



**AGENDA  
CITY OF ALLEN  
CITY COUNCIL REGULAR MEETING  
TUESDAY, JANUARY 11, 2022 – 7:00 PM  
CITY COUNCIL CHAMBERS  
ALLEN CITY HALL  
305 CENTURY PARKWAY  
ALLEN, TX 75013**

**1. Call to Order and Announce a Quorum is Present.**

**2. Pledge of Allegiance.**

**3. Public Recognition.**

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

3.1 Citizen's Comments.

3.2 Presentation of the Mayor's Distinguished Service Award to Chief Jonathan Boyd.

**4. Consent Agenda.**

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

4.1 Approve Minutes of the December 14, 2021, Regular City Council Meeting.

4.2 Declare a Vacancy in Place No. 3 on the Board of Adjustment, Building and Standards Commission, and Sign Control Board.

4.3 Award a Professional Services Contract to Infrastructure Management Services for City-wide Street and Alley Pavement Assessment in the Amount of \$205,022.

4.4 Authorize the City Manager to Execute a Contract with TB2 Services, Inc., dba Aire Dynamics, Inc., for Annual HVAC Preventative Maintenance and Repair Services for City Facilities in the amount of \$450,000.

4.5 Authorize the City Manager to Purchase a Resilient Data Backup and Disaster Recovery Platform for the Data Center from Datavox through the Texas Department of Information Resources in the Amount of \$159,273.

4.6 Authorize the City Manager to Execute a Contract with Whirlix Design, Inc., for Playground Replacement at Greenville Heights Park in the Amount of \$205,798.

**5. Regular Agenda.**

- 5.1 Conduct a Public Hearing and Adopt an Ordinance to Amend the Development Regulations of Planned Development No. 141 with a Base Zoning of Mixed Use Relating to the Use and Development of Approximately 74.877 Acres Generally Located Directly South of State Highway 121, East and West of Exchange Parkway and West of Bending Branch Way. (Allen Gateway)

**6. Other Business.**

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

- 6.1 Calendar.

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

**7. Executive Session (As needed).**

*Legal, Section 551.071.*

*As authorized by Section 551.071(2) of the Texas Government Code, the Workshop Meeting and/or the Regular Agenda may be Convened into Closed Executive Session for the Purpose of Seeking Confidential Legal Advice from the City Attorney on any Agenda Item Listed Herein. (Closed to Public as Provided in the Texas Government Code.)*

- 7.1 Reconvene and Consider Action on Items Resulting from Executive Session.

**8. Adjournment.**

*This notice was posted at Allen City Hall, 305 Century Parkway, Allen, Texas, at a place convenient and readily accessible to the public at all times. Said notice was posted on Friday, January 7, 2022, at 5:00 p.m.*

---

*Shelley B. George, City Secretary*

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

<b>CITY COUNCIL REGULAR MEETING AGENDA COMMUNICATION</b>
--

<b>AGENDA DATE:</b>	January 11, 2022
<b>AGENDA CAPTION:</b>	Approve Minutes of the December 14, 2021, Regular City Council Meeting.
<b>STAFF RESOURCE:</b>	Shelley B. George, City Secretary
<b>STRATEGIC PLANNING GOAL:</b>	Financially Sound and Transparent City Government.

**MOTION**

*I make a motion to approve the Minutes of the December 14, 2021, Regular City Council Meeting.*

**ATTACHMENT**

[Minutes](#)

**ALLEN CITY COUNCIL**

**REGULAR MEETING**

**DECEMBER 14, 2021**

**Present:**

Kenneth M. Fulk, Mayor

**Councilmembers:**

Baine Brooks, Mayor Pro Tem

Daren Meis

Carl Clemencich

Dave Cornette

Chris Schulmeister

Dave Shafer

**City Staff:**

Eric Ellwanger, City Manager

Eric Strong, Deputy City Manager

Tim Dentler, Assistant City Manager

Rebecca Vice, Assistant City Manager

Shelley B. George, City Secretary (absent)

Teresa Warren, Director, Public and Media Relations

Rocio Gonzalez, Deputy City Secretary

Pete Smith, City Attorney

**Workshop Session**

---

With a quorum of the Councilmembers present, the Workshop Session of the Allen City Council was called to order by Mayor Fulk at 6:00 p.m. on Tuesday, December 14, 2021, in the Basement Meeting Rooms of Allen City Hall, 305 Century Parkway, Allen, Texas.

- 1. Taping of Christmas Message.**
- 2. Discussion Regarding Capital Projects and ARPA Funds.**
- 3. Committee Updates from City Council Liaisons.**
- 4. Questions on Current Agenda.**

With no further discussion, Mayor Fulk adjourned the Workshop Session of the Allen City Council at 6:52 p.m. on Tuesday, December 14, 2021.



1. **Call to Order and Announce a Quorum is Present**

With a quorum of the Councilmembers present, the Regular Meeting of the Allen City Council was called to order by Mayor Fulk at 7:00 p.m. on Tuesday, December 14, 2021, in the City Council Chambers of Allen City Hall, 305 Century Parkway, Allen, Texas.

2. **Pledge of Allegiance**

3. **Public Recognition**

3.1 **Citizen's Comments.**

Nathan Polsky, 1108 Timberline Lane, Allen, Texas, did not speak but wished to record his opposition for Items 5.2 and 5.3.

Bob Cubbage, 804 Fawn Valley Drive, Allen, Texas, spoke in support of the Cottonwood Bend Pilot Project.

3.2 **Receipt of the 2021 Certificate of Achievement of the Richard R. Lillie, FAICP Planning Excellence Program Presented to the City of Allen and the Community Development Department from the Texas Chapter of the American Planning Association.**

**Presentation of Mayor's Award for Distinguished Service to George Chrisman.**

4. **Consent Agenda**

**MOTION:** Upon a motion made by Councilmember Cornette and a second by Councilmember Shafer, the Council voted seven (7) for and none (0) opposed to adopt items on the Consent Agenda as follows:

4.1 **Approve Meeting Minutes of the November 9, 2021, Regular City Council Meeting.**

4.2 **Approve Minutes of the November 15, 2021, Special Called City Council Meeting to Canvass the Election.**

4.3 **Approve Minutes of the November 30, 2021, Special Called City Council Meeting.**

4.4 **Adopt a Resolution Approving a Legal Services Contract with McKool Smith, P.C., Ashcroft Sutton Reyes, LLC, and Korein Tuillery, LLC, to Represent the City in its Claim Against Netflix, Inc., Hulu, LLC, Disney DTC, LLC, and Other Video Service Providers for Non-Payment of Franchise Fees.**

**RESOLUTION NO. 3881-12-21(R):** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, APPROVING THE TERMS AND CONDITIONS OF A LEGAL SERVICES CONTRACT WITH MCKOOL SMITH, P.C., ASHCROFT SUTTON REYES LLC, AND KOREIN TILLERY LLC; AUTHORIZING ITS EXECUTION BY THE CITY MANAGER; AND PROVIDING AN EFFECTIVE DATE.

4.5 **Adopt an Ordinance Adopting an Amendment to the Home Rule Charter Approved by the Voters of the City of Allen at an Election Held on November 2, 2021.**

**ORDINANCE NO. 3882-12-21:** AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, ADOPTING AN AMENDMENT TO THE HOME RULE CHARTER APPROVED BY THE VOTERS OF THE CITY OF ALLEN AT AN ELECTION HELD ON NOVEMBER 2, 2021; AND PROVIDING FOR AN EFFECTIVE DATE.

- 4.6 Adopt a Resolution Amending Authorized City Representatives to Conduct Transactions and Inquiries with TexPool.**

**RESOLUTION NO. 3883-12-21(R):** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, AMENDING PRIOR DESIGNATIONS OF INVESTMENT OFFICERS OF THE CITY AND AUTHORIZING INDIVIDUALS TO INVEST, TRANSFER, WITHDRAW, DEPOSIT, GIVE INSTRUCTIONS ON BEHALF OF THE ORGANIZATION, OR MANAGE FUNDS FOR THE CITY OF ALLEN; AND PROVIDING AN EFFECTIVE DATE.

- 4.7 Adopt a Resolution Amending Chapter 9 “Leave Policy” of the City’s Personnel Policies and Procedures Manual.**

**RESOLUTION NO. 3884-12-21(R):** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, AMENDING THE CITY OF ALLEN PERSONNEL POLICIES AND PROCEDURES MANUAL BY AMENDING CHAPTER NINE, ADDING SECTION 9.15 “CATASTROPHIC LEAVE” AND ADDING SECTION 9.16 “PAID QUARANTINE LEAVE FOR FIREFIGHTERS, PEACE OFFICERS AND DETENTION OFFICERS”; PROVIDING FOR A REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

- 4.8 Award Bid and Authorize the City Manager to Execute a Contract with J.R. Stelzer, Co., for Custer Water Tower and Custer Ground #1 Exterior Repaint and Minor Tank Repairs in the Amount for \$743,188.**
- 4.9 Award Bid and Authorize the City Manager to Execute a Contract with D&G Quality Roofing for Labor, Equipment, and Installation in the Amount of \$445,050 and with The Garland Company for Materials in the Amount of \$658,204 for Roof Replacement at the Allen City Hall and the Municipal Court Parks and Recreation Building.**
- 4.10 Award Bid and Authorize the City Manager to Execute the Purchase of Fertilizer and Chemicals for the Parks and Recreation Department from AmeriTurf, Site One Landscape Supply, Harrell’s, LLC, Target Specialty Products, and Winfield Solutions for an Annual Amount of \$298,838, for a One-Year Term with Two Additional One-Year Renewal Options.**
- 4.11 Award Bid and Authorize the City Manager to Execute a Contract with Starwood Services, LLC, for Housekeeping Services at Credit Union of Texas Event Center in the Annual Amount of \$450,000 with the Option of Four One-Year Renewals.**
- 4.12 Motion to Set Saturday, February 19, 2022, as the Date of the Strategic Planning Session with City Council.**

The motion carried.

5. Regular Agenda

---

**5.1 Conduct a Public Hearing and Adopt a Resolution Adopting the 2020-2021 Comprehensive Annual Performance Evaluation Report for the Community Development Block Grant Program.**

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

Terrence Ou, 504 Cordilleran Court, Allen, Texas regarding future funding for the Small Business Program.

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

**RESOLUTION NO. 3885-12-21(R):** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, APPROVING THE 2020-2021 COMPREHENSIVE ANNUAL PERFORMANCE EVALUATION REPORT (CAPER); AUTHORIZING ITS SUBMISSION TO THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD); REPEALING ALL RESOLUTIONS IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

**MOTION:** Upon a motion made by Councilmember Clemencich and a second by Councilmember Cornette, the Council voted seven (7) for and none (0) opposed, to adopt Resolution No. 3885-12-21(R), as previously captioned, adopting the 2020-2021 Comprehensive Annual Performance Evaluation Report for the Community Development Block Grant Program and authorize the submission of the Report to HUD. The motion carried.

**5.2 Authorize the City Manager to Execute a Contract with Hussey Seating Company through Sourcewell Cooperative Purchasing for Full Replacement of the East End Retractable Seating System at Credit Union of Texas Event Center in the Amount of \$1,016,815.**

**MOTION:** Upon a motion made by Councilmember Cornette and a second by Councilmember Shafer, the Council voted seven (7) for and none (0) opposed to authorize the City Manager to execute a contract with Hussey Seating Company through Sourcewell Cooperative Purchasing for full replacement of the East End Retractable Seating System at Credit Union of Texas Event Center in the amount of \$1,016,815. The motion carried.

**5.3 Authorize the City Manager to Negotiate and Execute an Agreement with Aclara Technologies, LLC, for Installation of Advanced Metering Infrastructure in the Amount of \$10,970,000; and Negotiate and Execute an Agreement for the Annual Recurring Costs Associated with Software Deliverables and Services Required to Sustain Advanced Meter Infrastructure in the Amount of \$366,443.**

**MOTION:** Upon a motion made by Councilmember Schulmeister and a second by Councilmember Clemencich, the Council voted seven (7) for and none (0) opposed to authorize the City Manager to negotiate and execute an agreement with Aclara Technologies, LLC, for installation of advanced metering infrastructure in the amount of \$10,970,000, and to negotiate and execute an agreement for the annual recurring

costs associated with software deliverables and services required to sustain advanced meter infrastructure in the amount of \$366,443. The motion carried.

**5.4 Authorize the City Manager to Execute a Contract with WaterSmart for Customer Service Portal Integration and an Initial Five-Year Contract Term to Continue the Portal Services in the Amount of \$360,506.**

**MOTION:** Upon a motion made by Councilmember Cornette and a second by Mayor Pro Tem Brooks, the Council voted seven (7) for and none (0) opposed to authorize the City Manager to execute a contract with WaterSmart for customer service portal integration and an initial five-year contract term to continue the portal services in the amount of \$360,506. The motion carried.

**5.5 Authorize the City Manager to Negotiate and Execute a Contract with OW Investors D/B/A MARS Company to Provide a Digital Water Meter Test Bench with Five Years of Software Licensing, Annual Test Bench Calibration and Certification, and Annual Training and Certification of Meter Services Technicians in the Amount \$405,787.**

**MOTION:** Upon a motion made by Councilmember Shafer and a second by Councilmember Schulmeister, the Council voted seven (7) for and none (0) opposed to authorize the City Manager negotiate and execute a contract with OW Investors d/b/a MARS Company to provide a digital water meter test bench with five years of software licensing, annual test bench calibration and certification, and annual training and certification of meter services technicians in the amount \$405,787. The motion carried.

**6. Other Business**

**6.1 Calendar.**

- December 24 and 27 – City Hall Closed for Christmas Eve and Christmas Day Holidays
- December 28 – Council Meeting Canceled
- December 31 – City Hall Closed for New Year’s Day Holiday
- January 11, 2022 – Next Regular Council Meeting

**6.2 Items of Interest.**

- Mayor Fulk announced Veteran’s Center of North Texas as his Charity of the Month.
- Mayor Fulk recognized Parks and Recreation staff for their great work throughout the Holly Jolly Event.
- Mayor Pro Tem Brooks recognized Allen resident Katelyn Long for accomplishments made in her gymnastics career.
- Councilmember Schulmeister asked Council to keep Tommy Baril in their prayers.

**7. Executive Session**

Executive Session was not held.

**8. Adjournment**

**MOTION:** Upon a motion made by Councilmember Shafer and a second by Councilmember Cornette, the Council voted seven (7) for and none (0) opposed to adjourn the Regular Meeting of the Allen City Council at 8:53 p.m. on Tuesday, December 14, 2021. The motion carried.

These minutes approved on the 11<sup>th</sup> day of January 2022.

**APPROVED:**

---

**Kenneth M. Fulk, MAYOR**

**ATTEST:**

---

**Shelley B. George, TRMC, CITY SECRETARY**

<b>CITY COUNCIL REGULAR MEETING AGENDA COMMUNICATION</b>
--

<b>AGENDA DATE:</b>	January 11, 2022
<b>AGENDA CAPTION:</b>	Declare a Vacancy in Place No. 3 on the Board of Adjustment, Building and Standards Commission, and Sign Control Board.
<b>STAFF RESOURCE:</b>	Shelley George, City Secretary
<b>STRATEGIC PLANNING GOAL:</b>	Financially Sound and Transparent City Government.

**BACKGROUND**

On December 10, Srini Raghavan filed a Campaign Treasurer Appointment form designating a campaign treasurer appointment for candidacy for Allen City Council. Section 7.04(5) of The Allen City Charter provides that “Should the Mayor, a member of the City Council or any appointed member of a council-appointed commission, committee or study group become a candidate for any elective public office other than the office presently held, such candidacy shall constitute an automatic resignation of such office.” In accordance with the Charter, the filing of a campaign treasurer appointment by a Board member constitutes becoming a candidate and triggers the resign to run provision of the City Charter. Upon his filing on December 10, his resignation was automatic.

**MOTION**

*I make a motion to declare a vacancy in Place No. 3 on the Board of Adjustment, Building and Standards Commission, and Sign Control Board.*

**ATTACHMENT**

## CITY COUNCIL REGULAR MEETING AGENDA COMMUNICATION

<b>AGENDA DATE:</b>	January 11, 2022
<b>AGENDA CAPTION:</b>	Award a Professional Services Contract to Infrastructure Management Services for City-wide Street and Alley Pavement Assessment in the Amount of \$205,022.
<b>STAFF RESOURCE:</b>	Chris Flanigan, Director of Engineering Steve Massey, Director of Community Services
<b>STRATEGIC PLANNING GOAL:</b>	High-Performing City Team Providing Resident-Focused Services.

### **BACKGROUND**

One of the action items in the City Strategic Plan from 2021 is a comprehensive street assessment and master plan. This has been identified under **Goal 4: High-Performing City Team Providing Resident-Focused Services** (see page 31 of the Strategic Plan document).

Evaluation, rating, and tracking the condition of the most expensive asset of the City – roadway pavement – is a critical step forward in infrastructure stewardship. By developing an organized and objective rating system for our streets and alleys, City staff will be able to generate analytics and forecast investment needs to maintain a quality level dictated and desired by the City Council and community. Furthermore, repeated evaluation in the years ahead will provide feedback on adequacy of efforts in terms of meeting maintenance goals over time. It is expected that this pavement evaluation effort would be repeated, city-wide, every 4-5 years.

Infrastructure Management Services (IMS) is a company that specializes in quantifying the condition of pavement and also has developed analytics that allow for the development of an efficient investment strategy (5- and 10-year plan). Consequently, upon hiring IMS, the City of Allen will have deliverables in time for presentation and planning for the next fiscal year budget. Additionally, this effort is well timed, as the data can be utilized in the context of planning for the next general obligation bond election. Information derived from this analysis and conclusions in the investment plan can be used to substantiate a proposition to request funding from the voters for the most expensive areas that are identified for replacement from the study.

The deliverable elements include:

- Surface Condition Analysis – This uses a laser road surface tester, mounted to a van that drives all streets and alleys, which evaluates the current surface condition of approximately 660 miles of roadway pavement (streets and alleys).
- Rehabilitation Analysis Report – This report summarizes scenarios of various investment levels, tailored to the resources and goals of the community.
- Global Positioning System (GIS) and Pavement Management – Collected data can be used with our current GIS program to produce color maps based on existing pavement conditions or street rehabilitation plans. Queries can also be made of future infrastructure rehabilitation programs to better plan and manage resources.
- Photo imaging of all existing roadways, alleys, and sidewalk ramps.

## **BUDGETARY IMPACT**

Contract expenses will be paid with federal funds through the American Recovery and Reinvestment Act, made available to the community already, as presented by staff at the workshop on December 14, 2021.

IMS was selected from a listing of companies, made available through the North Central Texas Council of Government (NCTCOG) Request for Qualifications (RFQ) process. City of Allen staff selected firms from the listing of vendors on that list, interviewed their key staff members, solicited proposals, and evaluated their deliverables with respect to our GIS processes. A key factor in our decision was best value, alongside compatibility with our existing asset tracking software (CityWorks). IMS proved to represent the best value for this service, utilizing the negotiated rates established through the NCTCOG process. The proposal from IMS reflects the rates established and published with NCTCOG.

## **STAFF RECOMMENDATION**

Staff recommends that Council award a professional services contract to Infrastructure Management Services for city-wide street and alley pavement assessment in the amount of \$205,022.

## **MOTION**

*I make a motion to award a professional services contract to Infrastructure Management Services for city-wide street and alley pavement assessment in the amount of \$205,022.*

## **ATTACHMENT**

[Professional Services Agreement](#)



STATE OF TEXAS           §  
  §           AGREEMENT FOR PROFESSIONAL SERVICES  
COUNTY OF COLLIN       §

This agreement (“Agreement”) is made by and between the City of Allen, Texas (“City”) and Infrastructure Management Services, LLC. (“Professional”), acting by and through their authorized representatives.

**RECITALS:**

**WHEREAS**, the City desires to engage the services of the Professional as an independent contractor, and not as an employee, to provide the services described in Exhibit “A” (the “Scope of Services”) to assist the City in Pavement Analysis Services (the “Project”) on the terms and conditions set forth in this Agreement; and

**WHEREAS**, the North Central Texas Council of Governments (NCTCOG), a Texas political subdivision and nonprofit corporation, with offices located at 616 Six Flags Drive, Arlington, TX 76011 has awarded a Master Service Agreement to Infrastructure Management Services, LLC. for Pavement Analysis Services, and

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

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

**Article I**  
**Term**

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

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

**Article II**  
**Scope of Service**

2.1 The Professional shall perform the services in connection with the Project as set forth in the Scope of Services. The Professional shall perform the services: (i) with the professional

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

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

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

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

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

### **Article III Schedule of Work**

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

## **Article IV Compensation and Method of Payment**

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

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

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

## **Article V Devotion of Time; Personnel; and Equipment**

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

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

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

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

## **Article VI Miscellaneous**

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

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

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

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

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

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

6.7 Independent Contractor. It is understood and agreed by and between the Parties that the Professional, in satisfying the conditions of this Agreement, is acting independently, and that the City assumes no responsibility or liabilities to any third party in connection with these actions. All services to be performed by Professional pursuant to this Agreement shall be in the

supervise the performance of its services and shall be entitled to control the manner and means by which its services are to be performed, subject to the terms of this Agreement.

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

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

If intended for City:

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

With a copy to:

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

If intended for Professional:

Attn: Derek Turner, CEO  
IMS Infrastructure Management Services, LLC  
8380 S. Kyrene Rd, Ste 101  
Tempe, AZ 85284  
(480) 462-4009 - telephone  
NA- fax

6.10 Insurance.

- (a) Professional shall during the term hereof maintain in full force and effect the following insurance: (i) a commercial general liability policy of insurance for bodily injury, death and property damage including the property of the City, its council, officers, contractors, agents and employees (collectively referred to as the "City") insuring against all claims, demands or actions relating to the work and

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

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

provide the City with certificates of insurance and policy endorsements for the insurance required herein. The delivery of the certificates of insurance and policy endorsements to the City is a condition precedent to the payment of any amounts due to Professional by the City. The failure to provide valid certificates of insurance and policy endorsements shall be deemed a default and/or breach of this Agreement.

6.11 Debarment and Suspension.

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

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

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

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

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

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

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

6.16 Prohibition of Boycott of Energy Companies. By accepting this purchase order, Vendor verifies that is does not Boycott Energy Companies and agrees that during the term of this Agreement will not Boycott Energy Companies as that term is defined in Texas Government Code Section 809.001, as amended. This section does not apply if Professional (or Contractor) is a sole proprietor, a non-profit entity, or a governmental entity; and only applies if: (i) Professional (or Contractor) has ten (10) or more fulltime employees and (ii) this Agreement has a value of \$100,000.00 or more to be paid under the terms of this Agreement.

6.17 Prohibition of Discrimination Against Firearm Entities and Firearm Trade Associations. By accepting this purchase order, Vendor verifies that is does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (ii) will not discriminate during the term of the contract against a firearm entity or firearm trade association. This section only applies if: (i) Professional (or Contractor) has ten (10) or more fulltime employees and (ii) this Agreement has a value of \$100,000.00 or more to be paid under the terms of this Agreement; and does not apply: (i) if Professional (or Contractor) is a sole proprietor, a non-profit entity, or a governmental entity; (ii) to a contract with a sole-source provider; or (iii) to a contract for which none of the bids from a company were able to provide the required certification.

*(Signature Page to Follow)*



**EXECUTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

**CITY OF ALLEN, TEXAS**

By: \_\_\_\_\_  
Eric Ellwanger, City Manager

**ATTEST:**


By: \_\_\_\_\_  
Shelley B. George, City Secretary

**APPROVED AS TO FORM:**

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

**EXECUTED** this 29th day of December, 2021

**INFRASTRUCTURE/MANAGEMENT SERVICES, LLC.**

By:  \_\_\_\_\_  
Name Amy Blinson  
Title: Secretary

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

# Quotation for Professional Services

**To:** Chris Flanigan, Director of Public Works  
**From:** Jeff Myers, MSA, Client Services Manager  
**Subject:** 2021 Pavement Data Collection

**Date:** November 12, 2021  
**Project:** City of Allen, TX  
**Project No.:** N/A

Thank you for taking the time to review the pavement and asset data collection services offered by IMS Infrastructure Management Services. IMS excels in pavement and asset management solutions and can provide a full suite of data collection and software services.

As we understand, the City of Allen currently maintains approximately 622 centerline miles of roadway and alleys. IMS has performed objective pavement data collection for similar agencies such as Grand Prairie, Fort Worth, Grapevine, Euless, Carrollton, Weatherford, Flower Mound, Denton, Denton County, Keller, Cleburn, Celina, Hurst, Mansfield, Lubbock, and others in the Region. To ensure adequate coverage across the network, the RST will survey the arterial and collector roadways in each direction while testing the residential roadways and alleys in a single direction, resulting in a survey mileage of approximately **660 miles**.



IMS collects all data in accordance with the U.S. Army Corps of Engineers data protocols, commonly referred to as ASTM D6433. In addition, we deliver all data in industry standard formats such as Excel, Access, Geodatabases, shape files, and even Google Earth KMZ files. While IMS can implement and load data into any software application the city chooses, IMS has also engineered a simple to use spreadsheet tool called Easy Street Analysis (ESA). We use this tool to incorporate cost benefit activities. We are confident that this tool can serve as an excellent pavement management tool for the City. Should the City decide to implement pavement management software, we are happy to consult with the City on available options, and configure ESA to load data and analysis into the selected software package.

Our approach, and key service differentiator, is based on three, time proven fundamentals:

**Answer the questions that are being asked** – don't over-engineer the system or make it needlessly complicated. Databases and the application of technology are meant to simplify asset management, not make it more difficult.

**Service and quality are paramount to success** – the right blend of technically correct data, condition rating, and reporting will provide the agency with a long-term, stable solution. Service to the client remains our top priority.

**Local control and communications are key** – it is important that all stakeholders understand the impacts of their decisions and have the system outputs react accordingly. We excel in making ourselves readily available.

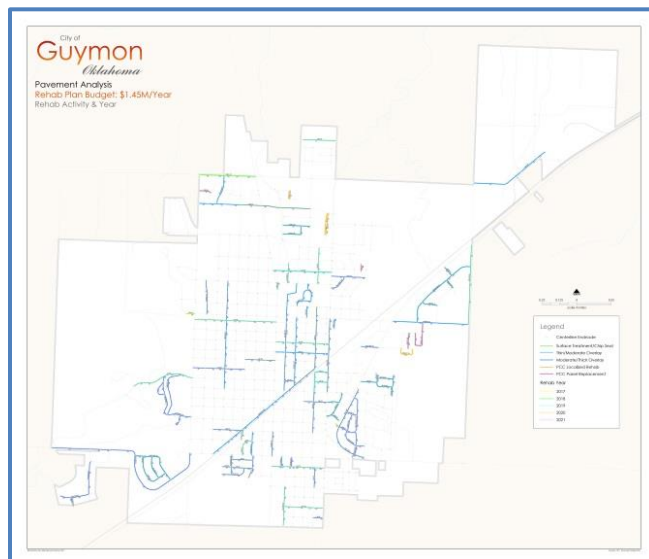
## Data Collection

IMS is unique to the industry, as an objective and repeatable data collection effort will be completed. The LCMS2 RST will be used to perform a surface condition assessment of all City streets. Instead of using the subjective feet on ground or percentage sampling method, all data will be collected continuously and recorded in 15-foot intervals in the form of a detailed database complete with GPS coordinates. The data will also be aggregated to the section level, following the sectioning and referencing methodology determined after IMS and City review.



## GIS and Pavement Management Linkage

The role of GIS in pavement management cannot be overstated. It is a powerful tool that provides the capability to handle and present vast amounts of data in an efficient manner. IMS can provide a link between the City's GIS environment and the pavement management data to enable the City to display and generate color-coded maps based upon existing pavement conditions, street rehabilitation plans or most of the data in the pavement management program. An output of a 5-year maintenance prioritization program is illustrated in the adjacent image.



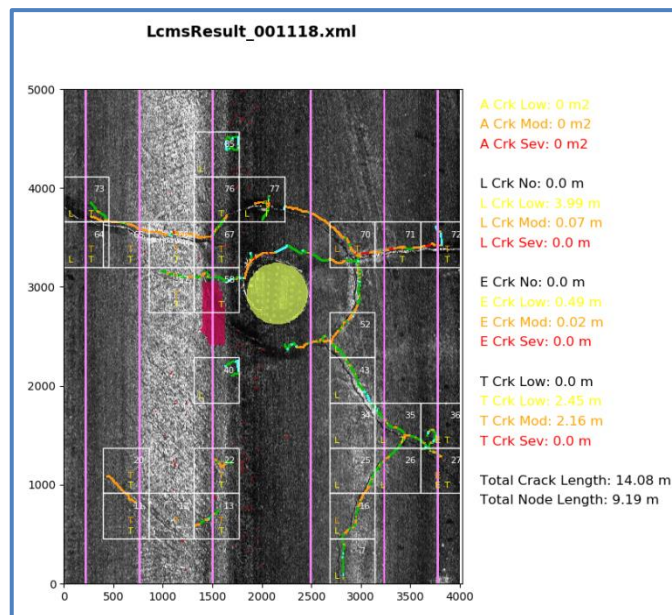
## Digital Imagery & ROW Asset Inventories

The LCMS2 RST utilizes up to four GPS-referenced HD camera views (4112x3008) for our QA/QC program, ROW asset inventory development, virtual drives, and/or other supplemental image deliverables. For the City of Allen, IMS will utilize two HD cameras that will be proofed out prior to data collection and a single forward view can be processed as a deliverable to the City. IMS can then utilize the HD imagery collected by the LCMS2 RST to inventory many Right of Way assets that the City maintains.



## Objective Distress Identification & Quantification (ASTM D6433)

The IMS Laser Crack Measurement System (LCMS2) is one of the most technologically advanced devices available for pavement performance assessments. The 2-sensor array completes a 3D millimeter-level scanning of the pavement surfaces that pass below the laser array. With a high-speed 1-millimeter resolution, this means the LCMS2 device deploys a continuous scan of laser points (approximately 3,657) across a mere 12 feet of pavement, making it one of the highest resolution pavement laser scanners available. The onboard processing software further amplifies its capabilities by analyzing pavement elevation (range and intensity) and automatically identifying cracking, rutting, and roughness in the form of IRI, potholes, and bleeding.

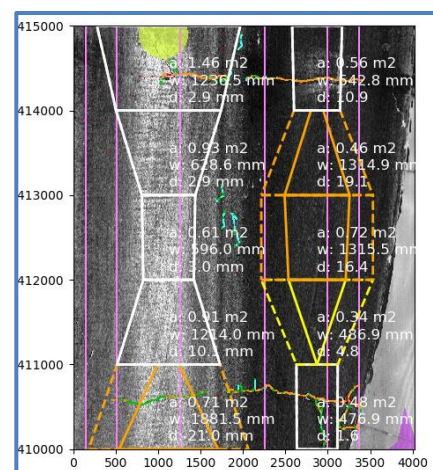


While any engineering firm could deploy the LCMS2 equipment for data collection, processing the information for distress quantification requires a complete understanding of automated technologies, GIS mapping, and distress measurement protocols found in standards such as ASTM D6433. Simply reviewing the LCMS cracking vectors (colored cracks) with the human eye dilutes the objectivity of the equipment.

IMS engineers and technologists have developed a computerized processing application that automatically applies an 18"x18" grid to the LCMS downward images (FIS files) and uses pre-programmed geometric algorithms to classify and quantify distresses by

type. These automated processing routines result in an unparalleled level of objectivity and efficiency in distress pattern recognition analysis. The image above illustrates the quantity of several distresses as well as the presence of a manhole, which was automatically scrubbed from the dataset.

In addition to the auto-quantification and classification of ASTM D6433 distresses, the LCMS2 device also operates as a Class I profile device that collects longitudinal profile (in the form of the International Roughness Index) and transverse profile (rutting) using **advanced 3D profile laser scanning technology**. The system is not subject to vehicle wander like other automated technologies, and it compensates for variation in driver ability. The adjacent images show the processing software's ability to calculate rutting width and depth following the AASHTO Taut Wire methodology. The solid white lines indicate there was no rutting in the left wheel path and that rutting was detected and measured in the right wheel path. Filters can also be applied to account for rehabilitation activity overlap, which can be as much as a ¼ inch depending on the application.





**Cracking, Faulting, Texture, Bleeding, & Potholes** – The LCMS2 allows IMS to conduct an objective distress survey, thus increasing the accuracy of an otherwise subjective manual survey. High-speed lasers and an onboard processing computer accurately measure the surface profile of the road. Included in this profile are all cracks and faults as small as 1/8" (2 mm) wide that pass beneath the lasers. Processing software then reduces and filters this information to determine the *total number of cracks, crack width/depth, as well as the crack interval*, plus faulting information. From this information, quantified crack data can be determined at both the sample and summary intervals. Crack identification includes all cracking such as alligator, transverse, longitudinal, map, and edge cracking (where applicable).

The LCMS2 device is also capable of automatically collecting, identifying, and reporting supplemental distresses such as bleeding and potholes on asphalt roadways.

**Rutting** – The LCMS device collects continuous 3D transverse profile data at 1-millimeter resolution at highway speed. This configuration is far superior to other types of vehicles that utilize three lasers or sonic transducers to calculate "relative rutting." Even five sensor units are sensitive to driver error since it is essential in that case that the driver keep the data collection vehicle's wheel exactly in the rutted wheel tracks (assuming that they fit).

The Taut Wire method is used to calculate the rut depth in both the right and left wheel track on a continuous basis. Either the right or deeper of the two-wheel path ruts may be used for rut depth calculations with the average rut depth for that wheel path reported for each section. *Rut depth results, quantified by 3-4 severity thresholds (with break points at user-defined levels such as 0.25, 0.50 and 0.65 inches) and percentage of section will be provided for every segment.*

**Roughness** – International Roughness Index (IRI) data is calculated in real time from continuous longitudinal profile data collected by the LCMS2's 3D profile device. To determine the road profile, data is simultaneously obtained from three devices: a pulse transducer-based distance-measuring instrument (DMI), high-speed 3D laser sensors operating at 112 MHz, and an accelerometer in conformance with ASTM E 950. The LCMS2 unit conforms to a Class I profiling device, and it can also "pause" over non-valid roadway sections such as localized maintenance activities, railroad crossings, or brick inlays and not affect the overall IRI value.

**Distortions, Raveling, Patching, & Other Custom Attributes** – While the LCMS automatically collects the majority of ASTM D6433 distresses, the LCMS platform can be configured to collect the remaining distresses (raveling, distortions, and patching) using the integrated touchscreen. By means of a touchscreen-based tablet computer, highly trained IMS technicians input changes in observed distress severities and extents or identify specific roadway assets or attributes such as curb reveal or lip of gutter information. The touchscreen is integrated into the data flow through time code, GPS, DMI distance and inventory control. The data is then post-processed in the office to generate extent quantities for each observed distress severity level throughout every surveyed road section.



### Optional Sub-Surface Distress Investigations

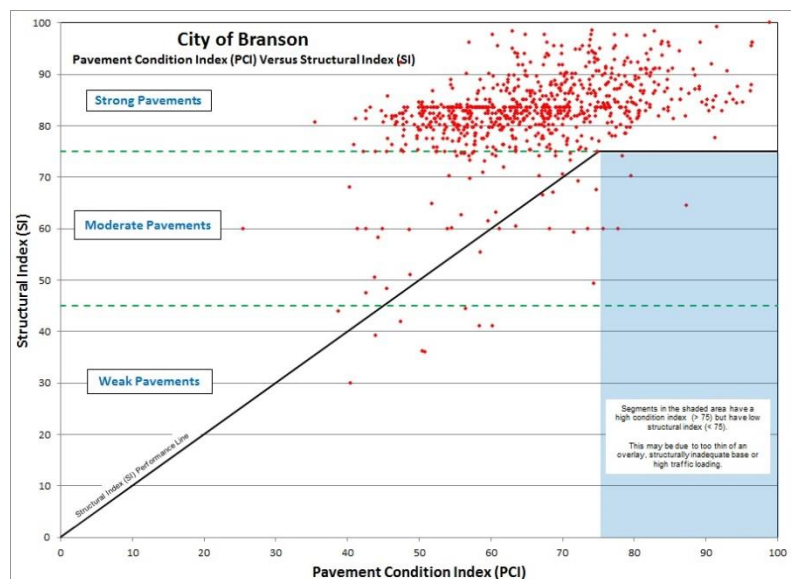
Subsurface distress investigations are a valuable tool to assess the sub-grade condition of a roadway. If added to the scope, IMS can integrate the Structural Index (SI) as a component of each roadway's final PCI score. To assess the subgrade strength of a roadway, a Dynaflect Device would be utilized for Asphalt and Concrete roadways in accordance with **ASTM** standards.

While deflection testing can be conducted on all roadways, generally IMS recommends that network-level testing be completed on the high traffic routes such as arterials and collectors. Deflection testing is typically completed at least once in each direction on every street segment (every 300 - 500 feet) along the outside lanes of the roadway. Testing shall be altered to an inside lane when it appears to be in a worse condition than the outside lane of the segment based on site observations. IMS will record the readings of a series of geophones for inclusion in the overall pavement condition rating. These readings will then be used to determine the pavement strength, load transfer capabilities, and identify properties of the base and sub-grade.



Upon completion of the deflection survey a structural analysis is performed. Dynaflect's apply a known load to the pavement and measure the pavement's response to the load. The structural adequacy of a road is expressed as a 0 to 100 score with several key ranges: roadways with a Structural Index greater than 75 are deemed to be structurally adequate for the loading and may be treated with lightweight surface treatments or thin overlays. Those between 50 and 75 typically reflect roads that require additional pavement thickness; and scores below 50 typically require reconstruction and increased base and pavement thickness.

The adjacent graph presents a sample structural adequacy plot of a recent client's roadway network against its average pavement condition. The diagonal blue line separates roadways that are performing above expectations (above the line), from those that are not, (below the line). The small number of roadways falling below the diagonal line indicates this City, Branson, Missouri, has a low percentage of roadways that are structurally inadequate for their design load. This is typically the result of insufficient base and structural materials during the original construction, or the application of overlays that were too thin during the lifetime of the roadway.



## PCI Development, Analysis Configuration & Multi-Year Plan

Immediately following the completion of the field survey's IMS will begin processing the pavement distress severity and extent scores to develop a Pavement Condition Index (PCI) for each roadway segment. The condition results are analyzed by a team of IMS engineers, who then develop the City's multi-year pavement management plan. This section provides a summary of the functionality of the IMS pavement analysis in order to emphasize our implementation expertise as well as the abilities and constraints within a pavement analysis.

The purpose of pavement management is to produce cost effective maintenance programs that maximize available resources and roadway life. By incorporating key components of a cost benefit analysis into the analysis operating parameters, we can develop a game plan that is optimized to meet the needs of the City of Allen. In addition, the analysis operating parameters described within this section will be delivered in an easy-to-use Interactive Excel Spreadsheet (ESA) including the segment PCI data, pavement deterioration curves, triggers (priority weighting factors), and the prioritized multi-year rehabilitation plan. Everything is linked to GIS in the form of simple shape files or even a personal geodatabase.

## Field Inspection Data and Pavement Condition Index (PCI)

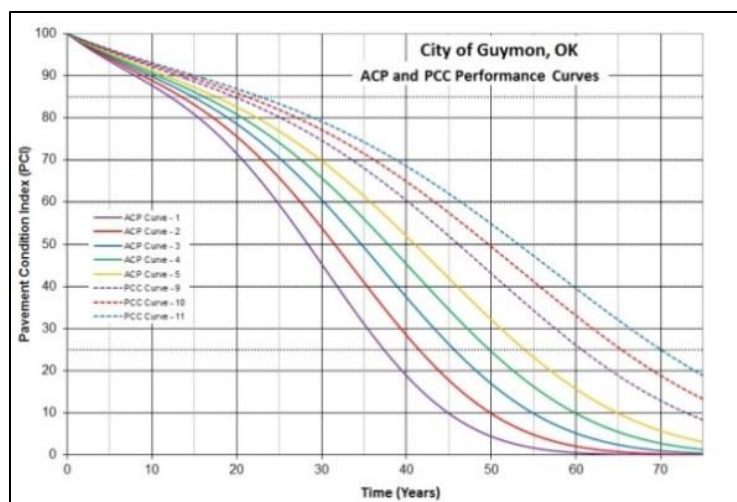
The IMS analysis allows you to store information regarding your pavements, including surface types, number of lanes, patching estimates, cross slopes, and sidewalk & curb types with replacement estimates. Pavement condition data including surface distress, roughness, and deflection results can be stored and analyzed. Using an in-house Pavement Manager Setup module, we can develop customized condition elements, distress types (load & non-load), Indices (SDI, RI, & SI), weightings, and overall PCI calculations.

In addition to the yearly programs, the net impact each budget scenario has on the expected condition of the road network over time can be determined. This budget impact can be illustrated both in terms of the yearly increase or decrease in the average network PCI score, PCI distribution, or % Backlog of roads that were not selected by the budgets. IMS converts the difficult to understand FHWA and ASTM D6433 data to a 0-10 distress rating scale with distress weighted factors (DWF), where  $DWF = \{\text{Area under D6433 deduct curves}/3000\}$ .

## Modeling and Performance Curves

With an IMS analysis, you can forecast various budget scenarios to help you determine your ideal maintenance and rehabilitation schedule. The IMS approach will help you decide what rehab activities should be performed, when and where to perform them, and an ideal budget for your system to maintain it at a specific level of service.

IMS engineers use pavement deterioration models that can be customized to reflect the climatic conditions and structural characteristics of the Allen road network. As a result, performance curves can be developed on factors such as functional class, pavement type and sub-grade strength.



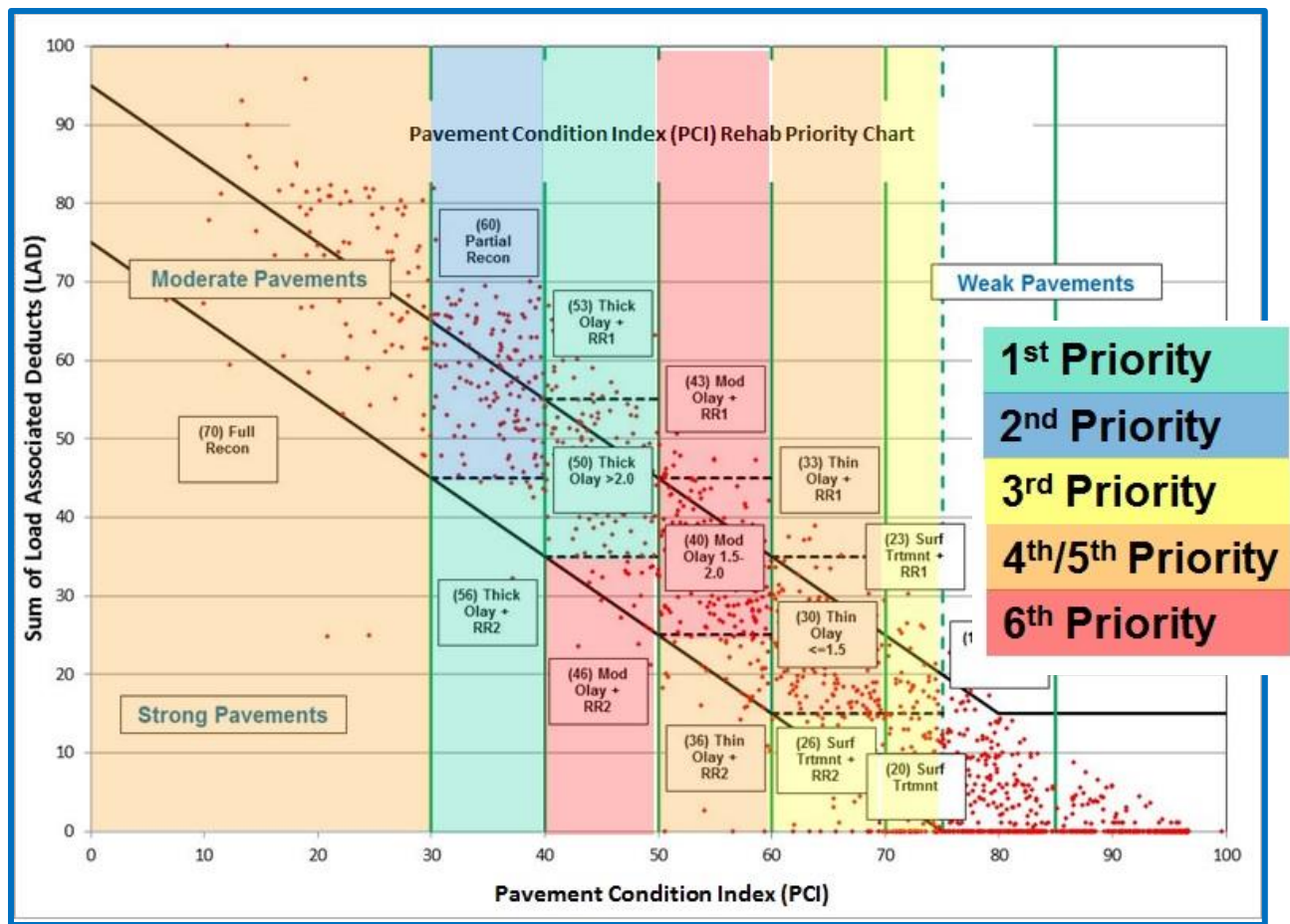


## Set Points and Operating Parameters

One of the most important aspects of the IMS approach is determining the 'set points' or thresholds of the performance curves and other factors. In general, these set points determine what type of treatment will be selected given the current or predicted condition of a road segment over time.

For example, the scatter plot displayed below illustrates a potential rehab selection process that may be incorporated for Allen. Each dot represents the outcome of a pavement condition assessment on each segment in the road network. The X-axis is the pavement condition score while the Y-axis is a Structural Index (developed with the sum of load associated distresses). The boundaries created by the intersection of the vertical green lines and horizontal dashed black lines represent the potential rehabilitation strategy for those given conditions. Each maintenance and rehabilitation strategy is programmed to take place in the most optimal year for each roadway segment.

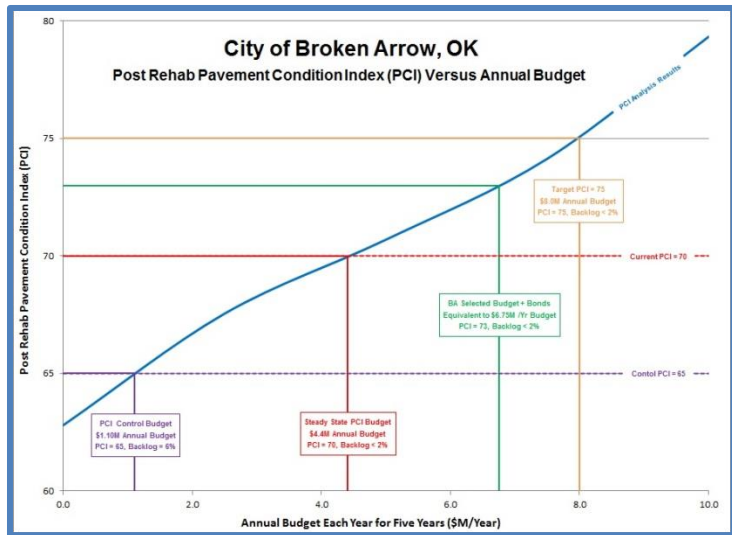
The color bands are also an effective way of illustrating the activity priorities through an analysis that considers critical PCI drops, also known as "cost of deferral." The IMS analysis specifically targets "critical segments", which is defined as segments that will drop into a more expensive treatment category if they are not selected now. By presenting the rehab strategies in a visual format such as this, the user, County staff, management, and Councils can easily understand, follow, and potentially modify the results with confidence.



## Rehabilitation Analysis

An unlimited number of pavement maintenance and rehabilitation strategies can be defined within our system. An analysis is then run, incorporating the performance curves, set points, filter criteria, and rehab alternatives to identify the overall need in terms of rehab strategies and costs for the City's road network, for today as well as year on year for the next 5 to 10 years.

The IMS approach allows you to input any number of "what if" budget scenarios and produce prioritized yearly rehab programs based on those funding levels over a 5-year analysis period. Typical budget scenarios include Budget \$/Year, Unlimited Budget \$, "Do Nothing" Budget, and a Target PCI Budget.



### What is included in an IMS analysis & report?

- *Street ownership and inventory/attribute report*
- *Present condition ranking* – detailed and summary condition data including; Good/Fair/Poor, Load Associated Distresses (LAD), Non-LAD, and Project reviews of each street in the network, as well as the network as a whole.
- *Fix all budget analysis* – this identifies the upper limit of spending by rehabilitating all streets assuming unlimited funding.
- *Do nothing analysis* – this identifies the effects of not performing roadway rehabilitation projects.
- *Steady state rehabilitation life cycle analysis* – this identifies the minimum amount of rehabilitation that must be completed in order to maintain the existing level of service over 3, 5, or 10 years.
- *PCI & funding levels* – what funding will be necessary to maintain a PCI of 75, 80, & 85.
- *Plus or minus 50% and other additional runs* – additional budget runs are completed at rates of +50% and -50% of the suggested steady state analysis. Up to 10 budget scenarios will be run.
- *Integration of capital projects and Master Plans* – ongoing and proposed projects that affect roadway rehabilitation planning will be incorporated into the analysis.
- *Draft multi-year rehabilitation and prioritized paving plans* – based on need, available budget and level of service constraints; a minimum of three budget runs will be completed.
- *Final prioritized paving plan* – incorporating feedback from stakeholder departments and utilities, complete with budget and level of service constraints.

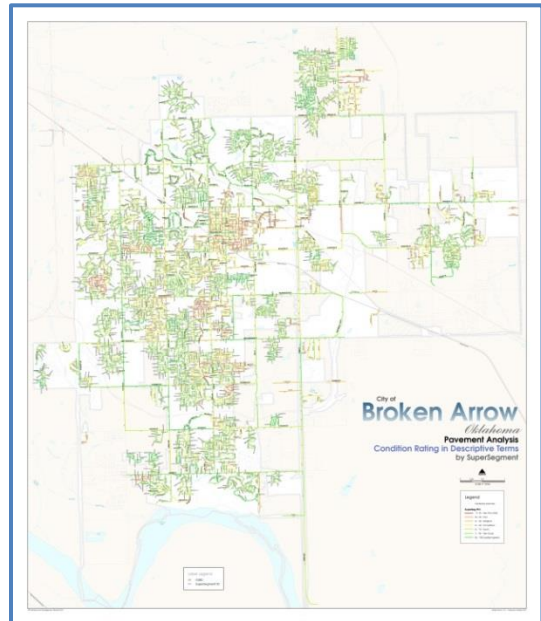
*An IMS pavement management program is comprehensive, from the data collection process to the implementation of software, and ensures that the City of Allen will have the capability to utilize the pavement condition data for the implementation of real-world maintenance and construction programs.*

## GIS Integration & Mapping

The role of GIS in asset management cannot be overstated. It is a powerful tool that provides the ability to handle and present vast amounts of data in an efficient manner. Not only does GIS allow an agency to visually plot textural data, it also establishes an easy access portal to the data through an efficient integration with many 3<sup>rd</sup> party asset management applications.

IMS kicks off every project by completing a brief review of the agency's GIS environment to assess suitability for network referencing, survey map preparation, and pavement management purposes. Our team will consume the City's existing GIS files and use the GIS as the basis for developing the network segmentation on a logical block-to-block or intersection-to-intersection basis. If the City retains an existing pavement inventory linked to an asset management system, no changes will be made unless approved by City staff.

The data collected by IMS is linked to the existing GIS environment and is supplied as a personal geodatabase, spatial database engine, Auto CAD files, or a series of shape files. IMS collects XY coordinates for all data elements using GPS technology coupled with inertial navigation and integrates with most 3<sup>rd</sup> party GIS applications, including ESRI.



At a minimum, the GIS supplied by the City should have an ownership attribute, functional classifications, contiguous line work, and be in a digital format such as shape files and/or personal/file geodatabases. As a supplemental task, IMS also offers full service “GIS Clean-Up” and “Functional Class Review” activities for agencies that require additional GIS development above and beyond standard network referencing activities. IMS can also compare the existing roadway inventory within any current asset management system to the City's GIS environment. If they do not match and a one-to-one relationship is required, IMS has the team available to develop the correct referencing information. This remains an optional activity to be conducted at the discretion of City staff.

### For this assignment, GIS will be used in four key areas of work:

1. GIS will be used to verify the streets to be surveyed and to create the routing maps for use during the field surveys.
2. The survey productivity will be tracked through the plotting of the GPS data collected during the field surveys. This will allow IMS to review all streets that have been covered, identify anomalies in the referencing, and spot missed streets.
3. GIS will be used in processing the distress and inventory data. By plotting the data, we can QA the data and identify data exceptions in addition to proofing out the GIS.
4. Personal geodatabases, spatial database engines, shape and/or KML files, can be created for the visual presentation of condition data and analysis results.





## ESA Functionality: Project Completion and PCI Overrides

The spreadsheet also allows the City to refresh the 5-year plan by entering the maintenance and rehabilitation work completed. As seen in the image below, the spreadsheet is supplemented with “PCI Override” functionality. When work is completed on a particular segment, the user simply inserts the override PCI value along with a date. The spreadsheet then removes the segment from the 5-year plan and updates all referenced network PCI averages.

### Pavement Condition Summary

Today: 3/30/2015									
PCI: 76		Current Network PCI: 74							
Surface Distress Index (SDI)	Roughness Index (RI)	Pavement Condition Index (PCI)	PCI Survey Date	Strength Rating	Condition Rating	Load Associated Deducts (LADD)	Non-Load Associated Deducts (NLAD)	PCI Override	Current PCI
74	53	67	6/1/2014	MOD	Good	0	0		66
55	63	57	6/1/2014	MOD	Fair	27	18		55
70	63	68	6/1/2014	MOD	Good	19	10		66

### Other features of the IMS Easy Street Analysis spreadsheet are as follows:

- Red triangle tips that trigger a dialogue box explaining cell contents.
- Ability to add new road segments and attributes on the fly.
- Modifiable distress indices for Allen field inspections.
- Input work completed and override segment level PCI scores.
- Prioritize by neighborhoods, zones, or districts.
- Ability to modify project lengths – includes aggregating and splits.
- Commit projects and force “Must Do’s” or “Must Never Do”.
- Program varying annual budgets over a 5-year horizon.
- Commit a percentage of the budget to surface treatments if desired.
- Automated rehab plan prioritization and optimization.
- Macros that automatically sort and filter simple rehab and inventory lists.
- Ability to sync the spreadsheet with the Data Viewer through a .CSV file export.

While the spreadsheet is not meant to replace pavement management systems, it is an alternative for agencies that do not want to maintain the resources or staff to maintain a dedicated application. If a dedicated system is still desired, IMS will assess all other available 3<sup>rd</sup> party solutions. The ESA data integrates with GIS and is also easily exportable to be tied into PAVER, RoadManager, Lucity, Cartegraph, BeeHive, Cityworks or other software solutions.

### Additional Sample Images of the ESA Interactive Spreadsheet Functionality:

Running a budget model within ESA is as easy as typing in your annual budget each year for the next 5- years. After doing so the application will automatically run the model and develop an optimized 5-year rehabilitation plan that identifies the selected rehab candidates, their year of selection, and their cost.

Network Analysis Summary - Five Year Rehab Plan Development											
Current PCI Date: 9/11/2019		Annual Budget Increase (%/yr): 0.00		% of Budget Dedicated to Surface Treatments: 0.000							
Analysis Start Date: 1/1/2020 (MM/DD/YYYY)		Unit Rate Inflation (%/yr): 4.00		Restore PCI to This Date: 9/11/2019							
Program Year	Annual Budget (\$)	Calendar Year	Block Count	Annual Expenditure (\$)	Pavement Costs (\$)	Peripheral Concrete Costs (\$)	Miles (mi)	PCI	Backlog (%)		
Avg:	900,000	900	2019	763	11,017,050	10,328,490	688,560	70.1	72	4.6	Update PCI
1	900,000	2020	33	894,707	840,698	54,009	2.6	71			Restore \$ Formula
2	900,000	2021	30	897,743	806,515	91,228	2.7	72			Run 10X Profile
3	900,000	2022	28	898,363	830,775	67,588	2.7	72			Run Control Analysis
4	900,000	2023	26	898,909	860,797	38,112	2.5	72			Need Year Analysis
5	900,000	2024	27	890,205	783,339	106,866	2.1	71	3.6		
Totals:			144	4,479,927	4,122,124	357,803	12.7				

Create Inventory

Rehab Plan By Seg

Rehab Plan By Year

Projects are multiple segments/blocks that have been aggregated together to form a logical project within the pavement management system. While changing the limits or size of a project is often difficult in many pavement management applications, doing so in ESA is as simple as entering in a new "Project ID". Nothing more is necessary.

Projects Pavement Condition Summary (Based on PCI Aged to Current PCI Date)									
Project ID	Project Description	Project Block Count	Project Length (ft)	Project Area (yd2)	Project PCI (CPCI)	Project Cndtn Rating	Project Strength Code	Project FunCI Code	Project Pavetype Code
3700	3700 - Village Rd + Others	11	4,268	15,672	83	V Good	2	3	1
1360	1360 - Highland Dr + Others	3	1,418	4,001	56	Fair	2	3	1
3440	3440 - Andover Rd + Others	5	2,680	21,801	80	V Good	2	1	2
3700	3700 - Village Rd + Others	11	4,268	15,672	83	V Good	2	3	1
1500	1500 - Minneha Ave + Others	4	1,341	5,228	80	V Good	2	2	1
3820	3820 - Westview Cir + Others	2	1,490	4,444	53	Fair	2	3	1

The ESA application is configured with the City's appropriate rehabilitation activities and represents a very comprehensive pavement management program in the form of an Excel Spreadsheet. A full demo of the ESA application can be scheduled with City staff if desired.

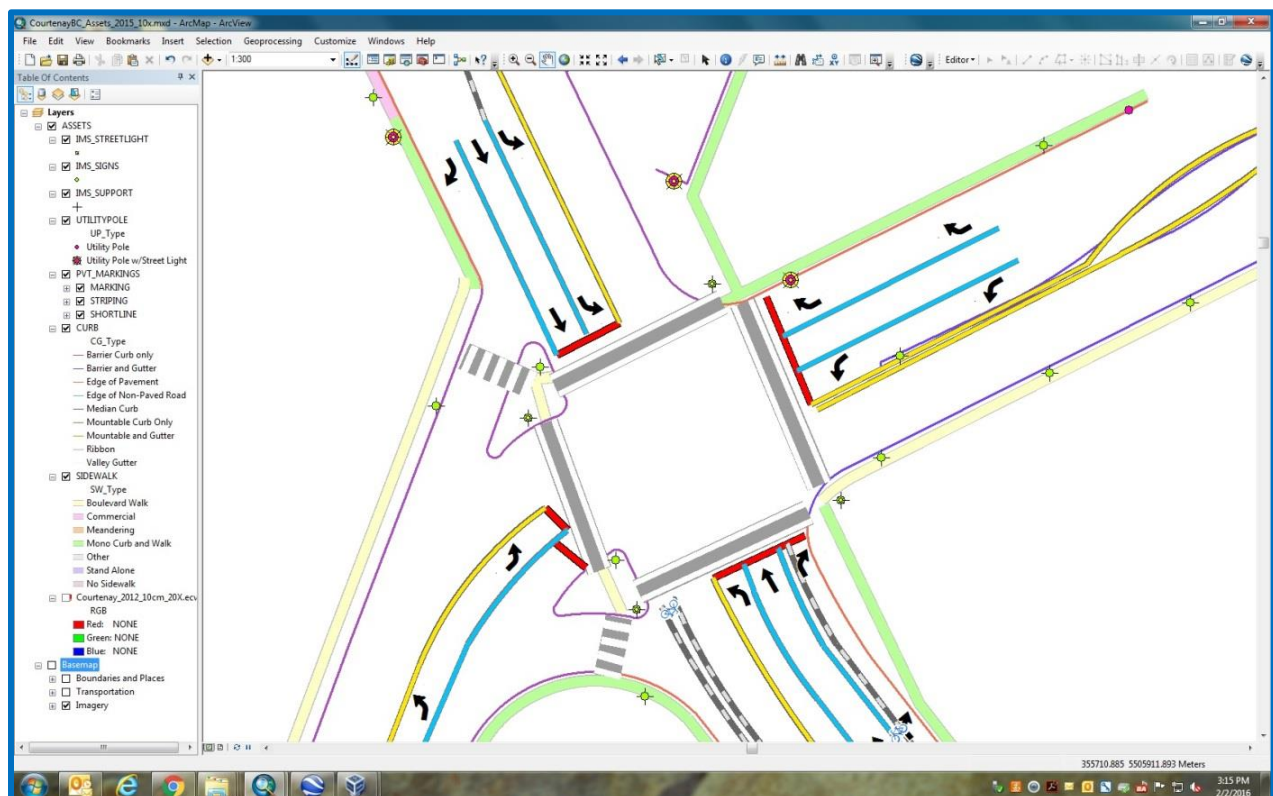
### Right-of-Way Asset Inventories (Optional)

The IMS Laser RST uses high-end GPS coordinate data and digital cameras positioned so that all assets/attributes requiring data capture are visible with the front, side, and rear cameras. For the City of Allen, IMS has the capability to collect information for sidewalks, ADA Ramps, Curbs/Gutters and other assets for location verification and condition assessment. IMS can also complete ADA compliance surveys on sidewalks, trails and paths utilizing the Sidewalk Surface Tester (SST). *The right-of-way asset inventories are supplemented with air photos and GIS to ensure positional accuracy.*

The IMS technology is an open architecture system that allows virtually any type of asset to be defined for collection of location, attribute, and condition data. Once an asset is observed, the operator toggles to the individual record input screen and proceeds to input the appropriate attribute and associated information. Wherever possible, “pick lists” are employed to streamline the data entry function and provide uniform, high quality data. IMS confirms the feature attributes to be collected with the client.

The images and GPS data are merged on a frame-by-frame basis. The images are then post-processed using a specialty piece of GIS and image viewing software. Using RST imagery, the existing centerline GIS, and aerial photography, IMS spatially plots each right-of-way asset in its real-world location.

Prior to commencing each asset inventory, a document called the **Master Asset List (MAL)** will be developed, using each applicable exhibit as a starting point. The MAL defines what assets or inventory items are to be logged and what attributes will be extracted. The MAL also defines the methodology for condition rating each asset. Essentially the MAL is the direct equivalent of a “data dictionary” as it sets the rules for right-of-way asset data collection. The GIS screenshot below depicts an IMS asset inventory of sidewalks, ADA ramps, pavement striping and markings, curb & gutter and signs.



### **Texas References**

#### **City of Grand Prairie, TX**

**Contact:** Dane Stovall, Street Services Manager

**Email:** [dstovall@gptx.org](mailto:dstovall@gptx.org)

**Phone:** (972) 237-8526

In 2016, IMS performed a data collection project for the City of Grand Prairie. Our team surveyed the entire network consisting of 360 survey miles. We loaded the data into the city's MicroPAVER software, and configured the data into the correct Cityworks format. The project was completed with a full pavement analysis and report given as a deliverable to city staff. Grand Prairie contracted with IMS again in late 2021 for another assessment and we are in the analysis phase currently.

#### **City of Denton**

**Contact:** Jeremy Schultz, Project Coordinator

**Email:** [jeremy.schultz@cityofdenton.com](mailto:jeremy.schultz@cityofdenton.com)

**Phone:** (940) 349-9439

Since 2008, IMS has been the City's dedicated pavement management consultant. IMS tested approximately 525 test miles of roadway and completed the upload, configuration and training for Cartegraph Navigator. In 2009, IMS also completed a right of way asset inventory of curb/gutter, sidewalks and barriers complete with three views of GIS linked images for loading and delivery. The pavement condition survey also included ground penetrating radar testing, roughness survey, and falling weight deflection testing. IMS completed another survey in 2015 on the entire Denton road inventory, including airport roads and parking lots. IMS configured and loaded all the data into the City's Cartegraph software. IMS also completed a total Sidewalk assessment for the City in 2019. We are currently underway on a full network assessment for the current fiscal year, including GPR testing.

#### **City of Keller**

**Contact:** Alonzo Liñán, PTOE, PE, MPA, Director of Public Works

**Email:** [alinan@cityofkeller.com](mailto:alinan@cityofkeller.com)

**Phone:** (817) 743-4081

Since 2004, IMS has performed three data collection projects with the City of Keller. IMS surveys approximately 260 miles of roadway. The IMS team has also completed deflection testing on the City's arterial and collector network for each project. To maintain the continuity of the data, IMS utilized the same ASTM D6433 data protocols and matched the City's existing Lucity database segmentation in each project. The City's Lucity pavement management module was configured to best meet the City's needs for maintenance and rehab operations. A detailed Lucity analysis and report was developed for City review. IMS completed a fourth project in Keller in 2021, which included the development of ROW asset databases, and ongoing IMS management of the Keller Lucity pavement management module.

### **2021 Pavement Data Collection Project – Fee Schedule and Timeline**

The detailed budget presented on the following page is based on the IMS work plan and deliverables. It represents a realistic budget to complete the work, and we are confident we can maintain an on-time, on-budget approach to the assignment. The presented budget is based upon the pre-negotiated and approved data collection rates that are currently published with the North Central Texas Council of Governments.



# Allen, TX

## 2021 Pavement Data Collection

Item #	Description	Quantity	Unit	Lane Mile Unit Cost	Unit Rate	Total
1	Automatically and continuously measure pavement cracking, texture, rutting, width, and pavement type	660	Lane Mile	\$117.00	N/A	\$77,220.00
2	Collect pavement surface distress through automated means	660	Lane Mile	\$1.00	N/A	\$660.00
3	Provide a digital condition rating system to collect user defined severity/extent based pavement distresses and pertinent roadway attributes to accommodate a standardized approach to collecting data	1	Lump Sum	N/A	\$1,250.00	\$1,250.00
4	Collect dual-wheel path roughness data to International Roughness Index standards	660	Lane Mile	\$1.00	N/A	\$660.00
5	Roadway information that shall be collected and provided to the Participant at a minimum includes items a. through i. in Section 5 of the Overview in this bid. (Page 5)	660	Lane Mile	\$1.00	N/A	\$660.00
6	Collect digital images at 25-foot intervals of the road surface condition and link to a geodatabase (minimum forward facing imagery)	660	Lane Mile	\$12.00	N/A	\$7,920.00
7	Collect sidewalk data to include location, length, width and condition and create shape (.shp) files for incorporation into the Participant's GIS system, if applicable		Lane Mile	\$45.00	N/A	
8	Collect sidewalk ADA ramp data to include location, configuration, presence of truncated domes or other detectable warning feature, and condition and create shape (.shp) files for incorporation into the Participant's GIS system, if applicable.	7200	Each	\$5.00	N/A	\$36,000.00
9	Collect roadway sign data to include type and location and create shape (.shp) files for incorporation into the Participant's GIS system, if applicable		Each	\$2.50	N/A	
10	Collect photos of ADA ramps, sidewalks, and/or roadway signs inventoried under items 7, 8, and 9 above.	7200	Each	\$0.50	N/A	\$3,600.00
11	Collect location of curb and gutter and create shape (.shp) files for incorporation into the Participant's GIS system, if applicable		Linear Feet	\$0.01	N/A	
12	Collect location and type of visible in-pavement features such as valves, manhole covers, etc. and create shape (.shp) files for incorporation into the Participant's GIS system, if applicable		Each	\$1.00	N/A	
13	Load assessment data for all Participant-maintained pavements into a pavement management software system required by local government Participant(s), if applicable. Cost includes base cost plus lane mile unit cost.	660	Each Participant Plus Lane Mile Cost	\$5.00	\$3,750.00	\$7,050.00
14	Implement map module so that pavement condition and other data can be integrated, displayed, and accessed through the map interface in a format consistent with the Participant's horizontal and vertical control network system, if applicable. Cost includes base cost plus lane mile unit cost.	660	Each Participant Plus Lane Mile Cost	\$5.00	\$6,000.00	\$6,000.00
15	Provide to the Participant the pavement condition data in a pavement management system database approved by Participant. Coordinate with the Participant's IT department to provide pavement condition data in a format compatible with the Participant's Environmental Systems Research Institute (ESRI) GIS database, if applicable. Cost includes base cost plus lane mile unit cost.	660	Each Participant Plus Lane Mile Cost	\$12.00	\$1,250.00	\$9,170.00
16	Calculate a Pavement Condition Index (PCI) score for each road segment using an approved pavement management system and in accordance with ASTM D6433. Provide results compatible with the Participant's GIS database, if applicable	660	Lane Mile	\$15.00	N/A	\$9,900.00
17	Calculate the International Roughness Index for each road segment in accordance with ASTM E1926. Provide results compatible with the Participant's GIS database, if applicable	660	Lane Mile	\$1.00	N/A	\$660.00
18	With input from Participant's staff, devise a weighing system taking into account PCI, IRI, average daily traffic for thoroughfares (traffic count raw data provided by Participant), and public safety emergency routes; and apply this 0-100 numeric index to the roadway information collected for the entire jurisdiction. Cost includes base cost plus lane mile unit cost.	660	Each Participant Plus Lane Mile Cost	\$1.00	\$1,550.00	\$2,210.00
19	Estimate the annual budget required to meet the long term goals regarding desired pavement condition levels. Cost includes base cost plus lane mile unit cost.	660	Each Participant Plus Lane Mile Cost	\$1.00	\$4,250.00	\$4,910.00
20	Create a five year and ten year pavement rehabilitation plan with input from Participant's staff. Cost includes base cost plus lane mile unit cost.	660	Each Participant Plus Lane Mile Cost	\$1.00	\$2,750.00	\$3,410.00
21	Recommend the computer hardware and software needed for successful implementation, potentially including recommendations for licenses of pavement management system software and other geodatabase software as needed		Each Participant		\$1,500.00	
22	Train Participant staff and provide assistance to the Public Works and IT Department as needed for the use of data collected through the fully automated system (20 person maximum per class)		Day		\$3,250.00	
23	Collect and analyze pavement structural condition information through the use of a Dynaflect device in accordance with industry standards on designated participant-owned roadways		Lane Mile Cost		N/A	
24	Collect and analyze pavement structural condition information through the use of Ground Penetrating Radar (GPR) in accordance with industry standards on designated participant-owned roadways		**		N/A	
25	Collect and analyze pavement structural condition information through the use of pavement cores in accordance with industry standards on designated participant-owned roadways (traffic control included) 2		**		N/A	
26	Additional miscellaneous services, selected by Participant, not to exceed 15% of total bid.					\$26,742.00
27	Collection of GPS, Crossfall, Radius of Curvature & Grade		Lane Mile	\$20.00	N/A	
28	Council Presentation	1	Each	N/A	\$3,000.00	\$3,000.00
29	Final Report	1	Each	N/A	\$ 2,500.00	\$4,000.00
				Project Total: \$205,022.00		
= Allen Applicable Line Items						

### 2021 Representative Timeline

Task	Description	Duration (Weeks)	Comments
1	Project Initiation and Kickoff Meeting	2-4	1. Formal kickoff meeting 2. Project Team assigned
2	Network Referencing, Map Development	1-2	1. Develop GIS/survey maps 2. Segmentation
3	Mobilization/Pavement Data Collection	5-7	1. Dependent upon favorable weather. 3. 30-50 miles/day
4	Pavement Data Processing+QC/QA	6-8	1. Manual and automated QC/QA checks 2. Client Review Pavement Condition Spreadsheet
5	Data Analysis	4-6	1. Develop parameters 2. Final analysis and 5-yr rehab plan in ESA 3. ESA linked to GIS (New Edge)
6	Final Reporting/Project Closeout	3-4	1. Written report summary 2. Geodatabases for Analysis, ROW 3. Condition and Analysis maps

Thank you for considering IMS as a viable solution to your pavement management needs. We will strive to become an asset and extension of the City staff and team. If any questions arise, please do not hesitate to contact me at (417) 372-7021 or [jmyers@imsanalysis.com](mailto:jmyers@imsanalysis.com).

Regards,

### IMS Infrastructure Management Services



Jeff Myers,  
Client Services Manager

## CITY COUNCIL REGULAR MEETING AGENDA COMMUNICATION

<b>AGENDA DATE:</b>	January 11, 2022
<b>AGENDA CAPTION:</b>	Authorize the City Manager to Execute a Contract with TB2 Services, Inc., dba Aire Dynamics, Inc., for Annual HVAC Preventative Maintenance and Repair Services for City Facilities in the amount of \$450,000.
<b>STAFF RESOURCE:</b>	Chris Landrum, Assistant Chief Financial Officer Eva Badali, Senior Buyer
<b>STRATEGIC PLANNING GOAL:</b>	Safe and Livable Community for All.

### **BACKGROUND**

On October 22, 2021, the City of Allen Purchasing Division received a total of five responses to the official Request for Proposal. The purpose of initiating a Request for Proposal for this contract was to ensure that we were soliciting responses from the most qualified contractors to perform the work needed. A total of five-hundred and thirty-three suppliers were invited to participate through the eBid system. Five responsive submissions were received through the process. While price and parts markup (PPM) was a key factor, qualifications and experience (Q&E), references, and certifications were also given equal weight during the evaluation process. A weighted average of scores from the evaluation team was used to create this award recommendation. Aire Dynamics has partnered with the City of Allen for years providing HVAC preventative maintenance and repair services for all City facilities.

### **BUDGETARY IMPACT**

Funding for the annual contract for HVAC maintenance and repair services is available in the departmental operating budgets within the General Fund and the Water and Sewer Fund.

### **STAFF RECOMMENDATION**

Staff recommends the City Council authorize the City Manager to execute a contract with TB2 Services, Inc., dba Aire Dynamics, Inc., for annual HVAC preventative maintenance and repair services for an amount of \$450,000 for a one-year term with two additional one-year renewal options.

### **MOTION**

***I make a motion to authorize the City Manager to execute a contract with TB2 Services, Inc., dba Aire Dynamics, Inc., for annual HVAC preventative maintenance and repair services in the amount of \$450,000 for a one-year term with two additional one-year renewal options***

### **ATTACHMENT**

[Agreement](#)  
[Bid Tabulation](#)

STATE OF TEXAS

§  
§

**AGREEMENT FOR HVAC PREVENTATIVE  
MAINTENANCE, REPAIRS AND EMS  
CONTROLS**

COUNTY OF COLLIN

§

This Agreement for Annual Services ("Agreement") is made by and between the City of Allen, Texas ("City") and **TB2 Service, Inc. dba Aire Dynamics, a Texas Corporation, S. Corporation** ("Contractor") (each a "Party" and collectively the "Parties"), acting by and through their authorized representatives.

**Recitals:**

**WHEREAS**, the City desires to obtain HVAC Preventative Maintenance, Repairs and EMS Controls from Company in accordance with the bid specifications attached hereto as Exhibit "A" ("Specifications"); and

**WHEREAS**, Company desires to provide services to City in accordance with its response to Specifications attached hereto as Exhibit "A";

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

**Article I  
Term**

The term of this Agreement shall begin on January 23, 2022 (the "Effective Date") and continue until the last day of January 22, 2025, unless earlier terminated as provided herein (the "Initial Term").

City maintains the right to automatically renew this Agreement for up to two additional renewal terms of one years at the City's sole discretion, the first renewal term beginning on January 23, 2023 through January 22, 2024.

**Article II  
Contract Documents**

Every provision of the documents below is incorporated into this Agreement by reference. The documents referenced below are in descending order of precedence. Any conflict between or among any of the documents shall be resolved in favor of the document with higher precedence.

- A. This Agreement;
- B. City's Request for Proposal #2021-8-110 ("Specifications"); and
- C. TB2 Service, Inc. dba Aire Dynamics to City's Request for Proposal #2021-8-110 ("Response").

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

Contractor shall provide the Services specifically set forth in the Specifications, including those requirements in the sample contract to the extent they do not conflict with this Agreement, as contained in Exhibit "A," which is attached hereto and made a part of this Agreement for all purposes.

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

Contractor agrees to commence Services upon the Effective Date of this Agreement and to complete the required Services in accordance with the schedules and at the times and locations provided by the City as set forth in Exhibit "A," including the Requirements in the sample contract to the extent they do not conflict with this Agreement.

### **Article V Compensation and Method of Payment**

5.1 Charges. City shall compensate Contractor for the Services, including all labor, materials, equipment and supplies as provided in Exhibit "A." The total compensation to Contractor shall not exceed **\$450,000.00 (four hundred fifty thousand dollars and no/100/cents)** during the Initial Term or any renewal term under this Agreement. Contractor shall provide the City with written invoices on a monthly basis describing the work and Services performed as provided in Exhibit "A." Upon approval, City shall compensate Contractor as provided herein and in Exhibit "A" with the payment term being net 30 days after the date the City is delivered a written invoice for Services completed.

### **Article VI Notice to Proceed**

Contractor shall not proceed with any work required under this Agreement without a written Notice to Proceed from City. Any work performed or expenses incurred by Contractor prior to Contractor's receipt of a written Notice to Proceed from City shall be entirely at Contractor's own risk. Work performed and expenses incurred after Contractor has received a written Notice to Proceed from City will be eligible for reimbursement under the terms of this Agreement, subject to an approved task order.

### **Article VII Suspension of Work**

City shall have the right to immediately suspend work by Contractor if City determines in its sole discretion that Contractor has, or will fail to perform, in

accordance with this Agreement. In such event, any payments due Contractor shall be suspended until Contractor has taken satisfactory corrective action.

### **Article VIII**

#### **Devotion of Time; Personnel; and Equipment**

8.1 The Contractor shall devote such time as reasonably necessary for the satisfactory performance of the work under this Agreement. Should the City require additional services not included under this Agreement, the Contractor shall make reasonable effort to provide such additional services at mutually agreed charges or rates, and within the time schedule prescribed by the City; and without decreasing the effectiveness of the performance of services required under this Agreement.

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

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

8.4 Time is and shall be of the essence in the performance of this Agreement as written.

### **Article IX**

#### **Availability of Funds**

If monies are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal period, this Agreement shall be canceled, and Contractor may only be reimbursed for the reasonable value of any non-recurring costs incurred but not amortized in the price of services delivered under this Agreement or which are otherwise not recoverable. The cost of cancellation may be paid from any appropriations for such purposes.

### **Article X**

#### **Termination**

This Agreement may be terminated by:

- (a) by mutual written agreement of the parties.
- (b) immediately by City, if Contractor defaults or breaches any of the terms or conditions of this Agreement.
- (c) by either party, upon thirty (30) days prior to written notice. Should Contractor terminate this Agreement under this provision,

237



- Contractor shall further state the reason(s) for termination in its written notice.
- (d) by City, if Company suffers an Event of Bankruptcy or Insolvency; or "Event of Bankruptcy" shall mean the dissolution or termination (other than a dissolution or termination by reason of Company merging with an affiliate of Company) of Company's existence as a going business, insolvency, appointment of receiver for any part of Company's property and such appointment is not terminated within ninety (90) business days after such appointment is initially made, any general assignment for the benefit of creditors, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Company and in the event such proceeding is not voluntarily commenced by the Company, such proceeding is not dismissed within ninety (90) business days after the filing thereof;
  - (e) by City, if City fails to budget and appropriate funds for payment of the obligations hereunder for the then ensuing fiscal year; or

#### **Article XI Insurance**

- (a) For coverage requirements, please refer to the table on the following page. All insurance shall be endorsed to provide the following provisions: (1) name the City, its officers, and employees as additional insureds as to all applicable coverage with the exception of Workers Compensation Insurance and Professional Liability; (2) provide for a waiver of subrogation against the City for injuries, including death, property damage, or any other loss to the extent the same is covered by the proceeds of insurance, except for Professional Liability Insurance. A specific endorsement needs to be added to all policies, with a copy of the endorsement provided to the City that indicates the insurance company will provide to the City at least a thirty (30) day prior written notice for cancellation, non-renewal, and/or material changes of the policy. In the event the companies providing the required insurance are prohibited by law to provide any such specific endorsements, the Contractor shall provide at least thirty (30) days prior written notice to the City of any cancellation, non-renewal and/or material changes to any of the policies of insurance.
- (b) All insurance companies providing the required insurance shall be authorized to transact business in Texas and rated at least "A" by AM Best or other equivalent rating service. All policies must be written on a primary basis, non-contributory with any other insurance coverage and/or self-insurance maintained by the City.
- (c) A certificate of insurance and copies of policy endorsements evidencing the required insurance shall be submitted to the City prior to

commencement of services. On every date of renewal of the required insurance policies, the Contractor shall cause a certificate of insurance and policy endorsements to be issued evidencing the required insurance herein and delivered to the City. In addition, the Contractor shall within ten (10) business days after written request provide the City with certificates of insurance and policy endorsements for the insurance required herein. The delivery of the certificates of insurance and policy endorsements to the City is a condition precedent to the payment of any amounts due to Contractor by the City. The failure to provide valid certificates of insurance and policy endorsements shall be deemed a default and/or breach of this Agreement.

**Contracts in the Amount of \$0-\$100,000**

Type of Insurance	Amount of Insurance	Provisions
1. Commercial General (Public) Liability to include coverage for: a) Premises/Operations b) Products/Completed Operations c) Independent Contractors d) Personal Liability e) Contractual Liability	\$500,000 each occurrence, \$1,000,000 general aggregate;  or  \$1,000,000 combined single limits	City to be listed as additional insured and provided 30-day notice of cancellation or material change in coverage.  City prefers that insurer be rated A or higher by A.M. Best or equivalent. Waiver of Subrogation to apply
2. Business Auto Liability	\$500,000 combined single limit	Owned, non-owned, and hired vehicles
3. Workers' Comp & Employers' Liability	Statutory Limits \$1,000,000 each accident	Waiver of subrogation
4. a) Professional Liability b) E & O coverage	1,000,000 per occurrence	If Applicable

**Contracts in the Amount of \$100,000-\$1,000,000**

Type of Insurance	Amount of Insurance	Provisions
1. Commercial General (Public) Liability to include coverage for: f) Premises/Operations g) Products/Completed Operations h) Independent Contractors i) Personal Liability j) Contractual Liability	\$1,000,000 each occurrence  \$2,000,000 general aggregate  \$2,000,000 Umbrella/ Excess Liability	City to be listed as additional insured and provided 30-day notice of cancellation or material change in coverage.  City requires that insurer be rated A or higher by A.M. Best or equivalent. Waiver of subrogation
2. Business Auto Liability	<ul style="list-style-type: none"> <li>\$1,000,000 per occurrence</li> </ul>	City to be named as a additional insured



	<ul style="list-style-type: none"> <li>• \$1,000,000 aggregate or;</li> <li>• \$1,000,000 combined single limits</li> </ul>	
3. Workers' Comp & Employers' Liability	Statutory Limits \$1,000,000 each accident	Waiver of subrogation
4. Builders Risk Policy	100% of construction total	If Applicable
5.a) Professional Liability b) E & O coverage	1,000,000 per occurrence	If Applicable

**Contracts in the Amount of \$1,000,000-\$8,000,000**

<b>Type of Insurance</b>	<b>Amount of Insurance</b>	<b>Provisions</b>
1. Broad Form Commercial General Liability to include coverage for: k) Premises/Operations l) Products/Completed Operations m) Independent Contractors n) Personal Liability o) Contractual Liability	\$2,000,000 each occurrence, \$4,000,000 general aggregate; \$4,000,000 umbrella	City to be listed as additional insured and provided 30-day notice of cancellation or material change in coverage.  City requires that insurer be rated A or higher by A.M. Best or equivalent. Waiver of Subrogation
2. Business Auto Liability	<ul style="list-style-type: none"> <li>• \$1,000,000 per occurrence</li> <li>• \$2,000,000 aggregate or;</li> <li>• \$2,000,000 combined single limits</li> </ul>	City to be named as additional insured
3. Workers' Comp & Employers' Liability	Statutory Limits \$1,000,000 each accident	City to be provided a waiver of subrogation
4. Builders Risk Policy	100% of construction total	If Applicable
5. a) Professional Liability b) E & O coverage	1,000,000 per occurrence	If Applicable

All Contracts over \$8,000,000 must contact Risk Management for insurance specifications. All Certificates of Insurance need to reference job or contract number in comments section.

## **Article XII Miscellaneous**

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

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

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

12.4 Governing Law. The laws of the State of Texas shall govern this Agreement; and venue for any action concerning this Agreement shall be in Collin County, Texas. The parties agree to submit to the personal and subject matter jurisdiction of said Court.

12.5 Amendments. This Agreement may be amended by the mutual written agreement of the parties.

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

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

12.8 Under the Authority of the Clean Water Act, the Environmental Protection Agency (EPA), the City of Allen has endeavored to reduce / improve storm water quality per direction of the Texas Commission of Environmental Quality (TCEQ). The City of Allen has developed standard operating procedures (SOP's) for our Storm Water Management Program (SWMP). By signing this contract all



vendors accept to follow our SOP's of our SWMP. Follow the link for our SOP's  
<http://www.cityofallen.org/933/Storm-Water-Management>

12.9 Notice. Any notice required or permitted to be delivered hereunder may be sent by first class mail, overnight courier or by confirmed telefax or facsimile to the address specified below, or to such other party or address as either party may designate in writing, and shall be deemed received three (3) days after delivery set forth herein:

If intended for City:  
Eric Ellwanger  
City Manager  
3<sup>rd</sup> floor, City Hall  
305 Century Parkway  
Allen, Texas 75013  
Facsimile: 214-509-4118  
Telephone: 214-509-4110

with copy to:  
Peter G. Smith  
Nichols, Jackson, Dillard, Hager  
& Smith, L.L.P.  
500 N. Akard, 1800 Lincoln  
Plaza  
Dallas, Texas 75201  
Facsimile: 214-965-0010

If intended for Contractor:  
Raymond Shade  
TB2 Service, Inc. dba  
Aire Dynamics  
3250 W. Story Rd.  
Suite 102  
Irving, TX 75038  
Facsimile: 972-446-2000

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

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

12.12 Indemnification. Contractor shall release, defend, indemnify and hold harmless City and its officers, agents and employees from and against all damages, injuries (including death), claims, property damages, (including loss of use), losses, demands, suits, judgments and costs, including reasonable attorney's fees and expenses, in any way arising out of, related to, or resulting from the performance of the work or caused by the negligent act or omission of Contractor, its officers, agents, employees, subcontractors, licensees, invitees or any other third parties for whom Contractor is legally responsible (hereinafter "Claims"). Contractor is expressly required to defend City against all such Claims.

PBS

In its sole discretion, City shall have the right to select or to approve defense counsel to be retained by Contractor in fulfilling its obligation hereunder to defend and indemnify City, unless such right is expressly waived by City in writing. City reserves the right to provide a portion or all of its own defense; however, City is under no obligation to do so. Any such action by City is not to be construed as a waiver of Company's obligation to defend City or as a waiver of Contractor's obligation to indemnify City pursuant to this Contract. Contractor shall retain City approved defense counsel within seven (7) business days of City's written notice that City is invoking its right to indemnification under this Contract. If Contractor fails to retain Counsel within such time period, City shall have the right to retain defense counsel on its own behalf, and Contractor shall be liable for all costs incurred by City.

12.13 Audits and Records. Contractor agrees that during the term hereof, City and its representatives may, during normal business hours and as often as deemed necessary, inspect, audit, examine and reproduce any and all of the Contractor's records relating to the services provided pursuant to this Agreement for a period of one year following the date of completion of services as determined by City or date of termination if sooner.

12.14 Conflicts of Interests. The Contractor represents that no official or employee of City has any direct or indirect pecuniary interest in this Agreement.

12.15 Warranty. The Contractor warrants to the City that all labor furnished to perform the work under this Contract will be competent to perform the tasks undertaken, that the product of such labor will yield only first-class results, that the work will be performed in a good and workmanlike manner and at least in accordance with industry standards, and that the work will be of good quality, free from faults and defects and in strict conformance with this contract. All work not conforming to these requirements may be considered defective.

12.16 Uniforms. Contractor shall provide and require its employees to wear a uniform that bears the company name, logo, and the employee's name. Uniforms are not to be dirty, stained, or torn. Uniforms shall be worn at all times while on the job. Contractor shall provide and ensure the wearing of protective clothing, masks, eye protection, etc., as required by laws, regulation, ordinances, and/or manufacturer's instruction for material and equipment. All employees of Contractor working on right-of-ways or medians must utilize personal protective equipment such as safety vests to insure their visibility to drivers.

12.17 Warning Devices and Barricades. The Contractor shall furnish and maintain such warning devices, barricades, lights, signs, and other devices as may be necessary or appropriate or required by the City to protect persons or property in, near or adjacent to the jobsite. The contractor shall comply with all applicable Federal, State, and Local Laws regarding occupational safety and health as well as providing protection of the environment. This shall include but not be limited to compliance with U.S. Department of Labor-Occupational Safety and Health Administration



(OSHA), and U.S. Environmental Protection Agency (EPA) guidelines and regulations. No separate compensation shall be paid to the Contractor for such measures.

12.18 Protection of Utilities. The Contractor shall use best efforts to leave undisturbed and uninterrupted all irrigation systems, utilities, and utility services provided to the job site or which presently exist at, above, or beneath the location where the work is to be performed. In the event that any irrigation system, utility, or utility service is disturbed or damaged during the progress of the work, the Contractor shall forthwith repair, remedy or restore the utility at Contractor's sole expense. The Contractor is responsible for an inspection of the site prior to commencing work on site to ensure that no damage is existing or will not occur when maintenance begins. If damage is noted or if probable damage will occur then it is the contractor's responsibility to notify the City of Allen representative so that the City of Allen can take action to correct and document the problem(s). The contractor is responsible for the replacement of all irrigation heads that are damaged by mowing with like equipment approved by the City of Allen.

12.19 PROHIBITION OF BOYCOTT ISRAEL. Company verifies that it does not Boycott Israel and agrees that during the term of this Contract will not Boycott Israel as that term is defined in Texas Government Code Section 808.001, as amended. Effective September 1, 2019, this section does not apply if the Vendor is a sole proprietor, a non-profit entity or a governmental entity; and only applies if: (i) the Vendor has ten (10) or more fulltime employees and (ii) this Contract has a value of \$100,000.00 or more to be paid under the terms of this Contract.

12.20 PROHIBITION OF BOYCOTT OF ENERGY COMPANIES. By accepting this purchase order, Vendor verifies that is does not Boycott Energy Companies and agrees that during the term of this Agreement will not Boycott Energy Companies as that term is defined in Texas Government Code Section 809.001, as amended. This section does not apply if Professional (or Contractor) is a sole proprietor, a non-profit entity, or a governmental entity; and only applies if: (i) Professional (or Contractor) has ten (10) or more fulltime employees and (ii) this Agreement has a value of \$100,000.00 or more to be paid under the terms of this Agreement.

12.21 PROHIBITION OF DISCRIMINATION AGAINST FIREARM ENTITIES AND FIREARM TRADE ASSOCIATIONS. By accepting this purchase order, Vendor verifies that is does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (ii) will not discriminate during the term of the contract against a firearm entity or firearm trade association. This section only applies if: (i) Professional (or Contractor) has ten (10) or more fulltime employees and (ii) this Agreement has a value of \$100,000.00 or more to be paid under the terms of this Agreement; and does not apply: (i) if Professional (or Contractor) is a sole proprietor, a non-profit entity, or a governmental entity; (ii) to a contract with a sole-source provider; or (iii) to a contract for which none of the bids from a company were able to provide the required certification.

PB

***(Signature page to follow)***

PAZ

EXECUTED this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

**CITY OF ALLEN**

By: \_\_\_\_\_

Eric Ellwanger, City Manager

305 Century Parkway  
Allen, Texas 75013

**ATTEST**

\_\_\_\_\_  
Shelley B. George, City Secretary

EXECUTED this 24 day of \_\_\_\_\_ November, 2022.

**TB2 Service, Inc. dba Aire Dynamics**

By: Raymond B. Shade 11/24/2021  
Signature of Authorized Officer

Name: Raymond B. Shade  
Print Name

Title: SALES MANAGER

[ADDRESS]

3250 West Story Road, STE. 102  
IRVING, TX 75038



**EXHIBIT "A"**  
**SPECIFICATIONS AND RESPONSE**

1. City's Request for Proposal #2021-8-110.
2. TB2 Service, Inc. dba Aire Dynamics Response to City's Request for Proposal #2021-8-110.

		25		24		20		18		10	
		Denali Construction		Aire Dynamics (TB2)		Decker Mechanical		Dallas Mechanical Group		Heat Transfer Solutions	
		Total Price	\$127,780.00	Total Price	\$135,215.00	Total Price	\$157,045.00	Total Price	\$176,478.00	Total Price	\$316,540.00
Line #	Description	Unit	Extended	Unit	Extended	Unit	Extended	Unit	Extended	Unit	Extended
1	Preventative Maintenance -- Annual Cost -- City Hall	\$17,600.00	\$17,600.00	<u>\$11,341.00</u>	\$11,341.00	\$14,955.00	\$14,955.00	\$20,125.00	\$20,125.00	\$34,820.00	\$34,820.00
2	Preventative Maintenance -- Annual Cost -- Municipal Annex	\$1,920.00	\$1,920.00	\$1,832.00	\$1,832.00	\$2,295.00	\$2,295.00	<u>\$1,565.00</u>	\$1,565.00	\$4,930.00	\$4,930.00
3	Preventative Maintenance -- Annual Cost -- Municipal Court/Parks Building	\$4,480.00	\$4,480.00	\$4,339.00	\$4,339.00	<u>\$3,480.00</u>	\$3,480.00	\$4,782.00	\$4,782.00	\$8,900.00	\$8,900.00
4	Preventative Maintenance -- Annual Cost -- Police Headquarters	\$7,680.00	\$7,680.00	<u>\$6,776.00</u>	\$6,776.00	\$7,043.00	\$7,043.00	\$11,215.00	\$11,215.00	\$16,210.00	\$16,210.00
5	Preventative Maintenance -- Annual Cost -- Allen Public Library	<u>\$5,760.00</u>	\$5,760.00	\$6,699.00	\$6,699.00	\$8,325.00	\$8,325.00	\$11,285.00	\$11,285.00	\$16,880.00	\$16,880.00
6	Preventative Maintenance -- Annual Cost -- Allen Animal Shelter	\$2,560.00	\$2,560.00	<u>\$2,035.00</u>	\$2,035.00	\$2,828.00	\$2,828.00	\$3,437.00	\$3,437.00	\$5,290.00	\$5,290.00
7	Preventative Maintenance -- Annual Cost -- Prestige Water Tower	\$2,560.00	\$2,560.00	<u>\$1,287.00</u>	\$1,287.00	\$1,560.00	\$1,560.00	\$1,818.00	\$1,818.00	\$2,720.00	\$2,720.00
8	Preventative Maintenance -- Annual Cost -- Rowlett Water Tower	\$960.00	\$960.00	<u>\$891.00</u>	\$891.00	\$1,268.00	\$1,268.00	\$1,050.00	\$1,050.00	\$1,780.00	\$1,780.00
9	Preventative Maintenance -- Annual Cost -- Municipal Service Center	<u>\$1,920.00</u>	\$1,920.00	\$7,227.00	\$7,227.00	\$10,628.00	\$10,628.00	\$11,195.00	\$11,195.00	\$16,120.00	\$16,120.00
10	Preventative Maintenance -- Annual Cost -- Stacy Road Pump Station	<u>\$640.00</u>	\$640.00	\$957.00	\$957.00	\$975.00	\$975.00	\$1,210.00	\$1,210.00	\$1,780.00	\$1,780.00
11	Preventative Maintenance -- Annual Cost -- Central Fire Station	<u>\$2,820.00</u>	\$2,820.00	\$5,838.00	\$5,838.00	\$5,460.00	\$5,460.00	\$4,362.00	\$4,362.00	\$5,540.00	\$5,540.00
12	Preventative Maintenance -- Annual Cost -- Fire Station #2	\$1,920.00	\$1,920.00	\$2,178.00	\$2,178.00	<u>\$1,267.00</u>	\$1,267.00	\$2,830.00	\$2,830.00	\$3,560.00	\$3,560.00
13	Preventative Maintenance -- Annual Cost -- Fire Station #3	\$1,920.00	\$1,920.00	\$2,079.00	\$2,079.00	<u>\$585.00</u>	\$585.00	\$2,345.00	\$2,345.00	\$3,560.00	\$3,560.00
14	Preventative Maintenance -- Annual Cost -- Fire Station #4	\$1,920.00	\$1,920.00	\$2,277.00	\$2,277.00	<u>\$731.00</u>	\$731.00	\$3,725.00	\$3,725.00	\$5,540.00	\$5,540.00
15	Preventative Maintenance -- Annual Cost -- Fire Station #5	\$2,560.00	\$2,560.00	<u>\$2,299.00</u>	\$2,299.00	\$3,900.00	\$3,900.00	\$4,685.00	\$4,685.00	\$6,970.00	\$6,970.00
16	Preventative Maintenance -- Annual Cost -- Allen Heritage Center	\$2,560.00	\$2,560.00	<u>\$1,683.00</u>	\$1,683.00	\$1,950.00	\$1,950.00	\$2,240.00	\$2,240.00	\$4,450.00	\$4,450.00
17	Preventative Maintenance -- Annual Cost -- Joe Farmer Recreation Center	<u>\$3,200.00</u>	\$3,200.00	\$4,653.00	\$4,653.00	\$7,313.00	\$7,313.00	\$5,540.00	\$5,540.00	\$13,350.00	\$13,350.00
18	Preventative Maintenance -- Annual Cost -- Lakeside Pavilion	<u>\$480.00</u>	\$480.00	\$495.00	\$495.00	\$634.00	\$634.00	\$640.00	\$640.00	\$1,050.00	\$1,050.00
19	Preventative Maintenance -- Annual Cost -- Amenities Center	\$1,280.00	\$1,280.00	<u>\$660.00</u>	\$660.00	\$1,268.00	\$1,268.00	\$1,245.00	\$1,245.00	\$1,050.00	\$1,050.00
20	Preventative Maintenance -- Annual Cost -- Recreation Hall	<u>\$2,560.00</u>	\$2,560.00	\$2,959.00	\$2,959.00	\$2,925.00	\$2,925.00	\$3,525.00	\$3,525.00	\$7,220.00	\$7,220.00
21	Preventative Maintenance -- Annual Cost -- Arts-to-Go Center aka The Blue House	\$960.00	\$960.00	<u>\$633.00</u>	\$633.00	\$1,268.00	\$1,268.00	\$1,068.00	\$1,068.00	\$1,050.00	\$1,050.00
22	Preventative Maintenance -- Annual Cost -- Youth Center	<u>\$2,560.00</u>	\$2,560.00	\$3,069.00	\$3,069.00	\$3,900.00	\$3,900.00	\$4,110.00	\$4,110.00	\$7,220.00	\$7,220.00
23	Preventative Maintenance -- Annual Cost -- Allen Senior Recreation Center	<u>\$3,200.00</u>	\$3,200.00	\$3,509.00	\$3,509.00	\$4,263.00	\$4,263.00	\$4,518.00	\$4,518.00	\$6,080.00	\$6,080.00
24	Preventative Maintenance -- Annual Cost -- The Courses at Watters Creek, Clubhouse	\$3,200.00	\$3,200.00	<u>\$3,069.00</u>	\$3,069.00	\$9,123.00	\$9,123.00	\$5,500.00	\$5,500.00	\$7,810.00	\$7,810.00
25	Preventative Maintenance -- Annual Cost -- The Courses at Watters Creek, Maintenance	\$1,280.00	\$1,280.00	\$935.00	\$935.00	<u>\$765.00</u>	\$765.00	\$1,068.00	\$1,068.00	\$1,050.00	\$1,050.00
25 ALT1	Hillside Water Tower - Additional Location Not Shown on Section V Pricing page - Preventative					<u>\$488.00</u>	\$488.00				
26	Preventative Maintenance -- Annual Cost -- Don Rodenbaugh Natatorium	<u>\$3,840.00</u>	\$3,840.00	\$8,525.00	\$8,525.00	\$14,843.00	\$14,843.00	No Bid		\$15,280.00	\$15,280.00
26 ALT1	Heritage Village - Additional Location Not Shown on Section V Pricing page - Preventative					\$2,925.00	\$2,925.00				
27	Preventative Maintenance -- Annual Cost -- Police K9 Training Facility	\$0.00	\$0.00	\$1,188.00	\$1,188.00	No Bid		\$1,500.00	\$1,500.00	\$7,800.00	\$7,800.00
27 ALT1	No units are shown at the Police K9 Training Facility. We put down what we estimate	<u>\$960.00</u>	\$960.00								
28	Preventative Maintenance -- Annual Cost -- Ford Pool, Administrative Building	\$640.00	\$640.00	<u>\$396.00</u>	\$396.00	\$634.00	\$634.00	\$605.00	\$605.00	\$3,080.00	\$3,080.00
29	Preventative Maintenance -- Annual Cost -- Allen Community Ice Rink	\$0.00	\$0.00	\$0.00	\$0.00	\$39,446.00	\$39,446.00	No Response		\$0.00	\$0.00
29 ALT1	Can't decipher which units service only Ice Rink and Event Center. Our price for Ice Rink	\$0.00									
30	Preventative Maintenance -- Annual Cost -- Allen Event Center, Main Arena	<u>\$43,840.00</u>	\$43,840.00	\$45,386.00	\$45,386.00	\$0.00	\$0.00	\$59,290.00	\$59,290.00	\$105,450.00	\$105,450.00
31	Materials Needed for Repairs -- Cost Plus %	<u>20.0%</u>		20.0%		40.0%		30.0%		35.0%	
32	Rental Equipment Needed for Repairs -- Cost Plus %	20.0%		15.0%		25.0%		30.0%		10.0%	
33	HVAC Labor Rates -- Normal Hours	<u>\$80.00</u>	\$80.00	\$100.00	\$100.00	\$90.00	\$90.00	\$110.00	\$110.00	\$105.00	\$105.00
34	HVAC Labor Rates -- Night and Weekend Hours	<u>\$120.00</u>	\$120.00	\$150.00	\$150.00	\$135.00	\$135.00	\$165.00	\$165.00	\$157.50	\$157.50
35	HVAC Labor Rates -- Holiday Hours	\$160.00	\$160.00	\$150.00	\$150.00	<u>\$135.00</u>	\$135.00	\$220.00	\$220.00	\$157.50	\$157.50
36	EMS Controls Labor Rates -- Normal Hours	<u>\$90.00</u>	\$90.00	\$135.00	\$135.00	\$150.00	\$150.00	\$135.00	\$135.00	\$110.00	\$110.00
37	EMS Controls Labor Rates -- Night and Weekend Hours	<u>\$135.00</u>	\$135.00	\$202.50	\$202.50	\$225.00	\$225.00	\$210.00	\$210.00	\$165.00	\$165.00
38	EMS Controls Labor Rates -- Holiday Hours	\$180.00	\$180.00	\$202.50	\$202.50	\$225.00	\$225.00	\$285.00	\$285.00	<u>\$165.00</u>	\$165.00

<b>CITY COUNCIL REGULAR MEETING AGENDA COMMUNICATION</b>
--

<b>AGENDA DATE:</b>	January 11, 2022
<b>AGENDA CAPTION:</b>	Authorize the City Manager to Purchase a Resilient Data Backup and Disaster Recovery Platform for the Data Center from Datavox through the Texas Department of Information Resources in the Amount of \$159,273.
<b>STAFF RESOURCE:</b>	Eric Matthews, Director of Information Technology
<b>STRATEGIC PLANNING GOAL:</b>	Financially Sound and Transparent City Government.

### **BACKGROUND**

In 2019, the IT department replaced an aging tape-based backup system with a next-generation backup product called Cohesity. This hyperconverged backup product not only provided improved recovery point and recovery time objectives compared to tape, but it also evolved into the storage medium for department network file folders. Benefits include immutable backups to protect data from ransomware, multi-factor authentication for administrators to guard against hackers, and archival of long term storage to the Microsoft cloud.

In 2020, the IT department standardized on Cohesity and retired other disk storage systems. To further protect the organization's data, this purchase will create a resilient platform in a second data center to replicate our primary backups and network storage. This resilient platform achieves the industry standard of 3-2-1 for backup data. 3-2-1 refers to three copies of your data, stored in two different storage mediums, with at least one of those being offsite. An added benefit of this resilient system is improved access to data in the case of power outages or network interruptions at our primary storage location.

Investing in a resilient, modern data storage and backup platform makes the City of Allen better prepared for cyber attacks that threaten all organizations, especially local government. Cybersecurity preparedness is a part of the City's Technology 5-year Strategic Plan. Systems like Cohesity will contribute significantly to the organization's ability to weather and respond to disaster in all forms.

### **BUDGETARY IMPACT**

The costs associated with this item are funded through IT operating accounts in the General Fund. By receiving pricing negotiated through the Texas Department of Information Resources (Texas DIR), the City of Allen ensures that the equipment has been competitively procured.

Texas DIR leverages the cooperative buying power of the State government, local governments, and school districts in Texas and ensures the best prices for equipment and services. Local Government Code, Chapter 271.102, authorizes a local government to participate in a cooperative purchasing program with another local government or a local cooperative organization. The Texas Local Government Code permits cooperative agreements between local governments for the purchase of goods and services and satisfies the requirement of local governments to seek competitive bids for the purchase of such goods and services through supplier contracts.

### **STAFF RECOMMENDATION**

Staff recommends that the City Council authorize the City Manager to purchase a resilient data backup and disaster recovery platform for the Data Center from Datavox through the Texas Department of Information Resources in the amount of \$159,273.

### **MOTION**

*I make a motion to authorize the City Manager to purchase a resilient data backup and disaster recovery platform for the Data Center from Datavox through the Texas Department of Information Resources in the amount of \$159,273.*

### **ATTACHMENT**

[DataVox Texas DIR Quote](#)



6650 W. Sam Houston Pkwy S, Houston, TX 77072

t. (713)881-5300 [www.datavox.net](http://www.datavox.net)

**Quote #** DVXQ22091  
**Date** Dec 6, 2021  
**Expiration** 30 Days

**Prepared for:**

**City of Allen**

305 Century Parkway  
 Allen, TX 75013  
 USA

Eric Matthews

Email [ematthews@cityofallen.org](mailto:ematthews@cityofallen.org)

Phone (214) 509-4630

**Customer ID #**

**Project #**

**Ship to Information:**

**City of Allen**

305 Century Parkway  
 Allen, TX 75013  
 USA

attn: Eric Matthews

**Please Note: This includes advanced  
 ransomware detection and recovery  
 capabilities**

**DataVox Contact:**

Account Manager: John Pomponio

Phone (817) 288-2734

Email [johnp@datavox.net](mailto:johnp@datavox.net)

Prepared by: Tabatha Morales

Phone 713-580-6928

Email [TabathaM@datavox.net](mailto:TabathaM@datavox.net)



Contract Vehicle:

Texas DIR

DIR Vendor Number:

DataVox Texas DIR Vendor Number **176-025-1479-000**

DIR Contract Number:

**N/A**

***This contract information must appear on the purchase order***

**DIR-TSO-4249**

Part #	Description	Contract#	Service	Qty	Unit Price	Ext. Price
<b>Cohesity 4 Node Block</b>						
C5066-10G-SFP-4	C5066-10G-SFP FOUR (4) NODE BLOCK WITH 216 TB SECURE ERASE HDD, 12.8 TB PCI-E FLASH, 512 GB RAM, 16X 10GBE SFP+ PCIE, 4X IPMI; HARDW ARE ONLY	DIR-TSO-4249		1		
CS-P-C5066-10G-SFP-4	PREMIUM (24X7) SUPPORT FOR C5066	DIR-TSO-4249		1		

Part #	Description	Contract#	Service	Qty	Unit Price	Ext. Price
SUB-DATAPLAT-STD-1YR	COHESITY DATAPLATFORM STANDARD EDITION SUBSCRIPTION (1TB). INTELLIGENT WEB-SCALE SOFTWARE FOR CONSOLIDATING SECONDARY DATA WITH MULTI-PROTOCOL ACCESS (NFS, S3 & SMB), REPLICATION, ACCESS MANAGEMENT, MONITORING, REST API, ENCRYPTION, SNAPSHOTS/CONES, GLO	DIR-TSO-4249		144		
CBL-10G-SFP-003	CABLE, 10G, SFP+, TWINAX, 3M	DIR-TSO-4249		8		
					<b>SubTotal</b>	<b>\$78,809.95</b>

#### Cohesity Node Expansion

C4500-SFP-NODE	C4500-SFP EXPANSION NODE WITH 24 TB SECURE ERASE HDD, 1.6 TB PCI-E FLASH, 64 GB RAM, 4X 10GBE SFP+, 1X IPMI; HARDWARE ONLY	DIR-TSO-4249		2		
CS-P-C4500-SFP-NODE	PREMIUM (24X7) SUPPORT FOR C4500	DIR-TSO-4249		2		
SUB-DATAPLAT-STD-1YR	COHESITY DATAPLATFORM STANDARD EDITION SUBSCRIPTION (1TB). INTELLIGENT WEB-SCALE SOFTWARE FOR CONSOLIDATING SECONDARY DATA WITH MULTI-PROTOCOL ACCESS (NFS, S3 & SMB), REPLICATION, ACCESS MANAGEMENT, MONITORING, REST API, ENCRYPTION, SNAPSHOTS/CONES, GLO	DIR-TSO-4249		32		
CBL-10G-SFP-003	CABLE, 10G, SFP+, TWINAX, 3M	DIR-TSO-4249		4		
SUB-DPRT-ULARC-1YR	COHESITY DATAPROTECT AND UNLIMITED CLOUDARCHIVE ADD-ON SUBSCRIPTION (1 TB). BACKUP SOFTWARE FOR VIRTUAL AND PHYSICAL ENVIRONMENTS WITH ABILITY TO ARCHIVE UNLIMITED COPIES OF BACKED UP DATA TO SUPPORTED EXTERNAL ARCHIVE TARGETS. CUSTOMER MUST SEPARATELY PR	DIR-TSO-4249		8		
					<b>SubTotal</b>	<b>\$27,545.02</b>

#### License Conversion

SUB-DATAPLAT-STD-1YR	COHESITY DATAPLATFORM STANDARD EDITION SUBSCRIPTION (1TB). INTELLIGENT WEB-SCALE SOFTWARE FOR CONSOLIDATING SECONDARY DATA WITH MULTI-PROTOCOL ACCESS (NFS, S3 & SMB), REPLICATION, ACCESS MANAGEMENT, MONITORING, REST API, ENCRYPTION, SNAPSHOTS/CONES, GLO	DIR-TSO-4249		64		
SUB-DPRT-ULARC-1YR	COHESITY DATAPROTECT AND UNLIMITED CLOUDARCHIVE ADD-ON SUBSCRIPTION (1 TB). BACKUP SOFTWARE FOR VIRTUAL AND PHYSICAL ENVIRONMENTS WITH ABILITY TO ARCHIVE UNLIMITED COPIES OF BACKED UP DATA TO SUPPORTED EXTERNAL ARCHIVE TARGETS. CUSTOMER MUST SEPARATELY PR	DIR-TSO-4249		22		

Part #	Description	Contract#	Service	Qty	Unit Price	Ext. Price
SUB-DPRTUPG-ULARC-1Y R	COHESITY UPGRADE FROM DATAPROTECT TO DATAPROTECT AND UNLIMITED CLOUDARCHIVE (1 TB). BACKUP SOFTWARE FOR VIRTUAL AND PHYSICAL ENVIRONMENTS WITH ABILITY TO ARCHIVE UNLIMITED COPIES OF BACKED UP DATA TO SUPPORTED EXTERNAL ARCHIVE TARGETS. CUSTOMER MUST SEPAR	DIR-TSO-4249		16		
					SubTotal	\$44,562.32
Premium Support						
CS-P-C2505-SFP-4	PREMIUM (24X7) SUPPORT FOR C2505-SFP-4	DIR-TSO-4249		1		
					SubTotal	\$2,641.29
DataVox Professional Services						
DVX-EE-PROSVC-STD	DataVox Professional Services		N/A			
					SubTotal	\$5,714.29
					SubTotal	\$159,272.87
					Tax	\$0.00
					Total	\$159,272.87



## Purchase Notes

- A 15% restocking fee will be applied to all returned equipment. Custom built designs and configurations may not be returnable.

## CITY COUNCIL REGULAR MEETING AGENDA COMMUNICATION

<b>AGENDA DATE:</b>	January 11, 2022
<b>AGENDA CAPTION:</b>	Authorize the City Manager to Execute a Contract with Whirlix Design, Inc., for Playground Replacement at Greenville Heights Park in the Amount of \$205,798.
<b>STAFF RESOURCE:</b>	Kate Meacham, Director of Parks and Recreation Laura Cuellar, Landscape Architect
<b>STRATEGIC PLANNING GOAL:</b>	Vibrant Community with Lively Destinations and Successful Commercial Centers.

### **BACKGROUND**

Public playground equipment, like all other public infrastructure, requires periodic and routine maintenance, upgrade, and redevelopment. The 2015 Parks and Open Space Master Plan notes that 75% of survey respondents expressed that existing parks should be upgraded and/or improved to include additional facilities. Staff has historically identified the need for playground replacements based on specific requirements regarding maintenance concerns and age of structures, but it is important to note that the citizens of Allen also expect to see playground improvements made on a regular basis for both aesthetic and safety reasons. The Parks and Open Space Master Plan goes into detail on existing parks needs and notes that while staff maintains our parks and facilities at high levels, replacements, upgrades, and improvements eventually become necessary, and it is critical to continue the trend of replacements and upgrades throughout the park system.

The Parks and Recreation Department has multiple employees who are Certified Playground Safety Inspectors (C.P.S.I.), and they perform regular and routine inspections of playgrounds to ensure compliance with the guidelines established by the U.S. Consumer Product Safety Commission (CPSC) Public Playground Safety Handbook. These inspections and the guidelines established by the CPSC are the most significant factor used in determining the need for playground equipment replacement.

The playground at Greenville Heights Park was installed in 2006 with the original development of the park. The typical lifespan of public playground equipment ranges from 15-20 years. While Greenville Heights is at the early end of that lifespan, staff has prioritized it as needing replacement based on current inspection conditions and maintenance records. In this case, the play structure has begun to rapidly deteriorate in the past 2 to 3 years, requiring action. Fortunately, this is one of the smaller parks and play structures in the park system, allowing for immediate action through already designated and available funds.

Whirlix Design, Inc., is a one-stop-shop playground company. They work directly with the manufacturer to develop and design the playground and purchase the materials, and they have their own construction crew to complete the installation and required site work. The bid includes responsibility for the demolition of the existing playground, playground border expansion, grading, new drainage system and subsurface establishment, playground design, and installation.

### **BUDGETARY IMPACT**

The purchase of this playground equipment is proposed to be made through BuyBoard Purchasing Cooperative contract #592-19 and is funded through the collection of Park Dedication Fees. Park Dedication Fees are required for all new residential developments in the amount of \$645 per unit. These fees are paid by the developer and are set aside to aid in the development and improvement of neighborhood parks. Park Dedication Fees are restricted and can only be used in the development, re-development, and improvement of neighborhood parks.

The city is divided into quadrants, generally referred to as NE, SE, SW, and NW. Whichever quadrant the new residential development resides in is the quadrant those specific fees are assigned to. The funds available in each quadrant must be expended for neighborhood park projects within said quadrant and can only be used for neighborhood park projects. Greenville Heights Park is located in the NE quadrant so this project will be funded specifically from the NE Quadrant Park Dedication Fee account that has a current balance of \$315,843.

**Playground Replacement at Greenville Heights Park Cost Estimate**

Construction Contract	\$205,798
-----------------------	-----------

**STAFF RECOMMENDATION**

Staff recommends that the City Council authorize the City Manager to execute a contract with Whirlix Design, Inc., for playground replacement at Greenville Heights Park in the amount of \$205,798.

**MOTION**

***I make a motion to authorize the City Manager to execute a contract with Whirlix Design, Inc., for playground replacement at Greenville Heights Park in the amount of \$205,798.***

**ATTACHMENT**

[Agreement](#)  
[Greenville Heights Proposal](#)  
[Playground Rendering](#)

STATE OF TEXAS       §  
                                   §  
 COUNTY OF COLLIN   §

**AGREEMENT FOR PUBLIC FACILITY PROJECT  
 (MINOR)**

This Agreement for Public Facility Services (“Agreement”) is made by and between the City of Allen, Texas (“City”) and Whirlix Design, Inc, a Domestic For-Profit Corporation (“Contractor”) (each a “Party” and collectively the “Parties”), acting by and through their authorized representatives.

**RECITALS:**

**WHEREAS**, the City desires to engage the services of the Contractor as an independent contractor, and not as an employee, to provide the labor, goods, materials, equipment, installation, construction and services described in the Contract Documents (hereinafter defined) for the purchase installation of playground structures and associated site work for Greenville Heights Park (the “Project”); and

**WHEREAS**, the Contractor desires to provide the labor, goods, materials, equipment, installation, construction and services described in the Contract Documents in accordance with the terms and conditions set forth in this Agreement (hereinafter defined as the “Work”);

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

**Article I  
 Term; Termination**

1.1 Term. The term of this Agreement shall commence on the last date of execution hereof (the “Effective Date”) and continue until the completion of the Services by the Contractor unless sooner terminated as provided herein.

1.2 Termination. This Agreement may be terminated upon any one of the following:

- (a) by written agreement of the Parties;
- (b) upon written notice by either Party in the event the other Party breaches any of the terms or conditions of this Agreement and such breach is not cured within thirty (30) days after written notice thereof; or
- (c) upon written notice by City, if the Contractor suffers an event of Bankruptcy or Insolvency (for purpose of this section “Bankruptcy or Insolvency” shall mean the dissolution or termination of Contractor’s existence as a going business, insolvency, appointment of receiver for any part of Contractor’s property and such appointment is not terminated within ninety (90) days after such appointment is initially made, any general assignment for the benefit of creditors, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Contractor and such proceeding is not dismissed within ninety (90) days after the filing thereof);

## Article II Scope of Work; Contract Documents

2.1 The Contract Documents shall include the documents identified below and are incorporated herein for all purposes. The Contract Documents are in descending order of precedence. Any conflict between or among any of the documents shall be resolved in favor of the document with higher precedence:

- A. This Agreement;
- B. The plans and specifications and general and/or special conditions attached hereto.

2.2 Contractor shall perform the Work (hereinafter defined) as set forth in the Contract Documents.

## Article III Project Scope of Work

3.1 General. Contractor shall perform the “Work” required, implied or reasonably inferable from the Contract Documents. The term “Work” shall mean whatever is done by the Contractor or required of the Contractor to perform and complete its duties under this Agreement including but not limited to the furnishing of any requested bonds and insurance, and the provision and furnishing of labor, supervision, goods, services materials, tools, fuel, power, light, heat, cooling, telephone, water, sanitary facilities, transportation, equipment, licenses and permits required by this Agreement necessary unless otherwise specified in the Contract Documents.

3.2 Notice to Proceed. Contractor shall not commence the Work necessary until receipt of a written notice to proceed from the City unless otherwise provided in the Contract Documents. Contractor shall commence the Work required under the Contract Documents within ten (10) calendar days after receipt of the City written notice to proceed. Any Work performed or expenses incurred by Contractor prior to Contractor receipt of the written notice to proceed shall be at the sole risk and cost of the Contractor and shall not be eligible for payment by City under the Contract Documents.

### 3.3 Change Orders.

(a) City, may from time to time, authorize change orders after the performance of the Work under the Contract has commenced necessary to decrease, increase the quantity of Work to be performed or materials, equipment or supplies to be furnished by the Contractor.

(b) The execution of a change order by the Contractor shall constitute the Contractor’s agreement to the ordered changes to the Work under the Contract Documents. Contractor by executing the change order waives and releases any claim against the City for additional time or compensation relating to the Work included in the change order.

(c) Any Work performed, or expenses incurred by Contractor prior to execution of the approved change order shall be at the sole risk and cost of the Contractor and shall not be eligible for payment by City under the Contract Documents.

3.4 Bonds. Contractor shall provide payment bonds and performance bonds for the Project to ensure completion of the Project pursuant to Chapter 2253, Texas Government Code. Contractor shall provide one (1) maintenance bond for the value of completed work for a period of two (2) years following completion of the Project in favor of City for the Project in accordance with City requirements and regulations pertaining to maintenance bonds for public improvements. During the term of this Agreement and any applicable Maintenance Bond period, Contractor agrees to respond to City requests deemed "warranty" within 5-business days for non-emergency issues, and within one (1) hour, for emergencies, which is defined as any instance that poses a hazard to building occupants, visitors, guests, and the public, and any instance if when left un-repaired, will cause damage to any portion of the City building or facility

3.5 Cleaning the Project Site. Contractor shall cause the Project site to be kept reasonably clean during performance of the Project Work. Upon completion of the Project Work, Contractor shall cause the Project site to be cleaned and cause the removal of all waste, rubbish, temporary structures, and other materials together with all of Contractor's property therefrom. Contractor shall cause the disposal of all refuse at a Texas Natural Resource Conservation Commission approved landfill. Contractor shall cause the restoration of all property damaged during the prosecution of the Project Work and shall leave the Project site in a clean and presentable condition. No additional payment shall be made by the City for this work, the compensation having been considered and included in the Project Price.

3.6 Access to Work and Inspections. City and the State of Texas, and their respective representatives, shall have access to the Project Work at all times. The Contractor shall take whatever steps reasonably necessary to provide such access when requested. When reasonably requested by the City, the Contractor shall perform or cause to be performed such testing as may be reasonably necessary or reasonably appropriate to ensure suitability of the jobsite or the compliance of the Project Work with the Contract Documents.

### 3.7 Suspension or Stoppage of Work.

(a) City shall have the right to immediately suspend the Work wholly or in part for such period or periods of time as it may deem appropriate due to unsuitable considerations considered unfavorable for the proper prosecution of the Work or for failure of the Contractor to carry out the instructions from the City or if City determines in its sole discretion that Contractor has, or will fail to perform, in accordance with this Agreement. In such event, any payments due Contractor shall be suspended until Contractor has taken satisfactory corrective action. During any period in which the Work is stopped or during which any of the Work is not actively in progress for any reason, Contractor shall properly protect the Project site and the Work from damage, loss or harm. Contractor shall not be compensated for periods of delay caused by suspension of Work by City. If Work is suspended

due to no fault of Contractor, an extension of time shall be granted by City by change order upon written application, which extension shall not be unreasonably denied.

(b) If Contractor persistently fails or refuses to perform the Work in accordance with this Agreement, or if City has sufficient reason to believe that Contractor is not and will not complete the Work by the scheduled date for completion or if the best interests of the public health, safety or welfare so require, City may order the Contractor to stop the Work, or any described portion thereof, until the cause for stoppage has been corrected, no longer exists, or the City orders that Work be resumed. In such event, the Contractor shall immediately obey such order.

(c) If the Contractor's Work is stopped by the City under Paragraph 3.7, or in the event the Contractor does not timely complete the Punch List items, and the Contractor fails within seven (7) days of such stoppage to provide adequate assurance to the City that the cause of such stoppage will be eliminated or corrected, or as applicable the Punch List Items will be timely completed then the City may, without prejudice to any other rights or remedies the City may have against the Contractor, proceed to carry out the subject Work and/or Punch List items, as applicable. In such a situation, an appropriate Change Order shall be issued deducting from the Contract Price the cost of completing the Punch List items, and the costs of correcting the subject deficiencies, plus compensation for the any engineer's additional services and expenses necessitated thereby, if any. If the unpaid portion of the Contract Price is insufficient to cover the amount due the City, the Contractor shall pay the difference to the City.

3.8 Contractor Representations. Contractor represents and covenants that its Work forces can perform the Work for the Project and agrees to work simultaneously with any representatives assigned by or contracted by the City, as a part of the Project to ensure continuity of Project Work.

3.9 Contractor Representative. Contractor agrees to provide a representative on the Project site at all times Work is being performed, for communication with the City, receiving materials and equipment, directing Contractors Work, and to provide daily Project clean-up.

3.10 Compliance with applicable law. Contractor shall and shall cause its employees and sub-contractors to comply with all personnel safety programs applicable for the Project Work and to keep the Project area clean and free from debris on a daily-basis, and to keep noise and obnoxious odors to a minimum. Personnel safety programs include but are not limited to protective eyewear; protective clothing; appropriate footwear; ear protection; hard hat, and reflective vest. Project protection includes warning devices such as barricades, lights, signs, and other such devices as may be appropriate or required by the City to protect persons or property in, near, or adjacent to the Project site. Such property includes landscape, irrigation, walkways, doors/frames, glass, elevators, furniture, and fixtures. The Contractor shall comply with all applicable federal, State, and local laws regarding occupational safety and health, as well as providing protection of the environment. This shall include but is not limited to compliance with the U.S. Department of Labor-Occupational Safety and Health Administration (OSHA), and the U.S. Environmental Protection Agency (EPA) guidelines and regulations.



3.11 Project Work Disturbance. In the event Project work by the Contractor and/or its subcontractors disrupts any City service, causes damage to City property, or causes harm to any person, Contractor agrees, at its sole cost and expense, to immediately contact the City Project Manager, while providing appropriate emergency response, including but not limited to, calling police, fire and/or the appropriate utility company regarding service.

3.12 Walk Through and Punch-List. When Contractor believes the Work is substantially complete, Contractor shall notify City in writing that the Work is substantially complete and request the City inspect the Work. The Contractor agrees to perform a walk-through of the Project with the City, upon completion of the Work, and to establish a punch-list of items required for final City acceptance of the Work. Contractor further agrees to complete all punch-list items within twenty-one (21) business days after issuance of the punch-list, unless otherwise provided in the Contract Documents. Failure to complete Project and/or the punch-list within this timeframe shall result in liquidated damages being assessed against Contractor, in accordance with section 4.4.

3.13 Criminal Backgrounds. From time to time, at its sole discretion, the City may require criminal background checks on Contractor and its employees (and its sub-contractors and its employees) who will be performing after-hours Work, and/or require access to Public Safety or City facilities, technology rooms, or secure areas. Criminal background checks are conducted in accordance with Department of Public safety regulations at no charge to the Contractor. All information obtained as part of the criminal background process is kept strictly confidential. Contractor agrees to submit and cause its employees (and to cause its sub-contractor and its employees) to the criminal background process, if required by the City. All decisions regarding Contractor and its employees (and its sub-contractor and its employees) access to City facilities are final.

3.14 Contractor Conduct. Contractor (and its sub-contractors) representatives, and employees shall conduct themselves in a professional and workmanlike manner at all times when performing the Work and on the Project site, including wearing appropriate clean work attire consistent with the type of work being performed, and hard hat, reflective vest, and protective eyewear when required by the Contract Documents. The use of any tobacco product, including smokeless tobaccos, vapor and E-cigarettes, inside City facilities is prohibited. Smoking is permitted outside of City facilities, in designated smoking areas, if at least 50-feet from any facility door. City shall cause the removal of, and, to require Contractor to remove Contractor's (and its sub-contractor's) employees from the Project site if in violation of the foregoing standards.

3.15 Prevailing Wage Rates. The Contractor shall comply in all respects with all requirements imposed by any laws, ordinances or resolutions applicable to the Project with regard to the minimum prevailing wage rates for all classes of employees, laborers, subcontractors, mechanics, workmen and persons furnishing labor and services to the Project. City has adopted a Prevailing Wage Rate Schedule, available to the Contractor by request, which specifies the classes and wage rates to be paid to all persons. The Contractor shall pay not less than the minimum wage rates established thereby for each class, craft or type of labor, workman, or mechanic employed in the execution of this Agreement. The failure of the Contractor to comply with this requirement shall result in the forfeiture to the Owner of a sum of not less than Sixty Dollars (\$60.00) for each person

per day, or portion thereof, that such person is paid less than the prevailing rate. Upon request by City, Contractor shall make available for inspection and copying its books and records, including but not limited to its payroll records, account information and other documents as may be required by the City to ensure compliance with this provision.

## **Article IV Compensation and Method of Payment**

### **4.1     General.**

(a)     **Contract Price.** City shall pay, and Contractor shall accept, as full and complete payment for the Work required under the Contract Documents a total amount not to exceed two-hundred five thousand, seven-hundred ninety-eight dollars and zero cents (\$205,798.00) (the "Contract Price") to be paid as set forth herein.

(b)     **Payment of the Contract Price.** Unless otherwise provided in the Contract Documents the Contractor shall be paid on a monthly-basis within thirty (30) days after City receipt of the Contractor's detailed monthly itemized invoice for Work and City verification of the work and Services set forth in the Contractor's monthly invoice. Contractor shall submit a monthly invoice on or before the 5<sup>th</sup> calendar day of each month beginning with the first calendar month following the date of the City notice to proceed for the Work provided during the previous ending calendar monthly period, in a form prescribed by the City of Allen, if applicable. The Contractor's detailed monthly itemized invoice shall, at a minimum include and show the Contract Price, the billing period, Project name, contract number issued by the City, schedule of values for the Work performed, amount of Work complete, percentage of the Work completed, the amount of Work being invoiced, amount of any City approved change orders, amount of Retainage (hereinafter defined) being withheld, and the amount of the Contract Price remaining to be paid.

4.2     **Retainage.** An amount equal to ten percent (10%) of the Contract Price shall be retained by City if the Contract Price is less than Four Hundred Thousand Dollars (\$400,000.00) and five percent (5%) if the Contract Price is Four Hundred Thousand Dollars (\$400,00.00) or more ("Retainage"), and shall be paid over by City to Contractor as the final installment of the Contract Price after the following has occurred to the reasonable satisfaction of City:

- (a)     Contractor shall have completed all punch-list items, if any.
- (b)     City shall have conducted a final inspection and has accepted the Work.
- (c)     City shall have received a completion certificate executed by Contractor and the City's inspector stating that the Work has been completed in accordance with the Contract Documents, together with such other evidence that no mechanics or materialmen's liens or other encumbrances have been filed against the Work or the Project.
- (d)     Contractor shall have delivered and assigned (or caused to be delivered and assigned) all warranties and maintenance bond(s) for the Work to the City.

(e) Submittal of executed Contractor's affidavit that all payrolls, invoices for materials and equipment, and other liabilities connected with the Work for which the City, or the City's property, might be responsible, have been fully paid or otherwise satisfied;

(f) Contractor shall deliver to City a set of record ("as-built") drawings, professionally prepared by a licensed engineer, in hardcopy, PDF digital and CAD digital formats in accordance with the current standards set forth by City Engineering Department, unless otherwise provided in the Contract Documents or otherwise approved by the Director of the City Engineering Department.

(g) Removed all materials, equipment, tools, and supplies, not required to remain on-site as indicated by the City, including storage containers, lifts, trash receptacles, and dumpsters;

(h) Re-established the Project site to its original condition, including but not limited to furniture, fixtures, equipment, finishes, landscaping, irrigation, and/or any concrete, disturbed by Contractor's work;

(i) Return of keys and/or security cards issued to Contractor for Project access.

4.3 Project Records and Audits. Contractor shall keep, and cause each sub-contractor to keep, a complete and accurate record to document the performance of the Work and to expedite any audit that might be conducted by City. Contractor shall maintain, and cause each contractor to maintain all books, documents, papers, accounting records and other documentation relating to costs incurred under this Agreement for the Work; and Contractor shall make, and cause each contractor to make such materials available to City for review and inspection during the term of this Agreement and for a period of two (2) years from the date of City acceptance of the Work, or until any pending litigation or claims are resolved, whichever is later.

4.4 Liquidated Damages. Contractor shall pay to City the sum of two-hundred forty dollars and zero cents (\$240.00) per day for each and every day of unexcused delay in achieving completion of the Work beyond the date set forth for completion of the Work including the completion of all Punch-List items identified by the City following substantial completion. Any sums shall be payable hereunder by Contractor, not as a penalty, but as liquidated damages representing an estimate of delay damages likely to be sustained by City, estimated at or before the time of execution of this Agreement. When City reasonably believes that the Work will be delayed, City shall be entitled, but not required, to withhold from any amounts otherwise due Contractor an amount then reasonably determined by City to be adequate to recover liquidated damages applicable to such delays. If and when Contractor overcomes the delay in achieving the completion of the Work, or part thereof, for which City has withheld payment, City shall promptly release to Contractor those funds withheld as liquidated damages. The City shall have the sole discretion to determine whether a delay is excused, or unexcused, and such determination shall be final.

4.5 No Damages for Delay. No claim shall be made by the Contractor to City, and no damages, costs or extra compensation shall be allowed or paid by City to Contractor for any delay or hindrance from any cause in the progress or completion of the Work or this Agreement. The Contractor's sole remedy in the event of any delay or hindrance shall be to request time extensions by written change order. Should the Contractor be delayed by an act of City, or should City order a

stoppage of the Work for insufficient cause, an extension of time shall be granted by the City by written authorization upon written application, which extension shall not be unreasonably denied, to compensate for the delay.

## **Article V Devotion of Time; Personnel; and Equipment**

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

5.2 To the extent reasonably necessary for the Contractor to perform the Work under this Agreement, Contractor shall be authorized to engage the services of any agents, assistants, persons, or corporations that the Contractor may deem proper to aid or assist in the performance of the Work under this Agreement. The cost of such personnel and assistance shall be included as part of the total compensation to be paid Contractor hereunder and shall not otherwise be reimbursed by the City unless provided differently herein.

5.3 Contractor shall furnish the facilities, equipment and personnel necessary to perform the Work required under this Agreement unless otherwise provided herein, without relying on City resources for water, sewage disposal, cleaning, or any other waste disposal.

## **Article VI Miscellaneous**

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

6.2 Assignment. The Contractor may not assign this Agreement, without the prior written consent of the City.

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

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

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

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

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

6.8 Notice. Any notice required or permitted to be delivered hereunder may be sent by first class mail, overnight courier or by confirmed telefax or facsimile to the address specified below, or to such other Party or address as either Party may designate in writing, and shall be deemed received three (3) days after delivery set forth herein:

If intended for City, to:

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

With a copy to:

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

If intended for Contractor:

Whirlix Design, Inc.  
Attn: Jason Edmundson  
1761 International Parkway  
Suite 125  
Richardson, TX 75081

6.9 Insurance.

(a) Contractor shall during the term hereof maintain in full force and effect the following insurance: (i) a comprehensive general liability policy of insurance for bodily injury, death and

property damage insuring against all claims, demands or actions relating to the Contractor's performance of services pursuant to this Agreement with a minimum combined single limit of not less than \$1,000,000.00 per occurrence for injury to persons (including death), and for property damage, and minimum aggregate limit of not less than \$2,000,000.00 (this policy shall be primary to any policy or policies carried by or available to City and shall include products/completed operations coverage with a minimum aggregate of \$2,000,000.00 and personal and advertising injury coverage with a minimum occurrence limit of \$1,000,000.00); (ii) policy of automobile liability insurance covering any vehicles owned and/or operated by Contractor, its officers, agents, and employees, and used in the performance of this Agreement with policy limits of not less than \$1,000,000.00 combined single limit and aggregate for bodily injury, death and property damage; (iii) statutory Worker's Compensation Insurance and shall include bodily injury, occupational illness or disease coverage with Employers Liability limits of \$1,000,000/\$1,000,000/\$1,000,000 covering all of Contractor's employees involved in the provision of services under this Agreement and shall contain an Alternate Employer Endorsement to include the City being named an Alternate Employer under the Workers Compensation policy. A copy of the endorsement shall be provided to the City and attached to the Certificate of insurance signed by person authorized by the insurer to confirm coverage on its behalf; (iv) Policy of Property/Builders Risk Insurance Policy with "all-risk" coverage on the entire Project construction value with replacement cost basis of the Project work and materials in transit and stored off the Project site destined for incorporation; (v) Excess Liability Insurance with a limit of not less than \$2,000,000.00. Such policy shall be in excess of the commercial general liability insurance, automobile insurance and employer's liability insurance. This insurance shall be primary to any policy or policies carried by or available to City and shall be provided on a "following form basis"; and (vi) Professional Liability Insurance (if applicable) with limit of not less than \$2,000,000 for all negligent acts, errors, and omissions by the contractor, its sub-contractors, consultants and employees, that arise out of the performance of this Agreement.

(b) All policies of insurance shall be endorsed to provide the following provisions: (1) name the City, its officers, and employees as additional insureds as to all applicable coverage with the exception of Workers Compensation Insurance and Professional Liability Insurance; and (2) provide for at least thirty (30) days prior written notice to the City for cancellation of the insurance; (3) provide for a waiver of subrogation against the City for injuries, including death, property damage, or any other loss to the extent the same is covered by the proceeds of insurance. Contractor shall provide written notice to the City of any material change of or to the insurance required herein.

(c) All insurance companies providing the required insurance shall be authorized to transact business in Texas and rated at least "A" by AM Best or other equivalent rating service.

(d) A certificate of insurance and copies of the policy endorsements evidencing the required insurance shall be submitted prior to commencement of the Work and upon request by the City.

(e) Contractor shall cause its subcontractors performing the Work to obtain and maintain the insurance coverages as required in Section 6.9 (a) – (d) herein, which shall remain in full force and effect during the term of this Agreement.

#### 6.10 Indemnification.

CITY SHALL NOT BE LIABLE FOR ANY LOSS, DAMAGE, OR INJURY OF ANY KIND OR CHARACTER TO ANY PERSON OR PROPERTY ARISING FROM THE WORK OF CONTRACTOR PURSUANT TO THIS AGREEMENT. CONTRACTOR HEREBY WAIVES ALL CLAIMS AGAINST CITY, ITS OFFICERS, AGENTS AND EMPLOYEES (COLLECTIVELY REFERRED TO IN THIS SECTION AS "CITY") FOR DAMAGE TO ANY PROPERTY OR INJURY TO, OR DEATH OF, ANY PERSON ARISING AT ANY TIME AND FROM ANY CAUSE OTHER THAN THE NEGLIGENCE OR WILLFUL MISCONDUCT OF CITY OR BREACH OF CITY'S OBLIGATIONS HEREUNDER. CONTRACTOR AGREES TO INDEMNIFY AND SAVE HARMLESS CITY FROM AND AGAINST ANY AND ALL LIABILITIES, DAMAGES, CLAIMS, SUITS, COSTS (INCLUDING COURT COSTS, ATTORNEYS' FEES AND COSTS OF INVESTIGATION) AND ACTIONS OF ANY KIND BY REASON OF INJURY TO OR DEATH OF ANY PERSON OR DAMAGE TO OR LOSS OF PROPERTY TO THE EXTENT CAUSED BY THE CONTRACTOR'S NEGLIGENT PERFORMANCE OF THE WORK UNDER THIS AGREEMENT OR BY REASON OF ANY NEGLIGENT ACT OR OMISSION ON THE PART OF CONTRACTOR, ITS OFFICERS, DIRECTORS, SERVANTS, EMPLOYEES, REPRESENTATIVES, CONSULTANTS, LICENSEES, SUCCESSORS, SUBCONTRACTORS OR PERMITTED ASSIGNS (EXCEPT WHEN SUCH LIABILITY, CLAIMS, SUITS, COSTS, INJURIES, DEATHS OR DAMAGES ARISE FROM OR ARE ATTRIBUTED TO NEGLIGENCE OF THE CITY, IN WHOLE OR IN PART, IN WHICH CASE CONTRACTOR SHALL INDEMNIFY CITY ONLY TO THE EXTENT OR PROPORTION OF NEGLIGENCE ATTRIBUTED TO CONTRACTOR AS DETERMINED BY A COURT OR OTHER FORUM OF COMPETENT JURISDICTION). THE CONTRACTOR'S OBLIGATIONS UNDER THIS SECTION SHALL NOT BE LIMITED TO THE LIMITS OF COVERAGE OF INSURANCE MAINTAINED OR REQUIRED TO BE MAINTAINED BY CONTRACTOR UNDER THIS AGREEMENT. THIS PROVISION SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

WITHOUT LIMITING THE FOREGOING, AND TO THE FULLEST EXTENT PERMITTED BY LAW, CONTRACTOR HEREBY INDEMNIFIES AND HOLDS HARMLESS CITY FROM AND AGAINST ALL DAMAGES, LOSSES, COSTS, AND EXPENSES, INCLUDING BUT NOT LIMITED TO REASONABLE ATTORNEYS' FEES, INCURRED BY CITY IN CONNECTION WITH ANY ACTION AGAINST CITY FOR PERSONAL INJURY OF ANY EMPLOYEE OF THE CONTRACTOR OR ANY OF CONTRACTORS'S SUBCONTRACTORS AND CONSULTANTS OR ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY THEM, BROUGHT BY SUCH INJURED EMPLOYEE OR THE EMPLOYEE'S WORKERS COMPENSATION INSURANCE CARRIER (HEREINAFTER REFERRED TO AS AN "EMPLOYEE INJURY CLAIM), EXCEPT TO THE EXTENT CAUSED BY THE NEGLIGENCE OF CITY.

#### 6.11 Debarment and Suspension.

(a) In accordance with 2 CFR section 180.300, the principal of this Agreement as described in 2 CFR section 180.995 being duly sworn or under penalty of perjury under the laws of

the United States, certifies that neither this company nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any federal department or agency, the State of Texas or any of its departments or agencies.

(b) If during the Agreement period the principal becomes debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation, the principal shall immediately inform the City.

(c) For contracts that are financed by Federal or State grants, the principal agrees that this section will be enforced on each of its subcontractors and will inform the City of any violations of this section by subcontractors to the contract.

(d) The certification in this section is a material representation of fact relied upon by the City in entering into this contract.

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

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

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

6.15 Prohibition of Boycott of Energy Companies. By accepting this purchase order, Vendor verifies that is does not Boycott Energy Companies and agrees that during the term of this Agreement will not Boycott Energy Companies as that term is defined in Texas Government Code Section 809.001, as amended. This section does not apply if Professional (or Contractor) is a sole proprietor, a non-profit entity, or a governmental entity; and only applies if: (i) Professional (or Contractor) has ten (10) or more fulltime employees and (ii) this Agreement has a value of \$100,000.00 or more to be paid under the terms of this Agreement.

6.16 Prohibition of Discrimination Against Firearm Entities and Firearm Trade Associations. By accepting this purchase order, Vendor verifies that is does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (ii) will not discriminate during the term of the contract against a firearm entity or firearm trade association. This section only applies if: (i) Professional (or Contractor) has ten (10) or more fulltime



employees and (ii) this Agreement has a value of \$100,000.00 or more to be paid under the terms of this Agreement; and does not apply: (i) if Professional (or Contractor) is a sole proprietor, a non-profit entity, or a governmental entity; (ii) to a contract with a sole-source provider; or (iii) to a contract for which none of the bids from a company were able to provide the required certification.

*[Signature Page to Follow]*

EXECUTED this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

CITY OF ALLEN, TEXAS

By: \_\_\_\_\_  
Eric Ellwanger, City Manager

ATTEST:

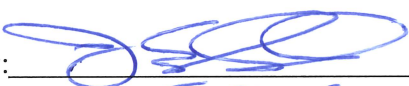
By: \_\_\_\_\_  
Shelley George, City Secretary

APPROVED AS TO FORM:

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

EXECUTED this 30<sup>th</sup> day of NOVEMBER, 2021.

WHIRLIX DESIGN, INC.

By:  \_\_\_\_\_  
Name: JASON EDMUNDSON  
Title: PRESIDENT

Date:

Project: Greenville Heights

Location: Allen, Tx

To: Laura Cuellar, City of Allen

**BUYBOARD CONTRACT # 592-19, VENDOR # 3120**

**We are a self-reporting vendor for Buy Board. Please send all purchase orders, payments, etc. directly to The Whirlix Design team.**

**SPECIFIED LANDSCAPE STRUCTURES PLAY EQUIPMENT**

**Item 1, Plans Page LS.6 – PLAYTROUND EQUIPMENT**

Series: ***Landscape Structures Hedra***  
Surface: ***Engineered Wood Fiber***  
Installation: ***By Factory Trained and Certified Installers***  
Quantity/Sizes: ***See Attached Renders***

**Base Bid: \$205,798.00**

**Base Bid Includes:**

- Full Submittal Package
- Warranty As Specified – Best in the Business!
- Certified Installation
- Freight
- ADA Compliant Play Structures
- Fibar 200 EWF Surfacing
- Demolition of current boarder wall
- New Concrete border
- Not to Exceed- Irrigation management
- 50 sqyd of sod and/or seeding per spec
- Pit excavation, haul off, and grading
- 3" of Stone Sub-grade
- Demolition of existing play and subgrade
- Drainage inside and out of pit
- Payment, Performance Bonds
- Orange safety fencing
- Standard Insurance
- Professional Liability Insurance

**Base Bid Excludes:**

- Sales Tax
- Construction Management Software Required for Project
- Use of Credit Cards as Payment
- Drilling Through Rocky Soil

Whirlix Design Inc.  
1761 International Parkway, Suite 125  
Richardson, TX 75081

- Maintenance Bonds
- Hitting of New or Existing Sprinkler pipes
- Hitting of private electrical, water, sewer, internet, etc. that are not detectible during a commercial line location
- Surveying of Site
- Site Security – Overnight Personnel
- Craning of Equipment
- Logistical Issues that Prevent Truck or Equipment Access to Site
- Special Augers or Drilling Equipment
- Certified Payroll / Progress Billing
- Setting of Control Points or Benchmarks
- Remobilization Charges Due to Weather or Project Delays
- Offsite Storage of Equipment Due to Weather or Project Related Delays
- On Site Security – Other than PIP
- Permitting and Inspections
- Wet Stamped Engineering Drawings
- Dumpster
- Latrine on Site
- Soil Testing
- Geotechnical Report

**Terms: Net 30 for Existing Customers. All new customers are subject to a credit check and Possible deposit.**

**Payment terms will be based, in part, on credit review that is pulled from The Experian Business Division.**

**Pursuant to Tex. Prop. Code § 53.159, Whirlix will need any and all Bond information at the time of Signed Proposal, Contract, and / or Deposit.**

All taxes now or hereafter levied by federal, state or local authority upon the sale of any of the forgoing products to be paid for by the purchaser. All quotations are subject to the conditions printed on the following pages if any and when accepted are subject to the approval of an officer of this company.

**Prepared by Jason Edmundson • Whirlix Design Inc • [jedmundson@whirlix.com](mailto:jedmundson@whirlix.com) • 972-658-7518**

**Acceptance of Approval:** The above prices, specifications, and conditions are satisfactory and accepted. You are hereby authorized to provide all items described above. Any balances not paid within thirty (30) days of the date of the invoice shall accrue interest at the rate of 18% per annum. Any action to construe, declare or enforce this contract shall only be brought in a court of competent jurisdiction with venue lying solely and exclusively in Dallas County, Texas. The prevailing party in any action brought to construe, declare or enforce this contract shall be entitled to recover its actual attorney's fees, attorney's travel time charges and expenses, paralegal fees, computer access and utilization charges, expert witness fees and expenses, costs, expenses and expenses of investigation, discovery, and litigation. The parties to this contract expressly waive the right to trial by jury of any cause of action or defense pertaining to this contract. The above prices, specifications, and conditions are satisfactory and accepted. You are hereby authorized to provide all items described above.

Whirlix Design Inc.  
1761 International Parkway, Suite 125  
Richardson, TX 75081



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





Laura Cuellar



# Greenville Heights Park

1154672-01-02-01 • 09.02.2021





## CITY COUNCIL REGULAR MEETING AGENDA COMMUNICATION

<b>AGENDA DATE:</b>	January 11, 2022
<b>AGENDA CAPTION:</b>	Conduct a Public Hearing and Adopt an Ordinance to Amend the Development Regulations of Planned Development No. 141 with a Base Zoning of Mixed Use Relating to the Use and Development of Approximately 74.877 Acres Generally Located Directly South of State Highway 121, East and West of Exchange Parkway and West of Bending Branch Way. (Allen Gateway)
<b>STAFF RESOURCE:</b>	Marc Kurbansade, Director of Community Development
<b>BOARD/COMMISSION ACTION:</b>	On December 7, 2021, the Planning and Zoning Commission recommended approval of the request.
<b>PREVIOUS COUNCIL ACTION:</b>	Planned Development No. 101 - Adopted January, 2007 Planned Development No. 141 - Adopted January 2020
<b>STRATEGIC PLANNING GOAL:</b>	Vibrant Community with Lively Destinations and Successful Commercial Centers.

### **BACKGROUND**

The subject property is comprised of the following three individual non-contiguous tracts:

1. Tract 1 - generally located at the northwest corner of Ridgeview Drive and Exchange Parkway.
2. Tract 2 - generally located along east side of Exchange Parkway between Ridgeview Drive and State Highway 121.
3. Tract 3 - generally located on the south side of State Highway 121 approximately 625 feet east of the intersection of State Highway 121 and Exchange Parkway.

To the west of the subject property is Planned Development No. 127 with base zoning districts of Corridor Commercial (CC) and Multifamily-18, and Planned Development No. 63 with a base zoning district of Community Facilities (CF). To the south of the subject property is Planned Development No. 54 with base zoning districts of Medium Density Single Family, Single Family Residential 6, and CF. To the east of the subject property is Planned Development No. 101 with a base zoning district of CC, and Planned Development No. 135 with a base zoning district of CC. To the north of subject property across State Highway 121 is within the City of McKinney municipal boundaries.

The purpose of this amendment is to make the following changes to the Development Regulations:

- Section 2.C., Table 1 - An additional footnote has been added to the table that restricts the construction of only 60 Urban Residential Units within 300 feet of the State Highway 121 service road, provided these are vertically integrated into the mixed-use building proposed for Tract 6A.

- Section 2.C.3. - New language is being proposed that will allow subsurface parking facilities to extend into the required setbacks provided landscaping will not be compromised.
- Section 2.D. - The phasing of Urban Residential Units for Phase 2 is being proposed to be modified. Currently Phase 2 requires the issuance of building permits for 100,000 square feet of office and completion of Gateway Forest open space. The proposed change would divide Phase two into separate phases, with the completion of Gateway Forest occurring in Phase 2a and the issuance of building permits for 100,000 square feet of office space occurring in Phase 2b. Phases 3 and 4 would remain unchanged. (Note: An attached table provides a summary of the phasing changes proposed.)
- Section 2.D., Table 2 - This proposed change includes the reallocation of 400 urban residential units by relocating 400 units to the Tollway West Character Area and consequentially removing 400 urban residential units from the Exchange Parkway Character Area. This modification is related to the change in Section 2.C., Table 1, noted above.
- Section 2.G.1.c. - This paragraph is being removed since it is no longer applicable with the removal of urban residential units from the Exchange Parkway Character Area as noted in Section 2.D., Table 2, above.
- Section 3.D. - This minor change explicitly references the Tollway West Character Area and the Ridgeview-Exchange Character Area since those are the only two character areas with private streets.
- Section 3.F. - This new section was added to allow for an alternate asphalt overlay pavement section for the parking lot, as well as permit tree grates to be used in the parking lot. These new regulations are only applicable to the Tollway East character area.
- Section 4.A.2. - This minor change clarifies that one or more Property Owners' Association(s) can be used to meet the requirement of the ALDC. Additionally, Planning and Zoning Commission recommended an amendment to this section (as proposed by the applicant) to potentially allow maintenance of Common Areas without necessarily having to form a Property Owners' Association.
- Section 4.H.2. - This change is being done to match the phasing changes proposed in Section 2.D.
- Section 7.B.2., 7.B.3., and 7.B.16. - This change is being done to accommodate a new Freestanding LED Sign as defined in Section 7.B.16. In order to offset this new sign face area, two off-premise multi-tenant signs and one off-premise district sign are being removed. The new section 7.B.16 provides standards for the new Freestanding LED Sign
- Section 7.B.17. - This new section permits a new sign type (Ranch Style Entry Sign) not defined nor permitted in the current ordinance.
- Section 7.B.18. - This new section provides clarification on the permitted monument signs for only the Tollway East Character Area.
- Appendix 3 - This minor change allows for an amenity center to be permitted as a standalone use in the Tollway West Character Area and Ridgeview-Exchange Character Area.

A copy of a strikeout/underline version of the draft development regulations has been attached to this communication.

This request has been reviewed by the Technical Review Committee.

On December 7, 2021, the Planning and Zoning Commission recommended approval of the request, with the amendment to Section 4.A.2. as mentioned above.

## LEGAL NOTICES

Public Hearing Sign - November 24, 2021

Property Owner Notices - November 24, 2021

Newspaper Notice - December 23, 2021

**STAFF RECOMMENDATION**

Staff recommends approval.

**MOTION**

*I make a motion to adopt Ordinance No. \_\_\_\_\_ amending the Development Regulations for Planned Development No. 141.*

**ATTACHMENT**

Ordinance  
Development Regulations - Strikeout Underline  
Minutes - December 7, 2021, PZ Meeting  
Property Notification Map

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, AMENDING THE ALLEN LAND DEVELOPMENT CODE ZONING REGULATIONS AND ZONING MAP, AS PREVIOUSLY AMENDED, BY AMENDING AND RESTATING THE DEVELOPMENT AND USE REGULATIONS FOR PLANNED DEVELOPMENT NO. 141 (“PD-141”) FOR MIXED-USE AS ORIGINALLY ADOPTED PURSUANT TO ORDINANCE NO. 3730-1-20; PROVIDING FOR A CONFLICTS RESOLUTION CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000) FOR EACH OFFENSE; AND PROVIDING AN EFFECTIVE DATE.**

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

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

**SECTION 1.** The Allen Land Development Code Zoning Regulations and Zoning Map, of the City of Allen, Texas, as amended, is hereby further amended by amending and restating THE Development and Use Regulations as set forth in Exhibit “A-1”, attached hereto and incorporated herein by reference, the development regulations of Planned Development No. 141 (“PD-141”) for Mixed-Use as originally adopted pursuant to Ordinance No. 3730-1-20 relating to the development and use of the 74.877± acres in the S. Jackson Survey, Abstract No. 489, City of Allen, Collin County, Texas, described in Appendix 1 of said Exhibit “A-1” (“the Property”). The Property shall hereafter be developed and used in accordance with applicable provisions of the Allen Land Development Code, as amended (“ALDC”) except to the extent modified by the Amended and Restated Development Regulations set forth in Exhibit “A-1” attached hereto and incorporated herein by reference.

**SECTION 2.** To the extent of any irreconcilable conflict with the provisions of the Ordinance and other ordinances of the City of Allen governing the use and development of the Property and which are not expressly amended by this Ordinance, the provisions of this Ordinance shall be controlling.

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

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

**SECTION 5.** Any person, firm, or corporation violating any of the provisions or terms of this Ordinance shall be subject to the same penalty as provided for in Allen Land Development Code Zoning Regulations of the City

of Allen, as previously amended, and upon conviction shall be punished by a fine not to exceed the sum of Two Thousand Dollars (\$2,000) for each offense.

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

**DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, ON THIS THE 11<sup>TH</sup> DAY OF JANUARY 2022.**

**APPROVED:**

---

**Kenneth M. Fulk, MAYOR**

**APPROVED AS TO FORM:**

**ATTEST:**

---

**Peter G. Smith, CITY ATTORNEY**  
(kbl:12/23/2021:126770)

---

**Shelley B. George, CITY SECRETARY**

**AMENDED AND RESTATED  
DEVELOPMENT REGULATIONS FOR  
Gateway Allen at Twin Creeks  
PLANNED DEVELOPMENT  
PD 141**



# **Gateway Allen at Twin Creeks PD 141**

## **Table of Contents**

### Section 1. Planned Development Structure

- A. Development Regulations; Relationship to ALDC
- B. Regulating Plan Established
- C. Character Areas Defined

### Section 2. Development Standards

- A. Permitted Uses
- B. Temporary Uses and Special Event Uses
- C. Build-To, Setback, and Yard Standards
- D. Units, Density, and Lot Coverage
- E. Block Length
- F. Building Frontage Requirements
- G. Building Height
- H. Parking Standards
- I. Screening Walls

### Section 3. Street Types and Transportation Network

- A. Street Types
- B. Street Cross Sections
- C. Street and Character Area Modifications
- D. Private Streets
- E. Access

### Section 4. Park Land, Open Space, Trails, and Tree Mitigation

- A. General
- B. Park Land, Open Space and Trail Standards
- C. Park Land and Open Space Dedication Fees
- D. Tree Mitigation

### Section 5. Building Design Standards

- A. Building Orientation
- B. Design of Parking Structures
- C. Design of Automobile Related Building Site Elements
- D. Mechanical and Service Screening
- E. Façade Composition
- F. Windows and Doors
- G. Building Materials
- H. Urban Residential Building Standards

## Section 6. Streetscape Standards

- A. General
- B. Planting Standards
- C. Street Trees
- D. Streetscape Furnishings
- E. Sidewalks
- F. Lighting
- G. Pedestrian Amenity Zone Materials

## Section 7. Sign Standards

- A. General
- B. Allowed Signs
- C. Undefined Signs

## Section 8. Sustainability

## Section 9. Detention

## Section 10. Definitions

## Section 11. Site Plan Administration

## List of Appendixes

- Appendix 1: Boundary Descriptions of the Property
- Appendix 2: PD Zoning Exhibit
- Appendix 3: Schedule of Uses
- Appendix 4: Regulating Plan
- Appendix 5: Parks & Open Space Plan
- Appendix 6: Street Cross Sections
- Appendix 7: Streets Diagram
- Appendix 8: Conceptual Driveway Layout
- Appendix 9: Development Tracts
- Appendix 10: Conceptual Landscape & Amenity Design–Central Square & Gateway Forest
- Appendix 11: Tract 6A – Cope Equities Mixed-Use Tower Conceptual Imagery

## SECTION 1. PLANNED DEVELOPMENT STRUCTURE

- A. DEVELOPMENT REGULATIONS; RELATIONSHIP TO ALDC.** The property described in Appendix 1, attached to this Exhibit “A” and incorporated herein by reference (“the Property”) shall be developed and used in accordance with the regulations, set forth in this Exhibit “A” to Ordinance No. 3730-1-20, attached thereto and incorporated therein by reference (“the Development Regulations”) and applicable provisions of the Allen Land Development Code (“ALDC”) identified herein and as amended from time to time. When there is an irreconcilable conflict between the Development Regulations and the ALDC, the provisions of the Development Regulations shall control. When the Development Regulations are silent on a development standard, the provisions of the ALDC shall control. The District is a mixed-use district and shall not be considered a residential district.
- B. REGULATING PLAN ESTABLISHED.** The Property shall be developed and used in general conformance with the Regulating Plan attached hereto as Appendix 4 and incorporated herein by reference (the “Regulating Plan”). The Regulating Plan is comprised of:
1. **Character Areas.** Character Areas established and defined in Section 2.C below, provide the neighborhood development patterns, the general development character, and the use of property within such areas.
  2. **Private Streets.** Private streets are classified as various types in Section 4.A are designated on the Regulating Plan as “Primary Street” and “Secondary Street”, and, subject to modification as set forth herein, shall be placed in the general location shown on the Regulating Plan. Additional developer-driven private streets may be needed to ensure connectivity and comply with block size requirements.
  3. **Parks and Open Space.** Parks and open space are defined in Section 5. The general location of the parks, open space and trails are depicted on the Parks and Open Space Plan set forth in Appendix 5 and incorporated herein by reference (the “Parks and Open Space Plan”).
  4. **Building Frontage Requirement.** Building frontages are defined in Section 3.F The required percentage of a building façade that fronts along a block face on a particular street is depicted in the Regulating Plan as “Primary Building Frontage” or “Secondary Building Frontage.”
- C. CHARACTER AREAS DEFINED.** As identified on the Regulating Plan, the following character areas are established and shall have the following respective base zoning districts. Amendments to the ALDC that modify the use and/or development regulations of the base zoning district applicable to a Character Area shall not make the existing uses or existing structures within said Character Area non-conforming as defined in the ALDC.
1. **Tollway West Character Area.** Except as provided in the Development Regulations, the Tollway West Character Area shall be developed and used in accordance with the regulations applicable to a Corridor Commercial (CC) zoning district as set forth in the ALDC. The Tollway West Character Area consists of larger-scale office and commercial uses with regional highway access and a walkable urban “Main Street” environment with active first floor spaces able to accommodate office, restaurant, retail, and commercial uses is central to the interior of the District. The Central Square open space will serve as the central core of the District. The Tollway West Character Area is designed in a dense and walkable urban context.
  2. **Ridgeview-Exchange Character Area.** Except as provided in the Development Regulations, the Ridgeview-Exchange Character Area shall be developed and used in accordance with regulations applicable to a Multi-Family 18 (MF-18) Zoning District as set forth in the ALDC. The Ridgeview Exchange Character Area is primarily intended to be a dense urban residential

walkable neighborhood with allowance for supporting retail uses, and direct connection to the Central Square and Gateway Forest open space, and within walking distance of the core retail, restaurant, commercial, and office areas.

3. **Exchange Pkwy. Character Area.** Except as provided in the Development Regulations, the Exchange Pkwy. Character Area shall be developed and used in accordance with the regulations applicable to a Corridor Commercial (CC) Zoning District as set forth in the ALDC. The Exchange Pkwy. Character Area may consist of larger-scale hospitality, residential, office, and/or commercial uses with regional highway access and a hybrid walkable connection between separate uses for the length of the tract. Uses in the Exchange Pkwy. Character Area has prime frontage to the City Forest Greenbelt open space and shall engage the City Forest Greenbelt area by orienting buildings to take advantage of open space views as well as the opportunity to connect to the regional hike and bike trail system.
4. **Tollway East Character Area.** Except as provided in the Development Regulations, the Tollway East Character Area shall be developed and used in accordance with the regulations applicable to a Corridor Commercial (CC) Zoning District as set forth in the ALDC. Due to the close proximity of the Tollway East Character Area to the Collin College Technical Campus (“CCTC”) and the Allen ISD STEAM Center, the Tollway East Character Area is intended to be the most flexible Character Area of the District in terms of land use, height, and density. This flexibility will allow the Tollway East Character Area to be developed with uses that are complementary to CCTC and the Allen ISD STEAM Center. The uses within the Tollway East Character Area may include conventional or regionally-scaled commercial, hospitality, Urban Residential, and/or office, while still maintaining a hybrid walkable context between separate uses. Uses in the Tollway East Character Area shall take advantage of the views towards the City Forest Greenbelt, while still providing public accessibility to the open space.

## **SECTION 2. DEVELOPMENT STANDARDS**

- A. **PERMITTED USES.** The Property, as divided into the Character Areas, may be developed and used for the purpose either by right or following approval of a Specific Use Permit in accordance with the Schedule of Uses attached hereto as Appendix 3 and incorporated herein by reference (“Schedule of Uses”).
- B. **TEMPORARY USES AND SPECIAL EVENTS USES.**
  1. Temporary uses conducted within the Property shall be conducted in accordance with ALDC Section 6.04 “Temporary Use Permits” except that Temporary Uses shall not be limited by number or duration in a calendar year.
  2. Special events conducted within the Property shall be conducted in accordance with Chapter 8, Article VII of the Allen Code of Ordinances. In no instance shall Special Events be limited by number or duration in a calendar year.
- C. **BUILD-TO, SETBACK, AND YARD STANDARDS.**
  1. Buildings constructed on the Property shall comply with the setback and yard standards set forth in Table 1, below:

**TABLE 1: BUILD-TO, SETBACK AND YARD STANDARDS**

Character Area	Tollway West	Ridgeview-Exchange	Exchange Pkwy.	Tollway East
<b>Primary/Secondary Building Frontage (Build-to-Zone)<sup>(1) (2) (3)</sup></b>	18' min. – 26' max.	18' min. – 26' max.	Not applicable	Not applicable
<b>Front / Side Yard Setback (Facing a Private Street)</b>	12' min. – No max.	12' min. – No max.	Not applicable.	12' min. – No max
<b>Front / Side Yard Setback (Exchange Pkwy.)</b>	25' min. – No max.	25' min. – No max.	20' min. – No max.	Not applicable
<b>Front / Side Yard Setback (Ridgeview Pkwy.)<sup>(4)</sup></b>	Not applicable	30' min. – No max.	30' min. – No max.	Not applicable
<b>Front / Side Yard Setback (State Hwy. 121)</b>	30' min. – No max <sup>(5)</sup> .	Not applicable	30' min. – No max.	30' min. – No max.
<b>Side Yard or Rear Yard Setback (Facing interior lot line or alley)</b>	0' min. – No max.	0' min. – No max.	0' min. – No max.	0' min. – No max.
<b>Side Yard or Rear Yard Setback (Facing exterior lot line adjacent to City Forest Greenbelt)<sup>(6)</sup></b>	Not applicable	Not applicable	5' min. – No max.	5' min. – No max.

Notes:

- 1) Garage facades are included in this frontage calculation.
- 2) The build-to-zone is measured from the back-of-curb to the face-of-building.
- 3) Buildings may be set back farther than the required Build-To-Zone but only to the extent required to bring the building in compliance with site visibility triangles regulations.
- 4) All setbacks adjacent to Ridgeview Drive will be not less than 30 feet.
- 5) All Urban Residential units constructed in the Tollway West Character Area shall be set back not less than 300 feet from the State Highway 121 service road; provided, however, the minimum setback from the State Highway 121 service road of no more than sixty (60) Urban Residential units constructed on Tract 6A within the mixed-use building consisting primarily of office use as shown in Appendix 11.
- 6) A 15-foot maintenance easement will be established and maintained parallel and adjacent to the 100-year floodplain in which no structure may impede.

2. Except as otherwise permitted in these Development Regulations, at-grade structural encroachments other than structural columns are not permitted within the setback. Structural foundation locations shall not impede pedestrian traffic within the designated pedestrian zone below. Support columns may be located anywhere within the setback only in a manner that does not violate sight distance requirements.

3. Subsurface parking facilities may encroach into the required setbacks, but in no case shall said parking facilities encroach upon an underground or overhead utility easement. No building permit for any subsurface parking facility shall be issued by the Building Official unless a Landscape Plan for said lot has been approved by the Director of Parks and Recreation. The Landscape Plan shall include sufficient permeable soil depth to support the healthy growth of plant materials in the affected area.

**D. UNITS, DENSITY, AND LOT COVERAGE.**

1. **Maximum Number of Residential Units:** No more than 1,700 Urban Residential units may be constructed on the Property. The number of Urban Residential units preconstructed in each Character Area shall not exceed the number of units set forth in Table 2, below. Urban Residential Units constructed on the Property shall be sequentially phased according to the following:

- a. Building permits for no more than 255 Urban Residential units shall be granted until construction of the Gateway Forest improvements is complete in accordance with Appendix 10, including, but not limited to, the streets identified as “Street G” and “Street H” as shown on Appendix 10;

- b. Building permit(s) authorizing the construction of no more than the 555 Urban Residential units (i.e., being the 255 units authorized pursuant to paragraph 1.a. above, plus an additional 300 units), shall be granted until one or more building permits have been issued for construction on the Property of one or more buildings for office space use with a cumulative floor area of not less than 100,000 square feet;
- c. Building permit(s) authorizing the construction of no more than the 800 Urban Residential units (i.e., being the 555 units authorized pursuant to paragraphs 1.a. and 1.b. above, plus an additional 245 units) shall be granted until final building inspections have been approved and one or more certificates of occupancy granted for the building shell (but not the finish out) of a cumulative area of 100,000 square feet of office space constructed on the Property; and
- d. Building permit(s) authorizing construction of more than 1,300 Urban Residential units (i.e., being the 800 units authorized pursuant to paragraphs 1.a, 1.b, and 1.c, above plus an additional 500 units) shall be granted until one or more building permits have been issued for construction on the Property of one or more buildings for office space use with a cumulative floor area of not less than 50,000 square feet, which buildings shall be in addition to the building(s) required to be constructed for office uses described in paragraphs 1.b and 1.c, above. For purposes of this paragraph 1.d, the square footage of building(s) constructed for office use in satisfaction of paragraphs 1.b and 1.c, above, in excess of 100,000 shall be credited toward the square footage of the office building(s) for which building permit(s) must be issued pursuant to this paragraph 1.d prior to issuance of a building permit authorizing construction of a building containing the 1,301<sup>st</sup> Urban Residential unit. By way of illustration, if in satisfaction of the requirements for the construction of building(s) for office use pursuant to paragraphs 1.b. and 1.c., above, one or more certificates of occupancy are issued for a total of 120,000 square feet of building shell, then the square footage of building(s) constructed for office use for which building permits must be issued prior to issuance of a building permit authorizing construction of the building containing the 1,301<sup>st</sup> Urban Residential unit shall be reduced to 30,000 square feet.

**TABLE 2: URBAN RESIDENTIAL UNIT ALLOCATION**

Character Area (C.A.)	Maximum Allowed Urban Residential Units per C.A. <sup>(1)</sup>	Maximum Density	Maximum FAR	Maximum Lot Coverage
Tollway West	500	None	None	None
Ridgeview-Exchange	1,600			
Exchange Pkwy.	0			
Tollway East	400			

Notes

- 1) The maximum number of Urban Residential units that may be constructed on the Property shall not exceed 1,700 units as set forth in Section 3.D.1 above. The numbers in this column establish the maximum number of Urban Residential units that may be constructed in the identified Character Area.



2. **No Maximum Density.** There shall be no maximum density for any Urban Residential use in any Character Area.
  3. **Maximum FAR.** There shall be no maximum FAR for any use in any Character Area.
  4. **Minimum FAR.** The minimum cumulative FAR for properties with Primary Building Frontage in the Tollway West Character Area and Ridgeview-Exchange Character Area shall be 0.5. Each successive phase shall maintain the minimum FAR requirement, calculated cumulatively.
  5. **Maximum Lot Coverage.** There shall be no maximum lot coverage in any Character Area.
- E. BLOCK LENGTH.** A maximum vehicular block length, measured curb edge to curb edge, for the Development Tracts defined in Appendix 9, shall not exceed the following:
1. **Tracts 1 and 2:** 700 feet maximum block length
  2. **Tracts 3 and 8:** 800 feet maximum block length
  3. **Tracts 5, 6A, and 6B:** 600 feet maximum block length
  4. **Tracts 7A, 7B, and 7C:** no maximum block length
- F. BUILDING FRONTAGE REQUIREMENTS.**
1. **Minimum Building Frontage.**
    - a. Building facades for buildings constructed in the “Primary Building Frontage” or “Secondary Building Frontage” areas shall comply with the minimum building frontage set forth on the Regulating Plan.
    - b. Character Areas with no minimum building frontage indicated on the Regulating Plan shall be considered “General Frontage.”
    - c. The minimum required percentage of building façade frontage, not including site visibility triangles, shall be as follows:
      - i. **Primary Building Frontage:** 75%
      - ii. **Secondary Building Frontage:** 60%
      - iii. **General Frontage:** 30%
    - d. Minimum building frontage percentages for each block face shall be calculated by adding the lengths of building frontages for all buildings adjacent to the block face and dividing said sum by the length of the block face. Each street must comply with the minimum building frontage for the street type/zone in which the street is located.
    - e. Parking garage facades shall be included in the calculation of total building façade frontage along a block face.
    - f. Stormwater detention and retention areas and parks and open spaces shall not be included in determining the length of the block frontage for purposes of calculating the minimum building façade frontage.

- g. Except as otherwise set forth in this Ordinance, minimum building façade frontage shall only apply to frontages along streets in (i) the Tollway West Character Area and (ii) the Ridgeview-Exchange Character Area as shown on the Regulating Plan.
  - h. Site Plans shall show where future phases of development along a street will be located, when constructed, to result in compliance with the minimum building frontage requirements for said street.
2. **Additional Building Features.** For purposes of calculating the minimum building frontage requirement, patios, forecourts, and other similar people-spaces integrated into a building as well as mid-block paseos providing public access through the block shall be included.

## **G. BUILDING HEIGHT.**

- 1. **Minimum Number of Stories.**
  - a. A maximum of 25% of the gross floor area of principal buildings located in the Tollway West Character Area and the Ridgeview-Exchange Character Area shall be permitted to be less than three stories. The gross floor area of retail and restaurant uses permitted in the Central Square shall not be include in determining compliance with the maximum percentage stated in the prior sentence.
  - b. All principal buildings in the Exchange Pkwy. and Tollway East Character Areas may be one story in height.
- 2. **Maximum Height.** Except as provided in Section 2.G.3 below, buildings constructed on the Property shall have no maximum height restriction.
- 3. **Maximum Number of Stories in Ridgeview-Exchange Character Area.** The maximum height of buildings within the Ridgeview Exchange Character is as follows:
  - a. Six (6) stories, if constructed ninety (90) feet or more from the closest edge of the right of way of Ridgeview Drive.
  - b. Three (3) stories if constructed less than ninety (90) feet from the closest edge of the right of way of Ridgeview Drive.

## **H. PARKING STANDARDS.**

- 1. **Parking Minimums.** Uses within the Property shall be developed with the following minimum number of off-street parking spaces calculated as follows:
  - a. Urban Residential use: 1.2 spaces per dwelling unit
  - b. Dwelling, Condominium: 1.4 spaces per dwelling unit
  - c. Retail use: 3 spaces per 1,000 square feet of gross floor area
  - d. Restaurant use (stand-alone): 10 spaces per 1,000 square feet of gross floor area
  - e. Restaurant use (when in-line with other retail or part of a multiple-use building): 3 spaces per 1,000 square feet of gross floor area

- f. Office: 2.5 spaces per 1,000 square feet of gross floor area
  - g. Hotel: 1.0 space per room/suite for the first 150 rooms/suites and 0.75 spaces per room/suite thereafter. For any non-hospitality use within a Hotel, a 50% reduction in parking requirement shall apply to the specific use
  - h. Other uses: per ALDC
2. **Parking Reduction.** The Director of Community Development and Director of Engineering may jointly reduce the number of off-street parking spaces if such reduction is supported by the findings of a parking study prepared by a professional engineer or transportation planner which demonstrates need, reviews industry standards, and proposes a modification that will not result in a parking deficiency for the proposed uses for the portion of the Property to be served by the related parking areas.
  3. **Cross Access.** A perpetual cross-access easement for vehicle and pedestrian travel as well as cross-easements for parking, both at grade and below grade, shall be granted between and among all contiguous lots within the Property. The cross-access easement may be provided by plat or separate instrument.
  4. **On-Street Parking.** On-street parking spaces located within 200 feet of a building/use may be counted towards the number of off-street parking spaces required for such building or use; provided, however, such spaces may only be counted once and not counted for purposes of determining the number of required off-street parking spaces for other uses or buildings. Nothing in this Section 2.H.4 shall be construed as prohibiting a shared parking agreement (defined in Section 2.H.5 below) from allowing off-street parking spaces to be counted toward satisfying the minimum number of off-street parking requirements for multiple uses or buildings.
  5. **Shared Parking.**
    - a. Off-street parking for non-shared uses shall be provided in compliance with ALDC standards.
    - b. Subject to the approval of the Director of Community Development and the Director of Engineering, a Shared Parking Study may be used to reduce the minimum required off-street parking spaces set forth in the ALDC. A parking study shall use independently collected empirical data or use data by an acceptable industry-standard resource.
    - c. Off-street parking requirements may be satisfied through the use of shared parking agreements, provided that:
      - i. The parking lot or garage containing the shared spaces is located no greater than 800 feet from the building/use for which the off-street spaces are being counted.
      - ii. The shared parking agreement provides for an easement establishing a perpetual use of the off-site parking spaces by the building/use for which the off-street spaces are being counted.

- iii. The shared parking area(s) identified in a shared parking agreement shall generally be limited to areas where the users (e.g., owners, tenants, employees, customers, and/or clients) sharing the parking are open to the public during different times of the day with minimal overlap in business hours.
  - iv. The shared parking agreement must be recorded in the Official Public Records of Collin County, Texas, after execution.
  - v. Prior to execution and recording, the form of the shared parking agreement will be reviewed and approved by the City Attorney to determine if it conforms to the requirements set forth above and in the ALDC as modified herein.
6. **Surface Parking Lots.** Surface Parking shall comply with the parking lot screening and landscape requirements set forth in the ALDC.

## **I. SCREENING WALLS.**

- 1. The use of wrought iron, ornamental metal, or masonry screening walls to separate land uses within the District is prohibited.
- 2. The use of wrought iron, ornamental metal, or masonry screening walls is prohibited when adjacent to:
  - a. SH 121, except for Urban Residential uses located in the Tollway East Character Area adjacent to SH 121;
  - b. Exchange Parkway; or
  - c. Gateway Forest.
- 3. Notwithstanding paragraph 2, above, the use of wrought iron or ornamental fence with pedestrian gate(s) is allowed when adjacent to:
  - a. City Forest Greenbelt; or
  - b. Allen ISD STEAM Center.
- 4. The construction of the eight-foot (8.0') masonry wall required to be constructed adjacent to Ridgeview Drive shall not be required if the owner or developer of the portions of the Property adjacent to Ridgeview Drive elects to install alternative screening buffer conforming to Sections 2.A.4.a and 2.A.4.b below. If the owner or developer of the property elects the option to construct such alternative screening buffer, said alternative screening buffer shall be consistent and uniform for the entire length of the Property adjacent to Ridgeview Drive (i.e., the screening along the entire length of the Property adjacent to Ridgeview Drive must consist of either the screening wall required by the ALDC or the alternative screening buffer described below, but not a combination of both):
  - a. One (1) shade tree must be planted for every thirty feet (30.0') or portion thereof of the lot's frontage along Ridgeview Drive subject to the following:
    - i. The shade tree(s) must be planted at a location on the lot between the main building constructed on the lot and Ridgeview Drive; and

- ii. The shade tree(s) must have a trunk diameter at the time of planting of not less than four (4) caliper inches measured at six (6) inches above the root ball.
- b. On the lots described in paragraph a, above, one (1) ornamental tree must be planted for each shade tree required to be planted on the lot on which such shade tree(s) is/are planted at a location on the lot between the main building constructed on the lot and Ridgeview Drive.

### SECTION 3. STREET TYPES AND TRANSPORTATION NETWORK

#### A. **STREET TYPES.** Street Types, as identified in the Regulating Plan, are as follows:

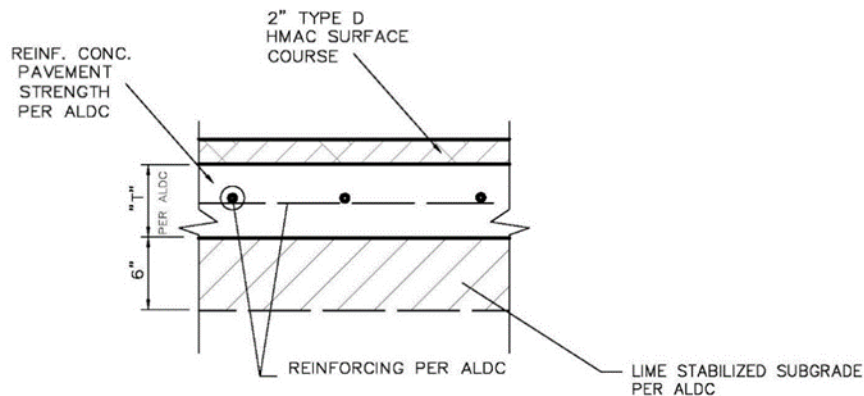
- 1. **Primary Street.** Primary Streets are streets with a public access easement not less than 77 feet wide that serve vehicular and pedestrian users with no fewer than two lanes, parkways (amenity zone and sidewalk zone), parallel on-street parking or optional angled parking, optional drop-offs, and optional median for Streets B, D, and/or H at the discretion of the Developer. Any street section in Appendix 6 (the “Street Cross Sections”) with a Primary Street designation may be applied to Primary Streets.
- 2. **Secondary Street.** Secondary Streets are streets with a public access easement not less than 77 feet wide that serves vehicular and pedestrian users with no fewer than two lanes, parkways (amenity zone and sidewalk zone), parallel on-street parking, and optional drop-off/loading zones.
- 3. **Additional Streets.** Additional Streets are streets with a public access easement not less than 51 feet wide that serve vehicular and pedestrian users with no fewer than two lanes and parkways (amenity zone and sidewalk zone). The location of Additional Streets shall be determined at the time of site plan approval. Additional developer-driven private streets may be approved by the Director of Engineering to ensure connectivity, comply with block size requirements and provide adequate emergency coverage and access. On-street parking and drop-off/loading zones are not required.

#### B. **STREET CROSS-SECTIONS.** Primary and Secondary Streets shall conform to the street cross-section details in the Street Cross Sections. Minor modifications to the Street Cross-Sections may be approved by the Director of Community Development and the Director of Engineering.

#### C. **STREET AND CHARACTER AREA MODIFICATIONS.** Streets may be modified as follows:

- 1. **Street Modification.** Street alignments as depicted on the Regulating Plan may shift in location up to 100 feet as long as spacing requirements are satisfied for streets connecting with State Highway 121, the required block lengths are maintained, and street intersections with Exchange Pkwy. and Ridgeview Dr. satisfy ALDC spacing standards or as identified on Appendix 7: Street Diagram.
- 2. **Character Area Modification.** If the location of a street that is the boundary of a Character Area shifts, the Character Area may shift in size and location consistent with the shift of the street location; provided, however, in no case shall park and open space requirements for such Character area be reduced when shifting a boundary street location.
- 3. **Street Continuity Flexibility.** Streets not affected by the relocation of other streets shall not be modified unless environmental or other constraints require alternative connectivity.

- D. PRIVATE STREETS.** All streets within the Tollway West Character Area and Ridgeview-Exchange Character Area, as generally illustrated in the Streets Diagram, will be private streets and shall be maintained by a property owners' association.
- E. ACCESS.** Vehicular access points and improvements to the adjoining City arterial right-of-way and/or Texas Department of Transportation ("TxDOT") right-of-way shall be generally consistent with the Conceptual Driveway Layout (Appendix 8). Adjustments or modifications to alignment and/or location of connections to adjacent rights-of-way shall be approved by the Director of Engineering. No additional connections or removal of any connections shall be approved without approval of a revised Traffic Impact Analysis.
- F. TOLLWAY EAST CHARACTER AREA.** Within the Tollway East Character Area:
1. Asphalt may be used as a paving material provided such paving complies with the City's design specification for strength and endurance.



**ONSITE HMAC OVER  
CONCRETE PAVEMENT SECTION**

2. Tree islands in required parking areas may be planted with trees below grade level protected by metal grates, subject to the following:
  - a. A licensed professional engineer shall certify with a sealed letter that the tree grates are traffic rated;
  - b. The planting area shall include subsurface preparation in order to facilitate the healthy growth of trees, including but not limited to, installation of structural soil systems;
  - c. All trees located within the surface area of the parking lot must, at the time of planting have a trunk diameter of not less than six (6) caliper inches and have a rootball diameter of not less than sixty (60) inches, or a 10:1 ratio of the rootball to the trunk diameter measured at twelve (12) inches above the soil stain; and,
  - d. Trees shall be of a species identified as Overstory (shade) trees as listed in Appendix C of the Allen Land Development Code.

#### SECTION 4. PARK LAND, OPEN SPACE, TRAILS, AND TREE MITIGATION

##### A. GENERAL.

1. **Conformance with Parks and Open Space Plan.** Parks, Open Space, and Trails shall be generally provided as set forth in the Parks and Open Space Plan and in accordance with the other requirements set forth in these Development Regulations. Nothing in these Development Regulations shall be construed as prohibiting the development of Character Area Parks in addition to those required by these Development Regulations.
  - a. **Mandatory Parks, Open Space, and Trails.** The following parks and open space shall be constructed within the Property:
    - i. **Central Square.** A centrally located, privately managed park of no less than 1.5 acres shall be provided in the general location set forth on the Parks and Open Space Plan and identified as “Central Square.” The Central Square may include internal trails or event access drives (non-streets) that do not traverse the park, easements, plaza improvements, other similar hardscape improvements, and stand-alone restaurant or retail kiosk areas. Such stand-alone restaurant shall not exceed 2,000 square feet of air-conditioned space. The area of event access drives and easements shall not be included when determining compliance with required minimum park and open space area.
    - ii. **Gateway Forest.** The Gateway Forest area improvements will include clearing and grubbing of underbrush, understory trimming, and a minimum eight-foot (8’) wide concrete trail as generally shown on the Regulating Plan in the Ridgeview-Exchange Character Area. The trail shall provide connection from Central Square, through Gateway Forest to the planned trail along Exchange Pkwy., which will then provide connection down to the northwest corner of Exchange Pkwy. and Ridgeview Dr., providing connection to the existing 12-foot hike and bike trail along Ridgeview Dr. The boundary for the Gateway Forest area is flexible but shall not be less than 6.6 acres in size as shown on the Parks and Open Space Plan.



- iii. **Hike & Bike Trails.** A 12-foot concrete meandering trail along Ridgeview Dr. has been completed prior to the commencement of this Gateway Allen PD. Said trail will be within a minimum 30-foot wide landscape buffer/trail access and maintenance easement outside and adjacent to the right-of-way of Ridgeview Drive as set forth in the *City of Allen: Parks, Recreation & Open Space Master Plan Update 2015* identified as the “Ridgeview Trail.” In addition, a 10-foot concrete trail will be constructed along the full frontage of the west side of Exchange Pkwy. and along the full frontage of the south right-of-way boundary of the northbound SH 121 service road.
- iv. **Character Area Parks.** A “Character Area Park” shall be any of the following: Plaza, Paseo, or Special Use Park (with an area of not less than 21,780 square feet and no boundary dimension of less than thirty feet (30.0’). The Tollway West Character Area shall be developed with no fewer than two (2) Character Area Parks. The Ridgeview-Exchange and Tollway East Character Areas shall each be developed with at least one (1) Character Area Park.
- v. **Landscape Buffer Open Space.** Landscape buffer open space shall be developed along the perimeter of the Property adjacent to a major thoroughfare, as shown on the Parks and Open Space Plan (the “Landscape Buffer”). No less than fifteen feet of the width of the specified landscape buffer shall be unencumbered by any easement.
- vi. **General Open Space.** Open space predominantly used for passive recreational use shall be a minimum of one-half acre in area and shall not contain a dimension of less than thirty feet (30.0’) in width.
- b. **Deferral of Planting.** Provided such action does not otherwise conflict with the City’s stormwater pollution management plan and regulations, the Director of Community Development may authorize a delay in the planting of required landscape materials to a specific date after issuance of a certificate of occupancy if the Director of Community Development determines that then-current weather conditions and/or the imposition of the City’s drought contingency plan make it impractical to plant trees or shrubs, or turf. In such cases, a temporary certificate of occupancy shall be granted for a maximum period of 180 days. Final turf planting in all areas shall be a full stand of permanent warm-season turfgrass.
- c. **Park Space Adjustment.** The boundaries of Central Square may shift up to 100 feet while still maintaining the minimum size of such park. The boundaries of the Gateway Forest, as indicated on Development Tracts plan and the Parks and Open Space Plan, may shift and change shape in general, but shall extend from Street H to Exchange Pkwy. and be no less than 6.6 acres in area.
- d. **Park Land and Open Space Dedication.** Park Land and Open Space shall conform to these Development Regulations. Parks, open space, and improvements provided in accordance with these Development Regulations shall comply with all park land and open space improvement requirements set forth in the ALDC and the Code of Ordinances. No less than 22 acres of open space shall be provided and developed through any combination of the open space types identified and defined on the Parks and Open Space Plan; provided, however, said minimum required area of open space may be reduced in accordance with Section 4.C of these Development Regulations.

The City Forest Greenbelt on the east side of Exchange Parkway, which was previously dedicated, shall not count toward satisfying the above requirement.

- e. **Calculation of Required Area of Parks and Open Space.** When a minimum area of park land and/or open space to be dedicated is required by these Development Regulations, determination of compliance with such minimum area shall be subject to the following:
  - i. An area located within floodplain shall not be counted toward the minimum area required unless it is left in its natural state and used as an amenity.
  - ii. Parking areas located in or adjacent to a park area that is subject to use for non-park uses, service drives, and cross-access easements shall not be included.
  - iii. Landscape Buffer Open Space may be counted toward the required park and open space areas if developed with a continuous hike and bike trail not less than ten feet (10.0') wide.
- f. **Required Trails.** The locations of required trails shall be as generally shown on the Parks and Open Space Plan. The final location of each trail to be constructed on the Property shall be approved by the Director of Parks and Recreation or designee prior to commencement of construction of said trail.
- g. **Trail Construction.** Trails shown on the Parks and Open Space Plan shall be constructed in accordance with Appendix I of the ALDC as amended from time to time.

- 2. **Ownership, Maintenance, and Management.** The owner of the Property, or the owners of the various portions thereof, shall maintain or cause to be maintained all common areas within the Property, including, but not limited to, all parks, open spaces, street medians, entry features, floodplain areas, streetscapes, and landscape areas within street right-of-way, detention pond, retention ponds, wall maintenance easements, landscape maintenance easements, and similar areas shown on a final plat, site plan, or the Regulating Plan (collectively the "Common Areas"), until such time that one or more Property Owners' Associations are established for the purpose of ownership, maintenance and management of the Common Areas within the various portions of the Property as required by Section 8.20 of the ALDC. Maintenance of Common Areas shall include, but not be limited to, the various in-ground and above-ground plantings/planting beds, irrigation (when required herein), lighting and drainage systems located within the Common Areas. For the purposes of this Section 4.A.2, and in lieu of establishing of a Property Owner's Association, the City Manager, upon recommendation of the Director of Community Development and City Attorney, may approve an agreement or other instrument that as a minimum, provides for the perpetual maintenance of one or more of the Common Areas by the owner or owners of one or more specifically identified properties (other than the Common Area(s) to be maintained), establishes a means by which the costs for such perpetual maintenance will be paid by such property owners, authorizes the City to enforce such maintenance obligations and/or perform such maintenance of the Common Area(s), and authorizes the City to enforce against the owners of the identified properties the obligations to pay for the costs related to such maintenance, all without the necessity of the City being a party to such agreement or instrument, and provides for the owners of the identified properties to indemnify, defend, and hold harmless the City in substantially the same manner required by Section 8.20 of the ALDC.

**B. PARK LAND, OPEN SPACE, AND TRAIL STANDARDS.**

1. **Central Square Requirements.** The Central Square is a publicly accessible open space that will be used for passive and/or active recreational use.

- a. The Central Square shall:
  - i. have street frontage on at least three sides; and
  - ii. have an area of not less than 1.5 acres, which may include a single restaurant, coffee shop, or other similar food service use that will not exceed 2,000 square feet of gross floor area of which no more than 1,000 square feet may consist of a private outdoor patio but which shall not count toward the required park land dedication any area consisting of associated parking areas or driveways.

In the final design of the Central Square and the adjacent streets, only Street E or Street F (but not both) may be eliminated, with the area of the Property of the eliminated street being added to and included in the Central Square open space.

- b. The Central Square shall be constructed to include the following amenities:
  - i. benches, various types of outdoor seating;
  - ii. trash receptacles;
  - iii. irrigated turfgrass (not all turf areas within a park or open space are required to be irrigated);
  - iv. pedestrian paving;
  - v. at least one shade tree with a minimum of four caliper inches in diameter per 4,000 square feet of park area, planted not less than 30 feet apart;
  - vi. a maximum of 25% of the shade trees required by paragraph b.v above, may be substituted with ornamental trees at a ratio of two ornamental trees for each shade tree, which ornamental trees may be planted in groups or separately with no minimum spacing requirement;
  - vii. ornamental trees planted as part of paragraph b.vi., above, with a size of four caliper inches (single trunk) or five caliper inches (multi-trunk) may be used as a substitute for canopy trees at a ratio of one ornamental tree for each shade tree; and
  - viii. bicycle racks.
- c. The Central Square shall be constructed to include at least five of the following amenities:
  - i. dog waste receptacles;
  - ii. drinking fountains;

- iii. bottle fillers;
  - iv. chilled bottle fillers;
  - v. electrical receptacles at tables;
  - vi. grill;
  - vii. interpretive signage or markers;
  - viii. pedestrian lighting;
  - ix. wayfinding signage;
  - x. one additional shade tree (minimum of four caliper inches) or ornamental tree (minimum of four caliper inches (single trunk) or five caliper inches (multi-trunk), or a combination thereof, per 4,000 square feet of neighborhood park area in conjunction with the neighborhood park amenity trees (if more than four trees, 75% of the shade or ornamental trees shall be native trees);
  - xi. native drought-tolerant ornamental plantings;
  - xii. native turf/lawn or artificial grass;
  - xiii. certified pollinator habitat;
  - xiv. rainwater cisterns;
  - xv. “smart” irrigation controllers; or,
  - xvi. One (1) green stormwater infrastructure improvement such as bioswales, bioretention, permeable pavements, and stormwater curb extensions.
- d. In addition to the amenities required by paragraphs b and c above, the Central Square shall be constructed to include at least five of the following recreational amenities:
- i. shade pavilion;
  - ii. picnic tables in open areas;
  - iii. outdoor movable tables and chairs;
  - iv. stage for outdoor movies or small performances;
  - v. privately operated restaurants or cafes;
  - vi. splash pad;
  - vii. active playground;
  - viii. musical play trail;

- ix. nature play area;
- x. demonstration gardens;
- xi. hardscape gathering space;
- xii. lawn gathering space;
- xiii. bocce ball;
- xiv. yard games;
- xv. interactive public art;
- xvi. public art;
- xvii. boardwalk; or,
- xviii. water feature.

2. **Plaza Requirements.** Plazas are small, publicly accessible urban open spaces that are used for passive or active recreation or a combination of the two.

- a. Plazas are typically connected to a building and can be located between buildings, next to a building and a street, or on a corner.
- b. Softscape may include raised planters, at-grade plantings in the hardscape, or potted plant material.
- c. Plazas shall be constructed to include at least five of the following amenities:
  - i. fabric shade structures;
  - ii. stage for small performances;
  - iii. splash pad;
  - iv. water feature;
  - v. hardscape gathering space;
  - vi. interactive public art;
  - vii. public art;
  - viii. benches;
  - ix. outdoor seating;
  - x. movable tables and chairs;

- xi. trash receptacles;
- xii. bike racks;
- xiii. electrical receptacles;
- xiv. pedestrian lighting;
- xv. wayfinding signage;
- xvi. native shade trees;
- xvii. native ornamental trees;
- xviii. native drought-tolerant ornamental plantings;
- xix. certified pollinator habitat with a minimum area of 100 square feet;
- xx. “smart” irrigation controllers; and,
- xxi. one (1) green stormwater infrastructure improvement such as rainwater cisterns, permeable pavements, and stormwater curb extensions.

d. Plazas shall have an area of not less than 400 square feet.

3. **Paseos Requirements.** “Paseos” are publicly accessible urban linear open spaces used for pedestrian connectivity, and, when provided, shall be designed and constructed in accordance with the following:

- a. To the extent possible, paseos shall be straight with the opening at the opposite end readily visible from the other end;
- b. A minimum of two public access points is required;
- c. Buildings with a minimum of 50% façade transparency or restaurants with outdoor dining shall line the paseo;
- d. Blank walls in adjacent buildings shall be interrupted with planting, vines, murals, or other types of art;
- e. Service vehicles shall be restricted from the paseo, and any back of house services shall be contained to designated areas and screened;
- f. Focal points shall anchor each end of the paseo;
- g. Where a paseo pivot, a focal point, or slightly expanded open area shall be provided at the pivot;
- h. Planting shall be provided with raised planters or at-grade plantings in the hardscape;

- i. Hardscape of pedestrian-scaled detail, texture, and color shall be provided to enhance the pedestrian experience;
  - j. Focal points include, but are not limited to, water features, public art, or distinctive planters;
  - k. Fabric shade structures, independent or connected to the building, are permitted in paseos;
  - l. Supportive standard amenities including, but not limited to, benches, trash receptacles, pedestrian lighting, wayfinding, native drought-tolerant ornamental plantings, wayfinding, and signage, are permitted;
  - m. Additional amenities including, but not limited to, certified pollinator habitat, irrigation controllers, and stormwater infrastructure (such as permeable pavements) are permitted; and,
  - n. A paseo shall be a minimum of 18 feet in width and, in cases where a paseo passes through a building. Must have a minimum height clearance of 10 feet.
4. **Special Use Park Requirements.** “Special use parks” are private or publicly accessible open spaces that are predominantly designed for at least one specific use and user group.
- a. Types of special use parks may include, but are not limited to, a dog park, dog park with restaurant (provided, however, the area occupied restaurants shall not be included in determining the minimum area of required park land/open space dedication except where otherwise stated herein), sculpture park, community garden, trail stretch station, courtyard, passive non-programmed open space, or other special use park as approved by the Director of Parks and Recreation or designee.
  - b. Supportive standard amenities of a special use park shall include, but are not limited to, shade pavilions, outdoor restrooms, benches, various types of outdoor seating, trash receptacles, dog waste receptacles, bike racks, drinking fountains, bottle fillers, chilled bottle fillers, picnic tables, electrical receptacles at tables, grill, interpretive signage or markers, pedestrian lighting, wayfinding, native shade trees, native ornamental trees, native drought-tolerant ornamental plantings, and lawn.
  - c. Sustainable supportive amenities such as certified butterfly habitat, native or artificial turf, smart irrigation controllers, green stormwater infrastructure such as bioswales, bioretention, rainwater cisterns, permeable pavements, and stormwater curb extensions are permitted.
  - d. Special use parks shall have an area of not less than 5,000 square feet.
5. **Trail Requirements.** Trails are publicly accessible linear open spaces that are used for pedestrian connectivity and active recreational use.
- a. A concrete trail not less than eight feet (8.0’) in width shall be constructed connecting the Central Square, through the Gateway Forest, to the west side of Exchange Blvd.
  - b. A concrete trail not less than ten feet (10.0’) in width shall be constructed along the full length of the west side of Exchange Pkwy.



- c. A concrete trail not less than ten feet (10.0') in width shall be constructed along the full length of the south side of SH 121.
- d. Required sidewalks are not deemed to be part of the trail system, provided, however, sidewalk connectivity to the trail system is required.
- e. Permitted trail amenities include, but are not limited to:
  - i. trailheads;
  - ii. neighborhood connections;
  - iii. seating nodes;
  - iv. wayfinding;
  - v. benches;
  - vi. trash receptacles;
  - vii. dog waste receptacles;
  - viii. bike racks;
  - ix. drinking fountains;
  - x. native drought-tolerant ornamental plantings;
  - xi. certified pollinator habitat; and
  - xii. public art.
- f. Material for the trail connector shall be concrete in accordance with Appendix I of the ALDC or other material approved by the Director of Parks and Recreation or designee.
- g. Supplementary trails may be improved with gravel or unimproved.
- h. Sustainable supportive amenities such as certified pollinator habitat, native turf,
- i. smart irrigation controllers, green stormwater infrastructures such as bioswales, bioretention, permeable pavements, and stormwater curb extensions are permitted.

**C. PARK LAND AND OPEN SPACE DEDICATION FEES.** Both Park Land Fees and Open Space Fees shall be determined and due in accordance with Sections 4.C.1 and 4.C.2 below.

- 1. Park Fees shall be due prior to issuance of a building permit and paid in accordance with the rate established by City Council ordinance or resolution.
- 2. The requirement to dedicate Open Space shall be satisfied by a combination of one or more of the following:

- a. Not less than the lesser of (i) 22 acres or (ii) one (1) acre for each 75 dwelling units to be constructed on the Property must be dedicated and developed for combined parks/open space purposes; or
- b. Payment to the City of a fee in lieu of open space dedication equal to a rate of \$50,000 per acre of land not so dedicated; or
- c. Dedication Alternative (Park Investment Value): For every acre or partial acre of required open space that is not dedicated, a credit, on a dollar for dollar basis, shall be granted against the amount of open space fee that would otherwise be due pursuant to Section 4.C.2.b, said credit to be in an amount equal to the costs for materials, equipment, and hardscape improvements installed plus the costs incurred by the developer and/or owner for installing and/or constructing such recreational enhancements or amenities on existing or newly dedicated park sites within the Property, which amenities are in addition to the amenities otherwise required to be installed or constructed in the open space areas as set forth in Subsections B.1 through B.4 of this Section 4, shall be defined herein as “Park Investment Value” or “PIV.” The additional enhancements or amenities for which a PIV credit shall be authorized shall not include design costs and shall be limited to one or more of the following amenities, or other amenities as approved by the Director of Parks and Recreation, approved in writing by the Director of Parks and Recreation:
  - i. shade pavilion;
  - ii. picnic tables in open areas;
  - iii. outdoor movable tables and chairs;
  - iv. stage for outdoor movies or small performances;
  - v. splash pad;
  - vi. active playground;
  - vii. musical play trail;
  - viii. nature play area;
  - ix. hardscape gathering space;
  - x. bocce ball;
  - xi. interactive public art;
  - xii. public art;
  - xiii. water feature;
  - xiv. fabric shade structures;
  - xv. benches;
  - xvi. outdoor trail fitness/stretch equipment.

City shall not be liable for payment to the owner or developer of the Property for any amounts of PIV exceeding the amount of open space dedication fees due to the City.

3. Prior to receiving a PIV credit pursuant to Section 4.C.2.c, the owner or developer shall provide to the Director of Parks and Recreation such documentation as may be needed to document the

costs for materials, installation, and/or construction of the amenities for which the credit will be granted.

4. For the sole purpose of illustrating how PIV would be calculated pursuant to Section 4.C.2.c, above, assume 400 dwelling units are to be constructed in Phase 1 and that one acre of open space is required to be dedicated for each 75 dwelling units. In such case, pursuant to Section 4.C.2.a, 5.33 acres of open space must be dedicated (i.e.  $400 \text{ units} \div 75 \text{ units/acre} = 5.33 \text{ acres}$ ) or, pursuant to Section 4.C.2.b, the owner or developer must pay the City the amount of \$266,500 in fees ( $5.33 \text{ acres} \times \$50,000/\text{acre}$ ). Assume further that only 2.0 acres of open space are dedicated in Phase 1, resulting in a remaining requirement to dedicate 3.33 acres of open space, reducing the total fees that would be due pursuant to Section 4.C.2.b to \$166,500. If the owner or developer elects to install or construct additional amenities in accordance with Section 4.C.2.c, and the costs for installing such amenities is \$100,000, then the amount due pursuant to Section 4.C.2.b would be reduced to \$66,500. Further, if the cost for installing such additional amenities was \$200,000, the amount due pursuant to Section 4.C.2.b would be reduced to \$0.00.
5. Landscape Buffers at the perimeter of the development shall be counted as open space (i.e., not “park”) for the purposes of dedication calculations if developed with a continuous 10-foot wide concrete recreational trail.

**D. TREE MITIGATION.** Development of the Property shall comply with ALDC Section 7.06 except as follows:

1. Fence row trees, defined as a row of trees located within ten feet (10.0') on either side of a fence line, shall not be considered protected trees.
2. Tree Fund payments required due to the removal of Hackberries or Sugarberries will be reduced by 25% of the amount otherwise due.
3. Negative tree credits will not be assessed for a tree that is removed following determination by the City's arborist that the tree is diseased, dead, or dying per a tree condition survey.
4. Negative tree credits will not be assessed for removal of Siberian Elm (*Ulmus pumila*), hybridized elms of Siberian Elm, or Chinaberry (*Melia azedarach*).
5. Tree credits will be provided for street trees.
6. Removal of protected trees and historic trees not mitigated through replacement shall be offset by payment to the City Forestry Fund at the rate of \$200 per caliper inch of tree removed.
7. Written reports shall be provided to the City Forester showing a calculation of total credits and debits on tree mitigation fees as follows:
  - i. Upon application for the development of the 25<sup>th</sup> acre of the Property; provided, no Tree Fund payment will be required with or in relation to the submission of the initial report;
  - ii. Upon application for development of the 50<sup>th</sup> acre of the Property; provided if there is an outstanding negative tree credit shown on this report, a Tree Mitigation Liability Account will be established by the City to receive a deposit of funds equal to the outstanding negative tree credit; such funds shall be dedicated to and restricted to be

used towards tree mitigation through on-site tree replacement under these Tree Mitigation guidelines; and

- iii. Upon application for the development of the remaining acres of the Property; provided if there is an outstanding negative tree credit at the time of this report, a plan shall be identified to use the remaining Tree Funds for on-site tree replacement in accordance with these Tree Mitigation guidelines. Such plan will require the approval of the City Manager who may alternatively require the payment of funds into the Tree Fund or delivery of trees to the City tree farm.

## **SECTION 5. BUILDING DESIGN STANDARDS**

### **A. BUILDING ORIENTATION.**

1. At intersections, corner buildings may have their primary entrances oriented at an angle to the intersection.



2. All primary entrances shall be oriented to the sidewalk zone of the Primary Street for ease of pedestrian access; provided, however, if a cluster of buildings surrounds a parking lot or open space, the primary entrance may be oriented towards the parking lot or open space.
3. A porte-cochere is permitted as a primary entrance as long as a pedestrian connection from the sidewalk to the primary entrance is constructed and maintained.
4. Secondary and service entrances may be located adjacent to and accessed from Secondary Streets, internal parking areas, or alleys.
5. Buildings in the Exchange Pkwy. Character Area and Tollway East Character Area shall have secondary access points and window views addressing the City Forest Greenbelt area as identified on the Regulating Plan. In addition:
  - a. Restaurants shall provide outdoor patio seating oriented toward the City Forest Greenbelt.
  - b. Office, hospitality, and residential uses shall provide outdoor gathering spaces/plazas, patios, courtyards, and/or outdoor dining along the City Forest Greenbelt edge.

### **B. DESIGN OF PARKING STRUCTURES.**

1. Upper floor structured parking facades shall be designed so that vehicles on all parking levels are substantially screened from view from adjacent public street rights-of-ways.
2. Facades of above-ground parking structures that face internal Secondary Streets must have an enhanced architectural treatment.

3. Except for ramps at the entrances of parking garages, parking garages shall not face any Primary Street; provided, however, entrances to parking structures and ramps may be located on Primary Streets if designed to comply with Section 5.B.4.
4. When parking structures are located at corners of Primary and Secondary Streets, corner architectural elements such as corner entrance, signage, and glazing shall be incorporated at the Primary Street corner.
5. Parking structures and adjacent sidewalks shall be designed so pedestrians are clearly visible to entering and exiting automobiles.
6. The following images are intended to convey a general range of architectural features that would be approved as described in the regulatory text. Approval of final elevations by the Director of Community Development or designee shall be based on application of the text.



#### **C. DESIGN OF AUTOMOBILE-RELATED BUILDING SITE ELEMENTS.**

1. Drive-through lanes for commercial uses shall not be located along a Primary Street.
2. Drive-through lanes for commercial uses may be located along a Secondary Street if incorporated into the building frontage.
3. All off-street loading, unloading, and trash pick-up areas shall be located along alleys or internal drives. If an alley or internal drive is not available, a Secondary Street may be used. Any off-street loading, unloading, or trash pick-up areas shall be screened using a Street Screen that is at least as tall as the trash containers and/or service equipment it is screening. The Street Screen shall be a continuous masonry wall consisting of the same or complementary materials as the principal building or per alternative design defined in the current ALDC Section 7.07.4.e.ix if approved by the Planning and Zoning Commission.

**D. MECHANICAL AND SERVICE SCREENING.**

1. All buildings shall be designed such that no mechanical equipment (HVAC, etc.) except vents or stacks, is visible from the public right-of-way or open space, whether the equipment is located on the ground, exterior wall, or roof.
2. The screening material required by Paragraph 1, above, shall be raised at least one (1) foot above the top of the mechanical equipment. Metal or a complementary material may be used as a screen and is permitted above the roof level but does not count towards elevation maximums.

**E. FAÇADE COMPOSITION.**

1. All Building Facades should be designed with an architectural rhythm, which may be expressed by changing materials or color, by using design elements such as fenestration, columns, and pilasters, or by varying the setback of portions of the façade.
2. Except for the Exchange Pkwy. Character Area, facades will generally be built parallel to the street frontage, except at street intersections, where a façade containing a primary building entrance may be curved or angled toward an intersection.
3. Buildings shall be designed such that the underside of the second-floor structure be built to a height to allow a minimum first-floor ceiling height of not less than 14-feet and provide a discernible architectural design that provides pedestrian interest and encourages walkability.
4. A transom, display window area, bulkhead at the base, or similar feature shall be used in the design of retail storefronts unless an alternative design provides similar visual permeability into the storefront.
5. The following images are intended to convey a general range of architectural features that would be approved as described in the regulatory text. Approval of final elevations by the Director of Community Development or designee shall be based on application of the text.







## F. WINDOWS AND DOORS.

1. The required first-floor windows along a primary storefront façade of a building on any street or along any façade facing a Primary or Secondary Street shall not be opaque, heavily tinted or mirrored glass other than glass/glazing features not intended as window areas identified in Section 6.F.2.
2. All ground floor primary facades of nonresidential buildings and residential buildings in which the ground floor is a nonresidential use shall have windows (not opaque, heavily tinted, or mirrored) covering no less than 60% of the façade area. Each upper floor of the same primary building facades shall contain windows covering at least 30% of the façade area. All other street-facing facades (not including façades facing alleys) shall have windows covering at least 15% of the façade area for all floors.



## G. BUILDING MATERIALS.

1. **Accessory Buildings.** Accessory buildings shall be constructed of materials that complement the main structure.
2. **Rear Facades.** Rear facades visible from adjoining properties and/or a public right-of-way shall be of finished quality and consist of colors and materials that blend with the remainder of the building's primary facade(s).

## H. URBAN RESIDENTIAL BUILDING STANDARDS. Urban Residential dwelling uses shall be subject to the following development and use regulations:

1. **Mixed-use integration.** Urban Residential projects shall be planned and designed to be integrated as part of horizontal or vertical mixed-use development on the Property. Residential units may be located in separate freestanding buildings or may be combined in multi-use buildings of multi-story design.
2. **One-bedroom minimums.**
  - a. No less than 65 percent of the Urban Residential dwelling units in the aggregate within the overall development of the Property shall be one-bedroom and studio units as set forth below.
  - b. A final building inspection to permit the occupancy of the initial 255 Urban Residential units shall not be issued until a report is filed with the Director of Community

Development or designee demonstrating that no less than 65 percent of the dwelling units in the first 255 units are one-bedroom and studio units.

- c. A final building inspection to permit the occupancy of a total of 555 Urban Residential units (i.e., being the 255 units described in paragraph b above, plus an additional 300 units) shall not be issued until a report is filed with the Director of Community Development or designee demonstrating that no less than 65 percent of the dwelling units in the first 555 units are one-bedroom and studio units.
  - d. A final building inspection to permit the occupancy of a total of 800 Urban Residential units (i.e., being the 555 units described in paragraphs b, and c above, plus an additional 245 units) shall not be issued until a report is filed with the Director of Community Development or designee demonstrating that no less than 65 percent of the dwelling units in the first 800 units are one-bedroom and studio units.
  - e. A final building inspection to permit the occupancy of a total of 1,300 Urban Residential units (i.e., being the 800 units described in paragraphs b., c., and d., above, plus an additional 500 units) shall not be issued until a report is filed with the Director of Community Development or designee demonstrating that no less than 65 percent of the dwelling units in the first 1,300 units are one-bedroom and studio units.
  - f. A final building inspection to permit the occupancy of the 1,301<sup>st</sup> through the 1,700<sup>th</sup> Urban Residential unit shall not be issued until a report is filed with the Director of Community Development or designee demonstrating that no less than 65 percent of the dwelling units in the remaining 400 units will be constructed as one-bedroom and studio units.
- 3. **Internal Access.** All dwelling units shall be accessed through an interior climate-controlled corridor except for individual units designed along a street with access to a sidewalk such as a “stoop” design.
  - 4. **Parking.** Surface parking is allowed to satisfy up to 30 percent of the parking requirement, per ALDC for the Urban Residential dwelling units per Character District, subject to the following:
    - a. Surface parking shall be primarily contained in the interior of the block. On-street parking shall count toward parking requirements, as defined in Section 2.H.4.
    - b. The block face along Primary or Secondary Streets shall meet a 75% building frontage requirement.
    - c. Urban Residential with surface parking shall be a minimum of three-story buildings with upper floors accessed from climate-controlled corridors.
  - 5. **Connectivity.** Except for private amenities, pedestrian walkways shall connect all on-site common areas, parking areas, open space, recreational facilities, and to the adjacent public sidewalks within the Property.
  - 6. **Retail Component.** The first floor of buildings located on a Primary Building Frontage as depicted on the Regulating Plan shall be retail-ready and constructed so that the underside of the second-floor structure is built to a height to allow a minimum 14-foot-high first-floor ceiling height and mechanical chases necessary for conversion to commercial uses.

7. **Architecture.** All buildings containing dwelling units shall be a minimum of three stories. Street-facing facades shall incorporate articulation and materials consistent with the architectural style of the building to create diversity in the streetscape. All buildings are required to have consistent “four-sided” architectural treatments except for facades that are not visible from a street or other public space. Sloped roofs shall provide articulation, variations, parapets, gables, dormers, or similar architectural elements to screen the roof and to break up the massiveness of the roof.



8. **Gifts to the Street.** Gifts to the street may encroach into the build-to-zone but not beyond. Awnings and balconies are considered gifts to the street and may encroach over the sidewalk in the public access easement. The design of awnings and balconies encroaching above sidewalks will comply with the City’s building code.





## **SECTION 6. STREETScape STANDARDS**

### **A. GENERAL.**

1. The streetscape standards set forth in these Development Regulations shall apply to all streets within the Property except service drives, alleys, and fire lanes not identified on Appendix 7: Streets Diagram.
2. All private streets and landscaping within them shall be maintained by a property owners association.

### **B. PLANTING STANDARDS.**

1. Minimum caliper for required trees at time of planting, measured twelve (12) inches above the root ball, shall be no less than three (3.0) inches with the exception of Primary Streets, as identified on the Regulating Plan, which shall be a minimum of four (4) inches, measured at six (6) inches above the rootball.
2. Trees in the landscape along streets shall be from the list of recommended trees in the ALDC unless other species are approved by the City's Urban Forester.
3. Trees planted along streets in the pedestrian amenity zone and/or median shall include a root barrier between the tree and back-of-curb.

### **C. STREET TREES.**

1. Pedestrian Amenity Zones will extend at least 75% of the block face, excluding site visibility triangles. Pedestrian Amenity Zones will be clearly depicted on development plans.
2. In the Pedestrian Amenity Zone, streets trees will be planted as follows:
  - a. In the Tollway West Character Area and Ridgeview-Exchange Character Area, no fewer than one shade tree for every 40 feet of street frontage, or portion thereof, shall be planted within the Pedestrian Amenity Zone, exclusive of street trees planted within curb extensions.
  - b. In the Exchange Pkwy. and Tollway East Character Areas, no fewer than one shade tree for every 40 feet of street frontage, or portion thereof, and one ornamental tree for every two shade trees shall be planted.
3. Street trees shall be planted approximately four feet (4.0') behind the curb line and also placed in curb extensions (bump-outs into the parking lane) as long as the spacing meets the standard defined in paragraphs 2.a and 2.b above.
4. Each tree shall be planted in a planting area not less than 36 square feet; provided, however, the tree well area may be no smaller than five feet by five feet or 25 square feet. Trees in urban settings will include structural soil or other approved system to remediate reduced planting areas.
5. Tree wells shall be irrigated in accordance with the City of Allen Water Conservation Code and include a connecting subsurface drainage system.

6. Trees planted along public streets must include a root barrier along the public street. The length and depth of the barrier will be subject to the approval of the City Urban Forester at the time of civil site plan review.
7. All street trees shall be maintained by the required property owner's association.
8. Street trees that are removed for any reason of the failure of that tree shall be replaced within sixty days of such removal.

**D. STREETScape FURNISHINGS.**

1. All street furniture shall be located in a manner allowing a clear sidewalk passageway of not less than eight feet for Primary Streets and not less than six feet for Secondary Streets.
2. Furnishings may include one or more of the following:
  - a. Benches
  - b. Wayfinding signage or kiosks
  - c. Bollards
  - d. Planters
  - e. Bicycle racks
  - f. Trash/recycling receptacles
  - g. Water feature
  - h. Public art

Light poles, signs, and other street improvements can be located in the Pedestrian Amenity Zone, but outside of the path of pedestrian travel.

- E. SIDEWALKS.** Unless otherwise identified on the Regulating Plan, sidewalks throughout the Property shall be not less than six feet wide; provided, however, the sidewalk on Street B, Street C, Street D, Street E, Street F, and the north side of Street G shall be not less than eight feet wide.

**F. LIGHTING.**

1. Lighting shall be installed along all streets and be no taller than 20 feet.
2. Street lights shall be placed at uniform locations based on the placement of street trees and other street furniture to provide safety for both pedestrians and automobiles while limiting spill-over and light pollution effects.
3. Light poles on public streets shall comply with ALDC base standards.

- G. PEDESTRIAN AMENITY ZONE MATERIALS.** Materials used in the Pedestrian Amenity Zone may be hardscape or softscape and shall be compatible with the character of the neighborhood.

## SECTION 7. SIGN STANDARDS

**A. GENERAL.** Signs in the District shall conform to applicable ALDC provisions except as provided in this Section 7.

**B. ALLOWED SIGNS.** The following signs shall be allowed subject to the size restrictions set forth in the ALDC unless otherwise indicated below:

1. **Sandwich/A-Frame Sign.** Sandwich/A-frame sidewalk signs may be located in the Tollway West and Ridgeview-Exchange Character Areas subject to the following:

- a. The sign height shall not exceed four (4) feet;
- b. Each sign face shall not exceed an area of eight (8) square feet;
- c. The sign may be placed in the pedestrian amenity zone created by street trees and pedestrian lighting, provided that:
  - i. The sign is located no closer than one foot (1.0') to the face of the curb; and
  - ii. A minimum unobstructed sidewalk width of six (6) feet is maintained;
- d. A sign permit must be obtained from the City prior to placement of the sign on the Property;
- e. Only one (1) A-frame sign is permitted per occupancy;
- f. A-frame signs may be placed on the sidewalk adjacent to a restaurant associated with the sign only during the restaurant's business hours; and
- g. A maximum of one of each type of the following signs are allowed per retail, restaurant, or service business: A-frame (sandwich board) signs and menu signs.



2. **Off-premise multi-tenant signs.**

- a. Maximum effective area: 180 square feet per side.
- b. Maximum number: two (2) on SH 121 (one (1) each for the Tollway West Character Area and Exchange Pkwy. Character Area), one (1) on Exchange Pkwy. only for Tollway West Character Area; and one (1) on Ridgeview Drive (in Exchange Pkwy. Character Area).

3. **Off-premise district signs.**

- a. Maximum effective area: 180 square feet per side.

- b. Maximum number: two (2) on SH 121 (one (1) each for the Tollway West Character Area and Exchange Pkwy. Character Area), two (2) on Exchange Pkwy. (one (1) for Tollway West Character Area and one (1) for Exchange Pkwy. Character Area), two (2) on Ridgeview Drive (in Exchange Pkwy. Character Area) and Ridgeview-Exchange Character Area.



4. **Outdoor patio umbrellas** may contain advertising and be allowed for special events, retail, service, or restaurant uses.
5. **Vehicular Signs** on food trucks and trailers.
6. **Wall signs.**
7. **Blade Signs.**
  - a. No more than one blade sign will be allowed for each building face. No monument sign shall be permitted on the same street frontage adjacent to the building face when a blade sign is installed on the same building face. Wall signs on the same building face may be approved by the Sign Control Board pursuant to the criteria set forth in Section 2.03 of the ALDC.



- b. Each sign face of a Blade sign shall not exceed an area of fifty square feet per building face and shall not exceed five feet in width.
- c. The lowest edge of the Blade sign shall be not less than twelve feet above the ground beneath the sign.
- d. The top edge of the Blade sign shall not exceed a height that is two-thirds (in linear feet) of the height of the building face at the location of the building face where the sign is attached.



8. **Hanging/Projecting Signs.**

- a. No more than one (1) hanging sign will be allowed for each first-floor occupancy; provided, however, a first-floor building occupant with public entrances on more than one street frontage may have one (1) hanging sign on each street frontage;
- b. Each sign face shall not exceed an area of twelve(12) square feet;
- c. Each sign face shall not exceed a width of five feet (5.0');
- d. The lowest edge of the sign shall not be less than eight feet (8.0') above the ground below the sign; and
- e. No hanging sign shall be closer than fifteen feet (15.0') from another hanging sign.



9. **Window signs.**

10. **Illuminated signs.** Illuminate signs are allowed within 150 feet of a residential property internal to the District, but only if illumination does not exceed 2.0-foot candles measured at a level five feet above the shared property line.

11. **Painted Signs.** Signs painted directly on the surface of a building or structure if approved in advance by the Sign Control Board.

12. **Utility Poles.** Signs may be attached to public utility poles or light poles if approved in advance by the Sign Control Board, the owner of the pole, and any other party that has prior rights to use of the pole. This paragraph 12 does not constitute approval to place signs on public utility poles or light poles owned by the City, which approval must be obtained from the City department with jurisdiction over the pole and the Director of Community Development prior to placement of the sign on the City pole.



13. **Banners.** Banners for special events shall not be restricted by a number of permits per year or restrictions on running consecutively; provided, however, banner signs may be installed no earlier than three weeks prior to the special event to which the sign relates and must be removed no later than one week after the conclusion of the special event.

14. **Digital Signs.**

- a. Digital signs must be façade-integrated signs.
- b. Façade-integrated signs may be digital signs or static signs with a light source that is not directly visible.
- c. The total copy area for all signs is 6,500 square feet.

- d. Digital signs may not display light of such intensity or brilliance to cause glare, impair the vision of an ordinary driver, or constitute a nuisance.
- e. No flashing, dimming, or brightening of message is permitted except to accommodate changes of message.
- f. Nothing in this paragraph 14 shall be construed as authorizing installation of a digital sign at a location that requires approval by TxDOT prior to installation.

15. **Multistory Office Wall Signs**

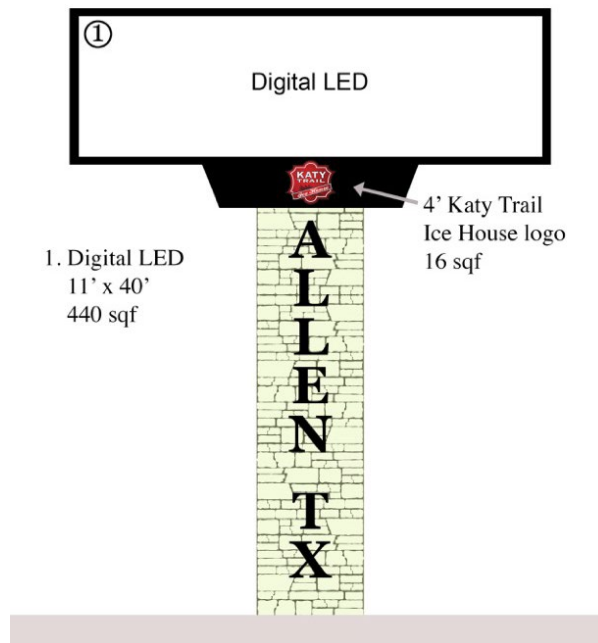
- a. Multistory office wall signs shall not be required to be placed above a tenant's lease space.
- b. Signs may be located on the face of a building in either a horizontal or vertical direction or near the top of the building facade.
- c. Multistory office wall signs may be illuminated.
- d. A multistory office wall sign may project no more than four feet (4.0') from the building surface at the location to which it is attached.
- e. Ground floor tenants in a multistory office shall be treated separately and may have signs regulated in accordance with the standards in these Development Regulations and the ALDC.
- f. The allowable number and size of cumulative signs for multistory office wall signs, per façade, is as follows:
  - i. Multistory office buildings may have three (3) signs per elevation not including ground floor signage.
  - ii. Single-story building signs shall conform to the standards in these Development Regulations and the ALDC for attached (wall) signs.
  - iii. Buildings between 20 feet and 60 feet in height shall have signs no larger than 25 square feet plus an additional three square feet for every one-foot in building height over 20 feet.
  - iv. Buildings greater than 60 feet in height shall have signs no larger than 25 square feet plus an additional five (5) square feet for every one-foot (1.0') in building height over 60 feet. This signage shall be restricted to placement anywhere in the top 20% of the building façade.

16. **Freestanding LED Sign.** One (1) Freestanding LED Sign ("FLS") may be installed in the Tollway East Character Area subject to the following:

- a. The area of each sign face shall not exceed 460 square feet;
- b. The FLS shall have no more than two (2) sign faces;
- c. Sign supports must be wrapped in masonry or similar product with no poles visible.

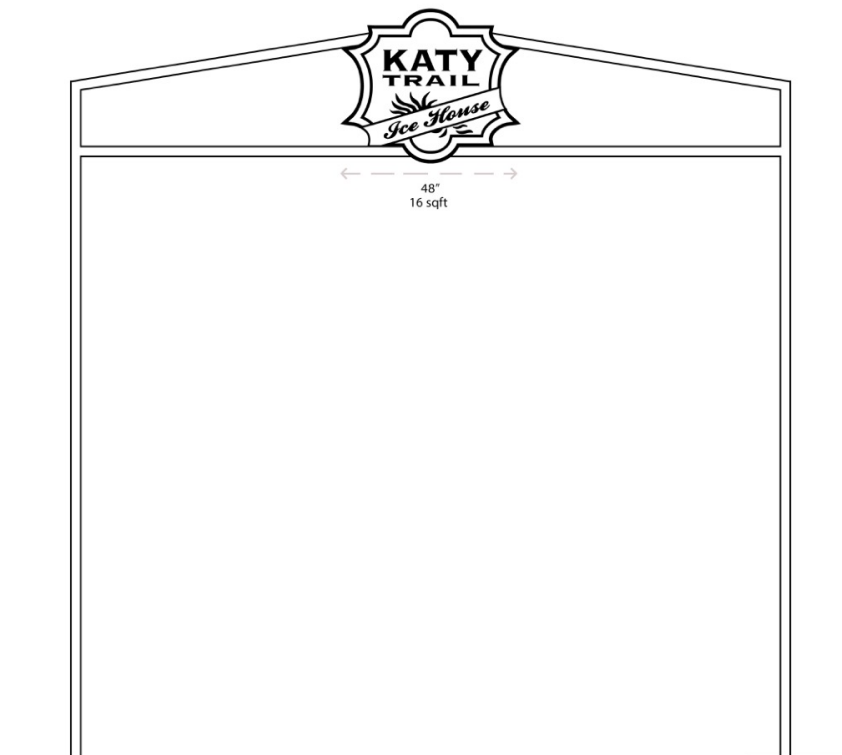
“Allen TX” in raised metal letters will be permitted on the masonry and shall not be considered as part of the maximum effective area;

- d. The FLS shall use LED, digital, or other similar technology;
- e. The FLS may not display light of such intensity or brilliance to cause glare, impair the vision of the ordinary driver, or constitute a nuisance;
- f. No flashing, dimming, or brightening of message is permitted except to accommodate changes of message;
- g. The light source of the FLS shall not be directly visible;
- h. The edges of the FLS shall be wrapped and not considered as part of the maximum effective area;
- i. The FLS shall not exceed sixty (60) feet, excluding a cutout that extends above the rectangular border of the sign, measured from the grade level of the centerline of the main-traveled way on State Hwy. 121, not including the frontage road of State Hwy. 121, closest to the FLS at a point perpendicular to the sign location;
- j. The FLS shall be setback from any public right-of-way a distance of not less than eight (8) feet; and
- k. The design of the FLS shall be generally as shown in the following illustration:

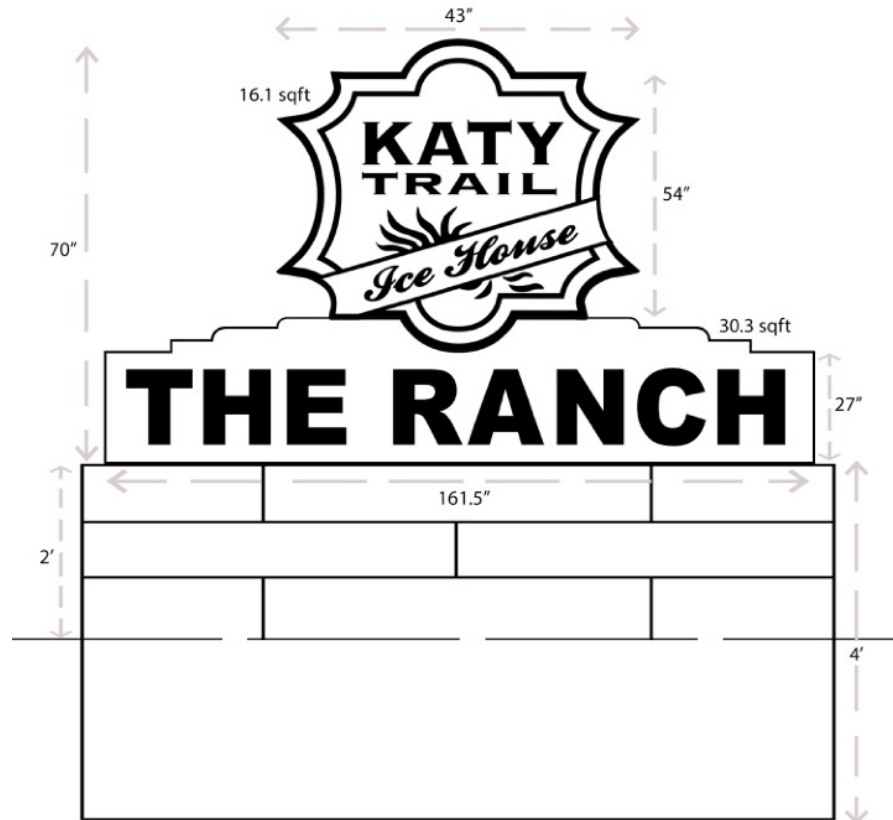


17. **Ranch Style Entry Sign.** One (1) Ranch Style Entry Sign (“RSE”) may be installed within the Tollway East Character Area subject to the following:

- a. The area of each sign face shall not exceed twenty (20) square feet;
- b. The RSE shall have no more than two (2) sign faces;
- c. The RSE shall be set back not less than fifty feet (50') from the State Hwy. 121 frontage road;
- d. The RSE may be illuminated; and
- e. The RSE shall consist of metal piping or other similar material overhanging the private entry to a parking lot supporting the copy area of the sign which shall not be considered part of the area of the sign face, as generally shown in the following illustration:



18. **Monument Signs for Tollway East Character Area.** No more than two (2) monument signs may be installed along State Hwy. 121 within the Tollway East Character Area subject to the following:
- The area of each sign face shall not exceed ninety (90) square feet.
  - Each monument sign shall have no more than two (2) sign faces; and
  - The maximum sign height shall not exceed twelve (12) feet; and
  - Signs may be illuminated.



Note: The height shown in this figure is for illustrative purposes only. The maximum height of the sign shall be regulated by Section 7.B.18 of this Ordinance.

- C. **UNDEFINED SIGNS.** Sign types not clearly defined in the ALDC may be allowed if approved by the Sign Control Board after a recommendation by the Director of Community Development.

## SECTION 8. SUSTAINABILITY

Incorporation of one or more of the following sustainable features may be used if privately owned and maintained:

- Permeable pavement
- Bioswale/bioretention feature

3. Rainwater cistern
4. Drought tolerant plant material
5. Pollinator supportive habitat
6. Smart irrigation controllers

## SECTION 9. DETENTION

Detention facilities for the Property are not required as presented in the preliminary flood study and preliminary downstream assessment. If in the future, conditions change and it is determined that Detention facilities are needed, said facilities shall be designed regionally and may be developed as follows:

1. Regional detention facility construction may be phased so long as a supporting drainage study has been approved by the Director of Engineering.
2. Once a pond is identified to be constructed, the pond shall be excavated to its buildout condition, and not phase excavation of an individual pond.
3. Detention facilities may be constructed on a separate lot provided it is owned and maintained by a property owners association.

## SECTION 10. DEFINITIONS

Unless the context indicates otherwise, the following words and phrases shall have the following meanings as used in these Development Regulations:

- A. ***Build-to-Zone*** means the distance within which a building constructed along a Primary or Secondary Frontage must be constructed measured from the street back-of-curb or property line.
- B. ***Building Frontage*** means the percentage of a building's façade that is required to be located in the Build-to-Zone, except for any additional setback needed to account for site visibility triangles, as a proportion of that lot's frontage along the street. Publicly accessible and activated people spaces, such as outdoor cafes, forecourts, patios, and plazas differentiated from the sidewalk shall be considered as buildings for the calculation of building frontage.
- C. ***Flex Space*** means floor area within a building (i) built to provide for flexibility of use over time; (ii) constructed in a manner that can accommodate residential, office, or retail use; (iii) conforms to commercial Building Code standards and handicap accessibility requirements under applicable federal and state laws and regulations; and be constructed with clear ceiling height of not less than 14 feet from the finished floor.
- D. ***Gifts to the Street*** means building enhancements that improve the feel and experience of the street, including porches, stoops, bay windows, balconies, masonry-clad footed chimneys, sunrooms, attached pergolas, and colonnades.
- E. ***Open Space*** means, for purposes of these Development Regulations, and in addition to the provisions of the ALDC, open space shall also include:
  1. Land area accessible to and permanently reserved for the common use and enjoyment of the residents, tenants, and visitors within the District for leisure, and active and passive recreational purposes;



2. Floodplain, natural drainage areas or creeks, as long as maintained as an amenity
3. Ponds and bodies of water, so long as these are developed with pedestrian amenities not limited to walking trails, decorative lighting, seating, or enhanced landscape treatment; and
4. Right-of-way setbacks developed with a planting mix supportive of native wildlife.

but shall not include:

1. Areas reserved for the exclusive use and benefit of an individual tenant or owner;
2. Streets, parking for non-park uses, alleys, and public rights-of-way; and
3. The City Forest Greenbelt.

**F. *Park*** means, for purposes of these Development Regulations, and in addition to the provisions of the ALDC, parks may include:

1. Floodplain, natural drainage areas or creeks, as long as developed or preserved and maintained as an amenity;
2. Ponds and bodies of water as maintained as an amenity so long as these are developed with pedestrian amenities not limited to walking trails, decorative lighting, seating, or enhanced landscape treatment; and
3. Permitted amenities;

but shall not include:

1. Areas reserved for the exclusive use and benefit of an individual tenant or owner;
2. Dedicated streets, parking, cross-access easements, alleys, and public rights-of-way; and
3. The City Forest Greenbelt.

**G. *Pedestrian Amenity Zone*** means the band between the back of curb and the sidewalk which contains such things as street trees, pedestrian scale lighting, street furnishings, and bicycle parking.

**H. *Signs*:** The various types of signs referenced in these Development Regulations are defined as follows:

1. *A-Frame/Sandwich Board Sign* means a self-supporting A-shaped sign with two (2) visible sides that are situated on or adjacent to a sidewalk.
2. *Menu sign* means a window or freestanding sign containing menu items for the on-site retail or restaurant business.
3. *Patio Umbrella with advertising* means a patio umbrella containing incidental advertising directly or indirectly associated with the on-site retail or restaurant business.
4. *Vehicular Signage on food trucks and trailers* means vehicular signage attached to the food truck or trailer that is serving as the place of business.

5. *Blade Sign* means a projecting sign mounted on a building facade perpendicular to the street or sidewalk, typically spanning multiple stories along a facade.
  6. *Hanging/Projecting Sign* means a single-tenant sign mounted on a building façade and projecting perpendicular to a street or sidewalk, with the location/mounting of the sign at or below the indicated architectural break between the ceiling of the first story use and the floor of the second story use.
- I. *Street Screen*** means a low screening wall built at the edge of a parking area or utility/ service area consisting of:
1. the same material as the principal building the parking is serving or;
  2. a living screen or;
  3. a combination of the 1 and 2, above.

## **SECTION 11. SITE PLAN ADMINISTRATION**

This Section 11 sets forth the exclusive procedures for reviewing and approving Site Plan applications for the Property. The intent is to ensure that all development is consistent with the provisions of these Development Regulations and the Regulating Plan. All sections of these Development Regulations shall be applied during the review process.

### **A. Site Plan Review Process.**

1. *Site Plan Details.* Site plan details to be provided on a site plan shall comply with Section 6.05.3 of the ALDC.
2. *Site Plan Review Standards.* The Director of Community Development shall be authorized to approve a Site Plan if such Site Plan complies with the Regulating Plan and conforms to the standards set forth in these Development Regulations and the ALDC.
3. *Amendments to Approved Site Plans.* The Director of Community Development shall be authorized to approve changes to approved Site Plans that comply with the Regulating Plan and the provisions in these Development Regulations.

### **B. Amendments to the Regulating Plan, Development Tracts, Parks & Open Space Plan, and Streets Diagram.**

1. **Minor Changes.** Except as otherwise provided in these Development Regulations, the Director of Community Development shall have the authority to administratively approve minor changes to the Regulating Plan, Development Tracts, Parks & Open Space Plan, and Streets Diagram. “Minor changes” include changes that:
  - a. Do not materially change the circulation on the Property.
  - b. Do not change the relationship between buildings and streets.
  - c. Do not amend the overall area allocation between different Character Areas by more than 15%.

- d. Relocate mandatory parks provided the amount of park area satisfies the amount of park area required as shown on the Parks & Open Space Plan or as required by these Development Regulations.
  - e. Add amenities to the parks and open space requirements which may be used in addition to or in lieu of the amenities identified, as approved by the Director of Parks and Recreation or designee; or
  - f. Relocate trails required by these Development Regulations provided that pedestrian and bike connectivity is maintained as intended by the Parks and Open Space Plan, as approved by the Director of Parks and Recreation or designee.
2. **Other Site Plan Changes.** A change to the Regulating Plan, Development Tracts, Parks & Open Space Plan, and Streets Diagram that does not qualify as a minor change shall be processed in the same manner as an amendment to a zoning ordinance pursuant to the ALDC.
3. **Changes Mandated by Law.** Any modification to a street location shown on the Regulating Plan that is necessitated by a Federal, State, or Local action may be administratively approved by the Director of Engineering.

# DEVELOPMENT REGULATIONS FOR

## Gateway Allen at Twin Creeks

### PLANNED DEVELOPMENT

### PD 141

...

#### SECTION 2: DEVELOPMENT STANDARDS.

...

#### C. BUILD-TO, SETBACK AND YARD STANDARDS.

1. Buildings constructed on the Property shall comply with the setback and yard standards set forth in Table 1, below.

**TABLE 1: BUILD -TO, SETBACK AND YARD STANDARDS**

Character Area	Tollway West	Ridgeview-Exchange	Exchange Pkwy.	Tollway East
<b>Primary/Secondary Building Frontage (Build-to-Zone)</b> <sup>(1)(2)(3)</sup>	18' min. - 26' max.	18' min. - 26' max.	Not Applicable	Not Applicable
<b>Front / Side Yard Setback (Facing a Private Street)</b>	12' min – No max.	12' min. – No max.	Not applicable.	12' min. – No max.
<b>Front / Side Yard Setback (Exchange Parkway)</b>	25' min. – No max.	25' min. – No max	20' min. – No max.	Not applicable
<b>Front / Side Yard Setback (Ridgeview Pkwy.)</b> <sup>(4)</sup>	Not applicable	30' min. – No max.	30' min. – No max.	Not applicable
<b>Front/Side Yard Setback (State Hwy. 121)</b>	30' min. - No max. <sup>(5)</sup>	Not Applicable	30' min. - No max.	30' min. - No max.
<b>Side Yard or Rear Yard Setback (Facing interior lot line or alley)</b>	0' min. – No max.	0' min. – No max.	0' min. – No Max.	0' min. – No max.
<b>Side Yard or Rear Yard Setback (Facing exterior lot line adjacent to City Forest Greenbelt)</b> <sup>(6)</sup>	Not Applicable	Not Applicable	5' min. - No max.	5' min. - No max.

Notes:

- 1) Garage facades are included in this frontage calculation.
- 2) The build-to-zone is measured from the back- of-curb to the face-of-building.
- 3) Buildings may be set back farther than the required Build-To-Zone but only to the extent required to bring the

building in compliance with site visibility triangles regulations.

- 4) All setbacks adjacent to Ridgeview Drive will be not less than 30 feet.
- 5) All Urban Residential units constructed in the Tollway West Character Area shall be set back not less than 300 feet from the State Highway 121 service road; provided, however, the minimum setback from the State Highway 121 service road of no more than sixty (60) Urban Residential units constructed on Tract 6A within the mixed-use building consisting primarily of office use as shown in Appendix 11.
- 6) A 15-foot maintenance easement will be established and maintained parallel and adjacent to the 100-year floodplain in which no structure may impede
  2. Except as otherwise permitted in these Development Regulations, at-grade structural encroachments other than structural columns are not permitted within the setback. Structural foundation locations shall not impede pedestrian traffic within the designated pedestrian zone below. Support columns may be located anywhere within the setback only in a manner that does not violate sight distance requirements.
  3. Subsurface parking facilities may encroach into the required setbacks, but in no case shall said parking facilities encroach upon an underground or overhead utility easement. No building permit for any subsurface parking facility shall be issued by the Building Official unless a Landscape Plan for said lot has been approved by the Director of Parks and Recreation. The Landscape Plan shall include sufficient permeable soil depth to support the healthy growth of plant materials in the affected area.

#### **D. UNITS, DENSITY AND LOT COVERAGE.**

1. **Maximum Number of Residential Units:** No more than 1,700 Urban Residential units may be constructed on the Property. The number of Urban Residential units preconstructed in each Character Area shall not exceed the number of units set forth in Table 2, below. Urban Residential Units constructed on the Property shall be sequentially phased according to the following:
  - a. Building permits for no more than 255 Urban Residential units shall be granted until construction of the Gateway Forest improvements is complete in accordance with Appendix 10, including, but not limited to, the streets identified as “Street G” and “Street H” as shown on Appendix 10;
  - b. Building permit(s) authorizing the construction of no more than the 555 Urban Residential units (i.e., being the 255 units authorized pursuant to paragraph 1.a.above, plus an additional 300 units), shall be granted until one or more building permits have been issued for construction on the Property of one or more buildings for office space use with a cumulative floor area of not less than 100,000 square feet;
  - c. Building permit(s) authorizing the construction of no more than the 800 Urban Residential units (i.e., being the 555 units authorized pursuant to paragraphs 1.a. and 1.b., above, plus an additional 245 units) shall be granted until final building inspections have been approved and one or more certificates of occupancy granted for the building shell (but not the finish out) of a cumulative area of 100,000 square feet of office space

constructed on the Property

- d. Building permit(s) authorizing construction of more than 1,300 Urban Residential units (i.e., being the 800 units authorized pursuant to paragraphs 1.a., 1.b., and 1.c., above plus an additional 500 units) shall be granted until one or more building permits have been issued for construction on the Property of one or more buildings for office space use with a cumulative floor area of not less than 50,000 square feet, which buildings shall be in addition to the building(s) required to be constructed for office uses described in paragraphs 1.b. and 1.c., above. For purposes of this paragraph 1.d., the square footage of building(s) constructed for office use in satisfaction of paragraphs 1.b. and 1.c., above, in excess of 100,000 shall be credited toward the square footage of the office building(s) for which building permit(s) must be issued pursuant to this paragraph 1.d. prior to issuance of a building permit authorizing construction of a building containing the 1,301<sup>st</sup> Urban Residential unit. By way of illustration, if in satisfaction of the requirements for the construction of building(s) for office use pursuant to paragraphs 1.b. and 1.c., above, one or more certificates of occupancy are issued for a total of 120,000 square feet of building shell, then the square footage of building(s) constructed for office use for which building permits must be issued prior to issuance of a building permit authorizing construction of the building containing the 1,301<sup>st</sup> Urban Residential unit shall be reduced to 30,000 square feet.



**TABLE 2: URBAN RESIDENTIAL UNIT ALLOCATION**

Character Area (C.A.)	Maximum Allowed Urban Residential Units or C.A. <sup>(1)</sup>	Maximum Density	Maximum FAR	Maximum Lot Coverage
Tollway West	500	None	None	None
Ridgeview-Exchange	1,600			
Exchange Pkwy.	0			
Tollway East	400			

Notes

- 1) The maximum number of Urban Residential units that may be constructed on the Property shall not exceed 1,700 units as set forth in Section 3.D.1 above. The numbers in this column establish the maximum number of Urban Residential units that may be constructed in the identified Character Area.

...

**G. BUILDING HEIGHT**

**1. Minimum Number of Stories:**

- a. A maximum of 25% of the gross floor area of principal buildings located in the Tollway West Character Area and the Ridgeview-Exchange Character Area shall be permitted to be less than three stories. The gross floor area of retail and restaurant uses permitted in the Central Square shall not be included in determining compliance with the maximum percentage stated in the prior sentence.
- b. All principal buildings in the Exchange Pkwy. and Tollway East Character Areas may be one story in height.

...

**SECTION 3: STREET TYPES AND TRANSPORTATION NETWORK**

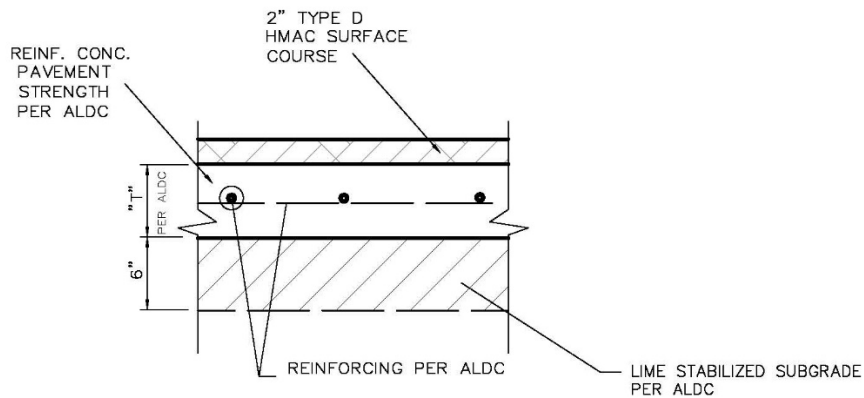
...

- D. PRIVATE STREETS.** All streets within the Tollway West Character Area and Ridgeview-Exchange Character Area, as generally illustrated in the Streets Diagram, will be private streets and shall be maintained by a property owners' association.

...

**F. TOLLWAY EAST CHARACTER AREA.** Within the Tollway East Character Area:

1. Asphalt may be used as a paving material provided such paving complies with the City's design specification for strength and endurance;



### ONSITE HMAC OVER CONCRETE PAVEMENT SECTION

2. Tree islands in required parking areas may be planted with trees below grade level protected by metal grates, subject to the following:
  - a. A licensed professional engineer shall certify with a sealed letter that the tree grates are traffic rated; and
  - b. The planting area shall include subsurface preparation in order to facilitate the healthy growth of trees, including but not limited to, installation of structural soil systems; and
  - c. All trees located within the surface area of the parking lot must, at the time of planting have a trunk diameter of not less than six (6) caliper inches and have a rootball diameter of not less than sixty (60) inches, or a 10:1 ratio of the rootball to the trunk diameter measured at twelve (12) inches above the soil stain; and
  - d. Trees shall be of a species identified as Overstory (shade) trees as listed in Appendix C of the Allen Land Development Code.

...

#### SECTION 4: PARK LAND, OPEN SPACE, TRAILS, AND TREE MITIGATION

##### A. GENERAL.

...

2. **Ownership, Maintenance and Management.** The owner of the Property, or the owners of the various portions thereof, shall maintain or cause to be maintained all common areas within the Property, including, but not limited to, all parks, open spaces, street medians, entry features, floodplain areas, streetscapes and

landscape areas within street right-of-way, detention pond, retention ponds, wall maintenance easements, landscape maintenance easements, and similar areas shown on a final plat, site plan, or the Regulating Plan (collectively the "Common Areas"), until such time that one or more Property Owners' Associations are established for the purpose of ownership, maintenance and management of the Common Areas within the various portions of the Property as required by Section 8.20 of the ALDC. Maintenance of Common Areas shall include, but not be limited to, the various in-ground and above ground plantings/planting beds, irrigation (when required herein), lighting and drainage systems located within the Common Areas. For the purposes of this Section 4.A.2., and in lieu of establishing of a Property Owner's Association, the City Manager, upon recommendation of the Director of Community Development and City Attorney, may approve an agreement or other instrument that as a minimum, provides for the perpetual maintenance of one or more of the Common Areas by the owner or owners of one or more specifically identified properties (other than the Common Area(s) to be maintained), establishes a means by which the costs for such perpetual maintenance will be paid by such property owners, authorizes the City to enforce such maintenance obligations and/or perform such maintenance of the Common Area(s), and authorizes the City to enforce against the owners of the identified properties the obligations to pay for the costs related to such maintenance, all without the necessity of the City being a party to such agreement or instrument, and provides for the owners of the identified properties to indemnify, defend, and hold harmless the City in substantially the same manner required by Section 8.20 of the ALDC.

...

**H. URBAN RESIDENTIAL BUILDING STANDARDS.** Urban Residential dwelling uses shall be subject to the following development and use regulations:

...

**2. One-bedroom minimums.**

- a. No less than 65 percent of the Urban Residential dwelling units in the aggregate within the overall development of the Property shall be one-bedroom and studio units as set forth below.
- b. A final building inspection to permit the occupancy of the initial 255 Urban Residential units shall not be issued until a report is filed with the Director of Community Development or designee demonstrating that no less than 65 percent of the dwelling units in the first 255 units are one-bedroom and studio units.
- c. A final building inspection to permit the occupancy of a total of 555 Urban Residential units (i.e., being the 255 units described in paragraph b., above, plus an additional 300 units) shall not be issued until a report is filed with the Director of Community Development or designee demonstrating that no less than 65 percent of the dwelling units in the first 555 units are one-bedroom and studio units.

- d. A final building inspection to permit the occupancy of a total of 800 Urban Residential units (i.e., being the 555 units described in paragraphs b. and c., above, plus an additional 245 units) shall not be issued until a report is filed with the Director of Community Development or designee demonstrating that no less than 65 percent of the dwelling units in the first 800 units are one-bedroom and studio units
- e. A final building inspection to permit the occupancy of a total of 1,300 Urban Residential units (i.e., being the 800 units described in paragraphs b., c., and d., above, plus an additional 500 units) shall not be issued until a report is filed with the Director of Community Development or designee demonstrating that no less than 65 percent of the dwelling units in the first 1,300 units are one-bedroom and studio units.
- f. A final building inspection to permit the occupancy of the 1,301<sup>st</sup> through the 1,700<sup>th</sup> Urban Residential unit shall not be issued until a report is filed with the Director of Community Development or designee demonstrating that no less than 65 percent of the dwelling units in the remaining 400 units will be constructed as one- bedroom and studio units.

...

## SECTION 7: SIGN STANDARDS.

...

**B. ALLOWED SIGNS.** The following signs shall be allowed subject to the size restrictions set forth in the ALDC for unless otherwise indicated below:

...

### 2. Off-premise multi-tenant signs.

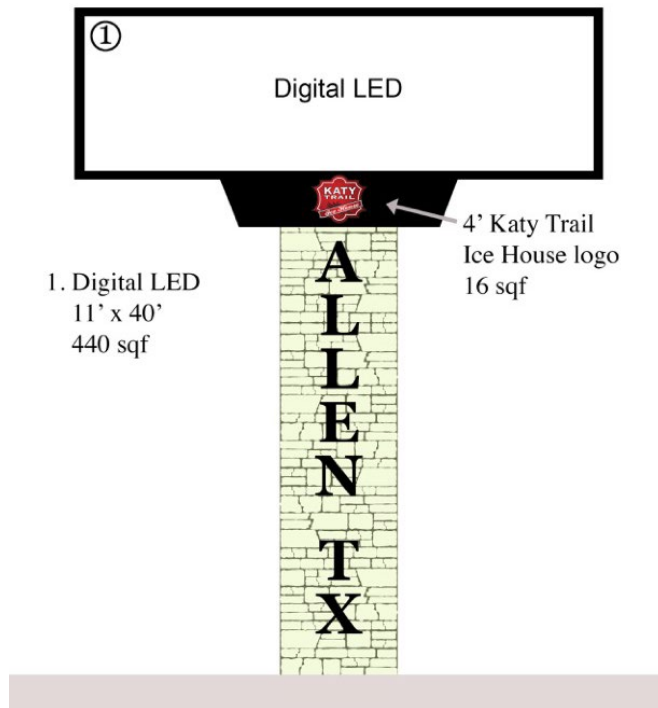
- a. Maximum effective area: 180 square feet per side.
- b. Maximum number: two (2) on SH 121 (one (1) each for the Tollway West Character Area and Exchange Pkwy. Character Area), one (1) on Exchange Pkwy. only for Tollway West Character Area; and one (1) on Ridgeview Drive (in Exchange Pkwy. Character Area).

### 3. Off-premise district signs.

- a. Maximum effective area: 180 square feet per side.
- b. Maximum number: two (2) on SH 121 (one (1) each for the Tollway West Character Area and Exchange Pkwy. Character Area), two (2) on Exchange Pkwy. (one (1) for Tollway West Character Area and one (1) for Exchange Pkwy. Character Area), two (2) on Ridgeview Drive (in Exchange Pkwy. Character Area) and Ridgeview-Exchange Character Area.

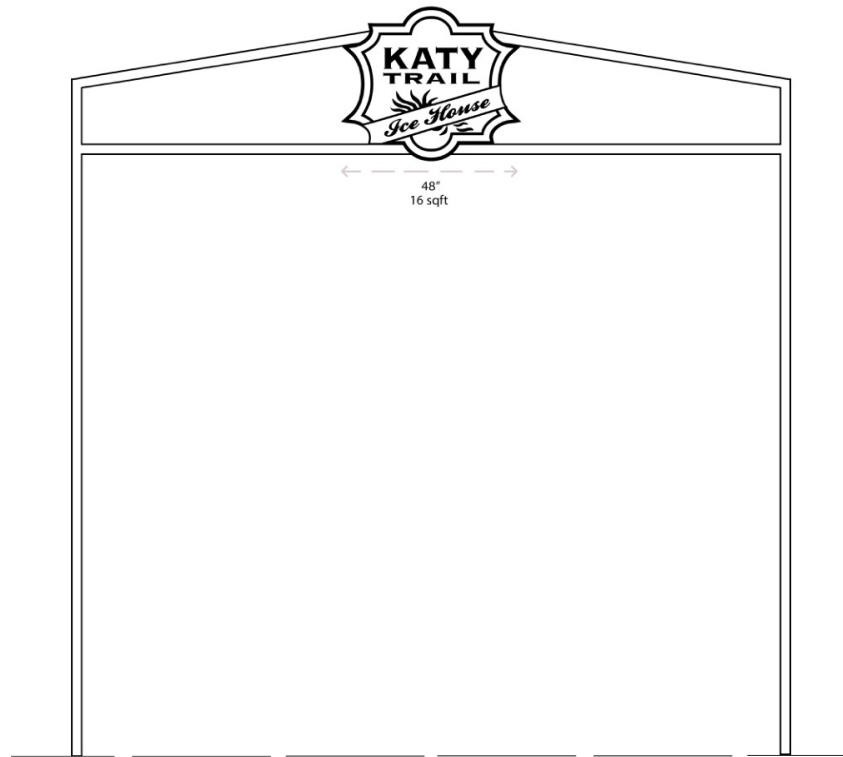
...

16. **Freestanding LED Sign.** One (1) Freestanding LED Sign (“FLS”) may be installed in the Tollway East Character Area subject to the following:
  - a. The area of each sign face shall not exceed 460 square feet;
  - b. The FLS shall have no more than two (2) sign faces;
  - c. Sign supports must be wrapped in masonry or similar product with no poles visible. “Allen TX” in raised metal letters will be permitted on the masonry and shall not be considered as part of the maximum effective area;
  - d. The FLS shall use LED, digital or other similar technology;
  - e. The FLS may not display light of such intensity or brilliance to cause glare, impair the vision of the ordinary driver, or constitute a nuisance;
  - f. No flashing, dimming, or brightening of message is permitted except to accommodate changes of message;
  - g. The light source of the FLS shall not be directly visible;
  - h. The edges of the FLS shall be wrapped and not considered as part of the maximum effective area;
  - i. The FLS shall not exceed sixty (60) feet, excluding a cutout that extends above the rectangular border of the sign, measured from the grade level of the centerline of the main-traveled way on State Hwy. 121, not including the frontage road of State Hwy. 121, closest to the FLS at a point perpendicular to the sign location;
  - j. The FLS shall be setback from any public right-of-way a distance of not less than eight (8) feet; and
  - k. The design of the FLS shall be generally as shown in the following illustration:

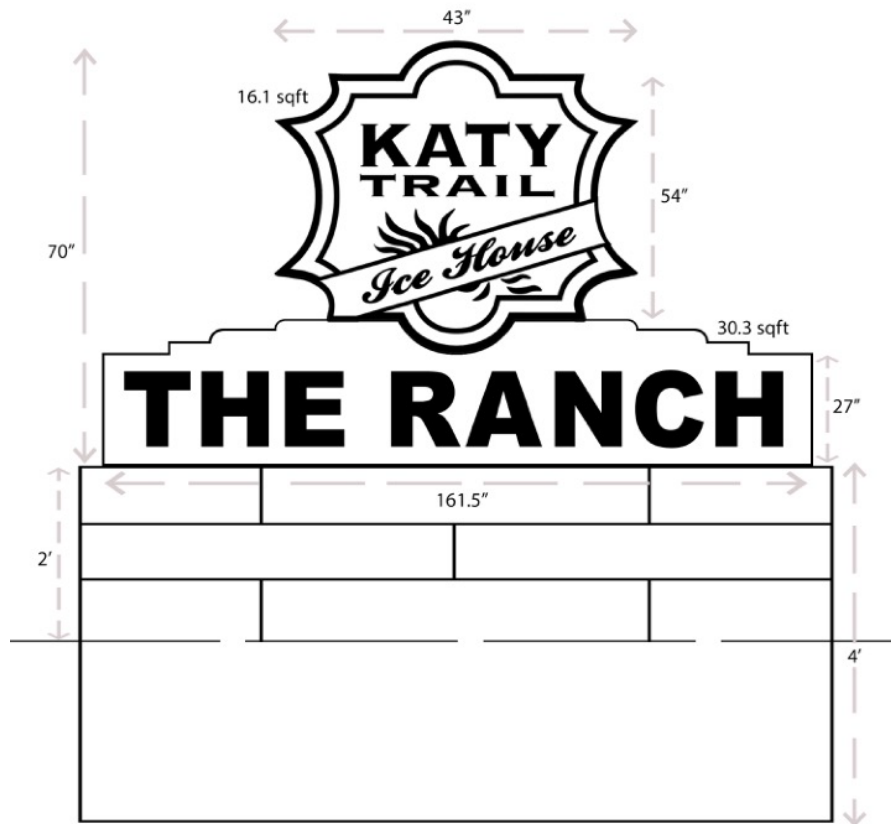


17. **Ranch Style Entry Sign.** One (1) Ranch Style Entry Sign (“RSE”) may be installed within the Tollway East Character Area subject to the following:
- a. The area of each sign face shall not exceed twenty (20) square feet;
  - b. The RSE shall have no more than two (2) sign faces;
  - c. The RSE shall be set back not less than fifty feet (50') from the State Hwy. 121 frontage road;
  - d. The RSE may be illuminated; and
  - e. The RSE shall consist of metal piping or other similar material overhanging the private entry to a parking lot supporting the copy area of the sign which shall not be considered part of the area of the sign face, as generally shown in the following illustration:





18. **Monument Signs for Tollway East Character Area.** No more than two (2) monument signs may be installed along State Hwy. 121 within the Tollway East Character Area subject to the following:
- a. The area of each sign face shall not exceed ninety (90) square feet.
  - b. Each monument sign shall have no more than two (2) sign faces; and
  - c. The maximum sign height shall not exceed twelve (12) feet; and
  - d. Signs may be illuminated.



Note: The height shown in this figure is for illustrative purposes only. The maximum height of the sign shall be regulated by Section 7.B.18 of this Ordinance.

...

### Appendix 3: SCHEDULE OF USES

...

Use	Character Areas			
	Tollway West	Ridgeview-Exchange	Exchange Pkwy.	Tollway East
ADULT DAY CARE				
...				
AMENITY CENTER	X	X		
...				

...

**December 7, 2021 Planning and Zoning Commission Meeting Minutes**

Conduct a Public Hearing and Consider a Request to Amend the Development Regulations of Planned Development No. 141 with a Base Zoning of Mixed Use (MIX) Relating to the Use and Development of Approximately 55.957 Acres Located in the S. Jackson Survey, Abstract No. 489, Generally Located Directly South of State Highway 121 and Directly West of Exchange Parkway; Approximately 8.926 Acres Located in the S. Jackson Survey, Abstract No. 489, Generally Located Directly South of State Highway 121 and Directly East of Exchange Parkway; and Approximately 9.994 Acres Located in the S. Jackson Survey, Abstract No. 489, Generally Located Directly South of State Highway 121 and Directly West of Bending Branch Way. (ZN-091021-0018) [Allen Gateway]

Mr. Kurbansade presented the item to the Commission. He stated that staff recommends approval with the inclusion of the additional language proposed regarding Property Owners' Association.

Chair Trahan opened the public hearing.

David Hicks, Applicant, 401 Woodlake Drive, Allen, TX, gave a brief description of the project.

Chair Trahan closed the public hearing.

The Commission discussed the function of the Property Owners' Association and LED signage.

**Motion:**        **Upon a motion by 1<sup>st</sup> Vice-Chair Metevier, and a second by Commissioner Berg, the Commission voted 7 IN FAVOR, and 0 OPPOSED to recommend approval of an ordinance to amend the Development Regulations of Planned Development No. 141 with the inclusion of the proposed changes by the applicant in Section 4.8.2 regarding the formation of Property Owners' Associations. The motion carried.**

**ATTENDANCE:**

**Commissioners Present:**

Ben Trahan, Chair

Dan Metevier, Jr., 1<sup>st</sup> Vice-Chair

Elias Shaikh, 2<sup>nd</sup> Vice-Chair

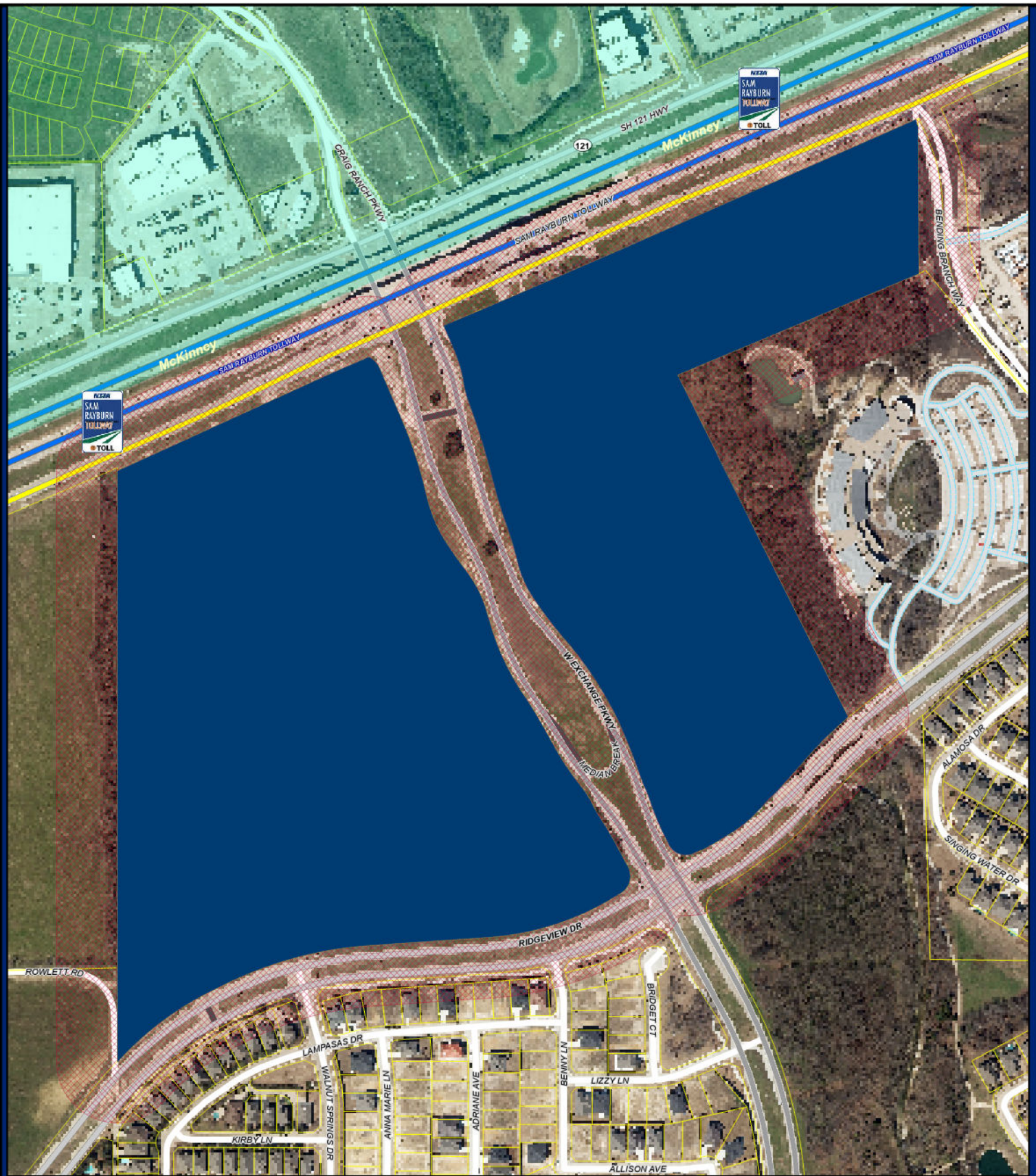
Brent Berg

Jason Wright

Kenneth Cook

Michael Smiddy



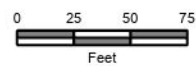


Public Notification Map

Allen Gateway

### Legend

- Subject Property
- 200' Buffer
- Collin CAD Parcels



Community Development - Planning

Date Saved: 11/18/2021

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

