

City of Lubbock, Texas
Regular City Council Meeting
Tuesday, July 13, 2021

Daniel M. Pope, Mayor
Steve Massengale, Mayor Pro Tem, District 4
Juan A. Chadis, Councilman, District 1
Shelia Patterson Harris, Councilwoman, District 2
Jeff Griffith, Councilman, District 3
Randy Christian, Councilman, District 5
Latrelle Joy, Councilwoman, District 6



W. Jarrett Atkinson, City Manager
Chad Weaver, City Attorney
Rebecca Garza, City Secretary

<http://www.mylubbock.us>

Internet/Video Link: <https://zoom.us/j/97566060796> or

**Teleconference Phone #s: U.S.: +1-346-248-7799; + 1-312-626-6799; +1-646-558-8656; +1-669-900-9128
+1-253-215-8782; +1-301-715-8592; Enter ID#: 975 6606 0796**

City Council Chambers, Citizens Tower, 1314 Avenue K, Lubbock, Texas

City of Lubbock City Council Meetings are available to all persons regardless of disability. If you require special assistance, please contact the City Secretary's Office at 775-2061 or write to Post Office Box 2000, Lubbock, Texas 79457 at least 48 hours in advance of the meeting.

Note: On occasion the City Council may consider agenda items out of order.

Pursuant to the Executive Orders of Governor Abbott, and other authority provided by the Texas Attorney General, the City Council will convene in-person and via video and/or teleconference. If the Executive Orders of Governor Abbott are amended and prohibit the use of video and/or teleconference access to the meeting, the meeting will be held in-person only.

12:30 p.m. - City Council convenes in City Council Chambers in Work Session regarding items for presentation and discussion on such issues that may require in-depth consideration by the City Council. No action will be taken by the City Council in Work Session.

1. Hear and discuss presentations regarding the following and provide guidance to staff as appropriate.
 1. 1. Presentation and Discussion Regarding Proposed Amendments to the Lubbock City Charter
 1. 2. Future Needs Committee Recommendations Follow-up and Potential Bond Election Timeline
 1. 3. American Rescue Plan - Interim Final Rule and Funding Eligibility

At the completion of the Work Session, City Council recesses into Executive Session.

2. **Executive Session**

2. 1. Hold an executive session in accordance with Texas Government Code, Section 551.071, with legal counsel for advice about pending or contemplated litigation or settlement agreement and on matters in which the duty of the attorney under the Texas Disciplinary Rules of Professional Conduct conflicts with Chapter 551.
2. 1. 1. *Planned Parenthood of Greater Texas Surgical Health Services, et al v. City of Lubbock, Texas*, Case No.5:21-cv-114 in the United States District Court for the Northern District of Texas, Lubbock Division
2. 1. 2. The City of Lubbock Charter and Potential Charter Amendment Election
2. 2. Hold an executive session in accordance with V.T.C.A. Government Code Section 551.071, seeking the advice of its legal counsel about pending or contemplated litigation or settlement offers and hold a consultation with the attorney on matters in which the duty of the attorney under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas conflicts with Chapter 551 of the Texas Government Code: (i) legal advice and counsel regarding matters identified in Section 2.6(a)-(f) of this Agenda; (ii) legal advice and counsel regarding the City of Lubbock's Note Purchase Program with Bank of America; and legal issues regarding bond-related matters.
2. 3. Hold an executive session in accordance with the Texas Government Code, Section 551.072, to deliberate the purchase, exchange, lease, or value of real property.
2. 3. 1. Texas Department of Transportation (TxDOT) Turnover Program
2. 4. Hold an executive session in accordance with Texas Government Code Section 551.074, to discuss personnel matters, regarding the duties, responsibilities, and/or appointments to the Building Board of Appeals, Canadian River Municipal Water Authority Board of Directors, Lubbock Reese Redevelopment Authority Board of Directors, Permit and License Appeal Board, and the Planning and Zoning Commission.
2. 5. Hold an executive session in accordance with the Texas Government Code, Section 551.074, to discuss personnel matters, the appointment, employment, evaluation or reassignment of the following:
 2. 5. 1. City Manager
2. 6. Hold an executive session in accordance with V.T.C.A. Government Code Section 551.086, to discuss and deliberate, on the following competitive matters of Lubbock Power & Light, reasonably related to the following categories:
 - a) generation unit specific and portfolio fixed and variable costs, including forecasts of those costs, capital improvement plans for generation units, and generation unit operating characteristics and outage scheduling;
 - b) bidding and pricing information for purchased power, generation and fuel, and Electric Reliability Council of Texas bids, prices, offers, and related services and strategies;

- c) effective fuel and purchased power agreements and fuel transportation arrangements and contracts;
- d) risk management information, contracts, and strategies, including fuel hedging and storage;
- e) plans, studies, proposals, and analyses for system improvements, additions, or sales (other than transmission and distribution system improvements inside the service area for which the public power utility is the sole certificated retail provider);
- Discuss and deliberate plans, studies, proposals, and analyses for system improvements, additions, or sales.
- f) customer billing, contract, and usage information, electric power pricing information, system load characteristics, and electric power marketing analyses and strategies.

Adjourn from Executive Session

4:30 p.m. - City Council reconvenes in Open Session in City Council Chambers.

3. Ceremonial Items

3. 1. Invocation

3. 2. Pledges of Allegiance

3. 3. Proclamations and Presentations

3. 3. 1. Presentation of a Special Recognition to the Lubbock Arts Alliance for organizing and hosting this year's Lubbock Arts Festival

3. 3. 2. Presentation of a Special Recognition in support of Golf Cart Safety Awareness Month

Call to Order

4. **Citizen Comments - According to Lubbock City Council Rules, any citizen wishing to appear in-person before a regular meeting of the City Council, regarding any matter posted on the City Council Agenda below, shall complete the sign-up form provided at the meeting, no later than 5:00 p.m. on July 13, 2021. If a citizen is attending the meeting by video or teleconference, they may submit a citizen comment by email at citizencomments@mylubbock.us, no later than 2:00 p.m. on July 13, 2021. Submitted comments must include name and address. Each comment will be read aloud for a period of time not to exceed three minutes pursuant to City Council Rules. Citizen Comments is an opportunity for citizens to make comments and express a position on agenda items. Any comment received that is in the nature of asking a question will be referred to an appropriate member of the City staff for a response.**

Public Hearings - Any person wishing to speak at a posted public hearing (Item 7.2), may do so via Zoom by using the "Raised Hand" feature. When utilizing Zoom through a telephone, press *9 to "raise your hand" and you will be placed in the queue.

5. **Minutes**

- 5. 1. May 18, 2021 Special City Council Meeting - Electric Utility Board
May 26, 2021 Special City Council Meeting - Lubbock Economic Development Alliance
May 27, 2021 Special City Council Meeting - Electric Utility Board
June 8, 2021 Regular City Council Meeting
June 21, 2021 Special City Council Meeting

6. **Consent Agenda - Items considered to be routine are enacted by one motion without separate discussion. If the City Council desires to discuss an item, the item is removed from the Consent Agenda and considered separately.**

- 6. 1. **Budget Ordinance Amendment 2nd Reading - Finance:** Consider Budget Ordinance No. 2021-00077, Amendment 35, amending the FY 2020-21 Budget for municipal purposes respecting the General Fund Capital to establish and appropriate funding for Capital Improvement Projects 92711 Fire Station 20, 92712 Transportation Improvements/Unpaved Roads, and 92713 Erskine Street.
- 6. 2. **Budget Ordinance Amendment 2nd Reading - Finance:** Consider Budget Ordinance 2021-00075, Amendment 36, amending the FY 2020-21 Budget for municipal purposes respecting the Lubbock Power and Light Fund for the addition of four full-time positions.
- 6. 3. **Budget Ordinance Amendment 1st Reading - Finance:** Consider Budget Ordinance Amendment 37, amending the FY 2020-21 Budget for municipal purposes respecting the Storm Water Operating Fund Revenue.
- 6. 4. **Ordinance 2nd Reading - Right-of-Way:** Consider Ordinance No. 2021-00076, abandoning and closing a portion of a Drainage Easement, located in Spanish Bit Court Addition, Section 7, Block JS, Lubbock County, Texas.
- 6. 5. **Ordinance 1st Reading - Right-of-Way:** Consider an ordinance abandoning and closing a Drainage Easement, located in Section 21, Block AK, Lubbock County, Texas, for a new plat for Fountain Hills.
- 6. 6. **Resolution - Right-of-Way:** Consider a resolution authorizing the Mayor to accept, on behalf of the City of Lubbock, four Easements out of Section 1, Block AK, Lubbock County, Texas, to be utilized for the Loop 88 Sewer Line Relocation Project.
- 6. 7. **Resolution - Right-of-Way:** Consider a resolution authorizing the Mayor to accept, on behalf of the City of Lubbock, four Street and Public Use Dedication Deeds and one Drainage Easement, out of Sections 30 and 31, Block AK, Lubbock County, Texas, to be utilized for the Upland Avenue roadway expansion project.

6. 8. **Resolution - Right-of-Way:** Consider a resolution approving the inclusion of medians and islands in the streets within the boundaries of The Ridge Development located along the west side of Quincy Avenue, extending from 98th Street to 105th Street, City of Lubbock, Lubbock County, Texas.
6. 9. **Resolution - Engineering:** Consider a resolution authorizing the Mayor to execute Contract 15819, with DN Tanks, for the construction of the North Water Treatment Plant 8-Million Gallon Ground Storage Tank.
6. 10. **Resolution - Engineering:** Consider a resolution authorizing the Mayor to execute Contract 15943, with Utility Contractors of America, Inc., for the construction of the Canyon Lakes Sanitary Sewer Interceptor Phase 3B Project.
6. 11. **Resolution - Engineering:** Consider a resolution authorizing the Mayor to execute Change Order No. 2 to Contract 14965, with MH Civil Constructors, Inc., for the construction of the North Water Treatment Plant Improvements Phase III and the South Water Treatment Plant Upgrading Improvements.
6. 12. **Resolution - Water Utilities:** Consider a resolution authorizing the Mayor to execute Professional Services Agreement Contract 5739, with Freese & Nichols, Inc., for wastewater treatment system evaluation, planning, modeling, permitting, and design at the Southeast Water Reclamation Plant No. 3.
6. 13. **Resolution - Solid Waste:** Consider a resolution authorizing the Mayor to execute Contract 15938, with Ace Golf Netting, LP, for the installation of litter fencing at the West Texas Regional Disposal Facility.
6. 14. **Resolution - Public Health Services:** Consider a resolution authorizing the Mayor to execute a Medical Director Agreement, between the City of Lubbock and Texas Tech University Health Sciences Center, to provide the professional services of a qualified physician to act as Medical Director for the City of Lubbock Health Department.
6. 15. **Resolution - Aviation:** Consider a resolution authorizing the Mayor to execute a Consent for Assignment of the Airport Agreement with Mobilitie Investments III, LLC (M3), Contract 13161, to Mobilitie Investments III-A, LLC, at Lubbock Preston Smith International Airport.
6. 16. **Resolution - Aviation:** Consider a resolution authorizing the Mayor to execute a Development Addendum to the CARES Act Airport Grant Agreement, between the City of Lubbock and the United States of America, acting through the Federal Aviation Administration, to fund eligible projects constituting airport development under the Grant Agreement.
6. 17. **Resolution - Public Transit Services:** Consider a resolution authorizing the Mayor to execute Purchase Order 27120456, for the purchase of seven Dodge Promaster paratransit vans from Creative Bus Sales, Inc., for Citibus.

6. 18. **Resolution - Public Transit Services:** Consider a resolution authorizing the Mayor to execute an Interlocal Agreement between the City of Lubbock, acting by and through Citibus, with Dallas Area Rapid Transit, for a GoPass Subscription and License Pilot.

7. **Regular Agenda**

7. 1. **Board Appointments - City Secretary:** Consider appointments to the Appointments Advisory Board, Building Board of Appeals, Canadian River Municipal Water Authority Board of Directors, Citizens Traffic Commission, Civic Lubbock, Inc. Board of Directors, Comprehensive Plan Oversight Committee, Lubbock Water Advisory Commission, Permit and License Appeal Board, and the Planning and Zoning Commission.
7. 2. **Public Hearing - Planning:** Consider a request for Zone Case 3298-C, a request of Hugo Reed and Associates, Inc. for Ford Development Corporation, for a zone change from Two-Family District (R-2) Specific Use to Restricted Local Retail District (C-2A) at 3726 and 3716 146th Street, located north of 146th Street and east of Memphis Avenue, on 4.3 acres of unplatted land out of Block AK, Section 4, and consider an ordinance.
7. 3. **Ordinance 2nd Reading - Planning:** Consider Ordinance No. 2021-O0078, for Zone Case 2011-I, a request of Asken Properties, LLC for Frenship Independent School District, for a zone change from Light Manufacturing District (M-1) to High-Density Apartment District (A-2) at 6401 43rd Street, located east of Milwaukee Avenue and north of 43rd Street, Santa Fe Park Addition, Lot 14.
7. 4. **Ordinance 2nd Reading - Planning:** Consider Ordinance No. 2021-O0075, for Zone Case 3435, a request of Studio 44 for Heartbeat Midwifery, for a zone change from General Retail District (C-3) and C-3 Specific Use to Apartment-Medical District (AM) at 4413 4th Street and 415 Raleigh Avenue, located south of 4th Street and east of Raleigh Avenue, Rushland Park Addition, Tract M-1-A-2 and the south part of Tract B-1-A.
7. 5. **Resolution - Planning:** Consider a resolution authorizing the Mayor to execute an Annexation Agreement with Starlight Development, LLC, for an area of land generally described as approximately 552.51 acres adjacent to the southern city limits of the City of Lubbock, south of 146th Street and west of Frankford Avenue.
7. 6. **Ordinance 1st Reading - City Manager:** Consider an ordinance amending Chapter 2, Section 2.03.491 of the Code of Ordinances, regarding the establishment and membership of the City of Lubbock Building Board of Appeals.
7. 7. **Ordinance 1st Reading - City Council:** Consider an ordinance repealing Chapter 2, Section 2.02.001(c) of the Code of Ordinances regarding certain duties of the City Secretary.



Regular City Council Meeting

2. 4.

Meeting Date: 07/13/2021

Information

Agenda Item

Hold an executive session in accordance with Texas Government Code Section 551.074, to discuss personnel matters, regarding the duties, responsibilities, and/or appointments to the Building Board of Appeals, Canadian River Municipal Water Authority Board of Directors, Lubbock Reese Redevelopment Authority Board of Directors, Permit and License Appeal Board, and the Planning and Zoning Commission.

Item Summary

Fiscal Impact

Staff/Board Recommending

Attachments

No file(s) attached.



Regular City Council Meeting

5. 1.

Meeting Date: 07/13/2021

Information

Agenda Item

May 18, 2021 Special City Council Meeting - Electric Utility Board
May 26, 2021 Special City Council Meeting - Lubbock Economic Development Alliance
May 27, 2021 Special City Council Meeting - Electric Utility Board
June 8, 2021 Regular City Council Meeting
June 21, 2021 Special City Council Meeting

Item Summary

May 18, 2021 Special City Council Meeting - Electric Utility Board
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June 21, 2021 Special City Council Meeting

Fiscal Impact

None

Staff/Board Recommending

Rebecca Garza, City Secretary

Attachments

5.18.2021 S EUB
5.26.2021 S LEDA
5.27.2021 S EUB
6.8.2021
6.21.2021S

CITY OF LUBBOCK
SPECIAL CITY COUNCIL MEETING
May 18, 2021
11:00 A.M.

The City Council of the City of Lubbock, Texas met in special session on the 18th of May, 2021, in City Council Chambers, Citizens Tower, 1314 Avenue K, Lubbock, Texas, and via video conference and teleconference at 11:00 a.m.

11:05 A.M. CITY COUNCIL CONVENED

City Council Chambers, Citizens Tower, 1314 Avenue K, Lubbock, Texas and via video conference and teleconference

Present: Mayor Pro Tem Steve Massengale; Council Member Juan A. Chadis; Council Member Randy Christian; Council Member Jeff Griffith; Council Member Latrelle Joy; Council Member Shelia Patterson Harris; City Manager W. Jarrett Atkinson; City Secretary Rebecca Garza; City Attorney Chad Weaver

Council Members Juan A. Chadis and Randy Christian attended via video conference.

Absent: Mayor Daniel M. Pope

This was a meeting of the Electric Utility Board. A quorum of Council Members attended and participated in discussions during the meeting in which the board considered the following topics as shown below.

Note: The Electric Utility Board addressed agenda items in the following order:

- *Public Comment 1.1-1.2; and Executive Session.*
- *No quorum, of the City Council, was present for all other items.*

1. PUBLIC COMMENT

- 1. 1.** This period, of up to thirty minutes, is dedicated to public comment. Each member of the public will have three minutes to speak. Any member of the public that requires the assistance of a translator will have six minutes to speak. Comments must be limited to only those items posted on the Electric Utility Board agenda. Any member of the public wishing to speak shall sign up on the public comment sheet on the day of the Electric Utility Board Meeting. The Electric Utility Board shall follow the order of persons wishing to speak as listed on the sign-up sheet. If everyone who signed up to speak has been given an opportunity to speak and the thirty minutes designated for public comment has not been exhausted, the Electric Utility Board may, at its discretion, open the floor to anyone else wishing to address the Electric Utility Board, subject to all the same procedures and guidelines.

No one appeared to speak.

1. 2. Alternatively, any member of the public wishing to address the Electric Utility Board, regarding any matter posted on the Electric Utility Board Agenda, may submit a public comment by email at lplcitizencomments@mylubbock.us beginning at the time this agenda is publicly posted and no later than 9:00 a.m. on May 18, 2021. Each comment will be read aloud for a period of time not to exceed three minutes, in accordance with the practices and procedures of the Electric Utility Board.

There were no public comments submitted via email.

2. EXECUTIVE SESSION

This meeting was called into a closed session at 11:06 a.m. under the provisions of Section 551, Texas Government Code. City Council reconvened in open session at 1:00 p.m. and adjourned.

2. 1. Hold an executive session in accordance with V.T.C.A. Government Code § 551.086, to discuss and deliberate, on the following competitive matters of Lubbock Power & Light, reasonably related to the following categories:
 2. 1. 1. Generation unit specific and portfolio fixed and variable costs, including forecasts of those costs, capital improvement plans for generation units, and generation unit operating characteristics and outage scheduling.
 2. 1. 1. 1. Discuss and deliberate generation unit matters.
 2. 1. 2. Bidding and pricing information for purchased power, generation and fuel, and Electric Reliability Council of Texas bids, prices, offers, and related services and strategies.
 2. 1. 2. 1. Discuss and deliberate issues regarding Electric Reliability Council of Texas prices and related services and strategies.
 2. 1. 3. Effective fuel and purchased power agreements and fuel transportation arrangements and contracts.
 2. 1. 3. 1. Discuss and deliberate purchased power matters.
 2. 1. 4. Risk management information, contracts, and strategies, including fuel hedging and storage.
 2. 1. 4. 1. Discuss and deliberate risk management strategies.
 2. 1. 5. Plans, studies, proposals, and analyses for system improvements, additions, or sales (other than transmission and distribution system improvements inside the service area for which the public power utility is the sole certificated retail provider).
 2. 1. 5. 1. Discuss and deliberate plans, studies, proposals, and analyses for system improvements, additions, or sales.
 2. 1. 6. Customer billing, contract, and usage information, electric power pricing information, system load characteristics, and electric power marketing analyses and strategies.

2. 2. Hold an executive session in accordance with V.T.C.A. Government Code § 551.071, seeking the advice of its legal counsel about pending or contemplated litigation or settlement offers and hold a consultation with the attorney on matters in which the duty of the attorney to the Electric Utility Board under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas conflicts with Chapter 551 of the Texas Government Code: (i) legal advice and counsel regarding the Application of the City of Lubbock, acting by and through Lubbock Power & Light for authority to establish initial wholesale transmission rates and tariffs before the Public Utility Commission of Texas and the State Office of Administrative Hearings, PUC Docket No. 51100, SOAH Docket 473-21-0043, and associated Tariff Filing No. 52011, proceeding before the Public Utility Commission of Texas; (ii) legal issues regarding contract(s) herein listed on the agenda; (iii) power purchase agreements; (iv) legal issues regarding customer choice and Texas Utilities Code, Chapter 40; (v) Federal Energy Regulatory Commission, Docket Nos. ER16-1341, EL17-2, and EL18-9, related to SPP attachment Z2; (vi) legal advice and counsel regarding matters identified in Section 2.1-2.1.6 of this Agenda; (vii) legal advice and counsel regarding potential statutory changes regarding ERCOT and/or electric utility regulation; (viii) Chapter 22 of the City of Lubbock Code of Ordinances.
2. 3. Hold an executive session in accordance with V.T.C.A. Government Code § 551.074 to deliberate the appointment, employment, evaluation, reassignment, and duties of a public officer or employee (Director of Electric Utilities and General Counsel).

3. REGULAR SESSION

3. 1. The Board will approve the minutes from the Regular Electric Utility Board Meeting of April 20, 2021 and the minutes from the Special Meeting of the Electric Utility Board of May 4, 2021.

***This item was deleted.**

3. 2. Presentation and discussion of the update/report by the Director of Electric Utilities, or his designee, regarding customer service, business center practices, procedures and policies, customer concerns and complaints, billing forms and procedures, status of transmission and distribution projects, mutual aid, weather events, outage, and restoration efforts, staffing levels, regulatory matters, and operational performance metrics.

***This item was deleted.**

3. 3. Presentation and discussion of financial and capital statements, financing options, audits, and financial policies of Lubbock Power & Light relating to debt issuance issues, reserve account funding, cost allocation, revenue and expense projections, power cost recovery factor, customer metering, tariff and billing, service and administrative issues.

***This item was deleted.**

3. 4. Presentation and discussion by the Director of Electric Utilities or his designee, regarding the status of Lubbock Power & Light's transition to the Electric Reliability Council of Texas ("ERCOT"), and public education regarding same.

***This item was deleted.**

3. 5. Presentation and discussion by the Director of Electric Utilities, or his designee, regarding updates on the legislative and regulatory matters regarding ERCOT and/or the electric utility industry, and the status of any legislation, legislative hearings, rulemakings, and/or regulatory or administrative action regarding same.

***This item was deleted.**

3. 6. The Board will consider a resolution recommending City Council amend Section 22.02.103 of Title I, Chapter 22, Article 2.02, Division 3 of the Lubbock Code of Ordinances to permit Lubbock Power & Light to update the fee structure for recovery of the cost of providing underground electric distribution service as part of the annual review and approval of the LP&L Electric Rate/Tariff Schedule.

***This item was deleted.**

4. **CONSENT AGENDA**

4. 1. The Board will consider a resolution authorizing the Director of Electric Utilities, or his designee, to execute a Public Works Contract by and between the City of Lubbock, acting by and through Lubbock Power & Light and Primoris T&D Services, LLC, RFP# 7126-21-ELD, regarding LP&L Construction Services for Feeder Redesign at Chalker Substation.

***This item was deleted.**

4. 2. The Board will consider a resolution authorizing the Purchasing Manager, or his designee, to execute Purchase Orders by and between the City of Lubbock, acting by and through Lubbock Power & Light, and Iljin Electric USA, Inc., RFP# 7119-21-ELD, for LP&L Substation Power Transformers for fiscal year 2021-22.

***This item was deleted.**

1:00 P.M. CITY COUNCIL ADJOURNED

There being no further business to come before Council, the meeting was adjourned.

The May 18, 2021 Special City Council Meeting minutes were approved by the City Council on the 13th day of July, 2021.

DANIEL M. POPE, MAYOR

ATTEST:

Rebecca Garza, City Secretary

***This item was discussed, by the Board, without a quorum of Council Members present.**

**CITY OF LUBBOCK
SPECIAL CITY COUNCIL MEETING
May 26, 2021
8:30 A.M.**

The City Council of the City of Lubbock, Texas met in special session on the 26th of May, 2021, at McDougal Companies Plaza, 1500 Broadway, 5th Floor, Suite 501, Lubbock, Texas at 8:30 a.m.

8:43 A.M. CITY COUNCIL CONVENED

McDougal Companies Plaza, 1500 Broadway, 5th Floor, Suite 501, Lubbock, Texas

Present: Mayor Daniel M. Pope; Mayor Pro Tem Steve Massengale; Council Member Latrelle Joy; Council Member Shelia Patterson Harris; City Manager W. Jarrett Atkinson; Deputy City Secretary Courtney Paz; Assistant City Attorney Kelli Leisure

Absent: Council Member Juan A. Chadis; Council Member Randy Christian; Council Member Jeff Griffith

This was a meeting of the Lubbock Economic Development Alliance (LEDA) Board of Directors. A quorum of Council Members attended and participated in discussions during the meeting in which the board considered the following topics as shown below:

Note: The Lubbock Economic Development Alliance, Inc. (LEDA) Board of Directors addressed agenda items in the following order:

- *1.1 and Executive Session*
- *No quorum, of the City Council, was present for all other items.*

1. MINUTES

- 1. 1.** The Board will approve the Minutes of the LEDA Board of Directors Meeting of April 21, 2021.

Motion by Matt Bumstead, seconded by Chris Carpenter, to approve the minutes of the LEDA Board of Directors Meeting of April 21, 2021.

Vote: 7-0 Motion carried by the Board.

Other: Steven Cate (ABSENT)
Sonny Garza (ABSENT)

2. EXECUTIVE SESSION

This meeting was called into a closed session at 8:44 a.m. under the provisions of Section 551, Texas Government Code. The meeting was called back into a public session at 9:45 a.m.

2. 1. Hold an executive session in accordance with Texas Government Code Section 551.087 to (1) discuss or deliberate in regard to commercial or financial information that LEDA has received from business prospects seeking to locate, stay or expand, in the Lubbock area, or, (2) to deliberate the offer of a financial or other incentive to business prospects described in (1) above. This will include the project and goals update, and monthly activity reports of Kenny McKay, Director of Business Retention, Carolyn Rowley of Director of Business Recruitment & Innovation, and reports related to financial, budget, audit reports, and matters related to the Lubbock Business Park, Lubbock Rail Port, and neighboring property and workforce/training projects. Others may also participate in this report including but not limited to, John Osborne, Jana Johnston, Christine Allen, Katherine White, Katy Christy, Jorge Quirino, Rusty Smith, Andrew Sorells, Mayor Dan Pope, Mr. Jarrett Atkinson, City Manager, members of City Council and Ms. Brianna Gerardi, Director of Business Development with the City of Lubbock.
2. 2. Hold an executive session in accordance with Texas Government Code Section 551.072 to deliberate the purchase, exchange, lease or value of real property.
2. 3. Hold an executive session in accordance with Texas Government Code Section 551.071 to discuss legal matters.
2. 4. Hold an executive session in accordance with Texas Government Code Section 551.074 to deliberate the appointment, employment, goals, compensation, evaluation, reassignment of duties, discipline or dismissal of employee(s) or to hear a complaint or charge against an employee(s).

3. **REGULAR SESSION**

3. 1. The Board will consider a resolution to approve the April 2021 LEDA Financial Report.

***This item was deleted.**

3. 2. Presentation of project update and monthly activity reports for Workforce Development.

***This item was deleted.**

3. 3. Presentation of project update and monthly reports of Marketing & Communication activities.

***This item was deleted.**

3. 4. The Board will consider action, if needed, including the adoption of resolutions, to offer financial and other incentives to business prospects or other matters considered in Executive Session and ratification of performance agreements that have been approved by the Board.

***This item was deleted.**

3. 5. Discussion and the Board will consider action, if needed, on matters relating to the Lubbock Business Park, Lubbock Rail Port and active projects, including but not limited to plans for current and possible future uses of the land, zoning, platting, mapping, marketing, services and utilities to and from the properties, and any other matters related to the possible uses of the land. This discussion and possible action on matters involving the properties may include but be limited to the following items:

***This item was deleted.**

3. 5. 1. Discuss and the Board will consider action, if needed, on property to be used for future economic development opportunities.

***This item was deleted.**

3. 5. 2. Discuss the current status of the plans for developing the parks.

***This item was deleted.**

3. 5. 3. Discuss the current status of efforts to use the properties by businesses.

***This item was deleted.**

3. 5. 4. Update on the progress of the properties and any matters related to contractors and/or contracts.

***This item was deleted.**

3. 5. 5. Discussion and the Board will consider action if needed, on possible financing options for improvements to the properties.

***This item was deleted.**

3. 5. 6. Discussion and the Board will consider action, if needed, on proposed future development of the properties with construction and engineering projects and related contracts, regarding projects and the development at LEDA properties.

***This item was deleted.**

3. 6. Architectural Review Committee Report

***This item was deleted.**

3. 7. CEO Report

***This item was deleted.**

3. 7. 1. Review LEDA Dashboard

***This item was deleted.**

3. 7. 2. Employment Data Update

***This item was deleted.**

3. 8. Chairman's Report

***This item was deleted.**

9:45 A.M. CITY COUNCIL ADJOURNED

There being no further business to come before Council, the meeting was adjourned.

The May 26, 2021 Special City Council Meeting minutes were approved by the City Council on the 13th day of July, 2021.

DANIEL M. POPE, MAYOR

ATTEST:

Rebecca Garza, City Secretary

***This item was discussed, by the Board, without a quorum of Council Members present.**

CITY OF LUBBOCK
SPECIAL CITY COUNCIL MEETING
May 27, 2021
12:00 P.M.

The City Council of the City of Lubbock, Texas met in special session on the 27th of May, 2021, in City Council Chambers, Citizens Tower, 1314 Avenue K, Lubbock, Texas, and via video conference and teleconference at 12:00 p.m.

12:01 P.M. CITY COUNCIL CONVENED

City Council Chambers, Citizens Tower, 1314 Avenue K, Lubbock, Texas, and via video conference and teleconference

Present: Mayor Daniel M. Pope; Mayor Pro Tem Steve Massengale; Council Member Randy Christian; Council Member Latrelle Joy; City Manager W. Jarrett Atkinson; City Secretary Rebecca Garza; City Attorney Chad Weaver

Council Member Randy Christian attended via video conference.

Absent: Council Member Juan A. Chadis; Council Member Jeff Griffith; Council Member Shelia Patterson Harris

This was a meeting of the Electric Utility Board. A quorum of Council Members attended and participated in discussions during the meeting in which the board considered the following topics as shown below.

Note: The Electric Utility Board addressed agenda items in the following order:

- *Public Comment 1.1-1.2; Executive Session; 3.1-3.3.*

1. PUBLIC COMMENT

- 1. 1.** This period, of up to thirty minutes, is dedicated to public comment. Each member of the public will have three minutes to speak. Any member of the public that requires the assistance of a translator will have six minutes to speak. Comments must be limited to only those items posted on the Electric Utility Board agenda. Any member of the public wishing to speak shall sign up on the public comment sheet on the day of the Electric Utility Board Meeting. The Electric Utility Board shall follow the order of persons wishing to speak as listed on the sign-up sheet. If everyone who signed up to speak has been given an opportunity to speak and the thirty minutes designated for public comment has not been exhausted, the Electric Utility Board may, at its discretion, open the floor to anyone else wishing to address the Electric Utility Board, subject to all the same procedures and guidelines.

No one appeared to speak.

1. 2. Alternatively, any member of the public wishing to address the Electric Utility Board, regarding any matter posted on the Electric Utility Board Agenda, may submit a public comment by email at lplicitizencomments@mylubbock.us beginning at the time this agenda is publicly posted and no later than 10:00 a.m. on May 27, 2021. Each comment will be read aloud for a period of time not to exceed three minutes, in accordance with the practices and procedures of the Electric Utility Board.

There were no public comments submitted via email.

2. EXECUTIVE SESSION

This meeting was called into a closed session at 12:03 p.m. under the provisions of Section 551, Texas Government Code. The meeting was called back into a public session at 12:42 p.m.

2. 1. Hold an executive session in accordance with V.T.C.A. Government Code § 551.086, to discuss and deliberate, on the following competitive matters of Lubbock Power & Light, reasonably related to the following categories:
 2. 1. 1. Generation unit specific and portfolio fixed and variable costs, including forecasts of those costs, capital improvement plans for generation units, and generation unit operating characteristics and outage scheduling.
 2. 1. 2. Bidding and pricing information for purchased power, generation and fuel, and Electric Reliability Council of Texas bids, prices, offers, and related services and strategies.
 2. 1. 3. Effective fuel and purchased power agreements and fuel transportation arrangements and contracts.
 2. 1. 3. 1. Discuss and deliberate purchased power matters.
 2. 1. 4. Risk management information, contracts, and strategies, including fuel hedging and storage.
 2. 1. 5. Plans, studies, proposals, and analyses for system improvements, additions, or sales (other than transmission and distribution system improvements inside the service area for which the public power utility is the sole certificated retail provider).
 2. 1. 6. Customer billing, contract, and usage information, electric power pricing information, system load characteristics, and electric power marketing analyses and strategies.
2. 2. Hold an executive session in accordance with V.T.C.A. Government Code § 551.071, seeking the advice of its legal counsel about pending or contemplated litigation or settlement offers and hold a consultation with the attorney on matters in which the duty of the attorney to the Electric Utility Board under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas conflicts with Chapter 551 of the Texas Government Code: (i) legal issues regarding contract(s) herein listed on the agenda; (ii) power purchase agreements; (iii) legal issues regarding customer choice and Texas Utilities Code, Chapter 40; (iv) Federal Energy Regulatory Commission, Docket Nos. ER16-1341, EL17-2, and EL18-9, related to SPP attachment Z2; and (v) legal advice and counsel regarding matters identified in Section 2.1-2.1.6 of this Agenda.

12:30 p.m. – Approximately - Following completion of the Executive Session, the Electric Utility Board will reconvene in open session to discuss the items listed below. It is anticipated that the open session will begin at **12:30 p.m.** However, this is an approximation and the Board may begin the open session earlier or later depending on when the Executive Session is complete.

3. REGULAR SESSION

- 3. 1.** Resolution No. EUB 2021-R0038 authorizing and directing the Director of Electric Utilities to execute and file, for and on behalf of the City of Lubbock, acting by and through Lubbock Power & Light (“LP&L”), all pleadings, reports, studies or other filings at the Electric Reliability Council of Texas (“ERCOT”) and/or the Public Utility Commission of Texas (“PUC”) toward migration of the remaining portion of LP&L’s load to ERCOT, and to present testimony and otherwise provide support before ERCOT and/or the PUC related to same.

David McCalla, director of electric utilities, gave a presentation and answered questions from the Electric Utility Board.

Motion by Greg Taylor, seconded by Edwin Schulz, to approve Resolution No. EUB 2021-R0038.

Vote: 9-0 motion carried by the Board.

- 3. 2.** Resolution No. EUB 2021-R0039 authorizing the Chairman of the Electric Utility Board to execute that certain Settlement Agreement by and between the City of Lubbock, acting by and through Lubbock Power & Light, and Southwestern Public Service Company, a New Mexico Corporation, regarding that certain Master Power Purchase and Sale Agreement (“Master Agreement”) dated as of November 12, 2009, and that certain Transaction Agreement of the same date entered into under the Master Agreement (the “Transaction Agreement”, and together with the Master Agreement and any other transactions entered into under the Master Agreement, the “PPA”), providing for an early termination of the PPA.

Andy Burcham, chief financial officer for Lubbock Power & Light, gave a presentation and answered questions from the Electric Utility Board.

Motion by Greg Taylor, seconded by Gwen Stafford, to approve Resolution No. EUB 2021-R0039.

Vote: 9-0 motion carried by the Board.

- 3. 3.** Resolution No. EUB 2021-R0040 authorizing the Director of Electric Utilities, or his designee, to execute that certain Supplement to Engagement Letter regarding the transfer of the unaffected load to the Electric Reliability Council of Texas by and between the City of Lubbock, acting by and through Lubbock Power & Light, and Lloyd Gosselink Rochelle & Townsend, P.C.

Jenny Smith, general counsel for Lubbock Power & Light, gave a presentation and answered questions from the Electric Utility Board.

Motion by Edwin Schulz, seconded by Gwen Stafford, to approve Resolution No. EUB 2021-R0040.

Vote: 9-0 motion carried by the Board.

1:03 P.M. CITY COUNCIL ADJOURNED

There being no further business to come before Council, Mayor Pope adjourned the meeting.

The May 27, 2021 Special City Council Meeting minutes were approved by the City Council on the 13th day of July, 2021.

DANIEL M. POPE, MAYOR

ATTEST:

Rebecca Garza, City Secretary

CITY OF LUBBOCK
REGULAR CITY COUNCIL MEETING
June 8, 2021
1:00 P. M.

The City Council of the City of Lubbock, Texas met in regular session on the 8th of June, 2021, in City Council Chambers, Citizens Tower, 1314 Avenue K, Lubbock, Texas, and via video conference and teleconference at 1:00 p.m.

1:03 P.M. CITY COUNCIL CONVENED

City Council Chambers, Citizens Tower, 1314 Avenue K, Lubbock, Texas, and via video conference and teleconference

Present: Mayor Daniel M. Pope; Mayor Pro Tem Steve Massengale; Council Member Juan A. Chadis; Council Member Randy Christian; Council Member Jeff Griffith; Council Member Latrelle Joy; Council Member Shelia Patterson Harris; City Manager W. Jarrett Atkinson; City Secretary Rebecca Garza; City Attorney Chad Weaver

Note: City Council addressed agenda items in the following order:

- *Citizen Comments 1; 2.1-2.3; Executive Session; 4.1-4.2; 6.1; Citizen Comments 5; 7.1-7.5; 7.7-7.8; 7.11-7.13; 7.15-7.21; 7.6; 7.9; 7.14; 8.1-8.8.*
- *Item No. 7.10 was deleted.*
- *Item No. 8.8 failed.*

1. **Citizen Comments - According to Lubbock City Council Rules, any citizen wishing to appear in person before the meeting of the City Council, regarding Item 2.2 on the Work Session Agenda, shall complete the sign-up form provided at the meeting, no later than 1:00 p.m. If a citizen is attending the meeting by video or teleconference, they may submit a citizen comment by email at citizencomments@mylubbock.us, no later than 11:00 a.m., on June 8, 2021. Submitted comments must include name and address. Each comment will be read aloud for a period of time not to exceed three minutes pursuant to City Council Rules. Citizen Comments is an opportunity for citizens to make comments and express a position on agenda items. Any comment received that is in the nature of asking a question will be referred to an appropriate member of the City staff for a response.**

There were no comments received via email.

Sign ups:

- Victoria Victor - Idara Okpon appeared before City Council to speak, but the topic was not listed on the agenda.

2. Hear and discuss presentations regarding the following and provide guidance to staff as appropriate.

2. 1. Charter Review Committee Presentation and Recommendations

Jarrett Atkinson, city manager; Rebecca Garza, city secretary; and Chad Weaver, city attorney, gave comments and answered questions from City Council.

James Arnold, chair of the Charter Review Committee, gave a presentation on proposed amendments to the City of Lubbock Charter, as recommended by the Charter Review Committee, and answered questions from City Council. The Committee proposed amendments to the following sections of the Charter: Article IX, Council; Elections; Administration, Section 31: Non-substantive changes to the Charter; Article IX, Council; Elections; Administration, Section 14: Compensation and Attendance; Article IV, Initiative; Referendum; Recall; Article VIII, Bonds; Article II, General Powers, Section 15: Street Powers; Article II-A, Street Improvements, Section 1; Article II, General Powers, Section 19; Public Works Improvement; Article VI, Occupation Taxes; Licenses; Article II, General Powers, Section 23: Peace and good order; police power; nuisances, control over; Article IX, Council; Elections; Administration, Section 23: Salaries, officers, and employees; Article IX, Council; Elections; Administration, Section 26: Audit and Examination; and Article IX, Council; Elections; Administration, Section 27: Contracts; bids for; limitations.

There was consensus among City Council to further discuss the proposed amendments, and take action, at a later meeting.

2. 2. 2021 IRONMAN 70.3 Lubbock Triathlon

Joe Moudy, director of emergency management, gave a presentation on the 2021 IRONMAN 70.3 Lubbock Triathlon and answered questions from City Council. Topics discussed included: an overview of the event; changes from the 2019 event; the addition of qualifying opportunities for the IRONMAN World Championships; the City of Lubbock planning team; and assistance from partner agencies. Additionally, Mr. Moudy introduced Todd Fitzgerald, race director with IRONMAN; and Mike and Marti Greer, official liaisons with the City for IRONMAN, who were in attendance.

2. 3. Parks and Recreation Operations Update

Jarrett Atkinson, city manager, gave comments and answered questions from City Council. Colby VanGundy, director of parks and recreation, gave a presentation and update on parks and recreation operations and answered questions from City Council. Topics discussed included: an overview of the department and park operations; the development of park zones and recent changes to the organizational structure of the department; focuses of parks and recreation staff; the park playground inspection report; and challenges facing the department.

At the completion of the Work Session, City Council recessed into Executive Session.

3. Executive Session

The meeting recessed at 2:39 p.m. and reconvened in Executive Session under the provisions of Section 551, Texas Government Code. City Council recessed from Executive Session at 3:35 p.m. The meeting was called back into open session at 4:47 p.m., and was called to order at 4:52 p.m.

- 3. 1.** Hold an executive session in accordance with Texas Government Code, Section 551.071, with legal counsel for advice about pending or contemplated litigation or settlement agreement and on matters in which the duty of the attorney under the Texas Disciplinary Rules of Professional Conduct conflicts with Chapter 551.

- 3. 1. 1.** *Planned Parenthood of Greater Texas Surgical Health Services, et al v. City of Lubbock, Texas*, Case No.5:21-cv-114 in the United States District Court for the Northern District of Texas, Lubbock Division

- 3. 2.** Hold an executive session in accordance with the Texas Government Code, Section 551.074, to discuss personnel matters, the appointment, employment, evaluation or reassignment of the following:

- 3. 2. 1.** City Attorney

- 3. 2. 2.** City Manager

- 3. 2. 3.** City Secretary

- 3. 3.** Hold an executive session in accordance with Texas Government Code 551.074, to discuss personnel matters, regarding the duties, responsibilities, and/or appointments to the Building Board of Appeals, Canadian River Municipal Water Authority, Lubbock Reese Redevelopment Authority Board of Directors, Permit and License Appeal Board, and the Planning and Zoning Commission.

- 3. 4.** Hold an executive session in accordance with Texas Government Code, Section 551.087, to discuss or deliberate regarding commercial or financial information that the governmental body has received from a business prospect that the governmental body seeks to locate, stay, or expand in or near the territory of the governmental body and with which the governmental body is conducting economic development negotiations; and to deliberate the offer of a financial or other incentive to a business prospect described herein above.

- 3. 4. 1.** Project Basil

4:30 p.m. - City Council reconvenes in Open Session in City Council Chambers.

City Council reconvened at 4:47 p.m.

4. Ceremonial Items

4. 1. Invocation

Pastor Todd Sons, St. Matthew United Methodist Church, led the invocation.

4. 2. Pledges of Allegiance

Pledges of Allegiance, to the United States and Texas Flags, were led by Mayor Pro Tem Steve Massengale.

Call to Order

The meeting was called to order at 4:52 p.m.

- 5. Citizen Comments - According to Lubbock City Council Rules, any citizen wishing to appear in-person before a regular meeting of the City Council, regarding any matter posted on the City Council Agenda below, shall complete the sign-up form provided at the meeting, no later than 5:00 p.m. on June 8, 2021. If a citizen is attending the meeting by video or teleconference, they may submit a citizen comment by email at citizencomments@mylubbock.us, no later than 2:00 p.m. on June 8, 2021. Submitted comments must include name and address. Each comment will be read aloud for a period of time not to exceed three minutes pursuant to City Council Rules. Citizen Comments is an opportunity for citizens to make comments and express a position on agenda items. Any comment received that is in the nature of asking a question will be referred to an appropriate member of the City staff for a response.**

No one appeared to speak in person; and no comments were submitted via email.

6. Minutes

- 6. 1. April 20, 2021 Special City Council Meeting - Electric Utility Board
May 11, 2021 Regular City Council Meeting**

Motion by Mayor Pro Tem Steve Massengale, seconded by Council Member Latrelle Joy to approve the April 20, 2021 Special City Council Meeting - Electric Utility Board minutes; and the May 11, 2021 Regular City Council Meeting minutes.

Vote: 7 - 0 Motion carried

- 7. Consent Agenda - Items considered to be routine are enacted by one motion without separate discussion. If the City Council desires to discuss an item, the item is removed from the Consent Agenda and considered separately.**

Motion by Council Member Latrelle Joy, seconded by Council Member Jeff Griffith to approve Items 7.1-7.5; 7.7-7.8; 7.11-7.13; and 7.15-7.21.

Vote: 7 - 0 Motion carried

7. 1. **Budget Ordinance Amendment 2nd Reading - Finance:** Ordinance No. 2021-O0057, Amendment 25, amending the FY 2020-21 Budget for municipal purposes respecting the General Fund to amend full-time equivalent (FTE) positions in Animal Services, providing for filing; and providing for a savings clause.
7. 2. **Budget Ordinance Amendment 2nd Reading - Finance:** Ordinance No. 2021-O0058, Amendment 26, amending the FY 2020-21 Budget for municipal purposes respecting the Grant Fund to accept and appropriate funding from the U.S. Department of Treasury.
7. 3. **Budget Ordinance Amendment 2nd Reading - Finance:** Ordinance No. 2021-O0059, Amendment 27, amending the FY 2020-21 Budget for municipal purposes respecting the Operating Budget for Lubbock Economic Development Alliance and Market Lubbock, Inc. - Visitors Bureau.
7. 4. **Budget Ordinance Amendment 1st Reading - Finance:** Ordinance No. 2021-O0070, Amendment 30, amending the FY 2020-21 Budget for municipal purposes respecting the Airport Capital Fund to appropriate additional funding for the Capital Improvement Project 8648 Airport Pavement Maintenance.
7. 5. **Budget Ordinance Amendment 1st Reading - Finance:** Ordinance No. 2021-O0071, Amendment 31, amending the FY 2020-21 Budget for municipal purposes respecting the Water/Wastewater Operating and Capital Funds to appropriate additional funding for Capital Improvement Project (CIP) 92455 Water Meter Replacements.
7. 6. **Budget Ordinance Amendment 1st Reading - Finance:** Ordinance No. 2021-O0074, Amendment 32, amending the FY 2020-21 Budget for municipal purposes respecting the General Fund Operating, General Fund Capital, and Information Technology Operating Fund to appropriate additional funding for Capital Improvement Project 8646 Public Safety CAD, Mobile, and RMS Software.

Jarrett Atkinson, city manager; and James Brown, director of information technology, gave comments and answered questions from City Council.

Motion by Council Member Shelia Patterson Harris, seconded by Mayor Pro Tem Steve Massengale to approve Ordinance No. 2021-O0074.

Vote: 7 - 0 Motion carried

7. 7. **Budget Ordinance Amendment 1st Reading - Finance:** Ordinance No. 2021-O0072, Amendment 33, amending the FY 2020-21 Budget for municipal purposes respecting the Grant Fund to accept and appropriate funding from the Texas Department of State Health Services.

7. 8. **Budget Ordinance Amendment 1st Reading - Finance:** Ordinance No. 2021-O0073, Amendment 34, amending the FY 2020-21 Budget for municipal purposes respecting the Water/Wastewater Capital Fund to appropriate additional funding for Capital Improvement Project 92587 Loop 88 Sewer Line Relocation.
7. 9. **Ordinance 2nd Reading - Right-of-Way:** Ordinance No. 2021-O0061, abandoning and closing a portion of a 15-foot alley located in Block 1, Hewett Addition, Lubbock County, Texas.

Mike Keenum, division director of engineering/city engineer, gave comments and answered questions from City Council.

Motion by Council Member Jeff Griffith, seconded by Council Member Juan A. Chadis to approve Ordinance No. 2021-O0061.

Vote: 7 - 0 Motion carried

7. 10. **Ordinance 1st Reading - Right-of-Way:** Consider an ordinance abandoning and closing a portion of a Drainage Easement located in Section 7, Block JS, Lot 26, Spanish Bit Court Addition, Lubbock County, Texas.

***This item was deleted.**

7. 11. **Resolution - Right-of-Way:** Resolution No. 2021-R0202 authorizing the Mayor to execute an Easement and Right-of-Way by and between the City of Lubbock and Oncor Electric Delivery Company, LLC ("Oncor"), to be utilized for electric power and communication lines and associated equipment over, under, along, to, from, and through land more particularly described in Exhibits A and B to the Easement and Right-of-Way, and including certain areas along the following transmission lines across the City's Hancock Land Application Site.
7. 12. **Resolution - Right-of-Way:** Resolution No. 2021-R0203 authorizing the Mayor to execute a Street Use License by and between the City of Lubbock and the Lubbock Cooper Independent School District for a 3-foot wide corridor of the right-of-way of University Avenue between 137th Street and 146th Street, Lubbock, Texas.
7. 13. **Resolution - Right-of-Way:** Resolution No. 2021-R0204 authorizing the Mayor to execute a Street Use License by and between the City of Lubbock and 2 Sparks and Company LLC, and Burklee Hill Vineyards, LLC, for a portion of street right-of-way at 1109 Broadway.
7. 14. **Resolution - Engineering:** Resolution No. 2021-R0211 authorizing the Mayor to execute Contract 15826, with Lone Star Dirt & Paving, Ltd., for Unpaved Roads Improvements Phase 3, for the paving of various roadways throughout the City of Lubbock.

Jarrett Atkinson, city manager; and Mike Keenum, division director of engineering/city engineer, gave comments and answered questions from City Council.

Motion by Council Member Shelia Patterson Harris, seconded by Council Member Jeff Griffith to approve Resolution No. 2021-R0211.

Vote: 7 - 0 Motion carried

- 7. 15. Resolution - Public Works:** Resolution No. 2021-R0205 authorizing the Mayor to execute Contract 15875, with MH Civil Constructors, Inc., for the construction of a brick paving project at the intersection of 13th Street and Texas Avenue.
- 7. 16. Resolution - Water Utilities:** Resolution No. 2021-R0206 authorizing the Mayor to execute Amendment No. 1 to Professional Services Agreement 15597, by and between the City of Lubbock and HDR Engineering, Inc., to perform dam inspection and evaluation services.
- 7. 17. Resolution - Public Transit Services:** Resolution No. 2021-R0207 ratifying the act of the City Manager in executing, on behalf of the City of Lubbock, a Regional Transit District Transportation Services Agreement and an Amendment thereto with SafeRide, Inc., for Medical Transportation Services by Citibus.
- 7. 18. Ordinance 2nd Reading - Lubbock Power & Light:** Ordinance No. 2021-O0062, amending Section 22.02.103 of Title I, Chapter 22, Article 22.02, Division 3, of the Lubbock Code of Ordinances, to permit Lubbock Power & Light to update the fee structure for recovery of the cost of providing underground electric distribution service as part of the annual review and approval of the LP&L Electric Rate/Tariff Schedule.
- 7. 19. Resolution - City Manager:** Resolution No. 2021-R0208 authorizing the Mayor to execute an agreement by and between the City of Lubbock and the State of Texas acting through the Texas Department of Transportation (TxDOT), for the temporary closure of State right-of-way, the Marsha Sharp Freeway, during the 2021 IRONMAN 70.3 Lubbock Triathlon.
- 7. 20. Resolution - City Manager:** Resolution No. 2021-R0209 authorizing the Mayor, on behalf of the City of Lubbock, to execute an agreement for professional legal services with Hacker Stephens LLP, and any amendments thereto, and ratifying the acts of the City Manager in executing an agreement for legal services with Hacker Stephens LLP.
- 7. 21. Resolution - City Manager:** Resolution No. 2021-R0210 authorizing the Mayor to execute the Third Amendment to the Memorandum of Understanding with Palisade Pipeline, LLC, to define roles and responsibilities of the City of Lubbock and Palisade Pipeline, LLC.
- 8. Regular Agenda**
 - 8. 1. Ordinance 2nd Reading - Planning:** Ordinance No. 2021-O0063, for Zone Case 1788-F, a request of McDougal Realtors for Lubbock Prosperity, L.P., for a zone change from General Retail District (C-3) to General Retail District (C-3) Specific Use for a Blood Plasma Center, at 4841 50th Street, located south of 50th Street and east of Wayne Avenue, Greenbrier Addition, Lot H.

Bryan Isham, director of planning, gave a presentation and answered questions from City Council.

Motion by Mayor Pro Tem Steve Massengale, seconded by Council Member Juan A. Chadis to approve Ordinance No. 2021-O0063.

Vote: 7 - 0 Motion carried

- 8. 2. Ordinance 2nd Reading - Planning:** Ordinance No. 2021-O0064, for Zone Case 2909-E, a request of Callaway Architecture for S&S Commercial Properties, LTD, for a zone change from Interstate Highway Commercial District (IHC) to Apartment-Medical District (AM) at 6401 Spur 327, located south of Spur 327 and east of Milwaukee Avenue, on 2.289 acres of unplatted land out of Block AK, Section 36.

Bryan Isham, director of planning, gave a presentation and answered questions from City Council.

Motion by Mayor Pro Tem Steve Massengale, seconded by Council Member Juan A. Chadis to approve Ordinance No. 2021-O0064.

Vote: 7 - 0 Motion carried

- 8. 3. Ordinance 2nd Reading - Planning:** Ordinance No. 2021-O0065, for Zone Case 2984-M, a request of Centerline Engineering & Consulting, LLC, for 34th & Upland Affordable Storage, Inc. and 87th Street Partners, LLC, for a zone change from Interstate Highway Commercial (IHC) and General Retail District (C-3) to (C-3) with a Specific Use for a Self-Storage Facility and Two-Family District (R-2), at 7115 and 7105 34th Street, located south of 34th Street and east of Upland Avenue, on 19.74 acres of unplatted land out of Block AK, Section 38.

Bryan Isham, director of planning, gave a presentation and answered questions from City Council.

Motion by Mayor Pro Tem Steve Massengale, seconded by Council Member Juan A. Chadis to approve Ordinance No. 2021-O0065.

Vote: 7 - 0 Motion carried

- 8. 4. Ordinance 2nd Reading - Planning:** Ordinance No. 2021-O0066, for Zone Case 2985-C, a request of Seventeen Services, LLC for Edge Construction, for a zone change from Garden Office (GO) to Apartment Medical (AM) at 5614 114th Street, located east of Elkhart Avenue and north of 114th Street, 114th & Elkhart Office Park Addition, Tract A.

Bryan Isham, director of planning, gave a presentation and answered questions from City Council.

Motion by Mayor Pro Tem Steve Massengale, seconded by Council Member Juan A. Chadis to approve Ordinance No. 2021-O0066.

Vote: 7 - 0 Motion carried

- 8. 5. Ordinance 2nd Reading - Planning:** Ordinance No. 2021-O0067, for Zone Case 3050-G, a request of AMD Engineering, LLC for Lubbock Land Investments IV, LP, for a zone change from Single Family District (R-1) Specific Use to Two-Family District (R-2), generally located north of 123rd Street and west of Memphis Avenue, on 4.50 acres of unplatted land out of Block E2, Section 22.

Bryan Isham, director of planning, gave a presentation and answered questions from City Council.

Motion by Mayor Pro Tem Steve Massengale, seconded by Council Member Juan A. Chadis to approve Ordinance No. 2021-O0067.

Vote: 7 - 0 Motion carried

- 8. 6. Ordinance 2nd Reading - Planning:** Ordinance No. 2021-O0068, for Zone Case 3431, a request of Centerline Engineering & Consulting, LLC for 146th Street & Slide Road, Inc., for a zone change from Transition (T) to General Retail District (C-3) with a Specific Use for Self-Storage Facilities, at 14505 Slide Road, located east of Slide Road and north of 146th Street, on 17.320 acres of unplatted land out of Block AK, Section 5.

Bryan Isham, director of planning, gave a presentation and answered questions from City Council.

Motion by Mayor Pro Tem Steve Massengale, seconded by Council Member Juan A. Chadis to approve Ordinance No. 2021-O0068.

Vote: 7 - 0 Motion carried

- 8. 7. Ordinance 2nd Reading - Planning:** Ordinance No. 2021-O0069, for Zone Case 3433, a request of AMD Engineering, LLC for Baxter Trusts, for a zone change from Transition (T) to Restricted Local Retail District (C-2A), generally located south of 114th Street and east of Memphis Avenue, on 7.84 acres of unplatted land out of Block E2, Section 22.

Bryan Isham, director of planning, gave a presentation and answered questions from City Council.

Motion by Mayor Pro Tem Steve Massengale, seconded by Council Member Juan A. Chadis to approve Ordinance No. 2021-O0069.

Vote: 7 - 0 Motion carried

- 8. 8. Ordinance 1st Reading - Planning:** Consider a request for Zone Case 3432, a request of Dwain Lane for Carolyn Lane Musgrave, for a zone change from Commercial District (C-4) and Local Retail District (C-2) to (C-4) with a Specific Use for a Dance Hall, at 1801 19th Street, and 1904 and 1906 Avenue R, located south of 19th Street and west of Avenue R, Lane Addition, Block 1, Lots 1, 2, 5, and 6, and consider an ordinance.

This item failed.

Bryan Isham, director of planning, gave a presentation and answered questions from City Council. Jarrett Atkinson, city manager; Chad Weaver, city attorney; Kristen Sager, planning and zoning manager; Dwain Lane, the property owner; and Sandra Musgrave, the lessee, gave comments and answered questions from City Council.

Motion by Council Member Juan A. Chadis, seconded by Council Member Jeff Griffith to approve this item.

Vote: 3 - 4 Failed

NAY: Mayor Daniel M. Pope
Mayor Pro Tem Steve Massengale
Council Member Latrelle Joy
Council Member Shelia Patterson Harris

5:55 P.M. CITY COUNCIL ADJOURNED

There being no further business to come before Council, Mayor Pope adjourned the meeting.

The June 8, 2021 Regular City Council Meeting minutes were approved by the City Council on the 13th day of July, 2021.

DANIEL M. POPE, MAYOR

ATTEST:

Rebecca Garza, City Secretary

CITY OF LUBBOCK
SPECIAL CITY COUNCIL MEETING
June 21, 2021
6:00 P.M.

The City Council of the City of Lubbock, Texas met in special session on the 21st of June, 2021, in City Council Chambers, Citizens Tower, 1314 Avenue K, Lubbock, Texas, and via video conference and teleconference at 6:00 p.m.

6:05 P.M. CITY COUNCIL CONVENED

City Council Chambers, Citizens Tower, 1314 Avenue K, Lubbock, Texas and via video conference and teleconference

Present: Mayor Daniel M. Pope; Mayor Pro Tem Steve Massengale; Council Member Juan A. Chadis; Council Member Randy Christian; Council Member Jeff Griffith; Council Member Latrelle Joy; Council Member Shelia Patterson Harris; City Manager W. Jarrett Atkinson; City Secretary Rebecca Garza; City Attorney Chad Weaver

Note: City Council addressed agenda items in the following order:
• *Executive Session*

- 1. Executive Session - The meeting recessed at 6:06 p.m. and reconvened in Executive Session under the provisions of Section 551, Texas Government Code. City Council reconvened in open session at 7:10 p.m. and adjourned at 7:11 p.m.**

Hold an executive session in accordance with Texas Government Code, Section 551.076 to discuss or deliberate the deployment, or specific occasions for implementation, of security personnel or devices; or a security audit.

7:11 P.M. CITY COUNCIL ADJOURNED

There being no further business to come before Council, Mayor Pope adjourned the meeting.

The June 21, 2021 Special City Council Meeting minutes were approved by the City Council on the 13th day of July, 2021.

DANIEL M. POPE, MAYOR

ATTEST:

Rebecca Garza, City Secretary



Regular City Council Meeting

6. 1.

Meeting Date: 07/13/2021

Information

Agenda Item

Budget Ordinance Amendment 2nd Reading - Finance: Consider Budget Ordinance No. 2021-O0077, Amendment 35, amending the FY 2020-21 Budget for municipal purposes respecting the General Fund Capital to establish and appropriate funding for Capital Improvement Projects 92711 Fire Station 20, 92712 Transportation Improvements/Unpaved Roads, and 92713 Erskine Street.

Item Summary

On June 22, 2021, the City Council approved the first reading of the ordinance.

1. Establish Capital Improvement Project 92711, Fire Station 20, and appropriate funding in the amount of \$7,645,000. Funding will be General Funds Certificates of Obligation.
2. Establish Capital Improvement Project 92712, Transportation Improvement/Unpaved Roads, and appropriate funding in the amount of \$9,000,000. Funding will be General Fund Certificates of Obligation.
3. Establish Capital Improvement Project 92713, Erskine Street, and appropriate funding in the amount of \$11,300,000. Funding will be General Fund Certificates of Obligation.

Fiscal Impact

Included in Item Summary

Staff/Board Recommending

Blu Kostelich, Chief Financial Officer
Cheryl Brock, Director of Financial Planning & Analysis

Attachments

Ordinance

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE FY 2020-21 BUDGET FOR MUNICIPAL PURPOSES RESPECTING THE GENERAL FUND CAPITAL TO ESTABLISH AND APPROPRIATE FUNDING FOR CAPITAL IMPROVEMENT PROJECTS 92711 FIRE STATION 20, 92712 TRANSPORTATION IMPROVEMENTS/UNPAVED ROADS, AND 92713 ERSKINE STREET; PROVIDING FOR FILING; AND PROVIDING FOR A SAVINGS CLAUSE.

WHEREAS, Section 102.010 of the Local Government Code of the State of Texas authorizes the City Council to make changes in the budget for municipal purposes; and

WHEREAS, in accordance with the City Budget Ordinance the City Council shall approve all transfers between funds; and

WHEREAS, the City Council deems it advisable to change the FY 2020-21 Budget for municipal purposes and reallocate funds as follows; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LUBBOCK:

SECTION 1. THAT the City Council of the City of Lubbock hereby approves changes to the City of Lubbock Budget FY 2020-21 (Budget Amendment #35) for municipal purposes, as follows:

- I. Establish Capital Improvement Project 92711, Fire Station 20, and appropriate funding in the amount of \$7,645,000. Funding will be General Funds Certificates of Obligation.
- II. Establish Capital Improvement Project 92712, Transportation Improvement/Unpaved Roads, and appropriate funding in the amount of \$9,000,000. Funding will be General Fund Certificates of Obligation.
- III. Establish Capital Improvement Project 92713, Erskine Street, and appropriate funding in the amount of \$11,300,000. Funding will be General Fund Certificates of Obligation.

SECTION 2. THAT a copy of the changes made to the City of Lubbock Budget pursuant to this Ordinance shall be filed with the City Secretary and County Clerk of Lubbock as required by law.

SECTION 3. THAT should any section, paragraph, sentence, clause, phrase or word of this Ordinance be declared unconstitutional or invalid for any reason, the remainder of this Ordinance shall not be affected thereby.

AND IT IS SO ORDERED

Passed by the City Council on first reading on _____.

Passed by the City Council on second reading on _____.

DANIEL M. POPE, MAYOR

ATTEST:

Rebecca Garza
City Secretary

APPROVED AS TO CONTENT:



D. Blu Kostelich
Chief Financial Officer

APPROVED AS TO FORM:



Amy Sims
Deputy City Attorney



Regular City Council Meeting

6. 2.

Meeting Date: 07/13/2021

Information

Agenda Item

Budget Ordinance Amendment 2nd Reading - Finance: Consider Budget Ordinance 2021-O0075, Amendment 36, amending the FY 2020-21 Budget for municipal purposes respecting the Lubbock Power and Light Fund for the addition of four full-time positions.

Item Summary

On June 22, 2021, the City Council approved the first reading of the ordinance.

1. Amend Customer Service Cost Center 7514, by adding 4 additional full-time positions. The funding will be cash from Lubbock Power and Light Fund Balance.

Fiscal Impact

The expected financial impact to Cost Center 7514 is an additional \$19,370 in salary and benefits for FY 2020-21 and an additional \$256,964 for FY 2021-22.

Staff/Board Recommending

D. Blu Kostelich, Chief Financial Officer
Cheryl Brock, Director of Financial Planning & Analysis

Attachments

Ordinance
Resolution

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE FY 2020-21 BUDGET FOR MUNICIPAL PURPOSES RESPECTING THE LUBBOCK POWER AND LIGHT FUND FOR THE ADDITION OF FOUR FULL-TIME POSITIONS; PROVIDING FOR FILING; AND PROVIDING FOR A SAVINGS CLAUSE.

WHEREAS, Section 102.010 of the Local Government Code of the State of Texas authorizes the City Council to make changes in the budget for municipal purposes; and

WHEREAS, in accordance with the City Budget Ordinance the City Council shall approve all transfers between funds; and

WHEREAS, the City Council deems it advisable to change the FY 2020-21 Budget for municipal purposes and reallocate funds as follows; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LUBBOCK:

SECTION 1. THAT the City Council of the City of Lubbock hereby approves changes to the City of Lubbock Budget FY 2020-21 (Budget Amendment #36) for municipal purposes, as follows:

- I. Amend the Customer Service cost center 7514 by adding four additional full-time positions. The funding will be cash from Lubbock Power and Light Fund Balance.
- II. Amend the Lubbock Power and Light Operating Budget by increasing the compensation line-item in cost center 7514 in the amount of \$12,534, from \$2,021,837 to \$2,034,371; increasing the benefits line-item in cost center 7514 in the amount of \$6,836, from \$1,118,694 to \$1,125,530.

SECTION 2. THAT a copy of the changes made to the City of Lubbock Budget pursuant to this Ordinance shall be filed with the City Secretary and County Clerk of Lubbock as required by law.

SECTION 3. THAT should any section, paragraph, sentence, clause, phrase or word of this Ordinance be declared unconstitutional or invalid for any reason, the remainder of this Ordinance shall not be affected thereby.

AND IT IS SO ORDERED

Passed by the City Council on first reading on _____.

Passed by the City Council on second reading on _____.

DANIEL M. POPE, MAYOR

ATTEST:

Rebecca Garza
City Secretary

APPROVED AS TO CONTENT:



D. Blu Kostelich
Chief Financial Officer

APPROVED AS TO FORM:



Amy Sims
Deputy City Attorney

RESOLUTION

WHEREAS, the City of Lubbock has a responsibility to its citizens to carefully budget and account for the financing and funding of Lubbock Power & Light, prudently manage Lubbock Power & Light's municipal finances, and plan for the adequate funding of services by Lubbock Power & Light;

WHEREAS, the purpose of the budget for Lubbock Power & Light is to achieve the goals outlined above and to achieve a long-term stable and positive financial position of Lubbock Power & Light by exercising integrity, prudence, responsible stewardship, and planning accountability;

WHEREAS, the Electric Utility Board is charged with approving an annual budget and submitting a budget and any amendments thereto for Lubbock Power & Light to the City Council for adoption pursuant to Title I, Chapter 2, Division 12, Section 2.03.415(a) of the Code of Ordinances of the City of Lubbock; NOW THEREFORE:

BE IT RESOLVED BY THE ELECTRIC UTILITY BOARD OF THE CITY OF LUBBOCK:

THAT the Electric Utility Board hereby approves the amendment to the City of Lubbock's Budget for Lubbock Power & Light, and requests that the City Council so amend the City of Lubbock's Budget for Lubbock Power & Light, for fiscal year 2020-21, as follows:

- 1) Amend the Operating Budget by adding four (4) full-time equivalent (FTE) positions in the Customer Service cost center 7514.
- 2) Amend the Operating Budget by increasing the compensation line-item in cost center 7514 in the amount of \$12,534, from \$2,021,837 to 2,034,371; increasing the benefits line-item in cost center 7514 in the amount of \$6,836, from \$1,118,694 to 1,125,530.

BE IT FURTHER RESOLVED BY THE ELECTRIC UTILITY BOARD OF THE CITY OF LUBBOCK:

THAT the Electric Utility Board hereby expressly finds that this amendment to the City of Lubbock's Budget for Lubbock Power & Light serves a public purpose.

The Electric Utility Board hereby directs that this Resolution be filed with the City Secretary of the City of Lubbock.

Passed by the Electric Utility Board this 15th day of June, 2021.



Dan Odom, Chairman

ATTEST:


Gwen Stafford, Board Secretary

APPROVED AS TO CONTENT:


David McCalla, Director of Electric Utilities

APPROVED AS TO FORM:


Jenny Smith, LP&L General Counsel



Regular City Council Meeting

6. 3.

Meeting Date: 07/13/2021

Information

Agenda Item

Budget Ordinance Amendment 1st Reading - Finance: Consider Budget Ordinance Amendment 37, amending the FY 2020-21 Budget for municipal purposes respecting the Storm Water Operating Fund Revenue.

Item Summary

1. Amend the FY 2020-21 Storm Water Operating Fund Budget by decreasing Department Operations by \$734,878, from \$23,700,249 to \$22,965,371.
2. Amend the FY 2020-21 Storm Water Operating Fund Budget by increasing Use of Excess Reserves by \$734,878, from \$0 to \$734,878. The funding will be cash from Storm Water Fund Balance.

Fiscal Impact

Included in Item Summary

Staff/Board Recommending

D. Blu Kostelich, Chief Financial Officer
Cheryl Brock, Director of Financial Planning & Analysis

Attachments

Ordinance

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE FY 2020-21 BUDGET FOR MUNICIPAL PURPOSES RESPECTING THE STORM WATER OPERATING FUND REVENUE; PROVIDING FOR FILING; AND PROVIDING FOR A SAVINGS CLAUSE.

WHEREAS, Section 102.010 of the Local Government Code of the State of Texas authorizes the City Council to make changes in the budget for municipal purposes; and

WHEREAS, the City Council finds that the transfer and use of the funds that are the subject of the Budget Amendment are for a public purpose and benefit to the citizens of the City; and

WHEREAS, in accordance with the City Budget Ordinance the City Council shall approve all transfers between funds; and

WHEREAS, the City Council deems it advisable to change the FY 2020-21 Budget for municipal purposes and reallocate funds as follows; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LUBBOCK:

SECTION 1. THAT the City Council of the City of Lubbock hereby approves changes to the City of Lubbock Budget FY 2020-21 (Budget Amendment #37) for municipal purposes, as follows:

- I. Amend the FY 2020-21 Storm Water Operating Fund Budget by decreasing Department Operations by \$734,878, from \$23,700,249 to \$22,965,371.
- II. Amend the FY 2020-21 Storm Water Operating Fund Budget by increasing Use of Excess Reserves by \$734,878, from \$0 to \$734,878. The funding will be cash from Storm Water Fund Balance.

SECTION 2. THAT a copy of the changes made to the City of Lubbock Budget pursuant to this Ordinance shall be filed with the City Secretary and County Clerk of Lubbock as required by law.

SECTION 3. THAT should any section, paragraph, sentence, clause, phrase or word of this Ordinance be declared unconstitutional or invalid for any reason, the remainder of this Ordinance shall not be affected thereby.

AND IT IS SO ORDERED

Passed by the City Council on first reading on _____.

Passed by the City Council on second reading on _____.

DANIEL M. POPE, MAYOR

ATTEST:

Rebecca Garza
City Secretary

APPROVED AS TO CONTENT:



D. Blu Kostelich
Chief Financial Officer

APPROVED AS TO FORM:



Amy Sims
Deputy City Attorney



Regular City Council Meeting

6. 4.

Meeting Date: 07/13/2021

Information

Agenda Item

Ordinance 2nd Reading - Right-of-Way: Consider Ordinance No. 2021-O0076, abandoning and closing a portion of a Drainage Easement, located in Spanish Bit Court Addition, Section 7, Block JS, Lubbock County, Texas.

Item Summary

This item was postponed from June 8, 2021, to June 22, 2021.

On June 22, 2021, the City Council approved the first reading of the ordinance.

The City of Lubbock is in receipt of a request to abandon and close a portion of a drainage easement in Lot 26, Spanish Bit Court Addition (CCFN # 2016013471), and abandon and close a drainage easement (CCFN # 2016013473), located in the south half of Section 7, Block JS, Lubbock County, Texas, adjacent to the Spanish Bit Court Development.

All City departments and franchise utility companies are in agreement with the closure.

Fiscal Impact

None

Staff/Board Recommending

Jesica McEachern, Assistant City Manager

Mike Keenum, Division Director of Engineering

Attachments

Ordinance - Drainage Easement, Spanish Bit Court, Section 7, Block JS

Exhibit A - Drainage Easement, Spanish Bit Court, Section 7, Block JS

Map - Drainage Easement, Spanish Bit Court, Section 7, Block JS

ORDINANCE NO. _____

AN ORDINANCE ABANDONING AND CLOSING A PORTION OF A DRAINAGE EASEMENT LOCATED IN LOT 26, SPANISH BIT COURT ADDITION, LUBBOCK COUNTY, TEXAS ACCORDING TO THE MAP, PLAT, AND/OR DEDICATION DEED THEREOF RECORDED UNDER COUNTY CLERK FILE NUMBER 2016013471 OF THE OFFICIAL PUBLIC RECORDS OF LUBBOCK COUNTY, TEXAS, AND ABANDONING AND CLOSING A DRAINAGE EASEMENT LOCATED IN SECTION 7, BLOCK JS, LUBBOCK COUNTY, TEXAS AS DESCRIBED IN COUNTY CLERK FILE NUMBER 2016013473 OF THE OFFICIAL PUBLIC RECORDS OF LUBBOCK COUNTY, TEXAS; WHICH ARE MORE PARTICULARLY DESCRIBED IN THE BODY OF THIS ORDINANCE; DIRECTING THE CITY ENGINEER TO MARK THE OFFICIAL MAPS OF THE CITY TO REFLECT SAID ABANDONMENT AND CLOSING; PROVIDING A SAVINGS CLAUSE; AND PROVIDING FOR PUBLICATION.

WHEREAS, the City Council finds that the easements hereinafter described in the body of this Ordinance are no longer needed for easement purposes and for public use; and it would be in the public interest to close, vacate and abandon the same for easement purposes and for public use; NOW THEREFORE:

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LUBBOCK:

SECTION 1. THAT the easements as hereinafter described shall BE and the same are hereby closed, vacated and abandoned for easement purposes and for public use, such easements being more particularly described in the attached Exhibit "A."

SECTION 2. THAT the City Engineer is hereby authorized and directed to mark the official maps of the City of Lubbock to reflect said abandonment and closing, showing the number of this Ordinance and the date of its final passage.

SECTION 3. THAT should any section, paragraph, sentence, phrase, clause or word of this Ordinance be declared unconstitutional or invalid for any reason, the remainder of this Ordinance shall not be affected thereby.

SECTION 4. THAT the City Secretary of the City of Lubbock is hereby authorized and directed to cause publication of the descriptive caption of this Ordinance as an alternative method provided by law.

AND IT IS SO ORDERED.

Passed by the City Council on first reading this _____ day of _____, 2021.

Passed by the City Council on second reading this ____ day of _____, 2021.

DANIEL M. POPE, MAYOR

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

Michael S. Keenum

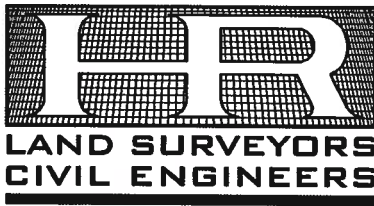
Michael Keenum, P.E., Division Director of Engineering/City Engineer

APPROVED AS TO FORM:

Ryan Brooke

Ryan Brooke, Assistant City Attorney

Ord.A&C-Drainage Easements-Section 7, Block JS, Spanish Bit Court
6.15.21



HUGO REED AND ASSOCIATES, INC.
1601 AVENUE N / LUBBOCK, TEXAS 79401 / 806/763-5642 / FAX 806/763-3891
TEXAS REGISTERED ENGINEERING FIRM F-760
TEXAS LICENSED SURVEYING FIRM 100676-00

EXHIBIT "A"

METES AND BOUNDS DESCRIPTION of a portion of Lot 26, Spanish Bit Court, a subdivision located in Section 7, Block JS, Lubbock County, Texas, according to the map, plat and/or dedication deed thereof recorded under County Clerk File Number 2016013471 of the Official Public Records of Lubbock County, Texas, being further described as follows:

BEGINNING at a 1/2" iron rod with cap marked "HUGO REED & ASSOC." set in the West right-of-way line of North Private Road 1720, granted by plat recorded under County Clerk File Number (CCFN) 2016013471 of the Official Public Records of Lubbock County, Texas (OPRLCT), for the most Easterly Southeast corner of Lot 56, said Spanish Bit Court, for the Southwest corner of this tract;

THENCE N. 01°47'44" E. along the West right-of-way line of said North Private Road 1720 and the Eastern boundary of said Lot 56, a distance of 31.10 feet to a 1/2" iron rod with cap marked "HUGO REED & ASSOC." set for a point of curvature;

THENCE Northeasterly, continuing along said West right-of-way line, along the Eastern boundary of said Lot 56 and the Southern boundary of Lot 57, said Spanish Bit Court, along a curve to the right, said curve having a radius of 67.00 feet, a central angle of 90°00'00", a chord distance of 94.75 feet and a chord bearing of N. 46°47'44" E. to a 1/2" iron rod with cap marked "HUGO REED & ASSOC." set for a point of tangency in the North right-of-way line of Private Road 6440, granted by plat recorded under CCFN 2016013471, OPRLCT;

THENCE S. 88°12'16" E., along the North right-of-way line of said Private Road 6440, continuing along the Southern boundary of said Lot 57, and the Southern boundary of Lot 58, said Spanish Bit Court, a distance of 142.00 feet to a 1/2" iron rod with cap marked "HUGO REED & ASSOC." set for the Southeast corner of said Lot 58 and the Northeast corner of this tract;

THENCE S. 01°47'44" W. a distance of 52.00 feet to a 1/2" iron rod with cap marked "HUGO REED & ASSOC." set in the South right-of-way line of said Private Road 6440 for the Northeast corner of Lot 31, said Spanish Bit Court and the Southeast corner of this tract;

THENCE N. 88°12'16" W., along the South right-of-way line of said Private Road 6440 and the Northern boundary of said Lot 31, a distance of 142.00 feet to a 1/2" iron rod with cap marked "HUGO REED & ASSOC." set for the most Northerly Northwest corner of said Lot 31;

THENCE S. 46°47'44" W., continuing along the said South right-of-way line and the Northern boundary of said Lot 31, a distance of 21.21 feet to a 1/2" iron rod with cap marked "HUGO REED & ASSOC." set in the East right-of-way line of said Private Road 1720 for the most Westerly Northwest corner of said Lot 31;

THENCE S. 01°47'44" W., along the East right-of-way line of said North Private Road 1720 and the Western boundary of said Lot 31, a distance of 31.10 feet to a point;

THENCE N. 88°12'16" W. a distance of 52.00 feet to the Point of Beginning.

Contains 0.2850 acres

Bearings relative to Grid North, Texas Coordinate System of 1983, North-Central Zone, (2011, epoch 2010.0).

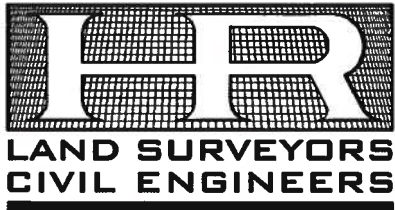
Surveyed on the ground,

April 30, 2015

February 22, 2021 – revised to update recording information

Robert A. Christopher
Registered Professional Land Surveyor No. 5167
Licensed State Land Surveyor State of Texas





HUGO REED AND ASSOCIATES, INC.
1601 AVENUE N / LUBBOCK, TEXAS 79401 / 806/763-5642 / FAX 806/763-3891
TEXAS REGISTERED ENGINEERING FIRM F-760
TEXAS LICENSED SURVEYING FIRM 100676-00

EXHIBIT "A"

All of that drainage easement located in Section 7, Block JS, Lubbock County Texas, as recorded under County Clerk File Number 2016013473 of the Official Public Records of Lubbock County, Texas

CITY OF LUBBOCK *Hugo Reed Assoc.*
PLANNING DEPARTMENT COUNTER FILING
P.O. BOX 2000
LUBBOCK, TEXAS 79457

2018013473 4 PGS EASE



THE STATE OF TEXAS)
)
COUNTY OF LUBBOCK)

DRAINAGE EASEMENT

That PRINCESS LAND CO., L.P., a Texas Limited Partnership, herein called "GRANTOR", for and in consideration of the sum of Ten and No/100 Dollars (\$10.00) to GRANTOR in hand paid by the CITY OF LUBBOCK, A Home Rule Municipal Corporation of Lubbock County, Texas, and the COUNTY OF LUBBOCK, TEXAS, the receipt and sufficiency of which is hereby acknowledged and confessed, and for the further good and valuable consideration in benefits accruing and to accrue to the remainder of GRANTOR's property, has by these presents GRANTED, BARGAINED, SOLD and CONVEYED and by these presents does GRANT, BARGAIN, SELL AND CONVEY unto the CITY OF LUBBOCK, its legal representatives, successors and assigns, for the use of the public as a perpetual and permanent drainage easement, the free and uninterrupted use, liberty of passage in, on, along, over, upon, under and across all that property lying and being situated in Lubbock County, Texas, and being more particularly described as follows, to-wit:

METES AND BOUNDS DESCRIPTION of a 2.245 acre tract of land being a portion of a 77.691 acre tract of land as described under County Clerk File Number (CCFN) 2015040748 of the Official Public Records of Lubbock County, Texas (OPRLCT), located in Section 7, Block JS, Lubbock County, Texas, being further described as follows:

BEGINNING at a 1/2" iron rod with cap set for the Northwest corner of this tract which bears N. 88°12'16" W. a distance of 3663.18 feet and N. 01°47'44" E. a distance of 2316.00 feet from the Southeast corner of Section 7, Block JS, Lubbock County, Texas;

THENCE S. 88°12'16" E. a distance of 1241.00 feet to an 80 penny nail set for a point of curvature;

THENCE Southeasterly, along a curve to the right, said curve having a radius of 67.00 feet, a central angle of 31°15'17", tangent lengths of 18.74 feet, a chord distance of 36.10 feet and a chord bearing of S. 72°34'37" E. to an 80 penny nail set for a point of intersection;

THENCE N. 33°03'01" E. a distance of 50.00 feet to an 80 penny nail set for a corner of this tract;

THENCE S. 88°12'16" E. a distance of 50.00 feet to an 80 penny nail set in the Eastern boundary of said 77.691 acre tract for the Northeast corner of this tract;

THENCE S. 01°47'44" W., along the Eastern boundary of said 77.691 acre tract, at 76.50 feet pass a point for a corner of said 77.691 acre tract, continuing for a total distance of 126.50 feet to an 80 penny nail set for a corner of this tract;

THENCE N. 88°12'16" W. a distance of 33.70 feet to an 80 penny nail set for a corner of this tract;

THENCE S. 01°47'44" W. a distance of 562.97 feet to a point for the Southeast corner of this tract;

THENCE N. 64°43'17" W. a distance of 16.95 feet to a 1/2" iron rod with cap set for a point of intersection;

THENCE Northeasterly, along a curve to the left, said curve having a radius of 67.00 feet, a central angle of 23°28'59", tangent lengths of 13.93 feet, a chord distance of 27.27 feet and a chord bearing of N. 13°32'14" E. to a 1/2" iron rod with cap set for a point of tangency;

THENCE N. 01°47'44" E. a distance of 278.00 feet to a 1/2" iron rod with cap set for a corner of this tract;

THENCE N. 88°12'16" W. a distance of 62.00 feet to an 80 penny nail set for a corner of this tract;

THENCE N. 01°47'44" E. a distance of 288.00 feet to an 80 penny nail set for a corner of this tract;

THENCE N. 43°12'16" W. a distance of 7.07 feet to an 80 penny nail set for a corner of this tract;

THENCE N. 88°12'16" W. a distance of 1241.00 feet to a 1/2" iron rod with cap set for a corner of this tract;

THENCE N. 01°47'44" E. a distance of 52.00 feet to the Point of Beginning.

Bearings Relative to Grid North, Texas Coordinate System of 1983, North-Central Zone, (2011, epoch 2010.0)

Contains 97,813 square feet.

SO LONG AS the public continues to use said property for the purposes herein stated, said easement includes, but is not limited to, the free and uninterrupted use, liberty and privilege of passage in, along, over, across, under, upon and against the hereinabove described land for the purpose of constructing, reconstructing, maintaining, repairing, cleaning and clearing said premises

for the free and unobstructed drainage of surface waters; together with the right of ingress, egress and regress for such purposes in, on, along, through and across all the property above described.

It is hereby covenanted and agreed that the CITY OF LUBBOCK and the COUNTY OF LUBBOCK, TEXAS, are hereby granted and retain and reserve the right to set and determine the drainage grade and direction of flow of surface waters on the real estate above described and buildings or like permanent structures shall not be erected, built, constructed or allowed to be ~~erected, built or constructed~~ in, upon, over, along or across the real estate above described, and if such erection, building or construction does occur in violation of this prohibition, the CITY OF LUBBOCK and the COUNTY OF LUBBOCK, TEXAS, shall have the right to remove said building or structure from the aforesaid real estate.

TO HAVE AND TO HOLD the above described premises, together with all and singular, the rights and appurtenances thereto in anywise belonging, perpetually unto the CITY OF LUBBOCK, and the COUNTY OF LUBBOCK, TEXAS, its successors and assigns, for so long as the CITY OF LUBBOCK and the COUNTY OF LUBBOCK, TEXAS, use the same for the purposes herein granted.

FIRST BANK & TRUST, of Lubbock, Texas, holder of liens of record against the above-described property, joins in this dedication for the sole purpose of showing its assent thereto and that it has no objections to the designation of said property, and it hereby releases its liens upon the above-described property, in accordance with the dedication deed.

EXECUTED this 26th day of February, 2016.

PRINCESS LAND CO., L.P., a Texas Limited Partnership

By: **PRINCESS LAND MANAGEMENT, LLC, a Texas Limited Liability Company, as General Partner**

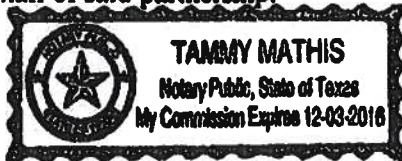
By: 
Tim Collins, Director/President

FIRST BANK & TRUST

By: 
Greg Garland, President

STATE OF TEXAS)
COUNTY OF LUBBOCK)

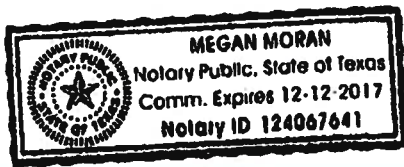
This instrument was acknowledged before me on the 26th day of February, 2016, by TIM COLLINS, as Director/President of PRINCESS LAND MANAGEMENT, LLC, a Texas Limited Liability Company, as General Partner of PRINCESS LAND CO., L.P., a Texas Limited Partnership, on behalf of said partnership.



Tammy Mathis
NOTARY PUBLIC, STATE OF TEXAS

STATE OF TEXAS)
COUNTY OF LUBBOCK)

This instrument was acknowledged before me on this 24 day of February, 2016, by GREG GARLAND, as President of FIRST BANK & TRUST, a Texas banking corporation, on behalf of said corporation.



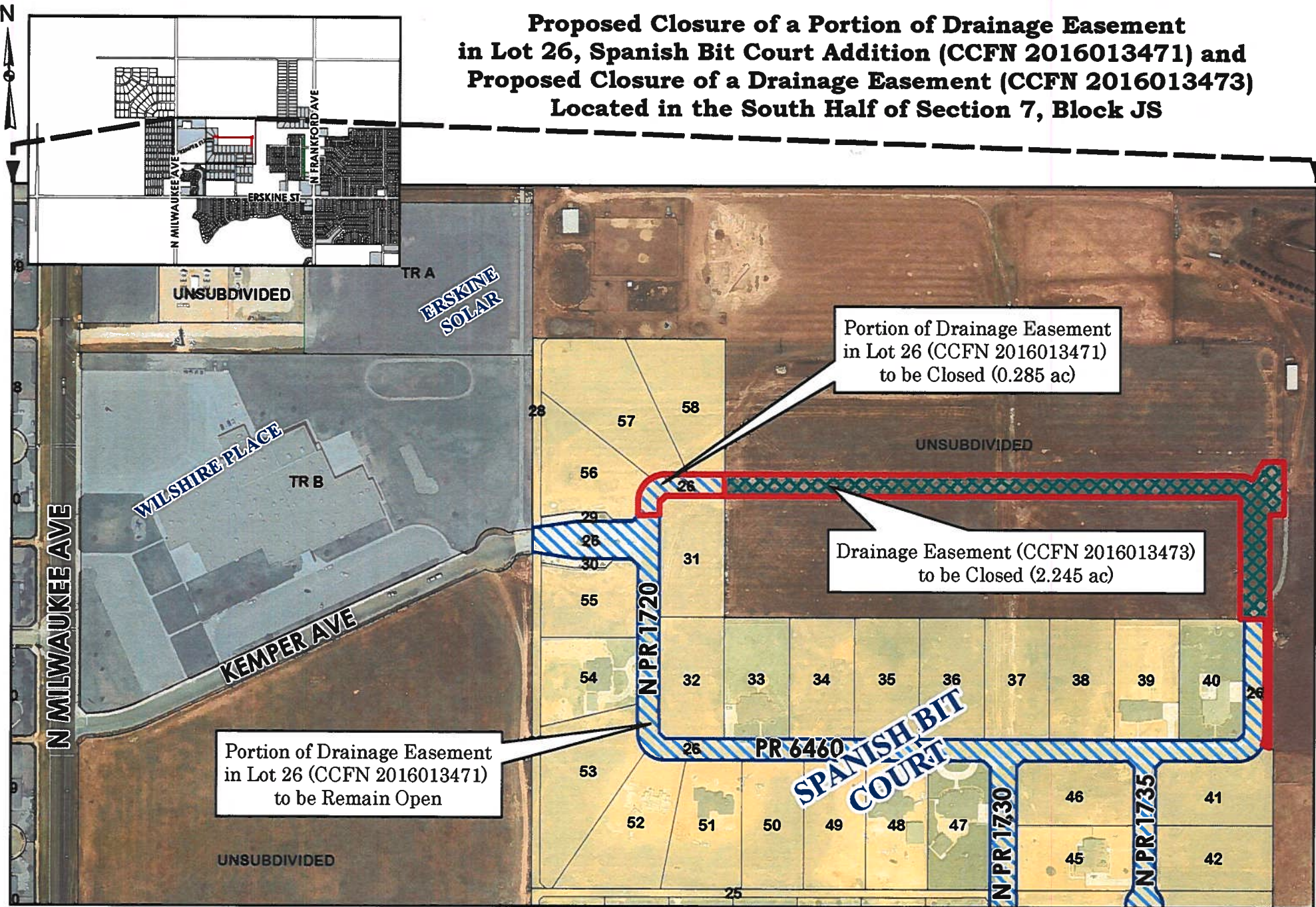
Megan Moran
NOTARY PUBLIC, STATE OF TEXAS

FILED AND RECORDED
OFFICIAL PUBLIC RECORDS



Kelly Pinion
Kelly Pinion, County Clerk
Lubbock County, TEXAS
04/26/2016 01:34 PM
FEE: \$35.00
2016013473

**Proposed Closure of a Portion of Drainage Easement
in Lot 26, Spanish Bit Court Addition (CCFN 2016013471) and
Proposed Closure of a Drainage Easement (CCFN 2016013473)
Located in the South Half of Section 7, Block JS**



0 50 100 200 300 400 500 Feet

As required by Chapter 2051, Geospatial Data Products of the Government Code, this product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.



Digital Orthophotography - April 2020



Regular City Council Meeting

6. 5.

Meeting Date: 07/13/2021

Information

Agenda Item

Ordinance 1st Reading - Right-of-Way: Consider an ordinance abandoning and closing a Drainage Easement, located in Section 21, Block AK, Lubbock County, Texas, for a new plat for Fountain Hills.

Item Summary

This ordinance abandons and closes a drainage easement (CCFN 2014016353), northwest of Lot 105, Fountain Hills Addition in Section 21, Block AK, Lubbock, Texas. Closure is due to the new plat for Fountain Hills, Lots 184-209.

All City departments and franchise utility companies are in agreement with the closure.

Fiscal Impact

None

Staff/Board Recommending

Jesica McEachern, Assistant City Manager

Attachments

Ordinance - Drainage_Easement, Fountain Hills, Section 21, Block AK

Exhibit A - Drainage_Easement, Fountain Hills, Section 21, Block AK

ORDINANCE NO. _____

AN ORDINANCE ABANDONING AND CLOSING A DRAINAGE EASEMENT LOCATED IN SECTION 21, BLOCK AK, LUBBOCK COUNTY, TEXAS AS RECORDED IN COUNTY CLERK FILE NUMBER 2014016353 OF THE OFFICIAL PUBLIC RECORDS OF LUBBOCK COUNTY, TEXAS, WHICH IS MORE PARTICULARLY DESCRIBED IN THE BODY OF THIS ORDINANCE; DIRECTING THE CITY ENGINEER TO MARK THE OFFICIAL MAPS OF THE CITY TO REFLECT SAID ABANDONMENT AND CLOSING; PROVIDING A SAVINGS CLAUSE; AND PROVIDING FOR PUBLICATION.

WHEREAS, the City Council finds that the easement hereinafter described in the body of this Ordinance is no longer needed for easement purposes and for public use; and it would be in the public interest to close, vacate and abandon the same for easement purposes and for public use; NOW THEREFORE:

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LUBBOCK:

SECTION 1. THAT the easement as hereinafter described shall BE and the same is hereby closed, vacated and abandoned for easement purposes and for public use, such easement being more particularly described in the attached Exhibit "A."

SECTION 2. THAT the City Engineer is hereby authorized and directed to mark the official maps of the City of Lubbock to reflect said abandonment and closing, showing the number of this Ordinance and the date of its final passage.

SECTION 3. THAT should any section, paragraph, sentence, phrase, clause or word of this Ordinance be declared unconstitutional or invalid for any reason, the remainder of this Ordinance shall not be affected thereby.

SECTION 4. THAT the City Secretary of the City of Lubbock is hereby authorized and directed to cause publication of the descriptive caption of this Ordinance as an alternative method provided by law.

AND IT IS SO ORDERED.

Passed by the City Council on first reading this _____ day of _____, 2021.

Passed by the City Council on second reading this ____ day of _____, 2021.

DANIEL M. POPE, MAYOR

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



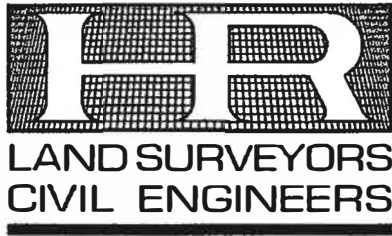
Michael Keenum, P.E., Division Director of Engineering/City Engineer

APPROVED AS TO FORM:



Ryan Brooke, Assistant City Attorney

Ord.A&C-Drainage Easements-Section 21, Block AK, CCFN 2014016353
6.28.21



HUGO REED AND ASSOCIATES, INC.

1601 AVENUE N / LUBBOCK, TEXAS 79401 / 806-763-5642 / FAX 806-763-3891

TEXAS REGISTERED ENGINEERING FIRM F-760

TEXAS LICENSED SURVEYING FIRM 100676-00



METES AND BOUNDS DESCRIPTION of a 0.1358 acre tract of land, located in Section 21, Block AK, Lubbock County, Texas, being further described as follows:

BEGINNING at a 1/2" iron rod with cap set for the Northeast corner of this tract which bears N. 01°46'31" E. a distance of 1713.86 feet and N. 88°09'49" W. a distance of 1454.79 feet from the Southeast corner of Section 21, Block AK, Lubbock County, Texas;

THENCE S. 01°50'11" W. a distance of 20.00 feet to a 1/2" iron rod with cap set for the Southeast corner of this tract;

THENCE N. 88°09'49" W. a distance of 160.46 feet to a 60d nail set for a point of intersection;

THENCE S. 77°05'09" W. a distance of 128.82 feet to a 60d nail set for the Southwest corner of this tract;

THENCE Northwesterly, along a curve to the left, said curve having a radius of 982.00 feet, a central angle of 01°15'08", tangent lengths of 10.73 feet, a chord distance of 21.46 feet and a chord bearing of N. 34°11'29" W. to a 60d nail set for the Northwest corner of this tract;

THENCE N. 77°05'09" E. a distance of 139.20 feet to a 60d nail set for a point of intersection;

THENCE S. 88°09'49" E. a distance of 163.05 feet to the Point of Beginning.

Bearings are Relative to Grid North, NAD 83, Texas Coordinate System, North-Central Zone, City of Lubbock Geodetic Network and Aerial Control. Distances are surface, U.S. Survey Feet.

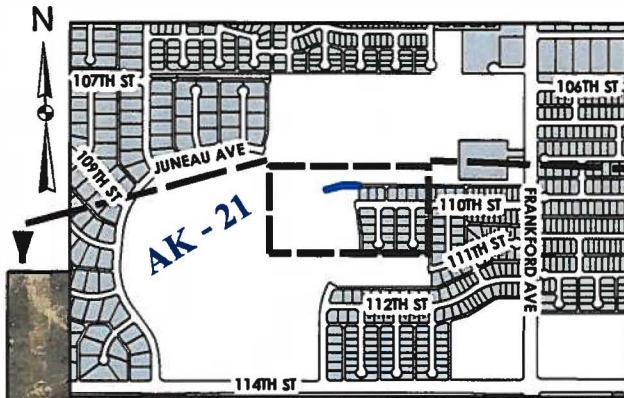
Contains 5914 square feet

Date: July 10, 2013



Brent Carroll
Registered Professional
Land Surveyor No. 5410
State of Texas

**Proposed Closure of a 20' Wide Drainage Easement (CCFN 2014016353)
Located Northwest of Lot 105, Fountain Hills Addition, in Section 21, Block AK**



0 50 100 200 300 Feet

As required by Chapter 2051, Geospatial Data Products of the Government Code, this product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

Legend



Proposed DRE Closure



Digital Orthophotography - April 2020

CITY OF LUBBOCK
PLANNING DEPARTMENT
P.O. BOX 2000
LUBBOCK, TEXAS 79457
STATE OF TEXAS
COUNTY OF LUBBOCK



EASE 2014016353
2 PGS

DRAINAGE EASEMENT

That FOUNTAIN HILLS, L.P. (hereinafter referred to as the "Grantor"), for TEN AND NO/100 DOLLARS(\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, has by these presents GRANTED, BARGAINED, SOLD AND CONVEYED and by these presents does GRANT, BARGAIN, SELL and CONVEY unto the CITY OF LUBBOCK, TEXAS, and its employees, agents and contractors (collectively herein referred to as "Permitted Users"), for the use of the public as a perpetual and permanent drainage easement the free and uninterrupted use, liberty of passage in, on, along, over, upon, under and across all of the real property as shown on Exhibit "A" attached hereto and incorporated herein by reference (herein referred to as the "Property") together with all and singular the rights and appurtenances thereto in any way belonging (collectively, the "Easement"), to have and to hold the Easement to the CITY OF LUBBOCK, TEXAS and Permitted Users for so long as the public uses same for the purposes herein granted.

That the Easement shall continue so long as the public continues to use said property for drainage improvements, which easement shall include, but shall not be limited to, the right to construct, reconstruct, maintain, repair, clean and clear said property for the free and unobstructed drainage of surface water, together with the right of ingress, egress, and regress for such purposes in, on, along, through and across said property to accomplish the purposes set out herein.

That the CITY OF LUBBOCK, TEXAS and Permitted Users shall have the right to set and determine the drainage grade and direction of flow of surface waters on the Property, and buildings or like permanent structures shall not be erected, or allowed to be erected, built or constructed in, upon, over, along, or across the Property, and if such erection, building or construction does occur in violation of this prohibition, the CITY OF LUBBOCK, TEXAS and Permitted Users shall have the right to remove said building or structure from the Property.

IN WITNESS WHEREOF, this instrument is executed this 10th day of April, 2014.

FOUNTAIN HILLS, LP

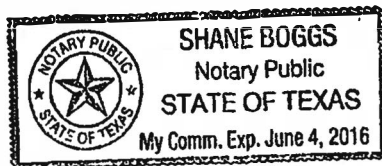
By: MORTENSEN PROPERTIES, INC., a
Texas corporation, General Partner

By: [Signature]
TYSEN MORTENSEN, Vice President

STATE OF TEXAS

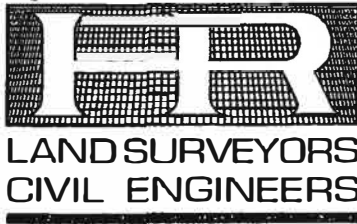
COUNTY OF LUBBOCK

This instrument was acknowledged before me this 10th day of April, 2014, by TYSEN MORTENSEN, Vice President of MORTENSEN PROPERTIES, INC., a Texas corporation, General Partner of FOUNTAIN HILLS, LP, in the capacity therein stated.



[Signature]
Notary Public, State of Texas

EXHIBIT "A"



HUGO REED AND ASSOCIATES, INC.

1601 AVENUE N / LUBBOCK, TEXAS 79401 / 806-763-5642 / FAX 806-763-3891
TEXAS REGISTERED ENGINEERING FIRM F-760
TEXAS LICENSED SURVEYING FIRM 100676-00

METES AND BOUNDS DESCRIPTION of a 0.1358 acre tract of land, located in Section 21, Block AK, Lubbock County, Texas, being further described as follows:

BEGINNING at a 1/2" iron rod with cap set for the Northeast corner of this tract which bears N. 01°46'31" E. a distance of 1713.86 feet and N 88°09'49" W. a distance of 1454.79 feet from the Southeast corner of Section 21, Block AK, Lubbock County, Texas;

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Contains 5914 square feet

Date: July 10, 2013

Brent Carroll
Registered Professional
Land Surveyor No. 5410
State of Texas



FILED AND RECORDED



OFFICIAL PUBLIC RECORDS

Kelly Pinson, County Clerk
Lubbock County TEXAS

May 08, 2014 03 38 36 PM

FEE: \$25 00

2014016353



Regular City Council Meeting

6. 6.

Meeting Date: 07/13/2021

Information

Agenda Item

Resolution - Right-of-Way: Consider a resolution authorizing the Mayor to accept, on behalf of the City of Lubbock, four Easements out of Section 1, Block AK, Lubbock County, Texas, to be utilized for the Loop 88 Sewer Line Relocation Project.

Item Summary

The proposed State Highway Loop 88 corridor is currently encompassing an existing municipal sewer pipeline from University Avenue to Indiana Avenue. Pursuant to State rules and current intergovernmental agreements in effect, the City is required to relocate the existing sewer infrastructure outside the proposed Loop 88 right-of-way. Under this Council action, the City of Lubbock is acquiring four separate easements into which TxDOT's contractor for the Loop 88 project will relocate the existing sewer line. The total consideration of \$850,842, as valued in the Appraisal Report prepared by Tommy Cantrell Appraisal Company, Inc., is subject to final approval by the City Council and approval of title.

In accordance with Transportation Code §203.092, the easement acquisition expenses associated with the sewer line relocation for Loop 88 will be reimbursed by the State.

Parcel	Owner	Acres	Cost
Parcel 1	TBC Enterprise LLC	0.037	\$ 10,671
Parcel 2 and 2-A	1585 Development, LLC	2.635	746,077
Parcel 3	Landsome II, LLC	0.160	47,047
Parcel 4	Landsome I, LLC	0.160	47,047
TOTAL		2.992	\$850,842

Fiscal Impact

The cost of the easement acquisition is \$850,842 and is funded in Capital Improvements Project 92587 Loop 88 Sewer Relocation. (The easement acquisition expenses associated with the sewer line relocation for Loop 88 will be reimbursed by the State.)

Staff/Board Recommending

Jesica McEachern, Assistant City Manager

Mike Keenum, Division Director of Engineering

Attachments

Resolution - Four Easements, Section 1, Block AK

Parcel 1 - Easement-Sec 1 Blk AK - Loop 88

Parcel 2-2A (L) Easement (9)
Parcel 3 - Easement-Sec 1 Blk AK - Loop 88
Parcel 4 - Easment - Sec 1 Blk AK - Loop 88
Location Exhibit
Budget Detail

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LUBBOCK:

THAT the Mayor of the City of Lubbock is hereby authorized and directed to accept for and on behalf of the City of Lubbock four Easements in connection with certain real property located in Section 1, Block AK, Lubbock County, Texas, by and between the City of Lubbock and Landsome I, LLC; Landsome II, LLC; TBC Enterprises, LLC; and 1585 Development, LLC, and all related documents. Said Easements are attached hereto and incorporated in this Resolution as if fully set forth herein and shall be included in the minutes of the Council.

Passed by the City Council on _____.

DANIEL M. POPE, MAYOR

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



Michael Keenum, P.E., Division Director of Engineering/City Engineer

APPROVED AS TO FORM:



Ryan Brooke, Assistant City Attorney



HUGO REED AND ASSOCIATES, INC.

1601 AVENUE N / LUBBOCK, TEXAS 79401 / 806-763-5642 / FAX 806-763-3891
TEXAS REGISTERED ENGINEERING FIRM F-760
TEXAS LICENSED SURVEYING FIRM 100676-00

Project: Loop 88 Utility Relocations

Parcel No.: 1

Owner: TBC Enterprises, LLC

Mailing Address: P.O. Box 7827
Amarillo, Texas 79114

Email Address: bsims@pakasak.net

Phone Number: (806) 353-0223 ex.:109

Document Type: Easement

Consideration: Total consideration of \$10,671; subject to final approval by Lubbock City Council and subject to approval of title.

Closing Agent: West Texas Title Company, Inc.
8001 Quaker Avenue, Suite E
Lubbock, Texas 79424

Concurrence: TBC Enterprises, LLC, A Texas Limited Liability Company

By: _____

A handwritten signature in blue ink, appearing to read 'Barrett Sims', written over a horizontal line.

Printed Name: BARRETT SIMS

Title: MEMBER

EASEMENT

STATE OF TEXAS §
 § KNOW ALL MEN BY THESE PRESENTS, THAT:
COUNTY OF LUBBOCK §

GRANTOR, TBC ENTERPRISES, LLC, a Texas Limited Liability Company whose address is P.O. Box 7827, Amarillo, Texas 79114, for a valuable consideration, to them paid by The City of Lubbock, Texas (the "Grantee") with offices at 1314 Avenue K, Lubbock, Texas 79401, the receipt and sufficiency of which are hereby acknowledged, has granted and does by these presents grant unto Grantee the following described perpetual exclusive easement, servitude and right-of-way, as described herein (hereinafter called the "Easement") through, over, under, upon, across and within the lands, described in **Exhibit A** (hereinafter called the "Lands" or "Easement Lands") situated in Lubbock County, Texas.

Pipelines and Equipment

Grantor hereby grants to Grantee a perpetual exclusive Easement together with the right to install, survey, construct, reconstruct, install, operate, inspect, maintain, alter, relocate, replace, repair, and remove (hereinafter called "Permitted Uses") pipelines, conduits, drain (blow-off) valves, valve boxes, meters, meter boxes, vents, manholes, manhole covers, corrosion monitoring test stations, pipeline markers, fence gates, impressed current deep well anode stations with power supplies, flow meters, system communication lines and splice boxes, roadways, and all other equipment and facilities related thereto, or any part thereof (hereinafter collectively called the "Pipeline System"), for and/or related to the transportation of water, waste water and effluent through, under, upon, over, across and within the Lands. Such perpetual exclusive Easement shall be as described herein and on **Exhibit A** attached hereto and incorporated herein, and hereby made a part hereof by reference to describe the Easement and the Lands.

For Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, this Easement is specifically made by Grantors and accepted by Grantee subject to the following terms, covenants, obligations and conditions:

1. Grantee may use and occupy the Easement for all purposes incidental and/or related to the Permitted Uses, including but not limited to: (a) the right to perform all Permitted Uses related to the Pipeline System; (b) the right (for men, material, and equipment) of unimpaired ingress and egress and regress, entry and access in, to, through, on, over, under and across said Easement granted herein, with the right to ingress and egress and regress to and from and access on and along said Easement, for any and all purposes necessary and or incident to the Permitted Uses; and (c) the right to locate the Pipeline System through, over, under, upon, across and within the Easement for the purpose of water/waste water/effluent transportation.

2. Grantee covenants and agrees that its use of the Easement and its operations conducted thereon shall, to the best of Grantee's ability, at all times comply with all applicable local, state and federal laws, orders, rules, regulations, standards, licensing, permitting and other legal requirements including, without limitation, all environmental laws, orders, rules, regulations, standards, licensing and permitting (the "Legal Requirements"). Grantee agrees to construct the Pipeline System in a prudent manner and with due care for Grantors' property, business and operations. In the event it is discovered that Grantee is in violation of any portion of the Legal Requirements, Grantee agrees to commence, upon receipt of written notice of such violation, the process of curing such violation so that Grantee will be in compliance with this subparagraph.
3. The Easement granted herein shall be for the transportation of water, wastewater, and/or effluent regardless of source, and shall continue in full force and effect unless Grantee should abandon the Pipeline System as identified herein. The rights granted to Grantee herein may be abandoned solely by a formal resolution of its governing body that authorizes the abandonment of the Pipeline System. Any such abandonment will not be effective until it is evidenced by notice in writing, signed by the Grantee's official representative, and filed of record in the county where the Lands are located.
4. The Easement Term is hereby defined as the period of time beginning with the granting of the Easement and continuing until such time that the Easement is abandoned by Grantee as set forth in paragraph 3 above.
5. Grantors and Grantee agree that during Permitted Uses related to the Pipeline System, any and all trees, dirt, raw materials, timber, spoil piles, excess dirt, wood, bushes, shrubs and brush, and other debris materials resulting from site preparation cleared from the Easement and remaining after the Pipeline System is in place shall, be removed by Grantee from Lands and from Grantors' property.
6. Grantee shall keep the Easement in good order, condition and repair following any work related to Permitted Uses on the Pipeline System. Notwithstanding anything contained herein to the contrary, although the Grantee may reconstruct any roadway crossed by Grantee in exercising its rights hereunder, Grantee assumes no maintenance for any road reconstructed as a result of Grantee's use of the Easement and Grantee expressly waives same, which waiver is acknowledged by Grantors.
7. Grantee shall be responsible for obtaining all permits necessary to construct and operate the Pipeline System on the Easement.
8. During construction of the Pipeline System, Grantee shall provide reasonable access to Grantors' property. Within the Easement, Grantee shall have the right to cut fences and install gates to enable Permitted Uses for the Pipeline System.
9. This grant of Easement shall not preclude the right of Grantors to cultivate, use, and enjoy the Lands for any purposes which will not constitute an interference with the

Easement, rights and privileges herein granted to Grantee, or endanger any of Grantee's property at the sole discretion of the Grantee.

10. Grantee shall exercise due care and diligence in the use of the rights and privileges herein granted to it. In case of abandonment of said Easement as provided in 3 above, the title and interest herein granted shall end, cease, and terminate, and title to the Easement, pipeline, equipment and facilities shall revert to the then owner of the Lands.
11. Grantors warrants and represents that the title to the Lands described herein are vested in the Grantors, free and clear of any liens and/or encumbrances. Grantors shall provide to Grantee an executed release from any lien holder, tenant, lessee, or other party having an interest in the Lands.
12. Grantors shall procure and have recorded without cost to Grantee all assurances of title and affidavits which the Grantors may be advised by Grantee are necessary and proper to show in Grantors title sufficient to grant the above easement free and clear of encumbrances other than those encumbrances expressly defined herein. Abstracts or certificates of title or title insurance may be procured by the Grantee at its expense. The expense of recording this Easement shall be borne by Grantors. Grantee agrees to cooperate and aid Grantors, if necessary, to obtain any curative documents needed.
13. Grantee shall have the right to use Grantors' property located immediately adjacent to the Easement for the following:
 - A. detouring around natural impediments within the Easement; or
 - B. the construction, maintenance, repair and removal of the Pipeline System within the Easement.
14. "Grantee" when used in this instrument, shall include The City of Lubbock's officers, agents, servants, employees, representatives, contractors, independent contractors, subcontractors, and/or their equipment or vehicles.
15. Words of any gender used in this agreement shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, and vice versa, unless the context requires otherwise.
16. It is understood and agreed that this Easement is not a conveyance of the fee estate for any of the Lands covered hereunder, but is only an easement through, over, under, upon, across and within the Lands.
17. The provisions of this Easement shall be binding upon and inure to the benefit of the successors and assigns of the respective parties hereto.
18. This Easement contains the final and complete expression of the parties with respect to any matter mentioned herein. No prior agreement or understanding pertaining to any such

matter shall be effective. This Easement may be modified in writing only, signed by the parties in interest at the time of the modification.

19. In case any one or more of the provisions contained in this Easement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Easement shall be construed as if such invalid, illegal or unenforceable provisions had never been contained herein.
20. Any notices or demands provided to be given herein by the parties shall be in writing and mailed by certified or registered mail to the other party at the address set forth above. Any notice or demand shall be deemed to have been received the earlier of five (5) days after the date of mailing or the date of actual delivery as shown by the addressee's certification or registry receipt.
21. Neither party shall be liable to the other party or any of such party's affiliates in any action or claim, including without any limitation, any action or claim for loss of profit, loss of product, loss of use, or for indirect, consequential, punitive, exemplary, special or other similar types of damages, regardless of how caused and regardless of the underlying theory of recovery, and even if caused by the sole or concurrent negligence of the responsible party.
 - A. To the extent that Grantors owns any portion of any mineral estate, leasehold estate and/or royalty interest of any kind or character under the Lands defined herein, Grantors surrender and release its surface drilling rights and all other rights of surface use of the Easement and Lands incident to the production of oil, gas, hydrocarbons, minerals, wind energy, and water production subject to the following exception and limitation:
 - i) Grantors reserve and except from this release and retains for themselves, their successors and their successors-in-interest, all rights to explore for, to drill and produce oil, gas and other hydrocarbons underlying or situated beneath the Easement and Lands by any means whatsoever, including wells directionally drilled from surface location on nearby lands so long as no surface operations are performed on the Easement and so long as such operations will not interfere with or endanger the operations or integrity of the Pipeline System and Permitted Uses.
 - ii) Grantors shall include the surface use restrictions and covenants provided herein in any subsequent lease or conveyance of the oil, gas and/or mineral estate, wind rights or interests and water rights or interests.
22. Grantee shall have the right to approve the location and means of future third-party pipelines which will cross Grantee's pipeline system and come within the Easement. Grantee will not withhold reasonable crossing requests, but will act in a manner to protect the Grantee's Pipeline System and Grantee's Easement.

23. *Nothing contained herein shall be construed as a waiver by the Grantee of immunity of any kind or type, including without limitation, waiver of immunity from liability and immunity from suit, and the Grantee shall retain all such immunities, except as may be otherwise waived pursuant to applicable laws of the United States or State of Texas.*

[Signatures of the Parties on Next Page]

EXECUTED this 1ST day of SEPTEMBER, 2020 ("Effective Date").

GRANTOR:

TBC ENTERPRISES, LLC
a Texas Limited Liability Company

By: [Signature]

Its: MEMBER

STATE OF TEXAS
COUNTY OF LUBBOCK

§
§



BEFORE ME, the undersigned authority, a Notary Public in and for said County and state, on this day personally appeared Barrett Sims, Member of TBC ENTERPRISES, LLC, a Texas limited liability company, for the purposes and consideration expressed, and in the capacity hereinabove stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 1st day of September 2020.

[Signature]
Notary Public, State of Texas

Heather Rose Boyett
Printed Name of Notary
My commission expires: 10-26-2023



SCALE: 1"=100'

Note: No abstract of title or title commitment was provided to this surveyor. Record research done by this surveyor was made only for the purpose of determining the boundary of this property and of the adjoining parcels. Recorded or unrecorded documents other than those shown on this survey may exist and encumber this property.

SECTION 21, BLOCK E-2
SECTION 1, BLOCK AK

F.M. 1585

30' SANITARY SEWER EASEMENT
CCFN 2015003387

70' DRAINAGE EASEMENT CCFN
2017012762

70' DRAINAGE EASEMENT
CCFN 2017012762

STATE OF TEXAS
CCFN 2019041973

P.O.B.
N= 7,237,975.48'
E= 940,783.59'

STATE OF TEXAS
CCFN 2019027329

PARCEL 2

REMAINDER OF 86.761 ACRES
1585 DEVELOPMENT, LLC
CCFN 2016023825

2.419 ACRES
TBC ENTERPRISES, LLC
CCFN 2019041193

STATE OF TEXAS
CCFN 2019041973 15' SPEC EASEMENT CCFN 2017000996

UNIVERSITY AVENUE

SECTION 1, BLOCK AK
SECTION 16, BLOCK E

LEGEND:

- SURVEYED PROPERTY
- ADJACENT PROPERTY
- RIGHT-OF-WAY
- EASEMENT
- - SET 1/2" ROD w/CAP
- ⊙ - FD. 1/2" ROD w/CAP
- - FD. 5/8" IRON ROD
- - FD. 5/8" IRON ROD (BENT)

P.O.B.- POINT OF BEGINNING

CCFN- COUNTY CLERK FILE NUMBER,
LUBBOCK COUNTY, TEXAS

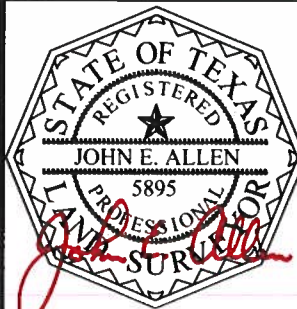
Line Table

Line #	Length	Direction
L1	74.21'	S86° 40' 27"E
L2	19.30'	S03° 37' 34"W
L3	88.62'	N86° 40' 27"W
L4	4.31'	N01° 51' 22"E

SOUTH LUBBOCK SANITARY SEWER EXTENSION RELOCATION

Parcel 1 - Permanent Easement
PERIMETER SURVEY OF A
0.037 ACRE PARCEL LOCATED IN
SECTION 1, BLOCK AK
LUBBOCK COUNTY, TEXAS

John E. Allen, Registered Professional Land Surveyor No.5895
State of Texas



Surveyed on the ground.
March 10, 2020

HR HUGO REED
AND ASSOCIATES, INC.

LAND SURVEYORS
CIVIL ENGINEERS

TEXAS LICENSED SURVEYING FIRM 100676-00
TEXAS REGISTERED ENGINEERING FIRM F-760

1601 AVENUE N
LUBBOCK, TEXAS 79401
PHONE: 806 / 763-5642
FAX: 806 / 763-3891

Bearings are relative to the Texas Coordinate System of 1983,
North Central Zone, NAD 83 (2011), Epoch 2010.0
Distances and coordinates are surface, U.S. Survey feet.
Combined Scale Factor: 1.0002452

DESCRIPTION FOR PARCEL 1

METES AND BOUNDS DESCRIPTION of a 0.037 acre parcel located in Section 1, Block AK, Lubbock County, Texas, being a portion of 2.419 acres described in County Clerk File Number (CCFN) 2019041193, Official Public Records, Lubbock County, Texas (OPRLCT), being further described as follows:

BEGINNING at a 1/2" iron rod with yellow cap marked 'HUGO REED & ASSOC' found (N=7,237,975.48', E=940,783.59') in the South line of a 22.235 acre tract conveyed to the State of Texas, acting by and through the Texas Transportation Commission described as 'Part 2' in CCFN 2019041973, OPRLCT, and at the most Northerly Northwest corner of said 2.419 acre tract, which bears S. 88°02'16" E. a distance of 458.46 feet and S. 01°57'44" W. a distance of 296.46 feet from a railroad spike found at the Northeast corner of said Section 1, Block AK, for the most Northerly Northwest corner of this parcel;

THENCE S. 86°40'27" E. along the common line of said 22.235 acre State of Texas tract and said 2.419 acre tract a distance of 74.21 feet to a 5/8" iron rod found bent at a common corner of said 22.235 acre State of Texas tract and said 2.419 acre tract, for the Northeast corner of this parcel;

THENCE S. 03°37'34" W. continuing along said common line of said 22.235 acre State of Texas tract and said 2.419 acre tract a distance of 19.30 feet to a 5/8" iron rod found bent at a common corner of said 22.235 acre State of Texas tract and said 2.419 acre tract, for the Southeast corner of this parcel;

THENCE N. 86°40'27" W. parallel with and 19.30 feet South of said common line of said 22.235 acre State of Texas tract and said 2.419 acre tract a distance of 88.62 feet to a 1/2" iron rod with yellow cap marked 'HUGO REED & ASSOC' set in the West line of said 2.419 acre tract for the Southwest corner of this parcel;

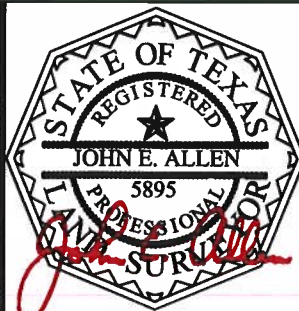
THENCE N. 01°51'22" E. along said West line of said 2.419 acre tract a distance of 4.31 feet to a 1/2" iron rod with yellow cap marked 'HUGO REED & ASSOC' found at the most Westerly Northwest corner of said 2.419 acre tract, for the most Westerly Northwest corner of this parcel;

THENCE N. 47°35'28" E. along said West line of said 2.419 acre tract a distance of 20.94 feet to the Point of Beginning.

SOUTH LUBBOCK SANITARY SEWER EXTENSION RELOCATION

Parcel 1 - Permanent Easement
PERIMETER SURVEY OF A
0.037 ACRE PARCEL LOCATED IN
SECTION 1, BLOCK AK
LUBBOCK COUNTY, TEXAS

John E. Allen, Registered Professional Land Surveyor No.5895
State of Texas



Surveyed on the ground.
March 10, 2020

**HR HUGO REED
AND ASSOCIATES, INC.**

**LAND SURVEYORS
CIVIL ENGINEERS**
TEXAS LICENSED SURVEYING FIRM 100676-00
TEXAS REGISTERED ENGINEERING FIRM F-760

1601 AVENUE N
LUBBOCK, TEXAS 79401
PHONE: 806 / 763-5642
FAX: 806 / 763-3891

Bearings are relative to the Texas Coordinate System of 1983,
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Combined Scale Factor: 1.0002452

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HUGO REED AND ASSOCIATES, INC.
1601 AVENUE N / LUBBOCK, TEXAS 79401 / 806-763-5642 / FAX 806-763-3891
TEXAS REGISTERED ENGINEERING FIRM F-760
TEXAS LICENSED SURVEYING FIRM 100676-00

Project: Loop 88 Utility Relocations

Parcel Nos.: 2 and 2-A

Owner: 1585 Development, LLC

Mailing Address: P.O. Box 64664
Lubbock, Texas 79464

Email Address: tpayn3@gmail.com

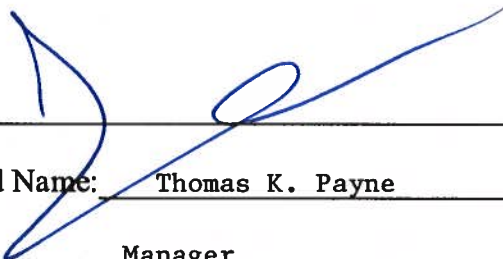
Phone Number: (806) 543-0667

Document Type: Easement

Consideration: Total consideration of \$746,077; subject to final approval by Lubbock City Council and subject to approval of title.

Closing Agent: West Texas Title Company, Inc.
8001 Quaker Avenue, Suite E
Lubbock, Texas 79424

Concurrence: 1585 Development, LLC, A Texas Limited Liability Company

By: 
Printed Name: Thomas K. Payne
Title: Manager

EASEMENT

STATE OF TEXAS §
 § KNOW ALL MEN BY THESE PRESENTS, THAT:
COUNTY OF LUBBOCK §

GRANTOR, 1585 DEVELOPMENT, LLC, a Texas Limited Liability Company whose address is P.O. Box 64664, Lubbock, Texas 79464, for a valuable consideration, to them paid by The City of Lubbock, Texas (the "Grantee") with offices at 1314 Avenue K, Lubbock, Texas 79401, the receipt and sufficiency of which are hereby acknowledged, has granted and does by these presents grant unto Grantee the following described perpetual exclusive easement, servitude and right-of-way, as described herein (hereinafter called the "Easement") through, over, under, upon, across and within the lands, described in **Exhibit A** (hereinafter called the "Lands" or "Easement Lands") situated in Lubbock County, Texas.

Pipelines and Equipment

Grantor hereby grants to Grantee a perpetual exclusive Easement together with the right to install, survey, construct, reconstruct, install, operate, inspect, maintain, alter, relocate, replace, repair, and remove (hereinafter called "Permitted Uses") pipelines, conduits, drain (blow-off) valves, valve boxes, meters, meter boxes, vents, manholes, manhole covers, corrosion monitoring test stations, pipeline markers, fence gates, impressed current deep well anode stations with power supplies, flow meters, system communication lines and splice boxes, roadways, and all other equipment and facilities related thereto, or any part thereof (hereinafter collectively called the "Pipeline System"), for and/or related to the transportation of water, waste water and effluent through, under, upon, over, across and within the Lands. Such perpetual exclusive Easement shall be as described herein and on **Exhibit A** attached hereto and incorporated herein, and hereby made a part hereof by reference to describe the Easement and the Lands.

For Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, this Easement is specifically made by Grantors and accepted by Grantee subject to the following terms, covenants, obligations and conditions:

1. Grantee may use and occupy the Easement for all purposes incidental and/or related to the Permitted Uses, including but not limited to: (a) the right to perform all Permitted Uses related to the Pipeline System; (b) the right (for men, material, and equipment) of unimpaired ingress and egress and regress, entry and access in, to, through, on, over, under and across said Easement granted herein, with the right to ingress and egress and regress to and from and access on and along said Easement, for any and all purposes necessary and or incident to the Permitted Uses; and (c) the right to locate the Pipeline System through, over, under, upon, across and within the Easement for the purpose of water/waste water/effluent transportation.

2. Grantee covenants and agrees that its use of the Easement and its operations conducted thereon shall, to the best of Grantee's ability, at all times comply with all applicable local, state and federal laws, orders, rules, regulations, standards, licensing, permitting and other legal requirements including, without limitation, all environmental laws, orders, rules, regulations, standards, licensing and permitting (the "Legal Requirements"). Grantee agrees to construct the Pipeline System in a prudent manner and with due care for Grantors' property, business and operations. In the event it is discovered that Grantee is in violation of any portion of the Legal Requirements, Grantee agrees to commence, upon receipt of written notice of such violation, the process of curing such violation so that Grantee will be in compliance with this subparagraph.
3. The Easement granted herein shall be for the transportation of water, wastewater, and/or effluent regardless of source, and shall continue in full force and effect unless Grantee should abandon the Pipeline System as identified herein. The rights granted to Grantee herein may be abandoned solely by a formal resolution of its governing body that authorizes the abandonment of the Pipeline System. Any such abandonment will not be effective until it is evidenced by notice in writing, signed by the Grantee's official representative, and filed of record in the county where the Lands are located.
4. The Easement Term is hereby defined as the period of time beginning with the granting of the Easement and continuing until such time that the Easement is abandoned by Grantee as set forth in paragraph 3 above.
5. Grantors and Grantee agree that during Permitted Uses related to the Pipeline System, any and all trees, dirt, raw materials, timber, spoil piles, excess dirt, wood, bushes, shrubs and brush, and other debris materials resulting from site preparation cleared from the Easement and remaining after the Pipeline System is in place shall, be removed by Grantee from Lands and from Grantors' property.
6. Grantee shall keep the Easement in good order, condition and repair following any work related to Permitted Uses on the Pipeline System. Notwithstanding anything contained herein to the contrary, although the Grantee may reconstruct any roadway crossed by Grantee in exercising its rights hereunder, Grantee assumes no maintenance for any road reconstructed as a result of Grantee's use of the Easement and Grantee expressly waives same, which waiver is acknowledged by Grantors.
7. Grantee shall be responsible for obtaining all permits necessary to construct and operate the Pipeline System on the Easement.
8. During construction of the Pipeline System, Grantee shall provide reasonable access to Grantors' property. Within the Easement, Grantee shall have the right to cut fences and install gates to enable Permitted Uses for the Pipeline System.
9. This grant of Easement shall not preclude the right of Grantors to cultivate, use, and enjoy the Lands for any purposes which will not constitute an interference with the

Easement, rights and privileges herein granted to Grantee, or endanger any of Grantee's property at the sole discretion of the Grantee.

10. Grantee shall exercise due care and diligence in the use of the rights and privileges herein granted to it. In case of abandonment of said Easement as provided in 3 above, the title and interest herein granted shall end, cease, and terminate, and title to the Easement, pipeline, equipment and facilities shall revert to the then owner of the Lands.
11. Grantors warrants and represents that the title to the Lands described herein are vested in the Grantors, free and clear of any liens and/or encumbrances. Grantors shall provide to Grantee an executed release from any lien holder, tenant, lessee, or other party having an interest in the Lands.
12. Grantors shall procure and have recorded without cost to Grantee all assurances of title and affidavits which the Grantors may be advised by Grantee are necessary and proper to show in Grantors title sufficient to grant the above easement free and clear of encumbrances other than those encumbrances expressly defined herein. Abstracts or certificates of title or title insurance may be procured by the Grantee at its expense. The expense of recording this Easement shall be borne by Grantors. Grantee agrees to cooperate and aid Grantors, if necessary, to obtain any curative documents needed.
13. Grantee shall have the right to use Grantors' property located immediately adjacent to the Easement for the following:
 - A. detouring around natural impediments within the Easement; or
 - B. the construction, maintenance, repair and removal of the Pipeline System within the Easement.
14. "Grantee" when used in this instrument, shall include The City of Lubbock's officers, agents, servants, employees, representatives, contractors, independent contractors, subcontractors, and/or their equipment or vehicles.
15. Words of any gender used in this agreement shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, and vice versa, unless the context requires otherwise.
16. It is understood and agreed that this Easement is not a conveyance of the fee estate for any of the Lands covered hereunder, but is only an easement through, over, under, upon, across and within the Lands.
17. The provisions of this Easement shall be binding upon and inure to the benefit of the successors and assigns of the respective parties hereto.
18. This Easement contains the final and complete expression of the parties with respect to any matter mentioned herein. No prior agreement or understanding pertaining to any such

matter shall be effective. This Easement may be modified in writing only, signed by the parties in interest at the time of the modification.

19. In case any one or more of the provisions contained in this Easement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Easement shall be construed as if such invalid, illegal or unenforceable provisions had never been contained herein.
20. Any notices or demands provided to be given herein by the parties shall be in writing and mailed by certified or registered mail to the other party at the address set forth above. Any notice or demand shall be deemed to have been received the earlier of five (5) days after the date of mailing or the date of actual delivery as shown by the addressee's certification or registry receipt.
21. Neither party shall be liable to the other party or any of such party's affiliates in any action or claim, including without any limitation, any action or claim for loss of profit, loss of product, loss of use, or for indirect, consequential, punitive, exemplary, special or other similar types of damages, regardless of how caused and regardless of the underlying theory of recovery, and even if caused by the sole or concurrent negligence of the responsible party.
 - A. To the extent that Grantors owns any portion of any mineral estate, leasehold estate and/or royalty interest of any kind or character under the Lands defined herein, Grantors surrender and release its surface drilling rights and all other rights of surface use of the Easement and Lands incident to the production of oil, gas, hydrocarbons, minerals, wind energy, and water production subject to the following exception and limitation:
 - i) Grantors reserve and except from this release and retains for themselves, their successors and their successors-in-interest, all rights to explore for, to drill and produce oil, gas and other hydrocarbons underlying or situated beneath the Easement and Lands by any means whatsoever, including wells directionally drilled from surface location on nearby lands so long as no surface operations are performed on the Easement and so long as such operations will not interfere with or endanger the operations or integrity of the Pipeline System and Permitted Uses.
 - ii) Grantors shall include the surface use restrictions and covenants provided herein in any subsequent lease or conveyance of the oil, gas and/or mineral estate, wind rights or interests and water rights or interests.
22. Grantee shall have the right to approve the location and means of future third-party pipelines which will cross Grantee's pipeline system and come within the Easement. Grantee will not withhold reasonable crossing requests, but will act in a manner to protect the Grantee's Pipeline System and Grantee's Easement.

23. *Nothing contained herein shall be construed as a waiver by the Grantee of immunity of any kind or type, including without limitation, waiver of immunity from liability and immunity from suit, and the Grantee shall retain all such immunities, except as may be otherwise waived pursuant to applicable laws of the United States or State of Texas.*

[Signatures of the Parties on Next Page]

EXECUTED this 20th day of January, 2021 ("Effective Date").

GRANTOR:

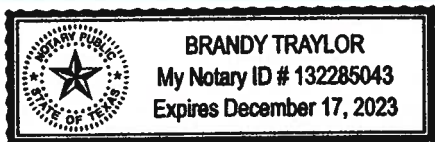
1585 DEVELOPMENT, LLC
a Texas Limited Liability Company

By: [Signature]
Thomas Payne, Manager

STATE OF TEXAS §
COUNTY OF LUBBOCK §

BEFORE ME, the undersigned authority, a Notary Public in and for said County and state, on this day personally appeared Thomas Payne, of 1585 DEVELOPMENT, LLC, a Texas limited liability company for the purposes and consideration expressed, and in the capacity hereinabove stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 20 day of January 2021.



Brandy Traylor
Notary Public, State of Texas
Brandy Traylor
Printed Name of Notary
My commission expires: 12.17.23

STATE OF TEXAS §
 §
COUNTY OF LUBBOCK §

That PEOPLES BANK duly organized and existing under the laws of the State of Texas , for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) paid in cash, and for other good and valuable consideration, the receipt of which is hereby acknowledged and confessed, being a lien holder of the property described herein, does hereby consent and agree to the foregoing EASEMENT and does hereby subordinate its rights in the above described property to the above dedication, as shown on the attached Exhibit A.

IN WITNESS WHEREOF, the said PEOPLES BANK has caused these presents to be signed by its duly authorized officer at Lubbock, Lubbock County, Texas, on this 20 day of January, 2021.

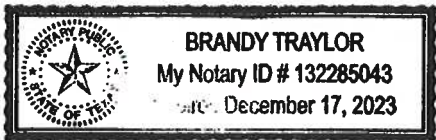
PEOPLES BANK

By: [Signature] EVP
Printed Name: Jordan McKay
Title: EVP

STATE OF TEXAS §
COUNTY OF LUBBOCK §

BEFORE ME, the undersigned authority, on this day personally appeared Jordan McKay, of PEOPLES BANK, a state banking corporation, acknowledged to me that he/she executed the same for purposes and considerations herein expressed and in the capacity so stated, and as the act and deed of said corporation.

Given under my hand and seal of office this the 20 day of January, 2021.



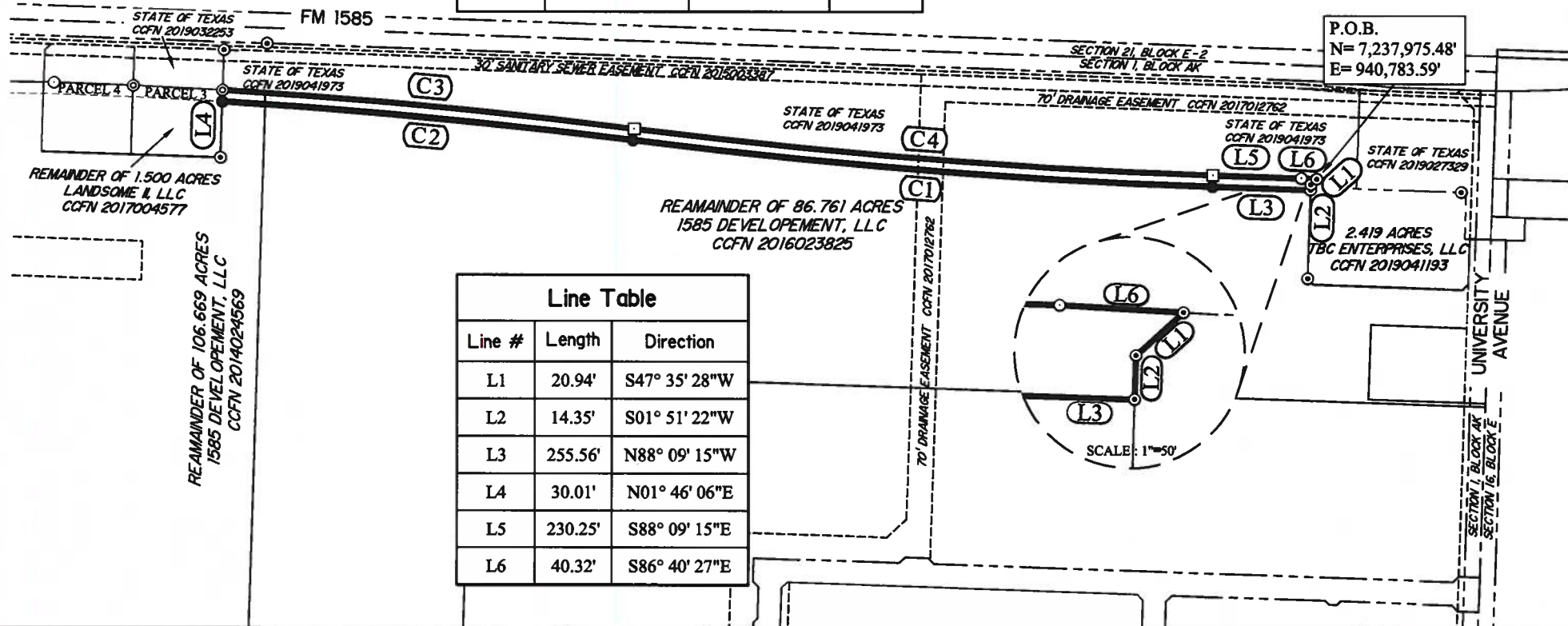
Brandy Traylor
Notary Public in and for the State of Texas
My Commission Expires: 12.17.23



SCALE: 1"=400'

Curve Table			
Curve #	Chord Direction	Chord Distance	Radius
C1	N85°26'44"W	1511.89'	16072.00'
C2	N84°40'46"W	1070.01'	15810.00'
C3	S84°40'52"E	1072.88'	15840.00'
C4	S85°26'44"E	1509.07'	16042.00'

Note: No abstract of title or title commitment was provided to this surveyor. Record research done by this surveyor was made only for the purpose of determining the boundary of this property and of the adjoining parcels. Recorded or unrecorded documents other than those shown on this survey may exist and encumber this property.

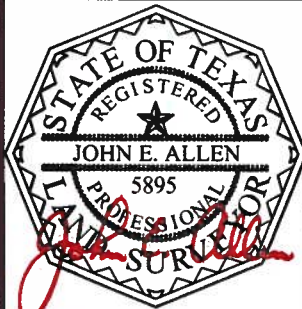


Line Table		
Line #	Length	Direction
L1	20.94'	S47° 35' 28"W
L2	14.35'	S01° 51' 22"W
L3	255.56'	N88° 09' 15"W
L4	30.01'	N01° 46' 06"E
L5	230.25'	S88° 09' 15"E
L6	40.32'	S86° 40' 27"E

SOUTH LUBBOCK SANITARY SEWER EXTENSION RELOCATION

Parcel 2 - Permanent Easement
PERIMETER SURVEY OF A
1.957 ACRE PARCEL LOCATED IN
SECTION 1, BLOCK AK
LUBBOCK COUNTY, TEXAS

John E. Allen, Registered Professional Land Surveyor No.5895
State of Texas



Surveyed on the ground.
March 10, 2020

HR HUGO REED
AND ASSOCIATES, INC.

LAND SURVEYORS
CIVIL ENGINEERS

TEXAS LICENSED SURVEYING FIRM 100676-00
TEXAS REGISTERED ENGINEERING FIRM F-760

1601 AVENUE N
LUBBOCK, TEXAS 79401
PHONE: 806 / 763-5642
FAX: 806 / 763-3891

Bearings are relative to the Texas Coordinate System of 1983,
North Central Zone, NAD 83 (2011), Epoch 2010.0
Distances and coordinates are surface, U.S. Survey feet.
Combined Scale Factor: 1.0002452

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LEGEND:

- SURVEYED PROPERTY
- ADJACENT PROPERTY
- RIGHT-OF-WAY
- EASEMENT
- - SET 1/2" ROD w/CAP
- ⊙ - FD. 1/2" ROD w/CAP
- - FD. 5/8" IRON ROD
- ⊗ - FD. 5/8" IRON ROD WITH ALUM. CAP
- - FD. 5/8" IRON ROD (BENT)

P.O.B. - POINT OF BEGINNING
CCFN - COUNTY CLERK FILE NUMBER,
LUBBOCK COUNTY, TEXAS

EXHIBIT A

DESCRIPTION FOR PARCEL 2

METES AND BOUNDS DESCRIPTION of a 1.957 acre parcel located in Section 1, Block AK, Lubbock County, Texas, being a portion of 86.761 acres described in County Clerk File Number (CCFN) 2016023825, Official Public Records, Lubbock County, Texas (OPRLCT), and a portion of 106.669 acres described in CCFN 2014024569, OPRLCT, being further described as follows:

BEGINNING at a 1/2" iron rod with yellow cap marked 'HUGO REED & ASSOC' found (N=7,237,975.48', E=940,783.59') in the South line of a 22.235 acre tract conveyed to the State of Texas, acting by and through the Texas Transportation Commission described as 'Part 2' in CCFN 2019041973, OPRLCT, and at the most Northerly Northwest corner of a 2.419 acre tract described in CCFN 2019041193, OPRLCT, which bears S. 88°02'16" E. a distance of 458.46 feet and S. 01°57'44" W. a distance of 296.46 feet from a railroad spike found at the Northeast corner of said Section 1, Block AK, for the Northeast corner of this parcel;

THENCE S. 47°35'28" W. along the West line of said 2.419 acre tract a distance of 20.94 feet to a 1/2" iron rod with yellow cap marked 'HUGO REED & ASSOC' found at the most Westerly Northwest corner of said 2.419 acre tract, for a corner of this parcel;

THENCE S. 01°51'22" W. continuing along said West line of said 2.419 acre tract a distance of 14.35 feet to a 1/2" iron rod with yellow cap marked 'HUGO REED & ASSOC' set in said West line of said 2.419 acre tract, being 29.34 feet South of the South line of said 22.235 acre State of Texas tract for the Southwest corner of this parcel;

THENCE N. 88°09'15" W. at 25.31 feet pass a point, continuing parallel with and 30.00 feet South of said South line of said 22.235 acre State of Texas tract, for a total distance of 255.56 feet to a 1/2" iron rod with yellow cap marked 'HUGO REED & ASSOC' set at a point of curvature and a corner of this parcel;

THENCE continuing parallel with and 30.00 feet South of said South line of said 22.235 acre State of Texas tract, Northwesterly along a curve concave to the Northeast, having a radius of 16,072.00 feet, a chord bearing N. 85°26'44" W. and a chord distance of 1,511.89 feet to a 1/2" iron rod with yellow cap marked 'HUGO REED & ASSOC' set at a point of reverse curvature, for a corner of this parcel;

THENCE continuing parallel with and 30.00 feet South of said South line of said 22.235 acre State of Texas tract, Northwesterly along a curve concave to the Southwest, having a radius of 15,810.00 feet, a chord bearing N. 84°40'46" W. and a chord distance of 1,070.01 feet, at a partial chord distance of 958.37 feet pass the West line of said 86.761 acre tract and the East line of a 106.669 acre tract described in CCFN 2014024569, OPRLCT, to a 1/2" iron rod with yellow cap marked 'HUGO REED & ASSOC' set in the East line of a 1.500 acre tract described in CCFN 2017004577, OPRLCT, for the Southwest corner of this parcel;

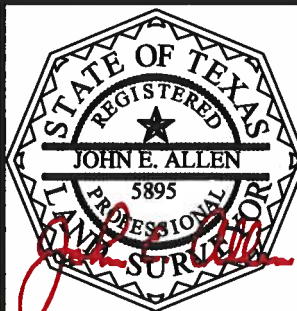
THENCE N. 01°46'06" E. along the said East line of said 1.500 acre tract a distance of 30.01 feet to a 5/8" iron rod with aluminum cap marked 'TX DEPARTMENT OF TRANSPORTATION - ROW' found at the Southeast corner of a 0.546 acre tract conveyed to the State of Texas, acting by and through the Texas Transportation Commission described in CCFN 2019032253, OPRLCT, and at the Southwest corner of said 22.235 acre tract described as 'Part 2' in CCFN 2019041973, OPRLCT, at a point of curvature for the Northwest corner of this parcel;

-Continued on next page-

SOUTH LUBBOCK SANITARY SEWER EXTENSION RELOCATION

Parcel 2 - Permanent Easement
PERIMETER SURVEY OF A
1.957 ACRE PARCEL LOCATED IN
SECTION 1, BLOCK AK
LUBBOCK COUNTY, TEXAS

John E. Allen, Registered Professional Land Surveyor No.5895
State of Texas



Surveyed on the ground.
March 10, 2020

HR HUGO REED AND ASSOCIATES, INC.

LAND SURVEYORS
CIVIL ENGINEERS
TEXAS LICENSED SURVEYING FIRM 100678-00
TEXAS REGISTERED ENGINEERING FIRM F-760

1601 AVENUE N
LUBBOCK, TEXAS 79401
PHONE: 806 / 763-5642
FAX: 806 / 763-3891

Bearings are relative to the Texas Coordinate System of 1983,
North Central Zone, NAD 83 (2011), Epoch 2010.0
Distances and coordinates are surface, U.S. Survey feet.
Combined Scale Factor: 1.0002452

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DESCRIPTION FOR PARCEL 2 - CONTINUED

THENCE along said South line of said 22.235 acre State of Texas tract, Southeasterly along a curve concave to the Southwest, having a radius of 15,840.00 feet, a chord bearing S. 84°40'52" E. (CCFN 2019041973 calls S. 84°41'05" E.) and a chord distance of 1,072.88 feet (CCFN 2019041973 calls 1,072.86 feet), at a partial chord distance of 111.69 feet pass the West line of said 86.761 acre tract and the East line of a 106.669 acre tract described in CCFN 2014024569, OPRLC, to a 5/8" bent iron rod found at a point of reverse curvature, for a corner of this parcel;

THENCE continuing along said South line of said 22.235 acre State of Texas tract, Southeasterly along a curve concave to the Northeast, having a radius of 16,042.00 feet, a chord bearing S. 85°26'44" E. (CCFN 2019041973 calls S. 85°26'24" E.) and a chord distance of 1,509.07 feet (CCFN 2019041973 calls 1,509.05 feet) to a 5/8" iron rod with aluminum cap marked 'TX DEPARTMENT OF TRANSPORTATION - ROW' found bent at the end of curve, for a corner of this parcel;

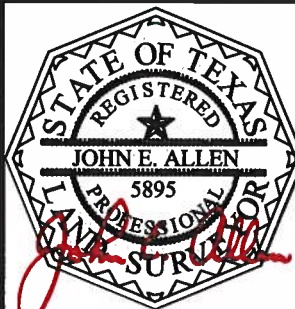
THENCE S. 88°09'15" E. continuing along said South line of said 22.235 acre State of Texas tract a distance of 230.25 feet to a 5/8" iron rod found at a point of intersection in said South line of said 22.235 acre State of Texas tract, for a corner of this parcel;

THENCE S. 86°40'27" E. (CCFN 2019041973 calls S. 86°36'40" E.) continuing along said South line of said 22.235 acre State of Texas tract a distance of 40.32 feet to the Point of Beginning.

SOUTH LUBBOCK SANITARY SEWER EXTENSION RELOCATION

Parcel 2 - Permanent Easement
PERIMETER SURVEY OF A
1.957 ACRE PARCEL LOCATED IN
SECTION 1, BLOCK AK
LUBBOCK COUNTY, TEXAS

John E. Allen, Registered Professional Land Surveyor No.5895
State of Texas



Surveyed on the ground.
March 10, 2020

HR HUGO REED AND ASSOCIATES, INC.

LAND SURVEYORS
CIVIL ENGINEERS
TEXAS LICENSED SURVEYING FIRM 100678-00
TEXAS REGISTERED ENGINEERING FIRM F-780

1601 AVENUE N
LUBBOCK, TEXAS 79401
PHONE: 806 / 763-5642
FAX: 806 / 763-3891

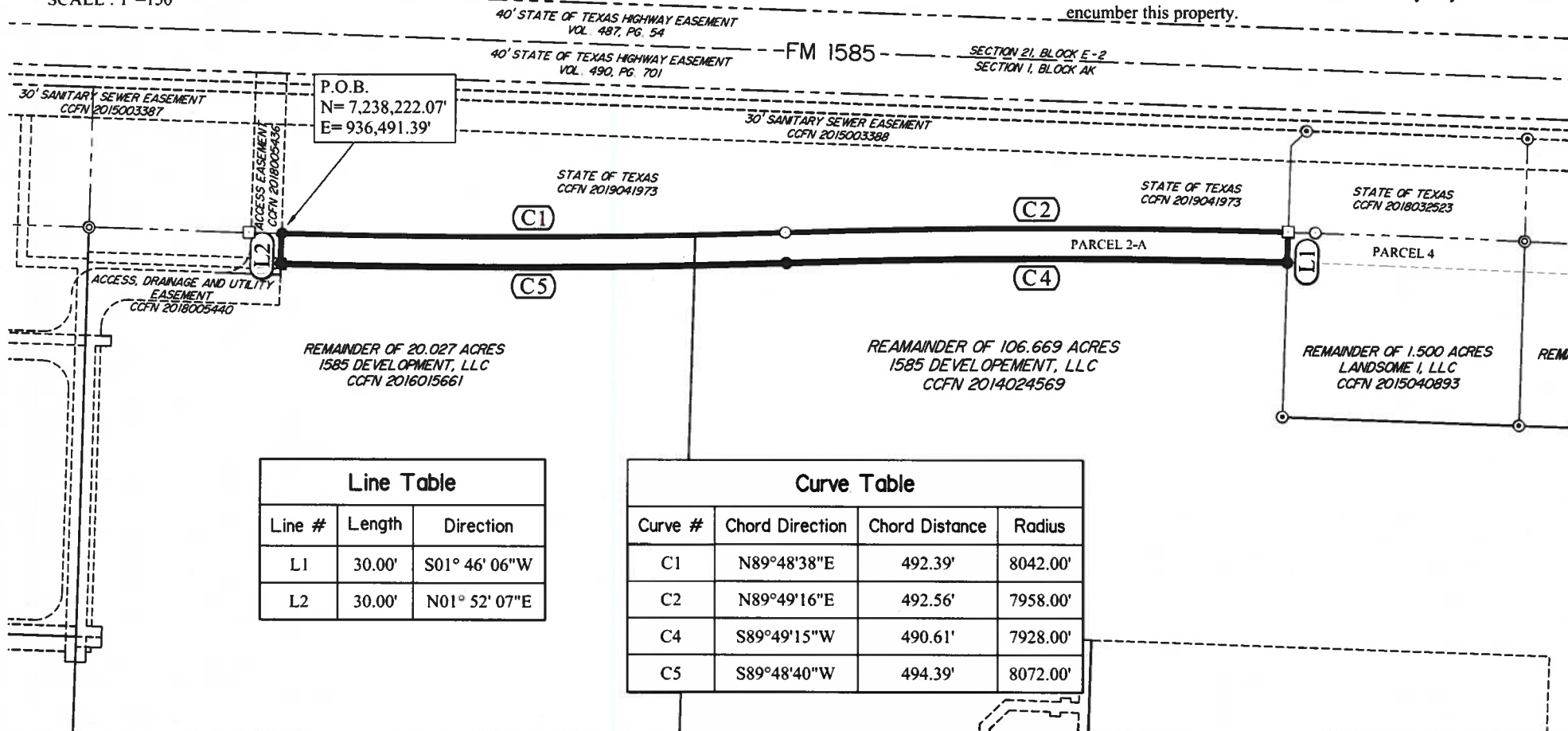
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Combined Scale Factor: 1.0002452

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SCALE: 1"=150'

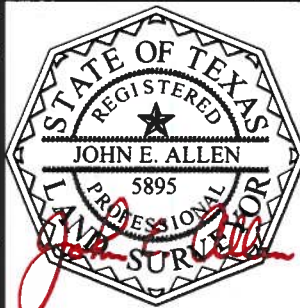
Note: No abstract of title or title commitment was provided to this surveyor. Record research done by this surveyor was made only for the purpose of determining the boundary of this property and of the adjoining parcels. Recorded or unrecorded documents other than those shown on this survey may exist and encumber this property.



SOUTH LUBBOCK SANITARY SEWER EXTENSION RELOCATION

Parcel 2-A - Permanent Easement
PERIMETER SURVEY OF A
0.678 ACRE PARCEL LOCATED IN
SECTION 1, BLOCK AK
LUBBOCK COUNTY, TEXAS

John E. Allen, Registered Professional Land Surveyor No.5895
State of Texas



Surveyed on the ground.
March 10, 2020

HR HUGO REED
AND ASSOCIATES, INC.

LAND SURVEYORS
CIVIL ENGINEERS
1601 AVENUE N
LUBBOCK, TEXAS 79401
TEXAS LICENSED SURVEYING FIRM 100676-00
PHONE: 806 / 763-5642
TEXAS REGISTERED ENGINEERING FIRM F-760
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Combined Scale Factor: 1.0002452

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LEGEND:

- SURVEYED PROPERTY
- ADJACENT PROPERTY
- RIGHT-OF-WAY
- EASEMENT
- - SET 1/2" ROD w/CAP
- ⊙ - FD. 1/2" ROD w/CAP
- - FD. 5/8" IRON ROD
- ⊙ - FD. 5/8" IRON ROD WITH ALUM. CAP
- - FD. 5/8" IRON ROD (BENT)

P.O.B. - POINT OF BEGINNING
CCFN - COUNTY CLERK FILE NUMBER,
LUBBOCK COUNTY, TEXAS

EXHIBIT A

DESCRIPTION FOR PARCEL 2-A

METES AND BOUNDS DESCRIPTION of a 0.678 acre parcel located in Section 1, Block AK, Lubbock County, Texas, being a portion of 20.027 acres described in County Clerk File Number (CCFN) 2016015661, Official Public Records, Lubbock County, Texas (OPRLCT), and a portion of 106.669 acres described in CCFN 2014024569, OPRLCT, being further described as follows:

BEGINNING at a 1/2" iron rod with yellow cap marked 'HUGO REED & ASSOC' set (N=7,238,222.07', E=936,491.39') in the South line of a 22.235 acre tract conveyed to the State of Texas, acting by and through the Texas Transportation Commission described as 'Part 2' in CCFN 2019041973, OPRLCT, and in the East line of a 30.00 foot access easement described in CCFN 2018005435, OPRLCT, which bears S. 88°02'16" E. a distance of 530.06 feet and S. 01°57'44" W. a distance of 197.00 feet from the Northwest corner of said Section 1, Block AK, for the Northwest corner of this parcel;

THENCE along said South line of said 22.235 acre State of Texas tract, Northeasterly along a curve concave to the Northwest, having a radius of 8,042.00 feet, a chord bearing S. 89°48'38" E. and a chord distance of 492.39 feet, at a partial chord distance of 404.51 feet pass the East line of said 20.027 acre tract and the West line of a 106.669 acre tract, to a 5/8" iron rod found at a point of reverse curvature, for a corner of this parcel;

THENCE continuing along said South line of said 22.235 acre State of Texas tract, Northeasterly along a curve concave to the Southeast, having a radius of 7,958.00 feet, a chord bearing N. 89°49'16" E. (CCFN 2019041973 calls N. 89°49'46" E.) and a chord distance of 492.56 feet (CCFN 2019041973 calls 492.49 feet) to a 5/8" bent iron rod found in the West line of a 1.500 acre tract described in CCFN 2015040893, OPRLCT, at the Southwest corner of a 0.532 acre tract conveyed to the State of Texas, acting by and through the Texas Transportation Commission described in CCFN 2018032523, OPRLCT, and at a corner of said 22.235 acre State of Texas tract, for the Northeast corner of this parcel, from whence a 5/8" iron rod found in reference bears S. 88°18'05" E. a distance of 26.73 feet;

THENCE S. 01°46'06" W. along the West line of said 1.500 acre tract a distance of 30.00 feet to a 1/2" iron rod with yellow cap marked 'HUGO REED & ASSOC' set for a point of curvature at the Southeast corner of this parcel, from whence a 1/2" iron rod with aluminum cap marked 'ABACUS RPLS 4460' found at the Southwest corner of said 1.500 acre tract bears S. 01°46'06" W. a distance of 151.34 feet;

THENCE parallel with and 30.00 feet South of said South line of said 22.235 acre State of Texas tract, Southwesterly along a curve concave to the Southeast, having a radius of 7,928.00 feet, a chord bearing S. 89°49'15" W. and a chord distance of 490.61 feet, to a 1/2" iron rod with yellow cap marked 'HUGO REED & ASSOC' set at a point of reverse curvature, for a corner of this parcel;

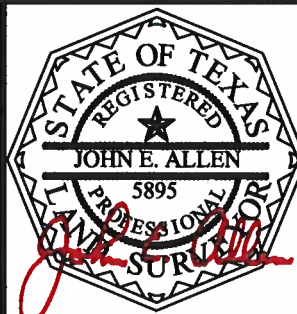
THENCE continuing parallel with and 30.00 feet South of said South line of said 22.235 acre State of Texas tract, Southwesterly along a curve concave to the Northwest, having a radius of 8,072.00 feet, a chord bearing S. 89°48'40" W. and a chord distance of 494.39 feet, at a partial chord distance of 89.91 feet pass the East line of said 20.027 acre tract and the West line of said 106.669 acre tract, to a 1/2" iron rod with yellow cap marked 'HUGO REED & ASSOC' set in the said East line of said 30.00 foot access easement, for the Southwest corner of this parcel;

THENCE N. 01°52'07" E. along said East line of said 30.00 foot access easement a distance of 30.00 feet to the Point of Beginning.

SOUTH LUBBOCK SANITARY SEWER EXTENSION RELOCATION

Parcel 2-A - Permanent Easement
PERIMETER SURVEY OF A
0.678 ACRE PARCEL LOCATED IN
SECTION 1, BLOCK AK
LUBBOCK COUNTY, TEXAS

John E. Allen, Registered Professional Land Surveyor No.5895
State of Texas



Surveyed on the ground.
March 10, 2020

HR HUGO REED AND ASSOCIATES, INC.

LAND SURVEYORS
CIVIL ENGINEERS
TEXAS LICENSED SURVEYING FIRM 100678-00
TEXAS REGISTERED ENGINEERING FIRM F-760

1601 AVENUE N
LUBBOCK, TEXAS 79401
PHONE: 806 / 763-5642
FAX: 806 / 763-3891

Bearings are relative to the Texas Coordinate System of 1983,
North Central Zone, NAD 83 (2011), Epoch 2010.0
Distances and coordinates are surface, U.S. Survey feet.
Combined Scale Factor: 1.0002452

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HUGO REED AND ASSOCIATES, INC.
1601 AVENUE N / LUBBOCK, TEXAS 79401 / 806-763-5642 / FAX 806-763-3891
TEXAS REGISTERED ENGINEERING FIRM F-760
TEXAS LICENSED SURVEYING FIRM 100676-00

Project: Loop 88 Utility Relocations

Parcel Nos.: 3

Owner: Landsome II, LLC

Mailing Address: 4818 Berkman Drive, Apt. 3149
Austin, TX 78723

Email Address: pattifonner@gmail.com

Phone Number: (806) 789-4648

Document Type: Easement

Consideration: Total consideration of \$47,047; subject to final approval by Lubbock City Council and subject to approval of title.

Lien Holder: First Bank & Trust, Lubbock, Texas

Closing Agent: West Texas Title Company, Inc.
8001 Quaker Avenue, Suite E
Lubbock, Texas 79424

Concurrence: Landsome II, LLC, A Texas Limited Liability Company

By: Patti Fonner

Printed Name: Patti Fonner

Title: Manager

EASEMENT

STATE OF TEXAS §
 § KNOW ALL MEN BY THESE PRESENTS, THAT:
COUNTY OF LUBBOCK §

GRANTOR, LANDSOME II, LLC, a Texas Limited Liability Company whose address is 4818 Berkman Dr., Apt. 3149, Austin, TX 78723, for a valuable consideration, to them paid by The City of Lubbock, Texas (the "Grantee") with offices at 1314 Avenue K, Lubbock, Texas 79401, the receipt and sufficiency of which are hereby acknowledged, has granted and does by these presents grant unto Grantee the following described perpetual exclusive easement, servitude and right-of-way, as described herein (hereinafter called the "Easement") through, over, under, upon, across and within the lands, described in **Exhibit A** (hereinafter called the "Lands" or "Easement Lands") situated in Lubbock County, Texas.

Pipelines and Equipment

Grantor hereby grants to Grantee a perpetual exclusive Easement together with the right to install, survey, construct, reconstruct, install, operate, inspect, maintain, alter, relocate, replace, repair, and remove (hereinafter called "Permitted Uses") pipelines, conduits, drain (blow-off) valves, valve boxes, meters, meter boxes, vents, manholes, manhole covers, corrosion monitoring test stations, pipeline markers, fence gates, impressed current deep well anode stations with power supplies, flow meters, system communication lines and splice boxes, roadways, and all other equipment and facilities related thereto, or any part thereof (hereinafter collectively called the "Pipeline System"), for and/or related to the transportation of water, waste water and effluent through, under, upon, over, across and within the Lands. Such perpetual exclusive Easement shall be as described herein and on **Exhibit A** attached hereto and incorporated herein, and hereby made a part hereof by reference to describe the Easement and the Lands.

For Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, this Easement is specifically made by Grantors and accepted by Grantee subject to the following terms, covenants, obligations and conditions:

1. Grantee may use and occupy the Easement for all purposes incidental and/or related to the Permitted Uses, including but not limited to: (a) the right to perform all Permitted Uses related to the Pipeline System; (b) the right (for men, material, and equipment) of unimpaired ingress and egress and regress, entry and access in, to, through, on, over, under and across said Easement granted herein, with the right to ingress and egress and regress to and from and access on and along said Easement, for any and all purposes necessary and or incident to the Permitted Uses; and (c) the right to locate the Pipeline System through, over, under, upon, across and within the Easement for the purpose of water/waste water/effluent transportation.

2. Grantee covenants and agrees that its use of the Easement and its operations conducted thereon shall, to the best of Grantee's ability, at all times comply with all applicable local, state and federal laws, orders, rules, regulations, standards, licensing, permitting and other legal requirements including, without limitation, all environmental laws, orders, rules, regulations, standards, licensing and permitting (the "Legal Requirements"). Grantee agrees to construct the Pipeline System in a prudent manner and with due care for Grantors' property, business and operations. In the event it is discovered that Grantee is in violation of any portion of the Legal Requirements, Grantee agrees to commence, upon receipt of written notice of such violation, the process of curing such violation so that Grantee will be in compliance with this subparagraph.
3. The Easement granted herein shall be for the transportation of water, wastewater, and/or effluent regardless of source, and shall continue in full force and effect unless Grantee should abandon the Pipeline System as identified herein. The rights granted to Grantee herein may be abandoned solely by a formal resolution of its governing body that authorizes the abandonment of the Pipeline System. Any such abandonment will not be effective until it is evidenced by notice in writing, signed by the Grantee's official representative, and filed of record in the county where the Lands are located.
4. The Easement Term is hereby defined as the period of time beginning with the granting of the Easement and continuing until such time that the Easement is abandoned by Grantee as set forth in paragraph 3 above.
5. Grantors and Grantee agree that during Permitted Uses related to the Pipeline System, any and all trees, dirt, raw materials, timber, spoil piles, excess dirt, wood, bushes, shrubs and brush, and other debris materials resulting from site preparation cleared from the Easement and remaining after the Pipeline System is in place shall, be removed by Grantee from Lands and from Grantors' property.
6. Grantee shall keep the Easement in good order, condition and repair following any work related to Permitted Uses on the Pipeline System. Notwithstanding anything contained herein to the contrary, although the Grantee may reconstruct any roadway crossed by Grantee in exercising its rights hereunder, Grantee assumes no maintenance for any road reconstructed as a result of Grantee's use of the Easement and Grantee expressly waives same, which waiver is acknowledged by Grantors.
7. Grantee shall be responsible for obtaining all permits necessary to construct and operate the Pipeline System on the Easement.
8. During construction of the Pipeline System, Grantee shall provide reasonable access to Grantors' property. Within the Easement, Grantee shall have the right to cut fences and install gates to enable Permitted Uses for the Pipeline System.
9. This grant of Easement shall not preclude the right of Grantors to cultivate, use, and enjoy the Lands for any purposes which will not constitute an interference with the

Easement, rights and privileges herein granted to Grantee, or endanger any of Grantee's property at the sole discretion of the Grantee.

10. Grantee shall exercise due care and diligence in the use of the rights and privileges herein granted to it. In case of abandonment of said Easement as provided in 3 above, the title and interest herein granted shall end, cease, and terminate, and title to the Easement, pipeline, equipment and facilities shall revert to the then owner of the Lands.
11. Grantors warrants and represents that the title to the Lands described herein are vested in the Grantors, free and clear of any liens and/or encumbrances. Grantors shall provide to Grantee an executed release from any lien holder, tenant, lessee, or other party having an interest in the Lands.
12. Grantors shall procure and have recorded without cost to Grantee all assurances of title and affidavits which the Grantors may be advised by Grantee are necessary and proper to show in Grantors title sufficient to grant the above easement free and clear of encumbrances other than those encumbrances expressly defined herein. Abstracts or certificates of title or title insurance may be procured by the Grantee at its expense. The expense of recording this Easement shall be borne by Grantors. Grantee agrees to cooperate and aid Grantors, if necessary, to obtain any curative documents needed.
13. Grantee shall have the right to use Grantors' property located immediately adjacent to the Easement for the following:
 - A. detouring around natural impediments within the Easement; or
 - B. the construction, maintenance, repair and removal of the Pipeline System within the Easement.
14. "Grantee" when used in this instrument, shall include The City of Lubbock's officers, agents, servants, employees, representatives, contractors, independent contractors, subcontractors, and/or their equipment or vehicles.
15. Words of any gender used in this agreement shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, and vice versa, unless the context requires otherwise.
16. It is understood and agreed that this Easement is not a conveyance of the fee estate for any of the Lands covered hereunder, but is only an easement through, over, under, upon, across and within the Lands.
17. The provisions of this Easement shall be binding upon and inure to the benefit of the successors and assigns of the respective parties hereto.
18. This Easement contains the final and complete expression of the parties with respect to any matter mentioned herein. No prior agreement or understanding pertaining to any such

matter shall be effective. This Easement may be modified in writing only, signed by the parties in interest at the time of the modification.

19. In case any one or more of the provisions contained in this Easement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Easement shall be construed as if such invalid, illegal or unenforceable provisions had never been contained herein.
20. Any notices or demands provided to be given herein by the parties shall be in writing and mailed by certified or registered mail to the other party at the address set forth above. Any notice or demand shall be deemed to have been received the earlier of five (5) days after the date of mailing or the date of actual delivery as shown by the addressee's certification or registry receipt.
21. Neither party shall be liable to the other party or any of such party's affiliates in any action or claim, including without any limitation, any action or claim for loss of profit, loss of product, loss of use, or for indirect, consequential, punitive, exemplary, special or other similar types of damages, regardless of how caused and regardless of the underlying theory of recovery, and even if caused by the sole or concurrent negligence of the responsible party.
 - A. To the extent that Grantors owns any portion of any mineral estate, leasehold estate and/or royalty interest of any kind or character under the Lands defined herein, Grantors surrender and release its surface drilling rights and all other rights of surface use of the Easement and Lands incident to the production of oil, gas, hydrocarbons, minerals, wind energy, and water production subject to the following exception and limitation:
 - i) Grantors reserve and except from this release and retains for themselves, their successors and their successors-in-interest, all rights to explore for, to drill and produce oil, gas and other hydrocarbons underlying or situated beneath the Easement and Lands by any means whatsoever, including wells directionally drilled from surface location on nearby lands so long as no surface operations are performed on the Easement and so long as such operations will not interfere with or endanger the operations or integrity of the Pipeline System and Permitted Uses.
 - ii) Grantors shall include the surface use restrictions and covenants provided herein in any subsequent lease or conveyance of the oil, gas and/or mineral estate, wind rights or interests and water rights or interests.
22. Grantee shall have the right to approve the location and means of future third-party pipelines which will cross Grantee's pipeline system and come within the Easement. Grantee will not withhold reasonable crossing requests, but will act in a manner to protect the Grantee's Pipeline System and Grantee's Easement.

23. Grantor shall not construct, and Grantee shall have the right to prevent the future construction of temporary or permanent wells, buildings, structures, signs, obstructions, trees, shrubs, or fences, or other facilities or improvements of any kind ("Unpermitted Structures") on the Easement Property. If any Unpermitted Structures are hereafter constructed or permitted by Grantor to exist within the Easement Property without prior written consent of Grantee, then Grantee shall have the right to remove the same and Grantor agrees to pay to Grantee the reasonable actual costs of such removal. Grantor may not construct buildings, structures, or other facilities within the Easement without the specific written consent of Grantee.
24. *Nothing contained herein shall be construed as a waiver by the Grantee of immunity of any kind or type, including without limitation, waiver of immunity from liability and immunity from suit, and the Grantee shall retain all such immunities, except as may be otherwise waived pursuant to applicable laws of the United States or State of Texas.*

[Signatures of the Parties on Next Page]

EXECUTED this 6th day of January, 2021 ("Effective Date").

GRANTOR:

LANDSOME II, LLC
a Texas Limited Liability Company

By: Patti Fonner
Patti Fonner, Manager

STATE OF TEXAS
COUNTY OF LUBBOCK

§
§

BEFORE ME, the undersigned authority, a Notary Public in and for said County and state, on this day personally appeared Patti Fonner, of LANDSOME II, LLC, a Texas limited liability company, for the purposes and consideration expressed, and in the capacity hereinabove stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 6th day of January 2021.

[Signature]
Notary Public, State of Texas

Gabriel Rivera
Printed Name of Notary

My commission expires: 01-11-2023

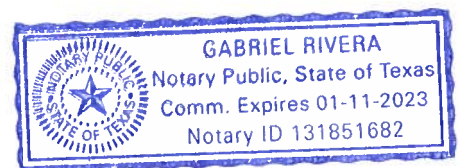


EXHIBIT A

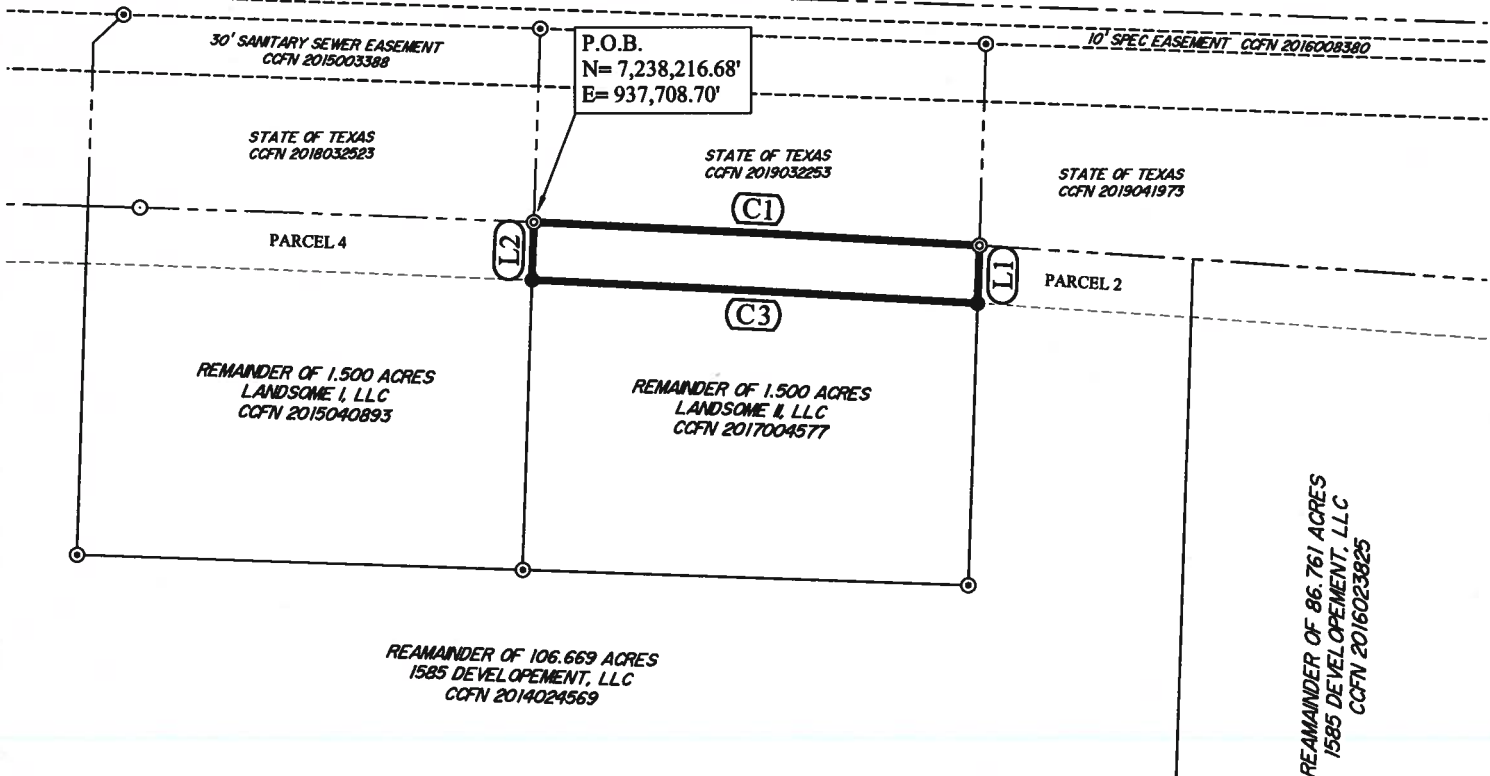
NORTH
SCALE: 1"=100'

Curve Table			
Curve #	Chord Direction	Chord Distance	Radius
C1	S87°00'04"E	232.26'	15840.00'
C3	N86°59'56"W	232.26'	15810.00'

Line Table		
Line #	Length	Direction
L1	30.01'	S01° 46' 06"W
L2	30.00'	N01° 46' 06"E

F.M. 1585

SECTION 21, BLOCK E-2
SECTION 1, BLOCK AK



LEGEND:

- SURVEYED PROPERTY
- - - ADJACENT PROPERTY
- RIGHT-OF-WAY
- EASEMENT
- SET 1/2" ROD w/CAP
- FD. 1/2" ROD w/CAP
- FD. 5/8" IRON ROD
- ⊙ FD. 5/8" IRON ROD WITH ALUM. CAP

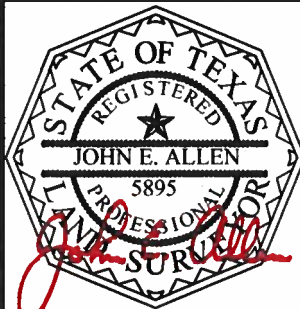
P.O.B. - POINT OF BEGINNING
CCFN - COUNTY CLERK FILE NUMBER,
LUBBOCK COUNTY, TEXAS

Note: No abstract of title or title commitment was provided to this surveyor. Record research done by this surveyor was made only for the purpose of determining the boundary of this property and of the adjoining parcels. Recorded or unrecorded documents other than those shown on this survey may exist and encumber this property.

SOUTH LUBBOCK SANITARY SEWER EXTENSION RELOCATION PROJECT

Parcel 3 - Permanent Easement
PERIMETER SURVEY OF A
0.160 ACRE PARCEL LOCATED IN
SECTION 1, BLOCK AK
LUBBOCK COUNTY, TEXAS

John E. Allen, Registered Professional Land Surveyor No.5895
State of Texas



Surveyed on the ground.
March 10, 2020

HR HUGO REED AND ASSOCIATES, INC.

LAND SURVEYORS
CIVIL ENGINEERS
TEXAS LICENSED SURVEYING FIRM 100678-00
TEXAS REGISTERED ENGINEERING FIRM F-760

1601 AVENUE N
LUBBOCK, TEXAS 79401
PHONE: 806 / 763-5642
FAX: 806 / 763-3891

Bearings are relative to the Texas Coordinate System of 1983,
North Central Zone, NAD 83 (2011), Epoch 2010.0
Distances and coordinates are surface, U.S. Survey feet.
Combined Scale Factor: 1.0002452

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DESCRIPTION FOR PARCEL 3

METES AND BOUNDS DESCRIPTION of a 0.160 acre parcel located in Section 1, Block AK, Lubbock County, Texas, being a portion of 1.500 acres described in County Clerk File Number (CCFN) 2017004577, Official Public Records, Lubbock County, Texas (OPRLCT), being further described as follows:

BEGINNING at a 5/8" iron rod with aluminum cap marked 'TX DEPARTMENT OF TRANSPORTATION - ROW' found (N=7,238,216.68', E=937,708.70') in the West line of said 1.500 acre tract and in the East line of a 1.500 acre tract described in CCFN 2015040893, OPRLCT, and at the Southwest corner of a 0.546 acre tract conveyed to the State of Texas, acting by and through the Texas Transportation Commission described in CCFN 2019032253, OPRLCT, and at the Southeast corner of a 0.532 acre tract conveyed to the State of Texas, acting by and through the Texas Transportation Commission described in CCFN 2018032523, OPRLCT, which bears S. 88°02'16" E. a distance of 1746.14 feet and S. 01°57'44" W. a distance of 160.70 feet from the Northwest corner of said Section 1, Block AK, for a point of curvature and the Northwest corner of this parcel;

THENCE Southeasterly along the South line of said 0.546 acre State of Texas tract, being a curve concave to the Southwest, having a radius of 15,840.00 feet, a chord bearing S. 87°00'04" E. (CCFN 2019032253 calls S. 87°02'44" E.) and a chord distance of 232.26 feet (CCFN 2019032253 calls 232.28 feet), to a 5/8" iron rod with aluminum cap marked 'TX DEPARTMENT OF TRANSPORTATION - ROW' found in the East line of said 1.500 acre tract described in CCFN 2017004577 and at the Southeast corner of said 0.546 acre State of Texas tract and at a corner of a 22.235 acre tract conveyed to the State of Texas, acting by and through the Texas Transportation Commission described as 'Part 2' in CCFN 2019041973, OPRLCT, for the Northeast corner of this parcel;

THENCE S. 01°46'06" W. along the East line of said 1.500 acre tract described in CCFN 2017004577 a distance of 30.01 feet to a 1/2" iron rod with yellow cap marked 'HUGO REED & ASSOC' set in the West line of said 1.500 acre tract for the Southeast corner of this parcel;

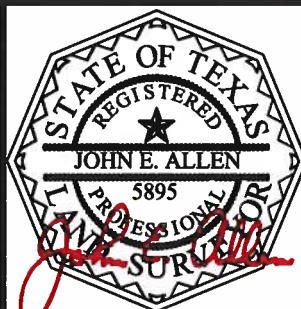
THENCE parallel with and 30.00 feet South of said South line of said 0.546 acre State of Texas tract, Northwesterly along a curve concave to the Southwest, having a radius of 15,810.00 feet, a chord bearing N. 86°59'56" W. and a chord distance of 232.26 feet to a 1/2" iron rod with yellow cap marked 'HUGO REED & ASSOC' set in the common line of both said 1.500 acre tracts, for the Southwest corner of this parcel;

THENCE N. 01°46'06" E. along the said common line of both 1.500 acre tracts a distance of 30.00 feet to the Point of Beginning.

SOUTH LUBBOCK SANITARY SEWER EXTENSION RELOCATION PROJECT

Parcel 3 - Permanent Easement
PERIMETER SURVEY OF A
0.160 ACRE PARCEL LOCATED IN
SECTION 1, BLOCK AK
LUBBOCK COUNTY, TEXAS

John E. Allen, Registered Professional Land Surveyor No.5895
State of Texas



Surveyed on the ground.
March 10, 2020

HR HUGO REED AND ASSOCIATES, INC.

LAND SURVEYORS 1601 AVENUE N
CIVIL ENGINEERS LUBBOCK, TEXAS 79401
TEXAS LICENSED SURVEYING FIRM 100678-00 PHONE: 806 / 763-5642
TEXAS REGISTERED ENGINEERING FIRM F-760 FAX: 806 / 763-3891

Bearings are relative to the Texas Coordinate System of 1983,
North Central Zone, NAD 83 (2011), Epoch 2010.0
Distances and coordinates are surface, U.S. Survey feet.
Combined Scale Factor: 1.0002452

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HUGO REED AND ASSOCIATES, INC.
1601 AVENUE N / LUBBOCK, TEXAS 79401 / 806-763-6642 / FAX 806-763-3891
TEXAS REGISTERED ENGINEERING FIRM F-760
TEXAS LICENSED SURVEYING FIRM 100876-00

Project: Loop 88 Utility Relocations

Parcel Nos.: 4

Owner: Landsome I, LLC

Mailing Address: 4818 Berkman Drive, Apt. 3149
Austin, Texas 78723

Email Address: pattifonner@gmail.com

Phone Number: (806) 789-4648

Document Type: Easement

Consideration: Total consideration of \$47,047; subject to final approval by Lubbock City Council and subject to approval of title.

Lien Holder: First Bank & Trust, Lubbock, Texas

Closing Agent: West Texas Title Company, Inc.
8001 Quaker Avenue, Suite E
Lubbock, Texas 79424

Concurrence: Landsome I, LLC, A Texas Limited Liability Company

By: Patti Fonner

Printed Name: Patti Fonner

Title: Manager

EASEMENT

STATE OF TEXAS §
 § KNOW ALL MEN BY THESE PRESENTS, THAT:
COUNTY OF LUBBOCK §

GRANTOR, LANDSOME I, LLC, a Texas Limited Liability Company whose address is 4818 Berkman Dr., Apt. 3149, Austin, TX 78723, for a valuable consideration, to them paid by The City of Lubbock, Texas (the "Grantee") with offices at 1314 Avenue K, Lubbock, Texas 79401, the receipt and sufficiency of which are hereby acknowledged, has granted and does by these presents grant unto Grantee the following described perpetual exclusive easement, servitude and right-of-way, as described herein (hereinafter called the "Easement") through, over, under, upon, across and within the lands, described in **Exhibit A** (hereinafter called the "Lands" or "Easement Lands") situated in Lubbock County, Texas.

Pipelines and Equipment

Grantor hereby grants to Grantee a perpetual exclusive Easement together with the right to install, survey, construct, reconstruct, install, operate, inspect, maintain, alter, relocate, replace, repair, and remove (hereinafter called "Permitted Uses") pipelines, conduits, drain (blow-off) valves, valve boxes, meters, meter boxes, vents, manholes, manhole covers, corrosion monitoring test stations, pipeline markers, fence gates, impressed current deep well anode stations with power supplies, flow meters, system communication lines and splice boxes, roadways, and all other equipment and facilities related thereto, or any part thereof (hereinafter collectively called the "Pipeline System"), for and/or related to the transportation of water, waste water and effluent through, under, upon, over, across and within the Lands. Such perpetual exclusive Easement shall be as described herein and on **Exhibit A** attached hereto and incorporated herein, and hereby made a part hereof by reference to describe the Easement and the Lands.

For Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, this Easement is specifically made by Grantors and accepted by Grantee subject to the following terms, covenants, obligations and conditions:

1. Grantee may use and occupy the Easement for all purposes incidental and/or related to the Permitted Uses, including but not limited to: (a) the right to perform all Permitted Uses related to the Pipeline System; (b) the right (for men, material, and equipment) of unimpaired ingress and egress and regress, entry and access in, to, through, on, over, under and across said Easement granted herein, with the right to ingress and egress and regress to and from and access on and along said Easement, for any and all purposes necessary and or incident to the Permitted Uses; and (c) the right to locate the Pipeline System through, over, under, upon, across and within the Easement for the purpose of water/waste water/effluent transportation.

2. Grantee covenants and agrees that its use of the Easement and its operations conducted thereon shall, to the best of Grantee's ability, at all times comply with all applicable local, state and federal laws, orders, rules, regulations, standards, licensing, permitting and other legal requirements including, without limitation, all environmental laws, orders, rules, regulations, standards, licensing and permitting (the "Legal Requirements"). Grantee agrees to construct the Pipeline System in a prudent manner and with due care for Grantors' property, business and operations. In the event it is discovered that Grantee is in violation of any portion of the Legal Requirements, Grantee agrees to commence, upon receipt of written notice of such violation, the process of curing such violation so that Grantee will be in compliance with this subparagraph.
3. The Easement granted herein shall be for the transportation of water, wastewater, and/or effluent regardless of source, and shall continue in full force and effect unless Grantee should abandon the Pipeline System as identified herein. The rights granted to Grantee herein may be abandoned solely by a formal resolution of its governing body that authorizes the abandonment of the Pipeline System. Any such abandonment will not be effective until it is evidenced by notice in writing, signed by the Grantee's official representative, and filed of record in the county where the Lands are located.
4. The Easement Term is hereby defined as the period of time beginning with the granting of the Easement and continuing until such time that the Easement is abandoned by Grantee as set forth in paragraph 3 above.
5. Grantors and Grantee agree that during Permitted Uses related to the Pipeline System, any and all trees, dirt, raw materials, timber, spoil piles, excess dirt, wood, bushes, shrubs and brush, and other debris materials resulting from site preparation cleared from the Easement and remaining after the Pipeline System is in place shall, be removed by Grantee from Lands and from Grantors' property.
6. Grantee shall keep the Easement in good order, condition and repair following any work related to Permitted Uses on the Pipeline System. Notwithstanding anything contained herein to the contrary, although the Grantee may reconstruct any roadway crossed by Grantee in exercising its rights hereunder, Grantee assumes no maintenance for any road reconstructed as a result of Grantee's use of the Easement and Grantee expressly waives same, which waiver is acknowledged by Grantors.
7. Grantee shall be responsible for obtaining all permits necessary to construct and operate the Pipeline System on the Easement.
8. During construction of the Pipeline System, Grantee shall provide reasonable access to Grantors' property. Within the Easement, Grantee shall have the right to cut fences and install gates to enable Permitted Uses for the Pipeline System.
9. This grant of Easement shall not preclude the right of Grantors to cultivate, use, and enjoy the Lands for any purposes which will not constitute an interference with the

Easement, rights and privileges herein granted to Grantee, or endanger any of Grantee's property at the sole discretion of the Grantee.

10. Grantee shall exercise due care and diligence in the use of the rights and privileges herein granted to it. In case of abandonment of said Easement as provided in 3 above, the title and interest herein granted shall end, cease, and terminate, and title to the Easement, pipeline, equipment and facilities shall revert to the then owner of the Lands.
11. Grantors warrants and represents that the title to the Lands described herein are vested in the Grantors, free and clear of any liens and/or encumbrances. Grantors shall provide to Grantee an executed release from any lien holder, tenant, lessee, or other party having an interest in the Lands.
12. Grantors shall procure and have recorded without cost to Grantee all assurances of title and affidavits which the Grantors may be advised by Grantee are necessary and proper to show in Grantors title sufficient to grant the above easement free and clear of encumbrances other than those encumbrances expressly defined herein. Abstracts or certificates of title or title insurance may be procured by the Grantee at its expense. The expense of recording this Easement shall be borne by Grantors. Grantee agrees to cooperate and aid Grantors, if necessary, to obtain any curative documents needed.
13. Grantee shall have the right to use Grantors' property located immediately adjacent to the Easement for the following:
 - A. detouring around natural impediments within the Easement; or
 - B. the construction, maintenance, repair and removal of the Pipeline System within the Easement.
14. "Grantee" when used in this instrument, shall include The City of Lubbock's officers, agents, servants, employees, representatives, contractors, independent contractors, subcontractors, and/or their equipment or vehicles.
15. Words of any gender used in this agreement shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, and vice versa, unless the context requires otherwise.
16. It is understood and agreed that this Easement is not a conveyance of the fee estate for any of the Lands covered hereunder, but is only an easement through, over, under, upon, across and within the Lands.
17. The provisions of this Easement shall be binding upon and inure to the benefit of the successors and assigns of the respective parties hereto.
18. This Easement contains the final and complete expression of the parties with respect to any matter mentioned herein. No prior agreement or understanding pertaining to any such

matter shall be effective. This Easement may be modified in writing only, signed by the parties in interest at the time of the modification.

19. In case any one or more of the provisions contained in this Easement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Easement shall be construed as if such invalid, illegal or unenforceable provisions had never been contained herein.
20. Any notices or demands provided to be given herein by the parties shall be in writing and mailed by certified or registered mail to the other party at the address set forth above. Any notice or demand shall be deemed to have been received the earlier of five (5) days after the date of mailing or the date of actual delivery as shown by the addressee's certification or registry receipt.
21. Neither party shall be liable to the other party or any of such party's affiliates in any action or claim, including without any limitation, any action or claim for loss of profit, loss of product, loss of use, or for indirect, consequential, punitive, exemplary, special or other similar types of damages, regardless of how caused and regardless of the underlying theory of recovery, and even if caused by the sole or concurrent negligence of the responsible party.
 - A. To the extent that Grantors owns any portion of any mineral estate, leasehold estate and/or royalty interest of any kind or character under the Lands defined herein, Grantors surrender and release its surface drilling rights and all other rights of surface use of the Easement and Lands incident to the production of oil, gas, hydrocarbons, minerals, wind energy, and water production subject to the following exception and limitation:
 - i) Grantors reserve and except from this release and retains for themselves, their successors and their successors-in-interest, all rights to explore for, to drill and produce oil, gas and other hydrocarbons underlying or situated beneath the Easement and Lands by any means whatsoever, including wells directionally drilled from surface location on nearby lands so long as no surface operations are performed on the Easement and so long as such operations will not interfere with or endanger the operations or integrity of the Pipeline System and Permitted Uses.
 - ii) Grantors shall include the surface use restrictions and covenants provided herein in any subsequent lease or conveyance of the oil, gas and/or mineral estate, wind rights or interests and water rights or interests.
22. Grantee shall have the right to approve the location and means of future third-party pipelines which will cross Grantee's pipeline system and come within the Easement. Grantee will not withhold reasonable crossing requests, but will act in a manner to protect the Grantee's Pipeline System and Grantee's Easement.

23. Grantor shall not construct, and Grantee shall have the right to prevent the future construction of temporary or permanent wells, buildings, structures, signs, obstructions, trees, shrubs, or fences, or other facilities or improvements of any kind ("Unpermitted Structures") on the Easement Property. If any Unpermitted Structures are hereafter constructed or permitted by Grantor to exist within the Easement Property without prior written consent of Grantee, then Grantee shall have the right to remove the same and Grantor agrees to pay to Grantee the reasonable actual costs of such removal. Grantor may not construct buildings, structures, or other facilities within the Easement without the specific written consent of Grantee.
24. *Nothing contained herein shall be construed as a waiver by the Grantee of immunity of any kind or type, including without limitation, waiver of immunity from liability and immunity from suit, and the Grantee shall retain all such immunities, except as may be otherwise waived pursuant to applicable laws of the United States or State of Texas.*

[Signatures of the Parties on Next Page]

EXECUTED this 6th day of January, 2021 ("Effective Date").

GRANTOR:

LANDSOME I, LLC
a Texas Limited Liability Company

By: Patti Fonner
Patti Fonner, Manager

STATE OF TEXAS §
COUNTY OF LUBBOCK §

BEFORE ME, the undersigned authority, a Notary Public in and for said County and state, on this day personally appeared Patti Fonner, LANDSOME I, LLC, a Texas limited liability company, for the purposes and consideration expressed, and in the capacity hereinabove stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 6th day of JAN 2021.

[Signature]
Notary Public, State of Texas

Gabriel Rivera
Printed Name of Notary

My commission expires: 01-11-2023

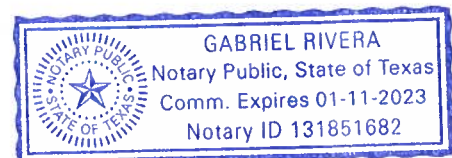


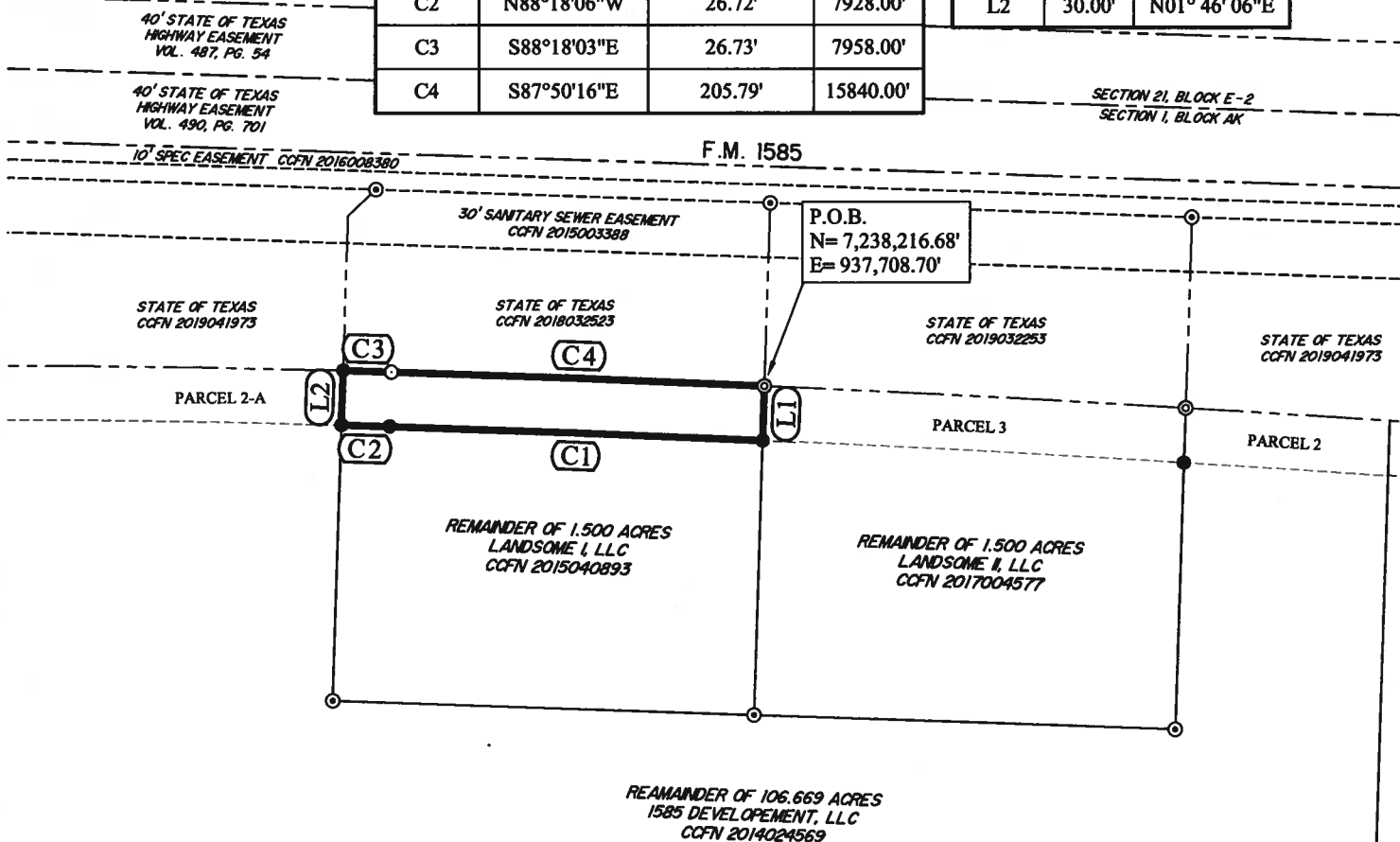
EXHIBIT A



SCALE: 1"=100'

Curve Table			
Curve #	Chord Direction	Chord Distance	Radius
C1	N87°50'13"W	205.80'	15810.00'
C2	N88°18'06"W	26.72'	7928.00'
C3	S88°18'03"E	26.73'	7958.00'
C4	S87°50'16"E	205.79'	15840.00'

Line Table		
Line #	Length	Direction
L1	30.00'	S01° 46' 06"W
L2	30.00'	N01° 46' 06"E



LEGEND:

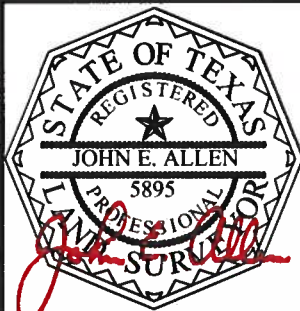
- SURVEYED PROPERTY
- ADJACENT PROPERTY
- RIGHT-OF-WAY
- EASEMENT
- SET 1/2" ROD w/CAP
- FD. 1/2" ROD w/CAP
- FD. 5/8" IRON ROD
- FD. 5/8" IRON ROD WITH ALUM. CAP
- P.O.B. - POINT OF BEGINNING
- CCFN - COUNTY CLERK FILE NUMBER, LUBBOCK COUNTY, TEXAS

Note: No abstract of title or title commitment was provided to this surveyor. Record research done by this surveyor was made only for the purpose of determining the boundary of this property and of the adjoining parcels. Recorded or unrecorded documents other than those shown on this survey may exist and encumber this property.

SOUTH LUBBOCK SANITARY SEWER EXTENSION RELOCATION PROJECT

Parcel 4 - Permanent Easement
PERIMETER SURVEY OF A
0.160 ACRE PARCEL LOCATED IN
SECTION 1, BLOCK AK
LUBBOCK COUNTY, TEXAS

John E. Allen, Registered Professional Land Surveyor No.5895
State of Texas



Surveyed on the ground.
March 10, 2020

HR HUGO REED AND ASSOCIATES, INC.

LAND SURVEYORS
CIVIL ENGINEERS
TEXAS LICENSED SURVEYING FIRM 100678-00
TEXAS REGISTERED ENGINEERING FIRM F-760

1601 AVENUE N
LUBBOCK, TEXAS 79401
PHONE: 806 / 763-5642
FAX: 806 / 763-3891

Bearings are relative to the Texas Coordinate System of 1983,
North Central Zone, NAD 83 (2011), Epoch 2010.0
Distances and coordinates are surface, U.S. Survey feet.
Combined Scale Factor: 1.0002452

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DESCRIPTION FOR PARCEL 4

METES AND BOUNDS DESCRIPTION of a 0.160 acre parcel located in Section 1, Block AK, Lubbock County, Texas, being a portion of 1.500 acres described in County Clerk File Number (CCFN) 2015040893, Official Public Records, Lubbock County, Texas (OPRLCT), being further described as follows:

BEGINNING at a 5/8" iron rod with aluminum cap marked 'TX DEPARTMENT OF TRANSPORTATION - ROW' found (N=7,238,216.68', E=937,708.70') in the East line of said 1.500 acre tract and in the West line of a 1.500 acre tract described in CCFN 2017004577, OPRLCT, and at the Southwest corner of a 0.546 acre tract conveyed to the State of Texas, acting by and through the Texas Transportation Commission described in CCFN 2019032253, OPRLCT, and at the Southeast corner of a 0.532 acre tract conveyed to the State of Texas, acting by and through the Texas Transportation Commission described in CCFN 2018032523, OPRLCT, which bears S. 88°02'16" E. a distance of 1746.14 feet and S. 01°57'44" W. a distance of 160.70 feet from the Northwest corner of said Section 1, Block AK, for the Northeast corner of this parcel;

THENCE S. 01°46'06" W. along the common line of both said 1.500 acre tracts a distance of 30.00 feet to a 1/2" iron rod with yellow cap marked 'HUGO REED & ASSOC' set at a point of curvature, for the Southeast corner of this parcel;

THENCE parallel with and 30.00 feet South of the South line of said 0.523 acre State of Texas tract, Northwesterly along a curve concave to the Southwest, having a radius of 15,810.00 feet, a chord bearing N. 87°50'13" W. and a chord distance of 205.80 feet to a 1/2" iron rod with yellow cap marked 'HUGO REED & ASSOC' set at a point of compound curvature, for a corner of this parcel;

THENCE parallel with and 30.00 feet South of the South line of said 0.523 acre State of Texas tract, Northwesterly along a curve concave to the Southwest, having a radius of 7,928.00 feet, a chord bearing N. 88°18'06" W. and a chord distance of 26.72 feet to a 1/2" iron rod with yellow cap marked 'HUGO REED & ASSOC' set in the West line of said 1.500 acre tract described in CCFN 2015040893, for the Southwest corner of this parcel;

THENCE N. 01°46'06" E. along said West line of said 1.500 acre tract described in CCFN 2015040893 a distance of 30.00 feet to a 1/2" iron rod with yellow cap marked 'HUGO REED & ASSOC' set at a point of curvature at the Southwest corner of said 0.523 acre State of Texas tract and at a corner of a 22.235 acre tract conveyed to the State of Texas, acting by and through the Texas Transportation Commission described as 'Part 2' in CCFN 2019041973, OPRLCT, for the Northwest corner of this parcel;

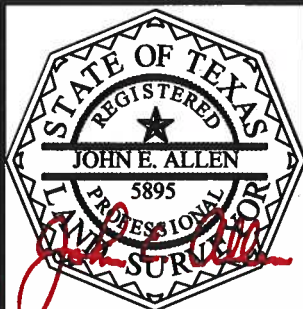
THENCE Southeasterly along the South line of said 0.523 acre State of Texas tract, being a curve concave to the Southwest, having a radius of 7,958.00 feet, a chord bearing S. 88°18'03" E. (CCFN 2018032523 calls S. 88°18'05" E.) and a chord distance of 26.73 feet, to a 5/8" iron rod found at a point of compound curvature, for a corner of this parcel;

THENCE Southeasterly along the South line of said 0.523 acre State of Texas tract, being a curve concave to the Southwest, having a radius of 15,840.00 feet, a chord bearing S. 87°50'16" E. and a chord distance of 205.79 feet to the Point of Beginning.

SOUTH LUBBOCK SANITARY SEWER EXTENSION RELOCATION PROJECT

Parcel 4 - Permanent Easement
PERIMETER SURVEY OF A
0.160 ACRE PARCEL LOCATED IN
SECTION 1, BLOCK AK
LUBBOCK COUNTY, TEXAS

John E. Allen, Registered Professional Land Surveyor No.5895
State of Texas



Surveyed on the ground.
March 10, 2020

**HR HUGO REED
AND ASSOCIATES, INC.**

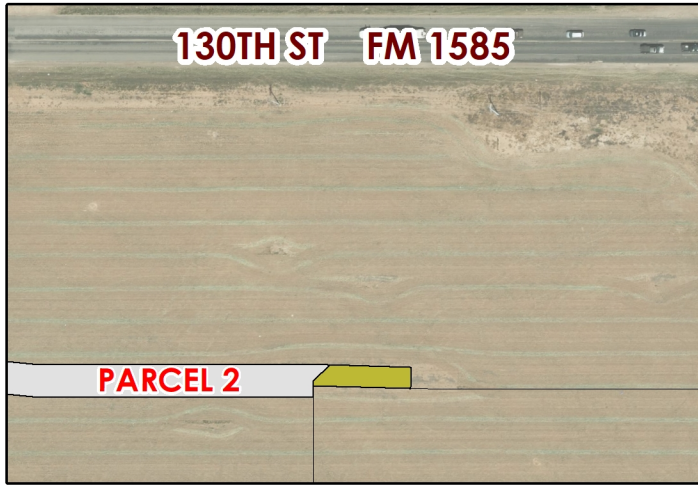
LAND SURVEYORS 1601 AVENUE N
CIVIL ENGINEERS LUBBOCK, TEXAS 79401
TEXAS LICENSED SURVEYING FIRM 100678-00 PHONE: 806 / 763-5642
TEXAS REGISTERED ENGINEERING FIRM F-760 FAX: 806 / 763-3891

Bearings are relative to the Texas Coordinate System of 1983,
North Central Zone, NAD 83 (2011), Epoch 2010.0
Distances and coordinates are surface, U.S. Survey feet.
Combined Scale Factor: 1.0002452

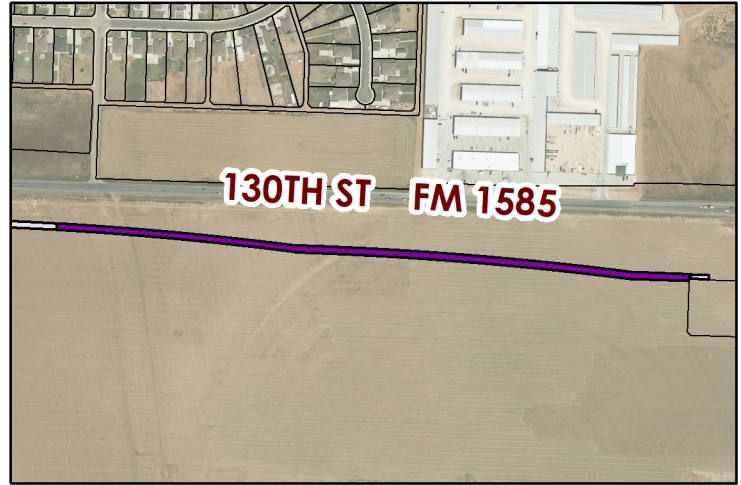
Copyright 2020, Hugo Reed and Associates, Inc. Page 2 of 2

Loop 88 Relocation of Sanitary Sewer Easements Parcels 1-4

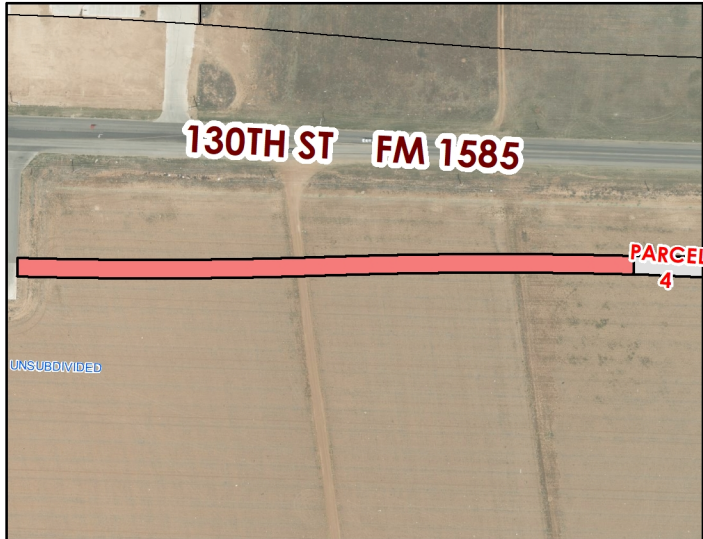
Parcel 1 - 0.037 acres



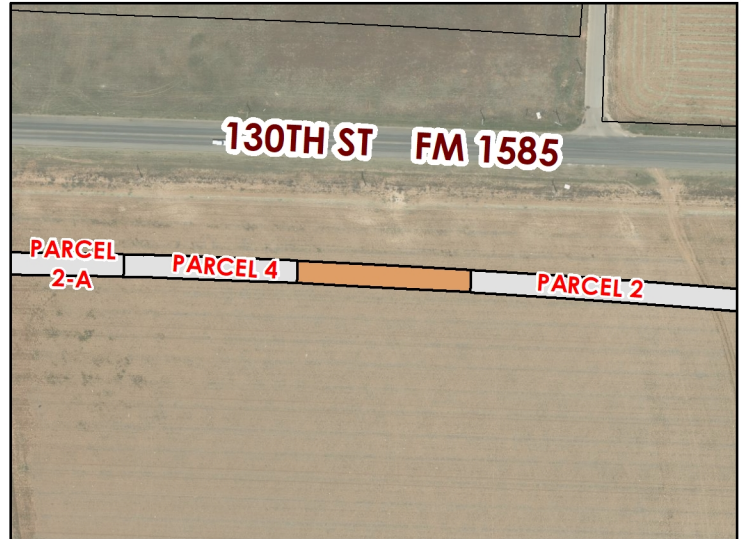
Parcel 2 - 1.957 acres



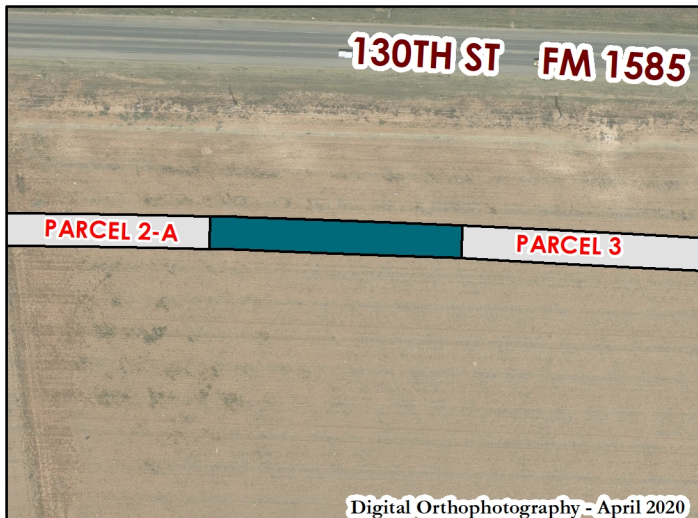
Parcel 2A - 0.678 acres



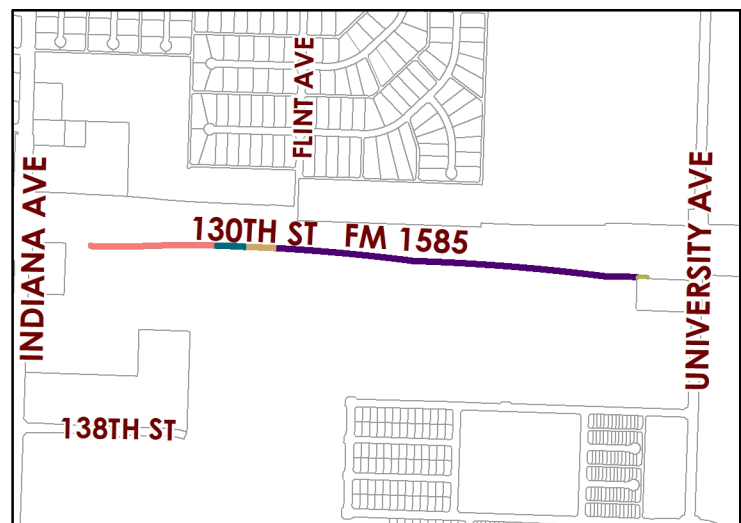
Parcel 3 - 0.160 acres



Parcel 4 - 0.160 acres



Parcels 1-4 - Total of 2.992 acres



As required by Chapter 2051, Geospatial Data Products of the Government Code, this product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

Legend

Parcel	
1	2A
2	3
3	4



**City of Lubbock
Capital Project
Project Cost Detail
July 13, 2021**

Capital Project Number:	92587
Capital Project Name:	Loop 88 Sewer Line Relocations

<i>Encumbered/Expended</i>	Budget 92587
Staff time	\$ 27,504
Design Contract with KH	529,400
Utility Adjustment due from COL to TX DOT	95,263

<i>Agenda Item July 13, 2021</i>	
Cost of Easement Acquisition	850,842
<i>Encumbered/Expended to Date</i>	<u>1,503,009</u>

<i>Estimated Cost for Remaining Appropriation</i>	
Contingency	106,123
<i>Remaining Appropriation</i>	<u>106,123</u>
Total Appropriation	<u>\$ 1,609,132</u>



Regular City Council Meeting

6. 7.

Meeting Date: 07/13/2021

Information

Agenda Item

Resolution - Right-of-Way: Consider a resolution authorizing the Mayor to accept, on behalf of the City of Lubbock, four Street and Public Use Dedication Deeds and one Drainage Easement, out of Sections 30 and 31, Block AK, Lubbock County, Texas, to be utilized for the Upland Avenue roadway expansion project.

Item Summary

With the widening of Upland Avenue from 66th Street to 114th Street, the following street dedications and this drainage easement will allow for the construction of the proposed arterial. The parcels of land are located in Section 30 and 31, Block AK, Lubbock County, Texas. The total consideration of \$56,318, as valued in Appraisal Reports, is subject to final approval by the City Council and approval of title.

Parcel	Owner	Acres	Cost
Parcel 69 & 69-A	Catherine Marie Davis	0.220	\$21,078
Parcel 97	Celebration Christian Center	0.076	9,900
Parcel 98	Celebration Christian Center	0.045	5,950
Parcel 106	Morgan Baker	0.048	19,390
TOTAL		0.389	\$56,318

Fiscal Impact

The cost of the easement acquisition is \$56,318 and is funded in Capital Improvements Project 92510 Upland Avenue, 66th Street to 82nd Street.

Staff/Board Recommending

Jesica McEachern, Assistant City Manager

Attachments

Resolution - Street and Public Use Dedication Deeds, Drainage Easement, Section 30, 31, Blk AK

Parcels 69 & 69A - Street Dedication Deed & Drainage Easement

Parcel 97-Street-Public Use Dedication Deed -Sec 30 Blk AK

Parcel 98-Street-Public Use Dedication Deed -Sec 30 Blk AK

Parcel 106-Street-Public Use Dedication Deed - Sec 30 Blk AK

Location Map

Budget Detail

CIP Detail

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LUBBOCK:

THAT the Mayor of the City of Lubbock is hereby authorized and directed to accept for and on behalf of the City of Lubbock four Street and Public Use Dedication Deeds and one Drainage Easement in connection with certain real property located in Section 30 and 31, Block AK, Lubbock County, Texas, and all related documents. Said Dedication Deeds and Drainage Easement are attached hereto and incorporated in this Resolution as if fully set forth herein and shall be included in the minutes of the Council.

Passed by the City Council on _____.

DANIEL M. POPE, MAYOR

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

 **FOR MIKE KEENUM**

Michael Keenum, P.E., Division Director of Engineering/City Engineer

APPROVED AS TO FORM:



Ryan Brooke, Assistant City Attorney

RES.Dedication Deeds & Drainage Easement-Section 30 & 31, Block AK
6.28.21

UPLAND AVENUE WIDENING PROJECT

Parcel Nos: 69 & 69-A

Owner: Catherine Marie Davis
5103 45th Street
Lubbock, Texas 79414
(806) 792-1387

Document Type: Street & Public Use Dedication Deed

Consideration: \$21,078.00, as valued in Appraisal Report prepared by Tommy Cantrell Appraisal Company, Inc. and subject to final approval by City Council and approval of title.

Owner confirms receipt of the following:

1. Copy of The State of Texas Landowner's Bill of Rights;
2. Right of Entry Agreement signed by Owner;
3. Copy of U.S. Department of Transportation's Publication FHWA-HEP-19-010;
4. Notice of Intent to Acquire Real Property letter from Hugo Reed & Associates, Inc.;
5. Initial Offer letter from Hugo Reed & Associates, Inc.;
6. Appraisal Report for Parcel Nos. 69 and 69-A by Tommy Cantrell Appraisal Company, Inc.; and
7. Survey Plat and Legal Description of Parcel Nos. 69 and 69-A by Hugo Reed & Associates, Inc.

Closing Agent: Title One
6102 82nd Street
Lubbock, Texas 79424

Concurrence:


Catherine Marie Davis

STREET AND PUBLIC USE DEDICATION DEED

THE STATE OF TEXAS

§

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF LUBBOCK

§

THAT **CATHERINE MARIE DAVIS**, herein called "Grantor", for and in consideration of the sum of TEN AND NO/100 (\$10.00) DOLLARS and other good and valuable consideration, to it in hand paid by the **CITY OF LUBBOCK, TEXAS**, a Home Rule Municipal Corporation, does hereby dedicate to the public for public use forever and for street purposes, the following described tract of land situated in Lubbock County, Texas, as more particularly described in the attached Exhibit "A".

TO HAVE AND TO HOLD this above described premises, together with all and singular the rights and appurtenances thereto in anywise belonging unto the said public forever so long as said premises are used for public purposes.

WITNESS MY HAND this 22nd day of June, 2021.

Catherine Marie Davis

Catherine Marie Davis

THE STATE OF TEXAS

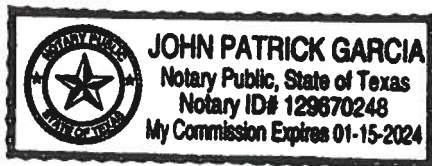
§

COUNTY OF LUBBOCK

§

BEFORE ME, the undersigned authority, a Notary Public in and for said County, Texas, on this day personally appeared Catherine Marie Davis, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 22nd day of June, 2021.



John Patrick Garcia
Notary Public in and for the State of Texas

My Commission Expires: 1/15/2024

NORTH
SCALE: 1"=100'

0.603 ACRES
TISDALE MANAGEMENT, LLC
CCFN 2017035533
7008 UPLAND AVE.

2.002 ACRES
J.D. DAVIS
VOL. 1564, PG. 266
7315 MARSHA SHARP FWY.

2.813 ACRES
J.D. DAVIS
VOL. 1725, PG. 573
7012 UPLAND AVE.

3.0 ACRES
KERRY KING
CCFN 2017023096
7204 UPLAND AVE.

2.005 ACRES
KERRY KING
VOL. 8732, PG. 244
7204 UPLAND AVE.

7.148 ACRES
McGAVOCK GEORGIA STREET LAND
COMPANY, LLC
CCFN 2019022506
7007 & 7013 UPLAND AVE.

3.926 ACRES
WILLIAM DOZIER
CCFN 2011022547
7211 UPLAND AVE.

Line Table		
Line #	Length	Direction
L1	25.40'	N34° 21' 44"W
L2	535.17'	N01° 49' 42"E
L3	15.00'	S88° 10' 18"E
L4	555.68'	S01° 49' 42"W

LEGEND:

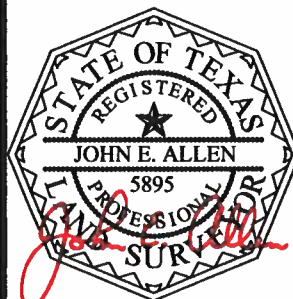
- SURVEYED PROPERTY
- ADJACENT PROPERTY
- - - RIGHT-OF-WAY
- - - EASEMENT
- - SET 1/2" ROD w/CAP
- - FD. 1/2" SQUARE TUBE
- △ - FD. RAILROAD SPIKE
- ⊙ - FD. 1/2" ROD w/CAP
- P.O.B. - POINT OF BEGINNING
- CCFN - COUNTY CLERK FILE NUMBER, LUBBOCK COUNTY, TEXAS

Note: Recorded or unrecorded documents other than those shown on this survey may exist and encumber this property.

UPLAND AVENUE DESIGN PROJECT 66TH STREET TO 114TH STREET

Parcel 69 - Permanent Easement
PERIMETER SURVEY OF A
0.188 ACRE PARCEL LOCATED IN
SECTION 31, BLOCK AK
LUBBOCK COUNTY, TEXAS

John E. Allen, Registered Professional Land Surveyor No.5895
State of Texas



Surveyed on the ground.
June 11, 2020

**HR HUGO REED
AND ASSOCIATES, INC.**

LAND SURVEYORS
CIVIL ENGINEERS
TEXAS LICENSED SURVEYING FIRM 100676-00
TEXAS REGISTERED ENGINEERING FIRM F-760

1601 AVENUE N
LUBBOCK, TEXAS 79401
PHONE: 806 / 763-5642
FAX: 806 / 763-3891

Bearings are relative to the Texas Coordinate System of 1983,
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Distances and coordinates are surface, U.S. Survey feet.
Combined Scale Factor: 1.0002485

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DESCRIPTION FOR PARCEL 69

METES AND BOUNDS DESCRIPTION of a 0.188 acre parcel located in Section 31, Block AK, Lubbock County, Texas, being the East 15.00 feet of 2.210 acres described in Volume 1725, Page 573, Deed Records, Lubbock County, Texas, being further described as follows:

BEGINNING at a square tube found (N=7,258,266.45, E=910,106.27") at the Southeast corner of said 2.210 acre tract and at the Northeast corner of a 2.005 acre tract described in Volume 8732, Page 244, Official Public Records, Lubbock County, Texas (OPRLCT), and in the West line of a 40.00 foot Right-of-Way described in Lubbock County Commissioner Court Minutes, April 27, 1960, which bears N. 88° 10' 18" W. a distance of 40.00 feet and N. 01° 49' 42" E. a distance of 467.85 feet from a railroad spike found at the Southeast corner of the North Half of said Section 31, Block AK, for the Southeast corner of this parcel;

THENCE N. 34° 21' 44" W. along the common line of said 2.813 acre tract and said 2.005 acre tract a distance of 25.40 feet to a 1/2" iron rod with yellow cap marked "HUGO REED & ASSOC" set for the Southwest corner of this parcel;

THENCE N. 01° 49' 42" E. parallel with and 55.00 feet from the East line of said Section 31, Block AK, at 241.50 feet pass a 1/2" iron rod with yellow cap marked "HUGO REED & ASSOC" set in reference, at 311.50 feet pass a 1/2" iron rod with yellow cap marked "HUGO REED & ASSOC" set in reference, continuing for a total distance of 535.17 feet to a 1/2" iron rod with yellow cap marked "HUGO REED & ASSOC" set in the North line of said 2.813 acre tract and in the South line of a 0.603 acre tract described in County Clerk File Number 2017035533, OPRLCT, for the Northwest corner of this parcel;

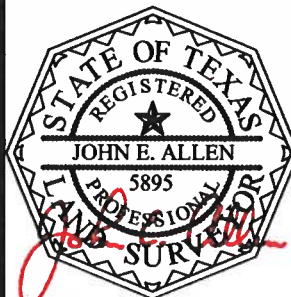
THENCE S. 88° 10' 18" E. along the common line of said 2.813 acre tract and said 0.603 acre tract a distance of 15.00 feet to a 1/2" square tube found at the Northeast corner of said 2.813 acre tract and at the Southeast corner of said 0.603 acre tract and in said West line of said 40.00 foot Right-of-Way, for the Northeast corner of this parcel;

THENCE S. 01° 49' 42" W. along the East line of said 2.813 acre tract and along said West line of said 40.00 foot Right-of-Way a distance of 555.68 feet to the Point of Beginning. Containing 0.188 acre (8181 sq. ft.) of land, more or less.

UPLAND AVENUE DESIGN PROJECT 66TH STREET TO 114TH STREET

Parcel 69 - Permanent Easement
PERIMETER SURVEY OF A
0.188 ACRE PARCEL LOCATED IN
SECTION 31, BLOCK AK
LUBBOCK COUNTY, TEXAS

John E. Allen, Registered Professional Land Surveyor No.5895
State of Texas



Surveyed on the ground.
June 11, 2020

**HR HUGO REED
AND ASSOCIATES, INC.**

**LAND SURVEYORS
CIVIL ENGINEERS**
TEXAS LICENSED SURVEYING FIRM 100676-00
TEXAS REGISTERED ENGINEERING FIRM F-760

1601 AVENUE N
LUBBOCK, TEXAS 79401
PHONE: 806 / 763-5642
FAX: 806 / 763-3891

Bearings are relative to the Texas Coordinate System of 1983,
North Central Zone, NAD 83 (2011), Epoch 2010.0
Distances and coordinates are surface, U.S. Survey feet.
Combined Scale Factor: 1.0002485

Copyright 2020, Hugo Reed and Associates, Inc. Page 2 of 2

DRAINAGE EASEMENT

THE STATE OF TEXAS

§

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF LUBBOCK

§

THAT **CATHERINE MARIE DAVIS**, herein called "GRANTOR", for and in consideration of the sum of TEN AND NO/100 (\$10.00) DOLLARS to GRANTOR in hand paid by the **CITY OF LUBBOCK**, a Home Rule Municipal Corporation of Lubbock County, Texas, the receipt and sufficiency of which is hereby acknowledged and confessed, and for the further good and valuable consideration in benefits accruing and to accrue to the remainder of GRANTOR'S property, has by these presents GRANTED, BARGAINED, SOLD and CONVEYED and by these presents does GRANT, BARGAIN, SELL and CONVEY unto the CITY OF LUBBOCK, its legal representatives, successors and assigns, for the use of the public as a perpetual and permanent drainage easement, the free and uninterrupted use, liberty of passage in, on, along, over, upon, under, and across all that property lying and being situated in Lubbock County, Texas, and being more particularly described in the attached Exhibit "A."

SO LONG AS the public continues to use said property for the purposes herein stated, said easement includes, but is not limited to, the free and uninterrupted use, liberty and privilege of passage in, along, over, across, under, upon and against the hereinafter described land for the purpose of constructing, reconstructing, maintaining, repairing, cleaning and clearing said premises for the free and unobstructed drainage of surface waters; together with the right of ingress, egress and regress for such purposes in, on, along, through and across all the property above described.

It is hereby covenanted and agreed that the CITY OF LUBBOCK retains and reserves the right to set and determine the drainage grade and direction of flow of surface waters on the real estate above described and buildings or like permanent structures shall not be erected, built, constructed or allowed to be erected, built or constructed in, upon, over, along or across the real estate above described, and if such erection, building or construction does occur in violation of this prohibition, the CITY OF LUBBOCK shall have the right to remove said building or structure from the aforesaid real estate.

TO HAVE AND TO HOLD the above described premises, together with all and singular, the rights and appurtenances thereto in anywise belonging perpetually unto the CITY OF LUBBOCK, its successors and assigns, for so long as the CITY OF LUBBOCK uses the same for the purposes herein granted.

WITNESS THE EXECUTION OF THIS INSTRUMENT this 23rd day
of June, 2021.

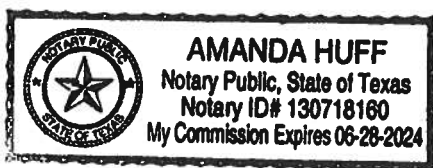

Catherine Marie Davis

THE STATE OF TEXAS §

COUNTY OF LUBBOCK §

BEFORE ME, the undersigned authority, a Notary Public in and for said County, Texas, on this day personally appeared Catherine Marie Davis, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 23rd day of June 2021.



Amanda Huff
Notary Public in and for the State of Texas

My Commission Expires: 6.28.2024

NORTH
SCALE: 1"=100'

2.002 ACRES
J.D. DAVIS
VOL. 1564, PG. 266
7315 MARSHA SHARP FWY.

0.603 ACRES
TISDALE MANAGEMENT, LLC
CCFN 2017035533
7008 UPLAND AVE.

2.813 ACRES
J.D. DAVIS
VOL. 1725, PG. 573
7012 UPLAND AVE.

3.0 ACRES
KERRY KING
CCFN 2017023096
7204 UPLAND AVE.

2.005 ACRES
KERRY KING
VOL. 8732, PG. 244
7204 UPLAND AVE.

7.148 ACRES
McGAVOCK GEORGIA STREET LAND
COMPANY, LLC
CCFN 2019022506
7007 & 7013 UPLAND AVE.

Line Table		
Line #	Length	Direction
L1	20.00'	N88° 10' 18"W
L2	70.00'	N01° 49' 42"E
L3	20.00'	S88° 10' 18"E
L4	70.00'	S01° 49' 42"W

3.926 ACRES
WILLIAM DOZIER
CCFN 2011022547
7211 UPLAND AVE.

LEGEND:

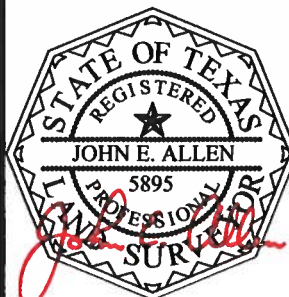
- SURVEYED PROPERTY
 - ADJACENT PROPERTY
 - - - RIGHT-OF-WAY
 - - - EASEMENT
 - SET 1/2" ROD w/CAP
 - FD. 1/2" SQUARE TUBE
 - △ FD. RAILROAD SPIKE
 - ⊙ FD. 1/2" ROD w/CAP
- P.O.B. - POINT OF BEGINNING
CCFN - COUNTY CLERK FILE NUMBER,
LUBBOCK COUNTY, TEXAS

Note: No abstract of title or title commitment was provided to this surveyor. Record research done by this surveyor was made only for the purpose of determining the boundary of this property and of the adjoining parcels. Recorded or unrecorded documents other than those shown on this survey may exist and encumber this property.

UPLAND AVENUE DESIGN PROJECT 66TH STREET TO 114TH STREET

Parcel 69-A - Permanent Easement
PERIMETER SURVEY OF A
0.032 ACRE PARCEL LOCATED IN
SECTION 31, BLOCK AK
LUBBOCK COUNTY, TEXAS

John E. Allen, Registered Professional Land Surveyor No.5895
State of Texas



Surveyed on the ground.
June 11, 2020

**HR HUGO REED
AND ASSOCIATES, INC.**

LAND SURVEYORS
CIVIL ENGINEERS
TEXAS LICENSED SURVEYING FIRM 100676-00
TEXAS REGISTERED ENGINEERING FIRM F-760

1601 AVENUE N
LUBBOCK, TEXAS 79401
PHONE: 806 / 763-5642
FAX: 806 / 763-3891

Bearings are relative to the Texas Coordinate System of 1983,
North Central Zone, NAD 83 (2011), Epoch 2010.0
Distances and coordinates are surface, U.S. Survey feet.
Combined Scale Factor: 1.0002485

DESCRIPTION FOR PARCEL 69-A

METES AND BOUNDS DESCRIPTION of a 0.032 acre parcel located in Section 31, Block AK, Lubbock County, Texas, being a portion of 2.210 acres described in Volume 1725, Page 573, Deed Records, Lubbock County, Texas, being further described as follows:

BEGINNING at a 1/2" iron rod with yellow cap marked "HUGO REED & ASSOC" set (N=7,258,528.80, E=910,099.63'), which bears N. 88° 10' 18" W. a distance of 55.00 feet and N. 01° 49' 42" E. a distance of 729.85 feet from a railroad spike found at the Southeast corner of the North Half of said Section 31, Block AK, for the Southeast corner of this parcel;

THENCE N. 88° 10' 18" W. a distance of 20.00 feet to a 1/2" iron rod with yellow cap marked "HUGO REED & ASSOC" set for the Southwest corner of this parcel;

THENCE N. 01° 49' 42" E. parallel with and 75.00 feet from the East line of said Section 31, Block AK, a distance of 70.00 feet to a 1/2" iron rod with yellow cap marked "HUGO REED & ASSOC" set for the Northwest corner of this parcel;

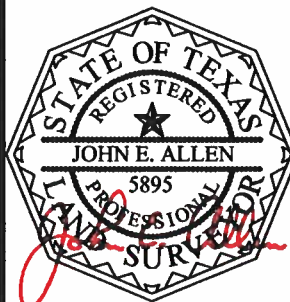
THENCE S. 88° 10' 18" E. a distance of 20.00 feet to a 1/2" iron rod with yellow cap marked "HUGO REED & ASSOC" set for the Northeast corner of this parcel;

THENCE S. 01° 49' 42" W. parallel with and 55.00 feet from the East line of said Section 31, Block AK, a distance of 70.00 feet to Point of Beginning. Containing 0.032 acre (1400 sq. ft.) of land, more or less.

UPLAND AVENUE DESIGN PROJECT 66TH STREET TO 114TH STREET

Parcel 69-A - Permanent Easement
PERIMETER SURVEY OF A
0.032 ACRE PARCEL LOCATED IN
SECTION 31, BLOCK AK
LUBBOCK COUNTY, TEXAS

John E. Allen, Registered Professional Land Surveyor No.5895
State of Texas



Surveyed on the ground.
June 11, 2020

HR HUGO REED
AND ASSOCIATES, INC.

LAND SURVEYORS
CIVIL ENGINEERS
TEXAS LICENSED SURVEYING FIRM 100676-00
TEXAS REGISTERED ENGINEERING FIRM F-760

1601 AVENUE N
LUBBOCK, TEXAS 79401
PHONE: 806 / 763-5642
FAX: 806 / 763-3891

Bearings are relative to the Texas Coordinate System of 1983,
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Combined Scale Factor: 1.0002485

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UPLAND AVENUE WIDENING PROJECT

Parcel No: 97

Owner: CELEBRATION CHRISTIAN CENTER
David Lance, Pastor
8001 Upland Avenue
Lubbock, Texas 79424
(806) 777-2198 – cell number for Irene Lance

Document Type: Street & Public Use Dedication Deed

Consideration: \$9,900.00, as valued in Appraisal Report prepared by Tommy Cantrell Appraisal Company, Inc. and subject to final approval by City Council and approval of title.

Owner confirms receipt of the following:

1. Copy of The State of Texas Landowner's Bill of Rights;
2. Right of Entry Agreement signed by Owner;
3. Copy of U.S. Department of Transportation's Publication FHWA-HEP-19-010;
4. Notice of Intent to Acquire Real Property letter from Hugo Reed & Associates, Inc.;
5. Initial Offer letter from Hugo Reed & Associates, Inc.;
6. Appraisal Report for Parcel 97 by Tommy Cantrell Appraisal Company, Inc.;
and
7. Survey Plat and Legal Description of Parcel 97 by Hugo Reed & Associates, Inc.

Closing Agent: West Texas Title
8001 Quaker Avenue, Suite E
Lubbock, Texas 79424

Concurrence:


David Lance, Pastor

STREET AND PUBLIC USE DEDICATION DEED

THE STATE OF TEXAS

§

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF LUBBOCK

§

THAT **CELEBRATION CHRISTIAN CENTER, INC., formerly known as HERITAGE BAPTIST CHURCH OF LUBBOCK, INC.**, a Texas Corporation, herein called "Grantor", for and in consideration of the sum of TEN AND NO/100 (\$10.00) DOLLARS and other good and valuable consideration, to it in hand paid by the **CITY OF LUBBOCK, TEXAS**, a Home Rule Municipal Corporation, does hereby dedicate to the public for public use forever and for street purposes, the following described tract of land situated in Lubbock County, Texas, as more particularly described in the attached Exhibit "A".

TO HAVE AND TO HOLD this above described premises, together with all and singular the rights and appurtenances thereto in anywise belonging unto the said public forever so long as said premises are used for public purposes.

WITNESS MY HAND this 18th day of June, 2021.

CELEBRATION CHRISTIAN CENTER, INC.

By: David L. Lance

Printed Name: David L. Lance

Title: CEO/Pastor

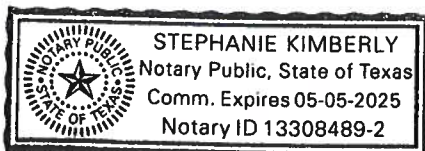
THE STATE OF TEXAS

§

THE COUNTY OF LUBBOCK

§

This instrument was acknowledged before me on June 18th, 2021, by David L. Lance, as CEO/Pastor of Celebration Christian Center and in the capacity therein stated.



Stephanie Kimberly
Notary Public, State of Texas

My Commission Expires: 5-5-2025

SCALE: 1"=50'

RICHARD & JESSICA SIGALA
CCFN 2016030422
7302 80th STREET
LOT 93

2.0 ACRES
HERITAGE BAPTIST CHURCH
VOL. 4119, PG. 102
8001 UPLAND AVE.

4.827 ACRES
HERITAGE BAPTIST CHURCH
VOL. 5660, PG. 27
8001 UPLAND AVE.

Line Table		
Line #	Length	Direction
L1	15.00'	S88° 06' 13"E
L2	220.00'	S01° 49' 42"W
L3	15.00'	N88° 06' 13"W
L4	220.00'	N01° 49' 42"E

LEGEND:

- SURVEYED PROPERTY
- ADJACENT PROPERTY
- - - RIGHT-OF-WAY
- - - EASEMENT

- SET 1/2" ROD w/CAP
- FD. 1/2" IRON ROD

P.O.B. - POINT OF BEGINNING
CCFN - COUNTY CLERK FILE NUMBER,
LUBBOCK COUNTY, TEXAS

55' RIGHT-OF-WAY BY PLAT

UPLAND AVENUE (STRIP PAVED)

40' RIGHT-OF-WAY
VOL. 782 PG. 690

L1

L4

L2

L3

L3

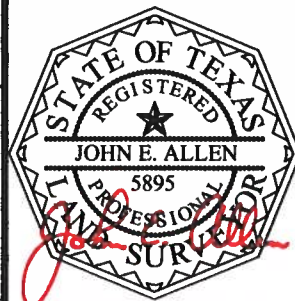
EASEMENT NOTES:

This parcel may be subject to a sufficient width right of way to permit the laying, maintenance, operation and removal of gas transportation pipe lines. Granted by Deed of Right of Way recorded in Volume 616, Page 511, Deed Records, Lubbock County, Texas. The exact size and location can not be determined by record description. Recorded or unrecorded easements or claims of easements, other than those shown on this survey, may exist and encumber this property.

**UPLAND AVENUE DESIGN PROJECT
66TH STREET TO 114TH STREET**

Parcel 97 - Permanent Easement
PERIMETER SURVEY OF A
0.076 ACRE PARCEL LOCATED IN
SECTION 30, BLOCK AK
LUBBOCK COUNTY, TEXAS

John E. Allen, Registered Professional Land Surveyor No.5895
State of Texas



Surveyed on the ground.
June 10, 2020

**HR HUGO REED
AND ASSOCIATES, INC.**

LAND SURVEYORS
CIVIL ENGINEERS
TEXAS LICENSED SURVEYING FIRM 100676-00
TEXAS REGISTERED ENGINEERING FIRM F-760

1601 AVENUE N
LUBBOCK, TEXAS 79401
PHONE: 806 / 763-5642
FAX: 806 / 763-3891

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Distances and coordinates are surface, U.S. Survey feet.
Combined Scale Factor: 1.0002485

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DESCRIPTION FOR PARCEL 97

METES AND BOUNDS DESCRIPTION of a 0.076 acre parcel located in Section 30, Block AK, Lubbock County, Texas, being the West 15.00 feet of 4.827 acres described in Volume 5660, Page 27, Real Property Records, Lubbock County, Texas (RPRLCT), being further described as follows:

BEGINNING at a 1/2" iron rod with cap found (N=7,255,913.20', E=910,111.19') in the East line of a 40.00 foot Right-of-Way described in Volume 782, Page 690, Deed Records, Lubbock, County, Texas, and at the Southwest corner of that 2.0 acre tract described in Volume 4119, Page 102, Real Property Records, Lubbock, County, Texas (RPRLCT), and at the Northwest corner of said 4.827 acre tract which bears N. 01°49'42" E. a distance of 756.00 feet and S. 88°06'13" E. a distance of 40.00 feet from the Southwest corner of Section 30, Block AK, for the Northwest corner of this parcel;

THENCE S. 88°06'13" E. along the North line of said 4.827 acre tract, the South line of said 2.0 acre tract a distance of 15.00 feet to a 1/2" iron rod with yellow cap marked 'HUGO REED & ASSOC' set at a distance of 55.00 feet from the West line of said Section 30, Block AK, for the Northeast corner of this parcel;

THENCE S. 01°49'42" W. parallel with and 55.00 feet from the said West Line of Section 30, Block AK a distance of 220.00 feet to a 1/2" iron rod with cap found in the South line of said 4.827 acre tract and at the Northwest corner of Lot 1, Tabasco Valley II, an Addition in Lubbock County, according to the map, plat and/or dedication deed thereof recorded in Volume 3263, Page 260, RPRLCT, and at the Northeast corner of a 55.00 foot Right-of-Way dedicated by said Tabasco Valley II, an Addition to Lubbock County, for the Southeast corner of this parcel;

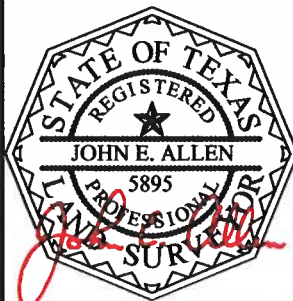
THENCE N. 88°06'18" W. along the South line of said 4.827 acre tract and the North line of said 55.00 foot Right-of-Way dedicated by Tabasco Valley II, an Addition in Lubbock County, a distance of 15.00 feet to a 1/2" iron rod found at the Southwest corner of said 4.827 acre tract and at the Northwest corner of the plat limits of said Tabasco Valley II, an Addition to Lubbock County, and in said East line of said 40.00 foot Right-of-Way, for the Southwest corner of this parcel;

THENCE N. 01°49'42" E. parallel with and 40.00 feet from said West Line of Section 30, Block AK, and along the common line of said 40.00 foot Right-of-Way and the East line of said 4.827 acre tract a distance of 220.00 feet to the Point of Beginning. Containing 0.076 acre (3300 sq. ft.) of land, more or less.

UPLAND AVENUE DESIGN PROJECT 66TH STREET TO 114TH STREET

Parcel 97 - Permanent Easement
PERIMETER SURVEY OF A
0.076 ACRE PARCEL LOCATED IN
SECTION 30, BLOCK AK
LUBBOCK COUNTY, TEXAS

John E. Allen, Registered Professional Land Surveyor No.5895
State of Texas



Surveyed on the ground.
June 10, 2020

**HR HUGO REED
AND ASSOCIATES, INC.**

**LAND SURVEYORS
CIVIL ENGINEERS**
TEXAS LICENSED SURVEYING FIRM 100676-00
TEXAS REGISTERED ENGINEERING FIRM F-760

1601 AVENUE N
LUBBOCK, TEXAS 79401
PHONE: 806 / 763-5642
FAX: 806 / 763-3891

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Combined Scale Factor: 1.0002485

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UPLAND AVENUE WIDENING PROJECT

Parcel No: 98

Owner: CELEBRATION CHRISTIAN CENTER
David Lance, Pastor
8001 Upland Avenue
Lubbock, Texas 79424
(806) 777-2198 – cell number for Irene Lance

Document Type: Street & Public Use Dedication Deed

Consideration: \$5,950.00, as valued in Appraisal Report prepared by Tommy Cantrell Appraisal Company, Inc. and subject to final approval by City Council and approval of title.

Owner confirms receipt of the following:

1. Copy of The State of Texas Landowner's Bill of Rights;
2. Right of Entry Agreement signed by Owner;
3. Copy of U.S. Department of Transportation's Publication FHWA-HEP-19-010;
4. Notice of Intent to Acquire Real Property letter from Hugo Reed & Associates, Inc.;
5. Initial Offer letter from Hugo Reed & Associates, Inc.;
6. Appraisal Report for Parcel 98 by Tommy Cantrell Appraisal Company, Inc.;
and
7. Survey Plat and Legal Description of Parcel 98 by Hugo Reed & Associates, Inc.

Closing Agent: West Texas Title
8001 Quaker Avenue, Suite E
Lubbock, Texas 79424

Concurrence:


David Lance, Pastor

STREET AND PUBLIC USE DEDICATION DEED

THE STATE OF TEXAS

§

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF LUBBOCK

§

THAT **CELEBRATION CHRISTIAN CENTER, INC.**, formerly known as **HERITAGE BAPTIST CHURCH OF LUBBOCK, INC.**, a Texas Corporation, herein called "Grantor", for and in consideration of the sum of TEN AND NO/100 (\$10.00) DOLLARS and other good and valuable consideration, to it in hand paid by the **CITY OF LUBBOCK, TEXAS**, a Home Rule Municipal Corporation, does hereby dedicate to the public for public use forever and for street purposes, the following described tract of land situated in Lubbock County, Texas, as more particularly described in the attached Exhibit "A".

TO HAVE AND TO HOLD this above described premises, together with all and singular the rights and appurtenances thereto in anywise belonging unto the said public forever so long as said premises are used for public purposes.

WITNESS MY HAND this 18th day of June, 2021.

CELEBRATION CHRISTIAN CENTER, INC.

By: David L. Lance

Printed Name: David L. Lance

Title: CEO/Pastor

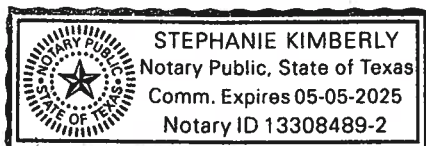
THE STATE OF TEXAS

§

THE COUNTY OF LUBBOCK

§

This instrument was acknowledged before me on June 18th, 2021, by David L. Lance, as CEO/Pastor of Celebration Christian Center and in the capacity therein stated.



Stephanie Kimberly
Notary Public, State of Texas

My Commission Expires: 5-5-2025

NORTH
SCALE: 1"=50'

RUSH PARMAR
VOL. 2498, PG. 73
7301 78th STREET
LOT 92

20' VALLEY
by PLAT

RICHARD & JESSICA SIGALA
CCFN 2016030422
7302 80th STREET
LOT 93

55' RIGHT-OF-WAY by PLAT

SECTION 31, BLOCK AK
SECTION 30, BLOCK AK

40' RIGHT-OF-WAY
VOL. 782, PG. 690

20' VALLEY
by PLAT

CELEBRATION CHRISTIAN
CENTER, INC.
7801 UPLAND AVE.
LOT 66-A

2.0 ACRES
HERITAGE BAPTIST CHURCH
VOL. 4119, PG. 102
8001 UPLAND AVE.

Line Table		
Line #	Length	Direction
L1	132.00'	N01° 49' 42"E
L2	15.00'	S88° 06' 13"E
L3	132.00'	S01° 49' 42"W
L4	15.00'	N88° 06' 13"W

P.O.B.
N= 7,255,913.20'
E= 910,111.19'

ASPHALT DRIVE

4.827 ACRES
HERITAGE BAPTIST CHURCH
VOL. 5660, PG. 27
8001 UPLAND AVE.

LEGEND:

- SURVEYED PROPERTY
- ADJACENT PROPERTY
- RIGHT-OF-WAY
- EASEMENT
- SET 1/2" ROD w/CAP
- ⊙ FD. 1/2" ROD w/CAP
- FD. 1/2" IRON ROD
- P.O.B. - POINT OF BEGINNING
- CCFN - COUNTY CLERK FILE NUMBER, LUBBOCK COUNTY, TEXAS

UPLAND AVENUE (STRIP PAVED)

40' ELECTRIC DISTRIBUTION LINE EASEMENT
VOL. 1291, PG. 470
15' WATER LINE EASEMENT
VOL. 6363, PG. 273

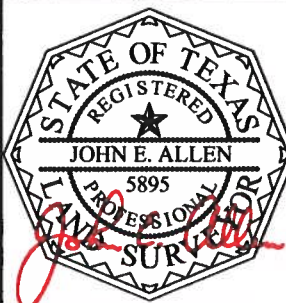
EASEMENT NOTES:

This parcel may be subject to a sufficient width right of way to permit the laying, maintenance, operation and removal of gas transportation pipe lines. Granted by Deed of Right of Way recorded in Volume 616, Page 511, Deed Records, Lubbock County, Texas. The exact size and location can not be determined by record description. Recorded or unrecorded easements or claims of easements, other than those shown on this survey, may exist and encumber this property.

UPLAND AVENUE DESIGN PROJECT 66TH STREET TO 114TH STREET

Parcel 98 - Permanent Easement
PERIMETER SURVEY OF A
0.045 ACRE PARCEL LOCATED IN
SECTION 30, BLOCK AK
LUBBOCK COUNTY, TEXAS

John E. Allen, Registered Professional Land Surveyor No.5895
State of Texas



Surveyed on the ground.
June 10, 2020

HR HUGO REED AND ASSOCIATES, INC.

LAND SURVEYORS
CIVIL ENGINEERS
TEXAS LICENSED SURVEYING FIRM 100678-00
TEXAS REGISTERED ENGINEERING FIRM F-760

1601 AVENUE N
LUBBOCK, TEXAS 79401
PHONE: 806 / 763-5642
FAX: 806 / 763-3891

Bearings are relative to the Texas Coordinate System of 1983,
North Central Zone, NAD 83 (2011), Epoch 2010.0
Distances and coordinates are surface, U.S. Survey feet.
Combined Scale Factor: 1.0002485

DESCRIPTION FOR PARCEL 98

METES AND BOUNDS DESCRIPTION of a 0.045 acre parcel located in Section 30, Block AK, Lubbock County, Texas, being the West 15.00 feet of 2.0 acres described in Volume 4119, Page 102, Real Property Records, Lubbock County, Texas (RPRLCT), being further described as follows:

BEGINNING at a 1/2" iron rod with cap found (N=7,255,913.20', E=910,111.19') in the East line of a 40.00 foot Right-of-Way described in Volume 782, Page 690, Deed Records, Lubbock, County, Texas, and at the Northwest corner of a 4.827 acre tract described in Volume 5660, Page 27, RPRLCT, and at the Southwest corner of said 2.0 acre tract which bears N. 01°49'42" E. a distance of 756.00 feet and S. 88°06'13" E. a distance of 40.00 feet from the Southwest corner of Section 30, Block AK, for the Southwest corner of this parcel;

THENCE N. 01°49'42" E. along the common West line of said 2.0-acre tract and the East line of said 40.00 foot Right-of-Way, a distance of 132.00 feet to a 1/2" iron rod with yellow cap marked "HUGO REED ASSOC" set at the Northwest corner of said 2.0 acre tract and at the Southwest corner of the plat limits and at the Southwest corner of a 15.00 foot Right-of-Way dedicated with Lots 1 thru 66, Papalote South, a subdivision in the Southwest Quarter of Section 30, Block AK, Lubbock County, Texas, according to the map, plat and/or dedication deed thereof recorded in Volume 4909, Page 109, RPRLCT, for the Northwest corner of this parcel;

THENCE S. 88°06'09" E. along the North line of said 2.0-acre tract and in the South line of said 15.00 foot Right-of-Way a distance of 15.00 feet to a 1/2" iron rod found at the Southwest corner of Lot 66-A, described in Lots 63-A, 63-B, 64-A, 64-B, 65-A, 65-B and 66-A, a replat of Lots 63-66 and all of that 20 foot Alley previously closed by petition, Papalote South, an Addition to the City of Lubbock, according to the map, plat and/or dedication deed thereof recorded in Volume 7505, Page 217, Official Public Records, Lubbock County, Texas, for the Northeast corner of this parcel;

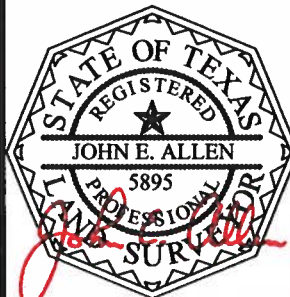
THENCE S. 01°49'42" W. parallel with and 55.00 feet from the West line of said Section 30, Block AK, a distance of 132.00 feet to a 1/2" iron rod with yellow cap marked "HUGO REED ASSOC" set in the North line of said 4.827 acre tract and in the South line of said 2.0 acre tract, for the Southeast corner of this parcel;

THENCE N. 88°06'13" W. along the common line of said 4.827 acre tract and said 2.0 acre tract a distance of 15.00 feet to the Point of Beginning. Containing 0.045 acre (1980 sq. ft.) of land, more or less.

UPLAND AVENUE DESIGN PROJECT 66TH STREET TO 114TH STREET

Parcel 98 - Permanent Easement
PERIMETER SURVEY OF A
0.045 ACRE PARCEL LOCATED IN
SECTION 30, BLOCK AK
LUBBOCK COUNTY, TEXAS

John E. Allen, Registered Professional Land Surveyor No.5895
State of Texas



Surveyed on the ground.
June 10, 2020

**HR HUGO REED
AND ASSOCIATES, INC.**

**LAND SURVEYORS
CIVIL ENGINEERS**
TEXAS LICENSED SURVEYING FIRM 100876-00
TEXAS REGISTERED ENGINEERING FIRM F-780

1601 AVENUE N
LUBBOCK, TEXAS 79401
PHONE: 806 / 763-5642
FAX: 806 / 763-3891

Bearings are relative to the Texas Coordinate System of 1983,
North Central Zone, NAD 83 (2011), Epoch 2010.0
Distances and coordinates are surface, U.S. Survey feet.
Combined Scale Factor: 1.0002485

UPLAND AVENUE WIDENING PROJECT

Parcel No: 106

Owner: Morgan Baker
6817 Rochester Avenue
Lubbock, Texas 79424
(806) 438-0461

Document Type: Street & Public Use Dedication Deed


Consideration: \$19,390.00, as valued in Appraisal Report prepared by Tommy Cantrell Appraisal Company, Inc. and subject to final approval by City Council and approval of title.

Owner confirms receipt of the following:

1. Copy of The State of Texas Landowner's Bill of Rights;
2. Right of Entry Agreement signed by Owner;
3. Copy of U.S. Department of Transportation's Publication FHWA-HEP-19-010;
4. Notice of Intent to Acquire Real Property letter from Hugo Reed & Associates, Inc.;
5. Initial Offer letter from Hugo Reed & Associates, Inc.;
6. Appraisal Report for Parcel 106 by Tommy Cantrell Appraisal Company, Inc.;
and
7. Survey Plat and Legal Description of Parcel 106 by Hugo Reed & Associates, Inc.

Closing Agent: Western Title
4202 84th Street
Lubbock, Texas 79423

Concurrence:


Morgan Baker

STREET AND PUBLIC USE DEDICATION DEED

THE STATE OF TEXAS

§

KNOW ALL MEN BY THESE PRESENTS:


COUNTY OF LUBBOCK

§

THAT **MORGAN BAKER**, herein called "Grantor", for and in consideration of the sum of TEN AND NO/100 (\$10.00) DOLLARS and other good and valuable consideration, to it in hand paid by the **CITY OF LUBBOCK, TEXAS**, a Home Rule Municipal Corporation, does hereby dedicate to the public for public use forever and for street purposes, the following described tract of land situated in Lubbock County, Texas, as more particularly described in the attached Exhibit "A".

TO HAVE AND TO HOLD this above described premises, together with all and singular the rights and appurtenances thereto in anywise belonging unto the said public forever so long as said premises are used for public purposes.

WITNESS MY HAND this 10th day of May, 2021.


Morgan Baker

THE STATE OF TEXAS

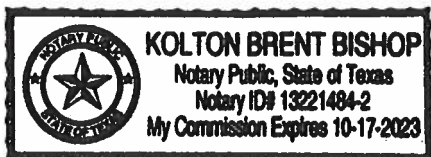
§

COUNTY OF LUBBOCK

§

BEFORE ME, the undersigned authority, a Notary Public in and for said County, Texas, on this day personally appeared Morgan Baker, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 10th day of May, 2021.




Notary Public in and for the State of Texas

My Commission Expires: 10-17-2023

NORTH
SCALE: 1"=50'

LOT 1
HELEN FELLOWS
CCFN 2016043342
7302 74th STREET

Line Table

Line #	Length	Direction
L1	15.00'	S88° 11' 44"E
L2	140.00'	S01° 49' 42"W
L3	15.00'	N88° 11' 44"W
L4	140.00'	N01° 49' 42"E

P.O.B.
N= 7,257,605.00'
E= 910,165.19'

40' RIGHT-OF-WAY
VOL. 782, PG. 690

PARCEL 107

4.013 ACRES
KARRY BRUNKEN
CCFN 2009043979
7225 UPLAND AVE.

LANDSCAPE EASEMENT
VOL. 1948, PG. 229

1-STORY
CONCRETE BLOCK
BUILDING

0.643 ACRES
MORGAN BAKER
VOL. 4197, PG. 91
7317 UPLAND AVE.

ASPHALT
PARKING LOT

20' ALLEY
by PLAT

LOT 1
SCOTT & APRIL FLEMING
CCFN 2014025851
7210 76th STREET

LEGEND:

- SURVEYED PROPERTY
- ADJACENT PROPERTY
- - - RIGHT-OF-WAY
- - - EASEMENT
- SET 1/2" ROD w/CAP
- ⊗ SET "X" IN CONCRETE
- FOUND NAIL
- ⊙ SET 1/2" ROD w/CAP

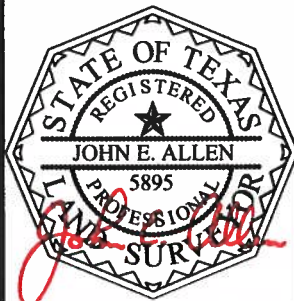
P.O.B.- POINT OF BEGINNING
CCFN- COUNTY CLERK FILE NUMBER,
LUBBOCK COUNTY, TEXAS

Note: Recorded or unrecorded documents other than those shown on this survey may exist and encumber this property.

UPLAND AVENUE DESIGN PROJECT 66TH STREET TO 114TH STREET

Parcel 106 - Permanent Easement
PERIMETER SURVEY OF A
0.048 ACRE PARCEL LOCATED IN
SECTION 30, BLOCK AK
LUBBOCK COUNTY, TEXAS

John E. Allen, Registered Professional Land Surveyor No.5895
State of Texas



Surveyed on the ground.
June 10, 2020

**HR HUGO REED
AND ASSOCIATES, INC.**

LAND SURVEYORS
CIVIL ENGINEERS

TEXAS LICENSED SURVEYING FIRM 100876-00
TEXAS REGISTERED ENGINEERING FIRM F-760

1601 AVENUE N
LUBBOCK, TEXAS 79401
PHONE: 806 / 763-5642
FAX: 806 / 763-3891

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DESCRIPTION FOR PARCEL 106

METES AND BOUNDS DESCRIPTION of a 0.048 acre (2100 sq. ft.) parcel located in Section 30, Block AK, Lubbock County, Texas, being the West 15.00 feet of a 0.643 acre tract described in Volume 4197, Page 91, Real Property Records, Lubbock County, Texas (RPRLCT), being further described as follows:

BEGINNING at a 1/2" iron rod with yellow cap marked "HUGO REED & ASSOC" found (N=7,257,605.00', E=910,165.19') at the Northwest corner of said 0.643 acre tract and at the Southwest corner of a 4.013 acre tract described in County Clerk File Number 2009043979, Official Public Records, Lubbock County, Texas, and in the East line of a 40.00 foot Right-of-Way described in Volume 782, Page 690, Deed Records, Lubbock County, Texas, which bears S. 01°49'42" W. a distance of 191.38 feet and S. 88°11'44" E. a distance of 40.00 feet from a railroad spike found at the Northwest corner of the Southwest Quarter of said Section 30, Block AK, for the Northwest corner of this parcel;

THENCE S. 88°11'44" E. along the North line of said 0.643 acre tract and the South line of said 4.013 acre tract a distance of 15.00 feet to a nail found at the Northeast corner of this parcel;

THENCE S. 01°49'42" W. parallel with and 55.00 feet from the West line of said Section 30, Block AK, a distance of 140.00 feet to an "X" chiseled in concrete in the South line of said 0.643 acre tract and at the Northeast corner of a 14.86 foot Right-of-Way dedicated with Lots 1 thru 66, Papalote South, a Subdivision in the Southwest Quarter of Section 30, Block AK, Lubbock County, Texas, according to the map, plat and/or dedication deed thereof recorded in Volume 4909, Page 109, RPRLCT, for the Southeast corner of this parcel;

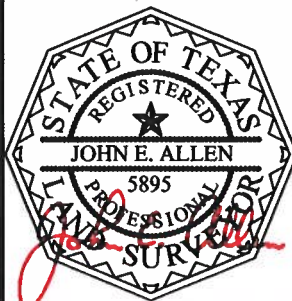
THENCE N. 88°11'44" W. along the South line of said 0.643 acre tract and the North line of said 14.86 foot Right-of-Way at 14.86 feet pass the Northwest corner of said 14.86 foot Right-of-Way and the East line of said 40.00 foot Right-of-Way continuing for a total distance of 15.00 feet to an "X" chiseled in concrete at the Southwest corner of said 0.643 acre tract, for the Southwest corner of this parcel;

THENCE N. 01°49'42" E. along the West line of said 0.643-acre tract and the East line of said 40' right-of way, a distance of 140.00 to the Point of Beginning. Containing 0.048 acre (2100 sq. ft.) of land, more or less.

UPLAND AVENUE DESIGN PROJECT 66TH STREET TO 114TH STREET

Parcel 106 - Permanent Easement
PERIMETER SURVEY OF A
0.048 ACRE PARCEL LOCATED IN
SECTION 30, BLOCK AK
LUBBOCK COUNTY, TEXAS

John E. Allen, Registered Professional Land Surveyor No.5895
State of Texas



Surveyed on the ground.
June 10, 2020

HR HUGO REED
AND ASSOCIATES, INC.

LAND SURVEYORS
CIVIL ENGINEERS

TEXAS LICENSED SURVEYING FIRM 100676-00
TEXAS REGISTERED ENGINEERING FIRM F-760

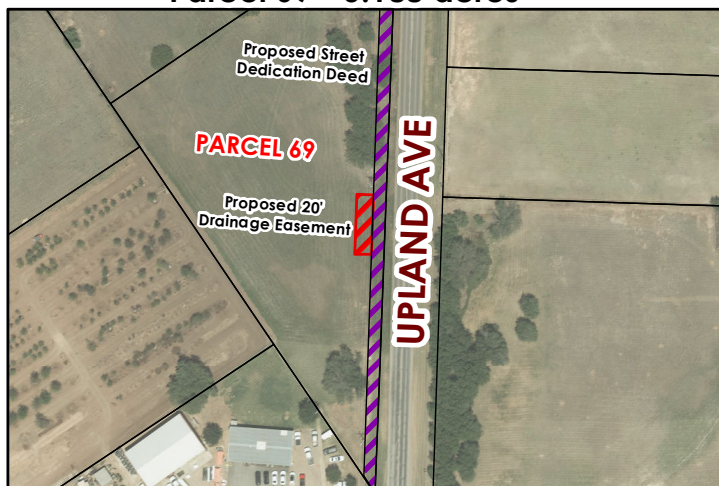
1601 AVENUE N
LUBBOCK, TEXAS 79401
PHONE: 806 / 763-5642
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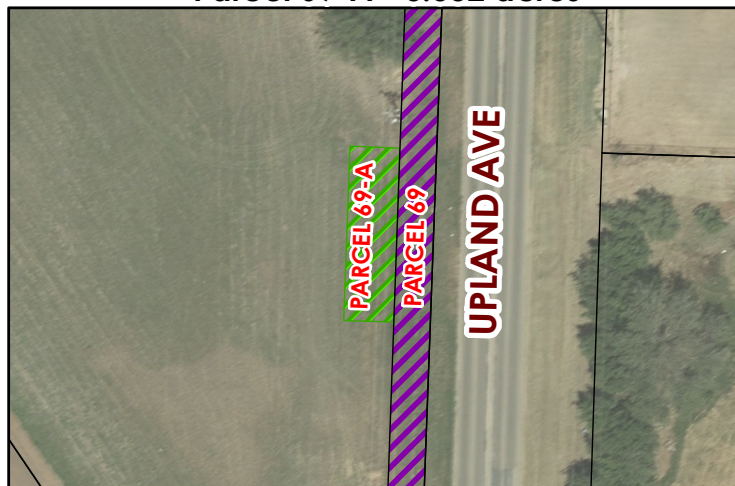
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**Street and Public Use Dedication in Parcels 97, 98, and 106
on Unsubdivided Land in Section 30, Block AK
Proposed Drainage Easement Street and Public Use Dedication in Parcel 69 and 69-A
on Unsubdivided Land in Section 31, Block AK**

Parcel 69 - 0.188 acres



Parcel 69-A - 0.032 acres



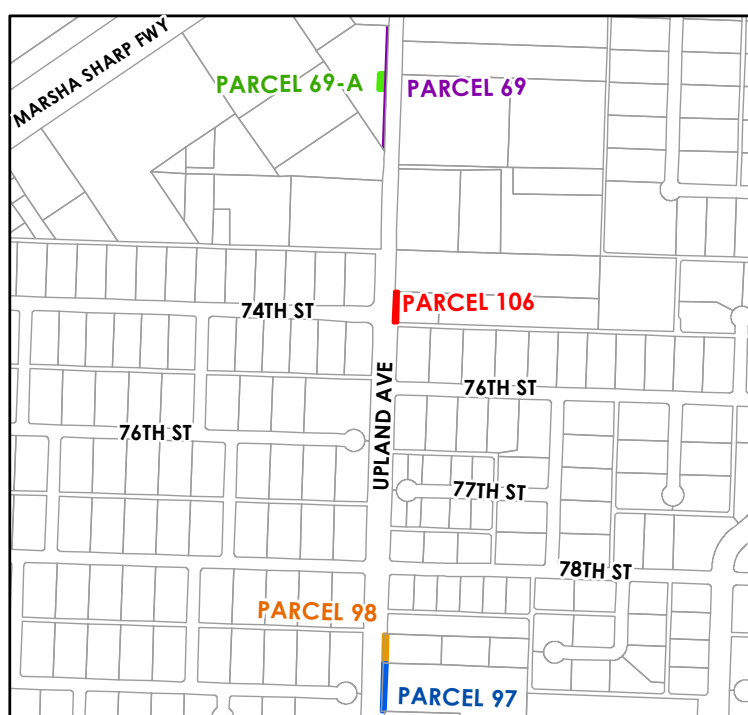
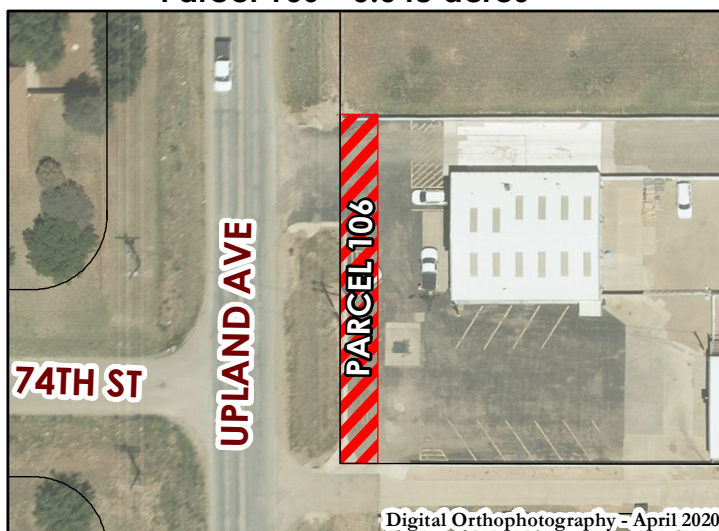
Parcel 97 - 0.076 acres



Parcel 98 - 0.045 acres



Parcel 106 - 0.048 acres



**City of Lubbock, TX
Capital Project
July 13, 2021**

Capital Project Number:	92510
Capital Project Name:	Upland Avenue 66th Street to 82nd Street

	Budget
<i>Encumbered/Expended</i>	
Staff Time	\$ 29,829
Kimley Horn Contract No. 14034	1,180,000
Kimley Horn Amendment #1	1,373,400
TxDOT Construction Advanced Funding Agreement	948,931
TxDOT Design Advanced Funding Agreement	3,760
Agenda Item July 13, 2021	
ROW Acquisition Parcel 69 & 69-A	21,078
ROW Acquisition Parcel 97	9,900
ROW Acquisition Parcel 98	5,950
ROW Acquisition Parcel 106	19,390
<i>Encumbered/Expended to Date</i>	<u>3,592,238</u>
<i>Estimated Costs for Remaining Appropriation</i>	
ROW Acquisition	900,000
Construction	1,868,073
<i>Remaining Appropriation</i>	<u>2,768,073</u>
Total Appropriation	<u><u>\$ 6,360,311</u></u>

Funding Detail	Funding to Date	Unappropriated Planning Years						Total Funding
		FY 2021-22	FY 2022-23	FY 2023-24	FY 2024-25	FY 2025-26	FY 2026-27	
FY 2010 Gateway Streets Revenue CO's	448,687	0	0	0	0	0	0	448,687
FY 2018 Gateway Streets CO's	2,470,000	0	0	0	0	0	0	2,470,000
FY 2020 Gateway Streets Revenue CO's	2,600,000	0	0	0	0	0	0	2,600,000
FY 2022 Gateway Streets Revenue CO's	0	0	0	0	0	0	0	0
TxDOT Participation	841,624	0	0	0	0	0	0	841,624
Total Funding Sources	6,360,311	0	0	0	0	0	0	6,360,311

Operating Budget Impact	Unappropriated Planning Years						Total Impact
	FY 2021-22	FY 2022-23	FY 2023-24	FY 2024-25	FY 2025-26	FY 2026-27	
No Impact Anticipated	0	0	0	0	0	0	0
Total Operating Budget Impact	0	0	0	0	0	0	0



Regular City Council Meeting

6. 8.

Meeting Date: 07/13/2021

Information

Agenda Item

Resolution - Right-of-Way: Consider a resolution approving the inclusion of medians and islands in the streets within the boundaries of The Ridge Development located along the west side of Quincy Avenue, extending from 98th Street to 105th Street, City of Lubbock, Lubbock County, Texas.

Item Summary

Chapter 38, Section 38.05.001(17) of the Code of Ordinances of the City of Lubbock requires all medians to be approved by the City Council before construction. The developer shall be required to present to the City Engineer, the design and construction of a street pavement structure adjacent to such medians and islands that exceeds the minimum standard specifications for street paving, and that design and construction proposal must be approved by the City Engineer.

Pursuant to this requirement, the applicant has submitted the attached letter requesting permission to construct medians along Quincy Avenue, with the medians and islands to be owned and maintained by The Ridge Homeowner's Association, in accordance with the request of The Ridge and SWLLD, LLC.

Fiscal Impact

None

Staff/Board Recommending

Jesica McEachern, Assistant City Manager

Attachments

Resolution - Medians for The Ridge Development at Quincy Avenue

Exhibit A - Medians for The Ridge Development at Quincy Avenue

RESOLUTION

WHEREAS, Chapter 38, Section 38.05.001(17) of the Code of Ordinances of the City of Lubbock (Subdivision Regulations) requires City Council approval of a street design which will include a median or island within the street; and

WHEREAS, the Owner/Developer of The Ridge subdivision has requested that the City Council approve a street design that will include medians and islands in streets within the boundaries of this development located along the west side of Quincy Avenue extending from 98th Street to 105th Street, City of Lubbock, Lubbock County, Texas; and

WHEREAS, said medians and islands are to remain under private ownership and will be permanently owned and maintained by the Home Owners Association; **NOW THEREFORE:**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LUBBOCK:

THAT, the City Council of the City of Lubbock hereby approves the inclusion of medians and islands in the streets within the boundaries of The Ridge, to be owned and maintained by The Ridge Home Owner's Association in accordance with the request of The Ridge and SWLLD, LLC.

THAT, as a condition of approval, if any, of medians and islands in the streets located within The Ridge, the Developer shall be required to present to the City Engineer the design and construction of a street pavement structure adjacent to such medians and islands that exceeds the minimum standard specifications for street paving, and that design and construction proposal must be approved by the City Engineer.

Passed by the City Council on _____.

DANIEL M. POPE, MAYOR

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

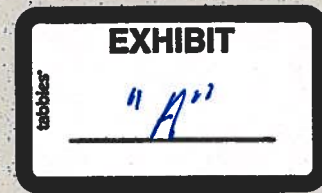
A handwritten signature in blue ink, appearing to read "Michael Keenum", written over a horizontal line.

Michael Keenum, P.E., Division Director of Engineering/City Engineer

APPROVED AS TO FORM:

A handwritten signature in blue ink, appearing to read "Ryan Brooke", written over a horizontal line.

Ryan Brooke, Assistant City Attorney



SWLLD, LLC

806-543-0667

P.O. Box 64664
Lubbock, TX 79464

June 16, 2021

Hon. Mayor and City Council of Lubbock

c/o Mike Keenum, City Engineer

Re: The Ridge Development at Quincy Avenue

Hon. Mayor and City Council Members:

I am in the process of developing The Ridge subdivision located along the west side of Quincy Avenue extending from 98th Street to 105th Street. Quincy Avenue is being developed as a boulevard with existing Xcel electric transmission lines located in the middle. The transmission lines have necessitated the need for medians to be platted and constructed in Quincy Avenue.

The medians are to be privately owned and maintained and are not proposed to be supplied with any irrigation systems. As such, the current Code of Ordinances allows for the paving on each side of the median to be constructed with asphalt paving.

Please consider this letter as my request for formal City Council approval of the medians in Quincy Avenue for the entire development as required by Code.

I am happy to address any questions you may have regarding this matter and look forward to the item being placed on the soonest available City Council agenda for action. My telephone number is 806-543-0667 should you have any questions.

Respectfully,


Thomas K. Payne
Manager

MEDIANS IN QUINCY AVENUE



Regular City Council Meeting

6. 9.

Meeting Date: 07/13/2021

Information

Agenda Item

Resolution - Engineering: Consider a resolution authorizing the Mayor to execute Contract 15819, with DN Tanks, for the construction of the North Water Treatment Plant 8-Million Gallon Ground Storage Tank.

Item Summary

The purpose of this project is to construct a new 8-Million Gallon (MG) Ground Storage Tank (GST) at the North Water Treatment Plant (NWTP). The existing 6-MG GST at the NWTP supplies water to Pump Station 11 which pumps the water into the City's distribution system. This GST is critical in delivering water from the NWTP to the citizens of Lubbock.

During a freeze event in 2018, the air vent to the existing 6-MG GST froze shut, causing air to become trapped within the existing GST during a filling operation. This resulted in the tank becoming over pressurized, leading to structural beams separating from the roof which caused the columns within the tank to shift. The existing 6-MG GST is still in operation, but has severe structural damage and is in need of replacement.

In response to RFP 21-15819-CM, two proposals from the following contractors were received and opened on May 25, 2021.

Contractor	Amount
DN Tanks, Grand Prairie, Texas	\$8,326,400
Preload, LLC, Louisville, Kentucky	\$8,724,000

The proposals were evaluated by a four-person evaluation team using the following criteria: 60 Points for Price, 25 Points for Contractor Qualifications, 5 Points for Safety Record Questionnaire, and 10 Points for Construction Time, per evaluation member.

After the proposals were evaluated, the following ranking was obtained.

Contractor	Points
DN Tanks of Grand Prairie, Texas	387.25
Preload, LLC of Louisville, Kentucky	369.49

Staff and the Evaluation Committee recommend award of the unit price contract to the highest ranked proposer, DN Tanks of Grand Prairie, Texas, in the amount of \$8,326,400. The total amount of the award is estimated based on expected quantities and actual expenditures may be more or less depending on actual quantities. Time for substantial completion is 485 Calendar Days with liquidated damages of \$1,000.00 for each consecutive calendar day.

Fiscal Impact

The cost of the contract is \$8,326,400 and is funded in Capital Project 92660, 8-MG Ground Storage Tank.

Staff/Board Recommending

Jesica McEachern, Assistant City Manager

Mike Keenum, Division Director of Engineering

Attachments

Resolution

Construction Contract

Location Map

Budget Detail

CIP Detail

Project Summary Report

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LUBBOCK:

THAT the Mayor of the City of Lubbock is hereby authorized and directed to execute for and on behalf of the City of Lubbock, Public Works Contract No. 15819 for the North Water Treatment Plant eight million gallon ground storage tank improvements as per RFP 21-15819-CM, by and between the City of Lubbock and DN Tanks, LLC, of Grand Prairie, Texas, and related documents. Said Contract is attached hereto and incorporated in this resolution as if fully set forth herein and shall be included in the minutes of the City Council.

Passed by the City Council on _____.

DANIEL M. POPE, MAYOR

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



Jessica McEachern, Assistant City Manager

APPROVED AS TO FORM:



Amy L. Sims, Deputy City Attorney

RES.Contract 15819 – Ground Storage Tank Improvements
June 17, 2021

REVISED

**PROPOSAL SUBMITTAL FORM
UNIT PRICE PROPOSAL CONTRACT**

DATE: May 25, 2021

PROJECT NUMBER: **RFP 21-15819-CM North Water Treatment Plant 8 Million-Gallon Ground Storage Tank Improvements**

Proposal of DN Tanks, LLC (hereinafter called Offeror)

To the Honorable Mayor and City Council City of Lubbock, Texas (hereinafter called Owner)

Ladies and Gentlemen:

The Offeror, in compliance with your Request for Proposals for the **NORTH WATER TREATMENT PLANT 8 MILLION-GALLON GROUND STORAGE TANK IMPROVEMENTS** having carefully examined the plans, specifications, instructions to offerors, notice to offerors and all other related contract documents and the site of the intended work, and being familiar with all of the conditions surrounding the construction of the intended project including the availability of materials and labor, hereby intends to furnish all labor, materials, and supplies; and to construct the project in accordance with the plans, specifications and contract documents, within the time set forth therein and at the price stated below. The price to cover all expenses incurred in performing the work required under the contract documents.

BASE BID					
ITEM	DESCRIPTION	QTY (+/-)	U/M	UNIT COST	EXTENDED COST
1	All work as defined in the Contract Documents, except for those items listed separately below	1	LS	\$ 7,978,500.00	
2	All materials, labor, and incidentals required to install asphalt paving as required by the Contract Documents	1,100	SY	\$ 107.00	\$ 117,700.00
3	Contingency Allowance for Unforeseen Field Conditions to be used solely at the discretion of the Owner and Engineer required during completion of the Project (miscellaneous work on a change authorization basis)	1	LS	\$240,000.00	\$240,000.00
4	Mobilization, Demobilization, Bonds and Insurance (Maximum of 5% of Total Contract Amount)	1	LS	\$ 143,600.00	
Total (Items 1-4)					\$ 8,479,800.00

REVISED

BID ALTERNATES:

The Offeror agrees to make, at the following bid alternate prices (Deductive Bid Alternates), the changes in the work covered in the Total Base Bid Price that are specified in the bid alternates priced below:

It is understood that:

1. All bid alternate prices shall be filled in. The work detailed by the bid alternate(s) is an extension of the nature of the work for the Total Base Bid Price's project. This proposal requires that the undersigned Bidder propose on all work detailed by the Total Base Bid Price's project and the decrease in work as detailed by each and all of the bid alternates. Failure to comply with this requirement of submitting a price for each and all of the bid alternates may render the Bid non-responsive and may cause its rejection.
2. The acceptance or rejection of any or all of these bid alternates is at the option of the Owner.
3. Acceptance or rejection of bid alternates will not necessarily be made on the basis of price alone.
4. The acceptance or rejection of one or more bid alternates will not affect the Total Base Bid Project bid, nor other conditions of this bid, nor the price of other accepted bid alternates.
5. Reference this document for Method of Award.
6. Reference Document 01 11 20 Bid Alternates Coordination for information and descriptions of each bid alternate (Deductive Bid Alternates).
7. The undersigned has carefully examined the plans and other contractual documents. Through submittal of a bid, the undersigned agrees and understands that the documents have been prepared with the highest level of care in the effort to coordinate the scopes of the Total Base Bid Project. The undersigned agrees and accepts the responsibilities to coordinate and construct all required interconnections and coordination facilities between the Total Base Bid Project and any of, any combination of, and/or a total combination of the Bid Alternates to develop complete and operational facilities that meet the regulatory requirements for the facilities and the requirements set forth by these contract documents.

ALTERNATES				
ITEM	DESCRIPTION	QTY (+/-)	U/M	TOTAL LUMP SUM
A-1	Active Mechanical Tank Mixing System	1	LS	\$ -37,100
A-2	Demolition of Existing 6 Million-Gallon Clearwell	1	LS	\$ -116,300
Total (Items A1-A2)				\$ -153,400
Total (Base + Alternates)				\$ 8,326,400

REVISED

PROPOSED CONSTRUCTION TIME:

1. Contractors proposed CONSTRUCTION TIME for completion:

TOTAL CONSECUTIVE CALENDAR DAYS: 485 (to Substantial Completion)

TOTAL CONSECUTIVE CALENDAR DAYS: 515 (to Final Completion)

(not to exceed 485 consecutive calendar days to Substantial Completion / 515 consecutive calendar days to Final Completion).

Offeror hereby agrees to commence the work on the above project on a date to be specified in a written "Notice to Proceed" of the Owner and to **substantially complete** the project within **485 Consecutive Calendar Days** with **final completion** within **515 Consecutive Calendar Days** as stipulated in the specification and other contract documents. Offeror hereby further agrees to pay to Owner as liquidated damages in the sum of **\$1,000** for each consecutive calendar day after **substantial completion** and liquidated damages in the sum of **\$1,000** for each consecutive calendar day after **final completion** set forth herein above for completion of this project, all as more fully set forth in the General Conditions of the Agreement.

Offeror understands and agrees that this proposal submittal shall be completed and submitted in accordance with instruction number 28 of the General Instructions to Offerors. Offeror understands that the Owner reserves the right to reject any or all proposals and to waive any formality in the proposing. The Offeror agrees that this proposal shall be good for a period of sixty (60) calendar days after the scheduled closing time for receiving proposals.

The undersigned Offeror hereby declares that he has visited the site of the work and has carefully examined the plans, specifications and contract documents pertaining to the work covered by this proposal, and he further agrees to commence work on the date specified in the written notice to proceed, and to substantially complete the work on which he has proposed; as provided in the contract documents.

Offerors are required, whether or not a payment or performance bond is required, to submit a cashier's check or certified check issued by a bank satisfactory to the City of Lubbock, or a proposal bond from a reliable surety company, payable without recourse to the order of the City of Lubbock in an amount not less than five percent (5%) of the total amount of the proposal submitted as a guarantee that offeror will enter into a contract, obtain all required insurance policies, and execute all necessary bonds (if required) within ten (10) days after notice of award of the contract to him.

CRB Offeror's Initials

REVISÉ

 Dollars (\$) or a Proposal Bond in the sum
of Four hundred twenty-four thousand Dollars (\$424,000.00), which it is agreed shall be
collected and retained by the Owner as liquidated damages in the event the proposal is
accepted by the Owner and the undersigned fails to execute the necessary contract
documents, insurance certificates, and the required bond (if any) with the Owner within
ten (10) business days after the date of receipt of written notification of acceptance of said
proposal; otherwise, said check or bond shall be returned to the undersigned upon
demand.

Pursuant to Texas Local Government Code 252.043(g), a competitive sealed proposal that has been opened may not be changed for the purpose of correcting an error in the proposal price. THEREFORE, ANY CORRECTIONS TO THE PROPOSAL PRICE MUST BE MADE ON THE PROPOSAL SUBMITTAL FORM PRIOR TO PROPOSAL OPENING.


Authorized Signature

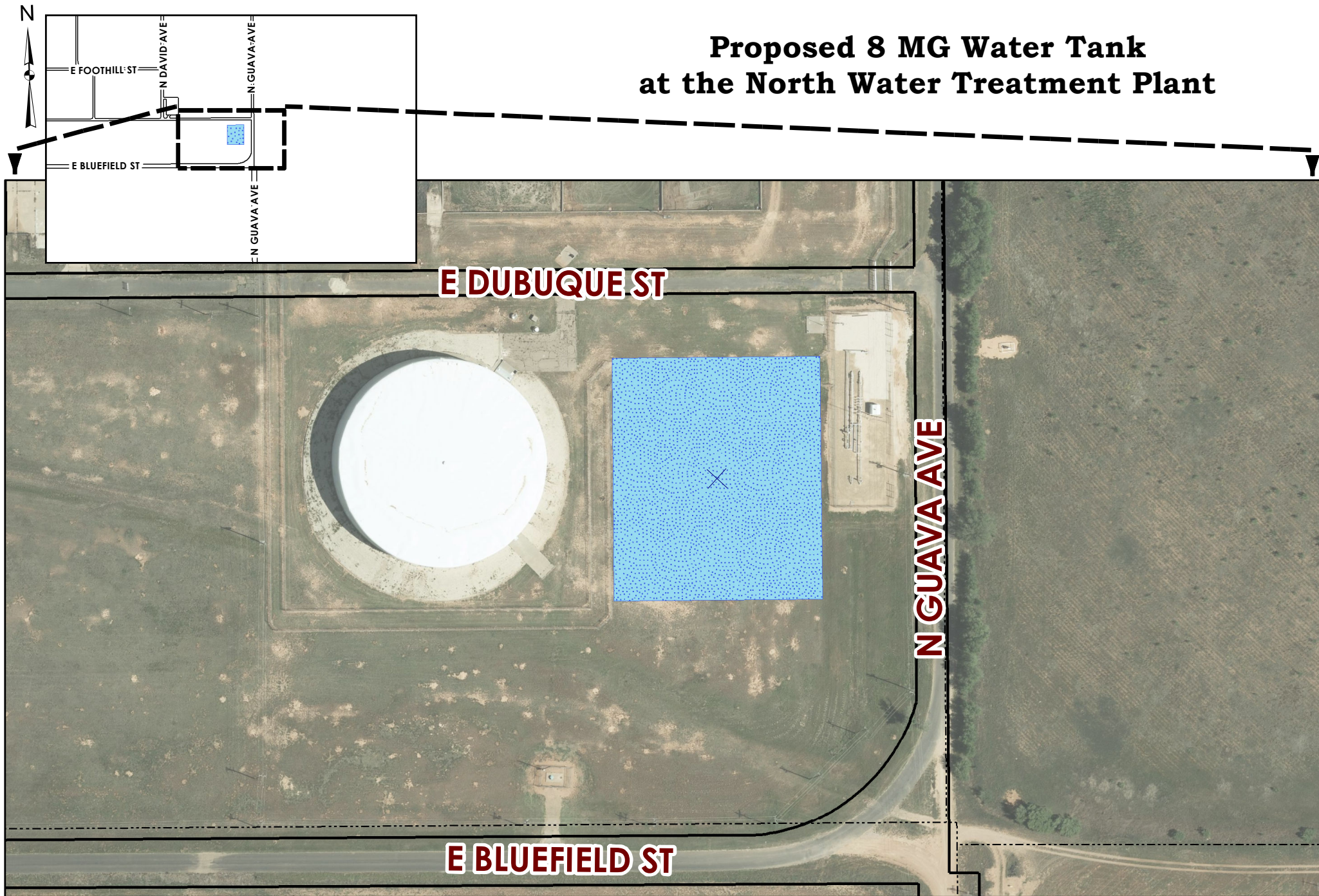
Secretary JoAnn Caster - Assistant Secretary



94-4597957

N/A	Woman	N/A	Black American	N/A	Native American
N/A	Hispanic American	N/A	Asian Pacific American	N/A	Other (Specify)


Proposed 8 MG Water Tank at the North Water Treatment Plant



0 50 100 200 300 Feet

As required by Chapter 2051, Geospatial Data Products of the Government Code, this product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

Legend

 Proposed 8 MG Tank



Digital Orthophotography - April 2020

**City of Lubbock, TX
Capital Project
Project Cost Detail
July 13, 2021**

Capital Project Number:	92660
Capital Project Name:	NWTP 8 MG Ground Storage Tank

<i>Encumbered/Expended</i>	92660
City of Lubbock Staff	\$ 8,540
Contract 14966 with Garver for Design Phase	768,672
Professional Services	

<i>Agenda Item July 13, 2021</i>	
Contract 15819 with DN Tanks	8,326,400
<i>Encumbered/Expended to Date</i>	9,103,612

<i>Estimated Costs for Remaining Appropriation</i>	
Ground Storage Tank Construction &	746,388
Construction Phase Services	
<i>Remaining Appropriation</i>	746,388

Total Appropriation To Date	\$ 9,850,000
------------------------------------	---------------------



Purchasing and Contract Management

Project Summary

RFP 21-15819-CM

North Water Treatment Plant 8 Million-Gallon Ground Storage Tank Improvements

Notice was published in the Lubbock Avalanche Journal on April 27 & May 04, 2021.

Notice was published on the Purchasing Web Site under Bid Opportunities.

Notice was published on gobonfire.com from April 25, 2021 to May 25, 2021.

53 vendors downloaded the documents.

14 vendors were contacted separately.

2 vendors submitted a proposal.



Regular City Council Meeting

6. 10.

Meeting Date: 07/13/2021

Information

Agenda Item

Resolution - Engineering: Consider a resolution authorizing the Mayor to execute Contract 15943, with Utility Contractors of America, Inc., for the construction of the Canyon Lakes Sanitary Sewer Interceptor Phase 3B Project.

Item Summary

The scope of this project will include the replacement of a 408-foot segment of the Canyon Lakes Interceptor pipeline within the BNSF Railroad right-of-way, west of Aztlan Park. The pipe segment under the railroad can no longer adequately convey the wastewater flows, due to severe tuberculation of the ductile iron pipe. A new PVC pipe must be installed within steel casing under the BNSF Railroad.

In response to RFP-21-15943-JM, two proposals were received on June 17, 2021.

Contractor	Amount
Utility Contractors of America, Inc., Lubbock, Texas	\$492,870
MH Civil Constructors, Inc., Amarillo, Texas	\$533,000

The proposals were evaluated using the following criteria: 60 points for Price, 20 points for Contractor Qualifications, 10 points for Safety Record, and 10 points for Construction Time.

A four-member committee evaluated the Statements of Qualification and the following ranking was obtained.

Contractor	Points
Utility Contractors of America, Inc., Lubbock, Texas	385.88
MH Civil Constructors, Inc., Amarillo, Texas	358.92

Staff and the Evaluation Committee recommend award of the contract to the highest ranked contractor, Utility Contractors of America, Inc., of Lubbock, Texas, in the amount of \$492,870. This contract is awarded by the unit price and actual expenditures may be more or less depending on field conditions. Time for substantial completion is 100 calendar days from the Notice to Proceed.

Fiscal Impact

This contract is in the amount of \$492,870 and is funded in Capital Improvements Project 92318, Canyon Lakes Sanitary Sewer Interceptor Project.

Staff/Board Recommending

Jesica McEachern, Assistant City Manager
Mike Keenum, Division Director of Engineering

Attachments

- Resolution
 - Construction Contract
 - Project Location Exhibit
 - CIP Spreadsheet
 - CIP Detail
 - Project Summary Report
-

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LUBBOCK:

THAT the Mayor of the City of Lubbock is hereby authorized and directed to execute for and on behalf of the City of Lubbock, Public Works Contract No. 15943 for the Canyon Lakes sanitary sewer interceptor rehabilitation phase 3B project as per RFP 21-15943-JM, by and between the City of Lubbock and Utility Contractors of America, Inc., of Lubbock, Texas, and related documents. Said Contract is attached hereto and incorporated in this resolution as if fully set forth herein and shall be included in the minutes of the City Council.

Passed by the City Council on _____.

DANIEL M. POPE, MAYOR

ATTEST:


Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



Jessica McEachern, Assistant City Manager

APPROVED AS TO FORM:



Kelli Leisure, Assistant City Attorney

**PROPOSAL SUBMITTAL FORM
PRICE PROPOSAL CONTRACT**

DATE: June 17, 2021

PROJECT NUMBER: **RFP 21-15943-JM Canyon Lakes Sanitary Sewer Interceptor Rehabilitation Phase 3B Project**

Proposal of Utility Contractors of America, Inc. (hereinafter called Offeror)

To the Honorable Mayor and City Council City of Lubbock, Texas (hereinafter called Owner)

Ladies and Gentlemen:

The Offeror, in compliance with your Request for Proposals for the **Canyon Lakes Sanitary Sewer Interceptor Rehabilitation Phase 3B Project** having carefully examined the plans, specifications, instructions to offerors, notice to offerors and all other related contract documents and the site of the intended work, and being familiar with all of the conditions surrounding the construction of the intended project including the availability of materials and labor, hereby intends to furnish all labor, materials, and supplies; and to construct the project in accordance with the plans, specifications and contract documents, within the time set forth therein and at the price stated. The price to cover all expenses incurred in performing the work required under the contract documents.

PROPOSED CONSTRUCTION TIME:

1. Contractors proposed CONSTRUCTION TIME for completion:

TOTAL CONSECUTIVE CALENDAR DAYS: 100 (to Substantial Completion)

TOTAL CONSECUTIVE CALENDAR DAYS: 120 (to Final Completion)

(not to exceed 100 consecutive calendar days to Substantial Completion / 120 consecutive calendar days to Final Completion).

Offeror hereby agrees to commence the work on the above project on a date to be specified in a written "Notice to Proceed" of the Owner and to **substantially complete** the project within **100 Consecutive Calendar Days** with **final completion** within **120 Consecutive Calendar Days** as stipulated in the specification and other contract documents. Offeror hereby further agrees to pay to Owner as liquidated damages in the sum of **\$100** for each consecutive calendar day after **substantial completion** and liquidated damages in the sum of **\$50** for each consecutive calendar day after **final completion** set forth herein above for completion of this project, all as more fully set forth in the General Conditions of the Agreement.

Offeror understands and agrees that this proposal submittal shall be completed and submitted in accordance with instruction number 28 of the General Instructions to Offerors. Offeror understands that the Owner reserves the right to reject any or all proposals and to waive any formality in the proposing. The Offeror agrees that this proposal shall be good for a period of **sixty (60)** calendar days after the scheduled closing time for receiving proposals.

The undersigned Offeror hereby declares that he has visited the site of the work and has carefully

examined the plans, specifications and contract documents pertaining to the work covered by this proposal, and he further agrees to commence work on the date specified in the written notice to proceed, and to substantially complete the work on which he has proposed; as provided in the contract documents.

Offerors are required, whether or not a payment or performance bond is required, to submit a cashier's check or certified check issued by a bank satisfactory to the City of Lubbock, or a proposal bond from a reliable surety company, payable without recourse to the order of the City of Lubbock in an amount not less than five percent (5%) of the total amount of the proposal submitted as a guarantee that offeror will enter into a contract, obtain all required insurance policies, and execute all necessary bonds (if required) within ten (10) days after notice of award of the contract to him.

**City of Lubbock
Public Works
RFP 21-15943-JM
Canyon Lakes Sanitary Sewer Interceptor Rehabilitation Phase 3B Project**

Utility Contractors of America Inc. of Lubbock TX

Item	Description	Quantity (+/-)	UOM	Unit Cost	Extended Cost
#1-1	Mobilization	1	LS	\$ 24,000	\$ 24,000
#1-2	24" Sewer Pipe, SN72 FRP or PS75 PVC, By Open Cut, All Depths	208	LF	375	78,000
#1-3	24" Sewer Pipe, SN72 FRP or PS75 PVC, In 36" Steel Casing, By Other Than Open Cut	200	LF	1,100	220,000
#1-4	5-foot DIA. Manhole, FRP or Polymer Concrete, with Concrete Base.	2	EA	37,000	74,000
#1-5	Extra Depth for 5-foot DIA. Manhole, Fiberglass or Polymer Concrete.	26	VF	195	5,070
#1-6	Connect Existing Sanitary Sewer Pipe to Proposed Manhole	2	EA	4,200	8,400
#1-7	Abandon Existing Manhole	4	EA	3,600	14,400
#1-8	Cut and Plug Existing 24" Sewer Line	2	LS	2,000	4,000
#1-9	Grout Existing 24" Sewer Pipe	100	CY	260	26,000
#1-10	Flowable Fill	50	CY	110	5,500
#1-11	Hydroseed	3000	SF	10	30,000
#1-12	Temporary Erosion, Sediment, and Water Pollution Prevention Plan	1	LS	3,500	3,500
				Total: \$	492,870

Enclosed with this proposal is a Cashier's Check or Certified Check Enclosed with this proposal is a Cashier's Check or Certified Check for

N/A Dollars (\$ N/A) or a Proposal Bond in the sum of Five Percent Dollars (\$ 5%), which it is agreed shall be collected and retained by the Owner as liquidated damages in the event the proposal is accepted by the Owner and the undersigned fails to execute the necessary contract documents, insurance certificates, and the required bond (if any) with the Owner within ten (10) business days after the date of receipt of written notification of acceptance of said proposal; otherwise, said check or bond shall be returned to the undersigned upon demand.

Offeror understands and agrees that the contract to be executed by Offeror shall be bound and include all contract documents made available to him for his inspection in accordance with the Notice to Offerors.

Pursuant to Texas Local Government Code 252.043(g), a competitive sealed proposal that has been opened may not be changed for the purpose of correcting an error in the proposal price. THEREFORE, ANY CORRECTIONS TO THE PROPOSAL PRICE MUST BE MADE ON THE PROPOSAL SUBMITTAL FORM PRIOR TO PROPOSAL OPENING.

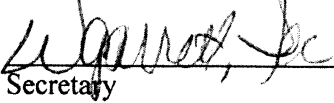
Date: June 17, 2021


Authorized Signature

Jonathan Ziegner
(Printed or Typed Name)

(Seal if Offeror is a Corporation)

ATTEST:


Secretary

Offeror acknowledges receipt of the following addenda:

Addenda No. 1 Date 6/10/2021
Addenda No. _____ Date _____
Addenda No. _____ Date _____
Addenda No. _____ Date _____

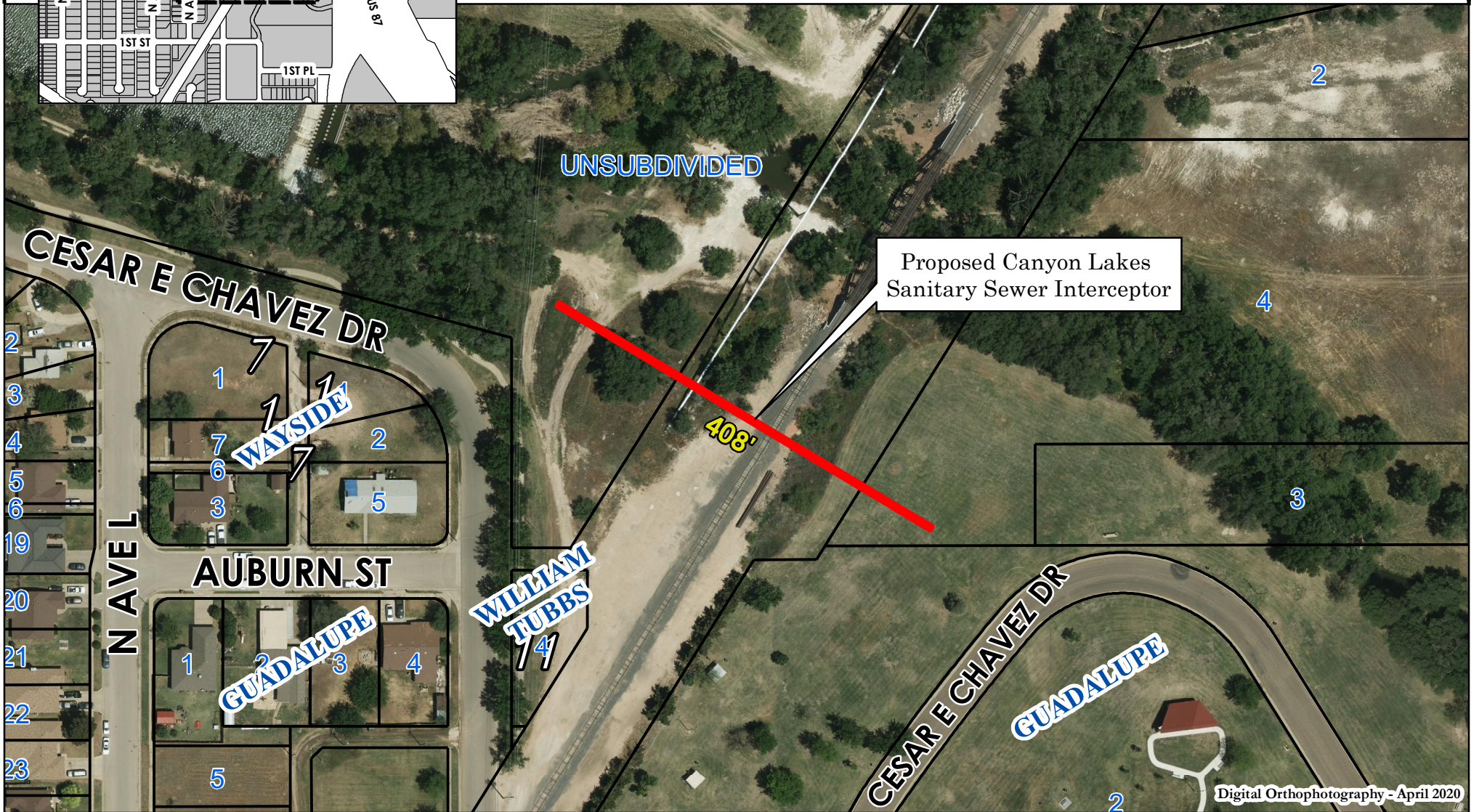
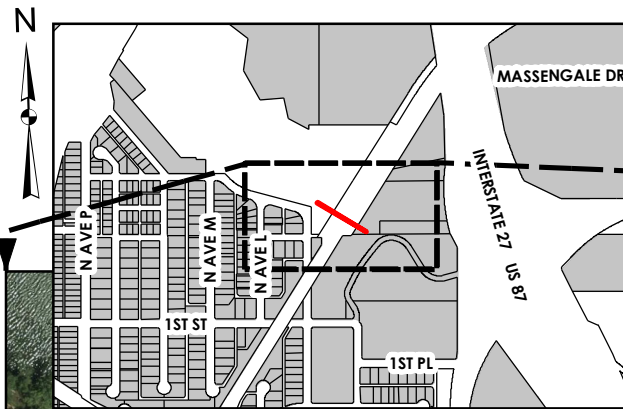
Utility Contractors of America, Inc.
Company
5805 County Road 7700
Address
Lubbock, Lubbock
City, County
Texas, 79424
State Zip Code
Telephone: 806 - 863-2642
Fax: 806 - 863-4132
Email: projects@ucatexas.com
FEDERAL TAX ID or SOCIAL SECURITY No.

75-2214193

M/WBE Firm:

<input type="checkbox"/>	Woman	<input type="checkbox"/>	Black American	<input type="checkbox"/>	Native American
<input type="checkbox"/>	Hispanic American	<input type="checkbox"/>	Asian Pacific American	<input type="checkbox"/>	Other (Specify)

Canyon Lakes Sanitary Sewer Interceptor Rehabilitation Phase 3B Capital Improvement Project



0 50 100 200 300 Feet

As required by Chapter 2051, Geospatial Data Products of the Government Code, this product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

**City of Lubbock, TX
Capital Project
July 13, 2021**

Capital Project Number:	92318
Capital Project Name:	<u>Canyon Lakes Sanitary Sewer Mains Rehabilitation</u>

<i>Encumbered/Expended</i>	Budget
City of Lubbock staff time	\$ 131,891
Bid Cost	2,834
Contract with LAN for Design & Bidding of Phase 2	48,990
Contract 11198 with LAN for CLSSI condition assessment	495,208
Contract 11908 with LAN for CLSSI Design and Bidding	689,484
Contract 12843 with LAN for design of Phase 1A, 2 & RPR Phase 1	660,540
Construction Contract 12733 with UCA for Phase 1	5,097,938
Change Order 1 with UCA for Contract 12733	350,679
Construction Contract 13037 with Ace Pipe Cleaning	855,485
Change Order 1 for Contract 13037 with Ace Pipe Cleaning	(126,101)
Contract 14099 with LAN for close out services for Phase 1	48,990
Contract 13325 with FNI for RPR	18,066
Contract 14453 with LAN for Phase 2 EOR	173,880
Construction Contract 14354 with UCA for Phase 2	5,825,039
Change Order 1 with UCA for Contract 14354	226,880
Change Order 2 with UCA for Contract 14354	(232,507)

Agenda Item July 13, 2021

Construction Contract 15943 with Utility Contractors of America, Inc.	492,870
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<i>Encumbered/Expended To Date</i>	<u>14,760,165</u>
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Estimated Costs for Remaining Appropriation

Canyon Lakes Sanitary Sewer Improvements	<u>1,739,835</u>
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<i>Remaining Appropriation</i>	<u>1,739,835</u>
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Total Appropriation	<u><u>\$ 16,500,000</u></u>
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Managing Department **Public Works Engineering**

Project Manager **Josh Kristinek**

Project Classification **Replacement Infrastructure**

Project Status **Approved**



Project Scope

This project includes the replacement of large diameter sanitary sewer mains located within the City of Lubbock that have reached their useful life as determined by the 2009 Sewer Collection System Master Plan.

Remaining funds will be used to complete Phase III that includes the rehabilitation of the crossing under I-27 and the rehabilitation of all manholes along the Canyon Lakes Line.

Project Justification

The City of Lubbock's Sanitary Sewer System has large mains that have surpassed their useful design life and need to be rehabilitated or replaced. Some of these lines currently have issues with inflows and infiltration which are both regulated by the TCEQ. The rehabilitation or replacement will greatly reduce the risk of having infiltration and inflow and structural issues within these areas.

Project History

The 2009 Sewer Collection System Master Plan identified large diameter sanitary sewer mains within the City of Lubbock that need rehabilitation due to age and capacity. The Canyon Lakes Sanitary Sewer Main was identified as one of the Mains that had outlived its design life. The first phase of this project has been completed replacing all the major roadway crossings and portions of the pipeline.

FY 17-18 Construction of Phase II Downtown Sewer Lines along Canyon Lakes

FY 18-19 Perform the second phase of this project which will rehabilitate a majority of the rest of the Canyon Lakes Collection system to alleviate possible Sanitary Sewer Overflows in this system.

\$1.5 million was appropriated in the FY 2012-13 Budget, Ord. No. 2012-O0100, October 1, 2012.

\$6.0 million was appropriated in the FY 2014-15 Budget, Ord. No. 2014-O0122, October 1, 2014.

\$2.0 million was appropriated in the FY 2016-17 Budget, Ord. No. 2016-O0135, October 1, 2016.

\$3.0 million was appropriated in the FY 2017-18 Budget, Ord. No. 2017-O0111, October 1, 2017.

\$4.0 million was appropriated in the FY 2018-19 Budget, Ord. No. 2018-O0109, October 1, 2018.

<i>Appropriation Detail</i>	Appropriation to Date	Unappropriated Planning Years						Total Project Amount
		FY 2020-21	FY 2021-22	FY 2022-23	FY 2023-24	FY 2024-25	FY 2025-26	
Construction	15,000,000	0	0	0	0	0	0	15,000,000
Design and Engineering	1,500,000	0	0	0	0	0	0	1,500,000
Total Project Appropriation	16,500,000	0	0	0	0	0	0	16,500,000



Purchasing and Contract Management

Project Summary

RFP 21-15943-JM Canyon Lakes Sanitary Sewer Interceptor Rehabilitation Phase 3B Project

Notice was published in the Lubbock Avalanche Journal on May 23, 2021 and May 30, 2021.

Notice was published on Electronic State Business Daily (ESBD) State of Texas Bid Opportunities webpage.

Notice was published on the Purchasing Web Site under Bid Opportunities.

Notice was published on Bonfire.com from May 24, 2021 to June 17, 2021.

5 individuals attend the pre-conference meeting.

40 vendors viewed using Bonfire.com.

40 vendors downloaded the documents.

10 vendors were notified separately.

2 vendor(s) submitted a proposals.



Regular City Council Meeting

6. 11.

Meeting Date: 07/13/2021

Information

Agenda Item

Resolution - Engineering: Consider a resolution authorizing the Mayor to execute Change Order No. 2 to Contract 14965, with MH Civil Constructors, Inc., for the construction of the North Water Treatment Plant Improvements Phase III and the South Water Treatment Plant Upgrading Improvements.

Item Summary

The City Council authorized construction Contract 14965 with MH Civil Constructors, Inc. of Amarillo, Texas on March 24, 2020, with a contract price of \$15,000,000 and 600 calendar days for completion of the construction of the North Water Treatment Plant (NWTP) Improvements Phase III and the South Water Treatment Plant (SWTP) Upgrading Improvements. The Notice to Proceed was issued on May 27, 2020, and the project start date was June 15, 2020.

The City Council authorized Change Order No. 1 to Contract 14965 on March 9, 2021, which resulted in an increase of \$671,900 to the contract price, and an increase in construction time of 58 days.

Proposed contract modifications in Change Order No. 1 included:

- adding additional rebar post-design to the new backwash basin at the NWTP;
- replacing Filter 16 media and underdrains at the NWTP following a filter blowout that occurred during the project;
- replacing two valves on the filter backwash system at the NWTP that were discovered to not be in working condition prior to the project start; and
- removing and replacing corroded metal baffles inside the plate settler basins at the South Water Treatment Plant (SWTP).

Change Order No. 2 will incorporate one proposed contract modification. The modification includes addressing the existing pipe supports for the 36-inch Concrete Cylinder Pipe (CCP) inside the sedimentation basins. Upon blasting, significant damage to the existing aluminum pipe supports was discovered; therefore, it is recommended to replace the pipe supports with a concrete corbel design that will improve the durability of the pipe supports. These modifications improve the capacity and reliability of the City's Water Treatment Plants.

This Change Order will increase the contract price by \$149,224, with no change in construction time, resulting in a revised total of \$15,821,124, with a contract time of 658 days.

Fiscal Impact

Contract 14965 Change Order No. 2 is in the amount of \$149,224, and is funded in Capital Improvement Project 92353, South Lubbock Water Treatment Plant Expansion.

Staff/Board Recommending

Attachments

- Resolution
 - Change Order 2 (L) - MH Civil Contractors
 - Location Map
 - Budget Detail
 - CIP Detail
-

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LUBBOCK:

THAT the Mayor of the City of Lubbock is hereby authorized and directed to execute for and on behalf of the City of Lubbock, Change Order No. 02 to that certain Contract No. 14965 by and between the City of Lubbock and MH Civil Constructors, Inc., Amarillo, Texas for North Water Treatment Plant Improvement Project No. 3 & South Water Treatment Plant Upgrading Improvements, and related documents. Said Change Order No. 02 is attached hereto and incorporated in this resolution as if fully set forth herein and shall be included in the minutes of the City Council.

Passed by the City Council on _____.

DANIEL M. POPE, MAYOR

ATTEST:

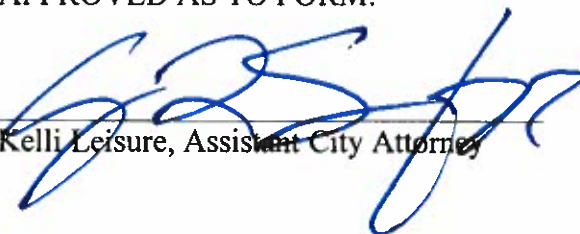
Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



Jessica McEachern, Assistant City Manager

APPROVED AS TO FORM:



Kelli Leisure, Assistant City Attorney

ccdcs/RES.Contract 14965 ChgOrd#02-NWTPIP
06.15.21

Office of Purchasing and Contract Management Change Order

Contract No: 14965	Contractor: MH Civil Constructors
Change Order No: 2	Contract Title: North WTP Improvements Project No. 3 & South WTP Upgrading
Bid/RFP No: RFP-20-14965-TF	Project No: CIP 92539.9241.30000 & 92353.9241.30000

"Change Order" means a written order to a Contractor, executed by the Owner, in accordance with the Contract authorizing an addition to, deletion from, or adjustment or revision of the requirements of the Contract documents, or an adjustment to the compensation payable to the Contractor, or to the time for performance of the Contract and completion of the project, or a combination thereof, which does not alter the nature of project and is an integral part of the project objective. Adjustments to "Estimated Quantities" to a line item in a Unit Price Contract do not require a Change Order. All work that alters the nature of the construction or that is not an integral part of the project objective must be let out for public bid.

Description of Change (alteration, deviation, addition, or deletion) caused by conditions encountered during construction not covered by the specifications and drawings of the project, attached additional pages is necessary:

The purpose of this Change Order is to address the existing pipe supports inside the sedimentation basins that contain the 36" CCP that runs along and beneath the outer walkways which allows water to be bypassed from sedimentation basins 1-3 to basins 4-6. The existing aluminum pipe supports have degraded and upon blasting, it was determined there was extreme damage to the integrity of the metal. Therefore we are replacing the pipe supports with a concrete corbel design that will be a much more durable material. The modification includes rebar and concrete and the work to form the concrete corbel support.

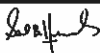




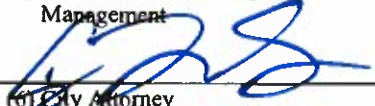
Where the Change Order is negotiated, the Change Order must be fully documented and itemized as to costs, including material quantities, material costs, taxes, insurance, employee benefits, other related costs, profit and overhead. Where certain unit prices are contained in the initial Contract, no deviations are allowed in computing negotiated change order costs.

ITEMIZED COSTS MUST BE FULLY DOCUMENTED AND ATTACHED TO THIS FORM.

ITEM	DESCRIPTION	AMOUNT
A.	ORIGINAL CONTRACT VALUE:	\$15,000,000.00
B.	AMOUNT OF THIS CHANGE ORDER: Note: Council approval required if (+/-) \$50,000	\$149,224.00
	COST CENTER: 4545 ACCOUNT: 92539.9241.30000 & 92353.9241.30000	
C.	PERCENT OF CONTRACT VALUE THIS CHANGE ORDER (B/A)	0.99%
D.	AMOUNT OF PREVIOUS CHANGE ORDERS:	\$671,900.00
E.	TOTAL AMOUNT OF ALL CHANGE ORDERS (B+D)	\$821,124.00
F.	PERCENT OF CONTRACT OF ALL CHANGE ORDERS (E/A): (25% maximum)	5.0%
G.	NEW CONTRACT AMOUNT (A+E):	\$15,821,124.00

It is mutually agreed that the above dollar amount and the time extension, as applicable, as set forth in this Change Order constitutes full compensation to the Contractor for all costs, expenses and damages to the Contractor, whether direct, consequential or otherwise, in anyway incident to, or arising out of, or resulting directly or indirectly; from the work performed or modified by the Contractor under this Change Order.

This Change Order is not valid without the following signatures (please sign in order and return 3 originals with the Contract Cover Sheet to Purchasing and Contract Management department):

 <small>Digitally signed by Saul B. Hernandez Location: Amarillo, Texas Contact Info: (806) 282-9450 Date: 2021.06.27 09:38:41-0500</small> _____ (1) Contractor	 <small>Digitally signed by Marshall Plunk DN: c=US, E=mplunk@plummer.com, O=Plummer, CN=Marshall Plunk Date: 2021.06.02 08:41:38-0500</small> _____ (2) Project Architect/Engineer	_____ Date: 6/1/2021
 _____ (3) Owner's Representative	 _____ (4) Director of Purchasing & Contract Management	_____ Date: 6/14/2021
 _____ (5) Capital Project Manager	 _____ (6) City Attorney	_____ Date: 6/16/21

Change Orders over \$50,000.00 require a Contract Cover Sheet and the following signatures:

(7) Mayor	Date	(8) City Secretary	Date
Council Date: _____ Agenda Item #: _____ Resolution #: _____			



PLUMMER

CHANGE ORDER FORM

PROJECT: North WTP Improvements Project No. 3
& South WTP Upgrading

PROJECT NUMBER: Lubbock No.
14965
Plummer 0425-
029-02

OWNER: City of Lubbock

CONTRACTOR: MH Civil Constructors Inc.

ENGINEER: Plummer Associates, Inc.

CHANGE ORDER NO.: 2

DATE: 05/20/2021

Make the following additions, modifications or deletions to the work described in the Contract Documents:

The purpose of this Change Order is to address the existing pipe supports inside the sedimentation basins that contain the 36" CCP that runs along and beneath the outer walkways which allows water to be bypassed from sedimentation basins 1-3 to basins 4-6. The existing aluminum pipe supports have degraded and upon blasting, it was determined there was extreme damage to the integrity of the metal. Therefore we are replacing the pipe supports with a concrete corbel design that will be a much more durable material. The modification includes rebar and concrete and the work to form the concrete corbel support.

The compensation agreed upon in this Change Order is full, complete and final payment for all costs the Contractor may incur as a result of or relating to this change whether said costs are known, unknown, foreseen or unforeseen at this time, including without limitation, any cost for delay, extended overhead, ripple or impact cost, or any other effect on changed or unchanged work as a result of this Change Order.

ORIGINAL CONTRACT AMOUNT	\$15,000,000.00	
PREVIOUSLY APPROVED CHANGE ORDER AMOUNT	\$671,900.00	
ADJUSTED CONTRACT AMOUNT	\$15,671,900.00	
PROPOSED CHANGE ORDER AMOUNT	\$149,224.00	
REVISED CONTRACT AMOUNT	\$15,821,124.00	
PREVIOUS CONTRACT TIME	600	
PREVIOUS SUBSTANTIAL COMPLETION DATE	12/07/2021	
PREVIOUS FINAL COMPLETION DATE	02/05/2022	
NET CHANGE IN CONTRACT TIME	0	
REVISED CONTRACT TIME	658	
REVISED SUBSTANTIAL COMPLETION DATE	02/03/2022	
REVISED FINAL COMPLETION DATE	04/04/2022	

**RECOMMENDED BY
(Engineer)**

**APPROVED BY
(CONTRACTOR)**

**APPROVED BY
(OWNER)**

Marshall Plunk
Digitally signed by Marshall Plunk
DN: cn=Marshall Plunk,
o=Plummer Associates, Inc.,
c=US, email=marshall.plunk@plummer.com,
date=2021.06.02 08:41:58-0500

6/1/2021

Scott B. Hernandez

Digitally signed by Scott B. Hernandez
Location: Atlanta, Texas
Contact Info: (800) 282 5470
Date: 2021.05.27 09:24:00-0500

NAME

DATE

NAME

DATE

NAME

DATE



PLUMMER

PROPOSED CONTRACT MODIFICATION

PROJECT: North/South Plant Improvements Phase 3
OWNER: City of Lubbock
CONTRACTOR: MH Civil Constructors
ENGINEER: Plummer, Inc.

DESCRIPTION: Sedimentation Basin 1, 3, 4, & 6; 36" Concrete Corbel Pipe Supports per design.
NO. 07

NOTIFICATION BY ENGINEER

The Engineer proposes to make the additions, modifications, or deletions to the Work described in the Contract Documents, as shown in Attachment "A" and requests that you take the following action:

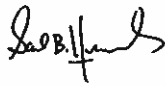
- ☐ Notify us that you concur that this change does not require a change in Contract time or amount and issue a Field Order.
- ☒ Issue a Change Order for performing the described change. Change in Contract amount is indicated in the attached detailed cost breakdown of labor, materials, equipment and all other costs associated with this change. Impacts on Contract Time are shown in the attached revised schedule.
- ☐ Authorize the Contractor to proceed with the described change. Payment will be requested at the unit price bid.
- ☐ Authorize the Contractor to proceed with the change under the time and materials provisions of the Contract.

By: Marshall Plunk Date: 3/30/2021

CONTRACTOR'S RESPONSE

We respond to your request as follows:

- ☐ We concur that this is a no cost or time change. See attached/forthcoming Field Order No. ___ / comments.
- ☒ Your proposal is recommended to the Owner. See attached/forthcoming proposed Change Order.
- ☐ Proceed with the change at the unit price bid.
- ☐ Proceed with the change under the time and materials provisions of the Contract.
- ☐ Additional information is required to evaluate this request. Provide information as described in the attached comments and resubmit.
- ☐ Proposed Contract Modification is not accepted.

By:  Digitally signed by Saul B. Hernandez
Location: Amarillo, Texas
Contact Info: (806) 282-9450
Date: 2021.05.27 09:38:26-05'00' Date: click or tap to enter a date.

CONTRACTOR'S MODIFICATION REQUEST ATTACHMENT A

SCOPE OF WORK

In lieu of removing the existing aluminum pipe supports for the 36" pipe in sedimentation basins 1, 3, 4, & 6; the Contractor MH Civil will build new concrete corbel supports adjacent to the existing aluminum supports due to degradation of the aluminum supports.

1. A credit for 47 steel supports including: removing, blasting, coating, and reinstalling. These 47 will remain in place.
2. New work for 56 supports including: drill/epoxy anchor (rebar), steel reinforcement, concrete forms (2 uses for timber formwork), concrete placement, wreck/path/rub.
3. This work will be concurrent with other scopes so additional time is not requested.

BID PROPOSAL

Biditem	Description	Quantity	Units	Unit Price	Bid Total
2A-1	Credit for Removal, Blasting & Coating, Re-install	47.000	EA	-1,336.00	-62,792.00
2C-1	Concrete Support	56.000	EA	3,786.00	212,016.00
	Bid Total				\$149,224.00

MH Civil Constructors
2020-03PC02
Saul B. Hernandez

Lubbock, City of - PC02

Page 1
03/26/2021 12:20

ESTIMATE SUMMARY - COSTS & BID PRICES

Bid#	Client/ Bid Description	Quantity	Unit	Manhours	Direct Labor	Perm Matl	Constr Matl	Equip- ment	Sub- Contr	Direct Total	Indirect Charge	Total Cost	Total Cost Unit Price	Markup	Balanced Bid Total	Unit Price	Bid Price	Bid Total
Totals:				1,886	80,999	35,590		16,253	-16,215	116,628	3,432	120,060 [0]		29,157	149,218			149,224.00 [0.0 %]

Code between Balanced Bid & Bid Price: U=Unbalanced, F=Frozen, C=Closing Bid item (item to absorb unbalancing differences):

[bracketed numbers represent adjusted quantities]

** in front of the Bid item indicates a Non-Additive item

Markup % is shown as a percentage of cost

Bond from Summary Table

0180 - Per Diem and Lodgi

% of TL

0199 - Contractor's Fee

25.0000 % of TC

Markup on Resource Costs

MARKUP TOTALS =====>

***** TOTAL	JOB =====>			1,886	80,999	35,590		16,253	-16,215	116,628	3,432	120,060		29,157	149,218			149,224.00
-------------	------------	--	--	-------	--------	--------	--	--------	---------	---------	-------	---------	--	--------	---------	--	--	------------

Spread Indirects On TotalLessSub

Spread Markups On TotalLessSub

Spread Addons&Bonds On TotalLessSub

Bond Calculations			
Selected Bond Table: 01		Description: Standard Bond	
	Contract Amount	Rate per 1000	Bond Amount
First:	\$ 100,000	25.00	\$ 2,500.00
Next:	\$ 400,000	15.00	\$ 738.27
Next:	\$ 2,000,000	10.00	\$ 0.00
Next:	\$ 2,500,000	7.50	\$ 0.00
Next:	\$ 2,500,000	7.00	\$ 0.00
Remainder:		6.50	\$ 0.00
Subtotal:			\$ 3,138.27
Time Threshold 1:	12	Extended Time Rate 1:	1.0000 %
Time Threshold 2:	0	Extended Time Rate 2:	0.0000 %
Length of Job:	18	Total Bond Amount:	\$ 3,432.57

---Estimate Notes---

Bid Date:

Owner:

Engineering Firm:

Estimator in Charge:

Desired Bid (if specified):

0.00

Sort:

NonAdd: N

Last Summary on 03/26/2021 at 12:13 PM.

Last Spread on 03/26/2021 at 12:13 PM.

Saul Hernandez

From: joel a1buildingsupply.com <joel@a1buildingsupply.com>
Sent: Tuesday, March 23, 2021 9:59 AM
To: Saul Hernandez
Subject: RE: Lubbock North - Pipe Supports
Attachments: Scan_20210323.jpg

Includes 56 ea single pipe supports. See attached take off sheet for verification.

56 ea = \$2640.00 (plus tax)
1 ea = \$47.15 (plus tax)
RES00 = \$45.50 per tube.

Joel Crist
A-1 Building Supply
4445 Canyon Dr.
Amarillo, Tx 79110

From: Saul Hernandez <saulh@mh-civil.com>
Sent: Tuesday, March 23, 2021 9:41 AM
To: joel a1buildingsupply.com <joel@a1buildingsupply.com>; tanya a1buildingsupply.com <tanya@a1buildingsupply.com>
Subject: Lubbock North - Pipe Supports
Importance: High

Joel,

Can I get a price for this? I need
HIT-RE 500 V3 Epoxy Anchor
Rebar

Like always, need pretty quick...

Saul

MH Civil Constructors, Inc.

Saul Hernandez, P.E., CCM | General Manager
1100 S. Fillmore, Suite 105
Amarillo, TX 79101
Tel 806.367.6043 | Email saulh@mh-civil.com

This email and any files transmitted with it are confidential and intended solely for the use of the individual or entity to whom they are addressed. If you have received this email in error, please advise.

Hartman Pipe Support

Pipe Support

564

(4) #4 8" x 19" SHARP
 (2) #4 2" x 6" 1/2" VERT
 (4) #4 10" x 48" 1/2"
 (3) #4 40" x 12" 1/2"

224
112
112
224
168

Change Order 2 to Contract 14965 – North Water Treatment Plant Improvements Phase 3 and South Water Treatment Plant Upgrading Project



As required by Chapter 2051, Geospatial Data Products of the Government Code, this product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.



City of Lubbock, TX
Capital Project
Project Cost Detail
July 13, 2021

Capital Project Number:	92353
Capital Project Name:	South Lubbock Water Treatment Plant Expansion

Capital Project Number:	92539
Capital Project Name:	Water Treatment Plant Improvements Phase III

<i>Encumbered/Expended</i>	92353	Budget 92539	Total
City of Lubbock Staff	\$ 2,929	16,592	19,521
Advertisement	741		741
Misc. Expenses & Allowances	-	43,335	43,335
Alan Plummer & Assoc. Study Contract 12220	22,800		22,800
Alan Plummer & Assoc. Design Contract 12560	48,500		48,500
CSA Construction Inc. Contract 12936	490,000		490,000
CSA Construction Inc. Contract 12936 - CO #1	11,767		11,767
Alan Plummer & Assoc. Inc. Contract 12766 - EOR	58,900		58,900
Freese & Nichols Inc. Contract 12767 - RPR	71,520		71,520
Signature Automation Contract 13069 - SCADA	49,500		49,500
Alan Plummer & Assc. Contract 13870	181,000	1,362,234	1,543,234
North and South Water Treatment IMP. Phase III - Contract 14965 - MH Civil Constructors	1,303,585	13,696,415	15,000,000
 Alan Plummer & Assc. Contract 13870 - Amendment #1	 193,991	 976,949	 1,170,940
Change Order 1 to Contract 14965 - MH Civil Constructors	42,700	629,200	671,900

Agenda Item July 13, 2021

**Change Order 2 to Contract 14965 - MH Civil
Constructors**

	149,224	-	149,224
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Encumbered/Expended to Date

	2,627,157	16,724,724	19,351,881
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Estimated Costs for Remaining Appropriation

Water Treatment Plant Improvements	872,843	83,595	956,438
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Remaining Appropriation

	872,843	83,595	956,438
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Total Appropriation To Date

	\$ 3,500,000	16,808,319	20,308,319
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Managing Department **Public Works Engineering***Project Manager* **Michael Lowe***Project Classification* **Upgrade/Major Maintenance***Project Status* **Approved***Project Scope*

This project is associated with a water supply strategy detailed in the 2018 Strategic Water Supply Plan. The project will increase the South Water Treatment Plant's treatment capacity beyond the current 15 million gallons per day to 30 million gallons per day.

FY 20-21 - Construction to re-rate the plant to 20 million gallons per day (MGD) by increasing plate settlers and filters for treatment optimization.

The next step in the project will be to increase the treatment and pumping capacity of the Lake Alan Henry water supply infrastructure so the up to 30 MGD can be delivered to the City's water distribution system. This step will include the construction of the pump station near Southland, Texas and upgrading the pumping capacity at the existing Lake Alan Henry Pump Station.

Project Justification

It is anticipated that the City's continued growth and water demand will require an increase in the Lake Alan Henry water supply capacity over the next decade.

Project History

The South Water Treatment Plant was completed in 2012 and was designed with the capability to expand to 30 million gallons per day. The first phase of this project is complete. The first phase added an additional, smaller pump to allow for more efficient pumping when the water treatment plant is operating at lower flows.

FY 17-18 - Budget for South Water Treatment Plant re-rating of Membranes & Plate Settlers Services. Construction of additional Plate Settlers, Membranes and upgrades to the South Water Treatment Plant to reach 19 to 20 MGD capacity.

The current budget is being used to obtain authorization from the TCEQ to re-rate the plant's permitted treatment capacity to approximately 20 million gallons per day (MGD).

\$1.0 million was appropriated in the FY 2013-14 Budget, Ord. No. 2013-O0087, October 1, 2013.

\$2.0 million was appropriated in the FY 2016-17 Budget, Ord. No. 2016-O0135, October 1, 2016.

Reduced appropriation by \$500,000 in FY 2016-17 Budget Amendment No. 12, Ord. No. 2017-O0010, February 9, 2017.

\$1.0 million was appropriated in the FY 2018-19 Budget, Ord. No. 2018-O0109, October 1, 2018.

<i>Appropriation Detail</i>	Appropriation to Date	Unappropriated Planning Years						Total Project Amount
		FY 2020-21	FY 2021-22	FY 2022-23	FY 2023-24	FY 2024-25	FY 2025-26	
Construction	2,500,000	0	0	0	0	0	0	2,500,000
Design and Engineering	1,000,000	0	0	0	0	0	0	1,000,000
Total Project Appropriation	3,500,000	0	0	0	0	0	0	3,500,000

<i>Funding Detail</i>	Funding to Date	Unappropriated Planning Years						Total Funding
		FY 2020-21	FY 2021-22	FY 2022-23	FY 2023-24	FY 2024-25	FY 2025-26	
FY 2011 Water Revenue CO's	29,662	0	0	0	0	0	0	29,662
FY 2012 Water Revenue CO's	334,257	0	0	0	0	0	0	334,257
FY 2014 Water Revenue CO's	2,136,081	0	0	0	0	0	0	2,136,081
FY 2019 Water/Wastewater Cash	1,000,000	0	0	0	0	0	0	1,000,000
Total Funding Sources	3,500,000	0	0	0	0	0	0	3,500,000

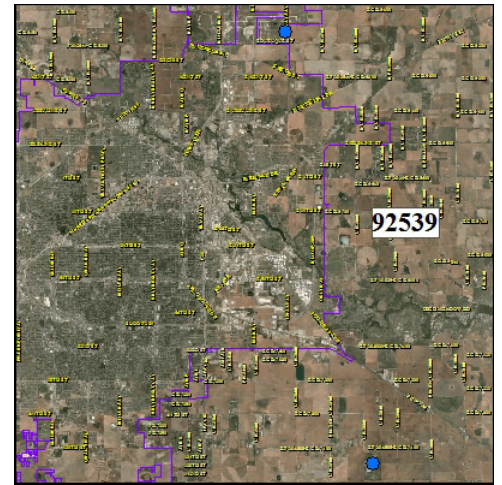
<i>Operating Budget Impact</i>	Unappropriated Planning Years						Total Impact
	FY 2020-21	FY 2021-22	FY 2022-23	FY 2023-24	FY 2024-25	FY 2025-26	
Facilities Maintenance and Custodial	0	40,000	40,000	40,000	40,000	40,000	200,000
Total Operating Budget Impact	0	40,000	40,000	40,000	40,000	40,000	200,000

Managing Department **Water Treatment**

Project Manager **Michael Lowe**

Project Classification **Upgrade/Major Maintenance**

Project Status **Approved**



Project Scope

Purchase and install new equipment; modify existing equipment, facility and treatment system; and other major maintenance activities.

Phase III of this project will include the design and construction of sludge collection equipment located in six separate basins at the North Water Treatment Plant (NWTP). It will also include the replacement of electrical equipment associated the sludge collection system.

Project Justification

This project is for the evaluation, design, and construction of improvements to the NWTP including the installation of new equipment to replace old equipment that has reached its useful life, modification and rehabilitation of existing equipment, facilities, and treatment systems. The project includes other major maintenance activities. Replacing and updating aging infrastructure decreases emergency maintenance expenditures and system failures.

Project History

The NWTP was built in the 1960s to treat surface water being delivered by the Canadian River Municipal Water Authority (CRMWA) from Lake Meredith. The NWTP was constructed to treat raw water for the City of Lubbock and six other CRMWA member cities. In the late 1990s, CRMWA began delivering a blend of raw water from Lake Meredith and the Roberts County Field to the NWTP. By contract, the six member cities assist in funding upgrades to the NWTP based on the amount of water that is treated for them. The City of Lubbock pays for approximately 80% of the capital improvements and the other cities combined pay for the remaining 20%.

Since the NWTP was built in the 1960s, the City hired engineers to evaluate the condition of the NWTP structures, facilities, and equipment. The engineering recommendations for rehabilitation and improvement of the NWTP are being implemented in phases. Phases I and II of IV phases have been completed, Phase III is currently in the design phase.

\$2.0 million was appropriated in the FY 2017-18 Budget, Ord. No. 2017-00111, October 1, 2017.

Increased appropriated by \$1,808,319 on 4/25/19 per BCR 1819-12.

\$13.0 million was appropriated in the FY 2019-20 Budget, Ord. No. 2019-00129, October 1, 2019.

Appropriation Detail	Appropriation to Date	Unappropriated Planning Years						Total Project Amount
		FY 2020-21	FY 2021-22	FY 2022-23	FY 2023-24	FY 2024-25	FY 2025-26	
Construction	16,808,319	0	0	0	0	0	0	16,808,319
Total Project Appropriation	16,808,319	0	0	0	0	0	0	16,808,319

Funding Detail	Funding to Date	Unappropriated Planning Years						Total Funding
		FY 2020-21	FY 2021-22	FY 2022-23	FY 2023-24	FY 2024-25	FY 2025-26	
FY 2017 Water Cash	1,808,319	0	0	0	0	0	0	1,808,319
FY 2018 Water/Wastewater Cash	2,000,000	0	0	0	0	0	0	2,000,000
FY 2020 Water/Wastewater Revenue CO's	13,000,000	0	0	0	0	0	0	13,000,000
FY 2021 Water/Wastewater Revenue CO's	0	0	0	0	0	0	0	0
Total Funding Sources	16,808,319	0	0	0	0	0	0	16,808,319

Operating Budget Impact	Unappropriated Planning Years						Total Impact
	FY 2020-21	FY 2021-22	FY 2022-23	FY 2023-24	FY 2024-25	FY 2025-26	
No Impact Anticipated	0	0	0	0	0	0	0
Total Operating Budget Impact	0	0	0	0	0	0	0



Regular City Council Meeting

6. 12.

Meeting Date: 07/13/2021

Information

Agenda Item

Resolution - Water Utilities: Consider a resolution authorizing the Mayor to execute Professional Services Agreement Contract 5739, with Freese & Nichols, Inc., for wastewater treatment system evaluation, planning, modeling, permitting, and design at the Southeast Water Reclamation Plant No. 3.

Item Summary

The City of Lubbock has one of the largest land application facilities in the State of Texas. The Lubbock and Hancock Land Application Sites consist of approximately 10,000 acres of land. For many decades, the City has pumped treated effluent to these land application sites for disposal. Eventually, the City began sending some reclaimed water to the Jones Power Plant to be used as cooling water.

More than 10 years ago, the City began upgrading the Southeast Water Reclamation Plant (SEWRP) facilities in phases, with a goal to upgrade Plants 3 and 4, by incorporating biological nutrient removal (BNR) into the treatment process, thereby allowing the effluent to be discharged to the North Fork of the Double Mountain Fork of the Brazos River. Plant 4 has been upgraded with a BNR treatment process; however, Plant 3 still requires upgrading. Improving the wastewater quality produced by Plant 3 will assist the City in moving away from expensive land application disposal and preparing to use the effluent for more beneficial uses such as Lake 7, and for a drinking water supply in the future.

This contract will allow Wastewater staff to determine the most cost-effective technology to use with Plant 3 to incorporate BNR into the treatment process. The selected engineering firm will screen and evaluate various alternatives and provide recommendations for the City to consider.

In response to RFQ 21-15739-TF, Statements of Qualifications from engineering firms were received and opened on March 4, 2021. The five-person evaluation committee reviewed and ranked the proposals and oral presentations using the following criteria: Project Team Organization and Qualifications - 30%, Experience on Similar Projects - 30%, Project Approach - 30%, and Overall Responsiveness - 10%. The maximum point value is 100 points per committee member.

After the responses were evaluated, the following ranking was obtained.

Engineering Firm	Score
Freese & Nichols, Inc., Fort Worth, Texas	467
Carollo Engineers, Inc., Austin, Texas	456
HDR Engineering, Inc., Austin, Texas	413
Plummer Associates, Inc., Fort Worth, Texas	389
Garver, LLC, Fort Worth, Texas	358

Staff and the Evaluation Committee recommend awarding this professional services agreement to the highest ranked proposer, Freese & Nichols, Inc., for a total contract amount of \$379,628. The time for completion of this project is 365 consecutive calendar days.

Fiscal Impact

The contract amount is \$379,628 and is funded in Capital Improvement Project 92674, SEWRP Improvements Plant 3 Nutrient Removal.

Staff/Board Recommending

Jesica McEachern, Assistant City Manager
Wood Franklin, Division Director of Public Works

Attachments

Resolution-FNI-BNR
Contract- FNI-BNR
CIPBudget- FNIBNR

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LUBBOCK:

THAT the Mayor of the City of Lubbock is hereby authorized and directed to execute for and on behalf of the City of Lubbock, Professional Services Agreement Contract No. 15739 for wastewater treatment system evaluation, planning, modeling, permitting and design, by and between the City of Lubbock and Freese and Nichols, Inc., and related documents. Said Contract is attached hereto and incorporated in this resolution as if fully set forth herein and shall be included in the minutes of the City Council.

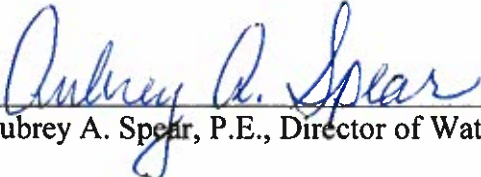
Passed by the City Council on _____.

DANIEL M. POPE, MAYOR

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



Aubrey A. Spear, P.E., Director of Water Utilities

APPROVED AS TO FORM:



Amy L. Sims, Deputy City Attorney

Res-PSA Freese and Nichols Contract 15739

PROFESSIONAL SERVICES AGREEMENT

STATE OF TEXAS §

COUNTY OF LUBBOCK §

This Professional Service Agreement ("Agreement") Contract No. 15739 is entered into this ____ day of July, 2021, is by and between the City of Lubbock (the "City"), a Texas home rule municipal corporation, and Freese & Nichols, Inc., (the "Engineer"), a Texas corporation authorized to conduct business in Texas.

WITNESSETH

WHEREAS, The City desires to contract with the Engineer to provide professional services for wastewater treatment system evaluation, planning, modeling, permitting and design, (the "Activities"); and

WHEREAS, the Engineer has a professional staff experienced and is qualified to provide professional engineering services related to Activities, and will provide the services, as defined below, for the price provided herein, said price stipulated by the City and the Engineer to be a fair and reasonable price; and

WHEREAS, the City desires to contract with the Engineer to provide professional services related to the Activities, and Engineer desires to provide the Services related to same.

NOW THEREFORE, for and in consideration of the terms, covenants and conditions set forth in this Agreement, the City and the Engineer hereby agree as follows:

ARTICLE I. TERM

The term of this Agreement commences on the Effective Date and continues without interruption for a term of 12 months. If the Engineer determines that additional time is required to complete the Services, the Director of Water Utilities, may, but is not obligated to, in his or her discretion, execute an agreement to grant up to an additional six (6) months of time so long as the amount of the consideration does not increase. An amendment to this Agreement resulting in an increase in the amount of the consideration must be approved by the City acting through its governing body.

ARTICLE II. SERVICES AND COMPENSATION

A. The Engineer shall conduct all activities, and within such timeframes, as set forth on Exhibit "A", attached hereto (the "Services").

B. The Engineer shall receive as consideration to be paid for the performance of the Services, in an amount not to exceed \$379,628, as set forth in Exhibit "B".

ARTICLE III. TERMINATION

A. General. The City may terminate this Agreement, for any reason or convenience, upon thirty (30) days written notice to the Engineer. In the event this Agreement is so terminated, the City shall only pay the Engineer for services actually performed by the Engineer up to the date the Engineer is deemed to have received notice of termination, as provided herein.

B. Termination and Remedies. In the event the Engineer breaches any term and/or provision of this Agreement, the City shall be entitled to exercise any right or remedy available to it by this Agreement, at law, equity, or otherwise, including without limitation, termination of this Agreement and assertion of an action for damages and/or injunctive relief. The exercise of any right or remedy shall not preclude the concurrent or subsequent exercise of any right or remedy and all rights and remedies shall be cumulative.

ARTICLE IV. NON - ARBITRATION

The City reserves the right to exercise any right or remedy available to it by law, contract, equity, or otherwise, including without limitation, the right to seek any and all forms of relief in a court of competent jurisdiction. Further, the City shall not be subject to any arbitration process prior to exercising its unrestricted right to seek judicial remedy. The remedies set forth herein are cumulative and not exclusive, and may be exercised concurrently. To the extent of any conflict between this provision and another provision in, or related to, this Agreement, this provision shall control.

ARTICLE V. REPRESENTATIONS AND WARRANTIES

A. Existence. The Engineer is a corporation duly organized, validly existing, and in good standing under the laws of the State of Texas and is qualified to carry on its business in the State of Texas.

B. Corporate Power. The Engineer has the corporate power to enter into and perform this Agreement and all other activities contemplated hereby.

C. Authorization. Execution, delivery, and performance of this Agreement and the activities contemplated hereby have been duly and validly authorized by all the requisite corporate action on the part of the Engineer. This Agreement constitutes legal, valid, and binding obligations of the Engineer and is enforceable in accordance with the terms thereof.

D. Engineer. The Engineer maintains a professional staff and employs, as needed, other qualified specialists experienced in providing the Services, and is familiar with all laws, rules, and regulations, both state and federal, including, without limitation the applicable laws, regarding the Activities contemplated hereby.

E. Performance. The Engineer will and shall conduct all activities contemplated by this Agreement in accordance with the standard of care, skill and diligence normally provided by a professional person in performance of similar professional services, and comply with all applicable laws, rules, and regulations, both state and federal, relating to professional services, as contemplated hereby.

F. Use of Copyrighted Material. The Engineer warrants that any materials provided by the Engineer for use by City pursuant to this Agreement shall not contain any proprietary material owned by any other party that is protected under the Copyright Act or any other law, statute, rule, order, regulation, ordinance or contractual obligation relating to the use or reproduction of materials. The Engineer shall be solely responsible for ensuring that any materials provided by the Engineer pursuant to this Agreement satisfy this requirement and the Engineer agrees to indemnify and hold City harmless from all liability or loss caused to City or to which City is exposed on account of the Engineer's failure to perform this duty.

ARTICLE VI. SCOPE OF WORK

The Engineer shall accomplish the following: Professional Services related to the Services, as provided in Exhibit "A", attached hereto and made a part hereof.

ARTICLE VII. INDEPENDENT CONTRACTOR STATUS

The Engineer and the City agree that the Engineer shall perform the duties under this Agreement as an independent contractor and shall be considered as independent contractor under this Agreement and/or in its activities hereunder for all purposes. The Engineer has the sole discretion to determine the manner in which the Services are to be performed. During the performance of the Services under this Agreement, the Engineer and the Engineer's employees and/or sub-consultants, will not be considered, for any purpose,

employees or agents of the City within the meaning or the application of any federal, state or local law or regulation, including without limitation, laws, rules or regulations regarding or related to unemployment insurance, old age benefits, workers compensation, labor, personal injury or taxes of any kind.

ARTICLE VIII. INSURANCE

The Engineer shall procure and carry, at its sole cost and expense through the life of this Agreement, except as otherwise provided herein, insurance protection as hereinafter specified, in form and substance satisfactory to the City, carried with an insurance company authorized to transact business in the state of Texas, covering all aspects and risks of loss of all operations in connection with this Agreement, including without limitation, the indemnity obligations set forth herein. The Engineer shall obtain and maintain in full force and effect during the term of this Agreement, and shall cause each approved subcontractor or sub-consultant of the Engineer to obtain and maintain in full force and effect during the term of this Agreement, commercial general liability, professional liability and automobile liability coverage for non-owned and hired vehicles with insurance carriers admitted to do business in the state of Texas. The insurance companies must carry a Best's Rating of A-VII or better. Except for Professional Liability, the policies will be written on an occurrence basis, subject to the following minimum limits of liability:

Commercial General Liability:

Per Occurrence Single Limit: \$1,000,000

General Aggregate Limit: \$2,000,000

Professional Liability:

Combined Single Limit: \$2,000,000

Automobile Liability:

Combined Single Limit for any auto: \$1,000,000 Per Occurrence

Employer's Liability:

Per Occurrence Single Limit: \$1,000,000

Worker's Compensation

Per Occurrence Single Limit: \$500,000

The Engineer shall further cause any approved subcontractor or sub-consultant to procure and carry, during the term of this Agreement, the insurance coverage required of Engineer herein, including without limitation, Professional Liability coverage, protecting the City against losses caused by the professional negligence of the approved subcontractor or sub-consultant. The City shall be listed as a primary and noncontributory additional insured with respect to the Automobile Liability and Commercial General Liability and shall be granted a waiver of subrogation under those policies. The Engineer shall provide a Certificate of Insurance to the City as evidence of coverage.

The Certificate shall provide 30 days' notice of cancellation. A copy of the additional insured endorsement and waiver of subrogation attached to the policy shall be included in the Certificate. The Engineer shall elect to obtain worker's compensation coverage pursuant to Section 406.002 of the Texas Labor Code. Further, the Engineer shall maintain said coverage throughout the term of this Agreement and shall comply with all provisions of Title 5 of the Texas Labor Code to ensure that the Engineer maintains said coverage. The Engineer may maintain Occupational Accident and Disability Insurance in lieu of Worker's Compensation. In either event, the policy must be endorsed to include a waiver of subrogation in favor of the City. If at any time during the life of the Agreement or any extension hereof, the Engineer fails to maintain the required insurance in full force and effect, the Engineer shall be in breach hereof and all work under the Agreement shall be discontinued immediately.

Notwithstanding anything contained herein to the contrary, the professional liability policy shall be maintained at the Engineer's sole cost and expense. The retroactive date shall be no later than the commencement of the performance of this Agreement and the discovery period (possibly through tail coverage) shall be no less than 10 years after the completion of the Services provided for in this Agreement. The provisions of this Article VIII shall survive the termination or expiration of this Agreement.

ARTICLE IX. EMPLOYMENT OF AGENTS/RETAINING OF CONSULTANTS

The Engineer may employ or retain consultants, contractors, or third parties (any of which are referred to herein as "Sub-consultant"), to perform certain duties of Engineer, as set forth on Exhibit A, attached hereto, under this Agreement, provided that the City approves the retaining of Sub-consultants. The Engineer is at all times responsible to the City to perform the Services as provided in this Agreement and the Engineer is in no event relieved of any obligation under this Agreement upon retainage of any approved Sub-consultant. Any agent and/or Sub-consultant retained and/or employed by the Engineer shall be required by the Engineer to carry, for the protection and benefit of the City and the Engineer and naming said third parties as additional insureds, insurance as described above required to be carried by the Engineer in this Agreement.

The Engineer represents that such services are either under applicable value thresholds or are otherwise exempt from notice and/or bid requirements under Texas Law.

ARTICLE X. CONFIDENTIALITY

The Engineer shall retain all information received from or concerning the City and the City's business in strictest confidence and shall not reveal such information to third parties without prior written consent of the City, unless otherwise required by law.

ARTICLE XI. INDEMNITY

THE ENGINEER SHALL INDEMNIFY AND SAVE HARMLESS THE CITY OF LUBBOCK AND ITS ELECTED OFFICIALS, OFFICERS, AGENTS, AND EMPLOYEES FROM ALL SUITS, ACTIONS, LOSSES, DAMAGES, CLAIMS, OR LIABILITY OF ANY KIND, CHARACTER, TYPE, OR DESCRIPTION, INCLUDING WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, ALL EXPENSES OF LITIGATION, COURT COSTS, AND ATTORNEY'S FEES, FOR INJURY OR DEATH TO ANY PERSON, OR INJURY TO ANY PROPERTY, RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR PROPERTY, TO THE EXTENT ARISING OUT OF, RELATED TO OR OCCASIONED BY, THE NEGLIGENT ACTS OF THE ENGINEER, ITS AGENTS, EMPLOYEES, AND/OR SUBCONSULTANTS, RELATED TO THE PERFORMANCE, OPERATIONS OR OMISSIONS UNDER THIS AGREEMENT AND/OR THE USE OR OCCUPATION OF CITY OWNED PROPERTY. THE INDEMNITY OBLIGATION PROVIDED HEREIN SHALL SURVIVE THE EXPIRATION OR TERMINATION OF THIS AGREEMENT.

ARTICLE XII. COMPLIANCE WITH APPLICABLE LAWS

The Engineer shall comply with all applicable federal, state and local laws, statutes, ordinances, rules and regulations relating, in any way, manner or form, to the activities under this Agreement, and any amendments thereto.

ARTICLE XIII. NOTICE

A. General. Whenever notice from the Engineer to the City or the City to the Engineer is required or permitted by this Agreement and no other method of notice is provided, such notice shall be given by (1) actual delivery of the written notice to the other party by hand (in which case such notice shall be effective upon delivery); (2) facsimile (in which case such notice shall be effective upon delivery); or (3) by depositing the written notice in the United States mail, properly addressed to the other party at the address provided in this article, registered or certified mail, return receipt requested, in which case such notice shall be effective on the third business day after such notice is so deposited.

B. Engineer's Address. The Engineer's address and numbers for the purposes of notice are:

Freese & Nichols, Inc.

Chad Simmons, P.E.

801 Cherry Street, Suite 2800

Fort Worth, Texas 76102

Telephone: (817) 735.7305

Facsimile (817) 735-7491

Email: chad.simmons@freese.com

C. City's Address. The City's address and numbers for the purposes of notice are:

Aubrey A. Spear, P.E.
City of Lubbock
P.O. Box 2000
1314 Avenue K
Lubbock, Texas 79457
Telephone: 806-775-2585
Facsimile: (806) 775-3027
Email: aspear@mylubbock.us

D. Change of Address. Either party may change its address or numbers for purposes of notice by giving written notice to the other party as provided herein, referring specifically to this Agreement, and setting forth such new address or numbers. The address or numbers shall become effective on the 15th day after such notice is effective.

ARTICLE XIV. CITY-PROVIDED DATA AND RESPONSIBILITIES

Provision of Data. The City shall furnish the Engineer non-confidential studies, reports and other available data in the possession of the City pertinent to the Engineer's Services, so long as the City is entitled to rely on such studies, reports and other data for the performance of the Engineer's Services under this Agreement (the "Provided Data"). The Engineer shall be entitled to use and rely, so long as such reliance is reasonable, upon all such Provided Data.

ARTICLE XV. MISCELLANEOUS

A. Captions. The captions for the articles and sections in this Agreement are inserted in this Agreement strictly for the parties' convenience in identifying the provisions to this Agreement and shall not be given any effect in construing this Agreement.

B. Audit. The Engineer shall provide access to its corporate books and records to the City. The City may audit, at its expense and during normal business hours, the Engineer's books and records with respect to this Agreement between the Engineer and the City.

C. Records. The Engineer shall maintain records that are necessary to substantiate the services provided by the Engineer.

D. Assignability. The Engineer may not assign this Agreement without the prior written approval of the City.

E. Successor and Assigns. This Agreement binds and inures to the benefit of the City and the Engineer, and in the case of the City, its respective successors, legal representatives, and assigns, and in the case of the Engineer, its permitted successors and assigns.

F. Construction and Venue.

THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS. THIS AGREEMENT IS PERFORMABLE IN LUBBOCK COUNTY, TEXAS. THE PARTIES HERETO HEREBY IRREVOCABLY CONSENT TO THE SOLE AND EXCLUSIVE JURISDICTION AND VENUE OF THE COURTS OF COMPETENT JURISDICTION OF THE STATE OF TEXAS, COUNTY OF LUBBOCK, FOR THE PURPOSES OF ALL LEGAL PROCEEDINGS ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE ACTIONS THAT ARE CONTEMPLATED HEREBY.

G. Severability. If any provision of this Agreement is ever held to be invalid or ineffective by any court of competent jurisdiction with respect to any person or circumstance, the remainder of this Agreement and the application of such provision to persons and/or circumstances other than those with respect to which it is held invalid or ineffective shall not be affected thereby.

H. Amendment. No amendment, modification, or alteration of the terms of this Agreement shall be binding unless such amendment, modification, or alteration is in writing, dated subsequent to this Agreement, and duly authorized and executed by the Engineer and the City.

I. Entire Agreement. This Agreement, including Exhibits "A" through "B" attached hereto, contains the entire agreement between the City and the Engineer, and there are no other written or oral promises, conditions, warranties, or representations relating to or affecting the matters contemplated herein.

J. No Joint Enterprise. Nothing contained herein shall be construed to imply a joint venture, joint enterprise, partnership or principal – agent relationship between the Engineer and the City.

K. Documents Owned by City. Any and all documents, drawings and specifications prepared by Engineer as part of the Services hereunder, shall become the property of the City when the Engineer has been compensated as set forth in Article II, above. The Engineer shall make copies of any and all work products for its files.

L. Notice of Waiver. A waiver by either the City or the Engineer of a breach of this Agreement must be in writing and duly authorized to be effective. In the event either party shall execute and deliver

such waiver, such waiver shall not affect the waiving party's rights with respect to any other or subsequent breach.

M. Third Party Activities. Nothing in this Agreement shall be construed to provide any rights or benefits whatsoever to any party other than the City and the Engineer.

N. Non-Appropriation. All funds for payment by the City under this Agreement are subject to the availability of an annual appropriation for this purpose by the City. In the event of non-appropriation of funds by the City Council of the City of Lubbock for the services provided under the Agreement, the City will terminate the Agreement, without termination charge or other liability, on the last day of the then-current fiscal year or when the appropriation made for the then-current year for the services covered by this Agreement is spent, whichever event occurs first (the "Non-Appropriation Date"). If at any time funds are not appropriated for the continuance of this Agreement, cancellation shall be accepted by the Engineer on thirty (30) days prior written notice, but failure to give such notice shall be of no effect and the City shall not be obligated under this Agreement beyond the Non-Appropriation Date.

O. Contracts with Companies Engaged in Business with Iran, Sudan, or Foreign Terrorist Organization Prohibited. Pursuant to Section 2252.152 of the Texas Government Code, prohibits the City from entering into a contract with a vendor that is identified by The Comptroller as a company known to have contracts with or provide supplies or service with Iran, Sudan or a foreign terrorist organization.

P. No Boycott of Israel. Pursuant to Section 2271.002 of the Texas Government Code, a) This section applies only to a contract that: (1) is between a governmental entity and a company with 10 or more full-time employees; and (2) has a value of \$100,000 or more that is to be paid wholly or partly from public funds of the governmental entity. (b) A governmental entity may not enter into a contract with a company for goods or services unless the contract contains a written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract.

Q. Texas Public Information Act. The requirements of Subchapter J, Chapter 552, Government Code, may apply to this contract and the contractor or vendor agrees that the contract can be terminated if the contractor or vendor knowingly or intentionally fails to comply with a requirement of that subchapter. To the extent Subchapter J, Chapter 552, Government Code applies to this agreement, Contractor agrees to: (1) preserve all contracting information related to the contract as provided by the records retention requirements applicable to the governmental body for the duration of the contract; (2) promptly provide to the governmental body any contracting information related to the contract that is in the custody or possession of the entity on request of the governmental body; and (3) on completion of the contract, either: (A) provide at no cost to the governmental body all contracting information related to the contract that is in

the custody or possession of the entity; or (B) preserve the contracting information related to the contract as provided by the records retention requirements applicable to the governmental body.

REMAINDER OF PAGE LEFT BLANK INTENTIONALLY

EXECUTED as of the Effective Date hereof.

CITY OF LUBBOCK

DANIEL M. POPE, MAYOR

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



Aubrey A. Spear, P.E., Director of Water Utilities

APPROVED AS TO FORM:



Amy Sims, Assistant City Attorney

Firm

Freese & Nichols, Inc.

By: 

Chad Simmons, P.E., Principal

Texas Government Code Subtitle F, Title 10, Chapter 2271

I, CHAD SIMMONS (Person name), the undersigned
representative of

Firm Name FREESB AND NICHOLS, INC.
(hereafter referred to as company)

Pursuant to Section 2271.002, applies only to a contract that:

- (1) is between a governmental entity and a company with 10 or more full-time employees; and
- (2) has a value of \$100,000 or more that is to be paid wholly or partly from public funds of the governmental entity.

Verify that the company named-above, under the provisions of Subtitle F, Title 10, Government Code Chapter 2271:

1. Does not boycott Israel currently; and
2. Will not boycott Israel during the term of the contract the above-named Company, business or individual with the City of Lubbock acting by and through City of Lubbock.

Date 6/22/21

Chad Simmons
Authorized Signature

EXHIBIT A
Scope of Services
Southeast Water Reclamation Plant No. 3 BNR Improvements
Alternative Treatment Technology Evaluation

General

One of the City of Lubbock's goals is to improve the effluent quality of its Southeast Water Reclamation Plant (SEWRP) Plant No. 3 by incorporating biological nutrient removal (BNR) into the treatment process, thereby allowing the effluent to be discharged to the North Fork of the Double Mountain Fork of the Brazos River. The first phase of the Project includes a Screening of Alternatives. Subsequent phases for Technology Demonstration, Preliminary Engineering Report, Final Design, Bid Phase and Construction Phase Services will be incorporated into subsequent amendments if desired by the City.

Basic Services

The Basic Services include project administration, preliminary investigations, and reports as set forth herein. Engineer shall render the following professional services in connection with the development of the Project.

A. Project Management

1. Provide administration and management of the Project. Review ongoing activities, monitor schedule and budget, and prepare monthly invoices. These duties include maintaining routine contact with the City to help meet the needs of the City in a timely manner, and executing the work in accordance with the scope, budget, and schedule.
2. Prepare and deliver monthly reports to the City regarding project status, anticipated upcoming work, information needs, status of deliverables, and project schedule.
3. Prepare for and facilitate a project kick-off workshop to clarify the City's requirements for the Project, review the scope of services, Project staffing and organization, schedule, and present the initial data request and Sampling Plan.

B. Assess Existing Conditions

1. Data Request and Sampling Plan
 - a. Develop a data request for record drawings, shop drawings, operating data, historical flows, and historical water quality data.
 - b. Develop a water quality Sampling Plan to quantify plant influent and internal flows and loads at the SEWRP for use in process modeling. The Sampling Plan will identify sampling locations and corresponding constituents to sample for.

2. Condition Assessment

- a. Conduct a one (1) day site visit with City staff to assess the condition of existing SEWRP No. 3 facilities. Assign condition scores for structural, mechanical, and electrical for each unit process inclusive of the headworks, primary clarifiers, aeration basins, aeration basin blowers, secondary clarifiers, filters, UV disinfection, and supporting Electrical Building and transformers. The condition assessment is a high-level overview and includes visual observations only, along with input from plant staff on performance and maintenance, to determine the condition score. It is assumed the condition assessment will not include Effluent Pump Station #2 that is currently being improved. It is assumed the condition assessment will be conducted on the same trip as the project kick-off meeting.
- b. Results of the condition assessment will be documented in a technical memorandum. The memo will provide recommendations if assets are in an acceptable condition to provide reliable use in the short term (over the next five to ten years) or if rehabilitation or replacement is recommended to support the BNR Improvements project. Development of rehabilitation or replacement costs will be included as part of the Screening of Alternatives task.

Deliverable: draft and final Technical Memorandum # 1 – Condition Assessment (electronic only)

3. Capacity Assessment

- a. Conduct a desktop functional capacity assessment of the SEWRP No. 3 by unit process based on TCEQ's Chapter 217 design criteria and other industry standards.
- b. Results of the capacity assessment will be documented in a technical memorandum. The average annual daily flow and/or peak 2-hr flow capacities of each unit process will be summarized with reference to what design criteria is controlling the capacity.

Deliverable: draft and final Technical Memorandum #2 – Capacity Assessment (electronic only)

C. Flow and Load Projections

1. Flow Projections and Peaking Factors

- a. Review historical plant influent flow data and flow monitoring data collected during the 2018 Wastewater Master Plan to establish peaking factors for maximum month, maximum day, and peak 2-hour flows.
- b. Review flow projections from the 2018 Wastewater Master Plan to establish projected design flows for the SEWRP.
- c. Establish the design flow for the SEWRP No. 3 Improvements Project.

2. Load Projections and Peaking Factors

- a. Review historical plant influent water quality data and data collected from the Sampling Plan efforts to develop maximum month load peaking factors for CBOD₅, TSS, TKN, NH₃-N, and total phosphorous.
- b. Develop plant influent design loads for annual average daily flow and maximum month average daily flow for the SEWRP No. 3 BNR Improvements Project.

3. Technical Memorandum

- a. Document the results of the flow and loads projections task in a technical memorandum.

Deliverable: draft and final Technical Memorandum #3 – Flow and Load Projections (electronic only)

D. Plant Effluent Water Quality Criteria

- a. Conduct dissolved oxygen (DO) modeling using TCEQ's QUAL-TX model of Segment 1241 to determine potential CBOD₅, NH₃-N and DO limits at SEWRP's Outfall 007. The modeling effort will include the impacts of increased upstream discharges from Lubbock's Northwest Water Reclamation Plant (NWWRP) and increased discharges from the SEWRP.
- b. Conduct spreadsheet-based mass balance screening calculations using TCEQ's Procedures to Implement the Texas Surface Water Quality Standards to determine potential total phosphorus, total dissolved solids (TDS), sulfate, and chloride limits at the SEWRP's Outfall 007.
- c. The above assessments will be based upon the near term (20 years) discharge at Outfall 007 into Segment 1241A (North Fork Double Mountain Fork of Brazos River), which flows into Segment 1241C (Buffalo Springs Lake and future Lake 7).
- d. Coordinate with TCEQ Water Quality Division staff on future limits for Outfall 007. It is assumed coordination efforts will be limited to phone call discussions and up to two (2) virtual meetings with TCEQ.
- e. Establish future potential discharge limits and design effluent values for Outfall 007 to be used in the evaluation of alternatives for the BNR Improvements Project at SEWRP No. 3.
- f. Document the result of the plant effluent water quality criteria task in a technical memorandum.

Deliverable: draft and final Technical Memorandum #4 – Plant Effluent Water Quality Criteria (electronic only)

- E. **Review Workshop No. 1:** Meet with the City to present and discuss the results of the Condition Assessment, Capacity Assessment, Flow and Load Projections, and Plant Effluent Water Quality Criteria. FNI will solicit comments and make revisions to the Technical Memorandums.
- F. **Screening of Alternatives**
1. **Process Model Development**
 - a. Develop a whole-plant process model of the existing SEWRP Plants No. 3 and No. 4, inclusive of solids return streams. Influent flow will be modeled using diurnal patterns developed in the 2018 Wastewater Master Plan, and the impact of wet weather flows on secondary clarifier performance will be modeled using the maximum day and peak 2-hour flow peaking factors developed in Technical Memorandum #3. The raw influent concentrations will be calibrated to historical plant influent water quality data and data collected from the Sampling Plan. The process model will be loosely calibrated to the available plant data and the data collected from the Sampling Plan.
 2. **Develop Baseline BNR Alternative**
 - a. Using the process model and established design flows, loads, and effluent water quality criteria from Technical Memorandums #3 and #4, develop a baseline SEWRP No. 3 BNR improvement alternative. The baseline alternative will include reconfiguring the aeration basins with anoxic/anaerobic selector zones without the addition of an activated sludge process intensification option.
 3. **Screening and Technology Transfer Workshop**
 - a. Meet with the City and present a high-level overview of the baseline alternative and up to seven (7) activated sludge process intensification technologies. The workshop will cover the technology, maturity of the technology, relative capital and operational costs, compatibility within existing basins, and operational complexity. Potential intensification technologies to be screened include:
 - Continuous aerobic granular sludge
 - Integrated fixed-film activated sludge (IFAS)
 - Ballasted flocculation (BioMag)
 - Membrane Bioreactor (MBR)
 - Membrane aerated biofilm reactor (MABR)
 - Nuvoda mobile organic biofilm (MOB)
 - Stepfeed
 - b. Present technologies for supporting improvements recommended from the Condition Assessment (Technical Memorandum #1), required upgrades to unit process capacities to achieve the established design flow (Technical

Memorandum #2), and equipment required for an activated sludge BNR configuration. Supporting improvements may include options for rehabilitation or replacement of the aeration basin blowers, aeration basin influent flow distribution, aeration basin anoxic/anaerobic zone mixer types, options for aeration basin diffuser types, options for post aeration, options to hydraulically move flow from SEWRP No. 3 to Outfall 7, etc.

- c. The goal of the workshop is to conduct an initial screening of alternatives and obtain consensus on the process intensification technologies that will be considered for the screening evaluation and what supporting improvements technologies will be considered and paired up with the intensification technology to form an alternative for evaluation and development of life-cycle costs.
 - d. The Technology Review Workshop presentation and meeting minutes will be included in the Preliminary Engineering Report as part of a future phase.
4. Site Visits / Tours
- a. Coordinate and schedule up to two (2) trips to visit plants that have implemented the process intensification options being considered. It is assumed up to three (3) people from Engineer's team and up to four (4) people from the City will attend each site visit, the site visits are up to two (2) days and three (3) nights each with airline flights, hotel stays, and vehicle rental required.
5. Evaluate BNR Alternatives
- a. From City feedback received during the Technology Review Workshop, evaluate up to three (3) activated sludge process intensification alternatives to increase the capacity and/or resiliency beyond the baseline alternative. It is assumed the supporting improvements capacities may change depending on the BNR technology being considered; however, the supporting improvements technologies will be the same for each alternative. For example, the same blower or anaerobic zone mixer technology will be considered for all alternatives.
 - b. Using the process model, evaluate SEWRP No. 3 effluent water quality and combined SEWRP No. 3 and No. 4 effluent water quality at varying influent load conditions and water temperatures.
 - c. Develop conceptual level process flow diagrams and site layouts for each alternative.
 - d. Evaluate the operational and maintenance requirements of each BNR configuration and how the relative complexity compares of each.
 - e. Develop planning level cost estimates for each alternative including capital costs, O&M costs, and 20-year life cycle costs.
 - f. Coordinate with TCEQ regarding implementation of each alternative. It is assumed up to four (4) virtual meetings will be conducted with TCEQ to

determine if a technology demonstration of the alternative will be required and to what level (i.e. bench scale testing, pilot testing, or full-scale demonstration).

- g. Document results of the evaluation of alternatives in a technical memorandum.

Deliverable: draft and final Technical Memorandum #5 – Screening of Alternatives (electronic only)

6. Review Workshop No. 2

- a. Meet with the City to discuss results of Technical Memorandum #5. FNI will solicit comments and make revisions to the Technical Memorandum.

Special Services

Engineer shall render the following professional services in connection with the development of the Project. These services require authorization from the City before commencement.

A. Sampling Plan Implementation

- 1. Assist the City in implementation of the Sampling Plan from the Assess Existing Conditions Task above. Assistance may include coordination with a third-party laboratory to arrange sample collection and laboratory analysis. The budget for this task shall not exceed \$15,000.

Not In Scope Items – Future Subsequent Phases

The following scope provides an outline of the anticipated progression of the project. The scope will be refined and resubmitted based on the results of the Screenings of Alternatives task and City input at the completion of Review Workshop No. 2.

G. Technology Demonstration

- 1. Based on the results of the Screenings of Alternatives evaluation, input from TCEQ regarding the need and level of a technology demonstration, and input from the City, conduct a technology demonstration to assist in the selection of design criteria and establish proof of concept.
- 2. The selection of process intensification option(s) to undergo a technology demonstration and to what level (i.e. bench scale, pilot scale, or full-scale demonstration) are to be determined.

Deliverable: Technical Memorandum #6 – Technology Demonstration

H. Design Criteria for Selected Alternative

- 1. Using results from previous tasks, summarize the selected alternative inclusive of plant influent design flows and loads, effluent criteria, proposed BNR flow scheme, proposed activated sludge process intensification option, applicable loading rates, and supporting improvements.

2. Summarize design criteria by unit process for the aeration basins, aeration blowers, and supporting improvements which may include but is not limited to filters, UV disinfection, and reaeration at the SEWRP No. 3.

Deliverable: Technical Memorandum #7 – Selected Alternative Design Criteria

3. Review Workshop No. 3

- a. Meet with the City to discuss Technical Memorandums #6 and #7. FNI will solicit comments and make revisions to the Technical Memorandums.

I. Preliminary Engineering Report

1. Combine Technical Memorandums 1 through 7 in a Preliminary Engineering Report with an Executive Summary.
2. Develop approximately 20-percent level design drawings of the selected alternative.
3. Develop a 20-percent level opinion of probable construction costs for the selected alternative.
4. Develop a schedule to complete final design, bid, construction, start-up and commissioning of the selected alternative.

5. Review Workshop No. 4

- a. Meet with the City to discuss the draft Preliminary Design Report. Solicit City comments and incorporate into the report. Issue a Final Design Report.

Deliverable: draft and final Preliminary Design Report

EXHIBIT B
Budget
Southeast Water Reclamation Plant No. 3 BNR Improvements
Alternative Treatment Technology Evaluation

Basic Services

CITY and ENGINEER have established a lump sum budget of \$364,628.00 to complete the Basic Services under this AGREEMENT. These services will be billed monthly on an estimated percent completed basis. This amount will not be exceeded without a contract amendment.

Special Services

CITY and ENGINEER have established a not-to-exceed budget of \$15,000.00 to complete the Special Services under this AGREEMENT. CITY will pay the ENGINEER hourly, for services identified in Exhibit A, based on ENGINEERS Fee Schedule presented as EXHIBIT B. Subconsultant services will be billed at cost to ENGINEER with a 10 percent handling fee. This amount will not be exceeded without a contract amendment.

The Budget is presented for the services of ENGINEER under this AGREEMENT are provided in this Exhibit B

ENGINEER agrees to complete these services as delineated above. Should there be a Change in Scope of Work or Time of Performance, then this can result in an amendment to this contract which shall be negotiated at that time.

The budget assumes that all work will be completed within **365 calendar days** from the Notice to Proceed.

EXHIBIT B
Detailed Cost Breakdown
Southeast Water Reclamation Plant No. 3 BNR Improvements
Alternative Treatment Technology Evaluation

Basic Services

Task	Description	Fee
A	Project Management	\$38,579
B	Assess Existing Conditions	\$60,844
C	Flow and Load Projections	\$15,972
D	Pant Effluent Water Quality Criteria	\$36,216
E	Review Workshop No. 1	\$19,453
F	Screening of Alternatives	\$193,564
Total		\$364,628

Special Services

Task	Description	Fee
A	Sample Plan Implementation	\$15,000
Total		\$15,000

Total Contract Amount \$379,628

EXHIBIT B

Hourly Rate Schedule Compensation

Southeast Water Reclamation Plant No. 3 BNR Improvements

Alternative Treatment Technology Evaluation

<u>Position</u>	<u>Rate</u>
Principal / Group Manager	305
Technical Professional - 6	293
Technical Professional - 5	234
Technical Professional - 4	200
Technical Professional - 3	173
Technical Professional - 2	152
Technical Professional - 1	125
CAD Technician/Designer - 3	168
CAD Technician/Designer - 2	126
CAD Technician/Designer - 1	100
Senior CAD Technician/Designer	207
Construction Manager - 4	165
Construction Manager - 3	135
Construction Manager - 2	128
Construction Manager - 1	100
Corporate Project Support - 3	140
Corporate Project Support - 2	126
Corporate Project Support - 1	96
Intern/ Coop	65

Rates for In-House Services

Technology Charge

\$8.50 per hour

Bulk Printing and Reproduction

	<u>B&W</u>	<u>Color</u>
Small Format (per copy)	\$0.10	\$0.25
Large Format (per sq. ft.)		
Bond	\$0.25	\$0.75
Glossy / Mylar	\$0.75	\$1.25
Vinyl / Adhesive	\$1.50	\$2.00
Mounting (per sq. ft.)	\$2.00	
Binding (per binding)	\$0.25	

Travel

Standard IRS Rates

OTHER DIRECT EXPENSES:

Other direct expenses are reimbursed at actual cost times a multiplier of 1.10. They include outside printing and reproduction expense, communication expense, travel, transportation and subsistence away from the FNI office and other miscellaneous expenses directly related to the work, including costs of laboratory analysis, test, and other work required to be done by independent persons other than staff members. For Resident Representative services performed by non-FNI employees and CAD services performed In-house by non-FNI employees where FNI provides workspace and equipment to perform such services, these services will be billed at cost times a multiplier of 2.0. This markup approximates the cost to FNI if an FNI employee was performing the same or similar services.

LUB19

**City of Lubbock, TX
Capital Project
Project Cost Detail
July 13, 2021**

Capital Project Number:	92674
Capital Project Name:	SEWRP Improvements Plant 3 Nutrient Removal

	Budget
<i>Encumbered/Expended</i>	
None	

<i>Agenda Item July 13, 2021</i>	
FNI Contract- Plant 3 Biological Nutrient Removal Technologies Evaluation	\$379,628

<i>Encumbered/Expended To Date</i>	<u>379,628</u>
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<i>Estimated Costs for Remaining Appropriation</i>	
SEWRP Plant 3 BNR Technology Preliminary Design	<u>120,372</u>
<i>Remaining Appropriation</i>	<u>120,372</u>

Total Appropriation	<u><u>\$ 500,000</u></u>
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Regular City Council Meeting

6. 13.

Meeting Date: 07/13/2021

Information

Agenda Item

Resolution - Solid Waste: Consider a resolution authorizing the Mayor to execute Contract 15938, with Ace Golf Netting, LP, for the installation of litter fencing at the West Texas Regional Disposal Facility.

Item Summary

The West Texas Regional Disposal Facility is required to install and maintain fencing around the perimeter of the site to ensure that litter and debris do not exit the facility. The facility continues to expand and increase the fencing installed on-site.

In response to ITB 21-15938-KM, the following bids were received and opened on June 11, 2021.

Contractor	Amount
Ace Golf Netting, LP, Austin, Texas	\$88,350.00
Comagri Inc., dba Agrination Netting Builder, Columbus, North Carolina	\$124,875.00
Net Connection, LLC, Trussville, Alabama	\$106,500.00
Netting Contractors LLC, Navasota, Texas	\$125,002.50

Each bid also included several additional alternatives. Staff recommends award to the lowest bidder, Ace Golf Netting, LP, for the base amount above of \$88,350, in addition to bid alternatives #1-1 for 10 additional panels of netting at a cost of \$8,500, and #1-2 for 100 linear feet of additional netting and installation. The contract shall be for a term of 90 days after all materials have been received for installation.

Fiscal Impact

The contract cost is \$108,350, which includes Alternatives for 10 additional panels of netting and 100 linear feet of additional netting and installation, and is cash-funded from the Solid Waste 2020-21 Operating Budget.

Staff/Board Recommending

Jesica McEachern, Assistant City Manager
Wood Franklin, Division Director of Public Works

Attachments

Resolution

Bid Form (c) - Ace Golf Netting, LP

Project Summary

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LUBBOCK:

THAT the Mayor of the City of Lubbock is hereby authorized and directed to execute for and on behalf of the City of Lubbock, Public Works Contract No. 15938 for the installation of litter fencing at the West Texas Regional Disposal Facility as per ITB 21-15938-KM, by and between the City of Lubbock and Ace Golf Netting, LP, of Austin, Texas, and related documents. Said Contract is attached hereto and incorporated in this resolution as if fully set forth herein and shall be included in the minutes of the City Council.

Passed by the City Council on _____.

DANIEL M. POPE, MAYOR

ATTEST:

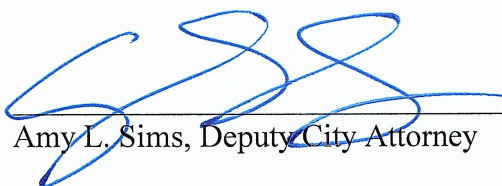
Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



Jessica McEachern, Assistant City Manager

APPROVED AS TO FORM:



Amy L. Sims, Deputy City Attorney

RES.Contract 15938 – Litter Fence WTRDF
June 16, 2021

REVISED-1
BID SUBMITTAL FORM
BID CONTRACT

DATE: 6/09/21

PROJECT NUMBER: **ITB 21-15938-KM Installation of Litter Fence at the West Texas Regional Disposal Facility**

Bid of ACE GOLF NETTING, LP (hereinafter called Bidder)

To the Honorable Mayor and City Council City of Lubbock, Texas (hereinafter called Owner)

Ladies and Gentlemen:

The Bidder, in compliance with your Invitation to Bid for the construction of the referenced project, having carefully examined the plans, specifications, instructions to bidders, notice to bidders and all other related contract documents and the site of the intended work, and being familiar with all of the conditions surrounding the construction of the intended project including the availability of materials and labor, hereby intends to furnish all labor, materials, and supplies; and to construct the project in accordance with the plans, specifications and contract documents, within the time set forth therein and at the price stated.

The bidder binds himself on acceptance of his bid to execute a contract and any required bonds, according to the accompanying forms, for performing and completing the said work within the time stated and for the prices stated.

Offeror hereby agrees to commence the work on the above project on a date to be specified in a written "Notice to Proceed" of the Owner and to substantially complete the project 90 days after receipt of materials as stipulated in the specification and other contract documents. Offeror hereby further agrees to pay to Owner as liquidated damages in the sum of \$25 for each consecutive calendar day after substantial completion set forth herein above for completion of this project, all as more fully set forth in the General Conditions of the Agreement.

Bidder understands and agrees that this bid submittal shall be completed and submitted in accordance with instruction number 28 of the General Instructions to Bidders.

Bidder understands that the Owner reserves the right to reject any or all bids and to waive any formality in the bidding.

The Bidder agrees that this bid shall be good and may not be withdrawn for a period of 60 calendar days after the scheduled closing time for receiving bids.

The undersigned Bidder hereby declares that he has visited the site of the work and has carefully examined the plans, specifications and contract documents pertaining to the work covered by this bid, and he further agrees to commence work on or before the date specified in the written notice to proceed, and to substantially complete the work on which he has bid; as provided in the contract documents.

Bidders are required, whether or not a payment or performance bond is required, to submit a cashier's check or certified check issued by a bank satisfactory to the City of Lubbock, or a bid bond from a reliable surety company, payable without recourse to the order of the City of Lubbock in an amount not less than five percent (5%) of the total amount of the bid submitted as a guarantee that bidder will enter into a contract, obtain all required insurance policies, and execute all necessary bonds (if required) within 10 business days after notice of award of the contract to him.

**City of Lubbock
Solid Waste
ITB 21-15938-KM
Installation of Litter Fence at the West Texas Regional Disposal Facility**

Ace Golf Netting, LP of Austin, TX

Item	Description	Quantity (+/-)	UOM	Unit Cost	Extended Cost
#0-1	Provide all labor, equipment, and materials to construct a new litter fence netting system at the West Texas Region Disposal Facility at Abernathy, TX. The litter fence will be a total of 750 LF by 30' high constructed on steel poles. The new netting system must match the existing netting system exactly in order to maintain the integrity of the original design scheme, per specifications.	750	LF	\$ 117.80	\$ 88,350.00
Alternates:					
#1-1	Pricing for 10 panels of netting, as described in the specifications, to be used as replacement material for existing netting.	10	EA	850.00	8,500.00
#1-2	Pricing for each additional 50 LF of netting system and installation as specified above.	100	LF	115.00	11,500.00
#1-3	Pricing for additional 300 LF of netting system and installation as specified above.	300	LF	115.00	34,500.00
Total					\$ 108,350.00

Enclosed with this bid is a Cashier's Check or Certified Check for _____ Dollars (\$ _____) or a Bid Bond in the sum of 5% OF \$ 88,380.2 Dollars (\$ 4,417.50), which it is agreed shall be collected and retained by the Owner as liquidated damages in the event the bid is accepted by the Owner and the undersigned fails to execute the necessary contract documents, insurance certificates, and the required bond (if any) with the Owner within 10 business days after the date of receipt of written notification of acceptance of said bid; otherwise, said check or bond shall be returned to the undersigned upon demand.

Bidder understands and agrees that the contract to be executed by Bidder shall be bound and include all contract documents made available to him for his inspection in accordance with the Notice to Bidders.

Pursuant to Texas Local Government Code 252.043(g), a competitive sealed bid that has been opened may not be changed for the purpose of correcting an error in the bid price. **THEREFORE, ANY CORRECTIONS TO THE BID PRICE MUST BE MADE ON THE BID SUBMITTAL FORM PRIOR TO BID OPENING.**

Date: 6/09/2021

Randy May
Authorized Signature

RANDY MAY
(Printed or Typed Name)

ACE GOLF NETTING, LP
Company

828 WAGON TR.
Address

AUSTIN, TRAVIS
City, County

TX, 78758
State Zip Code

Telephone: 512 - 834-8884

Fax: 512 - 834-8885

FEDERAL TAX ID or SOCIAL SECURITY No.

74 3000853

EMAIL: RANDYMAY@PRODIGY.NET

(Seal if Bidder is a Corporation)

ATTEST:

Secretary

Bidder acknowledges receipt of the following addenda:

Addenda No. 1 Date 6/08/21

Addenda No. 2 Date 6/09/21

Addenda No. _____ Date _____

Addenda No. _____ Date _____

M/WBE Firm:

<input type="checkbox"/>	Woman	<input type="checkbox"/>	Black American	<input type="checkbox"/>	Native American
<input type="checkbox"/>	Hispanic American	<input type="checkbox"/>	Asian Pacific American	<input type="checkbox"/>	Other (Specify)



**Purchasing and Contract Management
Project Summary**

**ITB 21-15938-KM Installation of Litter Fence at the West Texas Regional Disposal
Facility**

Notice was published in the Lubbock Avalanche Journal on May 23, 2021 and May 30, 2021.

Notice was published on the Purchasing Web Site under Bid Opportunities.

Notice was published on BidSync from May 21, 2021 to June 11, 2021.

Notice was published on Bonfire from May 21, 2021 to June 11, 2021.

29 vendors viewed using BidSync.

5 vendors downloaded the documents from BidSync.

29 vendors took documents from Bonfire.

10 vendors were notified separately.

4 vendors submitted a bid.



Regular City Council Meeting

6. 14.

Meeting Date: 07/13/2021

Information

Agenda Item

Resolution - Public Health Services: Consider a resolution authorizing the Mayor to execute a Medical Director Agreement, between the City of Lubbock and Texas Tech University Health Sciences Center, to provide the professional services of a qualified physician to act as Medical Director for the City of Lubbock Health Department.

Item Summary

This is a professional services provider agreement with the Texas Tech University Health Sciences Center (TTUHSC), to provide the professional services of Dr. Ron Cook to act as Medical Director for the City of Lubbock Health Department (COLHD). In the event that Dr. Cook is unable to fulfill his obligations for the term for the contract, the TTUHSC agrees to provide a suitable member of its faculty to perform the services of Medical Director for the COLHD, as set forth in this agreement.

A medical director is a physician who serves as the clinical leader of a medical facility. He/she develops and implements policies, procedures and best practices, and assures that the facility is in compliance with all federal, state and local laws. A medical director is required to be a medical doctor, with at least 10 years of professional experience and must be board-certified within his/her area of specialty.

Dr. Ron Cook will perform the following duties:

- a. Supervise procedures and protocols based on federal and state regulations, and on generally accepted standards of care;
- b. Approve COLHD manuals at least annually, after review and revision by COLHD clinic staff; and
- c. Supervise procedures and protocols for clinical services currently provided at the City of Lubbock Health Department.

Fiscal Impact

The City will pay \$3,200 per month to the TTUHSC. The maximum amount paid is not to exceed \$38,400 per year or \$192,000 over the next five years.

Staff/Board Recommending

Bill Howerton, Deputy City Manager

Katherine Wells, Director of Public Health Services

Attachments

Resolution Medical Director

Contract Medical Director

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LUBBOCK:

THAT the Mayor of the City of Lubbock is hereby authorized and directed to execute for and on behalf of the City of Lubbock, a Medical Director Agreement between the City of Lubbock and Texas Tech University Health Sciences Center to provide a qualified medical director to act as Medical Director for the City of Lubbock Health Department. Said Agreement is attached hereto and incorporated in this Resolution as if fully set forth herein and shall be included in the minutes of the Council.

Passed by the City Council on _____.

DANIEL M. POPE, MAYOR

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



Bill Howerton, Deputy City Manager

APPROVED AS TO FORM:



Ryan Brooke, Assistant City Attorney

RES.COLHD Medical Director-Ronald Cook 6.10.21

MEDICAL DIRECTOR AGREEMENT
(City of Lubbock Health Department Medical Director)

This is a Medical Director Agreement between the **CITY OF LUBBOCK**, acting by and through its Health Department (hereafter referred to as COLHD), and **TEXAS TECH UNIVERSITY HEALTH SCIENCES CENTER**, on behalf of its School of Medicine, Department of Family & Community Medicine, Lubbock Campus, (hereafter referred to as TTUHSC). Funding for this Agreement will be provided by the City of Lubbock general funding.

SERVICES TO BE PROVIDED

TTUHSC hereby agrees to provide the City of Lubbock Health Department with the professional services of **RONALD L. COOK, D.O.** (hereafter referred to as "Dr. Cook", a TTUHSC employed physician) to act as **MEDICAL DIRECTOR** for the COLHD, subject to approval by the City Council of the City of Lubbock.

In the event that Dr. Cook is unable to fulfill his obligations for the term of this contract, TTUHSC agrees to provide a suitable member of its faculty to perform the services of Medical Director for the COLHD as set forth in this Agreement.

TTUHSC agrees its employed physician, Dr. Cook, as Medical Director for the COLHD, shall perform the following duties under the administrative supervision of the City of Lubbock Health Department Manager:

1. Approve clinic procedures, protocols, and standing orders for clinical services provided by COLHD professional and paraprofessional nursing and clerical staff, including:
 - a. Supervision of procedures and protocols based on federal and state regulations, and on generally accepted standards of care.
 - b. Approving COLHD manuals at least annually, after review and revision by COLHD clinic staff.
 - c. Supervision of procedures and protocols for clinical services currently provided at the Lubbock Health Department, including immunizations and diagnosis and treatment of Sexually Transmitted Diseases.
 - d. Clinical supervision of Nurse Practitioner
2. Provide COLHD with the physician provider number for submission of Medicare claims for influenza vaccine administration. The parties agree that duties provided as Medical Director under this Agreement do not include providing direct patient care.



The parties agree and acknowledge that:

1. Nothing in this Agreement is intended nor shall be construed to create an employer/employee relationship between the contracting parties nor to grant power to bind the other party in any legal contract or in any other way without prior written consent of the other party.
2. Medical Director is providing Medical Director Services as part of COLHD'S workforce, as the term is defined under HIPAA, and is subject to confidentiality obligations applicable to COLHD'S employees and other persons under its control.

Each party represents and warrants on behalf of itself, that all decisions regarding the medical care of patients shall be based solely upon the professional medical judgment of a patient's attending physician(s) and shall be made in the best interests of patients, that the aggregate benefit given or received under this Agreement, whether in cash or in kind, has been determined in advance through a process of arms-length negotiations that were intended to achieve an exchange of goods and/or services consistent with fair market value in the circumstances, and that any benefits given or received under this Agreement is not intended to induce, does not require, and is not contingent upon, the admission, recommendation or referral of any patient, directly or indirectly, to the other party.

The City of Lubbock will pay TTUHSC **THREE THOUSAND TWO HUNDRED AND NO/100 (\$3200.00)** dollars per month for approximately eight hours of service per month, using the established procedures of the City of Lubbock. Both parties agree that Medical Director shall maintain a log of time spent with a description of the activities for each time period.

TTUHSC and COLHD represent and warrant that neither Party has been excluded from any federal healthcare program, that no basis for such exclusion exists, to the best of the parties' knowledge, and that neither Party has been subject to any final adverse action as defined under the Health Care Fraud and Abuse Data Collection Program. Both parties agree to notify the other immediately if either is subject to an inquiry, investigation, or final adverse action by a government agency, third-party payer, or intermediary as to the provision of services under this Agreement.

TTUHSC and COLHD acknowledge that, as governmental entities, neither party may indemnify the other against claims, demands, actions, liabilities, or expenses (including reasonable attorney's fees) arising out of the actions or omissions of the other party. TTUHSC and COLHD agree that they will be responsible for the actions or omissions of their own employees and agents, in connection with this Agreement. This provision shall survive any termination or expiration of this Agreement.



Pursuant to 42 U.S.C. Section 1395x(v) (1)(I) and 42 C.F.R. Part 420, Subpart D Section 420.300 et seq., TTUHSC and COLHD shall, until the expiration of four (4) years after the furnishing of Medicare reimbursable services pursuant to this Agreement, upon proper written request, allow the Comptroller General of the United States, the Secretary of Health and Human Services, and their duly authorized representatives access to this Agreement and to the parties books, documents and records necessary to certify the nature and extent of costs of Medicare reimbursable services provided by Physician under this Agreement are carried out by means of a subcontract with an organization related to TTUHSC/Physician, and such related organization provides the services at a value or cost of \$10,000.00 or more over a twelve-month period, then the subcontract between TTUHSC/Physician and the related organization shall contain a clause comparable to the clause specified in the preceding sentence.

This agreement is made effective **July 1, 2021**, and may be continued by mutual agreement by both parties from year to year for a maximum of four additional one-year terms. Terms may be (1) renegotiated, or (2) terminated, by either Party upon thirty (30) days written notice to the other Party.

All notices, requests and communications required or permitted hereunder shall be in writing and shall be sufficiently given and deemed to have been received upon personal delivery or delivery by overnight courier or, if mailed, upon the first to occur of actual receipt or seventy-two (72) hours after being placed in the United States mail, postage prepaid, registered or certified mail, receipt requested, addressed to the Parties at the addresses set forth below:

If to TTUHSC:

Family Medicine
3601 4th Street STOP 8143
Lubbock, TX 79430
ATTN: Juli McCauley

If to COLHD:

City of Lubbock
Health Department
P.O. Box 2000
Lubbock, TX 79457
ATTN: Katherine Wells

Notice of a change in address of one of the Parties shall be given in writing to the other Party as provided above, but shall be effective only upon actual receipt.



This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Texas. Venue shall be in the state or federal courts of Lubbock County, Texas.

COLHD certifies this Agreement is not prohibited under Tex. Gov't Code §2261.252(b) and agrees that if COLHD's certification is or becomes untrue, this Agreement is void, and COLHD will not seek and waives its right to seek any legal or equitable remedy for past or future performance under this Agreement, including damages, whether under breach of contract, unjust enrichment, or any other legal theory; specific performance; and injunctive relief.

"Event of Force Majeure" means an event beyond the control of COLHD or TTUHSC which prevents or makes a party's compliance with any of its obligations under this Agreement illegal or impracticable, including but not limited to: act of God (including, without limitation, fire, explosion, earthquake, tornado, drought, and flood); war, act or threats of terrorism, hostilities (whether or not war be declared), invasion, act of enemies, mobilization, requisition, or embargo; rebellion, insurrection, military or usurped power, or civil war; contamination or destruction from any nuclear, chemical, or biological event; riot, commotion, strikes, go slows, lock outs, or disorder; epidemic, pandemic, viral outbreak, or health crisis; or directive of governmental authority. No party will be considered in breach of this Agreement to the extent that performance of their respective obligations is prevented or made illegal or impracticable by an Event of Force Majeure that arises during the term (or after execution of the Agreement but prior to the beginning of the term). A party asserting an Event of Force Majeure hereunder ("Affected Party") will give reasonable notice to the other party of an Event of Force Majeure upon it being foreseen by, or becoming known to, Affected Party. In the event of an Event of Force Majeure, Affected Party will endeavor to continue to perform its obligations under the Agreement only so far as reasonably practicable.

The person(s) executing this Agreement on behalf of the Parties, or representing themselves as executing this Agreement on behalf of a Party, warrant and guarantee that each has been duly authorized by the appropriate Party to execute this Agreement on behalf of the Party and to validly and legally bind the Party to all of its terms, performances, and provisions.

This Agreement may be executed in two or more counterparts, each of which shall be deemed to be an original as against any party whose signature appears thereon, but all of which together shall constitute but one and the same instrument. Signatures to this Agreement transmitted by facsimile, by electronic mail in "portable document format" (".pdf"), or by any other electronic means which preserves the original graphic and pictorial appearance of the Agreement, shall have the same effect as physical delivery of the paper document bearing the original signature.



This Agreement contains the entire agreement of the Parties concerning the subject matter described herein and there are no other promises or conditions in any other agreement whether oral or written concerning the subject matter described herein. This Agreement supersedes any prior written or oral agreements between the Parties concerning the subject matter described herein.

CITY OF LUBBOCK:

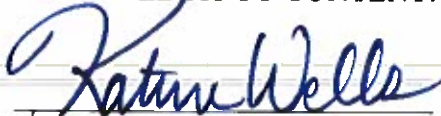
BY: _____
Daniel M. Pope
Mayor

DATE: _____


ATTEST:

Rebecca Garza,
City Secretary


APPROVED AS TO CONTENT:


Katherine Wells
City of Lubbock Health Director

APPROVED AS TO FORM:



Ryan Brooke
Assistant City Attorney

TEXAS TECH UNIVERSITY
HEALTH SCIENCES CENTER:

BY: 
Penny Harkey (Jun 9, 2021 12:20 CDT)
Penny Harkey
Executive Vice President

DATE: 06/09/2021

Although not a Party to this Agreement, I hereby acknowledge that I have read this Agreement and understand the obligations hereunder:


Ronald L. Cook, DO, MBA (Jun 9, 2021 10:17 CDT)
Ronald L. Cook, D.O.





Regular City Council Meeting

6. 15.

Meeting Date: 07/13/2021

Information

Agenda Item

Resolution - Aviation: Consider a resolution authorizing the Mayor to execute a Consent for Assignment of the Airport Agreement with Mobilitie Investments III, LLC (M3), Contract 13161, to Mobilitie Investments III-A, LLC, at Lubbock Preston Smith International Airport.

Item Summary

Mobilitie Investments III, LLC (M3), is restructuring and will assign all of its rights and interest in the October 12, 2017 Airport Agreement to Mobilitie Investments III-A, LLC. The agreement will be under the same terms and conditions to operate and maintain the Distributed Antenna System (DAS) Network at the Airport.

Fiscal Impact

None

Staff/Board Recommending

Bill Howerton, Deputy City Manager
Kelly Campbell, Executive Director of Aviation
Airport Advisory Board

Attachments

Resolution - Mobilitie
Exhibit_A_Mobilitie (r)
Exhibit B Mobilitie

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LUBBOCK:

THAT the Mayor of the City of Lubbock is hereby authorized and directed to execute for and on behalf of the City of Lubbock a Consent for Assignment of that certain Airport Agreement by and between the City of Lubbock and Mobilitie Investments III, LLC (Contract No. 13161), a copy of which is attached hereto as Exhibit "A", to Mobilitie Investments III-A, LLC, a Delaware limited liability company, and all related documents. Said Consent for Assignment is attached hereto as Exhibit "B" and incorporated in this Resolution as if fully set forth herein and shall be included in the minutes of the Council.

Passed by the City Council on _____.

DANIEL M. POPE, MAYOR

ATTEST:

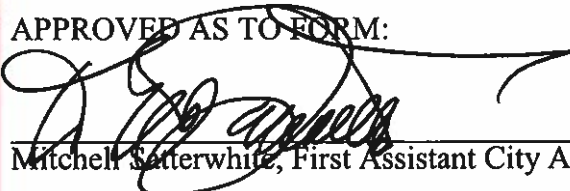
Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



Kelly Campbell, Executive Director of Aviation

APPROVED AS TO FORM:

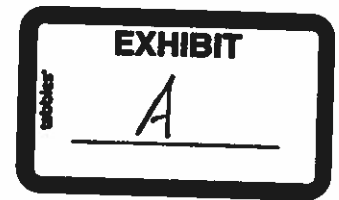


Mitchell Satterwhite, First Assistant City Attorney

Resolution No. 2017-R0375

Item No. 6.21

October 12, 2017



RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LUBBOCK:

THAT the Mayor of the City of Lubbock is hereby authorized and directed to execute for and on behalf of the City of Lubbock, a Lease Agreement by and between the City of Lubbock and Mobilitie Investments III, LLC, of Delaware, and related documents. Said Lease Agreement is attached hereto and incorporated in this resolution as if fully set forth herein and shall be included in the minutes of the City Council.

Passed by the City Council on October 12, 2017.

A handwritten signature in blue ink, appearing to read "Daniel M. Pope".

DANIEL M. POPE, MAYOR

ATTEST:

A handwritten signature in blue ink, appearing to read "Rebecca Garza".

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

A handwritten signature in blue ink, appearing to read "Kelly Campbell".

Kelly Campbell, Executive Director of Aviation

APPROVED AS TO FORM:

A handwritten signature in blue ink, appearing to read "Mitchell Satterwhite".

Mitchell Satterwhite, First Assistant City Attorney

vw:ccdcs/RES.Agrmt-Mobilitie Investments III, LLC
09.25.2017

STATE OF TEXAS §

CITY OF LUBBOCK §

AIRPORT AGREEMENT

This Airport Agreement ("Agreement" or "Lease") is entered into by and between CITY OF LUBBOCK, TEXAS ("Lessor"), and MOBILITIE INVESTMENTS III, LLC, a Delaware limited liability company ("Lessee") as of the latter of the signature dates below ("Effective Date"). Lessor and Lessee are sometimes individually referred to herein as a "Party" and collectively as the "Parties".

WITNESSETH:

WHEREAS, Lessor owns and operates a public airport known as Lubbock Preston Smith International Airport ("Airport"), located at 5401 N. Martin Luther King Blvd, Lubbock, Texas; and

WHEREAS, Lessee desires to design, build, install, operate, and maintain a multi-carrier capable, neutral host distributed antenna system and/or similar system ("DAS Network" or "Network") capable of accommodating wireless operators ("Carriers") at the Airport, and Lessor desires to have Lessee design, build, install, operate, and maintain the DAS Network at the Airport pursuant to the terms and conditions of this Agreement; and

WHEREAS, Lessor desires to lease certain areas within, around, and on top of the Airport terminal building for use by Lessee for the installation and operation of the DAS Network, and once constructed and operational, Lessee intends to enter into separate license agreements with Carriers to access and use the DAS Network at the Airport (each, a "Carrier Agreement"); and

NOW THEREFORE, for and in consideration of the covenants and conditions herein contained and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree to exercise the rights, powers, and privileges hereinafter set forth.

ARTICLE ONE
LEASED PREMISES

- 1.01 **LEASE OF PREMISES.** Lessor does hereby lease unto Lessee certain property located within, around, and on top of the Airport terminal building, including but not limited to (A) certain space containing approximately two hundred fifty (250) square feet as more particularly shown on Exhibit "A" attached hereto (the "Equipment Space"); and (B)

locations for the placement of antennas, small cell antennas, cabling, conduit, fiber and equipment in such locations within the Airport terminal building as Lessor and Lessee may mutually approve after good faith consultation, which locations shall be depicted in preliminary drawings and subsequently in as-builts which shall be incorporated into Exhibit "A" hereto (all such space, including the Equipment Space, collectively referred to as "**Premises**" or "**Leased Premises**" in this Agreement).

- 1.02 **PERMITTED USE.** Lessee may use the Premises for the installation, construction, use, maintenance, operation, repair, replacement, and upgrade of the communications fixtures and related equipment, conduits, wires, cables, cable trays, accessories for the DAS Network and any improvements related thereto as may be needed from time-to-time to provide for the continuous transmission and reception of Wireless Communication Services as defined in Section 5.06.

ARTICLE TWO

TERM

- 2.01 **TERM.** The initial term of this Agreement shall be for a period of ten (10) years, commencing on the first (1st) Carrier Rent Commencement Date as defined in Section 3.02. The Agreement shall be automatically extended for two (2) additional five (5) year periods unless Lessee gives written notice to Lessor not less than sixty (60) days prior to the expiration of the then-current term that Lessee will not renew the Agreement. The initial term and all extension terms shall collectively be referred to herein as the "**Term**".
- 2.02 **HOLDOVER.** In the event Lessee remains on location after the expiration of this Agreement, without any written renewal or extension of the Agreement, such holding over shall not be deemed as a renewal or extension of this Agreement, and may be terminated at any time by the Director of Aviation of Lessor.

ARTICLE THREE

PAYMENTS

In consideration of the rights, powers, and privileges herein granted, and provided the corresponding events occur, Lessee shall pay to Lessor the following on or before the respective due date:

Lessor will provide an IRS Form W-9 to Lessee.

3.01 UP FRONT PAYMENTS

Fifty Thousand and 00/100 Dollars (\$50,000.00) within thirty (30) days after the Effective Date of this Agreement.

One Hundred Thousand and 00/100 Dollars (\$100,000.00) within thirty (30) days after the first (1st) Carrier Agreement is fully executed.

One Hundred Fifty Thousand and 00/100 Dollars (\$150,000.00) within thirty (30) days after the second (2nd) Carrier Agreement is fully executed.

Two Hundred Thousand and 00/100 Dollars (\$200,000.00) within thirty (30) days after the third (3rd) Carrier Agreement is fully executed.

Two Hundred Fifty Thousand and 00/100 Dollars (\$250,000.00) within thirty (30) days after the fourth (4th) Carrier Agreement is fully executed.

3.02 MONTHLY NETWORK PAYMENTS

For each Carrier that joins the Network pursuant to a Carrier Agreement, commencing on such Carrier's Rent Commencement Date, Lessee shall pay Lessor a monthly fee of One Thousand and 00/100 Dollars (\$1,000.00). Each Carrier's "**Rent Commencement Date**" is the first (1st) of the month following the date on which such Carrier commences commercial operation on the DAS Network.

The obligation to make payments to Lessor for each Carrier during the Term shall expire or abate, as applicable, at such time that such Carrier discontinues participation in the DAS Network. Payments shall resume, if and when such participation resumes, and the monthly rent shall be accordingly adjusted based on the actual number of Carriers commercially operating on the Network during any given month of the Term. Lessee shall provide written notification to Lessor of Carrier discontinuation.

- 3.03 PAYMENTS.** All monthly rental payments are due and payable to Lessor on or before the **fifth (5th) day** of each month during the Term of this Agreement and shall be made at the office of the Executive Director of Aviation, Lubbock Preston Smith International Airport, 5401 N. MLK Blvd., Unit 389, Lubbock, Texas 79403. Lessee shall pay Lessor a late payment charge of five percent (5%) of the total amount of rentals payable if payment of such rentals is not made by the **fifteenth (15th) day** of the month.

ARTICLE FOUR **RIGHTS RESERVED TO LESSOR**

The following rights are reserved unto Lessor.

- 4.01 AIRPORT SAFETY.** Lessor reserves the right to take any action it considers necessary to protect the aerial approaches of the Airport against obstruction, together with the right to prevent Lessee from constructing or permitting construction of any building or other

structure which, in the reasonable opinion of Lessor, would limit the usefulness of the Airport or constitute a hazard to aircraft.

- 4.02 MAINTENANCE OF PUBLIC AREA.** Lessor reserves the right, but shall not be obligated to Lessee (except as otherwise provided in this Agreement), to maintain and keep in repair the landing area of the Airport and all publicly-owned facilities of the Airport. Lessee will perform no maintenance activities outside the Leased Premises without the consent of the Lessor's Director of Aviation.
- 4.03 STANDARDS.** Lessor reserves the right to establish reasonable standards for the construction, maintenance, alterations, repairs, additions, or improvements of the Leased Premises (excluding the DAS Network). This includes structural design, color, materials used, and maintenance of Lessee's Leased Premises (excluding the DAS Network).
- 4.04 TIME OF EMERGENCY.** In the event of a war or national emergency, the Lessor shall have the right to lease the landing area and any other portion of the Airport to the United States for governmental use and, if such lease is executed, the provisions of this instrument, insofar as they are inconsistent with the provisions of the lease to the United States, shall be suspended.
- 4.05 RIGHT TO RELOCATE.** Lessor shall have the right to change the locations of antennas with reasonable written notice to Lessee. Such relocated locations shall (i) be substantially the same size and dimensions as previous location, (ii) permit Lessee to provide at least the same quality and capacity of communication service as previously provided at the previous location, and (iii) shall be performed by Lessee. The cost of such relocation shall be borne by Lessor. Lessor shall have the right to approve any alterations to the concourse area of the Airport necessary for the installation of antennas, such approval not to be unreasonably withheld, conditioned, or delayed.
- 4.06 DEVELOPMENT OF AIRPORT.** Lessee agrees that Lessor has the right to further develop or improve the Airport as Lessor sees fit, regardless of the desires or views of the Lessee, and without interference or hindrance therefrom.
- 4.07 SPONSOR'S ASSURANCE SUBORDINATION.** This Agreement shall be subordinate to the provisions of any existing or future agreement between Lessor and the United States concerning the operation and maintenance of the Airport, the execution of which has been or may be required as a condition precedent to the expenditure of federal funds for the development of the Airport. Should the effect of such agreement with the United States be to take any of the property under lease or otherwise diminish the commercial value of this Lease, the Lessor shall not be held liable therefor. The Lessor covenants and agrees that it

will during the term of this Agreement operate and maintain the Airport as a public facility consistent with and pursuant to the Assurances given by the Lessor to the United States Government under federal law.

- 4.08 **WAIVER.** The failure of Lessor to require the performance by Lessee of any of the terms or conditions of this Agreement shall not be construed as a waiver or relinquishment of the future performance of any such terms or conditions, and Lessee's obligation with respect to such future performance shall continue in full force and effect.

ARTICLE FIVE

RIGHTS & LIMITATIONS OF LESSEE

- 5.01 **ACCESS.** Lessee is herein granted the right of ingress to and egress from the Leased Premises at the Airport twenty-four (24) hours per day, seven (7) days per week. Such right of ingress and egress, however, shall be subject to all federal, state, and local laws, ordinances, rules, and regulations. Lessor shall provide free adequate on-site parking at the Airport to Lessee and the Carriers, and their respective employees, agents, and subcontractors, when such parties require or desire to be at the Airport in connection with this Agreement.
- 5.02 **LESSEE'S DUTY TO REPAIR.** Any property of the Lessor or any property for which the Lessor may be responsible, which is damaged or destroyed incident to the exercise of the privileges herein granted, other than normal wear and tear anticipated as a part of the Lease Agreement, which damage or destruction is occasioned by the negligence of Lessee, its employees, agents, servants, or licensees, shall be properly repaired or replaced by the Lessee to the reasonable satisfaction of the Lessor's Director of Aviation, or in lieu of such repair or replacement, Lessee shall, if so required by the Director of Aviation, pay Lessor money in an amount reasonable to compensate Lessor for the loss sustained or expense incurred by the Lessor as a result of the loss of, damage to, or destruction of such property. Lessee is only obligated under this section to the extent such repairs are not covered by the Lessor's insurance policy.
- 5.03 **WARRANTY OF NO SOLICITATION.** Lessee warrants that it has not employed any person employed by the Lessor to solicit or secure this Agreement upon any agreement for a commission, percentage, brokerage, or contingent fee.
- 5.04 **DAS NETWORK.** Lessee shall be responsible for designing, installing, operating, and managing the DAS Network at the Airport. Lessee will work closely with the Airport

during the design and installation stages of the DAS Network and shall obtain the Director's approval of the DAS Network locations prior to installation. Lessee shall be responsible for funding the associated capital costs of this project and contracting Carriers for the DAS Network at the Airport.

5.05 EXCLUSIVE RIGHT. Lessee's right to operate a DAS Network at the Airport shall be exclusive. However, in no circumstance will the DAS Network hinder, eliminate, or obstruct the Lessor's existing (as of the Effective Date) Wi-Fi connectivity or radio systems. Lessor has not granted and will not grant (directly or indirectly), after the Effective Date, a lease, license, or any other right to any third party for use of any portion of the Airport for the provision of Wireless Communication Services. Lessor shall ensure that no other party grants, after the Effective Date, a lease, license, or any other right to any third party for use of any portion of the Airport for the provision of Wireless Communication Services. As used herein, the term "**Wireless Communication Services**" shall mean and refer to any wireless, voice, data, messaging, or similar type of wireless services now or in the future offered to the public in general using spectrum radio frequencies licensed by the Federal Communications Commission or any successor agency.

5.06 SUBLEASE. Lessee shall have the right to sublease and/or license for the use of the DAS Network to Carriers as provided herein.

ARTICLE SIX

GENERAL CONDITIONS

This Lease is granted subject to the following provisions and conditions. Failure of the Lessee to comply with any requirement of Article Six shall be subject to Section 8.03(6).

6.01 RULES AND REGULATIONS. Lessor reserves the right to issue through its Director of Aviation, and Lessee and its officers, agents, employees, and servants shall obey, such reasonable rules, regulations, and procedures for activities and operations conducted at the Airport ("**Rules**") as deemed necessary to protect and preserve the safety, security, and welfare of the Airport and all persons, property, and facilities located thereon, provided the Rules shall not be enforceable against Lessee (or its officers, agents, employees, and servants) to the extent they (i) are not generally applicable to all tenants and licensees of the Airport, (ii) increase Lessee's cost to occupy the Premises, (iii) diminish Lessee's rights under this Agreement, or (iv) reduce Lessor's obligations under this Agreement. In the event there is a conflict between the provisions of this Agreement and the Rules, the provisions of this Agreement shall govern.

Lessee shall pay for all licenses, permits, clearances, rights-of-way, and other matters necessary to conduct business. Lessee shall pay all fees, taxes, and charges assessed under state, local, or federal statutes or ordinances insofar as they are applicable.

6.02 ADDITIONS, IMPROVEMENTS, OR ALTERATIONS. Lessee shall not make, permit, or suffer any additions, improvements, or alterations to the Leased Premises which constitute any major structural change without first submitting plans and specifications for such additions, improvements, or alterations to the Lessor's Director of Aviation and securing prior consent from the Director of Aviation (such consent not to be unreasonably withheld, conditioned, or delayed). Any such additions, improvements, or alterations made with the consent of the Director of Aviation shall be solely at the expense of the Lessee and such additions or improvements shall be subject to all terms and conditions of this Agreement.

Lessee has the right to modify, supplement, replace, upgrade and/or otherwise make non-structural alterations within the Equipment Space without the consent of Lessor, and Lessee has the right to modify, supplement, replace, upgrade, and expand all other portions of the DAS Network with the prior consent of Lessor, which consent will not be unreasonably withheld, conditioned or delayed. Lessee further has the right to add, modify, and/or replace, from time-to-time, the DAS Network equipment, cabling, and conduit in order to be in compliance with any current or future federal, state, or local mandated application, including but not limited to, emergency 911 communication services..

Lessee has the right to undertake appropriate means to secure the Premises at Lessee's expense. Lessee agrees to comply with all applicable governmental laws, rules, statutes, and regulations relating to construction, installation, maintenance, and use of the DAS Network in the Airport.

The Lessee agrees to hold Lessor harmless from all Mechanic's and Materialman's Liens arising from any construction, additions, improvements, repairs, or alterations effected by the Lessee. Lessor covenants and agrees that no part of the DAS Network constructed, erected, or placed on the Premises by Lessee (or any equipment or improvements owned by a Carrier) will become, or be considered as being affixed to or a part of, the Premises, it being the specific intention of Lessor that all improvements of every kind and nature constructed, erected, or placed by Lessee or its Carriers on the Premises will be and remain the property of Lessee (or its Carriers, as applicable).

6.03 ADVERTISING. Advertising may be placed at the Airport by Lessee with any party having the right to sell, rent, or offer Airport terminal advertising space. The Lessee will erect no signage at the Airport without the prior written consent of the Lessor's Director of Aviation. Said consent will not be unreasonably withheld.

- 6.04 LIENS PROHIBITED.** The Lessee shall not bind or attempt to bind the Lessor for payment of any money in connection with the construction, installations, alterations, additions, or repairs on the Leased Premises or any Lessee's equipment or facilities located on the Leased Premises, and Lessee shall not permit any mechanic's, materialman's, or contractor's liens to arise against the Leased Premises or any improvements thereon, or any equipment, machinery, or fixtures thereon belonging to the Lessor, and Lessee expressly agrees that it will keep and save the Premises and the Lessor harmless from all costs and damages resulting from any liens of any character created or that may be asserted through any act or thing done by Lessee.

In the event that, as a result of Lessee's actions, any mechanic's lien or other lien or order for payment shall be filed against the Leased Premises or improvements thereon, or against Lessor-owned property located thereon during the initial term hereof, or during any subsequent extension, Lessee shall defend on behalf of the Lessor, at Lessee's sole cost and expense, any action, suit, or proceeding which may be brought thereon or for the enforcement of such lien or order. Failure of the Lessee to comply with any requirement of this section after having received thirty (30) days written notice thereof shall be cause for termination of this Agreement by the Lessor.

- 6.05 INSPECTION OF LEASED PREMISES.** Lessee agrees that the Leased Premises will be kept reasonably clean and free of all debris and other waste matter. Lessor, acting by and through the Director of Aviation or other designated representative, shall have the right to conduct inspections of the Leased Premises at all reasonable times to ensure that fire, safety, and sanitation regulations and other provisions contained in this Agreement are being adhered to by the Lessee.

- 6.06 CUSTODIAL AND MAINTENANCE SERVICES.** The Lessee shall, at its own cost and expense, maintain the Equipment Space in a safe, clean, and presentable condition reasonably free of trash and debris and consistent with good business practices. Lessee shall repair all damages to Leased Premises caused by its employees, patrons, or business operations thereon; shall perform all maintenance and repair to the Leased Premises (excluding structural portions of the Leased Premises not installed by Lessee). The Lessor shall, at its own cost and expense, maintain non-rented portions of the Airport, including the roof, foundation, and structural floors and slabs, and load bearing walls.

- 6.07 TRASH, GARBAGE, REFUSE, ETC.** Lessee shall provide a complete and proper arrangement for the adequate sanitary handling and disposal, away from the Airport, of all trash, garbage, and other refuse produced as a result of Lessee's business operations on the Leased Premises.

- 6.08 UTILITIES.** Lessor shall, at Lessor's sole cost and expense, furnish electricity and other utilities necessary to install and operate the Network and Lessee's and Carrier's respective equipment throughout the Term. Lessee and the Carriers shall have the right to use and consume such utilities in connection with the Network and the operation of Lessee's and such Carriers' equipment installed within the Airport; provided, however, Lessee shall reimburse Lessor for metered utilities consumed by Lessee's and Carrier's equipment within the Equipment Space or other areas that may need to be metered due to excessive consumption from the operation of the DAS system.

Additional charges for extraordinary usage of electricity or other utilities shall apply if greater than the basic utilities provided. Lessee shall have the right, with written approval of Lessor, to upgrade utility service at Lessee's expense. Any charges payable by Lessee under this Agreement, such as utilities, shall be billed by Lessor within one (1) year from the end of the calendar year in which the charges were incurred; any charges beyond such period shall not be billed by Lessor, and shall not be payable by Lessee.

- 6.09 TAXES, FEES, ASSESSMENTS AND LICENSE.** The Lessee agrees to pay promptly when due all federal, state, and local government taxes, license fees, and occupation taxes levied on either Lessee's leasehold improvements at the Leased Premises or on the business conducted on the Leased Premises or on any of Lessee's property used in connection therewith, except as provided herein.

Taxation is subject to legal protest by Lessee in accordance with the provisions of the taxing authority whose levy is questioned. Any protest is at the sole expense of Lessee. Delinquency in payment of such obligations after any protest has been settled shall, at the option of the Lessor, be cause for immediate termination of this Lease.

- 6.10 APPROVALS AND DESIGN CONTINGENCY.** Lessor agrees that Lessee's ability to use the Premises is contingent upon the suitability of the Premises and the Airport for Lessee's Permitted Use and Lessee's ability to obtain and maintain all governmental licenses, permits, approvals, or other relief required of or deemed necessary or appropriate by Lessee for its use of the Premises, including, without limitation, applications for zoning variances, zoning ordinances, amendments, special use permits, and construction permits (collectively "**Government Approvals**"). Lessor authorizes Lessee to prepare, execute and file all required applications to obtain Government Approvals for Lessee's permitted use under this Agreement and agrees to reasonably assist Lessee at and with no cost to Lessor with such applications and with obtaining and maintaining the Government Approvals. In addition, Lessee shall have the right to initiate the ordering and/or

scheduling of necessary utilities. Within thirty (30) days from the Effective Date, Lessor shall provide Lessee with a complete set of as-built drawings for the Airport.

ARTICLE SEVEN
INDEMNIFICATION, INSURANCE, AND WARRANTIES

7.01 INDEMNIFICATION. Lessee covenants and agrees to indemnify, defend, and hold Lessor, its authorized agents, representatives, officers, elected officials, and employees, individually and collectively harmless from and against any and all liability for fines, claims, suits, demands, actions, or causes of action of any nature to the extent arising from any acts or omissions of Lessee, its agents, and employees under this Agreement, except to the extent attributable to the negligence or willful misconduct of Lessor and/or its employees, agents, or contractors.

To the extent permitted by law, Lessor agrees to indemnify, defend, and hold Lessee, its affiliates, and each of their respective agents, officers, employees, directors, shareholders, and partners harmless from and against any and all injury, loss, damage, or liability (or any claims in respect of the foregoing), costs or expenses (including reasonable attorneys' fees and court costs) arising directly or indirectly out of or resulting from any acts or omissions of Lessor, its agents, contractors, representatives, officers, elected officials, and employees, except to the extent attributable to the negligence or willful misconduct of Lessee and/or its employees, agents or independent contractors.

Indemnification – Environmental Harm. Without limiting any provisions of this Agreement, Lessee shall also defend, indemnify, and hold Lessor and its respective officers, employees, elected officials, and agents harmless from and against all suits, actions, claims, demands, penalties, fines, liabilities, settlements, damages, costs and expenses (including but not limited to reasonable attorney's and consultant's fees, court costs and litigation expenses) to the extent arising out of:

1. Any actual contamination by hazardous substances of the Leased Premises caused by Lessee or its agents or contamination by hazardous substances of the Airport caused by Lessee or its agents;
2. The presence, disposal, release or threatened release of hazardous substances by Lessee or its agents at the Airport that is on, from, or affects the soil, air, water, vegetation, buildings, personal property, persons, animals, or otherwise;
3. Any personal injury (including wrongful death) or property damage (real or personal) arising out of or related to the use of hazardous substances by Lessee or its agents at the Airport; or
4. Any violation by Lessee of any Environmental Laws that affects the Airport.

7.02 INSURANCE. Lessee shall maintain at all times, at its sole expense, Liability Insurance with an insurance underwriter authorized to do business in the State of Texas, against claims of bodily injury and property damage resulting from Lessee's business activities at the Airport pursuant to this Agreement. The amount of coverage shall not be less than the following:

Commercial General Liability:	\$1,000,000 Combined Single Limit; per Occurrence
Automobile Liability:	\$1,000,000 Combined Single Limit; per Occurrence
Umbrella Excess Liability:	\$4,000,000 per Occurrence
Workers' Compensation:	Statutory Amounts or Occupational Medical and Disability
Employers' Liability:	\$1,000,000

Endorsements (Copies Required): City of Lubbock as additional insured on Auto/General Liability on a primary and non-contributory basis.
Waiver of subrogation in favor of the City of Lubbock on all coverages

A current certificate of insurance and copies of the endorsements shall be provided by Lessee to the Director of Aviation of Lessor prior to the beginning of the term of this Agreement. The insurance shall also contain a provision requiring the insurer to give the Lessor written notice of cancellation or of any material change in coverage at least thirty (30) days in advance of the effective date of such cancellation or material change.

Lessee and Lessor (as allowed by law) each mutually release each other from liability and waive all right of recovery against the other for any property loss or damage covered by its own property insurance policy, and in the event of such insured loss, it is agreed that neither Party's insurance company shall have a subrogation claim against the other. Each Party shall obtain special endorsements required by its insurer to allow such waiver of rights of subrogation, but the failure to obtain same shall not impair the effectiveness of this waiver and/or release between the Parties.

7.03 INTERFERENCE. Lessor shall not allow third parties operating at the Airport to install any equipment in the Airport that would interfere with or restrict the operation of the Network. Lessor agrees should any interference be encountered in the Network operation as a result of third party's equipment in, on, or about the Airport, Lessor will require such party to eliminate such interference in a timely manner, not to exceed twenty-four (24) hours from third party's receipt of written notice from Lessor. The request for such

removal of the interference shall not be required, if such removal prevents the Airport from operating as an air passenger facility or compromises Airport safety or security. Lessor agrees should any interference be encountered in the Network operation as a result of Lessor's equipment in, on, or about the Airport, Lessor will use good faith efforts to resolve such interference within a reasonable time frame. In the event of any interference that continues beyond the cure periods stated herein, notwithstanding anything to the contrary contained in this Agreement, Lessee may (i) immediately terminate this Agreement, upon written notice to Lessor, without further liability and/or (ii) pursue radio frequency interference remedies before the FCC against the interfering party. Lessee will also have the right, in addition to any other rights it may have at law or in equity, to elect to enjoin such interference. For the purposes of this Agreement, "interference" may include, but is not limited to, any use on the Airport or surrounding areas that causes electronic, physical, or obstruction interference with, or degradation of the communications signals to or from the Communication Facility.

- 7.03 WARRANTIES.** Lessee and Lessor each acknowledge and represent that it is duly organized, validly existing, and in good standing and has the right, power, and authority to enter into this Agreement and bind itself hereto through the officer or representative set forth as signatory for the Party below.

Lessor represents, warrants, and agrees that: (i) Lessor owns the Airport and no other party has approval rights to this Agreement; (ii) Lessor grants to Lessee sole, actual, quiet, and peaceful use, enjoyment, and possession of the Premises; (iii) Lessor's execution and performance of this Agreement will not violate any laws, ordinances, covenants, or the provisions of any mortgage, lease, or other agreement binding on Lessor, (iv) if Lessor's interest in the Airport or underlying real property is a lessee's interest in a ground lease, (a) nothing in the ground lease prevents Lessor from performing its obligations or assuming liabilities as set forth in this Agreement, and Lessor covenants to take no action or fail to take any required action under the terms of such ground lease that would disturb Lessee's possession of the Premises or impair its rights under this Agreement, and (b) the term of any such ground lease permits a minimum occupancy period for Lessor for no less than the initial term of this Agreement, and all extension terms.

LESSEE MAKES NO EXPRESS WARRANTY REGARDING THE NETWORK AND DISCLAIMS ANY IMPLIED WARRANTY, INCLUDING ANY WARRANTIES OF MERCHANTABILITY OR FITNESS THEREFOR.

ARTICLE EIGHT **TERMINATION, CANCELLATION**

8.01 TERMINATION. This Lease shall terminate at the end of the Term. Lessee shall have no further right or interest in any of the Premises or improvements hereby demised, except as provided herein.

8.02 TERMINATION BY LESSEE. This Lease shall be subject to cancellation by Lessee upon the occurrence of any one or more of the following events:

1. The permanent abandonment of the Airport by the Lessor as an air terminal.
2. The lawful assumption by the United States Government, or any authorized agency thereof, of the operation, control, or use of the Airport, or any substantial part or parts thereof, in such a manner that substantially restricts Lessee for a period of at least ninety (90) days from operating thereon.
3. The issuance by any court of competent jurisdiction of an injunction in any way preventing or restraining the use and operation of the Airport for a period of at least ninety (90) days.
4. The default of the Lessor in the performance of any covenant or agreement herein required to be performed by the Lessor and the failure of the Lessor to remedy such default for a period of sixty (60) days after receipt from Lessee of written notice to remedy the same.
5. Lessor's failure to provide access pursuant to Section 5.01 within twenty-four (24) hours after receipt of written notice of such failure.
6. If Lessee is unable to obtain, or maintain, any required approval(s) or the issuance of a license or permit by any agency, board, court, or other governmental authority necessary for the construction, use, or operation of the Network as now or hereafter intended by Lessee; or if Lessee determines, in its sole discretion, that the cost of obtaining or retaining the same is commercially unreasonable.
7. If at any time prior to construction of the Network, Lessee determines that construction and installation of the Network is not feasible or suitable for Lessee, in its sole discretion.

Lessee may exercise such right of termination by giving sixty (60) days advance written notice to the Lessor at any time after the lapse of the applicable periods of time and this Lease shall terminate as of the sixty first (61st) day after such notice is given. Rental due hereunder shall be payable only to the effective date of said termination.

It is agreed that failure to declare this Lease terminated upon the default of Lessor for any of the reasons set forth above shall not be construed as a waiver of any of the Lessee's rights hereunder or otherwise bar or preclude Lessee from declaring this Agreement cancelled as a result of any subsequent violation of any of the terms or conditions of this Agreement.

8.03 TERMINATION BY LESSOR. This Lease shall be subject to cancellation by Lessor after the happening of one or more of the following events:

1. The taking by a court of competent jurisdiction of Lessee and its assets pursuant to proceedings brought under the provisions of any federal reorganization act.
2. The appointment of a receiver for Lessee's assets.
3. The divestiture of Lessee's assets by other operation of law.
4. The abandonment by Lessee of the DAS Network (not due to a Force Majeure) at the Airport for a period of three (3) months or more.
5. The failure by Lessee to pay any rentals or other charges hereunder and the failure of Lessee to remedy such failure for a period of ten (10) business days after receipt from the Lessor's Director of Aviation of written notice to remedy the same.
6. The default by Lessee in the performance of any covenant or agreement herein required to be performed by Lessee and the failure of Lessee to remedy such default for a period of thirty (30) days after receipt from the Lessor's Director of Aviation of written notice to remedy the same; provided, however, no failure will be deemed to exist if Lessee has commenced to cure the default within such 30-day period and provided such efforts are prosecuted to completion with reasonable diligence.
7. The lawful assumption by the United States Government, or any authorized agency thereof, of the operation, control, or use of the Airport, or any substantial part or parts thereof, in such a manner as to substantially restrict Lessee for a period of at least six (6) months from operating thereon.

Lessor may exercise such right of termination by giving ten (10) days advance written notice to the Lessee at any time after the lapse of the applicable periods of time, and this Lease shall terminate as of the eleventh (11th) day after such notice is given. Once Agreement is terminated, Lessor's agents may enter upon the Leased Premises and take immediate possession of the same and remove Lessee's effects. Any rental due hereunder shall be payable to said date of termination.

It is agreed that failure to declare this Lease terminated upon the default of Lessee for any of the reasons set forth above shall not be construed as a waiver of any of the Lessor's rights hereunder or otherwise bar or preclude Lessor from declaring this Agreement cancelled as a result of any subsequent violation of any of the terms or conditions of this Agreement.

8.04 REPLACEMENT AFTER DAMAGE. It is agreed between the parties hereto that in the event the Leased Premises are damaged by fire or other accidental cause during the initial term of this Lease so as to become totally or partially untenable, the Lessor shall have

the option to restore or not restore the Premises to their former condition. Lessor shall give Lessee notice in writing of Lessor's election to restore or not restore the Premises within sixty (60) days of the occurrence of such damage. If the Lessor elects to restore the Premises, the Lessor shall proceed with due diligence and there shall be an abatement of the rent until repairs have been made for the time and to the extent for which the Premises, or part thereof, have been untenantable. Should the Lessor exercise the option to not restore the Premises, the lease of such untenantable portion of the Premises shall cease and terminate effective on the date of receipt of Lessor's written election to not restore the Premises; provided, however if Lessor makes such election, Lessee may, within thirty (30) days after receipt of such written election, prior written notice to Lessor that Lessee's requests to restore the Premises at its cost and expenses, and in such case, (i) Lessor's termination may be null and void, (ii) Lessee shall restore the Premises, and (iii) there shall be an abatement of the rent until repairs have been made for the time and to the extent for which the Premises, or part thereof, have been untenantable.

8.05 CONFLICT OF INTEREST. The Lessee acknowledges it is informed that Texas law prohibits contracts between the City of Lubbock and its "officers" and "employees," and the prohibition extends to officers and employees of the City of Lubbock agencies, such as Lessor-owned utilities, and certain City of Lubbock boards and commissions, and to contract with any partnership, corporation, or other organization in which the officers or employees have a substantial interest. Lessee certifies (and this Agreement is made in reliance thereon) that neither the Lessee nor any person having an interest in this Agreement is an officer or employee of the City of Lubbock or any of its agencies, boards, or commissions.

8.06 REMOVAL OF LESSEE'S PROPERTY. Upon all amounts due the Lessor from Lessee having been paid in full, the Lessee shall, within sixty (60) days after the termination of this Lease, whether such termination comes upon expiration of the initial term, any extension, or otherwise under any provision of this Lease, remove from the Leased Premises all of Lessee's property. Notwithstanding anything to the contrary contained in this Agreement, Lessee shall not be required to remove any structural steel, foundations, or underground utilities, fiber-optic cable, coaxial cable, conduit or related equipment, and all such materials and equipment shall be deemed abandoned and shall become the property of Lessor (and not subject to additional rental charges under Section 8.07). Lessee shall restore the Premises to the original condition, normal wear and tear, and damage by casualty accepted.

8.07 OWNERSHIP. Unless a renewal agreement is executed, property that Lessee was obligated to remove under Section 8.06 that is left on the Premises after sixty (60) days from the date of termination of this Agreement shall be deemed abandoned and will

become the property of the Lessor, and may be disposed of as the Lessor sees fit, without any liability to the Lessee to account for the proceeds of any sale; and the Lessor, at its option, may require Lessee to remove such abandoned property and may charge rent from the date of expiration or termination of this Agreement through the day of final removal of the property, or of notification to the Lessee of the abandonment of the property and taking by the Lessor, as the case may be.

In the event Lessor terminates this Agreement for cause as contained in 8.03 above, or if Lessee discontinues operations at any time prior to expiration, the DAS Equipment shall not be removed until Lessee has paid all amounts due to Lessor.

- 8.08 TERMINATION OF LEASE AND SURRENDER OF LEASED PREMISES.** The Lessee covenants and agrees that at the expiration of the term of this Lease, or upon earlier termination as provided elsewhere in this Agreement, Lessee will quit and surrender the Leased Premises and the improvements in good condition, reasonable wear and tear and damage by casualty accepted, all in accordance with and subject to Section 8.07.

ARTICLE NINE

MISCELLANEOUS PROVISIONS

- 9.01 NOTICES.** Notices to the Lessor required or appropriate under this Agreement shall be deemed sufficient if in writing and hand delivered or mailed, registered, certified mail, postage prepaid, or sent via overnight courier addressed to:

Director of Aviation
Lubbock Preston Smith International Airport
5401 N. MLK Blvd., Unit 389
Lubbock, Texas 79403

Notices to the Lessee shall be deemed sufficient if in writing and hand delivered or mailed, registered, certified mail, postage prepaid, or sent via overnight courier and addressed to:

Mobilitie Investments III, LLC
Attn: Legal Department
Re: Lubbock Airport
660 Newport Center Drive, Suite 200
Newport Beach, California 92660

Notices will be deemed effective when received, refused, or returned undelivered.

- 9.02 NON-ARBITRATION.** Lessor and Lessee each reserve the right to exercise any right or remedy available to it by law, contract, equity, or otherwise, including without limitation, the right to seek any and all forms of relief in a court of competent jurisdiction. Further, the City shall not be subject to any arbitration process prior to exercising its unrestricted right to seek judicial remedy. The remedies set forth herein are cumulative and not exclusive, and may be exercised concurrently. To the extent of any conflict between this provision and another provision in, or related to, this document, this provision shall control.
- 9.03 ENTIRE AGREEMENT.** This Lease constitutes the entire Agreement between the Lessor and Lessee, and any other written or parole agreement with the Lessor is expressly waived by Lessee.
- 9.04 LIMITATION OF LIABILITY.** Except for the indemnity obligations for third party claims set forth in this Agreement, and otherwise notwithstanding anything to the contrary in this Agreement, Lessee and Lessor each waives any claims that each may have against the other with respect to consequential, incidental or special damages, however caused, based on any theory of liability.
- 9.05 GOVERNING LAW AND ATTORNEYS FEES.** This Agreement will be governed by the laws of the state of Texas. The prevailing Party in any action or proceeding in court or mutually agreed upon arbitration/mediation proceeding to enforce the terms of the Agreement shall be entitled to receive its reasonable attorneys' fees, including court, consultant, and expert costs, fees, and expenses from the non-prevailing Party.
- 9.06 FORCE MAJEURE.** Neither party shall be liable for failure to perform its obligations under this Agreement due to acts of God, the failure of equipment or facilities not owned or controlled by a party (including, but not limited to, utility service), government order or regulation or any other circumstances beyond the reasonable control of the party with the performance obligation. Such circumstances shall include Lessor or third party denial of Lessee access to the Network or other facilities or rights-of-way essential to serving the Premises.
- 9.07 SEVERABILITY.** If any provision of this Agreement is held invalid, illegal, or unenforceable by a court or agency of competent jurisdiction, (a) the validity, legality and enforceability of the remaining provisions of this Agreement are not affected or impaired in any way if the overall purpose of this Agreement is not rendered impossible and the original purpose, intent, or consideration is not materially impaired; and (b) the Parties shall negotiate in good faith in an attempt to agree to another provision (instead of the provision held to be invalid, illegal, or unenforceable) that is valid, legal, and enforceable and carries out the Parties' intentions to the greatest lawful extent.

EXECUTED this 12th day of October, 2017.

The City of Lubbock, Lessor

Mobilitie Investments III, LLC, Lessee

BY: 

DANIEL M. POPE, MAYOR

By: Mobilitie Management, LLC, Manager



Name: Christos Karmis
Title: President & CEO

Date: 9/26/17

ATTEST:


Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:


Kelly Campbell, Executive Director of Aviation

APPROVED AS TO FORM:

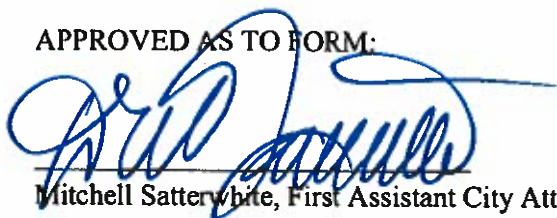
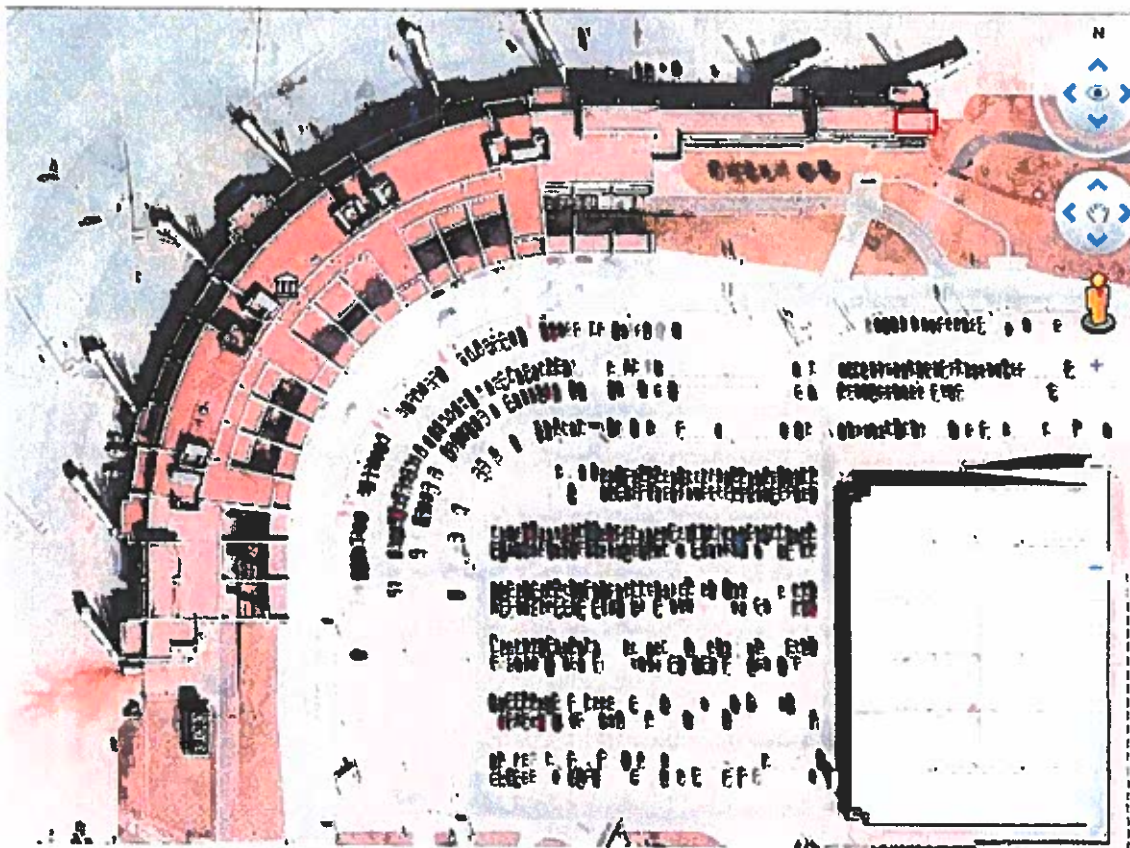

Mitchell Satterwhite, First Assistant City Attorney

EXHIBIT A
LEASED PREMISES

EQUIPMENT SPACE

The Equipment Space is approximately two hundred fifty (250) feet of space located on the Ground Level of the Airport on the East end of the Terminal Building. Lessee intends to, and Lessor shall permit Lessee to, install a locking gate around such Equipment Space and a 4' x 10' gated entryway opening to the non-secure side of the Terminal Building.

Figure 1. Equipment Space in relation to Airport Terminal Building (outlined in red below)



CERTIFICATE OF INTERESTED PARTIES**FORM 1295**

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

**OFFICE USE ONLY
CERTIFICATION OF FILING**

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

Mobilite Investments III, LLC.
Newport Beach, CA United States

Certificate Number:
2017-175016

Date Filed:
03/06/2017

Date Acknowledged:
09/27/2017

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

City of Lubbock

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

17-13161-SS
neutral-host distributed antenna system provider

4	Name of Interested Party	City, State, Country (place of business)	Nature of Interest (check applicable)	
			Controlling	Intermediary
	Mobilite Investments III, LLC.	Newport Beach, CA United States	X	

5 Check only if there is NO Interested Party. ☐

6 AFFIDAVIT

I swear, or affirm, under penalty of perjury, that the above disclosure is true and correct.

Signature of authorized agent of contracting business entity

AFFIX NOTARY STAMP / SEAL ABOVE

Sworn to and subscribed before me, by the said _____, this the _____ day of _____,
20_____, to certify which, witness my hand and seal of office.

Signature of officer administering oath

Printed name of officer administering oath

Title of officer administering oath

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

OFFICE USE ONLY CERTIFICATION OF FILING

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

Mobilitie Investments III, LLC.
Newport Beach, CA United States

Certificate Number:
2017-175016

Date Filed:
03/06/2017

Date Acknowledged:

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

City of Lubbock

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

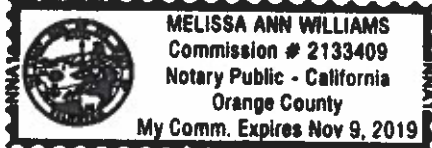
17-13161-SS
neutral-host distributed antenna system provider

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary
	Mobilitie Investments III, LLC.	Newport Beach, CA United States	X	

5 Check only if there is NO Interested Party.

☐

6 AFFIDAVIT



I swear, or affirm, under penalty of perjury, that the above disclosure is true and correct.

[Signature]
Signature of authorized agent of contracting business entity

AFFIX NOTARY STAMP / SEAL ABOVE

Sworn to and subscribed before me, by the said CHRIS GLASS, this the 6th day of MARCH, 2017, to certify which, witness my hand and seal of office.

[Signature]
Signature of officer administering oath

MELISSA WILLIAMS
Printed name of officer administering oath

Notary Public
Title of officer administering oath

June 21, 2021

Director of Aviation
Lubbock Preston Smith International Airport
5401 N. MLK Blvd., Unit 389
Lubbock, Texas 79403



**RE: Consent for Assignment of Airport Agreement with Mobilitie Investments III, LLC ("M3"),
dated as of October 12, 2017**

Ladies and Gentlemen:

M3 intends to complete a restructuring (the "Restructuring"), the result of which will be that M3 will assign all of its rights and interest in the Agreement (as defined below) to its affiliate, Mobilitie Investments III-A, LLC, a Delaware limited liability company (the "Assignee"). The Assignee was formed as a wholly owned subsidiary of M3. In connection with the Restructuring, the Assignee will, following the assignment of the Agreement to it, experience a change in ownership whereby it will become a direct subsidiary of one of its current indirect owners.

M3, amongst other certain entities affiliated with M3, intends to enter into an Investment Agreement with an affiliate of BAI Communications ("Buyer"), pursuant to which Buyer will purchase all of the membership interests in Assignee, among other entities (the "Recapitalization Transaction"). The Recapitalization Transaction is expected to close in about ninety (90) days. The Restructuring described above is being completed in anticipation of the Recapitalization Transaction.

In connection with that certain Airport Agreement by and between M3 and City of Lubbock, Texas, dated as of October 12, 2017 and to the extent applicable, any amendments, exhibits, schedules, appendices, statements of work, and other agreements executed by the parties in connection therewith (collectively, the "Agreement"), consent from City of Lubbock, Texas is required prior to an assignment thereunder.

Therefore, M3 hereby requests such consent in connection with the Agreement and respectfully requests City of Lubbock, Texas's consent by signing below.

Please return a countersigned copy of this letter to us by e-mail at chris@mobilitie.com at your earliest convenience.

If you have any questions regarding the above, please contact Chris Glass, General Counsel of Mobilitie, at (949) 999-5773 or via email at chris@mobilitie.com.

[Remainder of Page Left Intentionally Blank]

CITY OF LUBBOCK

Daniel M. Pope, Mayor

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



Kelly Campbell,
Executive Director of Aviation

APPROVED AS TO FORM:



Mitch Satterwhite,
First Assistant City Attorney

Mobilitie Investments III, LLC

By: Mobilitie Management, LLC

Its: Manager

DocuSigned by:

By: 

10C4CAT5A3BD422
Name: Chris Glass

Title: SVP and General Counsel



Regular City Council Meeting

6. 16.

Meeting Date: 07/13/2021

Information

Agenda Item

Resolution - Aviation: Consider a resolution authorizing the Mayor to execute a Development Addendum to the CARES Act Airport Grant Agreement, between the City of Lubbock and the United States of America, acting through the Federal Aviation Administration, to fund eligible projects constituting airport development under the Grant Agreement.

Item Summary

The Federal Aviation Administration (FAA) has agreed to amend its CARES Act Airport Grant Agreement 3-48-0138-045-2020 to reallocate \$574,000 of funds awarded under 3-48-0138-045-2020 for airport development. The FAA has approved the Development Addendum for Lubbock Preston Smith International Airport consisting of the following: CARES Addendum for Customs and Border Patrol Facility Rehabilitation (Design). The development addendum funds Contract 15200, Amendment No. 2 with RS&H, Inc., for the design and construction administration professional services of the Customs Facility Rehabilitation project. The amendment was approved by the City Council on April 27, 2021.

Fiscal Impact

There is no fiscal impact, as grant funds previously accepted and appropriated under the CARES grant for reimbursement of operating and maintenance costs, are reallocated through the development addendum to a separate grant.

Staff/Board Recommending

Bill Howerton, Deputy City Manager
Kelly Campbell, Executive Director of Aviation
Airport Advisory Board

Attachments

Reso - FAA Cares Act
Addendum to FAA Cares Act Airport Grant Agmt.

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LUBBOCK:

THAT the Mayor of the City of Lubbock is hereby authorized and directed to execute for and on behalf of the City of Lubbock, a Development Addendum (3-48-0138-051-2021) to that certain CARES Act Airport Grant Agreement (3-48-0138-045-2020) by and between the City of Lubbock and United States of America, acting through the Federal Aviation Administration, to fund certain eligible airport project(s) constituting airport development under said Grant Agreement, and all related documents. Said Development Addendum is attached hereto and incorporated in this Resolution as if fully set forth herein and shall be included in the minutes of the Council.

Passed by the City Council on _____.

DANIEL M. POPE, MAYOR

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



Kelly Campbell, Executive Director of Aviation

APPROVED AS TO FORM:



Mitchell Satterwhite, First Assistant City Attorney



U.S. Department
of Transportation
Federal Aviation
Administration

CARES ACT AIRPORT GRANT AGREEMENT

DEVELOPMENT ADDENDUM

Part I - Offer

Federal Award Offer Date	June 24, 2021
Airport/Planning Area	Lubbock Preston Smith International Airport
CARES Addendum Number	3-48-0138-051-2021
Unique Entity Identifier	058213893
TO:	City of Lubbock
	(herein called the "Sponsor")

FROM: **The United States of America** (acting through the Federal Aviation Administration, herein called the "FAA")

WHEREAS, the Sponsor has submitted to the FAA an application to amend Coronavirus Aid, Relief, and Economic Security Act (CARES Act or "the Act") Airport Grant Agreement 3-48-0138-045-2020 by application dated April 22, 2021, to fund Development at or associated with the Lubbock Preston Smith International Airport, included as part of this CARES Act Airport Grant Agreement Development Addendum 3-48-0138-051-2021, ("Development Addendum");

WHEREAS, the FAA has agreed with the Sponsor to amend its CARES Act Airport Grant Agreement 3-48-0138-045-2020 to reallocate \$574,000 of funds awarded under 3-48-0138-045-2020 to fund specific eligible airport project(s) constituting airport Development at an eligible airport under the Sponsor's control;

WHEREAS, the Sponsor has accepted the terms of the FAA's CARES Act Airport Grant Agreement Development Addendum offer;

WHEREAS, no other terms, conditions, or assurances of the 3-48-0138-045-2020 shall be negated as a result of this Development Addendum, including provisions regarding revenue use, Buy American, and reporting requirements;

WHEREAS, in consideration of the promises, representations and assurances provided by the Sponsor, the FAA has approved the Development Addendum for the Lubbock Preston Smith International Airport consisting of the following:

CARES Addendum for CBP Facility Rehabilitation (Design)

which is more fully described in the Project Grant Application;

WHEREAS, this Development Addendum hereby amends 3-48-0138-045-2020 for the purpose of reallocating \$574,000 of the funds originally provided under 3-48-0138-045-2020 to permit Lubbock Preston Smith International Airport to use not more than that amount to reimburse Lubbock Preston Smith International Airport for expenses incurred no earlier than March 27, 2020, until the specified Development funds have been fully expended, provided such expenses are directly related to eligible Development described in the Project Grant Application and listed below; and

NOW THEREFORE, in accordance with the applicable provisions of the CARES Act, Public Law 116-136, the representations contained in the Project Grant Application, and in consideration of, (a) the Sponsor's acceptance of this Offer for the Development described in the Project Grant Application for 3-48-0138-051-2021, the terms, conditions, and assurances of which are hereby attached to and made part of the terms, conditions, and assurances agreed to under 3-48-0138-045-2020; and, (b) the benefits to accrue to the United States and the public from the accomplishment of the Development Addendum, and in compliance with the conditions as herein provided.

THE FEDERAL AVIATION ADMINISTRATION, FOR AND ON BEHALF OF THE UNITED STATES, HEREBY OFFERS AND AGREES to pay 100% percent of the allowable costs incurred accomplishing the Development as a result of and in accordance with this Development Addendum.

Assistance Listings Number (Formerly CFDA Number): 20.106

This Offer is made on and **SUBJECT TO THE FOLLOWING ADDITIONAL TERMS AND CONDITIONS:**

CONDITIONS

SUPPLEMENTAL TO CARES ACT AIRPORT GRANT AGREEMENT 3-48-0138-045-2020 CONDITIONS #1-23

- 1a. **Maximum Obligation.** The maximum obligation of the United States payable under this Offer is **\$574,000.**

The following amounts represent the calculation(s) of the maximum total obligation by funding group, as originally allocated under 3-48-0138-045-2020, made available under the provisions of Public Law 116-136, which are hereby reallocated from 3-48-0138-045-2020 and assigned to 3-48-0138-051-2021 for the Development identified in the application:

Lubbock Preston Smith International LBB \$574,000 KDR2020

- 2a. **Grant Performance.** This Development Addendum is subject to the following Federal award requirements:

a. **Period of Performance:**

1. Remains the same as initial CARES Agreement 3-48-0138-045-2020, which is 4 years (1,460 calendar days) from the date of acceptance of that Grant Agreement. The Period of Performance end date shall not affect, relieve, or reduce Sponsor obligations and

assurances that extend beyond the closeout of the Grant Agreement or this Development Addendum.

2. Means the total estimated time interval between the start of an initial Federal award and the planned end date, which may include one or more funded portions or budget periods. (2 Code of Federal Regulations (CFR) § 200.1).

b. Budget Period:

1. For this Addendum follows the same start and end date as the Period of Performance provided in Paragraph a.1. Pursuant to 2 CFR § 200.403(h), the Sponsor may charge to the Grant only allowable costs incurred during the Budget Period.
2. Means the time interval from the start date of a funded portion of an award to the end date of that funded portion during which the Sponsor is authorized to expend the funds awarded, including any funds carried forward or other revisions pursuant to § 200.308.

c. Close Out and Termination:

1. Unless the FAA authorizes a written extension, the Sponsor must submit all Grant closeout documentation and liquidate (pay-off) all obligations incurred under this award no later than 120 calendar days after the end date of the Period of Performance. If the Sponsor does not submit all required closeout documentation within this time period, the FAA will proceed to close out the grant within one year of the Period of Performance end date with the information available at the end of 120 days. (2 CFR § 200.344).
2. The FAA may terminate this Development Addendum, in whole or in part, in accordance with the conditions set forth in 2 CFR § 200.340, or other Federal regulatory or statutory authorities as applicable.

- 6a. **Completing the Development Without Delay and in Conformance with Requirements.** The Sponsor must carry out and complete the Development without undue delays and in accordance with this Development Addendum, and the regulations, policies, and procedures of the Secretary of Transportation ("Secretary"). Per 2 CFR § 200.308, the Sponsor agrees to report to the FAA any disengagement from performing the Development under the Development Addendum that exceeds three months or a 25 percent reduction in time devoted to the project, and request prior approval from FAA. The report must include a reason for the Development stoppage. The Sponsor agrees to comply with the attached assurances, which are part of this Development Addendum and any other addendum that may be attached hereto at a later date by mutual consent. All terms, conditions, and assurances are hereby attached to and made part of the terms, conditions, and assurances agreed to under 3-48-0138-045-2020.
- 7a. **Amendments or Withdrawals before Grant Acceptance.** The FAA reserves the right to amend or withdraw this offer at any time prior to its acceptance by the Sponsor.
- 8a. **Offer Expiration Date.** This offer will expire and the United States will not be obligated to pay any part of the costs of the Development unless this offer has been accepted by the Sponsor on or before **July 23, 2021**, or such subsequent date as may be prescribed in writing by the FAA.
- 12a. **Electronic Grant Payment(s).** Unless otherwise directed by the FAA, the Sponsor must make each payment request under this Development Addendum electronically via the Delphi eInvoicing System for Department of Transportation (DOT) Financial Assistance Awardees.

22. **Air and Water Quality.** The Sponsor is required to comply with all applicable air and water quality standards for all Development in this Development Addendum. If the Sponsor fails to comply with this requirement, the FAA may suspend, cancel, or terminate this Development Addendum.
23. **Exhibit "A" Property Map.** The Exhibit "A" Property Map is incorporated herein by reference or is submitted with the Project Grant Application and made part of this Development Addendum.
24. **Informal Letter Amendment of CARES Development.** The FAA can issue an informal letter amendment that modifies the Development description in the Project Grant Application to correct administrative errors or to delete work items if the FAA finds it advantageous and in the best interests of the United States.

An informal letter amendment has the same force and effect as a formal grant amendment.

SPECIAL CONDITIONS

SUPPLEMENTAL TO CARES ACT AIRPORT GRANT AGREEMENT 3-48-0138-045-2020 SPECIAL CONDITIONS, AS APPLICABLE


1. **Buy American Executive Orders.** The Sponsor agrees to abide by applicable Executive Orders in effect at the time this Development Addendum is executed, including Executive Order 14005, Ensuring the Future Is Made in All of America by All of America's Workers.

The Sponsor's acceptance of this Offer and ratification and adoption of the Project Grant Application incorporated herein shall be evidenced by execution of this instrument by the Sponsor, as hereinafter provided, and this Offer and Acceptance shall comprise a Development Addendum, as provided by the CARES Act, constituting the contractual obligations and rights of the United States and the Sponsor with respect to the accomplishment of the Development and compliance with the assurances and conditions as provided herein. Such Development Addendum shall become effective upon the Sponsor's acceptance of this Offer.

Please read the following information: By signing this document, you are agreeing that you have reviewed the following consumer disclosure information and consent to transact business using electronic communications, to receive notices and disclosures electronically, and to utilize electronic signatures in lieu of using paper documents. You are not required to receive notices and disclosures or sign documents electronically. If you prefer not to do so, you may request to receive paper copies and withdraw your consent at any time.

I declare under penalty of perjury that the foregoing is true and correct.¹

**UNITED STATES OF AMERICA
FEDERAL AVIATION ADMINISTRATION**


Jesse Carriger (Jun 24, 2021 11:54 CDT)

(Signature)

Jesse Carriger

(Typed Name)

Manager, Texas. ADO

(Title of FAA Official)

¹ Knowingly and willfully providing false information to the Federal government is a violation of 18 U.S.C. Section 1001 (False Statements) and could subject you to fines, imprisonment, or both.

Part II - Acceptance

The Sponsor does hereby ratify and adopt all assurances, statements, representations, warranties, covenants, and agreements contained in the Project Grant Application and incorporated materials referred to in the foregoing Offer under this Development Addendum, and does hereby accept this Offer and by such acceptance agrees to comply with all of the terms and conditions in this Offer, and hereby acknowledges all terms, conditions and assures in any CARES Act Airport Grant Agreements previously or concurrently executed for any other purpose are attached to this Development Addendum.

Please read the following information: By signing this document, you are agreeing that you have reviewed the following consumer disclosure information and consent to transact business using electronic communications, to receive notices and disclosures electronically, and to utilize electronic signatures in lieu of using paper documents. You are not required to receive notices and disclosures or sign documents electronically. If you prefer not to do so, you may request to receive paper copies and withdraw your consent at any time.

I declare under penalty of perjury that the foregoing is true and correct.²

Executed this day of _____

City of Lubbock

(Name of Sponsor)

(Signature of Sponsor's Authorized Official)

By: _____

(Typed Name of Sponsor's Authorized Official)

Title: _____

(Title of Sponsor's Authorized Official)

² Knowingly and willfully providing false information to the Federal government is a violation of 18 U.S.C. Section 1001 (False Statements) and could subject you to fines, imprisonment, or both.

CERTIFICATE OF SPONSOR'S ATTORNEY

I, _____, acting as Attorney for the Sponsor do hereby certify:

That in my opinion the Sponsor is empowered to enter into the foregoing Project Grant Amendment under the laws of the State of Texas. Further, I have examined the foregoing Development Addendum and the actions taken by said Sponsor and Sponsor's official representative has been duly authorized and that the execution thereof is in all respects due and proper and in accordance with the laws of the said State and the CARES Act. In addition, for grants involving Development to be carried out on property not owned by the Sponsor, there are no legal impediments that will prevent full performance by the Sponsor. The Sponsor understands funding made available under this Development Addendum may only be used for the Development identified herein and all terms, conditions and assurances in any CARES Act Airport Grant Agreements previously or concurrently executed for any other purpose are attached to this Development Addendum. Further, it is my opinion that the said Development Addendum and all CARES Act Grant Agreements attached hereto constitute a legal and binding obligation of the Sponsor in accordance with the terms thereof.

Please read the following information: By signing this document, you are agreeing that you have reviewed the following consumer disclosure information and consent to transact business using electronic communications, to receive notices and disclosures electronically, and to utilize electronic signatures in lieu of using paper documents. You are not required to receive notices and disclosures or sign documents electronically. If you prefer not to do so, you may request to receive paper copies and withdraw your consent at any time.

I declare under penalty of perjury that the foregoing is true and correct.³

Dated this day of _____

By: _____
(Signature of Sponsor's Attorney)

³ Knowingly and willfully providing false information to the Federal government is a violation of 18 U.S.C. Section 1001 (False Statements) and could subject you to fines, imprisonment, or both.

ASSURANCES

AIRPORT SPONSORS

SUPPLEMENTAL TO CARES ACT AIRPORT GRANT AGREEMENT 3-48-0138-045-2020 AIRPORT SPONSOR ASSURANCES #1-11 IN ADDITION TO THE (A) GENERAL AND (B) SPONSOR CERTIFICATIONS

A. General.

3. These assurances are required to be submitted as part of the Project Grant Application by sponsors requesting funds under the provisions of the Coronavirus Aid, Relief, and Economic Security Act of 2020 (CARES Act or "the Act"), Public Law 116-136 for eligible Airport Development. As used herein, the term "public agency sponsor" means a public agency with control of a public-use airport; the term "private sponsor" means a private owner of a public-use airport; and the term "sponsor" includes both public agency sponsors and private sponsors.
4. Upon acceptance of this Development Addendum by the sponsor, these assurances are incorporated in and become part of this Development Addendum and all CARES Act Airport Grant Agreements 3-48-0138-045-2020, previously or concurrently executed and attached hereto.

B1. Development Addendum Sponsor Certification.

The sponsor hereby assures and certifies, with respect to this Development Addendum that:

It will comply with all applicable Federal laws, regulations, executive orders, policies, guidelines, and requirements as they relate to the application, acceptance and use of Federal funds for this Development Addendum, in addition to all applicable Federal laws, regulations, executive orders, policies, guidelines, and requirements included in all CARES Act Airport Grant Agreements 3-48-0138-045-2020, previously or concurrently executed and attached hereto, and including but not limited to the following:

FEDERAL LEGISLATION

- y. Davis-Bacon Act – 40 U.S.C. 276(a), et seq.

FEDERAL REGULATIONS

- r. 14 CFR Part 150 – Airport noise compatibility planning.
- s. 49 CFR Part 23 – Participation of Disadvantaged Business Enterprise in Airport Concessions.
- t. 49 CFR Part 24 – Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs.

C. Duration and Applicability.

1. Airport Development or Noise Compatibility Program Projects.

The terms, conditions and assurances of this Development Addendum and all CARES Act Airport Grant Agreements attached hereto shall remain in full force and effect throughout the useful life of the facilities developed or equipment acquired for an airport development or noise compatibility program project, or throughout the useful life of the project items installed within a facility under a noise compatibility program project, but in any event not to exceed twenty (20) years from the date of acceptance of a grant offer of Federal funds for the project. However, there shall be no limit on the duration of the assurances regarding

Exclusive Rights, Airport Revenue Use and Civil Rights so long as the airport is used as an airport. Also, there shall be no limit on the duration of the terms, conditions, and assurances with respect to real property acquired with federal funds.

2. Airport Development or Noise Compatibility Projects Undertaken by a Private Sponsor.

The preceding paragraph 1 also applies to a private sponsor except that the useful life of project items installed within a facility or the useful life of the facilities developed or equipment acquired under an airport development or noise compatibility program project shall be no less than ten (10) years from the date of acceptance of Federal aid for the project.

SPECIFIC ASSURANCES

Specific assurances required to be included in grant agreements by any of the above laws, regulations or circulars are incorporated by reference in this Development Addendum, in addition to those included in all CARES Act Airport Grant Agreements 3-48-0138-045-2020, previously or concurrently executed.

3A. Good Title.

For Development, including noise compatibility program projects, to be carried out on the property of the sponsor, it holds good title satisfactory to the Secretary to that portion of the property upon which Federal funds will be expended or will give assurance to the Secretary that good title will be obtained.

4. Preserving Rights and Powers.

- d. Subject to the FAA Reauthorization Act of 2018, Public Law 115-254, Section 163, it will not sell, lease, encumber, or otherwise transfer or dispose of any part of its title or other interests in the property shown on Exhibit A to this application or, for a noise compatibility program project, that portion of the property upon which Federal funds have been expended, for the duration of the terms, conditions, and assurances in this Development Addendum without approval by the Secretary. If the transferee is found by the Secretary to be eligible under Title 49, United States Code, to assume the obligations of this Development Addendum and to have the power, authority, and financial resources to carry out all such obligations, the sponsor shall insert in the contract or document transferring or disposing of the Sponsor's interest, and make binding upon the transferee all of the terms, conditions, and assurances contained in this Development Addendum and all CARES Act Airport Grant Agreements previously or concurrently executed and attached hereto.

8A. Reports and Inspections.

It will:

- a. submit to the Secretary such annual or special financial and operations reports as the Secretary may reasonably request and make such reports available to the public; make available to the public at reasonable times and places a report of the airport budget in a format prescribed by the Secretary;
- b. for airport development, make the airport and all airport records and documents affecting the airport, including deeds, leases, operation and use agreements, regulations and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request;

- c. for noise compatibility program projects, make records and documents relating to the Development and continued compliance with the terms, conditions, and assurances of this Development Addendum and all CARES Act Airport Grant Agreements previously or concurrently executed and attached hereto, including deeds, leases, agreements, regulations, and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request; and
- d. in a format and time prescribed by the Secretary, provide to the Secretary and make available to the public following each of its fiscal years, an annual report listing in detail:
 - 1. all amounts paid by the airport to any other unit of government and the purposes for which each such payment was made; and
 - 2. all services and property provided by the airport to other units of government and the amount of compensation received for provision of each such service and property.

12. Sponsor Fund Availability.

It has sufficient funds available to assure operation and maintenance of items funded under this Development Addendum which it will own or control.

13. Minimum Wage Rates.

It shall include, in all contracts in excess of \$2,000 for work on any Development funded under this Development Addendum which involves labor, provisions establishing minimum rates of wages, to be predetermined by the Secretary of Labor, in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a through 276a-5), which contractors shall pay to skilled and unskilled labor, and such minimum rates shall be stated in the invitation for bids and shall be included in proposals or bids for the work.

14. Veterans' Preference.

It shall include in all contracts for work on any Development funded under this Development Addendum which involves labor, such provisions as are necessary to insure that, in the employment of labor (except in executive, administrative, and supervisory positions), preference shall be given to Vietnam era veterans, Persian Gulf veterans, Afghanistan-Iraq war veterans, disabled veterans, and small business concerns owned and controlled by disabled veterans as defined in Section 47112 of Title 49, United States Code. However, this preference shall apply only where the individuals are available and qualified to perform the work to which the employment relates.

15. Planning for Development Projects.

In carrying out planning Development:

- . It will execute the Development in accordance with the approved program narrative contained in the Project Grant Application or with the modifications similarly approved.
- a. It will furnish the Secretary with such periodic reports as required pertaining to the planning Development and planning work activities.
- b. It will include in all published material prepared in connection with the planning Development a notice that the material was prepared using federal funds provided by the United States.
- c. It will make such material available for examination by the public, and agrees that no material prepared with funds under this project shall be subject to copyright in the United States or any other country.

- d. It will give the Secretary unrestricted authority to publish, disclose, distribute, and otherwise use any of the material prepared in connection with this Development Addendum.
- e. It will grant the Secretary the right to disapprove the sponsor's employment of specific consultants and their subcontractors to do all or any part of this project as well as the right to disapprove the proposed scope and cost of professional services.
- f. It will grant the Secretary the right to disapprove the use of the sponsor's employees to do all or any part of the Development, only if the employees are not qualified.
- g. It understands and agrees that the Secretary's approval of this Development Addendum or the Secretary's approval of any planning material developed as part of this Development Addendum does not constitute or imply any assurance or commitment on the part of the Secretary to approve any pending or future application for a Federal airport grant.

16. Operation and Maintenance.

- . The airport and all facilities which are necessary to serve the aeronautical users of the airport, other than facilities owned or controlled by the United States, shall be operated at all times in a safe and serviceable condition and in accordance with the minimum standards as may be required or prescribed by applicable Federal, state and local agencies for maintenance and operation. It will not cause or permit any activity or action thereon which would interfere with its use for airport purposes. It will suitably operate and maintain the airport and all facilities thereon or connected therewith, with due regard to climatic and flood conditions. Any proposal to temporarily close the airport for non-aeronautical purposes must first be approved by the Secretary. In furtherance of this assurance, the sponsor will have in effect arrangements for—
 - 1. Operating the airport's aeronautical facilities whenever required;
 - 2. Promptly marking and lighting hazards resulting from airport conditions, including temporary conditions; and
 - 3. Promptly notifying airmen of any condition affecting aeronautical use of the airport. Nothing contained herein shall be construed to require that the airport be operated for aeronautical use during temporary periods when snow, flood or other climatic conditions interfere with such operation and maintenance. Further, nothing herein shall be construed as requiring the maintenance, repair, restoration, or replacement of any structure or facility which is substantially damaged or destroyed due to an act of God or other condition or circumstance beyond the control of the sponsor.
- a. It will suitably operate and maintain noise compatibility program items that it owns or controls upon which Federal funds have been expended.

17. Hazard Removal and Mitigation.

As required by 49 U.S.C. 40103, the safety of air transportation has been delegated to the FAA. To assure safety of flight, the airport sponsor will take appropriate action to assure that such terminal airspace as is required to protect instrument and visual operations to the airport (including established minimum flight altitudes) will be adequately cleared and protected by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards.

18. Airport Layout Plan.

- Subject to the FAA Reauthorization Act of 2018, Public Law 115-254, Section 163, and to assure safe and efficient operation of aircraft or safety of people on the ground related to aircraft operations, the sponsor will update the airport layout plan to reflect changes to it if any of the funds provided by the CARES Act affect the following:
 1. Boundaries of the airport and all proposed additions thereto, together with the boundaries of all offsite areas owned or controlled by the sponsor for airport purposes and proposed additions thereto;
 2. The location and nature of all existing and proposed airport facilities and structures (such as runways, taxiways, aprons, terminal buildings, hangars and roads), including all proposed extensions and reductions of existing airport facilities;
 3. The location of all existing and proposed non-aviation areas and of all existing improvements thereon; and
 4. All proposed and existing access points used to taxi aircraft across the airport's property boundary. Such airport layout plans and each amendment, revision, or modification thereof, shall be subject to the approval of the Secretary which approval shall be evidenced by the signature of a duly authorized representative of the Secretary on the face of the airport layout plan. The sponsor will not make or permit any changes or alterations in the airport or any of its facilities which are not in conformity with the airport layout plan as approved by the Secretary and which might, in the opinion of the Secretary, adversely affect the safety, utility or efficiency of the airport.
- a. Subject to the FAA Reauthorization Act of 2018, Public Law 115-254, Section 163, if a change or alteration in the airport or the facilities is made which the Secretary determines adversely affects the safety, utility, or efficiency of any federally owned, leased, or funded property on or off the airport and which is not in conformity with the airport layout plan as approved by the Secretary, the owner or operator will, if requested, by the Secretary (1) eliminate such adverse effect in a manner approved by the Secretary; or (2) bear all costs of relocating such property (or replacement thereof) to a site acceptable to the Secretary and all costs of restoring such property (or replacement thereof) to the level of safety, utility, efficiency, and cost of operation existing before the unapproved change in the airport or its facilities except in the case of a relocation or replacement of an existing airport facility due to a change in the Secretary's design standards beyond the control of the airport sponsor.

19. Policies, Standards, and Specifications.

It will carry out any project funded under an Airport Improvement Program Grant in accordance with policies, standards, and specifications approved by the Secretary including, but not limited to, current FAA Advisory Circulars for AIP projects as of April 22, 2021.

20. Relocation and Real Property Acquisition.

- It will be guided in acquiring real property, to the greatest extent practicable under State law, by the land acquisition policies in Subpart B of 49 CFR Part 24 and will pay or reimburse property owners for necessary expenses as specified in Subpart B.
- a. It will provide a relocation assistance program offering the services described in Subpart C and fair and reasonable relocation payments and assistance to displaced persons as required in Subpart D and E of 49 CFR Part 24.

- b. It will make available within a reasonable period of time prior to displacement, comparable replacement dwellings to displaced persons in accordance with Subpart E of 49 CFR Part 24.

21. Disadvantaged Business Enterprises.

The sponsor shall not discriminate on the basis of race, color, national origin or sex in the award and performance of any DOT-assisted contract covered by 49 CFR Part 26, or in the award and performance of any concession activity contract covered by 49 CFR Part 23. In addition, the sponsor shall not discriminate on the basis of race, color, national origin or sex in the administration of its DBE and ACDBE programs or the requirements of 49 CFR Parts 23 and 26. The sponsor shall take all necessary and reasonable steps under 49 CFR Parts 23 and 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts, and/or concession contracts. The sponsor's DBE and ACDBE programs, as required by 49 CFR Parts 26 and 23, and as approved by DOT, are incorporated by reference in this Development Addendum and all CARES Act Airport Grant Agreements previously or concurrently executed and attached hereto. Implementation of these programs is a legal obligation and failure to carry out its terms shall be treated as a violation of this Development Addendum. Upon notification to the Sponsor of its failure to carry out its approved program, the Department may impose sanctions as provided for under Parts 26 and 23 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1936 (31 U.S.C. 3801).

Current FAA Advisory Circulars Required for Use in AIP Funded and PFC Approved Projects

View the most current versions of FAA's Advisory Circulars (A/Cs) here:

https://www.faa.gov/regulations_policies/advisory_circulars/

Airports A/Cs are found in the 150 series. In addition Airspace A/Cs, found in the 70 series, also may apply for certain projects.



Regular City Council Meeting

6. 17.

Meeting Date: 07/13/2021

Information

Agenda Item

Resolution - Public Transit Services: Consider a resolution authorizing the Mayor to execute Purchase Order 27120456, for the purchase of seven Dodge Promaster paratransit vans from Creative Bus Sales, Inc., for Citibus.

Item Summary

Purchase Order No. 27120456 in the amount of \$683,326, is for the purchase of 7 Dodge Promaster paratransit vans from Creative Bus Sales of Irving, Texas, per Contract SW0797C. The paratransit vans will replace older vehicles that have exceeded their useful life, and will reduce maintenance and parts costs.

The City of Lubbock/Citibus will use Federal Transit Administration FY 2017 & 2018 Section 5339(a) Bus and Bus Facility grant funds to purchase the paratransit vans. The local match for this purchase will be 102,499 Transportation Development Credits (TDCs) provided by the Texas Department of Transportation (TxDOT).

There was no City of Lubbock procurement process for the paratransit vans, as the vans will be purchased through the Oklahoma Office of Management & Enterprise Services Statewide Contract, which is available through an Interlocal Agreement between the City of Lubbock and the State of Oklahoma.

Fiscal Impact

Approval of this purchase order will result in no additional cost to the City of Lubbock.

The total cost of the 7 buses is \$683,326, at \$97,618 each, which is funded through Federal FY 2017 & 2018 Section 5339(a) Bus and Bus Facility grant funds. The local match for this purchase will be 102,499 TDCs provided by TxDOT.

Staff/Board Recommending

Bill Howerton, Deputy City Manager
Chris Mandrell, General Manager of Citibus

Attachments

Resolution - Promaster Paratransit vans 7-2021

PO 27120456 (L) - Creative Bus Sales, Inc.

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LUBBOCK:

THAT the Mayor of the City of Lubbock is hereby authorized and directed to execute for and on behalf of the City of Lubbock, Purchase Order No. 27120456 for the purchase of 2021 Dodge Promaster vans per Contract SW0797C, by and between the City of Lubbock and Creative Bus Sales, Inc., of Chino, California, and related documents. Said Purchase Order is attached hereto and incorporated in this resolution as if fully set forth herein and shall be included in the minutes of the City Council.

Passed by the City Council on _____.

DANIEL M. POPE, MAYOR

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



Bill Howerton, Deputy City Manager

APPROVED AS TO FORM:



Ryan Brooke, Assistant City Attorney



PURCHASE ORDER

Page - 1
Date - 6/9/2021
Order Number 27120456 000 OP
Branch/Plant 271

TO: CREATIVE BUS SALES INC
14740 RAMONA AVE
CHINO CA 91710

SHIP TO: CITIBUS
801 TEXAS AVE
LUBBOCK TX 79401

INVOICE TO: CITY OF LUBBOCK
ACCOUNTS PAYABLE
P.O. BOX 2000
LUBBOCK, TX 79457

BY: 

Marta Alvarez, Director of Purchasing and Contract Management

Ordered 6/9/2021 Freight
Requested 7/9/2021 Taken By K MORGAN
Delivery PER R WILSON REQ 57473 CONTRACT SW0797C / PUR 15979

Description/Supplier Item	Ordered	Unit Cost	UM	Extension	Request Date
2021 Dodge Promaster Van	7.000	97,618.0000	EA	683,326.00	7/9/2021
				Total Order	
Terms NET 30				683,326.00	

This agreement includes incorporation of Federal Transit Administration (FTA) Terms. The preceding provisions include, in part, certain Standard Terms and Conditions required by the Department of Transportation (DOT), whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1F, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any requests which would cause Citibus to be in violation of the FTA terms and conditions.

This purchase order encumbers funds in the amount of \$683,326.00 awarded to Creative Bus Sales, Inc. of Chino, CA on _____, 2021. The following is incorporated into and made part of this purchase order by reference Contract SW0797C and quote from Creative Bus Sales, Inc. of Chino, CA.
Resolution # _____

CITY OF LUBBOCK

ATTEST:

Daniel M. Pope, Mayor

Rebecca Garza, City Secretary

TERMS AND CONDITIONS IMPORTANT: READ CAREFULLY

STANDARD TERMS AND CONDITIONS CITY OF LUBBOCK, TEXAS

Seller and Buyer agree as follows:

SALES TAX EXEMPTION. The goods and services provided for this project are exempt from the Limited Sales, Excise and Use Tax imposed by Chapter 20, Title 122A, Taxation-General, Revised Civil Statutes of Texas.

WARRANTY OF TITLE. Contractor warrants to the City of Lubbock, its successors and assigns, that the title to the material, supplies or goods covered by the contract, when delivered to the City of Lubbock or to its successors or assigns, shall be free from all liens and encumbrances.

PRODUCT/SERVICES WARRANTY. Contractor warrants that the goods furnished under this contract conform to the contract description, are free of defects in materials and working conditions, are fit for the ordinary purposes for which such goods are used, run of even kind, quality and quantity within each unit and among all units involved, are adequately contained, packaged and labeled as the agreement may require and conform to the promises or affirmation of fact made on the container or label, if any. If the contract is for services, Contractor warrants that the services furnished hereunder conform to the contract description.

All necessary repairs, renewals, changes or modifications in the goods due to defective materials and workmanship, occurring within twelve (12) months after final acceptance of the goods, shall be promptly corrected by the Contractor at his expense, including labor and materials, with minimum inconvenience to the City of Lubbock. Where specific items of goods are guaranteed by the manufacturer for periods exceeding those shown above, such guarantees are not voided by provisions of this paragraph.

DELIVERY. Unless otherwise stated in the specifications or bid forms, the price stated in this purchase order includes freight and/or delivery charges. Complete delivery must be made within 30 calendar days after the date of the Purchase Order. Delivery will be F.O.B. the City of Lubbock C/O Citibus 801 Texas Ave. Lubbock, Texas, unless otherwise specified.

The Contractor shall:

- perform all packing, shipping, and freight of goods procured by this contract;
- assume all responsibility and risk of loss incident to said deliveries;
- clearly mark all crates delivered to the site with the Contractor's name and identification of the contents by number of pieces and item number for each piece, and the City of Lubbock Purchase Order number.

TERMINATION OF CONTRACT

Termination for Convenience. The City of Lubbock may terminate this contract, in whole or in part, at any time without cause and solely for the convenience of the City of Lubbock by giving thirty (30) calendar days written notice to the Contractor. The Contractor shall be paid fees and expenses for work performed up to the time of termination provided the Contractor submits an itemized claim within thirty (30) calendar days of the termination. If the Contractor has any property in its possession belonging to the City of Lubbock, the Contractor will account for the same and dispose of it in the manner the City of Lubbock directs.

Termination for Default. In the event that the Contractor breaches the terms or violates the conditions of the Contract to be awarded, and does not within ten (10) calendar days of written notice from the City of Lubbock cure such breach or violation, the City of Lubbock may immediately terminate the Contract, and pursue any and all legal and equitable remedies available to it against the Contractor.

Indemnification: the contractor shall indemnify, keep and save harmless the city of Lubbock, its agents, officials, and employees, against all suits or claims that may be based on any injury to persons or property that may occur, or that may be alleged to have occurred, in the course of the performance of this contract by the contractor, whether or not it shall be claimed that the injury was caused by the negligence of the City of Lubbock, its officers, employees or agents. Contractor shall, at his own expense defend any and all actions, and shall at his own expense pay all charges of attorney fees and all costs and other expenses arising there from or incurred in connection therewith; and if any judgment shall be rendered against the city of Lubbock in any such action, the contractor shall at his own expense satisfy and discharge the same.

BILLING. Invoice(s) shall be submitted in duplicate to Accounts Payable, City of Lubbock, P.O. Box 2000 Lubbock, Texas 79457. Each invoice shall contain the following information: purchase order number, item number, brief description of goods, sizes, serial numbers, quantities, unit prices, and total and applicable project numbers.

PAYMENT TO CONTRACTOR. Terms shall be net thirty (30) calendar days after receipt of an invoice and after acceptance of the goods by the City of Lubbock, whichever is later. In the event payment is not made within thirty (30) calendar days, the Contractor shall submit a reminder invoice marked overdue. If the invoice contains an error, the invoice will not be classified as a properly submitted invoice.

DISCOUNTS. Discounts that are included in offers become a part of the resulting contracts and are binding on the Contractor for all orders placed under the Contract. Discounts offered only on individual invoices will be binding on the Contractor only for the particular invoice on which the discount is offered.

FEDERAL CHANGES: Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Agreement between the City of Lubbock and FTA, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS: The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1F, dated March 3, 2013, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any the City of Lubbock requests that would cause the City of Lubbock to be in violation of the FTA terms and conditions. WWW.FTA.DOT.GOV

As required under the OSHA Hazard Communication Standard 29 CFR 1910.1200, a material safety data sheet (MSDS) must precede or accompany the initial shipment of any hazardous material defined as such under the Act. For items previously ordered, an MSDS must also be supplied if the MSDS has changed since the previous shipment.

The City reserves the right to exercise any right or remedy to it by law, contract, equity, or otherwise, including without limitation, the right to seek any and all forms of relief in a court of competent jurisdiction. Further, the City shall not be subject to any arbitration process prior to exercising its unrestricted right to seek judicial remedy. The remedies set forth herein are cumulative and not exclusive, and may be exercised concurrently. To the extent of any conflict between this provision and another provision in, or related to, this document, this provision shall control.

NON-ARBITRATION: The City reserves the right to exercise any right or remedy available to it by law, contract, equity, or otherwise, including without limitation, the right to seek any and all forms of relief in a court of competent jurisdiction. Further, the City shall not be subject to any arbitration process prior to exercising its unrestricted right to seek judicial remedy. The remedies set forth herein are cumulative and not exclusive, and may be exercised concurrently. To the extent of any conflict between this provision and another provision in, or related to, this document, this provision shall control.

The City Right to Audit At any time during the term of the contract, or thereafter, the City, or a duly authorized audit representative of the City or the State of Texas, at its expense and at reasonable times, reserves the right to audit Contractor's records and books relevant to all services provided to the City under this Contract. In the event such an audit by the City reveals any errors or overpayments by the City, Contractor shall refund the City the full amount of such overpayments within thirty (30) days of such audit findings, or the City, at its option, reserves the right to deduct such amounts owing the City from any payments due Contractor.

House Bill 2015, signed by the Governor on June 14, 2013 and effective on January 1, 2014, authorizes a penalty to be imposed on a person who contracts for certain services with a governmental entity and who fails to properly classify their workers. This applies to subcontractors as well. Contractors and subcontractors who fail to properly classify individuals performing work under a governmental contract will be penalized \$200 for each individual that has been misclassified. Governmental entities may want to include information on this new misclassification penalty in their contracts with entities that are providing services covered by this new requirement (Texas Government Code Section 2155.001).

Master Agreement

For Federal Transit Administration Agreements authorized by 49 U.S.C. chapter 53, Title 23, United States Code (Highways), the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, as amended by the SAFETEA-LU Technical Corrections Act of 2008, the Transportation Equity Act for the 21st Century, as amended, the National Capital Transportation Act of 1969, as amended, the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, February 17, 2009, or other Federal laws that FTA administers. FTA MA (26) February 9, 2021.

<https://www.transit.dot.gov/funding/grantee-resources/sample-fta-agreements/fta-grant-agreements>The Master Agreement can be found in its entirety on the City of Lubbock website www.ci.lubbock.tx.us/



State of Oklahoma Contract

FY 2020

Preparer: Brent Roy

Base Model Price: \$ 87,068.00

Options: \$ 1,365.00

Other Available Options: \$ 2,485.00

Unpublished Options: \$ 6,700.00

LONE STAR
ADA Vans
A Division of **FOREST RIVER**

Vehicle Length	Lift Position	WC Positions	Total # Passengers	CDL Required
21'	Front	2	7	No

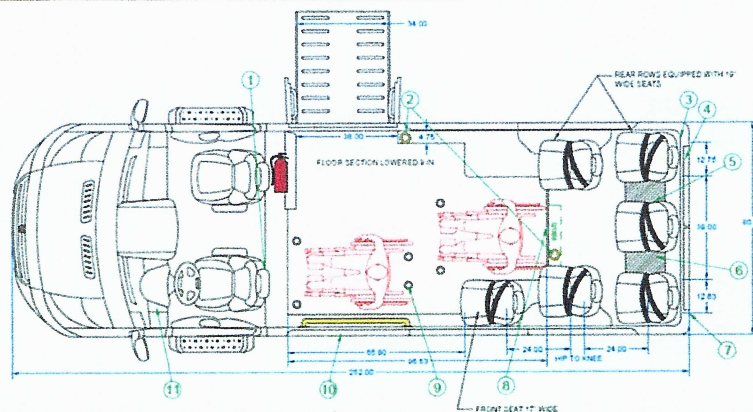
QTY Vehicles:	1	Total Contract Price:	\$ 97,618.00
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Per Vehicle Price: \$ 97,618.00

Customer Info

Customer:	Citibus
Address:	801 Texas Ave, Lubbock, TX 79457
Contact:	Chris Mandrell
Office Phone:	806-712-2001
Mobile Phone:	806-679-4452
E-Mail:	cmandrell@citibus.com

Floorplan





Base Model Features Type O - Front Ramp Full Size Conversion Van

Chassis

Ram Promaster 3500 High Roof chassis - 9,350 GVWR, 159" WB EXT
3.6L V6 24V VVT gasoline engine
6-Speed Automatic 62TE Transmission
220-amp alternator
Power-assisted hydraulic front & rear disc brakes
4-wheel anti-lock brake system
24-gallon OEM fuel tank
16"x6" aluminum wheels
Cruise control
Cloth driver and co-pilot seats
Driver/Co-pilot sun visor
Power windows
Power door locks
Power-heated mirrors
OEM chassis dash heater, A/C, and defroster
Bright white clear coat

Body

Lowered floor behind driver/co-pilot for ADA access
Driver side step
Electric passenger entry door (A&M Systems)
3-pt passenger seat belts
ABS interior paneling - walls and ceiling
Altro flooring

ADA

Manual swing away ramp providing 32" usable width
One (1) set of Q'Straint retractable wheelchair securement systems
ADA interlock
ADA-compliant ramp and door entrance lighting

Safety

5 lb. fire extinguisher
First aid kit
Emergency triangle kit
Backup alarm
Emergency window



Creative Bus Sales

OPTIONS

Type O - Front Ramp Full Size Conversion Van

Qty	Description	FY 2020 List Price	QTY Total
1	Outside Passenger Door Switch	\$ 180.00	\$ 180.00
1	Additional Wheelchair Securement Position (includes Q'Straint Q'UBE system)	\$ 1,185.00	\$ 1,185.00
-	Subtotal Manufacturer Options:		\$ 1,365.00



Creative Bus Sales

OTHER AVAILABLE OPTIONS

Type O - Front Ramp Full Size Conversion Van

Qty	Description	FY 2020 List Price	QTY Total
1	Q'Straint InQline Winch System	\$ 2,485.00	\$ 2,485.00
-	Subtotal Manufacturer Options:		\$ 2,485.00



Creative Bus Sales

CBS UNPUBLISHED OPTIONS

Type O - Front Ramp Full Size Conversion Van

Qty	Description	FY 2020 List Price	QTY Total
1	Upgrade to 40" Passenger Entrance Door	\$ 1,650.00	\$ 1,650.00
1	Upgrade to 34" Wide swing-Away Manual Ramp	\$ 625.00	\$ 625.00
1	Seon camera system installed	\$ 4,425.00	\$ 4,425.00
1	Delete 1 seat in rear row and upgrade to 19" seats in last 2 rows	\$ -	\$ -
-	Subtotal CBS Unpublished Options:		\$ 6,700.00



Texas Department
of Motor Vehicles

MOTOR VEHICLE DIVISION

FRANCHISED MOTOR VEHICLE DEALER

LICENSE NO: C138028

GENERAL DISTINGUISHING NUMBER:

P118245

Motor Vehicle

Creative Bus Sales, Inc.
4955 W NORTHGATE DR.
IRVING, TEXAS MONTGOMERY 75062

EXPIRES: 06-30-2022
PHYSICAL LOCATION:
4955 WEST NORTHGATE DRIVE
IRVING, TEXAS DALLAS 75062

THIS DEALERSHIP IS LICENSED TO ONLY SELL THE FOLLOWING LINE(S) OF NEW MOTOR VEHICLES:

Challenger : BS-Bus, STARCRAFT BUS & MOBILITY : BS-Bus, Crusader : BS-Bus, EC II : BS-Bus, Senator II : BS-Bus, Candidate II : BS-Bus, Arboc :
BS-Bus, MV-1 : AA-Passenger Auto, Senator HD : BS-Bus, ELDORADO NATIONAL CALIFORNIA : BS-Bus, ELKHART COACH : BS-Bus, Hometown
Trolley : BS-Bus, GLAVAL BUS : BS-Bus, Defender : BS-Bus, Berkshire Coach : BS-Bus, KSIR Bus : BS-Bus, ELDORADO NATIONAL KANSAS : BS-Bus,
Goshen : BS-Bus, World Trans : BS-Bus

ADDITIONAL LOCATION(S): For used vehicle sales only
3880 Valley View Ln, Dallas, Irving, Texas, 75062-2418

HAVING SATISFIED THE APPLICABLE REQUIREMENTS OF CHAPTER 2301 OF THE TEXAS OCCUPATIONS CODE, CHAPTER 503 OF THE TEXAS TRANSPORTATION CODE, AND THE RULES OF THE BOARD, THE PERSON NAMED ABOVE IS HEREBY LICENSED WITH THE TEXAS DEPARTMENT OF MOTOR VEHICLES, MOTOR VEHICLE DIVISION.

Daniel Avitia

Daniel Avitia, Director
Texas Department of Motor Vehicles
Motor Vehicle Division

WARNING: PENAL CODE SECTION 37.10, PROVIDES THAT TAMPERING WITH A GOVERNMENTAL RECORD IS AN OFFENSE PUNISHABLE AS A SECOND-DEGREE FELONY.

SUPPLEMENTAL LICENSE INFORMATION



Texas Department
of Motor Vehicles

MOTOR VEHICLE DIVISION

FRANCHISED MOTOR VEHICLE DEALER

LICENSE NO: C138028

GENERAL DISTINGUISHING NUMBER:

P118245

Motor Vehicle

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ADDITIONAL LOCATION(S): For used vehicle sales only

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Regular City Council Meeting

6. 18.

Meeting Date: 07/13/2021

Information

Agenda Item

Resolution - Public Transit Services: Consider a resolution authorizing the Mayor to execute an Interlocal Agreement between the City of Lubbock, acting by and through Citibus, with Dallas Area Rapid Transit, for a GoPass Subscription and License Pilot.

Item Summary

The Interlocal Agreement between the City of Lubbock/Citibus and Dallas Area Rapid Transit (DART), a regional transportation authority, is for licensing of the GoPass mobile ticketing application for a 6-month pilot project with one-time fees for onboarding, hosting and maintenance, and a service level agreement.

The GoPass application is an all-inclusive travel mobile application that provides mobile ticketing and multimodal trip planning functions. The application supports the Mobility as a Service (MaaS) model by combining transportation services from public and private transportation providers through a unified gateway.

The agreement will give Citibus and its passengers the full functionality of the GoPass mobile application through the duration of the pilot project. Implementation of the project is expected to take 3 months from a fully executed agreement.

This agreement shall commence on the date it is executed and shall remain in effect for a 6-month pilot project with the option to extend to a 3-year term.

Fiscal Impact

This GoPass Pilot Project will cost \$47,674 for the 6-month pilot, which will be paid for with FY 2020 Federal CARES grant funds, and no local match is required.

Staff/Board Recommending

Bill Howerton, Deputy City Manager
Chris Mandrell, General Manager of Citibus
Public Transit Advisory Board

Attachments

GoPass Pilot Resolution
GoPass - DART Interlocal Agreement

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LUBBOCK:

THAT pursuant to the authority of the Texas Government Code, Chapter 791, the Interlocal Cooperation Act, the Mayor of the City of Lubbock is hereby authorized and directed to execute for and on behalf of the City of Lubbock an Interlocal Agreement for GoPass Subscription and License Pilot by and between the City of Lubbock and Dallas Area Rapid Transit, a regional transportation authority created under Chapter 452 of the Texas Transportation Code, and all related documents. Said Agreement is attached hereto and incorporated in this Resolution as if fully set forth herein and shall be included in the minutes of the Council.

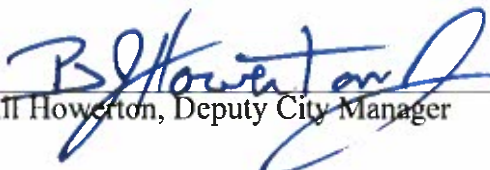
Passed by the City Council on _____.

DANIEL M. POPE, MAYOR

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



Bill Howerton, Deputy City Manager

APPROVED AS TO FORM:



Ryan Brooke, Assistant City Attorney

RES. Interlocal Agreement for GoPass Subscription-DART
6.28.21

Exhibit A

INTERLOCAL AGREEMENT FOR GOPASS SUBSCRIPTION AND LICENSE PILOT

This agreement ("Agreement") is between the City of Lubbock acting by and through Citibus ("Citibus"), located at 801 Texas Ave, Lubbock, TX 79401 and Dallas Area Rapid Transit ("DART"), a regional transportation authority created under Chapter 452 of the Texas Transportation Code, located at 1401 Pacific Street, Dallas TX 75202 (each herein referred to as a "Party" and collectively referred to as the "Parties"). The Agreement governs the City of Lubbock's public transportation provider, Citibus, Use (defined below) of a certain mobile ticketing application, generally referred to as "GoPass®", limited as set forth herein.

WHEREAS, DART has a contractual relationship with Unwire ApS ("Unwire"). Unwire maintains, develops and hosts the System and provides support services as defined in the Service Level Agreement ("SLA"); and

WHEREAS, Citibus desires, under the terms of this Agreement to access and utilize the System; and

WHEREAS, DART and Citibus are authorized to enter into this Agreement pursuant to the authority of the Texas Government Code, Chapter 791, the Interlocal Cooperation Act.

NOW THEREFORE, for and in consideration of the mutual covenants of the Parties set forth herein, and for other good and valuable consideration the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:

1. DEFINITIONS.

- a. "Acceptance", as used herein, means the act of an authorized representative of Citibus who approves specific services, as partial or complete performance of this Agreement.
- b. "App" or "Application" means the customer facing aspects of the System.
- c. "Back Office" means the portion of the System which administers and supports the Application.
- d. "Confidential Information" means all information relating to the System, including the results of any testing performed under this Agreement. Confidential Information is made up of proprietary and trade secret information.
- e. "Correction," as used herein, means the elimination of a defect.
- f. "Documentation" means the System technical manuals, training materials, specifications or other documentation applicable to the System software provided to Citibus by DART.
- g. "Licensor" means Unwire ApS. Unwire ApS may also be referred to as "Unwire" throughout this Agreement.
- h. "System" means the mobile ticketing application, the software, and the Back Office

related to GoPass and any Upgrades made available hereunder to Citibus by DART.

- i. "Upgrades" means all updates, upgrades, bug fixes, error corrections, enhancements and any other modifications to the System and backup copies of the related software.
- j. "Use" or "Using" means to download, install, activate, access or otherwise use the System.

2. **ACCEPTANCE OF TERMS.** By signing this Agreement, Citibus agrees to be bound by the terms of the Agreement. The undersigned signatories on behalf of Citibus and DART represent he or she has signing authority. If the undersigned does not have such authority, Citibus may not Use the System provided by DART in any way, it may not be installed or downloaded, and it must be returned to DART in accordance with the notice provision here within three (3) days of the date Citibus received the software.

3. **LICENSE, CONDITIONS, AND OWNERSHIP.**

- a. Subject to payment of the License Fees (defined below) set forth in Exhibit A, attached hereto and incorporated herein for all purposes, as well as compliance with this Agreement, DART grants Citibus a limited, non-exclusive, non-sublicensable, and non-transferable license to Use the System as set forth herein and solely for Citibus' internal operations, in accordance with the Documentation, and within Citibus' existing service area. Citibus is solely responsible for the consequences of Citibus' Use including, without limitation, obtaining any and all permits, licenses and other regulatory or other approvals required for such Use. Citibus hereby accepts all responsibility for such Use at Citibus' sole risk. The System software provided to Citibus hereunder may contain open source software, subject to separate license terms made available with the software or Documentation.
- b. Citibus' license is valid solely for the Term or period of time specified below in Section 14 hereof. Citibus' right to Use the System software begins on the date the software is made available to Citibus for download or installation and continues until the end of the Term set forth below, unless otherwise terminated earlier under this Agreement or otherwise.
- c. Citibus is solely responsible for: (a) selecting the appropriate software and equipment for use in Citibus' operations; (b) properly installing and configuring any System software provided under this Agreement; (c) testing the Application to verify that, when used separately or as part of Citibus' operations, the Application and the System software provided operate as intended and according to the Documentation; and (d) ensuring that the System and software provided meets Citibus' requirements. Citibus assumes all risks arising from its evaluation of the System, related software and Documentation.
- d. The license granted hereunder is conditioned upon Citibus' payment to DART when due of the then-current one-time and recurring fees (individually, a "Fee" and collectively "Fees") as well as any other applicable fees (all Fees dues hereunder, collectively "License Fees") for the license granted herein, as set forth in Exhibit A.
- e. Upon termination of the SLA for the software provided, and in the absence of an alternate written agreement for maintenance services for the software, this Agreement

will automatically terminate, DART and its Licensor shall have no further obligation to deliver maintenance services, and Citibus shall have no further right to Use the System in any way. DART shall provide Citibus notice within 30 days prior to termination of the SLA. Citibus acknowledges that its Use of any System software not permitted hereunder violates the terms of this Agreement and is deemed to infringe the rights of DART, Licensor, and any third parties with rights in and to the System.

- f. DART and/or Licensor retain interests in all intellectual property rights in and to the System, including copies, improvements, enhancements, derivative works and modifications of the related software. Citibus' right to Use such software is limited to those expressly granted by this Agreement. No other rights with respect to the System or any related intellectual property rights (including logos or marks) are granted or implied. Citibus hereby covenants that it will not challenge DART's or Unwire's rights to or ownership of the System (including derivatives and improvements), any DART, Unwire, or GoPass entity trade name, trademark, trade device, logo, symbol or code and the goodwill associated therewith, and related intellectual property rights, or directly or indirectly, assert any rights with respect to any of the foregoing inconsistent with DART's or Unwire's interests thereto or do or suffer to be done any other act or thing that might in any way impair the rights of DART or Unwire in and to any of the foregoing.
4. **INVOICES**. Invoices for License Fees shall be issued as provided in Exhibit A and payment is to be due thirty (30) days after the invoice date. All payments to DART shall be in U.S. dollars and in immediately available funds. Any failure to pay such invoices within ten (10) days of when due (subject to any legitimately disputed amount which may be temporarily withheld by Citibus for no more than thirty (30) days) shall entitle DART to terminate the license granted hereunder and all rights to the System software provided and any other rights addressed or granted herein.
5. **LIMITATIONS AND RESTRICTIONS**. Citibus shall not: and will not authorize a third party to:
- a. transfer, sublicense, or assign Citibus' rights under this license to any other person or entity, unless expressly authorized by DART and Unwire in advance in writing;
 - b. modify, adapt or create derivative works of the System software or Documentation;
 - c. reverse engineer, decompile, decrypt, disassemble or otherwise attempt to derive the source code for the System;
 - d. make the functionality of the System or System software available to third parties, whether as an application service provider, or on a rental, service bureau, cloud service, hosted service, or other similar basis unless expressly authorized by DART and Unwire in advance in writing;
 - e. use System software that is licensed for a specific device, whether physical or virtual, on another device, unless expressly authorized by DART and Unwire in advance in writing;
 - f. remove, modify, or conceal any product identification, copyright, proprietary, intellectual property notices or other marks on or within the System; or

- g. take or permit any act that would in any way impair the rights of DART and Unwire in the System.

6. **DART RESPONSIBILITIES.**

- a. **Communication.** DART shall identify a project representative to coordinate all communication with Citibus regarding this Agreement. Citibus shall not communicate with DART's licensors with regard to this Agreement or with regard to changes or additional features of the System, unless expressly agreed to in advance by DART. Notwithstanding the foregoing, reference is made to Exhibit C, attached hereto and incorporated herein for all purposes, which is executed by Unwire and which sets out services to be provided to Citibus by Unwire.
- b. **Tickets.** DART shall incorporate or cause to be incorporated, Citibus ticket types, pricing, logo and service marks into the App and make the Citibus tickets available for sale to the public in the App. DART reserves the right to exclude any ticket type and shall provide notice of such exclusion to Citibus.
- c. **Refunds.** As part of resolving customer complaints, DART may make refunds to Citibus customers. Refunds shall only be made by DART for tickets that have not been activated and where the refund amount is \$15.00 or less. This amount may be changed by written agreement of the Parties and without the need to amend this Agreement. Any other refunds to Citibus customers shall require the approval of Citibus. Refunds by DART shall be processed electronically with Citibus funds accessed through the Back Office.
- d. **Back Office.** DART shall provide or cause to be provided to Citibus a portal to a portion of the Back Office to access Citibus data. Citibus data shall be available in the Back Office for at least eighteen (18) months from the date of the transaction.
- e. **App Stores.** DART shall be responsible for posting the App to the appropriate App stores and for keeping the App current, as DART determines to be necessary, at no charge to Citibus. DART shall promote the App at DART's discretion.
- f. DART will provide commercially reasonable efforts to: (a) cause the System to be delivered to Citibus without disruption to functionality, and (b) to cooperatively resolve any issues either or both Parties may have with Unwire or each other.

7. **CITIBUS RESPONSIBILITIES.**

- a. **Communication.** Citibus shall identify a project representative to coordinate all communication with DART regarding this Agreement.
- b. **Back Office.** To the extent currently available, and as may be further available during the Term of this Agreement, Citibus shall be responsible for modifying Citibus' user interfaces that are available for sale in the App using tools available in the Back Office. It shall be Citibus' responsibility to ensure that the data entered is accurate, either by direct data entry when available to Citibus, or by consistent and diligent review when direct data entry is not available to Citibus. DART assumes no responsibility for the accuracy of Citibus' data.

- c. Tickets. Until Citibus has obtained direct access for data entry, Citibus shall provide information about the user interfaces (ticket type and price) that it desires to be made available through the App. Citibus shall notify DART in writing of changes in such information.

8. **WARRANTY.**

Unwire warrants that the System provided under this Agreement will be free from defects in workmanship and will conform to requirements of this Agreement. Citibus shall provide written notice to DART of any defect or nonconformance of the System to be addressed by Unwire. This notice shall state whether Citibus requests or requires Correction of such defect or shall indicate that Citibus does not require correction. If Unwire is required to correct or reperform, it shall be at no cost to Citibus and Correction provided by Unwire shall be subject to the terms of this Agreement to the same extent as work initially performed.

The System does not include fail-safe control functionality and is not designed, manufactured, intended, nor authorized to be used to provide fail safe functionality and is not licensed for use in the operation of transportation navigation systems, transportation communication systems, traffic control facilities or electrical facilities or for any other use in which the failure of the System, System software or any component thereof could lead to death, personal injury, physical, environmental, property or financial damage. The System software is provided "as is" and DART and Unwire expressly disclaims all warranties, conditions or other terms, whether express, implied or statutory, including without limitation, warranties, conditions or other terms regarding merchantability, fitness for a particular purpose, design, condition, capacity, performance, title, and non-infringement. DART and Unwire does not warrant that the System or System software will operate uninterrupted or error-free or that all errors will be corrected. DART and Unwire does not warrant that the System or system software or any equipment, system or network on which the software is used will be free of vulnerability to intrusion or attack.

9. **LIMITATIONS AND EXCLUSIONS OF LIABILITY.** In no event will DART and Licensor be liable for the following, regardless of the theory of liability, or whether arising out of the Use or inability to Use the System, System software, contract, warranty, tort (including negligence), product liability or: (a) indirect, incidental, exemplary, special or consequential damages; (b) loss or corruption of data or interrupted or loss of business; or (c) loss of revenue, profits, goodwill or anticipated sales or savings. DART and Licensor also disclaims any and all responsibility for costs that may be incurred by Citibus resulting from downtime of the Payment Service Provider's services. Liability, if any, of DART, Licensor, its affiliates, officers, directors, employees, agents, suppliers, and licensors collectively, to Citibus, whether based in warranty, contract, tort (including any level of negligence), or any other theory, if available at all, shall not exceed the License Fees paid by Citibus to DART in the twelve (12) months preceding the claim. This limitation of liability is cumulative and not per incident. Nothing in this Agreement limits or excludes any liability that cannot be limited or excluded under applicable law. DART in no way intends to nor shall be deemed to herein or by performing hereunder to have waived any governmental immunity, defenses or limitations on liability available to DART under Texas or any other applicable law. CITIBUS HEREBY ACKNOWLEDGES AND AGREES THAT THE TERMS AND PROVISIONS OF THIS AGREEMENT, INCLUDING WITHOUT LIMITATION THE EXHIBITS AND THE PRICES

AND OTHER CHARGES CONTEMPLATED HEREIN, ARE BASED UPON THE LIMITED WARRANTY, LIMITATIONS OF LIABILITY, DISCLAIMERS AND INDEMNIFICATION PROVISIONS SET FORTH HEREIN, AND THAT DART WOULD NOT HAVE ENTERED INTO THIS AGREEMENT OR GRANTED CITIBUS THE RIGHTS SET FORTH HEREIN IN THE ABSENCE OF ANY OF THESE PROTECTIONS AND PROVISIONS.

10. **UPGRADES AND ADDITIONAL COPIES OF SOFTWARE.**

Notwithstanding any other provision of this Agreement, Citibus is not permitted to use Upgrades unless Citibus, at the time of acquiring such Upgrade:

- a. already holds a valid license for the original version of the relevant System software, is in compliance with such license, and has paid DART the applicable License Fee for the Upgrade;
- b. limits Citibus' Use of Upgrades or copies to Use on devices Citibus owns or leases; and
- c. unless otherwise provided in the Documentation, makes and Uses additional copies solely for backup purposes, and which backup is limited to archiving for restoration purposes.

11. **TOKEN SHARING AGREEMENT.** The Token Sharing Agreement governing certain payment procedures and protocols, attached hereto as Exhibit B, and incorporated herein for all purposes, will simultaneously be executed by the Parties upon execution of this Agreement.

12. **SERVICE LEVEL AGREEMENT.** Terms for the Service Level Agreement ("SLA") are included in Exhibit C. DART and Unwire have certain responsibilities for performing troubleshooting activities and support for Citibus as detailed in Exhibit C. Unwire is solely responsible for maintaining GoPass service availability and responsible for any penalties related to any deficiencies in SLA performance as set out in Exhibit C. Unwire is solely responsible for maintaining GoPass service availability and responsible for any penalties related to any deficiencies in SLA performance as set out in Exhibit C. Notwithstanding the foregoing, certain service incidents shall also be reported to DART as set out in Exhibit C.

13. **AUDIT.** During the Term hereof and for a period of three (3) years after its expiration or termination, Citibus will take reasonable steps to maintain complete and accurate records of Citibus' use of the System and System software sufficient to verify compliance with this Agreement. Within a reasonable period following a written request from DART, not more than once annually, Citibus will certify accurate counts regarding Citibus' Use of the System software. If the certified count discloses underpayment of License Fees, Citibus will promptly pay such License Fees to DART, plus an interest rate of five percent (5%) per annum on unpaid sums.

14. **TERM AND TERMINATION.** This Agreement shall commence on the date it is last executed by a Party and shall remain effective for six (6) months thereafter ("Initial Term"), unless earlier terminated as set forth herein. Citibus agrees that as consideration of this pilot program, a three year licensing agreement be ready for approval by the

Parties within 4 months from execution of the Pilot Agreement. This Agreement will terminate at DART's discretion and upon written notice from DART if Citibus breaches its terms, or if Citibus fails to pay any portion of the License Fees as required herein and Citibus fails to cure that breach or non-payment within sixty (60) days of written notice of breach or non-payment. Upon termination of this Agreement and/or the license grant, Citibus shall cease Use of the System and shall destroy all copies of System software in Citibus' possession or control.

15. **TRANSFERABILITY**. This Agreement may not be assigned without the prior written consent of the other Party, which may be withheld for any reason. Notwithstanding the foregoing, either Party may transfer this Agreement, upon reasonable, and no less than thirty days, advance written notice to the other Party, to a wholly owned-subsiary of the transferring Party; and DART may transfer this Agreement to a party approved by the DART Board of Directors.

Citibus may not transfer or assign these license rights to another person or entity without DART's advance written approval. Any attempted transfer or assignment in violation of the foregoing shall be void and of no effect.

16. **SURVIVAL**. Sections 3(f), 5, 8, 9, 10, 13, 15, 17, 18, 19, 20, 21, 22, and 23 shall survive termination or expiration of this Agreement.

17. **CONFIDENTIALITY**. Subject to applicable statutory requirements, including any applicable open records requirements each Party shall keep such Confidential Information provided by the other confidential and shall not use the Confidential Information for the benefit of any third party or in violation of the terms of this Agreement. Except as required by applicable law, Citibus shall not disclose such information to any other person or entity, except to employees who require access to such information in order to Use the System as contemplated herein, and then only after obtaining an agreement from said employees to keep the Confidential Information confidential to the same extent as required herein. Citibus may only use the Confidential Information as necessary to exercise the rights expressly granted hereunder. Subject to applicable law, including applicable records retention requirements, upon expiration or termination of this License, Each Party shall destroy all Confidential Information learned or received from the other and provide written certification of same signed by an officer of that Party. Except when disclosure is required by law each Party shall be responsible for ensuring that any third party receiving Confidential Information from such Party shall comply with the confidentiality and non-disclosure terms herein and shall be responsible for any breach thereof by any third party. Any breach of the provisions of this Section is a breach of this Agreement and may cause irreparable harm to the non-breaching Party who shall be entitled to receive injunctive or equitable relief, in addition to all other available legal remedies.

18. **RELEASE**. Citibus hereby unconditionally and irrevocably releases and discharges DART AND LICENSOR AND THEIR EMPLOYEES, DIRECTORS, CONTRACTORS, SUPPLIERS, AND LICENSORS (collectively, the "DART Parties") from any and all loss, claim, damage or other liability associated with, arising from or related to Citibus' evaluation, access, or Use of the System, System software or Documentation, and to the extent allowed by law, hereby agrees to indemnify, defend and hold DART and the DART Parties harmless against any such liability, including without limitation, any liability resulting from DART's negligence at any level. The parties expressly acknowledge that

the City of Lubbock's authority to indemnify and/or hold harmless any third party is governed by Article XI, Section 7 of the Texas Constitution and any provision which purports to require indemnification by the City is invalid.

19. **OTHER REMEDIES.** Nothing contained herein shall limit any remedies that either Party may have for default under this Agreement, nor relieve either Party of any of its obligations incurred prior or after to termination of this Agreement.
20. **GOVERNING LAW, JURISDICTION AND VENUE.** This Agreement, including, without limitation, its validity, interpretation, construction, performance, and enforcement, will be governed, interpreted and construed in accordance with the laws of the State of Texas. Venue for any action brought in connection or related with this Agreement shall be only in Dallas County, Texas or the Federal District Court, Northern District of Texas, Dallas Division. By their signatures below, the Parties irrevocably submit themselves to exclusive jurisdiction as set forth herein.
21. **INTEGRATION AND SEVERABILITY.** If any portion of this Agreement is found to be void or unenforceable, the remaining provisions of the Agreement shall remain in full force and effect. Except as expressly stated or as expressly amended in a signed agreement, this Agreement constitutes the entire agreement between the Parties with respect to the license of the System to Citibus and any other related matter and supersedes any conflicting or additional terms contained in any other agreement, any request for proposal or other proposal, purchase order or elsewhere, all of which terms are excluded.
22. **REPRESENTATION BY COUNSEL.** Each Party to this Agreement acknowledges that such Party has: (a) read this Agreement in its entirety; (b) had full opportunity to review this Agreement; and (c) been (or had the opportunity to be) represented by competent counsel in connection with this Agreement, the negotiation of the terms and conditions set forth in this Agreement and the transactions contemplated by this Agreement. Accordingly, the language used in this Agreement shall be deemed to be the language chosen by the Parties to express their mutual intent. Any rule of law or any legal decision that would require interpretation of any claimed ambiguities in this Agreement against the drafting Party has no application and is expressly waived by Citibus.
23. **REGISTERED TRADEMARKS.** Citibus acknowledges that "DART", the DART logo and "GoPass" are trademarks or registered trademarks of DART and/or its affiliates in the U.S. and other countries. Third party trademarks mentioned are the property of their respective owners and no rights relative thereto are granted, unless specifically set forth herein.
24. **INDEPENDENT PARTIES.** The relationship described in this Agreement is contractual in nature between independent parties and is not to be construed to create a partnership, joint venture, joint enterprise or agency relationship.
25. **NO THIRD PARTIES.** Nothing in this Agreement shall be construed to create any rights in a third party nor do the Parties intend to create any third-party beneficiaries.
26. **NOTICES.** Any notice required or permitted to be given by any Party to another shall be in writing and shall be deemed to have been duly given when sent by certified mail,

return receipt requested, in a postage paid envelope addressed to the Party at the Party's address as set out below:

DART: Dallas Area Rapid Transit
1401 Pacific Avenue
Dallas, Texas 75202
Attention: Executive Vice President and Chief Administrative Officer

Citibus: Citibus
801 Texas Ave.
Lubbock, TX 79401
Attention: General Manager

27. **COUNTERPARTS.** This Agreement may be entered into in multiple counterparts, each of which shall be deemed an original but all of which shall constitute one and the same Agreement.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement in multiple originals, effective as of the date last signed by a Party.

DALLAS AREA RAPID TRANSIT

CITIBUS

By: David Leininger
David Leininger
Interim President & Chief
Executive Officer

By: _____

Date: June 24, 2021

Date: _____

Exhibits to Agreement. Exhibits B and C to be executed simultaneously with this Agreement.

Exhibit A Exhibit A: Pricing & Feature Scope

Exhibit B Token Sharing Agreement

Exhibit C Service Level Agreement

Citibus PILOT ILA Agreement – Exhibit A: Pricing & Feature Scope

Feature Scope:

GoPass App Delivery

Overview: Develop Citibus instance within the GoPass branded application and includes all key features of the native GoPass application.

Implementation timeline: Implementation is expected to take three months from fully executed interlocal agreement.

One-time Fees:

Pro-rated set-up fee:	\$5,833
Program Management fee:	\$24,000
Operational fee:	\$7,287
Service Level Agreement (SLA) fee:	\$3,000
Spare Labs Microtransit integration fee:	\$3,000
Spare Labs Microtransit operational fee:	Waived
Credit card & interchange gateway fees:	\$4,554
Total:	\$47,674

Feature Delivery Invoicing Schedule:

50% Invoiced on commencement of work, 50% upon Acceptance by Citibus

Interlocal Agreement Pricing Limitation

Both DART and Citibus agree that, for the purposes of this six month pilot program and scope of services outlined in this agreement, total fees are not to exceed \$50,000.

Citibus ILA Agreement – Exhibit B – Citibus Token Sharing Agreement

This agreement ("Agreement") is between the City of Lubbock acting by and through Citibus ("Citibus"), located at 801 Texas Ave, Lubbock, TX 79401 and Dallas Area Rapid Transit ("DART"), a regional transportation authority created under Chapter 452 of the Texas Transportation Code, located at 1401 Pacific Street, Dallas TX 75202 (each referred to as a "Party" and collectively referred to as the "Parties"). The Agreement governs the Citibus' public transportation provider, Citibus, Use (defined below) of a certain mobile ticketing application, generally referred to as "GoPass®", limited as set forth herein .

WHEREAS, the Parties have entered into an Interlocal Agreement dated simultaneously herewith to provide mobile ticketing services in order to allow Citibus to access and utilize GoPass mobile ticketing products; and

WHEREAS, in order to facilitate payment processing, the Parties desire to enter into this Agreement regarding certain data sharing.

NOW THEREFORE, for and in consideration of the mutual covenants of the Parties set forth in this Agreement, and for other good and valuable consideration, the receipt and adequacy of which is acknowledged by the Parties, the Parties agree as follows:

1.00 DEFINITIONS

- 1.01. "Token" means unique identification symbols that identify a credit card number of a User (defined below).
- 1.02. "Service Provider" means a third party engaged by DART or a contractor of DART to convert credit card numbers of Users to encrypted digital representations ("Tokens").
- 1.03. "User" means a customer of one of the Parties that purchases a product or services from that Party on the mobile ticketing platform.
- 1.04. "Unwire" means Unwire ApS,.

2.00 SHARING OF TOKENS

- 2.01. When a User registers itself with one of the Parties on the mobile ticketing platform the User registers a credit card. The credit card information will be sent to a service provider who will provide with a Token to be used for future transactions with the User.
- 2.02. A Token may be shared between Parties or with Unwire or another contractor of DART.
- 2.03. The Parties will not receive any payment for sharing Tokens.

3.00 RIGHTS IN DATA

- 3.01. This Token Sharing Agreement ("Agreement") shall not be deemed in any way grant to any Party any property or other rights to any Token that was received or shared by that

Party with the other Party or with a third party.

- 3.02. Upon termination of this Agreement, the Parties shall delete any and all Tokens and records of Tokens from storage and use and the Parties shall no longer be entitled to use such Tokens for any purpose.

4.00 **TERM, WITHDRAWAL AND TERMINATION**

This Agreement shall be effective as of the date last signed by a Party and shall remain effective for the duration of and be conterminous with the Interlocal Agreement between DART and Citibus dated of even date herewith (the "ILA") governing the use of GoPass

5.00 **MISCELLANEOUS PROVISIONS**

- 5.01. Liability. It is understood and agreed between the Parties that each Party shall be responsible for its own acts of negligence in connection with this Agreement and neither Party shall be responsible to another Party for any negligent act or omission in connection with this Agreement. If injury, financial, or property damage results from the joint or concurrent negligence of any of the Parties, liability, if any, shall be shared by each Party on the basis of comparative responsibility in accordance with the applicable laws of the State of Texas, subject to all defenses available, including governmental immunity. No provision herein shall be deemed a waiver of any defense by any Party.
- 5.02. Contractual Relationship. It is understood and agreed that the relationship described in this Agreement between the Parties is contractual in nature between independent Parties and is not to be construed to create a partnership, joint venture, joint enterprise or agency relationship between the Parties. No Party shall be liable for any debts incurred by the other Party in the conduct of such other Party's business or functions.
- 5.03. Assignment. This Agreement may not be assigned by any Party without the prior written consent of the other Party, which consent may be withheld in the sole discretion of the Party being asked to consent.
- 5.04. Amendments to Agreement. No modification, amendment, innovation, renewal or other alteration of this Agreement shall be effective unless mutually agreed upon in writing, duly authorized and executed by the Parties hereto.
- 5.05. Severability. If any provision of this Agreement is held for any reason to be illegal, unenforceable or invalid, such holding will not affect the legality or validity of any of the other provisions herein. The illegal, unenforceable or invalid provision will be deemed stricken and deleted from this Agreement, but all other provisions shall continue and be given effect as if the illegal or invalid provisions had never been incorporated.
- 5.06. Choice of Laws and Venue. This Agreement shall be governed by Texas law and exclusive venue shall be in Dallas County, Texas.
- 5.07. Counterparts. This Agreement may be executed in multiple counterparts. Each of the counterparts shall be deemed an original instrument, but all of the counterparts shall constitute one and the same instrument.
- 5.08. Survival of Covenants. Any of the representations, warranties, covenants, and obligations of the Parties, as well as any rights and benefits of the Parties, pertaining to a period of

time following the termination of this Agreement, shall survive termination.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement in multiple originals effective as of the date last signed by a Party.

DALLAS AREA RAPID TRANSIT

CITIBUS

By:


David Leininger
Interim President & Chief
Executive Officer

By: _____

Date:

June 24, 2021

Date: _____

Citibus ILA Agreement – Exhibit C – Service Level Agreement

Contents

1.00	PURPOSE	18
2.00	SERVICE LEVELS	18
3.00	HOSTED BACK END SERVICE AVAILABILITY	18
3.1	SERVICE WINDOWS	19
3.2	AVAILABILITY PENALTY	19
4.00	INCIDENT MANAGEMENT	20
4.1	INCIDENT REACTION TIMES.....	22
4.2	END-USER CLIENT APP BUGS	22
5.00	TECHNICAL SUPPORT ENQUIRIES	23
6.00	REPORTING.....	24
7.00	HOSTING.....	24
8.00	CUSTOMER'S SECURITY OBLIGATIONS.....	24

1.00 PURPOSE

This is a Service Level Agreement ("SLA") between Unwire ApS ("Unwire"), Dallas Area Rapid Transit ("DART") and the City of Lubbock acting by and through Citibus ("Citibus"), for IT services required to support and sustain GoPass as provided to City by Dallas Area Rapid Transit ("DART" or "Vendor"). Unwire is solely responsible for GoPass service availability and for any availability penalties in accordance with Table 4.

DART's responsibility under this SLA is limited to assistance in remediation of incidents reported to DART within DART business hours. Any and all other obligations and liabilities under this SLA are obligations of Unwire.

This Agreement remains in effect until superseded by a revised agreement mutually endorsed by Unwire, DART and Citibus or terminated as set forth herein. This Agreement is coterminous with the Interlocal/Sublicensing Agreement (the "ILA") between DART and Citibus dated of even date herewith.

2.00 SERVICE LEVELS

Unwire offers three (3) service levels as specified below. For the avoidance of doubt all times referred to in this SLA are cited as CST/CDT (US Central Standard Time/US Central Daylight Time), whichever one is applicable for Citibus from time to time, unless otherwise specified.

Table 1 Service Levels

Service Levels	Description
Standard	Access to Vendor's technical support services within Vendor's business hours.
Plus	Same as <i>Standard</i> plus additional access to server duty Monday-Friday 17:00- 22:00 in case of P1 Events*
Premium	Same as <i>Standard</i> plus additional access to server duty 24 hours a day, 7 days a week, 365 days a year in case of P1 Events*

* As defined in Tables 5a to 5c below.

Citibus will be provided "Premium" service level. The price to Citibus for these services is reflected in the ILA. DART's business hours are 09.00-17.00 Monday-Friday (CST/CDT), excluding US public holidays and Decembers 24 and December 31. Business days are Monday-Friday, excluding US public holidays and 12/24 and 12/31.

Unwire business hours are from 09.00-17.00 Monday-Friday (CET/CEST), excluding Danish public holidays and December 24 and December 31. A full list of Danish national holidays can be found at this location: <https://www.worlddata.info/europe/denmark/public-holidays.php>

3.00 HOSTED BACK END SERVICE AVAILABILITY

Availability of the hosted services is measured on a quarterly basis, recognized as 1st quarter (January through March), 2nd quarter (April through June), 3rd quarter (July through September) and 4th quarter (October through December) of the calendar year.

Table 2 Uptime

Service Level	Agreed Availability	Period
Standard	≥ 98,00%	Per quarter
Plus	≥ 99,50%	Per quarter
Premium	≥ 99,90%	Per quarter

Availability Calculation

Service Availability is measured in percentages and calculated as follows:

$$\text{Service Availability (\%)} = \frac{\text{Agreed Service Time} - \text{Downtime}}{\text{Agreed Service Time}} \times 100$$

Agreed Service Time herein means 24 hours a day, 7 days a week, 365 days a year. For example, 2nd quarter has an Agreed Service Time of 2,184 hours.

Downtime is defined as the percentage of time for which the hosted business critical service(s) is/are down. All types of breakdown/incidents, irrespective of reason, caused by payment providers, telecoms operators, telecoms companies, energy supply companies and any third party services are not considered as "Downtime" as defined herein. Amazon AWS is not seen as a third party for purposes of this definition. Service windows announced in accordance with the SLA are not considered Downtime. Any downtime caused by Citibus that affects the software and the systems without Unwire's prior approval is not considered Downtime.

3.1 SERVICE WINDOWS

Service windows related to necessary system changes and maintenance will be made outside normal working hours as set forth in Table 3. Unwire reserves the right to extend the service windows for Premium level (01.00-05.00) if server/networks installations and system restructuring are required. A temporary extension of hours will not be considered downtime.

Table 3 Service Windows

Service Level	Service Windows
Standard	18.00 – 08.00 (Business Days)
Plus	22.00 – 06.00 (one day a week)
Premium*	02.00 – 04.00 (one day a week)

**For Premium level: All regular and extended service windows are notified by Unwire email. All regular service windows are notified one day in advance and extended service windows (01.00-05.00) are notified one week in advance.*

3.2 AVAILABILITY PENALTY

If system availability fails to comply with the applicable service level, Citibus will be compensated by Unwire as set forth in Table 4. This compensation will appear in the monthly invoice to Citibus.

Table 4 Availability penalty

Service Level	Availability Penalty
Standard	"Compensation value": None
Plus	"Compensation value": 15% of the monthly fixed SLA charge for each absolute percentage discrepancy (However, no more than 25% of the monthly SLA fee)
Premium	"Compensation value": 75% of the monthly SLA Charge for each absolute percentage discrepancy (However, no more than 100% of the monthly SLA fee)

Penalties cannot co-exist. Only the penalty with the highest compensation value will apply. The compensation value will be provided as a service credit.

4.00 INCIDENT MANAGEMENT

DART and Unwire will remedy reported incidents in accordance with the guidelines set forth in this SLA agreement.

P1 incidents within DART business hours: Within DART business hours, all P1 incidents must be reported to DART as set forth below:

email to GOPASS@dart.org Phone to 214-907-3905

P1 incidents outside DART business hours: Outside DART business hours, all P1 incidents must be reported by phone as set forth below:

phone to +1-855-631-8909

P2-P4 incidents (DART business hours only): All P2-P4 incidents must be reported as set forth below:

email to GOPASS@dart.org Phone to 214-907-3905

Incidents are categorised in accordance with the following Tables 5a, 5b and 5c.

Table 5a Incident severity definitions

Severity category	Description
Critical	<p>Complete loss of service or functionality with critical impact to business services, i.e. significant loss of revenue, customer service, production, corporate reputation or financial control.</p> <p>Examples of Critical issues would be:</p> <ul style="list-style-type: none"> • Customers cannot access GoPass at/after opening • Tickets cannot be activated or viewed • Ticket purchase cannot be completed

Severity category	Description
High	<p>Loss of service or functionality, which will degrade parts of the business services. instability, large delays and periodic influences or the user experience.</p> <p>Examples of High issues would be:</p> <ul style="list-style-type: none"> • Access to travel tools is not available • Customers cannot access OTP • Service is consistently unavailable and causes a high level of hindrance
Medium	<p>Service partly degraded or parts of the customers' whole service not available.</p> <p>Examples of Medium issues would be:</p> <ul style="list-style-type: none"> • Access other integrated apps such as e.g. PayNearMe, BCycle and other integration points • Features of the application are not updating or displaying correctly • Customer cannot store or modify payment method or features in their profile • App is an inconvenience or causes inconsistent behavior, which does not impede the normal functioning of the app • Outage creates time outs resulting in multiple charges to the bank with no delivery of tickets in the app • Performance of the service is severely impacted

Table 5a Incident severity definitions (continued)

Severity category	Description
Low	<p>Issues in a redundant element or incidents not critical for the business services.</p> <p>Examples of Low issues would be:</p> <ul style="list-style-type: none"> • Customers cannot register their device • Customers not able to view or activate their tickets due to device issues • Citibus unable to access reports

Table 5b Incident impact definitions

Impact category	Description
Extensive	All end-users affected
Significant	A large number of end-users affected (more than 25% of end users)
Limited	A limited group of end-users affected (more than 5% and lower than 25% of end users)
Local	Very few or only one end-user affected

Table 5c Incident priority definitions

Impact category	Severity category			
	Critical	High	Normal	Low
Extensive	P1	P1	P2	P4
Significant	P1	P2	P3	P4
Limited	P2	P3	P3	P4
Local	P3	P3	P4	P4

4.1 INCIDENT REACTION TIMES

Troubleshooting begins as stated in Table 6a and 6b:

Table 6a Time specification for troubleshooting of incidents related to the hosted backend system

Incident category	Initiated troubleshooting
P1	Within 2 hours
P2	Within 4 business hours
P3	Within 2 business days
P4	Within 4 business days

Table 6b Time specification for troubleshooting of incidents related to the end-user client app

Incident category	Initiated troubleshooting
P1	Within 2 business hours
P2	Within 8 business hours
P3	Next (non-started) app release or max thirty (30) calendar
P4	Will be monitored and recurring cases will be investigated in next (non- started) app release or within ninety (90) calendar days

4.2 END-USER CLIENT APP BUGS

Work related to fixing bugs due to an OS update or carrier or device manufacturer permutations of the OS code will be priced separately.

Neither DART nor Unwire will remediate bugs on devices not running the latest OS release or the release before that. Neither DART nor Unwire will remediate bugs for client apps not using the latest app version. Troubleshooting will take place within the timeframes stated in Table 7. The reaction time is calculated from the time the incident is reported by email until the first reply has been made to the user by email or phone.

Table 7 Troubleshooting service level windows vs. incident categories

Table 1: Troubleshooting service level windows vs. incident categories

		Severity Category			
Service Level	System	Critical	High	Medium	Low
Standard	Backend system and end user client app	Unwire Business Hours	Unwire Business Hours	Unwire Business Hours	Unwire Business Hours
Plus	End user client app	Same as Standard			
	Backend system	Monday-Friday 09.00-22.00 (CEST/CEST) excl. Danish public holidays and 24/12 and 31/12	Same as Standard		
Premium	End user client app	Same as Standard			
	Backend system	24 hours a day, 7 days a week, 365 days a year	Same as Standard		

5.00 TECHNICAL SUPPORT ENQUIRIES

In addition to reporting incidents and bugs as per above, Citibus may make a number of cost-free support inquiries to DART (questions or requests for assistance per month), as set forth below.

Support inquiries shall be made by email to GOPASS@dart.org

Table 8 Technical support enquiries

Service Level	Technical support inquiries
Standard	4 support inquiries within business hours per month
Plus	6 support inquiries within business hours per month
Premium	12 support inquiries within business hours per month

Assistance over and above the amount in Table 8 will be invoiced in accordance with the support rates per initiated hour specified in Pricing Exhibit within the ILA. Citibus will not be invoiced for any time spent unless Citibus has been informed in advance.

6.00 REPORTING

For Premium level, Citibus shall receive reports on a quarterly basis, recognized as 1st quarter, 2nd quarter, 3rd quarter and 4th quarter of the calendar year the following month.

The report is based on data from the internal monitoring systems and other internal data sources.

The report includes the following data:

6.1. Service availability

6.2. Overview of bug reports and inquiries processed in DART's service desk with open and closed status

If any P1 incidents occurs, an incident report will by request be created to Citibus including affected services, root cause description and corrective actions.

7.00 HOSTING

To ensure all data is stored and processed in the US as well as to ensure a flexible and scalable solution for future growth, the GoPass ticket application service is located in a public cloud environment at Amazon Web Service. The hosted service is within Region US-east-1 (US East (N. Virginia)). For Premium service level the hosted service will be located in 2 (two) availability zones to ensure high availability.

Unwire's production and staging environment will be located at the public cloud environment. Other environments, such as test setup, will be located at Unwire's private cloud environment in Copenhagen, Denmark or in a public cloud environment in Europe. No personally identifiable information ("PII") will be transferred to these environments. Only maintenance and administration tools may be used from the private cloud environment in Denmark.

8.00 LIMITATION AND EXCLUSIONS OF LIABILITY

Liability, if any, of DART and/or Unwire, and/or their affiliates, officers, directors, employees, agents, suppliers, to Citibus, whether based in warranty, contract, tort (including negligence), or otherwise, shall not exceed the License Fees paid by Citibus to DART in the twelve (12) months preceding any such claim. This limitation of liability is cumulative and not per incident. Nothing in this Agreement limits or excludes any liability that cannot be limited or excluded under applicable law.

9.00 CUSTOMER'S SECURITY OBLIGATIONS

Citibus' conduct may affect the operation of the systems. In order to guard against unauthorized access to the Citibus' information and operation, services are protected by an access control function. This is predominately based on the use of a user ID and associated passwords where the passwords are known only by the user. A prerequisite for this protection to be effective is that, Citibus contributes to maintaining this All parties to include Unwire, DART and Citibus undertake to inform one another of any irregularities of which they may become aware concerning data security, including any attempts to misuse or ascertained misuse of user ID and/or passwords.

Citibus and DART are obliged to follow all third party safety precautions and rules, preconditioned that the Citibus is or should be familiar with the fact that third party components or services are

used by the system. Citibus is required to follow obligations under Texas and Federal law with respect to PII and sensitive personal information.

If the Customer's security obligations are not fulfilled, Unwire and DART's SLA obligations will become void.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in multiple originals effective as of the date last signed by a Party.

DALLAS AREA RAPID TRANSIT

By: 
David Leininger
Interim President & Chief Executive
Officer

Date: June, 24, 2021

CITIBUS

By: _____

Date: _____

UNWIRE

By: _____

Date: _____



Regular City Council Meeting

7. 1.

Meeting Date: 07/13/2021

Information

Agenda Item

Board Appointments - City Secretary: Consider appointments to the Appointments Advisory Board, Building Board of Appeals, Canadian River Municipal Water Authority Board of Directors, Citizens Traffic Commission, Civic Lubbock, Inc. Board of Directors, Comprehensive Plan Oversight Committee, Lubbock Water Advisory Commission, Permit and License Appeal Board, and the Planning and Zoning Commission.

Item Summary

Consider appointments to the Appointments Advisory Board, Building Board of Appeals, Canadian River Municipal Water Authority Board of Directors, Citizens Traffic Commission, Civic Lubbock, Inc. Board of Directors, Comprehensive Plan Oversight Committee, Lubbock Water Advisory Commission, Permit and License Appeal Board, and the Planning and Zoning Commission.

Fiscal Impact

None

Staff/Board Recommending

Rebecca Garza, City Secretary

Attachments

No file(s) attached.



Regular City Council Meeting

7. 2.

Meeting Date: 07/13/2021

Information

Agenda Item

Public Hearing - Planning: Consider a request for Zone Case 3298-C, a request of Hugo Reed and Associates, Inc. for Ford Development Corporation, for a zone change from Two-Family District (R-2) Specific Use to Restricted Local Retail District (C-2A) at 3726 and 3716 146th Street, located north of 146th Street and east of Memphis Avenue, on 4.3 acres of unplatted land out of Block AK, Section 4, and consider an ordinance.

Item Summary

For detailed information on this request, please refer to the Planning Department Staff Report attached hereto. As noted in the report, staff recommends approval of the request. The Planning and Zoning Commission heard this case on June 3, 2021, and recommended approval of the request by a unanimous vote.

Fiscal Impact

None

Staff/Board Recommending

Jesica McEachern, Assistant City Manager
Bryan Isham, Director of Planning
Planning and Zoning Commission

Attachments

Ordinance 3298-C
Staff Report 3298-C
Documentation 3298-C

ORDINANCE NO. _____

AN ORDINANCE AMENDING ZONING ORDINANCE NO. 7084 AND THE OFFICIAL MAP OF THE CITY OF LUBBOCK MAKING THE FOLLOWING CHANGES: ZONE CASE NO. 3298-C; A ZONING CHANGE FROM R-2 SPECIFIC USE TO C-2A ZONING DISTRICT AT 3726 AND 3716 146TH STREET, LOCATED NORTH OF 146TH STREET AND EAST OF MEMPHIS AVENUE, ON 4.3 ACRES OF UNPLATTED LAND OUT OF BLOCK AK, SECTION 4, LUBBOCK, TEXAS; PROVIDING A PENALTY; PROVIDING A SAVINGS CLAUSE; AND, PROVIDING FOR PUBLICATION.

WHEREAS, the proposed changes in zoning as hereinafter made have been duly presented to the Planning and Zoning Commission for its recommendation which was received by the City Council and, after due consideration, the City Council found that due to changed conditions, it would be expedient and in the interest of the public health, safety and general welfare to make those proposed changes in zoning; and

WHEREAS, the 2040 Future Land Use Plan is a guide to help the Lubbock Planning and Zoning Commission and the City Council determine the physical development of the community; however, planning is a continuous process and change is inevitable; and

WHEREAS, the Lubbock Planning and Zoning Commission and City Council recognize that the zone change is a minor deviation from the 2040 Future Land Use Plan, which protects the public and private commitments that have been previously based on the Plan; and

WHEREAS, all conditions precedent required by law for a valid amendment to the Zoning Ordinance and Map have been fully complied with, including giving notices in compliance with Section 40.01.005 of the Code of Ordinances, City of Lubbock, Texas, and the notices provided by the Texas Local Government Code §211.007 (Vernon, 1990), and notice was duly published in the Lubbock Avalanche-Journal more than fifteen (15) days prior to the date of the public hearing before the City Council on such proposed amendment, and the public hearing according to said notice, was held in the City Council Chamber of the Municipal Building, Lubbock, Texas, at which time persons appeared in support of the proposal; and after said hearing, it was by the City Council determined that it would be in the public interest, due to changed conditions, that the Zoning Ordinance and the Zoning Map be amended in the manner hereinafter set forth in the body of this Ordinance and this Ordinance having been introduced prior to first reading hereof; **NOW THEREFORE:**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LUBBOCK:

ZONE CASE NO. 3298-C

SECTION 1. THAT Ordinance No. 7084 and the Official Zoning Map are amended as follows:

A change of zoning under the provisions of Section 40.01.005 of the Code of Ordinances of the City of Lubbock from **R-2 Specific Use** to **C-2A** zoning district at **3726 and 3716 146th Street, located north of 146th Street and east of Memphis Avenue, on 4.3 acres of unplatted land out of Block AK, Section 4, City of Lubbock, Lubbock County, Texas, and being further described as follows:**

METES AND BOUNDS DESCRIPTION: Attached as Exhibit "A".

SECTION 2. THAT violation of any provision of this Ordinance shall be deemed a misdemeanor punishable by fine not to exceed Two Thousand and No/100 Dollars (\$2,000.00) as provided in Section 40.01.006 of the Zoning Ordinance of the City of Lubbock.

SECTION 3. THAT should any paragraph, sentence, clause, phrase or word of this Ordinance be declared unconstitutional or invalid for any reason, the remainder of this Ordinance shall not be affected thereby.

SECTION 4. THAT the City Secretary is hereby authorized to cause publication of the descriptive caption of this Ordinance as an alternative method provided by law.

AND IT IS SO ORDERED.

Passed by the City Council on first reading on _____.

Passed by the City Council on second reading on _____.

DANIEL M. POPE, MAYOR

ATTEST:

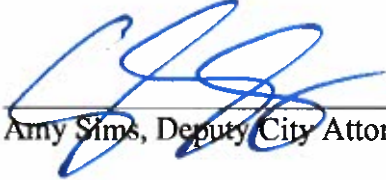
Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



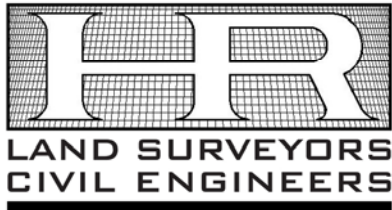
Bryan Isham, Director of Planning

APPROVED AS TO FORM:



Amy Sims, Deputy City Attorney

vw/cityatt/Kelli/ZoneCase/ZC3298-C
June 3, 2021



HUGO REED AND ASSOCIATES, INC.
1601 AVENUE N / LUBBOCK, TEXAS 79401 / 806/763-5642 / FAX 806/763-3891
TEXAS REGISTERED ENGINEERING FIRM F-760
TEXAS LICENSED SURVEYING FIRM 100676-00

PROPOSED C-2A ZONING

METES AND BOUNDS DESCRIPTION of an approximate 4.3 acre tract of land located in Section 4, Block AK, Lubbock County, Texas, being further described as follows:

BEGINNING at a point in the East right-of-way line of Memphis Avenue as described under County Clerk File Number 2017022407 of the Official Public Records of Lubbock County, Texas, for the most Westerly Southwest corner of this tract, which bears N. 01°47'11" E. an approximate distance of 85.0 feet and N. 88°12'49" W. an approximate distance of 2602.5 feet from the Southeast corner of Section 4, Block AK, Lubbock County, Texas;

THENCE N. 01°47'11" E., along the East right-of-way line of said Memphis Avenue, an approximate distance of 70.0 feet to a point;

THENCE N. 00°38'27" E., continuing along the East right-of-way line of said Memphis Avenue, an approximate distance of 150.0 feet to a point;

THENCE N. 01°47'11" E., continuing along the East right-of-way line of said Memphis Avenue, an approximate distance of 101.7 feet to a point for the most Westerly Northwest corner of this tract;

THENCE N. 46°47'11" E. an approximate distance of 14.1 feet to a point for the most Northerly Northwest corner of this tract;

THENCE S. 88°12'49" E. an approximate distance of 298.5 feet to a point;

THENCE S. 82°47'19" E. an approximate distance of 99.0 feet to a point;

THENCE S. 77°21'49" E. an approximate distance of 224.1 feet to a point;

THENCE S. 32°21'49" E. an approximate distance of 21.2 feet to a point;

THENCE S. 12°38'11" W. an approximate distance of 53.3 feet to a point;

THENCE S. 01°46'38" W. an approximate distance of 34.8 feet to a point for the most Easterly Southeast corner of this tract;

THENCE N. 88°12'49" W. an approximate distance of 165.0 feet to a point;

THENCE S. 01°46'38" W. an approximate distance of 205.4 feet to a point 55 feet North of the South line of Section 4, Block AK, for the most Southerly Southeast corner of this tract;

THENCE N. 88°12'49" W., along a line 55 feet North of and parallel to the South line of said Section 4, an approximate distance of 431.1 feet to a point in the East right-of-way line of said Memphis Avenue, for the most Southerly Southwest corner of this tract;

THENCE N. 43°12'49" W., along said East right-of-way line, an approximate distance of 42.4 feet to the Point of Beginning.

Contains: Approximately 4.3 Acres

PREPARED FOR ZONING CHANGE REQUEST ONLY; DOES NOT REPESENT A SURVEY.

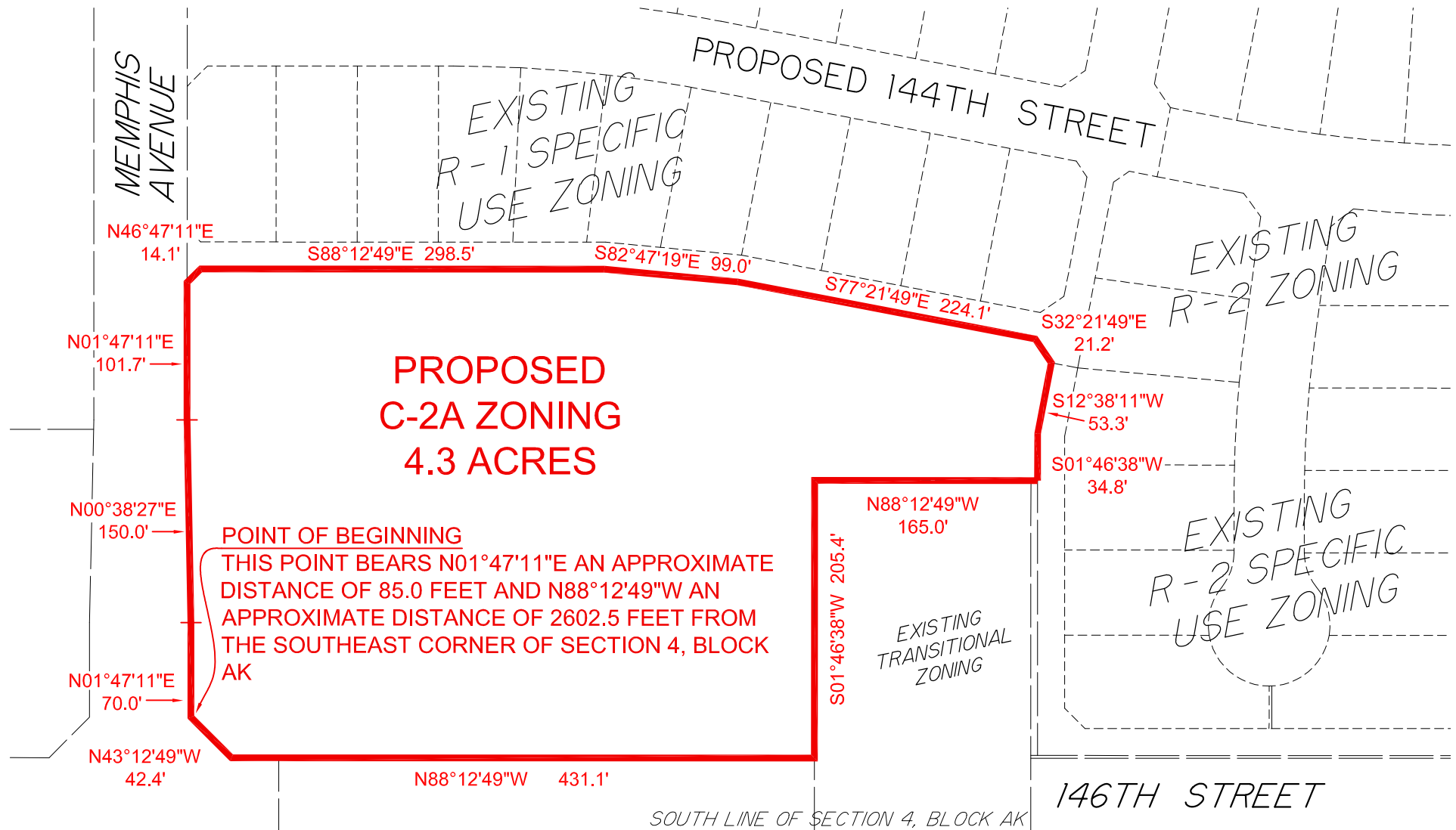
PROPOSED C-2A ZONING

LOCATED IN SECTION 4, BLOCK AK

PRELIMINARY, THIS DOCUMENT SHALL
NOT BE RECORDED FOR ANY PURPOSE.

THIS DOCUMENT IS RELEASED FOR
REVIEW PURPOSES ONLY.

RELEASE DATE: April 21, 2021



HR HUGO REED
AND ASSOCIATES, INC.
LAND SURVEYORS
CIVIL ENGINEERS
TEXAS LICENSED SURVEYING FIRM 100676-00
TEXAS REGISTERED ENGINEERING FIRM F-760
1601 AVENUE N
LUBBOCK, TEXAS 79401
PHONE: 806 / 763-5642
FAX: 806 / 763-3891

Staff Report		Zone Case 3298-C
City Council Meeting		June 22, 2021

Applicant Hugo Reed and Associates, Inc.

Property Owner Ford Development Corp

Council District 4

Recommendations

- Staff recommends Approval.

Prior Board or Council Action

- April 28, 2016: This property was annexed through Ordinance No. 2016-00054 and zoned Transition (T).
- December 5, 2016, Zone Case 3298: This property was zoned to Two-Family District (R-2) Specific Use from T.
- June 3, 2021, Zone Case 3298-C: The Planning and Zoning Commission recommended approval of a zone change to C-2A by a vote of 5-0-0.

Notification Summary

- Notifications Sent: 9
- Received In Favor: 0
- Received In Opposition: 1 (from outside the notification boundary)

Site Conditions and History

The subject property was annexed in 2016 and has remained vacant and unsubdivided.

Adjacent Property Development

The property to the north of the subject property is zoned Single-Family District (R-1) Specific Use and is vacant. The property to the east is zoned T and has been developed with warehouses. The properties to the south are outside of city limits and have been developed with homes. The properties to the west are zoned Restricted Local Retail District (C-2A) and are mainly vacant, with one of the properties having been developed with a house.

Zoning Request and Analysis

Item Summary

The subject property is addressed as 3726 and 3716 146th Street and is located north of 146th Street and east of Memphis Avenue. The applicant requests to rezone the subject property from R-2 Specific Use to C-2A.

Current zoning: Two-Family District (R-2) with a Specific Use

Requested zoning: Restricted Local Retail District (C-2A)

Intent Statements

The intent of the current R-2 zoning is "...to promote stable, quality residential development of slightly increased densities and multiple occupancy. This district may include entire neighborhoods or when used in accordance with the intent of the comprehensive plan, may provide a "buffer" district between low-density and high-density or non-residential districts."

The intent of the proposed C-2A zoning is “...to provide limited local retail and service commercial uses which serve one or several neighborhoods. Such districts may be located on existing shallow commercial centers adjacent to thoroughfares.”

Traffic Network/Infrastructure Impacts

The proposed rezoning location is along Memphis Avenue, which is designated as a Collector, and 146th Street, which is designated as a Principal Arterial (Modified) by the Master Thoroughfare Plan, 2018. Collector Roads are designed for medium volumes of vehicles operating at lower speeds, and provide access and movement within residential, commercial, and industrial areas (Comprehensive Plan, page 87). Arterials are continuous routes whose function is to serve high volume needs of local traffic and regional traffic (Comprehensive Plan, Page 86). The proposed rezoning will be suitable for these types of roads.

Compatibility with Surrounding Property

The proposed zoning is compatible with the surrounding area and will not change the character of the existing development. The properties to the west and southwest are currently zoned C-2A and are vacant, and the nearest uses to the subject property are warehouses and homes.

Conformance with Comprehensive Plan Principles and Future Land Use Map

The principles outlined in the Comprehensive Plan designates this area for “Low Density Residential”. While the proposed zoning does not meet the standards for low density residential areas as outlined in the Comprehensive Plan, it is at the intersection of a collector and thoroughfare, which would be appropriate for C-2A zoning.

Conformance with Zoning Ordinance

The proposed zoning request is in conformance with the zoning ordinance and is appropriate adjacent to other residential uses that are already established.

Suitability of Property for Allowed Uses

The property is suitable for the proposed uses and will not need additional public improvements to support the intensity of uses described in the C-2A zoning district.

Attachments

- A. Case Information
- B. Thoroughfare Plan Map
- C. Aerial Map
- D. Zoning Map
- E. Future Land Use Map
- F. Photos
- G. Application and supporting documents

Staff Contacts

Jacob Hawkins
Planner
Planning Department
806-775-2096
jhawkins@mylubbock.us

Kristen Sager
Planning and Zoning Manager
Planning Department
806-775-2109
ksager@mylubbock.us

Case Information: Zone Case 3298-C



Allowable Uses: [Restricted Local Retail District \(C-2A\)](#)

Transportation: The proposed development has points of access from Memphis Avenue and 146th Street.

Thoroughfare	Existing	Per Thoroughfare Development Plan
146 th Street <i>Principal Arterial (Modified)</i>	R.O.W. 110 feet, two-lane, undivided, paved	R.O.W. 110 feet, five-lane, undivided, paved
Memphis Avenue <i>Collector</i>	R.O.W. 32 feet, one-lane, undivided, paved	R.O.W. 64 feet, four-lane, undivided, paved

Engineering Comments: No comments.

Public Works Comments: No comments.

Building Safety Comments: No comments.

Fire Marshal Comments: No comments.

Draft Planning and Zoning Commission Minutes

4.3 Case 3298-C: Hugo Reed and Associates, Inc. for Ford Development Corp

Request for a zone change to Restricted Local Retail District (C-2A) from Two-Family District (R-2) Specific Use at:

- 3726 and 3716 146th Street, located north of 146th Street and east of Memphis Avenue, on 4.3 acres of unplatted land out of Block AK, Section 4

PLANNER JACOB HAWKINS stated there were nine (9) notifications sent out and zero returned. There was a letter sent in from someone outside the 200-foot notification boundary citing concerns regarding drainage and increased traffic. Staff shared the report, map, and photos of the surrounding area. Staff recommends approval of the request.

TERRY HOLEMAN 1601 Avenue N, Hugo Reed and Associates, advised this is one of the final chapters in the Kelsey Park development. There are homes outside city limits that face 146th Street that are concerned. They had a zone case in 2016 and offered screening fences, which they will honor. In 2016, the original case zoned this tract R-2 Specific Use. In 2017, the property to the west of Memphis was zoned C-2A for Kingdom Prep Academy. In 2018, the City adopted Plan 2040 which set in place mechanisms to allow non-residential uses on thoroughfares. In 2019, Sedona got their entire frontage zoned C-2A. We now have a better context to allow something other than R-2. There is a collector (Memphis) and arterial (146th), which will be a minimum of five lanes. There is a warehouse to the east they were unable to purchase which makes it difficult to make residential work on that corner. The issues in the opposition letter are platting and engineering related; her concern is they will create drainage problems for her, but she is already in a flood zone

BOARDMEMBER DAN WILSON advised there is no stopping the growth of the City. The intersection is not good for residential because of the warehouse.

MARK BENEDICT, 3727 146th Street, has lived there for 9 years and seen a lot of changes. He is not against development, but Sedona went above and beyond. His biggest concern is as development grows, no one has kept up with the dirt, which has destroyed his yard. Something commercial north of him will increase traffic. He has received no help from Ford Development or Kelsey Park in getting them to maintain their property and the dirt. He is ok with an office use, but not with a nightclub or other similar uses. Developers are destroying existing neighborhoods for new neighborhoods. All the construction has destroyed 146th Street and he cannot get a pothole fixed. Sedona built their fence as they said they would, Kingdom Prep Academy and Trinity have taken care of their drainage, but Kelsey Park has junk, trash, dirt, and weeds on their property.

AMY BENEDICT, 3727 146th Street, stated they have horses that are sensitive to lights and noise that growth brings, including making it difficult for the horses to sleep. Lights and noise does not stop at 200 feet. They already have to deal with normal city lights getting brighter and brighter. What consideration do we have for animals that she is trying to care for? She is also concerned about the potential use and if it will have trucks coming in a 2:00 a.m., such as a grocery store would.

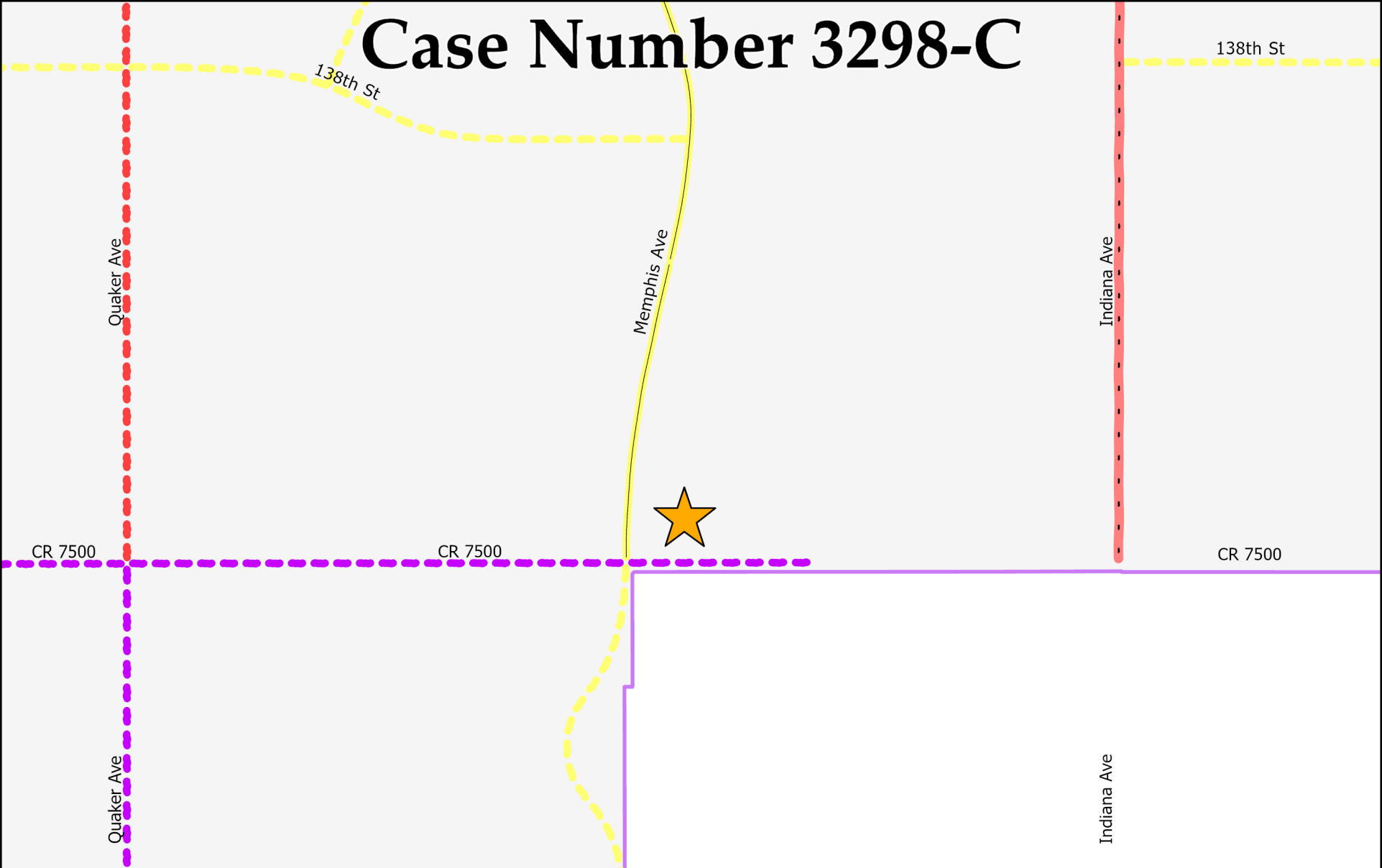
CHAIR ZACH SAWYER stated there are ways to deflect light and work through some of those issues. He is not able to answer questions about dumpster/truck noise, etc.

BOARDMEMBER DAN WILSON stated the board is charged with whether or not the requested zoning district fits this tract of land. In this instance it does, because there is more C-2A to the west. 146th Street will be paved soon, because more residences will be built.

No one spoke in favor of the request.

In the matter of **Zone Case 3298-C** a motion was made by **DAN WILSON** seconded by **JAMES BELL** to approve the case as presented. The Commission members voted 5 (in favor) to 0 (in opposition) to approve the motion. Item will be forwarded to City Council for consideration.

Case Number 3298-C



Collector

- Completed
- Partial
- Future

Minor Arterial

- Completed
- Partial
- Future

Modified Arterial

- Partial
- Future

Principal Arterial

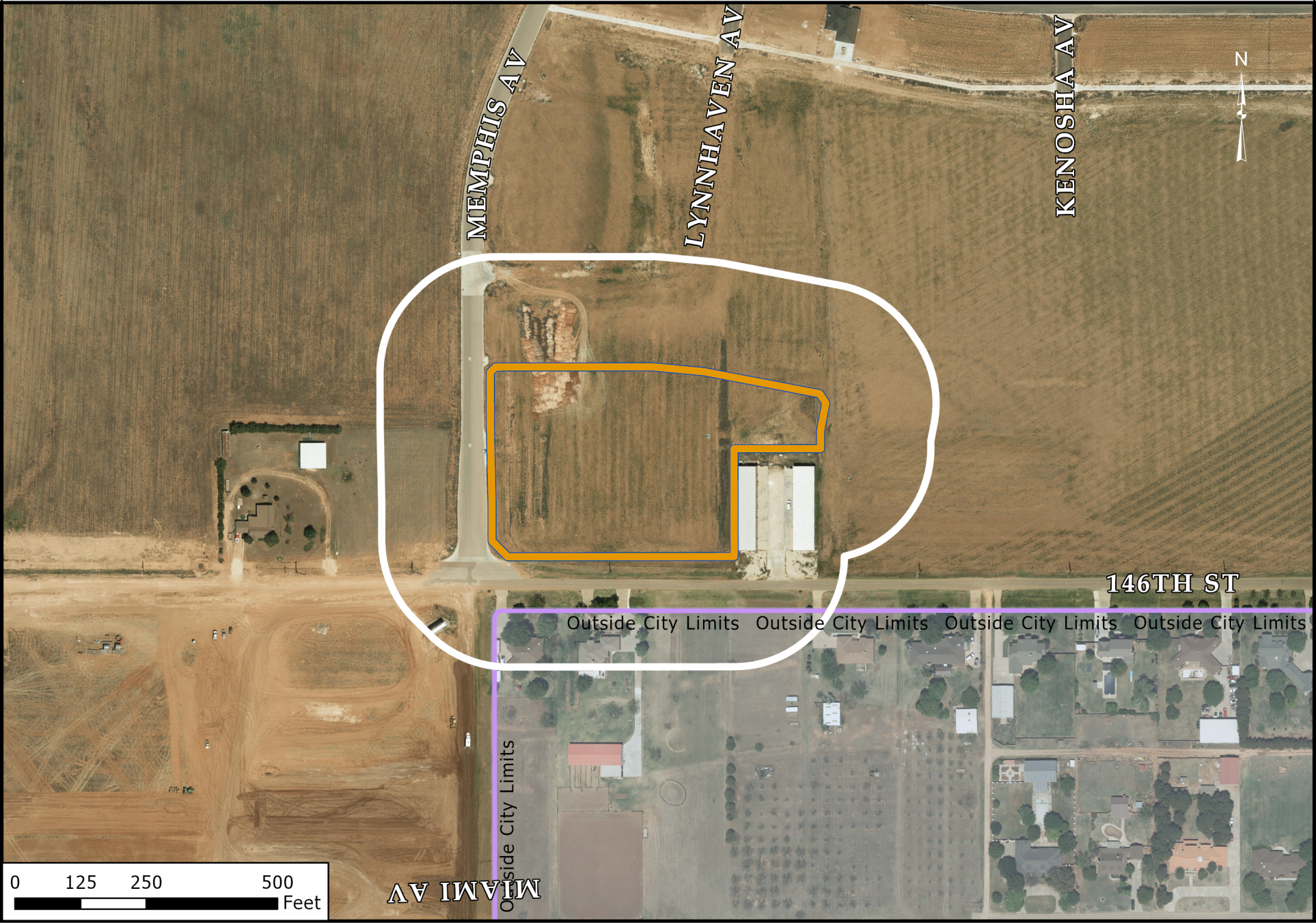
- Completed
- Partial
- Future

Freeway

- Completed
- Partial
- Proposed Outer Loop



Case Number 3298-C



MEMPHIS AV

LYNNHAVEN AV

KENOSHA AV

N

146TH ST

Outside City Limits Outside City Limits Outside City Limits Outside City Limits

MIAMI AV

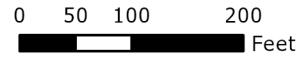
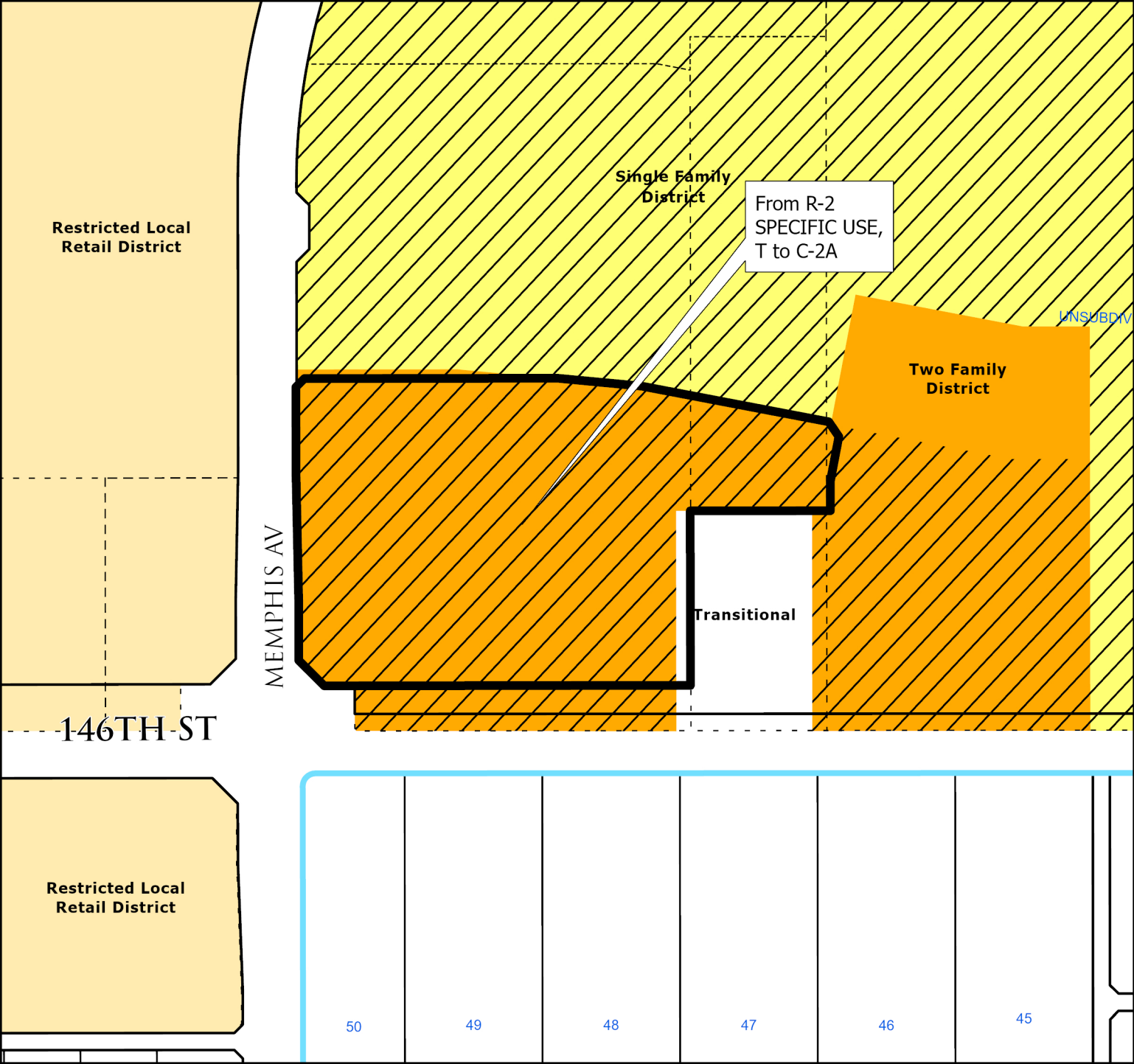
Outside City Limits

0 125 250 500 Feet

Current Zoning 3298-C



- Zoning Districts**
- Restricted Local Retail
 - Single Family Specific Use
 - Two Family
 - Two Family Specific Use
 - Transitional



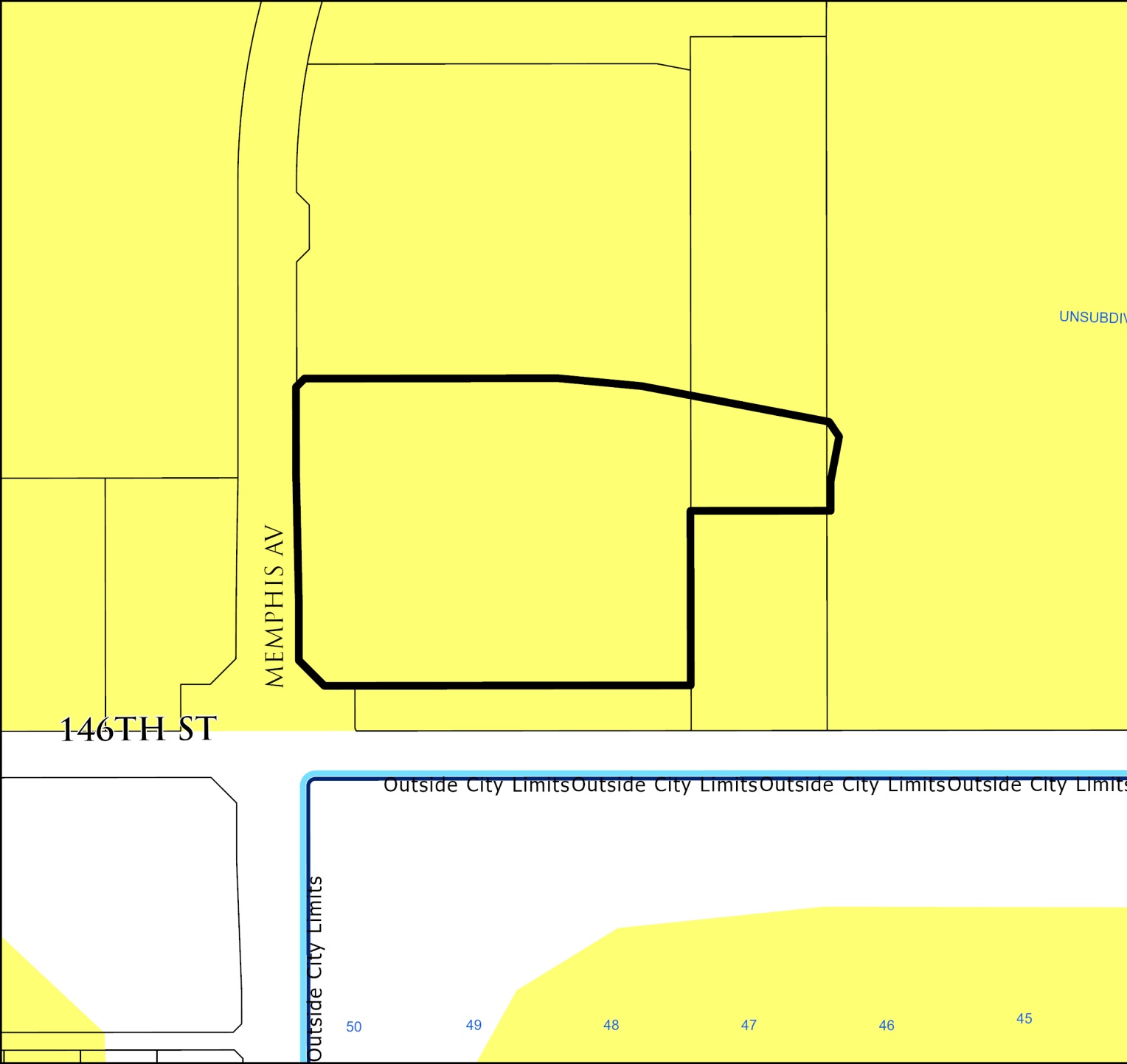
Future Land Use Plan 3298-C



- Commercial
- Heavy Commercial
- Downtown
- Office
- Industrial
- Interstate Commercial
- Interstate Industrial
- Mixed Use
- Parks
- Public/ Semi-Public
- Residential Low Density
- Residential Medium Density
- Residential High Density

0 50 100 200

 Feet



3298-C



View of subject property. View north.



View of adjacent property. View east.



View of adjacent property. View west.



View of adjacent property. View south.



Lubbock Planning Department
PO Box 2000 / 1314 Avenue K
Lubbock, TX 79457
APPLICATION FOR ZONING CHANGE

Project Information

Location or Address: 3726 146TH ST
Lots/Tracts: See Attached Metes and Bounds Description
Survey & Abstract: Block AK, Section 4
Metes and Bounds Attached: Yes ☒ No ☐ Total Acreage of Request: 4.3
Existing Land Use: Vacant Land Existing Zoning: R-2 Specific Use
Requested Zoning: C-2A
If property is not subdivided, will a preliminary plat be submitted? Yes ☐ No ☒

Representative/Agent Information (if different from owner)

Firm Name: HUGO REED & ASSOCIATES, INC
Name: TERRY HOLEMAN
Address: 1601 AVENUE N City: LUBBOCK State: TX
ZIP Code: 79401 Telephone: 806-763-5642 Email: tholeman@hugoreed.com
Applicant's Signature: *Terry Holeman*
Date: April 22, 2021 Printed Name: TERRY HOLEMAN

Owner Information

Firm Name: FORD DEVELOPMENT CORP
Owner: REX ROBERTSON
Address: 16400 N DALLAS PKWY STE 140 City: DALLAS State: TX
ZIP Code: 75248 Telephone: 214-850-8838 Email: rex@forddevelopment.net
Property Owner's Signature: *[Signature]*
Date: 4/22/21 Printed Name: REX ROBERTSON

Preparer Information

Preparer's Signature: _____
Date: _____ Printed Name: _____

For City Use Only

Zone Case No: _____ Planning and Zoning Commission Date: _____
Request for zoning change from: _____ To: _____
Lots: _____ Blocks: _____
Addition: _____

If you have any questions pertaining to the zoning process, please contact the City of Lubbock Planning Department by phone at (806) 775 - 2108 or by e-mail at cityplanning@mylubbock.us.

Kaylynn Curry
3701 County Road 7500
Lubbock, Texas 79423

To Planning and Zoning Commission.

To whom it may concern.

This letter is regarding Case 3298-C. Enclosed is a copy of the letter that a neighbor shared with me. I realize I was not sent a letter regarding the changes from a Two-Family District to a Restricted Local Retail. However, I feel I must respond to this issue since I live in that area.

This change will affect everyone on 146th, yet not everyone was notified of this issue. First, this area was to be all residential but once again we have been lied to by the developer. The city annexed this area for the "developer" but has yet to provide services to this area.

The infer structure is not able to take on any more traffic on 146th going east from Memphis.

There are posted speed limit signs and the city has been made aware of the issue of speeding down this street, but we have not gotten any help from the city. 146th is a small street going east from Memphis and is not even wide enough for 2 cars to pass at the same time. How can the city create more traffic issues for us and not take care of the problems we already have today? The traffic has increased already to the point that the road is breaking away at the edges of the street and water crossing the street has gotten into the pavement and potholes are starting to form.

We have water issues. Water from the Kelsey Park will flow over 146th and reach our homes on the south side of 146th which are in the county. If additional commercial building takes place this would only create more flooding issues and traffic issues. I have called several times to the city and ask them to redo the ditch on the north side of 146th and as of date no results from the city.

With the rapid growth we are having in this area, until the city maintains what they have I do not feel adding additional development in this area is in the best interest of the existing property owners.

I realize that this committee ALWAYS favors the developers over the property owner, but for once look at the area around Memphis and 146th and see that it is not physically able to take on any more traffic in the present condition of the road going east on 146th. With the addition of the Football and Baseball fields and the new sub-division Sedona this area can not take on any more traffic with the condition of the roads and the city services at this time.

Sincerely,



Kaylynn T Curry



Regular City Council Meeting

7. 3.

Meeting Date: 07/13/2021

Information

Agenda Item

Ordinance 2nd Reading - Planning: Consider Ordinance No. 2021-O0078, for Zone Case 2011-I, a request of Asken Properties, LLC for Frenship Independent School District, for a zone change from Light Manufacturing District (M-1) to High-Density Apartment District (A-2) at 6401 43rd Street, located east of Milwaukee Avenue and north of 43rd Street, Santa Fe Park Addition, Lot 14.

Item Summary

On June 22, 2021, the City Council approved the first reading of the ordinance.

For detailed information on this request, please refer to the Planning Department Staff Report attached hereto. As noted in the report, staff recommends approval of the request. The Planning and Zoning Commission heard this case on June 3, 2021, and recommended approval of the request by a unanimous vote.

Fiscal Impact

None

Staff/Board Recommending

Jesica McEachern, Assistant City Manager
Bryan Isham, Director of Planning
Planning and Zoning Commission

Attachments

Ordinance 2011-I
Staff Report 2011-I
Documentation 2011-I

ORDINANCE NO. _____

AN ORDINANCE AMENDING ZONING ORDINANCE NO. 7084 AND THE OFFICIAL MAP OF THE CITY OF LUBBOCK MAKING THE FOLLOWING CHANGES: ZONE CASE NO. 2011-I; A ZONING CHANGE FROM M-1 TO A-2 ZONING DISTRICT AT 6401 43RD STREET, LOCATED EAST OF MILWAUKEE AVENUE AND NORTH OF 43RD STREET, SANTA FE PARK ADDITION, LOT 14, LUBBOCK, TEXAS; PROVIDING A PENALTY; PROVIDING A SAVINGS CLAUSE; AND, PROVIDING FOR PUBLICATION.

WHEREAS, the proposed changes in zoning as hereinafter made have been duly presented to the Planning and Zoning Commission for its recommendation which was received by the City Council and, after due consideration, the City Council found that due to changed conditions, it would be expedient and in the interest of the public health, safety and general welfare to make those proposed changes in zoning; and

WHEREAS, the 2040 Future Land Use Plan is a guide to help the Lubbock Planning and Zoning Commission and the City Council determine the physical development of the community; however, planning is a continuous process and change is inevitable; and

WHEREAS, the Lubbock Planning and Zoning Commission and City Council recognize that the zone change is a minor deviation from the 2040 Future Land Use Plan, which protects the public and private commitments that have been previously based on the Plan; and

WHEREAS, all conditions precedent required by law for a valid amendment to the Zoning Ordinance and Map have been fully complied with, including giving notices in compliance with Section 40.01.005 of the Code of Ordinances, City of Lubbock, Texas, and the notices provided by the Texas Local Government Code §211.007 (Vernon, 1990), and notice was duly published in the Lubbock Avalanche-Journal more than fifteen (15) days prior to the date of the public hearing before the City Council on such proposed amendment, and the public hearing according to said notice, was held in the City Council Chamber of the Municipal Building, Lubbock, Texas, at which time persons appeared in support of the proposal; and after said hearing, it was by the City Council determined that it would be in the public interest, due to changed conditions, that the Zoning Ordinance and the Zoning Map be amended in the manner hereinafter set forth in the body of this Ordinance and this Ordinance having been introduced prior to first reading hereof; **NOW THEREFORE:**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LUBBOCK:

ZONE CASE NO. 2011-I

SECTION 1. THAT Ordinance No. 7084 and the Official Zoning Map are amended as follows:

A change of zoning under the provisions of Section 40.01.005 of the Code of Ordinances of the City of Lubbock from **M-1** to **A-2** zoning district at **6401 43rd Street, located east of Milwaukee Avenue and north of 43rd Street, Santa Fe Park Addition, Lot 14**, City of Lubbock, Lubbock County, Texas.

SECTION 2. THAT violation of any provision of this Ordinance shall be deemed a misdemeanor punishable by fine not to exceed Two Thousand and No/100 Dollars (\$2,000.00) as provided in Section 40.01.006 of the Zoning Ordinance of the City of Lubbock.

SECTION 3. THAT should any paragraph, sentence, clause, phrase or word of this Ordinance be declared unconstitutional or invalid for any reason, the remainder of this Ordinance shall not be affected thereby.

SECTION 4. THAT the City Secretary is hereby authorized to cause publication of the descriptive caption of this Ordinance as an alternative method provided by law.

AND IT IS SO ORDERED.

Passed by the City Council on first reading on _____.

Passed by the City Council on second reading on _____.

DANIEL M. POPE, MAYOR

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



Bryan Isham, Director of Planning

APPROVED AS TO FORM:



Amy Sims, Deputy City Attorney

vw/cityatt/Kelli/ZoneCase/ZC2011-I
June 3, 2021

Staff Report		Zone Case 2011-I
City Council Meeting		June 22, 2021

Applicant Asken Properties

Property Owner Frenship Independent School District

Council District 6

Recommendations

- Staff recommends Approval.

Prior Board or Council Action

- September 11, 1958: This property was annexed through Ordinance No. 002535 and zoned Single Family District (R-1).
- January 28, 1985, Zone Case 2011-A: This property was rezoned from Single-Family District (R-1) and Family Apartment (A-1) to Two Family (R-2) and Light Manufacturing (M-1) through Ordinance No. 008711.
- June 3, 2021, Zone Case 2011-I: The Planning and Zoning Commission recommended approval of a zone change from Light Manufacturing District (M-1) to High-Density Apartment District (A-2) by a vote of 5-0-0.

Notification Summary

- Notifications Sent: 37
- Received In Favor: 3
- Received In Opposition: 2 (1 of which is outside the 200 foot notification boundary)

Site Conditions and History

The subject property was annexed in 1958 and has since remained undeveloped.

Adjacent Property Development

The property to the east is zoned Light Manufacturing District (M-1) and remains vacant. The property to the west is zoned General Retail District (C-3) and remains vacant, with a church to the south. The property to the north is zoned Single-Family District (R-1) and is developed with homes. The property to the south is zoned M-1 and is developed with a school.

Zoning Request and Analysis

Item Summary

The subject property is addressed as 6401 43rd Street and is located east of Milwaukee Avenue and north of 43rd Street, Santa Fe Park Addition, Lot 14. The applicant requests a zone change from M-1 to A-2, with the intent to construct apartments.

Current zoning: Light Manufacturing District (M-1)

Requested zoning: High-Density Apartment District (A-2)

Intent Statements

The intent of the proposed A-2 zoning is, "...to promote high-density multi-family developments and compatible land uses in harmony with lower-density uses. The regulations are designed to provide the occupants with safe and convenient housing within an aesthetically pleasing environment in proper relationship to adjacent land uses.

The intent of the current M-1 zoning is "...to provide for light industrial uses and those commercial uses requiring outside storage and display. The regulations are designed to provide for a mixture of heavy commercial and light industrial or manufacturing uses with proper standards to encourage attractive working areas for citizens."

Traffic Network/Infrastructure Impacts

The proposed rezoning location will be along Milwaukee Avenue, which is designated as a Principle Arterial, and 43rd Street, which is designated as a proposed Collector by the Master Thoroughfare Plan, 2018. Both of these types of roads allows for an efficient and highly connected means of transportation by limiting trip lengths throughout the City and providing multiple route options for roadway users.

Compatibility with Surrounding Property

The proposed zoning is compatible with the surrounding area and will not change the character of the existing development. The proposed use is for the development for apartments.

Conformance with Comprehensive Plan Principles and Future Land Use Map

The principles outlined in the Comprehensive Plan designates this area for "Commercial" land uses and notes that land uses in these areas can take numerous forms depending on context. The level of intensity for A-2 is appropriate for this area. The Future Land Use Plan designates the surrounding properties for Commercial use. Although the A-2 zoning is not consistent with the Future Land Use Plan, it is appropriate next to the established residential use to the north and the school to the south of the subject property.

Conformance with Zoning Ordinance

The proposed zoning request is in conformance with the zoning ordinance and is appropriate adjacent to other residential and commercial uses that are already established.

Suitability of Property for Allowed Uses

The property is suitable for the proposed uses and will not need additional public improvements to support the intensity of uses described in the A-2 zoning district.

Attachments

- A. Case Information
- B. Thoroughfare Plan Map
- C. Notification Map
- D. Aerial Map
- E. Zoning Map
- F. Future Land Use Map
- G. Photos
- H. Application and supporting documentation
- I. Response Letters

Staff Contacts

Ashley Vasquez
Planner
Planning Department
806-775-2107

ashleyvasquez@mylubbock.us

Kristen Sager
Planning and Zoning Manager
Planning Department
806-775-2109

ksager@mylubbock.us

Case Information: Zone Case 2011-I



Allowable Uses: [High Density Apartment A-2](#)

Transportation: The proposed development has points of access from Milwaukee Avenue.

Thoroughfare	Existing	Per Thoroughfare Development Plan
Milwaukee Avenue, <i>Principal Arterial, Completed</i>	R.O.W. 110 feet, five-lane, undivided, paved	R.O.W. 110 feet, five-lane, undivided, paved

Engineering Comments: No comments.

Public Works Comments: No comments.

Building Safety Comments: No comments.

Fire Marshal Comments: No comments.

Draft Planning and Zoning Commission Minutes

4.2 **Case 2011-I:** Asken Properties, LLC for Frenship Independent School District

Request for a zone change to High-Density Apartment District (A-2) from Light Manufacturing District (M-1) at:

- 6401 43rd Street, located east of Milwaukee Avenue and north of 43rd Street, Santa Fe Park Addition, Lot 14.

PLANNER ASHLEY VASQUEZ stated there were thirty-seven (37) notifications sent out and we received three (3) in favor and one (1) in opposition, which stated concerns of increased crime, noise, traffic, and lower property values. Staff shared the report and maps of the subject property. Staff recommends approval of the request.

OLIVER NASIELL 3420 Milwaukee Avenue Unit 1011 is working with the Frenship District and they really like the idea of multifamily homes in this location.

No one spoke in favor or in opposition to the request.

In the matter of **Zone Case 2011-I** a motion was made by **JAMES BELL** seconded by **ABEL HERNANDEZ** to approve the case as presented and the Commission members voted 5 (in favor) to 0 (in opposition) to approve the motion. Item will be forwarded to City Council for consideration.

Case Number 2011-I



Collector

- Completed
- Partial
- Future

Minor Arterial

- Completed
- Partial
- Future

Modified Arterial

- Partial
- Future

Principal Arterial

- Completed
- Partial
- Future

Freeway

- Completed
- Partial
- Proposed Outer Loop



PZC Mailout Notifications Received

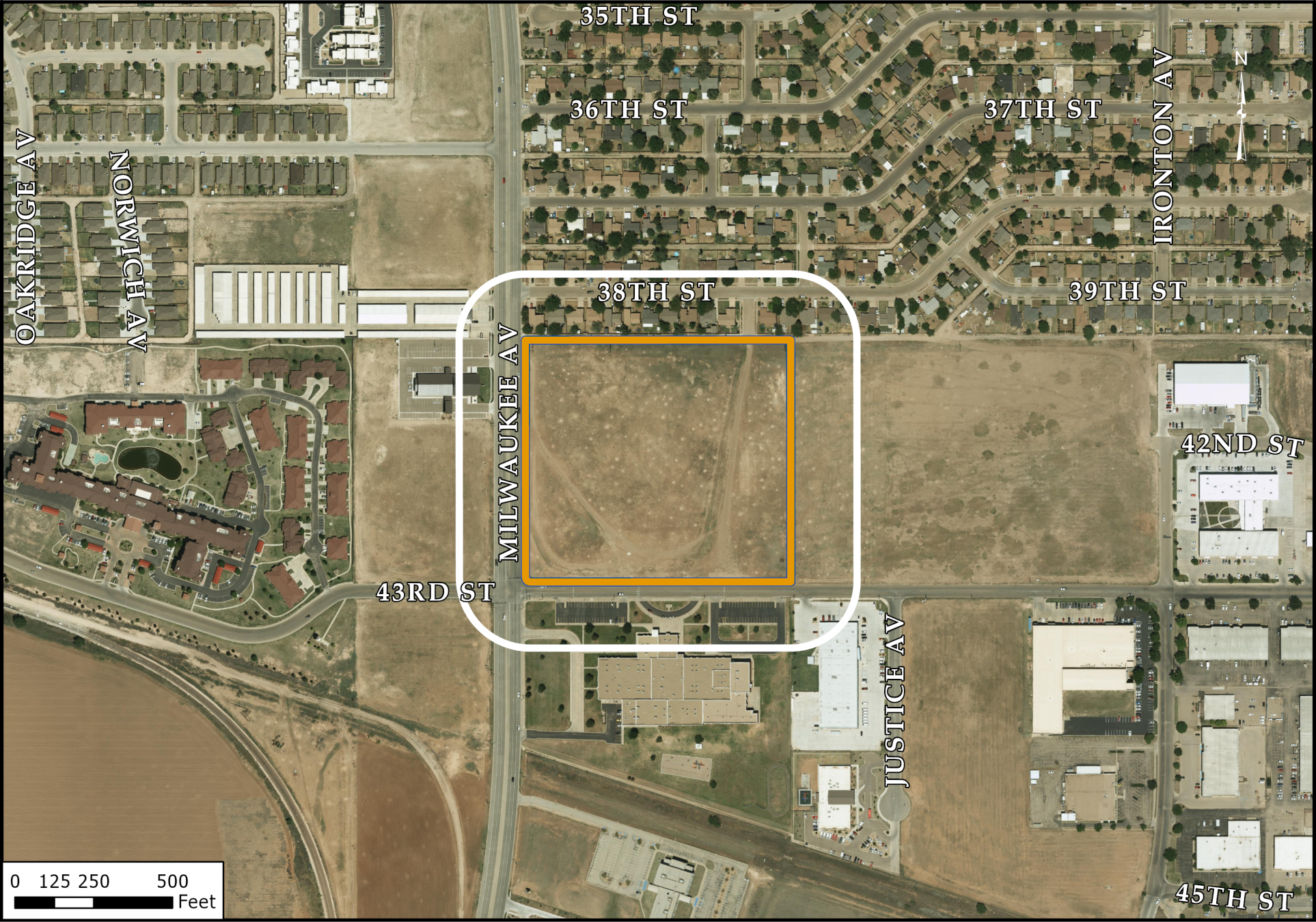


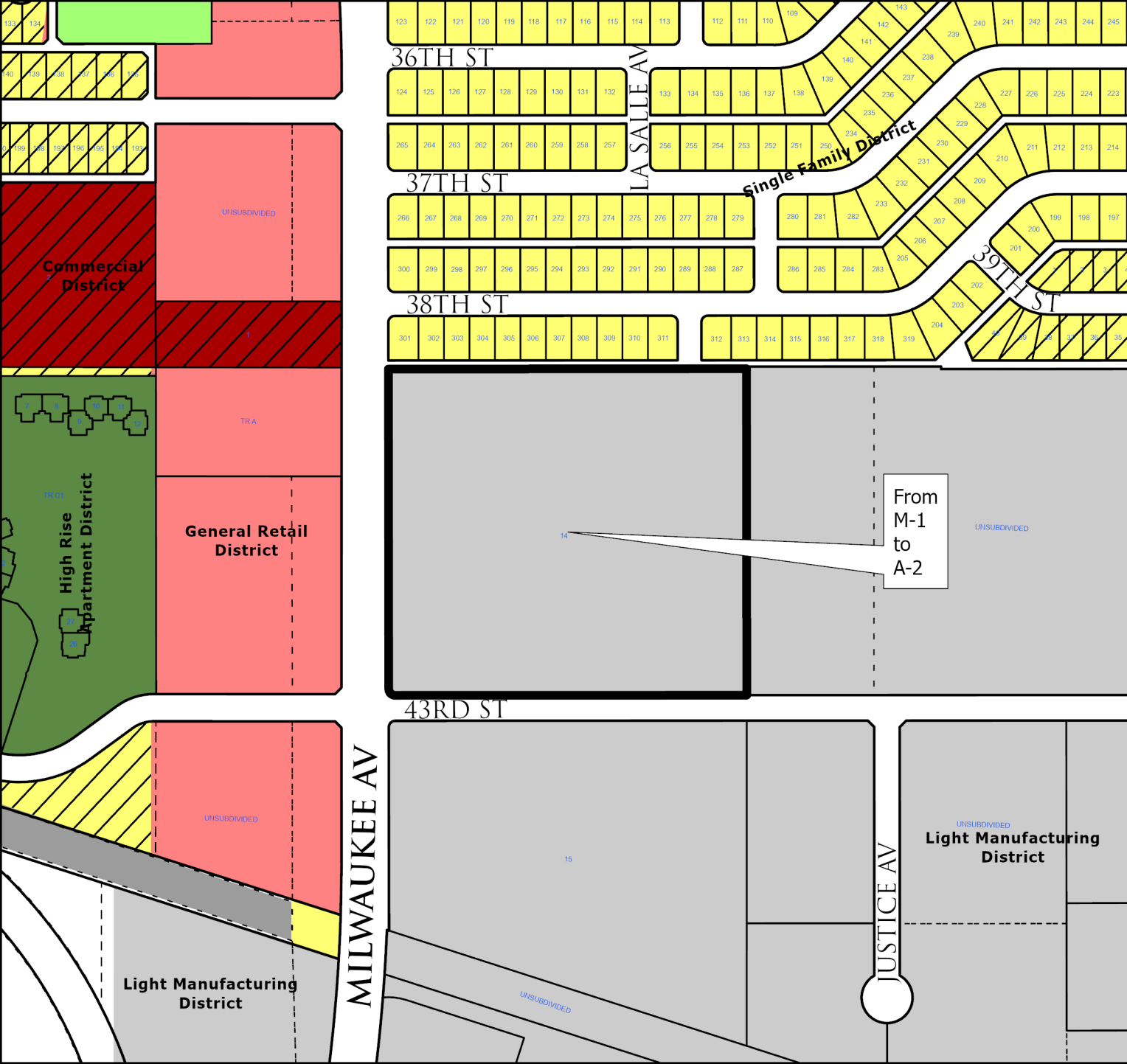
Legend

- LocatorPnt2011_I
- MailoutBuffer2011_I
- <all other values>
- Notification Result**
 - In Favor
 - No Feedback
 - Opposed

Created by Planning Department
Date: 6/3/2021

Case Number 2011-I












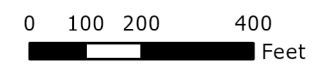


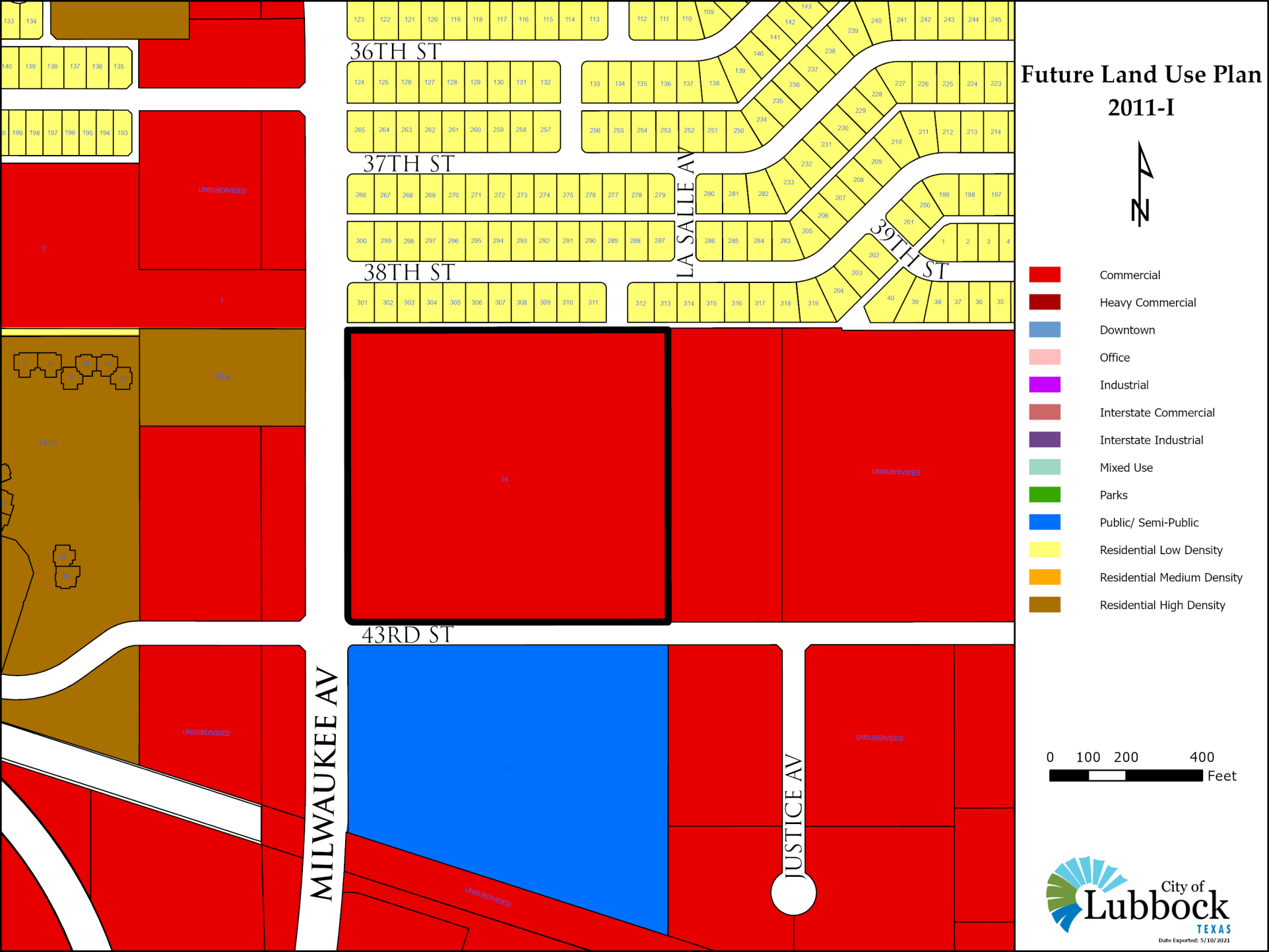
Current Zoning 2011-I



Zoning Districts

-  High Density Apartment
-  High Rise Apartment
-  General Retail
-  Commercial Specific Use
-  Light Manufacturing
-  Heavy Manufacturing
-  Single Family
-  Single Family Specific Use
-  Transitional





Future Land Use Plan 2011-I



- Commercial
- Heavy Commercial
- Downtown
- Office
- Industrial
- Interstate Commercial
- Interstate Industrial
- Mixed Use
- Parks
- Public/ Semi-Public
- Residential Low Density
- Residential Medium Density
- Residential High Density

0 100 200 400
Feet

2011-I



Subject property view to the north.



View to the east.



View to the west.



View to the south.



Lubbock Planning Department
PO Box 2000 / 1314 Avenue K
Lubbock, TX 79457
APPLICATION FOR ZONING CHANGE

Project Information

Location or Address: 6401 43rd st Lubbock, TX. 79407
Lots/Tracts: Lot 14 Santa Fe Park
Survey & Abstract: See Attachment
Metes and Bounds Attached: Yes ☒ No ☐ Total Acreage of Request: 14.846
Existing Land Use: Real Property Existing Zoning: Light Manufacturing District (M-1)
Requested Zoning: High- Density Apartment District (A-2)
If property is not subdivided, will a preliminary plat be submitted? Yes ☐ No ☒

Representative/Agent Information (if different from owner)

Firm Name: Asken Properties, LLC
Name: Joshua DeShazo
Address: 3420 Milwaukee Ave City: Lubbock State: TX
ZIP Code: 79407 Telephone: 8067296998 Email: josh@asken.com
Applicant's Signature: Joshua A. DeShazo
Date: 4/28/21 Printed Name: Joshua DeShazo

Owner Information

Firm Name: Frenship Independent School District
Owner: Frenship Independent School District
Address: 501 7th St City: Wolfforth State: TX
ZIP Code: 79382 Telephone: 8068660963 Email: twilliams@frenship.us
Property Owner's Signature: Tim Williams (Frenship ISD Assistant Superintendent of Operations)
Date: 4/28/21 Printed Name: Tim Williams

Preparer Information

Preparer's Signature: Joshua A. DeShazo
Date: 4/28/21 Printed Name: Joshua DeShazo

For City Use Only

Zone Case No: _____ Planning and Zoning Commission Date: _____
Request for zoning change from: _____ To: _____
Lots: _____ Blocks: _____
Addition: _____

If you have any questions pertaining to the zoning process, please contact the City of Lubbock Planning Department by phone at (806) 775 - 2108 or by e-mail at cityplanning@mylubbock.us.

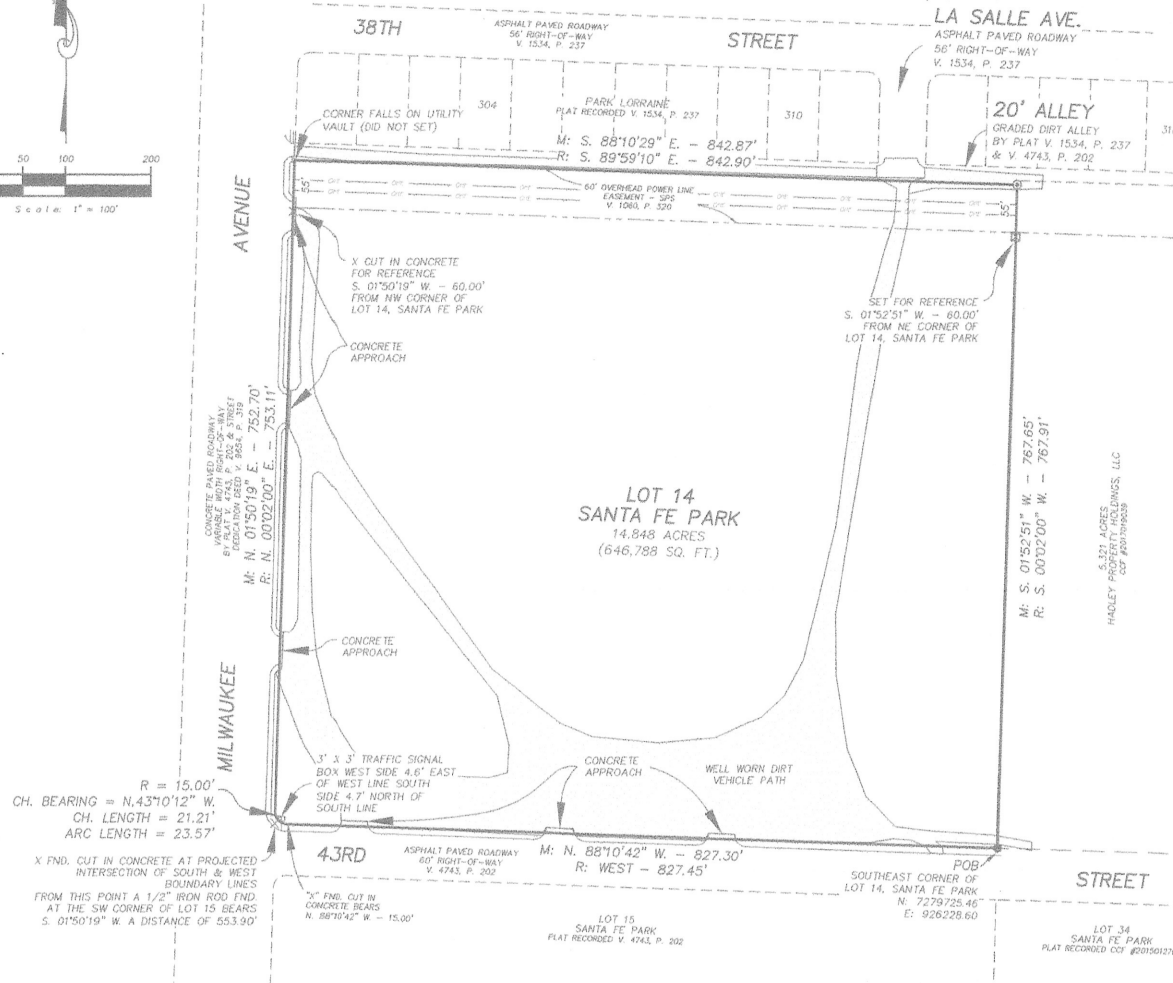
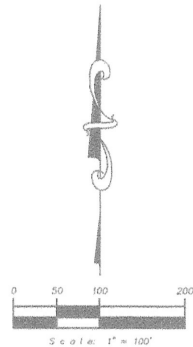
APPLICATION FOR ZONING CHANGE ATTACHMENT

Survey and Abstract:

**Lot 14, Santa Fe Park, an Addition to the City of Lubbock, Lubbock County, Texas,
according to the map, plat and/or dedication deed thereof recorded in Volume 4743, P
202, Official Real Property Records of Lubbock County, Texas**

LOT 14 SANTA FE PARK

AN ADDITION TO THE CITY OF LUBBOCK, LUBBOCK COUNTY, TEXAS
ACCORDING TO THE PLAT RECORDED IN VOLUME 4743, PAGE 202.
OFFICIAL REAL PROPERTY RECORDS OF LUBBOCK COUNTY, TEXAS.



NOTE:

- ⑥ = Found 1/2" iron rod w/ yellow cap "HR&ASSOC" (PMRD/CM)
- ⑦ = Set 1/2" iron rod w/ blue cap "CHT RPLS 6460"
- = Found 1/2" iron rod (PMRD/CM)
- P.O.B. = Point of Beginning
- CM = Controlling Monument
- PMRD = Physical Monument of Record Dignity
- M = Measured Bearings and Distances
- R = Record Bearings and Distances

Measured Bearings are grid and relative to the Texas Coordinate System
TXNC Zone 4202, NAD 83 (CORS96).
Records Bearings are base on record plat of Tract 14, Santa Fe Park
Distances are ground, U.S. Survey Feet.
Area is surface area, U.S. Survey Feet.
This survey is subject to any facts which may be disclosed by a full and accurate title search. A title commitment was not provided to this surveyor prior to completion of this survey.

EXISTING EASEMENTS not shown hereon:

Blanket garbage collection easement by plat V. 4743, P. 202

Blanket underground utility easement and transformer pad easement to Southwestern Public Service Company and Lubbock Power and Light Company as required for service plat V. 4743, P. 202

Blanket underground utility easement to Southwestern Bell Telephone Company and Energas Company as required for service per plat V. 4743, P. 202

FIELD NOTES for a 14.848 Acre (646,788 Sq. Ft.) tract of land being all of Lot 14, Santa Fe Park, an Addition to the City of Lubbock, Lubbock County, Texas according to the map, plat and/or dedication deed thereof recorded in Volume 4743, P. 202, Official Real Property Records of Lubbock County, Texas and being more particularly described by metes and bounds as follows:

BEGINNING at 1/2" iron rod found in the North right-of-way line of 43rd Street (60 feet wide right-of-way, V. 4743, P. 202) at the Southeast corner of said Lot 14 and the Southwest corner of a called 5.321 tract of land conveyed to Hadley Property Holdings, LLC as described in County Clerk's File Number 2017019039, Official Public Records of Lubbock County, Texas, for the Southeast corner of this tract;

THENCE N. 88°10'42" W. (Record (R): West), contiguous with said North right-of-way line a distance of 827.30 feet (R: 827.45') to a point at the beginning of a curve to the right having a radius = 15.00' for the most Southerly Southwest corner of this tract from which an "X" found cut in concrete at the projected intersection of the South and West boundary line of Lot 14 bears N. 88°10'42" W. a distance of 15.00 feet and from said "X" a 1/2" iron rod found at the Southwest corner of Lot 15, Santa Fe Park an Addition to the City of Lubbock, Lubbock County, Texas according to the map, plat and/or dedication deed thereof recorded in V. 4743, P. 202, Official Real Property Records of Lubbock County, Texas bears S. 01°50'19" W. a distance of 553.90 feet;

THENCE in a Northwesterly direction around said curve to the right having a radius = 15.00 feet, a chord bearing = N. 43°10'12" W., a chord length = 21.21 feet, an arc length of 23.57 feet to a point in the East right-of-way line of Milwaukee Avenue (Variable width right-of-way, V. 4743, P. 202 & V. 9654, P. 319) for the most Westerly Southwest corner of this tract;

THENCE N. 01°50'19" E. (R: N. 00°02'00" E.), contiguous with said East right-of-way line, at 693.23 feet pass a "X" cut in concrete for a reference corner, at 697.70 feet pass the South line of a 60 feet wide overhead power line easement to Southwestern Public Service Company (SPS) (V. 1060, P. 320), in all a distance of 752.70 feet (R: 753.11 feet) to a point on top of a utility vault lid in the South line of a 20 feet wide public alley (by plat V. 1534, P. 237 & V. 4743, P. 202) for the Northwest corner of this tract;

THENCE S. 88°10'29" E. (R: S. 89°59'10" E.), contiguous with the South line of said alley, a distance of 842.87 feet to a 1/2" iron rod with yellow cap inscribed "HR&ASSOC" found in the West line of said Hadley tract at the Northeast corner of said Lot 14, for the Northeast corner of this tract;

THENCE S. 01°52'51" W. (R: S. 00°02'00" W.), contiguous with the West line of said Hadley tract, at 55.00 feet pass the South line of said SPS easement, at 60.00 feet pass a 1/2" iron rod with blue cap inscribed "CHT RPLS 6460" set for a reference corner in all a total distance of 767.65 feet (R: 767.91 feet) to the POINT OF BEGINNING.

STATE OF TEXAS : KNOW ALL MEN BY THESE PRESENTS,
COUNTY OF LUBBOCK : that I, Cyril H. Turner, Registered
Professional Land Surveyor, do hereby
certify that I did cause to be surveyed
on the ground the tract of land shown on this plat, and to the best
of my knowledge and belief, the said description is true and correct.
IN WITNESS THEREOF, my hand and seal,

Cyril H. Turner
Cyril H. Turner
Registered Professional
Land Surveyor #6460



12/18/2020

BOUNDARY SURVEY

SCALE: 1" = 100'	APPROVED BY: CHT	DRAWN BY: CHT
SURVEY DATE: 12/17/2020		FILE NAME: 20-LS0186
QJD Engineering, L.P. Consulting Engineers & Surveyors		806-791-2320 328 E. Hwy. 62/82 UNIT#1 Waltham, TX 79382
SURVEYING FIRM#10193883		DRAWING NUMBER 1 of 1

City of Lubbock, TX
Planning Department
Planning and Zoning Commission
Reply Form

If for any reason you will be unable to attend the public hearing advertised by this notice, and wish to present your comments regarding the case, please complete this form and return it to the Secretary of the Planning and Zoning Commission, c/o Planning Department, P.O. Box 2000, Lubbock, TX 79457 or email to CityPlanning@mylubbock.us.

If you have any questions pertaining to the case, please call the City of Lubbock Planning Department at 806-775-2108.

Please check one of the following to indicate if you are in favor of, or opposed to, the zone change requested by: P&Z Case No.: **2011-I**

In Favor ☒

Opposed ☐

Reasons and/or Comments:

Print Name Maile Shilton
Signature: [Signature]
Address: 6304 50th St 200
Address of Property Owned: 43rd & Wilbur Ave - West side
Phone Number: 806-794-1492
Email: msilton@cmsgeopartnersllc.com

Zone Case Number: **2011-I**
TERRA FIRMA ACQUISITIONS LLC
PO BOX 64189

R83232

Recipient 11 of 37

LUBBOCK

TX 79464

City of Lubbock, TX
Planning Department
Planning and Zoning Commission
Reply Form

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Please check one of the following to indicate if you are in favor of, or opposed to, the zone change requested by: P&Z Case No.: **2011-I**

In Favor ☒

Opposed ☐

Reasons and/or Comments:

Frenship ISD has a contract to sell this land to Asken Properties. We have met with this company numerous times and feel they will be an excellent neighbor to Westwind Elementary and the district. They have reached out to us to help Westwind Elementary with several traffic and parking issues currently at this campus.

Print Name

Frenship ISD (Jim Williams)

Signature:

Jim Williams

Address:

P.O. Box 100 Wolfforth, TX 79382

Address of Property Owned:

6401 43rd St.

Phone Number:

(806) 866-0963

Email:

twilliams@frenship.us

Zone Case Number: 2011-I

R27767

Recipient 13 of 37

FRENSHIP ISD

Attn: Superintendent

PO BOX 100

WOLFFORTH

TX 79382-0100

City of Lubbock, TX
Planning Department
Planning and Zoning Commission
Reply Form

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Please check one of the following to indicate if you are in favor of, or opposed to, the zone change requested by: P&Z Case No.: **2011-I**

In Favor ☒

Opposed ☐

Reasons and/or Comments:

Print Name Anne K. May
Signature: Kay May
Address: 1208 FM 400 Plainview, TX 79072
Address of Property Owned: 6416 38th
Phone Number: 806 242-8564
Email: larryandk@hotmail.com

Zone Case Number: **2011-I**

R27533

Recipient 23 of 37

MAY HEATH A &

JUSTIN L & LARRY D &

ANNA K

1208 FM 400

PLAINVIEW

TX 79072



City of Lubbock, TX
Planning Department
Planning and Zoning Commission
Reply Form

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If you have any questions pertaining to the case, please call the City of Lubbock Planning Department at 806-775-2108.

Please check one of the following to indicate if you are in favor of, or opposed to, the zone change requested by: P&Z Case No.: **2011-I**

In Favor ☐

Opposed ☒

Reasons and/or Comments:

- Traffic jams of people living in apartments trying to get to work while kids are being dropped off for school. Milwaukee Ave traffic is terribly crowded already!
- will hurt value of our property
 - crime rate will go up & close to elementary school!?!?
 - drainage system will NOT support apartment concrete lots

Print Name

Deborah Y. Merritt

Signature:

Deborah Y. Merritt

Address:

6407 38th Street

Address of Property Owned:

6407 38th Street

Phone Number:

806-773-6821

Email:

honeybeebby@gmail.com

Zone Case Number: **2011-I**

R27968

Recipient 14 of 37

MERRITT, DEBORAH YVONNE

6407 38TH ST

LUBBOCK

TX 79407-3605



Zone Case Number: 2011-I

My biggest concerns are:

1. Loss of privacy in my backyard
2. Loss of sunlight during the day
3. Noise
4. Lower property value of my home

Either way it is zoned there's a potential that all of my concerns will be affected depending on how close of a proximity these buildings would be to our bordering homes.

One difference though, between commercial zoning vs high rise apartment zoning for me is with apartments comes people who will all be living in a structure taller than my home, hence how I feel my privacy would be affected. I enjoy spending time outdoors working in my yard and tending to my garden. I would hate to feel like I'm being watched by people living in an adjacent building taller than my home. If passed, will these structures have partially covered balconies? Is there a plan to add trees around the property to help counter the privacy concerns?

The loss of sunlight is also a concern for me since the buildings would be built south of my home. I've already reconfigured my backyard to ensure my garden receives enough light during the day. Again, this would all be dependent upon proximity.

Another concern of mine is noise. The increase in people would also bring an increase in noise. One of the things I like about being in my backyard is it is quiet. I don't want to lose that sense of peace I feel if an entire apartment community was to move in.

My last concern is my home's property value. I worry the rezoning will affect my property in a negative way causing my property value to be lowered.

Thank you
Stacy Norris

16145 38th Street
Lubbock, TX.





Regular City Council Meeting

7. 4.

Meeting Date: 07/13/2021

Information

Agenda Item

Ordinance 2nd Reading - Planning: Consider Ordinance No. 2021-O0075, for Zone Case 3435, a request of Studio 44 for Heartbeat Midwifery, for a zone change from General Retail District (C-3) and C-3 Specific Use to Apartment-Medical District (AM) at 4413 4th Street and 415 Raleigh Avenue, located south of 4th Street and east of Raleigh Avenue, Rushland Park Addition, Tract M-1-A-2 and the south part of Tract B-1-A.

Item Summary

On June 22, 2021, the City Council approved the first reading of the ordinance.

For detailed information on this request, please refer to the Planning Department Staff Report attached hereto. As noted in the report, staff recommends approval of the request. The Planning and Zoning Commission heard this case on June 3, 2021, and recommended approval of the request by a unanimous vote.

Fiscal Impact

None

Staff/Board Recommending

Jesica McEachern, Assistant City Manager
Bryan Isham, Director of Planning
Planning and Zoning Commission

Attachments

Ordinance 3435
Staff Report 3435
Documentation 3435

ORDINANCE NO. _____

AN ORDINANCE AMENDING ZONING ORDINANCE NO. 7084 AND THE OFFICIAL MAP OF THE CITY OF LUBBOCK MAKING THE FOLLOWING CHANGES: ZONE CASE NO. 3435; A ZONING CHANGE FROM C-3 AND C-3 SPECIFIC USE TO AM ZONING DISTRICT AT 4413 4TH STREET AND 415 RALEIGH AVENUE, LOCATED SOUTH OF 4TH STREET AND EAST OF RALEIGH AVENUE, RUSHLAND PARK ADDITION, TRACT M-1-A-2 AND THE SOUTH PART OF TRACT B-1-A, LUBBOCK, TEXAS; PROVIDING A PENALTY; PROVIDING A SAVINGS CLAUSE; AND, PROVIDING FOR PUBLICATION.

WHEREAS, the proposed changes in zoning as hereinafter made have been duly presented to the Planning and Zoning Commission for its recommendation which was received by the City Council and, after due consideration, the City Council found that due to changed conditions, it would be expedient and in the interest of the public health, safety and general welfare to make those proposed changes in zoning; and

WHEREAS, the 2040 Future Land Use Plan is a guide to help the Lubbock Planning and Zoning Commission and the City Council determine the physical development of the community; however, planning is a continuous process and change is inevitable; and

WHEREAS, the Lubbock Planning and Zoning Commission and City Council recognize that the zone change is a minor deviation from the 2040 Future Land Use Plan, which protects the public and private commitments that have been previously based on the Plan; and

WHEREAS, all conditions precedent required by law for a valid amendment to the Zoning Ordinance and Map have been fully complied with, including giving notices in compliance with Section 40.01.005 of the Code of Ordinances, City of Lubbock, Texas, and the notices provided by the Texas Local Government Code §211.007 (Vernon, 1990), and notice was duly published in the Lubbock Avalanche-Journal more than fifteen (15) days prior to the date of the public hearing before the City Council on such proposed amendment, and the public hearing according to said notice, was held in the City Council Chamber of the Municipal Building, Lubbock, Texas, at which time persons appeared in support of the proposal; and after said hearing, it was by the City Council determined that it would be in the public interest, due to changed conditions, that the Zoning Ordinance and the Zoning Map be amended in the manner hereinafter set forth in the body of this Ordinance and this Ordinance having been introduced prior to first reading hereof; **NOW THEREFORE:**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LUBBOCK:

ZONE CASE NO. 3435

SECTION 1. THAT Ordinance No. 7084 and the Official Zoning Map are amended as follows:

A change of zoning under the provisions of Section 40.01.005 of the Code of Ordinances of the City of Lubbock from **C-3 and C-3 Specific Use** to **AM** zoning district at **4413 4th Street and 415 Raleigh Avenue, located south of 4th Street and east of Raleigh Avenue, Rushland Park Addition, Tract M-1-A-2 and the south part of Tract B-1-A, City of Lubbock, Lubbock County, Texas.**

SECTION 2. THAT violation of any provision of this Ordinance shall be deemed a misdemeanor punishable by fine not to exceed Two Thousand and No/100 Dollars (\$2,000.00) as provided in Section 40.01.006 of the Zoning Ordinance of the City of Lubbock.

SECTION 3. THAT should any paragraph, sentence, clause, phrase or word of this Ordinance be declared unconstitutional or invalid for any reason, the remainder of this Ordinance shall not be affected thereby.

SECTION 4. THAT the City Secretary is hereby authorized to cause publication of the descriptive caption of this Ordinance as an alternative method provided by law.

AND IT IS SO ORDERED.

Passed by the City Council on first reading on _____.

Passed by the City Council on second reading on _____.

DANIEL M. POPE, MAYOR

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:


Bryan Isham, Director of Planning

APPROVED AS TO FORM:


Amy Sims, Deputy City Attorney

vw/cityatt/Kelli/ZoneCase/ZC3435
June 1, 2021

Staff Report		Zone Case 3435
City Council Meeting		June 22, 2021

Applicant Studio 44

Property Owner Heartbeat Midwifery

Council District 6

Recommendations

- Staff recommends Approval.

Prior Board or Council Action

- September 11, 1958: This property was annexed through Ordinance No. 2535 and zoned Single-Family District (R-1).
- January 24, 1963, Zone Case 1059: A portion of this property was zoned to Local Retail District (C-2) from R-1.
- September 12, 1974, Zone Case 1968-A: A portion of this property was zoned to Apartment Medical (AM) Specific Use from R-1.
- November 13, 1974, Zone Case 1968-A: A portion of this property was zoned to C-2 from R-1.
- September 13, 1984, Zone Case 1968-C: A portion of this property was zoned to General Retail District (C-3) and C-2 from R-1 and C-2.
- November 10, 1988, Zone Case 1968-D: A portion of this property was zoned to C-3 Specific Use from C-3.
- June 3, 2021, Zone Case 3298-C: The Planning and Zoning Commission recommended approval of a zone change to AM by a vote of 5-0-0.

Notification Summary

- Notifications Sent: 8
- Received In Favor: 0
- Received In Opposition: 0

Site Conditions and History

The subject property was annexed in 1958 and has remained vacant.

Adjacent Property Development

The property to the north of the subject property is zoned C-3 Specific Use and is developed with a bank. The properties to the east are zoned C-3 and have been developed with restaurants and a package store. The property to the south is zoned Garden Office (GO) and is developed with an office building. The property to the west is zoned R-1 and is developed with a park. The property to the southeast is zoned Apartment Medical (AM) and has been developed with an outpatient clinic.

Zoning Request and Analysis

Item Summary

The subject property is addressed as 4413 4th Street and 415 Raleigh Avenue, and is located south of 4th Street and east of Raleigh Avenue. The applicant requests to rezone the subject property from C-3 and C-3 Specific Use to AM.

Current zoning: General Retail District (C-3) and C-3 with a Specific Use

Requested zoning: **Apartment Medical District (AM)**

Intent Statements

The intent of the current C-3 zoning is “...to provide for general commercial uses which are medium activity centers in terms of generated traffic. Such districts should be adjacent to local or regional thoroughfares such as state or federal highways. Because of the commercial nature of the permitted uses, compatibility with adjacent residential areas should be considered.”

The intent of the proposed AM zoning is “...to provide for quality medical and related development through proper planning and design. The regulations are intended to produce an attractive environment which will ensure the compatibility between medical and other uses; encourage and protect future development; provide modern facilities for the public; provide proper accessory uses; and promote, stabilize, and enhance the city as a medical center.”

Traffic Network/Infrastructure Impacts

The proposed rezoning location is along Raleigh Avenue, which is designated as a Local Street by the Master Thoroughfare Plan, 2018. Local streets are designed for medium volumes of vehicles operating at lower speeds and provide access and movement within residential, commercial, and industrial areas (Comprehensive Plan, page 87). The proposed rezoning will be suitable for this type of road.

Compatibility with Surrounding Property

The proposed zoning is compatible with the surrounding area and will not change the character of the existing development. The proposed use is for a maternity clinic, which is appropriate adjacent to other commercial properties.

Conformance with Comprehensive Plan Principles and Future Land Use Map

The principles outlined in the Comprehensive Plan designates this area for “Commercial/Light Retail”. The level of intensity for a maternity clinic is appropriate for this area, and AM conforms to the Comprehensive Plan principles and Future Land Use Plan.

Conformance with Zoning Ordinance

The proposed zoning request is in conformance with the zoning ordinance and is appropriate adjacent to other uses that are already established.

Suitability of Property for Allowed Uses

The property is suitable for the proposed uses and will not need additional public improvements to support the intensity of uses described in the AM zoning district.

Attachments

- A. Case Information
- B. Thoroughfare Plan Map
- C. Aerial Map
- D. Zoning Map
- E. Future Land Use Map
- F. Photos
- G. Application and supporting documents

Staff Contacts

Jacob Hawkins
Planner
Planning Department
806-775-2096
jhawkins@mylubbock.us

Kristen Sager
Planning and Zoning Manager
Planning Department
806-775-2109
ksager@mylubbock.us

Case Information: Zone Case 3435



Allowable Uses: [Apartment-Medical District \(AM\)](#)

Transportation: The proposed development has points of access from Raleigh Avenue.

Thoroughfare	Existing	Per Thoroughfare Development Plan
Raleigh Avenue <i>Local, Completed</i>	R.O.W. 60 feet, two-lane, undivided, paved	Two-lane, undivided, paved

Engineering Comments: No comments.

Public Works Comments: No comments.

Building Safety Comments: No comments.

Fire Marshal Comments: No comments.

Draft Planning and Zoning Commission Minutes

4.5 **Case 3435:** Studio 44 for Heartbeat Midwifery

Request for a zone change to Apartment-Medical District (AM) from General Retail District (C-3) and C-3 Specific Use at:

- 4413 4th Street and 415 Raleigh Avenue, located south of 4th Street and east of Raleigh Avenue, Rushland Park Addition, Tract M-1-A-2 and the south part of Tract B-1-A.

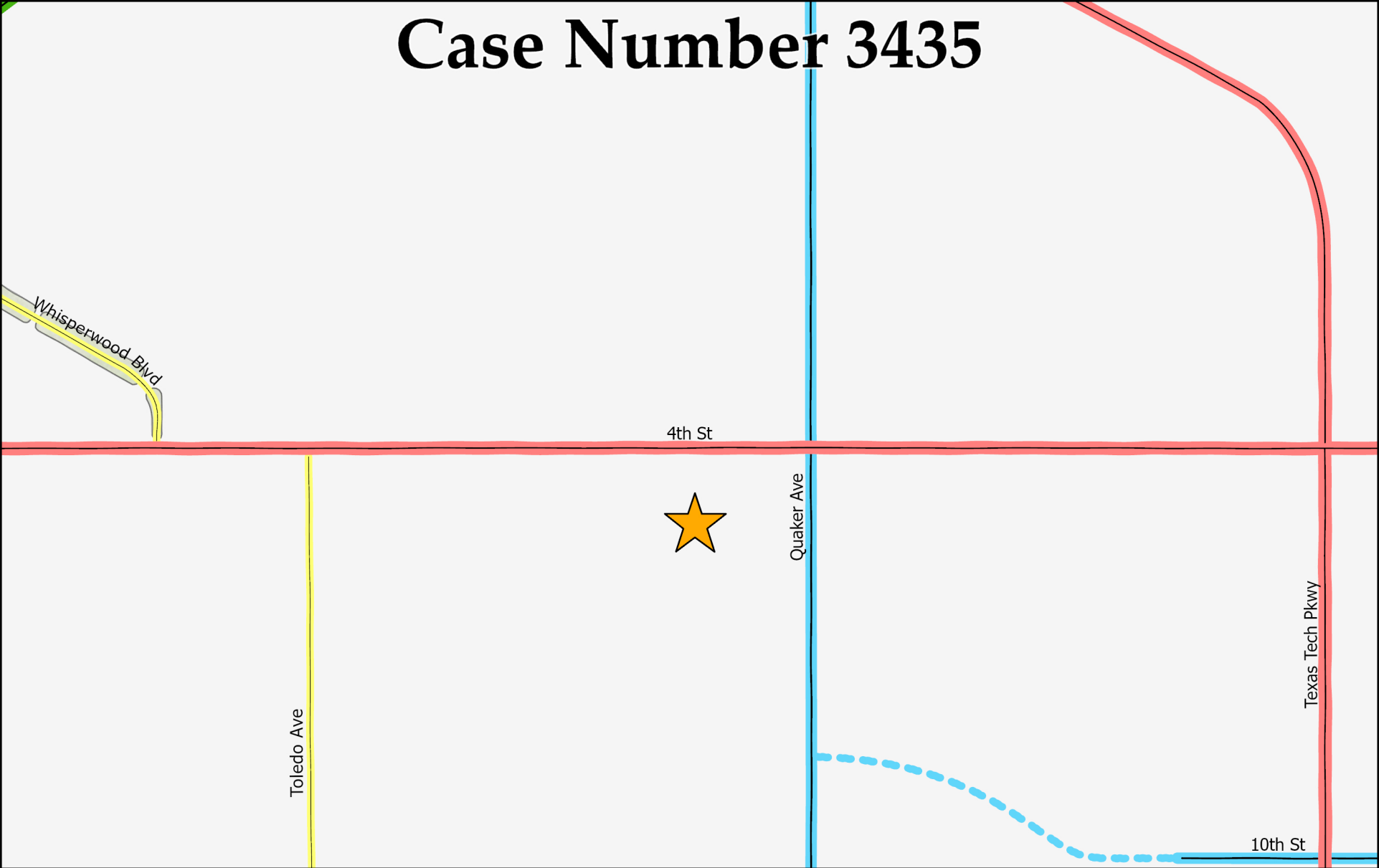
PLANNER JACOB HAWKINS stated there were eight (8) notifications sent out and zero returned. Staff shared the report, maps and photos of the surrounding property. Staff recommends approval of the request.

DEBRA PITTMAN 415 Raleigh Avenue is the designer for the subject property. Her client is a midwife and already has a business on 24th Street. This will be a new clinic with 3 birthing rooms. The design of the building is a residential style, which will be consistent with the surrounding area.

No one spoke in favor or in opposition to the request.

In the matter of **Zone Case 3435** a motion was made by **JAMES BELL** seconded by **TANNER NOBLE** to approve the case as presented. The Commission members voted 5 (in favor) to 0 (in opposition) to approve the motion. Item will be forwarded to City Council for consideration.

Case Number 3435



Collector

- Completed
- Partial
- Future

Minor Arterial

- Completed
- Partial
- Future

Modified Arterial

- Partial
- Future

Principal Arterial

- Completed
- Partial
- Future

Freeway

- Completed
- Partial
- Proposed Outer Loop



Case Number 3435



RALEIGH AV

4TH ST

QUAKER AV

6TH ST

7TH ST

SALEM

0 125 250 500 Feet

Single Family
District

4TH ST

From C-3,
C-3 SPECIFIC
USE to AM

B1A

M1A1

N

TRA

General Retail
District

M1A2

M1A3

M1A4

RALEIGH AVE

6TH ST

G1A

G1B1

Apartment-Medical
District

G1B2

D1

7TH ST

Single Family
District

11









12

13D1A

Current Zoning 3435



Zoning Districts

-  Apartment-Medical
-  Local Retail
-  General Retail
-  General Retail Specific Use
-  Garden Office
-  Garden Office Specific Use
-  Single Family
-  Single Family Specific Use

0 50 100 200
Feet

Future Land Use Plan 3435



- Commercial
- Heavy Commercial
- Downtown
- Office
- Industrial
- Interstate Commercial
- Interstate Industrial
- Mixed Use
- Parks
- Public/ Semi-Public
- Residential Low Density
- Residential Medium Density
- Residential High Density

0 50 100 200
Feet

4TH ST

TRA

B1A

M1A1

N

M1A2

M1A3

M1A4

G1A

G1B1

G1B2

D1

RALEIGH AV

6TH ST

K1C4

K1C3A

K1C3B

K1C2

K1C1

K1B

K1A

13E

13D1A

7TH ST

11

12

18 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18

3435



View of subject property. View south.



View of adjacent property. View west.



View of adjacent property. View north.



View of adjacent property. View east.



Lubbock Planning Department
PO Box 2000 / 1314 Avenue K
Lubbock, TX 79457
APPLICATION FOR ZONING CHANGE

Project Information

Location or Address: 4413 4th St & 4415 4th St.

Lots/Tracts: M-1-A-2 (4413 4th) & B-1 (4415 4th St)

Survey & Abstract: _____

Metes and Bounds Attached: Yes ☐ No ☐

Total Acreage of Request: _____

Existing Land Use: Vacant lot

Existing Zoning: C-3

Requested Zoning: AM

If property is not subdivided, will a preliminary plat be submitted?

Yes ☐

No ☐

Representative/Agent Information (if different from owner)

Firm Name: Studio 44

Name: Deborah Pittman

Address: 3214 44th St. City: Lubbock State: TX

ZIP Code: 79413 Telephone: 806-500-1288 Email: deborahpittman1@gmail.com

Applicant's Signature: [Signature]

Date: 4-30-2021

Printed Name: Deborah Pittman

Owner Information

Firm Name: Heartbeat Midwifery

Owner: Jacob & Carmen Geyman

Address: 2409 20th St City: Lubbock State: TX

ZIP Code: 79411 Telephone: 806-283-0885 Email: jacobgeyman@gmail.com

Property Owner's Signature: [Signature]

Date: 4/30/2021

Printed Name: Jacob Geyman

Preparer Information

Preparer's Signature: [Signature]

Date: 4-30-2021

Printed Name: Deborah Pittman

For City Use Only

Zone Case No: _____ Planning and Zoning Commission Date: _____

Request for zoning change from: _____ To: _____

Lots: _____ Blocks: _____

Addition: _____

If you have any questions pertaining to the zoning process, please contact the City of Lubbock Planning Department by phone at (806) 775 - 2108 or by e-mail at cityplanning@mylubbock.us.



Regular City Council Meeting

7. 5.

Meeting Date: 07/13/2021

Information

Agenda Item

Resolution - Planning: Consider a resolution authorizing the Mayor to execute an Annexation Agreement with Starlight Development, LLC, for an area of land generally described as approximately 552.51 acres adjacent to the southern city limits of the City of Lubbock, south of 146th Street and west of Frankford Avenue.

Item Summary

Starlight Development, LLC is the owner of the tract of land containing approximately 552.51 acres adjacent to the southern city limits of the City of Lubbock. The owner is requesting consideration of voluntary annexation of the land into the City.

The first step in the voluntary annexation process is to establish a service plan that both the City and the property owner agree to. The proposed annexation agreement sets forth the plan for services between the City of Lubbock and Starlight Development, LLC. If the agreement is approved by the City Council, staff will schedule a public hearing to consider annexation of the property.

Fiscal Impact

None

Staff/Board Recommending

Jesica McEachern, Assistant City Manager
Bryan Isham, Director of Planning

Attachments

Resolution - Annexation Agreement at 146th and Frankford
Annexation_Agreement (r)_ -_146th_and_Frankford
Annexation Map
Annexation Application

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LUBBOCK:

THAT the Mayor of the City of Lubbock is hereby authorized and directed to execute for and on behalf of the City of Lubbock, an Annexation Agreement, by and between the City of Lubbock and Starlight Development, LLC, and related documents. Said Agreement is attached hereto and incorporated in this resolution as if fully set forth herein and shall be included in the minutes of the City Council.

Passed by the City Council on _____.

DANIEL M. POPE, MAYOR

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



Jessica McEachern, Assistant City Manager

APPROVED AS TO FORM:



Kelli Leisure, Assistant City Attorney

MUNICIPAL SERVICES AGREEMENT
BETWEEN THE CITY OF LUBBOCK, TEXAS
AND STARLIGHT DEVELOPMENT, LLC

This Municipal Services Agreement (the "Agreement") is entered into on _____ day of _____, 2021 by and between the City of Lubbock, Texas, a home-rule municipality of the State of Texas, (the "City") and STARLIGHT DEVELOPMENT, LLC (the "Owner"), collectively referred to as (the "Parties").

RECITALS

The Parties agree that the following recitals are true and correct and form the basis upon which the Parties have entered into this Agreement.

WHEREAS, the Texas Local Government Code Section 43.0671 permits the City to annex an area when each owner of land in an area requests the annexation;

WHEREAS, the Owner owns a parcel of land situated in Lubbock County, Texas which consists of approximately 553 acres of land in the City's extraterritorial jurisdiction, such property being more particularly described and set forth in Exhibit A attached to and incorporated herein (the "Property");

WHEREAS, where the City elects to annex such an area, the City is required to enter into a written agreement with the Owner that sets forth the City services to be provided for the Property;

WHEREAS, Owner has filed a written request with the City for full-purpose annexation of the Property, and said petition for annexation is set forth in Exhibit B attached to and incorporated herein (the "Petition");

WHEREAS, the City and the Owner desire to set out the City services to be provided for the Property on or after the effective date of annexation;

WHEREAS, the annexation and execution of this Agreement are subject to approval by the Lubbock City Council; and

NOW THEREFORE, in exchange for the mutual covenants, conditions and promises contained herein, the City and the Owner agree as follows:

1. **PROPERTY.** This Agreement is only applicable to the Property, which is the subject of the annexation.

2. **INTENT.** It is the intent of the City that this Agreement provide for the delivery of full, available municipal services to the Property in accordance with state law, which may be accomplished through any means permitted by law.

3. **MUNICIPAL SERVICES.**

A. Commencing on the effective date of annexation, the City will provide the municipal services set forth below. As used in this Agreement, "providing services" includes having services provided by any method or means by which the City may extend municipal services to any other area of the City, including the City's infrastructure extension policies and developer or property owner participation in accordance with the applicable city ordinances, rules, regulations, and policies.

i. Fire Services

a. *Existing Services:* None

b. *Services to be Provided:* Fire suppression will be available to the area upon annexation. Primary fire response will be provided by Fire Station No. 19, located at 5826 98th Street, Station No. 16, located at 4030 114th Street and Station No. 15, located at 8002 Venita Avenue. Station No. 19 is approximately 4.2 miles from the proposed annexation with an approximate response time of 5 to 6 minutes. Station 16 is approximately 5.2 miles from the proposed annexation with an approximate response time of 7 to 8 minutes. Station No. 15 is approximately 7.4 miles from the proposed annexation with an approximate response time of 10 to 11 minutes. Fire suppression activities can be afforded to the annexed area within current appropriation with a less than desirable response time. As these areas are developed an additional fire station(s) will be considered. Fire Prevention activities will be provided by the Fire Marshal's office as needed.

ii. First Responder Emergency Medical Services

a. *Existing Services:* None

b. *Services to be Provided:* Lubbock Fire Rescue is a Basic Life Support (BLS) First Responder Organization. BLS First Responder emergency medical response will be provided by Fire Station No. 19, located at 5826 98th Street, Station No. 16, located at 4030 114th Street and Station No. 15, located at 8002 Venita Avenue. Station No. 19 is approximately 4.2 miles from the proposed annexation with an approximate response time of 5 to 6 minutes. Station 16 is approximately 5.2 miles from

the proposed annexation with an approximate response time of 7 to 8 minutes. Station No. 15 is approximately 7.4 miles from the proposed annexation with an approximate response time of 10 to 11 minutes. Emergency medical transport is provided by the Lubbock County Hospital District.

iii. Police Services

a. *Existing Services:* None

b. *Services to be Provided:* The Police Department's responsibility for responding to emergency and non-emergency law enforcement calls for service and to provide law enforcement patrol coverage in an effort to prevent, reduce, mitigate and solve crimes will extend to this area on the effective date. These services can be provided within the department's current budget.

iv. Building Safety Services

a. *Existing Services:* None

b. *Services to be Provided:* The Building Safety Department will provide construction code enforcement services upon annexation. This includes construction plan review and field inspection services and the issuance of building, electrical, and plumbing/mechanical permits for any new construction and remodeling, as well as enforcement of all other applicable laws and codes that regulate building construction within the City of Lubbock. It is anticipated that such services can be provided with current personnel and within the current budget appropriation. As land is developed, the need for additional personnel and budget appropriations will be dependent upon the type, intensity and rate of development within the annexed area as well as areas that compete for those resources.

v. Planning and Zoning Services

a. *Existing Services:* Subdivisions of land within the five-mile extraterritorial jurisdiction (ETJ) of the city are required to have a plat of the subdivision prepared in accordance with the City of Lubbock subdivision regulations. Currently, plats and subdivisions in the ETJ are approved by the Planning and Zoning Commission, as well as the County Commissioner's Court, as may be dictated by applicable state statutes and City ordinances. Similarly, signs and billboards are regulated within the ETJ pursuant to the City's sign ordinance, as authorized by State law. No other

Planning department services are authorized or offered outside of the City limits, including zoning.

b. *Services to be Provided:* The Planning and Zoning Department's responsibility for regulating development and land use through the administration of the City of Lubbock Zoning Ordinance will extend to this area on the effective date of the annexation. The annexed areas will also continue to be regulated under the requirements of the City of Lubbock Subdivision Ordinance. These services can be provided within the department's current budget.

vi. GIS and Data Services

a. *Existing Services:* None

b. *Services to be Provided:* GIS and Data Services will update all city-wide GIS data sets to include the newly annexed areas. This will include support to the Office of City Secretary for elections requirements, to Building Inspection, Streets and Traffic Engineering for addresses, street names and street signs, and to Planning for transitional zoning. GIS will facilitate a meeting with Lubbock Emergency Communication District, Police and Fire for determination of updated information for 911 Dispatch. Updated GIS information that is public will also be reflected on the GIS mapping website for citizens.

vii. Publicly Owned Parks, Facilities, and Buildings

a. *Existing Services:* City of Lubbock Library's materials, services, and programs are currently available to anyone who lives in Lubbock County.

b. *Services to be Provided:* Residents of the Property will be permitted to utilize all existing publicly-owned and available parks, facilities (including community service facilities, libraries, swimming pools, etc.) and buildings throughout the City. Upon the effective date of annexation, staff will study areas to be included in future versions of the Parks Master Plan. Any addition of parkland will create additional expenses to the Parks and Recreation operating budget. The Library will continue to provide services to all of Lubbock County, including the area to be annexed. These services are provided within the department's current budget.

viii. Code Administration/Environmental Health Services

a. *Existing Services:* None

b. *Services to be Provided:* The City of Lubbock's Code Administration/Environmental Health Departments will implement the enforcement of local ordinances and regulations on the effective date of the annexation. Such services can be provided with current Code Administration/Health Department Personnel and within the current budget appropriation. As land is developed, increases in personnel and budget will be needed in order to provide the same level of customer service.

ix. Animal Services

a. *Existing Services:* None. Currently, the area is under the jurisdiction of the Lubbock County Sheriff's Office.

b. *Services to be Provided:* Animal control services will be provided to the area as needed. The City of Lubbock Animal Services Department will implement the enforcement of the City of Lubbock's animal control ordinances and regulations upon the effective date of the annexation. It is anticipated that such services can be provided with current personnel and budget appropriation, but response times may increase.

x. Street Services

a. *Existing Services:* City of Lubbock Public Works currently maintains any roads that are within the City of Lubbock City Limits adjacent to these plats.

b. *Services to be Provided:* In accordance with the Master Thoroughfare Plan, the proposed annexation area is adjacent to approximately 4 miles of Arterial Roadway. As development occurs, the City's current policies require the City to design and build Arterial Roadways. Roadway Impact Fees will be due at the time of platting. Capital projects may be required in the future to provide adequate funding to support this anticipated growth. The timing of these improvements would be contingent on available funding and growth patterns in these areas. The developer may build the roadway and receive offsets in Lieu of Impact Fees.

xi. Storm Water Management Services

a. *Existing Services:* City maintains jurisdiction of playa lakes within the ETJ. TCEQ (Texas Commission on Environmental Quality) has jurisdiction of enforcement and compliance with stormwater related permits outside the City limits.

b. *Services to be Provided:* As land is developed, developers will provide plans for addressing the conveyance of storm water drainage. The Development Engineering staff will review the drainage plans for compliance with the current drainage regulations and policies. Any major improvements for conveyance will be inspected for compliance by the city staff at time of completion. Additionally, as land is developed and building permits are requested, Storm Water staff reviews each permit request for compliance with the Chapters 22 (City's Stormwater permit) and Chapter 30 (Lakes and Floodplains) of the City Code. After permit issuance, inspections of the construction sites are to ensure compliance with the City Code and state regulations. Depending on the type and intensity of development within the annexed area, the need for additional personnel and budget appropriations may be needed to provide adequate customer service (development and permit review and inspections). TCEQ Stormwater permit holders will be transitioned from TCEQ oversight to City of Lubbock oversight, i.e. inspection and compliance of these existing facilities will now be the responsibility of the Storm Water Staff.

xii. Street Lighting

a. *Existing Services:* None

b. *Services to be Provided:* The City of Lubbock will coordinate any request for improved street lighting with the local electric provider in accordance with standard policy.

xiii. Traffic Engineering Services

a. *Existing Services:* None

b. *Services to be Provided:* Upon annexation and in conjunction with the platting process, Traffic Engineering will identify and install required traffic signs to be installed at the developer's expense. Other regulatory traffic control devices will be provided after appropriate studies indicate the data meets the minimum requirements as set forth in the Texas Manual on Uniform Traffic Control Devices (TMUTCD) and as budget permits.

xiv. Water and Sanitary Sewer Services

a. *Existing Services:* None

b. *Services to be Provided:* Water and sewer infrastructure is not currently adjacent to this area within the existing City Limits. Availability

of water and sewer is at the request and expense of the user, and shall be provided within current policies and ordinances of the City (note below for an explanation of pro-rata charges). Water and sewer for domestic and commercial use, when installed, will be available at approved City rates. Water for fire protection will be available through lines only after service lines are installed by the developer.

Pro-Rata Charges:

Chapter 22, City Code establishes the charges or the actual cost of construction due on all property to which water and/or sewer lines are extended. The charge is generally known as "pro-rata" and is due and payable before service is provided. The pro-rata charge represents a portion of the costs of providing water and/or sewer facilities to serve the property on which the pro-rata is paid. When a person desires water and/or sewer service to property that requires an extension of existing facilities to provide service adjacent to the property or when the service connection will be made to a line constructed after April 1, 1952, the person desiring service shall pay non-refundable charge called pro-rata. 2005 pro-rata charges include \$15.00 per front foot of lot or tract to be serviced for sewer and \$12.00 for water, unless the actual extension cost is greater, then the charge is per actual cost. When an extension of water/sewer facilities exceeds the above costs, the person(s) desiring service shall pay the entire cost and later be refunded that amount above pro-rata when other persons tie onto service and pay their pro-rata. Ordinance 8017 specifies other items including:

- A. pro-rata on property already platted, and extension of services.
- B. pro-rata and extensions to property being platted
- C. sizes of lines and meter sizes
- D. location for service connection
- E. deposits, charges, refunds
- F. cost of large mains may be partially paid by City, and other consideration, or
- G. when the City Council can declare a health hazard and install mains at public expense.

xv. Solid Waste Services

- a. *Existing Services:* None
- b. *Services to be Provided:* Solid Waste Collection shall be provided to the area of annexation in accordance with the present ordinance. Service shall comply with existing City policies, beginning with occupancy of

structures. Since there is potential residential growth within this area of annexation, impact to services has been determined to be gradual. Additional driver and equipment can be projected when 1,000 residential unit structures are occupied, and an increase in staffing and equipment will be needed as development continues within this proposed annexation area and exceeds route collection averages. The landfill will be able to handle this request. The only impact would be that the City could anticipate landfilling additional solid waste tonnage and ultimately developing the next landfill cell sooner than currently projected.

B. It is understood and agreed that the City is not required to provide a service that is not included in this agreement.

C. Owner understands and acknowledges that the City departments listed above may change name or be-reorganized by the City Manager. Any reference to a specific department also includes any subsequent department that will provide the same or similar services.

4. **AUTHORITY.** City and Owner represent that they have full power, authority and legal right to execute, deliver and perform their obligations pursuant to this Agreement. Owner acknowledges that approval of the annexation is within the sole jurisdiction of the City Council. Nothing in this Agreement guarantees favorable decisions by the City Council.
5. **SEVERABILITY.** If any part, term, or provision of this Agreement is held by the courts to be illegal, invalid, or otherwise unenforceable, such illegality, invalidity, or unenforceability will not affect the validity of any other part, term or provision, and the rights of the Parties will be construed as if the part, term, or provision was never part of the Agreement.
6. **INTERPRETATION.** The Parties to this Agreement covenant and agree that in any litigation relating to this Agreement, the terms and conditions of the Agreement will be interpreted according to the laws of the State of Texas. The Parties acknowledge that they are of equal bargaining power and that each of them was represented by legal counsel in the negotiation and drafting of this Agreement.
7. **GOVERNING LAW AND VENUE.** Venue shall be in the state courts located in Lubbock County, Texas and construed in conformity with the provisions of Texas Local Government Code Chapter 43.
8. **NO WAIVER.** The failure to either party to insist upon the performance of any term or provision of this Agreement or to exercise any right granted hereunder shall not constitute a waiver of that party's right to insist upon appropriate performance or to assert any such right on any future occasion.

9. **GOVERNMENTAL POWERS.** It is understood that by execution of this Agreement, the City does not waive or surrender any of its governmental powers or immunities.
10. **COUNTERPARTS.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument.
11. **CAPTIONS.** The captions to the various clauses of this Agreement are for informational purposes only and shall not alter the substance of the term and conditions of this Agreement.
12. **AGREEMENT BINDS SUCCESSORS AND RUNS WITH THE LAND.** This Agreement is binding on and inures to the benefit of the Parties, their successors, and assigns. The term of this Agreement constitutes covenants running with the land comprising the Property and is binding on the Owner.
13. **ENTIRE AGREEMENT.** This Agreement constitutes the entire agreement between the Parties and supersedes all prior oral and written agreements between said Parties. This Agreement shall not be amended unless executed in writing by both Parties.

EXECUTED as of the Effective Date hereof.

CITY OF LUBBOCK

STARLIGHT DEVELOPMENT, LLC

DANIEL M. POPE, Mayor

Thomas K. Payne, Manager

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

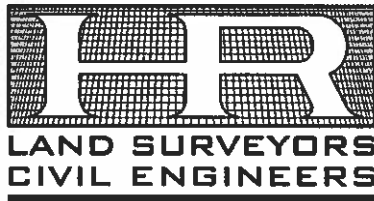
Bryan Isham, Director of Planning

APPROVED AS TO FORM:



Kelli Leisure, Assistant City Attorney

Ccdocs/AnnexationAgreement_Starlight Dev_AK-10



HUGO REED AND ASSOCIATES, INC.
1601 AVENUE N / LUBBOCK, TEXAS 79401 / 806/763-5642 / FAX 806/763-3891
TEXAS REGISTERED ENGINEERING FIRM F-760
TEXAS LICENSED SURVEYING FIRM 100676-00

EXHIBIT "A"

METES AND BOUNDS DESCRIPTION of a 552.51 acre tract, located in Section 10, Block AK, Abstract 704, Lubbock County, Texas, being further described as follows:

BEGINNING at a point in the present city limits as established by City of Lubbock Ordinance No. 2016-00054, which bears N. 88°17'53" W. a distance of 65.00 feet and S. 01°52'42" W. a distance of 660.00 feet from the Northeast corner of Section 10, Block AK, Lubbock County, Texas;

THENCE S. 01°52'42" W., along a line 65 feet West of and parallel to the East line of said Section 10, a distance of 4506.55 feet to a point 65 feet North of the South line of said Section 10, for the Southeast corner of this tract;

THENCE N. 88°15'00" W., along a line 65 feet North of and parallel to the South line of said Section 10, a distance of 5196.15 feet to a point 65 feet East of the West line of said Section 10, for the Southwest corner of this tract;

THENCE N. 01°53'42" E., along a line 65 feet East of and parallel to the West line of said Section 10, a distance of 5097.20 feet to a point 65 feet South of the North line of said Section 10, for the Northwest corner of this tract;

THENCE S. 88°17'53" E., along a line 65 feet South of and parallel to the North line of said Section 10, a distance of 1116.76 feet to a point of intersection with said present city limits;

THENCE S. 01°42'07" W., along said present city limits, a distance of 595.00 feet to a point at an "ell" corner of this tract;

THENCE S. 88°17'53" E., continuing along said present city limits, a distance of 4076.09 feet to the Point of Beginning.

Contains: 552.51 acres

Bearings relative to Grid North, Texas Coordinate System of 1983, North-Central Zone, 2011 (epoch 2010.0).

April 8, 2021

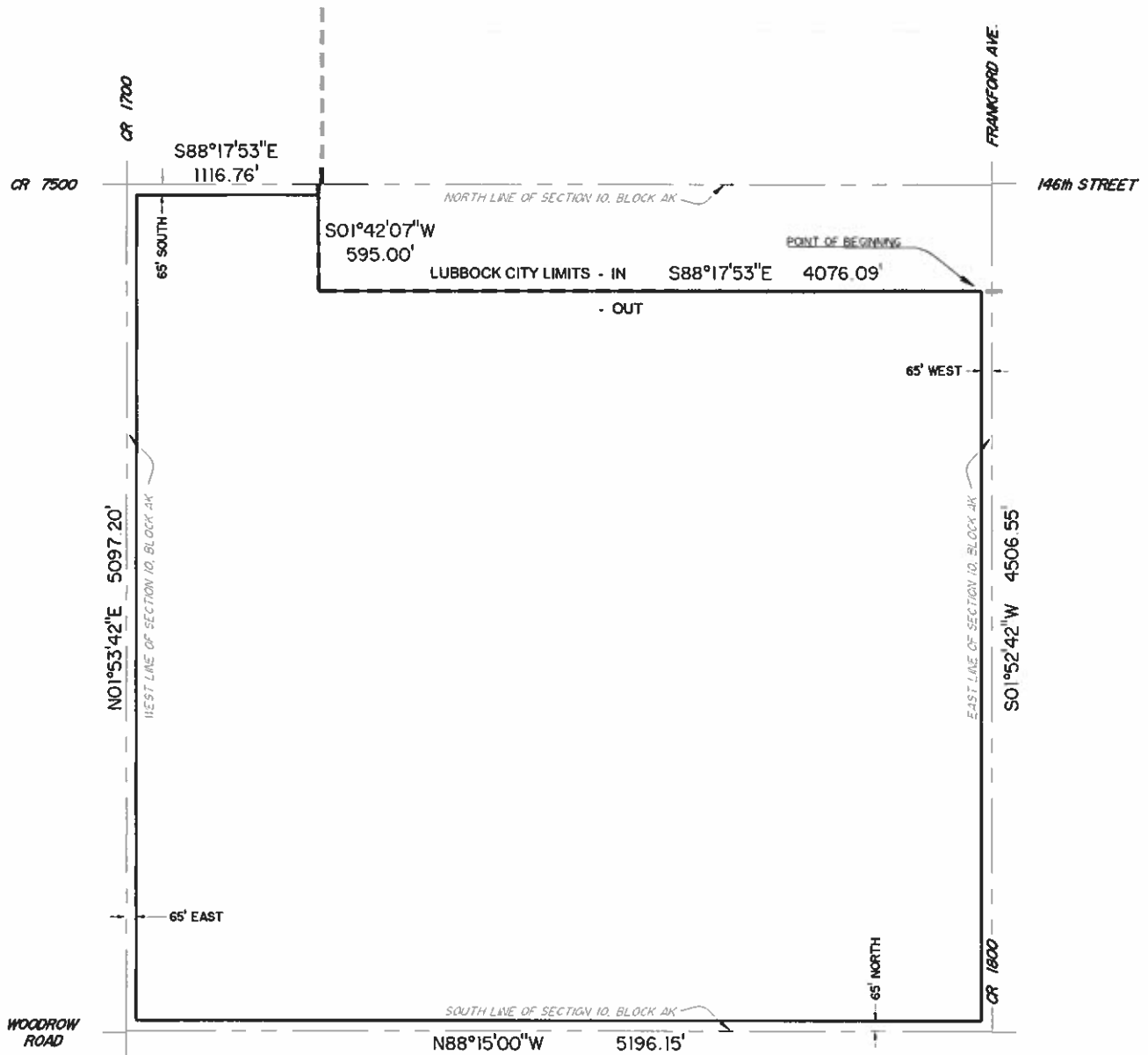
Robert A. Christopher
Land Surveyor No. 5167
Licensed State Land Surveyor
State of Texas



This document was prepared under 22 TAC §663.21, does not reflect the results of an on the ground survey, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared.

EXHIBIT "A"

Sketch Illustrating Proposed Annexation

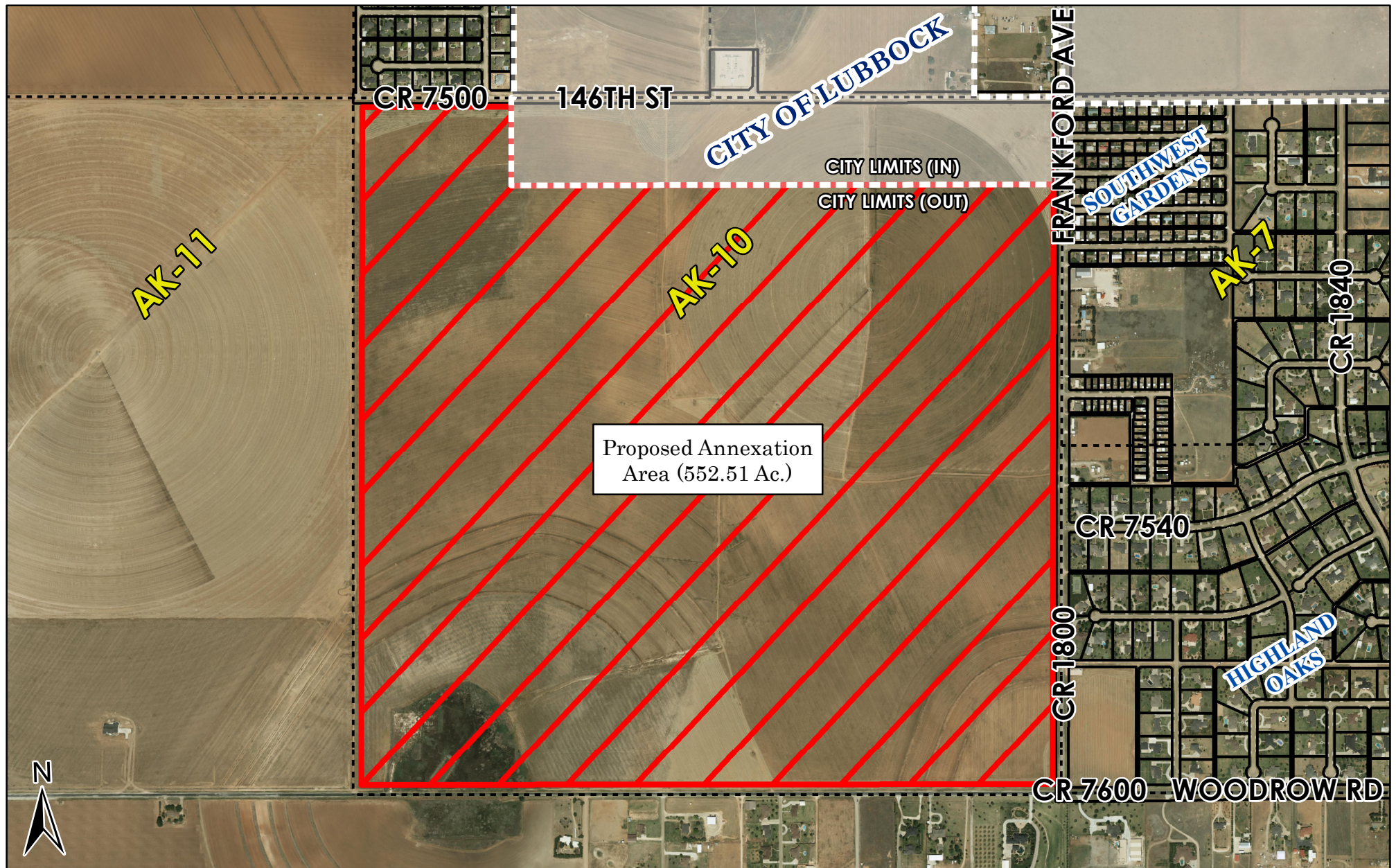


SCALE: 1"=1000'
DATE: 04-08-2021

HR | **HUGO REED**
AND ASSOCIATES, INC.

LAND SURVEYORS • CIVIL ENGINEERS • LAND PLANNERS
TEXAS LICENSED SURVEYING FIRM 100675-00 | PHONE: 806 / 763-5612 | 1601 AVENUE N
TEXAS REGISTERED ENGINEERING FIRM F-760 | FAX: 806 / 763-3891 | LUBBOCK, TEXAS 79401

Proposed Annexation Area (552.51 Ac. Total) Located in Section 10, Block AK, Lubbock County



As required by Chapter 2051, Geospatial Data Products of the Government Code, this product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

0 500 1,000 2,000 3,000
Feet





VOLUNTARY ANNEXATION APPLICATION

APPLICATION IS NOT VALID WITHOUT COMPLETION OF ALL PAGES AND SIGNATURES

MINIMUM SUBMITTAL REQUIREMENTS:

- ☒ Application provided by City of Lubbock completed in full. This application must be used and may not be adjusted or altered. Please attach pages if additional information is provided.
- ☒ Annexation petition provided by City of Lubbock with notarized signature(s).
- ☒ Map of the subject property.
- ☒ A legal description of the property (including a survey, field notes or legal description with subdivision, lot and block) labeled as Exhibit A.
- ☒ Ownership Documents. A clean copy of recorded warranty deed or other document(s) verifying ownership of all property to be annexed. If the property is owned by a partnership, corporation, trust, or other entity, documents demonstrating signatory's authority to sign petition on behalf of entity must be included.
- ☒ One digital copy of all of the above.
- ☐ If designating a representative, the affidavit designating representative with notarized signature(s).

Property Owner(s): STARLIGHT DEVELOPMENT LLC

Address: PO Box 64664

Address: Lubbock, Texas, 79464

Telephone: (806) 543-0667 Email: tpayn3@gmail.com

Telephone: () _____ Email: _____

Acreage of property: 552.51 Number of lots and proposed use: Vacant, proposed residential

Check one:

- ☒ I will represent my application and petition before city staff and the City Council.
- ☐ I hereby authorize the person named in the attached affidavit to act as my representative in this application before city staff and the City Council.

Owner of record signature _____

Please note: The signature of owner authorizes the City of Lubbock staff to visit and inspect the property that is subject to this application. The representative is the official contact person for this project and the single point of contact. All correspondence and communication – and responsibility for responding to same – will be conducted with the representative.



PETITION REQUESTING ANNEXATION BY AREA LANDOWNERS

TO THE MAYOR OF THE GOVERNING BODY OF LUBBOCK, TEXAS:

The undersigned owners of the hereinafter described tract of land, which is vacant and without residents, or on which fewer than three qualified voters reside, hereby waive any requirement to be offered a development agreement pursuant to the Texas Local Government Code Section 43.016, and petition your Honorable Body to extend the present city limits so as to include as part of the City of Lubbock, Texas, the territory described in the attached Exhibit A, including a survey, field notes or legal description with subdivision, lot and block.

We certify that the above described tract of land is contiguous and adjacent to the City of Lubbock, Texas, falls within Lubbock County, and that this petition is signed and duly acknowledged by each and every person having an interest in said land.

Signed: _____

Signed: _____

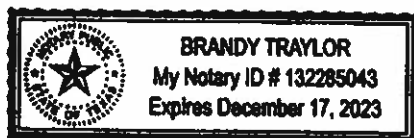
Signed: _____

THE STATE OF TEXAS

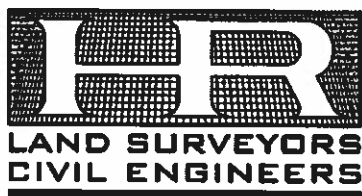
COUNTY OF Lubbock

BEFORE ME, the undersigned authority, on this day personally appeared Thomas Payne,
_____, and _____, known to me to
be the persons whose names are subscribed to the foregoing instrument and each acknowledged to me that he or she executed
the same for the purposes and consideration therein expressed.

Given under my hand and seal of office, this 28 day of April, 2021.



Brandy Traylor
Notary Public in and for Lubbock County,
Texas.



HUGO REED AND ASSOCIATES, INC.
1601 AVENUE N / LUBBOCK, TEXAS 79401 / 806/763-8642 / FAX 806/763-3891
TEXAS REGISTERED ENGINEERING FIRM F-760
TEXAS LICENSED SURVEYING FIRM 100676-00

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THENCE S. 01°52'42" W., along a line 65 feet West of and parallel to the East line of said Section 10, a distance of 4506.55 feet to a point 65 feet North of the South line of said Section 10, for the Southeast corner of this tract;

THENCE N. 88°15'00" W., along a line 65 feet North of and parallel to the South line of said Section 10, a distance of 5196.15 feet to a point 65 feet East of the West line of said Section 10, for the Southwest corner of this tract;

THENCE N. 01°53'42" E., along a line 65 feet East of and parallel to the West line of said Section 10, a distance of 5097.20 feet to a point 65 feet South of the North line of said Section 10, for the Northwest corner of this tract;

THENCE S. 88°17'53" E., along a line 65 feet South of and parallel to the North line of said Section 10, a distance of 1116.76 feet to a point of intersection with said present city limits;

THENCE S. 01°42'07" W., along said present city limits, a distance of 595.00 feet to a point at an "el" corner of this tract;

THENCE S. 88°17'53" E., continuing along said present city limits, a distance of 4076.09 feet to the Point of Beginning.

Contains: 552.51 acres

Bearings relative to Grid North, Texas Coordinate System of 1983, North-Central Zone, 2011 (epoch 2010.0).

April 8, 2021

Robert A. Christopher
Land Surveyor No. 5167
Licensed State Land Surveyor
State of Texas



This document was prepared under 22 TAC §663.21, does not reflect the results of an on the ground survey, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared.



AFTER RECORDING RETURN TO:
PEOPLES BANK
ATTN: Glenda Cox
3620 52nd Street
Lubbock, Texas 79424

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

ASSUMPTION SPECIAL WARRANTY DEED

Grantor: BROOKELAND I, LLC, a Texas Limited Liability Company - as to an undivided forty-seven one-hundredths percent (0.47%) interest

NEVERFALL, LLC, a Texas Limited Liability Company - as to an undivided seven and eight one-hundredths percent (7.08%) interest

ROCKET PARTNERS I, LLC, a Texas Limited Liability Company - as to an undivided forty one and eighty-seven one-hundredths percent (41.87%) interest

ROCKET PARTNERS II, LLC, a Texas Limited Liability Company - as to an undivided five and fifty-eight one-hundredths percent (5.58%) interest

Grantor's Mailing Address (including county):

P.O. Box 64664, Lubbock, Lubbock County, Texas 79464

Grantee: STARLIGHT DEVELOPMENT, LLC, a Texas Limited Liability Company

Grantee's Mailing Address (including county):

P.O. Box 64664, Lubbock, Lubbock County, Texas 79464

Consideration: Ten and no/100 Dollars and Grantee's assumption of the Real Estate Lien Notes which are described below (collectively the "Notes" and, singularly a "Note"):

1. Grantee assumes and agrees to pay according to the Note's terms all principal and interest remaining unpaid on that certain Real Estate Lien Note executed by BROOKELAND I, LLC, a Texas Limited Liability Company in the original principal amount of \$32,077.50, dated December 29, 2020, and payable to the order of PEOPLES BANK. Said Note is secured by a first-lien Deed of Trust (the "Deed of Trust") on the Property recorded under County Clerk File No. 2020059422, Official Public Records, Lubbock County, Texas. As further consideration, Grantee promises to keep and perform all of the covenants and obligations of the Grantor under said Deed of Trust.
2. Grantee assumes and agrees to pay according to the Note's terms all principal and interest remaining unpaid on that certain Real Estate Lien Note executed by NEVERFALL, LLC, a Texas Limited Liability Company in the original principal amount of \$483,210.00, dated December 29, 2020, and payable to the order of PEOPLES BANK. Said Note is secured by

the Deed of Trust which evidences a first-lien on the Property and is recorded under County Clerk File No. 2020059422, Official Public Records, Lubbock County, Texas. As further consideration, Grantee promises to keep and perform all of the covenants and obligations of the Grantor under said Deed of Trust.

3. Grantee assumes and agrees to pay according to the Note's terms all principal and interest remaining unpaid on that certain Real Estate Lien Note executed by ROCKET PARTNERS I, LLC, a Texas Limited Liability Company in the original principal amount of \$2,857,627.50 dated December 29, 2020, and payable to the order of PEOPLES BANK. Said Note is secured by the Deed of Trust which evidences a first-lien on the Property and is recorded under County Clerk File No. 2020059422, Official Public Records, Lubbock County, Texas. As further consideration, Grantee promises to keep and perform all of the covenants and obligations of the Grantor under said Deed of Trust.
4. Grantee assumes and agrees to pay according to the Note's terms all principal and interest remaining unpaid on that certain Real Estate Lien Note executed by ROCKET PARTNERS II, LLC, a Texas Limited Liability Company in the original principal amount of \$380,835.00, dated December 29, 2020, and payable to the order of PEOPLES BANK. Said Note is secured by the Deed of Trust which evidences a first-lien on the Property and is recorded under County Clerk File No. 2020059422, Official Public Records, Lubbock County, Texas. As further consideration, Grantee promises to keep and perform all of the covenants and obligations of the Grantor under said Deed of Trust.

Property (including any improvements):

Section 10, Block AK, Abstract 704, Lubbock County, Texas, a 639.316 acre tract and being further described by metes and bounds as follows:

BEGINNING at a found 1" iron pipe having Texas North Central Zone Coordinates (NAD 83, 2011, Epoch 2010.0000) of North 7231981.42, East: 914407.50 for the Common Corner of Section 9, 10, 11 and 12, Block AK, and the Northwest corner of this tract;

THENCE S 88°17'53"E (Texas North Central Bearing Basis), with the South line of Section 9, Block AK, at 18.5 feet pass the Southwest corner of the Plat Limits of Windsor Park as shown on the Plat recorded in Volume 9268, Page 150, Lubbock County Official Public Records, continuing along the South line of the Plat Limits of Windsor Park and near the center of County Road 7500 (146th Street), at 1203.11 feet pass a found cotton spindle at the Southeast corner of the said Plat Limits, at 2675.26 feet pass a found ½" iron rod at the Southwest corner of Tract A, Slide Substation Addition, in all a distance of 5324.68 feet to a set mag spike and washer marked ABACUS ENG. RPI.S 4460 in the intersection of Frankford Avenue (a strip paved road) and 146th Street for the Northeast corner of Section 10 and the Northeast corner of this tract, from which a found railroad spike, the Northeast corner of Section 7, Block AK bears N 01° 53' 05" E. 5279.59 feet;

THENCE S 01° 52' 42" W, near the center of County Road 1800 (Frankford Avenue) and with the West line of Section 7, Block AK, at 142.38 feet pass the projected North line of an alley from which a found ½" iron rod with red cap bears S 88° 07' 18" E, 65.00 feet, in all a distance of 5231.61 feet to a set mag spike and washer for the Southeast corner of Section 10 from which the Southwest corner of Section 7, Block AK bears S 01° 52' 42" W, 3.8 feet;

THENCE N 88° 15' 00" W with Woodrow Road, a paved County Road, and the North line of Section 128, Block 20, the North line of Latigo Estates and the North line of West Woodrow Addition at a distance of 684.46 feet pass 50.00 feet Northerly of a found ½" iron rod, at 2110.28 feet pass the projected centerline of Private Road 1740, from which a found nail bears S 01°40' 03" W, 59.81 feet, at 3024.68 feet pass North of a found ½" iron rod which bears S 01°45' W, 50.00 feet, in all a distance of 5326.17 feet to a set mag spike and washer for the Southwest corner of Section 10 and the Southwest corner of this tract from which a found iron rod with illegible yellow cap, the Southeast corner of Section 11, Block AK, bears S 01° 53' 42" W, 11.5 feet;

THENCE N 01° 53' 42" E, with the East line of Section 11, and with a turnrow, at 28.5 feet pass a found iron rod with blue cap set by Cy Turner, at 1309.5 feet pass a found iron rod with blue cap, in all a distance of 5227.16 feet to the PLACE OF BEGINNING containing 639.316 acres including any Right of Way.

Reservations from and Exceptions to Conveyance and Warranty:

This conveyance is expressly made subject to all presently recorded restrictive covenants, easements, encumbrances and outstanding mineral or royalty conveyances or reservations, if any, affecting the Property that appear of record in the office of the County Clerk of Lubbock County, Texas.

Deed of Trust dated December 29, 2021 and recorded under County Clerk File No. 2020059422, Official Public Records, Lubbock County, Texas.

Subject to ad valorem taxes owing for the year 2021 and all subsequent years.

Grantor, for the consideration and subject to the reservations from and exceptions to conveyance and warranty, grants, sells, and conveys to Grantee the Property, together with all and singular the rights and appurtenances thereto in any wise belonging, to have and hold it to Grantee, Grantee's heirs, executors, administrators, successors, or assigns forever. Grantor hereby binds Grantor and Grantor's heirs, executors, administrators, and successors to warrant and forever defend all and singular the Property to Grantee and Grantee's heirs, executors, administrators, successors, and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof, except as to the reservations from and exceptions to warranty, when the claim is by, through, or under Grantor but not otherwise.

When the context requires, singular nouns and pronouns include the plural.

DATED the 29th day of January, 2021.

GRANTOR:

BROOKELAND I, LLC,
a Texas Limited Liability Company

By: 
Thomas K. Payne, Manager

NEVERFALL, LLC,
a Texas Limited Liability Company

By: 
Thomas K. Payne, Manager

ROCKET PARTNERS I, LLC,
a Texas Limited Liability Company

By: 
Thomas K. Payne, Manager

ROCKET PARTNERS II, LLC,
a Texas Limited Liability Company

By: 
Thomas K. Payne, Manager

**BY SIGNING BELOW, GRANTEE ACCEPTS THE CONVEYANCE DESCRIBED HEREIN
AND ASSUMES AND AGREES TO PAY THE HEREIN DESCRIBED NOTES AND TO
PERFORM ALL OF THE COVENANTS AND OBLIGATIONS OF THE DEED OF TRUST.**

GRANTEE:

STARLIGHT DEVELOPMENT, LLC,
a Texas Limited Liability Company

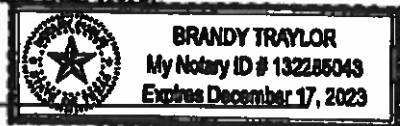
By: 
Thomas K. Payne, Manager

THE STATE OF TEXAS :

COUNTY OF LUBBOCK :

This instrument was acknowledged before me on the 1 day of February, 2021, by Thomas K. Payne, Manager of BROOKELAND I, LLC, a Texas Limited Liability Company, on behalf of said company.

Place Seal Here:



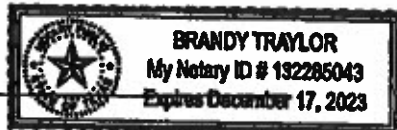
Brandy Traylor
Notary Public, State of Texas

THE STATE OF TEXAS :

COUNTY OF LUBBOCK :

This instrument was acknowledged before me on the 1 day of February, 2021, by Thomas K. Payne, Manager of NEVERFALL, LLC, a Texas Limited Liability Company, on behalf of said company.

Place Seal Here:



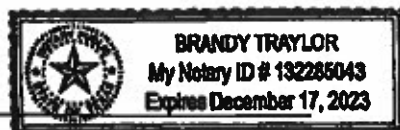
Brandy Traylor
Notary Public, State of Texas

THE STATE OF TEXAS :

COUNTY OF LUBBOCK :

This instrument was acknowledged before me on the 1 day of February, 2021, by Thomas K. Payne, Manager of ROCKET PARTNERS I, LLC, a Texas Limited Liability Company, on behalf of said company.

Place Seal Here:



Brandy Traylor
Notary Public, State of Texas

THE STATE OF TEXAS :

COUNTY OF LUBBOCK :

This instrument was acknowledged before me on the 1 day of ~~February~~ February, 2021, by Thomas K. Payne, Manager of ROCKET PARTNERS II, LLC, a Texas Limited Liability Company, on behalf of said company.

Place Seal Here:



Brandy Traylor

Notary Public, State of Texas

THE STATE OF TEXAS :

COUNTY OF LUBBOCK :

This instrument was acknowledged before me on the 1 day of ~~February~~ February, 2021, by Thomas K. Payne, Manager of STARLIGHT DEVELOPMENT, LLC, a Texas Limited Liability Company, on behalf of said company.

Place Seal Here:



Brandy Traylor

Notary Public, State of Texas



Regular City Council Meeting

7. 6.

Meeting Date: 07/13/2021

Information

Agenda Item

Ordinance 1st Reading - City Manager: Consider an ordinance amending Chapter 2, Section 2.03.491 of the Code of Ordinances, regarding the establishment and membership of the City of Lubbock Building Board of Appeals.

Item Summary

This ordinance amends the required qualifications of the licensed master plumber position and licensed master electrician position. This change removes the designation of master plumber and master electrician, to allow for an active plumber licensed by the State of Texas to qualify, and an active electrician licensed by the State of Texas, to qualify for these positions.

Fiscal Impact

None

Staff/Board Recommending

Jesica McEachern, Assistant City Manager
Greg Zielinski, City Building Official

Attachments

Ordinance - Bldg Brd of Appeals Membership

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 2, SECTION 2.03.491 OF THE CODE OF ORDINANCES OF THE CITY OF LUBBOCK, TEXAS, REGARDING THE ESTABLISHMENT AND MEMBERSHIP OF THE CITY OF LUBBOCK BUILDING BOARD OF APPEALS; AND PROVIDING A SAVINGS CLAUSE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LUBBOCK, TEXAS:

SECTION 1. THAT Section 2.03.491 of the City of Lubbock Code of Ordinances is amended to read as follows:

“Sec. 2.03.491 Establishment and membership

In order to hear and decide appeals of orders, decisions or determinations made by the building official or fire marshal relative to the application and interpretation of the technical construction and fire prevention codes, and to hear and decide on matters related to the permitting, licensing, or registration of individuals or entities subject to said codes, and to determine suitability of alternate materials and methods of construction, there shall be and is hereby created a board of appeals. Except as specifically noted below, the board of appeals shall consist of eleven (11) members who are qualified by experience and training to pass upon matters pertaining to the design, construction and use of buildings. Members of the board of appeals shall be appointed by the city council and shall hold office for a term of three (3) years and until their successors are qualified. Consistent with the membership set forth below, the presently constituted board members shall continue in their offices for their regular terms. The membership of the board of appeals shall include representatives from the following areas of expertise:

- (1) A member of the West Texas Home Builders Association;
- (2) An active architect;
- (3) An active structural engineer;
- (4) An active commercial contractor;
- (5) An active realtor;
- (6) An active plumber, licensed by the State of Texas;
- (7) An active electrician, licensed by the State of Texas;
- (8) An active mechanical contractor with a class A license;
- (9) Three (3) Lubbock citizens at-large who are not associated with the construction or real estate industry; and
- (10) Two (2) Lubbock citizens at-large, not associated with the construction industry, who shall be available as alternate members for the purpose of establishing a quorum in accordance with section 2.03.494.”

SECTION 2. THAT if any provision of this Ordinance shall be held to be unenforceable or otherwise inconsistent with the Charter of the City of Lubbock, the remaining portions of this Ordinance shall be unaffected thereby.

AND IT IS ORDERED

Passed by the City Council on first reading this ____ day of July, 2021.

Passed by the City Council on second reading this ____ day of July, 2021.

DANIEL M. POPE, MAYOR

ATTEST:

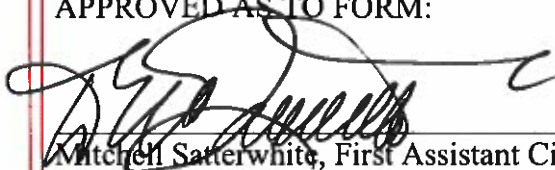
Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



W. Jarrett Atkinson, City Manager

APPROVED AS TO FORM:



Mitchell Satterwhite, First Assistant City Attorney



Regular City Council Meeting

7. 7.

Meeting Date: 07/13/2021

Information

Agenda Item

Ordinance 1st Reading - City Council: Consider an ordinance repealing Chapter 2, Section 2.02.001(c) of the Code of Ordinances regarding certain duties of the City Secretary.

Item Summary

Chapter 2, Section 2.02.001(c) of the City of Lubbock Code of Ordinances states “Additional Duties of the City Secretary. The department of the City Council Staff shall report to and be responsible to the City Secretary, and that the City Secretary shall be responsible for all activities and duties of such department.” The proposed agenda item would repeal the Additional Duties of the City Secretary.

Fiscal Impact

None

Staff/Board Recommending

City Council

Attachments

Ordinance - City Council Staff

ORDINANCE NO. _____

AN ORDINANCE REPEALING CHAPTER 2, SECTION 2.02.001(C) OF THE CODE OF ORDINANCES OF THE CITY OF LUBBOCK, TEXAS, REGARDING CERTAIN DUTIES OF THE CITY SECRETARY OF THE CITY OF LUBBOCK; PROVIDING A SAVINGS CLAUSE; AND PROVIDING FOR PUBLICATION.

WHEREAS, pursuant to Chapter 1, Article IX, Section 22 of the Charter of the City of Lubbock, the City Council may divide the administration of the City affairs into such departments as it may deem advisable; and

WHEREAS, Section 2.02.001(c) of the Code of Ordinances of the City of Lubbock, Texas provides that the City Council support staff reports for all purposes to the City Secretary; and

WHEREAS, the City Council deems it to be advisable and in the best interest of the citizens of the City of Lubbock to repeal Section 2.02.001(c) of the Code of Ordinances of the City of Lubbock, Texas, and, in doing so, reassign City Council support staff under the prevailing authority of the City Manager, as established under Chapter 1, Article X, Section 4 of the Charter of the City of Lubbock; NOW THEREFORE:

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LUBBOCK, TEXAS:

SECTION 1. Section 2.02.001(c) of the Code of Ordinances, City of Lubbock, Texas (*Additional duties of the City Secretary*) is hereby repealed.

SECTION 2. THAT if any provision of this Ordinance shall be held to be unenforceable or otherwise inconsistent with the Charter of the City of Lubbock, the remaining portions of this Ordinance shall be unaffected thereby.

SECTION 3. THAT the City Secretary shall publish this Ordinance in accordance with all applicable legal requirements.

AND IT IS ORDERED

Passed by the City Council on first reading this ____ day of July, 2021.

Passed by the City Council on second reading this ____ day of July, 2021.

DANIEL M. POPE, MAYOR

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



Steve Massengale, Mayor Pro Tem

APPROVED AS TO FORM:



Mitchell Satterwhite, First Assistant City Attorney