



City of Rowlett

Special 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 14, 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.

1. CALL TO ORDER

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 at 3913 and 4011-4025 Main Street. (30 minutes)

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 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 Parkway. (30 minutes) (THIS ITEM WILL BE DISCUSSED FOLLOWING THE REGULAR PORTION OF THE MEETING)

3. WORK SESSION (6:00 P.M.)*

3A. Provide bi-annual update and discuss the City's Economic Development 5 year Strategic Plan. (60 minutes)

3B. Discuss recommended action regarding the Bunker/Tee Boxes/Lake Projects at Waterview Golf Course. (20 minutes)

4. DISCUSS CONSENT AGENDA ITEMS

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

5. PRESENTATIONS AND PROCLAMATIONS

- 5A. Discuss Blacklands Corridor Feasibility Study and proposed Northeast Gateway Tollway Project.
- 5B. Update from the City Council and Management: Financial Position, Major Projects, Operational Issues, Upcoming Dates of Interest and Items of Community Interest.

6. CITIZENS' INPUT

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

7. CONSENT AGENDA

There are no items for consideration.

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 10th 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: 10/14/14

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 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. (30 minutes)



City of Rowlett
Staff Report

4000 Main Street
P.O. Box 99
Rowlett, TX 75080-0099
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AGENDA DATE: 10/14/14

AGENDA ITEM: 2B

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 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 Parkway. (30 minutes) (THIS ITEM WILL BE DISCUSSED FOLLOWING THE REGULAR PORTION OF THE MEETING)



City of Rowlett
Staff Report

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

AGENDA DATE: 10/14/14

AGENDA ITEM: 3A

TITLE

Provide bi-annual update and discuss the City's Economic Development Five-year Strategic Plan.
(60 minutes)

STAFF REPRESENTATIVE

Jim Grabenhorst, Director of Economic Development
Nathan Weber, Economic Development Specialist

SUMMARY

The Economic Development Five-year Strategic Plan provides a framework for prioritizing the annual work plan for the department. Economic Development staff will provide bi-annual updates to City Council on development projects, work plan and policy related items for City Council consideration.

BACKGROUND INFORMATION

In the past, the City has engaged consultants to assist in preparing the Economic Development strategic plans. Such plans were completed in 2002 and the last update was completed in December 2007.

Since then, the City has embarked on and adopted 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, which had not been updated in ten years. Phase II was about implementing the vision and led to the adoption of new form based code zoning regulations in four key areas to ensure the vision was realized for these areas. Phase III was about adopting a specific subarea plan for the North Shore Commercial district.

As a result of the Realize Rowlett 2020 process, key strategic action items were identified which assisted in developing the basis for the attached Economic Development Five-year Strategic Plan, which was adopted by City Council in 2013.

DISCUSSION

Economic Development staff will provide bi-annual updates to City Council on development projects, work plan and policy related items for City Council consideration.

FINANCIAL/BUDGET IMPLICATIONS

Budget considerations for implementation of the Strategic Plan will go through the budget approval process on a fiscal year basis.

RECOMMENDED ACTION

This is a discussion item for City Council.

ATTACHMENT

Attachment 1 – Economic Development Strategic Plan

Rowlett

On the Water. On the Move.

Economic Development Strategy 5 YEAR PLAN



Our mission is to foster private and public investment through strategic partnerships to enhance and diversify Rowlett's tax base to ensure sustainability while promoting the Realize Rowlett 2020 vision.

Downtown

- ◆ Implement the North Central Texas Council of Governments (NCTCOG) Grant through the approval process and construction of amenities.
- ◆ Develop and implement RFQ process to establish public-private partnerships on City owned property.
- ◆ Present Herfurth Park Master Plan for City Council adoption once completed by La Terra Studio.
- ◆ Create marketing strategy capitalizing on the downtown "brand" under development by Aars | Wells.
- ◆ Appoint a Municipal Management District (MMD) Board and evaluate its role in providing incentives to future developments.
- ◆ Fund a study to create a Tax Increment Financing (TIF) District for downtown development work in conjunction with the MMD.
- ◆ Develop internal strategies to determine City needs, whether leased or owned, for existing City buildings (City Hall, Library, Development Services, etc.) in order to meet the needs of a smart, forward thinking government that meets its mission of being "citizen centered."
- ◆ Develop plan for building an entrance feature at Martin Drive & Lakeview Parkway that incorporates the City's Downtown "brand" to designate a downtown entrance.
- ◆ Research and develop strategies to create a Main Street program to promote and support Downtown development.
- ◆ Protect existing open space and identify future locations for open space, trail systems and sidewalks for acquisition.
- ◆ Research and develop a Downtown parking management plan to establish required public parking spaces and designated locations in the regulating plan.
- ◆ Determine partnership opportunities to create a Team Better Block Project.



Woodside Living

- ◆ Create marketing strategy capitalizing on the Woodside Living “brand” under development by Aars | Wells.
- ◆ Participate in evaluating the Liberty Grove Road alignment & improvements as a connector with the North Shore Commercial District.



- ◆ Research potential secondary access to Community Park.
- ◆ Coordinate other development opportunities generated from the construction of “The Homestead at Liberty Grove” project.
- ◆ Research and develop a City sponsored program to establish a Sustainable Neighborhood Designation.
- ◆ Research and evaluate Muddy Creek as a recreational amenity.



Healthy Living



- ◆ Create marketing strategy capitalizing on the Healthy Living “brand” under development by Aars | Wells.
- ◆ Finalize submittal for Pillar Income project to ensure access to Scenic Point Park.
- ◆ Participate in Lake Pointe Hospital master planning process to ensure synergy with Realize Rowlett 2020 vision (RR2020).
- ◆ Coordinate development opportunities in close proximity to Scenic Point Park to ensure compatibility with overall park master plan.
- ◆ Research and develop a parking management plan to establish required public spaces and designate locations in regulating plan.
- ◆ Protect open space locations and identify future locations for open space connections with the lake in cooperation with the Planning and Parks Divisions.
- ◆ Research and identify potential future connections to public transit (DART).
- ◆ Develop a recruitment strategy for future development opportunities once Lake Pointe Hospital has finalized their master plan.



Signature Gateway



- ◆ Create a marketing strategy capitalizing on the Signature Gateway “brand” under development by Aars | Wells.
- ◆ Research long-term access options to support development opportunities.
- ◆ Develop a recruitment strategy for future development opportunities once market demands exist to support RR2020 vision.
- ◆ Appoint Municipal Management District (MMD) Board and evaluate its role in providing incentives to future developments.
- ◆ Fund study to create a Tax Increment Financing (TIF) district to work in conjunction with the MMD.
- ◆ Research and identify future connections to public transit (DART).



North Shore Commercial District

- ◆ Fund a workforce study to identify potential target markets & industries to locate within this district.
- ◆ Collaborate with the Planning Division on the development of the North Shore subarea plan.
- ◆ Research and create a North Shore Property Owner Coalition to promote and support district vision upon completion of subarea plan.
- ◆ Identify future streets, sewer and water infrastructure needs and anticipated costs.
- ◆ Review and evaluate existing Tax Increment Financing (TIF) boundary and determine if any amendments are needed.
- ◆ Create a business/development recruitment strategy upon completion of North Shore subarea plan.



SH66 & PGBT Corridor

- ◆ Market and promote the area as a destination for large format commercial retailers and modest office development.
- ◆ Research and develop regulating tools that protect the City in the event future retailers ultimately vacate their buildings (i.e. “go dark” provisions, escrow dollars for demolition, right of first refusal, etc.).
- ◆ Anticipate the loss of existing retailers in the City and prepare a redevelopment strategy for the reinvention and retention of businesses in these more established commercial locations.
- ◆ Promote the eastern section of this area as a business address, anchored by medical offices and services that support the Healthy Living district in RR2020 Final Plan.



Citywide



- ◆ Collaborate with the Planning Division in developing subarea plans for the remaining opportunity areas in RR2020 Final Plan.
- ◆ Evaluate the need for rebranding areas not within RR2020 Final Plan.
- ◆ Research and identify neighborhood stabilization strategies.
- ◆ Make ongoing improvements and updates to the Economic Development website (Aars | Wells)



- ◆ Increase and utilization of various social media tools as part of a citywide outreach effort.
- ◆ Continue strategic partnerships to enhance public-private partnership with businesses and other organizations.
- ◆ Monitor and be prepared to fine-tune estimates of return on investment associated with the concepts described in the RR2020 Final Plan.
- ◆ Research and provide a recommendation on the creation of an entity that can acquire, position, and dispose of City owned property.
- ◆ Continuously review the City's policy statement for Economic Development incentives and identify tools needed to advance the desired vision for key subareas of RR2020.
- ◆ Update the City's trail master plan to incorporate the RR2020 vision, enhanced pedestrian connectivity and DART.
- ◆ Continue implementing the Business Retention and Expansion (BRE) program to further additional job creation and private investment.





City of Rowlett
Staff Report

4000 Main Street
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AGENDA DATE: 10/14/14

AGENDA ITEM: 3B

TITLE

Discuss recommended action regarding the Bunker/Tee Boxes/Lake Projects at Waterview Golf Course. (20 minutes)

STAFF REPRESENTATIVE

Brian Funderburk, City Manager
Jermel Stevenson, Director of Parks and Recreation

SUMMARY

The Golf Advisory Board (GAB) has recommended a slate of projects for consideration by the City Council for the Waterview Golf Course. The purpose of this item is to request a revision to the projects approved on September 2, 2014.

BACKGROUND INFORMATION

On December 18, 2012, the GAB provided recommendations to the City Council regarding additional improvements to the golf course, including funds to enclose the clubhouse, add a lake on Hole #2, modify the tee boxes on Hole #18, add additional trees and repair settled sprinkler trenches throughout the course. The Council took issue with repairing the trenches, agreeing with staff that it should be a contractual obligation of American Golf Corporation (AGC), and provided consensus to move forward with the remaining four projects. The additional trees recommended and the work on the tee box on Hole #18 was completed in 2013. However, the pavilion project and the lake at Hole #2 was considered as part of a slate of projects discussed with Council on March 18, 2014.

On March 18, 2014, the GAB provided recommendations to the City Council regarding five separate projects totaling \$820,672. Subsequent to that event, on April 1, 2014, the GAB recommended one additional project to add two additional tee boxes on Hole #6 and #16 for a total estimated cost of \$9,000 bringing the total estimated project costs to \$829,672.

Since March 18th, City staff has met with AGC staff on several occasions. AGC has expressed concern with the additional bunkers that they may affect the pace of play, a key priority with AGC. From the GAB's perspective, the bunkers offer a play dynamic forcing golfers to have to make decisions about the shot they wish to play, a key priority for the GAB. In order to properly evaluate and resolve the potential conflict, City staff and AGC engaged the services of Professional Golf Services for a tee and bunker study. A key component of this study was to evaluate the golf course for a "balance" between pace of play and play dynamic. The study resulted in a report that includes factors such as bunker locations, yardage reports, shot strategy and playability. Generally speaking, tee boxes are less expensive to build and maintain than bunkers. City staff

continues to work with AGC to develop a time schedule for the proposed projects. While some of the projects have already been awarded (i.e. drainage on Hole #10, retaining wall on Hole #18, etc.), other projects will need to be built around AGC's tournament schedule. In addition, AGC has requested that the lake project on Hole #2 be fully designed.

During the May 20th City Council meeting, the Council voted to approve the development agreement with AGC to do the six projects recommended by the GAB. This included the original five projects recommended on March 4, 2014, and the additional tee boxes recommended on April 1, 2014.

Projects	Description	Projected Cost 3-18-14	Projected Cost 5-20-14
1	Waterview Clubhouse Improvements	\$518,304	\$518,304
2	Add lake(s) on Hole #2	71,288	71,288
3	Drainage on Hole #10	45,399	46,175
4	New Bunkers	34,880	34,880
5	Replace retaining wall on Hole #18 tee box	150,801	150,801
6	Add two tee boxes on Hole #6 and Hole #16	0	9,000
	Total recommended expenditures	\$820,672	\$830,448
	Contribution from Waterview HOA	(31,000)	(31,000)
	Net cost to City of Rowlett	\$789,672	\$799,448
	Available balance in Fund 180 for FY2014	(340,092)	(340,092)
	Net shortfall (funds will be needed from financing or phasing)	<u>\$449,580</u>	<u>\$459,356</u>
	Net change from 3-18-14		<u>\$9,776</u>

The Council provided a primary point relative to the approval. Before moving forward with any changes to tee boxes or bunkers, Council requested that the GAB review the tee and bunker study conducted by Josh Peters. After review, the Council requested that the study be presented to Council along with the GAB's recommendations.

On July 1, 2014, the City Council voted to restructure the lease agreement with AGC. As part of that restructuring, AGC provided \$2.19 million to defease and restructure bonded indebtedness and extend the lease agreement until December 31, 2039. In addition, the capital projects approved on May 20, 2014, were amended. As revised, alternate #1 from the clubhouse totaling \$147,056 was removed, the City's portion in up-front cash from the Golf Fund was increased by \$172,682 and AGC covered the remaining balance of \$139,618 with no financing necessary. In addition, the City will retain a reserve totaling \$255,000, equivalent to one-year debt service. The table below outlines the major changes to the projects.

Projects	Description	Projected Cost as of 5-20-14	Projected Cost as of 7-1-14	\$ Change
1	Waterview Clubhouse Improvements	\$518,304	\$518,304	\$ -
-	Remove alternate #1 – Dining Expansion	-	<u>(147,056)</u>	<u>(147,056)</u>
1	Revised Waterview Clubhouse Project	\$518,304	\$371,248	\$(147,056)
2	Add lake(s) on Hole #2	71,288	71,288	-
3	Drainage on Hole #10	46,175	46,175	-
4	New Bunkers	34,880	34,880	-
5	Replace retaining wall on Hole #18 tee box	150,801	150,801	-
6	Add two tee boxes on Hole #6 and Hole #16	<u>9,000</u>	<u>9,000</u>	<u>-</u>
	Total recommended expenditures	\$830,448	\$683,392	\$(147,056)
	Contribution from Waterview HOA	<u>(31,000)</u>	<u>(31,000)</u>	<u>-</u>
	Net cost	\$799,448	\$652,392	\$(147,056)
	Funded from Golf Fund	<u>(340,092)</u>	<u>(512,774)</u>	<u>(172,682)</u>
	Net shortfall – Original (City would finance over 3 years)	<u>\$459,356</u>	\$139,618	<u>\$(319,738)</u>
	Net shortfall – Revised (American Golf covers the difference)	Balance covered by City	Balance covered by AGC	n/a
City retains a reserve of \$255,000, equivalent to one-year debt service based on the debt restructuring.				

On September 2, 2014, the GAB met and finalized their recommendations with regard to the Tee and Bunker study. Those recommendations were provided to Council during the work session on the same night. The recommendation of the GAB was to build six bunkers, two tee boxes, and add a lake on the left side of Hole #1 instead of Hole #2. On September 2, 2014, the City Council agreed and approved the recommendations of the GAB as follows:

Projects	Description	Budget As of 7-1-14	Projected Cost as of 9-2-14
2	Add lake(s) on Hole #1 (instead of Hole #2)	\$ 71,288	\$ 43,281
4	Add six new Bunkers	34,880	67,875
6	Add two tee boxes on Hole #6 and Hole #16	9,000	9,305
	Mobilization and taxes (subject to change)	-	7,115
	Discount if all projects done at once (subject to change)	<u>-</u>	<u>(8,246)</u>
	Total	<u>\$ 115,168</u>	<u>\$ 119,330</u>

Projects	Description	Budget As of 7-1-14	Projected Cost as of 9-2-14
	Shortfall (note: Golf Advisory Board Chairman, Larry Glick, indicated he would personally cover the shortfall for the proposed projects)		<u>\$ 4,162</u>

DISCUSSION

As indicated, on September 2nd, the City Council approved the recommendations of the GAB to add six new bunkers, two new tee boxes and a new lake on Hole #2. The cost for those projects, including mobilization and taxes, net of any discounts, is \$119,330. During the discussion at the GAB meeting on September 2nd, the GAB Chairman, Larry Glick, indicated that he would personally cover the shortfall for the proposed projects.

American Golf's Response

In the weeks preceding the vote on September 2nd, staff from AGC and the City, along with representatives of the GAB, toured the golf course and debated potential locations for a new lake, new tee boxes, new bunkers and the removal of bunkers no longer in play. This resulted in bids for the new lake, two new tee boxes, seven new bunkers and the removal of five existing bunkers. After review and analysis, AGC and City staff negotiated to leave two of the five bunkers in place, meaning that three bunkers would be removed. The resultant bid was presented to the GAB on September 2nd.

During the discussion with the GAB, the City Manager recommended that the GAB make a recommendation to the City Council that would stay within the existing resources provided for the projects, or \$115,168. After discussion, the GAB ultimately recommended the lake, two new tee boxes, and six new bunkers for a total estimated cost of \$119,330 with the GAB Chairperson, Larry Glick, personally committing to cover the \$4,162 shortfall. On September 2nd, the City Council agreed with the recommendations of the GAB.

In the follow-up conversation with AGC regarding the final list, AGC had a strong negative reaction to the proposal. AGC made it clear that they were fine with adding additional features to maintain, including the lake, tee boxes and bunkers; however, they were adamant that they would not agree to adding these additional features unless three of the bunkers that are considered no longer in play are removed. Their primary concern is the ongoing cost of maintaining the additional features and felt somewhat disenfranchised by the final recommendations that did not include the removal of any bunkers as previously discussed.

A lot has been said about the impact that the additional lake, tee boxes and bunkers will have on AGC to maintain these new features. AGC has indicated to staff that bunker maintenance is in the top three "maintenance heavy" features that golf courses maintain. To be clear, the September 2nd recommendation from the GAB would include an additional 23,500 square feet for AGC to maintain for the six new bunkers and two new tee boxes (see chart below). In addition, the lake will be approximately 19,200 square feet and will need to be maintained as well.

AGC remains committed to their promises on the July tour and follow-up discussion with staff which was to maintain the new lake, new tee boxes and a net of three new bunkers. This would require maintenance of an additional 13,456 square feet of new bunkers and tee boxes, as well as approximately 19,200 square feet of new lake. AGC feels that this is a fair compromise and will clearly increase the beauty and enjoyment impact of its players.

Proposed Bunkers and Tee Boxes	Estimated Sq Footage to Maintain		
	As Bid	GAB Recommendation	AGC Recommendation
Bunker (Hole #2 - near 1st landing area)	4100	4100	4100
Bunker (Hole #2 - 2 bunkers near green)	5600	5600	5600
Bunker (Hole #4)	3700	3700	3700
New Back Tee (Hole #6)	3500	3500	3500
Eliminate Bunker (Hole #6 - left side)	-3175		-3175
Bunker (Hole #9 - left side of green)	1750	1750	1750
Bunker (Hole #10)	2500		
Eliminate Bunker (Hole #14 - left side)	-3815		
Eliminate Bunker (Hole #14 -right side)	-3640		
Bunker (Hole #15)	2850	2850	2850
Eliminate Bunker (Hole #15 - left side)	-4573		-4573
Eliminate Bunker (Hole #16 - right side)	-2296		-2296
New Back Tee (Hole #16)	<u>2000</u>	<u>2000</u>	<u>2000</u>
Net Sq Footage	<u>8501</u>	<u>23500</u>	<u>13456</u>
Net new bunkers	2	6	3
Net new tee boxes	2	2	2

FINANCIAL IMPLICATIONS

Earlier this summer, the City of Rowlett restructured the lease agreement with AGC. At that time, AGC put up \$2.19 million to buy down the existing debt and to flatten out the annual debt service payments. As a result, Rowlett agreed to restructure the lease payments to match that debt service stream.

While this arrangement was beneficial to both parties, it does mean that the additional funds that the City has had available for capital improvements that have resulted from lower interest rates are no longer available in the future. At most, the City will have a positive, ongoing surplus of about \$10,000 annually.

Finally, while there are a few minor details to work out, staff is certain that the clubhouse improvements will exceed the \$371,248 estimate used earlier this summer. Current projections as of October 9th indicate that the overrun could be \$35,000-\$40,000 due to increases in material costs, not including any contingency. It would also be appropriate to add a ten percent (10%) contingency, which could add an additional \$40,000+/-, increasing the total overrun to \$75,000-

\$80,000. It is staff's position that the cost of this overrun should be shared by AGC. Currently, as approved in the development agreement in July, AGC is contributing 37.6 percent of the total project cost. If the final cost of the overrun is \$80,000, AGC's portion should be \$30,080 bringing the City's share to \$49,920.

The cost to add the removal of the three bunkers (Hole #6-left side, Hole #15-left side, Hole #16-right side) as requested by AGC is approximately \$19,362. In conjunction with expected overrun of the clubhouse of approximately \$49,920, the total additional resources needed from the City of Rowlett for all projects is \$69,282.

Although the purpose of this particular agenda item is to revisit the slate of projects approved on September 2nd, staff wanted to make sure that Council understood that the total cost of the clubhouse improvements is expected to be higher. And, while reducing the scope of the projects approved on September 2nd is an option Council can consider, staff recommends adding the additional cost for the removal of the bunkers rather than reducing the scope. As a result, staff has identified two possible funding sources as listed below. Please note that a similar conversation will be held when the final numbers for the clubhouse improvements are presented to Council (projected for October 21st Council meeting).

1. When the lease agreement was amended in July, the City held back \$255,000 representing one year's debt service to hold in reserve. If the City Council prefers to utilize golf funds to cover the \$19,362 overrun, this would reduce the reserve to \$235,638. With an annual surplus of about \$10,000, it would take two years to restore the reserve back to \$255,000.
2. The City's projected ending reserve for the General Fund is expected to be considerably higher than what was used over the course of the summer. Council can choose to commit those dollars to cover the overrun or a combination of approaches.

RECOMMENDED ACTION

Staff recommends adding the removal of the three bunkers, as requested by AGC, to the slate of projects approved on September 2, 2014.

AGENDA DATE: 10/14/14

AGENDA ITEM: 5A

TITLE

Discuss Blacklands Corridor Feasibility Study and proposed Northeast Gateway Tollway Project. (45 minutes)

STAFF REPRESENTATIVE

Brian Funderburk, City Manager
Tim Rogers, Director of Public Works

SUMMARY

The multi-modal Blacklands Corridor Feasibility Study will evaluate the need for a new transportation facility along or near the Northeast Texas Rural Rail Transportation District (NETEX) right-of-way from IH 30 in Hunt County to the President George Bush Turnpike in Dallas County.

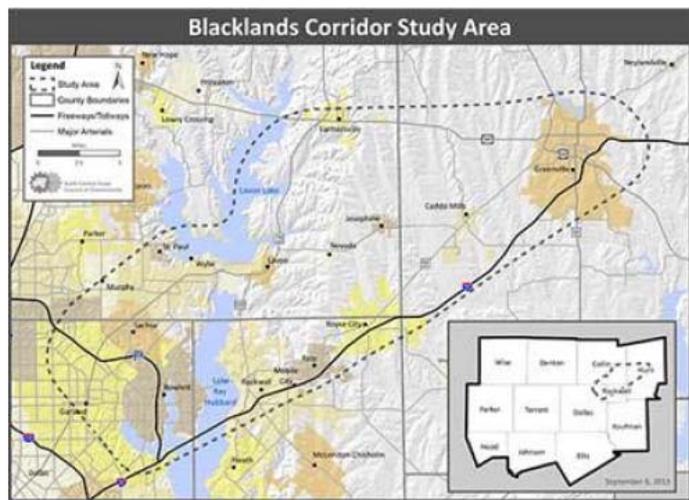
BACKGROUND INFORMATION

The Blacklands Corridor study area covers portions of Dallas, Collin, Rockwall and Hunt counties. Serving as a link between the bustling urban areas in the southwest and the more rural counties of the northeast, the North Central Texas Council of Governments (NCTCOG) expects the corridor to add just shy of 200,000 new residents by 2035. In anticipation of increased traffic, the agency has initiated a transportation feasibility study, looking at options for reducing congestion across the corridor. In order to gather as much information as possible, staff has attended public meetings, met with our neighboring municipal leaders and sought feedback from NCTCOG representatives.

DISCUSSION

Since initiating a feasibility study in the Blacklands corridor last year, NCTCOG has determined that transportation needs exist in the area, which stretches from Greenville to Garland and includes portions of Collin, Dallas, Hunt, and Rockwall counties.

Planners are currently conducting a multi-modal analysis of different transportation alternatives and alignments to guide development of solutions and conceptual projects. A final report in December will



present recommended transportation improvement

strategies for the entire corridor. Planners have assessed existing conditions, identified issues, conducted baseline forecasts, and generated alternatives. Using four criteria—safety, mobility, environmental impact and economic development, they are evaluating the alternatives utilizing the strategies listed below:

Blacklands corridor conceptual strategies (Note: To date, each strategy has been evaluated individually.)

1. Baseline – no build strategy (only construct projects in Mobility 2035 MTP – 2013 Update)
2. Travel options/transportation systems management/intelligent transportation systems strategy
3. Bicycle/pedestrian facilities strategy
4. Freight rail strategy
5. Transit strategy
6. Improvement of arterials (SH 66, SH 78, US 380, etc.) strategy
7. Bottleneck improvements of IH 30 strategy
8. Expansion of IH 30 facility strategy (general purpose/HOV/managed lanes)
9. **New location highway/freeway/tollway strategy**

The focal point of the public meetings has become strategy number nine (9), New location highway/freeway/tollway strategy. The public meeting with NCTCOG and Public Werks (i.e. Texas Turnpike Corporation) was cut short on September 4, 2014, in Lavon due to exceeding maximum occupancy restrictions. NCTCOG rescheduled the September 4th public meeting for September 22nd at the Utley Middle School in Rockwall, which had approximately 1,300 people attend.

Neil Barker and Ken Hughes, representatives of Public Werks have been conducting more local public meetings to discuss the potential tollway. NCTCOG has not participated in these meetings. Two of these meetings were held in Rowlett on October 2, 2014, at the Comfort Suites and staff was present at the morning session. The meeting was an open forum for individuals affected to learn more of the potential project. There was no formal presentation and Public Werks conveyed no new information at this time. Attendance was low, there were approximately 15 at the morning meeting.

At the conclusion of the public input process, the next step is for Public Werks to conduct an Environmental Impact Study on the selected route of the proposed tollway. Staff will continue to keep the City Council apprised of the impacts this could have on the City of Rowlett.

Please refer to the links below for the NCTCOG Blacklands Feasibility Study & the Texas Northeast Gateway websites, which are continually updated with new information.



<http://nctcog.org/trans/corridor/blacklands.asp>

<http://www.texasnortheastgateway.com/>

Rowlett's Position

To date, Rowlett has not taken an official position on any of the nine conceptual strategies for the Blacklands Corridor Study, including specifically the proposed Northeast Gateway Tollway Project. While some cities have officially passed a formal resolution either in favor or against, Rowlett has not acted either way until it had more information to make an informed decision. Staff has attached copies of these resolutions for the cities of Rockwall, Wylie, Lavon, Fate, and Sachse. At this point, the proposed Northeast Gateway Tollway Project has not settled on a final route; however, the west end terminus in four potential routes disclosed to date is the President George Bush Turnpike (PGBT), most likely between the intersections of Merritt Road North and Merritt Road South. The most likely route that appears most favorable to Public Werks is through Rowlett, along the power line right-of-way, between the Garland landfill and Community Park.

FINANCIAL/BUDGET IMPLICATIONS

N/A

RECOMMENDED ACTION

With regard to the formal Blacklands Corridor Study conducted by the NCTCOG, the study evaluates nine possible strategies, all or none of which may be completed in the future. With regard to the Northeast Gateway Tollway Project, there are two possible actions Council can consider taking.

1. Take no action.
2. Pass a resolution in favor of or against the Northeast Gateway Tollway Project.

If Council determines to pass a resolution in favor of or against, one additional step could be to recommend passage of or to deny inclusion in the amendment that will be considered by the Regional Transportation Council (RTC) to add the Mobility 2035 – 2013 Update that was approved in June, 2013. The Mobility 2035 – 2014 Amendment is expected to be adopted by the Regional Transportation Council (RTC) on November 13, 2014. Staff would also bring a resolution for Council to consider on the October 21, 2014 meeting.

ATTACHMENTS

- Attachment 1 – City of Rockwall's Resolution opposing project
- Attachment 2 – City of Wylie's Resolution opposing project
- Attachment 3 – City of Lavon's Resolution opposing project
- Attachment 4 – City of Fate's Resolution opposing project
- Attachment 5 – City of Sachse's Resolution opposing project

CITY OF ROCKWALL, TEXAS

RESOLUTION NO. 14-15

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ROCKWALL, TEXAS, OPPOSING THE CONSTRUCTION OF THE BLACKLANDS CORRIDOR FREEWAY / TOLLWAY IN THE CITY OF ROCKWALL TEXAS; PROVIDING AN EFFECTIVE DATE.

WHEREAS, The North Central Texas Council of Governments, the Texas Turnpike Corporation, the Texas Department of Transportation, and a private developer have been conducting a study known as the Blacklands Corridor Feasibility Study to assess and recommend a combination of strategies related to local and regional transportation needs; and

WHEREAS, the Blacklands Corridor Study Area includes parts of Collin, Dallas, Hunt, and Rockwall Counties and includes consideration of a new tollway connecting the City of Greenville with the President George Bush Turnpike; and

WHEREAS, the City of Rockwall has attended numerous meetings where the discussion of tollway routing has included numerous routes located in Collin County; and

WHEREAS, subsequent meeting of City of Rockwall representatives with representatives of the private developer have indicated that a new tollway route has been added for consideration which would be located in Rockwall County and partially within the City of Rockwall and its Extra-Territorial Jurisdiction.; and

WHEREAS, no documents indicating the new tollway route were provided to the City of Rockwall at said meeting by the private developer's representatives; and

WHEREAS, indications are that the new route being considered is contrary to the current planning of the City of Rockwall including adopted plans for parks, open space, thoroughfares, land use, and utilities; and

WHEREAS, the City of Rockwall has been requested to offer input related to the environmental impact of the proposed route without having been provided specific information as to the location of the route, thus denying the City of Rockwall the opportunities to adequately assess and respond to potential environmental impact and other possible consequences that such a route may have; and

WHEREAS, the limited information provided about the new route causes great concern;

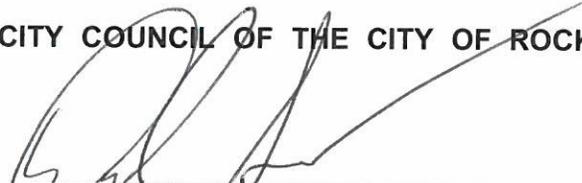
NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ROCKWALL, TEXAS:

Section 1. That the City of Rockwall strongly opposes the new route being considered for the Blacklands Corridor / Freeway which is partially located in Rockwall County and the City of Rockwall and its Extra-Territorial Jurisdiction,

Section 2. That the City of Rockwall urges that detailed, accurate information as to all routes currently under consideration by transportation planners be provided to the City of Rockwall and to all of the cities and counties affected by said routes being considered.

Section 3. That work continue on the study of all alternative solutions that may contribute to meeting the transportation needs with transit options being left to the discretion of local governments, and that the City of Rockwall (and other cities and counties located along all routes being considered) be specifically provided a designated official single point of contact for the purpose of facilitating their involvement in the study as it progresses, and that clarification be provided to those same cities and counties as to the relative roles of the NCTCOG, the Texas Turnpike Corporation, the Texas Department of Transportation, the North Texas Turnpike Authority, the private developer (and its consultants), and any other applicable entities.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF ROCKWALL, TEXAS, this 4th day of August, 2014.



David Sweet, Mayor

ATTEST: 

Kristy Ashberry, City Secretary



RESOLUTION NO. 2014-38(R)**A RESOLUTION OF THE CITY OF WYLIE, TEXAS OPPOSING THE CONSTRUCTION OF THE PRIVATE TOLL ROAD PROJECT KNOWN AS THE NORTHEAST GATEWAY IN THE CITY OF WYLIE AND ITS EXTRATERRITORIAL JURISDICTION; AND PROVIDING FOR AN EFFECTIVE DATE.**

WHEREAS, the City Council of the City of Wylie, Texas ("City Council") supports and encourages regional long-range transportation planning initiatives; and

WHEREAS, the City Council has held work sessions, attended meetings and received input regarding the North Central Texas Council of Governments' Blacklands Corridor Feasibility Study; and

WHEREAS, the City Council has held work sessions, attended meetings and received input regarding the proposed Texas Turnpike Corporation's Northeast Gateway Private Toll Road; and

WHEREAS, based on information available at this time the City Council believes that the proposed routes of the Northeast Gateway Private Toll Road project will not benefit the citizens of the City of Wylie and its Extraterritorial Jurisdiction.

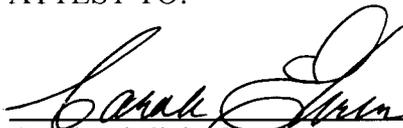
NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WYLIE, TEXAS, THAT:

SECTION 1. That the City Council does hereby oppose the route alternatives of the proposed Northeast Gateway as they impact the City of Wylie and its Extraterritorial Jurisdiction.

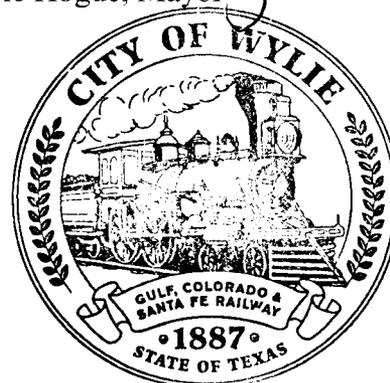
SECTION 2. This Resolution shall take effect immediately upon its passage.

DULY PASSED AND APPROVED by the City Council of the City of Wylie, Texas on this the 6th day of October, 2014.

ATTEST TO:


Carole Ehrlich, City Secretary


Eric Hogue, Mayor



Resolution No. 2014-38(R)
Opposition of Northeast Gateway

**CITY OF LAVON, TEXAS
RESOLUTION NO. 2014-10-01**

A RESOLUTION OF THE CITY COUNCIL FOR THE CITY OF LAVON, TEXAS STRONGLY OPPOSING A PRIVATE TOLLWAY AND OTHER ALTERNATIVES RECOMMENDED IN THE BLACKLAND CORRIDOR FEASIBILITY STUDY THAT USE A ROUTE PASSING THROUGH THE LAVON CITY LIMITS AND ITS ETJ FOR THE PURPOSES OF THE NORTHEAST GATEWAY PROJECT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Texas Turnpike Corporation (TTC) is a private developer of toll roads who has filed an application with the Texas Department of Transportation to seek approval for the construction of a private toll road;

WHEREAS, pursuant to Section 362.104 of the Texas Transportation Code and Rule 27.32 of the Texas Administrative Code, TTC is required to conduct studies concerning the feasibility, route or alignment, and environmental effect of a proposed toll project before requesting such approval;

WHEREAS, the North Central Texas Council of Governments, TTC, and Texas Department of Transportation are presently conducting a study known as the Blacklands Corridor Feasibility Study to assess local and regional transportation needs and to recommend strategies for the same but have not completed the required environmental assessment;

WHEREAS, the study includes impacts to the City of Lavon in the way of a private toll road route from President George Bush Toll Road to State Highway 205 and may consist of 6 lanes with an expansion of 6 lanes of the artery from State Highway 78 to the Collin County Loop, an express bus transit from Garland to Farmersville that passes directly through Lavon, and a regional veloweb from Lavon to Greenville;

WHEREAS, the City of Lavon places great value on the family-oriented community established by its Comprehensive Plan, and finds that the impacts to the City of Lavon by the private tollway are grossly inconsistent with the City's Comprehensive Plan as a required consideration under Tex. Trans. Code § 362.103 and Rule 27.36 of the Texas Administrative Code, and to the quality of life provided by the City of Lavon, including the maintenance of a rural atmosphere and planning for parks, open spaces, thoroughfares, land use and utilities;

WHEREAS, the City of Lavon is involved with existing master development agreements, which include development incentives, and a Public Improvement Development and a Tax Increment Financing District that would be seriously affected by any route as proposed or currently being surveyed, which would cause the City economic hardship through lost revenue, as well as hardship to third parties;

WHEREAS, the City of Lavon believes that inundation with more toll roads, especially through the heart of Lavon, will burden the citizens of Lavon with a significant economic hardship due to fees for use;

WHEREAS, the City estimates the proposed project could impact approximately 40 adjacent property owners who could be displaced due to TTC's ability to exercise eminent domain;

WHEREAS, the City strongly opposes the use of eminent domain by a private entity;

WHEREAS, the TTC and/ or NCTCOG have presented materials involving the private toll road to other local governments, but not involved the City of Lavon; and

WHEREAS, TTC has provided no proof that the proposed private toll road will produce sufficient revenue to finance the construction, maintenance, operation, design, and planning of the project based on accurate traffic data and projections.

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

SECTION 1. That the City of Lavon hereby strongly opposes the private toll road and other alternatives recommended in the Blackland Corridor Feasibility Study that use a route passing through the Lavon City Limits and/or its ETJ for the purposes of the Northeast Gateway Project.

SECTION 2. That the City of Lavon requests that detailed information regarding the exact location of the proposed routes be provided to the City prior to any further public hearing under 27.33(b) of the Tex. Admin. Code.

SECTION 3. That the City of Lavon requests a copy of all summary and analysis and comment and response reports for public hearings that are submitted by TTC to the Texas Department of Transportation.

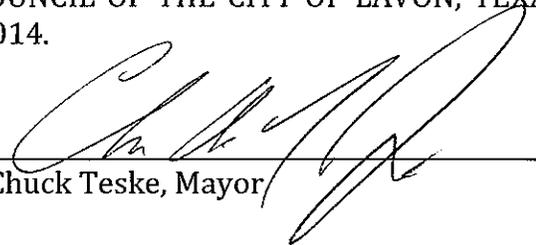
SECTION 4. That the City of Lavon, as a lake community, be allowed input into potential significant environmental impacts of the project during the environmental assessment as it relates to air quality, noise, and wildlife, especially including but not limited to any proposed bridges or lake crossings.

SECTION 5. That NTCOG, TTC, and the Texas Department of Transportation provide proof to the City that the data underlying the proposed private toll road is reliable and accurate, including that traffic data and projections used in calculating sufficient revenue are reliable and accurate.

SECTION 6. That all alternative solutions that do not affect the City of Lavon and meet the transportation needs of the area be explored while leaving control of the local transit infrastructure to the local governments.

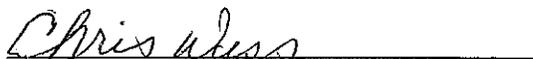
SECTION 7. That this Resolution shall take effect immediately from and after its passage, and it is accordingly so resolved.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF LAVON, TEXAS,
this 1st day of October, 2014.

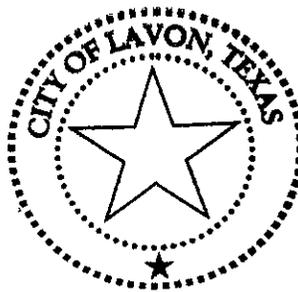


Chuck Teske, Mayor

ATTEST:



Chris Wess, City Secretary



RESOLUTION NO. R- 819**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FATE, TEXAS,
OPPOSING THE CONSTRUCTION OF THE BLACKLANDS CORRIDOR
TOLLWAY/NORTHEAST GATEWAY; PROVIDING AN EFFECTIVE DATE.**

WHEREAS, The North Central Texas Council of Governments, the Texas Turnpike Corporation, the Texas Department of Transportation, and a private developer have been conducting a study known as the Blacklands Corridor Feasibility Study to assess and recommend a combination of strategies related to local and regional transportation needs; and

WHEREAS, the Blacklands Corridor Study Area includes parts of Collin, Dallas, Hunt, and Rockwall Counties and includes consideration of a new tollway connecting the City of Greenville with the President George Bush Turnpike; and

WHEREAS, the City of Rockwall's representatives have indicated that a new tollway route has been added for consideration which would be located in Rockwall County and partially within the City of Rockwall and its Extra-Territorial Jurisdiction; and

WHEREAS, indications are that the routes being considered are contrary to the current planning of the City of Fate including adopted plans for parks, open space, thoroughfares, land use, and utilities; and

WHEREAS, the City of Fate considers this new tollway as a threat to its present and future economic viability with the likely diversion of traffic and business development; and

WHEREAS, the tollway project will result in public resource diversion from Interstate Highway 30 (IH 30) to other area Metropolitan Planning Organization (MPO) projects; and

WHEREAS, the tollway will proliferate unchecked urban sprawl resulting in new water resource demands that could bring continuous drought concerns to our area; and

WHEREAS, the City of Fate is philosophically and morally opposed to the use of eminent domain by a private corporation to be used on our nearby neighbors to construct this tollway;

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

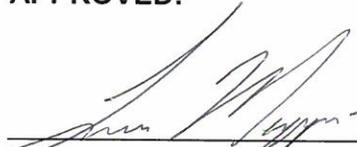
Section 1. That the City of Fate strongly opposes the construction of the Blacklands/Northeast Gateway Tollway.

AND IT IS SO RESOLVED.

APPROVED by the City Council of the City of Fate, Texas this 29th day of September, 2014.



APPROVED:



Lorne Megyesi, Mayor

ATTEST:



Victoria Raduechel, Interim City Secretary

RESOLUTION NO. 3606

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SACHSE, TEXAS, OPPOSING ROUTE ALTERNATIVES FOR THE NORTHEAST GATEWAY PROJECT (THE PRIVATE TOLLWAY ALTERNATIVE INCLUDED IN THE NORTH CENTRAL TEXAS COUNCIL OF GOVERNMENTS BLACKLANDS CORRIDOR FEASIBILITY STUDY) THAT ENTER INTO THE CITY OF SACHSE CITY LIMITS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Texas Turnpike Corporation (TTC), a private corporation, presented to the City of Sachse City Council on January 21, 2013 TTC's concept of a new private toll road between the City of Greenville, Texas and City of Lavon, Texas; and

WHEREAS, After January 21, 2013, the North Central Texas Council of Governments (NCTCOG) commissioned the Blacklands Corridor Feasibility Study, a multimodal transportation evaluation of a corridor between the President George Bush Turnpike and Interstate Highway 30 in Greenville, Texas to "determine if there is a demonstrated need for transportation projects...in this growing part of North Central Texas"; and

WHEREAS, during a Special Joint Work Session Meeting on June 12, 2014 participated in by the Cities of Sachse, Texas and Wylie, Texas; a representative of the NCTCOG indicated that the Feasibility Study would include a recommendation for a new roadway which could be a tollway; and

WHEREAS, during a Special Joint Work Session Meeting on August 14, 2014 participated in by the Cities of Sachse, Texas and Wylie, Texas; a representative of the NCTCOG showed four possible routes for the Northeast Gateway Project with three of the four traversing the City of Sachse in a way that results in 29 and 30 displacements of existing structures; and

WHEREAS, any route through the City of Sachse would render the existing City of Sachse Comprehensive Plan unattainable; and

WHEREAS, the City of Sachse places great value on the family-oriented community direction established by the City of Sachse Comprehensive Plan.

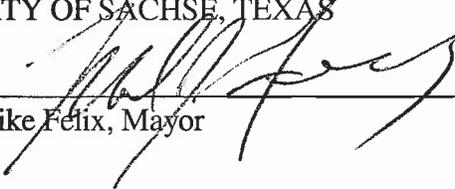
NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SACHSE, TEXAS:

SECTION 1. That the City Council does hereby strongly oppose route alternatives for the Northeast Gateway project (the private tollway alternative included in the North Central Texas Council of Governments Blacklands Corridor Feasibility Study) that enter into the City of Sachse city limits.

SECTION 2. That this Resolution shall take effect immediately from and after its passage, and it is accordingly so resolved.

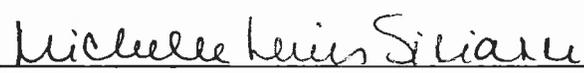
DULY RESOLVED AND ADOPTED by the City Council of the City of Sachse, Texas, this the 2nd day of September, 2014.

CITY OF SACHSE, TEXAS



Mike Felix, Mayor

ATTEST:



~~Terry Smith, City Secretary~~
Michelle Lewis Sinianni
Executive Secretary



City of Rowlett
Staff Report

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

AGENDA DATE: 10/14/14

AGENDA ITEM: 5B

TITLE

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

STAFF REPRESENTATIVE

Brian Funderburk, City Manager



City of Rowlett
Staff Report

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

AGENDA DATE: 10/14/14

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.

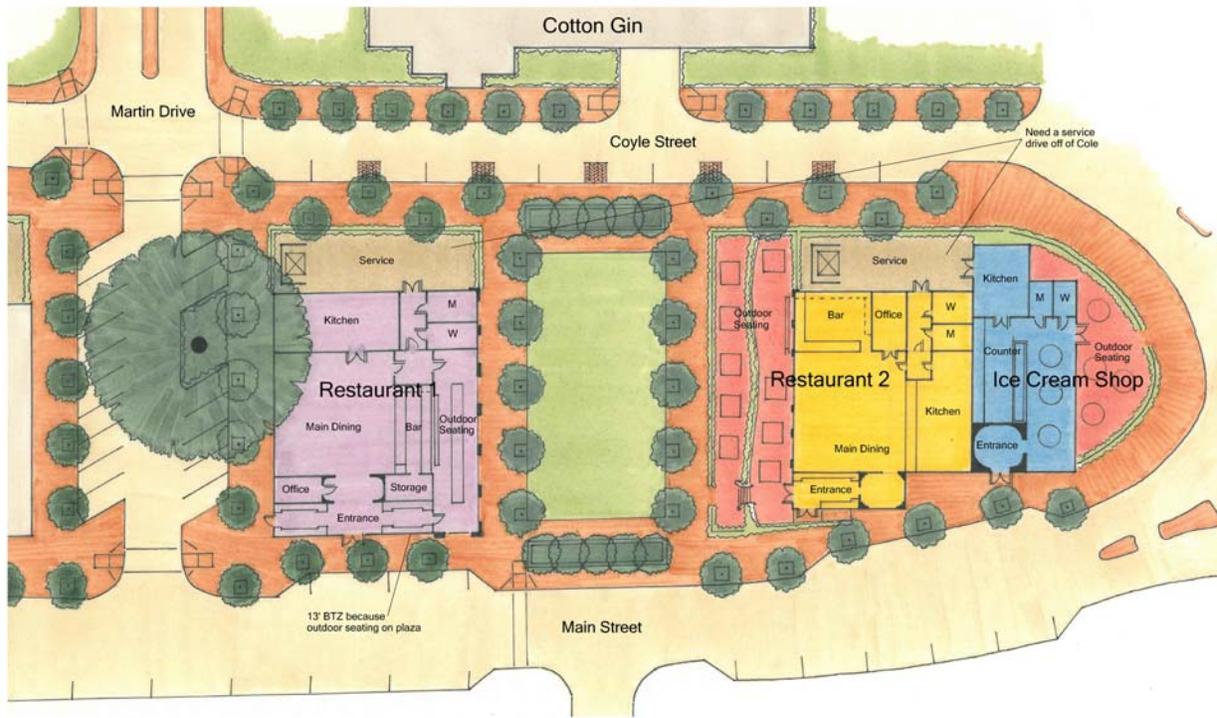
Notary Public, State of Texas

My Commission Expires:

AFTER RECORDING RETURN TO:

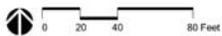
EXHIBIT C

CONCEPT PLAN



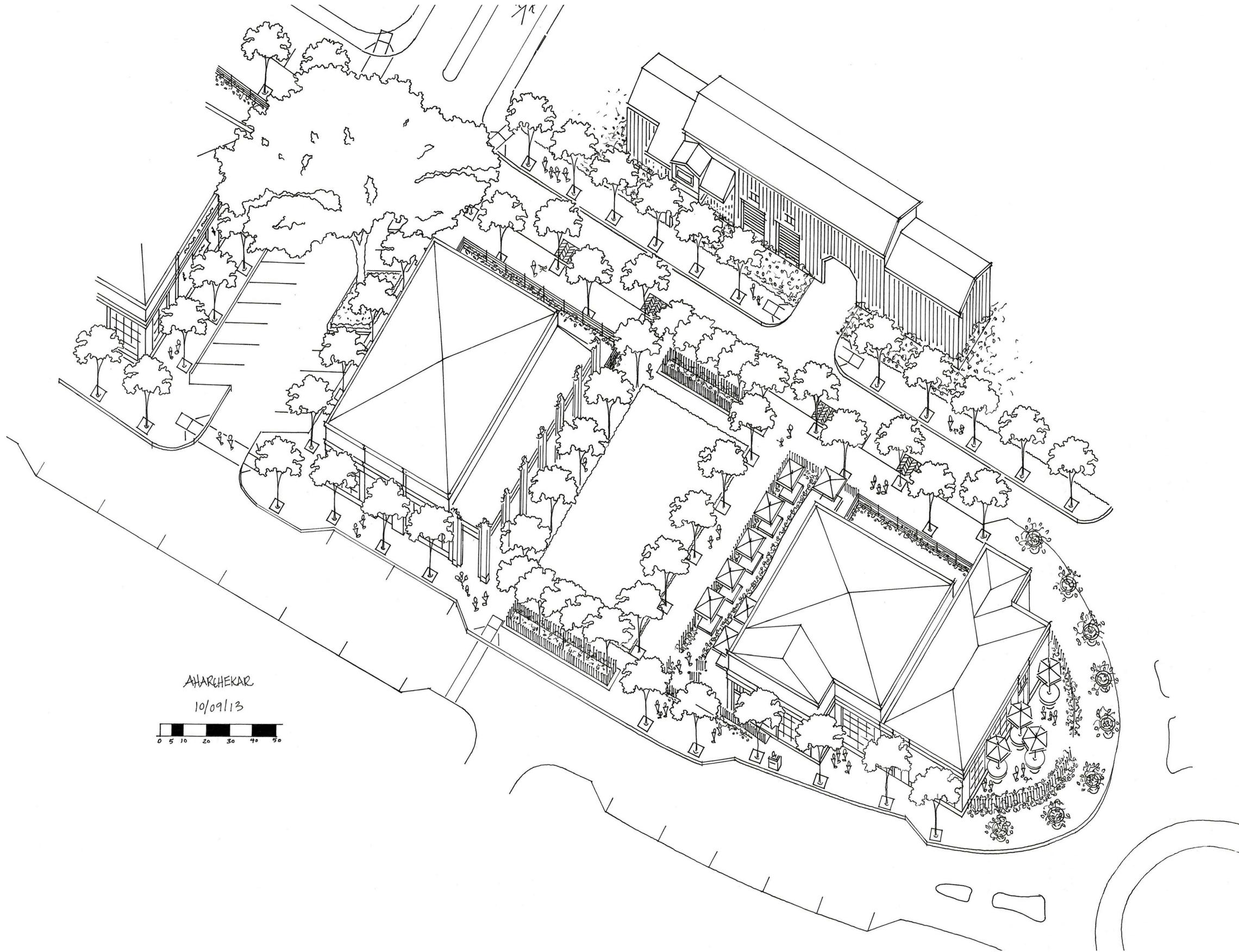
Pedestrian Plaza
Restaurant Design Workshop
Downtown Rowlett

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

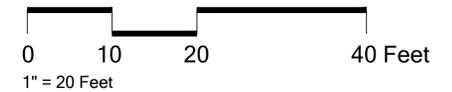


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10/09/13



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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