

\*\*\*\*PUBLIC NOTICE\*\*\*\*



**CITY COUNCIL WORKSHOP AND REGULAR SESSION**

**Thursday, October 17, 2024 at 5:45 PM**

**City Hall | 3300 Corinth Parkway**

**View live stream: [www.cityofcorinth.com/remotesession](http://www.cityofcorinth.com/remotesession)**

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Pursuant to section 551.127, Texas Government Code, one or more council members or employees may attend this meeting remotely using videoconferencing technology.

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- A. NOTICE IS HEREBY GIVEN** of a Workshop Session and Regular Meeting of the Corinth City Council.
- B. CALL TO ORDER**
- C. WORKSHOP AGENDA**
  - [1.](#) Receive a presentation and hold a discussion on the UNT Blue Green Infrastructure.
  - [2.](#) Conduct a workshop and hold an informal discussion on a rezoning request by the Applicant, 2200 Corinth Holdings LLC, to amend the Zoning Ordinance and Zoning Map of the City of Corinth, each being a part of the Unified Development Code, from SF-2 Single Family to MX-C Mixed Use Commercial on approximately ±6.3 acres located at 2200 FM 2181. (2200 FM 2181 Rezoning to MX-C)
  - [3.](#) Conduct a workshop and hold an informal discussion on the proposed Canyon Lake Ranch Planned Development on approximately ±107 acres located at 2950 FM 2181.
  - 4. Discuss items on the Regular Session Agenda, including the consideration of Executive Session items.
- D. ADJOURN WORKSHOP**
- E. CALL TO ORDER, INVOCATION, PLEDGE OF ALLEGIANCE & TEXAS PLEDGE**
- F. PROCLAMATIONS AND PRESENTATIONS**
  - [1.](#) Proclamation – Community Planning Month
- G. CITIZENS COMMENTS**

Please limit your comments to three minutes. Comments about any of the Council agenda items are appreciated by the Council and may be taken into consideration at this time or during that agenda item. Council is prohibited from acting on or discussing items brought before them at this time.
- H. CONSENT AGENDA**

All matters listed under the consent agenda are considered to be routine and will be enacted in one motion. Should the Mayor or a Council Member desire discussion of any item, that item will be removed from the Consent Agenda and will be considered separately.

  - [2.](#) Consider and act on minutes from the October 3, 2024, City Council Meeting.
  - [3.](#) Memorandum of Understanding governing cooperation between the Corinth Police Department and the Lake Dallas ISD Police Department.
  - [4.](#) Consider and act on an Ordinance of the City of Corinth approving an amendment to the fiscal year 2024-2025 budget and annual program of services to carry forward unspent funds from the previous fiscal year for the Property Residential Enhancement Program project; and providing an effective date.

5. Consider and act on an Ordinance of the City of Corinth approving an amendment to the fiscal year 2024-2025 budget and annual program of services to carry forward unspent funds from the previous fiscal year for the Landscaping of City Hall and the Public Safety Complex; and providing an effective date.
6. Consider and act on an annual contract for the installation and rental of lighting and seasonal decorations with Christmas Decor through the TIPPS cooperative purchasing contract 230806.

## I. BUSINESS AGENDA

7. Consider and act on the Membership in the Texas Coalition for Affordable Power (TCAP) and authorize the City Manager to execute any necessary documents related to this membership.
8. Consider and act on a request by TLP Corinth LLC for a Major Subdivision Waiver for relief of the Required Internal Storage (Minimum Throat Length/Stacking) of the Unified Development Code (UDC) Section 3.05.05 – Access Management, to allow for a reduction to the required Minimum [Vehicular] Storage Length for the Phelan Corinth Distribution Center project located on approximately ±8.461 acres at 1116 North Corinth Street. [Case No. MJSW24-0001: Phelan Corinth Distribution Center – Required Internal Storage (Minimum Throat Length/Stacking)]
9. Consider a request by TLP Corinth LLC for Alternative Compliance of UDC Sections 2.09.01 A.5 [Foundation Plantings for Buildings 50,000 Square Feet or Larger] and 2.09.06 F [Nonresidential Building Articulation] for the Phelan Corinth Distribution Center project located on approximately ±8.461 acres at 1116 North Corinth Street. [Case No. AC24-0003: Phelan Corinth Distribution Center]
10. Consider and act on an Ordinance of the City of Corinth, Texas, amending Chapter 39, Code of Ethics, of the Code of Ordinances and direct the City Manager to work with City Attorney to retain outside legal counsel and for the City Manager to contact individuals serving on boards and commissions who are identified in the ordinance to serve on the Ethics Commission.

## J. COUNCIL COMMENTS & FUTURE AGENDA ITEMS

The purpose of this section is to allow each Council Member the opportunity to provide general updates and/or comments to fellow Council Members, the public, and/or staff on any issues or future events. Also, in accordance with Section 30.085 of the Code of Ordinances, at this time, any Council Member may direct that an item be added as a business item to any future agenda.

## K. EXECUTIVE SESSION\*\*

In accordance with Chapter 551, Texas Government Code, Section 551.001, et seq., (the “Texas Open Meetings Act”), the City Council will recess into Executive Session (closed meeting) to discuss the following items. Any necessary final action or vote will be taken in public by the City Council in accordance with this agenda.

**Section 551.071 - Legal Advice.** (1) Private consultation with its attorney to seek advice about pending or contemplated litigation; and/or settlement offer; and/or (2) a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State of Texas clearly conflict with Chapter 551.

- a. 3409 Meadowview Dr.
- b. Short-term rentals

**Section 551.087 - Economic Development.** To deliberate or discuss regarding commercial or financial information that the governmental body has received from a business prospect that the governmental body seeks to have locate, stay, or expand in or near the territory of the governmental body and with which the governmental body is conducting economic development negotiations; or to deliberate the offer of a financial or other incentive to a business project.

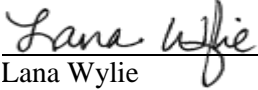
- a. Wolverine Interests
- b. Realty Capital
- c. Northeast Corner of FM 2181 and Parkridge Drive
- d. Downtown Development - Economic Incentive

**L. RECONVENE IN OPEN SESSION TO TAKE ACTION, IF NECESSARY, ON EXECUTIVE SESSION ITEMS**

**M. ADJOURN**

\*\*The City Council reserves the right to recess into closed session at any time during the course of this meeting to discuss any of the matters posted on this agenda, as authorized by the Texas Open Meetings Act, Texas Government Code, Section 551.071, "Consultation with Attorney" for the purpose of receiving legal advice.

Posted on this 14th day of October 2024, at 5:10 P.M., on the bulletin board at Corinth City Hall.

  
\_\_\_\_\_  
Lana Wylie  
City Secretary  
City of Corinth, Texas



**CITY OF CORINTH**  
**Staff Report**

<b>Meeting Date:</b>	10/17/2024	<b>Title:</b>	Presentation   UNT Blue Green Infrastructure
<b>Strategic Goals:</b>	<input type="checkbox"/> Resident Engagement <input checked="" type="checkbox"/> Proactive Government <input type="checkbox"/> Organizational Development <input type="checkbox"/> Health & Safety <input checked="" type="checkbox"/> Regional Cooperation <input type="checkbox"/> Attracting Quality Development		
<b>Owner Support:</b>	<input type="checkbox"/> Planning & Zoning Commission <input type="checkbox"/> Economic Development Corporation <input type="checkbox"/> Parks & Recreation Board <input type="checkbox"/> TIRZ Board #2 <input type="checkbox"/> Finance Audit Committee <input type="checkbox"/> TIRZ Board #3 <input type="checkbox"/> Keep Corinth Beautiful <input type="checkbox"/> Ethics Commission		

**Item/Caption**

Receive a presentation and hold a discussion on the UNT Blue Green Infrastructure.

**Item Summary/Background/Prior Action**

The City of Corinth, in collaboration with the University of North Texas (UNT), is embarking on an innovative blue-green infrastructure study aimed at enhancing our natural ecosystems while addressing urban infrastructure challenges. Jaime Baxter-Slye will be presenting the details of this initiative, which focuses on utilizing Texas native plants to achieve key environmental and infrastructural goals.

The main objectives of this study include:

1. **Erosion Control:** Implementing Texas native plants in critical areas to stabilize soils and prevent erosion, particularly in vulnerable zones.
2. **Improving Water Quality:** Enhancing drainage systems and the water quality of city ponds by introducing native plants that naturally filter and clean the water while simultaneously helping with erosion control.
3. **Restoration of Texas Sand Prairies:** Revitalizing the region’s sand prairie ecosystems, which are vital for biodiversity and environmental resilience.

This partnership will serve as a model for sustainable urban development, balancing natural habitats with the city’s growing infrastructure needs.

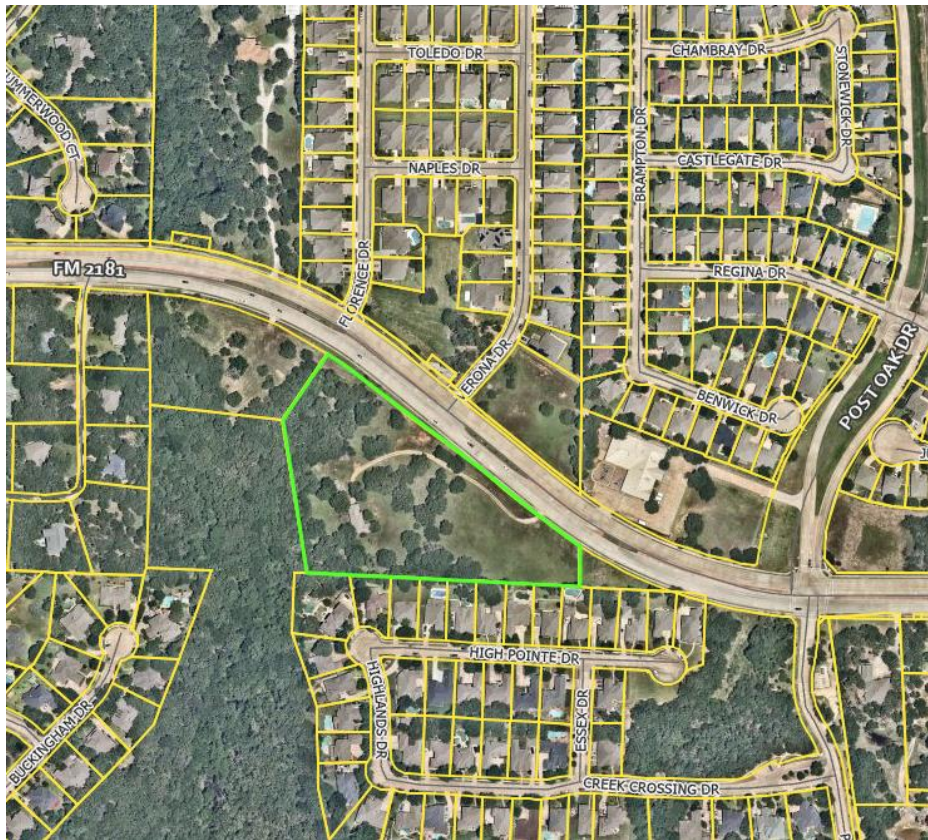


**CITY OF CORINTH**  
**Staff Report**

<b>Meeting Date:</b>	10/17/2024	<b>Title:</b>	WS – 2200 FM 2181 Rezoning to MX-C
<b>Strategic Goals:</b>	<input type="checkbox"/> Resident Engagement <input checked="" type="checkbox"/> Proactive Government <input type="checkbox"/> Organizational Development <input type="checkbox"/> Health & Safety <input type="checkbox"/> Regional Cooperation <input type="checkbox"/> Attracting Quality Development		
<b>Owner Support:</b>	<input type="checkbox"/> Planning & Zoning Commission <input type="checkbox"/> Economic Development Corporation <input type="checkbox"/> Parks & Recreation Board <input type="checkbox"/> TIRZ Board #2 <input type="checkbox"/> Finance Audit Committee <input type="checkbox"/> TIRZ Board #3 <input type="checkbox"/> Keep Corinth Beautiful <input type="checkbox"/> Ethics Commission		

**Item/Caption**

Conduct a workshop and hold an informal discussion on a rezoning request by the Applicant, 2200 Corinth Holdings LLC, to amend the Zoning Ordinance and Zoning Map of the City of Corinth, each being a part of the Unified Development Code, from SF-2 Single Family to MX-C Mixed Use Commercial on approximately ±6.3 acres located at 2200 FM 2181. (2200 FM 2181 Rezoning to MX-C )



**Location Map**

**Item Summary/Background**

The Applicant, 2200 Corinth Holdings LLC, has submitted a request to rezone the property depicted above from SF-2 Single Family Residential to MX-C Mixed Use Commercial. The purpose of this workshop meeting is to review the application site and elements and requirements of the MX-C zoning district with the City Council and receive feedback.

**Important Items to Consideration During the Workshop**

1. The Workshop meeting is not a public hearing. The purpose of the meeting is to allow the Applicant the opportunity to provide an overview of the elements of the application and receive feedback from the Commission.
2. Members of the City Council are encouraged to offer comments, ask questions, and express any concerns but should not indicate how they would vote on the request at a future public hearing.

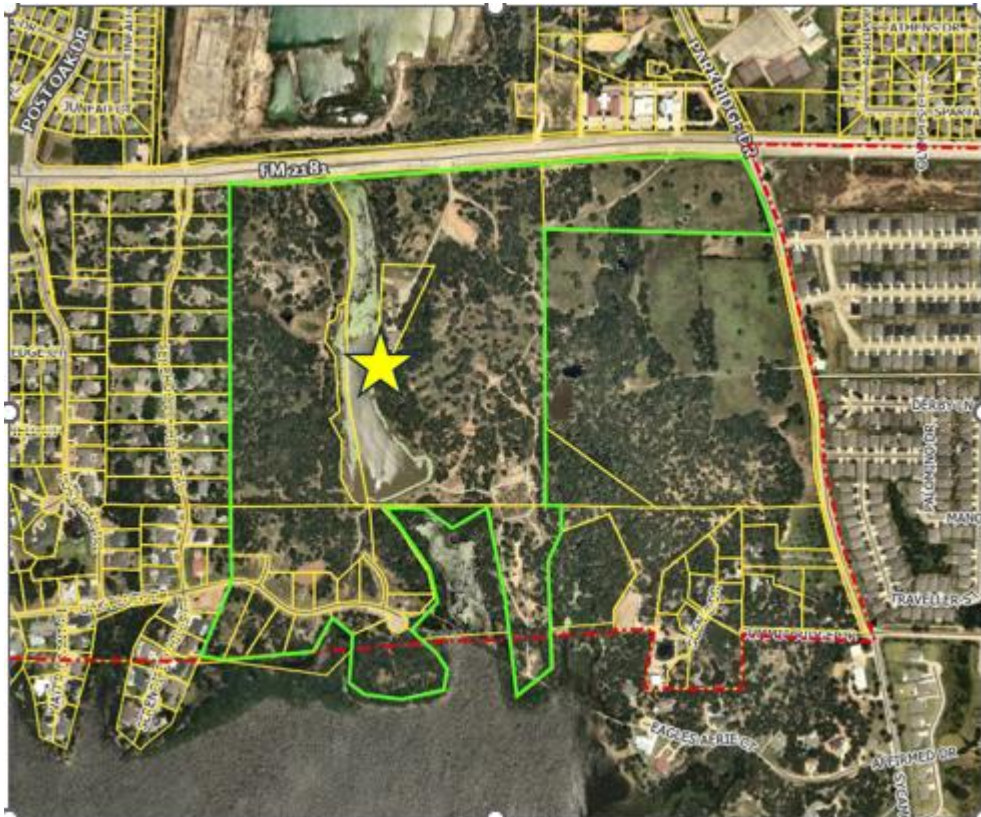


**CITY OF CORINTH**  
**Staff Report**

<b>Meeting Date:</b>	10/17/2024	<b>Title:</b>	WS   Canyon Lake Ranch Planned Development
<b>Strategic Goals:</b>	<input type="checkbox"/> Resident Engagement <input checked="" type="checkbox"/> Proactive Government <input type="checkbox"/> Organizational Development <input type="checkbox"/> Health & Safety <input type="checkbox"/> Regional Cooperation <input type="checkbox"/> Attracting Quality Development		
<b>Owner Support:</b>	<input type="checkbox"/> Planning & Zoning Commission <input type="checkbox"/> Economic Development Corporation <input type="checkbox"/> Parks & Recreation Board <input type="checkbox"/> TIRZ Board #2 <input type="checkbox"/> Finance Audit Committee <input type="checkbox"/> TIRZ Board #3 <input type="checkbox"/> Keep Corinth Beautiful <input type="checkbox"/> Ethics Commission		

**Item/Caption**

Conduct a workshop and hold an informal discussion on the proposed Canyon Lake Ranch Planned Development on approximately ±107 acres located at 2950 FM 2181.



**Location Map**

**Item Summary/Background**

The developer/property owner, Michael Ingle, has submitted a rezoning request to establish a Planned Development District for a mixed-use development on the properties depicted above. The property at the southwest corner of Parkridge Dr and FM 2181 is currently zoned C-2 Commercial, with the remaining properties being zoned PD-36 which has base zoning districts of SF-3 Single Family Residential and C-2 Commercial. The purpose of this workshop meeting with the City Council is to receive feedback on the attached preliminary concept plan for the subject site.

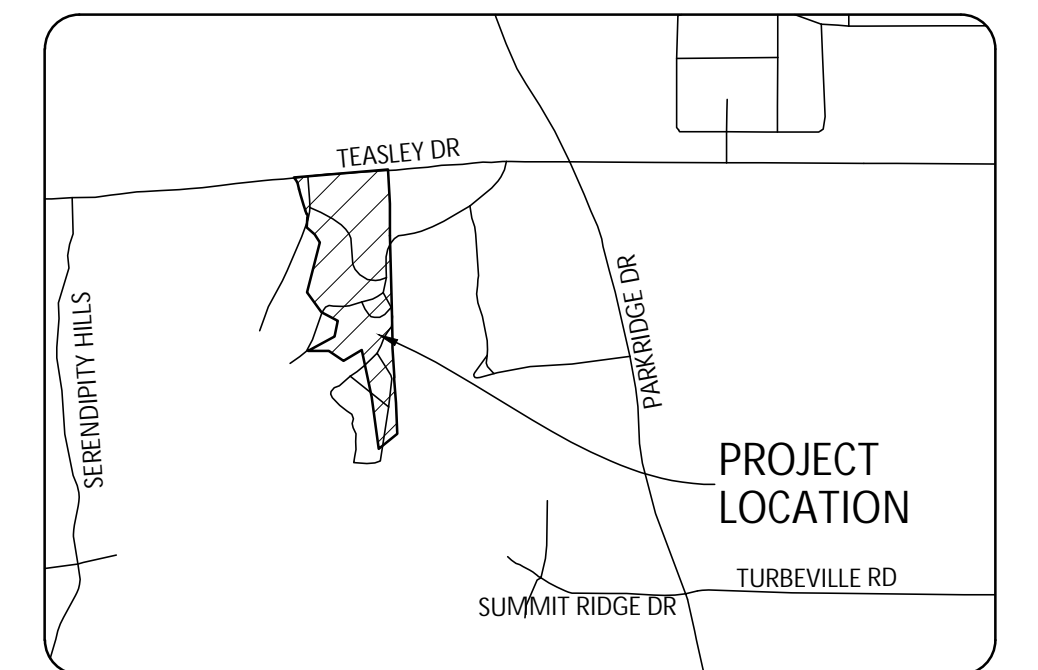
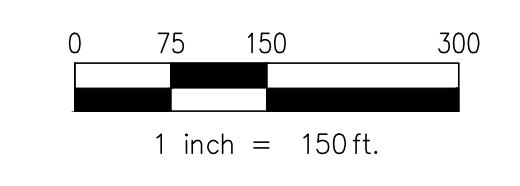
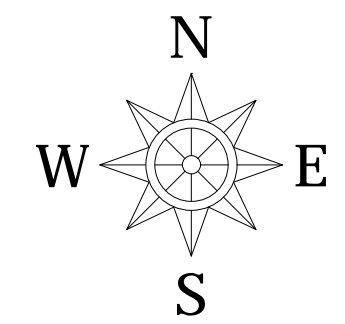
**Important Items to Consideration During the Workshop**

1. The Workshop meeting is not a public hearing. The purpose of the meeting is to allow the developer the opportunity to provide an overview of the elements of the proposal and receive feedback from the City Council.
2. Members of the City Council are encouraged to offer comments, ask questions, and express any concerns but should not indicate how they would vote on the proposal at a future public hearing.

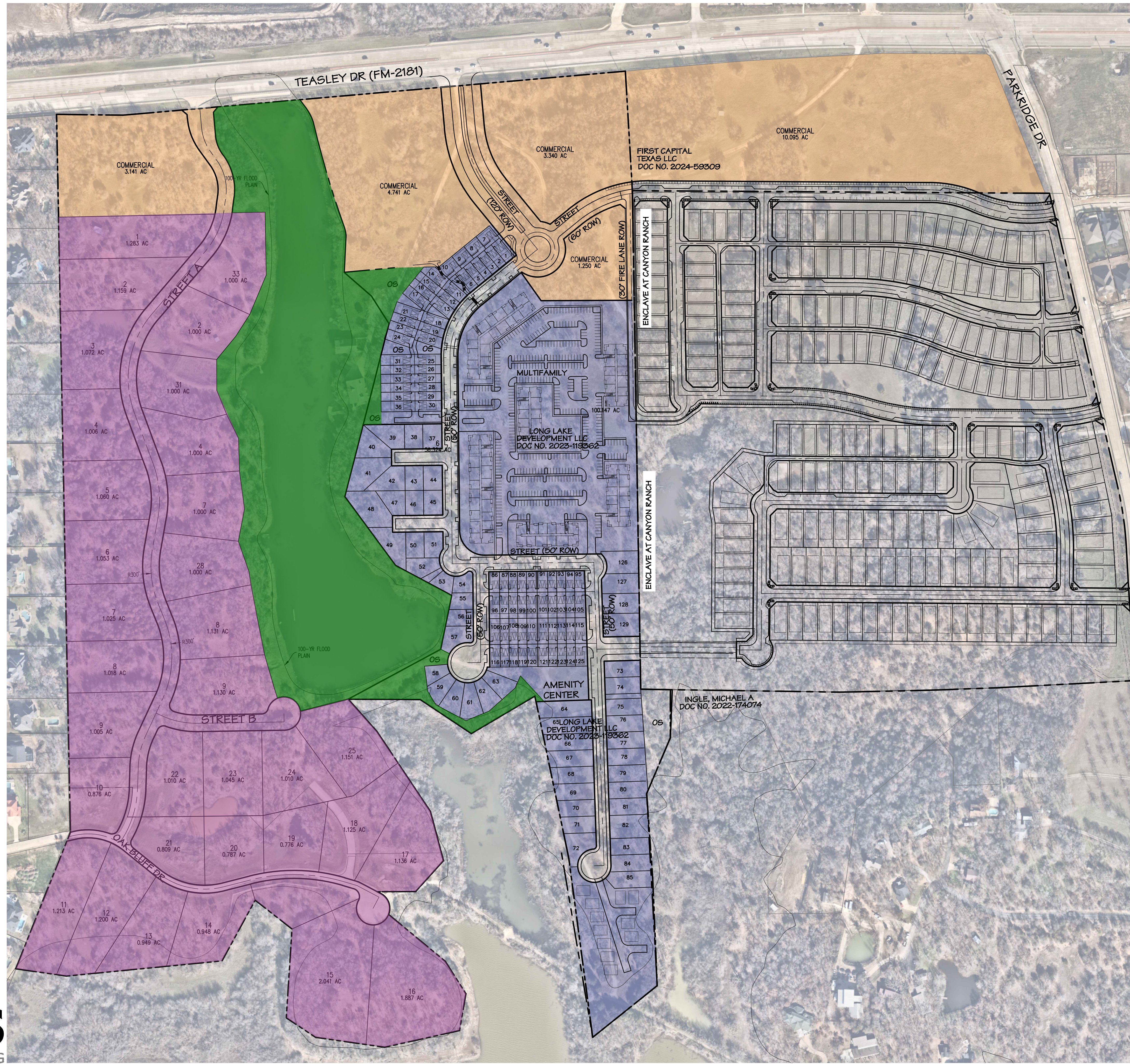
**Attachments**

1. Concept Plan





Vicinity Map



LEGEND

- Proposed Subdistrict C - SF2 (amended)
- Proposed Subdistrict B MX-C - MF/TH
- Proposed Subdistrict A MX-C - Commercial
- Proposed Open Space

CONCEPT PLAN - KEY MAP

**LONG LAKE**

IN THE CITY OF CORINTH, DENTON COUNTY, TEXAS  
M.E.P. & P.R.R. SURVEY ABSTRACT NO. 915  
1,746,646 Sq. Ft./40.097 Ac.

ENGINEER / SURVEYOR/  
Spiars Engineering, Inc.  
765 Custer Road, Suite 100  
Plano, TX 75075  
Telephone: (972) 422-0077  
TBPE No. F-2121  
Contact: Kevin Wier

**SPIARS**  
ENGINEERING & SURVEYING  
765 Custer Road, Suite 100 • Plano, TX 75075 • 972.422.0077  
TBPE No F-2121 • TBLPS No. F-10043100 • www.spiarseng.com

Drawing: C:\2024\_08\524-052 Long Lake\CD\01\01\03 - Concept Plan.dwg Saved By: Bmurdal Save Time: 9/19/2024 7:31:59 AM Plotted by: Bmurdal Plot Date: 9/19/2024 7:36 AM



# CITY OF CORINTH Staff Report

<b>Meeting Date:</b>	10/17/2024	<b>Title:</b>	Proclamation   Community Planning Month
<b>Strategic Goals:</b>	<input type="checkbox"/> Resident Engagement <input checked="" type="checkbox"/> Proactive Government <input type="checkbox"/> Organizational Development <input type="checkbox"/> Health & Safety <input type="checkbox"/> Regional Cooperation <input type="checkbox"/> Attracting Quality Development		
<b>Owner Support:</b>	<input type="checkbox"/> Planning & Zoning Commission <input type="checkbox"/> Economic Development Corporation <input type="checkbox"/> Parks & Recreation Board <input type="checkbox"/> TIRZ Board #2 <input type="checkbox"/> Finance Audit Committee <input type="checkbox"/> TIRZ Board #3 <input type="checkbox"/> Keep Corinth Beautiful <input type="checkbox"/> Ethics Commission		

**Item/Caption**

Proclamation – Community Planning Month



# PROCLAMATION

## Community Planning Month

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

**WHEREAS**, planners can help navigate this change with data-driven insights and expertise that provide better choices for how people work and live; and

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

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

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

**WHEREAS**, the American Planning Association endorses National Community Planning Month as an opportunity to highlight how planning is essential to every community, and how planners are uniquely positioned to identify solutions to communities' most difficult housing, transportation, and land use questions; and

**WHEREAS**, the celebration of National Community Planning Month gives us the opportunity to publicly recognize the participation and dedication of appointed planning commission members who have contributed their time and expertise to the improvement of the City of Corinth; and

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

**THEREFORE, BE IT RESOLVED** that the month of October 2024 is hereby designated as Community Planning Month in the City of Corinth in conjunction with the celebration of National Community Planning Month.

Signed this 17<sup>th</sup> day of October 2024.

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Bill Heidemann, Mayor  
City of Corinth, Texas



# CITY OF CORINTH Staff Report

<b>Meeting Date:</b>	10/17/2024	<b>Title:</b> Minutes   Approval of Meeting Minutes
<b>Strategic Goals:</b>	<input type="checkbox"/> Resident Engagement <input checked="" type="checkbox"/> Proactive Government <input type="checkbox"/> Organizational Development <input type="checkbox"/> Health & Safety <input type="checkbox"/> Regional Cooperation <input type="checkbox"/> Attracting Quality Development	
<b>Owner Support:</b>	<input type="checkbox"/> Planning & Zoning Commission <input type="checkbox"/> Economic Development Corporation <input type="checkbox"/> Parks & Recreation Board <input type="checkbox"/> TIRZ Board #2 <input type="checkbox"/> Finance Audit Committee <input type="checkbox"/> TIRZ Board #3 <input type="checkbox"/> Keep Corinth Beautiful <input type="checkbox"/> Ethics Commission	

**Item/Caption**

Consider and act on minutes from the October 3, 2024, City Council Meeting.

**Item Summary/Background/Prior Action**

Attached are the minutes, in draft form, and are not considered official until formally approved by the City Council.

**Staff Recommendation/Motion**

Staff recommends approval of the minutes.



# CITY COUNCIL WORKSHOP AND REGULAR SESSION - MINUTES

Thursday, October 03, 2024 at 5:45 PM

City Hall | 3300 Corinth Parkway

View live stream: Recording failed

STATE OF TEXAS  
COUNTY OF DENTON  
CITY OF CORINTH

On this, the 3rd day of October 2024, the City Council of the City of Corinth, Texas, met at Corinth City Hall at 5:45 P.M., located at 3300 Corinth Parkway, Corinth, Texas. The meeting date, time, place, and purpose as required by Title 5, Subtitle A, Chapter 551, Subchapter C, Section 551.041, Government Code, with the following members to wit:

**Council Members Present:**

- Bill Heidemann, Mayor
- Sam Burke, Mayor Pro Tem
- Scott Garber, Council Member
- Lindsey Rayl, Council Member
- Tina Henderson, Council Member
- Kelly Pickens, Council Member

**Staff Members Present:**

- Scott Campbell, City Manager
- Lana Wylie, City Secretary
- Patricia Adams, City Attorney
- Glenn Barker, Director of Public Works
- Cesar Balderas, Information Technology Services Manager
- Derek Dunham, Technology Services Specialist
- Lance Stacy, City Marshal

**CALL TO ORDER**

Mayor Heidemann called the Workshop Session to order at 5:49 P.M.

**WORKSHOP AGENDA**

1. Receive a report, hold a discussion, and provide staff direction on the Ethics Ordinance and Committee.  
  - Council Member Pickens recused herself from this item.
  - The item was presented and discussed.
2. Discuss items on the Regular Session Agenda, including the consideration of Executive Session items.  
  - No items for the Regular Session Agenda were discussed.

**ADJOURN WORKSHOP**

Mayor Heidemann recessed the Workshop Session at 6:07 P.M.

**CALL TO ORDER, INVOCATION, PLEDGE OF ALLEGIANCE & TEXAS PLEDGE**

Mayor Heidemann called the Regular Session Meeting to order at 6:10 P.M.

**PROCLAMATIONS AND PRESENTATIONS**

1. Proclamation celebrating the Inaugural 2024 Texas Teachers’ Day, October 5th.

Mayor Heidemann read the Proclamation.

**CITIZENS COMMENTS**

Please limit your comments to three minutes. Comments about any of the Council agenda items are appreciated by the Council and may be taken into consideration at this time or during that agenda item. Council is prohibited from acting on or discussing items brought before them at this time.

No citizen comments were made.

**CONSENT AGENDA**

All matters listed under the consent agenda are considered to be routine and will be enacted in one motion. Should the Mayor or a Council Member desire discussion of any item, that item will be removed from the Consent Agenda and will be considered separately.

2. Consider and act on minutes from the September 19, 2024, City Council Meeting.
3. Consider and act on a contract for engineering plan review services with Shield Engineering PLLC in the amount of \$200,000 and authorize the City Manager to execute the necessary documents.
4. Consider and act on a contract with Holbrook Asphalt Company, through the City of Hurst’s Contract, for asphalt sealing services for Fiscal Year 2024-2025, in an amount not to exceed \$200,000 and authorize the City Manager to execute the necessary documents.
5. Consider and act on Bid#1176, for FY2024-2025 year contract with Atlas Utility Supply Company for water and wastewater parts, in an amount not to exceed \$151,099 and authorize the City Manager to execute the necessary documents, as a result of the competitive bidding process via Invitation to Bid 1176.

Motion made by Council Member Garber: I move to approve the Consent Agenda as presented. Seconded by Council Member Henderson.

Voting Yea: Mayor Pro Tem Burke, Council Member Garber, Council Member Rayl, Council Member Henderson, Council Member Pickens

**BUSINESS AGENDA**

6. Consider and act on an Interlocal Agreement between the City of Corinth, Texas and the City of Lake Dallas, Texas for Fire Protection, Emergency Medical and Fire Prevention Services.

Motion made by Mayor Pro Tem Burke: I move to approve the Interlocal agreement between the City of Corinth and the City of Lake Dallas for Fire Protection, Emergency Medical and Fire Prevention Services beginning October 1, 2026. Seconded by Council Member Pickens.

Voting Yea: Mayor Pro Tem Burke, Council Member Garber, Council Member Rayl, Council Member Henderson, Council Member Pickens

7. Consider and act on an Interlocal Agreement between the City of Corinth, Texas and the Town of Hickory Creek, Texas for Fire Protection, Emergency Medical and Fire Prevention Services.

Motion made by Mayor Pro Tem Burke: I move to approve the Interlocal agreement between the City of Corinth and the Town of Hickory Creek for Fire Protection, Emergency Medical and Fire Prevention Services beginning October 1, 2026. Seconded by Council Member Henderson.

Voting Yea: Mayor Pro Tem Burke, Council Member Garber, Council Member Rayl, Council Member Henderson, Council Member Pickens

- 8. Consider and act on an Interlocal Agreement between the City of Corinth, Texas and the Town of Shady Shores, Texas for Fire Protection, Emergency Medical and Fire Prevention Services.

Motion made by Council Member Henderson: I move to approve the Interlocal agreement between the City of Corinth and the Town of Shady Shores for Fire Protection, Emergency Medical and Fire Prevention Services beginning October 1, 2026. Seconded by Council Member Garber.

Voting Yea: Mayor Pro Tem Burke, Council Member Garber, Council Member Rayl, Council Member Henderson, Council Member Pickens

- 9. Consider and act on a contract change order with Byrne Construction Services for Agora Park, Contract No 1635, in the amount of \$5,710.

Motion made by Council Member Garber: I move to approve the change order for the Commons at Agora with Byrne Construction Services for the cost of \$5710. Seconded by Council Member Pickens.

Voting Yea: Mayor Pro Tem Burke, Council Member Garber, Council Member Rayl, Council Member Henderson, Council Member Pickens

- 10. Consider and act on the appointment of Chair and Vice Chair of the Planning & Zoning Commission.

Motion made by Council Member Garber: I move to appoint Alan Nelson as Chair of the Planning and Zoning Commission and Mark Klingele as Vice Chair of the Planning and Zoning Commission. Seconded by Mayor Pro Tem Burke.

Voting Yea: Mayor Pro Tem Burke, Council Member Garber, Council Member Rayl, Council Member Henderson, Council Member Pickens

- 11. Consider and act on nominating up to five individuals to serve on the Denton Central Appraisal District Board of Directors, to serve a three-year term beginning on January 1, 2025.

Motion made by Council Member Pickens: I move to nominate Ray Martin and Jared Eutselr to serve on the Denton Central Appraisal District Board of Directors to serve a three-year term ending on January 1, 2025. Seconded by Council Member Garber.

Voting Yea: Mayor Pro Tem Burke, Council Member Garber, Council Member Rayl, Council Member Henderson, Council Member Pickens

**COUNCIL COMMENTS & FUTURE AGENDA ITEMS**

The purpose of this section is to allow each Council Member the opportunity to provide general updates and/or comments to fellow Council Members, the public, and/or staff on any issues or future events. Also, in accordance with Section 30.085 of the Code of Ordinances, at this time, any Council Member may direct that an item be added as a business item to any future agenda.

Mayor Pro Tem Burke  
Council Member Garber  
Council Member Henderson  
Council Member Pickens

City Manager Campbell  
Mayor Heidemann

Mayor Heidemann recessed the Regular Session Meeting at 6:28 P.M. and immediately convened into Executive Session.

**EXECUTIVE SESSION\*\***

In accordance with Chapter 551, Texas Government Code, Section 551.001, et seq., (the “Texas Open Meetings Act”), the City Council will recess into Executive Session (closed meeting) to discuss the following items. Any necessary final action or vote will be taken in public by the City Council in accordance with this agenda.

**Section 551.071 - Legal Advice.** (1) Private consultation with its attorney to seek advice about pending or contemplated litigation; and/or settlement offer; and/or (2) a matter in which the duty of the attorney to the government body under the Texas Disciplinary Rules of Professional Conduct of the State of Texas clearly conflict with Chapter 551.

**Section 551.074 - Personnel Matters.** To deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee, or to hear a complaint or charge against an officer or employee.

a. City Manager duties/oversight regarding personnel and department structure.

**RECONVENE IN OPEN SESSION TO TAKE ACTION, IF NECESSARY, ON EXECUTIVE SESSION ITEMS**

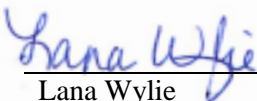
Mayor Heidemann recessed the Executive Session Meeting at 8:13 P.M. and immediately reconvened into the Regular Session Meeting.

No action was taken.

**ADJOURN**

Mayor Heidemann adjourned the meeting at 8:13 P.M.

Approved by the Council on the \_\_\_\_\_ day of \_\_\_\_\_ 2024.



\_\_\_\_\_  
Lana Wylie  
City Secretary  
City of Corinth, Texas





**CITY OF CORINTH**  
**Staff Report**

<b>Meeting Date:</b>	10/17/2024	<b>Title:</b> Interlocal Agreement with Lake Dallas ISD Police Department for Cooperative Law Enforcement Services
<b>Strategic Goals:</b>	<input type="checkbox"/> Resident Engagement <input checked="" type="checkbox"/> Proactive Government <input type="checkbox"/> Organizational Development <input checked="" type="checkbox"/> Health & Safety <input checked="" type="checkbox"/> Regional Cooperation <input type="checkbox"/> Attracting Quality Development	
<b>Owner Support:</b>	<input type="checkbox"/> Planning & Zoning Commission <input type="checkbox"/> Economic Development Corporation <input type="checkbox"/> Parks & Recreation Board <input type="checkbox"/> TIRZ Board #2 <input type="checkbox"/> Finance Audit Committee <input type="checkbox"/> TIRZ Board #3 <input type="checkbox"/> Keep Corinth Beautiful <input type="checkbox"/> Ethics Commission	

**Item/Caption**

Memorandum of Understanding governing cooperation between the Corinth Police Department and the Lake Dallas ISD Police Department.

**Item Summary/Background/Prior Action**

Lake Dallas ISD plans to stand up their own police department to provide school resource officers in all LDISD schools. They have proposed an agreement detailing each police agency’s responsibilities in working together in incidents involving LDISD schools located in Corinth. The Corinth Police Department has reviewed, provided input, and approved the plans.

**Financial Impact**

N/A.

**Applicable Policy/Ordinance**

N/A.

**Staff Recommendation/Motion**

Staff recommends approval.

**MEMORANDUM OF UNDERSTANDING  
CONCERNING COMMUNICATION AND COORDINATION BETWEEN  
THE LAKE DALLAS INDEPENDENT SCHOOL DISTRICT POLICE DEPARTMENT  
AND THE CORINTH POLICE DEPARTMENT**

This Memorandum of Understanding (this “MOU”) is made and entered into by and between the following parties: the Lake Dallas Independent School District Police Department (“LDISD PD”) and the Corinth Police Department (“CPD”).

**WHEREAS**, Texas Education Code §37.081(g) provides that a school district police department and the law enforcement agencies with which it has overlapping jurisdiction shall enter into a memorandum of understanding that outlines reasonable communication and coordination efforts between the department and the agencies; and,

**WHEREAS**, the Lake Dallas Independent School District Police Department has overlapping jurisdiction with the Corinth Police Department and desires to enter into such a memorandum of understanding with regard to communication and coordination of efforts between the agencies; and,

**WHEREAS**, it is the desire of the two agencies to assist one another in the notification and investigation of certain criminal offenses occurring in the territorial jurisdictions of the two entities; and,

**WHEREAS**, this cooperative effort will assist in the agencies’ respective responsibilities and mission to serve the citizens of Corinth and the Lake Dallas Independent School District (“LDISD”);

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements contained in this memorandum of understanding, the undersigned parties agree as follows:

**I. Notification between Parties.**

*The LDISD Police Department to Notify the Corinth Police Department*

**A.** A LDISD PD officer will call the CPD to advise of any serious incident that occurs within LDISD if resources from both agencies are needed for the good of the community and the success of the investigation. The term “serious incident” includes, but is not limited to, the following crimes, offenses, or situations, or evidence thereof:

1. Any degree felony.
2. Murder or attempted murder.
3. Aggravated robbery where a firearm or knife is used.
4. Aggravated sexual assault.
5. Sexual assault of an adult or a child.
6. Any indecent exposure or solicitation of a child report. This includes pornographic pictures being taken of **children** or shown to **children**, **but excludes incidents determined to be punishable as class B & C level offenses under Section 43.261 Penal Code.**
7. Aggravated assault where a gun or weapon is used or threatened.
8. Aggravated kidnapping.
9. Any EOD or explosive weapon is used or threatened.

10. Any disturbance where a mass or group is involved (i.e., riot).
  11. Any criminal intelligence information developed by a LDISD PD officer concerning any criminal incident which occurred, or is planned away from LDISD property, and within Corinth PD jurisdiction.
  12. Any other situation where the officer decides there is a need based on impact to the community, impact to public safety, or requires an immediate response that may need involvement from both agencies. This is designed to encourage open communication between the two departments.
- B.** Once contacted by LDISD PD, the CPD will determine what, if any, response is needed from the CPD Chief or Officer. This decision should be based on the resources needed to accomplish the investigative goal, to serve the community, and safeguard students and staff.

***The Corinth Police Department to notify the LDISD Police Department***

- C.** CPD personnel are to notify the LDISD PD directly to advise of the following incidents involving LDISD students or school safety that occur within the jurisdiction of the LDISD PD:
1. **Bus Accidents:** All LDISD bus accidents in order for LDISD PD to facilitate: assistance for the investigation and collection of student data necessary for the investigation; assistance with school reunification of students to parents; and assistance should alternate transportation and medical transportation be made. Unless otherwise mutually agreed, LDISD PD will defer and CPD will retain primary jurisdiction for roadway investigations and completion of all TxDOT reports. LDISD PD shall assist the CPD in the collision response and logistics involving such collision. LDISD PD will handle bus related investigations occurring on District property unless the incident involves serious bodily injury or death.
  2. **SWAT Responses:** Any SWAT call in audible or visible proximity to LDISD property (addresses in Exhibit A), which might cause alarm or interrupt campus or bus operations.
  3. **Armed Suspect:** Any armed suspect on LDISD school grounds or in proximity to school grounds during school hours that may necessitate a school lockdown for the safety and security of the students.
  4. **Sex Crimes/Suspects:** Any sex crimes or suspicious person around school properties who is approaching students walking to and from school.
  5. **Fire and Road Blockages:** Any fires or complete road blockages around schools during school hours, or which may affect bus transportation.
  6. **LDISD Community Deaths:** Any death of a LDISD student, parent, staff member, or board member, to the extent the CPD is aware of the person's affiliation with LDISD.
  7. **Pre-planned Tactical Operations:** Any pre-planned tactical operation planned during school hours within audible or visible proximity of a school (i.e., a pre-planned search warrant). While details are not necessary, there may be a request to limit traffic flow around the target area, and LDISD schools in the area.
  8. **911 calls:** Any 911 calls received originating from school campuses or school properties. Any calls responded to after hours or holidays involving school property that require a criminal investigation or follow-up.
  9. **Requests for Administrative Assistance:** Any calls where the CPD believes that LDISD PD administrative assistance may assist to avoid recidivism or increase mutual agency efficiency in responding to situations. Such calls may be harassment or assaultive in nature where both parties are students at a common campus or other criteria the officer believes may benefit from LDISD

PD or LDISD administrative intervention.

10. **Arrest Notifications:** Arrest notifications shall be made in compliance with Tex. Code of Crim. Proc. § 15.27 and forwarded to the Chief of the LDISD PD as designee for the Superintendent for dissemination.

**Note:** LDISD PD is not a 24-hour department. The department’s hours are from 7:15 am to 4:30 pm on school business days, as determined in the official school calendar for school administrators. Except in the event of an emergency, notifications required under this section must be made to the LDISD Chief of Police via phone or email during the department’s official business hours.

**II. Investigations.**

- A. If the decision is made to call in additional CPD resources for an incident that has occurred on school property for which the LDISD PD initiated the response, the on-scene LDISD officer and CPD officer will decide which agency will take the lead.
- B. The parties have agreed that in any case in which LDISD PD initiated the investigation and for which the CPD requests the lead, LDISD PD will afford the CPD that authority. In order to maintain the flow of information between the agencies, however, one LDISD PD officer will be assigned to work with the CPD in the investigation. This collaboration will allow the LDISD PD and the CPD to stay informed and pool resources to accomplish the investigative goal.
- C. It is understood that LDISD PD’s primary investigative duty is in school-related matters throughout the Lake Dallas Independent School District, and its secondary duty is to all other matters that may come within its jurisdiction. LDISD PD agrees to support and assist the CPD in off campus matters as resources are available and requested by the CPD. Typically matters of traffic congestion surrounding campus arrival and dismissal may require a collaboration in addressing these circumstances. Bus stops are generally viewed much the same with the designated stop location being off of LDISD property but may require collaboration due to the cause and effect of any issues that arise at such locations.
- D. It is also understood that there may be situations in which the citizens of the Lake Dallas Independent School District and Corinth may be better served by the originating investigative agency retaining primary jurisdiction over the investigation and processing of the offense and the parties agree to collaborate in determining the most efficient allocation of investigative resources needed to complete the investigation.

**III. Information and Record Sharing.**

- A. The CPD and LDISD PD agree to follow guidelines contained in the Texas Family Code (Chapter 58) and the Family Educational Records Privacy Act (20 U.S.C. §1232g and following) governing the sharing of student and juvenile information, as well as all regulations governing the sharing of student and juvenile information.
- B. Specific requirements:
  - 1. Information disclosed under this agreement relates to the juvenile justice system’s ability to serve, before adjudication, the student whose records are being released.

2. Information obtained shall not be disclosed to a third party, other than another juvenile justice agency, except as permitted or required by law.
3. Information received under this section shall be destroyed, if permitted or required by applicable law, when the child is no longer under the jurisdiction of a juvenile court.
4. LDISD PD and the CPD collectively recognize and agree that, in accord with the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. §1232g, 34 C.F.R. Part 99), LDISD may not disclose education records to a law enforcement unit without prior written consent, except as appropriate in the case of an emergency if knowledge of the information is necessary to protect the health or safety of the student or other individuals. The parties further recognize and agree that FERPA permits LDISD to disclose personally identifiable student information in order to comply with a lawfully issued subpoena or court order if LDISD makes a reasonable attempt to notify the parent or eligible student of the order or subpoena in advance of compliance.

**IV. Off Duty Employment.**

- A. LDISD PD on occasions may have a need to employ law enforcement officers from the other party for special events or occasions. Such employment may be approved or denied in accordance with the employed officer’s departmental policy and procedures for off duty employment.
- B. When employed by LDISD PD as an off-duty officer, the off-duty officer shall adhere to the direction of the LDISD PD’s on-duty law enforcement supervisor unless the supervisor directs a decision or action that would be in violation of the Corinth Police Department’s General Orders. In that case, a final decision will be made following collaboration between the LDISD supervisor and a Corinth PD supervisor.

**V. Liability, Immunities, and Defenses.**

- A. Nothing herein shall be deemed or construed to create a partnership, joint venture, joint enterprise, employer-employee relationship, or principal-agent relationship between the CPD and LDISD PD.
- B. No party to this MOU shall be responsible for the acts of an employee of another party.
- C. It is expressly understood and agreed that neither party waives, nor shall be deemed to have waived, any immunity or defense otherwise available to it under the law.

**VI. Termination and Renewal.**

- A. Either party may withdraw from and terminate this memorandum of understanding on twenty (20) days’ written notice to the other party.
- B. This memorandum of understanding is effective when signed by both parties. It shall automatically renew annually, on September 1 of each successive year for up to five (5) years, unless terminated by either party by written notice given according to the terms of this memorandum of understanding.

*Signatures on Next Page*

Signed:

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

Dr. Kristin Brown  
Superintendent  
Lake Dallas ISD  
Date: \_\_\_\_\_

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

Scott Campbell  
City Manager  
City of Corinth  
Date: \_\_\_\_\_

**Exhibit A: Address of Lake Dallas ISD Property**

Lake Dallas High School  
3016 Parkridge Dr  
Corinth, TX 76210

Lake Dallas Middle School  
325 E. Hundley Dr  
Lake Dallas, TX 75065

Lake Dallas Elementary School  
401 Main St  
Lake Dallas, TX 75065

Corinth Elementary School  
3501 Cliff Oaks Dr  
Corinth, TX 76210

Shady Shores Elementary School  
300 Dobbs Rd  
Shady Shores, TX 76208

Lake Dallas ISD DAEP  
2800 Parkridge Dr  
Corinth, TX 762103016

Lake Dallas ISD Administration Building  
104 Swisher Rd  
Lake Dallas, TX 75065

Lake Dallas ISD Transportation  
425 E. Hundley Dr  
Lake Dallas, TX 75065

Lake Dallas ISD Athletics Office  
3002 Parkridge Dr  
Corinth, TX 76210

Lake Dallas ISD Facilities & Operations  
424 E. Hundley Dr  
Lake Dallas, TX 75065



**CITY OF CORINTH**  
**Staff Report**

<b>Meeting Date:</b>	10/17/2024	<b>Title:</b>	Amendment   PREP
<b>Strategic Goals:</b>	<input type="checkbox"/> Resident Engagement <input checked="" type="checkbox"/> Proactive Government <input type="checkbox"/> Organizational Development <input type="checkbox"/> Health & Safety <input type="checkbox"/> Regional Cooperation <input type="checkbox"/> Attracting Quality Development		
<b>Owner Support:</b>	<input type="checkbox"/> Planning & Zoning Commission <input type="checkbox"/> Economic Development Corporation <input type="checkbox"/> Parks & Recreation Board <input type="checkbox"/> TIRZ Board #2 <input type="checkbox"/> Finance Audit Committee <input type="checkbox"/> TIRZ Board #3 <input type="checkbox"/> Keep Corinth Beautiful <input type="checkbox"/> Ethics Commission		

**Item/Caption**

Consider and act on an Ordinance of the City of Corinth approving an amendment to the fiscal year 2024-2025 budget and annual program of services to carry forward unspent funds from the previous fiscal year for the Property Residential Enhancement Program project; and providing an effective date.

**Item Summary/Background/Prior Action**

The Property Residential Enhancement Program (PREP) project was originally approved in the 2023-2024 budget, with a total allocated budget of \$50,000. The project allows homeowners to receive financial assistance through a grant-rebate to assist with exterior repairs to their home. The program launched in April 2024 and the City committed \$33,000 for projects that were not able to be completed by the end of the previous fiscal year. In order to facilitate its completion, these funds must be carried over to the current fiscal year.

**Financial Impact**

The Annual Program of Services was adopted on September 19, 2024, Ordinance 24-09-19-39 by the City Council.

The budget amendment proposes the reallocation of previously approved funds from the fiscal year 2023-2024 budget of \$33,000 from the General Fund Building Services budget. This will enable the city to utilize the allocated funds effectively and fulfill the city’s commitment to the project.

**Applicable Owner/Stakeholder Policy**

Section 9.05 Supplemental Appropriations of the City Charter allows that “if during the fiscal year the City Manager certifies that there are revenues available in excess of those estimated in the budget or funds otherwise available in unencumbered reserves, the Council by ordinance may make supplemental appropriations for the year up to the amount of these available funds.”

**Staff Recommendation/Motion**

Staff recommends approval of the Ordinance amending the fiscal year 2024-2025 Annual Program of services to carry forward unspent funds from the previous fiscal year for the Property Residential Enhancement Program.



**CITY OF CORINTH, TEXAS  
ORDINANCE NO. 24-10-17-xx**

**AN ORDINANCE OF THE CITY OF CORINTH, TEXAS APPROVING AN AMENDMENT TO ORDINANCE NO. 24-09-19-39 REGARDING THE FISCAL YEAR 2024-2025 CITY OF CORINTH BUDGET AND ANNUAL PROGRAM OF SERVICES TO PROVIDE FOR FUNDS TO CARRY FORWARD UNSPENT FUNDS FROM THE PREVIOUS FISCAL YEAR FOR THE PROPERTY RESIDENTIAL ENHANCEMENT PROGRAM; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Corinth is a home-rule municipality acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the local Government Code; and

**WHEREAS**, the City Council adopted a budget and appropriated resources for the budget year beginning October 1, 2024, and ending September 30, 2025 by Ordinance No. 24-09-19-38; and

**WHEREAS**, the current adopted budget for fiscal year 2024-2025 does not have adequate funding to pay \$33,000 for the expenditure of funds for the Property Residential Enhancement Program; and

**WHEREAS**, the City Council deems it appropriate and necessary to amend the budget to reflect expenditures from the General Fund Balance of \$33,000 for funds to carry forward unspent funds from the previous fiscal year for the Property Residential Enhancement Program; and

**WHEREAS**, the City Council finds that this budget amendment is consistent with § 9.05 of the City Charter and the proposed change in the budget is for a municipal purpose;

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF CORINTH HEREBY ORDAINS:**

**SECTION I**

The findings set forth in the above preamble to this Ordinance are true and correct.

**SECTION II**

Ordinance No. 24-09-19-39 the budget for the fiscal year beginning October 1, 2024, and ending September 30, 2025, shall be amended as follows:

**Thirty-Three Thousand Dollars (\$33,000)** shall be appropriated into the Expenditures Line Items for the General fund Building Services budget.

The City of Corinth Budget and Annual Program of Services is hereby amended to increase the General Fund budget by **\$33,000** for the Property Residential Enhancement Program. Further, the City Council affirms its approval of the expenditure of funds for the aforementioned purposes.

**SECTION III**

The City Secretary is hereby directed to attach a copy of this Ordinance to Ordinance No. 24-09-19-39.

**SECTION IV**

Pursuant to Section 102.009(d) of the Texas Local Government Code, the municipal budget officer is directed to file a true copy of this amendment with the Denton County Clerk. If the mayor objects to this ordinance, it shall be adopted by a majority of the entire City Council.

**SECTION V**

This Ordinance shall be in full force and effect after its passage, and it is so ordained.

**PASSED AND APPROVED ON THIS THE 17TH DAY OF OCTYOBER 2024.**

SEAL

\_\_\_\_\_  
Bill Heidemann, Mayor

ATTEST:

\_\_\_\_\_  
Lana Wylie, City Secretary

APPROVED AS TO FORM:

\_\_\_\_\_  
Patricia A. Adams, City Attorney



**CITY OF CORINTH**  
**Staff Report**

<b>Meeting Date:</b>	10/17/2024	<b>Title:</b>	Amendment   Landscaping
<b>Strategic Goals:</b>	<input type="checkbox"/> Resident Engagement <input checked="" type="checkbox"/> Proactive Government <input type="checkbox"/> Organizational Development <input type="checkbox"/> Health & Safety <input type="checkbox"/> Regional Cooperation <input type="checkbox"/> Attracting Quality Development		
<b>Owner Support:</b>	<input type="checkbox"/> Planning & Zoning Commission <input type="checkbox"/> Economic Development Corporation <input type="checkbox"/> Parks & Recreation Board <input type="checkbox"/> TIRZ Board #2 <input type="checkbox"/> Finance Audit Committee <input type="checkbox"/> TIRZ Board #3 <input type="checkbox"/> Keep Corinth Beautiful <input type="checkbox"/> Ethics Commission		

**Item/Caption**

Consider and act on an Ordinance of the City of Corinth approving an amendment to the fiscal year 2024-2025 budget and annual program of services to carry forward unspent funds from the previous fiscal year for the Landscaping of City Hall and the Public Safety Complex; and providing an effective date.

**Item Summary/Background/Prior Action**

The landscaping of City Hall and the Public Safety Complex was originally approved in the 2023-2024 budget, with a total allocated budget of \$50,000. The landscaping project was delayed due to the ongoing work at Agora Park. Staff decided against planting during the peak summer months to ensure the health and viability of the plants. Additionally, staff opted to wait for the completion of construction at Agora to maintain consistency in the landscaping, providing a seamless transition between both facilities. In order to facilitate its completion, these funds must be carried over to the current fiscal year.

**Financial Impact**

The Annual Program of Services was adopted on September 19, 2024, Ordinance 24-09-19-39 by the City Council.

The budget amendment proposes the reallocation of previously approved funds from the fiscal year 2023-2024 budget of \$50,000 from the Tree Mitigation budget. This will enable the city to utilize the allocated funds effectively and fulfill the city’s commitment to the project.

**Applicable Owner/Stakeholder Policy**

Section 9.05 Supplemental Appropriations of the City Charter allows that “if during the fiscal year the City Manager certifies that there are revenues available in excess of those estimated in the budget or funds otherwise available in unencumbered reserves, the Council by ordinance may make supplemental appropriations for the year up to the amount of these available funds.”

**Staff Recommendation/Motion**

Staff recommends approval of the Ordinance amending the fiscal year 2024-2025 Annual Program of services to carry forward unspent funds from the previous fiscal year for the landscaping of City Hall and the Public Safety Complex.

**CITY OF CORINTH, TEXAS  
ORDINANCE NO. 24-10-17-xx**

**AN ORDINANCE OF THE CITY OF CORINTH, TEXAS APPROVING AN AMENDMENT TO ORDINANCE NO. 24-09-19-39 REGARDING THE FISCAL YEAR 2024-2025 CITY OF CORINTH BUDGET AND ANNUAL PROGRAM OF SERVICES TO PROVIDE FOR FUNDS TO CARRY FORWARD UNSPENT FUNDS FROM THE PREVIOUS FISCAL YEAR FOR LANDSCAPING; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Corinth is a home-rule municipality acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the local Government Code; and

**WHEREAS**, the City Council adopted a budget and appropriated resources for the budget year beginning October 1, 2024, and ending September 30, 2025 by Ordinance No. 24-09-19-38; and

**WHEREAS**, the current adopted budget for fiscal year 2024-2025 does not have adequate funding to pay \$50,000 for the expenditure of funds for the Landscaping of City Hall and the Public Safety Complex and

**WHEREAS**, the City Council deems it appropriate and necessary to amend the budget to reflect expenditures from the Tree Mitigation Fund Balance of \$50,000 for funds to carry forward unspent funds from the previous fiscal year for the Landscaping of City Hall and the Public Safety Complex; and

**WHEREAS**, the City Council finds that this budget amendment is consistent with § 9.05 of the City Charter and the proposed change in the budget is for a municipal purpose;

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF CORINTH HEREBY ORDAINS:**

**SECTION I**

The findings set forth in the above preamble to this Ordinance are true and correct.

**SECTION II**

Ordinance No. 24-09-19-39 the budget for the fiscal year beginning October 1, 2024, and ending September 30, 2025, shall be amended as follows:

**Fifty Thousand Dollars (\$50,000)** shall be appropriated into the Expenditures Line Items for the Tree Mitigation Services budget.

The City of Corinth Budget and Annual Program of Services is hereby amended to increase the Tree Mitigation budget by **\$50,000** for the Landscaping of City Hall and the Public Safety Complex. Further, the City Council affirms its approval of the expenditure of funds for the aforementioned purposes.

**SECTION III**

The City Secretary is hereby directed to attach a copy of this Ordinance to Ordinance No. 24-09-19-39.

**SECTION IV**

Pursuant to Section 102.009(d) of the Texas Local Government Code, the municipal budget officer is directed to file a true copy of this amendment with the Denton County Clerk. If the mayor objects to this ordinance, it shall be adopted by a majority of the entire City Council.

**SECTION V**

This Ordinance shall be in full force and effect after its passage, and it is so ordained.

**PASSED AND APPROVED ON THIS THE 17TH DAY OF OCTOBER 2024.**

SEAL

\_\_\_\_\_  
Bill Heidemann, Mayor

ATTEST:

\_\_\_\_\_  
Lana Wylie, City Secretary

APPROVED AS TO FORM:

\_\_\_\_\_  
Patricia A. Adams, City Attorney



**CITY OF CORINTH**  
**Staff Report**

<b>Meeting Date:</b>	10/17/2024	<b>Title:</b> Contract   Christmas Decoration
<b>Strategic Goals:</b>	<input type="checkbox"/> Resident Engagement <input checked="" type="checkbox"/> Proactive Government <input type="checkbox"/> Organizational Development <input type="checkbox"/> Health & Safety <input type="checkbox"/> Regional Cooperation <input type="checkbox"/> Attracting Quality Development	
<b>Owner Support:</b>	<input type="checkbox"/> Planning & Zoning Commission <input type="checkbox"/> Economic Development Corporation <input type="checkbox"/> Parks & Recreation Board <input type="checkbox"/> TIRZ Board #2 <input type="checkbox"/> Finance Audit Committee <input type="checkbox"/> TIRZ Board #3 <input type="checkbox"/> Keep Corinth Beautiful <input type="checkbox"/> Ethics Commission	

**Item/Caption**

Consider and act on an annual contract for the installation and rental of lighting and seasonal decorations with Christmas Decor through the TIPPS cooperative purchasing contract 230806.

**Item Summary/Background/Prior Action**

The City of Corinth seeks to enter into an agreement with Lone Star Electric for the installation and rental of lighting and seasonal decorations which includes, but is not limited to, annual tree lighting wrap and maintenance at Agora; seasonal tree and decorations for Agora Park and City Hall. This contract will be awarded through the TIPPS cooperative purchasing program, which complies with state procurement laws and provides the City with competitive pricing.

The proposed contract has an initial term of one (1) year, commencing on 10/17/2024, with automatic renewal for one additional one-year term. The agreement is structured to ensure continuity of service, with options for cancellation or non-renewal by either party with 30 written notice prior to the contract's renewal date.

Procurement Method: The City is utilizing TIPPS contract 230806 which allows the City to take advantage of pre-negotiated pricing and vetted contractors to ensure compliance with state and local procurement requirements. Local governments can join cooperative purchasing programs to benefit from pre-negotiated contracts that meet competitive procurement requirements.

**Financial Impact**

The annual cost of the annual tree lighting wrap, maintenance and seasonal tree and decorations is not to exceed \$130,000 for the initial year, with an option to renew for one additional one-year periods. Funding for this contract is contingent upon annual appropriations as part of the City’s annual Program of Services, as approved by the City Council, with no guarantee of future funding. Each year’s renewal will be subject to available funding, and the City is under no obligation to fund this contract beyond the initial term. If the cost exceeds the estimated annual expenditure during any renewal period, this will require Council approval to amend the budget or extend the spending authority. The total potential annual cost is estimated at \$130,000 and will not exceed \$260,000 over a two-year period.

**Applicable Policy/Ordinance**

Local Government Code Section 271.102 provides the authority for local governments to make purchases over \$50,000 through cooperative purchasing programs without the need for traditional competitive bidding. If the cooperative purchasing program conducted its own competitive bidding process, local governments are considered to have fulfilled the competitive bidding requirements outlined in Chapter 252 (for municipalities) of the Texas Local Government Code.

**Staff Recommendation/Motion**

Staff recommends the City Council approve the contract for installation and rental of lighting and seasonal decorations with Christmas Decor for an initial term of one year, with an automatic renewal for one additional one-year term, utilizing TIPPS contract 230806.



Lighting for all outdoors

Nite Time Decor by Lone Star Electric  
P.O. Box 6451 • Abilene, TX 79608-6451  
325-677-0186



HOLIDAY & EVENT DECORATORS

Christmas Decor by Lone Star Electric  
P.O. Box 6451 • Abilene, TX 79608-6451  
325-692-1266

**July 29, 2024**

**City of Corinth  
Attention: Melissa Dolan  
3300 Corinth Parkway  
Corinth, TX 76208**

**Budget price for add on to core Christmas Décor in 2024**

1. We will furnish and install a 30ft Warm White LED lit Summit Tree with ornament package. This price includes set up, take-down and storage.  

**\$37,000.00**
2. Topper for 30ft tree.  

**\$1,200.00**
3. We will use semi-permanent warm white mini lights that are rated to be on the trees for (3) years. We will need to provide quarterly visits to check the lights and complete preventative maintenance. We will wrap (33) small trees (5) large trees.  

**\$28,500.00**

**\$1,500.00 per required quarterly visit**
4. We will install a tunnel of mini lights on the bridge approximately 100' long. The mini lights will have 4" spacing.  

**\$14,500.00**
5. We will install (2) large 12' warm white snowflakes at the park facing Corinth Parkway.  

**\$9,500.00**
6. We will install (3) cone trees in the park around the big trees on the back of the turf. These trees are RGB and animated. We will install (2) large photo ops by the edge of the turf.  

**\$17,500.00**

**This is all in addition to the core decorations that we already install annually.**

#TIPS 230806





Lighting for all outdoors

Nite Time Decor by Lone Star Electric  
P.O. Box 6451 • Abilene, TX 79608-6451  
325-677-0186



Section H, Item 6.

HOLIDAY & EVENT DECORATORS

Christmas Decor by Lone Star Electric  
P.O. Box 6451 • Abilene, TX 79608-6451  
325-692-1266

7/29/2024

Lone Star Electric Reseller of Barcana

#TIPS 230806

**Your 2024 Core Display**

**Roof Lighting**

Warm White LED R LEFT FASCIA Fascia/Gable C9 \$926.40

Warm White LED R FRONT FASCIA Fascia/Gable C9 \$1,544.00

Warm White LED R RIGHT FASCIA Fascia/Gable C9 \$926.40

Warm White LED R HOT GLUE C9S ON ARCH Fascia/Gable C9 \$463.20

**Tree/Shrub Light**

3,440 Warm White LED R (4) TREES ON RIGHT T Trunk Wrap w/ Minis \$1,926.40

2,679 Warm White LED R (3) TREES ON LEFT T Trunk Wrap w/ Minis \$1,500.00 – **NEW**

**Daytime Décor**

(2) Wreath Commercial Deluxe StayLit 72" \$1,378.12

Wreath Commercial 96" 144 C9s \$1,102.50

INSTALL TREE AND GARLAND INSIDE LABOR ONLY Man Hours \$1,653.75

**Total= \$11,420.77**

**SERVICE CONTRACT  
Christmas Decoration  
THROUGH  
TIPS CONTRACT # 230806**

This Contract is made and entered into this \_\_\_\_\_ by and between **Décor Group, Inc. DBA Christmas Décor, a Corporation** organized under the laws of the State of Texas, (hereinafter called the “Contractor”) and the City of Corinth, Texas, a municipal corporation, organized and existing under laws of State of Texas, acting through its City Manager or other duly authorized designee, (hereinafter called the “City”).

For and in consideration of the covenants, performances, payments and agreements contained herein, and for the mutual benefits to be obtained hereby, the parties agree as follows:

**1. TERM**

The term of the contract shall begin \_\_\_\_\_, and shall expire on September 30, 2025, unless earlier terminated by either party in accordance with the terms of this contract.

This contract may be renewed for **4** additional one-year periods if agreed upon in writing by both parties, and subject to appropriations and the terms and conditions between the Cooperative and the awarded vendor.

**2. SCOPE OF SERVICES**

The Contractor agrees to provide all equipment, materials, supplies, labor, permits, insurance, and licenses as necessary to perform Decorations in accordance with the provisions of this Contract and Attachments referenced below, which are incorporated herein.

This Contract is composed of the following Contract Documents:

- a) This Contract
- b) Scope of Services – Attachment A
- c) The City’s Standard Terms & Conditions for Procurements, and Vendor Insurance Requirements– Attachment B
- d) Vendor Quotes with Cooperative pricing and Contract number including Form 1295 electronically filed and signed (**IF COUNCIL APPROVAL REQUIRED**) - Attachment C
- e) Vendor’s Cooperative Contract Documentation with **TIPS** Contract #230806– Attachment D

Any conflict in the foregoing documents shall be resolved by giving precedence first to this written Contract, and then to the Contract Documents in the sequential order listed above.

### 3. PAYMENT

Upon Contractor's satisfactory completion of the requirements of this Contract, as determined by the City, and receipt and approval of Contractor's invoices, submitted to Accounts Payable, City will pay Contractor in accordance with the Scope of Work and this Contract. Contractor's periodic and final invoices shall be accompanied by sufficient backup information as required by City. **The total payments by City during the term of this Contract shall not exceed One-hundred twenty-five Thousand six hundred twenty and 77/100 Dollars (\$125,620.77), subject to annual appropriations.** City does not guarantee any minimum or maximum quantity of work, and Contractor shall have no claim to damages in the event the quantities purchased are less than the estimated quantities of identified in the Scope of Work.

Invoices shall be mailed or emailed directly to:

City of Corinth  
 Accounts Payable  
 3300 Corinth Parkway  
 Corinth, Texas 76208  
[accountspayable@cityofcorinth.com](mailto:accountspayable@cityofcorinth.com)

The City shall pay invoices for services properly performed within 30 days of receipt; provided however, that in the event the City requests any supporting documentation for charges, payment shall be made within 30 days of receipt of the documentation. The City's payment obligations are payable only and solely from funds available for the purposes of this Contract. The City does not pay travel expenses.

### 4. CHANGES

The City may, from time to time, require changes in the Scope of Work to be performed by Contractor hereunder. Such changes, which are mutually agreed upon by and between the City and the Contractor, become effective when incorporated in a written amendment to this Contract executed by both parties.

### 5. TERMINATION OF CONTRACT

The City may terminate this Contract for any reason upon 10 days' notice to Contractor. Upon termination, the Contractor shall be entitled to payment of such amount as shall compensate Contractor for the services satisfactorily performed from the time of the last payment date to the termination date in accordance with this Contract, provided the Contractor shall have delivered to the City such statements, accounts, reports and other materials as required herein, and provided that Contractor shall have delivered to the City all reports, documents and other materials prepared by Contractor prior to termination. The City shall not be required to reimburse Contractor for any services performed or expenses incurred after the date of the termination notice.

### 6. COMPLETENESS OF CONTRACT

This contract and any additional or supplementary document or documents incorporated herein by specific reference contain all the terms and conditions agreed upon by the parties hereto, and no other agreements, oral or otherwise, regarding the subject matter of this Contract or any part thereof shall have any validity or bind any of the parties hereto.

**7. INDEMNITY AND INSURANCE**

- a) **The Contractor hereby agrees to and shall indemnify, hold harmless, and defend the City, its officers, agents and employees from and against any and all claims, losses, damages, demands, causes of action, suits and liability of every kind, including all expenses of litigation, court costs and attorneys' fees, for injury to or death of any person, for loss of use or revenue, or for damage to any property arising out of or in connection with the actual or alleged malfunction, design or workmanship in the manufacture of equipment, the services, equipment, and materials utilized and provided for the fulfillment of this Contract, or the breach of any express or implied warranties under this Contract. Such indemnity shall apply where the claims, losses, damages, causes of action, suits or liability arise in part from (i) the negligence of the Contractor, and/or their respective officers, agents and/or employees or (ii) the negligence of the Contractor, its officers, agents and employees. It is the expressed intention of the parties hereto, both Contractor and the City, that the indemnity provided for in this paragraph is indemnity by Contractor to indemnify and protect the City from the consequence of (I) the Contractor's own negligence where that negligence is the cause of the injury, death, or damage to property. In the event any action or proceeding is brought against the City by reason of any of the above, the Contractor agrees and covenants to defend the action or proceeding by counsel acceptable to the City. The indemnity provided for herein shall survive the termination or expiration of this Contract.**
- b) Contractor shall maintain and shall be caused to be in force at all times during the term of this Contract the insurance coverages required by the attached City's Vendor Insurance Requirements.
- c) This Contract is not intended to extend the liability of the parties beyond that provided by law. The City does not waive, limit, or surrender any immunity or defense available to the City.

**8. ASSIGNMENT**

The parties hereby agree that Contractor may not assign, convey or transfer its interest, rights and duties in this Agreement without the prior written consent of the City.

**9. NOTICES**

Any notices required by this Contract shall be sufficient if sent by the parties in the United States mail, postage paid, return receipt requested or via overnight delivery service, to the address noted below and shall be effective upon receipt:

Scott Campbell  
City Manager  
City of Corinth  
3300 Corinth Parkway  
Corinth, TX 76208

Jennifer Rambo  
Manager  
The Décor Group, Inc. dba Christmas Decor  
301 Locust St.  
Abilene, Texas 79602

Either party may change its address by giving written notice to become effective upon five days' notice.

**10. MISCELLANEOUS**

- a) This Contract shall be governed by the laws of the State of Texas and exclusive venue for any action relating to this Contract shall be filed in district court in Denton County, Texas.
- b) Contractor is an independent contractor and not an employee of the city.
- c) In rendering services under this Contract, Contractor shall comply with all applicable federal, state and local laws, rules and regulations, including those pertaining to equal employment opportunity and shall not discriminate based on age, ancestry, color, gender, marital status, medical condition, national origin, physical or mental disability, race, religion or sexual orientation.
- d) This Contract may be amended or supplemented only by the mutual written consent of the parties' authorized representatives.
- e) No provision of this Contract may be waived unless in writing and signed by both of the parties hereto. Waiver of a breach of any provision of this Contract shall not operate or be construed as a waiver of any subsequent breach of such provision nor shall a waiver of any one provision of this Contract be deemed to be a waiver of any other provision.
- f) The Section headings in this Contract are inserted only as a matter of convenience, and in no way define, limit, or extend or interpret the scope of this Contract or of any particular Section.
- g) Nothing in this Contract shall be construed to create any right in any third party not a signatory to this Contract, and the parties do not intend to create any third-party beneficiaries by entering into this Contract.
- h) The language of all parts of this Contract shall be construed as a whole according to its fair meaning, and the presumption or principle that the language herein is to be construed against either party shall not apply.

IN WITNESS WHEREOF, the City and the Contractor have executed this Contract as of the date first written above.

**CITY OF CORINTH**

**The Décor Group, Inc. dba Christmas Decor**

\_\_\_\_\_  
**Scott Campbell, City Manager**

\_\_\_\_\_  
**Matt Robinson, Owner**

**ATTEST:**

\_\_\_\_\_  
**Lana Wylie, City Secretary**

## **Attachment A – Scope of Services**

### **For AGORA Park**

1. Furnish and install a 30ft warm white LED lit Summit Tree with ornaments. To include a tree topper, set up, take down, and storage.
2. 3 years of semi-permanent warm white mini lights on 33 small trees and 5 large trees. Provide quarterly check up and complete preventative maintenance as needed.
3. Install a tunnel of mini lights on the boardwalk approx. 100' w/ a spacing of 4'.
4. Install 2 large 12' Snowflakes or approved equal facing Corinth Parkway.
5. Install 3 cone trees in the park around the big trees on the of the turf. These trees require RGB and animation.
6. Install 2 large photo op locations on the edge of the turf.

### **For City Hall**

1. Roof Lighting with installation
2. Seven Tree lighting with installation and tree trunk wrapping
3. 2 wreaths 72"
4. One 96" wreath
5. Install owner's tree and garland inside to include ornaments.

**Attachment B - City's Standard Terms & Conditions for  
Procurements and Vendor Insurance Requirements**

## STANDARD TERMS AND CONDITIONS

The terms and conditions set forth in this request for proposal shall be incorporated into and be a part of any proposal submitted to the City of Corinth for the goods and/or services specified. No other terms and conditions shall apply unless approved in writing by the City of Corinth, Texas.

1. **ADDENDA:** Any interpretations, corrections or changes to the information or specifications will be made by addenda. Sole issuing authority of addenda shall be vest in the City of Corinth Purchasing Agent. Addenda will be posted at <https://cityofcorinth.bonfirehub.com>. It is the responsibility of the Respondent to check the Bonfire website for addenda. Respondents shall acknowledge receipt of all addenda by submitting a signed copy with their bid/proposal.
2. **ADVERTISING:** The successful Respondent shall not advertise or publish, without the City's prior approval, the fact that the City has entered into a contract, except to the extent necessary to comply with proper requests for information from an authorized representative of the Federal, State, or local government.
3. **ALTERING BID/PROPOSAL PRICING:** Prices offered shall be submitted for units of quantity as specified in the bid/proposal document, extended and totaled. In the case of a discrepancy in the extended price, the unit price shall govern and control. Any alteration, strike-through or erasure made prior to bid/proposal opening shall be initialed by the signer of the bid/proposal, guaranteeing authenticity.

**FOR BIDS ONLY:** Prices offered **cannot** be altered or amended after the submission deadline. Bids may not be changed for the purpose of correcting an error in bid price after bid opening.

4. **ASSIGNMENT:** The successful respondent shall not sell, assign, transfer or convey the awarded contract, in whole or in part, without the prior written consent of the City.
5. **AWARD:** The City reserves the right to award by line item, section, or by entire bid/proposal; whichever is most advantageous to the City. The City may also consider administration costs when awarding to multiple vendors.

The City may award bids/proposals to the lowest responsive responsible vendor(s), or to the vendor(s) who provides goods or services at the best value to the City. If using the best value method, the selection criteria will be clearly identified in the bid/proposal document. The best value method may take into consideration, in whole or in part, by way of illustration and not limitation, the following criteria:

- A. The reputation of the respondent and of the respondent's goods or services;
  - B. The quality of the respondent's goods or services;
  - C. The extent to which the goods or services meet the City's needs;
  - D. The respondent's past relationship with the City;
  - E. The total long-term cost to the City to acquire the respondent's goods or services;
  - F. Any relevant criteria specifically listed herein.
6. **BID/PROPOSAL SUBMITTAL:** The City utilizes Bonfire to advertise and receive bids/proposals electronically. Bids will be received electronically through Bonfire as specified in the bid/proposal packet. Electronic submittals must be submitted through the Bonfire portal at <https://cityofcorinth.bonfirehub.com>; and must include all required information and attachments; with required signatures. All response documents must be uploaded and included with your submittal in order to be considered.
  7. **BRAND NAME, CATALOG OR MANUFACTURER'S REFERENCE:** Any reference to brand name, catalog or manufacturer's reference is used to be descriptive, not restrictive, and is indicative of the type and quality the City desires to purchase. Bids/proposals on similar items of like quality may be considered if the bid/proposal is noted and fully descriptive brochures are enclosed. If notation of substitution is not made, it is assumed the respondent is proposing exact item specified. Successful respondent will not be allowed to make unauthorized substitutions after award.
  8. **CHANGE ORDERS:** No oral statement of any person shall modify or otherwise change, or affect the terms, conditions or specifications stated in the resulting contract. The City of Corinth's Purchasing Agent will make all change orders to the contract in writing as allowed by law.
  9. **COMMUNICATION:** The successful respondent shall direct all contact with the City through the Contract Administrator identified in the Contract. The Respondent will not directly respond to, make inquiries of, survey or solicit information from, or otherwise interact with any departments, divisions, employees, or agents of the City unless specifically approved, or requested by the Contract Administrator.
  10. **COMPANIES ENGAGED IN BUSINESS WITH IRAN, SUDAN, OR FOREIGN TERRORIST ORGANIZATION:** Pursuant to Texas Government Code Chapter 2252, Subchapter F, Seller affirms that it is not identified on a list created by the Texas Comptroller of Public Accounts as a company known to have contracts with or provide supplies or services to a foreign terrorist organization.
  11. **CONFLICT OF INTEREST:** In compliance with Local Government Code §176.006, all vendors shall file a completed Conflict of Interest Questionnaire with the City's Purchasing Office.
  12. **CONTRACT ADMINISTRATOR:** Under the contract, the City may appoint a contract administrator with designated responsibility to ensure compliance with contract requirements, such as but not limited to, acceptance, inspection and delivery. If appointed, the administrator will serve as liaison between the City and the successful contractor.



**13. CONTRACT ENFORCEMENT:**

- A. The City reserves the right to enforce the performance of any contract that results from an award of this bid/proposal packet. Enforcement shall be in any manner prescribed by law or deemed to be in the best interest of the City in the event of breach or default of the contract. Breach of contract authorizes the City to make an award to another respondent, purchase the service elsewhere and to charge the full increase in cost and handling to the defaulting contractor. Additionally, the City will remove the defaulting contractor from the City's list of approved vendors for a period of two years.
- B. Respondents who submit proposals for this service agree that the City shall not be liable to prosecution for damages in the event that the City declares the successful contractor in default.
- C. Any notice provided by this bid/proposal packet (or required by law) to be given to the successful Respondent by the City shall be conclusively deemed to have been given and received on the next day after such written notice has been deposited in the mail at the City of Corinth, by Registered or Certified mail with sufficient postage affixed thereto, addressed to the successful Respondent at the address provided in the bid/proposal; this shall not prevent the giving of actual notice in any other manner.
- D. The successful Respondent and the City agree that both parties have all rights, duties and remedies available as stated in the Uniform Commercial Code (UCC). In case of a conflict between the terms of this bid/proposal packet and the UCC, the bid/proposal packet will control.

**14. DELIVERY:**

- A. Delivery date is important to the City and may be required to be a part of each bid/proposal. The City considers delivery time to be that period elapsing from the time the individual order is placed until that order is received by the City at the specified delivery location. The delivery date indicates a guaranteed delivery to the City of Corinth. Failure of the respondent to meet guaranteed delivery dates or service performance could affect future City orders.
- B. The City may reject and refuse any delivery, which falls below the quality designated in the specifications. The cost of return and/or replacement will be at the Respondent's expense.
- C. The City reserves the right to demand bond or penalty to guarantee delivery by the date indicated. If order is given and the Respondent fails to furnish the materials by the guaranteed date, the City reserves the right to cancel the order without liability on its part. Pricing shall include all charges for freight, F.O.B. inside to specified delivery location.
- D. Whenever the Contractor encounters any difficulty which is delaying or threatens to delay timely performance (including actual or potential labor disputes), the Contractor shall immediately give notice thereof in writing to the Purchasing Agent, stating all relevant information with respect thereto. Such notice shall not in any way constitute a basis for an extension of the delivery or performance schedule or be construed as a waiver by the City of any rights or remedies to which it is entitled by law or pursuant to provisions herein. Failure to give such notice, however, may be grounds for denial of any request for an extension of the delivery or performance schedule because of such delivery.

**15. ETHICS:** The Respondent shall not offer or accept gifts or anything of value nor enter into any business arrangement with any employee, official, or agent of the City except in accordance with City Policy.

**16. EXCEPTIONS/SUBSTITUTIONS:** All proposals meeting the intent of this bid/proposal packet will be considered for award. Respondents taking exception to the instructions, specifications, terms and conditions or offering substitutions, shall state these exceptions in the section provided or by attachment as part of their bid/proposal. The absence of such a list shall indicate that the Respondent has not taken exceptions and shall hold the Respondent responsible to perform in strict accordance with the instructions, specifications, terms and conditions of the bid/proposal packet. The City of Corinth reserves the right to accept any and all or none of the exception(s)/substitution(s) deemed to be in the best interest of the City.

**17. FELONY CRIMINAL CONVICTIONS:** The Respondent represents and warrants that neither the Respondent nor the Respondent's employees have been convicted of a felony criminal offense, or under investigation of such charge, or that, if such a conviction has occurred, the Respondent has fully advised the City as to the facts and circumstances surrounding the conviction.

**18. FORCE MAJEURE:** *Force majeure* is defined as an act of God, war, strike, fire or explosion. Neither the successful Respondent nor the City is liable for delays or failures of performance due to *force majeure*. Each party must inform the other in writing with proof of receipt within three (3) business days of the occurrence of an event of *force majeure*.

**19. INDEMNITY AGREEMENT:** The Contractor hereby agrees to and shall indemnify, hold harmless, and defend the City, its officers, agents and employees from and against any and all claims, losses, damages, demands, causes of action, suits and liability of every kind, including all expenses of litigation, court costs and attorneys' fees, for injury to or death of any person, for loss of use or revenue, or for damage to any property arising out of or in connection with the actual or alleged malfunction, design or workmanship in the manufacture of equipment, the fulfillment of this Contract, or the breach of any express or implied warranties under this Contract. Such indemnity shall apply where the claims, losses, damages, causes of action, suits or liability arise in part from (i) the negligence of the Contractor, and/or their respective officers, agents and/or employees or (ii) the negligence of the Contractor, its officers, agents and employees. It is the expressed intention of the parties hereto, both Contractor and the City, that the indemnity provided for in this paragraph is indemnity by Contractor to indemnify and protect the City from the consequence of (I) the Contractor's own negligence where that negligence is the cause of the injury, death, or damage. Furthermore, the indemnity provided for in this paragraph shall have no application to any claim, loss, damage, cause of action, suit and liability where in injury, death or damage results from the negligence of the City. In the event any action or proceeding is brought against the City by reason of any of the above, the Contractor agrees and covenants to defend the action or proceeding by counsel acceptable to the City. The indemnity provided for herein shall survive the termination or expiration of this Contract.

- 20. INVOICES:** Each invoice shall be fully documented as to the Contractor's/vendor's name and address, receiving department's name and address, labor, materials and equipment provided, if applicable, and must reference the City of Corinth purchase order number in order to be processed. No payments shall be made on invoices not listing a purchase order number. Invoices shall be mailed directly to the City of Corinth, Attention: Accounts Payable, 3300 Corinth Pkwy., Corinth, Texas, 76208.
- 21. LATE SUBMITTALS:** The City will reject late bids/proposals. The City is not responsible for lateness or non-delivery of mail, carrier, etc. and the date/time stamp in the Purchasing Office shall be the official time of receipt. The Respondent is responsible for ensuring that packets are delivered to the Purchasing Office. Respondents may confirm receipt of packets by contacting Cindy Troyer, Purchasing Agent at 940-498-3286.
- 22. MINIMUM STANDARDS FOR RESPONSIBILITY:** A prospective vendor must affirmatively demonstrate responsibility. The City may request representation and other information sufficient to determine respondent's ability to meet the minimum standards including but not limited to:
- A. Have adequate financial resources or the ability to obtain such resources.
  - B. Ability to comply with the required or proposed delivery schedule.
  - C. Have a satisfactory record of performance.
  - D. Have a satisfactory record of integrity and ethics.
  - E. Be otherwise qualified and eligible to receive an award.
- 23. NO BOYCOTT OF ISRAEL:** Pursuant to Texas Government Code Chapter 2270, the successful Respondent agrees that acceptance of these Terms & Conditions serves as written verification that Contractor: (i) either meets an exemption criteria under Section 2270.002; or it (1) does not boycott Israel, as defined by Texas Government Code Section 808.001; and (2) will not boycott Israel during the term of the contract. This requirement does not apply to sole proprietorships, companies with fewer than ten employees; or contracts that are less than \$100,000.00.
- 24. NO BOYCOTT OF ENERGY COMPANIES:** Pursuant to Texas Government Code Chapter 2274, the successful Respondent verifies that it does not boycott energy companies and will not boycott energy companies during the term of this contract. This requirement does not apply to companies with fewer than ten full time employees; or contracts that are less than \$100,000.00.
- 25. NON-APPROPRIATION CLAUSE:** If the governing body of the City fails to specifically appropriate sufficient funds to make the payments due in any Fiscal Year under this Contract, an event of non-appropriation ("Event of Non-appropriation") will have occurred, the terms of this Contract will not be renewed, and Contractor or City may terminate this Contract at the end of the then current Fiscal Year, whereupon City will be obligated to pay those amounts then due subject to the provisions herein. Nothing in this Section or elsewhere in this Contract will be deemed in any way to obligate the City or create a debt of City beyond its current Fiscal Year. **CONTRACTOR HAS NO RIGHT TO COMPEL CITY TO LEVY OR COLLECT TAXES TO MAKE ANY PAYMENTS REQUIRED HEREUNDER, OR TO EXPEND FUNDS BEYOND THE AMOUNT PROVIDED FOR IN THE THEN CURRENT FISCAL YEAR OF CITY.**
- 26. NONDISCRIMINATION AGAINST FIREARM AND AMMUNITION INDUSTRIES:** Pursuant to Texas Government Code Chapter 2274, the successful Respondent verifies that it does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and will not discriminate during the term of this contract against a firearm entity or firearm trade association. This requirement does not apply to companies with fewer than ten full time employees; or contracts that are less than \$100,000.00.
- 27. PATENTS/COPYRIGHTS:** The successful Respondent agrees to protect the City from claims involving infringements of patents and/or copyrights.
- 28. PAYMENT:** Will be made upon receipt and acceptance by the City for item(s) and/or service(s) ordered and delivered after receipt of a valid invoice, in accordance with the State of Texas Prompt Payment Act, Chapter 2251, Government Code.
- 29. PRICES HELD FIRM:**
- A. All prices quoted in the proposals will remain firm for a minimum of 90 days from the date of the proposal unless it is otherwise specified by the City of Corinth.
  - B. If during the life of the contract, the successful Respondent's net prices to other customers for the items awarded herein are reduced below the contracted price, it is understood and agreed that the benefits of such reduction shall be extended to the City.
- 30. PURCHASE ORDER:** The City shall generate a purchase order(s) to the successful Respondent. The purchase order number must appear on all itemized invoices.
- 31. QUANTITIES:** Quantities indicated on the Bid/Proposal Form are estimates based upon the best available information. The City reserves the right to increase or decrease quantities to meet its actual needs without any adjustments in bid/proposal price. Individual purchase orders will be issued on an as-needed basis.
- 32. REFERENCES:** The City requests each Respondent to supply, with its bid/proposal, a list of at least three (3) references where their firm supplied like services within the last three to five years. It is preferred that the list identify municipalities that are customers of Respondent. For each reference, include the name of firm, address, contact employee of firm, with telephone number and e-mail address, what services are provided to this reference, and how long your firm has provided this service to the reference entity.

- 33. RELEASE OF INFORMATION AND PUBLIC INSPECTION:** After sealed bids have been opened, bids are open for public viewing upon request. If the bid contains trade secrets or confidential information, the Respondent must specifically list that portion as confidential. All other parts of the bid are open for public viewing upon request.

For processes other than low bid or best value bid, only the names of respondents will be read aloud at the scheduled opening. Pricing information will not be released until after award of the contract.

- 34. REQUIRED DOCUMENTATION:** In response to this bid/proposal packet, all required documentation must be provided.
- 35. SALES TAX:** The City is exempt by law from payment of Texas Sales Tax and Federal Excise Tax. Our taxpayer identification number is 75-1453222.
- 36. SEVERABILITY:** If any section, subsection, paragraph, sentence, clause, phrase or word of these instructions, specifications, terms and conditions, shall be held invalid, such holding shall not affect the remaining portions of these instructions, specifications, terms and conditions and it is hereby declared that such remaining portions would have been included in these instructions, specifications, terms and conditions as though the invalid portion had been omitted.
- 37. SILENCE OF SPECIFICATIONS:** The apparent silence of specifications as to any detail or to the apparent omission from it of a detailed description concerning any point shall be regarded as meaning that only the best commercial practices are to prevail. All interpretations of the specifications shall be made based on this statement.
- 38. SUBCONTRACTORS:** The Contractor shall be the sole source of contact for the Contract. The City will not subcontract any work under the contract to any other firm and will not deal with any subcontractors. The Contractor is totally responsible for all actions and work performed by its subcontractors. All terms, conditions and requirements of the Contract shall apply without qualification to any services performed or goods provided by any subcontractor.
- 39. TAX/DEBT ARREARAGE:** The City shall pay no money upon any claim, debt, demand, or account whatsoever, to any person, firm or corporation, who is in arrears to the City for taxes or otherwise; and, the City shall be entitled to a counter-claim and offset against any such debt, claim, demand, or account, in the amount of taxes or other debt in arrears, and no assignment or transfer of such debts are due, shall affect the right, authority, and power of the City to offset the taxes or other debts against the same.
- 40. TERMINATION FOR DEFAULT:** The City reserves the right to enforce the performance of the contract in any manner prescribed by law or deemed to be in the best interest of the City in the event of breach or default of the contract. The City reserves the right to terminate the contract in the manner set forth in the attached Contract.

As soon as practicable after receipt of notice of termination, the Company shall submit a statement showing in detail the pro-rated payment, in a form satisfactory to the City, that reflects the appropriate charges. The City shall then pay the charges as required by law.

- 41. TERMINATION OF CONTRACT:** The contract shall remain in effect until contract expires, delivery and acceptance of products and/or performance of services ordered or terminated by either party with a ten (10) day written notice prior to any cancellation. The successful Respondent must state therein the reasons for such cancellation. The City may, by written notice to the selected company, cancel this contract immediately without liability to the selected company if it is determined by the City that gratuities or bribes in the form of entertainment, gifts, or otherwise contrary to City Policy, were offered or given by the successful proposing party, or its agent or representative to any City officer, employee or elected representative with respect to the performance of the contract.
- 42. TRAVEL AND DIRECT CHARGES:** The City shall not compensate the Respondent for any travel costs incurred in delivery of services under the contract.
- 43. VENUE:** Respondent shall comply with all Federal and State laws and City Ordinances and Codes applicable to the Respondent's operation under this contract. The resulting specifications and the contract here from shall be fully governed by the laws of the State of Texas, and shall be fully performable in Denton County, Texas, where venue for any proceeding arising hereunder will lie.
- 44. WITHDRAWAL OF PROPOSAL:** A proposal may be withdrawn any time prior to the official opening, as long as the request is received in writing from an authorized representative.

**Attachment B**  
**CITY OF CORINTH**  
**GENERAL SERVICES**

**INSURANCE REQUIREMENTS EFFECTIVE MARCH 15, 2021**

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**1.0 DEFINITION**

Vendors/Contractors shall procure and maintain for the duration of the contract, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the vendor, his agents, representatives, employees or subcontractors. The cost of such insurance shall be borne by the vendor. A certificate of insurance meeting all requirements and provisions shall be provided to the City prior to any services being performed or rendered. Renewal certificates shall also be supplied upon expiration.

**A. Minimum Scope of Insurance:** Coverage shall be at least as broad as:

1. ISO Form Number GL 00 01 (or similar form) covering Commercial General Liability. "Occurrence" form only, "claims made" forms are unacceptable. Policy must include coverage for:
  - a. Premises/Operations
  - b. Broad Form Contractual Liability
  - c. Products and Completed Operations
  - d. Personal Injury
  - e. Broad Form Property Damage
  - f. Independent Contractors
2. Workers Compensation insurance as required by the Labor Code of the State of Texas, including Employers' Liability Insurance. Worker's Compensation /Employers' Liability insurance is only required if contractor/vendor will use their own employees for the provision of General or Professional services under the contract.
3. Automobile Liability as required by the State of Texas, covering all owned, hired, or non-owned vehicles. Automobile Liability is only required if vehicle(s) will be used under the contract.
4. Professional Liability, also known as Errors and Omissions Coverage. Professional Liability is only required for Professional Services contracts.

**B. Deductibles and Self-Insured Retentions:** Any deductible or self-insured retention in excess of \$10,000 must be declared to and approved by the City.

**C. Other Insurance Provisions:** The policies are to contain or endorsed to contain the following provisions.

1. General Liability and Automobile Liability Coverage:
  - a. The City, its officers, officials, employees, boards and commissions and volunteers are to be added as "Additional Insured's" relative to liability arising out of activities performed by or on behalf of the vendor/contractor, products and completed operations of the vendor, premises owned, occupied or used by the vendor/contractor. The coverage shall contain no special limitations on the scope of protection afforded to the City, its officers, officials, employees or volunteers.

- b. The vendor/contractor insurance coverage shall be primary insurance in respects to the City, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees or volunteers shall be in excess of the vendor's insurance and shall not contribute with it.
  - c. Any failure to comply with reporting provisions of the policy shall not affect coverage provided to the City, its officers, officials, employees, boards, and commissions or volunteers.
  - d. The vendor/contractor insurance shall apply separately to each insured against whom the claim is made or suit is brought, except to the limits of the insured's limit of liability.
2. **Workers Compensation and Employer's Liability Coverage:** The insurer shall agree to waive all rights of subrogation against the City, its officers, officials, employees and volunteers for losses arising from work performed by the vendor for the City.
3. **All Coverage:** Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled or non-renewed by either party, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given the City. In the event the companies providing the required insurance are prohibited by law to provide any such specific endorsements, the vendor/contractor shall provide at least thirty (30) days prior written notice to the City of any cancellation, non-renewal and/or material changes to any of the policies of insurance. Failure to provide notification shall be deemed a default and/or breach of contract.
4. The City may request different limits of coverage depending on the scope or cost of the project.
- D. **Acceptability of Insurers:** The City prefers that insurance be placed with insurers with an A.M. Best's rating of no less than A-VI, or better.
- E. **Verification of Coverage:** Vendor/Contractor shall provide the City certificates of insurance indicating the coverage required. The certificates are to be signed by a person authorized by that insurer to bind coverage on its behalf. Certificates of Insurance similar to the ACORD Form are acceptable. City will not accept Memorandums of Insurance or Binders as proof of insurance. The City reserves the right to require complete, certified copies of all required insurance policies at any time.
- F. **Insurance Waiver Request.** Vendors/contractors requesting a waiver of the minimum limits of insurance identified in section 1.1.B must submit the request in writing. Please note, commercial general liability cannot be waived. Requests to waive other coverage requirements will be considered in the bid evaluation process. The vendor/contractor must also complete, sign, and return the Release Agreement form to the Purchasing Office prior to authorization to perform services for the City.

**1.1 GENERAL SERVICES REQUIREMENTS**

- A. **Definition:** General Services are defined as services performed on City property, including but not limited to: Installation, Landscape, Maintenance, Custodial, Electrical, Painting, Welding, Plumbing, Transportation, Street Sweeping, Fireworks, Moving, Concessions, etc.
- B. **Minimum Limits of Insurance:**
- 1. **Commercial General Liability:** \$500,000 per occurrence / \$2,000,000 in the aggregate for third party bodily injury, personal injury and property damage. Policy must include coverage listed in Section 1.A.1.
  - 2. **Automobile Liability:** \$500,000 Combined Single Limit. Limits can only be reduced if approved by the City. Automobile liability shall apply to all owned, hired, and non-owned autos. Automobile Liability is only required if vehicle(s) will be used under the contract.

3. Workers Compensation and Employer's Liability: Workers Compensation limits as required by the Labor Code of the State of Texas and Statutory Employer's Liability minimum limits of \$100,000 each accident, \$300,000 Disease - Policy Limit, and \$100,000 Disease – Each Employee. Worker's Compensation /Employers' Liability insurance is only required if contractor/vendor will use their own employees for the provision of services under the contract.

**Attachment C – Vendor Quotes with Cooperative Pricing &  
Contract Number**



Lighting for all outdoors

Nite Time Decor by Lone Star Electric  
P.O. Box 6451 • Abilene, TX 79608-6451  
325-677-0186



HOLIDAY & EVENT DECORATORS

Christmas Decor by Lone Star Electric  
P.O. Box 6451 • Abilene, TX 79608-6451  
325-692-1266

July 29, 2024

City of Corinth  
Attention: Melissa Dolan  
3300 Corinth Parkway  
Corinth, TX 76208

**Budget price for add on to core Christmas Décor in 2024**

- 1. We will furnish and install a 30ft Warm White LED lit Summit Tree with ornament package. This price includes set up, take-down and storage.  

**\$37,000.00**
- 2. Topper for 30ft tree.  

**\$1,200.00**
- 3. We will use semi-permanent warm white mini lights that are rated to be on the trees for (3) years. We will need to provide quarterly visits to check the lights and complete preventative maintenance. We will wrap (33) small trees (5) large trees.  

**\$28,500.00**

**\$1,500.00 per required quarterly visit**
- 4. We will install a tunnel of mini lights on the bridge approximately 100' long. The mini lights will have 4" spacing.  

**\$14,500.00**
- 5. We will install (2) large 12' warm white snowflakes at the park facing Corinth Parkway.  

**\$9,500.00**
- 6. We will install (3) cone trees in the park around the big trees on the back of the turf. These trees are RGB and animated. We will install (2) large photo ops by the edge of the turf.  

**\$17,500.00**

**This is all in addition to the core decorations that we already install annually.**

#TIPS 230806





Lighting for all outdoors

Nite Time Decor by Lone Star Electric  
P.O. Box 6451 • Abilene, TX 79608-6451  
325-677-0186



HOLIDAY & EVENT DECORATORS

Christmas Decor by Lone Star Electric  
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325-692-1266

7/29/2024

Lone Star Electric Reseller of Barcana

#TIPS 230806

**Your 2024 Core Display**

**Roof Lighting**

Warm White LED R LEFT FASCIA Fascia/Gable C9 \$926.40

Warm White LED R FRONT FASCIA Fascia/Gable C9 \$1,544.00

Warm White LED R RIGHT FASCIA Fascia/Gable C9 \$926.40

Warm White LED R HOT GLUE C9S ON ARCH Fascia/Gable C9 \$463.20

**Tree/Shrub Light**

3,440 Warm White LED R (4) TREES ON RIGHT T Trunk Wrap w/ Minis \$1,926.40

2,679 Warm White LED R (3) TREES ON LEFT T Trunk Wrap w/ Minis \$1,500.00 – **NEW**

**Daytime Décor**

(2) Wreath Commercial Deluxe StayLit 72" \$1,378.12

Wreath Commercial 96" 144 C9s \$1,102.50

INSTALL TREE AND GARLAND INSIDE LABOR ONLY Man Hours \$1,653.75

**Total= \$11,420.77**

<b>CERTIFICATE OF INTERESTED PARTIES</b>		<b>FORM 1295</b>	
		1 of 1	
Complete Nos. 1 - 4 and 6 if there are interested parties. Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.		<b>OFFICE USE ONLY CERTIFICATION OF FILING</b>	
<b>1 Name of business entity filing form, and the city, state and country of the business entity's place of business.</b> JONES & ROBINSON ENTERPRISES, INC DBA LONE STAR ELECTRIC ABILENE, TX United States		DRAFT	
<b>2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.</b> CITY OF CORINTH			
<b>3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.</b> TIPS RFP 230806 LIGHTING			
4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)
			<input type="checkbox"/> Controlling <input type="checkbox"/> Intermediary
<b>5 Check only if there is NO Interested Party.</b> <input checked="" type="checkbox"/>			
<b>6 UNSWORN DECLARATION</b>  My name is _____, and my date of birth is _____.  My address is _____ (street) _____ (city) _____ (state) _____ (zip code) _____ (country).  I declare under penalty of perjury that the foregoing is true and correct.  Executed in _____ County, State of _____, on the ____ day of _____, 20____. <div style="text-align: right; margin-right: 50px;">                         _____                          Signature of authorized agent of contracting business entity                          (Declarant)                     </div>			

## **Attachment D**

### **Vendor's Cooperative Contract Documentation with TIPS Contract #230806**

**TIPS VENDOR AGREEMENT SIGNATURE FORM TIPS  
RFP 230806 Holiday and Special Event Lighting**

Vendor Name: The Decor Group, Inc. dba Christmas Decor

Vendor Address: 2301 Crown Court

City: Irving State: TX Zip Code: 75038

Vendor Authorized Signatory Name: Brandon Stephens

Vendor Authorized Signatory Title: President

Vendor Authorized Signatory Phone: 806-722-1225

Vendor Authorized Signatory Email: brandon@thedecorgroup.com

Vendor Authorized Signature: Brandon Stephens Digitally signed by Brandon Stephens  
Date: 2023.09.11 12:49:08 -05'00' Date: 9-11-2023

*(The following is for TIPS completion only)*

TIPS Authorized Signatory Name: Dr. Fitts

TIPS Authorized Signatory Title: Executive Director

TIPS Authorized Signature: \_\_\_\_\_ Date: \_\_\_\_\_

TIPS VENDOR AGREEMENT

TIPS RFP 230806 Holiday and Special Event Lighting

The following Vendor Agreement ("Agreement") creates a legal agreement between The Interlocal Purchasing System ("TIPS"), a government purchasing cooperative and Department of Texas Region 8 Education Service Center and (INSERT ENTITY NAME):

The Decor Group, Inc. dba Christmas Decor

(ENTER ENTITY NAME]

its owners, agents, subsidiaries, and affiliates (together, "Vendor") (individually, "Party", and collectively the "Parties") and this agreement shall exclusively govern the contractual relationship ("Agreement") between the Parties.

TIPS, a governmental entity and a national purchasing cooperative seeks to provide a valuable and necessary solution to public entities and qualifying non-profits by performing the public procurement solicitation process and awarding compliant contracts to qualified vendors. Then, where the law of a customer's jurisdiction allows, instead of public entities and qualifying non-profits expending time, money, and resources on the extensive public procurement process, the use of TIPS allows public entities to quickly select and purchase their preferred products or services from qualified, competitively evaluated vendors through cooperative purchasing.

1. **Purpose.** The purpose of this Agreement is to identify the terms and conditions of the relationship between TIPS and Vendor. Public entities and qualifying non-profits that properly join or utilize TIPS ("TIPS Members") may elect to "piggyback" off of TIPS' procurements and agreements where the laws of their jurisdiction allow. TIPS Members are not contractual parties to this Agreement although terms and conditions of this Agreement may ensure benefits to TIPS Members.
2. **Authority.** The Parties agree that the signatories below are individual authorized to enter into this Agreement on behalf of their entity and that they are acting under due and proper authority under applicable law.
3. **Definitions.**
  - a. **TIPS Pricing:** The specific pricing, discounts, and other pricing terms and incentives which Vendor submitted and TIPS approved for each respective TIPS Contract awarded to Vendor and all permissible, subsequent pricing updates submitted by Vendor and accepted by TIPS, if any.
  - b. **Authorized Reseller:** A reseller or dealer authorized and added by a Vendor through their online TIPS Vendor Portal to make TIPS sales according to the terms and conditions herein.
4. **Entire Agreement.** This Agreement resulted from TIPS posting a "TIPS Solicitation" (RFP, RCSP, RFQ, or other) and Vendor submitting a proposal in response to that posted TIPS Solicitation for evaluation and award. The Parties agree that this Agreement consists of the provisions set forth herein and: (1) The TIPS solicitation document resulting in this Agreement; (2) Any addenda or clarifications issued in relation to the TIPS solicitation; (3) All solicitation information provided to Vendor by TIPS through the TIPS eBid System; (3) Vendor's entire proposal response to the TIPS solicitation including all accepted required attachments, acknowledged notices and certifications, accepted negotiated terms, pricing, accepted responses to questions, and accepted written clarifications of Vendor's proposal, and; any properly included attachments to this Agreement. All documentation and information listed is hereby incorporated by reference as if set forth herein verbatim. In the event of conflict between the terms herein and one of the incorporated documents the terms and conditions herein shall control.
5. **Vendor's Specific Warranties, Terms, and License Agreements.** Because TIPS serves public entities and non-profits throughout the nation all of which are subject to specific laws and policies of their jurisdiction, as a matter of standard practice, TIPS does not typically accept a Vendor's specific "Sale Terms" (warranties, license agreements, master agreements, terms and conditions, etc.) on behalf of all TIPS Members. TIPS may permit Vendor to attach those to this Agreement to display to interested customers what terms may apply to their Supplemental Agreement with Vendor (if submitted by Vendor for that purpose). However, unless this term of the Agreement is negotiated and modified to state otherwise, those specific Sale Terms are not accepted by TIPS on behalf of all TIPS Members and each Member may choose whether to accept, negotiate, or reject those specific Sale Terms, which must be reflected in a separate agreement between Vendor and the Member in order to be effective.

- 6. Vendor Identity and Contact Information.** It is Vendor's sole responsibility to ensure that all identifying vendor information (name, EIN, d/b/a's, etc.) and contact information is updated and current at all times within the TIPS eBid System and the TIPS Vendor Portal. It is Vendor's sole responsibility to confirm that all e-correspondence issued from [tips-usa.com](mailto:tips-usa.com), [ionwave.net](mailto:ionwave.net), and [tipsconstruction.com](mailto:tipsconstruction.com) to Vendor's contacts are received and are not blocked by firewall or other technology security. Failure to permit receipt of correspondence from these domains and failure to keep vendor identity and contact information current at all times during the life of the contract may cause loss of TIPS Sales, accumulating TIPS fees, missed rebid opportunities, lapse of TIPS Contract(s), and unnecessary collection or legal actions against Vendor. It is no defense to any of the foregoing or any breach of this Agreement that Vendor was not receiving TIPS' electronic communications issued by TIPS to Vendor's listed contacts.
- 7. Initiation of TIPS Sales.** When a public entity initiates a purchase with Vendor, if the Member inquires verbally or in writing whether Vendor holds a TIPS Contract, it is the duty of the Vendor to verify whether the Member is seeking a TIPS purchase. Once verified, Vendor must include the TIPS Contract Number on all purchase communications and sales documents exchanged with the TIPS Member.
- 8. TIPS Sales and Supplemental Agreements.** The terms of the specific TIPS order, including but not limited to: shipping, freight, insurance, delivery, fees, bonding, cost, delivery expectations and location, returns, refunds, terms, conditions, cancellations, order assistance, etc., shall be controlled by the purchase agreement (Purchase Order, Contract, Invoice, etc.) (hereinafter "Supplemental Agreement") entered into between the TIPS Member Customer and Vendor only. TIPS is not a party to any Supplemental Agreement. All Supplemental Agreements shall include Vendor's Name, as known to TIPS, and TIPS Contract Name and Number. Vendor accepts and understands that TIPS is not a legal party to TIPS Sales and Vendor is solely responsible for identifying fraud, mistakes, unacceptable terms, or misrepresentations for the specific order prior to accepting. Vendor agrees that any order issued from a customer to Vendor, even when processed through TIPS, constitutes a legal contract between the customer and Vendor only. When Vendor accepts or fulfills an order, even when processed through TIPS, Vendor is representing that Vendor has carefully reviewed the order for legality, authenticity, and accuracy and TIPS shall not be liable or responsible for the same. In the event of a conflict between the terms of this TIPS Vendor Agreement and those contained in any Supplemental Agreement, the provisions set forth herein shall control unless otherwise agreed to and authorized by the Parties in writing within the Supplemental Agreement.
- 9. Right of Refusal.** Vendor has the right not to sell to a TIPS Member under the awarded agreement at Vendor's discretion unless otherwise required by law.
- 10. Reporting TIPS Sales.** Vendor must report all TIPS Sales to TIPS. If a TIPS sale is initiated by Vendor receiving a TIPS Member's purchase order from TIPS directly, Vendor may consider that specific TIPS Sale reported. Otherwise, with the exception of TIPS Automated Vendors, who have signed an exclusive agreement with TIPS regarding reporting, all TIPS Sales must be reported to TIPS by either: (1) Emailing the purchase order or similar purchase document (with Vendor's Name, as known to TIPS, and the TIPS Contract Name and Number included) to TIPS at [tipspo@tips-usa.com](mailto:tipspo@tips-usa.com) with "Confirmation Only" in the subject line of the email within three business days of Vendor's acceptance of the order, or; (2) Within 3 business days of the order being accepted by Vendor, Vendor must login to the TIPS Vendor Portal and successfully self-report all necessary sale information within the Vendor Portal and confirm that it shows up accurately on your current Vendor Portal statement. No other method of reporting is acceptable unless agreed to by the Parties in writing. Failure to report all sales pursuant to this provision may result in immediate cancellation of Vendor's TIPS Contract(s) for cause at TIPS' sole discretion. Please refer to the TIPS [Accounting FAQ's](#) for more information about reporting sales and if you have further questions, contact the Accounting Team at [accounting@tips-usa.com](mailto:accounting@tips-usa.com).
- 11. TIPS Administration Fees.** The collection of administrative fees by TIPS, a government entity, for performance of these procurement services is required pursuant to Texas Government Code Section 791.011 et. seq. The administration fee ("TIPS Administration Fee") is the amount legally owed by Vendor to TIPS for TIPS Sales made by Vendor. The TIPS Administration Fee amount is typically a set percentage of the amount paid by the TIPS Member for each TIPS Sale, less shipping cost, bond cost, and taxes if applicable and identifiable, which is legally due to TIPS, but the exact TIPS Administration Fee for this Contract is published in the corresponding solicitation and is incorporated herein by reference. TIPS Administration Fees are due to TIPS immediately upon Vendor's receipt of payment, including partial payment, for a TIPS Sale. The TIPS Administration Fee is assessed on the amount paid by the TIPS Member, not on the Vendor's cost or on the amount for which the Vendor sold the item to a dealer or Authorized Reseller. Upon receipt of payment for a TIPS Sale, including partial payment (which renders TIPS Administration Fees immediately due), Vendor shall issue to TIPS the corresponding TIPS Administration Fee payment as soon as possible but not later than thirty-one calendar days following Vendor's receipt of payment. Vendor shall pay TIPS via check unless otherwise agreed to by the Parties in writing. Vendor shall include clear documentation with the issued payment dictating to which sale(s) the amount should be applied. Vendor may create a payment report within their TIPS Vendor Portal which is the preferred documentation dictating to which TIPS Sale(s) the amount should be applied. Failure to pay all TIPS Administration Fees pursuant to this provision may result in immediate cancellation of Vendor's TIPS Contract(s) for cause at TIPS' sole discretion as well as the initiation of collection and legal actions by TIPS against Vendor to the extent permitted by law. Any overpayment of participation fees to TIPS by Vendor will be refunded to the Vendor.

within ninety (90) days of receipt of notification if TIPS receives written notification of the overpayment not later than the expiration of six (6) months from the date of overpayment and TIPS determines that the amount was not legally due to TIPS pursuant to this agreement and applicable law. Any notification of overpayment received by TIPS after the expiration of six (6) months from the date that TIPS received the payment will render the overpayment non-refundable. Region 8 ESC and TIPS reserve the right to extend the six (6) month deadline if approved by the Region 8 ESC Board of Directors. TIPS reserves all rights under the law to collect TIPS Administration Fees due to TIPS pursuant to this Agreement.

- 12. Term of the Agreement.** This Agreement with TIPS is for approximately three years with a one-year, consecutive option for renewal as described herein. Renewal options are not automatic and shall only be effective if offered by TIPS at its sole discretion. If TIPS offers a renewal option, the Vendor will be notified via email issued to Vendor's then-listed Primary Contact. The renewal option shall be deemed accepted by Vendor unless Vendor notifies TIPS of its objection to the renewal option in writing and confirms receipt by TIPS.

**Actual Effective Date:** Agreement is effective upon signature by authorized representatives of both Parties. The Effective Date does not affect the "Term Calculation Start Date."

**Term Calculation Start Date:** To keep the contract term consistent for all vendors awarded under a single TIPS contract, Vendor shall calculate the foregoing term as starting on the last day of the month that "Award Notifications" are anticipated as published in the Solicitation, regardless of the actual Effective Date.

**Example of Term Calculation Start Date:** If the anticipated "Award Date" published in the Solicitation is May 22, 2023, but extended negotiations delay award until June 27, 2023 (Actual Effective Date), the Term Calculation Start Date shall be May 31, 2023 in this example.

**Contract Expiration Date:** To keep the contract term consistent for all vendors awarded under a single TIPS contract, the term expiration date shall be three-years from the Term Calculation Start Date.

**Example of Contract Expiration Date:** If the anticipated "Award Date" published in the Solicitation is May 22, 2023, but extended negotiations delay award until June 27, 2023 (Actual Effective Date), the Term Calculation Start Date shall be May 31, 2023 and the Contract Expiration Date of the resulting initial "three-year" term, (which is subject to an extension(s)) will be May 31, 2026 in this example.

**Option(s) for Renewal:** Any option(s) for renewal shall begin on the Contract Expiration Date, or the date of the expiration of the prior renewal term where applicable, and continue for the duration specified for the renewal option herein.

**Example of Option(s) for Renewal:** In this example, if TIPS offers a one-year renewal and the Contract Expiration Date is May 31, 2026, then the one-year renewal is effective from May 31, 2026 to May 31, 2027.

TIPS may offer to extend Vendor Agreements to the fullest extent the TIPS Solicitation resulting in this Agreement permits.

- 13. TIPS Pricing.** Vendor agrees and understands that for each TIPS Contract that it holds, Vendor submitted, agreed to, and received TIPS' approval for specific pricing, discounts, and other pricing terms and incentives which make up Vendor's TIPS Pricing for that TIPS Contract ("TIPS Pricing"). Vendor confirms that Vendor will not add the TIPS Administration Fee as a charge or line-item in a TIPS Sale. Vendor hereby certifies that Vendor shall only offer goods and services through this TIPS Contract if those goods and services are included in or added to Vendor's TIPS Pricing and approved by TIPS. TIPS reserves the right to review Vendor's pricing update requests as specifically as line-item by line-item to determine compliance. However, Vendor contractually agrees that all submitted pricing updates shall be within the original terms of the Vendor's TIPS Pricing (scope, proposed discounts, price increase limitations, and other pricing terms and incentives originally proposed by Vendor) such that TIPS may accept Vendors price increase requests as submitted without additional vetting at TIPS discretion. Any pricing quoted by Vendor to a TIPS Member or on a TIPS Quote shall never exceed Vendor's TIPS Pricing for any good or service offered through TIPS. TIPS Pricing price increases and modifications, if permitted, will be honored according to the terms of the solicitation and Vendor's proposal, incorporated herein by reference.
- 14. Indemnification of TIPS.** VENDOR AGREES TO INDEMNIFY, HOLD HARMLESS, AND DEFEND TIPS, TIPS MEMBERS, TIPS OFFICERS, TIPS EMPLOYEES, TIPS DIRECTORS, AND TIPS TRUSTEES (THE "TIPS INDEMNITEES") FROM AND AGAINST ALL CLAIMS AND SUITS BY THIRD-PARTIES FOR DAMAGES, INJURIES TO PERSONS (INCLUDING DEATH), PROPERTY DAMAGES, LOSSES, EXPENSES, FEES, INCLUDING COURT COSTS, ATTORNEY'S FEES, AND EXPERT FEES, ARISING OUT OF OR RELATING TO VENDOR'S PERFORMANCE UNDER THIS AGREEMENT (INCLUDING THE PERFORMANCE OF VENDOR'S OFFICERS, EMPLOYEES, AGENTS, AUTHORIZED RESELLERS, SUBCONTRACTORS, LICENSEES, OR INVITEES), REGARDLESS OF THE NATURE OF THE CAUSE OF ACTION, INCLUDING WITHOUT LIMITATION CAUSES OF ACTION BASED UPON COMMON, CONSTITUTIONAL, OR STATUTORY LAW OR BASED IN

WHOLE OR IN PART UPON ALLEGATIONS OF NEGLIGENT OR INTENTIONAL ACTS OR OMISSIONS ON THE PART OF VENDOR, ITS OFFICERS, EMPLOYEES, AGENTS, AUTHORIZED RESELLERS, SUBCONTRACTORS, LICENSEES, OR INVITEES. NO LIMITATION OF LIABILITY FOR DAMAGES FOR PERSONAL INJURY OR PROPERTY DAMAGE ARE PERMITTED OR AGREED TO BY TIPS. APART FROM THIS INDEMNIFICATION PROVISION REQUIRING INDEMNIFICATION OF THE TIPS INDEMNITEES' ATTORNEY'S FEES AS SET FORTH ABOVE, RECOVERY OF ATTORNEYS' FEES BY THE PREVAILING PARTY IS AUTHORIZED ONLY IF AUTHORIZED BY TEX. EDUC. CODE § 44.032(F).

15. **Indemnification and Assumption of Risk – Vendor Data.** VENDOR AGREES THAT IT IS VOLUNTARILY PROVIDING DATA (INCLUDING BUT NOT LIMITED TO: VENDOR INFORMATION, VENDOR DOCUMENTATION, VENDOR'S PROPOSALS, VENDOR PRICING SUBMITTED OR PROVIDED TO TIPS, TIPS CONTRACT DOCUMENTS, TIPS CORRESPONDENCE, VENDOR LOGOS AND IMAGES, VENDOR'S CONTACT INFORMATION, VENDOR'S BROCHURES AND COMMERCIAL INFORMATION, VENDOR'S FINANCIAL INFORMATION, VENDOR'S CERTIFICATIONS, AND ANY OTHER VENDOR INFORMATION OR DOCUMENTATION, INCLUDING WITHOUT LIMITATION SOFTWARE AND SOURCE CODE UTILIZED BY VENDOR, SUBMITTED TO TIPS BY VENDOR AND ITS AGENTS) ("VENDOR DATA") TO TIPS. FOR THE SAKE OF CLARITY, AND WITHOUT LIMITING THE BREADTH OF THE INDEMNITY OBLIGATIONS IN SECTION 14 ABOVE, VENDOR AGREES TO PROTECT, INDEMNIFY, AND HOLD THE TIPS INDEMNITEES HARMLESS FROM AND AGAINST ANY AND ALL LOSSES, CLAIMS, ACTIONS, DEMANDS, ALLEGATIONS, SUITS, JUDGMENTS, COSTS, EXPENSES, FEES, INCLUDING COURT COSTS, ATTORNEY'S FEES, AND EXPERT FEES AND ALL OTHER LIABILITY OF ANY NATURE WHATSOEVER ARISING OUT OF OR RELATING TO: (I) ANY UNAUTHORIZED, NEGLIGENT OR WRONGFUL USE OF, OR CYBER DATA BREACH INCIDENT AND VIRUSES OR OTHER CORRUPTING AGENTS INVOLVING, VENDOR'S DATA, PRICING, AND INFORMATION, COMPUTERS, OR OTHER HARDWARE OR SOFTWARE SYSTEMS, AND; (II) ALLEGATIONS OR CLAIMS THAT ANY VENDOR DATA INFRINGES ON THE INTELLECTUAL PROPERTY RIGHTS OF A THIRD-PARTY OR VENDOR.
16. **Procedures Related to Indemnification.** In the event that an indemnity obligation arises, Vendor shall pay all amounts set forth in Section 14 and 15 above (including any settlements) and – if it has accepted its indemnity obligation without qualification – control the legal defense to such claim or cause of action, including without limitation attorney selection, strategy, discovery, trial, appeal, and settlement, and TIPS shall, at Vendor's cost and expense (with respect to reasonable out of pocket costs and expenses incurred by TIPS which shall be reimbursed to TIPS by Vendor), provide all commercially reasonable assistance requested by Vendor. In controlling any defense, Vendor shall ensure that all assertions of governmental immunity and all applicable pleas and defenses shall be promptly asserted.
17. **Indemnity for Underlying Sales and Supplemental Agreements.** Vendor shall be solely responsible for any customer claims or any disputes arising out of TIPS Sales or any Supplemental Agreement as if sold in the open-market. The Parties agree that TIPS shall not be liable for any claims arising out of Vendor's TIPS Sales or Supplemental Agreements, including but not limited to: allegations of product defect or insufficiency, allegations of service defect or insufficiency, allegations regarding delivery defect or insufficiency, allegations of fraud or misrepresentation, allegations regarding pricing or amounts owed for TIPS sales, and/or allegations regarding payment, over-payment, under-payment, or non-payment for TIPS Sales. Payment/Drafting, overpayment/over-drafting, under-payment/under-drafting, or non-payment for TIPS Sales between customer and Vendor and inspections, rejections, or acceptance of such purchases shall be the exclusive respective obligations of Vendor/Customer, and disputes shall be handled in accordance with the terms of the underlying Supplemental Agreement(s) entered into between Vendor and Customer. Vendor acknowledges that TIPS is not a dealer, subcontractor, agent, or reseller of Vendor's goods and services and shall not be responsible for any claims arising out of alleged insufficiencies or defects in Vendor's goods and services, should any arise.
18. **Confidentiality of Vendor Data.** Vendor understands and agrees that by signing this Agreement, all Vendor Data is hereby released to TIPS, TIPS Members, and TIPS third-party administrators to effectuate Vendor's TIPS Contract except as provided for herein. The Parties agree that Vendor Data is accessible by all TIPS Members as if submitted directly to that TIPS Member Customer for purchase consideration. If Vendor otherwise considers any portion of Vendor's Data to be confidential and not subject to public disclosure pursuant to Chapter 552 Texas Gov't Code (the "Public Information Act") or other law(s) and orders, Vendor must have identified the claimed confidential materials through proper execution of the Confidentiality Claim Form which is required to be submitted as part of Vendor's proposal resulting in this Agreement and incorporated by reference. The Confidentiality Claim Form included in Vendor's proposal and incorporated herein by reference is the sole indicator of whether Vendor considers any Vendor Data confidential in the event TIPS receives a Public Information Request. If TIPS receives a request, any responsive documentation not deemed confidential by you in this manner will be automatically released. For Vendor Data deemed confidential by you in this manner, TIPS will follow procedures of controlling statute(s) regarding any claim of confidentiality and shall not be liable for any release of information required by law, including Attorney General determination and opinion. In the event that TIPS receives a written request for information pursuant to the Public Information Act that affects Vendor's interest in any information or data furnished to TIPS by Vendor, and TIPS requests an opinion from the Attorney General, Vendor may, at its own option and expense, prepare comments and submit information directly to the Attorney General stating why the requested information is exempt from disclosure pursuant to the requirements of the Public Information Act. Vendor is solely responsible for submitting the memorandum brief and information to the Attorney General



within the time period prescribed by the Public Information Act. Notwithstanding any other information provided in this solicitation or Vendor designation of certain Vendor Data as confidential or proprietary, Vendor's acceptance of this TIPS Vendor Agreement constitutes Vendor's consent to the disclosure of Vendor's Data, including any information deemed confidential or proprietary, to TIPS Members or as ordered by a Court or government agency, including without limitation the Texas Attorney General. Vendor agrees that TIPS shall not be responsible or liable for any use or distribution of information or documentation by TIPS Members or as required by law.

- 19. Vendor's Authorized Resellers.** TIPS recognizes that many vendors operate in the open market through the use of resellers or dealers. For that reason, TIPS permits Vendor to authorize Authorized Resellers within its Vendor Portal and make TIPS Sales through the Authorized Reseller(s). Once authorized by Vendor in the Vendor Portal, the Authorized Reseller(s) may make TIPS sales to TIPS Members. However, all purchase documents must include: (1) Authorized Reseller's Name; (2) Vendor's Name, as known to TIPS, and; (3) Vendor's TIPS Contract Name and Number under which it is making the TIPS Sale. Either Vendor or Reseller may report the sale pursuant to the terms herein. However, Vendor agrees that it is legally responsible for all reporting and fee payment as described herein for TIPS Sales made by Authorized Resellers. The TIPS Administration Fee is assessed on the amount paid by the TIPS Member, not on the Vendor's cost or on the amount for which the Vendor sold the item to a dealer or Authorized Reseller. The Parties intend that Vendor shall be responsible and liable for TIPS Sales made by Vendor's Authorized Resellers. Vendor agrees that it is voluntarily authorizing this Authorized Reseller and in doing so, Vendor agrees that it is doing so at its own risk and agrees to protect, indemnify, and hold TIPS harmless in accordance with Sections 14-17 above related to Authorized Reseller TIPS Sales made pursuant to this Agreement or purporting to be made pursuant to this Agreement that may be asserted against Vendor whether rightfully brought or otherwise. The Parties further agree that it is no defense to Vendor's breach of this Agreement that an Authorized Reseller caused Vendor of breach this Agreement.
- 20. Circumvention of TIPS Sales.** When a public entity initiates a purchase with Vendor, if the Member inquires verbally or in writing whether Vendor holds a TIPS Contract, it is the duty of the Vendor to verify whether the Member is seeking a TIPS purchase. Any request for quote, customer communication, or customer purchase initiated through or referencing a TIPS Contract shall be completed through TIPS pursuant to this Agreement. Any encouragement or participation by Vendor in circumventing a TIPS sale being completed may result in immediate termination of Vendor's TIPS Contract(s) for cause as well as preclusion from future TIPS opportunities at TIPS sole discretion.
- 21. State of Texas Franchise Tax.** By signature hereon, Vendor hereby certifies that Vendor is not currently delinquent in the payment of any franchise taxes owed to the State of Texas under Chapter 171 of the Texas Tax Code.
- 22. Termination.**
- A) Termination for Convenience. TIPS may, by written notice to Vendor, terminate this Agreement for convenience, in whole or in part, at any time by giving thirty (30) days' written notice to Vendor of such termination, and specifying the effective date thereof.
  - B) Termination for Cause. If Vendor fails to materially perform pursuant to the terms of this Agreement, TIPS shall provide written notice to Vendor specifying the default. If Vendor does not cure such default within thirty (30) days, TIPS may terminate this Agreement, in whole or in part, for cause. If TIPS terminates this Agreement for cause, and it is later determined that the termination for cause was wrongful, the termination shall automatically be converted to and treated as a termination for convenience.
  - C) Vendor's Termination. If TIPS fails to materially perform pursuant to the terms of this Agreement, Vendor shall provide written notice to TIPS specifying the default ("Notice of Default"). If TIPS does not cure such default within thirty (30) days, Vendor may terminate this Agreement, in whole or in part, for cause. If Vendor terminates this Agreement for cause, and it is later determined that the termination for cause was wrongful, the termination shall automatically be converted to and treated as a termination for convenience.
  - D) Upon termination, all TIPS Sale orders previously accepted by Vendor shall be fulfilled and Vendor shall be paid for all TIPS Sales executed pursuant to the applicable terms. All TIPS Sale orders presented to Vendor but not fulfilled by Vendor, prior to the actual termination of this agreement shall be honored at the option of the TIPS Member. TIPS shall submit to Vendor an invoice for any outstanding TIPS Administration Fees and approved expenses and Vendor shall pay such fees and expenses within 30 calendar days of receipt of such valid TIPS invoice. Vendor acknowledges and agrees that continued participation in TIPS is subject to TIPS' sole discretion and that any Vendor may be removed from the TIPS program at any time with or without cause. This

termination clause does not affect TIPS Sales Supplemental Agreements pursuant to this term regarding termination and the Survival Clause term.

- E) Vendor hereby waives any and all claims for damages, including, but not limited, to consequential damages or lost profits, that might arise from TIPS' act of terminating this Agreement.

- 23. Survival Clause.** It is the intent of the Parties that this Agreement and procurement method applies to any TIPS Sale made during the life of this Agreement even if made on or near the Contract Expiration Date as defined herein. Thus, all TIPS Sales, including but not limited to: leases, service agreements, license agreements, open purchase orders, warranties, and contracts, even if they extend months or years past the TIPS Contract Expiration Date, shall survive the expiration or termination of this Agreement subject to the terms and conditions of the Supplemental Agreement between Customer and Vendor or unless otherwise specified herein.
- 24. Audit Rights.** Due to transparency statutes and public accountability requirements of TIPS and TIPS Members, Vendor shall at their sole expense, maintain documentation of all TIPS Sales for a period of three years from the time of the TIPS Sale. In order to ensure and confirm compliance with this agreement, TIPS shall have authority to conduct audits of Vendor's TIPS Pricing or TIPS Sales with thirty-days' notice unless the audit is ordered by a Court Order or by a Government Agency with authority to do so without said notice. Notwithstanding the foregoing, in the event that TIPS is made aware of any pricing being offered to eligible entities that is materially inconsistent with Vendor's TIPS Pricing, TIPS shall have the ability to conduct the audit internally or may engage a third-party auditing firm to investigate any possible non-compliant conduct or may terminate the Agreement according to the terms of this Agreement. In the event of an audit, the requested materials shall be reasonably provided in the time, format, and at the location acceptable to TIPS. TIPS agrees not to perform a random audit the TIPS transaction documentation more than once per calendar year, but reserves the right to audit for just cause or as required by any governmental agency or court with regulatory authority over TIPS or the TIPS Member. These audit rights shall survive termination of this Agreement for a period of one (1) year from the effective date of termination.
- 25. Conflicts of Interest.** The Parties confirm that they have not offered, given, or accepted, nor intend to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, service to the other in connection with this Agreement. Vendor affirms that, to the best of Vendor's knowledge, this Agreement has been arrived at independently, and is awarded without collusion with anyone to obtain information or gain any favoritism that would in any way limit competition or give an unfair advantage over other vendors in the award of this Agreement. Vendor agrees that it has disclosed any necessary affiliations with Region 8 Education Service Center and the TIPS Department, if any, through the Conflict of Interest attachment provided in the solicitation resulting in this Agreement.
- 26. Volume of TIPS Sales.** Nothing in this Agreement or any TIPS communication may be construed as a guarantee that TIPS or TIPS Members will submit any TIPS orders to Vendor at any time.
- 27. Compliance with the Law.** The Parties agree to comply fully with all applicable federal, state, and local statutes, ordinances, rules, and regulations applicable to their entity in connection with the programs contemplated under this Agreement.
- 28. Severability.** If any term(s) or provision(s) of this Agreement are held by a court of competent jurisdiction to be invalid, void, or unenforceable, then such term(s) or provision(s) shall be deemed restated to reflect the original intention of the Parties as nearly as possible in accordance with applicable law and the remainder of this Agreement, and the remainder of the provisions of this Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated, unless such holding causes the obligations of the Parties hereto to be impossible to perform or shall render the terms of this Agreement to be inconsistent with the intent of the Parties hereto.
- 29. Force Majeure.** If by reason of Force Majeure, either party hereto shall be rendered unable wholly or in part to carry out its obligations under this Agreement through no fault of its own then such party shall give notice and full particulars of Force Majeure in writing to the other party within a reasonable time after occurrence of the event or cause relied upon. Upon delivering such notice, the obligation of the affected party, so far as it is affected by such Force Majeure as described, shall be suspended during the continuance of the inability then claimed but for no longer period, and such party shall endeavor to remove or overcome such inability with all reasonable dispatch. In the event that Vendor's obligations are suspended by reason of Force Majeure, all TIPS Sales accepted prior to the Force Majeure event shall be the legal responsibility of Vendor and the terms of the TIPS Sale Supplemental Agreement shall control Vendor's failure to fulfill for a Force Majeure event.
- 30. Immunity.** Vendor agrees that nothing in this Agreement shall be construed as a waiver of sovereign or government immunity; nor constitute or be construed as a waiver of any of the privileges, rights, defenses, remedies, or immunities available to Region 8 Education Service Center or its TIPS Department. The failure to enforce, or any delay in the enforcement of, any privileges, rights, defenses,

remedies, or immunities available to Region 8 Education Service Center or its TIPS Department under this Agreement or under applicable law shall not constitute a waiver of such privileges, rights, defenses, remedies, or immunities or be considered as a basis for estoppel.

**31. Insurance Requirements.** Vendor agrees to maintain the following minimum insurance requirements for the duration of this Agreement. All policies held by Vendor to adhere to this term shall be written by a carrier with a financial size category of VII and at least a rating of "A-" by A.M. Best Key Rating Guide. The coverages and limits are to be considered minimum requirements and in no way limit the liability of the Vendor(s). Any immunity available to TIPS or TIPS Members shall not be used as a defense by the contractor's insurance policy. Only deductibles applicable to property damage are acceptable, unless proof of retention funds to cover said deductibles is provided. "Claims made" policies will not be accepted. Vendor's required minimum coverage shall not be suspended, voided, cancelled, non-renewed or reduced in coverage or in limits unless replaced by a policy that provides the minimum required coverage except after thirty (30) days prior written notice by certified mail, return receipt requested has been given to TIPS or the TIPS Member if a project or pending delivery of an order is ongoing. Upon request, certified copies of all insurance policies shall be furnished to the TIPS or the TIPS Member. Vendor agrees that when Vendor or its subcontractors are liable for any damages or claims, Vendor's policy, shall be primary over any other valid and collectible insurance carried by the Member or TIPS.

- General Liability: \$1,000,000 each Occurrence/Aggregate
- Automobile Liability: \$300,000 Includes owned, hired & non-owned
- Workers' Compensation: Statutory limits for the jurisdiction in which the Vendor performs under this Agreement. If Vendor performs in multiple jurisdictions, Vendor shall maintain the statutory limits for the jurisdiction with the greatest dollar policy limit requirement.
- Umbrella Liability: \$1,000,000 each Occurrence/Aggregate

**32. Waiver.** No waiver of any single breach or multiple breaches of any provision of this Agreement shall be construed to be a waiver of any breach of any other provision. No delay in acting regarding any breach of any provision shall be construed to be a waiver of such breach.

**33. Binding Agreement.** This Agreement shall be binding and inure to the benefit of the Parties hereto and their respective heirs, legal successors, and assigns.

**34. Headings.** The paragraph headings contained in this Agreement are included solely for convenience of reference and shall not in any way affect the meaning or interpretation of any of the provisions of this Agreement.

**35. Choice of Law and Venue.** This Agreement shall be governed by, construed, and enforced in accordance with the laws of the State of Texas. Any proceeding, claim, action, or alternative dispute resolution arising out of or relating to this Agreement or involving TIPS shall be brought in a State Court of competent jurisdiction in Camp County, Texas, or if Federal Court is legally required, a Federal Court of competent jurisdiction in the Eastern District of Texas, and each of the Parties irrevocably submits to the exclusive jurisdiction of said court in any such proceeding, waives any objection it may now or hereafter have to venue or to convenience of forum, agrees that all claims in respect of the proceeding shall be heard and determined only in any such court, and agrees not to bring any proceeding arising out of or relating to this procurement process or any contract resulting from or and contemplated transaction in any other court. The Parties agree that either or both of them may file a copy of this paragraph with any court as written evidence of the knowing, voluntary and freely bargained for agreement between the Parties irrevocably to waive any objections to venue or to convenience of forum.

**36. Relationship of the Parties.** Nothing contained in this Agreement shall be construed to make one Party an agent of the other Party nor shall either party have any authority to bind the other in any respect, unless expressly authorized by the other party in writing. The Parties are independent contractors and nothing in this Agreement creates a relationship of employment, trust, agency or partnership between them.

**37. Assignment.** No assignment of this Agreement or of any duty or obligation of performance hereunder, shall be made in whole or in part by a Party hereto without the prior written consent of the other Party. Written consent of TIPS shall not be unreasonably withheld.

**38. Minimum Condition and Warranty Requirements for TIPS Sales.** All goods quoted or sold through a TIPS Sale shall be new unless clearly stated otherwise in writing. All new goods and services shall include the applicable manufacturers minimum standard warranty unless otherwise agreed to in the Supplemental Agreement.

- 39. Minimum Customer Support Requirements for TIPS Sales.** Vendor shall provide timely and commercially reasonable support for TIPS Sales or as agreed to in the applicable Supplemental Agreement.
- 40. Minimum Shipping Requirements for TIPS Sales.** Vendor shall ship, deliver, or provide ordered goods and services within a commercially reasonable time after acceptance of the order. If a delay in delivery is anticipated, Vendor shall notify the TIPS Member as to why delivery is delayed and provide an updated estimated time for completion. The TIPS Member may cancel the order if the delay is not commercially acceptable or not consistent with the Supplemental Agreement applicable to the order.
- 41. Minimum Vendor License Requirements.** Vendor shall maintain, in current status, all federal, state, and local licenses, bonds and permits required for the operation of the business conducted by Vendor. Vendor shall remain fully informed of and in compliance with all ordinances and regulations pertaining to the lawful provision of goods or services under the TIPS Agreement. TIPS and TIPS Members reserve the right to stop work and/or cancel a TIPS Sale or terminate this or any TIPS Sale Supplemental Agreement involving Vendor if Vendor's license(s) required to perform under this Agreement or under the specific TIPS Sale have expired, lapsed, are suspended or terminated subject to a 30-day cure period unless prohibited by applicable statute or regulation.
- 42. Minimum Vendor Legal Requirements.** Vendor shall remain aware of and comply with this Agreement and all local, state, and federal laws governing the sale of products/services offered by Vendor under this contract. Such applicable laws, ordinances, and policies must be complied with even if not specified herein.
- 43. Minimum Site Requirements for TIPS Sales (when applicable to TIPS Sale).**

**Cleanup:** When performing work on site at a TIPS Member's property, Vendor shall clean up and remove all debris and rubbish resulting from their work as required or directed by the TIPS Member or as agreed by the parties. Upon completion of work, the premises shall be left in good repair and an orderly, neat, clean and unobstructed condition.

**Preparation:** Vendor shall not begin a project for which a TIPS Member has not prepared the site, unless Vendor does the preparation work at no cost, or until TIPS Member includes the cost of site preparation in the TIPS Sale Site preparation includes, but is not limited to: moving furniture, installing wiring for networks or power, and similar pre-installation requirements.

**Registered Sex Offender Restrictions:** For work to be performed at schools, Vendor agrees that no employee of Vendor or a subcontractor who has been adjudicated to be a registered sex offender will perform work at any time when students are, or reasonably expected to be, present unless otherwise agreed by the TIPS Member. Vendor agrees that a violation of this condition shall be considered a material breach and may result in the cancellation of the TIPS Sale at the TIPS Member's discretion. Vendor must identify any additional costs associated with compliance of this term. If no costs are specified, compliance with this term will be provided at no additional charge.

**Safety Measures:** Vendor shall take all reasonable precautions for the safety of employees on the worksite, and shall erect and properly maintain all necessary safeguards for protection of workers and the public. Vendor shall post warning signs against all hazards created by the operation and work in progress. Proper precautions shall be taken pursuant to state law and standard practices to protect workers, general public and existing structures from injury or damage.

**Smoking:** Persons working under Agreement shall adhere to the TIPS Member's or local smoking statutes, codes, ordinances, and policies.

- 44. Payment for TIPS Sales.** TIPS Members may make payments for TIPS Sales directly to Vendor, Vendor's Authorized Reseller, or as otherwise agreed to in the applicable Supplemental Agreement after receipt of the invoice and in compliance with applicable payment statutes. Regardless of how payment is issued or received for a TIPS Sale, Vendor is responsible for all reporting and TIPS Administration Fee payment requirements as stated herein.
- 45. Marketing.** Vendor agrees to allow TIPS to use their name and logo within the TIPS website, database, marketing materials, and advertisements unless Vendor negotiates this term to include a specific acceptable-use directive. Any use of TIPS' name and logo or any form of publicity, inclusive of press release, regarding this Agreement by Vendor must have prior approval from TIPS which will not be unreasonably withheld. Request may be made by email to [tips@tips-usa.com](mailto:tips@tips-usa.com). For marketing efforts directed to TIPS Members, Vendor must request and execute a separate Joint Marketing Disclaimer, at [marketing@tips-usa.com](mailto:marketing@tips-usa.com), before TIPS can release contact information for TIPS Member entities for the purpose of marketing your TIPS contract(s). Vendor must adhere to strict Marketing Requirements once a disclaimer is executed. The Joint Marketing Disclaimer is a supplemental agreement specific to joint marketing efforts and has no effect on the terms of the TIPS Vendor Agreement. Vendor agrees that any images, photos, writing, audio, clip art,

music, or any other intellectual property ("Property") or Vendor Data utilized, provided, or approved by Vendor during the course of the joint marketing efforts are either the exclusive property of Vendor, or Vendor has all necessary rights, license, and permissions to utilize said Property in the joint marketing efforts. Vendor agrees that they shall indemnify and hold harmless TIPS and its employees, officers, agents, representatives, contractors, assignees, designees, and TIPS Members from any and all claims, damages, and judgments involving infringement of patent, copyright, trade secrets, trade or services marks, and any other intellectual or intangible property rights and/or claims arising from the Vendor's (including Vendor's officers', employees', agents', Authorized Resellers', subcontractors', licensees', or invitees') unauthorized use or distribution of Vendor Data and Property.

- 46. Tax Exempt Status of TIPS Members.** Most TIPS Members are tax exempt entities and the laws and regulations applicable to the specific TIPS Member customer shall control.
- 47. Automatic Renewal Limitation for TIPS Sales.** No TIPS Sale may incorporate an automatic renewal clause that exceeds month to month terms with which the TIPS Member must comply. All renewal terms incorporated into a TIPS Sale Supplemental Agreement shall only be valid and enforceable when Vendor received written confirmation of acceptance of the renewal term from the TIPS Member for the specific renewal term. The purpose of this clause is to avoid a TIPS Member inadvertently renewing an Agreement during a period in which the governing body of the TIPS Member has not properly appropriated and budgeted the funds to satisfy the Agreement renewal. Any TIPS Sale Supplemental Agreement containing an "Automatic Renewal" clause that conflicts with these terms is rendered void and unenforceable.
- 48. Choice of Law Limitation for TIPS Sales.** Vendor agrees that if any "Choice of Law" provision is included in any TIPS Sale agreement/contract between Vendor and a TIPS Member, that clause must provide that the "Choice of Law" applicable to the TIPS Sale agreement/contract between Vendor and TIPS Member shall be the state where the TIPS Member operates unless the TIPS Member expressly agrees otherwise. Any TIPS Sale Supplemental Agreement containing a "Choice of Law" clause that conflicts with these terms is rendered void and unenforceable.
- 49. Venue Limitation for TIPS Sales.** Vendor agrees that if any "Venue" provision is included in any TIPS Sale Agreement/contract between Vendor and a TIPS Member, that clause must provide that the "Venue" for any litigation or alternative dispute resolution shall be in the state and county where the TIPS Member operates unless the TIPS Member expressly agrees otherwise. Any TIPS Sale Supplemental Agreement containing a "Venue" clause that conflicts with these terms is rendered void and unenforceable.
- 50. Indemnity Limitation for TIPS Sales.** Texas and other jurisdictions restrict the ability of governmental entities to indemnify others. Vendor agrees that if any "Indemnity" provision which requires the TIPS Member to indemnify Vendor is included in any TIPS sales agreement/contract between Vendor and a TIPS Member, that clause must either be stricken or qualified by including that such indemnity is only permitted, "to the extent permitted by the laws and constitution of [TIPS Member's State]" unless the TIPS Member expressly agrees otherwise. Any TIPS Sale Supplemental Agreement containing an "Indemnity" clause that conflicts with these terms is rendered void and unenforceable.
- 51. Arbitration Limitation for TIPS Sales.** Vendor agrees that if any "Arbitration" provision is included in any TIPS Sale agreement/contract between Vendor and a TIPS Member, that clause may not require that the arbitration is mandatory or binding. Vendor agrees that if any "Arbitration" provision is included in any TIPS Sale agreement/contract between Vendor and a TIPS Member, that clause provides for only voluntary and non-binding arbitration unless the TIPS Member expressly agrees otherwise. Any TIPS Sale Supplemental Agreement containing a "Arbitration" clause that conflicts with these terms is rendered void and unenforceable.

In Witness Whereof, the parties hereto, each acting under due and proper authority, have signed this Agreement.



**CITY OF CORINTH**  
**Staff Report**

<b>Meeting Date:</b>	10/17/2024	<b>Title:</b> TCAP Membership
<b>Strategic Goals:</b>	<input type="checkbox"/> Resident Engagement <input checked="" type="checkbox"/> Proactive Government <input type="checkbox"/> Organizational Development <input type="checkbox"/> Health & Safety <input type="checkbox"/> Regional Cooperation <input type="checkbox"/> Attracting Quality Development	
<b>Owner Support:</b>	<input type="checkbox"/> Planning & Zoning Commission <input type="checkbox"/> Economic Development Corporation <input type="checkbox"/> Parks & Recreation Board <input type="checkbox"/> TIRZ Board #2 <input type="checkbox"/> Finance Audit Committee <input type="checkbox"/> TIRZ Board #3 <input type="checkbox"/> Keep Corinth Beautiful <input type="checkbox"/> Ethics Commission	

**Item/Caption**

Consider and act on the Membership in the Texas Coalition for Affordable Power (TCAP) and authorize the City Manager to execute any necessary documents related to this membership.

**Item Summary/Background/Prior Action**

The Texas Coalition for Affordable Power (TCAP) is a coalition of local governments dedicated to providing affordable energy solutions and promoting competitive electricity markets. By joining TCAP, the city can leverage collective purchasing power, access energy market insights, and engage in advocacy efforts for affordable and reliable energy resources.

**Benefits of Membership:**

1. **Cost Savings:** Pooling resources with other municipalities to negotiate better rates and terms with energy providers.
2. **Advocacy:** A unified voice in legislative matters impacting local governments and energy consumers.
3. **Resources:** Access to technical expertise and best practices for energy management and efficiency initiatives.

**Financial Impact**

The Texas Coalition for Affordable Power (TCAP) does not charge a membership fee. TCAP uses a small aggregation fee to pay for attorneys, energy and public relations specialists, and other expenses.

**Staff Recommendation/Motion**

It is recommended that the City Council approve the membership in the Texas Coalition for Affordable Power (TCAP).and authorize the City Manager to execute any necessary documents related to this membership.

# COMMERCIAL ELECTRICITY SERVICE AGREEMENT

(SHP)

Section I, Item 7.

This Commercial Electricity Service Agreement, including all of the Attachments, Schedules, and Exhibits, which are attached and incorporated (collectively, the “**Agreement**”), is entered into between Gexa Energy, LP (“**Gexa**”), a Texas limited partnership, and the City of Corinth, TX (“**Customer**”). Gexa and Customer may be referred to individually as a “**Party**” or collectively as the “**Parties**”.

## SECTION 1: RETAIL ELECTRIC SALES AND SERVICES

**1.1 Appointment and Scope.** Customer appoints Gexa as its Retail Electric Provider (“**REP**”) for the ESI ID(s) served under this Agreement. Customer authorizes Gexa to: (i) act as Customer’s REP for all purposes; and (ii) provide the services required of a REP including, without limitation, the procurement, scheduling and delivery of electricity throughout the Term to each of the ESI ID(s) in accordance with the terms set forth in this Agreement, including the Terms and Conditions of Service set forth in Attachment A. Customer’s appointment imposes no other duties on Gexa other than those specified in this Agreement and the REP Services Agreement.

**1.2 Agreement to Purchase.** Customer shall purchase its electricity requirements from Gexa throughout the Term for each of the ESI ID(s) except as otherwise provided. The electricity and services Customer receives from Gexa is for Customer’s exclusive proprietary use. Customer alone shall pay for electricity and services provided and for electricity and services Customer fails to take pursuant to its contractual obligations. If Gexa fails to deliver sufficient quantities of electricity to the TDSP for delivery to Customer or fails to schedule the delivery of sufficient quantities of electricity (collectively, a “**Scheduling Failure**”) the TDSP is obligated by law and by its tariff to deliver sufficient electricity to satisfy Customer’s needs. If a Scheduling Failure occurs, Gexa shall financially settle, at no additional cost or expense to Customer, with its Qualified Scheduling Entity (as defined by ERCOT) for the purchase of electricity necessary to cover the Scheduling Failure.

**1.3 Membership in TCAP.** Customer is a current member of the Texas Coalition for Affordable Power, Inc. (“**TCAP**”), and has entered into the Professional Services Agreement (the “**PSA**”) authorizing the purchase of wholesale energy on behalf of the Customer by TCAP and/or TCAP’s Energy Manager. Such wholesale energy purchases will affect the calculation of the Energy Price throughout the Term of this Agreement as described in Section 2. If, at any time during the Term, Customer elects to participate in a Power Purchase Agreement with a project to be developed for TCAP’s members, and executes the Project Addendum for such project, then the Project Addendum will be attached hereto as Schedule I. Notwithstanding Customer’s TCAP membership status, Customer agrees to fulfill all of its obligations under this Agreement, the PSA and, if applicable, the Project Addendum throughout the Term of this Agreement.

### 1.4 Term.

**(a) Effective Date and Termination Date.** Gexa shall provide retail electric service under this Agreement to each ESI ID beginning on the Effective Date and Terminating on the Termination Date, as further defined in this Section 1.4(a) (such period, the “**Term**”). The Effective Date will occur either (i) on the date occurring on or after the Expected Start Date stated in Attachment B on which each such ESI ID is enrolled with Gexa’s service for any new customer, or (ii) if Customer is an existing customer then the Expected Start Date is the meter read date following the expiration of the Customer’s prior Agreement with Gexa. Gexa shall continue to provide retail electric service to each ESI ID unless or until the Customer gives notice to TCAP and Gexa of its intent to terminate its membership with TCAP (“**Termination Notice**”). The Termination Date will occur on each respective ESI ID meter read date during the last month of the calendar year for which electricity has been purchased on Customer’s behalf by either TCAP or the Energy Manager in accordance with the PSA prior to the Termination Notice, except that in no event will the Term exceed beyond December 31, 2037. For avoidance of doubt, the Termination Date for each respective ESI ID shall be the sooner to occur of (i) the meter read date occurring in the last month of the calendar year for which electricity has been purchased by either TCAP or the Energy Manager on behalf of the Customer prior to the Termination Notice or (ii) the meter read date occurring in December 2037. As a result of variations in the timing of the Effective Date described in this Section 1.4 the Term may include a partial calendar month in addition to the number of months set forth in Attachment B, if any.

**(b) Delayed Effective Date.** Gexa shall use commercially reasonable efforts to cause the Effective Date for each ESI ID to occur on the Expected Start Date. If the Effective Date for an ESI ID occurs more than 20 days after the Expected Start Date, Customer may provide Gexa with evidence of the amount of electricity purchased by Customer from its current REP in connection with that ESI ID during the period on and after the 21st day after the Expected Start Date until the Effective Date (the “**Delayed Effective Date Period**”), and the total amount paid by Customer to its current REP for the electricity it purchased during the Delayed Effective Date Period (the “**Delayed Effective Date Electricity Amount**”). Upon receipt of evidence from Customer Gexa shall calculate and provide Customer a credit against future purchases under this Agreement equal to the positive amount resulting from the following calculation: (a) the Delayed Effective Date Electricity Amount minus (b) the amount that Customer would have paid to Gexa pursuant to this Agreement during the Delayed Effective Date Period for the same amount of electricity purchased by Customer from its current REP during that period in connection with the affected ESI ID(s); provided, that Gexa shall not be required to

provide a credit with respect to any period during a Delayed Effective Date Period where the delay was caused by an event outside of Gexa's control.

Section 1, Item 7.

**(c) Service After Term.** If, for any reason, service continues beyond the Term, it will be on a month-to-month basis, and the Agreement will continue in effect for the ESI ID(s) except that the Energy Price will be the greater of: (i) the Energy Price as set forth in Section 2.1 below, or (ii) the aggregate weighted average of the Market Rate (as defined herein) as determined for all of the ESI ID(s), for as long as service continues. If Customer has not switched from Gexa to another supplier at the expiration of the Term, Gexa shall serve Customer at the rate set forth in this Section for a minimum of 60 days. After those 60 days, Gexa may continue to serve Customer or terminate the Agreement and disconnect Customer.

**1.5 Modifications to ESI IDs.** Gexa shall work with Customer in good faith during the Term to reasonably accommodate and assist Customer with the management of its electricity needs. If at any time during the Term, Customer wants to i) add or delete one or more ESI IDs, ii) otherwise modify the ESI ID information as a result of a decision by Customer to open, close or sell a facility owned or leased by Customer, iii) expand an existing facility, or iv) increase an existing facility's metered load, then Customer shall provide written notice to Gexa of such change ("ESI ID Change Notice"). If such change to the ESI ID is expected to occur prior to the first month of any calendar year for which the Energy Price has been established as of the date of the ESI ID Change Notice, in accordance with Section 2.1 (a) of this Agreement, such notice shall include Customer's election of the "Special Load Threshold," as defined below, which will apply to such change in load. If, in Gexa's reasonable judgment, i) the addition is a separately metered load which does not exceed the applicable Special Load Threshold; or ii) does not result in a net increase in excess of the applicable Special Load Threshold for an existing facility, Gexa shall use commercially reasonable efforts to promptly implement such changes, including providing required notices to ERCOT. If the addition is a separately metered load which exceeds the applicable Special Load Threshold, or results in a net increase in excess of the applicable Special Load Threshold after consideration of any contemporaneous offsetting load decreases, Gexa shall provide service to that ESI ID and shall determine any incremental charge or credit to provide service to any changed ESI IDs. Gexa shall apply such charge or credit to the affected ESI IDs, after such charges have been reviewed by TCAP. "Special Load Threshold" shall mean additional peak demand that is reasonably expected during the first twelve months following commercial operations to exceed, at Customer's election, either (i) 0.25 MW at any time or an annual average load of 0.125 MW or (ii) 1.0 MW at any time or an annual average load of 0.5 MW. Gexa shall make periodic reports regarding changes to the billing status of any ESI ID(s) available to Customer and TCAP. Amendments that add or remove ESI ID(s) as a result of changes made pursuant to this section are incorporated into this Agreement, and are effective on the Effective Date for each ESI ID(s) added to this Agreement or the date that retail electric service for any removed ESI ID(s) ceases or is transferred to another REP.

## SECTION 2: RETAIL ELECTRIC ENERGY SERVICE CHARGES

### 2.1 Energy Price.

(a) If Customer has elected to fix all or a portion of the Energy Price for a fixed term by providing an Authorized Election Form to TCAP in accordance with the PSA, the Energy Price shall equal the fixed price as determined by TCAP in accordance with the PSA, and the Authorized Election Form. Any portion of the Energy Price that is not fixed shall be noted in the Authorized Election Form, and shall be settled with Customer in accordance with Section 2.2 of this Agreement. If Customer has not made such an election, the Energy Price shall be determined in accordance with the PSA, as follows:

- (i) TCAP shall periodically solicit, or direct its designated Energy Manager to solicit, wholesale energy market quotes, and may direct the Energy Manager to transact at the lowest of the market quotes obtained for the purpose of serving customer's load, in accordance with the PSA (each such transacted quote, a "**Wholesale Transaction**").
- (ii) Once TCAP has directed its Energy Manager to enter into Wholesale Transactions sufficient to serve Customer's load for a given calendar year, Energy Manager and TCAP shall establish the Energy Price for that Calendar Year in accordance with those procedures outlined in the PSA, which Customer hereby acknowledges it has reviewed and accepted. TCAP shall set the Energy Price for a given Calendar Year no later than nine (9) months prior to the start of such Calendar Year. If Customer elects to participate in a project and executes the Project Addendum, the Energy Price shall include an estimate of the Project Settlement for each month of the Calendar Year in accordance with the Project Addendum.

(b) For the purposes of Section 3 the Energy Price shall be converted to dollars per kWh.

### 2.2 Energy Price Adjustments.

(a) Energy Manager shall have the right to reconcile the revenues received from the Customer with Energy Manager's Supplier Cost on (i) a quarterly basis, by determining the Quarterly Adjustment in the manner



specified in the PSA and (ii) on an annual basis, by determining the Annual Adjustment in the manner specified in the PSA. The Quarterly Adjustment and Annual Adjustment may be either a charge or a credit collected from or remitted to Customer, as appropriate, in the manner specified in the PSA.

Section I, Item 7.

- (b) TCAP and Energy Manager may mutually agree to fix certain component charges comprising Customer's Energy Price for a given Calendar Year, if TCAP determines that fixing these charges is likely to benefit Customer. Charges that are fixed by TCAP and Energy Manager for a given Calendar Year shall not be included in the calculation of either the Quarterly Adjustment or the Annual Adjustment for such Calendar Year, in accordance with the PSA.

**2.3 Additional Pass-Through Charges.** Gexa shall pass through and identify separately on Customer's bill with no mark-up Delivery Charges, Non-Recurring Charges, or Taxes that are not included in the Energy Price(s). All charges are exclusive of Taxes. Pass-Through charges may include charges related to amounts owed to Gexa and/or Wholesale Supplier in accordance with Section 1.3.

**2.4 Tax Exempt Status.** Customer shall provide Gexa with all required exemption certificates if Customer is exempt from paying any Taxes. Gexa shall not recognize an exemption without the exemption certificates and shall not be required to refund or credit previously paid Taxes unless the taxing entity sends the refund to Gexa. Gexa shall, however, assign to Customer any applicable claims for refund.

### SECTION 3: BILLING AND PAYMENT

**3.1 Billing and Payment.** Gexa shall invoice Customer's accounts on a monthly basis and shall bill Customer on a consolidated basis for all ESI IDs upon Customer's request. Gexa shall provide a summary bill for all accounts and detailed information for each account. Customer shall remit payment within 30 days of receiving the invoice. Gexa shall base the invoice amount on actual data provided by ERCOT and the TDSP. If ERCOT or the TDSP does not provide actual data in a timely manner, Gexa shall use estimated data to calculate the invoice and, upon receipt of actual data, reconcile the charges and adjust them as needed in subsequent invoices.

**3.2 Project Settlement Agent Services.** Gexa shall remit the total Project Settlement to the Project on a monthly basis, in accordance with the REP Services Agreement.

**3.3 Late Penalties, Interest on Overdue Payments, Invoice Disputes.** If Customer fails to remit all undisputed amounts on or before the due date, interest will accrue on any due and unpaid amounts from the due date at a rate of one percent per month, or the highest rate permitted by law, whichever is less. If Customer disputes a portion of an invoice it shall provide Gexa a written explanation specifying the amount in dispute and the reason for the dispute within 20 days of the invoice date. If Customer does not provide timely notice, Customer shall owe all amounts by the due date. Notwithstanding the above, if Customer notifies Gexa of a disputed invoice, regardless of whether Customer has already paid the invoice, Gexa shall make records in its possession that are reasonably necessary for Customer to determine the accuracy of the invoice available to Customer during normal business hours; provided, however that neither party may request an adjustment or correction of an invoice unless written notice of such dispute is given within twelve months after the due date of such invoice; provided further, that such twelve month limit does not apply in the case of TDSP meter tampering charges first billed to Gexa that prevent Gexa from reasonably adjusting invoices prior to the twelve month period. In all cases, Gexa and Customer shall use good faith efforts to resolve disputes. In the event the Parties are unable to resolve a dispute within ten days of the notice date, either Party may begin legal proceedings to seek resolution. Any amounts determined owed shall be paid within three days after a decision.

**3.4 Aggregator Fees.** Pursuant to the REP Services Agreement between Gexa and TCAP, Gexa is obligated to pay TCAP an amount determined by multiplying a TCAP Aggregation Fee by the volume consumed in association with the ESI IDs (the "Aggregator Fee"). Customer shall pay the Aggregator Fee. The initial TCAP Aggregation Fee is \$0.001 per kWh, however, it may be changed by the TCAP Board of Directors at any time. Gexa shall state the Aggregator Fee as a separate line item on the Customer's bill.

**3.5 Billing Guarantee.** Gexa shall issue an invoice based on actual or estimated usage to Customer for every ESI ID at least one time per month. If, for reasons other than Force Majeure, Gexa fails to invoice an ESI ID within 120 days of any scheduled meter read, Gexa irrevocably waives its right to invoice Customer for any energy consumed at that ESI ID for the meter read cycle that should have been invoiced, unless not less than 10 days prior to the expiration of such 120 day period, Gexa provides Customer with a written explanation of the circumstances that prevent Gexa from issuing that invoice and the expected time by which an invoice can be issued. In such event, Customer and Gexa shall determine a reasonable extension period, not to exceed 30 days, within which an invoice will be issued. Gexa shall adjust or true-up each invoice no more than twice and Gexa shall issue such adjustments within 210 days of the initial issue date. Notwithstanding the foregoing, Gexa may issue an invoice or partial invoice arising from meter tampering charges without limitation and within a reasonable time after first billed to Gexa by the TDSP.

### SECTION 4: CUSTOMER INFORMATION, CREDIT AND DEPOSITS

**4.1 Customer Information.** By entering into this Agreement and appointing Gexa as Customer's agent for electricity service, Customer authorizes Gexa to obtain certain information that Gexa may need to provide Customer's electric service, including Customer's address, telephone number, account numbers, historical usage information, and

historical payment information from Customer's TDSP, and Customer further authorizes its TDSP to release that information to Gexa.

Section 1, Item 7.

**4.2 Deposits and Other Security.** A Party (the "**Requesting Party**") may require the other Party (the "**Providing Party**") to provide a deposit (or additional deposit if an initial deposit was also required), letter of credit, or other form of credit assurance reasonably acceptable to the Requesting Party (collectively, "**Performance Assurance**") during the Term of this Agreement if: (i) the Requesting Party determines in its reasonable discretion that there has been a material adverse change in the Providing Party's or its guarantor's (if applicable) credit status or financial condition (which, if applicable, will mean that its credit or bond rating has dropped lower than BBB- by Standard & Poor's Rating Group or Baa3 by Moody's Investor Services or ceases to be rated by either of these agencies); or (ii) Customer has been delinquent in paying the electric bill by more than seven days more than twice during the past twelve months. Any Performance Assurance, less any outstanding balance owed by Providing Party to the Requesting Party, will be returned to the Providing Party once the Providing Party's or its guarantor's (if applicable) credit or financial condition becomes satisfactory or, if applicable, to a credit or bond rating of BBB- or Baa3 or higher, whichever occurs earlier; or, if the Performance Assurance relates to delinquent payments, the Providing Party has paid all outstanding balances and has made all payments within the dates set forth in this Agreement for a period of six consecutive months.

## **SECTION 5: EARLY TERMINATION; DAMAGES**

**5.1 Cancellation by Customer for Insufficient Appropriations.** If, during Customer's annual appropriations determination, the applicable governmental authorities do not allocate sufficient funds to allow Customer to continue to perform its obligations under this Agreement (an "**Appropriations Failure**"), then Customer or Gexa shall have the right to terminate this Agreement in full or as to any affected ESI ID upon 30 days advance written notice effective at the end of the period for which appropriations are made; provided, that if appropriations are subsequently allocated for electricity for the ESI IDs covered by this Agreement, then the termination may be revoked at Gexa's option and those appropriations shall continue to apply to this Agreement and shall not be used for an electricity supply agreement with another REP. Upon a termination of this Agreement for Appropriations Failure, in full or as to any ESI ID(s), Customer shall pay all amounts due Gexa under this Agreement, including the Customer Early Termination Damages.

**5.2 Customer Early Termination Damages.** Except in connection with the closure of a facility associated with an ESI ID pursuant to Section 1.4, in connection with a Force Majeure Event, or as otherwise provided or excused in this Agreement, if Customer cancels this Agreement before the end of the Term and refuses to accept electric supply delivery from Gexa for any ESI ID(s), Gexa may charge Customer early termination damages equal to the sum of (a) the Retail Termination Payment, (b) the QSE Services Termination Payment, (c) the Quarterly and Annual Adjustment Payment, and (d) the Wholesale Transaction Termination Payment, as each of these terms are defined below (the sum total of these, the "**Customer Early Termination Damages**"). The "**Retail Termination Payment**" shall equal the product of (a) the Expected Usage for each ESI ID subject to Customer's cancellation or refusal of electric supply delivery ("**Customer Terminated Usage**") multiplied by (b) the sum of (i) the Aggregator Fee and (ii) the REP Services Fee specified in the REP Services Agreement. The "**QSE Services Termination Payment**" shall equal the product of (a) the Customer Terminated Usage grossed up for losses multiplied by (b) the QSE Services Fee, as defined in the PSA. The "**Quarterly and Annual Adjustment Payment**" shall be calculated by the Energy Manager in accordance with the PSA, and shall include any Quarterly and Annual Adjustment amounts for electricity provided to the Customer under this Agreement prior to the termination of this Agreement, which have not yet been charged or credited to Customer, as appropriate. For avoidance of doubt, the Quarterly and Annual Adjustment Payment may be either a charge or a credit to Customer, as calculated in accordance with the PSA. If the Customer Early Termination Damages are charged due to an Event of Default by Customer, then the Customer Early Termination Damages will also include Gexa's reasonable costs relating to the determination and collection of Customer Early Termination Damages, including attorney and consultant fees incurred. The provisions in Section 3 related to Billing and Payment apply to the billing, due date, and collection of Customer Early Termination Damages. Customer agrees that Customer Early Termination Damages are a reasonable estimate of the damages due Gexa for failure to accept electric supply, and are not punitive in nature.

**5.3 Termination for Wholesale Supply Failure.** If, during the Term, the Wholesale Transactions are terminated as a result of a default by the Energy Manager ("**Wholesale Supply Failure**"), then this Agreement will also terminate effective on the date the Wholesale Agreement terminates. In the event of a termination for Wholesale Supply Failure, Gexa shall pay Customer a Wholesale Termination Payment if required by Section 5.5.

**5.4 Gexa Early Termination Damages.** Except for a Wholesale Supply Failure, a Force Majeure Event, or as otherwise provided or excused in this Agreement, if Gexa cancels this Agreement and refuses to provide electric supply delivery to Customer for any or all ESI ID(s), Customer shall have the right to charge Gexa an early termination penalty equal to the amount determined as follows: the product of (i) the Expected Usage for each ESI ID subject to Gexa's cancellation or refusal of electric supply delivery ("**Gexa Terminated Usage**") multiplied by (ii) the REP Services Fee specified in the REP Services Agreement (that result the "**Gexa Early Termination Damages**"). If the Gexa Early Termination Damages are charged due to an Event of Default by Gexa, then the Gexa Early Termination Damages will also include Customer's reasonable costs relating to the determination and collection of Gexa Early Termination Damages, including attorney and consultant fees incurred. Gexa agrees the Gexa Early Termination Damages are a reasonable estimate of the damages due Customer for failure to deliver electric supply, and are not punitive in nature.

**5.5 Wholesale Transaction Termination Payment.** If the Wholesale Transactions are terminated then Gexa shall calculate the portion of the termination payment paid under each Wholesale Transaction attributable to Customer. The termination payment under each Wholesale Transaction shall be calculated by subtracting the Wholesale Transaction's actual cost for the portion of the Wholesale Transaction still outstanding for the remainder of the Term from the current market value of comparable electric energy futures contracts. Energy Manager, in its sole discretion, shall determine the current market value of a comparable electricity futures contract within three (3) business days of the termination of a Wholesale Transaction, and shall be either (i) the value of the Wholesale Transaction actually sold to a third-party market participant or (ii) a third-party market quote for a comparable electricity energy future contracts. Energy Manager shall sum Customer's prorata share of each termination payment for each Wholesale Transaction attributable to Customer's Load to determine a total Wholesale Transaction Termination Payment under this Agreement (the "Wholesale Transaction Termination Payment"). Customer or Gexa shall pay the Wholesale Transaction Termination Payment to the other, as appropriate, in the manner described below and without regard to who is a defaulting party. If the Wholesale Transaction Termination Payment is negative, Customer shall pay Gexa the Wholesale Transaction Termination Payment. If the Wholesale Transaction Termination Payment is positive, Gexa shall pay Customer the Wholesale Transaction Termination Payment. To the extent a termination payment due from Gexa to the Energy Manager is adjusted in Gexa's account to reflect the full benefit of TCAP transacting with a replacement REP, Gexa shall make corresponding adjustments to the Wholesale Transaction Termination Payment on a pro-rata basis. Gexa shall remit a Wholesale Transaction Termination Payment due Customer, within 30 days of Gexa receiving the payment from the Energy Manager. Customer shall remit a Wholesale Transaction Termination Payment due Gexa within 30 days of Gexa's invoice. Gexa shall use commercially reasonable efforts to collect Termination Payments from the Energy Manager that include amounts due Customer.

**SECTION 6: NOTICES AND PAYMENT**

**6.1 General Notice.** Except as otherwise required by Applicable Law, all notices are deemed duly delivered if hand delivered or sent by United States, prepaid first class mail, facsimile, or by overnight delivery service. Notice by facsimile or hand delivery is effective on the day actually received, notice by overnight United States mail or courier is effective on the next business day after it is sent, and notice by U.S. Mail is effective on the second day after it is sent. The Parties shall send notices to the addresses below or any other address one Party provides to the other in writing:

- a. **If to Customer (type customer address below):**

**City of Corinth  
City Manager  
3300 Corinth Parkway  
Corinth, Texas 76208**

- b. If to Gexa:  
Gexa Energy, LP  
601 Travis Street – Suite 1400  
Houston, Texas 77002

**6.2 Payments.** The Parties shall send payments to the addresses below or any other address one Party provides to the other in writing:

- a. **If to Customer (type customer address below):**

**City of Corinth  
City Manager  
3300 Corinth Parkway  
Corinth, Texas 76208**

- b. If to Gexa:  
Gexa Energy, LP

## SECTION 7: DEFINITIONS

**7.1 Definitions.** In addition to terms defined elsewhere in this Agreement, when used with initial capitalization, whether singular or plural, capitalized terms have the meanings set forth in this Section 7.1. All other capitalized terms not otherwise defined shall have the meanings given them in the following documents, with any conflicting definitions contained in those documents applied in the following order: PURA, the PUCT Substantive Rules, and the ERCOT Protocols.

1. **“Actual Usage”** means the actual amount of electric energy (in kWh) used at the ESI ID(s) as determined by the TDSP.
2. **“Delivery Charges”** means those charges or credits from the TDSP pursuant to its tariff, including, but not limited to: Transmission and Distribution Charges, System Benefit Fund Charge, Nuclear Decommissioning Charge, Competitive Transition Charge, Standard Customer Metering Charge, Customer Charge, Merger Savings and Rate Reduction Credit, Excess Mitigation Credit and Utility Imposed Reactive Power Charges.
3. **“EEI Master Agreement”** mean an EEI Master Agreement between Gexa and the Energy Manager governing the Wholesale Transactions entered into by the Energy Manager in accordance with Section 2.1 and transferred by the Energy Manager to Gexa.
4. **“Effective Date”** means the date of the first meter reading of an ESI ID provided to Gexa by the TDSP after the TDSP and ERCOT shall have timely performed any required enrollment and cancellation procedures necessary to switch Customer’s REP to such ESI ID to Gexa.
5. **“Electricity Related Charges”** means, unless noted otherwise: Ancillary Services Charge, Congestion, ERCOT Administrative Fee, Delivery Loss Charge, Transmission Loss Charge, Renewable Energy Credit Charge, Residential Energy Credit Charge, Unaccounted For Energy Charge, Qualified Scheduling Entity Charge, Imbalance Settlement Charge.
6. **“Energy Manager”** means the wholesale market participant designated by TCAP to perform the services described in the PSA.
7. **“Energy Price(s)”** means the rates per unit of measure specified in Section 2.1 and includes all Electricity Related Charges.
8. **“ERCOT”** means the Electric Reliability Council of Texas.
9. **“ERCOT Protocols”** means the document adopted, published, and amended from time to time by ERCOT, and initially approved by the PUCT, to govern electric transactions in the ERCOT Region, including any attachments or exhibits referenced in the document, that contains the scheduling, operating, planning, reliability, and settlement policies, rules, guidelines, procedures, standards, and criteria of ERCOT, or any successor document thereto.
10. **“ESI ID(s)”** means the Electric Service Identifiers for the property service addresses identified on Attachment B to this Agreement or if Customer is an existing Gexa customer then the list of service addresses currently served by Gexa, as such list may be modified from time to time as provided in Section 1.4.
11. **“Expected Usage”** means either the amount stated in Attachment B calculated for the remaining Term, or if no amounts are stated or Customer is an existing Gexa customer then the average actual monthly Customer energy usage from the comparable month from the previous year (or if an average cannot be computed due to limited service by Gexa or other circumstances, an average monthly usage as is reasonably determined by Gexa) times the number of months remaining in the Term as outlined in Section 1.4.
12. **“kWh”** means kilowatt hour.
13. **“LMP” or “Locational Marginal Price”** means the price calculated for the applicable trading hub pursuant to the ERCOT Protocols.
14. **“Market Rate”** means 135% of the load-weighted average of the hourly LMPs at the corresponding load zone, as determined for any delivery period.
15. **“Nodal Market”** means the implementation of wholesale market design by ERCOT with locational marginal pricing for resources.
16. **“Nodal Congestion”** means the positive difference in price between the real-time settlement point price as determined by ERCOT for the trading hub and the real-time settlement point price as determined by ERCOT for the load zone associated with the customer Facilities.

- 17. **“Non-Recurring Charges”** means any charges imposed by the TDSP or other third parties on a ~~non-recurring~~ basis for services, repairs or additional equipment needed for Customer’s electric service.
- 18. **“PUCT”** means Public Utility Commission of Texas.
- 19. **“Project Settlement Payment”** means the Project Settlement Payment as defined in the Project Addendum, attached as Schedule I to this Agreement.
- 20. **“QSE Services Fee”** means the fee owed from Customer to Gexa, and remitted from Gexa to Energy Manager, for QSE Services performed by Energy Manager for the Term, as mutually agreed between TCAP and Energy Manager, the Customer having authorized TCAP to negotiate such fee on behalf of Customer in the PSA. The QSE Services Fee shall be included in the Energy Price for the Term.
- 21. **“REP Services Agreement”** means the REP Services Agreement currently in effect during the Term, as amended from time to time, between Gexa and TCAP.
- 22. **“REP Services Fee”** means the fee owed from Customer to Gexa, for REP services rendered during the Term, as mutually agreed between TCAP and Gexa, the Customer having authorized TCAP to negotiate such fee on behalf of Customer in the PSA. The REP Services Fee shall be included in the Energy Price for the Term.
- 23. **“Taxes”** means all taxes, assessments, levies, duties, charges, fees and withholdings of any kind levied by a duly-constituted taxing authority and all penalties, fines, and additions to tax, and interest thereon that are directly related to the services provided under this Agreement, but does not include the System Benefit Fund fee and fees and charges imposed by ERCOT. By way of example only, Taxes includes: Sales Tax, Miscellaneous Gross Receipts Tax, PUCT Assessment Fees and Franchise Fees.
- 24. **“TCAP”** means Texas Coalition for Affordable Power, an aggregation pool of governmental and other entities organized and administered by TCAP of which Customer is a member for the ESI IDs.
- 25. **“TDSP”** or **“Transmission and Distribution Service Provider”** means an entity regulated by the State of Texas, which transmits or distributes electric energy.

“

**Attachments:**

Attachment A  
Attachment B (for new TCAP Customers only)

Terms and Conditions of Service  
Offer Sheet (ESI ID list and Expected Start Date)

<p><b>CUSTOMER</b> (type Customer name in field below):</p> <p style="text-align: center; font-size: 1.2em;"><b>City of Corinth, Texas</b></p>	<p><b>GEXA:</b> <b>Gexa Energy, LP, By its General Partner Gexa Energy GP, LLC</b></p>
By:	By:
Printed:	Printed:
Title:	Title:
Date:	Date:

**State-Required Acknowledgement of Risk**

**(Market Energy Index and Holdover Pricing)**

Customer hereby agrees and acknowledges that the Energy Price (per unit) charged with respect to the ESI IDs will be based on ERCOT wholesale energy prices in these cases: during the Term, Customer pays Gexa Energy the Energy Price (per unit) under an energy index or market price structure; and/or after the end of the Term, Customer pays Gexa Energy the greater of the Energy Price (per unit) or the aggregate weighted average of the Market Rate (per unit), as such terms are defined in the CESA.

Accordingly, the undersigned, on behalf of Customer, hereby acknowledges and agrees as follows: **I understand that the volatility and fluctuation of wholesale energy pricing may cause my energy bill to be multiple times higher in a month in which wholesale energy prices are high. I understand that I will be responsible for charges caused by fluctuations in wholesale energy prices.**

**(Ancillary Service Charges)**

If costs and charges for Ancillary Services Charges are Pass-Through Charges or subject to reconciliation or adjustment pursuant to Section 2 of the CESA for which Customer is required to pay, Customer hereby agrees and acknowledges that such costs and charges are variable and potentially volatile.

**I understand that my energy bill may include a separate assessment of ancillary service charges, which may cause my energy bill to be multiple times higher in a month in which ancillary services charges are high. I understand that I will be responsible for charges caused by fluctuations in ancillary service charges.**

Customer Name: City of Corinth, Texas

AUTHORIZED  
SIGNATURE: \_\_\_\_\_

PRINT NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

**Terms and Conditions of Service  
Attachment A**

These Terms and Conditions of Service form an integral part of the Commercial Electricity Service Agreement between Customer and Gexa. In addition to the terms defined elsewhere in this Agreement, when used with initial capitalization, whether singular or plural, capitalized terms have the meanings set forth in Section 7.1 of this Agreement. Customer should thoroughly review the entire Agreement, including these Terms and Conditions of Service, before executing this Agreement.

**A. REPRESENTATIONS AND WARRANTIES**

**A.1 Customer's Representations and Warranties.** As a material inducement to entering into this Agreement, Customer represents and warrants to Gexa as follows: (a) it is a duly organized entity and is in good standing under the laws of Texas; (b) the execution and delivery of the Agreement are within its powers, have been duly authorized by all necessary action, and do not violate the terms or conditions of contracts it is party to or laws applicable to it; (c) performance of this Agreement will be duly authorized by all necessary action and will not violate the terms or conditions of contracts it is party to; (d) as of the date sales of electricity by Gexa to Customer under the Agreement start, Customer will have all regulatory authorizations necessary for it to legally perform its operations and such performance will not violate the terms or conditions of contracts it is party to or laws applicable to it; (e) this Agreement is a legal, valid, and binding obligation of Customer enforceable against it in accordance with its terms, subject to bankruptcy, insolvency, reorganization, and other laws affecting creditor's rights generally, and with regard to equitable remedies, subject to the discretion of the court before which proceedings to obtain the same may be pending; (f) there are no bankruptcy, insolvency, reorganization, receivership, or other similar proceedings pending or being contemplated by it, or to its knowledge threatened against it; (g) there are no suits, proceedings, judgments, rulings, or orders by or before any court or any government authority that could materially adversely affect its ability to perform the Agreement; and (h) as of the Effective Date and throughout the Term, there is no other contract for the purchase of electricity by Customer for the ESI ID(s), or, if such a contract presently exists, that it will terminate prior to delivery under this Agreement.

**A.2 Gexa's Representations and Warranties.** As a material inducement to entering into this Agreement, Gexa represents and warrants to Customer as follows: (a) it is duly organized, validly existing, and in good standing under the laws of the jurisdiction of its formation and is qualified to conduct its business in those jurisdictions necessary to perform the Agreement; (b) the execution and delivery of the Agreement are within its powers, have been duly authorized by all necessary action, and do not violate the terms or conditions of its governing documents or contracts it is party to or any laws applicable to it; (c) performance of the Agreement will be duly authorized by all necessary action and will not violate the terms or conditions of its governing documents or contracts it is party to; (d) as of the date sales of electricity by Gexa to Customer under the Agreement start, Gexa will have all regulatory authorizations necessary for it to legally perform its operations and such performance will not violate the terms or conditions of its governing documents, contracts it is party to, or laws applicable to it; and (e) the Agreement constitutes a legal, valid, and binding obligation of Gexa enforceable against it in accordance with its terms, subject to bankruptcy, insolvency, reorganization, and other laws affecting creditor's rights generally, and with regard to equitable remedies, subject to the discretion of the court before which proceedings to obtain the same may be pending.

**A.3 Forward Contract.** (i) This Agreement constitutes a forward contract within the meaning of the United States Bankruptcy Code ("Code"); (ii) Gexa is a forward contract merchant; and (iii) either Party is entitled to the rights under, and protections afforded by, the Code.

**B. DISCLAIMERS OF WARRANTIES; LIMITATION OF LIABILITIES**

**B.1 LIMITATIONS OF LIABILITY.** LIABILITIES NOT EXCUSED BY REASON OF FORCE MAJEURE OR AS OTHERWISE PROVIDED, ARE LIMITED TO DIRECT ACTUAL DAMAGES. GEXA IS NOT LIABLE TO CUSTOMER FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES OR LOSS OF REVENUES OR PROFIT. THESE LIMITATIONS APPLY WITHOUT REGARD TO THE CAUSE OF ANY LIABILITY OR DAMAGE. EXCEPT FOR (a) THE GEXA EARLY TERMINATION DAMAGES DUE IF GEXA DEFAULTS, (b) THE CUSTOMER EARLY TERMINATION DAMAGES DUE IF CUSTOMER DEFAULTS, AND (c) THE WHOLESALE TRANSACTION TERMINATION PAYMENT, THE LIABILITY OF EITHER PARTY TO THE OTHER FOR ANY OBLIGATIONS UNDER THIS AGREEMENT SHALL BE LIMITED TO THE AGGREGATE AMOUNT OF ALL DOLLARS PAID BY CUSTOMER TO GEXA (IF CUSTOMER) OR RECEIVED BY GEXA (IF GEXA) PURSUANT TO THIS AGREEMENT. THERE ARE NO THIRD PARTY BENEFICIARIES TO THIS AGREEMENT.

**B.2 Duty to Mitigate.** Each Party shall mitigate damages and use commercially reasonable efforts to minimize any damages it may incur as a result of the other Party's performance or non-performance.

**B.3 WAIVER OF CUSTOMER PROTECTION RULES AND CONSUMER RIGHTS.** THE PARTIES FURTHER ACKNOWLEDGE THAT THE CUSTOMER PROTECTION RULES ADOPTED BY THE PUBLIC UTILITY COMMISSION (AS CONTAINED IN ITS SUBSTANTIVE RULES 25.471 ET SEQ.) ("**CUSTOMER PROTECTION RULES**") THAT PERTAIN TO RETAIL ELECTRIC SERVICE RELATED TO RESCISSION RIGHTS, CUSTOMER DISCLOSURES, DELIVERY OF CUSTOMER CONTRACTS TO CUSTOMERS, RECORDKEEPING, INTEREST PAID ON DEPOSITS AND CUSTOMER NOTICES DO NOT APPLY TO THIS AGREEMENT. EXCEPT AS SET FORTH IN THIS SECTION, CUSTOMER EXPRESSLY WAIVES THE CUSTOMER PROTECTION RULES THAT PERTAIN TO RETAIL ELECTRIC SERVICE RELATED TO RESCISSION RIGHTS, CUSTOMER DISCLOSURES, DELIVERY OF CUSTOMER CONTRACTS TO CUSTOMERS, RECORDKEEPING, INTEREST PAID ON DEPOSITS AND CUSTOMER NOTICES TO THE FULLEST EXTENT ALLOWED BY APPLICABLE LAW. CUSTOMER FURTHER WAIVES ITS RIGHTS UNDER THE DECEPTIVE TRADE PRACTICES--CONSUMER PROTECTION ACT, SECTION 17.41, ET. SEQ., BUSINESS & COMMERCE CODE, A LAW THAT GIVES CONSUMERS

SPECIAL RIGHTS AND PROTECTIONS. CUSTOMER REPRESENTS AND WARRANTS TO GEXA THAT: (a) CUSTOMER IS NOT IN A SIGNIFICANTLY DISPARATE BARGAINING POSITION IN RELATION TO GEXA; (b) CUSTOMER IS REPRESENTED BY LEGAL COUNSEL THAT WAS NEITHER DIRECTLY NOR INDIRECTLY IDENTIFIED, SUGGESTED OR SELECTED BY GEXA; AND (c) CUSTOMER VOLUNTARILY CONSENTS TO THIS WAIVER AFTER CONSULTATION WITH ITS LEGAL COUNSEL.

**B.4 UCC/Disclaimer of Warranties.** The electricity delivered is a “good” as that term is understood in the Texas B&CC (UCC §2.105). The Parties waive the UCC to the fullest extent allowed by law and the UCC requirements do not apply to this Agreement, unless otherwise provided. If there is a conflict between the UCC and this Agreement, this Agreement controls. Neither Party controls nor physically takes possession of the electric energy prior to delivery to Customer’s ESI ID(s). Therefore, neither Party is responsible to the other for any damages associated with failure to deliver the electric energy, nor for damages it may cause prior to delivery to Customer’s ESI ID(s). Once the electric energy is delivered to Customer’s ESI ID(s) it is deemed in possession and control of Customer. ELECTRICITY SOLD UNDER THIS AGREEMENT WILL MEET THE QUALITY STANDARDS OF THE APPLICABLE LOCAL DISTRIBUTION UTILITY AND WILL BE SUPPLIED FROM A VARIETY OF SOURCES. GEXA MAKES NO REPRESENTATIONS OR WARRANTIES OTHER THAN THOSE EXPRESSLY SET FORTH IN THIS AGREEMENT, AND GEXA EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. GEXA EXPRESSLY NEGATES ALL OTHER REPRESENTATIONS OR WARRANTIES, WRITTEN OR ORAL, EXPRESS OR IMPLIED, INCLUDING ANY REPRESENTATION OF WARRANTY WITH RESPECT TO CONFORMITY, TO MODELS OR SAMPLES, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE.

**B.5 Force Majeure.** Gexa shall make commercially reasonable efforts to provide electric service, but does not guarantee a continuous supply of electricity. Gexa does not generate electricity nor does it transmit or distribute electricity. Causes and events out of the control of Gexa and Customer (“**Force Majeure Event(s)**”) may result in interruptions in service or the ability to accept electricity. If either Party is unable to perform its obligations, in whole or in part, due to a Force Majeure Event, then the obligations of the affected Party (other than the obligation to pay any amounts owed to Gexa that relate to periods prior to the Force Majeure Event) are suspended to the extent made necessary by such Force Majeure Event. Therefore, neither Party is liable to the other Party for damages caused by Force Majeure Events, including acts of God, acts of, or the failure to act by, any governmental authority (including the PUCT or ERCOT and specifically including failure by ERCOT to make Customer meter read data available), accidents, strikes, labor troubles, required maintenance work, events of “force majeure” or “uncontrollable force” or a similar term as defined under the applicable transmission provider’s tariff, inability to access the local distribution utility system, non-performance by the supplier or the local distribution utility, changes in laws, rules, or regulations of any governmental authority (including the PUCT or ERCOT) that would prevent the physical delivery of energy to Customer’s facilities, or any cause beyond such Party’s control. The Parties agree that Appropriations Failures and Scheduling Failures are not Force Majeure Events.

**C. CONFIDENTIALITY AGREEMENT**

**C.1 Confidentiality.** Customer is a governmental body subject to public information laws, including Chapter 552 of the Texas Government Code. If Customer receives a valid request under applicable public information laws for information related to this Agreement, it shall provide Gexa notice of the request including a description the information sought prior to Customer’s release of information so that Gexa has the opportunity to determine whether such information is subject to an exception as trade secret, competitive, commercial, or financial information. With the exception of the preceding disclosures pursuant to public information laws, a Party (that party, the “**Receiving Party**”) shall keep confidential and not disclose any to third parties Confidential Information which is disclosed to the Receiving Party by the other Party (that party, the “**Disclosing Party**”) except for disclosures to Authorized Parties or as required by law. “**Confidential Information**” means information in written or other tangible form which is marked as “Confidential” when it is disclosed to the Receiving Party, except that Confidential Information shall not include information which (i) is available to the public, (ii) becomes available to the public other than as a result of a breach by the Receiving Party of its obligations hereunder, (iii) was known to the Receiving Party prior to its disclosure by the Disclosing Party, or (iv) becomes known to the Receiving Party thereafter other than by disclosure by the Disclosing Party. The provisions of this Section apply regardless of fault and survive termination, cancellation, suspension, completion or expiration of this Agreement for a period of two (2) years. Customer authorizes Gexa to provide TCAP with all information requested by TCAP about Customer’s account and billings. “**Authorized Parties**” means those officers, directors, employees, agents, representatives and professional consultants of the Parties, and of the Parties’ affiliates, that have a need to know the Confidential Information for the purpose of evaluating and performing this Agreement.

**D. DEFAULT AND REMEDIES**

**D.1 Events of Default.** An event of default (“**Event of Default**”) means: (a) the failure of Customer to make, when due, any payment required under this Agreement for any undisputed amount if that payment is not made within fifteen (15) business days after receipt of written notice (facsimile or electronic mail are valid forms of notice for this paragraph) from Gexa; or (b) any representation or warranty made by a Party proves to be false or misleading in any material respect; (c) except as provided in clause (a) above or otherwise in this section D.1, the failure of any Party to perform its obligations under this Agreement and that failure is not excused by Force Majeure and remains uncured following 20 business days written notice of the failure; (d) the defaulting Party (i) makes an assignment or any general arrangement for the benefit of creditors; or (ii) files a petition or otherwise commences, authorizes or acquiesces to a bankruptcy proceeding or similar proceeding for the protection of creditors, or has such a petition filed against it and that petition is not withdrawn or dismissed within 20 business days after filing; or (iii) otherwise becomes insolvent; or (iv) is unable to pay its debts when due; or (v) fails to establish, maintain or extend Credit in form and in an amount acceptable to Gexa when required; or (e) the Wholesale Transaction is terminated due to a default by Gexa under CESAs with other TCAP members or due to a default by the Energy Manager under the



Wholesale Transaction. If an Event of Default listed in subsection (d) of this Section occurs, it is deemed to have automatically occurred prior to such event.

**D.2 Remedies upon an Event of Default.** If an Event of Default occurs and is continuing, upon written notice to the defaulting Party, the non-defaulting Party may (a) commence an action to require the defaulting Party to remedy such default and specifically perform its duties and obligations in accordance with the Agreement; (b) exercise any other rights and remedies it has at equity or at law, subject to the Agreement's Limitations of Liabilities; and/or (c) suspend performance; provided, however, that suspension shall not continue for longer than ten (10) Business Days unless the non-defaulting Party has declared an early termination with proper notice. If Customer is responsible for an Event of Default and fails to cure within ten (10) days of written notice (such additional cure period does not apply to default for non-payment), in addition to its other remedies, Gexa may (i) terminate this Agreement; and (ii) charge Customer the Customer Early Termination Penalty pursuant to Section 5 of this Agreement. Notwithstanding the above, Gexa shall not disconnect or order disconnection of service to Customer unless the following events have all occurred: (1) Customer has an Event of Default for nonpayment under Section D.1(a) above, (2) Gexa gives Customer a ten (10) day written disconnection notice; and (3) Customer does not pay all undisputed outstanding payments owed by the end of the ten (10) day notice period. .

**E. MISCELLANEOUS PROVISIONS**

**E.1 Disclaimer.** This Agreement does not constitute, create, or otherwise recognize the existence of a joint venture, association, partnership, or other formal business entity of any kind among the Parties and the rights and obligations of the Parties are limited to those set forth in this Agreement.

**E.2 Headings.** The descriptive headings of the Articles and Sections of this Agreement are inserted for convenience only and are not intended to affect the meaning, interpretation or construction of this Agreement.

**E.3 Waiver.** Except as otherwise provided, failure of a Party to comply with an obligation, covenant, agreement, or condition may be waived by the other Party only in a writing signed by the Party granting the waiver, but that waiver does not constitute a waiver of, or estoppel with respect to a subsequent failure of the first Party to comply with that obligation, covenant, agreement, or condition.

**E.4 Assignment.** Except as provided in the REP Services Agreement, Customer shall not assign this Agreement, in whole or in part, or any of its rights or obligations pursuant to the Agreement without Gexa's prior written consent, which shall not be unreasonably withheld. Gexa may withhold consent if a proposed assignee fails to be at least as creditworthy as Customer as of the Effective Date. Gexa may: (a) transfer, sell, pledge, encumber or assign the revenues or proceeds of this Agreement in connection with any financing or other financial arrangement; (b) transfer or assign this Agreement to a Gexa affiliate with operating capability and financial condition substantially similar to Gexa; (c) transfer or assign this Agreement to any person or entity succeeding to all or substantially all of the assets of Gexa with an operating capability and financial condition substantially similar to Gexa as of the execution date of this Agreement; and/or (d) transfer or assign this Agreement to a certified REP with an operating capability and financial condition substantially similar to Gexa as of the execution date of this Agreement. In the case of (b), (c), or (d), any such assignee shall agree in writing to be bound by these Terms and Conditions of Service, and upon assignment, Gexa shall have no further obligations under this Agreement. Gexa shall not assign the Agreement to a non-affiliated entity (including its guarantor) that has a credit rating lower than BBB- without the prior written consent of TCAP, which shall not be unreasonably withheld.

**E.5 No Third-Party Beneficiaries.** This Agreement does not confer any rights or remedies on any person or party other than the Parties, their successors and permitted assigns; except that the Parties recognize that TCAP is entitled to receive the Aggregator Fee .

**E.6 Severability.** If a provision of this Agreement is held to be unenforceable or invalid by a court or regulatory authority of competent jurisdiction, the validity and enforceability of the remaining provisions are unaffected by that holding, and the Parties shall, to the extent possible, negotiate an equitable adjustment to the provisions of this Agreement in order to preserve the original intent and purpose of this Agreement.

**E.7 Entire Agreement; Amendments.** This Agreement constitutes the entire understanding between the Parties, and supersedes any and all previous understandings, oral or written, with respect to the subjects it covers. This Agreement may be amended only upon the mutually signed, written agreement of the Parties.

**E.8 Further Assurances.** The Parties shall promptly execute and deliver, at the expense of the Party requesting such action, any and all other and further instruments and documents which are reasonably requested in order to effectuate the transactions contemplated in this Agreement.

**E.9 Emergency, Outage and Wire Service.** In the event of an emergency, outage or service need, Customer shall call the TDSP for the service area of the ESI ID experiencing the emergency, outage or service need.

**E.10 Customer Care.** Customer may contact Gexa Customer Care if Customer has specific comments, questions, disputes, or complaints toll free at 1-866-961-9399, Monday to Friday 7:00 a.m. – 8:00 p.m. CST and Saturday from 8:00 a.m. – 2:00 p.m.. Gexa shall assist and cooperate with Customer regarding communications with a TDSP relating to service to any ESI ID served by Gexa under this Agreement.

**E.11 Governing Law.**

**a.** This Agreement is governed by and construed and enforced in accordance with the laws of the State of Texas applicable to contracts made and performed in the State of Texas, without regard to the State of Texas conflict of laws provisions.

**b.** All disputes between the Parties under this Agreement which are not otherwise settled will be decided by a court of competent jurisdiction in Harris County, Texas, and the Parties submit to the jurisdiction of the courts of the State of Texas and the Federal District Courts in Houston, Harris County, Texas. All disputes are governed under the laws of the State of Texas.

**c.** Subject to the provisions of E.11.a. above, this Agreement is subject to, and in the performance of their respective obligations under this Agreement the Parties shall comply with, all applicable federal, state and local laws, regulations and requirements (including the rules, regulations and requirements of quasigovernmental and regulatory authorities with jurisdiction over the Parties, including ERCOT) (collectively, "*Applicable Law*").

**E.12 No Presumption Against Drafting.** Both Parties contributed to the drafting of this Agreement. The rule of construction that any ambiguity is construed against the party who drafted this Agreement does not apply to this Agreement.

**E.13 Counterparts; Facsimile Copies.** This Agreement may be executed in counterparts, all of which constitute one and the same Agreement and each is deemed an original. A facsimile copy of either Party's signature is considered an original for all purposes, and each Party shall provide its original signature upon request.

**E.15 Offer for Electric Service; Refusal of Service.** This Agreement, including these Terms and Conditions of Service, constitute an offer for electric service, and is expressly conditioned on acceptance of this Agreement by Gexa. Gexa may refuse to provide electric service to Customer subject to the requirements of Applicable Law.

PROFESSIONAL SERVICES AGREEMENT BETWEEN  
CITY OF CORINTH, TEXAS AND TEXAS COALITION FOR AFFORDABLE  
POWER, INC.

This Professional Services Agreement (“AGREEMENT”) is made and entered by and between Texas Coalition for Affordable Power, Inc. (“TCAP”), a non-profit, political subdivision corporation, and City of Corinth, Texas (“MEMBER”), a TCAP member.

**SECTION 1 DURATION:**

This AGREEMENT becomes effective as of signing by MEMBER and shall remain effective as long as MEMBER is being served by TCAP and MEMBER’s electric load included in a current TCAP procurement.

**SECTION 2 PURPOSE OF AGREEMENT:**

The purpose of this AGREEMENT is to define services and obligations of TCAP to MEMBER and obligations of MEMBER to TCAP and other members. In furtherance of this AGREEMENT, MEMBER will enter into a Commercial Electric Service Agreement (“CESA”) with a retail electric provider (“REP”) selected by TCAP pursuant to the terms set forth herein.

**SECTION 3 OBLIGATIONS OF TCAP TO MEMBER:**

MEMBER authorizes TCAP to contract for the purchase of energy for MEMBER in the wholesale market from an energy manager selected by TCAP (“Energy Manager”) and to select an acceptable, cost-beneficial REP to serve MEMBER’s electric accounts. TCAP shall provide procurement services, which services shall consist of securing wholesale power for MEMBER through an alternative procurement strategy, such as TCAP’s Strategic Hedging Program (“SHP”), as may be authorized and defined by TCAP’s Board of Directors. MEMBER may elect to consider fixed-price, fixed-term offers for wholesale power supply, such election to be communicated to TCAP separately in writing by providing an Authorized Election Form to TCAP. If MEMBER has provided to TCAP an Authorized Election Form, TCAP’s procurement services to MEMBER shall also consist of arranging fixed-price, fixed-term offers to MEMBER following solicitation of competitive offers. TCAP consultants and attorneys will negotiate terms and conditions of all contracts, monitor performance of Energy Managers and REPs, work to avoid and remedy problems that may be encountered by MEMBER where possible, assist MEMBER with wires company issues, and represent MEMBER in energy related matters before State agencies, the courts or legislature. TCAP will provide additional customer services to MEMBER that are defined in SECTION 5.

**SECTION 4 OBLIGATIONS AND RIGHTS OF MEMBER:**

MEMBER will honor the terms of its CESA and promptly pay or promptly dispute invoices from its REP. MEMBER will comply with the confidentiality and non-disclosure

obligations contained in its CESA and Section 7 of this AGREEMENT. MEMBER will designate one or more individuals to receive notices and updates from TCAP and will promptly update contact information. MEMBER will pay aggregation fees to support the non-profit functions of TCAP assessed annually by the TCAP Board of Directors and recovered as part of the energy charges paid to REP. Also, MEMBER will pay or receive refunds equal to the Quarterly Adjustment and the Annual Adjustment mutually agreed upon by TCAP and the Energy Manager to address certain variable costs and charges, including costs imposed by ERCOT, such payment or receipt of funds subject to the reserve account as further described herein. TCAP members will fund, and TCAP will maintain and administer, a reserve account to facilitate the reconciliation of any Quarterly Adjustments or Annual Adjustments by collecting any excess amounts paid and/or paying any deficient amounts incurred (as possible). The reserve account balance will be maintained at a minimum level to cover anticipated future needs for up to two (2) years. The TCAP Board may vote to refund to members amounts in excess of future anticipated needs. Any monies remaining in the reserve account at the dissolution of TCAP will be refunded to current membership at the time of dissolution. TCAP is owned and controlled by its members and is governed by a Board of Directors consisting of employees or elected officials of members. Consistent with TCAP's Bylaws, each MEMBER has a right to nominate its representative to serve on the Board of Directors and has a right to vote in annual elections of Board members. MEMBER has a right to attend or monitor each Board meeting. TCAP has a financial audit performed each year and MEMBER has a right to a copy of the annual audit upon request.

**SECTION 5 TCAP SERVICES TO MEMBER:**

**A. Procurement of Energy Supplies and REP Services**

**1. TCAP Procurement Services and Capabilities**

TCAP will assist prospective members in reviewing market conditions and in estimating the most price opportune time to contract for energy supplies. TCAP will work with MEMBER to achieve a competitive price that balances supply security and risk tolerance while maintaining superior billing and customer services. As a political subdivision corporation, offering electricity procurement to political subdivisions, TCAP has the ability to procure wholesale energy supplies and REP services separately to secure the most effective combination of competitively priced energy supplies and superior billing and customer services. TCAP may utilize either wholesale or retail sources of power, or some combination of both. TCAP may utilize multiple suppliers with different generation resources. TCAP will solicit bids from multiple sources for energy supplies. TCAP aggregates the load of all members to maximize clout in negotiating contract terms. TCAP's objective in negotiations with suppliers is to continue obtaining favorable terms regarding band widths for annual usage based on total load of all members (rather than based on MEMBER's individual load) and to minimize fees for adding or deleting accounts. TCAP will monitor the wholesale and retail markets for favorable hedging

opportunities. TCAP will also monitor, evaluate and issue requests for proposals for power development opportunities beneficial to its MEMBERS, including renewable projects (each, a “Power Project”).

## **2. MEMBER Procurement Options**

If MEMBER elects a fixed-price contract for a fixed period by submitting an Authorized Election Form, TCAP will function as MEMBER’S agent in the wholesale energy marketplace in soliciting, evaluating and negotiating each such fixed-price contract. Absent an election, MEMBER shall participate in other procurement strategy options offered by TCAP, such as TCAP’s SHP, and TCAP will function as MEMBER’s electric energy procurer. As such, TCAP will (i) oversee the Energy Manager, (ii) will direct the Energy Manager to solicit wholesale energy market quotes, (iii) will cause the Energy Manager to transact at the most favorable executable market quotes and (iv) will negotiate and develop the Energy Price in MEMBER’S CESA (the “CESA Energy Price”). The CESA Energy Price shall be developed and agreed upon by TCAP, the Energy Manager and the REP and shall include the wholesale energy market transactions as well as Energy Manager’s estimate of any non-fixed charges, including zonal congestion charges, ancillaries service charges, and other charges in connection with MEMBER’S load. If MEMBER elects to purchase power from a Power Project solicited and chosen by TCAP via a competitive RFP process (or other similar process), TCAP will function as MEMBER’S electric energy procurer, and will direct the Energy Manager to include the value of the power procured from such projects in the development of MEMBER’S CESA price.

### **B. Customer and Billing Services Provided by TCAP**

#### **1. REP Portal**

TCAP consultants oversee the development and presentation of the REP’s portal for TCAP members; the REP will be responsible for operation of the portal. TCAP provides training and assistance regarding portal use.

#### **2. REP Customer Service**

TCAP negotiates with the REP regarding service standards and annually reviews REP performance. TCAP maintains a right to replace a REP for unsatisfactory performance without affecting the price of wholesale power, so long as the replacement REP has a credit rating acceptable to the Energy Manager. TCAP continuously monitors customer billings and will alert both the REP and MEMBER, when appropriate, of any billing errors and the adjustments needed to ensure accurate and reliable billings to MEMBER. TCAP will advocate on behalf of MEMBER when needed to resolve billing or customer service issues. TCAP will review customer billings and make MEMBER aware of inactive accounts that MEMBER may be able to disconnect to save monthly charges.

### **3. TCAP Assistance with Budgets and Required Filings and Assistance with TDSP Issues**

TCAP monitors Public Utility Commission (“PUC”) and ERCOT activity and will provide MEMBER a forecast of changes in non-by passable charges that may impact MEMBER’s annual budget estimates. TCAP will prepare an annual electricity cost estimate for MEMBER. TCAP will assist MEMBER in preparation of energy related reports that may be necessary for MEMBER to file in response to legislative or agency mandates. TCAP will assist MEMBER in understanding non-bypassable charges included in REP invoices, and assist in resolving issues caused by errors of MEMBER’S Transmission and Distribution Service Provider (“TDSP” aka “wires company”).

### **4. Information Services**

TCAP maintains a member web site, [www.tcaptx.com](http://www.tcaptx.com). In addition to regular blog postings on energy news relevant to MEMBER, TCAP has prepared and posted major reports on the history of deregulation in Texas and a history of ERCOT. TCAP consultants continuously monitor the Nymex gas market, ERCOT energy market, and economic conditions that may affect MEMBER, as well as activities at the PUC and ERCOT. Important trends are noted in consultant reports to the Board of Directors and are attached to Board Minutes. TCAP’s Executive Director prepares and distributes a monthly newsletter and coordinates TCAP activities with various city coalitions and Texas Municipal League (“TML”). The Executive Director monthly newsletters will also include important or trending issues in the energy markets.

### **5. Demand Response, Distributed Generation and Cost Savings Strategy**

TCAP will work with relevant service providers to make available to MEMBER competitive demand reduction programs that facilitate MEMBER’s participation in TDSP and ERCOT cost reduction strategies approved by the PUC. Upon request, TCAP will monitor and evaluate demand reduction program performance metrics. TCAP will assist MEMBER in reviewing, analyzing and developing distributed generation programs that can reduce wires and energy costs and/or provide backup power to specific facilities. TCAP will assist MEMBER in meeting renewable energy goals established by MEMBER, including behind-the-meter solar projects and local wind projects.

### **6. Regulatory and Legislative Representation**

TCAP will provide representation and advocacy services on energy issues relevant to MEMBER in regulatory and legislative areas including, but not limited to, ERCOT stakeholder meetings, PUC projects and dockets, and legislative actions.

## 7. Strategic Hedging

To the extent that there is sufficient interest and commitment of load of TCAP members within an ERCOT zone, and to the extent MEMBER has not elected a fixed-price contract for a fixed period, MEMBER will perpetually (subject to potential charter or ordinance constraints on length of contracts) commit to two-year participation obligations. MEMBER may terminate participation in the SHP, without energy price penalties and with minimal other termination fees, by providing sufficient notice as set forth herein (Section 6). A SHP price will be determined at least 9 months prior to the effective date of the price by averaging the winning bids from periodic competitive auctions that occur throughout the 24 months preceding the effective date. TCAP will direct Energy Manager to conduct the periodic competitive auctions. TCAP will have the right to audit the auction results. The auction process will be designed to identify competitively priced energy supplies from a variety of creditworthy suppliers, resulting in prices that are rarely, if ever, significantly above prevailing market prices and that should generally be less than pricing for long-term fixed priced contracts (when evaluated from a common contract start date and term). Designed to take advantage of the characteristics of the nation's well supplied energy markets, the SHP will also be flexible enough to respond to market changes when and if they occur in the future. Participation in the SHP may be viewed as a series of 24 -month forward year-to-year contracts for as long as desired by MEMBER. If MEMBER participates in the SHP, MEMBER agrees that TCAP is authorized to direct Energy Manager to procure electric energy in the wholesale market on MEMBER's behalf and that TCAP is authorized to commit MEMBER's load to periodic competitive auctions.

### **SECTION 6 MEMBER RIGHT OF TERMINATION:**

#### **A. Fixed-Term, Fixed-Price Contract**

MEMBER may terminate a CESA prior to the end-of-term specified in a contract subject to payment of "Liquidated Damages" prescribed in MEMBER's CESA. If MEMBER commits to a fixed multi-year term, fixed-price contract and wants to terminate the agreement prior to the end of the fixed multi-year term, liquidated damages will be based on the differential in the price of electric energy futures contracts used to support the fixed-price agreement and the price of comparable electric energy contracts at time of termination and shall also include damages prescribed herein and in the CESA, as applicable. If electric energy prices are lower at the point of termination than they were at time of contracting, MEMBER should expect to pay energy price damages upon early termination. In any event, any termination payment will be calculated and assessed in accordance with MEMBER's CESA.

#### **B. Strategic Hedging Program**

Since the SHP is based on a series of one-year term contracts, MEMBER is entitled to exit the program so long as notice of termination can be given prior to inclusion of MEMBER's load in the competitive auction process for a future year's price. TCAP will periodically notify MEMBER of expected procurement schedules and provide no less than 90 days

prior notice of any upcoming solicitation, and MEMBER may notify TCAP that it wants to exclude its load from the competitive auction process by giving notice at least 60 days prior to the next procurement date. Termination of involvement in SHP without appropriate notice will require calculation of damages as prescribed by CESA under Edison Electric Institute (“EEI”) principles with the intent of making the REP and Energy Manager whole for the termination. Liquidated damages will be based on the differential in the price of electric energy futures contracts used to support the SHP price and the price of comparable electric energy contracts at time of termination and shall also include damages prescribed herein and in the CESA, as applicable. If electric energy prices are lower at the point of termination than they were at time of contracting, MEMBER should expect to pay energy price damages upon early termination. In any event, any termination payment will be calculated and assessed in accordance with MEMBER’s CESA.

### **C. Participation in Power Projects**

If MEMBER has chosen to purchase power from a Power Project through TCAP, in accordance with a signed Project Addendum attached to MEMBER’S CESA, MEMBER’S termination rights with respect to its commitment to purchase power from the Power Project shall be contained in the Project Addendum.

### **SECTION 7 CONFIDENTIALITY:**

MEMBER is a governmental body subject to public information laws, including Chapter 552 of the Texas Government Code. If MEMBER receives a valid request under applicable public information laws for information related to this AGREEMENT or its CESA, it shall provide TCAP notice of the request including a description the information sought prior to MEMBER’S release of information so that TCAP has the opportunity to determine whether such information is subject to an exception as trade secret, competitive, commercial, or financial information. With the exception of the preceding disclosures pursuant to public information laws, a Party (that party, the “Receiving Party”) shall keep confidential and not disclose to third parties any information related this AGREEMENT, except for disclosures to Authorized Parties or as otherwise required by law; and provided that MEMBER authorizes TCAP to provide Energy Manager and REP with any relevant information concerning MEMBER’S account, usage and billings. The provisions of this Section 7 apply regardless of fault and survive termination, cancellation, suspension, completion or expiration of this AGREEMENT for a period of two (2) years. “Authorized Parties” means those respective officers, directors, employees, agents, representatives and professional consultants of MEMBER and TCAP and each of their respective affiliates that have a need to know the confidential information for the purpose of evaluating, performing or administering this AGREEMENT.

### **SECTION 8 PARAGRAPH HEADINGS:**

The paragraph headings contained in this AGREEMENT are for convenience only and shall is no way enlarge or limit the scope or meaning of the various and several paragraphs.



**SECTION 9 COUNTERPARTS:**

This AGREEMENT may be executed in multiple counterparts, each of which shall be deemed an original, and all of which shall constitute but one and the same instrument.

**SECTION 10 DEFINITIONS:**

**“Annual Adjustment”** shall mean either a credit to MEMBER for the over-collection of funds, or a charge to MEMBER for under-collection of funds, related to Power Project settlements, if applicable. For those MEMBERS that participate in SHP, the Annual Adjustment shall also include (i) adjustments related to the loss factor for each specific ERCOT zone and (ii) adjustments related to load reconciliation as determined by TCAP, the Energy Manager and the REP.

**“Energy Manager”** means the wholesale market participant selected by TCAP to conduct SHP procurements at TCAP’s direction, in accordance with Section 5A and Section 7 of this Agreement. The Energy Manager may sell all or a portion of the required wholesale energy to TCAP or TCAP’s REP.

**“Power Project”** means a power generation project identified by TCAP to supply electric energy to one or more TCAP Members.

**“Project Addendum”** means the Addendum for a Power Project, if any, signed and attached as an Exhibit to MEMBER’S CESA.

**“QSE Services Fee”** means the QSE Services Fee in affect during the Delivery Term, as agreed between TCAP and Energy Manager.

**“Quarterly Adjustment”** shall mean either a credit to MEMBER for the over-collection of funds, or a charge to MEMBER for under-collection of funds, related to (i) ERCOT zonal congestion charges and (ii) ancillary services charges and other charges imposed by governmental agencies or ERCOT upon wholesale suppliers or REPs under statutes, regulations or courts for services within ERCOT zones. Said charges or refunds will be proportional to MEMBER’s relative contribution to TCAP load within specific ERCOT zones.

**“Retail Electric Provider” or “REP”** means the Retail Electric Provider that is party to (i) the REP Services Agreement with TCAP and (ii) the CESA between itself and MEMBER for the provision of retail electric service.

**“Strategic Hedging Program” or “SHP”** means an energy procurement strategy approved by TCAP’s Board of Directors, overseen by TCAP’s designated consultants, and administered by TCAP’s appointed Energy Manager, whereby wholesale energy is solicited and procured at agreed upon intervals, as directed by TCAP.

**EXECUTED** on this the \_\_\_\_ day of \_\_\_\_\_, 2024 \_\_\_\_.

**MEMBER:**

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

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

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

**TCAP:**

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

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

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



# CITY OF CORINTH Staff Report

<b>Meeting Date:</b>	10/17/2024	<b>Title:</b>	MJSW24-0001: Phelan Corinth Distribution Center – Required Internal Storage (Minimum Throat Length/Stacking)
<b>Strategic Goals:</b>	<input type="checkbox"/> Resident Engagement <input checked="" type="checkbox"/> Proactive Government <input type="checkbox"/> Organizational Development <input checked="" type="checkbox"/> Health & Safety <input type="checkbox"/> Regional Cooperation <input checked="" type="checkbox"/> Attracting Quality Development		
<b>Owner Support:</b>	<input checked="" type="checkbox"/> Planning & Zoning Commission <input type="checkbox"/> Economic Development Corporation <input type="checkbox"/> Parks & Recreation Board <input type="checkbox"/> TIRZ Board #2 <input type="checkbox"/> Finance Audit Committee <input type="checkbox"/> TIRZ Board #3 <input type="checkbox"/> Keep Corinth Beautiful <input type="checkbox"/> Ethics Commission  At their September 23, 2024 Regular Session, the Planning & Zoning Commission voted to recommend approval of the Major Subdivision Waiver request.		

**Item/Caption**

Consider and act on a request by TLP Corinth LLC for a Major Subdivision Waiver for relief of the Required Internal Storage (Minimum Throat Length/Stacking) of the Unified Development Code (UDC) Section 3.05.05 – Access Management, to allow for a reduction to the required Minimum [Vehicular] Storage Length for the Phelan Corinth Distribution Center project located on approximately ±8.461 acres at 1116 North Corinth Street. [Case No. MJSW24-0001: Phelan Corinth Distribution Center – Required Internal Storage (Minimum Throat Length/Stacking)]





measured at 34.03' and 36.9', while the driveway at the Hondue Lane cul-de-sac, intended to serve commercial vehicle [truck] traffic, measured at 36.0' (Northwest Driveway at cul-de-sac.

Strict adherence to the 75' internal storage [vehicle] stacking distance may have the effect of the building be placed further away from the street and result in a development inconsistent with the city's future vision of creating a pedestrian-scale corridor on North Corinth Street, where buildings are pulled closer to street/sidewalk.

Considering the above, the Applicant is requesting the Major Subdivision Waiver to reduce the Required Internal Storage Distance to the following:

- 1. North Driveway, North Corinth Street: Reduce from 75' to 34.03' from ROW line
- 2. South Driveway, North Corinth Street: Reduce from 75' to 36.9' from ROW line
- 3. Northwest Driveway, Hondue Lane: Reduce from 75' to 36' from end of cul-de-sac

To support their request, the Applicant has provided a letter of intent, a Site Plan exhibit showing the proposed driveway entry points with the Internal Storage dimensioned, and a truck turning exhibit showing that the proposed driveway entry as designed will adequately serve truck traffic. These items are presented in Attachment 1 – Application Package.

In terms of procedure, the Council is required to decide on this Major Subdivision Waiver at this meeting per UDC 3.06.01.

**Major Subdivision Waiver Criteria**

To aid the City Council in making a decision, Staff has provided comments in red next to the relevant provisions of UDC 3.06.01 F which outlines the Subdivision Waiver Criteria to be considered when deciding on an application.

- 1. Undue Hardship Present. A Subdivision Waiver to regulations within this UDC may be approved only when, in the Decision-Maker's opinion, undue hardship will result from strict compliance to the regulations.  
**[Staff Comment: The Applicant is intending to develop a use-by-right in a property zoned I-Industrial, though the Future Land Use & Development Strategy identifies this area as a Mixed-Use Transit-Oriented District. The current UDC regulations that precipitated this waiver request are inconsistent with the envisioned character of a Mixed-Use Transit-Oriented District]**
- 2. Consideration Factors. The Decision-Maker shall take into account the following factors:
  - a. The nature of the proposed land use involved and existing uses of the land in the vicinity;
  - b. The number of persons who will reside or work in the proposed development; and
  - c. The effect such Subdivision Waiver might have upon traffic conditions and upon the public health, safety, convenience and welfare in the vicinity.
- 3. Findings. No Subdivision Waiver shall be granted unless the Decision-Maker finds:
  - a. That there are special circumstances or conditions affecting the land involved or other constraints such that the strict application of the provisions of this UDC would deprive the Applicant of the reasonable use of his or her land; and  
**[Staff Comment: Enforcing this requirement could result in a site design with a greater amount of parking between the street and the building façade and a greater number of curb cuts along North Corinth Street, impeding pedestrian and affecting the envisioned character of the North Corinth Street corridor as depicted in the draft Downtown Corinth Plan and the Comprehensive Plan]**
  - b. That the Subdivision Waiver is necessary for the preservation and enjoyment of a substantial property right of the Applicant, and that the granting of the Subdivision Waiver will not be detrimental to the public health, safety or welfare or injurious to other property in the area; and  
**[Staff Comment: Granting this Subdivision Waiver will not be detrimental to the public health, safety, or welfare by allowing for a pedestrian-scale corridor and reducing vehicular/pedestrian conflicts by reducing the number of curb cuts and funneling truck traffic away from a key**

**downtown corridor. The proposed Site Plan layout meets the intent of the Comprehensive Plan and the Downtown Corinth Plan]**

- c. That the granting of the Subdivision Waiver will not have the effect of preventing the orderly subdivision of other lands in the area in accordance with the provisions of this UDC.  
**[Staff Comment: Granting this waiver would permit a site layout that maintains the truck court wholly to the rear of the building, not visible from North Corinth Street, and limiting truck access to Hondue Lane – which the Applicant has agreed to per the attached letter of intent]**
- 4. Intent of UDC Subdivision Regulations.
  - a. A Subdivision Waiver may be granted only when in harmony with the general purpose and intent of the UDC Subdivision Regulations so that the public health, safety and welfare may be secured and substantial justice done.
  - b. Financial hardship to the Applicant shall not be deemed to constitute undue hardship.
- 5. Minimum Degree of Variation. No Subdivision Waiver shall be granted unless it represents the minimum degree of variation of requirements necessary to meet the needs of the Applicant.
- 6. Violations and Conflicts. The Decision-Maker shall not authorize a Subdivision Waiver that would constitute a violation of, or conflict with, any other valid ordinance, code, regulation, master plan or Comprehensive Plan of the City.

**Applicable Policy/Ordinance**

- ✚ Unified Development Code, Subsection 3.05.04 H: Required Internal Storage (Minimum Throat Length/Stacking)
- ✚ Unified Development Code, Subsection 3.06.01: Petition for Subdivision Waiver

**Staff Recommendation**

The Planning Division and Shield Engineering, the City’s consulting engineers, have reviewed the application. Based on an evaluation of the project against best planning practices and considering the Draft Downtown Corinth Plan, as well as the Envision Corinth 2040 Comprehensive Plan, Staff recommends approval based on the following findings outlined above as required by Subsection 3.06.01 F.3.

**Motion**

“I move to approve the request for Major Subdivision Waiver MJSW24-0001 – Phelan Corinth Distribution Center as presented”

The City Council may also vote to deny the request.

**Attachments**

- ✚ Attachment 1 – Application Package
- ✚ Attachment 2 – Shield Engineering Recommendation



September 3, 2024

City of Corinth Planning & Zoning Commission  
3300 Corinth Parkway  
Corinth, TX 76208

RE: Statement of Intent for Major Subdivision Waiver for Corinth Distribution Center at 1116-1400 N. Corinth Street

Dear Planning & Zoning Commission,

We are writing to formally request a Major Subdivision Waiver related to the City of Corinth's Unified Development Code (UDC) Section for Access Management - Section 3.05.04.H2 for the proposed Corinth Distribution Center project located at 1116 -1400 N. Corinth Street. The project is being developed by TLP Corinth LLC, a partnership with Phelan Development Company and TradeLane Properties. This proposed 8.46 acre development will consist of a 146,675 SF, 32' clear height building with loadbearing tilt-wall and steel structure. Office entries will be orientated towards N. Corinth Street. Loading and truck traffic will be limited to the rear of the facility. This new facility will serve future businesses in Corinth by providing Class A office and warehouse space divisible up to three tenants.

The intent of the access management section of the UDC is to provide for thoughtful design around site access and driveway locations for access to the public street system. Our development has three proposed driveways. The two driveways along the eastern property line provide automobile and emergency vehicle access via N. Corinth Street. The third driveway, located in the northwest corner of the site, provides full truck and auto access to the newly dedicated Hondue Lane, which provides connection to W. Sandy Shores Lane. The purpose of this Major Subdivision Waiver request is to provide relief related to internal storage (stacking) length at the three proposed driveways. Per the UDC Table 26: Required Internal Storage, the minimum storage length is required to be at 75' based on the average number of parking spaces per driveway and the total number of parking spaces. The unique characteristics and location of this site necessitate a different approach that aligns with both the overall vision for the N. Corinth Street corridor as conveyed to us by Staff, the existing physical constraints of the site in relation to the adjacent uses, and to minimize adding additional driveways along N. Corinth Street. Proximity to existing or planned driveways to the north (RAK) and south (Public Works) along N. Corinth Street caused us to move the two east driveways in towards the building footprint due to limitations on minimum spacing for driveways of 150' per Section 3.05.04.G1.

Also, this type of development and user profile typically sees less frequent trip generation than other uses such as retail and multifamily. Existing drive aisles will be able to accommodate intermittent internal stacking during the peak hour when office/warehouse users are leaving for the day. Hondue Lane will also provide an additional relief point for autos exiting for the day since it ends with a cul-de-sac abutting our site. Due to these characteristics, we are confident that the proposed storage lengths indicated on Site Plan C3.0 will be sufficient for our development's intended use.

Descriptions of the alleged undue hardship and special circumstances that necessitate the Major Subdivision Waiver are as follows:

- 75' storage length vs depth of site
- Truck traffic to be limited to Hondue Lane access only
- Site constraints along N Corinth due to existing or planned driveways for the RAK development to the north and Public Works site to the south
- Minimize number of driveways (Staff recommended two vs. three driveways along N. Corinth Street)

In order to better align with the City's plan to create a welcoming streetscape and building façade along the eastern site boundary fronting N. Corinth Street, we have prepared our site plan with the below design considerations based on Staff's comments:

- Shorter driveway throat length will better orient the building along N. Corinth Street, which will help create a better street scape aesthetic.
- Truck access and traffic will be limited to Hondue Lane versus N. Corinth Street (see no truck access sign locations and detail on revised site plan).
- Removal of the originally proposed third driveway along N. Corinth Street near the center of the building face will keep impact to pedestrians at a minimum. This additional driveway was originally proposed to mitigate the 75' internal storage length requirement down to 50'.

Thank you for considering this request.

Sincerely,

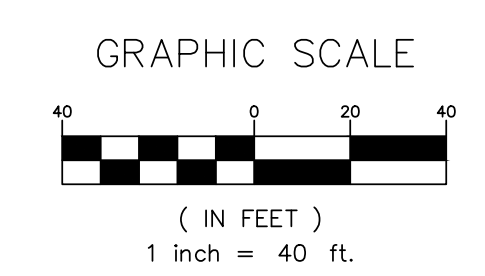


Jess Knigge  
Partner | Phelan Development





TOCS  
1-800-245-4545  
tticket@1-call.com



PAVEMENT LEGEND

- EXISTING CONCRETE PAVEMENT
- SIDEWALKS  
4" 3,000 PSI CONCRETE PAVEMENT WITH #3 BARS @ 24" O.C.E.W. ON 6" COMPACTED SUBGRADE PER CITY STANDARD DETAILS
- LIGHT DUTY PAVING (PRIVATE)  
5" 3,600 PSI CONCRETE PAVEMENT WITH #3 BARS @ 18" O.C.E.W. ON 6" COMPACTED SUBGRADE PER GEOTECHNICAL RECOMMENDATIONS
- HEAVY DUTY PAVING  
5" 3,600 PSI CONCRETE PAVEMENT, 5 SACK MIX WITH #4 BARS @ 18" O.C.E.W. ON 6" COMPACTED SUBGRADE PER GEOTECHNICAL RECOMMENDATIONS
- HEAVY DUTY PAVING (PUBLIC)  
7" REINFORCED CONCRETE W/ 6" CEMENT STABILIZED SUBGRADE PER CITY STANDARD SPECIFICATIONS
- PROPOSED LANDSCAPING  
REFER TO LANDSCAPE ARCH PLANS
- PROPOSED DECOMPOSED GRANITE  
REFER TO LANDSCAPE ARCH PLANS

SITE/PAVING LEGEND

- PROPERTY LINE
- SAWCUT PATH
- RETAINING WALL
- EX. ASPHALT PAVEMENT
- EX. OVERHEAD ELECTRIC
- FIRE LANE AND UTILITY EASEMENT
- PARKING COUNT
- EX. WASTEWATER MANHOLE
- EX. STORM DRAINAGE MANHOLE
- EX. GAS MANHOLE
- EX. FIRE HYDRANT
- JUNCTION BOX
- GRATE INLET
- CURB INLET
- WASTEWATER MANHOLE
- STORM DRAINAGE MANHOLE
- WATER METER VAULT
- FIRE HYDRANT
- WATER METER
- GAS METER
- FIRE DEPARTMENT CONNECTION (FDC)



48" 2'-0" x 2'-0" Single Face Regulatory Traffic Sign - A-9E  
Panel: 050116 Aluminum - Back Painted 90% 2074 Software - Smooth Satin Finish  
Graphics: Digital Print on Polyflex White Vinyl  
Post: 2 x 2 Aluminum Sales Standard 600 9028 Software - Smooth Satin Finish  
Mounting: Direct Panel into (2) 3/4" x 3/4" x 3/4" Deep Concrete Foundations

LOT 1  
368,585 SQ. FT.  
8.461 ACRES  
1-STORY BUILDING  
WAREHOUSE  
40' BUILDING HEIGHT  
146,675 SF  
FFE= 601.50'

CONTRACTOR SHALL USE EXTREME CAUTION WHEN EXCAVATING NEAR EXISTING OVERHEAD ELECTRIC OR GAS LINE

CONTRACTOR SHALL USE EXTREME CAUTION WHEN EXCAVATING NEAR EXISTING OVERHEAD ELECTRIC OR GAS LINE

	Site Data Table	
	Existing	Proposed
Zoning	Industrial	Industrial
Land Use Designation	Unused	Warehouse
Gross Acreage	8.461 Acres (368,585 SF)	8.461 Acres (368,585 SF)
Net Acreage	8.461 Acres (368,585 SF)	8.461 Acres (368,585 SF)
Number Of Proposed Lots	1 Lot	1 Lot
Percentage of Site Coverage	1%	40%
Area of Open Space	362,910 SF	221,910 SF
Percentage of Open Space	99%	60%
Percentage of Landscape	98%	24%
Area of Impervious Coverage	5,825 SF	280,810 SF
Percentage of Impervious Coverage	2%	76%
Proposed Building Area	2,200 SF	146,375 SF
Number of Single-Story Buildings	1 Building	1 Building
Number of Two-Story Buildings	0 Buildings	0 Buildings
Maximum Building Height	N/A	40'
Proposed Floor Area	N/A	146,675 SF
Proposed Floor By Use	N/A	Warehouse
Required Parking		
-Standard (Office 1:300)	N/A	24 Spaces (5% of Building SF)
-Standard (Industrial 1:1000)	N/A	139 Spaces (95% of Building SF)
-Handicap	N/A	6 Spaces
-Total	N/A	169 Spaces
Provided Parking	N/A	157 Spaces
Inventory Parking	N/A	
Required Loading Spaces	N/A	
Provided Loading Spaces	N/A	22 Spaces (9'x10' O.H. Doors)
Area of Outside Storage	N/A	N/A
Percentage of Outside Storage	N/A	N/A
Start of Construction	N/A	TBD
End of Construction	N/A	TBD

1ST SITE PLAN REVIEW - CITY OF CORINTH  
2ND SITE PLAN REVIEW - CITY OF CORINTH  
3RD SITE PLAN REVIEW - CITY OF CORINTH

TEL: 214-396-3339  
www.urbanstrategy.us

**URBAN STRATEGY**  
4222 Main Street  
Dallas, Texas 75226  
Firm Registration #F-2252

PRELIMINARY  
NOT FOR CONSTRUCTION, BIDDING, OR PERMIT PURPOSE.  
PREPARED UNDER THE SUPERVISION OF DOUGLAS E. BARRILLEAUX, P.E. #97518  
ON 8/30/2024

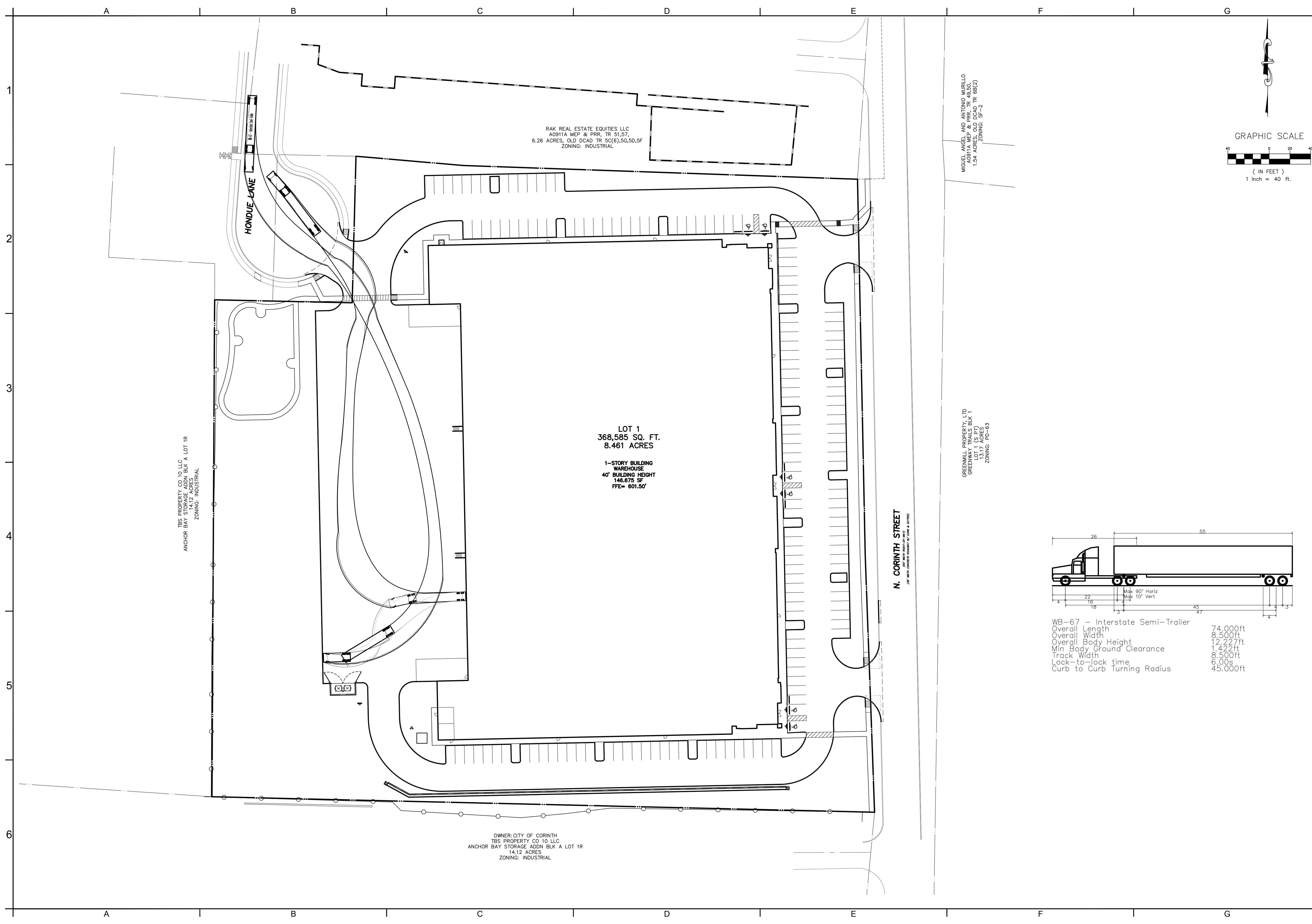
**CORINTH DISTRIBUTION CENTER**  
11116 N. CORINTH ST.  
LOT 1, 2, 5A, 10B  
CORINTH, DENTON COUNTY, TEXAS

**SITE PLAN**

CLIENT: PRELIM DEVELOPMENT  
DRAWN BY: ZET  
DESIGNER: ZET  
REVIEWER: BTD  
U.S. PROJECT: 231095

**SHEET C3.0**

FILE NAME: C:\DIA\CTRL\DWG  
LAST MODIFIED BY: CADAMAS  
LAST MODIFIED ON: 8/30/2024 2:28 PM  
PLOT FILED ON: 8/30/2024 12:17 PM



RAK REAL ESTATE EQUITIES LLC  
A0911A MEP & PRR, TR 51.57,  
6.26 ACRES, OLD DCAD TR 5C(6),5G,5D,5F  
ZONING: INDUSTRIAL

LOT 1  
368,585 SQ. FT.  
8.461 ACRES  
1-STORY BUILDING  
WAREHOUSE  
40' BUILDING HEIGHT  
146,675 SF  
FFE= 601.50'

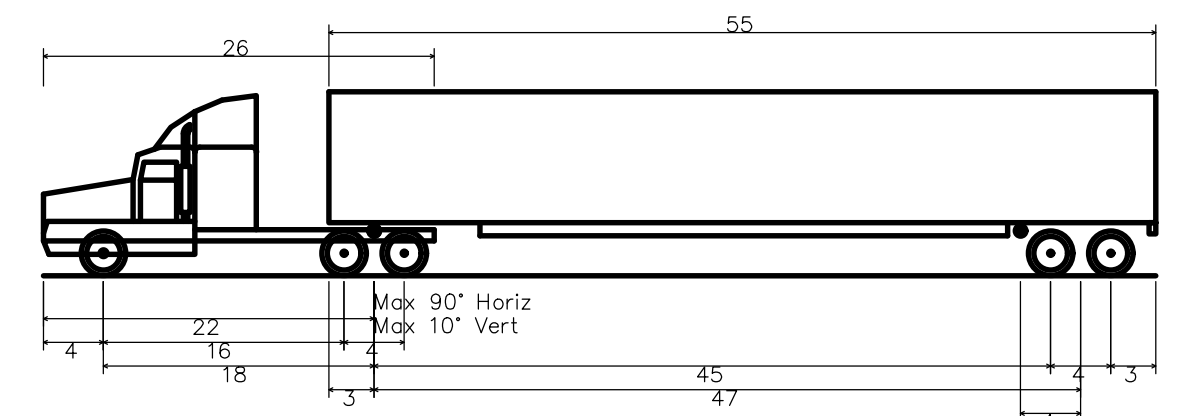
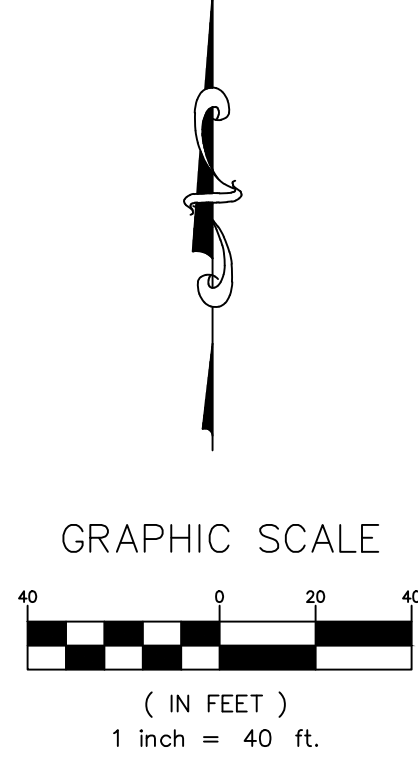
TBS PROPERTY CO 10 LLC  
ANCHOR BAY STORAGE ADDN BLK A LOT 1R  
ZONING: INDUSTRIAL

OWNER: CITY OF CORINTH  
TBS PROPERTY CO 10 LLC  
ANCHOR BAY STORAGE ADDN BLK A LOT 1R  
14.12 ACRES  
ZONING: INDUSTRIAL

MIGUEL ANGEL AND ANTONIO MURILLO  
A0911A MEP & PRR, TR 49.50,  
1.34 ACRES, OLD DCAD TR 5C(2)  
ZONING: SF-2

GREENMILL PROPERTY, LTD  
GREENWAY TRAILS BLK 1  
LOT 7 (A) & LOT 8 (B)  
13.17 ACRES  
ZONING: PD-63

N. CORINTH STREET  
(OF WEST CONCRETE PARKWAY W/ CORN # 80789)



WB-67 - Interstate Semi-Trailer  
Overall Length 74.00ft  
Overall Width 8.50ft  
Overall Body Height 12.22ft  
Min Body Ground Clearance 1.42ft  
Track Width 8.50ft  
Lock-to-lock time 6.00s  
Curb to Curb Turning Radius 45.00ft

NO.	DATE	REVISION
1	07/11/2024	1ST SITE PLAN REVIEW - CITY OF CORINTH

www.urbanstrategy.us  
TEL: 214-396-3339

4222 Main Street  
Dallas, Texas 75226  
Firm Registration # F-2252

**PRELIMINARY**  
NOT FOR CONSTRUCTION,  
BIDDING, OR PERMIT PURPOSE.  
PREPARED UNDER THE  
SUPERVISION OF  
DOUGLAS E. BARRILLEAUX  
P.E.# 97516  
ON  
9/3/2024

**CORINTH DISTRIBUTION CENTER**  
11116 N. CORINTH ST.  
LOT 1, 2, 5A, 10B  
CORINTH, DENTON COUNTY, TEXAS  
**AUTOTURN EXHIBIT**

CLIENT: PRELIM DEVELOPMENT
DRAWN BY: ZET
DESIGNER: ZET
REVIEWER: BTD
U.S. PROJECT: 231095

SHEET  
**EX A**

FILE NAME: CAUTOTURN EXHIBIT.DWG  
LAST MODIFIED BY: BAO  
LAST MODIFIED ON: 9/3/2024 8:56 AM  
PLOT FILED ON: 9/3/2024 9:17 AM

**From:** Omar Cereceres <omar.cereceres@shield-engineering.com>  
**Sent:** Tuesday, September 10, 2024 11:51 AM  
**To:** Miguel Inclan  
**Cc:** Melissa Dailey; Michelle Mixell; Matthew Lilly; Deep Gajjar; Tristan Cisco; Glenn Barker; Lance Baker; Cleve Joiner; David Rodriguez; Emma Crotty; Shield Engineering  
**Subject:** RE: 1st Review DUE 9/9/24 | MJSW24-0001 | Phelan Corinth Distribution Center

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Miguel,

As discussed in our DRC meeting today, we have reviewed the Major Subdivision Waiver request mentioned below and recommend approval.

Let us know if you would like to discuss anything further.

Thanks,



Omar Cereceres, E.I.T.  
Shield Engineering Group, PLLC  
O: 817.810.0696  
C: 817.609.1280  
omar.cereceres@shield-engineering.com  
www.shieldengineeringgroup.com  
1600 W. 7th Street Suite 400, Fort Worth, TX 76102  
TBPE #F-11039 | TBPLS #10193890

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**From:** Miguel Inclan <[Miguel.Inclan@cityofcorinth.com](mailto:Miguel.Inclan@cityofcorinth.com)>  
**Sent:** Wednesday, September 4, 2024 5:14 PM  
**To:** Omar Cereceres <[omar.cereceres@shield-engineering.com](mailto:omar.cereceres@shield-engineering.com)>; Corinth EDR Team <[CEDR@shield-engineering.com](mailto:CEDR@shield-engineering.com)>  
**Cc:** Melissa Dailey <[Melissa.Dailey@cityofcorinth.com](mailto:Melissa.Dailey@cityofcorinth.com)>; Michelle Mixell <[Michelle.Mixell@cityofcorinth.com](mailto:Michelle.Mixell@cityofcorinth.com)>; Matthew Lilly <[Matthew.Lilly@cityofcorinth.com](mailto:Matthew.Lilly@cityofcorinth.com)>; Deep Gajjar <[Deep.Gajjar@cityofcorinth.com](mailto:Deep.Gajjar@cityofcorinth.com)>; Tristan Cisco <[Tristan.Cisco@cityofcorinth.com](mailto:Tristan.Cisco@cityofcorinth.com)>; Glenn Barker <[Glenn.Barker@cityofcorinth.com](mailto:Glenn.Barker@cityofcorinth.com)>; Lance Baker <[Lance.Baker@cityofcorinth.com](mailto:Lance.Baker@cityofcorinth.com)>; Cleve Joiner <[Cleve.Joiner@cityofcorinth.com](mailto:Cleve.Joiner@cityofcorinth.com)>; David Rodriguez <[David.Rodriguez@lakecitiesfire.com](mailto:David.Rodriguez@lakecitiesfire.com)>; Emma

Crotty <[Emma.Crotty@cityofcorinth.com](mailto:Emma.Crotty@cityofcorinth.com)>

**Subject:** 1st Review DUE 9/9/24 | MJSW24-0001 | Phelan Corinth Distribution Center

**Importance:** High

Shield Team (and DRC),

The following review for Project MJSW24-0001 type MAJOR SUBDIVISION WAIVER for Phelan - Corinth Distribution Center at N CORINTH ST has been added as Review on Due Date **Monday, September 9, 2024.**

Applicant Name: Jess Knigge

Project Initiated by: MAI

**Miguel A. Inclan, Jr., MPA/MS, CNU-A**

Planner | Planning & Development

3300 Corinth Parkway

Corinth, TX 76208

(940) 498-3263

[Miguel.inclan@cityofcorinth.com](mailto:Miguel.inclan@cityofcorinth.com)





# CITY OF CORINTH Staff Report

<b>Meeting Date:</b>	10/17/2024	<b>Title:</b>	AC24-0003: Phelan Corinth Distribution Center
<b>Strategic Goals:</b>	<input type="checkbox"/> Resident Engagement <input checked="" type="checkbox"/> Proactive Government <input type="checkbox"/> Organizational Development <input checked="" type="checkbox"/> Health & Safety <input type="checkbox"/> Regional Cooperation <input checked="" type="checkbox"/> Attracting Quality Development		
<b>Owner Support:</b>	<input type="checkbox"/> Planning & Zoning Commission <input type="checkbox"/> Economic Development Corporation <input type="checkbox"/> Parks & Recreation Board <input type="checkbox"/> TIRZ Board #2 <input type="checkbox"/> Finance Audit Committee <input type="checkbox"/> TIRZ Board #3 <input type="checkbox"/> Keep Corinth Beautiful <input type="checkbox"/> Ethics Commission		

**Item/Caption**

Consider a request by TLP Corinth LLC for Alternative Compliance of UDC Sections 2.09.01 A.5 [Foundation Plantings for Buildings 50,000 Square Feet or Larger] and 2.09.06 F [Nonresidential Building Articulation] for the Phelan Corinth Distribution Center project located on approximately ±8.461 acres at 1116 North Corinth Street. [Case No. AC24-0003: Phelan Corinth Distribution Center]



**Aerial Location Map**

**Item Summary/Background/Prior Action**

This request is associated with a Site Plan application currently under review for the Phelan Corinth Distribution Center proposed to be located on the west side of North Corinth Street. The project is a use by right and the property is zoned as I-Industrial and is in the northern section of the Downtown Corinth plan area. The subject property is bounded to the north by the RAK Corinth 35 Distribution Center currently under construction, the city’s Public Works facility to the south, an RV/Boat storage facility to the west, and the Greenway Trails 121-unit rental townhome development to the east across North Corinth Street.

As the review process for this 146,675 SF distribution center progressed, Staff and the Applicant identified two key landscape and architectural elements of their proposed Site Plan design and layout that do not meet certain provisions of the Unified Development Code and require Alternative Compliance approval by the City Council. With Staff’s support, the Applicant is seeking Alternative Compliance for two items:

- A. Foundation Plantings for Buildings 50,000 Square Feet or Larger (UDC 2.09.01 A.5)
- B. Nonresidential Building Articulation (UDC 2.09.06.F)

These Alternative Compliance items are separate from the Major Subdivision Waiver that is being discussed as a separate case/agenda item

**Request A: Foundation Plantings for Buildings 50,000 Square Feet or Larger (UDC 2.09.01 A.5)**

Per the provisions of UDC Section 2.09.01 A.5, foundation plantings are required for buildings or groups of contiguous buildings that are 50,000 square feet or larger. The requirement is one “large” shade tree (3 caliper inches minimum) for every ten thousand square feet of gross building area, which shall be planted within 30 feet of the front façade. The UDC allows applicants to substitute ornamental trees for large trees at a rate of five (5) ornamental trees for each required large tree.

Applying the above standard would result in a planting requirement of 15 shade trees or 75 ornamental trees (or a combination thereof) for this 146,675 SF building, in addition to those required by other sections of the Unified Development Code (landscape buffer trees, parking lot trees, etc.).

Strict adherence to this requirement, which calls for foundation trees be planted within 30 feet of the front façade, does not align with the City’s and Applicant’s goal to design the site to be more compatible with the envisioned pedestrian-oriented streetscape of North Corinth Street and the overall Downtown Corinth area, which calls for buildings being placed closer to the street.

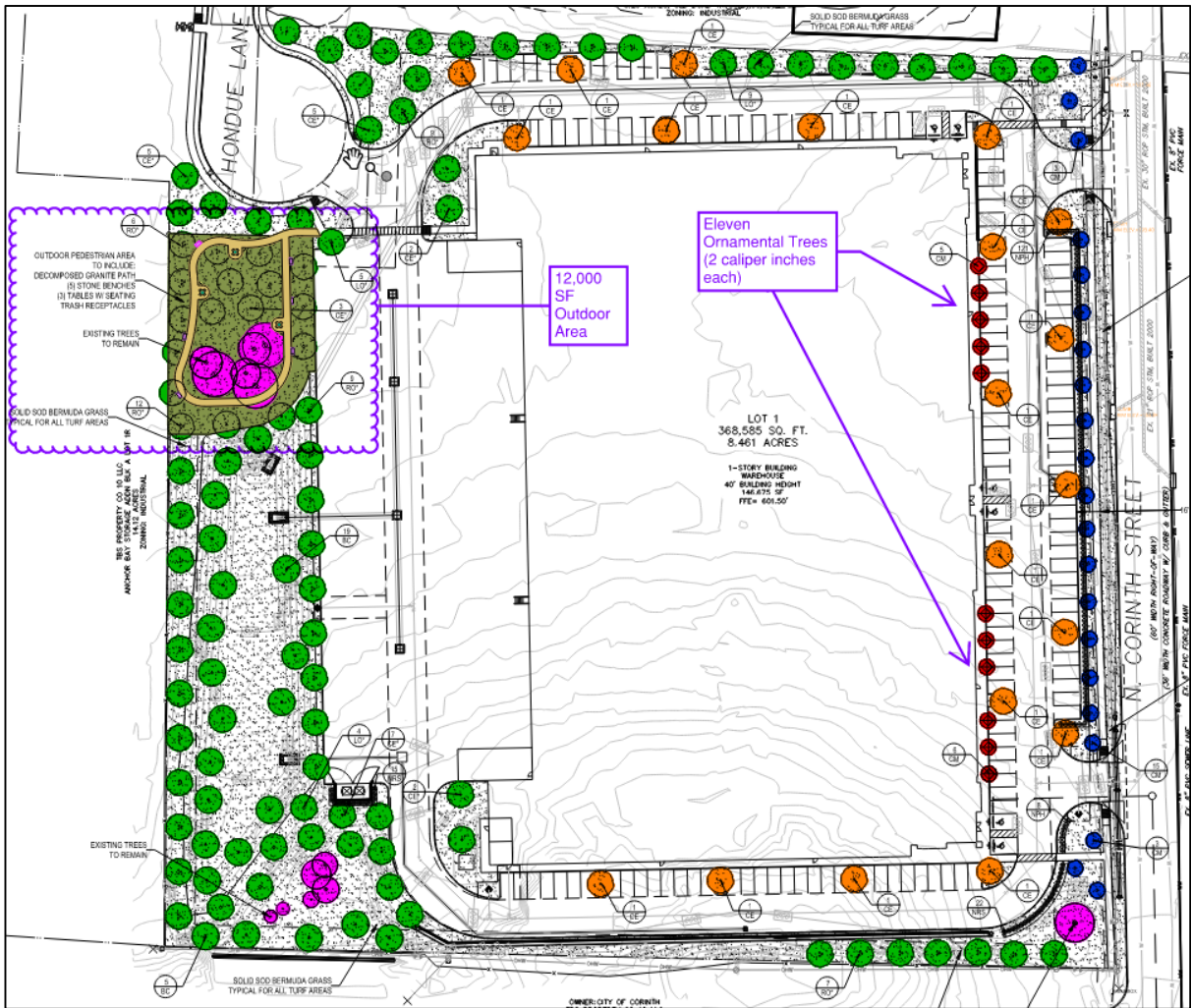
UDC 2.09.01 A.5 includes a provision stating that the foundation planting requirements may be reduced if approved by the City Council and when additional pedestrian features are provided (such as plazas, seating areas, fountains, and outdoor recreation facilities), which must occupy an area equal to or greater than five percent (5%) of the building’s total square footage.

To support the request, the project’s Landscape Architect revised the landscape plan to include a reduced number of foundation plantings by planting eleven ornamental trees as opposed to the required 15 shade or 75 ornamental trees along the front façade of the building and provide a 12,000 SF outdoor area on the northwest corner of the property which includes the following elements:

- Preservation of a significant grove of existing trees within this outdoor area
- Addition of tree plantings (replacement trees required by the removal of other trees on the site – these trees would not count towards the required foundation planting total)
- Five stone benches
- Three tables with seating
- Trash receptacles
- Decomposed granite path

The proposed 12,000 SF outdoor area is equal to 8% of the building’s total square footage and greater than the 5% threshold for City Council to approve the reduction.

Below is an excerpt from the proposed Landscape Plan highlighting the proposed eleven ornamental trees along the building's front façade and the 12,000 SF outdoor area:



Below is also a detail of the proposed benches, tables with seating, and trash receptacles proposed for this outdoor area:



LIMESTONE BLOCK BENCHES



TABLES W/ SEATING



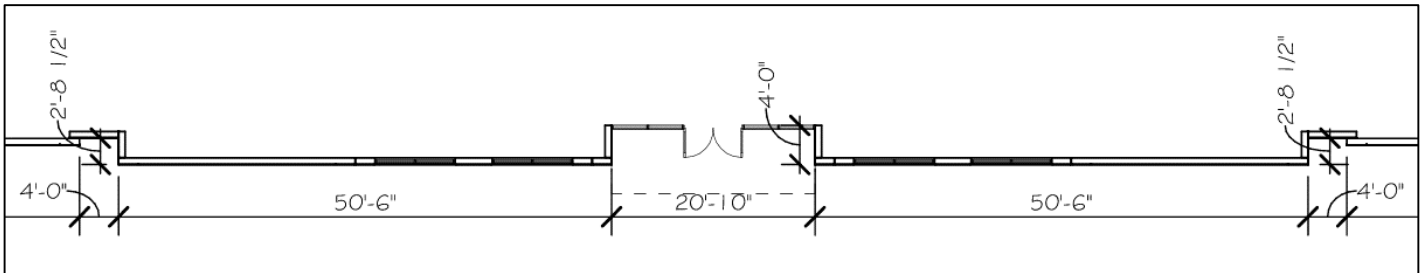
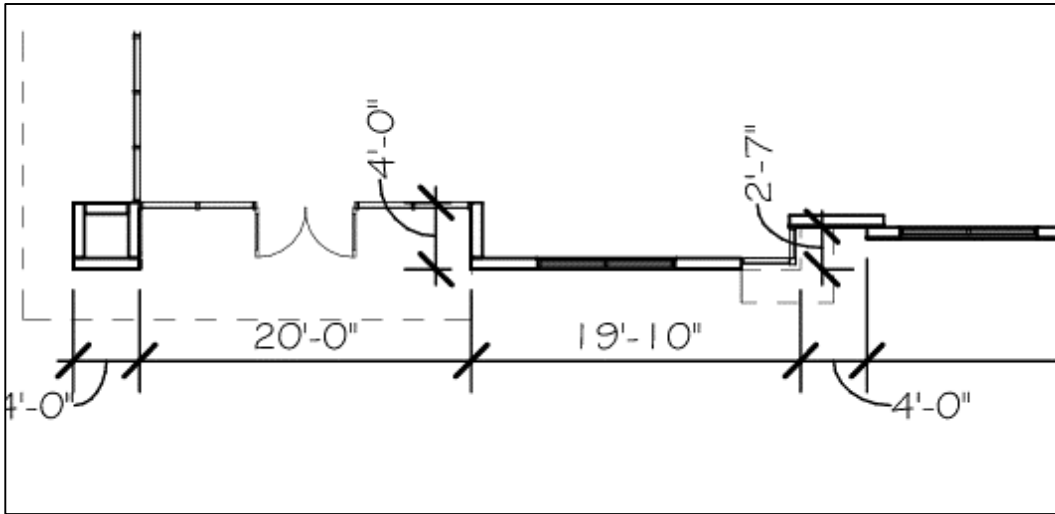
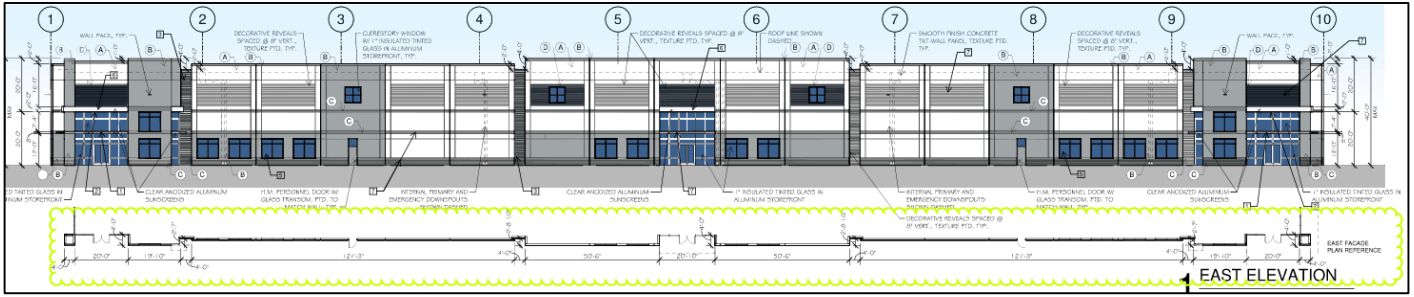
TRASH RECEPTACLES

**Request B: Nonresidential Building Articulation (UDC 2.09.06.F)**

Per the provisions of UDC 2.09.06.F.1, depth articulation of at least three (3) feet shall be required for every thirty (30) feet of building façade length. Additionally, UDC 2.09.06 F.2 requires height articulation for flat roofs of at least five (5) feet for every fifty (50) feet of building façade length.

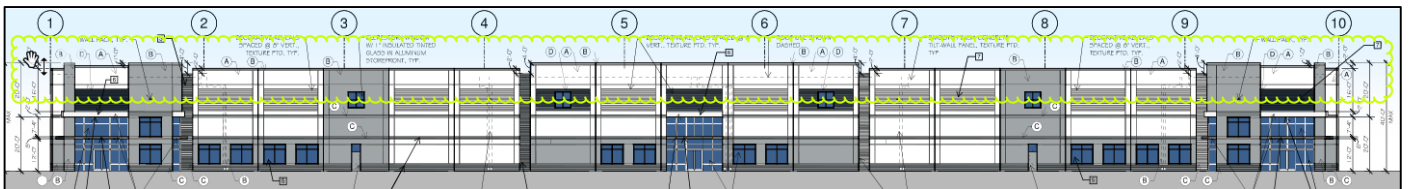
Based on the linear length of the front façade of approximately 468', the building requires 15 instances of depth articulation of at least three (3) feet every 30 linear feet.

The proposed elevations show 9 instances of depth articulation ranging from two feet, seven inches (2' 7") to four feet (4") at intervals of more than 30 linear feet as required by the UDC (see below for excerpts from elevations sheet).

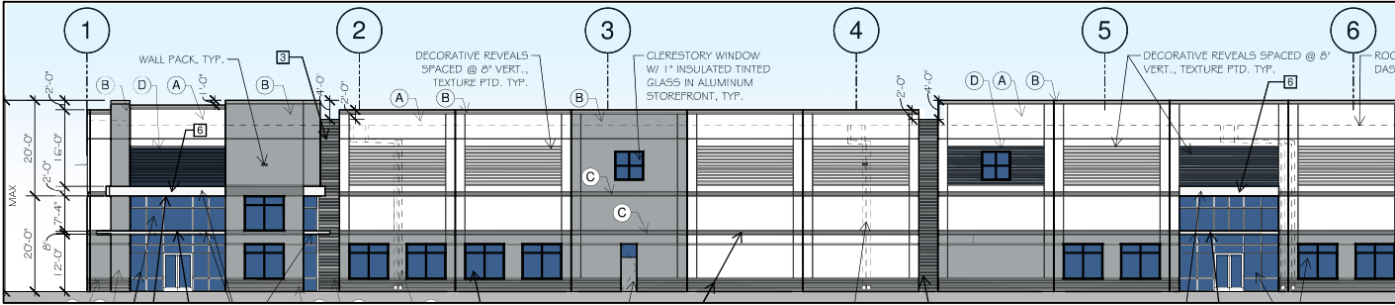


Regarding the height articulation, based on the linear façade length (±468 feet) and the proposed flat roof, the building requires ten instances of height articulation of at least five (5) feet every fifty feet.

The proposed elevations show 10 instances of height articulation ranging from two feet (2') to four feet (4') at intervals greater than the required 50 linear feet (see below for excerpts from elevations sheets).







Note that the Applicant has also provided the required seven nonresidential design elements per the UDC 2.09.06 D, including additional glazing that is intended to create a more appealing view from the streetscape. Below is a rendering of the proposed distribution center showing the nonresidential architectural design elements and the height and depth articulation as currently proposed.



To support the Alternative Compliance application, the Applicant has provided letters of intent, a Site Plan Exhibit, a Landscape Plan, and Elevations and renderings sheet. These items are attached as Attachment 1 – Application Package.

Should this Alternative Compliance request be granted by the City Council, Staff will apply these alternative standards as the Site Plan review process continues. Additional deviations from these specific Alternative Compliance items would require action by the City Council.

**Applicable Policy/Ordinance**

- Unified Development Code, Subsection 2.09.01 A.5: Foundation Plantings for Buildings 50,000 Square Feet or Larger
- Unified Development Code, Subsection 2.09.06.F: Nonresidential Building Articulation

**Staff Recommendation/Motion**

The Planning Division reviewed the application and evaluated the project based on best planning practices and considering the Draft Downtown Corinth Plan, as well as the Envision Corinth 2040 Comprehensive Plan, Staff recommends approval of the Alternative Compliance request.

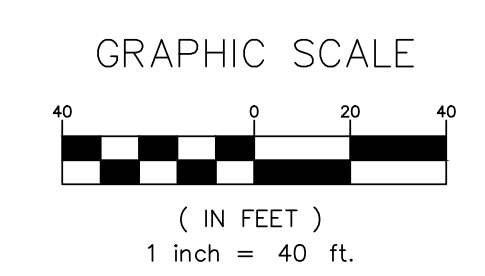
**Motion**

“I move to approve the request for Alternative Compliance, AC24-0003 Phelan Corinth Distribution Center, for foundation plantings and nonresidential architectural standards as presented”

The City Council may also deny the Alternative Compliance application or request conditions.

**Attachments**

 Attachment 1 – Application Package



PAVEMENT LEGEND

- EXISTING CONCRETE PAVEMENT
SIDEWALKS
LIGHT DUTY PAVING (PRIVATE)
HEAVY DUTY PAVING
HEAVY DUTY PAVING (PUBLIC)
PROPOSED LANDSCAPING
PROPOSED DECOMPOSED GRANITE

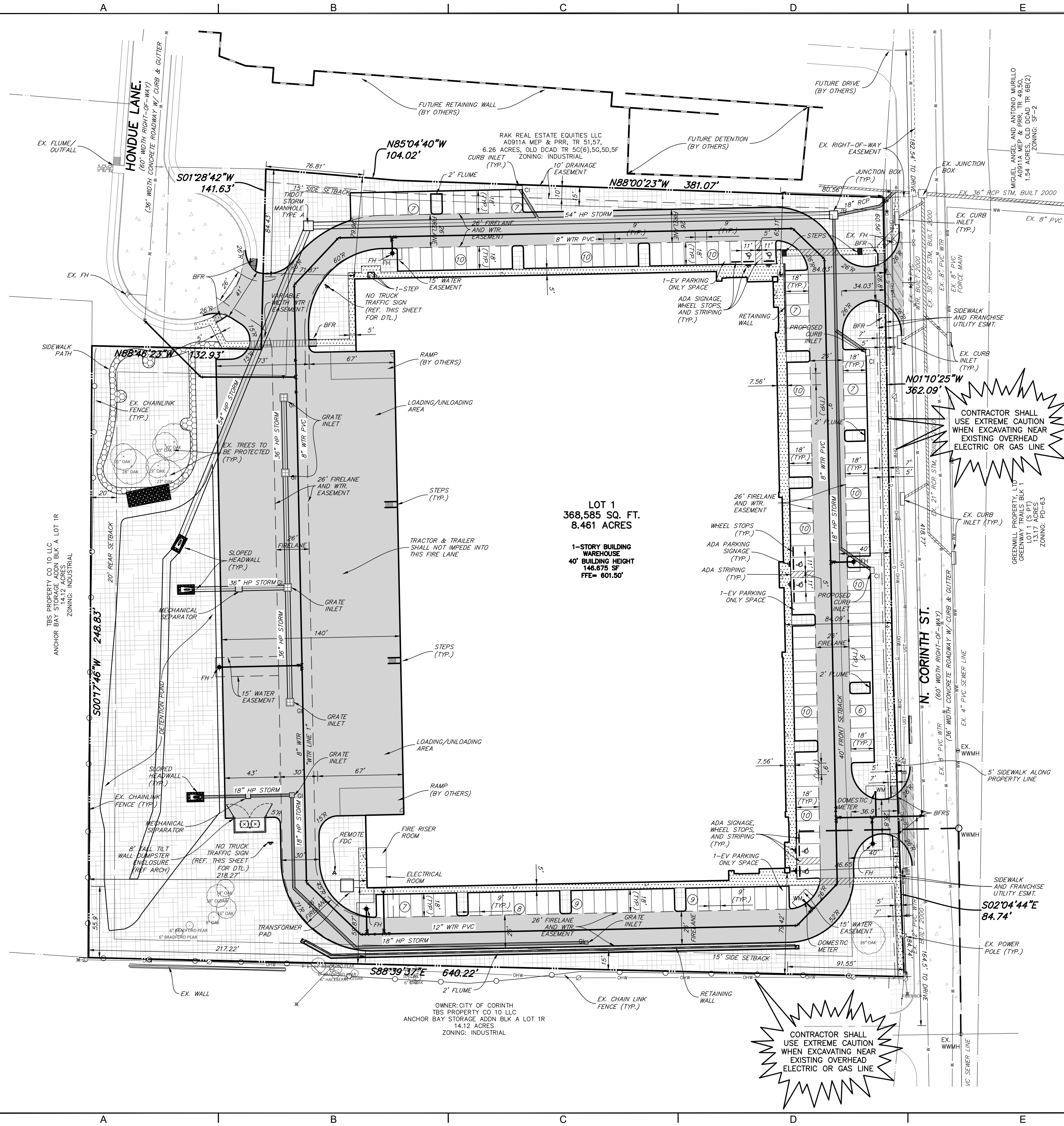
SITE/PAVING LEGEND

- PROPERTY LINE
SAWCUT PATH
RETAINING WALL
ASPHALT PAVEMENT
OVERHEAD ELECTRIC
FIRE LANE AND UTILITY EASEMENT
PARKING COUNT
WASTEWATER MANHOLE
STORM DRAINAGE MANHOLE
GAS MANHOLE
FIRE HYDRANT
JUNCTION BOX
GRATE INLET
CURB INLET
WASTEWATER MANHOLE
STORM DRAINAGE MANHOLE
WATER METER VAULT
FIRE HYDRANT
WATER METER
GAS METER
FIRE DEPARTMENT CONNECTION (FDC)



48" 2'-0" x 2'-0" Single Face Regulatory Traffic Sign - 4-9E
Panel: 050718k Aluminum - Back Painted 90% 2074 Software - Smooth Satin Finish
Graphics: Digital Print on Polyethylene White Vinyl
Plate: 2'-x-2' Aluminum - Silver Painted 90% 9028 Software - Smooth Satin Finish
Mounting: Direct Panel into (2) 3/4" dia x 3'-0" deep Concrete Foundations

Table with 3 columns: Existing, Proposed, and various site metrics like Zoning, Land Use Designation, Gross Acreage, etc.



LOT 1
368,585 SQ. FT.
8.461 ACRES
1-STORY BUILDING
WAREHOUSE
40' BUILDING HEIGHT
146,675 SF
FFE= 601.50'

CONTRACTOR SHALL USE EXTREME CAUTION WHEN EXCAVATING NEAR EXISTING OVERHEAD ELECTRIC OR GAS LINE

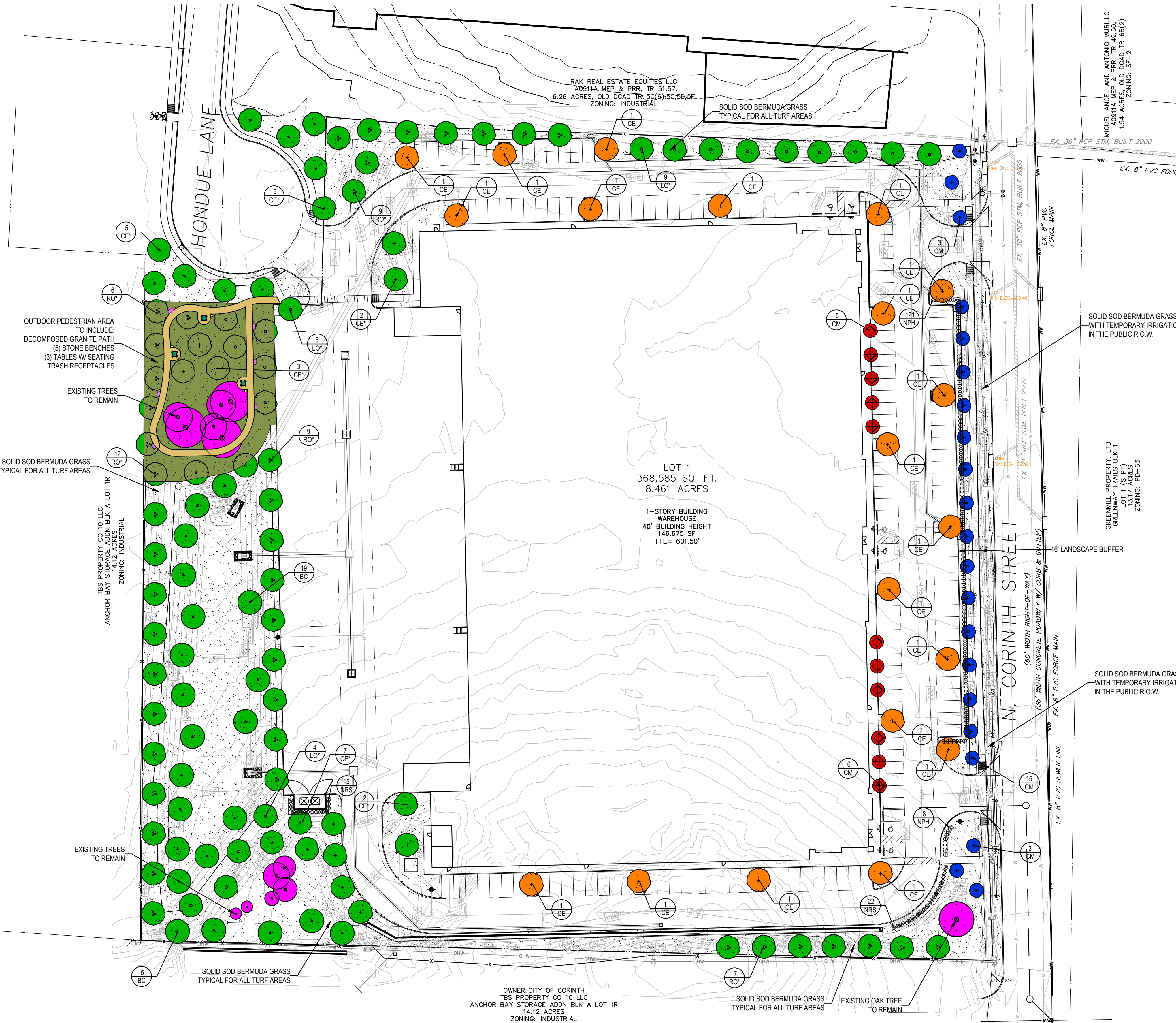
CONTRACTOR SHALL USE EXTREME CAUTION WHEN EXCAVATING NEAR EXISTING OVERHEAD ELECTRIC OR GAS LINE

Vertical sidebar containing project title 'CORINTH DISTRIBUTION CENTER', location '11116 N. CORINTH ST.', 'CORINTH, DENTON COUNTY, TEXAS', and 'SITE PLAN'.

SHEET C3.0

FILE NAME: G SITE.DWG
DATE: 02/22/2024 09:55:00
LAST MODIFIED BY: CADMAN
LAST MODIFIED ON: 02/22/2024 09:41:40
PLOT FILED ON: 02/22/2024 11:13:40

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**GENERAL LAWN NOTES**

- FINE GRADE AREAS TO ACHIEVE FINAL CONTOURS INDICATED ON CIVIL PLANS.
- ADJUST CONTOURS TO ACHIEVE POSITIVE DRAINAGE AWAY FROM BUILDINGS. PROVIDE UNIFORM ROUNDING AT TOP AND BOTTOM OF SLOPES AND OTHER BREAKS IN GRADE. CORRECT IRREGULARITIES AND AREAS WHERE WATER MAY STAND.
- ALL LAWN AREAS TO RECEIVE SOLID SOD SHALL BE LEFT IN A MAXIMUM OF 1" BELOW FINAL FINISH GRADE. CONTRACTOR TO COORDINATE OPERATIONS WITH ON-SITE CONSTRUCTION MANAGER.
- IMPORTED TOPSOIL SHALL BE NATURAL, FRIABLE SOIL FROM THE REGION, KNOWN AS BOTTOM AND SOIL, FREE FROM LUMPS, CLAY, TOXIC SUBSTANCES, ROOTS, DEBRIS, VEGETATION, STONES, CONTAINING NO SALT AND BLACK TO BROWN IN COLOR.
- ALL LAWN AREAS TO BE FINE GRADED, IRRIGATION TRENCHES COMPLETELY SETTLED, AND FINISH GRADE APPROVED BY THE OWNER'S CONSTRUCTION MANAGER OR ARCHITECT PRIOR TO INSTALLATION.
- ALL ROCKS 3/4" DIAMETER AND LARGER, DIRT CLOUDS, STICKS, CONCRETE SPOILS, ETC. SHALL BE REMOVED PRIOR TO PLACING TOPSOIL AND ANY LAWN INSTALLATION.
- CONTRACTOR SHALL PROVIDE (1") ONE INCH OF IMPORTED TOPSOIL ON ALL AREAS TO RECEIVE LAWN.

**SOLID SOD NOTES**

- FINE GRADE AREAS TO ACHIEVE FINAL CONTOURS INDICATED. LEAVE AREAS TO RECEIVE TOPSOIL 3" BELOW FINAL DESIRED GRADE IN PLANTING AREAS AND 1" BELOW FINAL GRADE IN TURF AREAS.
- ADJUST CONTOURS TO ACHIEVE POSITIVE DRAINAGE AWAY FROM BUILDINGS. PROVIDE UNIFORM ROUNDING AT TOP AND BOTTOM OF SLOPES AND OTHER BREAKS IN GRADE. CORRECT IRREGULARITIES AND AREAS WHERE WATER MAY STAND.
- ALL LAWN AREAS TO RECEIVE SOLID SOD SHALL BE LEFT IN A MAXIMUM OF 1" BELOW FINAL FINISH GRADE. CONTRACTOR TO COORDINATE OPERATIONS WITH ON-SITE CONSTRUCTION MANAGER FOR AVAILABILITY OF EXISTING TOPSOIL.
- CONTRACTOR TO COORDINATE WITH ON-SITE CONSTRUCTION MANAGER FOR AVAILABILITY OF EXISTING TOPSOIL.
- PLANT SOD BY HAND TO COVER INDICATED AREA COMPLETELY. INSURE EDGES OF SOD ARE TOUCHING. TOP DRESS JOINTS BY HAND WITH TOPSOIL TO FILL VOIDS.
- ROLL GRASS AREAS TO ACHIEVE A SMOOTH, EVEN SURFACE, FREE FROM UNNATURAL UNDULATIONS.
- WATER SOD THOROUGHLY AS SOD OPERATION PROGRESSES.
- CONTRACTOR SHALL MAINTAIN ALL LAWN AREAS UNTIL FINAL ACCEPTANCE. THIS SHALL INCLUDE, BUT NOT LIMITED TO: MOWING, WATERING, WEEDING, CULTIVATING, CLEANING AND REPLACING DEAD OR BARE AREAS TO KEEP PLANTS IN A VIGOROUS, HEALTHY CONDITION.
- CONTRACTOR SHALL GUARANTEE ESTABLISHMENT OF AN ACCEPTABLE TURF AREA AND SHALL PROVIDE REPLACEMENT FROM LOCAL SUPPLY IF NECESSARY.
- IF INSTALLATION OCCURS BETWEEN SEPTEMBER 1 AND MARCH 1, ALL SOD AREAS TO BE OVER-SEEDED WITH WINTER RYEGRASS, AT A RATE OF (4) POUNDS PER ONE THOUSAND (1000) SQUARE FEET.

**PLANT MATERIAL SCHEDULE**

TREES					
TYPE	QTY	COMMON NAME	BOTANICAL NAME	SIZE	REMARKS
BC	24	Bald Cypress	<i>Taxodium distichum</i>	4" cal.	container, 14" ht., 7" spread, 7" clear straight trunk
CE	20	Cedar Elm	<i>Ulmus crassifolia</i>	3" cal.	B&B, 12 ht., 6' spread, 6' clear straight trunk
CE*	24	Cedar Elm	<i>Ulmus crassifolia</i>	4" cal.	B&B, 14 ht., 7' spread, 7' clear straight trunk
CM	11	Crape Myrtle	<i>Lagerstroemia indica</i>	3" cal.	container, 10' ht., 5' spread, standard, 6" clear trunk
CM*	21	Crape Myrtle	<i>Lagerstroemia indica</i>	3" cal.	container, 10' ht., 5' spread, standard, 6" clear trunk
LO*	16	Live Oak	<i>Quercus virginiana</i>	4" cal.	container, 14" ht., 7' spread, 7" clear straight trunk
RO*	43	Red Oak	<i>Quercus shumardii</i>	4" cal.	container, 14" ht., 7' spread, 7" clear straight trunk

SHRUBS					
TYPE	QTY	COMMON NAME	BOTANICAL NAME	SIZE	REMARKS
NPH	129	Needlepoint Holly	<i>Ilex cornuta 'Needlepoint'</i>	5 gal.	container, 24" ht., 20" spread
NRS	37	Nellie R. Stevens	<i>Ilex x 'Nellie R. Stevens'</i>	7 gal.	container, 36" ht., 24" spread

GROUNDCOVERS					
TYPE	QTY	COMMON NAME	BOTANICAL NAME	SIZE	REMARKS
		'419' Bermuda grass	<i>Cynodon dactylon '419'</i>		Solid Sod refer to notes

NOTE: All plant material must meet landscape ordinance including species, caliper inches and spacing per section 2.09.01. All trees to have straight trunks and be matching within varieties.

**LANDSCAPE TABULATIONS**

- STREET FRONTAGE / LANDSCAPE EDGE**  
Requirements: One (1) tree, 3" cal., per 30 l.f. of street frontage and continuous shrub screen
- N. Corinth Street (612 l.f.) - 15' wide landscape buffer  
Required: Provided  
(21) Ornamental trees, 3" cal. (21) trees, 3" cal. Ornamental trees, 3" cal.
- continuous evergreen hedge for parking lot screen continuous evergreen hedge for parking lot screen
- PARKING LOT (163 spaces)**  
Requirements: 10 s.f. landscape area per each parking space and (1) tree, 3" cal., per 10 parking spaces.
- Required: Provided  
(17) trees, 3" cal. (17) trees, 3" cal.  
1,210 s.f. 4,875 s.f.
- BUILDING FOUNDATION PLANTING (146,377 S.F.)**  
Requirements: For buildings over 50,000 s.f. or more. One (1) canopy tree per 10,000 s.f. of building area is required.
- Required: Provided  
(15) trees, 3" cal. (10) ornamental trees, 3" cal.  
1,500 s.f. 12,000 s.f. pedestrian area

AN IRRIGATION SYSTEM WILL BE DESIGNED, INSTALLED, AND FUNCTIONAL PRIOR TO THE APPROVAL OF THE CERTIFICATE OF OCCUPANCY.

THE OWNER SHALL BE RESPONSIBLE FOR THE MAINTENANCE, ESTABLISHMENT, AND PERFORMANCE OF PLANT MATERIALS.

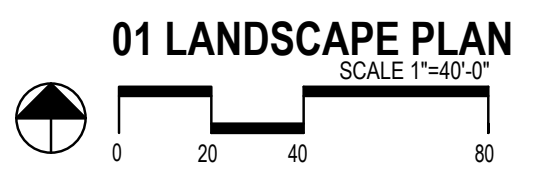


**TREE LEGEND**

- PRESERVED TREES: (Pink circle)
- LANDSCAPE EDGE TREES: (Blue circle)
- PARKING TREES: (Orange circle)
- PRESERVATION TREES: (Green circle)
- FAÇADE TREES: (Red circle)

**PEDESTRIAN AREA LEGEND**

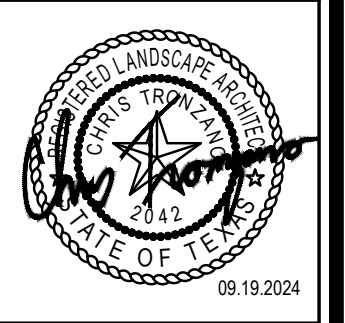
- TABLES W/ SEATING: (Green square)
- STONE BENCHES: (Purple circle)
- DECOMPOSED GRANITE PATH: (Yellow circle)
- TRASH RECEPTACLES: (Black circle)
- OUTDOOR PEDESTRIAN AREA: (Dark green circle)



LANDSCAPE ARCHITECT  
STUDIO GREEN SPOT, INC.  
CHRIS TRONZANO  
(469) 389-4448  
CHRIS@STUDIOGREENSPOT.COM

drawn: SB  
checked: CT  
date: 07.19.2024

DATE	DESCRIPTION
05.11.24 <td>SENT FOR APPROVAL</td>	SENT FOR APPROVAL
06.03.24 <td>SENT FOR REVIEW</td>	SENT FOR REVIEW
07.19.24 <td>CITY COMMENTS</td>	CITY COMMENTS
08.19.24 <td>CITY COMMENTS</td>	CITY COMMENTS



**pross design group, incorporated**  
5310 Harvest Hill Road, Suite 100, Dallas, Texas 75230, 972/759-1400

**CORINTH DISTRIBUTION CENTER**  
1116 N. CORINTH ST.  
LOT 1, 2, 5A, 10B  
CORINTH, DENTON COUNTY, TEXAS

job no 0000  
sheet  
**L1.04**



September 23, 2024

City Council  
3300 Corinth Parkway  
Corinth, TX 76208

RE: Corinth Distribution Center - Alternative Compliance Nonresidential Building Articulation

Dear City Council Members,

Per UDC 2.09.06.F, depth articulation of at least three (3) feet shall be required for every thirty (30) feet of building façade length, and height articulation for flat roofs of at least five (5) feet shall be required for every fifty (50) feet of building façade length.

According to these standards our depth articulation should be 47 feet, and our height articulation should be 47 feet, based on our analysis.

We are requesting alternative compliance for these standards and proposing 35 feet of depth articulation and 32 feet of height articulation.

The required depth of articulation is challenging for warehouse buildings since our customers typically utilize a portion of the front interior façade to rack and provide circulation for warehouse forklift activities. We have provided a high level of articulation and interest at the three office entry points along with substantial use of glass, form-liner and sunshades.

The required height of articulation is also challenging since the building has a maximum height limit of 40'-0" per UDC 2.08.05 Nonresidential Dimensional Regulations Chart. In addition to this maximum building height, we are also maintaining an interior warehouse clear height at 32'-0" (measured from the floor to underside of structure) to provide our customers with a Class-A modern office/warehouse facility. Anything less than 32' for this size facility would make it antiquated versus our competitive set. We have provided a high level of vertical articulation at the three office entry points along with the use of form-liner, clerestory windows, reveals, and color changes to create interest at these areas of articulation.

Although we understand the intent of the UDC standards, if we were to increase the depth and height articulation anymore the building becomes less functional to our future customers for their intended uses.

We believe that the articulation standard we proposed is the greatest practical extent and it does meet the spirit and intent of the UDC.

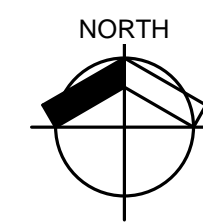
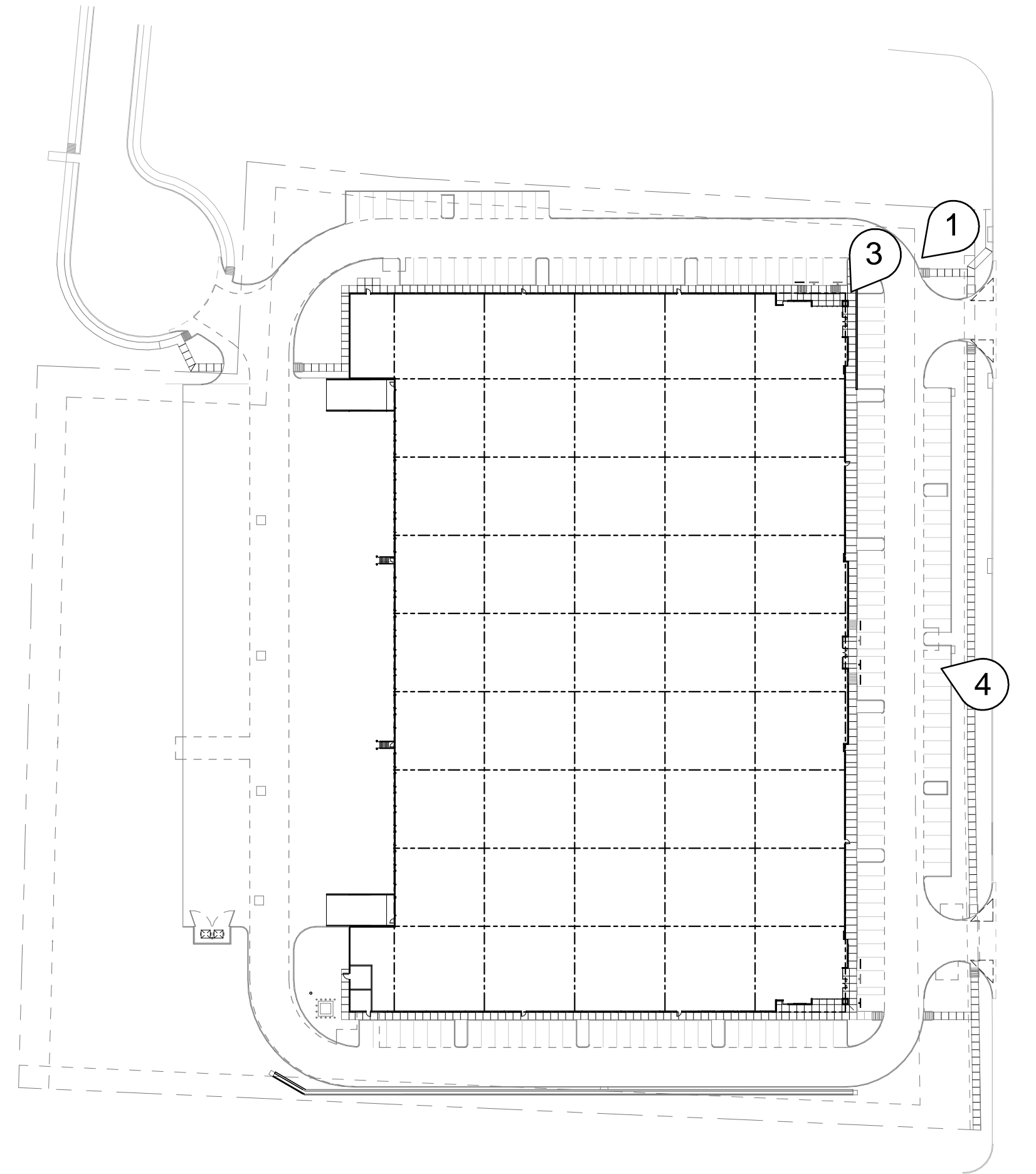
Thank you for considering this request.

Sincerely,



Jess Knigge  
Partner | Phelan Development

7/19/2024 4:02:03 PM  
 C:\Users\pjd51\Documents\PDG LOCAL PROJECT FILES\2402 ARCH CENTRAL\_R23\_PDG-Sfrizzell.rvt  
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**2** SITE PLAN  
 SCALE: 1" = 80'-0"



**4** RENDER - NE ENTRY



**3** RENDER - NE ENTRY



**1** RENDER - NE ENTRY

#	DATE	DESCRIPTION
	07/11/2024	1st Site Plan Review - City of Corinth

**REVIEW ONLY**  
 NOT FOR REGULATORY  
 APPROVAL OR  
 CONSTRUCTION

drawn: SF  
 checked: ROBERT PROSS  
 date: 07/19/2024



**CORINTH DISTRIBUTION CENTER**  
 1116 N. CORINTH ST.  
 LOT 1, 2, 5A, 10B  
 CORINTH, DENTON COUNTY, TEXAS

job no  
 2402  
 sheet  
**A3.1**

2.09.06 - NON-RESIDENTIAL DESIGN ELEMENTS

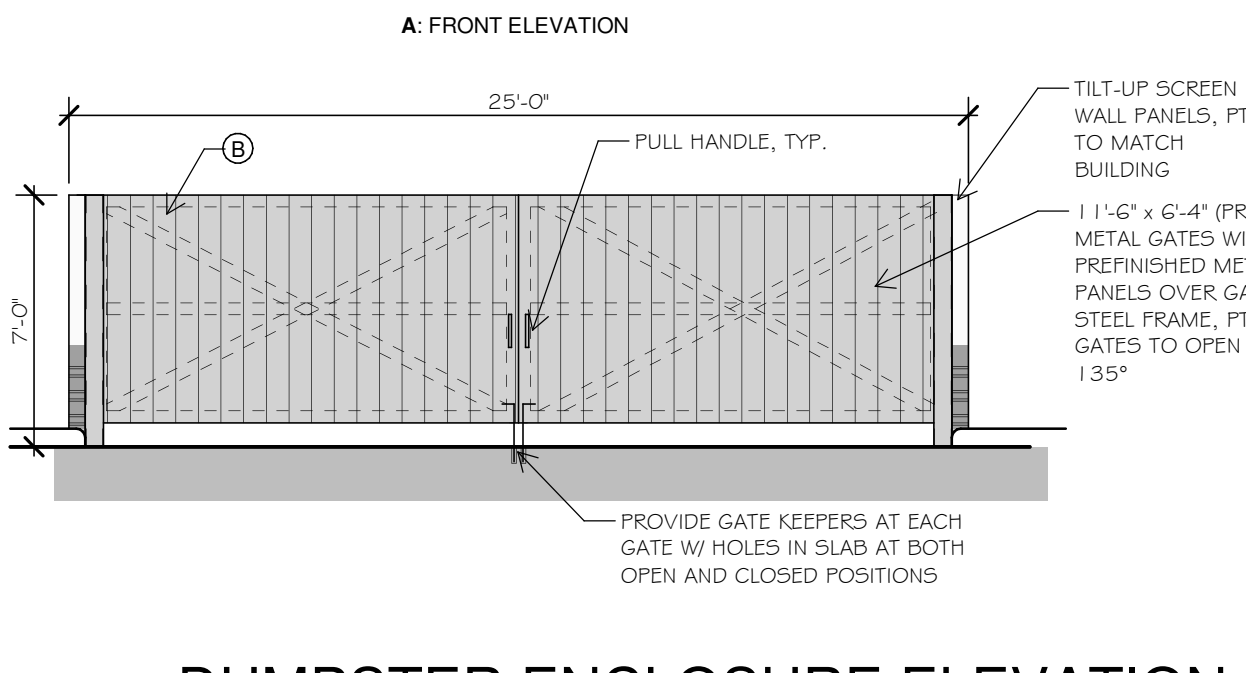
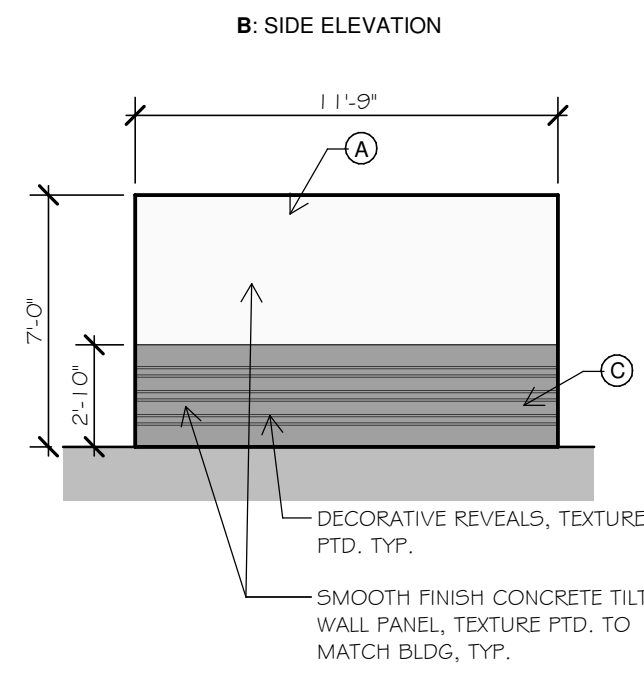
- 1 CANOPIES
- 2 OVERHANGS
- 3 RECESSES / PROJECTIONS
- 4 OUTDOOR PATIOS (PARK FEATURE BY DETENTION POND)
- 5 DISPLAY WINDOWS
- 6 ARCHITECTURAL DETAILS - MOLDINGS
- 7 OFFSETS / REVEALS

PAINT SCHEDULE

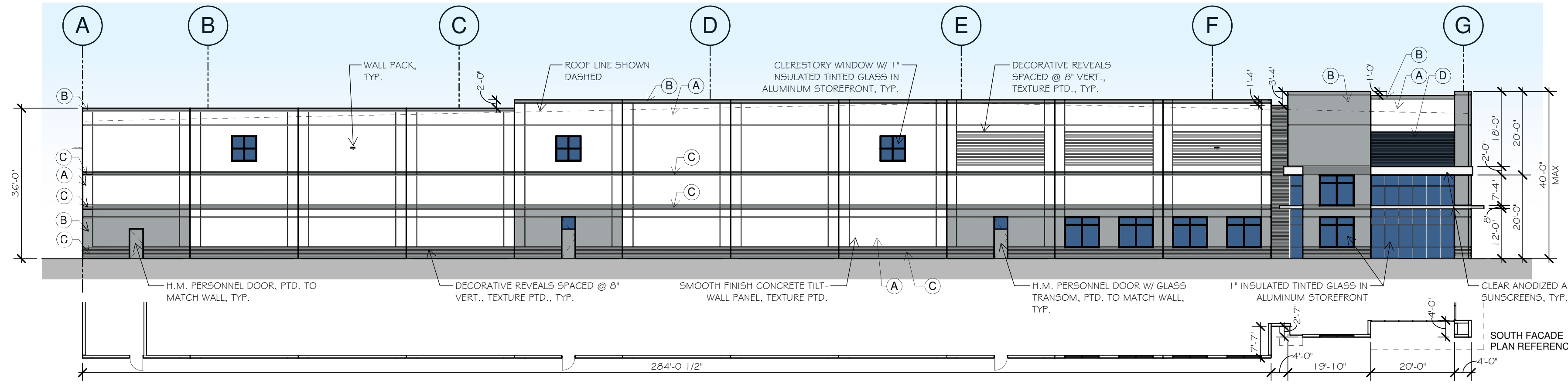
- A BASE PAINT COLOR - SW 7070 SITE WHITE
- B ACCENT PAINT COLOR - SW 7073 NETWORK GRAY
- C ACCENT PAINT COLOR - SW 7074 SOFTWARE
- D ACCENT PAINT COLOR - SW 6244 NAVAL

FAÇADE MATERIAL CALCULATIONS

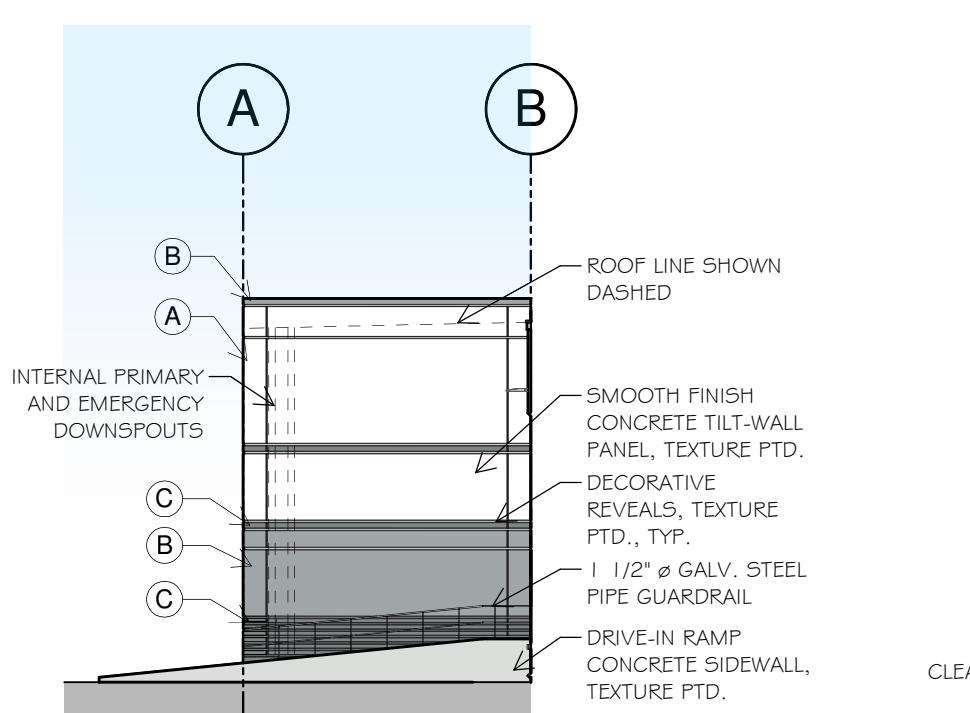
NORTH ELEVATION				SOUTH ELEVATION				EAST ELEVATION				WEST ELEVATION			
MAT. TYPE	AREA (SF)	% OF FAÇADE		MAT. TYPE	AREA (SF)	% OF FAÇADE		MAT. TYPE	AREA (SF)	% OF FAÇADE		MAT. TYPE	AREA (SF)	% OF FAÇADE	
TEXTURE PTD. CONCRETE	11,369	91.2%		TEXTURE PTD. CONCRETE	11,379	91.3%		TEXTURE PTD. CONCRETE	15,530	85.6%		TEXTURE PTD. CONCRETE	15,627	84.5%	
GLAZING	949	7.6%		GLAZING	940	7.5%		GLAZING	2,337	12.9%		GLAZING	326	1.8%	
ANODIZED METAL	79	.6%		ANODIZED METAL	79	.6%		ANODIZED METAL	219	1.2%		ANODIZED METAL	326	1.8%	
PTD. METAL DOORS	72	.6%		PTD. METAL DOORS	72	.6%		PTD. METAL DOORS	48	.3%		PTD. METAL DOORS	2,537	13.7%	
<b>TOTAL FAÇADE</b>	<b>12,470</b>			<b>TOTAL FAÇADE</b>	<b>12,470</b>			<b>TOTAL FAÇADE</b>	<b>18,134</b>			<b>TOTAL FAÇADE</b>	<b>18,492</b>		



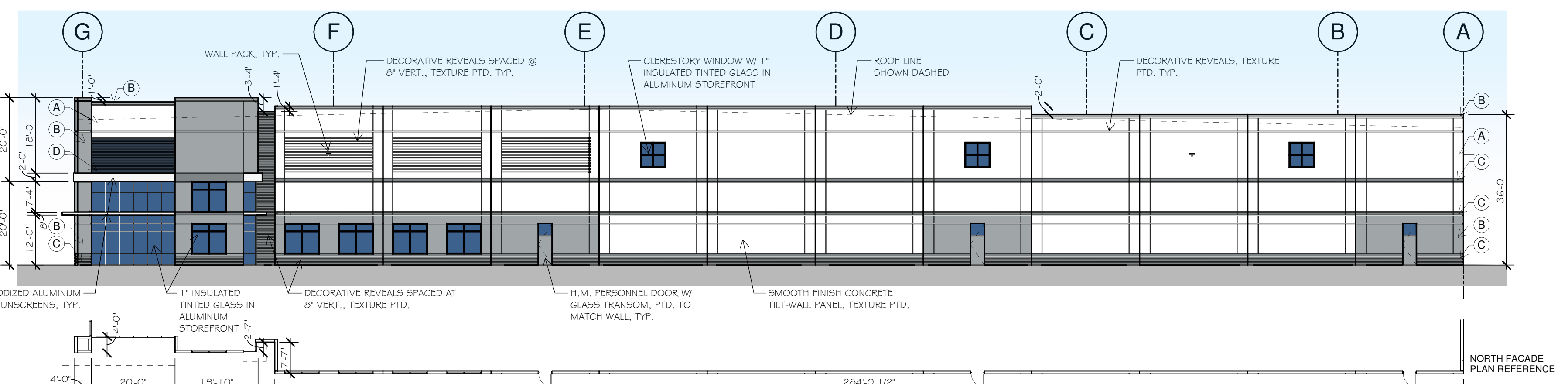
**6 DUMPSTER ENCLOSURE ELEVATION**  
SCALE: 3/16" = 1'-0"



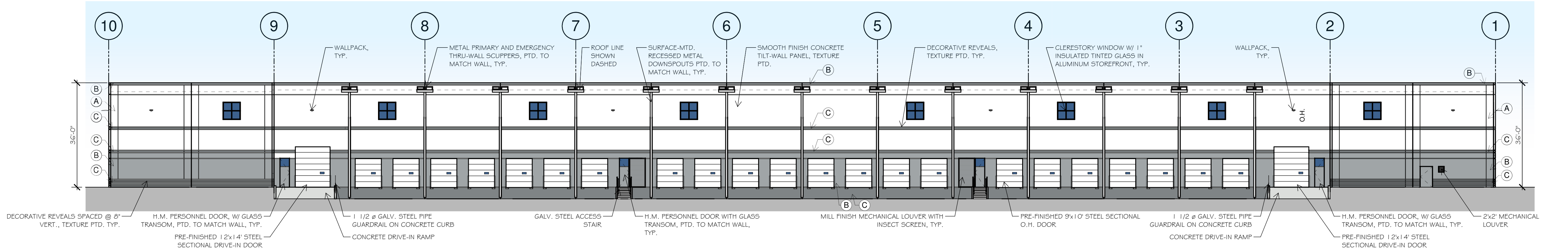
**5 SOUTH ELEVATION**  
SCALE: 1" = 20'-0"



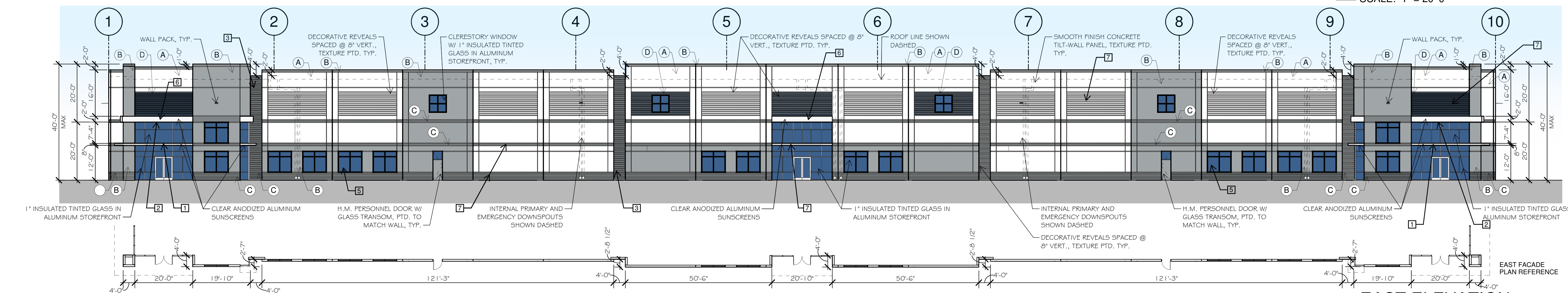
**4 ELEVATION @ DRIVE-IN RAMP**  
SCALE: 1" = 20'-0"



**3 NORTH ELEVATION**  
SCALE: 1" = 20'-0"



**2 WEST ELEVATION**  
SCALE: 1" = 20'-0"



**1 EAST ELEVATION**  
SCALE: 1" = 20'-0"

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draw'n: SF  
 checked: ROBERT PROSS  
 date: 07/19/2024  
 Section I, Item 9.

DATE: 07/11/2024  
 #  
 Description: 1st Site Plan Review - City of Corinth  
 REVIEW ONLY  
 NOT FOR REGULATORY APPROVAL OR CONSTRUCTION

**pross design group, incorporated**  
 2510 Harvest Hill Road, Suite 100, Dallas, Texas 75220, 972/750-1400

**CORINTH DISTRIBUTION CENTER**  
 1116 N. CORINTH ST.  
 LOT 1, 2, 5A, 10B  
 CORINTH, DENTON COUNTY, TEXAS

job no: 2402  
 sheet: A3.0  
 104





**CITY OF CORINTH**  
**Staff Report**

<b>Meeting Date:</b>	10/17/2024	<b>Title:</b>	Ordinance   Chapter 39 - Code of Ethics
<b>Strategic Goals:</b>	<input type="checkbox"/> Resident Engagement <input checked="" type="checkbox"/> Proactive Government <input type="checkbox"/> Organizational Development <input type="checkbox"/> Health & Safety <input type="checkbox"/> Regional Cooperation <input type="checkbox"/> Attracting Quality Development		
<b>Owner Support:</b>	<input type="checkbox"/> Planning & Zoning Commission <input type="checkbox"/> Economic Development Corporation <input type="checkbox"/> Parks & Recreation Board <input type="checkbox"/> TIRZ Board #2 <input type="checkbox"/> Finance Audit Committee <input type="checkbox"/> TIRZ Board #3 <input type="checkbox"/> Keep Corinth Beautiful <input type="checkbox"/> Ethics Commission		

**Item/Caption**

Consider and act on an Ordinance of the City of Corinth, Texas, amending Chapter 39, Code of Ethics, of the Code of Ordinances and direct the City Manager to work with City Attorney to retain outside legal counsel and for the City Manager to contact individuals serving on boards and commissions who are identified in the ordinance to serve on the Ethics Commission.

**Item Summary/Background/Prior Action**

Staff will provide the revised ordinance prior to the meeting.

**Financial Impact**

N/A

**Applicable Policy/Ordinance**

Ordinance No. 18-08-02-22

**Staff Recommendation/Motion**

Staff recommends approval as presented.

**CITY OF CORINTH, TEXAS  
ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY OF CORINTH, TEXAS, REPEALING CHAPTER 39, “CODE OF ETHICS” OF TITLE III, “ADMINISTRATION” OF THE CODE OF ORDINANCES OF THE CITY OF CORINTH AND ADOPTING A NEW CHAPTER 39, “CODE OF ETHICS” OF TITLE III, “ADMINISTRATION”; PROVIDING FOR THE INCORPORATION OF PREMISES; PROVIDING FOR AMENDMENTS; PROVIDING SEVERABILITY; PROVIDING A CUMULATIVE REPEALER/SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Corinth, Texas (the “City”) is a home rule municipality acting under its Charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Texas Local Government Code; and

**WHEREAS**, on August 2, 2018, the City Council adopted Ordinance No. 18-08-02-00, repealing prior ordinances and adopting the Code of Ethics codified as Chapter 39, “Code of Ethics” of Title III, “Administration” of the Code of Ordinances of the City of Corinth; and

**WHEREAS**, pursuant to its authority as specified in Chapter 39, the Board of Ethics does not meet on a regular basis; rather the Board meets only when a complaint is filed, an advisory opinion is sought, or there is a need to provide recommendations regarding Chapter 39, and since the adoption of Chapter 39, the Board has not met; and

**WHEREAS**, the City has difficulty recruiting persons to serve on the Ethics Board due to the infrequency of need; and

**WHEREAS**, the City Council is authorized to adopt amendments to Chapter 39 when it determines amendments to Chapter 39 are necessary or appropriate; and

**WHEREAS**, the City Council has determined it necessary to amend the Code of Ethics in order to change the requirements for membership on the Ethics Board, to be able to readily convene the Board when needed, and to provide additional support for the Ethics Board in the performance of its duties; and

**WHEREAS**, the City Council finds that the classification of the Ethics Board as an ad hoc board, the use of current volunteers serving on City boards and commissions to serve as members of the Ethics Board so that the Board may be readily convened when needed, and the use of outside legal counsel to assist the Board in the performance of its duties is an efficient and reasonable means of complying with the requirements of the Code of Ethics; and

**WHEREAS**, having review and discussed the proposed draft, the City Council has determined that the proposed amendments to the Code of Ethics are reasonable and

provide a basis for continuing public confidence in the conduct of the business and affairs of the City; and

**WHEREAS**, the City Council finds and determines that the amendments to the Code of Ethics set forth in this Ordinance benefit the citizens of Corinth and should be approved.

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

**SECTION 1.**  
**INCORPORATION OF PREMISES**

The above and foregoing premises are true and correct and are incorporated herein and made a part hereof for all purposes.

**SECTION 2.**  
**AMENDMENT**

Chapter 39, "Code of Ethics" of Title III, "Administration" of the Code of Ordinances of the City of Corinth is hereby repealed in its entirety and a new Chapter 39, "Code of Ethics" of Title III, "Administration" of the Code of Ordinances of the City of Corinth as set forth in **Exhibit "A"**, a copy of which is attached hereto and incorporated herein, is hereby adopted to be and read in its entirety as set forth in **Exhibit "A"**.

**SECTION 3.**  
**SEVERABILITY**

It is hereby declared to be the intention of the City Council of Corinth, Texas that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable, and if any section, paragraph, sentence, clause or phrase of this Ordinance shall be declared unconstitutional or invalid by the judgment or decree of any court of competent jurisdiction, such constitutionality or invalidity shall not affect any of the remaining sections, paragraphs, sentences, clauses or phrases of this Ordinance, since they would have been entered by the City Council without the incorporation of this Ordinance of unconstitutional or invalid sections, paragraphs, sentences, clauses or phrases.

**SECTION 4.**  
**CUMULATIVE REPEALER/SAVINGS.**

This Ordinance shall be cumulative of all other Ordinances and shall not repeal any of the provisions of such Ordinances except for those instances where there are direct conflicts with the provisions of this Ordinance. Ordinances or parts thereof in force at the time this Ordinance shall take effect and that are inconsistent with this Ordinance are hereby repealed to the extent that they are inconsistent with this Ordinance. Provided, however, that any complaint, action, claim, or lawsuit, which has been initiated or has

arisen under or pursuant to such Ordinance on the date of adoption of this Ordinance shall continue to be governed by the provisions of that Ordinance and for that purpose, the Ordinance shall remain in full force and effect.

**SECTION 5.**  
**EFFECTIVE DATE**

This ordinance shall take effect upon its passage and publication as required by law. The City Secretary is directed to publish the caption of this Ordinance as required by City Charter and state law.

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF CORINTH, TEXAS, ON THIS THE 17th DAY OF OCTOBER, 2024.**

\_\_\_\_\_  
Bill Heidemann, Mayor

ATTEST:

\_\_\_\_\_  
Lana Wylie, City Secretary

APPROVED AS TO FORM:

\_\_\_\_\_  
Patricia A. Adams, City Attorney

## EXHIBIT “A”

### CHAPTER 39: CODE OF ETHICS

#### “§ 39.01 PURPOSE.

The purpose of this article is to foster an environment of integrity for those that serve the City of Corinth and our citizenry. The City Council enacted this chapter in order to increase public confidence in our municipal government. It is the policy of the city that all city officials and employees shall conduct themselves in a manner that assures the public that we are faithful stewards of the public trust. City officials have a responsibility to the citizens to administer and enforce the City Charter and City Ordinances in an ethical manner. To ensure and enhance public confidence in our municipal government, each city official must strive not only to maintain technical compliance with the principles of conduct set forth in this chapter, but to aspire daily to carry out their duties objectively, fairly, and lawfully.

It is not the purpose of this chapter to provide a mechanism to defame, harass or abuse their political opponents, or publicize personal grudges.

#### § 39.02 APPLICABILITY.

This chapter applies to the following persons:

- (A) City officials;
- (B) Former city officials whose separation from city service occurred less than one year ago;
- (C) Vendors; and
- (D) Complainant(s).

#### § 39.03 DEFINITIONS.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

**ACCEPTED COMPLAINT:** A sworn allegation of a violation of this chapter after the required documentation has been submitted to the City Secretary to be passed to the City Attorney and determined to be administratively complete.

**ACCUSED:** A city official who has been charged in a complaint with having violated this chapter.

**ACTIONABLE COMPLAINT:** An accepted complaint that has been deemed by Special Counsel to contain allegations and evidence that, if accepted as true, would support a finding that a violation of this chapter occurred.

**ADVISORY OPINIONS:** Written rulings regarding the application of this chapter to a particular situation of behavior.

**BASELESS COMPLAINT:** A complaint that does not allege conduct that would constitute a violation of this chapter, or that does not provide evidence that, if true, would support a violation of this chapter.

**BOARD OF ETHICS:** The oversight entity established as an ad hoc board by the Council to administer this chapter.

**BOARD MEMBER:** For the purposes of this chapter, a person that is currently appointed by the City Council to serve on a board, commission, or committee of the City identified in Section 39.11 of this Chapter.

**BUSINESS ENTITY:** A sole proprietorship, partnership, firm, corporation, holding company, joint-stock company, receivership, trust, or any other entity recognized by law.

**CANDIDATE:** A person who has filed an application for a place on a ballot seeking public office, or one who has publicly announced the intention to do so.

**CHAPTER:** The Code of Ethics for the City of Corinth codified as Chapter 39, "Code of Ethics" of Title III, "Administration" of the Code of Ordinances of the City.

**CITY:** The City of Corinth in the County of Denton and State of Texas.

**CITY OFFICIAL:** For the purposes of this chapter, the term consists of the City Council, Economic Development Corporation, Finance Audit Committee, Board of Construction Appeals, Zoning Board of Adjustments, Planning and Zoning Commission, Ethics Commission and Keep Corinth Beautiful Members.

**CODE:** The Code of Ordinances of the City of Corinth, Texas, as such Code may be amended from time to time.

**COMPLAINANT:** The individual who submitted a complaint to the city.

**COMPLAINT:** Written documentation submitted to the city accusing a city official of violating this chapter.

**CONFIDENTIAL INFORMATION:** Any written information that could or must be excepted from disclosure pursuant to the Texas Public Information Act, if such disclosure has not been authorized; or any non-written information which, if it were written could be excepted from disclosure under that Act, unless disclosure has been authorized.

**CONFLICTING INTEREST:** A stake, share, or involvement in an undertaking in the form of any one (1) or more of the following:

- (1) Ownership of 5% or more voting shares or stock in a business entity;
- (2) Receipt of more than \$600 in gross annual income from a business entity;
- (3) Ownership of more than \$600 of the fair market value of a business entity;
- (4) Ownership of an interest in real property with a fair market value of more than \$600;
- (5) Serves on the Board of Directors or as an Officer of a business entity; and/or
- (6) Serves on the Board of Directors or as an Officer of a nonprofit corporation.

The term conflicting interest shall not include ownership of an interest in a mutual or common investment fund that holds securities or assets unless the city official participates in the management of the fund.

**COUNCIL:** The governing body of the City of Corinth, Texas, including the Mayor and City Council.

**DELIBERATIONS:** Discussions by a city official at the dais, voting as a city official, presentations as a member of the audience before City Council or any City Board or Commission, conversing to or corresponding with other city officials.

**FRIVOLOUS COMPLAINT:** A sworn complaint that is groundless and brought in bad faith or groundless and brought for the purpose of harassment.

**GIFT:** Anything of monetary value, such as personal property, real property, services, meals, entertainments, and travel expenses. This definition shall not apply to:

- (1) A lawful campaign contribution;
- (2) Meals, lodging, transportation and related travel expenses paid for (or reimbursed by) the city in connection with the city official's attendance at a conference, seminar or similar event;

- (3) Meals, lodging, transportation, or entertainment furnished in connection with public events, appearances or ceremonies related to official city business, if furnished by the sponsor of such public events;
- (4) Complimentary copies of trade publications and other related materials;
- (5) Attendance at hospitality functions at local, regional, state or national association meetings and/or conferences;
- (6) Any gift which would have been offered or given to the city official because of a personal, familial professional relationship regardless of the city official's capacity with the city;
- (7) Tee shirts, caps and other similar promotional material;
- (8) Complimentary attendance at political or charitable fund raising events.

**PENDING MATTER:** An application seeking approval of a permit or other form of authorization required by the city, state or federal law; a proposal to enter into a contract or arrangement with the city for the provision of goods, services, real property or other things of value; a case involving the city that is (or is anticipated to be) before a civil, criminal or administrative tribunal.

**PERSON:** Associations, corporations, firms, partnerships and bodies politic and corporate, as well as to individuals.

**RELATIVE:** A family member related to a city official within the second degree of affinity (marriage) or consanguinity (blood or adoption).

**SHALL:** A mandatory obligation, not a permissive choice.

**SPECIAL COUNSEL:** An independent, outside attorney engaged by the city to advise the city as an organization and/or the Board of Ethics.

**VENDOR:** A person who provides or seeks to provide goods, services, real property to the city in exchange for compensation.

**§ 39.04. EXPECTATIONS**

- (A) City officials are expected to conduct themselves in a manner that fosters public trust.
- (B) City officials are charged with performing their public duties in a way that projects their own personal integrity and upholds the integrity of the organization.



- (C) City officials must avoid behavior that calls their motives into question and erodes public confidence.
- (D) City officials shall place the municipality's interests and the concerns of those the city serves above personal, individual interests.
- (E) Those who serve the city are expected to value honesty, trustworthiness, diligence, objectivity, fairness, due process, efficiency, and prudence as values the city professes.
- (F) City officials must balance transparency with the duty to protect personal privacy and preserve the confidential information with which the city has been entrusted.

**§ 39.05. CUMULATIVE AND NON-EXCLUSIVE**

This chapter is cumulative of and supplemental to all applicable provisions of the City Charter, Code, other City Ordinances, and state/federal laws and regulations. Compliance with this chapter does not excuse or relieve any person from any obligation imposed by any other provision of the Code, City Ordinance, or State/Federal laws and regulations. Attempts to enforce this chapter shall not be construed as foreclosing or precluding other enforcement options provided by other law.

**§ 39.06. MANDATES**

- (A) *Duty to report.* City officials shall immediately report any conduct that the person knows to be a violation of this chapter. Failure to report a violation of this chapter is a violation of this chapter. For purposes of this section, a report made to a fraud, waste or abuse 3<sup>rd</sup> party hotline, if any, shall be considered to be a report under this section.
- (B) *Direction and supervision of employees, non-interference by the City Council: Appointment and removal of department heads.*
  - (1) Except for the purposes of inquiries and investigations as provided by the City Charter or otherwise by law, the City Council or its members shall deal with board members and employees who are subject to the direction and supervision of the City Manager solely through the City Manager, either publicly or privately.

- (2) Neither the City Council nor any of its members shall direct or request the appointment of any person to, or removal from, office by the City Manager or by any other city employee.
  - (3) The City Manager shall be responsible for and have the authority to appoint, suspend, and/or remove any of the directors of the departments of the City of Corinth.
- (C) *Financial disclosures.* All candidates for City Council, including candidates for Mayor, shall file financial information reports as required by, and in accordance with, state law. All prospective Vendors and city officials shall file disclosure forms as required by, and in accordance with, state law.

### § 39.07. PROHIBITIONS

(A) *Conflicts of Interest.*

- (1) *Deliberation prohibited.* It shall be a violation of this chapter for a city official to knowingly deliberate regarding a pending matter for which the city official has a conflicting interest. City officials with a conflicting interest in a pending matter must recuse themselves and abstain from deliberations. It is an exception to this recusal requirement if a majority of the board or commission on which the city official serves is composed of persons who are likewise required to file (and who do file) disclosures on the same pending matter.
- (2) *Disclosure required.* If a city official has a conflicting interest in a pending matter, the city official shall disclose the nature of the conflicting interest by filing a sworn statement with the City Secretary.
- (3) *Relative.* A city official is considered to have a conflicting interest if the city official's relative has a conflicting interest.

(B) *Gifts.*

- (1) *General.* It shall be a violation of this chapter for a city official to accept any gift that might reasonably tend to influence such city official in the discharge of official duties.
- (2) *Specific.* It shall be a violation of this chapter for a city official to accept any gift for which the fair market value is \$100 or greater. It shall be a violation of this chapter for a city official to accept multiple gifts from a single source

for which the cumulative fair market value exceeds \$100 in a single fiscal year.

- (3) It shall be a violation of this chapter for a vendor to offer or give a gift to a city official exceeding \$100 per gift, or multiple gifts cumulatively valued at more than \$100 per a single fiscal year.

(C) *Representation of others.*

- (1) *Current city officials.* It shall be a violation of this chapter for a city official to represent for compensation any person, group, or entity before the city.
- (2) *Former city officials.* It shall be a violation of this chapter for a city official to represent for compensation any person, group, or entity before the city for a period of one year after termination of official duties.
- (3) For purposes of this subsection, the term compensation means money or any other thing of value that is received, or is to be received, in return for or in connection with such representation.

(D) *Improper influence.* It shall be a violation of this chapter for a city official to use such person's official title/position to:

- (1) Secure special privileges or benefits for such person or others;
- (2) Grant any special consideration, treatment or advantage to any citizen, individual, business organization or group beyond that which is normally available to every other citizen, individual, business organization or group;
- (3) Assert the prestige of the city official's position for the purpose of advancing or harming private interests;
- (4) State or imply that the city official is able to influence city action or any basis other than the merits; or
- (5) State or imply to state or local governmental agencies that the city official is acting as a representative of the city, as an organization, or as a representative of the City Council without first having been authorized by the City Council to make such representation.

(E) *Misuse of information.*

- (1) *Personal gain.* It shall be a violation of this chapter for a former city official to use any confidential information to which he had access by virtue of his official capacity and which has not been made public concerning the

property, operations, policies, or affairs of the city, to advance any personal financial interest.

- (2) *Confidential information.* It shall be a violation of this chapter for a city official to intentionally, knowingly, or recklessly disclose any confidential information gained by reason of said city official's position concerning the property, operations, policies or affairs of the city. This rule does not prohibit the reporting of illegal or unethical conduct to authorities designated by law.
- (F) *Abuse of resources.* It shall be a violation of this chapter for a city official to use, request, or permit the use of city facilities, personnel, equipment, software, supplies, or staff time for private purposes (including political purposes), except to the extent and according to the terms that those resources are generally available to the City Council for official city purposes.
- (G) *Abuse of position.* It shall be a violation of this chapter for any city official to:
- (1) *Harassment and discrimination.* Use the city official's position to harass or discriminate against any person based upon ethnicity, race, gender, gender identity, sexual orientation, marital status, parental status, or religion.
- (2) *Interference.* Interfere with any criminal or administrative investigation alleging the violation of any provision of this chapter, the City Charter, administrative policy or executive order in any manner, including but not limited to seeking to persuade or coerce city employees, or others to withhold their cooperation in such investigation is a violation of this chapter.
- (H) *Subsequent work on prior projects.* It shall be a violation of this chapter for any former city official, within one year of the cessation of official duties for the city, to perform work on a compensated basis relating to a city contract or arrangement for the provision of goods, services, real property or other things of value, if while in city service the former city official personally and substantially participated in the negotiation, award or administration of the contract or other arrangement.
- (I) *Travel.* It shall be a violation of this chapter for any city official to violate the Travel and Training Policy adopted by City Council, as amended.

**§ 39.08. STAFFING**

The City Secretary's Office shall be responsible to provide staff support to the Board of Ethics to assist in the implementation and enforcement of this chapter.

**§ 39.09. LEGAL COUNSEL**

- (A) *City Attorney.* The City Attorney shall provide legal support to the Board of Ethics for general matters related to this Article and Ordinance amendments.
- (B) *Special counsel.* Independent, outside legal services shall be engaged by the City Attorney on the city's behalf to provide legal support to the Board of Ethics when an Advisory Opinion is requested or when a Complaint is filed.

**§ 39.10. TRAINING**

- (A) *Curriculum.* The City Secretary shall approve a training program that provides an introduction and overview of the expectation, mandates and prohibitions provided for by this chapter.
- (B) *Orientation.* City officials shall complete training session regarding this chapter within 90 days of commencing the official duties.
- (C) *Annual.* City officials shall complete an annual training session regarding this chapter.
- (D) *Exiting officials.* Information shall be provided by the City Secretary to city officials terminating city service regarding the continuing restrictions on the representation of others by certain former city officials.

**§ 39.11. BOARD OF ETHICS.**

- (A) *Creation.* There is hereby created a Board of Ethics for the City of Corinth which shall be convened as an ad hoc board for the performance of the duties set forth in this Chapter.
- (B) *Appointment.* The Board of Ethics shall consist of five (5) members, and the membership of the Board shall be comprised of the following members of City boards, commissions and committees:
  - (1) Chair of the Planning and Zoning Commission;
  - (2) Chair of the Park Board;
  - (2) Chair of the Board of Adjustment;
  - (4) President of the Economic Development Corporation;
  - (5) Longest tenured member of the Audit Committee who is not a member of the City Council.
- (C) *Ineligibility.* The following persons shall be ineligible to serve as a Board Member:
  - (1) Members of the City Council;
  - (2) When there has been a separation from city service as a city official within one year of the appointment by the person or the person's relative;

- (3) Relatives within the first or second degree of affinity (marriage), or the first or second degree of consanguinity (blood or adoption), with a current city official or an involved party;
- (4) Current service as an elected official in Denton County;
- (5) Conviction of a felony, or crime of moral turpitude; or
- (6) A person who based upon personal knowledge of the alleged facts or based upon a personal relationship with an involved party declares that he or she will not be able to be impartial.

In the event that a Board Member is ineligible to serve based upon one or more of the foregoing criteria, the most tenured member of the board, commission or committee upon which the ineligible member serves shall serve on the Board of Ethics in place of the ineligible member.

- (D) *Meetings and Authority.* As an ad hoc Board, the Board of Ethics will meet as needed to perform its duties under this Chapter when a request for Advisory Opinion has been filed under Section 39.12, “Advisory Opinions”, when a complaint has been filed pursuant to Section 39.07, “Prohibitions” or when the City Council requests the Committee to review and make recommendations regarding this Chapter pursuant to Subsection F of this Section.
- (E) *Scope of authority.* The Board of Ethic's jurisdiction shall be limited to implementation and enforcement of this chapter.
- (F) *Amendments.* The Board of Ethics may recommend amendments to this chapter to the Council for consideration. A recommendation from the Board of Ethics is not required for the City Council to exercise its discretion in amending this chapter.

**§ 39.12. ADVISORY OPINIONS.**

- (A) *Requests.* Any city official may request an advisory opinion on a question of compliance with this chapter. Requests shall be submitted in writing to the City Secretary, who shall assign the request to the Board of Ethics.
- (B) *Issuance.* The Board of Ethics shall issue advisory opinions upon request. Advisory opinions shall be issued within 30 days of receipt of the request.
- (C) *Reliance.* It shall be an affirmative defense to a complaint filed pursuant to this Chapter that the accused reasonably relied in good faith upon an advisory

opinion issued by the Board of Ethics. In making a determination on the proper disposition of a complaint, the Board of Ethics may dismiss the complaint if the board finds that:

- (1) The accused requested an advisory opinion;
- (2) The request for an advisory opinion fairly and accurately disclosed the relevant facts; and
- (3) Less than five years elapsed between the date the advisory opinion was issued and the date of the conduct in question.

**§ 39.13. COMPLAINTS.**

- (A) *Complainants.* Any person who has first-hand knowledge that there has been a violation of this chapter may allege such violations by submitting a complaint in writing or through a fraud, waste and abuse 3<sup>rd</sup> party hotline, if any. The persons who may submit complaints includes (but is not limited to) the City Secretary and members of the Board of Ethics. A complainant must be a resident in the City of Corinth, own real property in the City of Corinth or be an employee or city official to be eligible to file a complaint with the Board of Ethics.
- (B) *Form.* Complaints shall be written on, or accompanied by, a complete form promulgated by the City Secretary or through a fraud waste abuse 3<sup>rd</sup> party hotline.
- (C) *Contents.* A complaint filed under this section must be in writing and under oath and must set forth in simple, concise, direct statements and must state:
  - (1) The name of the complainant;
  - (2) The street or mailing address, email address, and the telephone number of the complainant;
  - (3) The name of each person accused of violating the chapter;
  - (4) The position or title of each person accused of violating the chapter;
  - (5) The nature of the alleged violation, including (whenever possible) the specific provision of this chapter alleged to have been violated;
  - (6) A statement of the facts constituting the alleged violation and the dates on which or period of time in which the alleged violation occurred; and



- (7) All documents or other material available to the complainant that are relevant to the allegation.
- (D) *Violation alleged.* The complaint must state on its face an allegation that, if true, constitutes a violation of this chapter.
- (E) *Affidavit.* A complaint must be accompanied by an affidavit stating that the complaint is true and correct or that the complainant has good reason to believe and does believe that the facts alleged constitute a violation of this chapter. The complainant shall swear to the facts by oath before a notary public or other person authorized by law to administer oaths under penalty of perjury.
- (F) *Limitations period.* To be accepted, a complaint must be brought within six months of the complainant becoming aware of the act or omission that constitutes a violation of this chapter. A complaint will not be accepted more than two years after the date of the act or omission.
- (G) *Filing.* Complaints shall be submitted to the Board of Ethics. Submission of complaints may be made by hand delivery, U.S. Mail, through a fraud, waste and abuse 3<sup>rd</sup> party hotline, or email directed to an email address publicly listed by the City Secretary.
- (H) *Acceptance of complaint.* Within five business days of receiving a complaint, the City Secretary shall determine if it is administratively complete, and timely.
- (1) *Administratively complete.* A complaint is administratively complete if it contains the information described above. If the complaint is administratively complete, the City Secretary shall proceed as described in this chapter. If the complaint is incomplete the City Secretary shall send a written deficiency notice to the complainant identifying the required information that was not submitted.
- (2) The complainant shall have ten business days after the date the City Secretary sends a deficiency notice to the complainant to provide the required information to the City Secretary, or the complaint is automatically deemed abandoned and may not be processed in accordance with this chapter. Within five business days of a complaint being abandoned, the City Secretary shall send written notification to the complainant.

- (I) *Accepted Complaint / Notification of acceptance.* Within five business days of determining that a complaint is administratively complete, the City Secretary shall send a written notification of acceptance to the complainant, the accused, and the City Attorney. The accused shall be provided with a copy of the complaint along with the City Secretary's written notification.

A complaint shall be considered an accepted complaint when the City Secretary has deemed the submittal administratively complete, and timely.

- (J) *Confidentiality.* Subject to the disclosure provided to the accused as part of the notice required by Section 39.13 (I), "Notification of Acceptance", a complaint that has been submitted to the city is hereby deemed confidential until such time as the complaint is either dismissed or placed on an agenda for consideration by the Board of Ethics in accordance with this chapter. The confidentiality created by this chapter includes the fact that a complaint was submitted and the contents of that complaint. It shall be a violation of this chapter for a city official to publicly disclose information relating to the filing or processing of a complaint, except as required for the performance of official duties or as required by law. Requests for records pertaining to complaints shall be responded to in compliance with the state law. The limited confidentiality created by this chapter is limited in scope and application by the mandates of the Texas Public Information Act, Chapter 552 of the Texas Government Code.

- (K) *Ex parte communications.* After a complaint has been filed and during the pendency of a complaint before the Board of Ethics, it shall be a violation of this chapter:

- (1) For the complainant, the accused, or any person acting on their behalf, to engage or attempt to engage directly or indirectly about the subject matter or merits of a complaint in ex parte communication with a member of the Board of Ethics or any known witness to the complaint; or
- (2) For a member of the Board of Ethics, to knowingly allow an ex parte communication about the subject matter or merits of a complaint, or to communicate about any issue of fact or law relating to the complaint directly or indirectly with any person other than a member of the Board of Ethics, the City Secretary's office, the City Attorney's office, or Special Counsel.

**§ 39.14. PRELIMINARY REVIEW OF ACCEPTED COMPLAINT..**

- (A) *Referral to City Attorney.* Accepted complaint(s) shall be referred to the City Attorney within five (5) business days of being determined an accepted complaint.
- (B) *Preliminary Assessment by Special Counsel.* Within five business days of receiving an accepted complaint, the City Attorney, working in conjunction with the City Manager, shall retain Special Counsel who shall review the complaint on its face and determine whether the complaint is an Actionable Complaint or is a Baseless Complaint, as defined herein. If Special Counsel determines that the accepted complaint qualifies as an Actionable Complaint, such Actionable Complaint shall be referred to the Ethics Board for consideration, and written notification of such determination shall be filed with the City Secretary and sent to the complainant, the accused, and the City Attorney within two (2) business days of such determination. If the Special Counsel determines that the Accepted Complaint qualifies as a Baseless Complaint, then written notification of such determination shall be filed with the City Secretary and sent to the complainant, the accused, and the City Attorney within two (2) business days of such determination and no further action shall be required.
- (C) *Actionable Complaint - Consideration by Board of Ethics.* Within thirty (30) days of a determination by Special Counsel that the complaint is an Actionable Complaint, the Board shall convene a meeting and hold a hearing to determine whether the complaint should be sustained or should be denied as a Baseless Complaint, or Frivolous Complaint. The hearing shall be conducted in accordance with Section 39.15 of this Chapter.

**§ 39.15. MEETINGS.**

- (A) *Calling meetings.* Meetings of the Board of Ethics shall be called upon request of the chairperson, three members, or the City Secretary.
- (B) *Chair/Quorum.* The quorum necessary to conduct meetings of the Board of Ethics shall be three. The chairperson shall count toward the establishment of a quorum. The Board of Ethics shall select a chairperson from among its membership.
- (C) *Hearings.*

- (1) *Scheduling*: Hearings shall be scheduled by the City Secretary within thirty (30) days of the date of notification by Special Counsel's that an accepted complaint has been determined to be an Actionable Complaint.
  - (2) *Purpose*: The purposes of the hearing(s) shall be solely to determine whether:
    - A) A violation of this chapter occurred, and if so to assess the appropriate sanction; or
    - B) A violation of this chapter has not occurred, and if so, that no sanctions should be imposed and to determine whether the complaint is a frivolous complaint (see Section §39.16(C)(2)).
  - (3) *Rules of procedure*: Special Counsel shall recommend and the Board of Ethics shall adopt rules of procedure governing how to conduct hearings on actionable complaints. Such procedural rules are subject to confirmation or modification by the City Council.
  - (4) *Sworn testimony*: All witness testimony provided to the Board of Ethics shall be under oath.
  - (5) *Burden of proof*: Because the burden of showing that a violation of this chapter occurred is placed on the complainant, it is the complainant that has the obligation to put forth evidence, including testimony, supporting the complaint. The complainant is required to testify at the hearing. A complainant's failure to testify at a hearing shall be grounds for dismissal of a complaint. If the nature of the alleged violation is one for which state law provides a criminal penalty, then the burden of proof standard shall be beyond a reasonable doubt; otherwise, the burden of proof standard shall be a preponderance of the evidence standard.
- (D) *Open meetings*. All meetings and hearings of the Board of Ethics shall be conducted pursuant to the Texas Open Meetings Act. The Board of Ethics may convene in executive session (i.e., conduct a closed meeting) as allowed by the act. All final action of the Board of Ethics shall take place in open session.
- (E) *Postponement in certain instances*. If a complaint alleges facts that are involved in a criminal investigation or a criminal proceeding before a grand jury or the courts, the Board of Ethics may, when a majority of its members deem

appropriate, postpone any hearing or any appeal concerning the complaint until after the criminal investigation or criminal proceedings are terminated.

### § 39.16. DISPOSITION

- (A) *Dismissal.* If the Board of Ethics determines at the conclusion of a hearing by simple majority vote of its members that a complaint should be dismissed, it may do so upon finding:
- (1) The complaint is a baseless complaint or frivolous complaint;
  - (2) The alleged violation did not occur;
  - (3) The accused reasonably relied in good faith upon an advisory opinion, as provided in this chapter;
  - (4) The complainant failed to testify at the hearing; or
  - (5) The complainant failed to present evidence sufficient to meet the standard of proof set forth in §39.15(C)(5).
- (B) *Sanctions.* If the Board of Ethics determines at the conclusion of a hearing that a violation has occurred, it may within ten business days impose or recommend any of the following sanctions:
- (1) *Letter of notification.* If the violation is clearly unintentional, or when the accuser's action was made in reliance on a written opinion of the City Attorney. A letter of notification shall advise the accused of any steps to be taken to avoid future violations.
  - (2) *Letter of admonition.* If the Board of Ethics finds that the violation is minor and may have been unintentional, but calls for a more substantial response than a letter of notifications.
  - (3) *A reprimand.* If the Board of Ethics finds that the violation:
    - A) Was minor and was committed knowingly, intentionally or in disregard of this chapter; or
    - B) Was serious and may have been unintentional.
  - (4) *Recommendation of suspension.* If the Board of Ethics finds that a violation:
    - A) Was serious and that was committed knowingly, intentionally or in disregard of this chapter or a state conflict of interest law; or

- B) Was minor but similar to a previous violation by the person, and was committed knowingly, intentionally or in disregard of this chapter.

The final authority to impose a suspension rests with the City Council regarding Board Members.

- (5) *Ineligibility.* If the Board of Ethics finds that a vendor has violated this chapter, the board may recommend to the City Manager and City Council that the vendor be deemed ineligible to enter into a city contract or other arrangement for goods, services, or real property, for a period of one year.

Notice of all sanctions imposed by the Board of Ethics shall be transmitted to the accused, complainant, City Secretary, City Attorney, Special Counsel and City Council.

(C) *Frivolous.*

- (1) *Prohibition.* It is a violation of this chapter for a person to submit a frivolous complaint.
- (2) *Super-majority vote.* If the Board of Ethics determines at the conclusion of a hearing by a vote of two-thirds ( $\frac{2}{3}$ ) of its members that a complaint was frivolous, the board may prohibit the complainant from filing a complaint with the board for a period of time up to one year after the date the frivolous determination was made.
- (3) *Factors.* In making a determination on frivolity, the Board of Ethics shall consider the following factors:
  - A) The timing of the sworn complaint with respect to when the facts supporting the alleged violation became known or should have become known to the complainant, and with respect to the date of any pending election in which the accused is a candidate or is involved with a candidacy, if any;
  - B) The nature and type of any publicity surrounding the filing of the complaint, and the degree of participation by the complainant in publicizing the fact that a complaint was filed;
  - C) The existence and nature of any relationship between the accused and the complainant before the complaint was filed;

- D) If the accused is a candidate, the existence and nature of any relationship between the complainant and any candidate or group opposing the accused;
  - E) Any evidence that the complainant knew or reasonably should have known that the allegations in the complaint were groundless; and
  - F) Any evidence of the complainant's motives in filing the complaint.
- (4) *External remedies.* Complainants who submit frivolous complaints are hereby notified that their actions may subject them to criminal prosecution or perjury (criminal prosecution), or civil liability for the torts of defamation or abuse of the process.

**§ 39.17. RECONSIDERATION**

The complainant or accused may request the Board of Ethics to reconsider its decision. The request must be filed with the City Secretary within five business days of receiving the final opinion of the Board of Ethics. The request for reconsideration shall be sent to the chairperson of the Board of Ethics, the City Secretary, and the non-filing party (complainant or accused). If the chairperson finds, in the chairperson's sole discretion, that the request includes new evidence that was not submitted at a prior hearing, and that the new evidence bears directly on the Board of Ethic's previous determination, the chairperson shall schedule a hearing on the request for reconsideration to occur within 30 days after filing of the reconsideration request. Absent new evidence, the chairperson shall unilaterally dismiss the request for reconsideration and provide the decision to the parties.”