City of Rowlett

Meeting Agenda

City Council

4000 Main Street
Rowlett, TX 75088
www.rowlett.com

City of Rowlett City Council meetings are available to all persons regardless of disability. If you require special assistance, please contact the City Secretary at 972-412-6115 or write 4000 Main Street, Rowlett, Texas, 75088, at least 48 hours in advance of the meeting.

Tuesday, February 16, 2016 | **6:00 P.M.** | **Municipal Building – 4000 Main Street**

As authorized by Section 551.071 of the Texas Government Code, this meeting may be convened into closed Executive Session for the purpose of seeking confidential legal advice from the City Attorney on any agenda item herein.

The City of Rowlett reserves the right to reconvene, recess or realign the Regular Session or called Executive Session or order of business at any time prior to adjournment.

1. CALL TO ORDER

2. EXECUTIVE SESSION

3. WORK SESSION (6:00 P.M.) * Times listed are approximate.

3A. Discuss an amendment to Chapter 50 to include restrictions on all scavenging of trash, debris and recycling. (15 minutes)

3B. Update on Kids Kingdom build and budget status. (30 minutes)

3C. Discuss an opportunity to secure Green Ribbon Project funding through TxDOT for landscaping enhancements along Lakeview Parkway (SH 66) corridor in conjunction with Keep Rowlett Beautiful, Inc. (KRB) projects and the planned entrance feature for Downtown Rowlett at Martin Drive and Lakeview Parkway. (30 minutes)

4. DISCUSS CONSENT AGENDA ITEMS

CONVENE INTO THE COUNCIL CHAMBERS (7:30 P.M.)*

INVOCATION

PLEDGE OF ALLEGIANCE

TEXAS PLEDGE OF ALLEGIANCE
Honor the Texas Flag; I pledge allegiance to thee, Texas, one state under God, one and indivisible.

5. PRESENTATIONS AND PROCLAMATIONS

5A. Hear presentation of the Monthly Financial report for the period ending December 31, 2015.

5B. Update from the City Council and Management: Financial Position, Major Projects, Operational Issues, Upcoming Dates of Interest and Items of Community Interest.

6. CITIZENS' INPUT

At this time, three-minute comments will be taken from the audience on any topic. To address the Council, please submit a fully-completed request card to the City Secretary prior to the beginning of the Citizens' Input portion of the Council meeting. No action can be taken by the Council during Citizens' Input.

7. CONSENT AGENDA

The following may be acted upon in one motion. A City Councilmember or a citizen may request items be removed from the Consent Agenda for individual consideration.

7A. Consider action to approve minutes from the February 2, 2016 City Council Regular Meeting.

7B. Consider approving an ordinance calling the General Election for Saturday, May 7, 201,6 to elect the Mayor, Councilmembers for Place Two, Place Four and Place Six and any possible resulting run-off election to be held on Saturday, June 18, 2016.

7C. Consider action to approve an ordinance amending Chapter 50 to include restrictions on all scavenging of trash, debris and recycling.

7D. Consider action to approve a resolution expressing the official intent to reimburse costs of the December 2015 Tornado Event through the issuance of tax-exempt obligations or other obligations, with an aggregate principal amount not to exceed $25,000,000.

7E. Consider action to approve a resolution providing support of the submission of an application to the 2016 Competitive Housing Tax Credit Program through the Texas Department of Housing and Community Affairs for the project proposed by GroundFloor Development.

7F. Consider action to approve a resolution authorizing the final acceptance and payment, release of retainage and early completion bonus for the Offsite Water Main for the Main Street 1.25 MG Elevated Storage Tank Project (WA2109) in the amount of $144,748.07 and authorizing the Mayor to execute the necessary documents.

7G. Consider action to approve a resolution authorizing the final acceptance and payment, release of retainage and early completion bonus for the Main Street 1.25 MG Elevated Storage Tank Project (WA2107) in the amount of $331,053.57 and authorizing the Mayor to execute the necessary documents.

7H. Consider action to approve a resolution requesting Dallas County Central Appraisal District and Rockwall County Central Appraisal District reappraise properties in the City of Rowlett affected by the recent tornado as authorized by Texas Tax Code Section 23.02.

7I. Consider a resolution approving a tree mitigation plan and related tree removal permit application for more than three trees associated with the Briarwood Armstrong Addition on property located at 3001 Lakeview Parkway, further described as Lots 1-4 and 7, Block A of the Briarwood Armstrong Addition, City of Rowlett, Dallas County, Texas.

7J. Consider a resolution authorizing the City Manager to enter into an Economic Development incentive agreement with Churchill Residential for the development of the Evergreen at Rowlett Senior Living Complex located at 5500 Old Rowlett Road.

7K. Consider action to approve a change order for the construction of a 100 foot monopole radio tower for new Public Safety Radio System to be located at the Rowlett police building.

7L. Consider approving an ordinance calling a Special Election to Fill a Vacancy for an unexpired term, created by the resignation of Carl Pankratz, Councilmember Place 3.

8. ITEMS FOR INDIVIDUAL CONSIDERATION

8A. Conduct a public hearing and consider an ordinance approving a request for a rezoning from a Single Family-8 Zoning District to a Planned Development District with an underlying base district of Multi-Family Attached Residential Townhouse (MF-TH) for the purpose of constructing 12 townhomes on property located at 10206 Liberty Grove Road further described as being 3.149 +/- acres in the Harrison Blevins Survey, Abstract No. 94 and the Hanse Hamilton Survey, Abstract No. 858, City of Rowlett, Dallas County, Texas. (PD41-2015)

8B. Conduct a public hearing and consider an ordinance approving the delineation of the take area adjacent to Block 1, Lot 2, of the Homestead at Lakepoint Addition on property generally located east of Heritage Parkway and south of Beacon Harbor Street, being 2.61 +/- acres.

8C. Call Special Election for proposed Charter Amendments.

TAKE ANY NECESSARY OR APPROPRIATE ACTION ON CLOSED/EXECUTIVE SESSION MATTERS

9. ADJOURNMENT

Stacey Chadwick

Stacey Chadwick, Deputy City Secretary

I certify that the above notice of meeting was posted on the bulletin boards located inside and outside the doors of the Municipal Center, 4000 Main Street, Rowlett, Texas, as well as on the City's website (www.rowlett.com) on the 12th day of February 2016, by 5:00 p.m.

City of Rowlett

Staff Report

4000 Main Street
P.O. Box 99
Rowlett, TX 75030-0099
www.rowlett.com

AGENDA DATE: 02/16/16 **AGENDA ITEM**: 3A

TITLE
Discuss an amendment to Chapter 50 to include restrictions on all scavenging of trash, debris and recycling. (15 minutes)

STAFF REPRESENTATIVE
Lt. Marvin Gibbs, Community Services Commander
Maria Martinez, Community Services Manager

SUMMARY
Section 50-8 “Scavenging” of Chapter 50 “Solid Waste” currently only addresses scavenging of recyclable materials such as plastics, aluminum and glass; therefore, staff would like to add subsection (b) to the ordinance to prohibit scavenging of any solid waste or debris placed out for collection without prior consent of the owner of the property. Public safety personnel have received multiple calls about unknown persons scavenging through debris that has been placed out for collection without permission. The proposed amendment to this ordinance would allow staff to properly address these concerns.

BACKGROUND INFORMATION
N/A

DISCUSSION
Scavenging has become a topic of concern since the tornado disaster event in late December 2015. Public safety personnel have received numerous calls regarding persons rummaging through piles of debris and upon approach some scavengers would exhibit a contractor registration receipt or solicitors permit as a means to scavenge through people’s properties and debris. Although the City was not issuing permits for these types of activities it was still causing some confusion coupled with the current outdated ordinance for scavenging. This can be resolved by updating the City’s scavenging ordinance to be all-inclusive and ensuring property owners permission when any rummaging or scavenging occurs within the City of Rowlett.

FINANCIAL/BUDGET IMPLICATIONS
N/A

RECOMMENDED ACTION
Provide direction to staff on the proposed amendment to Chapter 50 “Solid Waste”

ORDINANCE
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ROWLETT, TEXAS, AMENDING SECTION 50-8 OF CHAPTER 50 (“SOLID WASTE”) OF THE CODE OF ORDINANCES OF

THE CITY OF ROWLETT, TEXAS, TO AMEND REGULATIONS PROHIBITING SCAVENGING; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY OF FINE NOT TO EXCEED THE SUM OF FIVE HUNDRED DOLLARS ($500.00) FOR EACH OFFENSE; AND, PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Rowlett has previously adopted regulations prohibiting scavenging of recyclable materials; and

WHEREAS, the tornado that struck the City on December 26, 2015 caused the destruction of hundreds of homes, which caused the dispersion of personal effects and household items; and

WHEREAS, City staff has declared the need for regulations that prohibit scavenging by non-residents and others who are scavenging debris for household items and personal effects of others. Now, Therefore

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ROWLETT, TEXAS:

SECTION 1. That Section 50-8 of Chapter 50, "Solid Waste, of the Code of Ordinances of the City of Rowlett, Texas, be and is hereby amended to renumber the existing language as subsection (a) and to add a new subsection (b), such that Section 50-8 of Chapter 50 shall henceforth read as follows:

"**CHAPTER 50**
SOLID WASTE

. . .

Sec. 50-8. Scavenging.

(a) No person, other than the current resident of the property on which recyclable materials are placed for collection, or an authorized carrier, shall remove, pick up or transfer recyclable materials left at curbside in any residential subdivision or at curbside at any single-family residence. Materials left at curbside in either specifically marked recovery containers or any other type of container are to be picked up by a designated carrier for the purpose of removal of recyclable materials. Each unauthorized removal of any items from a resident subdivision location or a single-family residence shall constitute a separate violation of this chapter. For purposes of this section, the term "recyclable material" shall mean:

(1) Plastic—Polyethylene terephthalate (pet) and high density polyethylene plastics (hdpe).
(2) Aluminum beverage cans.
(3) Steel cans (commonly known as tin cans).
(4) Glass—Clear, brown, and green.
(5) Newsprint.

(b) After solid waste or debris is placed for waste hauler collection, no person other than the owner of the property on which the solid waste or debris is placed shall sift through or scavenge from the solid waste or debris or remove any part thereof other than the waste hauler or the owner of the property. Solid waste or debris located on city or public property shall not be sifted through or scavenged by any person, and no material may be removed by any person, without prior authorization by the city."

SECTION 2. That all ordinances of the City of Rowlett, Texas, in conflict with the provisions of this ordinance be and the same are hereby repealed and all other ordinances of the City of Rowlett not in conflict with the provisions of this ordinance shall remain in full force and effect.

SECTION 3. That should any sentence, paragraph, subdivision, clause, phrase or section of this ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this ordinance as a whole, or any part or provision hereof other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of the Code of Ordinances as a whole.

SECTION 4. Any person, firm or corporation violating any of the provisions of this ordinance or the provisions of the Code of Ordinances of the City of Rowlett, Texas, as amended hereby, shall be deemed guilty of a misdemeanor and upon conviction, shall be subject to a fine not to exceed the sum of Five Hundred Dollars ($500.00) for each offense.

SECTION 5. This ordinance shall take effect immediately from and after its passage and the publication of its caption, as the law and charter in such cases provides.

City of Rowlett

Staff Report

4000 Main Street
P.O. Box 99
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www.rowlett.com

AGENDA DATE: 02/16/16 **AGENDA ITEM**: 3B

TITLE

Update on Kids Kingdom build and budget status. (30 minutes)

STAFF REPRESENTATIVE

Angela Smith, Interim Director of Parks and Recreation

SUMMARY

This report will serve to update City Council on the current progress of the Kids Kingdom build and the status of the budget for the Kids Kingdom project.

BACKGROUND INFORMATION

The Kids Kingdom project originally was presented to City Council in June 2013 with the removal of the existing playground due to safety hazards. Over the past two and a half years, Council has set budgets for the project which are outlined below, approved contracts for the build with Play By Design, discussed fundraising goals, chosen the playground's final resting place at Pecan Grove Park and been presented updates on the status of the playground. Ultimately, funding was provided by City funds, donations and voter approved bonds.

In November 2015, the project finally came to fruition and official work began November 7th at Pecan Grove Park. In addition to Parks and Recreation and Public Works teams doing significant site preparation, Tri-Con Services also donated site preparation services valued at over $10,000 to the project. In November, all the parts and pieces began arriving that would eventually come together to construct a 22,000 square foot one-of-a-kind playground designed by the kids in Rowlett. Groundwork continued on the project until November 20th when Phase I of the playground build began. Representatives from Play By Design were on site to guide volunteers and City staff to begin to build the bones of the playground. Two weeks later, four staff from Play by Design were on site again to guide a team of volunteers and staff in Phase II of the build. At the end of the seventh day of the Phase II build, the playground was 90% complete. This effort would not have been possible without the 852 volunteers that volunteered approximately 3,339 hours over the nine days of the Phase I and Phase II of the build.

On July 7, 2015, City Council approved the following funding for the project:

Available Revenue	Amount	Purpose
Fundraising	$117,500.00	Five Playground Pieces with Shipping & any ancillary supplies
CIP Bond $	$557,500.00	Playground Equipment and Supplies
Cash Capital Maint $	$100,000.00	Playground Equipment and Supplies
TOTAL	**$775,000.00**	

DISCUSSION

During November as Phase I of the playground build came to a completion, there was a clear indication there would be several issues we would need to address including the possible need for an additional build day, the lack of volunteers and the need for possible additional funding for the project due to unexpected costs.

Issue One

On the final build day of Phase II it was determined that the project was indeed only 90% complete and would require one final build day with Play By Design staff. In addition to the few key pieces of equipment missing, the Bouncy Spider and the Apollo Net, it was determined that Lee Archin from Play By Design would need to return for one final build day in January 2016.

The Parks and Recreation and Public Works team have now worked to complete some of the final items on the 22,000 sq. foot playground, including installing all remaining fence pickets, building benches, and putting the final touches on screws, bolts and posts. This work included standard playground safety checks and sanding all screw holes, ensuring all screws were countersunk in the boards and checking every board to ensure proper routing was complete. Due to the tornado, the final steps of the playground were pushed back from January 2016 to February 2016. A representative from Dynamo Playgrounds will be on site to guide the Parks and Recreation team through installation of the final playground pieces on February 10 & 11, 2016. Lee Archin from Play By Design is scheduled to be on site on February 20, 2016, for the final build day. This day will not require volunteers but will instead be staffed with skilled construction volunteers and City staff in order to install the final benches and tie up all loose ends with the playground. Once this final build day is complete, Public Works staff will spend approximately two weeks doing the final ground preparation and beginning March 7, Playground Shade and Depot staff will be on hand to begin installation of the Pour in Place rubber playground surfacing. It is projected this process will take approximately 15-20 days depending on weather.

Issue Two

A challenge the City faced was the lack of volunteers that were available for Phase I and Phase II of the build. Although 852 volunteers sounds significant, the goal was to have 80-100 volunteers per shift for 9 days. There were three shifts each day. This would have afforded the project 2,160 volunteers on site for the project. Due to the shortfall of volunteers, both Public Works and Parks and Recreation Staff were tasked with pulling 10-12 hour days from November 7 through December 6. In addition, the City was forced to reach out to our temporary service providers to provide additional skilled labor staffing during Phase II of the build. In addition to temporary staffing, the City also reached out to the City of Denton, who had just completed their Play By Design playground project and were able to bring four highly skilled construction/carpentry workers from the City of Denton to ensure the project was on track. The cost of providing this additional labor was $41,283.50. This was a cost the City did not predict would be needed due to the attempt at volunteer efforts up to and during the Phases of the build.

Issue Three

In addition to the need for additional staffing resources, several other unpredicted costs came up during the build date including food expenses, miscellaneous tool expenses and the need for additional rental equipment and surfacing supplies. From November 7 through December 6, the City had staff on site 7 days a week often 10 - 12 hours per day. Food service was planned for the Phase I and Phase II build but not during other times before, between and after those dates. Other miscellaneous expenses arose on site such as additional tools, tape measures, additional screws, etc. Due to the lack of tool donations, the decision was made to purchase the tools the City of Denton had used for $12,000. This was a great resource for the City of Rowlett but did encompass an expense that was not originally planned. Other unexpected costs included rental equipment such as the need for a crane to place the tops on the pyramids and the head on the robot and the need to rent a rock bit for drilling holes to place key poles. The full financial/budget implications are outlined below. The Parks and Recreation Department Staff recommends using Park Pro Rata funds and funding from the Parks Maintenance Budget to offset the additional expenses.

Expense Type	Notes	Amount
Playground Depot	Pour In Place PO - encumbered	$219,530.08
Congress Materials	Crushed Concrete - encumbered	6,000.00
American Fence	Extension of Rental Fencing - encumbered	394.80
Various	Food, Tools, Labor, Advertising, Playground Supplies and Materials, Equipment Rentals, Consultant Travel, Pavilion	671,178.93
Remaining Expenses	Projected to complete project	40,000.00
Total Expenses for Current Project		**$937,103.81**

Available Funding	Amount
Actual Funds:	
Donations from Fundraising	$104,065.00
GO Bonds (May 2015 election)	557,500.00
Cash Capital Maintenance	100,000.00
Total Actual Funds	**$761,565.00**
Other Funds Required:	
Other funds spent or otherwise committed to finish project (i.e. shortfall)	**$200,249.00**
Total Funding for Current Project	**$961,814.00**
Future Funds:	
Less funds set aside from fundraising to fund final piece of equipment	$(24,710.19)
Total Funding for Current Project	**$937,103.81**

FINANCIAL/BUDGET IMPLICATIONS

Funding Source	Cash Capital Maintenance Funds	General Fund	Fundraiser Proceeds*	2015 GO Bonds	Total
Total Revenues	**$100,000.00**	**$ 0.00**	**$104,065.00**	**$557,500.00**	**$ 761,565.00**
Expended	74,097.39	75,131.98	79,354.81	442,594.75	671,178.93
Encumbered	25,902.61	85,117.02	-	114,905.25	225,924.88
Future Expenses	-	40,000.00	-	-	40,000.00
Total Expenses	**100,000.00**	**200,249.00**	**79,354.81**	**557,500.00**	**937,103.81**
Balance Surplus / (Shortfall)	**$ 0.00**	**($200,249.00)**	**$24,710.19***	**$ 0.00**	**($175,538.81)**

*Fundraising Funds designated to purchase final playground piece – Quad Pod. To Date, the Fundraising Committee has raised $97,565 in cash plus obtained $6,500 in Home Depot gift cards that were used to purchase miscellaneous tools during the build. The Quad Pod current cost estimate is $41,880.00, not including shipping and installation expenses.

In addition to the expenses above, there are approximately $40,000 in additional expenses that will be attributed toward the project. These additional expenses include additional cement for sidewalks, additional ground preparation materials needed before Pour In Place can be installed, additional Pour in Place rubber for under new pavilion, donor signage, fencing, storage containers, etc.

A total of $75,131.98 has been expended for the project out of the Parks Maintenance operating budget for FY2015 and FY2016. In FY2016 the Parks Maintenance operating budget absorbed $72,167.83 to date and an additional $2,964.15 was expended from the FY2015 Parks Maintenance Budget for project expenses. A portion of these funds could be charged to the Parks Pro Rata Fund.

RECOMMENDED ACTION

Parks and Recreation Department Staff, with support from the Parks and Recreation Advisory Board, would like to use funding from the Park Pro Rata funds and funding from the Parks Maintenance Budget to offset the shortfalls and additional expenses. The additional $200,249.00 will ensure the playground expenses are covered completely.

Funding Source	Amount
Park Pro Rata	$108,117.00
Parks Operating Budget	92,132.00
TOTAL	**$200,249.00**

City of Rowlett

Staff Report

4000 Main Street
P.O. Box 99
Rowlett, TX 75030-0099
www.rowlett.com

AGENDA DATE: 02/16/16 **AGENDA ITEM**: 3C

TITLE

Discuss an opportunity to secure Green Ribbon Project funding through TxDOT for landscaping enhancements along Lakeview Parkway (SH 66) corridor in conjunction with Keep Rowlett Beautiful, Inc. (KRB) projects and the planned entrance feature for Downtown Rowlett at Martin Drive and Lakeview Parkway. (30 minutes)

STAFF REPRESENTATIVE

Jim Grabenhorst, Director of Economic Development
Angie Smith, Interm Director of Parks and Recreation

SUMMARY

City staff has been working with the Economic Development Advisory Board (EDAB) and Keep Rowlett Beautiful, Inc. (KRB) on their respective enhancements along Lakeview Parkway (SH 66). Those discussions have included communications with Texas Department of Transportation (TxDOT) officials who have encouraged the City to apply for potential grant funding through a program they administer called Green Ribbon Project (GRP) funds. The purpose of this item is to discuss this opportunity with City Council and determine if the City should pursue GRP funding with a submittal due date in May 2016.

BACKGROUND INFORMATION

City staff and the EDAB have been working with la terra studio, landscape architects, on developing an entrance feature for Downtown Rowlett at the intersection of Martin Drive and Lakeview Parkway. In addition, City staff has been assisting KRB on their design, planning and installation of improvements associated with the $250,000 grant awarded to KRB through the Keep Texas Beautiful program and the Governor's Community Achievement Awards (GCAA) in June 2014 as the first place winner in Category 7.

Through interaction with TxDOT staff from the Dallas district on the above projects, TxDOT has encouraged the City to consider applying for GRP funds for landscaping enhancements for the entire Lakeview Parkway (SH 66) corridor. City staff, KRB, EDAB and la terra studio began discussions in late October 2015 about this opportunity to consider a corridor wide approach through the assistance of TxDOT and GRP funds.

DISCUSSION

The Green Ribbon Project Corridor Aesthetics and Landscape Master Plan (GRP), established in 1999 by the TxDOT-Houston District is a TxDOT implemented corridor aesthetics and landscape master plan, which was created with input from a special committee, consultant team and the general public. Primary goals include establishing a higher level of visual appeal along the

transportation corridors through landscape and architectural improvements and promoting and enhancing highway safety while maintaining traffic flows. In 2001, the Texas Legislature, 77th Session, added Rider 57 to TxDOT's appropriation that required TxDOT to expand the concepts of GRP to other areas of the state.

City staff and la terra studio will present information on this opportunity to City Council at the work session with the goal of getting direction from City Council to continue pursuing GRP funds and the potential to make a submittal by May 2016 for a phased approach on developing a Lakeview Parkway corridor wide master plan.

FINANCIAL/BUDGET IMPLICATIONS

City staff will discuss the potential financial/budget implication during the work session. In order to pursue a submittal for GRP funds, the City would be responsible for the costs associated with the design and construction plans to be submitted to TxDOT. The costs associated with engaging a landscape architect to develop the design and construction documents is typically 8-10% of the cost of the improvements. (For example, if the landscape construction improvements is $500,000, the cost to the City to develop the design and plans would be approximately $40,000-$50,000.)

City staff is currently in the process of identifying funding solutions to help cover the cost of the tornado disaster. This project is not in our current budget plan and would require additional funds that will compete with the disaster cost. What has to be weighed is whether the benefits of leveraging $50,000 or so to bring $500,000 to $1,000,000 in grant funds. If so, a possible source would be the Economic Development Fund which has $885,196 in reserves, primarily due to the $600,000 land payment last fall.

RECOMMENDED ACTION

No action required, this is for discussion purposes. Upon Council direction, staff will bring back a future action item for Council consideration.

City of Rowlett

Staff Report

4000 Main Street
P.O. Box 99
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www.rowlett.com

AGENDA DATE: 02/16/16 **AGENDA ITEM**: 5A

TITLE

Hear presentation of the Monthly Financial report for the period ending December 31, 2015.

STAFF REPRESENTATIVE

Kim Galvin, Director of Financial Services

SUMMARY

Attached is the Comprehensive Monthly Financial Report for December 2015, in accordance with the City Council's financial strategy to provide timely and accurate reporting. The fiscal year for the City of Rowlett is October 1 through September 30. Three months of FY2016, or 25.0% of the fiscal year is complete.

BACKGROUND INFORMATION

The City of Rowlett Department of Financial Services is dedicated to excellence in local government, comprehensive fiscal management, compliance and reporting. The Comprehensive Monthly Finance Report (CMFR) is a unique document that is prepared each month and is directed at providing our audience (internal and external users), with important information about the City's financial position and operations.

DISCUSSION

Attached is the Comprehensive Monthly Financial report for December 2015. Three months of FY2016, or 25.0% of the fiscal year is complete.

Revenues: Overall, the City has earned or received $31.6 million for FY2016. This amount is 35.1% of the approved operating budget of $90.2 million and is 3.0% more than forecast through the month of December.

- General Fund revenues are $0.2 million or 1.2% higher than expected
- Utility Fund revenues are $0.5 million or 8.0% higher than expected.

Expenditures: Expenses totaled $19.3 million year-to-date for FY2016. This amount is 21.5% of the approved operating budget of $89.8 million and is 2.1% higher than forecast through the month of December.

- General Fund expenditures are $43 thousand or 0.4% higher than expected.
- Utility Fund expenditures are $0.5 million or 8.8% higher than expected.

Surplus: The net surplus from operations through December is $12.4 million, which is $0.5 million better than expected at this point in the year. The adopted operating budget for the fiscal year anticipates a total increase of $0.4 million.

FINANCIAL/BUDGET IMPLICATIONS

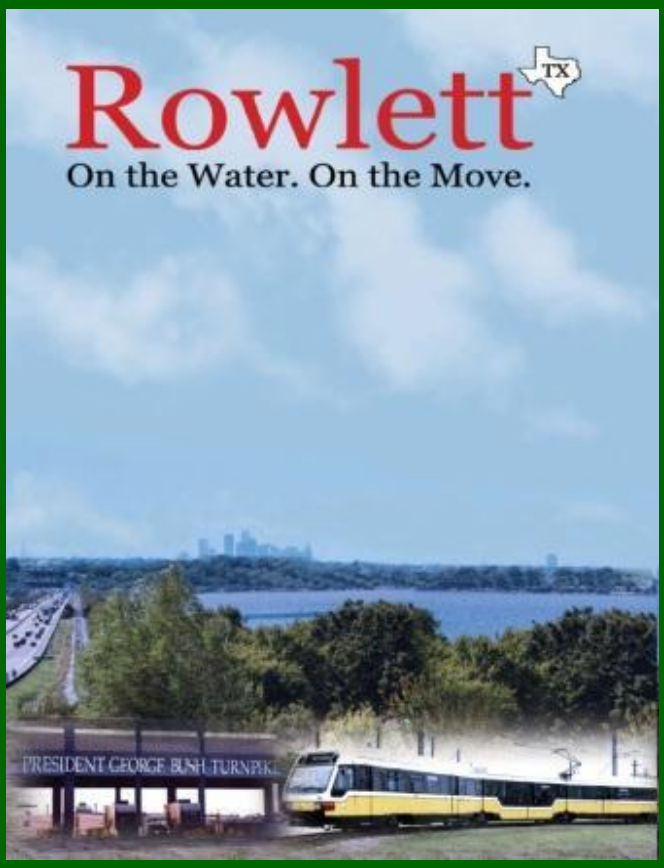
N/A

RECOMMENDED ACTION

Information only. The Comprehensive Monthly Financial Report – December 31, 2015 is attached to this agenda item as Attachment 1.

ATTACHMENT

Attachment 1 – Comprehensive Monthly Financial Report – December 31, 2015



Rowlett
TEXAS

Comprehensive Monthly Financial Report

December 2015

MONTHLY FINANCIAL REPORT

PERFORMANCE AT A GLANCE — December 2015

	YEAR TO DATE	REFERENCE
ALL FUNDS SUMMARY	POSITIVE	Page 4
GENERAL FUND REV VS EXP	POSITIVE	Page 5
PROPERTY TAXES	POSITIVE	Page 5
SALES TAXES	POSITIVE	Page 6
FRANCHISE FEES	POSITIVE	Page 6
UTILITY FUND REV VS EXP	POSITIVE	Page 7
SEWER REVENUES	POSITIVE	Page 7
WATER REVENUES	POSITIVE	Page 8
WATER USAGE	POSITIVE	Page 8
REFUSE FUND REV VS EXP	POSITIVE	Page 9
DRAINAGE FUND REV VS EXP	POSITIVE	Page 9
DEBT SERVICE FUND REV VS EXP	POSITIVE	Page 10
EMPLOYEE BENEFITS REV VS EXP	POSITIVE	Page 10

PERFORMANCE INDICATORS

POSITIVE = Positive variance or negative variance < 1% compared to seasonal trends.

WARNING = Negative variance of 1-5% compared to seasonal trends

NEGATIVE = Negative variance of >5% compared to seasonal trends.

ECONOMIC INDICATORS

ECONOMY

National GDP:

GDP - the output of goods and services produced by labor and property located in the US – increased at a rate of 2.0% in the 3rd quarter of 2015 after increasing 3.9% in the 2nd quarter of 2015 as reported by the Bureau of Economic Analysis. The third-quarter increase mainly reflected an increase in consumer spending. Spending on services increased, notably on health care.

Texas Retail Sales:

Texas retail sales totaled $41.2 billion for the month of Oct., an increase of $0.4 billion (1.0%) over Oct. 2014.

Texas Leading Index:

The Texas Leading Index is a single summary statistic that sheds light on the future of the state's economy. The index is a composite of eight leading indicators—those that tend to change direction before the overall economy. The index decreased 0.08% between the months of October and November.

UNEMPLOYMENT

National Unemployment:

The national unemployment rate remained at 5.0% in both November and December.

State-Wide:

The Texas unemployment rate increased from 4.4% in October to 4.6% in November.

Rowlett:

The City of Rowlett unemployment rate increased between October and November from 3.9% to 4.0%. Note – city unemployment rates are not seasonally adjusted.

December 31, 2015 – NEWS FOR YOU

Attached is the Comprehensive Monthly Financial report for December 2015. Three months of FY2016, or 25.0% of the fiscal year is complete.

Revenues: Overall, the City has earned or received $31.6 million for FY2016. This amount is 35.1% of the approved operating budget of $90.2 million and is 3.0% more than forecast through the month of December.

- General Fund revenues are $0.2 million or 1.2% higher than expected
- Utility Fund revenues are $0.5 million or 8.0% higher than expected.

Expenditures: Expenses totaled $19.3 million year-to-date for FY2016. This amount is 21.5% of the approved operating budget of $89.8 million and is 2.1% higher than forecast through the month of December.

- General Fund expenditures are $43 thousand or 0.4% higher than expected.
- Utility Fund expenditures are $0.5 million or 8.8% higher than expected.

Surplus: The net surplus from operations through December is $12.4 million which is $0.5 million better than expected at this point in the year. The adopted operating budget for the fiscal year anticipates a total increase of $0.4 million.

NOTEWORTHY

ON DECEMBER 26, 2015 AROUND 7:00PM CST, ROWLETT, TEXAS WAS HIT BY AN EF4 TORNADO THAT CAUSED WIDESPREAD DEVASTATION IN OUR COMMUNITY. 1,145 homes and businesses were impacted. 23 individuals were injured with no fatalities. Approximately 8,000 homes and businesses lost power, over 6,000 of which were in Rowlett. For additional tornado recovery information, visit

Rowlett, TX - Official Website - Tornado Information.

CITY OF ROWLETT, TEXAS
FINANCIAL STATUS DASHBOARD
December 31, 2015

BUDGET SUMMARY OF ALL FUNDS FY2015

	2015 Budget	2015 Forecast	2015 Year-to-Date	Variance
Beginning Reserves	**$ 14,113,838**	**$ 13,745,376**	**$ 13,745,376**	**0.0%**
Revenues:				
General	40,452,242	16,666,514	16,871,994	1.2%
Water & sewer	28,901,031	6,642,585	7,173,245	8.0%
Debt service	7,997,408	4,722,054	4,785,130	1.3%
Drainage	1,360,397	339,941	333,399	-1.9%
Refuse	4,827,003	1,206,664	1,228,833	1.8%
Employee health benefits	5,010,230	845,746	825,148	-2.4%
Police seizure	100,550	25,138	11,551	-54.0%
Economic development	316,694	79,174	133,274	68.3%
Hotel/motel tax	47,752	11,914	11,157	-6.4%
P.E.G.	85,893	-	20,562	0.0%
Grants	356,634	44,946	94,662	110.6%
Community Development Block Grant	179,247	44,812	23,588	-47.4%
Inspection Fees Fund	225,000	56,250	92,597	64.6%
Juvenile diversion	33,281	8,320	6,013	-27.7%
Court technology	26,936	6,734	5,293	-21.4%
Court security	20,035	5,009	3,991	-20.3%
Golf course	257,005	40	-	0.0%
Total Revenues	$ 90,197,338	$ 30,705,841	$ 31,620,438	**3.0%**
Expenses:				
General	40,781,726	10,081,070	10,124,092	0.4%
Water & sewer	27,410,712	5,594,930	6,086,617	8.8%
Debt service	8,552,017	140,866	132,125	-6.2%
Drainage	1,401,835	272,849	213,859	-21.6%
Refuse	4,774,880	1,193,720	1,199,974	0.5%
Employee health benefits	4,967,764	1,240,371	1,034,364	-16.6%
Police seizure	187,097	46,774	97,246	107.9%
Economic development	443,023	106,292	146,618	37.9%
Hotel/motel tax	48,749	-	12,165	0.0%
P.E.G.	90,543	22,636	58,322	157.7%
Grants	359,565	44,946	94,662	110.6%
Community Development Block Grant	179,247	44,812	23,588	-47.4%
Inspection Fees Fund	218,760	50,483	30,338	-39.9%
Juvenile diversion	38,738	8,940	7,058	-21.0%
Court technology	43,874	10,969	1,042	-90.5%
Court security	23,672	5,918	7,488	26.5%
Golf course	254,990	-	-	0.0%
Total Expenses	$ 89,777,192	$ 18,865,575	$ 19,269,559	**2.1%**
Current Year Surplus/(Shortfall)	**$ 420,146**	**$ 11,840,267**	**$ 12,350,880**	**4.3%**
Ending Reserves	**$ 14,283,985**	**$ 25,585,642**	**$ 26,096,255**	**2.0%**

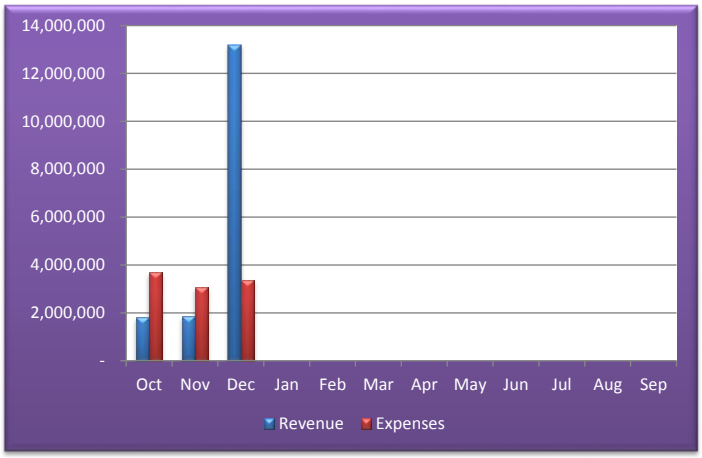
Positive	Positive variance or negative variance <1% compared to forecast
Warning	Negative variance between 1%-5% compared to forecast
Negative	Negative variance >5% compared to forecast

CITY OF ROWLETT, TEXAS
FINANCIAL STATUS DASHBOARD
December 31, 2015

OVERALL FUND PERFORMANCE

GENERAL FUND REVENUES VS EXPENSES FY2015

Month	2015 Revenue	2015 Expenses	Monthly Variance
Oct	1,803,893	3,689,831	$ (1,885,938)
Nov	1,857,665	3,060,768	$ (1,203,103)
Dec	13,210,437	3,373,494	$ 9,836,943
Jan			
Feb			
Mar			
Apr			
May			
Jun			
Jul			
Aug			
Sep			
Total	$ 16,871,995	$ 10,124,093	$ 6,747,902
Cumulative Forecast	*$ 16,666,514*	*$ 10,081,070*	*$ 6,585,444*
Actual to Forecast $	*$ 205,481*	*$ 43,023*	*$ 162,458*
Actual to Forecast %	*1.2%*	*0.4%*	



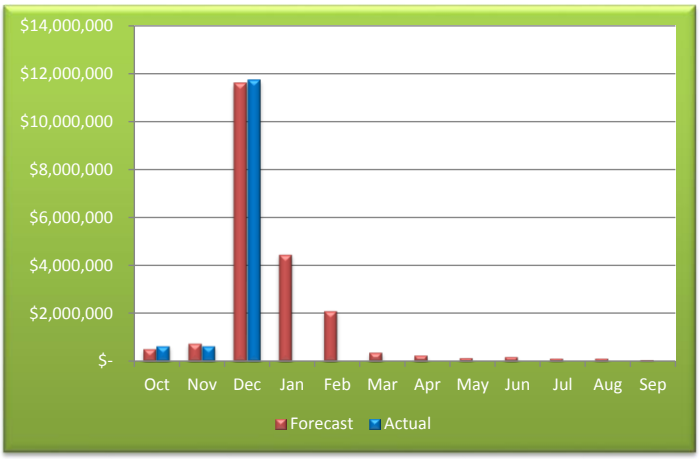
Positive

Cumulatively overall, the General Fund is better than forecasted for this time of the year, with revenues exceeding the forecast by 1.2% and expenses 0.4% higher than forecasted. These differences are primarily due to higher than expected property and sales taxes revenues and higher than expected overtime expenses.

REVENUE ANALYSIS

PROPERTY TAXES FY2015

Month	2015 Forecast	2015 Actual	Monthly Variance
Oct	$ 518,315	635,883	$ 117,568
Nov	746,373	642,668	(103,705)
Dec	11,610,248	11,750,304	140,057
Jan	4,478,238		
Feb	2,114,724		
Mar	373,187		
Apr	248,791		
May	145,128		
Jun	186,593		
Jul	124,396		
Aug	124,396		
Sep	62,198		
Total	$ 20,732,585	$ 13,028,855	$ 153,920
Actual to Forecast			*1.2%*



Positive

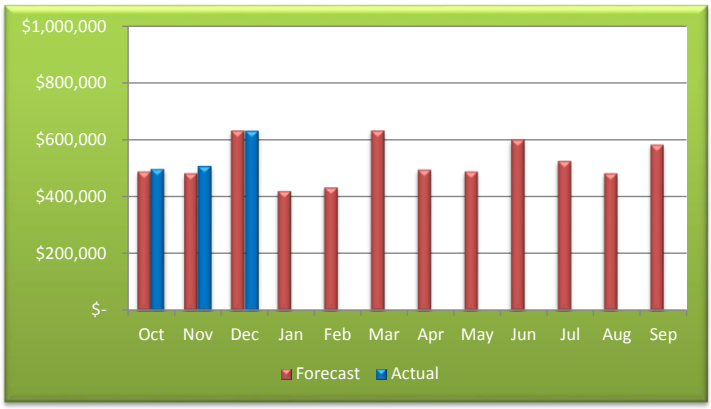
Property taxes represents nearly 50% of the total General Fund revenue budget and serves as the primary funding source for the general government. They are generally collected in December and January of each year. Cumulatively overall, property tax revenues are 1.2% higher than forecasted for this time of the year.

CITY OF ROWLETT, TEXAS
FINANCIAL STATUS DASHBOARD
December 31, 2015

REVENUE ANALYSIS

SALES TAXES FY2015

Month	2015 Forecast	2015 Actual	Monthly Variance
Oct	$ 487,626	$ 497,364	$ 9,738
Nov	481,375	507,859	26,484
Dec	631,413	631,413	-
Jan	418,858		
Feb	431,362		
Mar	631,413		
Apr	493,878		
May	487,626		
Jun	600,155		
Jul	525,136		
Aug	481,375		
Sep	581,400		
Total	$ 6,251,617	$ 1,636,636	$ 36,222
Actual to Forecast			*2.3%*



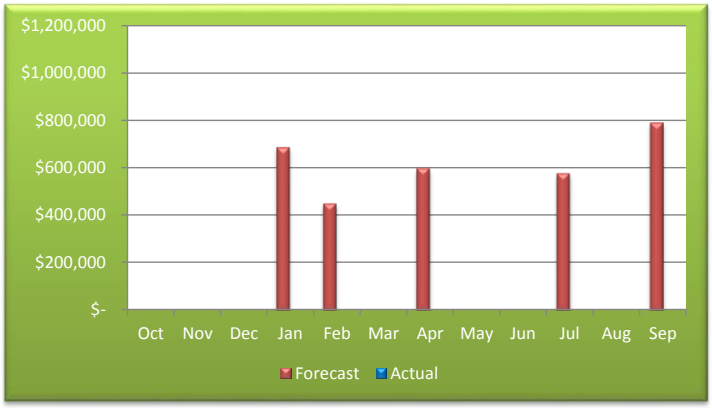
Positive

Sales tax is an important indicator of financial health for the Rowlett community. Sales taxes are collected by the State Comptroller and are recorded two months later. Overall, sales tax revenues are 2.3% higher than budgeted for this fiscal year. The sales taxes reported here for December represent an estimate.

REVENUE ANALYSIS

FRANCHISE FEES FY2015

Month	2015 Forecast	2015 Actual	Monthly Variance
Oct	$ -	$ -	$ -
Nov	-	-	-
Dec	-	9	9
Jan	684,373		
Feb	449,247		
Mar	-		
Apr	597,132		
May	-		
Jun	-		
Jul	575,539		
Aug	-		
Sep	787,599		
Total	$ 3,093,891	$ 9	$ 9
Actual to Forecast			*0.0%*



Positive

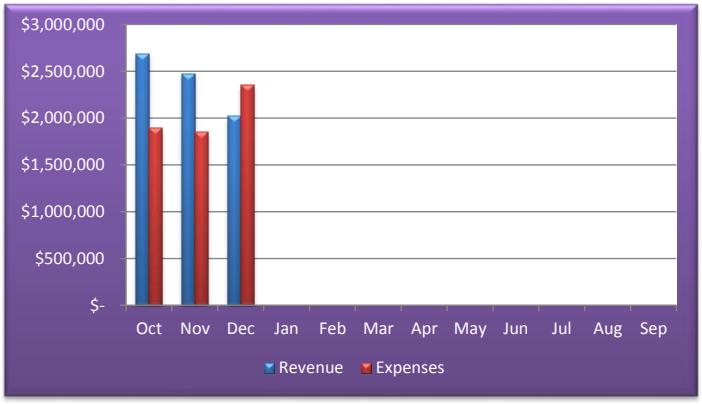
Franchise fees represents nearly 10% of the total General Fund budget and include electric, gas, cable and telecommunications. Most fees are paid quarterly with natural gas being paid yearly in February.

CITY OF ROWLETT, TEXAS
FINANCIAL STATUS DASHBOARD
December 31, 2015

OVERALL FUND PERFORMANCE

UTILITY FUND REVENUES VS EXPENSES FY2015

Month	2015 Revenue	2015 Expenses	Monthly Variance
Oct	$ 2,682,717	$ 1,889,190	$ 793,527
Nov	2,473,831	1,850,141	623,690
Dec	2,016,697	2,347,286	(330,589)
Jan			
Feb			
Mar			
Apr			
May			
Jun			
Jul			
Aug			
Sep			
Total	$ 7,173,245	$ 6,086,617	$ 1,086,628
Cumulative Forecast	*$ 6,642,585*	*$ 5,594,930*	*$ 1,047,656*
Actual to Forecast $	*$ 530,660*	*$ 491,688*	*$ 38,972*
Actual to Forecast	*8.0%*	*8.8%*	



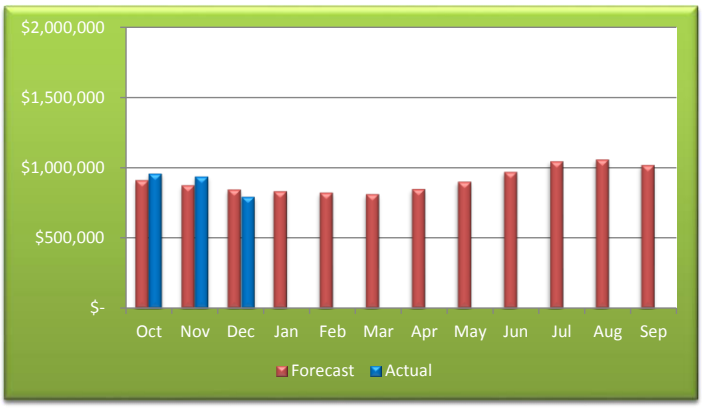
Positive

Utility fund revenues are 8.0% higher than forecast as a result of higher than expected water and sewer revenues. Expenses are 8.8% higher than forecast due to higher than expected overtime expenses and wastewater treatment expenses. The fund makes semi-annual debt payments in March and September.

REVENUE ANALYSIS

SEWER REVENUES FY2015

Month	2015 Forecast	2015 Actual	Monthly Variance
Oct	$ 909,883	$ 959,040	$ 49,157
Nov	873,354	937,249	63,895
Dec	842,927	794,871	(48,056)
Jan	830,971		
Feb	822,173		
Mar	810,975		
Apr	846,813		
May	899,217		
Jun	967,756		
Jul	1,044,105		
Aug	1,056,180		
Sep	1,017,048		
Total	$ 10,921,401	$ 2,691,160	$ 64,996
Actual to Forecast			*2.5%*



Positive

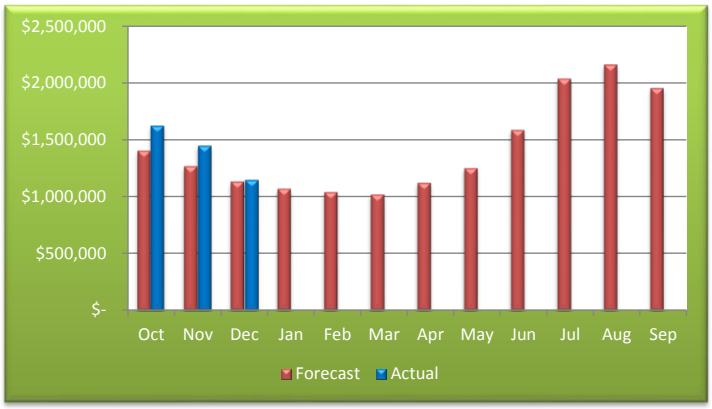
Sewer sales represent over 40% of the Utility Fund budget and cover the cost of sewer treatment paid to City of Garland. Cumulatively overall, sewer revenues are 2.5% higher than forecasted for this time of year.

CITY OF ROWLETT, TEXAS
FINANCIAL STATUS DASHBOARD
December 31, 2015

REVENUE ANALYSIS

WATER REVENUES FY2015

Month	2015 Forecast	2015 Actual	Monthly Variance
Oct	$ 1,403,401	$ 1,621,805	$ 218,404
Nov	1,266,499	1,446,969	180,470
Dec	1,132,796	1,145,412	12,617
Jan	1,069,153		
Feb	1,039,399		
Mar	1,018,224		
Apr	1,121,145		
May	1,248,648		
Jun	1,585,123		
Jul	2,033,999		
Aug	2,158,983		
Sep	1,950,603		
Total	$ 17,027,975	$ 4,214,186	$ 411,490
Actual to Forecast			*10.8%*



Positive

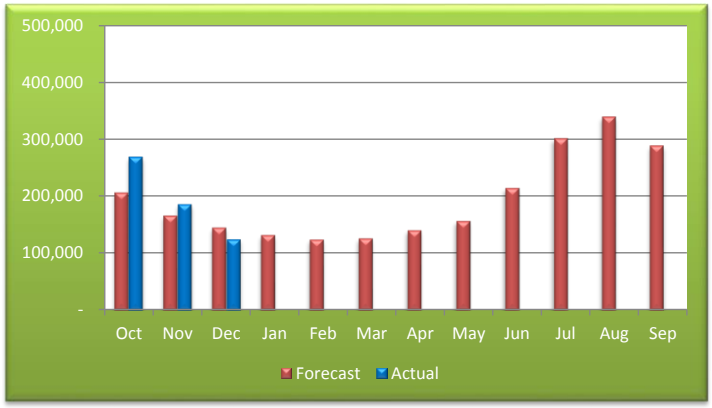
Water sales represent just over 50% of the total Utility Fund budget and cover the cost of water acquisition from the North Texas Municipal Water District. Cumulatively, water revenues are 10.8% higher than the forecast for this time of year.

REVENUE ANALYSIS

WATER USAGE FY2015

Month	2015 Forecast	2015 Actual	Monthly Variance
Oct	205,688	268,258	62,570
Nov	165,430	185,897	20,467
Dec	144,647	124,951	(19,696)
Jan	131,535		
Feb	123,505		
Mar	125,372		
Apr	139,784		
May	155,805		
Jun	213,519		
Jul	300,529		
Aug	338,135		
Sep	287,959		
Total	2,331,906	579,106	63,342
Actual to Forecast			*12.3%*

(IN THOUSAND GALLONS)



Positive

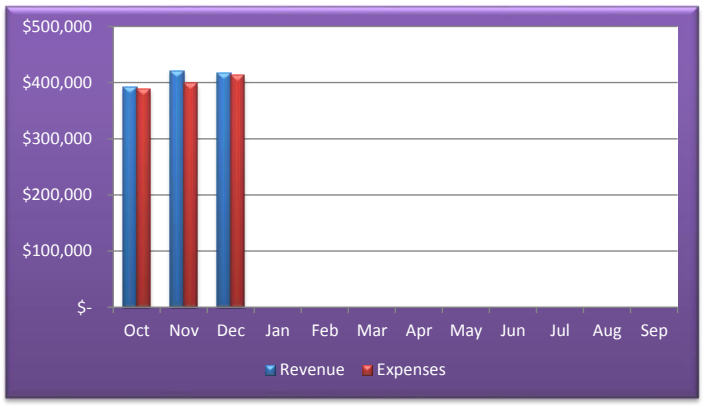
The City purchases its water from the North Texas Municipal Water District. Customer usage in December is 13.6% lower than forecast, but cumulatively customer usage is 12.3% higher than forecast. The contract with NTMWD requires the City to pay for a minimum of 3.2 billion gallons of water per year.

CITY OF ROWLETT, TEXAS
FINANCIAL STATUS DASHBOARD
December 31, 2015

OVERALL FUND PERFORMANCE

REFUSE FUND REVENUES VS EXPENSES FY2015

Month	2015 Revenue	2015 Expenses	Monthly Variance
Oct	$ 391,264	$ 388,769	$ 2,495
Nov	421,039	398,249	22,790
Dec	416,530	412,957	3,574
Jan			
Feb			
Mar			
Apr			
May			
Jun			
Jul			
Aug			
Sep			
Total	$ 1,228,833	$ 1,199,975	$ 28,859
Cumulative Forecast	*$ 1,206,664*	*$ 1,193,720*	*$ 12,944*
Actual to Forecast $	*$ 22,169*	*$ 6,255*	*$ 15,914*
Actual to Forecast	*1.8%*	*0.5%*	



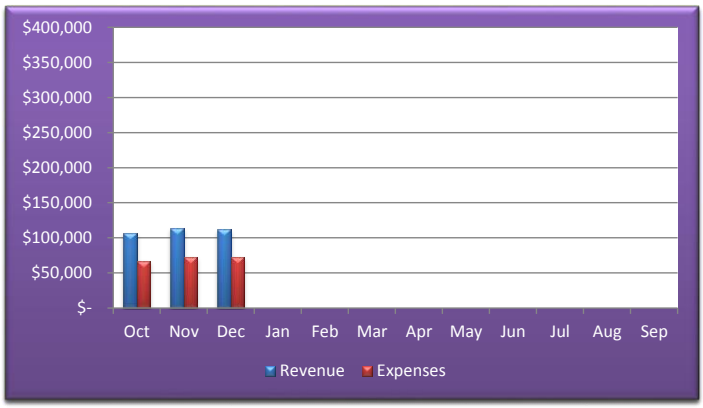
Positive

The Refuse Fund accounts for monies collected from customers on their utility bills and remitted to our solid waste provider. Revenues are currently 1.8% higher than forecasted, and expenses are 0.5% higher than forecasted.

OVERALL FUND PERFORMANCE

DRAINAGE FUND REVENUES VS EXPENSES FY2015

Month	2015 Revenue	2015 Expenses	Monthly Variance
Oct	$ 107,637	$ 67,427	$ 40,210
Nov	113,549	73,163	40,386
Dec	112,214	73,269	38,945
Jan			
Feb			
Mar			
Apr			
May			
Jun			
Jul			
Aug			
Sep			
Total	$ 333,400	$ 213,859	$ 119,541
Cumulative Forecast	*$ 339,941*	*$ 272,849*	*$ 67,092*
Actual to Forecast $	*$ (6,540)*	*$ (58,990)*	*$ 52,449*
Actual to Forecast	*-1.9%*	*-21.6%*	



Positive

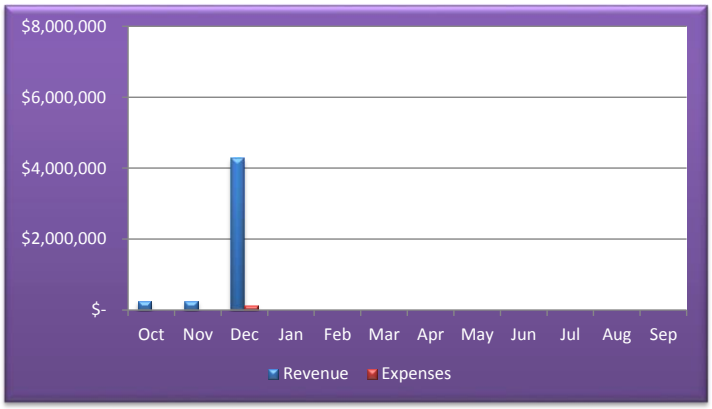
The Drainage Fund accounts for monies collected from customers on their utility bills for the municipal drainage system. Cumulatively overall, the fund is better than forecasted for this time of the year, with revenues 1.9% lower than forecasted but expenses 21.6% lower than forecasted.

CITY OF ROWLETT, TEXAS
FINANCIAL STATUS DASHBOARD
December 31, 2015

OVERALL FUND PERFORMANCE

DEBT SERVICE FUND REVENUES VS EXPENSES FY2015

Month	2015 Revenue	2015 Expenses	Monthly Variance
Oct	$ 256,615	$ 3,910	$ 252,705
Nov	253,679	898	252,781
Dec	4,274,836	127,318	4,147,518
Jan			
Feb			
Mar			
Apr			
May			
Jun			
Jul			
Aug			
Sep			
Total	$ 4,785,130	$ 132,126	$ 4,653,004
Cumulative Forecast	*$ 4,722,054*	*$ 140,866*	*$ 4,581,188*
Actual to Forecast $	*$ 63,075*	*$ (8,740)*	*$ 71,815*
Actual to Forecast	*1.3%*	*-6.2%*	



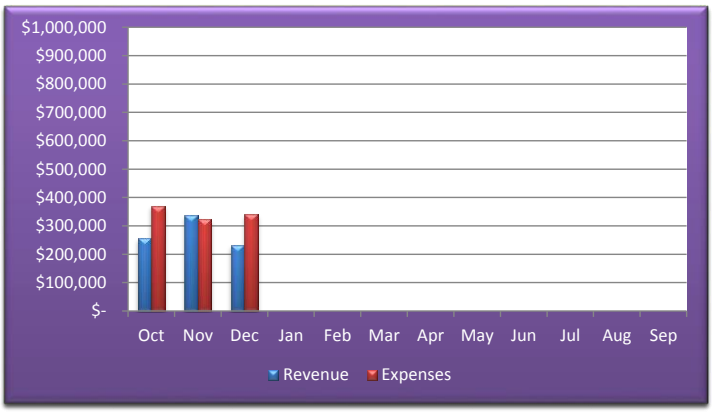
Positive

General Debt Service Fund is used to pay principal and interest on tax-supported debt. Overall, the fund is better than forecasted, with revenues 1.3% higher than projected and expenses 6.2% lower than expected. The fund pays conduit debt in December and makes other semi-annual debt payments in February and August.

OVERALL FUND PERFORMANCE

EMPLOYEE HEALTH BENEFITS FUND REVENUES VS EXPENSES FY2015

Month	2015 Revenue	2015 Expenses	Monthly Variance
Oct	$ 256,170	$ 370,713	$ (114,543)
Nov	336,817	323,391	13,426
Dec	232,162	340,261	(108,099)
Jan			
Feb			
Mar			
Apr			
May			
Jun			
Jul			
Aug			
Sep			
Total	$ 825,149	$ 1,034,365	$ (209,216)
Cumulative Forecast	*$ 845,746*	*$ 1,240,371*	*$ (394,625)*
Actual to Forecast $	*$ (20,597)*	*$ (206,006)*	*$ 185,409*
Actual to Forecast	*-2.4%*	*-16.6%*	



Positive

Employee Health Benefits Fund accounts for all health related claims paid from the City's partial self-insured fund. Overall, revenues are 2.4% lower than forecasted and expenses are 16.6% lower than forecasted. Revenues reflect lower than expected premium payments due to vacancies and plan choices, and expenses are lower than forecasted due to lower than expected claims.

City of Rowlett

Staff Report

4000 Main Street
P.O. Box 99
Rowlett, TX 75030-0099
www.rowlett.com

AGENDA DATE: 02/16/16 **AGENDA ITEM**: 5B

TITLE

Update from the City Council and Management: Financial Position, Major Projects, Operational Issues, Upcoming Dates of Interest and Items of Community Interest.

STAFF REPRESENTATIVE

Brian Funderburk, City Manager

City of Rowlett

Staff Report

4000 Main Street
P.O. Box 99
Rowlett, TX 75030-0099
www.rowlett.com

AGENDA DATE: 02/16/16 **AGENDA ITEM**: 7A

TITLE

Consider action to approve minutes from the February 2, 2016 City Council Regular Meeting .

STAFF REPRESENTATIVE

Laura Hallmark, City Secretary

SUMMARY

Section 551.021 of the Government Code provides as follows:

(a) A governmental body shall prepare and keep minutes or make a tape recording of each open meeting of the body.

(b) The minutes must:
   (1) state the subject of each deliberation; and
   (2) indicate each vote, order, decisions or other action taken.

RECOMMENDED ACTION

Move to approve, amend or correct the minutes for the February 2, 2016 City Council Regular Meeting.

ATTACHMENT

02-02-16 City Council Regular Meeting Minutes

City of Rowlett

Meeting Minutes

City Council

4000 Main Street
Rowlett, TX 75088
www.rowlett.com

City of Rowlett City Council meetings are available to all persons regardless of disability. If you require special assistance, please contact the City Secretary at 972-412-6115 or write 4000 Main Street, Rowlett, Texas, 75088, at least 48 hours in advance of the meeting.

Tuesday, February 2, 2016 **6:00 P.M.** **Municipal Building – 4000 Main Street**

As authorized by Section 551.071 of the Texas Government Code, this meeting may be convened into closed Executive Session for the purpose of seeking confidential legal advice from the City Attorney on any agenda item herein.

The City of Rowlett reserves the right to reconvene, recess or realign the Regular Session or called Executive Session or order of business at any time prior to adjournment.

Present: **Mayor Gottel, Mayor Pro Tem Gallops, Deputy Mayor Pro Tem Dana-Bashian, Councilmember van Bloemendaal, Councilmember Bobbitt, and Councilmember Sheffield**

Absent: **Councilmember Pankratz**

1. CALL TO ORDER

Mayor Gottel called the meeting to order at 6:00 p.m.

2. EXECUTIVE SESSION (6:00 P.M.) * Times listed are approximate.

2A. The City Council shall convene into Executive Session pursuant to the Texas Government Code, §551.087 (Economic Development) and §551.071 (Consultation with Attorney) to discuss and deliberate regarding commercial or financial information that the Council has received from a business prospect that the Council seeks to have locate in the City, and to deliberate the offer of financial incentives with Evergreen at Rowlett Senior Living, and to receive legal advice from the City Attorney and discuss the Evergreen at Rowlett Senior Living Economic Development Incentive agreement. (30 minutes)

In at 6:01 p.m. Out at 6:11 p.m.

3. WORK SESSION (6:30 P.M.)

3A. Discuss proposed ballot language for Charter Review Commission recommendations. (45 minutes)

Laura Hallmark, City Secretary presented the draft verbiage provided by City Attorney, David Berman for the eight recommendations from the Charter Review Commission. Upon review, it

was the consensus of Council to proceed with all eight propositions on the ballot. The Special Election will be ordered at the February 16th City Council meeting.

Mayor Gottel left the meeting at 6:40 p.m.

4. DISCUSS CONSENT AGENDA ITEMS

Council took a short break at 6:45 p.m.

CONVENE INTO THE COUNCIL CHAMBERS (7:30 P.M.)*

Council reconvened at 7:33 p.m. Mayor Gottel returned to the meeting.

INVOCATION – Mayor Pro Tem Gallops

PLEDGE OF ALLEGIANCE
TEXAS PLEDGE OF ALLEGIANCE – Led by the City Council

5. PRESENTATIONS AND PROCLAMATIONS

5A. Presentation of donation for tornado survivors from Chang Lee's Taekwondo USA.

Mayor Gottel accepted a check in the amount of $1,086. Taekwondo students demonstrated some board breaking, which was the fundraising activity.

5B. Presentation of donation by Atmos Energy to Community Emergency Response Team (CERT) and recognition of Roy Moss of Atmos Energy.

Mayor Gottel introduced Eva Hummel with Atmos Energy, who presented a check in the amount of $50,000 to CERT.

Mayor Pro Tem Gallops presented the proclamation to Mr. Moss.

5C. Proclamations recognizing the 2016 Rowlett Arts and Humanities Commission's Young Artists Exhibit winners.

Councilmember van Bloemendaal presented proclamations to winners and members of the Arts and Humanities Commission presented each of the winners with a check. Winners and honorable mention were:

First Place winner in the K-2 grade division, two-dimensional category:
James Lovell for his entry, "The Grass is Greener". James attends Amy Parks Heath Elementary School.

First Place winner in the K-2 grade division, three-dimensional category:
No entries were received.

First Place winner in the 3-5 grade division, two-dimensional category:
Jack Sharp for his entry, “Owl’s Embrace”. Jack attends Amy Parks Heath Elementary School.

First Place winner in the 3-5 grade division, three-dimensional category:
No entries were received.
First Place winner in the 6-8 grade division, two-dimensional category:
Carter Chase for his entry, “Frog”. Carter attends J. W. Williams Middle School.

First Place winner in the 6-8 grade division, three-dimensional category:
Cheyenne Smith for her entry, “Nature in Copper”. Cheyenne attends J. W. Williams Middle School.

First Place winner in the 9-12 grade division, two-dimensional category:
Gaby Banda for her entry, “Holding a Triangle”. Gaby attends Rowlett High School.

First Place winner in the 9-12 grade division, three-dimensional category:
Morgan Carter for her entry, “Dusk”. Morgan attends Rowlett High School.

Second Place winners in the two-dimensional category:

- K-2 grade division: Estrella Alvarez for “A Purple Kind of Day”
- 3-5 grade division: Daniella Gonzales for “Nutcracker”
- 6-8 grade division: Everett Weir for “Nature Collection”
- 9-12 grade division: Nick Moulder for “Looking Up – Looking Down”

Second Place winners in the three-dimensional category:

- K-2 grade division: *No entries received*
- 3-5 grade division: *No entries received*
- 6-8 grade division: Emilie Dondero for “Twisting”
- 9-12 grade division: Tyler Zachary for “Bubbles and Fish”

Third Place winners for the two-dimensional category:

- K-2 grade division: Tozi Manyukwa for “Analogous Life”
- 3-5 grade division: Alyssa Drupp for “1 – 2 – 3”
- 6-8 grade division: Becka Knight for “Winter”
- 9-12 grade division: Cassandra Jobman for “Monkey Face”

Third Place winners in the three-dimensional category:

- K-2 grade division: *No entries received*
- 3-5 grade division: *No entries received*
- 6-8 grade division: Bella Macaluso for “Athena, Goddess of War”
- 9-12 grade division: Bianca Espinoza for “Cityscape”

Honorable Mention in the two-dimensional category:

- K-2 grade division: Vanessa Viera for “A Falling”
- 3-5 grade division: Drew Sitterle for “Gumballs Galore”

- 6-8 grade division: Bridget Winson for "Notre-Dame"
- 9-12 grade division: Marissa Carpenter for "Two Dinos in Trouble"

Honorable Mention in the three-dimensional category:

- K-2 grade division: *No entries received*
- 3-5 grade division: *No entries received*
- 6-8 grade division: Kalyn Dryman for "Metal in Pink and Black"
- 9-12 grade division: Tyler Zachary for "Grandparent's Home"

5D. Update from the City Council and Management: Financial Position, Major Projects, Operational Issues, Upcoming Dates of Interest and Items of Community Interest.

Mayor Gottel announced the following:

INFORMATION ABOUT THE TORNADO CAN BE FOUND ON THE MAIN PAGE OF THE CITY'S WEBSITE AT www.rowlett.com CLICK ON "VIEW ALL" AT THE BOTTOM OF THE "ROWLETT NEWS SECTION" TO SEE ALL INFORMATION POSTED ON OUR WEBSITE

TORNADO RELIEF DONATION CENTER –

LOCATED @ 4813 ROWLETT RD. OPEN MONDAY – FRIDAY, 4-7PM AND SATURDAY, 9AM-4PM

ITEMS AVAILABLE: FOOD, HOUSEHOLD GOODS, CLEANING SUPPLIES, STORAGE SUPPLIES, BABY & TODDLER ITEMS, TOILETRIES & BATHROOM SUPPLIES, KITCHEN GOODS, PET FOOD AND SUPPLIES

CONTACT ST. VINCENT DE PAUL FOR LONG TERM RECOVERY – CITIES OF ROWLETT AND GARLAND

SURVIVORS SEEKING ASSISTANCE WITH LONG-TERM RECOVERY OR OTHER RECOVERY NEEDS MAY CONTACT: ST. VINCENT DE PAUL CASEWORKERS BY CALLING 469-607-0909 OR GETTING REFERRED BY 211.

*****CALL 211*** TO BE REFERRED TO A CASE MANAGER TO ASSIST WITH MEETING LONG-TERM RECOVERY NEEDS

THE DONATIONS CENTER WILL REMAIN OPERATIONAL AT THE GRANGER RECREATION CENTER ANNEX FROM 3-7PM ON TUESDAYS AND THURSDAYS.

**RECOVERY ASSISTANCE CENTER (RAC) INSIDE GRANGER RECREATION CENTER CLOSED ON SATURDAY, JAN 23

LANDFILL PASS INFORMATION

- IF AFFECTED RESIDENTS CHOOSE, YOU MAY PICK UP LANDFILL PASSES TO DISPOSE OF YOUR DEBRIS AT THE HINTON LANDFILL LOCATED AT 3175 ELM GROVE RD. 972-205-3670
- NORMAL PROOF OF A UTILITY BILL ***WILL BE WAIVED*** AT THIS TIME.
- RESIDENTS NEED TO PRESENT SOME FORM OF ID - WE WILL DO OUR BEST TO ACCOMMODATE THOSE WITHOUT FORMAL ID.

- NO HAZARDOUS WASTE WILL BE ACCEPTED AT THE LANDFILL; PLEASE CHECK ON OUR WEBSITE TO SEE ALL ITEMS THAT ARE ACCEPTED.
- PICK UP PASSES AT:
    - CITY HALL, 4000 MAIN STREET
    - ROWLETT COMMUNITY CENTRE, 5300 MAIN STREET
    - UTILITY BILLING DEPARTMENT, 4004 MAIN STREET
    - FIRST CHRISTIAN CHURCH, CORNER OF MILLER & CHIESA ROAD

AGENCIES PROVIDING ASSISTANCE WITH DEBRIS REMOVAL, DEMOLITION AND OTHER SERVICES

- ROCKWALL EXCHANGE/FDB VOLUNTEERS; CONTACT ARA HUNT @ 214-240-9696
- TEXAS BAPTIST MEN – 214-908-6239; 469-377-0290 OR 214-381-3700
- CRISIS RESPONSE INTERNATIONAL – 256-426-0034 OR 214-288-9325
- DALLAS COUNTY VOAD – DIAL 211

COUNCIL MEETINGS

- SPECIAL MEETING ON TUESDAY, FEBRUARY 9TH STARTING TIME TO BE DETERMINED, IN ANNEX CONF ROOM
- NEXT REGULAR COUNCIL MEETINGS WILL BE HELD ON TUESDAY, FEBRUARY 16TH AND MARCH 1ST

P & Z MEETINGS

- NEXT REGULAR MEETINGS WILL BE HELD TUESDAY, FEBRUARY 9TH AND 23RD IN THE CITY HALL CONFERENCE ROOM AT 6:30PM

ROWLETT LIBRARY

- BLACK HISTORY MONTH BOOKMARK CONTEST WINNERS:
    - K-1: REESE FUDGE
    - GRADES 2 & 3: Coleman Hedgecock
    - GRADES 4 & 5: CHLOE HEDGECOCK
    - GRADES 6-8: MAEVE BENSON
- CRAFTS – ROMANTIC BATH MELTS: SATURDAY, FEBRUARY 6TH FROM 2-4PM @ THE LIBRARY
- MOVIE & POPCORN – SHOWING "THE PRINCESS BRIDE, INTERACTIVE VIEWING" SATURDAY, FEBRUARY 13TH @ 2PM @ RCC

ANIMAL SHELTER

- LOW COST VACCINE CLINIC AT ANIMAL SHELTER – SATURDAY, FEBRUARY 20TH, 1 – 3PM
- LOCATED AT 4402 INDUSTRIAL ST.
- SHELTER IS OPEN MONDAY – SATURDAY, 10AM – 5PM
- ***NEXT ADOPTION EVENT – SATURDAY, FEBRUARY 13TH***

KEEP ROWLETT BEAUTIFUL – LOVE YOUR NEIGHBOR DAY

- VOLUNTEERS NEEDED FOR THIS SPONSORED EVENT BY KRB
- WHEN – SATURDAY, FEBRUARY 6TH
- WHERE – ROWLETT HIGH SCHOOL CAFETERIA

- TIME – 8:30AM TO 1PM
- WHY – TO HELP YOUR NEIGHBORS REMOVE DEBRIS FROM THE TORNADO
- NEEDED – VOLUNTEERS AND TRUCKS AND TRAILERS; BRING YOUR OWN TOOLS AND HEAVY WORK GLOVES
- SIGN UP @ www.keeprowlettbeautiful.org

A staff member of the Rowlett Animal Shelter brought Celia, a Pit Bull mix, to be introduced.

6. CITIZENS' INPUT

Ken Romaine, 3001 Larkin Lane, Rowlett; spoke regarding zoning.

7. CONSENT AGENDA

7A. Consider action to approve minutes from the January 19, 2016 City Council Regular Meeting.

This item was approved on the Consent Agenda.

7B. Consider action to approve a resolution authorizing the Texas Coalition for Affordable Power, Inc., (TCAP) to negotiate an electric supply agreement for five years for deliveries of electricity, and to act as an agent on behalf of the city to enter into a contract for electricity, to commit to budget for energy purchases in 2018 through 2022, and to honor the city's commitments to purchase power for its electrical needs in 2018 through 2022 through TCAP.

This item was approved as RES-030-16 on the Consent Agenda.

7C. Consider action to approve a resolution exercising the second of three one-year renewal options for continuation of Bank Depository and Merchant Card Services to American National Bank and authorizing the City Manager to enter into an extension of services agreement.

This item was approved as RES-031-16 on the Consent Agenda.

7D. Consider action to approve a resolution approving Change Order Number 1 to the contract with Pavecon, LTD in the amount of $40,804.74 for encasement of a 30 inch sewer force main and installation of flex-base material as a result of unforeseen conflicts with a 30 inch sewer force main in the construction of the State Highway 66 (Lakeview Parkway) Right Turn Lane Project and authorizing the Mayor to execute the necessary documents for said services.

This item was approved as RES-032-16 on the Consent Agenda.

7E. Consider action to officially accept the resignation of Councilmember Place 3 – Carl Pankratz.

This item was approved on the Consent Agenda.

Passed the Consent Agenda

A motion was made by Mayor Pro Tem Gallops, seconded by Deputy Mayor Pro Tem Dana-Bashian, including all the preceding items marked as having been approved on the Consent Agenda. The motion carried with a unanimous vote of those members present.

8. ITEMS FOR INDIVIDUAL CONSIDERATION

8A. Discuss and consider action to approve a resolution approving and authorizing the distribution of a preliminary limited offering memorandum (official statement) for "City of Rowlett, Texas, Special Assessment Revenue Bonds, Series 2016" (Bayside Public Improvement District North Improvement Area Project).

Jim Grabenhorst, Director of Economic Development, presented items 8A, 8B, and 8C as one item as they relate to the Bayside Public Improvement District.

A motion was made by Councilmember Sheffield, seconded by Mayor Pro Tem Gallops, to approve the item as presented. The motion carried with a unanimous vote of those members present. This item was approved as RES-033-16.

8B. Discuss and consider action to approve a resolution relating to the Bayside Public Improvement District; determining total costs of authorized improvements; accepting a preliminary service and assessment plan, including a proposed assessment roll; directing the proposed assessment roll to be filed with the City Secretary and made available for public inspection; calling a public hearing to consider the levy of special assessments against property in the District to pay such costs; and, directing the City Secretary to publish, mail and post notice of the public hearing as required by law for the Bayside Public Improvement District (PID).

A motion was made by Councilmember Sheffield, seconded by Mayor Pro Tem Gallops, to approve the item as presented. The motion carried with a unanimous vote of those members present. This item was approved as RES-034-16.

8C. Discuss and consider action to approve a resolution approving and authorizing the Mayor to execute the Bayside Public Improvement District (PID) Reimbursement Agreement between the City of Rowlett, Texas and Bayside District Partners LLC.

A motion was made by Councilmember Sheffield, seconded by Mayor Pro Tem Gallops, to approve the item as presented. The motion carried with a unanimous vote of those members present. This item was approved as RES-035-16.

8D. Conduct a public hearing and consider an ordinance approving a Special Use Permit to allow an accessory building that does not meet the requirements in Section 77-303 of the Rowlett Development Code. The subject property is located at 3801 Castle Drive being further described as being Lot 4, Block 1, Castle Park Estates, City of Rowlett, Dallas County, Texas.

Garrett Langford, Principal Planner, presented the background information for this item. The public hearing opened and closed with no speakers.

A motion was made by Mayor Pro Tem Gallops, seconded by Councilmember Bobbitt, to approve the item as presented. The motion carried with a vote of five in favor and one opposed (Dana-Bashian). This item was approved as ORD-003-16.

8E. Conduct a public hearing and consider an ordinance approving a rezoning request from Rural Neighborhood and Urban Neighborhood Form-Based Districts to the New Neighborhood Form-Based Zoning District, including Major Warrants to allow for an increase in the maximum lot width of Type 2 and 3 lots and an increase in the minimum and maximum allowable square footage for Cottage and Estate homes, for the purposes of building a pedestrian-oriented, single family neighborhood. The subject property is located in the North Shore South District as identified in the Realize Rowlett 2020 Comprehensive Plan, being 3200 and 3600 Hickox Road, further described as 61.96 +/- acres of land situated in the Reason Crist Survey, Abstract No. 225, City of Rowlett, Dallas County, Texas.

Due to the number of residents in attendance for this item, it was presented first.
Marc Kurbansade, Director of Development Services, provided some background information and informed Council that the applicant had requested the item be tabled until a meeting in March. The public hearing opened and closed with seven speakers:

1. Ken Romaine, 3001 Larkin Lane, Rowlett; spoke in opposition of this item.
2. Leon Huseman, 3201 Larkin Lane, Rowlett; spoke in opposition of this item.
3. Cliff Forbis, 3209 Larkin Lane, Rowlett; spoke in opposition of this item.
4. Janice Mangurten, 3205 Larkin Lane, Rowlett; spoke in opposition of this item.
5. Jim McDougle, 3205 Larkin Lane, Rowlett; spoke in opposition of this item.
6. Christopher Jackson, 600 N. Pearl, Dallas; spoke on behalf of the applicant.
7. Michael Strange, 3202 Larkin Lane, Rowlett; spoke in opposition of this item.

A motion was made by Deputy Mayor Pro Tem Dana-Bashian, seconded by Mayor Pro Tem Gallops, to table the item. The motion carried with a unanimous vote of those members present.

8F. Conduct a public hearing and consider an ordinance amending previously approved Planned Development Ordinance 022-15 specifically as it pertains to exterior building materials. The subject property is located at 5500 Rowlett Road, being a 5.50 +/- acre portion of a 12.79 +/- acre parcel located in Tract 14 of the John M. Thomas Survey, Abstract 1478, Page 460, City of Rowlett, Dallas County, Texas.

Erin Jones, Senior Planner, presented the background information for this item. The public hearing opened and closed with one speaker:

1. Tony Sisk, 5605 N. MacArthur #558, Irving; applicant.

A motion was made by Mayor Pro Tem Gallops, seconded by Councilmember Sheffield, to approve the item as presented. The motion carried with a unanimous vote of those members present. This item was approved as ORD-005-16.

TAKE ANY NECESSARY OR APPROPRIATE ACTION ON CLOSED/EXECUTIVE SESSION MATTERS

No action was taken.

9. ADJOURNMENT

Mayor Gottel adjourned the meeting at 10:22 p.m.

City of Rowlett

Staff Report

4000 Main Street
P.O. Box 99
Rowlett, TX 75030-0099
www.rowlett.com

AGENDA DATE: 02/16/16 **AGENDA ITEM**: 7B

TITLE

Consider approving an ordinance calling the General Election for Saturday, May 7, 2016 to elect the Mayor, Councilmembers for Place Two, Place Four and Place Six and any possible resulting run-off election to be held on Saturday, June 18, 2016.

STAFF REPRESENTATIVE

Laura Hallmark, City Secretary

SUMMARY

The City of Rowlett is a Home Rule city operating under the Council/Manager form of government. The governing body – the City Council, is comprised of seven members who are elected at large by the voters of Rowlett. The manner in which Councilmembers are elected is mandated by the City Charter and State Law (as outlined below).

In order to conduct each election, it is necessary to take the first step, which is to "call" or "order" the election – the process for which is also mandated by State Law.

BACKGROUND

Per the Rowlett City Charter Article III, Section 3.02 (4), the seven members of the City Council serve staggered terms in the "four-three-none" pattern of elections whereby the Mayor, Councilmembers Place Two, Four, and Six are elected one year, Councilmembers Place One, Three, and Five are elected the next year and there is no election held the following year. As the 2015 General Election was the "no election" year, the General Election for 2016 will provide for the positions of Mayor, Councilmembers Place Two, Place Four and Place Six.

DISCUSSION

The Texas Election Code requires City Council to order an election for the general election of its officers no later than the 78th day before the election [TEC Sec. 3.005(c)]. State Law also outlines the uniform election dates [TEC Sec. 41.001] as the first Saturday in May or the first Tuesday after the first Monday in November. Rowlett City Charter states that election of the City Council shall be held in May. This year, that date is Saturday, May 7, 2016.

The Council must call the election no later than the 78th day before the election, which allows approval at this meeting.

Texas Election Code outlines the elements that must be included in the order:

1. Date of the election.
2. Office or measures to be voted on.

3. Location of the main early voting polling place,
4. Date that early voting by personal appearance will begin.
5. In a special election to fill a vacancy in office, the deadline for filing an application for a place on the ballot.
6. In an emergency election to fill a vacancy in office, a statement identifying the nature of the emergency.
7. In a bond election, the location of each polling place.

Because the City contracts with Dallas County Elections Department to administer the General Election, the following additional information must be in the election order:

1. Dates and hours of early voting.
2. Dates and hours for voting on Saturday and Sunday.
3. Early voting clerk's official mailing address.

Due to the possibility of multiple candidates in each position, a run-off election may result. The date selected for the run-off election if necessary, is Saturday, June 18, 2016.

State law also requires that the order be provided in Spanish as well. Both English and Spanish are included in the Order, which is attached.

FINANCIAL/BUDGET IMPLICATIONS

The City of Rowlett contracts with Dallas County Elections Department for the conduct of our municipal elections. Expenses are set once the number of entities and their respective election items, polling locations, poll workers, and associated forms and equipment have been finalized. As stated above, this General Election with the four City Council positions listed will be included with the Special Election for proposed Charter Amendments and the Special Election to Fill a Vacancy for an unexpired term. Funds are budgeted for City Elections in the amount of $34,280 in account number 1011501 6406 Elections.

RECOMMENDED ACTION

To approve an ordinance Ordering a General Election as presented.

ORDINANCE

AN ORDINANCE OF THE CITY OF ROWLETT, TEXAS, ORDERING A GENERAL ELECTION TO BE HELD ON MAY 7, 2016 FOR THE PURPOSE OF ELECTING A MAYOR AND COUNCIL MEMBERS FOR PLACE 2, PLACE 4 AND PLACE 6; PROVIDING FOR THE PUBLICATION AND POSTING OF NOTICE; PROVIDING FOR EARLY VOTING DATES, TIMES AND LOCATIONS; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council herein determines that it shall call a general election to elect a mayor and three council members for Place 2, Place 4, and Place 6; and

WHEREAS, on this the 16th day of February 2016, at a meeting of the City Council of the City of Rowlett, Texas, the meeting was called to order and the Council ordered a General Election be held on Saturday, May 7, 2016; and,

WHEREAS, the election shall be administered by the Dallas County Elections Administrator in accordance with the provisions of the Texas Election Code and the elections agreement between the City and the Dallas County Elections Department.

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

Section 1. That a General Election be and is hereby ordered to be held in the City of Rowlett, Texas, on the 7th day of May, 2016, the same being the second Saturday of said month, for the purpose of electing a Mayor at large and Councilmembers at large for Place 2, Place 4, and Place 6, each to serve terms of office of three (3) years. The candidate for each such office receiving a majority of all votes cast for all candidates for such office shall be elected to serve such term or until their successor is duly elected and qualified.

Section 2: That in the event any candidate for any such office fails to receive a majority of all votes cast for all the candidates for such office, a run-off election shall be held. In such event, the run-off election will be held on Saturday, June 18, 2016.

Section 3: That each candidate shall be a qualified voter of the City and shall have resided in the City for not less than one (1) year preceding the day of the election and should not be in arrears in the payment of any taxes to the City, unless such arrearage is subject to a lawful protest.

Section 4: That applications to be placed on the ballot for said offices shall be filed with the City Secretary or a duly appointed designee, who shall affix the date and time stamp on the ballot application, during the regular office hours not later than 5:00 p.m. on the 62nd day before the day of the election.

Section 5: That notice of said election shall, as required by law, be published two times in the official newspaper of the City not earlier than the 30th day or later than the 10th day before election day. A copy of the published notice that contains the name of the newspaper and the date of publication shall be retained as a record of such notice, and the person posting the notice shall make a record at the time of posting, the starting date, and the place of posting. The notice shall also be posted on the bulletin board used to publish notice of City Council meetings not later than the 21st day before Election Day.

Section 6: That the election shall be held between the hours of 7:00 A.M. and 7:00 P.M. on Saturday, May 7, 2016. Polling places for the election are designated to be located at:

Herfurth Elementary School---7500 Miller Road, Rowlett, Texas, for all Rowlett residents that reside in Dallas County Precinct 2923 and 2926

Coyle Middle School---4500 Skyline Drive, Rowlett, Texas, for all Rowlett residents that reside in Dallas County Precinct 2920, 2921, 2924, 2925, 2928, and 2929

Schrade Middle School---6201 Dandridge Road, Rowlett, Texas for all Rowlett residents that reside in Dallas County Precinct 2922 and 2927

Cullins-Lake Pointe Elementary School---5701 Scenic Drive, Rowlett, Texas, for all Rowlett residents that reside in Rockwall County Precincts 1A and 2B

Section 7: Early voting by personal appearance shall be conducted at the Rowlett City Hall Annex, 4004 Main Street, Rowlett, Texas. For the period of early voting permitted by law, the Early Voting clerk shall keep said office open for early voting by personal appearance as follows:

Monday thru Friday	April 25 thru April 29, 2016	8 a.m. – 5 p.m.
Saturday	April 30, 2016	8 a.m. – 5 p.m.
Sunday	May 1, 2016	1 p.m. – 6 p.m.
Monday and Tuesday	May 2 thru May 3, 2016	7 a.m. – 7 p.m.

Additional polling locations may be provided for in accordance with the Election Agreement between the City and Dallas County Elections Department.

The Early Voting Clerk for said election shall be Toni-Pippins Poole, Dallas County Elections Administrator.

Applications for early voting by mail shall be delivered to the Early Voting Clerk, no later than April 26, 2016 (by 12:00 noon or close of business, whichever is later), at the following address:

Dallas County Elections Department
Attn: Toni Pippins Poole, Early Voting Clerk
2377 North Stemmons Freeway, Suite 820
Dallas, Texas 75207

Section 8: The County Elections Administrator shall appoint an Election Judge and an Alternate Presiding Election Judge, to serve at the polling place during the election. The Presiding Judge and the Alternate Election Judge of the Early Voting Ballot Board shall be selected by the Dallas County Elections Administrator in accordance with an Election Agreement between the Dallas County Elections Department and the City of Rowlett.

Section 9: Direct record electronic (DRE) equipment will be utilized for early voting by personal appearance; and optical scan voting systems will be used on Election Day and one Americans with Disability Act (ADA) terminal will be provided to each voting location by the Dallas County Elections Department in accordance with an Election Agreement with the City of Rowlett.

Section 10: The City Secretary is hereby authorized and directed to publish and post, in the time and manner prescribed by law, all notices required to be so published and posted in connection with the conduct of the election.

Section 11: The City Secretary shall present the election returns to the City Council for the canvassing of said election. The canvass of said election returns shall be conducted by the City Council on May 17, 2016, or on such date as may be provided for by law.

Section 12: Should any part, section, subsection, paragraph, sentence, clause or phrase contained in this ordinance be held to be unconstitutional or of no force and effect, such holding shall not affect the validity of the remaining portion of this ordinance, but in all respects said remaining portion shall be and remain in full force and effect.

Section 13: That this ordinance shall take effect immediately upon its passage.

ATTACHMENT

Attachment 1 – Election Order (English and Spanish)

ATTACHMENT 1

4000 Main Street
Rowlett, TX 75088
www.rowlett.com

NOTICE/ORDER OF ELECTION FOR MUNICIPALITIES
AVISO/ORDEN DE ELECCION PARA MUNICIPIOS

A general election is hereby ordered to be held on May 7, 2016 to elect:
Por la presente se ordena que se llevará a cabo una elección general el 7 mayo 2016 pàra elegir:

Mayor/*Alcalde*
Councilmember Place 2/*Lugar dos, Concejal*
Councilmember Place 4/*Lugar cuatro, Concejal*
Councilmember Place 6/*Lugar seis, Concejal*

Issued the 16th day of February, 2016.
Emitida 16 de febrero 2014.

Early voting by personal appearance will be conducted at the following locations and times*:
La votación adelantada en persona se llevará a cabo en las siguientes ubicaciones y horas:

DATES AND TIMES OF EARLY VOTING FOR THE JOINT ELECTION TO BE HELD ON SATURDAY, MAY 7, 2016
Fechas y horarios de votación adelantada para la elección conjunta que se celebrará el sábado, 7 de mayo 2016

April 25 (MONDAY THROUGH FRIDAY) April 29	**8 AM TO 5 PM**
25 de avril (lunes a viernes) 29 de avril	***8 a 5 p***
April 30 (SATURDAY)	**8 AM TO 5 PM**
30 de avril (sábado)	***8 a 5 p***
May 1 (SUNDAY)	**1 PM TO 6 PM**
1 de mayo (domingo)	***1 p 6 p***
May 2 (MONDAY AND TUESDAY) May 3	**7 AM TO 7 PM**
2 de mayo (lunes y martes) 6 de mayo	***7 a 7 p***

Rowlett City Hall Annex
4004 Main Street
Rowlett, Texas

Location of Election Day Polling Place
Ubicación de las casillas electroales el Día de Elección

MAY 7 (SATURDAY)
7 DE MAYO (SÁBADO)
TIMES OF VOTING
HORARIOS DE LAS VOTACIÓNES
7 AM TO 7 PM
7AM A 7PM

CULLINS LAKE POINTE SCHOOL	**5701 SCENIC DRIVE**	**ROWLETT**	**75088**
COYLE MIDDLE SCHOOL	**4500 SKYLINE DRIVE**	**ROWLETT**	**75088**
SCHRADE MIDDLE SCHOOL	**6201 DANDRIDGE ROAD**	**ROWLETT**	**75089**
HERFURTH ELEM SCHOOL	**7500 MILLER ROAD**	**ROWLETT**	**75088**

Applications for ballot by mail shall be mailed to:
Las solicitudes para boletas que se votaran en ausencia por correo deberán enviarse a:

Toni Pippins-Poole, Dallas County Elections Administrator
(Name of Early Voting Clerk)
(Nombre del Secretario(a) de la Votacion Adelantada)

2377 N. Stemmons Freeway, Suite 820
(Address) *(Direccion)*

Dallas, Texas 75207
(City) *(Ciudad)* (Zip Code) *(Zona Postal)*

Applications for ballot by mail must be received no later than the close of business on April 26, 2016.
(Las Solicitudes para boletas que se votaran en ausencia por correo deberan recibirse para el fin de las horas de negocio el 25 de avril de 2014)

Signature of Mayor *Firma del Alcalde*	Signature of Councilmember *Firma de la miembro del consejo*
Signature of Councilmember *Firma de la miembro del consejo*	Signature of Councilmember *Firma de la miembro del consejo*
Signature of Councilmember *Firma de la miembro del consejo*	Signature of Councilmember *Firma de la miembro del consejo*
Signature of Councilmember *Firma de la miembro del consejo*	

City of Rowlett

Staff Report

4000 Main Street
P.O. Box 99
Rowlett, TX 75030-0099
www.rowlett.com

AGENDA DATE: 02/16/16 **AGENDA ITEM**: 7C

TITLE
Consider action to approve an ordinance amending Chapter 50 to include restrictions on all scavenging of trash, debris and recycling.

STAFF REPRESENTATIVE
Lt. Marvin Gibbs, Community Services Commander
Maria Martinez, Community Services Manager

SUMMARY
Section 50-8 “Scavenging” of Chapter 50 “Solid Waste” currently only addresses scavenging of recyclable materials such as plastics, aluminum and glass; therefore, staff would like to add subsection (b) to the ordinance to prohibit scavenging of any solid waste or debris placed out for collection without prior consent of the owner of the property. Public safety personnel have received multiple calls about unknown persons scavenging through debris that has been placed out for collection without permission. The proposed amendment to this ordinance would allow staff to properly address these concerns.

BACKGROUND INFORMATION
This item was discussed at the City Council Work Session on February 16, 2016.

DISCUSSION
Scavenging has become a topic of concern since the tornado disaster event in late December, 2015. Public safety personnel have received numerous calls regarding persons rummaging through piles of debris and upon approach, some scavengers would exhibit a contractor registration receipt or solicitors permit as a means to scavenge through people’s properties and debris. Although the City was not issuing permits for these types of activities, it was still causing some confusion coupled with the current outdated ordinance for scavenging. This issue can be resolved by updating the City’s scavenging ordinance to be all-inclusive and ensuring property owners’ permission when any rummaging or scavenging occurs within the City of Rowlett.

FINANCIAL/BUDGET IMPLICATIONS
N/A

RECOMMENDED ACTION
Move to approve an ordinance amending section 50-8 of Chapter 50 to include restrictions on all scavenging of trash, debris and recycling.

ORDINANCE

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ROWLETT, TEXAS, AMENDING SECTION 50-8 OF CHAPTER 50 ("SOLID WASTE") OF THE CODE OF ORDINANCES OF THE CITY OF ROWLETT, TEXAS, TO AMEND REGULATIONS PROHIBITING SCAVENGING; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY OF FINE NOT TO EXCEED THE SUM OF FIVE HUNDRED DOLLARS ($500.00) FOR EACH OFFENSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Rowlett has previously adopted regulations prohibiting scavenging of recyclable materials; and

WHEREAS, the tornado that struck the City on December 26, 2015 caused the destruction of hundreds of homes, which caused the dispersion of personal effects and household items; and

WHEREAS, City staff has declared the need for regulations that prohibit scavenging by non-residents and others who are scavenging debris for household items and personal effects of others.

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

SECTION 1. That Section 50-8 of Chapter 50, "Solid Waste, of the Code of Ordinances of the City of Rowlett, Texas, be and is hereby amended to renumber the existing language as subsection (a) and to add a new subsection (b), such that Section 50-8 of Chapter 50 shall henceforth read as follows:

"**CHAPTER 50**
SOLID WASTE

. . .

Sec. 50-8. Scavenging.

(a) No person, other than the current resident of the property on which recyclable materials are placed for collection, or an authorized carrier, shall remove, pick up or transfer recyclable materials left at curbside in any residential subdivision or at curbside at any single-family residence. Materials left at curbside in either specifically marked recovery containers or any other type of container are to be picked up by a designated carrier for the purpose of removal of recyclable materials. Each unauthorized removal of any items from a resident subdivision location or a single-family residence shall constitute a separate violation of this chapter. For purposes of this section, the term "recyclable material" shall mean:

(1) Plastic—Polyethylene terephthalate (pet) and high density polyethylene plastics (hdpe).

(2) Aluminum beverage cans.
(3) Steel cans (commonly known as tin cans).
(4) Glass—Clear, brown, and green.
(5) Newsprint.

(b) After solid waste or debris is placed for waste hauler collection, no person other than the owner of the property on which the solid waste or debris is placed shall sift through or scavenge from the solid waste or debris or remove any part thereof other than the waste hauler or the owner of the property. Solid waste or debris located on city or public property shall not be sifted through or scavenged by any person, and no material may be removed by any person, without prior authorization by the city."

SECTION 2. That all ordinances of the City of Rowlett, Texas, in conflict with the provisions of this ordinance be and the same are hereby repealed and all other ordinances of the City of Rowlett not in conflict with the provisions of this ordinance shall remain in full force and effect.

SECTION 3. That should any sentence, paragraph, subdivision, clause, phrase or section of this ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this ordinance as a whole, or any part or provision hereof other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of the Code of Ordinances as a whole.

SECTION 4. Any person, firm or corporation violating any of the provisions of this ordinance or the provisions of the Code of Ordinances of the City of Rowlett, Texas, as amended hereby, shall be deemed guilty of a misdemeanor and upon conviction, shall be subject to a fine not to exceed the sum of Five Hundred Dollars ($500.00) for each offense.

SECTION 5. This ordinance shall take effect immediately from and after its passage and the publication of its caption, as the law and charter in such cases provides.

City of Rowlett

Staff Report

4000 Main Street
P.O. Box 99
Rowlett, TX 75030-0099
www.rowlett.com

AGENDA DATE: 02/16/16 **AGENDA ITEM**: 7D

TITLE

Consider action to approve a resolution expressing the official intent to reimburse costs of the December 2015 Tornado Event through the issuance of tax-exempt obligations or other obligations, with an aggregate principal amount not to exceed $25,000,000.

STAFF REPRESENTATIVE

Kim Galvin, Director of Financial Services

SUMMARY

This item will allow the City to be reimbursed for all expenditures related to the December 2015 Tornado Event should debt instruments be issued for the purpose of funding disaster related clean-up and recovery as described in Exhibit A.

BACKGROUND INFORMATION

On December 26, 2015, a Tornado impacted the City of Rowlett resulting in approximately $25 million in damage. This item will ensure that the City may be reimbursed for expenditures with any debt instrument issued to fund emergency response, cleanup and recovery.

DISCUSSION

We are currently working with the City's Financial Advisors, First Southwest, to determine the most appropriate way to fund emergency response, cleanup and recovery that will ensure the future growth of the City is not jeopardized. Expenditures related to this disaster event have already occurred, and a reimbursement resolution must be in place no later than 60 days after the first invoice is received, or 60 days after January 3, 2016. This resolution will ensure the City may be reimbursed by debt should debt instruments be issued by the City.

At the current time, staff anticipates having the information needed to discuss options available to Council in early March. This action provides the additional time needed to vet the expected costs and options.

FINANCIAL/BUDGET IMPLICATIONS

The full cost for the December 2015 Tornado Event is estimated at $25 million. Funding for the emergency response, cleanup and recovery will come from a variety of sources. Staff recently reviewed current budgets and identified possible funding sources, including but not limited to, excess fund balance reserves, project funds, state and federal grants, and debt instruments. Some of those identified sources that may be considered include traffic signal funding, parks master plan funding, innovations funding, community enhancement funds, and excess fund

balance reserves in the Employee Health Benefit Fund, Drainage Fund, General Fund, and Golf Fund.

Below are the estimated costs as presented to the Texas Department of Emergency Management and ultimately the President of the United States and FEMA. Including the aggregate amount of the disaster costs in this resolution will only ensure that the City is eligible for reimbursement of any associated costs should bonds be issued. Without the aggregate amount of all possible bond issues, it would be possible to exclude actual costs from reimbursement.

Disaster Summary Outline (DSO)

Debris Removal, Reduction, Disposal & Monitoring	$ 7,321,500	
Emergency Work	750,000	
Steets and related transportation infrastructure	13,672,099	
Water Tower and related distribution infrastructure	2,531,500	
Parks, Recreation & Other Facilities	403,300	
Signs & Signals		
	$ 24,678,399	*

* Does not include issuance costs

On February 9, 2016 the President declared a disaster in many Texas counties, per the Governor's request. This federal declaration could make many of the disaster related expenses incurred by the City eligible for federal FEMA grants and other types of grants. The staff will work with all granting agencies and consultants to ensure that every avenue of reimbursement is pursued.

The primary goal of the staff related to funding will be to provide taxpayers with the most cost effective funding available to the City, while ensuring that the future growth of the City is not threatened. All funding opportunities available to the City will be considered.

RECOMMENDED ACTION

Motion to approve a resolution expressing the official intent to reimburse costs attributable to the December 2015 Tornado Event to include emergency response, cleanup, and recovery efforts as outlined in Exhibit A to the resolution.

RESOLUTION

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ROWLETT, TEXAS, EXPRESSING OFFICIAL INTENT TO REIMBURSE COST OF A PROJECT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Rowlett, Texas (the "Issuer") is a home-rule municipality and political subdivision of the State of Texas; and

WHEREAS, the Issuer expects to pay, or have paid on its behalf, expenditures in connection with the project described on Exhibit "A" hereto (the "Project") prior to the issuance of tax-exempt obligations or other obligations for which a prior expression of intent to finance or refinance is required by Federal or state law (collectively and individually, the "Obligations") to finance the Project; and

WHEREAS, the Issuer finds, considers and declares that the reimbursement for the payment of such expenditures will be appropriate and consistent with the lawful objectives of the Issuer and, as such, chooses to declare its intention to reimburse itself for such payments at such time as it issues Obligations to finance the Project;

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

Section 1: The Issuer reasonably expects to incur debt, as one or more series of Obligations, with an aggregate principal amount not to exceed $25,000,000 for the purpose of paying the costs of the Project.

Section 2: All costs to be reimbursed pursuant hereto will be capital expenditures. No tax-exempt Obligations will be issued by the Issuer in furtherance of this Statement after a date which is later than 18 months after the later of (1) the date the expenditures are paid or (2) the date on which the property, with respect to which such expenditures were made, is placed in service.

Section 3: The foregoing notwithstanding, no tax-exempt Obligation will be issued pursuant to this Statement more than three years after the date any expenditure which is to be reimbursed is paid.

Section 4: This resolution shall become effective immediately upon its passage.

ATTACHMENT
Exhibit A

Exhibit "A"

(i) Constructing, installing, acquiring and equipping a water tower; (ii) constructing and improving streets, roads and sidewalks, including related drainage, signalization, landscaping, lighting, signage and utility relocation; and (iii) remediating casualty losses resulting from a natural disaster, consisting of debris removal and disposal.

City of Rowlett

Staff Report

4000 Main Street
P.O. Box 99
Rowlett, TX 75030-0099
www.rowlett.com

AGENDA DATE: 02/16/16 **AGENDA ITEM**: 7E

TITLE

Consider action to approve a resolution providing support of the submission of an application to the 2016 Competitive Housing Tax Credit Program through the Texas Department of Housing and Community Affairs for the project proposed by GroundFloor Development.

STAFF REPRESENTATIVE

Marc Kurbansade, Director of Development Services

SUMMARY

GroundFloor Development approached the City about their interest in applying to the Texas Department of Housing and Community Affairs (TDHCA) for the 2016 Competitive Housing Tax Credit Program in order to construct a workforce housing development located on the northwest corner of Melcer Drive and Industrial Street. At the October 13, 2015, City Council Work Session, representatives from GroundFloor Development presented to City Council to provide background on their firm and proposed development ideas. On January 19, 2016, City Council voted to support this TDHCA application.

After passage of the resolution, GroundFloor Development staff recognized that there was some minor verbiage changes needed in the resolution in order to exactly meet TDHCA requirements. The purpose of this agenda item is to pass a new resolution that accomplishes these needs. ***The below staff report contains the same information published in the January 19, 2016 agenda packet, since the substance of this request has not changed. A strikeout/underline version of the amended resolution in included as Attachment 1.***

BACKGROUND INFORMATION

GroundFloor Development notified the City of Rowlett in July 2015 that they were interested in applying to TDHCA for the 2016 Competitive Housing Tax Credit Program for a Workforce Housing project.

As part of the application process to TDHCA, applicants secure valuable points in a number of means. One of these means is a municipality providing support in the form of a resolution solely for one applicant. Staff and representatives from GroundFloor Development presented a Work Session item to City Council on October 13, 2015, in order to provide City Council background information on GroundFloor Development and their proposed development.

The proposed project by GroundFloor is located on the northwest corner of Melcer Drive and Industrial Street (see location map below). The property is approximately 5.1 acres, and is located in the Downtown Urban Village Form-Based Code zoning district.

DISCUSSION

The Texas Department of Housing and Community Affairs (TDHCA) Housing Tax Credits program is an annual program. In order to gain valuable points, private development entities will seek City participation in the process. Participation from respective municipalities can come in the form of the following:

1) Providing a supporting resolution.
2) Provision of financial incentives/support.
3) Designation of areas as targeted reinvestment areas.

GroundFloor Development will be seeking participation from the City with respect to all three items listed above. This agenda item is simply the provision of a supporting resolution. Financial incentives will be in the form of a de minimus contribution in the amount of ten dollars toward application fees.

The workforce housing project being proposed by GroundFloor Development will be located on an approximately 5.1-acre tract. Since the proposed development is located in the Downtown Urban Village Form-Based Code zoning district, it would be required to conform to the zoning requirements of that district.

It should be noted that the proposed project will be located in the boundary of the Community Revitalization Plan adopted by City Council on February 17, 2015. The boundary of this area represents significant public investments, such as the Village of Rowlett, Rowlett Road reconstruction, and Community Development Block Grant public facilities improvements. These

investments illustrate a commitment by the City in the form of public investment in an amount in excess of $6 million over the past three years.

FINANCIAL/BUDGET IMPLICATIONS

None.

RECOMMENDED ACTION

Approve a resolution providing support of the submission of an application to the 2016 Competitive Housing Tax Credit Program through the Texas Department of Housing and Community Affairs for the project proposed by GroundFloor Development.

RESOLUTION

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ROWLETT, TEXAS EXPRESSING SUPPORT FOR THE GROUNDFLOOR DEVELOPMENT PROJECT; CONFIRMING THAT IT MOST SIGNIFICANTLY CONTRIBUTES TO THE CITY'S CONCERTED REVITALIZATION EFFORTS; AUTHORIZING THE MAYOR TO CERTIFY THIS RESOLUTION TO THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Rowlett, by resolution of the City Council (Number RES-024-15) following the required public notice, comment and hearing procedure, adopted the Central Rowlett Community Revitalization Plan (the "Plan"), which articulates the City's vision for concerted revitalization within the area covered by the Plan by addressing the City's concerted revitalization efforts; and

WHEREAS, GFD Holdings, LLC, on behalf of a to-be-formed limited partnership to be called Blue Line Lofts, LP ("GroundFloor Development"), has proposed a development for affordable workforce rental housing for eligible families, located at 3737 Melcer Drive (the Northwest corner of Melcer Drive and Industrial Street) in the City of Rowlett, Dallas County, Texas, to be called Blue Line Lofts (the "Development");

WHEREAS, the City, by Resolution of the City Council (Number RES-025-16) has expressed its support for the development proposed by GroundFloor Development, and has confirmed that the project significantly contributes to the concerted revitalization efforts of the City, and this Resolution is intended to supplement the Council's former resolution; and

WHEREAS, the proposed Development is to be located within the target area covered by the Plan; and

WHEREAS GroundFloor Development has advised that it intends to submit an application (the "Application") (TDHCA Application No. 16317) to the Texas Department of Housing and Community Affairs ("TDHCA") for 2016 Competitive nine percent (9%) Housing Tax Credits and HOME Funds.

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

Section 1. That the City of Rowlett, Texas, acting by and through its City Council, hereby confirms that it supports the proposed Development community, and GroundFloor Development's Application to the TDHCA, and that this formal action has been taken to put on record the opinion expressed by the City of Rowlett on the 16th day of February, 2016.

Section 2. That the City of Rowlett, acting through its governing body, hereby confirms that the proposed Development community contributes most significantly to the concerted revitalization efforts of the City of Rowlett, as set forth in the Plan.

Section 3. That the Development is the only development selected by the City of Rowlett for the 2016 housing tax credit application round as contributing most significantly to the City's concerted revitalization efforts.

Section 4. That the City Manager is authorized and directed on behalf of the City to identify a grant in the amount not to exceed ten dollars to be used to offset certain zoning application fees.

Section 5. That for and on behalf of the City Council and the City, the Mayor is hereby authorized, empowered, and directed to certify these resolutions to the Texas Department of Housing and Community Affairs.

Section 6. That this resolution shall become effective immediately upon its passage.

ATTACHMENT

Attachment 1 – Strikeout/Underline Version of Resolution

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ROWLETT, TEXAS EXPRESSING SUPPORT FOR THE GROUNDFLOOR DEVELOPMENT PROJECT; CONFIRMING THAT IT MOST SIGNIFICANTLY CONTRIBUTES TO THE CITY'S CONCERTED REVITALIZATION EFFORTS; AUTHORIZING THE MAYOR TO CERTIFY THIS RESOLUTION TO THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Rowlett, by resolution of the City Council (Number RES-024-15) following the required public notice, comment and hearing procedure, adopted the Central Rowlett Community Revitalization Plan (the "Plan"), which articulates the City's vision for concerted revitalization within the area covered by the Plan by addressing the City's concerted revitalization efforts;

WHEREAS GFD Holdings, LLC, on behalf of a to-be-formed limited partnership to be called Blue Line Lofts, LP ("GroundFloor Development"), has proposed a development for affordable workforce rental housing for eligible families, located at 3737 Melcer Drive (the ~~n~~Northwest corner of Melcer Drive and Industrial Street) in the City of Rowlett, Dallas County, Texas, to be called Blue Line Lofts (the "Development");

WHEREAS, the City, by Resolution of the City Council (Number RES-025-16) has expressed its support for the development proposed by GroundFloor Development, and has confirmed that the project significantly contributes to the concerted revitalization efforts of the City, and this Resolution is intended to supplement the Council's former resolution; and

WHEREAS, the proposed Development is to be located within the target area covered by the Plan; and

WHEREAS GroundFloor Development has advised that it intends to submit an application (the "Application") (TDHCA Application No. 16317) to the Texas Department of Housing and Community Affairs ("TDHCA") for 2016 Competitive nine percent (9%) Housing Tax Credits and HOME Funds.

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

Section 1. That the City ~~Council of the City~~ of Rowlett, Texas, acting by and through its City Council, hereby confirms that it supports the proposed ~~Groundfloor~~ Development community~~, proposed project located at the northwest corner of Melcer Drive and Industrial Street, City of Rowlett, Dallas County, Texas~~ and ~~its~~ GroundFloor Development's ~~a~~Application to the TDHCA, and that this formal action has been taken to put on record the opinion expressed by the City of Rowlett on the ~~19th~~ 16th day of ~~January~~February, 2016.

Section 2. That the City of Rowlett, acting through its governing body, hereby confirms that the proposed ~~Groundfloor~~ Development community contributes most~~, located at the~~

~~northwest corner of Melcer Drive and Industrial Street, Rowlett, Dallas County, Texas~~ significantly ~~contributes~~ to the concerted revitalization efforts of the City of Rowlett, as set forth in the Plan.

Section 3. That the Development is the only development selected by the City of Rowlett for the 2016 housing tax credit application round as contributing most significantly to the City's concerted revitalization efforts.

Section 4. That the City Manager is authorized and directed on behalf of the City to identify a grant in the amount not to exceed ten dollars to be used to offset certain zoning application fees.

Section ~~3~~5. That for and on behalf of the City Council and the City, the Mayor is hereby authorized, empowered, and directed to certify these resolutions to the Texas Department of Housing and Community Affairs.

Section ~~4~~6. That this resolution shall become effective immediately upon its passage.

City of Rowlett

Staff Report

4000 Main Street
P.O. Box 99
Rowlett, TX 75030-0099
www.rowlett.com

AGENDA DATE: 02/16/16 **AGENDA ITEM**: 7F

TITLE

Consider action to approve a resolution authorizing the final acceptance and payment, release of retainage and early completion bonus for the Offsite Water Main for the Main Street 1.25 MG Elevated Storage Tank Project (WA2109) in the amount of $144,748.07 and authorizing the Mayor to execute the necessary documents.

STAFF REPRESENTATIVE

Timothy Rogers, Director of Public Works
Walter Allison, City Engineer

SUMMARY

This project consists of the construction and installation the Offsite Water Main for the Main Street 1.25 MG Elevated Storage Tank Project in conjunction with the construction and commissioning of the Main Street Elevated Storage Tank Project.

BACKGROUND INFORMATION

The City is developing an upper pressure plane to serve the western and northwestern areas of the City with higher pressure by utilizing the existing infrastructure in conjunction with new infrastructure. Freese and Nichols, Inc., the City's engineering consultant for the water system model and engineer for the upper and lower pressure planes, recommended the Offsite Water Main for the Main Street 1.25 MG Elevated Storage Tank project to increase water pressure in both the lower and upper pressure planes.

On March 3, 2015, Council awarded the Offsite Water Main for the Main Street 1.25 MG Elevated Storage Tank construction contract to Wilson Contractor Services in the amount of $1,391,074.14 and up to $15,000.00 for the early completion bonus, resulting in a total project amount of $1,545,181.55.

Staff has approved construction change orders for a total amount of $30,081.53 resulting in a contract amount of $1,421,155.67.

CHANGE ORDER #	DATE	REASON FOR CHANGE	ADDITIONAL DAYS	CHANGE ORDER AMOUNT
1	10-Apr-2015	Install 8" gate valve and reducer	0	$5,438.00
2	20-May-2015	Tracking pad construction	0	$1,500.00

CHANGE ORDER #	DATE	REASON FOR CHANGE	ADDITIONAL DAYS	CHANGE ORDER AMOUNT
3	26-May-2015	Tracking pad construction	0	$1,500.00
4	26-May-2015	Remove bidden material due to redesign	10	($4,716.88)
5	22-Jun-2015	Redesign 16” to 20” tie-in at SH 66	11	$3,333.68
6	17-Jul-2015	Additional Bore Case on Line C	0	$13,100.00
7	20-Aug-2015	Additional concrete and irrigation	0	$5,235.20
8	31-Aug-2015	Remove tapping sleeve and valve and reduce 12” tapping sleeve and valve to 8”.	0	$1,108.80
9	9-Sep-15	Disposal of Fire Hydrants and fittings	0	$6,650.20
10	5-Sep-2015	Cut and plug dead end 8” water line.	0	$500.00
11	15-Sep-2015	Remove/Replace Pattlemed Dye Concrete on Rowlett Road	0	$3,070.03
12	25-Sep-2015	Restore area at 3206 Century Drive	0	$5,437.50
13	25-Sep-2015	Miscellaneous water allowance		(12,075.00)
		Total	**21**	**$30,081.53**
		Original Contract		**$1,391,074.14**
		Final Contract		**$1,421,155.67**

DISCUSSION

Wilson Contractor Services has satisfactorily completed the construction as designed in accordance with the contract plans and specifications and the approved change orders. Staff has inspected the construction to ensure compliance with the provisions of the contract and recommends final acceptance of such improvements and release of retainage. In addition, staff recommends payment of an early completion bonus in the amount of $15,000.00.

FINANCIAL/BUDGET IMPLICATIONS

Funding for final payment of $144,748.07 including an early completion bonus of $15,000.00 is available in project account WA2109.

Project Code	Account or Project Title	Budget Amount	Actual To-Date
WA2109	UPP16” Water Line Enhancements – Design and Other	$484,551	$61,541
	UPP16” Water Line Enhancements – Construction		289,746

Project Code	Account or Project Title	Budget Amount	Actual To-Date
	Total	**$484,551**	**$351,287**
	Projected Future Costs – Contract Incentive		**15,000**
	Total Projected Costs		**$366,287**
	Projected Balance/ (Shortfall)		**$118,264**

RECOMMENDED ACTION

City staff recommends City Council approve a resolution authorizing the final acceptance and payment, release of retainage and early completion bonus for the Offsite Water Main for the Main Street 1.25 MG Elevated Storage Tank Project (WA2109) to Wilson Contractor Services and authorizing the Mayor to execute the necessary documents for said services.

RESOLUTION

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ROWLETT, TEXAS, AUTHORIZING FINAL ACCEPTANCE AND PAYMENT, RELEASE OF RETAINAGE AND PAYMENT OF AN EARLY COMPLETION BONUS FOR THE OFFSITE WATER MAIN FOR THE MAIN STREET 1.25 MG ELEVATED STORAGE TANK TO WILSON CONTRACTOR SERVICES; AUTHORIZING THE MAYOR TO EXECUTE THE NECESSARY DOCUMENTS FOR SAID SERVICES PURSUANT TO APPROVAL; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council adopted Resolution Number 025-15 accepting the bid of and awarding a contract to Wilson Contractor Services in the amount of $1,391,074.14 and an early completion bonus up to $15,000.00, resulting in a total project amount of $1,391,074.14 for the Offsite Water Main for the Main Street 1.25 MG Elevated Storage Tank Project (WA2109), and

WHEREAS, change orders were issued in the total amount of $30,081.53, which increased the contract amount from $1,391,074.14 to $1,421,155.67; and

WHEREAS, City staff has inspected the construction ensuring that it complies with the provisions of the contract, and recommends acceptance of such improvements as well as the release of retainage; and

WHEREAS, Wilson Contractor Services has completed the project ahead of schedule qualifying them for the early completion bonus of $15,000.00 and within budget.

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

Section 1: The City Council of the City of Rowlett does hereby accept the completion of the Offsite Water Main for the Main Street 1.25 MG Elevated Storage Tank and approves the release of retainage and payment of the early completion bonus to Landmark Structures in the total amount of $144,748.07.

Section 2: That the City Council of the City of Rowlett does hereby authorize the Mayor to execute the necessary documents to conform to this resolution.

Section 3: This resolution shall become effective immediately upon its passage.

ATTACHMENT

Exhibit A – Final Payment Request Form

Rowlett TEXAS

EXHIBIT A

PAYMENT REQUEST (15-16)

PROJECT:	**OFFSITE WATER MAIN FOR THE MAIN STREET EST**	**PROJECT NUMBER**
OWNER:	**CITY OF ROWLETT**	**2015-06**
CONTRACTOR:	**WILSON CONTRACTOR SERVICES**	
ENGINEER:	**NEEL-SCHAFFER, INC.**	

PAYMENT PERIOD FROM: **10/13/2015** **TO** **10/21/2015** **ESTIMATE NO.:** **7 Final**

SUMMARY OF PAYMENT ESTIMATE VALUES FROM ATTACHED TABULATIONS

Original Contract Amount	$	1,391,074.14
Approved Change Orders (Cos: 1 through 13)	$	30,081.53
Current Contract Amount	$	1,421,155.67
Total Value of Original Contract Performed (Attachment "A" consisting of 1 pages)	$	1,293,855.14
Extra Work on Approved Change Orders (Attachment "B" consisting of __ pages)	$	127,300.53
Materials on Hand (Attachment "C" consisting of __ pages)	$	-
Total Value of Work to Date	$	1,421,155.67
Less Amount Retained at 0.00%	$	-
Net Amount Earned on Contract		
Less Amount of Previous Payments	$	1,276,407.60
PAYMENT REQUESTED THIS ESTIMATE	**$**	**144,748.07**
RETAINAGE WITHHELD THIS ESTIMATE	**$**	**-**
TOTAL PAYMENT MADE THIS ESTIMATE	**$**	**144,748.07**
Percentage of Contract Paid to Date		90%

The undersigned Contractor certifies that all work, including materials on hand, covered by this Periodical Payment has been completed and delivered and stored in accordance with the Contract Documents, that all amounts have been paid by him for work, materials, and equipment for which previous Periodical Payments were issued and received from the Owner, and that the current payment shown herein is now due.

Contractor: Wilson Contractor Services,LLC By A.A. Martinez, V.P.

Date: 10/28/2015

Subscribed and sworn to before me this 28th day of October, 20 15

Notary Public: Patricia Holt Wilson

My Commission expires: April 20 2019

NOTARY PUBLIC STATE OF TEXAS Patricia Holt Wilson My Commission Expires 04/18/2019

Recommended for Payment by CONSULTANT

By M. Cyl Sy 10/30/15 Date

Approved for Payment by [OWNER]

By 11/3/15 Date

Approved for Payment by [OWNER]

By Wal alm 11/11/15 Date

Approved for Payment by [OWNER]

By Mayor Date

City of Rowlett

Staff Report

4000 Main Street
P.O. Box 99
Rowlett, TX 75030-0099
www.rowlett.com

AGENDA DATE: 02/16/16 **AGENDA ITEM**: 7G

TITLE

Consider action to approve a resolution authorizing the final acceptance and payment, release of retainage and early completion bonus for the Main Street 1.25 MG Elevated Storage Tank Project (WA2107) in the amount of $331,053.57 and authorizing the Mayor to execute the necessary documents.

STAFF REPRESENTATIVE

Timothy Rogers, Director of Public Works
Walter Allison, City Engineer

SUMMARY

This project consists of construction and commissioning of a 1.25 million gallon (MG) elevated water storage tank located on Main Street westerly of Rowlett Road. In addition, this project consists of the construction and installation of associated waterlines, most notably the Offsite Water Main for the Main Street 1.25 MG Elevated Storage Tank Project.

BACKGROUND INFORMATION

The City is developing an upper pressure plane to serve the western and northwestern areas of the City with higher pressure by utilizing the existing infrastructure in conjunction with new infrastructure. Freese and Nichols, Inc., the City's engineering consultant for the water system model and engineer for the upper and lower pressure planes, recommended the Main Street 1.25 MG Elevated Storage Tank project to increase water pressure in both the lower and upper pressure planes.

On March 4, 2014, Council awarded the Main Street 1.25 MG Elevated Storage Tank construction contract to Landmark Structures in the amount of $3,370,000.00 and up to $14,400.00 for the early completion bonus, resulting in a total project amount of $3,384,000.

Staff has approved construction change orders resulting in a total credit amount of $59,464.34 and a contract amount of $3,310,536.66.

CHANGE ORDER #	DATE	REASON FOR CHANGE	ADDITIONAL DAYS	CHANGE ORDER AMOUNT
1	16 Oct 2014	Remove items from contract	0	$ (96,062.00)
2	25 Feb 2015	Replace resting seats to platforms	0	4,000.00

CHANGE ORDER #	DATE	REASON FOR CHANGE	ADDITIONAL DAYS	CHANGE ORDER AMOUNT
3	25 Feb 2015	Tie in proposed water line to existing 8" water line.	0	8,407.66
4	3-Jun-2015	Additional days to contract due to rain	57	-
5	28-Jul-2015	Additional brick columns for screen wall	6	9,250.00
6	18-Nov-2015	Add SCADA Components	15	15,520.00
7	18-Nov-2015	Silt Fence Underrun	0	(580.00)
		Total	**78**	**$ (59,464.34)**
		Original Contract		**$3,370,000.00**
		Final Contract		**$3,310,535.66**

DISCUSSION

Landmark Structures has satisfactorily completed the construction as designed in accordance with the contract plans and specifications and the approved change orders. Staff has inspected the construction to ensure compliance with the provisions of the contract and recommends final acceptance of such improvements and release of retainage. In addition, staff recommends payment of an early completion bonus in the amount of $14,400.00

FINANCIAL/BUDGET IMPLICATIONS

Funding for final payment of $331,053.57 including an early completion bonus of $14,400.00 is available in project account WA2107.

Project Code	Account or Project Title	Budget Amount	Actual To-Date
WA2107	1.25 MG Elevated Tank for Upper Pressure Plane – Construction	$4,817,110	$4,475,333
	1.25 MG Elevated Tank for Upper Pressure Plane – Design and Other		366,088
	Total	$4,817,110	**$4,841,421**
	Projected Future Costs - Early completion bonus		**14,000**
	Total Project Costs		**$4,855,421**
	Projected Balance/ (Shortfall)		**$ (38,311)**

The Main Street 1.25 MG Elevated Storage Tank (WA2107) and the Offsite Water Main for the Main Street 1.25 MG Elevated Storage Tank (WA2109) are one project, the water main is needed for the storage tank. Funds are available in the Offsite Water Main project (WA2109) balance of

$118,264.00 to balance the shortfall of $38,311.00 in this project. This will be accomplished with a budget amendment.

RECOMMENDED ACTION

City staff recommends City Council approve a resolution authorizing the final acceptance and payment, release of retainage and early completion bonus for the Main Street 1.25 MG Elevated Storage Tank Project (WA2107) to Landmark Structures and authorizing the Mayor to execute the necessary documents for said services.

RESOLUTION

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ROWLETT, TEXAS, AUTHORIZING FINAL ACCEPTANCE, RELEASE OF RETAINAGE AND PAYMENT OF EARLY COMPLETION BONUS FOR THE MAIN STREET 1.25 MG ELEVATED STORAGE TANK TO LANDMARK STRUCTURES; AUTHORIZING THE MAYOR TO EXECUTE THE NECESSARY DOCUMENTS FOR SAID SERVICES PURSUANT TO APPROVAL; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council adopted Resolution Number 018-14 accepting the bid of and awarding a contract to Landmark Structures in the amount of $3,370,000.00 and an early completion bonus up to $14,400, resulting in a total project amount of $3,384,000.00 for the Main Street 1.25 MG Elevated Storage Tank Project (WA2107), and

WHEREAS, change order credits were issued in the total amount of $59,464.34 which decreased the contract amount from $3,370,000.00 to $3,310,535.66; and

WHEREAS, City staff has inspected the construction ensuring that it complies with the provisions of the contract, and recommends acceptance of such improvements as well as the release of retainage; and

WHEREAS, Landmark Structures has completed the project ahead of schedule qualifying them for the early completion bonus of $14,400.00 and within budget.

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

Section 1: The City Council of the City of Rowlett does hereby accept the completion of the Main Street 1.25 MG Elevated Storage Tank and approves the final payment, release of retainage and payment of early completion bonus to Landmark Structures in the amount of $331,053.57.

Section 2: That the City Council of the City of Rowlett does hereby authorize the Mayor to execute the necessary documents to conform to this resolution.

Section 3: This resolution shall become effective immediately upon its passage.

ATTACHMENT

Exhibit A – Final Payment Request Form

Rowlett TEXAS

EXHIBIT A

PAYMENT REQUEST (4.51)

PROJECT:	Main Street - 1.25 Million Gallon Elevated Storage Tank	**PROJECT CODE**
OWNER:	City of Rowlett	WA120717
CONTRACTOR:	Landmark Structures, L.P.	
ENGINEER:	Neel-Schaffer, Inc.	

PAYMENT PERIOD FROM: 12/26/2015 **TO** 1/25/2016 **ESTIMATE NO.:** 17-Final

SUMMARY OF PAYMENT ESTIMATE VALUES FROM ATTACHED TABULATIONS

Original Contract Amount	$	3,370,000.00
Approved Change Orders	$	(59,464.34)
Current Contract Amount	$	3,310,535.66
Total Value of Original Contract Performed (Attachment "A" consisting of **2** pages)	$	3,370,000.00
Extra Work on Approved Change Orders (Attachment "B" consisting of **1** page)	$	(59,464.34)
Materials on Hand (Attachment "C" consisting of **1** page)	$	-
Total Value of Work to Date	$	3,310,535.66
Less Amount Retained at 0%	$	-
Net Amount Earned on Contract	$	3,310,535.66
Less Amount of Previous Payments	$	2,979,482.09
BALANCE DUE THIS STATEMENT	$	331,053.57
Percentage of Contract Paid to Date		100.00%

The undersigned Contractor certifies that all work, including materials on hand, covered by this Periodical Payment has been completed and delivered and stored in accordance with the Contract Documents, that all amounts have been paid by him for work, materials, and equipment for which previous Periodical Payments were issued and received from the Owner, and that the current payment shown herein is now due.

Contractor: Landmark Structures

Date: 1/14/16

By _____
Jason Hettler, Project Manager

Subscribed and sworn to before me this 25th day of December, 2015

Notary Public: Esther Hernandez-Sevier

My Commission expires: 7/30/2019

ESTHER HERNANDEZ-SEVIER
Notary Public, State of Texas
My Commission Expires
July 30, 2019

Recommended for Payment by [ENGINEER]

By _____ 1-15-16
Date

Approved for Payment by [CITY INSPECTOR]

By _____ 1/21/16
Date

Approved for Payment by [CITY ENGINEER]

By _____ 01/21/16
Date

City of Rowlett

Staff Report

4000 Main Street
P.O. Box 99
Rowlett, TX 75030-0099
www.rowlett.com

AGENDA DATE: 02/16/16 **AGENDA ITEM**: 7H

TITLE

Consider action to approve a resolution requesting Dallas County Central Appraisal District and Rockwall County Central Appraisal District reappraise properties in the City of Rowlett affected by the recent tornado as authorized by Texas Tax Code Section 23.02.

STAFF REPRESENTATIVE

Brian Funderburk, City Manager
Terri Doby, Budget Officer

SUMMARY

On Saturday, December 26, 2015, around 7:00pm central standard time, the City of Rowlett was hit by an EF4 tornado. Since areas of the City have been declared a disaster area by the Governor of the State of Texas, the City Council may authorize the Dallas Central Appraisal District and the Rockwall Central Appraisal District to conduct a disaster reappraisal of those areas for tax year 2015, based on the requirements of Section 23.02 as authorized by Texas Tax Code Section 23.02.

BACKGROUND INFORMATION

On Saturday, December 26, 2015, at around 7:00pm central standard time, the City of Rowlett was hit by an EF4 tornado. The number of homes and businesses that were impacted was 1,145 and 23 individuals were injured. On December 26, 2015, Mayor Todd Gottel declared a state of disaster for the City of Rowlett. On December 27, 2015, Governor Greg Abbott declared a state of disaster in the counties of Collin, Dallas, Ellis and Rockwall. On February 9, 2016, President Barak Obama declared a state of disaster for Texas counties, including Dallas and Rockwall.

DISCUSSION

Since areas of the City have been declared a disaster area by the Governor of the State of Texas, the City Council may authorize the Dallas Central Appraisal District and the Rockwall Central Appraisal District to conduct a disaster reappraisal of those areas for tax year 2015, as authorized by Texas Tax Code Section 23.02.

The effect of the reappraisal will be minimal since the disaster took place on December 26. Based on the formula set out in Section 23.02, the prorated taxes would be based on six days (December 26-31) of the 365 in a year.

Since the assessment date in Texas is January 1, the appraisal districts will be reappraising the disaster areas as a regular course of business for tax year 2016 (FY2017). Those values will be reflected in appraisal notices which will be mailed the last week in April, 2016.

FINANCIAL/BUDGET IMPLICATIONS

Once any property damaged in the disaster is reappraised, the taxes on the damaged property shall be prorated for the year in which the disaster occurred (2015). The taxes due on the property shall be determined as follows: taxes due on the property based on its value on January 1, 2015, are multiplied by a fraction, the denominator of which is 365 and the numerator of which is the number of days before the date the disaster occurred (359); the taxes on the property based on its reappraisal value are multiplied by a fraction, the denominator of which is 365 and the numerator of which is the number of days, including the date the disaster occurred, remaining in the year (6); and the total of the two amounts is the amount of taxes on the property for the year.

The average taxable value for a home in the City of Rowlett for tax year 2015 is $157,571.00, which results in an average yearly tax bill of $1,240.36. Assuming that a home had $0 improvement appraised value upon reappraisal and a land value of $65,000, the tax bill for the home after reappraisal would be calculated as shown in the chart below.

	Tax Bill Portion Before Storm	**Tax Bill Portion After Storm**	**New 2015 Tax Bill**
Average Taxable Value	$157,571.00	$65,000.00	
Property Tax Rate	0.787173	0.787173	
Tax Year 2015 Tax Bill	$1,240.36	$511.66	
Proration	359 days	6 days	
Prorated Tax Bill	**$1,215.55**	**$10.23**	**$1,225.78**

Please note, however, that each situation is unique and the amount of each refund will vary depending on the situation. The impact to FY2016 property tax revenues should be a decrease of less than $12,000 based on the average tax value and the number of affected homes.

Each taxing entity plan must pass a resolution/ordinance/court order to request the prorated reappraisal for the 2015 Tax Year. The Town of Sunnyvale passed a resolution on December 30, 2015. The City of Garland passed a resolution on February 2, 2016.

While Texas Tax Code Section 23.02 states that a taxing unit that authorizes a reappraisal under this section must pay the appraisal district all the costs of making the reappraisal, both the Dallas County Central Appraisal District and Rockwall County Central Appraisal District have informed us that they will not charge extra for a disaster reappraisal. Both Central Appraisal Districts consider this part of their duties and as such will conduct the reappraisal within their regular budgets.

RECOMMENDED ACTION

Move to approve a resolution requesting Dallas County Central Appraisal District and Rockwall County Central Appraisal District reappraise properties in the City of Rowlett affected by the recent tornado as authorized by Texas Tax Code Section 23.02.

RESOLUTION

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ROWLETT, TEXAS, REQUESTING THAT THE DALLAS CENTRAL APPRAISAL DISTRICT AND ROCKWALL CENTRAL APPRAISAL DISTRICT REAPPRAISE PROPERTIES IN THE CITY OF ROWLETT AFFECTED BY THE RECENT TORNADO AS AUTHORIZED BY TEXAS TAX CODE SECTION 23.02; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Rowlett has suffered widespread severe property damage, injuries, and loss of life resulting from a devastating, historic tornado that occurred on Saturday, December 26, 2015;

WHEREAS, the Mayor of the City of Rowlett declared a local state of disaster as authorized by the Texas Disaster Act, Chapter 418 of the Texas Government Code;

WHEREAS, on December 27, 2015, Governor Gregg Abbott, in accordance with the authority vested in him by Sections 418.014 through 418.017 of the Texas Disaster Act, declared a state of disaster in several North Texas counties,

WHEREAS, Section 23.02 of the Texas Property Tax Code provides that the governing body of a taxing unit located in an area declared to be a natural disaster area by the Governor may authorize the reappraisal of all property damaged as a result of the disaster: and,

WHEREAS, the City of Rowlett has determined it is appropriate to evoke such a section to cause such reappraisal and proration of taxes that may be warranted;

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

Section 1: The City of Rowlett requests that the Dallas Central Appraisal District and the Rockwall Central Appraisal District reappraise all property within the City of Rowlett limits damaged by the disaster described in the recitals above as soon as practicable.

Section 2: Once any property damaged in the disaster is reappraised, the taxes on the damaged property shall be prorated for the year in which the disaster occurred (2015). The taxes due on the property shall be determined as follows: taxes due on the property based on its value on January 1, 2015, are multiplied by a fraction, the denominator of which is 365 and the numerator of which is the number of days before the date the disaster occurred (359); the taxes on the property based on its reappraisal value are multiplied by a fraction, the

denominator of which is 365 and the numerator of which is the number of days, including the date the disaster occurred, remaining in the year; and the total of the two amounts is the amount of taxes on the property for the year.

Section 3: This resolution shall become effective immediately upon its passage.

City of Rowlett

Staff Report

4000 Main Street
P.O. Box 99
Rowlett, TX 75030-0099
www.rowlett.com

AGENDA DATE: 02/16/16 **AGENDA ITEM:** 7I

TITLE

Consider a resolution approving a tree mitigation plan and related tree removal permit application for more than three trees associated with the Briarwood Armstrong Addition on property located at 3001 Lakeview Parkway, further described as Lots 1-4 and 7, Block A of the Briarwood Armstrong Addition, City of Rowlett, Dallas County, Texas.

STAFF REPRESENTATIVE

Garrett Langford, AICP, Principal Planner

SUMMARY

This is a request to revise a tree mitigation plan for the Sprouts development located at 3001 Lakeview Parkway (Attachment 1 - Location Map) that was previously approved by City Council on November 11, 2014. The revised plan will preserve 15 protected trees totaling in 236 caliper inches in tree mitigation credit while removing 22 protected trees totaling in 293 caliper inches. This results in a deficit of 57 caliper inches requiring mitigation. The applicant is proposing to mitigate 57 caliper inches by paying a fee in lieu of in the amount of $6,935.19. **The Planning and Zoning Commission unanimously recommended approval of this item at their January 26, 2016, Regular Meeting.**

BACKGROUND INFORMATION

The revised tree preservation plan is a result of the proposed development of Lot 3 for a 7,320 square foot building that will include Chipotle and Pie Five restaurants. Before the proposed Development Plan can be considered for approval by staff, the tree mitigation plan must be approved by City Council. The tree mitigation and preservation plan for Lot 5 and 6 will be done under separate applications as these lots are being developed by separate parties. Trees on Lot 5 and 6 were not included in the previous tree mitigation and preservation plan.

The previously approved mitigation plan allowed for the removal of 15 protected trees totaling 183 caliper inches while preserving 22 protected trees totaling 316 caliper inches in tree mitigation credit. The applicant is proposing to remove a total of seven protected trees from Lot 3, which increases the number of protected trees being removed to 22 trees for a total 293 caliper inches. The revised preservation plan will preserve 15 protected trees totaling in 236 caliper inches in credit. The seven protected trees are being removed to make way for the proposed building and parking spaces.

As required by the Rowlett Development Code, the applicant will install new landscaping and trees with the new building. The applicant is proposing to pay a fee in lieu of planting an additional 57 caliper inches required, as there are no remaining areas in their proposed development for additional trees. Staff concurs that for the sake of healthy plant growth, additional trees are not advisable beyond the proposed landscaping on site. Section 77-504.H of the Rowlett

Development Code does allow two additional options to be used at the Council's discretion in lieu of mitigating on site:

1. Replacement trees may be planted off site in areas or locations approved by the City Council upon recommendation from the Planning and Zoning Commission and may be planted:
   a. Within a specified city-designated park or other city-owned property or facility;
   b. Within a specified private open space (i.e. private park, preserve, or similar property that is open for public use); or
   c. Within a specified public right-of-way median.

2. In lieu of planting replacement trees, the City Council, upon recommendation from the Planning and Zoning Commission, may approve a request to pay tree mitigation fees. The City Council has the authority to waive or reduce mitigation fees as they see fit.

In this case, the total mitigation fees would be approximately **$6,935.19.** This is calculated using the $121.67 per replacement inch as adopted by the Master Fee Schedule.

Section 77-504.H of the Rowlett Code of Ordinances states the purpose of tree preservation and lists the criteria for approval of tree removal. The following section lists the criteria for a tree removal permit followed by Staff's recommendation.

DISCUSSION

Per section 77-504. H of the Rowlett Development Code, "Tree preservation". The purpose of tree preservation is as follows:

1. Purpose. The purpose of this section is to encourage the preservation of long-established trees of sizes that, once removed, can be replaced only after many generations of tree growth; to preserve protected trees during construction; and to control the removal of protected trees. It is the intent of this section to achieve the following:
   (a) Prohibit the indiscriminate clearing of trees from property;
   (b) To the greatest extent possible, preserve and maintain protected trees so as to enhance the quality of development;
   (c) Protect and increase the value of residential and commercial properties within the city by maintaining the city's current tree inventory;
   (d) Maintain and enhance a positive image for the attraction of new business enterprises to the city;
   (e) Protect healthy quality trees and promote the natural ecological environmental and aesthetic qualities of the city; and
   (f) Help provide needed shaded areas in order to provide relief from the heat by reducing the ambient temperature.

The City Council shall deny a tree removal permit and associated tree survey and preservation plan if it is determined that:

1. Removal of the tree is not reasonably required in order to conduct anticipated activities;

2. A reasonable accommodation can be made to preserve the tree; or
3. The purpose and intent of this subchapter is not being met by the applicant.

The proposed tree removal is needed in order to conduct anticipated activities on the site and no reasonable accommodation could be made. To deny the removal will require the developer to substantially reconfigure their proposed development. The applicant has identified 15 protected trees totaling 236 caliper inches for tree replacement credits to partially offset the 293 inches to be removed resulting in a deficit of 57 caliper inches. The applicant is proposing to mitigate 57 caliper inches by a paying a fee in lieu of planting trees on site.

FISCAL IMPACT

There will be fiscal impact, as $6,935.19 will be contributed to the City's reforestation fund.

RECOMMENDED ACTION

Staff requests approval of the resolution.

RESOLUTION

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ROWLETT, TEXAS, GRANTING APPROVAL OF A TREE SURVEY/PRESERVATION PLAN AND ACCOMPANYING TREE REMOVAL PERMIT FOR A 13.858 +/- ACRE TRACT OF REAL PROPERTY GENERALLY LOCATED AT 3001 LAKEVIEW PARKWAY, FURTHER DESCRIBED AS BEING BLOCK A, LOTS 1 THROUGH 4 AND LOT 7, BRIARWOOD ARMSTRONG ADDITION, CITY OF ROWLETT, DALLAS COUNTY, TEXAS; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City has received and considered a Tree Survey/Preservation Plan and an application for a tree removal permit for property located at 3001 Lakeview Parkway to accommodate development activities, which Plan and application requests the removal of protected trees; and

WHEREAS, City Council hereby finds that the proposed tree removal is needed in order to conduct anticipated activities on the site and no reasonable accommodation could be made.

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

Section 1: That the Tree Survey/Preservation Plan, attached hereto and incorporated herein as Exhibit "A," be and is hereby approved and the accompanying application for a tree removal permit, pertaining to a 13.858 +/- acre tract of real property described as Lots 1 through 4 and Lot 7 of Block A of the Briarwood Armstrong Addition, City of Rowlett, Dallas County, Texas (hereinafter the "Property"), be and is hereby approved subject to the condition and requirement that all required mitigation fees shall be collected prior to issuance of the tree removal permit and deposited into the City's reforestation fund.

Section 2: That should any sentence, paragraph, subdivision, clause, phrase or section of this resolution be adjudged or held to be unconstitutional, illegal, or

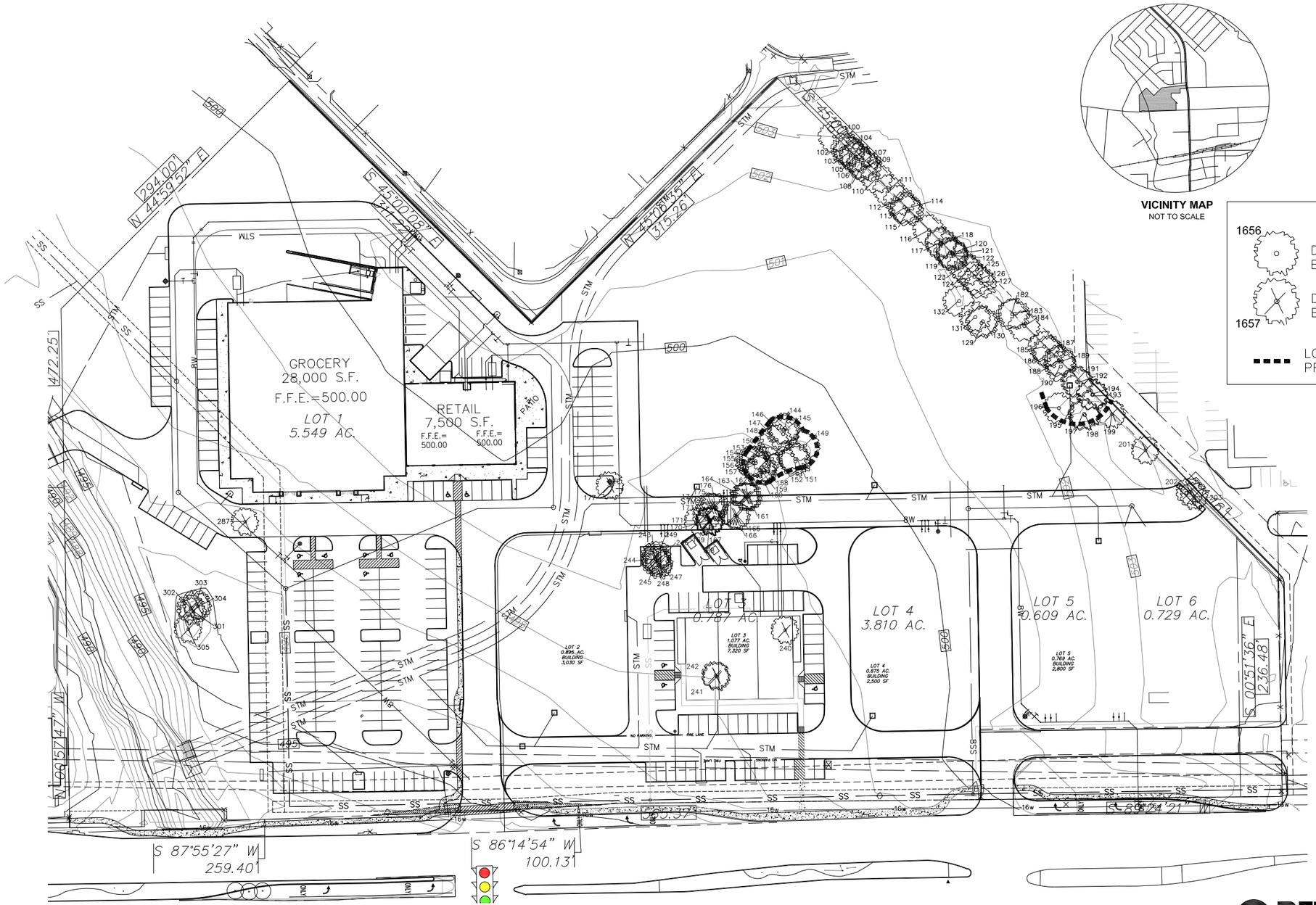
invalid, the same shall not affect the validity of this resolution as a whole, or any part or provision thereof other than the part so decided to be invalid, illegal, or unconstitutional.

Section 3: That this resolution shall take effect immediately from and after its passage and the publication of the caption of said resolution as the law in such case provides.

ATTACHMENTS

Exhibit A – Tree Survey and Preservation Plan
Attachment 1 – Location Map

EXHIBIT A



VICINITY MAP
NOT TO SCALE

N
W E
S
0 25 50 100
Scale 1" = 50'

LEGEND

1656 — DENOTES TREE TO BE PRESERVED

1657 — DENOTES TREE TO BE REMOVED

LOCATION OF PROTECTIVE FENCE

NOTE; THREE (3) EXISTING VITEX TREES IN THE MEDIAN TO BE RELOCTAED TO THE ROWLETT CITY WATER PARK. THE OAK TREE CAN BE REMOVED WITHOUT RELOCATING. WHEN WORK STARTS ON THE LEFT TURN LANE, THE CONTRACTOR WILL NEED TO COORDINATE WITH ROWLETT PARKS DEPARTMENT ON RELOCATING THE VITEX TREES. PARKS DEPARTMENT CONTACTS ARE AL KRAJC OR KEITH FLOURNOY ("AL KRAJC" <AKRAJC@ROWLETT.COM>, "KEITH FLOURNOY" <KFLOURNOY@ROWLETT.COM>)

REF LEGEND SHEET L2

TREE REMOVAL DESCRIPTION

301 – 305 REMOVED FOR CHANNEL AREA
287 REMOVED FOR DRIVE AISLE
177 REMOVED FOR GRADING AND FIRE HYDRANT
161 – 176 REMOVED FOR FIRE LANE
201 – 204 REMOVED FOR FIRE LANE
240 – 242 REMOVED IN BUILDING FOOTPRINT
243 – 249 REMOVED FOR PARKING

DFL Group, LLC
PARKS + OPEN SPACE PLANNING · LANDSCAPE ARCHITECTURE
8233B MID CITIES BLVD, NORTH RICHLAND HILLS, TX 76180 817-479-0730

REGISTERED LANDSCAPE ARCHITECT JOHN R. FAIN 805 STATE OF TEXAS
01/20/16

THIS ELECTRONIC DRAWING FILE IS RELEASED UNDER THE AUTHORITY OF JOHN R. FAIN, LANDSCAPE ARCHITECT REGISTRATION NUMBER 805 ON 01/20/16, WHO MAINTAINS THE ORIGINAL FILE. THIS ELECTRONIC DRAWING FILE MAY BE USED AS A BACKGROUND DRAWING, PURSUANT TO RULE 3.103(F) OF THE RULES AND REGULATIONS OF THE TEXAS BOARD OF ARCHITECTURAL EXAMINERS. THE USER OF THIS ELECTRONIC DRAWING FILE AGREES TO ASSUME ALL RESPONSIBILITY FOR ANY MODIFICATION TO OR USE OF THIS DRAWING FILE THAT IS INCONSISTENT WITH THE REQUIREMENTS OF THE RULES AND REGULATIONS OF THE TEXAS BOARD OF ARCHITECTURAL EXAMINERS. NO PERSON MAY MAKE MODIFICATIONS TO THIS ELECTRONIC DRAWING FILE WITHOUT THE LANDSCAPE ARCHITECT'S EXPRESS WRITTEN PERMISSION.

TREE SURVEY

No.	DATE	REVISION	APPROV.

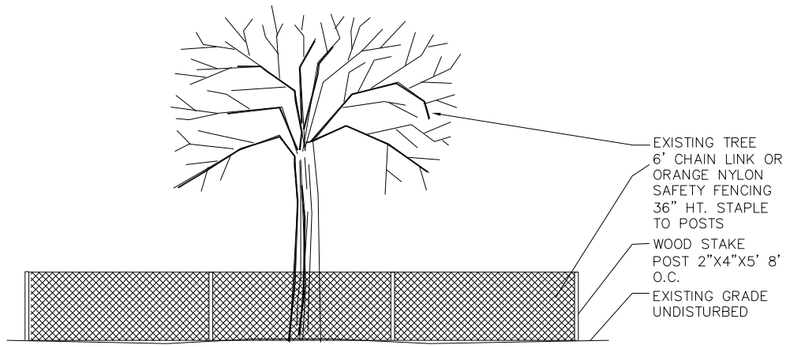
Winkelmann & Associates, Inc.
CONSULTING CIVIL ENGINEERS ■ SURVEYORS
6750 HILLCREST PLAZA DRIVE, SUITE 325
DALLAS, TEXAS 75230 (972) 490-7090
Texas Surveyors Registration No. 89 (972) 490-7099 FAX
Texas Engineers Registration No. 100566-00
COPYRIGHT © 2014, Winkelmann & Associates, Inc.

STATE OF TEXAS LICENSED PROFESSIONAL ENGINEER

TREE SURVEY
LAKEVIEW PKWY & ROWLETT RD.
ROWLETT, TEXAS

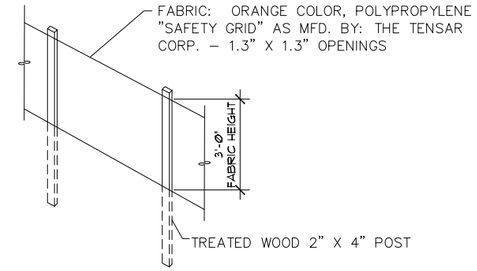
SHEET
L-1
OF 2

EXHIBIT A

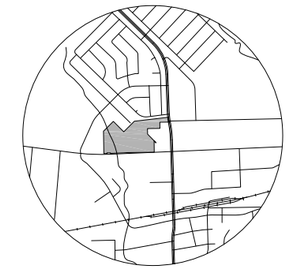


TREE PROTECTIVE FENCING

SCALE: NONE



NOTE: PROPOSED EXTENT OF TREE PROTECTION IS INDICATED ON THIS DRAWING. FENCING MAY BE ADJUSTED IF NECESSARY DUE TO WORK REQUIRED WITHIN THE ENCLOSED AREA, OR IN THE EVENT THAT INDICATED FENCING PROHIBITS REQUIRED WORK IN THE ADJACENT AREA. CONSULT LANDSCAPE ARCHITECT PRIOR TO WORKING WITHIN FENCED AREAS OR MAKING ADJUSTMENTS TO EXTENT OF FENCING. INSTALL FENCE BEFORE BEGINNING ANY WORK ON THE PROJECT SITE EXCEPT STAKING.



VICINITY MAP
NOT TO SCALE

Tree Survey

	Cal.	Species	Condition
100	7	HACKBERRY	PRESERVE EXEMPT
102	8	HACKBERRY	PRESERVE EXEMPT
103	7	HACKBERRY	PRESERVE EXEMPT
104	6	HACKBERRY	PRESERVE EXEMPT
105	10	HACKBERRY	PRESERVE EXEMPT
106	6	HACKBERRY	PRESERVE EXEMPT
107	6	HACKBERRY	PRESERVE EXEMPT
108	8	HACKBERRY	PRESERVE EXEMPT
109	9	HACKBERRY	PRESERVE EXEMPT
110	12	HACKBERRY	PRESERVE PROTECTED
111	14	HACKBERRY	PRESERVE PROTECTED
112	7	HACKBERRY	PRESERVE EXEMPT
113	7	HACKBERRY	PRESERVE EXEMPT
114	6	HACKBERRY	PRESERVE EXEMPT
115	10	HACKBERRY	PRESERVE EXEMPT
116	12	HACKBERRY	PRESERVE PROTECTED
117	6	HACKBERRY	PRESERVE EXEMPT
118	6	HACKBERRY	PRESERVE EXEMPT
119	10	HACKBERRY	PRESERVE EXEMPT
120	10	HACKBERRY	PRESERVE EXEMPT
121	6	HACKBERRY	PRESERVE EXEMPT
122	6	HACKBERRY	PRESERVE EXEMPT
123	7	HACKBERRY	PRESERVE EXEMPT
124	7	HACKBERRY	PRESERVE EXEMPT
125	6	HACKBERRY	PRESERVE EXEMPT
126	6	HACKBERRY	PRESERVE EXEMPT
127	10	HACKBERRY	PRESERVE EXEMPT
129	12	BOIS D ARC - MALE	PRESERVE PROTECTED

Tree Survey

	Cal.	Species	Condition
130	6	BOIS D ARC - MALE	PRESERVE EXEMPT
131	13	HACKBERRY	PRESERVE PROTECTED
132	22	HACKBERRY	PRESERVE PROTECTED
144	6	CEDAR	PRESERVE EXEMPT
145	20	HACKBERRY	PRESERVE PROTECTED
146	30	BOIS D ARC - MALE	PRESERVE PROTECTED
147	14	BOIS D ARC - MALE	PRESERVE PROTECTED
148	15	HACKBERRY	PRESERVE PROTECTED
149	6	HACKBERRY	PRESERVE EXEMPT
150	6	HACKBERRY	PRESERVE EXEMPT
151	10	WILLOW	PRESERVE EXEMPT
152	10	WILLOW	PRESERVE EXEMPT
153	6	BOIS D ARC - MALE	REMOVE EXEMFT
154	14	HACKBERRY	PRESERVE PROTECTED
155	6	HACKBERRY	PRESERVE EXEMPT
156	14	HACKBERRY	PRESERVE PROTECTED
157	12	BOIS D ARC	PRESERVE PROTECTED
158	6	HACKBERRY	PRESERVE EXEMPT
159	6	BOIS D ARC - MALE	PRESERVE EXEMPT
160	10	HACKBERRY	PRESERVE EXEMPT
161	6	HACKBERRY	REMOVE EXEMFT
162	12	BOIS D ARC - MALE	REMOVE MITIGATE
163	6	BOIS D ARC - MALE	REMOVE EXEMFT
164	7	HACKBERRY	REMOVE EXEMFT
165	15	BOIS D ARC - MALE	REMOVE MITIGATE
166	6	HACKBERRY	REMOVE EXEMFT
167	12	BOIS D ARC - MALE	REMOVE MITIGATE
168	6	BOIS D ARC - MALE	REMOVE EXEMFY

Tree Survey

	Cal.	Species	Condition
169	6	BOIS D ARC - MALE	REMOVE EXEMPT
170	6	BOIS D ARC - MALE	REMOVE EXEMPT
171	15	BOIS D ARC - MALE	REMOVE MITIGATE
173	10	BOIS D ARC - MALE	REMOVE MITIGATE
174	15	BOIS D ARC - MALE	REMOVE MITIGATE
175	14	HACKBERRY	REMOVE MITIGATE
176	14	BOIS D ARC - MALE	REMOVE MITIGATE
177	12	WILLOW	REMOVE EXEMPT
182	6	HACKBERRY	PRESERVE EXEMPT
183	6	HACKBERRY	PRESERVE EXEMPT
184	12	HACKBERRY	PRESERVE PROTECTED
185	8	HACKBERRY	PRESERVE EXEMPT
186	6	BOIS D ARC - MALE	PRESERVE EXEMPT
187	7	HACKBERRY	PRESERVE EXEMPT
188	10	CEDAR	PRESERVE PROTECTED
189	7	HACKBERRY	PRESERVE EXEMPT
190	8	COTTONWOOD	PRESERVE EXEMPT
191	10	WILLOW	PRESERVE EXEMPT
192	12	WILLOW	PRESERVE EXEMPT
193	7	HACKBERRY	PRESERVE EXEMPT
194	8	HACKBERRY	PRESERVE EXEMPT
195	28	WILLOW	PRESERVE EXEMPT
196	10	BOIS D ARC - MALE	PRESERVE PROTECTED
197	12	WILLOW	PRESERVE EXEMPT
198	12	WILLOW	PRESERVE EXEMPT
199	10	HACKBERRY	REMOVE EXEMPT
201	8	ELM	REMOVE MITIGATE
202	6	CEDAR	REMOVE EXEMPT

Tree Survey

	Cal.	Species	Condition
203	7	HACKBERRY	REMOVE EXEMPT
240	10	HACKBERRY	REMOVE EXEMPT
241	30	BOIS D ARC - MALE	REMOVE MITIGATE
242	7	HACKBERRY	REMOVE EXEMPT
243	14	BOIS D ARC - MALE	REMOVE MITIGATE
244	14	BOIS D ARC - MALE	REMOVE MITIGATE
245	12	BOIS D ARC - MALE	REMOVE MITIGATE
246	7	HACKBERRY	REMOVE EXEMPT
247	16	BOIS D ARC - MALE	REMOVE MITIGATE
248	14	HACKBERRY	REMOVE MITIGATE
249	10	BOIS D ARC - MALE	REMOVE MITIGATE
287	14	ELM	REMOVE MITIGATE
301	13	ELM	REMOVE MITIGATE
302	8	ELM	REMOVE MITIGATE
303	9	ELM	REMOVE MITIGATE
304	12	ELM	REMOVE MITIGATE
305	12	ELM	REMOVE MITIGATE

TOTAL

TOTAL CALIPER INCHES	1,023"
TOTAL CALIPER INCHES PRESERVED	628" (61%)
TOTAL CALIPER INCHES REMOVED	395" (39%)
TOTAL PROTECTED CALIPER INCHES REMOVED	293" (29%)

TOTAL PROTECTED TREES TO BE REMOVED:
293" CALIPER INCHES

SAVED PROTECTED TREE CREDITS FOR TREES PRESERVED:
236" CALIPER INCHES

293" REMOVED VS 236" PRESERVED

TOTAL MITIGATION REQUIRED: 57"

PAY 57" TO CITY REFORESTATION FUND

DFL Group, LLC
PARKS + OPEN SPACE PLANNING · LANDSCAPE ARCHITECTURE
8233B MID CITIES BLVD, NORTH RICHLAND HILLS, TX 76180 817-479-0730

JOHN R. FAIN 805 LANDSCAPE ARCHITECT STATE OF TEXAS
01/20/16

THIS ELECTRONIC DRAWING FILE IS RELEASED UNDER THE AUTHORITY OF JOHN R. FAIN, LANDSCAPE ARCHITECT REGISTRATION NUMBER 805 ON 01/20/16, WHO MAINTAINS THE ORIGINAL FILE. THIS ELECTRONIC DRAWING FILE MAY BE USED AS A BACKGROUND DRAWING, PURSUANT TO RULE 3.103(F) OF THE RULES AND REGULATIONS OF THE TEXAS BOARD OF ARCHITECTURAL EXAMINERS. THE USER OF THIS ELECTRONIC DRAWING FILE AGREES TO ASSUME ALL RESPONSIBILITY FOR ANY MODIFICATION TO OR USE OF THIS DRAWING FILE THAT IS INCONSISTENT WITH THE REQUIREMENTS OF THE RULES AND REGULATIONS OF THE TEXAS BOARD OF ARCHITECTURAL EXAMINERS. NO PERSON MAY MAKE MODIFICATIONS TO THIS ELECTRONIC DRAWING FILE WITHOUT THE LANDSCAPE ARCHITECT'S EXPRESS WRITTEN PERMISSION.

TREE TABLE

No.	DATE	REVISION	APPROV.

Winkelmann & Associates, Inc.
CONSULTING CIVIL ENGINEERS ■ SURVEYORS
6750 HILLCREST PLAZA DRIVE, SUITE 325
DALLAS, TEXAS 75230
Texas Surveyors Registration No. 89
Texas Engineers Registration No. F-1000
(972) 490-7090
(972) 490-7099 FAX

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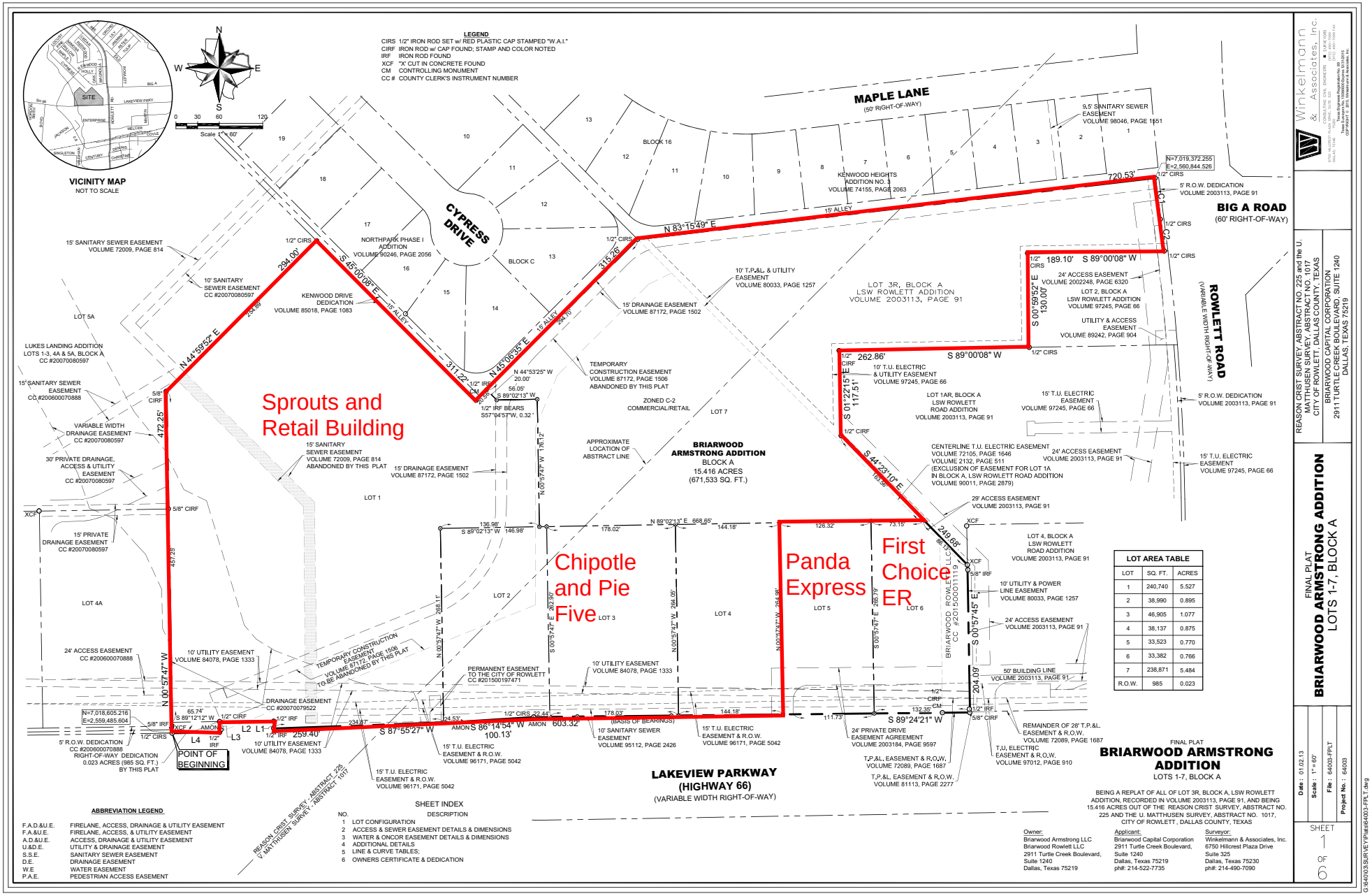
STATE OF TEXAS
LICENSED PROFESSIONAL ENGINEER

TREE TABLE
LAKEVIEW PKWY & ROWLETT RD.
ROWLETT, TEXAS

SHEET
L-2
OF 2

ATTACHMENT 1



ABBREVIATION LEGEND

F.A.D.&U.E.	FIRELANE, ACCESS, DRAINAGE & UTILITY EASEMENT
F.A.&U.E.	FIRELANE, ACCESS, & UTILITY EASEMENT
A.D.&U.E.	ACCESS, DRAINAGE & UTILITY EASEMENT
U.&D.E.	UTILITY & DRAINAGE EASEMENT
S.S.E.	SANITARY SEWER EASEMENT
D.E.	DRAINAGE EASEMENT
W.E	WATER EASEMENT
P.A.E.	PEDESTRIAN ACCESS EASEMENT

SHEET INDEX

NO.	DESCRIPTION
1	LOT CONFIGURATION
2	ACCESS & SEWER EASEMENT DETAILS & DIMENSIONS
3	WATER & ONCOR EASEMENT DETAILS & DIMENSIONS
4	ADDITIONAL DETAILS
5	LINE & CURVE TABLES;
6	OWNERS CERTIFICATE & DEDICATION

LOT AREA TABLE

LOT	SQ. FT.	ACRES
1	240,740	5.527
2	38,990	0.895
3	46,905	1.077
4	38,137	0.875
5	33,523	0.770
6	33,382	0.766
7	238,871	5.484
R.O.W.	985	0.023

FINAL PLAT

BRIARWOOD ARMSTRONG ADDITION

LOTS 1-7, BLOCK A

BEING A REPLAT OF ALL OF LOT 3R, BLOCK A, LSW ROWLETT ADDITION, RECORDED IN VOLUME 2003113, PAGE 91, AND BEING 15.416 ACRES OUT OF THE REASON CRIST SURVEY, ABSTRACT NO. 225 AND THE U. MATTHUSEN SURVEY, ABSTRACT NO. 1017, CITY OF ROWLETT, DALLAS COUNTY, TEXAS

Owner:
Briarwood Armstrong LLC
Briarwood Rowlett LLC
2911 Turtle Creek Boulevard,
Suite 1240
Dallas, Texas 75219

Applicant:
Briarwood Capital Corporation
2911 Turtle Creek Boulevard,
Suite 1240
Dallas, Texas 75219
ph#: 214-522-7735

Surveyor:
Winkelmann & Associates, Inc.
6750 Hillcrest Plaza Drive
Suite 325
Dallas, Texas 75230
ph#: 214-490-7090

Winkelmann & Associates, Inc.
CIVIL ENGINEERS • LAND SURVEYORS
6750 HILLCREST PLAZA DRIVE, SUITE 325 • DALLAS, TEXAS 75230 • 214-490-7090
Texas Engineering Registration No. 00001603 • Texas Surveying Registration No. 10046300
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REASON CRIST SURVEY, ABSTRACT NO. 225 and the U. MATTHUSEN SURVEY, ABSTRACT NO. 1017
CITY OF ROWLETT, DALLAS COUNTY, TEXAS

BRIARWOOD CAPITAL CORPORATION
2911 TURTLE CREEK BOULEVARD, SUITE 1240
DALLAS, TEXAS 75219

FINAL PLAT
BRIARWOOD ARMSTRONG ADDITION
LOTS 1-7, BLOCK A

Date : 01.02.13
Scale : 1" = 60'
File : 64003-FPLT
Project No. : 64003

SHEET 1 OF 6

G:\64003\SURVEY\Plats\64003-FPLT.dwg

City of Rowlett

Staff Report

4000 Main Street
P.O. Box 99
Rowlett, TX 75030-0099
www.rowlett.com

AGENDA DATE: 02/16/16 **AGENDA ITEM**: 7J

TITLE

Consider a resolution authorizing the City Manager to enter into an Economic Development incentive agreement with Churchill Residential for the development of the Evergreen at Rowlett Senior Living Complex located at 5500 Old Rowlett Road.

STAFF REPRESENTATIVE

Erin Jones, Senior Planner
Jim Grabenhorst, Director of Economic Development

SUMMARY

The Economic Development incentive agreement (Exhibit A) with Churchill Residential will allow for the development of a 5.50 +/- acre vacant property (Attachment 1- Location Map) for the use of an independent living senior apartment complex. In February 2015 the City Council approved three key resolutions indicating support of the project for the competitive Texas Department of Housing and Community Affairs' (TDHCA) tax credit program, one of which was a funding commitment (Attachment 2). Following the zoning approval in June 2015, Churchill received approval through TDHCA and has since been working through the development process. The Council's approval of this Economic Development Incentive Agreement (Exhibit A) is the final step in following through on the previously approved support resolution.

BACKGROUND INFORMATION

A sampling of Churchill's properties, including the Evergreen in Mesquite, Rockwall, and Plano, can be viewed at the following link: http://www.churchillresidential.com/locations.aspx. Evergreen at Rowlett is proposed to be a 138 unit, age-restricted (55+), subsidized, independent senior housing community. The proposed complex will be 100% income restricted and funded through the TDHCA 2015 funding cycle.

The City Council approved the zoning for the project in June 2015 and amended the zoning as it pertains to building materials on February 2, 2016. Prior to approving the zoning they also approved three key resolutions in February 2015 indicating support of the project. This report will focus on Resolution 019-15, which was a funding commitment.

Following approval from TDHCA in July 2015, Churchill has been working through the development process and is currently finalizing their civil engineering plans, final plat and construction plans with the goal of starting construction on April 1, 2016. The Council's approval of this Economic Development Incentive Agreement will allow them to close on their construction loan and begin site work in April.

DISCUSSION

The City of Rowlett has adopted by resolution a Policy Statement for Economic Development Incentives. Said policy statement indicates that the City of Rowlett is committed to the promotion of high quality development in all parts of the City and to an ongoing improvement in the quality of life for its citizens. Insofar as these objectives are generally served by the enhancement and expansion of the local economy, the City of Rowlett will, on a case-by-case basis, give consideration to providing incentives as stimulation for economic development in Rowlett.

In this case, a commitment to an economic development incentive was required as part of the TDHCA competitive funding process. The Council's support of this project is directly tied to the guiding principles outlined in the Realize Rowlett 2020 Comprehensive Plan in that it is helping to "*make Rowlett a community that is attractive to people at all stages of their lives*" by providing an alternative housing option for senior citizens that does not exist in the City today. This project will generate a total of $20,600,000.00 in private investment consisting of a 138 unit independent senior living apartment complex.

As was outlined in the staff report associated with previously approved Resolution 019-15, and detailed in the loan documents included within Exhibit A, this incentive is based on a "Loan Commitment" offering an economic development loan in the amount of $1,200,000.00, which allowed the applicant to qualify for certain competitive points under its TDHCA tax credit application. The City will assign the loan to a third party, who will assume all obligations and liabilities associated with said loan. The third party has been identified as Capital One. Based on this loan structure, the loan is considered non-recourse to the City and will not affect the City's bonding capacity.

FINANCIAL/BUDGET IMPLICATIONS

Based upon the above terms of the Economic Development Incentive Agreement, the loan proceeds will be funded by Capital One, and Capital One will assume all risk and liability associated with the loan. Churchill Residential retains all liabilities and obligations associated with the loan as the developer, and it is non-recourse to the City. The loan amount will be shown as a footnote on the City's Comprehensive Annual Financial Report.

RECOMMENDED ACTION

Staff recommends Council move to approve a resolution to enter into an Economic Development Incentive Agreement for property located at 5500 Old Rowlett Road for the development of the Evergreen at Rowlett Senior Living Complex and authorize the City Manager to execute the necessary documents.

RESOLUTION

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ROWLETT, TEXAS, APPROVING AN ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT WITH CHURCHILL RESIDENTIAL, PERTAINING TO THE EVERGREEN AT ROWLETT SENIOR LIVING COMPLEX; AUTHORIZING THE CITY MANAGER TO ENTER INTO THE AGREEMENT ON THE CITY'S BEHALF; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Rowlett, Texas, has negotiated an Economic Development Incentive Agreement with Churchill Residential for the development of Evergreen at Rowlett Senior Living Complex; and

WHEREAS, the Agreement provides for economic development incentives through use of a non-recourse loan; and

WHEREAS, the project is designed and will be constructed according to the approved City standards, and the successful development of the project, which would not occur in the absence of the economic development incentives, is in the best interest of the citizens of the City.

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

Section 1: That the Economic Development Incentive Agreement attached hereto as Exhibit A, having been reviewed by the City Council of the City of Rowlett, Texas is hereby approved.

Section 2: That the City Manager be and is hereby authorized to execute the Economic Development Incentive Agreement and any necessary documents conforming to this resolution, following and subject to City Attorney approval.

Section 3: This resolution shall become effective immediately upon its passage.

ATTACHMENTS

Exhibit A – Economic Development Incentive Agreement
Attachment 1 – Location Map
Attachment 2 – Resolution 019-15: Funding Commitment

STATE OF TEXAS §
§
COUNTY OF DALLAS §

ECONOMIC DEVELOPMENT INCENTIVE LOAN AGREEMENT

This Economic Development Incentive Loan Agreement (this "Agreement") is entered into on the Effective Date between the City of Rowlett, Texas (the "City") and Churchill Residential (the "Developer"), each acting by and through its duly authorized representatives.

RECITALS

WHEREAS, the City has adopted a vision for the redevelopment and economic revitalization of the community and has established and implemented a broad program to achieve this goal; and

WHEREAS, the Developer desires to design, develop and construct a senior living facility that will encourage diversity in the City's housing stock and improve the local economy; and

WHEREAS, the City is authorized by Chapter 380 of the Texas Local Government Code to provide economic development grants and loans to promote local economic development and to stimulate and promote local economic development and business and commercial activity in the City, and desires to make a loan to Developer to stimulate economic development; and

WHEREAS, the attraction of new and the expansion of existing business in the City will promote economic development, stimulate commercial activity, provide additional jobs and employment opportunities for the citizens of the City, generate additional tax revenue, and enhance the tax base and economic vitality of the City, which will promote the City's goals; and

WHEREAS, the City has determined that making economic development grants and loans in accordance with this Agreement will further the objectives of the City and the Developer, will benefit the City's inhabitants, and will promote local economic development and stimulate employment, business and commercial activity in the City;

NOW THEREFORE, in consideration of the foregoing, and on the terms and conditions hereinafter set forth, the parties agree as follows:

ARTICLE 1
Certain Definitions

"Commencement of Construction" shall mean that (i) plans have been prepared and submitted to the City; and (ii) all necessary permits for the construction on the Property pursuant to the respective plans have been issued by the City.

"Completion of Construction" shall mean the date upon which the City issues a final certificate of occupancy for the last major structure built on the Property, which shall include the City's acceptance of all infrastructure following its installation, construction, inspection, testing and final completion, whichever occurs earlier. As used herein, "major structure" shall not include accessory buildings, pavement, artistic elements, recreational or scenic facilities, or parking facilities.

"Event of Bankruptcy or Insolvency" shall mean the dissolution or termination (other than a dissolution or termination by reason of a party merging with an affiliate) of a party's existence as an on-going business, insolvency, appointment of receiver for any part of a party'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 a party and in the event such proceeding is not voluntarily commenced by the party, such proceeding is not dismissed within ninety (90) business days after the filing thereof.

"Force Majeure" shall mean any delays due to strikes, riots, acts of God, shortages of labor or materials, war, governmental approvals, laws, regulations, or restrictions, or other cause beyond the control of the party.

"Loan" shall mean the Loan as defined in Section 2.1 below.

"**Project**" means the design, installation, and construction of a senior living facility of approximately 138 units, to be situated on the Property as shown in approximation in the Concept Plan attached hereto and incorporated herein as Exhibit "C."

ARTICLE 2
Economic Development Loan

2.1. Loan. Subject to the terms, covenants and conditions of this Agreement, the City will make a loan for economic development purposes to Developer from lawfully available funds in the amount of One Million Two Hundred Thousand and no/100 Dollars ($1,200,000.00) to assist in payment for a portion of the necessary costs of design, construction, renovation and installation of infrastructure, buildings and facilities for the Project. The Loan shall be paid by the City from any source of funds lawfully available to the City. Repayment terms and conditions are as set forth in the Promissory Note and related loan documents attached hereto and incorporated herein as Exhibit "A." The loan shall be non-recourse whereby the exclusive remedy on default is proceedings against collateral and may be made payable to, or assigned to, a commercial bank or financial institution.

2.2 Notwithstanding anything contained herein to the contrary, the loan herein shall in all events and for all purposes be deemed to be a grant or loan in accordance with the provisions of Chapter 380 of the Texas Local Government Code payable from any source of funds lawfully available to the City.

2.3 Loan Limitations. Under no circumstances shall the City's obligations hereunder be deemed to create any debt within the meaning of any constitutional or statutory provision. Further, the City shall not be obligated to pay any commercial bank, lender or similar institution for any loan or credit agreement made by Developer or an approved assignee. None of the City's obligations under this Agreement shall be pledged or otherwise encumbered in favor of any commercial lender and/or similar financial institution.

ARTICLE 3
Performance Obligations

3.1 Performance Criteria. The obligation of the City to make the loan in accordance with the foregoing, and the obligations assumed by Developer as conditions precedent and subsequent to the receipt of said loan proceeds, are subject to the following:

a) Developer shall achieve Commencement of Construction on or before April 1, 2016, shall diligently pursue the development of the Project, and shall achieve Completion of Construction on or before October 31, 2016.

b) During the term of this Agreement following the Effective Date and continuing thereafter for a period of one (1) year after Completion of Construction, or earlier termination, Developer or its approved successors or assigns shall continuously own, operate and occupy the Property (subject to approved assignments) and shall continuously operate the Project.

c) For a period of one (1) year following Completion of Construction, Developer shall not assign, sell or transfer ownership of the Project to any person without the prior written consent of the City, which consent shall not be unreasonably withheld.

ARTICLE 4
Events of Default; Events of Termination; Recapture

4.1 Termination. This Agreement terminates upon any one of the following:

a) by mutual written agreement of the City and Developer;

b) by the City or Developer, respectively, if the other party defaults or breaches any of the terms or conditions of this Agreement and such default or breach is not cured within thirty (30) days after written notice thereof by the non-breaching party;

c) by the City if any taxes, fees or charges owed to the City, the County of Dallas, or the State of Texas by Developer or an approved assignee shall have become delinquent (provided, however, Developer retains the right to timely and properly protest and contest such taxes or fees);

d) by the City if Developer or an approved assignee suffers an Event of Bankruptcy or Insolvency;

e) by the City or by Developer, respectively, if any subsequent federal or state legislation or any decision of a court of competent jurisdiction declares or renders this Agreement invalid or illegal; or

f) by the City if insufficient funding is available to provide the Loan or make any payments thereunder. In such event, the City shall give Developer not less than thirty (30) days notice of its intent to terminate.

4.2 Recapture. In the event that this Agreement is terminated as to any party (or assignee of a party) prior to payment of the Loan or any payment thereunder, the obligation of the City to make the Loan or payment (or any remaining portion thereof) shall cease immediately. In addition, if all or any portion of the Loan has been paid to Developer, then Developer (or its assignee) shall, immediately upon notice, refund all amounts previously paid, and any and all amounts due to the City shall be immediately due and payable in full without notice of acceleration or demand and without notice of intent to accelerate.

ARTICLE 5
Covenants, Representations, and Warranties

5.1 Separated Contracts. In developing and constructing the Project, Developer will use reasonable efforts to encourage all contractors and vendors to use "separated contracts" (as that term is defined in Sec. 3.291 of the Texas Administrative Code), in order to maximize sales tax revenues.

5.2 Existence; Authority.

a) Developer represents and warrants that it has sufficient legal authority to conduct business in the State of Texas; that it has full capacity and authority to grant all rights and assume all obligations that it has granted and assumed under this Agreement; and that the person or persons executing this Agreement on its behalf has been duly authorized to do so.

b) The City represents and warrants that it has full capacity and authority to grant all rights and assume all obligations that it has granted and assumed under this Agreement; and that the person or persons executing this Agreement on its behalf has been duly authorized to do so.

5.3 Limitation of Liability. Except for the City's obligations to pay the Loan proceeds as set forth in this Agreement, the City and its past, present and future officers, employees and agents assume no responsibilities or liabilities to Developer, or any third parties in connection with the development and improvement of the Property and the Project, and Developer hereby holds harmless and waives any and all claims against the City and its officials, officers, employees and representatives for any losses, injury to persons or damage to property. It is acknowledged and agreed by the parties that the terms of this Agreement are not intended to and shall not be deemed to create any partnership or joint venture among the parties. Developer acknowledges and agrees that there shall be no personal recourse to the directors, officers, employees or agents of the City, which shall incur or assume no liability in respect of any claims based upon, relating to, or arising from this Agreement.

ARTICLE 6
Miscellaneous

6.1 Recitals. The recitals in the preamble to this Agreement are hereby incorporated herein as part of this Agreement.

6.2 No Third Party Rights. By entering into this Agreement, the parties do not create any obligations express or implied other than those set forth herein; the terms of this Agreement are solely for the benefit of the City and the Developer; and this Agreement shall not create any rights in any parties other than the City and the Developer.

6.3 No Waiver of Immunity. By entering into this Agreement, the City shall not be deemed or construed to waive any of its sovereign, governmental, official, legislative or other immunities, said immunities being hereby retained.

6.4 Binding Agreement; Assignment. The terms and conditions of this Agreement are binding upon the successors and assigns of all parties hereto. This Agreement shall not be assigned by Developer without the written consent of the City, which consent shall not be unreasonably withheld.

6.5 Governing Law. The validity of this Agreement and any of its terms and provisions, as well as the rights and duties of the parties, shall be governed by the laws of the State of Texas, and venue for any action concerning this Agreement shall lie exclusively in the state courts of appropriate jurisdiction in Dallas County, Texas.

6.6 Amendment. This Agreement may be amended only by the mutual written agreement of the parties hereto.

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

6.8 Notices. All notices which are required or permitted hereunder must be in writing and shall be deemed to have been given, delivered or made, as the case may be (notwithstanding lack of actual receipt by the addressee): (i) upon actual receipt or refusal by the addressee by hand, telecopier or other electronic transmission; or (ii) three (3) business days after having been deposited in the United States mail, certified or registered, return receipt requested, sufficient postage affixed and prepaid; or (iii) one (1) business day after having been deposited with an expedited, overnight courier service (e.g. U.S. Express Mail or Federal Express) for one-day delivery, addressed to the party to whom notice is intended to be given at the following addresses:

If intended for City, to:

City of Rowlett, Texas
Attn: City Manager
4000 Main Street
P.O. Box 99
Rowlett, Texas 75088

With a copy to:

David M. Berman
Nichols, Jackson, Dillard,
Hager & Smith, L.L.P.
1800 Lincoln Plaza
500 North Akard Street
Dallas, Texas 75201

If intended for Developer, to:

Churchill Residential, Inc.
Attn: Brad Forslund
5605 N. MacArthur Blvd. #580
Irving, TX 75038

6.9 Entire Agreement. This Agreement is the entire agreement between the parties with respect to the subject matter covered in this Agreement. There is no other oral or written agreement between the parties that in any manner relates to the subject matter of this Agreement.

6.10 Waiver of Rights. The failure of any party to exercise any of the rights set forth in this Agreement shall not be deemed a waiver that prevents that party from any future exercise of that or any other right set forth in this Agreement. The failure of a party to insist on the performance of any obligation by any other party shall not be deemed a waiver by that party of the right to insist or compel performance of that or any other obligation.

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

6.12 Effective Date. This Agreement is effective, and the Effective Date hereof, is the last date affixed to the signatures of the parties.

EXECUTED in single or multiple originals.

CITY OF ROWLETT, TEXAS
A Texas municipality

By:_____ Date: _____
Brian Funderburk, City Manager

ATTEST:

By: _____
Laura Hallmark, City Secretary

EVERGREEN SENIOR LIVING, LLC
A Texas Limited Liability Corporation

By _____ Date: _____
_____, Its _____

EXHIBIT A
Property Description

EXHIBIT A - LEGAL DESCRIPTION

BEING 5.50 acres (239,580 square feet) of land located in the John M. Thomas Survey, Abstract Number 1478, City of Rowlett, Dallas County, Texas and being a portion of that certain tract of land described in a deed to Garland General Agency (hereinafter referred to as Garland tract), as recorded in Volume 89144, Page 1353, Deed Records, Dallas County, Texas (D.R.D.C.T.), said 5.50 acres (239,580 square feet) of land being more particularly describe, by metes and bounds, as follows:

BEGINNING at the Southwest corner of said Garland tract, same being the Northwest corner of that certain tract of land described in a deed to Joy Coyle Richards and Jerry Coyle Richards (hereinafter referred to as Richards tract), as recorded in Volume 88057, Page 3617, D.R.D.C.T., same being in the existing East right-of-way line of Old Rowlett Road (60' Right-of-way), according to the deed thereof recorded in Volume 2124, page 369, D.R.D.C.T;

THENCE North 00 degrees 03 minutes 08 seconds East with the common line between said Garland tract and the existing East right-of-way line of said Old Rowlett Road, a distance of 298.59 feet to a five-eighths inch iron rod found for an angle point:

THENCE North 15 degrees 08 minutes 26 seconds West, continuing with the common line between said Garland tract and the existing East right-of-way line of said Old Rowlett Road, a distance of 40.83 feet to a point for corner;

THENCE North 89 degrees 48 minutes 34 seconds East, departing the common line between said Garland tract and the existing East right-of-way line of said Old Rowlett Road and crossing said Garland tract, a distance of 683.30 feet to the West line of that certain tract of land described in a deed to the City of Rowlett (known as R. Arnold Park) according to the deed thereof, as recorded in Volume 2003015, Page 1864, D.R.D.C.T.;

THENCE South 11 degrees 49 minutes 48 seconds East with the common line between said Garland tract and said City of Rowlett tract, a distance of 345.13 feet to the Southwest corner of said City of Rowlett tract, same being in the North line of the aforesaid Richards tract;

THENCE South 89 degrees 48 minutes 34 seconds West with the common line between said Garland tract and said Richards tract, a distance of 743.66 feet to the Place of Beginning and containing a calculated area of 5.50 acres (239,580 square feet) of land.

STATE OF TEXAS
REGISTERED
MICHAEL DAN DAVIS
4838
PROFESSIONAL
LAND SURVEYOR

02/3/15

EXHIBIT B

LOAN DOCUMENTS

When recorded, return to:
Wayne Yaffee, Esquire
Greenberg Traurig LLP
1000 Louisiana, Suite 1700
Houston, Texas 77002

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

SUBORDINATE DEED OF TRUST, SECURITY AGREEMENT AND FINANCING STATEMENT

From

Evergreen Rowlett Senior Community, L.P.,
a Texas limited partnership
as Grantor to

_____
as Trustee
for the benefit of

City of Rowlett,
a Texas municipal corporation
as Beneficiary

SUBORDINATE DEED OF TRUST, SECURITY AGREEMENT AND FINANCING STATEMENT

THE STATE OF TEXAS §

COUNTY OF DALLAS §

That in consideration of certain indebtedness hereinafter described, justly owing by Evergreen Rowlett Senior Community, L.P.**,** a Texas limited partnership, ("**Grantor**"), to City of Rowlett**,** a Texas municipal corporation ("**Beneficiary**") and in consideration of the sum of Ten and No/100 Dollars ($10.00) and other valuable consideration paid to the Grantor, the receipt and sufficiency of which are hereby acknowledged, Grantor has GRANTED, ASSIGNED, TRANSFERRED and CONVEYED, and does hereby GRANT, ASSIGN, TRANSFER and CONVEY unto _____, as trustee ("**Trustee**"), all of the following described property is collectively referred to herein as the "**Property**":

A. All of Grantor's right, title and interest, whether now or hereafter arising, in and to the real property situated in Dallas County, Texas, described in **EXHIBIT A** hereto, together with all right, title and interest now and/or hereafter owned by Grantor, its successors and assigns, in the whole or any part of the above described real property and/or any street or road adjacent and/or contiguous to the above described real property ("**Land**").

B. All of Grantor's right, title and interest, whether now or hereafter arising, in and to all buildings and other improvements now or hereafter placed on the Land, as well as all appurtenances, betterments and additions thereto ("**Improvements**"); all and singular the rights, privileges, hereditaments and appurtenances in anywise incident or appurtenant to the Land and Improvements; and the rents, revenue, profits and income from the Land and Improvements.

C. All of Grantor's right, title and interest, whether now or hereafter arising, in and to any and all plumbing, electrical, heating, cooling and other equipment and all building materials and other goods of every type, kind and character that are now or hereafter situated upon the Land and which (i) are intended to be incorporated into the Improvements or (ii) are now, or hereafter become, fixtures related to the Land or the Improvements; any and all other goods of every type, kind and character, including without limitation, all appliances, furniture, fixtures, inventory and equipment now owned or hereafter acquired by Grantor that are now or hereafter situated upon the Land (whether or not situated within or attached to the Improvements) and that facilitate the use and occupancy of the Improvements for the purpose for which they were or are to be constructed; all plans and specifications for the Improvements, all rights of Grantor under all existing and future leases, construction, maintenance and other contracts covering or relating to the Land or the Improvements, all tenants deposits made pursuant to or in connection with such leases, all rights of ingress and egress, easements, water and wastewater rights, and to the extent assignable, all licenses, permits, franchises, certificates, accounts, instruments, chattel paper, documents, agreements, contracts, including without limitation any agreements with the United States Department of Housing and Urban Development, and general intangibles, and all rights of Grantor in and to any development rights relating to the Land or the Improvements (including, without limitation, trade names and symbols used in connection therewith and any deposits with utility companies) and all other rights and privileges obtained in connection with, relating to or associated with the Land or the Improvements (collectively, the "**Personalty**") and all proceeds of the Personalty.

D. All of Grantor's right, title and interest, whether now or hereafter arising, in and to any tax refunds, including interest thereon, tax rebates, ad valorem tax credits, and tax abatements, and the right to receive the same, which may be payable or available with respect to the Property but excluding any Housing Tax Credits available pursuant to Section 42 of the Internal Revenue Code, as amended.

E. All of Grantor's right, title and interest in the proceeds (including conversion to cash or liquidation claims) of (A) insurance relating to the Property and (B) all awards made for the taking by eminent domain (or by any proceeding or purchase in lieu thereof) of the Property, including awards

resulting from a change of any streets (whether as to grade, access, or otherwise) and for severance damages.

F. All of Grantor's right, title and interest, if any, in and to all substances in, on, or under the Land which are now, or may become in the future, intrinsically valuable, that is, valuable in themselves, and which now or may be in the future enjoyed through extraction or removal from the property, including without limitation, oil, gas, and all other hydrocarbons, coal, lignite, carbon dioxide and all other nonhydrocarbon gases, uranium and all other radioactive substances, and gold, silver, copper, iron and all other metallic substances or ores (collectively, "**Minerals**").

G. All funds of Grantor that may be deposited with Beneficiary at any time and from time to time for any purpose, which funds shall be deemed to be part of the Personalty for purposes hereof. In the event of a conflict between the terms and conditions of this instrument and the instrument under which Beneficiary holds any funds of Grantor, the terms and conditions of the latter instrument shall prevail.

TO HAVE AND TO HOLD the Property unto the Trustee and the assigns of the Trustee, and Grantor does hereby bind Grantor and the successors and assigns of Grantor, to WARRANT AND FOREVER DEFEND all and singular the Property and title thereto unto the Trustee and unto the assigns of the Trustee, against every person or party whomsoever claiming or to claim the same, or any part thereof, subject, however, to the permitted encumbrances set forth on **EXHIBIT B** attached hereto (the "**Permitted Encumbrances**") and the liens securing the Senior Note (as described below).

I.

SECURITY FOR PERFORMANCE OF OBLIGATIONS

This conveyance is made in trust, however, to secure the performance of all covenants and agreements contained in this Subordinate Deed of Trust, Security Agreement and Financing Statement ("**Deed of Trust**"), and the full and prompt payment when due (by lapse of time or otherwise), of the following indebtedness (the "**Indebtedness**"):

A. Loan. All sums, including principal, interest and attorneys' fees, called for in that certain promissory note (the "**Note**") executed by Grantor payable to the order of Beneficiary, in the principal amount of ONE MILLION TWO HUNDRED THOUSAND AND NO/100 DOLLARS ($1,200,000.00) or so much thereof as shall be advanced, which Note evidences that certain loan from Beneficiary to Grantor of the amount set forth in the Note (the "**Loan**"), and which Note bears interest at the rates therein stated and provides for acceleration of maturity should a default under such Note or any of the documents evidencing, securing, or otherwise pertaining to the Loan occur.

B. Other Sums. All other sums owing by Grantor to Beneficiary or other holder(s) of any part of the Indebtedness or becoming due under this Deed of Trust and all other instruments now or hereafter evidencing, governing or securing any part of the Indebtedness are hereinafter collectively referred to as the "**Loan Documents**").

II.

PAYMENT OF THE INDEBTEDNESS; DEFAULT; ENFORCEMENT OF TRUST

A. Payments. If the Indebtedness is fully paid and if all of Grantor's covenants and agreements herein and in the other Loan Documents are fully kept and performed, then this conveyance shall thereupon become of no further force and effect and shall be released by Beneficiary or other holder(s) of the Indebtedness upon the written request and at the expense of Grantor.

B. Enforcement. But if there occurs any Event of Default (as defined in the Note), the whole of the Indebtedness shall at the option of Beneficiary, without notice to Grantor or any other person, which notice is hereby waived, become immediately due and payable and thereupon, or at any time thereafter that the Indebtedness or any part thereof remains unpaid, it shall be the duty of the Trustee, or the Substitute Trustee, as hereinafter defined, at the request of Beneficiary, or the holder(s) of the Indebtedness, which request shall be presumed, to enforce this Trust and to sell as an entirety, or in parcels, by one sale or by several sales, held at one time or at different times, as the Trustee acting may elect (all rights to a marshaling of Grantor's assets, including Property, or to a sale in inverse order of alienation, being hereby expressly waived by Grantor), the Property in the county in which the Property, or a part of the Property to be sold, is situated (the "**County**") at such area at the courthouse designated by the Commissioner's Court of the County as the area where sales are to take place, or if no area is designated, at the door of the County Courthouse, each sale to be made on the first Tuesday of a calendar month between the hours of 10:00 A.M. and 4:00 P.M. to the highest bidder for cash at public auction, after both posting or causing to be posted written or printed notice of the time (including the earliest time at which the sale will occur), place, and term of sale at the door of the Courthouse of the County and filing or causing to be filed a copy of the notice in the Office of the County Clerk of the County, for at least twenty-one (21) days preceding the day of sale, and to execute and to deliver to the purchaser(s) at each such sale proper conveyance(s) of the property interest sold, with general warranty of title binding upon Grantor and the successors and assigns of Grantor; or Beneficiary or other holder(s) of the Indebtedness may foreclose or cause to be foreclosed the Lien of this Deed of Trust, in whole or in part, through judicial foreclosure or in any manner as may at any time be authorized under the statutes of the State of Texas. In addition, the holder(s) of the Indebtedness to which the power is related shall, at least twenty-one (21) days preceding the date of sale, serve written notice of the proposed sale by certified mail on each person obligated to pay the Indebtedness according to the records of the holder(s). Service of the notice shall be completed upon deposit of the notice, enclosed in a postpaid wrapper, properly addressed to each debtor at the most recent address as shown by the records of the holder(s) of the Indebtedness, in a post office or official depository under the care and custody of the United States Postal Service. The Affidavit of any person having knowledge of the facts to the effect that service was completed shall be prima facie evidence of the fact of service. No notice of the sale or sales other than that herein provided for need be given to Grantor or any other person or party, and any other notice is hereby waived. Beneficiary or other holder(s) of the Indebtedness shall have the right to become the purchaser at any sale to the same extent as any other party, being the highest bidder, and in lieu of paying cash may credit the amount of the bid upon the Indebtedness up to the full amount of the Indebtedness then unpaid.

C. Proceeds. The Trustee acting shall apply the proceeds arising from each sale, first, to pay all reasonable expenses of the sale actually incurred, second, to reimburse Beneficiary for any expenses incurred by Beneficiary in protecting, administering or operating the Property prior to the foreclosure sale and third, to the payment of the Indebtedness (including all principal, interest and attorneys' fees owing as part of the Indebtedness). The proceeds of each sale paid to Beneficiary may be applied by Beneficiary on the Indebtedness in any order and manner as Beneficiary may elect. Any surplus funds from the foreclosure sale or sales hereunder shall be paid to Grantor or the person(s) lawfully entitled thereto.

III.

UNMATURED INDEBTEDNESS

If any Event of Default occurs, Beneficiary or other holder(s) thereof shall, in addition to any remedies available to Beneficiary at law or in equity, have the option to proceed with foreclosure in satisfaction of such item or items, either through the courts or by directing the Trustee, or the Substitute Trustee, as hereinafter provided for, to proceed as if under a foreclosure, conducting the sale as herein provided and without declaring the whole debt due, and if a sale is made because of such Event of Default, the sale may be made subject to the unmatured part of the Indebtedness, but as to the unmatured part of the Indebtedness, this Deed of Trust shall remain in full force and effect just as though no sale had been made under the provisions of this paragraph. Several sales may be made hereunder

without exhausting the right of sale for any unmatured part of the Indebtedness, it being the purpose hereof to provide for a foreclosure and sale of the Property, in whole or in part, for any matured portion of the Indebtedness without exhausting the power of foreclosure and the power to sell the Property, in whole or in part, for any other part of the Indebtedness subsequently maturing.

IV.

SUBSTITUTE TRUSTEE

In case of the resignation of the Trustee, or the inability (through death or otherwise), refusal or failure of the Trustee to act, or at the option of Beneficiary or the holder(s) of the Indebtedness for any other reason (which reason need not be stated), a substitute trustee ("**Substitute Trustee**") may be named, constituted and appointed by Beneficiary or the holder(s) of the Indebtedness, without other formality than an appointment and designation in writing; the appointment and designation shall be full evidence of the right and authority to make the same and of all facts therein recited; and this conveyance shall vest in the Substitute Trustee the title, power and duties herein conferred on the Trustee originally named herein and the conveyance of the Substitute Trustee to the purchaser(s) at any sale shall be equally valid and effective. The right to appoint a Substitute Trustee shall exist as often and whenever from any of said causes, the Trustee, original or Substitute, resigns, or cannot, will not, or does not act, or Beneficiary or the holder(s) of a majority of the Indebtedness desire to appoint a new Trustee. No bond shall ever be required of the Trustee, original or Substitute. The recitals in any conveyance made by the Trustee, original or Substitute, shall be accepted and construed in court and elsewhere as prima facie evidence and proof of the facts recited and no other proof shall be required as to the request by Beneficiary or the holder(s) of a majority of the Indebtedness to the Trustee to enforce this Trust, or as to the notice of or holding of the sale, or as to any particulars thereof, or as to the resignation of the Trustee, original or Substitute, or as to the inability, refusal or failure of the Trustee, original or Substitute, to act or as to the election of Beneficiary or the holder(s) of a majority of the Indebtedness to appoint a new Trustee, or as to appointment of a Substitute Trustee, and all prerequisites of the sale shall be presumed to have been performed; and each sale made under the powers herein granted shall be a perpetual bar against Grantor and the successors and assigns of Grantor.

V.

REPRESENTATIONS, WARRANTIES, COVENANTS AND AGREEMENTS OF GRANTOR

For the purpose of better securing to Beneficiary the payment of the Indebtedness, Grantor represents, warrants and covenants to Beneficiary as follows:

A. Title, Authority, and Performance under Leases. At the time of the execution and delivery of this Deed of Trust, Grantor is the sole and lawful owner of the Land in fee simple, and Grantor has the authority to execute this Deed of Trust. The Property is free from all encumbrances and charges whatsoever except for the liens securing the Senior Note and the Permitted Encumbrances. No assignments or pledges are currently in effect with respect to any leases of or rentals or income from the Property except for assignments and/or pledges to Beneficiary and those expressly stated in **EXHIBIT B** and those securing the Senior Note, and until the Indebtedness is fully paid and this Deed of Trust is released, Grantor shall not make any additional assignment or pledge thereof without Beneficiary's prior written consent.

B. Tax and Insurance Escrow. Upon written request by Beneficiary, Grantor agrees to deposit with Beneficiary on a monthly basis, or at other intervals as specified, a sum that shall be sufficient to pay taxes, assessments, charges, and insurance premiums as they become due, all as reasonably estimated by Beneficiary, which sum shall be held by Beneficiary (or by a banking institution selected by Beneficiary whose funds are insured by a federal agency or instrumentality) in trust to pay taxes, assessments, charges and premiums, but which shall not bear interest and may be commingled with other funds. If at any time the funds so held by (or on behalf of) Beneficiary are insufficient to pay any tax, assessment, charge or insurance premium, Grantor shall, upon receipt of notice, deposit with

Beneficiary (or such banking institution), all additional funds as are necessary to remove the deficiency. If the Indebtedness is for any reason declared immediately due and payable, funds held by (or on behalf of) Beneficiary for payment of taxes, assessments, charges or premiums as herein provided may, at Beneficiary's election, be applied on the Indebtedness in any manner as Beneficiary so elects. In the event that Grantor is escrowing with a Senior Lender (as defined below) a sum for payment of taxes, assessments, charges and insurance premiums and such amount is sufficient to fully discharge such taxes, assessments, charges and insurance premiums, Beneficiary agrees not to require an additional escrow deposit under this paragraph. In the event that Beneficiary does not require the escrow deposits described in the paragraph, Grantor shall provide Beneficiary with written evidence that (i) all applicable taxes and assessments have been paid at least thirty (30) days prior to delinquency and (ii) all insurance premiums have been paid thirty (30) days before the renewal date of the applicable policies. Grantor shall duly pay and discharge, or cause to be paid and discharged, all taxes, assessments, charges, and insurance premiums as they become due.

C. Insurance. Grantor shall, prior to or concurrently with the execution of this Deed of Trust, deliver to Beneficiary all of the following insurance policies, accompanied by paid premium receipts evidencing payment in full of the required premiums for at least the first full year of coverage:

(i) fire insurance with extended coverage and standard Beneficiary and replacement cost endorsement for the full insurable value of the insurable portion of the Property, but in no event for an amount less than the amount of the Note (90% shall be acceptable co-insurance rates for fire insurance); and

(ii) public liability insurance in the amount of $1,000,000.00 per occurrence and $2,000,000.00 in the aggregate for a twelve (12) month policy period. Each renewal policy shall be delivered to Beneficiary not less than thirty (30) days before the termination of the prior policy and with each policy there shall be delivered to Beneficiary a receipt showing payment of the premium therefor.

Upon request, Grantor shall also carry additional insurance or additional reasonable amounts of insurance covering Grantor or the Property as Beneficiary shall reasonably require, insuring against such other insurable hazards which at the time are commonly insured against for property similar to the Property located in the region where the Property is located.

If the Property or any part thereof has been or at any time during the term of this Deed of Trust or any extension or renewal thereof is designated as a flood-prone or flood-risk area pursuant to the Flood Disaster Protection Act of 1973 or the National Flood Insurance Reform Act of 1994, as each have been or may be amended, or any successor law, Grantor shall obtain flood insurance in such total amounts as Beneficiary may from time to time require and shall otherwise comply with the requirements of the National Flood Insurance Program as set forth in the Flood Disaster Protection Act of 1973 or the National Flood Insurance Reform Act of 1994, or any successor law.

All insurance required under this Deed of Trust shall be fully paid for, non-assessable, and such policies shall contain such provisions, endorsements, and expiration dates as Beneficiary shall reasonably require. Such policies shall be issued by insurance companies authorized and licensed to transact business in the State of Texas with ratings acceptable to Beneficiary in its sole and absolute discretion and shall name Beneficiary as an additional insured.

D. Operations. Grantor will abstain from and not permit the commission of waste in or about the Property, will maintain the Property in good operating condition and repair at all times, ordinary wear and tear excepted, will not remove or demolish the buildings or other improvements now or hereafter constituting a part of the Property, or alter the design or structural character of any buildings or improvements unless Beneficiary shall first consent thereto in writing, which consent shall be granted or denied in Beneficiary's reasonable discretion, and will comply with all laws, ordinances, regulations, covenants, conditions and restrictions affecting the Property or the use thereof, which consent shall not be unreasonably withheld, delayed or conditioned. Grantor will not seek or acquiesce in a zoning

reclassification of all or any portion of the Property or grant or consent to any easement, dedication, plat, or restriction (or allow any easement to become enforceable by prescription), or any amendment or modification thereof, covering all or any portion of the Property, without Beneficiary's prior written consent. Grantor will not, without the prior written consent of Beneficiary, permit any drilling or exploration for or extraction, removal, or production of, any Minerals from the surface or subsurface of the Land regardless of the depth thereof or the method of mining or extraction thereof.

E. Obligations Under Other Loan Documents. Grantor hereby agrees to comply with and perform all of its obligations under the other Loan Documents and agrees to be bound by the representations, warranties and covenants made by Grantor contained in the Loan Documents. All of representations, warranties and covenants contained in the other Loan Documents are hereby fully incorporated herein.

F. Casualty and Condemnation Proceeds. Subject to the terms of the Intercreditor Agreement (as defined below), in the event of any fire or other casualty to the Property or eminent domain proceedings resulting in condemnation of the Property or any part thereof, Grantor shall have the right to rebuild the Property, and to use all available insurance or condemnation proceeds therefor, provided that (a) such proceeds are sufficient to keep the Indebtedness in balance and rebuild the Project in a manner that provides adequate security to Beneficiary for repayment of the Indebtedness or if such proceeds are insufficient then Grantor shall have funded any deficiency, (b) Beneficiary shall have the right to approve plans and specifications for any major rebuilding and the right to approve disbursements of insurance or condemnation proceeds for rebuilding under a construction escrow or similar arrangement, which approval Beneficiary shall not withhold if the senior lender approves the same, and (c) no Event of Default then exists under the Loan Documents. If the casualty or condemnation affects only part of the Property and total rebuilding is infeasible, then proceeds may be used for partial rebuilding and partial repayment of the Indebtedness in a manner that provides adequate security to Beneficiary for repayment of the remaining balance of the Indebtedness.

G. Failure to Pay. All taxes and any assessments that are due and payable affecting the Property shall be paid and discharged in full prior to execution and delivery of this Deed of Trust, or as they subsequently become due and payable and prior to delinquency. If Grantor fails to pay any tax, assessment, charge or insurance premium called for herein, Beneficiary may, at its option, pay the same, or if Grantor fails to perform any of Grantor's covenants or agreements herein, Beneficiary may, at its option, correct or cause to be corrected the same and pay any sums in connection therewith as Beneficiary shall determine to be necessary or advisable, and all taxes, assessments, charges, insurance premiums and sums paid by Beneficiary in connection with such matters (collectively, whether one or more, an "**Assessment**") shall be immediately repayable by Grantor to Beneficiary, together with interest on each amount at the default rate provided in the Note from the date the sum is paid by Beneficiary, until the same is refunded to Beneficiary and all such amounts and interest thereon, shall be secured hereby. Notwithstanding the foregoing, Grantor shall have the right to object and protest to ad valorem taxes on the Property in good faith and with due diligence provided that (i) no Event of Default exists under this Deed of Trust or any of the other Loan Documents, (ii) Grantor gives Beneficiary prior written notice of its intent to contest an Assessment; (iii) Grantor demonstrates to Beneficiary's reasonable satisfaction that (A) the Property will not be sold to satisfy the Assessment prior to the final determination of the legal proceedings, (B) Grantor has taken such actions as are required or permitted to accomplish a stay of any such sale, and (C) Grantor has either (1) furnished a bond or surety (satisfactory to Beneficiary in form and amount) sufficient to prevent a sale of the Property or (2) at Beneficiary's option, deposited one hundred fifty percent (150%) of the full amount necessary to pay any unpaid portion of any Assessment with Beneficiary; and (iv) such proceeding shall be permitted under any other instrument to which Grantor or the Property is subject (whether superior or inferior to this Instrument).

H. Title Litigation. Subject to title insurance coverage, in case of any litigation involving the title to any part of the Property, or the validity of this Deed of Trust, Beneficiary may be represented in the litigation through attorneys of its own selection and Grantor shall, upon demand, promptly reimburse Beneficiary for all court costs and reasonable attorneys' fees incurred by Beneficiary in defending and/or protecting its rights in any litigation.

I. Event of Default. Subject to applicable notice provisions, if an Event of Default (as defined in the Note) occurs, the whole of the Indebtedness, at the option of Beneficiary, shall become immediately due and payable, without further notice or demand.

J. Tenancy at Sufferance. Following any sale of the Property, or any part thereof, under the provisions of this Deed of Trust, and to the extent permissible under applicable law, all persons and parties in possession of the Property sold shall be obligated to immediately vacate the premises and prior to such vacation shall be tenants at sufferance of the purchaser of the Property sold and shall be subject to eviction in an action of forcible detainer; provided, the provisions of this Subparagraph J shall be subject to any agreements made in writing by Beneficiary with reference to any existing and/or future leases; provided, further, the purchaser at any foreclosure sale shall have the option to affirm any then existing leases or tenancies or otherwise to succeed to the rights of Grantor thereunder.

K. Subrogation. To the extent that any of the Indebtedness represents funds utilized to satisfy any outstanding Indebtedness or obligations secured by liens, rights, or claims against the Property or any part thereof, Beneficiary shall be subrogated to any and all liens, rights, superior titles and equities owned or claimed by the holder of any outstanding indebtedness or obligation so satisfied, however remote, regardless of whether the liens, rights, superior titles and equities are assigned to Beneficiary or released by the holder(s) thereof.

L. Homestead Disclaimer. Grantor represents and covenants that the Property forms no part of any property owned, used, or claimed by Grantor as a business or residential homestead, or as exempt from forced sale under the laws of the State of Texas and disclaims and renounces all and every such claim thereto.

M. Additional Transfers and Encumbrances. Beneficiary shall have the right to declare the Indebtedness secured hereby immediately due and payable in the event the Grantor sells, transfers, assigns, or conveys its interest, whether voluntarily or involuntarily, in the Property, or any part thereof, without the prior written consent of Beneficiary, such request not to be unreasonably withheld, delayed or conditioned or in the event any junior or subordinate mortgage, lien, deed of trust, or other encumbrance is placed upon the Property without the prior written consent of Beneficiary, provided the foregoing shall not prohibit the removal of worn or obsolete Personalty that is replaced with new items of the same or similar quality. If Beneficiary consents to the sale, transfer, assignment, or conveyance of Grantor's interest in the Property, or any part thereof, and waives in writing its right to accelerate the Indebtedness secured hereby as provided in this Subparagraph M, Beneficiary may require that the transferee assume all the obligations of Grantor under this Deed of Trust and the Note in a form reasonably acceptable to Beneficiary and its legal counsel. For purposes of this Subparagraph M, "transfer" of the Property shall not include the transfer of any direct or indirect ownership interests in Grantor and such transfers shall not require the consent of Beneficiary hereunder.

N. No Reliance on Beneficiary. Grantor is experienced in the ownership and operation of properties similar to the Property, and Beneficiary is relying solely upon Grantor's expertise and business plan in connection with the construction of the Improvements and ownership and operation of the Property. Grantor is not relying on Beneficiary's expertise or business acumen in connection with the Property or in connection with the construction of the Improvements.

O. No Litigation. Except as disclosed in writing to Beneficiary, there are no (i) actions, suits, or proceedings, at law or in equity, before any Governmental Authority or arbitrator pending or threatened against or affecting Grantor, any guarantor, or involving the Property, (ii) outstanding or unpaid judgments against the Grantor or the Property, or (iii) defaults by Grantor with respect to any order, writ, injunction, decree, or demand of any Governmental Authority or arbitrator.

P. Payment for Labor and Materials. Grantor will promptly pay all bills for labor, materials, and specifically fabricated materials incurred in connection with the Property (which shall be deemed an Assessment on the Property) and never permit to exist in respect of the Property or any part thereof any

unbonded lien or security interest, even though inferior to the liens and security interests hereof, for any such bill, and in any event never permit to be created or exist in respect of the Property or any part thereof any other or additional lien or security interest on a parity with, superior, or inferior to any of the liens or security interests hereof, except for the Permitted Encumbrances and the liens securing the Senior Note. In the event that Grantor becomes aware that such lien has been recorded against the Property, Grantor shall have such lien released within thirty (30) days. If Grantor fails to pay any bills for labor, materials, and specifically fabricated materials incurred in connection with the Property, Beneficiary shall have the rights set forth in Section V.G. for Grantor's failure to pay any Assessment.

Q. Tax on Deed of Trust. At any time any law shall be enacted imposing or authorizing the imposition of any tax upon this Deed of Trust, or upon any rights, titles, liens, or security interests created hereby, or upon the Indebtedness or any part thereof, Grantor will immediately pay all such taxes, provided that if such law as enacted makes it unlawful for Grantor to pay such tax, Grantor shall not pay nor be obligated to pay such tax. Nevertheless, if a law is enacted making it unlawful for Grantor to pay such taxes, then Grantor must prepay the Indebtedness in full within sixty (60) days after demand therefor by Beneficiary.

R. ERISA. If and to the extent that Grantor is obligated under any plan governed by or subject to the Employee Retirement Income Security Act, as amended ("**ERISA**"), Grantor shall fully discharge and satisfy all of its obligations and funding requirements under such plan, ERISA and the Internal Revenue Code, as amended ("**IRC**"). Furthermore, Grantor shall comply in all material respects with any and all applicable provisions of ERISA and the IRC and will not incur or permit to exist any unfunded liabilities to the Pension Benefit Guaranty Corporation or to such plan under ERISA or the IRC.

S. Disclosures. If at any time Grantor shall become aware of the existence or occurrence of any financial or economic conditions or natural disasters which are likely to have a material adverse effect on the Property or Grantor's financial condition, Grantor shall promptly notify Beneficiary of the existence or occurrence thereof and of Grantor's opinion as to what effect such may have on the Property or Grantor. Grantor shall also give prompt notice to Beneficiary of (i) the serious illness or death of any principal or key employee of Grantor, (ii) any litigation or dispute, threatened or pending against or affecting Grantor, the Property or any guarantor which could have a material adverse effect on the Property or the financial condition or business of any of the aforementioned parties, (iii) any Event of Default, (iv) any default by Grantor or any acceleration of any indebtedness owed by Grantor under any contract to which Grantor is a party, and (v) any change in the character of Grantor's business as it existed on the date hereof.

VI.

CAPTIONS

The captions contained in this Deed of Trust are for convenience only and shall not be taken into account in determining the meaning of any provision of this Deed of Trust.

VII.

ASSIGNMENT OF LEASES

As further security for the payment of the Indebtedness, and subject to the rights of senior lienholders, Grantor hereby assigns to Beneficiary, its successors and assigns, all leases, whether now in existence or hereafter created, covering all or any portion of the Property together with all rents to become due under each such lease, subject, however, to any prior assignment in connection with senior indebtedness. For so long as no Event of Default exists, Grantor may collect the rents, but not more than one (1) month in advance, in the ordinary course of business, unless otherwise provided by the express terms of the leases and approved by Beneficiary. In the event of any Event of Default and at any and all times during the continuance thereof, in addition to all other rights and remedies of Beneficiary, Beneficiary shall have the exclusive right and power (but not the obligation) to enter upon and take

possession of the Property or any part thereof, to rent or re-rent the same, either in the name of Beneficiary or Grantor, to receive all rents, revenues, profits, or other income from the Property and to apply all amounts received first, to the costs and expenses incurred by Beneficiary in protecting and operating the Property and next, to the payment of the Indebtedness in any manner and in any order of priority as Beneficiary shall determine. This action by Beneficiary shall not operate as a waiver of the Event of Default, or as an affirmance of any lease or of the rights of any tenant of title to that part of the Property covered by the lease or held by the tenant, should the Property, or any part thereof, be acquired by Beneficiary or other purchaser at a foreclosure sale. The right of Beneficiary to receive all rents, revenues, profits, or other income from the Property during the continuance of any Event of Default shall be applicable whether Beneficiary has entered upon or taken possession of the Property, or has otherwise attempted to exercise its rights hereunder and if any rents, revenues, profits, or other income are paid to or received by Grantor, Grantor shall immediately pay the same to Beneficiary, without the necessity of any request or demand therefor. Grantor agrees at any time and from time to time until the Indebtedness is paid in full to execute and to deliver any additional assignments of leases and/or rents, security agreements and other instruments as Beneficiary shall from time to time reasonably require. The substance, form, execution and delivery of additional assignments of leases and/or rents, security agreements and other instruments shall be reasonably satisfactory to Beneficiary.

VIII.

PERSONALTY

This Deed of Trust covers and includes, without limitation, Grantor's interest in the Personalty hereinabove described.

IX.

USE OF PERSONALTY

Grantor represents that all Personalty is property for business use and is not consumer goods. Grantor further covenants that there are and shall be no conditional sales contracts that cover any of the Personalty.

X.

SECURITY INTEREST IN PERSONALTY

Without limiting any of the provisions of this instrument, Grantor, as referred to in this paragraph as "**Debtor**," expressly does the following:

A. Grant. Debtor hereby grants unto the holder of all Indebtedness, described herein as Secured Party, and referred to in this paragraph as "**Secured Party**", a security interest in Debtor's interest in the Personalty.

B. UCC Remedies. Debtor agrees, in addition to any other remedies granted in this instrument to Secured Party or the Trustee, that Secured Party may, during the existence of any Event of Default, proceed under Chapter 9 of the Texas Uniform Commercial Code (the "**UCC**") as to all or any part of the Personalty and shall have and may exercise with respect to the Personalty all the rights, remedies and powers of a Secured Party under the UCC, including, without limitation, the right and power to sell at public or private sale or sales, or otherwise to dispose of, to lease, or to utilize the Personalty and any part or parts thereof, in any manner authorized or permitted under the UCC after default by a debtor and to apply the proceeds thereof toward payment of any costs, expenses and attorneys' fees and legal expenses thereby incurred by Secured Party and toward the payment of Debtor's obligations, including the Note and all other Indebtedness described in this instrument in any order or manner as Secured Party may elect. Among the rights of Secured Party during the existence of an Event of Default, and without limitation, Secured Party shall have the right to take possession of the Personalty and to

enter upon any premises where same may be situated for this purpose without being deemed guilty of trespass and without liability for damages thereby occasioned and to take any action deemed necessary or appropriate or desirable by Secured Party, at its option and in its discretion, to repair, refurbish or otherwise prepare the Personalty for sale, lease, or other use or disposition as herein authorized. Debtor agrees that if any notice of sale required under the UCC is mailed, postage prepaid, to Debtor at the address shown herein at least ten (10) days before the time of the sale or disposition, the notice shall be deemed reasonable and shall fully satisfy any requirement for giving of the notice.

To the extent it may lawfully do so and without limiting any rights and/or privileges herein granted to Secured Party, Debtor agrees that Secured Party and/or the above Trustee and any Substitute Trustee, may dispose of any or all of the Personalty at the same time and place and after giving the same notice provided for in this Deed of Trust in connection with a nonjudicial foreclosure sale under the terms and conditions set forth in this Deed of Trust. In this connection, Debtor agrees that the sale may be conducted by the Trustee or the Substitute Trustee; that the sale of the Land and Improvements described in this Deed of Trust and the Personalty or any part thereof, may be sold separately and/or together; and that if the Land and Improvements described herein and the Personalty or any part thereof, are sold together, the Secured Party will not be obligated to allocate the consideration received as between the Land and Improvements and the Personalty.

C. Possession. Debtor hereby grants to Secured Party the right, at its option upon an Event of Default to transfer at any time to itself or to its nominee the Personalty, or any part thereof and to receive the monies, income, proceeds or benefits attributable or accruing thereto and to hold the same as security for Debtor's obligations or to apply it on the principal and interest or other amounts owing on any of Debtor's obligations, whether or not then due, in any order or manner as Secured Party may elect. All rights with respect to marshalling of assets of Debtor, including with respect to the Personalty, or to a sale in inverse order of alienation, are hereby waived.

D. Authority. Debtor hereby covenants, stipulates and agrees that all recitals in any instrument of assignment or any other instrument executed by Secured Party incident to the sale, transfer, assignment, lease or other disposition or utilization of the Personalty or any part thereof hereunder shall be prima facie evidence of the matters stated therein and all prerequisites of the sale or other action taken by Secured Party or of any fact, condition or thing incident thereto shall be rebuttably presumed to have been performed or to have occurred.

E. Assembly and Expenses. Debtor hereby covenants and agrees that Secured Party upon an Event of Default may require Debtor to assemble the Personalty and to make it available to Secured Party at a place to be designated by Secured Party that is reasonably convenient to both parties. All expenses of retaking, holding, preparing for sale, lease, or other use or disposition, selling, leasing or otherwise using or disposing of the Personalty and the like that are incurred or paid by Secured Party as authorized or permitted hereunder, including also all attorneys' fees, legal expenses and costs, shall be added to the Indebtedness and Debtor shall be liable therefor.

F. Financing Statement. A carbon, photographic, or other reproduction of this Deed of Trust may be filed as a Financing Statement under the UCC between Debtor and Secured Party whose addresses are set forth below. Except for the security interest granted hereby in the Personalty or otherwise expressly stated in **EXHIBIT B** hereto, Debtor is owner and holder of the Personalty free of any adverse claim, security interest or encumbrance, and Debtor will defend the Personalty against all claims and demands of any person at any time claiming the same or any interest therein. Debtor has not heretofore signed any financing statement and no financing statement signed by Debtor is now on file in any public office except those statements, true and correct copies of which have been delivered to the Secured Party or in connection with the Senior Note (as defined below). So long as any amount remains unpaid on any Indebtedness described in this Deed of Trust, Debtor will not execute and there will not be filed in any public office any financing statement or statements affecting the Personalty other than financing statements in favor of the Senior Lender or Secured Party hereunder, unless the prior written specific consent and approval of Secured Party shall have first been obtained. Debtor authorizes Secured Party to file, in jurisdiction where this authorization will be given effect, a financing statement

signed only by Secured Party covering the Personalty and at the request of Secured Party, Debtor will join Secured Party in executing one or more financing statements, pursuant to the UCC in form satisfactory to Secured Party and will pay the cost of filing the same or filing or recording this instrument as a financing statement, in all public offices at any time and from time to time whenever filing or recording of any financing statement or of this instrument is deemed by Secured Party to be necessary or desirable.

XI.

ADDRESSES

The addresses of Grantor and Beneficiary, are as follows:

Grantor:	Evergreen Rowlett Senior Community, L.P. 5605 N. MacArthur Blvd., Suite 580 Irving, Texas 75038 Attention: Bradley E. Forslund
With a copy to:	Evergreen Rowlett Senior Community GP, LLC c/o LifeNet Community Behavioral Healthcare 1345 River Bend Drive, Suite 263 Dallas, Texas 75247 Attention: Gary Keep, President
With a copy to:	Coats Rose, P.C. 9 Greenway Plaza Suite 1100 Houston, Texas 77046 Attention: Barry J. Palmer
And a copy to:	NEF Assignment Corporation 10 South Riverside Plaza, Suite 1700 Chicago, IL 60606 Attention: General Counsel
Beneficiary:	City of Rowlett, Texas 4000 Main Street POB 99 Rowlett, Texas 75088 Attention: City Manager
With a copy to:	Nichols, Jackson, Dillard, Hager & Smith, LLP 1800 Ross Tower 500 N. Akard St. Dallas, TX 75201 Attention: David M. Berman
Trustee:	_____, Trustee _____ _____ _____

Each party shall have the right to designate from time to time another address within the continental United States for purposes of this Deed of Trust by written notice to the other party. Notwithstanding the foregoing agreement to provide courtesy copies, such copies shall be a courtesy only and failure to provide such copies shall have no effect on the validity of a notice properly given to Grantor.

Notices under this Deed of Trust shall be effective in the case of utilization of the U.S. Mail Service, upon the earlier of (i) three days after deposit of such notice in the mail, return receipt requested or (ii) delivery. Notices sent by overnight courier services shall be effective one day after deposit with such service. All other notices shall be effective upon delivery. Notwithstanding the foregoing, any foreclosure notices shall be effective upon deposit with the U.S. Mail Service.

XII.

RESERVED

XIII.

ENVIRONMENTAL MATTERS

A. Compliance with Laws. Grantor hereby represents, warrants, covenants and agrees to and with Beneficiary that:

(i) Grantor will not and will not permit any tenant or occupant of the Property to, generate, store, handle or otherwise deal with hazardous or toxic substances in, on, about or under the Property; and

(ii) Grantor has not at any time engaged in or permitted, nor, to the best of Grantor's knowledge after reasonable and prudent inquiry, which has consisted of the Phase I report previously delivered to Beneficiary, has any current or former tenant, occupant or owner of the Property, or any portion thereof, engaged in or permitted any generation, storage, handling, dumping, discharge, disposal, spillage or leakage of any hazardous or toxic substances, at, on, or about the Property, or any portion thereof, except as disclosed on the Phase I report previously delivered to Beneficiary.

Notwithstanding the foregoing, Grantor shall be permitted to have such chemicals, materials and supplies on the Property which are normally used in connection with the prudent operation, use, maintenance and ownership of a multi-family unit apartment complex and which are used in compliance with environmental laws.

B. Indemnification. **GRANTOR HEREBY AGREES TO INDEMNIFY, PROTECT, DEFEND (WITH COUNSEL REASONABLY APPROVED BY BENEFICIARY) AND TO HOLD BENEFICIARY, ITS AGENTS, MEMBERS, OFFICERS, REPRESENTATIVES AND ITS EMPLOYEES FREE AND HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS, ACTIONS, ADMINISTRATIVE PROCEEDINGS, JUDGMENTS, DAMAGES, PUNITIVE DAMAGES, PENALTIES, FINES, COSTS, LIABILITIES (INCLUDING SUMS PAID IN SETTLEMENT OF CLAIMS), INTEREST OR LOSSES, INCLUDING REASONABLE ATTORNEYS', CONSULTANTS' AND EXPERTS' FEES AND EXPENSES, OF ANY KIND OR NATURE (COLLECTIVELY, THE "COSTS") THAT ARISE DIRECTLY OR INDIRECTLY, FROM OR IN CONNECTION WITH THE PRESENCE, SUSPECTED PRESENCE, RELEASE OR SUSPECTED RELEASE (A "RELEASE") OF ANY HAZARDOUS OR TOXIC SUBSTANCE, FROM, ON, ABOUT, UNDER OR WITHIN THE PROPERTY, OR ANY PORTION THEREOF WHICH OCCURS DURING OR PRIOR TO SUCH TIME AS GRANTOR OWNS THE PROPERTY. NOTWITHSTANDING THE FOREGOING TO THE CONTRARY, GRANTOR'S LIABILITY HEREUNDER, SUBJECT TO THE DE MINIMIS PROVISIONS OF ARTICLE XIII(A)(ii) ABOVE, SHALL NOT INCLUDE ANY LOSS ARISING OUT OF THE GROSS NEGLIGENCE OR WILLFUL**

MISCONDUCT OF BENEFICIARY OR ANY EMPLOYEE, AGENT OR REPRESENTATIVE OF BENEFICIARY OR RELEASE OF HAZARDOUS OR TOXIC SUBSTANCES BY BENEFICIARY OR ANY EMPLOYEE, AGENT OR REPRESENTATIVE OF BENEFICIARY AFTER BENEFICIARY HAS TAKEN POSSESSION OF THE PROPERTY.

C. Remediation. If any investigation or monitoring of site conditions, or any cleanup, containment, restoration, removal or other remedial work (collectively, the "**remedial work**") is required under any applicable federal, state or local law or regulation, by any judicial order, or by any governmental entity, or in order to comply with any agreements affecting the Property because of, or in connection with any release of hazardous or toxic substances, Grantor shall perform, or cause to be performed, the remedial work in compliance with such law, regulation, order or agreement. All remedial work shall be performed by one or more contractors selected by Grantor and approved in advance, in writing, by Beneficiary and under the supervision of a consulting engineer selected by Grantor and approved in advance, in writing, by Beneficiary. All costs of any remedial work shall be paid by Grantor, including, without limitation, the reasonable charges of contractor(s) and/or the consulting engineer and Beneficiary's reasonable attorneys' fees and costs incurred in connection with the monitoring or review of any remedial work. If Grantor shall fail to timely commence or cause to be timely commenced, or fail to diligently prosecute to completion, any remedial work, then Beneficiary may, but shall not be required to, cause such remedial work to be performed and all costs and expenses thereof, or incurred in connection therewith, shall be "**Costs**" within the meaning of Subsection B above. All costs shall be due and payable upon demand therefor by Beneficiary, together with interest thereon at the Default Rate provided in the Note from the date such costs are paid by Beneficiary, until the same are refunded to Beneficiary and all such costs and the interest thereon shall be secured hereby.

D. Survival. Notwithstanding anything to the contrary contained herein, or in the Note, the obligations of Grantor under this Section XIII shall survive any assumption of the Indebtedness by a successor to Grantor (whether or not the assumption has been approved or disapproved, or whether or not Grantor was released from liability on the Indebtedness), foreclosure of this Deed of Trust (or transfer of the Property in lieu of foreclosure) and release or termination of this Deed of Trust.

XIV.

MISCELLANEOUS

A. No Waiver. No delay by Beneficiary in exercising any right, option or remedy hereunder, or otherwise afforded by law, shall operate as a waiver thereof or preclude the exercise thereof during the continuance of any Event of Default.

B. Cumulative Remedy. All rights and remedies of Beneficiary under this Deed of Trust and any and all other instruments evidencing or securing the Indebtedness, are cumulative and concurrent and may be exercised singularly, successively, or concurrently.

C. No Release. The granting to Grantor or to any other person or party of any extension(s) of time for payment of all or any part of the Indebtedness or the performance of any covenant or agreement contained herein, or the taking of other or additional security for the payment of the whole or any part of the Indebtedness, or the releasing of any part of the security at any time held in connection with the Indebtedness, shall not in any way release Grantor or any other person or party obligated for the payment of the Indebtedness, or release or impair this Deed of Trust or any other security held in connection with the Indebtedness, except to the extent of the person, party or property expressly released in writing by Beneficiary.

D. Severability. If any provision in this Deed of Trust is invalid or unenforceable in whole or in part, this instrument shall in all other respects remain in full force and effect.

E. Successors and Assigns. All of the provisions hereof shall apply to and be binding upon Grantor and the successors and assigns of Grantor (provided the foregoing shall not be construed as consent to any transfer by Grantor of the Property).

F. Further Assurances and Corrections. From time to time, at the request of Beneficiary, Grantor will (i) promptly correct any defect, error, or omission which may be discovered in the contents of this Deed of Trust or in any other Loan Document or in the execution or acknowledgment thereof; (ii) execute, acknowledge, deliver, record and/or file such further instruments (including, without limitation, further deeds of trust, security agreements, financing statements, continuation statements and assignments of rents or leases) and perform such further acts and provide such further assurances as may be necessary, desirable, or proper, in Beneficiary's reasonable opinion, to carry out more effectively the purposes of this Deed of Trust and the Loan Documents and to subject to the liens and security interests hereof and thereof any property intended by the terms hereof or thereof to be covered hereby or thereby, including without limitation, any renewals, additions, substitutions, replacements, or appurtenances to the Property; (iii) execute, acknowledge, deliver, procure, file, and/or record any document or instrument (including without limitation, any financing statement) deemed advisable by Beneficiary to protect the liens and the security interests herein granted against the rights or interests of third persons; and (iv) pay all costs connected with any of the foregoing.

G. Choice of Law. This Deed of Trust shall be performable and enforced in Dallas County, Texas, and shall be construed in accordance with the laws of the State of Texas from time to time in effect except to the extent preempted by the United States federal law. Venue shall be appropriate in Dallas County, Texas.

H. Usury. In no event shall any provision of this Deed of Trust, the Note, or any other instrument evidencing or securing the Indebtedness ever obligate Grantor to pay interest on the Note secured hereby at a rate greater than that permitted by law, or obligate Grantor to pay any taxes, assessments, charges, insurance premiums, or other amounts to the extent that the payments constitute interest under applicable law and when added to the interest payable on the Note secured hereby, would be held to constitute the payment by Grantor of interest at a rate greater than that permitted by law; and this provision shall control over any provision to the contrary.

It is expressly stipulated and agreed to be the intent of Grantor and Beneficiary at all times to comply strictly with the applicable Texas law governing the maximum rate or amount of interest payable on the Note or the Indebtedness or applicable United States federal law to the extent that it permits Beneficiary to contract for, charge, take, reserve or receive a greater amount of interest than under Texas law ("Highest Lawful Rate"). If the applicable law is ever judicially interpreted so as to render usurious any amount (i) contracted for, charged, taken, reserved or received pursuant to the Note, any of the other Loan Documents or any other communication or writing by or between Grantor and Beneficiary related to the transaction or transactions that are the subject matter of the Loan Documents, (ii) contracted for, charged or received by reason of Beneficiary's exercise of the option to accelerate the maturity of the Note and/or the Indebtedness, or (iii) Grantor will have paid or Beneficiary will have received by reason of any voluntary prepayment by Grantor of the Note and/or the Indebtedness, then it is Grantor's and Beneficiary's express intent that all amounts charged in excess of the Highest Lawful Rate shall be automatically cancelled, ab initio, and all amounts in excess of the Highest Lawful Rate theretofore collected by Beneficiary shall be credited on the principal balance of the Note and/or the Indebtedness (or, if the Note and all Indebtedness have been or would thereby be paid in full, refunded to Grantor), and the provisions of the Note and the other Loan Documents immediately be deemed reformed and the amounts thereafter collectible hereunder and thereunder reduced, without the necessity of the execution of any new document, so as to comply with the applicable law, but so as to permit the recovery of the fullest amount otherwise called for hereunder and thereunder. Grantor hereby agrees that as a condition precedent to any claim seeking usury penalties against Beneficiary, Grantor will provide written notice to Beneficiary, advising Beneficiary in reasonable detail of the nature and amount of the violation, and Beneficiary shall have sixty (60) days after receipt of such notice in which to correct such usury violation, if any, by either refunding such excess interest to Grantor, or crediting such excess interest against the Note and/or the Indebtedness then owing by Grantor to Beneficiary. All sums contracted for, charged or

received by Beneficiary for the use, forbearance or detention of any debt evidenced by the Note and/or the Indebtedness shall, to the extent permitted by applicable law, be amortized or spread, using the actuarial method, throughout the stated term of the Note and/or the Indebtedness (including any and all renewal and extension periods) until payment in full so that the rate or amount of interest on account of the Note and/or the Indebtedness does not exceed the Highest Lawful Rate from time to time in effect and applicable to the Note and/or the Indebtedness for so long as debt is outstanding. In no event shall the provisions of Chapter 346 of the Texas Finance Code (which regulates certain revolving credit loan accounts and revolving triparty accounts) apply to the Note and/or the Indebtedness. Notwithstanding anything to the contrary contained herein or in any of the other Loan Documents, it is not the intention of Beneficiary to accelerate the maturity of any interest that has not accrued at the time of such acceleration or to collect unearned interest at the time of such acceleration.

I. Covenants Run with the Land. All Obligations contained in this Deed of Trust and the other Loan Documents are intended by Grantor, Beneficiary and Trustee to be, and shall be construed as, covenants running with the Property until the lien of this Deed of Trust has been fully released by Beneficiary.

J. **JURY WAIVER. GRANTOR AND BENEFICIARY ACKNOWLEDGE THAT THE RIGHT TO TRIAL BY JURY IS A CONSTITUTIONAL ONE, BUT THAT IT MAY BE WAIVED, EACH PARTY, AFTER CONSULTING (OR HAVING HAD THE OPPORTUNITY TO CONSULT) WITH COUNSEL OF THEIR CHOICE, KNOWINGLY AND VOLUNTARILY, AND FOR THEIR MUTUAL BENEFIT, WAIVES ANY RIGHT TO TRIAL BY JURY IN THE EVENT OF LITIGATION REGARDING THE PERFORMANCE OR ENFORCEMENT OF, OR IN ANY WAY RELATED TO, THIS NOTE, THE INDEBTEDNESS OR THIS DEED OF TRUST.**

K. Entire Agreement. **THIS DEED OF TRUST, TOGETHER WITH THE NOTE AND LOAN AGREEMENT, THE OTHER LOAN DOCUMENTS, AND THE RESTRICTIVE COVENANTS CONSTITUTE A WRITTEN LOAN AGREEMENT AS DEFINED IN SECTION 26.02 OF THE TEXAS BUSINESS AND COMMERCE CODE. THIS WRITTEN LOAN AGREEMENT CONSTITUTES THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.**

L. Subordination. It is the intent of Beneficiary and Grantor that the indebtedness evidenced by the Note shall be subordinate in right of payment to the prior payment in full of the following indebtedness: (i) Promissory Note in the maximum principal amount of up to TEN MILLION SEVEN HUNDRED FORTY THOUSAND AND NO/100 DOLLARS ($10,740,000.00) (the "**Senior Note**"), to be issued by Grantor and payable to Capital One, National Association, a national banking association. ("**Senior Lender**"), or order, to the extent and in the manner provided in a certain Intercreditor Agreement to be entered into between Beneficiary, Grantor, and Senior Lender (the "**Intercreditor Agreement**"). This Deed of Trust and all of the other Loan Documents are and shall be subject and subordinate in all respects to the liens, terms, covenants and conditions of the deeds of trust securing the Senior Note as more fully set forth in the Intercreditor Agreement. The rights and remedies of the Beneficiary and each subsequent holder of this Note and the Deed of Trust are subject to the restrictions and limitations set forth in the Intercreditor Agreement. Each subsequent holder of this Note shall be deemed, by virtue of such holder's acquisition of the Note, to have agreed to perform and observe all of the terms, covenants and conditions to be performed or observed by Beneficiary under the Intercreditor Agreement.

M. Extended Low Income Housing Commitment. The Lender agrees that the liens securing the Note and evidenced by this Deed of Trust shall be subordinate to any extended low income housing commitment (as such term is defined in Section 42(h)(6)(B) of the Internal Revenue Code)(the "Extended Use Agreement") recorded against the Land; provided that such Extended Use Agreement, by its terms, must terminate upon foreclosure under this Deed of Trust or upon a transfer of the Land by instrument in lieu of foreclosure, in accordance with Section 42(h)(6)(E) of the Internal Revenue Code.

[Signature on following page]

IN WITNESS WHEREOF, Grantor has executed this Subordinate Deed of Trust, Security Agreement and Financing Statement on the date set forth in the acknowledgments below but to be effective as of _____, 2016.

GRANTOR:

EVERGREEN ROWLETT SENIOR COMMUNITY, L.P.,
a Texas limited partnership

By: Evergreen Rowlett Senior Community GP, LLC, a Texas limited liability company, its General Partner

By: LifeNet Community Behavioral Healthcare, a Texas nonprofit corporation, its sole member

By:_____
Gary Keep, President

ATTACHMENTS:
EXHIBIT "A" Land
EXHIBIT "B" Permitted Encumbrances

STATE OF TEXAS §
§
COUNTY OF _____ §

This instrument was acknowledged before me on _____, 2016, by Gary Keep, President of LifeNet Community Behavioral Healthcare, a Texas nonprofit corporation, the sole member of Evergreen Rowlett Senior Community GP, LLC, a Texas limited liability company, the general partner of **EVERGREEN ROWLETT SENIOR COMMUNITY, L.P.,** a Texas limited partnership, on behalf of said limited partnership.

_____
NOTARY PUBLIC, State of Texas

_____
PRINTED NAME OF NOTARY
My COMMISSION EXPIRES:_____

EXHIBIT A
LAND
METES AND BOUNDS DESCRIPTION

EXHIBIT B
PERMITTED ENCUMBRANCES

This conveyance is made and accepted subject to the following Permitted Encumbrances:

1.

PROMISSORY NOTE
(this "Note")

US $1,200,000.00 _____, 2016

FOR VALUE RECEIVED, EVERGREEN ROWLETT SENIOR COMMUNITY, L.P., a Texas limited liability company ("**Borrower**"), promises to pay to the order of the CITY OF ROWLETT, a Texas municipality (together with any subsequent holder of this Note, the "**Lender**"), at _____ or such other place as may be designated by written notice to Borrower from or on behalf of the Lender, the principal sum of One Million Two Hundred Thousand and No/100 Dollars (US $1,200,000.00), together with interest on the unpaid principal balance hereof at a fixed rate per annum equal to three percent (3%) per annum (the "**Stated Rate**"). Interest accruing under this Note shall be computed on the basis of a 360-day year and the actual number of days elapsed for any whole or partial month.

1. Definitions. As used in this Note, in addition to capitalized terms defined elsewhere in this Note, the following terms shall have the meanings set forth below:

"Conversion Certificate" shall have the meaning assigned to that term in the First Lien Loan Agreement.

"**First Lien Loan Agreement**" shall mean the Credit Support and Funding Agreement (Construction to Permanent Phase) of even date herewith, between Evergreen Rowlett Senior Community, L.P., a Texas limited partnership, and Capital One, National Association (the "**Bank**"), as may be modified, amended, supplemented, and restated.

"First Lien Note" shall mean the Promissory Note of even date herewith in the face amount of $10,740,000.00, executed by Evergreen Rowlett Senior Community, L.P., a Texas limited partnership, to the order of the Bank, as it may be modified, renewed, extended, and reassigned from time to time.

"Maturity Date" means a date which is 15 years after the Permanent Term Commencement Date.

"Maximum Rate" means the maximum non-usurious rate of interest permitted to be charged, contracted for, received, or collected by applicable federal or Texas law (whichever shall permit the higher lawful rate from time to time in effect), provided, however, that if Chapter 1204 of the Texas Government Code (as it may from time to time be amended) governs the rate of interest to be paid under this Note, it shall establish the highest lawful rate that will be deemed the Maximum Rate. The Lender may from time to time implement any other ceiling permitted under applicable law and/or revise the index, formula or provision of law used to compute the rate on such

obligation, if and to the extent permitted by, and in the manner provided under applicable law.

"Permanent Term" means the period beginning on the Permanent Term Commencement Date and ending on the Maturity Date.

"Permanent Term Commencement Date" means the date of the Conversion Certificate.

"**Project**" means the 138-unit multi-family mixed-income residential rental project to be known as Evergreen at Rowlett and to be located in the 5500 block of Old Rowlett Road in Rowlett, Texas.

2. Payment of Principal and Interest and Fee.

2.1 This Note shall be due and payable as follows:

(a) Permanent Term. Beginning on the first day of the first month following the Permanent Term Commencement Date, and continuing on the first day of each succeeding calendar month thereafter through but not including the Maturity Date, equal monthly installments of principal and interest in an amount determined by the Lender to be sufficient to fully repay in equal monthly installments the outstanding principal balance of this Note as of the Permanent Term Commencement Date at the Stated Rate over the remaining months in a hypothetical amortization that commences on the first day of the first calendar month following the Permanent Term Commencement Date and that ends three hundred sixty (360) months thereafter, shall be due and payable. Any regularly scheduled monthly installment of principal and interest that is received by the Lender before the date it is due shall be deemed to have been received on the due date solely for the purpose of calculating interest due; and

(b) Maturity. The entire unpaid principal sum of this Note and all interest accrued and unpaid thereon shall be fully and finally due and payable on the Maturity Date.

2.2 Each payment due hereunder shall not be deemed received by the Lender until received on a Business Day (as hereafter defined) in U.S. Dollars immediately available to the Lender prior to 2:00 p.m. local time at the place then designated by the Lender. Any payment received on a Business Day after the time established by the preceding sentence, shall be deemed to have been received on the immediately following Business Day for all purposes, including, without limitation, the accrual of interest on principal. Any regularly scheduled payment of interest that is received by the Lender before the date it is due shall be deemed to have been received on the due date solely for the purpose of calculating interest due. For purposes of this Note, a "**Business Day**" means any day other than a Saturday, Sunday or any other day on which national

banks in Dallas County, Texas are not open for normal business activities.

3. Application of Payments. Payments under this Note shall be applied first to the payment of accrued but unpaid interest, then to the payment of late fees and other costs and charges due in connection with this Note, in the order that the Lender determines in its sole discretion, and then to reduction of the outstanding principal balance (in inverse order of maturity whether or not then due). No principal amount repaid may be reborrowed. All amounts due under this Note shall be payable without setoff, counterclaim or any other deduction whatsoever. Borrower agrees that in the event payoff is to be by wire transfer, Borrower shall provide the Lender notice prior to transferring the funds no later than the day of such wire transfer. All funds for payoffs (whether by certified check or wire transfer) must be received by the Lender no later than 2:00 p.m. (the Lender's time).

4. Security. The indebtedness evidenced by this Note (the "**Indebtedness**") is secured by, among other things, a Deed of Trust executed by Borrower to the Trustee stated therein for the benefit of Lender and dated as of the date of this Note (the "**Security Instrument**"), and reference is made to the Security Instrument for other rights of the Lender concerning the collateral for the Indebtedness.

5. Event of Default and Acceleration.

5.1 Each of the following shall constitute an "Event of Default" under this Note:

(a) The failure to pay any fee or payment under this Note within ten (10) Business Days after it is due;

(b) The occurrence of an Event of Default under and as defined in the First Lien Loan Agreement;

(c) The failure of Lender to pay and perform under and with respect to the loan to Lender from the Bank in the amount of $1,200,000.00 (the "Sponsor Loan") which is not fully cured within any applicable grace or cure period;

(d) Without the prior written consent of the Lender, Borrower shall dissolve or liquidate, merge with or be consolidated into any other entity, modify or amend its organizational documents, or fail to remain in good standing in the state of its organization and in each state where qualification is required, and such occurrence shall not be fully cured within thirty (30) days after written notice thereof is provided by the Lender to Borrower;

(e) Borrower shall (i) apply for or consent to the appointment of a receiver, trustee or liquidator of it or all or a substantial part of its assets, (ii) file a voluntary petition commencing a bankruptcy or other insolvency proceeding, (iii) make a general assignment of all or a material part of Borrower's assets for the benefit of creditors, (iv) be unable, or admit in writing its inability, to pay its debts

generally as they become due, or (v) file an answer admitting the material allegations of a petition filed against it in a bankruptcy or other insolvency proceeding;

(f) An order, judgment, or decree shall be entered against Borrower by any court of competent jurisdiction or by any other duly authorized authority, on the petition of a creditor or otherwise, granting relief in a bankruptcy or other insolvency proceeding or approving a petition seeking reorganization or an arrangement of its debts or appointing a receiver, trustee, conservator, custodian or liquidator of it or all or any substantial part of its assets and such order, judgment or decree shall not be dismissed or stayed within 90 days;

(g) Borrower, or its representatives and affiliates shall challenge or contest in any action, suit, or proceeding the validity or enforceability of this Note; and/or

(h) Borrower shall have (i) concealed, removed, or diverted, or permitted to be concealed, removed or diverted, any part of its interest in the Project, with intent to hinder, delay or defraud its creditors or any of them; (ii) made or suffered a transfer of any of its interest in the Project which is fraudulent under any bankruptcy, fraudulent conveyance or similar law; or (iii) shall have suffered or permitted, while insolvent, any creditor to obtain a lien upon any of its interest in the Project.

5.2 If an Event of Default has occurred and is continuing, the entire unpaid principal balance and any accrued and unpaid interest, and all other amounts payable under this Note, shall at once become due and payable, at the option of the Lender, without any prior notice to Borrower. The Lender may exercise this option to accelerate regardless of any prior forbearance. The remedies of the Lender in this Note, shall be cumulative and concurrent, and may be pursued singly, successively or together in the Lender's sole discretion and as often as occasion therefor shall arise (but in any event the Lender’s remedies shall be limited to the remedies provided for in the Security Instrument).

6. Late Charge. If any amount payable under this Note is not received by Lender within ten (10) days after the scheduled due date, Borrower shall pay to Lender, promptly and without demand by Lender, a late charge equal to five percent (5.0%) of such late payment, or $50, whichever is greater. Borrower acknowledges that its failure to make timely payments will cause Lender to incur additional expenses in servicing and processing the indebtedness, and that it is extremely difficult and impractical to determine those additional expenses. Borrower agrees that the late charge payable pursuant to this Section 6 represents a fair and reasonable estimate, taking into account all circumstances existing on the date of this Note, of the additional expenses Lender will incur by reason of such late payment. The late charge is payable in addition to, and not in lieu of, any interest payable at the Default Rate pursuant to Section 7 below.

7. Default Rate. Notwithstanding the terms of Section 2 and Section 3 above, during the continuation of an Event of Default, interest under this Note shall accrue on the unpaid principal balance from the due date of the first unpaid monthly installment or other payment due, as applicable, at a rate (the "**Default Rate**") equal to the lesser of (a) 5 percentage points above the Stated Rate or (b) the Maximum Rate. If the unpaid principal balance and all accrued interest are not paid in full on the Maturity Date, the unpaid principal balance and all accrued interest shall bear interest from the Maturity Date at the Default Rate. Borrower also acknowledges that an Event of Default will materially increase the Lender's risk and/or cause the Lender to incur additional expenses in servicing and processing the Indebtedness arising from its loss of the use of the money due, and that it is extremely difficult and impractical to determine those additional risks, costs and expenses. Borrower agrees that the increase in the rate of interest payable under this Note to the Default Rate represents a fair and reasonable estimate, taking into account all circumstances existing on the date of this Note, of the additional costs and expenses the Lender will incur by reason of an Event of Default and the additional compensation the Lender is entitled to receive for the increased risks of any nonpayment associated therewith.

8. Voluntary and Involuntary Prepayments. Borrower may prepay this Note at any time, without penalty or premium.

9. Forbearance. Any forbearance by the Lender in exercising any right or remedy under this Note, or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of that or any other right or remedy. The acceptance by the Lender of any payment after the due date of such payment, or in an amount which is less than the required payment, shall not be a waiver of the Lender's right to require prompt payment when due of all other payments or to exercise any right or remedy with respect to any failure to make prompt payment or constitute or be deemed to constitute either a waiver of the unpaid amounts, an accord and satisfaction, or a novation of this Note. Enforcement by the Lender of any security for Borrower's obligations under this Note shall not constitute an election by the Lender of remedies so as to preclude the exercise of any other right or remedy available to the Lender. The Lender may release any guarantor, surety or indemnitor of this Note from liability, in every instance without the consent of Borrower hereunder and without waiving any rights which the Lender may have hereunder or under applicable law or in equity.

10. Waivers. Except as provided for in this Note, presentment, demand, notice of dishonor, protest, notice of acceleration, notice of intent to demand or accelerate payment or maturity, presentment for payment, notice of nonpayment, grace, and diligence in collecting the Indebtedness are, to the fullest extent permitted by applicable law, waived by Borrower, and all endorsers of this Note. Except as provided for in this Note, Borrower hereby further waives and renounces, to the fullest extent permitted by law, all rights to the benefits of any moratorium, reinstatement, marshaling, forbearance, valuation, stay, extension, redemption, appraisement, exemption and homestead now or hereafter provided by the Constitution and laws of the United States of America and of each state thereof, both as to party and property (real and personal), against the enforcement and collection of the indebtedness.

11. Loan Charges. The Lender does not intend to contract for, charge or receive more than the Maximum Rate of interest or the maximum amount of interest that is permissible under applicable state or federal law for the type of loan evidenced by this Note. To prevent such an occurrence, the Lender and Borrower agree that all amounts of interest, whenever contracted for, charged or received by the Lender, with respect to the loan of money evidenced by this Note, shall be spread, prorated or allocated over the full period of time this Note is unpaid, including the period of any renewal or extension of this Note. If demand for payment of this Note is made by the Lender prior to the full stated term, the total amount of interest contracted for, charged or received to the time of such demand shall be spread, prorated or allocated along with any interest thereafter accruing over the full period of time that this Note thereafter remains unpaid for the purpose of determining if such interest exceeds the maximum lawful amount. At maturity (including maturity due to the Lender's acceleration of this Note) or on earlier final payment of this Note, the Lender shall compute the total amount of interest that has been contracted for, charged or received by the Lender or payable by Borrower under this Note and compare such amount to the maximum lawful amount that could have been contracted for, charged or received by the Lender. If such computation reflects that the total amount of interest that has been contracted for, charged or received by the Lender or payable by Borrower exceeds the maximum lawful amount, then the Lender shall apply such excess to the reduction of the principal balance and not to the payment of interest; or if such excess interest exceeds the unpaid balance, such excess shall be refunded to Borrower. This provision concerning the crediting or refunding of excess interest shall control and take precedence over all other agreements between Borrower and the Lender so that under no circumstances shall the total interest contracted for, charged or received by the Lender exceed the maximum lawful rate or the Maximum Rate.

12. Counting of Days; Time of Essence. Except where otherwise specifically provided, any reference in this Note to a period of "days" means calendar days, not Business Days. Time is of the essence with respect to all provisions of this Note.

13. Recourse. This Note shall be non-recourse with respect to the Borrower. The only recourse available to the Lender or any successor to the Lender of its interests in this Note shall be the enforcement of the Lender's rights under and with respect to the Security Instrument.

14. Negotiable Instrument. Borrower agrees that this Note shall be deemed a negotiable instrument, even though this Note, absent this paragraph, may not otherwise qualify as a negotiable instrument under applicable law.

15. Notices. Notices, requests, demands and other communications which any party is required or may desire to give to any other party under any provision of this Note must be in writing and delivered to the Lender at the address set forth in the first paragraph of this Note and if to Borrower at Evergreen Rowlett Senior Community, LP, 5605 N. MacArthur Blvd., Suite 580, Irving, Texas 75038. Each such notice, request, demand or other communication shall be deemed given or made as follows: If sent by mail, upon the earlier of the date of receipt or five (5) Business Days after deposit in the

U.S. Mail, first-class postage prepaid, certified mail, return receipt requested; and if sent by any other means, upon delivery.

16. Captions, Etc. The captions of the paragraphs of this Note are for convenience only and shall be disregarded in construing this Note. This Note contains the entire agreement between Borrower and the Lender relating to the subject matter thereof, and supersedes all prior discussions and agreements (oral or written) which are not contained therein. This Note may not be changed, waived, supplemented, discharged or terminated orally or by any act or failure to act on the part of Borrower or the Lender, but only by an agreement in writing signed by the party against whom enforcement thereof is sought and then only to the extent expressly set forth in such writing. Any provision of this Note, which may be determined by competent authority to be prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective only to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

17. Governing Law. This Note shall be governed by the law of the State of Texas, without giving effect to its conflict of laws rules. Venue shall be in Dallas County, Texas.

18. Other Agreements. This Note is evidence of a single advance term loan which, if no Event of Default then exists, will be funded on the Permanent Term Commencement Date exclusively from the proceeds of the Sponsor Loan. The loan evidenced by this Note will be collaterally assigned to the Bank as security for the Sponsor Loan and as a result thereof, Borrower acknowledges that Bank shall be entitled to receive payments on this Note and to enforce all rights and remedies of the Lender under this Note and the Security Instrument. As a condition to the acceptance by Lender of this Note, Borrower shall provide to Lender and Bank a second lien loan policy insuring the lien granted in the Security Instrument and a legal opinion on a form satisfactory to Lender and Bank.

[Signature on Following Page

IN WITNESS WHEREOF, Borrower has signed or has caused to be signed by its duly authorized representative effective as of the date first stated above.

Borrower:

EVERGREEN ROWLETT SENIOR COMMUNITY, L.P.,
a Texas limited partnership

By: Evergreen Rowlett Senior Community GP, LLC, a Texas limited liability company, its General Partner

By: LifeNet Community Behavioral Healthcare, a Texas nonprofit corporation, its sole member

By:_____
Gary Keep, President

(Texas Secretary of State)

FINANCING STATEMENT

This Financing Statement is presented to a Filing Officer for filing pursuant to the Uniform Commercial Code.

1. The name and address of the debtor ("**Debtor**") is:

   CITY OF ROWLETT
   _____
   _____
   _____
   File No.: _____

2. The name and address of secured party ("**Secured Party**") is:

   CAPITAL ONE, NATIONAL ASSOCIATION,
   a national banking association
   299 Park Avenue, 14th Floor
   New York, NY 10171

3. This Financing Statement covers the following collateral:

   (a) The Promissory Note listed on Schedule "A" attached hereto (the "**Collateral Note**", whether one or more);

   (b) All documents and instruments securing or otherwise pertaining to the Collateral Note (collectively, the "**Collateral Loan Documents**"), including, without limitation, the instruments and agreements listed on Schedule "A";

   (c) All of the liens and security interests granted in the Collateral Loan Documents or otherwise securing the Collateral Note (collectively, the "**Collateral Liens**"); and

   (d) All proceeds of any of the foregoing.

DEBTOR:

CITY OF ROWLETT

By:_____
Name:_____
Title:_____

Schedule “A”

1. Promissory Note dated on or about _____, 20__, in the face amount of $1,200,000.00, executed by Evergreen Rowlett Senior Community, L.P. to the order of the City of Rowlett.

2. Subordinate Deed of Trust, Security Agreement and Financing Statement dated _____, 20__, from Evergreen Rowlett Senior Community, L.P. for the benefit of the City of Rowlett.

COLLATERAL ASSIGNMENT OF LOAN
(this "Collateral Assignment")

THE STATE OF TEXAS §
§ KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF _____ §

THAT THE CITY OF ROWLETT, a Texas municipal corporation ("**Assignor**"), has ENDORSED, TRANSFERRED, ASSIGNED, SOLD, SET OVER, CONVEYED, and DELIVERED, and by these presents does hereby ENDORSE, TRANSFER, ASSIGN, SELL, SET OVER, CONVEY, and DELIVER unto CAPITAL ONE, NATIONAL ASSOCIATION, a national banking association ("**Lender**"), and Assignor hereby grants and assigns a security interest (the "**Security Interest**") in, all right, title and interest of Assignor in and to (a) the Promissory Note listed on Exhibit "A" attached hereto (collectively, the "**Collateral Note**", whether one or more), (b) all documents and instruments securing or otherwise pertaining to the Collateral Note (collectively, the "**Collateral Loan Documents**"), including, without limitation, any documents, agreements, and instruments listed on Exhibit "A" attached hereto, and (c) all of the liens and security interests granted in the Collateral Loan Documents or otherwise securing the Collateral Note (collectively, the "**Collateral Liens**"); and Assignor hereby BARGAINS, SELLS, TRANSFERS, ASSIGNS, SETS OVER, CONVEYS, and DELIVERS unto Lender all of the rights, privileges, securities, equities, powers, benefits, claims, priorities, demands, titles, or interests now owned or held by Assignor in and to the Collateral Note, the Collateral Loan Documents, and the Collateral Liens.

TO HAVE AND TO HOLD the Collateral Note, the Collateral Loan Documents, and Collateral Liens, together with all and singular the rights, titles, interests, privileges, securities, equities, powers, benefits, claims, priorities, and demands thereunto in anywise belonging unto Lender, its successors and assigns forever.

This Collateral Assignment is made to secure payment and performance of Assignor's obligations under and pursuant to (i) that certain Promissory Note dated _____, 20___, in the face amount of $1,200,000.00, executed by Assignor to the order of Lender (collectively with all renewals, increases, modifications, replacements, rearrangements, substitutions, restatements, and extensions now or hereafter executed in connection therewith, the "**Note**"), and (ii) all documents and instruments now or hereafter securing or pertaining to the Note (collectively with the Note, and all amendments, modifications, and restatements now or hereafter executed in connection therewith, the "**Loan Documents**").

Assignor represents and warrants to Lender that (A) Assignor is the sole legal and equitable owner and holder of the Collateral Note and the indebtedness evidenced thereby, (B) Assignor has not assigned, mortgaged, or hypothecated the Collateral Note, any indebtedness evidenced thereby, or any of the Collateral Liens to any party other than Lender, (C) to Assignor's current actual knowledge, the Collateral Note is not subject to any credits or offsets, (D) to Assignor's current actual knowledge, no maker of the Collateral Note, nor any surety or guarantor of the Collateral Note, has raised any counterclaim, defense, allowance, adjustments, dispute, objection, or complaint regarding their respective liability on the Collateral Note or under any Collateral Loan Document, (E) the Collateral Note and the Collateral Loan Documents have not been amended, altered, or modified since the date of the execution thereof, (F) to Assignor's current actual knowledge, no default, or event which with notice, lapse of time, or both would constitute a default, under any of the Collateral Note or the Collateral Loan Documents has occurred, and (G) Assignor has the full right and authority to sell, assign, pledge, and grant a security interest in and to each of the Collateral Note, and the liens and security interests securing same.

During the continuance of an Event of Default under and, as defined in the Note, Lender shall, in addition to the rights and remedies provided for in the Note and the other Loan Documents and recognizing the nonrecourse obligations of the Assignor in the Note and the other Loan Documents, have the right to sell the Collateral Note in any manner afforded to Lender under the laws of the State of Texas (the "**State**"). The proceeds of the sale shall be applied first to the reasonable expenses of the sale and then toward the payment of interest, principal, and attorneys' fees due and unpaid upon the Note, rendering the balance, if any, and surplus, if any, to Assignor; but if there be any deficiency, VDC Thompson Bennett, LP shall remain liable therefor. Lender shall have the right to purchase (by credit against the obligations contained in the Loan Documents) at any public sale in which it is the highest bidder.

Lender shall have all the rights and remedies of a secured party under the Uniform Commercial Code as from time to time in effect in the State (the "**UCC**"), and Lender shall be entitled to avail itself of all such other rights and remedies as may now or hereafter exist at law or in equity to enforce the Security Interest (but in no event may Lender bring suit or otherwise collect for the collection of the indebtedness evidenced by the Note other than by enforcing the Security Interest). The foreclosure of the Security Interest created hereby and the resort to any remedy provided hereunder or provided by the UCC or any other law of the State shall not prevent the concurrent employment of any other appropriate remedy or remedies.

The requirement of notice to Assignor of the time and place of any public sale of the Collateral Note, or of the time after which any private sale or any other intended disposition thereof is to be made, shall be met if such notice is mailed, postage prepaid, to Assignor at The City of Rowlett, _____, or such other address provided to Lender by Assignor in writing, at least five days before the date of any public sale or at least five days before the time after which any

private sale or disposition is to be made, unless a longer period of time is required pursuant to the UCC, in which case, applicable provisions of the UCC shall control.

Assignor authorizes Lender, at the option of Lender, to give notice to the maker of the Collateral Note of the existence of this Collateral Assignment and to instruct such maker, whether or not a default has occurred under the Note, any document securing the Notes, or under this Collateral Assignment, to direct all payments due and payable under the Collateral Note to Lender.

Assignor authorizes Lender, and hereby assigns to Lender, all rights to collect and receive any and all sums becoming due upon the Collateral Note, such sums to be held by Lender without liability for interest thereon and applied towards the payment of the Note. Except as otherwise expressly provided herein, Lender shall hold and have the full control of the Collateral Note until the Note is fully paid, including without limitation, the right to foreclose any or all Collateral Liens, without the necessity of consent by Assignor (and without the necessity of the prior foreclosure of the Collateral Note), and to release the Collateral Liens upon the full and final payment of such Collateral Note to Lender.

Lender shall, once the Note has been paid in full to Lender, remit all proceeds, if any, received by it under the Collateral Note, if any, that remain after the Note has been paid in full, to Assignor.

This Collateral Assignment shall in no manner impair or affect any of the other Collateral Liens granted by Assignor to Lender, and no security hereafter taken therefor shall in any manner impair or affect the security hereby given, it being agreed that all such present and future security shall be cumulative security and that Lender may foreclose under any of such security, as Lender may elect, without waiving the other.

Upon the occurrence and during the continuance of an Event of Default (until such Event of Default has been cured), in addition to the other rights of Lender hereunder, Lender may, but shall not be obligated to, renew, extend, or rearrange the time and manner of payment of any of the Collateral Note, in its own name or in the name of Assignor with or without the joinder or consent of Assignor, without incurring responsibility or liability to Assignor or discharging, impairing or otherwise affecting any liability or obligation of Assignor, including, without limitation, Assignor's liability for the payment of the Note.

THIS COLLATERAL ASSIGNMENT CONSTITUTES THE ENTIRE AGREEMENT BETWEEN THE PARTIES HERETO WITH RESPECT TO THE SUBJECT HEREOF AND SHALL SUPERSEDE ANY PRIOR AGREEMENT BETWEEN THE PARTIES HERETO, WHETHER WRITTEN OR ORAL, RELATING TO THE SUBJECT HEREOF. FURTHERMORE, IN THIS REGARD, THIS AGREEMENT AND THE OTHER WRITTEN LOAN DOCUMENTS REPRESENT, COLLECTIVELY, THE FINAL AGREEMENT AMONG THE PARTIES THERETO AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENT OF SUCH PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.

EXECUTED as of _____, 20___.

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CITY OF ROWLETT

By:_____
Name:_____
Title:_____

THE STATE OF TEXAS §
§
COUNTY OF _____ §

This instrument was acknowledged before me on the ____ day of _____, 20___, by _____, _____ of THE CITY OF ROWLETT, a Texas municipal corporation, on behalf of and as the act and deed of said corporation.

_____
Notary Public, State of Texas
My Commission Expires:_____

AGREED TO AND ACCEPTED THIS
___ day of _____, 20___:

CAPITAL ONE, NATIONAL ASSOCIATION

By:_____
Ray S. Miller, Vice President

THE STATE OF TEXAS §
§
COUNTY OF HARRIS §

This instrument was acknowledged before me on the ____ day of _____, 20___, by Ray S. Miller, Vice President of CAPITAL ONE, NATIONAL ASSOCIATION, a national banking association, on behalf of and as the act and deed of said banking association.

_____
Notary Public, State of Texas
My Commission Expires: _____

EXHIBIT "A"

1. Promissory Note dated on or about _____, 20__, in the face amount of $1,200,000.00, executed by Evergreen Rowlett Senior Community, L.P. to the order of the City of Rowlett.

2. Subordinate Deed of Trust, Security Agreement and Financing Statement dated _____, 20__, from Evergreen Rowlett Senior Community, L.P. for the benefit of the City of Rowlett.

INTERCREDITOR AND SUBORDINATION AGREEMENT

This Intercreditor and Subordination Agreement (this "**Agreement**") is entered into as of _____, 20___, by and among CAPITAL ONE, NATIONAL ASSOCIATION, a national banking association (the "**Bank**"), CITY OF ROWLETT, a Texas municipal corporation (the "**City**"), and EVERGREEN ROWLETT SENIOR COMMUNITY, L.P., a Texas limited partnership (the "**Borrower**").

R E C I T A L S:

A. The Borrower is the owner of a 138-unit elderly affordable housing apartment project to be constructed in Rowlett, Dallas County, Texas on the property which is more particularly described on Exhibit "A" attached hereto and incorporated herein by reference (the "**Project**").

B. The City has committed to fund a loan of funds ("**City Loan**") to the Borrower for the Project in the aggregate amount of $1,200,000.00 (such funding is referred to herein as the "**City Funds**") with the proceeds of a loan to be received from the Bank to the City, and in connection therewith, the City has collaterally assigned the City Loan to the Bank.

C. Pursuant to a Credit Support and Funding Agreement (the "**Bank Loan Agreement**") of even date herewith, the Bank has agreed to make a loan in an amount not to exceed $12,386,547.00 (the "**Bank Loan**") to provide permanent financing for the Project. The Bank Loan is evidenced by a promissory note in the amount of $12,386,547.00, and is more fully described in and secured by a Multifamily Construction and Permanent Deed of Trust, Assignment of Rents and Security Agreement and Fixture Filing, of even date with such promissory note, and covering the Project to be recorded in the Official Public Records of Real Property of Dallas County, Texas.

D. The City and the Bank wish to enter into this Agreement to fully set forth their agreement regarding the relationship of the City Loan to the Bank Loan and other matters of mutual interest to the City and the Bank with respect to the construction of the Project.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and the Bank hereby agree as follows:

1. Definitions. In addition to the defined terms set forth elsewhere herein, the following term shall have the meaning set forth below:

> "City Loan Documents" means the promissory note evidencing the City Loan and the subordinate lien deed of trust covering the Project and securing the City Loan.

2. Acknowledgments, Representations, and Consents. The City represents to the Bank that (i) once issued, and assuming no changes in any material respect in applicable law, as it exists on the date hereof, the City Loan Documents will be in full force and effect, and (ii) the City Loan Documents will constitute a commitment by the City to make the City Loan Funds available to the Borrower for the Project as hereafter provided subject to the terms and conditions of the City Loan Documents.

3. Subordination by the City. The City agrees that to the extent any voluntary or involuntary liens, claims, and security interests, against the Project, whether by agreement, at law, or in equity, of the City (or any other entity claiming by, through, or under the City) now or hereafter secure the payment and/or performance of the Borrower's obligations under and with respect to the City Loan and the City Loan Documents (including, without limitation, the liens granted in any mortgage against the Project, executed by the Borrower to the City pursuant to the City Loan), the same are and shall forever remain junior, subordinate, and inferior, to the liens and security interests of the Bank against the Project, securing payment of the Bank Loan and, by its execution hereof, the City hereby evidences said subordination.

4. Cross Default. (a) If a default or an event of default occurs under the City Loan Documents, that default or event of default shall constitute an Event of Default under the Bank Loan Agreement.

(b) So long as the City Loan is pledged to and held by the Bank, an Event of Default under and as defined in the Bank Loan Agreement shall constitute a default or event of default under and with respect to the City Loan.

(c) In the event of any receivership, insolvency, bankruptcy, assignment for the benefit of creditors, reorganization or arrangement with creditors, whether or not pursuant to bankruptcy laws, sale of all or substantially all of the assets, dissolutions, liquidations or any other marshaling of the assets and liabilities of the Borrower, the City and the Bank agree that the Bank Loan will be paid prior to the City Loan. The City agrees to file at the expense of the Bank, any claim, or other instrument of similar character necessary to enforce the obligations of the Borrower under the City Loan Documents, and will hold in trust for the Bank and immediately pay over to the Bank, in the form received (except for the City's endorsement or assignment which the City agrees to provide upon the Bank's request) to be applied on the Bank Loan, any and all moneys, dividends, or other assets received in any such proceeding on account of the City Loan, unless and until the Bank Loan shall be paid in full.

5. Notices. Any notice by one party to the others hereunder shall be in writing and shall be delivered in person, via overnight courier or by United States Mail, postage prepaid, certified, return receipt requested. Notice shall be deemed delivered on the date delivered, or if mailed, three business days after deposit in the U.S. Mail. All notices shall be delivered to the following addresses:

To the Bank: Capital One, National Association
299 Park Avenue, 14th Floor
New York, NY 10171

To the Borrower: Evergreen Rowlett Senior Community, L.P.
5605 MacArthur Blvd., Suite 580
Irving, Texas 75038

To the City: City of Rowlett
_____
_____
_____

The parties may change their addresses for purposes of notice by giving the other parties ten (10) days' written notice of the address change in the manner hereinabove stated.

6. Miscellaneous.

(a) This Agreement constitutes the entire agreement of the three parties hereto with respect to the subject matter hereof, and all other prior and contemporaneous written or oral agreements. Any amendment hereto must be in writing executed by the Borrower, the City, and the Bank.

(b) Time is of the essence in the performance of the parties' obligations hereunder.

(c) **THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS AND APPLICABLE UNITED STATES FEDERAL LAW. THE EXCLUSIVE VENUE FOR THIS AGREEMENT SHALL BE DALLAS COUNTY, TEXAS.**

(d) This Agreement shall be enforceable by and binding upon all successors and assigns of the Bank.

(e) This Agreement shall remain in full force and effect until the Bank Loan has been fully and finally paid and the Borrower has no further obligations under the Bank Loan Agreement.

(f) This Agreement may be executed in two or more counterparts, and it shall not be necessary that any one counterpart be executed by all of the parties hereto. Each fully or partially executed counterpart shall be deemed an original, but all such counterparts taken together shall constitute but one and the same instrument.

(g) Capitalized terms used in this Agreement without definition shall have the meanings given to those terms in the Bank Loan Agreement.

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IN WITNESS WHEREOF, the undersigned have affixed their signatures hereto on the respective dates set forth in the acknowledgment below to be effective as of the date first above written.

"**BORROWER**"

EVERGREEN ROWLETT SENIOR COMMUNITY, L.P., a Texas limited partnership

By: Evergreen Rowlett Senior Community GP, LLC, a Texas limited liability company, its General Partner

By: LifeNet Community Behavioral Healthcare, a Texas nonprofit corporation, its sole member

By:_____
Gary Keep, President

STATE OF TEXAS §
§
COUNTY OF _____ §

This instrument was acknowledged before me on the ___ day of _____, 20___, by Gary Keep, President of LifeNet Community Behavioral Healthcare, a Texas nonprofit corporation, on behalf of said corporation as sole member of Evergreen Rowlett Senior Community GP, LLC, a Texas limited liability company, general partner of EVERGREEN ROWLETT SENIOR COMMUNITY, L.P., a Texas limited partnership.

_____
NOTARY PUBLIC, State of Texas

"**CITY**"

CITY OF ROWLETT

By:_____
Name:_____
Title:_____

THE STATE OF TEXAS §
§
COUNTY OF _____ §

This instrument was acknowledged before me on this _____ day of _____, 20___, by _____, _____ of THE CITY OF ROWLETT, a Texas municipal corporation, on behalf of said corporation.

_____
Notary Public, State of Texas
My Commission Expires: _____

"**BANK**"

CAPITAL ONE, NATIONAL ASSOCIATION, a national banking association

By: _____
Ray S. Miller, Vice President

THE STATE OF TEXAS §
§ KNOW ALL MEN BY THESE PRESENTS
COUNTY OF HARRIS §

This instrument was acknowledged before me on this _____ day of _____, 20___, by Ray S. Miller, Vice President of CAPITAL ONE, NATIONAL ASSOCIATION, a national banking association, on behalf of said banking association.

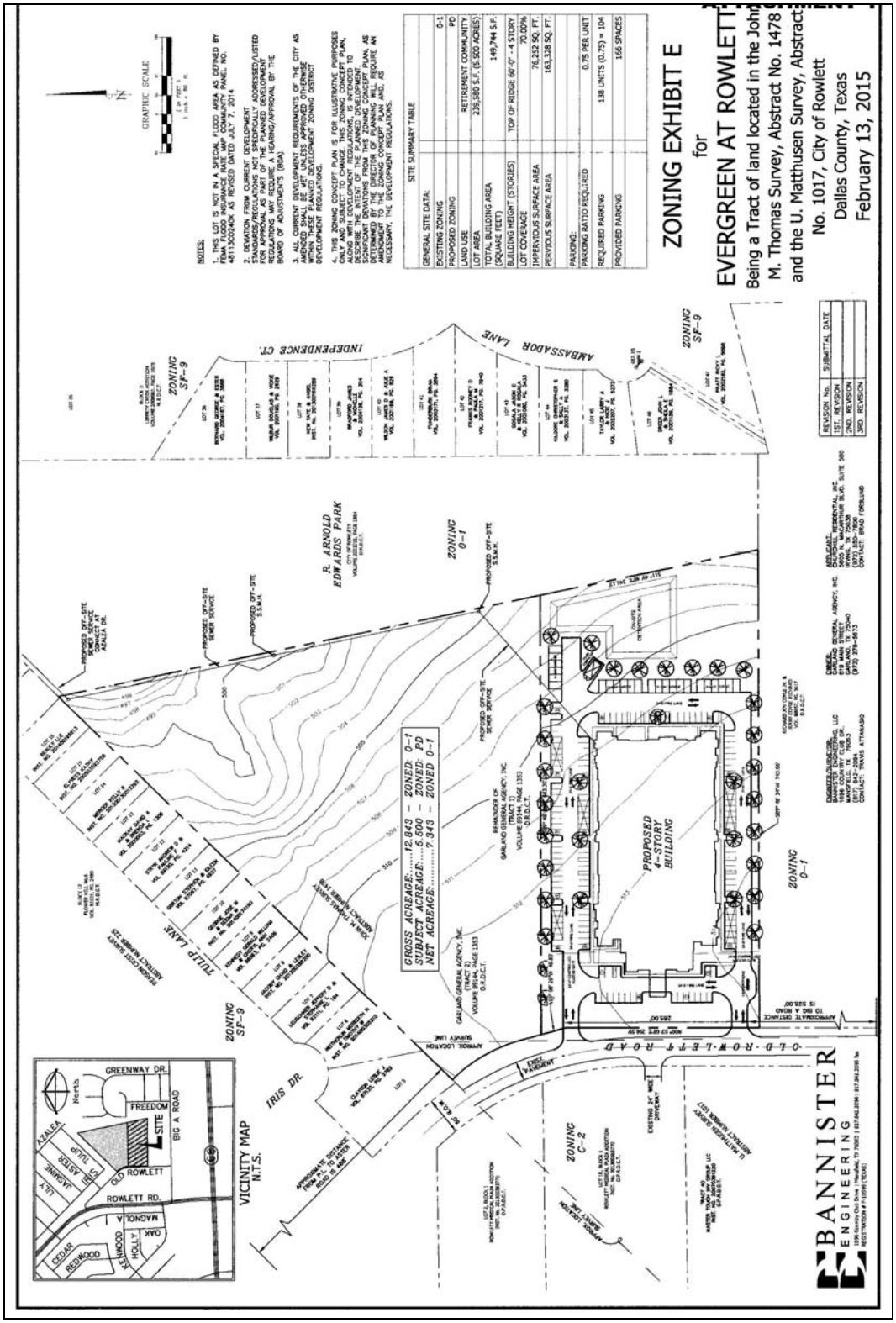
_____
NOTARY PUBLIC, State of Texas
My Commission Expires: _____

EXHIBIT "A"

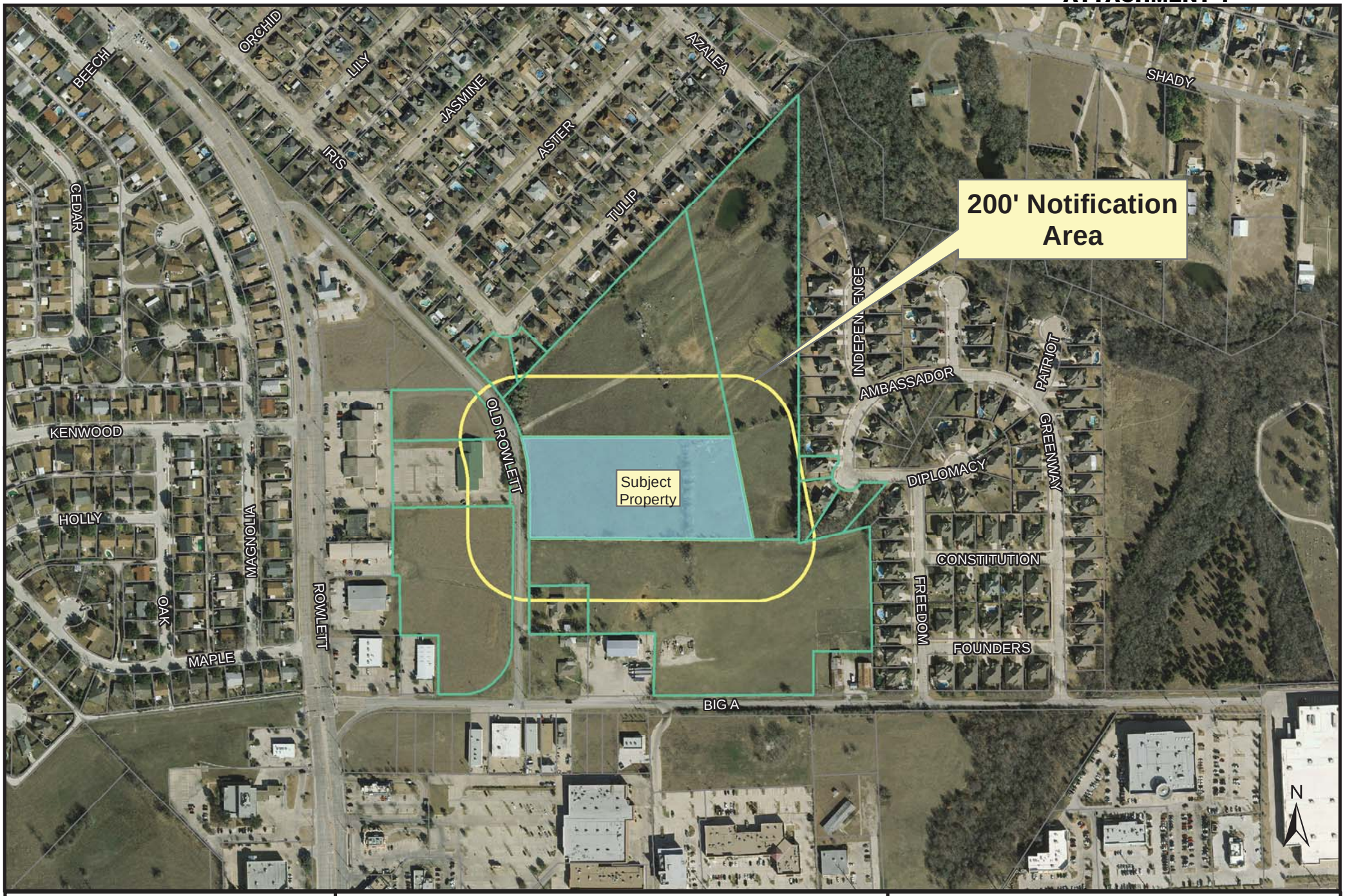
LEGAL DESCRIPTION

EXHIBIT C

CONCEPT PLAN



ATTACHMENT 1



Rowlett TEXAS

Evergreen Senior Living Planned Development
Map Created: April 27, 2015

200 FT NOTIFICATION AREA

ATTACHMENT 2

City of Rowlett

Official Copy

Resolution: RES-019-15

4000 Main Street
Rowlett, TX 75088
www.rowlett.com

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ROWLETT, TEXAS, AUTHORIZING AN ECONOMIC DEVELOPMENT LOAN TO EVERGREEN ROWLETT SENIOR COMMUNITY, L.P. IN THE AMOUNT OF $1,200,000, UNDER SPECIFIED CONDITIONS; AND, PROVIDING AN EFFECTIVE DATE.

WHEREAS, 10 Texas Administrative Code Section 11.9(d)(2), setting forth certain regulations of the Texas Department of Housing and Community Affairs (the "TDHCA") governing the Competitive Housing Tax Credit Program (the "TDHCA Rules"), provide for an applicant to be awarded up to fourteen (14) points for a resolution from a unit of local government confirming its commitment of qualifying funding; and

WHEREAS, the City of Rowlett, Texas (the "City") has adopted a policy for economic development incentives, and is authorized under Chapter 380, Texas Local Government Code, to provide economic development grants and loans to promote economic development and to stimulate business and commercial activity; and

WHEREAS, Evergreen Rowlett Senior Community, L.P. has advised that it can receive fourteen (14) points under Texas Government Code Section 2306.6710(b)(1)(E) Commitment of Funding by Local Political Subdivision, also detailed in Section 11.9(d)(2) of the 2015 Qualified Allocation Plan, for a development loan from the City of Rowlett for use in the development of Evergreen Rowlett Senior Community, L.P.; and

WHEREAS, the City Council finds and determines that the Project (as hereinafter defined) satisfies the Criteria established by the Policy, will further the objectives of the City, will benefit the City and the residents of the City, and will promote economic development and stimulate business and commercial activity through the creation of jobs and expansion of the City's tax base.

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

Section 1: That the recitals contained hereinabove are true and correct.

Section 2: That the City of Rowlett, Texas (the "City") desires and is willing to make a loan to Evergreen Rowlett Senior Community, L.P. (the "Borrower"), in the amount of $1,200,000 (the "Loan") to pay for costs associated with the development of the Evergreen at Rowlett Senior Community located in the 5500 block of Old Rowlett Road within the City, a development of not to exceed 150 units (the "**Project**").

Section 3: That it is understood that Borrower intends to apply a commitment of Tax Credits from the TDHCA pursuant to its 2015 Qualified Allocation Plan (the "**QAP**"). The City understands that this Loan allows Borrower to qualify for certain points under its Tax Credit application, and Borrower and City intend for this Loan to comply with the QAP.

Section 4: That the Loan will be evidenced by a Promissory Note (the "**Note**"), which will have a term of at least fifteen years and shall bear interest at a rate equal to three percent (3%) per annum with a 30-year amortization.

Section 5: That this Resolution constitutes the firm commitment of the City to make the Loan to Borrower on the terms and conditions described above (this "Loan Commitment"). This Loan Commitment is conditioned upon: (1) the City's receipt and approval of loan documents in final form; (2) no material adverse change in Borrower or the Project or the circumstances surrounding Borrower's development of the Project that would, in the City's reasonable judgment, make the Loan unacceptable to the City; (3) approval by the City's legal counsel of the documents evidencing the Loan; (4) Borrower's receipt of a commitment of Tax Credits for the Project from the TDHCA; (5) availability to the City of funding sources in an amount sufficient to fund the Loan at the time of closing; and (6) execution and delivery of an incentive agreement between the City and the Borrower setting forth the economic development criteria required for the Loan. In order to provide funding for the Loan, the City at its discretion may create or use an instrumentality of the City that meets the requirements of 10 TAC Section 11.9(d)(3) of the TDHCA Rules

Section 6: That this Loan Commitment expires upon the Borrower's failure to satisfy any one of the numbered conditions described above. Neither the City, its governing body, or any employee or representative of the City makes any representation with respect to whether this Loan Commitment qualifies the Borrower for the award of certain points by the TDHCA in connection with an application for a commitment of Tax Credits under any requirement, rule, policy or guideline of the TDHCA, including but not limited to the QAP.

Section 7: Neither the Borrower nor anyone related to the Borrower has provided City with funds to fund the Loan and the City is not a Related Party, as defined in Section 2306.6702, Texas Government Code, to the Borrower.

Section 8: This resolution shall become effective immediately upon its passage.

At a meeting of the City Council on February 17, 2015 this Resolution be adopted. The motion carried by the following vote:

Ayes: 6 Mayor Gottel, Mayor Pro Tem Gallops, Councilmember van Bloemendaal, Councilmember Dana-Bashian, Councilmember Bobbitt and Councilmember Sheffield

Abstain: 1 Deputy Mayor Pro Tem Pankratz

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ATTACHMENT 2

Approved by _____ **Date** **February 17, 2015**
Mayor

Approved to form by _____ **Date** **February 17, 2015**
City Attorney

Certified by Laura Hallmark **Date** **February 17, 2015**
City Secretary

CITY OF ROWLETT, TEXAS

City of Rowlett

Staff Report

4000 Main Street
P.O. Box 99
Rowlett, TX 75030-0099
www.rowlett.com

AGENDA DATE: 02/16/16 **AGENDA ITEM**: 7K

TITLE
Consider action to approve a change order for the construction of a 100 foot monopole radio tower for new Public Safety Radio System to be located at the Rowlett police building.

STAFF REPRESENTATIVE
W. M. Brodnax, Chief of Police

SUMMARY
It has been determined that the line of direct sight from the radio antenna mounted on top of the police building located at 4401 Rowlett Road to the proposed site of the new radio tower to be constructed on Schrade Road is blocked by obstructions. Therefore, it is necessary to construct a 100 foot free-standing monopole radio tower next to the police building in order to ensure reliable connectivity to the radio system.

BACKGROUND INFORMATION
On September 15, 2015, Council approved a resolution allowing the City Manager, Brian Funderburk, to negotiate and execute an interlocal agreement between the City of Garland and the City of Rowlett for the acquisition of a Public Safety Radio System. Upon signature of the interlocal agreement, Motorola began site preparations for the radio system.

In December 2015, Motorola advised that there was a problem with the line of sight from the radio antenna on top of the police department to the proposed Schrade tower. The proposed solution to this problem was to erect a stand-alone 100 foot monopole radio tower next to the police building.

CHANGE ORDER #	DATE	REASON FOR CHANGE	ADDITIONAL DAYS	CHANGE ORDER AMOUNT
1	01/6/2016	Provide new monopole radio tower at Rowlett Dispatch	0 days	$ 143,158.12
		Total		**$ 143,158.12**
		Original Contract		**$1,564,593.33**
		Final Contract		**$1,707,751.45**

DISCUSSION
Motorola engineers began looking at antenna locations to ensure that direct lines of sight were available from tower site to tower site throughout the system. It was determined that the antenna (dish) located on top of the roof at the police department did not have a clear line of sight to the

proposed Schrade tower due to trees. The trees blocking the sight are located on private property which prohibits the City from cutting them. It was also noted that if the trees were able to be cut, it would be a continuous maintenance issue.

Two alternative change plans were submitted by Motorola to resolve the problem.

- Rwl-002a suggested that an antenna be placed on top of the newly constructed water tower located on Main Street. This plan would require two additional dish antennas, one on the water tower and one on the police building plus a back to back microwave repeater system. Accomodations would have to be made inside the water tower building to accommodate this install. This change order is $88,401.12 and only includes Motorola equipment and installation. Accomodations to prepare the inside of the water tower to store this equipment has not yet been obtained. Electrical work would have to be added for heaters and air conditioners along with housing cabinets.

- Rwl-200b is to install a 100 foot monopole radio tower next to the police building. The monopole radio tower would provide an unobstructed site to the Schrader tower with no future problems. This will require a change order with Motorola for $143,158.12. This requires one dish antenna and the monopole.

After review of both options and discussions with radio professionals, City staff believes that Rwl-002b is the best option, although it is the most expensive. The reason for choosing Rwl-002b is that there is much less chance of long term maintenance issues and equipment failure. Rwl-002b requires only one antenna to be utilized versus two. One antenna on the monopole connects directly to the radio equipment inside the police building. Rwl-002a requires two antennas plus more electrical equipment to be placed inside another building that will have constant weather impacts (hot and cold changes creating moisture that could affect electrical equipment) and the ability to be interacted with from outside sources. Radio specialists from both Motorola and Garland have advised City staff that the monopole would have less long term maintenance issues. The antenna on the monopole connects directly to the radio equipment locted inside an environmentally controlled room inside police building. This is extremely important for stability and reliability.

FINANCIAL/BUDGET IMPLICATIONS

On December 31, 2015, the City of Rowlett sold bonds for $3,035,000 to fund payment for the public safety radio system that was expected to cost $2,681,928. Proceeds of the final bond sale total $2,950,120, giving the project a $268,192 contingency. The contingency amount in the bond issue was added in the event of unexpected costs such as the need for the 100 foot monopole radio tower.

In the 1st quarter of 2015, the Rowlett Police Department applied for a Texas CJD Grant for $80,000 to purchase portable radios. In January 2016, the Rowlett Police Department was notified that the grant for 42 portable radios for $78,680.70 had been approved. With the uncertainty of whether the grant would be approved, the cost of the portable radios were included in the cost

figures of the Public Safety Radio System. With the approval of this grant, we have a $78,680.70 savings in the project cost.

The cost of the change order for the monopole is $143,158.12. The savings cost due to the CJD Grant is $78,680.70. This would equate to $64,477.42 being utilized from the contingency included in the Public Safety Radio System project certificates of obligation.

Funding Source	Project	Funding Allocation ($2.7 Million Over 3 Years)			Proposed Amount
		FY2016 Budget	Future Dollars	Total Allocation	
2015 Certificates of Obligation	Public Safety Radio System	$2,950,120.00	$ -	$2,950,120.00	**$2,746,405.42**
	Total	$2,950,120.00	$ -	$2,950,120.00	**$2,746,405.42**
	Total Project Costs – Actual & Encumbered				**$2,746,405.42**
	Projected Balance/ (Shortfall)				**$203,714.58**

RECOMMENDED ACTION

Staff recommends Council approve a resolution for the change order Rwl-002 with Motorola for $143,158.12 for the construction of a 100 foot monopole radio tower at the Rowlett Police Department located at 4401 Rowlett Rd, Rowlett, TX.

RESOLUTION

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ROWLETT, TEXAS, APPROVING A CHANGE ORDER TO THE CITY'S AGREEMENT WITH MOTOROLA SOLUTIONS IN THE AMOUNT OF $143,158.12 FOR THE CONSTRUCTION OF A 100-FOOT MONOPOLE RADIO TOWER AT THE ROWLETT POLICE DEPARTMENT LOCATED AT 4401 ROWLETT ROAD; AUTHORIZING THE CITY MANAGER TO EXECUTE THE CHANGE ORDER AND PURCHASE ORDERS ON THE CITY'S BEHALF; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Rowlett has entered into an Interlocal Agreement with the City of Garland for the construction, installation, acquisition and implementation of a multi-jurisdictional Public Safety Radio System necessary for radio communications between public safety personnel; and

WHEREAS, pursuant to the Interlocal Agreement, the City of Garland has complied with competitive bidding and procurement laws enabling the City of Rowlett to purchase, acquire and install Rowlett's components of the radio system through Motorola Solutions; and

WHEREAS, the initial system design has proven unworkable in that the original antenna configuration lacks appropriate line-of-sight clearance, necessitating a redesign and a

commensurate change order involving the installation of a 100-foot monopole antenna on the police department's property.

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

Section 1: That the City Council of the City of Rowlett, Texas, hereby approves a change order in the amount of $143,158.12 to the agreement with Motorola Solutions and the Interlocal Agreement between the City of Rowlett and the City of Garland, to provide for the construction of a 100-foot monopole radio tower at 4401 Rowlett Road, incident to the acquisition of a Public Safety Radio System, a true and correct copy of which Change Order is attached hereto and incorporated herein as Exhibit "A,"

Section 2: That the City Council hereby authorizes the City Manager to execute the Change Order and purchase orders on the City's behalf to give effect to this Resolution and to execute such related documents as may be necessary or appropriate.

Section 3: That this resolution shall become effective immediately upon its passage.

ATTACHMENTS

Attachment 1 – Change Order #Rwl-002b with Motorola Solutions
Attachment 2 – Change Order #Rwl-002a with Motorola Solutions

Change Order No.	Rwl-002b
Date:	1/6/16
Project Name:	Garland/Mesquite/Rowlett/Sachse P25 Radio Project
Customer Name:	City of Rowlett, TX
Customer Project Mgr:	Mike Wallace

The purpose of this Change Order is to: Provide new monopole radio tower at the Rowlett Dispatch.

Provide and construct a new 100 ft. monopole radio tower at Rowlett Police dept
located at: 4401 Rowlett Rd, Rowlett, TX

Services and Materials for the new tower structure include: Tower materials, Tower construction, site engineering services, and site preparations. See SOW attached for details.

New costs for this Change Order Request = **$143,158.12**

Contract # **Rowlett PO#152232** **Contract Date:** **9/17/15**

In accordance with the terms and conditions of the contract identified above between [City of Rowlett, Texas] and Motorola Solutions, Inc., the following changes are approved:

Contract Price Adjustments

Original Contract Value:	
Previous Change Order amounts for Change Order numbers 00 through 00	
This Change Order:	**$143,158.12**
New Contract Value:	

Completion Date Adjustments

Original Completion Date:	
Current Completion Date prior to this Change Order:	
New Completion Date:	

Changes in Equipment: *(additions, deletions or modifications)* Include attachments if needed	
(See SOW attached)	
100 ft Monopole - Tower and Microwave materials	$52,446.96
(*Prices include credits for the original roof-top engineering design and associated rooftop materials)	

Changes in Services: *(additions, deletions or modifications)* Include attachments if needed	
(See SOW attached)	
A&E and Professional Services for 100 ft Monopole	$27,380.41
Site Development and Construction for 100 ft Monopole	$63,330.75
Services Total	$90,711.16
(*Prices include credits for the original roof-top engineering design and associated rooftop materials)	

Schedule Changes: *(describe change or N/A)*
12 weeks add to original project schedule

Pricing Changes: *(describe change or N/A)*	
Total for this Chang Order Request not to exceed -	**$143,158.12**

Customer Responsibilities: *(describe change or N/A)*
Review requested changes in this document, approve, sign and return to Motorola for contract execution.

Payment Schedule for this Change Order: *(describe new payment terms applicable to this change order)*
Payments will be made in accordance to the Billing Milestones as outlined under Exhibit B Payment Schedule of the Contract Proposal.

Unless amended above, all other terms and conditions of the Contract shall remain in full force. If there are any inconsistencies between the provisions of this Change Order and the provisions of the Contract, the provisions of this Change Order will prevail.

IN WITNESS WHEREOF the parties have executed this Change Order as of the last date signed below.

Motorola Solutions, Inc.		**Customer** (City of Rowlett, TX)	
By:		By:	
Printed Name:		Printed Name:	
Title:	Vice President MSSSI	Title:	
Date:		Date:	

Reviewed by: _____ Date: _____
Motorola Solutions Project Manager

Statement of Work

Motorola Solutions (MSI) shall provide additional materials and services as follows:
Provide and construct a new 100 ft. monopole radio tower for Rowlett public safety radio communications. Proposed tower design drawing is attached.

Civil Work

Tower Site Development at: Rowlett Police Department located at:
4401 Rowlett Rd, Rowlett, TX

Site Scope Summary

- Engineering services for site drawings and regulatory approvals
- New tower to be used for radio antennas –100-foot Monopole tower
- New tower foundation size – up to 40 cubic yards of concrete

Motorola Will:

Site Engineering

- Prepare site construction drawings showing the layout of various new and existing site components.
- Conduct site walks to collect pertinent information from the sites (e.g., location of Telco, power, existing facilities, etc.).
- Prepare Zoning Drawings lease exhibit sketch of the site to communicate to the property owner the proposed lease space and planned development at the particular site location.
- Prepare record drawings of the site showing the as-built information.
- Perform NEPA compliance/FCC checklist to determine if the site location affects Wilderness Area, Wildlife Preserve, Endangered Species, Historical Site, Indian Religious Site, Flood Plain, Wetlands, High Intensity White Lights in Residential Neighborhoods or Excessive RF Radiation Exposure and prepare Cultural Resource report (This does not include the additional field investigations to document site conditions if it is determined that the proposed communication facility “may have a significant environmental impact” and thus require additional documentation, submittals, or work.)
- Tribal Fees included up to $5,520.00 Total fees.
- Perform Geotechnical exploration for monopole tower including ground resistivity testing
- Check tower erection for plumbness, linearity and alignment after installation and tower height verification for FAA filing.
- Conduct construction inspection of foundation steel prior to pour, materials testing of concrete and field density tests of backfill to ensure quality construction.
- Perform inspection of the site and the work performed by the Contractor to document that the site is built in accordance with the “Site Plans” and document any deviations or violations.
- Prepare, submit and track application for local permit fees (zoning, electrical, building etc.), prepare FAA filings (1A/2C) and procure information necessary so the city may file (as the FCC licensee.)

Site Preparation

- Obtain the permits such as electrical, building, and construction permits, and any inspections that may need to be coordinated with the local authorities to complete site development work (excludes environmental permitting)
- Provide one-time mobilization costs for the construction crews. Any remobilization due to interruptions/delays that are out of Motorola's control will result in additional costs.

Tower Work

- Construct tower foundations including excavation, rebar and concrete (not to exceed 20 cubic yards).
- Supply and Erect new 100-foot Monopole Tower including the installation of manufacturer supplied tower and RF system per design (antenna and dish and mounts, clamps and accessories)
- Supply and install a grounding system around the towers to meet Motorola's R56 standards.

Miscellaneous Work

- Supply and install (1) custom 24-inch-wide cable/ice bridge from the tower to the shelter (up to 15 linear feet).
- Exterior grounding for W/G Bridge, and fence located in tower compound per R56
- Construct Guard Posts (Bollards) around tower base per design
- Man lift rental to install custom ice bridge
- Implement Silt fence up to 160 ft (construction phase)
- Construct 8' high fencing of compound up to 60 linear ft (including gates and accessories required)

ANTENNA & TRANSMISSION LINES

- Supply and install RF Antenna and lines per design
- Supply and Install 3 side arms for antennas
- Supply and install dish and mount for up to 6' dish on tower leg along with tie backs
- Perform a Sweep test on new transmission lines
- Hardware (round member/angle adapters, brackets etc.) to mount the transmission line to tower
- Ground buss bar at the bottom of tower for grounding RF cables before horizontal transition

Customer Responsibilities:

- Review and approve site design drawings within 7 calendar days of submission by Motorola or its subcontractor(s). Should a re-submission be required, the Customer shall review and approve the re-submitted plans within 7 calendar days from the date of submittal.
- As applicable, assist Motorola with coordinating, preparing and submitting all required permits and inspections for sites as owner/lessee.
- Responsible for all utility costs, connections, pole or line extensions, and any easement or usage fees as applicable and coordinate, prepare, submit for all required utility permits and inspections for same.
- As applicable, coordinate, prepare, submit, and pay for the required permits and inspections for the work (such as new utilities) if identified as the Customer's responsibility.
- As applicable (based on local jurisdictional authority), the Customer will be responsible for any installation or up-grades of the electrical system in order to comply with NFPA 70, Article 708
- Pay for application fees, taxes and recurring payments for lease/ownership of the property.
- Provide personnel to provide access during construction and testing of site equipment.
- Provide additional temporary space for the staging the construction equipment during the construction of new site tower facility (tower, man-lift, crane etc)
- If required, remove or relocate any existing facilities, equipment, and utilities to create space for new site facilities and equipment.

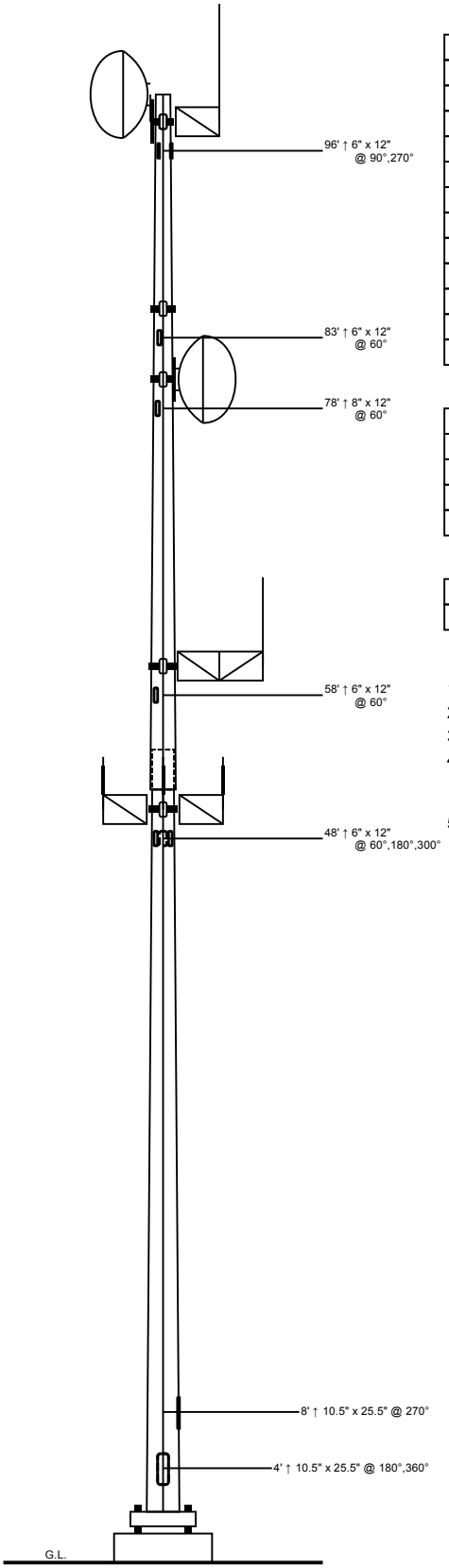
Assumptions:

- No prevailing wage, certified payroll, mandatory union workers or mandatory minority workers are required for this work
- All work is assumed to be done during normal business hours as dictated by time zone (Monday thru Friday, 7:30 a.m. to 5:00 p.m.).

- Hazardous materials are not present at the work location. Testing and removal of hazardous materials, found during site investigations, construction or equipment installation will be the responsibility of the customer.
- A maximum of 30 days will be required for obtaining approved building permits from time of submission.
- No improvements are required for concrete trucks, drill rigs, shelter delivery, and crane access.
- If harsh or difficult weather conditions inhibit the site work for more than a week, Motorola will delay installations rather than risk job site safety.
- Foundations and subsurface conditions for tower design are based on Normal Soil per Rev-F soil parameters, as defined by EIA-222-G. Also, rock coring, piling, extensive dewatering of foundations, permanent casings or hazardous material removal has not been included.
- The new tower location will pass the FAA hazard study, zoning, FCC and environmental permitting before construction can begin.
- If as a result of NEPA studies, any jurisdictional authority should determine that a proposed communications facility "may have a significant environmental impact", the environmental impact studies or field testing and evaluation related to such determination have not been included.
- The soil resistivity at the site is sufficient to achieve resistance of ten (10) ohms or less. Communications site grounding will be designed and installed per Motorola's Standards and Guidelines for Communications Sites (R56).

SIZES ARE PRELIMINARY AND MAY CHANGE UPON FINAL DESIGN

Section	1	2
Length (ft)	53' - 3"	48' - 6"
Number Of Sides	18	
Lap Splice (ft)	2' - 9"	
Top Diameter (in)	18.86"	12.5"
Bottom Diameter (in)	26.85"	19.77"
Taper (in/ft)	0.15	
Grade	A572-65	
Weight (lbs)	4193	2360
Overall Steel Height (ft)	99	



Designed Appurtenance Loading

Elev	Description	Tx-Line
106.29	(1) DB222	(1) 7/8"
100	(1) 6' Solid Dish w/ Radome	(1) EW63
98	(1) Dish Mount (Monopole Only) - Pipe Mount (up to 6' Dish)	
98	3ft Sidearm	
85	Flush Mount (Monopole Only)	
85	(1) 6' Ice Shield	
80	(1) Dish Mount (Monopole Only) - Pipe Mount (up to 6' Dish)	
80	(1) 6' Solid Dish w/ Radome	(1) EW63
66.29	(2) DB222	(2) 7/8"
60	6ft Sidearm	
52	(3) 2' OMNI	(3) 1/2"
50	(3) 3ft Sidearms	

Load Case Reactions

Description	Axial (kips)	Shear (kips)	Moment (ft-k)	Deflection (ft)	Sway (deg)
3s Gusted Wind	10.94	9.02	610.14	7.08	6.77
3s Gusted Wind 0.9 Dead	8.21	9.02	601.22	6.95	6.64
3s Gusted Wind&Ice	19.94	1.12	77.71	0.94	0.93
Service Loads	9.13	1.95	130.92	1.53	1.45

Base Plate Dimensions

Shape	Width	Thickness	Bolt Circle	Bolt Qty	Bolt Diameter
Square	30.25"	2"	32.5"	4	2.25"

Notes

1) Antenna Feed Lines Run Inside Pole
2) All dimensions are above ground level, unless otherwise specified.
3) Weights shown are estimates. Final weights may vary.
4) The Monopole was designed for a basic wind speed of 90 mph with 0" of radial ice, and 30 mph with 3/4" of radial ice, in accordance with ANSI/TIA-222-G, Structure Class III, Exposure Category C, Topographic Category 1.
5) Full Height Step Bolts

Sabre Industries™
Towers and Poles

Sabre Communications Corporation
7101 Southbridge Drive
P.O. Box 658
Sioux City, IA 51102-0658
Phone: (712) 258-6690
Fax: (712) 279-0814

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Quote:	**16-4667-MEG**
Customer:	ENERTECH RESOURCES LLC
Site Name:	Rowlett, TX
Description:	100' Monopole
Date:	12/18/2015 By: RKR Page: 1

Change Order No.	Rwl-002a
Date:	1/8/16
Project Name:	Garland/Mesquite/Rowlett/Sachse P25 Radio Project
Customer Name:	City of Rowlett, TX
Customer Project Mgr:	Mike Wallace

The purpose of this Change Order is to: Provide a Microwave repeater solution on city of Rowlett water tower to service the Rowlett dispatch site.

Provide and construct a Microwave passive repeater system on the Rowlett water tower to service the Rowlett dispatch location. The water tower is located at: 3106 Main St., Rowlett Tx.

Services and Materials for the structure include: Repeater system materials and construction including site engineering services, and site preparations. See SOW attached for details.

New costs for this Change Order Request = **$88,401.12**

Contract # **Rowlett PO#152232** **Contract Date:** **9/17/15**

In accordance with the terms and conditions of the contract identified above between [City of Rowlett, Texas] and Motorola Solutions, Inc., the following changes are approved:

Contract Price Adjustments

Original Contract Value:	
Previous Change Order amounts for Change Order numbers 00 through 00	
This Change Order:	**$88,401.12**
New Contract Value:	

Completion Date Adjustments

Original Completion Date:	
Current Completion Date prior to this Change Order:	
New Completion Date:	

Changes in Equipment: *(additions, deletions or modifications)* Include attachments if needed	
Microwave Materials: Dish Antennas, mounts, waveguide and ancillary hardware	$40,178.82
(See SOW attached)	

Changes in Services: *(additions, deletions or modifications)* Include attachments if needed	
A&E and Professional Services for Back-to-Back Dish Microwave Repeater	$24,481.36
Construction and installation of Back-to-Back Dish Microwave Repeater System	$23,740.94
Services Total	$48,222.30
(See SOW attached)	

Schedule Changes: *(describe change or N/A)*
12 weeks add to original project schedule

Pricing Changes: *(describe change or N/A)*	
Total for this Chang Order Request not to exceed -	**$88,401.12**

Customer Responsibilities: *(describe change or N/A)*
Review requested changes in this document, approve, sign and return to Motorola for contract execution.

Payment Schedule for this Change Order: *(describe new payment terms applicable to this change order)*
Payments will be made in accordance to the Billing Milestones as outlined under Exhibit B Payment Schedule of the Contract Proposal.

Unless amended above, all other terms and conditions of the Contract shall remain in full force. If there are any inconsistencies between the provisions of this Change Order and the provisions of the Contract, the provisions of this Change Order will prevail.

IN WITNESS WHEREOF the parties have executed this Change Order as of the last date signed below.

Motorola Solutions, Inc.		**Customer** (City of Rowlett, TX)	
By:		By:	
Printed Name:		Printed Name:	
Title:	Vice President MSSSI	Title:	
Date:		Date:	

Reviewed by: _____ Date: _____
Motorola Solutions Project Manager

Statement of Work

Motorola Solutions (MSI) shall provide additional materials and services as follows:
Provide and construct a new Microwave repeater system for Rowlett public safety radio communications using Back-to-Back passive dish configuration mounted on top of the Rowlett water tank.

Civil Work

Development at Rowlett water tank
3106 Main St., Rowlett Tx

Site Scope Summary

- Architectural and Engineering services for site drawings and regulatory approvals
- All Microwave passive repeater system materials per design
  Construction, installation and integration of repeater materials per design

Motorola Will:

Site Engineering

- Prepare site construction drawings showing the layout of various new and existing site components.
- Conduct site walks to collect and map pertinent information from the site.
- Prepare Zoning Drawings lease exhibit sketch of the site to communicate to the property owner the proposed lease space and planned development at the particular site location.
- Prepare record drawings of the site showing the as-built information.
- Perform NEPA compliance/FCC checklist if the building is over 45 years old/eligible for National Register of Historic Places to determine how the proposed antenna location affects Historical Site or Excessive RF Radiation Exposure and prepare Cultural resource report
- Structural Analysis Roof Tops (With building drawings provided by owner.) Geotech not included.

Site Preparation

- Obtain the permits such as electrical, building, and construction permits, and any inspections that may need to be coordinated with the local authorities to complete site development work (excludes environmental permitting)
- Provide one-time mobilization costs for the construction crews. Any remobilization due to interruptions/delays that are out of Motorola's control will result in additional costs.

Customer Responsibilities:

- Review and approve site design drawings within 7 calendar days of submission by Motorola or its subcontractor(s). Should a re-submission be required, the Customer shall review and approve the re-submitted plans within 7 calendar days from the date of submittal.
- As applicable, assist Motorola with coordinating, preparing and submitting all required permits and inspections for sites as owner/lessee.
- Provide personnel to provide access during construction and testing of site equipment.
- Provide additional temporary space for the staging the construction equipment during the construction of new site tower facility (tower, man-lift, crane etc)
- If required, remove or relocate any existing facilities, equipment, and utilities to create space for new site facilities and equipment.

Assumptions:

- No prevailing wage, certified payroll, mandatory union workers or mandatory minority workers are required for this work
- All work is assumed to be done during normal business hours as dictated by time zone (Monday thru Friday, 7:30 a.m. to 5:00 p.m.).
- Hazardous materials are not present at the work location. Testing and removal of hazardous materials, found during site investigations, construction or equipment installation will be the responsibility of the customer.
- A maximum of 30 days will be required for obtaining approved building permits from time of submission.
- No improvements are required for concrete trucks, drill rigs, shelter delivery, and crane access.
- If harsh or difficult weather conditions inhibit the site work for more than a week, Motorola will delay installations rather than risk job site safety.
- The new tower location will pass the FAA hazard study, zoning, FCC and environmental permitting before construction can begin.
- If as a result of NEPA studies, any jurisdictional authority should determine that a proposed communications facility "may have a significant environmental impact", the environmental impact studies or field testing and evaluation related to such determination have not been included.
- The soil resistivity at the site is sufficient to achieve resistance of ten (10) ohms or less. Communications site grounding will be designed and installed per Motorola's Standards and Guidelines for Communications Sites (R56).

City of Rowlett

Staff Report

4000 Main Street
P.O. Box 99
Rowlett, TX 75030-0099
www.rowlett.com

AGENDA DATE: 02/16/16 **AGENDA ITEM**: 7L

TITLE

Consider approving an ordinance calling a Special Election to Fill a Vacancy for an unexpired term, created by the resignation of Carl Pankratz, Councilmember Place 3.

STAFF REPRESENTATIVE

Laura Hallmark, City Secretary

BACKGROUND

On February 2, 2016, City Council formally accepted the resignation of Carl Pankratz, Councilmember Place 3. Mr. Pankratz had first notified the City Secretary's Office of his resignation on January 11, 2016.

DISCUSSION

Subparts (b) and (c) of Article XI, Section 11 of the Texas Constitution, state the following:

> *(b) A municipality so providing a term exceeding two (2) years but not exceeding four (4) years for any of its non-civil service officers must elect all of the members of its governing body by majority vote of the qualified voters in such municipality.*
>
> *(c) Any vacancy or vacancies occurring on such governing body shall not be filled by appointment but must be filled by majority vote of the qualified voters at a special election called for such purpose within one hundred and twenty (120) days after such vacancy or vacancies occur…*

Subpart (1) of Section 3.09 of the Rowlett City Charter states:

(1) In the event of a vacancy existing in the office of Mayor or any Councilmember from any cause whatsoever, the vacancy or vacancies occurring shall be filled by the qualified voters at an election within one hundred twenty (120) days after such occurs, as prescribed by the State law. If the term of office or offices is or are unexpired, the number of members elected at such election shall serve in such office or offices for the remainder of the unexpired term of such office or offices following the date of the election.

Since the resignation has been given/accepted prior to the deadlines for the uniform election date of May 7, 2016, this Special Election to Fill a Vacancy can be included with the other four City Council positions listed for the General Election and the Special Election for Charter Amendments.

FISCAL IMPACT

The City of Rowlett contracts with Dallas County Elections Department for the conduct of our municipal elections. Expenses are set once the number of entities and their respective election items, polling locations, poll workers, and associated forms and equipment have been finalized. As stated above, this Special Election to Fill a Vacancy can be included with the other four City Council positions listed for the General Election and the anticipated Charter Amendments. Therefore, the additional cost for this one item will be minimal. Funds are budgeted for City Elections in the amount of $34,280 in account number 1011501 6406 Elections.

STAFF RECOMMENDATION

Approve an ordinance calling a Special Election to Fill a Vacancy for an unexpired term, created by the resignation of Carl Pankratz, Councilmember Place 3.

ORDINANCE

AN ORDINANCE OF THE CITY OF ROWLETT, TEXAS, ORDERING A SPECIAL ELECTION BE HELD ON MAY 7, 2016 FOR THE PURPOSE OF FILLING A VACANCY IN THE OFFICE OF COUNCILMEMBER PLACE 3 TO COMPLETE THE REMAINDER OF THE UNEXPIRED TERM OF OFFICE; PROVIDING FOR THE PUBLICATION AND POSTING OF NOTICE; PROVIDING FOR EARLY VOTING DATES, TIMES AND LOCATIONS; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on January 11, 2016, a vacancy was created in the office of Councilmember Place 3, of the City Council, and, in accordance with the City Charter and State law, a Special Election is needed to fill the vacancy in said office for the remainder of the unexpired term; and

WHEREAS, on this the 16th day of February 2016, at a meeting of the City Council of the City of Rowlett, Texas, the meeting was called to order and the Council ordered a Special Election be held on Saturday, May 7, 2016; and,

WHEREAS, the election shall be held as a Special Election administered by the Dallas County Elections Administrator in accordance with the provisions of the Texas Election Code and a Joint Participants Agreement;

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

Section 1: That a Special Election be and is hereby ordered to be held in the City of Rowlett, Texas, on the 7th day of May, 2016, the same being the second Saturday of said month, for the purpose of electing a Councilmember for Place 3, to complete the remainder of the unexpired term of office. The candidate for such office receiving a majority of all votes cast for all candidates for such office shall be elected to serve such term or until their successor is duly elected and qualified.

Section 2: That in the event any candidate for said office fails to receive a majority of all votes cast for all the candidates for such office, a run-off election shall be held. If a run-off election becomes necessary, the run-off election will be held on Saturday, June 18, 2016.

Section 3: Each candidate shall be a qualified voter of the City and shall have resided in the City for not less than one (1) year preceding the day of the election and should not be in arrears in the payment of any taxes to the City, unless such arrearage is subject to a lawful protest.

Section 4: Applications to be placed on the ballot for said office shall be filed with the City Secretary or a duly appointed designee, who shall affix the date and time stamp on the ballot application, during the regular office hours not later than 5:00 p.m. on the 62nd day before the day of the election.

Section 5: That notice of said election shall, as required by law, be published two times in the official newspaper of the City not earlier than the 30th day or later than the 10th day before election day. A copy of the published notice that contains the name of the newspaper and the date of publication shall be retained as a record of such notice, and the person posting the notice shall make a record at the time of posting, the starting date, and the place of posting. The notice shall also be posted on the bulletin board used to publish notice of City Council meetings not later than the 21st day before Election Day.

Section 6: An election shall be held between the hours of 7:00 A.M. and 7:00 P.M. on Saturday, May 7, 2016. Polling places for the election are designated to be located at:

Herfurth Elementary School---7500 Miller Road, Rowlett, Texas, for all Rowlett residents that reside in Dallas County Precinct 2923 and 2926

Coyle Middle School---4500 Skyline Drive, Rowlett, Texas, for all Rowlett residents that reside in Dallas County Precinct 2920, 2921, 2924, 2925, 2928, and 2929

Schrade Middle School---6201 Dandridge Road, Rowlett, Texas for all Rowlett residents that reside in Dallas County Precinct 2922 and 2927

Cullins-Lake Pointe Elementary School---5701 Scenic Drive, Rowlett, Texas, for all Rowlett residents that reside in Rockwall County Precincts 1A and 2B

Section 7: Early voting by personal appearance shall be conducted at the Rowlett City Hall Annex, 4004 Main Street, Rowlett, Texas. For the period of early voting permitted by law, the Early Voting clerk shall keep said office open for early voting by personal appearance as follows:

Monday thru Friday	April 25 thru April 29, 2016	8 a.m. – 5 p.m.

Saturday	April 30, 2016	8 a.m. – 5 p.m.
Sunday	May 1, 2016	1 p.m. – 6 p.m.
Monday and Tuesday	May 2 thru May 3, 2016	7 a.m. – 7 p.m.

The Early Voting Clerk for said election shall be Toni-Pippins Poole, Dallas County Elections Administrator.

Applications for early voting by mail shall be delivered to the Early Voting Clerk, no later than April 26, 2016 (by 12:00 noon or close of business, whichever is later), at the following address:

Dallas County Elections Department
Attn: Toni Pippins Poole, Early Voting Clerk
2377 North Stemmons Freeway, Suite 820
Dallas, Texas 75207

Section 8: The Presiding Judge and the Alternate Election Judge of the Early Voting Ballot Board shall be selected by the Dallas County Elections Administrator in accordance with an Election Agreement between the Dallas County Elections Department and the City of Rowlett.

Section 9: Direct record electronic (DRE) equipment will be utilized for early voting by personal appearance; and optical scan voting systems will be used on Election Day and one Americans with Disability Act (ADA) terminal will be provided to each voting location by the Dallas County Elections Department in accordance with an Election Agreement with the City of Rowlett.

Section 10: The City Secretary is hereby authorized and directed to publish and post, in the time and manner prescribed by law, all notices required to be so published and posted in connection with the conduct of the election.

Section 11: The City Secretary shall present the election returns to the City Council for the canvassing of said election. The canvass of said election returns shall be conducted by the City Council on May 17, 2016.

Section 12: Should any part, section, subsection, paragraph, sentence, clause or phrase contained in this ordinance be held to be unconstitutional or of no force and effect, such holding shall not affect the validity of the remaining portion of this ordinance, but in all respects said remaining portion shall be and remain in full force and effect.

Section 13: That this ordinance shall take effect immediately upon its passage.

ATTACHMENT

Attachment 1 – Election Order (English and Spanish)

ATTACHMENT 1

4000 Main Street
Rowlett, TX 75088
www.rowlett.com

NOTICE/ORDER OF SPECIAL ELECTION TO FILL A VACANCY FOR MUNICIPALITIES
AVISO/ORDEN DE ELECCIóN ESPECIAL PARA LLENAR UNA VACANTE PARA MUNICIPIOS

An election is hereby ordered to be held on May 7, 2016 for the purpose of:
Por la presente se ordena que se llevará a cabo una elección general el 7 mayo 2016 pàra elegir:

Councilmember Place 3 – an unexpired term
Lugar tres, Concejal – un termino restante

Issued the 16th day of February, 2016.
Emitida 16 de febrero 2014.

Notice is hereby given that applications for a place on the City of Rowlett Special Election ballot may be filed during the following time:
Se da aviso por la presente que las solicitudes para un lugar en la boleta de la Elección Especial de Ciudad de Rowlett se pueden presentar durante el siguiente horario:

End Date: March 7, 2016 at 5:00 p.m.
Fecha Limite: 7 de marzo 2016 5p

Early voting by personal appearance will be conducted at the following locations and times*:
La votación adelantada en persona se llevará a cabo en las siguientes ubicaciones y horas:

DATES AND TIMES OF EARLY VOTING FOR THE JOINT ELECTION TO BE HELD ON SATURDAY, MAY 7, 2016
Fechas y horarios de votación adelantada para la elección conjunta que se celebrará el sábado, 7 de mayo 2016

April 25 (MONDAY THROUGH FRIDAY) April 29	**8 AM TO 5 PM**
25 de avril (lunes a viernes) 29 de avril	***8 a 5 p***
April 30 (SATURDAY)	**8 AM TO 5 PM**
30 de avril (sábado)	***8 a 5 p***
May 1 (SUNDAY)	**1 PM TO 6 PM**
1 de mayo (domingo)	***1 p 6 p***
May 2 (MONDAY AND TUESDAY) May 3	**7 AM TO 7 PM**
2 de mayo (lunes y martes) 6 de mayo	***7 a 7 p***

Rowlett City Hall Annex
4004 Main Street
Rowlett, Texas

Location of Election Day Polling Place
Ubicación de las casillas electroales el Día de Elección

MAY 7 (SATURDAY)
7 DE MAYO (SÁBADO)
TIMES OF VOTING
HORARIOS DE LAS VOTACIÓNES
7 AM TO 7 PM
7AM A 7PM

CULLINS LAKE POINTE SCHOOL	**5701 SCENIC DRIVE**	**ROWLETT**	**75088**
COYLE MIDDLE SCHOOL	**4500 SKYLINE DRIVE**	**ROWLETT**	**75088**
SCHRADE MIDDLE SCHOOL	**6201 DANDRIDGE ROAD**	**ROWLETT**	**75089**
HERFURTH ELEM SCHOOL	**7500 MILLER ROAD**	**ROWLETT**	**75088**

Applications for ballot by mail shall be mailed to:
Las solicitudes para boletas que se votaran en ausencia por correo deberán enviarse a:

Toni Pippins-Poole, Dallas County Elections Administrator
(Name of Early Voting Clerk)
(Nombre del Secretario(a) de la Votacion Adelantada)

2377 N. Stemmons Freeway, Suite 820
(Address) *(Direccion)*

Dallas, Texas 75207
(City) *(Ciudad)* (Zip Code) *(Zona Postal)*

Applications for ballot by mail must be received no later than the close of business on April 26, 2016.
(Las Solicitudes para boletas que se votaran en ausencia por correo deberan recibirse para el fin de las horas de negocio el 25 de avril de 2014)

Signature of Mayor *Firma del Alcalde*	Signature of Councilmember *Firma de la miembro del consejo*
Signature of Councilmember *Firma de la miembro del consejo*	Signature of Councilmember *Firma de la miembro del consejo*
Signature of Councilmember *Firma de la miembro del consejo*	Signature of Councilmember *Firma de la miembro del consejo*
Signature of Councilmember *Firma de la miembro del consejo*	

City of Rowlett

Staff Report

4000 Main Street
P.O. Box 99
Rowlett, TX 75030-0099
www.rowlett.com

AGENDA DATE: 02/16/16 **AGENDA ITEM**: 8A

TITLE

Conduct a public hearing and consider an ordinance approving a request for a rezoning from a Single Family-8 Zoning District to a Planned Development District with an underlying base district of Multi-Family Attached Residential Townhouse (MF-TH) for the purpose of constructing 12 townhomes on property located at 10206 Liberty Grove Road further described as being 3.149 +/- acres in the Harrison Blevins Survey, Abstract No. 94 and the Hanse Hamilton Survey, Abstract No. 858, City of Rowlett, Dallas County, Texas. (PD41-2015)

STAFF REPRESENTATIVE

Garrett Langford, AICP, Principal Planner

SUMMARY

The applicants are requesting to rezone 3.149 +/- gross acres (2.57 +/- net acres) located at 10206 Liberty Grove Road (Attachment 1 – Location Map) from a Single Family-8 Zoning District (SF-8) to a Planned Development District in order to build a 12-unit townhome development.

This case was tabled from the Planning and Zoning Commission meeting on December 8, 2015, to allow the applicant to discuss the proposal with Staff and the adjacent property owners. The applicants modified the proposed concept plan by decreasing the number of townhome lots from 14 to 12, increasing the lot widths to 30 feet, identifying an internal trail network, and increasing the buffer from the south property line from 5 feet to 15 feet. The public hearing was closed at the December 8, 2015, meeting; however, staff re-advertised this case to have public hearings at the January 26, 2016 Planning and Zoning Commission meeting and February 16, 2016 City Council meeting.

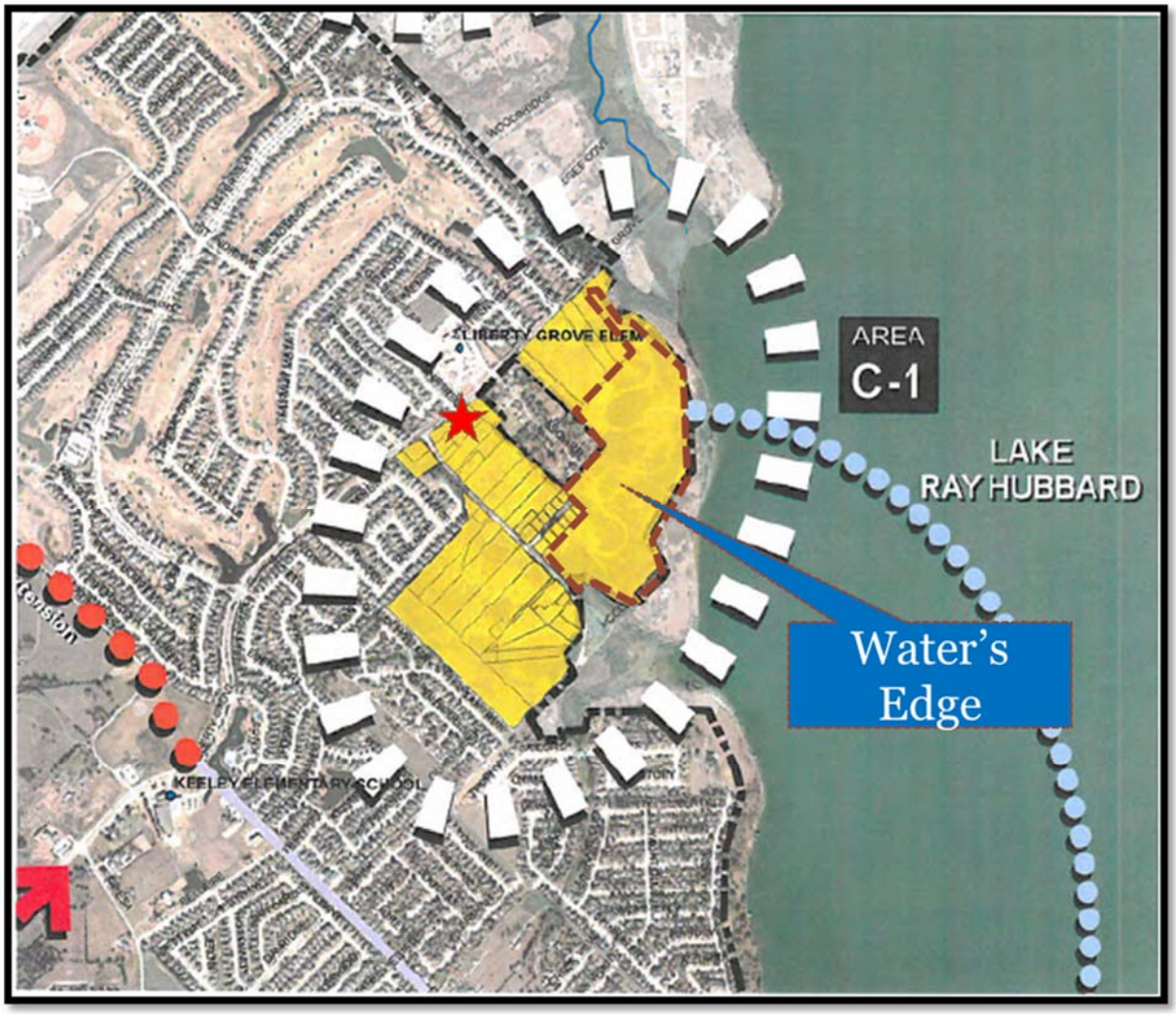
The Planning and Zoning Commission voted 5-2 to recommend approval of this item at their January 26, 2016, regular meeting. Commissioners Thomas Finney and James Moseley voted in opposition. The item was discussed under Item C2, which can be viewed at the following link: http://rowletttx.swagit.com/play/01262016-1865.

BACKGROUND INFORMATION

The subject property is located in the "Lakeside Living Sub-Area," which is one of the 13 opportunity areas identified in City's Comprehensive Plan, *Realize Rowlett 2020* (Attachment 2). When the plan was initially adopted in 2011, it was understood that the City would take an active role in rezoning several of the priority opportunity areas. This was accomplished through the adoption of the Form-Based Code (FBC) and subsequent rezoning of Downtown, Signature Gateway, Healthy Living, Woodside Living and The North Shore. It was determined that the

remaining eight opportunity areas, including Lakeside Living, would be addressed as development opportunities arose.

Shortly after adopting *Realize Rowlett 2020*, it was acknowledged that the vision for the Lakeside Living Sub-Area would not be fully realized due to the fact that the Water's Edge Subdivision located along the lake was previously zoned for a conventional single family development and the property owners intended to follow through with the previously approved plan. The Water's Edge Subdivision has since been constructed and is in the final phase of buildout. With that said, the City Council chose to keep the Lakeside Living Sub-Area in the comprehensive plan in order to address the remaining available area, including the subject property. The image below shows the Lakeside Living Sub-Area in yellow with the subject property noted with the red star and Water's Edge noted in the red dashed outlined.



The main way that the City Council has chosen to implement the vision and guiding principles outlined in the comprehensive plan has been through the adoption of the *Form-Based Code (FBC)* and subsequent rezonings to Form Based Districts. This has been deemed the best way to implement the development regulations necessary to ensure efficient development patterns

and high quality design elements in these key areas. This process involves master planning a sufficiently sized area to determine the proper location for connection points, open spaces, utilization of natural features, block structures and transitions with existing uses. This master planning process has been used in the adoptions of previous FBC districts such as the North Shore, Woodside Living, Signature Gateway, Healthy Living, and Downtown. The area outlined in blue, which is approximately 25 acres, on the image below is sufficiently sized to master plan for a future Form Based District.

Master planning this area across multiple properties with different property owners presents a number of challenges. However, it is Staff's opinion that this will be necessary to ensure the best possible development pattern that carries out the vision for Lakeside Living and the goals of the Comprehensive Plan. City Council could direct staff to pursue a master planning process for the area outlined in blue in the above image similar to the other City initiated master planning processes previously mentioned or they could direct staff to revisit whether this area should be included as one of the opportunity areas in the Comprehensive Plan. However, in the absence

of those directives, staff's recommendation for this case is based on the adopted vision for Lakeside Living as described in the Comprehensive Plan.

One of the main objectives outlined for the "Lakeside Living Sub-Area" is to create a destination for people seeking a *"unique low maintenance living environment*." There was an emphasis placed on pedestrian connectivity and the integration of several residential product types including *"attached ownership townhomes and brownstones, detached ownership products including patio and zero lot line homes, and some rental units."* While townhomes are listed as one of several envisioned product types for the area, *Realize Rowlett 2020* is clear that product types should be integrated and *"provide a range of options to people at all ages and stages of their life"* (Guiding Principle #3). In addition, there is a strong emphasis on Guiding Principle #9, "*balancing growth through efficient development patterns.*" The best way to create an efficient development pattern is through the master planning process similar to what has been done in the other opportunity areas mentioned previously in this report. Staff's main concern is that the proposal lacks the advantages of determining how the development might fit with future developments on the surrounding properties in a holistic way. If it is deemed acceptable to approve this rezoning without the consideration of a holistic plan, then it leads to the question whether it would be acceptable to rezone the next two acres to the south for a separate development and so on and so forth, which would not lend itself to creating efficient and sustainable development pattern.

The applicants have made modifications to their concept plan to address the concerns of the adjacent property owners to the east and to the south. The applicants modified the proposed concept plan by decreasing the number of townhome lots from 14 to 12, increasing the lot widths to 30 feet, identifying an internal trail network, and increasing the buffer from the south property line from 5 feet to 15 feet. The applicant has provided email exchanges between them and the property owner, Mike Lancaster, to the south as evidence of their coordination with the immediate neighbors. Staff verified with Mike Lancaster the accuracy of the email exchanges before including in as Attachment 4. Staff recognizes the positive changes that have been made by the applicant to address the compatibility concerns with the adjacent property owners. However, as detailed below, it is staff's professional opinion that the proposed rezoning request does not meet the overall intent of the district or the overarching guiding principles outlined in *Realize Rowlett 2020*. As such, staff recommends denial of the request.

DISCUSSION

Section 77-805 of the *Rowlett Development Code (RDC)* states that the City Council shall consider the following when making their recommendation to the City Council as it pertains to rezoning requests. These criteria are listed below:

1. Whether the proposed rezoning corrects an error or meets the challenge of some changing condition, trend, or fact;

   According to the applicants' Statement of Intent and Purpose, they are attempting to meet the needs of individuals and couples desiring a low-maintenance,

individually-owned dwelling. Realize Rowlett 2020 identified housing diversity as a key objective in achieving sustainability. However, it is staff's opinion that the proposed rezoning does not fully meet this changing condition taking into consideration not just the product type, but how the product type is integrated and designed for long-term sustainability within the market.

Offering a recommended housing product is only part of the equation to meet the challenges facing Rowlett as they were identified in Realize Rowlett 2020. What is equally, if not more important to creating a sustainable development is the design and the layout of the development in context with the surrounding properties. All of these elements must be considered in a rezoning and not just the land use. It is staff's opinion that the proposed Planned Development does not meet the overall intent of Realize Rowlett 2020 as it does not include the design elements, such as the integration of product types, connectivity to surrounding properties, quality open space, and architectural elements, that were discussed during Realize Rowlett 2020 and which were adopted in Rowlett's FBC. While it may be appropriate at times to establish zoning through alternative regulatory tools such as Planned Developments, the same principles outlined in the comprehensive plan and further refined in the FBC should be incorporated in order to meet the intent of the district in order to ensure that developments are planned in a holistic matter and not in an isolated piecemeal fashion.

2. Whether the proposed rezoning is consistent with the comprehensive plan and the purposes of this code stated in subchapter 77-103, Purpose of this Code;

The subject property is located within one of the 13 opportunity areas identified in Realize Rowlett 2020 designated as "Lakeside Living: Area C-1." The recommended product types included: Neighborhood-Serving Commercial, Limited Entertainment Use, Moderate and Higher Density Residential, Active and Passive Public. As indicated previously in this report, townhomes are a recommended product type for Lakeside Living. However, it is staff's opinion that the proposed Planned Development does not achieve the overall intent and the "Guiding Principles" outlined in Realize Rowlett 2020. The proposal is for a conventional townhome development that does not use sustainable development principles, such as those outlined in the City's FBC that promotes places with lasting value and distinctive character.

3. Whether the proposed rezoning will protect or enhance the health, safety, morals, or general welfare of the public;

In staff's opinion, the proposed development does not meet the overall intent of Realize Rowlett 2020 which was adopted to enhance the health, safety, morals or general welfare of the public. However, beyond that, staff does not anticipate any threat to the health or safety of the public based on the proposal.

4. Whether the municipality and other service providers will be able to provide sufficient transportation and utility facilities and services to the subject property, while maintaining sufficient levels of service to existing development;

   Staff has reviewed the *proposed rezoning from the standpoint of providing sufficient transportation access and utilities (e.g., water, sanitary sewer, stormwater drainage). Both water and sewer service is provided by the City; staff has confirmed that both are available to the site. Prior to the approval of the Preliminary Plat, Staff will ensure adequate capacity for utilities is provided as required by City ordinances.*

   A traffic impact analysis (TIA) will not be required for this development. Adding 12 townhomes will not affect the level of services for Liberty Grove Road. A TIA is required when a development is expected to generate more than 100 vehicle trips at peak hour. Based on the Institute for Traffic Engineers (ITE) 9th Edition of Trip Generation, a 12 townhome development will only generate six vehicles at peak hour.

5. Whether the proposed rezoning is likely to have significant adverse impacts on the natural environment, including air, water, noise, stormwater management, wildlife, and vegetation;

   The applicant modified the concept plan by proposing an internal trail system throughout the common spaces within the existing tree canopies. In order to achieve a higher quality open space staff would recommend that the common space be reconfigured to be more centralized and fronted by the townhomes instead of the units backing to the open space as shown on the concept plan. Centralized and fronted open space is a fundamental component of creating places of lasting value and character.

6. Whether the proposed rezoning will have significant adverse impacts on other property in the vicinity of the subject tract;

   The proposed concept plan has been modified by increasing the buffer between the proposed street and the property line of existing single family homes to the south of the subject property. The applicant has indicated that the existing trees will be preserved and maintained to provide a visual barrier.

7. The suitability of the subject property for the existing zoning classification and proposed zoning classification;

   As outlined previously in this report, the proposed zoning designation is inconsistent with the overall vision for Lakeside Living, and therefore is not suitable for this property.

8. Whether there is determined to be an excessive proliferation of the use or similar uses;

   <u>Realize Rowlett 2020</u> list townhomes as a recommended product type and it would not be excessive proliferation of the use.

9. Whether the proposed rezoning will ensure that future uses on the subject tract will be compatible in scale with uses on other properties in the vicinity of the subject tract; and;

   The proposed rezoning will result in a density that differs from the existing single family lots located within the vicinity of the subject property. While a shift in density was contemplated in <u>Realize Rowlett 2020</u> it was intended to be reviewed in the context of a holistic master plan and not a piecemealed development.

10. The supply of land in the economically relevant area that is in the use district to be applied by the rezoning or in similar use districts, in relation to the demand for that land.

    There was not a market study provided that substantiated this claim; therefore, it is difficult for staff to comment on this criterion. While the proposed rezoning will allow for a recommended product type, it does not meet the full intent of <u>Realize Rowlett 2020</u> of creating a sustainable development.

In conclusion, Staff is recommending denial of the proposed Planned Development. It is staff's opinion that the proposed Planned Development does not meet the overall intent of *Realize Rowlett 2020*. The proposal includes a residential product type recommended by *Realize Rowlett 2020*; however, that is only part of the consideration. Creating a unique and sustainable development is more dependent on the design elements than land use alone. The proposed Planned Development is an isolated conventional townhome development that is not designed in context with its surroundings. The existing surrounding properties east of Dalrock Road and Liberty Grove Road contain large residential tracts in a rural setting. If this area is to become denser, then it is important to review it in a more holistic matter to create a development that provides connectivity and open spaces, that is pedestrian oriented and is designed in context with its natural environment.

<u>Public Notice</u>

Notice of this public hearing was mailed, posted, and published in accordance with State Law and the Rowlett Development Code. Twenty-five notices were mailed to property owners within 200 feet of the subject property on January 11, 2016, and as of Friday, January 22, 2016, Staff has received three responses in opposition and none in favor. In addition, 43 courtesy notices were mailed to property owners within 500 feet, of which nine response were returned in opposition and one in favor. The responses to the public notices and courtesy notices including responses from the previous notices are included as Attachment 3.

Staff has confirmed that the protest in the form of opposition has been received from property owners within 200 feet of the subject properties constitute more than 20 percent of the notice area. Using Geographic Information System software, Staff calculated that the protesting property owners represent 27 percent of the notice area (Attachment 5 – Protest Calculation Map). As a result, per Section 77-805 of the Rowlett Development Code, "approval by the city council shall only occur with a concurring vote of at least three-fourths of the full membership of the city council."

A Legal Notice was published in the *Rowlett Lakeshore Times* on January 15, 2016, pursuant to the requirements set forth in the RDC. Applicant placed rezoning signs on the subject property on November 25, 2015, in accordance with the RDC and remain on the site today.

FISCAL IMPACT/BUDGET IMPLICATIONS

N/A

RECOMMENDED ACTION

Staff recommends denial of this request.

ORDINANCE

AN ORDINANCE OF THE CITY OF ROWLETT, TEXAS, AMENDING THE COMPREHENSIVE ZONING ORDINANCE, PLAN AND MAP OF THE CITY OF ROWLETT, TEXAS, AS HERETOFORE AMENDED, BY GRANTING A CHANGE IN ZONING FROM "SF-8" SINGLE FAMILY 8 ZONING TO "PD" PLANNED DEVELOMPENT FOR A 3.142 ACRE TRACT OF REAL PROPERTY LOCATED AT 10206 LIBERTY GROVE ROAD AND MORE DESCRIBED IN EXHIBIT "A" AND "B", IN THE CITY OF ROWLETT, DALLAS COUNTY, TEXAS; PROVIDING DEVELOPMENT AND USE STANDARDS; PROVIDING A REPEALING CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS ($2,000.00) FOR EACH OFFENSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Commission of the City of Rowlett and the governing body of the City of Rowlett, in compliance with state laws with reference to amending the Comprehensive Zoning Ordinance, have given the requisite notice by publication and otherwise, and after holding due hearings and affording a full and fair hearing to all property owners and interested persons generally, the governing body of the City of Rowlett is of the opinion that said zoning ordinance and map should be amended as provided herein.

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

SECTION 1. That the Comprehensive Zoning Ordinance, Plan and Map of the City of Rowlett, Texas, heretofore duly passed by the governing body of the City of Rowlett, as heretofore amended, be and the same are hereby amended to grant a change in zoning

from “SF-8” Single Family 8 to “MF-TH” Multi-Family Attached Residential Townhouse with “PD” Planned Development overlay for a 3.142 acre tract of real property located at 10206 Liberty Grove Road, in the City of Rowlett, Dallas County, Texas, and being more particularly described in Exhibits “A” and “B”, attached hereto and incorporated herein (hereinafter the “Property”).

SECTION 2. That the development standards and regulations are set forth in the following exhibits:

Exhibit C – Statement of Intent and Purpose;
Exhibit D – Development Standards;
Exhibit E – Zoning Concept Plan; and
Exhibit F – Development Schedule

All of which are attached hereto and made a part hereof, shall be applicable to all land, uses, structures, the use and occupancy of all structures, and the development, construction, operation and maintenance of all improvements on the Property described herein.

SECTION 3. The Property shall be used only in the manner and for the purposes provided herein and by the ordinances of the City of Rowlett, Texas, as heretofore amended, and as amended herein. The development, use and occupancy of the Property shall conform to the standards and regulations set forth in Exhibit “C” through “F”, the provisions of the Rowlett Development (Chapter 77 of the Code of Ordinances of the City of Rowlett, Texas), and the Code of Ordinances of the City of Rowlett, Texas, as amended. In the event of any conflict or inconsistency between the provisions of this ordinance and the provisions contained in any other provisions of the Rowlett Development Code or other codes or ordinances of the City, the provisions of this ordinance shall control. In the event that this ordinance does not include a standard or regulation that is otherwise required for similar or comparable development or uses by the Rowlett Development Code or Code of Ordinances, then the standard or regulation required by the Rowlett Development Code or other ordinance shall be applied to development and use of the Property.

SECTION 4. That all provisions of the ordinances of the City of Rowlett in conflict with the provisions of this ordinance as applicable to the Property be and the same are hereby repealed and all other provisions of the ordinances of the City of Rowlett not in conflict with the provisions of this ordinance shall remain in full force and effect.

SECTION 5. That an offense committed before the effective date of this ordinance is governed by the prior law and the provisions of the Code of Ordinances, as amended, in effect when the offense was committed and the former law is continued in effect for this purpose.

SECTION 6. That should any sentence, paragraph, subdivision, clause, phrase or section of this ordinance be adjudged or held to be unconstitutional, illegal or invalid the same shall not affect the validity of this ordinance as a whole or any part or provision hereof other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of the Comprehensive Zoning Ordinance as a whole.

SECTION 7. That 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 the Code of Ordinances of the City of Rowlett, as heretofore amended, and upon conviction shall be punished by a fine not to exceed the sum of Two Thousand Dollars ($2,000.00) for each offense; and each and every day such violation shall continue shall be deemed to constitute a separate offense.

SECTION 8. This ordinance shall take effect immediately from and after its passage and the publication of the caption, as the law and charter in such cases provide.

ATTACHMENTS

Exhibit A – Legal Description
Exhibit B – Zoning Boundary
Exhibit C – Statement of Intent and Purpose
Exhibit D – Development Standards
Exhibit E – Concept Plan
Exhibit F – Development Schedule
Attachment 1 – Location Map
Attachment 2 – *Realize Rowlett 2020* “Active Living”
Attachment 3 – Public Hearing Notice Responses
Attachment 4 – Email Exchange

Exhibit 'A'
Legal Description – Zoning Area

BEING a tract of land situated in the Harrison Blevins Survey, Abstract No. 94 and the Hanse Hamilton Survey, Abstract No. 858, City of Rowlett, Dallas County, Texas, and being all of a tracts of land conveyed to Wang Zi Shun & Mao Family LP (hereafter referred to as "Mao Family LP") by deed recorded in Instrument No. 200900169017 of the Official Public Records, Dallas County, Texas (O.P.R.D.C.T), and being more particularly described as follows:

BEGINNING at the intersection of the approximate centerline of Dalrock Road (variable right-of-way) with the approximate centerline of Liberty Grove Road (variable right-of-way);

THENCE North 56 degrees 49 minutes 35 seconds East, along said centerline of said Liberty Grove Road, a distance of 228.49 feet to a point for a corner;

THENCE North 57 degrees 45 minutes 15 seconds East, continuing along said centerline of said Liberty Grove Road, a distance of 160.13 feet to a point for a corner;

THENCE North 55 degrees 35 minutes 15 seconds East, continuing along said centerline of said Liberty Grove Road, a distance of 178.52 feet to a point for a corner;

THENCE South 47 degrees 30 minutes 45 seconds East, departing said centerline of said Liberty Grove Road, passing at a distance of 33.37 feet the northeast corner of said Mao Family LP tract and the northwest corner of a tract of land conveyed to Elmer Earl & Judy Elaine Burnett by deed recorded in Volume 93234, Page 650 of the Deed Records of Dallas County, Texas (D.R.D.C.T.), and continuing along the common line between said Mao Family LP and said Burnett tracts for a total distance of 233.52 feet to a point for a corner, said point being in the most northerly northeast corner of a tract of land conveyed to Mike & Nancy Lancaster by deed recorded in Volume 83213, Page 3548 of the Deed Records of Dallas County, Texas (D.R.D.C.T.);

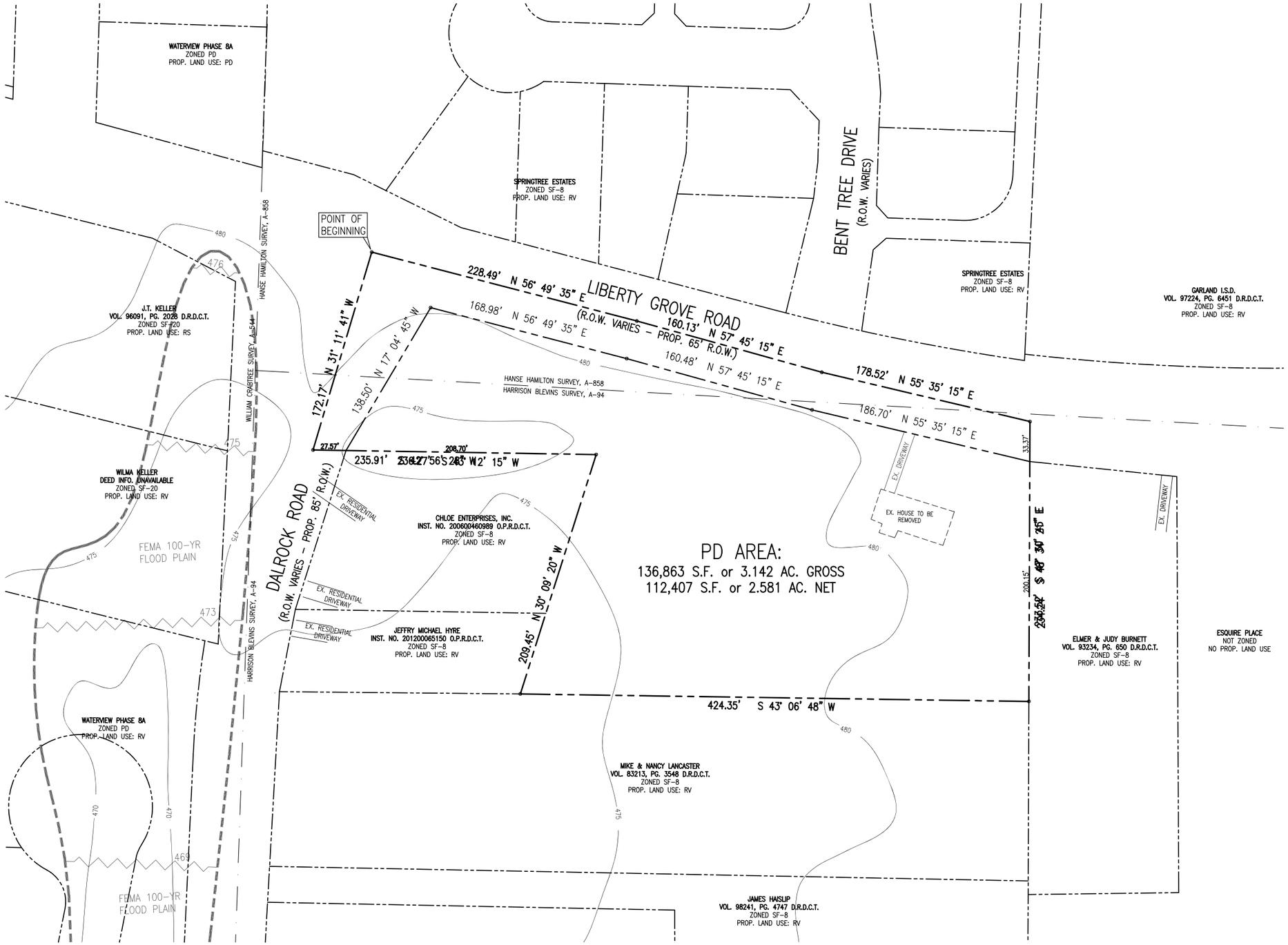
THENCE South 43 degrees 06 minutes 48 seconds West, departing the southwest line of said Burnett tract and continuing along the northwest line of said Lancaster tract, a distance of 424.35 feet to a point for a corner, said point being the most easterly southeast corner of a tract of land conveyed to Jeffry Michael Hyre by deed recorded in Instrument No. 201200065150 of the Official Public Records, Dallas County, Texas (O.P.R.D.C.T);

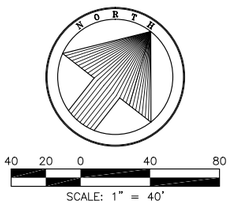
THENCE North 30 degrees 09 minutes 20 seconds West, departing the northwest line of said Lancaster tract and continuing along the northeast line of said Hyre tract, passing at a distance of 70.50 feet the northwest corner of said Hyre tract, said point also being the southeast corner of a tract of land conveyed to Chloe Enterprises, Inc. by deed recorded in Instrument No. 200600460989 of the Official Public Records, Dallas County, Texas (O.P.R.D.C.T), for a total distance of 209.45 feet to a point for a corner, said point being the northeast corner of said Chloe International tract;

THENCE South 43 degrees 12 minutes 15 seconds West, along the northwest line of said Chloe International tract, passing at a distance of 208.70 feet the northwest corner of said Chloe Enterprises tract and the most westerly southwest corner of said Mao Family LP tract, for a total distance of 236.27 feet to a point for a corner, said point being in the approximate centerline of said Dalrock Road;

THENCE North 31 degrees 11 minutes 41 seconds West, along said centerline of said Dalrock Road, a distance of 172.17 feet to the POINT OF BEGINNING, containing 136,863 square feet or 3.142 acres of land, more or less.

EXHIBIT "B"





LOCATION MAP
N.T.S.

SITE DETAILS

	GROSS AREA	NET AREA
* AREA	136,863 S.F.	112,133 S.F.
	3.14 AC.	2.57 AC.

* NO 100-YR FLOODPLAIN EXISTS ON THE SITE

Legal Description – Zoning Area

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THENCE North 31 degrees 11 minutes 41 seconds West, along said centerline of said Dalrock Road, a distance of 172.17 feet to the POINT OF BEGINNING, containing 136,863 square feet or 3.142 acres of land, more or less.

GENERAL NOTE:
The development of the site will be in accordance with City of Rowlett development standards.

OWNER/APPLICANT:
ANGELA N. LI
7705 MYRTLE SPRINGS DR.
PLANO, TEXAS 75025
(972) 658-7292

ENGINEER:
MACATEE ENGINEERING, LLC
3519 MILES ST.
DALLAS, TEXAS 75209
(214) 373-1180

EXHIBIT B – ZONING EXHIBIT

WATER SPRING TOWNHOMES

HARRISON BLEVINS SURVEY, A-94
& HANSE HAMILTON SURVEY, A-858
CITY OF ROWLETT, DALLAS COUNTY, TEXAS
SEPTEMBER 2015

Exhibit 'C'

Statement of Intent and Purpose

Description of Project Uses: The proposed 2.57-acre development will consist of 14 townhomes and two common areas, accessed from Liberty Grove Road through a dedicated public street.

Existing & Proposed Zoning and Land Use: The property is currently zoned SF-8. The proposed land use according to the City's Comprehensive Plan is Lakeside Living. The proposed zoning is PD for townhome construction.

Potential Residential Density: The PD zoning for townhomes will allow construction of 14 townhomes and will result in a density of 5.45 units per acre.

Construction: The homes will be approximately 2,600 square feet, being wood-framed with masonry and stone facades. Each townhome will have a private rear yard and a two-car, front entry garage.

Landscaping: The proposed development will utilize approximately 1.5 acres of the property for common areas that will be judiciously enhanced for personal enjoyment. The intent is to leave the common areas significantly untouched. Enhanced landscaping, accent and security lighting, and walking paths will be installed with as little disturbance to the existing trees and foliage as possible.

An existing drainage path that lies within the proposed common area will be utilized to provide storm water detention during heavy rain events. This area is free-draining through an existing pipe culver under Dalrock Road and will not typically hold water. The common areas will be maintained under a contract with a grounds maintenance company.

Potential Neighborhood Interconnectivity: The common areas are situated along the periphery of the project. This provides the opportunity for interconnection of this project's walking paths with those of neighboring developments.

Discussion of the Project With Respect to the City's Approval Criteria:

1. The proposed rezoning meets the needs of individuals and couples desiring a low-maintenance, individually-owned dwelling with an urban community feel.
2. The project site lies within the area called Lakeside Living (Area C1) in the City's Comprehensive Plan. On page 96 of the final report, various development products are tabulated and identified as being "Market-Supported", "Community-Desired" and/or "Recommended". In this area, townhomes are listed as being both "Market-Supported" and "Recommended". Subchapter 77-103 of the Development Code lists numerous provisions which reflect the City's intent in enacting the Code. Considering the recommendations of the Comprehensive Plan and the intent of the Development Code together, projects of this type help satisfy the intent of both. A few are listed below:

G. "Promote a balanced, diverse supply of affordable, quality housing located in safe and livable neighborhoods;"
H. "Ensure that the appearance, visual scale, and orientation of developments are compatible with that of the comprehensive plan and/or goals and objectives of the city council;"
L. "Conserve the value of buildings and land;"
M. "Preserve and protect existing trees and vegetation, floodplains, stream corridors, scenic views, and other areas of scenic and environmental significance from adverse impacts of land development;"
N. "Encourage development of a sustainable and accessible system of recreational facilities, parks, trails, and open space that meets year-round neighborhood and community-wide needs;"

3. The neighborhood in the vicinity of the proposed development is predominantly single-family. This project is being developed as single-family attached. These townhomes are intended for individual ownership by people seeking a comfortable living environment with minimal exterior maintenance.
4. The proposed development will have negligible effect on public services due to its limited size.
5. The property is located at the southeast corner of Dalrock and Liberty Grove Roads. The area adjacent to Dalrock Road is wooded and lies approximately 8 feet below the roadway. This situation significantly limits the ability to develop that portion of the property. The proposed development will allow efficient use of the site while maintaining most of its natural features.
6. The proposed development will be constructed to the high standards listed below and will not have an adverse effect on neighboring properties. The proposed homes will be marketed at $240,000 and higher, which compares favorably with the taxable values in Waterview on the west and northwest ($200-275,000), Waters Edge to the south ($330,000+) and Springtree on the north ($140-210,000).
7. Due to the property's location at the intersection of two primary roadways, the proposed development will provide the opportunity to create new homes while maintaining a natural buffer from the noise and congestion at this corner.
8. The physical limitations of the subject property that make it a highly suitable location for the proposed townhome development make it an undesirable location for any other use. This use might be anticipated on other similarly physically-challenged sites, but is not likely to result in excessive proliferation of this product.

9. The proposed rezoning is consistent in scale with nearby single-family homes. The 2,300-2,600 square foot product is comparable in size to the larger homes in Springtree.
10. Many of the undeveloped tracts in the area appear to be larger and better suited for a single-family detached subdivision. The size and location of this tract make it ideally suited to satisfy the recommendations of the Comprehensive Plan.

Exhibit 'D'

Planned Development Standards

Building Materials: The townhomes will have wood-frame construction with a 100% brick and stone façade. The roofs will be 30-year composition shingles.

Landscaping: Landscaping will be in accordance with City ordinances. At a minimum, each townhome will have a minimum 4-inch caliper large canopy tree in the front yard. In addition, additional shrubs and vegetation will be planted to provide continuity in landscaping throughout the project.

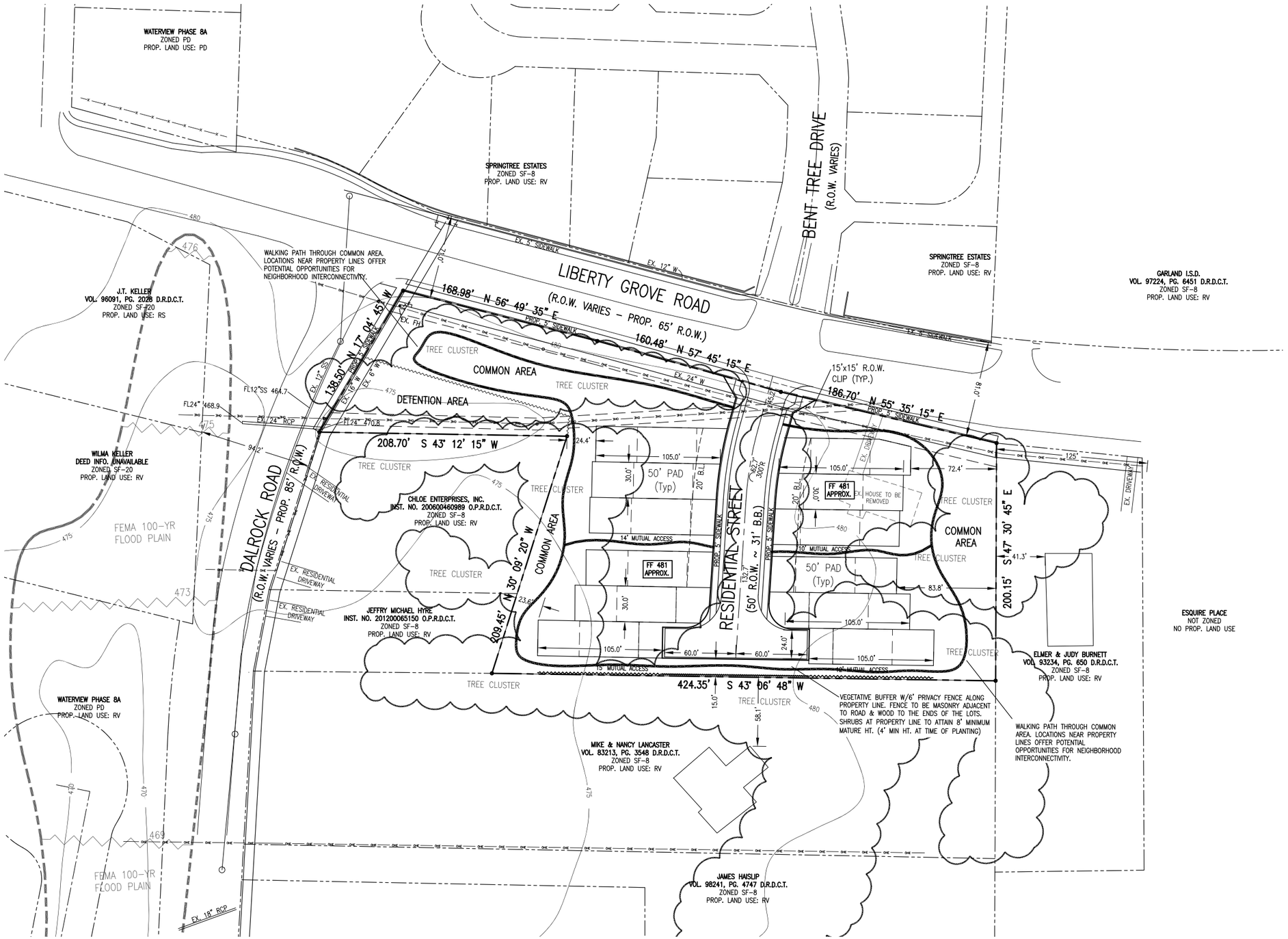
Sidewalks & Pedestrian Paths: The common areas will be left in their natural, wooded state. Pedestrian paths will be constructed within the common areas to provide opportunities for enjoyment by the residents. The pedestrian paths will be connected to the streetside sidewalks several mutual access points. These will provide ample opportunity for residents to enjoy their natural environment while remaining close to home.

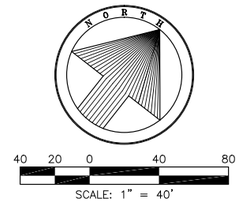
Streetside sidewalks will be four feet wide and constructed of reinforced concrete.

Pedestrian paths will be four feet wide and have an all-weather walking surface of either decomposed granite, crushed rock or concrete. The alignment of these paths will be established when a detailed tree survey is performed.

Parking Requirements: Each townhome will have a two-car garage as well as space for two guests to park in their driveway.

EXHIBIT "E"





LOCATION MAP
N.T.S.

PROJECT SITE DATA:

GENERAL:

Case Number:	PD41-2015
Name of Project:	Water Spring Townhomes
Proposed Use:	Townhomes
Future Land Use Designation:	LAKESIDE LIVING
Proposed Future Land Use Designation:	PD
Existing Zoning District:	SF-8
Proposed Zoning District:	PD
Appraisal District Acct. No.	65009469110120000
County:	Dallas

OVERALL SITE:

Gross Site Area:	2.58 Acres	
Site Frontage:	654.28 feet	
Site Width:	516.14 feet / 424.51 feet	
Site Depth:	200.86 feet	
Impervious Surface Area:	37,200 sq.ft.	33%
Pervious Surface Area:	74,750 sq.ft.	67%
Public Open Space (excl. Detention):	45,100 sq.ft.	40%
Detention Area:	10,000 sq.ft.	9%

HOUSING:

Total Gross Density	5.43 u/a
Total Number of Dwelling Units:	12 Townhomes
Typical Lot Size / Count:	3150 sq.ft. / 12
Min. Dwelling Size:	2300 sq.ft.

PROPERTY DEVELOPMENT REGULATOINS:

Maximum Lot Coverage	Permitted	90%	Proposed	50%
Minimum Lot Area	Permitted	None	Proposed	2500 sq.ft.
Minimum Lot Width	Permitted	30 feet	Proposed	30 feet
Minimum Lot Depth	Permitted	100 feet	Proposed	100 feet
Setbacks (Front)	Permitted	5 feet	Proposed	20 feet
Setbacks (Side)	Permitted	0 feet	Proposed	0 feet
Setbacks (Rear)	Permitted	5 feet	Proposed	15 feet
Max. Structure Height	Permitted	4 Stories	Proposed	2 Stories

GENERAL NOTES:

1. Deviations from current development standards/regulations not specifically addressed/listed for approval as part of Planned Development Regulations may require a hearing/approval by the Board of Adjustment (BOA).
2. All current development requirements of the City as amended shall be met unless approved otherwise within these Planned Development Zoning District Development Regulations.
3. This Zoning Concept Plan is for illustrative purposes only and subject to change. This Zoning Concept Plan, along with the development regulations, is intended to describe the intent of the Planned Development. Significant deviations from this Zoning Concept Plan, as determined by the Director of Planning, will require an amendment to the Zoning Concept Plan and, as necessary, the development regulations.

OWNER/APPLICANT:
ANGELA N. LI
7705 MYRTLE SPRINGS DR.
PLANO, TEXAS 75025
(972) 658-7292

ENGINEER:
MACATEE ENGINEERING, LLC
3519 MILES ST.
DALLAS, TEXAS 75209
(214) 373-1180

EXHIBIT E – ZONING CONCEPT PLAN

WATER SPRING TOWNHOMES

HARRISON BLEVINS SURVEY, A-94
& HANSE HAMILTON SURVEY, A-858
CITY OF ROWLETT, DALLAS COUNTY, TEXAS
OCTOBER 2015

Exhibit 'F'

Development Schedule

Development is anticipated to commence as soon as all City approvals are obtained. We project this to be in early 2016, with townhomes being offered for sale in late 2016 or early 2017.

ATTACHMENT 1

LAKESIDE LIVING | AREA C-1

DEVELOPABLE ACRES: * **153**

PRODUCT TYPES:

- Neighborhood-Serving Commercial
- Limited Entertainment Uses
- Moderate and Higher Density Residential
- Active and Passive Public Spaces

SUPPORTABLE PSYCHOGRAPHICS

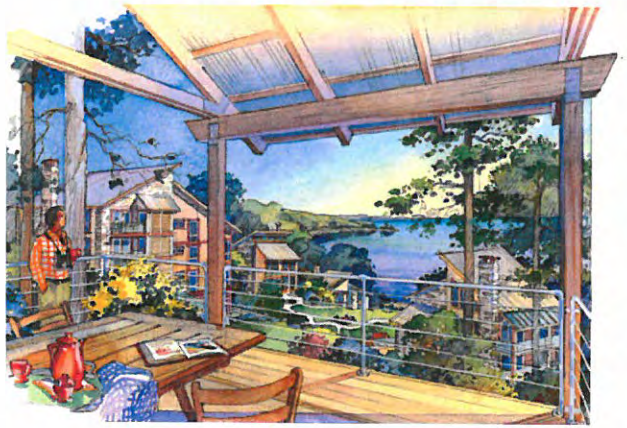
- Blue Blood Estates
- Winners Circle
- Money & Brains
- New Beginnings

** Net floodplain and parcels less likely to redevelop in the near-term (five to 10 years).*

VISION

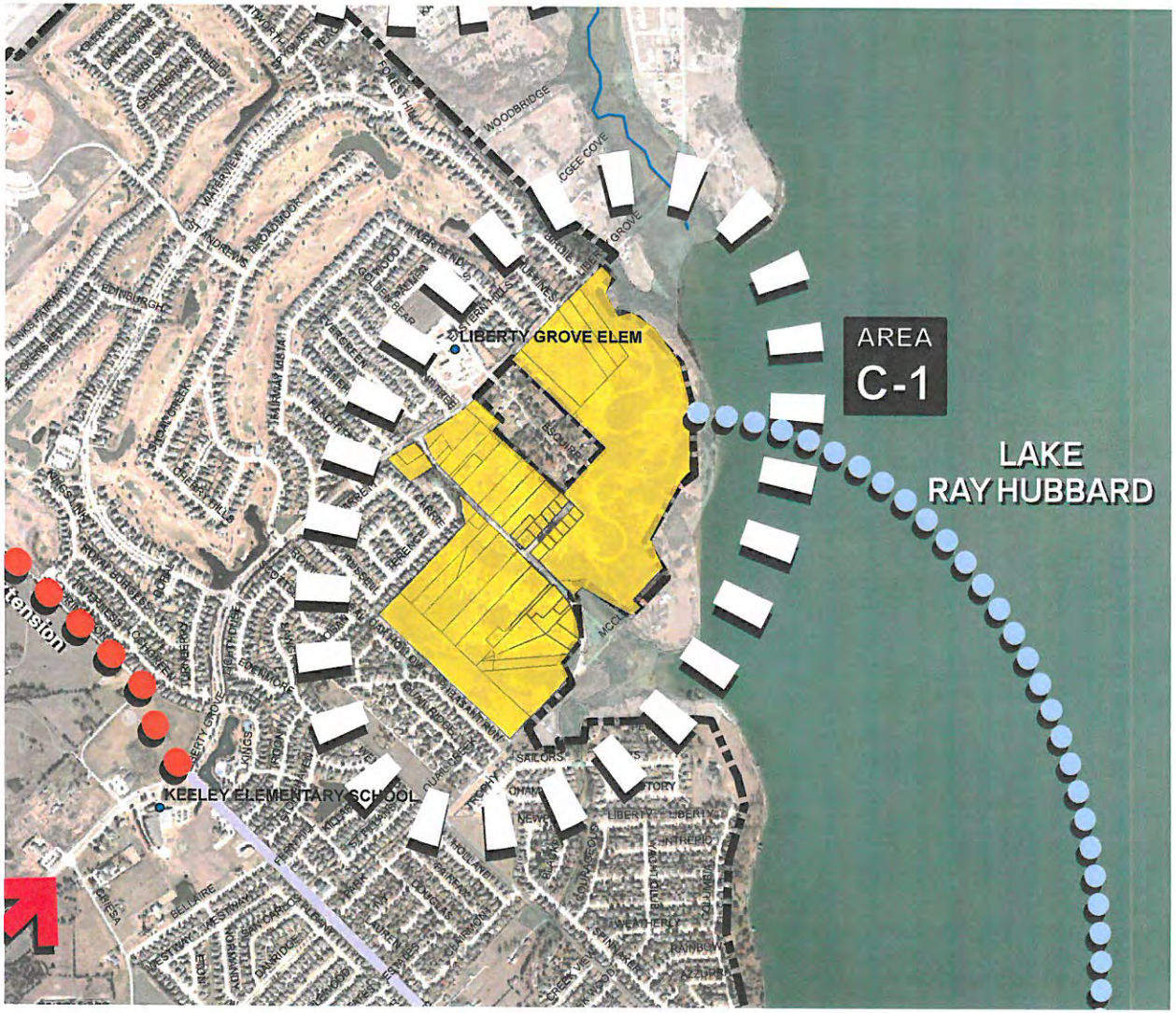
Lakeside Living will be a destination master planned community, for singles and couples throughout Rowlett and the Metroplex seeking a unique low maintenance living environment (a successful model is The Villages, Orlando, Florida). The primary mode of transportation in Lakeside Living will be golf carts (to all sorts of destinations, not just the golf course); the second mode will be your feet – with abundant non-vehicular pathways. Residential products will include attached ownership townhomes and brownstones, detached ownership products including patio and zero lot line homes, and some rental units. Commercial products will be largely internal to Lakeside Living, neighborhood-serving and modest in scale. Additional commercial products will be located along the water's edge and accessible via boat (the third major mode of transportation) and trails. Lakeside Living will be unlike any other low maintenance community in the Metroplex or State, addressing local and regional, pent-up demand for maintenance free living – whether by choice or need.

Essential elements that will have to be in place in order for this investment scenario to be realized include: the right master developer – one who understands this market opportunity and shares the City's vision; regulations that preclude / discourage development of single family housing units; and, public access to the waterfront.



MARKET

- A growing number of Rowlett and Trade Area residents are aging in place (10.8% 55+ in 2000, 16.4% in 2010, 20.3% in 2015.) Lifestyle choices and needs will dictate alternative living options, with lower maintenance housing products accessible to existing and planned public and natural recreational offerings. Lakeside Livings's central location to wooded and water amenities, and proximity to the hospital and other services, will make this area particularly attractive for empty nesters.
- Also attracted by the low maintenance environment envisioned here will be the X and Y generations, 41.9% of the City of Rowlett population in 2010.



LAKESIDE LIVING | AREA C-1

GUIDING PRINCIPLES

	GUIDING PRINCIPLE	C-1 LAKESIDE LIVING
1	Value existing neighborhoods	**
2	Grow the City's economy through diversification of job and business opportunities	
3	Make Rowlett a community that is attractive to people at all stages of their lives	****
4	Invest in places of lasting value and distinctive character	***
5	Maximize the benefits of major public infrastructure investments (existing, planned)	***
6	Use Lake Ray Hubbard and Rowlett's natural assets to create a distinctive identity...	****
7	Diversify mobility options within the City and connect activity areas	*
8	Create centers with a mix of activities at key locations in Rowlett	
9	Balance growth through efficient development patterns	***
10	Support quality educational resources to meet the needs of Rowlett residents...	
11	Position Rowlett for an appropriate scale of investment and reinvestment...	***
12	**Fund public investment that leverages desired private investment**	
13	**Ensure that *Realize Rowlett 2020* is a statement of the City's policy for future...**	
	Bold *principles relate to citywide concerns and are not specific to any individual geographic area*	
	Key:	
	Strongest Support of Principle	****
	Moderate Support of Principle	***
	Some Support of Principle	**
	Incidental Support of Principle	*

IMPLICATIONS

Physical	Mixed development site surrounded by single-family parcels in a traditional greenfield pattern dominates the area.
	Significant frontage on Lake Ray Hubbard provides valuable views from many locations within the area.
	Floodplain areas provide opportunities to connect to surrounding community with both hard and soft trails.
	Presence of floodplains will also accommodate natural amenity.
Infrastructure	Utilities are currently in place to support the level and types of development envisioned.
Access	Access will be provided along Liberty Grove and Dalrock Roads. Both roads will need substantial improvements (major public investment potential) to support the levels of development envisioned for the area.
	Opportunity exists for private boats and water taxis to access the area, as well as to connect it to other areas.
	Trail access could link the area retail centers for pedestrians, bicyclists and golf carts.
Market	Rowlett and the Trade Area exhibit significant numbers of residents "aging in place." Considering this trend and comparing it to supply suggests significant levels of pent-up demand for low-maintenance housing options.
	There will likely be development pressure to improve this area in a "traditional single-family" development format.
	Education of existing residents will be a necessity as new investment is infilled adjacent to existing low-density neighborhoods.
	There is no evidence that existing developers in the area have the experience to advance the proposed concept described here.
Financial	Public pathways (bicycle, pedestrian and golf cart) may need to be acquired and set aside to ensure this amenity for businesses and residents.
Regulatory	Current zoning for the area will not accommodate some of the envisioned uses.

LAKESIDE LIVING | AREA C-1

IMPLEMENTATION

IMPLEMENTATION STRATEGIES (ACTIONS)	TIMING
The specific strategy (action) to be taken	*Priority, short, medium, long-term, future or on-going*
Build on the citywide neighborhood outreach program (meeting with HOA leaders and their membership) that serves to educate residents about the proposed development concept and why "traditional single family housing" is being excluded from the program.	Priority
Prepare an urban design framework that identifies transition zones to surrounding uses and other details which will be addressed in a future plat (submitted by the developer).	Priority
Complete improvements along Liberty Grove and Dalrock Road to support the levels of development envisioned for the area.	Mid-Term
Explore access and connection to existing neighborhoods, particular to Healthy Living which will be the host environment for healthy retail and healthcare services.	Short - to Mid-Term
Complete a school capacity analysis in order to understand if the proposed program for this area (empty nester and smaller families) will negatively impact district facility plans.	Short-Term
Consider waiving fees for developers that advance the desired vision for this subarea.	On-Going
Identify a developer who shares the vision for the area and who has the capacity to advance it.	Short-Term

ATTACHMENT 3

12-01-15P01:55 RCVD

Rowlett TEXAS

Department of Development Services

NOTICE OF PUBLIC HEARING

TO: Property Owner

RE: Application for a Zoning Change

LOCATION: The subject property is located at 10206 Liberty Grove Road further described as being a 3.149 acres in the Harrison Blevins Survey, Abstract No. 94 and the Hanse Hamilton Survey, Abstract No. 858, City of Rowlett, Dallas County, Texas. A map is attached for reference. This notice and the notification area are required under Chapter 211.007 of the Texas Local Government Code.

EXPLANATION OF REQUEST: The applicant requests a rezoning from the existing Single Family-8 Zoning District to a Planned Development District with the purpose of constructing 16 townhomes. (41-2015)

☐ I AM IN FAVOR OF THE REQUEST FOR THE FOLLOWING REASONS:

☒ I AM OPPOSED TO THE REQUEST FOR THE FOLLOWING REASONS:

COMMENTS: Realtors have warned us of negative impact on our property value. Concern about noise & traffic from 16 families in a small area.

PROPERTY OWNER NAME (print): Mike and Nancy Lancaster

SIGNATURE: Mike Lancaster Nancy Lancaster

ADDRESS: 9916 Dalrock Rd. 75089

Your written comments are being solicited in the above case. Additional information is available in the Department of Development Services located at 3901 Main Street. The Planning and Zoning Commission of the City of Rowlett, Texas, will hold a public hearing at 6:30 p.m. on the **8th day of December, 2015**, and that the City Council will hold a public hearing at 7:30 p.m. on the **5th day of January, 2016**. Both hearings will be held at the Municipal Center, 4000 Main Street, Rowlett, Texas.

Please legibly respond in ink. If the signature and/or address are missing, your comments will not be recorded. Your response must be received in the Development Service Department by 5 pm on Wednesday, December 2, 2015, for your comments to be included in the Planning and Zoning Commission packet and/or by Monday, December 23, 2015, to be included in the City Council packet. All responses received by December 23rd will be forwarded to the Council as well; it is not necessary to respond twice. Responses received after the times noted above shall not be counted in the record of response.

Any owner of property subject to a proposed rezoning or affected by a proposed rezoning may protest the rezoning by filing a written protest (this form is sufficient) with the Director of Development Services within the time specified above. The protest shall object to the zoning map amendment, contain a legal description of the property on behalf of which the protest is made, and be signed by the owner of the property. If protests in the form of opposition are received from property owners within 200 feet of the subject property, and the property owners own a combined minimum of 20 percent or more of the land area, approval by the city council shall only occur with a concurring vote of at least three-fourths of the full membership of the city council.

If you have any questions concerning this request, please contact the Department of Development Services Phone 972-412-6166 FAX 972-412-6228 glangford@rowlett.com	**RETURN BY FAX OR MAIL** City of Rowlett Development Services PO Box 99 Rowlett, TX 75030-0099

12-01-15P12:50 RCVD **ATTACHMENT 3**

Rowlett TEXAS

Department of Development Services

NOTICE OF PUBLIC HEARING

TO: Property Owner

RE: Application for a Zoning Change

LOCATION: The subject property is located at 10206 Liberty Grove Road further described as being a 3.149 acres in the Harrison Blevins Survey, Abstract No. 94 and the Hanse Hamilton Survey, Abstract No. 858, City of Rowlett, Dallas County, Texas. A map is attached for reference. This notice and the notification area are required under Chapter 211.007 of the Texas Local Government Code.

EXPLANATION OF REQUEST: The applicant requests a rezoning from the existing Single Family-8 Zoning District to a Planned Development District with the purpose of constructing 16 townhomes. (41-2015)

☐ I AM IN FAVOR OF THE REQUEST FOR THE FOLLOWING REASONS:

☑ I AM OPPOSED TO THE REQUEST FOR THE FOLLOWING REASONS:

COMMENTS: We do NOT want To Live NEXT TO ~~Town~~ Town homes. I am concered about our property value going down,

PROPERTY OWNER NAME (print): Judy Burnett

SIGNATURE: Judy Burnett

ADDRESS: 10244 Liberty Grove Rd Rowlett TX 75089

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Any owner of property subject to a proposed rezoning or affected by a proposed rezoning may protest the rezoning by filing a written protest (this form is sufficient) with the Director of Development Services within the time specified above. The protest shall object to the zoning map amendment, contain a legal description of the property on behalf of which the protest is made, and be signed by the owner of the property. If protests in the form of opposition are received from property owners within 200 feet of the subject property, and the property owners own a combined minimum of 20 percent or more of the land area, approval by the city council shall only occur with a concurring vote of at least three-fourths of the full membership of the city council.

If you have any questions concerning this request, please contact the Department of Development Services Phone 972-412-6166 FAX 972-412-6228 glangford@rowlett.com	**RETURN BY FAX OR MAIL** City of Rowlett Development Services PO Box 99 Rowlett, TX 75030-0099

ATTACHMENT 3

12-01-15P12:50 RCVD

Rowlett TEXAS

Department of Development Services

NOTICE OF PUBLIC HEARING

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☐ I AM IN FAVOR OF THE REQUEST FOR THE FOLLOWING REASONS:

☑ I AM OPPOSED TO THE REQUEST FOR THE FOLLOWING REASONS:

COMMENTS: Do Not Want Town Homes next door and Could increase Crime and Property Value would decrease

PROPERTY OWNER NAME (print): ELMER Earl Burnett

SIGNATURE: Elmer Earl Burnett

ADDRESS: 10214 Liberty Grove Rd, Rowlett, TX. 75089

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ATTACHMENT 3 Outside 200' & 500'

Rowlett TEXAS

Department of Development Services

NOTICE OF PUBLIC HEARING

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☑ I AM IN FAVOR OF THE REQUEST FOR THE FOLLOWING REASONS:

☐ I AM OPPOSED TO THE REQUEST FOR THE FOLLOWING REASONS:

COMMENTS: Have discussed with developer & builder and have no issues.

PROPERTY OWNER NAME (print): James Verta

SIGNATURE:

ADDRESS: 10318 Bent Tree Dr.

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ATTACHMENT 3

Rowlett TEXAS

Department of Development Services

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COURTESY NOTICE OF PUBLIC HEARING

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☐ I AM IN FAVOR OF THE REQUEST FOR THE FOLLOWING REASONS:

☒ I AM OPPOSED TO THE REQUEST FOR THE FOLLOWING REASONS:

COMMENTS: After 5 years Townhomes become Rentals and after That slums.

PROPERTY OWNER NAME (print): Ronald C Campbell

SIGNATURE:

ADDRESS:

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12-15-15P03:42 RCVD **ATTACHMENT 3**

Rowlett TEXAS

Department of Development Services

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☐ I AM IN FAVOR OF THE REQUEST FOR THE FOLLOWING REASONS:

☑ I AM OPPOSED TO THE REQUEST FOR THE FOLLOWING REASONS:

COMMENTS: I DO NOT WANT THIS PROPERTY TO END UP looking LIKE TRASHY APARTMENTS. AT PRESENT THE PROPERTY NEEDS TO BE CLEANED UP

PROPERTY OWNER NAME (print): MAXINE MANN

SIGNATURE: Maxine Mann

ADDRESS: 10102 BENT TREE DR.

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ATTACHMENT 3

Rowlett TEXAS

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☐ I AM IN FAVOR OF THE REQUEST FOR THE FOLLOWING REASONS:

☑ I AM OPPOSED TO THE REQUEST FOR THE FOLLOWING REASONS:

COMMENTS:

Property value will GO DOWN

PROPERTY OWNER NAME (print): Tim Griffith

SIGNATURE: Tim Griffith

ADDRESS: 10114 Evergreen Dr Rowlett TX 75089

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ATTACHMENT 3

Rowlett TEXAS

Department of Development Services

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☐ I AM IN FAVOR OF THE REQUEST FOR THE FOLLOWING REASONS:

☒ I AM OPPOSED TO THE REQUEST FOR THE FOLLOWING REASONS:

COMMENTS: WE DON'T NEED EXTRA TRAFFIC, THIS WOULD BRING, ESP. IN THE SCHOOL ZONE ON LIBERTY GROVE!

PERRY BROWN

PROPERTY OWNER NAME (print): PERRY BROWN

SIGNATURE: Perry Brown

ADDRESS: 10018 BENT TREE DR.

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Rowlett TEXAS

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My property will just become another lease to own prop. if approved

☐ I AM IN FAVOR OF THE REQUEST FOR THE FOLLOWING REASONS:

☒ I AM OPPOSED TO THE REQUEST FOR THE FOLLOWING REASONS:

COMMENTS: 1. Congestion of traffic @ school zone + high accident area (Dalrock + Liberty Grove)
2. Exposure from backyard - value of home diminished already backing up to increasingly busy road.

PROPERTY OWNER NAME (print): Amos H. Zain

SIGNATURE: [signature]

ADDRESS: 10013 Evergreen Dr. Rowlett 75089

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12-02-15P02:22 RCV **ATTACHMENT 3**

Rowlett TEXAS

Department of Development Services

COURTESY NOTICE OF PUBLIC HEARING

TO:	Property Owner
RE:	Application for a Zoning Change
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☐ I AM IN FAVOR OF THE REQUEST FOR THE FOLLOWING REASONS:

☒ I AM OPPOSED TO THE REQUEST FOR THE FOLLOWING REASONS:

COMMENTS: Based on the limited information provided, we believe a change from single family zoning will bring excessive congestion to the area of the two bordering intersections of Dalrock Rd. and Bent Tree Dr.

PROPERTY OWNER NAME (print): Walter & Yvonne Breen

SIGNATURE: Walter M. Breen Yvonne S. Breen

ADDRESS: 10014 Bent Tree Dr., Rowlett TX 75089

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ATTACHMENT 3

Rowlett
TEXAS

Department of Development Services

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F-NO

☐ I AM IN FAVOR OF THE REQUEST FOR THE FOLLOWING REASONS:

☒ I AM OPPOSED TO THE REQUEST FOR THE FOLLOWING REASONS:

COMMENTS: Do not want trash in my neighborhood — townhomes bring in the riff-raff / transients, etc. NO WAY

PROPERTY OWNER NAME (print): Jennifer Hanks

SIGNATURE: Jennifer Hanks

ADDRESS: 9510 Pinehurst Drive

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I received in mail on Dec 2, 2015 — I want my voice heard — I am across the street.

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12-07-15P04:59 RCVD

ATTACHMENT 3

Rowlett TEXAS

Department of Development Services

COURTESY NOTICE OF PUBLIC HEARING

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☐ I AM IN FAVOR OF THE REQUEST FOR THE FOLLOWING REASONS:

☒ I AM OPPOSED TO THE REQUEST FOR THE FOLLOWING REASONS:

COMMENTS: There is enough traffic on liberty grove. without any account to road capacity. Do not be a fiasco like frisco. Widen streets before you expand.

PROPERTY OWNER NAME (print): Alejandro Baltas

SIGNATURE: Alejandro Baltas

ADDRESS: 8409 Terence Dr. Rowlett, TX 75089

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ATTACHMENT 3

02-01-05-909399ARNV

Rowlett TEXAS

Department of Development Services

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☒ I AM OPPOSED TO THE REQUEST FOR THE FOLLOWING REASONS:

COMMENTS:

Too Much traffic now @ Dalrock & Liberty Grove Rd !!!

PROPERTY OWNER NAME (print): STEVEN MARTIN

SIGNATURE: [signature]

ADDRESS: 9525 Dalrock Rd Rowlett TX 75089

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12-02-15P02:22 RCVD

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EXPLANATION OF REQUEST: The applicant requests a rezoning from the existing Single Family-8 Zoning District to a Planned Development District with the purpose of constructing 16 townhomes. (41-2015)

☐ I AM IN FAVOR OF THE REQUEST FOR THE FOLLOWING REASONS:

☒ I AM OPPOSED TO THE REQUEST FOR THE FOLLOWING REASONS:

COMMENTS: No - No - Hell No - IT will Lower our property value

PROPERTY OWNER NAME (print): Ronald C. Campbell Sr.

SIGNATURE: [signature]

ADDRESS: 10109 Evergreen Dr. Rowlett Tx 75089

Your written comments are being solicited in the above case. Additional information is available in the Department of Development Services located at 3901 Main Street. The Planning and Zoning Commission of the City of Rowlett, Texas, will hold a public hearing at 6:30 p.m. on the **8th day of December, 2015**, and that the City Council will hold a public hearing at 7:30 p.m. on the **5th day of January, 2016**. Both hearings will be held at the Municipal Center, 4000 Main Street, Rowlett, Texas.

Please legibly respond in ink. If the signature and/or address are missing, your comments will not be recorded. Your response must be received in the Development Service Department by 5 pm on Wednesday, December 2, 2015, for your comments to be included in the Planning and Zoning Commission packet and/or by Monday, December 23, 2015, to be included in the City Council packet. All responses received by December 23rd will be forwarded to the Council as well; it is not necessary to respond twice. Responses received after the times noted above shall not be counted in the record of response.

If you have any questions concerning this request, please contact the Department of Development Services Phone 972-412-6166 FAX 972-412-6228 glangford@rowlett.com	**RETURN BY FAX OR MAIL** City of Rowlett Development Services PO Box 99 Rowlett, TX 75030-0099

Garrett Langford

From: Mike Lancaster
Sent: Thursday, January 21, 2016 9:23 AM
To: Garrett Langford;
Subject: Re: Water Spring Townhomes - REVISED

Garrett,

It is accurate. What I didn't mention in my reply to Dayton is we will be out of town next Tuesday so couldn't make the P&Z meeting regardless. Our objection seems to be pretty selfish, and since Earl seems to be reconciled to the fact that development will happen on this property eventually, (and with the adjustments presented by Dayton this is probably as good as it will get) we aren't going to fight it.

Hopefully, they do make every effort to save as many trees as possible, and do actually work with Earl and us to position new screening effectively.

Mike Lancaster

-----Original Message-----
From: Garrett Langford <glangford@rowlett.com>
To: mlancaster
Sent: Thu, Jan 21, 2016 8:18 am
Subject: FW: Water Spring Townhomes - REVISED

Good Morning,

I want to confirm with you that email exchanges below are accurate before including them in the Planning and Zoning Commission packet for next week.

Thank you,

Garrett Langford
City of Rowlett
972-412-6166

From: Dayton
Sent: Tuesday, January 19, 2016 5:38 PM
To: Garrett Langford <glangford@rowlett.com>
Cc:
Subject: FW: Water Spring Townhomes - REVISED

Garrett,

James and I met with Earl and Judy Burnett last week, and we sent updated plans to Mike Lancaster. They have spoken with each other. Please see the email from Mike Lancaster below.

Will you please provide a copy of this to the P&Z members? All things considered, we believe this is a reasonable and acceptable response.

Thank you,
Dayton

From: Mike Lancaster
Sent: Friday, January 15, 2016 12:29 PM
To: 'Dayton'
Cc:
Subject: RE: Water Spring Townhomes - REVISED

Dayton,

Thank you for the reply and your indication that you will attempt to utilize existing trees to provide the maximum privacy for all parties. We discussed the project with Earl Burnett and a couple of the other neighbors, and while we are all opposed to any development on the property, we realize this is probably as good as we can ever expect.

So, our existing objections based on the reduction in privacy stand, but Nancy and I will not be speaking in opposition at the P&Z Commission meeting. Assuming the project goes forward, we would appreciate any opportunity to speak directly regarding any privacy matters, such as the location and height of a fence, when the time comes.

Mike Lancaster

From: Dayton
Sent: Wednesday, January 13, 2016 5:03 PM
To: 'Mike Lancaster'
Cc:
Subject: RE: Water Spring Townhomes - REVISED

Mike,

My underlying intent was to revise our layout to meet the City's Townhouse ordinance with no variance requests. The lots are now at the minimum width of 30 feet. The area gained by reconfiguring the lot lines and reducing the lot count allows us to provide better pedestrian access internally, and to increase the width of the two common access areas adjacent to your property line by 2' on one side and 5' on the other. More importantly, the end of the drive is now 15 feet from your property line, an increase in 10 feet from the previous design.

I agree completely with your comments related to the fence and wall. We have not performed a detailed tree survey yet, so we don't know what trees exactly we need to avoid. With a separation of 15 feet between the end of paving and the property line I think we can construct our wall/fence and avoid the existing vegetation wherever possible. Our goal is to create a buffer that results in our project impacting your home as little as possible.

Thank you for your input.

~ Dayton

From: Mike Lancaster
Sent: Wednesday, January 13, 2016 4:24 PM
To: 'Dayton'
Cc:
Subject: RE: Water Spring Townhomes - REVISED

Dayton,

Thank you for the drawing. I was hoping that when you said you could reduce the unit count to 12 from 14 that most of that space would end up being between the units and our property line, so I'm disappointed that didn't happen. However, I have to say that overall it's obvious you made an effort to minimize the impact on us and the Burnetts.

I do have a question regarding the fence/wall location. The property line has a lot of trees. It looks to me like placing a fence on the line will require removal or substantial trimming. I know you want to minimize the mitigation cost, so what is the plan for this? My primary concern obviously isn't your cost, but the possibility of less screening if tall trees are removed to make room for a 6' fence. Have you considered possibly placing the fence away from the line to reduce this impact? I do like the idea of a fence as I believe it will reduce the light from car headlights.

If you have time to reply before meeting with Judy and Earl tomorrow, I don't believe we need to meet with you.

Thank you.

Mike

From: Dayton
Sent: Tuesday, January 12, 2016 12:43 PM
To:
Cc: j
Subject: Water Spring Townhomes - REVISED

Mike,

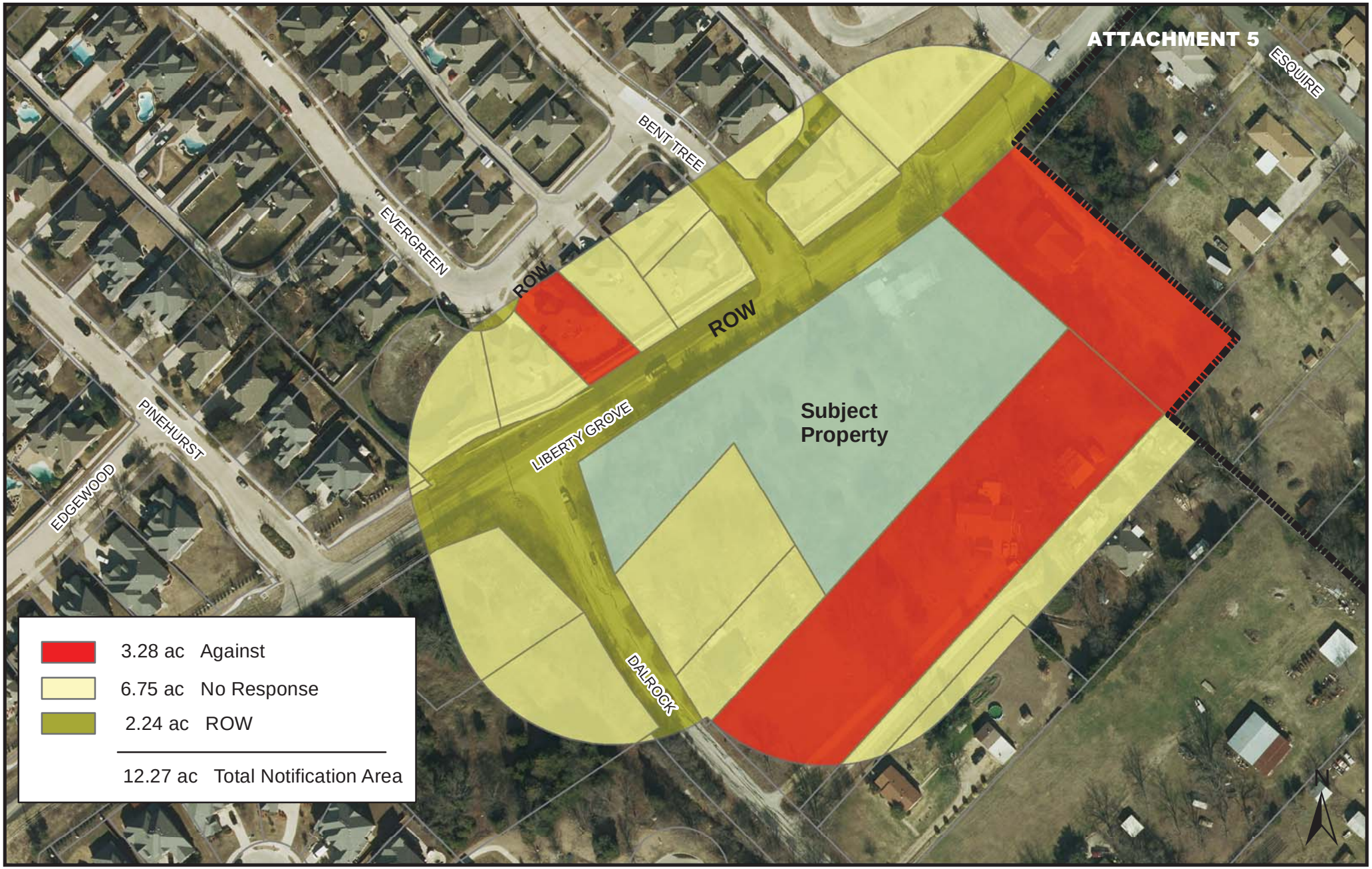
Please find attached the revised concept plan for our project. With respect to your house, we added a wall and fences for permanent screening, and we made the lots wider thereby reducing the lot count. In addition, I added the dimension between your house and the property line (58 feet).

We are meeting with Mr. & Mrs. Burnett on Thursday morning and will be happy to visit with you in person as well.

Let me know if you have any comments.

Thank you,
Dayton Macatee

Macatee Engineering LLC
3519 Miles Street
Dallas, Texas 75209
(214) 373-1180



Rowlett TEXAS

10206 LIBERTY GROVE RD
WATER SPRING TOWNHOMES
PLANNED DEVELOPMENT
Map Created: February 05, 2016

PROTEST CALCULATION MAP

City of Rowlett

Staff Report

4000 Main Street
P.O. Box 99
Rowlett, TX 75030-0099
www.rowlett.com

AGENDA DATE: 02/16/16 **AGENDA ITEM**: 8B

TITLE

Conduct a public hearing and consider an ordinance approving the delineation of the take area adjacent to Block 1, Lot 2, of the Homestead at Lakepoint Addition on property generally located east of Heritage Parkway and south of Beacon Harbor Street, being 2.61 +/- acres.

STAFF REPRESENTATIVE

Erin Jones, Senior Planner

SUMMARY

On April 1, 2014, the City Council approved a major warrant allowing for the construction of a four story Form Based Mixed-Residential (apartment) Complex on the subject property, referred to as Beacon Harbor throughout the remainder of this report (Location Map – Attachment 1, Major Warrant Resolution 009-14 – Attachment 2). Since that time, the project has been on hold while the applicant pursued other business ventures. The applicant contacted staff about finalizing a take area agreement for the property in anticipation of finishing the development process within the next two years. Since the adjacent take area has not previously been delineated, that is the first step in the process prior to entering into a lease agreement. This item is requesting that the City Council approve the proposed take area delineation for Beacon Harbor.

BACKGROUND INFORMATION

In 2001 the City of Rowlett entered into an agreement with the City of Dallas to allow individual homeowners, and in limited cases, multi-family and commercial developments backing to Lake Ray Hubbard (referred to hereinafter as “the lake”) to lease the take area from the City of Rowlett for limited use. The “take area” is defined as the land owned by the City of Dallas between the normal pool elevation of the lake (435.5 mean sea level) and the adjacent property lines. Subsequently, the City of Rowlett in conjunction with the City of Dallas, approved a resolution outlining how the take area would be delineated amongst property owners (Resolution 12-18-01A – Attachment 3). However, the City only delineated the take area for subdivisions that were in existence at that time. While those subdivisions encompassed the majority of the lake’s frontage, there is a limited amount of remaining property abutting the lake that has been approved for development since the original take area delineations. Beacon Harbor is one such property. The subject property was not originally included in the City’s interlocal agreement with the City of Dallas. However, the agreement was amended in May 2015 to include the subject property along with Bayside (formerly referred to as Elgin B. Robertson Park), and as such, is now eligible for delineation and subsequent lease.

At this time the property owner, Michael Shea, is requesting that the take area adjacent to his property be delineated in accordance with the City’s adopted policy in order to allow him to lease

the property in conjunction with his Form-Based Mixed Residential Development (Proposed Delineation – Exhibit A).

DISCUSSION

Through the Realize Rowlett 2020 Initiative the City determined that we as a community have turned our back to the lake. To that end, the City Council made the decision that all remaining take area should be fronted on to the greatest extent possible in order to maximize enjoyment and development potential. The Beacon Harbor development will do just that as seen in the conceptual renderings included as Attachment 4. It was acknowledged at the time of approval, that the take area would be treated like all other Form-Based Code (FBC) Open Space and would be required to be publicly accessible, but privately maintained. This provision will be included in any future lease agreements for the property.

Based on Section 1.4 of the amended interlocal agreement (Attachment 5) the area is now part of the take area leased by Rowlett from Dallas, thus the City can establish take area leases per the regulations in the take area ordinances adopted by the City of Rowlett and City of Dallas. The applicant has prepared the proposed take area delineation per the requirements noted in Resolution 12-18-01A, which outlines the method for the "*demarcation of sub-leases*". Staff has reviewed the proposed take area demarcation (Exhibit A) and finds it substantially conforming to the intent of the process outlined in the resolution.

It should be noted that staff did inform the applicant that the City of Dallas requires property owners who chose to construct in the water (boathouse, pier, deck, etc.) to install a sea wall to prevent erosion. This typically reduces the amount of linear feet at 435.5 mean sea level due to the fact that it reconfigures the shoreline. The applicant is aware that Council's approval of the map delineating the sub-lease lines does not necessarily constitute approval of any particular structures. The ability to construct structures or install landscaping, etc. will be based on the conditions in the place at that time (i.e. sea wall), and all relevant ordinance requirements.

Public Hearing Notices

Resolution 12-18-01A states that "*the City shall conduct neighborhood meetings, preferably on-site, to get feedback from the affected property owners, and to negotiate where appropriate,* demarcations that shall satisfy the interests as of many subleasees as possible." At this time Michael Shea is the sole property owner. Thus it is staff's opinion that the intent of the "property owner feedback" provision has been met and the take area has been equitably divided. In addition, to ensure that every effort was made to solicit public input staff provided notice to all property owners within 200 feet of the subject property. Ten notices were mailed on Monday February 1, 2016. As of Wednesday February 10, 2016, two have been returned in opposition and zero in favor (Attachment 6).

The security and privacy concerns noted in the public hearing notice responses are similar to those voiced by citizens and addressed by staff when the major warrant was approved by Council in April 2014. As was discussed in detail at that time, staff is aware that there have been incidences of undesirable activities in this area such as people illegally fishing and congregating

on the jetties at night. However, part of the reason that it is difficult to monitor undesirable activities in this area is because it is secluded. This project will face onto the take area instead of back to it, which automatically puts additional eyes on the area and creates a sense of "ownership" of the space. The enhanced pedestrian realm will include appropriate lighting that will help to deter the undesirable activities. If designed properly, the development of this property will help to mitigate this concern, not add to it. It is also important to note that using the term "publicly accessible" does not mean that this area will be treated like or marketed as a public park. It simply means that public access cannot be restricted.

FINANCIAL/BUDGET IMPLICATIONS

This item in and of itself will not have an immediate financial implication as it is not enacting a lease agreement, but rather allowing for the possibility of a future lease. Currently a take area lease agreement generates revenue in the amount of $600 for the first year and $350 per year for subsequent renewals. However, due to the fact that the FBC requires open space to be publicly accessible, but privately maintained this take area and others like it will function differently than standard single family leases. To that end, staff will bring a request forward at a future date to amend the master fee schedule to indicate "no charge" for lease agreements in conjunction with FBC projects wherein the take area is counted towards the applicant's required open space percentage.

RECOMMENDED ACTION

For the reasons stated above, Staff recommends approval of this item.

ORDINANCE

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ROWLETT, TEXAS, APPROVING THE DEMARCATION OF THE TAKE AREA ASSOCIATED BLOCK 1, LOT 2, OF THE HOMESTEAD AT LAKEPOINT ADDITION, CITY OF ROWLETT, ROCKWALL COUNTY, TEXAS ON PROPERTY GENERALLY LOCATED EAST OF HERITAGE PARKWAY AND SOUTH OF BEACON HARBOR STREET, BEING 2.61 ± ACRES FURTHER DESCRIBED IN 'EXHIBIT A', PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the governing body of the City of Rowlett, in compliance with the laws of the State of Texas and the ordinances of the City of Rowlett, have given the requisite notices by publication and otherwise, and where the governing body have legislative discretion and has concluded that this ordinance is in the best interest of the City of Rowlett;

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

Section 1: That the Take Area Delineation Map of the Take Area, as amended, be and is hereby revised relating to the take area directly adjacent to Block 1, Lot 2, of the Homestead at Lakepoint Addition, City of Rowlett, Rockwall County,

Texas, as set forth in the delineation as shown on Exhibit 'A', Take Area Delineation Map, attached hereto and incorporated herein.

Section 2: That should any sentence, paragraph, subdivision, clause, phrase or section of this ordinance be adjudged or held to be unconstitutional, illegal, or invalid, the same shall not affect the validity of this ordinance as a whole, or any part or provision thereof other than the part so decided to be invalid, illegal, or unconstitutional.

Section 3: That this ordinance shall take effect immediately from and after its passage and the publication of the caption of said resolution as the law in such case provides.

ATTACHMENTS

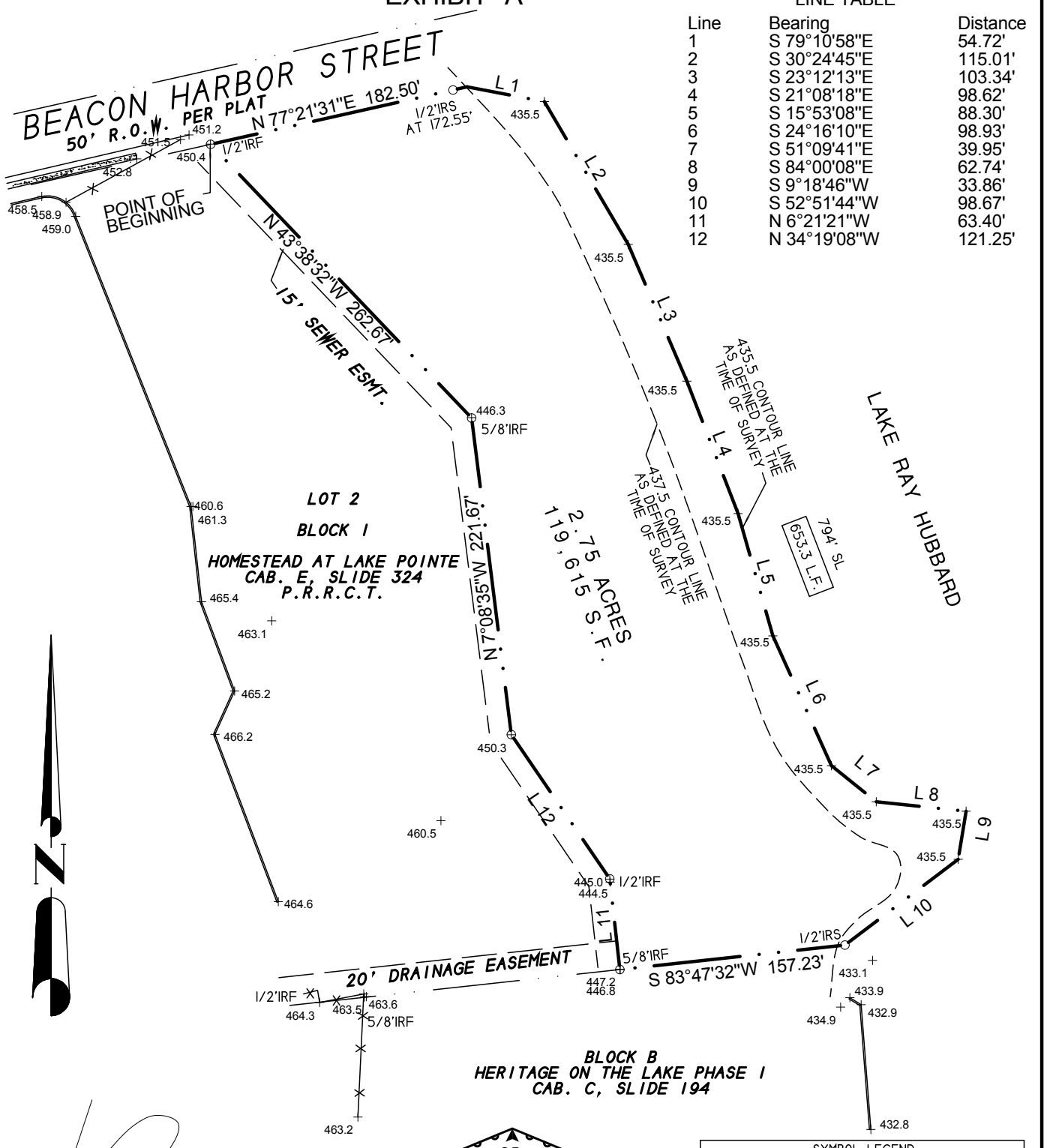
Exhibit A –Take Line Demarcation Map
Attachment 1 – Location Map
Attachment 2 – Major Warrant Resolution 009-14
Attachment 3 – Resolution 12-18-01A
Attachment 4 – Beacon Harbor Conceptual Renderings
Attachment 5 – Amended Interlocal Agreement between the Cities of Dallas and Rowlett
Attachment 6 – Public Hearing Notice Responses

EXHIBIT A

EXHIBIT "A"

LINE TABLE

Line	Bearing	Distance
1	S 79°10'58"E	54.72'
2	S 30°24'45"E	115.01'
3	S 23°12'13"E	103.34'
4	S 21°08'18"E	98.62'
5	S 15°53'08"E	88.30'
6	S 24°16'10"E	98.93'
7	S 51°09'41"E	39.95'
8	S 84°00'08"E	62.74'
9	S 9°18'46"W	33.86'
10	S 52°51'44"W	98.67'
11	N 6°21'21"W	63.40'
12	N 34°19'08"W	121.25'



Harold D. Fetty III, R.P.L.S. No. 5034

STATE OF TEXAS REGISTERED HAROLD D. FETTY III 5034 PROFESSIONAL LAND SURVEYOR

SYMBOL LEGEND

TV TELEVISION CABLE RISER	GAS GAS METER	TEL PHONE RISER	FH FIRE HYDRANT	PP POWER POLE
ELEC ELECTRIC METER	ELEC BOX SUBSURFACE JUNCTION BOX	WM WATER METER	LP LIGHT POLE	1/2" IRF IRON ROD FOUND (CORNER)
FENCE	EASEMENT LINE	PROPERTY LINES	A/C AIR COND. UNIT	PROP PROPANE TANK

SURVEY DATE OCTOBER 2, 2015
SCALE 1" = 100' FILE # 20150356
CLIENT SHEA

H.D. Fetty Land Surveyor, LLC
Firm Registration no. 101509-00
6770 FM 1565 ROYSE CITY, TX 75189 972-635-2255 PHONE tracy@hdfetty.com

EXHIBIT "B"

LEASE AREA DESCRIPTION
SUBLEASE NO. _____

STATE OF TEXAS
COUNTY OF ROCKWALL

BEING a tract of land situated in the City of Dallas, and being a portion of the Take Area Lease to the City of Rowlett, Texas, as defined in City Ordinance No. 3-19-02D and being more particularly described as follows:

BEGINNING at a 1/2" iron rod found for corner in the south right-of-way line of Beacon Harbor Street, at the northeast corner of Lor 2, Block 1, HOMESTEAD AT LAKE POINTE, an Addition to the City of Rowlett, Texas, according to the Plat thereof recorded in Cabinet E, Slide 324, of the Plat Records of Rockwall County, Texas, and also being in the take line of Lake Ray Hubbard;

THENCE N. 77 deg. 21 min. 31 sec. E. along the south line of said street, at 172.55 feet pass a 1/2" iron rod set for witness and continuing for a total distance of 182.50 feet to a point in the 435.5 contour line as defined at the time of survey;

THENCE southerly along the meanders of said 435.5 contour line as follows:

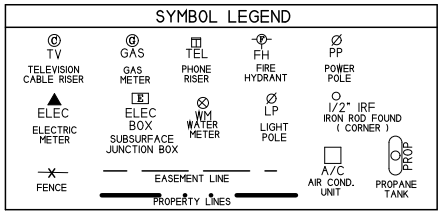
S 79°10'58"E	54.72'
S 30°24'45"E	115.01'
S 23°12'13"E	103.34'
S 21°08'18"E	98.62'
S 15°53'08"E	88.30'
S 24°16'10"E	98.93'
S 51°09'41"E	39.95'
S 84°00'08"E	62.74'
S 9°18'46"W	33.86'
S 52°51'44"W	98.67'

THENCE S. 83 deg. 47 min. 32 sec. W. a distance of 157.23 feet to a 5/8" iron rod found for corner at the southeast corner of said Lot 2, Block 1;

THENCE along the east line of Lot 2, Block 1 as follows:

N 6°21'21"W	63.40'
N 34°19'08"W	121.25'
N 07°08'35"W	221.67'
N 43°38'32"W	262.67'

to the POINT OF BEGINNING and containing 119615 square feet or 2.75 acres.



SURVEY DATE OCTOBER 2, 2015
SCALE 1" = 100' FILE # 20150356
CLIENT SHEA

H.D. Fetty Land Surveyor, LLC
Firm Registration no. 101509-00
6770 FM 1565 ROYSE CITY, TX 75189 972-635-2255 PHONE tracy@hdfetty.com

Rowlett TEXAS

Beacon Harbor
10000 Beacon Harbor Rd
Map Created: January 29, 2016

N

200 FT NOTICE LOCATION MAP

ATTACHMENT 2

City of Rowlett

Official Copy

Ordinance: ORD-009-14

4000 Main Street
Rowlett, TX 75088
www.rowlett.com

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ROWLETT, TEXAS, GRANTING A MAJOR WARRANT AUTHORIZING A MAXIMUM HEIGHT OF 4 STORIES AS SET FORTH HEREIN FOR A 2.61 +/- ACRE TRACT OF REAL PROPERTY LOCATED AT 10000 BEACON HARBOR, BEING FURTHER DESCRIBED AS BLOCK 1, LOT 2 OF THE HOMESTEAD AT LAKEPOINTE ADDITION, ROWLETT, ROCKWALL COUNTY, TEXAS; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Commission of the City of Rowlett and the governing body of the City of Rowlett, in compliance with the laws of the State of Texas and the ordinances of the City, have given requisite notice by publication and otherwise, and after holding due public hearings and affording a full and fair hearing to all 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 this Major Warrant should be approved.

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

Section 1: That the City Council of the City of Rowlett, Texas does hereby grant the following major warrant, further illustrated in Exhibit A, for a tract of real property located at 10000 Beacon Harbor, being 2.61 +/- acres further described as Block 1, Lot 2 of the Homestead at Lakepointe Addition, City of Rowlett, Rockwall County, Texas ("Property"), said major warrant to allow the following:

1. Increase the maximum allowable height of specified buildings from 2.5 stories to 4 stories in accordance with Exhibit "A," attached hereto and incorporated herein.

Section 2: All development and use regulations and requirements imposed on property in the Form Based Code – Urban Village zoning district shall apply to the development and use of the Property unless in conflict with this ordinance, in which case the provisions of this ordinance shall prevail.

Section 3: That an offense committed before the effective date of this ordinance is governed by the prior law and the provisions of the Comprehensive Zoning Ordinance, as amended, in effect when the offense was committed and the former law is continued in effect for this purpose.

Section 4: That should any sentence, paragraph, subdivision, clause, phrase or section of this ordinance be adjudged or held to be unconstitutional, illegal, or invalid, the same shall not affect the validity of this ordinance as a whole, or any part or provision thereof other than the part so decided to be invalid, illegal, or unconstitutional.

Section 5: That this ordinance shall take effect immediately from and after its passage and the publication of the caption of said ordinance as the law and charter in such cases provide.

At a meeting of the City Council on April 1, 2014 this Ordinance be adopted. The motion carried by the following vote:

Ayes: 7 Mayor Gottel, Mayor Pro Tem Kilgore, Deputy Mayor Pro Tem Gallops, Councilmember Phillips, Councilmember Dana-Bashian, Councilmember Pankratz and Councilmember Bobbitt

The remainder of this page was intentionally left blank.

ATTACHMENT 2

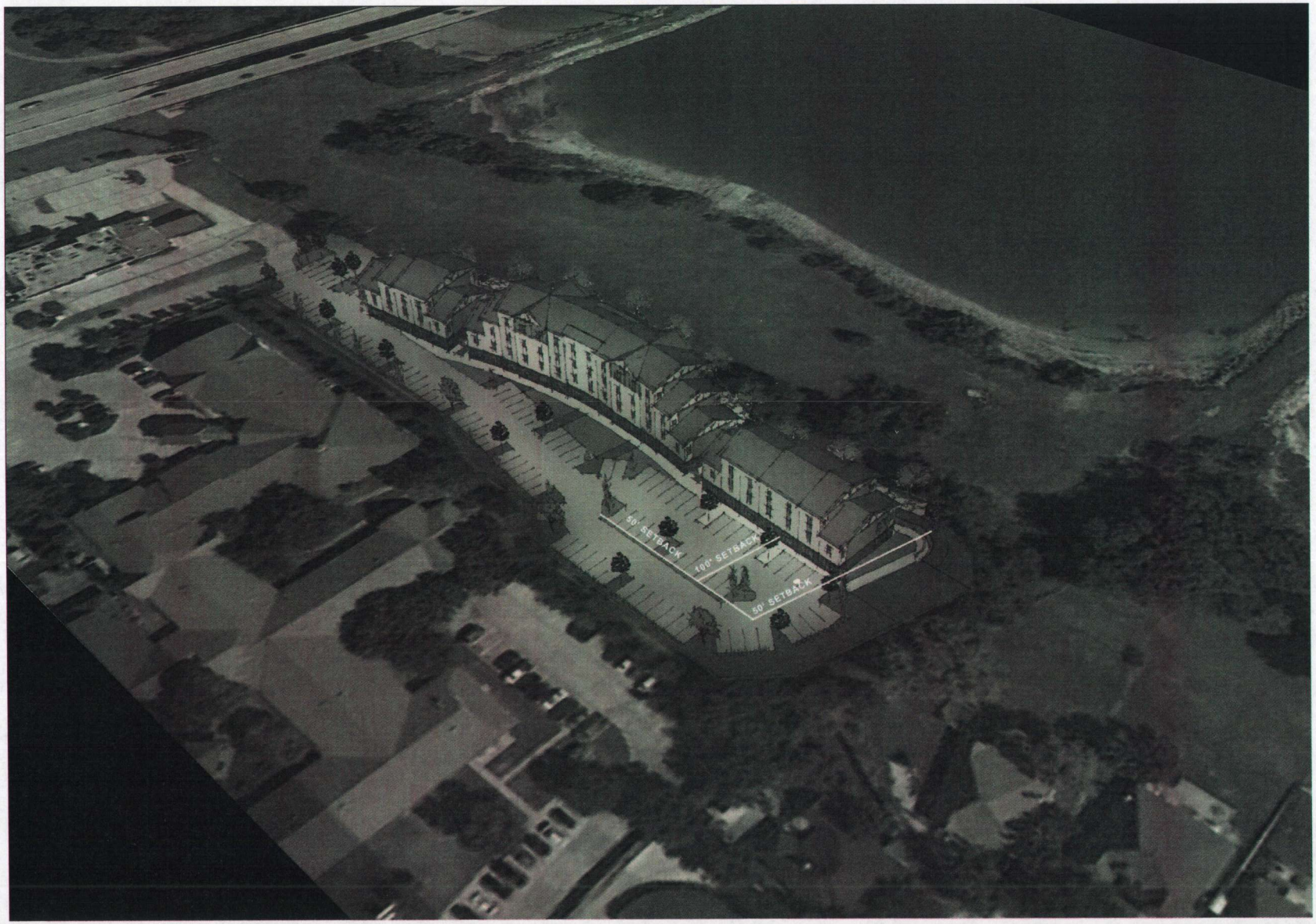
Approved by _____ **Date** **April 1, 2014**
Mayor

Approved to form by _____ **Date** **April 1, 2014**
City Attorney

Certified by _____ **Date** **April 1, 2014**
City Secretary

CITY OF ROWLETT TEXAS

EXHIBIT A



ATTACHMENT 2

EXHIBIT A

ATTACHMENT 2

ATTACHMENT 3

CITY OF ROWLETT, TEXAS
RESOLUTION 12-18-01A

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ROWLETT, TEXAS, SETTING AN OVERALL POLICY FOR SUB-LEASING THE TAKE-LINE AREA OF ROWLETT.

WHEREAS the City Council of the City of Rowlett finds that the subleasing of the Dallas take-line will allow citizens to enhance their use and enjoyment of the Lake Ray Hubbard shoreline; and

WHEREAS such sub-leases will further benefit the city as a whole due to the investment by private property owners into improvements in the take-line area; and

WHEREAS the City Council is therefore desirous of establishing a policy and timeline to help clarify its plans for sub-leasing the take-line;

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

That the city hereby adopts a Lakeshore Sub-Lease Policy, attached as Exhibit A.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF ROWLETT, TEXAS, this 18th day of December, 2001.

Shane Johnson, Mayor
City of Rowlett, Texas

ATTEST:

Sally McGlaun, City Secretary
City of Rowlett, Texas

APPROVED AS TO FORM:

Pam Liston, City Attorney

EXHIBIT A

CITY OF ROWLETT
LAKESHORE SUB-LEASE POLICY

Section 1. Sub-leases.
The city shall use all reasonable resources to proceed with sub-leasing appropriate take-line properties, including the use of professional consultants, the holding of public hearings and other meetings, the creation of new ordinances, and the conclusion of appropriate legal documents. Those areas that are currently developed and also designated for sub-lease in accordance with Section 3 below shall be made available for sub-lease first. Said sub-leases shall begin in 2002 at the earliest opportunity. Because of the scope of this project and the unique aspects of each sub-division affected, the city's staff and lakeshore sub-lease committee may further prioritize sub-leasing areas on certain streets and/or in certain neighborhoods.

Section 2. Demarcation of sub-leases.
Sub-leases shall be delineated based on a process that groups subdivision lot lines into segments and then projects those segments onto the approximate adjacent shoreline. The percentage each lot owns of the subdivision segments shall then be used to determine the percentage of the approximate shoreline that lot owner may be eligible to sub-lease. To the extent possible, the city shall conduct neighborhood meetings, preferably on-site, to get feedback from affected property owners and to negotiate, where appropriate, demarcations that shall satisfy the interests of as many sub-lessees as possible.

Section 3. Zoning of take-line area.
Zoning designations shall be of four types: single family, multi-family/commons, commercial, and public park/access. Only the former two types shall be addressed by a specific zoning ordinance. Commercial uses in the take-line area shall be considered strictly on a case-by-case basis by the city councils of Dallas and Rowlett. Public park areas shall not be sub-leased at all, but shall be kept within the city's direct control for use and enjoyment by all Rowlett residents. These areas include all currently used park areas (Nature Trail, Paddle Point, and Lakeside Park) as well as four other areas that shall be reserved for future parks (shoreline south from Lakeside Park to a point immediately north of existing development in Vue du Lac, shoreline adjacent to Port Aransas in Mariner's Cove, shoreline adjacent to condominium development behind Alissa Drive, and shoreline north from the eastern end of the Miller Road/Muddy Creek bridge to a point due west of Delta Drive.

Section 4. Timeline for commencement of sub-leasing.
The Planning & Zoning Commission shall begin discussions on zoning in January 2002, with adoption of a zoning ordinance by March 2001. The city council shall adopt necessary zoning in March or April 2002. A basic sub-lease agreement shall also be finalized in March or April, to include erosion controls and other necessary data and restrictions. Actual sub-leases should begin in May 2002, pending approvals by the City of Dallas, and necessary surveying work. Whereas it is the city's goal to begin sub-leasing in May 2002, it is not practical to assume all available leases will be completed at that time.

Section 5. Costs.
It shall not be the city's intent to generate revenues from the sub-lease program beyond the costs incurred by the city to develop the program, including surveying, and the future costs of administering and maintaining the program. Lease costs shall therefore be set on this basis.

Section 6. City of Dallas.
A significant portion of the work done by Rowlett and its agents shall be subject to the review and approval of the City of Dallas. Therefore, completion of zoning and other matters may be delayed beyond the control of the City of Rowlett. In this event, the city council's policy statement may have to be revised, especially in regard to Section 4 above.

STOOPS WALK UP TO EACH UNIT

17' PEDESTRIAN PATHWAY WITH PERIMETER LANDSCAPE BEDS, BENCHES, AND LIGHT POLES

PEDESTRIAN SCALE LIGHTING, SEATING, SHADE TREES, PAVEMENT CHANGES

SECTION FROM LAKE TO LOFT ENTRIES

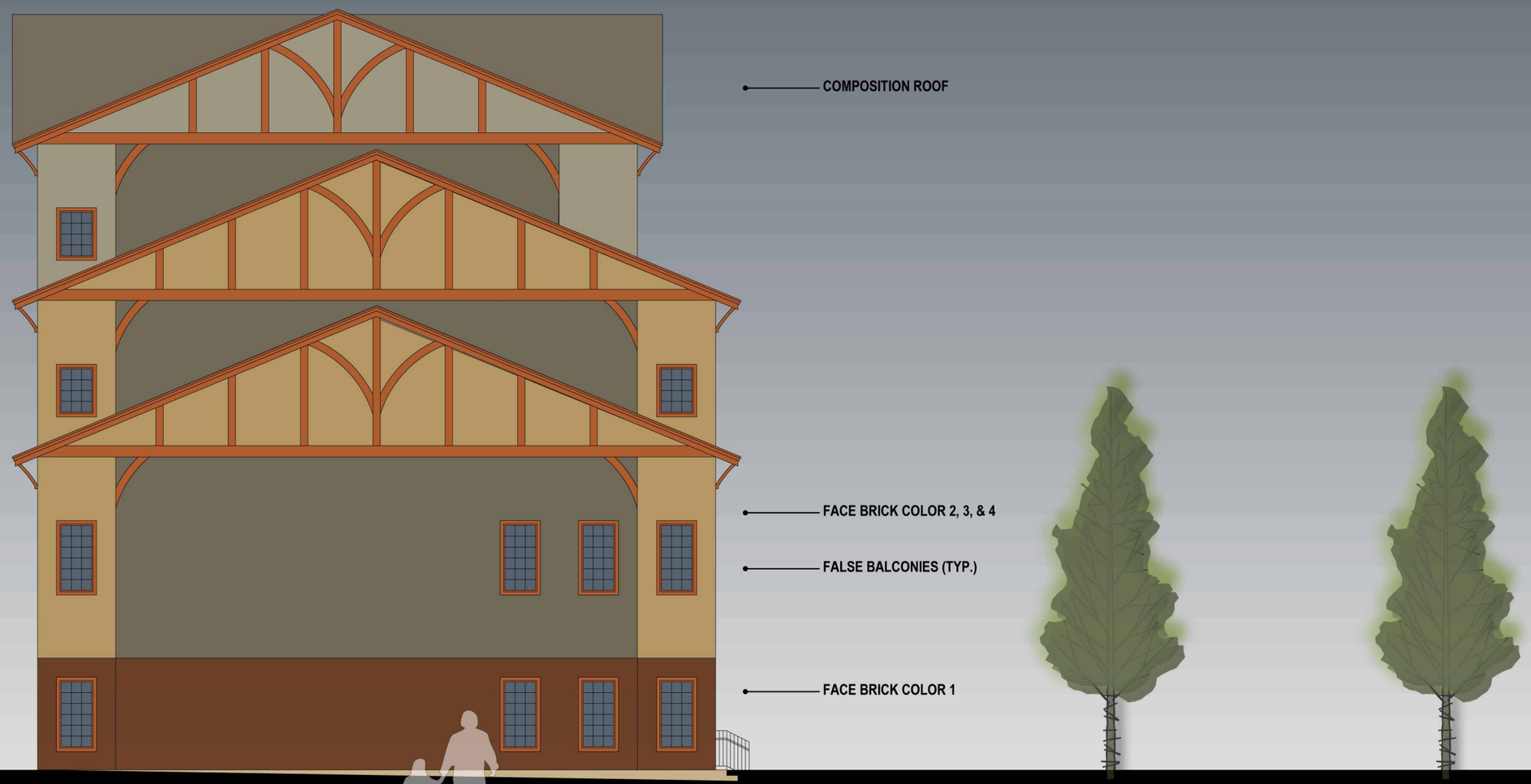
ATTACHMENT 4

ATTACHMENT 4

NORTH ELEVATION

BEACON HARBOR LOFTS

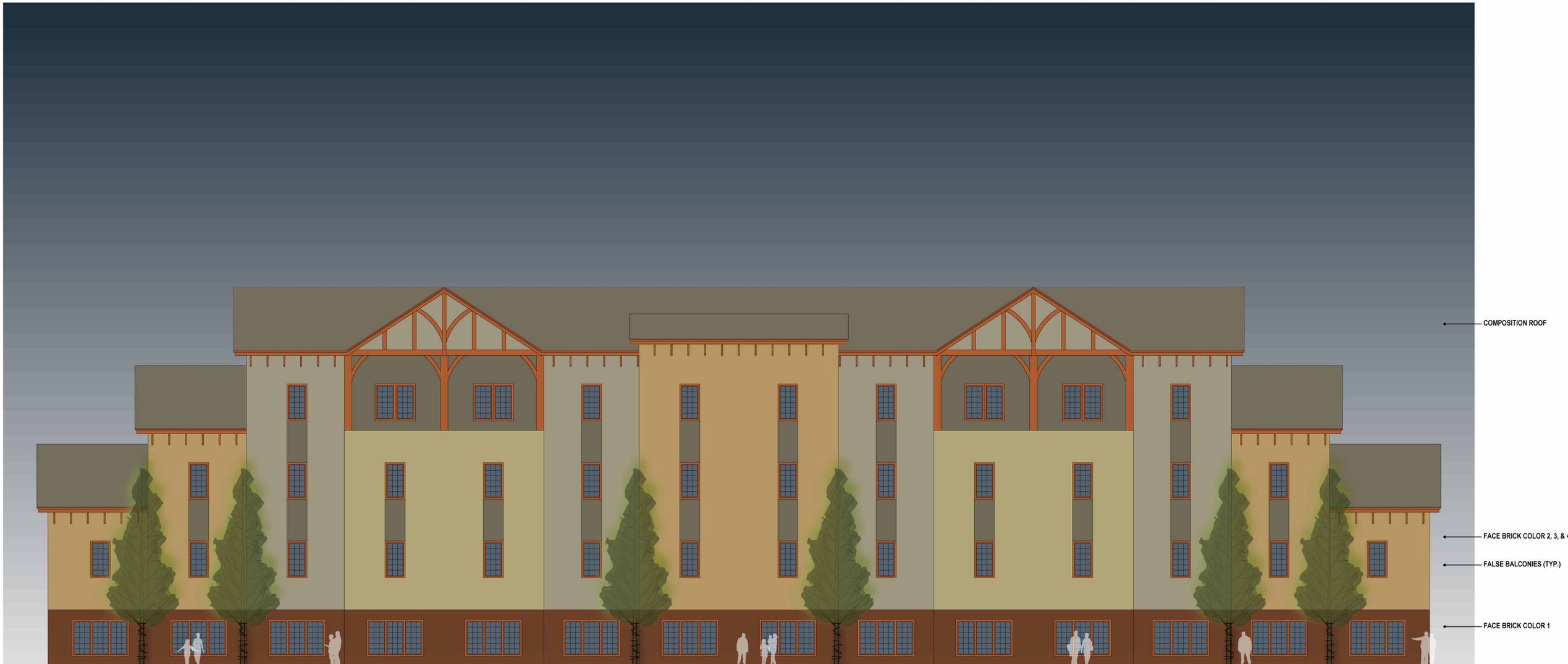
ATTACHMENT 4



SOUTH ELEVATION

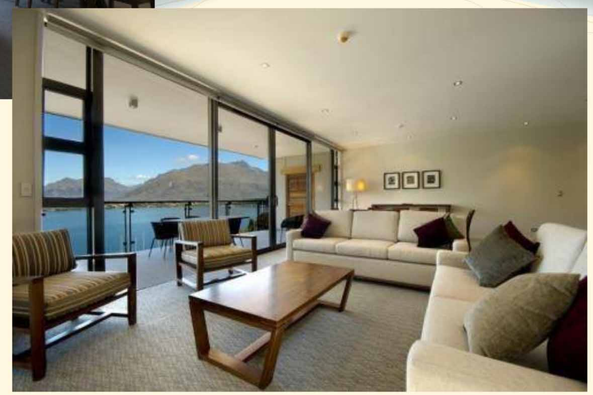
BEACON HARBOR LOFTS

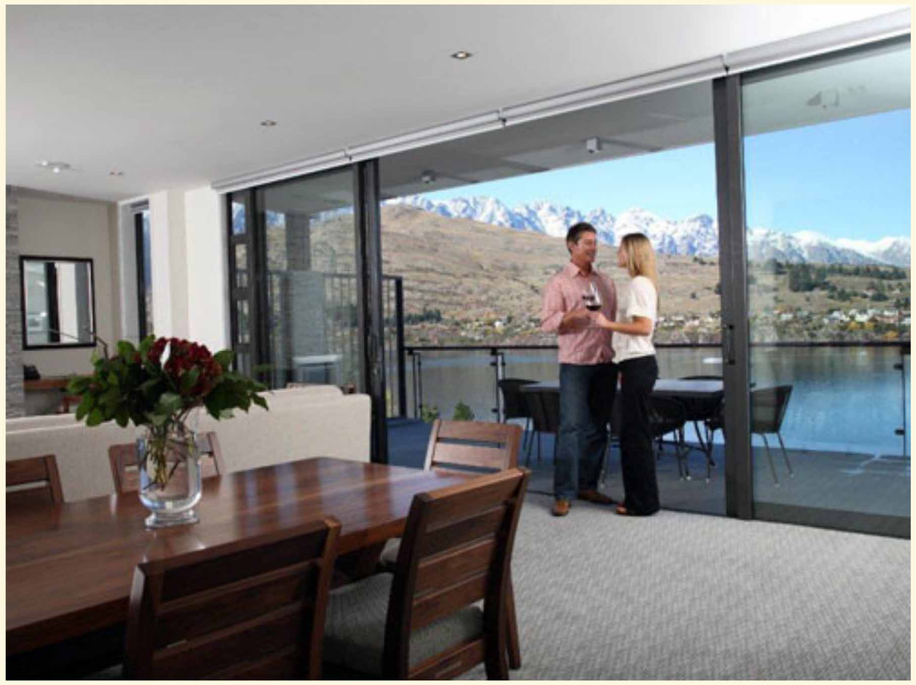
ATTACHMENT 4



WEST ELEVATION

BEACON HARBOR LOFTS





IMAGES OF SIMILAR INTERIOR LIVING AREAS LOOKING OUT OFA WALL OF GLASS WITH VIEWS ONTO A LAKE

UNITS
1st Level: 23 Units
2nd Level: 24 Units
3rd Level: 20 Units
4th Level: 10 Units
Total 77 Units

PARKING
1.5 car per unit
114 Cars Required
114 Cars Provided

PROPOSED LANDSCAPE MATERIALS :
1.) "Red Oak" Tree
2.) "Sky Rocket" Juniper
3.) "Crepe Myrtle" Tree
4.) "Pond" Cypress
5.) "Feather Reed" Ornamental Grass
(final materials based on availability and Landscape Architect's design)

650' Frontage / 25 = 26 trees along Pedestrian path

REQUESTING CITY TO APPROVE :
1.) Two Stories (full building length), with Third Floor (stepped in one unit from each end from Second Floor), with Forth Floor on middle building only.
2.) Parking Requirement @ 1.5 cars per unit

BEACON HARBOR LOFTS

ATTACHMENT 4

ATTACHMENT 4

ATTACHMENT 4

ATTACHMENT 4

ATTACHMENT 4

ATTACHMENT 5

City of Rowlett

Official Copy

Resolution: RES-030-15

4000 Main Street
Rowlett, TX 75088
www.rowlett.com

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ROWLETT, TEXAS, APPROVING AMENDMENT TO THE INTERLOCAL AGREEMENT WITH THE CITY OF DALLAS, TEXAS, PERTAINING TO THE TAKE AREA (THE "MASTER LEASE") IN ACCORDANCE WITH THE DALLAS INTERLOCAL AGREEMENT FOR THE ACQUISITION OF THE ELGIN B. ROBERTSON PROPERTY; AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT ON THE CITY'S BEHALF; AND, PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Rowlett, Texas, intends to acquire 257+/- acres of land from the City of Dallas, and to assume territorial jurisdiction over the property known as Elgin B. Robertson Park, and will establish a tax increment financing reinvestment zone over the property to enable the land to achieve its full development potential; and

WHEREAS, the Interlocal Agreement with the City of Dallas for the acquisition of the Elgin B. Robertson Property requires, *inter alia*, an amendment to the existing Master Lease Agreement (the Interlocal Agreement and Lease between the City of Dallas and the City of Rowlett, dated January 22, 2001, pertaining to the entirety of the Take Area; and

WHEREAS, the proposed amendment will require Rowlett to assume reasonable shoreline trash abatement responsibility and the City Council finds and determines that said amendments are acceptable in consideration for other benefits acquired in the Elgin B. Robertson acquisition and Interlocal Agreement.

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

Section 1: That the City Council of the City of Rowlett, Texas, hereby approves the First Amendment to the Interlocal Agreement and Lease between the City of Dallas and the City of Rowlett, a true and correct copy of which is attached hereto and incorporated herein as Exhibit "A."

Section 2: That the City Council hereby authorizes the Mayor to execute the said First Amendment on the City's behalf, after approval by the City Attorney, to give effect to this Resolution and to execute such related documents and instruments as may be necessary or appropriate to give effect to the Agreement and to this Resolution.

Section 3: That this resolution shall become effective immediately upon its passage.

At a meeting of the City Council on March 17, 2015 this Resolution be adopted. The motion carried by the following vote:

Ayes: 5 Mayor Gottel, Deputy Mayor Pro Tem Pankratz, Councilmember van Bloemendaal, Councilmember Dana-Bashian, Councilmember Bobbitt and

Absent: 2 Mayor Pro Tem Gallops, Councilmember Sheffield

The remainder of this page was intentionally left blank.

ATTACHMENT 5

Approved by _____ **Date** **March 17, 2015**
Mayor

Approved to form by _____ **Date** **March 17, 2015**
City Attorney

Certified by _____ **Date** **March 17, 2015**
City Secretary

CITY OF ROWLETT, TEXAS

STATE OF TEXAS §
§
COUNTY OF DALLAS §

FIRST AMENDMENT TO THE INTERLOCAL AGREEMENT AND LEASE BETWEEN THE CITY OF DALLAS AND THE CITY OF ROWLETT AT LAKE RAY HUBBARD

This First Amendment (the "Amendment") to that certain Interlocal Agreement and Lease (hereinafter described) is made by and between the CITY OF DALLAS, a Texas municipal corporation ("Dallas"), and the CITY OF ROWLETT, a Texas municipal corporation, ("Rowlett").

WITNESSETH

WHEREAS, Dallas and Rowlett have entered into a certain Interlocal Agreement and Lease (herein referred to as the "Master Lease") signed by Dallas on January 22, 2001, and by Rowlett on January 16, 2001, which leases to Rowlett the land and areas described therein as the Take Area, defined as the land owned by Dallas between the Take Line (the perimeter boundary of land owned by Dallas at Lake Ray Hubbard) and the normal Lake pool elevation of 435.5 feet above mean sea level; and

WHEREAS, Dallas and Rowlett desire to amend certain provisions of the Master Lease in accordance with the terms of this Amendment; and

WHEREAS, the Interlocal Cooperation Act, Chapter 791, V.T.C.A., Texas Government Code ("Act") provides authorization for any local government to contract with one or more local governments to perform governmental functions and services in which the contracting parties are mutually interested under the terms of the Act;

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements to be kept and performed, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Dallas and Rowlett hereby agree to amend the Master Lease and execute this Amendment to reflect the following changes and provisions:

1. Subsection D of Section II ("Existing Leases and New Interlocal Agreement") of the Master Lease is hereby amended to read as follows:

D. The existing commercial/concession agreements for the following facilities will remain intact, will not be interrupted by cancellation of the previous License (Lease) Agreement, and will be recognized under the new Interlocal Agreement:

Marina Del Ray
Rush Creek Yacht Club
Chandler's Landing Marina

Harbor Bay Marina
Beacon Harbor Marina
The Shores Country Club
Captain's Cove Marina

These commercial concession agreements may be continued, amended, or extended at the discretion of the city administering that agreement as long as the scope of the existing commercial activity remains the same. To the extent already provided in these agreements on an individual basis, such continuation, amendment, or extension shall not require the approval of Dallas. Examples of business within the scope of the agreement include.

1. Marina expansion of boat storage within approved marina lease area.
2. Boat sales or repair in a marina area.
3. Tackle and bait shop operation in a marina area.
4 Sale of golf accessories at a golf course.

Any major departure from the existing scope of business will necessitate renegotiating the commercial /concession agreement with Dallas.

2. Subsection J of Section II ("Existing Leases and New Interlocal Agreement") of the Master Lease is hereby deleted in its entirety and the following language is substituted in its place:

J. Rowlett shall conduct reasonable shoreline trash abatement, at its sole expense, in all areas adjacent to and within the city limits of Rowlett. Rowlett shall be the point of contact for the public regarding all trash abatement issues in all areas adjacent to and within the city limits of Rowlett.

3. Subsection B of Section VII ("Water Quality Protection and Sedimentation") of the Master Lease is hereby deleted in its entirety and the following language is substituted in its place:

B. Rowlett shall conduct reasonable shoreline trash abatement, at its sole expense, in all areas adjacent to and within the city limits of Rowlett.

4. A part of Exhibit A-1 (identified as "Exhibit A Lake Ray Hubbard – City of Rowlett"), the Beacon Harbor Lease Area is hereby deleted, such that the described tract will henceforth be included within the Leased Area.

5. Subsection A of Section IV is hereby amended to read as follows:

A. Subject to the procedures stated below and the other applicable terms of this Interlocal Agreement, Rowlett may sublease the property in Commercial Areas. Sublessee may further sublease the property for commercial purposes, pursuant to the same terms and conditions contained in the sublease. Dallas and Rowlett will

share in new revenues associated with the commercial use of Lake Area, except for: (i) those commercial uses in place at the time of execution of this Agreement, which are listed in Section II.D of this Interlocal Agreement; and (ii) the two marina sites controlled and operated by Rowlett. The terms of those commercial subleases will be negotiated on an individual basis with Dallas and will require the approval of the Dallas City Council. The following procedures for subleasing in Commercial Areas will be observed by both parties:

. . .

6. Section 1 of Exhibit B ("Additional Provisions") is hereby amended to read as follows:

1. Section 18 of the previous License Agreement between the City of Dallas and the City of Rowlett, dated May 21, 1973, is retained as a part of the terms of the Interlocal Agreement with the following modifications at the end of the Section: "In exchange for Dallas' agreement to grant easements under this section, Rowlett agrees, at its sole cost and expense to provide the City of Dallas with utility tie-ins at the property line of any property, owned or occupied by the City of Dallas, which is located outside the leased area but adjacent to or within the City of Rowlett (the "Dallas Property"). The City of Dallas shall be responsible for all other costs associated with the construction, development and on-site infrastructure necessary to accommodate the Dallas Property. Should the City of Dallas forfeit the use of the occupied portions of the Dallas Property to the City of Rowlett for any reason, then all easement requests made by the City of Rowlett pursuant to this agreement shall be subject to all City of Dallas easement compensation requirements." A copy of the original Section 18 is included in this Exhibit.

7. All other terms and provisions of the Master Lease shall remain unaffected by this Amendment.

IN WITNESS WHEREOF, Dallas, signing by and through its City Manager, duly authorized to execute this Amendment by Resolution No. 15-0429, approved by the Dallas City Council on February 25, 2015, and by Rowlett, signing by and through its Mayor, duly authorized to execute this Amendment by Resolution No. ~~15~~RES-03015, approved by the Rowlett City Council on March 17, 2015, have executed this agreement as of the dates written below.

[*Signatures on Following Page*]

THE CITY OF ROWLETT, TEXAS

By: _____
Todd W. Gottel, Mayor

Date: 3-18-15

APPROVED AS TO FORM:

_____
David M. Berman, City Attorney

ATTEST:

_____
Laura Hallmark, City Secretary

THE CITY OF DALLAS, TEXAS

A. C. GONZALEZ,
City Manager

By: _____
Assistant City Manager

Date: 5 · 11 - 15

APPROVED AS TO FORM:

WARREN MS. ERNST,
City Attorney

By: _____
Assistant City Attorney MB

ATTACHMENT 6

Rowlett
TEXAS

Development Services Department

NOTICE OF PUBLIC HEARING

TO: Property Owners within 200 feet of the Proposed Form Based Code Beacon Harbor Multi-Family Project.

RE: Application for Take Area Delineation

Location: The subject property is Block 1, Lot 2 of the Homestead at Lakepoint Addition and is generally located east of Heritage Parkway and south of Beacon Harbor Street, being 2.61 +/- acres (see reverse side for map).

EXPLANATION OF REQUEST: In 2001 the City of Rowlett entered into an agreement with the City of Dallas to allow property owners backing to Lake Ray Hubbard (referred to herein as "the lake") to lease the "take area" from the City of Rowlett for limited use. The "take area" is defined as the land owned by the City of Dallas between the normal pool elevation of the lake (435.5 mean sea levels and the adjacent property lines. Subsequently the City of Rowlett in conjunction with the City of Dallas approved an ordinance outlining how the take area would be delineated amongst individual property owners. However, the City only delineated the take area for subdivisions that were in existence at that time. While those subdivisions encompassed the majority of the lake's frontage, there is a limited amount of remaining property abutting the lake that has subsequently been approved for development since the original take area delineations. The subject property is one such property.

At this time the subject property owner is requesting that the take area adjacent to their property be delineated in accordance with the City's adopted policy in order to allow the property owner to lease the property from the City of Rowlett in accordance with the City's established Take Area Zoning Ordinance. It is important to note that in accordance with the City's Form Based Code requirements the take area associated with the subject property will be required to be privately maintained, but will remain open to the public.

☐ I AM IN FAVOR OF THE REQUEST FOR THE FOLLOWING REASONS:

☒ I AM OPPOSED TO THE REQUEST FOR THE FOLLOWING REASONS:

COMMENTS: "Security" Done one shot at my neighbor from the adjacent city. It will lower my property value. This is a very bad idea!

SIGNATURE: P.N. Whitfield & Robert C. Robey, Gregory O. Whitfield

ADDRESS: 6606 Warwick Dr. Rockwall, TX 75087

Your written comments are being solicited in the above matter. Additional information is available in the Development Services Department at 3901 Main Street. The City Council of the City of Rowlett, Texas, will hold a public hearing at 7:30 p.m. on the 16th day of February, 2016 at the Municipal Center, 4000 Main Street, Rowlett, Texas.

Please legibly respond in ink. If the signature and/or address are missing, your comments will not be recorded. Your comments must be received by the Planning Division by 5 pm on Wednesday, February 10, 2016 to be included in the Council's packet.

If you have any questions concerning this request, please contact the Planning Division at:	**RETURN BY FAX OR MAIL**
Phone 972-412-6114 FAX 972-412-6228 ejones@rowlett.com	City of Rowlett Planning Division Attn: Erin Jones, Senior Planner 3901 Main Street Rowlett, TX 75088

ATTACHMENT 6

Rowlett
TEXAS

Development Services Department

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TO: Property Owners within 200 feet of the Proposed Form Based Code Beacon Harbor Multi-Family Project.

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☐ I AM IN FAVOR OF THE REQUEST FOR THE FOLLOWING REASONS:

☒ I AM OPPOSED TO THE REQUEST FOR THE FOLLOWING REASONS:

COMMENTS: please see page 2

SIGNATURE: Mark Tasohek

ADDRESS: 6602 WARWICK DR

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Phone 972-412-6114 FAX 972-412-6228 ejones@rowlett.com	City of Rowlett Planning Division Attn: Erin Jones, Senior Planner 3901 Main Street Rowlett, TX 75088

ATTACHMENT 6

6602 WARWICK DR. 2-4-2016

I'm opposed to this change or request. As I believe it will damage the privacy of the neighbors. I have lived in the neighbor hood for over 16 years. I have seen the privacy that we all spent a lot of money on to live in this neighbor hood go down hill for years. Allowing for access to the public WILL damage our property values, and privacy.

Just last year I was shot at from two guys fishing on the south jetty. They shot a gun at me or my boat dock, I happen to be in the dock working and the bullet came very close.

NO TO PUBLIC ACCESS.

Date of being shot at 6-27-2015 5:11pm
case II 15029635
arg. Caves

City of Rowlett

Staff Report

4000 Main Street
P.O. Box 99
Rowlett, TX 75030-0099
www.rowlett.com

AGENDA DATE: 02/16/16 **AGENDA ITEM**: 8C

TITLE

Consider an ordinance calling a Special Election to consider propositions amending the Rowlett City Charter to be held on Saturday, May 7, 2016.

STAFF REPRESENTATIVE

Laura Hallmark, City Secretary

BACKGROUND INFORMATION

In the May 12, 2015, Work Session, the Council gave consensus to staff to proceed with preparation for appointing a Charter Review Commission in accordance with the Charter provisions, inclusive of items of interest for the scope of review.

The Charter states, **"*The City Council shall determine the scope of the review by the Commission.* The Commission shall determine whether the Charter requires revision or amendment. The Commission may request factual information concerning the operation of the City and such information may be provided in writing or orally. The Commission may hold public hearings regarding the Charter. The Commission shall make recommendations for changes to the Charter without any consideration of the impact upon staff or cost to the City. The Commission shall report its findings and present its recommendations regarding the Charter to the City Council at a regular or special meeting."**

On June 16, 2015, the Council appointed a Charter Review Commission.

At the July 7, 2015, Work Session, Council arrived at consensus for the scope of review and concerns to be considered:

- Textual rewrite/update of the document that would be completed/overseen by the City Attorney
- Omission of or revisions to term limits or term durations for Councilmembers of the City of Rowlett
- Determination of appropriate compensation for Councilmembers of the City of Rowlett
- Prohibition of alcohol sales in residential zoning/neighborhoods
- Review of Section 3.08 (1) with regard to automatic resignation upon declaring candidacy for another seat

Over the next several months, the Charter Review Commission reviewed the scope as divided into three subcommittees:

a. Council & Charter (Articles III, XII)
b. Government & Officers (Articles I, II, IV V)
c. Financial & Legal (Article VI, VII, VIII, IX, X, XI)

Upon completion of the Commission's review, they held a public meeting on December 9, 2015, to present their recommendations and receive public input prior to their presentation to the Council.

At a joint meeting of the Council and Charter Review Commission on January 12, 2016, the final recommendations were presented to Council. Discussion at that meeting provided direction to the City Attorney to draft verbiage for the recommendations as ballot items.

At their February 2, 2016, Work Session, Council reached consensus on the proposed changes and the verbiage for each proposition.

DISCUSSION

The Texas Election Code, in addition to State law, provides that charter elections are to be held on uniform election dates. The appointment of the Charter Review Commission and their subsequent recommendations coincide with the May 7, 2016, General Election.

The proposed ordinance calls the election and contains all elements required for an order of a special election for municipalities: date of election, purpose of election, times and locations of voting (both early and Election Day), Early Voting Clerk contact information for applications for ballot by mail, date of issuance, and signatures of governing body ordering said election in English and Spanish.

There will be a total of eight (8) propositions on the ballot amending the Charter.

FISCAL IMPACT

The City of Rowlett contracts with Dallas County Elections Department for the conduct of our municipal elections, which includes all registered voters of Rowlett, including those residing in Rockwall County. Expenses are set once the number of entities and their respective election items, polling locations, poll workers, and associated forms and equipment have been finalized. The timing of the anticipated Charter Amendments allows for their inclusion with the four City Council positions listed for the General Election and the Special Election to Fill a Vacancy for Councilmember Place 3 to be held on May 7, 2016. Funds are budgeted for City Elections in the amount of $34,280 in account number 1011501 6406 Elections.

STAFF RECOMMENDATION

Staff recommends Council approve an ordinance calling the Special Election for amendments to the Charter.

ORDINANCE

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ROWLETT, TEXAS, ORDERING A SPECIAL ELECTION TO BE HELD IN CONJUNCTION WITH THE GENERAL ELECTION ON PROPOSED AMENDMENTS OF THE CITY CHARTER OF THE CITY OF ROWLETT FOR SATURDAY, MAY 7, 2016; PROVIDING FOR THE PUBLICATION AND POSTING OF NOTICE; PROVIDING EARLY VOTING AND ELECTION DAY TIMES AND LOCATIONS; PROVIDING THE DATE OF CANVASSING; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on this the 16th day of February, at a meeting of the City Council of the City of Rowlett, Texas, the meeting was called to order and the Council ordered a special election be held on May 7, 2016; and,

WHEREAS, upon recommendation of the Charter Review Commission, the City Council has reviewed the provisions of the Rowlett City Charter and has determined a need for making amendments to the Charter; and,

WHEREAS, the City Council is of the opinion and finds that such amendments should be submitted to the citizens of the City for approval or disapproval at the May 7, 2016, election; and,

WHEREAS, the election shall be held as a Joint Election administered by the Dallas County Elections Administrator for all Rowlett registered voters in accordance with the provisions of the Texas Election Code and a Joint Election Agreement.

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

Section 1: That an election be held in the City of Rowlett, Texas on the 7th day of May, 2016, to submit proposed amendments to the Rowlett City Charter to the qualified voters of the City for their approval or disapproval; such election being a special election held in conjunction with the General Election, to submit to the qualified voters of the City the following Propositions:

PROPOSITION 1

Shall Section 2.05 ("Health Regulations") of the Rowlett City Charter be amended to add a new subsection (3) to prohibit the sale of liquor in residential sections, such that subsection (3) of Section 2.05 of the Rowlett City Charter shall read as follows;

"Section 2.05. Health Regulations

. . .

(3) The sale of liquor in all residential sections of the City is prohibited; however, the City Council may authorize the sale of liquor in residential sections appropriately zoned for mixed use."

PROPOSITION 2

Shall Subsection (3) ("Term Limits") of Section 3.02 of the Rowlett City Charter be amended to extend the term limits of the mayor and council members from two (2) consecutive terms to three (3) consecutive terms, and to define the length of service constituting a full term, such that Subsection (3) of Section 3.02 of the Rowlett City Charter shall read as follows:

"Section 3.02. Elected officers.

. . .

(3) Term Limits. An individual shall serve no more than [~~two (2)~~] three (3) consecutive three (3) year terms as Mayor. An individual shall serve no more than [~~two (2)~~] three (3) consecutive three (3) year terms as Councilmember. [~~After an individual vacates an office, if fifty percent (50%) or less remains of the individual's term, the term shall be considered a full term for reasons of calculating term limits.~~] Service in office of more than 548 days shall be deemed a full term under this section."

. . ."

PROPOSITION 3

Shall Subsections (1) and (2) of Section 3.11 ("Compensation for the Mayor and Councilmembers") of the Rowlett City Charter be amended to rename "compensation" to "stipend" and to change the compensation to $500 per month for the mayor and $300 per month for councilmembers, such that Subsections (1) and (2) of Section 3.11 of the Rowlett City Charter shall read as follows:

"Section 3.11. Compensation for the Mayor and Councilmembers.

(1) The Mayor shall receive [~~as compensation~~] a stipend in the sum of [~~one hundred fifty dollars ($150.00)~~] five hundred dollars ($500) per month [~~for attendance at all regular meetings, unless otherwise excused~~]. The [~~compensation~~] stipend in no event shall exceed the sum of [~~one thousand eight hundred dollars ($1,800)~~] six thousand dollars ($6,000) per annum for the Mayor.

(2) Each Councilmember shall receive [~~compensation~~] a stipend in the sum of [~~one hundred dollars ($100.00)~~] three hundred dollars ($300) per month [~~for attendance at all regular meetings, unless otherwise excused~~]. The [compensation] stipend in no event shall exceed the sum of [~~one thousand two hundred dollars ($1,200)~~] three thousand six hundred dollars ($3,600) per annum for Councilmembers.

. . ."

PROPOSITION 4

Shall Subsections (5), (6) and (7) of Section 2.03 ("Municipal Court") of the Rowlett City Charter be amended to remove outdated language, correct clerical errors, and harmonize the charter language with State law, such that subsections (5), (6) and (7) of Section 2.03 of the Rowlett City Charter shall read as follows:

"Section 2.03. Municipal Court

. . .

(5) Rules – All complaints, prosecutions, the service of process, commitment of those convicted of an offense, the collection and payment of fines, the attendance and service of witnesses and juries, bail and the taking of bonds, and punishment for contempt shall be governed by [~~the provisions of the rules established by the Supreme Court of Texas applicable to municipal courts~~] the laws of the State of Texas.

(6) Appeals – Appeals from convictions in the Municipal Court shall [~~lie to the county criminal court, and such appeals shall be governed by the same rules of practice and procedure as are provided by State law in cases of appeals from the justice court to said county criminal court, as far as said rules are applicable~~] be governed by the laws of the State of Texas.

(7) Clerk - The Clerk of Municipal Court [~~and such deputies as shall be appointed by the City Manager,~~] shall be appointed by the City Manager with input from the Chief Judge of the Municipal Court. Deputy Clerks shall be appointed by the City Manager, as appropriate. The Clerk and Deputy Clerks shall have the power to administer oaths and affidavits, make certificates, affix the seal of the Municipal Court thereto, and generally do and perform any and all acts usual and necessary by clerks of courts in issuing processes of courts and conducting the business thereof.

. . .”

PROPOSITION 5

Shall Subsection (2) of Section 3.09 (“City Council Vacancies and Attendance”) of the Rowlett City Charter be amended to clarify language regarding absences and forfeiture of office of councilmembers, such that Subsection (2) of Section 3.09 of the Rowlett City Charter shall read as follows:

“3.09 City Council Vacancies and Attendance

. . .

(2) The office of a [~~Any~~] member of the City Council failing to attend [~~remaining absent for~~] three (3) consecutive regular meetings of the City Council, without being excused by the City Council [~~first having obtained a leave of absence at a regular meeting, such office~~] shall be declared vacated by a majority vote of all the remaining members of the City Council. Any member of the City Council remaining absent for six (6) consecutive regular meetings of the City Council shall be deemed to have forfeited such office.

. . .”

PROPOSITION 6

Shall Subsection (1) of Section 5.04 (“Municipal Judge”) of the Rowlett City Charter be amended to harmonize the charter language with State law, such that subsection (1) of Section 5.04 the Rowlett City Charter shall read as follows:

“Section 5.04. Municipal Court

(1) Appointment – The City Council shall appoint by four (4) affirmative votes of the City Council such Municipal Judges of the Municipal Court as may be necessary, all of whom shall be competent, duly qualified attorneys licensed and practicing for at least two (2) years in the State. The Municipal Judge(s) shall be appointed for a term of two (2) years and may be appointed to additional consecutive terms. Reappointment of the Municipal Judge(s) shall occur in a manner consistent with the provisions of state law. The Municipal court shall be presided over by a judge to be known as the "Chief Judge of the Municipal Court" [~~who shall be a licensed attorney in the State~~] and such alternate and temporary judges that may be appointed by ordinance of the City Council [~~, and their salary may be fixed by ordinance or resolution~~].”

PROPOSITION 7

Shall Subsection (4) of Section 3.02 ("Elected Officers") of the Rowlett City Charter be amended to add Subsection (5) "Residency" to clarify that residence within the city during a term of office is a qualification requirement of office, such that Subsection (5) of Section 3.02 the Rowlett City Charter shall read as follows:

"Section 3.02. Elected Officers

. . .

(5) Residency - As a qualification of office, the Mayor and all members of the Council shall be residents of the City during their term of office."

PROPOSITION 8

Shall Section 6.01 ("Audit and Examination of City Books and Accounts") of the Rowlett City Charter be amended to repeal the 5-year limit on the use of outside auditors and require the City to seek competitive qualifications from auditors at least once every five years, such that Section 6.01 the Rowlett City Charter shall read as follows:

"Section 6.01. Audit and Examination of City Books and Accounts

At the close of each fiscal year, and at such other times as may be necessary, the City Council shall call for an independent audit of all accounts of the City by a certified public accountant. [~~The same firm or certified public accountant shall complete no more than five (5) consecutive annual audits.~~] The city shall seek competitive qualifications for auditors at least once every five (5) years. The certified public accountant selected shall have no personal interest, directly or indirectly, in the financial affairs of the City or any of its officers. The written report of audit will be presented to and discussed by the City Council at a regular meeting. The auditor's recommendations will be read into the record of the meeting. Copies of the audit shall be placed on file as a public record with the City Secretary."

Section 2: Each amendment submitted must contain only one subject, and the ballot shall be prepared in a manner that the voters may vote "yes" or "no" on any amendment or amendments without voting "yes" or "no" on all of said amendments. Each such proposed amendment, if approved by the majority of the

qualified voters voting at said election, shall become a part of the Rowlett City Charter.

Section 3: That notice of said election shall, as required by law, be published two times in the official newspaper of the City and shall be posted on the bulletin board used to publish notice of the City Council meetings, not earlier than the 30th day or later than the 10th day before election day. A copy of the published notice that contains the name of the newspaper and the date of publication shall be retained as a record of such notice, and the person posting the notice shall make a record at the time of posting, the starting date, and the place of posting. The notice shall also be posted on the bulletin board used to publish notice of City Council meetings not later than the 21st day before Election Day.

Section 4: An Order of Special Election for Municipalities is attached hereto and referenced as Exhibit A.

Section 5: An election shall be held between the hours of 7:00 A.M. and 7:00 P.M. on Saturday, May 7, 2016. Polling places for the election are designated to be located at any polling places authorized in a joint elections agreement with Dallas or Rockwall County, and at:

Herfurth Elementary School---7500 Miller Road, Rowlett, Texas, for all Rowlett residents that reside in Dallas County Precinct 2923 and 2926

Coyle Middle School---4500 Skyline Drive, Rowlett, Texas, for all Rowlett residents that reside in Dallas County Precinct 2920, 2921, 2924, 2925, 2928, and 2929

Schrade Middle School---6201 Dandridge Road, Rowlett, Texas for all Rowlett residents that reside in Dallas County Precinct 2922 and 2927

Cullins-Lake Pointe Elementary School---5701 Scenic Drive, Rowlett, Texas, for all Rowlett residents that reside in Rockwall County Precincts 1A and 2B

Section 6: Early voting by personal appearance shall be conducted at the Rowlett City Hall Annex, 4004 Main Street, Rowlett, Texas. For the period of early voting permitted by law, the Early Voting clerk shall keep said office open for early voting by personal appearance as follows:

Monday thru Friday	April 25 thru April 29, 2016	8 a.m. – 5 p.m.
Saturday	April 30, 2016	8 a.m. – 5 p.m.
Sunday	May 1, 2016	1 p.m. – 6 p.m.
Monday and Tuesday	May 2 thru May 3, 2016	7 a.m. – 7 p.m.

The Early Voting Clerk for said election shall be Toni-Pippins Poole, Dallas County Elections Administrator.

Applications for early voting by mail shall be delivered to the Early Voting Clerk, no later than April 26, 2016 (by 12:00 noon or close of business, whichever is later), at the following address:

Dallas County Elections Department
Attn: Toni Pippins Poole, Early Voting Clerk
2377 North Stemmons Freeway, Suite 820
Dallas, Texas 75207

Section 7: The Presiding Judge and the Alternate Election Judge of the Early Voting Ballot Board shall be selected by the Dallas County Elections Administrator in accordance with an Election Agreement between the Dallas County Elections Department and the City of Rowlett.

Section 8: Direct record electronic (DRE) equipment will be utilized for early voting by personal appearance; and optical scan voting systems will be used on Election Day and one Americans with Disability Act (ADA) terminal will be provided to each voting location by the Dallas County Elections Department in accordance with an Election Agreement with the City of Rowlett.

Section 9: The City Secretary is hereby authorized and directed to publish and post, in the time and manner prescribed by law, all notices required to be so published and posted in connection with the conduct of the election.

Section 10: The City Secretary shall present such returns to the City Council for the canvassing of said election. The canvass of said election returns shall be conducted by the City Council at their meeting scheduled for May 17, 2016.

Section 11: This ordinance shall take effect from and after its passage, and the publication of the caption as the law and charter in such case provides.

ATTACHMENTS

Exhibit A – Order of Special Election for Municipalities
Attachment 1 – Draft Proposition Language

EXHIBIT A

4000 Main Street
Rowlett, TX 75088
www.rowlett.com

NOTICE/ORDER OF SPECIAL ELECTION FOR MUNICIPALITIES
AVISO/ORDEN DE ELECCION ESPECIAL PARA MUNICIPIOS

A special election is hereby ordered to be held on May 7, 2016 for the purpose: to consider propositions amending the City Charter.
Por la presente se ordena que se llevará a cabo una elección especial el 7 mayo 2016 con el propósito de: considerer las proposiciónes de enmienda a la estatutos de la ciudad.

PROPOSITION 1

Shall Section 2.05 ("Health Regulations") of the Rowlett City Charter be amended to add a new subsection (3) to prohibit the sale of liquor in residential sections.

FOR *AGAINST*

PROPOSICIÓN 1

Deberá enmendarse la sección 2.05 "(Reglamento de salud del) de la carta de la ciudad de Rowlett para añadir un nuevo inciso (3) para prohibir la venta de licor en las secciones residenciales.

A FAVOR *EN CONTRA*

PROPOSITION 2

Shall Subsection (3) ("Term Limits") of Section 3.02 of the Rowlett City Charter be amended to extend the term limits of the mayor and council members from two (2) consecutive terms to three (3) consecutive terms, and to define the length of service constituting a full term.

FOR *AGAINST*

PROPOSICIÓN 2

Inciso (3) "(límites del término del) de la sección 3.02 de la carta de la ciudad de Rowlett se modificará para extender los límites del término de los miembros del Consejo y alcalde de dos 2 períodos consecutivos a 3 tres términos consecutivos y para definir la duración del servicio que constituye un término completo.

A FAVOR *EN CONTRA*

PROPOSITION 3

Shall Subsections (1) and (2) of Section 3.11 ("Compensation for the Mayor and Councilmembers") of the Rowlett City Charter be amended to rename "compensation" to "stipend" and to change the compensation to $500 per month for the mayor and $300 per month for councilmembers.

FOR *AGAINST*

PROPOSICIÓN 3

Serán las subdivisiones (1) y (2) de la sección 3.11 ("compensación por el alcalde y los concejales") de la carta de la ciudad de Rowlett modificarse al cambiar el nombre de "compensación" a "estipendio" y cambiar la indemnización a $500 mensuales para el alcalde y $300 por mes para concejales.

A FAVOR EN CONTRA

PROPOSITION 4

Shall Subsections (5), (6) and (7) of Section 2.03 (“Municipal Court”) of the Rowlett City Charter be amended to remove outdated language, correct clerical errors, and harmonize the charter language with State law.

FOR AGAINST

PROPOSICIÓN 4

Serán subdivisiones (5), (6) y (7) de la sección 2.03 ("Tribunal Municipal") de la carta de la ciudad de Rowlett modificarse para eliminar lenguaje anticuado, corregir errores administrativos y armonizar el lenguaje de la Constitución con la ley estatal.

A FAVOR EN CONTRA

PROPOSITION 5

Shall Subsection (2) of Section 3.09 (“City Council Vacancies and Attendance”) of the Rowlett City Charter be amended to clarify language regarding absences and forfeiture of office of councilmembers.

FOR AGAINST

PROPOSICIÓN 5

Deberá enmendarse la subsección (2) de sección 3.09 ("Ayuntamiento de vacantes y asistencia) de la carta de la ciudad de Rowlett para aclarar lenguaje con respecto a las ausencias y la pérdida de la oficina de concejales.

A FAVOR EN CONTRA

PROPOSITION 6

Shall Subsection (1) of Section 5.04 (“Municipal Judge”) of the Rowlett City Charter be amended to harmonize the charter language with State law.

FOR AGAINST

PROPOSICIÓN 6

Se modifica párrafo 1 de la sección 5.04 ("Juez Municipal") de la carta de la ciudad de Rowlett para armonizar el lenguaje de la Constitución con la ley estatal.

A FAVOR EN CONTRA

PROPOSITION 7

Shall Subsection (4) of Section 3.02 ("Elected Officers") of the Rowlett City Charter be amended to add Subsection (5) "Residency" to clarify that residence within the city during a term of office is a qualification requirement of office.

FOR AGAINST

PROPOSICIÓN 7

Se modificará la subsección (4) de la sección 3.02 ("oficiales electos") de la carta de la ciudad de Rowlett para añadir inciso (5) "Residencia" para aclarar esa residencia dentro de la ciudad durante un término de la oficina es un requisito de calificación de la oficina.

A FAVOR EN CONTRA

PROPOSITION 8

Shall Section 6.01 ("Audit and Examination of City Books and Accounts") of the Rowlett City Charter be amended to repeal the 5-year limit on the use of outside auditors and require the City to seek competitive qualifications from auditors at least once every five years.
FOR AGAINST

PROPOSICIÓN 8

Deberá enmendarse la sección 6.01 (auditoría y examen de ciudad de libros y cuentas") de la carta de la ciudad de Rowlett para derogar el límite de 5 años en el uso de auditores externos y requieren la ciudad a buscar calificaciones competitivas de cuentas al menos una vez cada cinco años.
A FAVOR EN CONTRA

Early voting by personal appearance will be conducted at the following locations and times*:
La votación adelantada en persona se llevará a cabo en las siguientes ubicaciones y horas:

DATES AND TIMES OF EARLY VOTING FOR THE JOINT ELECTION TO BE HELD ON SATURDAY, MAY 7, 2016
Fechas y horarios de votación adelantada para la elección conjunta que se celebrará el sábado, 7 de mayo 2016

Rowlett City Hall Annex
4004 Main Street
Rowlett, Texas

DATES AND TIMES OF EARLY VOTING
FECHAS Y HORARIOS DE VOTACIÓN ADELANTADA

April 25 (MONDAY THROUGH FRIDAY) April 29	**8 AM TO 5 PM**
25 de avril (lunes a viernes) 29 de avril	***8 a 5 p***
April 30 (SATURDAY)	**8 AM TO 5 PM**
30 de avril (sábado)	***8 a 5 p***
May 1 (SUNDAY)	**1 PM TO 6 PM**
1 de mayo (domingo)	***1 p 6 p***
May 2 (MONDAY AND TUESDAY) May 3	**7 AM TO 7 PM**
2 de mayo (lunes y martes) 6 de mayo	***7 a 7 p***

**** Subject to Change / sujeto a cambios***

Location of Election Day Polling Place

Ubicación de las casillas electroales el Día de Elección

MAY 7 (SATURDAY)
7 DE MAYO (SÁBADO)
TIMES OF VOTING
HORARIOS DE LAS VOTACIÓNES
7 AM TO 7 PM
7AM A 7PM

CULLINS LAKE POINTE SCHOOL	**5701 SCENIC DRIVE**	**ROWLETT**	**75088**
COYLE MIDDLE SCHOOL	**4500 SKYLINE DRIVE**	**ROWLETT**	**75088**
SCHRADE MIDDLE SCHOOL	**6201 DANDRIDGE ROAD**	**ROWLETT**	**75089**
HERFURTH ELEM SCHOOL	**7500 MILLER ROAD**	**ROWLETT**	**75088**

Applications for ballot by mail shall be mailed to:
Las solicitudes para boletas que se votaran en ausencia por correo deberán enviarse a:

Toni Pippins-Poole, Dallas County Elections Administrator
(Name of Early Voting Clerk)
(Nombre del Secretario(a) de la Votacion Adelantada)

2377 N. Stemmons Freeway, Suite 820
(Address) *(Direccion)*

Dallas, Texas 75207
(City) *(Ciudad)* (Zip Code) *(Zona Postal)*

Applications for ballot by mail must be received no later than the close of business on
(Las Solicitudes para boletas que se votaran en ausencia por correo deberan recibirse para el fin de las horas de negocio el)

April 26, 2016 *(26 de avril de 2016)*

Issued the 16th day of February, 2016.
Emitida 16 de febrero 2016.

Signature of Mayor
Firma del Alcalde

Signature of Councilmember
Firma de la miembro del consejo

Signature of Councilmember
Firma de la miembro del consejo

Signature of Councilmember
Firma de la miembro del consejo

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DRAFT

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