



City of Rowlett

Meeting Agenda

City Council

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

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

Tuesday, October 7, 2014

5:00 P.M.

Municipal Building – 4000 Main Street

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

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

1. **CALL TO ORDER**
2. **EXECUTIVE SESSION (5:00 P.M.)* Times listed are approximate**
 - 2A. The City Council shall convene into Executive Session pursuant to the Texas Government Code, §551.087 (Economic Development) and §551.071 (Consultation with Attorney) to receive legal advice from the City Attorney and discuss the Rowlett Public Library transition plan. (20 minutes)
 - 2B. The City Council shall convene into Executive Session pursuant to the Texas Government Code, §551.071 (Consultation with Attorney), to receive legal advice from the City Attorney pertaining to the Blacklands Corridor. (20 minutes)
3. **WORK SESSION (5:45 P.M.)***
 - 3A. Discuss and consider requested out-of-state travel for Councilmember Bobbitt to attend the North Texas Crime Commission 5th Annual Mission to Washington D.C. (10 minutes)

4. **DISCUSS CONSENT AGENDA ITEMS**

CONVENE INTO THE COUNCIL CHAMBERS (6:00 P.M.)*

INVOCATION

PLEDGE OF ALLEGIANCE

TEXAS PLEDGE OF ALLEGIANCE

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

5. **PRESENTATIONS AND PROCLAMATIONS**

- 5A. Proclamation recognizing Gina Haddon, Rowlett resident appearing on The Biggest Loser television show
- 5B. Presentation of Proclamation to Misti Potter in recognition of receiving the Jim Wetherington Southwesterner Award.
- 5C. Proclamation recognizing October 7, 2014 as Rowlett Night Out, as part of the 31st annual National Night Out.
- 5D. Proclamation recognizing the month of October as National Community Planning Month.
- 5E. Update from the City Council and Management: Financial Position, Major Projects, Operational Issues, Upcoming Dates of Interest and Items of Community Interest.

6. CITIZENS' INPUT

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

7. CONSENT AGENDA

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

- 7A. Consider action to approve minutes from the September 16, 2014, City Council Meeting.
- 7B. Consider action to approve a resolution accepting the bid of and awarding a contract to Playground Shade & Surfacing Depot, LLC in the amount of \$86,366 for the construction of shade structures and a basketball court at Isaac Scruggs Park and authorizing the City Manager to execute the necessary documents for said purchase.
- 7C. Consider action to approve a resolution authorizing the City Manager to enter into an interlocal agreement with Dallas County for Household Hazardous Waste for Fiscal Year 2015.
- 7D. Consider action to approve a resolution authorizing the City Manager to enter into an interlocal agreement with Dallas County for Mosquito Ground Control for Fiscal Year 2015.
- 7E. Consider action to approve a resolution authorizing the payment for computer software maintenance and support services for City Departments to SunGard Public Sector in the amount of \$77,185.94, and authorizing the City Manager to execute the necessary documents to continue said services.
- 7F. Consider action to approve a resolution approving a three year agreement for the purchase of Microsoft Enterprise Software through the Interlocal cooperative purchasing agreement with the Texas Comptroller of Public Accounts and the State of Texas Department of Information Resources (DIR), with Software House International (SHI) in the amount of \$335,392.80, and

authorizing the City Manager, after City Attorney approval, to execute the necessary documents for said services.

8. ITEMS FOR INDIVIDUAL CONSIDERATION

If a Public Hearing is listed, the City Council will conduct such public hearing to receive comments concerning the specific items listed in the agenda. Any interested persons may appear and offer comments, either orally or in writing; however, questioning of those making presentations will be reserved exclusively to the presiding officer as may be necessary to ensure a complete record. While any person with pertinent comments will be granted an opportunity to present them during the course of the hearing, the presiding officer reserves the right to restrict testimony in terms of time and repetitive content. Organizations, associations, or groups are encouraged to present their commonly held views and identical or similar comments through a representative member when possible. Presentations must remain pertinent to the issues being discussed. A person may not assign a portion of his or her time to another speaker.

- 8A.** Consider action to approve a resolution to enter into an Economic Development Program Agreement with Millennium Road Holdings, LLC for property located at 3913, 4011-4025 Main Street and authorize the Mayor to execute the necessary documents.

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

9. ADJOURNMENT

Laura Hallmark

Laura Hallmark, City Secretary

I certify that the above notice of meeting was posted on the bulletin boards located inside and outside the doors of the Municipal Center, 4000 Main Street, Rowlett, Texas, as well as on the City's website (www.rowlett.com) on the 2nd day of October 2014, by 5:00 p.m.



City of Rowlett
Staff Report

4000 Main Street
P.O. Box 99
Rowlett, TX 75080-0099
www.rowlett.com

AGENDA DATE: 10/07/14

AGENDA ITEM: 2A

TITLE

The City Council shall convene into Executive Session pursuant to the Texas Government Code, §551.087 (Economic Development) and §551.071 (Consultation with Attorney) to receive legal advice from the City Attorney and discuss the Rowlett Public Library transition plan. (20 minutes)



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AGENDA DATE: 10/07/14

AGENDA ITEM: 2B

TITLE

The City Council shall convene into Executive Session pursuant to the Texas Government Code, §551.071 (Consultation with Attorney), to receive legal advice from the City Attorney pertaining to the Blacklands Corridor. (20 minutes)



City of Rowlett
Staff Report

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AGENDA DATE: 10/07/14

AGENDA ITEM: 3A

TITLE

Discuss and consider out-of-state travel for Councilmember Bobbitt to attend the North Texas Crime Commission 5th Annual Mission to Washington D.C.

STAFF REPRESENTATIVE

Councilmember Debby Bobbitt
Laura Hallmark, City Secretary

SUMMARY

Councilmembers are allotted budgeted dollars for travel and training expenses. Per the City Council's Rules of Procedures, occurrences are allowed up to \$1,000 each. Anything over \$1,000 or involving out-of-state travel requires City Council approval.

BACKGROUND INFORMATION

Councilmember Debby Bobbitt has been attending meetings of the North Texas Crime Commission (NTCC) as a representative for the City of Rowlett. They are hosting the NTCC Legislative Committee's 5th Annual Mission to Washington, D.C. trip in November and Councilmember Bobbitt has made a request to attend.

DISCUSSION

According to the NTCC flyer, *"This mission has proven to be an effective opportunity for dedicated law enforcement leaders, business executives and concerned citizens throughout North Texas and beyond to meet with national elected and appointed officials in the Judicial, Legislative, and Executive branches of government. The mission provides an opportunity to meet with national trade associations and groups that support and represent law enforcement in our nation's capital. In these meetings, we will be discussing the NTCC Legislative package and a number of issues important to law enforcement and business interests relating to crime prevention, intellectual theft, cybercrime and much more. The mission has also proven to serve as an excellent networking opportunity with local law enforcement officials and business leaders."*

At the time of publication, a tentative schedule was not available.

FINANCIAL/BUDGET IMPLICATIONS

Funds for travel have been budgeted in account 101-0501-420-7604. NTCC has secured a rate of \$229 per night at the Key Bridge Marriott and a 10% discount for flights on Virgin Airlines. Fares checked at time of publication were \$165 round trip with a \$25 charge per checked bag each way (before discount).

RECOMMENDED ACTION

Staff is seeking direction from Council prior to any registration or reservations being made.



City of Rowlett
Staff Report

4000 Main Street
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AGENDA DATE: 10/07/14

AGENDA ITEM: 5A

TITLE

Proclamation recognizing citizen, Gina Haddon, Rowlett resident appearing on The Biggest Loser television show.

STAFF REPRESENTATIVE

Michael Gallops, Deputy Mayor Pro Tem
Brian Funderburk, City Manager

SUMMARY

The proclamation is intended to recognize Rowlett resident Gina Haddon and to congratulate her for being a part of The Biggest Loser television show and for her personal achievements.

FINANCIAL/BUDGET IMPLICATIONS

N/A

ATTACHMENT

Proclamation

GINA HADDON

WHEREAS, “The Biggest Loser” debuted in October of 2004 on NBC and is in its 16th season this year. It is a show in which all contestants compete to win a cash prize by losing the highest percentage of weight relative to their initial weight; and

WHEREAS, Gina Haddon, a Rowlett resident and business owner, was chosen to participate on “The Biggest Loser” this season and compete along with 19 other contestants, most of whom are former athletes including NFL players and Olympic gold medalists; and

WHEREAS, Gina is a Texas girl raised in the tradition of Friday night football games and was a middle school cheerleader who continued to coach cheer for eight years after high school. Gina is married and the mother of two, a 15 year old daughter and an 11 year old son; and

WHEREAS, Gina wants to be healthy and fit for her family and to set an example for them. She also looks forward to enjoying activities with her family that she hasn’t been able to participate in, such as mountain biking, kite boarding, water skiing as well as snow skiing.

NOW THEREFORE, I, Todd W. Gottel, Mayor of the City of Rowlett, and on behalf of the City Council do hereby recognize

GINA HADDON

and urge our employees and citizens to congratulate her on her achievements, to take up the torch to become healthy and to run with it.



City of Rowlett
Staff Report

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AGENDA DATE: 10/07/14

AGENDA ITEM: 5B

TITLE

Presentation of Proclamation to Misti Potter in recognition of receiving the Jim Wetherington Southwesterner Award.

STAFF REPRESENTATIVE

Carl Pankratz, Deputy Mayor Pro Tem
Laura Hallmark, City Secretary

SUMMARY

Misti Potter, President and CEO of the Boys & Girls Club of Rockwall County, recently received the highest honor bestowed upon a Boys & Girls Club Professional in the eight state region, during the BGCA Southwest Regional Leadership Conference in San Antonio.

The Jim Wetherington Southwesterner Award is presented in memory of a caring and committed leader who grew up in a Club and devoted 37 years of his entire professional life to making a difference in the lives of kids. Wetherington shaped thousands of young lives for the better.

To be eligible for this prestigious award, an individual must measure up to the following criteria:

1. The individual recognized must – by thought, word and deed – exemplify the highest type of professional Boys & Girls Club worker.
2. They must have given 100% plus of him/herself in service to the development of Boys & Girls Clubs of America and the Southwest Region in areas such as:
 - a. Active membership on national and regional committees and conference programs
 - b. Demonstrated cooperation with fellow workers in the field in developing and promoting the Boys & Girls Club Movement.
3. The individual must have demonstrated unusual initiative, imagination and creativeness in the interest of the local Boys & Girls Club and the Boys & Girls Clubs of America Movement,
 - a. Development of and sharing of program ideas, resource development programs and personnel programs.
 - b. An awareness of the problems besetting the Movement and a willingness to help solve such problems.
 - c. Putting the interest of the Boys & Girls Clubs of America Movement above self-interest

Selected by a panel of previous Wetherington recipients and National BGC professionals, Misti was chosen as this year's recipient. For more than 17 years she has dedicated her career and

life to professionally developing others throughout the BGC Movement as well as impacting the disparity gap and leveling the playing field for all kids in regard to equal access to quality, affordable, after-school and summer programs.

Misti started her career at a small Club in Athens, Alabama. She has served on regional and national committees to include the Professional Advisory Committee to the President of Boys & Girls Clubs of America, Jim Clark. She has served as the CEO of the Rockwall County Organization for the past three years and is also the National President of The Professional Association Board of Directors representing BGC professionals from throughout the Boys & Girls Clubs of America Movement.

ATTACHMENT

Proclamation

MISTI POTTER

WHEREAS, The mission of Boys & Girls Clubs of America is to enable all young people, especially those who need us most, to reach their full potential as productive, caring, responsible citizens; and

WHEREAS, The Jim Wetherington Southwesterner Award is presented in memory of a caring and committed leader who grew up in a Club and devoted 37 years of his entire professional life to making a difference in the lives of kids; and

WHEREAS, To be eligible for this prestigious award, an individual must exemplify the highest type of professional Boys & Girls Club worker; they must have given 100% plus of him/herself in service to the development of Boys & Girls Clubs of America and the Southwest Region; and must have demonstrated unusual initiative, imagination and creativeness in the interest of the local Boys & Girls Club; and

WHEREAS, For more than 17 years, Misti has dedicated her career and life to professionally developing others throughout the Boys & Girls Club system.

NOW, THEREFORE, I, Todd W. Gottel, Mayor of the City of Rowlett, Texas, and on behalf of the City Council, do hereby extend our congratulations to Misti Potter for receiving the Jim Wetherington Southwesterner Award from Boys & Girls Club – the highest honor bestowed upon a Boys & Girls Club Professional in the eight state region.



City of Rowlett
Staff Report

4000 Main Street
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AGENDA DATE: 10/07/14

AGENDA ITEM: 5C

TITLE

Proclamation recognizing October 7, 2014, as Rowlett Night Out, as part of the 31st annual National Night Out.

STAFF REPRESENTATIVE

Mike Brodnax, Chief of Police

SUMMARY

The proclamation is intended to recognize the 31st "National Night Out" and to proclaim October 7, 2014, as Rowlett Night Out.

BACKGROUND INFORMATION

Each year, the National Association of Town Watch (NATW) sponsors a unique, nationwide crime, drug and violence prevention program on the first Tuesday in October called "National Night Out" (NNO).

DISCUSSION

The proclamation is intended to recognize the 31st "National Night Out" and to proclaim October 7, 2014, as Rowlett Night Out; showing the importance of promoting cooperative, police-community crime prevention efforts.

FINANCIAL/BUDGET IMPLICATIONS

N/A

ATTACHMENT

Proclamation

ROWLETT NIGHT OUT

WHEREAS, the National Association of Town Watch (NATW) is sponsoring a unique, nationwide crime, drug and violence prevention program on the first Tuesday in October called “National Night Out” (NNO); and

WHEREAS, the 31st Annual “National Night Out” provides a unique opportunity for Rowlett, Texas to join forces with thousands of other communities across the country in promoting cooperative, police-community crime prevention efforts; and

WHEREAS, Rowlett, Texas plays a vital role in assisting the local police through joint crime, drug and violence prevention efforts in Rowlett, and is supporting “National Night Out 2014” locally; and

WHEREAS, it is essential that all citizens of Rowlett, Texas be aware of the importance of crime prevention programs and the impact that their participation can have on reducing crime, drug and violence in Rowlett; and

WHEREAS, police-community partnerships, neighborhood safety, awareness and cooperation are important themes of the “National Night Out” program.

NOW, THEREFORE, I, Todd W. Gottel, Mayor of the City of Rowlett, Texas, and on behalf of the City Council, do hereby proclaim October 7, 2014 as

ROWLETT NIGHT OUT

in the City of Rowlett and call upon all citizens of Rowlett to join the Rowlett Police and National Association of Town Watch in supporting the 31st Annual “National Night Out”.



City of Rowlett
Staff Report

4000 Main Street
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AGENDA DATE: 10/07/14

AGENDA ITEM: 5D

TITLE

Proclamation recognizing the month of October 2014 as National Community Planning Month.

STAFF REPRESENTATIVE

Marc Kurbansade, Director of Development Services

SUMMARY

The proclamation is intended to recognize the month of October 2014 as National Community Planning Month in Rowlett, as it is similarly recognized throughout the United States and its territories.

BACKGROUND INFORMATION

Planning efforts in the City of Rowlett require involvement from many different individuals acting in different roles. This proclamation recognizes all those that participate in this process, whereby making Rowlett a better community.

DISCUSSION

This proclamation is intended to recognize all those that participate in planning efforts throughout the City of Rowlett—citizens, volunteers, Planning & Zoning Commission members, and City staff.

ATTACHMENT

Proclamation

COMMUNITY PLANNING MONTH

WHEREAS, change is constant and affects all cities, towns, suburbs, counties, boroughs, townships, rural areas, and other places; and

WHEREAS, community planning and plans can help manage this change in a way that provides better choices for how people work and live; and

WHEREAS, community planning provides an opportunity for all residents to be meaningfully involved in making choices that determine the future of their community; and

WHEREAS, the full benefits of planning requires public officials and citizens who understand, support, and demand excellence in planning and plan implementation; and

WHEREAS, the month of October is designated as National Community Planning Month throughout the United States of America and its territories, and

WHEREAS, The American Planning Association and its professional institute, the American Institute of Certified Planners, endorse National Community Planning Month as an opportunity to highlight the contributions sound planning and plan implementation make to the quality of our settlements and environment; and

WHEREAS, the celebration of National Community Planning Month gives us the opportunity to publicly recognize the participation and dedication of the members of planning commissions and other citizen planners who have contributed their time and expertise to the improvement of Rowlett; and

WHEREAS, we recognize the many valuable contributions made by professional community and regional planners of Rowlett and extend our heartfelt thanks for the continued commitment to public service by these professionals;

NOW, THEREFORE, I, Todd W. Gattel, Mayor of the City of Rowlett, Texas, and on behalf of the City Council, hereby designate the month of October 2014 as National Community Planning Month in Rowlett.



City of Rowlett
Staff Report

4000 Main Street
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AGENDA DATE: 10/07/14

AGENDA ITEM: 5E

TITLE

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

STAFF REPRESENTATIVE

Brian Funderburk, City Manager



City of Rowlett
Staff Report

4000 Main Street
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AGENDA DATE: 10/07/14

AGENDA ITEM: 7A

TITLE

Consider action to approve minutes from the September 16, 2014, City Council Meeting.

STAFF REPRESENTATIVE

Laura Hallmark, City Secretary

SUMMARY

Section 551.021 of the Government Code provides as follows:

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

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

BACKGROUND INFORMATION

N/A

DISCUSSION

N/A

FINANCIAL/BUDGET IMPLICATIONS

N/A

RECOMMENDED ACTION

Move to approve, amend or correct the minutes of the September 16, 2014, City Council Meeting.

ATTACHMENT

09-16-14 City Council Meeting minutes



City of Rowlett

Meeting Minutes

City Council

4000 Main Street
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Tuesday, September 16, 2014

5:30 P.M.

Municipal Building – 4000 Main Street

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

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

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

1. CALL TO ORDER

Mayor Gottel called the meeting to order at 5:31 p.m.

2. EXECUTIVE SESSION (5:30 P.M.)* Times listed are approximate

- 2A.** The City Council shall convene into Executive Session pursuant to the Texas Government Code, §551.087 (Economic Development) and §551.071 (Consultation with Attorney) to receive legal advice from the City Attorney and to discuss and deliberate the offer of financial or other incentives to business prospects that the City may seek to have locate in or near Elgin B. Robertson Park. (15 minutes)

Council convened in Executive Session at 5:32 p.m. Out at 5:52 p.m.

- 2B.** The City Council shall convene into Executive Session pursuant to the Texas Government Code, §551.087 (Economic Development) and §551.071 (Consultation with Attorney) to receive legal advice from the City Attorney for property located at the south side of Liberty Grove Road, approximately 200 feet east of the intersection with Merritt Road. (30 minutes)

Council convened in Executive Session at 5:52 p.m. Out at 6:18 p.m.

- 2C.** The City Council shall convene into Executive Session pursuant to the Texas Government Code, §551.087 (Economic Development) and §551.071 (Consultation with Attorney) to receive legal advice from the City Attorney and to discuss and deliberate the offer of financial or other incentives to business prospects that the City may seek to have locate on property at 2801 Lakeview Pkwy. (30 minutes)

Council convened in Executive Session at 6:18 p.m. Out at 6:31 p.m.

- 2D.** The City Council shall convene into Executive Session pursuant to the Texas Government Code, §551.087 (Economic Development) and §551.071 (Consultation with Attorney) to receive legal advice from the City Attorney and to discuss and deliberate the offer of financial or other incentives to business prospects that the City may seek to have locate at 3913 and 4011-4025 Main Street. (15 minutes)

Council convened in Executive Session at 6:34 p.m. Out at 6:58 p.m.

Council then took a short break until 7:01 p.m.

3. WORK SESSION (7:00 P.M.)*

- 3A.** Discuss the North Texas Tollway Authority (NTTA) charges for Utility Betterments constructed for the benefit of the City of Rowlett, along the President George Bush Tollway – Eastern Extension (PGBT-EE). (15 minutes)

Jim Proce, Assistant City Manager, presented the information.

4. DISCUSS CONSENT AGENDA ITEMS

Mayor Pro Tem Gallops requested that items 7B and 7O be removed from the Consent Agenda to be considered individually.

Council took a short break at 7:22 p.m.

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

Council reconvened in Regular Session at 7:30 p.m.

INVOCATION – Pastor Kason Huddleston, Freedom Place Church

PLEDGE OF ALLEGIANCE

TEXAS PLEDGE OF ALLEGIANCE – Led by the City Council

5. PRESENTATIONS AND PROCLAMATIONS

- 5A.** Presentation of a Proclamation to the City of Rowlett Custodian Workforce in recognition of the National Custodian Appreciation Day.

Councilmember Bobbitt presented the proclamation.

- 5B.** Presentation of the Texas Best Practices Award of “Recognized Law Enforcement Agency” to the Rowlett Police Department.

Police Chief Mike Brodnax accepted the award on behalf of the Rowlett Police Department.

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

Mayor Gottel announced the following: Upcoming City Council meetings: Tuesday, October 7th & 21st; Regular Meeting - 5:00pm start time for October 7th meeting – National Night Out; in City Hall Conference Room. Special Council Work Session – Tuesday, October 14th; 6pm in Annex Conference Room. Upcoming Planning & Zoning Commission meetings will be Tuesday, September 23rd & October 14th & 28th - 6pm in City Hall Conference Room. NATIONAL NIGHT OUT - Tuesday, October 7th in your neighborhoods. Designed to heighten crime & drug prevention awareness. Generate support for & participation in local anti-crime programs. Strengthen neighborhood spirit & police-community partnerships. Sends a message to criminals that citizens are organized & fight back. Turn on your porch light, lock your door and gather with your neighbors. Rowlett police, fire and public works departments would love to drop by & visit your events. Mayor, councilmembers and city staff will be dropping by at your events. Contact Officer Chad Caldwell at ccaldwell@rowlett.com or 972.412.6242. NEW – MAYOR’S MONTHLY MESSAGE - September edition covers FAQs about the drought, water and water restrictions. WATER RESTRICTIONS – North Texas Municipal Water District is easing Stage 3 restrictions. Allow landscape watering once a week with sprinklers or irrigation systems. Through the end of October 2014. This will help to maintain the required chlorine residuals for water quality. REGISTER TO VOTE - Must be registered by Monday, October 6th to vote in November 4th General Election. Voter registration cards available at City Hall, Rowlett Public Library or online @ www.rowlett.com. ANIMAL SHELTER – Low-cost vaccine clinic Saturday, September 20th 1-4pm. Normal business hours at 4402 Industrial Street are Monday-Friday, 10am-5pm and Saturday, 10:30am-5pm. Upcoming events for Parks and Recreation: Movies on Main will start at approximately 6pm on Main Street downtown: September 19th (Monsters University). Diversity Day – Saturday, October 4th, 12-4pm at RCC. Check out all the Fall programs at www.rowlett.com on the Parks Department page - - Camp Fear is back – October 24–25th!! National Prescription Take Back Day – Saturday, September 27th, 10am – 2pm @ RCC. Upcoming events at the Rowlett Public Library: September is LIBRARY CARD SIGN-UP MONTH!! Arts & Humanities Annual Photography Contest: 2014 Theme – “Rowlett Up Close!” Entries will be on display through October 4th. Talk Like a Pirate Day Program – Saturday, September 20th, 2pm. Saturday Movie + Popcorn – October 4th, 2pm. Star Wars Reads Day – Saturday, October 11th, All Day. Teen Read Week – October 13th – 18th, All Day. Check out more fun at www.rowlett.com – Library - Programs! Blacklands Corridor Feasibility Study/Northeast Gateway public meeting rescheduled for Monday, September 22nd at 6:30 – Rockwall High School Performing Arts Center.

Councilmember van Bloemendaal announced the Keep Rowlett Beautiful document shredding event on October 25th at Rowlett High School. The first three boxes are free and there will be electronics recycling as well.

6. CITIZENS’ INPUT

This item was realigned to after Individual Consideration.

1. Megan Way, 4702 Scenic Drive, Rowlett; spoke regarding the invocation policy;
2. Lonnie Cornwell, 4106 Baywatch Drive, Rowlett; spoke regarding the increase to the Keep Rowlett Beautiful (KRB) contribution by the City;
3. Susette Geissler, P.O. Box 621, Rowlett; spoke regarding the invocation policy;
4. Perry Abney, 9958 Merritt Road, Rowlett; thanked staff for resolving issues with his home and spoke regarding the invocation policy;
5. Stanley Pollard, 3110 Sycamore St., Rowlett; spoke regarding protestors;
6. Randy Word, 7605 Bridlewood Ct, North Richland Hills; spoke regarding the invocation policy;
7. Ann Dotson, 7301 Miller Road, Rowlett; spoke regarding the Chamber of Commerce building and the invocation policy;

8. Holly McCue, 1413 Bayou Road, Grapevine; spoke regarding the invocation policy;
9. Zabrina Martinson, 4313 Pecan Grove Lane, Rowlett; spoke regarding upcoming KRB events and the Board and Commission appointments;
10. Chad Aldridge, 3309 Auburn, Rowlett; spoke regarding the invocation policy;
11. Shane Pruitt, 9005 Golden Pond, Rowlett; spoke regarding the invocation policy.

7. CONSENT AGENDA

- 7A.** Consider action to approve minutes from the September 2, 2014, City Council Meeting, the September 4, 2014, City Council Work Session, and the September 9, 2014 City Council Special Meeting.

This item was approved on the Consent Agenda.

- 7B.** Consider action approving a resolution amending the Master Fee Schedule for rate and fee changes to the Animals, Businesses, Solid Waste, and Utilities Sections for Animal Fees, Food Service Permits, Residential and Commercial Solid Waste Collection Rates, and Water and Sewer Rates.

This item was removed from the Consent Agenda for individual consideration.

Alan Guard, Chief Financial Officer, presented the information regarding the change in the water rate due to increases in costs from the North Texas Municipal Water District.

A motion was made by Deputy Mayor Pro Tem Pankratz, seconded by Councilmember Dana-Bashian, to approve the item as presented. The motion carried with a unanimous vote of those members present. This item was adopted as RES-078-14.

- 7C.** Consider action to approve a resolution accepting the bid of and awarding a contract to Pinnacle Public Finance, Incorporated in the amount of \$377,148.75, utilizing an interest rate of two percent (2%) for the five year lease-purchase financing of two Horton Model 603, Type I Dodge Ambulances for Fire Rescue and authorizing the City Manager, after City Attorney approval, to execute the necessary documents for said purchase.

This item was approved as RES-079-14 on the Consent Agenda.

- 7D.** Consider action to approve a resolution accepting the bid of and awarding a contract to Pinnacle Public Finance, Incorporated in the amount of \$446,683.50, utilizing an interest rate of 2.63 percent for the ten year lease-purchase financing of Scott Self-Contained Breathing Apparatus and Accessories Equipment for Fire Rescue and authorizing the City Manager, after City Attorney approval, to execute the necessary documents for said purchase.

This item was approved as RES-080-14 on the Consent Agenda.

- 7E.** Consider action to approve a resolution accepting the bid of and awarding a contract to Pinnacle Public Finance, Incorporated in the amount of \$381,751.25, utilizing an interest rate of two percent for the five year lease-purchase financing of a Kronos Telestaff Time Keeping System and a Munis Human Resources Information Systems module for City Departments and authorizing the

City Manager, after City Attorney approval, to execute the necessary documents for said purchase.

This item was approved as RES-081-14 on the Consent Agenda.

- 7F. Consider action to approve a resolution accepting the bid of and awarding a contract for the purchase of two 2015 Chevrolet Colorado pick-up trucks to Caldwell Country Chevrolet in the amount of \$52,504 for the Fleet Department through the Interlocal Cooperative Purchasing Agreement with Houston-Galveston Area Council (H-GAC).

This item was approved as RES-082-14 on the Consent Agenda.

- 7G. Consider action to approve a resolution exercising the second of two one-year renewal options to extend the motor fuel bid to Martin Eagle Oil Company, Incorporated in the unit amounts bid for transporting and delivery per fuel gallon and type in an estimated annual amount of \$380,312.

This item was approved as RES-083-14 on the Consent Agenda.

- 7H. Consider action to approve a resolution entering into an Interlocal Agreement with the City of Weatherford, which will allow both cities to cooperatively purchase goods and services under each other's competitively bid contracts.

This item was approved as RES-084-14 on the Consent Agenda.

- 7I. Consider action to approve a resolution authorizing the final acceptance and release of retainage for the Springfield Estates Drainage Improvements in the amount of \$28,233.10 to A&M Construction and Utilities Incorporated and authorizing the Mayor to execute the necessary documents.

This item was approved as RES-085-14 on the Consent Agenda.

- 7J. Consider action to approve a resolution to migrate from Verizon Southwest as the City's 9-1-1 provider to a hosted solution provided by the North Central Texas Council of Governments (NCTCOG) in the amount of \$49,047.16, utilizing Emergency Call Works for the customer premise equipment (CPE) in the amount of \$155,218.42 and Datamaster for 911 database management in the amount of \$18,500.00, resulting in a total cost of \$222,765.58.

This item was approved as RES-086-14 on the Consent Agenda.

- 7K. Consider a resolution amending the Rowlett Boards and Commissions Handbook related to appointments and term limits.

This item was approved as RES-087-14 on the Consent Agenda.

- 7L. Consider appointments to all of the various boards and commissions.

This item was approved on the Consent Agenda.

- 7M.** Consider action to appoint a Chair and Vice Chair for the Community Investment Program Task Force (CIPTF), an ad-hoc committee established by the City Council.

This item was approved as RES-088-14 on the Consent Agenda.

- 7N.** Consider action to approve a resolution authorizing the Mayor to sign utility easement documents to amend previously approved easement language associated with a previously approved cellular communications tower to be constructed at Community Park.

This item was approved as RES-089-14 on the Consent Agenda.

- 7O.** Consider action to approve a resolution to amend the City's Personnel Policies regarding Payout provisions for Employee Vacation Leave.

This item was removed from the Consent Agenda for individual consideration.

A motion was made by Councilmember Sheffield, seconded by Councilmember van Bloemendaal, to approve the item as presented. The motion carried with a vote of 6 in favor and 1 opposed (Gallops). This item was adopted as RES-090-14.

Passed the Consent Agenda

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

8. ITEMS FOR INDIVIDUAL CONSIDERATION

- 8A.** Consider action to approve an ordinance approving and adopting the budget for Fiscal Year 2014-2015.

Alan Guard, Chief Financial Officer, reviewed the final updates to the proposed budget.

Mayor Pro Tem Gallops, Deputy Mayor Pro Tem Pankratz, Councilmember Sheffield, and Councilmember Bobbitt mad comments regarding the budgeting process, staff's and Council's work on the budget, and the final proposed budget.

A motion was made by Mayor Pro Tem Gallops, seconded by Councilmember Dana-Bashian, to approve the item as presented.

A motion was made by Councilmember Bobbitt to remove the Community Enhancement allotment, but failed due to lack of a second.

The original motion carried with a vote of five in favor (van Bloemendaal, Gattel, Gallops, Dana-Bashian, Sheffield) and two opposed (Bobbitt, Pankratz). This item was adopted as ORD-031-14.

- 8B.** Consider an ordinance approving and adopting the proposed ad valorem tax rate of \$0.787173 per \$100 of taxable value for FY 2014-2015.

Alan Guard, Chief Financial Officer, presented the background information regarding the proposed tax rate.

A motion was made by Mayor Pro Tem Gallops, seconded by Councilmember Sheffield, to approve the item as presented. The motion carried with a vote of five in favor (van Bloemendaal, Gottel, Gallops, Dana-Bashian, Sheffield) and two opposed (Bobbitt, Pankratz). This item was adopted as ORD-032-14.

- 8C.** Consider an ordinance amending section 58-52 of the Code of Ordinances exempting from ad valorem taxation disabled persons and persons over the age of 65 to the extent as provided herein; providing a repealing clause; providing a severability clause and providing an effective date.

Alan Guard, Chief Financial Officer, presented the background information regarding the proposed change.

Councilmember Dana-Bashian made comments.

A motion was made by Councilmember Sheffield, seconded by Councilmember Bobbitt, to approve the item as presented. The motion carried with a vote of six in favor and one opposed (Pankratz). This item was adopted as ORD-033-14.

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

There was no action taken.

9. ADJOURNMENT

Mayor Gottel adjourned the meeting at 9:13 p.m.



City of Rowlett Staff Report

4000 Main Street
P.O. Box 99
Rowlett, TX 75080-0099
www.rowlett.com

AGENDA DATE: 10/07/14

AGENDA ITEM: 7B

TITLE

Consider action to approve a resolution accepting the bid of and awarding a contract to Playground Shade & Surfacing Depot, LLC in the amount of \$86,366 for the construction of shade structures and a basketball court at Isaac Scruggs Park and authorizing the City Manager to execute the necessary documents for said purchase.

STAFF REPRESENTATIVE

Jermel Stevenson, Director of Parks & Recreation
Marc Kurbansade, Director of Development Services

SUMMARY

The purpose of this item is to purchase a basketball court and shade structures for Isaac Scruggs Park utilizing some Community Development Block Grant (CDBG) and Park Pro-Rata funding.

BACKGROUND INFORMATION

In 2013, the Parks Division completed an upgrade of the playground by bringing it up to safety compliance standards set by the Consumer Product Safety Commission (CPSC) and American Standard for Testing Materials (ASTM). We are looking to continue to provide improvements to this park by adding and enhancing its amenities. In 2013, 50 trees were planted in the park as a part of our Tree City USA – Arbor Day commitment to improve the health of our citizens and the air quality of Rowlett. In Fiscal Year 2014, the Parks Division was awarded \$60,519 for improvements to Isaac Scruggs Park to add a full length basketball court and install a shade structure over the playground. Currently, the park has two (2) half-court basketball goals. Our plan is to remove one of the half-courts and in the 2015 budget, add a picnic pavilion on the existing concrete slab. This will be a significant enhancement to the park. We are also planning to add a wooden split rail or chain link fence parallel to the park from the basketball court to the playground in order to provide a safety barrier from the street for children playing in the park, in the playground and/or on the basketball courts.

DISCUSSION

Notice to bidders for the construction of a basketball court and shade structures at Isaac Scruggs Park was advertised in the *Rowlett Lakeshore Times* on August 14 and 21, 2014. The bid documents were also placed on the City's website. Sealed bids were received in the Purchasing Office until 2:00 p.m., September 2, 2014, and then publicly opened and read aloud in the City Council Conference Room in accordance with Texas Local Government Code.

Three bids were received for the shade structures, ranging in cost from \$21,345 to \$59,253. The lowest monetary bid for the shade structures was from Southern Shade Structures; however, they did not meet specifications in the following areas:

- Ten (10) year warranty on the shade fabric – Bidder stated ten year initially; however, after reviewing the additional language in the warranty, it was actually an eight year warranty.
- Twenty (20) year warranty on the posts – Bidder offered a ten year warranty on the posts.
- Ten (10) year warranty on Polytetrafluoroethylene (PTFE) threading – Bidder offered an eight year warranty on the threading and did not submit whether the threading was PTFE or not.
- Specified submittal of five prior references – Bidder did not submit references

As a result of Southern Shade Structure’s failure to meet the bid specifications, City staff is recommending award to the next lowest bidder, Playground Shade and Surfacing Depot, LLC, who does meet the specifications for the shade structures.

Two bids were received for the basketball court construction ranging in cost from \$48,170 to \$57,000. The low bidder is Playground Shade and Surfacing Depot, LLC.

FINANCIAL/BUDGET IMPLICATIONS

Budget Account Number and/or Project Code	Account or Project Title	Budget Amount	Actual Amount
110-4046-461-8040	CDBG – Isaac Scruggs Park	\$60,519	\$60,519
102-8201-526-8002	Park Pro-Rata-Fund	25,847	25,847
Total		\$86,366	\$86,366

RECOMMENDED ACTION

City staff recommends the City Council adopt a resolution accepting the bid of and awarding a contract to Playground Shade & Surfacing Depot, LLC in the amount of \$86,366 for the construction of shade structures and a basketball court at Isaac Scruggs Park and authorizing the City Manager to execute the necessary documents for said purchase.

RESOLUTION

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ROWLETT, TEXAS, ACCEPTING THE BID OF AND AWARDING A CONTRACT TO PLAYGROUND SHADE AND SURFACING DEPOT, LLC, IN THE AMOUNT OF \$86,366 FOR THE PURCHASE AND CONSTRUCTION OF SHADE STRUCTURES AND BASKETBALL COURT IMPROVEMENTS AT ISAAC SCRUGGS PARK; AUTHORIZING THE CITY MANAGER, AFTER CITY ATTORNEY APPROVAL, TO EXECUTE THE NECESSARY DOCUMENTS FOR SAID PURCHASE AND THE ISSUANCE OF PURCHASE ORDERS PURSUANT TO APPROVAL; AND, PROVIDING AN EFFECTIVE DATE.

WHEREAS, it is necessary to construct shade structures and basketball court improvements at Isaac Scruggs Park; and

WHEREAS, the Purchasing Division has obtained competitive bids and recommends the contract be awarded to Playground Shade & Surfacing Depot, LLC in the amount of \$86,366 for the construction of shade structures and basketball court improvements at Isaac Scruggs Park as per Bids # 2014-75 and 2014-76; and

WHEREAS, the City Council of the City of Rowlett, Texas desires to accept the bid of and award the contract to Playground Shade & Surfacing Depot, LLC in the amount of \$86,366 for the construction of shade structures and a basketball court at Isaac Scruggs Park.

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

Section 1: That the City Council of the City of Rowlett does hereby accept the bid of and award a contract to Playground Shade & Surfacing Depot, LLC in the amount of \$86,366 for the construction of shade structures and a basketball court at Isaac Scruggs Park.

Section 2: That the City Council of the City of Rowlett does hereby authorize the City Manager, after City Attorney approval, to execute the necessary documents for said purchase, and to issue purchase orders, to conform to this resolution as appropriate thereto.

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

ATTACHMENT

Exhibit A – Bid Tabulation

City of Rowlett Bid #2014-76 Basketball Court - Issac Scruggs Parks 9/2/14
4004 Main St. Rowlett, TX 75088
Purchasing Phone - 972/412-6131 - Fax 972/412-6132

Vendor Name	Addendum Acknowledged		Bid Bond Acknowledged	Total Base Bid	Attachment E Acknowledged	Attachment F Acknowledged	Comments
	#1	#2					
Playground Shade & Surfacing Depot, LLC	YES	NO	YES	\$48,170.00	YES	YES	Best estimate for completion is end of September/October 2014.
JDC Construction	YES	YES	YES	\$57,000.00	NO	NO	

**City of Rowlett Bid #2014-75 Shade Structures - Issac Scruggs Parks 9/2/14
 4004 Main St. Rowlett, TX 75088
 Purchasing Phone - 972/412-6131 - Fax 972/412-6132**

Vendor Name	Addendum #1 Acknowledged	Bid Bond Acknowledged	Total Base Bid	Attachment E Acknowledged	Attachment F Acknowledged	Comments
Southern Shade Structures	Yes	No	\$21,345.00	No	No	
Lea Park & Play, Inc.	Yes	Yes	\$59,253.00	No	No	Completion of project 8-12 weeks after receipt of order.
Playground Shade & Surfacing Depot, LLC	Yes	Yes	\$38,196.00	No	No	Best estimate of completion is November 2014.



City of Rowlett
Staff Report

4000 Main Street
P.O. Box 99
Rowlett, TX 75080-0099
www.rowlett.com

AGENDA DATE: 10/07/14

AGENDA ITEM: 7C

TITLE

Consider action to approve a resolution authorizing the City Manager to enter into an interlocal agreement with Dallas County for Household Hazardous Waste for FY2015.

STAFF REPRESENTATIVE

Marc Kurbansade, Director of Development Services

SUMMARY

The City of Rowlett has maintained an interlocal agreement with Dallas County for the disposal of Household Hazardous Waste for over 20 years. The current interlocal agreement expired on September 30, 2014. This new agreement will continue services for FY2015.

BACKGROUND INFORMATION

The City of Rowlett has maintained an interlocal agreement with Dallas County for the disposal of Household Hazardous Waste for over 20 years. This is a service for Rowlett residents whereby they are afforded free disposal of certain hazardous wastes, provided they travel to the drop-off facility at 11234 Plano Road in Dallas.

DISCUSSION

The City of Rowlett is a member of the Dallas County Household Hazardous Waste Network. A disposal site is operated by Dallas County and is funded by the member cities. Rowlett residents have access to the site for disposal of household hazardous waste such as pesticides, paint, oil, household chemicals and other materials not allowed in normal garbage pickups.

The collection facility is located at 11234 Plano Road in Dallas, Texas and the hours of operation are every Tuesday from 9:00 a.m. to 7:30 p.m., Wednesdays and Thursdays from 8:30 a.m. to 5:00 p.m. and the second and fourth Saturdays from 9:00 a.m. to 3:00 p.m.

This service has averaged 619 visits per year over the past five years. Use of the service by Rowlett citizens since FY2009 is as follows:

Number of Visits to Household Hazard Waste Facility by Rowlett Residents by Fiscal Year	
Year	Visits
2009	567
2010	633
2011	575
2012	679
2013	642

Number of Visits to Household Hazard Waste Facility by Rowlett Residents by Fiscal Year	
Year	Visits
2014	518 (9 mo)
Average for FY2007-FY2013	619

FINANCIAL/BUDGET IMPLICATIONS

The cost of the program is based on the amount of use by Rowlett residents and yearly fixed administrative fees set by Dallas County Household Hazardous Waste. Costs for the service is funded from account number 170-4570-500-7110, which has \$36,032 dedicated for this use for FY2015. Dallas County Household Hazardous Waste fees will increase approximately three percent over the previous year's rates. The total cost of the program is earmarked as fixed cost fees to support staffing and projected support costs. The remainder of the fees budgeted for the programs are variable cost fees based on the number of visits by Rowlett Citizens. For FY2014, resident use fees have averaged about \$56 per visit. The variable cost amount is according to actual use and is related to disposal charges for items and the total amount by volume. Budgeted amounts for the program include fixed cost and variable fees. The City of Rowlett's share of cost for fixed program participation in FY2015 will be \$21,491. This amount of money is part of the total planned expenditures of \$36,032 for FY2015.

RECOMMENDED ACTION

Staff recommends approval of a resolution authorizing the City Manager to enter into an interlocal agreement with Dallas County for Household Hazardous Waste for FY 2015.

RESOLUTION

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ROWLETT, TEXAS, APPROVING AN INTERLOCAL AGREEMENT WITH DALLAS COUNTY FOR CONTINUED PARTICIPATION IN THE HOUSEHOLD HAZARDOUS WASTE NETWORK FOR FISCAL YEAR 2015 AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Rowlett has determined that Household Hazardous Waste collection services are necessary in the City of Rowlett; and

WHEREAS, it is desirable of the City of Rowlett to provide Household Hazardous Waste collection services; and

WHEREAS, the City Council finds that it is in the best interest of the public to provide these services by entering into an interlocal agreement with Dallas County Hazardous Waste Network;

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

Section 1: That the City Council of the City of Rowlett hereby approves the interlocal agreement with Dallas County for participation in the Household

Hazardous Waste network and authorizes the City Manager to execute the interlocal agreement as provided for herein and incorporated herein as Exhibit A.

Section 2: That this resolution shall become effective immediately.

ATTACHMENTS

Exhibit A – Dallas County Household Hazardous Waste Agreement

Exhibit B – Dallas County Household Hazardous Waste Cost Justification

Exhibit C – Dallas County Household Hazardous Waste Budget Summary

STATE OF TEXAS §
 §
 COUNTY OF DALLAS §

AMENDMENT NO. 2
TO THE HOUSEHOLD HAZARDOUS WASTE INTERLOCAL AGREEMENT
 (The "Agreement")
BETWEEN
DALLAS COUNTY
AND
CITY OF ROWLETT
 (The "City")
A MEMBER CITY OF
THE DALLAS AREA HOUSEHOLD HAZARDOUS WASTE NETWORK

WHEREAS, on July 7, 2014 the Dallas County Commissioners Court was briefed on a request from the cities of the Dallas Area Household Hazardous Waste Network to renew and revise the effective term and specify new fiscal year budgets for the Household Hazardous Waste Program Interlocal Agreement ("Agreement") that permits four additional one-year renewals for a five-year total contract term and was authorized by Court Order 2012-1223; and

WHEREAS, Amendment 1, which was authorized by Court Order 2013-1248 to renew and extended the FY2013 agreement through FY2014, will expire on September 30, 2014; and

WHEREAS, the proposed Amendment No. 2, along with the attachment, will serve to continue the Household Hazardous Waste Program through fiscal year 2015, while updating overall program budget amounts and individual city budget limits for the new fiscal year; and

WHEREAS, proposed Amendment No. 2 contains no other changes in the basic terms and conditions of the Agreement and incurs no cost to Dallas County;

NOW THEREFORE, by execution of this Amendment No. 2, the Agreement is amended hereby with respect to the items and features described in the Articles below.

I.
PURPOSE

The purpose of this Amendment is to amend the effective term and fiscal year budget of the Agreement without change to the basic terms and provisions. No other sections, provisions, clauses or conditions of the Agreement are waived, deleted or changed hereby, and they shall remain in full force and effect throughout the term of the Agreement and any duly authorized amendments.

II.
AMENDED PROVISIONS

A. The new term of the Agreement shall be October 1, 2014, through September 30, 2015.

B. The language contained in Paragraph 1, *Section IV. City Responsibilities* shall be deleted in its entirety and replaced with the following language:

1. "A sum not to exceed \$ 36,032.00 for disposal, setup, operational, capital and transportation costs for HHW collection for residents of the City during the period from October 1, 2014 through September 30, 2015.
 - a. Collection, setup, and disposal costs will be paid after-the-fact, based on actual usage by the City at events and at the collection center.
 - b. Operational and capital costs shall be paid quarterly in advance.
 - c. In the event of early withdrawal, the operational and capital costs will not be pro-rated for partial quarter participation but will become immediately due and payable in full."

C. The language contained in Exhibit C2014 of the Agreement entitled *FY2014 HHW Program Budget Summary* shall be deleted in its entirety and shall be replaced with the attached Exhibit C2015 entitled *FY2015 HHW Program Budget Summary*.

IN WITNESS WHEREOF, by their signatures below, the duly authorized representatives of **Dallas County** and **City of Rowlett**, a member city of the Dallas Area Household Hazardous Waste Network, do hereby agree and append this Amendment No. 2 to the Agreement.

EXECUTED THIS the _____ day of _____, 2014.

DALLAS COUNTY:

CITY OF ROWLETT:

BY: Clay Lewis Jenkins
County Judge

BY:
TITLE:

APPROVED AS TO FORM:*
Craig Watkins
District Attorney

Theresa Guerra Snelson
Chief, Civil Division

BY: Frank Waite
Assistant District Attorney

* By law, the Dallas County District Attorney's Office may only advise or approve contracts or legal documents on behalf of its clients. It may not advise or approve a contract or legal document on behalf of other parties. Our review of this document was conducted solely from the legal perspective of our client. Our approval of this document was offered solely for the benefit of our client. Other parties should not rely on this approval, and should seek review and approval by their own respective attorney(s)

DALLAS COUNTY HOUSEHOLD HAZARDOUS WASTE PROGRAM

FY15 HHW Budget

Draft 2

Line #	Budget Item	FY13	FY14	FY15
1	OPERATIONAL AND CAPITAL BUDGETS			
2	PERSONNEL EXPENSE			
3	Salary, Pgm. Mgr.	\$ 66,981	\$ 69,660	\$ 69,660
4	Fringe, Pgm. Mgr.	\$ 20,493	\$ 21,570	\$ 21,570
5	Salary, Pgm. Coordinator	\$ 50,652	\$ 52,678	\$ 52,678
6	Fringe, Pgm. Coordinator	\$ 17,581	\$ 18,543	\$ 18,543
7	Salary, HHW Admin. Asst.	\$ 36,858	\$ 39,069	\$ 39,069
8	Fringe, HHW Admin. Asst.	\$ 15,122	\$ 16,116	\$ 16,116
9	Salary, Haz. Waste Specialist (A)	\$ 44,740	\$ 44,699	\$ 44,699
10	Fringe, Haz. Waste Specialist	\$ 16,527	\$ 17,120	\$ 17,120
11	Salary, Haz. Waste Specialist (B)	\$ 44,699	\$ 44,699	\$ 44,699
12	Fringe, Haz. Waste Specialist	\$ 16,520	\$ 17,120	\$ 17,120
13	Salary, Haz. Waste Technician / Proposed Specialist	\$ 32,864	\$ 44,699	\$ 44,699
14	Fringe, Haz. Waste Technician / Proposed Specialist	\$ 14,410	\$ 17,120	\$ 17,120
15	PERSONNEL BUDGET SUB-TOTAL	\$ 377,446	\$ 403,093	\$ 403,093
16	PROGRAM OPERATING EXPENSE			
17	Advertising	\$ 16,000	\$ 28,000	\$ 28,000
18	Books & Supplements	\$ 175	\$ 175	\$ 175
19	Collection Supplies & Tools	\$ 26,500	\$ 28,000	\$ 28,000
20	Communications (Cell Phones, Pagers)	\$ 0	\$ 0	\$ 500
21	Computer Expense (Hardware, Software, Etc.)	\$ 1,200	\$ 1,200	\$ 1,600
22	Dues/Subscriptions	\$ 500	\$ 500	\$ 600
23	Equipment Rental	\$ 900	\$ 900	\$ 900
24	Equipment Repair	\$ 3,000	\$ 3,000	\$ 3,000
25	Fuel	\$ 7,000	\$ 7,000	\$ 7,000
26	Laundry Service	\$ 3,000	\$ 3,000	\$ 2,500
27	Medical Surveillance	\$ 4,300	\$ 4,300	\$ 4,300
28	Mileage/Parking for Routine Business	\$ 1,500	\$ 1,500	\$ 1,500
29	Office Equipment Purchase/Rentals	\$ 1,800	\$ 1,800	\$ 1,800
30	Office furnishings	\$ 300	\$ 300	\$ 300
31	Office Supplies	\$ 1,400	\$ 1,500	\$ 1,500
32	Personal Safety Equipment/Devices	\$ 48,000	\$ 50,000	\$ 50,000
33	Postage/Freight/Courier	\$ 700	\$ 1,200	\$ 1,200
34	Printing/Signage	\$ 1,000	\$ 1,000	\$ 1,000
35	Public Education Materials	\$ 1,000	\$ 1,000	\$ 1,000
36	Staff Development/Training Fees & Supplies	\$ 3,400	\$ 3,400	\$ 3,400
37	Travel for Staff Development & Special Business	\$ 600	\$ 600	\$ 600
38	Uniforms	\$ 6,000	\$ 6,000	\$ 6,000
39	Utilities/Maintenance Expense for HC3	\$ 70,000	\$ 70,000	\$ 75,000
40	Vehicle Maintenance	\$ 4,500	\$ 4,500	\$ 4,500
41	Volunteer Support/Incentives	\$ 1,100	\$ 1,100	\$ 1,100
42	TOTAL OPERATING EXPENSE BUDGET	\$ 203,875	\$ 219,975	\$ 225,475
43	COMBINED PERSONNEL AND OPERATING EXPENSE	\$ 581,321	\$ 623,068	\$ 628,568
44	¹ OPERATIONS OFFSET FROM CARRYOVER	\$ 0	(\$ (26,500))	(\$ (30,000))
45	² NET OPERATING & PERSONNEL COST TO CITIES	\$ 581,321	\$ 596,568	\$ 598,568
46	CAPITAL EXPENSE			
47	Building Maintenance	\$ 10,000	\$ 10,000	\$ 10,000
48	Equipment	\$ 10,000	\$ 10,000	\$ 10,000
49	TOTAL CAPITAL EXPENSE	\$ 20,000	\$ 20,000	\$ 20,000
50	² NET OPERATING, PERSONNEL, AND CAPITAL COST TO CITIES	\$ 601,321	\$ 616,568	\$ 618,568
51				

52	COLLECTION/DISPOSAL BUDGET			
53	³ Collection/Mobilization/Disposal	\$ 619,500	\$ 650,000	\$ 685,000
54	Contractual Labor/Temp Labor	\$ 175,000	\$ 184,000	\$ 184,000
55	ESTIMATED TOTAL COLLECTION/DISPOSAL COST	\$ 794,500	\$ 834,000	\$ 869,000
56	¹ LABOR OFFSET FROM CARRYOVER	(\$ (80,000))	(\$ (80,000))	(\$ (80,000))
57	² NET COLLECTION/DISPOSAL COST TO CITIES	\$ 714,500	\$ 754,000	\$ 789,000
58				
59	OVERALL PROGRAM BUDGET (Operational, Collection/Disposal, Capital)			
60	² NET COST TO CITIES	\$ 1,315,821	\$ 1,370,568	\$ 1,407,568
61	¹ TOTAL OFFSET FROM CARRYOVER	\$ 80,000	\$ 106,500	\$ 110,000
62	TOTAL PROGRAM BUDGET	\$ 1,395,821	\$ 1,477,068	\$ 1,517,568

NOTES:

¹ OFFSET FROM CARRYOVER represents funds carried over from prior year budgets and applied to current year budget in order to offset out-of-pocket expense to participating cities.

² NET COST TO CITIES represents the actual cost billed to participating cities after carryover offset is applied.

³ COLLECTION/DISPOSAL represents estimated disposal costs billed to participating cities on an as-used basis. Actual cost may be less or more, depending on economies achieved and available city funding.

1	ADDITIONAL RECOMMENDED USE OF PREVIOUS YEAR CARRYOVER FUNDS			
2	¹ Special capital purchases and projects	\$ 45,000	\$ 65,000	\$ 21,000
3	² Emergency capital reserve	\$ 50,000	\$ 50,000	\$ 50,000
4	ADDITIONAL CARRYOVER USAGE	\$ 95,000	\$ 115,000	\$ 71,000

NOTES:

¹SPECIAL CAPITAL PURCHASES AND PROJECTS are off-budget expenses for which the cities request to use previous year carryover funds. FY15 projects include replacement of one can crusher at a cost of up to \$18,000 and replacement of two aging computer/printer systems at a cost of up to \$3,000.

²EMERGENCY CAPITAL RESERVE represents funds reserved from prior year carryover to cover unexpected capital expenses that cannot be covered within the budget, thus avoiding the need for special assessments to the cities. The capital reserve fund does not accrue and must be re-approved each year.

DALLAS COUNTY HOUSEHOLD HAZARDOUS WASTE PROGRAM

Proportional Shares of FY2015 Operational and Capital Budget *

Based on Estimated SINGLE FAMILY HOUSING UNITS

Prepared for FY15 Budget Meeting

City	Service Area Based on Single Family Households as per Current NCTCOG Estimates	Percent of Service Area	FY15 Quarterly Share of Operational and Capital Budgets*	FY15 Annual Share of Operational and Capital Budgets*
Addison	1,740	0.32%	\$ 500	\$ 2,001
Dallas	284,450	52.88%	\$ 81,775	\$ 327,100
De Soto	15,289	2.84%	\$ 4,395	\$ 17,581
Duncanville	11,593	2.16%	\$ 3,333	\$ 13,331
Farmers Branch	8,764	1.63%	\$ 2,520	\$ 10,078
Garland	64,078	11.91%	\$ 18,421	\$ 73,686
Highland Park	3,514	0.65%	\$ 1,010	\$ 4,041
Irving	40,834	7.59%	\$ 11,739	\$ 46,957
Mesquite	38,967	7.24%	\$ 11,202	\$ 44,810
Richardson	30,202	5.61%	\$ 8,683	\$ 34,730
Rowlett	18,689	3.47%	\$ 5,373	\$ 21,491
Sachse	6,819	1.27%	\$ 1,960	\$ 7,841
Seagoville	3,653	0.68%	\$ 1,050	\$ 4,201
Sunnyvale	1,728	0.32%	\$ 497	\$ 1,987
University Park	7,594	1.41%	\$ 2,183	\$ 8,733
TOTAL	537,914	100%	\$ 154,642	\$ 618,568

* NOTE: FY15 Operational Budget = \$598,568 Capital Costs = \$20,000 Combined Operational and Capital Budget = \$618,568

Operational and Capital budget shares are determined by multiplying each city's Percent of Service Area times the budget total. City shares are billed quarterly in advance and may be proportionately adjusted in the event city participation changes. Disposal costs are paid in addition to Operational and Capital costs and are based on actual usage.

Exhibit C2015

FY2015 HHW PROGRAM BUDGET SUMMARY

This exhibit summarizes the total program funding for FY2015 as approved by the Dallas Area Household Hazardous Waste Network at its regular meeting on April 17, 2014, and replaces the language contained in Amendment 1, Exhibit C2014 of the Household Hazardous Waste Program Interlocal Agreement that was authorized by Court Order 2012-1223.

Fixed Costs include personnel expense, operating costs, and capital budget, which are shared by the Network cities based on single-family household projections published by North Central Texas Council of Governments.

- Personnel Expense includes all HHW staff salaries and fringe.
- Operating Expense includes supplies, equipment, advertising, public education, volunteer support, staff development, printing, postage, facility maintenance, utilities, and all other direct programming costs.
- Capital Expense includes building repairs, equipment repair or replacement, mechanical upgrades, and expansion projects.

Variable costs include estimated direct costs for collection and disposal of hazardous household wastes, which vary according to actual usage and are indicated in the budget summary for planning purposes only. ***Funding for actual collection, contract labor, and disposal costs will be collected from the cities after the fact, on an as-used basis.***

- Collection/Mobilization/Disposal Budget includes estimated costs for staging of events, recycling services, waste containers, waste transportation, and disposal.
- Contract Labor Expense is for part-time, seasonal labor provided by the disposal vendor.

Budget adjustments made to the Operational Budget during the term of the agreement shall not result in a City Funding amount that exceeds the approved budget total shown herein. The County may make line item transfers within the operating budget when these transfers do not exceed \$5,000. Budget adjustments in excess of \$5,000 must be approved by the HHW Network.

BUDGET SECTION	CITY FUNDING
FIXED COSTS (OPERATIONAL BUDGET)	
Personnel Costs	\$ 403,093
Operating Costs	\$ 225,475
Capital Expense	\$ 20,000
Sub-Total	\$ 625,568
ESTIMATED VARIABLE COSTS (COLLECTION / LABOR / DISPOSAL BUDGET)	
	\$ 869,000
TOTAL PROGRAM BUDGET	\$1,517,568



City of Rowlett
Staff Report

4000 Main Street
P.O. Box 99
Rowlett, TX 75080-0099
www.rowlett.com

AGENDA DATE: 10/07/14

AGENDA ITEM: 7D

TITLE

Consider action to approve a resolution authorizing the City Manager to enter into an interlocal agreement with Dallas County for Mosquito Ground Control for FY2015.

STAFF REPRESENTATIVE

Marc Kurbansade, Director of Development Services

SUMMARY

Dallas County has provided Mosquito Ground Control services for over 20 years for the City of Rowlett. The contract for FY2014 Mosquito Control expired September 30, 2014. This agreement will continue services for FY2015.

BACKGROUND INFORMATION

Dallas County has provided Mosquito Ground Control services for over 20 years for the City of Rowlett. These services largely remained unnoticed until the 2012 season, when there were numerous cases of West Nile Virus, both in the City of Rowlett and the Metroplex as a whole. This agreement will continue the City's contract with Dallas County for the provision of Mosquito Ground Control Services for FY2015.

DISCUSSION

The previous agreement with Dallas County Health and Human Services expired on September 30, 2014. This agreement is identical to last year's contract and will be effective through September 30, 2015.

The Mosquito Ground Control Services agreement will include trapping, mosquito testing, larviciding and adult spraying services. The agreement is only for ground control spraying. Aerial spraying would only be completed through the Dallas County Emergency Plan for St. Louis Encephalitis and/or West Nile Virus outbreaks. Participation in aerial spraying is a decision that is based on individual City preference.

Dallas County has been testing captured mosquitoes in Rowlett, usually weekly, since early April 2013. There were nine mosquito trap samples that were positive for West Nile Virus during FY2012. In 2012, ten Rowlett citizens were confirmed to have West Nile Virus and one of those cases involved a fatality. In FY2013, no residents were officially confirmed as cases. To date in FY2014, there have been positive trap tests for West Nile Virus on two separate occasions. Upon confirmation of these positive tests, Dallas County commenced spraying in this region of the City for two nights.

FINANCIAL/BUDGET IMPLICATIONS

The City has budgeted \$17,147 in line item account 101-6059-480-7908 for Environmental Monitoring. In this account, only \$1,400 of the total will be dedicated for Mosquito Control Services.

The Mosquito Ground Control Agreement is charged at \$185.00 per hour of spraying services only with a minimum of one hour service assessed. After the initial one hour minimum, then services will be pro-rated at thirty minute intervals. Assessed time will only be for spraying time and not travel time to and from the site, which will not be charged. Fees are required to be paid within thirty days of the monthly request for payment.

The City did not spend any dollars for FY2008-FY2013. Also, to date, no invoices have been received for services rendered in FY2014. Staff expects that the County will issue invoices for FY2014 spraying services at the conclusion of the Fiscal Year. Based upon a total of four nights of ground control spraying by Dallas County, it is anticipated that the costs for FY2014 will be approximately the \$1,400 budgeted for the year.

RECOMMENDED ACTION

Staff recommends approval of a resolution authorizing the City Manager to enter into an interlocal agreement with Dallas County for Mosquito Ground Control for FY2015.

RESOLUTION

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ROWLETT, TEXAS, APPROVING A ONE YEAR RENEWAL OF AN INTERLOCAL AGREEMENT WITH DALLAS COUNTY HEALTH AND HUMAN SERVICES FOR MOSQUITO GROUND CONTROL FOR FISCAL YEAR 2015; AUTHORIZING THE CITY MANAGER TO EXECUTE THE RENEWAL AGREEMENT ON BEHALF OF THE CITY; AND, PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Rowlett, Texas has determined that the Mosquito Spraying Agreement is necessary in the City of Rowlett; and

WHEREAS, it is the desire of the City Council to provide Mosquito Spraying; and

WHEREAS, the City Council finds it is in the best interest of the public to provide these services by entering into an interlocal agreement with Dallas County for Mosquito Control Services.

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

Section 1: That the City Council of the City of Rowlett hereby approves an interlocal agreement with Dallas County and authorizes the City Manager to execute the interlocal agreement with Dallas County, acting through its Health

and Human Services department, as provided in Exhibit A, which is attached hereto and incorporated herein.

Section 2: That this resolution shall become effective immediately upon its passage.

ATTACHMENT

Exhibit A – Mosquito Control Agreement

STATE OF TEXAS § MOSQUITO GROUND CONTROL AGREEMENT BETWEEN
 § DALLAS COUNTY, TEXAS, ON BEHALF OF THE DALLAS
 § COUNTY HEALTH AND HUMAN SERVICES DEPARTMENT, AND
 COUNTY OF DALLAS § THE CITY OF ROWLETT, TEXAS, A MUNICIPALITY

1. PARTIES

This Interlocal Agreement ("Agreement") is an Interlocal contract made by and between the City of Rowlett, Texas, a "Municipality" as defined by Section 1.005(3) of the Texas Local Government Code ("Municipality"), and Dallas County, Texas ("County"), on behalf of the Dallas County Health and Human Services Department ("DCHHS"), based on the authority of the Interlocal Cooperation Act in Chapter 791 of the Texas Government Code, and the Local Public Health Reorganization Act in Chapter 121 of the Texas Health and Safety Code, to protect the public health by controlling the population of mosquitos by ground spraying of adult mosquitoes ("adulticiding") and by treating standing water to destroy mosquito larvae ("larvaciding") in order to prevent and control the outbreak of diseases associated with mosquitoes.

2. DURATION OF THIS AGREEMENT

This Agreement is effective from October 1, 2014 through September 30, 2015, unless otherwise stated in this Agreement.

3. ADULTICIDING AND LARVACIDING SPRAYING SERVICES

- A. Upon written request from Municipality, County will provide adulticiding and larvaciding by way of **ground application** at the rate set forth in Paragraph 4;
- B. In the event that aerial spraying is needed to control the St. Louis Encephalitis or the West Nile virus throughout the County, Municipality will have the option to participate in the County's separate emergency aerial mosquito spraying plan. If Municipality agrees to participate in the County's separate emergency aerial mosquito spraying plan, Municipality must provide written notice to County and agree in writing to the following:
 - 1) Indicate in writing the areas and amount of acres to be sprayed; and
 - 2) Pay Municipality's proportioned share of the cost based upon the number of acres to be sprayed multiplied by the per-acre spraying cost, as determined by County.

4. BUDGET AND PAYMENT BY MUNICIPALITY TO COUNTY

- A. Municipality will pay County at a rate of One Hundred Eighty-Five (\$185.00) Dollars per hour, with a minimum of one (1) hour of service assessed.
- B. After the initial one (1) hour minimum service time for a given day of spraying, spraying services will be assessed using thirty (30) minute minimum intervals.
- C. Only spraying time will be assessed. Travel time to or from the site of ground spraying or treating standing water will not be assessed.
- D. Municipality must pay County the assessed fees within thirty (30) days of receipt by Municipality of the monthly written request for payment, or if County fails to make any written payment request(s), then Municipality will pay any remaining assessed fees no later than the last day of the term of this Agreement.
- E. Any payment not made within thirty (30) days of its due date will bear interest in accordance with Chapter 2251 of the Texas Government Code. Municipality's obligation

to pay fees assessed and interest accrued under this Agreement will survive the term of this Agreement until the Municipality pays the assessed fees and accrued interest.

5. AUDITING AND WITHHOLDING OF PAYMENTS

The Dallas County Auditor has the exclusive right and authority to audit this Agreement or to demand access to or copies of County's records concerning this Agreement or the County's administration of this Agreement. Municipality will have no right or authority to audit this Agreement or to demand access to or copies of County's records concerning this Agreement or the County's administration of this Agreement. Municipality has no right to withhold payments to County pending any audit of or inquiry about this Agreement or the County's administration of this Agreement.

6. TERMINATION

- A. Without Cause: This Agreement may be terminated in writing, without cause, by either party upon thirty (30) days prior written notice to the other party.
- B. With Cause: The County reserves the right to terminate the Agreement immediately, in whole or in part, at its sole discretion, for the following reasons:
- 1) Municipality's lack of or reduction in funding or resources, financial or otherwise; or
 - 2) Municipality's misuse of resources, financial or otherwise; or
 - 3) Municipality's failure to comply with the terms of this Agreement; or
 - 4) Municipality's submission of inaccurate, incomplete, or false data, statements, or reports.

7. NO INDEMNIFICATION

COUNTY AND MUNICIPALITY, INCLUDING THEIR RESPECTIVE ELECTED OFFICIALS AND EMPLOYEES, AGREE THAT EACH WILL BE RESPONSIBLE FOR ITS OWN NEGLIGENT ACTS OR OMISSIONS OR OTHER TORTIOUS CONDUCT IN THE COURSE OF PERFORMANCE OF THIS AGREEMENT, WITHOUT WAIVING ANY GOVERNMENTAL IMMUNITIES AVAILABLE TO COUNTY OR MUNICIPALITY UNDER TEXAS LAW OR OTHER APPLICABLE LAWS AND WITHOUT WAIVING ANY AVAILABLE DEFENSES UNDER TEXAS LAW OR OTHER APPLICABLE LAWS. NOTHING IN THIS PARAGRAPH MAY BE CONSTRUED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, IN OR TO ANY THIRD PERSONS OR ENTITIES.

8. INSURANCE

Municipality agrees that Municipality will at all times during the term of this Agreement maintain in full force and effect general liability insurance; or self-insurance, to the extent permitted by applicable law under a plan of self-insurance, that is also maintained in accordance with sound, generally accepted accounting practices. Municipality expressly understands and agrees that it is solely responsible for 1) all costs of such general liability insurance; 2) any and all deductible amounts in any general liability insurance policy; and 3) any liability in the event that any insurance company denies coverage for any incident reasonably related to the performance of this Agreement.

9. NOTICE

Any notice or certification required or permitted to be delivered under this Agreement will be deemed to have been given when personally delivered, or if mailed, seventy-two (72) hours

after deposit of the notice or certification in the United States Mail, postage prepaid, by certified or registered mail, return receipt requested, and properly addressed to the contact person shown at their respective addresses set forth below, or at such other addresses as may be specified by written notice delivered by the methods described above in this subsection:

<u>Dallas County, Texas</u>	City of Rowlett, Texas
Zachary Thompson, Director	Brian Funderburk, City Manager
Dallas County Health & Human Svcs	City of Rowlett
2377 N. Stemmons Frwy, Suite 600	4000 Main Street
Dallas, Texas 75207-2710	Rowlett, Texas 75088

10. ENTIRE AGREEMENT AND AMENDMENTS

This Agreement, including any Exhibits and Attachments, constitutes the entire agreement between the parties and supersedes any other agreement concerning the subject matter of this transaction, whether oral or written. No modification, amendment, novation, renewal, or other alteration of this Agreement can be effective unless mutually agreed upon in writing and executed by the parties.

11. COUNTERPARTS, NUMBER, GENDER, AND HEADINGS

This Agreement may be executed in multiple counterparts, each of which will be deemed an original, but all of which will constitute one and the same instrument when considered together in context. Words of any gender used in this Agreement will be held and construed to include any other gender any words in the singular will include the plural and vice versa, unless the context clearly requires otherwise. Headings are for the convenience of reference only and cannot be considered in any interpretation of this Agreement.

12. SEVERABILITY

If any term of this Agreement is construed to be illegal, invalid, void or unenforceable, this construction will not affect the legality or validity or any of the remaining terms. The unenforceable or illegal term will be deemed stricken and deleted, but the remaining terms will not be affected or impaired and such remaining terms will remain in full force and effect.

13. FISCAL FUNDING CLAUSE

Notwithstanding any terms contained in this Agreement, the obligations of the County under this Agreement are expressly contingent upon the availability of funding for each item and obligation for the term of the Agreement and any pertinent extensions. Municipality has no right of action against County in the event County is unable to fulfill its obligations under this Agreement as a result of lack of sufficient funding for any item or obligation from any source utilized to fund this Agreement or failure to budget or authorize funding for this Agreement during the current or future fiscal years. In the event that County is unable to fulfill its obligations under this Agreement as a result of lack of sufficient funding, or if funds become unavailable, County, at its sole discretion, may provide funds from a separate source or may terminate this Agreement by written notice to Municipality at the earliest possible time prior to the end of its fiscal year.

14. DEFAULT - CUMULATIVE RIGHTS - MITIGATION

It is not a waiver of default if the non-defaulting party fails to immediately declare a default or delays in taking any action. The rights and remedies provided by this Agreement are cumulative, and either party's use of any right or remedy will not preclude or waive its right to use any other remedy. These rights and remedies are in addition to any other rights the parties may have by law, statute, ordinance, or otherwise. Both parties have a duty to mitigate damages.

15. SOVEREIGN IMMUNITY

THIS AGREEMENT IS EXPRESSLY MADE SUBJECT TO MUNICIPALITY'S AND COUNTY'S GOVERNMENTAL IMMUNITIES, INCLUDING, WITHOUT LIMITATION, TITLE 5 OF THE TEXAS CIVIL PRACTICE AND REMEDIES CODE AND ALL APPLICABLE STATE AND FEDERAL LAWS. THE PARTIES EXPRESSLY AGREE THAT NO TERM OF THIS AGREEMENT IS IN ANY WAY INTENDED TO CONSTITUTE A WAIVER OF ANY IMMUNITIES FROM SUIT OR FROM LIABILITY, OR A WAIVER OF ANY TORT LIMITATION, AND ANY DEFENSES THAT MUNICIPALITY OR COUNTY HAVE BY OPERATION OF LAW, OR OTHERWISE. NOTHING IN THIS AGREEMENT IS INTENDED TO OR DOES BENEFIT ANY THIRD PARTY BENEFICIARY.

16. COMPLIANCE WITH LAW, CHOICE OF LAW, AND VENUE

In providing services required by this Agreement, Municipality and County must observe and comply with all licenses, legal certifications, or inspections required for the services, facilities, equipment, or materials, and all applicable Federal, State, and local statutes, ordinances, rules, and regulations. The laws of the State of Texas govern this Agreement. Exclusive venue for any action or claim arising from this Agreement is in the State or Federal District Courts that are physically located in Dallas County, Texas.

17. RELATIONSHIP OF PARTIES

County and Municipality are each independent political subdivisions of the State of Texas. Neither is an agent, servant, joint enterpriser, joint venturer, or employee of the other. Municipality and County agree and acknowledge that each governmental entity will be responsible for its own acts, forbearance, negligence and deeds, and for those of its agents or employees in conjunction with the performance of work covered under this Agreement.

The remainder of this page is intentionally left blank.

18. SIGNATORY WARRANTY

Municipality and County represent that each has the full right, power, and authority to enter and perform this Agreement in accordance with all of its terms and conditions, and that the execution and delivery of this Agreement has been made by authorized representatives of the parties to validly and legally bind the parties to all terms set forth in this Agreement.

COUNTY:

MUNICIPALITY:

BY: Clay Lewis Jenkins
County Judge
Dallas County, Texas

BY: Brian FunderBurk
City Manager
City of Rowlett, Texas

DATE SIGNED: _____

DATE SIGNED: _____

Recommended:

BY: Zachary Thompson
Director, DCHHS
Dallas County, Texas

Approved as to Form*:

Approved as to Form:

DALLAS COUNTY

MUNICIPALITY

Craig Watkins
District Attorney

Teresa Guerra Snelson
Chief, Civil Division

BY: Ben L. Stool
Assistant District Attorney
Civil Division

BY: _____

Attorney for Municipality

*By law, the District Attorney's Office may only advise or approve contracts or legal documents on behalf of its clients. It may not advise or approve a contract or legal document on behalf of other parties. Our review of this document was conducted solely from the legal perspective of our client. Our approval of this document was offered solely for the benefit of our client. Other parties should not rely on this approval, and should seek review and approval by their own respective attorney(s).



City of Rowlett Staff Report

4000 Main Street
P.O. Box 99
Rowlett, TX 75080-0099
www.rowlett.com

AGENDA DATE: 10/07/14

AGENDA ITEM: 7E

TITLE

Consider action to approve a resolution authorizing the payment for computer software maintenance and support services for City Departments to SunGard Public Sector in the amount of \$77,185.94 and authorizing the City Manager to execute the necessary documents to continue said services.

STAFF REPRESENTATIVE

Joe Beauchamp, Director of Information Technology
Allyson Wilson, Purchasing Agent

SUMMARY

The City of Rowlett currently uses the SunGard product H.T.E. for financial management and for specific uses such as Municipal Court, Fleet Management and Utility Billing. In order to provide annual maintenance, software support and software updates, the City is required to purchase an annual support agreement. This agreement has typically been approved at the beginning of the fiscal year.

BACKGROUND

On October 2, 2012, the City Council adopted Resolution Number RES-096-12 approving the payment for computer software maintenance for City departments to SunGard Public Sector in the amount of \$73,121 and authorizing the City Manager to execute the necessary documents to continue said services.

On October 1, 2013, the City Council adopted Resolution Number RES-090-13 approving the payment for computer software maintenance for City departments to SunGard Public Sector in the amount of \$74,701 and authorizing the City Manager to execute the necessary documents to continue said services.

SunGard Public Sector is a sole source vendor for computer maintenance and support services for the IBM AS/400 financial applications, which are used by City Departments. The financial applications were acquired in October of 1996 and other applications have been added since that time. The annual maintenance includes software updates, patches, support and enhancements through the year.

Each year, the Information Technology and Purchasing Divisions present an agenda item to City Council for the adoption of a resolution approving the payment for software maintenance to SunGard Public Sector.

POLICY EXPLANATION

All of the programs are critical to the City's financial operations. Each type of software and maintenance cost is detailed in the attached quote/invoice. SunGard does not have a pay per need option. If we do not purchase the annual maintenance, we will not receive phone support, patches and version upgrades. For example, if a problem with the functionality of accounts payable occurred, SunGard would not assist staff in fixing the problem. It should be noted that this software is 18 years old and continuing without this maintenance and support is not considered a viable option due to the age and complexity of the system. Patches and upgrades are necessary not only for added functionality, but also to stay in compliance with changes in financial reporting and IRS rules. For example, the software is used to print 1099s for contractor compliance and SunGard provides the City with an annual file for all year-end processes.

The new Munis software from Tyler Technologies will not be fully functional until July 2015. The InCode software for Municipal Court will be functional in November of 2014. As staff noted during the presentations for the software purchases there would be some overlap of the two systems. Therefore, the FY2015 budget includes software support maintenance for both the SunGard products and the Munis and InCode products.

The maintenance and support cost for SunGard increased \$2,484.94 from FY2014, which is an increase of 3.32 percent.

FISCAL IMPACT

Funding is included in the approved FY2015 budget for each user department under the software maintenance account number 7812. In addition, funds are budgeted in FY2015 for Tyler Munis maintenance support, as well.

Software	FY2015 Budget	FY2015 Actual
SunGard (H.T.E.)	\$82,500	\$77,186
Tyler Munis	102,000	100,600
Total	\$184,500	\$177,786

STAFF RECOMMENDATION

City staff recommends the City Council approve a resolution authorizing the payment for computer software maintenance and support services for City Departments to SunGard Public Sector in the amount of \$77,185.94 and authorizing the City Manager to execute the necessary documents to continue said services.

RESOLUTION

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ROWLETT, TEXAS, APPROVING THE PAYMENT FOR COMPUTER SOFTWARE MAINTENANCE AND SUPPORT FOR CITY DEPARTMENTS TO SUNGARD PUBLIC SECTOR IN THE AMOUNT OF \$77,185.94; AUTHORIZING THE CITY MANAGER TO EXECUTE THE NECESSARY DOCUMENTS TO CONTINUE SAID SERVICES AND AUTHORIZING THE ISSUANCE OF PURCHASE ORDERS PURSUANT TO APPROVAL; AND, PROVIDING AN EFFECTIVE DATE.

WHEREAS, it is necessary to acquire computer software maintenance for the City's AS/400 computer applications which includes support, patches, and version upgrades; and

WHEREAS, SunGard Public Sector has provided service for the City of Rowlett since 1996 and is a sole source vendor for said service; and

WHEREAS, the City Council of the City of Rowlett, Texas desires to approve payment for computer software maintenance services to SunGard Public Sector as attached hereto and incorporated herein by reference as Exhibit A.

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

Section 1: That the City Council of the City of Rowlett does hereby approve payment for computer software maintenance and support for the City's AS/400 applications to SunGard Public Sector in the amount of \$77,185.94.

Section 2: That the City Manager be and is hereby authorized to execute the necessary documents for continued services and the issuance of purchase orders to conform to this resolution.

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

ATTACHMENT

Exhibit A – Invoices from SunGard Public Sector

SUNGARD PUBLIC SECTOR

1000 Business Center Drive
 Lake Mary, FL 32746
 800-727-8088
 www.sungardps.com

Invoice

<i>Company</i>	<i>Document No</i>	<i>Date</i>	<i>Page</i>
LG	87510	04/Sep/2014	1 of 3

Bill To: City of Rowlett
 4000 Main Street
 ROWLETT, TX 75088
 United States
 Attn: Michael Whipps

Ship To: City of Rowlett
 4000 Main Street
 ROWLETT, TX 75088
 United States
 Attn: Michael Whipps

<i>Customer Grp/No.</i>	<i>Customer Name</i>	<i>Customer PO Number</i>	<i>Currency</i>	<i>Terms</i>	<i>Due Date</i>
1 2250LG	City of Rowlett		USD	NET30	04/Oct/2014

No	SKU Code/Description/Comments	Units	Rate	Extended
Contract No. 070016				
24	NAVI-Fleet Management Maintenance Start: 01/Oct/2014, End: 30/Sep/2015	1.00	5,097.09	5,097.09
25	QRep Catalogs for FMJ Maintenance Start: 01/Oct/2014, End: 30/Sep/2015	1.00	338.72	338.72
Contract No. 070363				
26	Rec Trac Interface to Cash Receipts Maintenance Start: 01/Oct/2014, End: 30/Sep/2015	1.00	382.42	382.42
27	Rec Trac Interface to GMBA Maintenance Start: 01/Oct/2014, End: 30/Sep/2015	1.00	382.42	382.42
Contract No. 20030898				
5	NAVI-Building Permits Maintenance Start: 01/Oct/2014, End: 30/Sep/2015	1.00	4,403.27	4,403.27
6	NAVI - Cash Receipts Maintenance Start: 01/Oct/2014, End: 30/Sep/2015	1.00	2,097.84	2,097.84
7	NAVI Case Management Maintenance Start: 01/Oct/2014, End: 30/Sep/2015	1.00	10,134.09	10,134.09
8	NAVI - Customer Information Systems Maintenance Start: 01/Oct/2014, End: 30/Sep/2015	1.00	9,402.03	9,402.03
9	NAVI-GMBA Maintenance Start: 01/Oct/2014, End: 30/Sep/2015	1.00	9,041.46	9,041.46
10	NAVI-Land Management Maintenance Start: 01/Oct/2014, End: 30/Sep/2015	1.00	3,452.69	3,452.69
11	NAVI-Accounts Receivable Maintenance Start: 01/Oct/2014, End: 30/Sep/2015	1.00	3,266.94	3,266.94
12	Navi - Purchasing/Inventory Maintenance Start: 01/Oct/2014, End: 30/Sep/2015	1.00	5,408.49	5,408.49
13	NAVI - Planning/Engineering Maintenance Start: 01/Oct/2014, End: 30/Sep/2015	1.00	5,457.66	5,457.66

Page Total 58,865.12

SUNGARD PUBLIC SECTOR

1000 Business Center Drive
 Lake Mary, FL 32746
 800-727-8088
 www.sungardps.com

Invoice

<i>Company</i>	<i>Document No</i>	<i>Date</i>	<i>Page</i>
LG	87510	04/Sep/2014	2 of 3

Bill To: City of Rowlett
 4000 Main Street
 ROWLETT, TX 75088
 United States
 Attn: Michael Whipps

Ship To: City of Rowlett
 4000 Main Street
 ROWLETT, TX 75088
 United States
 Attn: Michael Whipps

<i>Customer Grp/No.</i>	<i>Customer Name</i>	<i>Customer PO Number</i>	<i>Currency</i>	<i>Terms</i>	<i>Due Date</i>
1 2250LG	City of Rowlett		USD	NET30	04/Oct/2014

No	SKU Code/Description/Comments	Units	Rate	Extended
14	NAVI-DMS - Document Management Services Maintenance Start: 01/Oct/2014, End: 30/Sep/2015 Contract No. 20040490	1.00	1,081.70	1,081.70
15	QRep Catalogs for PIJ & CSJ Maintenance Start: 01/Oct/2014, End: 30/Sep/2015 Contract No. 20041005	2.00	338.72	677.44
16	Mobile Citation to Case Managment Interface Maintenance Start: 01/Oct/2014, End: 30/Sep/2015 Contract No. 20050804	1.00	1,300.22	1,300.22
17	QRep End User Maintenance Start: 01/Oct/2014, End: 30/Sep/2015 Contract No. 20051221	9.00	340.93	3,068.37
18	P-Card Maintenance Start: 01/Oct/2014, End: 30/Sep/2015 Contract No. 20060477	1.00	1,731.81	1,731.81
19	Click2Gov Core Module Maintenance Start: 01/Oct/2014, End: 30/Sep/2015	1.00	1,343.92	1,343.92
20	Click2Gov - Case Management Maintenance Start: 01/Oct/2014, End: 30/Sep/2015 Contract No. 20061044	1.00	1,436.80	1,436.80
21	Cash Receipts Lock Box Interface Maintenance Start: 01/Oct/2014, End: 30/Sep/2015 Contract No. 20061410	1.00	666.50	666.50
22	OnePoint Point of Sale Maintenance Start: 01/Oct/2014, End: 30/Sep/2015	1.00	2,556.74	2,556.74
23	QRep Catalogs for KL Maintenance Start: 01/Oct/2014, End: 30/Sep/2015 Contract No. 9900603	1.00	338.72	338.72
1	Retrofit Modification Option Maintenance Start: 01/Oct/2014, End: 30/Sep/2015	14.00	100.00	1,400.00

Page Total 15,602.22

SUNGARD PUBLIC SECTOR

1000 Business Center Drive
 Lake Mary, FL 32746
 800-727-8088
 www.sungardps.com

Invoice

Company	Document No	Date	Page
LG	87510	04/Sep/2014	3 of 3

Bill To: City of Rowlett
 4000 Main Street
 ROWLETT, TX 75088
 United States
 Attn: Michael Whipps

Ship To: City of Rowlett
 4000 Main Street
 ROWLETT, TX 75088
 United States
 Attn: Michael Whipps

Customer Grp/No.	Customer Name	Customer PO Number	Currency	Terms	Due Date
1 2250LG	City of Rowlett		USD	NET30	04/Oct/2014

No	SKU Code/Description/Comments	Units	Rate	Extended
2	QRep Administrator Maintenance Start: 01/Oct/2014, End: 30/Sep/2015	1.00	340.93	340.93
3	QRep End User Maintenance Start: 01/Oct/2014, End: 30/Sep/2015	3.00	340.93	1,022.79
4	QRep Catalogs for LX, CR, CX, GM Maintenance Start: 01/Oct/2014, End: 30/Sep/2015	4.00	338.72	1,354.88
Page Total				2,718.60

Remit Payment To: SunGard Public Sector Inc.
 Bank of America
 12709 Collection Center Drive
 Chicago, IL 60693

Subtotal	77,185.94
Sales Tax	0.00
Invoice Total	77,185.94
Payment Received	0.00
Balance Due	77,185.94



City of Rowlett Staff Report

4000 Main Street
P.O. Box 99
Rowlett, TX 75080-0099
www.rowlett.com

AGENDA DATE: 10/07/14

AGENDA ITEM: 7F

TITLE

Consider action to approve a resolution to enter into a 36-month agreement with Software House International (SHI) Government Solutions to purchase Microsoft software in the amount of \$335,392.80 through the interlocal purchasing agreement with the Texas Comptroller of Public Accounts and the State of Texas Department of Information Resources (DIR), and authorizing the City Manager to execute the necessary documents after City Attorney approval.

STAFF REPRESENTATIVE

Joe Beauchamp, Director of Information Technology
Allyson Wilson, Purchasing Agent

SUMMARY

The City of Rowlett implemented Office 365 as the foundation of its internal communication system in 2014. This implementation was completed as part of an extension to a prior contract with SHI Government Solutions for the use of Microsoft software licensing. That contract is expiring and it is time to approve a new three-year agreement.

BACKGROUND

Since 2005 the City of Rowlett has purchased Microsoft licensing from Software House International (SHI) Government Solutions through the State of Texas Department of Information Resources (DIR). Enrollments renew in three-year increments. The original three-year agreement was approved by City Council on June 21, 2005 (Resolution Number RES-105-05).

On August 19, 2008, the City Council approved a resolution authorizing the City Manager to enter into an agreement with SHI to purchase Microsoft software in the amount of \$54,325 for the first year through the interlocal purchasing agreement with Texas Comptroller of Public Accounts and the State of Texas Department of Information Resources (DIR) and in a format approved by the City Attorney (Resolution Number RES-086-08). As stated in this agenda item, the item was also brought back to the City Council for approval of the expenditure for years two and three.

The Software Reseller Contract DIR-SDD-198 with SHI expired July 6, 2009. New proposals were solicited from Texas Comptroller of Public Accounts and the State of Texas Department of Information Resources (DIR) and awarded to Dell Marketing LP. All customers were required to obtain new quotes from Dell Marketing LP through the new DIR contract DIR-SDD-1014.

The City is now able to make the purchase directly from SHI through DIR Contract # DIR-SDD-2503. The annual amount for the licensing is \$111,797.60. For the three year agreement, the total is \$335,392.80.

POLICY EXPLANATION

Microsoft has executed an Enterprise Agreement (“EA”) with the State of Texas Department of Information Resources whereby cities and other governmental entities can enroll desktops, laptops and servers to obtain needed Microsoft software at greatly reduced rates. DIR has previously awarded the contract to Dell Marketing LP in Buffalo Grove, IL to administer this software licensing agreement. DIR has now awarded the contract to Software House International Government Solutions. The agreement between DIR and SHI satisfies the legal requirements for the State of Texas bidding process. SHI offers Microsoft’s lowest price available to Texas municipalities and other governmental entities.

By enacting the EA, the City will continue being in full software license compliance. With the EA, the City can maintain the software licensing with future versions of software at a lesser rate than purchasing on an individual retail basis. Volume licensing includes productivity software such as Office 2013 and Microsoft server products. The yearly cost includes Microsoft’s Software Assurance (SA), which provides the City’s IT staff with tools to deploy and manage volume licensing purchases. Additionally, SA allows the City to download Microsoft technologies and have access to services and includes new product version rights, training, deployment planning, and support as well as covering future upgrades without additional costs being incurred. There are several additional benefits listed below that the City would receive as part of this agreement.

OVERHEAD COSTS: License management is simplified for the City as detailed paper records of software versions are not required.

TECHNICAL SUPPORT: Free technical support for the more difficult Microsoft questions is also included, which is of great benefit to the IT Department.

TRAINING: We receive 25 training vouchers for technical training and access to web-based online training for 260 employees.

EMPLOYEE BENEFITS: In addition to being allowed five (5) separate licenses per user while employed, City personnel are also permitted to buy one fully licensed copy of Microsoft Office for \$10 at their own expense.

Once each year, the City will “true-up” or purchase additional licensing, which have been added during the year.

FISCAL IMPACT

This is a three-year agreement with a payment in FY2015 of \$111,797.60. Future year payments will be made in October of each year to coincide with the beginning of each fiscal year. Funding is allocated in the amount of \$111,797.60 in account 101-2030-430-78.12 for the fiscal year.

Funding will need to be included in subsequent budgets.

The payment schedule will fall under each fiscal year as follows:

Fiscal Year	Amount
FY2015	\$111,797.60
FY2016	111,797.60
FY2017	111,797.60
Total	\$335,392.80

STAFF RECOMMENDATION

City Staff recommends the City Council adopt a resolution entering into a 36-month agreement with Software House International Government Solutions to purchase Microsoft software in the amount of \$335,392.80 through the interlocal purchasing agreement with Texas Comptroller of Public Accounts and the State of Texas Department of Information Resources (DIR), and authorizing the City Manager to execute the necessary documents after City Attorney approval.

RESOLUTION

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ROWLETT, TEXAS, APPROVING A THIRTY-SIX MONTH AGREEMENT WITH SOFTWARE HOUSE INTERNATIONAL GOVERNMENT SOLUTIONS TO PURCHASE MICROSOFT SOFTWARE IN THE AMOUNT OF \$335,392.80 THROUGH THE INTERLOCAL PURCHASING AGREEMENT WITH THE TEXAS COMPTROLLER OF PUBLIC ACCOUNTS AND THE STATE OF TEXAS DEPARTMENT OF INFORMATION RESOURCES (DIR); AUTHORIZING THE CITY MANAGER TO EXECUTE THE NECESSARY DOCUMENTS AFTER CITY ATTORNEY APPROVAL AND ISSUE PURCHASE ORDERS PURSUANT TO APPROVAL; AND, PROVIDING AN EFFECTIVE DATE.

WHEREAS, it is necessary to provide software and licensing for the City of Rowlett computer equipment for City departments; and

WHEREAS, the continuance of the Microsoft Enterprise Agreement will ensure full software license compliance for the City of Rowlett; and

WHEREAS, the Texas Comptroller of Public Accounts and the State of Texas Department of Information Resources (DIR) have obtained competitive proposals for software and licensing and awarded contracts for said services to Dell Marketing, LP; and

WHEREAS, the City of Rowlett, Texas desires to exercise such bids established with Software House International Government Solutions through the interlocal purchasing agreement with the Texas Comptroller of Public Accounts and the State of Texas Department of Information Resources (DIR), with Software House International Government Solutions for Microsoft Full Platform Enterprise Agreement for software licensing.

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

Section 1: The City of Rowlett does hereby approve an agreement for the purchase of Microsoft Enterprise Software through the interlocal purchasing

agreement with the Texas Comptroller of Public Accounts and the State of Texas Department of Information Resources (DIR) with Software House International Government Solutions, contract DIR-SDD-2503, for Microsoft Full Platform Enterprise Agreement for software licensing in an amount not to exceed \$335,392.80 for a term of thirty-six (36) months.

Section 2: The City Manager, after approval by the City Attorney, is hereby authorized to execute the necessary documents for said services to conform to this resolution, and is authorized to execute and issue purchase orders in accordance with the resolution.

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

ATTACHMENTS

Exhibit A – SHI Government Solutions Pricing Proposal

Exhibit B – Microsoft Enterprise Agreement



Pricing Proposal
 Quotation #: 8442765
 Created On: Aug-21-2014
 Valid Until: Aug-29-2014

City of Rowlett TX

Joey Brock

PO BOX 99
 Rowlett
 USA
 75030
 Phone: (214) 499-2903
 Fax:
 Email: jbrock@ci.rowlett.tx.us

Account Executive

Craig Bailey

SHI Government Solutions
 1301 South Mo-Pac, Suite 375
 Austin, TX 78746
 Mobile Phone: 512-822-0457
 Phone: 800-870-6079 x5199
 Fax: 512-732-0232
 Email: Craig_Bailey@shi.com

All Prices are in US Dollar (USD)

	Product	Qty	Your Price	Total
1	Off365PlanG3FromSA ShrdSvr ALNG SubsVL MVL PerUsr Microsoft - Part#: 7R2-00001	380	\$168.00	\$63,840.00
2	ECALBridgeOff365 ALNG SA MVL Pltfrm UsrCAL Microsoft - Part#: U5J-00004	310	\$29.70	\$9,207.00
3	ECALBridgeOff365 ALNG LicSAPk MVL Pltfrm UsrCAL Microsoft - Part#: U5J-00002	70	\$42.00	\$2,940.00
4	WinEntforSA ALNG SA MVL Pltfrm Microsoft - Part#: CW2-00307	270	\$33.80	\$9,126.00
5	WinSvrDataCtr ALNG SA MVL 2Proc Microsoft - Part#: P71-07282	3	\$994.50	\$2,983.50
6	WinSvrDataCtr ALNG LicSAPk MVL 2Proc Microsoft - Part#: P71-07280	3	\$2,318.70	\$6,956.10
7	VSPremwMSDN ALNG SA MVL Microsoft - Part#: 9ED-00073	1	\$847.20	\$847.20
8	SQLSvrStdCore ALNG SA MVL 2Lic CoreLic Microsoft - Part#: 7NQ-00292	20	\$579.10	\$11,582.00
9	SysCtrStd ALNG SA MVL 2Proc Microsoft - Part#: T9L-00223	2	\$143.20	\$286.40
10	SysCtrDatactr ALNG SA MVL 2Proc Microsoft - Part#: T6L-00238	4	\$388.30	\$1,553.20
11	SysCtrDatactr ALNG LicSAPk MVL 2Proc Microsoft - Part#: T6L-00237	2	\$905.60	\$1,811.20

12 WinRmtDsktpSrvcsCAL ALNG SA MVL UsrCAL Microsoft - Part#: 6VC-01254	35	\$19.00	\$665.00
			<hr/>
			Total \$111,797.60

Additional Comments

The Products and Services above are available from SHI Government Solutions via DIR Contract # DIR-SDD-2503.

Thank You for choosing SHI-GS! To ensure the best level of service, please provide End User Name, Phone Number, and E-Mail Address when submitting a Purchase Order. For any additional information including Hardware and Software Contract Numbers, please contact an SHI-GS Sales Representative at 800-870-6079.

The Products offered under this proposal are subject to the SHI Return Policy posted at www.shi.com/returnpolicy, unless there is an existing agreement between SHI and the Customer.

Enterprise Enrollment

State and Local

Enterprise Enrollment number <i>(Microsoft to complete)</i>		Proposal ID/Framework ID	
Previous Enrollment number <i>(Reseller to complete)</i>	7347641	Earliest expiring previous Enrollment end date ¹	9/30/2014

This Enrollment must be attached to a signature form to be valid.

This Microsoft Enterprise Enrollment is entered into between the entities as identified in the signature form as of the effective date. Enrolled Affiliate represents and warrants it is the same Customer, or an Affiliate of the Customer, that entered into the Enterprise Agreement identified on the program signature form.

This Enrollment consists of: (1) these terms and conditions, (2) the terms of the Enterprise Agreement identified on the signature form, (3) the Product Selection Form, (4) any supplemental contact information form or Previous Agreement/Enrollment form that may be required, (5) any order submitted under this Enrollment. This Enrollment may only be entered into under a 2011 or later Enterprise Agreement.

All terms used but not defined are located at <http://www.microsoft.com/licensing/contracts>. In the event of any conflict the terms of this Agreement control.

Effective date. If Enrolled Affiliate is renewing Software Assurance or Subscription Licenses from one or more previous Enrollments or agreements, then the effective date will be the day after the first prior Enrollment or agreement expires or terminates. Otherwise, the effective date will be the date this Enrollment is accepted by Microsoft. Any reference to "anniversary date" refers to the anniversary of the effective date each year this Enrollment is in effect.

Term. The initial term of this Enrollment will expire on the last day of the month, 36 full calendar months from the effective date of the initial term. If the Enrollment is renewed, the renewal term will expire 36 full calendar months after the effective date of the renewal term. Any reference in this Enrollment to "day" will be a calendar day.

Product order. The Reseller will provide Enrolled Affiliate with Enrolled Affiliate's Product pricing and order. Prices and billing terms for all Products ordered will be determined by agreement between Enrolled Affiliate and the Reseller. The Reseller will provide Microsoft with the order separately from this Enrollment.

Terms and Conditions

1. Definitions.

Terms used but not defined in this Enrollment will have the definition in the Enterprise Agreement. The following definitions are used in this Enrollment:

"Additional Product" means any Product identified as such in the Product List and chosen by Enrolled Affiliate under this Enrollment.

"Enterprise Online Service" means any Online Service designated as an Enterprise Online Service in the Product List and chosen by Enrolled Affiliate under this Enrollment. Enterprise Online Services are treated as Online Services, except as noted.

"Enterprise Product" means any Desktop Platform Product that Microsoft designates as an Enterprise Product in the Product List and chosen by Enrolled Affiliate under this Enrollment. Enterprise

Products must be licensed for all Qualified Devices and Qualified Users on an Enterprise-wide basis under this program.

“Expiration Date” means the date upon which the Enrollment expires.

“Industry Device” (also known as line of business device) means any device that: (1) is not useable in its deployed configuration as a general purpose personal computing device (such as a personal computer), a multi-function server, or a commercially viable substitute for one of these systems; and (2) only employs an industry or task-specific software program (e.g. a computer-aided design program used by an architect or a point of sale program) (“Industry Program”). The device may include features and functions derived from Microsoft software or third-party software. If the device performs desktop functions (such as email, word processing, spreadsheets, database, network or Internet browsing, or scheduling, or personal finance), then the desktop functions: (1) may only be used for the purpose of supporting the Industry Program functionality; and (2) must be technically integrated with the Industry Program or employ technically enforced policies or architecture to operate only when used with the Industry Program functionality.

“L&SA” means a License with Software Assurance for any Product ordered.

“Qualified Device” means any device that is used by or for the benefit of Enrolled Affiliate’s Enterprise and is: (1) a personal desktop computer, portable computer, workstation, or similar device capable of running Windows Professional locally (in a physical or virtual operating system environment), OR (2) a device used to access a virtual desktop infrastructure (“VDI”). Qualified Devices do not include any device that is: (1) designated as a server and not used as a personal computer, OR (2) an Industry Device, OR (3) not managed (as defined in the Product List at the start of the applicable initial or renewal term of the Enrollment) as part of Enrolled Affiliate’s Enterprise. At its option, the Enrolled Affiliate may designate any device excluded above (e.g., Industry Device) that is used by or for the benefit of the Enrolled Affiliate’s Enterprise as a Qualified Device for all or a subset of Enterprise Products or Online Services the Enrolled Affiliate has selected.

“Qualified User” means a person (e.g., employee, consultant, contingent staff) who: (1) is a user of a Qualified Device, or (2) accesses any server software requiring an Enterprise Product Client Access License or any Enterprise Online Service. It does not include a person who accesses server software or an Online Service solely under a License identified in the Qualified User exemptions in the Product List.

“Reserved License” means for an Online Service identified as eligible for true-ups in the Product List, the License reserved by Enrolled Affiliate prior to use and for which Microsoft will make the Online Service available for activation.

“Transition” means the conversion of one or more License to or from another License(s). Products eligible for Transition and permitted Transitions are identified in the Product List.

“Transition Period” means the time between the Transition and the next Enrollment anniversary date for which the Transition is reported.

2. Order requirements.

- a. **Minimum Order requirements.** Enrolled Affiliate’s Enterprise must have a minimum of 250 Qualified Users or Qualified Devices. The initial order must include at least 250 Licenses for Enterprise Products or Enterprise Online Services.
 - (i) **Enterprise Commitment.** If ordering any Enterprise Products, Enrolled Affiliate’s order must include coverage for all Qualified Users or Qualified Devices, depending on the License Type, of one or more Enterprise Products or a mix of Enterprise Products and the corresponding Enterprise Online Services.
 - (ii) **Enterprise Online Services.** If ordering Enterprise Online Services *only*, then Enrolled Affiliate must maintain at least 250 Subscription Licenses.
- b. **Additional Products.** Upon satisfying the minimum order requirements above, Enrolled Affiliate may order Additional Products and Services.
- c. **Product Use Rights for Enterprise Products.** For Enterprise Products, if a new Product version has more restrictive use rights than the version that is current at the start of the

applicable initial or renewal term of the Enrollment, those more restrictive use rights will not apply to Enrolled Affiliate's use of that Product during that term.

- d. Country of usage.** Enrolled Affiliate must specify the countries where Licenses will be used on its initial order and on any additional orders.
- e. Adding Products.**
- (i) Adding new Products not previously ordered.** Enrolled Affiliate may add new Enterprise Products by entering into a new Enrollment or as part of a renewal. New Enterprise Online Services may be added by contacting a Microsoft Account Manager or Reseller. New Additional Products, other than Online Services, may be used if an order is placed in the month the Product is first used. For Additional Products that are Online Services, an initial order for the Online Service is required prior to use.
 - (ii) Adding Licenses for previously ordered Products.** Additional Licenses for previously ordered Products must be included in the next true-up order. Enrolled Affiliate must purchase Services and Licenses for Online Services prior to use, unless the Online Services are (1) identified as eligible for true-up in the Product List or (2) included as part of other Licenses (e.g., Enterprise CAL).
- f. True-up requirements.**
- (i) True-up order.** Enrolled Affiliate must submit an annual true-up order that accounts for changes since the initial order or last true-up order, including: (1) any increase in Licenses, including any increase in Qualified Devices or Qualified Users and Reserved Licenses; (2) Transitions (if permitted); or (3) Subscription License quantity reductions (if permitted). Microsoft, at its discretion, may validate the customer true-up data submitted through a formal product deployment assessment using an approved Microsoft partner.
 - (ii) Enterprise Products.** Enrolled Affiliate must determine the number of Qualified Devices and Qualified Users (if ordering user-based Licenses) at the time the true-up order is placed and must order additional Licenses for all Qualified Devices and Qualified Users that are not already covered by existing Licenses, including any Enterprise Online Services.
 - (iii) Additional Products.** For Products that have been previously ordered, Enrolled Affiliate must determine the Additional Products used and order the License difference (if any).
 - (iv) Online Services.** For Online Services identified as eligible for true-up orders in the Product List, Enrolled Affiliate may first reserve the additional Licenses prior to use. Microsoft will provide a report of Reserved Licenses in excess of existing orders to Enrolled Affiliate and its Reseller. Reserved Licenses will be invoiced retroactively for the prior year based upon the month in which they were reserved.
 - (v) Transitions.** Enrolled Affiliate must report all Transitions. Transitions may result in an increase in Licenses to be included on the true-up order and a reduction of Licenses for prior orders. Reductions in Licenses will be effective at end of the Transition Period. Associated invoices will also reflect this change. For Licenses paid upfront, Microsoft will issue a credit for the remaining months of Software Assurance or Subscription Licenses that were reduced as part of the Transition.
 - (vi) True-up due date.** The true-up order must be received by Microsoft between 60 and 30 days prior to the Enrollment anniversary date. The third-year anniversary true-up order is due within 30 days prior to the Expiration Date. Enrolled Affiliate may true-up more often than at each Enrollment anniversary date except for Subscription License reductions.
 - (vii) Late true-up order.** If the true-up order is not received when due:
 - 1) Microsoft will invoice Reseller for all Reserved Licenses not previously ordered.
 - 2) Transitions and Subscription License reductions cannot be reported until the following Enrollment anniversary date (or at Enrollment renewal, as applicable).

(viii) Subscription License reductions. Enrolled Affiliate may reduce the quantity of Subscription Licenses on a prospective basis if permitted in the Product List as follows:

- 1) For Subscription Licenses part of an Enterprise-wide purchase, Licenses may be reduced if the total quantity of Licenses and Software Assurance for an applicable group meets or exceeds the quantity of Qualified Devices identified on the Product Selection Form. Step-up Licenses do not count towards this total count.
- 2) For Enterprise Online Services not a part of an Enterprise-wide purchase, Licenses can be reduced as long as the initial order minimum requirements are maintained.
- 3) For Additional Products available as Subscription Licenses, Enrolled Affiliate may reduce the Licenses. If the License count is reduced to zero, then Enrolled Affiliate's use of the applicable Subscription License will be cancelled.

Invoices will be adjusted to reflect any reductions in Subscription Licenses at the true-up order Enrollment anniversary date and effective as of such date.

(ix) Update statement. An update statement must be submitted instead of a true-up order if, as of the initial order or last true-up order, Enrolled Affiliate's Enterprise has not: (1) changed the number of Qualified Devices and Qualified Users licensed with Enterprise Products or Enterprise Online Services; and (2) increased its usage of Additional Products. This update statement must be signed by Enrolled Affiliate's authorized representative. The update statement must be received by Microsoft between 60 and 30 days prior to the Enrollment anniversary date. The last update statement is due within 30 days prior to the Expiration Date.

g. Step-up Licenses. For Licenses eligible for a step-up under this Enrollment, Enrolled Affiliate may step-up to a higher edition or suite as follows:

- (i) For step-up Licenses included on an initial order, Enrolled Affiliate may order according to the true-up process.
- (ii) If step-up Licenses are not included on an initial order, Enrolled Affiliate may step-up initially by following the process described in the Section titled "Adding new Products not previously ordered," then for additional step-up Licenses, by following the true-up order process.
- (iii) If Enrolled Affiliate has previously ordered an Online Service as an Additional Product and wants to step-up to an Enterprise Online Service eligible for a Transition, the step-up may be reported as a Transition.
- (iv) If Enrolled Affiliate Transitions a License, it may be able to further step-up the Transitioned License. If Enrolled Affiliate chooses to step-up and the step-up License is separately eligible to be Transitioned, such step-up Licenses may result in a License reduction at the Enrollment anniversary date following the step-up.

h. Clerical errors. Microsoft may correct clerical errors in this Enrollment, and any documents submitted with or under this Enrollment, by providing notice by email and a reasonable opportunity for Enrolled Affiliate to object to the correction. Clerical errors include minor mistakes, unintentional additions and omissions. This provision does not apply to material terms, such as the identity, quantity or price of a Product ordered.

3. Pricing.

a. Price Levels. For both the initial and any renewal term Enrolled Affiliate's Price Level for all Products ordered under this Enrollment will be Level "D" throughout the term of the Enrollment. Price Level's will be captured in the Product Selection Form.

b. Setting Prices. Enrolled Affiliate's prices for each Product will be established by its Reseller. As long as Enrolled Affiliate continues to qualify for the same price level, Microsoft's prices for Resellers for each Product or Service will be fixed throughout the applicable initial or renewal Enrollment term. However, if Enrolled Affiliate qualifies for a different price level, Microsoft will establish a new price level for future new orders either

upon Enrolled Affiliate's request or on its own initiative. Any changes will be based upon price level rules in the Product Selection Form.

4. *Payment terms.*

For the initial or renewal order, Enrolled Affiliate may pay upfront or elect to spread its payments over the applicable Enrollment term. If spread payments are elected, unless indicated otherwise, Microsoft will invoice Enrolled Affiliate's Reseller in three equal annual installments. The first installment will be invoiced upon Microsoft's acceptance of this Enrollment and on each Enrollment anniversary date. Subsequent orders are invoiced upon acceptance of the order and Enrolled Affiliate may elect to pay annually or upfront for Online Services and upfront for all other Licenses.

5. *Transitions.*

a. *Transition requirements.*

- (i) Licenses with active Software Assurance or Subscription Licenses may be Transitioned at any time if permitted in the Product List. Enrolled Affiliate may not, however, reduce the quantity of Licenses or associated Software Assurance prior to the end of the Transition Period.
- (ii) Enrolled Affiliate must order the Licenses to which it is transitioning for the year(s) following the Transition Period.
- (iii) If a Transition is made back to a License that had active Software Assurance as of the date of Transition, then Software Assurance must be re-ordered for all such Licenses on a prospective basis following the Transition Period. Software Assurance coverage may not exceed the quantity of perpetual Licenses for which Software Assurance was current at the time of any prior Transition. Software Assurance may not be applied to Licenses transferred by Enrolled Affiliate.
- (iv) If a device-based License is Transitioned to a user-based License, all users of the device must be licensed as part of the Transition.
- (v) If a user-based License is Transitioned to a device-based License, all devices accessed by the user must be licensed as part of the Transition.

b. *Effect of Transition on Licenses.*

- (i) Transition will not affect Enrolled Affiliate's rights in perpetual Licenses paid in full.
- (ii) New version rights will be granted for perpetual Licenses covered by Software Assurance up to the end of the Transition Period.
- (iii) For L&SA not paid in full at the end of the Transition Period, Enrolled Affiliate will have perpetual Licenses for a proportional amount equal to the amounts paid for the Transitioned Product as of the end of the Transition Period.
- (iv) For L&SA not paid in full or granted a perpetual License in accordance with the above or Subscription Licenses, all rights to Transitioned Licenses cease at the end of the Transition Period.

6. *End of Enrollment term and termination.*

- a. *General.*** At the Expiration Date, Enrolled Affiliate must immediately order and pay for Licenses for Products it has used but has not previously submitted an order, except as otherwise provided in this Enrollment.
- b. *Renewal Option.*** At the Expiration Date of the initial term, Enrolled Affiliate can renew Products by renewing the Enrollment for one additional 36 full calendar month term or signing a new Enrollment. Microsoft must receive a Product Selection Form and renewal order prior to or at the Expiration Date. The renewal term will start on the day following the Expiration Date. Microsoft will not unreasonably reject any renewal. Microsoft may

make changes to this program that will make it necessary for Customer and its Enrolled Affiliates to enter into new agreements and Enrollments at renewal.

c. If Enrolled Affiliate elects not to renew.

(i) **Software Assurance.** If Enrolled Affiliate elects not to renew Software Assurance for any Product under its Enrollment, then Enrolled Affiliate will not be permitted to order Software Assurance later without first acquiring L&SA.

(ii) **Online Services eligible for an Extended Term.** For Online Services identified as eligible for an Extended Term in the Product List, the following options are available at the end of the Enrollment initial or renewal term.

1) **Extended Term.** Licenses for Online Services will automatically expire in accordance with the terms of the Enrollment. An extended term feature that allows Online Services to continue month-to-month ("Extended Term") is available. During the Extended Term, Online Services will be invoiced monthly at the then-current published price for Enrolled Affiliate's price level as of the Expiration Date plus a 3% administrative fee for up to one year. If Enrolled Affiliate does want an Extended Term, Reseller must submit a request to Microsoft. Microsoft must receive the request not less than 30 days prior to the Expiration Date.

2) **Cancellation during Extended Term.** If Enrolled Affiliate has opted for the Extended Term and later determines not to continue with the Extended Term, Reseller must submit a notice of cancellation for each Online Service. Cancellation will be effective at the end of the month following 30 days after Microsoft has received the notice.

(iii) **Subscription Licenses and Online Services not eligible for an Extended Term.** If Enrolled Affiliate elects not to renew, the Licenses will be cancelled and will terminate as of the Expiration Date. Any associated media must be uninstalled and destroyed and Enrolled Affiliate's Enterprise must discontinue use. Microsoft may request written certification to verify compliance.

(iv) **Customer Data.** Upon expiration or termination of a License for Online Services, Microsoft will keep Customer's Data in a limited function account for 90 days so that Customer may extract it. Enrolled Affiliate will reimburse Microsoft if there are any associated costs. After 90 days Microsoft will disable Enrolled Affiliate's account and will delete its Customer Data. Enrolled Affiliate agrees that, other than as described above, Microsoft has no obligation to continue to hold, export or return Enrolled Affiliate's Customer Data and that Microsoft has no liability whatsoever for deletion of Enrolled Affiliate's Customer Data pursuant to these terms.

d. Termination for cause. Any termination for cause of this Enrollment will be subject to the "Termination for cause" section of the Agreement.

e. Early termination. Any Early termination of this Enrollment will be subject to the "Early Termination" Section of the Enterprise Agreement.

For Subscription Licenses, in the event of a breach by Microsoft, Microsoft will issue Reseller a credit for any amount paid in advance that would apply after the date of termination.

Enrollment Details

1. **Enrolled Affiliate's Enterprise.**

- a. Identify which Agency Affiliates are included in the Enterprise. (Required) Enrolled Affiliate's Enterprise must consist of entire offices, bureaus, agencies, departments or other entities of Enrolled Affiliate, not partial offices, bureaus, agencies, or departments, or other partial entities. Enrolled Affiliate's organization includes .
Check only one box in this section. If no boxes are checked, Microsoft will deem the Enterprise to include the Enrolled Affiliate only. If more than one box is checked, Microsoft will deem the Enterprise to include the largest number of Affiliates:

Enrolled Affiliate only

Enrolled Affiliate and the following Affiliate(s) (Only identify specific affiliates to be included if fewer than all Affiliates are to be included in the Enterprise):

Enrolled Affiliate and all Affiliates, with following Affiliate(s) excluded:

- b. Please indicate whether the Enrolled Affiliate's Enterprise will include all new Affiliates acquired after the start of this Enrollment: Check only one box in this section:

Enrolled Affiliate's Enterprise will include all new Affiliates acquired after the start of this Enrollment

Enrolled Affiliate's Enterprise will **not** include all new Affiliates acquired after the start of this Enrollment

If no selection is made, or if both boxes are checked, Microsoft will deem the Enterprise to include all future Affiliates

2. **Contact information.**

Each party will notify the other in writing if any of the information in the following contact information page(s) changes. The asterisks (*) indicate required fields. By providing contact information, Enrolled Affiliate consents to its use for purposes of administering this Enrollment by Microsoft, its Affiliates, and other parties that help administer this Enrollment. The personal information provided in connection with this Enrollment will be used and protected in accordance with the privacy statement available at <https://www.microsoft.com/licensing/servicecenter>.

- a. **Primary contact.** This contact is the primary contact for the Enrollment from within Enrolled Affiliate's Enterprise. This contact is also an Online Administrator for the Volume Licensing Service Center and may grant online access to others. The primary contact will be the default contact for all purposes unless separate contacts are identified for specific purposes

Name of entity (must be legal entity name)* City of Rowlett

Contact name* Joe Beauchamp

Contact email address* IT@rowlettx.gov

Street address* 4000 Main Street

City* Rowlett
State* Texas
Postal code* 75088
Country* USA
Phone* 912-412-6100
Tax ID 75-1233986

** indicates required fields*

- b. Notices contact and Online Administrator.** This contact (1) receives the contractual notices, (2) is the Online Administrator for the Volume Licensing Service Center and may grant online access to others, and (3) is authorized for applicable Online Services to add or reassign Licenses, step-up, and initiate Transitions prior to a true-up order.

Same as primary contact (default if no information is provided below, even if the box is not checked).

Contact name*
Contact email address*
Street address*
City*
State/Province*
Postal code*
Country*
Phone*
Language preference. English

This contact is a third party (not the Enrolled Affiliate). Warning: This contact receives personally identifiable information of the Customer and its Affiliates.

** indicates required fields*

- c. Online Services Manager.** This contact is authorized to manage the Online Services ordered under the Enrollment and (for applicable Online Services) to add or reassign Licenses, step-up, and initiate Transitions prior to a true-up order.

Same as notices contact and Online Administrator (default if no information is provided below, even if box is not checked)

Contact name*:
Contact email address*
Phone*

This contact is from a third party organization (not the entity). Warning: This contact receives personally identifiable information of the entity.

** indicates required fields*

- d. Reseller information.** Reseller contact for this Enrollment is:

Reseller company name* SHI International Corp
Street address (PO boxes will not be accepted)* 290 Davidson Ave
City* Somerset
State/Province* NJ
Postal code* 08873
Country* USA
Contact name*
Phone* 888 764 8888
Contact email address*

** indicates required fields*

By signing below, the Reseller identified above confirms that all information provided in this Enrollment is correct.

Signature* _____ Printed name* Printed title* Date*
--

** indicates required fields*

Changing a Reseller. If Microsoft or the Reseller chooses to discontinue doing business with each other, Enrolled Affiliate must choose a replacement Reseller. If Enrolled Affiliate or the Reseller intends to terminate their relationship, the initiating party must notify Microsoft and the other party using a form provided by Microsoft at least 90 days prior to the date on which the change is to take effect.

- e. If Enrolled Affiliate requires a separate contact for any of the following, attach the Supplemental Contact Information form. *Otherwise, the notices contact and Online Administrator remains the default.*
- (i) Additional notices contact
 - (ii) Software Assurance manager
 - (iii) Subscriptions manager
 - (iv) Customer Support Manager (CSM) contact

3. Financing elections.

Is a purchase under this Enrollment being financed through MS Financing? No

If a purchase under this Enrollment is financed through MS Financing, and Enrolled Affiliate chooses not to finance any associated taxes, it must pay these taxes directly to Microsoft Licensing, GP.



City of Rowlett
Staff Report

4000 Main Street
P.O. Box 99
Rowlett, TX 75080-0099
www.rowlett.com

AGENDA DATE: 10/07/14

AGENDA ITEM: 8A

TITLE

Consider action to approve a resolution to enter into an Economic Development Program Agreement with Millennium Road Holdings, LLC for property located at 3913, 4011-4025 Main Street and authorize the Mayor to execute the necessary documents.

STAFF REPRESENTATIVE

Jim Grabenhorst, Director of Economic Development

SUMMARY

The Economic Development Program Agreement (Exhibit A) between the Rowlett Chamber Foundation and Millennium Road Holdings LLC for this City-owned property in Downtown will allow for the development of these vacant properties to become multiple new restaurant concepts, which as part of the City's Strategic Downtown Plan will help catalyze Main Street while providing additional unique dining opportunities for Rowlett residents and the surrounding areas.

BACKGROUND INFORMATION

Downtown Rowlett has been a focus of City development efforts as a way to create a vibrant community core while leveraging the City's commitment nearly 30 years ago to bring public transportation (DART) to Rowlett. Several City facilities (City Hall campus, Library, Development Services, Public Works & Utilities and the Animal Shelter) all reside within the current Downtown boundaries. In addition to the commitment of public transit (DART), the community has invested in several infrastructure improvement projects over the last ten years to prepare Downtown for future development.

In 2010, the City embarked on Realize Rowlett 2020. Realize Rowlett 2020 is the City's Comprehensive Plan that guides decisions on all development. Phase I served to update the comprehensive plan and was adopted by City Council on September 11, 2011. Phase II was about implementing the vision and led to the adoption of new zoning regulations in four key areas on November 6, 2012, to ensure the vision was realized for these areas. Downtown was one of the initial key areas and in addition to the new zoning regulations, a formal Strategic Downtown Plan was also adopted at that time. On May 20, 2014, the City announced the Village of Rowlett project, a \$30 million project that will introduce a range of urban densities within five modern housing concepts, local retail and commercial destinations, high quality pedestrian amenities and a unique vibe.

DISCUSSION

A key component and action item from the Downtown Strategic Plan and incorporated in the overall Economic Development Strategic Plan is the use of key City-owned properties to catalyze development within Downtown.

Since the adoption of the Strategic Downtown Plan and new zoning regulations, the City has actively marketed Downtown Rowlett opportunities and has received interest from several development entities interested in pursuing catalyst projects on City-owned properties. To that end, the City has worked with Serge and Jennifer Faucon, entrepreneurs and business owners in Rowlett with a passion in the restaurant industry focused on renovating and activating existing properties in Downtown Rowlett. As they have done with the former Big Star property, they will transform the 3913, 4011-4025 Main Street property (Attachment 1) from a vacant City-owned property to a unique dining and entertainment venue. This property is currently vacant and as a result of the recent North Central Texas Council of Governments (NCTCOG) grant, two development parcels were created and centered on a pedestrian plaza with urban amenities.

Through the Economic Development Program Agreement, the City, in partnership with the Rowlett Chamber Foundation, will transfer ownership of the property to Millennium Road Holdings LLC who will develop and bring life to this property. Their restaurant concepts will include a French bakery/café concept with outdoor seating, and two additional restaurant concepts with outside dining for a total of approximately 12,500 square feet of unique commercial space added to Rowlett's Downtown Main Street.

The Economic Development Program Agreement provides for the City to receive fair market value for the property as to be determined by a certified appraisal and Millennium Road Holdings LLC will be required to develop, construct and open their French bakery/café restaurant concept within 12 months of taking title to the property. The other two restaurant concepts are required to be developed, constructed and opened within 24 months of taking title to the property. Through the Economic Development Program Agreement, the City will provide a 380 grant in the amount of the certified appraised value of the property to Millennium Road Holdings LLC upon their private investment of no less than \$850,000 in improvements of the property and the continuous operation of the restaurants for one year after completion of construction. In addition, the Economic Development Program Agreement contains a recapture provision in the event that Millennium Road Holdings LLC fails to meet the performance criteria, which would give the City the option to take title to the property.

FINANCIAL/BUDGET IMPLICATIONS

Based upon the above terms of the Economic Development Program Agreement, the budget impact is zero (\$0) should Millennium Road Holdings LLC meet the performance criteria and qualify for the 380 grant. In regards to fiscal impact, the project, when fully developed, will create an estimated 50-70 service jobs and generate additional tax revenue to the City in excess of \$50,000 annually through property and sales tax revenue. As stated earlier, this project will create and build on the catalytic efforts to utilize City-owned property that currently doesn't generate sales or property tax revenue within our Downtown district.

RECOMMENDED ACTION

Staff recommends Council move to approve a resolution to enter into an Economic Development Program Agreement for property located at 3913, 4011-4025 Main Street and authorize the Mayor to execute the necessary documents.

RESOLUTION

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ROWLETT, TEXAS, APPROVING AN ECONOMIC DEVELOPMENT PROGRAM AGREEMENT FOR CITY-OWNED PROPERTY LOCATED AT 3913, 4011-4025 MAIN STREET AND AUTHORIZING THE MAYOR TO EXECUTE THE NECESSARY DOCUMENTS; AND, PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City has adopted a vision for the redevelopment and economic revitalization of its central downtown area (the “District”) and has established and implemented a broad program to achieve this goal, which includes a revision of its comprehensive plan, the adoption of form-based codes to encourage development in accordance with New Urbanism principles, the opening of a light rail station by Dallas Area Rapid Transit (DART), the use of state grant funding for infrastructure and public amenity improvements, and the legislative creation of a municipal management district; and

WHEREAS, the City Council of the City of Rowlett, Texas has been presented a proposed Economic Development Program Agreement with the Rowlett Chamber Foundation and Millennium Road Holdings LLC for City-owned property located at 3913, 4011-4025 Main Street, and

WHEREAS, upon full review and consideration of the Agreement, and all matters related thereto, the City Council is of the opinion and finds that the terms and conditions thereof should be approved, and that the Mayor should be authorized to execute said Economic Development Program Agreement on behalf of the City of Rowlett, Texas.

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

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

Section 2: That the Mayor be and is hereby authorized to execute the necessary documents conforming to this resolution and any necessary and appropriate documents and instruments in accordance with the Agreement.

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

ATTACHMENTS

Exhibit A – Economic Development Program Agreement

Attachment 1 – 3913, 4011-4025 Main Street property layout

STATE OF TEXAS §
 §
 COUNTY OF DALLAS §

ECONOMIC DEVELOPMENT PROGRAM AGREEMENT

This Economic Development Program Agreement (this “Agreement”) is entered into on the Effective Date between the City of Rowlett, Texas (the “City”), the Rowlett Chamber Foundation, (the “Foundation”), and Millennium Road Holdings, LLC, (the “Developer”), each acting by and through its duly authorized representatives.

RECITALS

WHEREAS, the City has adopted a vision for the redevelopment and economic revitalization of its central downtown area (the “District”) and has established and implemented a broad program to achieve this goal, which includes a revision of its comprehensive plan, the adoption of form-based codes to encourage development in accordance with New Urbanism principles, the opening of a light rail station by Dallas Area Rapid Transit (DART), the use of state grant funding for infrastructure and public amenity improvements, and the legislative creation of a municipal management district; and

WHEREAS, the Foundation is an independent non-profit foundation that seeks to encourage local economic development and the attraction and the expansion of existing and new businesses, which will benefit local entrepreneurs and businesses and will promote the general welfare and prosperity of the City; and

WHEREAS, the Developer desires to acquire a site in the City’s downtown district to establish, build and operate a restaurant facility; and

WHEREAS, the City owns land generally situated at 3913 and 4011-4025 Main Street (the “Property”), and which is more specifically described in Exhibit “A,” attached hereto and by this reference incorporated herein, that the Developer seeks to acquire in order to develop the land and into multiple restaurant facilities consisting of approximately 12,500 square feet as shown in approximation in the Concept Plan attached hereto and incorporated herein as Exhibit “C” (the “Project”); and

WHEREAS, the City, by this Agreement, intends to sell and convey the Property to the Foundation at the Property’s fair market value as established by an appraisal, and the Foundation, in turn, intends to convey the Property to Developer at an equivalent price; and

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

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

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

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

ARTICLE 1 Certain Definitions

"Completion of Construction" shall mean the date upon which a final certificate of occupancy is issued for the Project.

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

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

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

"Project" means the design, installation, and construction of multiple proposed restaurant facilities of approximately 12,500 square feet, to be situated on the Property as shown in approximation in the Concept Plan attached hereto and incorporated herein as Exhibit "C."

ARTICLE 2 Terms and Conditions of Sale of Property

2.1 The Closing Date for the conveyance of the Property shall be the ninetieth (90th) day of and from the Effective Date. If the 90th day falls on a weekend or holiday, the Closing Date shall be the next ensuing day that is not a weekend or holiday.

The Title Company shall be:

American Title Company of East Texas
4702 Rowlett Road, Suite 100
Rowlett, Texas 75088
ATTN: Terry Shibler
(972) 475-0508
(972) 475-2983 (Facsimile)

The Purchase Price (hereinafter "Purchase Price") of the Property (as between the City and the Foundation, and as between the Foundation and Developer) shall be the amount set forth in an appraisal to be conducted by the City. All parties stipulate to the Property's fair market value based on an appraisal prepared and disclosed by the City to all parties.

2.2 The Property. The Property shall be sold and conveyed by the City to the Foundation on the Closing Date set forth hereinafter for the Purchase Price, which shall be paid at closing and which all parties stipulate to be the Property's fair market value based on an appraisal prepared and disclosed by the City to all parties. The Foundation shall sell and convey the Property to Developer at closing for an equivalent purchase price, which shall be paid at closing. The Property is generally described as 3913 & 4011-4025 Main Street, and is more specifically described in Exhibit "A," attached hereto and incorporated herein. The legal description may be substituted by actual survey when completed, as called for herein or by the subdivided lot description. The Property, and the conveyance thereof to the Foundation and to the Developer, shall consist of all of the City's rights to the Property, and shall include all buildings, structures, fixtures or other improvements located on the Property, save and except any right, title and interest of the City and the public in and to all utility, drainage and public easements and any rights or interest in or to streets, roads, alleys, and rights-of-way. No additional restrictions, limitations, easements, liens or conditions shall be added by the Foundation in its transfer of the Property to Developer other than those that are contained in the City's conveyance to the Foundation, and the Deed of Trust conditions described hereinafter.

2.3 Inspection Period.

a) The Developer shall have sixty (60) days of and from the Effective Date to inspect the Property and to conduct such title inspections, investigation or research that it may deem suitable. Among the factors to be considered by Developer are the availability of utilities, the necessity for subdividing or obtaining site plan approvals for the Property, access to and from the Property, soil and subsoil conditions, drainage, environmental conditions and the economic feasibility of development of the Property. The Developer and its agents shall have the right of access to the Property prior to the Closing Date for the purpose of conducting such investigations and inspections. The City agrees to cooperate in connection with the investigation and inspection of the Property, and agrees to furnish Developer, on Developer's request, copies of any and all surveys, environmental and engineering studies, and other documents in the City's possession or control relating to the Property on or before the fifteenth (15th) day after the Effective Date. The City and the Developer may mutually agree to such extensions of the

inspection period set forth herein as may be necessary or appropriate to enable the Developer to conduct and complete its due diligence, but such extensions shall not exceed the Closing Date set forth herein.

b) If Developer determines, in Developer's sole judgment and discretion, that the Property is not suitable for its intended use, the Developer shall give the City, the Foundation and the Title Company written notice thereof on or before 5:00 p.m. on the last day of the Inspection Period. Upon receipt of such written notice, all parties shall be released from all further obligations under this Agreement and this Agreement shall automatically terminate without further action or notice. If Developer does not send such written notice to the City, the Foundation and the Title Company, then it shall be assumed that the Property is suitable for Developer's intended use.

2.4 Title Commitment and Survey.

a) Title Commitment. Within twenty (20) days after the Effective Date, the Title Company shall deliver to Developer a commitment for an owner's policy of title insurance ("Title Commitment") in the amount of the purchase price. The Title Commitment shall set forth the status of the title of the Property and show all liens, claims, encumbrances, easements, proposed rights-of-way, rights-of-way, encroachments, reservations, restrictions and any other matters of existing record affecting the Property. The Foundation shall cause the Title Company to deliver to Developer at the Developer's sole cost and expense (i) a true, complete and legible copy of all documents referred to in the Title Commitment, including, but not limited to, deeds, lien instruments, plats, reservations, restrictions and easements ("Title Documents"); and (ii) the results of UCC financing statement searches of the records of Dallas County, Texas, and the Texas Secretary of State (or other similar entity) (the "UCC Searches"). The City shall reimburse, and shall indemnify and hold harmless the Foundation from and against any and all costs and expenses incurred by the Foundation in procuring the Title Commitment and performing its obligations under this section.

b) Survey. Within twenty (20) days after the Effective Date, the Developer may cause to be completed an updated land title survey ("Survey") of the Property prepared by a registered public land surveyor acceptable to Developer, the City. The Survey shall include: (i) the actual boundaries and dimensions of, and area within, the Property; (ii) a metes-and-bounds field note legal description of the Property; (iii) the location of any easements, set-back lines, encroachments, overlaps, roadways including the proposed rights-of-way, paving, and waterways, including volume and page references, if applicable; (iv) the outside boundaries and dimensions of all improvements; and (v) information sufficient to cause the Title Company to delete the printed exception for "discrepancies, conflicts or shortages in area or boundary lines, or encroachments, or any overlapping of improvements" in the Owner's Title Policy. For purposes of the property description to be included in the Special Warranty Deed to be delivered to Developer, any field notes prepared by the surveyor shall control any conflicts or inconsistencies with the description contained or referred to in this subsection, and such field notes shall be incorporated into this Agreement upon their completion and approval by Developer and Title Company. The Developer may waive the survey required under this subsection if an existing survey of the Property exists that is satisfactory to the parties.

c) Review of Title Survey. Developer shall have ten (10) days from Developer's receipt of the last of the Title Commitment, Title Documents, UCC Searches and Survey in which to examine those documents and to specify to the City and Foundation those items reflected thereon which Developer will accept as permitted exceptions to title ("Permitted Exceptions"), and those items which Developer finds objectionable ("Title Objections"). Notwithstanding, current zoning, liens for current taxes, the severance and retention of the mineral estate, and the environmental condition of the Property shall be deemed to be Permitted Exceptions. Within ten (10) days after Developer's written notice of Title Objections, the City shall correct or remove the Title Objections, and the Foundation deliver an amended Title Commitment reflecting the correction or deletion of such matters. The Title Commitment shall be updated from time to time and shall reveal no other exceptions to title than the Permitted Exceptions. The City and Foundation covenant and agree not to cause or permit any documents to be filed of record affecting title to the Property after the Effective Date without Developer's prior written consent, save and except the Deed of Trust described hereinafter.

d) Uncorrected Title Objections. If the Title Objections are not corrected or deleted to Developer's satisfaction within ten (10) days after Developer's written notice of Title Objections, then Developer may either:

- (1) Terminate this Contract by written notice to the City, the Foundation and the Title Company, in which event all parties shall be released from all further obligations under this Agreement (save and except the City's obligation to reimburse the Foundation for its costs and expense); or
- (2) Waive all or any of the Title Objections and close the transaction with no reduction in the Purchase Price.

e) As Is, Where Is. Developer represents that as of the Closing Date, Developer will have fully inspected the Property, will have made all investigations as it deems necessary or appropriate and will be relying solely upon its inspection and investigation of the Property for all purposes whatsoever, including, but not limited to: the determination of the condition of the structures, improvements, soils, subsurface, drainage, surface and groundwater quality, the existence or absence of hazardous materials, and all other physical characteristics; availability and adequacy of utilities; compliance with governmental laws and regulations; access; encroachments; acreage and other survey matters and the character and suitability of the Property. In addition, Developer acknowledges and agrees that the Property is being purchased and will be conveyed "AS IS" and "WHERE IS" with all faults and defects, whether patent or latent, as of the Closing. There have been no representations, warranties, guarantees, statements or information, express or implied, pertaining to the Property, its condition, or any other matters whatsoever, made to or furnished to Developer by the City or the Foundation or any employee or agent of either, except as specifically set forth in this Agreement.

2.5 Closing.

a) Closing. The Closing of the sale of the Property by the City to the Foundation and by the Foundation to the Developer shall occur on the Closing Date unless changed by mutual agreement of the parties. The Closing shall occur in the offices of the Title Company or at such other location as is reasonably acceptable to the parties.

b) Seller's Obligations at Closing. At the Closing, the City, acting as the Seller to the Foundation, and the Foundation, acting as Seller to Developer, at the City's sole cost and expense, shall deliver, or cause to be delivered, to the Purchaser the following:

- (1) Special Warranty Deed. The party acting as Seller shall execute and deliver to the Title Company for recording a Special Warranty Deed in the form attached hereto as Exhibit "B," fully executed and acknowledged by the party acting as Seller, conveying and transferring all rights, title and interest held by the Seller and fee simple title to the Land, appurtenances and improvements, subject to the Reservations from and Exceptions to Conveyance and Warranty described in Exhibit "B," to the party acting as Purchaser, subject to the Permitted Exceptions.
- (2) Owner's Title Policy. The Foundation shall cause the Title Company to issue and deliver to the Developer an owner's policy of title insurance ("Owner's Title Policy") in the amount of the Purchase Price and insuring that Developer is owner of the Property, subject only to any Permitted Exceptions, and the standard printed exceptions included in a Texas Standard Form Owner's Policy of Title Insurance; provided, however, at the Developer's sole cost and expense, the exceptions for rights of parties in possession, rights of tenants in possession, and visible and apparent easements shall be deleted; and the standard exception relating to discrepancies, conflicts or shortages in area shall be deleted.
- (3) Other Instruments. The party acting as Seller shall execute and deliver such other documents as are customarily executed in the city, county and state in which the Property is located in connection with the conveyance of real property, including all required closing statements, releases, affidavits, evidences of authority to execute the documents and any other instruments that may reasonably be required by the Title Company.
- (4) Possession. The party acting as Seller shall deliver possession of the Property to the party acting as Purchaser, free and clear of all persons or tenants in possession.
- (5) Foreign Investment in Real Property Tax Act Requirements. The parties agree to comply with all requirements of the Foreign Investment In Real Property Tax Act, as amended, and applicable IRS Regulations ("FIRPTA"). This requirement includes the delivery of a Certificate at Closing verifying that the party acting as Seller is not a foreign person. If the party acting as Seller is a foreign person or if the party acting as Seller fails to deliver the required Certificate, the party acting as Seller acknowledges that a portion of the Purchase Price that would otherwise be paid to the party acting as Seller at the Closing must be withheld in order to

comply with the FIRPTA requirements. The amount required to be withheld shall be paid to a mutually acceptable third party escrow agent for delivery to the Internal Revenue Service, along with the appropriate FIRPTA reporting forms, copies of which shall be provided to the party acting as Seller and the party acting as Purchaser.

c) Purchaser's Obligations at Closing.

- (1) Conditions for Closing. The Developer shall not be obligated to close this transaction until all of the requirements and conditions for the Closing set forth in this Agreement have been performed. In the event that the Developer fails to close this transaction for any reason, including but not limited to the reasons set forth in this section, the sale and conveyance of the Property by the City to the Foundation, and all requirements incident to the conveyance of the Property to the Foundation, save and except the City's obligation for cost reimbursement to the Foundation, shall automatically terminate and the no right, title or interest in or to the Property shall transfer to the Foundation.
- (2) Payment of Purchase Price. At the Closing, the Developer shall pay to the Foundation the Purchase Price in cash, and the Foundation shall pay the City the Purchase Price in cash, subject to any adjustments for prorations and other credits provided for in this Agreement.
- (3) Municipal Management District. The Area surrounding the Property is subject to a municipal management district entitled the "Rowlett Downtown Management District" created pursuant to Chapter 3894, Texas Special District Local Laws Code. The Developer, at closing, shall provide the City with an irrevocable letter of consent approving and authorizing the inclusion of the Property into the boundaries and territory of the District in accordance with Sec. 3894.109, Texas Special District Local Laws Code.
- (4) Other Instruments. The party acting as Purchaser shall execute and deliver such other documents as are customarily executed in the city, county, and state in which the Property is located in connection with the purchase of real property, including all required closing statements, affidavits, evidences of authority to execute the documents and any other instruments that may be reasonably required by the Title Company.

d) Prorations. All ad valorem taxes relating to the Property for the year of the Closing shall be prorated as of the date of Closing. Likewise, any other amounts normally prorated between sellers and purchasers, such as rents and utility bills, if any, shall be prorated between the parties as of the date of Closing. The City is a tax exempt entity; the Developer shall be responsible for any and all prorated taxes associated with the Property commencing of and from the Closing Date. The Developer shall indemnify, defend and hold harmless the City and the Foundation of and from any and all ad valorem taxes, penalties, interests fees and charges that may arise or accrue of and from the date of Closing.

- e) Closing Costs. The parties each agree to pay the following costs at the Closing:
- (1) Paid By City. The City agrees to pay the cost of preparing the Special Warranty Deeds, and any costs or expenses incurred by the Foundation.
 - (2) Paid By Developer. The Developer agrees to pay the recording fees for the Deeds; the premium for the Owner's Title Policy and the additional premium charged for the "survey deletion;" the cost of the UCC searches; the cost of the commissions; the cost of preparing and recording any releases and other documents necessary to convey the Property in accordance with this Agreement; and any other similar closing costs customarily paid by a purchaser of real property, including those that may be incurred by the Foundation.
- f) Representations of Parties. The parties warrant and represent as follows:
- (1) Seller's Authority. The person signing this Agreement on behalf of the party acting as Seller has the full right, power, and authority to enter into this Agreement as Seller, and to carry out its obligations, including the conveyance of the Property to the party acting as Purchaser as provided in this Agreement, without the joinder of any other person.
 - (2) Title. The City has good and indefeasible fee simple title to the Property, free and clear of any liens, encumbrances or adverse claims.
 - (3) Parties In Possession. There are no parties in possession of the Property. There are no leases (written or oral) or agreements relating to the use or possession of the Property.
 - (4) Compliance With Regulations. The City has not received any written notice that the Property violates any restrictive covenant, or any city, county, state or federal regulation, ordinance or statute.
 - (5) Access. The Property has access to and from a publicly dedicated street or road, and to the best of the City's current actual knowledge there is no pending or threatened action that would result in the termination or impairment of such access.
 - (6) Mechanic's Liens. There are no and will not be at Closing any unpaid bills for labor or materials furnished to any Seller in connection with the Property that could cause a mechanic's or materialmen's lien to be filed against the Property.
 - (7) Development Approvals. Neither the City nor the Foundation warrant or represent that current development regulations are appropriate for the Developer's intended use. Neither the City nor the Foundation warrant or represent that any

development application will be approved absent full compliance with all applicable ordinances, codes and regulations. The Developer acknowledges and represents that no official, agent, employee or representative of the City or the Foundation has made any representations of any kind to the Developer or its broker or any of its agents, employees or representatives regarding any matter in any way relating to zoning, platting, subdivisions, site plan review, building and/or construction codes, or any other ordinance, code or regulation of the City pertaining to property development or use.

The warranties and representations in this section shall also be deemed made as of the Closing, and shall survive the Closing and not be merged therein.

g) Hazardous Materials. The City represents and warrants that it has received no written notice, and has no actual knowledge, of the existence of any Hazardous Materials in, on, under, or around the Property, nor of any violation of Environmental Law. The Developer shall be solely responsible for compliance with Environmental Laws and for remediation of any Hazardous Materials in accordance with Environmental Laws and other applicable laws. **DEVELOPER SHALL INDEMNIFY, DEFEND AND HOLD THE CITY AND THE FOUNDATION HARMLESS FROM AND AGAINST ALL LOSS, LIABILITIES, DAMAGES, CLAIMS, COSTS AND EXPENSES (INCLUDING REASONABLE COSTS OF DEFENSE) ARISING OUT OF OR ASSOCIATED, IN ANY WAY, WITH NON-COMPLIANCE WITH ENVIRONMENTAL LAWS, OR THE EXISTENCE OF HAZARDOUS MATERIALS IN, ON, OR ABOUT THE PROPERTY, OR A BREACH OF ANY REPRESENTATION, WARRANTY OR COVENANT CONTAINED IN THIS SECTION, WHETHER BASED IN CONTRACT, TORT, IMPLIED OR EXPRESS WARRANTY, STRICT LIABILITY, CRIMINAL OR CIVIL STATUTE OR COMMON LAW, INCLUDING THOSE ARISING FROM THE JOINT, CONCURRENT, OR COMPARATIVE NEGLIGENCE OF THE CITY OR THE FOUNDATION; HOWEVER, THE DEVELOPER SHALL NOT BE LIABLE UNDER SUCH INDEMNIFICATION TO THE EXTENT SUCH LOSS, LIABILITY, DAMAGE, CLAIM, COST OR EXPENSE RESULTS SOLELY FROM THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF THE CITY OR THE FOUNDATION.** Environmental Laws mean all federal, state or local laws, statutes, common law duties, rules, regulations, ordinances and codes, together with all administrative orders, directed duties, licenses, authorizations and permits of, and agreements with, any governmental authority, in each case relating to environmental, health, safety and land use matters. This indemnity shall survive the conveyance of the Property to the Developer.

2.6 City's Indemnification of Foundation. It is the expectation and agreement of the City and the Foundation that the City shall be responsible for and shall pay all costs and expenses that might otherwise be incurred or paid by the Foundation. The City shall reimburse the Foundation, and shall hold harmless and indemnify the Foundation, from and against all costs, expenses, claims, liabilities and losses arising from the Foundation's participation in this Agreement, save and except any costs, expenses, claims, liabilities and losses arising from the Foundation's gross negligence or willful misconduct. Any rights, claims, demands or causes of action that may be asserted by the Foundation to or against the Developer shall be and are hereby

subrogated in favor of and assigned to the City, and the City may assert any or all such claims against the Developer at the City's sole discretion.

2.7 Developer's Default. In the event that the Developer fails to close the transaction for any reason, or in any event in which the Developer fails to or is unable to assume ownership of the Property, any right, title or interest in or to the Property that may be held or otherwise acquired by the Foundation shall automatically terminate and revert back to the City. On and after Closing, the Foundation shall not interfere with nor take any action that might in any way impair or adversely affect any exercise by the City of any of its rights arising under the Deed of Trust or under this Agreement.

ARTICLE 3 Economic Development Grant

3.1 Grant. Subject to the terms, covenants and conditions of this Agreement, the City will make economic development grants to Developer from lawfully available funds in the full amount of the Purchase Price, to defray a portion of the costs of the necessary costs of design, construction, renovation and installation of infrastructure, buildings and facilities for the Project. The Grant shall be paid by the City one (1) year after Completion of Construction payable from any source of funds lawfully available to the City.

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

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

ARTICLE 4 Performance Obligations

4.1 Performance Criteria. The obligation of the City to make Grant payments in accordance with the foregoing, and the obligations assumed by Developer as conditions precedent and subsequent to the receipt of said Grant funds (or entitlements to fee waivers, are subject to the following:

a) Developer shall diligently pursue the development of the Project and shall achieve Completion of Construction of the first restaurant facility within one year of the Closing Date and the remaining restaurant facilities within two years from the Closing Date set forth in Article 2 of this Agreement, subject to events of Force Majeure. Developer shall apply for all permits required by applicable laws promptly following (i) execution of this Agreement and (ii) final

approval of the Project and any required site, landscape and façade plans, and shall commence construction, renovation and improvement of new and existing structures, facilities and equipment diligently after permit approval.

b) Developer shall have expended not less than \$850,000 for the design, installation, and construction of site infrastructure and buildings.

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

d) The Project shall not be used for any other purpose other than a retail establishment for the sale and on-site consumption of food and beverages, and shall operate as such continuously.

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

ARTICLE 5

Events of Default; Events of Termination; Recapture

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

- a) by mutual written agreement of the City and Developer;
- b) by the City or Developer, respectively, if the other party defaults or breaches any of the terms or conditions of this Agreement and such default or breach is not cured within thirty (30) days after written notice thereof by the non-breaching party;
- c) by the City if any taxes, fees or charges owed to the City, the County of Dallas, or the State of Texas by Developer or an approved assignee shall have become delinquent (provided, however, Developer retains the right to timely and properly protest and contest such taxes or fees);
- d) by the City if Developer or an approved assignee suffers an Event of Bankruptcy or Insolvency;
- e) by the City or by Developer, respectively, if any subsequent federal or state legislation or any decision of a court of competent jurisdiction declares or renders this Agreement invalid or illegal; or
- f) by the City if insufficient funding is available in any future fiscal year to provide the Grant contemplated herein; provided, however, that termination under this subsection shall

not affect the validity or extent of the conveyance of the Property to the Developer. In such event, the City shall give Developer not less than thirty (30) days notice of its intent to terminate.

5.2 Recapture. In the event that this Agreement is terminated as to any party prior to payment of the Grant, the obligation of the City to fund said Grant (or any remaining portion thereof) shall cease immediately. In the event that this Agreement is terminated by the City based upon Developer's or an approved assignee's failure to meet the Performance Obligations of this Article, the City shall have no obligation to fund the Grant; if all or any portion of the Grant has been paid to Developer (or fees have been waived), then Developer or its assignee shall, immediately upon notice, refund all amounts previously paid.

5.3 Option to Purchase on Default:

(a) The sale and transfer of the Property, and the Developer's ownership, occupancy and use of the Property, is subject to the Performance Criteria set forth in Article 4. In the event that the Performance Criteria, or any one of them, is not met, the City shall give the Developer written notice thereof. The Developer shall have thirty (30) days to correct such default or, if correction is not possible within 30 days, to commence correction within 30 days and diligently pursue correction to completion. In the event of Developer's failure to cure default, the City shall have the option to purchase and reacquire ownership the Property upon payment to Developer of the costs incurred by Developer in making improvements to the Property. Such costs shall consist solely of direct expenditures for permanent improvements installed or constructed on the Property and shall not include costs associated with furniture, removable items, planning, design or legal expenses.

(b) Upon notice to Developer of the City's intent to exercise the option, Developer shall, within thirty days thereafter, provide the City with sufficient documentation to establish Developer's expenditure of allowable costs. The City shall, within thirty (30) days after its approval of the costs, submit that amount to Developer and Developer shall immediately execute such deeds and instruments as may be required by the City to convey fee simple title to the City, free and clear of liens and encumbrances. The City may, at its option, withhold a portion of the payment to Developer in an amount sufficient to satisfy any or all liens or encumbrances on the Property. If the amount of the payment to Developer is insufficient to discharge all liens and encumbrances, Developer shall remit the difference directly to the lienholder or to the City, at the City's option.

ARTICLE 6
Covenants, Representations, and Warranties

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

6.2 Existence; Authority.

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

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

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

ARTICLE 7

Miscellaneous

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

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

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

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

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

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

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

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

If intended for City, to:

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

With a copy to:

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

If intended for the Foundation, to:

Rowlett Chamber Foundation
c/o Rowlett Chamber of Commerce
3910 Main Street
Rowlett, Texas 75088
ATTN: Diane Lemmons

If intended for Developer, to:

Millennium Road Holdings, LLC
Attn: Serge Faucon
P.O. Box 327
Rowlett, TX 75030

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

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

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

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

EXECUTED in single or multiple originals.

CITY OF ROWLETT, TEXAS
A Texas municipality

By: _____
Todd W. Gottel, Mayor

Date: _____

ATTEST:

By: _____
Laura Hallmark, City Secretary

ROWLETT CHAMBER FOUNDATION, a Texas
non-profit corporation and independent foundation

By: _____
_____, Chairman, Board of Directors

Date: _____

MILLENNIUM ROAD HOLDINGS, LLC
A Texas Limited Liability Corporation

By _____
_____, Its _____

Date: _____

ACKNOWLEDGEMENTS

STATE OF TEXAS §
COUNTY OF DALLAS §

This instrument was acknowledged before me on the ____ day of _____, 20__, by Todd W. Gottel, Mayor of the City of Rowlett, Texas, on behalf of and as the act and deed of the City of Rowlett, Texas.

My Commission Expires: _____ Notary Public, State of Texas

STATE OF TEXAS §
COUNTY OF DALLAS §

This instrument was acknowledged before me on the ____ day of _____, 20__, by _____, Chairman of the Board of Directors, Rowlett Chamber Foundation, on behalf of and as the act and deed of the Rowlett Chamber Foundation.

My Commission Expires: _____ Notary Public, State of Texas

STATE OF TEXAS §
COUNTY OF DALLAS §

This instrument was acknowledged before me on the ____ day of _____, 20__, by _____, the _____ of Millennium Road Holdings, LLC, on behalf of and as the act and deed of Millennium Road Holdings, LLC.

My Commission Expires: _____ Notary Public, State of Texas

EXHIBIT A
Property Description

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**EXHIBIT B
Special Warranty Deed Form**

NOTICE OF CONFIDENTIALITY RIGHTS:

IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

**STATE OF TEXAS §
 § SPECIAL WARRANTY DEED
COUNTY OF DALLAS §**

Date: _____

Grantor: _____

Grantor's Mailing Address: _____

Grantee: _____

Grantee's Mailing Address: _____

Consideration: TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable consideration

Property (including any improvements): Being the land more particularly described in Exhibit "A" attached hereto and incorporated herein.

Reservations from and Exceptions to Conveyance and Warranty:

1. Rights of the public to any portion of the above described property lying within the boundaries of dedicated or existing roadways or which may be used for road or street purposes.
2. Visible and apparent easements and all recorded easements over or across subject property.
3. Any and all licenses, easements, restrictions, covenants, conditions and reservations of record, if any, applicable to the herein conveyed property or any part thereof.
4. Rights, title or interest in or to the Option to Repurchase on Default contained in Section 5.3 of the Economic Development Program Agreement between the City of Rowlett, Texas, the Rowlett Chamber Foundation, and Millennium Road Holdings, LLC, the Developer referred to in said Agreement.

5. All of the mineral estate, including but not limited to the oil, gas, minerals, lignite and water rights in, under and that may be produced from the subject property, together with the right of ingress and egress at all times for the purpose of mining, drilling and exploring the lands for oil, gas and other minerals and removing the same from the lands.

7. The Performance Criteria as Covenants Running with the Land:

The sale and transfer of the Property is subject to the following Performance Criteria as deed restrictions. In the event that the Performance Criteria, or any one of them, is not met, the City shall give the Developer written notice thereof. The Developer shall have thirty (30) days to correct such default or, if correction is not possible within 30 days, to commence and diligently pursue correction. In the event of Developer's failure to cure default, ownership of the Property shall revert back to the City upon the City's written notice thereof and payment to Developer of the costs expended for permanent improvements. This provision shall be a covenant running with the land.

Performance Criteria:

- a) Developer shall diligently pursue the development of the Project and shall achieve Completion of Construction of the first restaurant facility within one year and the remaining restaurant facilities within two years from the Closing Date set forth in Article 2 of the Economic Development Program Agreement, subject to events of Force Majeure. Developer shall apply for all permits required by applicable laws promptly following (i) execution of this Agreement and (ii) final approval of the Project and any required site, landscape and façade plans, and shall commence construction, renovation and improvement of new and existing structures, facilities and equipment diligently after permit approval.
- b) Developer shall have expended not less than \$850,000 for the design, installation, construction and renovation of site infrastructure and buildings.
- c) During the term of this Agreement following the Effective Date and continuing thereafter for a period of one (1) year after Completion of Construction, or earlier termination, Developer or its approved successors or assigns shall continuously own and occupy the Property (subject to approved assignments) and shall continuously operate the Project.
- d) The Project shall not be used for any other purpose other than restaurant establishments for the sale and on-site consumption of food and beverages, and shall operate as such continuously, unless expressly waived by the City of Rowlett, Texas.
- e) For a period of one (1) year following Completion of Construction, Developer shall not assign, sell or transfer ownership of the Project to any person without the

prior written consent of the City of Rowlett, Texas, which consent shall not be unreasonably withheld.

Grantor, for the consideration and subject to the reservations from and exceptions to conveyance and warranty, has GRANTED, SOLD, and CONVEYED and by these presents does GRANT, SELL, and CONVEY to Grantee the Property, together with all and singular and rights and appurtenances thereto in any wise belonging, to have and hold it to Grantee, Grantee's heirs, executors, administrators, successors, or assigns forever. Grantor binds Grantor and Grantor's heirs, executors, administrators, and successors to warrant and forever defend all and singular the property to Grantee and Grantee's heirs, executors, administrators, 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, except as to the reservations from and exceptions to conveyance and warranty.

When the context requires, singular nouns and pronouns include the plural.

GRANTOR:

STATE OF TEXAS

COUNTY OF DALLAS

This instrument was acknowledged before me on _____, 20____, by _____, Grantor, for the purposes and consideration therein expressed.

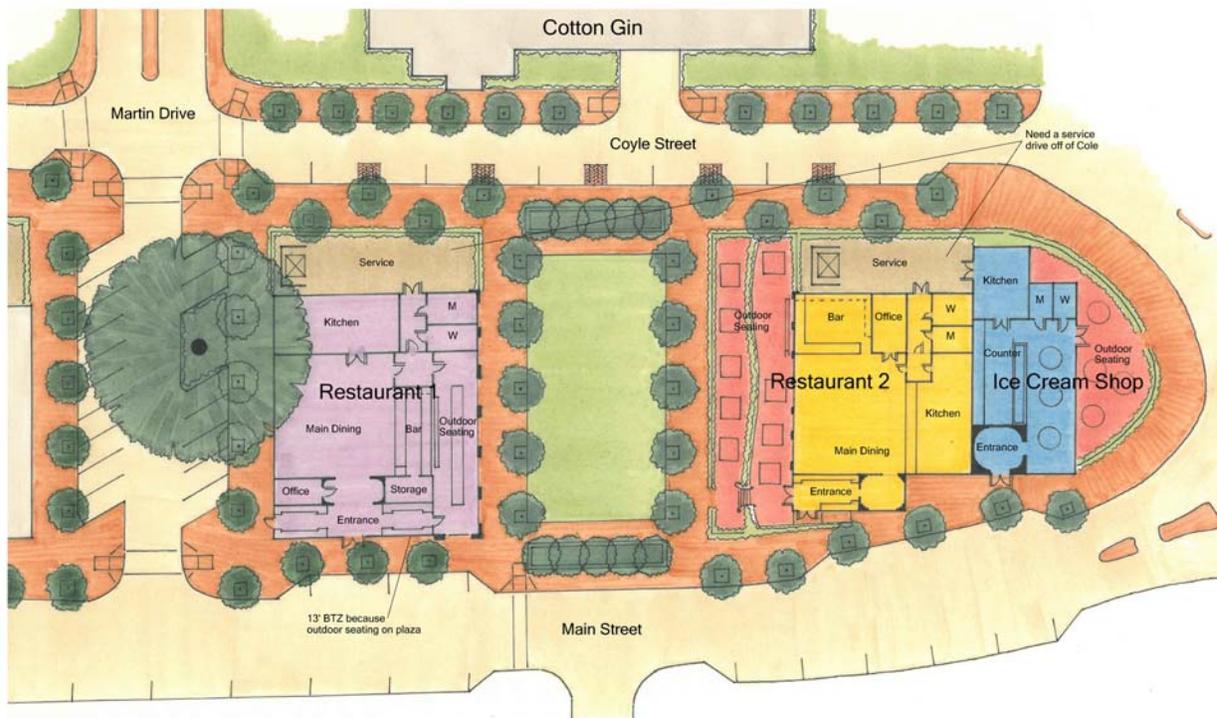
Notary Public, State of Texas

My Commission Expires:

AFTER RECORDING RETURN TO:

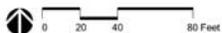
EXHIBIT C

CONCEPT PLAN



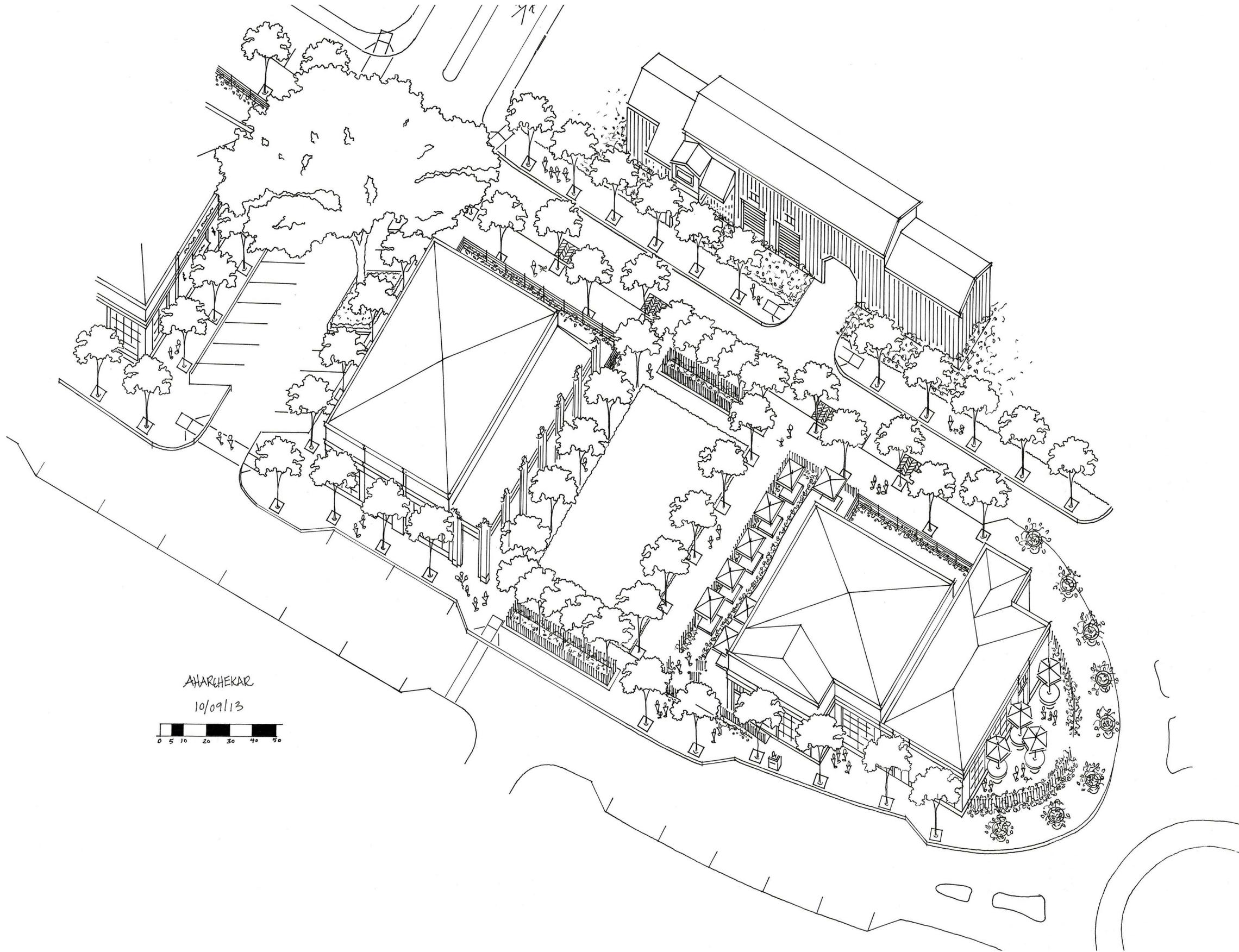
Pedestrian Plaza
Restaurant Design Workshop
Downtown Rowlett

Job # 13261
File Name: Pedestrian Plaza Site Plan.dwg
Date: 10/10/2013
Drawn by: ANH

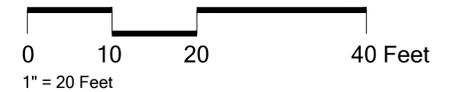


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214.303.2052/tx
www.gff.com



AHARCHEKAR
10/09/13



2808 Fairmount Street 214.303.1500/Tel
Suite 300 214.303.1512/Fax
Dallas, Texas 75201 www.gff.com

Job #: 13201.00
File Name: Pedestrian Plaza Axon - 2.dwg
Date: 10/10/13
Drawn by: Arti N. Harchekar

PEDESTRIAN PLAZA
AXONOMETRIC
North Central Texas Sustainability Grant
Downtown Rowlett
Rowlett, Texas