



# CITY OF MANSFIELD

1200 E. Broad St.  
Mansfield, TX 76063  
mansfieldtexas.gov

## Meeting Agenda

### City Council

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Monday, October 9, 2023

3:00 PM

Council Chambers

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#### REGULAR MEETING

1. **3:00 P.M. - CALL MEETING TO ORDER**

2. **PRESENTATION**

President's Volunteer Service Award - HIM Center and Mansfield Mission Center

3. **PROCLAMATION**

[23-5655](#)

Proclamation - National Community Planning Month 2023

Attachments: [Proclamation](#)

4. **WORK SESSION**

Discussion Regarding the October 9, 2023 Consent Agenda Items

5. **RECESS INTO EXECUTIVE SESSION**

*Pursuant to Section 551.071, Texas Government Code, the Council reserves the right to convene in Executive Session(s), from time to time as deemed necessary during this meeting for any posted agenda item, to receive advice from its attorney as permitted by law.*

A. **(i) Pending or Contemplated Litigation or to Seek the Advice of the City Attorney Pursuant to Section 551.071 (1)**

Seek Advice of City Attorney Regarding Legal Issues Pertaining to Economic Development Projects Listed in Section 3.D of the Agenda

A. **(ii) Consultation with Attorney on a Matter in Which the Duty of the Attorney to the Governmental Body Under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas Clearly Conflicts with this Chapter (Open Meetings Act) Pursuant to Section 551.071 (2)**

Seek Advice of City Attorney Regarding the American Rescue Plan

Seek Advice of City Attorney Regarding Debt Issuance

**B. Discussion Regarding Possible Purchase, Exchange, Lease, or Value of Real Property Pursuant to Section 551.072**

Land Acquisition for Future Development

**C. Personnel Matters Pursuant to Section 551.074**

City Manager Evaluation

**D. Deliberation Regarding Commercial or Financial Information Received From or the Offer of a Financial or Other Incentive Made to a Business Prospect Seeking to Locate, Stay or Expand in or Near the Territory of the City and with which the City is Conducting Economic Development Negotiations Pursuant to Section 551.087**

Economic Development Project #15-02

Economic Development Project #21-26

Economic Development Project #22-23

**6. 6:00 PM OR IMMEDIATELY FOLLOWING EXECUTIVE SESSION - RECONVENE INTO REGULAR BUSINESS SESSION**

**7. INVOCATION**

**8. PLEDGE OF ALLEGIANCE**

**9. TEXAS PLEDGE**

"Honor the Texas Flag; I Pledge Allegiance to Thee, Texas, One State Under God; One and Indivisible"

**10. CITIZEN COMMENTS**

*Citizens wishing to address the Council on non-public hearing agenda items and items not on the agenda may do so at this time. Due to regulations of the Texas Open Meetings Act, please do not expect a response from the Council as they are not able to do so. THIS WILL BE YOUR ONLY OPPORTUNITY TO SPEAK UNLESS YOU ARE SPEAKING ON A SCHEDULED PUBLIC HEARING ITEM. After the close of the citizen comments portion of the meeting only comments related to public hearings will be heard. All comments are limited to five (5) minutes.*

*In order to be recognized during the "Citizen Comments" or during a Public Hearing (applicants included), please complete a blue or yellow card located at the entrance of the Council Chambers. Please present the card to the Assistant City Secretary prior to the start of the meeting.*

**11. COUNCIL ANNOUNCEMENTS****12. STAFF COMMENTS**

*In addition to matters specifically listed below, Staff comments may include updates on ongoing or proposed projects and address of posted agenda items.*

**A. City Manager Report or Authorized Representative**

Current/Future Agenda Items

Vehicle Parking Regulations

**13. TAKE ACTION NECESSARY PURSUANT TO EXECUTIVE SESSION****14. CONSENT AGENDA**

*All matters listed under consent agenda have been previously discussed, require little or no deliberation, or are considered to be routine by the council. If discussion is desired, then an item will be removed from the consent agenda and considered separately. Otherwise, approval of the consent agenda authorizes the City Manager to implement each item in accordance with staff's recommendation.*

**ITEMS TO BE REMOVED FROM THE CONSENT AGENDA****[23-5630](#)**

Resolution - A Resolution of the City Council of the City of Mansfield, Texas, Approving the Award of a Construction Manager at Risk (CMAR) Contract to Steele & Freeman for the Expansion of the Service Center and Animal Shelter Project; Finding that the Meeting at Which this Resolution is Passed is Open to the Public as Required by Law; And Declaring an Effective Date (Utility Fund)

**Presenters:** Matt Jones

**Attachments:** [Resolution](#)

**[23-5639](#)**

Resolution - A Resolution of the City Council of the City of Mansfield, Texas, Authorizing the Negotiation, Execution and Purchase of Approximately 3 Acres Generally Located at the Intersection of Smith Street and Depot Street, More Specifically Known as 115 Depot Street, 217 Smith Street, and 219 Smith Street, and Authorizing the Execution of any Document Necessary to Implement this Resolution; And Declaring an Effective Date

**Presenters:** Matt Jones

**Attachments:** [Resolution](#)

[Exhibit A - Map](#)

**[23-5641](#)**

Resolution - A Resolution of the City Council of the City of Mansfield, Texas, Approving a Professional Services Contract Between The City of Mansfield, TX and Birkhoff, Hendricks and Carter, LLP, in an Amount

Not to Exceed \$100,000.00 for Development Review Services (General Fund)

**Presenters:** Raymond Coffman

**Attachments:** [Resolution](#)

[Exhibit A - Contract](#)

[23-5642](#)

Resolution - A Resolution Awarding H&H Concrete on Demand, Inc., Cornerstone Ontime Concrete, LLC, and Custom-Crete as the Vendors for Small Batch Mix On-Site Concrete for Miscellaneous City-Wide Street and Sidewalk Repairs (Street Operations Department Maintenance Budget - General Fund)

**Presenters:** David Boski

**Attachments:** [Resolution](#)

[Exhibit A - Bid Tabulation](#)

[23-5646](#)

Resolution - A Resolution of the City Council of the City of Mansfield, Texas, Approving a Chapter 380 Agreement and Contract of Sale Between the City of Mansfield, Texas, and HMO Real Estate 40, LLC; Finding that the Meeting at which this Resolution is Passed is open to the Public as Required by Law; Authorizing the City Manager or his Designee, to Execute Said Agreements; and Declaring an Effective Date (General Fund)

**Presenters:** Jason Moore

**Attachments:** [Resolution](#)

[Exhibit A - 380 Agreement](#)

[Exhibit B - Contract of Sale](#)

[23-5647](#)

Resolution - A Resolution of the City Council of the City of Mansfield, Texas Approving a Client Services Agreement with Credit Systems International, Inc. for the Collection of Emergency Medical Services and Utility Delinquent Accounts; Finding that the Meeting at which this Resolution is Passed is Open to the Public as Required by Law; and Declaring an Effective Date

**Presenters:** Troy Lestina

**Attachments:** [Resolution](#)

[Exhibit A - Client Services Agreement](#)

[23-5625](#)

Minutes - Approval of the September 25, 2023 Regular City Council Meeting Minutes

**Presenters:** Susana Marin

**Attachments:** [9-25-23 DRAFT Meeting Minutes](#)

[23-5636](#)

Minutes - Approval of the September 29, 2023 Special City Council Meeting Minutes

**Presenters:** Susana Marin

**Attachments:** [9-29-23 DRAFT Meeting Minutes](#)



**END OF CONSENT AGENDA****15. OLD BUSINESS**[22-4885](#)

Ordinance - Discussion and Possible Action Regarding Changes to the Accessory Dwelling Unit Ordinance Amending Chapter 155, "Zoning" to revise the definition of an accessory dwelling in Section 155.012; to repeal Section 155.082(E)(7) in its entirety; and to revise regulations related to accessory dwellings in Section 155.099(B)(35); (OA#22-007)

**Presenters:** Jason Alexander

**Attachments:** [Ordinance](#)

[Ordinance \(Redlined\)](#)

[23-5611](#)

Resolution - A Resolution of the City Council of the City of Mansfield, Texas, Awarding a Construction Contract to Home Run Construction LLC of Italy, Texas in an Amount Not to Exceed \$1,519,130.02 for Construction of a New Parking Lot and Drive at Katherine Rose Memorial Park; Finding That the Meeting at Which This Resolution is Passed is Open to the Public as Required by Law; And Declaring an Effective Date (ARPA, General Obligation Bonds, MPFDC Fund)

**Presenters:** Matt Young

**Attachments:** [Resolution](#)

[Exhibit A - Bid Tabulation](#)

**16. PUBLIC HEARING AND FIRST AND FINAL READING**[23-5606](#)

Ordinance - Public Hearing and First and Final Reading of an Ordinance Approving Amendments of Chapter 155 of the Mansfield Code of Ordinances Amending the Regulations in Section 155.082(E)(6) Related to Accessory Buildings or Structures and Section 155.099(B)(5), "Residential Accessory Buildings" (OA#23-010)

**Presenters:** Jason Alexander

**Attachments:** [Ordinance](#)

[Ordinance \(Redlined\)](#)

**17. NEW BUSINESS**[23-5632](#)

Ordinance - First and Final Reading of an Ordinance Approving Amendments of the Subdivision Control Ordinance Amending the Regulations in Section 2.04(D), "Final Plat", Section 2.06(A)(2) and (B), "Replats", Section 3.09, "Methods of Approval", and Section 10, Subsection N, "Screening" (OA#23-009)

**Presenters:** Art Wright

**Attachments:** [Ordinance](#)

[Exhibit A](#)

[Ordinance \(Redlined\)](#)[23-5577](#)

Resolution - A Resolution of the City Council of the City of Mansfield, Texas, Approving a Reinstatement and First Amendment to Contract of Sale and an Amendment to the TIRZ Development Agreement Between the City of Mansfield, Texas, The Mansfield Economic Development Corporation, The Board of Directors of Reinvestment Zone Number Two, City of Mansfield, and HGRC Mansfield, LP; Finding that the Meeting at which this Resolution is Passed is Open to the Public as Required by Law; Authorizing the City Manager or his Designee, The MEDC Board President, and Chairman of TIRZ #2 Board, to Execute Said Agreement; And Declaring an Effective Date (General Fund/MEDC/TIRZ #2)

**Presenters:** Jason Moore

**Attachments:** [Resolution](#)

[Exhibit A - PSA First Amendment](#)

[Exhibit B - TIRZ First Amendment](#)

[23-5643](#)

Resolution - A Resolution of the City Council of the City of Mansfield, Texas, Approving an Economic Development Agreement Between the City of Mansfield, Texas, The Mansfield Economic Development Corporation, The Board of Directors of Reinvestment Zone Number Two, City of Mansfield, and Nack Development, LLC; Finding that the Meeting at which this Resolution is Passed is Open to the Public as Required by Law; Authorizing the City Manager or his Designee, The MEDC Board President, and Chairman of TIRZ #2 Board, to Execute Said Agreement; And Declaring an Effective Date (General Fund/MEDC/TIRZ #2)

**Presenters:** Jason Moore

**Attachments:** [Resolution](#)

[Exhibit A - Economic Development Agreement](#)

[23-5644](#)

Resolution - A Resolution of the City Council of the City of Mansfield, Texas, Approving an Economic Development Agreement Between the City of Mansfield, Texas, The Mansfield Economic Development Corporation, The Board of Directors of Reinvestment Zone Number Two, City of Mansfield, and Oakhollow Group, Ltd.; Finding that the Meeting at which this Resolution is Passed is Open to the Public as Required by Law; Authorizing the City Manager or his Designee, The MEDC Board President, and Chairman of TIRZ #2 Board, to Execute Said Agreement; And Declaring an Effective Date (General Fund/MEDC/TIRZ #2)

**Presenters:** Jason Moore

**Attachments:** [Resolution](#)

[Exhibit A - Economic Development Agreement](#)

[23-5624](#)

Discussion and Possible Action on a Resolution Regarding the

Nomination of Candidates to Serve on the Board of Directors for the Tarrant Appraisal District, Johnson County Appraisal District and Ellis County Appraisal District for the Calendar Years 2024 and 2025

**Presenters:** Troy Lestina

**Attachments:** [Resolution](#)

[TAD Nomination & Appointment to Board of Directors](#)

[Johnson CAD Board of Directors Election 2024-2025](#)

[Letter with Voting Entitlements for 2024](#)

**18. ADJOURN**

**CERTIFICATION**

THIS IS TO CERTIFY THAT A COPY OF THE NOTICE OF the October 9, 2023 Regular City Council Agenda was posted on the City Hall bulletin board, a place convenient and readily accessible to the general public at all times, and to the City's website, mansfieldtexas.gov, on Friday, October 6, 2023 prior to 3:00 p.m., in compliance with Chapter 551, Texas Government Code.

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Susana Marin, City Secretary

This facility is ADA compliant. If you plan to attend this public meeting and have a disability that requires special arrangements, please call (817) 473-0211 at least 48 hours in advance. Reasonable accommodation will be made to assist your needs. PLEASE SILENCE CELL PHONES WHILE THE CITY COUNCIL MEETING IS IN SESSION.



# CITY OF MANSFIELD

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## STAFF REPORT

File Number: 23-5655

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**Agenda Date:** 10/9/2023

**Version:** 1

**Status:** To Be Presented

**In Control:** City Council

**File Type:** Proclamation

**Agenda Number:**

**Title**

Proclamation - National Community Planning Month 2023

**WHEREAS,** community change is constant and affects all cities, counties, and towns; and

**WHEREAS,** community planning helps manage this change in a way to provide a better quality of life for all; and

**WHEREAS,** community planning provides an opportunity for all residents to be meaningfully engaged in making decisions for the future of Mansfield; and

**WHEREAS,** the full benefits of planning require committed public officials and residents who understand, support, and demand excellence in planning and plan implementation; and

**WHEREAS,** October is designated National Community Planning Month and is an opportunity to highlight the essential part planning plays for a healthy community; and

**WHEREAS,** the City of Mansfield has been selected as a 2023 American Planning Association of Texas Planning Excellence award recipient;

**NOW, THEREFORE,** I, Michael Evans, Mayor of the City of Mansfield, join with the members of the Mansfield City Council to proclaim October 2023 as

## **NATIONAL COMMUNITY PLANNING MONTH**

in the City of Mansfield.

**IN WITNESS THEREOF,** I do hereby set my hand and cause the official seal of the City of Mansfield to be affixed this 9<sup>th</sup> day of October, 2023.



# CITY OF MANSFIELD

1200 E. Broad St.  
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## STAFF REPORT

File Number: 23-5630

**Agenda Date:** 10/9/2023

**Version:** 1

**Status:** Consent

**In Control:** City Council

**File Type:** Resolution

**Agenda Number:**

**Title**

Resolution - A Resolution of the City Council of the City of Mansfield, Texas, Approving the Award of a Construction Manager at Risk (CMAR) Contract to Steele & Freeman for the Expansion of the Service Center and Animal Shelter Project; Finding that the Meeting at Which this Resolution is Passed is Open to the Public as Required by Law; And Declaring an Effective Date (Utility Fund)

**Requested Action**

Adoption of a CMAR delivery method, and authorization for City Manager to award such a contract to Steele & Freeman.

**Recommendation**

Staff recommends approval.

**Description/History**

CMAR delivery method is believed to be an effective method for the expansion of the service center and animal shelter project.

**Justification**

CMAR delivery method is believed to be an effective method for the expansion of the service center and animal shelter project.

**Funding Source**

General Fund

**Prepared By**

Matt Jones, Assistant City Manager

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANSFIELD, TEXAS, APPROVING THE AWARD OF A CONSTRUCTION MANAGER AT RISK (CMAR) CONTRACT TO STEELE & FREEMAN FOR THE EXPANSION OF THE SERVICE CENTER AND ANIMAL SHELTER PROJECT; FINDING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; AND DECLARING AN EFFECTIVE DATE (UTILITY FUND)**

**WHEREAS**, The City of Mansfield (City) is a home rule municipality operating under and governed by the laws and Constitution of the State of Texas; and,

**WHEREAS**, the City Council previously authorized the use of the CMAR method for the construction of the expansion of the Service Center and Animal Shelter project (Project) in the City of Mansfield, Texas, and found that the CMAR method would provide the best value for the City; and,

**WHEREAS**, the City issued RFQ 2023-41-01-01 seeking a qualified CMAR to provide design phase assistance and complete construction services for the Project; and,

**WHEREAS**, Steele & Freeman submitted a response to the RFQ showing extensive experience in providing CMAR services; and,

**WHEREAS**, City staff has reviewed and evaluated all the responses and recommends the selection of Steele & Freeman for the CMAR on the Project; and,

**WHEREAS**, funding for this contract is available from the Utility Fund.

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

**SECTION 1.**

The findings and recitations set out in the preamble are found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes.

**SECTION 2.**

A contract for CMAR services for the Project with Steele & Freeman is hereby approved.

**SECTION 3.**

The City Council hereby delegates its authority under Texas Government Code Chapter 2269 to the City Manager, designates the City Manager as its designated representative for purposes related to this Project, and authorizes the City Manager and his designee(s) to take all actions necessary to accomplish the purposes and implementation of this Resolution.

**SECTION 4.**

It is hereby officially found and determined that the meeting at which this Resolution is passed is open to the public as required by law and the public notice of the time, place, and purpose of said meeting was given as required.

**SECTION 5.**

This Resolution shall be effective from and after its passage.

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF  
MANSFIELD THIS 9<sup>TH</sup> DAY OF OCTOBER, 2023.**

\_\_\_\_\_  
**Michael Evans**, Mayor

**ATTEST:**

\_\_\_\_\_  
**Susana Marin**, City Secretary





# CITY OF MANSFIELD

1200 E. Broad St.  
Mansfield, TX 76063  
mansfieldtexas.gov

## STAFF REPORT

File Number: 23-5639

**Agenda Date:** 10/9/2023

**Version:** 1

**Status:** Consent

**In Control:** City Council

**File Type:** Resolution

**Agenda Number:**

**Title**

Resolution - A Resolution of the City Council of the City of Mansfield, Texas, Authorizing the Negotiation, Execution and Purchase of Approximately 3 Acres Generally Located at the Intersection of Smith Street and Depot Street, More Specifically Known as 115 Depot Street, 217 Smith Street, and 219 Smith Street, and Authorizing the Execution of any Document Necessary to Implement this Resolution; And Declaring an Effective Date

**Requested Action**

Authorization to negotiate, purchase, and execute any documents necessary for the purchase of land described by the title.

**Recommendation**

Staff recommends approval.

**Description/History**

Approximately 3 acres generally located at the intersection of Smith Street and Depot Street, more specifically known as 115 Depot Street, 217 Smith Street, and 219 Smith Street.

**Justification**

City Council seeks to continue to prioritize the development of Historic Downtown Mansfield and has identified this location as an ideal location for future development.

**Funding Source**

General Fund

**Prepared By**

Matt Jones, Assistant City Manager

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANSFIELD, TEXAS, AUTHORIZING THE NEGOTIATION, EXECUTION AND PURCHASE OF APPROXIMATELY 3 ACRES GENERALLY LOCATED AT THE INTERSECTION OF SMITH AND DEPOT STREET, MORE SPECIFICALLY KNOWN AS 115 DEPOT STREET, 217 SMITH STREET, 219 SMITH STREET, AUTHORIZING THE EXECUTION OF ANY DOCUMENTS NECESSARY TO IMPLEMENT THIS RESOLUTION; FINDING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; AND DECLARING AN EFFECTIVE DATE (GENERAL FUND)**

**WHEREAS**, The City of Mansfield (City) is a home rule municipality operating under and governed by the laws and Constitution of the State of Texas; and,

**WHEREAS**, The City Council is prioritizing the development and investment into Mansfield's Historic Downtown Area; and,

**WHEREAS**, The City and City Council have identified these properties as ideal locations for future development that would be beneficial to the City; and,

**WHEREAS**, funding for this contract is available from the General Fund.

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

**SECTION 1.**

The findings and recitations set out in the preamble are found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes.

**SECTION 2.**

The City Council hereby authorizes the purchase of approximately three (3) acres of property generally located at the intersection of Smith and Depot Street, more specifically known as 115 Depot Street, 217 Smith Street, and 219 Smith Street, and hereby authorizes the City Manager, and/or the City Manager's designees, to negotiate and execute any and all necessary documents to accomplish same.

**SECTION 3.**

It is hereby officially found and determined that the meeting at which this Resolution is passed is open to the public as required by law and the public notice of the time, place, and purpose of said meeting was given as required.

**SECTION 4.**

This Resolution shall be effective from and after its passage.

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF  
MANSFIELD THIS 9<sup>TH</sup> DAY OF OCTOBER, 2023.**

\_\_\_\_\_  
**Michael Evans, Mayor**

**ATTEST:**

\_\_\_\_\_  
**Susana Marin, City Secretary**





# CITY OF MANSFIELD

1200 E. Broad St.  
Mansfield, TX 76063  
mansfieldtexas.gov

## STAFF REPORT

File Number: 23-5641

**Agenda Date:** 10/9/2023

**Version:** 1

**Status:** Consent

**In Control:** City Council

**File Type:** Resolution

**Agenda Number:**

**Title**

Resolution - A Resolution of the City Council of the City of Mansfield, Texas, Approving a Professional Services Contract Between The City of Mansfield, TX and Birkhoff, Hendricks and Carter, LLP, in an Amount Not to Exceed \$100,000.00 for Development Review Services (General Fund)

**Requested Action**

Consider the authorization of funding and approval of a contract.

**Recommendation**

The authorization of funding in an amount not to exceed \$100,000.00 and approval of development review services with Birkhoff, Hendricks and Carter, LLP.

**Description/History**

An evaluation of the workforce was made in the past year to look for ways to increase efficiency of operations. It was concluded that the engineering review of public infrastructure plans to support development projects could be done more efficiently by a third-party consultant.

After review of qualifications and staff capacity, Staff decided to contract with Birkhoff, Hendricks and Carter, LLP.

This firm has reviewed a few projects on a project-by-project basis and has met Staff's performance expectations. Staff believes this firm has the necessary expertise and staff to meet the department's desired level of review and schedule. The fee for reviews will be based on the firm's salary costs for review.

**Justification**

It is expected that this service will provide efficient and expedient engineering infrastructure plan review for all development projects.

The Director of Engineering Services will be in attendance at the meeting to answer Council's questions regarding the proposed funding and contracts.

**Funding Source**

General Fund

**Prepared By**

Raymond Coffman, Director of Engineering Services, Engineering Services, 817-276-4238

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANSFIELD, TEXAS, APPROVING A PROFESSIONAL SERVICES CONTRACT BETWEEN THE CITY OF MANSFIELD, TX AND BIRKHOFF, HENDRICKS AND CARTER, LLP IN AN AMOUNT NOT TO EXCEED \$100,000.00 FOR DEVELOPMENT REVIEW SERVICES; FINDING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; AND DECLARING AN EFFECTIVE DATE (GENERAL FUND)**

**WHEREAS**, The City of Mansfield (City) is a home rule municipality operating under and governed by the laws and Constitution of the State of Texas; and,

**WHEREAS**, Birkhoff, Hendricks and Carter, LLP has provided a proposal for development review services in an amount not to exceed One Hundred Thousand and no/100 dollars (\$100,000.00); and,

**WHEREAS**, after review of the proposal City staff recommends approving a professional services contract with Birkhoff, Hendricks and Carter, LLP; and,

**WHEREAS**, funding for this contract is available from the General Fund.

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

**SECTION 1.**

The findings and recitations set out in the preamble are found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes.

**SECTION 2.**

A Professional Services Contract with Birkhoff, Hendricks and Carter, LLP in an amount not to exceed One Hundred Thousand and no/100 dollars (\$100,000.00) for development review services, in substantially the same form as the attached Exhibit "A", is hereby approved.

**SECTION 3.**

It is hereby officially found and determined that the meeting at which this Resolution is passed is open to the public as required by law and the public notice of the time, place, and purpose of said meeting was given as required.

**SECTION 4.**

This Resolution shall be effective from and after its passage.

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF  
MANSFIELD THIS 9<sup>TH</sup> DAY OF OCTOBER, 2023.**

\_\_\_\_\_  
**Michael Evans, Mayor**

**ATTEST:**

\_\_\_\_\_  
**Susana Marin, City Secretary**



THE STATE OF TEXAS   §  
  §  
COUNTY OF TARRANT   §

**PROFESSIONAL SERVICES CONTRACT  
FOR THE  
CITY OF MANSFIELD, TEXAS**

This Professional Services Contract, hereinafter referred to as "Contract" is entered into between the **CITY OF MANSFIELD, TEXAS**, a municipal corporation of the State of Texas, hereinafter referred to as "CITY", and Birkhoff, Hendricks and Carter, L.L.P., hereinafter referred to as "PROFESSIONAL". CITY and PROFESSIONAL are each a "Party" and are collectively referred to herein as the "Parties".

**ARTICLE I.  
EMPLOYMENT OF PROFESSIONAL**

For and in consideration of the covenants herein contained, PROFESSIONAL hereby agrees to perform professional services in connection with the project as set forth below, and CITY agrees to pay, and PROFESSIONAL agrees to accept fees as set forth in this Contract as full and final compensation for all services performed under this Contract for **Development Reviews**. If PROFESSIONAL is representing that it has special expertise in one or more areas to be utilized in this Contract, then PROFESSIONAL agrees to perform those special expertise services to the appropriate local, regional and national professional standards. PROFESSIONAL shall provide professional services, as further described in Exhibit "A", within the City of Mansfield, Tarrant County, Texas, and hereinafter referred to as the "Project."

**ARTICLE II.  
PAYMENT FOR SERVICES**

In consideration of the services to be performed by PROFESSIONAL under the terms of this Contract, CITY shall pay PROFESSIONAL for services actually performed, a fee, not to exceed One Hundred Thousand Dollars and 00/100 (\$100,000.00) as stated in Exhibit "A", unless other conditions necessitate additional services, which must be authorized in advance in writing by CITY and shall be billed based on rates as shown in Exhibit "A", if applicable. In the event of a conflict between Exhibit "A" and this Contract, this Contract shall control. Nothing contained in this Contract shall require CITY to pay for any work that is unsatisfactory as determined by CITY or which is not submitted in compliance with the terms of this Contract. CITY will not be required to make any payments to PROFESSIONAL when PROFESSIONAL is in default under this Contract, nor shall this paragraph constitute a waiver of any right, at law or in equity, which CITY may have if PROFESSIONAL is in default, including the right to bring legal action for damages or for specific performance under this Contract. Waiver of any default under this Contract shall not be deemed a waiver of any subsequent default.

**ARTICLE III.  
CHARACTER AND EXTENT OF SERVICES**

PROFESSIONAL, and its employees or associates, jointly shall perform all the services under this Contract in a manner consistent with the degree of professional skill and care and the orderly progress of the work ordinarily exercised by members of the same profession currently practicing under similar circumstances. PROFESSIONAL represents that all its employees who

perform services under this Contract shall be qualified and competent to perform the services described in Exhibit "A".

#### **ARTICLE IV. TIME FOR COMPLETION**

The term of this Contract shall begin on the last date of execution of this Contract. PROFESSIONAL understands and agrees that time is of the essence. All review services, written reports, and other data are to be completed and delivered to CITY as shown on Exhibit "A".

#### **ARTICLE V. PROFESSIONAL'S COORDINATION WITH OWNER**

PROFESSIONAL shall be available for conferences with CITY so that Development Reviews can be designed with the full benefit of CITY's experience and knowledge of existing needs and facilities and be consistent with current policies and construction standards. CITY shall make available to PROFESSIONAL all existing plans, maps, field notes, and other data in its possession relative to the Development Reviews. PROFESSIONAL may show justification to CITY for changes in design from CITY standards due to the judgement of said PROFESSIONAL of a cost savings to CITY and/or due to the surrounding topographic conditions. CITY shall make the final decision as to any changes after appropriate request by PROFESSIONAL.

#### **ARTICLE VI. TERMINATION**

This Contract may be terminated at any time by CITY, with or without cause, without penalty or liability except as may otherwise be specified herein upon thirty (30) days written notice. Upon receipt of written notice by CITY, PROFESSIONAL shall immediately discontinue all services and PROFESSIONAL shall immediately terminate placing orders or entering into contracts for supplies, assistance, facilities or materials in connection with this Contract and shall proceed to cancel promptly all existing contracts insofar as they are related to this Contract. As soon as practicable after receipt of notice of termination, PROFESSIONAL shall submit a statement, showing in detail the services performed but not paid for under this Contract to the date of termination. CITY shall then pay PROFESSIONAL promptly the accrued and unpaid services to the date of termination; to the extent the services are approved by CITY.

This Contract may be terminated by PROFESSIONAL, with mutual consent of CITY, at any time for any cause without penalty or liability except as may otherwise be specified herein upon thirty (30) days written notice. PROFESSIONAL shall submit written notice to terminate Contract and all completed or partially completed studies, reports, drawings, documents, and material prepared under this Contract shall then be delivered to City which it, its agents, or contractors, may use without restraint for the purpose of completing the Project. All rights, duties, liabilities, and obligations accrued prior to such termination shall survive termination. Professional shall be liable for any additional cost to complete the project as a result of Professional's termination of this Contract without cause.

**ARTICLE VII.**  
**OWNERSHIP OF DOCUMENTS**

Upon completion of PROFESSIONAL services and receipt of payment in full, the Review documents and other documents or instruments of professional services prepared or assembled by PROFESSIONAL under this Contract shall become the sole property of CITY and shall be delivered to CITY, without restriction on future use. PROFESSIONAL shall retain in its files all original drawings, specifications, documents or instruments of professional services as well as all other pertinent information for the Project. PROFESSIONAL shall have no liability for changes made to the drawings and other documents by other professionals subsequent to the completion of the Contract. CITY shall require that any such change be sealed, dated, and signed by the PROFESSIONAL making that change and shall be appropriately marked to reflect what was changed or modified.

**ARTICLE VIII.**  
**INSURANCE**

- A. PROFESSIONAL shall, at its own expense, purchase, maintain and keep in force during the term of this Contract such insurance as set forth below. PROFESSIONAL shall not commence work under this Contract until PROFESSIONAL has obtained all the insurance required under this Contract and such insurance has been approved by CITY, nor shall the PROFESSIONAL allow any subcontractor to commence work on its own subcontract until all similar insurance of the subcontractor has been obtained and approved. All insurance policies provided under this Contract shall be written on an "occurrence" basis except Professional Liability. The insurance requirements shall remain in effect throughout the term of this Contract.
1. Worker's Compensation Insurance, as required by law; Employers Liability Insurance of not less than \$500,000 for each accident, \$500,000 disease-each employee, \$500,000 disease-policy limit.
  2. Commercial General Liability Insurance, including Independent Contractor's Liability, Completed Operations and Contractual Liability, covering, but not limited to the indemnification provisions of this Contract, fully insuring PROFESSIONAL'S liability for injury to or death of employees of CITY and third parties, extended to include personal injury liability coverage and for damage to property of third parties, with a combined bodily injury and property damage minimum limit of \$1,000,000 per occurrence.
  3. Comprehensive Automobile and Truck Liability Insurance, covering owned, hired and non-owned vehicles, with a combined bodily injury and property damage limit of \$1,000,000 per occurrence; or separate limits of \$250,000 for bodily injury (per person), \$500,000 for bodily injury (per accident), and \$100,000 for property damage. This clause does not apply to personal owned vehicles.

4. Professional Liability Insurance: PROFESSIONAL shall obtain and maintain at all times during the prosecution of the work under this Contract professional liability insurance. Limits of liability shall be \$3,000,000 per claim annual policy aggregate. Subject to limit of liability in Exhibit "A".
- B. Each insurance policy to be furnished by PROFESSIONAL shall include the following conditions by endorsement to the policy:
1. Name CITY as an additional insured as to all applicable coverage(s) except Worker's Compensation and Employer's Liability Insurance and Professional Liability Insurance.
  2. Each policy will require that thirty (30) days prior to the expiration, cancellation, nonrenewal or any material change in coverage, a notice thereof shall be given to CITY by certified mail to:

Risk Manager  
City of Mansfield  
1200 E. Broad St.  
Mansfield, Texas 76063
- If the policy is canceled for nonpayment of premium, only ten (10) days advance written notice to CITY is required;
3. The term "Owner" or "CITY" shall include all authorities, boards, bureaus, commissions, divisions, departments and offices of CITY and the individual members, employees and agents thereof in their official capacities, and/or while acting on behalf of CITY;
  4. The policy phrase "other insurance" shall not apply to CITY where CITY is an additional insured on the policy; and
  5. All provisions of the Contract concerning liability, duty and standards of care, together with the indemnification provision, shall be underwritten by contractual liability coverage sufficient to include such obligations within applicable policies.
- C. Concerning insurance to be furnished by PROFESSIONAL, it is a condition precedent to acceptability thereof that:
1. Any policy submitted shall not be subject to limitations, conditions or restrictions deemed inconsistent with the intent of the requirements to be fulfilled by PROFESSIONAL. The CITY's decision thereon shall be final.
  2. All policies are to be written through companies duly approved to transact that class of insurance in the State of Texas; and

D. PROFESSIONAL agrees to the following:

1. PROFESSIONAL hereby waives subrogation rights for loss or damage to the extent same are covered by insurance. Insurers shall have no right of recovery or subrogation against CITY, it being the intention that the insurance policies shall protect all Parties to the Contract and be primary coverage for all losses covered by the policies;
2. Companies issuing the insurance policies and PROFESSIONAL shall have no recourse against CITY for payment of any premiums, or assessments for any deductible, as all such premiums are the sole responsibility and risk of PROFESSIONAL;
3. Approval, disapproval, or failure to act by CITY regarding any insurance supplied by PROFESSIONAL (or any subcontractors) shall not relieve PROFESSIONAL of full responsibility or liability for damages and accidents as set forth in the Contract documents. Neither shall the insolvency or denial of liability by the insurance company exonerate PROFESSIONAL from liability;
4. No special payments shall be made for any insurance that PROFESSIONAL and subcontractors, if any, are required to carry; all are included in the Contract price and the Contract unit prices; and
5. Any of the insurance policies required under this section may be written in combination with any of the others, where legally permitted, but none of the specified limits may be lowered thereby. CITY's Risk Manager reserves the right to review the insurance requirements stated in this Contract during the effective period.

#### **ARTICLE IX. MONIES WITHHELD**

When CITY has reasonable grounds for believing that:

- A. PROFESSIONAL will be unable to perform this Contract fully and satisfactorily within the time fixed for performance; or
- B. A claim exists or will exist against PROFESSIONAL or CITY arising out of the negligence of the PROFESSIONAL or the PROFESSIONAL's breach of any provision of this Contract; then CITY may withhold payment of any amount otherwise due and payable to PROFESSIONAL under this Contract. Any amount so withheld may be retained by CITY for that period of time as it may deem advisable to protect CITY against any loss and may, after written notice to PROFESSIONAL, be applied in satisfaction of any claim described herein. This provision is intended solely for the benefit of CITY by reason of CITY'S failure or refusal to withhold monies. No interest shall be payable by CITY on any amounts withheld under this provision. This provision is not intended to limit or in any way prejudice any other right of CITY.

**ARTICLE X.**  
**NO DAMAGES FOR DELAYS**

Notwithstanding any other provision of this Contract, PROFESSIONAL shall not be entitled to claim or receive any compensation as a result of or arising out of any delay, hindrance, disruption, force majeure, impact or interference, foreseen or unforeseen.

**ARTICLE XI.**  
**PROCUREMENT OF GOODS AND SERVICES FROM MANSFIELD BUSINESSES  
AND/OR HISTORICALLY UNDERUTILIZED BUSINESSES**

In performing this Contract, PROFESSIONAL agrees to use diligent efforts to purchase all goods and services from Mansfield businesses whenever such goods and services are comparable in availability, quality and price.

As a matter of policy with respect to CITY projects and procurements, CITY also encourages the use, if applicable, of qualified contractors, subcontractors and suppliers where at least fifty-one percent (51%) of the ownership of such contractor, subcontractor or supplier is vested in racial or ethnic minorities or women. In the selection of subcontractors, suppliers, or other persons in organizations proposed for work on this Contract, the PROFESSIONAL agrees to consider this policy and to use its reasonable and best efforts to select and employ such company and persons for work on this Contract.

**ARTICLE XII.**  
**RIGHT TO INSPECT RECORDS**

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

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

**ARTICLE XIII.**  
**NO THIRD-PARTY BENEFICIARY**

For purposes of this Contract, including its intended operation and effect, the Parties (CITY and PROFESSIONAL) specifically agree and contract that: (1) the Contract only affects matters/disputes between the Parties to this Contract, and is in no way intended by the Parties to

benefit or otherwise affect any third person or entity, notwithstanding the fact that such third person or entities may be in a contractual relationship with CITY or PROFESSIONAL or both; and (2) the terms of this Contract are not intended to release, either by contract or operation of law, any third person or entity from obligations owing by them to either CITY or PROFESSIONAL.

#### **ARTICLE XIV. SUCCESSORS AND ASSIGNS**

CITY and PROFESSIONAL each bind themselves, their successors, executors, administrators and assigns to the other Party of this Contract and to the successors, executors, administrators and assigns of such other Party in respect to all covenants of this Contract. Neither CITY nor PROFESSIONAL shall assign or transfer its interest herein without the prior written consent of the other.

#### **ARTICLE XV. PROFESSIONAL'S LIABILITY**

Acceptance of the receivables by CITY shall not constitute nor be deemed a release of the responsibility and liability of PROFESSIONAL, its employees, associates, agents or PROFESSIONALS for the accuracy and competency of their designs, working drawings, specifications or other documents and work; nor shall such acceptance be deemed an assumption of responsibility by CITY for any negligent error, omission or inconsistencies in the designs, working drawings, specifications or other documents and work; nor shall such acceptance be deemed an assumption of responsibility or liability by CITY for any negligent error, omission or inconsistencies in the designs, working drawings, specifications or other documents prepared by said PROFESSIONAL, its employees, subcontractors, agents and PROFESSIONALS subject to §271.904 of the Texas Local Government Code.

#### **ARTICLE XVI. INDEMNIFICATION**

*To the extent allowed under Texas law (in particular §271.904 of the Texas Local Government Code), PROFESSIONAL agrees to indemnify and hold CITY, its officers, agents and employees, harmless against any and all claims, lawsuits, judgments, costs and expenses for personal injury (including death), property damage or other harm for which recovery of damages is sought and suffered by any person or persons, to the extent caused by PROFESSIONAL's breach of any of the terms or provisions of this Contract, or by any other negligent act or omission of PROFESSIONAL, its officers, agents, associates, employees or subcontractors, in the performance of this Contract; and unless otherwise prohibited by Texas Local Government Code §271.904, PROFESSIONAL agrees to defend at its own expense any suits or other proceedings brought against the CITY or its officers, agents, or employees resulting from the negligence of CITY, its officers, agents, or employees that may be caused by CITY's breach of material terms or provisions of this Contract, and in the event of joint and concurrent negligence of both PROFESSIONAL and CITY, responsibility and indemnity, if any, shall be apportioned comparatively in accordance with the laws of the State of Texas, without, however, waiving any governmental immunity available to CITY under Texas law and without waiving any defense of the Parties under Texas law. The provisions of this Paragraph are solely for the benefit of the Parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity.*

**ARTICLE XVII.**  
**SEVERABILITY**

If any of the terms, sections, subsections, sentences, clauses, phrases, provisions, covenants or conditions of this Contract are for any reason held to be invalid, void or unenforceable, then these provisions shall be stricken from the Contract and the remainder of the terms, sections, subsections, sentences, clauses, phrases, provisions, covenants, conditions or any other part of this Contract shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

**ARTICLE XVIII.**  
**INDEPENDENT CONTRACTOR**

PROFESSIONAL covenants and agrees that it is an independent contractor and not an officer, agent, servant or employee of CITY; that PROFESSIONAL shall have exclusive control of and the exclusive right to control the details of the work performed hereunder and all persons performing same, and shall be responsible for the acts and omissions of its officers, agents, employees, contractors, subcontractors and PROFESSIONALS; that the doctrine of respondent superior shall not apply as between CITY and PROFESSIONAL, its officers, agents, employees, contractors, subcontractors and PROFESSIONALS and nothing herein shall be construed as creating a partnership or joint enterprise between CITY and PROFESSIONAL.

**ARTICLE XIX.**  
**DISCLOSURE**

By signature of this Contract, PROFESSIONAL acknowledges to CITY that he/she has made full disclosure in writing of any existing conflicts of interest or potential conflicts of interest, including personal financial interests, direct or indirect, in property abutting the proposed Project and business relationships with abutting property owners. PROFESSIONAL further agrees that he/she will make disclosure in writing of any conflicts of interest, which develop subsequent to the signing of this Contract and prior to final payment under the Contract.

**ARTICLE XX.**  
**VENUE**

The Parties to this Contract agree and covenant that this Contract will be enforceable in Mansfield, Texas; and that if legal action is necessary to enforce this Contract, exclusive venue will lie in Tarrant County, Texas, or for federal actions in the U.S. District Court Northern District of Texas.

**ARTICLE XXI.**  
**ENTIRE CONTRACT**

This Contract embodies the complete agreement of the Parties hereto, superseding all oral or written previous and contemporaneous agreements between the Parties relating to matters herein, and except as otherwise provided herein, cannot be modified without written agreement of the Parties, including Exhibit "A". In the event of conflicting provisions between this Contract and any attachments or exhibits, this Contract shall be controlling. If there are Amendments and



there are any conflicts between the Amendment and a previous version, the terms of the Amendment will prevail.

**ARTICLE XXII.  
APPLICABLE LAW**

This Contract is entered into subject to the Mansfield City Charter and ordinances of CITY, as same may be amended from time to time, and is subject to and is to be construed, governed, and enforced under all applicable State of Texas and Federal laws. Situs of this Contract is agreed to be Tarrant County, Texas, for all purposes, including performance and execution.

**ARTICLE XXIII.  
DEFAULT**

If at any time during the term of this Contract, PROFESSIONAL shall fail to commence the work in accordance with the provisions of this Contract or fail to diligently provide services in an efficient, timely and careful manner and in strict accordance with the provisions of this Contract, or fail to use an adequate number or quality of personnel or equipment to complete the work or fail to perform any of its obligations under this Contract, then CITY shall have the right, if PROFESSIONAL shall not cure any such default after thirty (30) days written notice thereof, to terminate this Contract and complete the work in any manner it deems desirable, including engaging the services of other Parties therefor. Any such act by CITY shall not be deemed a waiver of any other right or remedy of CITY. If after exercising any such remedy, the cost to CITY of the performance of the balance of the work is in excess of that part of the Contract sum, which has not therefore been paid to PROFESSIONAL hereunder, PROFESSIONAL shall be liable for and shall reimburse CITY for such excess.

**ARTICLE XXIV.  
HEADINGS**

The headings of this Contract are for the convenience of reference only and shall not affect in any manner any of the terms and conditions hereof.

**ARTICLE XXV.  
NON-WAIVER**

It is further agreed that one (1) or more instances of forbearance by CITY in the exercise of its rights herein shall in no way constitute a waiver thereof.

**ARTICLE XXVI.  
REMEDIES**

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

**ARTICLE XXVII.**  
**EQUAL EMPLOYMENT OPPORTUNITY**

PROFESSIONAL shall not discriminate against any employee or applicant for employment because of race, age, color, religion, sex, disability, ancestry, national origin or place of birth. PROFESSIONAL shall take action to ensure that applicants are employed and treated without regard to their race, age, color, religion, sex, disability, ancestry, national origin or place of birth. This action shall include but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection of training including apprenticeship. Upon final determination by a court of competent jurisdiction that the PROFESSIONAL has violated this section, this Contract shall be deemed terminated and PROFESSIONAL's further rights hereunder forfeited.

**ARTICLE XXVIII.**  
**CONSTRUCTION OF CONTRACT**

Both Parties have participated fully in the review and revision of this Contract. Any rule of construction to the effect that ambiguities are to be resolved against the drafting Party shall not apply to the interpretation of this Contract.

**ARTICLE XXIX.**  
**NOTICES**

All notices, communications, and reports required or permitted under this contract shall be personally delivered or mailed to the respective Parties by depositing same in the United States mail, postage prepaid, at the addresses shown below, unless and until either Party is otherwise notified in writing by the other Party, at the following addresses. Mailed notices shall be deemed communicated as of five (5) days after mailing regular mail.

If intended for City, to:	City of Mansfield Attn.: Raymond Coffman, P.E. 1200 E. Broad St. Mansfield, Texas 76063 (817) 276-4238
If intended for Professional, to:	Birkhoff, Hendricks & Carter, L.L.P. Attn: Andrew Mata Jr., P.E. 11910 Greenville Ave., Suite 600 Dallas, Texas 75243 <a href="mailto:amata@bhcllp.com">amata@bhcllp.com</a>

**ARTICLE XXX.**  
**PRIVATE LAND ENTRY**

No entry onto any property of others by PROFESSIONAL on behalf of CITY to survey, or for other reasons related to the performance of services within this Contract shall be made until PROFESSIONAL has secured the landowners' permission to enter and perform such activities, and PROFESSIONAL shall hold CITY harmless from any and all damages arising from activities of PROFESSIONAL on land owned by others.

*[Signature Page Follows]*

EXECUTED this the \_\_\_\_ day of August 2023, by CITY, signing by and through its City Manager, or designee, duly authorized to execute same and by PROFESSIONAL, acting through its duly authorized officials.

"CITY"  
City of Mansfield

By: \_\_\_\_\_  
Raymond Coffman, P.E.  
Director of Engineering Services

ATTEST:

\_\_\_\_\_  
Susana Marin, City Secretary

APPROVED AS TO FORM:

\_\_\_\_\_  
Vanessa Ramirez, Assistant City Manager

"PROFESSIONAL"  
Birkhoff, Hendricks & Carter, L.L.P.  
*A Texas Limited Liability Partnership*  
*Texas Board of Professional Engineers & Land Surveys*  
*Engineering Firm No. 526*  
*Land Surveying Firm No. 100318-06*

By: \_\_\_\_\_  
Name: Andrew Mata Jr., P.E.  
Title: Partner

## CITY OF MANSFIELD

STATE OF TEXAS §

COUNTY OF TARRANT §

This instrument was acknowledged before me on the \_\_\_\_\_ day of August 2023, by  
Raymond Coffman, P.E., Director of Engineering Services of the City of Mansfield.

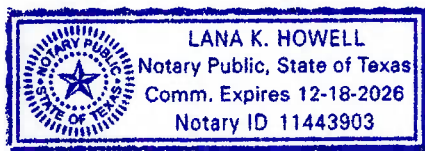
\_\_\_\_\_  
Notary Public in and for the State of Texas

## PROFESSIONAL

STATE OF TEXAS §

COUNTY OF DALLAS §

This instrument was acknowledged before me on the 28<sup>th</sup> day of AUGUST,  
2023, by ANDREW MATA, JR., P.E. of  
BIRKHOFF, HENDRICKS & CARTER, LLP.



Lana K. Howell  
Notary Public in and for the State of Texas

## **EXHIBIT A**

### **SCOPE OF SERVICES**

1. Review development construction plans within fourteen (14) calendar days. City staff to provide plans in electronic .PDF format via electronic mail (e-mail) for review.
2. Review submitted documents for conformance to City's Subdivision Control Ordinance, Engineering Design Regulations, City Standard Construction Details, and good engineering practices. Plans will be marked-up plans in Bluebeam PDF software and emailed to City staff.
3. At City request, review of the development Flood Studies.
4. At City request, attend development meetings.
5. At City request, attend City's final inspection of completed project.
6. At City request, attend Planning and Zoning and City Council Meetings.
7. At City request, attend meetings with developers or developer's engineer.
8. At City request, review the development Traffic Impact Analysis. Review will be completed by Lee Engineering (Traffic Subconsultant Engineers)
9. At City request, review the development Structural Wall Analysis. Review will be completed by Ronald A. Roberts (Structural Subconsultant Engineers).
10. At City request, review the development Geotechnical Reports. Review will be completed by Henley Johnston & Associates (Geotechnical Subconsultant Engineers).

**SCHEDULE**

Construction Plan Review.....	Within fourteen (14) calendar days
Flood Study Review.....	Within fourteen (14) calendar days

## COMPENSATION

Engineering Services for reviews, travel time, and attendance at meetings shall be at salary cost times a multiplier of 2.40 with the maximum hourly rates not to exceed the following Fee Schedule below. Current year fee schedules will be provided annually to reflect current maximum rates. Expenses shall be at invoice cost times 1.10 and mileage shall be at the IRS maximum rate. Maximum fee not to exceed amount of One Hundred Thousand Dollars and 00/100 (**\$100,000.00**).

Invoices will include the name of the development reviewed, the professional personnel staff, the time and total cost amount for each development. The invoice will also include a progress report describing the review task performed for each development review. Payment is due within thirty (30) days of receipt.

<b><u>2023 FEE SCHEDULE</u></b>		
<b>Description of Staff</b>	<b>Experience Level</b>	<b>Hourly Rate</b>
Partner-in-Charge	12-25 Years	\$ 300.00
Design Engineer	5-12 Years	\$ 270.00
Electrical Engineer	10-20 Years	\$ 270.00
Engineer-in-Training I	0-2 Years	\$ 115.00
Engineer-in-Training II	2-4 Years	\$ 125.00
Engineer-in-Training III	5+ Years	\$ 135.00
AutoCAD Technician I	0-4 Years	\$ 102.00
AutoCAD Technician II	5-15 Years	\$ 145.00
AutoCAD Technician III	15+ Years	\$ 198.00
Clerical I	0-10 Years	\$ 68.00
Clerical II	10-20 Years	\$ 95.00
Clerical III	20+ Years	\$ 135.00
RPLS I	5-12 Years	\$ 250.00
RPLS II	12-25 Years	\$ 310.00



# CITY OF MANSFIELD

1200 E. Broad St.  
Mansfield, TX 76063  
mansfieldtexas.gov

## STAFF REPORT

File Number: 23-5642

Agenda Date: 10/9/2023

Version: 2

Status: Consent

In Control: City Council

File Type: Resolution

### Agenda Number:

#### Title

Resolution - A Resolution Awarding H&H Concrete on Demand, Inc., Cornerstone Ontime Concrete, LLC, and Custom-Crete as the Vendors for Small Batch Mix On-Site Concrete for Miscellaneous City-Wide Street and Sidewalk Repairs (Street Operations Department Maintenance Budget - General Fund)

#### Requested Action

Consider the Resolution awarding H&H Concrete on Demand, Inc., Cornerstone Ontime Concrete, LLC and Custom-Crete as the vendors for small batch mix on-site concrete for miscellaneous city-wide concrete street and sidewalk repairs.

#### Recommendation

The Public Works Department Staff recommends approval of the Resolution.

#### Description/History

City crews perform concrete curb, panel and sidewalk replacements and repairs on city streets throughout the year. With these repairs the concrete mix must be purchased from vendors who are able to meet the city schedule and provide smaller quantities for the smaller repairs (individual concrete panels, sidewalks and curbs). The ability to meet these schedules and smaller quantities are provided by concrete vendors who provide mix on-site concrete that can be tailored to the amount needed for each application.

Request for vendors were advertised in the Star Telegram and on the City Website and bids publicly opened on September 26, 2023. There were three bidders for the project. The three bidders had similar unit prices for concrete. The cost differential between all 3 bidders for a 10 cubic yard delivery of 4,500 psi concrete is \$49.00.

All three vendors have previously or currently provided materials for the Public Works Department and the City is satisfied with the quality and value of their materials and service. The Public Works Department intends to use all three vendors. The three vendors will allow for more options for scheduling of concrete deliveries and multiple projects will be able to be poured simultaneously. The selection of three vendors will also ensure better service and more options if a vendor's performance falls below acceptable levels.

The estimated total expenditure by the Public Works Department for concrete materials is \$200,000.00 to \$250,000.00 per year. These funds are appropriated with the adopted departmental budget. The Department intends to spread the work to all three vendors. The award is for one year with the option to renew for 4 additional one-year periods subject to appropriations. An inflationary adjustment will be included that may adjust the unit prices



each year to account for inflation or the Consumer Price Index (CPI) whichever is less.

**Justification**

H&H Concrete on Demand, Inc., Cornerstone Ontime Concrete, LLC and Custom-Crete and have provided and do provide concrete materials for the Public Works Department and the City is satisfied with the materials provided and the ability to meet the City's schedule.

The Assistant Director of Public Works - Transportation will be in attendance at the meeting to answer any of the Council's questions regarding the resolution. A resolution and bid tab are attached for Council's consideration.

**Funding Source**

The funding source is the yearly Street Department budget appropriations from the General Fund.

**Prepared By**

David Boski, P.E., Assistant Director of Public Works - Transportation

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY OF MANSFIELD, TEXAS, AWARDED H&H CONCRETE ON DEMAND, CORNERSTONE ONTIME CONCRETE, LLC AND CUSTOM-CRETE AS THE VENDORS OF SMALL BATCH MIX ON-SITE CONCRETE FOR CITY WIDE STREET AND SIDEWALK REPAIRS; FINDING THAT THE MEETING AT WHICH THE RESOLUTION IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; AND DECLARING AN EFFECTIVE DATE (GENERAL FUND)**

**WHEREAS**, the City of Mansfield (City) is a home rule municipality operating under and governed by the laws and Constitution of the State of Texas; and,

**WHEREAS**, the City of Mansfield, Texas, has publicly advertised for the requested competitive bids for vendors of small batch mix on-site; and,

**WHEREAS**, the bids were received, opened, and publicly read aloud on September 26, 2023; and,

**WHEREAS**, the expenditure of the funds stated herein will be secured from the City of Mansfield General Fund approved budget; and,

**WHEREAS**, after review of all bids received, it is the recommendation and determination of Council that the "best bids" are that of H&H Concrete on Demand, Inc., Cornerstone Ontime Concrete, LLC and Custom-Crete; and,

**WHEREAS**, the bids are to provide small batch mix on-site concrete for a one (1) year period with the City of Mansfield and the Vendor, having the option to renew this agreement for four (4) additional one (1) year periods subject to appropriations. Unit prices for each year may be adjusted to account for inflation or the Consumer Price Index whichever is less.

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

**SECTION 1.**

The findings and recitations set out in the preamble are found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes.

**SECTION 2.**

The City Manager or designee is hereby authorized for the expenditure of funds with H&H Concrete on Demand, Inc., Cornerstone Ontime Concrete, LLC and Custom-Crete for small batch mix on-site concrete for a unit bid price to not exceed those listed in attachment "A".

**SECTION 3.**

It is hereby officially found and determined that the meeting at which this Resolution is passed is open to the public as required by law and the public notice of the time, place, and purpose of said meeting was given as required.

**SECTION 4.**

This Resolution shall be effective from and after its passage.

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF  
MANSFIELD THIS 9<sup>TH</sup> DAY OF OCTOBER, 2023.**

\_\_\_\_\_  
**Michael Evans, Mayor**

**ATTEST:**

\_\_\_\_\_  
**Susana Marin, City Secretary**

Exhibit "A"

Small Batch - Mix On Site Concrete Bid  
Bid # 2023-41-04-06  
Date: September 26, 2023

Item	Quantity	Unit	H&H Concrete		Custom Crete		Cornerstone	
			Unit Price	Total	Unit Price	Total	Unit Price	Total
Class "A" 3,000 psi - 5 sack	250	Cubic Yard	\$173.00	\$43,250.00	\$180.90	\$45,225.00	\$170.00	\$42,500.00
Class "C" 3,600 psi - 6 sack	50	Cubic Yard	\$183.00	\$9,150.00	\$187.90	\$9,395.00	\$175.00	\$8,750.00
Class "P2" 4,500 psi - 6 sack	1,000	Cubic Yard	\$188.00	\$188,000.00	\$190.90	\$190,900.00	\$180.00	\$180,000.00
Delivery Fee	1	Per truck	\$50.00	\$50.00	\$100.00	\$100.00	\$60.00	\$60.00
Fuel Surcharge	1	each	\$50.00	\$50.00	\$0.00	\$0.00	\$100.00	\$100.00
Standing Time	1	Per timeframe	\$3.00	\$3.00	\$4.00	\$4.00	\$3.00	\$3.00
Other Fees			\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Min Load Size			4		4	0	6	0
Total				\$240,503.00		\$245,624.00		\$231,413.00



# CITY OF MANSFIELD

1200 E. Broad St.  
Mansfield, TX 76063  
mansfieldtexas.gov

## STAFF REPORT

File Number: 23-5646

**Agenda Date:** 10/9/2023

**Version:** 1

**Status:** Consent

**In Control:** City Council

**File Type:** Resolution

**Agenda Number:**

**Title**

Resolution - A Resolution of the City Council of the City of Mansfield, Texas, Approving a Chapter 380 Agreement and Contract of Sale Between the City of Mansfield, Texas, and HMO Real Estate 40, LLC; Finding that the Meeting at which this Resolution is Passed is open to the Public as Required by Law; Authorizing the City Manager or his Designee, to Execute Said Agreements; and Declaring an Effective Date (General Fund)

**Requested Action**

Consider Approving the Resolution

**Recommendation**

To Approve the Resolution

**Description/History**

Staff has been working with the owners of Texas Tire, located at 100 S Main Street, in downtown Mansfield, on the purchase of their property. As such, they are willing to sell but want to relocate and be open before moving out of the existing facility. The Contract of Sale provides a purchase price for the property downtown in an amount equal to \$1.1 million, or its appraised value, and the Economic Development Agreement provides a 380 cash grant in the amount of \$800,000 to go toward the new facility on Debbie Lane.

The contract contemplates a 6 month timeline to close on the property from the effective date. It is anticipated that the city could close much sooner depending on construction of Texas Tire's new facility.

**Justification**

The city hired Archer Appraisal to perform an appraisal of the property at 100 S Main Street at it came in at \$1.1 million due to the revenue being generated at the site. In order to maintain jobs and sales tax, the city is working with the owners to establish a location on Debbie Lane to ensure continuity of their workforce and sales tax generation.

**Funding Source**

General Fund

**Prepared By**

Jason Moore, Executive Director of Economic Development

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANSFIELD, TEXAS, APPROVING A CHAPTER 380 AGREEMENT AND CONTRACT OF SALE BETWEEN THE CITY OF MANSFIELD, TEXAS, AND HMO REAL ESTATE 40, LLC; FINDING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE, TO EXECUTE SAID AGREEMENTS; AND DECLARING AN EFFECTIVE DATE (GENERAL FUND)**

**WHEREAS**, the City of Mansfield (City) is a home rule municipality operating under and governed by the laws and Constitution of the State of Texas; and,

**WHEREAS**, the City Council of City desires to promote the development, redevelopment and revitalization of certain areas of the City; and,

**WHEREAS**, the City Council has been presented a proposed Chapter 380 Agreement and Contract of Sale between the City of Mansfield and HMO Real Estate 40, LLC, a copy of which is attached hereto as Exhibit "A" and incorporated herein by reference; and,

**WHEREAS**, upon full review and consideration of the Chapter 380 Agreement and Contract of Sale, and all matters attendant and related thereto, the City Council is of the opinion that the agreements should be approved, and the City Manager or his designee, shall be authorized to execute on behalf of the City; and,

**WHEREAS**, funding for this contract is available from the General Fund.

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

**SECTION 1.**

The findings and recitations set out in the preamble are found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes.

**SECTION 2.**

The Chapter 380 Agreement attached hereto as Exhibit "A" is found to be in the best interest of the City of Mansfield and its citizens and is approved.

**SECTION 3.**

The City Manager of the City of Mansfield or his designee, is hereby authorized to execute the Chapter 380 Agreement and Contract of Sale.

**SECTION 4.**

It is hereby officially found and determined that the meeting at which this Resolution is passed is open to the public as required by law and the public notice of the time, place, and purpose of said meeting was given as required.

**SECTION 5.**

This Resolution shall be effective from and after its passage.

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF  
MANSFIELD THIS 9<sup>TH</sup> DAY OF OCTOBER, 2023.**

\_\_\_\_\_  
**Michael Evans, Mayor**

**ATTEST:**

\_\_\_\_\_  
**Susana Marin, City Secretary**



## CHAPTER 380 AGREEMENT

### CITY OF MANSFIELD, TEXAS AND HMO REAL ESTATE 40, LLC

This Chapter 380 Agreement (“**Agreement**”) is made and entered into by and between the City of Mansfield, Texas (“**City**”) and HMO Real Estate 40, LLC, a Texas limited liability company (“**Company**”). Company and the City may sometimes hereafter be referred to individually as a “party” or collectively as the “parties.”

#### RECITALS:

**WHEREAS**, Company owns an approximate [REDACTED] acre tract of real property as more particularly described and shown on the attached Exhibit A (the “**Property**”); and

**WHEREAS**, on September \_\_, 2023, the parties entered into a Contract of Sale under which Company will convey the Property to City for the consideration stated therein (the “**Contract of Sale**”); and

**WHEREAS**, Company intends to make a significant capital investment to make improvements to the property located at 700 W. Debbie Lane, Mansfield, Texas 76063 (“the **New Property**”), and will operate a business on the New Property creating economic development and stimulating business and commercial activity within the City; and

**WHEREAS**, City desires to make a payment to Company in the amount of \$800,000 (“**Grant**”) as a reimbursement for a portion of the cost of the improvements made to the New Property and in further consideration of the economic development potential from the conveyance of the Property; and

**WHEREAS**, City possesses the legal and statutory authority under Chapter 380 of the Texas Local Government Code to create programs to promote local economic development and to stimulate business and commercial activity within the City; and

**WHEREAS**, City has determined that payment of the Grant is in the best interest of the City and will serve the public purpose of promoting local economic development, will diversify the economy of the state and the City, will assist in eliminating unemployment and underemployment in the state and the City, and will enhance business and commercial activity within the City.

**NOW THEREFORE**, in consideration of the mutual benefits and promises contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

## **ARTICLE 1 GRANT**

**1.01 Grant.** City will pay the Grant to Company at the time of the Closing under the Contract of Sale. Should the Closing not occur under the Contract of Sale for any reason, then City shall have no obligation to pay the Grant to Company.

## **ARTICLE 2 TERM**

**2.01 Term.** The term of this Agreement shall commence on the Effective Date and shall continue until the parties have fully satisfied all terms and conditions of this Agreement unless sooner terminated as provided herein.

## **ARTICLE 3 TERMINATION**

**3.02 Termination.** Should the Contract of Sale be terminated for any reason, this Agreement shall immediately terminate.

## **ARTICLE 4 GENERAL PROVISIONS**

**4.01 Entire Agreement.** This Agreement and its exhibits contain the entire agreement between the parties with respect to the transaction contemplated herein except for that separate Contract of Sale, which the parties agree shall survive the execution of this Agreement and shall not be superseded by this Agreement.

**4.02 Survival.** Although this Agreement is executed simultaneously with the Contract of Sale and the Grant under this Agreement is tied to the terms of the Contract of Sale, this Agreement shall not merge into the conveyance under the Contract of Sale and this Agreement shall survive the Closing under the Contract of Sale.

**4.03 Amendment.** This Agreement may only be amended, altered, or revoked by written instrument signed by Company and the City.

**4.04 Assignment.** This Agreement shall be binding on and inure to the benefit of the parties, their respective successors and assigns. Company may not assign any portion of this Agreement without the prior written approval of the city council of the City.

**4.05 Interpretation.** Regardless of the actual drafter of this Agreement, this Agreement shall, in the event of any dispute over its meaning or application, be interpreted fairly and reasonably, and neither more strongly for or against any party.

**4.06 Choice of Law/Venue/Attorney Fees.** The substantive laws of the State of Texas (and not its conflicts of law principles) govern all matters arising out of, or relating to, this Agreement and all of the transactions it contemplates, including without limitation its validity, interpretation, construction, performance and enforcement. Each party hereby irrevocably and unconditionally consents, accepts, and agrees to submit to the exclusive jurisdiction of any state or federal court in Tarrant County, Texas with respect to any dispute, action, suit or proceeding arising out of, based upon, or relating to, this Agreement. If either party employs an attorney or attorneys to enforce any of the provisions hereof, or to recover damages for the breach of this Agreement, the non-prevailing party in any final judgment or award agrees to pay the other party all reasonable costs, charges and expenses, including reasonable attorneys' fees, expended or incurred in connection therewith.

**4.07 Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be considered an original, but all of which shall constitute one instrument.

**4.08 No Joint Venture.** Nothing contained in this Agreement is intended by the parties to create a company or joint venture between the parties.

**4.09 Limitation of Liability.** The parties further agree that neither party will be liable to the other under this Agreement for indirect, special, consequential (including lost profits), or exemplary damages.

**4.10 Governmental Functions and Immunity.** The parties hereby acknowledge and agree that City is entering into this Agreement pursuant to its governmental functions and that nothing contained in this Agreement shall be construed as constituting a waiver of City's police power, legislative power, or governmental immunity from suit or liability, which are expressly reserved to the extent allowed by law. The parties agree that this is not an Agreement for goods or services to City. To the extent a Court of competent jurisdiction determines that City's governmental immunity from suit or liability is waived in any manner, or that this Agreement is subject to the provisions of Chapter 271 of the Texas Local Gov't Code, as amended, City's immunity from suit may be waived only as set forth in Subchapter I of Chapter 271, Texas Local Gov't Code. Further, the parties agree that this Agreement is made subject to all applicable provisions of the Texas Civil Practice and Remedies Code, including but not limited to all defenses, limitations, and exceptions to the limited waiver of immunity from liability provided in Chapter 101 and Chapter 75.

**4.11 Representations and Warranties.** Company represents and warrants that it has the requisite authority to enter into this Agreement.

**4.12 City Council Approval.** This Agreement is not valid unless first approved by the City Council of the City of Mansfield.

**4.13 Section or Other Headings.** Section or other headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

**4.14 Severability.** In the event any provision of this Agreement is ruled illegal, invalid, or unenforceable by any court of proper jurisdiction, under present or future laws, then and in that event, it is the intention of the parties hereto that the remainder of this Agreement shall not be

affected thereby, and it is also the intention of the parties to this Agreement that in lieu of each clause or provision that is found to be illegal, invalid, or unenforceable a provision be added to this Agreement which is legal, valid and enforceable and is as similar in terms as possible to the provision found to be illegal, invalid or unenforceable.

**4.15 Texas Boycott Prohibitions.** To the extent required by Texas law, Company verifies that: (1) it does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association, as defined in Texas Government Code § 2274.001, and that it will not during the term of this Agreement discriminate against a firearm entity or firearm trade association; (2) it does not “boycott Israel” as that term is defined in Texas Government Code § 808.001 and it will not boycott Israel during the term of this Agreement; and (3) it does not “boycott energy companies,” as those terms are defined in Texas Government Code §§ 809.001 and 2274.001, and it will not boycott energy companies during the term of this Agreement.

**4.16 Program.** A program authorized under Chapter 380 of the Texas Local Government Code is hereby established to enhance development opportunities along S. Main Street in the City and to further the diversification of the commercial operations in the City. The terms of this Agreement implement the program.

**4.17 Full Execution Required.** This Agreement will not be binding on either party unless fully executed by both parties.

**CITY OF MANSFIELD, TEXAS**

By: \_\_\_\_\_  
Matt Jones, Assistant City Manager

Date: \_\_\_\_\_

**HMO REAL ESTATE 40, LLC,**  
a Texas limited liability company

By: Al-Wahban Management, LLC,  
a Texas limited liability company,  
its Manager

By: \_\_\_\_\_  
Hani Al-Wahban, Manager

Date: \_\_\_\_\_

**EXHIBIT "A"**  
The Property

Being part of Block 23 of the TOWN OF MANSFIELD, Tarrant County, Texas, according to the Map thereof recorded in Volume 63, Page 53, Real Property Records, Tarrant County, Texas, and being more particularly described as follows:

BEGINNING at the Northeast corner of said Block 23, said beginning point being the point of intersection of the South line of Broad Street with the West line of Water Street;

THENCE South with the West line of Water Street 100 feet to a corner;

THENCE West parallel with the South line of Broad Street 100 feet to a point for corner;

THENCE North parallel with the West line of Water Street 100 feet to the South line of Broad Street;

THENCE East along the South line of said Broad Street 100 feet to the PLACE OF BEGINNING.

**EXHIBIT “B”**  
The New Property

## CONTRACT OF SALE

**THIS CONTRACT OF SALE ("Contract")** is made and entered into as of the Effective Date (as hereinafter defined), by and between the City of Mansfield, Texas, a municipal corporation ("**Buyer**") and HMO Real Estate 40, LLC, a Texas limited liability company ("**Seller**").

**FOR AND IN CONSIDERATION** of the mutual covenants and agreements contained in this Contract and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Buyer and Seller agree as follows:

### 1. PURCHASE AND SALE

A. Seller agrees to sell and convey to Buyer and Buyer agrees to buy from Seller, the Property (hereinafter defined) for the consideration and upon the terms, provisions and conditions hereinafter set forth. The term "**Property**" means the land situated in the City of Mansfield, Tarrant County, Texas, at 100 S Main Street, being part of Block 23 of the Town of Mansfield, Tarrant County, Texas, according to the Map thereof recorded in Volume 63, Page 53, Real Property Records, Tarrant County, Texas, more particularly described and depicted on **Exhibit A**, attached hereto and made a part hereof for all purposes, **TOGETHER WITH** (i) any and all rights, titles, powers, privileges, easements, licenses, rights-of-way and interests appurtenant to the Property and the Improvements, (ii) all rights, titles, powers, privileges, easements, licenses, rights-of-way and interests, if any, of Seller, either at law or in equity, in possession or in expectancy, in and to the surface estate of any real estate lying in the streets, highways, roads, alleys, rights-of-way or sidewalks, open or proposed, in front of, above, over, under, through or adjoining the Property and in and to the surface estate of any strips or gores of real estate adjoining the Property, (iii) all rights, titles, powers, privileges, interests, licenses, easements and rights-of-way appurtenant or incident to any of the foregoing, save and except any that may apply to the mineral estate. Notwithstanding anything herein to the contrary, the "Property" does not include any tenant fixtures or other personal property belonging to the tenants at the Property, or any item leased from third parties.

B. There shall be reserved unto Seller, its successors or assigns forever, all oil, gas, and other minerals in, under and that may be produced from the Property. If the mineral estate is subject to existing production or an existing lease, this reservation includes the production, the lease, and all benefits from it. Seller shall waive the right of ingress and egress to and from the surface of the Property relating to the mineral estate reserved unto Seller, but there will be no restrictions or prohibitions against the Seller from the pooling or unitization of the mineral estate reserved unto Seller with land other than the Property; or from the exploration or production of the oil, gas, and other minerals by means of wells that are drilled or mines that open on land other than the Property but enter or bottom under the Property, provided that these operations in no manner interfere with the surface or subsurface support of any improvements constructed or to be constructed on the Property.

C. All liens affecting the Property must be satisfied or released prior to or at Closing.

### 2. PURCHASE PRICE

The purchase price for the Property ("**Purchase Price**") shall be ONE MILLION ONE HUNDRED THOUSAND AND NO/100 DOLLARS (\$1,100,000.00). The Purchase Price shall be payable by Buyer at the Closing (hereinafter defined) in cash, wire transfer, cashier's check or other immediately available funds.

### 3. EARNEST MONEY

Seller does not require an earnest money deposit.

### 4. INCENTIVE PAYMENT

In addition to the Purchase Price, Buyer shall pay to Seller a single grant in the amount of EIGHT HUNDRED THOUSAND & NO/100 DOLLARS (\$800,000.00) ("Incentive Payment") as an economic development incentive to generate an increased capital investment in the New Property (hereinafter defined) and to create economic development and stimulate business and commercial activity within the City Mansfield. The Incentive Payment shall be payable by Buyer at the Closing (hereinafter defined) in cash, wire transfer, cashier's check or other immediately available funds. The Incentive Payment is subject to the terms and conditions memorialized in the separate Chapter 380 Agreement, which separate Chapter 380 Agreement shall survive the Closing and shall not be replaced by this Agreement. If for any reason this transaction does not close, then Buyer shall have no further obligation to pay the Incentive Payment to Seller.

### 5. SURVEY; TITLE COMMITMENT AND DOCUMENTS

A. Survey. Within twenty (20) days after the Effective Date, Buyer shall deliver or cause to be delivered to Old Republic Title - Mansfield (the "**Title Company**") and Seller, a current on-the-ground survey (or an update of an existing on-the-ground survey) (the "**Survey**") of the Property, prepared by a registered professional land surveyor reasonably acceptable to Buyer and the Title Company, and in a form that allows the Title Company to delete the survey exception (except as to "shortages-in-area") from the Title Policy (hereinafter defined), to be issued by the Title Company. The cost of the Survey shall be initially borne by Buyer, but Buyer shall receive credit at Closing against the Purchase Price for the actual cost of the Survey, not to exceed TWO THOUSAND FIVE HUNDRED AND NO/100 DOLLARS (\$2,500.00) (the "**Survey Reimbursement**"). At Closing, the metes and bounds description of the Property reflected in the Survey, once finally approved by Buyer and the Title Company, shall be used in the Deed (hereinafter defined) and any other documents requiring a legal description of the Property.

B. Title Commitment. Within twenty (20) days after the Effective Date, Seller shall cause the Title Company to deliver to Buyer the following:

(i) a title commitment ("**Title Commitment**") covering the Property binding the Title Company to issue a Texas Owner Policy of Title Insurance (the "**Title Policy**") on the standard form prescribed by the Texas State Board of Insurance at the Closing, in the full amount of the Purchase Price, insuring Buyer's fee simple title to the Property to be good and indefeasible, subject only to the "**Permitted Exceptions**" as defined herein;

(ii) true and legible copies of all instruments affecting the Property and recited as exceptions in the Title Commitment (the "**Title Documents**"); and

(iii) a current tax certificate.



## 6. TITLE AND SURVEY REVIEW PERIOD

Buyer shall have ten (10) days after receipt of the latter of the Survey, Title Commitment and Title Documents to review same and to deliver in writing to Seller such objections as Buyer may have to anything contained in them. Any such item to which Buyer shall not object shall be deemed a "**Permitted Exception**." Buyer's failure to object to any item within the time provided shall be a waiver of the right to object with respect to such item. Liens shown on Schedule C of the Title Commitment must be released by Seller at or before Closing at Seller's expense. If there are objections by Buyer, Seller shall have the option, but not obligation, to satisfy such objections as soon as possible prior to Closing, but Seller shall not be required to incur any cost to do so. If Seller delivers written notice to Buyer on or before the Closing Date that Seller is unable to satisfy such objections, or if, for any reason, Seller is unable to convey title in accordance with Section 9 hereof, Buyer may either waive such objections and accept such title as Seller is able to convey or terminate this Contract by written notice to Seller prior to the Closing Date.

## 7. DELIVERABLES

Seller agrees to furnish to Buyer within twenty (20) days after the Effective Date of this Contract, the following documents for Buyer's review (but only to the extent that such items exist and are in Seller's actual possession):

- (i) copies of all engineering studies or reports and reports of other inspections of the Property in Seller's possession (regardless of whether or not they were prepared for Seller or for other third parties) relating to the Property;
- (ii) copies of any environmental reports, studies or notices in Seller's possession relating to the Property; and
- (iii) copies of any sign leases, oil and gas leases, and other leases affecting the Property, and unrecorded instruments in Seller's possession affecting title to the Property.

## 8. REPRESENTATIONS AND DISCLAIMER OF WARRANTIES

A. Seller makes the following representations which are true and correct in all material respects on the Effective Date and shall be true and correct in all material respects on the Closing Date:

- (i) This Contract and all documents to be executed and delivered by Seller at Closing are duly authorized, executed and delivered and are legal, valid and binding obligations of Seller, and do not violate any provisions of any agreement to which Seller is a party or to which Seller is subject;
- (ii) Seller now has and will convey to Buyer on the Closing Date good and indefeasible fee simple title to the Property free and clear of all liens, claims and encumbrances, subject only to the Mineral Estate Reservation and Permitted Exceptions. There are no adverse or other parties-in-possession of the Property, or any portion thereof, as lessees, tenants-at-sufferance or trespassers except for HMO Texas Tires 40, LLC, a Texas limited liability company, pursuant to that certain Retail Lease by and between Seller, as landlord, and HMO Texas Tires 40,

LLC, as tenant, dated effective as of January 1, 2023, which Retail Lease shall be terminated as of the Closing Date; and

(iii) To Seller's actual knowledge, there is no existing or pending litigation or claims with respect to the Property and there are no actions, suits, proceedings or claims threatened or asserted.

B. The representations of Seller set forth in this Section 7 and elsewhere in this Contract shall be deemed to be continuing, made both as of the Effective Date and as of the Closing, except to the extent that Seller otherwise notifies Buyer in writing at or prior to Closing. In the event Seller does so notify Buyer in writing at or prior to Closing that any of such representations are no longer true, having been true when given, Buyer shall have the option to either (i) terminate this Contract by written notice to Seller, whereupon neither party shall have any further rights or obligations hereunder, or (ii) waive the inaccuracy of such representation and close the purchase of the Property.

C. After the Effective Date and until the Closing Date, (i) Seller shall maintain the Property substantially in the condition as on the Effective Date hereof subject to any damage resulting from a casualty, and (ii) Seller will not enter into any easement, right of way, lease or other agreement affecting the Property (other than leases permitted under and in compliance with the Mineral Estate Reservation), which will survive Closing without the prior written consent of Buyer.

D. Disclaimer of Warranties and Representations. THE SALE OF THE PROPERTY IS BEING MADE ON AS "AS-IS, WHERE IS, AND WITH ALL FAULTS" BASIS. EXCEPT WITH RESPECT TO THE REPRESENTATIONS MADE BY SELLER IN THIS SECTION 7, BUYER ACKNOWLEDGES THAT NEITHER SELLER NOR ANY BROKER, AGENT OR OTHER PERSON OR ENTITY ACTING ON BEHALF OF SELLER HAS MADE, IS MAKING OR WILL MAKE ANY REPRESENTATION OR WARRANTY OF ANY NATURE REGARDING THE PROPERTY (INCLUDING, WITHOUT LIMITATION, THE PHYSICAL CONDITION OF ANY PART OF THE PROPERTY, THE PROPERTY'S COMPLIANCE WITH ANY LAWS OR REGULATIONS, THE SUITABILITY OF THE PROPERTY FOR ANY PARTICULAR USE, THE PRESENCE OR ABSENCE OF ANY HAZARDOUS WASTE OR MATERIALS, THE CURRENT OR ANTICIPATED VALUE OF THE PROPERTY OR ANY POTENTIAL INCOME WHICH MAY BE DERIVED FROM THE PROPERTY), OTHER THAN ANY WARRANTY OF TITLE CONTAINED IN THE DEED. SELLER MAKES NO REPRESENTATION OR WARRANTY REGARDING THE ACCURACY OR COMPLETENESS OF ANY REPORTS, STUDIES OR OTHER INFORMATION PROVIDED TO BUYER. BUYER AGREES THAT IT WILL RELY SOLELY UPON ITS INSPECTIONS OF THE PROPERTY AND ITS OWN INDEPENDENT ANALYSIS IN DETERMINING WHETHER OR NOT TO PURCHASE THE PROPERTY. BUYER WAIVES AND RELEASES SELLER FROM ALL COST RECOVERY CLAIMS FOR ANY ENVIRONMENTAL INVESTIGATION, REMOVAL OR REMEDIATION COSTS, IF ANY, INCURRED BY BUYER, INCLUDING BUT NOT LIMITED TO CLAIMS PURSUANT TO THE TEXAS SOLID WASTE DISPOSAL ACT OR THE FEDERAL COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION AND LIABILITY ACT.

## 9. CONDITIONS PRECEDENT TO CLOSING

A. Buyer shall not be obligated to consummate the transaction described in this Contract unless:

(i) Seller shall have performed in all material respects all of the agreements, covenants and obligations contained in this Contract to be performed or complied with by Seller on or prior to the Closing Date;

(ii) all representations and warranties made by Seller in this Contract shall be true, complete and accurate in all material respects as of the Closing Date; and

(iii) there is no litigation, claim or administrative proceeding pending or threatened before any court or governmental agency concerning or affecting the Property.

If any of the conditions precedent to the performance of Buyer's obligations under this Contract have not been satisfied, waived or deemed waived by Buyer on the Closing Date, then Buyer may, at its option, by written notice delivered to Seller on or before the Closing Date, (i) extend the Closing Date for up to thirty (30) additional days, or (ii) terminate this Contract and Buyer and Seller shall have no further obligations to each other hereunder.

B. Seller shall not be obligated to consummate the transaction described in this Contract unless:

(i) Seller and/or Seller's affiliate shall have received a permanent certificate of occupancy for that certain real property located at 700 W Debbie Lane, Mansfield, Texas 76063 (the "**New Property**") that complies with the specifications set forth on **Exhibit B** attached hereto.

If any of the conditions precedent to the performance of Seller's obligations under this Contract have not been satisfied or waived in writing by Seller on or before the Closing Date, then Seller may, at its option, by written notice delivered to Buyer on or before the Closing Date, (i) extend Closing for a period of one (1) year (the "**Extended Closing Date**") or (ii) waive the conditions precedent set forth in this Section 9(B) and proceed to Closing; provided, however, that if Seller extends the Closing, Buyer may, at its option, by written notice delivered to Seller within thirty (30) days of receipt of Seller's written notice to extend the Closing.

In the event that Seller's conditions precedent have not been satisfied by the Extended Closing Date, then Seller may, at its option, by written notice delivered to Buyer on or before the Extended Closing Date, (i) waive the conditions precedent set forth in this Section 9(B) and proceed to Closing, or (ii) terminate this Contract, in which case Buyer and Seller shall have no further obligations to each other hereunder. If Seller's conditions precedent are satisfied, the Closing shall be held within fifteen (15) days of the date that the certificate of occupancy is issued for the New Property.

## 10. CLOSING

A. The Closing ("**Closing**") of the sale of the Property by Seller to Buyer shall occur at the offices of the Title Company on the date that is one hundred eighty (180) days from the Effective Date. Buyer and Seller may schedule the Closing on an earlier date upon mutual agreement of the parties confirmed in writing.

B. At the Closing, all of the following shall occur, all of which shall be concurrent conditions:

(i) Seller shall deliver or cause to be delivered to Buyer the following:

(a) a special warranty deed ("**Deed**"), reasonably acceptable to Buyer and Buyer's counsel, meeting the requirements of this Contract, fully executed and acknowledged by Seller, conveying to Buyer fee simple title to the surface estate only to the Property, subject only to the Permitted Exceptions;

(b) the Title Policy, issued by the underwriter for the Title Company pursuant to the Title Commitment, with, at Buyer's option and expense, the survey exception deleted, except as to "shortages-in-area", subject only to the Permitted Exceptions, in the full amount of the Purchase Price, dated as of the date the Deed is recorded;

(c) sole and exclusive possession of the Property free and clear of any leases or other possessory agreements, oral or written that affect the surface of the Property;

(d) an affidavit pursuant to Section 1445 of the Internal Revenue Code and/or Regulations relating thereto stating, under the penalty of perjury (a) that Seller is not a foreign person, (b) the U.S. Taxpayer Identification Number of Seller, and (c) such other information as may be required by Regulations enacted by the U.S. Department of Treasury, in connection with Section 1445 of the Internal Revenue Code; and

(e) all other documents as reasonably required by the Title Company to close this transaction.

C. At the Closing, Buyer shall deliver to Seller or the Title Company the following items:

(i) The Purchase Price, by cash, wire transfer, cashier's check or other immediately available funds, for the benefit of the Seller;

(ii) The Incentive Payment, by cash, wire transfer, cashier's check or other immediately available funds, for the benefit of Seller; and

(iii) All other documents as reasonably required by the Title Company to close this transaction.

D. Each party shall be responsible for paying the legal fees of its counsel in negotiating, preparing, and closing the transaction contemplated by this Contract. All other closing costs, including without limitation, recording and escrow fees, shall be assessed to the respective parties as follows:

(i) Seller shall pay for the base premium of the Title Policy; one-half of the escrow fee; fees for recording any curative documents; the Survey Reimbursement; and any other expenses payable by Seller under the terms of this Contract.

(ii) Buyer shall pay for the premium for boundary and survey deletion, if desired; fees associated with any title endorsements to the Title Policy, as well as the premium for any loan policy required by Purchaser's lender (if any); fees due to or by reason of Buyer's lender (if any); one-half of the escrow fee; fees for recording the Deed and other documents desired to be recorded by Buyer shall be paid by Buyer; and any other expenses payable by Buyer under the terms of this Contract.

## **11. ADJUSTMENTS AT CLOSING**

A. Any ad valorem and similar taxes and assessments, if any, relating to the Property for the year of Closing shall be prorated between Seller and Buyer as of the Closing Date. If the actual amount of taxes, if any, for the calendar year in which the Closing shall occur is not known as of the Closing Date, the proration shall be based upon the most current assessed value and tax rates then in effect with respect to the Property at the date of Closing. Seller agrees to notify Buyer if Seller receives notice of any proposed increase in assessed valuation for the year of Closing. If the proration, if any, at Closing is based upon an estimate, then any difference between the actual and estimated taxes for the year of Closing shall be adjusted between the parties upon receipt of the tax bills for the year of Closing. If Seller's change in use of the Property prior to closing or denial of a special use valuation on the Property claimed by Seller results in assessments for periods prior to closing, the assessments will be the obligation of Seller. If Buyer's change in use of the Property after closing results in assessments for periods prior to closing, the assessments will be the obligation of Buyer. The provisions of this Section shall survive the Closing.

B. Seller shall pay at or before Closing all utility and other expenses attributable to the Property for all time periods up to and including the Closing Date. All service and maintenance agreements affecting the Property must be terminated by Seller at or before Closing at no cost or expense to Buyer.

## **12. CONDEMNATION; ENVIRONMENTAL CONTAMINATION; CASUALTY**

A. Seller agrees to give Buyer prompt notice of any actual or threatened taking or condemnation of all or any portion of the Property. If, prior to the Closing, there shall occur (i) a threatened or actual taking or condemnation of all or any portion of the Property, or (ii) discovery of any environmental contamination of the Property, then, in any such event, Buyer shall have the right to terminate this Contract by written notice delivered to Seller within ten (10) days after Buyer has received notice from Seller of that event or the date on which Buyer learns of that event, whichever shall last occur. If Buyer does so terminate the Contract, the parties shall have no further obligations under this Contract,

each to the other with respect to the subject matter of this Contract. If Buyer does not terminate this Contract because of such condemnation, then Buyer shall have the right to receive upon Closing all proceeds of any condemnation attributable to the Property.

B. If all or any part of the Property is damaged or destroyed by fire or other casualty after the Effective Date, Seller shall have to option to restore the Property to its previous condition as soon as reasonably possible not later than the Closing Date. If Seller chooses to not restore the Property to its previous condition, Buyer may at its option: (i) terminate this Contract, whereupon neither party shall have any further rights or obligations hereunder, (ii) extend the time for performance up to fifteen (15) days and Closing will be extended as necessary, or (iii) accept at Closing the Property in its damaged condition and the Purchase Price will be reduced by an amount equal to the costs of repair based upon an itemized bid received from a contractor chosen by mutual agreement of both Seller and Buyer.

### **13. DEFAULT AND REMEDIES**

A. If Buyer fails or refuses to consummate the purchase of the Property pursuant to this Contract at the Closing for any reason other than termination of this Contract by Buyer pursuant to a right to so terminate expressly set forth in this Contract or Seller's failure to perform Seller's obligations under this Contract (with Seller having given Buyer written notice and at least five (5) days to cure), then Seller, as Seller's sole and exclusive remedy, shall have the right to terminate this Contract by giving written notice thereof to Buyer prior to or at the Closing, whereupon neither party hereto shall have any further rights or obligations hereunder, free of any claims by Buyer or any other person with respect thereto, except that Buyer shall reimburse Seller for all reasonable and documented expenses that Seller has incurred pursuant to this Contract, including but not limited to attorneys' fees, vendors' fees, architects' fees, any fees related to the site plan for the New Property.

B. If Seller fails or refuses to consummate the sale of the Property pursuant to this Contract at the Closing or fails to perform any of Seller's other obligations hereunder either prior to or at the Closing for any reason other than Buyer's failure to perform Buyer's obligations under this Contract (with Buyer having given Seller written notice and at least five (5) days to cure), then Buyer shall have the right to (i) enforce specific performance of Seller's obligations under this Contract, (ii) seek such other relief available at law or in equity, or (iii) terminate this Contract by giving written notice thereof to Seller prior to or at the Closing whereupon neither party hereto shall have any further rights or obligations hereunder, free of any claims by Seller or any other person with respect thereto.

### **14. BROKERAGE COMMISSIONS**

The Buyer and Seller agree that there are no brokers fees or other commissions owed in connection with this transaction and agree to hold one another harmless in this regard.

### **15. ASSIGNMENT**

This Contract may not be assigned.

## 16. NOTICES

All notices, demands, requests and other communications required or permitted hereunder shall be in writing, and shall be effective on (i) actual receipt by the intended recipient, (ii) deposit in the United States mail, registered or certified mail, return receipt requested, postage prepaid, or (iii) electronic transmission without notice of transmission error, addressed as follows:

**If to Seller:** HMO Real Estate 40, LLC  
10680 Old Burleson Road  
Fort Worth, Texas 76140  
Attn: Sandra Munoz  
Phone: (682) 703-2312  
Email: smunoz@texastirescustoms.com

**With a Copy to:** Champion LLP  
2200 Ross Avenue, Suite 4500W  
Dallas, Texas 75201  
Attn: Austin Champion  
Phone: (214) 225-8885  
Email: austin.champion@championllp.com

**If to Buyer:** Matt Jones  
Assistant City Manager  
City of Mansfield  
1200 E Broad Street  
Mansfield, Texas 76063  
Phone: 817-276-4228  
Email: Matt.jones@mansfieldtexas.gov

**With a Copy to:** Bradley Anderle  
Taylor Olson Adkins Sralla & Elam, LLP  
6000 Western Place, Suite 200  
Fort Worth, Texas 76107  
Phone: 817-332-2580  
Email: banderle@toase.com

## 17. MISCELLANEOUS

A. The term "**Effective Date**" as used herein, shall mean the date the Title Company executes the receipt of this Contract hereinbelow.

B. The prevailing party in any legal proceeding brought under or with relation to this Contract or transaction shall be entitled to recover court costs, reasonable attorneys' fees and all other litigation expenses from the non-prevailing party.

C. **THIS CONTRACT CONTAINS THE COMPLETE AGREEMENT BETWEEN THE PARTIES WITH RESPECT TO THE SALE AND PURCHASE OF THE PROPERTY AND CANNOT BE VARIED EXCEPT BY WRITTEN AGREEMENT. THE PARTIES AGREE THAT THERE ARE NO WRITTEN OR ORAL AGREEMENTS,**

**UNDERSTANDINGS OR REPRESENTATIONS OR WARRANTIES MADE BY THE PARTIES REGARDING THE SALE AND PURCHASE OF THE PROPERTY WHICH ARE NOT EXPRESSLY SET FORTH HEREIN EXCEPT FOR THE SEPARATE CHAPTER 380 AGREEMENT, WHICH THE PARTIES AGREE SHALL SURVIVE THE CLOSING UNDER THIS CONTRACT AND SHALL NOT BE SUPERSEDED BY THIS CONTRACT.**

D. This Contract shall be binding upon and inure to the benefit of Seller and Buyer and their respective successors and assigns.

E. It is expressly agreed by Buyer and Seller that time is of the essence with respect to this Contract. The rule of construction that ambiguities in a document are construed against the party who drafted it does not apply in interpreting this Contract.

F. If any date of performance hereunder falls on a Saturday, Sunday or legal holiday, such date of performance shall be deferred to the next day which is not a Saturday, Sunday or legal holiday.

G. THIS CONTRACT SHALL BE CONSTRUED UNDER AND GOVERNED BY THE LAWS OF THE STATE OF TEXAS AND ALL OBLIGATIONS OF THE PARTIES CREATED HEREUNDER ARE PERFORMABLE IN TARRANT COUNTY, TEXAS.

H. In case any one or more of the provisions contained in this Contract shall be, for any reason, held invalid, illegal or unenforceable in any respect by a court of competent jurisdiction, such invalidity, illegality or unenforceability shall not affect any other provisions hereof, and this Contract shall be construed as if such invalid, illegal or unenforceable provision is severed and deleted from this Contract.

I. This Contract may be executed in any number of counterparts, all of which taken together shall constitute one and the same agreement, and either of the parties hereto may execute this Contract by signing such counterpart.

[Signature Page(s) to Follow]



**EXECUTED** on behalf of Buyer on the \_\_\_\_\_ day of \_\_\_\_\_, 2023:

**BUYER:**

City of Mansfield, Texas

\_\_\_\_\_  
Matt Jones, Assistant City Manager

**EXECUTED** on behalf of Seller on the \_\_\_\_\_ day of \_\_\_\_\_, 2023:

**SELLER:**

HMO Real Estate 40, LLC,  
a Texas limited liability company

By: Al-Wahban Management, LLC,  
a Texas limited liability company,  
its Manager

By: \_\_\_\_\_  
Hani Al-Wahban, Manager

## TITLE COMPANY RECEIPT

ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2023, THE UNDERSIGNED  
TITLE COMPANY ACKNOWLEDGES RECEIPT OF A FULLY EXECUTED COPY OF THIS  
CONTRACT.

ESCROW AGENT:

OLD REPUBLIC TITLE

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

Name Printed: \_\_\_\_\_

Title: \_\_\_\_\_

Title Company contact information:

Old Republic Title - Mansfield  
Attn: Lolly Waller  
1405 North Highway 287  
Suite 101  
Mansfield, TX 76063  
Office: (817) 453-8104  
Fax: (817) 622-7508  
lwaller@oldrepublictitle.com

**EXHIBIT A**

**PROPERTY**

Being part of Block 23 of the TOWN OF MANSFIELD, Tarrant County, Texas, according to the Map thereof recorded in Volume 63, Page 53, Real Property Records, Tarrant County, Texas, and being more particularly described as follows:

BEGINNING at the Northeast corner of said Block 23, said beginning point being the point of intersection of the South line of Broad Street with the West line of Water Street;

THENCE South with the West line of Water Street 100 feet to a corner;

THENCE West parallel with the South line of Broad Street 100 feet to a point for corner;

THENCE North parallel with the West line of Water Street 100 feet to the South line of Broad Street;

THENCE East along the South line of said Broad Street 100 feet to the PLACE OF BEGINNING.

## **EXHIBIT B**

The following conditions must be permitted by the City of Mansfield at that certain parcel of real property located at 700 W. Debbie Lane, Mansfield, Texas 76063 (the “**New Property**”), and the City of Mansfield must issue a permanent certificate of occupancy that allows for the following:

1. There shall be no restrictions on outdoor signs or displays.
2. The building shall have up to four (4) cut-outs for garage doors. Such garage doors shall be installed in a manner that sufficiently allows for the ingress and egress of vehicles to and from the New Property.
3. There shall be a concrete addition installed that ensures proper access to the garages on the New Property.
4. There shall be an awning in the rear portion of the building located on the New Property.
5. Seller shall be permitted to either (i) expand the existing building located on the New Property by up to 2,000 square feet or (ii) add an additional building on the New Property up to 2,000 square feet in size.



# CITY OF MANSFIELD

1200 E. Broad St.  
Mansfield, TX 76063  
mansfieldtexas.gov

## STAFF REPORT

File Number: 23-5647

**Agenda Date:** 10/9/2023

**Version:** 1

**Status:** Consent

**In Control:** City Council

**File Type:** Resolution

**Agenda Number:**

**Title**

Resolution - A Resolution of the City Council of the City of Mansfield, Texas Approving a Client Services Agreement with Credit Systems International, Inc. for the Collection of Emergency Medical Services and Utility Delinquent Accounts; Finding that the Meeting at which this Resolution is Passed is Open to the Public as Required by Law; and Declaring an Effective Date

**Requested Action**

Approve a client services agreement with Credit Systems International, Inc. for the collection of emergency medical services and utility delinquent accounts.

**Recommendation**

Staff recommends the approval of the Resolution.

**Description/History**

Credit System International, Inc has been providing collections service since 2002. They perform the necessary task of collecting delinquent accounts. They report to the credit reporting agencies and stay up to date with all required legislation surrounding collection activities.

**Justification**

Credit System International, Inc has been providing collections service since 2002. They perform the necessary task of collecting delinquent accounts. They report to the credit reporting agencies and stay up to date with all required legislation surrounding collection activities.

**Funding Source**

N/A

**Prepared By**

Troy Lestina, Deputy City Manager/CFO; 817-276-4258

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANSFIELD, TEXAS, APPROVING A CLIENT SERVICES AGREEMENT WITH CREDIT SYSTEMS INTERNATIONAL, INC. FOR THE COLLECTION OF EMERGENCY MEDICAL SERVICES AND UTILITY DELINQUENT ACCOUNTS; FINDING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; AND DECLARING AN EFFECTIVE DATE**

**WHEREAS**, the City of Mansfield (City) is a home rule municipality operating under and governed by the laws and Constitution of the State of Texas; and,

**WHEREAS**, the City has determined it is in the best interest to ensure the prompt payment of delinquent accounts from Emergency Medical Services (EMS) and Utility services; and,

**WHEREAS**, Credit Systems International, Inc. has been providing collection services for said delinquent accounts satisfactorily since 2002.

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

**SECTION 1.**

The findings and recitations set out in the preamble are found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes.

**SECTION 2.**

The Client Services Agreement with Credit Systems International, Inc., for the collections of delinquent EMS and Utility accounts in substantially the same for as Exhibit "A" attached, is hereby approved.

**SECTION 3.**

It is hereby officially found and determined that the meeting at which this Resolution is passed is open to the public as required by law and the public notice of the time, place, and purpose of said meeting was given as required.

**SECTION 4.**

This Resolution shall be effective from and after its passage.

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF  
MANSFIELD THIS 9<sup>TH</sup> DAY OF OCTOBER, 2023.**

\_\_\_\_\_  
**Michael Evans, Mayor**

**ATTEST:**

\_\_\_\_\_  
**Susana Marin, City Secretary**





## **CLIENT SERVICES AGREEMENT**

**CLIENT:** City of Mansfield – EMS & Utility

**ADDRESS:** 1200 E. Broad Street

**CITY, STATE & ZIP:** Mansfield, TX 76063

**DATE:** October 1, 2023

**CONTACT:** Bryan Rebel – EMS      Stephanie Clardy – Utility

**TELEPHONE:** 817-276-4200

**EMAIL:** Bryan.Rebel@mansfieldtexas.gov  
Stephanie.Clardy@mansfieldtexas.gov

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This Client Agreement is entered into as of the date shown above between Credit Systems International, Inc., hereinafter referred to as “Agency,” and **City of Mansfield**, hereinafter referred to as “Client,” in which Agency accepts certain delinquent accounts belonging to Client for debt reconciliation efforts.

Agency and Client hereby mutually agree as follows:

1.0 Terms for Services.

1.1 Agency agrees to provide Client with the services necessary to maximize the collection of certain delinquent accounts - EMS and Utility accounts, referred to Agency by Client. Accounts are identified as primary bad debt accounts with balances over \$50.00 that are between 31 days and two years of age from the date of service. Agency shall receive as compensation for services rendered hereunder, the commission amount(s) equal to the following contingency rates calculated at placement:

**EMS**  
29.9%

**Utility**  
22%

- 1.2 Full commissions are earned and payable to Agency from the date of placement on all payments applied to accounts placed with Agency, regardless of the source of the funds or by whom received,
- 1.3 Client will report to Agency all payments and adjustments posted by Client, including unidentified payments and payments on accounts purged from Client’s system on a weekly basis at minimum.

- 1.4 Agency agrees that all payments paid to Agency and reported paid by Client during the preceding calendar month shall appear on Client's monthly Payment Invoice. Agency shall remit to Client all amounts collected by Agency; **GROSS** of commissions due Agency as calculated on Client's monthly Payment Invoice. Client agrees that any remaining undisputed commission due Agency is payable to Agency within thirty (30) days from Client's receipt of the Payment Invoice.
- 1.5 Client shall have sixty (60) days from receipt of a Payment Invoice to dispute any amounts thereon. If no dispute is received by Agency within sixty (60) days, all invoiced amounts will be deemed accepted by Client. Any outstanding undisputed amounts unpaid by Client for thirty (30) days shall accrue interest at the rate of 1.5% per month until paid.
- 1.6 Agency will reimburse Client for commissions paid to Agency on payments reported as paid to Client which are returned to Client as unpaid by the bank. Client will reimburse Agency for payments remitted to Client which are returned to Agency as unpaid by the bank. Reversals will appear on the following month's Payment Invoice.
- 1.7 Set-up fee due and payable upon execution of Agreement: \$N/A
- 1.8 Annual maintenance fee, if minimum monthly placement is below \$5000.00: \$N/A
- 1.9 Cancellation charge of \$4.95 per account canceled/recalled by Client as placed in error.

2.0 Representations and Warranties.

- 2.1 Client will provide relevant information, if available and in the Client's possession at the time of placement with Agency, including but not limited to account numbers, customer names, service addresses, last known mailing address, contact phone numbers, account balance due, date of service, and date and amount of last payment.
- 2.2 When providing updated information on an account, Client will identify all data fields containing contact information for a consumer. This includes, but is not limited to full and complete name, residential telephone, cellular telephone, employment telephone, facsimile number, email addresses, alternate telephone numbers, etc. Cellular telephone numbers shall be uniquely identified.
- 2.3 Client represents that for every phone number and e-mail address provided to Agency for a consumer, Client has obtained the consumer's express consent to contact the consumer at the phone number or e-mail address provided. Such authorization includes all forms of electronic communication, including but not limited to contact efforts via cellular telephone numbers utilizing pre-recorded/artificial voice messages and/or any automatic telephone dialing device, text messages/SMS, emails, etc. As part of this Agreement, Client agrees to submit to Agency upon request a copy of all consent forms utilized for obtaining consumer's consent, as well as any additional methods in which express consent is obtained, i.e.: online or text/SMS verbiage or telephone scripts.
- 2.4 Client agrees to immediately notify Agency of any updates and/or changes to the verbiage in the aforementioned methods of obtaining express consent from consumers. In addition, Client agrees to promptly notify Agency should a consumer revoke their express consent.
- 2.5 Agency shall, during the term hereof, be given access to Client's consumer records to assist in the collection of the debt which may include access to Client's system as agreed upon between Client and Agency.
- 2.6 Client agrees that it will forward to Agency any requested documentation to verify each Claim or Account placed hereunder within ten (10) days of Agency's request, e.g., itemized statements, response to disputes, etc.

- 2.7 Agency agrees to maintain all consumer records in strict confidence and not disclose such information except with consumer's written consent or otherwise required. Agency also agrees to comply with all applicable federal, state, county, and local laws, including but not limited to the FDCPA, FCRA, TCPA, HIPAA, and GLBA. All collections under this Agreement shall be made with the highest level of customer service.
- 2.8 Client agrees not to refer accounts protected under the bankruptcy laws to Agency and will promptly inform Agency of all bankruptcy notifications received by Client on any account that has been placed with Agency.
- 2.9 Client shall notify Agency of any procedural changes that may affect or alter the demographical information on accounts submitted for collection after commencement of this agreement.

3.0 Term and Termination.

- 3.1 This Agreement shall be for a term of one (1) year from the effective date unless extended as provided herein.
- 3.2. Unless sixty (60) days before the initial term, or any subsequent term, expires, Client notifies Agency that it does not wish to continue this Agreement beyond the then existing term, this Agreement shall automatically be extended in subsequent one year periods.
- 3.3 Either party may terminate the Agreement upon thirty (30) days prior written notice to the other party.
- 3.4 Client may, in its sole discretion withdraw individual Claims or Accounts placed with Agency at any time. If Client withdraws Claim of Account, Agency's authority to collect the debt is immediately termination and Agency shall return the Account to Client. Agency shall be entitled to its full commission for payments on any withdrawn accounts where a payment plan has been established by Agency. Agency shall be entitled to compensation for any payment made by the consumer within thirty (30) days of the termination of this Agreement.

4.0 Client authorizes Agency to:

- 4.1 Utilize all consumer information provided by Client in any efforts to attempt communication, this includes but is not limited to the utilization of automatic telephone dialing systems, pre-recorded messages, calls to cellular telephones, and/or any means of digital communication, as well as negotiate and/or accept payments on delinquent accounts placed with Agency.
- 4.2 Client authorizes Agency to send limited account data to Agencies Client Web Portal for the purpose of Client accessing the information and available reports as well as uploading confidential files containing private consumer information. This feature is strictly for Client's utilization, and access will be deactivated after a minimum of 45 days of inactivity. Client agrees to advise Agency immediately when an employee who has been authorized access terminates their employment for deactivation purposes. ☒ Yes ☐ No
- 4.3 Report all accounts to the Credit Reporting Agencies: ☒ Yes ☐ No
- 4.4 Accept no less than 100% of the account balance as settlement in full.
- 4.5 Endorse payments payable to Client for the purpose of deposit into Agency's trust account.

5.0 Indemnification.

- 5.1 Agency shall defend, indemnify, release and hold harmless Client and its officers, employees, past employees, agents (other than Agency), and representatives against any and all liabilities, judgments, damages, claims, demands, costs, expenses or losses (including reasonable attorney's fees) arising out

of any action, inaction or omission by Agency, its officers, employees, agents or representatives, including failure to comply with applicable laws or regulations. In no event, however, shall Agency indemnify Client against any claims or grossly negligent actions arising from breach of this Agreement, or any warranties contained therein, by Client or failure of Client to perform its duties hereunder.

6.0 Agency's Representations

- 6.1 Agency shall assume sole responsibility for their obligations under this Agreement and all aspects of their behavior of the collection process in compliance with State and Federal laws.
- 6.2 Agency shall ensure that all inquiries, complaints and disputes from debtors are resolved satisfactorily, as determined in Client's sole discretion.
- 6.3 Agency shall provide Client with ad hoc reports as reasonably requested by Client within ten (10) days of such request.
- 6.4 Agency shall provide updated contact information for Accounts to Client as necessary.
- 6.5 Upon termination of this Agreement, Agency shall immediately return all Accounts still pending.

7.0 Miscellaneous.

- 7.1 The Parties agree that they are, at all times, independent contractors and nothing herein shall be interpreted to create any employment or partnership relationship. No term(s) hereunder is intended to benefit or create any right or cause of action in any person other than the parties.
- 7.2 This Agreement may be amended or modified only by a written instrument executed by the parties hereto.
- 7.3 If any provision of this Agreement is held unlawful or unenforceable in any respect, the Parties agree that such illegality or unenforceability shall not affect other provisions that can be given effect, and this Agreement shall be construed as if the unlawful or unenforceable provision had not been contained herein. The parties hereto agree that any court may modify the objectionable provision so as to make it valid, reasonable, and enforceable and agree to be bound by the terms of such provision, as modified by the court.
- 7.4 This Agreement shall be governed by and construed in accordance with the internal substantive laws of the State of Texas without giving effect to any choice or conflict of law provision or rule. This Agreement is performable in Tarrant County, Texas, and the exclusive venue for any proceeding brought under this Agreement shall be a court of competent jurisdiction in Tarrant County, Texas.
- 7.5 This Agreement and the rights and obligations created under it shall be binding upon and inure solely to the benefit of the parties hereto and their respective successors and permitted assigns. This Agreement shall not be assigned or transferred by either Party without consent of the other Party.
- 7.6 This Agreement is intended to define the full extent of the legally enforceable undertakings of the parties hereto, and no related promise or representation, written or oral, which is not set forth explicitly in this Agreement is intended by either party to be legally binding. Both parties acknowledge that in deciding to enter into this transaction they have relied on no representations, written or oral, other than those explicitly set forth in this Agreement.
- 7.7 Any notices to be provided under this Agreement shall be made to the Contacts listed in this Agreement.
- 7.8 Compliance with Tx. Govt. Code § 2270.002. In order to comply with Tx. Govt. Code §2270.002, the Firm verifies that it does not boycott Israel and will not boycott Israel during the term of the Agreement.

7.9 Compliance with Tx. Govt. Code § 2252. In order to comply with Tx. Govt. Code § 2252, the Firm verifies that it does not engage in business with Iran, Sudan, or any foreign terrorist organization and will not during the term of this Agreement.

7.10 Compliance with Tx. Govt. Code § 2274. In order to comply with Tx. Govt. Code § 2274, the Firm verifies that it does not boycott energy companies nor does it have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association, and it will not during the term of this Agreement.

**CLIENT TAX ID NUMBER:**                      **75-6000594**

Client and Agency agree with the terms as provided in this Agreement:

**Client Signature:**

\_\_\_\_\_  
City of Mansfield

**Print Name & Title:**

\_\_\_\_\_  
Troy Lestina, Deputy City Manager/CFO

**Agency Signature:**

\_\_\_\_\_  
Laura Beam, Account Executive | Business Development



# CITY OF MANSFIELD

1200 E. Broad St.  
Mansfield, TX 76063  
mansfieldtexas.gov

## STAFF REPORT

File Number: 23-5625

**Agenda Date:** 10/9/2023

**Version:** 1

**Status:** Approval of Minutes

**In Control:** City Council

**File Type:** Meeting Minutes

### Title

Minutes - Approval of the September 25, 2023 Regular City Council Meeting Minutes

### Requested Action

Action to be taken by the Council to approve the minutes.

### Recommendation

Approval of the minutes by the Council.

### Description/History

The minutes of the September 25, 2023 Regular City Council Meeting are in DRAFT form and will not become effective until approved by the Council at this meeting.

### Justification

Permanent Record

### Funding Source

N/A

### Prepared By

Susana Marin, TRMC, City Secretary  
817-276-4203



# CITY OF MANSFIELD

1200 E. Broad St.  
Mansfield, TX 76063  
mansfieldtexas.gov

## Meeting Minutes - Draft

### City Council

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Monday, September 25, 2023

1:00 PM

Council Chambers

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#### REGULAR MEETING

##### 1:00 P.M. - CALL MEETING TO ORDER

*Mayor Evans called the meeting to order at 1:00 p.m.*

**Absent** 1 - Brent Newsom

**Present** 6 - Larry Broseh; Julie Short; Casey Lewis; Todd Tonore; Michael Evans and Tamera Bounds

##### PROCLAMATION

[23-5590](#)

National Night Out 2023

*Mayor Evans read and presented the proclamation to Police Chief Tracy Aaron and members of the Police Department.*

##### PRESENTATION

Mayor's Challenge Award Presented by NCTCOG

*NCTCOG presented the Mayor's Challenge Award to Mayor Evans and the City Council for the North Texas Community Cleanup Challenge.*

##### RECOGNITION

North Texas Community Cleanup Challenge

*The City of Mansfield was recognized by NCTCOG for winning the 3rd Annual North Texas Community Cleanup Challenge.*

##### WORK SESSION

Discussion Regarding the September 25, 2023 Consent Agenda Items

*Executive Director of Community Services Matt Young answered questions on agenda items 23-5610, 23-5611, and 23-5612.*

#### Discussion Regarding the Draft Public Art Policy and Ordinance

*Executive Director of Community Engagement Theresa Cohagen presented a recap of the steps that have been taken thus far regarding the cultural arts master plan and spoke on why a public art policy is needed. Cultural Arts Manager Rosalie Gilbert gave a presentation that covered what public art is and isn't, program management including the development and selection process, mural guidelines and collection management, and then funding and the use of funds, including percent for art through city capital projects. Theresa and Rosalie answered Council questions, and Assistant City Manager Vanessa Ramirez provided clarification.*

#### **RECESS INTO EXECUTIVE SESSION**

*In accordance with Texas Government Code, Chapter 551, Mayor Evans recessed the meeting into executive session at 2:09 p.m. Mayor Evans called the executive session to order in the Council Conference Room at 2:13 p.m. Mayor Evans recessed the executive session at 2:42 p.m.*

#### **(i) Pending or Contemplated Litigation or to Seek the Advice of the City Attorney Pursuant to Section 551.071 (1)**

Seek Advice of City Attorney Regarding Pending Litigation - Cause No. 348-270155-14

Seek Advice of City Attorney Regarding Legal Issues Pertaining to Economic Development Projects Listed in Section 3.D of the Agenda

#### **(ii) Consultation with Attorney on a Matter in Which the Duty of the Attorney to the Governmental Body Under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas Clearly Conflicts with this Chapter (Open Meetings Act) Pursuant to Section 551.071 (2)**

#### **Discussion Regarding Possible Purchase, Exchange, Lease, or Value of Real Property Pursuant to Section 551.072**

Land Acquisition for Future Development

#### **Personnel Matters Pursuant to Section 551.074**

#### **Deliberation Regarding Commercial or Financial Information Received From or the Offer of a Financial or Other Incentive Made to a Business Prospect Seeking to Locate, Stay or Expand in or Near the Territory of the City and with which the City is Conducting Economic Development Negotiations Pursuant to Section 551.087**

Economic Development Project #21-10

Economic Development Project #21-19



Economic Development Project #21-23

Economic Development Project #23-06

Economic Development Project #23-14

### **RECONVENE INTO REGULAR BUSINESS SESSION**

*Mayor Evans reconvened the meeting into the work session at 2:48 p.m.*

*Council Member Newsom arrived during executive session at 2:22 p.m.*

**Present** 7 - Larry Broseh; Julie Short; Casey Lewis; Todd Tonore; Michael Evans; Tamera Bounds and Brent Newsom

Discussion Regarding the T, Toll Road 360 Form-Based Development District

*Executive Director of Planning and Development Services Jason Alexander gave a presentation on the proposed T, Toll Road 360 Form-Based Development District and spoke on the mission and inspiration, purpose and intent, structure and organization, and transect zones. Bill Gietema, Arcadia Realty, gave a presentation. Jason answered Council questions, and there was discussion amongst the Council regarding the proposed district.*

### **RECESS INTO EXECUTIVE SESSION**

*In accordance with Texas Government Code, Chapter 551, Mayor Evans recessed the meeting into executive session at 4:12 p.m. Mayor Evans called the executive session to order in the Council Conference Room at 4:21 p.m. Mayor Evans recessed the executive session at 7:11 p.m.*

#### **(i) Pending or Contemplated Litigation or to Seek the Advice of the City Attorney Pursuant to Section 551.071 (1)**

Seek Advice of City Attorney Regarding Pending Litigation - Cause No. 348-270155-14

Seek Advice of City Attorney Regarding Legal Issues Pertaining to Economic Development Projects Listed in Section 3.D of the Agenda

#### **(ii) Consultation with Attorney on a Matter in Which the Duty of the Attorney to the Governmental Body Under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas Clearly Conflicts with this Chapter (Open Meetings Act) Pursuant to Section 551.071 (2)**

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Land Acquisition for Future Development

**Personnel Matters Pursuant to Section 551.074**

**Deliberation Regarding Commercial or Financial Information Received From or the Offer of a Financial or Other Incentive Made to a Business Prospect Seeking to Locate, Stay or Expand in or Near the Territory of the City and with which the City is Conducting Economic Development Negotiations Pursuant to Section 551.087**

Economic Development Project #21-10

Economic Development Project #21-19

Economic Development Project #21-23

Economic Development Project #23-06

Economic Development Project #23-14

**6:50 P.M. – COUNCIL BREAK PRIOR TO REGULAR BUSINESS SESSION**

**7:00 PM OR IMMEDIATELY FOLLOWING EXECUTIVE SESSION - RECONVENE INTO REGULAR BUSINESS SESSION**

**INVOCATION**

*President of Texas Health Hospital Mansfield, Kenneth Rose, gave the Invocation.*

**PLEDGE OF ALLEGIANCE**

*Mayor Pro Tem Tonore led the Pledge of Allegiance.*

**TEXAS PLEDGE**

"Honor the Texas Flag; I Pledge Allegiance to Thee, Texas, One State Under God; One and Indivisible"

*Council Member Newson led the Texas Pledge.*

**CITIZEN COMMENTS**

*Jerry Sweeney, 1726 Wren - Mr. Sweeney spoke regarding a notice of violation he received regarding his fence.*

**COUNCIL ANNOUNCEMENTS**

*Mayor Evans invited the public to attend the Community Health Fair at Bethlehem Baptist Church, offered condolences from the city to Arlington Police Officers and Police Department on the death of Officer Darrin McMichael, and noted tragedies in Mansfield's Fire Department regarding the loss of children.*

**STAFF COMMENTS****City Manager Report or Authorized Representative**

Current/Future Agenda Items

Veterans Job Fair Update

*Economic Development Director of Marketing and Innovation Rachel Bagley spoke on the upcoming Veterans Job Fair.*

City Council Meeting Start Time Update

*City Secretary Susana Marin spoke on staff's recommendation to shift the start time of the public City Council meeting to 6:00 p.m. Council gave their thoughts and directed staff to move forward with the change.*

**Business Services Department Report**

[23-5608](#)

Presentation of the Monthly Financial Report for the Period Ending August 31, 2023

*Director of Finance Latifia Coleman was available for questions.*

**TAKE ACTION NECESSARY PURSUANT TO EXECUTIVE SESSION**

*There was no action taken.*

**CONSENT AGENDA**

[23-5592](#)

Resolution - A Resolution of the City Council of the City of Mansfield, Texas Designating a Deputy City Attorney; Approving an Agreement with the Deputy City Attorney to Provide Legal Services Relating to the Prosecution of Mansfield Municipal Court Cases and Authorizing the Mayor to Execute any Documents Necessary to Implement this Resolution

**A motion was made by Council Member Lewis to approve the following resolution:**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANSFIELD, TEXAS  
DESIGNATING A DEPUTY CITY ATTORNEY TO SERVE AS MUNICIPAL**

PROSECUTOR; APPROVING AN AGREEMENT WITH THE DEPUTY CITY ATTORNEY TO PROVIDE LEGAL SERVICES RELATING TO PROSECUTION OF MANSFIELD MUNICIPAL COURT CASES; AUTHORIZING THE MAYOR, OR DESIGNEE, TO EXECUTE ANY DOCUMENTS NECESSARY TO IMPLEMENT THIS RESOLUTION; FINDING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; AND DECLARING AN EFFECTIVE DATE

(Resolution in its entirety located in the City Secretary's Office)

Seconded by Council Member Newsom. The motion CARRIED by the following vote:

**Aye:** 7 - Larry Broseh; Julie Short; Casey Lewis; Todd Tonore; Michael Evans; Tamera Bounds and Brent Newsom

**Nay:** 0

**Abstain:** 0

Enactment No: RE-4074-23

[23-5600](#)

Resolution - A Resolution of the City Council of the City of Mansfield, Texas Authorizing a Contract Between the City of Mansfield, Texas and Neighborhood Management Inc. for the Management and Improvement Services Agreement of the South Pointe Public Improvement District

A motion was made by Council Member Lewis to approve the following resolution:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANSFIELD, TEXAS, APPROVING A PROFESSIONAL SERVICES CONTRACT BETWEEN THE CITY OF MANSFIELD, TX AND NEIGHBORHOOD MANAGEMENT, INC. IN AN AMOUNT NOT TO EXCEED \$31,200.00 FOR A MANAGEMENT AND IMPROVEMENT SERVICES AGREEMENT FOR THE SOUTH POINTE PUBLIC IMPROVEMENT DISTRICT ("PIO"); FINDING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; AND DECLARING AN EFFECTIVE DATE (SOUTH POINTE PIO FUND)

(Resolution in its entirety located in the City Secretary's Office)

Seconded by Council Member Newsom. The motion CARRIED by the following vote:

**Aye:** 7 - Larry Broseh; Julie Short; Casey Lewis; Todd Tonore; Michael Evans; Tamera Bounds and Brent Newsom

**Nay:** 0

**Abstain:** 0

Enactment No: RE-4075-23

[23-5601](#)

Resolution - A Resolution Awarding Twelve-Month Renewable Contracts to the Lowest and Best Bids for the Individual Supply of Eight Different Water Treatment Chemicals for the Bud Ervin Water Treatment Plant (Utility Fund)

A motion was made by Council Member Lewis to approve the following resolution:

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANSFIELD, TEXAS, AWARDING TWELVE-MONTH RENEWABLE CONTRACTS TO THE LOWEST AND BEST BID FOR THE INDIVIDUAL SUPPLY OF EIGHT DIFFERENT WATER TREATMENT CHEMICALS FOR THE BUD ERVIN WATER TREATMENT PLANT; FINDING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; AND DECLARING AN EFFECTIVE DATE (UTILITY FUND)**

(Resolution in its entirety located in the City Secretary's Office)

Seconded by Council Member Newsom. The motion CARRIED by the following vote:

**Aye:** 7 - Larry Broseh; Julie Short; Casey Lewis; Todd Tonore; Michael Evans; Tamera Bounds and Brent Newsom

**Nay:** 0

**Abstain:** 0

Enactment No: RE-4076-23

[23-5604](#)

Resolution - A Resolution Approving a Purchase of a Kohler 1250 KW Generator Through the Interlocal Purchasing System Buyboard to Loftin Equipment Company in an Amount Not to Exceed \$610,000 for the Phase V Expansion at the Bud Ervin Water Treatment Plant (Utility Fund)

A motion was made by Council Member Lewis to approve the following resolution:

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANSFIELD, TEXAS, APPROVING THE PURCHASE OF A KOHLER 1250 KW GENERATOR TO LOFTIN EQUIPMENT COMPANY THROUGH THE INTERLOCAL PURCHASING SYSTEM BUYBOARD IN AN AMOUNT NOT TO EXCEED \$610,000 FOR THE PHASE V EXPANSION AT THE BUD ERVIN WATER TREATMENT PLANT; FINDING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; AND DECLARING AN EFFECTIVE DATE (UTILITY FUND)**

(Resolution in its entirety located in the City Secretary's Office)

Seconded by Council Member Newsom. The motion CARRIED by the following vote:

**Aye:** 7 - Larry Broseh; Julie Short; Casey Lewis; Todd Tonore; Michael Evans; Tamera Bounds and Brent Newsom

**Nay:** 0

**Abstain:** 0

Enactment No: RE-4077-23

[23-5605](#)

Resolution - A Resolution Approving a Twelve-Month Service Agreement with IN-Pipe Technology to Install, Maintain Equipment, and Treat Wastewater Through Microbial Dosing in the Wastewater Collection System for an Amount not to Exceed \$276,000 (Utility Fund)

**A motion was made by Council Member Lewis to approve the following resolution:**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANSFIELD, TEXAS, APPROVING A TWELVE-MONTH AGREEMENT WITH IN-PIPE TECHNOLOGY IN AN AMOUNT NOT TO EXCEED \$276,000 TO INSTALL, MAINTAIN EQUIPMENT, AND TREAT WASTEWATER THROUGH MICROBIAL DOSING IN THE WASTEWATER COLLECTION SYSTEM; FINDING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; AND DECLARING AN EFFECTIVE DATE (UTILITY FUND)**

**(Resolution in its entirety located in the City Secretary's Office)**

**Seconded by Council Member Newsom. The motion CARRIED by the following vote:**

**Aye:** 7 - Larry Broseh; Julie Short; Casey Lewis; Todd Tonore; Michael Evans; Tamera Bounds and Brent Newsom

**Nay:** 0

**Abstain:** 0

Enactment No: RE-4078-23

[23-5609](#)

Resolution - A Resolution of the City Council of the City of Mansfield, Texas, Approving a Data Processing, Printing, and Mailing Services Agreement Between the City of Mansfield, Texas, And InfoSend, Inc.; Finding that the Meeting at Which this Resolution is Passed is Open to the Public as Required by Law; and Declaring an Effective Date (Utility Fund)

**A motion was made by Council Member Lewis to approve the following resolution:**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANSFIELD, TEXAS, APPROVING A DATA PROCESSING, PRINTING, AND MAILING SERVICES AGREEMENT BETWEEN THE CITY OF MANSFIELD, TX, AND INFOSEND, INC.; FINDING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; AND DECLARING AN EFFECTIVE DATE (UTILITY FUND)**

**(Resolution in its entirety located in the City Secretary's Office)**

**Seconded by Council Member Newsom. The motion CARRIED by the following vote:**

**Aye:** 7 - Larry Broseh; Julie Short; Casey Lewis; Todd Tonore; Michael Evans; Tamera Bounds and Brent Newsom

**Nay:** 0

**Abstain:** 0

Enactment No: RE-4079-23

[23-5610](#)

Resolution - A Resolution of the City Council of the City of Mansfield, Texas, Adopting Phase I of an ADA Transition Plan for Parks and Recreation Facilities; Finding That the Meeting at Which This Resolution is Passed is Open to the Public as Required by Law; And Declaring an Effective Date

**A motion was made by Council Member Lewis to approve the following resolution:**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANSFIELD, TEXAS ADOPTING PHASE I OF AN ADA TRANSITION PLAN FOR PARKS AND RECREATION FACILITIES; FINDING THAT THE MEETING IN WHICH THIS RESOLUTION IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; AND DECLARING AN EFFECTIVE DATE**

**(Resolution in its entirety located in the City Secretary's Office)**

**Seconded by Council Member Newsom. The motion CARRIED by the following vote:**

**Aye:** 7 - Larry Broseh; Julie Short; Casey Lewis; Todd Tonore; Michael Evans; Tamera Bounds and Brent Newsom

**Nay:** 0

**Abstain:** 0

Enactment No: RE-4080-23

[23-5612](#)

Resolution - A Resolution of the City Council of the City of Mansfield, Texas, Approving a Professional Services Contract Between the City of Mansfield, Texas and Westwood Professional Services, Inc., in an Amount Not to Exceed \$61,800 for Landscape Architecture Services for McClendon Park East Playground and Nature Trail; Finding That the Meeting at Which This Resolution is Passed is Open to the Public as Required by Law; And Declaring an Effective Date (MPFDC Fund)

**A motion was made by Council Member Lewis to approve the following resolution:**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANSFIELD, TEXAS APPROVING A PROFESSIONAL SERVICES CONTRACT BETWEEN THE CITY OF MANSFIELD, TEXAS AND WESTWOOD PROFESSIONAL SERVICES, INC., IN AN AMOUNT NOT TO EXCEED \$61,800 FOR LANDSCAPE ARCHITECTURE SERVICES FOR MCCLENDON PARK EAST PLAYGROUND AND NATURE TRAIL; FINDING THAT THE MEETING IN WHICH THIS RESOLUTION IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; AND DECLARING AN EFFECTIVE DATE (MPFDC FUND)**

**(Resolution in its entirety located in the City Secretary's Office)**

**Seconded by Council Member Newsom. The motion CARRIED by the following vote:**

**Aye:** 7 - Larry Broseh; Julie Short; Casey Lewis; Todd Tonore; Michael Evans; Tamera Bounds and Brent Newsom

**Nay:** 0

**Abstain:** 0

Enactment No: RE-4081-23

[23-5613](#)

Resolution - A Resolution of the City Council of the City of Mansfield, Texas, Approving a Professional Services Contract Between the City of Mansfield, Texas and Westwood Professional Services, Inc., in an Amount Not to Exceed \$57,600 for Landscape Architecture Services for Phase II Improvements at Mans Best Field Dog Park; Finding That the Meeting at Which This Resolution is Passed is Open to the Public as Required by Law; And Declaring an Effective Date (MPFDC Fund)

**A motion was made by Council Member Lewis to approve the following resolution:**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANSFIELD, TEXAS APPROVING A PROFESSIONAL SERVICES CONTRACT BETWEEN THE CITY OF MANSFIELD, TEXAS AND WESTWOOD PROFESSIONAL SERVICES, INC., IN AN AMOUNT NOT TO EXCEED \$57,600 FOR LANDSCAPE ARCHITECTURE SERVICES FOR PHASE II IMPROVEMENTS AT MANS BEST FIELD DOG PARK; FINDING THAT THE MEETING IN WHICH THIS RESOLUTION IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BYLAW; AND DECLARING AN EFFECTIVE DATE (MPFDC FUND)**

**(Resolution in its entirety located in the City Secretary's Office)**

**Seconded by Council Member Newsom. The motion CARRIED by the following vote:**

**Aye:** 7 - Larry Broseh; Julie Short; Casey Lewis; Todd Tonore; Michael Evans; Tamera Bounds and Brent Newsom

**Nay:** 0

**Abstain:** 0

Enactment No: RE-4082-23

[23-5615](#)

Resolution - A Resolution of the City Council of the City of Mansfield, Texas, Awarding a Annual Contract to Building Contractors, Inc. dba BCI Janitorial in an Amount Not to Exceed \$65,337.60 for Janitorial Services of Park Facilities; Finding That the Meeting at Which This Resolution is Passed is Open to the Public as Required by Law; And Declaring an Effective Date (MPFDC Fund)

**A motion was made by Council Member Lewis to approve the following resolution:**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANSFIELD, TEXAS AWARDING AN ANNUAL CONTRACT TO BUILDING CONTRACTORS, INC. DBA BCI JANITORIAL IN AN AMOUNT NOT TO EXCEED \$65,337.60 FOR JANITORIAL SERVICES OF PARK FACILITIES; FINDING THAT THE MEETING IN WHICH THIS**



**RESOLUTION IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; AND  
DECLARING AN EFFECTIVE DATE (MPFDC FUND)**

**(Resolution in its entirety located in the City Secretary's Office)**

**Seconded by Council Member Newsom. The motion CARRIED by the following  
vote:**

**Aye:** 7 - Larry Broseh; Julie Short; Casey Lewis; Todd Tonore; Michael Evans; Tamera  
Bounds and Brent Newsom

**Nay:** 0

**Abstain:** 0

Enactment No: RE-4083-23

[23-5616](#)

Resolution - A Resolution of the City Council of the City of Mansfield, Texas Authorizing a Collection Fee in the Amount of Thirty Percent (30%) of Debts and Accounts Receivable Ordered Paid by the Mansfield Municipal Court and of Amounts if Cases in Which the Accused has Failed to Appear; Approving a Contingent Fee Contract for Legal Services with Linebarger Goggan Blair & Sampson, LLP; Making Certain Findings as Required by Section 2254.1036 of the Texas Government Code; Finding that the Meeting at Which this Resolution is Passed is Open to the Public as Required by Law; and Declaring an Effective Date

**A motion was made by Council Member Lewis to approve the following  
resolution:**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANSFIELD, TEXAS,  
AUTHORIZING A COLLECTION FEE IN THE AMOUNT OF THIRTY PERCENT (30%)  
OF DEBTS AND ACCOUNTS RECEIVABLE ORDERED PAID BY THE MANSFIELD  
MUNICIPAL COURT AND OF AMOUNTS IN CASES IN WHICH THE ACCUSED HAS  
FAILED TO APPEAR; APPROVING A CONTINGENT FEE CONTRACT FOR LEGAL  
SERVICES WITH LINEBARGER GOGGAN BLAIR & SAMPSON, LLP; MAKING  
CERTAIN FINDINGS AS REQUIRED BY SECTION 2254.1036 OF THE TEXAS  
GOVERNMENT CODE; FINDING THAT THE MEETING AT WHICH THIS  
RESOLUTION IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; AND  
DECLARING AN EFFECTIVE DATE**

**(Resolution in its entirety located in the City Secretary's Office)**

**Seconded by Council Member Newsom. The motion CARRIED by the following  
vote:**

**Aye:** 7 - Larry Broseh; Julie Short; Casey Lewis; Todd Tonore; Michael Evans; Tamera  
Bounds and Brent Newsom

**Nay:** 0

**Abstain:** 0

Enactment No: RE-4084-23

[23-5618](#)

Resolution - A Resolution of the City Council of the City of Mansfield, Texas Approving a Contract Between the City of Mansfield, Texas and Nema 3

Electric, Inc. in an Amount not to Exceed \$104,242.00 for the Installation of the North Main Bridge LED Lights; Finding that the Meeting at Which this Resolution is Passed is Open to the Public as Required by Law; and Declaring an Effective Date

**A motion was made by Council Member Lewis to approve the following resolution:**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANSFIELD, TEXAS, APPROVING A CONTRACT BETWEEN THE CITY OF MANSFIELD, TX AND NEMA 3 ELECTRIC, INC. IN AN AMOUNT NOT TO EXCEED \$104,242.00 FOR THE INSTALLATION OF THE NORTH MAIN BRIDGE LED LIGHTS; FINDING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; AND DECLARING AN EFFECTIVE DATE (GENERAL FUND)**

**(Resolution in its entirety located in the City Secretary's Office)**

**Seconded by Council Member Newsom. The motion CARRIED by the following vote:**

**Aye:** 7 - Larry Broseh; Julie Short; Casey Lewis; Todd Tonore; Michael Evans; Tamera Bounds and Brent Newsom

**Nay:** 0

**Abstain:** 0

Enactment No: RE-4085-23

[23-5621](#)

Resolution - A Resolution of the City Council of the City of Mansfield, Texas, Approving a Collateral Assignment of Agreement with Chisholm Flats LLC, for the Benefit of Plainscapital Bank; Authorizing the City Manager or His Designee to Execute the Agreement; and Providing an Effective Date

**A motion was made by Council Member Lewis to approve the following resolution:**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANSFIELD, TEXAS APPROVING A COLLATERAL ASSIGNMENT OF AGREEMENT BY CHISHOLM FLATS LLC OF A TAX INCREMENT REINVESTMENT ZONE REIMBURSEMENT AND CHAPTER 380 ECONOMIC DEVELOPMENT AGREEMENT; FINDING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; AND DECLARING AN EFFECTIVE DATE**

**(Resolution in its entirety located in the City Secretary's Office)**

**Seconded by Council Member Newsom. The motion CARRIED by the following vote:**

**Aye:** 7 - Larry Broseh; Julie Short; Casey Lewis; Todd Tonore; Michael Evans; Tamera Bounds and Brent Newsom

**Nay:** 0

**Abstain:** 0

Enactment No: RE-4086-23

[23-5588](#)

Request for Special Event Permit: 2023 Run with Heart

**A motion was made by Council Member Lewis to approve the request for special event permit. Seconded by Council Member Newsom. The motion CARRIED by the following vote:**

**Aye:** 7 - Larry Broseh; Julie Short; Casey Lewis; Todd Tonore; Michael Evans; Tamera Bounds and Brent Newsom

**Nay:** 0

**Abstain:** 0

[23-5589](#)

Request for Special Event Permit: 2023 Mansfield Turkey Trot

**A motion was made by Council Member Lewis to approve the request for special event permit. Seconded by Council Member Newsom. The motion CARRIED by the following vote:**

**Aye:** 7 - Larry Broseh; Julie Short; Casey Lewis; Todd Tonore; Michael Evans; Tamera Bounds and Brent Newsom

**Nay:** 0

**Abstain:** 0

[23-5591](#)

Minutes - Approval of the September 11, 2023 Regular City Council Meeting Minutes

**A motion was made by Council Member Lewis to approve the minutes of the September 11, 2023 Regular City Council Meeting as presented. Seconded by Council Member Newsom. The motion CARRIED by the following vote:**

**Aye:** 7 - Larry Broseh; Julie Short; Casey Lewis; Todd Tonore; Michael Evans; Tamera Bounds and Brent Newsom

**Nay:** 0

**Abstain:** 0

[23-5617](#)

Minutes - Approval of the September 19, 2023 Special City Council Meeting and Joint City Council and Mansfield Independent School District Board Meeting Minutes

**A motion was made by Council Member Lewis to approve the minutes of the September 19, 2023 Special City Council Meeting and Joint Meeting with the MISD Board as presented. Seconded by Council Member Newsom. The motion CARRIED by the following vote:**

**Aye:** 7 - Larry Broseh; Julie Short; Casey Lewis; Todd Tonore; Michael Evans; Tamera Bounds and Brent Newsom

**Nay:** 0

**Abstain:** 0

**ITEMS TO BE REMOVED FROM THE CONSENT AGENDA**[23-5611](#)

Resolution - A Resolution of the City Council of the City of Mansfield, Texas, Awarding a Construction Contract to Home Run Construction LLC of Italy, Texas in an Amount Not to Exceed \$1,519,130.02 for Construction of a New Parking Lot and Drive at Katherine Rose Memorial Park; Finding That the Meeting at Which This Resolution is Passed is Open to the Public as Required by Law; And Declaring an Effective Date (ARPA, General Obligation Bonds, MPFDC Fund)

*Council Member Lewis removed this item from the consent agenda.*

**A motion was made by Council Member Lewis to table this item until the details of the right-of-way and access for the property to the west can be worked out. Seconded by Mayor Pro Tem Tonore. The motion CARRIED by the following vote:**

**Aye:** 7 - Larry Broseh; Julie Short; Casey Lewis; Todd Tonore; Michael Evans; Tamera Bounds and Brent Newsom

**Nay:** 0

**Abstain:** 0

[23-5576](#)

Resolution - A Resolution of the City Council of the City of Mansfield, Texas, Approving a Professional Services Contract Between the City of Mansfield, TX and Westra Consultants in an Amount Not to Exceed \$53,200.00 for the Design of Matlock Road Left Turn Lanes at Country Club Drive and Cannon Drive (Street Bond Fund)

*Council Member Newsom removed this item from the consent agenda. Director of Engineering Services Raymond Coffman answered questions on the item.*

**A motion was made by Council Member Newsom to approve the following resolution:**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANSFIELD, TEXAS, APPROVING A PROFESSIONAL SERVICES CONTRACT BETWEEN THE CITY OF MANSFIELD, TX AND WESTRA CONSULTANTS IN AN AMOUNT NOT TO EXCEED \$53,200.00 FOR THE DESIGN OF MATLOCK ROAD LEFT TURN LANES AT COUNTRY CLUB DRIVE AND CANNON DRIVE; FINDING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BYLAW; AND DECLARING AN EFFECTIVE DATE (STREET BOND FUND)**

**(Resolution in its entirety located in the City Secretary's Office)**

**Seconded by Council Member Bounds. The motion CARRIED by the following vote:**

**Aye:** 7 - Larry Broseh; Julie Short; Casey Lewis; Todd Tonore; Michael Evans; Tamera Bounds and Brent Newsom

**Nay:** 0

**Abstain:** 0

Enactment No: RE-4087-23

**END OF CONSENT AGENDA****OLD BUSINESS****23-5574**

Resolution - A Resolution of The City Council of The City Of Mansfield, Texas, Approving a Parking Lot Agreement with Open Range Properties, LLC for the Public Use of Open Range Properties, LLC's Parking Lot in an Amount not to Exceed \$14,300 a Year

**A motion was made by Council Member Short to table this item indefinitely. Seconded by Council Member Lewis. The motion CARRIED by the following vote:**

**Aye:** 7 - Larry Broseh; Julie Short; Casey Lewis; Todd Tonore; Michael Evans; Tamera Bounds and Brent Newsom

**Nay:** 0

**Abstain:** 0

**PUBLIC HEARING AND FIRST AND FINAL READING****23-5499**

Ordinance - Public Hearing and First and Final Reading on an Ordinance Amending Chapter 155 of the Code of Ordinances of the City of Mansfield, "Zoning" by Amending Special Purpose District Regulations and Creating a New Section 155.074 "T, Toll Road 360 Form-based Development District" (OA#23-002)

**A motion was made by Council Member Lewis to table this item indefinitely. Seconded by Council Member Bounds. The motion CARRIED by the following vote:**

**Aye:** 7 - Larry Broseh; Julie Short; Casey Lewis; Todd Tonore; Michael Evans; Tamera Bounds and Brent Newsom

**Nay:** 0

**Abstain:** 0

**PUBLIC HEARING AND FIRST READING****23-5500**

Ordinance - Public Hearing and First Reading on a Change of Zoning from PR, Pre-Development District to the T, Toll Road 360 Form-based Development District on approx. 210 acres, being a 20.6-acre tract of land situated in the J. Lawrence Survey, Abstract No. 616, and a 189.4-acre tract of land situated in the M. Gregg Survey, Abstract No. 385, J. Lawrence Survey, Abstract No. 616, and the H. Henderson Survey, Abstract No. 432; City of Mansfield, Ellis County, Texas, located east of State Highway 360, south of Lone Star Road, and south of

Britton Road.; Arcadia, Developer (ZC#23-005)

**A motion was made by Council Member Lewis to table this item indefinitely. Seconded by Council Member Bounds. The motion CARRIED by the following vote:**

**Aye:** 7 - Larry Broseh; Julie Short; Casey Lewis; Todd Tonore; Michael Evans; Tamera Bounds and Brent Newsom

**Nay:** 0

**Abstain:** 0

## **NEW BUSINESS**

### **23-5541**

Resolution - A Resolution of the City Council of the City Of Mansfield, Texas, Approving a Professional Services Agreement with RSM Design for the Branding and Wayfinding Design for the LinQ Innovation District, in an Amount not to Exceed \$245,500

*Rachel Bagley presented the item and answered Council questions.*

**A motion was made by Council Member Bounds to approve the following resolution:**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANSFIELD, TEXAS, APPROVING A PROFESSIONAL SERVICES AGREEMENT WITH RSM DESIGN FOR THE BRANDING AND WAYFINDING DESIGN FOR THE LINQ INNOVATION DISTRICT, IN AN AMOUNT NOT TO EXCEED \$245,500; FINDING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; AND DECLARING AN EFFECTIVE DATE**

**(Resolution in its entirety located in the City Secretary's Office)**

**Seconded by Council Member Short. The motion CARRIED by the following vote:**

**Aye:** 7 - Larry Broseh; Julie Short; Casey Lewis; Todd Tonore; Michael Evans; Tamera Bounds and Brent Newsom

**Nay:** 0

**Abstain:** 0

Enactment No: RE-4088-23

## **ADJOURN**

**A motion was made by Council Member Lewis to adjourn the meeting at 8:01 p.m. Seconded by Council Member Newsom. The motion CARRIED by the following vote:**

**Aye:** 7 - Larry Broseh; Julie Short; Casey Lewis; Todd Tonore; Michael Evans; Tamera Bounds and Brent Newsom

**Nay:** 0

**Abstain:** 0

\_\_\_\_\_  
ATTEST: Michael Evans, Mayor

\_\_\_\_\_  
Susana Marin, City Secretary



# CITY OF MANSFIELD

1200 E. Broad St.  
Mansfield, TX 76063  
mansfieldtexas.gov

## STAFF REPORT

File Number: 23-5636

**Agenda Date:** 10/9/2023

**Version:** 1

**Status:** Approval of Minutes

**In Control:** City Council

**File Type:** Meeting Minutes

**Agenda Number:**

### Title

Minutes - Approval of the September 29, 2023 Special City Council Meeting Minutes

### Requested Action

Action to be taken by the Council to approve the minutes.

### Recommendation

Approval of the minutes by the Council.

### Description/History

The minutes of the September 29, 2023 Special City Council Meeting are in DRAFT form and will not become effective until approved by the Council at this meeting.

### Justification

Permanent Record

### Funding Source

N/A

### Prepared By

Susana Marin, TRMC, City Secretary  
817-276-4203





# CITY OF MANSFIELD

1200 E. Broad St.  
Mansfield, TX 76063  
mansfieldtexas.gov

## Meeting Minutes - Draft

### City Council

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Friday, September 29, 2023

8:00 AM

Council Chambers

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#### **SPECIAL MEETING AMENDED AGENDA**

#### **8:00 A.M. - CALL MEETING TO ORDER**

*Mayor Evans called the meeting to order at 8:00 a.m.*

**Absent** 1 - Todd Tonore

**Present** 6 - Larry Broseh; Julie Short; Casey Lewis; Michael Evans; Tamera Bounds and Brent Newsom

#### **INVOCATION**

*Council Member Broseh gave the Invocation.*

#### **PLEDGE OF ALLEGIANCE**

*Council Member Short led the Pledge of Allegiance.*

#### **TEXAS PLEDGE**

"Honor the Texas Flag; I Pledge Allegiance to Thee, Texas, One State Under God; One and Indivisible"

*Council Member Bounds led the Texas Pledge.*

#### **CITIZEN COMMENTS**

*There were no citizen comments.*

#### **COUNCIL ANNOUNCEMENTS**

*There were no Council announcements.*

#### **STAFF COMMENTS**

#### **City Manager Report or Authorized Representative**

Current/Future Agenda Items

*There were no staff comments.*

## **WORK SESSION**

### Discussion Regarding Katherine Rose Memorial Park Parking Lot (Amendment to Agenda)

*Executive Director of Community Services Matt Young spoke on notable items that have occurred regarding parks throughout the last year and the possibility of remarkable parks. He next spoke on the agenda item for approval of a resolution awarding a construction contract for construction of a new parking lot at Katherine Rose Memorial Park, which was tabled at the September 25, 2023 City Council Meeting. Matt addressed concerns of the Council regarding future redevelopment of the storage facility at the end of Smith Street and the need to extend the drive into the western edge of the Park for emergency ingress and egress. Matt answered Council questions, and Council spoke on their preferences moving forward. The item will be voted on at the next regular Council meeting on October 9, 2023.*

## **RECESS INTO EXECUTIVE SESSION**

*In accordance with Texas Government Code, Chapter 551, Mayor Evans recessed the meeting into executive session at 8:02 a.m. Mayor Evans called the executive session to order in the Council Conference Room at 8:05 a.m. Mayor Evans recessed the executive session at 8:50 a.m.*

### **Deliberation Regarding Commercial or Financial Information Received From or the Offer of a Financial or Other Incentive Made to a Business Prospect Seeking to Locate, Stay or Expand in or Near the Territory of the City and with which the City is Conducting Economic Development Negotiations Pursuant to Section 551.087**

Economic Development Project #23-14

## **RECONVENE INTO REGULAR BUSINESS SESSION**

*Mayor Evans reconvened the meeting into regular business session at 8:52 p.m.*

## **TAKE ACTION NECESSARY PURSUANT TO EXECUTIVE SESSION**

*There was no action taken.*

## **ADJOURN**

**A motion was made by Council Member Newsom to adjourn the meeting at 9:09 a.m. Seconded by Council Member Bounds. The motion CARRIED by the following vote:**

**Aye:** 6 - Larry Broseh; Julie Short; Casey Lewis; Michael Evans; Tamera Bounds and Brent Newsom

**Nay:** 0

**Absent:** 1 - Todd Tonore

**Abstain:** 0

\_\_\_\_\_  
ATTEST: Michael Evans, Mayor

\_\_\_\_\_  
Susana Marin, City Secretary



# CITY OF MANSFIELD

1200 E. Broad St.  
Mansfield, TX 76063  
mansfieldtexas.gov

## STAFF REPORT

File Number: 22-4885

**Agenda Date:** 10/9/2023

**Version:** 3

**Status:** Old Business

**In Control:** City Council

**File Type:** Ordinance

**Agenda Number:**

**Title**

Ordinance - Discussion and Possible Action Regarding Changes to the Accessory Dwelling Unit Ordinance Amending Chapter 155, "Zoning" to revise the definition of an accessory dwelling in Section 155.012; to repeal Section 155.082(E)(7) in its entirety; and to revise regulations related to accessory dwellings in Section 155.099(B)(35); (OA#22-007)

**Requested Action**

To consider the proposed ordinance amendment

**Recommendation**

On December 5, 2022, the Commission continued the public hearing and approved a motion to recommend approval of the amendment by the following vote:

**Ayes:** 3 - Goodwin, Gilmore, and Thompson

**Nays:** 2 - Axen and Mainer

**Absent:** 2 - Groll and Shaw

Staff recommends approval.

**Reading and Actions**

The City Council met on December 12, 2022, and voted 6 to 0 to table the proposed amendments.

The City Council met on May 8, 2023, and voted 6 to 0 to table the proposed amendments to allow for the Housing Market Growth Strategy Sub-committee on behalf of the City Council to prepare recommendations to take to the Texas Legislature regarding legislative priorities.

The Housing Market Growth Strategy Sub-Committee met on August 28, 2023 and provided additional direction to the Department of Planning and Development Services on the proposed text amendments related to accessory dwelling units.

**Description/History**

The applicable regulations as found in Section 155.012 (Definitions), in Section 155.082 (Special Exception), and Section 155.099 (Special Conditions) of the Zoning Ordinance for accessory dwellings limits opportunities for their construction and use throughout the community. As designed, the proposed amendments intend to enable and to encourage the construction of accessory dwellings in order to vastly increase

land use efficiency; to nurture and sustain complete and lifelong neighborhoods; and to expand the supply and the options for housing without diminishing aesthetics and quality of life considerations.

The Planning and Zoning Commission held a public hearing on September 6, 2022, and recommended denial of the amendments as originally designed.

Those voting in favor of recommending denial were:

**Ayes:** 7 - Knight, Mainer, Gilmore, Goodwin, Weydeck, Groll, and Axen

**Nays:** 0

After receiving the recommendation from the Planning and Zoning Commission, the City Council remanded the proposed amendments to the regulations for accessory dwellings back to the Planning and Zoning Commission on September 12, 2022.

On October 3, 2022, the Planning and Zoning Commission received a presentation from the Director of Planning on accessory dwellings. The Planning and Zoning Commission, at the request of the Director of Planning, provided guidance and direction on proposed amendments to the regulations for accessory dwellings.

The proposed amendments to the regulations for accessory dwellings intend to capture, and articulate the community's vision for increasing the supply and the options available for attainable housing. The proposed amendments reflect the guidance and direction as requested on October 3, 2022 from the Planning and Zoning Commission.

### **Proposed Amendments**

As proposed, the following amendments to the provisions found in Chapter 155, Zoning, will provide heightened clarity and improved flexibility with respect to the construction of accessory dwelling units throughout the community's various zoning districts.

#### **Section 155.012, Definitions.**

Currently, *Dwelling, Accessory* is defined as "a dwelling unit accessory to and located on the same lot with the main residential building and used as living quarters by domestic servants or caretakers employed on the premises, temporary guests, or family members of the owner of the premises." This definition limits accessory dwellings from functioning as intended and increasing the supply and the options for attainable housing.

As proposed, the existing definition for *dwelling, accessory* would be deleted; and, in its place, a new definition for *Accessory Dwelling Unit (ADU)* would be provided.

The new definition for *Accessory Dwelling Unit (ADU)* would read as follows:

- **“ACCESSORY DWELLING UNIT (ADU).** *A dwelling unit that is subservient to a principal dwelling unit in size, location, and design, often located above garages or in independent buildings towards the rear of a lot.”*

Section 155.082(E)(7), Special Exception.

The provisions of Section 155.082(E)(7) allow the Zoning Board of Adjustment to review and to consider special exceptions for accessory dwellings. However, the provisions set forth in Section 155.082(E)(7) appear to limit the authority of the Board to only reviewing and considering special exceptions for accessory dwellings in the A, Agricultural District, the PR, Pre-Development District, and the SF, Single-Family Residential Zoning District that does not comply with the provisions in Section 155.099, Special Conditions. Given the frequency of new zoning districts --- and planned developments --- it is important for the community to have adjustments and other exceptions that can be applied equitably across the numerous zoning districts concerning accessory dwelling units. Towards that end, the proposed amendments include deleting the provisions in Section 155.082(E)(7) in their entirety will ensure this and a more predictable environment for interpreting and administering all accessory dwelling unit regulations.

Section 155.099(B)(35), Special Conditions.

The special conditions proposed for accessory dwelling units --- are intended to replace those currently existing in Section 155.099(B)(35). The proposed special conditions are also intended to provide heightened, but more flexible standards for both the design and construction of accessory dwelling units in diverse environments and settings.

A summary of some of the principal revisions to Section 155.099(B)(35) --- as proposed, are as follows:

- Accessory dwelling units are permitted by-right as an accessory residential use in all zoning districts as specified in Section 155.054, Permitted Uses (e.g., the A, Agricultural District, PR, Pre-Development District, SF, Single-Family Residential Zoning District, and PD, Planned Development District) and in the D, Downtown District, and the S, South Mansfield Form-based Development District.
- Accessory dwelling units may only be constructed in the following locations: (i) within the principal dwelling unit; (ii) above a free-standing garage; OR (iii) as an independent, free-standing accessory building or outbuilding.
- The habitable area of accessory dwelling units are limited to a maximum of 1,000 square feet or a maximum of 75 percent of the habitable area of the principal dwelling unit (the habitable area of an accessory dwelling unit is only calculated in terms of enclosed space, excluding garages and other roofed structures such as patios and porches), whichever is greater.
- The total habitable area for an accessory dwelling unit is not permitted to exceed

the habitable area of the principal dwelling unit on the same lot.

- Accessory dwelling units may not permitted be platted or sold separately from the principal dwelling unit.
- Accessory dwelling units are limited to a maximum of one (1) unit per lot in all zoning districts.
- The maximum height of an accessory dwelling unit is two (2) stories.
- The aggregate habitable area of a principal dwelling unit and accessory dwelling unit(s) may not exceed the maximum lot coverage of the zoning district in which the property is located.
- The Director of Planning is authorized to make minor adjustments so that minor deviations may be resolved administratively. Minor adjustments are solely limited to dimensional adjustments that do not constitute a decrease of more than 20 percent for setbacks; locating an accessory dwelling unit in the front yard; and architectural design of the accessory dwelling unit.
- Any property owner denied a permit for constructing an accessory dwelling unit under the provisions for accessory dwelling units may appeal to the City Council.

**Prepared By**

Jason Alexander, AICP, CEcD

Executive Director of Planning and Development Services

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

**AN ORDINANCE OF THE CITY OF MANSFIELD, TEXAS AMENDING CHAPTER 155, “ZONING,” OF THE CODE OF ORDINANCES OF THE CITY OF MANSFIELD, TEXAS, TO REVISE THE DEFINITION OF AN ACCESSORY DWELLING IN SECTION 155.012; TO REPEAL THE SPECIAL EXCEPTION RELATING TO ACCESSORY DWELLINGS IN SECTION 155.082(E)(7); TO REVISE THE SPECIAL CONDITIONS RELATING TO ACCESSORY DWELLINGS IN SECTION 155.099(B)(35); TO PROVIDE FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT; TO PROVIDE A SEVERABILITY CLAUSE; TO PROVIDE A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000.00) FOR EACH OFFENSE; AND TO PROVIDE AN EFFECTIVE DATE**

**WHEREAS**, the Planning and Zoning Commission and the governing body of the City of Mansfield, Texas, in compliance with the laws of the State of Texas with reference to the amendment of Chapter 155 the Code of Ordinances of the City of Mansfield, Texas, “Zoning”, have given the requisite notices by publication and otherwise, and after holding due hearings and affording a full and fair hearing opportunity to all property owners generally and to all interested citizens, the governing body of the City is of the opinion and finds that the Code of Ordinances should be amended; and,

**WHEREAS**, the City of Mansfield, Texas is a home-rule municipality located in Tarrant County, created in accordance with the provisions of Chapter 9 of the Local Government Code and operating pursuant to its Charter; and,

**WHEREAS**, the City Council recognizes a need to add clarity to the Code of Ordinances through amendments that help define intent of administration.

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

### **SECTION 1.**

That Section 155.012, Definitions, of the Code of Ordinances, Mansfield, Texas, is hereby amended by inserting the following new definition for “Accessory Dwelling Unit,” alphabetically, and to read as follows:

**ACCESSORY DWELLING UNIT (ADU).** A dwelling unit that is subservient to a principal dwelling unit in size, location, and design, often located above garages or in independent buildings towards the rear or the side of a lot.

### **SECTION 2.**

That Section 155.012, Definitions, of the Code of Ordinances, Mansfield, Texas, is hereby amended by deleting the definition for “Dwelling, Accessory”.



### **SECTION 3.**

That all references to “Accessory Dwelling” be replaced with “Accessory Dwelling Unit” in the Code of Ordinances, Mansfield, Texas.

### **SECTION 4.**

That Section 155.082(E)(7) “Authorized Special Exceptions” of the Code of Ordinances, Mansfield, Texas, is hereby deleted.

### **SECTION 5.**

That Section 155.099(B)(35) “Special Conditions” of the Code of Ordinances, Mansfield, Texas, is hereby amended to read as follows for accessory dwelling units:

- a. **INTENT.**  
The intent of these provisions for accessory dwelling units (ADUs) is:
  - 1. To enable and to encourage increased land use efficiency.
  - 2. To enable and to encourage a measure of attainable housing.
  - 3. To enable and to encourage lifelong neighborhoods.
  - 4. To increase the supply of housing options without diminishing the aesthetic and the quality of life in existing and future neighborhoods.
- b. **GENERAL.**
  - 1. Accessory dwelling units are permitted where specified in Section 155.054, Permitted Uses and are permitted as Accessory Units where specified in Section 155.072, D, Downtown District, and in Section 155.073, S, South Mansfield Form-based Development District.
  - 2. Accessory dwelling units may only be provided in the following locations:
    - i. Within the principal dwelling unit;
    - ii. Above a free-standing garage; OR
    - iii. As an independent, free-standing accessory building or outbuilding.
  - 3. Accessory dwelling units are limited to a maximum habitable area of 1,000 square feet or a maximum of 75 percent of the habitable area of the principal dwelling unit, whichever is greater. The habitable area of each accessory dwelling unit shall be calculated as enclosed space, excluding garages and other roofed structures such as patios and porches.
    - i. The habitable area of an accessory dwelling unit shall be no greater than the habitable area of the principal dwelling unit on the same lot.
  - 4. Accessory dwelling units shall provide an entry independent of the principal dwelling unit, that is accessible from a sidewalk or from a rear alley.
  - 5. One walkway, between four and five feet in width, that is paved with brick, concrete, or stone, shall be provided and shall directly connect the entry of the accessory dwelling unit to all required parking.
  - 6. Accessory dwelling units are not permitted to be platted or sold separately from the principal dwelling unit.

7. All trash containers and recycling containers shall be visually screened from the public right-of-way.

c. SETBACKS

1. Accessory dwelling units within the principal dwelling unit are subject to the setback requirements of the zoning district in which the principal dwelling unit is located.
2. All accessory dwelling units that are separate from the principal dwelling unit shall be setback from the boundaries of their lots as follows:
  - i. Front: 50 feet minimum.
  - ii. Side street: 5 feet minimum.
  - iii. Side yard: 5 feet minimum (7.5 feet minimum if two stories).
  - iv. Rear yard: 5 feet minimum (10 feet minimum if two stories).
  - v. Rear alley: 15 feet minimum from the rear alley centerline.
  - vi. Accessory dwelling units may not encroach into any easement.

d. HEIGHT.

1. Accessory dwelling units are limited to two stories in height and shall be no higher than the principal dwelling unit on the same lot.

e. DENSITY.

1. Accessory dwelling units shall not be counted in density calculations.
2. Accessory dwelling units are limited to one unit per lot in all zoning districts where permitted.

f. MASSING.

Accessory dwelling units shall only be constructed as follows (FIGURES 1 and 2):

1. As a garage conversion (a converted former garage);
2. As a home addition (an accessory dwelling unit that shares at least one wall with the principal dwelling unit);
3. As a home conversion (a converted area of the principal dwelling unit, with its own kitchen and bathroom);
4. As a new independent structure that is separated from the principal dwelling unit and often placed in the backyard; OR
5. As a garage addition (a new accessory dwelling unit that shares at least one wall with the garage and units may be built above the garage).

g. UTILITIES.

1. An accessory dwelling unit may or may not share utility connections with a principal dwelling unit.
2. All new utility connections may only be permitted subject to the review and the approval of the Director of Engineering Services.
3. All new utility connections shall be placed underground.

4. All new data / telecommunications lines shall be placed underground.

h. ADDITIONAL STANDARDS.

1. Accessory dwelling units shall match the color and material of the principal dwelling unit on the same lot.
2. For accessory dwelling units not within the principal dwelling unit (i.e., that are detached), roofs shall be shed with a minimum pitch of 4:12 and shall have a roof style complementary to the architectural style of the principal dwelling unit.
3. For attached accessory dwelling units, roofs shall match the roof style of the principal residential unit or principal building.
4. For attached accessory dwelling units, the unit shall be designed to have its entry to face away from the principal pedestrian entrance into the principal dwelling unit.
5. Exterior stairs and fire escapes shall not be visible from the public right-of-way or from any required open space or civic space.
6. Architectural features including, but not limited to, balconies, patios, and porches, shall not be calculated and considered to be part of the maximum habitable area of the accessory dwelling unit.
7. Where visible from the public right-of-way or any required open space or civic space, all openings for doors and windows shall match the proportions and orientations for the same on the principal dwelling unit.
8. In no circumstance shall the aggregate habitable area of a principal dwelling unit and accessory dwelling unit(s) exceed the maximum lot coverage of the zoning district in which the property is located.
9. Each accessory dwelling unit shall require one parking space in addition to the required parking for the principal dwelling unit.

i. ADJUSTMENTS.

1. The Director of Planning shall be authorized to make minor adjustments so that minor deviations may be resolved administratively. Minor adjustments shall be limited to dimensional adjustments that do not constitute a decrease of more than 20 percent for setbacks; locating an accessory dwelling unit in front yards, provided that it complies with the minimum front yard setback requirements for that zoning district; and building design (i.e., architectural design of the accessory dwelling unit).

j. APPEALS.

1. Any property owner denied a permit for constructing an accessory dwelling unit under the provisions of this Section may appeal to the City Council.  
[RESERVED]. FIGURE 1. Accessory dwelling unit massing.

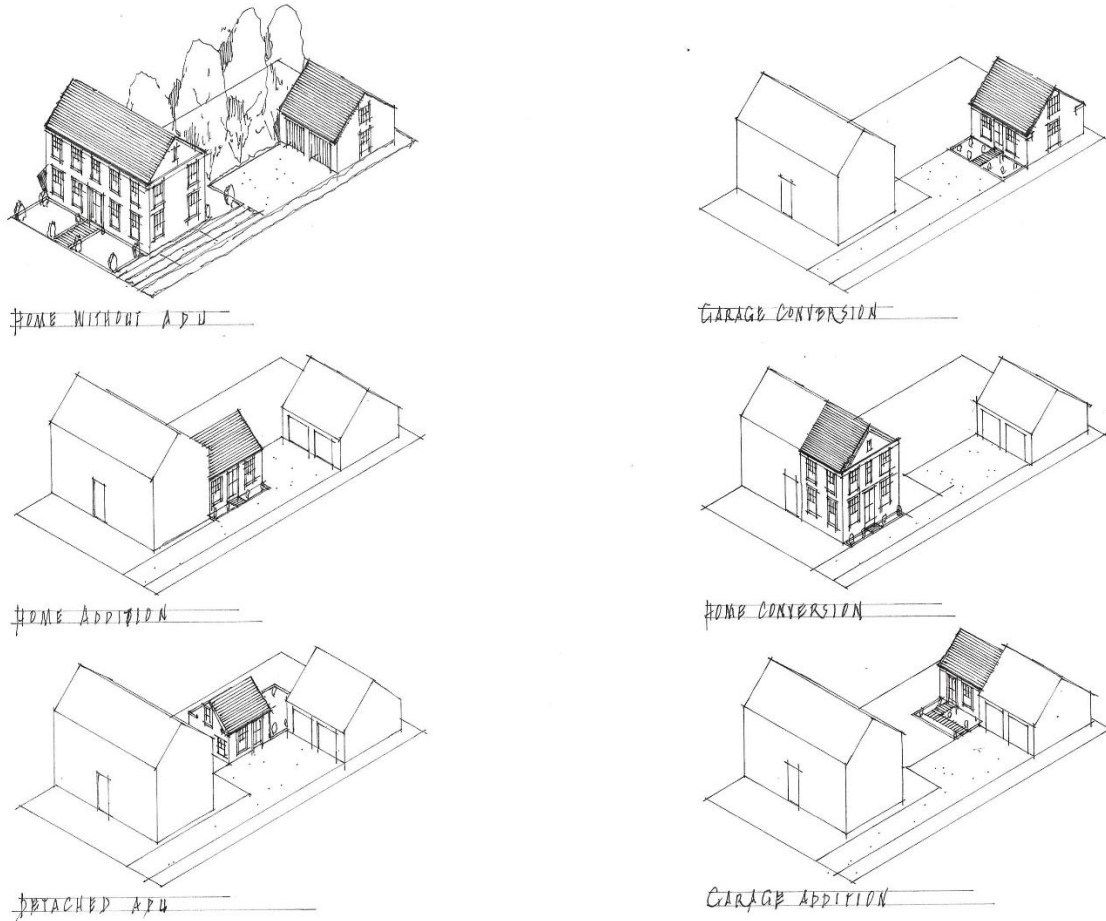


FIGURE 2. Examples of accessory dwelling units (a garage addition and an independent structure).

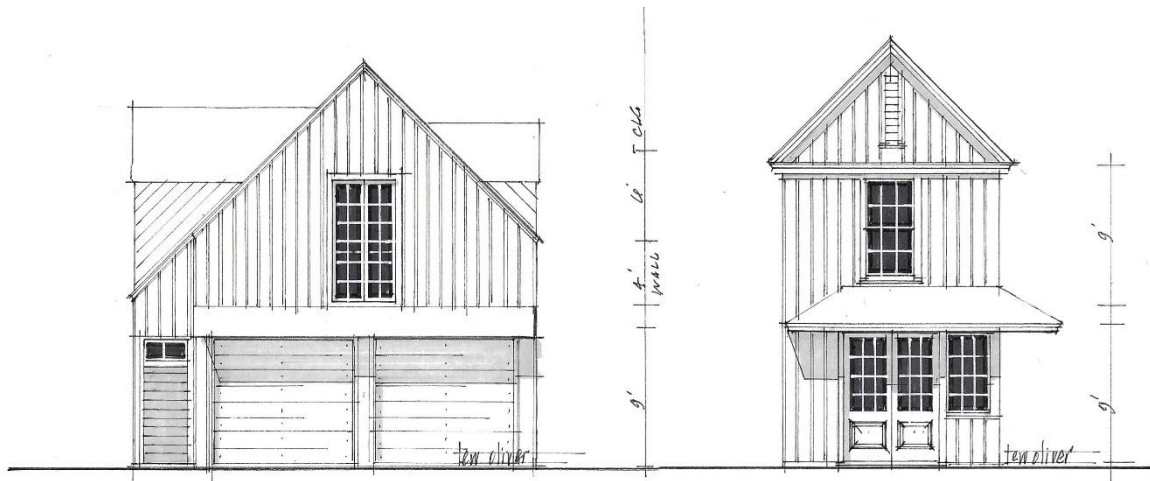


FIGURE 3-A. Example of an accessory dwelling unit.





FIGURE 3-B. Example of an accessory dwelling unit.







FIGURE 3-C. Example of an accessory dwelling unit.



**SECTION 6.**

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

**SECTION 7.**

Should any paragraph, sentence, 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 declared to be invalid, illegal or unconstitutional, and shall not affect the validity of the Zoning Ordinance as a whole.

**SECTION 8.**

Any person, firm or corporation violating any of the provisions of this ordinance or the Zoning Ordinance, as amended hereby, shall be deemed guilty of a misdemeanor and, upon conviction in the Municipal Court of the City of Mansfield, Texas, 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 any such violation shall continue shall be deemed to constitute a separate offense.

**SECTION 9.**

This ordinance shall take effect immediately from and after its passage upon reading and the publication of the caption, as the law and charter in such cases provide.

**DULY PASSED ON THE FIRST AND FINAL READING BY THE CITY COUNCIL OF THE CITY OF MANSFIELD, TEXAS, THIS 9<sup>TH</sup> DAY OF OCTOBER, 2023.**

\_\_\_\_\_  
**Michael Evans, Mayor**

**ATTEST:**

\_\_\_\_\_  
**Susana Marin, City Secretary**

**APPROVED AS TO FORM AND LEGALITY:**

\_\_\_\_\_  
**Bradley Anderle, City Attorney**



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

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**WHEREAS**, the City of Mansfield, Texas is a home-rule municipality located in Tarrant County, created in accordance with the provisions of Chapter 9 of the Local Government Code and operating pursuant to its Charter; and,

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### **SECTION 2.**

That Section 155.012, Definitions, of the Code of Ordinances, Mansfield, Texas, is hereby amended by deleting the definition for “Dwelling, Accessory”.

### **SECTION 3.**

That all references to “Accessory Dwelling” be replaced with “Accessory Dwelling Unit” in the Code of Ordinances, Mansfield, Texas.

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  2. To enable and to encourage a measure of attainable housing.
  3. To enable and to encourage lifelong neighborhoods.
  4. To increase the supply of housing options without diminishing the aesthetic and the quality of life in existing and future neighborhoods.
- b. **GENERAL.**
  1. Accessory dwelling units are permitted where specified in Section 155.054, Permitted Uses and are permitted as Accessory Units where specified in Section 155.072, D, Downtown District, and in Section 155.073, S, South Mansfield Form-based Development District.
  2. Accessory dwelling units may only be provided in the following locations:
    - i. Within the principal dwelling unit;
    - ii. Above a free-standing garage; OR
    - iii. As an independent, free-standing accessory building or outbuilding.
  3. Accessory dwelling units are limited to a maximum habitable area of 1,000 square feet or a maximum of 75 percent of the habitable area of the principal dwelling unit, whichever is greater. The habitable area of each accessory dwelling unit shall be calculated as enclosed space, excluding garages and other roofed structures such as patios and porches.
    - i. The habitable area of an accessory dwelling unit shall be no greater than the habitable area of the principal dwelling unit on the same lot.
  4. Accessory dwelling units shall provide an entry independent of the principal dwelling unit, that is accessible from a sidewalk or from a rear alley.
  5. One walkway, between four and five feet in width, that is paved with brick, concrete, or stone, shall be provided and shall directly connect the entry of the accessory dwelling unit to all required parking.
  6. Accessory dwelling units are not permitted to be platted or sold separately from the principal

dwelling unit.

7. All trash containers and recycling containers shall be visually screened from the public right-of-way.

8. ~~For a property permitted to have two accessory dwelling units, the property owner is required to register the property with the Department of Regulatory Compliance within 30 days of occupation.~~

c. SETBACKS.

1. Accessory dwelling units within the principal dwelling unit are subject to the setback requirements of the zoning district in which the principal dwelling unit is located.

2. All accessory dwelling units that are separate from the principal dwelling unit shall be setback from the boundaries of their lots as follows:

- i. Front: 50 feet minimum.

- ii. iii. Side street: 5 feet minimum.  
Side yard: 5 feet minimum (7.5 feet minimum if two stories).

- iv. Rear yard: 5 feet minimum (10 feet minimum if two stories).

- v. Rear alley: 15 feet minimum from the rear alley centerline.

- vi. Accessory dwelling units may not encroach into any easement.

d. HEIGHT.

1. Accessory dwelling units are limited to two stories in height and shall be no higher than the principal dwelling unit on the same lot.

f. DENSITY.

1. Accessory dwelling units shall not be counted in density calculations.

2. Accessory dwelling units are limited to one unit per lot in all zoning districts where permitted.:

- i. ~~Limited to two units per lot in the PR, A, and SF-12/22 Districts.~~

- ii. ~~Limited to one unit per lot in all other zoning districts, including in the PD, Planned Development District, except that a lot a minimum of 12,000 square feet in area may have two units per lot.~~

g. MASSING.

Accessory dwelling units shall only be constructed as follows (FIGURES 1 and 2):

1. As a garage conversion (a converted former garage);
2. As a home addition (an accessory dwelling unit that shares at least one wall with the principal dwelling unit);
3. As a home conversion (a converted area of the principal dwelling unit, with its own kitchen and bathroom);
4. As a new independent structure that is separated from the principal dwelling unit and often placed in the backyard; OR
5. As a garage addition (a new accessory dwelling unit that shares at least one wall with the garage and units may be built above the garage).

h. UTILITIES.

1. An accessory dwelling unit may or may not share utility connections with a principal dwelling unit.
2. All new utility connections may only be permitted subject to the review and the approval of the [City Director of Engineering Services](#).
3. All new utility connections shall be placed underground.
4. All new data / telecommunications lines shall be placed underground.

i. ADDITIONAL STANDARDS.

1. Accessory dwelling units shall match the color and material of the principal dwelling unit on the same lot.
2. For accessory dwelling units not within the principal dwelling unit (i.e., that are detached), roofs shall be shed with a minimum pitch of 4:12 and shall have a roof style complementary to the architectural style of the principal dwelling unit.
3. For attached accessory dwelling units, roofs shall match the roof style of the principal residential unit or principal building.
4. For attached accessory dwelling units, the unit shall be designed to have its entry to face away from the principal pedestrian entrance into the principal dwelling unit.
5. Exterior stairs and fire escapes shall not be visible from the public right-of-way or from any required open space or civic space.
6. Architectural features including, but not limited to, balconies, patios, and porches, shall not be calculated and considered to be part of the maximum habitable area of the accessory dwelling unit.
7. Where visible from the public right-of-way or any required open space or civic space, all openings for doors and windows shall match the proportions and orientations for the same on the principal dwelling unit.
8. In no circumstance shall the aggregate habitable area of a principal dwelling unit and accessory dwelling unit(s) exceed the maximum lot coverage of the zoning district in which the property is located.
9. Each accessory dwelling unit shall require one parking space in addition to the required parking for the principal dwelling unit.

j. ADJUSTMENTS.

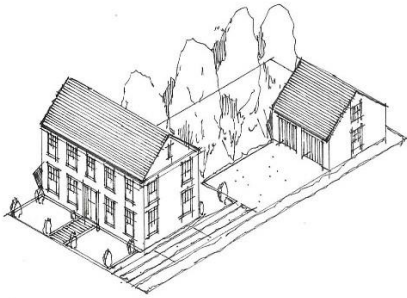
1. The Director of Planning shall be authorized to make minor adjustments so that minor deviations may be resolved administratively. Minor adjustments shall be limited to dimensional adjustments that do not constitute a decrease of more than 20 percent for setbacks; [locating an accessory dwelling unit in front yards, provided that it complies with the minimum front yard setback requirements for that zoning district](#); and building design (i.e., architectural design of the accessory dwelling unit).

k. APPEALS.

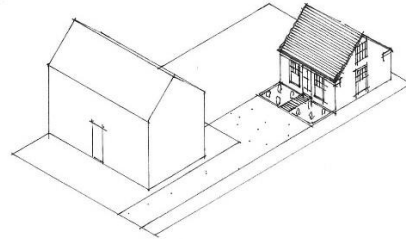
1. Any property owner denied a permit for constructing an accessory dwelling unit under the provisions of this Section may appeal to the City Council.

1. [RESERVED].

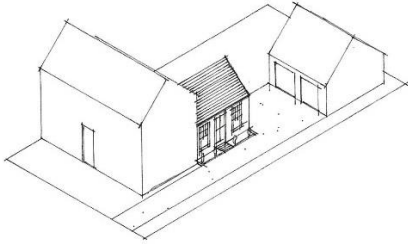
FIGURE 1. Accessory dwelling unit massing.



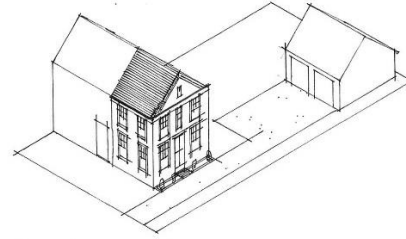
HOME WITHOUT AFD



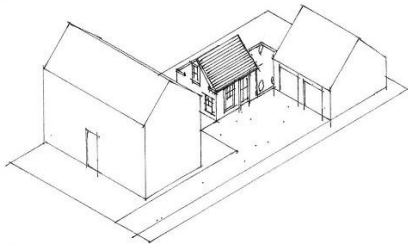
GARAGE CONVERSION



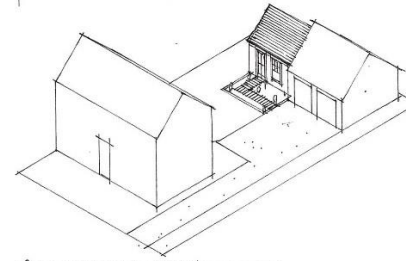
HOME ADDITION



HOME CONVERSION



DETACHED AFD



GARAGE ADDITION



FIGURE 2. Examples of accessory dwelling units (a garage addition and an independent structure).

FIGURE 3-A. Example of an accessory dwelling unit.





FIGURE 3-B. Example of an accessory dwelling unit.





FIGURE 3-C. Example of an accessory dwelling unit.





## **SECTION 6.**

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

## **SECTION 7.**

Should any paragraph, sentence, 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 declared to be invalid, illegal or unconstitutional, and shall not affect the validity of the Zoning Ordinance as a whole.

## **SECTION 8.**

Any person, firm or corporation violating any of the provisions of this ordinance or the Zoning Ordinance, as amended hereby, shall be deemed guilty of a misdemeanor and, upon conviction in the Municipal Court of the City of Mansfield, Texas, 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 any such violation shall continue shall be deemed to constitute a separate offense.

## **SECTION 9.**

This ordinance shall take effect immediately from and after its passage upon reading and the publication of the caption, as the law and charter in such cases provide.

**DULY PASSED ON THE FIRST AND FINAL READING BY THE CITY COUNCIL OF THE CITY OF MANSFIELD, TEXAS, THIS 9<sup>TH</sup> DAY OF OCTOBER, 2023.**

\_\_\_\_\_  
**Michael Evans, Mayor**

**ATTEST:**

\_\_\_\_\_  
**Susana Marin, City Secretary**

**APPROVED AS TO FORM AND LEGALITY:**

\_\_\_\_\_  
**Bradley Anderle, City Attorney**



# CITY OF MANSFIELD

1200 E. Broad St.  
Mansfield, TX 76063  
mansfieldtexas.gov

## STAFF REPORT

File Number: 23-5611

**Agenda Date:** 10/9/2023

**Version:** 1

**Status:** Old Business

**In Control:** City Council

**File Type:** Resolution

**Agenda Number:**

**Title**

Resolution - A Resolution of the City Council of the City of Mansfield, Texas, Awarding a Construction Contract to Home Run Construction LLC of Italy, Texas in an Amount Not to Exceed \$1,519,130.02 for Construction of a New Parking Lot and Drive at Katherine Rose Memorial Park; Finding That the Meeting at Which This Resolution is Passed is Open to the Public as Required by Law; And Declaring an Effective Date (ARPA, General Obligation Bonds, MPFDC Fund)

**Requested Action**

Consider and Approve a Resolution to Award Construction Contract

**Recommendation**

Approve Resolution

**Description/History**

Katherine Rose Memorial Park, a former pecan orchard named after the wife of the previous land owner, is a 31.29-acre park located at the intersection of Walnut Creek Drive and Smith Street. The park land was purchased in 1992 by the Mansfield Park Facilities Development Corporation (MPFDC) with proceeds from the half cent sales tax. The park was then developed and opened in 1996, in part with grant funding from the Texas Parks and Wildlife Department. Amenities installed over the course of the park's history have consisted of a children's playground, picnic pavilions with tables and grills, one large event pavilion with tables and grills, uncovered picnic tables with grills, lighted basketball courts, lighted volleyball courts, horseshoe pits, restroom facilities, circulating trail with exercise stations, a fishing/drainage pond, vehicular access and parking areas, and park equipment such as benches and trash cans.

The master plan for these parks was created and produced by Parkhill, Inc. in 2022-23. It has laid out the future development of these parks, addressing needed infrastructure and recreational amenities within the combined 40.72-acre area of parkland. From this plan, the direction and location of Phase 1A has been determined. It includes the realigned pedestrian and vehicular access and parking areas, while maintaining the essence of the original park setting.

The project was advertised for bid on August 23rd and 30th. The bid opening was held on September 12th, with five firms submitting bids. Following review of project experience and reference checks, staff is recommending an award to Home Run Construction LLC in the amount of \$1,519,130.02. The bid tab is attached. The MPFDC Board of Directors approved the construction contract award at their regular meeting on September 21, 2023.

**Justification**

Existing park amenities require updating, relocation, and renovation due to increased use, flooding events, and for added safety. A master plan of Katherine Rose Memorial Park and Hardy Allmon Soccer Complex was finalized in February 2023. The approval of this construction contract is the next step in the redevelopment/renovation of the park.

**Funding Source**

ARPA, MPFDC 1/2 cent sales tax, General Obligation Bonds

**Prepared By**

Matt Young, Executive Director of Community Services

[Matt.Young@mansfieldtexas.gov](mailto:Matt.Young@mansfieldtexas.gov)

817-728-3397

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANSFIELD, TEXAS AWARDING A CONSTRUCTION CONTRACT TO HOME RUN CONSTRUCTION LLC OF ITALY, TEXAS IN AN AMOUNT NOT TO EXCEED \$1,519,130.02 FOR CONSTRUCTION OF A NEW PARKING LOT AND DRIVE AT KATHERINE ROSE MEMORIAL PARK; FINDING THAT THE MEETING IN WHICH THIS RESOLUTION IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; AND DECLARING AN EFFECTIVE DATE (ARPA, GENERAL OBLIGATION BONDS, MPFDC FUND)**

**WHEREAS**, the City of Mansfield (City) is a home rule municipality operating under and governed by the laws and Constitution of the State of Texas; and,

**WHEREAS**, the City Council and Mansfield Park Facilities Development Corporation (MPFDC) approved the Parks, Recreation, Open Space & Trails Master Plan in 2020; and,

**WHEREAS**, the Master Plan determined the need for improvements at the Katherine Rose Memorial Park; and,

**WHEREAS**, the City Council and MPFDC determined that constructing these improvements at Katherine Rose Memorial Park will fulfill the need as indicated in the Master Plan; and,

**WHEREAS**, funding for this contract is available from the American Rescue Plan Act, General Obligation Bonds, and the MPFDC Fund; and,

**WHEREAS**, the MPFDC voted to approve the construction contract at their September 21, 2023 meeting.

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

**SECTION 1.**

The findings and recitations set out in the preamble are found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes.

**SECTION 2.**

A construction contract with Home Run Construction LLC in an amount not to exceed One Million Five Hundred Nineteen Thousand One Hundred Thirty and 02/100 dollars (\$1,519,130.02) for construction of a new parking lot and drive at Katherine Rose Memorial Park is hereby approved.

**SECTION 3.**

It is hereby officially found and determined that the meeting at which this Resolution is passed is open to the public by law and the public notice of the time, place, and purpose of said meeting was given as required.

**SECTION 4.**

This Resolution shall be effective from and after its passage.

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF  
MANSFIELD THIS 9<sup>TH</sup> DAY OF OCTOBER, 2023.**

\_\_\_\_\_  
**Michael Evans**, Mayor

**ATTEST:**

\_\_\_\_\_  
**Susana Marin**, City Secretary



## BID OPENING FORM

**Owner:** City of Mansfield

**Bid No.:** 2023-2301-01-04

**Project:** 2023-2301-01-04 Katherine Rose Park Phase 1a Improvements - Roadway and Parking

**Date:** 09/12/2023 @ 2:00 p.m.

Name of Bidder	Bid Type	Bid Bond Attached	Bid Amount	Comments
Cole Construction Inc.		<input checked="" type="checkbox"/> Yes	\$2,333,152.30	Received on 9/12/23 at 10:40 a.m. by KB
10315 Alta Vista Road		<input type="checkbox"/> No		
Keller, TX 76244				
Homerun Construction LLC		<input checked="" type="checkbox"/> Yes	\$1,519,130.02	Received on 9/12/23 at 1:24 p.m. by KB
PO Box 1479		<input type="checkbox"/> No		
Midlothian, TX 76065				
2L Construction LLC		<input checked="" type="checkbox"/> Yes	\$1,946,830.00	Received on 9/12/23 at 1:33 p.m. by KB
PO Box 397		<input type="checkbox"/> No		
Rhome, TX 76078				
J.B. & Co. LLC		<input checked="" type="checkbox"/> Yes	\$1,969,247.60	Received on 9/12/23 at 1:44 p.m. by KB
2626 Cole Ave., Ste #300		<input type="checkbox"/> No		
Dallas, TX 75204				
Northstar Construction, LLC		<input checked="" type="checkbox"/> Yes	\$1,789,977.00	Received on 9/12/23 at 1:49 p.m. by KB
2112 Solona Street		<input type="checkbox"/> No		
Fort Worth, TX 76117				



# CITY OF MANSFIELD

1200 E. Broad St.  
Mansfield, TX 76063  
mansfieldtexas.gov

## STAFF REPORT

File Number: 23-5606

**Agenda Date:** 10/9/2023

**Version:** 1

**Status:** Public Hearing

**In Control:** City Council

**File Type:** Ordinance

**Agenda Number:**

### Title

Ordinance - Public Hearing and First and Final Reading of an Ordinance Approving Amendments of Chapter 155 of the Mansfield Code of Ordinances Amending the Regulations in Section 155.082(E)(6) Related to Accessory Buildings or Structures and Section 155.099(B)(5), "Residential Accessory Buildings" (OA#23-010)

### Requested Action

To consider the proposed text amendment

### Recommendation

The Planning and Zoning Commission met on October 2, 2023, and voted 6 to 0 to recommend approval with a request that consideration be made to include the area of an accessory building in calculating the maximum lot coverage of a property.

**Aye:** 6 -Michael Mainer; Blake Axen; Brandon Shaw; David Goodwin; Patrick Moses; and Michael Bennett

**Nay:** 0

**Absent:** 1 - Jennifer Thompson

**Abstain:** 0

The Department of Planning and Development Services recommended approval of the text amendments to the provisions in Chapter 155 of the City of Mansfield Code of Ordinances as presented.

### . Description/History

The residential accessory building regulations were originally adopted in 2001, with the latest revision in 2019. Since then, there have been amendments to the residential lot standards and sizes in support of increased flexibility in development and design. The accessory building regulations have not kept pace with these changes, and the Department of Planning and Development Services has noted common issues related to accessory buildings that residents continue to face. The proposed amendments seek to address these issues.

The proposed amendments are intended to relieve some of these issues and bring the regulations more in line with similar standards for outbuildings in the D, Downtown District and the S, South Mansfield Form-based Development District. The proposed

amendments include the following:

- The amendments revise Section 155.082(E)(6) to allow the Zoning Board of Adjustment to grant a special exception to the maximum height of an accessory building or structure up to 35 feet on properties over 20,000 square feet.
- The amendments revise the special conditions in Section 155.099(B)(5) to make the following changes:
  1. The square footage regulations for accessory buildings or structures have been simplified. Additionally, the allowable maximum square footage has been increased based on the size of the property as follows:
    - a) 300 square feet for properties less than 8,400 square feet (the current ordinance allows 200 square feet);
    - b) 750 square feet for properties between 8,400 square feet and 19,999 square feet (the current ordinance allows 400 square feet); and
    - c) 1,500 square feet or 4 percent of the property area, whichever is greater, for properties of 20,000 square feet or larger (the current ordinance allows up to 2 percent of the property area).
  2. The maximum height of accessory buildings or structures has been increased from 12 feet under the current ordinance up to 24 feet by right.
  3. The rear yard setbacks for accessory buildings or structures have been slightly reduced to provide residents with better options in the placement of these structures on their properties.
  4. If a property contains an accessory dwelling unit, the total combined floor area of the accessory dwelling unit and any accessory building or structure on the property cannot exceed 2,500 square feet. Additionally, the main residence, an accessory dwelling unit and any accessory building or structure cannot exceed the property's maximum lot coverage.

The remaining provisions for residential accessory buildings in Section 155.099(B)(5) will continue in effect as they are today. A redlined copy of the proposed ordinance is attached for the Planning and Zoning Commission's review.

**Prepared By**  
Art Wright, AICP  
Principal Planner  
817-276-4226



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

**AN ORDINANCE OF THE CITY OF MANSFIELD, TEXAS, AMENDING CHAPTER 155 OF THE MANSFIELD CODE OF ORDINANCES BY AMENDING THE REGULATIONS IN SECTION 155.082(E)(6) RELATED TO ACCESSORY BUILDINGS OR STRUCTURES AND SECTION 155.099(B)(5), “RESIDENTIAL ACCESSORY BUILDINGS”; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY OF A FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000.00) FOR EACH OFFENSE; AND PROVIDING AN EFFECTIVE DATE**

**WHEREAS**, the Planning and Zoning Commission and the governing body of the City of Mansfield, Texas, in compliance with the laws of the State of Texas with reference to the amendment of Chapter 155 the Code of Ordinances of the City of Mansfield, Texas, “Zoning”, have given the requisite notices by publication and otherwise, and after holding due hearings and affording a full and fair hearing opportunity to all property owners generally and to all interested citizens, the governing body of the City is of the opinion and finds that the Code of Ordinances should be amended.

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

**SECTION 1.**

That Section 155.082(E)(6) of the Mansfield Code of Ordinances is hereby amended by revising division (E)(6)(a)(3) to read as follows:

“3. For properties of 20,000 square feet in size or larger, the Board may grant an increase in height up to 35 feet maximum.”

**SECTION 2.**

That Section 155.099(B)(5) of the Mansfield Code of Ordinances is hereby amended to by revising divisions (B)(5)(f) through (p) and adding a new division (q) to read as follows:

“(f) Accessory buildings or structures for properties in the A, PR, SF and 2F Districts shall not exceed the maximum square footage as depicted in the following table:

<b><i>Area of the Residential Property</i></b>	<b><i>Maximum Total Square Feet for All Accessory Buildings or Structures</i></b>
Less than 8,400 sq. ft.	300 sq. ft.
Between 8,400 sq. ft. and 19,999 sq. ft.	750 sq. ft.
20,000 sq. ft. or greater	1,500 sq. ft. or 4% of the total area of the lot, whichever is greater

(g) The maximum square footage limits shown hereinabove shall be cumulative of all accessory buildings or structures for each lot..

(h) Accessory buildings or structures for duplexes and townhomes in the MF-1 and MF-2 districts shall conform to the standards established in divisions (B)(5)(f) and (j).

(i) Accessory buildings or structures for multi-family apartments or dwellings in MF-1 and MF-2 Districts shall comply with the area, height and setback standards for the principal buildings in such districts.

(j) Accessory buildings or structures shall comply with the minimum setbacks from the property line as depicted in the table below in conjunction with the height of the accessory building or structure. . The height of accessory buildings or structures shall be measured from the ground to the highest point of the building or structure.

<b><i>Height of Accessory Building</i></b>	<b><i>Minimum Setbacks</i></b>	
	<b><i>Rear Yard</i></b>	<b><i>Side Yard</i></b>
8' or less	5'	5'
9' to 10'	7'	7'
11' to 24'	9'	9'

(k) Accessory buildings or structures may be located in the side yard provided that they meet the minimum height/setback requirements described in division (B)(5)(j) of this section and that they are at least 75 feet from the front property line or behind the rear façade of the main residential building that is furthest from the street.

(m) On double frontage lots, accessory buildings or structures may be located within the 25 feet rear yard setback provided that they meet the minimum height/setback requirements described in division (B)(5)(j) of this section.

(n) On corner lots that back up to the rear yard of another lot, accessory buildings or structures may be located within the exterior side street setback provided that they meet the minimum height/setback requirements described in division (B)(5)(j) of this section. No accessory building or structure shall be permitted within the exterior side street setback of a lot that backs up to the side yard of another lot that faces the side street.

(o) A minimum distance of five feet shall be required from enclosed accessory buildings or structures to the main residential building or to other buildings or structures on the property. No minimum separation shall be required for unenclosed (structures with no walls) accessory buildings or structures or those with an area of 200 square feet or less.

(p) The combined floor area of accessory building(s) or structure(s) and accessory dwelling unit shall not exceed two-thousand five hundred (2,500) square feet. In no case shall the combined area of the primary residence, the accessory building or structure and the accessory dwelling unit exceed the maximum percentage of lot coverage allowed for the residential zoning district in which the structures are to be located. All accessory dwelling units shall comply with the provisions set forth in Section 155.099(B)(35) of the Mansfield Zoning Ordinance. Accessory buildings or

structures that do not require a permit for location in any residential zoning district shall be exempt from this requirement.

(q) The Board of Adjustment may grant a special exception to allow an increase in the maximum area or height, or a reduction of the minimum setback requirements for accessory buildings or structures, subject to the conditions established in §155.082(E)(6).”

### **SECTION 3.**

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

### **SECTION 4.**

Should any paragraph, sentence, 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 declared to be invalid, illegal or unconstitutional, and shall not affect the validity of the Zoning Ordinance as a whole.

### **SECTION 5.**

Any person, firm or corporation violating any of the provisions of this ordinance or the Zoning Ordinance, as amended hereby, shall be deemed guilty of a misdemeanor and, upon conviction in the Municipal Court of the City of Mansfield, Texas, 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 any such violation shall continue shall be deemed to constitute a separate offense.

### **SECTION 6.**

This ordinance shall take effect immediately from and after its passage on first and final reading and the publication of the caption, as the law and charter in such cases provide.

**DULY PASSED ON THE FIRST AND FINAL READING BY THE CITY COUNCIL OF THE CITY OF MANSFIELD, TEXAS, THIS 9<sup>TH</sup> DAY OF OCTOBER, 2023.**

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**Michael Evans, Mayor**

Ordinance No. \_\_\_\_\_

23-5606

Page 4 of 4

**ATTEST:**

\_\_\_\_\_  
**Susana Marin**, City Secretary

**APPROVED AS TO FORM AND LEGALITY:**

\_\_\_\_\_  
**Bradley Anderle**, City Attorney

## ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY OF MANSFIELD, TEXAS, AMENDING CHAPTER 155 OF THE MANSFIELD CODE OF ORDINANCES BY AMENDING THE REGULATIONS IN SECTION 155.082(E)(6) RELATED TO ACCESSORY BUILDINGS OR STRUCTURES AND SECTION 155.099(B)(5), “RESIDENTIAL ACCESSORY BUILDINGS”; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY OF A FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000.00) FOR EACH OFFENSE; AND PROVIDING AN EFFECTIVE DATE**

**WHEREAS**, the Planning and Zoning Commission and the governing body of the City of Mansfield, Texas, in compliance with the laws of the State of Texas with reference to the amendment of Chapter 155 the Code of Ordinances of the City of Mansfield, Texas, “Zoning”, have given the requisite notices by publication and otherwise, and after holding due hearings and affording a full and fair hearing opportunity to all property owners generally and to all interested citizens, the governing body of the City is of the opinion and finds that the Code of Ordinances should be amended.

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

## SECTION 1.

That Section 155.082(E)(6) of the Mansfield Code of Ordinances is hereby amended by revising division (E)(6)(a)(3) to read as follows:

~~“3. The Board may grant an increase in height not to exceed 24 feet for buildings or structures located on lots of one-half acre to two acres in size, and not to exceed 35 feet for buildings or structures located on lots of two acres in size or larger. For properties of 20,000 square feet in size or larger, the Board may grant an increase in height up to 35 feet maximum.”~~

## SECTION 2.

That Section 155.099(B)(5) of the Mansfield Code of Ordinances is hereby amended to by revising divisions (B)(5)(f) through (p) and adding a new division (q) to read as follows:

“(f) Accessory buildings or structures for properties in the A, PR, SF and 2F Districts shall not exceed the maximum square footage ~~for each zoning district~~ as depicted in the following table:

~~Zoning District~~

~~Maximum Total Square Feet For All Accessory Buildings~~

~~or Structure\*~~

~~2F-120 sq. ft.~~~~SF-6/12-200 sq. ft.~~~~SF-7.5/12-200 sq. ft.~~~~SF-7.5/16-200 sq. ft.~~~~SF-7.5/18-200 sq. ft.~~~~SF-8.4/16-400 sq. ft.~~~~SF-8.4/18-400 sq. ft.~~~~SF-9.6/20-400 sq. ft.~~~~SF-12/22-400 sq. ft.~~~~A 2% of the total area of the lot~~~~SF-5AC/24-2% of the total area of the lot~~

~~\*Where the area of a lot in any SF district exceeds the minimum required lot area for that district, accessory buildings or structures may conform to the maximum total square footage limits established in division (B)(5)(g) below.~~

<i>Area of the Residential <del>Lot</del>Property</i>	<i>Maximum Total Square Feet for All Accessory <del>Buildings or Structures</del></i>
Less than 8,400 sq. ft.	<del>200</del> <u>300</u> sq. ft.
Between 8,400 sq. ft. and 19,999 sq. ft.	<del>400</del> <u>750</u> sq. ft.
<u>20,000 sq. ft. or greater</u>	<u>1,500 sq. ft. or 4% of the total area of the lot, whichever is greater</u>

~~(g) Notwithstanding the above, accessory buildings or structures for single-family homes in the PR, 2F and MF-1 Districts shall conform to the maximum square footage limit for accessory buildings or structures shown below.~~

~~(fg) The maximum square footage limits shown hereinabove shall be cumulative of all accessory buildings or structures for each lot. The square footage within a loft or attic shall be excluded from the calculation of maximum square footage of an accessory building or structure.~~

~~(gh) Accessory buildings or structures for duplexes and townhomes in the MF-1 and MF-2 districts shall conform to the standards established for accessory buildings or structures in divisions (B)(5)(f) and (j)the 2F District.~~

(hi) Accessory buildings or structures for multi-family apartments or dwellings in MF-1 and MF-2 Districts shall comply with the area, height and setback standards for the principal buildings in such districts.

(ij) Accessory buildings or structures shall comply with the minimum setbacks from the property line as depicted in the table below in conjunction with the height of the accessory building or structure. ~~Accessory buildings or structures shall be limited to one story, and may have a loft or attic, provided that such loft or attic is not used as habitable space.~~ The height of accessory buildings or structures shall be measured from the ground to the highest point of the building or structure.

<i>Maximum Height of Accessory Building</i>	<i>Minimum Setbacks</i>	
	<del>Min.</del> <i>Rear Yard</i>	<del>Min.</del> <i>Side Yard</i>
8' or less	7.5'	5'
9' to 10'	9.5'	7'
11' to <del>12'</del> 24'	<del>11</del> 9.5'	9'

(k) Accessory buildings or structures may be located in the side yard provided that they meet the minimum height/setback requirements described in division (B)(5)(~~kj~~) of this section and that they are at least 75 feet from the front property line or behind the rear façade of the main residential building that is furthest from the street.

(m) On double frontage lots, accessory buildings or structures may be located within the 25 feet rear yard setback provided that they meet the minimum height/setback requirements described in division (B)(5)(~~kj~~) of this section.

(n) On corner lots that back up to the rear yard of another lot, accessory buildings or structures may be located within the exterior side street setback provided that they meet the minimum height/setback requirements described in division (B)(5)(~~kj~~) of this section. No accessory building or structure shall be permitted within the exterior side street setback of a lot that backs up to the side yard of another lot that faces the side street.

(o) A minimum distance of five feet shall be required from enclosed accessory buildings or structures to the ~~house~~ main residential building or to and ~~to~~ other ~~accessory~~ buildings or structures ~~shall be required on the property~~. No minimum separation shall be required for unenclosed (structures with no walls) accessory buildings or structures or those with an area of ~~1200~~ square feet or less.

(p) ~~The Board of Adjustment may grant a special exception to allow an increase in the maximum area or height, or a reduction of the minimum setback requirements for accessory buildings or structures, subject to the conditions established in §155.082(E)(6). The combined floor area of accessory building(s) or structure(s) and accessory dwelling unit shall not exceed two-thousand five hundred (2,500) square feet. In no case shall the combined area of the primary~~

residence, the accessory building or structure and the accessory dwelling unit exceed the maximum percentage of lot coverage allowed for the residential zoning district in which the structures are to be located. All accessory dwelling units shall comply with the provisions set forth in Section 155.099(B)(35) of the Mansfield Zoning Ordinance. Accessory buildings or structures that do not require a permit for location in any residential zoning district shall be exempt from this requirement.

(q) The Board of Adjustment may grant a special exception to allow an increase in the maximum area or height, or a reduction of the minimum setback requirements for accessory buildings or structures, subject to the conditions established in §155.082(E)(6)."

### **SECTION 3.**

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

### **SECTION 4.**

Should any paragraph, sentence, 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 declared to be invalid, illegal or unconstitutional, and shall not affect the validity of the Zoning Ordinance as a whole.

### **SECTION 5.**

Any person, firm or corporation violating any of the provisions of this ordinance or the Zoning Ordinance, as amended hereby, shall be deemed guilty of a misdemeanor and, upon conviction in the Municipal Court of the City of Mansfield, Texas, 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 any such violation shall continue shall be deemed to constitute a separate offense.

### **SECTION 6.**

This ordinance shall take effect immediately from and after its passage on first and final reading and the publication of the caption, as the law and charter in such cases provide.

**DULY PASSED ON THE FIRST AND FINAL READING BY THE CITY COUNCIL OF THE CITY OF MANSFIELD, TEXAS, THIS 9<sup>TH</sup> DAY OF OCTOBER, 2023.**

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**Michael Evans, Mayor**



Ordinance No. \_\_\_\_\_

23-5606

Page 5 of 5

**ATTEST:**

\_\_\_\_\_  
**Susana Marin**, City Secretary

**APPROVED AS TO FORM AND LEGALITY:**

\_\_\_\_\_  
**Bradley Anderle**, City Attorney



# CITY OF MANSFIELD

1200 E. Broad St.  
Mansfield, TX 76063  
mansfieldtexas.gov

## STAFF REPORT

File Number: 23-5632

Agenda Date: 10/9/2023

Version: 1

Status: New Business

In Control: City Council

File Type: Ordinance

### Agenda Number:

#### Title

Ordinance - First and Final Reading of an Ordinance Approving Amendments of the Subdivision Control Ordinance Amending the Regulations in Section 2.04(D), "Final Plat", Section 2.06(A)(2) and (B), "Replats", Section 3.09, "Methods of Approval", and Section 10, Subsection N, "Screening" (OA#23-009)

#### Requested Action

To consider the proposed text amendment

#### Recommendation

The Department of Planning and Development Services recommends approval of the text amendments to the provisions in Chapter 155 of the City of Mansfield Code of Ordinances as presented.

#### Description/History

The proposed amendments are intended to clarify the documents required with a plat application, bring the Subdivision Control Ordinance in line with the requirements of a new state law regarding plat approval, and revise the requirements related to subdivision screening walls.

#### Section 2.04(D), "Final Plat"

One of the requirements of a plat application is construction plans for public infrastructure for paving, utilities and drainage. As a component of these plans, the City also requires construction plans for community improvements within a subdivision. Community improvements are common features in a subdivision such as landscaping, entry features, including enhanced pavement, sidewalks, screening walls or devices, street trees, tree wells, and other amenities to be maintained by the homeowners association. Under the current ordinance, Community Improvement Plans are not specifically listed as a requirement for a plat application. The proposed amendment to Section 2.04(D) will add Community Improvement Plans as a requirement element for plat applications.

#### Section 2.06(A)(2) and (B), "Replats"

The proposed amendment to Section 2.06 revises the notification requirements for replats to accommodate administrative approval. Under the current regulations, a public hearing with notice must be held by the Planning and Zoning Commission on certain residential replats. State law now provides an alternative to the notification requirements that eliminates the need for a public hearing. By incorporating this provision into the ordinance, the administrative approval of replats will be facilitated.

Section 3.09, "Methods of Approval"

House Bill 3699 took effect on September 1, 2023. Under the provisions of this law, all plats, except residential replats with a variance that require a public hearing, plats for subdivisions with private streets, and plat vacations, may be administratively approved by the Director of Planning in place of the Planning and Zoning Commission. The proposed amendment to Section 3.09 will authorize administrative approval of plats. Should the Director of Planning deny a plat, the applicant may appeal the decision to the Planning and Zoning Commission.

Section 10, Sub-Section N, "Screening"

In response to compliance concerns with the long-term maintenance of subdivision screening walls, and to facilitate new design standards and connectivity, the proposed amendment will accomplish the following:

- Eliminate subdivision screening requirements along street frontages for new developments after October 31, 2023. Development existing prior to October 31, 2023, will continue to be under the prior screening regulations.
- Discourage the use of screening walls or devices in mixed-use developments or areas where compatible residential and commercial uses may co-exist.
- Provide a process where a developer may submit a request to the Director of Planning for a voluntary screening wall or device. If the request is denied, an appeal may be made to the City Council.
- Provide for the Department of Regulatory Compliance to determine whether repair or maintenance of screening walls or devices is necessary.

**Prepared By**

Art Wright, AICP  
Principal Planner  
817-276-4226

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

**AN ORDINANCE OF THE CITY OF MANSFIELD, TEXAS, AMENDING THE SUBDIVISION CONTROL ORDINANCE OF THE CITY OF MANSFIELD, TEXAS AS HERETOFORE AMENDED BY AMENDING SECTION 2.04(D), “FINAL PLAT”, SECTION 2.06(A)(2) AND (B), “REPLATS”, REGARDING APPROVAL OF REPLATS, SECTION 3.09, “METHODS OF APPROVAL”, REGARDING APPROVAL OF PLATS, AND SECTION 10, SUBSECTION N, “SCREENING”, REGARDING REGULATIONS RELATED TO SCREENING WALLS AND SCREENING DEVICES OF SAID ORDINANCE; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING 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 of Mansfield, Texas (the “City”) is a home rule city acting under its Charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Texas Local Government Code; and,

**WHEREAS**, the City is authorized to adopt regulations governing the development of land within the City and its extraterritorial jurisdiction in the interest of the public health, safety and welfare of its citizens and providing for the orderly development of land within the City and its extraterritorial jurisdiction; and,

**WHEREAS**, the City Council had deemed it necessary to amend the City of Mansfield Subdivision Control Ordinance.

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

**SECTION 1.**

That Section 2.04(D), “Final Plat”, of the Subdivision Control Ordinance is hereby amended by adding a new Paragraph 5 to read as follows:

- “5. Community Improvement Plans: The developer shall submit a plan for hardscape and landscaping features in the common areas or civic spaces of a subdivision, including the amenities, entry features, including enhanced pavement, sidewalks, screening walls or devices (subject to the provisions in Sub-Section N), street trees, tree wells, and all other community features to be constructed with the subdivision.”

**SECTION 2.**

That Section 2.06(A)(2) and (B) of the Subdivision Control Ordinance is hereby amended to read as follows:

“2. is approved in accordance with Section 3.09 of this ordinance and that notice be sent in accordance with Chapter 212.015 of the Texas Local Government Code, as amended; and

...

- B. If any of the proposed property to be re-subdivided or replatted, within the immediate preceding five (5) years, was limited by any interim or permanent zoning classification to residential use for not more than two (2) residential units per lot, or if any lot in the approved subdivision was limited by deed restriction to residential use for not more than two (2) residential units per lot, notice to the public shall be given in accordance with state law.”

### **SECTION 3.**

That Section 3.09 of the Subdivision Control Ordinance is hereby amended and replaced as follows:

#### **“Section 3.09 Methods of Approval**

- A. The Director of Planning shall review and approve all plats except replats requiring a public hearing, plats with private streets, and plat vacations. The Director of Planning may refer the approval of any plat to the Commission for its review and approval.
- B. The Commission shall review and approve replats requiring a public hearing, plats with private streets, and plat vacations.
- C. Should the Director of Planning disapprove (i.e., deny) a plat, the applicant may appeal the decision to the Commission. Should the Commission disapprove the plat, the owner of the tract that is the subject of the plat may bring an action in a district court in accordance with state law.”

### **SECTION 4.**

That Section 10, Sub-Section N, “Screening”, of the Subdivision Control Ordinance is hereby amended to read as shown in Exhibit “A” attached hereto and made a part of this Ordinance hereof.

### **SECTION 5.**

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

### **SECTION 6.**

Should any paragraph, sentence, 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 declared to be invalid, illegal or unconstitutional, and shall not affect the validity of the Zoning Ordinance as a whole.

**SECTION 7.**

a. Any person violating any provision of this Ordinance within the corporate limits of the City of Mansfield, Texas, shall be guilty of a misdemeanor and, upon conviction in the Municipal Court of the City of Mansfield, Texas, shall be punished by a fine not to exceed the sum of Five Hundred Dollars (\$500.00) for each offense, and each and every day any such violation shall continue shall be deemed to constitute a separate offense.

b. The City shall have and retain the right to seek injunctive relief against any person, firm or corporation who is in the process of or about to violate any section, paragraph, or part of this ordinance. Such right shall exist independent of the other penalty provision of this ordinance and not in lieu thereof. The right of injunctive relief is essential to the City in order that it may maintain an orderly and properly planned control over land uses thus protecting the health, morals, safety and well being of the citizens and halting any attempt by an person, firm or corporation to inflict temporary or permanent injury on the general public by a failure to comply with the terms of this Ordinance.

**SECTION 8.**

This ordinance shall take effect immediately from and after its passage on first and final reading and the publication of the caption, as the law and charter in such cases provide.

**DULY PASSED ON THE FIRST AND FINAL READING BY THE CITY COUNCIL OF THE CITY OF MANSFIELD, TEXAS, THIS 9<sup>TH</sup> DAY OF OCTOBER, 2023.**

\_\_\_\_\_  
**Michael Evans, Mayor**

**ATTEST:**

\_\_\_\_\_  
**Susana Marin, City Secretary**

**APPROVED AS TO FORM AND LEGALITY:**

\_\_\_\_\_  
**Bradley Anderle, City Attorney**

## EXHIBIT “A”

### N. SCREENING WALLS OR DEVICES

#### 1. General –

- a) The provisions set forth in this Sub-Section shall remain applicable to all development platted on or before October 31, 2023.
- b) After October 31, 2023, the provisions set forth in this Sub-Section shall only be applicable to all development platted where abutting uses of land and activities are dissimilar to those that are in the approved development when required by the land use rules and regulations provided in the Mansfield Zoning Ordinance, as amended.
- c) After October 31, 2023, screening walls or devices shall be prohibited along all existing and future thoroughfares irrespective of classification, function, or size.
- d) After October 31, 2023, screening walls or devices shall be discouraged where residential and civic, employment, restaurant, retail, and other similar uses of land and activities can co-exist with residential uses in adjacency (i.e., along interior lot lines). Additionally, no screening wall or device shall be required to visually screen any uses of land or activities on any property that is zoned for commercial use (e.g., OP, C-1, C-2, and C-3 Districts or PD District for commercial use or mixed-use) and any property zoned for commercial use or mixed-use.
- e) After October 31, 2023, any property owner or developer that desires to have a screening wall or device provided may make such request in writing directly to the Director of Planning. All such requests for screening walls or devices shall include schematics and other illustrations or drawings depicting the wall for review and approval. Requests for screening walls or devices that are denied by the Director of Planning may only be appealed directly to the City Council. The City Council may approve the request, approve the request with modifications, or deny the request.

#### 2. Adjacent to highway frontage road or a four-lane-undivided or larger thoroughfare – When a residential subdivision is platted so that the side or rear yard of the subdivision lots are adjacent to a highway frontage road or an existing or proposed four-lane-undivided or larger thoroughfare as shown in the City’s most recent Thoroughfare Plan, a screening wall shall be provided along said frontage road or thoroughfare according to the following requirements:

- a) Height - A minimum of six (6) feet and a maximum of eight (8) feet as measured at the highest finished grade.
- b) Exemption - The screening wall requirement shall not apply when a residential subdivision is platted so that the side or rear yard setback adjacent to said highway frontage road or thoroughfare is seventy-five (75) feet or greater. Further, in exceptional cases, the Director of Planning may grant a variance or modify the screening wall requirement described herein. A wood stockade fence shall not be erected along said highway frontage road or thoroughfare if a residential subdivision is exempted from the screening wall requirement described herein.
- c) Location - the screening wall required herein shall be located entirely on private property. No part of the wall shall be in the public right-of-way.
- d) Construction Material - Only brick, stone, decorative or split-face block shall be used with the exception that a reinforced concrete wall may be used provided it has the same appearance and durability as brick, stone, decorative or split-face block. Wrought iron or tubular steel may be incorporated into the construction material provided that it is not used within the first five feet of

the screening wall elevation as measured from the ground up. Other alternate construction materials are permitted provided that the Director of Planning explicitly authorize them.

- e) Construction Design - The screening wall shall be placed on an appropriate structural footing. Columns shall be placed at intervals of no longer than thirty-five (35) feet on center and shall be taller than the remainder of the screening wall. Construction and location details shall be provided and sealed by a registered professional engineer or architect. Said screening wall construction and location details shall be submitted in conjunction with the final plat, but do not have to be part of the construction plans for public improvements.
- f) Color and Exterior Finish - When walls are built in phases for a development, the color, height and exterior finish for all phases shall be as closely similar as possible, but shall, in no case, be incompatible. The screening wall shall be equally finished on both sides.
- g) Openings - No openings of any kind shall be permitted except for approved intersecting streets, openings at the bottom of the screening wall for drainage purposes, and the wrought iron construction material as described hereinabove.
- h) Mow Edge - A continuous reinforced concrete mow edge with a minimum width of six (6) inches shall be provided along the street side of the screening wall. Mow edges shall have a minimum thickness of four (4) inches and shall be reinforced with a minimum of two (2) steel reinforcing bars three-eighths (3/8) in diameter, running continuously through such mow edge. The top of the mow edge shall be flush with the ground level.
- i) Completion Time - The required screening wall shall be in place before the acceptance of the subdivision. The developer may submit performance bond and payment bond in lieu of completing the wall before the acceptance of the subdivision. The performance bond and payment bond must be executed by a surety company holding a license to do business in the State of Texas, and acceptable to the Director of Engineering Services, in an amount equal to the construction cost of the screening wall and within the time for completion as estimated by the Director of Engineering Services.
- j) Intersection Site Obstruction - No fence, screening wall or other visual barrier shall be so located or placed that it obstructs the view of a motor vehicle driver approaching any street intersection. At all street intersections, an unobstructed view shall be maintained across the lot for a distance of twenty-five feet (25') back from the corner of the lot along both streets and in accordance with the intersection site distance provisions depicted in the most recent Thoroughfare Plan.
- k) Maintenance Responsibility - The developer of a residential subdivision shall create a mandatory Homeowners' Association (Association), which shall be responsible for maintaining the screening wall or device required herein and the parkway between said wall and the curb or street pavement. The Association's document must indicate that the screening wall is privately owned and maintained by the Association, and that the City has no obligation to maintain the screening wall. If the Association fails to maintain said screening wall and parkway, the City shall have the right to levy an assessment for the expense of the needed repairs or maintenance. Said assessment shall constitute a lien upon each lot against which the assessment is made. The Director of Regulatory Compliance or his / her designee shall be the sole judge of whether repair or maintenance is needed. If a subdivision proposal contains five or fewer lots, the developer may determine that the creation of an Association is not the most effective method for ensuring long term maintenance of the screening wall. Upon this determination, the developer will remain responsible for ensuring that some long-term maintenance system is created to meet the intent of this subsection. The developer shall be free to propose to Director of Planning, in writing, an alternate approach which may involve any method that the Director of Planning and the Planning and Zoning Commission



ultimately determine to provide at least as much guarantee of long term maintenance as the requirement of creating an Association would provide.

3. Adjacent to a street with 60' or narrower right-of-way - When a residential subdivision is platted so that the side or rear yard of the subdivision lots are adjacent to an existing or proposed street with a sixty (60) foot or narrower right-of-way as shown in the City's most recent Thoroughfare Plan and said street is located along the perimeter of the subdivision, a screening device shall be provided along said perimeter street according to the following requirements:
  - a) Height - A minimum of six (6) feet and a maximum of eight (8) feet as measured at the highest finished grade.
  - b) Location - the screening device required herein shall be located entirely on private property. No part of the screening device shall be in the public right-of-way.
  - c) Construction Material - the following materials shall be used for the screening device required herein:
    - i. Wood - Cedar or redwood only;
    - ii. Masonry -Brick, stone, decorative or split-face block only;
    - iii. Reinforced concrete wall provided it has a finished appearance similar to wood or masonry;
    - iv. Wrought iron or tubular steel provided that shrubs are placed three (3) foot on center adjacent to the fence on private property;
    - v. Combination of two or more the above construction materials; or
    - vi. Other alternate construction materials subject to review and an approval by the Director of Planning.
  - d) Construction Design of the screening device shall be in accordance with the following:
    - i. Masonry columns shall be placed at intervals of no longer than thirty-two (32) feet on center and shall be taller than the remainder of the screening device. Columns shall be placed on appropriate structural footings.
    - ii. In addition to masonry columns, screening fence with cedar or redwood panels shall be supported by horizontal rails of the same material as the panels and galvanized steel posts with concrete footings placed at intervals of no longer than eight (8) feet on center. The galvanized steel posts shall be 15 to 18 gage and 2 3/8" in diameter. There shall be at least three (3) horizontal rails for a six (6) foot high fence and four (4) horizontal rails for an eight (8) foot high fence. A hole with a minimum diameter often (10) inches and a minimum depth of twenty-four (24) inches shall be required for the concrete footings.
    - iii. The side of a screening fence with horizontal rails and posts shall not face the street along the perimeter of the development.
  - e) Color and Exterior Finish - When a screening device is built in phases for a development, the color, height, style and exterior finish for all phases shall be as closely similar as possible, and shall, in no case, be incompatible. The screening device shall be equally finished on both sides.
  - f) Mow Edge - A continuous reinforced concrete mow edge with a minimum width of six (6) inches shall be provided along the street side of the screening device. The top of the mow edges shall be flush with the ground level.
  - g) Completion Time - The required screening device shall be in place before the acceptance of the subdivision. The developer may submit performance bond and payment bond in lieu of completing the screening device before the acceptance of the subdivision. The performance bond and payment bond must be executed by a surety company holding a license to do business in the State of Texas, and acceptable to the Director of Engineering Services, in an amount equal to the construction cost

of the screening device and within the time for completion as estimated by the Director of Engineering Services.

- h) Intersection Site Distance - No screening device or other visual barrier shall be so located or placed that it obstructs the view of a motor vehicle driver approaching any street intersection. At all street intersections, an unobstructed view shall be maintained across the lot for a distance of twenty-five feet (25') back from the corner of the lot along both streets and in accordance with the intersection site distance provisions depicted in the most recent Thoroughfare Plan.
  - i) Maintenance Responsibility - The owner of the lot or property where a screening device is located shall be responsible for maintaining the screening device plus the parkway between said device and the curb or street pavement. If the property owner fails to maintain said screening device and parkway, the City shall have the right to levy an assessment for the expense of the needed repairs or maintenance. Said assessment shall constitute a lien upon each lot or property against which the assessment is made. The Director of Regulatory Compliance or his / her designee shall be the sole judge of whether repair or maintenance is needed.
4. When multi-family residential property is platted (e.g., MF-1, MF-2, and PD Districts for multi-family or mixed-use development) for development a screening wall or device may be required by the Director of Planning where abutting any property zoned for industrial use (e.g., I-1 and I-2 Districts and PD Districts for industrial use). No final building inspection shall be conducted or certificate of occupancy of occupancy issued for said development until the required screening wall or device is completed. The owner of the multi-family development shall maintain the screening wall or device. If the owner fails to maintain the screening wall or device, the City shall have the right to levy an assessment for the expense of the needed repairs. Said assessment shall constitute as a lien upon the property against which the assessment is made. The Director of Regulatory Compliance or his / her designee shall be the sole judge of whether repairs are needed.

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

**AN ORDINANCE OF THE CITY OF MANSFIELD, TEXAS, AMENDING THE SUBDIVISION CONTROL ORDINANCE OF THE CITY OF MANSFIELD, TEXAS AS HERETOFORE AMENDED BY AMENDING SECTION 2.04(D), “FINAL PLAT”, SECTION 2.06(A)(2) AND (B), “REPLATS”, REGARDING APPROVAL OF REPLATS, SECTION 3.09, “METHODS OF APPROVAL”, REGARDING APPROVAL OF PLATS, AND SECTION 10, SUBSECTION N, “SCREENING”, REGARDING REGULATIONS RELATED TO SCREENING WALLS AND SCREENING DEVICES OF SAID ORDINANCE; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING 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 of Mansfield, Texas (the “City”) is a home rule city acting under its Charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Texas Local Government Code; and,

**WHEREAS**, the City is authorized to adopt regulations governing the development of land within the City and its extraterritorial jurisdiction in the interest of the public health, safety and welfare of its citizens and providing for the orderly development of land within the City and its extraterritorial jurisdiction; and,

**WHEREAS**, the City Council had deemed it necessary to amend the City of Mansfield Subdivision Control Ordinance.

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

**SECTION 1.**

That Section 2.04(D), “Final Plat”, of the Subdivision Control Ordinance is hereby amended by adding a new Paragraph 5 to read as follows:

- “5. Community Improvement Plans: The developer shall submit a plan for hardscape and landscaping features in the common areas or civic spaces of a subdivision, including the amenities, entry features, including enhanced pavement, sidewalks, screening walls or devices (subject to the provisions in Sub-Section N), street trees, tree wells, and all other community features to be constructed with the subdivision.”

**SECTION 2.**

That Section 2.06(A)(2) and (B) of the Subdivision Control Ordinance is hereby amended to read as follows:

- “2. is approved ~~by the Commission after a public hearing on the matter at which parties in interest and citizens have an opportunity to be heard in accordance~~ with Section 3.09 of this ordinance

and that notice be sent in accordance with Chapter 212.015 of the Texas Local Government Code, as amended; and

- B. If any of the proposed property to be re-subdivided or replatted, within the immediate preceding five (5) years, was limited by any interim or permanent zoning classification to residential use for not more than two (2) residential units per lot, or if any lot in the approved subdivision was limited by deed restriction to residential use for not more than two (2) residential units per lot, notice ~~of to~~ the public ~~hearing~~ shall be given in accordance with state law.”

### SECTION 3.

That Section 3.09 of the Subdivision Control Ordinance is hereby amended and replaced as follows:

#### **“Section 3.09 Methods of Approval**

- A. The Director of Planning shall review and approve all plats except replats requiring a public hearing, plats with private streets, and plat vacations. The Director of Planning may refer the approval of any plat to the Commission for its review and approval.
- B. The Commission shall review and approve replats requiring a public hearing, plats with private streets, and plat vacations.
- C. Should the Director of Planning disapprove (i.e., deny) a plat, the applicant may appeal the decision to the Commission. Should the Commission disapprove the plat, the owner of the tract that is the subject of the plat may bring an action in a district court in accordance with state law.”

### SECTION 4.

That Section 10, Sub-Section N, “Screening”, of the Subdivision Control Ordinance is hereby amended to read as shown in Exhibit “A” attached hereto and made a part of this Ordinance hereof.

### SECTION 5.

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

### SECTION 6.

Should any paragraph, sentence, 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 declared to be invalid, illegal or unconstitutional, and shall not affect the validity of the Zoning Ordinance as a whole.

**SECTION 7.**

a. Any person violating any provision of this Ordinance within the corporate limits of the City of Mansfield, Texas, shall be guilty of a misdemeanor and, upon conviction in the Municipal Court of the City of Mansfield, Texas, shall be punished by a fine not to exceed the sum of Five Hundred Dollars (\$500.00) for each offense, and each and every day any such violation shall continue shall be deemed to constitute a separate offense.

b. The City shall have and retain the right to seek injunctive relief against any person, firm or corporation who is in the process of or about to violate any section, paragraph, or part of this ordinance. Such right shall exist independent of the other penalty provision of this ordinance and not in lieu thereof. The right of injunctive relief is essential to the City in order that it may maintain an orderly and properly planned control over land uses thus protecting the health, morals, safety and well being of the citizens and halting any attempt by an person, firm or corporation to inflict temporary or permanent injury on the general public by a failure to comply with the terms of this Ordinance.

**SECTION 8.**

This ordinance shall take effect immediately from and after its passage on first and final reading and the publication of the caption, as the law and charter in such cases provide.

**DULY PASSED ON THE FIRST AND FINAL READING BY THE CITY COUNCIL OF THE CITY OF MANSFIELD, TEXAS, THIS 9<sup>TH</sup> DAY OF OCTOBER, 2023.**

\_\_\_\_\_  
**Michael Evans, Mayor**

**ATTEST:**

\_\_\_\_\_  
**Susana Marin, City Secretary**

**APPROVED AS TO FORM AND LEGALITY:**

\_\_\_\_\_  
**Bradley Anderle, City Attorney**

**EXHIBIT “A”**

**N. SCREENING WALLS OR DEVICES**

**1. General –**

- a) The provisions set forth in this Sub-Section shall remain applicable to all development platted on or before October 31, 2023.
- b) After October 31, 2023, the provisions set forth in this Sub-Section shall only be applicable to all development platted where abutting uses of land and activities are dissimilar to those that are in the approved development when required by the land use rules and regulations provided in the Mansfield Zoning Ordinance, as amended.
- c) After October 31, 2023, screening walls or devices shall be prohibited along all existing and future thoroughfares irrespective of classification, function, or size.
- d) After October 31, 2023, screening walls or devices shall be discouraged where residential and civic, employment, restaurant, retail, and other similar uses of land and activities can co-exist with residential uses in adjacency (i.e., along interior lot lines). Additionally, no screening wall or device shall be required to visually screen any uses of land or activities on any property that is zoned for commercial use (e.g., OP, C-1, C-2, and C-3 Districts or PD District for commercial use or mixed-use) and any property zoned for commercial use or mixed-use.
- e) After October 31, 2023, any property owner or developer that desires to have a screening wall or device provided may make such request in writing directly to the Director of Planning. All such requests for screening walls or devices shall include schematics and other illustrations or drawings depicting the wall for review and approval. Requests for screening walls or devices that are denied by the Director of Planning may only be appealed directly to the City Council. The City Council may approve the request, approve the request with modifications, or deny the request.

**1.2. Adjacent to highway frontage road or a four-lane-undivided or larger thoroughfare –** When a residential subdivision is platted so that the side or rear yard of the subdivision lots are adjacent to a highway frontage road or an existing or proposed four-lane-undivided or larger thoroughfare as shown in the City’s most recent Thoroughfare Plan, a screening wall shall be provided along said frontage road or thoroughfare according to the following requirements:

- a) Height - A minimum of six (6) feet and a maximum of eight (8) feet as measured at the highest finished grade.
- b) Exemption - The screening wall requirement shall not apply when a residential subdivision is platted so that the side or rear yard setback adjacent to said highway frontage road or thoroughfare is seventy-five (75) feet or greater. Further, in exceptional cases, the ~~Planning and Zoning Commission~~Director of Planning may grant a variance or modify the screening wall requirement described herein. A wood stockade fence shall not be erected along said highway frontage road or thoroughfare if a residential subdivision is exempted from the screening wall requirement described herein.
- c) Location - the screening wall required herein shall be located entirely on private property. No part of the wall shall be in the public right-of-way.
- d) Construction Material - Only brick, stone, decorative or split-face block shall be used with the exception that a reinforced concrete wall may be used provided it has the same appearance and durability as brick, stone, decorative or split-face block. Wrought iron or tubular steel may be incorporated into the construction material provided that it is not used within the first five feet of the screening wall elevation as measured from the ground up. Other alternate construction materials are permitted provided that the ~~Planning and Zoning Commission~~Director of Planning explicitly authorize them.

- e) Construction Design - The screening wall shall be placed on an appropriate structural footing. Columns shall be placed at intervals of no longer than thirty-five (35) feet on center and shall be taller than the remainder of the screening wall. Construction and location details shall be provided and sealed by a registered professional engineer or architect. Said screening wall construction and location details shall be submitted in conjunction with the final plat, but do not have to be part of the construction plans for public improvements.
- f) Color and Exterior Finish - When walls are built in phases for a development, the color, height and exterior finish for all phases shall be as closely similar as possible, but shall, in no case, be incompatible. The screening wall shall be equally finished on both sides.
- g) Openings - No openings of any kind shall be permitted except for approved intersecting streets, openings at the bottom of the screening wall for drainage purposes, and the wrought iron construction material as described hereinabove.
- h) Mow Edge - A continuous reinforced concrete mow edge with a minimum width of six (6) inches shall be provided along the street side of the screening wall. Mow edges shall have a minimum thickness of four (4) inches and shall be reinforced with a minimum of two (2) steel reinforcing bars three-eighths (3/8) in diameter, running continuously through such mow edge. The top of the mow edge shall be flush with the ground level.
- i) Completion Time - The required screening wall shall be in place before the acceptance of the subdivision. The developer may submit performance bond and payment bond in lieu of completing the wall before the acceptance of the subdivision. The performance bond and payment bond must be executed by a surety company holding a license to do business in the State of Texas, and acceptable to the Director of Engineering Services~~City Engineer~~, in an amount equal to the construction cost of the screening wall and within the time for completion as estimated by the ~~City Engineer~~ Director of Engineering Services.
- j) Intersection Site Obstruction - No fence, screening wall or other visual barrier shall be so located or placed that it obstructs the view of a motor vehicle driver approaching any street intersection. At all street intersections, an unobstructed view shall be maintained across the lot for a distance of twenty-five feet (25') back from the corner of the lot along both streets and in accordance with the intersection site distance provisions depicted in the most recent Thoroughfare Plan.
- k) Maintenance Responsibility - The developer of a residential subdivision shall create a mandatory ~~homeowners association~~ Homeowners' Association (Association), which shall be responsible for maintaining the screening wall or device required herein and the parkway between said wall and the curb or street pavement. The ~~A~~association's document must indicate that the screening wall is privately owned and maintained by the ~~A~~association, and that the City has no obligation to maintain the screening wall. If the ~~homeowners-A~~association fails to maintain said screening wall and parkway, the City shall have the right to levy an assessment for the expense of the needed repairs or maintenance. Said assessment shall constitute a lien upon each lot against which the assessment is made. The ~~City~~ Director of Regulatory Compliance or his / her designee shall be the sole judge of whether repair or maintenance is needed. If a subdivision proposal contains five or fewer lots, the developer may determine that the creation of an ~~an Homeowner's~~ Association is not the most effective method for ensuring long term maintenance of the screening wall. Upon this determination, ~~t~~The developer will remain responsible for ensuring that some long-term maintenance system is created to meet the intent of this subsection. The developer shall be free to propose to ~~the Planning & and Zoning Commission~~ Director of Planning, in writing, an alternate

approach which may involve any method that the Director of Planning ~~& and the Planning and Zoning Commission and City Council~~ ultimately determine to provide at least as much guarantee of long term maintenance as the requirement of creating an Homeowner's Association would provide.

~~2.3.~~ Adjacent to a street with 60' or narrower right-of-way - When a residential subdivision is platted so that the side or rear yard of the subdivision lots are adjacent to an existing or proposed street with a sixty (60) foot or narrower right-of-way as shown in the City's most recent Thoroughfare Plan and said street is located along the perimeter of the subdivision, a screening device shall be provided along said perimeter street according to the following requirements:

- a) Height - A minimum of six (6) feet and a maximum of eight (8) feet as measured at the highest finished grade.
- b) Location - the screening device required herein shall be located entirely on private property. No part of the screening device shall be in the public right-of-way.
- c) Construction Material - the following materials shall be used for the screening device required herein:
  - i. Wood - Cedar or redwood only;
  - ii. Masonry - Brick, stone, decorative or split-face block only;
  - iii. Reinforced concrete wall provided it has a finished appearance similar to wood or masonry;
  - iv. Wrought iron or tubular steel provided that shrubs are placed three (3) foot on center adjacent to the fence on private property;
  - v. Combination of two or more the above construction materials; or
  - vi. Other alternate construction materials subject to a review and an approval by the Director of Planning ~~provided that the Planning and Zoning Commission explicitly authorize them.~~
- d) Construction Design of the screening device shall be in accordance with the following:
  - i. Masonry columns shall be placed at intervals of no longer than thirty-two (32) feet on center and shall be taller than the remainder of the screening device. Columns shall be placed on appropriate structural footings.
  - ii. In addition to masonry columns, screening fence with cedar or redwood panels shall be supported by horizontal rails of the same material as the panels and galvanized steel posts with concrete footings placed at intervals of no longer than eight (8) feet on center. The galvanized steel posts shall be 15 to 18 gage and 2 3/8" in diameter. There shall be at least three (3) horizontal rails for a six (6) foot high fence and four (4) horizontal rails for an eight (8) foot high fence. A hole with a minimum diameter often (10) inches and a minimum depth of twenty-four (24) inches shall be required for the concrete footings.
  - iii. The side of a screening fence with horizontal rails and posts shall not face the street along the perimeter of the development.
- e) Color and Exterior Finish - When a screening device is built in phases for a development, the color, height, style and exterior finish for all phases shall be as closely similar as possible, and shall, in no case, be incompatible. The screening device shall be equally finished on both sides.
- f) Mow Edge - A continuous reinforced concrete mow edge with a minimum width of six (6) inches shall be provided along the street side of the screening device. The top of the mow edges shall be flush with the ground level.



- g) Completion Time - The required screening device shall be in place before the acceptance of the subdivision. The developer may submit performance bond and payment bond in lieu of completing the screening device before the acceptance of the subdivision. The performance bond and payment bond must be executed by a surety company holding a license to do business in the State of Texas, and acceptable to the Director of Engineering Services~~City Engineer~~, in an amount equal to the construction cost of the screening device and within the time for completion as estimated by the ~~City Engineer~~Director of Engineering Services.
- h) Intersection Site Distance - No screening device or other visual barrier shall be so located or placed that it obstructs the view of a motor vehicle driver approaching any street intersection. At all street intersections, an unobstructed view shall be maintained across the lot for a distance of twenty-five feet (25') back from the corner of the lot along both streets and in accordance with the intersection site distance provisions depicted in the most recent Thoroughfare Plan.
- i) Maintenance Responsibility - The owner of the lot or property where a screening device is located shall be responsible for maintaining the screening device plus the parkway between said device and the curb or street pavement. If the property owner fails to maintain said screening device and parkway, the City shall have the right to levy an assessment for the expense of the needed repairs or maintenance. Said assessment shall constitute a lien upon each lot or property against which the assessment is made. The City Director of Regulatory Compliance or his / her designee shall be the sole judge of whether repair or maintenance is needed.
- ~~3. When a residential subdivision is platted so that an alley is parallel to and adjacent to a public street along the perimeter of the subdivision, a screening wall or device shall be erected and maintained between the alley and the perimeter street according to the above requirements.~~
4. When multi-family residential property is ~~final~~-platted (e.g., MF-1, MF-2, and PD Districts for multi-family or mixed-use development) for development a screening wall or device may be required by the Director of Planning where abutting any property zoned for industrial use (e.g., I-1 and I-2 Districts and PD Districts for industrial use)~~shall be provided in accordance with the above requirements as governed by the size of the street along the perimeter of the development as existing or as shown in the City's most recent Thoroughfare Plan.~~ No final building inspection shall be conducted or certificate of occupancy of occupancy issued ~~shall be approved~~ for said development until the required screening wall or device is completed. The owner of the multi-family development shall maintain the screening wall or device. If the owner fails to maintain the screening wall or device, the City shall have the right to levy an assessment for the expense of the needed repairs. Said assessment shall constitute as a lien upon the property against which the assessment is made. The City Director of Regulatory Compliance or his / her designee shall be the sole judge of whether repairs are needed.



# CITY OF MANSFIELD

1200 E. Broad St.  
Mansfield, TX 76063  
mansfieldtexas.gov

## STAFF REPORT

File Number: 23-5577

**Agenda Date:** 10/9/2023

**Version:** 1

**Status:** New Business

**In Control:** City Council

**File Type:** Resolution

**Agenda Number:**

**Title**

Resolution - A Resolution of the City Council of the City of Mansfield, Texas, Approving a Reinstatement and First Amendment to Contract of Sale and an Amendment to the TIRZ Development Agreement Between the City of Mansfield, Texas, The Mansfield Economic Development Corporation, The Board of Directors of Reinvestment Zone Number Two, City of Mansfield, and HGRC Mansfield, LP; Finding that the Meeting at which this Resolution is Passed is Open to the Public as Required by Law; Authorizing the City Manager or his Designee, The MEDC Board President, and Chairman of TIRZ #2 Board, to Execute Said Agreement; And Declaring an Effective Date (General Fund/MEDC/TIRZ #2)

**Requested Action**

To Consider the Resolution

**Recommendation**

To Approve the Resolution

**Description/History**

This amendment provides changes to the structure of the original contract of sale with Hoque Global for the approximate four acres at Smith and Elm Street. The amended terms include the following:

- Developer to purchase the 4 acres for \$2,000,000 and close by December 30, 2023
- Commence demolition by October 30, 2023
- Commence vertical construction by December 30, 2024
  - o This allows for adequate time to secure senior debt on the project
- City to grant \$2,000,000 to HG upon vertical construction commencing
- Deferring Development Fees to be paid back by TIRZ each year prior to developer reimbursements
- MEDC to grant \$350,000/year for 10 years to control/operate the 10,500 SQ FT space
- Maintain the developer TIRZ reimbursement until the earlier of the original cap being met or the expiration of the downtown TIRZ
- The property will be secured by a reversion clause in the deed if vertical

construction does not commence by December 30, 2024

**Justification**

Due to interest rates, the yield on cost originally modeled for this development significantly decreased, thus eliminating senior debt options. With the restructure of the agreement to allow for the purchase of the site for \$2,000,000, the developer can close on the land and begin demolition right away. Then, granting additional time to commence vertical construction allows the developer to seek a parallel option for a 221 (D)(4) construction loan, due to application timelines, etc. The good news is that the permits have been issued on the project and once the loan is closed, construction can commence immediately thereafter. The \$350,000 grant per year from MEDC will essentially allow the MEDC to offer business co-working and incubation space in downtown, offering resources and tools to our Mansfield businesses to help them elevate, innovate, and prosper.

**Funding Source**

TIRZ #2; MEDC

**Prepared By**

Jason Moore, Executive Director Economic Development

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANSFIELD, TEXAS, APPROVING A REINSTATEMENT AND FIRST AMENDMENT TO CONTRACT OF SALE AND AN AMENDMENT TO THE TIRZ DEVELOPMENT AGREEMENT BETWEEN THE CITY OF MANSFIELD, TEXAS, THE MANSFIELD ECONOMIC DEVELOPMENT CORPORATION, THE BOARD OF DIRECTORS OF REINVESTMENT ZONE NUMBER TWO, CITY OF MANSFIELD, AND HGRC MANSFIELD, LP; FINDING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE, THE MEDC BOARD PRESIDENT, AND CHAIRMAN OF TIRZ #2 BOARD TO EXECUTE SAID AGREEMENT; AND DECLARING AN EFFECTIVE DATE (GENERAL FUND/MEDC/TIRZ #2)**

**WHEREAS**, the City of Mansfield (City) is a home rule municipality operating under and governed by the laws and Constitution of the State of Texas; and,

**WHEREAS**, the City Council of City desires to promote the development, redevelopment and revitalization of certain areas of the City; and,

**WHEREAS**, the City Council has been presented a proposed Amendment to the Contract of Sale and to the TIRZ Development Agreement between the City of Mansfield, the Mansfield Economic Development Corporation ("MEDC"), the Board of Directors of Reinvestment Zone Number Two ("TIRZ #2"), and HGRC Mansfield, LP, copies of which are attached hereto as Exhibits "A" and "B" and incorporated herein by reference; and,

**WHEREAS**, upon full review and consideration of the Economic Development Agreement, and all matters attendant and related thereto, the City Council is of the opinion that the agreements should be approved, and the City Manager or his designee, Chairman of the TIRZ #2 Board and the MEDC President shall be authorized to execute on behalf of the City, TIRZ #2 Board and MEDC; and,

**WHEREAS**, funding for this contract is available from the General Fund, MEDC, and TIRZ #2.

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

**SECTION 1.**

The findings and recitations set out in the preamble are found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes.

**SECTION 2.**

The Amendments to the Contract of Sale in substantially the same form as Exhibit "A"

attached, and TIRZ Development Agreement in substantially the same form as Exhibit “B” attached, are found to be in the best interest of the City of Mansfield and its citizens and are hereby approved.

### **SECTION 3.**

The City Manager of the City of Mansfield or his designee, Chairman of the TIRZ #2 Board and the President of the MEDC are hereby authorized to execute the Amendments to the agreements.

### **SECTION 4.**

It is hereby officially found and determined that the meeting at which this Resolution is passed is open to the public as required by law and the public notice of the time, place, and purpose of said meeting was given as required.

### **SECTION 5.**

This Resolution shall be effective from and after its passage.

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MANSFIELD THIS 9<sup>TH</sup> DAY OF OCTOBER, 2023.**

\_\_\_\_\_  
**Michael Evans**, Mayor

**ATTEST:**

\_\_\_\_\_  
**Susana Marin**, City Secretary

## REINSTATEMENT AND FIRST AMENDMENT TO CONTRACT OF SALE

This Reinstatement and First Amendment to Contract of Sale (this “**Amendment**”) is entered into effective as of the \_\_\_\_\_ day of \_\_\_\_\_, 2023, by City of Mansfield, Texas (“**Seller**”) and HGRC Mansfield, LP, a Delaware limited partnership (“**Buyer**”).

### BACKGROUND

- A. Seller and Buyer entered into that certain Contract of Sale (the “**Contract**”) covering approximately 3.924 acres of real property located in Tarrant County, Texas, as more particularly described in the Contract (the “**Property**”).
- B. Seller and Buyer desire to reinstate and amend the Contract as specified below.

### AGREEMENT

NOW THEREFORE, for and in consideration of the recitals set forth above and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and confessed, Seller and Buyer agree as follows:

- 1. Defined Terms. Except as specified to the contrary in this Amendment, all defined terms in the Contract have the same meanings in this Amendment.
- 2. Reinstatement. The Contract is reinstated and is in full force and effect as modified by this Amendment.
- 3. Effective Date. Buyer and Seller hereby acknowledge and agree that the “**Effective Date**” of the Contract is September 21, 2022 for all purposes under the Contract.
- 4. Title Company. Buyer and Seller hereby acknowledge and agree that the “**Title Company**” under the Contract is Yellowstone Title Company, 309 East Broad Street, Mansfield, Texas 76063 for all purposes under the Contract.
- 5. Purchase Price. Section 3(a) of the Contract is hereby amended to provide that the Purchase Price for the Property is \$2,000,000.00.
- 6. Closing. Section 10(a) of the Contract is hereby amended to provide that the Closing Date shall occur on or before December 30, 2023.
- 7. Buyer’s Pre-Closing Work. Seller desires Buyer to enter the Property to conduct Buyer’s Pre-Closing Work (as hereinafter defined) prior to the Closing. Seller hereby grants to Buyer the right to enter onto the Property to conduct the following prior to Closing (collectively, “**Buyer’s Pre-Closing Work**”): (a) demolition work on the Property, including the demolition and removal of any existing improvements located on the Property; (b) a Phase I; and (c) a Phase II. Buyer will commence Buyer’s Pre-Closing Work

on or before October 30, 2023. Seller hereby represents, warrants, and covenants to Buyer that Seller owns the existing improvements located on the Property, and Seller has the right to grant and allow Buyer to demolish and remove the same without the joinder of any other person or entity. Prior to the commencement of the Buyer's Pre-Closing Work, Seller shall remove the contents of any improvements, buildings, or structures, and remove any vehicles or other items on the Property. After the commencement of Buyer's Pre-Closing Work, Seller acknowledges and agrees that Seller shall be deemed to have released any and all of Seller's rights with respect to any items or improvements on the Property, whether or not Seller has removed the same from the Property. The provisions of this paragraph shall survive Closing or the termination of the Contract.

8. Credit for Buyer's Pre-Closing Work. At Closing, Buyer shall receive a credit against the Purchaser Price for the costs associated with Buyer's Pre-Closing Work.
9. Deed. Exhibit B to the Contract is hereby deleted in its entirety and replaced with the Exhibit B attached hereto.
10. Ratification. The Contract is reinstated and, except as expressly modified hereby, all other terms and provisions of the Contract shall remain in full force and effect, are incorporated herein by this reference and shall govern the conduct of the parties; provided, however, to the extent of any inconsistency between the provisions of the Contract and the provisions of this Amendment, the provisions of this Amendment shall control.
11. Counterparts. This Amendment may be executed in any number of identical counterparts, each of which is considered an original, but together are one agreement. Facsimile, pdf and email signatures are binding on the party providing the facsimile, pdf or email signatures.

[SIGNATURES ON FOLLOWING PAGE]

This Amendment is executed as of the date and year first written above.

**SELLER:**

CITY OF MANSFIELD, TEXAS  
a Texas home rule municipality

By: \_\_\_\_\_  
Joe Smolinski, City Manager

**BUYER:**

HGRC MANSFIELD, LP,  
a Delaware limited partnership

By: HGRC Mansfield GP, LLC,  
a Texas limited partnership,  
its general partner

By: \_\_\_\_\_  
Steven Shelley, Vice President



**EXHIBIT B**

**FORM OF SPECIAL WARRANTY DEED**

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.

**SPECIAL WARRANTY DEED**

THE STATE OF TEXAS                   §  
  §  
COUNTY OF \_\_\_\_\_           §

\_\_\_\_\_, a \_\_\_\_\_ ("**Grantor**"), for and in consideration of the sum of \$10.00 and other good and valuable consideration to Grantor paid by HGRC MANSFIELD, LP, a Delaware limited partnership ("**Grantee**"), the receipt and sufficiency of which are hereby acknowledged, and subject to the reservations and easements described below, has GRANTED, BARGAINED, SOLD and CONVEYED and by these presents does GRANT, BARGAIN, SELL and CONVEY unto Grantee the real property located in Tarrant County, Texas, described on **EXHIBIT A** (the "**Property**"), together with Grantor's rights, title, and interest in all rights, privileges, and appurtenances pertaining thereto (the "**Ancillary Rights**"). The Ancillary Rights are conveyed without warranty of title, express or implied, including, without limitation, the implied warranties in Section 5.023 of the Texas Property Code.

This conveyance is made by Grantor and accepted by Grantee subject to the matters listed on **EXHIBIT B** attached hereto, and the repurchase rights described on **EXHIBIT C** attached hereto (the "**Repurchase Rights**").

For Grantor and Grantor's heirs, successors, and assigns forever, a reservation is hereby made of all oil, gas, and other minerals in and under and that may be produced from the Property. If the mineral estate is subject to existing production or an existing lease, this reservation includes the production, the lease, and all benefits from it. Grantor, and its successors and assigns, waives and conveys to Grantee, and its successors and assigns, the right of ingress and egress to and from the surface of the Property relating to the portion of the mineral estate owned by Grantor. Nothing herein, however, restricts or prohibits the pooling or unitization of the portion of the mineral estate owned by Grantor with land other than the Property; or the exploration or production of the oil, gas, and other minerals by means of wells that are drilled or mines that open on land other than the Property but enter or bottom under the surface of the Property at depths of and below five hundred feet (500').

For Grantor and Grantor's heirs, successors, and assigns forever, a reservation is hereby made of a perpetual subsurface easement under and through the Property at depths of and below five hundred feet (500') for the placement of an unlimited number of well bores from oil or gas wells the surface locations of which are situated on tracts of land other than the Property, for the purpose of developing oil, gas and other minerals in and under the Property and/or any other lands, regardless of whether such other lands are pooled with or located near the Property.

For Grantor and Grantor's heirs, successors, and assigns forever, a reservation is hereby made for the rights to use subsurface reservoirs and pore space in which to inject, dispose, sequester and/or store oil, gas and other minerals located in, on or under the Property but only to the extent, in each case that any such

use, injection, disposal, storage, sequestration or storage must be accomplished without disturbing the surface of the Property or any improvements now or hereafter situated thereon and in compliance with all applicable laws.

All taxes and other assessments assessed against the Property for the year \_\_\_\_\_ have been prorated or otherwise settled between the parties, and Grantee assumes and agrees to pay such taxes and assessments in full. If this Special Warranty Deed or Grantee's use of the Property after the date hereof results in additional taxes or assessments for periods before the date hereof, such taxes and assessments shall be the obligation of and paid by Grantee.

TO HAVE AND TO HOLD the Property, subject to the matters set forth above, together with all and singular the rights and appurtenances thereto in anywise belonging, unto Grantee, its successors and assigns forever; and Grantor does hereby bind Grantor and Grantor's heirs, successors, and assigns to WARRANT AND FOREVER DEFEND, all and singular, the Property unto Grantee, its successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof, by, through or under Grantor, but not otherwise.

Add:

Grantor's Signature / Acknowledgment Page

Grantee's Signature / Acknowledgment Page

Exhibit A – Legal Description

Exhibit B – Permitted Encumbrances

## EXHIBIT C

### REPURCHASE RIGHTS

Subject to the terms and conditions set forth below, Grantor reserves, and Grantor shall have the right and option, but not the obligation, to repurchase the Property, all as described in this Exhibit C.

1. As used in this Exhibit C, “**Commencement of Construction**” shall have the same meaning as the term is defined in the TIRZ Development Agreement entered in by the City of Mansfield, Texas, the Board of Directors of Reinvestment Zone Number Two, City of Mansfield, and HGRC Mansfield, LP effective September 14, 2022 as amended by the First Amendment to TIRZ Development Agreement, dated \_\_\_\_\_ (collectively the “Agreement”). As used in this Exhibit C, “**Commencement Date**” shall mean December 30, 2024.

2. Subject to the terms and conditions set forth below, Grantee grants to Grantor, and Grantor shall have, the right and option, but not the obligation, to repurchase the Property (the “**Repurchase Right**”) if the Commencement of Construction on the Property has not occurred by the Commencement Date or upon Grantee’s default of any other provision of the Agreement (the “**Repurchase Event**”).

(a) In order to exercise the Repurchase Right, Grantor must deliver written notice to Grantee within thirty (30) days after the Repurchase Event with the closing to be held on a date designated by Grantor no later than ninety (90) days after the Repurchase Event.

(b) If Grantor exercises the Repurchase Right, Grantee shall reconvey the Property to Grantor, at no cost to Grantor, by special warranty deed free and clear of all liens and encumbrances, with no title exceptions other than those existing on the date Grantor conveyed the Property to Grantee, and the lien for any ad valorem taxes for the year of reconveyance which are not then due and payable. Taxes shall be prorated for the year of reconveyance as of the date of the repurchase.

(c) If Grantor exercises the Repurchase Right, the repurchase price for the Property and all improvements then located thereon shall be one hundred percent (100%) of the gross purchase price paid by Grantee for the conveyance of the Property from Grantor to Grantee payable in cash or other immediately available funds on the date of repurchase.

(d) If a Repurchase Event described in Paragraph 2 above occurs, and thereafter Grantor does not give the written exercise notice within the time period specified in Paragraph 2(a) or, if having given such notice, fails to close such repurchase (for reasons other than Grantee’s failure to comply with the provisions of this Paragraph 2) within the time period specified in Paragraph 2(a) for closing, then in such event, the Repurchase Right shall automatically terminate and either party may record a notice of termination of the Repurchase Right in the appropriate public records.

3. The illegality, invalidity or unenforceability of any provision of this Exhibit C shall not affect the legality, validity or enforceability of any other provision of this Exhibit C.

4. Any notice, demand or other communication required to be given or to be served upon any party hereunder shall be void and of no effect unless given in accordance with the provisions of this section. All notices, demands or other communications must be in writing and delivered to the person to whom it is directed, either (i) in person or (ii) delivered by a reputable delivery service that provides a delivery receipt. Any notice, demand or other communication shall be deemed to have been given and received when delivered to the below stated address of the party to whom it is addressed. All notices, demands and other communications shall be given to the parties hereto at the following addresses:

Grantor: \_\_\_\_\_  
Attn: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

with copy to: \_\_\_\_\_  
Attn: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

with copy to: \_\_\_\_\_  
Attn: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Grantee: \_\_\_\_\_  
Attn: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

with copy to: \_\_\_\_\_  
Attn: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Any party entitled to receive notices hereunder may change the address for notice specified above by giving the other party ten days' advance written notice of such change of address.

7. **THIS EXHIBIT C MAY NOT BE AMENDED EXCEPT BY WRITTEN DOCUMENT SIGNED BY THE THEN CURRENT OWNER OF THE PROPERTY AND GRANTEE, SHALL BE GOVERNED BY THE LAWS OF THE STATE OF TEXAS AND IS BINDING ON THE PARTIES HERETO AND THEIR RESPECTIVE SUCCESSORS AND ASSIGNS.**

8. The prevailing party in any legal proceeding regarding this Exhibit C shall be entitled to recover from the other party all reasonable attorneys' fees and costs incurred in connection with such proceeding.

## **FIRST AMENDMENT TO TIRZ DEVELOPMENT AGREEMENT**

This First Amendment to TIRZ Development Agreement (this “Amendment”) is entered into effective as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by City of Mansfield, Texas (the “City”), the Board of Directors of Reinvestment Zone Number Two, City of Mansfield (the “Board”, and together with the City, the “Public Parties”), and HGRC Mansfield, LP, a Delaware limited partnership (the “Developer”).

### BACKGROUND

- A. The City, the Board, and the Developer entered into that certain TIRZ Development Agreement with an Effective Date of September 14, 2022 (the “Agreement”) covering approximately 3.924 acres of real property located in Tarrant County, Texas, as more particularly described in the Agreement (the “Property”).
- B. The City, the Board, and the Developer desire to amend the Agreement as specified below.

### AGREEMENT

NOW THEREFORE, for and in consideration of the recitals set forth above and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and confessed, the City, the Board, and the Developer agree as follows:

- 1. Defined Terms. The definition of “Commencement of Construction” is hereby amended as following:

“Commencement of Construction: shall mean that (i) the plans for the Project have been prepared and all approvals thereof required by applicable governmental authorities have been obtained for construction of the Project on the Property; (ii) all necessary permits for the construction of the Project on the Property pursuant to the respective plans have been issued by all applicable governmental authorities; (iii) grading of the Property for the construction of the Project has been completed; and (iv) construction of the foundation for all structures of the Project has begun.”

Except as specified to the contrary in this Amendment, all other defined terms in the Agreement have the same meanings in this Amendment.

- 2. Commencement. Section 3.1(a) of the Agreement is hereby amended to extend the Commencement of Construction of the Project to no later than December 30, 2024.
- 3. Grant. Notwithstanding anything contained in the Agreement to the contrary, the Public Parties shall grant and pay to Developer \$2,000,000.00 in cash or other immediately available funds on the date of the Commencement of Construction.

4. Fund Priorities. Section 4.2 of the Agreement is hereby deleted in its entirety and replaced with the following:  
  
“Tax Increment Fund Priorities. The funds deposited in the Property TIRZ Fund shall be applied in the following order of priority: (i) any fees imposed by a governmental authority and related to the development of the Project, including but not limited to permit fees, inspection fees, impact fees, platting fees, zoning fees, etc.; (ii) amounts pledged or required for payment of outstanding bonds or debt issued for Zone projects, if any (and provided that bond proceeds are used or reserved to pay City and Board obligations pursuant to this Agreement); (ii); and Reimbursement Payments to the Developer for the Project Costs.”
5. MEDC Operation. The Public Parties shall grant and pay to Developer the amount of \$350,000.00 each year for a period of ten (10) years for Developer to lease a 10,500 square foot space on the Property (the “Lease Space”) to the Mansfield Economic Development Corporation (the “MEDC”) for the operation of a business incubator (the “MEDC Operation”). Developer will provide an initial draft of the lease to the Public Parties for review and comment. The Public Parties and Developer shall work together in good faith to mutually agree upon the final version of the lease for the MEDC Operation on or before April 30, 2024. In the event the Public Parties and Developer cannot agree to the final version of such lease, then the same shall not be considered a default of Developer, but shall allow Developer the right to lease or use the Lease Space for any other tenant or operation.
6. Ratification. The Agreement remains in full force and effect and is ratified and confirmed as expressly modified by this Amendment. If there is a conflict between the terms of the Agreement and this Amendment, then the terms of this Amendment control.
7. Counterparts. This Amendment may be executed in any number of identical counterparts, each of which is considered an original, but together are one agreement. Facsimile, pdf and email signatures are binding on the party providing the facsimile, pdf or email signatures.

[SIGNATURES ON FOLLOWING PAGE]

This Amendment is executed as of the date and year first written above.

**CITY:**

CITY OF MANSFIELD, TEXAS  
a Texas home rule municipality

By: \_\_\_\_\_  
Joe Smolinski, City Manager

**DEVELOPER:**

HGRC MANSFIELD, LP,  
a Delaware limited partnership

By: HGRC Mansfield GP, LLC,  
a Texas limited partnership,  
its general partner

By: \_\_\_\_\_  
Steven Shelley, Vice President





# CITY OF MANSFIELD

1200 E. Broad St.  
Mansfield, TX 76063  
mansfieldtexas.gov

## STAFF REPORT

File Number: 23-5643

**Agenda Date:** 10/9/2023

**Version:** 1

**Status:** New Business

**In Control:** City Council

**File Type:** Resolution

**Agenda Number:**

**Title**

Resolution - A Resolution of the City Council of the City of Mansfield, Texas, Approving an Economic Development Agreement Between the City of Mansfield, Texas, The Mansfield Economic Development Corporation, The Board of Directors of Reinvestment Zone Number Two, City of Mansfield, and Nack Development, LLC; Finding that the Meeting at which this Resolution is Passed is Open to the Public as Required by Law; Authorizing the City Manager or his Designee, The MEDC Board President, and Chairman of TIRZ #2 Board, to Execute Said Agreement; And Declaring an Effective Date (General Fund/MEDC/TIRZ #2)

**Requested Action**

Consider Approving the Resolution

**Recommendation**

To Approve the Resolution

**Description/History**

In 2022, the City began acquiring properties in the approximate 4-acre block west of Main Street and south of Broad Street, in historic downtown. To date, the city has ownership of all but one property in this block; but is working to close on the final piece over the next six months.

The City Council selected Nack Development, a developer with a unique experience in transformational projects in downtown Frisco and Old Town Lewisville, to deliver our own catalytic development to downtown Mansfield.

With the Fire Station #1 still in operation, city staff is working on the design and relocation of the station to the southeast corner of the Walnut Creek and Broad Street intersection. Because this process is about 24 months away, Nack development will acquire the northern half of the block from the city first, and then once the fire station relocation is complete, will acquire the final parcels of land.

Nack Development will deliver significant commercial square footage to downtown, in the form similar to the Dairy Block located in Denver, Colorado. Retail, restaurant and office space will dominate the development, while brownstones and some multifamily

are expected in future phases. A series of pedestrian alleyways meander the development to create unique public spaces throughout the development. Structured parking is also a major component of the development and the main driver for required incentives.

The deal points of the agreement are summarized in the following chart:

Date	Milestone	Cash to City	380 Grant to Developer	MEDC
Grant				
Nov-23	Schematic Design (full site)			\$1,500,000
Apr-24	Land Acquisition PH 1	\$2,659,200		
Apr-24	Demo PH 1	\$2,659,200		
Dec-24	Commencement of Construction PH 1			\$750,000
Nov-25	Land Acquisition PH 2	\$2,840,358		
Nov-25	Demo PH 2	\$2,840,358		
Dec-25	Building Final PH 1		\$750,000	
Feb-26	Destination Restaurant/Retail Tenant CO			
Feb-26	Commencement of Construction PH 2			
Jun-27	Building Final PH 2		\$380,000	
<b>TOTALS</b>		<b>\$5,499,558</b>	<b>\$5,499,558</b>	<b>\$3,380,000</b>

#### Lease Schedule

Date	Master Lease PMT by City/MEDC/TIRZ
Feb-26	\$1,794,000
Feb-27	\$1,794,000
Feb-28	\$1,794,000
Feb-29	\$1,794,000
Feb-30	\$1,794,000
<b>TOTAL</b>	<b>\$8,970,000</b>

#### Justification

This is a catalytic project that will diversify the city's tax base and produce significant sales tax.

#### Funding Source

MEDC, TIRZ #2

#### Prepared By

Jason Moore, Executive Director of Economic Development

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANSFIELD, TEXAS, APPROVING AN ECONOMIC DEVELOPMENT AGREEMENT BETWEEN THE CITY OF MANSFIELD, TEXAS, THE MANSFIELD ECONOMIC DEVELOPMENT CORPORATION, THE BOARD OF DIRECTORS OF REINVESTMENT ZONE NUMBER TWO, CITY OF MANSFIELD, AND NACK DEVELOPMENT, LLC; FINDING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE, THE MEDC BOARD PRESIDENT, AND CHAIRMAN OF TIRZ #2 BOARD TO EXECUTE SAID AGREEMENT; AND DECLARING AN EFFECTIVE DATE (GENERAL FUND/MEDC/TIRZ #2)**

**WHEREAS**, the City of Mansfield (City) is a home rule municipality operating under and governed by the laws and Constitution of the State of Texas; and,

**WHEREAS**, the City Council of City desires to promote the development, redevelopment and revitalization of certain areas of the City; and,

**WHEREAS**, the City Council has been presented a proposed Economic Development Agreement between the City of Mansfield, the Mansfield Economic Development Corporation (“MEDC”), the Board of Directors of Reinvestment Zone Number Two (“TIRZ #2”), and Nack Development, LLC, a copy of which is attached hereto as Exhibit “A” and incorporated herein by reference; and,

**WHEREAS**, upon full review and consideration of the Economic Development Agreement, and all matters attendant and related thereto, the City Council is of the opinion that the agreement should be approved, and the City Manager or his designee, Chairman of the TIRZ #2 Board and the MEDC President shall be authorized to execute on behalf of the City, TIRZ #2 Board and MEDC; and,

**WHEREAS**, funding for this contract is available from the General Fund, MEDC, and TIRZ #2.

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

**SECTION 1.**

The findings and recitations set out in the preamble are found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes.

**SECTION 2.**

The Economic Development Agreement attached hereto as Exhibit “A” is found to be in the best interest of the City of Mansfield and its citizens and is approved.

**SECTION 3.**

The City Manager of the City of Mansfield or his designee, Chairman of the TIRZ #2 Board and the President of the MEDC are hereby authorized to execute the Economic Development Agreement.

**SECTION 4.**

It is hereby officially found and determined that the meeting at which this Resolution is passed is open to the public as required by law and the public notice of the time, place, and purpose of said meeting was given as required.

**SECTION 5.**

This Resolution shall be effective from and after its passage.

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MANSFIELD THIS 9<sup>TH</sup> DAY OF OCTOBER, 2023.**

\_\_\_\_\_  
**Michael Evans, Mayor**

**ATTEST:**

\_\_\_\_\_  
**Susana Marin, City Secretary**

## ECONOMIC DEVELOPMENT AGREEMENT

### NACK DEVELOPMENT

This Economic Development Agreement (“**Agreement**”) is made and entered into by and between the City of Mansfield, Texas, a Texas home rule municipal corporation of the State of Texas (the “**City**”), the Mansfield Economic Development Corporation (“**MEDC**”), a nonprofit Corporation organized under Title 12, Subtitle C1, of the Texas Local Government Code (“**Act**”), the Board of Directors (the “**Board**”) of Reinvestment Zone Number Two, City of Mansfield (the “**Zone**”), (City, MEDC, and Board are collectively referred to as **Public Parties**), and Nack Development, LLC, a Texas Limited Liability Company (“**Company**”). City, MEDC, Board, and Company may sometimes hereafter be referred to individually as a “party” or collectively as the “parties.”

### RECITALS:

**WHEREAS**, City owns approximately 4 acres of land as more particularly described on the attached **Exhibit A** (the “**Property**”); and

**WHEREAS**, pursuant to the Contract of Sale (as defined below), Company will acquire fee title to all of the Property from the City in two separate phases; and

**WHEREAS**, Company’s obligations to perform under this Agreement will be secured by a deed of trust on the Property, which City and MEDC agrees to subordinate to any third-party construction financing obtained by Company for development of the Project, to the extent authorized by Texas law, and in accordance with the Contract of Sale (as defined below); and

**WHEREAS**, Company intends to develop the Property in phases for a mixed-use project consisting of approximately 79,000 square feet of Retail, Restaurant or Professional Office space, and no less than 20 townhomes and 102 multifamily homes, together with structured parking, plazas, green areas, and decorative alleys for the enjoyment of the public (collectively the “**Project**”); and

**WHEREAS**, Company has advised the City that a contributing factor that would induce the Company to construct the Project would be an agreement by Public Parties to provide economic development grants to the Company as set forth herein; and

**WHEREAS**, Public Parties have determined that the Grants (as defined below) to be made hereunder are required or suitable for infrastructure necessary to promote or develop new or expanded business enterprises and constitute a “project”, as that term is defined in the Act; and

**WHEREAS**, Public Parties have further determined that expenditures, including conveyance of the Property, from City under this Agreement are for the creation or retention of primary jobs and are required or suitable for the development, retention, or expansion of primary job training facilities, retail, or restaurants; and

**WHEREAS**, Public Parties have determined that making the Grants and expenditures in accordance with this Agreement will further the objectives of the City, will benefit City and City's inhabitants, and will promote local economic development and stimulate business and commercial activity in City; and

**WHEREAS**, the Property is located within the Zone and the Board and City find that selling the Property in accordance with the terms and conditions of this Agreement is advisable to implement the project plan for the Zone, and the City finds that the Property may be sold for economic development purposes in accordance with Texas Local Gov't Code Ch. 253; and

**WHEREAS**, the Board also desires to provide incentive payments to Company to offset the difference between the market rental rates of the buildings within the Project and the rates sufficient to pay off Company's debt in constructing the Project, as further provided and defined in Article 5 below; and

**WHEREAS**, in accordance with Section 311.010(h) of the Act, the City Council of City and the Board, as necessary or convenient to implement the adopted project and finance plan, and achieve its purposes, may establish and provide for the administration of one or more programs for the public purposes of developing and diversifying the economy of the Zone, eliminating unemployment and underemployment in the Zone, and developing or expanding transportation, business, and commercial activity in the Zone, including programs to make grants and loans from the Property TIRZ Fund of the Zone; and

**WHEREAS**, by approval of the City Council, the Board has all the powers of a municipality under Chapter 380, Texas Local Government Code; and

**WHEREAS**, in accordance with the adopted project and finance plan, the City and Board find that payments to Company under this Agreement are in compliance with the Tax Increment Financing Act, Chapter 311, Texas Tax Code, and will be made in furtherance of economic development programs authorized under Chapter 380, Texas Local Government Code, and the Project to be built by Company is one which contains businesses that will result in investments that support the placemaking goals of the project and finance plan, and is a project that offers a high likelihood of repayment to encourage the regeneration of public funds; and

**WHEREAS**, the MEDC and Board find that the payments from the Property TIRZ Fund utilized under this Agreement are for the public purposes of: (i) developing and diversifying the economy of the Zone and the state; (ii) eliminating unemployment and underemployment in the state and Zone; (iii) developing and expanding commerce in the state; (iv) stimulating business and commerce within the Zone; and (v) promoting development and redevelopment within the Zone; and

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

## **ARTICLE 1**

## DEFINITIONS

For all purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires, the terms defined in this Article have the meanings assigned to them in the Recitals or this Article, and all such terms include the plural as well as the singular.

“Acquisition Grants” shall have the meaning outlined in Article 5 of the Agreement.

“Affiliate” of Company means any other person directly controlling, or directly controlled by or under direct common control with the Company. As used in this definition, the term “control,” “controlling” or “controlled by” shall mean the possession, directly, of the power either to (a) vote fifty percent (50%) or more of the securities or interests having ordinary voting power for the election of directors (or other comparable controlling body) of the Company, or (b) direct or cause the direction of management or policies of the Company, whether through the ownership of voting securities or interests, by contract or otherwise, excluding in each case, any lender of the Company or any affiliate of such lender.

“Approved Plans” means the plans and specifications relating to the design and construction of the Improvements, inclusive of any change orders thereto, which are in compliance with all City rules and regulations, and approved by the City.

“Building Final” means the approval of the final inspection issued by the City certifying a building’s compliance with applicable building codes and other laws, and indicating it to be in condition suitable for further construction of interior finish out for a specific tenant(s).

“Capital Investment” means Company’s capitalized costs for the design and construction of Phase 1 of the Project (inclusive of all hard and soft costs). Capital Investment does not include the cost of the land or rights-of-way.

“Captured Appraised Value” means the total appraised value of all real property taxable by the City and located in the Zone for the calendar year less the Tax Increment Base.

“Certificate of Occupancy” means the document issued by the City certifying that a building is in compliance with applicable building codes and other laws, and indicating it to be in a condition suitable for occupation.

“City” means the City of Mansfield, Texas.

“City Council” means the city council of City.

“City Manager” means city manager of city, or his or her authorized designee.

“Commencement of Construction” means (i) the plans have been prepared and all approvals thereof required by applicable governmental authorities have been obtained for construction of Phase 1; (ii) all necessary permits for the construction of Phase 1, have been issued by the applicable governmental authorities; and (iii) construction of the foundations for buildings within Phase 1 has commenced.

“Contract of Sale” means the contract of sale attached hereto as **Exhibit C**, which shall be made in compliance with Texas Local Gov’t Code Ch. 380 and Ch. 253, which requires granting the City sufficient control to ensure that the public purpose of this Agreement is accomplished and the City receives the return benefit, and Texas Tax Code Ch. 311, as applicable.

“Director” means the City’s Executive Director of Economic Development or his authorized designee.

“Effective Date” means the date this Agreement is fully executed by the parties.

“Eligible Costs” means with respect to the Improvements, the costs incurred and paid by Company for the design, permitting and construction of the Improvements, not including costs for legal fees, permit fees, the costs of the land, interest, finance, the cost of financing, management fees, right-of-way, or easements.

“Event of Bankruptcy or Insolvency” means the dissolution or termination of a party’s existence as a going business, insolvency, appointment of receiver for any part of such party’s property and such appointment is not terminated within ninety (90) days after such appointment is initially made, any general assignment for the benefit of creditors, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against such party and such proceeding is not dismissed within ninety (90) days after the filing thereof.

“Force Majeure” means any act that (i) materially and adversely affects the affected party’s ability to perform the relevant obligations under this Agreement or delays such affected party’s ability to do so, (ii) is beyond the reasonable control of the affected party, (iii) is not due to the affected party’s fault or negligence, and (iv) could not be avoided, by the party who suffers it, by the exercise of commercially reasonable efforts. “Force Majeure” shall include: (a) natural phenomena, such as storms, floods, lightning and earthquakes, and inclement construction weather (except as provided below); (b) wars, civil disturbances, revolts, insurrections, terrorism, sabotage and threats of sabotage or terrorism; (c) transportation disasters, whether by ocean, rail, land or air; (d) strikes or other labor disputes that are not due to the breach of any labor agreement by the affected party, shortages in labor or materials; (e) fires; (f) epidemics or pandemics where shut-down of commercial construction or the manufacturing of supplies relating thereto has been ordered by a governmental authority; and (g) actions or omissions of a governmental authority (including the actions of the City in its capacity as a governmental authority) that were not voluntarily induced or promoted by the affected party, or brought about by the breach of its obligations under this Agreement or any applicable law or failure to comply with City regulations; provided, however, that under no circumstances shall Force Majeure include any of the following events: (h) economic hardship; (i) changes in market condition; (j) any strike or labor dispute involving the employees of the Company or any Affiliate of the Company, other than industry or nationwide strikes or labor disputes; (k) during construction, weather conditions which could reasonably be anticipated by experienced contractors operating the relevant location; or (l) any delay, default or failure (financial or otherwise) of the general contractor or any subcontractor, vendor or supplier of the Company, or any construction contracts for the Infrastructure or the Project.



“Impositions” mean all taxes, assessments, use and occupancy taxes, charges, excises, license and permit fees, and other charges by public or governmental authority, general and special, ordinary and extraordinary, foreseen and unforeseen, which are or may be assessed, charged, levied, or imposed by any public or governmental authority on Company or the Property, or any property or any business owned by Company or within the City.

“Improvements” means the combination of Phase 1 Improvements and Phase 2 Improvements, hereinafter defined.

“Master Lease Payments” has the meaning described in Section 5.2 of the Agreement.

“Maximum Improvement Grant” means the lesser of MEDC grants for (i) the Eligible Costs; or (ii) \$3,000,000.

“Grants” mean the economic development payments to be paid to Company in the amount equal to the costs incurred and paid by Company for Eligible Costs for Improvements not to exceed the Maximum Improvement Grant, as verified by MEDC, to be paid in installments as set forth herein. Each individual payment is considered individually as a “Grant.”

“Payment Request” means a written request from Company to Director for payment of the applicable installment of the Grants, accompanied by the applicable written application for payment, copies of invoices, bills, receipts, and such other information, as may reasonably be requested by the Director, evidencing the Eligible Costs incurred and paid by Company for the Infrastructure and Company’s continued satisfaction of the terms and conditions of this Agreement.

“Phase 1 Improvements” that portion of the Project consisting of Building 1, Building 2, Building 3, and the pedestrian plaza, as further shown on **Exhibit B**. Each building shall be at least two (2) stories in height and collectively containing a minimum of 36,000 square feet of gross rentable office and retail space, and associated parking and landscaping to be constructed on the Property, as shown on **Exhibit B**.

“Phase 2 Improvements” shall mean Building 4, Building 5, Building 6, and a stand-alone parking structure, containing a minimum of 36,000 square feet of gross rentable retail or restaurant space and 20 townhomes and 102 multifamily homes, to be constructed on the Property as shown on the attached **Exhibit B**.

“Property TIRZ Fund” means a sub-account within the TIRZ Fund consisting of Tax Increment contributed by the City on that portion of Captured Appraised Value solely attributable to the Property.

“Tax Increment” means the total amount of property taxes levied and collected by the City for a calendar year on the Captured Appraised Value of real property taxable by the City and located in the Zone. The amount of Tax Increment contributed by the City shall be limited to any maximum amount or other terms set forth in the participation amount established by ordinance.

“Tax Increment Base” means the total appraised value of all real property taxable by the City and located in the Zone for the calendar year in which the Zone was designated by the City.

“TIRZ Fund” means the funds deposited by the City in the Tax Increment fund for the Zone.

“Term” means the term of this Agreement as described in Article 2 of this Agreement.

## **ARTICLE 2 TERM**

The Term of this Agreement shall commence on the Effective Date and shall continue until the parties have fully satisfied all terms and conditions of this Agreement unless sooner terminated as provided herein.

## **ARTICLE 3 COMPANY OBLIGATIONS**

3.1 Contract of Sale. Within thirty (30) days of the Effective Date, Company must execute the Contract of Sale and any exhibits of the Contract of Sale requiring Company’s execution.

(a) At the time determined in the Contract of Sale, Company shall purchase that portion of the Property needed for Phase 1 Improvements in an amount of \$2,659,200; and

(b) At the time determined in the Contract of Sale, Company shall purchase that portion of the Property needed for Phase 2 Improvements in an amount of \$2,840,358.

3.2 Compliance with Laws. Construction of the Project must be done in accordance with all applicable federal, state and local laws, codes, and regulations.

3.3 Regulations Regarding Building Products, Materials, or Methods. The parties find that the Property constitutes an area of architectural importance and significance and the City Council of City hereby designates it as an area of architectural importance and significance for purposes of Chapter 3000 of the Texas Gov’t Code (the “Code”). In consideration for the mutual covenants and conditions contained herein and pursuant to §3000.002(d) of the Code, Company voluntarily consents to the application of all City rules, charter provisions, ordinances, orders, building codes, and other regulations existing as of the Effective Date, including the Zoning District (the “Regulations”) that govern the use or installation of a building product or material in the construction, renovation, maintenance, or other alteration of a residential or commercial building on the Property, regardless of whether a different building product or material is approved for use by a national model code published within the last three code cycles that applies to the construction, renovation, maintenance, or other alteration of the building. In addition, Company voluntarily consents to the application of the Regulations that establish a standard for a building product, material, or aesthetic method in construction, renovation, maintenance, or other alteration of a residential or commercial building, regardless of whether the standard is more stringent than

a standard for the product, material, or aesthetic method under a national model code published within the last three code cycles that applies to the construction, renovation, maintenance, or other alteration of the building. The parties agree that: (a) the City will not issue any permits for the Property in violation of this section; (b) the covenants contained within this section constitute a material term of this Agreement; (c) Company's voluntary consent to the application of the Regulations to the Property, as described in this section, constitutes a material inducement for the City, MEDC, and Board to authorize the payments to Company described herein; (d) the covenants contained herein shall run with the land and shall bind Company and all successors and assigns; and (e) this section shall survive termination or expiration of this Agreement.

3.4 Commencement of Construction. Company must achieve Commencement of Construction for Phase 1 Improvements no later than December 31, 2024; provided, however, the City Manager may extend, in his or her sole discretion, such date one time for up to one hundred eighty (180) days in the event Company is diligently pursuing the platting, permitting and development of Phase 1 Improvements.

3.5 Phase 1 Building Final. No later than December 31, 2025, Company must receive a Building Final for Phase 1 Improvements; provided, however, City Manager may extend, in his or her sole discretion, such date one time for up to one hundred eighty (180) days in the event Company is diligently pursuing the construction of Phase 1 Improvements. All dates provided herein are subject to delays for Force Majeure or unreasonable delays by City (or applicable City official) in providing responses, inspections or issuing certificates.

3.6 Phase 2 Commencement. No later than one hundred eighty (180) days of the City demolishing the Fire Station #1 property, Company must achieve Commencement of Construction for Phase 2 Improvements.

3.7 Property Maintenance.

(a) Company agrees to create a property owner's association, or other appropriate entity ("Association"), to assume and be responsible for the continuous and perpetual operation, maintenance, and supervision of structures, parks, landscaping systems or landscape elements or features, landscape irrigation systems, screening walls, living screens, buffering systems, entryway features, including monuments or other signage, or other physical facilities or grounds held in common and necessary or desirable for the welfare of the Property, or that are of common use or benefit and that are not or cannot be satisfactorily maintained by the City. A copy of the agreements, covenants and restrictions establishing and creating the Association must be approved by the city attorney and City Council of City prior to the approval of the record plat of the subdivision for the Property and must be filed of record with such record plat in the map and plat records of the county.

(b) At a minimum, the agreements, covenants and restrictions establishing and creating the Association must contain or provide for the following:

(1) Definitions of terms contained therein;

- (2) Provisions acceptable to the City for the establishment and organization of the Association and the adoption of bylaws for such Association, including provisions requiring that the owner of any lot within the applicable subdivision and any successive buyer shall automatically and mandatorily become a member of the Association. Company shall have the right (but not the obligation) to be the sole controlling member of the Association during such periods that Company owns any portion of the Property;
- (3) The initial term of the agreements, covenants and restrictions establishing and creating the Association shall be for a 25-year period and shall automatically renew for successive ten-year periods, and the Association may not be dissolved without the prior written consent of the City;
- (4) Provisions acceptable to the City to ensure the continuous and perpetual use, operation, maintenance, and/or supervision of all facilities, structures, improvements, systems, areas or grounds that are the responsibility of the Association and which may establish a reserve fund for such purposes;
- (5) Provisions prohibiting the amendment of any portion of the Association's agreements, covenants or restrictions pertaining to the use, operation, maintenance and/or supervision of any facilities, structures, improvements, systems, areas or grounds that are the responsibility of the Association without the prior written consent of the City;
- (6) The right and ability of the City or its lawful agents, after due notice to the Association, to perform the responsibilities of the Association if the Association fails to do so in compliance with any provisions of the agreements, covenants or restrictions of the Association or of any applicable City codes or regulations; to assess the Association for all costs incurred by the City in performing such responsibilities if the Association fails to do so; and/or to avail itself of any other enforcement actions available to the City pursuant to state law or City codes or regulations; and
- (7) Provisions indemnifying and holding the City harmless from any and all costs, expenses, suits, demands, liabilities or damages, including attorney's fees and costs of suit, incurred or resulting from the City's performance of the operation, maintenance or supervision responsibilities of the Association due to the Association's failure to perform such responsibilities, except for the negligence or willful misconduct of City.

3.8 Capital Investment and Jobs. The minimum Capital Investment for Phase 1 Improvements of the Project shall be \$10,000,000.00 as of the date Phase 1 Improvements of the Project receives a Building Final. Company shall, within thirty (30) days after receiving a Building Final of Phase 1 Improvements of the Project deliver to the Director copies of invoices, bills, receipts and such other information as may be reasonably requested by City to document compliance with the required Capital Investment for Phase 1 Improvements of the Project. A

minimum of thirty (30) people shall be employed in the construction of the Phase 1 Improvements of the Project, which satisfies the public purposes of this Agreement and the performance obligations required for compliance with Texas Local Gov't Code Sec. 501.158.

3.9 Mansfield Pays it Forward Grant Program. Company shall provide the City with a minimum annual contribution to the community activity fund on an annual basis at the conclusion of each year for the duration of time that the Company (which is the “development partner” for purposes of the grant program) is receiving incentives. The amount is determined based on the level of incentives provided by the City for each twelve-month period for the Term of this Agreement, as provided in the schedule attached as Exhibit E.

## **ARTICLE 4 GRANTS**

### **4.1 Grants.**

(a) Within 30 days of Company's completion of a schematic design of Phase 1 Improvements of the Project, City's approval of the schematic design, and the Director's receipt of a Payment Request, MEDC will pay Company a Grant in an amount up to \$1,500,000, as a direct incentive and for Eligible Costs.

(c) Within 30 days of Commencement of Construction for Phase 1 Improvements of the Project and the Director's receipt of a Payment Request, MEDC will pay Company a Grant in an amount up to \$750,000, as a direct incentive and for Eligible Costs.

(d) Within 30 days of the Building Final for Phase 1 Improvements of the Project and the Director's receipt of a Payment Request, MEDC will pay Company a Grant in an amount up to \$750,000, as a direct incentive and for Eligible Costs.

(e) Within 30 days of the Building Final for all Phase 2 Improvements of the Project and the Director's receipt of a Payment Request, MEDC will pay Company a Grant in an amount up to \$380,000, as a direct incentive and for Eligible Costs.

4.2 Maximum Improvement Grant. The Grants paid to Company in accordance with this Article may not exceed the Maximum Improvement Grant.

4.3 Proof of Grants. The City agrees to maintain a separate account containing an amount equal to the outstanding balance of the Maximum Improvement Grant at all times during the Term of this Agreement. Within thirty (30) days of written request by Company, City shall deliver to Company reasonable evidence of compliance with this provision.

4.4 Grant & Payment Schedule. The City anticipates a grant and payment schedule as illustrated in Exhibit D.

## **ARTICLE 5 ACQUISITION GRANTS & MASTER LEASE PAYMENTS**

### 5.1 Acquisition Grants.

(a) Within 10 days of commencement of demolition for Phase 1 Improvements of the Project by Company and the Director's receipt of a Payment Request, City will pay Company a Grant in the amount of \$2,659,200, pursuant to Texas Local Gov't Code Ch. 380.

(b) Within 30 days of Commencement of Construction for Phase 2 Improvements of the Project and the Director's receipt of a Payment Request, City will pay Company a Grant in the amount of \$2,840,358, pursuant to Texas Local Gov't Code Ch. 380.

5.2 Master Lease Payments. Beginning within 30 days after a Certificate of Occupancy of Phase 1 has been issued and each year thereafter, for a period of five (5) years, payments shall be delivered to Company in an amount equal to \$1,794,000 per year, as illustrated in **Exhibit D**. As additional consideration and to ensure that the public purposes of this Agreement, the project and finance plan for the Zone, and Texas Local Gov't Code Ch. 380 are satisfied, the City Manager, in his or her reasonable discretion, shall approve any retail/restaurant tenants prior to a lease being signed during this five (5) year period.

## **ARTICLE 6 TERMINATION, OFFSET, AND REPAYMENT**

6.1 Termination. This Agreement may be terminated upon any one or more of the following:

- (a) by mutual written agreement of the parties;
- (b) upon written notice by Public Parties, if:
  - (i) Company fails to execute the Contract of Sale in accordance with Section 3.1 of this Agreement
  - (ii) upon written notice by MEDC, if the Contract of Sale is terminated or the conveyance of the Property to Company otherwise fails to close (except due to a seller default thereunder); or
- (c) upon written notice by any party, if another party defaults or breaches any of the other terms or conditions of this Agreement and such default or breach is not cured within sixty (60) days after written notice thereof;
- (d) upon written notice by MEDC, if Company suffers an Event of Bankruptcy or Insolvency and such filing is not dismissed or withdrawn within ninety (90) days after the filing thereof;

- (e) upon written notice by MEDC, if any Impositions owed to City become delinquent and such delinquency has not been cured within ninety (90) days after written notice thereof; or
- (f) upon written notice by any party if any subsequent federal or state legislation or any decision of a court of competent jurisdiction renders this Agreement invalid, illegal, or unenforceable.

6.2 Offset. The Public Parties may at their individual option, and after delivering written notice to Company of the intent to do so, offset any amounts due and payable under this Agreement against any delinquent debt (including taxes) lawfully due to any of the Public Parties, regardless of whether or not the debt due to that Public Party has been reduced to judgment by a court.

6.3 Repayment. In the event the Building Final for Phase 1 Improvements has not issued on time in accordance with Section 3.5 of this Agreement, and this Agreement is terminated by Public Parties, Company shall immediately refund to MEDC an amount equal to the amount of the Grants that have been provided by MEDC to Company prior to the date of such termination, plus interest at the rate of interest periodically announced by the Wall Street Journal as the prime or base commercial lending rate, or if the Wall Street Journal shall ever cease to exist or cease to announce a prime or base lending rate, then at the annual rate of interest from time to time announced by Citibank, N.A. (or by any other New York money center bank selected by MEDC) as its prime or base commercial lending rate, which shall accrue from the Effective Date until paid.

## ARTICLE 7 INDEMNIFICATION

**CITY, MEDC, AND THE BOARD SHALL NOT BE LIABLE FOR ANY LOSS, DAMAGE, OR INJURY OF ANY KIND OR CHARACTER TO ANY PERSON OR PROPERTY ARISING FROM THE ACTS OR OMISSIONS OF THE COMPANY OR ITS CONTRACTORS PURSUANT TO THIS AGREEMENT. COMPANY HEREBY WAIVES ALL CLAIMS AGAINST CITY, MEDC, AND THE BOARD, THEIR COUNCIL, DIRECTORS, OFFICERS, AGENTS AND EMPLOYEES (COLLECTIVELY REFERRED TO AS THE “CITY REPRESENTATIVES”) FOR DAMAGE TO ANY PROPERTY OR INJURY TO, OR DEATH OF, ANY PERSON ARISING AT ANY TIME AND FROM ANY CAUSE (OTHER THAN THE SOLE NEGLIGENCE, GROSS NEGLIGENCE OR WILLFUL ACT OF THE CITY REPRESENTATIVES) ARISING FROM THE ACTS OR OMISSIONS OF THE COMPANY OR ITS CONTRACTORS PURSUANT TO THIS AGREEMENT. COMPANY DOES HEREBY INDEMNIFY AND SAVE HARMLESS THE CITY REPRESENTATIVES FROM AND AGAINST ANY AND ALL LIABILITIES, DAMAGES, CLAIMS, SUITS, COSTS (INCLUDING COURT COSTS, ATTORNEYS' FEES AND COSTS OF INVESTIGATION) AND ACTIONS OF ANY KIND BY REASON OF INJURY TO OR DEATH OF ANY PERSON, OR DAMAGE TO OR LOSS OF PROPERTY ARISING FROM COMPANY'S BREACH OF ANY OF THE TERMS AND CONDITIONS OF THIS AGREEMENT, OR BY REASON OF ANY ACT OR OMISSION ON THE PART OF COMPANY, ITS OFFICERS, DIRECTORS, SERVANTS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, SUB-**

**CONTRACTOR(S), LICENSEES, SUCCESSORS OR PERMITTED ASSIGNS IN THE PERFORMANCE OF THIS AGREEMENT (EXCEPT WHEN SUCH LIABILITY, CLAIMS, SUITS, COSTS, INJURIES, DEATHS OR DAMAGES ARISE FROM OR ARE ATTRIBUTED TO THE SOLE NEGLIGENCE, GROSS NEGLIGENCE OR WILLFUL ACT OF THE CITY REPRESENTATIVES). NOTWITHSTANDING THE FOREGOING IN THE EVENT OF JOINT OR CONCURRENT NEGLIGENCE OF BOTH THE CITY REPRESENTATIVES AND COMPANY, THE RESPONSIBILITY, IF ANY, SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE CITY REPRESENTATIVES AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW. THE PROVISIONS OF THIS SECTION ARE SOLELY FOR THE BENEFIT OF THE PARTIES HERETO AND THEIR RESPECTIVE SUCCESSORS AND PERMITTED ASSIGNS AND NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY. THE COMPANY'S OBLIGATIONS UNDER THIS SECTION SHALL NOT BE LIMITED TO THE LIMITS OF COVERAGE OF INSURANCE MAINTAINED OR REQUIRED TO BE MAINTAINED BY COMPANY UNDER THIS AGREEMENT. NOTWITHSTANDING THE FOREGOING, THE RELEASES AND INDEMNIFICATIONS CONTAINED HEREIN SHALL NOT EXTEND TO THE NEGLIGENCE OR WILLFUL MISCONDUCT OF CITY, MEDC OR BOARD OR THEIR RESPECTIVE EMPLOYEES, AGENTS OR CONTRACTORS. THIS PROVISION SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.**

## **ARTICLE 8 ACCESS TO INFORMATION**

Notwithstanding any other provision to the contrary in this Agreement, all information, documents, and communications relating to this Agreement may be subject to the Texas Public Information Act and any opinion of the Texas Attorney General or a court of competent jurisdiction relating to the Texas Public Information Act. In addition to the foregoing sentence, the City shall submit to the comptroller the information as required by Texas Local Gov't Code Sec. 380.004, and any other information the comptroller considers necessary to operate and update the database described by Section 403.0246, Government Code. Upon the City's or MEDC's written request, Company agrees to provide the City or MEDC, within thirty (30) days of the Company's receipt of such request, access to contract documents, invoices, receipts, records, and reports to verify Company's compliance with this Agreement.

## **ARTICLE 9 GOVERNMENTAL FUNCTIONS AND IMMUNITY**

The parties hereby acknowledge and agree that the City is entering into this Agreement pursuant to its governmental functions and that nothing contained in this Agreement shall be construed as constituting a waiver of the City's police power, legislative power, or governmental immunity from suit or liability, which are expressly reserved to the extent allowed by law. The parties agree that this is not an Agreement for goods or services to the City. To the extent a Court



of competent jurisdiction determines that the City's governmental immunity from suit or liability is waived in any manner, or that this Agreement is subject to the provisions of Chapter 271 of the Texas Local Gov't Code, as amended, the City's immunity from suit may be waived only as set forth in Subchapter I of Chapter 271, Texas Local Gov't Code. Further, the parties agree that this Agreement is made subject to all applicable provisions of the Texas Civil Practice and Remedies Code, including but not limited to all defenses, limitations, and exceptions to the limited waiver of immunity from liability provided in Chapter 101 and Chapter 75.

## **ARTICLE 10 GENERAL PROVISIONS**

10.1 Mutual Assistance. The parties shall do all things reasonably necessary or appropriate to carry out the terms and provisions of this Agreement and to aid and assist each other in carrying out such terms and provisions.

10.2 Representations and Warranties. Company represents and warrants to the Public Parties that it has the requisite authority to enter into this Agreement. Company represents and warrants to the Public Parties that it will not violate any federal, state or local laws in constructing or operating the Project, and that the Project and Infrastructure shall conform to the applicable building codes, zoning ordinances, and all other ordinances and regulations of the City of Mansfield.

10.3 Section or Other Headings. Section or other headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

10.4 Entire Agreement. This Agreement contains the entire agreement between the parties with respect to the transaction contemplated herein.

10.5 Amendment. This Agreement may only be amended, altered, or revoked by written instrument signed by the parties.

10.6 Successors and Assigns.

- (a) Assignment. This Agreement shall be binding on and insure to the benefit of the parties, their respective successors and assigns. Company may assign all or part of their rights and obligations hereunder only upon prior written approval of the MEDC and City; provided, however, Company shall not be required to obtain MEDC's or City's consent to an assignment of this Agreement to an Affiliate of Company.
- (b) Collateral Assignment. Company shall have the right to collaterally assign, pledge, or encumber, in whole or in part, to any lender as security for any loan in connection with construction of the Project and Infrastructure, all rights, title, and interests of Company to receive the grants or other payments under this Agreement. Such collateral assignments: (i) shall require the prior written consent of the MEDC or

City, which shall not be unreasonably delayed or withheld, and MEDC and City agrees to execute such reasonable consent forms as may be required to evidence such consent; (ii) shall require notice to the MEDC and City together with full contact information for such lenders, (iii) shall not create any liability for any lender under this Agreement by reason of such collateral assignment unless the lender agrees, in writing, to be bound by this Agreement; (iv) may give lenders the right, but not the obligation, to cure any failure of Company to perform under this Agreement; and (v) to the extent allowed by Texas law, MEDC and City agree to subordinate its lien on the Property (if any) to any such third-party financing in accordance and consistent with the terms of the Contract of Sale and related deed of trust. No collateral assignment may relieve Company from any obligations or liabilities under this Agreement. The Director has the authority to give the written consent under this subsection after review and consultation with the MEDC's legal counsel; provided, however, the Director may, in his or her sole discretion, present the assignment request to the MEDC's board of directors for approval.

10.7 Notice. Any notices or other communications required or permitted by this Agreement shall be in writing and delivered personally, or by messenger or a nationally recognized overnight courier service, or alternatively, shall be sent by United States certified mail, return receipt requested. The effective date of any notice shall be (i) if by personal delivery, messenger or courier service, the date of delivery of the notice, or (ii) if mailed, on the date upon which the return receipt is signed or delivery is refused or the notice is designated by the postal authorities as undeliverable, as the case may be. The parties hereby designate the addresses set forth below as their respective notice addresses under this Agreement.

COMPANY:                      Nack Development LLC  
                                      XXXXXXXXXX  
                                      Frisco, Texas  
                                      Attn: Donny Churchman

With a copy to:              Attorney for Developer  
                                      XXXXXX  
                                      XXXXXX  
                                      Attn: XXXXX

MEDC:                         Mansfield Economic Development MEDC  
                                      301 South Main Street  
                                      Mansfield, Texas 76063  
                                      Attn: Director

With a copy to:              Mansfield Economic Development MEDC Attorney  
                                      Taylor, Olson, Adkins, Sralla & Elam, LLP  
                                      6000 Western Place, Suite 200  
                                      Fort Worth, Texas 76107

City: City of Mansfield, Texas  
Attn: City Manager  
1200 E. Broad Street  
Mansfield, Texas 76063

10.8 Interpretation. Regardless of the actual drafter of this Agreement, this Agreement shall, in the event of any dispute over its meaning or application, be interpreted fairly and reasonably, and neither more strongly for or against any party.

10.9 Applicable Law/Venue. The substantive laws of the State of Texas (and not its conflicts of law principles) govern all matters arising out of, or relating to, this Agreement and all of the transactions it contemplates, including without limitation its validity, interpretation, construction, performance and enforcement. Mandatory and exclusive venue for any action arising out of, or relating to, this Agreement must be in a court of competent jurisdiction in Tarrant County, Texas.

10.10 Severability. In the event any provision of this Agreement is ruled illegal, invalid, or unenforceable by any court of proper jurisdiction, under present or future laws, then and in that event, it is the intention of the parties hereto that the remainder of this Agreement shall not be affected thereby, and it is also the intention of the parties to this Agreement that in lieu of each clause or provision that is found to be illegal, invalid, or unenforceable a provision be added to this Agreement which is legal, valid and enforceable and is as similar in terms as possible to the provision found to be illegal, invalid or unenforceable.

10.11 Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be considered an original, but all of which shall constitute one instrument.

10.12 No Joint Venture. Nothing contained in this Agreement is intended by the parties to create a partnership or joint venture between the parties.

10.13 Force Majeure. If any party hereto shall be delayed or hindered in or prevented from the performance of any act required hereunder (other than the payment of money) by reason of Force Majeure, then performance of such act shall be excused for the period of the delay and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay, provided that the foregoing shall not be applicable to any payment obligation of any party under this Agreement.

10.14 Attorney's Fees. If either party employs an attorney or attorneys to enforce any of the provisions hereof, or to recover damages for the breach of this Agreement, the non-prevailing party in any final judgment or award agrees to pay the other party all reasonable costs, charges and expenses, including reasonable attorneys' fees and costs of court, expended or incurred in connection therewith.

10.15 Limitation of Liability. The parties further agree that no party will be liable to any other party under this Agreement for special, consequential (including lost profits), or exemplary damages.

10.16 Undocumented Workers. Company covenants and certifies that it does not and will not knowingly employ an undocumented worker as that term is defined by Section 2264.001(4) of the Texas Government Code. In accordance with Section 2264.052 of the Texas Government Code, if Company is convicted of a violation under 8 U.S.C. Section 1324a (f), Company shall repay to the MEDC or City the full amount of all payments made under this Agreement, plus ten percent (10%) interest per annum from the date such payment was made until the date of full repayment. Repayment shall be paid within one hundred twenty (120) days after the date Company receives a notice of violation from the MEDC or City.

10.17 City Council Approval. This Agreement is not valid unless first approved by the City Council of the City of Mansfield.

10.18 Full Execution Required. This Agreement will not be binding on any party unless fully executed by all parties.

10.19 Gift to Public Servant. The Public Parties may terminate the Agreement immediately if the Company has offered or agreed to confer any benefit upon a City employee or official that the City employee or official is prohibited by law from accepting.

10.20 Texas Boycott Prohibitions. To the extent required by Texas law, Company verifies that: (1) it does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association, as defined in Texas Government Code § 2274.001, and that it will not during the term of this Agreement discriminate against a firearm entity or firearm trade association; (2) it does not “boycott Israel” as that term is defined in Texas Government Code § 808.001 and it will not boycott Israel during the term of this Agreement; and (3) it does not “boycott energy companies,” as those terms are defined in Texas Government Code §§ 809.001 and 2274.001, and it will not boycott energy companies during the term of this Agreement.

10.21 380 Grant Limitations. Under no circumstances shall the obligations of the City hereunder be deemed to create any debt within the meaning of any constitutional or statutory provision; provided, however, the City agrees during the term of this Agreement to appropriate funds to pay the grant for this Agreement. Further, City shall not be obligated to pay any lienholder, commercial bank, lender, or similar Person or financial institution for any loan or credit agreement made by the Company.

{Signatures on following page}

**MANSFIELD ECONOMIC  
DEVELOPMENT CORPORATION,**  
a Texas non-profit corporation

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**ATTEST:**

\_\_\_\_\_  
Board Secretary

**NACK DEVELOPMENT LLC,**  
a Texas limited liability company

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**CITY OF MANSFIELD, TEXAS**

\_\_\_\_\_  
Joe Smolinski, City Manager, or designee

Date: \_\_\_\_\_

**ATTEST:**

\_\_\_\_\_  
Susana Marin, City Secretary

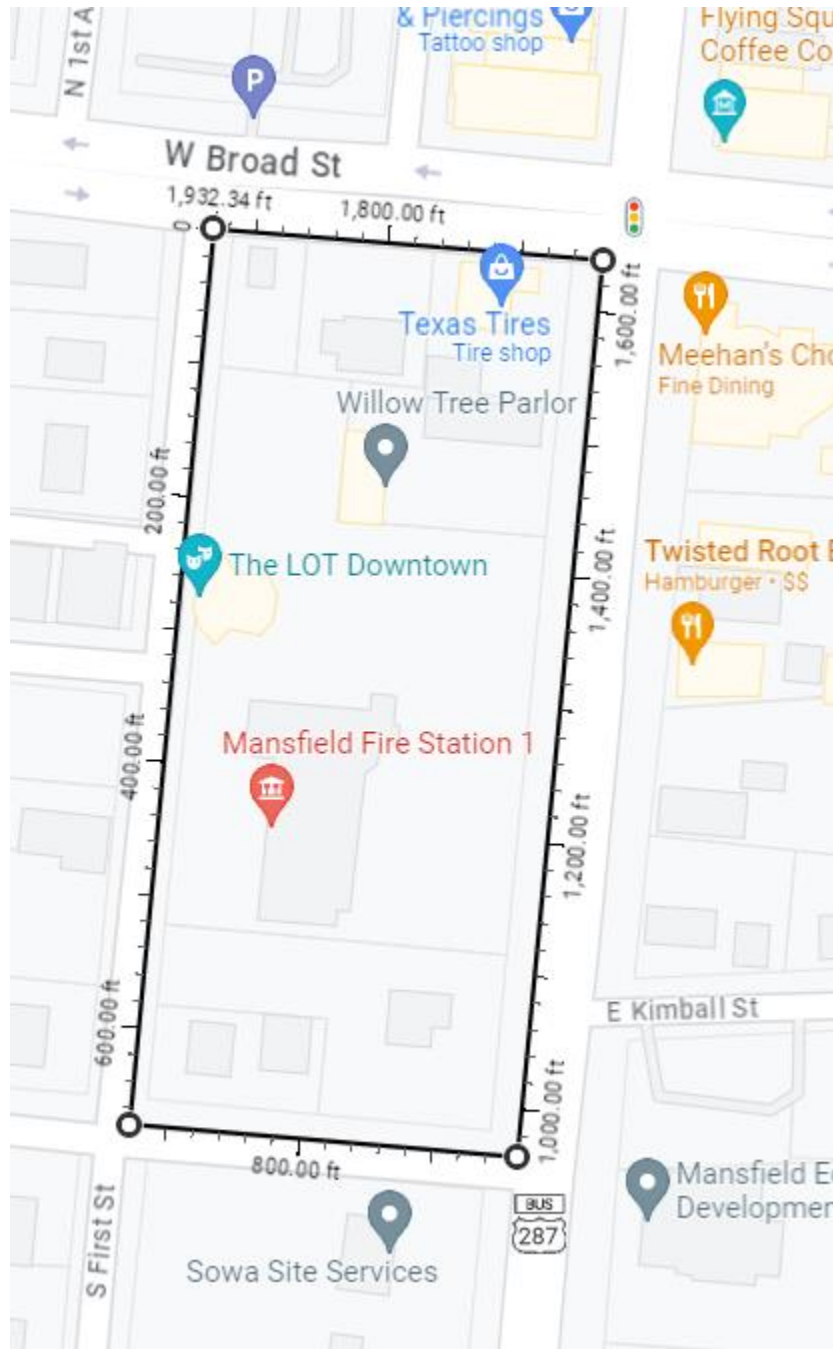
**BOARD OF DIRECTORS OF REINVESTMENT ZONE NUMBER ONE,  
CITY OF MANSFIELD**

\_\_\_\_\_  
Chairman

Date: \_\_\_\_\_

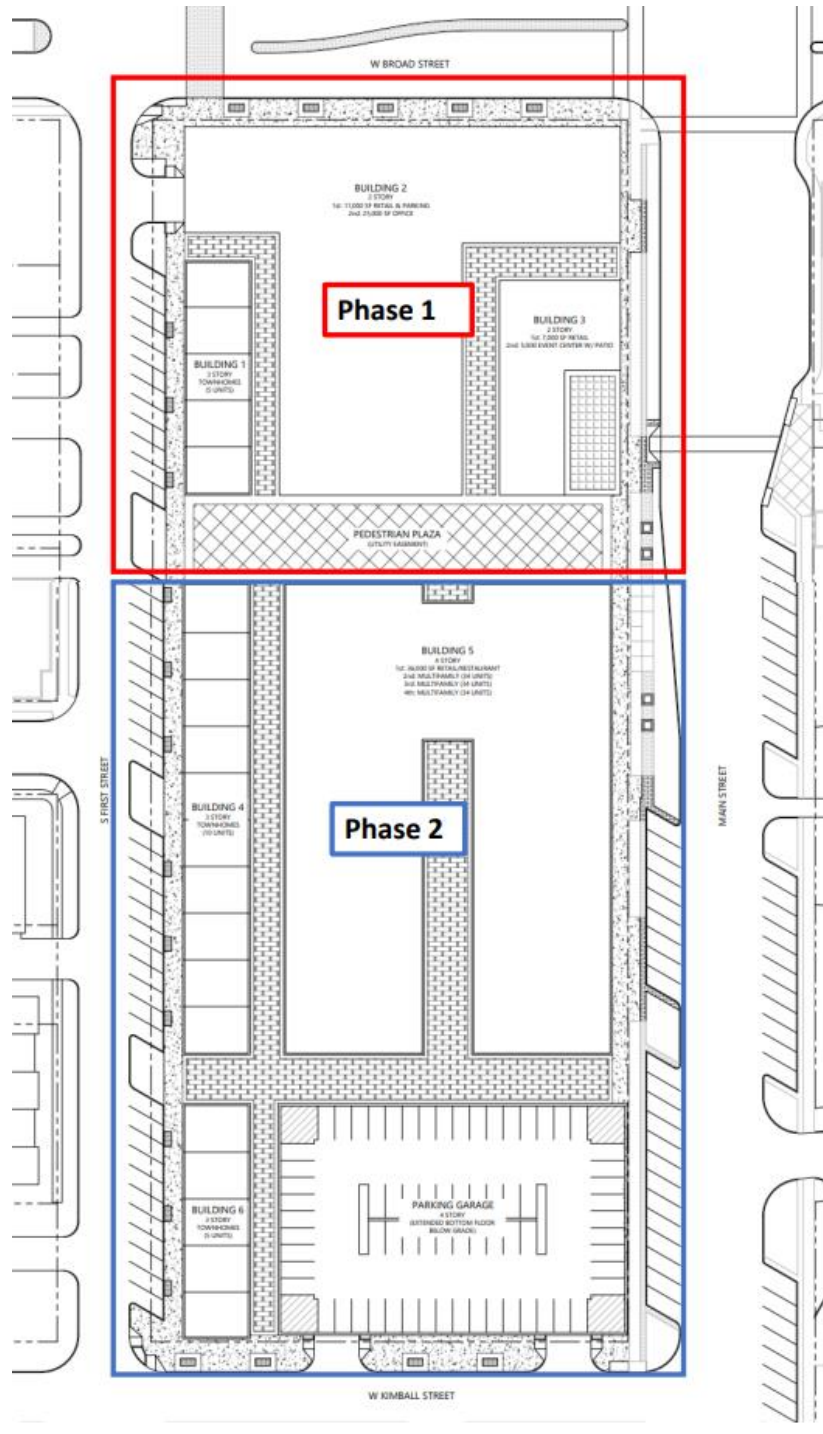
## EXHIBIT A

### The Property



## **EXHIBIT B**

### **The Project and Phase 1 & 2 Improvements**





**EXHIBIT C**

**Contract of Sale**

*To be finalized and negotiated by the Parties within 30 days of the Effective Date*

## **EXHIBIT D**

### **Grant and Payment Schedule**

<b>Date</b>	<b>Milestone</b>	<b>Cash to City</b>	<b>380 Grant to Developer</b>	<b>MEDC Grant</b>
Nov-23	Schematic Design (full site)			\$1,500,000
Apr-24	Land Acquisition PH 1	\$2,659,200		
Apr-24	Demo PH 1		\$2,659,200	
Dec-24	Commencement of Construction PH 1			\$750,000
Nov-25	Land Acquisition PH 2	\$2,840,358		
Nov-25	Demo PH 2		\$2,840,358	
Dec-25	Building Final PH 1			\$750,000
Feb-26	Destination Restaurant/Retail Tenant CO			
Feb-26	Commencement of Construction PH 2			
Jun-27	Building Final PH 2			\$380,000
	TOTALS	\$5,499,558.00	\$5,499,558.00	\$3,380,000.00
<b>Lease Schedule</b>				
<b>Date</b>	<b>Master Lease PMT by City/MEDC/TIRZ</b>			
Feb-26	\$1,794,000			
Feb-27	\$1,794,000			
Feb-28	\$1,794,000			
Feb-29	\$1,794,000			
Feb-30	\$1,794,000			
TOTAL	\$8,970,000.00			

## **EXHIBIT “E”**

### **Mansfield Pays it Forward Grant Program**

Mansfield’s recently adopted Incentive Policy requires development partners to contribute a certain amount of funds back into the community and Mansfield’s built environment on an annual basis at the conclusion of each year for the duration of time that the development partner is receiving incentives. The amounts expected to be contributed will depend on the total amount of incentives received by the development partner over the course of a year:

<b>Incentives Received Annually Range Between:</b>	<b>Amount to be Contributed Annually:</b>
\$11,000 - less than \$30,000	\$500
\$30,000 - less than \$80,000	\$1,000
\$80,000 - less than \$150,000	\$5,000
\$150,000 - less than \$250,000	\$10,000
\$250,000+	\$15,000



# CITY OF MANSFIELD

1200 E. Broad St.  
Mansfield, TX 76063  
mansfieldtexas.gov

## STAFF REPORT

File Number: 23-5644

**Agenda Date:** 10/9/2023

**Version:** 1

**Status:** New Business

**In Control:** City Council

**File Type:** Resolution

**Agenda Number:**

**Title**

Resolution - A Resolution of the City Council of the City of Mansfield, Texas, Approving an Economic Development Agreement Between the City of Mansfield, Texas, The Mansfield Economic Development Corporation, The Board of Directors of Reinvestment Zone Number Two, City of Mansfield, and Oakhollow Group, Ltd.; Finding that the Meeting at which this Resolution is Passed is Open to the Public as Required by Law; Authorizing the City Manager or his Designee, The MEDC Board President, and Chairman of TIRZ #2 Board, to Execute Said Agreement; And Declaring an Effective Date (General Fund/MEDC/TIRZ #2)

**Requested Action**

Consider Approving the Resolution

**Recommendation**

To Approve the Resolution

**Description/History**

Since May 2022, staff has worked with Zang Adams and Oakhollow Development on a redevelopment plan for the MEDC office building at 301 S Main Street, the Kimball property to its east, and the city property connecting Kimball to the Backyard restaurant parking lot. The developer proposes 44 luxury for-sale townhomes on the land and will complete within four phases over the next several years. The first phase will include a commercial building fronting Main Street and Kimball, on the hard corner, with several townhomes to its south.

The redevelopment efforts will require public infrastructure enhancements to both Main Street and Kimball, and so the deal points reflect these efforts to accommodate the phasing plan.

The deal points of the agreement are summarized as follows:

- Sell property for \$1
- Reimburse for actual demolition costs
- Provide public infrastructure to site
- Defer development and park fees - to be paid by TIRZ generated by

development

- Commence Phase 1 (vertical construction) within 18 months of the agreement
- Deliver minimum taxable values:
  - o Phase 1 - \$3.1 MM
  - o Phase 2 - \$3.1 MM
  - o Phase 3 - \$3.1 MM
  - o Phase 4 - \$3.1 MM

### **Justification**

Based on the strategies identified in the Downtown Strategic Plan, this site was listed as one of four areas for market activation with uses consistent with those being proposed.

### **Funding Source**

General Fund, MEDC, & TIRZ #2

### **Prepared By**

Jason Moore, Executive Director of Economic Development

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANSFIELD, TEXAS, APPROVING AN ECONOMIC DEVELOPMENT AGREEMENT BETWEEN THE CITY OF MANSFIELD, TEXAS, THE MANSFIELD ECONOMIC DEVELOPMENT CORPORATION, THE BOARD OF DIRECTORS OF REINVESTMENT ZONE NUMBER TWO, CITY OF MANSFIELD, AND OAKHOLLOW GROUP, LTD.; FINDING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE, THE MEDC BOARD PRESIDENT, AND CHAIRMAN OF TIRZ #2 BOARD TO EXECUTE SAID AGREEMENT; AND DECLARING AN EFFECTIVE DATE (GENERAL FUND/MEDC/TIRZ #2)**

**WHEREAS**, the City of Mansfield (City) is a home rule municipality operating under and governed by the laws and Constitution of the State of Texas; and,

**WHEREAS**, the City Council of City desires to promote the development, redevelopment and revitalization of certain areas of the City; and,

**WHEREAS**, the City Council has been presented a proposed Economic Development Agreement between the City of Mansfield, the Mansfield Economic Development Corporation (“MEDC”), the Board of Directors of Reinvestment Zone Number Two (“TIRZ #2”), and Oakhollow Group, Ltd., a copy of which is attached hereto as Exhibit “A” and incorporated herein by reference; and,

**WHEREAS**, upon full review and consideration of the Economic Development Agreement, and all matters attendant and related thereto, the City Council is of the opinion that the agreement should be approved, and the City Manager or his designee, Chairman of the TIRZ #2 Board and the MEDC President shall be authorized to execute on behalf of the City, TIRZ #2 Board and MEDC; and,

**WHEREAS**, funding for this contract is available from the General Fund, MEDC, and TIRZ #2.

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

**SECTION 1.**

The findings and recitations set out in the preamble are found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes.

**SECTION 2.**

The Economic Development Agreement attached hereto as Exhibit “A” is found to be in the best interest of the City of Mansfield and its citizens and is approved.

**SECTION 3.**

The City Manager of the City of Mansfield or his designee, Chairman of the TIRZ #2 Board and the President of the MEDC are hereby authorized to execute the Economic Development Agreement.

**SECTION 4.**

It is hereby officially found and determined that the meeting at which this Resolution is passed is open to the public as required by law and the public notice of the time, place, and purpose of said meeting was given as required.

**SECTION 5.**

This Resolution shall be effective from and after its passage.

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MANSFIELD THIS 9<sup>TH</sup> DAY OF OCTOBER, 2023.**

\_\_\_\_\_  
**Michael Evans, Mayor**

**ATTEST:**

\_\_\_\_\_  
**Susana Marin, City Secretary**

## **ECONOMIC DEVELOPMENT AGREEMENT**

### **MAIN DISTRICT TOWNHOMES**

This Economic Development Agreement (“**Agreement**”) is made and entered into by and between the City of Mansfield, a Texas home-rule municipal corporation (the “**City**”), the Mansfield Economic Development Corporation (“**MEDC**”), a nonprofit Corporation organized under Title 12, Subtitle C1, of the Texas Local Government Code (“**Act**”), the Board of Directors (the “**Board**”) of Reinvestment Zone Number Two, City of Mansfield (the “**Zone**”), and Oakhollow Group, Ltd., a Texas limited liability Partnership and / or Assigns (“**Company**”). City, MEDC, Board, and Company may sometimes hereafter be referred to individually as a “party” or collectively as the “parties.”

### **RECITALS:**

**WHEREAS**, the MEDC owns real property and improvements located in the Zone as described or generally shown on the attached **Exhibit A** (the “**MEDC Property**”); and

**WHEREAS**, the City owns real property and improvements located in the Zone as described or generally shown on the attached **Exhibit B** (the “**City Property**”); and

**WHEREAS**, the Company desires economic development incentives to purchase and develop the MEDC Property and the City Property (collectively referred as the “Property”) in accordance with the City’s and MEDC’s economic development program and the terms and conditions of this Agreement; and

**WHEREAS**, the City, Board, and MEDC are authorized by Article III, Section 52-a of the Texas Constitution and Chapters 380 and 501 of the Texas Local Gov’t Code to provide economic development grants and incentives to promote state and local economic development and to stimulate business and commercial activity in the City; and

**WHEREAS**, pursuant to the Contracts of Sale (as defined below), the City and MEDC desire to convey their respective properties to Company to implement the project plan for the Zone, and in accordance with Texas Local Gov’t Code Chapters 501 and 253 for economic development and other public purposes provided in this Agreement; and

**WHEREAS**, Company intends to develop the Property in four (4) phases for a mixed-use project consisting of approximately 8,000 square feet of retail/office space, and approximately 44 townhouse units (the total number of units may decrease or increase subject to site conditions, and subject to final approval by the City Manager, or his designee) as described or generally shown on the attached **Exhibit C** (collectively the “**Project**”); and

**WHEREAS**, Company has advised the MEDC that a contributing factor that would induce the Company to construct the Project would be an agreement by MEDC to provide economic development grants to the Company as set forth herein; and



**WHEREAS**, MEDC has determined that the MEDC Grants (as defined below) to be made hereunder are required or suitable for infrastructure necessary to promote or develop new or expanded business enterprises and constitute a “project”, as that term is defined in the Act; and

**WHEREAS**, MEDC has determined that conveying the MEDC Property and making the MEDC Grants and expenditures in accordance with this Agreement will further the objectives of MEDC, will benefit City and City’s inhabitants, and will promote local economic development and stimulate business and commercial activity in City; and

**WHEREAS**, in accordance with Section 311.010(h) of the Act, the City Council of City and the Board, as necessary or convenient to implement the adopted project and finance plan, and achieve its purposes, may establish and provide for the administration of one or more programs for the public purposes of developing and diversifying the economy of the Zone, eliminating unemployment and underemployment in the Zone, and developing or expanding transportation, business, and commercial activity in the Zone, including programs to make grants and loans from the TIRZ Fund of the Zone; and

**WHEREAS**, by approval of the City Council, the Board has all the powers of a municipality under Chapter 380, Texas Local Gov’t Code; and

**WHEREAS**, in accordance with the adopted project and finance plan, the City and Board find that conveyance of the City Property and payments to Company under this Agreement is advisable to implement the project and finance plan for the Zone and are in compliance with the Tax Increment Financing Act, Chapter 311, Texas Tax Code, and will be made in furtherance of economic development programs authorized under Chapter 380, Texas Local Gov’t Code, and the Project to be built by Company is one which contains businesses that will result in investments that support the placemaking goals of the project and finance plan, and is a project that offers a high likelihood of repayment to encourage the regeneration of public funds; and

**WHEREAS**, the parties agree that payments from the TIRZ Fund provided to Company under this Agreement are for the public purposes of: (i) developing and diversifying the economy of the Zone and the state; (ii) eliminating unemployment and underemployment in the state and Zone; (iii) developing and expanding commerce in the state; (iv) stimulating business and commerce within the Zone; and (v) promoting development and redevelopment within the Zone; and

**WHEREAS**, the parties have concluded and hereby find that this Agreement promotes economic development in the City, and, as such, meets the requirements of Article III, Section 52-a of the Texas Constitution, by assisting in the development and diversification of the economy of the State of Texas and City, by eliminating unemployment or underemployment in the State of Texas and City, and will enhance business and commercial activity within the State of Texas and City.

**NOW THEREFORE**, in consideration of the recitals above and the mutual covenants and promises contained herein and for other good and valuable consideration the sufficiency and receipt of which are hereby acknowledged, the parties agree as follows:

## **ARTICLE 1 DEFINITIONS**

For all purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires, the terms defined in this Article have the meanings assigned to them in the Recitals or this Article, and all such terms include the plural as well as the singular.

“Affiliate” of Company means any other person directly controlling, or directly controlled by or under direct common control with the Company. As used in this definition, the term “control,” “controlling” or “controlled by” shall mean the possession, directly, of the power either to (a) vote fifty percent (50%) or more of the securities or interests having ordinary voting power for the election of directors (or other comparable controlling body) of the Company, or (b) direct or cause the direction of management or policies of the Company, whether through the ownership of voting securities or interests, by contract or otherwise, excluding in each case, any lender of the Company or any affiliate of such lender.

“Approved Plans” means the plans and specifications relating to the design and construction of the Project and the Public Infrastructure, inclusive of any change orders thereto, which are in compliance with all City rules and regulations, and approved by the City.

“Building Final” means the approval of the final inspection issued by the City certifying a building’s compliance with applicable building codes and other laws, and indicating it to be in condition suitable for further construction of interior finish out for Company, or for its specific tenant(s).

“Capital Investment” shall mean Company’s capitalized costs for the design and construction of the Project (inclusive of all hard and soft costs). Capital Investment does not include the cost of the land or rights-of-way.

“Captured Appraised Value” means the total appraised value of all real property taxable by the City and located in the Zone for the calendar year less the Tax Increment Base.

“Certificate of Occupancy” means the document issued by the City certifying that a building is in compliance with applicable building codes and other laws, and indicating it to be in a condition suitable for occupation.

“City” means the City of Mansfield, Texas.

“Commencement of Construction” shall mean (i) the plans have been prepared and all approvals thereof required by applicable governmental authorities have been obtained for construction of Phase 1, Phase 2, Phase 3, and Phase 4, as the case may be; (ii) all necessary permits for the construction of Phase 1, Phase 2, Phase 3, and Phase 4, as the case may be, have

been issued by the applicable governmental authorities; and (iii) construction of vertical elements of buildings within Phase 1, Phase 2, Phase 3, and Phase 4, as the case may be, has commenced.

“Director” means the City’s Economic Development Director or his authorized designee.

“Effective Date” means the date this Agreement is last executed by the parties as indicated on the signature pages of this Agreement (whether or not in counterparts).

“Eligible Costs” shall mean with respect to the Public Infrastructure, the costs incurred and paid by Company for the design and construction of the Public Infrastructure, including Demolition (described below), and authorized by the MEDC, not including costs for legal fees, permit fees, the costs of the land, interest, finance, the cost of financing, right-of-way, or easements. All Eligible Costs must be first approved by the City Engineer.

“Event of Bankruptcy or Insolvency” means the dissolution or termination of a party’s existence as a going business, insolvency, appointment of receiver for any part of such party’s property and such appointment is not terminated within ninety (90) days after such appointment is initially made, any general assignment for the benefit of creditors, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against such party and such proceeding is not dismissed within ninety (90) days after the filing thereof.

“Force Majeure” means any act that (i) materially and adversely affects the affected party’s ability to perform the relevant obligations under this Agreement or delays such affected party’s ability to do so, (ii) is beyond the reasonable control of the affected party, (iii) is not due to the affected party’s fault or negligence, and (iv) could not be avoided, by the party who suffers it, by the exercise of commercially reasonable efforts. “Force Majeure” shall include: (a) natural phenomena, such as storms, floods, lightning and earthquakes; (b) wars, civil disturbances, revolts, insurrections, terrorism, sabotage and threats of sabotage or terrorism; (c) transportation disasters, whether by ocean, rail, land or air; (d) strikes or other labor disputes that are not due to the breach of any labor agreement by the affected party; (e) fires; (f) epidemics or pandemics where shut-down of residential or commercial construction or the manufacturing of supplies relating thereto has been ordered by a governmental authority; and (g) actions or omissions of a governmental authority (including the actions of the City in its capacity as a governmental authority) that were not voluntarily induced or promoted by the affected party, or brought about by the breach of its obligations under this Agreement or any applicable law or failure to comply with City regulations; provided, however, that under no circumstances shall Force Majeure include any of the following events: (g) economic hardship; (h) changes in market condition; (i) any strike or labor dispute involving the employees of the Company or any Affiliate of the Company, other than industry or nationwide strikes or labor disputes; (j) during construction, weather conditions which could reasonably be anticipated by experienced contractors operating the relevant location; (k) the occurrence of any manpower, material or equipment shortages except as set forth in (f) above; or (l) any delay, default or failure (financial or otherwise) of the general contractor or any subcontractor, vendor or supplier of the Company, or any construction contracts for the Public Infrastructure or the Project.

“Impositions” mean all taxes, assessments, use and occupancy taxes, charges, excises, license and permit fees, and other charges by public or governmental authority, general and special, ordinary and extraordinary, foreseen and unforeseen, which are or may be assessed, charged, levied, or imposed by any public or governmental authority on Company or the Property, or any property or any business owned by Company or within the City.

“Maximum Public Infrastructure Amount” means the lesser of: (i) the total amount of the Eligible Costs, or (ii) \$2,500,000. In the event additional funds are required after completion of the engineering design of the Public Infrastructure, the Parties shall mutually agree to amend the Maximum Public Infrastructure Amount, subject to available funding.

“MEDC Grants” mean the economic development payments to be paid by MEDC to Company in the amount equal to the costs incurred and paid by Company for Eligible Costs for Public Infrastructure not to exceed the Maximum Public Infrastructure Amount, as verified by MEDC, to be paid in installments as set forth herein. Each individual payment is considered individually as an “MEDC Grant.”

“Payment Request” means a written request from Company to Director for payment of the applicable installment of the MEDC Grants, accompanied by the applicable written application for payment, copies of invoices, bills, receipts, and such other information, as may reasonably be requested by the Director, evidencing the Eligible Costs incurred and paid by Company for the Public Infrastructure and Demolition. Once the Company has submitted copies of invoices, bills, and receipts for Eligible Costs equal to the Maximum Public Infrastructure Amount, the Company is not required to include such items in any subsequent Payment Request.

“Phase 1” shall mean that portion of the Project consisting of one (1) retail/office building totaling approximately 8,000 square feet (Commercial Building), seven (7) townhouse units, and associated Public Infrastructure, parking, sidewalks, green space, landscaping, and other amenities to be constructed as generally shown on the attached **Exhibit C**.

“Phase 2” shall mean that portion of the Project consisting of approximately fourteen (14) townhouse units, and associated Public Infrastructure, parking, sidewalks, green space, landscaping, and other amenities to be constructed as generally shown on the attached **Exhibit C**.

“Phase 3” shall mean that portion of the Project consisting of approximately eleven (11) townhouse units, and associated Public Infrastructure, parking, sidewalks, green space, landscaping, and other amenities to be constructed as generally shown on the attached **Exhibit C**.

“Phase 4” shall mean that portion of the Project consisting of approximately twelve (12) townhouse units, and associated Public Infrastructure, parking, sidewalks, green space, landscaping, and other amenities to be constructed as generally shown on the attached **Exhibit C**.

“Public Infrastructure” means public streets, sanitary sewer mains, storm drainage facilities, sidewalks along public streets, water mains, electric, gas, telecommunication, existing utility removal and relocation, and other site improvements and related public improvements associated with full development of the Project as described in **Exhibit D**, which shall also include

engineering, survey, topography, geo-tech, environmental Phase I and Phase II, and architectural design costs associated with the full design of the Project as described in **Exhibit D**.

“Tax Increment” means the total amount of property taxes levied and collected by the City for a calendar year on the Captured Appraised Value of real property taxable by the City and located in the Zone. The amount of Tax Increment contributed by the City shall be limited to any maximum amount or other terms set forth in the participation amount established by ordinance.

“Tax Year” shall have the meaning assigned to such term in Section 1.04 of the Texas Tax Code (i.e., the calendar year).

“Tax Increment Base” means the total appraised value of all real property taxable by the City and located in the Zone for the calendar year in which the Zone was designated by the City.

“Taxable Value” shall mean the appraised value of the Property as certified by the Tarrant Appraisal District, or its successor, for a given Tax Year.

“TIRZ Fund” means the funds deposited by the City in the Tax Increment fund for the Zone.

“Term” means the term of this Agreement as described in Article 2 of this Agreement.

## **ARTICLE 2 TERM**

The term of this Agreement shall commence on the Effective Date and shall continue until the parties have fully satisfied all terms and conditions of this Agreement unless sooner terminated as provided herein.

## **ARTICLE 3 COMPANY OBLIGATIONS**

3.1 **Contract of Sale.** Within thirty (30) days of the Effective Date, the City shall submit a contract (the “Proposed Contract”) to the Company for review. The Company and the City shall have thirty (30) days (unless otherwise agreed to in writing between the City and the Company) following the Company’s actual receipt of the Proposed Contract to negotiate its terms in good faith and execute a form mutually acceptable to the City and the Company, including any exhibits attached thereto requiring the City’s or the Company’s execution (the “Contract of Sale”). If the City and the Company fail to execute the Contract of Sale within the time prescribed in this section 3.1, this Agreement shall be of no force or effect and the parties shall have no further obligation, liability or debt to each other hereunder.

3.2 **Compliance with Laws.** Construction of the Public Infrastructure and Project must be done in accordance with the Approved Plans and all applicable federal, state and local laws, codes, and regulations. Company agrees that before platting the Property, it will file applications with the City requesting approval of all, concept, site, and phasing plans and any other requirements of the

Zoning District.

3.3 Regulations Regarding Building Products, Materials, or Methods. The parties find that the Property constitutes an area of architectural importance and significance and the City Council of City hereby designates it as an area of architectural importance and significance for purposes of Chapter 3000 of the Texas Gov't Code (the "Code"). In consideration for the mutual covenants and conditions contained herein and pursuant to §3000.002(d) of the Code, Company voluntarily consents to the application of all City rules, charter provisions, ordinances, orders, building codes, and other regulations existing as of the Effective Date, including the Zoning District (the "Regulations") that govern the use or installation of a building product or material in the construction, renovation, maintenance, or other alteration of a residential or commercial building on the Property, regardless of whether a different building product or material is approved for use by a national model code published within the last three code cycles that applies to the construction, renovation, maintenance, or other alteration of the building. In addition, Company voluntarily consents to the application of the Regulations that establish a standard for a building product, material, or aesthetic method in construction, renovation, maintenance, or other alteration of a residential or commercial building, regardless of whether the standard is more stringent than a standard for the product, material, or aesthetic method under a national model code published within the last three code cycles that applies to the construction, renovation, maintenance, or other alteration of the building. The parties agree that: (a) the City will not issue any permits for the Property in violation of this section; (b) the covenants contained within this section constitute a material term of this Agreement; (c) Company's voluntary consent to the application of the Regulations to the Property, as described in this section, constitutes a material inducement for the City, MEDC, and Board to authorize the payments to Company described herein; (d) the covenants contained herein shall run with the land and shall bind Company and all successors and assigns; and (e) this section shall survive termination or expiration of this Agreement.

3.4 Commencement of Construction. Company shall use commercially reasonable efforts to achieve Commencement of Construction for Phase 1 no later than 18 months following the Company's receipt of all approvals required by applicable governmental authorities.

3.5 Building Final and Certificate of Occupancy Schedule. Company shall use commercially reasonable efforts to receive a Building Final and Certificate of Occupancy no later than the dates established below for each phase as follows; however, the City Manager, in his reasonable discretion, may extend the time for each phase below based on progress by Company to achieve Building Final and Certificate of Occupancy:

- (a) Phase 1 – 18 months following the Commencement of Construction;
- (b) Phase 2 – 18 months following the Company's receipt of a Building Final and Certificate of Occupancy for Phase 1;
- (c) Phase 3 – 18 months following the Company's receipt of a Building Final and Certificate of Occupancy for Phase 2; and

- (d) Phase 4 – 18 months following the Company’s receipt of a Building Final and Certificate of Occupancy for Phase 3.

If Company fails to achieve Commencement of Construction for Phase I within the deadline in Section 3.5(a), , Company must repay the MEDC and City, as applicable, pursuant to the repayment obligations of Section 6.3, but subject to the Notice Period and Cure Period in Section 3.6, and subject to any extensions granted by the City Manager.

3.6 Default. Upon a default by a party, a non-defaulting party may provide written notice of such default to the defaulting party (the “Notice of Default”). Upon a defaulting party’s receipt of the Notice of Default, said defaulting party shall have ninety (90) days, unless otherwise extended by written agreement between the Company and Director (the “Notice Period”) to cure such default, after which time a non-defaulting party may, at its option, pursue any and all remedies it may be entitled to, at law or in equity, in accordance with Texas law, without the necessity of further notice to or demand upon the defaulting party. Notwithstanding the foregoing, a non-defaulting party shall not pursue remedies for as long as the defaulting part proceeds in good faith and with due diligence to remedy and correct the default (the “Cure Period”), provided that the defaulting party has used commercially reasonable efforts to commence to cure such default within the Notice Period.

3.7 Property Maintenance.

(a) Company agrees to create a property owner’s association, or other appropriate entity (“Association”), to assume and be responsible for the continuous and perpetual operation, maintenance, and supervision of structures, parks, landscaping systems or landscape elements or features, landscape irrigation systems, screening walls, living screens, buffering systems, entryway features, including monuments or other signage, or other physical facilities or grounds held in common and necessary or desirable for the welfare of the Project, or that are of common use or benefit and that are not or cannot be satisfactorily maintained by the City. A copy of the agreements, covenants and restrictions establishing and creating the Association must be approved by the city attorney and City Council of City prior to the approval of the record plat of the subdivision for the Project and must be filed of record with such record plat in the map and plat records of Tarrant County. All facilities, structures, improvements, systems, areas or grounds that are to be operated, maintained and/or supervised by the Association, other than those located in public easements or rights-of-way, shall be dedicated by easement or deeded in fee simple ownership interest to such Association. Such easements or ownership shall be clearly identified on the record plat of the applicable subdivision.

(b) At a minimum, the agreements, covenants and restrictions establishing and creating the Association must contain or provide for the following:

- (1) Definitions of terms contained therein;
- (2) Provisions reasonably and mutually acceptable to the City and the Company for the establishment and organization of the Association and the adoption of

bylaws for such Association, including provisions requiring that the owner of any lot within the applicable subdivision and any successive buyer shall automatically and mandatorily become a member of the Association;

(3) The initial term of the agreements, covenants and restrictions establishing and creating the Association shall be for a 25-year period and shall automatically renew for successive ten-year periods, and the Association may not be dissolved without the prior written consent of the City;

(4) Provisions reasonably acceptable to the City and the Company to ensure the continuous and perpetual use, operation, maintenance, and/or supervision of all facilities, structures, improvements, systems, areas or grounds that are the responsibility of the Association and to establish a reserve fund for such purposes;

(5) Provisions reasonably prohibiting the amendment of any portion of the Association's agreements, covenants or restrictions pertaining to the use, operation, maintenance and/or supervision of any facilities, structures, improvements, systems, areas or grounds that are the responsibility of the Association without the reasonable prior written consent of the City, which such consent shall not be unreasonably withheld or delayed.

(6) The right and ability of the City or its lawful agents, after due notice to the Association, and expiration of Cure Period, to remove any landscape systems, features or elements that cease to be maintained by the Association; to perform the responsibilities of the Association if the Association fails to do so in compliance with any provisions of the agreements, covenants or restrictions of the Association or of any applicable City codes or regulations; to assess the Association for all reasonable costs incurred by the City in performing such responsibilities if the Association fails to do so; and/or to avail itself of any other enforcement actions available to the City pursuant to state law or City codes or regulations; and

(7) Provisions indemnifying and holding the City harmless from any and all costs, expenses, suits, demands, liabilities or damages, including attorney's fees and costs of suit, incurred or resulting from the City's removal of any landscape systems, features or elements that cease to be maintained by the Association or from the City's performance of the operation, maintenance or supervision responsibilities of the Association due to the Association's failure to perform such responsibilities.

3.8 Minimum Taxable Value. The Project shall result in a minimum Capital Investment of at least \$12,400,000 following (i) the sale of all residential units in Phase 1, Phase 2, Phase 3, and Phase 4, and (ii) a fully leased Commercial Building that shall retain in the City or create at least 4 full-time jobs as a performance obligation during the term of this Agreement, subject to the repayment terms in this Agreement as required by Texas Local Gov't Code Sec. 501.158, as amended. It is estimated that the individual phases of the Project will result in the following minimum Capital Investments:



- (a) Phase 1 – \$3,100,000
- (b) Phase 2 – \$3,100,000
- (c) Phase 3 – \$3,100,000
- (d) Phase 4 – \$3,100,000

If Company fails to meet the minimum Capital Investment for Phase 1 in this Section 3.8, Company must repay the MEDC and City, as applicable, pursuant to the repayment obligations of Section 6.3, but subject to the Notice Period and Cure Period in Section 3.6 and any extensions granted by the City Manager.

## **ARTICLE 4**

### **MEDC, CITY, AND TIRZ GRANTS**

#### **4.1 MEDC Grants.**

(a) Company shall demolish the buildings currently located on the Property and may submit a Payment Request to the Director after the demolition work, assessment and removal of any hazardous material, asbestos and removal of same, disposal of debris and materials, engineering and grading work, removal, rerouting and / or capping of any utilities, and any related site improvements or other improvements are complete (collectively referred to as the “Demolition”). The Payment Request shall be reviewed by the City Engineer and the Director. Upon approval of the Payment Request by the City Engineer and Director, which such approval shall not be unreasonably denied, withheld or delayed, the MEDC shall pay Company an MEDC Grant in an amount not to exceed \$300,000, or the actual cost of Demolition, whichever is less, for Eligible Costs related to the Demolition no later than thirty (30) days after City’s receipt of the Company’s Payment Request for Demolition.

(b) MEDC shall convey the MEDC Property to the Company for the purchase price of **ONE DOLLAR (\$1.00)** and the deed shall include a provision by which the Property will automatically revert back to the MEDC if Company fails to achieve Commencement of Construction for Phase 1 pursuant to Section 3.5 of this Agreement.

(c) An MEDC Grant shall be paid to Company for all Eligible Costs related to the approved Public Infrastructure. Prior to Commencement of Construction for Phase 1, the proposed costs for storm, sewer, water, electric, gas, telecommunication and reconstruction of parking, sidewalks, landscape, hardscape and benches on Main St., and all infrastructure exhibits and estimates shall be submitted to the City Engineer for approval. The Company may submit a monthly progress Payment Request to the City Engineer and the Director. Upon approval of a Payment Request by the City Engineer and Director, which such approval shall not be unreasonably denied, withheld or delayed, the MEDC Grant shall be paid to Company no later than twenty (20) days after City’s receipt of said Payment Request for Public Infrastructure.

4.2 Maximum Public Infrastructure Amount. The MEDC Grants paid to Company in accordance with this Article 4 shall not exceed the Maximum Public Infrastructure Amount, and is subject to the availability of MEDC funds as required by Texas law.

4.3 City Grants. As a condition precedent to City's conveyance of the City Property to Company, the Company shall provide sufficient proof of financing of each phase of the Project to the City. If, in the City's reasonable determination, the proof of financing for each phase is acceptable, the City shall convey the City Property to the Company for the purchase price of **ONE DOLLAR (\$1.00)** and the deed shall include a provision by which the Property will automatically revert back to the City if the Commencement of Construction for Phase 1 fails to occur by the time prescribed in Section 3.5 of this Agreement.

4.4 TIRZ 380 Grants. As part of the economic development program and in exchange for Company's completion and compliance with the terms and conditions of this Agreement, the Board agrees to pay Chapter 380 grants from currently available TIRZ Funds to Company for "Project Costs", as that term is defined in Texas Tax Code Ch. 311, subject to the project and finance plan for the Zone, which may be amended to ensure TIRZ Fund eligibility under this Section 4.4, and subject to the following:

- (a) Upon final 100% completion of construction of each respective phase of the Project, Company may notify the Board of any Project Costs related to that respective phase of the Project, including costs for demolition and Public Infrastructure, that were not part of the Eligible Costs to be paid through the MEDC Grants; and
- (b) The Board's obligation to pay the TIRZ 380 Grants for each respective phase of the Project will become effective upon the Board's receipt of written notice from the Director specifying the amount and schedule of TIRZ 380 Grants to be paid. The parties agree that any TIRZ 380 Grants paid from the Zone may not come from any source of Zone funds other than the TIRZ Fund.

## **ARTICLE 5 DEFERRED DEVELOPMENT FEES**

5.3 Deferred Development Fees. The parties agree that all of the development fees, including, but not limited to, plan review, permit, water, sewer, park, and roadway impact fees shall be deferred by the City and funded by the TIRZ Fund, which obligation will become effective upon the Board's receipt of written notice from the Director specifying the amount and schedule of development fee payments to be paid. The parties agree that any development fee payments paid under this Agreement will be paid from the TIRZ Funds and shall not come from any other source of funding.

## **ARTICLE 6 TERMINATION, OFFSET, AND REPAYMENT**

6.1 Termination. This Agreement may be terminated upon any one or more of the following:

- (a) by mutual written agreement of the parties; or
- (b) upon written notice by MEDC or City, if:
  - (i) Company fails to execute the Contract of Sale; or
  - (ii) upon written notice by MEDC or City, if the Contract of Sale is terminated or the conveyance of the MEDC Property or the City Property to Company otherwise fails to close; or
- (c) upon written notice by any party, if another party defaults or breaches any of the other terms or conditions of this Agreement and such default or breach is not cured as provided in Section 3.6 of this Agreement; or
- (d) upon written notice by MEDC or City, if Company suffers an Event of Bankruptcy or Insolvency; or
- (e) upon written notice by MEDC or City, if any Impositions owed to MEDC or City become delinquent and such delinquency has not been cured within thirty (30) days after written notice thereof; or
- (f) upon written notice by any party if any subsequent federal or state legislation or any decision of a court of competent jurisdiction renders this Agreement invalid, illegal, or unenforceable.

6.2 **Offset.** City or MEDC may at its option, and after delivering written notice to Company of its intent to do so, offset any amounts due and payable under this Agreement against any delinquent debt (including taxes) lawfully due to City or MEDC, regardless of whether or not the debt due to the City or MEDC has been reduced to judgment by a court.

6.3 **Repayment.** In the event the Agreement is terminated by MEDC pursuant to Section 6.1(b)-(e), or if Company fails to meet its performance obligations in Sections 3.5(a) and 3.8, Company shall, subject to repayment obligations of Section 3.6 refund to MEDC and City an amount equal to the amount of the MEDC Grants or City payments that have been provided by MEDC or City to Company prior to the date of such termination, plus interest at the rate of interest periodically announced by the Wall Street Journal as the prime or base commercial lending rate, or if the Wall Street Journal shall ever cease to exist or cease to announce a prime or base lending rate, then at the annual rate of interest from time to time announced by Citibank, N.A. (or by any other New York money center bank selected by MEDC) as its prime or base commercial lending rate, which shall accrue from the Effective Date until paid.

## ARTICLE 7 INDEMNIFICATION

**CITY, MEDC, AND THE BOARD SHALL NOT BE LIABLE FOR ANY LOSS, DAMAGE, OR INJURY OF ANY KIND OR CHARACTER TO ANY PERSON OR PROPERTY**

ARISING FROM THE ACTS OR OMISSIONS OF THE COMPANY OR ITS CONTRACTORS PURSUANT TO THIS AGREEMENT. COMPANY HEREBY WAIVES ALL CLAIMS AGAINST CITY, MEDC, AND THE BOARD, THEIR COUNCIL, DIRECTORS, OFFICERS, AGENTS AND EMPLOYEES (COLLECTIVELY REFERRED TO AS THE “CITY REPRESENTATIVES”) FOR DAMAGE TO ANY PROPERTY OR INJURY TO, OR DEATH OF, ANY PERSON ARISING AT ANY TIME AND FROM ANY CAUSE (OTHER THAN THE SOLE NEGLIGENCE, GROSS NEGLIGENCE OR WILLFUL ACT OF THE CITY REPRESENTATIVES) ARISING FROM THE ACTS OR OMISSIONS OF THE COMPANY OR ITS CONTRACTORS PURSUANT TO THIS AGREEMENT. COMPANY DOES HEREBY INDEMNIFY AND SAVE HARMLESS THE CITY REPRESENTATIVES FROM AND AGAINST ANY AND ALL LIABILITIES, DAMAGES, CLAIMS, SUITS, COSTS (INCLUDING COURT COSTS, ATTORNEYS' FEES AND COSTS OF INVESTIGATION) AND ACTIONS OF ANY KIND BY REASON OF INJURY TO OR DEATH OF ANY PERSON, OR DAMAGE TO OR LOSS OF PROPERTY ARISING FROM COMPANY'S BREACH OF ANY OF THE TERMS AND CONDITIONS OF THIS AGREEMENT, OR BY REASON OF ANY ACT OR OMISSION ON THE PART OF COMPANY, ITS OFFICERS, DIRECTORS, SERVANTS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, SUB-CONTRACTOR(S), LICENSEES, SUCCESSORS OR PERMITTED ASSIGNS IN THE PERFORMANCE OF THIS AGREEMENT (EXCEPT WHEN SUCH LIABILITY, CLAIMS, SUITS, COSTS, INJURIES, DEATHS OR DAMAGES ARISE FROM OR ARE ATTRIBUTED TO THE SOLE NEGLIGENCE, GROSS NEGLIGENCE OR WILLFUL ACT OF THE CITY REPRESENTATIVES). NOTWITHSTANDING THE FOREGOING IN THE EVENT OF JOINT OR CONCURRENT NEGLIGENCE OF BOTH THE CITY REPRESENTATIVES AND COMPANY, THE RESPONSIBILITY, IF ANY, SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE CITY REPRESENTATIVES AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW. THE PROVISIONS OF THIS SECTION ARE SOLELY FOR THE BENEFIT OF THE PARTIES HERETO AND THEIR RESPECTIVE SUCCESSORS AND PERMITTED ASSIGNS AND NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY. THE COMPANY'S OBLIGATIONS UNDER THIS SECTION SHALL NOT BE LIMITED TO THE LIMITS OF COVERAGE OF INSURANCE MAINTAINED OR REQUIRED TO BE MAINTAINED BY COMPANY UNDER THIS AGREEMENT. THIS PROVISION SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

## ARTICLE 8 ACCESS TO INFORMATION

Notwithstanding any other provision to the contrary in this Agreement, all information, documents, and communications relating to this Agreement may be subject to the Texas Public Information Act and any opinion of the Texas Attorney General or a court of competent jurisdiction relating to the Texas Public Information Act. In addition to the foregoing sentence, the City shall submit to the comptroller the information as required by Texas Local Gov't Code Sec.

380.004, and any other information the comptroller considers necessary to operate and update the database described by Section 403.0246, Government Code. Upon the City's or MEDC's written request, Company agrees to provide the City or MEDC, within thirty (30) days of the Company's receipt of such request, access to contract documents, invoices, receipts, records, and reports to verify Company's compliance with this Agreement.

## **ARTICLE 9 GOVERNMENTAL FUNCTIONS AND IMMUNITY**

The parties hereby acknowledge and agree that the City is entering into this Agreement pursuant to its governmental functions and that nothing contained in this Agreement shall be construed as constituting a waiver of the City's police power, legislative power, or governmental immunity from suit or liability, which are expressly reserved to the extent allowed by law. The parties agree that this is not an Agreement for goods or services to the City. To the extent a Court of competent jurisdiction determines that the City's governmental immunity from suit or liability is waived in any manner, or that this Agreement is subject to the provisions of Chapter 271 of the Texas Local Gov't Code, as amended, the City's immunity from suit may be waived only as set forth in Subchapter I of Chapter 271, Texas Local Gov't Code. Further, the parties agree that this Agreement is made subject to all applicable provisions of the Texas Civil Practice and Remedies Code, including but not limited to all defenses, limitations, and exceptions to the limited waiver of immunity from liability provided in Chapter 101 and Chapter 75.

## **ARTICLE 10 GENERAL PROVISIONS**

10.1 Mutual Assistance. The parties shall do all things reasonably necessary or appropriate to carry out the terms and provisions of this Agreement and to aid and assist each other in carrying out such terms and provisions.

10.2 Representations and Warranties. Company represents and warrants to the MEDC and City that it has the requisite authority to enter into this Agreement. Company represents and warrants to the MEDC and City that it will not violate any federal, state or local laws in constructing or operating the Project, and that the Project and Public Infrastructure shall conform to the applicable building codes, zoning ordinances, and all other ordinances and regulations of the City of Mansfield.

10.3 Section or Other Headings. Section or other headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

10.4 Entire Agreement. This Agreement contains the entire agreement between the parties with respect to the transaction contemplated herein.

10.5 Amendment. This Agreement may only be amended, altered, or revoked by written instrument signed by the parties.

## 10.6 Successors and Assigns.

- (a) Assignment. This Agreement shall be binding on and inure to the benefit of the parties, their respective successors and assigns.
- (b) Collateral Assignment. Notwithstanding Section 10.6 (a) and only to the extent authorized by Texas law, Company shall have the right to collaterally assign, pledge, or encumber, in whole or in part, to any lender as security for any loan in connection with construction of the Project, Demolition and Public Infrastructure, all rights, title, and interests of Company to receive the MEDC Grants, City Grants, MEDC Property, or other payments under this Agreement. Such collateral assignments: (i) shall require the prior written consent of the MEDC, which shall not be unreasonably delayed or withheld, and MEDC agrees to execute such reasonable consent forms within ten (10) days after receipt thereof, as may be required to evidence such consent; (ii) shall require notice to the MEDC together with full contact information for such lenders; (iii) shall not create any liability for any lender under this Agreement by reason of such collateral assignment unless the lender agrees, in writing, to be bound by this Agreement; and (iv) may give lenders the right, but not the obligation, to cure any failure of Company to perform under this Agreement. No collateral assignment may relieve Company from any obligations or liabilities under this Agreement. The Director has the authority to give the written consent under this subsection after review and consultation with the MEDC's legal counsel; provided, however, the Director may, in his or her sole discretion, present the assignment request to the MEDC's board of directors for approval.

10.7 Notice. Any notices or other communications required or permitted by this Agreement shall be in writing and delivered by a nationally recognized overnight courier service, or alternatively, shall be sent by United States certified mail, return receipt requested. The effective date of any notice shall be (i) if by courier service, the date of delivery of the notice, or (ii) if mailed, on the date upon which the return receipt is signed or delivery is refused or the notice is designated by the postal authorities as undeliverable, as the case may be. The parties hereby designate the addresses set forth below as their respective notice addresses under this Agreement.

COMPANY: Oakhollow Group, Ltd and/or Assigns  
2500 NE Green Oaks Blvd., Suite 200  
Arlington, Texas 76006  
Attn: Mojoy Haddad

MEDC: Mansfield Economic Development MEDC  
301 South Main Street  
Mansfield, Texas 76063  
Attn: Director

With a copy to: Mansfield Economic Development MEDC Attorney

Taylor, Olson, Adkins, Sralla & Elam, LLP  
6000 Western Place, Suite 200  
Fort Worth, Texas 76107

City: City of Mansfield, Texas  
Attn: City Manager  
1200 E. Broad Street  
Mansfield, Texas 76063

10.8 Interpretation. Regardless of the actual drafter of this Agreement, this Agreement shall, in the event of any dispute over its meaning or application, be interpreted fairly and reasonably, and neither more strongly for or against any party.

10.9 Applicable Law/Venue. The substantive laws of the State of Texas (and not its conflicts of law principles) govern all matters arising out of, or relating to, this Agreement and all of the transactions it contemplates, including without limitation its validity, interpretation, construction, performance and enforcement. Mandatory and exclusive venue for any action arising out of, or relating to, this Agreement must be in a court of competent jurisdiction in Tarrant County, Texas.

10.10 Severability. In the event any provision of this Agreement is ruled illegal, invalid, or unenforceable by any court of proper jurisdiction, under present or future laws, then and in that event, it is the intention of the parties hereto that the remainder of this Agreement shall not be affected thereby, and it is also the intention of the parties to this Agreement that in lieu of each clause or provision that is found to be illegal, invalid, or unenforceable a provision be added to this Agreement which is legal, valid and enforceable and is as similar in terms as possible to the provision found to be illegal, invalid or unenforceable.

10.11 Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be considered an original, but all of which shall constitute one instrument.

10.12 No Joint Venture. The provisions of this Agreement are not intended to create, nor will they be in any way interpreted or construed to create a joint venture, partnership, or any other similar relationship between the parties.

10.13 Force Majeure. If any party hereto shall be delayed or hindered in or prevented from the performance of any act required hereunder (other than the payment of money) by reason of Force Majeure, then performance of such act shall be excused for the period of the delay and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay, provided that the foregoing shall not be applicable to any payment obligation of any party under this Agreement.

10.14 Attorney's Fees. If either party employs an attorney or attorneys to enforce any of the provisions hereof, or to recover damages for the breach of this Agreement, the non-prevailing party in any final judgment or award agrees to pay the other party all reasonable costs, charges and expenses, including reasonable attorneys' fees and costs of court, expended or incurred in connection therewith.

10.15 Limitation of Liability. The parties further agree that no party will be liable to any other party under this Agreement for special, consequential (including lost profits), or exemplary damages.

10.16 Undocumented Workers. Company covenants and certifies that it does not and will not knowingly employ an undocumented worker as that term is defined by Section 2264.001(4) of the Texas Government Code. In accordance with Section 2264.052 of the Texas Government Code, if Company is convicted of a violation under 8 U.S.C. Section 1324a (f), Company shall repay to the MEDC the full amount of all payments made under this Agreement, plus ten percent (10%) interest per annum from the date such payment was made until the date of full repayment. Repayment shall be paid within one hundred twenty (120) days after the date Company receives a notice of violation from the MEDC.

10.17 City Council Approval. This Agreement is not valid unless first approved by the City Council of the City of Mansfield.

10.18 Gift to Public Servant. The City may terminate the Agreement immediately if the Company has offered or agreed to confer any benefit upon a City employee or official that the City employee or official is prohibited by law from accepting.

10.19 Texas Boycott Prohibitions. To the extent required by Texas law, Company verifies that: (1) it does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association, as defined in Texas Government Code § 2274.001, and that it will not during the term of this Agreement discriminate against a firearm entity or firearm trade association; (2) it does not “boycott Israel” as that term is defined in Texas Government Code § 808.001 and it will not boycott Israel during the term of this Agreement; and (3) it does not “boycott energy companies,” as those terms are defined in Texas Government Code §§ 809.001 and 2274.001, and it will not boycott energy companies during the term of this Agreement.

10.20 380 Grant Limitations. Under no circumstances shall the obligations of the City hereunder be deemed to create any debt within the meaning of any constitutional or statutory provision; provided, however, the City agrees during the term of this Agreement to appropriate funds to pay the grant for this Agreement. Further, City shall not be obligated to pay any lienholder, commercial bank, lender, or similar Person or financial institution for any loan or credit agreement made by the Company.

10.21 Full Execution Required. This Agreement will not be binding on any party unless fully executed by all parties.

[Signatures on Following Page]

[Remainder of Page Intentionally Left Blank]



**MANSFIELD ECONOMIC  
DEVELOPMENT CORPORATION,**  
a Texas non-profit corporation

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**ATTEST:**

\_\_\_\_\_  
Board Secretary

**OAKHOLLOW GROUP, LTD.**  
a Texas limited partnership

By: Oakhollow Properties, Inc.

a Texas corporation  
its General Partner By: \_\_\_\_\_

\_\_\_\_\_  
Mojoy Haddad, President

Date: \_\_\_\_\_

**CITY OF MANSFIELD, TEXAS**

\_\_\_\_\_  
Joe Smolinski, City Manager

Date: \_\_\_\_\_

**ATTEST:**

\_\_\_\_\_  
Susana Marin, City Secretary

**BOARD OF DIRECTORS OF REINVESTMENT ZONE NUMBER TWO,  
CITY OF MANSFIELD**

\_\_\_\_\_  
Chairman

Date: \_\_\_\_\_

MEDC Property



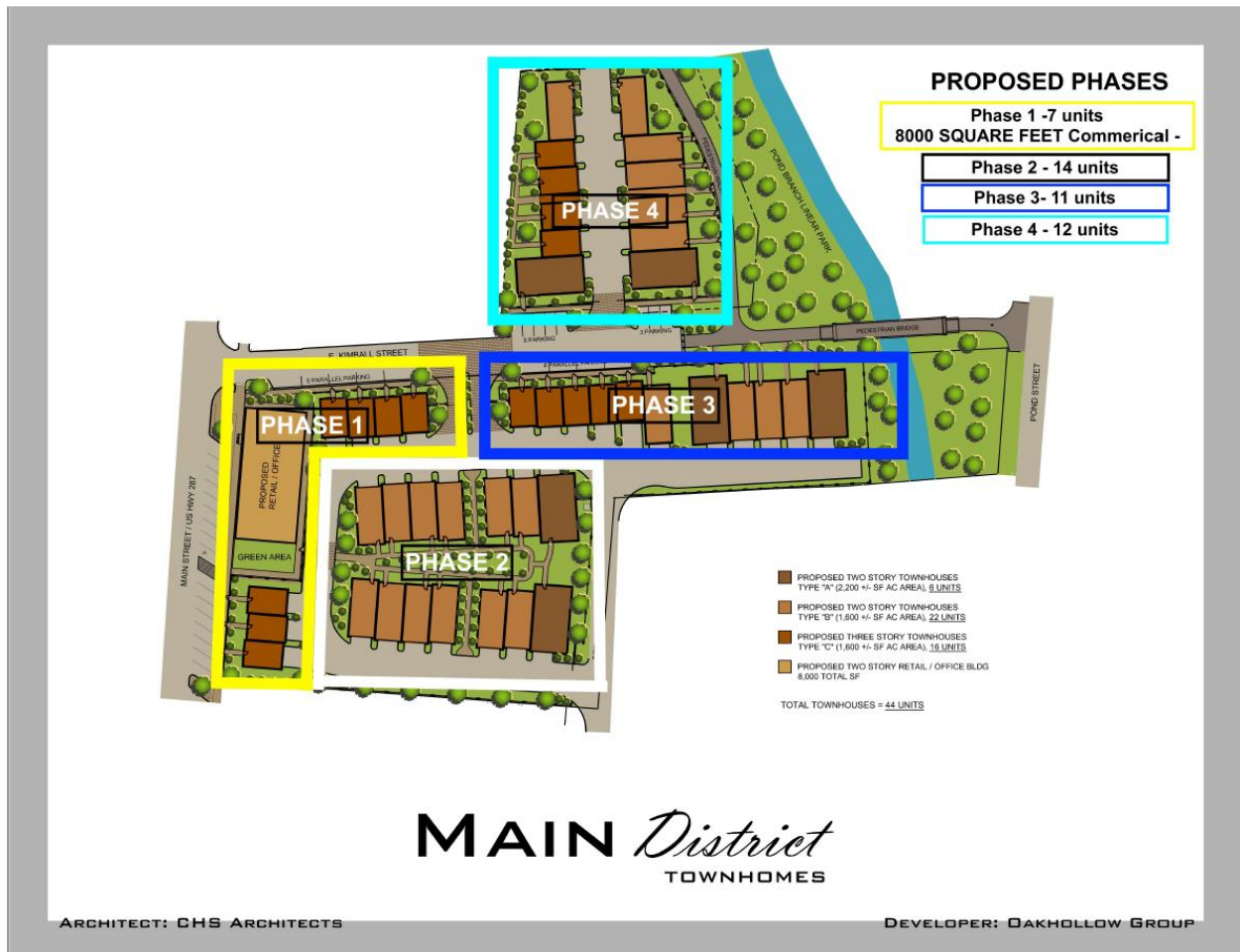
City Property





## EXHIBIT C

### The Project



**EXHIBIT D**

Public Infrastructure

**Company to attach this exhibit after obtaining approval from the Director, and prior to platting.**





# CITY OF MANSFIELD

1200 E. Broad St.  
Mansfield, TX 76063  
mansfieldtexas.gov

## STAFF REPORT

File Number: 23-5624

**Agenda Date:** 10/9/2023

**Version:** 1

**Status:** New Business

**In Control:** City Council

**File Type:** Resolution

**Agenda Number:**

### Title

Discussion and Possible Action on a Resolution Regarding the Nomination of Candidates to Serve on the Board of Directors for the Tarrant Appraisal District, Johnson County Appraisal District and Ellis County Appraisal District for the Calendar Years 2024 and 2025

### Requested Action

Defer to the City Council.

### Recommendation

Defer to the City Council.

### Description/History

The City received letters from the Tarrant Appraisal District, Johnson County Appraisal District, and the Ellis County Appraisal District indicating that the current two-year terms of the current board members are expiring. The governing body of each taxing unit may nominate up to five candidates. Taxing units are required to submit nominations; however, nominations may only be made by a resolution of the governing body. Nominations are due to the Chief Appraisers by October 15, 2023.

This item is to provide the Council the opportunity to discuss whether there is an individual they would like to nominate to serve on the board. The Chief Appraiser of each County will prepare the ballots and send to the taxing units on or before October 30, 2023. The governing bodies of the taxing units will determine their votes by resolution and submit the votes to the Chief Appraiser before December 15, 2023. The City of Mansfield has the following number of votes per county: Tarrant County - 53 votes: Johnson County - 95 votes & Ellis County - 10 votes.

### Justification

N/A

### Funding Source

N/A

### Prepared By



Troy Lestina, Deputy City Manager/CFO, 817-276-4258

**RESOLUTION NO. \_\_\_\_\_****A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANSFIELD, TEXAS, NOMINATING CANDIDATES FOR THE TARRANT APPRAISAL DISTRICT BOARD OF DIRECTORS FOR THE 2024 AND 2025 TERMS; FINDING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; AND DECLARING AN EFFECTIVE DATE**

**WHEREAS**, the City of Mansfield is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and,

**WHEREAS**, an appraisal district is governed by a board of directors who serve two-year terms commencing January 1 of even-numbered years; and,

**WHEREAS**, pursuant to Section 6.03(g) of the Texas Property Tax Code, each taxing unit that is entitled to vote may nominate by Resolution one candidate for each of the five positions to be filled and submit those nominations to the Chief Appraiser for the district before October 15, 2023.

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

**SECTION 1.**

The findings and recitations set out in the preamble are found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes.

**SECTION 2.**

The City Council of the City of Mansfield, Texas submits the following nominee(s), along with contact information, to fill the positions on the Board of Directors of the Tarrant Appraisal District for the 2024 and 2025 terms:

Name	E-mail	Cell	Bio Included

**SECTION 3.**

It is hereby officially found and determined that the meeting at which this Resolution is passed is open to the public as required by law and the public notice of the time, place, and purpose of said meeting was given as required.

**SECTION 4.**

The City Secretary's Office is hereby directed, on behalf of the Mayor as presiding officer, to forward a certified copy of this Resolution to the chief appraiser of the Tarrant Appraisal District no later than October 15, 2023.

**SECTION 5.**

This Resolution shall be effective from and after its passage.

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MANSFIELD THIS 9<sup>TH</sup> DAY OF OCTOBER 2023.**

\_\_\_\_\_  
**Michael Evans, Mayor**

**ATTEST:**

\_\_\_\_\_  
**Susana Marin, City Secretary**



William Durham  
Executive Director  
Interim Chief Appraiser

September 22, 2023

Michael Evans, Sr.  
Mayor  
City of Mansfield  
1200 E. Broad Street  
Mansfield, Texas 76063

RE: Nomination and Appointment to TAD Board of Directors

Dear Mr. Evans:

The current two-year terms of the five voting members of the Tarrant Appraisal District Board of Directors will expire on December 31, 2023. The first step in appointing voting members for the term beginning January 1, 2023 is calculating the number of votes to which the taxing units are entitled. As required by Section 6.03 of the Property Tax Code, I have calculated and provide in the enclosed list the number of votes for each school district, city, and county entity that is entitled to participate in the appointment process. The **next step** is nomination of candidates. Taxing units are not required to submit any nominations but, if they choose to do so, the **nominations may be made only by a resolution adopted by the governing body and the presiding officer of the governing body must submit the names of the nominees to me before October 15, 2023.**

To be eligible to serve as a voting member of the Board of Directors, an individual must have resided in Tarrant County for at least the two years immediately preceding January 1, 2024. An individual who is otherwise eligible is not ineligible because he or she is a member of the government body of a taxing unit. Texas law restricts eligibility and conduct of members of governmental bodies such as appraisal districts' board of directors. In consultation with your attorneys, please review the Property Tax Code and other applicable laws carefully for the details of those restrictions, including definitions of "substantial interest", "business entity", "deferred", "abated", and other terms used below and for the potential criminal consequences of violating certain restrictions. In summary, the Property Tax Code provides that the following are ineligible to serve as voting members of the Board of Directors:

- An individual who has been an employee of the Tarrant Appraisal District at any time during the preceding three years;
- An individual who has served as a voting member of the Board of Directors for all or part of five terms since January 1, 2022;
- An individual who is an employee of a taxing unit that participates in Tarrant Appraisal District unless the individual is also a member of the governing body or an elected official of a taxing unit that participates in the District;

- An individual who, directly or through a business entity in which he or she has a substantial interest, is a party to a contract with Tarrant Appraisal District or a taxing unit that participates in the District, if the contract relates to the performance of any activity governed by the Property Tax Code;
- An individual who has engaged in the business of appraising property for compensation for use in proceedings under the Property Tax Code at any time during the preceding three years;
- An individual who has engaged in the business of representing property owners for compensation in proceedings under the Property Tax Code in Tarrant County at any time during the preceding three years;
- An individual who is related by blood or marriage to an individual who is engaged in the business of appraising property for compensation for use in proceedings under the Property Tax Code or of representing property owners for compensation in proceedings under the Property Tax Code in Tarrant County, if the relationship is within the 1<sup>st</sup> or 2<sup>nd</sup> degrees on the following chart;

**Degrees of Consanguinity and Affinity**

1 <sup>st</sup> DEGREE	2 <sup>nd</sup> DEGREE	3 <sup>rd</sup> DEGREE
<b>By Consanguinity</b> <ul style="list-style-type: none"> <li>• Parents</li> <li>• Children</li> </ul> <b>By Affinity</b> <ul style="list-style-type: none"> <li>• Spouses of relatives listed under first degree consanguinity</li> <li>• Spouse</li> <li>• Spouse's parents</li> <li>• Spouse's children</li> <li>• Stepparents</li> <li>• Stepchildren</li> </ul>	<b>By Consanguinity</b> <ul style="list-style-type: none"> <li>• Grandparents</li> <li>• Grandchildren</li> <li>• Brothers &amp; sisters</li> </ul> <b>By Affinity</b> <ul style="list-style-type: none"> <li>• Spouses of relatives listed by second degree consanguinity</li> <li>• Spouse's grandparents</li> <li>• Spouse's grandchildren</li> <li>• Spouse's brothers &amp; sisters</li> </ul>	<b>By Consanguinity</b> <ul style="list-style-type: none"> <li>• Great grandparents</li> <li>• Great grandchildren</li> <li>• Nieces &amp; nephews</li> <li>• Aunts &amp; uncles</li> </ul> <b>By Affinity</b> <ul style="list-style-type: none"> <li>• No prohibitions</li> </ul>

- an individual who owns property on which delinquent taxes have been owed to a taxing unit for more than 60 days after the date the individual knew or should have known of the delinquency unless the delinquent taxes, penalty, and interest are being paid under an installment plan or a suit to collect the delinquent taxes is deferred or abated.

When submitting nominations, please include not only the full name of each candidate, but also his or her complete residence address and a current resume.





Letter to Taxing Units  
Appointments to Board of Directors  
September 22, 2023

From timely submitted nominations, I will prepare and distribute before October 30<sup>th</sup> a ballot to each taxing unit entitled to participate in the appointment process.

The appointment process and schedule set out in Section 6.03 of the Property Tax Code may be summarized as follows:

before October 01, 2023	Chief Appraiser calculates numbers of votes and notifies taxing units
before October 15, 2023	Governing bodies of taxing units nominate candidates by resolution and send names to Chief Appraiser
before October 30, 2023	Chief Appraiser prepares ballot and sends it to taxing units
before December 15, 2023 for most taxing units but see the different requirements in section 6.03(k-1) that applies only to "each taxing unit entitled to cast at least five percent of the total votes", which in this appointment cycle means 250 or more votes on the enclosed list	Governing bodies of taxing units determine their votes by resolution and send submit votes to Chief Appraiser
before December 31, 2023	Chief Appraiser counts votes, determines which candidates received the most votes, and submits results to taxing units
January 01, 2024	new term begins

If you have any questions, please do not hesitate to call.

Sincerely,



William Durham  
Executive Director  
Interim Chief Appraiser

WD:jw  
Enclosure  
CC: Mr. Joe Smolinski



TARRANT APPRAISAL DISTRICT  
Calculation of Taxing Entity Votes in 2023 for Appointment to  
Board of Directors  
Per Section 6.03(d) of Texas Property Tax Code

	Votes
School Districts:	
Aledo ISD	5
Arlington ISD	453
Azle ISD	25
Birdville ISD	162
Burleson ISD	29
Carroll ISD	125
Castleberry ISD	16
Crowley ISD	134
Eagle Mountain/Saginaw ISD	189
Everman ISD	25
Fort Worth ISD	597
Godley ISD	1
Grapevine/Colleyville ISD	194
Hurst/Euless/Bedford ISD	196
Keller ISD	280
Kennedale ISD	22
Lake Worth ISD	18
Lewisville ISD	5
Mansfield ISD	221
Northwest ISD	155
White Settlement ISD	40
Total Schools Cities:	2,895
City of Arlington	194
City of Azle	6
City of Bedford	25
City of Benbrook	15
City of Blue Mound	1
City of Burleson	6
City of Colleyville	17
City of Crowley	9
City of Dalworthington Gardens	2
Edgecliff Village	1

City of Euless	25
City of Everman	3
City of Flower Mound	2
City of Forest Hill	7
City of Fort Worth	623
City of Grand Prairie	59
City of Grapevine	28
City of Haltom City	19
City of Haslet	4
City of Hurst	21
City of Keller	23
City of Kennedale	7
Town of Lakeside	1
City of Lake Worth	3
City of Mansfield	53
City of N. Richland Hills	37
Town of Pantego	2
City of Pelican Bay	1
City of Reno	0
City of Richland Hills	4
City of River Oaks	3
City of Roanoke	0
City of Saginaw	13
City of Sansom Park	2
City of Southlake	32
Town of Trophy Club	1
City of Watauga	10
Town of Westlake	3
City of Westover Hills	3
Westworth Village	2
City of White Settlement	9
Total Cities Other:	<hr/> 1,272
Tarrant County	526
Tarrant County College	307
Total Other	<hr/> 833
Total All	5,000



# CENTRAL APPRAISAL DISTRICT OF JOHNSON COUNTY

109 N Main St  
Cleburne, TX 76033  
Phone (817) 648-3000  
Metro (817) 558-8100  
Fax (817) 645-3105  
www.johnsoncad.com  
customerservice@johnsoncad.net



Board of Directors  
Toby Ford, Chairman  
Don Beeson, Vice Chairman  
Brenda Webb, Secretary  
Byron Black  
Vance Castles  
Scott Porter, Tax Assessor/Collector

Executive Director/Chief Appraiser  
Jim Hudspeth, RPA, RTA, CTA, CSTA, CCA

**September 20, 2023**

**The Honorable Michael Evans, Mayor  
City of Mansfield  
1200 E Broad St  
Mansfield, Texas 76063**

**Dear Mayor Evans:**

**An election will be held this coming December to determine who will serve on the Board of Directors for the Central Appraisal District of Johnson County for the years 2024 and 2025. The board consists of five members.**

**In accordance with Section 6.03(d) of the Texas Property Tax Code, we have calculated the number of votes to which each taxing unit in our district is entitled. As indicated on the calculation enclosed, City of Mansfield is entitled to 95 votes. Please submit the name(s) of any nominee(s) (up to five persons), by resolution adopted by your governing body, to me on or before October 15, 2023. (A sample resolution is enclosed). Legislation prohibits nominations received after this date from appearing on the ballot.**

**I will then prepare a ballot listing the candidates, and deliver a copy of the ballot to you before October 30, 2023. Your governing body will then determine its vote by resolution and submit it to me on or before December 15, 2023. At that time I will count the votes, declare the five candidates who receive the largest cumulative vote totals elected, and submit the results to you and to the candidates prior to December 31, 2023.**

**As you can see, timeliness is very important. Please let me know if you have any questions regarding this matter.**

**Sincerely,**

  
**Jim Hudspeth, RPA, RTA, CTA, CSTA, CCA  
Executive Director/Chief Appraiser**

**JH/jw**

**Enclosures**

## (SAMPLE RESOLUTION)

**RESOLUTION BY \_\_\_\_\_ AFFIRMING THE  
NOMINATION(S) FOR CANDIDATE(S) FOR THE BOARD OF DIRECTORS  
FOR THE CENTRAL APPRAISAL DISTRICT OF JOHNSON COUNTY,  
TEXAS.**

**This is to affirm that \_\_\_\_\_ on this the \_\_\_\_\_ day  
of \_\_\_\_\_, 2023, did move and approve the following nomination(s).  
Furthermore, said candidate(s) is(are) eligible for election to the Board of Directors  
of the Central Appraisal District of Johnson County for the 2024-2025 term.**

**NOMINATION(S)**

\_\_\_\_\_  
\_\_\_\_\_

**VOTING FOR:**

\_\_\_\_\_  
\_\_\_\_\_

**VOTING AGAINST:**

\_\_\_\_\_

**Said resolution was moved and approved on this the \_\_\_\_\_ day of  
\_\_\_\_\_, 2023.**

**Certified by:**

**Attest:**

\_\_\_\_\_

\_\_\_\_\_

## CENTRAL APPRAISAL DISTRICT OF JOHNSON COUNTY

## CALCULATION OF VOTES FOR ELECTION OF BOARD OF DIRECTORS FOR 2024-2025

<u>TAXING ENTITY</u>	<u>2022 LEVY</u>	<u>PORTION OF TOTAL LEVY IN DISTRICT</u>	<u>X 1000 X 5 SEATS = NUMBER OF VOTES</u>
CITY OF ALVARADO	3,353,538.72	0.0097	49
CITY OF BURLESON	25,702,485.58	0.0746	373
CITY OF CLEBURNE	17,818,519.74	0.0517	258
CITY OF CROWLEY	21,336.54	0.0001	1
CITY OF GODLEY	829,075.29	0.0024	12
CITY OF GRANDVIEW	810,797.22	0.0024	12
CITY OF JOSHUA	3,516,431.75	0.0102	51
CITY OF KEENE	2,544,936.74	0.0074	37
CITY OF MANSFIELD	6,528,561.27	0.0189	95
CITY OF RIO VISTA	269,663.52	0.0008	4
CITY OF VENUS	1,993,759.39	0.0058	29
ALVARADO ISD	23,041,073.31	0.0668	334
BURLESON ISD	58,122,864.34	0.1686	843
CLEBURNE ISD	46,473,010.06	0.1348	674
CROWLEY ISD	846,784.70	0.0025	12
GODLEY ISD	15,794,085.19	0.0458	229
GRANBURY ISD	884,600.43	0.0026	13
GRANDVIEW ISD	4,957,867.41	0.0144	72
JOSHUA ISD	27,165,740.45	0.0788	394
KEENE ISD	2,641,494.44	0.0077	38
MANSFIELD ISD	18,263,141.56	0.0530	265
RIO VISTA ISD	4,912,787.06	0.0143	71
VENUS ISD	7,063,432.08	0.0205	102
HILL COLLEGE	4,698,315.94	0.0136	68
JOHNSON COUNTY	66,496,342.73	0.1929	964
TOTAL ALL TAXING UNITS	344,750,645.46	1.0000	5000

NOTE: IT REQUIRES AT LEAST 834 VOTES TO SECURE ONE  
NOMINEE TO A POSITION ON THE BOARD.



**ELLIS APPRAISAL DISTRICT**  
400 Ferris Ave \* PO Box 878  
Waxahachie, Texas 75168  
972-937-3552 \* Toll Free 1-866-348-3552  
ecad@elliscad.com

**Board of Directors**  
T. Walter Erwin, Chairman  
Diana B. Muckleroy, Secretary  
David Hurst, Member  
Richard Keeler, Member  
Ken Marks, Member  
Richard Rozier, Non-voting Member  
  
Kathy Rodrigue, Chief Appraiser

September 12, 2023

Voting Taxing Units of the Ellis Appraisal District:

It is election time and the **2024-2025 Board of Directors Taxing Unit Voting Entitlements** are enclosed.

\*This election is for 2024. SB2 becomes effective 7/1/2024 and Section 6.0301 requires another election to take place prior to December 31, 2024 to appoint five directors who will begin serving January 1, 2025. In that election, two of these appointed directors will serve a term of one year and three will serve a term of three years. I am seeking counsel on how this will be determined, but do not have an answer yet. This is only to inform you, as I understand this new law, there will be another election in 2024.

**The FIRST step for in this process is NOMINATIONS.** Each taxing unit may **nominate by resolution** adopted by its governing body (sample enclosed) one candidate for each position to be filled on the board of directors. The presiding officer of the governing body of the unit shall submit the name(s) of the unit's nominee(s) to the chief appraiser before October 15<sup>th</sup>.

Before October 30<sup>th</sup>, the chief appraiser will prepare a ballot, listing the candidates and shall deliver a copy of the ballot to the presiding officer of your unit. **The SECOND step for you in this process is to VOTE.** The governing body shall determine its **vote by resolution** (sample enclosed) and submit it to the chief appraiser before December 15<sup>th</sup>. Your voting entitlement may be cast for one candidate or distributed as the governing body chooses. It takes **834 votes** to secure a position on the board. The chief appraiser will count the votes, declare the five candidates who received the largest cumulative vote totals elected, and submit the results before December 31<sup>st</sup> to each governing body. **Taxing Units with more than 5% of the total vote are listed on separate page and have additional requirements under Section 6.03(k-1).**

Please mark these dates for the governance of the Ellis Appraisal District:

Before October 15	Your governing body submits candidate(s) name(s) (with bio) to the chief appraiser
Before October 30	I will prepare and deliver a ballot to the presiding officer of your unit
Before December 15*	Your governing body will vote by resolution and submit to the chief appraiser
Before December 31	I will send the results of the election to each governing body

**Please make plans on your scheduled meetings to consider and act on these matters. Your vote is very important to the continued dedicated leadership of this board.**

I have asked the current board members about their interest in serving another term. Walter Erwin, Dani Muckleroy, Richard Keeler and David Hurst are willing to continue to serve. I am enclosing the history of the current board members.

So that all taxing units in the election are familiar with new candidates, **please submit a short bio and contact information** (email and cell phone) **for any newly nominated candidate**. Please contact me if you have any questions.

Respectfully submitted,

Kathy Rodrigue, RPA

## Taxing Units with More than 5% of Total Votes in Board of Directors Election

SECTION 3. Section 6.03, Tax Code, is amended by amending Subsection (k) and adding Subsection (k-1) to read as follows:

(k) Except as provided by Subsection (k-1), the [The] governing body of each taxing unit entitled to vote shall determine its vote by resolution and submit it to the chief appraiser before December 15. The chief appraiser shall count the votes, declare the five candidates who receive the largest cumulative vote totals elected, and submit the results before December 31 to the governing body of each taxing unit in the district and to the candidates. For purposes of determining the number of votes received by the candidates, the candidate receiving the most votes of the conservation and reclamation districts is considered to have received all of the votes cast by conservation and reclamation districts and the other candidates are considered not to have received any votes of the conservation and reclamation districts. The chief appraiser shall resolve a tie vote by any method of chance.

(k-1) This subsection applies only to an appraisal district established in a **county with a population of 120,000 or more**. The governing body of each taxing unit entitled to **cast at least five percent of the total votes** must determine its vote by resolution adopted **at the first or second open meeting of the governing body that is held after the date the chief appraiser delivers** (before October 15<sup>th</sup>) **the ballot to the presiding officer of the governing body**. The governing body must **submit its vote to the chief appraiser not later than the third day following the date the resolution is adopted**.

This **law applies** to the following taxing units that make up 85% of the total votes:

Ellis County	15.00%	with 750 votes
Ennis ISD	9.45%	with 473 votes
Midlothian ISD	20.38%	with 1,019 votes
Red Oak ISD	7.86%	with 393 votes
Waxahachie ISD	18.19%	with 910 votes
City of Midlothian	7.21%	with 360 votes
City of Waxahachie	6.91%	with 346 votes