



City of Lake Dallas

City Council

Regular Meeting

City Hall

212 Main Street, Lake Dallas, TX 75065

Thursday, July 28, 2022, at 7:00 p.m.

EARLY WORK SESSION

City Council Chambers - 6:00 P.M.

- 1. Clarification of Consent or General Items listed on Today's City Council Meeting Agenda for July 28, 2022.**
- 2. Receive a report and hold a discussion regarding wind or sail signs.**

(Items discussed during Early Work Session may be continued or moved to Open Session if time does not permit holding or completing discussion of the item during Early Work Session.)

OPEN SESSION
City Council Chambers- 7:00 P.M.

Section I – Presentations

- 1. Call to Order & Determination of Quorum**
- 2. Invocation & Pledges of Allegiance**
- 3. Announcements & Special Recognitions**

A. Fourth July Award Presentation

- a. Apple Pie**
- b. Frozen T-shirt**
- c. Watermelon Eating**

B. City Manager's Report

The City Manager's Report may provide information on status of current city projects and other projects affecting the City, meetings and actions of the city's boards and commissions, upcoming local community events, including, but not limited to, departmental operations and capital improvement project status. No action will be taken with respect to this report.

4. Citizen Agenda & Public Comment

An opportunity for citizens to address the Mayor and City Council on matters which are not scheduled for consideration by the City Council on this agenda. In order to address the Council, a Public Meeting Appearance Card must be completed and presented to the City Secretary prior to the start of the Council meeting. The Texas Open Meeting Act prohibits deliberation by the City Council of any subject which is not on the posted agenda, therefore the Council will not be able to discuss or take any action on items brought up during the citizen presentations. Citizen presentations will be limited to five (5) minutes per person. Persons wishing to provide comments on an item appearing on this agenda must complete a Public Meeting Appearance Card and present it to the City Secretary prior to the item being called on the agenda and wait until recognized by the Mayor or other presiding officer before speaking on the item when that item is called for discussion.

Section II – Consent Agenda

All items listed below are considered to be routine by the City Council and will be enacted with one motion. There will be no separate discussion of the items unless a Councilmember so requests, or member of the public submits a Public Meeting Appearance Card identifying the item on which such person wished to comment prior to this item being called on the agenda, in which event the item will be removed from the consent agenda and considered in its normal sequence.

5. Consider and Act on the Consent Agenda- No items

Section III – Planning & Development: None

Section IV- General Items:

6. Consider and act on a Resolution appointing member to various positions on the Planning and Zoning Commission
7. Receive a report and hold a discussion regarding an update on the FY 23 Budget.
8. Consider and take appropriate action regarding a Dark Fiber Lease and Network Operation Agreement among Pavlov Media, Inc., City of Corinth, Town of Hickory Creek, City of Lake Dallas, and Town of Shady Shores and the allocation and use of ARPA Funds.

Section VI – Elected Official Requested Items

9. Mayor & Council Member Announcements

The City Council may hear or make reports of community interest provided no action is taken or discussed. Community interest items may include information regarding upcoming schedules of events, honorary recognitions, and announcements involving imminent public health and safety threats to the city. Any deliberation shall be limited a proposal to place the subject on an agenda for a subsequent meeting.

Section VII – Executive Session As authorized by Section 551.071 of the Texas Government Code, this meeting may be convened into closed executive session for the purpose of seeking confidential legal advice from the City Attorney on any agenda items listed above or herein.

10. Conduct a closed meeting pursuant to Texas Government Code Section 551.074 to deliberate the duties of the City Manager.

Section VII – Return to Open Session

11. Discuss and take appropriate action, if any, resulting from the discussions conducted in Closed Session.

Section VIII – Adjournment

I certify that the above notice of this meeting posted on the bulletin board at City Hall of the City of Lake Dallas, Texas on July 25, 2022, at 5:00 p.m.



Codi Delcambre
City Secretary

If you plan to attend this public meeting telephonically and you have a disability that requires special arrangements at this meeting, please contact City Secretary's Office at (940) 497-2226 ext. 102 or fax (940) 497-4485 at least two (2) working days prior to the meeting so that appropriate arrangements can be made.

EARLY WORK SESSION



**CITY COUNCIL
AGENDA MEMO**

Prepared By: Kandace Lesley, City Manager

Date: July 28, 2022

Wind or Sail Signs

DESCRIPTION:

The intent of this agenda item is to have a discussion regarding the City Council's desire to continue to have an ordinance that prohibits the use of wind or sail signs.

BACKGROUND INFORMATION:

City Manager will provide facilitate discussions regarding the item.

FINANCIAL CONSIDERATION:

NONE.

RECOMMENDED MOTIONS:

Discussion item only.

ATTACHMENT(S):

Sign ordinance.

Chapter 80 SIGNS

Sec. 80-1. Purpose.

The purpose of this chapter is to provide public safety, adequate lighting open space and air, conservation of land, protection of property values, and encourage the highest and best use of land by providing that signs:

- (1) Are maintained properly to avoid creating safety risks due to abandonment, collapse, decay, deterioration or fire;
- (2) Enhance the quality of the city's appearance by avoiding clutter and by not interfering with scenic views or character of certain city areas;
- (3) Do not obstruct or interfere with the ability of the fire or police departments to implement their job duties;
- (4) Do not pose a hazard to public safety by confusing or distracting motorists or creating obstructions impairing a driver's ability to see pedestrians, obstacles, other vehicles, or traffic signs;
- (5) Are regulated by size, quantity, scale, and proportionate balance in accordance with the structures for which associated with and standards consistent with the stated general purpose;
- (6) Do not create nuisances for people using the public rights-of-way and streets nor owners/tenants of adjacent property by their height, size, brightness or movement; and
- (7) It is not the purpose or intent of this chapter to regulate signs based on their content.

(Ord. No. 2019-20 , § 1, 5-23-2019)

Sec. 80-2. Applicability.

The sign regulations of this chapter shall apply and are enforceable in the corporate limits of the city and the area of its extraterritorial jurisdiction as defined by V.T.C.A., Local Government Code § 42.021.

(Ord. No. 2019-20 , § 1, 5-23-2019)

Sec. 80-3. Administration and enforcement.

- (a) *Compliance with codes and ordinances.* All sign structures shall comply with this chapter, as it may be amended, the International Building Code, the National Electrical Code and other

applicable city ordinances, as they may be amended. If the standards in this chapter are more restrictive than other provisions of this Code, then this chapter shall apply.

- (b) *Signs shall not interfere with exits, windows or traffic.* No sign shall be constructed as to block, obstruct or interfere in any way with a means of exit or window from any building. No sign shall block, obstruct or interfere in any way with pedestrian or vehicular traffic on a sidewalk, street, fire lane, driveway or parking lot or space.
- (c) *Exemptions.* Signs located entirely within buildings that are not visible from the exterior of the building, shall not be regulated by this chapter.
- (d) *Inspection.* All signs regulated by this chapter and other laws, codes and ordinances governing signs shall be subject to inspection and re-inspection by the director of development services in order to ascertain continued compliance with the provisions of this chapter and other laws, codes and ordinances governing signs. Inspection of electrical signs and outline lighting equipment shall be accomplished pursuant to procedures established by the electrical code of the city for inspection of the installation, repair or replacement of any electrical wiring or equipment subject to such code. It shall be the duty of the director of development services to inspect every sign not specifically exempt from the provisions of this chapter at least once annually.
- (e) *Maintenance of signs.*
 - (1) All signs, including but not limited to non-conforming signs, shall be maintained to consistently have a neat appearance. Sign panels and/or sign graphics shall be secured and maintained so they do not separate from, hang from, or fall from a sign. Sign panels and sign graphics shall not be faded, ripped, or have any other damage.
 - (2) Neglected signs shall be considered a public nuisance and are prohibited by this chapter. Upon written notification by the chief building official, neglected signs shall be repaired or removed from the premises by the owner, agent or person having beneficial use of the land, building or structure upon which such sign is located. The notification shall state that the offending sign shall be repaired or removed by the owner, agent or person having beneficial use of the land, building or structure upon which such sign is located within ten calendar days after written notification to do so by the chief building official. The notification shall further state that if the sign is not removed or repaired, a citation may be issued, and the city may resort to any civil remedy available to the city. If any sign is determined to present an immediate danger to public health, safety or welfare, the city shall remove it immediately upon obtaining a court order for such removal. Within ten calendar days of the removal of the sign pursuant to the court order, the chief building official shall notify the owner of the property on which the sign was located of the reason(s) for the removal of such sign.
 - (3) It shall be unlawful for any person, firm, entity or corporation receiving such written notification to fail to comply with the direction of the notice. In the event failure to comply with such notice provided under this section, the chief building official is hereby

authorized to cause the removal and impoundment of such sign upon the issuance of a written court order authorizing the removal and impoundment of such sign. Any expenses incident thereto shall be the responsibility of the owner, agent, or person having beneficial use of the land, building or structure upon which such sign was located. The city shall invoice the owner, agent, or person having beneficial use of the land for such expenses incurred by the city associated with the removal.

- (f) *Removal of abandoned signs.* An abandoned sign or abandoned sign structure remaining beyond the period authorized by this subsection (f) creates a blight on the community and is declared to be a public nuisance. An abandoned sign or abandoned sign structure that is not also a neglected sign or neglected sign structure must be removed from the premises:
- (1) On or after the first anniversary of the date the business, person, or activity that the abandoned sign or sign structure identifies or advertises ceases to operate on the premises on which the abandoned sign or abandoned sign structure is located; or
 - (2) If the premises containing the abandoned sign or abandoned sign structure is leased, on or after the second anniversary after the date the most recent tenant ceased operating on the premises on which the abandoned sign or abandoned sign structure is located; or
 - (3) If the abandoned sign or abandoned sign structure advertises a time, event, or purpose which no longer applies, not later than ten days after the termination of the time, event, or purpose.

Subsections (e)(2) and (3) of this section shall apply to the removal of an abandoned sign that must be removed pursuant to this subsection (f). This subsection does not apply to political signs. Subsection (e) of this section shall be controlling over the maintenance, repair, and removal of an abandoned sign that is also a neglected sign, or abandoned sign structure that is also a neglected sign structure.

(Ord. No. 2019-20 , § 1, 5-23-2019)

Sec. 80-4. Definitions.

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

Abandoned sign and *abandoned sign structure* means a sign or sign structure, respectively, that identifies a business, person, or activity that no longer occupies or operates on the premises on which the sign or sign structure is located or pertains to a time period greater than six months, event, or purpose which no longer applies.

Alter means to change the size, shape, outline, intent or type of sign.

Bulletin board means a sign containing information where a portion of such information may be periodically changed, providing that such change shall be affected by the replacement or

interchange of letters, numbers or other graphic symbols by insertion, attachment, or similar means.

Decorative display means a flag or banner that contains no name, initials, logos, insignia or similar items and does not represent a government or private organization. Decorative displays are not signs.

Display surface means that area made available by a sign structure for the purpose of displaying an advertising message, such area to exclude nonstructural trim.

Erect means to build, construct, attach, hang, place, suspend or affix, and shall also include the painting of signs on the exterior surface of a building or structure.

Flag is a piece of fabric, cloth, plastic, vinyl, canvas, leather, or other similar material attached to a staff cord on one end generally used as a symbol of a nation, state, city or other local government entity. Flags shall not be used in connection with a commercial promotion or to advertise a commercial product, service, activity, condition or person.

Sign means that which attracts or directs attention by visual means to any object, product, service, place, activity, person, institution or business. A sign includes any fasteners, fixtures, methods, or structures by or upon which a sign is erected, attached, displayed, placed or mounted.

Sign, area means the square footage of a sign made up of letters, words or symbols within a frame shall be determined from the outside edge of the frame itself. The square footage of a sign composed of only letters, words or symbols shall be determined from imaginary rectangle drawn around the entire copy or grouping of such letters, words or symbols. Double-faced signs shall be calculated as the area of one side only. Three-dimensional or multi-faced signs shall be calculated as the maximum area visible from any single direction at any point in time.

Sign, changeable electronic variable message signs (CEVMS) means a sign that permits light to be turned on or off intermittently, including any illuminated sign on which such illumination is not kept stationary or constant intensity and color at all times when such sign is in use, including an LED (light emitting diode) or digital sign, and which varies in intensity or color.

Sign, directional means a sign designed specifically for the purpose of directing or providing guidance to vehicular and pedestrian traffic on private property.

Sign, incidental means a small sign, less than two square feet in surface area, of a noncommercial nature, intended primarily for the convenience of the public, including, but not limited to, nameplates, signs designating restrooms, address numbers, hours of operation, entrances to buildings, directions, help wanted, public telephone and so forth, and signs designed to guide or direct pedestrians or vehicular traffic to an area or place on the premises of a business building or development by means of a directory designating names and addresses only.

Sign, nonconforming means a sign that does not conform to the requirements of this chapter but which was in conformance with applicable regulations at the time of its erection, placement or construction. Any sign erected, constructed, enlarged, altered or converted after the

enactment of this chapter that does not conform to the provisions of this chapter shall be considered a prohibited sign, and shall be removed or made to conform to this chapter.

Sign, neglected means a sign that has any missing panels, burned out lights, missing letters or characters, has rust, has loose parts, has damage, faded from its original color, supports or framework with missing sign or parts, or is not maintained.

Sign, pole means a freestanding sign supported by a pole having no guys or braces to the ground or to any other structure.

Sign, political means a sign relating to:

- (1) The election of a person to public office;
- (2) A political party; or
- (3) A proposition to be voted upon at an election called by a public body.

Sign, portable means a sign designed and/or constructed and/or used to facilitate its placing or moving from one location to another or from one lot, tract or parcel of land to another lot, tract or parcel of land. Such sign shall contain no electrical wiring. Such sign shall have temporary anchors to the ground to withstand the wind load specified in this chapter.

Sign, prohibited means a sign not expressly permitted by this chapter or any sign specifically prohibited by this chapter.

Sign, pylon means a freestanding sign which consists of a cabinet atop a single support element that must:

- (1) Be at least 33 percent as wide as the cabinet top, and
- (2) Covered in materials matching the exterior of the primary building.

Sign, roof means a sign erected on a vertical framework supported by and located immediately and entirely on or over the roof of a building.

Sign, stake means a temporary commercial, governmental or political freestanding sign supported by a piece of material driven into the ground.

Sign, sail means a wind device that contains a harpoon-style pole or staff driven into the ground for support or mounted on a weighted portable base and generally used in connection with a commercial promotion or to advertise a commercial product, service, business, activity condition, or person.

Sign, temporary means any sign intended to be displayed only for a limited period of time.

Sign, wall means a sign which is attached or fixed to the wall of a building or is an integral part of the building with the exposed face of the sign in a plane parallel to and not more than 12 inches from the wall; however, electrical wall signs may project not more than 18 inches from the wall.

Sign, vehicular means signs placed on or leaning on to vehicles and/or trailers that are parked on a public right-of-way, public property, or private property so as to be visible from a public right-of-way where the apparent purpose is to advertise a product or direct people to a business or activity located on the same or nearby property shall be prohibited. However, this is not in any way intended to prohibit signs affixed to vehicles and trailers, such as lettering on motor vehicles, where the sign is incidental to the primary use of the vehicle or trailer.

Sign structure means any structure which supports or is capable of supporting any sign. Sign structures, by way of examples but not of limitation, may include single poles and may be an integral part of the building.

Sign, window means any sign, pictures, symbol, paint or combination thereof, designed to communicate information about any activity, business, commodity, event, sale, or service that is placed inside a window or upon the windowpanes or glass and is visible from the exterior of the window.

(Ord. No. 2019-20 , § 1, 5-23-2019)

Sec. 80-5. Nonconforming signs.

- (a) A nonconforming sign may continue in use provided such use does not constitute a hazard or public nuisance.
- (b) The right to continue all nonconforming signs shall cease and such sign shall be removed or improved to conform to this chapter whenever:
 - (1) With respect to on-premises advertising only, an approved application for certificate of occupancy or a certificate of occupancy for a change of business or ownership is issued and the non-conforming sign is associated with the previous business or ownership;
 - (2) A change of occupancy classification occurs as described in the building code and a sign is associated with the classification change;
 - (3) A sign is altered, moved or relocated without a permit being issued pursuant to the provisions of this chapter;
 - (4) A sign is destroyed and the cost to repair exceeds 50 percent of the replacement cost of the sign on the date of damage;
 - (5) A sign leans such that an angle between the sign and the ground is 70 degrees or less;
 - (6) A sign has fallen onto the ground;
- (c) Signs designated by official action of the city as having special historic or architectural significance are exempt from subsection (b) of this section.

(Ord. No. 2019-20 , § 1, 5-23-2019)

Sec. 80-6. Dilapidated or deteriorated signs.

- (a) A dilapidated or deteriorated sign is any sign:
- (1) Where elements of the surface or background have portions of the finished material missing, broken, or otherwise existing such that they are illegible;
 - (2) Where the structural support or frame members are visibly bent, broken, dented, or torn;
 - (3) Where the panel is visibly cracked or, in the case of wood and similar products, splintered in such a way as to constitute an unsightly or harmful condition;
 - (4) Where the message or wording can no longer be clearly read; or
 - (5) Where the sign or its elements are not in compliance with the requirements of the current electrical code and/or building code of the city.
- (b) No person shall keep or permit to be kept on any premises owned, controlled or occupied by him or her any sign which is in a dilapidated or deteriorated condition as defined herein. Upon notice of violation, any such sign shall be promptly removed or repaired by the owner of the sign or the owner of the premises upon which the sign is located. A nonconforming sign as defined by this chapter is not dilapidated or deteriorated and shall not be repaired.

(Ord. No. 2019-20 , § 1, 5-23-2019)

Sec. 80-7. Exempt signs.

The following signs shall be exempt from the provisions (including permitting) of this chapter:

- (1) Holiday decorations provided such decorations are removed within one calendar month following the date of the holiday;
- (2) City traffic signals, signs, and similar devices;
- (3) Official legal notices;
- (4) Public warning signs, traffic control signs, traffic directional signs, public service signs indicating danger or aids to safety, or similar signs erected by the city or similar entity;
- (5) Recreational scoreboards for sports attractions (if electronic, an electrical permit shall be required);
- (6) Signs displayed within the interior of a building which are displayed so as to not be visible from outside the building;
- (7) Street numbers or addresses not exceeding six square feet;
- (8) Signs not exceeding eight square feet which advertise the sale, rental, availability or lease of the premises on which the sign is located;

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- (9) Window signs conforming to the requirements of this chapter;
 - (10) Memorial signs or tablets, names of buildings, and date of erection, when cut into any masonry surface or when constructed of bronze or other noncombustible materials of similar quality and characteristics as determined by the director of development services;
 - (11) Sign facing when replaced for the same business and there is no change in area, shape, lighting or color;
 - (12) Replacement of letters on non-illuminated wall signs with identical letters (same area, shape, and color) provided that a permit was obtained for the sign intended to be replaced;
 - (13) Flags or emblems of a business or corporation when accompanied by both the national and state flags. One business or corporate flag shall be permitted per development. All flags displayed must follow the rules of standard flag etiquette and all business or corporate flags shall be no larger than the accompanying national and state flags;
 - (14) Signs not exceeding a sign area of five square feet and a height of 42 inches displayed on private property that are for the convenience of the public (beware of dog, restrooms, freight entrances, or similar signs);
 - (15) Temporary political signs specifically authorized by V.T.C.A., Local Government Code § 216.903, as amended;
 - (16) Special event signs promoting city events, civic and other nonprofit organizations;
 - (17) Nameplate signs not exceeding three square feet.
- (Ord. No. 2019-20 , § 1, 5-23-2019)

Sec. 80-8. Sign kiosks.

- (a) The city council may, by duly executed license agreement, grant the exclusive right to design, erect and maintain kiosk signs within the city.
- (b) Kiosk signs must be designed and constructed according to the specifications contained in the license agreement with the city.
- (c) Prior to erecting any kiosk sign, the licensee shall submit a sign location map to the director of development services for approval.
- (d) Kiosk sign installations shall include break-away design features as required for traffic signs in the street right-of-way.
- (e) No signs, pennants, flags or other devices for visual attention or other appurtenances shall be attached to kiosk signs.
- (f) Kiosk signs shall not be illuminated.

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- (g) Individual sign panels on kiosk signs shall have a uniform design and color.
 - (h) Kiosk signs shall not interfere with the use of sidewalks, walkways, bike and hiking trails; shall not obstruct the visibility of motorists, pedestrians or traffic control signs; shall not be installed in the immediate vicinity of street intersections; and shall comply with the requirements of the 25-foot visibility triangle or other visibility easements.
 - (i) Kiosk signs shall be used by the city to provide directional information to new homes, developments, municipal or community events or facilities, emergency services, businesses, churches and other non-commercial establishments and locations lawfully operating with a certificate of occupancy within the city limits. Such directional information will be provided upon request and application to the city, by a qualified establishment or entity, on a first come first served basis, pursuant to the terms and conditions of this chapter. Directional information to any establishment or entity shall be limited to a maximum of one panel, per side, per kiosk.
 - (j) The city shall use the kiosk signs to display only the names of, and directional information to, new homes, developments, municipal or community events or facilities, emergency services, businesses, churches and other non-commercial establishments and locations lawfully operating within the city limits of the City of Lake Dallas. Pricing or other advertising or marketing information will not be displayed on the city's kiosk signs.

(Ord. No. 2019-20 , § 1, 5-23-2019)

Sec. 80-9. Political signs.

A political sign shall not require a sign permit and is exempt from this chapter except for the following requirements:

(1) *Time.*

- a. Political signs located on private real property must be removed within 30 calendar days after the election is decided.
- b. Except as otherwise provided herein, political signs located on property other than private real property may be erected no earlier than 60 calendar days before the election and must be removed no later than 30 calendar days after the election is decided. The city may remove any political sign on property other than private real property remaining beyond 30 calendar days after the election is decided.
- c. Political signs permitted to be placed at a polling site pursuant to state law must be removed from the polling site within 24 hours after the close of the polls on election day and within 24 hours after the close of the early voting period.

(2) *Place.*

- a. Political signs may be placed on private real property with the consent of the property owner.

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- b. Political signs may not be placed in roadway medians but may be placed in the city parkway between the curb and property line provided they do not create a safety hazard of any type.
 - c. Except as otherwise provided herein, political signs may not be placed on city-owned or leased property. This restriction shall not apply to political signs that are attached to vehicles that are lawfully parked on city-owned or leased property.
 - d. Political signs permitted to be placed at a polling site pursuant to state law may be placed only in designated locations on city-owned or leased property that are approved by the city council and only during the voting period or the early voting period. City staff shall provide a description of the approved locations for permitted electioneering pursuant to this subsection and state law.
 - e. Political signs may not be placed in the state rights-of-way.
 - f. Political signs shall not be installed in any manner that may result in a potential safety hazard of any type.
 - g. These restrictions do not apply to existing billboard sign upon which political advertising may be placed.

(3) *Manner.*

- a. The signs shall not exceed 36 square feet aggregate total for any private lot;
- b. A sign shall not exceed 36 square feet in city right-of-way;
- c. Political signs shall be in addition to any other sign allowed in this chapter;
- d. Political signs shall be kept in repair and proper state of preservation;
- e. Political signs shall not be more than eight feet high;
- f. Political signs shall not be illuminated;
- g. Political signs shall not have any moving parts;
- h. Political signs permitted to be placed at a polling site pursuant to state law shall not be larger than six square feet (2'x3') and must be placed in the ground attached to a stake that does not exceed a nine-gauge diameter (American Wire Gauge standard (AWG)). Said signs shall be placed into the ground well clear of tree roots, irrigation lines and any other underground vegetation or structures that could be damaged. Said signs shall not be attached, placed or otherwise affixed to any building, tree, shrub, pole or other improvement on public property; and
- i. The city may remove and dispose of any political sign permitted to be placed at a polling site pursuant to state law that is in violation of this chapter.

(Ord. No. 2019-20 , § 1, 5-23-2019)

Sec. 80-10. Window signs.

Window signs in the use districts, where permitted, do not require a sign permit and do not require approval by the city prior to erection. In no event may signs be located on the window surface internally or externally in any manner to obscure more than 25 percent of the visible window area available in the absence of any signs. Where multiple windows exist fronting on a single street or sidewalk, the 25 percent visibility shall be maintained for the total window area on such street or sidewalk. Specifically, window signs shall include:

- (1) Signs painted on the external or internal surface of the window of an establishment in commercial or retail districts with water-durable paint on external surfaces;
- (2) Signs (except posters), banners or displays located on the internal surface of the window of an establishment in commercial or retail districts only;
- (3) Posters, providing such posters are not located on the external surface of the window;
- (4) Decorations intended to direct attention to and stimulate citizens' interest in public events, providing such signs are painted on the external surface of the window and a 25 percent visibility requirement is maintained; and
- (5) Signs attached to the external surface of a window of a retail or commercial establishment if of water-durable paint or noncombustible material and signs attached to the internal surface of a window which define the name, proprietor, telephone number, or address of such retail or commercial establishment.

(Ord. No. 2019-20 , § 1, 5-23-2019)

Sec. 80-11. Lien for removal of signs.

- (a) The expenses incurred by the city, after notice to the owner or occupant, in removing a sign that is a public nuisance, in violation of the provisions of this chapter, or an immediate hazard to persons or property, may be assessed against the property as a lien if the expenses remain unpaid for a period often days after the city incurs the expenses.
- (b) Prior to incurring expenses for the removal of a sign under this chapter, notice shall be issued and served by the director of development services in one of the following means:
 - (1) Delivered personally to the owner or occupant in writing;
 - (2) By letter addressed to the owner or occupant at the owner's or occupant's post office address, last known address, or property address where the violation exists;
 - (3) If personal service cannot be obtained or the owner's or occupant's post office address is unknown;
 - (4) By publication in the city's official newspaper at least twice within ten consecutive days;or

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- (5) By posting the notice on or near the front door of the main building on the property to which the violation relates.
- (c) To obtain a lien against the property, the director of development services or his designee, including any other designated city official, must file a statement of expenses with the county clerk of Denton County. The statement of expenses must identify the name of the owner, if known, and the legal description of the property. The lien is security for the expenditures made and interest accruing at the rate of ten percent per annum on the amount due from the date of payment by the city for the work done. The lien is inferior only to tax liens and liens for street improvements. The city may authorize a suit for foreclosure in the name of the city to recover the expenditures and interest due. The statement of expenses or a certified copy of the statement is prima facie proof of the expenses incurred by the city in doing the work. The remedy provided in this section is in addition to any fine which may be imposed for a violation of this article and is cumulative of and in addition to any other remedies which may be provided for by the ordinances of the city or other law, whether civil or criminal.

(Ord. No. 2019-20 , § 1, 5-23-2019)

Sec. 80-12. Permit required.

No sign shall be erected, constructed, enlarged, altered or converted except as otherwise provided by this chapter until a permit has been issued by the director of development services.

- (1) It is unlawful for any person to erect, construct, enlarge, alter or convert any sign without first obtaining such permit.
- (2) A separate permit shall be required for each sign and/or each group of signs on any single supporting structure.
- (3) There shall be placed and maintained in plain view on each sign not specifically exempt by this chapter a permanent marker that identifies the person owning and/or in control of the sign and/or structure, and the sign permit identification number.
- (4) All sign applications must accompany a sign plan showing the following information:
 - a. Building locations, dimensions and elevations;
 - b. Size, location, and type of both existing and proposed signs;
 - c. Nearest street intersections and driveway locations;
 - d. Zoning designation;
 - e. Name of applicant, sign owner, and sign constructor or erector;
 - f. Corner "clear vision areas," if applicable; and
 - g. Engineering data on signs and/or sign structures, if applicable.

Sec. 80-13. Exemptions to permit requirement.

Persons engaged in the following activities are exempt from obtaining a sign permit:

- (1) The changing of the advertising copy or message on a painted or printed sign, including theater marquee signs and similar signs specifically designed for the use of replaceable copy; any electrical wiring work shall be specifically excepted from this exemption.
- (2) Painting, repainting or cleaning of a sign structure or the changing of the advertising copy or message on a display surface unless a structural change is made or the sign display surface is enlarged. Such exemptions, however, shall not relieve any owner, lessor or agent in control of any sign from complying with other provisions of this article and any other law or ordinance regulating signs.
- (3) One temporary rigid wall sign not exceeding eight square feet in area, which advertises the sale, rental or lease of the premises on which such sign is located.
- (4) Memorial plaques, building identification signs and building cornerstones when cut or carved into the masonry surface or when made of noncombustible material and made an integral part of the building or structure. These signs are not to exceed four square feet in area.
- (5) On-site directional signs not exceeding eight square feet in area, four feet in height, provided such signs do not contain advertising and are not used as such. Directional signs are only permitted behind the property line.
- (6) Political signs.
- (7) Traffic signs, municipally owned signs, legal notices, warning and emergency signs, and temporary or non-advertising signs as may be approved by the city council or zoning administrator, when placed in compliance with the Uniform Manual on Traffic Control Devices or with applicable city ordinances.
- (8) Scoreboards, provided that such signs meet all other requirements of this chapter.
- (9) Religious emblems when installed in compliance with the zoning and construction codes.
- (10) Seasonal decorations other than banners or other signs, for a maximum of 60 days, provided traffic visibility is not affected.
- (11) Bulletin boards not exceeding 32 square feet in area for public, charitable, educational, or religious institutions when such are located on the premises of said institutions and do not exceed 15 feet in height measured from ground level and do not exceed one per institution, except for sites abutting more than one public street in which event a

maximum of two bulletin boards for a site will be allowed. Where two bulletin boards are allowed, they shall be located on separate streets.

(12) Incidental signs.

(Ord. No. 2019-20 , § 1, 5-23-2019)

Sec. 80-14. Application.

Application for a sign permit shall be made in writing upon forms furnished by the director of development services. Such applications shall include the location by street and number for the proposed sign or sign structure as well as the name and address of the owner and the sign contractor or erector. A plot plan shall be filed concurrently with such application. Such plans shall show the size and location of each sign and whether such sign is an electrical sign. The director of development services may require the filing of other plans or other pertinent information when in his opinion such information is necessary to ensure compliance with this chapter.

(Ord. No. 2019-20 , § 1, 5-23-2019)

Sec. 80-15. Review.

The application, plans and specifications filed by an applicant for a sign permit shall be reviewed by the director of development services. If the director of development services is satisfied that the work described in such an application and such plans filed with the application conform to the requirements of this chapter and of the pertinent laws and ordinances and the fee has been paid, he shall issue a permit to the applicant.

(Ord. No. 2019-20 , § 1, 5-23-2019)

Sec. 80-16. Plans.

One set of approved plans, specifications and computations shall be retained by the director of development services and one set shall be returned to the applicant, which shall be kept on the site of such work at all times during which the work authorized is in progress.

(Ord. No. 2019-20 , § 1, 5-23-2019)

Sec. 80-17. Expiration.

Every permit issued by the director of development services under the provisions of this chapter shall expire by limitation and become null and void if the work authorized by such permit is not commenced within 60 days from the date of the issuance of such permit, or if the work authorized by such permit is suspended or abandoned for a period of 120 days at any time after the work is commenced. Before such work can be recommenced, a new permit shall be first

obtained, and the fee shall be half the permit fee required for an original application for permit for such work provided no changes have been made or will be made in the original plans and specifications for such work and provided further that such suspension or abandonment has not exceeded one year.

(Ord. No. 2019-20 , § 1, 5-23-2019)

Sec. 80-18. Nonconformance and exceptions.

- (a) *Purpose.* Every sign or other advertising structure in existence upon adoption of this chapter which violates or does not conform to the provisions hereof shall not be moved, altered or repaired unless it is made to comply with all provisions of this chapter. For the purposes of this section, alteration or repair shall mean at least 60 percent of the replacement cost of the subject sign. The director of development services shall determine whether the proposed alteration or repair exceeds 60 percent of the replacement cost.
- (b) *Damaged nonconforming signs.* Nonconforming signs which are damaged in excess of 60 percent of their current value must be demolished and not repaired unless such proposed repairs would bring the sign into compliance with the provisions of this chapter.
- (c) *Condemnation; notice.* Signs adjudged by the director of development services to be structurally unsafe or to be more than 50 percent destroyed or dilapidated may be condemned. A condemnation letter will be sent to the owner of the property, listed on the city tax roll, stating that the sign must be removed within 15 days of the receipt of the letter. If the sign is not removed within the period allotted, the city may remove the sign at the property owner's expense.
- (d) *Board established; appeals and exceptions.* Appeals and exceptions to these regulations shall be heard by the board of adjustments. The director of development services shall act as staff to the board. The board shall have the authority to adopt reasonable rules and regulations for the enforcement of the signs regulations and the authority to make recommendations to the city council. The board may consider appeals from a decision of the director of development services on a sign permit and may grant exceptions on the basis that the application of such regulations and/or standards will, by reason of exceptional circumstances or surroundings, constitute a practical difficulty or unnecessary hardship.
 - (1) Required information. The applicant shall first file a written application for exception form furnished by the building inspections department. Every such application shall contain the following information:
 - a. Name, address, and telephone number of the applicant;
 - b. Name, address, and telephone number of the owner of the property on which the sign will be located;
 - c. Name, address, and telephone number of person or firm erecting the sign;

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- d. A description of the work to be covered by the permit for which application is made;
 - e. Location of the building structure or lot upon which the sign is to be attached or erected;
 - f. Message to be contained on proposed sign;
 - g. State the valuation of proposed work;
 - h. The signature of the permittee or his authorized agent; and
 - i. Name of business for which the sign application has been made.
- (2) Plans and specifications. Scaled plans or dimensional sign detail shall be submitted in duplicate with each application for a permit and contain the following information:
- a. Drawing of sign indicating the sign message or copy;
 - b. Elevation plan of the building showing the proposed sign on the building, the length of the elevation, and any other existing signs on the elevation along with the dimensions of such signs; and
 - c. Site plan indicating street frontage, property lines, sign visibility triangles, proposed and existing rights-of-way, location of sign on property, relationship of proposed sign to ingress and egress points, and relationship of proposed sign to any other signs within a 60-foot spacing of the proposed sign and location of all detached signs on the site.
- (3) Board decision. The decision of the board shall be final as to administrative remedies. No appeal to the board for the same variance on the same piece of property shall be allowed prior to the expiration of two years. Any variance granted by the board expires unless a permit securing the variance has been applied for within 90 days from the date of the decision. An applicant whose sign permit is denied by the board may appeal the board's decision to the city council. The appeal request must be submitted in writing within ten days of the board's decision.
- (4) The board is empowered to approve variances to the provisions of this chapter in the following areas:
- a. Height regulations;
 - b. Area regulations;
 - c. Setback regulations;
 - d. Material regulations; and
 - e. Number of signs.

A variance shall not be granted to relieve a self-created or personal hardship, nor shall it be based solely on economic gain or loss. In order to grant a variance from this chapter the board must determine that:

- a. The requested variance does not violate the intent of this chapter;
- b. The requested variance will not adversely affect surrounding properties;
- c. The requested variance will not adversely affect public safety;
- d. Special conditions exist which are unique to this applicant or property;
- e. That the sign had not been installed prior to obtaining a permit. An applicant is not eligible for a variance if the sign was installed prior to obtaining a sign permit.

(Ord. No. 2019-20 , § 1, 5-23-2019)

Sec. 80-19. Revocation.

The director of development services may, in writing, suspend or revoke such permit issued under the provisions of this chapter whenever such permit is issued in error or issued on the basis of incorrect information supplied or issued where work is done in violation of any ordinance or regulation or any provisions of this chapter.

(Ord. No. 2019-20 , § 1, 5-23-2019)

Sec. 80-20. Allowed signs requiring issuance of a sign permit.

The following signs are allowed upon issuance of a sign permit and subject to the following conditions. Signs that do not comply with the following conditions are considered prohibited signs:

- (1) *Awning sign.* An awning sign is a permanent sign applied to, attached to or painted on an awning or other roof-like cover intended for protection from the weather or as a decorative embellishment to the facade of a building, which projects from a wall or roof of a structure over a window, sidewalk or door. Awning signs are permissible subject to the following conditions and subject to the issuance of a building permit:
 - a. *Permit.* A sign permit may be issued for an awning sign upon issuance of a building permit for the building on which the sign will be painted or attached.
 - b. *Location.*
 - 1. Awning signs are permitted only in conjunction with a non-residential use in a non-residential zoning district.
 - 2. Awning signs shall not project into or over a public right-of-way.
 - c. *Miscellaneous.* No building shall have both an awning sign and a wall sign of the same building face.

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- (2) *Banner sign.* A banner sign is a temporary sign composed of plastic, cloth, canvas or other non-rigid fabric. Banner signs are permissible subject to the following conditions:
- a. *Permit.* A sign on the building or other approved structure on the property requires a sign permit.
 - b. *Time.*
 1. Banner signs may be displayed for a maximum time period of six weeks within each calendar year.
 2. New businesses shall be permitted to display a banner on their building prior to the issuance of a certificate of occupancy, and up to six weeks after the issuance of a certificate of occupancy, in addition to the six weeks allowed in this subsection.
 - c. *Location.* Banner signs are permitted only in conjunction with a non-residential use in a nonresidential zoning district.
 - d. *Size.* The maximum area of a banner sign is 50 square feet.
- (3) *Canopy sign.* A canopy sign is a permanent sign painted on or attached to the canopy or other roof-like cover over gasoline fuel pumps intended for protection from weather or as a decorative embellishment. Canopy signs are permissible subject to the following conditions and subject to the issuance of a building permit:
- a. *Permit.* A sign permit may be issued for a canopy sign upon issuance of a building permit for the building on which the sign will be painted or attached.
 - b. *Location.* Canopy signs are permitted only in conjunction with a non-residential use in a non-residential zoning district.
 - c. *Size.* The maximum area of a canopy sign is 15 square feet.
 - d. *Miscellaneous.* The canopy sign may be illuminated and shall not project more than 18 inches from the canopy structure.
- (4) *Frame sign.* A frame sign is a temporary sign constructed of wood, metal or plastic used to advertise a new building or subdivision, opening dates, purchase or leasing information and/or to identify those engaged in the design, construction or improvement of the property on which the sign is located. Frame signs are permissible subject to the following conditions and subject to the issuance of a building permit:
- a. *Permit.* A sign permit may be issued for a frame sign upon issuance of a building permit for the building on which the sign will be painted or attached.
 - b. *Location.* Frame signs are permitted on a temporary basis for all uses and in all zoning districts.
 - c. *Size.* The maximum area of a frame sign is 100 square feet.

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- d. *Height.* The maximum height of a frame sign is ten feet.
- (5) *Inflatable sign.* An inflatable sign is a temporary sign composed of plastic, cloth, canvas or other non-rigid fabric and inflated with air. Inflatable signs are permissible subject to the following conditions and subject to the issuance of a building permit:
- a. *Permit.* A sign permit may be issued for an inflatable sign after a certificate of occupancy has been issued for a building on the property where the sign will be displayed.
 - b. *Time.* Inflatable signs may be displayed for a maximum time period of three ten-day increments within each calendar year. These ten-day increments may be consecutive for a total of 30 days.
 - c. *Location.* Inflatable signs are permitted only in conjunction with a non-residential use in a nonresidential zoning district. Inflatable signs shall not be located in required parking spaces, loading spaces, driveways, fire lanes or sidewalks, alleys or streets.
 - d. *Size.* A banner sign may be applied to an inflatable sign without the banner counting towards the allotted number of banner signs per year. The maximum area of a banner sign applied to an inflatable sign is 50 square feet.
 - e. *Height.* The maximum height of an inflatable sign is 30 feet.
- (6) *Monument sign.* A monument sign is a permanent sign supported from the grade to the bottom of the sign having or appearing to have a solid and opaque base and generally used to identify the name of a business or development. Monument signs are permissible subject to the following conditions and subject to the issuance of a building permit:
- a. *Permit.* A sign permit may be issued for a monument sign after city council approval of a site plan and/or final plat.
 - b. *Location.*
 - 1. Monument signs are permitted in conjunction with R-3 district uses in R-3 zoning districts.
 - 2. Monument signs are permitted in conjunction with non-residential uses in non-residential zoning districts.
 - c. *Size.* The maximum area of a ground sign shall be as follows:
 - 1. In District R-3, 50 square feet.
 - 2. In Districts C-1, C-2, C-3, M-1, MA, 60 square feet.
 - 3. In the Downtown Overlay District, 50 square feet.
 - 4. In the IH35E Business Corridor District, 120 square feet.

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- d. *Height.* The maximum height of a ground sign shall be as follows:
 - 1. In District R-3, eight feet.
 - 2. In Districts C-1, C-2, C-3, M-1, MA, 12 feet.
 - 3. In the Downtown Overlay District, eight feet.
 - 4. In the IH 35E Business Corridor District, 20 feet.
 - e. *Miscellaneous.* One monument sign is permitted per street frontage. The design, materials and finish of each monument sign shall match those of the buildings on the same lot.
- (7) *Menu board sign.* A menu board sign is a permanent sign used in conjunction with a drive-through or drive-in use for customers who remain in their vehicles. Menu board signs are permissible subject to the following conditions and subject to the issuance of a building permit:
- a. *Permit.* A sign permit may be issued for a menu board sign after city council approval of a site plan and/or final plat.
 - b. *Location.*
 - 1. Menu board signs are permitted only in conjunction with a nonresidential use in a nonresidential zoning district.
 - 2. Minimum front yard setback shall be 20 feet.
 - 3. Minimum side yard setback shall be ten feet.
 - 4. Minimum rear yard setback shall be 25 feet.
 - c. *Size.* The maximum area of a menu board sign is as follows:
 - 1. In nonresidential zoning districts, other than the overlay districts, the maximum area of a menu board sign shall be 48 square feet.
 - 2. In the IH-35E Business Corridor District the maximum area of a menu board sign shall be 60 square feet.
 - 3. In the Downtown Overlay District the maximum area of a menu board sign shall be 30 square feet.
 - d. *Height.* The maximum height of a menu board sign shall be six feet.
 - e. *Miscellaneous.* A maximum of two menu board signs are permitted per drive-through or drive-in business. The design, materials and finish of menu board sign shall match those of the buildings on the same lot.
- (8) *Projecting sign.* A projecting sign is a permanent sign that projects from and is supported by the wall of a building or structure, generally at a right angle. Projecting

signs are permissible subject to the following conditions and subject to the issuance of a building permit:

- a. *Permit.* A sign permit may be issued for a projecting sign upon issuance of a building permit for the building to which the sign will be attached.
 - b. *Location.*
 - 1. Projecting signs are permitted only in conjunction with a non-residential use in a non-residential zoning district.
 - 2. If a projecting sign is constructed over a sidewalk, a minimum of nine feet shall be provided between the grade of the sidewalk and the lowest portion of the sign.
 - c. *Size.* The maximum area of a projecting sign is 15 square feet.
- (9) *Roof sign.* A roof sign is a permanent sign that is mounted to or projects from a canopy, parapet wall or secondary roof over the entry to a building without projecting above the highest point of the building. Roof signs are permissible subject to the following conditions and subject to the issuance of a building permit:
- a. *Permit.* A sign permit may be issued for a projecting sign upon issuance of a building permit for the building to which the sign will be attached.
 - b. *Location.* Roof signs are permitted only in conjunction with a non-residential use in a nonresidential zoning district.
 - c. *Size.* The maximum area of a roof sign is 60 square feet.
 - d. *Height.* The maximum height of a roof sign is eight feet.
- (10) *Sandwich board sign.* A sandwich board sign is a temporary, portable sign constructed in such a manner as to form an "A" shape with each face held at an appropriate distance by a supporting member. Sandwich board signs are permissible subject to the following conditions and subject to the issuance of a building permit:
- a. *Permit.* A sign permit may be issued for a sandwich board sign upon issuance of a certificate of occupancy for the building on the property/lot where the sign will be displayed.
 - b. *Location.*
 - 1. Sandwich board signs are permitted only in conjunction with a nonresidential use in a nonresidential zoning district.
 - 2. Sandwich board signs shall be permitted only during business hours for the property/lot on which it is displayed.
 - 3. Sandwich board signs shall be located a minimum of three feet from the curb or edge of street, whichever is appropriate.

- c. *Size.* The maximum area of a sandwich board sign is 15 square feet.
- d. *Height.* The maximum height of a sandwich board sign is four feet.
- e. *Miscellaneous.* A maximum of one sandwich board sign shall be permitted for each business or tenant on the property/lot where the sign will be displayed.

(11) *Subdivision sign.* A subdivision sign is a permanent sign that identifies the name of the residential subdivision and is mounted to a screening wall or monument at the entry of the subdivision. Subdivision signs are permissible subject to the following conditions and subject to the issuance of a building permit:

- a. *Permit.* A sign permit may be issued for a subdivision sign after city council approval of a final plat.
- b. *Location.*
 - 1. Subdivision signs are permitted only in conjunction with a residential use in a residential zoning district.
 - 2. Subdivision signs shall be located within the platted boundaries of the subdivision.
- c. *Size.* The maximum area of a subdivision sign is 60 square feet.

(12) *Wall sign.* A wall sign is a permanent sign painted on or attached to the wall of a building or is an integral part of the building with the exposed face of the sign in a plane parallel to and a maximum of 12 inches from the wall; however, electrical wall signs may project a maximum of 18 inches from the wall. Wall signs are permissible subject to the following conditions and subject to the issuance of a building permit:

- a. *Permit.* A sign permit may be issued for a wall sign upon issuance of a Building Permit for the building on which the sign will be painted or attached.
- b. *Location.* Wall signs are permitted only in conjunction with a non-residential use in a non-residential zoning district.
- c. *Size.* The size of wall signs shall be as follows:

Building Height	Maximum Sign Height	Maximum Percentage of Wall Length Covered by Wall Sign
Up to 20 ft.	4 feet	75%
20 ft.—30 ft.	6 feet	60%
Over 30 ft.	8 feet	50%

(13) *Searchlights.* A searchlight is defined as an apparatus containing a light source and a reflector for projecting one or more high-intensity beams of light.

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- a. *Permit.* A permit shall be required a searchlight. The zoning administrator may deny or revoke a permit if the number or intensity of searchlights may constitute a hazard or a public nuisance.
 - b. *Reserved.*
 - c. *Location.* Searchlights shall be located entirely on private property and shall not be located on any portion of a street, alley, sidewalk or public right-of-way. Searchlights shall be situated and directed so as to prevent the light source or any portion of a beam of light from being directed onto any portion of a street, alley, sidewalk or public right-of-way.
 - d. *Duration.* Searchlights may be permitted for a period of four calendar days within any consecutive 12-month period.

(Ord. No. 2019-20 , § 1, 5-23-2019)

Sec. 80-21. Allowed permanent signs not requiring insurance of sign permit.

The following permanent signs are permitted and do not require the issuance of a sign permit provided the signs comply with the following conditions. Signs that do not comply with the following conditions and the specifications are considered prohibited signs.

- (1) Flags; and
- (2) Instructional signs.

(Ord. No. 2019-20 , § 1, 5-23-2019)

Sec. 80-22. Portable signs.

A portable sign is permitted upon issuance of a sign permit provided the sign complies with the conditions of this section. A temporary portable sign may remain in place for a maximum of six consecutive months as long as it remains in a state of good repair. No more than one temporary sign may be situated on a lot.

(Ord. No. 2019-20 , § 1, 5-23-2019)

Sec. 80-23. Prohibited signs.

The following signs are prohibited:

- (1) Billboard sign.
- (2) Pole signs, except for pole-mounted signs located within the IH-35 Business Corridor District provided such sign complies with the following:

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- a. Pole mounted signs fronting along 1-35 may have height not greater than 45 feet. All other pole signs for new development or expansion of existing buildings within the district shall be no higher than 18 feet.
 - b. Maximum area of any sign within the district shall be 20 feet by 30 feet.
 - c. The structure of pole signs shall be constructed of materials and colors utilized on the building's primary facade.
 - d. Landscaping around the base of pole signs is encouraged to blend the sign with other landscaped areas around the sign.
- (3) Wind device or "sail" sign.
 - (4) Off-premises sign. sign pertaining to a business, person, organization, activity, event, place, service or product not located or offered on the premises on which the sign is located. Off-premises signs include, but are not limited to, those signs commonly referred to as "billboards."

(Ord. No. 2019-20 , § 1, 5-23-2019)

REGULAR SESSION



**CITY COUNCIL
AGENDA MEMO**

Prepared By: Codi Delcambre, City Secretary

July 28, 2022

Planning and Zoning Commission

DESCRIPTION:

Consider and Act on a Resolution appointing members to various positions of the Planning and Zoning Commission.

BACKGROUND INFORMATION:

The Planning and Zoning Commission three (3) vacancies as the result of resignations or completion of terms that need to be filled.

Current Board

Lester Raborn
Steve Dennis
Christian Cline
Annette Fuller
Melody Parlett
Vacant
Vacant

Place

Place 1
Place 2
Place 3
Place 4
Place 5
Alternate 1
Alternate 2

Current openings:

<u>Name</u>	<u>Position</u>	<u>Term Expiration</u>
Rachel Fitzpatrick	Alt. Member, Place 1	Oct. 2023
	Alt. Member, Place 2	Oct. 2022

Applications received:

Rachel Fitzpatrick

RECOMMENDED MOTIONS:

None

ATTACHMENT(S):

1. Resolution
2. Applications

**CITY OF LAKE DALLAS, TEXAS
RESOLUTION NO. 2022-_____**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAKE DALLAS,
TEXAS APPOINTING MEMBERS TO VARIOUS POSITIONS OF THE
PLANNING AND ZONING COMMISSION; PROVIDING AN EFFECTIVE
DATE.**

WHEREAS, appointments to vacancies on the City's various Boards, Commissions and Committees are made each year for terms effective on October 1; and

WHEREAS, the Planning and Zoning Commission has two (2) vacancies as the result of resignations or completion of terms that need to be filled; and

WHEREAS, the City Council of the City of Lake Dallas, Texas, finds it to be in the public interest to make appointments to fill said vacancies;

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

SECTION 2

The following are hereby appointed to the Planning and Zoning Commission with terms ending as follows:

<u>Name</u>	<u>Position</u>	<u>Term Expiration</u>
Rachel Fitzpatrick	Alt. Member, Place 1	Oct. 2023
	Alt. Member, Place 2	Oct. 2022

SECTION 3

The appointed members to the Planning and Zoning Commission are hereby appointed for the term stated above and until their successors are appointed and qualified.

SECTION 4

This Resolution shall take effect immediately upon passage.

PASSED AND APPROVED this the 28th day of July 2022.

APPROVED:

ATTEST:

Andi Nolan, Mayor

Codi Delcambre, TRMC
City Secretary

APPROVED AS TO FORM

Kevin B. Laughlin, City Attorney



**CITY COUNCIL
AGENDA MEMO**

Prepared By: Kandace Lesley, City Manager

Date: July 28, 2022

Preliminary Fiscal Year (FY) 23 General Fund

DESCRIPTION:

Receive a report and hold discussion regarding the updated and preliminary Fiscal Year 2023 General Fund Revenue and Expenditures.

BACKGROUND INFORMATION:

Attached is the preliminary FY 2023 General Fund Budget. As is customary, the budget includes the previous, current adopted, current re-forecasted, and the proposed upcoming fiscal years' expenses (by line item) and revenues. To appropriately present this information to you, below are critical highlights for your review to guide in you in the approach and/or methodology applied to achieve the results, which is a balanced budget.

What you can expect from staff is a dedicated effort to forge ahead in fiscal stewardship. This will be evident through one-time capital purchases being incurred by the current reserves, and increased fund-raising efforts by the Library Services Director and Animal Services Manager. In addition to a number of expenses that staff and I will forego next fiscal year, we have begun to plan for preventative predictive maintenance programs, "replacement funding" of capital expenses, and capital improvement planning. (It should be noted that many of these processes will be on-going and span several years before we see the fruits of our labor, especially in capturing the costs and building toward the future roadway and drainage projects.) Although next year's budget includes a 3% COLA for all employees, we will not fund for merit increases.

Please keep in mind that, although we present a balanced budget, there remain unknown caveats such as the certified taxes rolls, property/liability, Workers' Compensation insurance and benefits that will impact our final proposal, which will be presented for adoption at the August 11th City Council meeting. Therefore, portions of the attached preliminary or draft general fund budget will change to reflect these items for the final FY 2023 General Fund Budget (numbers below are approximate).

On behalf of staff and myself, thank you in advance for your consideration and continued support. Below are some key highlights for the attached draft **FY 2023 General Fund Budget**.

FY 2022 Re-Forecast:

Per previous discussions, the FY 2022 re-forecast indicates expenditures exceeding the adopted FY 2022 budget by 2.4% or \$138,920. However, because revenue is trending 7.5% higher than originally budgeted, the excess FY 2022 spending will be covered without use of reserves. As we move forward with implementing staff training and accountability practices, and the development and implementation of new finance, accounting and procurement policies and procedures, the expectation of staff is that such excess spending does not occur outside the confines of emergency, Council-/Manager-driven directives, or appropriately vetted processes.

FY 2023 Annual General Fund Budget:

The overall anticipated percent difference between FY 2022 (re-forecasted) and FY 2023 is a **3.1% increase**.

FY 2023 Breakdown

Revenue	\$6,151,529
Expenditures	\$6,106,288
Capital Outlay	\$ 266,505

Capital Purchases:

The City has a healthy reserve of approximately 47%. Typically, we want 25% or 3 months expenses in reserve. The proposed FY 2023 Annual General Fund Budget will allow for all **one-time purchases** to be absorbed by the reserve, rather than a cost through next year's operating expenses.

Personnel Services & O&M Expenses:

- Development Services – As you are aware, I conducted an audit and reorganization of Development Services to better serve the community and achieve fiscal stewardship. Therefore, when attrition occurred with the leaving of the Director changes were made. Cost saving measures to personnel and operating services included eliminating the Director position, and privatizing Development Services. The full-time equivalents for this department will decrease from 4 (FY 2022) to 3 (FY 2023). In addition, there will be a decrease in some minor operational items. Overall net effect will be a **23.0% decrease** in expenditures for FY 2023.
- Administration – As discussed previously, I conducted an audit and reorganization of Administration to better serve the organization. With its attrition, the Assistant to the City Manager position was downgraded to a lower-level position (Accounting Technician II), which better serves internal functions. The full-time equivalents for this department remain at 4.

Consulting is a category where a large **decrease** will occur in FY 2023 due to the City no longer needing such services (e.g., finance, internal studies, etc.). These decreases, however, are countered by legal, engineering, and information technology fee increases.

The overall changes net a **6% increase** for the upcoming FY 2023. Please note that certification pay (City Manager), operational supplies, uniforms, training, and YAC have been decreased and/or removed.

- Library Services – The most notable change to this department in the FY 2023 is a **31% decrease** in expenditures. Changes result directly from all operational supplies and costs being funded through the robust efforts of the Friend of the Library donations and the Library Director’s resourcefulness with grants. It is expected that the Director continue working toward additional grants and an active volunteer program to support in maintaining programming and operational supply funding. To ensure we stay on track, all operational supplies will only be purchased through the special revenue fund (no donations, no spending). Staff is also looking at the possibility of modifying hours of operations to better reflect current patronage trends and privatization of services. Additionally, 2 FTEs (aka the 4 part-time positions) will be “frozen” until further notice beginning October 1st. Freezing these positions means a reduction in force.
- Animal Services – Although they will experience a **8% increase** in FY 2023, Animal Services Manager was directed to increase fundraising efforts and seek additional donors or new funding resources (e.g., grants) to assist in defraying operational costs. Staff is also developing an Animal Services proposal for City of Corinth (outcome is unknown).
- Parks – The Parks Department will reduce its FTE from 1.5 to 1.0 by removing the part-time seasonal position, which is funded by the Willow Grove Park revenue fund. (Based on current trends, recruiting efforts and mowing contracts, this position is not utilized.)

Funding for personnel services in this department will change. Instead of the full-time parks maintenance position being funded solely from the General Fund, it will be funded 50/50 between the General Fund and Willow Grove Park Special Revenue fund. This method of budgeting will yield an estimated \$26,388 savings to the General Fund.

Staff is scheduled to conduct a cost benefit analysis on privatizing mowing and landscaping. Thus far, the information collected has yielded results showing the City is required to conduct a competitive sealed bid, which will be conducted for to the FY 2024 budget season, not FY 2023.

The overall changes net a **44% decrease** for the upcoming FY 2023.

- Streets & Drainage – By moving the one-time capital purchases, recording street maintenance in the street maintenance fund, and delaying a few future operating expenses, this department will see an estimate **8% decrease** in expenditures. Please note that the City Secretary will conduct an election this coming November for the continuance of the quarter cent street maintenance sales tax.

- Police – It is still recommended that 2 additional police officer positions be added to the Police Department. However, personnel changes also include removing the part-time records technician and delaying recruitment of 1 of the newly added police officers until (1) current vacancies are filled and (2) the VAWA grant is awarded. The total number of FTEs in FY 2023 will be 19.0, instead of 17.5.

Currently, the budget shows 40.0 FTEs for all city positions. With the removal of the part-time parks maintenance workers, part-time records technician, full-time Director of Development Services, and the addition of two police officer positions, the total FTEs count for FY 2023 will remain at 40.0.

The above are just highlights.

FINANCIAL CONSIDERATION:

Discussion item.

RECOMMENDED MOTIONS:

Discussion item only.

ATTACHMENT(S):

Preliminary FY 2023 General Fund

EVENTS

Account #	Account Description	Actual FY 2021	Budget FY2022	Projected FY2022	Budget FY 2023
01-05-52221	Community Events	8,605	7,600	7,600	5,000
01-05-53350	Fireworks	22,000	22,000	25,000	25,000
	Subtotal: Operation	30,605	29,600	32,600	30,000
	Total Events	30,605	29,600	32,600	30,000

CITY COUNCIL

Account #	Account Description	Actual FY 2021	Budget FY2022	Projected FY2022	Budget FY 2023
01-07-52000	Office Supplies	337	285	285	300
01-07-52201	Operating Supplies	165	-	-	-
01-07-52204	Uniforms	-	-	300	600
01-07-52206	Travel & Training	7,830	7,078	7,078	5,400
01-07-52207	Dues & Memberships	1,274	2,200	2,200	3,675
01-07-52212	Flowers/Gifts/Plaques	160	285	300	300
01-07-52214	Legislative	-	3,420	-	3,420
	Subtotal: Operation	9,766	13,268	10,163	13,695
	Total City Council	9,766	13,268	10,163	13,695

DEVELOPMENT SERVICES

Account #	Account Description	Actual FY 2021	Budget FY2022	Projected FY2022	Budget FY 2023
01-08-51000	Salaries-Full Time	191,575	202,168	151,083	122,097
01-08-51101	Overtime	3,670	1,500	1,500	3,500
01-08-51104	Longevity	444	588	534	618
01-08-51105	Medicare Tax	2,676	3,012	2,301	1,830
01-08-51106	Unemployment Tax	805	810	648	486
01-08-51107	Worker's Compensation	718	1,149	1,007	1,830
01-08-51108	Group Health Insurance	42,475	41,567	34,219	37,007
01-08-51109	Retirement/TMRS	35,137	31,154	23,806	18,933
01-08-51111	Physicals & Evaluations	-	-	-	165
	Subtotal: Personnel	277,500	281,948	215,098	186,466
01-08-52000	Office Supplies	541	570	500	600
01-08-52201	Operating Supplies	1,434	190	1,100	400
01-08-52202	Postage & Shipping	175	760	700	700
01-08-52203	Printing	6,416	5,130	5,400	100
01-08-52204	Uniforms	-	200	100	200
01-08-52205	Advertising	560	500	500	1,750
01-08-52206	Travel & Training	1,159	1,900	1,000	2,000
01-08-52207	Dues & Memberships	519	550	400	800
01-08-52208	Vehicle Fuel	95	950	950	1,080
01-08-52209	Office Equipment	631	200	-	200
01-08-52211	Safety Equipment & Supplies	84	95	-	200
01-08-52216	Telephone-Mobile	1,324	1,500	1,050	840
01-08-52223	Keep Lake Dallas Beautiful	2,488	2,000	1,000	1,650
01-08-53305	Engineering	42,998	10,000	9,000	10,000
01-08-53309	Consultants & Professionals	1,300	8,000	8,100	20,000
01-08-53320	Inspection Services	34,932	50,000	55,000	30,000
01-08-53326	Health Inspections	4,755	5,000	6,000	5,500
01-08-53507	Property Abatements	2,170	-	1,000	11,600
01-08-54402	Vehicle Maintenance	1,659	500	600	1,800
01-08-54406	IT Maintenance	4,403	5,205	5,000	-
	Subtotal: Operation	107,643	93,345	97,400	89,420
01-08-56531	Capital Vehicle Lease	-	-	-	12,886
01-08-56531	Capital Vehicle Principal	6,553	-	10,286	-
01-08-56532	Capital Vehicle Interest	-	-	2,600	-
	Subtotal: Capital	6,553	-	12,886	12,886
	Total Development Services	391,696	375,293	325,384	288,772

Municipal Court

Account #	Account Description	Actual FY 2021	Budget FY2022	Projected FY2022	Budget FY 2023
01-09-51000	Salaries-Full Time	44,069	58,999	47,701	57,242
01-09-51101	Overtime	1,294	1,500	1,500	1,500
01-09-51102	Certification Pay	415	600	-	600
01-09-51104	Longevity	114	48	-	-
01-09-51105	FICA/Medicare Tax	586	878	713	850
01-09-51106	Unemployment Tax	162	163	162	162
01-09-51107	Worker's Compensation	137	267	202	240
01-09-51108	Group Health Insurance	13,680	15,061	12,694	16,137
01-09-51109	Retirement/TMRS	7,012	9,178	7,380	8,901
	Subtotal: Personnel	67,470	86,694	70,353	85,632
01-09-52000	Office Supplies	342	760	760	800
01-09-52202	Postage & Shipping	175	950	950	1,000
01-09-52203	Printing	1,145	665	1,100	700
01-09-52204	Uniforms	-	95	-	100
01-09-52206	Travel & Training	1,743	950	155	1,350
01-09-52207	Dues & Memberships	-	140	55	55
01-09-53309	Consultants & Professionals	-	-	10,789	-
01-09-533XXX	Printers & Copiers	-	-	-	465
01-09-53318	Court Collection Fees	10,322	15,000	15,000	15,000
01-09-53319	Municipal Judge/Magistrate	13,200	14,400	14,400	14,400
01-09-53320	Prosecutor	22,499	14,000	21,000	21,000
01-09-53321	Jury Fee	(131)	500	-	-
	Subtotal: Operation	49,296	47,460	64,209	54,870
01-09-55504	Capital Outlay-Information Technology	-	2,500	-	-
	Subtotal: Capital	-	2,500	-	-
Total Municipal Court		116,765	136,654	134,562	140,502

Administration

Account #	Account Description	Actual FY 2021	Budget FY2022	Projected FY2022	Budget FY 2023
01-11-51000	Salaries-Full Time	350,459	365,819	299,378	359,474
01-11-51010	Salaries-Part Time	-	-	-	-
01-11-51101	Overtime	-	-	-	1,500
01-11-51102	Certification Pay	3,785	6,922	6,810	1,201
01-11-51103	Stipend/Auto Allowance	2,977	3,600	3,600	3,600
01-11-51104	Longevity	606	702	492	894
01-11-51105	Medicare Tax	5,027	5,303	4,527	5,414
01-11-51106	Unemployment Tax	1,188	648	810	648
01-11-51107	Worker's Compensation	1,017	1,550	1,500	1,531
01-11-51108	Group Health Insurance	16,062	26,500	41,700	50,268
01-11-51109	Retirement/TMRS	52,106	52,524	52,525	56,007
01-11-51111	Physicals & Evaluations	49	-	170	85
	Subtotal: Personnel	433,276	463,568	411,512	480,622
01-11-52000	Office Supplies	5,305	5,700	5,000	5,700
01-11-52201	Operating Supplies	13,948	11,400	8,000	9,000
01-11-52202	Postage & Shipping	595	950	3,500	2,600
01-11-52203	Printing	12,498	10,925	16,000	1,000
01-11-52204	Uniforms	-	95	-	200
01-11-52205	Advertising	2,907	1,900	1,500	2,000
01-11-52206	Travel & Training	1,480	7,695	4,000	8,150
01-11-52207	Dues & Memberships	3,859	4,000	2,200	2,596
01-11-52209	Office Equipment	-	5,000	1,000	500
01-11-52212	Flowers/Gifts/Plaques	415	500	-	1,200
01-11-52213	Subscriptions & Publications	4,939	5,230	5,900	5,900
01-11-52216	Telephone-Mobile	1,719	2,040	2,000	1,950
01-11-53124	Debt Issue Costs	-	-	-	-
01-11-53301	Utilities	36,684	37,000	41,000	42,000
01-11-53303	Accounting & Auditor	16,500	17,000	18,000	19,000
01-11-53304	Legal Services	93,834	45,000	100,000	100,000
01-11-53309	Consultants & Professionals	202,520	46,000	70,000	12,700
01-11-53311	Elections	9,191	8,500	-	10,000
01-11-53312	Denton County Tax	23,717	23,500	23,500	31,000
01-11-53313	Property & Liability Insurance	54,954	53,000	110,525	110,000
01-11-53314	Fire Contract	979,605	1,310,607	1,310,607	1,360,724
01-11-533XXX	Printers & Copiers	-	-	-	16,325
01-11-53325	Janitorial Services	11,186	10,925	11,304	11,500
01-11-53327	Code Codification	3,299	3,800	1,000	3,800
01-11-53328	Shredder Services	-	950	650	800
01-11-53329	SPAN	-	1,615	-	3,750
01-11-53331	Website Services	5,231	5,300	5,492	6,965
01-11-53332	Financial Advisory Services	-	1,500	-	-
01-11-53333	Benefits Adm Fees	1,065	990	1,100	1,200
01-11-53338	YAC	8	3,800	-	-
01-11-53355	Government Services	-	-	1,179	-
01-11-54400	Facilities Maintenance	74,666	22,490	22,490	23,715
01-11-54406	IT Maintenance	35,143	25,650	26,000	27,000
	Subtotal: Operation	1,595,270	1,673,062	1,791,947	1,821,275
01-11-55504	Capital Outlay-Information Technology	50,895	2,500	2,500	-
01-11-55506	Capital Outlay-Buildings/Facilities	52,156	35,500	20,000	-
	Subtotal: Capital	103,051	38,000	22,500	-
	Total Administration	2,131,597	2,174,630	2,225,959	2,301,897

Police

Account #	Account Description	Actual FY 2021	Budget FY2022	Projected FY2022	Budget FY 2023
01-13-51000	Salaries-Full Time	1,065,195	944,415	1,059,275	1,264,839
01-13-51010	Salaries-Part Time	16,640	16,973	-	-
01-13-51101	Overtime	40,000	40,000	56,100	57,000
01-13-51102	Certification Pay	6,001	6,001	6,002	6,009
01-13-51104	Longevity	5,832	5,832	4,776	6,060
01-13-51105	Medicare Tax	15,774	13,017	16,349	19,342
01-13-51106	Unemployment Tax	2,754	2,952	3,078	3,078
01-13-51107	Worker's Compensation	47,601	47,650	47,968	57,067
01-13-51108	Group Health Insurance	141,136	135,604	185,468	233,476
01-13-51109	Retirement/TMRS	163,175	150,782	169,125	200,086
01-13-51111	Physicals & Evaluations	2,266	2,266	3,000	2,500
01-13-51116	Psychological Services	1,000	1,000	1,000	5,200
01-13-51117	Bailiff Fees	-	-	-	-
	Subtotal: Personnel	1,507,374	1,366,492	1,552,141	1,854,657
01-13-52000	Office Supplies	2,313	2,000	2,000	2,000
01-13-52015	Office Expenses	-	-	-	-
01-13-52201	Operating Supplies	551	5,700	3,000	4,600
01-13-520XXX	Employee Appreciation	-	-	-	-
01-13-52202	Postage & Shipping	219	190	190	200
01-13-52203	Printing	3,863	4,162	4,245	1,200
01-13-52204	Uniforms	9,098	9,310	9,310	19,200
01-13-52205	Advertising	25	855	-	-
01-13-52206	Travel & Training	4,170	11,356	11,356	18,185
01-13-52207	Dues & Memberships	12,115	2,655	2,655	2,090
01-13-52208	Vehicle Fuel - Finance average	18,525	19,000	27,000	27,000
01-13-52209	Office Equipment	920	950	900	5,000
01-13-52211	Safety Equipment & Supplies	18,007	7,363	7,363	15,288
01-13-52212	Flowers/Gifts/Plaques	804	950	500	-
01-13-52213	Subscriptions & Publications	3,875	5,227	4,000	7,100
01-13-52216	Telephone-Mobile	12,257	9,761	12,500	10,800
01-13-52219	Emergency Response Supplies	188	1,900	1,000	1,000
01-13-53301	Utilities	4,980	4,731	5,000	4,980
01-13-53304	Legal Services	-	3,325	3,225	3,500
01-13-53306	Communications	65,768	85,723	57,463	50,000
01-13-53309	Consultants & Professionals	11,567	81,000	4,000	8,500
01-13-53315	Jail Services	-	1,500	500	500
01-13-533XXX	Printers & Copiers	-	-	-	3,381
01-13-54400	Facilities Maintenance	3,166	1,520	1,520	1,600
01-13-54402	Vehicle Maintenance	10,909	14,250	14,250	18,000
01-13-54403	Equipment Maintenance	1,421	7,125	7,125	9,240
01-13-54406	IT Maintenance	25,901	20,145	27,000	41,658
01-13-54410	Property Loss	-	500	-	-
	Subtotal: Operation	210,642	301,198	206,102	255,022
01-13-55503	Capital Outlay-Vehicles	47,923	23,291	-	-
01-13-55504	Capital Outlay-Information Technology	599	37,000	37,000	-
01-13-55505	Capital Outlay-Heavy Equipment	-	-	-	-
01-13-55506	Capital Outlay-Buildings/Facilities	-	-	-	-
01-13-55513	Capital Outlay-Body Cams	-	-	-	30,000
01-13-55518	Capital Outlay- Weather Sirens	-	-	-	-
01-08-56531	Capital Vehicle Lease	-	-	-	59,920
01-13-56531	Capital Vehicle Principal	71,203	76,970	105,000	28,336
01-13-56532	Capital Vehicle Interest	6,175	8,004	15,000	2,414
	Subtotal: Capital	119,725	145,265	157,000	120,670
01-13-59100	Transfer to VAWA Fund	7,582	29,729	38,190	42,000
	Subtotal: Transfers out	7,582	29,729	38,190	42,000
	Total Police	1,845,323	1,842,684	1,953,433	2,272,349

Library

Account #	Account Description	Actual FY 2021	Budget FY2022	Projected FY2022	Budget FY 2023
01-14-51000	Salaries-Full Time	95,952	106,832	101,670	104,721
01-14-51010	Salaries-Part Time	49,588	68,068	48,610	-
01-14-51101	Overtime	43	1,000	1,800	1,000
01-14-51104	Longevity	216	216	-	432
01-14-51105	FICA/Medicare Tax	2,114	2,492	2,214	1,548
01-14-51106	Unemployment Tax	1,854	972	810	324
01-14-51107	Worker's Compensation	480	892	840	587
01-14-51108	Group Health Insurance	21,073	17,866	26,036	29,548
01-14-51109	Retirement/TMRS	21,873	16,847	22,900	16,013
01-14-51111	Physical & Evaluations	-	-	-	-
	Subtotal: Personnel	193,193	215,185	204,880	154,173
01-14-52000	Office Supplies	588	950	950	-
01-14-52201	Operating Supplies	2,021	760	760	400
01-14-52202	Postage & Shipping	364	475	475	-
01-14-52203	Printing	2,384	2,850	2,850	-
01-14-52204	Uniforms	130	190	190	270
01-14-52205	Advertising	1,929	1,900	1,900	-
01-14-52206	Travel & Training	900	6,016	6,016	-
01-14-52207	Dues & Memberships	6,152	4,980	4,980	-
01-14-52212	Flowers/Gifts/Plaques	74	95	-	-
01-14-52215	Library Books/Materials	24,210	19,000	19,000	-
01-14-52216	Telephone-Mobile	577	540	820	820
01-14-53301	Utilities	9,909	11,875	11,875	12,000
01-14-533XXX	Printers & Copiers	-	-	-	2,850
01-14-53323	Security System	864	779	912	925
01-14-54400	Facilities Maintenance	2,401	1,900	1,900	600
01-14-54406	IT Maintenance	12,764	14,250	14,250	15,611
	Subtotal: Operation	65,269	66,560	66,878	33,476
01-14-55504	Capital Outlay-Information Technology	-	-	-	-
01-14-55506	Capital Outlay-Buildings/Facilities	-	10,000	-	-
	Subtotal: Capital	-	10,000	-	-
	Total Library	258,462	291,745	271,758	187,649

Animal Services

Account #	Account Description	Actual FY 2021	Budget FY2022	Projected FY2022	Budget FY 2023
01-15-51000	Salaries-Full Time	86,862	93,605	95,578	101,887
01-15-51010	Salaries-Part Time	16,729	33,592	29,120	29,994
01-15-51101	Overtime	10,111	6,000	12,571	8,767
01-15-51104	Longevity	318	318	390	606
01-15-51105	FICA/Medicare Tax	1,542	1,945	1,999	2,006
01-15-51106	Unemployment Tax	534	810	648	648
01-15-51107	Worker's Compensation	2,505	7,982	8,796	8,824
01-15-51108	Group Health Insurance	24,453	26,672	26,493	30,467
01-15-51109	Retirement/TMRS	16,186	15,449	20,681	20,747
01-15-51111	Physicals & Evaluations	147	460	-	-
	Subtotal: Personnel	159,388	186,833	196,277	203,946
01-15-52000	Office Supplies	163	333	333	200
01-15-52201	Operating Supplies	8,002	7,553	7,553	8,000
01-15-52202	Postage & Shipping	108	190	190	190
01-15-52203	Printing	657	713	713	250
01-15-52204	Uniforms	280	760	760	770
01-15-52205	Advertising	-	190	190	200
01-15-52206	Travel & Training	-	2,087	2,087	-
01-15-52207	Dues & Memberships	100	320	320	375
01-15-52208	Vehicle Fuel	438	618	900	950
01-15-52210	Equipment-Field	224	238	238	-
01-15-52211	Safety Equipment & Supplies	58	190	190	-
01-15-52216	Telephone-Mobile	1,176	746	1,185	1,185
01-15-52218	Land Lease	1,318	1,350	1,384	1,454
01-15-53301	Utilities	10,537	12,700	12,500	14,000
01-15-53309	Consultants & Professionals	7,402	8,550	8,550	12,000
01-15-533XXX	Printers & Copiers	-	-	-	655
01-15-54400	Facilities Maintenance	2,812	1,900	1,900	7,000
01-15-54402	Vehicle Maintenance	243	475	475	2,972
01-15-54406	IT Maintenance	3,999	3,610	3,610	3,395
	Subtotal: Operation	37,668	42,761	43,078	53,596
01-15-55504	Capital Outlay-Information Technology	-	-	-	-
01-15-55506	Capital Outlay-Buildings/Facilities	-	-	-	-
01-15-55510	Capital Outlay-Landscaping	-	-	-	-
	Subtotal: Capital	-	-	-	-
	Total Animals Services	197,056	229,594	239,355	257,542

Parks and Facilities

Account #	Account Description	Actual FY 2021	Budget FY2022	Projected FY2022	Budget FY 2023
01-16-51000	Salaries-Full Time	43,085	32,739	32,094	16,529
01-16-51101	Overtime	4,243	2,500	2,500	1,250
01-16-51104	Longevity	108	156	-	72
01-16-51105	FICA/Medicare Tax	1,363	475	502	264
01-16-51106	Unemployment Tax	358	324	162	81
01-16-51107	Worker's Compensation	2,030	1,351	1,245	655
01-16-51108	Group Health Insurance	7,642	8,953	8,609	4,951
01-16-51109	Retirement/TMRS	6,984	5,315	5,189	2,586
01-16-51111	Physicals & Evaluation	-	-	-	-
	Subtotal: Personnel	65,813	51,813	50,302	26,388
01-16-52000	Office Supplies	-	48	50	40
01-16-52201	Operating Supplies	212	475	800	100
01-16-52204	Uniforms	1,179	285	500	608
01-16-52206	Travel & Training	135	190	200	275
01-16-52207	Dues & Memberships	974	475	974	-
01-16-52208	Vehicle Fuel	2,256	2,375	2,500	2,500
01-16-52210	Equipment-Field	817	950	1,000	950
01-16-52211	Safety Equipment & Supplies	-	238	250	225
01-16-52212	Flowers/Gifts/Plaques	75	48	50	-
01-16-52216	Telephone-Mobile	192	178	187	336
01-16-53309	Consultants & Professionals	-	-	42,000	-
01-16-53406	Mowing Contract	13,706	16,000	16,000	16,000
01-16-54400	Facilities Maintenance	2,259	-	-	1,000
01-16-54402	Vehicle Maintenance	1,119	200	200	2,000
01-16-54403	Equipment Maintenance	1,687	950	950	950
01-16-54405	Park Maintenance	11,863	12,000	12,000	12,000
	Subtotal: Operation	36,474	34,412	77,661	36,984
01-16-55531	Capital Outlay - Park Improvements	-	-	-	-
01-16-55503	Capital Outlay-Vehicles	10,702	-	-	-
01-16-56531	Capital Vehicle Lease	9,463	-	9,463	-
01-16-56531	Capital Vehicle Principal	9,463	9,463	9,463	2,233
01-16-56532	Capital Vehicle Interest	1,774	1,774	1,774	221
	Subtotal: Capital	31,402	11,237	20,700	2,454
	Total Parks	133,689	97,462	148,663	65,826

Streets & Drainage

Account #	Account Description	Actual FY 2021	Budget FY2022	Projected FY2022	Budget FY 2023
01-17-51000	Salaries-Full Time	214,052	259,208	237,474	244,598
01-17-51010	Salaries-Part Time	-	-	-	-
01-17-51101	Overtime	11,496	3,500	8,082	8,000
01-17-51102	Certification Pay	1,500	300	1,500	1,500
01-17-51104	Longevity	1,152	1,344	1,506	2,214
01-17-51105	FICA/Medicare Tax	3,977	4,131	3,607	3,732
01-17-51106	Unemployment Tax	1,354	1,134	810	810
01-17-51107	Worker's Compensation	9,782	24,306	18,955	19,617
01-17-51108	Group Health Insurance	37,894	54,086	56,286	64,728
01-17-51109	Retirement/TMRS	33,893	35,967	37,313	38,617
01-17-51111	Physicals & Evaluations	73	-	-	100
	Subtotal: Personnel	315,174	383,976	365,532	384,016
01-17-52000	Office Supplies	244	285	327	285
01-17-52201	Operating Supplies	1,472	1,425	2,004	3,300
01-17-52202	Postage & Shipping	-	-	300	-
01-17-52204	Uniforms	585	1,140	1,800	1,020
01-17-52205	Advertising	-	-	714	-
01-17-52206	Travel & Training	1,709	2,000	-	3,211
01-17-52207	Dues & Memberships	2,244	750	1,995	288
01-17-52208	Vehicle Fuel	7,896	6,175	9,600	9,800
01-17-52210	Equipment-Field	1,148	1,425	1,200	1,400
01-17-52211	Safety Equipment & Supplies	19	1,900	-	700
01-17-52216	Telephone-Mobile	1,337	2,049	1,300	1,200
01-17-53301	Utilities	6,975	7,000	7,000	8,000
01-17-53302	Street Lighting - electricity	56,872	48,925	58,000	60,000
01-17-53305	Engineering	18,363	9,500	6,500	8,000
01-17-53307	Rentals	4,806	4,750	4,750	8,000
01-17-53309	Consultants & Professionals	-	-	-	600
01-17-53347	Stormwater Utility Fee Study	5,800	-	-	-
01-17-53348	MS4	4,252	5,000	4,869	-
01-17-53349	Traffic Signal Maintenance	4,195	4,195	4,195	4,615
01-17-54400	Facilities Maintenance	2,816	3,600	2,000	2,600
01-17-54402	Vehicle Maintenance	11,117	1,500	4,000	4,580
01-17-54403	Equipment Maintenance	1,569	7,000	4,000	5,000
01-17-54406	IT Maintenance	3,775	1,500	1,900	5,800
01-17-54408	Tree Maintenance	-	2,500	2,500	2,500
01-17-54417	Sign Maintenance	6,076	3,500	4,500	6,000
01-17-54422	Drainage Maintenance	13,213	15,000	8,000	-
	Subtotal: Operation	156,484	131,119	131,454	136,899
01-17-55503	Capital Outlay-Vehicles	34,420	8,200	-	-
01-17-55504	Capital Outlay-Information Technology	900	2,500	-	-
01-17-55505	Capital Outlay-Heavy Equipment	-	-	-	-
01-17-55506	Capital Outlay-Buildings/Facilities	-	-	-	-
01-17-55512	Capital Outlay-Main St Enhancements	-	-	-	-
01-17-55515	Capital Outlay-Street Projects	-	48,670	48,670	-
01-17-55516	Street Projects - Lakeview	-	-	-	-
01-17-56531	Capital Vehicle Lease	-	-	-	-
01-17-56531	Capital Vehicle Principal -	15,637	15,637	30,000	25,031
01-17-56532	Capital Vehicle Interest	2,079	2,079	4,500	2,111
	Subtotal: Capital	53,037	77,086	83,170	27,142
	Total Street & Drainage	524,695	592,181	580,156	548,057

One Time Captial - All Departments

Account #	Account Description	Actual FY 2021	Budget FY2022	Projected FY2022	Budget FY 2023
Use Reserve Balance for 1-Time Capital Purchases					
01-08-55504	Capital Outlay-Information Technology	-	-	-	1,800
01-09-55504	Capital Outlay-Information Technology	-	-	-	3,600
01-11-55504	Capital Outlay-Information Technology	-	-	-	3,600
01-11-55506	Capital Outlay-Buildings/Facilities	-	-	-	37,500
01-13-55504	Capital Outlay-Information Technology	-	-	-	66,511
01-13-55503	Capital Outlay-Vehicles	-	-	-	127,205
01-15-55506	Capital Outlay-Buildings/Facilities	-	-	-	11,000
01-16-55531	Capital Outlay - Park Improvements	-	-	-	13,489
01-17-55504	Capital Outlay-Information Technology	-	-	-	1,800
		-	-	-	-
One Time Capital Total		-	-	-	266,505

Account #	Account Description	Actual FY 2021	Base FY2022	Projected FY2022	Proposed FY 2023
REVENUES					
01-00-41006	Property Taxes-Current	3,012,010	3,235,022	3,502,296	3,753,783
01-00-41007	Property Taxes-Delinquent	13,890	14,000	20,946	14,000
01-00-41009	Property Taxes-P & I	(16,807)	6,000	7,536	6,000
01-00-42108	Sales Tax-General	855,568	830,000	1,006,000	1,031,000
01-00-42110	Sales Tax-Mixed Beverage	28,708	25,000	29,856	29,000
01-00-42116	Sales Tax - Property Tax Reduction	213,892	207,500	210,000	232,500
01-00-44214	Franchise Fees - ATMOS	47,376	48,000	47,000	48,000
01-00-44215	Franchise Fees - Century Tel	2,682	2,800	2,200	2,800
01-00-44216	Franchise Fees - TXU Electric	210,265	215,000	200,000	215,000
01-00-44217	Franchise Fees - Charter Communications	54,900	54,000	54,000	54,000
01-00-44218	Franchise Fees - Republic Services	105,348	120,000	110,000	110,000
01-00-44219	Franchise Fees - Miscellaneous	2,417	2,000	2,000	2,000
Subtotal: Taxes & Franchise		4,530,248	4,759,322	5,191,835	5,498,083
01-00-45322	Permits - Mobile Home	400	400	100	400
01-00-45323	Fees - Health Department	16,485	18,000	15,000	18,000
01-00-45324	Permits - Building New Residential	73,865	200,000	159,000	70,000
01-00-45325	Licenses - Beer/Wine/Liquor	2,880	3,000	2,000	2,000
01-00-45326	Permits - Alarms	4,735	6,000	5,000	5,000
01-00-45327	Permits-Farmers Market	750	500	250	200
01-00-45328	Permits - Other	14,858	15,000	8,000	11,000
01-00-45329	Permits- New Commercial	-	10,000	-	10,000
01-00-45330	Permits-Food Trucks	85	200	100	200
01-00-45349	Permits - Subcontractors	6,580	-	2,000	-
01-00-45350	Permits - Business	2,250	1,500	1,500	2,000
01-00-45351	Registration - Contractor	10,007	7,500	11,103	11,000
Subtotal: License & Permit		132,894	262,100	204,053	129,800
01-00-45235	Shady Shores Funding	29,046	29,046	29,046	29,046
01-00-45318	Animal Services-Corinth	905	500	2,000	1,000
01-00-46329	DOJ Bullet Vest Grant	430	-	-	-
01-00-48461	SRO Reimbursement	63,285	63,285	63,285	72,296
01-00-48614	Denton County Funding	-	-	-	-
01-00-49355	CARES Fund	-	-	-	-
Subtotal: Intergovernmental		93,666	92,831	94,331	102,342
01-00-45320	Animal Services	11,096	8,000	8,000	10,000
01-00-45352	Fees - Drainage Improvements	-	-	-	-
01-00-45353	Plan Review	28,339	15,000	184,956	15,000
01-00-45463	Rentals - Parks	305	800	200	500
01-00-45464	Fees- Vendors	1,320	500	1,200	1,000
01-00-45465	Fees - Entry	2,675	500	500	1,000
01-00-45466	Proceeds - Events	-	-	-	-
01-00-45467	Sponsorships - Events	32,100	5,000	8,000	5,000
01-00-45468	Mighty Thomas Carnival	-	-	-	-
01-00-45470	DCTA Rail Trail	-	-	-	-
01-00-45472	SANE Reimbursements	-	-	-	-
01-00-45473	Police Reports	659	500	500	500
01-00-45474	Rental Fees - Community Room	-	500	-	500
01-00-45802	Fire Station Rent	45,948	46,867	46,867	47,804
Subtotal: Charges for Service		122,442	77,667	250,223	81,304

Account #	Account Description	Actual FY 2021	Base FY2022	Projected FY2022	Proposed FY 2023
01-00-46330	Court Fines/Bonds	280,500	240,000	130,000	150,000
01-00-46331	Administrative Fees	20,098	8,000	5,000	6,000
01-00-46332	Arrest/Warrant/Fees	9,886	7,500	7,500	8,000
01-00-46337	MVBA Collections	12,967	15,000	11,370	16,000
01-00-46338	OMNI Collections	(1,272)	-	-	-
01-00-46339	Omni/City	1,081	1,000	500	1,000
Subtotal: Fines		323,261	271,500	154,370	181,000
01-00-47476	Interest Income - General FD	1,249	2,000	500	1,000
Subtotal: Interest Income		1,249	2,000	500	1,000
01-00-45475	Police Donations	756	-	-	-
01-00-46233	Library Fines	2,961	2,000	1,200	2,000
01-00-48229	ILL Reimbursement-Library	2,239	3,000	2,300	3,000
01-00-48230	Library Contributions	-	-	-	-
01-00-48231	Library Grants	0	-	-	-
01-00-48232	Friends of the Library	-	-	-	-
01-00-48234	Library Memberships	1,362	1,000	700	1,000
01-00-48236	Library-Corinth Memberships	3,375	3,000	1,000	2,000
01-00-48237	Library Hancher Foundation Grant	-	-	-	-
01-00-48468	Fireworks Lake Cities Contribution	-	16,000	20,000	20,000
01-00-48474	Waste Management Annual Contribution	4,500	-	-	-
01-00-48475	Other Revenue	7,863	5,000	16,700	10,000
01-00-48476	Insurance Proceeds	556	-	-	-
01-00-48480	Sale of Assets	18,176	20,000	11,910	20,000
01-00-48497	Boys and Girls Club	-	-	-	-
01-00-48598	Loan Proceeds	93,130	-	-	-
Adjustments		-	-	-	-
Subtotal: Other		134,918	50,000	53,810	58,000
01-00-49403	Trf from CDC - Parks	80,000	80,000	80,000	80,000
01-00-49404	Admin Fees - Willow Grove Park	20,000	20,000	20,000	20,000
01-00-49600	Transfer In - JCM	-	10,000	-	-
Adjustments		-	-	-	-
Subtotal: Transfers		100,000	110,000	100,000	100,000
Total General Fund Revenues		5,438,677	5,625,420	6,049,121	6,151,529



**CITY COUNCIL
AGENDA MEMO**

Prepared By: Kandace Lesley, City Manager

Date: July 28, 2022

Broadband

DESCRIPTION:

The intent of this agenda item is to have a discussion regarding the City Council's desire to move forward with the Broadband contract and, thereby, using ARPA funds for related costs.

BACKGROUND INFORMATION:

City Attorney and City Manager will provide a contract update and facilitate any discussions regarding the broadband contract.

FINANCIAL CONSIDERATION:

Costs will be related to the installation, maintenance, internet services, repairs, etc. to the Pavlov system.

RECOMMENDED MOTIONS:

Approve/Deny moving forward with the broadband contract.

ATTACHMENT(S):

Current draft contract.

DARK FIBER LEASE AND NETWORK OPERATION AGREEMENT

This **DARK FIBER LEASE AND NETWORK OPERATION AGREEMENT** (together with all exhibits, schedules and other attachments hereto, the “**Agreement**”) is entered into on the Effective Date by and among **Pavlov Media, Inc.** (“**Pavlov**”), a Delaware corporation with its principal place of business at 601 N. Country Fair Drive, Champaign, Illinois 61821, and each of the following municipalities: the **City of Corinth** (“**Corinth**”), a Texas home rule municipality, the **City of Lake Dallas**, (“**Lake Dallas**”), a Texas home rule municipality, the **Town of Shady Shores**, (“**Shady Shores**”), a Texas Type A General Law City, and the **Town of Hickory Creek** (“**Hickory Creek**”), a Texas Type A General Law City. Corinth, Lake Dallas, Shady Shores, and Hickory Creek are sometimes referred to herein collectively as “**the Lake Cities**” and separately as “**a Lake City**” or “**Lake City**” or by its name and Pavlov and the Lake Cities are sometimes referred to herein collectively, as the “**Parties**.”

RECITALS

WHEREAS, the Lake Cities desire to provide better municipal services to residents and businesses, and to facilitate economic growth within their respective corporate limits; and

WHEREAS, the Lake Cities desire to deploy a new fiber to the premises (FTTP) network throughout the Lake Cities area structured in a manner that effectively enables the provision of high-capacity broadband and other services and capabilities in a competitive, open environment to their residents and businesses (the “**Network**”); and

WHEREAS, the Lake Cities have conducted a public procurement process to identify and enter into an agreement with a qualified private-sector entity to design, construct, activate, operate, and maintain the Network on a nondiscriminatory basis and to offer high speed broadband Internet access service and other services to residents and businesses within the Lake Cities’ corporate limits; and

WHEREAS, the Lake Cities have identified and selected Pavlov as the best candidate to provide such services, and, to that end, have negotiated this Agreement with Pavlov; and

WHEREAS, Pavlov desires to design, construct, activate, operate and maintain the Network on a non-discriminatory basis, and to provide advanced communication services and capabilities to residents and businesses within any of the Lake Cities, as set forth in and subject to the provisions of this Agreement.

WHEREAS, the Lake Cities desire to obtain from Pavlov indefeasible rights to use (“**IRU**”) optical fiber strands as described in **Exhibit B** (“**Project Summary**”) and on the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual promises set forth below, and for other good and valuable consideration, the adequacy and receipt of which are hereby acknowledged, Pavlov and the Lake Cities agree as follows:

AGREEMENT

1. Table of Exhibits Made Part of This Agreement

The following Exhibits are attached hereto and incorporated herein for all purposes:

Exhibit A:	Map of Pavlov System
Exhibit B:	Project Summary
Exhibit C:	Initial List of Government Locations
Exhibit D:	Customer Service Standards (SLA)
Exhibit E:	Scheduled and Un-Scheduled Maintenance Specifications
Exhibit F:	Services and Initial Rates
Exhibit G:	Construction Schedule
Exhibit H:	Dark Fiber Specifications

2. Definitions

As used in this Agreement, the following words and phrases shall have the following meanings unless the context clearly indicates a different meaning. Where not defined in this Section 2, initially capitalized words and phrases shall have the meanings ascribed to them in the body of this Agreement.

"Associated Property" means, the tangible and intangible property necessary for Lake Cities to use the Dark Fiber for the purposes described in this Agreement, including, but not limited to, the associated Conduit, Vaults, Huts, Splice Cans, and Splitters. "Associated Property" does not include electronic, optronic, optical, or other necessary equipment to connect the Drops to the Dark Fiber at no cost to the Lake Cities for the first 10 years after installation is complete, and Lit.

"Business Day" means any day that is not a Saturday or Sunday, a federally recognized holiday, the Friday after Thanksgiving, Good Friday, or Christmas Eve.

"Conduit" means any and all conduit within which the Dark Fiber has been placed.

"Consumer Price Index" or "CPI" means the Consumer Price Index (All-Items – Dallas/Fort Worth/Arlington) or a successor index published by the United States Department of Labor, Bureau of Labor Statistics.

"Dark Fiber" means fiber optic cable strands without electronic and/or optronic equipment and which is not "lit" or activated insofar as, with respect to such cable, Pavlov has conveyed IRU rights to the Lake Cities. The Dark Fiber must meet or exceed the specifications listed in **Exhibit H**.

"Drop" means the fiber connection extending from the Dark Fiber to each of the Government Locations identified on **Exhibit C**.

"Fiber Optic Ring" means the portion of the Pavlov System that connects the Government Locations designated by the Lake Cities. This is the portion of the Pavlov System for which Pavlov grants the lease of Dark Fibers to the Lake Cities and on which Pavlov provides Drops to the Government Locations

"Gross Revenues" means the total revenue received by Pavlov or its subsidiaries for data, voice, and any other services delivered and paid for by non-governmental customers of the Pavlov System and Pavlov Extended Network within the city limits of each of the Lake Cities. IPTV services are not included in the definition of Gross Revenues for the purpose of Franchise Fee payments to the Lake Cities.

"Lit Fiber/Lit Fiber Service/Managed Service" a collection of terms that mean Pavlov will provide the equipment, set-up (provisioning) and technical support necessary to provide an end to end fiber terrestrial 5G broadband service to each of the Government Private WAN endpoints depicted on the map in **Exhibit A** and listed in **Exhibit C**.

"NEC" means the latest edition of the National Electrical Code published by the National Fire Protection Agency.

"NESC" means the latest edition of the National Electrical Safety Code published by the Institute of Electrical and Electronics Engineers ("**IEEE**").

"Pavlov System" means Pavlov's approximately 22-mile high-speed broadband network connecting the Government Locations consisting of the Fiber Optic Ring, the Dark Fiber, the Drops, and Associated Property designed, constructed, installed, operated, maintained and upgraded by Pavlov laid out generally as depicted in the Pavlov System Map attached to this Agreement as **Exhibit A**.

"Pavlov Extended Network" means all Conduit, Dark Fiber, Lit Fiber, Drops, and Electronics within the Lake Cities that are not part of the "Pavlov System" as defined above.

"Person" means any individual, corporation, association, partnership, limited liability company, trust or other entity.

"Required Right" means and refers to any agreement, conveyance, easement, license, franchise or permit obtained by Pavlov from a government entity or other third party governing the terms under which Pavlov may access and utilize a public right-of-way, private property, structures and other property in order for Pavlov to use, install, construct, operate, repair, maintain, replace, and remove the Pavlov System.

"Segment" means a defined length of Dark Fiber between end points defined by address or longitude/latitude insofar as the Dark Fiber comprising a Segment is subject to the IRU conveyed by Pavlov to the Lake Cities.

3. Term, Termination, and Franchise Fee

3.1 Term. The term of this Agreement, and the lease granted hereunder, shall begin on the Effective Date and remain in full force and effect for a period of thirty (30) years (the “**Initial Term**”) following the Final Segment Acceptance Date (as defined in Section 7.1) unless terminated prior to expiration of the Initial Term as set forth in Section 3.2. Upon expiration of the Initial Term, the Lake Cities may elect, in their sole and absolute discretion, to extend the Term for an additional period of ten (10) years (the “**First Extension Term**”) by delivering to Pavlov prior to expiration of the Initial Term a written notice of first extension and paying to Pavlov a sum of \$56,250.00 (the “**First Extension Fee**”); and, to extend the Term for a second ten (10) year period (the “**Second Extension Term**”) by delivering to Pavlov, prior to expiration of the First Extension Term, a written notice of extension and payment to Pavlov of a sum of \$56,250.00 (the “**Second Extension Fee**”). The First Extension Term and Second Extension Term are collectively referred to as “**Extension Term**”. Each Lake City shall be responsible only for payment of a portion of the First Extension Fee and Second Extension Fee, as applicable, equal to the same percentages established for the allocation of the IRU Fee attributed to each Lake City as set forth in Section 6.1. If a Lake City elects to not extend the Term with respect to the portion of the Pavlov System serving said Lake City, the First Extension Fee and/or the Second Extension Fee, as applicable, shall be reduced by the same percentage of the allocation of the IRU Fee attributed to said Lake City as set forth in Section 6.1. The Initial Term and any Extension Term(s) are referred to collectively as the “Term.”

3.2 Event of Default. An Event of Default exists under this Agreement upon the occurrence of any one or more of the following events (hereinafter “**Event of Default**” or “**Default**”):

- a. If one or more of the Lake Cities or Pavlov does not perform any material term, provision, covenant, agreement, or obligation under this Agreement, and then does not cure such default on or before the thirtieth (30th) day after receiving written notice of the default from one or more of the Lake Cities and/or Pavlov, as applicable. If any non-monetary default cannot reasonably be cured prior to the end of said 30-day period, an Event of Default does not occur if the defaulting Party commences to cure the default before the end of said 30-day period and diligently completes the cure as soon as reasonably practicable, but in any event not later than sixty (60) days after receiving such default notice. A default by a Lake City shall not constitute a default by the other Lake Cities and shall not affect a termination of this Agreement for the Lake Cities not in default;
- b. If Pavlov becomes a debtor, and any one or more of the Lake Cities becomes a creditor in a bankruptcy proceeding or similar action that is not permanently dismissed or discharged within 60 days (for voluntary proceedings) or 120 days (for involuntary proceedings);
- c. If any of the Parties becomes insolvent; and/or

- d. If, except as a result of a Force Majeure Event (defined in Section 14.8) or damage to the Pavlov System caused by one or more of the Lake Cities, or their respective agents, employees, or contractors, Pavlov fails to meet Customer Service Standards (“**SLA**”) set forth in **Exhibit D** relating to up-time, latency, packet loss or jitter during two (2) or more months in any calendar year, then the provisions of Section 14.4 (b) (prohibiting the Lake Cities from assigning, leasing or otherwise transferring the IRU in the Dark Fiber, or any portion thereof to a third party) will become null and void.

3.3 Remedies. If an Event of Default occurs, the non-defaulting Party may:

- a. Send to the Defaulting Party, which can be Pavlov, or one or more of the Lake Cities, with specific and detailed notice of what the alleged default is; and what the proposed remedy would be. The provisions of Section 6.4 Dispute Resolution, shall apply to all disputes, including defaults which might lead to termination. No unilateral termination of this Agreement as to one or more of the Parties can occur without agreement of all Parties to this Agreement, pursuant to the process in Section 6.4, or court order following the process set forth in Section 6.4; or
- b. After the notice and opportunity to cure; and Dispute Resolution requirements of Section 3.3.a. above have occurred; bring an action against the defaulting Party for damages; or
- c. If this Agreement is terminated by Lake Cities pursuant to Section 3.3a, prior to its expiration based on an uncured Event of Default by Pavlov, not later than seven (7) days after the termination date, Pavlov shall reimburse Lake Cities a pro-rated amount of the IRU Fee paid by Lake Cities based on the number of days remaining in the Initial Term following the date of termination.

The remedies available to the non-defaulting Party are cumulative, and any remedies stated in this Agreement are in addition to any other rights or remedies provided by law or equity and not in substitution for them. In the event of an Event of Default by Pavlov which affects fewer than all of the Lake Cities, the affected Lake City or Cities may seek such remedies to which the affected Lake City or Cities may be entitled pursuant to this Agreement or by law. If fewer than all of the Lake Cities declares Pavlov to be in Default, the remaining Lake Cities are not required to join in such declaration or subsequent enforcement of this Agreement, and with respect to such remaining Lake Cities, this Agreement will remain in full force and effect.

3.4 No Consequential Damages. In no event shall Pavlov or any of the Lake Cities or any of their respective parents, subsidiaries, affiliates, or related entities be liable to any of the other Parties for any disruption of communication services or any other indirect, special incidental or consequential damages, including, without limitation, lost revenue, lost profits, lost opportunity or, with respect to Pavlov, Pavlov’s failure to secure Customers (as defined in Section 4.9) regardless of whether informed of the same.

3.5 Effect of Termination.

- a. Upon the expiration of the Term or of any Extension Term, or earlier termination of this Agreement that is not based on an Event of Default by Pavlov, all IRU rights granted to the Lake Cities shall revert to Pavlov without reimbursement of any of the IRU Fee or other amounts previously paid by the Lake Cities. Notwithstanding the foregoing, default by a Lake City shall not constitute a default by the other non-defaulting Lake Cities subject to termination by Pavlov under this Section, nor shall the decision of a Lake City to not participate in an Extension Term impact or impair the right of any of the other Lake Cities to participate in an Extension Term or result in a termination for such other Lake Cities under this Section.
- b. The notice and opportunity to cure provisions of Sections 3.3 a., b., and c. and Section 6.4 apply to all actions to terminate this Agreement. If the Agreement is terminated based on an Event of Default by fewer than all of the Lake Cities, the IRU rights granted to the defaulting Lake City or Cities shall revert to Pavlov without reimbursement of any of the IRU Fee or other amounts previously paid by the defaulting Lake City or Cities. Services and IRU rights of the non-defaulting cities continue without change.

3.6 Franchise Fee. Pavlov agrees that during the Term and any Extension Term, Pavlov will pay to each Lake City a contractual franchise fee (the “**Franchise Fee**”). With respect to each Lake City, the Franchise Fee will be an amount equal to five percent (5.0%) of the Gross Revenues collected by Pavlov during the preceding 12-month period from all Customers (not including governmental customers) within the corporate boundaries of each such Lake City. The Franchise Fee will be due and payable on the first day of each Agreement Year. The term “Agreement Year” means each 12-month period beginning on the Effective Date.

3.7 Withdrawal from Project. Notwithstanding anything to the contrary herein, a Lake City may, without cause, terminate its participation as a Party to this Agreement (said Lake City called hereafter the “**Terminating City**”) prior to the end of the Term or any Extension Term, subject to the following:

- a. Written notice must be provided by the Terminating City to all of the other Parties not later than thirty (30) days prior to the date of withdrawal;
- b. If the withdrawal date occurs prior to the commencement of construction of the Fiber Optic Ring, then:
 - (1) The Terminating City shall not be entitled to any refund of the Initial Payment of the IRU Fee, but shall not be obligated to make any payments for its portion of the remainder of the additional installments of the IRU Fee and shall have no further rights or obligations pursuant to this Agreement; and
 - (2) Pavlov shall not install any portion of the Fiber Optic Ring within the corporate limits of the Terminating City without the consent of the Terminating City except as otherwise authorized by state and/or federal law; and

- c. If the withdrawal date occurs after commencement of construction of the Fiber Optic Ring, the Terminating City shall be obligated to pay in full its portion of the IRU Fee, and shall have no further rights or obligations pursuant to this Agreement.

The provisions of this Section 3.7 apply only if the Terminating City withdraws in the absence of an Event of Default by Pavlov for which notice and time to cure have been provided in accordance with Section 3.3.

4. The Pavlov System

4.1 Plans. Pavlov will obtain each of the Lake City's approval of the plans for the installation, modification, or upgrade of the Pavlov System prior to doing any work on same (the "**Plans**"). Pavlov must obtain approval from each Lake City for the Plans relating to the portion of the Pavlov System that is located within said Lake City's corporate limits. Each Lake City shall approve or reject the Plans as they relate to such Lake City not later than thirty (30) business days following receipt of the Plans, provided that each Lake City shall have the right to extend said deadline by an additional five (5) business days. If the affected Lake City approves, Pavlov may proceed with the work as set forth in the approved Plans for the portion of the Pavlov System within said Lake City. If a Lake City fails to approve its portions of the Plans within the time set forth in this Section 4.1, the Plans with respect to said Lake City shall be deemed to be rejected. If rejected, Pavlov and the affected Lake City shall enter discussions to resolve the basis for the rejection of the Plans. The Plans will accurately depict in electronic format the proposed route and location of all components of the Pavlov System, including the Dark Fiber and the Segments. The Lake Cities' approval of any Plans does not constitute a waiver of any representation, warranty, liability, or other obligation of Pavlov under this Agreement.

4.2 Routing of Pavlov System. Pavlov will design, construct, install, operate, maintain, repair and upgrade as needed the Pavlov System in accordance with the Plans as approved by each of the Lake Cities. The specific route and location of components of the Pavlov System will be substantially as depicted on the Pavlov System Map insofar as the Plans have been approved by the Lake Cities. Each Lake City will provide guidance to Pavlov with regard to any anticipated public works and transportation projects within said Lake City that are likely to affect the route and location of the Pavlov System and its components.

4.3 As-Built Map. Not later than ninety (90) days after the final Segment Acceptance Date (as defined in Section 7.1), Pavlov shall provide to each Lake City in electronic format (such as Map Info, Google Earth, kmz files or ESRI shape files) an as-built map (the "**As-Built Map**") for the portion of Pavlov System that is located within the corporate limits of each Lake City. At a minimum, the As-Built Map will accurately depict the location and route of all portions of the Pavlov System, including, without limitation, the Dark Fiber, the Connection Points, the Drops, manholes, hand-holes and other access points, splice locations, and indication of whether fiber is aerial or buried. Not later than thirty (30) days following any completion of any substantive alteration, extension, or relocation of any portion of the Pavlov System, Pavlov shall provide an updated As-Built Map to the Lake City in which such work occurred.

4.4 Third-Party Property. In some instances, the real property on, over, though, or under which the Pavlov System is installed is owned by a party other than one or more of the Lake Cities ("**Third-Party Property**") and which is not an existing public right-of-way or easement owned by a Lake City. Pavlov has secured, or shall be responsible for securing, including the payment of all costs of acquisition, all of the Required Rights that are necessary for Pavlov to install, operate, maintain, repair, replace, and remove the Pavlov System on the Third-Party Property, including rights secured by Pavlov as a Competitive Local Exchange Carrier. Throughout the Term of this Agreement, Pavlov will use its best efforts to maintain the Required Rights, provided, however:

- a. If Pavlov is unable to maintain some or all of the Required Rights necessary to install and operate the Pavlov System as required by this Agreement, Pavlov will, at its sole expense, reconfigure and/or relocate the Pavlov System so as to secure and maintain such Required Rights and/or obtain such additional Required Rights, as necessary to allow for such reconfiguration or relocation.
- b. Any such reconfiguration or relocation of the Pavlov System must be approved in writing by the Lake City within which the portion of the Pavlov System is to be reconfigured or relocated prior to any work performed by Pavlov in connection therewith;
- c. Any such reconfiguration or relocation of the Pavlov System will be designed and installed at no additional cost to the affected Lake City(ies); and
- d. If Pavlov is unable to reconfigure or relocate the Pavlov System so as to secure any Required Rights, the affected Lake City(ies) may, in its(their) sole discretion, elect to terminate this Agreement: (i) in whole, in which case Pavlov will refund to the Lake Cities all funds paid to Pavlov, in which case the Lake Cities will have no liability other than pro rata IRU Fees or Maintenance Fees that have accrued prior to the termination date; or (ii) partially, as it relates to the reconfigured or relocated portion of the Pavlov System, in which case Pavlov will refund all funds paid to Pavlov for that portion of the Pavlov system terminated, and the affected Lake City(ies) will have no liability other than pro rata IRU Fees or Maintenance Fees for construction or maintenance that have accrued prior to the termination date. Relocation of any portion of the Pavlov System will be performed subject to the provisions of Sections 8.5 and 8.6.

4.5 Required Rights. Pavlov has obtained (or will obtain) the Required Rights needed for installation and operation of the Pavlov System. Pavlov will make available for the Lake Cities' inspection, at the Lake Cities' offices during regular business hours, copies of all Required Rights to the extent that their terms or other restrictions permit disclosure. Pavlov will use best efforts to comply with the terms and conditions of the Required Rights and to keep the Required Rights in full force and effect. Pavlov will take no action, or fail to take a required action, that would constitute a breach of the Required Rights. Upon expiration or other termination of a Required Right, Pavlov will use best efforts to obtain an extension or replacement of the Required Right or an alternative right of way, subject to the terms and conditions described in Section 4.4.

4.6 Drops for Government Locations. Pavlov will provide the Services at no cost to each of the Government Locations identified on **Exhibit C**. With respect to each such Government Location, Pavlov will install one Drop connecting the Dark Fiber to the building(s) comprising such Government Location and terminate the Dark Fiber at a fiber patch panel located within a room designated by the Lake City that owns or leases the Government Location. The costs for installation of the Drops identified in **Exhibit C** and the costs for the purchase and installation of the equipment needed for the Lake Cities to use the Dark Fiber and the Services are included in the IRU.

4.7 Additional Drops. Upon written request from a Lake City, Pavlov will provide additional Drops for which the requesting Lake City will be charged and will pay Pavlov the sum of \$22.00 per linear foot ("**Additional Drop Rate**") based on the distance between the connection at the Dark Fiber to the location of the nearest fiber patch panel anywhere on the Pavlov System or the Pavlov Extended Network to which the additional Drop will connect. Pavlov and the requesting Lake City will reasonably cooperate to identify the shortest feasible route for the fiber run necessary for the additional Drop. The Additional Drop Rate shall remain the same for the first ten (10) years of the Initial Term of this Agreement. Commencing on the tenth (10th) anniversary of the final Segment Acceptance Date and each anniversary thereafter, Pavlov may adjust the Additional Drop Rate by an amount equal to the lesser of (i) the increase in the CPI Index (as defined herein) published for the most recent month for which the CPI Index was published that is more than sixty (60) days prior to the relevant anniversary of the final Segment Acceptance Date and the CPI Index published for the same month one (1) year later or (ii) the sum of four percent (4%) of the then-current Additional Drop Fee. Pavlov shall notify the Lake Cities of any such increase not later than sixty (60) days prior to the effective date of such increase.

4.8 Use of City-Owned Property. Notwithstanding anything to the contrary herein, Pavlov shall not enter onto any real property owned by a Lake City for purpose of installing and/or constructing any improvements or equipment relating to the Pavlov System or the Pavlov Extended Network, including, but not limited to, a hut, unless and until an agreement in the form of an easement or license agreement reasonably acceptable to Pavlov and the Lake City that owns such property setting forth the terms and conditions relating to Pavlov's right to occupy and use such real property is executed by Pavlov and the affected Lake City. Pavlov shall be responsible for the cost of any real property survey to be prepared describing the boundaries of the real property to be occupied by the hut and/or other equipment used as part of the Pavlov System or Pavlov Extended Network if the boundaries of such area have not been previously established.

4.9 Pavlov Extended Network

- a. Pavlov intends to use the Pavlov System as a backbone to construct the Pavlov Extended Network. The Pavlov Extended Network may provide high-speed Internet access services, IPTV based content services, and telecommunications services (collectively, the "Services," as more fully described on **Exhibit F**) to every commercially viable residential and business address ("Customers") located within the boundaries of the incorporated limits of each Lake Cities Member. As new addresses are added, Pavlov will offer and, if accepted, provide the Services to such new Customers on the same terms and conditions applicable to existing Customers,

provided that the residential and commercial addresses of such new Customers are at commercially viable locations from which to extend the Pavlov System existing network.

- b. Pavlov will have the sole responsibility to pay for the Pavlov Extended Network and will have full ownership of those assets.
- c. Pavlov will complete construction of the Pavlov Extended Network within three (3) years of the Effective Date of this Agreement at its sole cost and expense.

5. Rights in the Pavlov System

5.1 IRU Rights. Pavlov hereby grants to the Lake Cities:

- a. an exclusive indefeasible right of use of forty-eight (48) strands of Dark Fiber, and as described in the Project Summary, said strands to be allocated to the Lake Cities in accordance with Section 5.4, below; and
- b. the associated and non-exclusive indefeasible right to use the Associated Property, all such rights being subject to Applicable Laws, the Required Rights, and to the terms and conditions set forth in this Agreement.

The collection of rights granted by each Lake City to Pavlov are referred to as the “IRU”. Each Lake City may elect to purchase up to twenty-four (24) additional strands (or more, subject to strands being available) at the cost of \$25,000.00 for each strand, including all applicable taxes and fees.

5.2 Ownership of Pavlov System. Legal title to the Pavlov System and all of its components including, without limitation, the Dark Fiber is, and shall continue to be held by Pavlov. Nothing in this Agreement shall convey legal title to any real or personal property owned by Pavlov to Lake Cities, nor shall it create any security interest for the benefit of Lake Cities or any other Person in the Pavlov System. Pavlov represents, warrants, and agrees that, for all purposes, and subject to Section 541(d) of the Bankruptcy Code, that Pavlov has transferred and conveyed, and hereby transfers and conveys, an equitable interest in the Dark Fiber to Lake Cities throughout the Term and applicable Extension Term.

5.3 Sale or Abandonment of Facilities. Subject to the terms and conditions of Section 14.4, if Pavlov sells, assigns, or otherwise transfers title in, or abandons all of or any portion of a Segment prior to the expiration of the Term, the IRU and the IRU Fee with respect to such Segment shall automatically terminate, pending full disclosure by Pavlov of the facts and the effect on the Lake City(ies) of such transfer or abandonment. If there is an abandonment, Pavlov shall reimburse the affected Lake City for the IRU Fee paid in connection with such Segment(s), and for any and all damages resulting from such abandonment or transfer. In the event that Pavlov sells, conveys or otherwise transfers the IRU relating to any Segment, such sale, conveyance or other transfer will explicitly be made subject to and conditioned upon the transferee’s written assumption of this Agreement, and will not interfere with or impair any of the IRU rights granted by Pavlov to other

Lake Cities, including without limitation the IRU Fee associated with the transferred Segment. Pavlov will provide the affected Lake City with a written assumption agreement executed by Pavlov and the transferee within thirty (30) days after the transfer is consummated, and a failure to provide the affected Lake City with such written assumption agreement will nullify the proposed transfer, and Pavlov will remain liable to the full extent of its obligations under this Agreement. If Pavlov abandons the use of any buildings, equipment or other components of the Pavlov System located on, under, or over property owned by a Lake City, not later than sixty (60) days after receipt of written request from said Lake City, Pavlov, at Pavlov's sole cost and expense, shall remove such building, equipment, or component and restore such property substantially to the condition of said property prior to the installation of such building, equipment, or component. Any facilities abandoned and not removed shall become the property of the Lake City where the facilities are located.

5.4 Allocation of Lake Cities' Dark Fiber Strands. The Parties agree that the forty-eight (48) strands of Dark Fiber of the Fiber Ring allocated to the Lake Cities as set forth in Section 5.1 are further allocated to the Lake Cities as follows:

<u>Name of Lake City</u>	<u>No. of Dark Fiber Strands Allocated to Each Lake City</u>
Corinth	25
Hickory Creek	9
Lake Dallas	8
Shady Shores	6
Total	48

6. IRU Fee

6.1 IRU Fee Payment Schedule. In consideration of Pavlov's granting of the IRU to the Lake Cities as set forth in Section 5.1 and including (a) thirty (30) years of Dark Fiber Maintenance and (b) ten (10) years of Lit Fiber/Lit Fiber Service/Managed Service to the Government Locations listed in **Exhibit C** to be provided by Pavlov, (including equipment needed to make the Drops fully functional), the Lake Cities agree to pay to Pavlov the sum of **THREE MILLION TWO HUNDRED FIFTY THOUSAND AND NO/100 DOLLARS (\$3,250,000.00)** (the "**IRU Fee**") in installments as follows:

- a. 50% of each Lake City's share of the IRU Fee is due not later than five (5) business day after the Effective Date (the "**Initial Payment**"), and
- b. 20% of each Lake City's share of the IRU Fee is due upon completion of 50% of the Fiber Ring footage.
- c. 10% of each Lake City's share of the IRU Fee is due thirty (30) days after the Lake Cities receives written notice from Pavlov that the Pavlov System has been completely installed and successfully tested such that the provision of Services to Customers can commence, and

- d. 20% of each Lake City's share of the IRU Fee (each a "**Completion Payment**") is due thirty (30) days after such Lake City receives written notice from Pavlov that the installation of all of the Drops has been completed, the Associated Equipment installed, and the Lake Cities Drops are fully operational with all Services at their respective Government Locations. Each of the Lake Cities may confirm or identify any lack of function or use within the thirty (30) day notice period. If a deficiency is found, the affected Lake City's payment obligation under this paragraph will be suspended until the problem is corrected, and the Pavlov System and its function is restored.

Each Lake City shall only be liable for the payment of its respective share of the IRU Fee as set forth in this Section 6.1 and shall not be jointly and severally liable for the payment of the full amount of IRU Fee. In the event of non-payment of amounts due in this Section 6.1 by a Lake City, Pavlov shall only look to the non-paying Lake City with respect to the payment of that Lake City's proportionate share of the IRU Fee in accordance with the following allocation:

	Population		Land Area		Total % Allocation	Total Share
	Per City	% of total	Sq. miles	% of total		
Corinth	22,634	60%	7.9	44%	52%	\$1,690,000
Lake Dallas	7,708	20%	2.7	15%	17.5%	\$568,750
Hickory Creek	4,718	13%	4.5	25%	19%	\$617,500
Shady Shores	2,764	7%	2.9	16%	11.5%	\$373,750
Total	37,824	100%	18.00	100	100%	\$3,250,000

Ten (10) years of costs for the Lit Fiber/Lit Fiber Service/Managed Service to the Lake Cities is included in the initial IRU Fee. If the Lake Cities desire to continue the Lit Fiber/Lit Fiber Service/Managed Service to their respective Government Locations after the initial ten (10) years of service, the Lake Cities shall pay the **For Government** rate designated in **Exhibit F**.

6.2 Additional Work. In addition to the amounts payable under Section 6.1, each Lake City shall pay Pavlov directly for, or reimburse Pavlov for, all reasonable costs, fees and expenses incurred by Pavlov to complete any additional work ("**Additional Work**") that is requested in writing by such Lake City relating to this Agreement, including, but not limited to, handhole placement, Conduit work, and splicing. Prior to initiating any such requested Additional Work, Pavlov will deliver to the Lake City that requested the Additional Work a written description of the proposed scope of work and the estimated cost of such Additional Work (the "**Additional Work Estimate**"). The Lake City that requested the Additional Work shall approve or reject the Additional Work Estimate, in writing, not later than ten (10) days after receipt of the Additional Work Estimate. If the Additional Work Estimate is rejected, the Parties will work together and cooperate with the goal of determining a mutually acceptable Additional Work Estimate. Additional Work does not include requests may by a Lake City to Pavlov to avoid underground utilities, comply with plans for road, drainage or bridge projects, or otherwise comply with normal utility construction standards.

6.3 Disputed Invoices. If a Lake City disputes the amount stated on any Pavlov invoice, such Lake City shall provide Pavlov a written notice of such dispute (“**Dispute Notice**”) no later than one (1) year after the date of the invoice. The Parties will endeavor to Resolve any disputed amounts not later than fifteen (15) days after Pavlov’s receipt of the applicable Dispute Notice (the “**Resolution Period**”). “**Resolve**” means a written affirmation, signed by both Parties, indicating that the Parties have reached final agreement on the disputed amount. The Lake Cities shall pay any Resolved amounts for which they are responsible within ten (10) days after the date such disputed amount is Resolved. If the dispute is Resolved in a Lake City’s favor and the Lake City has previously paid the disputed amount or any portion thereof to Pavlov, then Pavlov shall either credit to such Lake City’s account the total amount of such previous payment(s) within thirty (30) days of the date such disputed amount is Resolved, or if there is no balance due and owing by the Lake City against which to apply such credit, then Pavlov shall reimburse such overpayment to the Lake City within said thirty (30) day period. If the Parties to the dispute are unable to Resolve the payment dispute within the Resolution Period, the Parties shall initiate the dispute resolution procedures for such dispute as contained in this Agreement.

6.4 Dispute Resolution. In the event of any claim, dispute, or controversy under this Agreement as to which claim, dispute or controversy any or all of the Lake Cities or Pavlov would seek to commence litigation in court, before commencing litigation, the Parties involved in the claim, dispute, or controversy shall immediately attempt in good faith to arrive at an amicable solution to the claim, dispute, or controversy. If the claim, dispute, or controversy has not been resolved by such good faith attempts, the Parties involved in the claim, dispute, or controversy shall endeavor to settle the claim, dispute, or controversy by non-binding mediation with a neutral third-party; provided that:

- a. In no event shall the demand for mediation be made after the date when the initiation of legal or equitable proceedings based on such claim, dispute, or controversy would be barred by the applicable statute of limitations that may apply; and
- b. The applicable statute of limitations is tolled until the conclusion of the mediation process; and
- c. Any of the Parties may simultaneously seek equitable or injunctive relief from a court of competent jurisdiction if such Party reasonably believes that any delay in seeking such relief is likely to cause irreparable harm; and
- d. The mediation shall be held in the State of Texas and shall be administered pursuant to the Government Dispute Resolution Act (Chapter 2009, Texas Government Code, as amended). No recording or transcript shall be made of the mediation proceedings. Each Party shall bear its own costs in the mediation. Pavlov shall pay 50% of the fees and expenses of the mediator and the Lake Cities involved in the claim, dispute, or controversy shall pay the other 50% of such fees and expenses. If the Parties to the claim, dispute, or controversy are unable to resolve their claim, dispute, or controversy themselves or by mediation within sixty (60) days after one of the Lake Cities or Pavlov, as applicable, has advised the others involved in the claim, dispute or

controversy of the need for mediation, then anyone involved in said claim, dispute, or controversy may pursue litigation.

7. Interconnection with Pavlov System.

7.1 Inspection and Acceptance of Dark Fiber. Pavlov will install the Dark Fiber on a Segment-by-Segment basis, and each of the Lake Cities will inspect and accept or reject each of the Segments located within its corporate boundaries as set forth below. When Pavlov determines that the Segment is ready for use by one or more of the Lake Cities, Pavlov shall cause the Conduits housing such Segment to be measured for length and tested to verify that they (i) conform to the approved Plans; and (ii) are continuous between structures and access points and clear of blockages. For each Segment, Pavlov shall deliver notice of the successful testing, including length measurements, to the appropriate Lake City (the “**Segment Design Delivery Notice**”). Commencing as of the date that the Lake City receives from Pavlov the Segment Design Delivery Notice and continuing for a period of forty-five (45) days thereafter (the “**Segment Inspection Period**”), Pavlov agrees that the appropriate Lake City and/or its agents shall have the right to inspect the applicable Segment, including, without limitation, the Conduits, the manholes, hand-holes and other access points, to verify that the same (i) do not materially deviate from the approved Plans, and (ii) do not contain any obstructions within any Conduit such that the Dark Fiber is blocked from running continuously within said Conduits, which shall be continuous between manholes. If any Segment deviates from the approved Plans, the Lake Cities shall provide written notice to Pavlov, prior to the expiration of the Segment Inspection Period, detailing the specific deficiency(ies), whereupon Pavlov shall have a reasonable period of time to correct such deficiency(ies) such that the Segment does not deviate from the approved Plans. Upon the Lake City’s receipt of written notice from Pavlov that such deficiency(ies) have been corrected, and the appropriate Lake City determines that the test results conform to the approved Plans, the appropriate Lake City shall deliver written notice of acceptance (“**Segment Acceptance**”) to Pavlov and the date of such notice shall be the “**Segment Acceptance Date**” for the applicable Segment. The last Segment Acceptance Date is referred to as the “**Final Segment Acceptance Date**.” If the Lake City continues to find deviations from the approved Plans, or obstructions within any Conduit, then the testing and approval process shall be repeated. Delivery of the Segment Acceptance to Pavlov will constitute the appropriate Lake City’s acceptance of the Segment.

7.2 Interconnection. Pavlov will interconnect the Dark Fiber with the Lake Cities’ Government Locations, including the Drops, at the connecting points (“**Connecting Points**”) identified in the Plans. In addition, Pavlov will install Drops as needed in order to deliver the Services to the Government Locations. The connections between the Lake Cities Government Locations and the Dark Fiber and all other work with respect to the Pavlov System shall be performed by Pavlov. Interconnections at points other than the Connecting Points are prohibited without Pavlov’s written approval. Pavlov may grant or withhold such approval in its sole and absolute discretion. Pavlov will install one Drop for each of the Government Locations listed in **Exhibit C** and terminate the fiber connection for each Government Location at a fiber patch panel within a telecommunications room designated by the designated manager for said Government Location. Pavlov will provide all equipment and Associated Property needed for the Services to be accessed and used by each Lake City.

8. Maintenance and Repair

8.1 Scheduled Maintenance. Pavlov will perform routine maintenance and repair of the Pavlov System (“**Scheduled Maintenance**”), including, without limitation the Dark Fiber and each of the Segments, in accordance with the Pavlov’s Scheduled and Un-Scheduled Maintenance Specifications and procedures set forth in the attached **Exhibit E**. Commencing with the first year of the First Extension Term, the Lake Cities will pay to Pavlov a Maintenance Fee equal to \$300.00 per linear mile of Dark Fiber per year installed within the Pavlov System. The measurement is not per fiber strand, but per miles of Conduit containing the 48 strands of Dark Fiber allocated to each of the Lake Cities. The Maintenance Fee will be paid proportionately by each Lake City in accordance with the allocation set forth in Section 6.1 of this Agreement and shall be due and payable no later than the end of each Lake City’s fiscal year (September 30) of each Extension Term Agreement Year. “**Extension Term Agreement Year**” means every twelve-month period following expiration of the Initial Term. Beginning on the date ten(10) years after the commencement of the First Extension Term, Pavlov may increase the Maintenance Fee by an amount equal to any increase in the Consumer Price Index (for the prior five-year period); subject to a limit of no more than four percent (4.0%) per year. Pavlov shall notify the Lake Cities of any such increase not later than sixty (60) days prior to the effective date of such increase.

8.2 Un-Scheduled Maintenance. Pavlov will perform non-routine maintenance and repair (“**Un-Scheduled Maintenance**”) of the Pavlov System, including, without limitation, the Dark Fiber and each of the Segments, in accordance with Pavlov’s Un-Scheduled Maintenance Specifications and procedures set forth in the attached **Exhibit E**. The maintenance services to be provided by Pavlov include non-routine maintenance and repair of the Dark Fiber in response to an actual or potential failure, interruption, or impairment in the operation of the Pavlov System insofar as such failure, interruption, or impairment affects Lake Cities’ use of the Dark Fiber. Lake Cities will reimburse Pavlov for Lake Cities’ Proportionate Share of the actual reasonable costs incurred by Pavlov in performing any Un-Scheduled Maintenance from the Cut, Repair, and Relocation Fund in accordance with Section 8.7, below. Pavlov will make reasonable efforts to determine the root cause of the need for the Un-Scheduled Maintenance. If the Un-Scheduled Maintenance is the result of the acts of a third-party, Pavlov will seek reimbursement from the responsible third-party before seeking payment by the Lake Cities from the Cut, Repair, and Relocation Fund. For purposes of this Section 8.2, Lake Cities’ “Proportionate Share” of Pavlov’s costs of Un-Scheduled Maintenance is calculated by dividing (i) the number of Dark Fiber strands (48) that are being used by the Lake Cities by (ii) the total number of strands within such Segment (288). For example, with respect to any Segment, if:

- Pavlov’s actual cost of Un-Scheduled Maintenance is \$1,000, and
- The Lake Cities cost is 48/288 (strand count) of \$1,000 or \$166.67.

8.3 Additional Equipment. Pavlov shall maintain the optronic, electrical, optical, or other equipment necessary to connect to the Dark Fiber at the Drops during the entire Term of this Agreement at no cost to the Lake Cities.

8.4 Maintenance of Other Party's Equipment. Neither Party shall alter, remove, relocate, align, or attempt to repair the other Party's equipment except as expressly authorized in advance in writing by the other Party. Each Party will be liable for any loss or damage to the other Party's equipment arising from that Party's negligence, intentional act, and/or unauthorized maintenance.

8.5 Relocation. With respect to any Segment, if, after the applicable Segment Acceptance Date:

- a. Pavlov is required by a third party with legal authority to so require (including, without limitation, the grantor of a Required Right) to relocate the Segment;
- b. Pavlov is required to relocate the Segment as a result of a Force Majeure event;
- c. Pavlov is required to relocate the Segment in order to accommodate changes in street width, street grade, street standards, construction of installation of improvements within public rights-of-way, construction of drainage, or to accommodate utility construction or changes in maintenance procedures established by any Lake City; or
- d. a Lake City requests relocation of the Segment for reasons other than previously described in (c), above,

then Pavlov shall provide to the Lake Cities (if the relocation is for the reasons described in a, b. or c. of the prior sentence) or to the Lake City making the relocation request (as described in (d) of the prior sentence), as applicable, a written notice ("**Relocation Notice**") describing such relocation. Not later than ten (10) days after receipt of the Relocation Notice by the Lake Cities (or, in the case of a specific request for relocation by a Lake City, receipt of the Relocation Notice by the requesting Lake City) will accept or reject in writing the proposed relocation. If the proposed relocation is accepted, Pavlov will perform the relocation, provided that: (i) Pavlov may reasonably determine the extent of, the timing of, and methods to be used for such relocation; provided, however, if such relocation is at the request of a Lake City, Pavlov shall in any case complete such relocation not later than ninety (90) days after the request is made by the Lake City or Cities, and (ii) any such relocation shall incorporate fibers meeting or exceeding agreed-upon specifications of the Dark Fiber. If the Lake Cities do not consent to such relocation, the Lake Cities will notify Pavlov of its objection in writing, and the Parties will work together to resolve all disputes concerning the proposed relocation, provided that if no resolution is reached, the Lake Cities may terminate this Agreement with respect to the Segment or portion of such Segment that requires relocation. In the event of any such relocation, Pavlov shall use best efforts to minimize any service interruptions.

8.6 Costs of Relocation. If Pavlov causes the relocation of the Fiber Optic Ring or portion thereof without the request of a Lake City, then Pavlov is responsible for all costs of relocation. The Lake Cities' pro rata portion of a relocation cost shall come from the Cut, Repair and Relocation Fund defined in Section 8.7, below. As part of its due diligence in fiber route design or planning, Pavlov will research the following types of documents of each of the Lake Cities: the long-range transportation plan (including roads, mass transit, bike trails, etc.) of each of the Lake Cities; the long-range public works plan, the long-range capital improvements and

construction plans, the long range residential and commercial development plans, and other relevant planning documents to avoid potential relocation requirements.

Unless otherwise agreed by the requesting Lake City(ies), the relocation of the Segment or portion of a Segment shall be completed by Pavlov not later than ninety (90) days after acceptance of the Relocation Notice by the requesting Lake City(ies) as provided in Section 8.5.

8.7 Cut, Repair and Relocation Fund. Notwithstanding anything to the contrary set forth in Sections 8.2, 8.5, and 8.6, not later than fifteen (15) business days after the final Segment Acceptance Date, the Lake Cities will pay to Pavlov a one-time payment in the amount of **ONE HUNDRED AND FIFTY AND NO/100 DOLLARS (\$150,000.00)** with each of the Lake Cities paying a portion of that payment based upon their pro rata share identified below for cuts, repairs and relocations, said funds being called the “**Cut, Repair, and Relocation Fund**”. The Cut, Repair, and Relocation Fund is funded as follows:

- a. The pro rata division among the Lake Cities and Pavlov is the Lake Cities’ fiber strands as a percentage of the fiber strands: 48/288, or Lake Cities 16.67 % (“**Lake Cities’ Cost Share**”); Pavlov 83.33%. Unless specifically agreed otherwise, cut, repair or relocation expenses will be divided on such basis between the Lake Cities and Pavlov.
- b. The pro rata allocation among the Lake Cities to fund the Cut, Repair, and Relocation Fund (i.e., 16.67%) is determined by dividing the number of fiber strands allocated to each Lake City by the total number of Lake Cities strands, as follows:

Schedule 1

<u>Name of Lake City</u>	<u>No. of Dark Fiber Strands Allocated to Each Lake City</u>
Corinth	25
Hickory Creek	9
Lake Dallas	8
Shady Shores	6
Total Strands	48

- c. Where allocation among the Lake Cities is required by this Agreement, the allocation above is to be used. In the event one or more of the Lake Cities acquire additional strands from Pavlov, their allocation of cost increases by the amount Pavlov’s decreases. The allocation used above may not be revised to reduce any Lake City allocation of strands without written amendment to this Agreement.
- d. Upon completion of installation of the Fiber Ring, each Lake City shall make a one-time payment of the following amounts to fund the Cut, Repair, and Relocation Fund to pay costs of both “Repairs” (defined below) and of Un-Scheduled Maintenance:

Corinth	25/48	52.08%	\$78,120.00
Hickory Creek	9/48	18.75%	\$28,125.00
Lake Dallas	8/48	16.67%	\$25,005.00
Shady Shores	6/48	12.50%	\$18,750.00
Totals	48/48	100%	\$150,000.00

- e. The Cut, Repair, and Relocation Fund shall be used solely by Pavlov to reimburse Pavlov for the Lake Cities' Cost Share of: (1) the cost of cuts, repairs and/or relocations (collectively "**Repairs**") on the Fiber Optic Ring only; and (2) the Lake Cities' share of Un-Scheduled Maintenance as provided in Section 8.2, above. Pavlov shall deduct the Lake Cities' Cost Share of such Repairs and/or Un-Scheduled Maintenance proportionately from the Cut, Repair, and Relocation Fund based upon the costs incurred by Pavlov for the Repairs or Un-Scheduled Maintenance of a Segment. Neither a Lake City or the Lake Cities will have any liability for Repairs on the Fiber Optic Ring or Un-Scheduled Maintenance beyond the amount of the Cut, Repair, and Relocation Fund.
- f. Pavlov will deposit the funds provided for the Cut, Repair, and Relocation Fund in a simple interest-bearing account to be held until spent in accordance with the terms of this Agreement. The Lake Cities shall only be liable for the initial one-time funding of the Cut, Repair and Relocation Fund in accordance with Section 8.7(d).
- g. In the event of a cut, repair or relocation of the Dark Fiber or Un-Scheduled Maintenance, Pavlov will notify the Lake Cities in writing describing the event, the total estimated cost associated with the event, the proportionate Lake Cities Cost Share and will request release of all or a portion of the Cut, Repair, and Relocation Fund based upon the Lake Cities Cost Share. The Lake Cities may accept or reject the request for release of funds, provided that, if the request is rejected, the Parties will work together in good faith to resolve any dispute.
- h. If any funds remain in the Cut, Repair, and Relocation Fund upon expiration of the Initial Term, such remaining funds, including interest accrued thereon, will be applied to the Lake Cities' account for payment of the First Extension Fee as described in Section 3.1. Likewise, any funds that remain in the Cut, Repair and Relocation Fund upon expiration of the First Term Extension, including accrued interest thereon, will be applied to the Lake Cities' account for payment of the Second Extension Fee as described in Section 3.1. If the Lake Cities fail to exercise the option of an Extension Term or if this Agreement is terminated as otherwise provided herein, the balance remaining in the Cut, Repair, and Relocation Fund, including interest accrued thereon, shall be repaid to the Lake Cities not later than ten (10) business days after the expiration or termination of this Agreement as applicable in the same proportion as the proportion of original funding of the Cut, Repair and Relocation Fund paid by the Lake Cities. The provisions of this Section 8.7(f) shall survive the expiration or other termination of this Agreement.

- i. Pavlov shall be solely liable for the payment of all costs of Repairs, Scheduled Maintenance, or Un-Scheduled Maintenance anywhere on the Pavlov System outside the Fiber Optic Ring, including the Pavlov Extended Network, and the Lake Cities shall have no responsibility for payment of such costs.

8.8 Damages Caused by Pavlov. Pavlov, at its sole cost and expense, shall repair, replace and restore immediately any damage caused by Pavlov or its employees, agents, Contractors, subcontractors or representatives to any property owned or administered by any of the Lake Cities, and/or any other property that is not owned by Pavlov, to a condition substantially equivalent to that which existed prior to such damage. Any repairs, replacement, or restoration required to be performed pursuant to this Section 8.8 by Pavlov to property not owned, leased, or otherwise controlled by Pavlov shall be commenced and completed not later than fifteen (15) calendar days after receipt of written notice from one or more of the Lake Cities or upon actual notice of any damage; provided, however, if the deficiencies are not remedied in a commercially reasonable fashion within such fifteen (15) day period, or in the event of an emergency, the affected Lake Cities shall have the right, but not the obligation, to undertake, without notice to Pavlov, all reasonably necessary repair, replacement or restoration and to recover from Pavlov the fees, costs and expenses actually incurred in connection therewith. All work performed by Pavlov hereunder shall be pursued promptly and in full compliance with the terms and conditions of this Agreement, Applicable Laws, and in full compliance with all applicable health and safety rules and standards, and in a safe, efficient and commercially reasonable manner such that any repair, replacement or restoration work does not unreasonably interfere with the Lake Cities' use of the Dark Fiber nor does it interfere with the use of any property not owned by Pavlov. The Parties shall use their best efforts to exercise special precautions accepted as industry-wide standards to avoid damage to the Pavlov System, including, without limitation, the Conduits, and any property owned or administered by one or more of the Lake Cities', and shall immediately (no later than twenty-four (24) hours after an occurrence) report any damage to the Lake City within whose jurisdiction the damage occurred. Notwithstanding anything contained herein to the contrary, if any utility or communications facilities not owned by Pavlov are damaged by Pavlov, its Contractors, or agents, Pavlov understands, acknowledges, and agrees the affected Lake City or owner of such damaged facilities shall have the exclusive right to repair its own facilities and bill Pavlov for all reasonable costs incurred as a result of such repair.

8.9 Grounding and Electrical Standards. Grounding and bonding of all of elements of the Pavlov System shall be in accordance with NESC, NEC, and all other Applicable Laws. The Pavlov System shall not use or carry voltages or currents in excess of the limits prescribed for Communication Services conductors by the NESC. All parts of any Pavlov System carrying voltages in excess of 50 volts AC (rms) to ground or 135 volts DC to ground, except for momentary signaling or control voltages, shall be enclosed in an effectively grounded sheath or shield. The power supply shall be so designed and maintained that the total current carried over the outer sheath shall not exceed 200 micro amperes under normal conditions. Conditions which would increase the current over this level shall be cleared promptly. All energized parts of the Pavlov System shall be suitably covered to prevent accidental contact.

8.10 Liens. Pavlov will not permit any lien to be placed upon or attached to the Dark Fiber, the Conduits or any other portion of the Pavlov System that is used or relied upon by the Lake Cities

for the provision of Services. If any such liens are placed against the Dark Fiber, the Conduits or any other portion of the Pavlov System that is used or relied upon by the Lake Cities in connection with the construction, installation, operation, maintenance, repair, restoration or removal of the Pavlov System, then Pavlov shall cause, at its sole expense, such liens to be discharged, released, removed or bonded around no more than thirty (30) days of such lien being placed.

9. Operation and Use of the Pavlov System and Pavlov Extended Network

9.1 Services. Pavlov will use the Pavlov System to provide high-speed Internet access services, IPTV content services, and telecommunications services (collectively, the “**Services**,” as more fully described on **Exhibit F**) to the Lake Cities.

9.2 Rates. The initial Service Rates charged to residential, government, and business Customers by Pavlov are set forth on **Exhibit F**. Pavlov may not increase the initial rates except as described on **Exhibit F**. Pavlov will provide special pricing for low-income residential Customers as set forth on **Exhibit F**. A “**low-income Customer**” is any household that is eligible for the latest version of the Federal Affordable Connectivity Program, as described by the FCC, <https://www.fcc.gov/acp>, and amended from time to time.

9.3 Customer Service Standards (SLA). Pavlov’s Services must at all times comply with the customer service requirements (“**SLA**”) set forth on **Exhibit D**, which includes standards for, among other items, overall up-time, latency, packet loss and jitter, and problem resolution deadlines. As part of the SLA, once every six months, Pavlov will provide Lake Cities with reports (“**SLA Reports**”) accurately recording customer service calls and resolutions during the preceding six month period and describing Pavlov’s compliance or non-compliance with the SLA standards.

9.4 Construction Schedule. Pavlov will use its best efforts to conform its installation schedule for applicable portions of the Pavlov System to the construction schedule (“**Construction Schedule**”) set forth on **Exhibit G**. Pavlov will provide the Lake Cities with a monthly report describing construction progress, any delay or failure to comply with the terms of the Construction Schedule, and a description of any Force Majeure events that resulted in delays in the Construction Schedule including the dates of the Force Majeure events, the duration of the Force Majeure events, and the number of additional days added to the Construction Schedule to accommodate for delays relating to Force Majeure events. All communications between Pavlov and a Lake City will be between Pavlov’s Construction Manager and the city manager/administrator for the applicable Lake City. Pavlov will provide the Lake Cities with contact information for its Construction Manager not later than ten (10) days after the Effective Date. During the construction phase, Pavlov shall deliver to the Lake Cities updated quarterly As-Built Maps for completed Segments to track its construction progress.

9.5 Damage Notices. Each Party shall each promptly (no later than twenty-four (24) hours after an event described herein) notify the other Party of any matters pertaining to, or the occurrence (or impending occurrence) of, any event which has damaged or would be reasonably likely to damage any portion of the Pavlov System, or its functionality, insofar as such matter is known to such Party.

10. Insurance

10.1 Pavlov Insurance. During the Term, Pavlov shall maintain in full force and effect the following insurance coverage:

- a. A policy of comprehensive general liability insurance, including public liability, bodily injury, and property damage covering the construction, installation, operation, and use of the Pavlov System with combined single limits of no less than One Million Dollars (\$1,000,000.00) per occurrence, and Five Million Dollars (\$5,000,000.00) aggregate, with Ten Million Dollars (\$10,000,000.00) umbrella coverage;
- b. Motor vehicle insurance meeting the requirements of Texas law and covering every vehicle and driver involved in providing the services, in the following amounts:
 - (1) bodily injury liability with limits of \$500,000.00 each person and \$1,000,000.00 each accident;
 - (2) property damage liability with a limit of \$100,000 each accident; and
- c. Workers' Compensation insurance to meet the requirements of the Workers' Compensation laws of Texas where applicable.

The above required insurance policies shall (i) be written by companies licensed to do business in the State of Texas and having an AM Best Rating of A-NII, or equivalent from a recognized rating agency, (ii) except for the Worker's Compensation policy, be endorsed to name each Lake City, including their respective officers, employees, and agents, as Additional Insureds under such policies, (iii) be endorsed to waive subrogation against each Lake City, including their respective officers, employees, and agents; and (iv) be endorsed to require insurance policy required to be carried by or on behalf of Pavlov pursuant to this Agreement shall provide (and any certificate evidencing the existence of each such insurance policy shall certify) that such insurance policy shall not be canceled, non-renewed or coverage thereunder materially reduced unless the Lake Cities shall have received notice of cancellation, non-renewal or material reduction in coverage, in each such case (except for notice of cancellation due to non-payment of premiums) such notice to be sent to the Lake Cities not less than thirty (30) calendar days (or the maximum period of calendar days permitted under applicable law, if less than thirty (30) calendar days) prior to the effective date of such cancellation, non-renewal or material reduction in coverage, as applicable. If any insurance policy required to be carried by or on behalf of Pavlov pursuant to this Agreement is to be canceled due to non-payment of premiums, the requirements of the preceding sentence shall apply except that the notice shall be sent to the Lake Cities on the earliest possible date but, in no event, less than ten (10) calendar days prior to the effective date of such cancellation. Pavlov shall cause Certificates of Insurance evidencing such insurance coverage to be provided to the Lake Cities prior to commencement of installation of the Pavlov System and upon the renewal dates of such policies. Notwithstanding the provisions of this Section 10.1, the coverage limits for the comprehensive general liability insurance and the motor vehicle insurance shall never be less than twice the limits of liability per event applicable to each Lake City pursuant to the Texas Tort Claims Act (Chapter 101, Texas Civil Practices and Remedies Code, as amended).

10.2 Lake Cities Insurance. Following the Final Segment Acceptance Date, and throughout the Term, the Lake Cities shall procure and maintain in force, at its own expense, insurance coverage as required by Applicable Laws.

10.3 Contractor's Insurance. Pavlov shall require its contractors that are engaged in the work relating to construction and installation of the Pavlov System to purchase and maintain in full force and effect while engaged in work relating to installing the Pavlov System the types and limits of insurance described in Section 10.1, inclusive of the same endorsements required by Section 10.1. Such contractors shall be required to provide a certificate of insurance evidencing such required coverage and associated policy(ies) upon written request of one or more of the Lake Cities. Notwithstanding anything hereto to the contrary, nothing herein shall relieve Pavlov or any of Pavlov's contractors from procuring any insurance required by state law or an ordinance enacted by a Lake City while performing work within a public street or right of way or on property owned, leased, or otherwise controlled by a Lake City that is generally applicable to all contractors performing work at said locations.

11. Indemnification

Except as otherwise expressly provided in this Agreement, Pavlov and its employees, agents, Contractors, subcontractors or representatives shall exercise the rights and privileges hereunder at their sole risk and in consideration of this Agreement shall release, indemnify, protect, defend and save harmless the Lake Cities collectively and each Lake City individually, including their respective elected and appointed officials, officers, employees, representatives, and agents from and against any and all claims and demands whatsoever, including court costs and reasonable attorney's fees, by reason of damage to property and injury or death to persons, including payments made under any Workers' Compensation Law or under any plan for employees' disability and death benefits, which may relate to, arise out of or be caused, in whole or in part, by the acts, omissions or negligence of Pavlov or its employees, Contractors, or agents in connection with (i) the exercise of its rights and privileges hereunder, or (ii) the construction, installation, operation, maintenance, repair, restoration and removal of the Pavlov System. The provisions of this Section 11 shall survive the expiration or other termination of this Agreement.

12. Notice

Unless otherwise stated herein, all notices and other communications required or permitted under this Agreement shall be in writing and shall be given by United States first class mail, postage prepaid, registered or certified, return receipt requested, or by hand delivery (including by means of a professional messenger service or overnight mail) addressed as follows:

If to Corinth:

City of Corinth
Attn: City Manager
3300 Corinth Parkway
Corinth, Texas 76208

If to Hickory Creek:

Town of Hickory Creek
Attn: Town Administrator
1075 Ronald Reagan Ave.
Hickory Creek, Texas 75065

If to Lake Dallas:

City of Lake Dallas
Attn: City Manager
212 Main Street
Lake Dallas, TX 75065

If to Shady Shores:

Town of Shady Shores
Attn: Town Administrator
101 S. Shady Shores Road
Shady Shores, TX 76208

If to Pavlov for Administrative/Payment
Notices:

Pavlov Media
PO Box 25
Champaign, Illinois 61824

If to Pavlov for Legal Notices

Pavlov Media, Inc.
601 N Country Fair Dr
Champaign, IL. 61821
Attn: Legal

Any such notice or other communication shall be deemed to be effective when actually received or refused. Any Party may, upon written notice to the other Parties, change the address to which future notices or other communications shall be sent.

13. Confidentiality

13.1 Generally. Each Party, including its agents and subcontractors, may have or gain access to confidential data or information owned or maintained by the other Party in the course of carrying out its responsibilities under this Agreement. Unless clearly marked as confidential or exempt from disclosure under the Texas Public Information Act, Pavlov shall presume to be non-confidential all information received from the Lake Cities or to which it gains access pursuant to this Agreement. Unless clearly marked as confidential, the Lake Cities shall presume to be non-confidential all information received from Pavlov or to which it gains access pursuant to this Agreement. Notwithstanding anything to the contrary herein, no confidential data collected, maintained, or used in the course of performance of the Agreement shall be disseminated except as authorized by law or court order, either during the Term and for a period of five (5) years after expiration or earlier termination of this Agreement. Each Party will return or destroy (providing written certification of destruction) any and all data collected, maintained, created or used in the course of the performance or the Agreement, in whatever form it is maintained, promptly upon expiration or earlier termination of this Agreement or upon request of the disclosing Party. The foregoing confidentiality obligations, including without limitation, the obligation to return or destroy and provide written certificate of destruction of data, shall not apply to confidential data or information that is: (a) lawfully in the receiving Party's possession prior to its acquisition from the disclosing Party; (b) received in good faith from a third-party not subject to any confidentiality obligation to the disclosing Party; (c) publicly known through no breach of confidentiality

obligation by the receiving Party; (d) required to be retained by any Lake City pursuant to court order or state law, including without limitation, the Texas Public Information Act or records retention requirements applicable to Lake Cities; or (e) independently developed by the receiving Party without the use or benefit of the disclosing Party's confidential information. The provisions of this Section 13 shall survive expiration or other termination of this Agreement.

13.2 Application of Public Information Act.

- a. The Parties understand and acknowledge that information exchanged between or among one of more of the Parties may constitute “public information” as that phrase is defined in the Texas Public Information Act (Texas Government Code §§552.001 et. seq., or “**the Act**”) which may be subject to disclosure subject to a written request delivered to a Party pursuant to the Act.
- b. If a Lake City receives a request for public information pursuant to the Act (the “**PIA Request**”) which includes within its scope information which Pavlov has identified to be confidential in accordance with Section 13.1, the Lake City receiving the PIA Request shall notify Pavlov of such request in accordance with applicable provisions of the Act. Pavlov shall, at Pavlov’s cost, be solely responsible for asserting arguments to the Office of the Attorney General of the State of Texas pursuant to §552.305(b) of the Act regarding the reason(s) Pavlov’s information is exempt from disclosure to the public under the provisions of the Act and for filing any and all subsequent appeals relating to an opinion of the Texas Attorney General that requires disclosure of Pavlov’s information. Other than notifying Pavlov of the request for Pavlov’s confidential information as provided in §552.305(d) of the Act, the Lake City receiving the PIA Request may, but shall be under no obligation to, submit arguments to the Texas Attorney General relating to reasons Pavlov’s confidential information is exempt from required release to the public.
- c. If a Lake City receives a PIA Request which includes within its scope information which one or more of the Lake Cities has identified to be confidential in accordance with Section 13.1, the Lake City receiving the PIA Request shall notify Pavlov and the other Lake Cities of such request in accordance with applicable provisions of the Act. The Lake City that is the owner of such information shall, at said Lake City’s cost, be solely responsible for asserting arguments to the Office of the Attorney General of the State of Texas pursuant to §552.305(b) of the Act regarding the reason(s) the requested information is exempt from disclosure to the public under the provisions of the Act and for filing any and all subsequent appeals relating to an opinion of the Texas Attorney General that requires disclosure of such information. Other than notifying the Lake City that owns the information as provided in §552.305(d) of the Act, the Lake City receiving the PIA Request may, but shall be under no obligation to, submit arguments to the Texas Attorney General relating to reasons the requested information is exempt from required release to the public.
- d. In accordance with applicable provisions of the Act (including, but not limited to Section 551.371, et. seq. of the Act) and 2 CFR Part 200, Pavlov agrees that the Lake

Cities or other authorized representatives of the Lake Cities shall have access to, and the right to audit, examine, or reproduce, any and all records of Pavlov related to the performance under this Agreement. Pavlov shall retain all such records for a period of three (3) years after final payment on this Agreement or until all audit and litigation matters of which any one or more of the Lake Cities have brought to the attention of Pavlov are resolved, whichever is longer.

14. Miscellaneous

14.1 Non-waiver. Failure by any Party to enforce or insist upon compliance with any of the terms or conditions of this Agreement shall not constitute a general waiver or relinquishment of any such terms or conditions, but the same shall be and remain at all times in full force and effect.

14.2 Representations and Warranties. Each of the Parties represents and warrants that it has full authority to negotiate, execute, deliver and perform this Agreement, that this Agreement does not conflict with any other document or agreement to which it is a party or is bound, that the signatory below has been authorized to execute this Agreement, and that this Agreement is fully enforceable in accordance with its terms. Pavlov represents and warrants that it will pay: (a) all taxes and fees arising from its ownership and operation of the Pavlov System and (b) all fees, charges and costs relating to accessing public rights-of-way, railroad facilities, DART facilities, DCTA facilities and related facilities. The Lake Cities have no obligation to pay any of the taxes, fees, charges or costs described in this Section 14.2. A failure of Pavlov to pay applicable taxes and fees constitutes a material breach of this Agreement.

14.3 Contractors. Pavlov may use independent contractors, subcontractors, or other non-employees (each, a “**Contractor**”) to perform any of Pavlov’s obligations under this Agreement. Pavlov is fully responsible for all acts and omissions of its Contractors when such Contractors are acting on behalf of Pavlov and Pavlov’s use of Contractors does not release Pavlov from any of its obligations or liabilities under this Agreement. Pavlov will promptly pay all costs billed by its Contractors. Pavlov assumes full responsibility and liability for all work performed by and any acts or omissions of any of its Contractors in the performance of this Agreement.

14.4 Assignment.

- a. By Lake Cities.** Subject to Section 14.4.b., none of the Lake Cities may transfer or assign all or any part of its interest under this Agreement, or delegate any duties, burdens, or obligations arising hereunder, without Pavlov's consent which shall not be unreasonably withheld, delayed, or denied. -
- b. Upon Termination or Event of Default.** Notwithstanding anything to the contrary in this Agreement but subject to the terms and conditions set forth in Section 3.2.d., if this Agreement is terminated based on an Event of Default by Pavlov, then, without Pavlov’s consent: (i) title to all of the Segments located within the corporate boundaries of each Lake City will immediately and automatically transfer to the applicable Lake City, free and clear of all liens and other encumbrances, and (ii) the applicable Lake City may sell or lease the fiber constituting such Segments to a service provider other

than Pavlov; and (iii) during any period of time required to consummate the transactions described in subsections (i) and (ii), Pavlov will continue to operate the Pavlov System and deliver the Services to Customers contemplated in this Agreement.

- c. **By Pavlov.** Pavlov shall not have the right to assign or apportion its rights and obligations hereunder to a third-party without the prior written consent of the Lake Cities, which shall not be unreasonably withheld, delayed, or denied. If the Lake Cities consent to an assignment of this Agreement by Pavlov, Pavlov shall cause the assignee, licensee or third-party to agree in writing to comply with the terms of this Agreement applicable to Pavlov, and Pavlov will deliver to the Lake Cities a copy of such written agreement not later than seven (7) days after execution; provided, however, that Pavlov shall not be relieved of any liabilities or obligations hereunder and Pavlov will ensure, and will demonstrate to the Lake Cities' satisfaction, that the assignee, licensee or third-party has sufficient and adequate resources to undertake the obligations, responsibilities and liabilities of Pavlov under this Agreement.

14.5 Successors and Assigns. This Agreement shall extend to and bind the successors and assigns of the Parties hereto and shall run with title to the Pavlov System and each of the Segments.

14.6 Severability. Should any part of any paragraph or provision of this Agreement be determined by a court of competent jurisdiction to be illegal or in conflict with any applicable law, the validity of the remaining paragraph or provisions shall not be impaired.

14.7 Applicable Law; Venue. The validity, interpretation and enforcement of this Agreement shall be governed by the laws of Texas without regard to conflict of law applications. Venue for any suit between or among the Parties arising from or related to this Agreement shall be in state court of competent jurisdiction in Denton County, Texas; provided, however, if the nature of the issues in the suit involve a question over which jurisdiction lies solely in federal court, venue for such suit shall be in the United States District Court for the Eastern District of Texas, Sherman Division.

14.8 Force Majeure. Despite anything to the contrary in this Agreement, no Party will be liable or in default under this Agreement for any delay or failure of performance resulting directly from anything not caused by and beyond the reasonable control of the non-performing Party (a "**Force Majeure Event**") including, but not limited to, acts of God; acts of civil or military authority; acts of a public enemy; war; severe weather, earthquakes, or floods; fires or explosions; governmental action or regulation (except obligations to obtain and to maintain appropriate approvals as required in this Agreement); epidemics or pandemics; or strikes, lockouts, or other work interruptions or labor shortages; supplier shortages. The time for performance of a Party hereunder shall be extended commensurate with the duration of the Force Majeure Event.

14.9 Neutral Interpretation. Each Party acknowledges and agrees that it has had a full and fair opportunity to read and review all the terms herein; that it has had a full and fair opportunity to have this Agreement reviewed by independent legal counsel, and that no provision of this Agreement is to be construed strictly, narrowly or against any Party on grounds of authorship or draftsmanship.

14.10 Headings. All headings used herein are strictly for the reference and convenience of the Parties and shall be treated or construed as having any effect on the terms or provisions of this Agreement or the interpretation thereof.

14.11 Recitals and Exhibits. All recitals and exhibits are incorporated hereto and made a part hereof.

14.12 Counterparts. This Agreement may be executed by the Parties in one or more identical counterparts, each of which shall be treated for all purposes as an original, and all of which together shall constitute one and the same agreement.

14.13 Entire Agreement. This Agreement constitutes the entire agreement between and among the Parties regarding the subject matter herein and supersedes all prior understandings, negotiations or other agreements, whether verbal or written.

14.14 No Modification or Amendment. This Agreement may not be modified or amended except by separate writing executed by all Parties, said separate writing then becoming part of this Agreement for all purposes.

14.15 Independent Contractor. The relationship between the Parties shall be that of independent contractors, and not as agent or principal, and no act or omission to act shall be construed to alter this relationship. Additionally, notwithstanding any term to the contrary within this Agreement, no act or omission to act on the part of a Lake City or of Pavlov shall be imputed to any other Lake City or to Pavlov. Each Lake City and Pavlov shall be liable for their own actions and omissions when performing obligations under the terms of this Agreement.

14.16 Additional Actions and Documents. Each of the Parties hereby agrees to take or cause to be taken such further actions, to execute, acknowledge, deliver and file or cause to be executed, acknowledged, delivered and filed, such further documents and instruments, and to use its best efforts to obtain such consents, as may be necessary or as may be reasonably requested to fully effectuate the purposes, terms and conditions of this Agreement, whether at or after the execution of this Agreement.

14.17 Time. If the last day permitted for the giving of any notice, or any time period hereunder, or the performance of any act required or permitted hereunder falls on a day that is not a business day, then the time for the giving of such notice, the expiration of the time period, or the performance of such act will be extended to the next succeeding business day.

14.18 Attorneys' Fees. In the event of any dispute hereunder or of any action to interpret or enforce this Agreement, any provision hereof or any matter arising hereunder, the Parties to such dispute shall be responsible for their respective costs and attorneys' fees.

14.19 Applicable Laws. This Agreement shall be subject to, and, in the performance of their respective obligations hereunder, each Party shall comply with, all applicable federal, state and local laws, rules, regulations, permits, licenses, approvals, consents, agreements, orders or other

requirements mandated by or entered into with any governmental authority (including, without limitation, any applicable rules and regulations of quasi-governmental and regulatory authorities with appropriate jurisdiction, the most current edition of the NESC, the most current edition of the NEC, and all additional requirements of the Texas Public Utilities Commission and of any applicable federal, state, county or municipal code in conjunction with the use and maintenance of manholes) (collectively, the “**Applicable Laws**”).

14.20 Prohibition on Boycotting Israel and Energy Companies; Prohibition of Discrimination against Firearm Entities and Firearm Trade Associations. Pavlov verifies that:

- a. Pavlov does not Boycott Israel and agrees that during the term of the Agreement will not Boycott Israel as that term is defined in Texas Government Code Section 808.001, as amended;
- b. Pavlov does not Boycott Energy Companies and agrees that during the term of this Agreement will not Boycott Energy Companies as that term is defined in Texas Government Code Section 809.001, as amended; and
- c. Pavlov does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association as those terms are defined in Texas Government Code Section 2274.001, as amended; and will not discriminate during the term of this Agreement against a firearm entity or firearm trade association.

14.21 Effective Date. This Agreement will be effective on the date (the “**Effective Date**”) (i) it bears the signatures of authorized representatives of Pavlov and every Lake City, whether on the same document or identical counterparts as authorized by Section 14.12 and (ii) Pavlov has prepared and signed a Form 1295 with the Texas Ethics Commission with respect to each Lake City, and such Form 1295 has been received and acknowledged by each Lake City, respectively.

14.22 Non-Appropriations. The Parties recognize that this Agreement shall commence upon the Effective Date and continue in full force and effect until termination in accordance with its provisions. The Parties further understand, acknowledge, and agree that the continuation of the Agreement with respect to each Lake City is dependent on the annual appropriation of funds by its governing body. If the governing body of a Lake City does not approve the appropriation of funds to pay any obligations pursuant to this Agreement for a future fiscal year, the Agreement as to that Lake City shall terminate at the end of the fiscal year for which funds were appropriated. That Lake City shall still be liable for all financial obligations the Lake City was responsible for under the terms of this Agreement through the end of the Term, and to perform such obligations that are otherwise required pursuant to termination of this Agreement.

14.23 Use of Current Funds. The Lake Cities Acknowledge the funds each will use for its financial obligations in this Agreement will primarily be sourced from federal funds authorized for broadband projects in the American Rescue Plan Act. Accounting and authorization for use of such funds will be done per applicable law and regulations. To the extent federal funds are not used or available; and this Agreement can be construed as an Interlocal Agreement by and among the Lake Cities, each Lake City paying for the performance of governmental functions or services pursuant

to this Agreement shall make those payments from current revenues available to the paying Lake City. The Lake Cities represent and agree that the payments required by this Agreement by the paying Lake City will fairly compensate the performing Party for the services or functions performed under this Agreement.

In confirmation of their consent and agreement to the terms and conditions contained in this Agreement and intending to be legally bound hereby, the Parties have executed this Agreement as of the dates set forth on the following pages.

(Signatures on following page)

City of Corinth Signature Page

CITY OF CORINTH, TEXAS

By: _____
Bill Heidemann, Mayor

Date

By: _____
Lee Ann Bunselmeyer, Interim City Manager

Date

ATTEST:

Lana Wylie, City Secretary

APPROVED AS TO FORM:

Patricia A. Adams, City Attorney

Town of Shady Shores Signature Page

TOWN OF SHADY SHORES

By: _____
Cindy Aughinbaugh, Mayor

Date

By: _____
Wendy Withers, Town Administrator

Date

ATTEST:

City Secretary

APPROVED AS TO FORM:

James E. Shepherd, City Attorney

Town of Hickory Creek Signature Page

TOWN OF HICKORY CREEK, TEXAS:

By: _____
Lynn Clark, Mayor

Date

By: _____
John Smith, Town Manager

Date

ATTEST:

Kristi Rogers, City Secretary

APPROVED AS TO FORM:

Trey Sargent, City Attorney

City of Lake Dallas Signature Page

CITY OF LAKE DALLAS, TEXAS:

By: _____
Kandace Lesley, City Manager

Date

ATTEST:

Codi Delcambre, City Secretary

APPROVED AS TO FORM:

Kevin B. Laughlin, City Attorney

Pavlov Signature Page

Pavlov Media, Inc.

By: _____

Print name: _____

Title: _____

_____ Date

Attorney for Pavlov Media, Inc.

EXHIBIT A

Map of Pavlov System

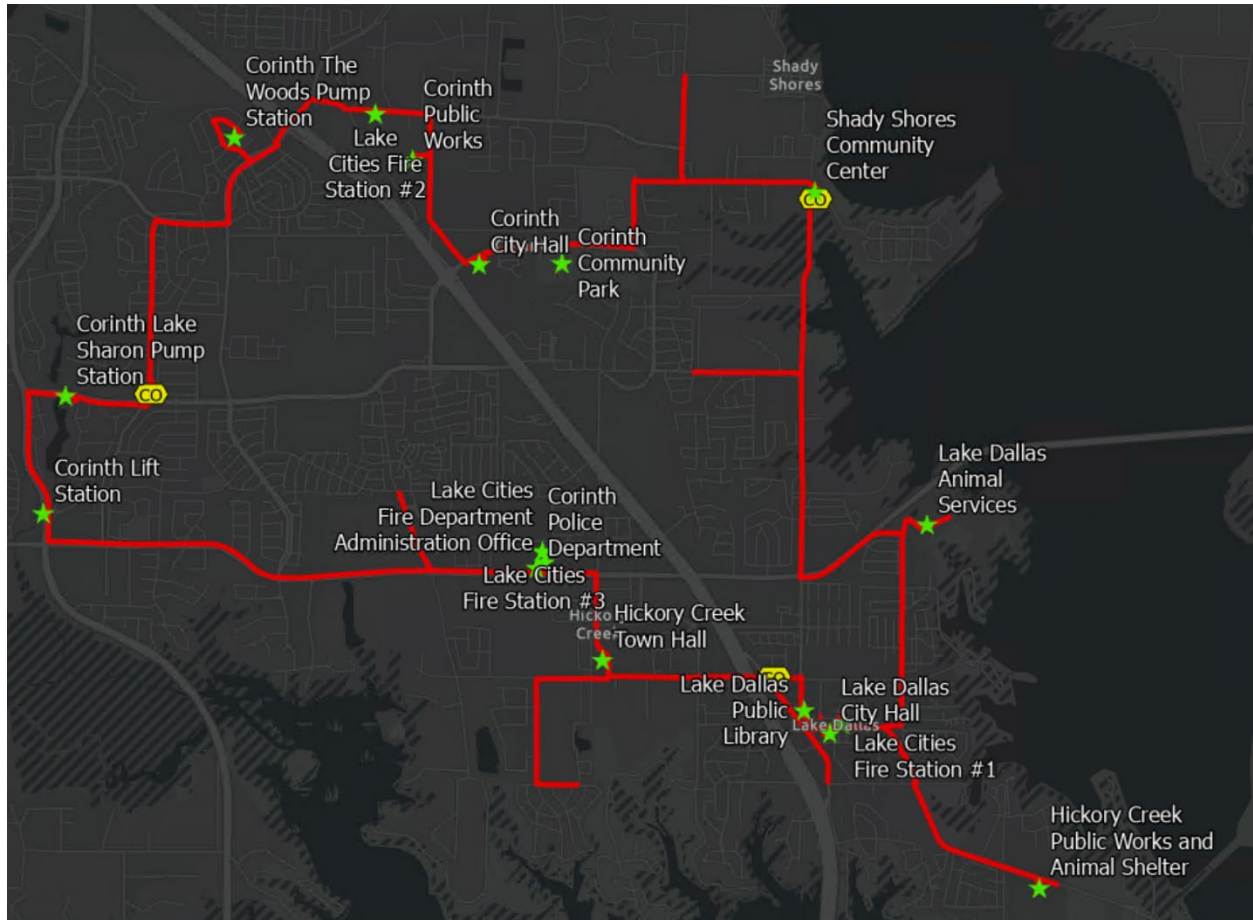


EXHIBIT B
Project Summary

1. Pavlov will construct a fiber ring of approximately 22 miles through and around the Lake Cities.
2. Pavlov will install three huts housing network electronics. The huts shall be approximately 150 square feet and be located on land of approximately 16 feet x 20 feet. The huts will be located at the Corinth Public Works building, the Shady Shores Municipal Center, and the Lake Dallas property at 207 W Hundley Road.
3. The routes between the three huts are Segments.
4. The northern Segment from the Corinth Public Works building to the Shady Shores Municipal Center is approximately 6.9 miles.
5. The eastern Segment from the Shady Shores Municipal Center to the Lake Dallas City Park is approximately 6.6 miles.
6. The southern and western Segment from the Lake Dallas City Park to the Corinth Public Works building is approximately 7.8 miles.
7. Conduit will extend throughout the entire length of the ring, connecting all huts and vaults.
8. A fiber optic cable with 288 strands will extend throughout the length of the ring.
9. 48 strands of the fiber optic cable will be reserved for the Lake Cities for use as detailed in this Agreement. The strands will be in four buffer tubes of 12 strands each.
10. All Lake Cities Government Locations in Exhibit C will have redundant and diverse sources of bandwidth so that any interruption of service in one part of the ring will result in rerouting traffic so as to not cause interruption of service to the Lake Cities Government Locations.
11. All strands leased under this Agreement will terminate in each of the huts and be readily available for service.
12. No fewer than 200 vaults will be located along the ring to provide additional access to the fiber strands leased to the Lake Cities for additional purposes as provided for under this Agreement.
13. The ring will be constructed so as to facilitate the building of a fiber to the home network throughout the Lake Cities.
14. The ring will be constructed to have the capacity for expansion as the Lake Cities grows.

EXHIBIT C
Initial List of Government Locations

Location	Address	Municipality
Corinth City Hall	3300 Corinth Parkway	Corinth
Corinth Community Park	3700 Corinth Parkway	Corinth
Corinth Lake Sharon Pump Station	1100 Lake Sharon Drive	Corinth
Corinth Lift Station	Barrell Strap Road	Corinth
Corinth Police Department	3501 FM 2181	Corinth
Corinth The Woods Pump Station	1200 Postwood Drive	Corinth
Lake Cities Fire Administration	3501 FM 2181	Corinth
Corinth Public Works	1200 N Corinth Parkway	Corinth
Lake Cities Fire Station #2	2700 Shady Shores Road	Corinth
Lake Cities Fire Station #3	3750 Cliff Oaks Drive	Corinth
Hickory Creek Public Works and Animal Shelter	970 Main Street	Hickory Creek
Hickory Creek Town Hall	1075 Ronald Reagan	Hickory Creek
Lake Cities Fire Station #1	275 Main Street	Lake Dallas
Lake Dallas Animal Services	687 N. Lakeview Drive	Lake Dallas
Lake Dallas City Hall	212 Main Street	Lake Dallas
Lake Dallas Library	302 S. Shady Shores Drive	Lake Dallas
Shady Shores Community Center	101 S. Shady Shores Drive	Shady Shores

Pavlov will install one Drop for each of the locations listed above, and Pavlov will terminate the fiber connection for each location at a fiber patch panel within a telecommunications room designated by a designated manager for each Government Location.

For each Government Location, each Lake City shall enter into a standard commercial Lit Services agreement with Pavlov detailing the services provided.

EXHIBIT D

Customer Service Standards (SLA)

- 99.9% uptime. Uptime shall not include periods of Scheduled Maintenance as identified in **Exhibit E** hereto.
- Latency: Connections to Pavlov's colocation facility in Dallas will be in the 4-8 millisecond range.
- Individual service disruptions will be responded to within four hours and fixed within 48 hours.
- System wide disruptions will be fixed within 4 hours.
- Within the Fiber Optic Ring, latency will be under 1 millisecond. Pavlov's oversubscription for the network will be no more than 32:1.

EXHIBIT E

Scheduled and Un-Scheduled Maintenance Specifications

A. Scheduled Maintenance shall include the following activities:

- (1) Patrol of Pavlov System route on a reasonable routine basis;
- (2) Maintenance of a "Call-Before-You-Dig" program and all required and related cable locates;
- (3) Maintenance and repair of signposts, interconnect cabinets and huts, regeneration facilities, and handholes (including handhole covers) along public rights-of-way;
- (4) Assignment of fiber maintenance employees or subcontractors to locations occupied by the Dark Fiber at intervals dependent upon terrain, accessibility, locate ticket volume, etc.
- (5) In the event that any Person is engaged in construction activities or otherwise conducting excavation within five (5) feet of any element of Pavlov System, Pavlov shall have qualified technicians on-site to monitor such activities; if any technician has reason to believe that such construction or excavation activity has damaged or will likely damage the Pavlov System, the technician will immediately report to the relevant Lake City describing the damage or risk of damage.

B. Unscheduled Maintenance shall include the following activities:

- (1) "Emergency Unscheduled Maintenance" in response to: alarm identification received from Pavlov's Communications Management Center ("**CMC**"); notification received from Lake Cities, any individual Lake City, or notification from any Person concerning an actual or potential failure, interruption or impairment of the operation of the Pavlov System, or actual or constructive knowledge of any event that is imminently likely to cause the failure, interruption or impairment in the operation of the Pavlov System;
- (2) "Non-Emergency Unscheduled Maintenance" in response to any event, condition or situation that is affecting or likely to affect operation of the Pavlov System. Promptly upon becoming aware of any such event, condition or situation, Lake Cities shall immediately report the same to Pavlov, whereupon Pavlov will log the time of the report, verify the problem and dispatch personnel immediately to take corrective action;
- (3) Operations Center. Pavlov shall operate and maintain a Communications Management Center ("**CMC**") capable of receiving Pavlov System alarms twenty-four (24) hours a day, seven (7) days a week. Pavlov's maintenance employees or subcontractors will be qualified technicians and will be available for dispatch twenty-four (24) hours a day, seven (7) days a week. With respect to any event or condition requiring Emergency

Unscheduled Maintenance, a Pavlov technician will be on-site within four (4) hours after the time Pavlov becomes aware of the event or condition, unless delayed by circumstances beyond Pavlov's reasonable control. Pavlov shall maintain a toll-free telephone number to contact personnel at the CMC. Pavlov personnel shall dispatch maintenance and repair personnel to handle and repair problems detected in the Pavlov System;

(4) Cooperation and coordination.

The Lake Cities shall utilize an Escalation List, as updated from time to time, to report and seek immediate action on exceptions noted in the performance of Pavlov in meeting maintenance service objectives.

The Lake Cities will, as necessary, arrange for Pavlov technicians to have escorted access to the Government Locations listed in **Exhibit C**, subject to applicable contractual, underlying real property and other third-party limitations and restrictions.

- (5)** In performing the Maintenance Services as described herein, Pavlov will use workmanlike care to prevent any impairment of the Pavlov System and its operations. Pavlov shall reasonably cooperate with the Lake Cities in sharing information and analyzing any disturbances, events and conditions that affect the Pavlov System, including the Dark Fiber. If any Scheduled or Un-Scheduled Maintenance hereunder requires a traffic reconfiguration involving the Dark Fiber, electronic equipment, or regeneration or other facilities belonging to or administered by any one or more of the Lake Cities, then the affected Lake City(ies) shall, at Pavlov's reasonable request, make such personnel of the affected Lake City(ies) available as may be necessary in order to accomplish such maintenance, which personnel shall coordinate and cooperate with Pavlov in performing such maintenance as required;
- (6)** Pavlov shall notify Lake Cities not less than seven (7) days prior to the date of any Maintenance Window of any Scheduled Maintenance and as soon as possible after becoming aware of the need for Un-Scheduled Maintenance. Lake Cities shall have the right to have a representative present during the performance of any Scheduled Maintenance or Un-Scheduled Maintenance so long as this requirement does not interfere with Pavlov's ability to perform its obligations under this Agreement.

C. Facilities

- (1)** Pavlov shall maintain and repair the Pavlov System and all of its components including, without limitation, the Dark Fiber and the Drops in a good and workman like manner according to prevailing industry standards, in order that the Pavlov System may function smoothly and efficiently. in accordance with the Customer Service Standards (SLA) set forth in **Exhibit D**, and in accordance with the requirements of this **Exhibit E**, in the provision of Services as described in this Agreement.

- (2) Except as otherwise expressly provided in the Agreement, the Lake Cities will be solely responsible for providing and paying for any and all maintenance of all electronic, optronic and other equipment, materials and facilities used by the Lake Cities in connection with the operation of their Dark Fibers, none of which is included in the maintenance services to be provided hereunder.

D. Dark Fiber

- (1) Pavlov shall monitor, maintain utilize appropriate testing of the Dark Fiber in accordance with Pavlov's then-current preventative maintenance procedures as set forth in this Exhibit E, and at no time may Pavlov's maintenance or testing procedures fall below prevailing industry best practices;
- (2) Pavlov shall maintain sufficient capability to teleconference with the Lake Cities during any Un-Scheduled Maintenance activities for the purpose of keeping the Lake Cities well informed as to the progress of such activities. With respect to any Un-Scheduled Maintenance activity, Pavlov technicians will be on-site within four (4) hours after Pavlov is made aware of the need for Un-Scheduled Maintenance, and Pavlov will repair any damaged fiber within six (6) hours after the technicians' arrival at the site, provided that the Lake Cities understand and agree that any repairs so effected may be temporary in nature. If any repair solution is temporary in nature, Pavlov will immediately commence planning for permanent repair and will promptly notify the affected Lake Cities concerning Pavlov's plan for permanent repair.
- (3) If an event, condition or situation that requires Un-Scheduled Maintenance, Pavlov will, promptly upon arriving on the site, formulate a plan to restore the Pavlov System and shall begin restoration efforts. Pavlov shall splice fibers tube by tube or ribbon by ribbon in a logical order with consideration to all lit fibers within the system.
- (4) In performing permanent repairs, including the repair of micro-bends and splice work, Pavlov shall comply with the splicing specifications as set forth in Exhibit H and shall take all reasonable steps to ensure that attenuation across the zone of repair satisfies the specifications in Exhibit H. Pavlov shall provide to the Lake Cities any modifications to these specifications as may be necessary or appropriate in any particular instance for the Lake Cities' approval, which approval shall not be unreasonably withheld.
- (5) Pavlov's representatives that are responsible for initial restoration of a cut fiber optic Cable shall carry on their vehicles the typical appropriate equipment that would enable a temporary splice, with the objective of restoring operating capability in as little time as possible. Pavlov shall maintain and supply an inventory of spare fiber optic cable in storage facilities supplied and maintained by Pavlov at strategic locations to facilitate timely restoration.

EXHIBIT F

Services and Initial Rates

For Government Locations on the Government WAN: Lit Fiber/Lit Fiber Service/Managed Service monthly recurring rates for the Government WAN locations listed in **Exhibit C** are as follows:

A:	1Gbps	\$ 75.00
B:	5Gbps	\$250.00
C:	10Gbps	\$500.00

The services for the Lake Cities Government Locations for the first ten (10) years of the Term are included in the price of the IRU. The service for the first ten (10) years will be delivered at 5Gbps to each Government Location listed in **Exhibit C**. If the Lake Cities desire 10G service to any location in the first ten (10) years of the Initial Term, the cost of that service will be \$250/Month.

After the first ten (10) years of the Initial Term, if the Lake Cities desires to continue the Lit Fiber/Lit Fiber Service/Managed Service for any or all the faculties listed in **Exhibit C**, the Lake Cities shall be charged according to the same pricing schedule listed in this **For Government** section. After year ten (10), Pavlov may adjust rates according to the CPI.

For Non-Government:

For Residential (Download/Upload): Monthly Rates not to exceed:

100Mbps/25Mbps	\$ 35 (This rate is only available for those eligible for the Federal Affordable Connectivity Program)
1Gbps	\$ 70 to 90
2Gbps	\$125
5Gbps	\$200
10Gbps	\$250

For Commercial (Download/Upload):

150Mpgs/50Mbps	\$159
250Mpgs/100Mbps	\$225
1000Mpgs/500Mbps	\$375
2Gbps/2Gbps	\$895
4Gbps/4Gbps	\$1250

These rates for non-Government Locations are not to be exceeded for five (5) years after which Pavlov shall have the right to increase rates, but in no case more than once in any twelve (12) month period, and in no case may a rate increase exceed the increase in the then-current Consumer Price Index or four percent (4%), whichever is less.

EXHIBIT G

Construction Schedule

August 2022

Obtain Building permits for three huts
Final ring plan approved

September 2022

Lay pads for huts
Begin construction of ring

October 2022

Install huts

December 2022

Northern Ring Segment completed.
6 drops along northern segment completed
First 6 sites get service

March 2023

Eastern Ring Segment Completed
5 drops eastern segment completed
Next 5 sites get service

June 2023

Southern and Western Segment Completed
6 drops for southern and western segment completed
Final 6 sites get service

EXHIBIT H

Dark Fiber Specifications and Testing

Dark Fiber Specifications

All Dark Fiber must meet the following specifications:

- a. The maximum bi-directional average splice loss shall not exceed 0.15 dB.
- b. All splices shall be sealed in water-proof splice enclosures.
- c. Attenuation at 1310 nm= 0.37 dB/km max
- d. Attenuation at 1550 nm= 0.3 dB/km max
- e. Connector loss shall not exceed 0.5dB per connector
- f. Fiber will meet or exceed Coming Single Mode Fiber SMF-28 Specifications
- g. Event Reflectivity (Minimum ORL) should not exceed 27 dB

Dark Fiber Testing

Pavlov will test the Dark Fiber to ensure that it meets each of the specifications enumerated above. Testing will be conducted according to the following parameters:

- ✓ Non-destructive Attenuation Tests (end-to-end)
- ✓ Optical Time Domain Reflectometer Tests (OTDR)
- ✓ All fibers shall be tested bi-directionally at 1310 nm or 1550 nm, as applicable, with an OTDR
- ✓ Subsequent traces shall be inspected for end-to-end continuity and for uniform attenuation. These traces will be attached to an email or contained on a removable storage drive
- ✓ Optical Length: the OTDR will be used to determine the end-to-end optical length of the fiber
- ✓ Splice Loss: splice loss will be measured bi-directionally with an OTDR using the Splice Loss average method
- ✓ End-to-End Loss: Using a light source and a power meter, the bi-directional, connector-to-connector attenuation will be measured for each fiber at 1310 nm and 1550 nm, as

applicable. The acceptance average attenuation per kilometer on a per span basis shall be the attenuation set forth in this Agreement

- ✓ The end-to-end value as measured by an industry-accepted laser source and power meter should have an attenuation rating of less than or equal to the following;
 - ✓ (1) At 1310 nm: $(0.37 \text{ dB/km} \times \text{km of Cable}) + (\text{number of connectors} \times 0.50) + (\text{number of splices} \times 0.10)$
 - ✓ (2) At 1550 nm: $(0.3 \text{ dB/km} \times \text{km of Cable}) + (\text{number of connectors} \times 0.50) + (\text{number of splices} \times 0.10)$
- ✓ Pavlov' loss/attenuation objective for each fiber optic splice is 0.10 dB (with a 0:15 upper limit) when measured in one direction with an OTDR test set (excluding connector loss, which is typically 0.50 dB per connector)
- ✓ (3) Out-of-Spec Testing. Test results outside the specifications listed above shall be noted but shall not preclude acceptance of a fiber if the out-of-spec condition does not affect transmission capability (based on use of then-prevailing telecommunications industry standards applicable to equipment generally used with the relevant type of fiber) or create a significant possibility of an outage.