

I. **Covered Property.** This Agreement governs the City’s use of the Subject Lot, more specifically defined in Exhibit A, which is attached hereto and incorporated by reference. This Agreement is limited to the Subject Lot and does not authorize the City to use any other portion of the FAC Property.

II. **Funding for Improvements to FAC Property.** The City and the Forney Economic Development Corporation (“FEDC”) will provide sufficient funds to the District for the following improvements to be made by the District to the FAC Property (“Improvement Funding”), in accordance with the plans and specifications submitted to the City by the District: (i) relocating the bus loop; and (ii) adding certain safety and security measures, including but not limited to paved drive expansions, security fencing, security gates, and parking lot re-striping. The Parties acknowledge that this Improvement Funding will ensure the public purpose of this Agreement by providing for the safety and security of FISSD students on the FAC Property, while also permitting the City’s use of the Subject Lot as public parking.

- a. The District is responsible for providing sufficient information to the City regarding the improvements to the FAC Property described herein so as to enable the City to reasonably determine the cost of the improvements.
- b. This Agreement is expressly conditioned upon the District’s receipt of full funding from the City and the FEDC for the improvements to the FAC Property, and the District reserves the right to immediately terminate this Agreement if the funding necessary for the improvements is not approved and provided to the District.
- c. The District shall use the Improvement Funding to design and construct the improvements to the FAC Property described herein. If the actual costs of the improvements are less than the Improvement Funding, the District will reimburse the difference to the City and the FEDC, in equal shares. In the event the actual costs of the improvements exceed the Improvement Funding, the City shall pay the difference to the District, provided that the increased costs do not exceed 25% of the original Improvement Funding amount.
- d. In the event the District sells the FAC Property in its entirety to any third party during the initial term of this Agreement or during the first renewal period, the District will repay the Improvement Funding amount to the City and the FEDC pursuant to this Agreement.

III. **Terms of Use.** For the duration of this Agreement, the District hereby authorizes the City to make use of the Subject Lot for the sole purpose of public parking.

- a. The City acknowledges that the improvements made to the Subject Lot under Section II may reduce the size of the Subject Lot available for the City’s use as public parking under this Agreement. The City’s area of use under this Agreement

will not extend beyond any fencing or gates installed near or around the Subject Lot.

- b. The City shall not use the Subject Lot for any other purpose, except with prior written consent from the District's Board of Trustees.
- c. The City is not permitted to authorize use of the Subject Lot by any other individuals or groups; however, the City may allow general use by the public for the sole purpose of parking vehicles.
- d. The City shall not suffer, allow, or permit the Subject Lot to be damaged and in consideration for the use of the Subject Lot, the City shall be responsible for the repair of any damage to the Subject Lot, including damage resulting from normal wear and tear. The City shall secure and maintain the Subject Lot in good and orderly condition and free of trash or refuse, including maintenance of any green spaces of the Subject Lot. The District shall not be liable for any property damage, personal injury, theft or other loss associated with City/public use of the Subject Lot. The City shall not create any nuisance or permit any waste or use at the Subject Lot which would be construed as extra hazardous, would increase the insurance premiums on the Subject Lot or void the insurance policy covering such Subject Lot.
- e. The City's use of the Subject Lot under this Agreement shall be in accordance with all applicable laws, ordinances and the District's Board Policies, including but not limited to Board Policy GKD.

IV. Improvements or Alterations; Sale of Property. The City shall not make any improvements or alterations to the Subject Lot without prior written consent from the District. Any improvements made to the Subject Lot without prior consent may be removed by the District at the City's expense, or, at the District's option, will become the property of the District and the City will receive no reimbursement for the improvements.

- a. Unless otherwise agreed, any improvements made by the City to the Subject Lot shall become the property of the District. Capital improvements made to the Subject Lot which are funded by the City (excluding improvements funded by the FEDC Grant described above) ("City Improvements") must be submitted to the District for prior written approval, including the specific project scope, timing, and estimated costs. In the event the District sells the Subject Lot to any third party, other than the City, the District will reimburse the City for the actual cost of any City Improvements made pursuant to this Agreement. In the event the City terminates this Agreement pursuant to Section V, the District will not reimburse the City for the cost of any City Improvements. In the event the District terminates the Agreement for any reason, other than for the reason of the City's default, the District will reimburse the City for the cost of any City Improvements.

- b. If District elects, during the term of this Agreement (i) to sell or otherwise transfer all or any portion of the Subject Lot, whether separately or as part of a larger parcel of which the Subject Lot is a part, or (ii) to grant to a third party by easement or other legal instrument an interest in and to that portion of the Subject Lot used by City, or a larger portion thereof, with or without an assignment of this Agreement to such third party, the City shall have the right of first refusal to meet any bona fide offer of sale or transfer on the same terms and conditions of such offer or pay fair market value for the property as determined by an appraisal obtained by the District, whichever amount is greater. If the City fails to agree to pay the greater of the two amounts, or the fair market value in the absence of a third party offer, within thirty (30) days after written notice thereof from District, District may sell or grant the easement or interest in the Subject Lot or portion thereof to such third person in accordance with the terms and conditions of such third party offer.

V. Term, Renewal and Termination. This Agreement shall commence on the date of execution and shall continue for a term of ten (10) years from the date of commencement (the "Term"). The Parties may, by mutual written agreement, renew this Agreement for additional terms of ten (10) years each. Either party may unilaterally terminate this Agreement, at any time and for any reason, upon sixty (60) days' written notice to the other party. Either party may unilaterally terminate this Agreement due to the default of the other party upon thirty (30) days written notice to the other party. Sections IV.a, IV.b, VI.c of this Agreement shall survive any non-renewal or termination of this Agreement.

VI. Miscellaneous Provisions.

- a. This Agreement is not a lease, does not create a landlord-tenant or lessor-lessee relationship between the Parties, and does not constitute the granting of an easement. The City does not have the rights of a lessee or tenant, nor does this Agreement confer or convey any rights of ownership to the City. Academic and extracurricular activities sponsored by the District shall always have priority when any use is scheduled. The Superintendent or designee shall have authority to cancel City's use of the Subject Lot if an unexpected conflict arises with a District activity.
- b. Any notice required or permitted under this Agreement shall be in writing, and will be deemed to be delivered (whether actually received or not) when deposited into the U.S. Postal Service, postage prepaid, certified mail, return receipt requested, and addressed to the intended recipient at the address shown in this Agreement. The following contact information shall be used by the Parties for the purpose of providing notice under this Agreement. This information may be changed by either party through written notice delivered as provided herein.

FOR THE DISTRICT:
Attn: Superintendent of Schools
600 S Bois D'Arc
Forney, TX 75126

FOR THE CITY:
Attn: City Manager
101 Main Street E
Forney, TX 75126

- c. Nothing in this Agreement shall be construed as creating any right, cause of action, or claim of waiver or estoppel for or on behalf of any third party, nor shall it be construed as a waiver or modification of the availability of the defense of governmental immunity, or of any other legal defense as to any third party under the laws of this State.
- d. In the event that any one or more of the provisions contained in this Agreement is, for any reason, held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability will not affect the remaining provisions. It is the intention of the Parties to this Agreement that, in lieu of each provision that is found to be illegal, invalid or unenforceable, a provision will be considered for addition to this Agreement that is legal, valid and enforceable and that is as similar in terms as possible to the provisions found to be illegal, invalid or unenforceable.
- e. City shall provide proof of commercial general liability insurance as well as property damage insurance, at no cost to District, covering City's usage of the Subject Lot for the entire period of this Agreement, and certificates of insurance will be provided to District indicating effective dates, limits of coverages and other pertinent data upon request of District. District shall be notified of any change or termination in coverage. City hereby agrees to maintain commercial general liability insurance the limits of which shall be no less than one million dollars (\$1,000,000.00) per occurrence or claim and one million dollars (\$1,000,000.00) aggregate. City hereby agrees to maintain property damage insurance the limits of which shall be no less than one million dollars (\$1,000,000.00) per occurrence and one million dollars (\$1,000,000.00) aggregate.
- f. This Agreement embodies the complete agreement of the Parties hereto, superseding all oral or written, previous and contemporary agreements between the Parties and relating to the matters in this Agreement, and except as otherwise provided herein cannot be modified without written agreement of the Parties to be attached to and made a part of this Agreement.
- g. This Agreement may be executed in any number of counterparts, each of which will be regarded as an original and all of which will constitute one and the same instrument.
- h. Each party paying for the performance of governmental functions or services must make those payments from current revenues available to the paying party.

This Agreement is hereby approved and executed by the authorized representatives of the Parties:

For the City:

Mr. Wendle Medford, Interim City Manager

Date

For the District:

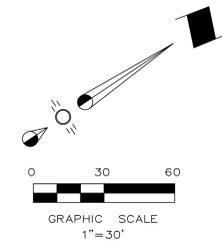
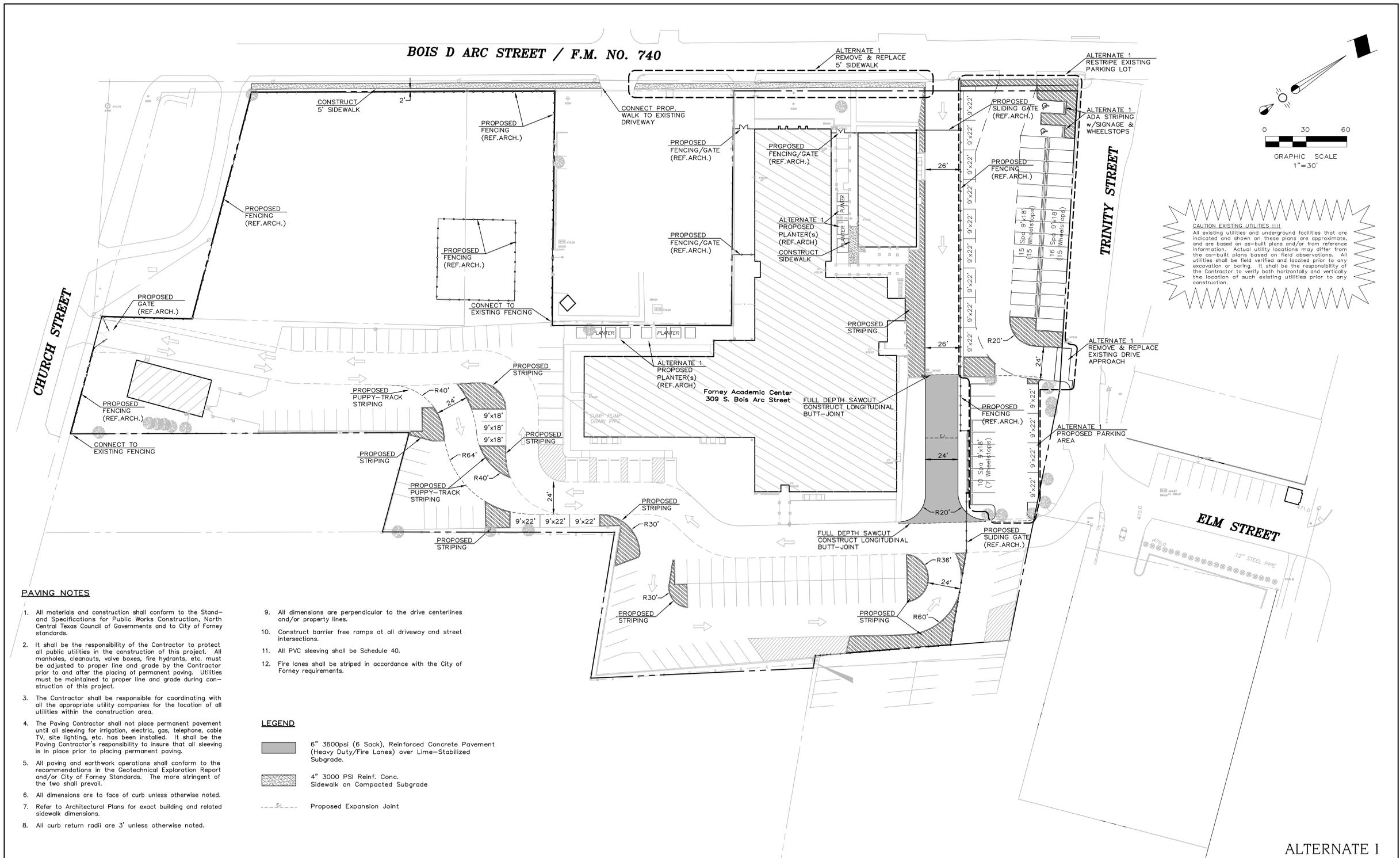
Ms. Suzie McWilliams, Superintendent

Date

EXHIBIT A

Description and Map of Subject Lot

[to be attached]



CAUTION EXISTING UTILITIES!!!
 All existing utilities and underground facilities that are indicated and shown on these plans are approximate, and are based on as-built plans and/or from reference information. Actual utility locations may differ from the as-built plans based on field observations. All utilities shall be field verified and located prior to any excavation or boring. It shall be the responsibility of the Contractor to verify both horizontally and vertically the location of such existing utilities prior to any construction.

PAVING NOTES

1. All materials and construction shall conform to the Standard Specifications for Public Works Construction, North Central Texas Council of Governments and to City of Forney standards.
2. It shall be the responsibility of the Contractor to protect all public utilities in the construction of this project. All manholes, cleanouts, valve boxes, fire hydrants, etc. must be adjusted to proper line and grade by the Contractor prior to and after the placing of permanent paving. Utilities must be maintained to proper line and grade during construction of this project.
3. The Contractor shall be responsible for coordinating with all the appropriate utility companies for the location of all utilities within the construction area.
4. The Paving Contractor shall not place permanent pavement until all sleeving for irrigation, electric, gas, telephone, cable TV, site lighting, etc. has been installed. It shall be the Paving Contractor's responsibility to insure that all sleeving is in place prior to placing permanent paving.
5. All paving and earthwork operations shall conform to the recommendations in the Geotechnical Exploration Report and/or City of Forney Standards. The more stringent of the two shall prevail.
6. All dimensions are to face of curb unless otherwise noted.
7. Refer to Architectural Plans for exact building and related sidewalk dimensions.
8. All curb return radii are 3' unless otherwise noted.

9. All dimensions are perpendicular to the drive centerlines and/or property lines.
10. Construct barrier free ramps at all driveway and street intersections.
11. All PVC sleeving shall be Schedule 40.
12. Fire lanes shall be striped in accordance with the City of Forney requirements.

LEGEND

- 6" 3600psi (6 Sack), Reinforced Concrete Pavement (Heavy Duty/Fire Lanes) over Lime-Stabilized Subgrade.
- 4" 3000 PSI Reinf. Conc. Sidewalk on Compacted Subgrade
- Proposed Expansion Joint

NOTE:
 Prior to beginning any construction or construction staking, it shall be the Contractor's responsibility to contact the civil engineer to insure that all parties are in possession of the most current set of construction documents.

REVISION	DATE	DESCRIPTION



RLK ENGINEERING, INC.
 111 West Main
 Allen, Texas 75013
 (972) 359-1733 Off
 (972) 359-1833 Fax
 Texas Registration No. 579



DESIGNED BY: RLK Engineering	TECH REVIEW: RLK	DRAWING FILE: 17125 PAV ALT1.dwg	DRAWING SCALE: 1"=30'	SHEET: C 2a
DRAWN BY: RLK Engineering	PELER REVIEW: RLK	DRAWING DATE: 4-19-18	PROJECT NUMBER: RLK 17125	

PAVING & STRIPING PLAN
 FORNEY ACADEMIC CENTER - FORNEY I.S.D.
 FORNEY, TEXAS

ALTERNATE 1

Project: FORNEY ACADEMIC CENTER FORNEY I.S.D. FORNEY, TEXAS
 Date: _____
 Revision / _____



PAVING & STRIPING PLAN
 ALTERNATE 1

Job No.
1765-03-02
 Drawn By:
RLK
 Date:
04.19.18

C 2a

Forney Independent School District

INVOICE

Inspiring students through innovative education.

600 S. Bois d'Arc
Forney, TX 75126
Phone (972) 564-4055 Fax (972) 552-3038

DATE: May 18, 2018
INVOICE # 1
FOR: FAC Site Work

Bill To:

City of Forney
101 E. Main Street
Forney, TX 75126

DESCRIPTION	AMOUNT
Public Parking Site Work:	\$ 118,570.00
North Texas Contracting (Concrete Work) 50,895.00	
The Anchor Group (Fencing) 67,675.00	
TOTAL	\$ 118,570.00

Make all checks payable to Forney Independent School District

If you have any questions concerning this invoice, contact John Chase at (972) 564-4055 or email at john.chase@edu.forneyisd.net

THANK YOU