



**FARMERSVILLE CITY COUNCIL
SPECIAL SESSION AGENDA
December 21, 2021, 7:00 P.M.
Council Chambers, City Hall
205 Main Street**

I. PRELIMINARY MATTERS

- Call to Order and Roll Call
- Prayer and Pledge of Allegiance

II. PUBLIC COMMENT ON AGENDA ITEMS (FOR NON-PUBLIC HEARING AGENDA ITEMS)

If you wish to address the City Council on a posted item on this agenda, please fill out a "Speaker Sign-Up" card and present it to the City Secretary before the meeting begins. Pursuant to Section 551.007 of the Texas Government Code, any person wishing to address the City Council for items listed as public hearings will be recognized when the public hearing is opened. Speakers wishing to address the City Council regarding any non-public hearing item on this agenda shall have a time limit of three (3) minutes per speaker, per agenda item. The Mayor may reduce the speaker time limit uniformly to accommodate the number of speakers or improve meeting efficiency.

III. CITIZEN COMMENTS ON MATTERS NOT ON AGENDA

If you wish to address the City Council on a matter not posted on this agenda, please fill out a "Speaker Sign-Up" card and present it to the City Secretary before the meeting begins. Speakers shall have a time limit of three (3) minutes. This meeting segment is limited to a total of thirty (30) minutes.

IV. PUBLIC HEARINGS

A. Public hearing to consider, discuss and act upon a request to amend the Zoning Ordinance of the City of Farmersville by amending Section 77-29, "Definitions," by amending the definitions for "Artisan's Workshop," "Auto Parts and Accessory Sales (Indoor)," "Automobile Repair, Minor," and "Motorcycle Sales/Service," and adding new definitions for the uses "Custom Handcrafting," "Specialty Food Processing," and "Specialty or Custom Fabrication of Certain Motorcycle Parts"; and by amending Subsection (k), "Retail and Service Uses," of

Section 77-46, "Schedule of Uses," by adding the uses "Custom Handcrafting," "Specialty Food Processing," and "Specialty or Custom Fabrication of Certain Motorcycle Parts" as being allowed only in the CA – Central Area District upon approval of a Specific Use Permit (through the adoption of Ordinance #O-2021-1221-001).

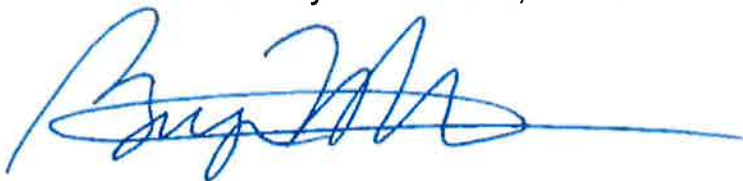
B. Public hearing to consider, discuss and act upon a request to change the zoning on the property identified as Lots 41 and 42B, Block 11 of the Howell Addition (CFC) more commonly known as 110 N. Main Street, Farmersville, Texas from Central Area (CA) District uses to CA – Central Area District uses subject to a Specific Use Permit for a Specialty or Custom Fabrication of Certain Motorcycle Parts business together with and including Retail Sales allowed by right in the Central Area (CA) District in the front of the building on the Property (through the adoption of Ordinance #O-2021-1221-002).

V. REGULAR AGENDA

- A. Consider, discuss, and act upon a request for approval of the Minor Plat for the Vamvakas Estates, and possibly regarding satisfactory completion of any required public improvements.
- B. Consider, discuss, and act upon a request for approval of the Final Plat for the HCG Addition, Lots 1 and 2, Block A, and possibly regarding satisfactory completion of any required public improvements.
- C. Consider, discuss and act upon a Professional Service Agreement with Kimley-Horn regarding final design for of the Influent Lift Station and Headworks Facility to Accommodate the Installation of a Temporary Wastewater Treatment Plant for the Lakehaven MUD agreement, Bidding the Construction of the Influent Lift Station and Headworks Facility, and Construction Contract Administration.
- D. Consider, discuss and act upon a Professional Service Agreement with Kimley-Horn regarding Design of the Temporary Wastewater Treatment Facilities Associated with the Lakehaven MUD agreement, Bidding the Construction of the Temporary Wastewater Treatment Facilities, and Construction Contract Administration.

VII. ADJOURNMENT

Dated this the 17th day of December, 2021.

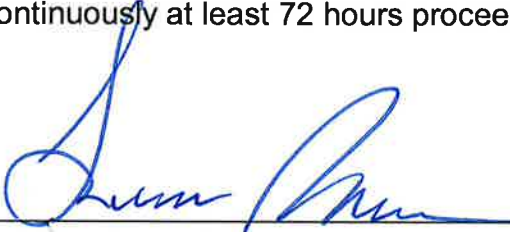


Bryon Wiebold, Mayor

The City Council reserves the right to adjourn into Executive Session at any time during the course of this meeting to discuss any Work Session, Special or Regular Session agenda item requiring confidential, attorney/client advise necessitated by the deliberation or discussion of said items (as needed) listed on the agenda, as authorized by Texas Government code Section 551.071(a) ("Consultation with Attorney, Closed Meeting").

Persons with disabilities who plan to attend this meeting and who may need assistance should contact the City Secretary at 972-782-6151 or Fax 972-782-6604 at least two (2) working days prior to the meeting so that appropriate arrangements can be made. Handicap Parking is available in the front and rear parking lot of the building.

I, the undersigned authority, do hereby certify that this Notice of Meeting was posted in the regular posting place of the City Hall building for Farmersville, Texas, in a place and manner convenient and readily accessible to the general public at all times, and said Notice was posted December 17, 2021 by 5:00 P.M. and remained so posted continuously at least 72 hours proceeding the scheduled time of said meeting.


Tabatha Monk, City Secretary



I. Preliminary Matters

II. Public Comment on Agenda Items (For Non-Public Hearing Agenda Items)

III. Citizen Comments On Matters Not On Agenda

IV. PUBLIC HEARINGS

Agenda Section: Public Hearings

- A.** Public hearing to consider, discuss and act upon a request to amend the Zoning Ordinance of the City of Farmersville by amending Section 77-29, "Definitions," by amending the definitions for "Artisan's Workshop," "Auto Parts and Accessory Sales (Indoor)," "Automobile Repair, Minor," and "Motorcycle Sales/Service," and adding new definitions for the uses "Custom Handcrafting," "Specialty Food Processing," and "Specialty or Custom Fabrication of Certain Motorcycle Parts"; and by amending Subsection (k), "Retail and Service Uses," of Section 77-46, "Schedule of Uses," by adding the uses "Custom Handcrafting," "Specialty Food Processing," and "Specialty or Custom Fabrication of Certain Motorcycle Parts" as being allowed only in the CA – Central Area District upon approval of a Specific Use Permit (through the adoption of Ordinance #O-2021-1221-001).

**CITY OF FARMERSVILLE
ORDINANCE #2021-1221-001**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FARMERSVILLE, TEXAS AMENDING THE CODE OF ORDINANCES, CITY OF FARMERSVILLE, TEXAS, AS HERETOFORE AMENDED THROUGH THE AMENDMENT OF CHAPTER 77, "ZONING," BY AMENDING SECTION 77-29 ENTITLED "DEFINITIONS" BY AMENDING THE EXISTING DEFINITIONS FOR "ARTISAN'S WORKSHOP," "AUTO PARTS AND ACCESSORY SALES (INDOOR)," "AUTOMOBILE REPAIR, MINOR," AND "MOTORCYCLE SALES/SERVICE," AND BY INSERTING DEFINITIONS FOR THE FOLLOWING NEW USES TO BE INSERTED IN ALPHABETICAL ORDER "CUSTOM HANDCRAFTING," "SPECIALTY FOOD PROCESSING," AND "SPECIALTY OR CUSTOM FABRICATION OF CERTAIN MOTORCYCLE PARTS"; BY AMENDING SECTION 77-46 ENTITLED "SCHEDULE OF USES" BY AMENDING SUBSECTION (k) THEREOF ENTITLED "RETAIL AND SERVICE USES" REGARDING USES ALLOWED IN "NON-RESIDENTIAL AND MIXED USE DISTRICTS," ONLY, BY INSERTING "CUSTOM HANDCRAFTING," "SPECIALTY FOOD PROCESSING," AND "SPECIALTY OR CUSTOM FABRICATION OF CERTAIN MOTORCYCLE PARTS" AS PERMITTED USES ALLOWED IN THE "CA - CENTRAL AREA DISTRICT," UPON APPROVAL OF A SPECIFIC USE PERMIT IN ACCORDANCE WITH THE SPECIFIC REQUIREMENTS STATED HEREIN; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY CLAUSE; PROVIDING FOR INJUNCTIVE RELIEF; PROVIDING FOR PUBLICATION; PROVIDING FOR ENGROSSMENT AND ENROLLMENT; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, after public notice and public hearing as required by law, the City of Farmersville, Texas (the "City"), Planning and Zoning Commission has recommended a change in permitted uses of the property described herein and has recommended amending the City of Farmersville, Code of Ordinances (the "Farmersville City Code"); and

WHEREAS, all legal requirements, conditions, and prerequisites have been complied with prior to this case coming before the City Council of the City of Farmersville (the "City Council"); and

WHEREAS, the City Council, after public notice and public hearing as required by law, and upon due deliberation and consideration of the recommendation of the Planning and Zoning Commission of the City and of all testimony and information submitted during said public hearings, has determined that in the public's best interest and in support of the health, safety, morals, and general welfare of the citizens of the City, that Chapter 77, "Zoning," should be amended to reflect the additional permitted uses in the CA - Central Area District with the approval of a specific use permit as described herein;

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

SECTION 1: INCORPORATION OF FINDINGS

All of the above premises are found to be true and correct legislative and factual determinations of the City and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

SECTION 2: AMENDMENT OF CHAPTER 77, "ZONING," BY AMENDING SECTION 77-29 ENTITLED "DEFINITIONS" BY AMENDING THE EXISTING DEFINITIONS FOR "ARTISAN'S WORKSHOP," "AUTO PARTS AND ACCESSORY SALES (INDOOR)," "AUTOMOBILE REPAIR, MINOR," AND "MOTORCYCLE SALES/SERVICE," AND BY INSERTING DEFINITIONS FOR THE FOLLOWING NEW USES TO BE INSERTED IN ALPHABETICAL ORDER "CUSTOM HANDCRAFTING," "SPECIALTY FOOD PROCESSING," AND "SPECIALTY OR CUSTOM FABRICATION OF CERTAIN MOTORCYCLE PARTS"

From and after the effective date of this Ordinance, Chapter 77, "Zoning," is hereby by amending Section 77-29, "Definitions," by amending the existing definitions for "Artisan's Workshop," "Auto Parts and Accessory Sales (Indoor)," "Automobile Repair, Minor," and "Motorcycle Sales/Service" to read as follows:

(1) "*Artisan's workshop* means an establishment used for the preparation, display, and sale of individually crafted artwork, jewelry, furniture, sculpture, pottery, leather-craft, textile articles, and related items that are often one-of-a-kind items. A portion of the sale of such products may occur off the premises. The use may also include the production, incidental storage, display, and sale of such goods or may be a place where a small number of persons are engaged in arts and crafts activities in a class or studio.

Examples include but are not limited to artwork, jewelry, sculpture, or pottery, provided that such uses are equipped with specialized equipment to eliminate dust, odor and noise pollution within the premises and prevent any infiltration thereof into adjacent properties or beyond the exterior walls of the property. This category does not include the fabrication, assembly, or manufacture of mass-produced products or materials that do not constitute finished goods."

(2) "*Auto parts and accessory sales (indoor)*" means the use of any building or other premise for the display and sale of new or used parts for automobiles, motorcycles, panel trucks or vans, trailers, or recreation vehicles."

(3) "*Automobile/Motorcycle repair, minor*" means an establishment used for the dispensing or sales of automobile or motorcycle fuels, lubricants, tires, and automobile or motorcycle accessories; the minor repair or replacement of parts, tires, paintless dent repair, and performing state inspections and making minor repairs necessary to pass said inspection; automobile/motorcycle detailing; window tinting, and the sales and installation of automobile or motorcycle radios. Uses listed under "automobile repair, major" or any other similar uses are not included. Vehicles, which are inoperative or are being repaired, may not remain parked outside for a period greater than seven calendar days."

(4) "*Motorcycle sales/service*" means the display, sale and servicing, including repair work and customization of motorcycles."

SECTION 3: AMENDMENT OF CHAPTER 77, "ZONING," BY AMENDING SECTION 77-29 ENTITLED "DEFINITIONS" BY INSERTING DEFINITIONS FOR THE FOLLOWING NEW USES TO BE INSERTED IN ALPHABETICAL ORDER "CUSTOM HANDCRAFTING," "SPECIALTY FOOD PROCESSING," AND "SPECIALTY OR CUSTOM FABRICATION OF CERTAIN MOTORCYCLE PARTS"

From and after the effective date of this Ordinance, Chapter 77, "Zoning," is hereby by amending Section 77-29, "Definitions," by inserting definitions for the following new uses to be inserted in alphabetical order "Custom Handcrafting," "Specialty Food Processing," and "Specialty or Custom Fabrication of Certain Motorcycle Parts" to read as follows:

(1) "*Custom Handcrafting*" means a business primarily involved in crafting, fabricating, or assembling finished goods where the crafting, fabrication, or assembly, requires the application of an individual's craft or skill, or specialized materials. A portion of the sale of such products may occur off the premises. The use may also include the

production, incidental storage, display, and sale of such goods or may be a place where a small number of persons are engaged in arts and crafts activities in a class or studio.

Examples include but are not limited to jewelry, furniture, woodwork, leathercraft, or hand-woven articles, provided that such uses are equipped with specialized equipment to eliminate dust, odor and noise pollution within the premises and prevent any infiltration thereof into adjacent properties or beyond the exterior walls of the property. This category does not include the fabrication, assembly, or manufacture of mass-produced products or materials that do not constitute finished goods.”

(2) “*Specialty Food Processing* means a business that prepares, cooks, bakes, pickles, or roasts food products that are not potentially hazardous where the preparation requires specialized knowledge, craft, skill or exotic, high-quality or organic ingredients. A portion of the sale of such products may occur off the premises. The use may also include the production, incidental storage, display, and sale of such goods or may be a place where a small number of persons are engaged in arts and crafts activities in a class or studio.

Examples include but are not limited to coffee beans, ice cream, popcorn, pretzels, pickles, and nuts, provided that such food processing is equipped with specialized equipment to eliminate dust, odor and noise pollution within the premises and prevent any infiltration thereof into adjacent properties or beyond the exterior walls of the property. This category does not include the baking, pickling, preparation or manufacturing of food products that are a “potentially hazardous food” as defined by Health and Safety Code, Section 437.0196, as such provision may be amended from time to time.”

(3) “*Specialty or Custom Fabrication of Certain Motorcycle Parts* means a business that custom handcrafts, hand polishes and hand assembles rims, wheels, and other accessory-type

component parts for a customer's motorcycle without the use of any loud or heavy duty equipment or chemical processes."

SECTION 4: AMENDMENT OF CHAPTER 77, "ZONING," BY AMENDING SECTION 77-46 ENTITLED "SCHEDULE OF USES" BY AMENDING SUBSECTION (K) THEREOF ENTITLED "RETAIL AND SERVICE USES" REGARDING USES ALLOWED IN "NON-RESIDENTIAL AND MIXED USE DISTRICTS," ONLY, BY INSERTING "CUSTOM HANDCRAFTING," "SPECIALTY FOOD PROCESSING," AND "SPECIALTY OR CUSTOM FABRICATION OF CERTAIN MOTORCYCLE PARTS" AS PERMITTED USES ALLOWED IN THE "CA - CENTRAL AREA DISTRICT," UPON APPROVAL OF A SPECIFIC USE PERMIT

From and after the effective date of this Ordinance, Chapter 77, "Zoning," is hereby by amending Section 77-46, "Schedule of Uses," by amending Subsection (k) thereof entitled "Retail and Service Uses" regarding uses allowed in "Non-Residential and Mixed Use Districts," only, by inserting the uses "Custom Handcrafting," "Specialty Food Processing," and "Specialty or Custom Fabrication of Certain Motorcycle Parts" as permitted uses allowed in the "CA - Central Area District," upon approval of a Specific Use Permit to read as follows:

"(k) Retail and service uses.

Zoning District Legend		Non-Residential and Mixed-Use Districts							Use-Specific Regulations
P	Permitted Use	NS — Neighborhood Service District	GR — General Retail District	C — Commercial District	LI — Light Industrial District	HI-1 — Heavy Industrial -1 District	HI-2 — Heavy Industrial-2 District	CA — Central Area District ¹	
S	Special Use Permit								
	Prohibited Use								
	Special Conditions Apply (see section 77-49 , Use-Specific Regulations)								
Type of Use									
Custom Handcrafting								S	

Specialty Food Processing							S	
Specialty or Custom Fabrication of Certain Motorcycle Parts							S	

SECTION 5: REPEALER

This Ordinance shall be cumulative of all other Ordinances, resolutions, and/or policies of the City, whether written or otherwise, and shall not repeal any of the provisions of those ordinances except in those instances where the provisions of those ordinances are in direct conflict with the provisions of this Ordinance. Any and all Ordinances, resolutions, and/or policies of the City, whether written or otherwise, which are in any manner in conflict with or inconsistent with this Ordinance shall be and are hereby repealed to the extent of such conflict and/or inconsistency.

SECTION 6: SEVERABILITY

It is hereby declared to be the intent of the City Council that the several provisions of this Ordinance are severable. In the event that any court of competent jurisdiction shall judge any provisions of this Ordinance to be illegal, invalid, or unenforceable, such judgment shall not affect any other provisions of this Ordinance which are not specifically designated as being illegal, invalid, or unenforceable.

SECTION 7: PENALTIES FOR VIOLATION

Any person, firm, corporation or business entity violating this Ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined any sum not exceeding Two Thousand Dollars (\$2,000.00). Each continuing day's violation under this Ordinance shall constitute a separate offense. The penal provisions imposed under this Ordinance shall not preclude the City of Farmersville from filing suit to enjoin the violation. The City of Farmersville retains all legal rights and remedies available to it pursuant to local, state and federal law.

SECTION 8: INJUNCTIVE RELIEF

Any violation of this ordinance can be enjoined by a suit filed in the name of the City of Farmersville in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this ordinance or in the Code of the City of Farmersville.

SECTION 9: PUBLICATION

The City Secretary is hereby directed to publish in the Official Newspaper of the City of Farmersville the Caption, Penalty, and Effective Date Clause of this Ordinance as required by Section 52.011 of the Local Government Code.

SECTION 10: ENGROSSMENT AND ENROLLMENT

The City Secretary of the City of Farmersville is hereby directed to engross and enroll this Ordinance by copying the exact Caption and the Effective Date Clause in the minutes of the City Council of the City of Farmersville, and by filing this Ordinance in the Ordinance records of the City.

SECTION 11: SAVINGS

All rights and remedies of the City of Farmersville are expressly saved as to any and all violations of the provisions of any Ordinances which have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such Ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

SECTION 12: EFFECTIVE DATE

This Ordinance shall take effect immediately from and after its passage and publication as required by law.

PASSED on first and final reading on the 21st day of December 2021, at a properly scheduled meeting of the City Council of the City of Farmersville, Texas, there being a quorum present, and approved by the Mayor on the date set out below.

APPROVED THIS 21st DAY OF DECEMBER 2021.

APPROVED:

BRYON WIEBOLD
Mayor

ATTEST:

TABATHA MONK
City Secretary

Agenda Section: Public Hearings

- B.** Public hearing to consider, discuss and act upon a request to change the zoning on the property identified as Lots 41 and 42B, Block 11 of the Howell Addition (CFC) more commonly known as 110 N. Main Street, Farmersville, Texas from Central Area (CA) District uses to CA – Central Area District uses subject to a Specific Use Permit for a Specialty or Custom Fabrication of Certain Motorcycle Parts business together with and including Retail Sales allowed by right in the Central Area (CA) District in the front of the building on the Property (through the adoption of Ordinance #O-2021-1221-002).

**CITY OF FARMERSVILLE
ORDINANCE #2021-1221-002**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FARMERSVILLE, TEXAS AMENDING THE OFFICIAL ZONING DISTRICT MAP OF THE COMPREHENSIVE ZONING ORDINANCE, ORDINANCE NO. O-2018-0508-001, AS AMENDED, BY CHANGING THE ZONING ON THE PROPERTIES IDENTIFIED AS LOTS 41 AND 42B, BLOCK 11 OF THE HOWELL ADDITION (CFC) MORE COMMONLY KNOWN AS 110 N. MAIN STREET IN THE CITY OF FARMERSVILLE, COLLIN COUNTY, TEXAS, FROM CENTRAL AREA (CA) DISTRICT USES TO CA – CENTRAL AREA DISTRICT USES SUBJECT TO A SPECIFIC USE PERMIT (SUP) FOR A SPECIALTY OR CUSTOM FABRICATION OF CERTAIN MOTORCYCLE PARTS BUSINESS AND INCLUDING RETAIL SALES ALLOWED BY RIGHT IN THE CENTRAL AREA (CA) DISTRICT IN THE FRONT OF THE BUILDING; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING A PENALTY; PROVIDING FOR INJUNCTIVE RELIEF; PROVIDING FOR PUBLICATION; PROVIDING ENGROSSMENT AND ENROLLMENT; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Farmersville, Texas, (the “City”) is a Type A General – Law Municipality located in Collin County created in accordance with the provisions of Chapter 6 of the Texas Local Government Code, and operating pursuant to the enabling legislation of the State of Texas; and

WHEREAS, after public notice and public hearing as required by law, the Planning and Zoning Commission of the City of Farmersville, Texas, (the “Planning and Zoning Commission”) has recommended a change in zoning classification of the property described herein and has recommended amending the official zoning map of the City of Farmersville, Texas, regarding the rezoning of the property hereinafter described; and

WHEREAS, all legal requirements, conditions, and prerequisites have been complied with prior to this case coming before the City Council of the City of Farmersville (the “City Council”); and

WHEREAS, the City Council after public notice and public hearing as required by law and upon due deliberation and consideration of the recommendation of the Planning and Zoning Commission and of all testimony and information submitted during said public hearings, has determined that in the public's best interest and in support of the health, safety, morals, and general welfare of the citizens of the City, the zoning of the property described herein shall be changed and that the official zoning map of the City of Farmersville, Texas, should be amended to reflect the rezoning of the property herein described;

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

SECTION 1. FINDINGS INCORPORATED

The above premises are found to be true and correct legislative and factual determinations of the City of Farmersville and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

SECTION 2. PROPERTY REZONED

From and after the effective date of this Ordinance, the property described herein shall be rezoned as set forth in this section, and the Official Zoning Map of the Comprehensive Zoning Ordinance, Ordinance No. O-2018-0508-001, as amended, of the City of Farmersville, Texas, is hereby amended and changed in the following particulars to reflect the action taken herein, and all other existing sections, subsections, paragraphs, sentences, definitions, phrases, and words of the City's Zoning Ordinance are not amended but shall remain intact and are hereby ratified, verified, and affirmed, in order to create a change in the zoning classification of the property described herein, as follows:

The properties identified as Lots 41 and 42b, Block 11 of the Howell Addition (CFC) more commonly known as 110 N. Main Street, Farmersville, Texas 75442 and more fully described on Exhibit "A" and depicted on Exhibit "B" attached hereto and incorporated herein by reference for all purposes allowed by law (the "Property"), presently zoned Central Area (CA) District uses, is hereby changed to Central Area (CA) District uses subject to a Specific Use Permit ("SUP") for the operation of a Specialty or Custom Fabrication of Certain Motorcycle Parts business in accordance with the specific requirements contained in the City's Master Plan and Zoning Ordinance, and as stated herein and in Exhibits "A" through "D" attached hereto and incorporated herein by reference for all purposes allowed by law together with and including Retail Sales allowed by right in the Central Area (CA) District in the front of the building on the Property. In the event of any conflict between any exhibit attached hereto and this Ordinance, the language and contents of this Ordinance shall control.

SECTION 3. CONDITIONS AND REQUIREMENTS IMPOSED ON SUP

The change in zoning classification established and described in Section 2 herein shall be and is hereby made subject to the following conditions and requirements:

1. The Specific Use Permit granted hereby is specific to the Property owned by Charlie Whitaker (the "Landowner") that is more accurately described in Exhibit "A" and depicted in "B."
2. The Specific Use Permit shall be developed and operated in accordance with the Site Plan attached hereto as Exhibit "C" and the description provided by Black Bike Wheel (the "Owner") regarding its business model and plans for the Property attached hereto as Exhibit "D," both of which Exhibits are incorporated herein by reference for all purposes allowed by law. It has been determined that additional details regarding the Specialty or Custom

Fabrication of Certain Motorcycle Parts business and the use of the Property and its relationship to all existing properties and land uses in all directions is not necessary because the use is locating in an existing structure at a location which adequately addresses said elements.

3. A building permit shall be applied for and secured within six (6) months from the time of granting the Specific Use Permit; provided, however, that the City Council may authorize an extension of this time upon recommendation by the Planning and Zoning Commission. If a building permit has not been secured within six (6) months from the time of granting the Specific Use Permit, or if a building permit has been issued but subsequently allowed to lapse, a City-initiated zoning change will be placed on the agenda of the Planning and Zoning Commission and City Council to consider the revocation of the Specific Use Permit under normal zoning amendment procedures.
4. Save and except for the restoration of the historic porte-cochere on the front of the primary building, no building, premises, or land used under the Specific Use Permit may be enlarged, modified, structurally altered, or otherwise changed unless a separate Specific Use Permit or Amendment to this Ordinance is granted for such enlargement, modification, structural alterations, or change.
5. The City's Board of Adjustment shall not have jurisdiction to hear, review, reverse, or modify any decision, determination, or ruling regarding this Specific Use Permit or to grant a variance from any of the requirements set out in this Ordinance it being specifically understood that the only manner by which this Specific Use Permit may be amended, altered, or varied is by the formal final action of the City Council acting through the normal zoning amendment procedures.
6. The granting of this Specific Use Permit for a Specialty or Custom Fabrication of Certain Motorcycle Parts business shall not relieve the Owner and/or the Landowner and/or any operator of such use or any other business from any other and further obligations under the Farmersville Code.
7. In addition to the Specialty or Custom Fabrication of Certain Motorcycle Parts business the Property may also be used for other retail uses that are allowed by right in the Central Area (CA) District provided that the Property and the structures thereon comply with any and all ordinances set out in the Farmersville Code specifically including, by way of illustration only, and not limitation, all requirements of the then currently adopted edition of the International Fire Code and all other rules, regulations and requirements of the City of Farmersville.
8. The Owner and the Landowner have announced their willingness to accept and agree to be bound by and comply with the written requirements of this Ordinance as approved by the City Council. In addition, the Owner and the

Landowner have by their acceptance of the benefits derived from this Ordinance further expressed their willingness to accept and agree to be bound by and comply with the written requirements of this Ordinance as approved by the City Council.

SECTION 4. OFFICIAL ZONING MAP TO BE MODIFIED

It is directed that the official zoning map of the City of Farmersville be changed according to its legend to reflect the zoning classification established by this Ordinance and indicate that the affected area has conditions and limited uses and suffixed by an "S" designation.

SECTION 5: REPEALER

This Ordinance shall be cumulative of all other Ordinances, resolutions, and/or policies of the City, whether written or otherwise, and shall not repeal any of the provisions of those ordinances except in those instances where the provisions of those ordinances are in direct conflict with the provisions of this Ordinance. Any and all Ordinances, resolutions, and/or policies of the City, whether written or otherwise, which are in any manner in conflict with or inconsistent with this Ordinance shall be and are hereby repealed to the extent of such conflict and/or inconsistency.

SECTION 6: SEVERABILITY

It is hereby declared to be the intent of the City Council that the several provisions of this Ordinance are severable. In the event that any court of competent jurisdiction shall judge any provisions of this Ordinance to be illegal, invalid, or unenforceable, such judgment shall not affect any other provisions of this Ordinance which are not specifically designated as being illegal, invalid, or unenforceable.

SECTION 7: PENALTIES FOR VIOLATION

Any person, firm, corporation, or business entity violating this Ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined any sum not exceeding Two Thousand Dollars (\$2,000.00). Each continuing day's violation under this Ordinance shall constitute a separate offense. The penal provisions imposed under this Ordinance shall not preclude the City of Farmersville from filing suit to enjoin the violation. The City of Farmersville retains all legal rights and remedies available to it pursuant to local, state, and federal law.

SECTION 8: INJUNCTIVE RELIEF

Any violation of this Ordinance can be enjoined by a suit filed in the name of the City of Farmersville in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this ordinance or in the Code of the City of Farmersville.

SECTION 9: PUBLICATION

The City Secretary is hereby directed to publish in the Official Newspaper of the City of Farmersville the Caption, Penalty, and Effective Date Clause of this Ordinance as required by Section 52.011 of the Local Government Code.

SECTION 10: ENGROSSMENT AND ENROLLMENT

The City Secretary of the City of Farmersville is hereby directed to engross and enroll this Ordinance by copying the exact Caption and the Effective Date Clause in the minutes of the City Council of the City of Farmersville, and by filing this Ordinance in the Ordinance records of the City.

SECTION 11: SAVINGS

All rights and remedies of the City of Farmersville are expressly saved as to any and all violations of the provisions of any Ordinances which have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such Ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

SECTION 12: EFFECTIVE DATE

This Ordinance shall take effect immediately from and after its passage and publication as required by law.

APPROVED THIS 21st DAY OF DECEMBER 2021.

APPROVED:

BY: _____
BRYON WIEBOLD
Mayor

ATTEST:

TABATHA MONK
City Secretary

Exhibit "A"

Description of Property

All that certain lot, tract or parcel of land situated in the City of Farmersville, Collin County, Texas, and being part of Block 11 of Howell Addition, an addition to said city, and being known as that tract of land described as Lot 41, Block 11 of the Howell Addition in a Deed to Cello Wrap Printing Company as recorded in Volume 651, Page 520 of the Deed Records of Collin County, Texas, and being part of a tract of land described in a Deed to Cello Wrap Printing Company, Inc. as recorded in Volume 824, Page 218 of the Deed Records of Collin County, Texas, and being more particularly described as follows:

BEGINNING at a cut "X" at the intersection of the North line of College Street with the East line of main Street and being at the Southwest corner of said Block 11, from said point a PK nail bears S. 49 deg. 33 min. 13 sec. E. a distance of 4.75 feet;

THENCE N. 00 deg. 26 min. 04 sec. W. with the East line of Main Street and along a concrete joint, passing a building corner at a distance of 149.23 feet and continuing for a total distance of 199.67 feet to a PK nail set for corner at the Southwest corner of a called 0.255 acre tract of land described in a Deed to Charles A. Whitaker as recorded in Doc. No. 20090630000815550 of the O.P.R.C.C.T., from said point a 1/2" iron rod found at the Northwest corner of said 0.255 acre tract bears N. 00 deg. 26 min. 04 sec. W. a distance of 70.00 feet;

THENCE S. 89 deg. 15 min. 34 sec. E. with the South line of said 0.255 acre tract, a distance of 159.00 feet to a 1/2" iron rod set for corner at the Southeast corner of said 0.255 acre tract and being in the West line of Rike Alley;

THENCE S. 00 deg. 26 min. 04 sec. W. with the West line of said alley, passing the corner of a building at a distance of 5.53 feet and continuing along the wall of said building, passing the Southeast corner of said building at a distance of 185.53 feet and continuing for a total distance of 198.65 feet to a cut "X" for corner in the North line of College Street and at the Southeast corner of the herein described tract;

THENCE N. 89 deg. 37 min. 47 sec. W. with the North line of College Street, a distance of 159.00 feet to the POINT OF BEGINNING and containing 0.727 acres of land more or less.

Exhibit "B"

Depiction of Property

EXHIBIT "C"

The Site Plan

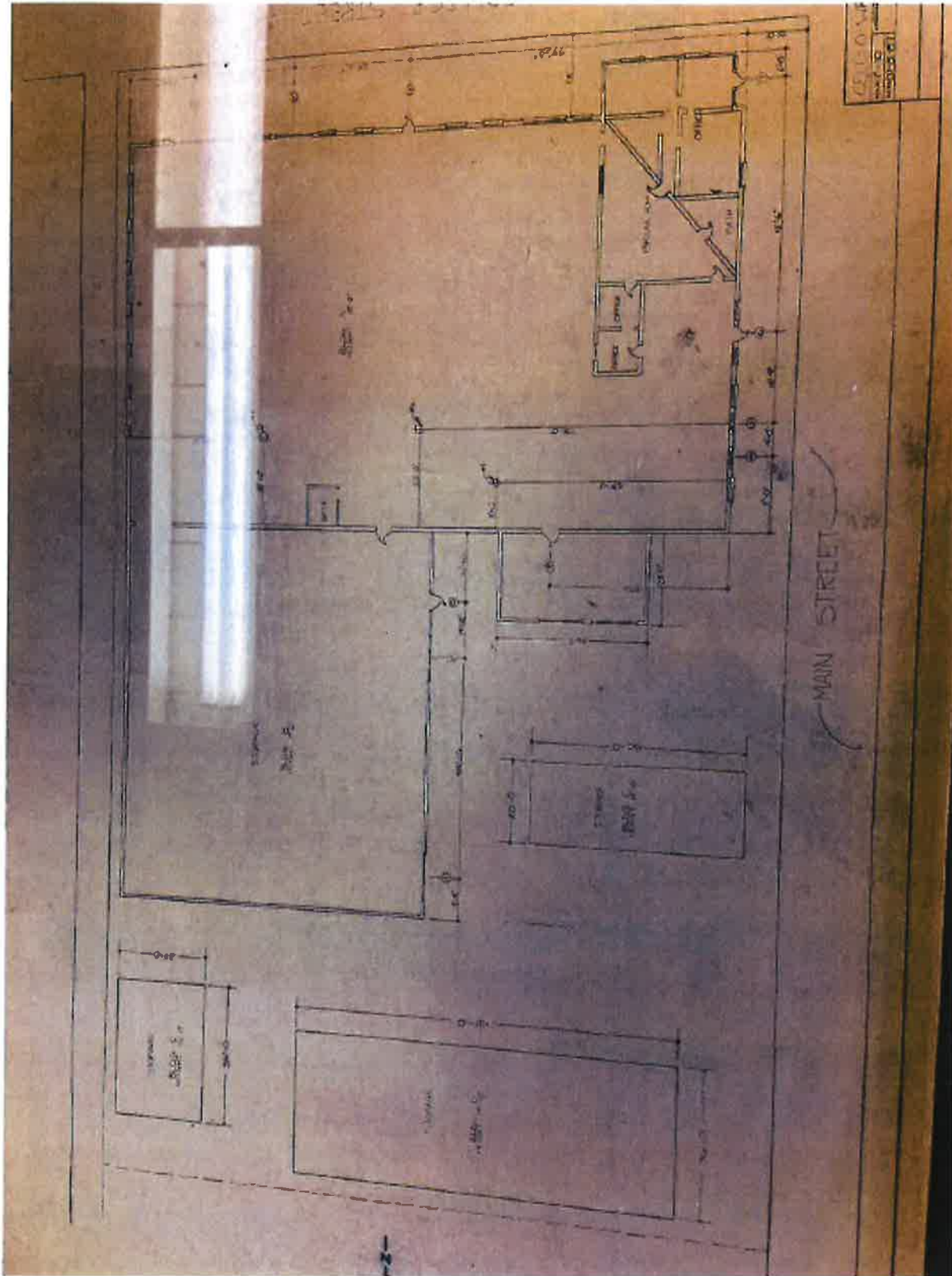


EXHIBIT "D"

Black Bike Wheel's Plans

Re: Black Bike Wheel's plans in Farmersville

Hi All,

Black Bike Wheels is a small "mom and pops" Wheel boutique, Artisan Assemblers. We have been Hand assembling Motorcycle wheels the old fashioned Hand crafted way for over 25 years. We start with the center section that is made out of a 5" round piece of Billet Aluminum. We then hand thread stainless steel wire and lace it with a custom drilled rim. Many of the options we offer include hand polishing or we send out the parts to be chromed. We then install a tire and ship it to our customer. None of the things we do require any particularly loud or heavy duty equipment. Our operation is more akin to an old fashioned craftsman.

As for the facility, we would like to restore the front of the building along College and Main to its former glory, including the Porte Cochere, and divide the space into individual retail spaces to rent out to various shops and stores. We will operate black bike out of the rear section, most of which we will use to store the rims and other various parts we use for assembling our product.

Considering our small volume, and plans to refurbish the exterior parts of the building, we will be a wonderful fit for the Farmersville community. Aside from contributing sales tax income and local jobs, it is unlikely that anybody will even know that we are operating out of the back.

We look forward to joining the Farmersville community things we

Thank You,

Elliott

Various shops &
storefront

things we

things we



Farmersville
DISCOVER A TEXAS TREASURE

Application for Zoning Change

Applicant: <i>Charlie Whitaker</i>		
Mailing Address: <i>62 Lopez Dr.</i>	City/State/Zip: <i>Sherman TX 75090</i>	Daytime Telephone: <i>972-658-4670</i>
Property Address: <i>110 N. Main</i>	City/State/Zip: <i>Farmersville TX 75442</i>	<i>972-658-4670</i>
Legal Description: <i>Howell Addition Block 11 Lot 41 & 42B</i>		
Lot(s): <i>41 & 42B</i>	Block(s): <i>11</i>	Subdivision: <i>Howell</i>
Acreage: ((If acreage, provide separate metes and bounds description) <i>See Attached Survey & Legal</i>		
Existing Use and Current Zoning of Property: <i>Package Printing</i>		
Give explanation of proposed rezone and use of property. Attach maps, drawings and other supporting information. <i>Assembly of Custom Motorcycle Wheels with Retail in front of Building</i>		


Property Owner Signature

11-14-21
Date



**CITY OF FARMERSVILLE
SPECIFIC USE PERMIT APPLICATION**

APPLICANT'S NAME: Charlie Whitaker
APPLICANT'S ADDRESS: 62 Lopez Dr., ~~Philo~~ Sherman, TX 75090
APPLICANT'S CONTACT NUMBERS: 972-658-4670
NAME OF OWNER: Charlie Whitaker
ADDRESS OF OWNER: 62 Lopez
LOCATION OF PROPERTY: 110 N. Main St. Farmersville, TX

LEGAL DESCRIPTION OF PROPERTY:

LOT NO. 41+42B TRACT 10 BLOCK NO. 11
PLAT _____ ADDITION: Howell
SURVEY: See Attached Survey & Legal NUMBER OF ACRES: _____

For properties not in a recorded subdivision, submit a copy of a current survey or plat showing the properties proposed to be changed, and a complete legal field note description.

PROPOSED USE: Assembly of Custom Motorcycle Wheels with Retail Sales in Front.

ATTACH A LETTER describing all processes and activities involved with the proposed uses.

ATTACH A SITE PLAN drawn to scale with the information listed on the back of this sheet.

THE EIGHT CONDITIONS listed on the back of this sheet **MUST** be met before City Council can grant a Specific Use Permit.

ATTACH THE APPROPRIATE FEE:

\$1,000 Retainer Fee to be used for all expenditures in conjunction with the Specific Use Permit. Any amount remaining will be refunded to the owner as designated above.

I, being the undersigned applicant, understand that all of the conditions, dimensions, building sizes, landscaping and parking areas depicted on the site plan shall be adhered to as amended and approved by the City Council.

SIGNATURE OF APPLICANT:

Date: 11-14-21

SIGNATURE OF OWNER:
(If not applicant)

Date: 11-14-21

INCLUDE THE FOLLOWING INFORMATION ON A SITE PLAN. THE PLAN MUST BE DRAWN TO SCALE.

- Boundaries of the area covered by the site plan.
- The location of each existing and proposed building and structure in the area covered by the site plan and the number of stories, height, roof line, gross floor area and location of building entrances and exits.
- The location of existing drainage ways and significant natural features. NA
- Proposed landscaping and screening buffers. NA
- The location and dimensions of all curb cuts, public and private streets, parking and loading areas, pedestrian walks, lighting facilities, and outside trash storage facilities.
- The location, height and type of each wall, fence, and all other types of screening. NA
- The location, height and size of all proposed signs. NA

THE ZONING ORDINANCE REQUIRES THAT THESE EIGHT CONDITIONS MUST BE MET BEFORE A SPECIFIC USE PERMIT CAN BE ISSUED:

- That the specific use will be compatible with and not injurious to the use and enjoyment of other property, nor significantly diminish or impair property values within the immediate vicinity; and
- That the establishment of the specific use will not impede the normal and orderly development and improvement of surrounding vacant property.
- That adequate utility, access roads, drainage and other necessary supporting facilities have been or will be provided.
- The design, location and arrangement of all driveways and parking spaces provide for the safe and convenient movement of vehicular and pedestrian traffic without adversely affecting the general public or adjacent development.
- That adequate nuisance prevention measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration.
- That directional lighting will be provided so as not to disturb or adversely affect neighboring properties.
- That there are sufficient landscaping and screening to insure harmony and compatibility with adjacent property
- That the proposed use is in accordance with the Comprehensive Plan.

All that certain lot, tract or parcel of land situated in the City of Pansenville, Cullin County, Texas, and being part of Block 11 of Howell Addition, an addition to said city, and being known as that tract of land described as Lot 41, Block 11 of the Howell Addition in a Deed to Cullin County Printing Company as recorded in Volume 651, Page 259 of the Deed Records at Cullin County, Texas, and being part of a tract of land described in a Deed to Cullin County Printing Company, Inc. as recorded in Volume 628, Page 216 of the Deed Records at Cullin County, Texas, and being more particularly described as follows:

BEGINNING at a cut "X" at the intersection of the North line of College Street with the East line of main Street and being at the Southwest corner of said Block 16, from said point a PK. mail bears S. 49 deg. 33 min. 13 sec. E. a distance of 4.75 feet.

THIENECEN. 00 deg. 26 min. 04 sec. W. with the East line of Main Street and along a concrete joint, passing a building corner at a distance of 149.23 feet and constituting for a total distance of 199.67 feet to a PS set and corner at the Southwest corner of a called 0.255 acre tract of land described in (i) Qued to Charles A. Whitaker as rec'd and in Doc. No. 2009N00000815550 of the O.P.R.C.T.; Item said point a 1/2" iron nail found at the Northwest corner of said 0.255 acre tract bears N. 00 deg. 26 min. 04 sec. W. a distance of 70.00 feet;

THIENES S. 89 deg. 15 min. J4 sec. E. with the South line of said 0.255 acre tract, a distance of 159.00 feet to a 1/2" iron rod set for corner at the Southeast corner of said 0.255 acre tract and being in the West line of Rice Alley.

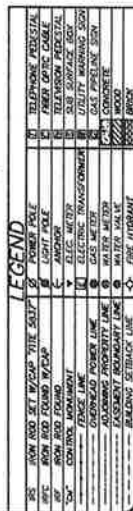
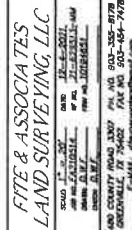
THENCE S. 03 deg. 26 min. 04 sec. W. with the West line of said alley, passing the corner of a building at a distance of 5.53 feet and continuing, making the wall of said building, passing the Southeast corner of said building at a distance of 182.55 feet and continuing for a total distance of 198.65 feet to a cut "X" for corner in the North line of College Street and at the Southeast corner of the herein described tract.

L'ENCENTE N. 89 deg. 37 min. 47 sec. W. with the North line of College Street, a distance of 159.00 feet to the POINT OF BEGINNING and containing 0.727 acres of land more or less.

1) BEARING SOURCE: GPS TEXAS NORTH CENTRAL, NAD 83

2) Survey prepared with benefit of Title Commitment, G.F. No. 21-629813-MM, Effective Date SEPT. 13, 2021.

1. David M. Fitts, Registered Professional Land Surveyor, State of Texas, hereby certifies that the plat herein was made from measurements performed on the ground, the lines and dimensions of said property being true to the best of his knowledge and belief, and the improvements are within the boundaries of the said land, and there are NO VESSEL EASEMENTS, ENCROACHMENTS, EJECTMENTS, OR OTHERS, except as shown on the plat herein.



COLLEGE STREET

All that certain lot, tract or parcel of land situated in the City of Farmersville, Collin County, Texas, and being part of Block 11 of Howell Addition, an addition to said city, and being known as that tract of land described as Lot 41, Block 11 of the Howell Addition in a Deed to Cello Wrap Printing Company as recorded in Volume 651, Page 520 of the Deed Records of Collin County, Texas, and being part of a tract of land described in a Deed to Cello Wrap Printing Company, Inc. as recorded in Volume 824, Page 218 of the Deed Records of Collin County, Texas, and being more particularly described as follows:

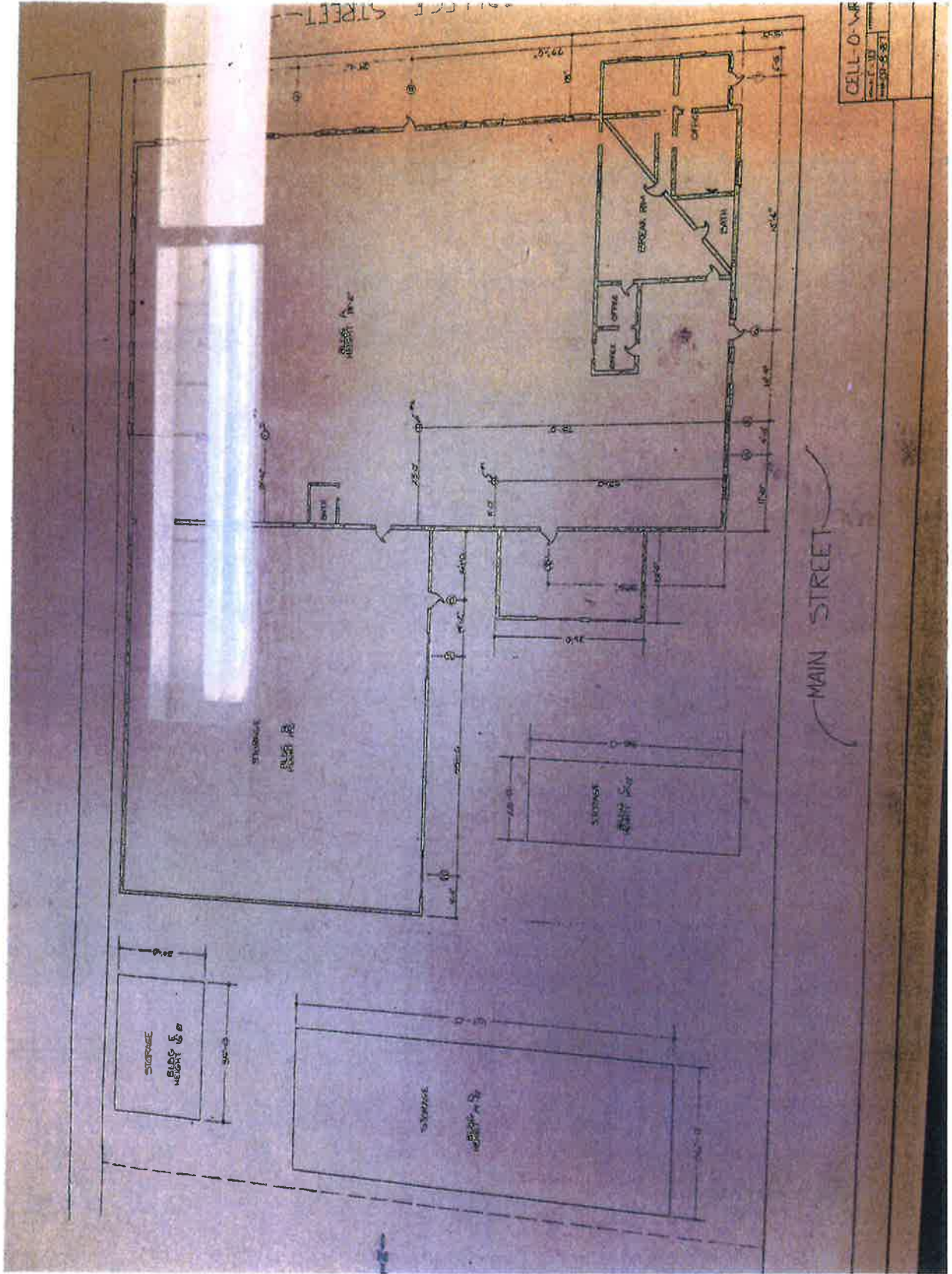
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THENCE S. 89 deg. 15 min. 34 sec. E. with the South line of said 0.255 acre tract, a distance of 159.00 feet to a 1/2" iron rod set for corner at the Southeast corner of said 0.255 acre tract and being in the West line of Rike Alley;

THENCE S. 00 deg. 26 min. 04 sec. W. with the West line of said alley, passing the corner of a building at a distance of 5.53 feet and continuing along the wall of said building, passing the Southeast corner of said building at a distance of 185.53 feet and continuing for a total distance of 198.65 feet to a cut "X" for corner in the North line of College Street and at the Southeast corner of the herein described tract;

THENCE N. 89 deg. 37 min. 47 sec. W. with the North line of College Street, a distance of 159.00 feet to the POINT OF BEGINNING and containing 0.727 acres of land more or less.





Beds N/A	Bldg Sq Ft 13,016	Lot Sq Ft 20,175	MLS List Price \$275,000
Baths N/A	Yr Built 1970	Type IND PLNT	MLS List Date 01/26/2021

OWNER INFORMATION

Owner Name	Cello Wrap Printing Co	Tax Billing Zip	75442
Tax Billing Address	Po Box 32	Tax Billing Zip+4	0032
Tax Billing City & State	Farmersville, TX		

LOCATION INFORMATION

Location City	Farmersville	MLS Area (Tax)	58
School District	Farmersville ISD	MLS Sub Area	1
School District Code	Sfc	Census Tract	311.00
Subdivision	Howell Add	Carrier Route	C001

TAX INFORMATION

Tax ID	R-1058-011-0410-1	% Improved	60%
Alternate Tax ID	1244574	Lot	41
Parcel ID	R105801104101	Block	11
Legal Description	HOWELL ADDITION (CFC), BLK 11, LOT 41		

ASSESSMENT & TAX

Assessment Year	2020	2019	2018
Assessed Value - Total	\$152,199	\$153,242	\$145,351
Assessed Value - Land	\$60,525	\$60,525	\$60,525
Assessed Value - Improved	\$91,674	\$92,717	\$84,826
YOY Assessed Change (\$)	-\$1,043	\$7,891	
YOY Assessed Change (%)	-0.88%	5.43%	
Market Value - Total	\$152,199	\$153,242	\$145,351
Market Value - Land	\$60,525	\$60,525	\$60,525
Market Value - Improved	\$91,674	\$92,717	\$84,826
Tax Year	Total Tax	Change (\$)	Change (%)
2018	\$3,390		
2019	\$3,395	\$5	0.17%
2020	\$3,210	-\$185	-5.47%
Jurisdiction	Tax Amount	Tax Type	Tax Rate
Farmersville City	\$1,083.72	Actual	.71204
Collin County	\$262.59	Actual	.17253
Collin Co Community College	\$123.62	Actual	.08122
Farmersville ISD	\$1,739.63	Actual	1.143
Total Estimated Tax Rate			2.1088

CHARACTERISTICS

Land Use - Corelogic	Industrial Plant	Building Sq Ft	13,016
Land Use - State	Real Commercial	Total Building Sq Ft	Tax: 13,016 MLS: 10,089
Land Use - County	Real Commercial	Stories	1
Building Type	Manufacturing	# of Buildings	1
Estimated Lot Acres	0.4632	Year Built	1970
Estimated Lot Sq Ft	20,175	Effective Year Built	1980

FEATURES

Feature Type	Unit	Size/Qty	Year Built	Value
--------------	------	----------	------------	-------

Overall Area	0	9,040	1970	\$63,461
Main Area	\$	3,184	1970	\$22,352
Main Area	\$	792	1970	\$5,560
Canopy	\$	72	1970	\$301

ESTIMATED VALUE

Value As Of 03/14/2021

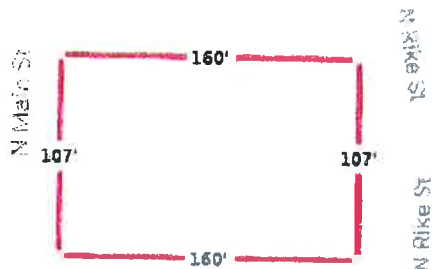
LISTING INFORMATION

MLS Listing Number	14506658	MLS Current List Price	\$275,000
MLS Status	Active	MLS Orig. List Price	\$275,000
MLS Status Change Date	01/26/2021	MLS Listing Agent	0568499-Randal Shinn
MLS Area (MLS)	FARMERSVILLE AREA (58)	MLS Listing Broker	FARMERSVILLE REAL ESTATE COMPANY
MLS Listing Date	01/26/2021		

MLS Listing #	14506658	14501931
MLS Status	Active	Active
MLS Listing Date	01/26/2021	01/26/2021
MLS Orig Listing Price	\$350,000	\$575,000
MLS Listing Price	\$350,000	\$575,000

PROPERTY MAP

Candy St



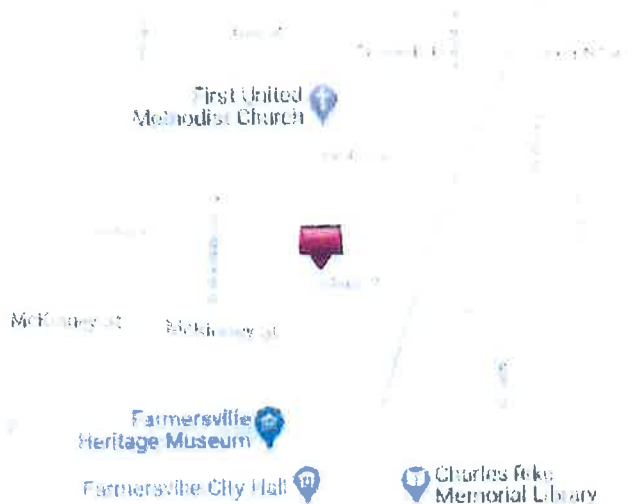
College St

178'



*Lot Dimensions are Estimated

25 yards
Map data ©2021



200 yards
Map data ©2021

MULTIPLE BUILDING PROPERTY SUMMARY

Beds N/A	Bldg Sq Ft 10,089	Lot Sq Ft 11,996	Sale Price N/A
Baths N/A	Yr Built 1970	Type COM'L BLDG	Sale Date N/A

OWNER INFORMATION

Owner Name	Cello Wrap Printing Co	Tax Billing Zip	75442
Tax Billing Address	Po Box 32	Tax Billing Zip+4	0032
Tax Billing City & State	Farmersville, TX		

LOCATION INFORMATION

Location City	Farmersville	MLS Area (Tax)	58
School District	Farmersville ISD	MLS Sub Area	1
School District Code	Sfc	Census Tract	311.00
Subdivision	Howell Add	Carrier Route	C001

TAX INFORMATION

Tax ID	R-1058-011-042B-1	% Improved	64%
Alternate Tax ID	1244692	Lot	42b
Parcel ID	R1058011042B1	Block	11
Legal Description	HOWELL ADDITION (CFC), BLK 11 LOT 42B		

ASSESSMENT & TAX

Assessment Year	2020	2019	2018
Assessed Value - Total	\$98,950	\$98,947	\$98,947
Assessed Value - Land	\$35,988	\$35,988	\$35,988
Assessed Value - Improved	\$62,962	\$62,959	\$62,959
YOY Assessed Change (\$)	\$3	\$0	
YOY Assessed Change (%)	0%	0%	
Market Value - Total	\$98,950	\$98,947	\$98,947
Market Value - Land	\$35,988	\$35,988	\$35,988
Market Value - Improved	\$62,962	\$62,959	\$62,959
Tax Year	Total Tax	Change (\$)	Change (%)
2018	\$2,307		
2019	\$2,192	-\$115	-4.99%
2020	\$2,067	-\$105	-4.82%
Jurisdiction	Tax Amount	Tax Type	Tax Rate
Farmersville City	\$704.57	Actual	.71204
Collin County	\$170.72	Actual	.17253
Collin Co Community College	\$80.37	Actual	.08122
Farmersville ISD	\$1,131.00	Actual	1.143
Total Estimated Tax Rate			2.1088

CHARACTERISTICS

Land Use - Corelogic	Commercial Building	Total Building Sq Ft	10,089
Land Use - State	Real Commercial	Stories	1
Land Use - County	Real Commercial	# of Buildings	2
Estimated Lot Acres	0.2754	Year Built	1970
Estimated Lot Sq Ft	11,996	Effective Year Built	1980
Building Sq Ft	10,089		

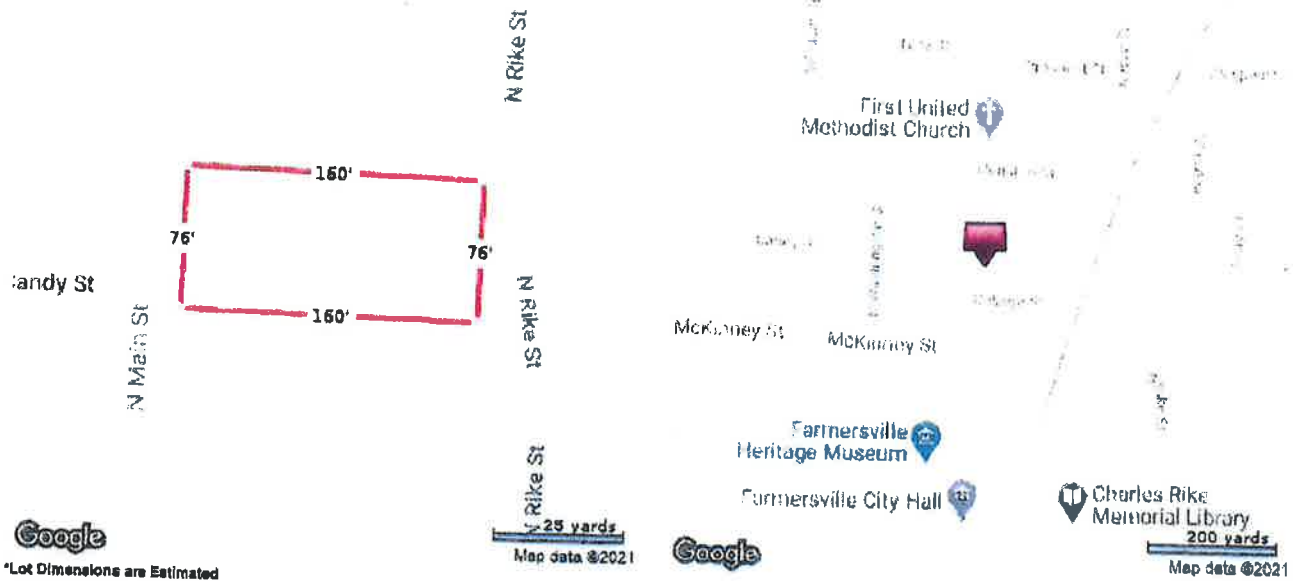
FEATURES

Feature Type	Unit	Size/Qty	Year Built	Value
Main Area	S	8,000	1970	\$48,160

ESTIMATED VALUE

Value As Of 03/14/2021

PROPERTY MAP



*Lot Dimensions are Estimated

BUILDING 1 OF 2

CHARACTERISTICS

Land Use - Corelogic	Commercial Building	Building Sq Ft	8,000
Land Use - State	Real Commercial	Total Building Sq Ft	10,089
Land Use - County	Real Commercial	Stories	1
Estimated Lot Acres	0.2754	Year Built	1970
Estimated Lot Sq Ft	11,996	Effective Year Built	1980

FEATURES

Feature Type	Unit	Size/Qty	Year Built	Value
Main Area	S	8,000	1970	\$48,160

BUILDING 2 OF 2

CHARACTERISTICS

Land Use - Corelogic	Commercial Building	Building Sq Ft	2,089
Land Use - State	Real Commercial	Total Building Sq Ft	10,089
Land Use - County	Real Commercial	Stories	1
Estimated Lot Acres	0.2754	Year Built	1970
Estimated Lot Sq Ft	11,996	Effective Year Built	1980

FEATURES

Feature Type	Unit	Size/Qty	Year Built	Value
Main Area	S	1,800	1970	\$10,836
Attached Addition	S	289	2014	\$7,555

Re: Black Bike Wheel's plans in Farmersville

Hi All,

Black Bike Wheels is a small "mom and pops" Wheel boutique, Artisan Assemblers. We have been Hand assembling Motorcycle wheels the old fashioned Hand crafted way for over 25 years. We start with the center section that is made out of a 5" round piece of Billet Aluminum. We then hand thread stainless steel wire and lace it with a custom drilled rim. Many of the options we offer include hand polishing or we send out the parts to be chromed. We then install a tire and ship it to our customer. None of the things we do require any particularly loud or heavy duty equipment. Our operation is more akin to an old fashioned craftsman.

As for the facility, we would like to restore the front of the building along College and Main to its former glory, including the Porte Cochere, and divide the space into individual retail spaces to rent out to various shops and stores. We will operate black bike out of the rear section, most of which we will use to store the rims and other various parts we use for assembling our product.

Considering our small volume, and plans to refurbish the exterior parts of the building, we will be a wonderful fit for the Farmersville community. Aside from contributing sales tax income and local jobs, it is unlikely that anybody will even know that we are operating out of the back.

We look forward to joining the Farmersville community things we

Thank You,

Elliott

various shops &
store th-

various shops &
store th-

V. Regular Agenda

Agenda Section: Regular Agenda

- A.** Consider, discuss, and act upon a request for approval of the Minor Plat for the Vamvakas Estates, and possibly regarding satisfactory completion of any required public improvements.



December 16, 2021

Mr. Ben White, P.E.
City of Farmersville
205 S. Main St.
Farmersville, Texas 75442

RE: Vamvakas Estates – Minor Plat
Dated October 27, 2021

Mr. White:

The above referenced minor plat has been reviewed according to the ordinances of the City of Farmersville and been found to be compliant pending the revision of the following:

Health Department Certification - 4th bullet point should be revised to read:

“There are no easements other than the aforementioned pipeline easement and the utility easement on the final plat.”

It is recommended that the Vamvakas Estates Plat be approved if the above change is made. Please contact me if you have any questions.

Sincerely,

A handwritten signature in black ink that reads 'Eddy W. Daniel'. The signature is fluid and cursive, with the first letters of each name being capitalized and prominent.

Eddy W. Daniel, P.E.
City Engineer



Date: December 16, 2021

To: Whom It May Concern


RE: Vamvakas Estates Minor Plat

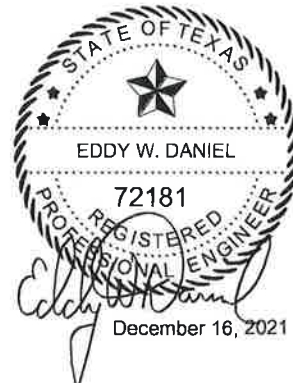
The North Farmersville Water Supply Corporation (NFWSC) has reviewed the proposed Vamvakas Estates Minor Plat. The proposed development is located within the Certificate of Convenience and Necessity (CCN) #12363 of NFWSC. The proposed development will be served with one additional standard 5/8"x3/4" water meter.

There is adequate volume and pressure to provide the requested service. This will-serve letter can be forwarded to the appropriate authorities to accomplish the necessary platting and development approval.

If you should have any questions regarding the will-serve letter, please feel free to contact me.

Sincerely,


Eddy W. Daniel, P.E.
Corporation Engineer



Agenda Section: Regular Agenda

- B.** Consider, discuss, and act upon a request for approval of the Final Plat for the HCG Addition, Lots 1 and 2, Block A, and possibly regarding satisfactory completion of any required public improvements.



December 16, 2021

Mr. Ben White, P.E.
City of Farmersville
205 S. Main St.
Farmersville, Texas 75442

RE: HCG Addition, Lots 1-2, Block A – Final Plat and Utility Construction
Dated November 2021

Mr. White:

The above referenced final plat has been reviewed according to the ordinances of the City of Farmersville and been found to be compliant. Additionally, the utilities have been installed, inspected, and approved in accordance with the plans and standards of the City of Farmersville. All required submittals have been provided.

It is recommended that the HCG Addition Final Plat be approved and the utility improvements be accepted. Please contact me if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Eddy W. Daniel", is written over a faint circular stamp.

Eddy W. Daniel, P.E.
City Engineer

Agenda Section: Regular Agenda

C. Consider, discuss, and act upon a Professional Service Agreement with Kimley-Horn regarding final design for of the Influent Lift Station and Headworks Facility to Accommodate the Installation of a Temporary Wastewater Treatment Plant for the Lakehaven MUD agreement, Bidding the Construction of the Influent Lift Station and Headworks Facility, and Construction Contract Administration.

THE STATE OF TEXAS § **PROFESSIONAL SERVICES CONTRACT**
 § **(For Engineering Services) with**
COUNTY OF COLLIN § **KIMLEY-HORN AND ASSOCIATES, INC.**

THIS CONTRACT is entered into on this _____ day of _____, 20____,¹ by and between the **CITY OF FARMERSVILLE, TEXAS**, a municipal corporation located in Collin County, Texas, (hereinafter referred to as "CITY"), acting by and through its City Manager or his designee, and **KIMLEY-HORN AND ASSOCIATES, INC.**, a North Carolina corporation, ("hereinafter referred to as "CONSULTANT") whose address is 801 Cherry Street, Unit 11, Suite 1300, Ft. Worth, Texas 76102.

W I T N E S S E T H:

WHEREAS, CITY desires to obtain engineering services from CONSULTANT for the Final Design of the Influent Lift Station and Headworks Facility to Accommodate the Installation of a Temporary Wastewater Treatment Plant for the Lakehaven MUD agreement, Bidding the Construction of the Influent Lift Station and Headworks Facility, and Construction Contract Administration; and

WHEREAS, CONSULTANT is an engineering firm qualified to provide such services and is willing to undertake the performance of such services for CITY in exchange for fees hereinafter specified; NOW, THEREFORE,

IN CONSIDERATION of the covenants and agreements hereinafter contained and subject to the terms and conditions hereinafter stated, the parties hereto do mutually agree as follows:

I.
Employment of Consultant

CONSULTANT will perform as an independent contractor all services under this Contract to the prevailing professional standards consistent with the professional level of care and skill ordinarily provided by competent members of the architectural and engineering professions, both public and private, currently practicing in the same or similar locality under the same or similar circumstances and professional license including but not limited to the exercise of reasonable, informed judgments and prompt, timely action considering the ordinary professional skill and care of a competent engineer or architect. If CONSULTANT is representing that it has special expertise in one or more areas to be utilized in this Contract, then CONSULTANT agrees to perform

¹ If this date is omitted, the effective date shall be the date the Agreement is executed by the City.

those special expertise services to the appropriate local, regional and national professional standards.

II. Scope of Services

CONSULTANT shall perform such services as are necessary for Final Design of the Influent Lift Station and Headworks Facility to Accommodate the Installation of a Temporary Wastewater Treatment Plant for the Lakehaven MUD agreement, Bidding the Construction of the Influent Lift Station and Headworks Facility, and Construction Contract Administration specifically including, but not necessarily limited to, the tasks enumerated more fully in Attachment "A" hereto entitled "Scope of Work" (hereafter referred to as the "Project"). Attachment "A" is hereby incorporated herein by reference and made a part hereof as if written word for word. However, in case of conflict in the language of Attachment "A" and this Contract, the terms and conditions of this Contract shall be final and binding upon both parties hereto.

III. Payment for Services

Total payment for the performance and delivery of the services described herein shall be a sum not to exceed One Hundred Forty Thousand and Zero/100^{ths} Dollars (\$140,000.00) ("Total Payment Amount"). This Total Payment Amount includes CONSULTANT's "Construction Contract Administration" and "Reimbursable Expenses" in an amount not to exceed Sixty Thousand Dollars (\$60,000.00) as defined herein below.

A. Payment for Lump Sum Component (Design and Bidding)

CONSULTANT will bill CITY for the performance and delivery of the Final Design of the Influent Lift Station and Headworks Facility to Accommodate the Installation of a Temporary Wastewater Treatment Plant for the Lakehaven MUD agreement and the Bidding of the Work to be Performed on a percent complete basis in accordance with Attachment "A" hereto and will also bill CITY for CONSULTANT's "Reimbursable Expenses" identified in Attachment "A"; provided however that this Contract shall control in the event of any conflict between the language in Attachment "A" and the language in this Contract. Each month CONSULTANT will submit to CITY an invoice supporting the percentage of work completed and reimbursable expenses incurred for which payment is sought. Each invoice shall also state the percentage of work completed on the Project through the end of the then submitted billing period, the total of the current invoice amount and a running total balance of the percentage of work completed and reimbursable expenses incurred for the Project to date.

B. Payment for Hourly Component (Construction Contract Administration)

CONSULTANT will bill CITY for the performance and delivery of the Construction Contract Administration services described in Attachment "A" hereto on an hourly basis at the hourly rates described in Attachment "B" and will also bill CITY for the "Reimbursable Expenses" identified in Attachment "A"; provided however that this Contract shall control in the event of any conflict between the language in Attachments "A" and "B" and the language in this Contract. Each month CONSULTANT will submit to CITY an invoice for actual Construction Contract Administration services performed and reimbursable expenses incurred by CONSULTANT during the previous month. Each invoice shall be itemized to show the amount of Construction Contract Administration work performed during that month broken down by the identity of the person(s) performing such work, the amount of time expended by each such person(s) in performing that work, the billing rate for each such person, and a brief summary of the work performed by each such person. Each invoice shall also state the percentage of work completed on the Construction Contract Administration component of the Project, the total of the current invoice amount and a running total balance for the overall Project to date.

C. Scope of Services Strictly Limited

If additional services, trips or expenses are requested, CONSULTANT will not provide such additional services or trips or incur additional expenses until authorized by CITY in writing to proceed. The scope of services shall be strictly limited. CITY shall not be required to pay any amount in excess of the amount identified in the preceding paragraph unless CITY shall have approved in writing in advance (prior to the performance of additional work or expenditure of funds for additional trips or expenses) the payment of additional amounts.

D. Reimbursable Expenses

CONSULTANT will be compensated for the following **reasonable and documented** "Reimbursable Expenses," if any, from the Total Payment Amount to the extent such expenses are directly related to CONSULTANT's performance of the Project provided the total amount of such Reimbursable Expenses together with the payment for all professional services to be performed hereunder does not exceed the Total Payment Amount: printing; photocopying; reproduction of drawings and specifications; postage; courier delivery services; long distance telephone calls; and, mileage at the allowable rate established by the Internal Revenue Service (collectively "Reimbursable Expenses"). Any expenses the CITY determines are not reasonable and directly related to CONSULTANT's performance of the Project, and/or which are not properly documented to the CITY, shall remain the sole responsibility of the CONSULTANT. Any expenses that do not fit within any of the categories of Reimbursable Expenses or which expenses are unusual or cumulatively exceed the amount identified in Attachment "A" or the Total Payment Amount are considered "Extraordinary Expenses" and must be approved in advance by CITY in writing signed

by the parties. If approved by CITY in writing in advance, such Extraordinary Expenses may be paid as incurred and billed to the CITY pursuant to this Contract over and above the Total Payment Amount identified in this provision. Any Extraordinary Expenses not approved in writing in advance by the CITY shall remain the sole responsibility of the CONSULTANT.

E. Payment by CITY

Within thirty (30) days of receipt of each such monthly invoice CITY shall make monthly payments in the amount shown by CONSULTANT's approved monthly statements and other documentation submitted. Such payments shall be subject to the Texas Prompt Payment Act, Texas Government Code §§ 2251.001, *et seq.*

Nothing contained in this Contract shall require CITY to pay for any work that is unsatisfactory as determined by CITY or which is not submitted in compliance with the terms of this Contract, nor shall failure to withhold payment pursuant to the provisions of this section constitute a waiver of any right, at law or in equity, which CITY may have if CONSULTANT is in default, including the right to bring legal action for damages or for specific performance of this Contract. Waiver of any default under this Contract shall not be deemed a waiver of any subsequent default.

IV.
Revisions of the Scope of Services

CITY reserves the right to revise or expand the scope of services after due approval by CITY as CITY may deem necessary, but in such event CITY shall pay CONSULTANT equitable compensation for such services. In any event, when CONSULTANT is directed to revise or expand the scope of services under this Section of the Contract, CONSULTANT shall provide CITY a written proposal for the entire costs involved in performing such additional services. Prior to CONSULTANT undertaking any revised or expanded services as directed by CITY under this Contract, CITY must authorize in writing the nature and scope of the services and accept the method and amount of compensation and the time involved in all phases of the Project.

It is expressly understood and agreed by CONSULTANT that any compensation not specified in Paragraph III herein above may require Farmersville City Council approval and is subject to the current budget year limitations.

V.
Term

This Contract shall begin on the date first written above, and shall terminate when CITY has approved the Project as being final or otherwise terminates this Contract as provided herein.

VI.

Contract Termination Provision

This Contract may be terminated at any time by CITY for any cause by providing CONSULTANT thirty (30) days written notice of such termination. Upon receipt of such notice, CONSULTANT shall immediately terminate working on, placing orders or entering into contracts for supplies, assistance, facilities or materials in connection with this Contract and shall proceed to promptly cancel all existing contracts insofar as they are related to this Contract. CONSULTANT shall invoice CITY for all Services completed and shall be compensated in accordance with the terms of this Contract for all Services performed by CONSULTANT through the date such written notice of termination is received by CONSULTANT.

VII.

Ownership of Documents

All materials and documents prepared or assembled by CONSULTANT under this Contract shall become the sole property of CITY and shall be delivered to CITY without restriction on future use. CONSULTANT may retain copies of all drawings, specifications and all other pertinent information for the work in CONSULTANT's files. CONSULTANT shall have no liability for changes made to any materials or other documents by others subsequent to the completion of the Contract.

VIII.

Insurance Requirements

- A. Before commencing work, the CONSULTANT shall, at its own expense, procure, pay for and maintain the following insurance written by companies approved by the state of Texas and acceptable to the City of Farmersville. The CONSULTANT shall furnish to the City of Farmersville City Manager certificates of insurance executed by the insurer or its authorized agent stating coverages, limits, expiration dates and compliance with all applicable required provisions. Certificates shall reference the project/contract number and be addressed as follows:

City of Farmersville
c/o City Manager
205 S. Main Street
Farmersville, Tx 75442.

1. Commercial General Liability insurance, including, but not limited to Premises/Operations, Personal & Advertising Injury, Products/Completed Operations, Independent Contractors and Contractual Liability, with minimum limits of \$1,000,000 per-occurrence and \$2,000,000 general aggregate. Coverage must be written on an occurrence form. The General Aggregate shall apply on a per project basis.

2. Workers' Compensation insurance with Texas statutory limits; and Employers' Liability coverage with minimum limits for bodily injury: a) by accident, \$500,000 each accident, b) by disease, \$500,000 per employee with a per policy aggregate of \$500,000.
3. Business Automobile Liability insurance covering owned, hired and non-owned vehicles, with a minimum combined single limit of \$1,000,000.
4. Professional Liability Insurance to provide coverage against any claim which the CONSULTANT becomes legally obligated to pay as damages arising out of the performance of professional services caused by error, omission or negligent act with minimum limits of \$1,000,000 each occurrence and \$2,000,000 aggregate.

NOTE: If the insurance is written on a claims-made form, coverage shall be continuous (by renewal or extended reporting period) for not less than thirty-six (36) months following completion of the contract and acceptance by the City of Farmersville.

B. With reference to the foregoing required insurance, the CONSULTANT agrees to the following:

1. A waiver of subrogation in favor of City of Farmersville, its officials, employees, and officers shall be contained in the Workers' Compensation insurance policy.
2. The City of Farmersville, its officials, employees and officers shall be covered as additional insureds on the Commercial General Liability and Business Automobile Liability policies. Nothing contained in Section XII of this Agreement shall be interpreted or applied as limiting, reducing, or eliminating any obligation or duty that CONSULTANT's insurance carrier may owe to CITY as an additional insured under the CONSULTANT's general liability insurance policies required by this Agreement to provide the CITY with a defense and/or indemnify the CITY for any claim or cause of action, whether one or more, regardless of the proportionate responsibility or liability of the CONSULTANT or the CITY. Neither shall anything contained in this Section VIII be interpreted or applied as providing or otherwise entitling either CONSULTANT, CONSULTANT's insurance carrier or any other party any right or ability to recover over against CITY any amounts of money attributable to damages, costs, expenses and/or attorneys' fees based on or arising out of a finding of comparative or proportionate responsibility or liability as against the CITY it being understood and agreed that CITY in no way intends by this Agreement to waive its sovereign immunity regarding any claim, suit or cause of action.

3. Policies of insurance shall not be cancelled non-renewed, terminated, or materially changed unless and until thirty (30) days' notice has been given to City of Farmersville.
- C. Insurance limits can be met with a combination of primary and excess/umbrella coverage.
- D. All insurance shall be purchased from insurance companies that meet a financial rating of A-VI or better as assigned by A.M. Best Company or equivalent.
- E. The CONSULTANT shall require any contractors, sub-contractors, and other persons doing business with or for the CONSULTANT related to the work to maintain at least the insurance as required, or their liability shall be covered by the CONSULTANT.

IX.

Right to Inspect Records

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

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

X.

Successors and Assigns

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

XI.
CONSULTANT's Liability

Acceptance of the final plans by the CITY shall not constitute nor be deemed a release of the responsibility and liability of CONSULTANT, its employees, associates, agents or consultants for the accuracy and competency of their designs, working drawings, specifications or other documents and work; nor shall such acceptance be deemed an assumption of responsibility by CITY for any defect in the designs, working drawings, specifications or other documents and work; nor shall such acceptance be deemed an assumption of responsibility by CITY for any defect in the designs, working drawings, specifications or other documents and work prepared by said CONSULTANT, its employees, associates, agents or sub-consultants.

XII.
INDEMNIFICATION

CONSULTANT DOES HEREBY COVENANT AND CONTRACT TO WAIVE ANY AND ALL CLAIMS, RELEASE, INDEMNIFY, AND HOLD HARMLESS THE CITY, ITS CITY COUNCIL, OFFICERS, EMPLOYEES, AND AGENTS, IN BOTH THEIR PUBLIC AND PRIVATE CAPACITIES, FROM AND AGAINST ALL LIABILITY, CAUSES OF ACTION, CITATIONS, CLAIMS, COSTS, DAMAGES, DEMANDS, EXPENSES, FINES, JUDGMENTS, LOSSES, PENALTIES OR SUITS, WHICH IN ANY WAY ARISE OUT OF, RELATE TO, OR RESULT FROM CONSULTANT'S PERFORMANCE UNDER THIS CONTRACT AND WHICH ARE CAUSED BY THE INTENTIONAL WRONGFUL ACTS OR NEGLIGENT ACTS OR OMISSIONS OF CONSULTANT OR CONSULTANT'S SUBCONTRACTORS AND THE OFFICERS, AGENTS OR EMPLOYEES OF EITHER CONSULTANT OR CONSULTANT'S SUBCONTRACTORS (THE "INDEMNIFIED ITEMS") SUBJECT TO THE LIMITATIONS IN TEXAS LOCAL GOVERNMENT CODE § 271.904 AND TEXAS CIVIL PRACTICE AND REMEDIES CODE § 130.002(B).

BY WAY OF EXAMPLE, THE INDEMNIFIED ITEMS MAY INCLUDE PERSONAL INJURY AND DEATH CLAIMS AND PROPERTY DAMAGE CLAIMS, INCLUDING THOSE FOR LOSS OF USE OF PROPERTY, AS WELL AS INTELLECTUAL PROPERTY INFRINGEMENT OR FAILURE TO PAY A SUBCONTRACTOR OR SUPPLIER.

INDEMNIFIED ITEMS SHALL INCLUDE REASONABLE ATTORNEYS' FEES IN PROPORTION TO THE CONSULTANT'S LIABILITY AND COSTS, COURT COSTS, AND SETTLEMENT COSTS. INDEMNIFIED ITEMS SHALL ALSO INCLUDE ANY EXPENSES, INCLUDING REASONABLE ATTORNEYS' FEES AND EXPENSES, INCURRED BY AN INDEMNIFIED INDIVIDUAL OR ENTITY IN ATTEMPTING TO ENFORCE THIS INDEMNITY.

XIII.
Independent Contractor

CONSULTANT's status shall be that of an Independent Contractor and not an agent, servant, employee or representative of CITY in the performance of this Contract. No term or provision of or act of CONSULTANT or CITY under this Contract shall be construed as changing that status. CONSULTANT will have exclusive control of and the exclusive right to control the details of the work performed hereunder, and shall be liable for the acts and omissions of its officers, agents, employees, contractors, subcontractors and engineers and the doctrine of respondeat superior shall not apply as between CITY and CONSULTANT, its officers, agents, employees, contractors, subcontractors and engineers, and nothing herein shall be construed as creating a partnership or joint enterprise between CITY and CONSULTANT.

XIV.
Default

If at any time during the term of this Contract, CONSULTANT shall fail to commence the work in accordance with the provisions of this Contract or fail to diligently provide services in an efficient, timely and careful manner and in strict accordance with the provisions of this Contract or fail to use an adequate number or quality of personnel to complete the work or fail to perform any of its obligations under this Contract, then CITY shall have the right, if CONSULTANT shall not cure any such default after thirty (30) days written notice thereof, to terminate this Contract. Any such act by CITY shall not be deemed a waiver of any other right or remedy of CITY. If after exercising any such remedy due to CONSULTANT's nonperformance under this Contract, the cost to CITY to complete the work to be performed under this Contract is in excess of that part of the Contract sum which has not theretofore been paid to CONSULTANT hereunder, CONSULTANT shall be liable for and shall reimburse CITY for such excess. CONSULTANT'S liability under this provision shall be limited to the total dollar amount of this Contract.

CITY's remedies for CONSULTANT's default or breach under this Contract shall be limited to one or more of the following remedies which may be exercised separately or in combination at CITY's sole exclusive choice:

- (a) Specific performance of the Contract;
- (b) Re-performance of this Contract at no extra charge to CITY; or,
- (c) Monetary damages in an amount not to exceed the greater of:
 - (1) The amount of any applicable insurance coverage CONSULTANT is required to purchase and maintain under this Contract plus any deductible amount to be paid by CONSULTANT in conjunction with said

coverage regardless of whether CONSULTANT has actually purchased and maintained said coverage; or,

(2) The total dollar amount of this Contract.

The terms of Sections XII entitled Indemnification, and XVII entitled Confidential Information shall survive termination of this Contract.

XV. Changes

CITY may, from time to time, require changes in the scope of services to be performed under this Contract. Such changes as are mutually agreed upon by and between CITY and CONSULTANT shall be incorporated by written modification to this Contract.

XVI. Conflict of Interest

CONSULTANT covenants and agrees that CONSULTANT and its associates and employees will have no interest, and will acquire no interest, either direct or indirect, which will conflict in any manner with the performance of the services called for under this Contract. All activities, investigations and other efforts made by CONSULTANT pursuant to this Contract will be conducted by employees, associates or subcontractors of CONSULTANT.

In addition, to the extent that this Contract (a) must be approved by the CITY's governing body before it may be signed or (b) has a value of \$1,000,000, or more, CONSULTANT shall comply with the requirements of Texas Government Code § 2252.908 by completing and submitting Form 1295 to the Texas Ethics Commission ("Commission") at the time CONSULTANT submits this signed Contract to CITY, and as follows:

Form 1295 Filing Process: The Commission has made available on its website a new filing application that must be used to file Form 1295. The CONSULTANT must use the application to enter the required information on Form 1295 and print a copy of the completed form, which will include a certification of filing that will contain a unique certification number. An authorized agent of the CONSULTANT must sign the printed copy of the form and complete the "unsworn declaration" which includes, among other things, the date of birth and address of the authorized representative signing the form. The completed Form 1295 with the certification of filing must be filed with the CITY.

The CITY must notify the Commission, using the Commission's filing application, of the receipt of the filed Form 1295 with the certification of filing not later than the 30th day after the date the Contract binds all parties to the

Contract. The Commission will post the completed Form 1295 to its website within seven business days after receiving notice from the CITY.

Form 1295 Availability: Certificate of Interested Parties Form is available from the Texas Ethics Commission website at the following address:

<https://www.ethics.state.tx.us/filinginfo/1295/>

For questions regarding and assistance in filling out Form 1295, please contact the Texas Ethics Commission at 512-463-5800.

XVII.

Confidential Information

CONSULTANT hereby acknowledges and agrees that its representatives may have access to or otherwise receive information during the furtherance of its obligations in accordance with this Contract, which is of a confidential, non-public or proprietary nature. CONSULTANT shall treat any such information received in full confidence and will not disclose or appropriate such Confidential Information for its own use or the use of any third party at any time during or subsequent to this Contract. As used herein, "Confidential Information" means all oral and written information concerning City of Farmersville, its affiliates and subsidiaries, and all oral and written information concerning CITY or its activities, that is of a non-public, proprietary or confidential nature including, without limitation, information pertaining to customer lists, services, methods, processes and operating procedures, together with all analyses, compilation, studies or other documents, whether prepared by CONSULTANT or others, which contain or otherwise reflect such information. The term "Confidential Information" shall not include such materials that are or become generally available to the public other than as a result of disclosure of CONSULTANT, or are required to be disclosed by a governmental authority.

XVIII.

Mailing Address

All notices and communications under this CONTRACT to be mailed to CITY shall be sent to the address of CITY's agent as follows, unless and until CONSULTANT is otherwise notified:

Benjamin L. White, P.E., CPM
City Manager
City of Farmersville
205 S. Main Street
Farmersville, Tx 75442.

Notices and communications to be mailed or delivered to CONSULTANT shall be sent to the address of CONSULTANT as follows, unless and until CITY is otherwise notified:

Jeff James, P.E.
Kimley-Horn and Associates, Inc.
801 Cherry Street, Unit #11, Suite 1300
Fort Worth, Texas 76102

Any notices and communications required to be given in writing by one party to the other shall be considered as having been given to the addressee on the date the notice or communication is posted, faxed or personally delivered by the sending party.

XIX. **Applicable Law**

The CONTRACT is entered into subject to the Farmersville City Charter and ordinances of CITY, as same may be amended from time to time, and is subject to and is to be construed, governed and enforced under all applicable State of Texas and federal laws. CONSULTANT will make any and all reports required per federal, state or local law including, but not limited to, proper reporting to the Internal Revenue Service, as required in accordance with CONSULTANT's income. Situs of this Contract is agreed to be Collin County, Texas, for all purposes, including performance and execution.

XX. **Severability**

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

XXI. **Remedies**

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

XXII.
Entire Agreement

This Contract embodies the complete agreement of the parties hereto, superseding all oral or written previous and contemporaneous agreements between the parties relating to matters herein, and except as otherwise provided herein cannot be modified without written agreement of the parties.

XXIII.
Non-Waiver

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

XXIV.
Headings

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

XXV.
Venue

The parties to this Contract agree and covenant that this Contract will be enforceable in Farmersville, Texas; and that if legal action is necessary to enforce this Contract, exclusive venue will lie in Collin County, Texas.

XXVI.
No Third Party Beneficiary

For purposes of this Contract, including its intended operation and effect, the parties (CITY and CONSULTANT) specifically agree and contract that: (1) the Contract only affects matters/disputes between the parties to this Contract, and is in no way intended by the parties to benefit or otherwise affect any third person or entity notwithstanding the fact that such third person or entity may be in contractual relationship with CITY or CONSULTANT or both; and (2) the terms of this Contract are not intended to release, either by contract or operation of law, any third person or entity from obligations owing by them to either CITY or CONSULTANT.

XXVII.
No Boycotting of Israel

In accordance with Chapter 2270, Texas Government Code, a Texas governmental entity may not enter into a contract with a company for the provision of goods or services unless the contract contains a written verification from the company that it:

- (1) does not boycott Israel; and
- (2) will not boycott Israel during the term of the contract.

Chapter 2270 does not apply to (1) a company that is a sole proprietorship; (2) a company that has fewer than ten (10) full-time employees; or (3) a contract that has a value of less than One Hundred Thousand Dollars (\$100,000.00). Unless the company is not subject to Chapter 2270 for the reasons stated herein, the signatory executing this contract on behalf of the company verifies by its signature on this Contract that the company does not boycott Israel and will not boycott Israel during the term of this contract.

XXVIII.

No Boycotting of Energy Companies

In accordance with Senate Bill 13, 87th Leg., R.S., to be codified in Chapter 2274, Texas Government Code, a Texas governmental entity may not enter into a contract with a company for the provision of goods or services unless the contract contains a written verification from the company that it: (1) does not boycott energy companies; and (2) will not boycott energy companies during the term of the contract.

Chapter 2274 does not apply to: (1) a company that has fewer than ten (10) full-time employees; or (2) a contract that has a value of less than One Hundred Thousand Dollars (\$100,000.00). Unless the Construction Manager is not subject to Chapter 2274 for the reasons stated herein, the signatory executing this Agreement on behalf of the Construction Manager verifies by its signature on this Agreement that the Construction Manager does not boycott energy companies and will not boycott energy companies during the term of this Agreement.

XXIX.

No Boycotting of any Firearm Entity or Firearm Trade Association

In accordance with Senate Bill 19, 87th Leg., R.S., to be codified in Chapter 2274, Texas Government Code, a Texas governmental entity may not enter into a contract with a company for the provision of goods or services unless the contract contains a written verification from the company that it: (1) does not have a practice, policy, guidance, or directive that discriminates against any firearm entity or firearm trade association; and (2) will not discriminate during the term of the contract against any firearm entity or firearm trade association.

Chapter 2274 does not apply to: (1) a company that has fewer than ten (10) full-time employees; or (2) a contract that has a value of less than One Hundred Thousand Dollars (\$100,000.00). In addition, this provision does not apply to: (1) a contract with a sole-source provider; or (2) a contract for which the governmental entity did not receive any bids from a company that is able to provide the required written verification. Unless the Construction Manager is not subject to Chapter 2274 for the reasons stated herein,

the signatory executing this Agreement on behalf of the Construction Manager verifies by its signature on this Agreement that the Construction Manager does not boycott any firearm entity or firearm trade association and will not boycott any firearm entity or firearm trade association during the term of this Agreement.

IN WITNESS WHEREOF, the parties hereto have set their hands by their representatives duly authorized on the day and year first written above.

CITY OF FARMERSVILLE

By: _____
BENJAMIN L. WHITE, P.E., CPM
City Manager
Date Signed: _____

ATTEST:

TABATHA MONK
City Secretary

APPROVED AS TO FORM:

ALAN D. LATHROM
City Attorney

KIMLEY-HORN AND ASSOCIATES, INC., a
North Carolina corporation

By: _____
JEFF JAMES, P.E.
Senior Vice President

Date Signed: _____

Attachment "A"

Scope of Work

December 10, 2021

Mr. Ben White
City Manager
City of Farmersville
205 South Main Street
Farmersville, TX 75442

Re: Professional Services Agreement for Updating Headworks and Lift Station Improvements

Dear Mr. White:

Kimley-Horn and Associates, Inc. ("Kimley-Horn" or "Consultant") is pleased to submit this letter agreement (the "Agreement") to the City of Farmersville ("City") for providing engineering services for updating headworks and lift station improvements.

Project Understanding:

Kimley-Horn completed the design of a 0.5 MGD Wastewater Treatment Facility (WWTF) in 2019. The City has executed a development agreement with the developer of the Lakehaven property to allow the developer to lease temporary wastewater treatment facilities until funding is available to construct the full 0.5 MGD WWTF. The City desires to update the design of the influent lift station and headworks facility to accommodate the installation of a temporary wastewater treatment plant. The temporary wastewater treatment solution is a separate professional services agreement. The purpose of this professional services contract is to move forward with bidding and construction phase services for the headworks and lift station improvements.

Specific Scope of Basic Services: Consultant will perform the following basic scope of services.

WWTF Headworks Project

Task 1: Final Design and Bidding

The Consultant will perform the following professional services for this project phase:

1. Update up to 40 sheets of the 2019 Wastewater Treatment Plant 3 drawings to accommodate a temporary wastewater treatment plant. The updated drawings may include:
 - a. Site Civil Plan Sheets C-101 to C-901.
 - b. Mechanical Plan Sheets M-100 to M-902
 - c. Structural Plan Sheets S-103 to S-109
 - d. Electrical Plan Sheets E-300 to E-307
2. Develop construction documents and specifications for project bidding and construction.
3. Print a maximum of 10 full size (22"x34") sets of plans and specifications for the City.
4. Provide plans and specifications in .PDF format to CivCast website for online bidding.
5. Prepare the Notice to Bidders. The City will be responsible for submitting the Notice to newspapers for advertisement.
6. Issue addenda as required.
7. Answer contractor questions.
8. Prepare for and conduct a Pre-bid conference.

kimley-horn.com

801 Cherry Street, Unit 11, Suite 1300, Ft. Worth, TX 76102

817 335 6511

9. Attend bid opening, prepare a tabulation of bids, and prepare a letter summarizing the bids to the Client for award of contract.

Services/Deliverables provided by the City:

- a. Submitting bid notice to newspaper for advertisement
- b. Award a contract to a contractor.

Task 2 – Construction Contract Administration

Consultant will provide professional construction phase services to the City during construction of this project. The estimated construction period of the project is twelve (12) months for the basis of establishing the Consultant's Fee. The construction phase services are as follows:

1. Pre-Construction Conference – The Consultant will conduct a pre-construction conference prior to commencement of work at the site.
2. Visits to Site and Construction Observation – The Consultant will provide on-site construction observation services during the construction phase. Consultant will make visits at intervals as directed by City in order to observe the progress of the Work. Such visits and observations by Consultant are not intended to be exhaustive or to extend to every aspect of Contractor's work in progress. Observations are to be limited to spot checking, selective measurement, and similar methods of general observation of the Work based on Consultant's exercise of professional judgment. Based on information obtained during such visits and such observations, Consultant will evaluate whether Contractor's work is generally proceeding in accordance with the Contract Documents, and Consultant will keep City informed of the general progress of the Work.
3. The purpose of Consultant's site visits will be to enable Consultant to better carry out the duties and responsibilities specifically assigned in this Agreement to Consultant, and to provide City a greater degree of confidence that the completed Work will conform in general to the Contract Documents. Consultant shall not, during such visits or as a result of such observations of Contractor's work in progress, supervise, direct, or have control over Contractor's work, nor shall the Consultant have authority over or responsibility for the means, methods, techniques, equipment choice and usage, sequences, schedules, or procedures of construction selected by Contractor, for safety precautions and programs incident to Contractor's work, nor for any failure of Contractor to comply with laws and regulations applicable to Contractor's furnishing and performing the Work. Accordingly, Consultant neither guarantees the performance of any Contractor nor assumes responsibility for any Contractor's failure to furnish and perform its work in accordance with the Contract Documents.
4. Recommendations with Respect to Defective Work – The Consultant will recommend to City that Contractor's work be disapproved and rejected while it is in progress if, on the basis of such observations, Consultant believes that such work will not produce a completed Project that conforms generally to Contract Documents.
5. Clarifications and Interpretations – The Consultant will respond to reasonable and appropriate Contractor requests for information and issue necessary clarifications and interpretations of the Contract Documents to City as appropriate to the orderly completion of Contractor's work. Any orders authorizing variations from the Contract Documents will be made by City.
6. Change Orders – The Consultant may recommend Change Orders to City, and will review and

make recommendations related to Change Orders submitted or proposed by the Contractor.

7. Shop Drawings and Samples – The Consultant will review and approve or take other appropriate action in respect to Shop Drawings and Samples and other data which Contractor is required to submit, but only for conformance with the information given in the Contract Documents. Such review and approvals or other action will not extend to means, methods, techniques, equipment choice and usage, sequences, schedules, or procedures of construction or to related safety precautions and programs.
8. Substitutes and "or-equal" – The Consultant will evaluate and determine the acceptability of substitute or "or-equal" materials and equipment proposed by Contractor in accordance with the Contract Documents, but subject to the provisions of applicable standards of state or local government entities.
9. Inspections and Tests – The Consultant may require special inspections or tests of Contractor's work as Consultant deems appropriate and may receive and review certificates of inspections within Consultant area of responsibility or of tests and approvals required by laws and regulations or the Contract Documents. Consultant's review of such certificates will be for the purpose of determining that the results certified indicate compliance with the Contract Documents and will not constitute an independent evaluation that the content or procedures of such inspections, tests, or approvals comply with the requirements of the Contract Documents. Consultant shall be entitled to rely on the results of such tests and the facts being certified.
10. Disagreements between City and Contractor – The Consultant will, if requested by City, render written decision on all claims of City and Contractor relating to the acceptability of Contractor's work or the interpretation of the requirements of the Contract Documents pertaining to the progress of Contractor's work. In rendering such decisions, Consultant shall be fair and not show partiality to City or Contractor and shall not be liable in connection with any decision rendered in good faith in such capacity.
11. Applications for Payment – Based on its observations and on review of applications for payment and accompanying supporting documentation, Consultant will determine the amounts that Consultant recommends Contractor be paid. Such recommendations of payment will be in writing and will constitute Consultant's representation to City, based on such observations and review, that, to the best of Consultant's knowledge, information and belief, Contractor's work has progressed to the point indicated and that such work-in-progress is generally in accordance with the Contract Documents subject to any qualifications stated in the recommendation. In the case of unit price work, Consultant's recommendations of payment will include determinations of quantities and classifications of Contractor's work, based on observations and measurements of quantities provided with pay requests.
12. By recommending any payment, Consultant shall not thereby be deemed to have represented that its observations to check Contractor's work have been exhaustive, extended to every aspect of Contractor's work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Consultant in this Agreement. It will also not impose responsibility on Consultant to make any examination to ascertain how or for what purposes Contractor has used the moneys paid on account of the Contract Price, nor to determine that title to any portion of the work in progress, materials, or equipment has passed to City free and clear of any liens, claims, security interests, or encumbrances, nor that there may not be other matters at issue between City and Contractor that might affect the amount that should be paid.

13. **Substantial Completion** – The Consultant will, promptly after notice from Contractor that it considers the entire Work ready for its intended use, in company with City and Contractor, conduct a site visit to determine if the Work is substantially complete. Work will be considered substantially complete following satisfactory completion of all items with the exception of those identified on a final punch list. If after considering any objections of City, Consultant considers the Work substantially complete, Consultant will notify City and Contractor.
14. **Final Notice of Acceptability of the Work** – The Consultant will conduct a final site visit to determine if the completed Work of Contractor is generally in accordance with the Contract Documents and the final punch list so that Consultant may recommend, in writing, final payment to Contractor. Accompanying the recommendation for final payment, Consultant shall also provide a notice that the Work is generally in accordance with the Contract Documents to the best of Consultant's knowledge, information, and belief based on the extent of its services and based upon information provided to Consultant upon which it is entitled to rely.
15. **Limitation of Responsibilities** – The Consultant shall not be responsible for the acts or omissions of any Contractor, or of any of their subcontractors, suppliers, or of any other individual or entity performing or furnishing the Work. Consultant shall not have the authority or responsibility to stop the work of any Contractor.
16. **Record Drawings** – Prepare project "Record Drawings" based on information provided by the Contractor and/or City as to the actual field placement of the work including any changes or deletions. Consultant is not responsible for the accuracy of the information provided by the Contractor and/or the City. Consultant will provide the following deliverables:
 - o One (1) set of reproducible (22" x 34") Record Drawings.
 - o One (1) set of .pdf file Record Drawings (each sheet will be a separate .pdf file)

Deliverables:

- Shop Drawing Reviews – as described above
- Contractor's Estimates – as described above
- Record Drawings – as described above

Services/Deliverables provided by the City:

- Provide City's staff input on progress of work.
- Payment of the Contractor.

Additional Services

Additional services to be performed if authorized by the City, but which are not included in the above-described Scope of Services, are as follows:

1. Geotechnical engineering services.
2. Architectural services.
3. Professional services associated with re-bidding the project.
4. Construction Staking.
5. Making significant modifications to the plans and specifications after the preliminary submittals have been approved by the City.
6. Providing resident project representation services, on-site inspection, during the construction

- phase of the project.
7. Additional construction contract administration responsibilities beyond those specifically included in the Scope of Services referenced above.
 8. Any services not listed in the Scope of Services.

Information Provided By Client

We shall be entitled to rely on the completeness and accuracy of all information provided by the Client or the Client's consultants or representatives.

Schedule

We will provide our services as expeditiously as practicable.

Fee and Expenses

Kimley-Horn will perform the services in Tasks 1 for the total lump sum fee below. Individual task amounts are informational only. All permitting, application, and similar project fees will be paid directly by the Client.

Lump sum fees will be invoiced monthly based upon the overall percentage of services performed. Payment will be due within 25 days of your receipt of the invoice and should include the invoice number and Kimley-Horn project number.

Kimley-Horn will perform the services in Task 2 on a labor fee plus expense basis.

Kimley-Horn will not exceed the total maximum labor fee shown without authorization from the Client. Individual task amounts are provided for budgeting purposes only. Kimley-Horn reserves the right to reallocate amounts among tasks as necessary.

Labor fee will be billed on an hourly basis according to our then-current rates. As to these tasks, direct reimbursable expenses such as express delivery services, fees, air travel, and other direct expenses will be billed at 1.15 times cost. A percentage of labor fee will be added to each invoice to cover certain other expenses as to these tasks such as telecommunications, in-house reproduction, postage, supplies, project related computer time, and local mileage. Administrative time related to the project may be billed hourly. All permitting, application, and similar project fees will be paid directly by the Client. Should the Client request Kimley-Horn to advance any such project fees on the Client's behalf, a separate invoice for such fees, with a fifteen percent (15%) markup, will be immediately issued to and paid by the Client.

Payment will be due within 25 days of your receipt of the invoice and should include the invoice number and Kimley-Horn project number.

Task 1 Final Design and Bidding	\$ 80,000 (Lump Sum)
Task 2 Construction Contract Administration	\$ 60,000 (Reimbursable)
Subtotal	\$140,000 (Estimated)

Closure

kimley-horn.com

801 Cherry Street, Unit 11, Suite 1300, Ft. Worth, TX 76102

817 335 6511

In addition to the matters set forth herein, our Agreement shall include and be subject to, and only to, the attached Standard Provisions, which are incorporated by reference. As used in the Standard Provisions, "Consultant" shall refer to Kimley-Horn and Associates, Inc., and "Client" shall refer to City of Farmersville.

Kimley-Horn, in an effort to expedite invoices and reduce paper waste, submits invoices via email in an Adobe PDF format. We can also provide a paper copy via regular mail if requested. Please include the invoice number and Kimley-Horn project number with all payments. Please provide the following information:

____ Please email all invoices to _____

____ Please copy _____

Fees and times stated in this Agreement are valid for sixty (60) days after the date of this letter.

We appreciate the opportunity to provide these services to you. Please contact me if you have any questions.

Very truly yours,

KIMLEY-HORN AND ASSOCIATES, INC.



Jeff James, P.E.
Senior Vice President

City of Farmersville

SIGNED: _____

PRINTED NAME: _____

TITLE: _____

Client's Federal Tax ID: _____

Client's Business License No.: _____

Client's Street Address: _____

Attachment – Standard Provisions

Attachment "B"

Hourly Rates

Standard Rate Schedule

(Hourly Rate)

Analyst	\$120 - \$200
Professional	\$180 - \$230
Senior Professional I	\$220 - \$285
Senior Professional II	\$265 - \$300
Senior Technical Support	\$145 - \$210
Support Staff	\$90 - \$130
Technical Support	\$90 - \$135

Effective through June 30, 2022

Subject to periodic adjustment thereafter

Agenda Section: Regular Agenda

D. Consider, discuss, and act upon a Professional Service Agreement with Kimley-Horn regarding Design of the Temporary Wastewater Treatment Facilities Associated with the Lakehaven MUD agreement, Bidding the Construction of the Temporary Wastewater Treatment Facilities, and Construction Contract Administration.

THE STATE OF TEXAS § **PROFESSIONAL SERVICES CONTRACT**
 § **(For Engineering Services) with**
COUNTY OF COLLIN § **KIMLEY-HORN AND ASSOCIATES, INC.**

THIS CONTRACT is entered into on this _____ day of _____, 20____,¹ by and between the **CITY OF FARMERSVILLE, TEXAS**, a municipal corporation located in Collin County, Texas, (hereinafter referred to as "CITY"), acting by and through its City Manager or his designee, and **KIMLEY-HORN AND ASSOCIATES, INC.**, a North Carolina corporation, ("hereinafter referred to as "CONSULTANT") whose address is 801 Cherry Street, Unit 11, Suite 1300, Ft. Worth, Texas 76102.

W I T N E S S E T H:

WHEREAS, CITY desires to obtain engineering services from CONSULTANT for the Design of the Temporary Wastewater Treatment Facilities Associated with the Lakehaven MUD agreement, Bidding the Construction of the Temporary Wastewater Treatment Facilities, and Construction Contract Administration; and

WHEREAS, CONSULTANT is an engineering firm qualified to provide such services and is willing to undertake the performance of such services for CITY in exchange for fees hereinafter specified; NOW, THEREFORE,

IN CONSIDERATION of the covenants and agreements hereinafter contained and subject to the terms and conditions hereinafter stated, the parties hereto do mutually agree as follows:

I.
Employment of Consultant

CONSULTANT will perform as an independent contractor all services under this Contract to the prevailing professional standards consistent with the professional level of care and skill ordinarily provided by competent members of the architectural and engineering professions, both public and private, currently practicing in the same or similar locality under the same or similar circumstances and professional license including but not limited to the exercise of reasonable, informed judgments and prompt, timely action considering the ordinary professional skill and care of a competent engineer or architect. If CONSULTANT is representing that it has special expertise in one or more areas to be utilized in this Contract, then CONSULTANT agrees to perform those special expertise services to the appropriate local, regional and national professional standards.

¹ If this date is omitted, the effective date shall be the date the Agreement is executed by the City.

II. Scope of Services

CONSULTANT shall perform such services as are necessary to Design the Temporary Wastewater Treatment Facilities Associated with the Lakehaven MUD agreement, Bidding the Construction of the Temporary Wastewater Treatment Facilities, and Construction Contract Administration specifically including, but not necessarily limited to, the tasks enumerated more fully in Attachment "A" hereto entitled "Scope of Work" (hereafter referred to as the "Project"). Attachment "A" is hereby incorporated herein by reference and made a part hereof as if written word for word. However, in case of conflict in the language of Attachment "A" and this Contract, the terms and conditions of this Contract shall be final and binding upon both parties hereto.

III. Payment for Services

Total payment for the performance and delivery of the services described herein shall be a sum not to exceed Three Hundred Eighty-Five Thousand and Zero/100^{ths} Dollars (\$385,000.00) ("Total Payment Amount"). This Total Payment Amount includes CONSULTANT's "Construction Contract Administration" and "Reimbursable Expenses" in an amount not to exceed One Hundred Thousand Dollars (\$100,000.00) as defined herein below.

A. Payment for Lump Sum Component (Design and Bidding)

CONSULTANT will bill CITY for the performance and delivery of the Design of the Temporary Wastewater Treatment Facilities Associated with the Lakehaven MUD agreement and the Bidding of the Work to be Performed on a percent complete basis in accordance with Attachment "A" hereto and will also bill CITY for CONSULTANT's "Reimbursable Expenses" identified in Attachment "A"; provided however that this Contract shall control in the event of any conflict between the language in Attachment "A" and the language in this Contract. Each month CONSULTANT will submit to CITY an invoice supporting the percentage of work completed and reimbursable expenses incurred for which payment is sought. Each invoice shall also state the percentage of work completed on the Project through the end of the then submitted billing period, the total of the current invoice amount and a running total balance of the percentage of work completed and reimbursable expenses incurred for the Project to date.

B. Payment for Hourly Component (Construction Contract Administration)

CONSULTANT will bill CITY for the performance and delivery of the Construction Contract Administration services described in Attachment "A" hereto on an hourly basis at the hourly rates described in Attachment "B" and will also bill CITY for the "Reimbursable Expenses" identified in Attachment "A"; provided however that this Contract shall control in the event of any conflict between the language in Attachments

"A" and "B" and the language in this Contract. Each month CONSULTANT will submit to CITY an invoice for actual Construction Contract Administration services performed and reimbursable expenses incurred by CONSULTANT during the previous month. Each invoice shall be itemized to show the amount of Construction Contract Administration work performed during that month broken down by the identity of the person(s) performing such work, the amount of time expended by each such person(s) in performing that work, the billing rate for each such person, and a brief summary of the work performed by each such person. Each invoice shall also state the percentage of work completed on the Construction Contract Administration component of the Project, the total of the current invoice amount and a running total balance for the overall Project to date.

C. Scope of Services Strictly Limited

If additional services, trips or expenses are requested, CONSULTANT will not provide such additional services or trips or incur additional expenses until authorized by CITY in writing to proceed. The scope of services shall be strictly limited. CITY shall not be required to pay any amount in excess of the amount identified in the preceding paragraph unless CITY shall have approved in writing in advance (prior to the performance of additional work or expenditure of funds for additional trips or expenses) the payment of additional amounts.

D. Reimbursable Expenses

CONSULTANT will be compensated for the following **reasonable and documented** "Reimbursable Expenses," if any, from the Total Payment Amount to the extent such expenses are directly related to CONSULTANT's performance of the Project provided the total amount of such Reimbursable Expenses together with the payment for all professional services to be performed hereunder does not exceed the Total Payment Amount: printing; photocopying; reproduction of drawings and specifications; postage; courier delivery services; long distance telephone calls; and, mileage at the allowable rate established by the Internal Revenue Service (collectively "Reimbursable Expenses"). Any expenses the CITY determines are not reasonable and directly related to CONSULTANT's performance of the Project, and/or which are not properly documented to the CITY, shall remain the sole responsibility of the CONSULTANT. Any expenses that do not fit within any of the categories of Reimbursable Expenses or which expenses are unusual or cumulatively exceed the amount identified in Attachment "A" or the Total Payment Amount are considered "Extraordinary Expenses" and must be approved in advance by CITY in writing signed by the parties. If approved by CITY in writing in advance, such Extraordinary Expenses may be paid as incurred and billed to the CITY pursuant to this Contract over and above the Total Payment Amount identified in this provision. Any Extraordinary Expenses not approved in writing in advance by the CITY shall remain the sole responsibility of the CONSULTANT.

E. Payment by CITY

Within thirty (30) days of receipt of each such monthly invoice CITY shall make monthly payments in the amount shown by CONSULTANT's approved monthly statements and other documentation submitted. Such payments shall be subject to the Texas Prompt Payment Act, Texas Government Code §§ 2251.001, *et seq.*

Nothing contained in this Contract shall require CITY to pay for any work that is unsatisfactory as determined by CITY or which is not submitted in compliance with the terms of this Contract, nor shall failure to withhold payment pursuant to the provisions of this section constitute a waiver of any right, at law or in equity, which CITY may have if CONSULTANT is in default, including the right to bring legal action for damages or for specific performance of this Contract. Waiver of any default under this Contract shall not be deemed a waiver of any subsequent default.

IV.
Revisions of the Scope of Services

CITY reserves the right to revise or expand the scope of services after due approval by CITY as CITY may deem necessary, but in such event CITY shall pay CONSULTANT equitable compensation for such services. In any event, when CONSULTANT is directed to revise or expand the scope of services under this Section of the Contract, CONSULTANT shall provide CITY a written proposal for the entire costs involved in performing such additional services. Prior to CONSULTANT undertaking any revised or expanded services as directed by CITY under this Contract, CITY must authorize in writing the nature and scope of the services and accept the method and amount of compensation and the time involved in all phases of the Project.

It is expressly understood and agreed by CONSULTANT that any compensation not specified in Paragraph III herein above may require Farmersville City Council approval and is subject to the current budget year limitations.

V.
Term

This Contract shall begin on the date first written above, and shall terminate when CITY has approved the Project as being final or otherwise terminates this Contract as provided herein.

VI.
Contract Termination Provision

This Contract may be terminated at any time by CITY for any cause by providing CONSULTANT thirty (30) days written notice of such termination. Upon receipt of such notice, CONSULTANT shall immediately terminate working on, placing orders or entering into contracts for supplies, assistance, facilities or materials in connection with

this Contract and shall proceed to promptly cancel all existing contracts insofar as they are related to this Contract. CONSULTANT shall invoice CITY for all Services completed and shall be compensated in accordance with the terms of this Contract for all Services performed by CONSULTANT through the date such written notice of termination is received by CONSULTANT.

VII.

Ownership of Documents

All materials and documents prepared or assembled by CONSULTANT under this Contract shall become the sole property of CITY and shall be delivered to CITY without restriction on future use. CONSULTANT may retain copies of all drawings, specifications and all other pertinent information for the work in CONSULTANT's files. CONSULTANT shall have no liability for changes made to any materials or other documents by others subsequent to the completion of the Contract.

VIII.

Insurance Requirements

- A. Before commencing work, the CONSULTANT shall, at its own expense, procure, pay for and maintain the following insurance written by companies approved by the state of Texas and acceptable to the City of Farmersville. The CONSULTANT shall furnish to the City of Farmersville City Manager certificates of insurance executed by the insurer or its authorized agent stating coverages, limits, expiration dates and compliance with all applicable required provisions. Certificates shall reference the project/contract number and be addressed as follows:

City of Farmersville
c/o City Manager
205 S. Main Street
Farmersville, Tx 75442.

1. Commercial General Liability insurance, including, but not limited to Premises/Operations, Personal & Advertising Injury, Products/Completed Operations, Independent Contractors and Contractual Liability, with minimum limits of \$1,000,000 per-occurrence and \$2,000,000 general aggregate. Coverage must be written on an occurrence form. The General Aggregate shall apply on a per project basis.
2. Workers' Compensation insurance with Texas statutory limits; and Employers' Liability coverage with minimum limits for bodily injury: a) by accident, \$500,000 each accident, b) by disease, \$500,000 per employee with a per policy aggregate of \$500,000.

3. Business Automobile Liability insurance covering owned, hired and non-owned vehicles, with a minimum combined single limit of \$1,000,000.
4. Professional Liability Insurance to provide coverage against any claim which the CONSULTANT becomes legally obligated to pay as damages arising out of the performance of professional services caused by error, omission or negligent act with minimum limits of \$1,000,000 each occurrence and \$2,000,000 aggregate.

NOTE: If the insurance is written on a claims-made form, coverage shall be continuous (by renewal or extended reporting period) for not less than thirty-six (36) months following completion of the contract and acceptance by the City of Farmersville.

B. With reference to the foregoing required insurance, the CONSULTANT agrees to the following:

1. A waiver of subrogation in favor of City of Farmersville, its officials, employees, and officers shall be contained in the Workers' Compensation insurance policy.
2. The City of Farmersville, its officials, employees and officers shall be covered as additional insureds on the Commercial General Liability and Business Automobile Liability policies. Nothing contained in Section XII of this Agreement shall be interpreted or applied as limiting, reducing, or eliminating any obligation or duty that CONSULTANT's insurance carrier may owe to CITY as an additional insured under the CONSULTANT's general liability insurance policies required by this Agreement to provide the CITY with a defense and/or indemnify the CITY for any claim or cause of action, whether one or more, regardless of the proportionate responsibility or liability of the CONSULTANT or the CITY. Neither shall anything contained in this Section VIII be interpreted or applied as providing or otherwise entitling either CONSULTANT, CONSULTANT's insurance carrier or any other party any right or ability to recover over against CITY any amounts of money attributable to damages, costs, expenses and/or attorneys' fees based on or arising out of a finding of comparative or proportionate responsibility or liability as against the CITY it being understood and agreed that CITY in no way intends by this Agreement to waive its sovereign immunity regarding any claim, suit or cause of action.
3. Policies of insurance shall not be cancelled non-renewed, terminated, or materially changed unless and until thirty (30) days' notice has been given to City of Farmersville.

C. Insurance limits can be met with a combination of primary and excess/umbrella coverage.

- D. All insurance shall be purchased from insurance companies that meet a financial rating of A-VI or better as assigned by A.M. Best Company or equivalent.
- E. The CONSULTANT shall require any contractors, sub-contractors, and other persons doing business with or for the CONSULTANT related to the work to maintain at least the insurance as required, or their liability shall be covered by the CONSULTANT.

IX.

Right to Inspect Records

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

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

X.

Successors and Assigns

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

XI.

CONSULTANT's Liability

Acceptance of the final plans by the CITY shall not constitute nor be deemed a release of the responsibility and liability of CONSULTANT, its employees, associates, agents or consultants for the accuracy and competency of their designs, working drawings, specifications or other documents and work; nor shall such acceptance be deemed an assumption of responsibility by CITY for any defect in the designs, working

drawings, specifications or other documents and work; nor shall such acceptance be deemed an assumption of responsibility by CITY for any defect in the designs, working drawings, specifications or other documents and work prepared by said CONSULTANT, its employees, associates, agents or sub-consultants.

XII. **INDEMNIFICATION**

CONSULTANT DOES HEREBY COVENANT AND CONTRACT TO WAIVE ANY AND ALL CLAIMS, RELEASE, INDEMNIFY, AND HOLD HARMLESS THE CITY, ITS CITY COUNCIL, OFFICERS, EMPLOYEES, AND AGENTS, IN BOTH THEIR PUBLIC AND PRIVATE CAPACITIES, FROM AND AGAINST ALL LIABILITY, CAUSES OF ACTION, CITATIONS, CLAIMS, COSTS, DAMAGES, DEMANDS, EXPENSES, FINES, JUDGMENTS, LOSSES, PENALTIES OR SUITS, WHICH IN ANY WAY ARISE OUT OF, RELATE TO, OR RESULT FROM CONSULTANT'S PERFORMANCE UNDER THIS CONTRACT AND WHICH ARE CAUSED BY THE INTENTIONAL WRONGFUL ACTS OR NEGLIGENT ACTS OR OMISSIONS OF CONSULTANT OR CONSULTANT'S SUBCONTRACTORS AND THE OFFICERS, AGENTS OR EMPLOYEES OF EITHER CONSULTANT OR CONSULTANT'S SUBCONTRACTORS (THE "INDEMNIFIED ITEMS") SUBJECT TO THE LIMITATIONS IN TEXAS LOCAL GOVERNMENT CODE § 271.904 AND TEXAS CIVIL PRACTICE AND REMEDIES CODE § 130.002(B).

BY WAY OF EXAMPLE, THE INDEMNIFIED ITEMS MAY INCLUDE PERSONAL INJURY AND DEATH CLAIMS AND PROPERTY DAMAGE CLAIMS, INCLUDING THOSE FOR LOSS OF USE OF PROPERTY, AS WELL AS INTELLECTUAL PROPERTY INFRINGEMENT OR FAILURE TO PAY A SUBCONTRACTOR OR SUPPLIER.

INDEMNIFIED ITEMS SHALL INCLUDE REASONABLE ATTORNEYS' FEES IN PROPORTION TO THE CONSULTANT'S LIABILITY AND COSTS, COURT COSTS, AND SETTLEMENT COSTS. INDEMNIFIED ITEMS SHALL ALSO INCLUDE ANY EXPENSES, INCLUDING REASONABLE ATTORNEYS' FEES AND EXPENSES, INCURRED BY AN INDEMNIFIED INDIVIDUAL OR ENTITY IN ATTEMPTING TO ENFORCE THIS INDEMNITY.

XIII. **Independent Contractor**

CONSULTANT's status shall be that of an Independent Contractor and not an agent, servant, employee or representative of CITY in the performance of this Contract. No term or provision of or act of CONSULTANT or CITY under this Contract shall be construed as changing that status. CONSULTANT will have exclusive control of and the exclusive right to control the details of the work performed hereunder, and shall be liable for the acts and omissions of its officers, agents, employees, contractors, subcontractors and engineers and the doctrine of respondeat superior shall not apply as

between CITY and CONSULTANT, its officers, agents, employees, contractors, subcontractors and engineers, and nothing herein shall be construed as creating a partnership or joint enterprise between CITY and CONSULTANT.

XIV. Default

If at any time during the term of this Contract, CONSULTANT shall fail to commence the work in accordance with the provisions of this Contract or fail to diligently provide services in an efficient, timely and careful manner and in strict accordance with the provisions of this Contract or fail to use an adequate number or quality of personnel to complete the work or fail to perform any of its obligations under this Contract, then CITY shall have the right, if CONSULTANT shall not cure any such default after thirty (30) days written notice thereof, to terminate this Contract. Any such act by CITY shall not be deemed a waiver of any other right or remedy of CITY. If after exercising any such remedy due to CONSULTANT's nonperformance under this Contract, the cost to CITY to complete the work to be performed under this Contract is in excess of that part of the Contract sum which has not theretofore been paid to CONSULTANT hereunder, CONSULTANT shall be liable for and shall reimburse CITY for such excess. CONSULTANT'S liability under this provision shall be limited to the total dollar amount of this Contract.

CITY's remedies for CONSULTANT's default or breach under this Contract shall be limited to one or more of the following remedies which may be exercised separately or in combination at CITY's sole exclusive choice:

- (a) Specific performance of the Contract;
- (b) Re-performance of this Contract at no extra charge to CITY; or,
- (c) Monetary damages in an amount not to exceed the greater of:
 - (1) The amount of any applicable insurance coverage CONSULTANT is required to purchase and maintain under this Contract plus any deductible amount to be paid by CONSULTANT in conjunction with said coverage regardless of whether CONSULTANT has actually purchased and maintained said coverage; or,
 - (2) The total dollar amount of this Contract.

The terms of Sections XII entitled Indemnification, and XVII entitled Confidential Information shall survive termination of this Contract.

XV.
Changes

CITY may, from time to time, require changes in the scope of services to be performed under this Contract. Such changes as are mutually agreed upon by and between CITY and CONSULTANT shall be incorporated by written modification to this Contract.

XVI.
Conflict of Interest

CONSULTANT covenants and agrees that CONSULTANT and its associates and employees will have no interest, and will acquire no interest, either direct or indirect, which will conflict in any manner with the performance of the services called for under this Contract. All activities, investigations and other efforts made by CONSULTANT pursuant to this Contract will be conducted by employees, associates or subcontractors of CONSULTANT.

In addition, to the extent that this Contract (a) must be approved by the CITY's governing body before it may be signed or (b) has a value of \$1,000,000, or more, CONSULTANT shall comply with the requirements of Texas Government Code § 2252.908 by completing and submitting Form 1295 to the Texas Ethics Commission ("Commission") at the time CONSULTANT submits this signed Contract to CITY, and as follows:

Form 1295 Filing Process: The Commission has made available on its website a new filing application that must be used to file Form 1295. The CONSULTANT must use the application to enter the required information on Form 1295 and print a copy of the completed form, which will include a certification of filing that will contain a unique certification number. An authorized agent of the CONSULTANT must sign the printed copy of the form and complete the "unsworn declaration" which includes, among other things, the date of birth and address of the authorized representative signing the form. The completed Form 1295 with the certification of filing must be filed with the CITY.

The CITY must notify the Commission, using the Commission's filing application, of the receipt of the filed Form 1295 with the certification of filing not later than the 30th day after the date the Contract binds all parties to the Contract. The Commission will post the completed Form 1295 to its website within seven business days after receiving notice from the CITY.

Form 1295 Availability: Certificate of Interested Parties Form is available from the Texas Ethics Commission website at the following address:

<https://www.ethics.state.tx.us/filinginfo/1295/>

For questions regarding and assistance in filling out Form 1295, please contact the Texas Ethics Commission at 512-463-5800.

XVII.
Confidential Information

CONSULTANT hereby acknowledges and agrees that its representatives may have access to or otherwise receive information during the furtherance of its obligations in accordance with this Contract, which is of a confidential, non-public or proprietary nature. CONSULTANT shall treat any such information received in full confidence and will not disclose or appropriate such Confidential Information for its own use or the use of any third party at any time during or subsequent to this Contract. As used herein, "Confidential Information" means all oral and written information concerning City of Farmersville, its affiliates and subsidiaries, and all oral and written information concerning CITY or its activities, that is of a non-public, proprietary or confidential nature including, without limitation, information pertaining to customer lists, services, methods, processes and operating procedures, together with all analyses, compilation, studies or other documents, whether prepared by CONSULTANT or others, which contain or otherwise reflect such information. The term "Confidential Information" shall not include such materials that are or become generally available to the public other than as a result of disclosure of CONSULTANT, or are required to be disclosed by a governmental authority.

XVIII.
Mailing Address

All notices and communications under this CONTRACT to be mailed to CITY shall be sent to the address of CITY's agent as follows, unless and until CONSULTANT is otherwise notified:

Benjamin L. White, P.E., CPM
City Manager
City of Farmersville
205 S. Main Street
Farmersville, Tx 75442.

Notices and communications to be mailed or delivered to CONSULTANT shall be sent to the address of CONSULTANT as follows, unless and until CITY is otherwise notified:

Jeff James, P.E.
Kimley-Horn and Associates, Inc.
801 Cherry Street, Unit #11, Suite 1300
Fort Worth, Texas 76102

Any notices and communications required to be given in writing by one party to the other shall be considered as having been given to the addressee on the date the notice or communication is posted, faxed or personally delivered by the sending party.

XIX.
Applicable Law

The CONTRACT is entered into subject to the Farmersville City Charter and ordinances of CITY, as same may be amended from time to time, and is subject to and is to be construed, governed and enforced under all applicable State of Texas and federal laws. CONSULTANT will make any and all reports required per federal, state or local law including, but not limited to, proper reporting to the Internal Revenue Service, as required in accordance with CONSULTANT's income. Situs of this Contract is agreed to be Collin County, Texas, for all purposes, including performance and execution.

XX.
Severability

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

XXI.
Remedies

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

XXII.
Entire Agreement

This Contract embodies the complete agreement of the parties hereto, superseding all oral or written previous and contemporaneous agreements between the parties relating to matters herein, and except as otherwise provided herein cannot be modified without written agreement of the parties.

XXIII.
Non-Waiver

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

XXIV.
Headings

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

XXV.
Venue

The parties to this Contract agree and covenant that this Contract will be enforceable in Farmersville, Texas; and that if legal action is necessary to enforce this Contract, exclusive venue will lie in Collin County, Texas.

XXVI.
No Third Party Beneficiary

For purposes of this Contract, including its intended operation and effect, the parties (CITY and CONSULTANT) specifically agree and contract that: (1) the Contract only affects matters/disputes between the parties to this Contract, and is in no way intended by the parties to benefit or otherwise affect any third person or entity notwithstanding the fact that such third person or entity may be in contractual relationship with CITY or CONSULTANT or both; and (2) the terms of this Contract are not intended to release, either by contract or operation of law, any third person or entity from obligations owing by them to either CITY or CONSULTANT.

XXVII.
No Boycotting of Israel

In accordance with Chapter 2270, Texas Government Code, a Texas governmental entity may not enter into a contract with a company for the provision of goods or services unless the contract contains a written verification from the company that it:

- (1) does not boycott Israel; and
- (2) will not boycott Israel during the term of the contract.

Chapter 2270 does not apply to (1) a company that is a sole proprietorship; (2) a company that has fewer than ten (10) full-time employees; or (3) a contract that has a value of less than One Hundred Thousand Dollars (\$100,000.00). Unless the company is not subject to Chapter 2270 for the reasons stated herein, the signatory executing this

contract on behalf of the company verifies by its signature on this Contract that the company does not boycott Israel and will not boycott Israel during the term of this contract.

XXVIII.

No Boycotting of Energy Companies

In accordance with Senate Bill 13, 87th Leg., R.S., to be codified in Chapter 2274, Texas Government Code, a Texas governmental entity may not enter into a contract with a company for the provision of goods or services unless the contract contains a written verification from the company that it: (1) does not boycott energy companies; and (2) will not boycott energy companies during the term of the contract.

Chapter 2274 does not apply to: (1) a company that has fewer than ten (10) full-time employees; or (2) a contract that has a value of less than One Hundred Thousand Dollars (\$100,000.00). Unless the Construction Manager is not subject to Chapter 2274 for the reasons stated herein, the signatory executing this Agreement on behalf of the Construction Manager verifies by its signature on this Agreement that the Construction Manager does not boycott energy companies and will not boycott energy companies during the term of this Agreement.

XXIX.

No Boycotting of any Firearm Entity or Firearm Trade Association

In accordance with Senate Bill 19, 87th Leg., R.S., to be codified in Chapter 2274, Texas Government Code, a Texas governmental entity may not enter into a contract with a company for the provision of goods or services unless the contract contains a written verification from the company that it: (1) does not have a practice, policy, guidance, or directive that discriminates against any firearm entity or firearm trade association; and (2) will not discriminate during the term of the contract against any firearm entity or firearm trade association.

Chapter 2274 does not apply to: (1) a company that has fewer than ten (10) full-time employees; or (2) a contract that has a value of less than One Hundred Thousand Dollars (\$100,000.00). In addition, this provision does not apply to: (1) a contract with a sole-source provider; or (2) a contract for which the governmental entity did not receive any bids from a company that is able to provide the required written verification. Unless the Construction Manager is not subject to Chapter 2274 for the reasons stated herein, the signatory executing this Agreement on behalf of the Construction Manager verifies by its signature on this Agreement that the Construction Manager does not boycott any firearm entity or firearm trade association and will not boycott any firearm entity or firearm trade association during the term of this Agreement.

IN WITNESS WHEREOF, the parties hereto have set their hands by their representatives duly authorized on the day and year first written above.

CITY OF FARMERSVILLE

By: _____
BENJAMIN L. WHITE, P.E., CPM
City Manager
Date Signed: _____

ATTEST:

TABATHA MONK
City Secretary

APPROVED AS TO FORM:

ALAN D. LATHROM
City Attorney

KIMLEY-HORN AND ASSOCIATES, INC., a
North Carolina corporation

By: _____
JEFF JAMES, P.E.
Senior Vice President

Date Signed: _____

Attachment "A"

Scope of Work

December 10, 2021

Mr. Ben White
City Manager
City of Farmersville
205 South Main Street
Farmersville, TX 75442

Re: Professional Services Agreement for Temporary Wastewater Treatment Facility

Dear Mr White:

Kimley-Horn and Associates, Inc. ("Kimley-Horn" or "Consultant") is pleased to submit this letter agreement (the "Agreement") to the City of Farmersville ("City") for providing engineering services for the temporary wastewater treatment facility.

Project Understanding:

Kimley-Horn completed the design of a 0.5 MGD Wastewater Treatment Facility (WWTF) in 2019. The City has executed a development agreement with the developer of the Lakehaven property to allow the developer to lease temporary wastewater treatment facilities until funding is available to construct the full 0.5 MGD WWTF. The City desires to design the temporary treatment facilities and will be reimbursed by the developer for design. This project will connect to the headworks and lift station designed as a part of the 2019 WWTF design. The headworks and influent lift station construction will be completed as a separate contract.

Specific Scope of Basic Services: Consultant will perform the following basic scope of services.

Temporary Wastewater Treatment Facility

Task 1: Final Engineering Report

The Consultant shall prepare, submit and process a Summary Transmittal Letter and Final Engineering Report as required by the TCEQ for a 0.25 MGD wastewater treatment facility. The Consultant shall perform the following tasks in support of the Summary Transmittal Letter and Final Engineering Report:

- a. Design and size each treatment unit. Calculations, analyses, graphs, formulas, constants, and technical assumptions will be provided to support the design and sizing of each unit. The design of the original headworks and lift station will be incorporated into the report.
- b. Develop a process flow diagram for the treatment facility.
- c. Develop a schematic layout of the treatment units.
- d. Perform computer simulation modeling to prepare a solids balance to determine recycle ratios and sludge wasting rates for process control.

kimley-horn.com

801 Cherry Street, Unit 11, Suite 1300, Ft. Worth, TX 76102

817 335 6511

- e. Develop hydraulic model to determine the elevations of the treatment units and determine the sizing of interconnected piping.
- f. Prepare the Final Engineering Report Document including:
 - i. types of units proposed and their capacities
 - ii. detention times, surface loadings and weir loadings for each unit
 - iii. plot of the hydraulic gradient at peak flow conditions
 - iv. the recommended operation mode
 - v. organic and volumetric loadings pertinent to each treatment unit
 - vi. aeration demands and sizing of blowers
- g. Following review of the Draft Final Engineering Report packet by the City, Consultant will incorporate any City comments and submit the Summary Transmittal Letter and Final Engineering Report packet to TCEQ.

Task 2: 60% Design

The Consultant shall prepare the 60% design and construction documents for the 0.25 MGD MGD WWTF.

- a. Perform 60% civil engineering services for the following treatment facilities:
 - i. Aeration Basins
 - ii. Clarifiers
 - iii. Solids Holding Basins
 - iv. Cloth Media Filtration
 - v. Chemical Feed Facility
 - vi. Disinfection Facilities
- b. Perform 60% structural engineering services for the following facilities:
 - i. Aeration Basins
 - ii. Clarifiers
 - iii. Solids Holding Basins
 - iv. Cloth Media Filtration
 - v. Chemical Feed Facility
 - vi. Disinfection facilities
- c. Perform 60% electrical engineering services for the following:
 - i. Aeration Basins
 - ii. Clarifiers
 - iii. Solids Holding Basins
 - iv. Cloth Media Filtration
 - v. Chemical Feed Facility
 - vi. SCADA/Control and Instrumentation

Prepare 60% plans for Client review. Plan sheets will be 11"x17" and include the following information:

Civil sheets

- General notes
- Site plan
- Yard piping plan
- Paving plan
- Profiles
- Grading plan

Mechanical sheets

- General notes
- Equipment layout
- Sections

Structural sheets

- General notes
- Foundation plans
- Building Sections
- Roof plans

Electrical sheets

- Site plan
- Floor plan
- Sections
- SCADA/Control and Instrumentation

- d. Prepare a 60% opinion of probable construction cost (OPCC) for the WWTF.
- e. Submit 60% plans and OPCC to City and developer for review and comment.

Meetings:

- a. Prepare for and conduct a 60% plan review meeting with the City and Developer.

Deliverables:

- a. Ten (10) copies of 11"x17" plans.
- b. Ten (10) copies of 60% OPCC.

Services/Deliverables provided by the City:

- a. Review and comment on the 60% submittal.

Task 3: 100% Design

Following the City's approval of preliminary plans, the Consultant shall begin the final design of a 0.25 MGD WWTP.

- a. Perform 100% civil engineering services for the following treatment facilities:
 - i. Aeration Basins
 - ii. Clarifiers
 - iii. Solids Holding Basins
 - iv. Cloth Media Filters

- v. Chemical Feed Facility
 - vi. Disinfection facilities
- b. Perform 100% structural engineering services for the following facilities:
- i. Aeration Basins
 - ii. Clarifiers
 - iii. Solids Holding Basins
 - iv. Cloth Media Filters
 - v. Chemical Feed Facility
 - vi. Disinfection Facilities
- c. Perform 100% electrical engineering services for the following:
- i. Aeration Basins
 - ii. Clarifiers
 - iii. Solids Holding Basins
 - iv. Cloth media Filters
 - v. Chemical Feed Facility
 - vi. Disinfection Facilities
 - vii. SCADA/Control and Instrumentation
- d. Prepare 100% plans for Client review. Plan sheets will be 11"x17" and include the following information:
- Civil sheets
- General notes
 - Site plan
 - Yard piping plan
 - Paving plan
 - Profiles
 - Grading plan
 - Details
- Mechanical sheets
- General notes
 - Equipment layout
 - Sections
 - Details
- Structural sheets
- General notes
 - Foundation plans
 - Building Sections
 - Roof plans
 - Details
- Electrical sheets
- Site plan

- Floor plan
- Sections
- SCADA/Control and Instrumentation
- Details

- e. Submit 100% plans and OPCC to City
- f. Submit 100% plans to TCEQ.

Meetings:

- a. Prepare for and conduct one 100% plan review meeting with the City and developer.

Deliverables:

- a. Ten (10) copies of 100% plans, specifications, and OPCC.
- b. Two (2) copies of 100% plans for TCEQ approval.

Task 4: Bidding

The Consultant will perform the following professional services for this project phase:

1. Print a maximum of 10 full size (22"x34") sets of plans and specifications for the City.
2. Provide plans and specifications in .PDF format to CivCast website for online bidding.
3. Prepare the Notice to Bidders. The City will be responsible for submitting the Notice to newspapers for advertisement.
4. Issue addenda as required.
5. Answer contractor questions.
6. Prepare for and conduct a Pre-bid conference.
7. Attend bid opening, prepare a tabulation of bids, and prepare a letter summarizing the bids to the Client for award of contract.

Services/Deliverables provided by the City:

- a. Award a contract to a contractor.

Task 5 – Construction Contract Administration

Consultant will provide professional construction phase services to the City during construction of this project. The estimated construction period of the project is twelve (12) months for the basis of establishing the Consultant's Fee. The construction phase services are as follows:

1. Pre-Construction Conference – The Consultant will conduct a pre-construction conference prior to commencement of work at the site.
2. Visits to Site and Construction Observation – The Consultant will provide on-site construction observation services during the construction phase. Consultant will make visits at intervals as directed by City in order to observe the progress of the Work. Such visits and observations by Consultant are not intended to be exhaustive or to extend to every aspect of Contractor's work in progress. Observations are to be limited to spot checking, selective measurement, and similar methods of general observation of the Work based on Consultant's exercise of professional judgment. Based on information obtained during such visits and such observations, Consultant will evaluate whether Contractor's work is generally proceeding in accordance with the Contract.

Documents, and Consultant will keep City informed of the general progress of the Work.

3. The purpose of Consultant's site visits will be to enable Consultant to better carry out the duties and responsibilities specifically assigned in this Agreement to Consultant, and to provide City a greater degree of confidence that the completed Work will conform in general to the Contract Documents. Consultant shall not, during such visits or as a result of such observations of Contractor's work in progress, supervise, direct, or have control over Contractor's work, nor shall the Consultant have authority over or responsibility for the means, methods, techniques, equipment choice and usage, sequences, schedules, or procedures of construction selected by Contractor, for safety precautions and programs incident to Contractor's work, nor for any failure of Contractor to comply with laws and regulations applicable to Contractor's furnishing and performing the Work. Accordingly, Consultant neither guarantees the performance of any Contractor nor assumes responsibility for any Contractor's failure to furnish and perform its work in accordance with the Contract Documents.
4. Recommendations with Respect to Defective Work – The Consultant will recommend to City that Contractor's work be disapproved and rejected while it is in progress if, on the basis of such observations, Consultant believes that such work will not produce a completed Project that conforms generally to Contract Documents.
5. Clarifications and Interpretations – The Consultant will respond to reasonable and appropriate Contractor requests for information and issue necessary clarifications and interpretations of the Contract Documents to City as appropriate to the orderly completion of Contractor's work. Any orders authorizing variations from the Contract Documents will be made by City.
6. Change Orders – The Consultant may recommend Change Orders to City, and will review and make recommendations related to Change Orders submitted or proposed by the Contractor.
7. Shop Drawings and Samples – The Consultant will review and approve or take other appropriate action in respect to Shop Drawings and Samples and other data which Contractor is required to submit, but only for conformance with the information given in the Contract Documents. Such review and approvals or other action will not extend to means, methods, techniques, equipment choice and usage, sequences, schedules, or procedures of construction or to related safety precautions and programs.
8. Substitutes and "or-equal" – The Consultant will evaluate and determine the acceptability of substitute or "or-equal" materials and equipment proposed by Contractor in accordance with the Contract Documents, but subject to the provisions of applicable standards of state or local government entities.
9. Inspections and Tests – The Consultant may require special inspections or tests of Contractor's work as Consultant deems appropriate and may receive and review certificates of inspections within Consultant area of responsibility or of tests and approvals required by laws and regulations or the Contract Documents. Consultant's review of such certificates will be for the purpose of determining that the results certified indicate compliance with the Contract Documents and will not constitute an independent evaluation that the content or procedures of such inspections, tests, or approvals comply with the requirements of the Contract Documents. Consultant shall be entitled to rely on the results of such tests and the facts being certified.
10. Disagreements between City and Contractor – The Consultant will, if requested by City, render

written decision on all claims of City and Contractor relating to the acceptability of Contractor's work or the interpretation of the requirements of the Contract Documents pertaining to the progress of Contractor's work. In rendering such decisions, Consultant shall be fair and not show partiality to City or Contractor and shall not be liable in connection with any decision rendered in good faith in such capacity.

11. Applications for Payment – Based on its observations and on review of applications for payment and accompanying supporting documentation, Consultant will determine the amounts that Consultant recommends Contractor be paid. Such recommendations of payment will be in writing and will constitute Consultant's representation to City, based on such observations and review, that, to the best of Consultant's knowledge, information and belief, Contractor's work has progressed to the point indicated and that such work-in-progress is generally in accordance with the Contract Documents subject to any qualifications stated in the recommendation. In the case of unit price work, Consultant's recommendations of payment will include determinations of quantities and classifications of Contractor's work, based on observations and measurements of quantities provided with pay requests.
12. By recommending any payment, Consultant shall not thereby be deemed to have represented that its observations to check Contractor's work have been exhaustive, extended to every aspect of Contractor's work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Consultant in this Agreement. It will also not impose responsibility on Consultant to make any examination to ascertain how or for what purposes Contractor has used the moneys paid on account of the Contract Price, nor to determine that title to any portion of the work in progress, materials, or equipment has passed to City free and clear of any liens, claims, security interests, or encumbrances, nor that there may not be other matters at issue between City and Contractor that might affect the amount that should be paid.
13. Substantial Completion – The Consultant will, promptly after notice from Contractor that it considers the entire Work ready for its intended use, in company with City and Contractor, conduct a site visit to determine if the Work is substantially complete. Work will be considered substantially complete following satisfactory completion of all items with the exception of those identified on a final punch list. If after considering any objections of City, Consultant considers the Work substantially complete, Consultant will notify City and Contractor.
14. Final Notice of Acceptability of the Work – The Consultant will conduct a final site visit to determine if the completed Work of Contractor is generally in accordance with the Contract Documents and the final punch list so that Consultant may recommend, in writing, final payment to Contractor. Accompanying the recommendation for final payment, Consultant shall also provide a notice that the Work is generally in accordance with the Contract Documents to the best of Consultant's knowledge, information, and belief based on the extent of its services and based upon information provided to Consultant upon which it is entitled to rely.
15. Limitation of Responsibilities – The Consultant shall not be responsible for the acts or omissions of any Contractor, or of any of their subcontractors, suppliers, or of any other individual or entity performing or furnishing the Work. Consultant shall not have the authority or responsibility to stop the work of any Contractor.
16. Record Drawings – Prepare project "Record Drawings" based on information provided by the Contractor and/or City as to the actual field placement of the work including any changes or deletions. Consultant is not responsible for the accuracy of the information provided by the

Contractor and/or the City. Consultant will provide the following deliverables:

- o One (1) set of reproducible (22" x 34") Record Drawings.
- o One (1) set of .pdf file Record Drawings (each sheet will be a separate .pdf file)

Deliverables:

- Shop Drawing Reviews – as described above
- Contractor's Estimates – as described above
- Record Drawings – as described above

Services/Deliverables provided by the City:

- Provide City's staff input on progress of work.
- Payment of the Contractor.

Additional Services

Additional services to be performed if authorized by the City, but which are not included in the above-described Scope of Services, are as follows:

1. Geotechnical engineering services.
2. Architectural services.
3. Professional services associated with re-bidding the project.
4. Construction Staking.
5. Design services related to any facility improvements considered permanent
6. Making significant modifications to the plans and specifications after the preliminary submittals have been approved by the City.
7. Providing resident project representation services, on-site inspection, during the construction phase of the project.
8. Additional construction contract administration responsibilities beyond those specifically included in the Scope of Services referenced above.
9. Any services not listed in the Scope of Services.

Information Provided By Client

We shall be entitled to rely on the completeness and accuracy of all information provided by the Client or the Client's consultants or representatives.

Schedule

We will provide our services as expeditiously as practicable.

Fee and Expenses

Kimley-Horn will perform the services in Tasks 1 - 4 for the total lump sum fee below. Individual task amounts are informational only. All permitting, application, and similar project fees will be paid directly by the Client.

Lump sum fees will be invoiced monthly based upon the overall percentage of services performed. Payment will be due within 25 days of your receipt of the invoice and should include the invoice number and Kimley-Horn project number.

Kimley-Horn will perform the services in Task 5 on a labor fee plus expense basis.

Kimley-Horn will not exceed the total maximum labor fee shown without authorization from the Client. Individual task amounts are provided for budgeting purposes only. Kimley-Horn reserves the right to reallocate amounts among tasks as necessary.

Labor fee will be billed on an hourly basis according to our then-current rates. As to these tasks, direct reimbursable expenses such as express delivery services, fees, air travel, and other direct expenses will be billed at 1.15 times cost. A percentage of labor fee will be added to each invoice to cover certain other expenses as to these tasks such as telecommunications, in-house reproduction, postage, supplies, project related computer time, and local mileage. Administrative time related to the project may be billed hourly. All permitting, application, and similar project fees will be paid directly by the Client. Should the Client request Kimley-Horn to advance any such project fees on the Client's behalf, a separate invoice for such fees, with a fifteen percent (15%) markup, will be immediately issued to and paid by the Client.

Payment will be due within 25 days of your receipt of the invoice and should include the invoice number and Kimley-Horn project number.

Temporary Wastewater Treatment Facility

Task 1 Final Engineering Report	\$ 40,000 (Lump Sum)
Task 2 Preliminary Design	\$ 90,000 (Lump Sum)
Task 3 Final Design	\$ 140,000 (Lump Sum)
Task 4 Bidding	\$ 15,000 (Lump Sum)
Task 5 Construction Phase Services	\$ 100,000 (Reimbursable)
Subtotal	\$ 385,000 (Estimated)

Closure

In addition to the matters set forth herein, our Agreement shall include and be subject to, and only to, the attached Standard Provisions, which are incorporated by reference. As used in the Standard Provisions, "Consultant" shall refer to Kimley-Horn and Associates, Inc., and "Client" shall refer to City of Farmersville.

Kimley-Horn, in an effort to expedite invoices and reduce paper waste, submits invoices via email in an Adobe PDF format. We can also provide a paper copy via regular mail if requested. Please include the invoice number and Kimley-Horn project number with all payments. Please provide the following information:

____ Please email all invoices to _____

____ Please copy _____

Fees and times stated in this Agreement are valid for sixty (60) days after the date of this letter.

We appreciate the opportunity to provide these services to you. Please contact me if you have any questions.

Very truly yours,

KIMLEY-HORN AND ASSOCIATES, INC.



Jeff James, P.E.
Senior Vice President

City of Farmersville

SIGNED: _____

PRINTED NAME: _____

TITLE: _____

Client's Federal Tax ID: _____

Client's Business License No.: _____

Client's Street Address: _____

Attachment – Standard Provisions

Attachment "B"

Hourly Rates

Standard Rate Schedule

(Hourly Rate)

Analyst	\$120 - \$200
Professional	\$180 - \$230
Senior Professional I	\$220 - \$285
Senior Professional II	\$265 - \$300
Senior Technical Support	\$145 - \$210
Support Staff	\$90 - \$130
Technical Support	\$90 - \$135

Effective through June 30, 2022

Subject to periodic adjustment thereafter

IV. ADJOURNMENT