troy C. Powell, City Manager

**ATTEST:**

______________________________
Tina Stewart, City Secretary

**APPROVED AS TO FORM:**

______________________________
Jeff Moore, City Attorney

**LUNA:**

**LUNACROSSING, LTD.,**
a Texas limited partnership,

By: ______________________________
Name: ______________________________
Title: Ron Avneri
Date Executed: President Of

Triangle Property management,Inc

**TMGN:**

it's General Partner 11/20/2021

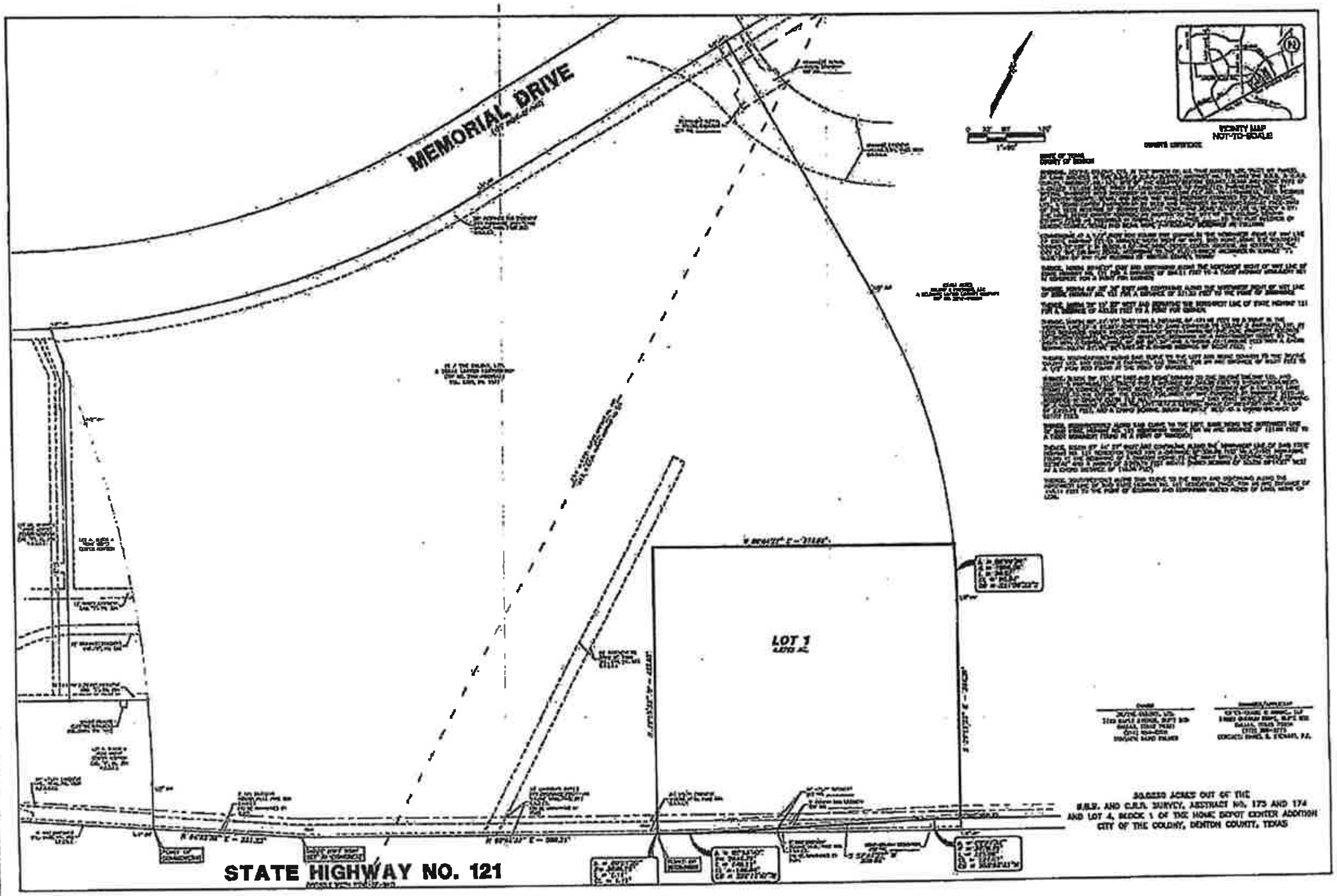
**TMGN 121, LLC,**
a Texas limited liability company,

By: ______________________________
Name: RON AVNERI
Title: MANAGER
Date Executed: 11/20/2021

***Exhibit A***

[Legal Description and/or Depiction of Property A]

## Description of the Property

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[includes 47 acres owned by Colony 5 Partners LLC and the five acres to be acquired by RTG Colony Partners LLC]

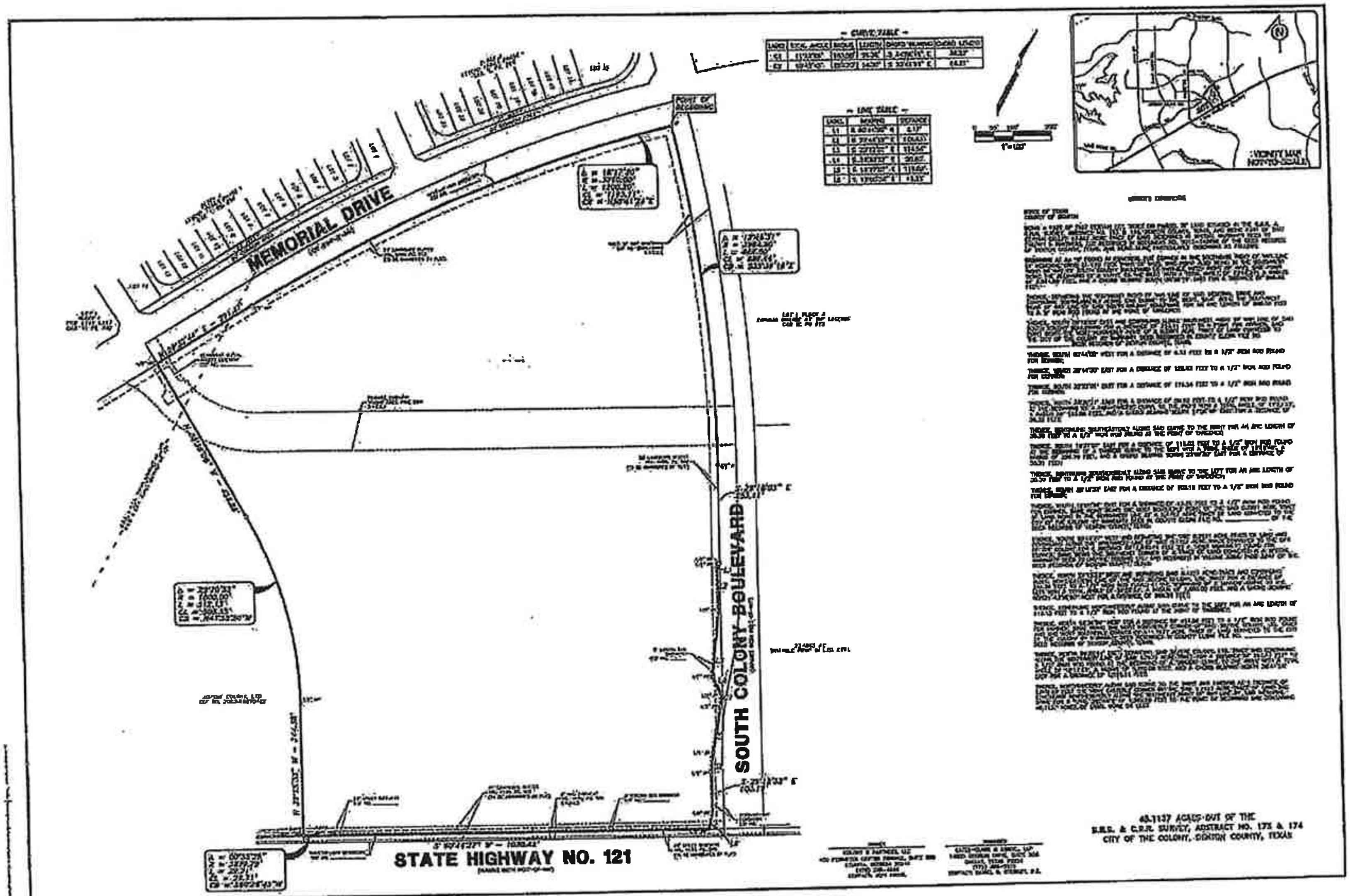


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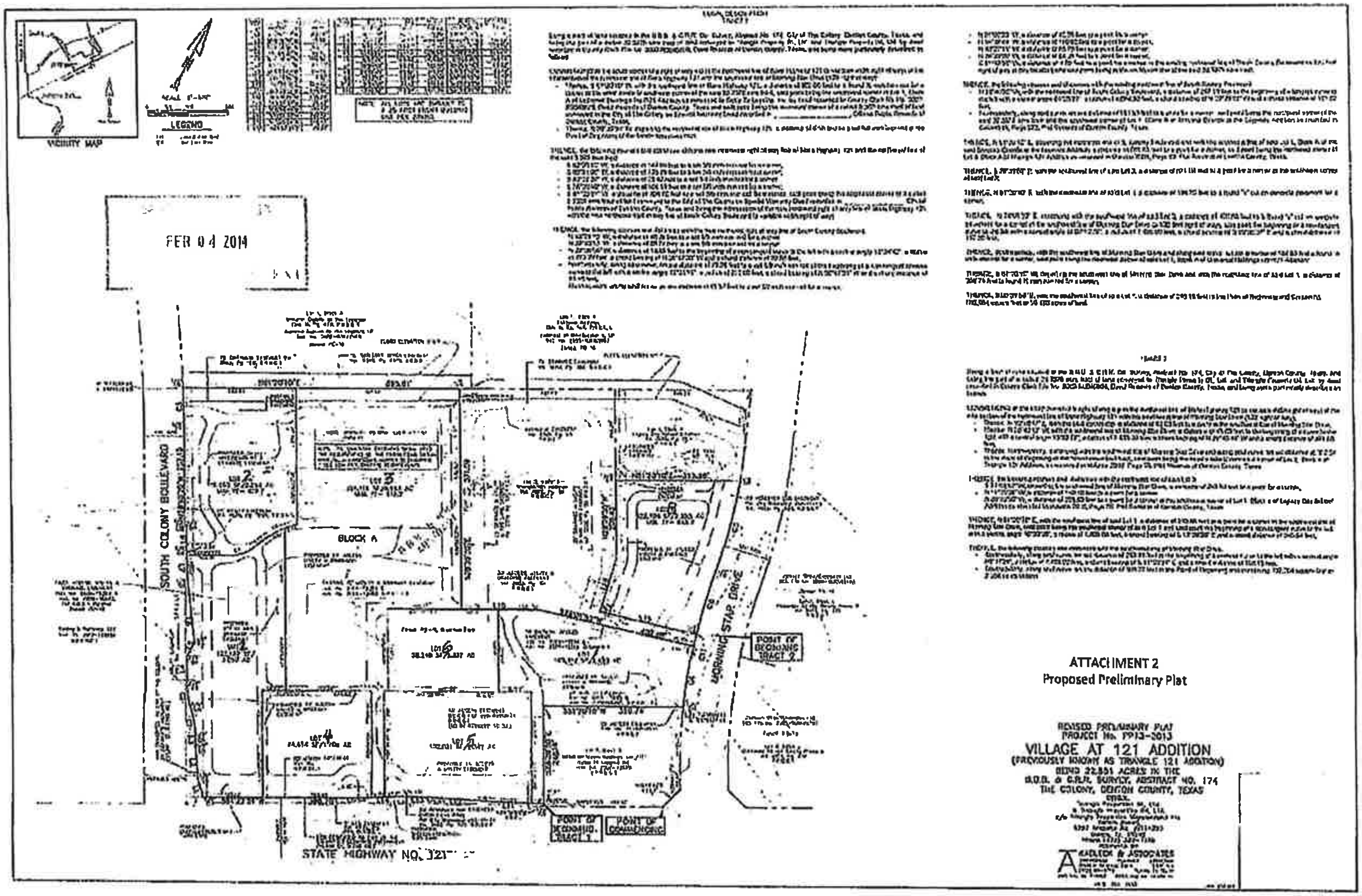
***Exhibit B***

[Legal Description and/or Depiction of Property B]




ATTACHMENT 2
Proposed Preliminary Plat

***Exhibit C***

[Assignment of Impact Fee Waiver Agreement
From Colony 6 Partners to LUNA]

2626 Howell Street, 10th Floor
Dallas, Texas 75204-4064
(214) 855-8888
Fax: (972) 516-2506
Direct Dial: (214) 855-8876
E-mail: esthercox@republictitle.com

March 6, 2020

Via Certified Mail w/Return Receipt and Facsimile

City of The Colony
6800 Main Street
The Colony, TX 75056
Attn: City Manager

Brown & Hofmeister, LLP
740 E. Campbell, Suite 800
Richardson, TX 75081
Attn: Jeff Moore, City Attorney

Re: Impact Fee Waiver Agreement (the "Agreement") by and between City of the Colony, Texas, (the "City") and Colony 6 Partners LLC, as assignee of Colony 5 Partners LLC, and RTG Colony Partners LLC (collectively "Developer") dated January 10, 2014 as assigned, regarding property located at The Colony, Denton County, Texas.

Dear Sirs:

In connection with the above referenced Agreement, enclosed please find the following:

1. Notice of Assignment Letter dated March 3, 2020;
2. One (1) copy of the recorded Special Warranty Deed; and
3. One (1) copy of the Assignment of Impact Fee Waiver.

If you need anything further at this time, please feel free to contact our office directly.

Sincerely,
Republic Title of Texas, Inc.

Esther Cox
Assistant to Melissa Schuelke
Sr. Vice President
Commercial Escrow Officer

MS/ec
Enclosures

D2 LAW GROUP

**ALEX H. DUNSER**
adunser@d2lawgroup.com
*main: 813.876.3200*
*direct 813.868.3242*
*Our File No.: 1025-0225*

March 3, 2020

***Via Certified Mail w/ Return Receipt and Facsmile***

City of The Colony
Attn: City Manager
6800 Main Street
The Colony, Texas 75056
Facsimile: (972) 624-2312

Jeff Moore, City Attorney
Brown & Hofmeister, LLP
740 E. Campbell, Suite 800
Richardson, Texas 75081
Facsimile: (214) 747-6111

Re: **Impact Fee Waiver Agreement** (the **"Agreement"**) by and between CITY OF THE COLONY, TEXAS (the **"City"**) and COLONY 6 PARTNERS LLC, as assignee of Colony 5 Partners LLC, and RTG COLONY PARTNERS LLC (collectively, **"Developer"**) dated January 10, 2014 as assigned, regarding property located at The Colony, Denton County, Texas. – **NOTICE OF ASSIGNMENT**

Dear Sirs:

This letter shall constitute Developer's notice (pursuant to Section 4.1 of the Agreement) to the City of Developer's assignment of all rights and liabilities under the Agreement to Lunacrossing, Ltd., a Texas limited partnership effective as of the transfer of title (**"Transfer of Title"**) from Colony 6 Partners LLC to Lunacrossing Ltd. effective March 5, 2020.

A copy of the recorded Special Warranty Deed evidencing the Transfer of Title together with an executed General Assignment are enclosed for your reference.

It is our understanding, based on Mr. Hartline's email of December 12, 2019 to our engineering consultant, Daniel Stewart, that the current available road impact fee waiver credits under the Agreement is equal to One Million One Hundred Forty-Four Thousand Three Hundred Fifty-Eight and 50/100 Dollars ($1,144,358.50).

We would appreciate your written acknowledgement of this assignment by email to Charles Kramer at ckramer@hklegal.net and to me at adunser@d2lawgroup.com. If you have any question, please do not hesitate to contact me.

Sincerely,

**D2 LAW GROUP P.L.**

Alex H. Dunser

{00040499 DOC.1}

## ASSIGNMENT OF IMPACT FEE WAIVER AGREEMENT

***For value received***, the undersigned, **COLONY 6 PARTNERS LLC**, a Delaware limited liability company ("**Assignor**"), assigns to **LUNACROSSING, LTD.**, a Texas limited partnership ("**Assignee**"), all of Assignor's right, title and interest in, to, and under the following:

> That certain Impact Fee Waiver Agreement (the "**Impact Fee Waiver Agreement**") by and between the City of The Colony, Texas, a Texas home-rule municipality (the "**City**") and Colony 5 Partners LLC, a Delaware limited liability company, and RTG Colony Partners LLC, a Delaware limited liability company, dated January 10, 2020, as assigned to Colony 6 Partners LLC, a Delaware limited liability company.

Assignor is permitted to make this Assignment pursuant to Section 4.1 of the Impact Fee Waiver Agreement without the consent of the City or the joinder of RTG Colony Partners LLC. Assignor shall provide the City with written notice of this Assignment.

Assignee accepts the assignment of the Impact Fee Waiver Agreement and assumes the performance of all of Assignor's duties and obligations (monetary and non-monetary) under the Impact Fee Waiver Agreement as of the Effective Date.

***In Witness Whereof***, Assignor and Assignee have executed this Assignment, effective as of March 5, 2020 (the "**Effective Date**"). This Assignment may be executed in counterparts, which may be assembled into a single document.

**Assignor:**

**COLONY 6 PARTNERS LLC**,
a Delaware limited liability company

By: ______________________

Print Name: Peter Wertzner

[redacted] President

**Assignee:**

**LUNACROSSING, LTD.**,
a Texas limited partnership

By: TRIANGLE PROPERTY MANAGEMENT, INC.,
a Texas corporation, its General Partner

By: ______________________

Print Name: RON AVHERI

Title: PRESIDENT

{00040494.DOC.3}

# ASSIGNMENT OF IMPACT FEE WAIVER AGREEMENT

***For value received***, the undersigned, **COLONY 5 PARTNERS LLC**, a Delaware limited liability company ("**Assignor**"), assigns to **COLONY 6 PARTNERS LLC**, a Delaware limited liability company ("**Assignee**"), all of Assignor's right, title and interest in, to, and under the following:

> That certain Impact Fee Waiver Agreement (the "**Impact Fee Waiver Agreement**") by and between the City of The Colony, Texas, a Texas home-rule municipality (the "**City**") and Colony 5 Partners LLC, a Delaware limited liability company, and RTG Colony Partners LLC, a Delaware limited liability company (collectively, the "**Developer**") dated January 10, 2014.

Assignor is permitted to make this Assignment pursuant to Section 4.1 of the Impact Fee Waiver Agreement without the consent of the City or the joinder of RTG Colony Partners LLC. Assignor shall provide the City with written notice of this Assignment.

Assignee accepts the assignment of the Impact Fee Waiver Agreement and assumes the performance of all of Assignor's duties and obligations (monetary and non-monetary) under the Impact Fee Waiver Agreement as of the Effective Date.

***In Witness Whereof***, Assignor and Assignee have executed this Assignment, effective as of May 23, 2019 (the "**Effective Date**").

**Assignor:**

**COLONY 5 PARTNERS LLC,**
a Delaware limited liability company

By: ______________________
Jamie Sheer
Vice President

**Assignee:**

**COLONY 6 PARTNERS LLC,**
a Delaware limited liability company

By: ______________________
Jamie Sheer
Vice President

{00040456.DOC.1}

***Exhibit D***

[Assignment of Rights under Development Agreement
From Triangle Properties to TMGN]

# ASSIGNMENT OF RIGHTS UNDER DEVELOPMENT AGREEMENT

| | | |
|---|---|---|
| STATE OF TEXAS | § | |
| | § | KNOW ALL MEN BY THESE PRESENTS: |
| COUNTY OF DENTON | § | |

This ASSIGNMENT OF RIGHTS UNDER DEVELOPMENT AGREEMENT (this "Assignment") is executed and delivered effective as of December 31, 2014, by **TRIANGLE PROPERTY 01, LTD., a Texas limited partnership and TRIANGLE PROPERTY 04, LTD., a Texas limited partnership** (collectively, "Assignor"), and **TMGN 121, LLC, a Texas limited liability company** ("Assignee").

RECITALS

A. Assignor entered into that one certain Amended and Restated Development Agreement with the City of The Colony, Texas, dated February 17, 2015, filed March 9, 2015, recorded under cc# 2015-23070, Real Property Records of Denton County, Texas (the "Development Agreement").

B. Assignor later conveyed all right, title and interest in and to the real property owned by Assignor, which was the subject of the Development Agreement, to Assignee, by deed dated December 31, 2014, filed January 30, 2015, recorded under cc# 2015-10036, Real Property Records of Denton County, Texas.

C. In connection with such conveyance, Assignor desires to transfer and convey to Assignee, and Assignee desires to accept from Assignor, all of Assignor's right, title and interest in and to the Development Agreement, including all benefits and privileges that accrue to Assignor from the same.

NOW, THEREFORE, for and in consideration of the mutual agreements and covenants set forth in the Purchase Agreement and in this Assignment, Assignor and Assignee do hereby agree as follows:

AGREEMENTS

1. Assignor does hereby ASSIGN, TRANSFER, SET-OVER, and DELIVER unto Assignee all of Assignor's right, title and interest in and to the Development Agreement, including but not limited to all rights, privileges, benefits, payments that are derived from said Development Agreement, and Assignee hereby accepts the same.

2. This Assignment is signed by the City of The Colony, Texas, solely for the purpose recognizing, approving and honoring such assignment of rights contained herein.

ASSIGNOR:

TRIANGLE PROPERTY 01, LTD. and
TRIANGLE PROPERTY 04, LTD.
each a Texas limited partnership

by: TRIANGLE PROPERTY MANAGEMENT, INC.
a Texas corporation
Its General Partner

By: ______________________
Yoram Avneri, President

ASSIGNEE:

TMGN 121, LLC
a Texas limited liability company

By: ______________________
Yoram Avneri, Manager

APPROVED:

THE CITY OF THE COLONY, TEXAS
A Texas home-rule municipality

By: ______________________
Troy C. Powell, City Manager

Attest:

______________________
Christie Wilson, City Secretary
City of The Colony, Texas

Approved as to form:

______________________
Jeff Moore, City Attorney

ACKNOWLEDGMENT

STATE OF TEXAS §
COUNTY OF §

Before me, the undersigned authority, on this day personally appeared YORAM AVNERI, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that said person executed the same for the purposes and consideration therein expressed, his capacity as President of TRIANGLE PROPERTY MANAGEMENT, INC., a Texas corporation, which is acting as General Partner of TRIANGLE PROPERTIES 01, LTD., and TRIANGLE PROPERTIES 04, LTD., each a Texas limited partnership.

Given under my hand and seal of office this 4th day of November, 2015.

Tina Stewart

Notary Public, State of Texas
Printed name:
Commission expires:

TINA STEWART
MY COMMISSION EXPIRES
February 14, 2019

ACKNOWLEDGMENT

STATE OF TEXAS §
COUNTY OF §

Before me, the undersigned authority, on this day personally appeared YORAM AVNERI, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that said person executed the same for the purposes and consideration therein expressed, his capacity as Manager of TMGN 121, LLC, a Texas limited liability company.

Given under my hand and seal of office this 4th day of November, 2015

Tina Stewart

Notary Public, State of Texas
Printed name:
Commission expires:

TINA STEWART
MY COMMISSION EXPIRES
February 14, 2019

AFTER RECORDING, RETURN TO:
TMGN 121, LLC
Attn.: Ron Avneri
P.O. Box 795743
Dallas, Texas 75379

**CITY OF THE COLONY, TEXAS**

**RESOLUTION NO. 2021 - ________**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF THE COLONY, TEXAS, AUTHORIZING THE CITY MANAGER TO EXECUTE THE AMENDMENT TO IMPACT FEE WAIVER AGREEMENT AND AMENDED AND RESTATED DEVELOPMENT AGREEMENT WITH TMGN 121, LLC, AND LUNACROSSING, LTD, BY WAIVING CERTAIN FEES; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE**

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF THE COLONY, TEXAS, THAT:**

**Section 1.** The findings set forth above are incorporated into the body of this Resolution as if fully set forth herein.

**Section 2.** The City Council of the City of The Colony, Texas, has duly reviewed and considered the Amendment to Impact Fee Waiver Agreement and Amended and Restated Development Agreement by and between the City of The Colony, Texas; TMGN 121, LLC, a Texas limited liability company; and LUNACROSSING, LTD., a Texas limited partnership, concerning the waiver of certain costs consistent with the Agreement.

**Section 3.** The City Council of the City of The Colony, Texas, does hereby approve and authorizes the City Manager to execute the Amendment to Impact Fee Waiver Agreement and Amended and Restated Development Agreement by and between the City of The Colony, Texas; TMGN 121, LLC, a Texas limited liability company; and LUNACROSSING, LTD., a Texas limited partnership, attached hereto as ***Exhibit A***, and is incorporated herein for all purposes.

**Section 4.** This Resolution shall take effect immediately from and after its passage.

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF THE COLONY, TEXAS, THIS 7TH DAY OF DECEMBER 2021.**

______________________________
Richard Boyer, Mayor
City of The Colony, Texas

**ATTEST:**

______________________________
Tina Stewart, TRMC, City Secretary

**APPROVED AS TO FORM:**

Jeffrey L. Moore, City Attorney

***Exhibit A***

Amendment to Impact Fee Waiver Agreement
and
Amended and Restated Development Agreement

# CITY COUNCIL Agenda Item Report

Meeting Date: December 7, 2021
Submitted by: Robert Kotasek
Submitting Department: Engineering
Item Type: Resolution
Agenda Section:

---

**Subject:**
Consider approving a resolution authorizing the City Manager to execute an Engineering Services Contract in the amount of $ 48,180.00 with Halff Associates, Inc. to prepare construction plans and specifications for the North Colony Boulevard Pedestrian Hybrid Beacon Project. (Hartline)

**Suggested Action:**
Background:
The City's CDC Board held a Public Hearing and approved the funding for the North Colony Boulevard Pedestrian Hybrid Beacon contract at their October 14, 2021 meeting. (See attached minutes for the October 14, 2021 meeting).

The project will involve the design of a complete solar-powered Pedestrian Hybrid Beacon west of the intersection of North Colony Boulevard and Power Street. This signal will allow pedestrians using the City Park Trail Loop to safely cross Paige Road at a signalized pedestrian crossing and will be similar to the design of the Pedestrian Hybrid Beacon recently completed on Paige Road. The design contract includes surveying, subsurface utility engineering (SUE), preparing construction plans and specifications, bidding assistance and construction management services. The total cost of the contract with Halff Associates, Inc. is $ 48,180.00.

Recommendation:
Staff recommends approval of the design contract with Halff Associates, Inc. for the North Colony Boulevard Pedestrian Hybrid Beacon Project in the amount of $ 48,180.00. With approval, the project design is anticipated to be completed by the end of March 2022.

**Attachments**:
Scope of Work for Halff's Engineering Services Contract

Location Map

CDC Board Meetings for October 14. 2021 Meeting

Res. 2021-xxx Engineering Servics Contract - Halff Associates, Inc.doc

**EXHIBIT "A"**

**SCOPE OF WORK**

**NORTH COLONY BOULEVARD PEDESTRIAN HYBRID BEACON**

**CITY OF THE COLONY, TEXAS**

## 1. Description:

The project will involve the design of a Pedestrian Hybrid Beacon west of the intersection of North Colony Boulevard and Powers Street to address pedestrian safety while crossing the roadway. The Pedestrian Hybrid Beacon shall be solar powered. Construction will include installation of the signal, demolition, barrier-free ramps, pavement markings and signage. Additionally, subsurface utility engineering (SUE) shall be conducted to verify gas and fiber utility conflicts.

## 2. Assumptions:

A. Professional services include only services that are normal and customary and are not represented as including special services or those requiring expertise that is greater than that provided by other service providers.

B. Professional will be responsible for review of contractor submittals, testing reports, and as-built preparation only. Bidding services, bid tabulation, construction meetings, contract document preparation, and pay application review are excluded from this contract.

C. Professional will not conduct a warrant study for the proposed signal.

D. Pedestrian Hybrid Beacon shall be solar powered.

E. Traffic control details will be provided as appropriate for construction. The Contractor shall be required to submit a formal signed and sealed traffic control plan prior to the beginning of construction.

F. This contract excludes traffic counts for the project, traffic signal timing, operational/level of service analysis of site driveways or street intersections within the project area, and pavement designs.

G. This contract excludes Geotechnical Engineering.

## 3. Work Plan:

### A. Surveying Services

The Professional shall provide surveying services, which, in general, may be defined as normal services applicable to a project of this type. The following particulars will also apply.

(1) Vertical benchmarks shall be established such that all points of construction shall be within 500 feet of a benchmark. Benchmarks should not be subject to loss during construction. Fire hydrants and similar appurtenances are not to be used for benchmarks. The surveyor shall establish temporary benchmarks throughout the length of the project.

(2) Topographic features will be surveyed along with any and all other features needed for design, review, permitting, construction, and inspection of the project. Coverage will extend beyond the proposed project limits far enough to integrate the design with the adjacent properties.

(3) Existing property corners, iron pins, etc. shall be tied in order to establish existing rights-of-way and property boundaries. Prior to surveying on private property, the surveyor shall secure written permission from the property owners and/or tenant and shall provide the City a copy of said written permission. Should only oral permission be granted, the surveyor shall document the permission granted by letter to the property owner/tenant, with a copy to the City. If permission cannot be obtained, the City will assist or other arrangements will be coordinated with the City.

### B. Permitting

The Professional shall prepare applications to the Texas Department of Licensing and Review (TDLR) for code review of sidewalks, ramps, and signal placement. After construction, the professional shall notify the TDLR of completion date to arrange inspection. Professional shall address any questions or issues by TDLR as a result of review and inspection.

### C. Franchise Utility Coordination

The Professional will provide utility companies with electronic copies or if requested, half-sized paper copies of the 60% plans for review. Attendance at one (1) franchise utility coordination meeting is included in this contract.

### D. Subsurface Utility Engineering (SUE)

Professional shall conduct up to two (2) level A test holes documenting the precise horizontal and vertical locations of all utilities at the anticipated location of the four signal foundations. Test hole information shall be incorporated into the plans and a signed and sealed test hole sheet shall be furnished to the City documenting the findings of said SUE efforts. It is assumed that all test holes shall take place outside of paved surfaces and shall be less than 8-feet in depth.

**E. Project Deliverables**

Professional shall develop construction plans for review, permitting, bidding, construction, inspection, and record keeping. In general, construction plans shall be consistent with normal practice for projects of this nature. The following particulars will also apply. The construction plans will consist of numerous sheets ordered as follows:

(1) Cover Sheet and Sheet Index: The cover sheet shall include a location map. Additionally, the cover sheet shall show the project name, project number, date, City logo, Professional's name, address, and telephone number and other items may be specified. The Sheet Index shall be included on the Cover Sheet.

(2) Project General Notes and Legend: This sheet will include a listing of abbreviations, legend, and general notes.

(3) Paving Plan Sheet: Paving plan sheets will be arranged from south to north and from west to east, with the north arrow up or to the right on the sheet. Plan sheets will be drawn to scales of 1" = 20'. Each sheet will include no more than 500 feet of street; thus, leaving ample margins both left and right. Plan sheets shall depict all existing and proposed items pertinent to the project. Control points shall be shown on the paving plan sheet.

(4) Pedestrian Hybrid Beacon Plans and Details: Plan sheets will be prepared for a new Pedestrian Hybrid Beacon to be installed on North Colony Boulevard west of Powers Street. The signal design will be prepared consistent with current Texas Manual on Uniform Traffic Control Devices (TMUTCD) and the City of The Colony guidelines. At the City's direction, the PHB will be solar powered. Additionally, Halff will conduct an analysis to verify whether the existing mast arms from the pedestrian crossing to The Colony Aquatic Center, which is slated to be de-commissioned as part of this project, may be refurbished and utilized for the purposes of this project.

(5) Miscellaneous: Construction plans will also address erosion control, traffic control, demolition, pavement markings and signage.

(6) Detail Sheets: The City's standard drawings will be used as applicable for this project. Where other agency standards are used, they shall be reduced as necessary to fit on the City's standard sheet format with complete title block.

(7) Review Plans: Preliminary plans shall be prepared and submitted at the 60% milestone. Professional will prepare and submit Plans at the 90% milestone to the City for review and comment. Professional may submit plan sheets or working drawings to the City for review and comment during preliminary design to reduce the number of revisions that otherwise would be required.

During development of the plans, the Professional shall attend meetings as needed. This project does not include any plans in hand reviews.

(8) Prints: The Professional shall provide prints of construction plans for review and permitting. Five (5) sets of half-size plans will be submitted to the City at review stage. The Professional will provide up to eleven (11) sets of half-size prints for bidding and construction. Electronic files in PDF format shall be provided to the City for use by City staff.

(9) Cost Estimates: The Professional shall provide the City with an estimate of probable cost at each milestone submission. Unit prices shall be taken from bid tabs of similar projects.

F. **Specifications:** Professional shall prepare a project manual and technical specifications required for bidding and constructing the project. The project manual will be provided in the City's standard format. Only specifications amending or supplementing COG specifications need be furnished. Project manual, specifications, bid items and quantities shall be furnished on hard copy and by electronic file along with the 60%, 90%, and Final plan submissions.

G. **Public Meetings:** Professional shall not be required to attend public meetings for this project.

H. **Construction Control Staking:** The Contractor will provide construction staking.

I. **Bidding, Construction, Closure:**

(1) Construction:

(a) Review shop drawings and Contractor submittals.

(b) Review laboratory test reports on materials and equipment.

(c) Prepare record drawings from information supplied by the Contractor.

(2) Closure: The Professional shall prepare "record" plans, incorporating all changes and known variations to provide the City the best possible set of record drawings. The final record drawings shall be furnished on CD with plan sheets in .tif and pdf formats. CADD files of plan sheets and master files shall be provided on the CD as well.

4. **Schedule:**

A. Complete design surveys: **21 calendar days** from date of receipt of written authorization to begin.

B. Completion/furnishing 60% plans, project manual, and construction cost estimate: **60 calendar days** from date of receipt of written authorization to begin, excluding City review time.

C. Completion/furnishing 90% plans, project manual, and construction cost estimate: **90 calendar days** from date of written authorization to begin, excluding City review time.

D. Estimated Completion of Signed and Sealed plans for construction: **120 calendar days** from date of written authorization to begin excluding City review time.

## EXHIBIT "B"

## COMPENSATION

## NORTH COLONY BOULEVARD PEDESTRIAN HYBRID BEACON
## CITY OF THE COLONY, TEXAS

Exhibit "B" defines the basis of compensation to the Consultant for the services rendered.

**A. Fees -** The fee for the services described in Exhibit "A" will be **$48,180** which includes printing, direct costs, and computer charges normally associated with production of these services.

The basis of compensation for services shall be as follows:

1. **Special Services** – Special Services will be billed monthly based on actual completion of the tasks and may include partial payments of the total amounts designated for each item. The table on the following page summarizes special services fees.

| TASK DESCRIPTION | FEE |
|---|---|
| 1. Design Surveys | $2,570 |
| 2. Plan Review Fee & TDLR State Filing and Inspection Fees | $1,810 |
| 3. Franchise Utility Coordination | $1,540 |
| 4. Level A Test Holes @ $1,500/EA | $3,000 |
| **TOTAL SPECIAL SERVICES** | **$8,920** |

2. $34,720 for Design
3. $4,540 for Bidding, Construction, Closure

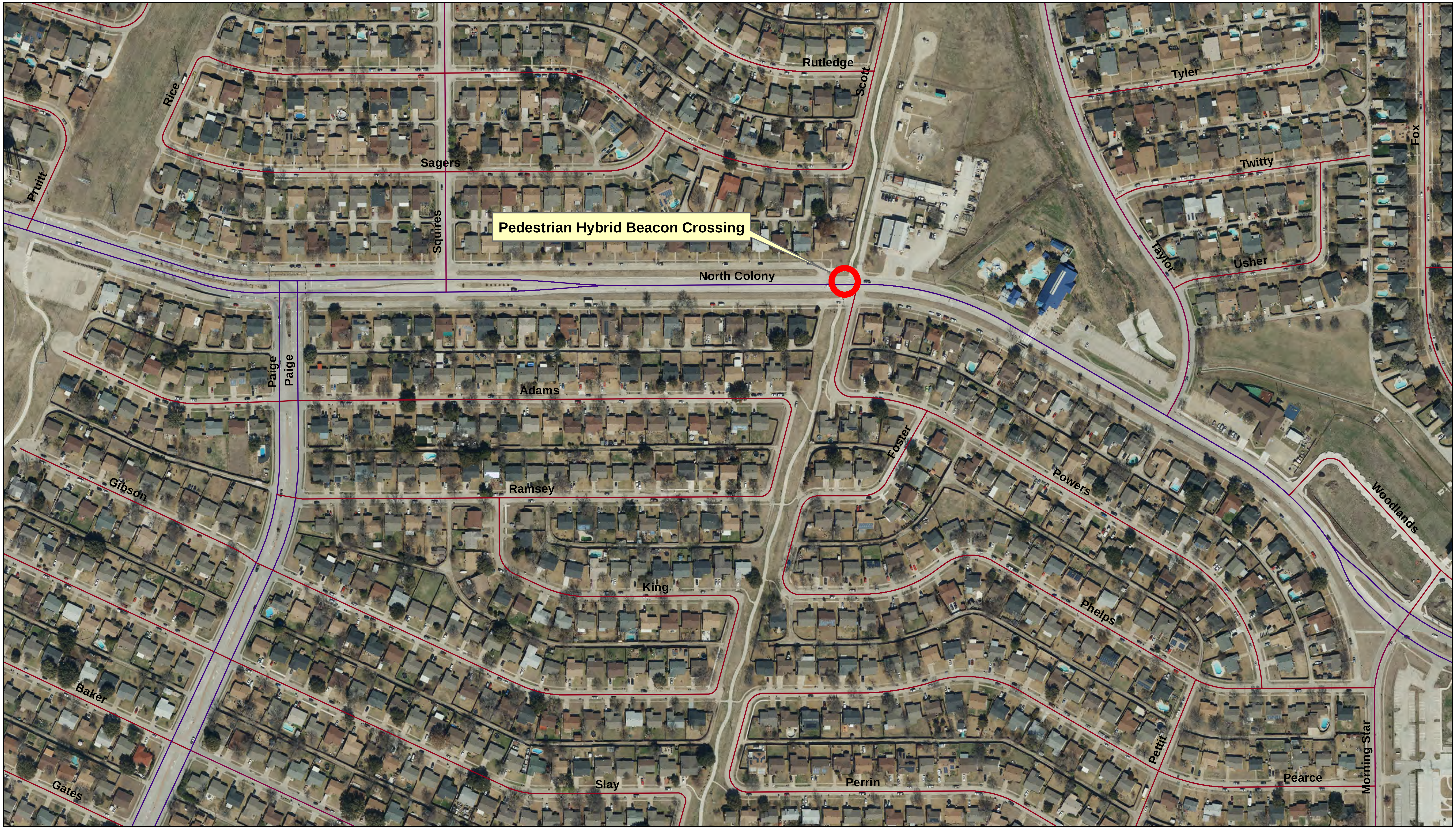
**B. Billing –** The fees established above shall be considered lump sum fees. Costs incurred will not be exceeded without prior approval from The Colony. Services will be invoiced monthly based on percentage of work complete and may include partial payments on the total amounts designated for each task. The maximum fee for the contract shall be $48,180.00 (Forty-Eight thousand one hundred eighty dollars and no cents).

**EXHIBIT "B-1"**
**(SUPPLEMENT TO EXHIBIT "B")**

**PAIGE ROAD PEDESTRIAN HYBRID BEACON**
**CITY OF THE COLONY**

**ESTIMATED PROJECT EFFORT**

| Project Phases and Tasks | Director | Team Leader | QC Manager | Landscape Architect | Engineer In Training/Traffic & Civil | GIS Professional | Traffic Engineer | Engineering Intern | RPLS | 2-Man Survey Crew | Survey Technician | 3-Man Survey Crew | CADD Technician | Structural Engineer | Effort Subtotal | Fee Subtotal | Direct Costs | Project Total |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **Task 1: Special Services** | | | | | | | | | | | | | | | | | | |
| Design Surveys | | | | | | | | | 2 | 8 | 8 | | 2 | | 20 | $2,324 | $250.00 | **$2,574** |
| TDLR Permitting | | 0.5 | | | 6 | | | | | | | | | | 6.5 | $804 | $1,010.00 | **$1,814** |
| Franchise Utility Coordination | | 2 | | | 10 | | | | | | | | | | | $1,543 | | **$1,543** |
| SUE | | | | | | | | | | | | | | | | | $3,000.00 | **$3,000** |
| *Subtotal Task 1* | | 2.5 | | | 16 | | | | 2 | 8 | 8 | | 2 | | 38.5 | $4,670 | $4,260.00 | **$8,930** |
| **Task 2: Design** | | | | | | | | | | | | | | | | | | |
| ***Plan Preparation (no. of sheets)*** | | | | | | | | | | | | | | | | | | |
| Cover Sheet and Index (1) | | | | | 2 | 1 | | | | | | | 0.5 | | 3.5 | $415 | | **$415** |
| General Notes and Legend (2) | | 2 | | | 2 | | | | | | | | 0.5 | | 4.5 | $630 | | **$630** |
| Demolition (1) | | 0.5 | | | 6 | | | | | | | | 2 | | 8.5 | $976 | | **$976** |
| Paving Plan (Sidewalks and Ramps) (1) | | 1 | | | 6 | | | | | | | | 2 | | 9 | $1,063 | | **$1,063** |
| Ramp Details (1) | | | | | 2 | | | | | | | | 2 | | 4 | $411 | | **$411** |
| Pavement Markings and Signage (1) | | | | | 2 | | | | | | | | 0.5 | | 2.5 | $282 | | **$282** |
| Signal Plans and General Notes (3) | | | 3 | | 20 | | 10 | | | | | | 8 | 4 | 45 | $6,771 | | **$6,771** |
| Signal Details (6) | | | 1 | | 10 | | 5 | | | | | | 2 | | 18 | $2,552 | | **$2,552** |
| Erosion Control (1) | | | | | 2 | | | | | | | | 1 | | 3 | $325 | | **$325** |
| Standard Detail Sheets (11) | | | | | 4 | | | | | | | | 0.5 | | 4.5 | $521 | | **$521** |
| 60% Review Comments | | 3 | | | 10 | | 4 | | | | | | 1 | | 18 | $2,543 | | **$2,543** |
| 90% Review Comments | | 3 | | | 10 | | 4 | | | | | | 1 | | 18 | $2,543 | | **$2,543** |
| Final Review Comments | | 3 | | | 10 | | 4 | | | | | | 1 | | 18 | $2,543 | | **$2,543** |
| Quantities and Cost Estimates (60%, 90%, 100%) | | | 4 | | 28 | | 12 | | | | | | 3 | | 47 | $6,864 | | **$6,864** |
| ***Project Manual and Bidding Documents*** | | | | | | | | | | | | | | | | | | |
| Preliminary Project Manual Submission | | | 2 | | 6 | | 2 | | | | | | | | 10 | $1,607 | | **$1,607** |
| Final Project Manual Submission | | | 2 | | 4 | | 2 | | | | | | | | 8 | $1,369 | | **$1,369** |
| Project QC | | 10 | 6 | | | | | | | | | | | | 16 | $3,304 | | **$3,304** |
| *Subtotal Task 2* | | 22.5 | 18 | | 124 | 1 | 43 | | | | | | 25 | 4 | 237.5 | $34,719 | | **$34,720** |
| **Task 3: Bidding, Construction, Closure** | | | | | | | | | | | | | | | | | | |
| ***Construction Administration*** | | | | | | | | | | | | | | | | | | |
| Pre Bid Meeting (not included) | | | | | | | | | | | | | | | | | | |
| Pre-Construction Meeting /Bid Opening (not included) | | | | | | | | | | | | | | | | | | |
| Bid Tabulation and Contractor Recommendation (not included) | | | | | | | | | | | | | | | | | | |
| Preparation of Final Contract Documents (not included) | | | | | | | | | | | | | | | | | | |
| Review Submittals and Testing Reports | | 4 | | | 10 | | 8 | | | | | | | | 22 | $3,371 | | **$3,371** |
| Site Visits, Pay Applications, Contract Amendments (not included) | | | | | | | | | | | | | | | | | | |
| As-Built Drawings | | 2 | | | 4 | | | | | | | | 4 | | 10 | $1,171 | | **$1,171** |
| *Subtotal Task 3* | | 6 | | | 14 | | 8 | | | | | | 4 | | 32 | $4,542 | | **$4,540** |
| **PROJECT TOTALS** | | 31 | 18 | | 154 | 1 | 51 | | 2 | 8 | 8 | | 31 | 4 | 308 | $43,931 | $4,260 | $48,190 |

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**Location Map**
**North Colony Boulevard Pedestrian Hybrid Beacon**

THE COLONY
City by th

MINUTES OF THE REGULAR SESSION
OF THE COMMUNITY DEVELOPMENT CORPORATION
OCTOBER 14TH 2021

The Regular Session of The Community Development Corporation of the City of The Colony, Texas, was called to order at 6:30 p.m. on the 14TH day of October 2021 at City Hall, 6800 Main Street, The Colony, Texas, with the following roll call:

| | | | |
|---|---|---|---|
| Dan Mahle, President | Present | Pam Nelson | Staff |
| Allen Harris, Vice President | Absent | Eve Morgan | Staff |
| Josh Knapp, Treasurer | Present | Kathy Neal | Staff |
| Steve Sohn, Secretary | Present | Jackie Kopsa | Staff |
| Don Beckel, Board Member | Present | Brant Shallenburger | Staff |
| Kathy Braby, Board Member | Present | Perry Schrag | Council Liaison |
| Kathy Ray, Board Member | Present | | |

And with six board members present a quorum was established and the following items were addressed in this meeting remotely via videoconference:

***1.0 ROUTINE ANNOUNCEMENTS AND RECOGNITIONS***

**1.1 Call to Order**

*The meeting was called to order at 6:30 p.m.*

**1.2 Announcement of upcoming civic events and activities**

- **Family Fright Night -**
  *This event is Oct. 16th & 17th at Stewart Creek Park. Activities include a haunted trail, contests, a photo booth and more.*
- **American Heroes –**
  *This event is on Nov. 5th & 6th at Five Star. Activities include a carnival, car show, silent auction, a concert on Friday featuring Lauren Alaina and on Saturday featuring the Plain White T's, and fireworks on Saturday night.*

***2.0 CITIZEN INPUT***

*None.*

***3.0 CONSENT AGENDA***

3.1 Consider acceptance of the CDC financial reports for August 2021 and September 2021

3.2 Consider approval of minutes of the August 12th, 2021 Regular Session

3.3 Consider approval of a Design Services Contract with Dunkin Sims & Stoffels for the Splashpark Phase II

3.4 Consider approval of a Design Services Contract with Halff Associates for a Pedestrian Hybrid Beacon on North Colony Blvd.

***Motion to approve – Braby; second – Knapp; motion passes with all ayes***

CITY OF THE COLONY
# COMMUNITY DEVELOPMENT CORPORATION AGENDA
## THURSDAY, OCTOBER 14th, 2021
## 6:30 PM

## TO ALL INTERESTED PERSONS

Notice is hereby given of a **REGULAR SESSION of the COMMUNITY DEVELOPMENT CORPORATION** of the City of The Colony, Texas to be held at **6:30 PM** on **THURSDAY, OCTOBER 14th, 2021** at **6800 MAIN ST., THE COLONY, TX,** at which time the following items will be addressed:

### *1.0 ROUTINE ANNOUNCEMENTS AND RECOGNITIONS*

1.1 Call to Order

1.2 Pledge of Allegiance to the United States Flag

1.3 Salute to the Texas Flag

1.4 Announcement of upcoming civic events and activities -

- Family Fright Night
- American Heroes

### *2.0 CITIZEN INPUT*

*This portion of the meeting is to allow up to five (5) minutes per speaker with a maximum of thirty (30) minutes for items not posted on the current agenda. The Board may not discuss these items, but may respond with factual data or policy information, or place the item on a future agenda. Those wishing to speak shall submit a Request Form to the Recording Secretary.*

### *3.0 CONSENT AGENDA*

*The Consent Agenda contains items which are routine in nature and will be acted upon in one motion. Items may be removed from this agenda for separate discussion by a Board member.*

3.1 Consider acceptance of the CDC financial reports for August 2021 and September 2021

3.2 Consider approval of minutes of the August 12th, 2021 Regular Session

3.3 Consider approval of a Design Services Contract with Dunkin Sims & Stoffels for the Splashpark Phase II

3.4 Consider approval of a Design Services Contract with Halff Associates for a Pedestrian Hybrid Beacon on North Colony Blvd.

## *4.0 REGULAR AGENDA ITEMS*

4.1 In accordance with the Development Corporation Act, Section 505.159 of the Texas Local Government Code, The Colony Community Development Corporation, a Type B Economic Development Corporation, will conduct a Public Hearing to receive public input regarding funding for proposed capital improvement projects including the following:

**Aquatic Park**- Security Cameras, lagoon improvements, Portable Vacuum System, park amenities, ADA Pool Lift, Splash Zone Repairs

**Parks Equipment**- Zero turn mowers, pick-up truck, Infield Groomer, Ventrac with attachments, utility tractor

**Park Improvements**- Underpass trail lighting on the Cascades/Grandscape Trail, Aquatic Park Trail connection, Five Star maintenance yard expansion, Five Star Playgrounds, North Colony Blvd. Pedestrian Hybrid Beacon, Kids Colony Splash Park Phase II, trees and irrigation at various locations

**Operations** - Hawaiian Falls Parking Lot early principal bond payment, new Recreation Center building fund, proposed 2021-2022 FY Budget

4.2 Receive update from staff and discuss the following items -
- Pick A Playspace Meeting
- Lake Paddling Trail Partnership
- Park Pavilions Project
- Splashpark
- Bike Rack Grant Program

4.3 Board to request items to be placed on a future agenda -

## *ADJOURNMENT*

*Persons with disabilities who plan to attend this meeting who may need auxiliary aids such as interpreters for persons who are deaf or hearing impaired, readers or, large print are requested to contact the City Secretary's Office, at 972-624-3105 at least two (2) working days prior to the meeting so that appropriate arrangements can be made.*

*CERTIFICATION*

*I hereby certify that above notice of meeting was posted outside the front door of City Hall by 5:00 p.m. on the 8th day of October, 2021.*

THE CITY OF THE COLONY SEAL TEXAS

Tina Stewart

*Tina Stewart, TRMC, City Secretary*

**CITY OF THE COLONY, TEXAS**

**RESOLUTION NO. 2021 – ________**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF THE COLONY, TEXAS, APPROVING AN ENGINEERING SERVICES CONTRACT BY AND BETWEEN THE CITY OF THE COLONY AND HALFF ASSOCIATES, INC. FOR THE NORTH COLONY BOULEVARD PEDESTRIAN HYBRID BEACON CONSTRUCTION PROJECT; AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City and Consultant have entered into an Engineering Services Contract for the design and construction of a complete solar-powered pedestrian hybrid beacon west of the intersection of North Colony Boulevard and Power Street; and

**WHEREAS,** the City has determined that it is in the best interest of the City to enter into the Contract with Halff Associates, Inc. which is attached hereto and incorporated herein by reference as **Exhibit "A"** under the terms and conditions provided therein; and

**WHEREAS**, with this Contract the City of The Colony is agreeing to the services no to exceed the amount of $48,180.00 for such work.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF THE COLONY, TEXAS, THAT:**

**Section 1.** The Engineering Services Contract, which is attached hereto and incorporated herein as Exhibit "A", having been reviewed by the City Council of the City of The Colony, Texas, and found to be acceptable and in the best interest of the City and its citizens, be, and the same is hereby, in all things approved.

**Section 2.** The City Manager is hereby authorized to execute the Contract on behalf of the City of The Colony, Texas.

**Section 3.** This Resolution shall take effect immediately from and after its adoption and it is so resolved.

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF THE COLONY, TEXAS THIS 7TH DAY OF DECEMBER 2021.**

______________________________
Richard Boyer, Mayor
City of The Colony, Texas

**ATTEST:**

______________________________
Tina Stewart, TRMC, CMC, City Secretary

**APPROVED AS TO FORM:**

Jeff Moore, City Attorney

# CITY COUNCIL Agenda Item Report

Meeting Date: December 7, 2021
Submitted by: Tina Stewart
Submitting Department: City Secretary
Item Type: Resolution
Agenda Section:

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**Subject:**
Discuss and consider approving a resolution authorizing the City Manager to execute any and all necessary documentation reflecting to participate in the proposed Opioid Settlements brought by the State of Texas and other Jurisdictions against various pharmaceutical companies for their roles in the National Opioid Crisis. (Council)

**Suggested Action:**

**Attachments**:
Settlement Allocation Term Sheet - Opioid matter.pdf

Subdivision Settlement Participation Form - Opioid matter.pdf

Res. 2021-xxx Opioid Global Settlement.docx

# TEXAS OPIOID ABATEMENT FUND COUNCIL AND SETTLEMENT ALLOCATION TERM SHEET

**WHEREAS**, the people of the State of Texas and its communities have been harmed through the National and Statewide epidemic caused by licit and illicit opioid use and distribution within the State of Texas; and now,

**WHEREAS**, the State of Texas, though its elected representatives and counsel, including the Honorable Ken Paxton, Attorney General of the State of Texas, and certain Political Subdivisions, through their elected representatives and counsel, are separately engaged in litigation seeking to hold those entities in the supply chain accountable for the damage caused; and now,

**WHEREAS**, the State of Texas, through its Attorney General and its Political Subdivisions, share a common desire to abate and alleviate the impacts of the epidemic throughout the State of Texas; and now,

**THEREFORE**, the State of Texas and its Political Subdivisions, subject to completing formal documents effectuating the Parties' agreements, enter into this State of Texas and Texas Political Subdivisions' Opioid Abatement Fund Council and Settlement Allocation Term Sheet (Texas Term Sheet) relating to the allocation and use of the proceeds of any Settlements as described.

## A. Definitions

As used in this Texas Term Sheet:

1. "The State" shall mean the State of Texas acting through its Attorney General.
2. "Political Subdivision(s)" shall mean any Texas municipality and county.
3. "The Parties" shall mean the State of Texas, the Political Subdivisions, and the Plaintiffs' Steering Committee and Liaison Counsel (PSC) in the Texas Opioid MDL, *In Re: Texas Opioid Litigation*, MDL No. 2018-63587, in the 152d District Court of Harris County, Texas.
4. "Litigating Political Subdivision" means a Political Subdivision that filed suit in the state courts of the State of Texas prior to the Execution Date of this Agreement, whether or not such case was transferred to Texas Opioid MDL, or removed to federal court.
5. "National Fund" shall mean any national fund established for the benefit of the Texas Political Subdivisions. In no event shall any National Fund be used to create federal jurisdiction, equitable or otherwise, over the Texas Political Subdivisions or those similarly situated state-court litigants who are included in the state coalition, nor shall the National Fund require participating in a class action or signing a participation agreement as part of the criteria for participating in the National Fund.
6. "Negotiating Committee" shall mean a three-member group comprising four representatives for each of (1) the State; (2) the PSC; and (3) Texas'

Political Subdivisions (collectively, "Members"). The State shall be represented by the Texas Attorney General or his designees. The PSC shall be represented by attorneys Mikal Watts, Jeffrey Simon, Dara Hegar, Dan Downey, or their designees. Texas' Political Subdivisions shall be represented by Clay Jenkins (Dallas County Judge), Terrence O'Rourke (Special Assistant County Attorney, Harris County), Nelson Wolff (Bexar County Judge), and Nathaniel Moran (Smith County Judge) or their designees.

7. "Settlement" shall mean the negotiated resolution of legal or equitable claims against a Pharmaceutical Supply Chain Participant that includes the State and Political Subdivisions.

8. "Opioid Funds" shall mean monetary amounts obtained through a Settlement as defined in this Texas Term Sheet.

8. "Approved Purpose(s)" shall mean those uses identified in Exhibit A hereto.

9. "Pharmaceutical Supply Chain" shall mean the process and channels through which opioids or opioids products are manufactured, marketed, promoted, distributed, or dispensed.

10. “Pharmaceutical Supply Chain Participant” shall mean any entity that engages in or has engaged in the manufacture, marketing, promotion, distribution, or dispensing of an opioid analgesic.

11. “Texas Opioid Council” shall mean the Council described in Exhibit A hereto, which has the purpose of ensuring the funds recovered by Texas (through the joint actions of the Attorney General and the Texas Political Subdivisions) are allocated fairly and spent to remediate the opioid crisis in Texas, using efficient and cost-effective methods that are directed to the hardest hit regions in Texas while also ensuring that all Texans benefit from prevention and recovery efforts.

**B. Allocation of Settlement Proceeds**

1. All Opioid Funds distributed in Texas shall be divided with 15% going to Political Subdivisions (“Subdivision Share”), 70% to the Texas Opioid Abatement Fund through the Texas Opioid Council (Texas Abatement Fund Share) identified and described on Exhibits A and C hereto, and 15% to the Office of the Texas Attorney General as Counsel for the State of Texas (“State Share”). Out of the Texas Opioid Abatement Fund, reasonable expenses up to 1% shall be paid to the Texas Comptroller for the administration of the Texas Opioid Council pursuant to the Opioid

Abatement Fund (Texas Settlement) Opioid Council Agreement, Exhibit A hereto.

2. The Subdivisions Share shall be allocated in accordance with the division of proceeds on Exhibit B hereto.
3. The Texas Abatement Fund Share shall be allocated to the Opioid Council to be apportioned in accordance with the guidelines of Exhibit A, and Exhibit C hereto.
4. In the event a Subdivision merges, dissolves, or ceases to exist, the allocation percentage for that Subdivision shall be redistributed as directed by the settlement document, and if not specified, equitably based on the composition of the successor Subdivision. If a Subdivision for any reason is excluded from a specific settlement, the allocation percentage for that Subdivision shall be redistributed as directed by the settlement document, and if not specified, equitably among the participating Subdivisions.
5. Funds obtained from parties unrelated to the Litigation, via grant, bequest, gift or the like, separate and distinct from the Litigation, may be directed to the Texas Opioid Council and disbursed as set forth below.
6. The Subdivision share shall be initially deposited and paid in cash directly to the Subdivision under the authority and guidance of the Texas MDL Court, who shall direct any Settlement funds to be held in trust in a

segregated account to benefit the Subdivisions and to be promptly distributed as set forth herein and in accordance with Exhibit B.

7. Nothing in this Texas Term Sheet should alter or change any Subdivision's rights to pursue its own claim. Rather, the intent of this Texas Term Sheet is to join all parties to disburse settlement proceeds from one or more defendants to all parties participating in that settlement within Texas.
8. Opioid Funds from the Texas Abatement Fund Share shall be directed to the Texas Opioid Council and used in accordance with the guidelines as set out on Exhibit A hereto, and the Texas Abatement Fund Share shall be distributed to the Texas Opioid Council under the authority and guidance of the Texas MDL Court, consistent with Exhibits A and C, and the by-laws of the Texas Opioid Council documents and disbursed as set forth therein, including without limitation all abatement funds and the 1% holdback for expenses.
9. The State of Texas and the Political Subdivisions understand and acknowledge that additional steps may need to be undertaken to assist the Texas Opioid Council in its mission, at a predictable level of funding, regardless of external factors.

**C. Payment of Counsel and Litigation Expenses**

1. Any Master Settlement Agreement settlement will govern the payment of fees and litigation expenses to the Parties. The Parties agree to direct control of any Texas Political Subdivision fees and expenses to the "Texas Opioid Fee and Expense Fund," which shall be allocated and distributed by the Texas MDL Court, *In re: Texas Opioid Litigation*, MDL No. 2018-63587, in the 152nd District Court of Harris County, Texas, and with the intent to compensate all counsel for Texas Political Subdivisions who have not chosen to otherwise seek compensation for fees and expenses from any federal MDL common benefit fund.
    2. The Parties agree that no portion of the State of Texas 15% allocation share from any settlement shall be administered through the National Fund, the Texas MDL Court, or Texas Opioid Fee and Expense Fund, but shall be directed for payment to the State of Texas by the State of Texas.
    3. The State of Texas and the Texas Political Subdivisions, and their respective attorneys, agree that all fees – whether contingent, hourly, fixed or otherwise – owed by the Texas Political Subdivisions shall be paid out of the National Fund or as otherwise provided for herein to the Texas Opioid Fee and Expense Fund to be distributed by the 152nd

District Court of Harris County, Texas pursuant to its past and future orders.

4. From any opioid-related settlements with McKesson, Cardinal Health, ABDC, and Johnson & Johnson, and for any future opioid-related settlements negotiated, in whole or in part, by the Negotiating Committee with any other Pharmaceutical Supply Chain Participant, the funds to be deposited in the Texas Opioid Fee and Expense Fund shall be 9.3925% of the combined Texas Political Subdivision and Texas Abatement Fund portions of each payment (annual or otherwise) to the State of Texas for that settlement, plus expenses from the National Fund, and shall be sought by Texas Political Subdivision Counsel initially through the National Fund. The Texas Political Subdivisions' percentage share of fees and expenses from the National Fund shall be directed to the Texas Opioid Fee and Expense Fund in the Texas MDL, as soon as is practical, for allocation and distribution in accordance with the guidelines herein.

5. If the National Fund share to the Texas Political Subdivisions is insufficient to cover the guaranteed 9.3925%, plus expenses from the National Fund, per subsection 4, immediately *supra*, or if payment from the National Fund is not received within 12 months after the date the

first payment is made by the Defendants pursuant to the settlement, then the Texas Political Subdivisions shall recover up to 12.5% of the Texas Political Subdivision Share to make up any difference.

6. If the National Fund and the Texas Political Subdivision share are insufficient to cover the guaranteed 9.3925%, plus expenses from the National Fund, or if payment from the National Fund is not received within 12 months after the date the first payment is made by the Defendants pursuant to the settlement, then the Texas Political Subdivisions shall recover up to 8.75% of the Abatement Fund Share to make up any difference. In no event shall the Texas Political Subdivision share exceed 9.3925% of the combined Texas Political Subdivision and Texas Abatement Fund portions of any settlement, plus expenses from the National Fund. In the event that any payment is received from the National Fund such that the total amount in fees and expenses exceeds 9.3925%, the Texas Political Subdivisions shall return any amounts received greater than 9.3925% of the combined Texas Political Subdivision and Texas Abatement Fund portions to those respective Funds.

7. For each settlement utilizing a National Fund, the Texas Political Subdivisions need only make one attempt at seeking fees and expenses there.
8. The total amount of the Texas Opioid Fee and Expense Fund shall be reduced proportionally, according to the agreed upon allocation of the Texas Subdivision Fund, for any Texas litigating Political Subdivision that (1) fails to enter the settlement; and (2) was filed in Texas state court, and was transferred to the Texas MDL (or removed before or during transfer to the Texas MDL) as of the execution date of this Agreement.

**D. The Texas Opioid Council and Texas Abatement Fund**

The Texas Opioid Council and Texas Abatement Fund is described in detail at Exhibit A, incorporated herein by reference.

**E. Settlement Negotiations**

1. The State and Negotiating Committee agree to inform each other in advance of any negotiations relating to a Texas-only settlement with a Pharmaceutical Supply Chain Participant that includes both the State and its Political Subdivisions and shall provide each other the opportunity to participate in all such negotiations. Any Texas-only Settlement agreed to with the State and Negotiating Committee shall be subject to the approval

of a majority of litigating Political Subdivisions. The Parties further agree to keep each other reasonably informed of all other global settlement negotiations with Pharmaceutical Supply Chain Participants and to include the Negotiating Committee or designees. Neither this provision, nor any other, shall be construed to state or imply that either the State or the Negotiating Committee is unauthorized to engage in settlement negotiations with Pharmaceutical Supply Chain Participants without prior consent or contemporaneous participation of the other, or that either party is entitled to participate as an active or direct participant in settlement negotiations with the other. Rather, while the State's and Negotiation Committee's efforts to achieve worthwhile settlements are to be collaborative, incremental stages need not be so.

2. Any Master Settlement Agreement (MSA) shall be subject to the approval and jurisdiction of the Texas MDL Court.
3. As this is a Texas-specific effort, the Committee shall be Chaired by the Attorney General. However, the Attorney General, or his designees, shall endeavor to coordinate any publicity or other efforts to speak publicly with the other Committee Members.
4. The State of Texas, the Texas MDL Plaintiff's Steering Committee representatives, or the Political Subdivision representatives may withdraw

from coordinated Settlement discussions detailed in this Section upon 10 business days' written notice to the remaining Committee Members and counsel for any affected Pharmaceutical Supply Chain Participant. The withdrawal of any Member releases the remaining Committee Members from the restrictions and obligations in this Section.

5. The obligations in this Section shall not affect any Party's right to proceed with trial or, within 30 days of the date upon which a trial involving that Party's claims against a specific Pharmaceutical Supply Chain Participant is scheduled to begin, reach a case specific resolution with that particular Pharmaceutical Supply Chain Participant.

**F. Amendments**

The Parties agree to make such amendments as necessary to implement the intent of this agreement.

**Acknowledgment of Agreement**

We, the undersigned, have participated in the drafting of the above Texas Term Sheet, including consideration based on comments solicited from Political Subdivisions. This document has been collaboratively drafted to maintain all individual claims while allowing the State and its Political Subdivisions to cooperate in exploring all possible means of resolution. Nothing in this agreement binds any party to any specific outcome. Any resolution under this document will require acceptance by the State of Texas and a majority of the Litigating Political Subdivisions.

We, the undersigned, hereby accept the STATE OF TEXAS AND TEXAS POLITICAL SUBDIVISIONS' OPIOID ABATEMENT FUND COUNCIL AND SETTLEMENT ALLOCATION TERM SHEET. We understand that the purpose of this Texas Term Sheet is to permit collaboration between the State of Texas and Political Subdivisions to explore and potentially effectuate earlier resolution of the Opioid Litigation against Pharmaceutical Supply Chain Participants. We also understand that an additional purpose is to create an effective means of distributing any potential settlement funds obtained under this Texas Term Sheet between the State of Texas and Political Subdivisions in a manner and means that would promote an effective and meaningful use of the funds in abating the opioid epidemic throughout Texas.

**Executed this 13 day of May, 2020.**

**FOR THE STATE OF TEXAS:**

Ken Paxton

**KENNETH PAXTON, JR.**
**ATTORNEY GENERAL**

**FOR THE SUBDIVISIONS**
**AND TEXAS MDL PSC:**

Mikal Watts

**MIKAL WATTS**
**WATTS GUERRA LLP**

Jeffrey Simon

**JEFFREY SIMON**
**SIMON GREENSTONE PANATIER, PC**

Dara Hegar

**DARA HEGAR**
**LANIER LAW FIRM, PC**

**DAN DOWNEY**
**DAN DOWNEY, PC**

:sas

# EXHIBIT A

## Opioid Abatement Fund (Texas) Settlement

## Opioid Council

As part of the settlement agreement and upon its execution, the parties will form the Texas Opioid Council (Council) to establish the framework that ensures the funds recovered by Texas (through the joint actions of the Attorney General and the state's political subdivisions) are allocated fairly and spent to remediate the opioid crisis in Texas, using efficient and cost-effective methods that are directed to the hardest hit regions in Texas while also ensuring that all Texans benefit from prevention and recovery efforts.

### I. Structure

The Council will be responsible for the processes and procedures governing the spending of the funds held in the Texas Abatement Fund, which will be approximately 70% of all funds obtained through settlement and/or litigation of the claims asserted by the State and its subdivisions in the investigations and litigation related to the manufacturing, marketing, distribution, and sale of opioids and related pharmaceuticals.

Money paid into the abatement fund will be held by an independent administrator, who shall be responsible for the ministerial task of releasing funds solely as authorized below by the Council, and accounting for all payments to and from the fund.

The Council will be formed when a court of competent jurisdiction enters an order settling the matter, including any order of a bankruptcy court. The Council's members must be appointed within sixty (60) days of the date the order is entered.

A. Membership

The Council shall be comprised of the following thirteen (13) members:

1. *Statewide Members*.

Six members appointed by the Governor and Attorney General to represent the State's interest in opioid abatement. The statewide members are appointed as follows:

a. The Governor shall appoint three (3) members who are licensed health professionals with significant experience in opioid interventions;
b. The Attorney General shall appoint three (3) members who are licensed professionals with significant experience in opioid incidences; and
c. The Governor will appoint the Chair of the Council as a non-voting member. The Chair may only cast a vote in the event there is a tie of the membership.

2. *Regional Members*.

Six (6) members appointed by the State's political subdivisions to represent their designated Texas Health and Human Services Commission "HHSC" Regional Healthcare

Partnership (Regions) to ensure dedicated regional, urban, and rural representation on the Council. The regional appointees must be from either academia or the medical profession with significant experience in opioid interventions. The regional members are appointed as follows:

a. One member representing Regions 9 and 10 (Dallas Ft-Worth);
b. One member representing Region 3 (Houston);
c. One member representing Regions 11, 12, 13, 14, 15, 19 (West Texas);
d. One member representing Regions 6, 7, 8, 16 (Austin-San Antonio);
e. One member representing Regions 1, 2, 17, 18 (East Texas); and
f. One member representing Regions 4, 5, 20 (South Texas).

B. Terms

All members of the Council are appointed to serve staggered two-year terms, with the terms of members expiring February 1 of each year. A member may serve no more than two consecutive terms, for a total of four consecutive years. For the first term, four (4) members (two (2) statewide and two (2) for the subdivisions) will serve a three-year term. A vacancy on the Council shall be filled for the unexpired term in the same manner as the original appointment. The Governor will appoint the Chair of the Council who will not vote on Council business unless there is a tie vote, and the subdivisions will appoint a Vice-Chair voting member from one of the regional members.

C. Governance

*1. Administration*

The Council is attached administratively to the Comptroller. The Council is an independent, quasi-governmental agency because it is responsible for the statewide distribution of the abatement settlement funds. The Council is exempt from the following statutes:

a. Chapter 316 of the Government Code (Appropriations);
b. Chapter 322 of the Government Code (Legislative Budget Board);
c. Chapter 325 of the Government Code (Sunset);
d. Chapter 783 of the Government Code (Uniform Grants and Contract Management);
e. Chapter 2001 of the Government Code (Administrative Procedure);
f. Chapter 2052 of the Government Code (State Agency Reports and Publications);
g. Chapter 2261 of the Government Code (State Contracting Standards and Oversight);
h. Chapter 2262 of the Government Code (Statewide Contract Management);

i. Chapter 262 of the Local Government Code (Purchasing and Contracting Authority of Counties); and
j. Chapter 271 of the Local Government Code (Purchasing and Contracting Authority of Municipalities, Counties, and Certain Other Local Governments).

*2. Transparency*

The Council will abide by state laws relating to open meetings and public information, including Chapters 551 and 552 of the Texas Government Code.

i. The Council shall hold at least four regular meetings each year. The Council may hold additional meetings on the request of the Chair or on the written request of three members of the council. All meetings shall be open to the public, and public notice of meetings shall be given as required by state law.
ii. The Council may convene in a closed, non-public meeting:
    a. If the Commission must discuss:
        1. Negotiation of contract awards; and
        2. Matters specifically exempted from disclosure by federal and state statutes.
    b. All minutes and documents of a closed meeting shall remain under seal, subject to release only order of a court of competent jurisdiction.

*3. Authority*

The Council does not have rulemaking authority. The terms of each Judgment, Master Settlement Agreement, or any Bankruptcy Settlement for Texas control the authority of the Council and the Council may not stray outside the bounds of the authority and power vested by such settlements. Should the Council require legal assistance in determining their authority, the Council may direct the executive director to seek legal advice from the Attorney General to clarify the issue.

D. <u>Operation and Expenses</u>

The independent administrator will set aside up to one (1) percent of the settlement funds for the administration of the Council for reasonable costs and expenses of operating the foregoing duties, including educational activities.

*1. Executive Director*

The Comptroller will employ the executive director of the Council and other personnel as necessary to administer the duties of the Council and carry out the functions of the Council. The executive director must have at least 10 years of experience in government or public administration and is classified as a Director V/B30 under the State Auditor's State Classification. The Comptroller will pay the salaries of the Council employees from the one (1) percent of the settlement funds set aside for the administration of the Council. The Comptroller will request funds from the Texas Abatement Fund Point of Contact.

2. *Travel Reimbursement*

A person appointed to the Council is entitled to reimbursement for the travel expenses incurred in attending Council duties. A member of the Council may be reimbursed for actual expenses for meals, lodging, transportation, and incidental expenses in accordance with travel rates set by the federal General Services Administration.

## II. Duties/Roles

It is the duty of the Council to determine and approve the opioid abatement strategies and funding awards.

A. Approved Abatement Strategies

The Council will develop the approved Texas list of abatement strategies based on but not limited to the existing national list of opioid abatement strategies (see attached Appendix A) for implementing the Texas Abatement Fund.

1. The Council shall only approve strategies which are evidence-informed strategies.
2. The Texas list of abatement strategies must be approved by majority vote. The majority vote must include a majority from both sides of the statewide members and regional members in order to be approved, e.g., at least four (4) of six (6) members on each side.

B. Texas Abatement Fund Point of Contact

The Council will determine a single point of contact called the Abatement Fund Point of Contact (POC) to be established as the sole entity authorized to receive requests for funds and approve expenditures in Texas and order the release of funds from the Texas Abatement Fund by the independent administrator. The POC may be an independent third party selected by the Council with expertise in banking or financial management. The POC will manage the Opioid Council Bank Account (Account). Upon a vote, the Council will direct the POC to contact the independent administrator to release funds to the Account. The Account is outside the State Treasury and not managed by any state or local officials. The POC is responsible for payments to the qualified entities selected by the Council for abatement fund awards. The POC will submit a monthly financial statement on the Account to the Council.

C. Auditor

An independent auditor appointed by the Council will perform an audit on the Account on an annual basis and report its findings, if any, to the Council.

D. Funding Allocation

The Council is the sole decision-maker on the funding allocation process of the abatement funds. The Council will develop the application and award process based on the parameters outlined below. An entity seeking funds from the Council must apply for funds; no funds will be awarded without an application. The executive director and personnel may assist the Council in gathering and compiling the applications for consideration; however, the Council members are the sole decision-makers of awards and funding determination. The Council will use the following processes to award funds:

1. *Statewide Funds.* The Council will consider, adopt and approve the allocation methodology attached as Exhibit C, based upon population health data and prevalence of opioid incidences, at the Council's initial meeting. Adoption of such methodology will allow each Region to customize the approved abatement strategies to fit its communities' needs. The statewide regional funds will account for seventy-five (75) percent of the total overall funds, less the one (1) percent administrative expense described herein.

2. *Targeted Funds.* Each Region shall reserve twenty-five (25) percent of the overall funds, for targeted interventions in the specific Region as identified by opioid incidence data. The Council must approve on an annual basis the uses for the targeted abatement strategies and applications available to every Region, including education and outreach programs. Each Region without approved uses for the targeted funds from the Council, based upon a greater percentage of opioid incidents compared to its population, is subject to transfer of all or a portion of the targeted funds for that Region for uses based upon all Regions' targeted funding needs as approved by the Council on an annual basis.

3. *Annual Allocation*. Statewide regional funds and targeted funds will be allocated on an annual basis. If a Region lapses its funds, the funds will be reallocated based on all Regions' funding needs.

E. Appeal Process

The Council will establish an appeal process to permit the applicants for funding (state or subdivisions) to challenge decisions by the Council-designated point of contact on requests for funds or expenditures.

1. To challenge a decision by the designated point of contact, the State or a subdivision must file an appeal with the Council within thirty (30) days of the decision. The Council then has thirty (30) days to consider and rule on the appeal.
2. If the Council denies the appeal, the party may file an appeal with the state district court of record where the final opioid judgment or Master Settlement Agreement is filed. The Texas Rules of Civil Procedure and Rules of Evidence will govern these proceedings. The Council may request representation from the Attorney General in these proceedings.

In making its determination, the state district court shall apply the same clear error standards contained herein that the Council must follow when rendering its decision.

3. The state district court will make the final decision and the decision is not appealable.
4. Challenges will be limited and subject to penalty if abused.
5. Attorneys' fees and costs are not recoverable in these appeals.

F. Education

The Council may determine that a percentage of the funds in the Abatement Fund from the targeted funds be used to develop an education and outreach program to provide materials on the consequences of opioid drug use, prevention and interventions. Any material developed will include online resources and toolkits for communities.

# EXHIBIT B

Exhibit B: Municipal Area Allocations: 15% of Total ($150 million)

(County numbers refer to distribution to the county governments after payment to cities within county borders has been made. Minimum distribution to each county is $1000.)

| Municipal Area | Allocation | Municipal Area | Allocation |
|---|---|---|---|
| Abbott | $688 | Lakeport | $463 |
| Abernathy | $110 | Lakeside | $4,474 |
| Abilene | $563,818 | Lakeside City | $222 |
| Ackerly | $21 | Lakeview | $427 |
| Addison | $58,094 | Lakeway | $31,657 |
| Adrian | $181 | Lakewood Village | $557 |
| Agua Dulce | $43 | Lamar County | $141,598 |
| Alamo | $22,121 | Lamb County | $50,681 |
| Alamo Heights | $28,198 | Lamesa | $29,656 |
| Alba | $3,196 | Lampasas | $28,211 |
| Albany | $180 | Lampasas County | $42,818 |
| Aledo | $331 | Lancaster | $90,653 |
| Alice | $71,291 | Laredo | $763,174 |
| Allen | $315,081 | Latexo | $124 |
| Alma | $1,107 | Lavaca County | $45,973 |
| Alpine | $29,686 | Lavon | $7,435 |
| Alto | $3,767 | Lawn | $58 |
| Alton | $11,540 | League City | $302,418 |
| Alvarado | $29,029 | Leakey | $256 |
| Alvin | $113,962 | Leander | $88,641 |
| Alvord | $358 | Leary | $797 |
| Amarillo | $987,661 | Lee County | $30,457 |
| Ames | $5,571 | Lefors | $159 |
| Amherst | $22 | Leon County | $67,393 |
| Anahuac | $542 | Leon Valley | $23,258 |
| Anderson | $19 | Leona | $883 |
| Anderson County | $268,763 | Leonard | $8,505 |
| Andrews | $18,983 | Leroy | $176 |
| Andrews County | $37,606 | Levelland | $46,848 |
| Angelina County | $229,956 | Lewisville | $382,094 |
| Angleton | $62,791 | Lexington | $2,318 |
| Angus | $331 | Liberty | $72,343 |
| Anna | $9,075 | Liberty County | $531,212 |
| Annetta | $5,956 | Liberty Hill | $2,780 |
| Annetta North | $34 | Limestone County | $135,684 |

(Table continues on multiple pages below)

| | | | |
|---|---|---|---|
| Annetta South | $602 | Lincoln Park | $677 |
| Annona | $738 | Lindale | $24,202 |
| Anson | $5,134 | Linden | $3,661 |
| Anthony | $4,514 | Lindsay | $1,228 |
| Anton | $444 | Lipan | $44 |
| Appleby | $1,551 | Lipscomb County | $10,132 |
| Aquilla | $208 | Little Elm | $69,326 |
| Aransas County | $266,512 | Little River-Academy | $798 |
| Aransas Pass | $57,813 | Littlefield | $7,678 |
| Archer City | $10,554 | Live Oak | $32,740 |
| Archer County | $45,534 | Live Oak County | $39,716 |
| Arcola | $7,290 | Liverpool | $1,435 |
| Argyle | $11,406 | Livingston | $73,165 |
| Arlington | $735,803 | Llano | $23,121 |
| Armstrong County | $974 | Llano County | $115,647 |
| Arp | $2,009 | Lockhart | $49,050 |
| Asherton | $112 | Lockney | $3,301 |
| Aspermont | $9 | Log Cabin | $1,960 |
| Atascosa County | $176,903 | Lometa | $1,176 |
| Athens | $105,942 | Lone Oak | $1,705 |
| Atlanta | $30,995 | Lone Star | $8,283 |
| Aubrey | $15,141 | Longview | $482,254 |
| Aurora | $1,849 | Loraine | $188 |
| Austin County | $76,030 | Lorena | $3,390 |
| Austin | $4,877,716 | Lorenzo | $11,358 |
| Austwell | $109 | Los Fresnos | $11,185 |
| Avery | $138 | Los Indios | $159 |
| Avinger | $1,115 | Los Ybanez | $0 |
| Azle | $32,213 | Lott | $1,516 |
| Bailey | $950 | Lovelady | $249 |
| Bailey County | $15,377 | Loving County | $1,000 |
| Bailey's Prairie | $5,604 | Lowry Crossing | $783 |
| Baird | $2,802 | Lubbock | $319,867 |
| Balch Springs | $27,358 | Lubbock County | $1,379,719 |
| Balcones Heights | $23,811 | Lucas | $5,266 |
| Ballinger | $9,172 | Lueders | $508 |
| Balmorhea | $63 | Lufkin | $281,592 |
| Bandera | $2,893 | Luling | $29,421 |
| Bandera County | $86,815 | Lumberton | $36,609 |
| Bangs | $3,050 | Lyford | $3,071 |

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|---|---|---|---|
| Bardwell | $362 | Lynn County | $6,275 |
| Barry | $200 | Lytle | $7,223 |
| Barstow | $61 | Mabank | $19,443 |
| Bartlett | $3,374 | Madison County | $49,492 |
| Bartonville | $8,887 | Madisonville | $11,458 |
| Bastrop | $46,320 | Magnolia | $26,031 |
| Bastrop County | $343,960 | Malakoff | $12,614 |
| Bay City | $57,912 | Malone | $439 |
| Baylor County | $29,832 | Manor | $12,499 |
| Bayou Vista | $6,240 | Mansfield | $150,788 |
| Bayside | $242 | Manvel | $12,305 |
| Baytown | $216,066 | Marble Falls | $37,039 |
| Bayview | $41 | Marfa | $65 |
| Beach City | $12,505 | Marietta | $338 |
| Bear Creek | $906 | Marion | $275 |
| Beasley | $130 | Marion County | $54,728 |
| Beaumont | $683,010 | Marlin | $21,634 |
| Beckville | $1,247 | Marquez | $1,322 |
| Bedford | $94,314 | Marshall | $108,371 |
| Bedias | $3,475 | Mart | $928 |
| Bee Cave | $12,863 | Martin County | $10,862 |
| Bee County | $97,844 | Martindale | $2,437 |
| Beeville | $24,027 | Mason | $777 |
| Bell County | $650,748 | Mason County | $3,134 |
| Bellaire | $41,264 | Matador | $1,203 |
| Bellevue | $56 | Matagorda County | $135,239 |
| Bellmead | $14,487 | Mathis | $15,720 |
| Bells | $1,891 | Maud | $423 |
| Bellville | $7,488 | Maverick County | $115,919 |
| Belton | $72,680 | Maypearl | $986 |
| Benavides | $152 | McAllen | $364,424 |
| Benbrook | $43,919 | McCamey | $542 |
| Benjamin | $951 | McGregor | $9,155 |
| Berryville | $14,379 | McKinney | $450,383 |
| Bertram | $182 | McLean | $14 |
| Beverly Hills | $4,336 | McLendon-Chisholm | $411 |
| Bevil Oaks | $549 | Mcculloch County | $20,021 |
| Bexar County | $7,007,152 | Mclennan County | $529,641 |
| Big Lake | $547 | Mcmullen County | $1,000 |
| Big Sandy | $4,579 | Meadow | $1,121 |

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|---|---|---|---|
| Big Spring | $189,928 | Meadowlakes | $905 |
| Big Wells | $236 | Meadows Place | $18,148 |
| Bishop | $8,213 | Medina County | $48,355 |
| Bishop Hills | $323 | Megargel | $611 |
| Blackwell | $31 | Melissa | $15,381 |
| Blanco | $6,191 | Melvin | $345 |
| Blanco County | $49,223 | Memphis | $7,203 |
| Blanket | $147 | Menard | $991 |
| Bloomburg | $1,010 | Menard County | $14,717 |
| Blooming Grove | $352 | Mercedes | $21,441 |
| Blossom | $198 | Meridian | $3,546 |
| Blue Mound | $2,888 | Merkel | $10,117 |
| Blue Ridge | $1,345 | Mertens | $239 |
| Blum | $1,622 | Mertzon | $29 |
| Boerne | $45,576 | Mesquite | $310,709 |
| Bogata | $3,649 | Mexia | $21,096 |
| Bonham | $100,909 | Miami | $455 |
| Bonney | $2,510 | Midland County | $279,927 |
| Booker | $1,036 | Midland | $521,849 |
| Borden County | $1,000 | Midlothian | $95,799 |
| Borger | $69,680 | Midway | $78 |
| Bosque County | $71,073 | Milam County | $97,386 |
| Bovina | $173 | Milano | $904 |
| Bowie | $83,620 | Mildred | $286 |
| Bowie County | $233,190 | Miles | $93 |
| Boyd | $6,953 | Milford | $6,177 |
| Brackettville | $8 | Miller's Cove | $97 |
| Brady | $27,480 | Millican | $417 |
| Brazoria | $11,537 | Mills County | $19,931 |
| Brazoria County | $1,021,090 | Millsap | $34 |
| Brazos Bend | $462 | Mineola | $48,719 |
| Brazos Country | $902 | Mineral Wells | $92,061 |
| Brazos County | $342,087 | Mingus | $189 |
| Breckenridge | $23,976 | Mission | $124,768 |
| Bremond | $5,554 | Missouri City | $209,633 |
| Brenham | $54,750 | Mitchell County | $20,850 |
| Brewster County | $60,087 | Mobeetie | $52 |
| Briarcliff | $572 | Mobile City | $2,034 |
| Briaroaks | $57 | Monahans | $5,849 |
| Bridge City | $80,756 | Mont Belvieu | $19,669 |

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|---|---|---|---|
| Bridgeport | $33,301 | Montague County | $94,796 |
| Briscoe County | $977 | Montgomery | $1,884 |
| Broaddus | $31 | Montgomery County | $2,700,911 |
| Bronte | $99 | Moody | $828 |
| Brooks County | $20,710 | Moore County | $40,627 |
| Brookshire | $6,406 | Moore Station | $772 |
| Brookside Village | $1,110 | Moran | $50 |
| Brown County | $193,417 | Morgan | $605 |
| Browndell | $152 | Morgan's Point | $3,105 |
| Brownfield | $14,452 | Morgan's Point Resort | $8,024 |
| Brownsboro | $3,176 | Morris County | $53,328 |
| Brownsville | $425,057 | Morton | $167 |
| Brownwood | $166,572 | Motley County | $3,344 |
| Bruceville-Eddy | $1,692 | Moulton | $999 |
| Bryan | $246,897 | Mount Calm | $605 |
| Bryson | $1,228 | Mount Enterprise | $1,832 |
| Buckholts | $1,113 | Mount Pleasant | $65,684 |
| Buda | $10,784 | Mount Vernon | $6,049 |
| Buffalo | $11,866 | Mountain City | $1,548 |
| Buffalo Gap | $88 | Muenster | $4,656 |
| Buffalo Springs | $188 | Muleshoe | $4,910 |
| Bullard | $7,487 | Mullin | $384 |
| Bulverde | $14,436 | Munday | $2,047 |
| Bunker Hill Village | $472 | Murchison | $2,302 |
| Burkburnett | $37,844 | Murphy | $51,893 |
| Burke | $1,114 | Mustang | $7 |
| Burleson County | $70,244 | Mustang Ridge | $2,462 |
| Burleson | $151,779 | Nacogdoches | $205,992 |
| Burnet | $33,345 | Nacogdoches County | $198,583 |
| Burnet County | $189,829 | Naples | $4,224 |
| Burton | $937 | Nash | $7,999 |
| Byers | $77 | Nassau Bay | $11,247 |
| Bynum | $380 | Natalia | $625 |
| Cactus | $4,779 | Navarro | $334 |
| Caddo Mills | $43 | Navarro County | $103,513 |
| Caldwell | $18,245 | Navasota | $37,676 |
| Caldwell County | $86,413 | Nazareth | $124 |
| Calhoun County | $127,926 | Nederland | $44,585 |
| Callahan County | $12,894 | Needville | $10,341 |
| Callisburg | $101 | Nevada | $237 |

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|---|---|
| Calvert | $772 |
| Cameron | $11,091 |
| Cameron County | $537,026 |
| Camp County | $28,851 |
| Camp Wood | $422 |
| Campbell | $1,116 |
| Canadian | $1,090 |
| Caney City | $2,005 |
| Canton | $56,734 |
| Canyon | $26,251 |
| Carbon | $620 |
| Carl's Corner | $48 |
| Carmine | $385 |
| Carrizo Springs | $1,671 |
| Carrollton | $310,255 |
| Carson County | $29,493 |
| Carthage | $18,927 |
| Cashion Community | $322 |
| Cass County | $93,155 |
| Castle Hills | $12,780 |
| Castro County | $4,420 |
| Castroville | $4,525 |
| Cedar Hill | $70,127 |
| Cedar Park | $185,567 |
| Celeste | $1,280 |
| Celina | $18,283 |
| Center | $58,838 |
| Centerville | $385 |
| Chambers County | $153,188 |
| Chandler | $17,364 |
| Channing | $2 |
| Charlotte | $4,257 |
| Cherokee County | $156,612 |
| Chester | $1,174 |
| Chico | $2,928 |
| Childress | $37,916 |
| Childress County | $50,582 |
| Chillicothe | $172 |
| China | $522 |
| China Grove | $598 |
| New Berlin | $4 |
| New Boston | $6,953 |
| New Braunfels | $307,313 |
| New Chapel Hill | $288 |
| New Deal | $338 |
| New Fairview | $2,334 |
| New Home | $9 |
| New Hope | $1,024 |
| New London | $4,129 |
| New Summerfield | $442 |
| New Waverly | $2,562 |
| Newark | $520 |
| Newcastle | $914 |
| Newton | $6,102 |
| Newton County | $158,006 |
| Neylandville | $163 |
| Niederwald | $16 |
| Nixon | $2,283 |
| Nocona | $16,536 |
| Nolan County | $50,262 |
| Nolanville | $4,247 |
| Nome | $391 |
| Noonday | $226 |
| Nordheim | $697 |
| Normangee | $6,192 |
| North Cleveland | $105 |
| North Richland Hills | $146,419 |
| Northlake | $8,905 |
| Novice | $76 |
| Nueces County | $1,367,932 |
| O'Brien | $76 |
| O'Donnell | $27 |
| Oak Grove | $2,769 |
| Oak Leaf | $612 |
| Oak Point | $9,011 |
| Oak Ridge | $358 |
| Oak Ridge North | $33,512 |
| Oak Valley | $7 |
| Oakwood | $148 |
| Ochiltree County | $15,476 |

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|---|---|---|---|
| Chireno | $1,568 | Odem | $7,420 |
| Christine | $354 | Odessa | $559,163 |
| Cibolo | $13,690 | Oglesby | $29 |
| Cisco | $7,218 | Old River-Winfree | $21,653 |
| Clarendon | $114 | Oldham County | $10,318 |
| Clarksville | $20,891 | Olmos Park | $9,801 |
| Clarksville City | $54 | Olney | $6,088 |
| Claude | $26 | Olton | $1,197 |
| Clay County | $72,050 | Omaha | $4,185 |
| Clear Lake Shores | $6,682 | Onalaska | $31,654 |
| Cleburne | $228,184 | Opdyke West | $479 |
| Cleveland | $96,897 | Orange | $311,339 |
| Clifton | $9,939 | Orange County | $689,818 |
| Clint | $375 | Orange Grove | $1,677 |
| Clute | $51,350 | Orchard | $867 |
| Clyde | $17,287 | Ore City | $6,806 |
| Coahoma | $2,291 | Overton | $7,900 |
| Cochran County | $3,389 | Ovilla | $13,391 |
| Cockrell Hill | $512 | Oyster Creek | $9,633 |
| Coffee City | $1,087 | Paducah | $125 |
| Coke County | $5,522 | Paint Rock | $141 |
| Coldspring | $447 | Palacios | $14,036 |
| Coleman | $5,442 | Palestine | $178,009 |
| Coleman County | $4,164 | Palisades | $240 |
| College Station | $258,147 | Palm Valley | $1,918 |
| Colleyville | $46,049 | Palmer | $12,666 |
| Collin County | $1,266,721 | Palmhurst | $4,660 |
| Collingsworth County | $19,234 | Palmview | $7,577 |
| Collinsville | $1,831 | Palo Pinto County | $124,621 |
| Colmesneil | $2,211 | Pampa | $67,227 |
| Colorado City | $8,405 | Panhandle | $9,536 |
| Colorado County | $49,084 | Panola County | $80,699 |
| Columbus | $6,867 | Panorama Village | $1,292 |
| Comal County | $396,142 | Pantego | $12,898 |
| Comanche | $16,503 | Paradise | $52 |
| Comanche County | $50,964 | Paris | $201,180 |
| Combes | $1,710 | Parker | $10,307 |
| Combine | $1,892 | Parker County | $476,254 |
| Commerce | $33,869 | Parmer County | $15,866 |
| Como | $415 | Pasadena | $356,536 |

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|---|---|---|---|
| Concho County | $3,859 | Pattison | $1,148 |
| Conroe | $466,671 | Patton Village | $9,268 |
| Converse | $27,693 | Payne Springs | $1,770 |
| Cooke County | $200,451 | Pearland | $333,752 |
| Cool | $731 | Pearsall | $11,570 |
| Coolidge | $243 | Pecan Gap | $719 |
| Cooper | $362 | Pecan Hill | $229 |
| Coppell | $86,593 | Pecos | $7,622 |
| Copper Canyon | $489 | Pecos County | $46,997 |
| Copperas Cove | $133,492 | Pelican Bay | $1,199 |
| Corinth | $75,298 | Penelope | $415 |
| Corpus Christi | $1,812,707 | Penitas | $312 |
| Corral City | $143 | Perryton | $23,364 |
| Corrigan | $21,318 | Petersburg | $1,691 |
| Corsicana | $87,310 | Petrolia | $17 |
| Coryell County | $123,659 | Petronila | $5 |
| Cottle County | $875 | Pflugerville | $86,408 |
| Cottonwood | $289 | Pharr | $144,721 |
| Cottonwood Shores | $1,203 | Pilot Point | $11,613 |
| Cotulla | $1,251 | Pine Forest | $3,894 |
| Coupland | $266 | Pine Island | $3,141 |
| Cove | $387 | Pinehurst | $32,671 |
| Covington | $519 | Pineland | $4,138 |
| Coyote Flats | $1,472 | Piney Point Village | $15,738 |
| Crandall | $12,094 | Pittsburg | $20,526 |
| Crane | $10,599 | Plains | $129 |
| Crane County | $26,146 | Plainview | $60,298 |
| Cranfills Gap | $128 | Plano | $1,151,608 |
| Crawford | $383 | Pleak | $270 |
| Creedmoor | $16 | Pleasant Valley | $308 |
| Cresson | $1,086 | Pleasanton | $29,011 |
| Crockett | $23,403 | Plum Grove | $258 |
| Crockett County | $18,210 | Point | $1,519 |
| Crosby County | $18,388 | Point Blank | $355 |
| Crosbyton | $1,498 | Point Comfort | $447 |
| Cross Plains | $4,877 | Point Venture | $588 |
| Cross Roads | $244 | Polk County | $370,831 |
| Cross Timber | $542 | Ponder | $1,282 |
| Crowell | $6,335 | Port Aransas | $31,022 |
| Crowley | $22,345 | Port Arthur | $367,945 |

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|---|---|---|---|
| Crystal City | $19,412 | Port Isabel | $9,802 |
| Cuero | $24,689 | Port Lavaca | $11,752 |
| Culberson County | $789 | Port Neches | $38,849 |
| Cumby | $5,320 | Portland | $76,517 |
| Cuney | $606 | Post | $2,332 |
| Cushing | $1,120 | Post Oak Bend City | $1,034 |
| Cut and Shoot | $2,141 | Poteet | $6,767 |
| DISH | $19 | Poth | $3,974 |
| Daingerfield | $12,476 | Potter County | $371,701 |
| Daisetta | $5,370 | Pottsboro | $12,302 |
| Dalhart | $11,609 | Powell | $110 |
| Dallam County | $21,686 | Poynor | $1,180 |
| Dallas County | $8,538,291 | Prairie View | $7,600 |
| Dallas | $2,999,902 | Premont | $3,321 |
| Dalworthington Gardens | $6,060 | Presidio | $148 |
| Danbury | $4,231 | Presidio County | $787 |
| Darrouzett | $101 | Primera | $2,958 |
| Dawson | $600 | Princeton | $19,245 |
| Dawson County | $46,911 | Progreso | $8,072 |
| Dayton | $47,122 | Progreso Lakes | $39 |
| Dayton Lakes | $38 | Prosper | $22,770 |
| De Kalb | $1,035 | Providence Village | $508 |
| De Leon | $8,218 | Putnam | $14 |
| De Witt County | $68,895 | Pyote | $22 |
| DeCordova | $13,778 | Quanah | $207 |
| DeSoto | $72,400 | Queen City | $4,837 |
| Deaf Smith County | $34,532 | Quinlan | $7,304 |
| Dean | $141 | Quintana | $492 |
| Decatur | $56,669 | Quitaque | $8 |
| Deer Park | $49,388 | Quitman | $15,619 |
| Del Rio | $59,056 | Rains County | $53,190 |
| Dell City | $15 | Ralls | $3,967 |
| Delta County | $30,584 | Rancho Viejo | $3,836 |
| Denison | $210,426 | Randall County | $278,126 |
| Denton | $458,334 | Ranger | $12,186 |
| Denton County | $1,132,298 | Rankin | $1,613 |
| Denver City | $2,104 | Ransom Canyon | $930 |
| Deport | $42 | Ravenna | $685 |
| Detroit | $965 | Raymondville | $7,466 |
| Devers | $191 | Reagan County | $25,215 |

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|---|---|
| Devine | $4,354 |
| Diboll | $25,533 |
| Dickens | $71 |
| Dickens County | $1,873 |
| Dickinson | $83,683 |
| Dilley | $2,633 |
| Dimmit County | $33,294 |
| Dimmitt | $1,012 |
| Dodd City | $1,211 |
| Dodson | $447 |
| Domino | $196 |
| Donley County | $22,370 |
| Donna | $13,798 |
| Dorchester | $231 |
| Double Oak | $4,765 |
| Douglassville | $574 |
| Dripping Springs | $811 |
| Driscoll | $39 |
| Dublin | $14,478 |
| Dumas | $26,229 |
| Duncanville | $58,328 |
| Duval County | $49,109 |
| Eagle Lake | $4,882 |
| Eagle Pass | $56,005 |
| Early | $14,838 |
| Earth | $242 |
| East Bernard | $5,554 |
| East Mountain | $2,494 |
| East Tawakoni | $2,723 |
| Eastland | $15,896 |
| Eastland County | $52,275 |
| Easton | $329 |
| Ector | $1,108 |
| Ector County | $480,000 |
| Edcouch | $4,101 |
| Eden | $497 |
| Edgecliff Village | $2,232 |
| Edgewood | $13,154 |
| Edinburg | $120,884 |
| Edmonson | $136 |

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| Real County | $5,073 |
| Red Lick | $23 |
| Red Oak | $26,843 |
| Red River County | $29,306 |
| Redwater | $1,058 |
| Reeves County | $103,350 |
| Refugio | $8,839 |
| Refugio County | $46,216 |
| Reklaw | $1,136 |
| Reno | $3,791 |
| Reno | $11,164 |
| Retreat | $52 |
| Rhome | $12,285 |
| Rice | $1,972 |
| Richardson | $260,315 |
| Richland | $210 |
| Richland Hills | $24,438 |
| Richland Springs | $2,234 |
| Richmond | $77,606 |
| Richwood | $12,112 |
| Riesel | $1,118 |
| Rio Bravo | $8,548 |
| Rio Grande City | $25,947 |
| Rio Hondo | $3,550 |
| Rio Vista | $4,419 |
| Rising Star | $1,933 |
| River Oaks | $11,917 |
| Riverside | $858 |
| Roanoke | $275 |
| Roaring Springs | $461 |
| Robert Lee | $85 |
| Roberts County | $547 |
| Robertson County | $44,642 |
| Robinson | $18,002 |
| Robstown | $40,154 |
| Roby | $428 |
| Rochester | $674 |
| Rockdale | $20,973 |
| Rockport | $54,253 |
| Rocksprings | $25 |

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| Edna | $18,194 | Rockwall | $114,308 |
| Edom | $2,149 | Rockwall County | $168,820 |
| Edwards County | $975 | Rocky Mound | $280 |
| El Campo | $31,700 | Rogers | $3,818 |
| El Cenizo | $621 | Rollingwood | $4,754 |
| El Lago | $5,604 | Roma | $16,629 |
| El Paso | $1,224,371 | Roman Forest | $8,610 |
| El Paso County | $2,592,121 | Ropesville | $2,122 |
| Eldorado | $50 | Roscoe | $778 |
| Electra | $15,716 | Rose City | $4,012 |
| Elgin | $26,284 | Rose Hill Acres | $2,311 |
| Elkhart | $301 | Rosebud | $1,489 |
| Ellis County | $315,372 | Rosenberg | $126,593 |
| Elmendorf | $746 | Ross | $147 |
| Elsa | $7,720 | Rosser | $549 |
| Emhouse | $83 | Rotan | $1,493 |
| Emory | $3,878 | Round Mountain | $454 |
| Enchanted Oaks | $1,299 | Round Rock | $475,992 |
| Encinal | $1,515 | Round Top | $140 |
| Ennis | $81,839 | Rowlett | $99,963 |
| Erath County | $102,616 | Roxton | $47 |
| Escobares | $40 | Royse City | $23,494 |
| Estelline | $909 | Rule | $800 |
| Euless | $92,824 | Runaway Bay | $6,931 |
| Eureka | $334 | Runge | $255 |
| Eustace | $2,089 | Runnels County | $33,831 |
| Evant | $2,068 | Rusk | $17,991 |
| Everman | $7,692 | Rusk County | $151,390 |
| Fair Oaks Ranch | $8,077 | Sabinal | $1,811 |
| Fairchilds | $81 | Sabine County | $46,479 |
| Fairfield | $1,245 | Sachse | $23,400 |
| Fairview | $32,245 | Sadler | $925 |
| Falfurrias | $2,221 | Saginaw | $31,973 |
| Falls City | $41 | Salado | $3,210 |
| Falls County | $34,522 | San Angelo | $536,509 |
| Fannin County | $131,653 | San Antonio | $4,365,416 |
| Farmers Branch | $94,532 | San Augustine | $25,182 |
| Farmersville | $10,532 | San Augustine County | $37,854 |
| Farwell | $343 | San Benito | $40,015 |
| Fate | $3,473 | San Diego | $11,771 |

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| Fayette County | $92,440 | San Elizario | $7,831 |
| Fayetteville | $391 | San Felipe | $1,498 |
| Ferris | $13,873 | San Jacinto County | $197,398 |
| Fisher County | $5,518 | San Juan | $28,845 |
| Flatonia | $5,661 | San Leanna | $36 |
| Florence | $3,949 | San Marcos | $325,688 |
| Floresville | $21,699 | San Patricio | $4,213 |
| Flower Mound | $215,256 | San Patricio County | $271,916 |
| Floyd County | $9,049 | San Perlita | $2,219 |
| Floydada | $6,357 | San Saba | $10,057 |
| Foard County | $5,764 | San Saba County | $17,562 |
| Follett | $212 | Sanctuary | $17 |
| Forest Hill | $26,132 | Sandy Oaks | $9,863 |
| Forney | $80,112 | Sandy Point | $1,637 |
| Forsan | $576 | Sanford | $308 |
| Fort Bend County | $1,506,719 | Sanger | $22,237 |
| Fort Stockton | $4,411 | Sansom Park | $223 |
| Fort Worth | $2,120,790 | Santa Anna | $329 |
| Franklin | $3,931 | Santa Clara | $87 |
| Franklin County | $25,783 | Santa Fe | $33,272 |
| Frankston | $274 | Santa Rosa | $2,138 |
| Fredericksburg | $56,486 | Savoy | $2,349 |
| Freeport | $72,973 | Schertz | $60,110 |
| Freer | $3,271 | Schleicher County | $5,695 |
| Freestone County | $50,495 | Schulenburg | $2,560 |
| Friendswood | $140,330 | Scotland | $148 |
| Frio County | $19,954 | Scottsville | $708 |
| Friona | $2,848 | Scurry | $1,110 |
| Frisco | $405,309 | Scurry County | $73,116 |
| Fritch | $4,548 | Seabrook | $30,270 |
| Frost | $321 | Seadrift | $991 |
| Fruitvale | $2,344 | Seagoville | $17,106 |
| Fulshear | $5,272 | Seagraves | $7,531 |
| Fulton | $1,602 | Sealy | $20,637 |
| Gaines County | $54,347 | Seguin | $376,538 |
| Gainesville | $153,980 | Selma | $22,429 |
| Galena Park | $13,093 | Seminole | $16,092 |
| Gallatin | $1,253 | Seven Oaks | $3,917 |
| Galveston | $488,187 | Seven Points | $7,452 |
| Galveston County | $1,124,093 | Seymour | $14,218 |

| | |
|---|---|
| Ganado | $5,510 |
| Garden Ridge | $11,351 |
| Garland | $420,244 |
| Garrett | $2,510 |
| Garrison | $3,555 |
| Gary City | $450 |
| Garza County | $8,944 |
| Gatesville | $26,994 |
| George West | $6,207 |
| Georgetown | $225,896 |
| Gholson | $1,505 |
| Giddings | $12,674 |
| Gillespie County | $63,191 |
| Gilmer | $33,951 |
| Gladewater | $24,638 |
| Glasscock County | $1,000 |
| Glen Rose | $540 |
| Glenn Heights | $16,593 |
| Godley | $3,115 |
| Goldsmith | $677 |
| Goldthwaite | $1,225 |
| Goliad | $3,563 |
| Goliad County | $34,660 |
| Golinda | $100 |
| Gonzales | $14,882 |
| Gonzales County | $33,230 |
| Goodlow | $221 |
| Goodrich | $9,643 |
| Gordon | $365 |
| Goree | $749 |
| Gorman | $3,107 |
| Graford | $23 |
| Graham | $235,428 |
| Granbury | $71,735 |
| Grand Prairie | $445,439 |
| Grand Saline | $36,413 |
| Grandfalls | $65 |
| Grandview | $6,600 |
| Granger | $2,741 |
| Granite Shoals | $11,834 |

| | |
|---|---|
| Shackelford County | $1,288 |
| Shady Shores | $594 |
| Shallowater | $1,907 |
| Shamrock | $4,328 |
| Shavano Park | $3,178 |
| Shelby County | $109,925 |
| Shenandoah | $47,122 |
| Shepherd | $147 |
| Sherman | $330,585 |
| Sherman County | $7,930 |
| Shiner | $4,042 |
| Shoreacres | $958 |
| Silsbee | $66,442 |
| Silverton | $14 |
| Simonton | $1,906 |
| Sinton | $23,658 |
| Skellytown | $400 |
| Slaton | $154 |
| Smiley | $655 |
| Smith County | $758,961 |
| Smithville | $17,009 |
| Smyer | $300 |
| Snook | $1,422 |
| Snyder | $9,018 |
| Socorro | $11,125 |
| Somerset | $1,527 |
| Somervell County | $57,076 |
| Somerville | $3,806 |
| Sonora | $7,337 |
| Sour Lake | $17,856 |
| South Houston | $25,620 |
| South Mountain | $154 |
| South Padre Island | $30,629 |
| Southlake | $70,846 |
| Southmayd | $7,096 |
| Southside Place | $885 |
| Spearman | $14,000 |
| Splendora | $7,756 |
| Spofford | $7 |
| Spring Valley Village | $16,404 |

| | | | |
|---|---|---|---|
| Granjeno | $43 | Springlake | $3 |
| Grapeland | $7,287 | Springtown | $14,244 |
| Grapevine | $129,195 | Spur | $427 |
| Gray County | $65,884 | St. Hedwig | $111 |
| Grays Prairie | $17 | St. Jo | $7,360 |
| Grayson County | $539,083 | St. Paul | $21 |
| Greenville | $203,112 | Stafford | $75,145 |
| Gregg County | $243,744 | Stagecoach | $3,036 |
| Gregory | $4,697 | Stamford | $398 |
| Grey Forest | $474 | Stanton | $3,838 |
| Grimes County | $94,878 | Staples | $19 |
| Groesbeck | $5,745 | Star Harbor | $151 |
| Groom | $965 | Starr County | $99,896 |
| Groves | $40,752 | Stephens County | $35,244 |
| Groveton | $8,827 | Stephenville | $83,472 |
| Gruver | $1,166 | Sterling City | $62 |
| Guadalupe County | $146,824 | Sterling County | $939 |
| Gun Barrel City | $36,302 | Stinnett | $4,097 |
| Gunter | $4,609 | Stockdale | $741 |
| Gustine | $34 | Stonewall County | $1,822 |
| Hackberry | $94 | Stratford | $8,378 |
| Hale Center | $6,042 | Strawn | $987 |
| Hale County | $79,150 | Streetman | $5 |
| Hall County | $8,933 | Sudan | $32 |
| Hallettsville | $6,895 | Sugar Land | $321,561 |
| Hallsburg | $272 | Sullivan City | $6,121 |
| Hallsville | $10,239 | Sulphur Springs | $124,603 |
| Haltom City | $71,800 | Sun Valley | $4 |
| Hamilton | $3,581 | Sundown | $2,592 |
| Hamilton County | $66,357 | Sunnyvale | $3,248 |
| Hamlin | $4,656 | Sunray | $2,571 |
| Hansford County | $16,416 | Sunrise Beach Village | $2,083 |
| Happy | $327 | Sunset Valley | $9,425 |
| Hardeman County | $15,219 | Surfside Beach | $6,530 |
| Hardin | $100 | Sutton County | $6,541 |
| Hardin County | $379,800 | Sweeny | $4,503 |
| Harker Heights | $113,681 | Sweetwater | $68,248 |
| Harlingen | $165,429 | Swisher County | $7,251 |
| Harris County | $14,966,202 | Taft | $5,861 |
| Harrison County | $185,910 | Tahoka | $430 |

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|---|---|---|---|
| Hart | $86 | Talco | $372 |
| Hartley County | $786 | Talty | $9,124 |
| Haskell | $10,829 | Tarrant County | $6,171,159 |
| Haskell County | $22,011 | Tatum | $972 |
| Haslet | $1,908 | Taylor | $57,945 |
| Hawk Cove | $674 | Taylor County | $351,078 |
| Hawkins | $7,932 | Taylor Lake Village | $412 |
| Hawley | $931 | Taylor Landing | $153 |
| Hays | $506 | Teague | $1,714 |
| Hays County | $529,489 | Tehuacana | $12 |
| Hearne | $16,824 | Temple | $280,747 |
| Heath | $28,751 | Tenaha | $4,718 |
| Hebron | $687 | Terrell | $148,706 |
| Hedley | $70 | Terrell County | $5,737 |
| Hedwig Village | $13,067 | Terrell Hills | $9,858 |
| Helotes | $15,790 | Terry County | $25,423 |
| Hemphill | $8,035 | Texarkana | $192,094 |
| Hemphill County | $14,394 | Texas City | $298,702 |
| Hempstead | $21,240 | Texhoma | $156 |
| Henderson | $59,966 | Texline | $865 |
| Henderson County | $327,965 | The Colony | $114,297 |
| Henrietta | $2,720 | The Hills | $1,004 |
| Hereford | $20,423 | Thompsons | $1,897 |
| Hewitt | $19,776 | Thorndale | $1,595 |
| Hickory Creek | $16,510 | Thornton | $270 |
| Hico | $5,534 | Thorntonville | $87 |
| Hidalgo | $26,621 | Thrall | $825 |
| Hidalgo County | $1,253,103 | Three Rivers | $4,669 |
| Hideaway | $922 | Throckmorton | $29 |
| Higgins | $43 | Throckmorton County | $5,695 |
| Highland Haven | $320 | Tiki Island | $2,178 |
| Highland Park | $43,383 | Timbercreek Canyon | $369 |
| Highland Village | $50,315 | Timpson | $12,642 |
| Hill Country Village | $6,485 | Tioga | $2,390 |
| Hill County | $127,477 | Tira | $185 |
| Hillcrest | $5,345 | Titus County | $70,611 |
| Hillsboro | $46,609 | Toco | $4 |
| Hilshire Village | $859 | Todd Mission | $1,680 |
| Hitchcock | $28,796 | Tolar | $2,369 |
| Hockley County | $46,407 | Tom Bean | $2,293 |

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|---|---|---|---|
| Holiday Lakes | $1,795 | Tom Green County | $282,427 |
| Holland | $77 | Tomball | $34,620 |
| Holliday | $5,910 | Tool | $14,787 |
| Hollywood Park | $9,424 | Toyah | $40 |
| Hondo | $115,288 | Travis County | $4,703,473 |
| Honey Grove | $7,196 | Trent | $63 |
| Hood County | $292,105 | Trenton | $3,089 |
| Hooks | $2,702 | Trinidad | $5,859 |
| Hopkins County | $149,518 | Trinity | $23,652 |
| Horizon City | $7,520 | Trinity County | $105,766 |
| Horseshoe Bay | $48,173 | Trophy Club | $29,370 |
| Houston County | $78,648 | Troup | $7,918 |
| Houston | $7,021,793 | Troy | $5,320 |
| Howard County | $89,330 | Tulia | $8,911 |
| Howardwick | $84 | Turkey | $737 |
| Howe | $9,177 | Tuscola | $138 |
| Hubbard | $3,635 | Tye | $1,766 |
| Hudson | $6,840 | Tyler | $723,829 |
| Hudson Oaks | $15,637 | Tyler County | $131,743 |
| Hudspeth County | $985 | Uhland | $1,545 |
| Hughes Springs | $4,442 | Uncertain | $185 |
| Humble | $73,952 | Union Grove | $994 |
| Hunt County | $309,851 | Union Valley | $666 |
| Hunters Creek Village | $14,708 | Universal City | $28,428 |
| Huntington | $8,792 | University Park | $50,833 |
| Huntsville | $80,373 | Upshur County | $128,300 |
| Hurst | $99,187 | Upton County | $8,499 |
| Hutchins | $9,551 | Uvalde | $18,439 |
| Hutchinson County | $74,630 | Uvalde County | $36,244 |
| Hutto | $38,346 | Val Verde County | $117,815 |
| Huxley | $738 | Valentine | $207 |
| Idalou | $1,999 | Valley Mills | $2,228 |
| Impact | $8 | Valley View | $1,824 |
| Indian Lake | $473 | Van | $6,206 |
| Industry | $604 | Van Alstyne | $43,749 |
| Ingleside on the Bay | $142 | Van Horn | $211 |
| Ingleside | $40,487 | Van Zandt County | $248,747 |
| Ingram | $5,243 | Vega | $974 |
| Iola | $3,164 | Venus | $9,792 |
| Iowa Colony | $4,090 | Vernon | $81,337 |

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|---|---|
| Iowa Park | $23,487 |
| Iraan | $56 |
| Iredell | $216 |
| Irion County | $9,105 |
| Irving | $427,818 |
| Italy | $5,349 |
| Itasca | $8,694 |
| Ivanhoe | $26 |
| Jacinto City | $14,141 |
| Jack County | $14,799 |
| Jacksboro | $23,254 |
| Jackson County | $37,984 |
| Jacksonville | $80,179 |
| Jamaica Beach | $4,913 |
| Jarrell | $2,423 |
| Jasper | $78,422 |
| Jasper County | $248,855 |
| Jayton | $63 |
| Jeff Davis County | $8,500 |
| Jefferson | $11,194 |
| Jefferson County | $756,614 |
| Jersey Village | $36,347 |
| Jewett | $9,338 |
| Jim Hogg County | $12,718 |
| Jim Wells County | $166,539 |
| Joaquin | $810 |
| Johnson City | $3,581 |
| Johnson County | $408,692 |
| Jolly | $26 |
| Jones County | $22,001 |
| Jones Creek | $5,078 |
| Jonestown | $6,419 |
| Josephine | $881 |
| Joshua | $20,619 |
| Jourdanton | $9,600 |
| Junction | $4,825 |
| Justin | $8,575 |
| Karnes City | $11,632 |
| Karnes County | $35,249 |
| Katy | $52,467 |
| Victoria | $84,598 |
| Victoria County | $520,886 |
| Vidor | $95,620 |
| Vinton | $622 |
| Volente | $333 |
| Von Ormy | $513 |
| Waco | $512,007 |
| Waelder | $3,427 |
| Wake Village | $174 |
| Walker County | $184,624 |
| Waller County | $126,206 |
| Waller | $11,295 |
| Wallis | $2,698 |
| Walnut Springs | $183 |
| Ward County | $67,920 |
| Warren City | $66 |
| Washington County | $83,727 |
| Waskom | $5,346 |
| Watauga | $33,216 |
| Waxahachie | $152,094 |
| Weatherford | $207,872 |
| Webb County | $505,304 |
| Webberville | $1,280 |
| Webster | $53,202 |
| Weimar | $5,830 |
| Weinert | $234 |
| Weir | $443 |
| Wellington | $9,111 |
| Wellman | $383 |
| Wells | $1,357 |
| Weslaco | $73,949 |
| West | $3,522 |
| West Columbia | $17,958 |
| West Lake Hills | $17,056 |
| West Orange | $42,452 |
| West Tawakoni | $6,995 |
| West University Place | $34,672 |
| Westbrook | $43 |
| Westlake | $41,540 |
| Weston | $266 |

| | |
|---|---|
| Kaufman | $27,607 |
| Kaufman County | $353,047 |
| Keene | $38,296 |
| Keller | $79,189 |
| Kemah | $28,325 |
| Kemp | $6,419 |
| Kempner | $330 |
| Kendall County | $100,643 |
| Kendleton | $13 |
| Kenedy | $676 |
| Kenedy County | $1,000 |
| Kenefick | $416 |
| Kennard | $132 |
| Kennedale | $21,024 |
| Kent County | $939 |
| Kerens | $1,924 |
| Kermit | $5,652 |
| Kerr County | $218,452 |
| Kerrville | $190,357 |
| Kilgore | $105,583 |
| Killeen | $535,650 |
| Kimble County | $20,480 |
| King County | $1,000 |
| Kingsville | $20,083 |
| Kinney County | $2,142 |
| Kirby | $8,752 |
| Kirbyville | $10,690 |
| Kirvin | $2 |
| Kleberg County | $124,109 |
| Knollwood | $1,160 |
| Knox City | $1,962 |
| Knox County | $11,730 |
| Kosse | $2,468 |
| Kountze | $19,716 |
| Kress | $186 |
| Krugerville | $1,508 |
| Krum | $9,661 |
| Kurten | $686 |
| Kyle | $51,835 |
| La Feria | $10,381 |
| Weston Lakes | $189 |
| Westover Hills | $4,509 |
| Westworth Village | $7,842 |
| Wharton | $31,700 |
| Wharton County | $72,887 |
| Wheeler | $447 |
| Wheeler County | $26,273 |
| White Deer | $1,273 |
| White Oak | $15,305 |
| White Settlement | $23,304 |
| Whiteface | $155 |
| Whitehouse | $29,017 |
| Whitesboro | $18,932 |
| Whitewright | $7,098 |
| Whitney | $73 |
| Wichita County | $552,371 |
| Wichita Falls | $832,574 |
| Wickett | $87 |
| Wilbarger County | $55,124 |
| Willacy County | $24,581 |
| Williamson County | $1,195,987 |
| Willis | $24,384 |
| Willow Park | $26,737 |
| Wills Point | $43,765 |
| Wilmer | $426 |
| Wilson | $12 |
| Wilson County | $121,034 |
| Wimberley | $724 |
| Windcrest | $12,908 |
| Windom | $1,087 |
| Windthorst | $3,385 |
| Winfield | $290 |
| Wink | $120 |
| Winkler County | $61,163 |
| Winnsboro | $28,791 |
| Winona | $319 |
| Winters | $6,229 |
| Wise County | $289,074 |
| Wixon Valley | $441 |
| Wolfe City | $5,466 |

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|---|---|
| La Grange | $9,623 |
| La Grulla | $1,708 |
| La Joya | $8,457 |
| La Marque | $98,930 |
| La Porte | $91,532 |
| La Salle County | $14,975 |
| La Vernia | $3,217 |
| La Villa | $572 |
| La Ward | $321 |
| LaCoste | $159 |
| Lacy-Lakeview | $11,599 |
| Ladonia | $2,011 |
| Lago Vista | $13,768 |
| Laguna Vista | $3,689 |
| Lake Bridgeport | $232 |
| Lake City | $2,918 |
| Lake Dallas | $25,314 |
| Lake Jackson | $75,781 |
| Lake Tanglewood | $613 |
| Lake Worth | $20,051 |
| Wolfforth | $4,022 |
| Wood County | $267,048 |
| Woodbranch | $9,617 |
| Woodcreek | $358 |
| Woodloch | $1,012 |
| Woodsboro | $1,130 |
| Woodson | $122 |
| Woodville | $20,340 |
| Woodway | $25,713 |
| Wortham | $376 |
| Wylie | $114,708 |
| Yantis | $2,072 |
| Yoakum County | $34,924 |
| Yoakum | $20,210 |
| Yorktown | $5,447 |
| Young County | $44,120 |
| Zapata County | $56,480 |
| Zavala County | $38,147 |
| Zavalla | $1,088 |

# EXHIBIT C

Exhibit C: TX Opioid Council & Health Care Region Allocations plus Administrative Costs
70% of Total ($700 million)

| Health Care Region Allocation*: $693 million; Administrative Costs: $7 million | | |
|---|---|---|
| Region | Counties in Health Care Region | Allocation |
| 1 | Anderson, Bowie, Camp, Cass, Cherokee, Delta, Fannin, Franklin, Freestone, Gregg, Harrison, Henderson, Hopkins, Houston, Hunt, Lamar, Marion, Morris, Panola, Rains, Red, River, Rusk, Smith, Titus, Trinity, Upshur, Van, Zandt, Wood | $38,223,336 |
| 2 | Angelina, Brazoria, Galveston, Hardin, Jasper, Jefferson, Liberty, Nacogdoches, Newton, Orange, Polk, Sabine, San Augustine, San Jacinto, Shelby, Tyler | $54,149,215 |
| 3 | Austin, Calhoun, Chambers, Colorado, Fort Bend, Harris, Matagorda, Waller, Wharton | $120,965,680 |
| 4 | Aransas, Bee, Brooks, De Witt, Duval, Goliad, Gonzales, Jackson, Jim Wells, Karnes, Kenedy, Kleberg, Lavaca, Live Oak, Nueces, Refugio, San Patricio, Victoria | $27,047,477 |
| 5 | Cameron, Hidalgo, Starr, Willacy | $17,619,875 |
| 6 | Atascosa, Bandera, Bexar, Comal, Dimmit, Edwards, Frio, Gillespie, Guadalupe, Kendall, Kerr, Kinney, La Salle, McMullen, Medina, Real, Uvalde, Val Verde, Wilson, Zavala | $68,228,047 |
| 7 | Bastrop, Caldwell, Fayette, Hays, Lee, Travis | $50,489,691 |
| 8 | Bell, Blanco, Burnet, Lampasas, Llano, Milam, Mills, San Saba, Williamson | $24,220,521 |
| 9 | Dallas, Kaufman | $66,492,094 |
| 10 | Ellis, Erath, Hood, Johnson, Navarro, Parker, Somervell, Tarrant, Wise | $65,538,414 |
| 11 | Brown, Callahan, Comanche, Eastland, Fisher, Haskell, Jones, Knox, Mitchell, Nolan, Palo Pinto, Shackelford, Stephens, Stonewall, Taylor | $9,509,818 |
| 12 | Armstrong, Bailey, Borden, Briscoe, Carson, Castro, Childress, Cochran, Collingsworth, Cottle, Crosby, Dallam, Dawson, Deaf Smith, Dickens, Donley, Floyd, Gaines, Garza, Gray, Hale, Hall, Hansford, Hartley, Hemphill, Hockley, Hutchinson, Kent, King, Lamb, Lipscomb, Lubbock, Lynn, Moore, Motley, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Scurry, Sherman, Swisher, Terry, Wheeler, Yoakum | $23,498,027 |
| 13 | Coke, Coleman, Concho, Crockett, Irion, Kimble, Mason, McCulloch, Menard, Pecos, Reagan, Runnels, Schleicher, Sterling, Sutton, Terrell, Tom Green | $5,195,605 |
| 14 | Andrews, Brewster, Crane, Culberson, Ector, Glasscock, Howard, Jeff Davis, Loving, Martin, Midland, Presidio, Reeves, Upton, Ward, Winkler | $12,124,354 |
| 15 | El Paso, Hudspeth | $17,994,285 |
| 16 | Bosque, Coryell, Falls, Hamilton, Hill, Limestone, McLennan | $9,452,018 |
| 17 | Brazos, Burleson, Grimes, Leon, Madison, Montgomery, Robertson, Walker, Washington | $23,042,947 |
| 18 | Collin, Denton, Grayson, Rockwall | $39,787,684 |
| 19 | Archer, Baylor, Clay, Cooke, Foard, Hardeman, Jack, Montague, Throckmorton, Wichita, Wilbarger, Young | $12,665,268 |
| 20 | Jim Hogg, Maverick, Webb, Zapata | $6,755,656 |
| | Administrative Costs | $7,000,000 |

* Each Region shall reserve 25% of its allocation for Targeted Funds under the guidelines of Exhibit A.

## EXHIBIT B

### Subdivision Settlement Participation Form

| | |
|---|---|
| Governmental Entity: | State: |
| Authorized Official: | |
| Address 1: | |
| Address 2: | |
| City, State, Zip: | |
| Phone: | |
| Email: | |

The governmental entity identified above *("Governmental Entity")*, in order to obtain and in consideration for the benefits provided to the Governmental Entity pursuant to the Settlement Agreement dated July 21, 2021 *("Distributor Settlemenf' )*, and acting through the undersigned authorized official, hereby elects to participate in the Distributor Settlement, release all Released Claims against all Released Entities, and agrees as follows.

1. The Governmental Entity is aware of and has reviewed the Distributor Settlement, understands that all terms in this Participation Form have the meanings defined therein, and agrees that by signing this Participation Form, the Governmental Entity elects to participate in the Distributor Settlement and become a Participating Subdivision as provided therein.

2. The Governmental Entity shall, within 14 days of the Reference Date and prior to the filing of the Consent Judgment, secure the dismissal with prejudice of any Released Claims that it has filed.

3. The Governmental Entity agrees to the terms of the Distributor Settlement pertaining to Subdivisions as defined therein.

4. By agreeing to the terms of the Distributor Settlement and becoming a Releasor, the Governmental Entity is entitled to the benefits provided therein, including, if applicable, monetary payments beginning after the Effective Date.

5. The Governmental Entity agrees to use any monies it receives through the Distributor Settlement solely for the purposes provided therein.

6. The Governmental Entity submits to the jurisdiction of the court in the Governmental Entity's state where the Consent Judgment is filed for purposes limited to that court's role as provided in, and for resolving disputes to the extent provided in, the Distributor Settlement. The Governmental Entity likewise agrees to arbitrate before the National Arbitration Panel as provided in, and for resolving disputes to the extent otherwise provided in, the Distributor Settlement.

7. The Governmental Entity has the right to enforce the Distributor Settlement as provided therein.

8. The Governmental Entity, as a Participating Subdivision, hereby becomes a Releasor for all purposes in the Distributor Settlement, including, but not limited to, all provisions of Part XI, and along with all departments, agencies, divisions, boards, commissions, districts, instrumentalities of any kind and attorneys, and any person in their official capacity elected or appointed to serve any of the foregoing and any agency, person, or other entity claiming by or through any of the foregoing, and any other entity identified in the definition of Releasor, provides for a release to the fullest extent of its authority. As a Releasor, the Governmental Entity hereby absolutely, unconditionally , and irrevocably covenants not to bring, file, or claim, or to cause, assist or permit to be brought, filed, or claimed, or to otherwise seek to establish liability for any Released Claims against any Released Entity in any forum whatsoever. The releases provided for in the Distributor Settlement are intended by the Parties to be broad and shall be interpreted so as to give the Released Entities the broadest possible bar against any liability relating in any way to Released Claims and extend to the full extent of the power of the Governmental Entity to release claims. The Distributor Settlement shall be a complete bar to any Released Claim.

9. The Governmental Entity hereby takes on all rights and obligations of a Participating Subdivision as set fo1th in the Distributor Settlement.

10. In connection with the releases provided for in the Distributor Settlement, each Governmental Entity expressly waives, releases, and forever discharges any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States or other jurisdiction, or principle of common law, which is similar, comparable, or equivalent to § 1542 of the California Civil Code, which reads:

> **General Release; extent.** A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release, and that if known by him or her would have materially affected his or her settlement with the debtor or released party.

A Releasor may hereafter discover facts other than or different from those which it knows, believes, or assumes to be true with respect to the Released Claims, but each Governmental Entity hereby expressly waives and fully, finally, and forever settles, releases and discharges, upon the Effective Date, any and all Released Claims that may exist as of such date but which Releasors do not know or suspect to exist, whether through ignorance, oversight, error, negligence or through no fault whatsoever, and which, if known, would materially affect the Governmental Entities' decision to participate in the Distributor Settlement.

11. Nothing herein is intended to modify in any way the te1ms of the Distributor Settlement, to which Governmental Entity hereby agrees. To the extent this Participation Form is interpreted differently from the Distributor Settlement in any respect, the Distributor Settlement controls.

I have all necessary power and authorization to execute this Participation Form on behalf of the Governmental Entity.

Signature: ______________________________

Name: ______________________________

Title: ______________________________

Date: ______________________________

**CITY OF THE COLONY, TEXAS**

**RESOLUTION NO. 2021 - ________**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF THE COLONY, TEXAS, ELECTING TO PARTICIPATE IN THE PROPOSED OPIOID SETTLEMENTS BROUGHT BY THE STATE OF TEXAS AND OTHER JURISDICTIONS AGAINST VARIOUS PHARMACEUTICAL COMPANIES FOR THEIR ROLES IN THE NATIONAL OPIOID CRISIS; MAKING FINDINGS; AUTHORIZING THE CITY MANAGER TO EXECUTE APPROPRIATE DOCUMENTATION RELATED THERETO; ADOPTING THE TEXAS TERM SHEET; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the State of Texas, along with a broad coalition of states and political subdivisions from across the country, sued three (3) major opioid distributors—McKesson, Cardinal Health and Amerisource Bergen—along with an opioid manufacturer—Johnson & Johnson—for their role in the national opioid crisis; and

**WHEREAS**, opioid use in the United States has resulted in an increase of opioid drug overdose deaths to a record high 69,000 in 2020, and in Texas at the same time drug overdose deaths increased 31.9%, driven primarily by opioid overdose deaths; and

**WHEREAS**, the opioid overdose death increase was driven primarily by fentanyl and other synthetic opioids; and

**WHEREAS**, all three (3) opioid distributors and opioid manufacturer Johnson & Johnson have reached a final settlement with Texas and the other jurisdictions; and

**WHEREAS**, Texas' combined share of the settlements is approximately $1.5 billion, and Texas municipalities can participate in the settlement if they elect to participate and if a municipality elects not to participate, the municipality would be required to institute its own litigation against the opioid distributors and/or manufacturers; and

**WHEREAS**, the Texas Attorney General's Office has requested that the City of The Colony, Texas, and other Texas local governments elect to participate in the settlements, and to express such intent in a resolution by the governing body; and

**WHEREAS**, it is the intent of the City Council of the City of The Colony, Texas, to elect to participate in the settlements and therefore, such election to participate and to adopt the settlement term sheet will be forwarded to the Texas Attorney General's Office.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF THE COLONY, TEXAS, THAT:**

**SECTION 1.** The findings set forth above are incorporated into the body of this Resolution as if fully set forth herein.

**SECTION 2.** The City Council of the City of The Colony, Texas, hereby authorizes the City Manager to execute any and all necessary documentation reflecting the City's election to participate in the settlements referenced in this Resolution, as reflected in ***Exhibit A***, a copy of which is attached hereto, "Subdivision Settlement Participation Form," and to adopt ***Exhibit B,*** a copy of which is attached hereto, "Texas Opioid Abatement Fund Council and Settlement Allocation Term Sheet," and to take any and all other steps requested or authorized by the Texas Attorney General's Office relative the settlements referenced in this Resolution.

**SECTION 3.** That all provisions of the resolutions of the City of The Colony, Texas, in conflict with the provisions of this Resolution be, and the same are hereby amended, repealed, and all other provisions of the resolutions of the City not in conflict with the provisions of this Resolution shall remain in full force and effect.

**SECTION 4.** This Resolution shall become effective from and after its date of passage in accordance with law.

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF THE COLONY, TEXAS, THIS 7TH DAY OF DECEMBER 2021.**

____________________________________
Richard Boyer, Mayor
City of The Colony, Texas

**ATTEST:**

____________________________________
Tina Stewart, TRMC, CMC, City Secretary

**APPROVED AS TO FORM:**

____________________________________
Jeff Moore, City Attorney

***Exhibit A***

[Subdivision Settlement Participation Form]

***Exhibit B***

[Texas Opioid Abatement Fund Council and
Settlement Allocation Term Sheet]

# CITY COUNCIL Agenda Item Report

Meeting Date: December 7, 2021
Submitted by: Isaac Williams
Submitting Department: Engineering
Item Type: Ordinance
Agenda Section:

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**Subject:**
Discuss and consider an ordinance regarding the Site Plan application of “Building E,” for an approximately 27,438 square-foot building for indoor “commercial amusement” within Area 5 of the Lifestyle Center at Grandscape. The subject site is located southwest of the southwest intersection of Destination Drive and Grandscape Boulevard within the Planned Development 25 (PD-25). (Williams)

**Suggested Action:**
Please see the attached staff report, drawings, maps and illustrations for detailed land use, site layout and staff recommendation.

**Attachments**:
SP21-0007 CC Staff Report Grandscape 2C interior (Building E Addition) (Final).pdf

SP21-0007 Zoning map.pdf

Building E Grandscape Exhibit A (Final CC).pdf

Project Narrative 11.11.21(final).pdf

SP21-0007 Grandscape 2C interior (building E Addition) Proposed Ordinance.doc

## CITY COUNCIL REPORT

**AGENDA DATE:** December 7, 2021

**DEPARTMENT:** Development Services Department

**SUBJECT *SP21-0007 Grandscape 2C Interior Building E- Site Plan***

Discuss and consider an ordinance regarding the Site Plan application of "Building E," for an approximately 27,438 square-foot building for indoor "commercial amusement" within Area 5 of the Lifestyle Center at Grandscape. The subject site is located southwest of the southwest intersection of Destination Drive and Grandscape Boulevard within the Planned Development 25 (PD-25).

**APPLICANT/OWNER**

| | | |
|---|---|---|
| Owner: | LMG Ventrues, LLC | Omaha, Nebraska |
| Applicant: | Ryan Blumkin | |
| | LMG Ventures, LLC D/B/A Grandscape | Omaha, Nebraska |

**EXISTING CONDITION OF PROPERTY**

The subject property is currently undeveloped lot within the Lifestyle Center at Grandscape. The surrounding area is mostly developed with commercial retail, restaurant and entertainment uses.

**PROPOSED DEVELOPMENT**

The applicant requests to develop an approximately 27,438 square-foot building intended for indoor "commercial amusement" activities within the 90-acre Lifestyle Center at Grandscape.

**ADJACENT ZONING AND LAND USE**

North - Planned Development 25 (PD-25) Grandscape
South – Planned Development 25 (PD-25) Grandscape
East - Planned Development 25 (PD-25) Grandscape
West - Planned Development 25 (PD-25) Grandscape

**DEVELOPMENT REVIEW COMMITTEE (DRC) REVIEW**

The Development Review Committee (DRC) finds that proposed Site Plan meets the requirements of the Zoning Ordinance as outlined in the Staff Report.

**PRIOR ACTION/REVIEW (Council, Boards, Commissions)**

On November 23, 2021, The Colony's Planning and Zoning Commission recommended (6-0) to approve the site plan for "Building E," an approximately 27,438 square-foot building for indoor "commercial amusement" within Area 5 of the Lifestyle Center at Grandscape. The subject site is located southwest of the southwest intersection of Destination Drive and Grandscape Boulevard within the Planned Development 25 (PD-25).

**ATTACHMENTS**

1. Staff Analysis
2. Location Map
3. Proposed Ordinance with exhibits
4. Project narrative
5. Minutes from the November 23, 2021 Planning Commission Meeting (uncertified)

**ATTACHMENT 1**

# Staff Analysis

**Land Use Analysis**

The applicant is proposing to develop Building E as a "commercial amusement" facility for an operation providing a "full projection visual immersive experience." The facility is permitted within the Planned Development 25 (PD-25) Development, and is compatible with other commercial amusement facilities such as Andretti's, Galaxy Theater, and Electric Gamebox.

**Elevations**

The elevation plan reflect facades containing contemporary architecture in an earth tone color pallet, which includes shades of brown and a variety of material changes, and multi-colored stone accents. Each façade contains horizontal and vertical articulations; long unarticulated facade runs are interrupted by material or color changes. The elevation plan reflects lighting wall packs and fenestrations along the east façade that will illuminate the interior corridor. The maximum building height is reflected at forty-four (44') feet to the top of the parapet; roof top equipment is fully screened behind the extent of the parapets. The facades consist predominately of masonry material and accented materials with the following percentages:

| North Elevation (%): | South Elevation (%): | East Elevation (%): | West Elevation (%): |
|---|---|---|---|
| Stucco: 39 | Stucco: 66.7 | Concrete Tilt: 69.6 | Concrete Tilt: 48.6 |
| Glazing: 27.8 | Metal Siding: 10.0 | Metal Siding: 6.6 | Stucco: 10.5 |
| Metal Siding: 12 | Stone Veneer: 13.1 | Stone Veneer: 10.9 | Cement Board: 38.1 |
| Stone Veneer: 9.9 | Metal Coping: 1.2 | O.H. Door: 1.2 | Stone Veneer: 0.8 |
| ACM Canopy: 4.3 | Cement Board: 8.0 | Glazing: 9.9 | ACM Canopy: 0.7 |
| ACM Siding: 2.3 | HM Door: 1.0 | Metal Coping: 0.9 | Metal Coping: 1.3 |
| Steel Canopy: 1.7 | | HM Door: 0.8 | |
| Metal Coping: 1.2 | | | |
| Cement Board: 1.0 | | | |
| HM Door: 0.8 | | | |

**Circulation, Parking and Infrastructure Improvements**

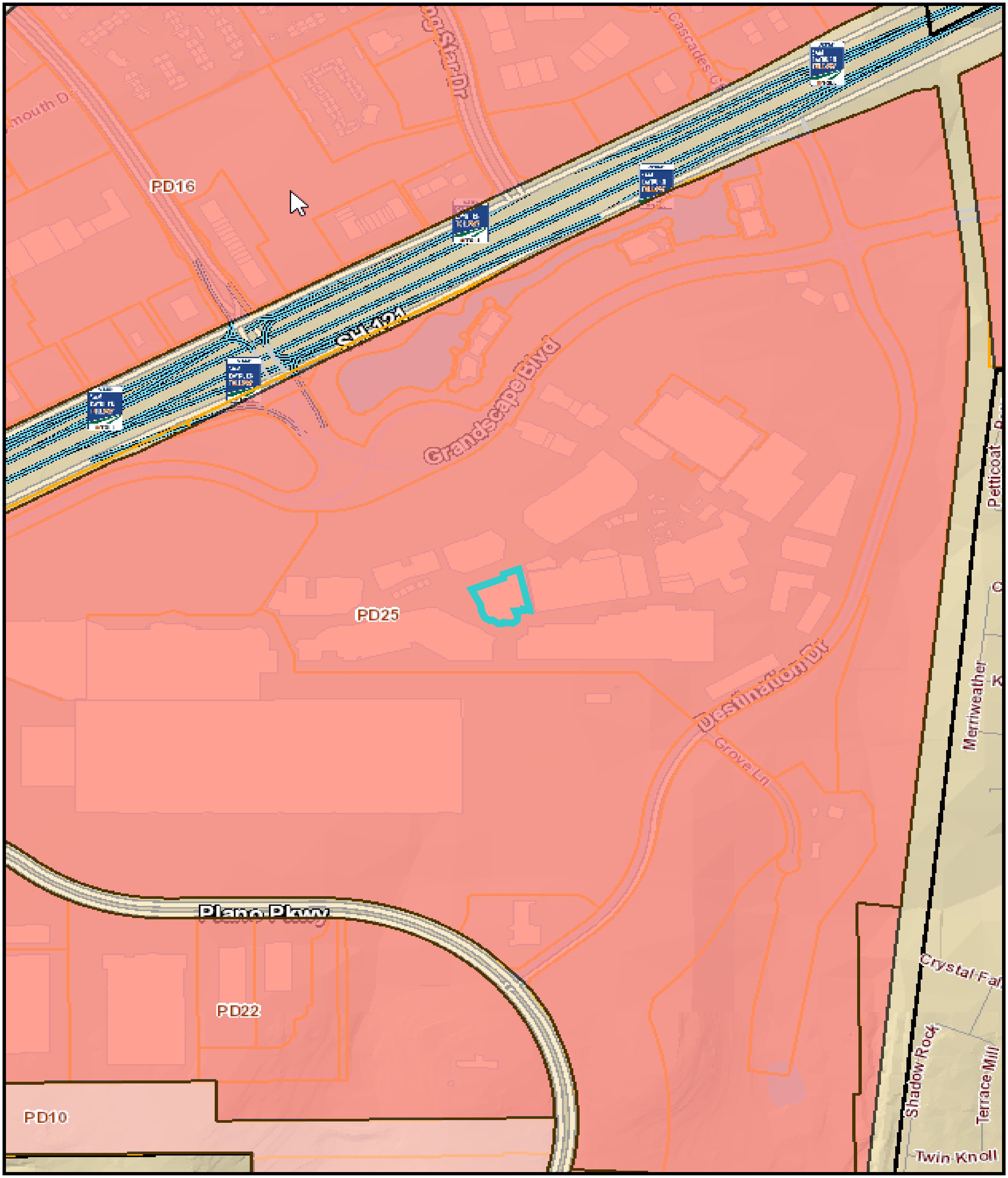
The subject site is an interior building and will not contain any traditionally parking adjacent to the building. The parking will be provided out of the existing parking fields to the north across Grandscape Boulevard and from the adjacent Garage 3. The proposed development requires 91 parking spaces; the aforementioned parking areas provide the required parking for the site. No infrastructure improvements are provided at this time.

**Landscaping**

The proposed development is located within and adjacent to the Lifestyle Center 2C interior. The 2C interior is established as a centralized shared amenity area containing fountains, seating, landscape and an event lawn. This area contains a variety of large and, small ornamental trees, shrubs, and ground cover consistent with the overall landscape intents of the Grandscape Lifestyle Center. A majority of the overall development's landscape requirements are fulfilled within the 2C interior; the subject site's required 10% landscape dedication is provided within the approximately 302,824 square feet of landscape within the 2C interior amenity.

**Development Review Committee Review**

The Development Review Committee (DRC) finds that proposed Site Plan meets the requirements of the Zoning Ordinance and recommends approval.




N

**Project no. SP21-0007 - Project Name Grandscape 2C Interior Building E addition- Site Plan**

| | | | | |
|---|---|---|---|---|
| Agricultural | Duplex Dwelling | Industrial | Neighborhood Service | Shopping Center |
| Business Park | General Retail | Light Commercial | Office District 1 | Single Family Dwelling |
| Business Park/Industrial | Heavy Commercial | Mobile Home | Planned Development | Townhome |

This map was generated by GIS data provided by The Colony GIS Department. The City of The Colony does not guarantee the correctness or accuracy of any features on this map. These digital products are for illustration purposes only and are not suitable for site-specific decision making.

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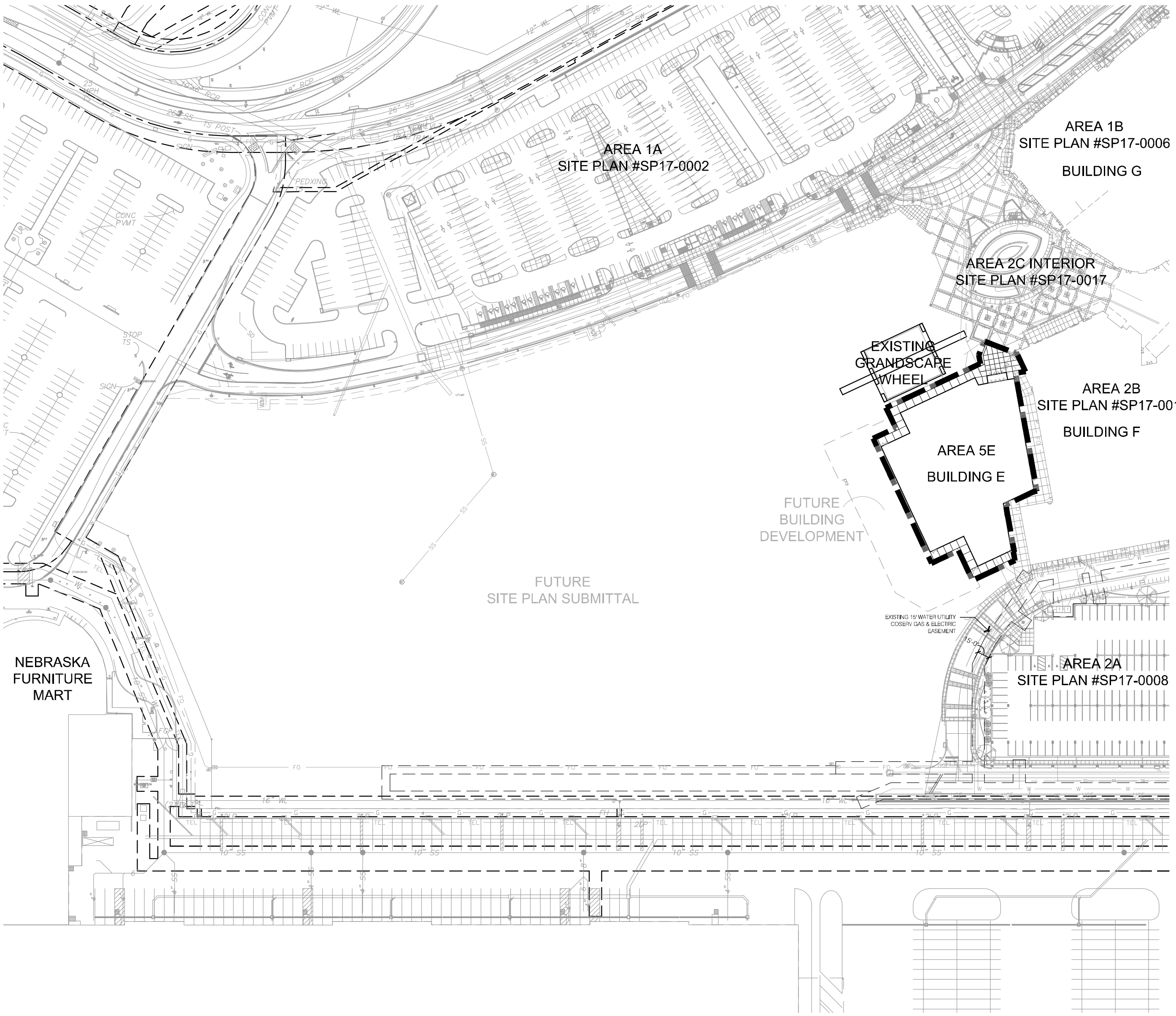


1 OVERALL AREA 5E SITE PLAN

## SITE PLAN GENERAL NOTES:

1. THE CONSTRUCTION COVERED BY THESE PLANS SHALL CONFORM TO ALL APPLICABLE STANDARDS AND SPECIFICATIONS OF THE CITY OF THE COLONY, TEXAS IN CURRENT USAGE. ALL STANDARDS NOT COVERED BY THE CITY SHALL BE APWA STANDARDS IN CURRENT USAGE UNLESS OTHERWISE NOTED.
2. THE UTILITY LOCATIONS SHOWN ON THESE PLANS ARE APPROXIMATE ONLY. THE UTILITY INFORMATION IS NOT MEANT TO BE ALL INCLUSIVE. THE CONTRACTOR SHALL NOTIFY MISSOURI ONE CALL (811) BEFORE THE START OF ANY EXCAVATION WORK. THE CONTRACTOR SHALL VERIFY THE LOCATION AND DEPTH OF ALL UTILITIES PRIOR TO CONSTRUCTION TO PROVIDE NON-INTERRUPTION OF SERVICE, TO ENSURE PROPER CLEARANCES, AND TO AVOID DAMAGE THERETO.
3. ALL DIMENSIONS ARE TO BACK OF CURB UNLESS OTHERWISE NOTED.
4. CONTRACTOR SHALL, BY HIS OWN INVESTIGATION, AND PRIOR TO COMMENCING WORK, SATISFY HIMSELF AS TO, AND ACCEPT THE SITE CONDITIONS TO BE ENCOUNTERED.
5. WHERE THE NEW IMPROVEMENTS ABUT EXISTING IMPROVEMENTS, THE CONTRACTOR SHALL BE RESPONSIBLE FOR MATCHING THE ELEVATION OF THE EXISTING IMPROVEMENTS UNLESS OTHERWISE NOTED.
6. THE CONTRACTOR SHALL PROVIDE A SECURE SITE TO PROTECT VEHICLES AND PEDESTRIANS FROM ACCIDENTAL FALLS AND HARM FROM THE CONSTRUCTION PROCESS.
7. CONTRACTOR SHALL BE RESPONSIBLE FOR DE-WATERING CONSTRUCTION AREAS IN ORDER TO PERMIT CONTINUATION OF THE WORK. ANY WATER ACCUMULATION SHALL BE REMOVED BY PUMPING.
8. CONTRACTOR IS RESPONSIBLE FOR ALL QUANTITIES OR MATERIALS AS SHOWN IN THESE PLANS. CONTRACTOR SHALL ACCOMMODATE ALL SLOPE AND GRADE CONDITIONS IN THEIR CALCULATION OF MATERIAL QUANTITIES FOR ALL WORK SHOWN ON THESE PLANS.
9. CONTRACTOR SHALL BE RESPONSIBLE FOR PEDESTRIAN AND VEHICULAR TRAFFIC CONTROL DURING CONSTRUCTION OPERATIONS. OWNER SHALL APPROVE MEASURES USED TO ALLOW TENANTS AND SHOPPERS PROPER ACCESS DURING CONSTRUCTION.
10. CONTRACTOR SHALL TAKE CARE TO CREATE SMOOTH UNIFORM FINISH GRADES IN ALL AREAS.
11. SLOPES SHALL BE MADE WITH A 4 TO 1 MAXIMUM GRADE FOR MAINTENANCE PURPOSES, UNLESS OTHERWISE NOTED.
12. CONTRACTOR SHALL MATCH GRADES AT EXISTING IMPROVEMENTS.
13. ALL SPOT ELEVATIONS SHOWN ARE TOP OF PAVEMENT UNLESS OTHERWISE NOTED.
14. CONTRACTOR SHALL ADJUST ALL VALVE BOXES, MANHOLE RING COVERS, AND OTHER UTILITY APPURTENANCES TO MATCH FINISH GRADE ELEVATIONS.
15. TURF & SHRUB BED AREAS SHALL BE GRADED AS NECESSARY TO ALLOW A 2% SLOPE TO INLET LOCATIONS AND SWALES.
16. ALL WORK CONSTRUCTED UNDER THESE PLANS SHALL MEET SLOPE REQUIREMENTS PER THE 2010 ADA STANDARDS FOR ACCESSIBLE DESIGN, THE 2012 TAS STANDARDS FOR ACCESSIBLE DESIGN, AND INTERNATIONAL BUILDING CODE IN CURRENT USAGE. MAXIMUM 5% RUNNING SLOPE AND MAXIMUM 2% CROSS SLOPE FOR SIDEWALKS.
17. ALL WORK CONSTRUCTED UNDER THESE PLANS SHALL HAVE A MINIMUM OF A 1% SLOPE. LANDSCAPE BEDS AND TURF AREAS SHALL HAVE A MINIMUM OF A 2% SLOPE.
18. CHANGES IN LEVEL SHALL NOT BE GREATER THAN 1/4" AND A MAXIMUM OF 1/2" ARE ALLOWED WITH A BEVELED SLOPE NOT STEEPER THAN 1:2.

CITY PROJECT #SP21-0007

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NOT FOR CONSTRUCTION

GRANDSCAPE®
SITE PLAN AREA 5E

LIFESTYLE CENTER AT
GRANDSCAPE
LOT 3, BLOCK A
GRANDSCAPE ADDITION PHASE II
THE COLONY, TX

REVISIONS
REVISED PER OWNER COMMENTS 2021.10.26
REVISED PER CITY COMMENTS 2021.11.02

PROJECT NUMBER: 021-00859
ISSUE: 10/20/2021
SHEET NAME: OVERALL AREA 5E SITE PLAN
SHEET: L1.00

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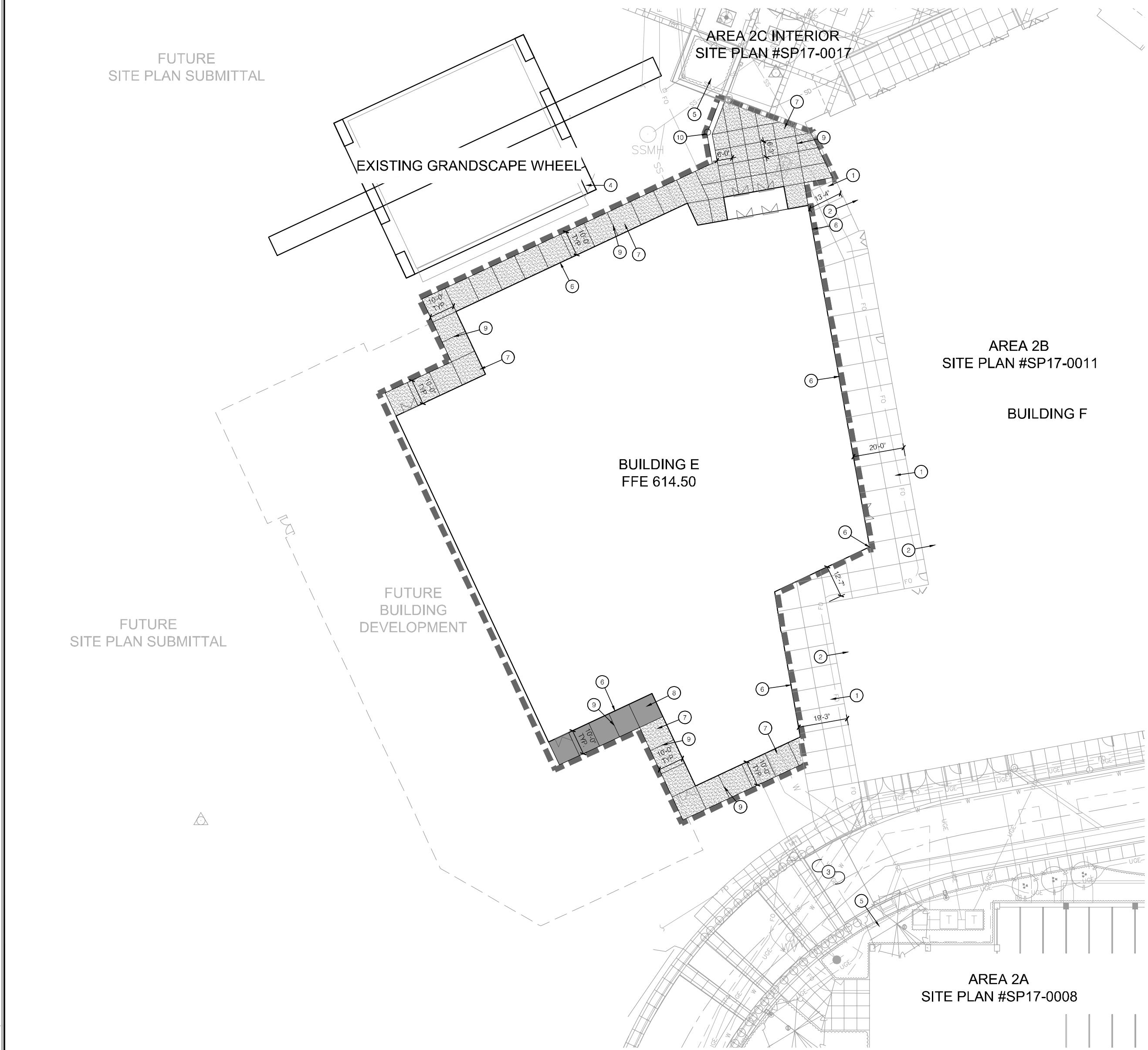


1 AREA 5E SITE PLAN

## SITE PLAN LEGEND:

- AREA 5E SITE PLAN LIMITS
- TEMPORARY GRAY CONCRETE
- PERMANENT GRAY CONCRETE
- EASEMENT LINE
- EXISTING STORM DRAIN PIPE
- WATER SERVICE
- SANITARY SERVICE
- FIRE PROTECTION SERVICE
- UNDERGROUND ELECTRIC SERVICE LINE
- GAS SERVICE
- STORM ROOF DRAIN LATERALS
- ACUITY EQUIP/FIBER LINE
- EXISTING FIRE HYDRANT
- EXISTING SANITARY SEWER MANHOLE
- WATER METER
- FUTURE BUILDING (PER SEPERATE PLANS)

## SITE PLAN NOTES:

1. EXISTING SIDEWALK
2. EXISTING BUILDING
3. EXISTING DRIVE
4. EXISTING OBSERVATION WHEEL
5. EXISTING PLANTING BED
6. BUILDING FACADE; REF: ARCHITECTURAL PLANS
7. CONSTRUCT TEMPORARY GRAY CONCRETE
8. CONSTRUCT PERMANENT GRAY CONCRETE
9. INSTALL CONTROL JOINT
10. INSTALL TEMPORARY RAILING

NOTE:

REFERENCE AREA 2C INTERIOR (#SP17-0017) FOR LANDSCAPE PLANS.

| GRANDSCAPE LIFESTYLE CENTER GENERAL SITE INFORMATION | |
|---|---|
| OVERALL / AREA 5E ACREAGE | 90.15 AC. / 0.781 AC. |
| EXISTING ZONING | PD-25 |
| IMPERVIOUS AREA | 0.781 AC. |

| AREA 5E REQUIRED PARKING (PD-25) | | | |
|---|---|---|---|
| AREA 5E BUILDING USE | SF | PD-25 RATIOS | PD-25 PARKING |
| COMMERCIAL AMUSEMENT | 27,438 | 1 PER 300 SF | 91 |
| TOTALS | 27,438 | | 91 |

| AREA 5E PROVIDED PARKING (BY LOCATION) |
|---|
| EXISTING SOUTHEAST ADJACENT PARKING GARAGE 3<br>3,357 |
| |
| 91 |

| GRANDSCAPE LIFESTYLE CENTER EXISTING LANDSCAPE AREA INFORMATION | |
|---|---|
| AREA 2CI SQUARE FOOTAGE | 302,824 SF |
| REQUIRED LANDSCAPE AREA (10% MINIMUM) | 30,282 SF |
| AREA 2CI PROVIDED LANDSCAPE AREA | 31,680 SF |

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PROJECT NUMBER: 021-00859
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SHEET NAME: AREA 5E SITE PLAN
SHEET: L2.00

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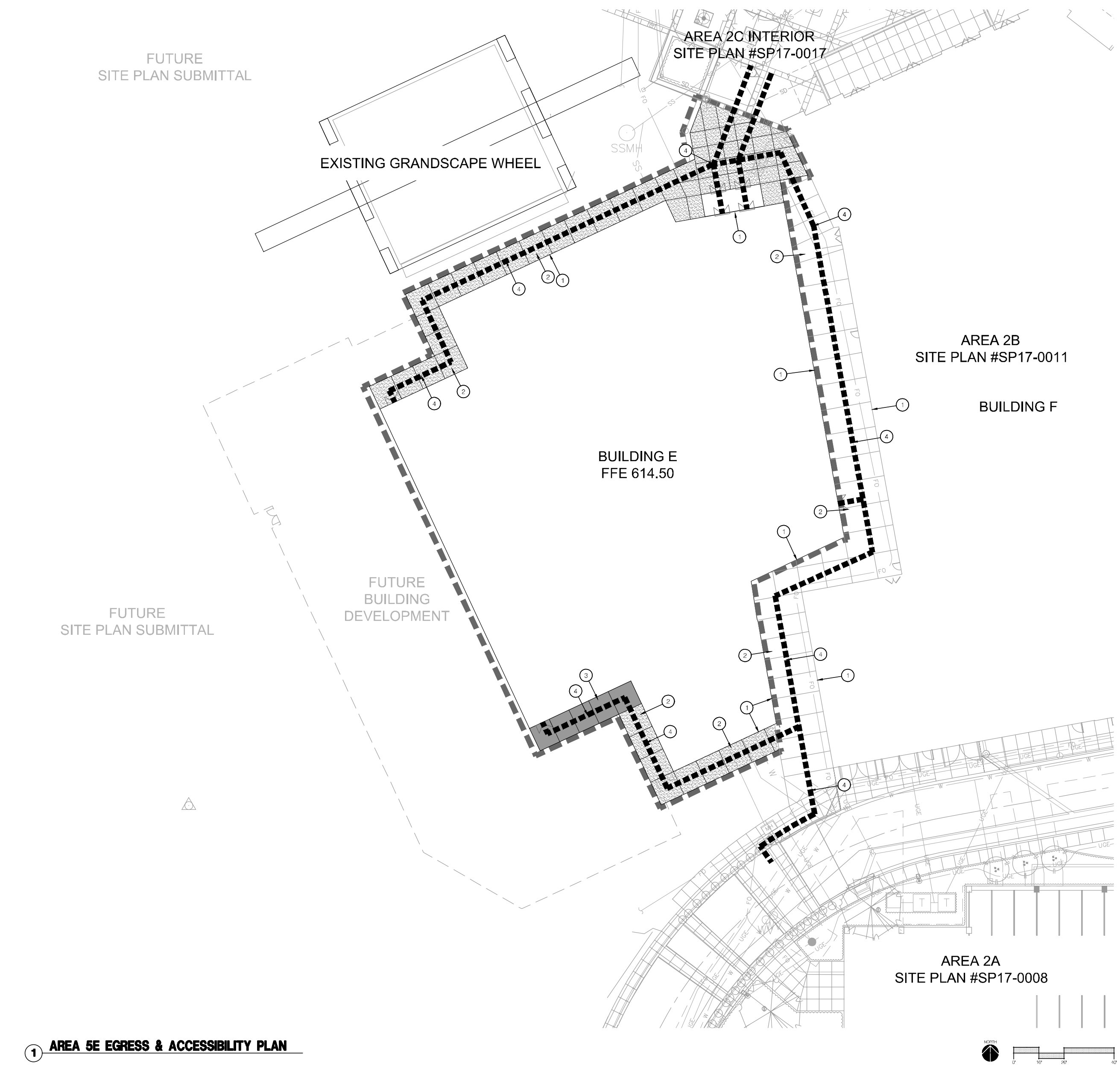


1 AREA 5E EGRESS & ACCESSIBILITY PLAN

## MEANS OF EGRESS / ACCESSIBILITY GENERAL NOTES:

1. THE EXIT ACCESS AND EXIT REQUIREMENTS SHALL BE PER ARCHITECTURAL PLANS.
2. THE MEANS OF EGRESS WIDTH SHALL BE 8' CLEAR AS REQUIRED BY ARCHITECTURAL PLANS.

## EGRESS / ACCESSIBILITY LEGEND:

- AREA 5E SITE PLAN LIMITS
- EGRESS EXIT DISCHARGE ROUTE / ACCESSIBLE ROUTE

## EGRESS / ACCESSIBILITY PLAN NOTES:

1. BUILDING FACADE
2. TEMPORARY CONCRETE WALK - 8' MIN. CLEAR SURFACE; REF: L2.00 - AREA 5E SITE PLAN
3. PERMANENT CONCRETE WALK - 8' MIN. CLEAR SURFACE; REF: L2.00 - AREA 5E SITE PLAN
4. EGRESS EXIT DISCHARGE ROUTE / ACCESSIBLE ROUTE

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SHEET: L3.00

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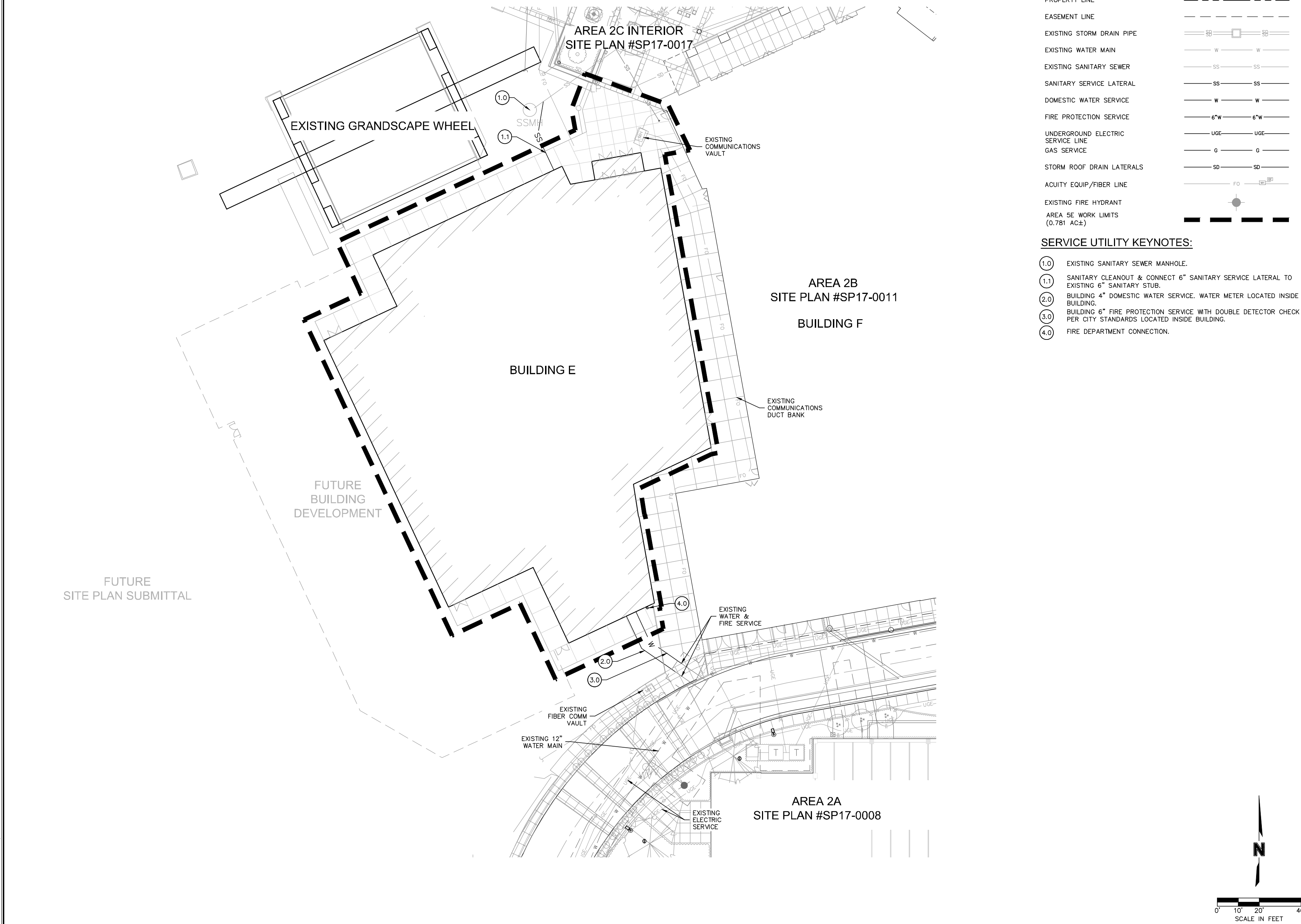


## LEGEND

| | |
|---|---|
| PROPERTY LINE | |
| EASEMENT LINE | |
| EXISTING STORM DRAIN PIPE | SD |
| EXISTING WATER MAIN | W |
| EXISTING SANITARY SEWER | SS |
| SANITARY SERVICE LATERAL | SS |
| DOMESTIC WATER SERVICE | W |
| FIRE PROTECTION SERVICE | 6"W |
| UNDERGROUND ELECTRIC SERVICE LINE | UGE |
| GAS SERVICE | G |
| STORM ROOF DRAIN LATERALS | SD |
| ACUITY EQUIP/FIBER LINE | FO |
| EXISTING FIRE HYDRANT | |
| AREA 5E WORK LIMITS (0.781 AC±) | |

## SERVICE UTILITY KEYNOTES:

1.0 EXISTING SANITARY SEWER MANHOLE.
1.1 SANITARY CLEANOUT & CONNECT 6" SANITARY SERVICE LATERAL TO EXISTING 6" SANITARY STUB.
2.0 BUILDING 4" DOMESTIC WATER SERVICE. WATER METER LOCATED INSIDE THE BUILDING.
3.0 BUILDING 6" FIRE PROTECTION SERVICE WITH DOUBLE DETECTOR CHECK VALVE PER CITY STANDARDS LOCATED INSIDE BUILDING.
4.0 FIRE DEPARTMENT CONNECTION.

CITY PROJECT #SP21-0007

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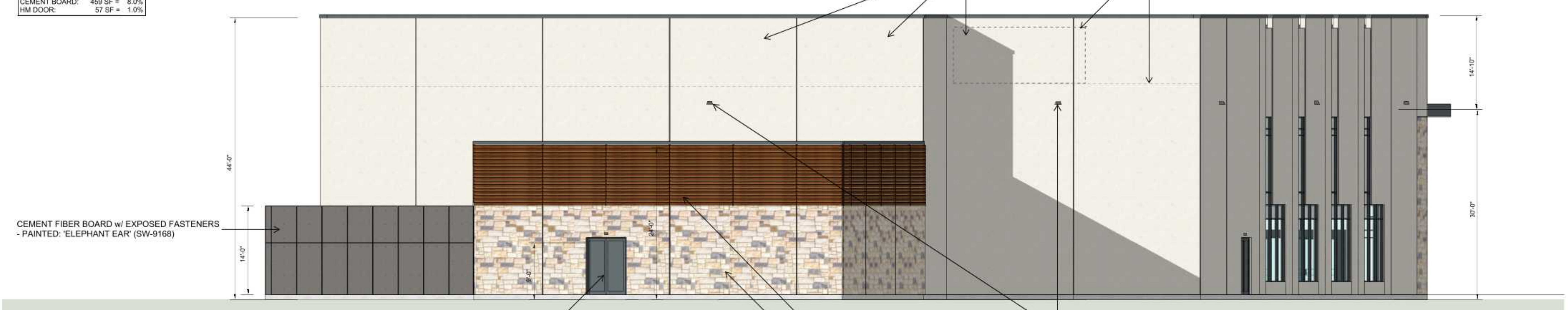
REVISIONS
REVISED PER OWNER COMMENTS 2021.10.26
REVISED PER CITY COMMENTS 2021.11.02

PROJECT NUMBER: 021-00859
ISSUE: 10/20/2021
SHEET NAME: AREA 5E UTILITY PLAN
SHEET: C1.00

| NORTH ELEV. - MATERIAL LEGEND: | | |
|---|---|---|
| STUCCO: | 2,932 SF = | 39.0% |
| GLAZING: | 2,081 SF = | 27.8% |
| METAL SIDING: | 896 SF = | 12.0% |
| STONE VENEER: | 728 SF = | 9.9% |
| ACM CANOPY: | 313 SF = | 4.3% |
| ACM SIDING: | 164 SF = | 2.3% |
| STEEL CANOPY: | 120 SF = | 1.7% |
| METAL COPING: | 88 SF = | 1.2% |
| CEMENT BOARD: | 72 SF = | 1.0% |
| HM DOOR: | 54 SF = | 0.8% |


**NORTH ELEVATION**

| SOUTH ELEV. - MATERIAL LEGEND: | | |
|---|---|---|
| STUCCO: | 3,855 SF = | 66.7% |
| METAL SIDING: | 580 SF = | 10.0% |
| STONE VENEER: | 755 SF = | 13.1% |
| METAL COPING: | 68 SF = | 1.2% |
| CEMENT BOARD: | 459 SF = | 8.0% |
| HM DOOR: | 57 SF = | 1.0% |




**SOUTH ELEVATION**

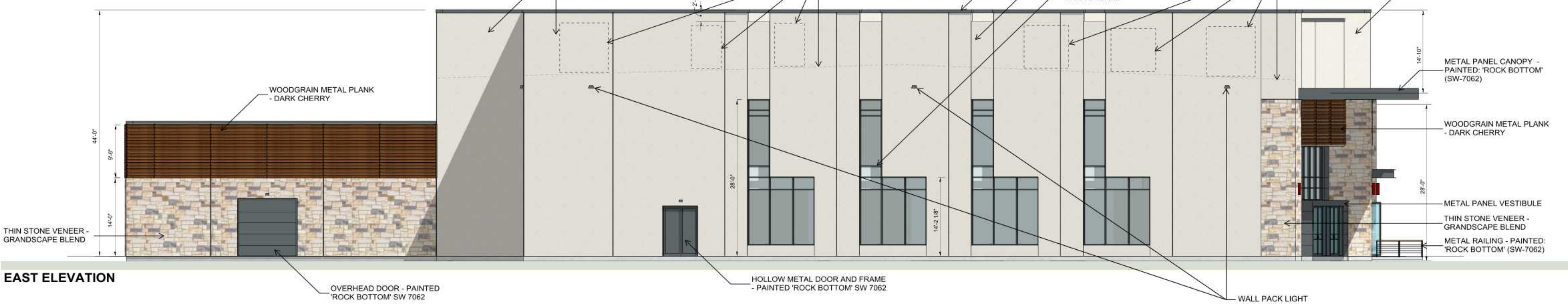


GRANDSCAPE® PHASE II

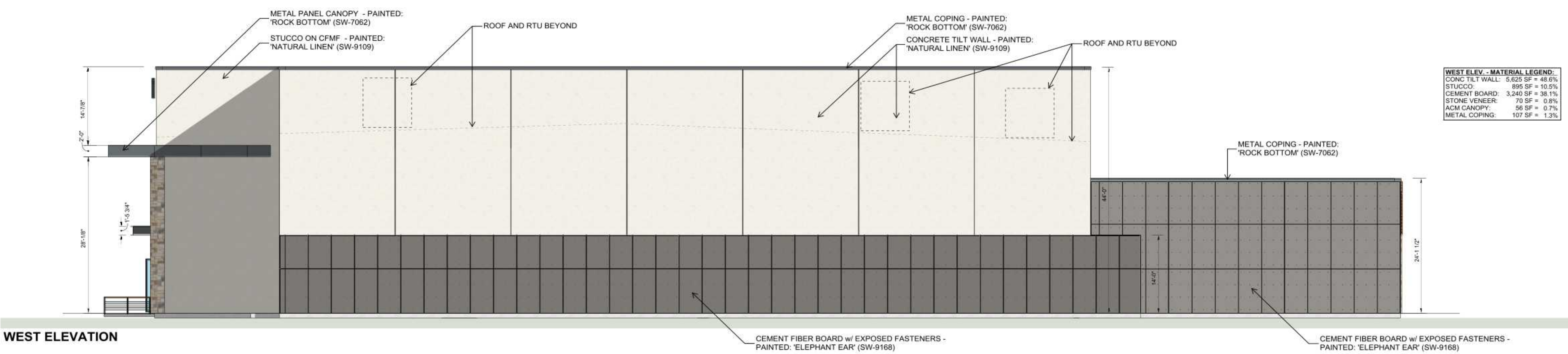
# BUILDING E - NORTH and SOUTH ELEVATIONS

HOEFER WELKER 10.21.21

| EAST ELEV. - MATERIAL LEGEND: | | |
|---|---|---|
| CONC TILT WALL: | 5,625 SF = | 69.6% |
| METAL SIDING: | 527 SF = | 6.6% |
| STONE VENEER: | 873 SF = | 10.9% |
| O.H.DOOR: | 100 SF = | 1.3% |
| GLAZING: | 800 SF = | 9.9% |
| METAL COPING: | 68 SF = | 0.9% |
| HM DOOR: | 57 SF = | 0.8% |




EAST ELEVATION




| WEST ELEV. - MATERIAL LEGEND: | | |
|---|---|---|
| CONC TILT WALL: | 5,625 SF = | 48.6% |
| STUCCO: | 895 SF = | 10.5% |
| CEMENT BOARD: | 3,240 SF = | 38.1% |
| STONE VENEER: | 70 SF = | 0.8% |
| ACM CANOPY: | 56 SF = | 0.7% |
| METAL COPING: | 107 SF = | 1.3% |

WEST ELEVATION



GRANDSCAPE® PHASE II

# BUILDING E - EAST and WEST ELEVATIONS

HOEFER WELKER 10.21.21

***Project Narrative – AREA 5 – Building E***

November 11, 2021
Site Plan Submittal

Area 5 – Building E of the 90-acre Lifestyle Center at Grandscape Development is located to the west of Block F (Galaxy Theater). This particular building is 44 feet tall. In addition to this building, we will be adding smaller retail that will wrap around this larger building (much like what has been completed within Grandscape previously– I.E. Andretti's and the smaller retail that wraps Andretti's). The smaller retail to wrap around this larger structure will be submitted at a later date. Required infrastructure improvements are anticipated to begin construction later this year after receipt of necessary approvals. Parking, utility mains, and the roadway network required to service this building are in place and have been previously approved by the City of the Colony. Construction documents for this submittal are in preparation.

The proposed building is of Type II-A (non-combustible) construction and fully sprinklered. The building is comprised of a central structure made up of concrete tilt-wall panels, with steel structure in and surrounding it in the two-level retail spaces. The exterior palette of the building is a mix of natural stone, masonry, composite metal panel as well as painted concrete all matching existing materials existing in the Grandscape development.

**CITY OF THE COLONY, TEXAS**

**ORDINANCE NO. 2021-_____**

**SITE PLAN – GRANDSCAPE 2C INTERIOR (BUILDING E ADDITION)**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF THE COLONY, TEXAS, APPROVING A SITE PLAN APPLICATION OF "BUILDING E," AN APPROXIMATELY 27,438 SQUARE-FOOT BUILDING FOR INDOOR "COMMERCIAL AMUSEMENT" WITHIN AREA 5 OF THE LIFESTYLE CENTER AT GRANDSCAPE. THE SUBJECT SITE IS LOCATED SOUTHWEST OF THE SOUTHWEST INTERSECTION OF DESTINATION DRIVE AND GRANDSCAPE BOULEVARD WITHIN THE PLANNED DEVELOPMENT 25 (PD-25); PROVIDING A SEVERABILITY CLAUSE; PROVIDING A REPEALER CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS,** the Planning and Zoning Commission and the City Council of the City of The Colony, Texas, in compliance with the laws of the State of Texas, and the Code of Ordinances of the City of The Colony, Texas, and the City Council of the City of The Colony, Texas, is of the opinion and finds that Site Plan Application No. SP21-0007 for "Building E," an approximately 27,438 square-foot building for indoor "commercial amusement" within Area 5 of the Lifestyle Center at Grandscape. The subject site is located southwest of the southwest intersection of Destination Drive and Grandscape Boulevard within the Planned Development 25 (PD-25) should be approved.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF THE COLONY, TEXAS:**

**SECTION 1.** That the findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

**SECTION 2.** That the City Council of the City of The Colony, Texas, does hereby approve the Site Plan, copies of which are attached hereto as***, Exhibit A*** of this Ordinance.

**SECTION 3.** That it is hereby declared to be the intention of the City Council of the City of The Colony, Texas, that the phrases, clauses, sentences, paragraphs and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation of this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

**SECTION 4.** That any provision of any prior ordinance of the City whether codified or uncodified, which are in conflict with any provision of this Ordinance, are hereby repealed to the extent of the conflict, but all other provisions of the ordinances of the City whether codified or uncodified, which are not in conflict with the provisions of this Ordinance, shall remain in full force and effect.

**SECTION 5.** That this Ordinance shall become effective immediately upon its passage.

**DULY PASSED** by the City Council of the City of The Colony, Texas, this 7th Day of December, 2021.

Richard Boyer, Mayor

**ATTEST:**

Tina Stewart, City Secretary

**APPROVED AS TO FORM:**

Jeff Moore, City Attorney

Agenda Item No:5.3

# CITY COUNCIL Agenda Item Report

Meeting Date: December 7, 2021
Submitted by: Ron Hartline
Submitting Department: Engineering
Item Type: Discussion
Agenda Section:

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**Subject:**
Discuss and receive direction regarding the installation of a dedicated right turn lane from West Lake Highlands Boulevard to FM 423 from the Eastvale Subdivision. (Hartline)

**Suggested Action:**
Engineering staff has received several complaints from residents within the Eastvale subdivision that they cannot make a right turn onto FM 423 until motorists travelling straight or left at the intersection get a green light. They have complained that they experience long wait times at the intersection at peak traffic hours and asked that we look into the issue to determine if improvements need to be made to the intersection.

A Feasibility Study was completed on the intersection by Halff Associates Inc. (Halff) to evaluate the intersection and determine if a dedicated right turn lane could be added to the intersection to facilitate better right turn traffic flow. In the feasibility study, Halff evaluated the optimum horizontal alignment for the turn lane taking into account costs and existing structures that need to remain. They developed an exhibit showing the layout of the proposed right turn lane and also provided initial estimated costs for the construction of the turn lane. These documents are attached for further review and to assist in the discussion of this topic.

The total estimated budgeting costs for the project are outlined below.

Estimated Engineering Cost - $ 40,000.00
Estimated Construction Cost - $ 198,000.00
Estimated Total Cost - $ 238,000.00

**Attachments**:
Feasibility Study Description.pdf

Feasibility Study Drawing.pdf

Estimated Construction Cost.pdf

**Ron Hartline**

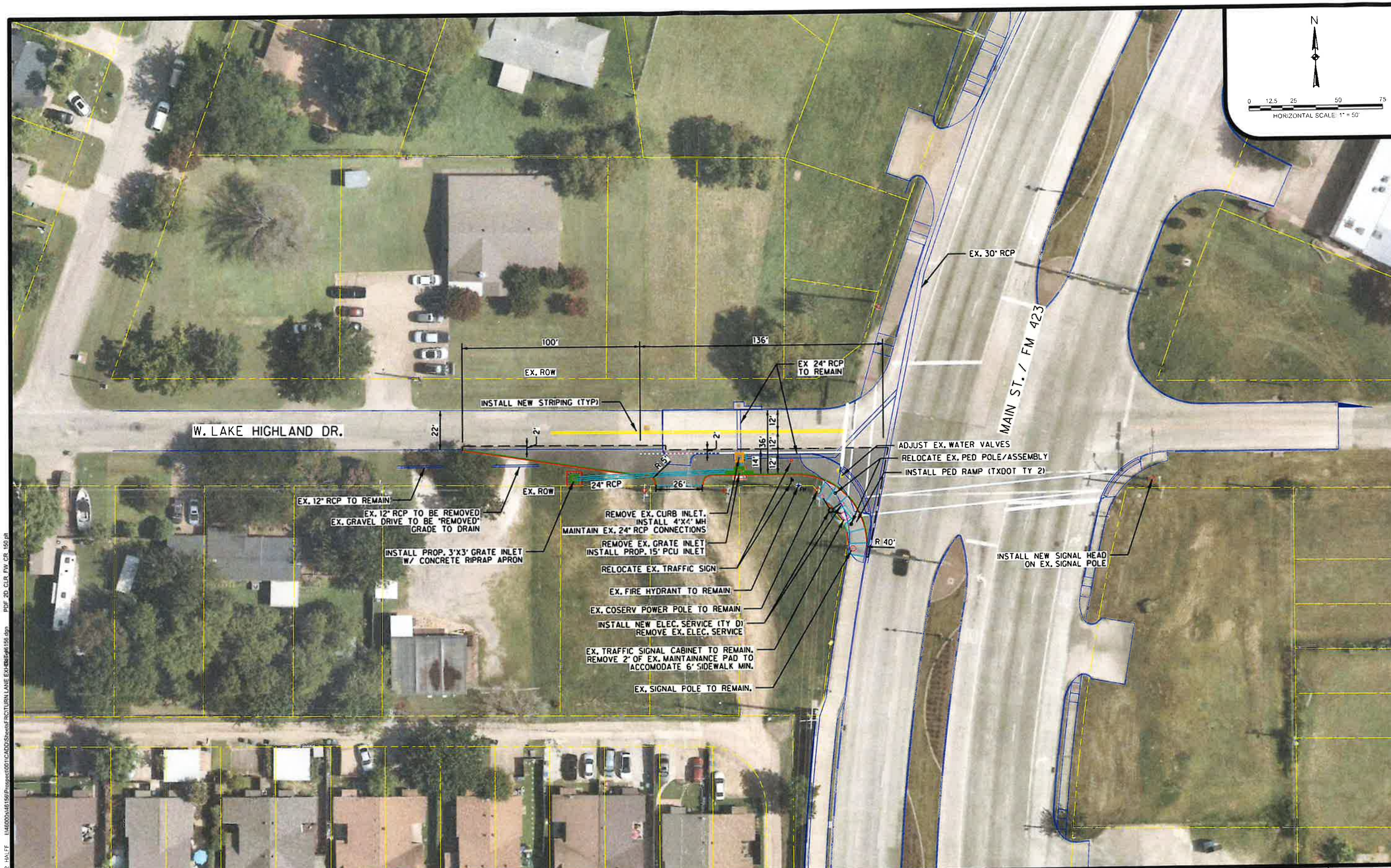
| | |
|---|---|
| **From:** | Hollis, Leigh <lHollis@Halff.com> |
| **Sent:** | Monday, October 18, 2021 10:08 AM |
| **To:** | Ron Hartline |
| **Cc:** | Naim Khan; Billington, Brent |
| **Subject:** | 46156 - W. Lake Highland Turn Lane |
| **Attachments:** | W. Lake Highland - RT Turn Lane Exhibit.pdf; W. Lake Highland - Schematic OPCC (REV).pdf |

Ron,

We have evaluated the feasibility of adding a right turn lane at the intersection of W. Lake Highlands and FM 423. Attached you will find a schematic and budget-level OPCC for the improvements. The budget-level OPCC includes a 25% contingency due to the schematic nature of the drawing. We have also included a storm drain extension that may be possible to reduce or eliminate entirely once the project is surveyed and designed, but we wanted to make sure to capture the most conservative design for this evaluation. We looked at a couple of different scenarios for the location of the right turn lane, however, this was the most cost-effective and optimum for the intersection geometry. The addition would require a TxDOT Access Permit (Form 1058) which historically necessitates the inclusion of the standard TxDOT driveway section (10-inch CRCP over a 4-inch asphalt base course and lime treated subgrade). We have included that portion of the pavement section in the OPCC (within TxDOT ROW only). Since that section exceeds what was installed with FM 423, it may be possible to reduce that section thickness to match existing, however, that would need to be cleared with the TxDOT Denton Area Office. We would like to discuss the driveway locations with you at your convenience. Please let me know if you have any questions, comments, or concerns in the meantime. Thanks!

**Leigh A. Hollis, PE**
Vice President
Operations Manager, Frisco
Halff Associates, Inc.

**O:** (817) 764-7467




| NO. | REVISION | BY | DATE | |
|---|---|---|---|---|
| | | | | BAB DESIGNED |
| | | | | BAB DRAWN |
| | | | | LAH CHECKED |

SCALE: AS NOTED

AVO: 46156

FILE: TURN LANE EXHIBIT-46156.dgn

HALFF
FIRM REGISTRATION NO. 312
4000 FOSSIL CREEK BLVD
FORT WORTH, TEXAS 76137-2797
TEL (817) 847-1422
FAX (817) 232-9784

THE COLONY
City by the Lake

W. LAKE HIGHLANDS DR.
RIGHT TURN LANE EXHIBIT

SHEET

CITY BID No. -

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W. LAKE HIGHLANDS DR. - RIGHT TURN LANE EXHIBIT

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**HALFF ASSOCIATES, Inc.**
**3803 Parkwood Blvd, Suite #800**
**Frisco, Texas 75034**
**(214) 937-3933**

**CLIENT:** City of The Colony
**PROJECT:** W. Lake Highlands Drive - Right Turn Lane Addition
Schematic Cost Estimate

AVO: 46156

10/18/2021
BAB

## ESTIMATE OF PROBABLE COST

| West Lake Highlande Drive - Right Turn Lane Addition | | | | | |
|---|---|---|---|---|---|
| **Item No.** | **Description** | **Unit** | **Total Quantity** | **Unit Cost** | **Total Amount** |
| **Section I** | | | | | |
| 1 | **Construction Staking,** work fully performed complete in place. | LS | 1 | $2,500.00 | $2,500 |
| 2 | **Joint Storm Water Pollution Prevention Plan,** implemented and maintained, including preparation of Notice of Intent and Notice of Termination, work fully performed, complete in place. | LS | 1 | $1,500.00 | $1,500 |
| 3 | **Inlet Protection,** furnish and install, work fully performed, complete in place. Includes maintainance. | EA | 1 | $300.00 | $300 |
| 4 | **Mobilization and General Site Preparation,** work fully performed, complete in place. | STA | 3 | $8,000.00 | $24,000 |
| 5 | **Sawcut and Remove Existing Concrete Pavement,** work fully performed, complete in place. | SF | 1,200 | $2.00 | $2,400 |
| 6 | **Remove Existing Sidewalk,** work fully performed, complete in place. | SF | 850 | $2.50 | $2,125 |
| 7 | **Remove Existing Drainage Structure,** work fully performed, complete in place. | EA | 2 | $1,500.00 | $3,000 |
| 8 | **Remove Existing 12" RCP,** work fully performed, complete in place. | LF | 25 | $10.00 | $250 |
| 9 | **Adjust Grade (Existing Pull Box),** work fully performed, complete in place. | EA | 2 | $500.00 | $1,000 |
| 10 | **Adjust Grade (Existing Water Valve),** work fully performed, complete in place. | EA | 2 | $500.00 | $1,000 |
| 11 | **Adjust Grade (Existing SS Manhole),** work fully performed, complete in place. | EA | 1 | $1,500.00 | $1,500 |
| 12 | **Unclassified Street Excavation,** work fully performed, complete in place. | CY | 200 | $22.00 | $4,400 |
| 13 | **Embankment (Density Controlled),** work fully performed, complete in place. | CY | 200 | $5.00 | $1,000 |
| 14 | **RCP (Class III)(24"),** work fully performed, construct complete in place. | LF | 360 | $70.00 | $25,200 |
| 15 | **Inlet (Complete)(Grate)(3'X3') With Rip-Rap Apron,** work fully performed, construct complete in place. | EA | 1 | $6,000.00 | $6,000 |
| 16 | **Inlet (Complete)(PCU)(5FT)(Both),** work fully performed, construct complete in place. | EA | 1 | $7,000.00 | $7,000 |
| 17 | **Storm Drain Manhole (4'X4'),** work fully performed, construct complete in place. | EA | 1 | $5,000.00 | $5,000 |
| 18 | **6-inch Thick Grade A, Type 1 or 2 Flex Base,** work fully performed, complete in place. | SY | 314 | $18.00 | $5,652 |
| 19 | **6-inch Thick, 4,000 psi Portland Cement Reinforced Concrete Pavement (With Monolithic Curb),** work fully performed, construct | SY | 271 | $65.00 | $17,615 |
| 20 | **10-inch Thick Concrete Pavement (CRCP)(With Monolothic Curb),** work fully performed, construct complete in place. | SY | 147 | $80.00 | $11,760 |
| 21 | **4-inch Ashpalt Concrete Pavement (ACP), TY B PG - Binder 64-22,** work fully performed, complete in place. | SY | 162 | $25.00 | $4,050 |

**HALFF ASSOCIATES, Inc.**
**3803 Parkwood Blvd, Suite #800**
**Frisco, Texas 75034**
**(214) 937-3933**

**CLIENT:** City of The Colony
**PROJECT:** W. Lake Highlands Drive - Right Turn Lane Addition
Schematic Cost Estimate

AVO: 46156

10/18/2021
BAB

## ESTIMATE OF PROBABLE COST

**West Lake Highlande Drive - Right Turn Lane Addition**

| Item No. | Description | Unit | Total Quantity | Unit Cost | Total Amount |
|---|---|---|---|---|---|
| 22 | **20-inch Lime Stabilized Fill Subgrade (6%)**, work fully performed, complete in place. | SY | 162 | $6.00 | $972 |
| 23 | **4-inch Thick, 4,000 psi Portland Cement Concrete for Sidewalks,** work fully performed, construct complete in place. | SF | 300 | $8.00 | $2,400 |
| 24 | **Barrier-Free Ramp (Type 2),** work fully performed, construct complete in place. | EA | 2 | $3,000.00 | $6,000 |
| 25 | **Install New Electrical Service (TY D) (Includes Conduit and Conductor)**, work fully performed, construct complete in place. | EA | 1 | $7,500.00 | $7,500 |
| 26 | **Remove Existing Electrical Service (Includes Conduit)**, work fully performed, construct complete in place. | EA | 1 | $1,500.00 | $1,500 |
| 27 | **Relocate Ped Pole Assembly (Includes 24" Drill Shaft)**, work fully performed, construct complete in place. | EA | 1 | $3,500.00 | $3,500 |
| 28 | **Install Traffic New Signal Head (on Existing Pole)**, work fully performed, construct complete in place. | LS | 1 | $6,000.00 | $6,000 |
| 29 | **Pavement Markings and Signage,** furnish and install complete in place. | LS | 1 | $2,500.00 | $2,500 |
| **Total Section I** | | | | | **$157,624** |
| | **Rounded Total** | | | | **$158,000** |
| | **Contingency (25%)** | | | | **$39,500** |
| | **Total** | | | | **$197,500** |
| | **Rounded Total** | | | | **$198,000** |

# CITY COUNCIL Agenda Item Report

Meeting Date: December 7, 2021
Submitted by: Robert Kotasek
Submitting Department: Engineering
Item Type: Resolution
Agenda Section:

---

**Subject:**
Consider approving an ordinance amending the budget adding a project to the approved Fiscal Year 2021-2022 GF Capital Projects Fund in the amount of $238,000.00 for engineering design and construction services for the West Lake Highlands Right Turn Lane Project. (Hartline)

**Suggested Action:**
Background:
The City has evaluated the feasibility of adding a right turn lane at the intersection of West Lake Highlands and FM 423. Due to only one traffic lane running eastbound on West Lake Highlands coming up to the intersection of FM 423, traffic currently backs up when a vehicle is trying to turn left onto FM 423. The addition of a right turn lane will help ease backups and allow vehicular traffic to turn right without waiting on vehicles to turn left at this intersection. The right turn lane project will also include a storm drain extension if found necessary during design.

Staff is requesting that $238,000.00 be allocated for this project in the Fiscal Year 2021-2022 Budget for GF Capital Projects Fund. Allocating these funds for this project will allow Staff to proceed with the design and construction services for this project during this fiscal budget year.

Recommendations:
Staff recommends approval of a budget amendment to add a new project for the West Lake Highlands Right Turn Lane to the approved fiscal year 2021-2022 GF Capital Projects Fund and increase the approved budget by $238,000.00.

**Attachments**:
Financial Summary

Ord. 2021-xxxx 21-22 Budget Amendment for GF Capital Project.doc

**FINANCIAL SUMMARY**:

Are budgeted funds available: ☐ Yes No ☒ Budget Amendment Requested: $238,000.00

Source of Funds: 2021-2022 GF Capital Projects Fund

Total estimated project cost:

| | | |
|---|---|---|
| $ 40,000.00 | Engineering | Already authorized ☐ Yes ☒ No |
| $ 198,000.00 | Construction (Estimated) | Already authorized ☐ Yes ☒ No |
| $ 238,000.00 | Total estimated costs | |

Cost of recommended budget amendment increase: $238,000.00

**CITY OF THE COLONY, TEXAS**
**ORDINANCE NO. 2021 - _______**

**AMENDING THE FISCAL YEAR 2021-2022 BUDGET**

**AN ORDINANCE AMENDING ORDINANCE 2021-2447, ADOPTING THE FISCAL YEAR 2021-2022 BUDGET OF CITY OF THE COLONY, TEXAS BY REALIGNING BUDGETS AS SET FORTH HEREIN; PROVIDING FOR INCORPORATION OF PREMISES; PROVIDING FOR THE ADOPTION OF THIS ORDINANCE AMENDING THE FISCAL YEAR 2021-2022 BUDGET FOR GF CAPITAL PROJECTS FUND OF THE CITY OF THE COLONY; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A SAVINGS CLAUSE; AND NAMING AN EFFECTIVE DATE.**

**WHEREAS,** the Council of the City of The Colony is conducting business pursuant to a budget for fiscal year 2021-2022, heretofore previously adopted by Ordinance No. 2021-2447 on the 7th day of September, 2021; and

**WHEREAS,** Section 102.010 of the Texas Local Government Code authorizes the governing body of a municipality to make changes in the budget for municipal purposes; and

**WHEREAS,** the City of The Colony finds it in the best interest of the City to increase the 2021-22 GF Capital Projects budget by $238,000 for the West Lake Highlands Right Turn Lane Improvements.

**WHEREAS**, the City Council has reviewed the budget and has determined that a valid municipal purpose is served by such budget increases and reallocation of funds.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF THE COLONY, TEXAS:**

**SECTION 1.**
**INCORPORATION OF PREMISES**

The above and foregoing premises are incorporated into the body of this Ordinance as if copied herein in their entirety.

**SECTION 2.**
**AMENDMENT AND ADOPTION**

That the GF Capital Projects budget for the fiscal year ending September 30, 2022 heretofore previously adopted by Ordinance 2021-2447 duly enacted by the City Council of the City of The Colony on the 7th day of September, 2021, be and is hereby amended as set forth herein, which amendment is hereby, in all respects, finally approved and adopted as so changed; and the same shall be hereby filed with the City Secretary of the City of The Colony.

**SECTION 3.**
**BUDGET INCREASES**

That the 2021-22 GF Capital Projects budget is to be increased by an amount not to exceed $238,000.

**SECTION 4.**
**CUMULATIVE CLAUSE**

This Ordinance shall be cumulative of all provisions of Ordinances of the City of The Colony, Texas except where the provisions of this Ordinance are in direct conflict with the provisions of such Ordinances, in which event the conflicting provisions of such Ordinances are hereby repealed.

**SECTION 5.**
**SEVERABILITY CLAUSE**

It is hereby declared to be the intention of the City Council of The City of The Colony that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph, or section of this Ordinance should be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of this Ordinance, since the same would have been enacted by the City Council without incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph, or section.

**SECTION 6.**
**SAVINGS CLAUSE**

All rights and remedies of the City of The Colony are expressly saved as to any and all violations of the provisions of any Ordinances affecting budgets, budget approval or adoption, which have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such Ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

**SECTION 7.**
**EFFECTIVE DATE**

This Ordinance shall be in full force and effect from and after its date of passage.

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF THE COLONY, TEXAS THIS 7TH DAY OF DECEMBER 2021.**

________________________________
Richard Boyer, Mayor
City of The Colony, Texas

ATTEST:

________________________________
Tina Stewart, TRMC, CMC, City Secretary

APPROVED AS TO FORM:

________________________________
Jeff Moore, City Attorney
City of The Colony, Texas

# CITY COUNCIL Agenda Item Report

Meeting Date: December 7, 2021
Submitted by: Tina Stewart
Submitting Department: City Secretary
Item Type: Discussion
Agenda Section:

---

**Subject:**
Discuss and consider approving the City Council meeting schedule for 2022. (Council)

**Suggested Action:**

**Attachments**:
Council Meeting Dates - Schedule 2022.doc

# 2022 City Council Meeting Dates

**City of The Colony Council meetings are normally the 1st and 3rd Tuesdays of each month.**

**January 4**

**January 18**

**February 1**

**February 15**

**March 2**

***(LISD Spring Break March 14-18)***

**March 15 (Cancelled)**

**April 5**

**April 19**

**May 3**

**May 17**

**June 7**

**June 21**

**July 5**

**July 19**

**August 3** ***(Wed due to National Night Out Aug 2nd)***

**August 16**

**September 6**

**September 20**

**October 5** ***(Wed due to National Night Out Oct 4th)***

**October 18**

**November 1**

**November 15**

**December 6**

**December 20**

**This schedule is subject to change. Confirmation of dates is recommended during months with holidays.**

Agenda Item No:5.6

# CITY COUNCIL Agenda Item Report

Meeting Date: December 7, 2021
Submitted by: Tina Stewart
Submitting Department: City Secretary
Item Type: Discussion
Agenda Section:

---

**Subject:**
Discuss and elect Mayor Pro Tem and Deputy Mayor Pro Tem according to the Code of Ordinances, Chapter 2, Section 2-4 (b). (Council)

**Suggested Action:**

**Attachments**:

Agenda Item No:5.7

# CITY COUNCIL Agenda Item Report

Meeting Date: December 7, 2021
Submitted by: Tina Stewart
Submitting Department: City Secretary
Item Type: Discussion
Agenda Section:

---

**Subject:**
Discuss and consider making appointments to the Tax Increment Reinvestment Zone Number One Board of Directors. (Council)

**Suggested Action:**

**Attachments**:
TIRZ #1.doc

## TAX INCREMENT REINVESTMENT ZONE NO. 1

| NAME | PLACE | ORIG.APPOINTMENT | TERM EXPIRES |
|---|---|---|---|
| **VACANT** | **1** | | **12-22** |
| Richard Boyer, Chair | 2 | 2011 | 12-22 |
| Troy Powell | 3 | 2011 | 12-22 |
| Tim Miller, Secretary | 4 | 2011 | 12-22 |
| Allen Harris, Treasurer | 5 | 2011 | 12-22 |
| Joel Marks | 6 | 2011 | 12-21 |
| Perry Schrag | 7 | 2011 | 12-21 |
| Commissioner Ron Marchant<br>1029 W. Rosemeade Parkway<br>Carrollton, TX 75007 | 8 | 2011<br>County appoints | 12-21 |
| Commissioner Barry Jordan<br>1819 Addington Drive<br>Carrollton, TX 75007 | 9 | 2018<br>County appoints | 12-21 |

**Terms: 2 years, staggered**
**Members: 9**
**Designated area is Grandscape**

Updated: December 2021

Agenda Item No:5.8

# CITY COUNCIL Agenda Item Report

Meeting Date: December 7, 2021
Submitted by: Tina Stewart
Submitting Department: City Secretary
Item Type: Discussion
Agenda Section:

---

**Subject:**
Discuss and consider appointing a member of the Tax Increment Reinvestment Zone Number One Board of Directors to serve as Chairman for a one-year term. (Council)

**Suggested Action:**

**Attachments**:
Section 3 of Ordinance 2011-1926.pdf

(g) The City Council finds that the Preliminary Finance Plan is feasible.

(h) The City Council finds that the implementation of the Project and Finance Plan (as defined below) will alleviate the conditions described in Section 1(c) above will serve a public purpose.

SECTION 2. DESIGNATION AND NAME OF THE ZONE. Pursuant to the authority of, and in accordance with the requirements of, the Act, the City Council hereby designates the Property as a tax increment reinvestment zone. The name assigned to the zone for identification is Tax Increment Reinvestment Zone Number One, City of The Colony, Texas (the "Zone"). The Zone is designated pursuant to Section 311.005(a)(2) of the Act.

SECTION 3. BOARD OF DIRECTORS.

3.1 The City Council hereby creates a board of directors for the Zone (the "Board") consisting of nine members. Seven members shall be appointed by the City Council, and the remaining two members shall be appointed by the Commissioners Court of Denton County, Texas (the "County") if the County participates in the Zone. If the County does not participate in the Zone or the Commissioners Court does not appoint one or both of its members by November 22, 2011, the City Council shall appoint one or both members not appointed by the Commissioners Court; and, if the County does not participate in the Zone, then the Commissioners Court shall be deemed to have waived its right to appoint such members in the future.

3.2 The City Council hereby appoints the seven individuals listed on *Exhibit B* attached hereto and incorporated herein for all purposes to serve as the initial members of the Board for the terms indicated. Upon expiration of the indicated terms, subsequent appointments to fill vacancies shall be for terms of two years. Annually the City Council shall appoint a member to serve as the chairman of the Board for a one-year term. The Board is authorized to elect a vice-chairman and other officers as determined by the Board. The City Council shall fill vacancies for director positions appointed by the City Council. The Commissioners Court shall fill vacancies for director positions appointed by the Commissioners Court.

3.3 The Board shall make recommendations to the City Council concerning the administration, management, and operation of the Zone. The Board shall prepare or cause to be prepared and adopted a project plan and a reinvestment zone financing plan for the Zone (the "Project and Finance Plan") as required by the Act, and shall submit the Project and Finance Plan to the City Council for approval. The City Council hereby delegates to the Board all powers necessary to implement the Project and Finance Plan as approved by the City Council, including the power to employ consultants and enter into agreements that the Board considers necessary or convenient to implement the Project and Finance Plan and to administer, operate, and manage the Zone including, but not limited to, the power to enter into reimbursement agreements and other obligations secured by the Tax Increment Fund established pursuant to Section 6 of this Ordinance.

3.4. Pursuant to Section 311.010(h) of the Act and Article III, Section 52-a of the Texas Constitution, the City Council hereby authorizes the Board, as necessary or convenient to implement

# CITY COUNCIL Agenda Item Report

Meeting Date: December 7, 2021
Submitted by: Tina Stewart
Submitting Department: City Secretary
Item Type: Discussion
Agenda Section:

---

**Subject:**
Discuss and consider making appointments to the Tax Increment Reinvestment Zone Number Two Board of Directors. (Council)

**Suggested Action:**

**Attachments**:
TIRZ #2.doc

# TAX INCREMENT REINVESTMENT ZONE NO. 2

| NAME | PLACE | ORIG.APPOINT | EXPIRES | TERM |
|---|---|---|---|---|
| **Joe McCourry** | **1** | **12-13** | | **12-21** |
| Richard Boyer, Chair | 2 | 12-13 | | 12-21 |
| **Kirk Mikulec** | **3** | **12-13** | | **12-21** |
| Troy Powell | 4 | 12-13 | | 12-22 |
| Tim Miller | 5 | 12-13 | | 12-22 |
| Joel Marks, Secretary | 6 | 12-13 | | 12-22 |
| David Terre | 7 | 12-14 | | 12-22 |
| Kristian Teleki<br>320 W. Main<br>Lewisville, TX 75057 | 8 | 12-13 | | 12-21 |
| . | | | | |
| Kathy Cunningham<br>320 W. Main<br>Lewisville, TX 75057 | 9 | 12-13 | | 12-21 |

**Terms: 2 years, staggered**
**Members: 9**
**Created by Ord No. 2013-2034, December 3, 2013**
**Designated Area is The Tribute**

Updated November 2021

Agenda Item No:5.10

# CITY COUNCIL Agenda Item Report

Meeting Date: December 7, 2021
Submitted by: Tina Stewart
Submitting Department: City Secretary
Item Type: Discussion
Agenda Section:

---

**Subject:**
Discuss and consider appointing a member of the Tax Increment Reinvestment Zone Number Two Board of Directors as Chairman for a one year term. (Council)

**Suggested Action:**

**Attachments**:
Section 3 of Ordinance 2013-2034.pdf

**SECTION 2. DESIGNATION AND NAME OF THE ZONE.** Pursuant to the authority of, and in accordance with the requirements of, the Act, the City Council hereby designates the Property as a tax increment reinvestment zone. The name assigned to the zone for identification is **Tax Increment Reinvestment Zone Number Two, City of The Colony, Texas** (hereinafter referred to as the "Zone"). The Zone is designated pursuant to Section 311.005(a)(1) and (a)(2) of the Act.

**SECTION 3. BOARD OF DIRECTORS.**

(a) The City Council hereby creates a board of directors for the Zone (hereinafter referred to as the "Board") consisting of nine (9) members appointed by the City Council. At least two (2) members shall own real property in the Zone or be an employee or agent of a person who owns real property in the Zone, consistent with section 311.009 of the Texas Tax Code; and in addition, at least one (1) of said two (2) members must also be an employee or agent of a developer who has entered into a reimbursement or development agreement with the City concerning the Zone. When such developer has been fully reimbursed for its project costs, including interest, the director who was an employee or agent of the developer need only to be an owner of real property in the Zone or an employee or agent of a person that owns real property in the Zone.

(b) The City Council hereby appoints the nine (9) individuals listed on ***Exhibit B*** attached hereto and incorporated herein for all purposes to serve as the initial members of the Board for the terms indicated. Upon expiration of the indicated terms, subsequent appointments to fill vacancies shall be for terms of two (2) years. Annually the City Council shall appoint a member to serve as the chairman of the Board for a one-year term. The Board is authorized to elect a vice-chairman and other officers as determined by the Board. The City Council shall fill vacancies for director positions appointed by the City Council. The Commissioners Court shall fill vacancies for director positions appointed by the Court.

(c) The Board shall make recommendations to the City Council concerning the administration, management, and operation of the Zone. The Board shall prepare or cause to be prepared and adopted a project plan and a reinvestment zone financing plan for the Zone (hereinafter referred to as the "Project and Finance Plan") as required by the Act, and shall submit the Project and Finance Plan to the City Council for approval. The City Council hereby delegates to the Board all powers necessary to implement the Project and Finance Plan as approved by the City Council, including the power to employ consultants and enter into agreements that the Board considers necessary or convenient to implement the Project and Finance Plan and to administer, operate, and manage the Zone including, but not limited to, the power to enter into reimbursement agreements and other obligations secured by the Tax Increment Fund established pursuant to Section 6 of this Ordinance.

(d) Pursuant to Section 311.010(h) of the Act and Article III, Section 52-a of the Texas Constitution, the City Council hereby authorizes the Board, as necessary or convenient to implement the Project and Finance Plan and achieve its purposes, to establish and provide for the administration of one or more programs for the public purposes of developing and diversifying the economy of the Zone, eliminating unemployment and underemployment in the Zone, and

Agenda Item No:5.11

# CITY COUNCIL Agenda Item Report

Meeting Date: December 7, 2021
Submitted by: Tina Stewart
Submitting Department: City Secretary
Item Type: Discussion
Agenda Section:

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**Subject:**
Discuss and consider making appointments to the Local Development Corporation Board of Directors. (Council)

**Suggested Action:**

**Attachments**:
LDC.doc

# LOCAL DEVELOPMENT CORPORATION

| NAME | PLACE | ORIG.APPOINTMENT | TERM EXPIRES |
|---|---|---|---|
| **VACANT** | **1** | | **12-22** |
| Richard Boyer, Chair | 2 | 11-11 | 12-22 |
| Brian Wade | 3 | 12-16 | 12-22 |
| Troy Powell, Treasurer | 4 | 11-11 | 12-22 |
| Tod Maurina | 5 | 11-11 | 12-22 |
| David Terre, Secretary | 6 | 11-11 | 12-21 |
| Kirk Mikulec, Vice-Pres. | 7 | 11-11 | 12-21 |
| Perry Schrag | 8 | 11-11 | 12-21 |
| Joel Marks | 9 | 11-11 | 12-21 |

**Terms: 2 years, staggered**
**Members: 9**

Updated November 2021

# CITY COUNCIL Agenda Item Report

Meeting Date: December 7, 2021
Submitted by: Tina Stewart
Submitting Department: City Secretary
Item Type: Discussion
Agenda Section:

---

**Subject:**
Discuss and consider appointing a member of the Local Development Corporation Board of Directors to serve as Chairman for a one-year term. (Council)

**Suggested Action:**

**Attachments**:
Article II Sec. I of Bylaws.pdf

## ARTICLE II

## BOARD OF DIRECTORS

*Section 1. Appointment, Classes, Powers, Number, and Term of Office.* All powers of the Corporation shall be vested in the Board of Directors (the "***Board***"). The Board shall consist of nine (9) persons who shall have the qualifications contained in the Articles of Incorporation. Directors of the Corporation ("***Director***" or "***Directors***") shall be appointed to the Board by the City Council. The term of service for a Director other than an initial Director, whose initial term is specified in Article XII the Corporation's Articles of Incorporation, is two (2) years. Each Director shall serve for the term for which he or she is appointed and until his or her successor shall have been appointed or until his or her earlier death, resignation, retirement, disqualification, or removal. Any Director whose term shall have expired may be appointed to succeed himself/herself. The City Council may, by resolution, remove one or more Directors, with or without cause, and may appoint a new, qualified Director or Directors to fill the remainder of the term. The directors constituting the initial Board shall be those directors named in the Articles of Incorporation. Successor directors shall have the qualifications and shall be appointed to the terms set forth herein. In case of a vacancy in the Board through death, resignation, disqualification, or other cause or incapacity, a successor to hold office shall be appointed by the City Council. Subject to the approval of the City Council, the Board may increase or decrease the number of the persons who make up the Board; provided, however, that such number shall never be less than five (5).

Notwithstanding any of the foregoing provisions, prior to the first issuance of bonds by the Corporation, the City Council shall replace the two members of the initial board whose terms expire on December 31, 2011 with persons who have at least one of the following qualifications:

(a) is a person who owns property within the Tax Increment Reinvestment Zone Number One, The City of the Colony (the "***Zone***");

(b) is a partner of a partnership that owns property in the Zone;

(c) is a shareholder, director, or officer of a corporation that owns property in the Zone;

(d) is a person who is a member, manager, or officer of a limited liability company that owns property in the Zone; or

(e) is a person who is a member, manager or officer of a limited liability company that is a partner of a partnership that owns property in the Zone.

In accordance with the Act, at all times a majority of the Directors on the Board shall reside within the City. The City Council may, by resolution, remove one or more of the Directors, with or without cause. The City Council may appoint a new, qualified Director or Directors provided at least two of the nine Directors are qualified based on the ownership criteria described above.

The Chairperson/President of the Board (the "***Chairperson***") shall be appointed by the City Council.

*Section 2. Meetings of Directors.* The Directors may hold their meetings and may have an office and keep the books of the Corporation at such place or places within the City as the Board may from time to time determine; provided, however, in the absence of any such determination, such place shall be the registered office of the Corporation in the State.

The Board shall meet in accordance with and file notice of each meeting of the Board for the same length of time and in the same manner and location as is required of a City under Chapter 551, as amended, Texas Government Code (the "***Open Meetings Act***"). The Corporation, the Board, and any committee of the Board exercising the powers of the Board are subject to Chapter 552, as amended, Texas Government Code (the "***Texas Public Information Act***"). The City Secretary has the primary responsibility for carrying out the duties required by the Texas Public Information Act, and is hereby designated the public information coordinator for purposes of the Texas Public Information Act.

*Section 3. Annual Meetings.* The annual meeting of the Board shall be held during the month of August of each year. The Board shall designate the time and the location of the annual meeting which shall be within the City.

*Section 4. Regular Meetings.* Regular meetings of the Board shall be held at such times and places as shall be designated, from time to time, by resolution of the Board.

*Section 5. Special and Emergency Meetings.* Consistent with the Open Meetings Act, special and emergency meetings of the Board shall be held whenever called by the Chairperson, the Secretary of the Board, or by a majority of the Directors who are serving duly appointed terms of office at the time the meeting is called. The Secretary of the Board shall give notice of each special meeting in person, by telephone, telecopier, mail, electronic mail or telegraph at least two (2) hours before the meeting to each Director. Notice of each emergency meeting shall also be given in the manner required of the City under Section 551.045 of the Texas Open Meetings Act. Unless otherwise indicated in the notice thereof, any and all matters pertaining to the purposes of the Corporation may be considered and acted upon at a special or emergency meeting. At any meeting at which every Director shall be present, even though without any notice, any matter pertaining to the purposes of the Corporation may be considered and acted upon to the extent allowed by the Texas Open Meetings Act.

*Section 6. Quorum and Action of the Board.* A simple majority of the Board shall constitute a quorum for the consideration of matters pertaining to the purposes of the Corporation. If at any meeting of the Board there is less than a quorum present, a majority of those present may adjourn the meeting from time to time. The act of a majority of the Directors present and voting at a meeting at which a quorum is in attendance shall constitute the act of the Board, unless the act of a greater number is required by law, by the Articles of Incorporation, or by these Bylaws.

A Director who is present at a meeting of the Board at which any corporate action is taken shall be presumed to have assented to such action, unless his or her dissent shall be entered

# CITY COUNCIL Agenda Item Report

Meeting Date: December 7, 2021
Submitted by: Tina Stewart
Submitting Department: City Secretary
Item Type: Discussion
Agenda Section:

---

**Subject:**
Discuss and consider making appointments to the Hotel Development Corporation Board of Directors. (Council)

**Suggested Action:**

**Attachments**:
HDC.doc

## HOTEL DEVELOPMENT CORPORATION

| NAME | PLACE | ORIG.APPOINTMENT | TERM EXPIRES |
|---|---|---|---|
| **VACANT** | **1** | | **12-22** |
| Richard Boyer, Chair | 2 | 01-21 | 12-22 |
| Brian Wade | 3 | 01-21 | 12-22 |
| Troy Powell, Treasurer | 4 | 01-21 | 12-22 |
| Tim Miller | 5 | 01-21 | 12-22 |
| David Terre, Secretary | 6 | 01-21 | 12-21 |
| **Kirk Mikulec – Vice Chair** | **7** | **01-21** | **12-21** |
| Perry Schrag | 8 | 01-21 | 12-21 |
| Joel Marks | 9 | 01-21 | 12-21 |

**Terms: 2 years, staggered**
**Members: 9**

Updated November 2021

# CITY COUNCIL Agenda Item Report

Meeting Date: December 7, 2021
Submitted by: Tina Stewart
Submitting Department: City Secretary
Item Type: Discussion
Agenda Section:

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**Subject:**
Discuss and consider appointing a member to the Hotel Development Corporation Board of Directors to serve as Chairman for a one-year term. (Council)

**Suggested Action:**

**Attachments**:
Article 1 Section 2 of Bylaws.pdf

## ARTICLE I

## OFFICERS

*Section 1. Titles and Term of Office.* The officers of the Corporation shall be a Chairperson/President, a Vice Chairperson/Vice President, a Secretary, a Treasurer, and such other officers as the Board may from time to time elect or appoint. One person may hold more than one office, except that the Chairperson shall not hold the office of Secretary. The Board, at its organizational meeting and annually thereafter, shall elect officers, excluding the Chairperson/President. All officers (other than the Chairperson) shall be subject to removal, with or without cause, at any time by a vote of a majority of the whole Board. A vacancy in the office of any officer (other than the Chairperson) shall be filled by the Board.

*Section 2. Powers and Duties of the Chairperson.* The Chairperson shall be a member of the Board and shall preside at all meetings of the Board. He or she shall have such duties as are assigned by the Board. The Chairperson may call special or emergency meetings of the Board.

*Section 3. Powers and Duties of the Vice Chairperson.* The Vice Chairperson shall be a member of the Board. The Vice Chairperson shall perform the duties and exercise the powers of the Chairperson upon the Chairperson's death, absence, disability, or resignation, or upon the Chairperson's inability to perform the duties of his or her office. Any action taken by the Vice Chairperson in the performance of the duties of the Chairperson shall be conclusive evidence of the absence or inability of the Chairperson to act at the time such action was taken.

*Section 4. Treasurer.* The Treasurer shall have custody of all the funds and securities of the Corporation which come into his or her hands. When necessary or proper, he or she may endorse, on behalf of the Corporation, for collection, checks, notes and other obligations and shall deposit the same to the credit of the Corporation in such bank or banks or depositories as shall be designated in the manner prescribed by the Board; he or she may sign all receipts and vouchers for payments made to the Corporation, either alone or jointly with such other officer as is designated by the Board; whenever required by the Board; he or she shall enter or cause to be entered regularly in the books of the Corporation to be kept by him or her for that purpose full and accurate accounts of all moneys received and paid out on account of the Corporation; he or she shall perform all acts incident to the position of Treasurer subject to the control of the Board; and he or she shall, if required by the Board, give such bond for the faithful discharge of his or her duties in such form as the Board may require. The Treasurer of the Corporation need not be a member of the Board and may be an elected officer, an appointed officer, or an employee of the City.

*Section 5. Secretary.* The Secretary shall keep the minutes of all meetings of the Board in books provided for that purpose; he or she shall attend to the giving and serving of all notices; in furtherance of the purposes of the Corporation and subject to the limitations contained in the Articles of Incorporation, he or she may sign with the Chairperson in the name of the Corporation and/or attest the signatures thereof, all contracts, conveyances, franchises, bonds, deeds, assignments, mortgages, notes and other instruments of the Corporation; he or she shall have charge of the Corporation's books, records, documents and instruments, except the books of account and financial records and securities of which the Treasurer shall have custody and charge, and such other books and papers as the Board may direct, all of which shall at all reasonable times be open to the inspection of any Director upon application at the office of the Corporation during business hours; and, he or she shall in general perform all duties incident to the office of Secretary subject to the control of the Board.

*Section 6. Officer's Reliance on Consultant Information.* In the discharge of a duty imposed or power conferred on an officer of the Corporation, the officer may in good faith and with ordinary care rely on information, opinions, reports, or statements, including financial statements and other financial data, concerning the Corporation or another person, that were prepared or presented by:

(a) one or more other officers or employees of the Corporation, including members of the Board; or

legal counsel, public accountants, the operator or the developer of the Project, or other persons as to matters the officer reasonably believes are within the person's professional or expert competence

Agenda Item No:5.15

# CITY COUNCIL Agenda Item Report

Meeting Date: December 7, 2021
Submitted by: Tina Stewart
Submitting Department: City Secretary
Item Type: Discussion
Agenda Section:

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**Subject:**
Discuss and consider rescheduling or canceling the December 21, 2021 City Council meeting (Observance of Christmas) and provide direction to staff (Council)

**Suggested Action:**

**Attachments**:

Agenda Item No:5.16

# CITY COUNCIL Agenda Item Report

Meeting Date: December 7, 2021
Submitted by: Tina Stewart
Submitting Department: City Secretary
Item Type: Discussion
Agenda Section:

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**Subject:**
Discuss and consider making appointments to Council committees and appoint liaisons to the various Council appointed boards. (Council)

**Suggested Action:**

**Attachments**:

# CITY COUNCIL Agenda Item Report

Meeting Date: December 7, 2021
Submitted by: Tina Stewart
Submitting Department: General Admin
Item Type: Discussion
Agenda Section:

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**Subject:**
A. Council shall convene into a closed executive session pursuant to Section 551.071 of the Texas Government Code to seek legal advice from the city attorney regarding hotel project and Chapter 1205 declaratory judgment action concerning the City's receipt of certain state tax revenues, including the state's sales and use tax, hotel occupancy tax, mixed beverage taxes, and related matters.

B. Council shall convene into a closed executive session pursuant to Section 551.072 of the Texas Government Code to deliberate the purchase, exchange, lease, or value of real property.

C. Council shall convene into a closed executive session pursuant to Section 551.074 of the TEXAS GOVERNMENT CODE to deliberate the appointment, evaluation, reassignment, discipline, or dismissal of a Library Board member.

**Suggested Action:**

**Attachments**:

Agenda Item No:7.1

# CITY COUNCIL Agenda Item Report

Meeting Date: December 7, 2021
Submitted by: Tina Stewart
Submitting Department: General Admin
Item Type: Discussion
Agenda Section:

---

**Subject:**
A. Any action as a result of executive session regarding hotel project and Chapter 1205 declaratory judgment action concerning the City's receipt of certain state tax revenues, including the state's sales and use tax, hotel occupancy tax, mixed beverage taxes, and related matters.

B. Any action as a result of executive session regarding the purchase, exchange, lease, or value of real property.

C. Any action as a result of executive session regarding the appointment, evaluation, reassignment, discipline, or dismissal of a Library Board member.

**Suggested Action:**

**Attachments**: