



Lewisville City Council

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A G E N D A

**LEWISVILLE CITY COUNCIL MEETING
DECEMBER 18, 2017**

**LEWISVILLE CITY HALL
151 WEST CHURCH STREET
LEWISVILLE, TEXAS 75057**

WORKSHOP SESSION - 6:30 P.M.

REGULAR SESSION – 7:00 P.M.

Call to Order and Announce a Quorum is Present.

WORKSHOP SESSION - 6:30 P.M.

- A. Discussion of Regular Agenda Items and Consent Agenda Items

REGULAR SESSION – 7:00 P.M.

- A. **INVOCATION:** Mayor Durham
- B. **PLEDGE TO THE AMERICAN AND TEXAS FLAGS:** Mayor Pro Tem Daniels
- C. **PUBLIC HEARING:**
 - 1. **Continued Public Hearing:** Consideration of an Ordinance Granting a Zone Change Request From Light Industrial District (LI) to Warehouse District (WH), on Approximately 6.68 Acres Legally Described as Lots 11 & 12, Block A, ARTX Park Addition, Bounded by East Valley Ridge Boulevard on the Northeast Side and Mario Court on the West Side, and an Ordinance Granting a Special Use Permit and Four Associated Variances to Allow a Wholesale Establishment With Outside Storage on More Than 10% of the Platted Lot on the Above-Referenced Land, Both Requested by Richard DeOtte, DeOtte Inc., on Behalf of Jim Bedworth Jr., of REW Gray Properties, LLC, the Property Owner (Case No. PZ-2017-07-15 and Case No. SUP-2017-07-11).

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ADMINISTRATIVE COMMENTS:

The property owner, REW, is proposing to relocate from their current site on South Mill Street to the subject site in ARTX Park. The zone change is necessary to consider a Special Use Permit. The following four variances are requested: a) to allow a reduction in exterior material requirements from 80% brick veneer to 71% brick veneer on the west elevation of the main building and 100% stucco on the north, south and east elevations; b) to allow a reduction in exterior material requirements from 80% brick veneer to 0% brick veneer for the two three-sided storage sheds except for 100% stucco on the east elevation of the eastern storage building; c) to allow storage to exceed the height of the screening wall; and d) to allow precast panel screening wall within 25 feet of the street right-of-way in lieu of the required brick or stone screening wall. The Planning and Zoning Commission recommended unanimous approval (6-0) of the zone change request and the SUP request at their meeting on July 18, 2017.

RECOMMENDATION:

That the City Council continue the public hearing to the January 8, 2018 City Council meeting.

AVAILABLE FOR - Richard E. Luedke, Planning Director
QUESTIONS: - Richard DeOtte, DeOtte Inc.

- D. **VISITORS/CITIZENS FORUM:** At this time, any person with business before the Council not scheduled on the agenda may speak to the Council. No formal action can be taken on these items at this meeting.
- E. **CONSENT AGENDA:** All of the following items on the Consent Agenda are considered to be self-explanatory by the Council and will be enacted with one motion. There will be no separate discussion of these items unless a Council Member or citizen so request. For a citizen to request removal of an item, a speaker card must be filled out and submitted to the City Secretary.

2. APPROVAL OF MINUTES:

- a) **City Council Minutes of the November 20, 2017, Workshop Session and Regular Session.**
- b) **City Council Minutes of the December 4, 2017, Workshop Session and Regular Session.**

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- 3. Approval of Supplemental Appropriations for Prior Year Encumbrances in the Following Amounts: General Fund - \$893,315; Lewisville 2025 Implementation/Incentives Fund - \$3,951; Hotel/Motel Fund - \$4,167; Asset Forfeiture-State Fund - \$6,888; Grants Fund - \$293,995; Crime Control & Prevention Fund - \$70,347; Fire Control & Prevention Fund - \$40,829; Utility Fund - \$275,043; Maintenance & Replacement Fund - \$131,020; Self-Insurance Risk Fund - \$776,675; Tax Increment Reinvestment Zone 1 - \$183,230; and LPLDC (4B) Fund - \$1,944; and Approval of Supplemental Appropriations to Properly Fund Donation Projects in the Following Amounts – Recreation Activity Fund - \$2,300; Fire and Police Training Fund - \$33,866.**

ADMINISTRATIVE COMMENTS:

Each year, a recommendation is made to supplementally appropriate funds for open purchase orders from the prior fiscal year. As a result, when the items or services are received in the current fiscal year, they are charged to the current year. Unless the current fiscal year appropriations are amended to provide for these charges, funds in the affected line item accounts will be short at year-end. In addition, supplemental appropriations are needed to increase the budget for donations received in excess of the budgeted amounts.

RECOMMENDATION:

That the City Council approve the supplemental appropriations as set forth in the caption above.

- 4. Approval of Administrative Policy 2.0, Section IV- Employee Performance Evaluation/Compensation Plan.**

ADMINISTRATIVE COMMENTS:

Current policy provides employees an opportunity to receive a Spot Award for quality performance that exceeds expectations which is then redeemed for a gift certificate not to exceed \$25.00. The recommendation is to rename the Spot Award to The Way Award to reward employees who go above and beyond in demonstrating their commitment to living the Lewisville Way. In addition, staff recommends removing the section that authorizes the Quality Award program. A committee of employees will research and provide a recommendation for a replacement recognition program in the future.

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RECOMMENDATION:

That the City Council approve the policy as set forth in the caption above.

- 5. Approval of a Grant From the Texas Department of Transportation for the Traffic Safety Program; and Authorization for the City Manager to Execute the Grant Agreement.**

ADMINISTRATIVE COMMENTS:

The City will receive \$8,272.31 in grant funds from the Texas Department of Transportation which will enable the City to conduct impaired driving enforcement throughout FY 2017-2018. The grant funds will pay the officers' salaries at their overtime rate. The City is responsible for the 20% match, of \$2,068.10. The match is included in the FY 2017-2018 budget.

RECOMMENDATION:

That the City Council approve the grant and authorize the City Manager to execute the grant agreement as set forth in the caption above.

- 6. Approval of a Professional Services Agreement with Halff Associates, Inc. and a Design Budget in the Amount of \$134,760 for Partial Design Services Relating to Timber Creek Streambank Protection, Phase 2; and Authorization for the City Manager to Execute the Agreement.**

ADMINISTRATIVE COMMENTS:

The project consists of design phase services up to and including 90% construction documents for Phase 2 of the Timber Creek Streambank Protection project. Phase 2 of the project begins at the downstream end of the previous Phase 1 (Regency Drive) project and continues the erosion protection an additional 700 feet downstream. It is also one of the critical erosion sites identified by Halff Associates in the 2008 Timber Creek Erosion Study. Although this is part of one of the priority projects identified by staff to be funded through the Drainage Utility, design funding for this project was approved as part of the 2017/18 General Fund budget to accelerate the project. This segment of Timber Creek has eroded at a faster rate than originally anticipated by the Timber Creek Erosion Study due to heavier than normal rainfalls over the past three years. The general fund will be reimbursed later through the Drainage Utility.

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RECOMMENDATION:

That the City Council approve the agreement and authorize the City Manager to execute the agreement as set forth in the caption above.

- 7. Approval of a Resolution Authorizing Addenda to Agreements Between the City of Lewisville and Community Development Block Grant Sub-Recipients; and Authorization for the City Manager to Execute the Addenda.**

ADMINISTRATIVE COMMENTS:

The City of Lewisville, a U.S. Department of Housing and Urban Development Entitlement City, has previously entered into agreements with non-profit, grant sub-recipients for use of Community Development Block Grant funds. Addenda to those agreements have been prepared to extend the time of performance for the Children's Advocacy Center of Denton County and Special Abilities of North Texas with no change in funding.

RECOMMENDATION:

That the City Council approve the resolution and authorize the City Manager to execute the addenda.

- 8. Approval of a Resolution Acknowledging the 2018 Waste Management Cost of Service Rates for Franchised Solid Waste and Recycling Services.**

ADMINISTRATIVE COMMENTS:

In April 2014, City Council approved a franchise agreement with Waste Management (WM) for solid waste/recycling collection services for residential and multi-family customers and solid waste collection and disposal services for commercial customers. Ordinance No. 4062-04-2014 became effective August 4, 2014. Per the agreement, WM cost of service rates are to be adjusted annually by the percentage increase in the DFW Consumer Price Index (CPI) for the preceding twelve month period. Adjustments take affect on January 1 of the subsequent contract year. The current CPI for the DFW area as published by the Bureau of labor Statistics reflect an increase of 3.2 percent, and WM cost of service rates will be increased by 3.2 percent effective January 1, 2018.

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RECOMMENDATION:

That the City Council approve the resolution as set forth in the caption above.

F. REGULAR HEARINGS:

- 9. Consideration of an Ordinance Amending the Lewisville Code of Ordinances, Chapter 2, Article VIII, Section 2-201, Fee Schedule, Related to Solid Waste and Recycling Rates.**

ADMINISTRATIVE COMMENTS:

In April 2014, City Council approved a franchise agreement with Waste Management (WM) for solid waste/recycling collection services for residential and multi-family customers and solid waste collection and disposal services for commercial customers. Ordinance No. 4062-04-2014 became effective August 4, 2014. Annually, Council establishes customer rates based on cost of service rates of WM. Per the franchise agreement, WM cost of service rates are to be adjusted annually by the percentage increase in the DFW Consumer Price Index (CPI) for the preceding twelve month period. Adjustments take affect on January 1 of the subsequent contract year. The current CPI for the DFW area as published by the Bureau of Labor Statistics reflects an increase of 3.2 percent, and WM cost of service rates will be increased by 3.2 percent beginning January 1, 2018. Customer rates established by the City Council have historically increased by the same CPI adjustment made to cost of service rates. Customer rates require a revision to the fee schedule related to franchised solid waste and recycling services.

RECOMMENDATION:

That the City Council approve the ordinance as set forth in the caption above.

- 10. Consideration of an Ordinance Amending the Lewisville City Code, Section 15-35, Maximum Speed Limits on Specific Streets; Establishing the Posted Speed Limit on Valley Ridge Boulevard from Mill Street to State Highway 121 Business of 40 Miles Per Hour.**

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ADMINISTRATIVE COMMENTS:

Construction of Valley Ridge Boulevard from Mill Street to College Street has recently been completed. The roadway, a 4-lane divided principal arterial street now connects Interstate Highway 35E to State Highway 121 Business. Staff has completed a speed study and has determined the 85th percentile speed on Valley Ridge Boulevard between Mill Street and College Street to be 44.8 miles per hour. Because of the existing roadway conditions at the intersections of Mill Street and College Street and in accordance with the Texas Manual of Uniform Traffic Control Devices and standard engineering practices, staff recommends posting the speed at 40 miles per hour. Also, staff conducted a speed study on the existing section of Valley Ridge Boulevard between College Street and State Highway 121 Business and the study indicated that the speed limit be increased to 40 mph from the existing limit of 35 mph. The Transportation Board at their December 5, 2017 meeting, voted to approve the recommendation to the City Council with a vote of (6 - 0).

RECOMMENDATION:

That the City Council approve the ordinance as set forth in the caption above.

AVAILABLE FOR - David Salmon, P.E., City Engineer
QUESTIONS:

- 11. Consideration of an Ordinance Adopting Contractor Registration Requirements, Creating a Contractor Registration Board, Amending the Fee Schedule to Reflect the Fees Required for Registration, and Appointing Members to the Contractor Registration Board.**

ADMINISTRATIVE COMMENTS:

Our City Code currently does not address registration of Contractors other than sign and fence contractors. The proposed ordinance will require an annual registration to track contractors and those serving our community. These requirements allow us to track basic information that applies to those performing work within the City. The reason for registering Contractors is to have their contact information on file, verify insurance and state license up front, and address past performance issues by blocking that contractor from registering with the City for failure to comply with our building permit or inspection requirements.

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RECOMMENDATION:

That the City Council approve the ordinance set forth in the caption above and appoint the members of the Zoning Board of Adjustment to the Contractors Registration Board.

- 12. Consideration of the Dates and Location for the 2018 City Council Retreat, Standardizing Annual City Council Retreat Dates, and Upcoming Workshop Dates.**

ADMINISTRATIVE COMMENTS:

Council previously approved February 9 and 10 as the dates for the 2018 City Council Retreat. Staff is also requesting consideration of February 23 and 24 as possible dates for the retreat. Staff recommendation is to hold the retreat in Dallas, Texas to tour and learn specifics on the development of the Bishop Arts District as well as events and activities at Klyde Warren Park. Staff will continue to contact hotels in that area to ensure the best fit and price for the retreat. Council consideration is also requested for standardizing annual retreat dates for future City Council Retreats and consideration of April 23rd and August 11th for future Council Workshops.

RECOMMENDATION:

That the City Council finalize the dates and location for the City Council Retreat.

AVAILABLE FOR QUESTIONS: - Gina Thompson, Director of Strategic Services

- G. **REPORTS:** Reports about items of community interest regarding which no action will be taken.
- H. **CLOSED SESSION:** In Accordance with Texas Government Code, Subchapter D,
1. Section 551.072 (Real Estate): Property Acquisition
 2. Section 551.087 (Economic Development): Deliberation Regarding Economic Development Negotiations
- I. **RECONVENE** into Regular Session and Consider Action, if Any, on Items Discussed in Closed Session.

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J. **ADJOURNMENT**

The City Council reserves the right to adjourn into closed session at any time during the course of this meeting to discuss any of the matters listed above, as authorized by Texas Government Code Section 551.071 (Consultation with Attorney), 551.072 (Deliberations about Real Property), 551.073 (Deliberations about Gifts and Donations), 551.074 (Personnel Matters), 551.076 (Deliberations about Security Devices) and 551.087 (Economic Development).

**ADDENDUM TO THE
AGENDA**

LEWISVILLE CITY COUNCIL MEETING

7:00 P.M. – REGULAR SESSION

DECEMBER 18, 2017

**LEWISVILLE CITY HALL
151 WEST CHURCH STREET
LEWISVILLE, TEXAS 75057**

In addition to the previously posted agenda for the February 19, 2007, Regular Session, the following item is hereby added:

- H. **CLOSED SESSION:** In Accordance with Texas Government Code, Subchapter D,
- 3. Section 551.071 (Consultation with Attorney): Legal Issues regarding DFW Sanitary Landfill's Request for Expansion

MEMORANDUM

TO: Donna Barron, City Manager

FROM: Richard E. Luedke, Planning Director

DATE: December 18, 2017

SUBJECT: **Continued Public Hearing: Consideration of an Ordinance Granting a Zone Change Request From Light Industrial District (LI) to Warehouse District (WH), on Approximately 6.68 Acres Legally Described as Lots 11 & 12, Block A, ARTX Park Addition, Bounded by East Valley Ridge Boulevard on the Northeast Side and Mario Court on the West Side, and an Ordinance Granting a Special Use Permit and Four Associated Variances to Allow a Wholesale Establishment With Outside Storage on More Than 10% of the Platted Lot on the Above-Referenced Land, Both Requested by Richard DeOtte, DeOtte Inc., on Behalf of Jim Bedworth Jr., of REW Gray Properties, LLC, the Property Owner (Case No. PZ-2017-07-15 and Case No. SUP-2017-07-11).**

BACKGROUND

REW, a national supplier of drywall and related building products, has been in operation for over 50 years, 17 of those at their current location in Lewisville at the northwest corner of Purnell Street and Mill Street. The company has outgrown this facility and needs a location that can accommodate current operations. REW proposes to relocate to ARTX Park and build a new office warehouse building along with additional outside storage sheds. This site is located on the north entrance of the industrial park and consists of two vacant lots. The zone change is necessary since a distribution warehouse establishment with outside storage on more than 10 percent of the platted lot is only allowed in the WH District with the approval of a special use permit (SUP). The proposed SUP shows approximately 17.4% of the area to be used for the outside storage of building material supplies. The Planning and Zoning Commission recommended unanimous approval (6-0) of the zone change request at their meeting of July 18, 2017.

ANALYSIS

Zoning

The proposed zoning classification of Warehouse District (WH) is an appropriate use of the property as a wholesale establishment and allows for expanded outside storage. The location is surrounded by a combination of heavy industrial, warehouse and light industrial zoning and provides good access to SH 121.

Building

The proposed building consists of a 3,300-square foot office with an attached 31,000-square foot warehouse. The main office will face Mario Court and consist of a combination of split face block

with smooth face CMU accents on approximately 71% of the west elevation. The remainder of the building will consist of 100% stucco finish. The main entrance to the office will contain a cantilevered metal awning and the building will be covered by a metal roof.

Screening

The proposed office and warehouse building will act as screening along a portion of the western limits. A storage area located at the northern portion of the site will be screened with an earthen berm and an eight-foot tall concrete panel screening wall. The eight-foot tall concrete panel screening wall will wrap around the Valley Ridge Boulevard frontage and will be offset from the overhead powerlines. Additional landscaping along Valley Ridge Boulevard will screen the outside storage visible from the Valley Ridge Boulevard.

Landscape Improvements

The landscaping plan for this site illustrates a berm to be constructed at the northern tip of the site where Mario Court and Valley Ridge Boulevard intersect. A combination of crepe myrtle, cedar elm and maidengrass will provide a living screen adjacent to the ornamental fence proposed along the Mario Court frontage. Additional Cedar Elm trees are provided in the landscape buffer which is approximately 20 feet in width along the Mario Court frontage. Live oaks and crepe myrtles are also provided at the two front gates to the property. The Valley Ridge Boulevard frontage has major challenges since an existing 100-foot power line easement cuts through the eastern portion of the lot in a skewed configuration. The trees required along this frontage have been grouped towards the northern portion of the site and shorter (six-foot tall) evergreen species will be placed along the landscape strip beneath the overhead power lines. These will not only provide landscaping, but will also help screen the outside storage located behind the concrete panel wall that is located beyond the 100-foot electric easement as illustrated in the exhibit.

Signage

The applicant proposes a monument sign to be located at the Mario Court and Valley Ridge Boulevard intersection with a note stating that there will be no pole signs on site. Any additional wall signage must comply with the city sign ordinance. The sign is illustrated as a five-foot tall by five-foot wide monument sign with the company logo and background that matches the building colors.

Storage Areas

Four outdoor storage areas are proposed in addition to the 31,000-square foot warehouse. The northern portion of the site has a designated outside storage area of approximately 6,500 square feet behind a concrete panel wall with storage limited to the height of the wall. A second storage area will be located behind the warehouse building and is approximately 23,000 square feet in area. The applicant is requesting that the outdoor storage in this area be allowed to exceed the height of the 8-foot wall for a maximum height of 24 feet. To help minimize the visibility of the 24-foot tall storage materials; additional evergreen landscaping along Valley Ridge Boulevard has been added to help screen the outside storage as illustrated in the Site Cross Section Exhibit. The setback of the storage area, which ranges from approximately 35 feet to approximately 130 feet from Valley Ridge Boulevard, will also help minimize visibility of the storage area. Additional storage will be contained under two three-sided sheds located on the southern portion of the lot. These sheds are proposed to be clad with painted metal in colors matching the main building.

Variances

The following four variances are associated with this item:

a) to allow a reduction in exterior material requirements from 80% brick veneer to 71% brick veneer on the west elevation of the main building and 100% stucco on the north, south and east elevations;

Section 6-181(d)(1) Exterior Finish Requirements on Brick Veneer Gateways

The General Development Ordinance states that the aggregate total of all exterior wall elevations (excluding door, windows and glass) of all buildings shall consist of 80 percent brick veneer. The applicant has proposed a two-toned combination of split faced block CMU and stucco on the west elevation with a total finish of approximately 71% brick veneer. The applicant intended to meet the 80% brick veneer requirement on this elevation, but could only provide 71% due to the wall area above the roofline of the office being unable to support the weight of the split-faced block. The other 3 sides (north, south and east) will consist of 100% stucco since these elevations will have reduced visibility due to strategically placed landscaping, berms and screening walls. Staff has no objection to this request.

b) to allow a reduction in exterior material requirements from 80% brick veneer to 0% brick veneer for the two three-sided storage sheds except for the east wall of the eastern storage building, which will consist of 100% stucco;

Section 6-181(d)(1) Exterior Finish Requirements on Brick Veneer Gateways

The General Development Ordinance states that the aggregate total of all exterior wall elevations (excluding door, windows and glass) of all buildings shall consist of 80% brick veneer. The owner has proposed no brick veneer for the three-sided structures for outside storage; but instead, will use a Nucor silicone polyester paint system colored in "light stone" on exterior metal except for the east elevation of the eastern storage building, which will consist of 100% stucco. Since the majority of the three-sided structures will have limited visibility, staff has no objection to the use of exterior painted metal for all elevations except the eastern wall of the eastern storage building.

c) to allow storage to exceed the height of the screening wall;

Section 6-148 Screening Requirement for Outside Storage

The General Development Ordinance requires materials and supplies not to be stacked higher than the height of the screening wall. A variable width landscape buffer is proposed along Valley Ridge Boulevard over an existing 100-foot electrical easement. The additional landscaping along Valley Ridge Boulevard will help screen the outside storage as illustrated in the Site Cross Section Exhibit.

d) to allow precast panel screening wall within 25 feet of the street right-of-way in lieu of the required brick or stone screening wall.

Section 6-148 Screening Devices

The General Development Ordinance requires brick, stone or decorative block screening walls within 25 feet of a public street. Areas beyond 25 feet of a public street are allowed to be screened with a solid, opaque fence. The applicant proposes an eight-foot tall concrete panel wall along Valley Ridge Boulevard which will wrap around the site along Mario Court to screen the outside storage. Staff has no objection to the request since one consistent type of screening wall would improve site aesthetics compared to a short stretch of brick screening wall flanked with longer stretches of wood fence. The enhanced landscape area provided at the intersection will be placed in front of the proposed wall to enhance site aesthetics. The proposed evergreen plantings along Valley Ridge Boulevard will also be placed in front of the proposed screening wall to improve site aesthetics.

The applicant has requested in the attached letter that the public hearing be continued to the January 8, 2018 City Council meeting to allow more time to finalize the cost estimate process for the project.

RECOMMENDATION

It is City staff's recommendation that the City Council continue the public hearing to the January 8, 2018 City Council meeting.



Richard Luedke <rluedke@cityoflewisville.com>

Rew Materials request to table to January 8th

1 message

Richard DeOtte <RichDeOtte@deotte.com>

Tue, Dec 5, 2017 at 3:49 PM

To: "Richard E. Luedke, AICP (rluedke@cityoflewisville.com)" <rluedke@cityoflewisville.com>

Cc: "Jeff Butts (jbutts@kcg-inc.com)" <jbutts@kcg-inc.com>, "Lewis Miltenberger (LCM@miltenbergerlawfirm.com)" <LCM@miltenbergerlawfirm.com>

Mr. Luedke,

On behalf of our client, Rew Materials, we request that the Rew Materials case be tabled at the December 18th meeting and be heard on January 8th, 2018. There are some final details we need to resolve before the case goes to Council and we are confident that we will be ready at that January meeting.

Please advise if this is acceptable.

Sincerely,

Rich DeOtte

Richard W. DeOtte, P.E., CFM

DEOTTE, INC.

420 Johnson Road, Suite 303

Keller, Texas 76248

817.337.8899 Ext. 201 (office)

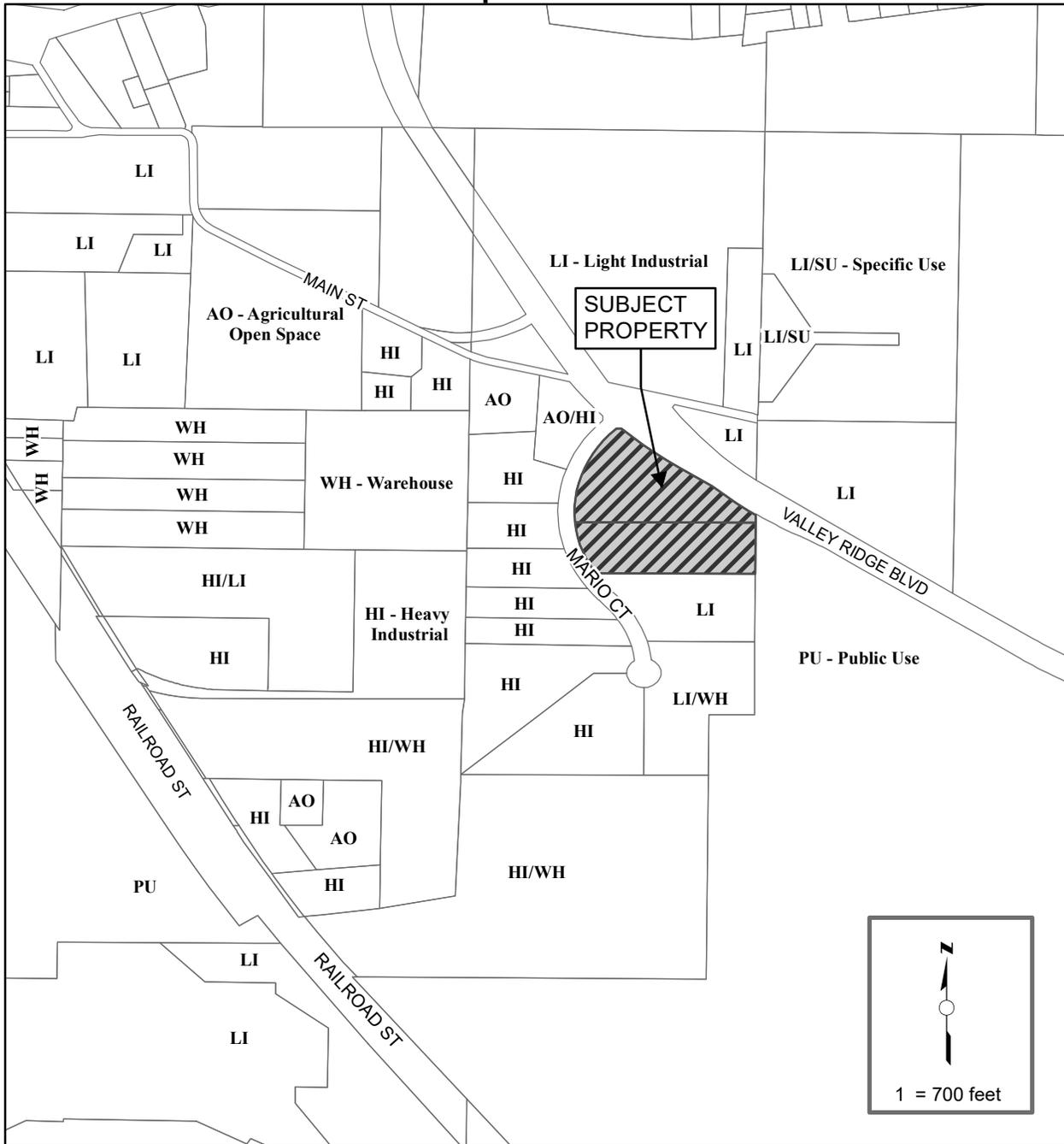
817.337.5133 (fax)

817.946.6088 (cell)

richdeotte@deotte.com

www.DeOtte.com

Location Map - REW Materials



CASE NO. PZ-2017-07-15

PROPERTY OWNER: JIM BEDSWORTH JR., REW GRAY PROPERTIES, LLC

APPLICANT NAME: RICHARD DEOTTE, DEOTTE INC.

PROPERTY LOCATION: LOTS 11 & 12, BLOCK A, ARTX PARK ADDITION, BOUNDED BY EAST VALLEY RIDGE BOULEVARD ON THE NORTHEAST SIDE AND MARIO COURT ON THE WEST SIDE (6.68 ACRES)

CURRENT ZONING: LIGHT INDUSTRIAL DISTRICT (LI)

REQUESTED ZONING: WAREHOUSE DISTRICT (WH)

Aerial Map - REW Materials



**MINUTES
PLANNING AND ZONING COMMISSION
JULY 18, 2017**

Item 1:

The Lewisville Planning and Zoning Commission meeting was called to order at 6:30 pm. Members present: William Meredith, John Lyng, MaryEllen Miksa, Kristin Green, Karen Locke and James Davis. Member Alvin Turner was absent.

Staff members present: Richard Luedke, Planning Director and Theresa Ernest, Planning Technician.

Item 4:

Public Hearings for Zoning and Special Use Permits were next on the agenda. There were three items for consideration:

- A. **Public Hearing:** Consideration of a Zone Change Request From Light Industrial Zoning District (LI) to Warehouse Zoning District (WH); on an Approximately 6.68-Acre Tract of Land, Legally Described as Lots 11 & 12, Block A, ARTX Park Addition, Bounded by East Valley Ridge Boulevard on the Northeast Side and Mario Court on the West Side; as Requested by Richard DeOtte, DeOtte Inc., on Behalf of Jim Bedworth Jr., of REW Gray Properties, LLC, the Property Owner. (Case No. PZ-2017-07-15).
- B. **Public Hearing:** Consideration of a Special Use Permit for a Wholesale Establishment With Outside Storage on More Than 10% of the Platted lot; on an Approximately 6.68-Acre Tract of Land, Legally Described as Lots 11 & 12, Block A of the ARTX Park Addition, Bounded by East Valley Ridge Boulevard on the Northeast Side and Mario Court on the West Side; as Requested by Richard DeOtte, of DeOtte Inc., on Behalf of Jim Bedworth Jr., of REW Gray Properties, LLC, the Property Owner. (Case No. SUP-2017-07-11).

Items 4A and 4B were read and discussed together. Staff gave a brief overview of the proposed zone change request and special use permit request, recommending approval. Member James Davis asked if the company was relocating from an existing facility in the city. Staff confirmed that the current facility is located at the northwest corner of South Mill Street and West Purnell Street. Chairman Green asked for clarification on the requested height variance and expressed concern for the location of a storage area over a sewer easement. The applicant explained that any storage exceeding the height of the wall will be screened with vegetation. He further clarified that the storage over the sewer easement would not affect the maintenance or use of any sewer line located within the easement. Chairman Green opened the joint public hearing for items 4A and 4B. With no one coming forward to speak, the public hearing was then closed. A motion was made by MaryEllen Miksa to recommend approval of item 4A, the zone change request from Light Industrial District (LI) zoning to Warehouse District (WH) zoning, which was seconded by Karen Locke. The motion passed unanimously (6-0). A motion was made by William Meredith to recommend approval of item 4B, the SUP request for a wholesale establishment with outside storage on more than 10% of the platted lot, which was seconded by John Lyng. The motion passed unanimously (6-0). Staff indicated that items 4A and 4B would be going before the City Council on August 21st for a second public hearing and a final decision.

SECTION 17-23. - "LI" LIGHT INDUSTRIAL DISTRICT REGULATIONS

- (a) *Use.* Buildings and premises may be used for retail, wholesale, office and service uses and campus style light manufacturing and industrial uses provided there is no dust, fumes, gas, noxious odor, smoke, glare, or other atmospheric influence beyond the boundaries of the property on which such use is located, and which produces no noise exceeding in intensity at the boundary of the property the average intensity of noise of street traffic at that point, and no more than ten percent (10%) of the total lot is used for outside storage, and further provided that such use does not create fire or explosive hazards on adjacent property.
- (1) Any use permitted in districts "LC" and "GB" as regulated in said districts.
 - (2) Apparel and other products assembled from finished textiles.
 - (3) Bottling works.
 - (4) Warehouse distribution facilities.
 - (5) Airport/Heliport (SUP required).
 - (6) Auto repair shops including body shops (SUP required).
 - (7) Church worship facilities.
 - (8) Buildings and uses owned or operated by public governmental agencies.
 - (9) Cemetery, mausoleum, crematorium & accessory uses (SUP required).
 - (10) Cosmetic manufacturer.
 - (11) Drugs and pharmaceutical products manufacturing.
 - (12) Private Utility Plants or Sub-stations (including alternative energy) (SUP required).
 - (13) Electronic products manufacturing.
 - (14) Fur good manufacture, but not including tanning or dyeing (SUP required).
 - (15) Gas and oil drilling accessory uses (SUP required).
 - (16) Glass products, from previously manufactured glass.
 - (17) Heavy equipment – outdoor rental/sales/display/service (SUP required).
 - (18) Household appliance products assembly and manufacture from prefabricated parts.
 - (19) Industrial and manufacturing plants including the processing or assembling of parts for production of finished equipment.
 - (20) Musical instruments assembly and manufacture.
 - (21) Paint, shellac and varnish manufacture (SUP required).
 - (22) Plastic products manufacture, but not including the processing of raw materials.
 - (23) Racing facilities (SUP required).
 - (24) Recreational Vehicle (RV) Park. (Private) (SUP required).
 - (25) Self storage/mini warehouse facility (SUP required).
 - (26) Shooting Range (indoor or outdoor) (SUP required.).
 - (27) Sporting and athletic equipment manufacture.
 - (28) Testing and research laboratories.
 - (29) Auction yard (vehicle) (SUP required).
 - (30) Communication towers (SUP required).
 - (31) Temporary buildings for uses incidental to construction work on the premises, which buildings shall be removed upon the completion or abandonment of construction work.
 - (32) Accessory buildings and uses customarily incidental to any of the above uses, provided that such not be objectionable because of odor, smoke, noise, vibration or similar nuisance. Open storage shall be considered an accessory use but no more than ten percent (10%) of the platted lot may be used for outside storage, including access and maneuvering areas for moving the stored items.
 - (33) Cemetery, columbarium, mausoleum and accessory uses (SUP required).
 - (34) Other uses similar to the above listed uses are allowed by special use permit (SUP) only, except that the following uses are specifically prohibited:
 - a. Acetylene gas manufacture or storage.
 - b. Acid manufacture.
 - c. Alcohol manufacture.
 - d. Ammonia, bleaching powder or chlorine manufacture.
 - e. Arsenal.
 - f. Asphalt manufacture or refining.
 - g. Blast furnace.
 - h. Bag cleaning, unless clearly accessory to the manufacture of bags.

- i. Boiler works.
- j. Brick, tile, pottery or terra cotta manufacture other than the manufacture of handcraft or concrete products.
- k. Reserved.
- l. Celluloid manufacture or treatment.
- m. Cement, lime, gypsum, or plaster of paris manufacture.
- n. Central mixing plant for cement.
- o. Coke ovens.
- p. Cotton gins.
- q. Cottonseed oil manufacture.
- r. Creosote manufacture or treatment.
- s. Disinfectants manufacture.
- t. Distillation of bones, coal or wood.
- u. Dyestuff manufacture.
- v. Exterminator and insect poison manufacture.
- w. Emery cloth and sandpaper manufacture.
- x. Explosives or fireworks manufacture or storage.
- y. Fat rendering.
- z. Fertilizer manufacture.
- aa. Fish smoking and curing.
- bb. Forge plant.
- cc. Garbage, offal or dead animals reduction or dumping.
- dd. Gas manufacture or storage, for heating or illuminating purposes.
- ee. Glue, size or gelatine manufacture.
- ff. Hatchery.
- gg. Iron, steel, brass or copper foundry or fabrication plant.
- hh. Junk, iron or rag storage or baling.
- ii. Match manufacture.
- jj. Lampblack manufacture.
- kk. Oilcloth or linoleum manufacture.
- ll. Oiled rubber goods manufacture.
- mm. Ore reduction.
- nn. Oil or turpentine manufacture.
- oo. Paper and pulp manufacture.
- pp. Petroleum or its products, refining or wholesale storage of.
- qq. Pickle manufacturing.
- rr. Planing mills.
- ss. Potash works.
- tt. Pyroxline manufacture.
- uu. Rock crusher.
- vv. Rolling mill.
- ww. Rubber or gutta-percha manufacture or treatment but not the making of articles out of rubber.
- xx. Sauerkraut manufacture.
- yy. Salt works.
- zz. Shoe polish manufacture.
- aaa. Smelting of tin, copper, zinc, or iron ores.
- bbb. Soap manufacture other than liquid soap.
- ccc. Soda and compound manufacture.
- ddd. Stock yard or slaughter of animals or fowls.
- eee. Stone mill or quarry.
- fff. Storage yard.
- ggg. Stove polish manufacture.
- hhh. Tallow grease or lard manufacture or refining from or of animal fat.
- iii. Tanning, curing or storage of raw hides or skins.
- jjj. Tar distillation or manufacture.
- kkk. Tar roofing or water-proofing manufacture.
- lll. Tobacco (chewing) manufacture or treatment.
- mmm. Vinegar manufacture.

- nnn. Wool pulling or scouring.
- ooo. Yeast plant.

(b) *Height.* No building shall exceed in height the width of the street right-of-way on which it faces plus the depth of the front yard. In no event, however, shall the portion of a building located within one hundred fifty (150) feet of any property zoned for residential purposes exceed the height allowed in that residential zoning district.

(c) *Area.*

(1) *Size of yards.*

- a. *Front yard.* There shall be a front yard having a minimum depth of twenty-five (25) feet. No parking, storage or similar use shall be allowed in required front yards in district "LI", except that automobile parking (including automobile dealer display parking) will be permitted in such yards if separated by at least twenty-five (25) feet from any residential district.
- b. *Side yard.* A side yard of not less than fifteen (15) feet in width shall be provided on the side of a lot adjoining a side street. A side yard of not less than ten (10) feet in width shall be provided on the side of a lot adjoining a residential district. The required side yard shall be waived when a screening device is installed in accordance with the city's general development ordinance. The building itself can serve as a portion of the screening device when that portion of the building exterior is constructed of the same materials as the screening device. No parking, storage or similar use shall be allowed in any required side yard or in any side street yard adjoining a residential district.
- c. *Rear yard.* No rear yard is required except that a rear yard of not less than fifty (50) feet in depth shall be provided upon that portion of a lot abutting or across a rear street from a residential district, except that such yard requirement shall not apply where the property in the residential district also backs up to the rear street. No parking, storage or similar use shall be allowed in required rear yards in district "LI" within twenty-five (25) feet of the rear property line.

(2) *Reserved.*

(d) *Outside storage regulations.* In all zoning districts where outside storage yards are allowed, such storage yards shall be screened from view in accordance with the standards outlined in the city's general development ordinance. This provision applies to all outside storage which began after the original date of passage of this provision (April 4, 1994). Any variance request involving the requirements or standards relating to such required screening devices shall be considered by the city council in accordance with the city's general development ordinance. Areas which are used for infrequent and temporary storage for a period of thirty (30) days or less per year shall not be deemed as "storage yards".

SECTION 17-24. - "WH" WAREHOUSE DISTRICT REGULATIONS

- (a) *Use.* A building or premises shall be used only for the following purposes:
- (1) Bakery or bottling works, if fully enclosed in a building.
 - (2) Wholesale establishments, if fully enclosed in a building.
 - (3) Storage warehouses with open storage yards (SUP required).
 - (4) Contractor's yard (SUP required).
 - (5) Manufacturing uses - outside storage is limited to ten (10) percent of the lot for storage of equipment, materials or products.
 - (6) Truck parking lot (SUP required).
 - (7) Offices.
 - (8) Laboratory.
 - (9) Auto repair shops, including body shops (SUP required).
 - (10) Church worship facilities.
 - (11) Travel trailer/boat/RV storage (Outdoor) (SUP required).
 - (12) Private Utility Plants or Sub-stations (including alternative energy) (SUP required).
 - (13) Gas and oil drilling accessory uses (SUP required).
 - (14) Cemetery, mausoleum, crematorium and accessory uses (SUP required).
 - (15) Buildings and uses owned or operated by public governmental agencies.
 - (16) Communication towers (SUP required).
 - (17) Temporary buildings for uses incidental to construction work on the premises, which buildings shall be removed upon the completion or abandonment of construction work.
 - (18) Accessory buildings and uses customarily incidental to any of the above uses, provided that such not be objectionable because of odor, excessive light, smoke, dust, noise, vibration or similar nuisances. Open storage shall be considered an accessory use but no more than ten percent (10%) of the platted lot may be used for outside storage, including access and maneuvering areas for moving the stored items. Any use requiring more than 10% outside storage shall require a special use permit (SUP).
 - (19) Motor Freight Terminal (SUP required).
- (b) *Height.* No building shall exceed in height the width of the street on which it faces plus the depth of the front yard. On a lot adjoining a residential district, no building shall exceed forty-five (45) feet in height, except that this height may be increased up to the maximum of twelve (12) stories, or one hundred eighty (180) feet, at the rate of two (2) feet of additional height for each one (1) foot of additional setback from required yard lines. In no event, however, shall any building exceed two (2) stories when any portion of the building is located within one hundred fifty (150) feet of any property zoned for residential purposes.
- (c) *Area.*
- (1) *Size of yards.*
 - a. *Front yard.* There shall be a front yard having a minimum depth of twenty-five (25) feet. No parking, storage or similar use shall be allowed in required front yards in district "WH", except that automobile parking (including automobile dealer display parking) will be permitted in such yards if separated by at least twenty-five (25) feet from any residential district.
 - b. *Side yard.* A side yard of not less than fifteen (15) feet in width shall be provided on the side of a lot adjoining a side street. A side yard of not less than ten (10) feet in width shall be provided on the side of a lot adjoining a residential district. The required side yard shall be waived when a screening device is installed in accordance with the city's general development ordinance. The building itself can serve as a portion of the screening device when that portion of the building exterior is constructed of the same materials as the screening device. No parking, storage or similar use shall be allowed in any required side yard or in any side street yard adjoining a residential district.

- c. *Rear yard.* No rear yard is required except that a rear yard of not less than fifty (50) feet in depth shall be provided upon that portion of a lot abutting or across a rear street from a residential district, except that such yard requirement shall not apply where the property in the residential district also backs up to the rear street. No parking, storage or similar use shall be allowed in required rear yards in district "WH" within twenty-five (25) feet of the rear property line.

(2) *Reserved.*

- (d) *Outside storage regulations.* In all zoning districts where outside storage yards are allowed, such storage yards shall be screened from view in accordance with the standards outlined in the city's general development ordinance. This provision applies to all outside storage which began after the original date of passage of this provision (April 4, 1994). Any variance request involving the requirements or standards relating to such required screening devices shall be considered by the city council in accordance with the city's general development ordinance. Areas which are used for infrequent and temporary storage for a period of thirty (30) days or less per year shall not be deemed as storage yards.

SECTION 17-29.5 - "SUP" SPECIAL USE PERMIT

(a) *Purpose.*

The special use permit (SUP) provides a means for evaluating land uses identified in this ordinance to ensure compatibility with adjacent properties. The intent of the special use permit process is to allow consideration of certain uses that would typically be incompatible or intensely dominate the area in which they are located, but may become compatible with the provision of certain conditions and restrictions.

(b) *Application submittal and approval process.*

(1) Application for an SUP shall be processed like an application for rezoning. An application shall not be complete and shall not be scheduled for a public hearing unless the following are submitted along with the application:

- a. A scaled development plan depicting the items listed in Section 17-29.5(b)(2);
- b. A meets and bounds description of the property boundary;
- c. A narrative explaining how the property and use(s) will function;
- d. Colored elevations of the building and other structures including dimensions and building materials;
- e. A Landscaping Plan, meeting the requirements of Section 6-124 of the Lewisville Code of Ordinances;
- f. A Tree Survey and Mitigation Plan if required by Section 6-125 of the Lewisville Code of Ordinances;
- g. Detailed elevations and descriptions of proposed signage;
- h. An exhibit illustrating any requested variances; and
- i. Any other information, drawings, operating data or expert evaluations that city staff determines are necessary to evaluate the compatibility criteria for the proposed use and development.

(2) The development plan submitted along with an SUP application must include the following:

- a. The layout of the site;
- b. A north arrow;
- c. A title block including project name, addition, lot, block, acreage, and zoning classification of the subject property;
- d. Name, address, and phone number for applicant, developer, owner, builder, engineer, and/or surveyor;
- e. Building location, property lines, and setbacks;
- f. Summary tables listing building square footage, required parking, and required landscaping;
- g. Locations of utility easements, if applicable;
- h. Zoning and ownership of adjacent properties;
- i. Easements, deed restrictions, or encumbrances that impact the property;
- j. Median openings, traffic islands, turning lanes, traffic signals, and acceleration and deceleration lanes;
- k. Streets, alleys, and easements adjacent to the site;
- l. Driveways and sidewalks;
- m. Parking configuration, including maneuvering lanes and loading areas;
- n. Location and details of dumpsters and screening devices; and
- o. Location of all proposed signage.

(3) Variances from the regulations of the city's General Development Ordinance may be granted at the discretion of the city council as part of the SUP approval. The granting of an SUP has no effect on uses permitted by right and does not waive the regulations of the underlying zoning district.

- (4) The planning and zoning commission or the city council may require additional information or drawings, operating data or expert evaluation or testimony concerning the location and characteristics of any building or uses proposed.
- (5) The planning and zoning commission, after holding a public hearing, shall recommend to the city council approval or denial of each SUP along with any recommended conditions. The city council shall review each case on its own merit, apply the compatibility criteria established herein, and if appropriate, grant the special use permit for said use(s).
- (6) Completion of a development plan for the SUP does not waive the requirement to provide an engineering site plan in accordance with the General Development Ordinance.

(c) *Compatibility criteria for approval.*

The planning and zoning commission shall not recommend approval of, and the city council shall not grant an SUP for a use except upon a finding that the use will:

- (1) complement or be compatible with the surrounding uses and community facilities and any adopted comprehensive plans or small area plans;
- (2) contribute to, enhance, or promote the welfare of the area of request and adjacent properties;
- (3) not be detrimental to the public health, safety, or general welfare; and
- (4) conform in all other respects to all zoning regulations and standards.

(d) *SUP conditions.*

The planning and zoning commission may recommend and the city council may adopt reasonable conditions upon the granting of an SUP consistent with the purpose and compatibility criteria stated in this section. The development plan, however, shall always be attached to and made a condition of the SUP. The other documents submitted with the SUP application may also be made conditions of the SUP.

(e) *Amendments, enlargement, modifications or structural alterations.*

- (1) Except for minor amendments, all amendments, enlargements, modifications or structural alterations or changes to the development plan shall require the approval of a new SUP. The city manager or his designee may authorize minor amendments to the development plan that otherwise comply with the SUP ordinance and the underlying zoning and do not:
 - a. Alter the basic relationship of the proposed development to adjacent property;
 - b. Increase the maximum density or height shown on the original development plan;
 - c. Decrease the number of off-street parking spaces shown on the original development plan; and/or
 - d. Reduce setbacks at the boundary of the site as specified by a building or setback line shown on the original development plan.
- (2) For purposes of this subsection, "original development plan" means the earliest approved development plan that is still in effect, and does not mean a later amended development plan. For example, if a development plan was approved with the specific use permit and then amended through the minor amendment process, the original development plan would be the development plan approved with the specific use permit, not the development plan as amended through the minor amendment process. If, however, the development plan approved with the specific use permit was replaced through the zoning process, then the replacement development plan becomes the original development plan. The purpose of this definition is to prevent the use of several sequential minor amendments to circumvent the zoning amendment process.

- (3) Although the city manager or his designee has the authority to grant minor amendments to the development plan, they are not obligated to do so. The city manager or his designee shall always maintain the discretion to require city council approval if he feels that it is within the public's interest that city council consider the amendment, enlargement, modifications, or structural changes at a public hearing.

(f) *Compliance mandatory with written requirements.*

- (1) No special use permit shall be granted unless the applicant, owner, and grantee shall be willing to accept and agree to be bound by and comply with the written requirements attached to the development plan drawings and approved by the city council.
- (2) A special use permit shall be transferable from one owner or owners of the subject property to a new owner or occupant of the subject property, however all regulations and conditions of the SUP shall remain in effect and shall be applicable to the new owner or occupant of the property.

(g) *Timing.*

All development plans submitted for review will be on the city's active list for a period of 90 days from the date of each submittal. After the 90-day period, a project will be considered abandoned and removed from the file. A building permit shall be applied for and secured within 180 days from the time of approval of the special use permit provided that the city may allow a one-time extension of the SUP for another 180 days. A SUP shall expire six months after its approval or extension date if no building permits have been issued for the site or if a building permit has been issued but has subsequently lapsed. Work must be completed and operations commenced within 18 months of approval.

(h) *Zoning map.*

When the city council authorizes granting of a special use permit the official zoning district map shall be amended according to its legend to indicate that the affected area has conditions and limited uses, said amendment to indicate the appropriate zoning district for the approved use, and suffixed by an "SUP" designation. A log of all special use permits shall be kept by the city.

(i) *Rescind and terminate a special use permit.*

City council may rescind and terminate an SUP after a public hearing if any of the following occur:

- (1) That one or more of the conditions imposed by the SUP has not been met or has been violated.
- (2) The SUP was obtained through fraud or deception.
- (3) Ad valorem taxes on the property are delinquent by six months or more.
- (4) Disconnection or discontinuance of water and/or electrical services to the property.
- (5) Abandonment of the structure, lease space, lot, or tract of land for 180 days or more. (For the purpose of this section, "abandon" shall mean to surrender occupancy by vacating or ceasing to operate or inhabit such property.)

This Section (Office Use Only)	
Case:	
PZ:	CC:
Signs Picked Up By:	



LEWISVILLE

ZONE CHANGE APPLICATION

Owner/s (name): <u>Jim Bedsworth, Jr.</u>	
Company Name: <u>REW Gray Properties, LLC</u>	
Mailing Address: <u>15720 W. 108th St, Suite 100 Lenexa, Kansas 66219</u>	
Work #: <u>913-438-4142</u>	Cell #:
E-Mail: <u>jbedsj@kcg-inc.com</u>	
Owner Signature (Owner/s Must Sign or Submit Letter of Authorization): 	Date: <u>4-6-2017</u>
Printed Name: <u>Jim Bedsworth, Jr.</u>	

Applicant/Agent (name): <u>Rich DeOtte</u>	
Company Name: <u>DeOtte, Inc.</u>	
Mailing Address: <u>420 Johnson Rd, Suite 303 Keller, Tx 76248</u>	
Work #: <u>817-337-8899</u>	Cell #:
E-Mail: <u>richdeotte@deotte.com</u>	
Applicant/Agent Signature 	Date: <u>4-6-2017</u>
Printed Name: <u>Richard W. DeOtte</u>	

Current Zoning: <u>H1 + L1</u>	Requested Zoning: <u>WH</u>	Acres: <u>6.68</u>
Legal Description (Lot/ Block/Tract/Abstract): <u>Lots 11+12, Block A</u> <u>ARTX Park Addition</u>		
Address/Location: _____		

Application and Sign Fees:

	Less than 1/2 acre	\$ 150.00
	1/2 acre up to 4.99 acres	\$ 250.00
1	5 acres up to 24.99 acres	\$ 400.00

	25 acres up to 49.99 acres	\$ 750.00
	50 acres up to 99.99 acres	\$1,000.00
	100 acres and more	\$1,500.00

Qty: <u>2</u>	Zone Change Signs - \$35 each. 1 sign required for each 5 acres (max. 5 per site)	\$ <u>70</u>
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Sign(s) must be posted a minimum of ten (10) days prior to the Planning & Zoning hearing date.

Amount Due (application & sign fee)	\$ <u>470⁰⁰</u>
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April 6, 2017

Mr. Richard Luedke, AICP
Planning Manager
151 W. Church Street
Lewisville, Texas 75057

Re: REW Materials Site Relocation
Mario Court at East Valley Ridge Drive

Dear Mr. Luedke:

On behalf of our client, KCG, Inc. we are submitting this zoning change request and Special Use Permit to develop the site in a way to expand and improve the operations of the underlying existing business in Lewisville.

The site has two zoning classifications including LI (light industrial) and HI (Heavy Industrial). The proposed zoning is Warehouse and we are submitting an SUP for the City's consideration.

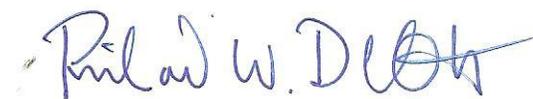
KCG, Inc has owned and operated REW Materials in Lewisville for 17 years. KCG, Inc is a family owned business that is over 50 years old. We are the 4th largest supplier of drywall and related building products in the US with our Lewisville location distributing more metal stud products than any other facility in the country, including our competition. This makes us a vital contributor to the growth in Lewisville and surrounding areas. With our sales volume, we're also a great support in the tax base for Lewisville. The one thing that stood out in our initial presentation is we employ approximately 30 employees with an average salary of approximately \$90,000 per year.

The proposed zoning change and SUP allow for the site to develop in a way to expand their business operations and increase the efficiency of the operation as well.

REW has enjoyed a good relationship with the City of Lewisville for many years and we believe that this relocation/expansion will be good for the City as well as REW materials to continue to have a great relationship into the future.

Sincerely,

DeOtte, Inc.



Richard W. DeOtte, P.E., CFM

This Section (Office Use Only)	
Case:	
PZ:	CC:
Signs Picked Up By:	



LEWISVILLE

**SPECIAL USE PERMIT (SUP)
APPLICATION**

Owner's (name): <u>Jim Bedsworth, Jr.</u>	
Company Name: <u>REW Gray Properties, LLC</u>	
Mailing Address: <u>15720 W. 108th St., Suite 100 Lenexa, Kansas 66219</u>	
Work #: <u>913-438-4142</u>	Cell #:
E-Mail: <u>jbedsj@keg-inc.com</u>	
Owner Signature (Owner's Must Sign or Submit Letter of Authorization): 	Date: <u>4-6-2017</u>
Printed Name: <u>Jim Bedsworth, Jr.</u>	

Applicant/Agent (name): <u>Rich DeOtte</u>	
Company Name: <u>DeOtte, Inc.</u>	
Mailing Address: <u>420 Johnson Rd, Suite 303 Keller, Tx 76248</u>	
Work #: <u>817-337-8899</u>	Cell #:
E-Mail: <u>richdeotte@deotte.com</u>	
Applicant/Agent Signature 	Date: <u>4/6-2017</u>
Printed Name: <u>Richard W. DeOtte</u>	

Current Zoning: <u>H1 & L1</u>	Requested Zoning: <u>WH</u>	Acres: <u>10.68</u>
Legal Description (Lot/Block/Tract/Abstract): <u>Lots 11+12, Block A ARTX Park Addition</u>		
Address/Location:		

Application and Sign Fees:

Less than 1/2 acre	\$ 150.00
1/2 acre up to 4.99 acres	\$ 250.00
5 acres up to 24.99 acres	\$ 400.00

26 acres up to 49.99 acres	\$ 750.00
50 acres up to 99.99 acres	\$1,000.00
100 acres and more	\$1,500.00

City: <u>2</u>	SUP Signs - \$35 each. 1 sign required for each 5 acres (max. 5 per site)	\$ <u>70</u>
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Sign(s) must be posted a minimum of ten (10) days prior to the Planning & Zoning hearing date.

Amount Due (application & sign fee)	\$ <u>470⁰⁰</u>
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April 6, 2017

Mr. Richard Luedke, AICP
Planning Manager
151 W. Church Street
Lewisville, Texas 75057

Re: REW Materials Site Relocation
Mario Court at East Valley Ridge Drive

Dear Mr. Luedke:

On behalf of our client, KCG, Inc. we are submitting this zoning change request and Special Use Permit to develop the site in a way to expand and improve the operations of the underlying existing business in Lewisville.

The site has two zoning classifications including LI (light industrial) and HI (Heavy Industrial). The proposed zoning is Warehouse and we are submitting an SUP for the City's consideration.

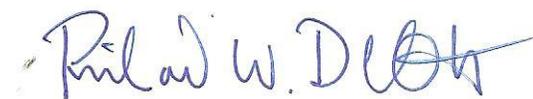
KCG, Inc has owned and operated REW Materials in Lewisville for 17 years. KCG, Inc is a family owned business that is over 50 years old. We are the 4th largest supplier of drywall and related building products in the US with our Lewisville location distributing more metal stud products than any other facility in the country, including our competition. This makes us a vital contributor to the growth in Lewisville and surrounding areas. With our sales volume, we're also a great support in the tax base for Lewisville. The one thing that stood out in our initial presentation is we employ approximately 30 employees with an average salary of approximately \$90,000 per year.

The proposed zoning change and SUP allow for the site to develop in a way to expand their business operations and increase the efficiency of the operation as well.

REW has enjoyed a good relationship with the City of Lewisville for many years and we believe that this relocation/expansion will be good for the City as well as REW materials to continue to have a great relationship into the future.

Sincerely,

DeOtte, Inc.



Richard W. DeOtte, P.E., CFM

June 28, 2017

Mr. Richard Luedke, AICP
Planning Manager
151 W. Church Street
Lewisville, Texas 75057

Re: REW Materials Site Relocation
Mario Court at East Valley Ridge Drive
Variance requests

Dear Mr. Luedke:

On behalf of our client, KCG, Inc. we are submitting this list of variance requests as part of the site's rezoning and SUP submittal.

A. Variance from section 6-181. - Exterior Finish Requirements

To allow a reduction in exterior material requirements from the 80% brick veneer to 71% brick/stone veneer on the west elevation and 100% stucco on the north, south and east elevations. Construction of two adjoining on-site structures that are shown on the site plan as the main warehouse and office for the business. This building, which is the main structure on the site, will be a stucco finish on the north, south and east faces of the building and 71% brick/stone veneer on the west face facing Mario Court. The percent coverage is 74% if the sides of the office extension, which will be finished with brick/masonry as well, is included in the calculation. Greater detail in the coverage and types are available on the elevations drawings provided with the overall submittal. We believe this variance request is consistent with the intent of the ordinance.

B. Variance from section 6-181. - Exterior Finish Requirements

To allow a reduction in exterior material requirements from the 80% brick veneer to 0% brick veneer on two outside storage three-sided sheds and 100% stucco on the eastern elevation of the eastern shed. Construction of two three-sided structures to shelter outside storage. The two outside sheltered storage structures will be constructed of metal panels. One will be prefinished with Nucor silicone polyester paint system colored "light stone" and the roof panels will be prefinished with the same material colored "polar white" which will be colored to match the other structures on the site. The eastern face of the most eastern structure will be finished with stucco. Most of the exterior of these structures will face away from the main thoroughfare. We believe this variance request is consistent with the intent of the ordinance.

C. Variance from section 6-148. - Screening requirement for outside storage.

To allow storage above the height of the screening wall. Screening shall be a decorative concrete panel wall running along the west edge of the 100-foot wide high-tension electric line easement and slightly within the existing 30-foot sewer easement along the property. Storage will be higher than the 8-foot height which is consistent with other uses in the area and is needed because of the restrictions placed on the property by the existing Oncor high voltage electric easement. Visually, the area's aesthetic is governed by the existing electric towers and power lines. The impact of this variance is mitigated by the open space provided on the property under the easement which severely restricts use of the underlying property. Since:

1. the site fronts on Mario Drive;
2. the site is distant from the thoroughfare due to the large electric easement;
3. frontage trees have been upgraded to provide year-round live screening with live oak trees where possible along the frontage of E. Valley Ridge outside the electric easement;
4. all other options for development that still allow expected use of the property have been exhausted;
5. the electric easement imposes extensive restriction on the use of the site and location of various screening options;

we believe this variance request substantially complies with the intent of the ordinance.

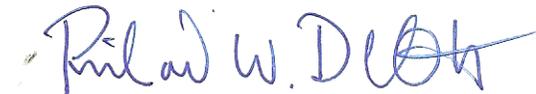
D. Variance from section 6-148. – Screening Wall Requirements

To allow precast panel screening wall within 25 feet of the street right-of-way construction Most of the screening wall is precast panel since it is outside of a 25-foot setback from the right of way but a short portion is within that limit. This variance will allow the fence construction to be consistent throughout the project and we believe it is consistent with the intent of the ordinance.

Please call if you have any questions.

Sincerely,

DeOtte, Inc.

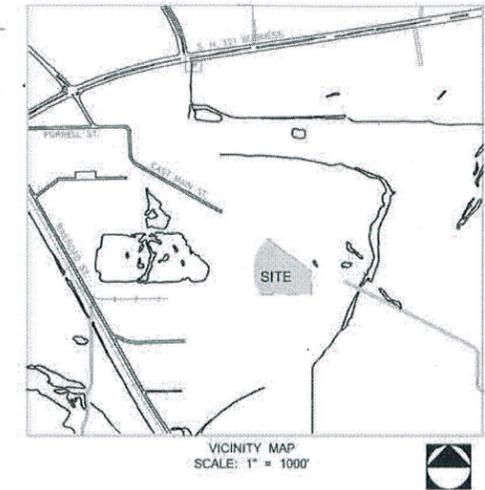
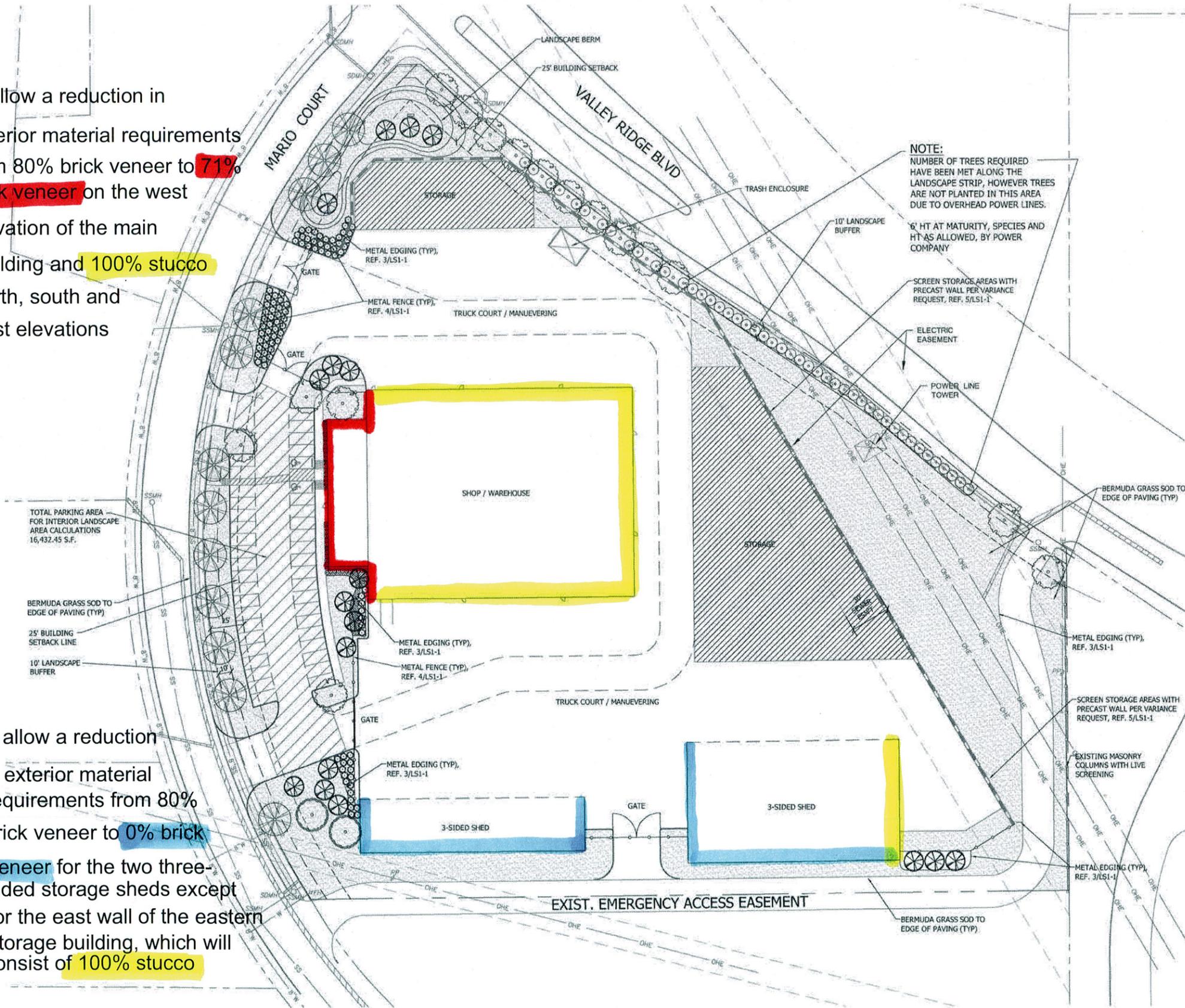


Richard W. DeOtte, P.E., CFM

VARIANCE REQUEST EXHIBIT

a) to allow a reduction in exterior material requirements from 80% brick veneer to **71% brick veneer** on the west elevation of the main building and **100% stucco** north, south and east elevations

b) to allow a reduction in exterior material requirements from 80% brick veneer to **0% brick veneer** for the two three-sided storage sheds except for the east wall of the eastern storage building, which will consist of **100% stucco**



LANDSCAPE REQUIREMENTS

- 1 - 2.5" CAL. TREE PER 50 LF OF 10' LANDSCAPE BUFFER
565 L.F. ALONG MARIO CT = 12 TREES REQUIRED
12 TREES PROVIDED
- 585 L.F. ALONG VALLEY RIDGE BLVD =
12 TREES REQUIRED
12 TREES PROVIDED

- 1 - 2.5" CAL. TREE PER 15 PARKING SPACES
42 PARKING SPACES = 3 TREES REQUIRED
4 TREES PROVIDED

INTERIOR LANDSCAPING REQUIREMENTS

- TOTAL PARKING AREA = 16,432.45 S.F.
INTERIOR LANDSCAPE AREA = 5%
- REQUIRED INTERIOR LANDSCAPE = 822 S.F.
PROVIDED INTERIOR LANDSCAPE = 2,634 S.F.

Landscape Legend

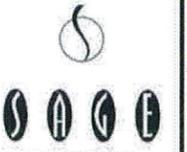
- Shumard Red Oak
Quercus shumardii
- Live Oak
Quercus virginiana
- Cedar Elm
Ulmus crassifolia
- Crape Myrtle 'Natchez'
Lagerstromia indica 'Natchez'
- 'Nellie R Stevens' Holly
Ilex x 'Nellie R Stevens'
- Maidengrass
Miscanthus sinensis 'Gracillimus'
- 'Gulf Stream' Nandina
Nandina domestica 'Gulf Stream'
- 'Big Blue' Liriope
Liriope muscari 'Big Blue'
- Bermudagrass sod
Cynodon dactylon
- Decorative stone / gravel

NOTE:

ALL LANDSCAPED AREAS WILL BE IRRIGATED BY AN AUTOMATIC IRRIGATION SYSTEM, DESIGNED BY A LICENSED IRRIGATOR.

1 LANDSCAPE PLAN
PLAN

0 40' 80' 160'
1" = 40'-0"



SAGE GROUP, INC.
1130 N. Carroll Ave., Ste. 200
Southlake, Texas 76092
TEL 817-424-2626

Master Planning
Urban Design
Architecture
Landscape Architecture

FOR BIDDING AND REVIEW PURPOSES ONLY. THESE DOCUMENTS ARE INCOMPLETE AND MAY NOT BE USED FOR REGULATORY APPROVAL, PERMIT OR CONSTRUCTION.

KELLEE D. LEE
RLA 2424

APPLICANT

DEOTTE, INC.
420 JOHNSON ROAD, SUITE 303
KELLER, TX 76248
Phone: 817-337-8899
Contact: RICH DEOTTE

REW MATERIALS
LEWISVILLE, TEXAS

Issued
MAR 31, 2017

Revisions

- 5/8/17 revised civil base
- 5/12/17 city comments
- 5/16/17 screening wall change
- 6/9/17 city comments
- 6/28/17 city comments

LANDSCAPE
PLAN

SHEET

LS1-0

VARIANCE REQUEST EXHIBIT

 c) to allow storage above the height of the screening wall (max 24 feet).

 d) to allow 8-foot precast panel screening wall within 25 feet of the street right-of-way in lieu of brick/stone/block wall (approximately 270 linear feet).

 8-foot precast panel screening wall proposed by applicant in lieu of wood fence (approximately 570 linear feet).

 New trees to enhance screening efforts



LANDSCAPE REQUIREMENTS

1 - 2.5" CAL. TREE PER 50 LF OF 10' LANDSCAPE BUFFER
565 L.F. ALONG MARIO CT = 12 TREES REQUIRED
12 TREES PROVIDED
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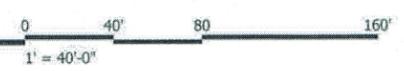
INTERIOR LANDSCAPING REQUIREMENTS

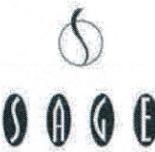
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Landscape Legend

-  Shumard Red Oak
Quercus shumardii
-  Live Oak
Quercus virginiana
-  Cedar Elm
Ulmus crassifolia
-  Crape Myrtle 'Natchez'
Lagerstromia indica 'Natchez'
-  'Nellie R Stevens' Holly
Ilex x 'Nellie R Stevens'
-  Maidengrass
Miscanthus sinensis 'Gracillimus'
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5/16/17 screening wall change
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6/28/17 city comments

LANDSCAPE PLAN

SHEET
LS1-0

ORDINANCE NO. _____

AN ORDINANCE OF THE LEWISVILLE CITY COUNCIL, AMENDING THE ZONING ORDINANCE BY REZONING APPROXIMATELY 6.68 ACRES OUT OF THE L.N. SPARKS SURVEY, ABSTRACT NO. 1214, LEGALLY DESCRIBED AS LOTS 11 AND 12, BLOCK A, ARTX PARK ADDITION, BOUNDED BY EAST VALLEY RIDGE BOULEVARD ON THE NORTHEAST AND MARIO COURT ON THE WEST; FROM LIGHT INDUSTRIAL DISTRICT (LI) ZONING TO WAREHOUSE DISTRICT (WH) ZONING; CORRECTING THE OFFICIAL ZONING MAP; PRESERVING ALL OTHER PORTIONS OF THE ZONING ORDINANCE; DETERMINING THAT THE PUBLIC INTERESTS AND GENERAL WELFARE DEMAND THIS ZONING CHANGE AND AMENDMENT THEREIN MADE; PROVIDING FOR A REPEALER, SEVERABILITY, AND A PENALTY; AND DECLARING AN EMERGENCY.

WHEREAS, applications were made to amend the Official Zoning Map of Lewisville, Texas by making applications for same with the Planning and Zoning Commission of the City of Lewisville, Texas, as required by State statutes and the Zoning Ordinances of the City of Lewisville, Texas, said Planning and Zoning Commission has recommended that rezoning of the approximately 6.68-acre property described in the attached Exhibit “A” (the “Property”) be **approved**, and all the legal requirements, conditions and prerequisites having been complied with, the case having come before the City Council of the City of Lewisville, Texas, after all legal notices, requirements, conditions and prerequisites having been complied with; and,

WHEREAS, the City Council of the City of Lewisville, Texas, at a public hearing called by the City Council of the City of Lewisville, Texas, did consider the following factors in making a determination as to whether this requested change should be granted or denied: effect on the congestion of the streets; the fire hazards, panics and other dangers possibly present in the securing

of safety from same; the effect on the promotion of health and the general welfare; effect on adequate light and air; the effect on the overcrowding of the land; the effect of the concentration on population; the effect on the transportation, water, sewerage, schools, parks and other public facilities; and,

WHEREAS, the City Council further considered among other things the character of the district and its peculiar suitability for particular uses and with the view to conserve the value of buildings, encourage the most appropriate use of land throughout this City; and,

WHEREAS, the City Council of the City of Lewisville, Texas, does find that there is a public necessity for the zoning change, that the public interest clearly requires the amendment, that the zoning changes do not unreasonably invade the rights of adjacent property owners; and,

WHEREAS, the City Council of the City of Lewisville, Texas, does find that the change in zoning lessens the congestion in the streets; helps secure safety from fire, panic and other dangers; promotes health and the general welfare; provides adequate light and air; prevents the overcrowding of land; avoids undue concentration of population; facilitates the adequate provisions of transportation, water, sewerage, schools, parks and other public requirements; and,

WHEREAS, the City Council of the City of Lewisville, Texas, has determined that there is a necessity and need for this change in zoning and has also found and determined that there has been a change in the conditions of the property surrounding and in close proximity to the Property since it was originally classified and, therefore, feels that a change in zoning classification for the Property is needed, is called for, and is in the best interest of the public at large, the citizens of the City of Lewisville, Texas, and helps promote the general health, safety, and welfare of this community.

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

SECTION 1. The Zoning Ordinance of the City of Lewisville, Texas, be, and the same is hereby amended and changed in that the zoning of the Property is hereby changed to **WAREHOUSE DISTRICT (WH) ZONING.**

SECTION 2. The City Manager, or her designee, is hereby directed to correct the official zoning map of the City of Lewisville, Texas, to reflect this change in zoning.

SECTION 3. That in all other respects the use of the tract or tracts of land hereinabove described shall be subject to all the applicable regulations contained in said City of Lewisville Zoning Ordinance and all other applicable and pertinent ordinances of the City of Lewisville, Texas.

SECTION 4. That the zoning regulations and districts as herein established have been made in accordance with the comprehensive plan for the purpose of promoting health, safety, and the general welfare of the community. They have been designed with respect to both present conditions and the conditions reasonably anticipated to exist in the foreseeable future, to lessen congestion in the streets; to secure safety from fire, panic, flood and other dangers; provide adequate light and air; to prevent overcrowding of land, to avoid undue concentration of population; facilitate the adequate provisions of transportation, water, sewage, parks and other public requirements, and to make adequate provisions for the normal business, commercial needs and development of the community. They have been made with reasonable consideration, among other things of the character of the district, and its peculiar suitability for the particular uses and with a view of conserving the value of buildings and encouraging the most appropriate use of land throughout the community.

SECTION 5. This Ordinance shall be cumulative of all other ordinances of the City of Lewisville, Texas, affecting zoning and shall not repeal any of the provisions of said ordinances, except in those instances where provisions of those ordinances which are in direct conflict with the provisions of this Ordinance.

SECTION 6. That the terms and provisions of this Ordinance shall be deemed to be severable and that if the validity of the zoning affecting any portion of the Property shall be declared to be invalid, the same shall not affect the validity of the zoning of the balance of the tract or tracts of land described herein.

SECTION 7. Any person, firm or corporation who violates any provision of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction thereof in the Municipal Court, shall be subject to a fine of not more than \$2,000.00 for each offense, and each and every day such offense is continued shall constitute a new and separate offense.

SECTION 8. The fact that the present Zoning Ordinance and regulations of the City of Lewisville, Texas are inadequate to properly safeguard the health, safety, peace and general welfare of the inhabitants of the City of Lewisville, Texas, creates an emergency for the immediate preservation of the public business, property, health, safety and general welfare of the public which requires that this Ordinance shall become effective from and after the date of its final passage, and it is accordingly so ordained.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF LEWISVILLE, TEXAS, BY A VOTE OF ____ TO ____, ON THIS THE 18TH DAY OF DECEMBER, 2017.

ORDINANCE NO. _____

Page 5

APPROVED:

Rudy Durham, MAYOR

ATTEST:

Julie Worster, CITY SECRETARY

APPROVED AS TO FORM:

Lizbeth Plaster, CITY ATTORNEY

Exhibit A
Property Description

EXHIBIT A

LEGAL DESCRIPTION: Being a tract of land out of the J. H. Havens Survey, Abstract No. 541 and situated in the City of Lewisville, Dallas County, Texas, and surveyed by Miller Surveying, Inc. of Hurst, Texas in March 2017, said tract being Lot 11 and Lot 12, Block A, ARTX Park Addition, An Addition to the City of Lewisville, Texas according to the plat thereof recorded in Volume 2012, Page 56 of the Plat Records of Dallas County, Texas, and being more particularly described as follows:

BEGINNING at a cross in concrete found for the northeast corner of said Lot 12, said cross being in the southwesterly right-of-way line of Valley Ridge Boulevard;

THENCE South 00 degrees 33 minutes 45 seconds East with the easterly boundary line of said Block A a distance of 255.63 feet to a ½ inch capped steel rod found for the southeast corner of said Lot 11;

THENCE South 89 degrees 26 minutes 15 seconds West with the southerly boundary line of said Lot 11 a distance of 573.80 feet to a ½ inch capped steel rod found for the southwest corner thereof, said rod being in the easterly right-of-way line of Mario Court, and also being the beginning of a curve to the right with a radius of 495.00 feet and whose chord bears North 05 degrees 54 minutes 03 seconds East at 623.24 feet;

THENCE northerly with the westerly boundary line said of Block A and said easterly right-of-way and with said curve along an arc length of 674.15 feet to the end of said curve;

THENCE North 44 degrees 55 minutes 00 seconds East continuing with said westerly boundary line and said easterly right-of-way a distance of 3.72 feet to a ½ inch capped steel rod found for the westerly end of a corner clip for said easterly right-of-way line and said southwesterly right-of-way line;

THENCE North 89 degrees 12 minutes 19 seconds East with said corner clip a distance of 17.18 feet to a ½ inch capped steel rod found for the easterly end thereof, said rod being in the said southwesterly right-of-way, and also the beginning of a curve to the left with a radius of 1450.00 feet and whose chord bears South 51 degrees 56 minutes 18 seconds East at 262.59 feet;

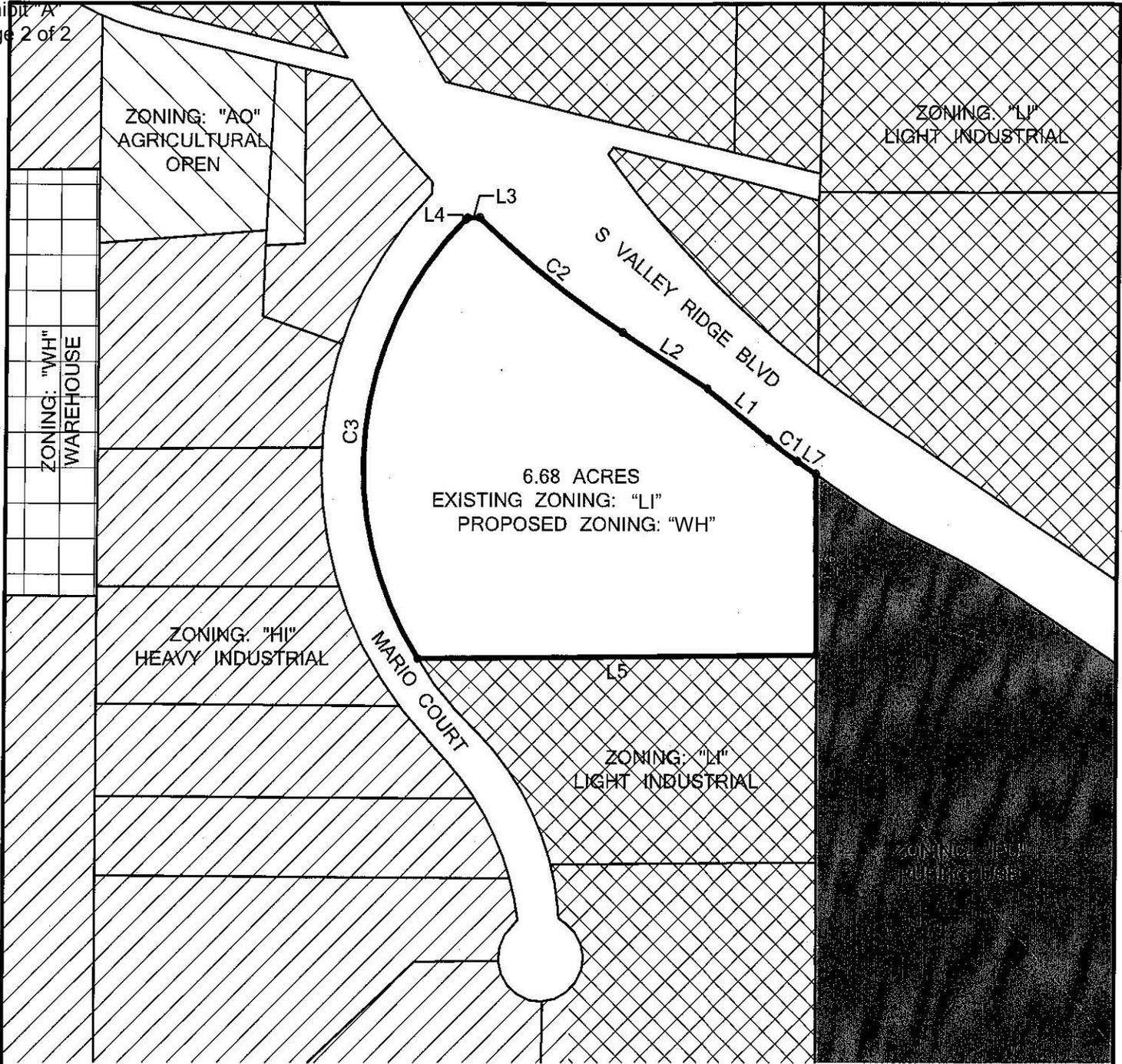
THENCE Southeasterly with the northeasterly boundary line of said Lot 12 and said southwesterly right-of-way and with said curve along an arc length of 262.95 feet to a fence post found for the end of said curve;

THENCE South 57 degrees 08 minutes 00 seconds East continuing with said northeasterly boundary line and said southwesterly right-of-way a distance of 146.07 feet to a cross in concrete found;

THENCE South 50 degrees 47 minutes 40 seconds East continuing with said northeasterly boundary line and said southwesterly right-of-way a distance of 113.30 feet to a cross in concrete found, for the beginning of a curve the left with the radius of 475.00 feet and whose chord bears South 53 degrees 57 minutes 50 seconds East at 52.52 feet;

THENCE Southeasterly with said northeasterly boundary line and said southwesterly right-of-way and with said curve along an arc of 52.55 feet to a cross in concrete found for the end of said curve;

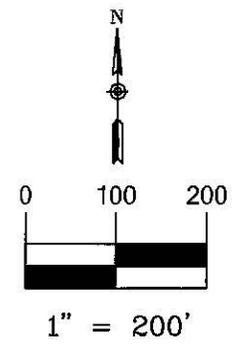
THENCE South 57 degrees 08 minutes 00 seconds East continuing with said northeasterly boundary line and said southwesterly right-of-way a distance of 32.96 feet to the point of beginning and containing 6.6784 acres of land more or less.



6.68 ACRES
EXISTING ZONING: "LI"
PROPOSED ZONING: "WH"

LINE TABLE		
LINE	DIRECTION	LENGTH
L1	N50°47'40"W	113.30'
L2	N57°08'00"W	146.07'
L3	S89°12'19"W	17.18'
L4	S44°55'00"W	3.72'
L5	N89°26'15"E	573.80'
L6	N00°33'45"W	255.63'
L7	N57°08'00"W	32.96'

CURVE TABLE						
CURVE	LENGTH	RADIUS	DELTA	CH DIRECTION	CH LENGTH	
C1	52.55'	475.00'	6°20'20"	N53°57'50"W	52.52'	
C2	262.95'	1450.00'	10°23'25"	N51°56'18"W	262.59'	
C3	674.15'	495.00'	78°01'54"	S05°54'03"W	623.24'	



THIS DOCUMENT IS FOR INTERIM REVIEW
AND IS NOT INTENDED FOR CONSTRUCTION,
BIDDING OR PERMIT PURPOSES.
BY: Richard W. DeOtte
Reg. No.: 74232
Date: 04/03/2017

REW MATERIALS
ZONING EXHIBIT
LEWISVILLE, TEXAS

DEOTTE, INC.
CIVIL ENGINEERING FIRM REGISTRATION # P-160316 (TX) WWW.DEOTTEINC.COM

430 Johnson Road, Suite 303
Keller, Texas 76248
Ph: 817-337-5133 Fax: 817-337-8899

DRAWN BY: DSM	SCALE: 1"=200'	DATE: 4/03/2017	PROJECT NO.: 201710700	SHEET: 1 OF 1
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ORDINANCE NO. _____

AN ORDINANCE OF THE LEWISVILLE CITY COUNCIL, AMENDING THE ZONING ORDINANCE BY GRANTING A SPECIAL USE PERMIT FOR A WHOLESALE ESTABLISHMENT WITH OUTSIDE STORAGE ON MORE THAN TEN PERCENT OF THE PLATTED LOT ON A 6.68-ACRE TRACT OF LAND OUT OF THE L.N. SPARKS SURVEY, ABSTRACT NO. 1214, LEGALLY DESCRIBED AS LOTS 11 AND 12, BLOCK A, ARTX PARK ADDITION, BOUNDED BY EAST VALLEY RIDGE BOULEVARD ON THE NORTHEAST AND MARIO COURT ON THE WEST; AND ZONED WAREHOUSE DISTRICT (WH); PROVIDING FOR A REPEALER, SEVERABILITY, PENALTY, AND AN EFFECTIVE DATE; AND DECLARING AN EMERGENCY.

WHEREAS, applications were made requesting approval of a Special Use Permit for a wholesale establishment with outside storage on more than ten percent (10%) of the platted lot by making applications for same with the Planning and Zoning Commission of the City of Lewisville, Texas, as required by state statutes and the Zoning Ordinances of the City of Lewisville, Texas; and said Planning and Zoning Commission has recommended that the Special Use Permit on the 6.68-acre tract, as described in the attached Exhibit “A” (the “Property”), be **approved**; and

WHEREAS, this application for a Special Use Permit comes before the City Council of the City of Lewisville, Texas (the “City Council”) after all legal notices, requirements, conditions and prerequisites have been met; and

WHEREAS, the City Council at a public hearing has determined that the proposed use, subject to the condition(s) stated herein: (1) complements or is compatible with the surrounding uses and community facilities; (2) contributes to, enhances, or promotes the welfare of the area of request and adjacent properties; (3) is not detrimental to the public health, safety, or general welfare; and (4) conforms in all other respects to all zoning regulations and standards.

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

SECTION 1. FINDINGS INCORPORATED. The findings set forth above are incorporated into the body of this ordinance as if fully set forth herein.

SECTION 2. SPECIAL USE PERMIT GRANTED. Subject to the conditions provided for herein, applicant is granted a Special Use Permit to allow a warehouse distribution facility with outside storage on more than ten percent (10%) of the platted lot on the Property, which is zoned Warehouse District (WH).

SECTION 3. CONDITIONS OF SPECIAL USE PERMIT. The Property shall be developed and maintained:

1. in compliance with the narrative, development plan, landscape plan, building elevations, and site cross sections, attached hereto as Exhibit “B”; and
2. in accordance with all federal, state, and local laws and regulations; and
3. upon the completion of construction of a second sanitary sewer force main across the Property, the Property owner at the time shall be responsible for any concrete replacement within the existing 30-foot sanitary sewer easement; and
4. with no pole signs allowed.

SECTION 4. CORRECTING OFFICIAL ZONING MAP. The City Manager, or her designee, is hereby directed to correct the official zoning map of the City of Lewisville, Texas, to reflect this Special Use Permit.

SECTION 5. COMPLIANCE WITH ALL OTHER MUNICIPAL REGULATIONS.

The Property shall comply with all applicable municipal ordinances, as amended. In no way shall this Special Use Permit be interpreted to be a variance to any municipal ordinance.

SECTION 6. RESCINDING AND TERMINATION. The City Council may rescind and terminate the Special Use Permit after a public hearing if any of the following occur:

1. One or more of the conditions imposed by the Special Use Permit have not been met or have been violated.
2. The Special Use Permit was obtained through fraud or deception.
3. Ad valorem taxes on the property are delinquent by six months or more.
4. Disconnection or discontinuance of water and/or electrical services to the property.
5. Abandonment of the structure, lease space, lot, or tract of land for 180 days or more.

SECTION 7. REPEALER. Every ordinance or parts of ordinances found to be in conflict herewith are here by repealed.

SECTION 8. SEVERABILITY. If any section, sentence, clause, or phrase of this ordinance shall for any reason be held to be invalid, such decision shall not affect the validity of the remaining sections, sentences, clauses, or phrases of this ordinance, but they shall remain in effect.

SECTION 9. PENALTY. Any person, firm or corporation who violates any provisions of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction thereof in the

Municipal Court, shall be subject to a fine of not more than \$2,000.00 for each offense, and each and every day such offense is continued shall constitute a new and separate offense.

SECTION 10. EFFECTIVE DATE. This Ordinance shall take effect and be in full force and effect from and after the date of its passage and publication as required by law.

SECTION 11. EMERGENCY. It being for the public welfare that this Ordinance be passed creates an emergency and public necessity and the rule requiring this Ordinance be read on three separate occasions be, and the same is hereby, waived and this Ordinance shall be in full force and effect from and after its passage and approval and publication, as the law in such cases provides.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF LEWISVILLE, TEXAS, BY A VOTE OF ____ TO ____, ON THIS THE 18TH DAY OF DECEMBER, 2017.

APPROVED:

Rudy Durham, MAYOR

ATTEST:

Julie Worster, CITY SECRETARY

APPROVED AS TO FORM:

Lizbeth Plaster, CITY ATTORNEY

ORDINANCE NO. _____

Page 5

Exhibit A
Property Description

Exhibit B
Narrative
Development Plan
Landscape Plan
Building Elevations
Site Cross Sections

EXHIBIT A

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BEGINNING at a cross in concrete found for the northeast corner of said Lot 12, said cross being in the southwesterly right-of-way line of Valley Ridge Boulevard;

THENCE South 00 degrees 33 minutes 45 seconds East with the easterly boundary line of said Block A a distance of 255.63 feet to a ½ inch capped steel rod found for the southeast corner of said Lot 11;

THENCE South 89 degrees 26 minutes 15 seconds West with the southerly boundary line of said Lot 11 a distance of 573.80 feet to a ½ inch capped steel rod found for the southwest corner thereof, said rod being in the easterly right-of-way line of Mario Court, and also being the beginning of a curve to the right with a radius of 495.00 feet and whose chord bears North 05 degrees 54 minutes 03 seconds East at 623.24 feet;

THENCE northerly with the westerly boundary line said of Block A and said easterly right-of-way and with said curve along an arc length of 674.15 feet to the end of said curve;

THENCE North 44 degrees 55 minutes 00 seconds East continuing with said westerly boundary line and said easterly right-of-way a distance of 3.72 feet to a ½ inch capped steel rod found for the westerly end of a corner clip for said easterly right-of-way line and said southwesterly right-of-way line;

THENCE North 89 degrees 12 minutes 19 seconds East with said corner clip a distance of 17.18 feet to a ½ inch capped steel rod found for the easterly end thereof, said rod being in the said southwesterly right-of-way, and also the beginning of a curve to the left with a radius of 1450.00 feet and whose chord bears South 51 degrees 56 minutes 18 seconds East at 262.59 feet;

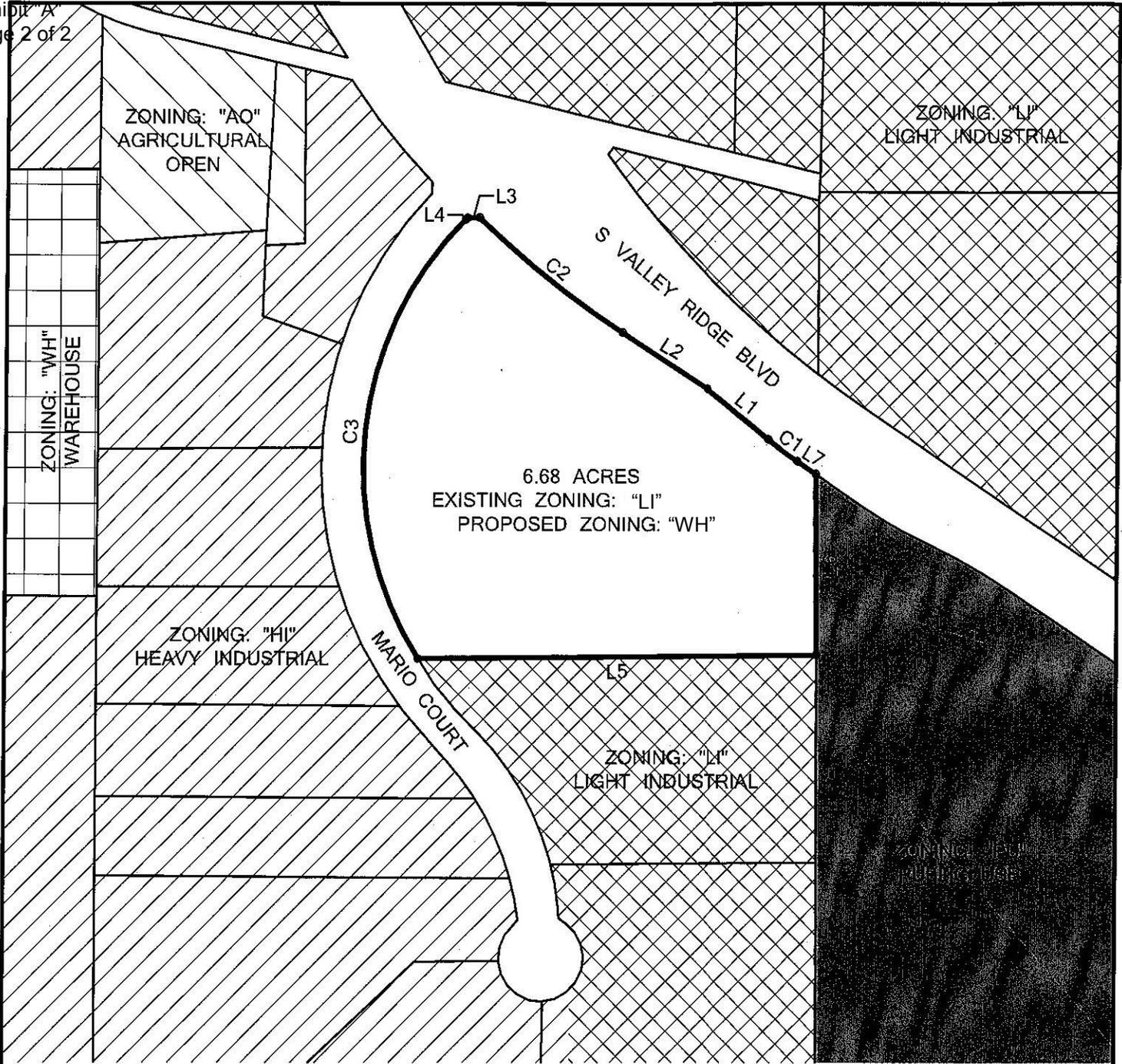
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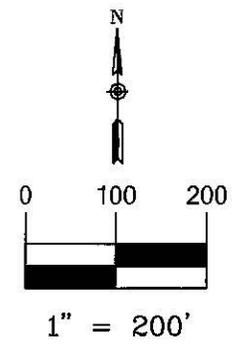
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BY: Richard W. DeOtte
Reg. No.: 74232
Date: 04/03/2017

REW MATERIALS
ZONING EXHIBIT
LEWISVILLE, TEXAS

DEOTTE, INC.
CIVIL ENGINEERING FIRM REGISTRATION # P-160316 (TX) WWW.DEOTTEINC.COM

430 Johnson Road, Suite 303
Keller, Texas 76248
Ph: 817-337-5133 Fax: 817-337-8899

DRAWN BY: DSM	SCALE: 1"=200'	DATE: 4/03/2017	PROJECT NO.: 201710700	SHEET: 1 OF 1
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July 7, 2017

Mr. Richard Luedke, AICP
Planning Manager
151 W. Church Street
Lewisville, Texas 75057

Re: REW Materials Site Relocation
Mario Court at East Valley Ridge Drive

Dear Mr. Luedke:

On behalf of our client, KCG, Inc. we are submitting this zoning change request and Special Use Permit to develop the site in a way to expand and improve the operations of the underlying existing business in Lewisville.

The site is currently zoned LI (light industrial). The proposed zoning is Warehouse and we are submitting an SUP for the City's consideration.

KCG, Inc has owned and operated REW Materials in Lewisville for 17 years. KCG, Inc is a family owned business that is over 50 years old. They are the 4th largest supplier of drywall and related building products in the US with our Lewisville location distributing more metal stud products than any other facility in the country, including our competition. This makes us a vital contributor to the growth in Lewisville and surrounding areas. With our sales volume, we're also a great support in the tax base for Lewisville. The one thing that stood out in our initial presentation is we employ approximately 30 employees with an average salary of approximately \$90,000 per year.

REW Materials is pleased to relocate within the City of Lewisville to a new location to improve their operation.

The proposed zoning change and SUP allow for the site to develop in a way to expand their business operations and increase the efficiency of the operation as well.

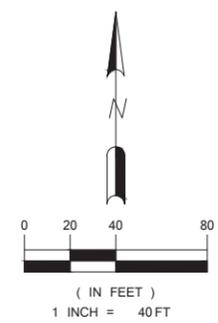
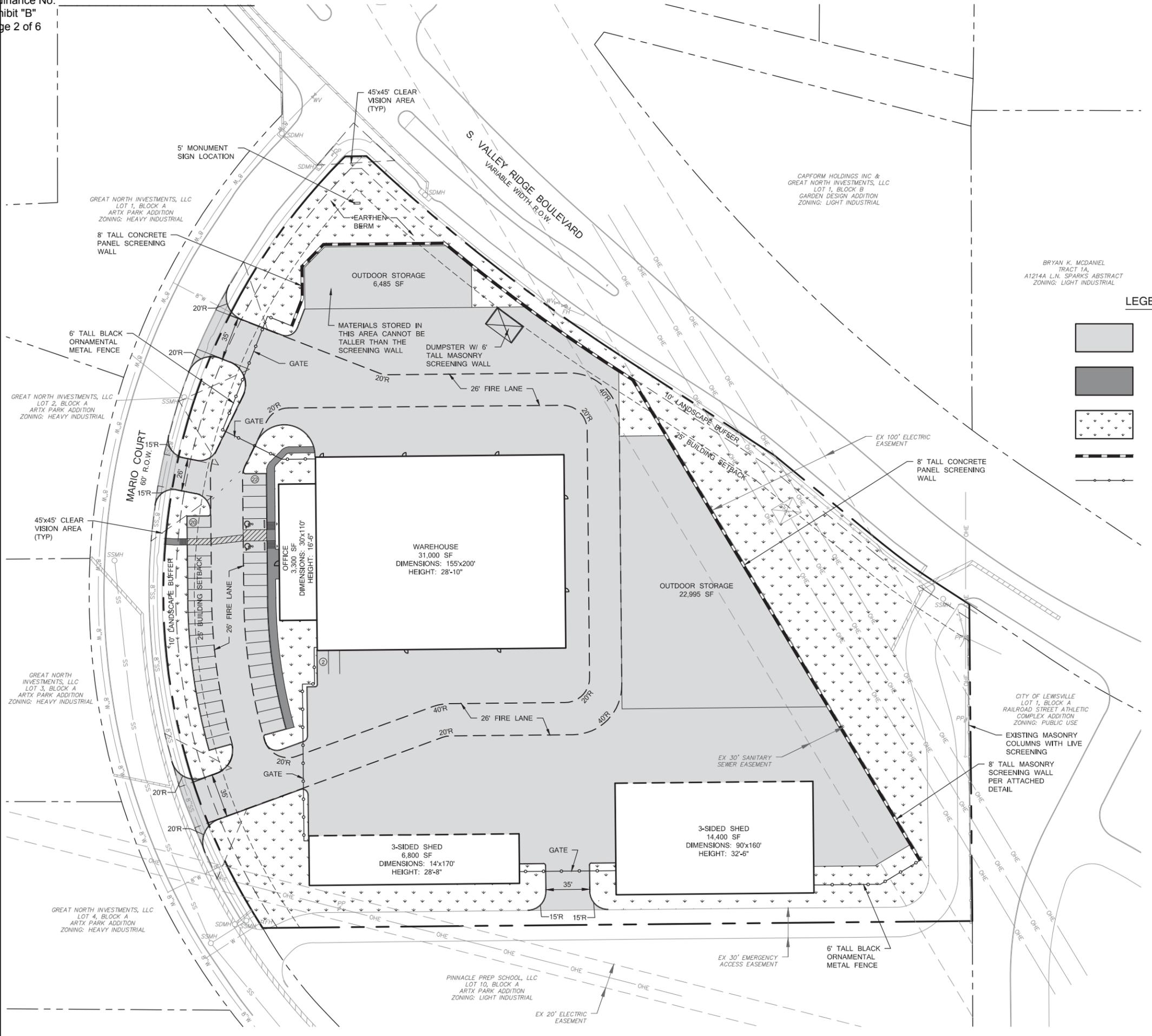
REW has enjoyed a good relationship with the City of Lewisville for many years and we believe that this relocation/expansion will be good for the City as well as REW materials to continue to have a great relationship into the future.

Sincerely,

DeOtte, Inc.

A handwritten signature in blue ink that reads "Richard W. DeOtte".

Richard W. DeOtte, P.E., CFM



LEGEND

-  PROPOSED CONCRETE PAVEMENT
-  PROPOSED CONCRETE SIDEWALK
-  PROPOSED LANDSCAPING
-  8' TALL CONCRETE PANEL SCREENING WALL
-  6' TALL BLACK ORNAMENTAL METAL FENCE

SITE DATA	
LOT AREA	290,913 SF (6.68 AC)
EXISTING ZONING	LIGHT INDUSTRIAL (LI)
PROPOSED ZONING	WAREHOUSE (WH)
EXISTING USE	VACANT
PROPOSED USE	WAREHOUSE & OUTSIDE STORAGE
BUILDING AREA	3,300 SF OFFICE 31,000 SF WAREHOUSE
BUILDING HEIGHT	OFFICE 16'-6" WAREHOUSE 28'-10"
IMPERVIOUS AREA	218,490 SF (75.1%)
PARKING REQUIRED	33 SPACES (INCLUDING 2 ADA SPACES) OFFICE = 1/200 SF = 17 SPACES WAREHOUSE = 1/2,000 SF = 16 SPACES
PARKING PROVIDED	44 SPACES (42 REGULAR & 2 ADA)
OUTDOOR STORAGE	50,680 SF (17.4%)

NOTES:

1. ALL PARKING SPACES ARE 9' WIDE x 19' DEEP
2. ALL FIRE LANES ARE MINIMUM 26' WIDE WITH INSIDE RADII MEASURING 20' AND OUTSIDE RADII MEASURING 40'
3. NO POLE SIGNS ON SITE. 6' MONUMENT SIGN AND ALL WALL SIGNAGE WILL MEET SIGN ORDINANCE
4. THE OWNER WILL BE RESPONSIBLE FOR CONCRETE REPLACEMENT WITHIN THE 30-FOOT SANITARY SEWER EASEMENT AT THE TIME THE FUTURE SECOND SANITARY SEWER FORCE MAIN IS INSTALLED.

VARIANCES APPROVED BY CITY COUNCIL ON _____, 2017

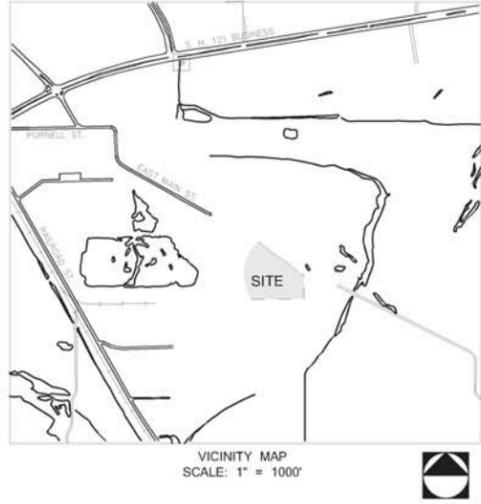
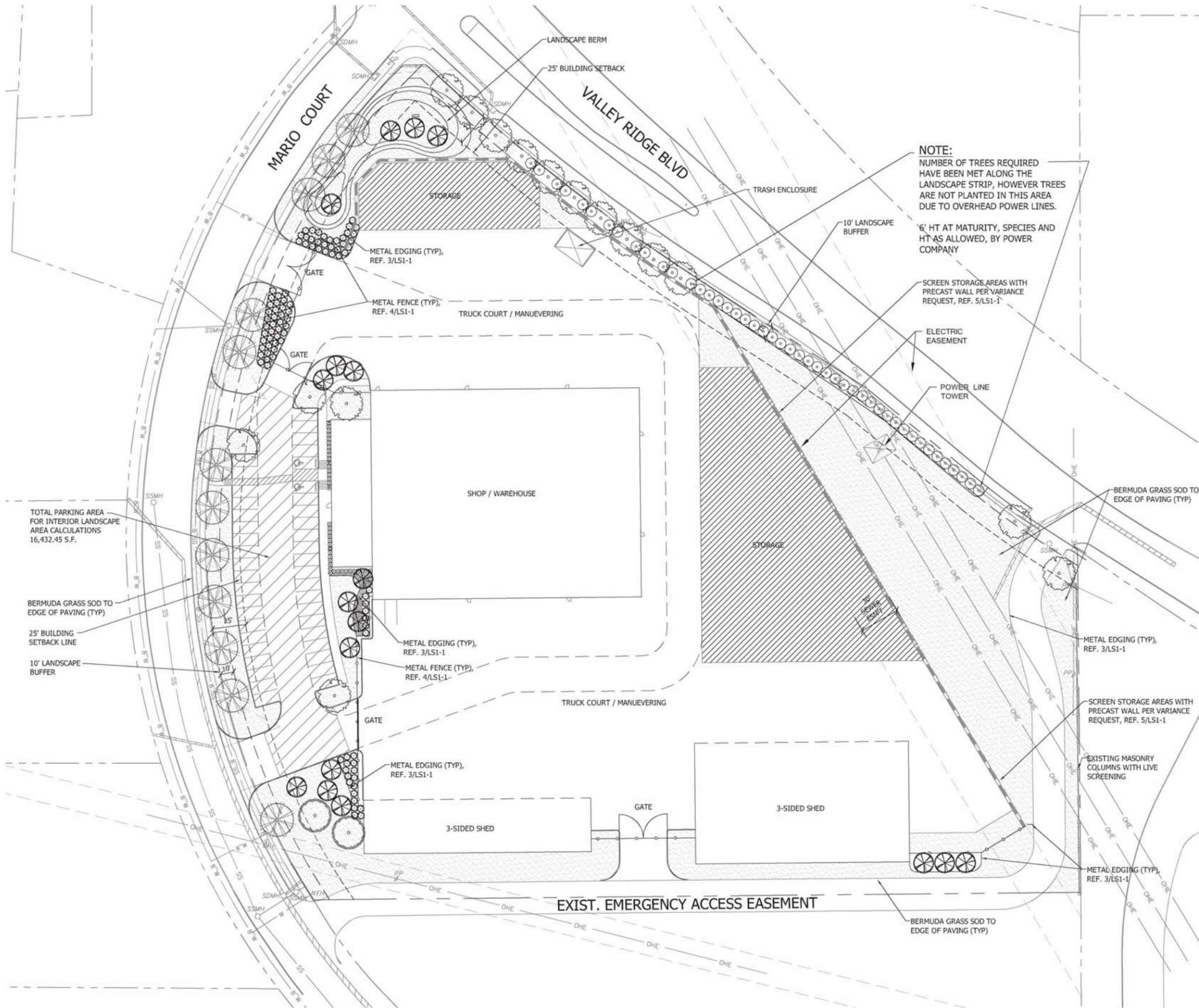
- A. TO ALLOW A REDUCTION IN EXTERIOR MATERIAL REQUIREMENTS FROM THE 80% BRICK VENEER TO 30% BRICK VENEER ON THE WEST ELEVATION AND 100% STUCCO ON THE NORTH, SOUTH AND EAST ELEVATIONS OF THE MAIN BUILDING.
- B. TO ALLOW A REDUCTION IN EXTERIOR MATERIAL REQUIREMENTS FROM THE 80% BRICK VENEER TO 0% BRICK VENEER ON TWO OUTSIDE STORAGE THREE-SIDED SHEDS AND 100% STUCCO ON THE EASTERN ELEVATION OF THE EASTERN SHED.
- C. TO ALLOW STORAGE ABOVE THE HEIGHT OF THE SCREENING WALL.
- D. TO ALLOW PRECAST PANEL SCREENING WALL WITHIN 25 FEET OF THE STREET RIGHT-OF-WAY CONSTRUCTION.

THIS DOCUMENT IS FOR INTERIM REVIEW AND IS NOT INTENDED FOR CONSTRUCTION, BIDDING OR PERMIT PURPOSES.
 BY: Richard W. DeOtte
 Reg. No.: 74232
 Date: 9/29/2017

OWNER:
REW GRAY PROPERTIES, LLC
 15720 W 108TH STREET, SUITE 100
 LENEXA, KANSAS 66219
 (913) 438-4142
 CONTACT: JIM BEDSWORTH, JR.

SITE PLAN PREPARER:
DEOTTE, INC.
 420 JOHNSON RD, SUITE 303
 KELLER, TEXAS 76248
 (817) 337-8899

**DEVELOPMENT PLAN FOR
 R.E.W. MATERIALS**
 LOTS 11 & 12, BLOCK A
 OF THE ARTX PARK ADDITION
 6.68 ACRES
 EXISTING ZONING: LI
 PROPOSED ZONING - WH



NOTE:
 NUMBER OF TREES REQUIRED HAVE BEEN MET ALONG THE LANDSCAPE STRIP, HOWEVER TREES ARE NOT PLANTED IN THIS AREA DUE TO OVERHEAD POWER LINES.
 6' HT AT MATURITY, SPECIES AND HT AS ALLOWED, BY POWER COMPANY

LANDSCAPE REQUIREMENTS

- 1 - 2.5" CAL. TREE PER 50 LF OF 10' LANDSCAPE BUFFER
 565 L.F. ALONG MARIO CT = 12 TREES REQUIRED
 12 TREES PROVIDED
- 585 L.F. ALONG VALLEY RIDGE BLVD =
 12 TREES REQUIRED
 12 TREES PROVIDED
- 1 - 2.5" CAL. TREE PER 15 PARKING SPACES
 42 PARKING SPACES = 3 TREES REQUIRED
 4 TREES PROVIDED

INTERIOR LANDSCAPING REQUIREMENTS

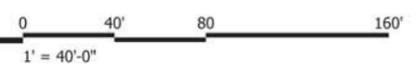
TOTAL PARKING AREA = 16,432.45 S.F.
 INTERIOR LANDSCAPE AREA = 5%
 REQUIRED INTERIOR LANDSCAPE = 822 S.F.
 PROVIDED INTERIOR LANDSCAPE = 2,634 S.F.

Landscape Legend

- Shumard Red Oak *Quercus shumardii*
- Live Oak *Quercus virginiana*
- Cedar Elm *Ulmus crassifolia*
- Crape Myrtle 'Natchez' *Lagerstromia indica 'Natchez'*
- 'Nellie R. Stevens' Holly *Ilex x 'Nellie R. Stevens'*
- Maidengrass *Miscanthus sinensis 'Gracillimus'*
- 'Gulf Stream' Nandina *Nandina domestica 'Gulf Stream'*
- 'Big Blue' Liriope *Liriope muscari 'Big Blue'*
- Bermudagrass sod *Cynodon dactylon*
- Decorative stone / gravel

NOTE:
 ALL LANDSCAPED AREAS WILL BE IRRIGATED BY AN AUTOMATIC IRRIGATION SYSTEM, DESIGNED BY A LICENSED IRRIGATOR.

1 LANDSCAPE PLAN
PLAN



SAGE GROUP, INC.
 1130 N. Carroll Ave., Ste. 200
 Southlake, Texas 76092
 TEL 817-424-2626

Master Planning
 Urban Design
 Architecture
 Landscape Architecture

FOR BIDDING AND REVIEW PURPOSES ONLY. THESE DOCUMENTS ARE INCOMPLETE AND MAY NOT BE USED FOR REGULATORY APPROVAL, PERMIT OR CONSTRUCTION.

KELLEE D. LEE
 RLA 2424

APPLICANT

DEOTTE, INC.
 420 JOHNSON ROAD, SUITE 303
 KELLER, TX 76248
 Phone: 817-337-8899
 Contact: RICH DEOTTE

REW MATERIALS
LEWISVILLE, TEXAS

Issued
 MAR 31, 2017

Revisions

5/8/17 revised civil base
5/12/17 city comments
5/16/17 screening wall change
6/9/17 city comments
6/28/17 city comments

LANDSCAPE PLAN

SHEET
LS1-0

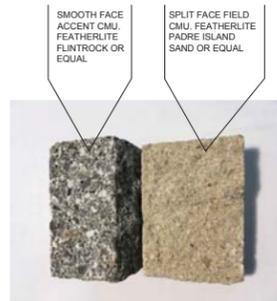


GRAPHIC EXAMPLE

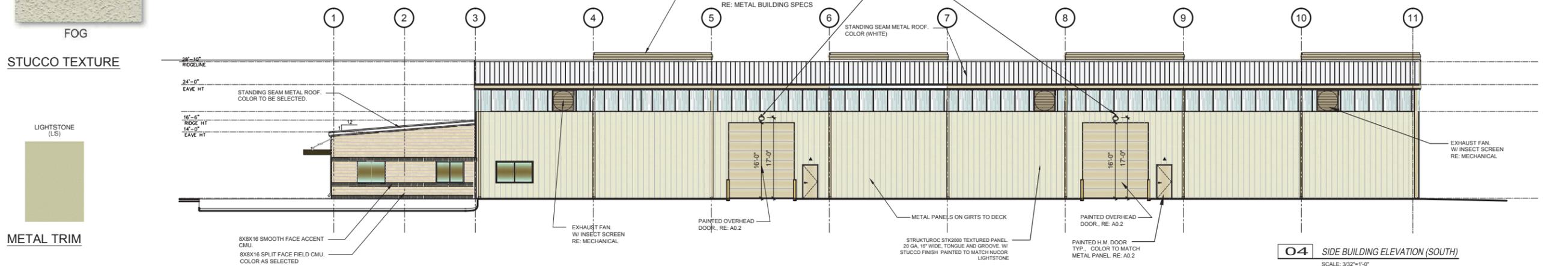
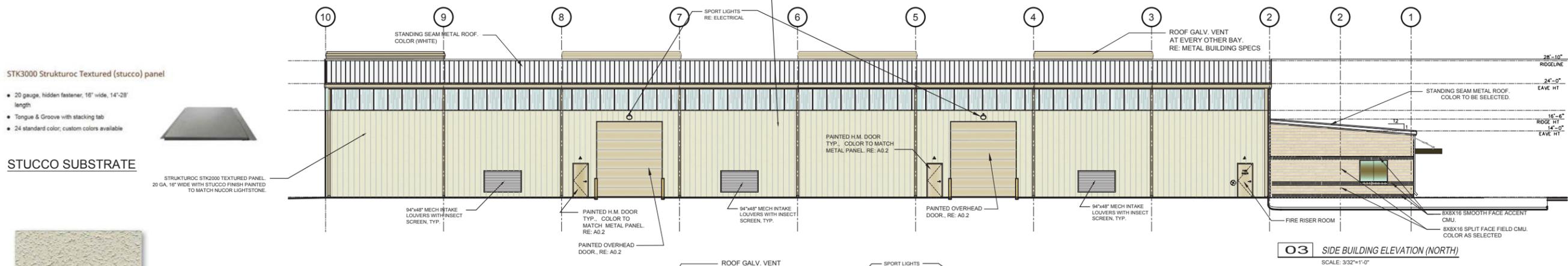
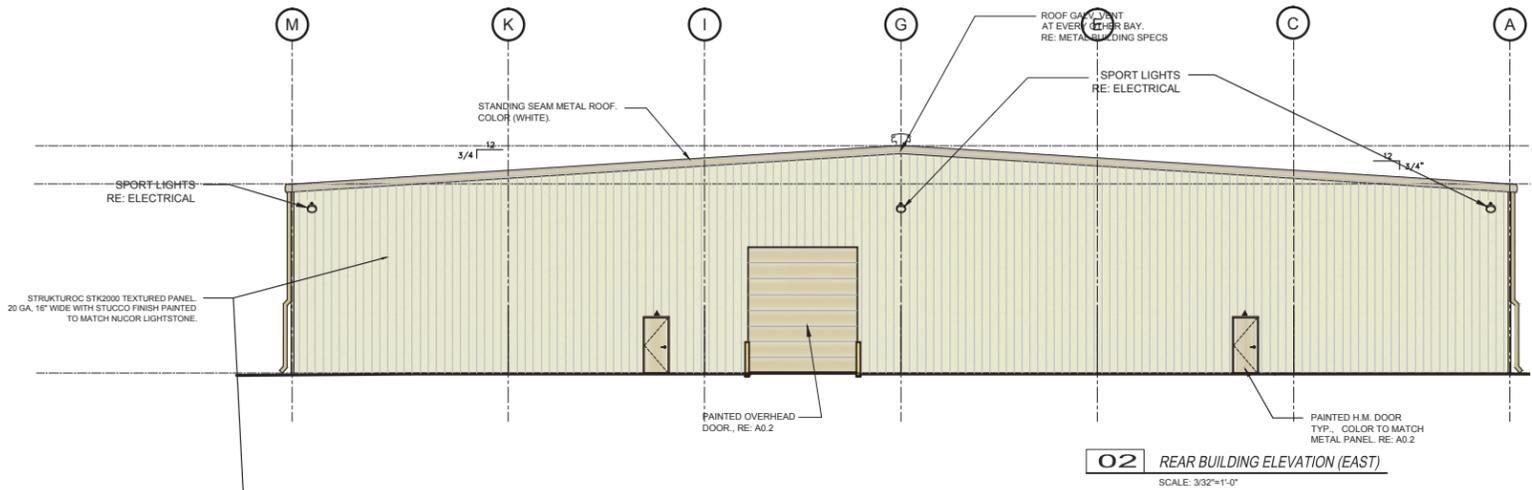
	TOTAL AREA (SF)	CMU / GLASS(SF)	%	STUCCO/PNL(SF)	%	OTHER(SF)	%	Total Check	%
SHOP/OFFICE									
NORTH WALL	5257	427	8%	3065	58%	1765	34%	5257	100%
SOUTH WALL	5257	427	8%	3194	61%	1636	31%	5257	100%
EAST WALL	3942	0	0%	3781	96%	161	4%	3942	100%
WEST WALL	3567	1039	29%	0	0%	0	0%	3567	100%
TOTALS>	18023	3382	19%	11079	61%	3562	20%	18023	100%

Note: Front elevation of 71% masonry on orthogonal view should include sidewalls of office. With masonry sidewalls of office included, the front elevation consists of 78% masonry. Structure is not capable of masonry suspension over office roof.

Note: "Other" finishes include trim, clerestory, painted metal doors



WALL AREA BREAKDOWN



STK3000 Strukturroc Textured (stucco) panel

- 20 gauge, hidden fastener, 16" wide, 14'-28" length
- Tongue & Groove with stacking tab
- 24 standard color; custom colors available

STUCCO SUBSTRATE



STRUKTURROC STK2000 TEXTURED PANEL
20 GA. 16" WIDE WITH STUCCO FINISH PAINTED TO MATCH NUJOC LIGHTSTONE.



FOG

STUCCO TEXTURE



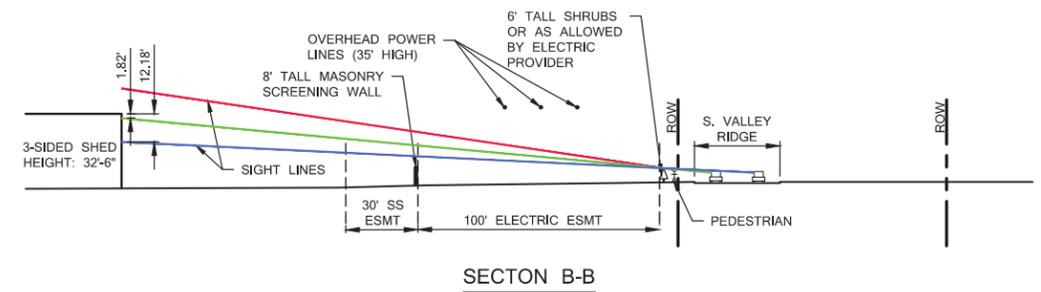
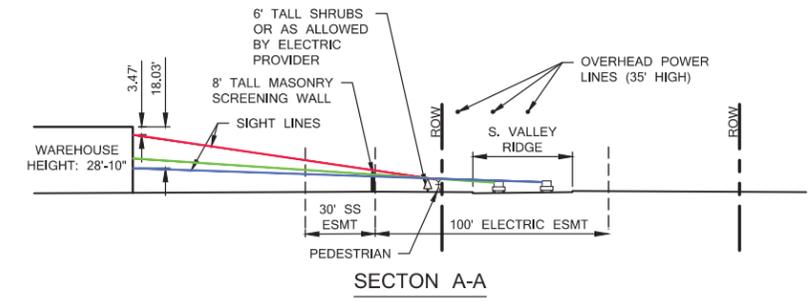
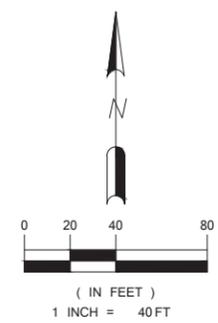
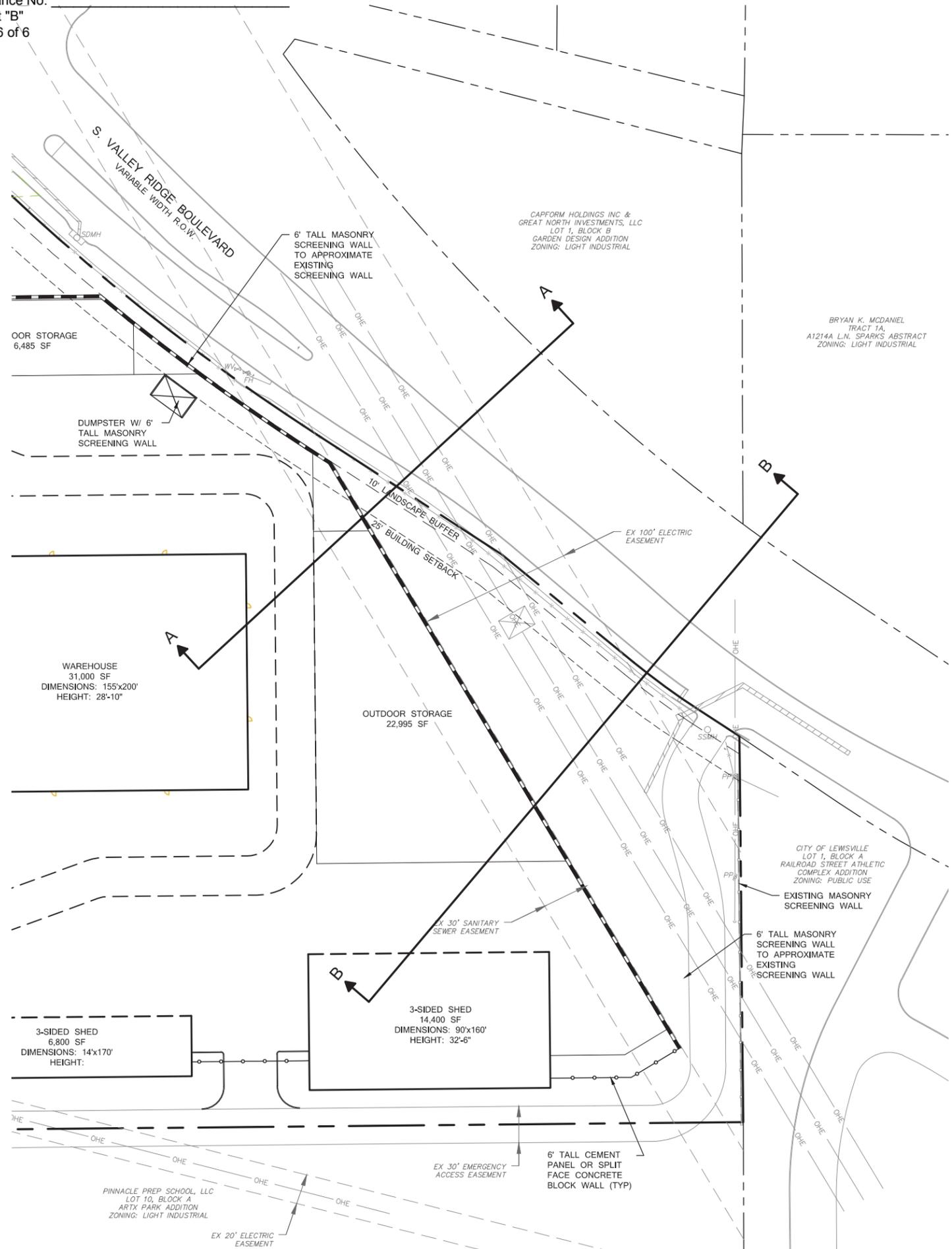
LIGHTSTONE (LS)

METAL TRIM



ISSUE AND REVISION LOG

DATE	ACTIVITY
09-27-17	PERMIT ISSUE
5-9-17	CITY REVIEW RESPONSE
6-14-17	CITY REVIEW RESPONSE
9-26-17	CITY REVIEW RESPONSE



THIS DOCUMENT IS FOR INTERIM REVIEW AND IS NOT INTENDED FOR CONSTRUCTION, BIDDING OR PERMIT PURPOSES.
 BY: Richard W. DeOtte
 Reg. No.: 74232
 Date: 07/07/2017

SITE CROSS SECTIONS FOR R.E.W. MATERIALS
 LOTS 11 & 12, BLOCK A OF THE ARTX PARK ADDITION
 6.68 ACRES
 EXISTING ZONING: LI & HI
 PROPOSED ZONING - WH

MEMORANDUM

TO: Donna Barron, City Manager

FROM: Brenda Martin, Director of Finance

DATE: December 6, 2017

SUBJECT: **Approval of a Supplemental Appropriation for Prior Year Encumbrances in the Following Amounts: General Fund - \$893,315; Lewisville 2025 Implementation/Incentives Fund - \$3,951; Hotel/Motel Fund - \$4,167; Asset Forfeiture-State Fund - \$6,888; Grants Fund - \$293,995; Crime Control & Prevention Fund - \$70,347; Fire Control & Prevention Fund - \$40,829; Utility Fund - \$275,043; Maintenance & Replacement Fund - \$131,020; Self-Insurance Risk Fund - \$776,675; Tax Increment Reinvestment Zone 1 - \$183,230; and LPLDC (4B) Fund - \$1,944; and Approval of Supplemental Appropriation to Properly Fund Donation Projects in the Following Amounts – Recreation Activity Fund - \$2,300; Fire and Police Training Fund - \$33,866.**

BACKGROUND

Each year a recommendation is made to supplementally appropriate funds for open purchase orders from the prior year. Open purchase orders are defined as those purchase orders that have been issued, but not all of the ordered goods or services have been received.

ANALYSIS

Purchase orders that have been issued during a fiscal year, but in which the goods or services have not been received in-hand or performed, may not, in conformance with generally accepted accounting principles, be expenses until received or performed. At year end these items represent amounts that are shown in the financial statements as restrictions to fund balance or net assets in the various funds of the City.

As a result, when the items or services are received in the current fiscal year, they are charged to the current year budget. Unless the current fiscal year appropriations are amended to provide for these charges, funds in the affected line item accounts will be short at year-end or expenditures would need to be reduced to offset the prior year purchase.

Subsequent to the close of the 2017 fiscal year, outstanding purchase orders from said fiscal year are extensively reviewed. If the order has been received or is expected to be received by the end

of the current 2018 fiscal year, then recommendation is made that the funds be appropriated as an addition to the current budget year.

This year's listing of purchase orders open at the end of Fiscal Year 2017 is detailed on the attached spreadsheet.

RECOMMENDATION

It is City staff's recommendation that the City Council approve the supplemental appropriation as stated above.

MEMORANDUM

TO: Donna Barron, City Manager

FROM: Gina Thompson, Strategic Services Director

DATE: December 7, 2017

SUBJECT: **Approval of Supplemental Appropriations to properly fund donation projects in the following amounts: Recreation Activity Fund - \$2,300; Fire and Police Training Fund - \$33,866.**

BACKGROUND

Staff estimates donations received by the City annually as part of the budget process each year.

ANALYSIS

At the end of the fiscal year, an analysis is conducted to ensure that all donations were budgeted. If donations were received in excess of the amount budgeted, a supplemental appropriation is needed to move the donation into a donation project for departmental use.

RECOMMENDATION

That the City Council approve the supplemental appropriations as set forth in the caption above.

OUTSTANDING POS
FISCAL YEAR 206-2017

ACCOUNT	PO NUMBER	ENC. DATE	VENDOR	PO DESCRIPTION	OUTSTANDING	COMMENTS
101.01.101.4351	2015-0000380	11/17/2014	TBG Partners, Inc.	Professional Services	\$8,631.76	Services not complete
101.01.101.4351	2017-00001318	5/30/2017	Bracewell LLP	Professional Services	\$17,100.23	Services not complete
101.01.101.4351	2017-00001368	6/8/2017	Hawes Hill & Associates LLP	Professional Services	\$52,143.43	Services not complete
101.01.101.4351	2017-00001848	9/28/2017	City of Lewisville	Stormwater Liabilities	\$100,000.00	Services not complete
101.01.101.4351	2017-000001875	9/30/2017	Hawes Hill & Associates LLP	Professional Service	\$70,000.00	Services not complete
101.01.102.4243	2017-00001620	8/14/2017	Office Depot	Office Equipment	\$11,881.00	Paid October
101.01.102.4315	2017-00001441	6/26/2017	USA Shade and Fabric Structures Inc.	Storm Damage Repair	\$92,667.00	Services not complete
101.01.102.4351	2017-00001655	8/17/2017	Giving Hope, Inc.	CDGB Grant Services	\$8,514.79	Services not complete
101.01.102.4981	2017-00001735	8/31/2017	Sealegs US Corp.	Vehicle/Boat	\$125,000.00	Item on backorder
101.03.110.4243	2017-00001644	8/17/2017	Office Depot	Office Equipoment	\$1,737.04	Paid November
101.03.110.4243	2017-00001710	8/29/2017	Fast Signs	Dedication Plaque	\$2,583.00	Paid November
101.03.110.4351	2017-00001872	9/20/2017	Petty & Associates, Inc.	Professional Services	\$106,677.00	Services not complete
101.03.110.4351	2017-00001666	8/21/2017	Mgt. of America Inc.	Professional Services	\$7,000.00	Services not complete
101.03.110.4351	2017-00001837	9/20/2017	BrandEra, Inc.	Professional Services	\$20,000.00	Services not complete
101.07.251.4243	2017-00001626	8/14/2017	GT Distributors, Inc.	Equipment	\$4,829.45	Item on backorder
101.07.256.4243	2017-00001762	9/5/2017	Office Depot	Office Furniture	\$2,449.44	Paid November
101.08.258.4315	2017-00001763	9/5/2017	Solar Accessories	Repair to Gate	\$5,680.00	Paid October
101.08.270.4223	2017-00001767	9/6/2017	Casco Industries Inc.	Equipment	\$2,703.50	Paid November
101.08.270.4243	2017-00001768	9/6/2017	NAFECO	Equipment	\$5,302.52	Paid November
101.08.270.4982	2017-00001735	8/31/2017	Sealegs US Corp.	Vehicle/Boat	\$8,660.00	Item on backorder
101.08.273.4321	2017-00001823	9/12/2017	Dive Rescue	Dive Suite Repair	\$1,265.00	Paid November
101.09.300.073.4315	2017-00001182	4/28/2017	Professional Pipe Services	Professional Services	\$99,500.00	Services not complete
101.09.310.4315	2016-00001555	8/31/2016	Environmental Lighting Service LLC	Electric Services	\$3,930.00	Services not complete
101.09.310.4315	2017-00001669	8/22/2017	Terex Services	Equipment Repair	\$3,902.46	Services not complete
101.09.315.090.4260	2017-00001285	5/22/2017	NT Signal Service, Inc.	Equipment & Installation	\$3,560.00	Paid November
101.10.420.175.4351	2017-00001837	9/20/2017	BrandEra, Inc.	Professional Services	\$2,700.00	Services not complete
101.10.470.160.4364	2016-00001697	9/9/2016	Tyler Technologies, Inc.	Executime Time & Attendance Mobile	\$5,075.00	Services not complete
101.12.110.4223	2017-00001851	9/29/2017	Lewisville Lettering LLC	Apparel	\$356.34	Paid October
101.12.120.4211	2017-00001805	9/7/2017	Office Depot	Office Furniture	\$455.37	Paid October
101.12.121.4351	2016-00000113	10/7/2015	Brink's Incorporated	Armored Car Service	\$9,324.00	Pending revised invoices
101.12.124.4351	2017-00001459	6/29/2017	Newgen Strategies & Solutions LLC	Professional Services	\$2,246.87	Services not complete
101.14.142.4243	2017-00001818	9/8/2017	Norcostco	Equipment	\$11,017.84	Paid October
101.14.150.4243	2017-00001647	8/17/2017	North Texas Trailers	Trailer	\$14,456.70	Paid October
101.14.150.4351	2017-00001865	9/30/2017	Dallas Morning New	Custom Publication	\$20,000.00	Paid October
101.14.152.4243	2017-00001816	9/8/2017	B & H Photo Video Inc.	Equipment	\$1,587.64	Paid October
101.15.160.4351	2015-00001582	9/10/2015	WSP USA inc.	Professional Services	\$2,024.43	Services not complete
101.15.160.4351	2016-00001651	9/8/2016	Livable Plans and Codes	Professional Services	\$13,115.00	Services not complete
101.15.160.4357	2017-00001865	9/30/2017	Dallas Morning New	Custom Publication	\$15,000.00	Paid October

OUTSTANDING POS
FISCAL YEAR 206-2017

101.15.160.4357	2015-00001455	9/1/2015	Catalyst Commercial Inc.	Professional Services	\$14,231.25	Services not complete
101.15.160.4357	2017-00001822	9/8/2017	TBG Partners, Inc.	Professional Services	\$8,500.00	Services not complete
101.18.110.4243	2017-00001737	8/31/2017	National Business Furniture	Office Furniture	\$2,975.08	Paid October
101.20.110.4243	2017-00001798	9/6/2017	Dealers Electric Supply	Electrical Upgrade	\$4,531.92	Services not complete
			TOTAL GENERAL FUND		\$893,315.06	
150.03.110.4351	2017-00000488	11/23/2016	Strategic Community Solutions LLC	Professional Services	\$3,950.65	Services not complete
			TOTAL IMPLEMENTATION/INCENTIVES FUND		\$3,950.65	
230.14.153.4351	2017-00000326	10/28/2016	Mixed Media Creations	Professional Services	\$4,166.67	Services not complete
			TOTAL HOTEL/MOTEL TAX FUND		\$4,166.67	
241.07.254.4243	2017-00001762	9/5/2017	Office Depot	Office Furniture	\$6,887.64	Paid November
			TOTAL ASSET FORFEITURE-EPT. OF JUSTICE		\$6,887.64	
280.40.383.600.4351	2017-00000756	1/26/2017	RJN Group	Professional Services	\$207.28	Services not complete
280.40.383.600.4351	2017-00001375	6/9/2017	2L Construction, LLC	Construction Project	\$73,500.20	Services not complete
280.40.383.600.4351	2017-00001517	7/17/2017	3D Mechanical	Housing Rehab Improvements	\$7,314.00	Paid October
280.40.383.600.4351	2017-00001724	8/30/2017	3D MechanicalService Company, Inc.	Housing Rehab Improvements	\$5,735.00	Paid October
280.40.383.600.4351	2016-00001628	9/7/2016	Children's Advocacy Center	Facility Remodel	\$12,053.00	Services not complete
280.40.383.600.4351	2016-00001629	9/7/2016	Special Abilities of North Texas	Facility Remodel	\$35,000.00	Services not complete
280.40.383.600.4351	2017-00000758	1/27/2017	White Hawk Engineering & Design, LLC	Professional Services	\$3,416.00	Services not complete
280.40.383.600.4351	2017-00001373	6/8/2017	Krapff Reynolds Construction Co.	Sewer Manhole Project	\$156,419.77	Services not complete
280.40.383.600.4351	2017-00001537	7/20/2017	Itech Environmental Services	Housing Rehab Improvements	\$350.00	Services not complete
			TOTAL CDBG GRANTS FUND		\$293,995.25	
285.07.110.4364	2017-00001812	9/8/2017	CI Technologies, Inc.	Softward Upgrade	\$17,250.00	Services not complete
285.07.251.4222	2017-00001765	9/6/2017	Blue Moon Sportswear, Inc.	Uniform Apparel	\$2,921.50	Item on backorder
285.07.251.4243	2017-00001803	9/7/2017	Bob Barker Company, Inc.	Equipment	\$48,559.00	Item on backorder
285.07.258.4243	2017-00001762	9/5/2017	Office Depot	Office Furniture	\$1,616.58	Paid November
			TOTAL CRIME CONTROL & PREVENTION FUND		\$70,347.08	
286.08.258.4243	2017-00001770	9/6/2017	Fire Supply, Inc.	Equipment	\$6,668.78	Paid November
286.08.258.4243	2017-00001784	9/7/2017	NAFECO	Equipment	\$2,684.84	Item on backorder
286.08.258.4243	2017-00001787	9/7/2017	Dooley Tackaberry	Equipment	\$6,229.94	Item on backorder
286.08.258.4243	2017-00001821	9/8/2017	Siddons-Martin Emergency Group, LLC	Equipment	\$2,834.01	Item on backorder
286.08.258.4341	2017-00001870	9/30/2017	Siddons-Martin Emergency Group	Travel Expenses for New Fire Truck	\$10,500.00	Services not complete
286.18.110.4243	2017-00001665	8/21/2017	GTS Technology Solutions, Inc.	Computer Hardware	\$3,104.46	Paid October
286.18.110.4364	2017-00001755	9/5/2017	Zoll Data Systems	Software Upgrade	\$8,807.12	Services not complete
			TOTAL FIRE CONTROL & PREVENTION FUND		\$40,829.15	
402.01.100.4351	2017-00001257	5/15/2017	RJN Group	Professional Services	\$151,292.55	Services not complete
402.01.100.4351	2017-00001848	9/28/2017	City of Lewisville	Stormwater Liabilities	\$20,000.00	Services not complete
402.01.102.4361	2017-00000503	11/19/2016	Newgen Strategies & Solutions LLC	Professional Services	\$21,858.00	Services not complete
402.09.110.4358	2017-00000854	2/15/2017	Freese & Nichols, Inc.	Professional Services	\$11,905.99	Services not complete
402.09.110.4358	2015-00000691	1/28/2015	McCreary & Associates Inc.	Professional Services	\$12,766.00	Services not complete

OUTSTANDING POS
FISCAL YEAR 206-2017

402.09.110.4358	2015-0000966	4/13/2015	HDR Engineering, Inc.	Professional Services	\$3,081.21	Services not complete
402.09.322.4243	2017-00001751	9/1/2017	Grainger Inc.	Equipment	\$331.33	Paid October
402.09.345.130.4260	2017-00001753	9/5/2017	Jersey Equipment	Waste Water Equipment	\$8,350.00	Paid October
402.09.345.130.4260	2017-00001775	9/6/2017	Amwell	Equipment	\$2,507.86	Paid October
402.09.345.132.4225	2017-00001779	9/6/2017	Pure Air Filiteration	Chemicals	\$22,984.00	Paid October
402.09.345.132.4260	2017-00001779	9/6/2017	Pure Air Filiteration	Chemicals	\$900.00	Paid October
402.09.350.133.4243	2017-00001685	8/23/2017	Staples Business Advantage	Training Room Furniture	\$10,029.34	Paid October
402.12.110.4223	2017-00001851	9/29/2017	Lewisville Lettering LLC	Apparel	\$367.80	Paid October
402.12.123.4351	2016-00000113	10/7/2015	Brink's Incorporated	Armored Car Service	\$2,211.12	Pending revised invoices
402.12.123.4351	2017-00001379	6/12/2017	STW Inc.	Professional Services	\$6,458.00	Services not complete
			TOTAL UTILITY FUND		\$275,043.20	
503.151	2017-00001772	9/6/2017	Professional Turf Products	Equipment	\$2,358.76	Paid October
503.09.360.4315	2017-00001546	7/25/2017	Custard Construction Services	Building Additions	\$29,836.28	Services not complete
503.09.360.4351	2017-00000652	1/5/2017	Chastang's Bayou City Ford	Vehicle: F550 Brush Truck	\$1,000.00	Should receive Dec. 2017
503.09.360.4961	2017-00000652	1/5/2017	Chastang's Bayou City Ford	Vehicle: F550 Brush Truck	\$97,825.00	Should receive Dec. 2017
			TOTAL MAINTENANCE & REPLACEMENT FUND		\$131,020.04	
504.01.102.4961	2016-00000312	11/3/2015	Clark Security	Equipment & Installation	\$36,390.75	Services not complete
504.13.142.4705	2017-00001435	6/23/2017	Lewisville Glass & Mirror	Repairs: Storm Damage	\$18,550.00	Services not complete
504.13.142.4705	2017-00001638	8/15/2017	Safe Slide Restoration	Slide Repairs	\$49,200.00	Paid November
504.13.142.4705	2017-00001791	9/7/2017	Motorola Solutions Inc.	Equipment	\$13,041.00	Paid November
504.13.142.4705	2017-00001434	6/23/2017	Duro-Last Roofing	Storm Damage Repair	\$656,307.93	Services not complete
504.13.142.4961	2016-00000312	11/3/2015	Clark Security	Equipment & Installation	\$3,185.70	Services not complete
			TOTAL SELF-INSURANCE RISK FUND		\$776,675.38	
792.15.160.4351	2017-00001727	8/30/2017	125 S. Walters, LLC	Professional Services	\$183,230.74	Services not complete
			TOTAL INCREMENT REINVESTMENT ZONE 1		\$183,230.74	
794.20.110.4223	2017-00001761	9/5/2017	Library Supply Solutions	Equipment	\$1,944.00	Paid October
			TOTAL LPLDC (4B) FUND		\$1,944.00	

MEMORANDUM

TO: Donna Barron, City Manager

FROM: Matt Grebliunas, Director of Human Resources

DATE: December 13, 2017

SUBJECT: Approval of Revisions to Human Resources 2.0 Section IV - Employee Performance Evaluation/ Compensation Plan

BACKGROUND

The City Policy Statement 2.0 Section IV – Employee Performance Evaluation/Compensation Plan currently provides supervisors with the authority to give General Government Employees a Spot Award for quality performance that exceeds expectations. The Spot Awards can be redeemed in the Human Resources Department for a gift certificate not to exceed \$25.00. Sworn police and fire personnel are not eligible for Spot Awards. Departments received a limited number of Spot Awards annually for distribution to their employees. This has been a very successful program since 1996 providing “on the spot” recognition for exceptional performance.

In addition, the policy provides a process for employees to receive Quality Awards through an employee nomination process. A committee of employees considers the nominations based on established criteria and can award employees cash from \$50 to \$500 or up to 16 hours of paid time off. This program has never been widely utilized and has not resulted in a nomination in over ten years.

ANALYSIS

The Culture Committee recommended that the Quality Award program be renamed The Way Award. The intent would still be to give supervisors the ability to provide employees who demonstrate exceptional performance with immediate recognition. The Way Award will be tied to performance that shows someone’s commitment to living The Lewisville Way by valuing people, serving every day and building the future. The Way Award would still be redeemed through the Human Resources Department for a gift card not to exceed \$25. The Culture Committee also recommended allowing sworn police and fire personnel to receive The Way Awards.

Since the Quality Award program is not a viable program, staff recommends removing it from the policy and utilizing a committee of employees to provide a recommendation for a replacement recognition program for Council’s consideration in the future.

Subject: ADMINISTRATIVE POLICY 2.7.4
December 13, 2017
Page 2

RECOMMENDATION

It is City staff's recommendation that the City Council approve the policy as set forth in the caption above.

**CITY OF LEWISVILLE
POLICY STATEMENTS**

TOPIC: 2.0 – HUMAN RESOURCES
**REFERENCE: SECTION IV - EMPLOYEE PERFORMANCE EVALUATION/
COMPENSATION PLAN**

I. EMPLOYEE PERFORMANCE EVALUATION/COMPENSATION PLAN

- A. The City Manager is authorized to establish a standardized performance evaluation system to administer performance related pay changes.
- B. General Pay Certification
 - 1. Bilingual Certification Pay
 - a. Bilingual Certification Pay is available to all employees who are certified as bilingual in Spanish and English through the testing standards established and maintained by the Human Resources Department.
 - b. Employees certified as bilingual will be paid an additional \$50 a month.
 - 2. Lifeguard Certification Reimbursement
 - a. The City of Lewisville requires all lifeguards to be certified prior to hire. The City will pay lifeguards up to \$160 as a certification reimbursement. For every fifteen work shifts, lifeguards earn \$40 of certification reimbursement, up to a maximum of \$160.
 - b. Certification reimbursement is paid at the close of the season. In order for lifeguards to be eligible for the reimbursement, they must complete the season in good standing.
 - 3. Police Officer Hiring Incentive Program
 - a. All City Employees are eligible to participate in the Police Officer and Public Safety Communications Hiring Incentive Program with the exception of the following personnel:

- (1) Department Directors, City Manager, Assistant City Managers and Human Resources Department Personnel.
 - (2) Police Department Administrative Staff including Assistant Chiefs, Captains and personnel assigned to conduct backgrounds as part of their normal duties.
 - b. Police Officer applicants and Public Safety Communication applicants will be allowed to name City Employees on their on-line applications as “Recruitment Source”.
 - c. If the applicant for Police Officer or a Public Safety Communications position is hired, the eligible employee listed on the application as “Recruitment Source” will receive \$250 compensation. Once the hired employee completes the Field Training Program, the recruiting employee will receive additional \$250 compensation.
- B. Police Department Rank Structure Compensation Plan
1. Certification/Education Pay (\$150 Maximum for Certification or Education, Whichever is Greater).
 - a. Certification pay is available to all sworn positions in the Police Department. The TCLEOSE certificate must be submitted with the Employee Action Notice and the pay will be retroactive to the first day of the pay period in which the certification was approved by TCLEOSE.
 - b. Education pay is available to all sworn positions in the Police Department. A copy of the diploma must be provided by the employees and attached to the Employee Action Notice. The pay will be effective on the first day of the pay period that the employee provides a copy of his diploma, providing there are at least four calendar days left in the pay period.
 - c. Rank employees will be paid \$50 for an Associate Degree or Intermediate Certification, \$100 for a Bachelor's Degree or Advanced Certification, or \$150 for a Master's Degree or a Masters Certification.
 - d. There is a \$150 cap that applies to education/certification pay. Employees are paid for either their education or certification, whichever is greater.

2. Field Training Officer Pay (Assignment Pay)

- a. Field Training Officer (FTO) Pay will be paid to all police officers assigned to the Field Training Program for police recruits. Each FTO will be paid \$100 a month for any month the officer is assigned a recruit through the Field Training Program.
- b. The department is responsible for submitting an Employee Action Notice to the Human Resources Department for processing any changes to FTO pay.

3. Clothing Allowance

- a. The clothing allowance is designed to replace sworn personnel's personal clothing worn in certain assignments that might be destroyed or damaged in the course of completing duties.
- b. All the sworn police personnel assigned to Criminal Investigation Division, the personnel/background investigator, Assistant Police Chiefs and the Police Chief are eligible for an annual clothing allowance not to exceed \$500.
- c. The clothing allowance is disbursed in October and April. Employees assigned to one of the eligible positions receive \$250 after they have been assigned to the eligible position for six months. If the employee has been in the assignment for less than six months, the allowance is prorated to cover only the months the employee was assigned to the eligible position.

C. Fire Department Rank Structure Compensation Plan

1. Certification/Education/Special Assignment Pay (\$150 Maximum for Certification or Education, Whichever is Greater).
 - a. Certification Pay is available to all rank positions of the Fire Departments. A copy of the Texas Commission on Fire Protection certification must be attached to the Employee Action Notice, and the pay will be retroactive to the first day of the pay period in which the certification was approved by the Commission.
 - b. Education Pay is available to all rank positions in the Fire Department. The pay will go into effect the first day of the pay period that the employee brings his diploma, providing that there are at least four calendar days left in the pay period.

- c. Diver Certification Pay and Arson Investigator Special Assignment Pay are set at \$50 per month. This pay falls under the maximum \$150 cap that applies to other certification/education/special assignment pay. Arson Investigator special assignment pay is only available to employees assigned to the firefighter pay plan who are performing part-time arson investigation duties.
- d. Rank employees will be paid \$50 for an Associate Degree or Intermediate Certification, \$100 for a Bachelor's Degree or Advanced Certification, or \$150 for a Master's Degree or a Masters Certification.
- e. There is a \$150 cap that applies to education/certification/special assignment pay. Employees are paid for either their education or certification, whichever is greater.

2. Paramedic Pay (Assignment Pay)

- a. Paramedic Pay will be paid to all certified fire personnel who are assigned to function as a paramedic.
 - (1) The monthly amount certified fire personnel assigned to the ambulance receive is paid as follows:
 - (a) 0 - 2 years experience - \$150
 - (b) 2 - 8 years experience - \$200
 - (c) 8+ years experience - \$250
 - (2) The monthly amount certified fire personnel assigned to a suppression company receive is \$125.
- b. The department is responsible for submitting an Employee Action Notice to the Human Resources Department for processing for any changes to paramedic pay.

3. Shift Paramedic Preceptor Pay (Assignment Pay)

- a. Shift Paramedic Preceptor Pay will be paid to paramedics assigned to assist in EMS coordination at each fire station housing a medic unit.
- b. Each paramedic assigned to assist in EMS coordination will receive \$100 per month.

C. The Way Award

1. All full-time employees and regular part-time employees who work a minimum of 20 hours per week who have been employed for one continuous year are eligible for the Way Award if they have had no formal discipline in the last six months and are not currently under a Performance Improvement Plan.
2. Supervisors can award Way Awards to employees who have gone above and beyond to demonstrate their commitment to living The Lewisville Way by valuing people, serving every day and building the future. .
3. Employees can redeem the Way Award at the Human Resources Department for gift certificates not to exceed \$25.00.

D. City Manager's Outstanding Performance Award

The City Manager may award up to two \$1,000 cash awards to employees who have had a major impact on the overall organization. The award is based on documented past performance of an exceptional nature as well as actions that support the City's vision and values. The recipient(s) are selected annually with the award presented at the annual employee picnic. The City Manager determines award recipients and may deem that no employees are eligible for a particular year.

II. GENERAL PROVISIONS

The City of Lewisville reserves the right to change, modify, amend, revoke, or rescind all or part of this policy in the future.

MEMORANDUM

TO: Melinda Galler, Assistant City Manager

FROM: Russ Kerbow, Police Chief

DATE: December 4, 2017

SUBJECT: **Approval of a Grant From the Texas Department of Transportation for the Traffic Safety Program; and Authorization for the City Manager to Execute the Grant Agreement.**

BACKGROUND

The City of Lewisville is eligible to receive a grant award of \$10,340.41 provided by the Texas Department of Transportation (TxDOT). The program is titled, “Impaired Driving Mobilization (IDM).” The program is to conduct impaired driving enforcement throughout FY 2017-2018. This project has quarterly enforcement mobilizations during the following holiday periods: Christmas/New Years, Spring Break, Independence Day, and Labor Day. The City previously received awards for similar enforcement programs.

ANALYSIS

Grant funds will pay 80% of the program cost. The matches are a combination of cash (\$8,272.31) and indirect/labor (\$2,068.10) match. The indirect match is in the form of vehicle operating costs and officers’ benefits. The indirect costs are calculated based on a TxDOT approved methodology, and this constitutes the indirect match. The cash match has already been appropriated through the budget process. Officers working on this program will be paid at their overtime rate.

The hours, mileage and travel cost details are as follows:

DESCRIPTION	MEASURE	COST
Enforcement hours	113	\$6,531.27
Supervisory and administrative hours	8	\$530.24
Enforcement mileage	935	\$1,683.00
Indirect costs	As per TXDOT	\$1,595.90
TOTAL PROGRAM COST		\$10,340.41

RECOMMENDATION

It is City staff’s recommendation that the City Council approve the grant as set forth in the caption.

Texas Traffic Safety eGrants

Fiscal Year 2018

Organization Name: City of Lewisville Police Department

Legal Name: City of Lewisville

Payee Identification Number: 17560005831001

Project Title: STEP - Impaired Driving Mobilization

ID: 2018-LewisvPD-IDM-00007

Period: 10/01/2017 to 09/30/2018

**Texas Department Of Transportation - Traffic Safety
 Electronic Signature Authorization Form**

This form identifies the person(s) who have the authority to sign grant agreements and amendments for the Grant ID listed at the bottom of the page.

Name Of Organization: City of Lewisville

Project Title: STEP - Impaired Driving Mobilization

Authorizing Authority	
The signatory of the Subgrantee hereby represents and warrants that she/he is an officer of the organization for which she/he has executed this agreement and that she/he has full and complete authority to enter into the agreement on behalf of the organization. I authorize the person(s) listed under the section "Authorized to Electronically Sign Grant Agreements and Amendments" to enter into an agreement on behalf of the organization.	
Name:	Donna Barron
Title:	City Manager
Signature:	
Date:	12/19/17
Under the authority of Ordinance or Resolution Number (if applicable)	

Authorized to Electronically Sign Grant Agreements and Amendments		
List Subgrantee Administrators who have complete authority to enter into an agreement on behalf of the organization.		
	Print Name of Subgrantee Administrator in TxDOT Traffic Safety eGrants	Title
1.	Russ Kerbow	Chief of Police
2.	Paul Barron	Traffic Sergeant
3.	Kevin Deaver	Assistant Chief

General Information

Project Title STEP - Impaired Driving Mobilization

Project Description To conduct DWI enforcement Waves during holiday periods to increase DWI arrests and earned media activity as part of the statewide "Drink. Drive. Go To Jail" campaign and in conjunction with the national Impaired Driving Mobilization campaign

How many years has your organization received funding for this project?
This will be our fifth or more year.

Select a County: Denton County - Dallas District

Select a Political District Served ([View a map](#)):

U.S. Congress* Congressional District 24
Congressional District 26

Texas Senate* Texas Senate District 8
Texas Senate District 9
Texas Senate District 12

Texas House* Texas House of Representatives District 63
Texas House of Representatives District 64
Texas House of Representatives District 65
Texas House of Representatives District 66
Texas House of Representatives District 115

Texas Traffic Safety Program

GRANT AGREEMENT GENERAL TERMS AND CONDITIONS

Definitions: For purposes of these Terms and Conditions, the "Department" is also known as the "State" and the "prospective primary participant" and the "Subgrantee" is also known as the "Subrecipient" and "prospective lower tier participant"

ARTICLE 1. COMPLIANCE WITH LAWS

The Subgrantee shall comply with all federal, state, and local laws, statutes, codes, ordinances, rules and regulations, and the orders and decrees of any courts or administrative bodies or tribunals in any matter affecting the performance of this agreement, including, without limitation, workers' compensation laws, minimum and maximum salary and wage statutes and regulations, nondiscrimination laws and regulations, and licensing laws and regulations. When required, the Subgrantee shall furnish the Department with satisfactory proof of compliance.

ARTICLE 2. STANDARD ASSURANCES

The Subgrantee assures and certifies that it will comply with the regulations, policies, guidelines, and requirements, including 2 CFR, Part 200; and the Department's Traffic Safety Program Manual, as they relate to the application, acceptance, and use of federal or state funds for this project. Also, the Subgrantee assures and certifies that:

A. It possesses legal authority to apply for the grant; and that a resolution, motion, or similar action has been duly adopted or passed as an official act of the applicant's governing body, authorizing the filing of the application, including all understandings and assurances contained in the application, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide any additional information that may be required.

B. It and its subcontractors will comply with Title VI of the Civil Rights Act of 1964 (Public Law 88-352), as amended, and in accordance with that Act, no person shall discriminate, on the grounds of race, color, sex, national origin, age, religion, or disability.

C. It will comply with requirements of the provisions of the Uniform Relocation Assistance and Real Property Acquisitions Act of 1970, as amended; 42 USC (United States Code) §§4601 et seq.; and United States Department of Transportation (USDOT) regulations, "Uniform Relocation and Real Property Acquisition for Federal and Federally Assisted Programs," 49 CFR, Part 24, which provide for fair and equitable treatment of persons displaced as a result of federal and federally assisted programs.

D. It will comply with political activity (Hatch Act) (applies to subrecipients as well as States). The State will comply with provisions of the Hatch Act (5 U.S.C. 1501-1508) which limits the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

E. It will comply with the federal Fair Labor Standards Act's minimum wage and overtime requirements for employees performing project work.

F. It will establish safeguards to prohibit employees from using their positions for a purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business, or other ties.

G. It will give the Department the access to and the right to examine all records, books, papers, or documents related to this Grant Agreement.

H. It will comply with all requirements imposed by the Department concerning special requirements of law, program requirements, and other administrative requirements.

City of Lewisville Police Department
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I. It recognizes that many federal and state laws imposing environmental and resource conservation requirements may apply to this Grant Agreement. Some, but not all, of the major federal laws that may affect the project include: the National Environmental Policy Act of 1969, as amended, 42 USC §§4321 et seq.; the Clean Air Act, as amended, 42 USC §§7401 et seq. and sections of 29 USC; the Federal Water Pollution Control Act, as amended, 33 USC §§1251 et seq.; the Resource Conservation and Recovery Act, as amended, 42 USC §§6901 et seq.; and the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 USC §§9601 et seq. The Subgrantee also recognizes that the U.S. Environmental Protection Agency, USDOT, and other federal agencies have issued, and in the future are expected to issue, regulations, guidelines, standards, orders, directives, or other requirements that may affect this Project. Thus, it agrees to comply, and assures the compliance of each contractor and each subcontractor, with any federal requirements that the federal government may now or in the future promulgate.

J. It will comply with the flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973, 42 USC §4012a(a). Section 102(a) requires, on and after March 2, 1975, the purchase of flood insurance in communities where that insurance is available as a condition for the receipt of any federal financial assistance for construction or acquisition purposes for use in any area that has been identified by the Secretary of the Department of Housing and Urban Development as an area having special flood hazards. The phrase "federal financial assistance" includes any form of loan, grant, guaranty, insurance payment, rebate, subsidy, disaster assistance loan or grant, or any form of direct or indirect federal assistance.

K. It will assist the Department in its compliance with Section 106 of the National Historic Preservation Act of 1966 as amended (16 USC 470 et seq.), Executive Order 11593, and the Antiquities Code of Texas (National Resources Code, Chapter 191).

L. It will comply with Chapter 573 of the Texas Government Code by ensuring that no officer, employee, or member of the Subgrantee's governing board or the Subgrantee's subcontractors shall vote or confirm the employment of any person related within the second degree of affinity or third degree by consanguinity to any member of the governing body or to any other officer or employee authorized to employ or supervise that person. This prohibition shall not apply to the employment of a person described in Section 573.062 of the Texas Government Code.

M. It will ensure that all information collected, assembled, or maintained by the applicant relative to this project shall be available to the public during normal business hours in compliance with Chapter 552 of the Texas Government Code, unless otherwise expressly provided by law.

N. If applicable, it will comply with Chapter 551 of the Texas Government Code, which requires all regular, special, or called meetings of governmental bodies to be open to the public, except as otherwise provided by law or specifically permitted in the Texas Constitution.

ARTICLE 3. COMPENSATION

A. The method of payment for this agreement will be based on actual costs incurred up to and not to exceed the limits specified in the Project Budget. The amount included in a Project Budget category will be deemed to be an estimate only and a higher amount can be reimbursed, subject to the conditions specified in paragraph B of this Article. If the Project Budget specifies that costs are based on a specific rate, per-unit cost, or other method of payment, reimbursement will be based on the specified method.

B. All payments will be made in accordance with the Project Budget.

1. The Subgrantee's expenditures may overrun a budget category (I, II, or III) in the approved Project Budget without a grant (budget) amendment, as long as the overrun does not exceed a total of five (5) percent of the maximum amount eligible for reimbursement (TxDOT) in the attached Project Budget for the current fiscal year. This overrun must be off-set by an equivalent underrun elsewhere in the Project Budget.

2. If the overrun is five (5) percent or less, the Subgrantee must provide written notification to the Department, through the TxDOT Electronic Grants Management System (eGrants), prior to the Request for Reimbursement being approved. The notification must indicate the amount, the percent over, and the specific reason(s) for the overrun.

3. Any overrun of more than five (5) percent of the amount eligible for reimbursement (TxDOT) in the attached Project Budget requires an amendment of this Grant Agreement.

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4. The maximum amount eligible for reimbursement shall not be increased above the Grand Total TxDOT Amount in the approved Project Budget, unless this Grant Agreement is amended, as described in Article 5 of this agreement.

5. For Selective Traffic Enforcement Program (STEP) grants only: In the Project Budget, Subgrantees are not allowed to use underrun funds from the TxDOT amount of (100) Salaries, Subcategories A, "Enforcement," or B, "PI&E Activities," to exceed the TxDOT amount listed in Subcategory C, "Other." Also, Subgrantees are not allowed to use underrun funds from the TxDOT amount of (100) Salaries, Subcategories A, "Enforcement," or C, "Other," to exceed the TxDOT amount listed in Subcategory B, "PI&E Activities." The TxDOT amount for Subcategory B, "PI&E Activities," or C, "Other," can only be exceeded within the five (5) percent flexibility, with underrun funds from Budget Categories II or III.

C. To be eligible for reimbursement under this agreement, a cost must be incurred in accordance with the Project Budget, within the time frame specified in the Grant Period of this Grant Agreement, attributable to work covered by this agreement, and which has been completed in a manner satisfactory and acceptable to the Department.

D. Federal or TxDOT funds cannot supplant (replace) funds from any other sources. The term "supplanting," refers to the use of federal or TxDOT funds to support personnel or an activity already supported by local or state funds.

E. Payment of costs incurred under this agreement is further governed by the cost principles outlined in 2 CFR Part 200.

F. The Subgrantee agrees to submit monthly Requests for Reimbursement, as designated in this Grant Agreement, within thirty (30) days after the end of the billing period. The Request for Reimbursement and appropriate supporting documentation must be submitted through eGrants.

G. The Subgrantee agrees to submit the final Request for Reimbursement under this agreement within forty-five (45) days of the end of the grant period.

H. Payments are contingent upon the availability of appropriated funds.

I. Project agreements supported with federal or TxDOT funds are limited to the length of this Grant Period specified in this Grant Agreement. If the Department determines that the project has demonstrated merit or has potential long-range benefits, the Subgrantee may apply for funding assistance beyond the initial agreement period.

Preference for funding will be given to projects based on (1) proposed cost sharing and (2) demonstrated performance history.

ARTICLE 4. LIMITATION OF LIABILITY

Payment of costs incurred under this agreement is contingent upon the availability of funds. If at any time during this Grant Period, the Department determines that there is insufficient funding to continue the project, the Department shall notify the Subgrantee, giving notice of intent to terminate this agreement, as specified in Article 11 of this agreement. If at the end of a federal fiscal year, the Department determines that there is sufficient funding and performance to continue the project, the Department may notify the Subgrantee to continue this agreement.

ARTICLE 5. AMENDMENTS

This agreement may be amended prior to its expiration by mutual written consent of both parties, utilizing the Grant Agreement Amendment in eGrants. Any amendment must be executed by the parties within the Grant Period, as specified in this Grant Agreement.

ARTICLE 6. ADDITIONAL WORK AND CHANGES IN WORK

A. If the Subgrantee is of the opinion that any assigned work is beyond the scope of this agreement and constitutes additional work, the Subgrantee shall promptly notify the Department in writing through eGrants. If the Department finds that such work does constitute additional work, the Department shall advise the Subgrantee and a written amendment to this agreement will be executed according to Article 5, Amendments, to provide

compensation for doing this work on the same basis as the original work. If performance of the additional work will cause the maximum amount payable to be exceeded, the work will not be performed before a written grant amendment is executed.

B. If the Subgrantee has submitted work in accordance with the terms of this agreement but the Department requests changes to the completed work or parts of the work which involve changes to the original scope of services or character of work under this agreement, the Subgrantee shall make those revisions as requested and directed by the Department. This will be considered as additional work and will be paid for as specified in this Article.

C. If the Subgrantee submits work that does not comply with the terms of this agreement, the Department shall instruct the Subgrantee to make any revisions that are necessary to bring the work into compliance with this agreement. No additional compensation shall be paid for this work.

D. The Subgrantee shall make revisions to the work authorized in this agreement that are necessary to correct errors or omissions, when required to do so by the Department. No additional compensation shall be paid for this work.

E. The Department shall not be responsible for actions by the Subgrantee or any costs incurred by the Subgrantee relating to additional work not directly associated with or prior to the execution of an amendment.

ARTICLE 7. REPORTING AND MONITORING

A. Not later than thirty (30) days after the end of each reporting period, the Subgrantee shall submit a performance report through eGrants. Reporting periods vary by project duration and are defined as follows:

1. For short term projects, the reporting period is the duration of the project. Subgrantee shall submit a performance report within 30 days of project completion.

2. For longer projects, the reporting period is monthly. Subgrantee shall submit a performance report within 30 days of the completion of each project month and within 30 days of project completion.

3. For Selective Traffic Enforcement Program (STEP) Wave projects, the reporting period is each billing cycle. Subgrantee shall submit a performance report within 30 days of the completion of each billing cycle.

B. The performance report will include, as a minimum: (1) a comparison of actual accomplishments to the objectives established for the period, (2) reasons why established objectives and performance measures were not met, if appropriate, and (3) other pertinent information, including, when appropriate, an analysis and explanation of cost underruns, overruns, or high unit costs.

C. The Subgrantee shall promptly advise the Department in writing, through eGrants, of events that will have a significant impact upon this agreement, including:

1. Problems, delays, or adverse conditions, including a change of project director or other changes in Subgrantee personnel, that will materially affect the ability to attain objectives and performance measures, prevent the meeting of time schedules and objectives, or preclude the attainment of project objectives or performance measures by the established time periods. This disclosure shall be accompanied by a statement of the action taken or contemplated and any Department or federal assistance needed to resolve the situation.

2. Favorable developments or events that enable meeting time schedules and objectives sooner than anticipated or achieving greater performance measure output than originally projected.

D. The Subgrantee shall submit the Final Performance Report through eGrants within thirty (30) days after completion of the grant.

ARTICLE 8. RECORDS

The Subgrantee agrees to maintain all reports, documents, papers, accounting records, books, and other evidence pertaining to costs incurred and work performed under this agreement (called the "Records"), and shall make the Records available at its office for the time period authorized within the Grant Period, as specified in this Grant Agreement. The Subgrantee further agrees to retain the Records for four (4) years from the date of final

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payment under this agreement, until completion of all audits, or until pending litigation has been completely and fully resolved, whichever occurs last.

Duly authorized representatives of the Department, the USDOT, the Office of the Inspector General, Texas State Auditor, and the Comptroller General shall have access to the Records. This right of access is not limited to the four (4) year period but shall last as long as the Records are retained.

ARTICLE 9. INDEMNIFICATION

A. To the extent permitted by law, the Subgrantee, if other than a government entity, shall indemnify, hold, and save harmless the Department and its officers and employees from all claims and liability due to the acts or omissions of the Subgrantee, its agents, or employees. The Subgrantee also agrees, to the extent permitted by law, to indemnify, hold, and save harmless the Department from any and all expenses, including but not limited to attorney fees, all court costs and awards for damages incurred by the Department in litigation or otherwise resisting claims or liabilities as a result of any activities of the Subgrantee, its agents, or employees.

B. To the extent permitted by law, the Subgrantee, if other than a government entity, agrees to protect, indemnify, and save harmless the Department from and against all claims, demands, and causes of action of every kind and character brought by any employee of the Subgrantee against the Department due to personal injuries to or death of any employee resulting from any alleged negligent act, by either commission or omission on the part of the Subgrantee.

C. If the Subgrantee is a government entity, both parties to this agreement agree that no party is an agent, servant, or employee of the other party and each party agrees it is responsible for its individual acts and deeds, as well as the acts and deeds of its contractors, employees, representatives, and agents.

ARTICLE 10. DISPUTES AND REMEDIES

This agreement supersedes any prior oral or written agreements. If a conflict arises between this agreement and the Traffic Safety Program Manual, this agreement shall govern. The Subgrantee shall be responsible for the settlement of all contractual and administrative issues arising out of procurement made by the Subgrantee in support of work under this agreement. Disputes concerning performance or payment shall be submitted to the Department for settlement, with the Executive Director or his or her designee acting as final referee.

ARTICLE 11. TERMINATION

A. This agreement shall remain in effect until the Subgrantee has satisfactorily completed all services and obligations described in this agreement and these have been accepted by the Department, unless:

1. This agreement is terminated in writing with the mutual consent of both parties; or
2. There is a written thirty (30) day notice by either party; or
3. The Department determines that the performance of the project is not in the best interest of the Department and informs the Subgrantee that the project is terminated immediately.

B. The Department shall compensate the Subgrantee for only those eligible expenses incurred during the Grant Period specified in this Grant Agreement that are directly attributable to the completed portion of the work covered by this agreement, provided that the work has been completed in a manner satisfactory and acceptable to the Department. The Subgrantee shall not incur nor be reimbursed for any new obligations after the effective date of termination.

ARTICLE 12. INSPECTION OF WORK

A. The Department and, when federal funds are involved, the USDOT, or any of their authorized representatives, have the right at all reasonable times to inspect or otherwise evaluate the work performed or being performed under this agreement and the premises in which it is being performed.

B. If any inspection or evaluation is made on the premises of the Subgrantee or its subcontractor, the Subgrantee shall provide and require its subcontractor to provide all reasonable facilities and assistance for the safety and

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convenience of the inspectors in the performance of their duties. All inspections and evaluations shall be performed in a manner that will not unduly delay the work.

ARTICLE 13. AUDIT

The state auditor may conduct an audit or investigation of any entity receiving funds from the state directly under this agreement or indirectly through a subcontract under this agreement. Acceptance of funds directly under this agreement or indirectly through a subcontract under this agreement acts as acceptance of the authority of the State Auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. An entity that is the subject of an audit or investigation must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit.

ARTICLE 14. SUBCONTRACTS

A subcontract in excess of \$25,000 may not be executed by the Subgrantee without prior written concurrence by the Department. Subcontracts in excess of \$25,000 shall contain all applicable terms and conditions of this agreement. No subcontract will relieve the Subgrantee of its responsibility under this agreement.

ARTICLE 15. GRATUITIES

A. Texas Transportation Commission policy mandates that employees of the Department shall not accept any benefit, gift, or favor from any person doing business with or who, reasonably speaking, may do business with the Department under this agreement. The only exceptions allowed are ordinary business lunches and items that have received the advanced written approval of the Department's Executive Director.

B. Any person doing business with or who reasonably speaking may do business with the Department under this agreement may not make any offer of benefits, gifts, or favors to Department employees, except as mentioned here above. Failure on the part of the Subgrantee to adhere to this policy may result in termination of this agreement.

ARTICLE 16. NONCOLLUSION

The Subgrantee warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Subgrantee, to solicit or secure this agreement, and that it has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon or resulting from the award or making of this agreement. If the Subgrantee breaches or violates this warranty, the Department shall have the right to annul this agreement without liability or, in its discretion, to deduct from the agreement price or consideration, or otherwise recover the full amount of such fee, commission, brokerage fee, contingent fee, or gift.

ARTICLE 17. CONFLICT OF INTEREST

The Subgrantee represents that it or its employees have no conflict of interest that would in any way interfere with its or its employees' performance or which in any way conflicts with the interests of the Department. The Subgrantee shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict with the Department's interests.

ARTICLE 18. SUBGRANTEE'S RESOURCES

A. The Subgrantee certifies that it presently has adequate qualified personnel in its employment to perform the work required under this agreement, or will be able to obtain such personnel from sources other than the Department.

B. All employees of the Subgrantee shall have the knowledge and experience that will enable them to perform the duties assigned to them. Any employee of the Subgrantee who, in the opinion of the Department, is incompetent or whose conduct becomes detrimental to the work, shall immediately be removed from association with the project.

C. Unless otherwise specified, the Subgrantee shall furnish all equipment, materials, supplies, and other

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resources required to perform the work.

ARTICLE 19. PROCUREMENT AND PROPERTY MANAGEMENT

The Subgrantee shall establish and administer a system to procure, control, protect, preserve, use, maintain, and dispose of any property furnished to it by the Department or purchased pursuant to this agreement in accordance with its own procurement and property management procedures, provided that the procedures are not in conflict with (1) the Department's procurement and property management standards and (2) the federal procurement and property management standards provided by 2 CFR §§ 200.310-.316, 200.318-.324.

ARTICLE 20. OWNERSHIP OF DOCUMENTS AND INTELLECTUAL PROPERTY

Upon completion or termination of this Grant Agreement, whether for cause or at the convenience of the parties, all finished or unfinished documents, data, studies, surveys, reports, maps, drawings, models, photographs, etc. prepared by the Subgrantee, and equipment and supplies purchased with grant funds shall, at the option of the Department, become the property of the Department. All sketches, photographs, calculations, and other data prepared under this agreement shall be made available, upon request, to the Department without restriction or limitation of their further use.

A. Intellectual property consists of copyrights, patents, and any other form of intellectual property rights covering any databases, software, inventions, training manuals, systems design, or other proprietary information in any form or medium.

B. All rights to Department. The Department shall own all of the rights (including copyrights, copyright applications, copyright renewals, and copyright extensions), title and interests in and to all data, and other information developed under this contract and versions thereof unless otherwise agreed to in writing that there will be joint ownership.

C. All rights to Subgrantee. Classes and materials initially developed by the Subgrantee without any type of funding or resource assistance from the Department remain the Subgrantee's intellectual property. For these classes and materials, the Department payment is limited to payment for attendance at classes.

ARTICLE 21. SUCCESSORS AND ASSIGNS

The Department and the Subgrantee each binds itself, its successors, executors, assigns, and administrators to the other party to this agreement and to the successors, executors, assigns, and administrators of the other party in respect to all covenants of this agreement. The Subgrantee shall not assign, sublet, or transfer interest and obligations in this agreement without written consent of the Department through eGrants.

ARTICLE 22. CIVIL RIGHTS COMPLIANCE

A. Compliance with regulations: The Subgrantee shall comply with the regulations relative to nondiscrimination in federally-assisted programs of the United States Department of Transportation (USDOT): 49 CFR, Part 21; 23 CFR, Part 200; and 41 CFR, Parts 60-74, as they may be amended periodically (called the "Regulations"). The Subgrantee agrees to comply with Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 and as supplemented by the U.S. Department of Labor regulations (41 CFR, Part 60).

B. Nondiscrimination: (applies to subrecipients as well as States) The State highway safety agency and Subgrantee will comply with all Federal statutes and implementing regulations relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352), which prohibits discrimination on the basis of race, color or national origin (and 49 CFR Part 21); (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. 1681-1683 and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), and the Americans with Disabilities Act of 1990 (Pub. L. 101-336), as amended (42 U.S.C. 12101, et seq.), which prohibits discrimination on the basis of disabilities (and 49 CFR Part 27); (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. 6101-6107), which prohibits discrimination on the basis of age; (e) the Civil Rights Restoration Act of 1987 (Pub. L. 100-259), which requires Federal-aid recipients and all subrecipients to prevent discrimination and ensure nondiscrimination in all of their programs and activities; (f) the Drug Abuse Office and Treatment Act of 1972 (Pub. L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (g) the comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (Pub. L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (h) Sections 523 and 527 of the Public Health Service Act of 1912, as amended (42 U.S.C. 290dd-3 and 290ee-3), relating to

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confidentiality of alcohol and drug abuse patient records; (i) Title VIII of the Civil Rights Act of 1968, as amended (42 U.S.C. 3601, et seq.), relating to nondiscrimination in the sale, rental or financing of housing; (j) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (k) the requirements of any other nondiscrimination statute(s) which may apply to the application.

C. Solicitations for subcontracts, including procurement of materials and equipment: In all solicitations either by competitive bidding or negotiation made by the Subgrantee for work to be performed under a subcontract, including procurements of materials and leases of equipment, each potential subcontractor or supplier shall be notified by the Subgrantee of the Subgrantee's obligations under this agreement and the regulations relative to nondiscrimination on the grounds of race, color, sex, national origin, age, religion, or disability.

D. Information and reports: The Subgrantee shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Department or the USDOT to be pertinent to ascertain compliance with the Regulations or directives. Where any information required of the Subgrantee is in the exclusive possession of another who fails or refuses to furnish this information, the Subgrantee shall certify that to the Department or the USDOT, whichever is appropriate, and shall set forth what efforts the Subgrantee has made to obtain the requested information.

E. Sanctions for noncompliance: In the event of the Subgrantee's noncompliance with the nondiscrimination provision of this agreement, the Department shall impose such sanctions as it or the USDOT may determine to be appropriate.

F. Incorporation of provisions: The Subgrantee shall include the provisions of paragraphs A. through E. in every subcontract, including procurements of materials and leases of equipment, unless exempt by the regulations or directives. The Subgrantee shall take any action with respect to any subcontract or procurement that the Department may direct as a means of enforcing those provisions, including sanctions for noncompliance. However, in the event a Subgrantee becomes involved in, or is threatened with litigation with a subcontractor or supplier as a result of such direction, the Subgrantee may request the Department to enter into litigation to protect the interests of the state; and in addition, the Subgrantee may request the United States to enter into such litigation to protect the interests of the United States.

ARTICLE 23. DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM

A. The parties shall comply with the DBE Program requirements established in 49 CFR Part 26.

B. The Subgrantee shall adopt, in its totality, the Department's federally approved DBE program.

C. The Subgrantee shall set an appropriate DBE goal consistent with the Department's DBE guidelines and in consideration of the local market, project size, and nature of the goods or services to be acquired. The Subgrantee shall have final decision-making authority regarding the DBE goal and shall be responsible for documenting its actions.

D. The Subgrantee shall follow all other parts of the Department's DBE program referenced in TxDOT Form 2395, Memorandum of Understanding Regarding the Adoption of the Texas Department of Transportation's Federally-Approved Disadvantaged Business Enterprise by Entity and attachments found at web address <http://www.txdot.gov/business/partnerships/dbe.html>

E. The Subgrantee shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any USDOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The Subgrantee shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure non-discrimination in award and administration of USDOT-assisted contracts. The Department's DBE program, as required by 49 CFR Part 26 and as approved by USDOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the Subgrantee of its failure to carry out its approved program, the Department may impose sanctions as provided for under 49 CFR Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 USC 1001 and the Program Fraud Civil Remedies Act of 1986 (31 USC 3801 et seq.).

F. Each contract the Subgrantee signs with a contractor (and each subcontract the prime contractor signs with a sub-contractor) must include the following assurance: The contractor, sub-recipient, or sub-contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor

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shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of USDOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this agreement, which may result in the termination of this agreement or such other remedy as the recipient deems appropriate.

ARTICLE 24. CERTIFICATION REGARDING DEBARMENT AND SUSPENSION (applies to subrecipients as well as States)

Instructions for Primary Certification

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.

2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

4. The prospective primary participant shall provide immediate written notice to the department or agency to which this proposal is submitted if at any time the prospective primary participant learns its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

5. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and coverage sections of 49 CFR Part 29. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.

6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR Part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR Part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the list of Parties Excluded from Federal Procurement and Non-procurement Programs.

9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR Part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

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Certification Regarding Debarment, Suspension, and Other Responsibility Matters-Primary Covered Transactions

(1) The prospective primary participant certifies to the best of its knowledge and belief, that its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency;

(b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of record, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or Local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

(2) Where the prospective primary participant is unable to certify to any of the Statements in this certification, such prospective participant shall attach an explanation to this proposal.

Instructions for Lower Tier Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meanings set out in the Definition and Coverage sections of 49 CFR Part 29. You may contact the person to whom this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR Part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions. (See below)

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR Part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Non-procurement Programs.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR Part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions:

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

ARTICLE 25. CERTIFICATION REGARDING FEDERAL LOBBYING (applies to subrecipients as well as States)

Certification for Contracts, Grants, Loans, and Cooperative Agreements

In executing this agreement, each signatory certifies to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

3. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, subgrants, and contracts under grant, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

ARTICLE 26. CHILD SUPPORT CERTIFICATION

Under Section 231.006, Texas Family Code, the Subgrantee certifies that the individual or business entity named in this agreement is not ineligible to receive the specified grant, loan, or payment and acknowledges that this agreement may be terminated and payment may be withheld if this certification is inaccurate. If the above certification is shown to be false, the Subgrantee is liable to the state for attorney's fees and any other damages provided by law or the agreement. A child support obligor or business entity ineligible to receive payments because of a payment delinquency of more than thirty (30) days remains ineligible until: all arrearages have been paid; the obligor is in compliance with a written repayment agreement or court order as to any existing delinquency; or the court of continuing jurisdiction over the child support order has granted the obligor an exemption from Subsection (a) of Section 231.006, Texas Family Code, as part of a court-supervised effort to improve earnings and child support payments.

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ARTICLE 27. FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT REQUIREMENTS

A. Any recipient of funds under this agreement agrees to comply with the Federal Funding Accountability and Transparency Act and implementing regulations at 2 CFR Part 170, including Appendix A. This agreement is subject to the following award terms: <http://edocket.access.gpo.gov/2010/pdf/2010-22705.pdf> and <http://edocket.access.gpo.gov/2010/pdf/2010-22706.pdf>.

B. The Subgrantee agrees that it shall:

1. Obtain and provide to the State a System for Award Management (SAM) number (48 CFR subpt. 4.11) if this award provides for more than \$25,000 in Federal funding. The SAM number may be obtained by visiting the SAM web-site at: <https://www.sam.gov>
2. Obtain and provide to the State a Data Universal Numbering System (DUNS) number, a unique nine-character number that allows the Federal government to track the distribution of federal money. The DUNS number may be requested free of charge for all businesses and entities required to do so by visiting the Dun & Bradstreet (D&B) on-line registration website <http://fedgov.dnb.com/webform>; and
3. Report the total compensation and names of its top five (5) executives to the State if:
 - i. More than 80% of annual gross revenues are from the Federal government, and those revenues are greater than \$25,000,000; and
 - ii. The compensation information is not already available through reporting to the U.S. Securities and Exchange Commission.

ARTICLE 28. SINGLE AUDIT REPORT

A. The parties shall comply with the requirements of the Single Audit Act of 1984, P.L. 98-502, ensuring that the single audit report includes the coverage stipulated in 2 CFR Part 200.

B. If threshold expenditures of \$750,000 or more are met during the Subgrantee's fiscal year, the Subgrantee must submit a Single Audit Report and Management Letter (if applicable) to TxDOT's Audit Office, 125 East 11th Street, Austin, TX 78701 or contact TxDOT's Audit Office at singleaudits@txdot.gov

C. If expenditures are less than \$750,000 during the Subgrantee's fiscal year, the Subgrantee must submit a statement to TxDOT's Audit Office as follows: "We did not meet the \$750,000 expenditure threshold and therefore, are not required to have a single audit performed for FY _____."

D. For each year the project remains open for federal funding expenditures, the Subgrantee will be responsible for filing a report or statement as described above. The required annual filing shall extend throughout the life of the agreement, unless otherwise amended or the project has been formally closed out and no charges have been incurred within the current fiscal year.

ARTICLE 29. BUY AMERICA ACT (applies to subrecipients as well as States)

The State and Subgrantee will comply with the provisions of the Buy America Act (49 U.S.C. 5323(j)), which contains the following requirements:

Only steel, iron and manufactured products produced in the United States may be purchased with Federal funds unless the Secretary of Transportation determines that such domestic purchases would be inconsistent with the public interest, that such materials are not reasonably available and of a satisfactory quality, or that inclusion of domestic materials will increase the cost of the overall project contract by more than 25 percent. Clear justification for the purchase of non-domestic items must be in the form of a waiver request submitted to and approved by the Secretary of Transportation.

ARTICLE 30. RESTRICTION ON STATE LOBBYING (applies to subrecipients as well as States)

None of the funds under this program will be used for any activity specifically designed to urge or influence a State or local legislator to favor or oppose the adoption of any specific legislative proposal pending before any State or

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local legislative body. Such activities include both direct and indirect (e.g., "grassroots") lobbying activities, with one exception. This does not preclude a State official whose salary is supported with NHTSA funds from engaging in direct communications with State or local legislative officials, in accordance with customary State practice, even if such communications urge legislative officials to favor or oppose the adoption of a specific pending legislative proposal.

ARTICLE 31. NONGOVERNMENTAL ENTITY'S PUBLIC INFORMATION [This article applies only to non-profit entities.]

The Subgrantee is required to make any information created or exchanged with the Department pursuant to this Grant Agreement and not otherwise excepted from disclosure under the Texas Public Information Act, available in a format that is accessible by the public at no additional charge to the Department. [SB-1368, 83rd Texas Legislature, Regular Session, Effective 9/1/13]

ARTICLE 32. PROHIBITION ON USING GRANT FUNDS TO CHECK FOR HELMET USAGE (applies to subrecipients as well as States)

The State and each Subgrantee will not use 23 U.S.C. Chapter 4 grant funds for programs to check helmet usage or to create checkpoints that specifically target motorcyclists.

ARTICLE 33. INTERNAL ETHICS AND COMPLIANCE PROGRAM

Subgrantee shall comply with Title 43 Texas Administrative Code §25.906(b). Subgrantee certifies it has adopted an internal ethics and compliance program that satisfies the requirements of Title 43 Texas Administrative Code §10.51 (relating to Internal Ethics and Compliance Program). Subgrantee shall enforce compliance with that program.

Goals and Strategies

Goal: To increase effective enforcement and adjudication of traffic safety-related laws to reduce fatal and serious injury crashes

Strategies: Increase enforcement of traffic safety-related laws.
Increase public education and information campaigns.

Goal: To reduce the number of DWI-related crashes, injuries, and fatalities.

Strategy: Increase enforcement of DWI laws.

X I agree to the above goals and strategies.

Law Enforcement Objective/Performance Measure

1. Number and type citations/arrests to be issued under STEP	
a. Number of DWI arrests to be made during the Christmas/New Year's Operation	5
b. Number of DWI arrests to be made during the Spring Break Operation	4
c. Number of DWI arrests to be made during the Independence Day Operation	4
d. Number of DWI arrests to be made during the Labor Day Operation	4
1. Number and type citations/arrests to be issued under STEP	
a. Number of DUI Minor arrests/citations to be made during the Christmas/New Year's Operation	0
b. Number of DUI Minor arrests/citations to be made during the Spring Break Operation	0
c. Number of DUI Minor arrests/citations to be made during the Independence Day Operation	0
d. Number of DUI Minor arrests/citations to be made during the Labor Day Operation	0
3. Total Number of Enforcement Hours for Entire Grant Period	113.
Step Indicator	2.71

Note:

Nothing in this agreement shall be interpreted as a requirement, formal or informal, that a peace officer issue a specified or predetermined number of citations in pursuance of the Subgrantee's obligations hereunder. Department and Subgrantee acknowledge that Texas Transportation Code Section 720.002 prohibits using traffic-offense quotas and agree that nothing in this Agreement is establishing an illegal quota.

In addition to the STEP enforcement activities, the subgrantee must maintain baseline non-STEP funded citation and arrest activity due to the prohibition of supplanting.

PI&E Objective/Performance Measure

1. Complete administrative and general grant requirements
 - a. Number of Performance Reports to be submitted 4
 - b. Number of Requests for Reimbursement to be submitted 4

2. Support Grant efforts with a public information and education (PI&E) program
 - a. Conduct a minimum of one (1) presentation for each DWI operation period 4
 - b. Conduct a minimum of two (2) media exposures (e.g., news conferences, news releases, and interviews) for each DWI Operation period. 8
 - c. Conduct a minimum of one (1) community event (e.g., health fair, traffic safety booth) during the grant period 1
 - d. Produce the following number of public information and education materials if applicable. 0
 - e. Distribute the following number of public information and education materials if applicable. 300

General Information

Project Title STEP - Impaired Driving Mobilization

Project Description To conduct DWI enforcement Waves during holiday periods to increase DWI arrests and earned media activity as part of the statewide "Drink. Drive. Go To Jail" campaign and in conjunction with the national Impaired Driving Mobilization campaign

How many years has your organization received funding for this project?
This will be our fifth or more year.

STEP Enforcement Mileage

Instructions:

Unit # : Provide your agency's inventory number or other identifying number for each vehicle. To assist in calculating your agency's average enforcement mileage rate, we are requesting information from a sampling of five (5) patrol vehicles. The calculator will average the costs from all vehicles to arrive at the average operational cost per vehicle mile. If your agency does not have at least five patrol vehicles that are used for enforcement, include the requested information for the vehicles that you have.

Original Vehicle Cost : Provide each vehicle's total cost. (The total cost could include vehicle base cost, equipment/accessories and preparation costs).

Life Expectancy (In Years) : Provide the number of years that your agency expects the vehicle(s) will be used for enforcement activities. Many agencies have policies stating vehicles will be used for a specific time period (years) and some agencies determine mileage as the basis for vehicle retirement from enforcement. If mileage is used, determine the average number of years it takes for agency's vehicles to reach their mileage limit.

Maintenance Costs : Provide historical maintenance costs for the latest 12 month period available for each vehicle. Maintenance costs can also include annual liability insurance costs.

Fuel Costs : Provide historical fuel costs for the latest 12 month period available for each vehicle.

Yearly Miles: Provide the yearly enforcement miles for each vehicle. Use each vehicle's mileage logs or other available information to document the average number of enforcement miles driven annually or simply divide the mileage by the number of years the vehicle has been in use for enforcement activities.

	Unit #	Original Vehicle Cost	Life Expectancy (In Years)	Maintenance Costs	Fuel Costs	Yearly Miles	OP Cost/Mile
Vehicle 1	4215	\$58,818.00	5	\$139.00	\$1,090.00	5247	\$2.48
Vehicle 2	4222	\$58,818.00	5	\$1,717.00	\$1,331.00	8226	\$1.80
Vehicle 3	4213	\$55,117.00	5	\$3,354.00	\$2,210.00	10122	\$1.64
Vehicle 4	4223	\$55,117.00	5	\$1,787.00	\$1,787.00	8247	\$1.77
Vehicle 5	4224	\$58,818.00	5	\$2,249.00	\$2,249.00	12219	\$1.33
Average Operational Cost of the Vehicle Per Mile							\$1.80
Number of Miles Proposed							
						935	TOTAL \$1,683.00

	Amount	Percentages
TxDOT	\$504.00	30.00%

City of Lewisville Police Department
STEP - IDM - 2018

	\$504.90	50.00%
Match	\$1,178.10	70.00%
Total		\$1,683.00

Budget Summary

Budget Category		TxDOT	Match	Total
Category I - Labor Costs				
(100)	Salaries	\$7,061.51	\$0	\$7,061.51
(200)	Fringe Benefits	\$705.90	\$890.00	\$1,595.90
	Category I Sub-Total	\$7,767.41	\$890.00	\$8,657.41
Category II - Other Direct Costs				
(300)	Travel	\$504.90	\$1,178.10	\$1,683.00
(400)	Equipment	\$0	\$0	\$0
(500)	Supplies	\$0	\$0	\$0
(600)	Contractual Services	\$0	\$0	\$0
(700)	Other Miscellaneous	\$0	\$0	\$0
	Category II Sub-Total	\$504.90	\$1,178.10	\$1,683.00
Total Direct Costs		\$8,272.31	\$2,068.10	\$10,340.41
Category III - Indirect Costs				
(800)	Indirect Cost Rate	\$0	\$0	\$0
Summary				
	Total Labor Costs	\$7,767.41	\$890.00	\$8,657.41
	Total Direct Costs	\$504.90	\$1,178.10	\$1,683.00
	Total Indirect Costs	\$0	\$0	\$0
Grand Total		\$8,272.31	\$2,068.10	\$10,340.41
	Fund Sources	80.00%	20.00%	

MEMORANDUM

TO: Donna Barron, City Manager

FROM: David Salmon, P.E., City Engineer

VIA: Eric Ferris, Deputy City Manager

DATE: December 4, 2017

SUBJECT: **Approval of a Professional Services Agreement with Halff Associates, Inc. and a Design Budget in the Amount of \$134,760 for Partial Design Services Relating to Timber Creek Streambank Protection, Phase 2; and Authorization for the City Manager to Execute the Agreement.**

BACKGROUND

Halff Associates conducted an erosion study on Timber Creek between Valley Parkway and Edmonds Lane in 2008 in which active erosion sites were identified and ranked in order of urgency. The most critical site was behind the homes on Regency Drive due to existing erosion resulting in property damage and potential for structural damage to homes. Staff hired Halff Associates to design streambank protection for Timber Creek behind the homes on Regency Drive and that project has been completed. The project consists of design phase services up to and including 90% construction documents for Phase 2 of the Timber Creek Streambank Protection project. Phase 2 of the project begins at the downstream end of the previous Phase 1 (Regency Drive) project and continues the erosion protection an additional 700 feet downstream. It is also one of the critical erosion sites identified by Halff Associates. Although this is part of one of the priority projects identified by staff to be funded through the Drainage Utility, design funding for this project was approved as part of the 2017/18 General Fund budget to accelerate the project. The segment of Timber Creek included in the Phase 2 project has eroded at a faster rate than originally anticipated by the Timber Creek Erosion Study due to heavier than normal rainfalls over the past three years. Additional funding in 2018/19 will be necessary to complete the design and provide construction phase engineering services. The general fund will be reimbursed later through the Drainage Utility.

ANALYSIS

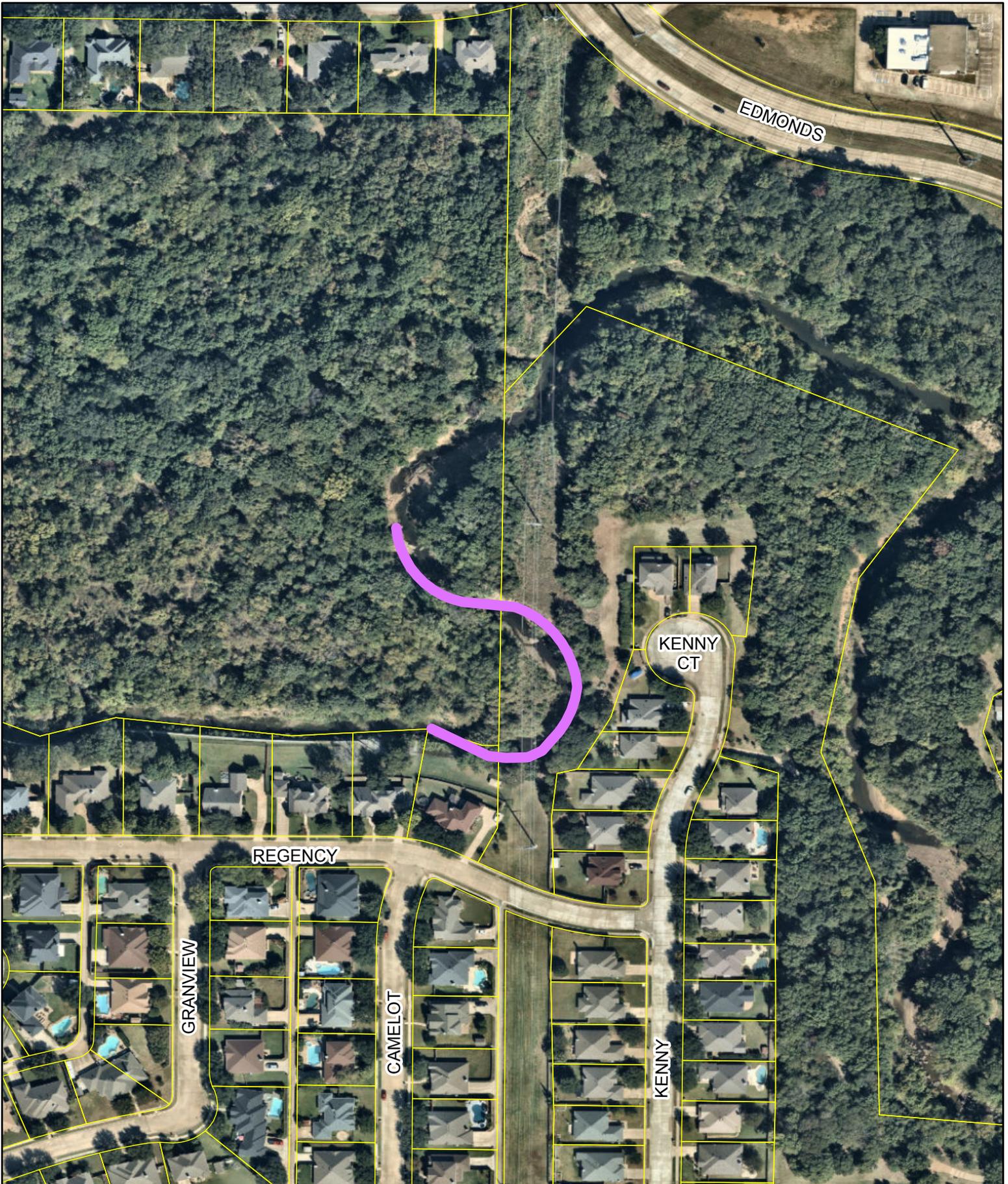
Staff has negotiated a Professional Services Agreement with Halff Associates, Inc. in the amount of \$134,760 for partial design services for Timber Creek Streambank Protection Project, Phase 2 to include design services up to and including 90% construction documents. Final design, construction phase services and right of way document preparation will be provided in a subsequent professional services agreement once additional funding is identified. The negotiated fee is well within the customary fee for a project of this scope and size based on an estimated construction cost of \$1,907,000. Halff Associates has previously completed designs for Lewisville infrastructure including the erosion control behind Regency Drive and are familiar with the City standards and processes, completing them successfully and on time.

Subject: PSA with Halff Associates, Inc. for Timber Creek Streambank Protection, Phase 2
Design
December 4, 2017
Page 2

Funding for professional services is available in the Timber Creek Design Project funded in the 2017/18 General Fund Budget. The design timeline for completion of this portion of the design is 145 calendar days from notice to proceed exclusive of time for City staff reviews. The 90% design should be completed by September 2018, so funding in the 18/19 budget if approved for design completion and construction phase services would be timely. If the remaining design funding is approved with the 18/19 budget, construction could be bid as early as December 2018 with a construction start in February 2019.

RECOMMENDATION

It is City staff's recommendation that the City Council approve the Professional Services Agreement with Halff Associates, Inc. and approve a total project design amount as set forth in the caption above; and authorize the City Manager to execute the agreement.



1" = 200'

Legend

-  Timbercreek Erosion Design
-  Property Lines

**LOCATION MAP
FOR
TIMBERCREEK EROSION DESIGN**

PROFESSIONAL SERVICES AGREEMENT
for
Design of Streambank Stabilization for Timber Creek – Phase 2

The City of Lewisville, Texas, hereinafter called City, hereby engages Halff Associates, Inc., hereinafter called Consultant, to perform professional services in connection with preparation of construction plans for streambank stabilization of Timber Creek along Regency Drive and Kenny Court, hereinafter called Project.

I. PROJECT. The Project is described as follows:

- A. The Project includes Preliminary Design/Engineering services for stream improvements which will consist of stabilizing the south bank and east bank of Timber Creek located north and parallel to Regency Drive, then turning northward located west and parallel to Kenny Court. The approximately 700 linear-foot project corridor will include a tied-back gabion wall and toe protection. The scope of work for this PSA includes surveying and geotechnical engineering services, U.S. Army Corps of Engineers (USACE) permitting services, preparation of plans, and estimates for construction.

II. SCOPE OF SERVICES:

The Consultant will perform the following:

- A. Design surveys along Timber Creek for proposed channel improvements.
- B. Engage the services of CMJ Engineering, Inc. to perform subsurface borings in design to provide general geotechnical information needed for the design and construction of the project.
- C. Preparation of 90% Milestone Design plans suitable for review, and permitting.
- D. Assist the City and attend a public meeting to explain proposed project to residents.

A more detailed description of services is contained in Attachment “B”, which is hereby included in this Professional Services Agreement by reference.

III. COMPENSATION.

The Consultant agrees to perform the services described herein for the amounts stated; and, the City agrees to make payments in the amounts stated. The total fee for all described services shall not exceed \$ **134,760.00**. A breakdown of fees for various services is included in Attachment “C”, which is hereby included in this Professional Services Agreement by Reference.

Invoices shall be submitted by cover letter from the project engineer. The letter shall certify that the invoice properly represents work actually done. The City reserves the right to request additional justification prior to payment of any invoice. If satisfactory justification is not received, the City reserves the right to amend the invoice or to refuse to make payment without incurring penalty or interest. Invoices shall be based on percentage of work completed per identifiable unit of work. The City agrees to make prompt payments for all approved invoices and agrees to pay interest at the rate approved by law for approved invoices not paid within 30 days from the date of approval.

- IV. INSURANCE.** The Consultant agrees to maintain insurance throughout the term of the contract, in accordance with Attachment "A". All Certificates of Insurance shall be kept current and shall be forwarded to the Purchasing Division of the City by cover letter from the Consultant. Insurance certificate must be received and approved prior to commencement of work. The Consultant shall also review and forward certificates covering sub-consultants.
- V. REUSE OF DOCUMENTS.** All documents, including drawings and specifications prepared by the Consultant pursuant to this Agreement, are instruments of service in respect of the Project. They are not intended or represented to be suitable for reuse by the City or others on extensions of the Project or on any other project. Any reuse without written verification or adaptation by the Consultant for the specific purpose intended will be at City's sole risk and without liability or legal exposure to the Consultant from all claims, damages, losses and expenses including attorneys fees arising out of or resulting therefrom. Any such verification or adaptation will entitle the Consultant to further compensation at rates to be agreed upon the City and the Consultant.
- VI. OWNERSHIP OF DOCUMENTS.** Original documents, plans, designs, reports and survey notes developed in connection with services performed hereunder belong to, and remain the property of the City, in consideration of which it is mutually agreed that the City will use them solely in connection with the Project, save with the express consent of the Consultant. The Consultant shall retain reproducible copies or electronic files of such documents for at least five (5) years and shall furnish copies to the City for reimbursable costs, if so requested.
- VII. THE CONSULTANT AGREES TO DEFEND, INDEMNIFY AND HOLD THE CITY, ITS OFFICERS, AGENTS AND EMPLOYEES, HARMLESS AGAINST ANY AND ALL CLAIMS, LAWSUITS, JUDGMENTS, COSTS AND EXPENSES FOR PERSONAL INJURY (INCLUDING DEATH), PROPERTY DAMAGE OR OTHER HARM FOR WHICH RECOVERY OF DAMAGES IS SOUGHT, SUFFERED BY ANY PERSON OR PERSONS, THAT IS CAUSED BY OR RESULTS FROM ANY NEGLIGENT ACT OR OMISSION, INTENTIONAL TORT, INTELLECTUAL PROPERTY INFRINGEMENT, OR FAILURE TO PAY A SUBCONTRACTOR OR SUPPLIER COMMITTED BY CONSULTANT, ITS AGENT, EMPLOYEE, CONSULTANT UNDER CONTRACT, OR ANY OTHER ENTITY OVER WHICH THE CONSULTANT EXERCISES CONTROL, IN THE PERFORMANCE OF THIS AGREEMENT; EXCEPT THAT THE INDEMNITY AND DEFENSE PROVIDED FOR IN THIS PARAGRAPH SHALL NOT APPLY TO ANY LIABILITY RESULTING FROM THE SOLE NEGLIGENCE OR FAULT OF THE CITY, ITS**

OFFICERS, AGENTS, EMPLOYEES OR SEPARATE CONSULTANTS OR CONTRACTORS, AND IN THE EVENT OF JOINT AND CONCURRING NEGLIGENCE OR FAULT OF THE CONSULTANT AND THE CITY, RESPONSIBILITY AND INDEMNITY, IF ANY, SHALL BE APPORTIONED IN ACCORDANCE WITH THE LAW OF THE STATE OF TEXAS, WITHOUT WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE CITY UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW. THE DUTY TO DEFEND SHALL NOT APPLY IN THE CASE OF A CLAIM BASED WHOLLY OR PARTLY ON THE NEGLIGENCE OF, FAULT OF, OR BREACH OF CONTRACT BY THE CITY, ITS AGENTS OR EMPLOYEES, OR OTHER ENTITY (EXCLUDING THE CONSULTANT OR ITS AGENT, EMPLOYEE, CONSULTANT UNDER CONTRACT, OR ANY OTHER ENTITY OVER WHICH THE CONSULTANT EXERCISES CONTROL) OVER WHICH THE CITY EXERCISES CONTROL, IN WHICH INSTANCE THE CITY'S REASONABLE ATTORNEY'S FEES SHALL BE REIMBURSED BY CONSULTANT IN PROPORTION TO THE CONSULTANT'S LIABILITY. THE PROVISIONS OF THIS PARAGRAPH ARE SOLELY FOR THE BENEFIT OF THE PARTIES HERETO AND NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY.

- VIII. 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, except as specified in Paragraphs V, VI and VII above. Upon notice of termination, the Consultant shall prepare and submit to City a final invoice within 15 days.
- IX. TIME OF COMPLETION.** A project schedule, shown in Attachment "D" is hereby included in this Professional Services Agreement by reference. The Consultant agrees to perform the services in accordance with the schedule, to the extent over which the Consultant has control.
- X. PROTECTION OF RESIDENT WORKERS.** Protection of Resident Workers: The City of Lewisville actively supports the Immigration and Nationality Act (INA) which includes provisions addressing employment eligibility, employment verification, and nondiscrimination. Under the INA, employers may hire only persons who may legally work in the United States (i.e., citizens and nationals of the U.S.) and aliens authorized to work in the U.S. The employer must verify the identity and employment eligibility of anyone to be hired, which includes completing the Employment Eligibility Verification Form (I-9). The Consultant shall establish appropriate procedures and controls so no services under the Contract Documents will be performed by any worker who is not legally eligible to perform such services or employment. The City reserves the right to audit consultant's employment records to verify the existence of a completed Employment Eligibility Verification Form (I-9) for every worker performing services under the Contract

Documents. The audit will be at the City's expense.

- XI. IMMIGRATION REFORM AND CONTROL ACT.** Immigration Reform and Control Act (8 U.S.C. §1324a): The City of Lewisville supports the Immigration Reform and Control Act (IRCA) which is a comprehensive scheme prohibiting the employment of unauthorized aliens in the United States. The Consultant shall submit a declaration signed under penalty of perjury of the laws of the State of Texas stating that it has not been found in violation of IRCA by the United States Attorney General or Secretary of Homeland Security in the preceding five (5) years. The Consultant shall ensure that its Subcontractors submit a declaration signed under penalty of perjury of the laws of the State of Texas stating that they have not been found in violation of IRCA by the United States Attorney General or Secretary of Homeland Security in the preceding five (5) years. The Consultant and its Subcontractors shall at all times during the term of the contract with the City comply with the requirements of IRCA and shall notify the City within fifteen (15) working days of receiving notice of a violation of IRCA. The City may terminate a contract with the Consultant if the City determines that (a) the Consultant or its Subcontractors have been untruthful regarding IRCA violations in the preceding five (5) years; (b) if the Consultant fails to ensure that its Subcontractors submit the aforementioned declaration; or (c) the Consultant or its Subcontractors fail to timely notify the City of an IRCA violation.
- XII. ADA COMPLIANCE.** All goods and services provided to the City must be compliant with the Americans with Disabilities Act ("ADA") and all regulations promulgated pursuant to the ADA. Consultant will be required to certify compliance, if applicable.
- XIII. SUCCESSORS AND ASSIGNS.** The City and Consultant each binds itself and its partners, successors, executors, administrators and assigns to the other party of this Agreement and to partners, successors, executors, administrators and assigns of each other in party in respect to all covenants of this Agreement. Neither the City nor the Consultant shall assign, sublet or transfer its interest in this Agreement without the written consent of the other. Nothing herein shall be construed as giving any right or benefits hereunder to anyone other than the City and the Consultant.
- XIV. DISCLOSURE.** Pursuant to Chapter 176 of the Texas Local Government Code, a person or agent of a person who contracts or seeks to contract with the City of Lewisville must complete a conflict of interest questionnaire if the person or agent has an affiliation or business relationship that might cause a conflict of interest with the City. The conflict of interest questionnaire, which is available online at ethics.state.tx.us, must be filed with the City Secretary of the City of Lewisville no later than the seventh business day after the person or agent begins contract discussions or negotiations with the City of Lewisville or submits to the City of Lewisville an application, response to a request for proposal or bid, correspondence, or another writing related to a potential agreement with the City of Lewisville. An updated conflict of interest questionnaire must be filed in accordance with Chapter 176 of the Local Government Code.

Said person should consult with legal counsel if they have questions regarding its compliance with the requirements of Chapter 176. It is the responsibility of each person or agent who is

contracting or seeking to contract with the City of Lewisville to comply with the filing requirements of Chapter 176.

XV. TEXAS GOVERNMENT CODE CHAPTER 2270. Pursuant to Texas Government Code Chapter 2270, Contractor affirms that execution of this Agreement serves as written verification that Contractor: (1) does not boycott Israel, as defined by Texas Government Code Section 808.001; and (2) will not boycott Israel during the term of the Agreement.

XVI. TEXAS GOVERNMENT CODE CHAPTER 2252. Pursuant to Texas Government Code Chapter 2252, Subchapter F, Contractor affirms, by entering into this Agreement, that it is not identified on a list created by the Texas Comptroller of Public Accounts as a company known to have contracts with or provide supplies or services to Iran, Sudan, or a foreign terrorist organization.

XVII. PERFORMANCE. In compliance with Texas Local Government Code 271.904, the Contractor agrees to perform the services outlined herein with the professional skill and care ordinarily provided by competent engineers practicing in the same or similar locality as the City and under the same or similar circumstances and professional license; and to perform the services outlined herein as expeditiously as is prudent considering the ordinary professional skill and care of a competent engineer, under the schedule as referenced in Section XIII of this Agreement.

XVIII. CLOSURE. By signature below, the parties to this Agreement hereby bind themselves to the terms stated herein, including all attachments referred to herein.

CITY OF LEWISVILLE, TEXAS
Approved by the Lewisville City
Council _____

By: _____
Donna Barron, City Manager

By: _____

Date: _____

Date: _____

Attest: _____
Julie Heinze

Attest: _____

CITY OF LEWISVILLE
151 West Church Street
Lewisville, Texas 75057

APPROVED AS TO FORM:

Lizbeth Plaster, City Attorney

Attachment A

INSURANCE REQUIREMENTS **ENGINEERING/ARCHITECTURE PROJECTS**

Vendor shall procure and maintain for the duration of the contract, insurance against claims for injuries to persons or damages to property, which may arise from or in connection with the performance of the work hereunder by the vendor, his agents, representatives, employees or subcontractors. The cost of such insurance shall be included in the Vendor's bid.

A. MINIMUM SCOPE OF INSURANCE

Coverage shall be at least as broad as:

1. Insurance Services Office Commercial General Liability coverage "occurrence" form CG 00 01 (10 01). **"Claims Made" form is unacceptable except for professional liability.**
2. Workers' Compensation insurance as required by the Labor Code of the State of Texas, including Employers' Liability Insurance.
3. Automobile Liability – as required by the State of Texas, covering all owned, hired, or non-owned vehicles. Automobile Liability is only required if vehicle(s) will be used under this contract. Coverage not required for delivery services.
4. Professional Liability and/or Errors and Omissions Insurance.

B. MINIMUM LIMITS OF INSURANCE

Vendor shall maintain throughout contract limits not less than:

1. Commercial General Liability: \$500,000 per occurrence/\$1,000,000 aggregate for bodily injury, personal injury and property damage. Policy will include coverage for:
 - a. Premises – Operations
 - b. Broad Form Contractual Liability
 - c. Products and Completed Operations
 - d. Use of Contractors and Subcontractors
 - e. Personal Injury
 - f. Broad Form Property Damage
 - g. If applicable, Explosion Collapse and Underground (XCU) Coverage (when applicable, Fire Damage, Medical Expense).

NOTE: The aggregate loss limit applies to each project.

2. Workers' Compensation and Employer's Liability: Workers' Compensation Statutory limits as required by the Labor Code of the State of Texas and Employer's Liability minimum limits of \$500,000 per injury, \$500,000 per occurrence, and \$500,000 per occupational disease.
3. Automobile Liability - \$500,000 Combined Single Limit. Limits can only be reduced if approved by the HR Director or designee.
4. Professional Liability and/or Errors and Omissions - \$500,000 per occurrence - \$1,000,000 Aggregate.
5. Builders' Risk Insurance (as applicable) – Completed value form, insurance carried must equal the completed value of the structure.

C. DEDUCTIBLES AND SELF-INSURED RETENTIONS

Any deductible or self-insured retentions must be declared to and approved by the City.

D. OTHER INSURANCE PROVISIONS

The policies are to contain, or be endorsed to contain the following provisions:

1. General Liability and Automobile Liability Coverages
 - a. The City, its officers, officials, employees, Boards and Commissions and volunteers are to be added as "Additional Insured" as respects liability arising out of activities performed by or on behalf of the vendor, products and completed operations of the vendor, premises owned, occupied or used by the Contractor. The coverage shall contain no special limitations on the scope of protection afforded to the City, its officers, officials, employees or volunteers. It is understood that the business auto policy under "Who is an Insured" automatically provides liability coverage in favor of the City.
 - b. The vendor's insurance coverage shall be primary and non-contributory insurance as respects the City, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees or volunteers shall be excess of the vendor's insurance and shall not contribute with it.
 - c. Any failure to comply with reporting provisions of the policy shall not affect coverage provided to the City, its officers, officials, and employees, Boards and Commissions or volunteers.
 - d. The vendor's insurance shall apply separately to each insured against whose claim is made or suit is brought, except to the limits of the insured's liability.
2. Waiver of Subrogation – All Coverages except Professional Liability
Each insurance policy required by this exhibit except Professional Liability shall waive all rights of subrogation against the City, its officers, officials, employees, and volunteers for losses arising from work performed by the vendor for the City.
3. Notice of Cancellation - All Coverages
Each insurance policy required by this exhibit shall be endorsed to state that coverage shall not be suspended, voided, canceled or non-renewed by either party, reduced in coverage or in limits except

after thirty (30) days prior written notice by certified mail, return receipt requested, has been given the City, or ten (10) days prior written notice for non-payment of premium.

4. Professional Liability (applicable only to certified or licensed Engineers and or Architects)
“Claims made” policy is acceptable coverage which must be maintained during the course of the project and up to two (2) years after completion and acceptance of the project by the City.

E. ACCEPTABILITY OF INSURERS

The City prefers that Insurance be placed with insurers with an A.M. Best’s rating of no less than **A-:VI, or, A or better** by Standard and Poors. Professional Liability carriers will need to be approved by the HR Director or designee.

F. VERIFICATION OF COVERAGE

Contractor shall furnish the City with certificates of insurance affecting coverage required. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. Certificates of Insurance must be provided on forms approved by the Texas Department of Insurance. City will not accept Memorandums of Insurance or Binders as proof of insurance. The City reserves the right to require complete, certified copies of all required insurance policies at any time.

G. HOLD HARMLESS AND INDEMNIFICATION

THE CONSULTANT AGREES TO DEFEND, INDEMNIFY AND HOLD THE CITY, ITS OFFICERS, AGENTS AND EMPLOYEES, HARMLESS AGAINST ANY AND ALL CLAIMS, LAWSUITS, JUDGMENTS, COSTS AND EXPENSES FOR PERSONAL INJURY (INCLUDING DEATH), PROPERTY DAMAGE OR OTHER HARM FOR WHICH RECOVERY OF DAMAGES IS SOUGHT, SUFFERED BY ANY PERSON OR PERSONS, THAT IS CAUSED BY OR RESULTS FROM ANY NEGLIGENT ACT OR OMISSION, INTENTIONAL TORT, INTELLECTUAL PROPERTY INFRINGEMENT, OR FAILURE TO PAY A SUBCONTRACTOR OR SUPPLIER COMMITTED BY CONSULTANT, ITS AGENT, EMPLOYEE, CONSULTANT UNDER CONTRACT, OR ANY OTHER ENTITY OVER WHICH THE CONSULTANT EXERCISES CONTROL, IN THE PERFORMANCE OF THIS AGREEMENT; EXCEPT THAT THE INDEMNITY AND DEFENSE PROVIDED FOR IN THIS PARAGRAPH SHALL NOT APPLY TO ANY LIABILITY RESULTING FROM THE SOLE NEGLIGENCE OR FAULT OF THE CITY, ITS OFFICERS, AGENTS, EMPLOYEES OR SEPARATE CONSULTANTS OR CONTRACTORS, AND IN THE EVENT OF JOINT AND CONCURRING NEGLIGENCE OR FAULT OF THE CONSULTANT AND THE CITY, RESPONSIBILITY AND INDEMNITY, IF ANY, SHALL BE APPORTIONED IN ACCORDANCE WITH THE LAW OF THE STATE OF TEXAS, WITHOUT WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE CITY UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW. THE DUTY TO DEFEND SHALL NOT APPLY IN THE CASE OF A CLAIM BASED WHOLLY OR PARTLY ON THE NEGLIGENCE OF, FAULT OF, OR BREACH OF CONTRACT BY THE CITY, ITS AGENTS OR EMPLOYEES, OR OTHER ENTITY (EXCLUDING THE CONSULTANT OR ITS AGENT, EMPLOYEE, CONSULTANT UNDER CONTRACT, OR ANY OTHER ENTITY OVER WHICH THE CONSULTANT EXERCISES CONTROL) OVER WHICH THE CITY EXERCISES CONTROL, IN WHICH INSTANCE THE CITY’S REASONABLE ATTORNEY’S FEES SHALL BE REIMBURSED BY CONSULTANT IN PROPORTION TO THE CONSULTANT’S LIABILITY. THE PROVISIONS OF THIS PARAGRAPH ARE SOLELY FOR THE BENEFIT OF THE PARTIES HERETO AND NOT

INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY.

ATTACHMENT “B” SERVICES

Construction Plans for Design of Streambank Stabilization for Timber Creek – Phase 2

This Attachment “B” further defines the services to be performed by Halff Associates, Inc. in conjunction with preparation of 90% Milestone Design plans for the streambank stabilization of Timber Creek Phase 2, hereinafter called Project. The project which will consist of stabilizing the south bank and east bank of Timber Creek located north and parallel to Regency Drive, then turning northward located west and parallel to Kenny Court. The approximately 700 linear-foot project corridor will include a tied-back gabion wall and toe protection.) Our services include the following:

Design Assumptions – Certain assumptions were employed in developing the scope and fee for this proposal.

- A. Gabion Wall** – The primary method of bank stabilization involves construction of a gabion wall with tiebacks.
- B. Hydraulic Modeling** – Utilize existing hydraulic model of Timber Creek that extends through the study area. The hydraulic parameters derived from this study and the FEMA current effective model will be used for the design of bank stabilization.
- C. Private Property Access** – The City of Lewisville will gain right of entry on private property for the consultant as needed by the design team (surveyors, geotechnical engineers, etc.)
- D. Permitting** - The proposed project will be approximately 700 LF in length and will exceed the 500 LF limit and 1 cubic yard per linear foot below the ordinary high water mark in the U.S. Army Corps of Engineers Nationwide Permit 13 Bank Stabilization. Nationwide Permit 13 is still applicable, but notification to the Fort Worth District U.S. Army Corps of Engineers is required. No other permits will be submitted for this project.
- E. Temporary Construction Easements - Omitted**

I. Plan and Specifications Work Plan:

- A. Topographic Surveying and Base Map Preparation:** The Consultant shall provide surveying services; which, in general, may be defined as normal services applicable to a project of this type. The entire area of the creek and

adjacent properties in the vicinity of the eroded area to be surveyed. A topographic base map was prepared that will show existing fences, trees six inches and larger in diameter, and other improvements affecting design. Existing one-foot contours will be shown. Property boundaries will also be tied and shown in the plans.

- B. Geotechnical Investigation.** The Consultant shall engage a geotechnical sub-consultant to provide subsurface investigations in the form of boring logs. Four borings will be drilled and shall be of sufficient depth and spacing to provide general information needed for the design and construction of the project. Laboratory tests will consist of: moisture content and soil identification, liquid and plastic limit determinations, unconfined compression tests on soil, direct shear test on soil and groundwater condition; recommendations for wall foundation type, depth, and allowable loading; foundation construction requirements; global stability analysis for existing and proposed conditions; recommendations for tiebacks, including founding material, allowable adhesion, and spacing; and earthwork recommendations.
- C. Hydraulic Modeling.** The Consultant shall prepare hydraulic model to reflect proposed channel improvement conditions. The modeling will consider fill and excavation associated with the project. The consultant shall prepare a brief memorandum report summarizing the results of the hydraulic study. Memo will include explanation of study procedure, comparison of water surface elevations, profile comparison and hydraulic workmaps.
- D. Permitting.** The Consultant shall prepare an application for Nationwide Permit 13, Bank Stabilization, with the U.S. Army Corps of Engineers Fort Worth District. Application process will include a site visit by Consultant's Environmental Science staff, determination of Jurisdictional Waters, and preparation of application and supporting documents for the U.S. Army Corps of Engineers. This does not include preparation of an Individual Permit, although this is not anticipated for this project.
- E. Construction Plans:** The Consultant 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 construction plans will consist of numerous sheets generally ordered as follows:
1. Title Sheet. The title sheet shall include a location map. It shall also include a sheet index with drawings numbered consecutively and without subscripts. Additionally, the title sheet shall show the project name, project number, date, City logo, Consultant's name, address, and telephone number and other items as may be specified.

2. Project Layout Sheet(s). The purpose of the project layout is to depict the project in a simplified view. Major items of work will be shown without excessive detail. This sheet(s) will include a listing of abbreviations, legend, general notes, and key map.
3. Typical Sections. As a minimum, typical sections will be drawn showing the relationship of the existing creek and proposed wall and grading. Typical sections will include right-of-way lines, fences, utilities, and all proposed improvements.
4. Plan Sheets & Wall Elevation (Profile) Sheets. Plan sheets will show the proposed wall layout and grading plan. The wall elevation sheets will provide a profile view of the proposed wall.
5. Cross-Section Sheets. The cross-section sheets will show cross-section views of the channel, proposed wall, and proposed and existing grades at various station locations along the length of the project.
6. Detail Sheets. The City's standard drawings will be used as a beginning point in developing standard details for this project. They will be reviewed and modified 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. Miscellaneous. Construction plans will also address erosion control. Wall construction details will be provided as well.
8. Review Plans. – Preliminary plans shall be prepared and submitted at the 60% milestone. Final plans shall be prepared and submitted at the 90% milestone. Submittals shall include sheets as defined by E. Construction Plans 1-7, providing design detail consistence with appropriate milestone.

Also, the Consultant may submit plan sheets or working drawings to the City for review and comment to reduce the number of revisions that otherwise would be required. During development of the plans, the Consultant shall attend meetings as needed. One (1) meeting with residents and/or property owners will be held during design. The Consultant shall prepare and present a project layout exhibit and give a brief presentation at the public meetings. The Consultant shall, in company with the City, perform at least one plans-in-hand review at each milestone.

9. Design. – The design of the project shall be in general accordance with the City of Lewisville ordinances, standard details, and good engineering practices.

10. Prints/Deliverables. – The Consultant shall provide prints of construction plans for review and permitting. The Consultant will provide utility companies with copies of plans for review.

Preliminary Plan Submittal (60%) – Consultant will provide the City with one full sized and two sets of half-sized plans for review and comment. Submittal will include layouts, typical sections, profiles, cross-sections and an engineer Opinion of Probable Construction (OPC) costs. Final horizontal/vertical control, erosion control sheets, and structural details will be provided with final plan submittal.

Final Plan Submittal (90%) – Consultant will provide the City with one full sized and two sets of half-sized plans incorporating the comments from the preliminary design for review and comment. Submittal will include complete plan set and an engineer Opinion of Probable Construction (OPC) costs.

11. General. – Construction plans shall be developed on electronic files compatible with the City’s Intergraph CADD system – Microstation. Construction plans shall also be furnished on 22” x 34” sheets. The City’s standard format shall be used. All review prints shall be furnished on 22” x 34” sheets. Construction plans shall be suitable for half-scale reduction and shall be provided as follows: one set of 11” x 17” paper originals drawn by laser plotter.

F. Specifications. Omitted

H. Bidding, Construction, Closure: Omitted

II. Surveying Services Work Plan. Omitted

III. Services Not Included

- A. Miscellaneous.** Engineering Services, not included in the scope of work, include those services that may result from significant changes in the general scope, extent or character of the PROJECT or its design including, but not limited to, changes in size, complexity, CITY's schedule, character of construction or method of financing; and revising previously accepted studies, reports, design documents or Contract Documents when such revisions are required by changes in laws, rules, regulations, ordinances, codes or orders enacted subsequent to the

preparation of such studies, reports or documents, or are due to any other causes beyond ENGINEER's control.

- A.** ADDITIONAL Engineering services in connection with the PROJECT, including services which are to be furnished by the CITY and services not otherwise provided for in this Agreement will be at the following rates:

Staff Member and Resident Project Representative - Salary Cost Times Multiplier of **2.3**.

- B.** Miscellaneous services not provided for herein and not generally associated with a project of this type will be paid for under an amendment to this Agreement and for an additional fee.

ATTACHMENT “C” COMPENSATION

Construction Plans for Design of Streambank Stabilization for Timber Creek – Phase 2

This Attachment “C” further defines the basis of compensation to the Consultant for the services rendered.

- I. Basic Fee Services** - The basic fee for the services as described in Attachment “B” will be **\$ 99,365.00** which includes printing, direct costs and computer charges normally associated with production of these services and reproduction of up to ten (10) sets of plans for review purposes.

The basis of compensation for Basic Fee services shall be as follows:

1. \$ 61,325.00 for Preliminary Design Phase (60% submittal)
2. \$ 38,040.00 for Final Design Phase (90% submittal)

Items (1) through (4) will be billed lump sum monthly based on percent completion of the design tasks and may include partial payments of the total amounts designated for each of the items.

- II. Special Services** – The maximum not-to-exceed fee for the special services as described in Attachment “B” will be **\$ 35,395.00**, which includes printing, direct costs and computer charges normally associated with production of these services. The basis of compensation for Special Services shall be 2.30 times salary cost up to the maximum not-to-exceed fee. The following table summarizes special services fees.

TASK DESCRIPTION	FEE
I A. Design Surveys	\$9,050
I B. Geotechnical Investigation	\$21,565
I D. Permitting	\$4,780
TOTAL SPECIAL SERVICES	\$35,395

- III. Miscellaneous Services** – The fee for additional services not provided herein will be negotiated based on the scope of work and included in a contract amendment.

The total maximum fee for all services is **\$ 134,760.00**.

ATTACHMENT “D” TIME OF COMPLETION

Construction Plans for Design of Streambank Stabilization for Timber Creek – Phase 2

The Consultant agrees to perform its services in accordance with the schedule below, to the extent over which the Consultant has control. The City agrees to review plans and other submittals and to arrange meetings in a timely manner.

- I. Commencement of Work** – The City agrees to issue written authorization to proceed as soon as practical after approval by the Lewisville City Council. The Consultant agrees to commence work in accordance with the Agreement within ten (10) working days following receipt of a written authorization.

- II. Time Line** – The following items of work shall be completed within the time line indicated.
 1. Completion/furnishing 60% preliminary plans sufficient for USACE permitting: 100 calendar days from date of written authorization excluding City review time.

 2. Completion/furnishing 90% final plans, specifications, bid quantities, and construction cost estimate: 145 calendar days from date of written authorization excluding USACE (45 day) and City review time.

ATTACHMENT E

IMMIGRATION REFORM AND CONTROL ACT

Name of Contractor/Consultant: Halff Associates, Inc. Date: September 23, 2017

Reference: City of Lewisville
Design of Streambank Stabilization for Timber Creek – Phase 2

As per the requirements of the contract documents, I submit under penalty of perjury of the laws of the State of Texas, that **Halff Associates, Inc.** has not been found in violation of the Immigration Reform and Control Act (IRCA) by the United States Attorney General of Secretary of Homeland Security in the preceding five (5) years. Additionally, **Halff Associates, Inc.** will ensure that its subconsultants submit a declaration signed under penalty of perjury of the laws of the State of Texas stating they have not been found in violation of IRCA by the United States Attorney General of Secretary of Homeland Security in the preceding five (5) years.

Print Name and Title

Authorized Signature

Notary: _____ County, Texas

By: _____

My Commission Expires: _____

MEMORANDUM

TO: Donna Barron, City Manager

FROM: Wayne Snell, Director of Neighborhood and Inspection Services

DATE: December 5, 2017

SUBJECT: **Approval of a Resolution Authorizing Addenda to Agreements Between the City of Lewisville and Community Development Block Grant Sub-Recipients; and Authorization for the City Manager to Execute the Addenda.**

BACKGROUND

The City of Lewisville, a U.S. Department of Housing and Urban Development entitlement city, has entered into agreements with non-profit entities receiving Community Development Block Grant (CDBG) funds to complete eligible projects benefitting low-to-moderate income Lewisville residents. Two of those sub-recipients were awarded funds for facility expansions and improvements: the Children's Advocacy Center of Denton County was allocated \$12,053 for pre-construction costs in adding a new wing on their building on Cain Dr. in Lewisville to expand their capacity to conduct interviews and provide therapy and childcare; Special Abilities of North Texas was allocated \$35,000 for converting a classroom in its new facility at FM 407 and Garden Ridge into a model apartment to teach independent living skills. Both projects were originally awarded funding on October 1, 2015 and experienced delays in raising enough additional funding to complete the projects.

ANALYSIS

The Children's Advocacy Center of Denton County (CACDC) will expand their facility by an additional 11,000 square feet in a \$4 million project. Their request for CDBG funds came as part of a capital campaign to raise at least 60% of the building cost before securing a construction loan for the balance. The campaign took longer than expected, but a \$600,000 challenge grant from the Mabee foundation this year brought their fundraising to \$2.2 million and they plan to move ahead with construction while continuing to raise additional funds. CACDC has now secured financing and is making adjustments to reduce project costs before awarding bids. CDBG funds will be used to pay permitting or other pre-construction costs. The addendum would allow funds to be used for the project by September 30, 2018.

Special Abilities of North Texas (SANT) applied for funding in 2015 as they were planning to purchase and renovate a former charter school building at 1511 Justin Road after outgrowing their old location on Archer Way. The CDBG allocation of \$35,000 was part of a \$60,000 total project cost. The purchase had significant delays while the property was replatted. When the

acquisition was completed, SANT was no longer in a financial position to afford the full scope of the original project. On July 19, 2016, the CDBG Advisory Committee discussed the project and there were no objections to SANT reducing the scope of the project to just cover the independent living apartment which was the main focus of their proposal. They would also still need to meet the 25% match requirement. While waiting for SANT to provide a final scope of work, their executive director left the organization and the agency went several months searching to fill the vacancy. The scope is now ready to bid and SANT has adequate funds available. The addendum would allow funds to be used for the project as long as construction is complete by September 30, 2018.

At their meeting on November 28, 2017 the CDBG Advisory Committee voted 5-0 to recommend extending both agreements.

RECOMMENDATION

It is City staff's recommendation that the City Council approve the resolution and authorize the City Manager to execute the addenda.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LEWISVILLE, TEXAS, AUTHORIZING THE CITY MANAGER TO EXECUTE ADDENDA TO EXTEND TWO FUNDING AGREEMENTS WITH BUDGETED SUBRECIPIENTS RECEIVING ALLOCATIONS FROM THE CITY OF LEWISVILLE'S COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) ENTITLEMENT FUNDING FROM THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD).

WHEREAS, the City of Lewisville is receiving Community Development Block Grant (CDBG) entitlement funding from the U.S. Department of Housing and Urban Development (HUD); and

WHEREAS, the Children's Advocacy Center of Denton County and Special Abilities of North Texas received CDBG funding as subrecipients through agreements with the City by action of the Lewisville City Council through the passage and approval of Resolution No. 04218-10-2015 on October 19, 2015; and

WHEREAS, these eligible, funded projects are yet to be completed by Children's Advocacy Center of Denton County and Special Abilities of North Texas, requiring amendment of the funding agreements;

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

SECTION 1. The City Manager is authorized to execute addenda to the funding agreements extending the terms of those agreements as shown in Exhibits A and B attached hereto on behalf of the City of Lewisville, Texas with CDBG subrecipients Children's Advocacy Center of Denton County and Special Abilities of North Texas.

RESOLUTION NO. _____

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DULY PASSED AND APPROVED BY THE CITY COUNCIL OF LEWISVILLE,
TEXAS, ON THIS THE 18th DAY OF DECEMBER, 2017.

APPROVED:

Rudy Durham, MAYOR

ATTEST:

Julie Worster, CITY SECRETARY

APPROVED AS TO FORM:

Lizbeth Plaster, CITY ATTORNEY

Resolution No. _____

STATE OF TEXAS §

COUNTY OF DENTON §

**ADDENDUM TO THE AGREEMENT BETWEEN THE CITY OF LEWISVILLE
AND
CHILDREN’S ADVOCACY CENTER FOR DENTON COUNTY
FOR
FACILITY EXPANSION PROJECT**

THIS AGREEMENT (the “Addendum”) entered this 18th day of December, 2017 by and between the City of Lewisville (herein called the “Grantee”) and Children’s Advocacy Center for Denton County (herein called the “Subrecipient”) is an addendum to the Agreement entered into between the Subrecipient and the Grantee on the 19th of October, 2015 (the “Agreement”, attached hereto as **Exhibit A**).

WHEREAS, the City of Lewisville has grant monies from the United States Government under Title I of the Housing and Community Development Act of 1974, Public Law 93-383; and

WHEREAS, the Grantee entered into the Agreement (**Exhibit A**) to engage the Subrecipient to assist the Grantee in utilizing such funds starting on the 1st day of October, 2015; and

WHEREAS, due to delays, the Subrecipient was not able to use the grant funds per Section II “Time of Performance” and the schedule in Attachment B, Program Timeline of the Agreement (**Exhibit A**); and

WHEREAS, the Time of Performance section of the Agreement and the Program Timeline need to be amended;

NOW, THEREFORE, it is agreed between the parties hereto that:

I. AMENDMENT OF AGREEMENT

A. Section II of the Agreement, “Time of Performance,” is hereby deleted in its entirety and replaced with the following:

“II. TIME OF PERFORMANCE

Services of the Subrecipient shall start on the 1st day of October, 2015 and end on the 30th day of September, 2018. Subrecipient will act in accordance with “Attachment B - Program Time Line”.”

B. Attachment B to the Agreement, “Program Timeline,” is hereby deleted in its entirety and replaced with the Program Timeline attached hereto as **Exhibit B**.

II. NOTICES

Communication and details concerning this Addendum shall be directed to the following representatives:

Grantee

Jamey Kirby, CDBG Grants Coordinator
 City of Lewisville
 151 West Church Street
 P.O. Box 299002
 Lewisville, TX 75029
 (972) 219-3780
 Email: jkirby@cityoflewisville.com

Subrecipient

Kristen Howell, Chief Executive Officer
 Children’s Advocacy Center for
 Denton County
 Fed. I.D. #75-2559765
 1854 Cain Drive, Lewisville 75077
 (972) 538-9605
 Email: kristen@cacdc.org

IN WITNESS WHEREOF, the Parties have executed this Addendum to the Agreement as of the date first written above.

City of Lewisville

Children’s Advocacy Center
for Denton County

By: _____
Donna Barron, City Manager

By: _____
Kristen Howell, Executive Director

Attest: _____
Julie Worster, City Secretary

APPROVED AS TO FORM

Lizbeth Plaster, City Attorney

EXHIBIT A
AGREEMENT EXECUTED ON OCTOBER 19, 2015

Resolution No. 4218-10-2015 (R)

STATE OF TEXAS §

COUNTY OF DENTON §

**AGREEMENT BETWEEN THE CITY OF LEWISVILLE
AND
CHILDREN'S ADVOCACY CENTER FOR DENTON COUNTY
FOR
FACILITY EXPANSION PROJECT**

THIS AGREEMENT, entered this 1st day of October, 2015 by and between the City of Lewisville (herein called the "Grantee") and Children's Advocacy Center for Denton County (herein called the "Subrecipient").

WHEREAS, the City of Lewisville has applied for and notified that it will receive grant monies from the United States Government under Title I of the Housing and Community Development Act of 1974, Public Law 93-383; and

WHEREAS, the Grantee wishes to engage the Subrecipient to assist the Grantee in utilizing such funds:

NOW, THEREFORE, it is agreed between the parties hereto that;

I. SCOPE OF SERVICES

A. Activities

The Subrecipient will be responsible for administering a CDBG 2015 Plan Year **Facility Expansion Project** in a manner satisfactory to the Grantee and consistent with any standards required as a condition of providing these funds. Such program will include activities described in "Attachment A - Program Summary including Levels of Accomplishment"

B. National Objectives

The Subrecipient certifies that the activities carried out with funds provided under this Agreement will meet the following CDBG program's National Objective as defined in requirements of 24 CFR Part 570.208: LMC Presumed Benefit: 570.208(a)(2)(A):Activities benefiting low/moderate income persons - Limited Clientele/Presumed Benefit: benefit persons who are generally presumed to be principally low and moderate income persons. Activities that exclusively serve a group of persons in any one or a combination of the following categories may be presumed to benefit persons, 51 percent of whom are low-and moderate-income: abused children, battered spouses, elderly persons, adults meeting the Bureau of Census' Current Population Reports definition of "severely disabled", homeless persons, illiterate adults, persons living with AIDS, and migrant farm workers. The Grantee has applicable volumes of 24 CFR pertinent to this Agreement for review or reproduction.

II. TIME OF PERFORMANCE

Services of the Subrecipient shall start on the 1st day of October, 2015 and end on the 30th day of September, 2016. Subrecipient will act in accordance with "Attachment B - Program Time Line". If Quarterly Benchmarks noted in Attachment B are not met, the Grantee may review the project and decide to terminate the agreement.

III. BUDGET

The Subrecipient shall operate fiscally within the Program Budget - "Attachment C".

The Grantee may require a more detailed budget breakdown than the one contained herein, and the Subrecipient shall provide supplementary budget information in a timely fashion in the form and content prescribed by the Grantee. Any amendments to this budget must be approved in writing by the Grantee and the Subrecipient.

IV. PAYMENT

It is expressly agreed and understood that the total amount to be paid by the Grantee under this contract shall not exceed \$12,053. Drawdowns for the payment of eligible expenses shall be made against the line item budgets specified in paragraph III herein and in accordance with performance. Increases or decreases in budget line items must be approved by the Grantee in writing.

Payments may be contingent upon certification of the Subrecipient's financial management system in accordance with the standards specified in OMB Circular A-110 (grantee has copy available for review or reproduction).

V. NOTICES

Communication and details concerning this contract shall be directed to the following representatives:

<u>Grantee</u>	<u>Subrecipient</u>
Jamey Kirby, Grants Coordinator City of Lewisville 1197 West Main Lewisville, TX 75067 (972) 219-3780 Fax: (972) 219-3698 Email: jkirby@cityoflewisville.com	Dan Leal, Executive Director Fed. I.D. #: 75-2559765 <i>Children's Advocacy Center for Denton County</i> 1854 Cain Drive Lewisville, TX 75077 (972) 538-9605 Fax (972) 317-6989 Email: dan@cacdc.org

VI. SPECIAL CONDITIONS

Subrecipient will not commingle CDBG monies with any other funds in any manner which would prevent the Grantee from readily identifying expenditures for operation of the Program. Furthermore, the subrecipient will be required to report homeless data for the Denton County Homeless Management Information System if homeless clients are served.

Subrecipient agrees to submit construction contractors' weekly payrolls for weeks covered by the construction invoices submitted for projects covered by the Davis-Bacon Act. Grant funds are to be used for pre-construction activities.

VII. GENERAL CONDITIONS

A. General Compliance

The Subrecipient agrees to comply with the requirements of the Code of Federal Regulations (CFR), Part 570 of the Housing and Urban Development (HUD) regulations (grantee has copy available for review or reproduction) concerning Community Development Block Grants (CDBG). The Subrecipient also agrees to comply with all other applicable Federal, state and local laws, regulations, and policies governing the funds provided under this contract. The Subrecipient further agrees to utilize funds available under this Agreement to supplement rather than supplant funds otherwise available.

B. "Independent Contractor"

Nothing contained in this Agreement is intended to, or shall be construed in any manner, as creating or establishing the relationship of employer/employee between the parties. The Subrecipient shall at all times remain an "independent contractor" with respect to the services to be performed under this Agreement. The Grantee shall be exempt from payment of all Unemployment Compensation, FICA, retirement, life and/or medical insurance and Workers' Compensation Insurance as the Subrecipient is an independent subrecipient.

C. Hold Harmless

The Subrecipient shall hold harmless, defend, and indemnify the Grantee from any and all claims, actions, suits, charges and judgments whatsoever that arise out of the Subrecipient's performance or nonperformance of the services or subject matter called for in the Agreement.

D. Workers' Compensation

The Subrecipient shall provide Workers' Compensation Insurance coverage or its equivalent for all of its employees involved in the performance of this contract.

E. Insurance & Bonding

The Subrecipient shall carry sufficient insurance coverage to protect contract assets from loss due to theft, fraud and/or undue physical damage, and as a minimum shall purchase a blanket fidelity bond covering all employees in an amount equal to cash advances from the Grantee.

The Subrecipient shall comply with the bonding and insurance requirements of OMB Circular A-110 (grantee has copy available for review or reproduction).

F. Grantor Recognition

The Subrecipient shall insure recognition of the role of the grantor agency in providing services through this contract. All activities, facilities and items utilized pursuant to this contract shall be prominently labeled as to funding source. In addition, the Subrecipient will include a reference to the support provided herein in all publications made possible with funds made available under this contract.

G. Amendments

The Grantee or Subrecipient may amend this Agreement at any time provided that such amendments make specific reference to this Agreement, and are executed in writing, signed by a duly authorized representative of both organizations, and approved by the Grantee's governing body. Such amendments shall not invalidate this agreement, nor relieve or release the Grantee or Subrecipient from its obligations under the Agreement.

The Grantee may, in its discretion, amend this Agreement to conform with Federal, state or local governmental guidelines, policies and available funding amounts, or for other reasons. If such amendments result in a change of funding, the scope of services, or schedule of the activities to be underwritten as part of this Agreement, such modifications will be incorporated only by written amendment signed by both Grantee and Subrecipient.

H. Suspension or Termination

Either party may terminate this contract at any time by giving written notice to the other party of such termination and specifying the effective date thereof at least 30 days before the effective date of such termination. Partial terminations of the Scope of Service in Paragraph I.A above may only be undertaken with the prior approval of the Grantee. In the event of any termination for convenience, all finished or unfinished documents, data, studies, surveys, maps, models, photographs, reports or other materials prepared by the Subrecipient under this Agreement shall, at the option of the Grantee, become the property of the Grantee, and the Subrecipient shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents or materials prior to the termination.

The Grantee may also suspend or terminate this Agreement, in whole or in part, if the Subrecipient materially fails to comply with any term of this Agreement, or with any of the rules, regulations or provisions referred to herein; and the Grantee may declare the Subrecipient ineligible for any further participation in the Grantee's contracts, in addition to other remedies as provided by law. In the event there is probable cause to believe the Subrecipient is in noncompliance with any applicable rules or regulations, the Grantee may withhold up to fifteen (15) percent of said contract funds until such time as the Subrecipient is found to be in compliance by the Grantee, or is otherwise adjudicated to be in compliance.

VIII. ADMINISTRATIVE REQUIREMENTS

A. Financial Management

1. Accounting Standards

The Subrecipient agrees to comply with the financial management requirements of OMB Circular A-110 (grantee has copy available for review or reproduction) and agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.

2. Cost Principles

The Subrecipient shall administer its program in conformance with OMB Circulars A-122, "Cost Principles for Non-Profit Organizations," or A-21, "Cost Principles for Educational Institutions," as applicable (grantee has copies available for reproduction or review). These principles shall be applied for all costs incurred whether charged on a direct or indirect basis.

B. Documentation and Record-Keeping

1. Records to be Maintained

The Subrecipient shall maintain all records required by the Federal regulations specified in 24 CFR Part 570.506, that are pertinent to the activities to be funded under this Agreement. Such records shall include but not be limited to:

- a. Records providing a full description of each activity undertaken including records documenting development, acquisition, financing and construction activities related to real property covered by this grant as well as services provided at facilities improved as a result of this grant;
- b. Records demonstrating that each activity undertaken meets one of the National Objectives of the CDBG program;
- c. Records required to determine the eligibility of the activities;
- d. Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with CDBG assistance;
- e. Records documenting compliance with the fair housing and equal opportunity components of the CDBG Program including data on the extent to which each racial and ethnic group and single-headed households have applied for, participated in, or benefited from, any program or activity funded in whole or in part with CDBG funds;
- f. Financial records as required by 24 CFR Part 570.502, and OMB Circular A-110;
- g. Other records necessary to document compliance with Subpart K of 24 CFR 570.

2. Retention

The Subrecipient shall retain all records pertinent to expenditures incurred under this contract for a period of four (4) years from the date of submission of the annual performance and evaluation report as required by 24 CFR 570.502. Records for non-expendable property acquired with funds under this contract shall be retained for four (4) years after final disposition of such property. Notwithstanding the above, if there is litigation, claims, audits, negotiations or other actions that involve any of the records cited and that have started before the expiration of the four-year period, then such records must be retained until completion of the actions and resolution of all issues, or the expiration of the four-year period, whichever occurs first.

3. Client Data

The Subrecipient shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to, client name, address, income level or other basis for determining eligibility, and description of service provided. Such information shall be made available to Grantee monitors or their designees for review upon request.

4. Disclosure

The Subrecipient understands that client information collected under this contract is private and the use or disclosure of such information, when not directly connected with the administration of the Grantee's or Subrecipient's responsibilities with respect to services provided under this contract, is prohibited unless written consent is obtained from such person receiving service and, in the case of a minor, that of a responsible parent/guardian.

5. Close-Outs

The Subrecipient's obligation to the Grantee shall not end until all close-out requirements are completed. Activities during this close-out period shall include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to the Grantee), and determining the custodianship of records.

6. Audits & Inspections

All Subrecipient's records with respect to any matters covered by this Agreement shall be made available to the Grantee, grantor agency, their designees or the Federal Government, at any time during normal business hours, as often as the Grantee or grantor agency deems necessary, to audit, examine, and make excerpts or transcripts of all relevant data. Any deficiencies noted in audit reports must be fully cleared by the Subrecipient within 30 days after receipt by the Subrecipient. Failure of the Subrecipient to comply with the above audit requirements will constitute a violation of this contract and may result in the withholding of future payments. The Subrecipient hereby agrees to have an annual agency audit conducted in accordance with current Grantee policy concerning recipient audits and, as applicable. OMB Circular A-133 (grantee has copy available for review or reproduction).

C. Reporting and Payment Procedures

1. Program Income

The Subrecipient shall report monthly all program income as defined in 24 CFR 570.500(a) generated by activities carried out with CDBG funds made available under this contract. The use of program income by the Subrecipient shall comply with the requirements set forth at 24 CFR 570.504. By way of further limitations, the Subrecipient may use such income during the contract period for activities permitted under this contract and shall reduce requests for additional funds by the amount of such program income balances on hand. All unused program income shall be returned to the Grantee at the end of the contract period. Any interest earned on cash advances from the U.S. Treasury is not program income and shall be remitted promptly to the Grantee.

2. Indirect Costs

If indirect costs are charged, the Subrecipient will develop an indirect cost allocation plan for determining the appropriate Subrecipient's share of administrative costs and shall submit such plan to the Grantee for approval, in a form specified by the Grantee.

3. Payment Procedures

The Grantee will pay the Subrecipient funds available under this contract based upon information submitted by the Subrecipient and consistent with any approved budget and Grantee policy concerning payments. With the exception of certain advances, payments will be made for eligible expenses actually incurred by the Subrecipient, and not to exceed actual cash requirements. Payments will be adjusted by the Grantee in accordance with advance fund and program income balances available in Subrecipient accounts. In addition, the Grantee reserves the right to liquidate funds available under this contract for costs incurred by the Grantee on behalf of the Subrecipient.

4. Progress Reports

The Subrecipient shall submit the following Monthly Activity Summary Reports: CDBG Request for Reimbursement Form and subsequent back-up documentation, Performance Objectives Report, Population Served Report, and CDBG Client Data Summary Report to the City of Lewisville Community Development Department no later than the 15th of each month. Additionally, for construction projects, the Subrecipient shall submit a monthly progress narrative that reports on each item specified in "Attachment B – Program Timeline".

5. Procurement

1. Compliance

The Subrecipient shall comply with current Grantee policy concerning the purchase of equipment and procurement of professional services and contractors, and shall maintain inventory records of all non-expendable personal property as defined by such policy as may be procured with funds provided herein. All program assets (unexpended program income, property, equipment, etc.) shall revert to the Grantee upon termination of this contract.

2. OMB Standards

The Subrecipient shall procure all materials, property, or services in accordance with the requirements of OMB Circular A-110. Procurement Standards, and shall subsequently follow the Property Management Standards as modified by 24 CFR 570.502(B)(6), covering utilization and disposal of property.

3. Reversion of Assets

Upon its expiration the Subrecipient shall transfer to the City of Lewisville any CDBG funds on hand at the time of expiration and any accounts receivable attributable to the use of the CDBG funds. Also, any real property under the Subrecipient's control that was acquired or improved in whole or in part with CDBG funds in excess of \$25,000 is either:

- a. Used to meet the national objective stated under Section 1, Part A until five years after expiration of this agreement, or such longer period of time as determined appropriate by the City of Lewisville, or
- b. Is disposed of in a manner which results in the City of Lewisville being reimbursed in the amount of the current fair market value of the property less any portion thereof attributable to expenditures of non-CDBG funds for acquisition of, or improvement to, the property. Such reimbursement is not required after the period of time specified in accordance with (1) above.

4. Travel

The Subrecipient shall obtain written approval from the Grantee for any travel outside the metropolitan area with funds provided under this contract.

IX. RELOCATION, REAL PROPERTY ACQUISITION AND ONE-FOR ONE HOUSING REPLACEMENT

The Subrecipient agrees to comply with (a) the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), and implementing regulations as 49 CFR 24 and 24 CFR 570.606(c) governing the Residential Antidisplacement and Relocation Assistance Plan under section 104(d) of the Hatch Act; and (c) the requirements in § 570.606(d) governing optional relocation policies. [The Grantee may preempt the optional policies.] The Subrecipient shall provide relocation assistance to persons (families, individuals, businesses, nonprofit organizations and farms) that are displaced as a direct result of acquisition, rehabilitation, demolition or conversion for a CDBG-assisted project. The Subrecipient also agrees to comply with applicable Grantee ordinances, resolution and policies concerning the displacement from their residences.

X. PERSONAL & PARTICIPANT CONDITIONS

A. Civil Rights

1. Compliance

The Subrecipient agrees to comply with Title VI of the Civil Rights Act of 1964 as amended, Title VII of the Civil Rights Act of 1968 as amended, Section 104(b) and Section 109 of Title 1 of the Housing and Community Development Act of 1974 as amended, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Executive Order 11063, and with Executive Order 11246 as Amended by Executive Orders 11375 and 12086. Grantee has copies of applicable compliance documents for review or reproduction.

2. Nondiscrimination

The Subrecipient will not discriminate against any employee or applicant for employment because of race, color, creed, religion, ancestry, national origin, sex, disability or other handicap, age, marital/family status, or status with regard to public assistance. The Subrecipients will take affirmative action to ensure that all employment practices are free from such discrimination. Such employment practices include but are not limited to the following: hiring, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Subrecipient agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting agency setting forth the provisions of this nondiscrimination clause.

3. Land Covenants

This contract is subject to the requirements of Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and 24 CFR 570.601 and 602. In regard to the sale, lease, or other transfer of land acquired, cleared or improved with assistance provided under this contract, the Subrecipient shall cause or require a covenant running with the land to be inserted in the deed or lease for such transfer, prohibiting discrimination as herein defined, in the sale, lease or rental, or in the use or occupancy of such land, or in any improvements erected or to be erected thereon, providing that the Grantee and the United States are beneficiaries of and entitled to enforce such covenants. The Subrecipient, in undertaking its obligation to carry out the program assisted hereunder, agrees to take such measures as are necessary to enforce such covenant, and will not itself so discriminate.

4. Section 504

The Subrecipient agrees to comply with any Federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 706), which prohibits discrimination against the handicapped in any Federally assisted program. The Grantee shall provide the Subrecipient with any guidelines necessary for compliance with that portion of the regulations in force during the term of this contract.

B. Equal Employment Opportunity

1. W/MBE

The Subrecipient will use its best efforts to afford minority- and women-owned business enterprises the maximum practicable opportunity to participate in the performance of the contract. As used in this contract, the term "minority and female owned business enterprise" means a business at least fifty-one (51) percent owned and controlled by minority group members or women. For the purpose of this definition, "minority group members" are African-Americans, Spanish-speaking, Spanish surnamed or Spanish-heritage Americans, Asian-Americans, and American Indians. The Subrecipient may rely on written representations by business regarding their status as minority and female business enterprises in lieu of an independent investigation.

2. Access to Records

The Subrecipient shall furnish and cause each of its own subrecipients or subcontractors to furnish all information and reports required hereunder and will permit access to its books, records and accounts by the Grantee, HUD or its agent, or other authorized Federal officials for purposes of investigation to ascertain compliance with the rules, regulations and provisions stated herein.

3. Notifications

The Subrecipient will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or worker's representative of the Subrecipient's commitments hereunder, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

4. EEO Statement

The Subrecipient will, in all solicitations or advertisements for employees placed by or on behalf of the Subrecipient, state that it is an Equal Opportunity employer.

C. Employment Restrictions

1. Prohibited Activity

The Subrecipient is prohibited from using funds provided herein or personnel employed in the administration of the program for political activities; sectarian or religious activities; lobbying, political patronage, and nepotism activities.

2. Labor Standards

The subrecipient agrees to comply with the requirements of the Secretary of Labor in accordance with the Davis-Bacon Act as amended, the provisions of Contract Work Hours and Safety Standards Act, the Copeland "Anti-Kickback" Act (40 U.S.C. 276a-276a-5; 40 U.S.C. 327 and 40 U.S.C. 276c) and all other applicable Federal, state and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this contract. The Subrecipient shall maintain documentation that shall be made available to the Grantee for review upon request.

The Subrecipient agrees that, except with respect to the rehabilitation or construction of residential property containing less than eight (8) units, all contractors engaged under contracts in excess of \$2,000.00 for construction, renovation or repair work financed in whole or in part with assistance provided under this contract, shall comply with Federal requirements adopted by the Grantee pertaining to such contracts and with the applicable requirements of the regulations of the Department of Labor, under 29 CFR Parts 1,3, 5, and 7 governing the payment of wages and ratio of apprentices and trainees to journey workers; provided, that if wage rates higher than those required under the regulations are imposed by state or local law, nothing hereunder is intended to relieve the Subrecipient of its obligation, if any, to require payment of the higher wage. The Subrecipient shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions meeting requirements of this paragraph.

3. "Section 3" Clause

a. Compliance

Compliance with the provisions of Section 3, the regulations set forth in 24 CFR 135, and all applicable rules and orders issued hereunder prior to the execution of this contract, shall be a condition of the Federal financial assistance provided under this contract and binding upon the Grantee, the Subrecipient and subcontractors. Failure to fulfill these requirements shall subject the Grantee, the Subrecipient and any of the Subrecipient's subrecipients and subcontractors, their successors and assigns, to those sanctions specified by the Agreement through which Federal assistance is provided. The Subrecipient certifies and agrees that no contractual or other disability exists which would prevent compliance with these requirements.

The Subrecipient further agrees to comply with these "Section 3" requirements and to include the following language in all subcontracts executed under this agreement:

"The work to be performed under this contract is a project assisted under a program providing direct Federal financial assistance from HUD and is subject to the requirements of Section 3 of the Housing and Urban Development ACT of 1968, as amended, 12 U.S.C. 1701. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given to low- and very-low income residents of the project area and contracts for work in connection with the project be awarded to business concerns that provide economic opportunities for low- and very low-income persons residing in the metropolitan area in which the project is located."

The Subrecipient further agrees to ensure that opportunities for training and employment arising in connection with a housing rehabilitation (including reduction and abatement of lead based paint hazards), housing construction, or other public construction projects are given to low- and very low-income persons residing within the metropolitan area in which the CDBG-funded project is located; where feasible, priority should be given to low- and very low-income persons within the service area of the project or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs; and award contracts for work undertaken in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction projects are given to business concerns that provide economic opportunities for low- and very low-income persons residing within the metropolitan area in which the CDBG-funded project is located; where feasible, priority should be given to business concerns which provide economic opportunities to low- and very low-income residents within the service area or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs.

The Subrecipient certifies and agrees that no contractual or other legal incapacity exists which would prevent compliance with these requirements.

b. Notifications

The Subrecipient agrees to send to each labor organization or representative of workers with which it has a collective bargaining agreement or other contract or understanding, if any, a notice advising said labor organization or workers' representative of its commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment training.

c. Subcontracts

The Subrecipient will include this Section 3 clause in every subcontract and will take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the grantor agency. The Subrecipient will not subcontract with any entity where it has notice or knowledge that the latter has been found to be in violation of regulations under 24 CFR 135 and will not let any subcontract unless the entity has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

D. Conduct

1. Assignability

The Subrecipient shall not assign or transfer any interest in this contract without the prior written consent of the Grantee thereto; provided, however, that claims for money due or to become due to the Subrecipient from the Grantee under this contract may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to the Grantee.

2. Subcontracts

a. Approvals

The Subrecipient shall not enter into any subcontracts with any agency or individual in the performance of this contract without written consent of the Grantee prior to the execution of such agreement.

b. Monitoring

The Subrecipient will monitor all subcontracted services on a regular basis to assure contract compliance. Results of monitoring efforts shall be summarized in written reports and supported with documented evidence of follow-up actions taken to correct areas of noncompliance.

c. Content

The Subrecipient shall cause all of the provisions of this contract in its entirety to be included in and made a part of any subcontract executed in the performance of this Agreement.

d. Selection Process

The Subrecipient shall undertake to insure that all subcontracts let in the performance of this Agreement shall be awarded on a fair and open competition basis. Executed copies of all subcontracts shall be forwarded to the Grantee along with documentation concerning the selection process.

3. Hatch Act

The Subrecipient agrees that no funds provided, nor personnel employed under the contract, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of Title V United States Code.

4. Conflict of Interest

The Subrecipient agrees to abide by the provisions of 24 CFR 570.611 with respect to conflicts of interest, and covenants that it presently has no financial interest and shall not acquire any financial interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Agreement. The Subrecipient further covenants that in the performance of this agreement no person having such a financial interest shall be employed or retained by the Subrecipient hereunder. These conflict of interest provisions apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the Grantee, or of any designated public agencies or subrecipients which are receiving funds under the CDBG Entitlement program.

5. Lobbying

The Subrecipient hereby certifies that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of congress, or an employee of a Member of Congress in connection with this Federal Contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

c. It will require that the language of paragraph (d) of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly; and

d. Lobbying Certification - Paragraph d

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1362, title 31, U.S.C. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

6. Copyright

If this contract results in any copyrightable material or inventions, the Grantee and/or grantor agency reserves the right to royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use, the work or materials for government purposes.

7. Religious Organization

The Subrecipient agrees that funds provided under this contract will not be utilized for religious activities, to promote religious interests, or for the benefit of a religious organization in accordance with the Federal regulations specified in 24 CFR 570.200(j).

XI. ENVIRONMENTAL CONDITIONS

A. Air and Water

The Subrecipient agrees to comply with the following requirements insofar as they apply to the performance of this contract:

Clean Air Act, 42 U.S.C., 7401, et. seq.

Federal Water Pollution Control Act, as amended, 33 U.S.C. 1261, et. seq., as amended 1218 relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder.

Environmental Protection Agency (EPA) regulations pursuant to 40 CFR Part 50, as amended.

B. Flood Disaster Protection

In accordance with the requirements of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001), the Subrecipient shall assure that for activities located in an area identified by FEMA as having special flood hazards, flood insurance under the National Flood Insurance Program is obtained and maintained as a condition of financial assistance for acquisition or construction purposes (including rehabilitation).

C. Lead-Based Paint

The Sub-recipient agrees that any construction or rehabilitation of residential structures with assistance provided under this contract shall be subject to HUD Lead-Based Paint Regulations at 24 CFR 570.608, and 24 CFR Part 35 including the new Lead Safe House Rule effective Sept. 15, 2000. Such regulations pertain to all HUD assisted housing and require that all owners, prospective owners, and tenants of properties constructed prior to 1978 be properly notified that such properties may include lead-based paint. Such notification shall point out the hazards of lead-based paint and explain the symptoms, treatment and precautions that should be taken when dealing with lead-based pain poisoning and the advisability and availability of blood lead screening for children under seven. The notice should also point out that if lead-based paint is found on the property, abatement measures may be undertaken.

D. Historic Preservation

The Subrecipient agrees to comply with the Historic Preservation requirements set forth in the National Historic Preservation Act of 1965, as amended (16 U.S.C. 470) and the procedures set forth in 36 CFR Part 800, Advisory Council on Historic Preservation Procedure for Protection of Historic Properties, insofar as they apply to the performance of this contract.

In general, this requires concurrence from the State Historic Preservation Officer for all rehabilitation and demolition of historic properties that are fifty years old or older or that are included on a Federal, state, or local historic property list.

E. Environmental Review Process

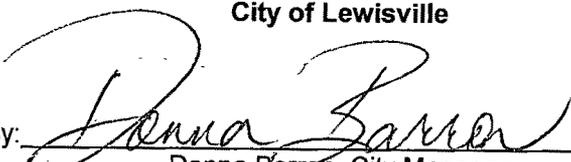
The Subrecipient agrees that an Environmental Review must be performed by the Grantee before any use of CDBG funds, or funds from other sources, is allowed. The Grantee must document the level of environmental review required under 24 CFR Part 58. (Exempt, Categorically Excluded, Environmental Assessment or Environmental Impact Statement). When required, the Grantee must also document environmental conditions complying with 24 CFR Parts 51, 55 and 58. As part of the ERR process, progress on a project could be halted to allow for the completion of the Environmental Review and alternatives may have to be considered including alternate site selection, modifications to the project and cancellation of the project. Depending on the level of review, the Grantee may be required to complete a statutory checklist to document compliance with various laws and authorities listed at 24 CFR 58.5. Furthermore, the Grantee may have to publish Notices of Intent to Request Release of Funds and/or Findings of No Significant Impact. Before project funds are committed, the Grantee may also have to wait for a written Release of Funds response from HUD.

XII. SEVERABILITY

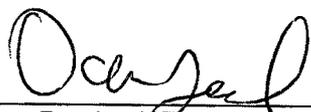
If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby and all other parts of this Agreement shall nevertheless be in full force and effect.

IN WITNESS WHEREOF, the Parties do hereby affix their signatures and enter into this funding Agreement as of the 1st day of October, 2015.

City of Lewisville

By: 
Donna Barron, City Manager

Children's Advocacy Center for Denton County

By: 
Dan Leal, Executive Director

Attest: 
Julie Heinze, City Secretary

APPROVED AS TO FORM:


Lizbeth Plaster, City Attorney

Attachment A- Program Summary

Denton County has seen tremendous population growth nearly doubling in size over the last 15 years. For the Children’s Advocacy Center and its board of directors, this growth brings with it an increasing number of child abuse cases and victims. Last year, 972 Denton County children were confirmed as victims of child abuse.

Last year, more than 10,000 therapy sessions were provided, 757 new forensic interviews were conducted, 88 new criminal cases filed and 62 abuser brought to justice. This demand for services requires the continued expansion of the services by the Children’s Advocacy Center for Denton County. The expansion of the CACDC’s Lewisville facility meets the City’s Consolidated Plan Objective of *addressing infrastructure and public facility in the CDBG eligible areas of Lewisville* and *addressing community needs through community-based public service programs*. The expansion will allow the Center to accommodate client needs and growth. The Center is undergoing a capital campaign to complete the project. CDBG funds represent a small portion of the total budget.

Scope of Services

The Children’s Advocacy Center will undertake a \$4 million expansion with a 10,119 sq. ft. addition and 3,592 sq. ft. renovation in Lewisville by 2016. The expansion will take place at the Center’s property at 1854 Cain Dr., Lewisville TX, 75077 behind the original building. CDBG funds will only be used for pre-construction costs such as permit fees.

Attachment B- Program Time Line

Date	Description
October 1, 2015 - November 30, 2015	Environmental Review: Neighborhood Services staff performs an Environmental Assessment, publishes findings, requests release of funds from HUD and waits for receipt of release of funds approval after a public comment period.
January 1, 2016 - February 28, 2015	Facility Design Completion: Subrecipient completes architecture and work specifications.
March 1, 2016 – April 30, 2016	Facility Bid & Award: Subrecipient lets the project for bids. As long as program funds are used for pre-construction purposes, federal procurement and labor requirements are not attached to the project.
May 1, 2016 - June 30, 2016	Construction Start: Subrecipient completes permitting for the project and requests reimbursement of program funds. Construction begins.

Quarterly Benchmarks

December 31, 2015	Capital Campaign Benchmark: 40%
March 31, 2016	Capital Campaign Benchmark: 50%
June 30, 2016	Begin Construction
June 30, 2016	Capital Campaign Benchmark: 75% (100% if we are counting interim loans)
July 31, 2016	Complete CDBG Draws
January 31, 2017	Rehabilitated Area Completely Operational

Attachment C- Budget

Sources

CDBG Funds	\$12,053
Match Item (other local cities ‘fair share contributions)	\$234,261
Other fundraising, grants, contributions	\$3,753,686
Total Cost of Expansion and Renovation:	\$4,000,000

Uses of CDBG Funds

Funds will be used for pre-construction costs related to expansion of CACDC’s current facility to properly equip the space with proper space for childcare, interview and therapy rooms, and staff capacity for higher client traffic.

EXHIBIT B

Attachment B - Program Time Line

OCTOBER 1, 2015 THROUGH September 30, 2018

The grant award is made for a three-year period.

Resolution No. _____

STATE OF TEXAS §

COUNTY OF DENTON §

**ADDENDUM TO THE AGREEMENT BETWEEN THE CITY OF LEWISVILLE
AND
SPECIAL ABILITIES OF NORTH TEXAS
FOR
NEW FACILITY FINISH-OUT**

THIS AGREEMENT (the “Addendum”) entered this 18th day of December, 2017 by and between the City of Lewisville (herein called the “Grantee”) and Special Abilities of North Texas (herein called the “Subrecipient”) is an addendum to the Agreement entered into between the Subrecipient and the Grantee on the 19th of October, 2015 (the “Agreement”, attached hereto as **Exhibit A**).

WHEREAS, the City of Lewisville has grant monies from the United States Government under Title I of the Housing and Community Development Act of 1974, Public Law 93-383; and

WHEREAS, the Grantee entered into the Agreement (**Exhibit A**) to engage the Subrecipient to assist the Grantee in utilizing such funds starting on the 1st day of October, 2015; and

WHEREAS, due to delays, the Subrecipient was not able to use the grant funds per Section II “Time of Performance” and the schedule in Attachment B, Program Timeline of the Agreement (**Exhibit A**); and

WHEREAS, the Time of Performance section of the Agreement and the Program Timeline now need to be amended;

NOW, THEREFORE, it is agreed between the parties hereto that:

I. AMENDMENT OF AGREEMENT

- A. Section II of the Agreement, “Time of Performance,” is hereby deleted in its entirety and replaced with the following:

“II. TIME OF PERFORMANCE

Services of the Subrecipient shall start on the 1st day of October, 2015 and end on the 30th day of September, 2018. Subrecipient will act in accordance with “Attachment B - Program Time Line.”

- B. Attachment B to the Agreement, “Program Timeline,” is hereby deleted in its entirety and replaced with the Program Timeline attached hereto as **Exhibit B**.

II. NOTICES

Communication and details concerning this Addendum shall be directed to the following representatives:

Grantee

Jamey Kirby, CDBG Grants Coordinator
 City of Lewisville
 151 West Church Street
 P.O. Box 299002
 Lewisville, TX 75029
 (972) 219-3780
 Email: jkirby@cityoflewisville.com

Subrecipient

JaChel Redmond, Executive Director
 Special Abilities of North Texas
 Fed. I.D. #75-2480904
 1511 FM 407, Building B
 (972) 317-1515
 Email: Jachel@specialabilities.net

IN WITNESS WHEREOF, the Parties have executed this Addendum to the Agreement as of the date first written above.

City of Lewisville

Special Abilities of North Texas

By: _____
Donna Barron, City Manager

By: _____
JaChel Redmond, Executive Director

Attest: _____
Julie Worster, City Secretary

APPROVED AS TO FORM

Lizbeth Plaster, City Attorney

EXHIBIT A
AGREEMENT EXECUTED ON OCTOBER 19, 2015]

STATE OF TEXAS §

COUNTY OF DENTON §

**AGREEMENT BETWEEN THE CITY OF LEWISVILLE
AND
SPECIAL ABILITIES OF NORTH TEXAS
FOR
NEW FACILITY FINISH-OUT**

THIS AGREEMENT, entered this 1st day of October, 2015 by and between the City of Lewisville (herein called the "Grantee") and Special Abilities of North Texas (herein called the "Subrecipient").

WHEREAS, the City of Lewisville has applied for and notified that it will receive grant monies from the United States Government under Title I of the Housing and Community Development Act of 1974, Public Law 93-383; and

WHEREAS, the Grantee wishes to engage the Subrecipient to assist the Grantee in utilizing such funds:

NOW, THEREFORE, it is agreed between the parties hereto that;

I. SCOPE OF SERVICES

A. Activities

The Subrecipient will be responsible for administering a CDBG 2015 Plan Year **Facility Finish-out Project** in a manner satisfactory to the Grantee and consistent with any standards required as a condition of providing these funds. Such program will include activities described in "Attachment A - Program Summary including Levels of Accomplishment"

B. National Objectives

The Subrecipient certifies that the activities carried out with funds provided under this Agreement will meet the following CDBG program's National Objective as defined in requirements of 24 CFR Part 570.208 LMC 570.208(a)(2) Activities benefiting low/moderate income persons - Limited Clientele: Require information on family size and income so that it is evident that at least 51 percent of the clientele are persons whose family income does not exceed the low and moderate income limit. The Grantee has applicable volumes of 24 CFR pertinent to this Agreement for review or reproduction.

II. TIME OF PERFORMANCE

Services of the Subrecipient shall start on the 1st day of October, 2015 and end on the 30th day of September, 2016. Subrecipient will act in accordance with "Attachment B - Program Time Line". If Quarterly Benchmarks noted in Attachment B and they are not met, the Grantee may review the project and decide to terminate the agreement.

III. BUDGET

The Subrecipient shall operate fiscally within the Program Budget - "Attachment C".

The Grantee may require a more detailed budget breakdown than the one contained herein, and the Subrecipient shall provide supplementary budget information in a timely fashion in the form and content prescribed by the Grantee. Any amendments to this budget must be approved in writing by the Grantee and the Subrecipient.

IV. PAYMENT

It is expressly agreed and understood that the total amount to be paid by the Grantee under this contract shall not exceed \$35,000 (see special conditions). Drawdowns for the payment of eligible expenses shall be made against the line item budgets specified in paragraph III herein and in accordance with performance. Increases or decreases in budget line items must be approved by the Grantee in writing.

Payments may be contingent upon certification of the Subrecipient's financial management system in accordance with the standards specified in OMB Circular A-110 (grantee has copy available for review or reproduction).

V. NOTICES

Communication and details concerning this contract shall be directed to the following representatives:

<u>Grantee</u>	<u>Subrecipient</u>
Jamey Kirby, Grants Coordinator City of Lewisville 1197 West Main Lewisville, TX 75067 (972) 219-3780 Fax (972) 219-3698 Email: jkirby@cityoflewisville.com	Troy Greisen, President & CEO Fed. I.D. #: 75-2480904 Special Abilities of North Texas 1511 FM 407 Building B Lewisville, TX 75077 (972) 317-1515 Email: troy@specialabilities.net

VI. SPECIAL CONDITIONS

Subrecipient will not commingle CDBG monies with any other funds in any manner which would prevent the Grantee from readily identifying expenditures for operation of the Program. Furthermore, the subrecipient will be required to report homeless data for the Denton County Homeless Management Information System if homeless clients are served.

Subrecipient agrees to submit construction contractors' weekly payrolls for weeks covered by the construction invoices submitted for projects covered by the Davis-Bacon Act. Grantee may require use of software for purpose of labor regulations compliance that may be paid for with grant funds or other project funds. Subrecipient is encouraged to market to and expand its Lewisville clientele. CDBG reimbursements will be capped at the percentage of clientele at the time of project completion compared to the total cost associated with both the purchase and rehab of the new location.

VII. GENERAL CONDITIONS

A. General Compliance

The Subrecipient agrees to comply with the requirements of the Code of Federal Regulations (CFR), Part 570 of the Housing and Urban Development (HUD) regulations (grantee has copy available for review or reproduction) concerning Community Development Block Grants (CDBG). The Subrecipient also agrees to comply with all other applicable Federal, state and local laws, regulations, and policies governing the funds provided under this contract. The Subrecipient further agrees to utilize funds available under this Agreement to supplement rather than supplant funds otherwise available.

B. "Independent Contractor"

Nothing contained in this Agreement is intended to, or shall be construed in any manner, as creating or establishing the relationship of employer/employee between the parties. The Subrecipient shall at all times remain an "independent contractor" with respect to the services to be performed under this Agreement. The Grantee shall be exempt from payment of all Unemployment Compensation, FICA, retirement, life and/or medical insurance and Workers' Compensation Insurance as the Subrecipient is an independent subrecipient.

C. Hold Harmless

The Subrecipient shall hold harmless, defend, and indemnify the Grantee from any and all claims, actions, suits, charges and judgments whatsoever that arise out of the Subrecipient's performance or nonperformance of the services or subject matter called for in the Agreement.

D. Workers' Compensation

The Subrecipient shall provide Workers' Compensation Insurance coverage or its equivalent for all of its employees involved in the performance of this contract.

E. Insurance & Bonding

The Subrecipient shall carry sufficient insurance coverage to protect contract assets from loss due to theft, fraud and/or undue physical damage, and as a minimum shall purchase a blanket fidelity bond covering all employees in an amount equal to cash advances from the Grantee.

The Subrecipient shall comply with the bonding and insurance requirements of OMB Circular A-110 (grantee has copy available for review or reproduction).

F. Grantor Recognition

The Subrecipient shall insure recognition of the role of the grantor agency in providing services through this contract. All activities, facilities and items utilized pursuant to this contract shall be prominently labeled as to funding source. In addition, the Subrecipient will include a reference to the support provided herein in all publications made possible with funds made available under this contract.

G. Amendments

The Grantee or Subrecipient may amend this Agreement at any time provided that such amendments make specific reference to this Agreement, and are executed in writing, signed by a duly authorized representative of both organizations, and approved by the Grantee's governing body. Such amendments shall not invalidate this agreement, nor relieve or release the Grantee or Subrecipient from its obligations under the Agreement.

The Grantee may, in its discretion, amend this Agreement to conform with Federal, state or local governmental guidelines, policies and available funding amounts, or for other reasons. If such amendments result in a change of funding, the scope of services, or schedule of the activities to be underwritten as part of this Agreement, such modifications will be incorporated only by written amendment signed by both Grantee and Subrecipient.

H. Suspension or Termination

Either party may terminate this contract at any time by giving written notice to the other party of such termination and specifying the effective date thereof at least 30 days before the effective date of such termination. Partial terminations of the Scope of Service in Paragraph I.A above may only be undertaken with the prior approval of the Grantee. In the event of any termination for convenience, all finished or unfinished documents, data, studies, surveys, maps, models, photographs, reports or other materials prepared by the Subrecipient under this Agreement shall, at the option of the Grantee, become the property of the Grantee, and the Subrecipient shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents or materials prior to the termination.

The Grantee may also suspend or terminate this Agreement, in whole or in part, if the Subrecipient materially fails to comply with any term of this Agreement, or with any of the rules, regulations or provisions referred to herein; and the Grantee may declare the Subrecipient ineligible for any further participation in the Grantee's contracts, in addition to other remedies as provided by law. In the event there is probable cause to believe the Subrecipient is in noncompliance with any applicable rules or regulations, the Grantee may withhold up to fifteen (15) percent of said contract funds until such time as the Subrecipient is found to be in compliance by the Grantee, or is otherwise adjudicated to be in compliance.

VIII. ADMINISTRATIVE REQUIREMENTS

A. Financial Management

1. Accounting Standards

The Subrecipient agrees to comply with the financial management requirements of OMB Circular A-110 (grantee has copy available for review or reproduction) and agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.

2. Cost Principles

The Subrecipient shall administer its program in conformance with OMB Circulars A-122, "Cost Principles for Non-Profit Organizations," or A-21, "Cost Principles for Educational Institutions," as applicable (grantee has copies available for reproduction or review). These principles shall be applied for all costs incurred whether charged on a direct or indirect basis.

B. Documentation and Record-Keeping

1. Records to be Maintained

The Subrecipient shall maintain all records required by the Federal regulations specified in 24 CFR Part 570.506, that are pertinent to the activities to be funded under this Agreement. Such records shall include but not be limited to:

- a. Records providing a full description of each activity undertaken including records documenting development, acquisition, financing and construction activities related to real property covered by this grant as well as services provided at facilities improved as a result of this grant;
- b. Records demonstrating that each activity undertaken meets one of the National Objectives of the CDBG program;
- c. Records required to determine the eligibility of the activities;
- d. Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with CDBG assistance;
- e. Records documenting compliance with the fair housing and equal opportunity components of the CDBG Program including data on the extent to which each racial and ethnic group and single-headed households have applied for, participated in, or benefited from, any program or activity funded in whole or in part with CDBG funds;
- f. Financial records as required by 24 CFR Part 570.502, and OMB Circular A-110;
- g. Other records necessary to document compliance with Subpart K of 24 CFR 570.

2. Retention

The Subrecipient shall retain all records pertinent to expenditures incurred under this contract for a period of four (4) years from the date of submission of the annual performance and evaluation report as required by 24 CFR 570.502.. Records for non-expendable property acquired with funds under this contract shall be retained for four (4) years after final disposition of such property. Notwithstanding the above, if there is litigation, claims, audits, negotiations or other actions that involve any of the records cited and that have started before the expiration of the four-year period, then such records must be retained until completion of the actions and resolution of all issues, or the expiration of the four-year period, whichever occurs first.

3. Client Data

The Subrecipient shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to, client name, address, income level or other basis for determining eligibility, and description of service provided. Such information shall be made available to Grantee monitors or their designees for review upon request.

4. Disclosure

The Subrecipient understands that client information collected under this contract is private and the use or disclosure of such information, when not directly connected with the administration of the Grantee's or Subrecipient's responsibilities with respect to services provided under this contract, is prohibited unless written consent is obtained from such person receiving service and, in the case of a minor, that of a responsible parent/guardian.

5. Close-Outs

The Subrecipients obligation to the Grantee shall not end until all close-out requirements are completed. Activities during this close-out period shall include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to the Grantee), and determining the custodianship of records.

6. Audits & Inspections

All Subrecipient's records with respect to any matters covered by this Agreement shall be made available to the Grantee, grantor agency, their designees or the Federal Government, at any time during normal business hours, as often as the Grantee or grantor agency deems necessary, to audit, examine, and make excerpts or transcripts of all relevant data. Any deficiencies noted in audit reports must be fully cleared by the Subrecipient within 30 days after receipt by the Subrecipient. Failure of the Subrecipient to comply with the above audit requirements will constitute a violation of this contract and may result in the withholding of future payments. The Subrecipient hereby agrees to have an annual agency audit conducted in accordance with current Grantee policy concerning recipient audits and, as applicable. OMB Circular A-133 (grantee has copy available for review or reproduction).

C. Reporting and Payment Procedures

1. Program Income

The Subrecipient shall report monthly all program income as defined in 24 CFR 570.500(a) generated by activities carried out with CDBG funds made available under this contract. The use of program income by the Subrecipient shall comply with the requirements set forth at 24 CFR 570.504. By way of further limitations, the Subrecipient may use such income during the contract period for activities permitted under this contract and shall reduce requests for additional funds by the amount of such program income balances on hand. All unused program income shall be returned to the Grantee at the end of the contract period. Any interest earned on cash advances from the U.S. Treasury is not program income and shall be remitted promptly to the Grantee.

2. Indirect Costs

If indirect costs are charged, the Subrecipient will develop an indirect cost allocation plan for determining the appropriate Subrecipient's share of administrative costs and shall submit such plan to the Grantee for approval, in a form specified by the Grantee.

3. Payment Procedures

The Grantee will pay the Subrecipient funds available under this contract based upon information submitted by the Subrecipient and consistent with any approved budget and Grantee policy concerning payments. With the exception of certain advances, payments will be made for eligible expenses actually incurred by the Subrecipient, and not to exceed actual cash requirements. Payments will be adjusted by the Grantee in accordance with advance fund and program income balances available in Subrecipient accounts. In addition, the Grantee reserves the right to liquidate funds available under this contract for costs incurred by the Grantee on behalf of the Subrecipient.

4. Progress Reports

The Subrecipient shall submit the following Monthly Activity Summary Reports: CDBG Request for Reimbursement Form and subsequent back-up documentation, Performance Objectives Report, Population Served Report, and CDBG Client Data Summary Report to the City of Lewisville Community Development Department no later than the 15th of each month. Additionally, for construction projects, the Subrecipient shall submit a monthly progress narrative that reports on each item specified in "Attachment B – Program Timeline".

5. Procurement

1. Compliance

The Subrecipient shall comply with current Grantee policy concerning the purchase of equipment and procurement of professional services and contractors, and shall maintain inventory records of all non-expendable personal property as defined by such policy as may be procured with funds provided herein. All program assets (unexpended program income, property, equipment, etc.) shall revert to the Grantee upon termination of this contract.

2. OMB Standards

The Subrecipient shall procure all materials, property, or services in accordance with the requirements of OMB Circular A-110. Procurement Standards, and shall subsequently follow the Property Management Standards as modified by 24 CFR 570.502(B)(6), covering utilization and disposal of property.

3. Reversion of Assets

Upon its expiration the Subrecipient shall transfer to the City of Lewisville any CDBG funds on hand at the time of expiration and any accounts receivable attributable to the use of the CDBG funds. Also, any real property under the Subrecipient's control that was acquired or improved in whole or in part with CDBG funds in excess of \$25,000 is either:

- a. Used to meet the national objective stated under Section 1, Part A until five years after expiration of this agreement, or such longer period of time as determined appropriate by the City of Lewisville, or
- b. Is disposed of in a manner which results in the City of Lewisville being reimbursed in the amount of the current fair market value of the property less any portion thereof attributable to expenditures of non-CDBG funds for acquisition of, or improvement to, the property. Such reimbursement is not required after the period of time specified in accordance with (1) above.

4. Travel

The Subrecipient shall obtain written approval from the Grantee for any travel outside the metropolitan area with funds provided under this contract.

IX. RELOCATION, REAL PROPERTY ACQUISITION AND ONE-FOR ONE HOUSING REPLACEMENT

The Subrecipient agrees to comply with (a) the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), and implementing regulations as 49 CFR 24 and 24 CFR 570.606(c) governing the Residential Antidisplacement and Relocation Assistance Plan under section 104(d) of the Hatch Act; and (c) the requirements in § 570.606(d) governing optional relocation policies. [The Grantee may preempt the optional policies.] The Subrecipient shall provide relocation assistance to persons (families, individuals, businesses, nonprofit organizations and farms) that are displaced as a direct result of acquisition, rehabilitation, demolition or conversion for a CDBG-assisted project. The Subrecipient also agrees to comply with applicable Grantee ordinances, resolution and policies concerning the displacement from their residences.

X. PERSONAL & PARTICIPANT CONDITIONS

A. Civil Rights

1. Compliance

The Subrecipient agrees to comply with Title VI of the Civil Rights Act of 1964 as amended, Title VII of the Civil Rights Act of 1968 as amended, Section 104(b) and Section 109 of Title 1 of the Housing and Community Development Act of 1974 as amended, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Executive Order 11063, and with Executive Order 11246 as Amended by Executive Orders 11375 and 12086. Grantee has copies of applicable compliance documents for review or reproduction.

2. Nondiscrimination

The Subrecipient will not discriminate against any employee or applicant for employment because of race, color, creed, religion, ancestry, national origin, sex, disability or other handicap, age, marital/family status, or status with regard to public assistance. The Subrecipients will take affirmative action to ensure that all employment practices are free from such discrimination. Such employment practices include but are not limited to the following: hiring, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Subrecipient agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting agency setting forth the provisions of this nondiscrimination clause.

3. Land Covenants

This contract is subject to the requirements of Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and 24 CFR 570.601 and 602. In regard to the sale, lease, or other transfer of land acquired, cleared or improved with assistance provided under this contract, the Subrecipient shall cause or require a covenant running with the land to be inserted in the deed or lease for such transfer, prohibiting discrimination as herein defined, in the sale, lease or rental, or in the use or occupancy of such land, or in any improvements erected or to be erected thereon, providing that the Grantee and the United States are beneficiaries of and entitled to enforce such covenants. The Subrecipient, in undertaking its obligation to carry out the program assisted hereunder, agrees to take such measures as are necessary to enforce such covenant, and will not itself so discriminate.

4. Section 504

The Subrecipient agrees to comply with any Federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 706), which prohibits discrimination against the handicapped in any Federally assisted program. The Grantee shall provide the Subrecipient with any guidelines necessary for compliance with that portion of the regulations in force during the term of this contract.

B. Equal Employment Opportunity

1. W/MBE

The Subrecipient will use its best efforts to afford minority- and women-owned business enterprises the maximum practicable opportunity to participate in the performance of the contract. As used in this contract, the term "minority and female owned business enterprise" means a business at least fifty-one (51) percent owned and controlled by minority group members or women. For the purpose of this definition, "minority group members" are African-Americans, Spanish-speaking, Spanish surnamed or Spanish-heritage Americans, Asian-Americans, and American Indians. The Subrecipient may rely on written representations by business regarding their status as minority and female business enterprises in lieu of an independent investigation.

2. Access to Records

The Subrecipient shall furnish and cause each of its own subrecipients or subcontractors to furnish all information and reports required hereunder and will permit access to its books, records and accounts by the Grantee, HUD or its agent, or other authorized Federal officials for purposes of investigation to ascertain compliance with the rules, regulations and provisions stated herein.

3. Notifications

The Subrecipient will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or worker's representative of the Subrecipient's commitments hereunder, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

4. EEO Statement

The Subrecipient will, in all solicitations or advertisements for employees placed by or on behalf of the Subrecipient, state that it is an Equal Opportunity employer.

C. Employment Restrictions

1. Prohibited Activity

The Subrecipient is prohibited from using funds provided herein or personnel employed in the administration of the program for political activities; sectarian or religious activities; lobbying, political patronage, and nepotism activities.

2. Labor Standards

The subrecipient agrees to comply with the requirements of the Secretary of Labor in accordance with the Davis-Bacon Act as amended, the provisions of Contract Work Hours and Safety Standards Act, the Copeland "Anti-Kickback" Act (40 U.S.C. 276a-276a-5; 40 U.S.C. 327 and 40 U.S.C. 276c) and all other applicable Federal, state and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this contract. The Subrecipient shall maintain documentation that shall be made available to the Grantee for review upon request.

The Subrecipient agrees that, except with respect to the rehabilitation or construction of residential property containing less than eight (8) units, all contractors engaged under contracts in excess of \$2,000.00 for construction, renovation or repair work financed in whole or in part with assistance provided under this contract, shall comply with Federal requirements adopted by the Grantee pertaining to such contracts and with the applicable requirements of the regulations of the Department of Labor, under 29 CFR Parts 1,3, 5, and 7 governing the payment of wages and ratio of apprentices and trainees to journey workers; provided, that if wage rates higher than those required under the regulations are imposed by state or local law, nothing hereunder is intended to relieve the Subrecipient of its obligation, if any, to require payment of the higher wage. The Subrecipient shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions meeting requirements of this paragraph.

3. "Section 3" Clause

a. Compliance

Compliance with the provisions of Section 3, the regulations set forth in 24 CFR 135, and all applicable rules and orders issued hereunder prior to the execution of this contract, shall be a condition of the Federal financial assistance provided under this contract and binding upon the Grantee, the Subrecipient and subcontractors. Failure to fulfill these requirements shall subject the Grantee, the Subrecipient and any of the Subrecipient's subrecipients and subcontractors, their successors and assigns, to those sanctions specified by the Agreement through which Federal assistance is provided. The Subrecipient certifies and agrees that no contractual or other disability exists which would prevent compliance with these requirements.

The Subrecipient further agrees to comply with these "Section 3" requirements and to include the following language in all subcontracts executed under this agreement:

"The work to be performed under this contract is a project assisted under a program providing direct Federal financial assistance from HUD and is subject to the requirements of Section 3 of the Housing and Urban Development ACT of 1968, as amended, 12 U.S.C. 1701. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given to low- and very-low income residents of the project area and contracts for work in connection with the project be awarded to business concerns that provide economic opportunities for low- and very low-income persons residing in the metropolitan area in which the project is located."

The Subrecipient further agrees to ensure that opportunities for training and employment arising in connection with a housing rehabilitation (including reduction and abatement of lead based paint hazards), housing construction, or other public construction projects are given to low- and very low-income persons residing within the metropolitan area in which the CDBG-funded project is located; where feasible, priority should be given to low- and very low-income persons within the service area of the project or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs; and award contracts for work undertaken in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction projects are given to business concerns that provide economic opportunities for low- and very low-income persons residing within the metropolitan area in which the CDBG-funded project is located; where feasible, priority should be given to business concerns which provide economic opportunities to low- and very low-income residents within the service area or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs.

The Subrecipient certifies and agrees that no contractual or other legal incapacity exists which would prevent compliance with these requirements.

b. Notifications

The Subrecipient agrees to send to each labor organization or representative of workers with which it has a collective bargaining agreement or other contract or understanding, if any, a notice advising said labor organization or workers' representative of its commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment training.

c. Subcontracts

The Subrecipient will include this Section 3 clause in every subcontract and will take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the grantor agency. The Subrecipient will not subcontract with any entity where it has notice or knowledge that the latter has been found to be in violation of regulations under 24 CFR 135 and will not let any subcontract unless the entity has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

D. Conduct

1. Assignability

The Subrecipient shall not assign or transfer any interest in this contract without the prior written consent of the Grantee thereof; provided, however, that claims for money due or to become due to the Subrecipient from the Grantee under this contract may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to the Grantee.

2. Subcontracts

a. Approvals

The Subrecipient shall not enter into any subcontracts with any agency or individual in the performance of this contract without written consent of the Grantee prior to the execution of such agreement.

b. Monitoring

The Subrecipient will monitor all subcontracted services on a regular basis to assure contract compliance. Results of monitoring efforts shall be summarized in written reports and supported with documented evidence of follow-up actions taken to correct areas of noncompliance.

c. Content

The Subrecipient shall cause all of the provisions of this contract in its entirety to be included in and made a part of any subcontract executed in the performance of this Agreement.

d. Selection Process

The Subrecipient shall undertake to insure that all subcontracts let in the performance of this Agreement shall be awarded on a fair and open competition basis. Executed copies of all subcontracts shall be forwarded to the Grantee along with documentation concerning the selection process.

3. Hatch Act

The Subrecipient agrees that no funds provided, nor personnel employed under the contract, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of Title V United States Code.

4. Conflict of Interest

The Subrecipient agrees to abide by the provisions of 24 CFR 570.611 with respect to conflicts of interest, and covenants that it presently has no financial interest and shall not acquire any financial interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Agreement. The Subrecipient further covenants that in the performance of this agreement no person having such a financial interest shall be employed or retained by the Subrecipient hereunder. These conflict of interest provisions apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the Grantee, or of any designated public agencies or subrecipients which are receiving funds under the CDBG Entitlement program.

5. Lobbying

The Subrecipient hereby certifies that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of congress, or an employee of a Member of Congress in connection with this Federal Contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

c. It will require that the language of paragraph (d) of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly; and

d. Lobbying Certification - Paragraph d

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1362, title 31, U.S.C. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

6. Copyright

If this contract results in any copyrightable material or inventions, the Grantee and/or grantor agency reserves the right to royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use, the work or materials for government purposes.

7. Religious Organization

The Subrecipient agrees that funds provided under this contract will not be utilized for religious activities, to promote religious interests, or for the benefit of a religious organization in accordance with the Federal regulations specified in 24 CFR 570.200(j).

XI. ENVIRONMENTAL CONDITIONS

A. Air and Water

The Subrecipient agrees to comply with the following requirements insofar as they apply to the performance of this contract:

Clean Air Act, 42 U.S.C., 7401, et. seq.

Federal Water Pollution Control Act, as amended, 33 U.S.C. 1261, et. seq., as amended 1218 relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder.

Environmental Protection Agency (EPA) regulations pursuant to 40 CFR Part 50, as amended.

B. Flood Disaster Protection

In accordance with the requirements of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001), the Subrecipient shall assure that for activities located in an area identified by FEMA as having special flood hazards, flood insurance under the National Flood Insurance Program is obtained and maintained as a condition of financial assistance for acquisition or construction purposes (including rehabilitation).

C. Lead-Based Paint

The Sub-recipient agrees that any construction or rehabilitation of residential structures with assistance provided under this contract shall be subject to HUD Lead-Based Paint Regulations at 24 CFR 570.608, and 24 CFR Part 35 including the new Lead Safe House Rule effective Sept. 15, 2000. Such regulations pertain to all HUD assisted housing and require that all owners, prospective owners, and tenants of properties constructed prior to 1978 be properly notified that such properties may include lead-based paint. Such notification shall point out the hazards of lead-based paint and explain the symptoms, treatment and precautions that should be taken when dealing with lead-based pain poisoning and the advisability and availability of blood lead screening for children under seven. The notice should also point out that if lead-based paint is found on the property, abatement measures may be undertaken.

D. Historic Preservation

The Subrecipient agrees to comply with the Historic Preservation requirements set forth in the National Historic Preservation Act of 1965, as amended (16 U.S.C. 470) and the procedures set forth in 36 CFR Part 800, Advisory Council on Historic Preservation Procedure for Protection of Historic Properties, insofar as they apply to the performance of this contract.

In general, this requires concurrence from the State Historic Preservation Officer for all rehabilitation and demolition of historic properties that are fifty years old or older or that are included on a Federal, state, or local historic property list.

E. Environmental Review Process

The Subrecipient agrees that an Environmental Review must be performed by the Grantee before any use of CDBG funds, or funds from other sources, is allowed. The Grantee must document the level of environmental review required under 24 CFR Part 58. (Exempt, Categorically Excluded, Environmental Assessment or Environmental Impact Statement). When required, the Grantee must also document environmental conditions complying with 24 CFR Parts 51, 55 and 58. As part of the ERR process, progress on a project could be halted to allow for the completion of the Environmental Review and alternatives may have to be considered including alternate site selection, modifications to the project and cancellation of the project. Depending on the level of review, the Grantee may be required to complete a statutory checklist to document compliance with various laws and authorities listed at 24 CFR 58.5. Furthermore, the Grantee may have to publish Notices of Intent to Request Release of Funds and/or Findings of No Significant Impact. Before project funds are committed, the Grantee may also have to wait for a written Release of Funds response from HUD.

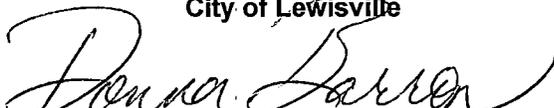
XII. SEVERABILITY

If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby and all other parts of this Agreement shall nevertheless be in full force and effect.

IN WITNESS WHEREOF, the Parties do hereby affix their signatures and enter into this funding Agreement as of the 1st day of October, 2015.

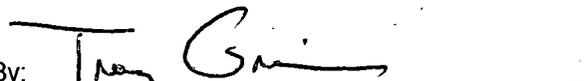
City of Lewisville

By:


Donna Barron, City Manager

Special Abilities of North Texas

By:


Troy Greisen, President and CEO

Attest:


Julie Heinze, City Secretary

APPROVED AS TO FORM:


Lizbeth Plaster, City Attorney

Attachment A- Program Summary

Due to reaching maximum capacity at the Special Abilities of North Texas (SANT) current Lewisville facility, SANT is relocating and has secured a new building. State regulations and codes for standards of providing the necessary care and training for persons with special needs requires SANT to make modifications to the new location. SANT is the only licensed service provider in the area. The new building is in an existing retail center and had most recently been used as a school. It will require modification to meet licensing standards and ensure the best quality care, training and support for SANT clients. These improvements will allow SANT to receive a renewed license by the state Department of Aging and Disabilities and continue programming, critical care, and optimal life skills training. The agency will serve 25 Lewisville residents when completed.

Scope of Services

The construction activity would include a bathroom remodel, disability and wheelchair accessibility modifications, a shower installation, and kitchen expansion/modification. SANT will purchase the building using traditional financing prior to construction.

Attachment B- Program Time Line and Benchmarks

Date	Description
October 1, 2015 - November 30, 2015	Environmental Review: Neighborhood Services staff performs an Environmental Assessment, publishes findings, and requests release of funds from HUD after a public comment period.
October 1, 2015 - December 31, 2015	Facility Design Completion: Subrecipient completes any needed architecture, design, consultations and work specifications for bids.
December 31, 2015	Funding Benchmark: Subrecipient has raised or 90% of project funding or arranged for financing as needed for construction.
January 1, 2016 - February 28, 2016	Bid & Award: Subrecipient develops a bid packet, expands bid lists to include minority and Section 3 businesses, pulls Davis Bacon wage determination, releases bid, conducts pre-bid conference, reviews bids and recommends award of contract to board.
March 1, 2016 - June 30, 2016	Construction: permits, pre-construction conferences, contractor/ subcontractor certifications, clear debarred list, construction, Davis Bacon wage interviews, and inspections.

Attachment C- Budget

Sources

CDBG Funds	Up to \$35,000
Matching Funds	At least \$12,500 (see special conditions)
Total	\$50,000

Uses of CDBG Funds

Funds will be used to make improvements to SANT’s new building in order to properly finish out the space to meet the demands of specific codes, state requirements and accessibility needs and higher client traffic.

EXHIBIT B

Attachment B - Program Time Line

OCTOBER 1, 2015 THROUGH September 30, 2018

The grant award is made for a three-year period.

MEMORANDUM

TO: Donna Barron, City Manager

FROM: Jordan Strickler, Environmental Control Services Manager

VIA: Keith Marvin P.E., Director of Public Services

DATE: November 27, 2017

SUBJECT: **Approval of a Resolution Acknowledging the 2018 Waste Management Cost of Service Rates for Franchised Solid Waste and Recycling Services.**

BACKGROUND

In April 2014, Council approved Ordinance No. 4062-04-2014 establishing a franchise agreement with Waste Management (WM) for solid waste/recycling collection services for residential and multi-family customers and solid waste collection and disposal services for commercial customers. Ordinance No. 4062-04-2014 became effective August 4, 2014. Per the agreement, the WM cost of service rates are to be adjusted annually by the percentage increase in the DFW Consumer Price Index (CPI) for the preceding twelve-month period. Adjustments take effect on January 1 of the subsequent contract year.

Due to the August 2014 effective date for the current franchise agreement and the resulting rate changes associated with the new agreement, no CPI adjustment was made to cost of service rates in 2015 by mutual agreement of the City and WM. The first CPI adjustment to the 2014 rates was planned for January 1, 2016. However, the CPI decreased for 2015, and no adjustments were made to rates for 2016. Rates were adjusted on January 1, 2017 to reflect a 2.0 percent CPI increase. Per the franchise agreement, CPI adjustments are not allowed to be higher than five percent in any contract year and no greater than fifteen percent in any consecutive four years.

ANALYSIS

The current CPI for the DFW area as published by the Bureau of Labor Statistics reflects an increase of 3.2 percent. WM is therefore planning an adjustment of 3.2 percent to the cost of service rates for 2017. The CPI increase impacts all residential, multi-family and commercial customer rates. City Council acknowledgement of rate adjustments must be provided to WM by December 20 each year per the franchise agreement.

RECOMMENDATION

It is City staff's recommendation that the City Council approve the Resolution as set forth in the caption above.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LEWISVILLE, TEXAS, ACKNOWLEDGING THE 2018 WASTE MANAGEMENT COST OF SERVICE RATES FOR FRANCHISED SOLID WASTE AND RECYCLING SERVICES.

WHEREAS, City Council approved Ordinance No. 4062-04-2014 in April 2014 with an effective date of August 4, 2014, which ordinance sets forth the franchise agreement terms between the City and Waste Management (WM) for Residential and Multi-Family Solid Waste/Recycling Services and Commercial Solid Waste Collection and Disposal Services; and,

WHEREAS, Ordinance No. 4062-04-2014 identifies WM's 2014 cost of service rates for all services provided under the franchise agreement; and,

WHEREAS, Ordinance No. 4062-04-2014 provides a method for WM to adjust cost of service rates annually using the Dallas Fort Worth (DFW) area Consumer Price Index; and,

WHEREAS, the applicable DFW CPI as of September 2017 reflects an increase of 3.2 percent and WM is therefore seeking an increase of 3.2 percent in cost of service rates for 2018.

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

SECTION 1. WM's cost of service rates as established by Ordinance No. 4062-04-2014 shall be increased by 3.2 percent effective January 1, 2018.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF LEWISVILLE, TEXAS, ON THIS THE 18th DAY OF DECEMBER, 2017.

RESOLUTION NO. _____

Page 2

APPROVED:

Rudy Durham, MAYOR

ATTEST:

Julie Worster, CITY SECRETARY

APPROVED AS TO FORM:

Lizbeth Plaster, CITY ATTORNEY

Lewisville, Texas

1/1/2018

FOR THE CUSTOMER TAB

RESIDENTIAL RATES

1X Wk 96 Gal Cart	\$12.06	<i>Two (2) 39 Gallon bags allowed outside of the cart</i>
Senior Citizen Rate	\$9.65	
Disabled Carryout	\$12.06	
Extra Cart - trash or recycle	\$5.26	
Replace Missing/Stolen Cart	\$68.42	

SERVICE ENCHANCEMENT OPTIONS

Yard Waste Collection Option	\$2.69
At Your Door/HHW	\$1.26
Once Per Month Yardwaste and Bulky Collection	\$2.16
Recyclebank Incentive Program	\$0.69

COMMERCIAL HAND COLLECT

	1XWK	2XWK
Hand Collect 96 Gal Cart 1X	\$ 22.69	N/A
Extra Cart - 4 Cart Maximum	\$ 5.26	N/A
Redelivery for non payment	\$ 55.55	N/A
Replace Stolen/Missing Cart	\$ 68.42	N/A

COMMERCIAL FRONT LOAD RATES

Container Size / Type	FREQUENCY PER WEEK							
	1XWK	2XWK	3XWK	4XWK	5XWK	6XWK	7XWK	EXTRA PU
2 Yard FEL Container	\$ 65.94	\$ 115.58	\$ 165.24	\$ 214.89	\$ 264.55	\$ 314.21	\$ 363.84	\$ 26.29
3 Yard FEL Container	\$ 75.12	\$ 130.68	\$ 186.23	\$ 241.83	\$ 297.39	\$ 352.97	\$ 408.53	\$ 30.96
4 Yard FEL Container	\$ 84.05	\$ 145.53	\$ 207.01	\$ 268.51	\$ 329.98	\$ 391.48	\$ 452.98	\$ 37.75
6 Yard FEL Container	\$ 100.88	\$ 174.21	\$ 247.54	\$ 320.86	\$ 394.18	\$ 467.51	\$ 540.84	\$ 44.50
8-Yard FEL Container	\$ 116.47	\$ 201.63	\$ 286.80	\$ 371.94	\$ 457.12	\$ 542.26	\$ 627.44	\$ 57.20

See other Fees and Charges Below

Lock Bar, MONTHLY	\$ 11.10
Casters MONTHLY	\$ 11.10

VERTICAL COMPACTORS

Size	1x	2x	3x	4x	5x	6x	7x	XPU
2 Yard FEL Compactor	\$ 160.35	\$ 320.68	\$ 481.04	\$ 641.38	\$ 801.71	\$ 962.05	\$ 1,122.81	\$ 41.40
3 Yard FEL Compactor	\$ 183.80	\$ 367.58	\$ 551.39	\$ 735.16	\$ 918.91	\$ 1,102.71	\$ 1,286.51	\$ 44.66
4 Yard FEL Compactor	\$ 207.35	\$ 414.45	\$ 621.70	\$ 828.93	\$ 1,036.17	\$ 1,243.37	\$ 1,450.62	\$ 50.83
6 Yard FEL Compactor	\$ 254.13	\$ 508.24	\$ 762.38	\$ 1,016.49	\$ 1,270.60	\$ 1,524.72	\$ 1,778.85	\$ 63.13
8 Yard FEL Compactor	\$ 322.61	\$ 645.26	\$ 967.87	\$ 1,290.49	\$ 1,613.11	\$ 1,935.73	\$ 2,258.35	\$ 80.44

MULTI-FAMILY RECYCLING RATES

Apartment Bin/Per Unit	\$ 0.15
Replacement Bin	\$ 10.53
2-4-6-8 yard frontload container per unit	\$ 0.90

ROLL-OFF RATES

Container Size / Type	Delivery Rate	Rental Rate	BY Month or Day Rate	Haul Rate per Pull	Disposal Rate per ton
10 Yard (Open-Top)	\$ 97.19	\$ 166.63	Month	\$ 158.29	\$ 21.65
12 Yard (Open-Top)	\$ 97.19	\$ 166.63	Month	\$ 158.29	\$ 21.65
18 Yard (Open-Top)	\$ 97.19	\$ 166.63	Month	\$ 158.29	\$ 21.65
20 Yard (Open-Top)	\$ 97.19	\$ 166.63	Month	\$ 158.29	\$ 21.65
24 Yard (Open-Top)	\$ 97.19	\$ 166.63	Month	\$ 158.29	\$ 21.65
30 Yard (Open-Top)	\$ 97.19	\$ 166.63	Month	\$ 158.29	\$ 21.65
40 Yard (Open-Top)	\$ 97.19	\$ 166.63	Month	\$ 158.29	\$ 21.65
10 Yard (Compactor)	\$ 97.19	\$ 166.63	Month	\$ 158.29	\$ 21.65
12 Yard (Compactor)	\$ 97.19	\$ 166.63	Month	\$ 158.29	\$ 21.65
15 Yard (Compactor)	\$ 97.19	\$ 166.63	Month	\$ 158.29	\$ 21.65
17 Yard (Compactor)	\$ 97.19	\$ 166.63	Month	\$ 158.29	\$ 21.65
18 Yard (Compactor)	\$ 97.19	\$ 166.63	Month	\$ 158.29	\$ 21.65
20 Yard (Compactor)	\$ 97.19	\$ 166.63	Month	\$ 158.29	\$ 21.65
24 Yard (Compactor)	\$ 97.19	\$ 166.63	Month	\$ 158.29	\$ 21.65
25 Yard (Compactor)	\$ 97.19	\$ 166.63	Month	\$ 158.29	\$ 21.65
27 Yard (Compactor)	\$ 97.19	\$ 166.63	Month	\$ 158.29	\$ 21.65
30 Yard (Compactor)	\$ 97.19	\$ 166.63	Month	\$ 158.29	\$ 21.65
34 Yard (Compactor)	\$ 97.19	\$ 166.63	Month	\$ 158.29	\$ 21.65
35 Yard (Compactor)	\$ 97.19	\$ 166.63	Month	\$ 158.29	\$ 21.65
38 Yard (Compactor)	\$ 97.19	\$ 166.63	Month	\$ 158.29	\$ 21.65
40 Yard (Compactor)	\$ 97.19	\$ 166.63	Month	\$ 158.29	\$ 21.65
42 Yard (Compactor)	\$ 97.19	\$ 166.63	Month	\$ 158.29	\$ 21.65
Box Only	N/A	\$ 175.31			
Self-Contained Unit	N/A	\$ 398.56			
Compactor Head and Box	N/A	\$ 398.56			

NOTES / FREE SERVICES

DISASTER MANAGEMENT/PER TRUCK/PER HOUR

Rear-End Loader \$131.58
 Grapple Truck \$157.90

Miscellaneous Rates:

Compactor Cleaning Service \$208.28
 Trip Charge \$ 97.20
 Compactor Removal \$ 97.20
 Container Relocation \$ 97.20
 Exchange of Compactors \$ 97.20
 Liners for Rolloff Containers \$ 55.55
 Service Reinstatement Service \$ 47.36
 Frontload Compactor Rental 4 cubic yard compactor \$253.08 6 cubic yard compactor \$273.60
 Any Special Services, Negotiated Services, Or Other Services Not Specifically Stated within The Fee Ordinance: Quoted Cost plus 17.46%

Sludge/Special Waste

Per Ton \$12.40



November 27, 2017

Jordan Strickler
Environmental Control Services Manager
Department of Public Services
1100 North Kealy Avenue
Lewisville, Texas 75057

Ms. Strickler:

Waste Management is very proud of our partnership with the City of Lewisville. Together we have delivered outstanding service to the residential and business community of Lewisville.

In 2017 several changes took place pertaining to staff for both the City of Lewisville and Waste Management. The transition has been smooth because of the great communication between both parties. Waste Management pledges to continue with this in the future.

As provided in the service contract, Waste Management is allowed to petition the City of Lewisville for an annual price increase. The details of how this is to take place is contained in "Attachment E" of the agreement.

The calculation for the increase shows a 3.2% increase in the Consumer Price Index between September 2017 and September 2018. The adjustments to all pricing associated with Waste Management's services will reflect the 3.2% increase starting January 1, 2018. The supporting documentation and new pricing matrix has been provided to the City of Lewisville.

Waste Management looks forward to many more years of partnership with the City of Lewisville! If you have any questions please do not hesitate to contact me at any time.

Sincerely:

Steve Kellar

Steve Kellar
Waste Management
Public Sector Manager

MEMORANDUM

TO: Donna Barron, City Manager

VIA: Keith Marvin, P.E., Director of Public Services

FROM: Jordan Strickler, Environmental Control Services Manager

DATE: November 27, 2017

SUBJECT: **Consideration of an Ordinance Amending the Lewisville Code of Ordinances, Chapter 2, Article VIII, Section 2-201, Fee Schedule, Related to Solid Waste and Recycling Rates.**

BACKGROUND

In April 2014, Council approved Ordinance No. 4062-04-2014 establishing a franchise agreement with Waste Management (WM) for solid waste/recycling collection services for residential and multi-family customers and solid waste collection and disposal services for commercial customers. Ordinance No. 4062-04-2014 became effective August 4, 2014, and set forth the WM cost of service rates for franchised solid waste and recycling services. Per the franchise agreement, the WM cost of service rates are to be adjusted annually by the percentage increase in the DFW Consumer Price Index (CPI) for the preceding twelve month period. Adjustments take effect on January 1 of the subsequent contract year.

Customer rates are established by the City Council. After the franchise agreement was approved, Council approved Ordinance No. 4094-07-2014 and Ordinance No. 4133-11-2014, which established customer rates for all services. Customer rate increases have historically matched the CPI percentage increase applied to WM cost of service rates.

Due to the August 2014 effective date for the current franchise agreement and the resulting rate changes associated with the new agreement, no CPI adjustment was made to WM cost of service rates in 2015 by mutual agreement of the City and WM. The first CPI adjustment to the 2014 rates was planned for January 1, 2016. However, the CPI decreased for 2015, and no adjustments were made to rates for 2016. Rates were adjusted on January 1, 2017 to reflect a 2.0 percent CPI increase. Per the franchise agreement, CPI adjustments are not allowed to be higher than five percent in any contract year and no greater than fifteen percent in any consecutive four years.

ANALYSIS

The current CPI for the DFW area as published by the Bureau of Labor Statistics reflects an increase of 3.2 percent, and WM is therefore seeking a 3.2 percent increase to cost of service rates for 2017. Council has the option to adjust customer rates by the CPI as done in the past to maintain an equitable customer rate structure. Such CPI increase of 3.2 percent would apply to all residential, multi-family and commercial customer rates. City Council established customer rates for 2017 must be provided to WM by December 20, 2016, per the franchise agreement.

RECOMMENDATION

It is City staff's recommendation that the City Council approve the ordinance as set forth in the caption above.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LEWISVILLE, TEXAS, AMENDING THE LEWISVILLE CITY CODE, CHAPTER 2, SECTION 2-201, FEE SCHEDULE, BY AMENDING THE FEES FOR SOLID WASTE AND RECYCLING SERVICES; PROVIDING A REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE; AND DECLARING AN EMERGENCY.

WHEREAS, the City Council of the City of Lewisville, Texas, has determined that for the health, welfare, and safety of its citizens, it is desirable that certain amendments to Chapter 2, Article VIII, Section 2-201 of the Lewisville City Code are necessary.

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

SECTION 1. AMENDMENT. City Code, Chapter 2, Article VIII, Section 2-201, Fee Schedule, is hereby amended by deleting the fees listed below in their entirety, and in their place inserting the following fees:

COMMERCIAL REFUSE STORAGE CART RATES:

Container	Rate
96 gallon cart, collected 1 x week (per cart/month)	26.65
Additional 96 gallon cart, collected 1 x week (per cart/month); 4 cart maximum	6.18
Redelivery rate for nonpayment (per occurrence)	65.24
Replace stolen/missing cart (one-time fee)	80.37

COMMERCIAL FRONT END LOADER (FEL) CONTAINER RATES:

FEL NON-COMPACTOR COLLECTION								
Container Type/Size	1x Week	2x Week	3x Week	4x Week	5x Week	6x Week	7x Week	Extra Pickup
2 cy container	77.46	135.76	194.10	252.41	310.74	369.08	427.37	30.87
3 cy container	88.23	153.50	218.75	284.05	349.32	414.60	479.86	36.36
4 cy container	98.72	170.94	243.16	315.39	387.59	459.82	532.06	44.34
6 cy container	118.49	204.63	290.76	376.88	463.00	549.14	635.27	52.26
8 cy container	136.81	236.83	336.88	436.88	536.93	636.95	736.98	67.19
Casters/Locks	13.04							
FEL VERTICAL COMPACTOR COLLECTION								
Container Type/Size	1x Week	2x Week	3x Week	4x Week	5x Week	6x Week	7x Week	Extra Pickup
2 cy compactor	188.35	376.67	565.03	753.36	941.69	1130.02	1318.85	48.63
3 cy compactor	215.90	431.76	647.66	863.51	1079.36	1295.25	1511.13	52.46
4 cy compactor	243.55	486.82	730.25	973.66	1217.08	1460.47	1703.90	59.71
6 cy compactor	298.50	596.97	895.49	1193.97	1492.44	1790.93	2089.43	74.15
8 cy compactor	378.94	757.92	1136.86	1515.80	1894.75	2273.71	2652.65	94.48
FEL VERTICAL COMPACTOR RENTAL								
Container Size					Rate per Month			
4 cy compactor					297.28			
6 cy compactor					321.37			

COMMERCIAL ROLL-OFF (RO) CONTAINER RATES:

RO NON-COMPACTOR				
Container Size	Haul Rate per Pull	Disposal Rate per Ton	Delivery Rate	Rental Rate
10 cy container	185.92	24.06	106.45	177.71
12 cy container	185.92	24.06	106.45	177.71
18 cy container	259.54	24.06	106.45	177.71
20 cy container	259.54	24.06	106.45	177.71
24 cy container	274.19	24.06	106.45	177.71
30 cy container	296.14	24.06	106.45	177.71
40 cy container	373.70	24.06	106.45	177.71
RO COMPACTOR				
Container Size	Haul Rate per Pull	Disposal Rate per Ton	Delivery Rate	Rental Rate
10 cy compactor	252.55	24.06	106.45	177.71
12 cy compactor	252.55	24.06	106.45	177.71
15 cy compactor	266.84	24.06	106.45	177.71
17 cy compactor	276.35	24.06	106.45	177.71
18 cy compactor	283.30	24.06	106.45	177.71
20 cy compactor	290.63	24.06	106.45	177.71
24 cy compactor	309.68	24.06	106.45	177.71
25 cy compactor	314.44	24.06	106.45	177.71
27 cy compactor	327.26	24.06	106.45	177.71
30 cy compactor	338.26	24.06	106.45	177.71
34 cy compactor	354.01	24.06	106.45	177.71
35 cy compactor	357.69	24.06	106.45	177.71
38 cy compactor	381.30	24.06	106.45	177.71
40 cy compactor	392.09	24.06	106.45	177.71
42 cy compactor	399.40	24.06	106.45	177.71

COMPACTOR UNIT RENTAL RATES:

Unit Type	Rate
Box Only	195.83
Self-contained unit	445.25
Compactor head and box	445.25

COMMERCIAL MISCELLANEOUS RATES:

Service Description	Rate
Compactor cleaning fee	228.11
Trip charge	106.45
Compactor removal	106.45
Container relocation	106.45
Exchange of compactors	106.45
Liners for roll-off containers	60.83
Service reinstatement fee	55.64
Special services, negotiated services, or any other services not specifically stated within the fee ordinance	Quoted cost plus 17.46%

MULTI-FAMILY RECYCLING RATES:

Container	Rate per Apartment Unit
2 cubic yard front loader	1.06
4 cubic yard front loader	1.06
6 cubic yard front loader	1.06
8 cubic yard front loader (up to three containers)	1.06
Recycling bin for each apartment unit	0.18
Replacement apartment bin	12.37

RESIDENTIAL TRASH AND RECYCLING COLLECTION RATES:

Service	Container	Rate Per Month
Once a week trash collection; two 39-gallon bags allowed outside cart	WM 96-gallon cart	12.06
Once a week recycling collection; nothing allowed outside cart	WM 96-gallon cart	Included
Once a week Bulky Waste collection	Resident container/bundled or large item set-out; maximum 3 CY	Included
Once a week Yard Waste collection	Resident bundle, residential container set out; maximum 3 CY	Included
Senior citizen, same service as above	Same set-out containers; can request smaller cart but will pay same rate	9.65
Special carry-out trash/recycling service (does not include Bulky Waste and Yard Waste)	Same set-out containers; can request smaller cart but will pay same rate	12.06
Second trash or recycling cart	WM 96-gallon cart	5.26
Replacement of damaged cart	WM 96-gallon cart	Free
Replacement of missing/stolen cart (1-time charge)	WM 96-gallon cart	68.42

RESIDENTIAL SERVICE ENHANCEMENT OPTIONS RATES:

Service Enhancement Option	Rate per Month
Once a week Yard Waste Collection Program (delivery of Yard Waste to reuse, composting, or other non-disposal facility)	2.69
At Your Door HHW collection (unlimited)	1.26
Once a month unlimited Yard Waste and Bulky Waste collection	2.16
Recyclebank incentive program	0.69

SECTION 2. REPEALER. Every ordinance or parts of ordinances found to be in conflict herewith are hereby repealed.

SECTION 3. SEVERABILITY. If any section, sentence, clause, or phrase of this ordinance shall for any reason be held to be invalid, such decision shall not affect the validity of the remaining sections, sentences, clauses, or phrases of this ordinance, but they shall remain in effect.

SECTION 4. EFFECTIVE DATE. This ordinance shall become effective immediately upon its passage and publication as required by law.

SECTION 5. EMERGENCY. It being for the public welfare that this ordinance be passed creates an emergency and public necessity, and the rule requiring this ordinance be read on three separate occasions be, and the same is hereby waived, and this ordinance shall be in full force and effect from and after its passage and approval and publication, as the law in such cases provides.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF LEWISVILLE, TEXAS, BY A VOTE OF _____ TO _____, ON THIS THE __ DAY OF DECEMBER, 2017.

APPROVED:

Rudy Durham, MAYOR

ORDINANCE NO. _____

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ATTEST:

Julie Worster, CITY SECRETARY

APPROVED AS TO FORM:

Lizbeth Plaster, CITY ATTORNEY

MEMORANDUM

TO: Donna Barron, City Manager

FROM: David Salmon, P.E., City Engineer

VIA Eric Ferris, Deputy City Manager

DATE: December 4, 2017

SUBJECT: Consideration of an Ordinance Amending the Lewisville City Code, Section 15-35, Maximum Speed Limits on Specific Streets; Establishing the Posted Speed Limit on Valley Ridge Boulevard from Mill Street to State Highway 121 Business of 40 Miles Per Hour.

BACKGROUND

The new section of Valley Ridge Boulevard between Mill Street and College Street is now open to traffic. The roadway connects two major highways in Lewisville viz. I-35E and SH 121 Business. An ordinance is required to support a maximum speed limit on this new section of Valley Ridge Boulevard. Based on the speed study and existing roadway conditions, the recommended speed limit on the new section of Valley Ridge Boulevard is 40 mph. In addition, a speed study was conducted on the existing section of Valley Ridge Boulevard between College Street and SH 121 Business and the recommendation from the study is to increase the speed limit on this existing section from 35 mph to 40 mph.

ANALYSIS

The completion of the Valley Ridge Boulevard extension project between Mill Street and College Street required that a speed study be performed on the roadway to establish a regulatory speed. The roadway is a four-lane divided principal arterial that connects Interstate Highway 35E and State Highway 121 Business. In addition to performing the speed study on the new section of Valley Ridge Blvd, staff conducted a speed study on the existing section of Valley Ridge Boulevard between College Street and SH 121 Business where the currently posted speed limit is 35 mph.

85th Percentile Speed Method:

Speed limits on roads in the City of Lewisville and generally on Texas roadways are set by the 85th percentile speed method based on a speed study. The 85th percentile speed represents the speed that most drivers are traveling at or below. The observed free-flow speeds of the vehicles are then tallied and the 85th percentile speed is calculated using the collected information. To ensure that a true reflection of a normal traffic situation is achieved, speed studies are performed

Subject: Speed Limit on Valley Ridge Blvd
December 18, 2017
Page 2

on average weekdays, during off-peak hours and under favorable weather conditions. The speed limit is set at the nearest value to the 85th percentile speed ending in 5 or 0.

According to TxDOT guidelines, the posted speed limit may be lowered up to 10 mph below the 85th percentile speed if some of the following conditions exist:

- Roadway characteristics, alignment, horizontal curves and vertical curves
- Narrow roadway pavement width
- High number of driveways
- Hidden driveways and other developments
- Crash History
- Rural residential or developed area
- Lack of striped or improved shoulders

Factors considered in the evaluation of Speeds:

The following are the factors that are considered in the evaluation of the speed limit on Valley Ridge Blvd:

Roadway characteristics & alignment: Due to the cross profiles of Mill Street and College Street, there are dips created in the Valley Ridge Boulevard roadway at both intersections. When vehicles travel at a faster rate of speed on Valley Ridge Blvd, the dips in the roadway are causing the vehicles to bottom out and scrape the roadway surface.

None of the other listed factors apply to Valley Ridge.

Speed Study:

A. Speed data on the new section of Valley Ridge Blvd

Staff has performed a speed study of the traffic at several locations of the new section of Valley Ridge Blvd between Mill St and College St. Speed checks are conducted at approximately quarter-mile intervals. The posted speed limit while conducting the speed study was 30 mph. The results of the 85th percentile speed study are summarized below:

	85th Percentile Speeds (in mph) Collected At the Following Locations					
Valley Ridge Blvd	~1100 feet east of Mill St	~2200 feet east of Mill St	~1000 feet east of Kealy Ave	~2100 feet east of Kealy Ave	~3700 feet east of Kealy Ave	Averages
Eastbound	44	44	42	48	47	EB Avg: 45 mph
Westbound	43	43	43	46	48	WB Avg: 44.6 mph
Average Both Directions						44.8 mph

Table 1: 85th percentile speed on the new section of Valley Ridge Blvd between Mill St & College St

The 85th percentile speed on the new section of Valley Ridge Blvd is 44.8 mph. Since the speed limit is set at the nearest value to the 85th percentile speed ending in 5 or 0, the speed limit on the new section of Valley Ridge Blvd should normally be set at 45 mph.

As discussed above in the factors to consider for evaluating the speed limit, the vertical roadway alignment of Valley Ridge Blvd includes dips in the roadway at the Mill St and College St. intersections. The dip at Mill Street is enough that staff is evaluating ways to remedy the alignment including rebuilding the intersection. Because of the dips at the intersections, it is recommended that the speed limit on the new section of Valley Ridge Blvd be set at 40 mph.

B. Speed Study on the existing section of Valley Ridge Blvd (between College and SH 121 Bus)

Staff conducted a speed study on the existing section of Valley Ridge Blvd between College St and SH 121 Business. The posted speed limit on this section of the roadway is 35 mph.

The results of the speed check are as summarized in the table below:

Valley Ridge Blvd	85th percentile speed on Valley Ridge Blvd about 1200 south of College St
Eastbound	42
Westbound	45
Average	43.5 mph

Table 2: 85th percentile speed on the existing section of Valley Ridge between College and SH 121 Bus

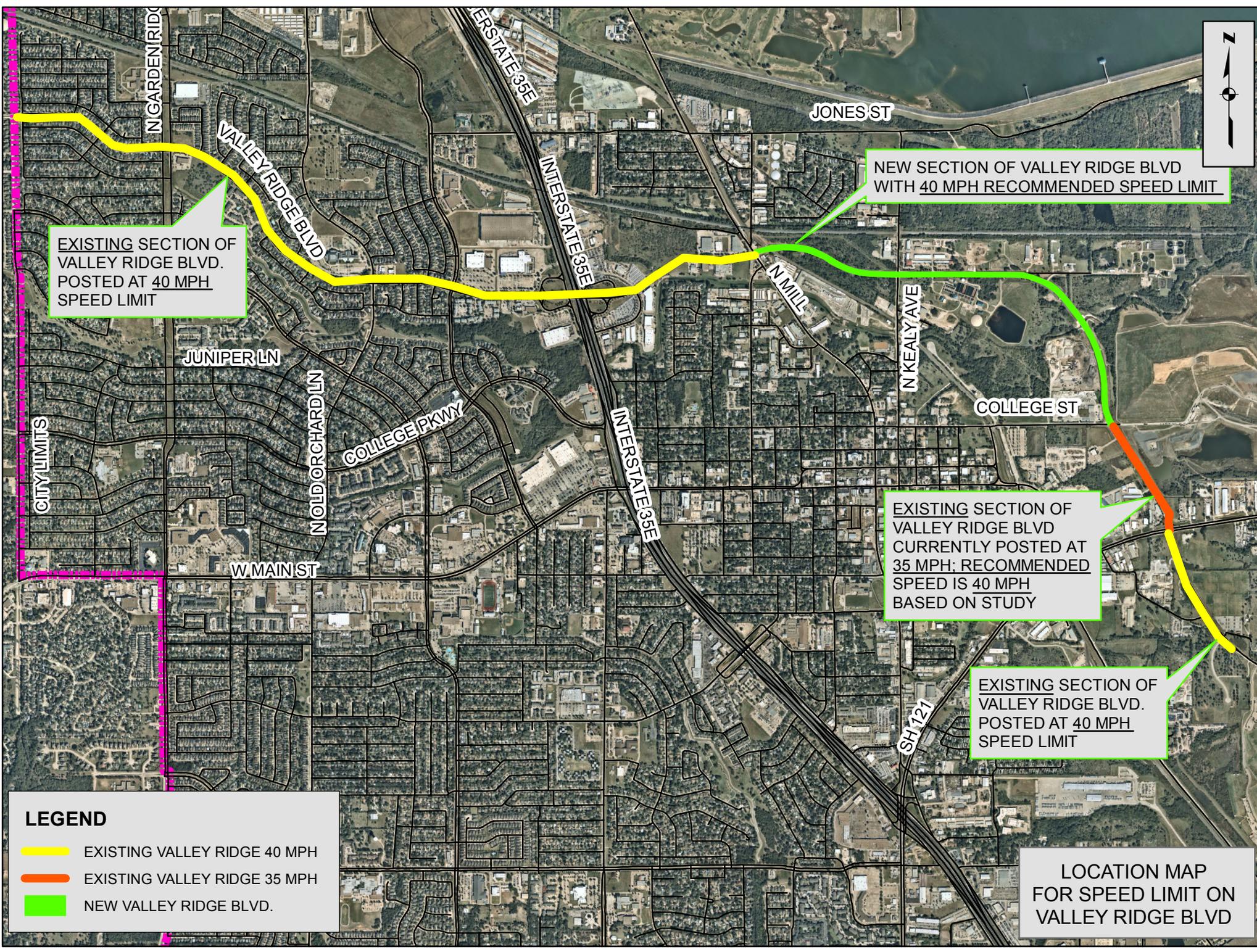
The 85th percentile speed on the existing section of Valley Ridge Blvd between College St and SH 121 Business is 43.5 mph. The existing speed limit on Valley Ridge Blvd south of SH 121 Bus is 40 mph and the proposed speed limit on Valley Ridge Blvd north of College St is 40 mph. So, it is recommended that the speed limit on the existing street section of Valley Ridge Blvd be increased from the current posted limit of 35 mph to 40 mph.

At the December 05th, 2017 meeting, the Transportation Board considered this item and voted unanimously (6) to (0) to approve the item.

All signage needed will be provided and installed by City Personnel.

RECOMMENDATION

It is City Staff's recommendation that the City Council approve the ordinance as set forth in the caption above.



EXISTING SECTION OF VALLEY RIDGE BLVD. POSTED AT 40 MPH SPEED LIMIT

NEW SECTION OF VALLEY RIDGE BLVD WITH 40 MPH RECOMMENDED SPEED LIMIT

EXISTING SECTION OF VALLEY RIDGE BLVD CURRENTLY POSTED AT 35 MPH; RECOMMENDED SPEED IS 40 MPH BASED ON STUDY

EXISTING SECTION OF VALLEY RIDGE BLVD. POSTED AT 40 MPH SPEED LIMIT

LEGEND

-  EXISTING VALLEY RIDGE 40 MPH
-  EXISTING VALLEY RIDGE 35 MPH
-  NEW VALLEY RIDGE BLVD.

LOCATION MAP FOR SPEED LIMIT ON VALLEY RIDGE BLVD

**MINUTES
TRANSPORTATION BOARD**

December 05, 2017

Item No. 1 Call to Order and Announce a Quorum is Present

Chairman James Davis called the Lewisville Transportation Board meeting to order at 6:47 p.m. and announced that a quorum was present with the following members in attendance:

Mary Ellen Miksa	_____	Alvin Turner	<u> X </u>
William Meredith	<u> X </u>	Karen Locke	<u> X </u>
John Lyng	<u> X </u>		_____
Kristin Green	<u> X </u>		_____
James Davis	<u> X </u>		

Members absent: Mary Ellen Miksa

Staff Present: Sagar Medisetty, Daphne Adair

Item No. 2 Minutes

A motion was made by Kristin Green and seconded by Karen Locke to approve the minutes of the October 17, 2017 meeting as submitted. All members present voted aye (6-0).

Item No. 3 Visitors/Citizens Forum

At this time, Chairman James Davis invited any visitors/citizens who wanted to speak to the Board to come forward, stating that no formal action could be taken because this item was not on the agenda.

No visitors were present. Chairman James Davis stated that he had a traffic issue. He expressed a concern about the traffic problem on Fox Avenue near I-35E, near the entrance into the shopping area on the north side of Fox Ave and the Apartments on the south side. He said that it gets quite busy during the evening rush hour and asked if the City had plans for improvements on Fox Avenue. He asked if there was any project in the 2025 plan. Medisetty stated that he is not aware of any improvement project on Fox Avenue but that he will find out and respond back.

Board member Kristin Green expressed a traffic concern at the intersection of Main St and Edmonds Lane. During the morning rush hour, the northbound traffic on Edmonds Ln backs up. Because the traffic lights on Main St & Edmonds and Main St & I-35E turn green/red for the eastbound movement at the same time, the short distance between the two intersections gets filled up with eastbound Main St traffic. When northbound Edmonds Ln gets a green signal, the northbound right turning vehicles have no space to get onto eastbound Main St. She stated that in one instance, it took her 5 signal cycles to make a right turn onto eastbound Main St. Medisetty stated that the signal timing is challenging in this area because the two traffic lights are so closely spaced but he will look into the signal timing to see if the space between the two intersections could be kept clear to give right turning traffic from Edmonds Ln an opportunity to turn right.

Board member John Lyng expressed his traffic concern about the long back up on southbound I-35E at the President George Bush Turnpike (PGBT) entrance ramps. There is a single lane to enter the PGBT. He stated for southbound traffic entering from SH 121 Business, it is very difficult to merge. Medisetty stated that it is TxDOT's jurisdiction and that he will relay the traffic concern to TxDOT.

Chairman James Davis stated that when TxDOT is contacted, he also wanted to convey the information that proper pavement markings are missing on southbound I-35E at the entrance ramp to the PGBT.

Item No. 4 Consideration of Establishing a Speed Limit on Valley Ridge Boulevard From Mill Street to State Highway 121 Business.

Sagar Medisetty presented this item to the Board. Mr. Medisetty explained that an ordinance is required to establish a maximum speed limit on the newly constructed street section of Valley Ridge Blvd between Mill St and College St. So, a speed study using the 85th percentile speed method was conducted to determine the speed limit to be posted. Speed checks were made at quarter-mile intervals, at 5 locations on Valley Ridge between Mill St and College St. The speed study indicated the 85th percentile speed to be 44.8 mph. So, the speed limit should be set at 45 mph, the nearest number ending in 5 or 0. But one of the factors that was considered in the evaluation of the speeds is the alignment of Mill St and College St at the intersections with Valley Ridge Blvd. The existing cross profiles of Mill St and College St are such that there are dips created at both the intersections on Valley Ridge Blvd. So, when drivers on Valley Ridge Blvd approach at a faster rate of speed at these intersections, their vehicles are bottoming out and scraping the road surface. For this reason, staff recommendation is to post the speed limit of 40 mph on the new section of Valley Ridge Blvd between Mill St and College St.

Staff also conducted a speed study on the existing section of Valley Ridge Blvd between College St and SH 121 Business where the posted speed limit is 35 mph. Based on the study, it is recommended to increase the speed limit on this existing section of Valley Ridge Blvd from 35 mph to 40 mph. It is to be noted that the speed limit on Valley Ridge Blvd west of Mill St is 40 mph and also the speed limit on Valley Ridge south of SH 121 Business is 40 mph.

In summary, staff recommendation is to post a speed limit of 40 mph on Valley Ridge Blvd from Mill St to SH 121 Business.

Board member Kristen Green asked about the design speed on the new section of Valley Ridge Blvd. Medisetty stated that the design speed is 45 mph.

Board member Karen Locke asked why the dips at the intersection of Mill St and College St were not avoided during the construction of Valley Ridge Blvd. Medisetty stated that the project limits of Valley Ridge Blvd were from the east curb line of Mill St to the north curb line of College St. The intersections of Mill St and College St were not reconstructed with the project and that is what is required to remedy the alignment issue.

Board member Kristen Green said that she is glad to hear that the speed limit on the existing section of Valley Ridge Blvd between College St and SH 121 Business is being increased from 35 mph because she said she believed most drivers drove over 35 mph in that section.

A motion was made by Kristin Green and seconded by John Lyng to approve Consideration of Establishing a Speed Limit of 40 mph on Valley Ridge Boulevard and Make a Recommendation to the City Council in Regard to the Amendment.

The vote was 6 ayes and 0 nay. The motion passed.

A motion to adjourn was made by John Lyng, seconded by Karen Locke. The meeting adjourned at 7:58 p.m.

Respectfully submitted,

David Salmon P.E.
City Engineer

THESE MINUTES APPROVED BY THE LEWISVILLE TRANSPORTATION BOARD.	
_____	_____
CHAIRMAN	DATE

ORDINANCE NO. _____

AN ORDINANCE OF THE LEWISVILLE CITY COUNCIL AMENDING THE LEWISVILLE CITY CODE CHAPTER 15, SECTION 15-35 BY AMENDING THE SPEED LIMIT ON A CERTAIN SEGMENT OF VALLEY RIDGE BOULEVARD; PROVIDING FOR A REPEALER, SEVERABILITY, AND A PENALTY; PROVIDING AN EFFECTIVE DATE; AND DECLARING AN EMERGENCY.

WHEREAS, the City Council of the City of Lewisville, Texas, has determined that for the health, welfare, and safety of its citizens, and upon engineering and traffic investigation studies conducted by the City of Lewisville and adopted by the City Council of the City of Lewisville, Texas, speed limit upon the listed street shall be as stated herein, and therefore, amendments to Chapter 15, Section 15-35 are necessary.

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

SECTION 1. Chapter 15, Section 15-35, Maximum Speed Limits on Specific Streets, of the Lewisville City Code is hereby amended by deleting the following street entries:

Street/Road/Highway	Extent	Speed (mph)
Valley Ridge Boulevard	From Garden Ridge Boulevard to Interstate Highway 35E	40
Valley Ridge Boulevard	Beginning at Interstate Highway 35E and continuing in an easterly direction for a distance of 0.44 mile, approximately, to Mill Street (F.M. 3504)	40
Valley Ridge Boulevard	From west city limit to Garden Ridge Blvd.	40
Valley Ridge Boulevard	SH 121 to College Street	35
Valley Ridge Boulevard	From State Highway 121 Business to 3,860 feet south of State Highway 121 Business	40

and in their place, insert the following entry:

Street/Road/Highway	Extent	Speed (mph)
Valley Ridge Boulevard	From west city limits to 3,860 feet south of State Highway 121 Business	40

SECTION 3. REPEALER. Every ordinance or parts of ordinances found to be in conflict herewith are hereby repealed.

SECTION 4. SEVERABILITY. If any section, sentence, clause, or phrase of this ordinance shall for any reason be held to be invalid, such decision shall not affect the validity of the remaining sections, sentences, clauses, or phrases of this ordinance, but they shall remain in effect.

SECTION 5. PENALTY. Any person, firm or corporation who violates any provisions of this ordinance shall be deemed guilty of a misdemeanor and, upon conviction thereof in the Municipal Court of Lewisville, Texas, shall be subject to a fine of not more than five hundred (\$500.00) dollars for each offense.

SECTION 6. EFFECTIVE DATE. This ordinance shall become effective immediately upon its passage and publication as required by law.

SECTION 7. EMERGENCY. It being for the public welfare that this ordinance be passed creates an emergency and public necessity, and the rule requiring this ordinance be read on three separate occasions be, and the same is hereby waived, and this ordinance shall be in full force and effect from and after its passage and approval and publication, as the law in such cases provides.

ORDINANCE NO. _____

Page 3

**DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF
LEWISVILLE, TEXAS, BY A VOTE OF ___ TO ___, ON THIS THE 18th DAY OF
DECEMBER 2017.**

APPROVED:

Rudy Durham, MAYOR

ATTEST:

Julie Worster, CITY SECRETARY

APPROVED AS TO FORM:

Lizbeth Plaster, CITY ATTORNEY

MEMORANDUM

TO: Donna Barron, City Manager

FROM: Wayne Snell, Director of Neighborhood & Inspections Services

VIA: Claire Swann, Assistant City Manager

DATE: December 7, 2017

SUBJECT: Consideration of an Ordinance Adopting Contractor Registration Requirements, Creating a Contractor Registration Board, Amending the Fee Schedule to Reflect the Fees Required for Registration, and Appointing Members to the Contractor Registration Board.

BACKGROUND

Requiring contractors to register with the city is a common practice throughout the state. Contractor registration ordinances not only allow cities to track basic contractor information, but it also allows us to hold those contractors responsible in the performance of their work. The City of Lewisville Code of Ordinances previously required all contractors to register with the City. Over the years with various amendments to our building codes, these registration requirements were eliminated.

Currently, the code only requires registration of sign contractors and fence contractors. Elimination of the other registration requirements was previously done to streamline the permitting process. The idea was that we would get all the necessary contractor information at the time they submitted their building permit applications, and therefore, would not require a separate registration form. Through online permitting, city staff has continued (and will continue) collecting contractor information at the time of building permit. We have always maintained a contractor registration list despite not having a mandatory registration requirement.

ANALYSIS

Despite staff's continued maintenance of our contractor registration list, our elimination of the mandatory contractor registration requirements has created several enforcement problems. The proposed ordinance is meant to address these enforcement problems. For example, under our current ordinances, if work is completed without a building permit and an inspector catches the work after completion, the City will inspect the property and try to do everything in its power not to require a property owner to tear down the improvement. This provides no incentive to the property owner or contractor to get a building permit up front. With the proposed ordinance, however, city staff would also have the option of removing or blocking that contractor from registering with the City for failure to comply with our building permit or inspection requirements. The contractor would always have the right to appeal this decision, but it would provide a stronger incentive for contractors to get registered and apply for building permits on the front end.

Second, under our current ordinances, contractor insurance information is not required for registration (except for sign and fence contractors). We have had an issue with this over the last year, where a contractor was repairing a retaining wall on private property. That contractor damaged city property while trying to access their client's retaining wall. We worked for several months with the contractor to get them to remediate the damages on our property. The contractor also never provided us with the name of their insurance carrier, despite our numerous requests. Ultimately, we got substantial compliance, other than about \$300 worth of sod that we ourselves had to replace. But regardless, the process was drawn-out and time-consuming. The ability to file a claim with their insurance carrier may have helped expedite the remediation. Under this new ordinance, we would have been able to require the contractor's insurance information and his state license information up front.

Third, as mentioned above, our current regulations do not provide staff with a way of removing a contractor from our registration list. This means that even if staff knows that a contractor consistently tries to do work in our city without complying with our codes, without applying for building permits, or without calling for inspections, we cannot legally remove them from our registration list. Our registration list is available online, and it is possible that citizens and business owners may end up relying on this list when hiring contractors. This new ordinance would give staff the tools to ensure that the people on our contractor registration list are licensed, insured, and comply with local codes.

In summary, the proposed contractor registration ordinance will require contractors, performing work within the City of Lewisville, to register, provide proof of insurance, and any other information deemed necessary by the building official. This information will help ensure contractors are held accountable and allow them to obtain the appropriate permits. The ordinance overall defines the necessary information for application, prohibits the transfer of a registration, outlines requirements for updating information, fees, renewal, and suspension of registration if a contractor fails to meet minimum requirements. It also provides an appeal process for reinstatement.

RECOMMENDATION

It is City staff's recommendation that the City Council approve the ordinance set forth in the caption above and appoint the members of the Zoning Board of Adjustment to the Contractors Registration Board.

ORDINANCE NO. _____

AN ORDINANCE OF THE LEWISVILLE CITY COUNCIL, AMENDING THE LEWISVILLE CITY CODE, CHAPTER 4 BY ADDING A NEW ARTICLE XV OUTLINING A REGISTRATION REQUIREMENT FOR CERTAIN TYPES OF CONTRACTING, INSPECTING, OR TESTING SERVICES, AND CREATING A CONTRACTOR REGISTRATION BOARD; AMENDING CHAPTER 11 BY DELETING SECTION 11-5, SIGN CONTRACTOR REQUIREMENTS, AND REPLACING IT WITH A NEW SECTION 11-5; AND AMENDING CHAPTER 2, SECTION 2-201, TO REFLECT THE FEES REQUIRED FOR REGISTRATION; PROVIDING FOR A REPEALER, SEVERABILITY, AND A PENALTY; PROVIDING AN EFFECTIVE DATE; AND DECLARING AN EMERGENCY.

WHEREAS, in order to protect the citizens of the City of Lewisville, the City of Lewisville wishes to continue to ensure that contracting, inspecting, and testing services provided by contractors within the City are performed by properly trained and licensed individuals; and,

WHEREAS, the City of Lewisville plans to continue to ensure such through the contractor registration requirements outlined herein; and,

WHEREAS, the City Council of the City of Lewisville, Texas, has determined that for the health, welfare, and safety of its citizens, certain amendments to Chapter 4, Chapter 2, Section 2-201, and Chapter 11, Section 11-5 of the Lewisville City Code are necessary.

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

SECTION 1. Chapter 4, Buildings and Building Regulations, is hereby amended by adding a new Article XV, Contractor Registration, as shown in Exhibit A to this Ordinance.

SECTION 2. Chapter 11, Article IV, Section 11-5, Sign Contractor Requirements, is amended by deleting the current language in its entirety and in its place inserting the following new language:

Sec. 11-5. – Sign contractor requirements.

No person shall perform any services involving erecting, constructing, enlarging, altering, repairing, moving, improving, removing, converting, or demolishing any sign until a registration has been approved and issued under Chapter 4, Article XV, Contractor Registration, of this Code.

SECTION 3. Chapter 2, Section 2-201, Fee Schedule, is hereby amended by repealing the following fees and language:

<i>Building inspection division:</i>	
Fence contractor registration	80.00
General contractor registration	80.00
Sign contractor registration (valid for one year from date of issuance)	80.00

SECTION 4. Chapter 2, Section 2-201, Fee Schedule, is hereby amended by adding the following fees and language:

<i>Building inspection division:</i>	
Contractor registration or renewal (all types) <i>(Plumbing and electrical contractor registrations are exempt from this fee)</i>	80.00

SECTION 5. REPEALER. Every ordinance or parts of ordinances found to be in conflict herewith are hereby repealed.

SECTION 6. SEVERABILITY. If any section, sentence, clause, or phrase of this ordinance shall for any reason be held to be invalid, such decision shall not affect the validity of the remaining sections, sentences, clauses, or phrases of this ordinance, but they shall remain in effect.

SECTION 7. PENALTY. Any person, firm or corporation who violates any provisions of this ordinance shall be deemed guilty of a misdemeanor and, upon conviction thereof in the Municipal Court, shall be subject to a fine of not more than \$500.00 for each offense, unless the violation relates to fire safety, zoning or public health and sanitation in which case the fine shall not exceed \$2,000.00 for each offense, and each and every day such offense is continued shall constitute a new and separate offense.

SECTION 8. EFFECTIVE DATE. This ordinance shall become effective immediately upon its passage and publication as required by law.

SECTION 9. EMERGENCY. It being for the public welfare that this ordinance be passed creates an emergency and public necessity, and the rule requiring this ordinance be read on three separate occasions be, and the same is hereby waived, and this ordinance shall be in full force and effect from and after its passage and approval and publication, as the law in such cases provides.

ORDINANCE NO. _____

Page 4

**DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF
LEWISVILLE, TEXAS, BY A VOTE OF ____ TO ____, ON THIS THE ____ DAY OF
DECEMBER, 2017.**

APPROVED:

Rudy Durham, MAYOR

ATTEST:

Julie Worster, CITY SECRETARY

APPROVED AS TO FORM:

Lizbeth Plaster, CITY ATTORNEY

EXHIBIT A

ARTICLE XV. – CONTRACTOR REGISTRATION

Sec. 4-551. – Contractor registration required.

(a) Registration under this article is required of any individual operating as a sole proprietorship, or any firm, corporation or business entity (hereinafter referred to as “Contractor”) providing the following contracting, inspecting, or testing services in the City:

(1) any services involving erecting, constructing, enlarging, altering, repairing, moving, improving, removing, converting, or demolishing any structure, irrigation, water well, pool, fence, or sign;

(2) any services which require, by State law, a license or registration to perform any mechanical, electrical, plumbing work;

(3) removal and disposal of construction debris services, including roofing contractors;

(4) approval by a backflow tester of test reports for backflow devices as required by this Code; or

(5) performance of inspections by Customer Service Inspectors and Water Supply Protection Specialists.

(b) In extending the rights and privileges of registration under this article, the City makes no statement of the technical competency of those so registered, and no manner of license is offered.

(c) No permit to perform any type of building, mechanical, electrical, plumbing, irrigation, water well drilling, or sign installation work shall be issued to any Contractor which is not registered with the City under this article.

(d) Property owners performing work on their primary place of residence, as shown by a homestead exemption for the property in the records of the Denton County Appraisal District, shall be exempt from the requirements of this article.

Sec. 4-552. – Application for registration.

(a) A completed contractor registration application shall be submitted by all applicants on a form provided by the City.

(b) Except for sign contractors, where a bond or insurance is required under this section, the bond or insurance policy shall be for the use and benefit of the city and any person having a cause of action arising out of the provision of services requiring registration under this Article which are in violation of the laws and ordinances relating to such services, except where denoted herein. The bond or insurance policy shall fully indemnify and hold the city harmless from all costs or damages arising out of any real or asserted claim or cause of action against it and from all costs and damages arising out of any wrongs or injuries for damages, either real or asserted, claimed against it that may be occasioned by negligence or fault of the principal of the bond or insurance policy, his agents, servants, subcontractors, or employees, by reasons of the work done under authorization or a permit issued to the principal. The bond or insurance policy shall further condition that the liability of the surety under the bond or insurance policy shall cease and terminate of its own force and effect one year from the date of execution, save and except for expenses, losses, claims for damages, judgments, or other costs which may arise or be incurred or sustained by any person against the principal by reason of failure to comply with the provisions of the laws and ordinances relating to services provided which require registration under this Article.

(c) Applications for the following types of contractor registration shall include the following information:

(1) General Contractors – Contractors providing any services for which a registration is required under this Article, which do not fall under any of the other categories listed in this section, shall provide the following information:

- a. Proof that the Contractor maintains surety bond or liability insurance in the minimum amount of One Hundred Thousand Dollars (\$100,000.00).
- b. Any other information deemed necessary by the Building Official.

(2) Heating, Ventilation, and Air Conditioning (HVAC) and Refrigeration Contractors – Contractors providing services requiring a valid Air Conditioning and Refrigeration Contractor license issued by the State of Texas shall provide the following information:

- a. Proof that the Contractor maintains liability insurance in the minimum amount of One Hundred Thousand Dollars (\$100,000.00) or a bond of equal value.
- b. A valid Air Conditioning and Refrigeration Contractor license issued by the State of Texas to the individual performing the work or, if the application is made on behalf of a firm, corporation, or business entity, a responsible officer of the firm, corporation, or business entity.
- c. Any other information deemed necessary by the Building Official.

(3) Electrical Contractors – Contractors providing services requiring a valid Electrical Contractor license issued by the State of Texas shall provide the following information:

- a. Proof that the Contractor maintains liability insurance in the minimum amount of One Hundred Thousand Dollars (\$100,000.00) or a bond of equal value.
- b. A valid Electrical Contractor license issued by the State of Texas to the individual performing the work or, if the application is made on behalf of a firm, corporation, or business entity, a responsible officer of the firm, corporation, or business entity.
- c. Any other information deemed necessary by the Building Official.

(4) Plumbing Contractors – Contractors providing plumbing services shall provide the following information:

- a. A valid Responsible Master Plumber license issued by the State of Texas to the individual performing the work or, if the application is made on behalf of a firm, corporation, or business entity, a responsible officer of the firm, corporation, or business entity.
- b. Any other information deemed necessary by the Building Official.

(5) Landscape Irrigation Contractors – Contractors providing services requiring a valid Landscape Irrigator license issued by the State of Texas shall provide the following information:

- a. Proof that the Contractor maintains liability insurance in the minimum amount of One Hundred Thousand Dollars (\$100,000.00) or a bond of equal value.
- b. A valid Landscape Irrigator license issued by the State of Texas to the individual performing the work or, if the application is made on behalf of a firm, corporation, or business entity, a responsible officer of the firm, corporation, or business entity.
- c. Any other information deemed necessary by the Building Official.

(6) Backflow Testing Contractors – Contractors providing services requiring a valid Backflow Prevention Assembly Tester license issued by the State of Texas shall provide the following information:

- a. A valid Backflow Prevention Assembly Tester license issued by the State of Texas to the individual performing the work or, if the application is made on behalf of a firm, corporation, or business entity, a responsible officer of the firm, corporation, or business entity.
- b. Proof of gauge calibration within the preceding twelve months.
- c. Any other information deemed necessary by the Building Official.

(7) Customer Service Inspector (CSI) Contractors – Contractors providing services requiring a valid Customer Service Inspector license issued by the State of Texas shall provide the following information:

- a. A valid Customer Service Inspector license issued by the State of Texas or a valid Water Supply Protection Specialist (WSPS) endorsement issued by the Texas State Board of Plumbing Examiners (TSBPE) to the inspector or, if the application is made on behalf of a firm, corporation, or business entity, a responsible officer of the firm, corporation, or business entity.
- b. Any other information deemed necessary by the Building Official.

(8) Water Well Installers – Contractors providing water well installation services requiring a valid license issued by the State of Texas shall provide the following information:

- a. Proof that the Contractor maintains liability insurance in the minimum amount of One Hundred Thousand Dollars (\$100,000.00) or a bond of equal value.
- b. A valid license issued by the State of Texas for the specified trade to the installer or, if the application is made on behalf of a firm, corporation, or business entity, a responsible officer of the firm, corporation, or business entity for such installation.
- c. Any other information deemed necessary by the Building Official.

(9) On-Site Septic Facility (OSSF) Installers – Contractors providing services to install On-Site Septic Facilities (OSSFs) shall provide the following information:

- a. Proof that the Contractor maintains liability insurance in the minimum amount of One Hundred Thousand Dollars (\$100,000.00) or a bond of equal value.

b. A valid license issued by the State of Texas for the specified trade to the installer or, if the application is made on behalf of a firm, corporation, or business entity, a responsible officer of the firm, corporation, or business entity for such installation.

c. Any other information deemed necessary by the Building Official.

(10) Sign Contractors – Contractors providing services to install, erect, or maintain a sign shall provide the following information:

a. Proof that the Contractor maintains liability insurance in the minimum amount of One Hundred Thousand Dollars (\$100,000.00) or a surety bond in the sum of Five Thousand Dollars (\$5,000.00). The bond or insurance policy shall be for the use and benefit of the city and any person having a cause of action arising out of the provision of services under this chapter which are in violation of the provisions of Chapter 11 (Signs) of this Code, except where denoted herein. The bond or insurance policy shall fully indemnify and hold the city harmless from all costs or damages arising out of any real or asserted claim or cause of action against it and from all costs and damages arising out of any wrongs or injuries for damages, either real or asserted, claimed against it that may be occasioned by negligence or fault of the principal of the bond or insurance policy, his agents, servants, subcontractors, or employees, by reasons of the work done under authorization or a permit issued to the principal. The bond or insurance policy shall further condition that the liability of the surety under the bond or insurance policy shall cease and terminate of its own force and effect one year from the date of execution, save and except for expenses, losses, claims for damages, judgments, or other costs which may arise or be incurred or sustained by any person against the principal by reason of failure to comply with the provisions of Chapter 11 (Signs) of this Code.

b. If the Contractor plans to perform work on signs containing electrical components, a valid Master Sign Electrician or a valid Master Electrician license issued by the State of Texas to the individual performing the work or, if the application is made on behalf of a firm, corporation, or business entity, a responsible officer of the firm, corporation, or business entity.

c. Any other information deemed necessary by the Building Official.

Sec. 4-553. – Transfer of registration prohibited.

A registration under this article may not be transferred to, assigned to, or in any manner directly or indirectly used by, any person, firm, corporation or business entity other than the person, firm, corporation or business entity to which the registration was issued.

Sec. 4-554. – Requirement to update information.

If a change occurs in the information previously provided by the holder of a registration, then the Contractor shall provide written notice of the updated information to the Building Official within thirty (30) days of the change.

Sec. 4-555. – Registration fee and renewal.

The annual fee for registration as prescribed by Section 2-201 of this Code shall be submitted with each complete application for registration, except that registrations for plumbing and electrical contractors are exempt from the registration fee. Registration under this article shall expire one (1) year after the date of issue. Renewal of registration shall be accomplished by payment of the fee prescribed by Section 2-201 of this Code with a new application under this Article. Renewal of registration shall extend the validity of the corresponding registration for one (1) year only. Contractor registration or renewal fees shall not be pro-rated. Where a registration is required under this article in order to receive a permit or inspection, no permits shall be issued and inspections may be placed on hold if a required registration has expired.

Sec. 4-556. – Suspension or revocation of registration.

A registration under this article may be suspended or permanently revoked by the building official for any of the following actions or failures to act by a Contractor:

- (1) Failure to request and obtain a final inspection prior to the expiration of a permit;
- (2) Allowing use or occupancy of a structure for which a permit was obtained without first obtaining the required authorization from the City;
- (3) A finding by the building official that the Contractor has been grossly negligent in the performance of work;
- (4) Expiration, suspension or revocation of a license issued by the State of Texas and required by this article;
- (5) Providing false or misleading information;

- (6) Failure to provide updated information within thirty days of any changes as required by Section 4-554;
- (7) Transferring or permitting the use by another person, firm, or corporation of a Contractor's registration;
- (8) Failure to maintain the minimum liability insurance or bond, where required;
- (9) Commission of two violations of this section or any ordinance of the City of Lewisville directly related to the building & construction trades by any responsible officer of a Contractor within a twelve month period; or
- (10) Conviction for a violation of any law of the State of Texas directly related to the building & construction trades by any responsible officer of a Contractor.

Sec. 4-557. – Appeal of revocation by the building official.

(a) A Contractor whose registration has been suspended or revoked may appeal the action to the City's Contractor Registration Board. In the case of an appeal, the action of the building official shall stand until the final determination of the appeal is made by the Contractor Registration Board. The appeal must be filed, in writing, within ten business days of the suspension or revocation of the registration. After hearing the appeal, the Contractor Registration Board may take the following action:

- (1) Overrule a suspension or revocation and reinstate the registration of the Contractor for the remaining period of time paid for;
- (2) Affirm a suspension or revocation;
- (3) Affirm a suspension, but waive any or all of the reinstatement requirements set forth in Section 4-558 of this article; or
- (4) Affirm a suspension and require conditions for reinstatement in addition to those set forth in Section 4-558 of this article including but not limited to, prohibiting reinstatement for up to six months.

(b) The decision of the Contractor Registration Board is final.

Sec. 4-558. – Reinstatement of registration.

A Contractor whose registration has been suspended may reapply for registration if:

- (1) All circumstances leading to the suspension have been corrected;

- (2) The Contractor reapplies for registration;
- (3) The registration fee is paid; and
- (4) Any additional conditions set by the Contractor Registration Board pursuant to Section 4-557 of this article have been met.

Sec. 4-559. – Contractor registration board.

(a) *Establishment.*

A contractor registration board is hereby established.

(b) *Membership.*

- (1) The board shall consist of five members and two alternates, each to be appointed or reappointed by the city council.
- (2) Vacancies shall be filled by the city council for the unexpired term of any member whose term becomes vacant.
- (3) Board members serve at the pleasure of the city council and may be removed by the city council for any or no reason.
- (4) The board shall elect its own chairman.

(c) *Meetings.*

Meetings of the board shall be held at the call of the chairman and at such times as the board may determine.

(d) *Appeals.*

All appeals from a decision of the building official heard by the board shall be heard by a simple majority of the members of the board as established by this section.

(e) *Rules and regulations.*

- (1) The board shall keep minutes of its proceedings, showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record.

(2) The board shall act by resolution in which a simple majority of those present and voting must concur.

(3) The board shall adopt from time to time such additional rules and regulations as it may deem necessary to carry into effect the provisions of the ordinance, and shall furnish a copy of the same to the building official, all of which rules and regulations shall operate uniformly in all cases. All of its resolutions and orders shall be in accordance therewith.

(f) *Powers and duties of board.*

The board shall have the power to hear and decide appeals requested under Section 4-557 of this article and take actions as outlined therein.

MEMORANDUM

TO: Donna Barron, City Manager

FROM: Gina Thompson, Strategic Services Director

DATE: December 7, 2017

SUBJECT: **Consideration of the Dates and Location for the 2018 City Council Retreat, Standardizing Annual City Council Retreat Dates, and Upcoming Workshop Dates**

BACKGROUND

Council previously approved February 9 and 10 for as the dates for the 2018 City Council Retreat. Staff is now requesting consideration of February 23 and 24 as the dates for the retreat.

ANALYSIS

Staff recommendation is to hold the retreat in Dallas, Texas to tour and learn specifics on the development of the Bishop Arts District as well as events and activities at Klyde Warren Park. Currently the Statler Hotel is holding space for February 9 and 10 as well as February 23 and 24. Staff will continue to contact other hotels in that area to ensure the best fit and price for the retreat. It is also requested that the City Council consider standardizing the dates for the retreat each year. Staff recommendation is that the Council consider the last Friday and Saturday in February annually.

Upcoming workshops for consideration include April 23rd (April has 5 Mondays which makes it a good month for an extra workshop) and August 11th (which will be the annual Budget Workshop).

RECOMMENDATION

That the City Council finalize the dates and location for the 2018 City Council Retreat, consider standardizing retreat dates, and confirm upcoming workshop dates.