

City of Lubbock, Texas
Regular City Council Meeting
January 25, 2022

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
Latrell Joy, Councilwoman, District 6



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

<http://www.mylubbock.us>

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 (806)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.

A quorum of the City Council will be physically present in City Council Chambers located in Citizens Tower, 1314 Avenue K, Lubbock, Texas, as it is the intent of the City Council to have a quorum physically present at this location. One or more members of the City Council, however, may participate in the meeting by video-conference call as permitted under Section 551.127 of the Texas Government Code.

1:00 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. **Citizen Comments - According to Lubbock City Council Rules, any citizen wishing to appear in person before the meeting of the City Council, regarding Items 2.1, 2.3, and 2.4, on the Work Session Agenda, shall complete the sign-up form provided at the meeting, no later than 1:00 p.m. on January 25, 2022. 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.**
2. Hear and discuss presentations regarding the following and provide guidance to staff as appropriate.
2. 1. Discuss planning, goals, and budget priorities for the Lubbock City Council and the City of Lubbock, and discuss the programs, expenditures and policies of the City Council and the City of Lubbock, including but not limited to the Lubbock City Charter, municipal fees, transportation, infrastructure, solid waste, streets, Gateway Fund, Civic Center, libraries, community engagement, capital improvements, facilities, parks and recreation, legislative agenda, public safety, public safety infrastructure, code enforcement, staffing levels, and future needs. This discussion may include a wide range of topics related to the programs, operation, and policies of the City Council and the City of Lubbock. Action may be taken by the City Council to give direction to the City Manager in regard to determining the

priorities and goals discussed.

2. 2. Presentation and discussion by the Director of Electric Utilities, or his designee, regarding updates on potential for providing customer choice to LP&L customers, which may include, but is not limited to, the following subtopics:
 - (a) the timing, process, and content of a potential irrevocable opt-in resolution and potential future meetings on the subject of retail competition for LP&L customers;
 - (b) the need for a provider of last resort and any potential requirements or process for same, including analysis of the process utilized by the Public Utility Commission of Texas;
 - (c) the option for LP&L to serve as the provider of last resort and business and operational considerations for same;
 - (d) distribution projects necessary for opt-in;
 - (e) status of LP&L's load that remains in the Southwest Power Pool, and potential proceedings before the Public Utility Commission of Texas to transition that load to the Electric Reliability Council of Texas;
 - (f) the impacts or benefits to customers, LP&L, and the City resulting from opt-in;
 - (g) the development of transmission and distribution rates, and progress of same;
 - (h) potential retail electric provider availability in the LP&L service territory and comparison with other areas of the state open to competition;
 - (i) customer education on retail choice and communication plans on same, and discussion of various services that assist customers in selecting a retail electric provider;
 - (j) opt-in requirements and ensuing changes in business processes, operations, and potential organizational changes; and
 - (k) other related matters regarding the initiation of competition for retail electric service in Lubbock Power & Light's certificated retail service area.
2. 3. Continuing American Rescue Plan Act (ARPA) Discussion
2. 4. City Council 2021 Street Bond Follow-up Discussion

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

Executive Session

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. Claim of Legal Aid of North West Texas

Adjourn from Executive Session

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

4. Ceremonial Items

4. 1. Invocation

4. 2. Pledges of Allegiance

4. 3. Proclamations and Presentations

4. 3. 1. Presentation of a Citizen Certificate of Commendation to Freddy Garcia, in recognition of his bravery and selflessness in rescuing a fellow citizen during a recent structure fire.

Call to Order

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 January 25, 2022. 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.**

6. Minutes

6. 1. Minutes - December 14, 2021 Regular City Council Meeting

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.**

7. 1. **Budget Ordinance Amendment 2nd Reading - Finance:** Consider Budget Ordinance No. 2022-O0001, Amendment 4, amending the FY 2021-22 Budget for municipal purposes respecting the Capital Fund to establish Capital Improvement Project 92754, Cyber Security Infrastructure; providing for filing; and providing for a savings clause.

7. 2. **Budget Ordinance Amendment 2nd Reading - Finance:** Consider Budget Ordinance 2022-O0002, Amendment 5, amending the FY 2021-22 Budget for municipal purposes respecting the Civic Center and General Funds; providing for filing; and providing for a savings clause.
7. 3. **Budget Ordinance Amendment 2nd Reading - Finance:** Consider Budget Ordinance No. 2022-O0003, Amendment 7, amending the FY 2021-22 Budget for municipal purposes respecting the Lake Alan Henry Fund to appropriate funding for the purchase of a boat used for Parks and Recreation operations for Lake Alan Henry; providing for filing; and providing for a savings clause.
7. 4. **Budget Ordinance Amendment 2nd Reading - Finance:** Consider Budget Ordinance No. 2022-O0004, Amendment 8, amending the FY 2021-22 Budget for municipal purposes respecting the Grant Fund to establish and appropriate funding for Capital Improvements Project 92756 Civic Park; providing for filing; and providing for a savings clause.
7. 5. **Budget Ordinance Amendment 2nd Reading - Finance:** Consider Budget Ordinance No. 2022-O0005, Amendment 9, amending the FY 2021-22 Budget for municipal purposes respecting the Lubbock Power & Light Operating and Capital Program; providing for filing; and providing for a savings clause.
7. 6. **Budget Ordinance Amendment 2nd Reading - Finance:** Consider Budget Ordinance No. 2022-O0006, Amendment 10, amending the FY 2021-22 Budget for municipal purposes respecting the General Fund to appropriate funding for the purchase of fence construction used in Solid Waste Landfill Operations; providing for filing; and providing for a savings clause.
7. 7. **Budget Ordinance Amendment 1st Reading - Finance:** Consider Budget Ordinance Amendment 6, amending the FY 2021-22 Budget for municipal purposes respecting the General Capital Fund to establish Capital Improvement Project 8668, Diversion Center Contribution, and Capital Improvement Project 92757, Housing Projects; providing for filing; and providing for a savings clause.
7. 8. **Budget Ordinance Amendment 1st Reading - Finance:** Consider Budget Ordinance Amendment 11, amending the FY 2021-22 Budget for municipal purposes respecting the Grant Fund to accept and appropriate funding from the U.S. Department of Treasury for Emergency Rental Assistance and the Texas Department of Housing and Community Affairs (TDHCA) for the FY 2021 Comprehensive Energy Assistance Program (CEAP) and American Rescue Plan Act Grant providing for filing; and providing for a savings clause.

7. 9. **Resolution - Risk Management:** Consider a resolution ratifying the actions of the City Manager in purchasing, for and on behalf of Lubbock Power and Light, the City's municipal electric utility, property insurance coverage to include boiler and machinery coverage. The subject insurers are AIG, Argenta, Munich RE, Travelers, Amlin, Guide One, Kiln/Faraday, ARK, Aspen, Alcor, and Chubb as listed in the attachment along with the terms and conditions.
7. 10. **Ordinance 2nd Reading - Right-of-Way:** Consider Ordinance No. 2022-O0008, abandoning and closing portions of 13th Street and Vernon Avenue within Block 72, Overton Addition, west of 2201 Broadway, Lubbock County, Texas.
7. 11. **Resolution - Right-of-Way:** Consider a resolution authorizing the Mayor to execute an amendment to Contract 16364, with Hub City Main Street Investment, LLC, for a warehouse lease extension of time.
7. 12. **Resolution - Engineering:** Consider a resolution authorizing the Mayor to execute Contract 16363, with Freese and Nichols, Inc., for providing professional services for the Unpaved Roads Improvements Project.
7. 13. **Resolution - Engineering:** Consider a resolution authorizing the Mayor to execute Contract 16267, with Horseshoe Construction, Inc., for construction services associated with the North University Sewer Line Relocation Project.
7. 14. **Resolution - Engineering:** Consider a resolution authorizing the Mayor to execute Cost Sharing and Payment Agreement 16181, with Ford Development Corporation, for roadway improvements along Ash Avenue from 66th Street to South Loop 289.
7. 15. **Resolution - Public Works Streets:** Consider a resolution authorizing the Mayor to execute Contract 16221, with Green Dream International, LLC, to establish the annual pricing for raw construction materials, for repair of streets, alleys, and utility installations.
7. 16. **Resolution - Public Works Streets:** Consider a resolution authorizing the Mayor to execute Contract 16339, with Vulcan Construction Materials, LLC, to establish the annual pricing for raw construction materials for construction and repair of streets, alleys, and utility installations.
7. 17. **Resolution - Public Works Streets:** Consider a resolution authorizing the Mayor to execute Contract 16215, with West Texas Paving, Inc., to establish the annual pricing of asphalt materials to repair or replace degraded asphalt paving.
7. 18. **Resolution - Public Works Streets:** Consider a resolution authorizing the Mayor to execute Contract 16300, with Ti-Zak Concrete, Inc., for Concrete Repair and Patching Project in the 2022 Street Maintenance Program.

7. 19. **Resolution - Public Works Streets:** Consider a resolution authorizing the Mayor to execute Contract 16298, with Lone Star Dirt and Paving, Ltd., for Asphalt Repair and Patching Project in the 2022 Street Maintenance Program.
7. 20. **Resolution - Solid Waste:** Consider a resolution authorizing the City of Lubbock Solid Waste Services Department to request grant funding under the South Plains Association of Governments Request for Applications of the Regional Solid Waste Grants Program, to host an electronics waste regional collection event in 2022.
7. 21. **Resolution - Solid Waste:** Consider a resolution authorizing the City of Lubbock Solid Waste Services Department to request grant funding under the South Plains Association of Governments Request for Applications of the Regional Solid Waste Grants Program, to host a household hazardous waste regional collection event in 2022.
7. 22. **Resolution - Solid Waste:** Consider a resolution authorizing the City of Lubbock Solid Waste Services Department to request grant funding under the South Plains Association of Governments Request for Applications of the Regional Solid Waste Grants Program, to activate service with the Litterati Software Application.
7. 23. **Resolution - Public Health Services:** Consider a resolution authorizing the Mayor to execute the Health and Human Services Commission Contract No. HHS000779500006, under the Co-occurring Psychiatric and Substance Use Disorders (COPSD) Grant Program, by and between the City of Lubbock and the State of Texas' Health and Human Services Commission, and all related documents.
7. 24. **Resolution - Community Development:** Consider a resolution authorizing the Mayor to execute Contract 16354, and all related documents, between the City of Lubbock, and the United States Department of Housing and Urban Development (HUD), for the Home Investment Partnerships Grant (HOME) American Rescue Plan (ARP) Grant Agreement.
7. 25. **Resolution - Facilities Management:** Consider a resolution authorizing the Mayor to execute Contract 16213, with Roofs, Inc., for roof replacement at the Fire Administration Building, located at 1515 East Ursuline Street, Lubbock, Texas.
7. 26. **Resolution - Facilities Management:** Consider a resolution authorizing the Mayor to execute Contract 16198, with Roofs, Inc., for roof replacement at Groves Library, located at 5520 19th Street, Lubbock, Texas.
7. 27. **Resolution - Civic Center:** Consider a resolution authorizing the Mayor to execute a Lease Agreement, by and between the City of Lubbock, and Lubbock Moonlight Musicals Inc., for use of the Lubbock Moonlight Musicals Amphitheatre, for five annual periods ending November 30, 2026.

7. 28. **Resolutions - Fleet Services:** Consider two resolutions authorizing the Mayor to execute Purchase Order 31064089, with DACO Fire Safety Equipment, for the purchase of one Rosenbauer 101-foot Platform, Custom Cab, and Purchase Order 31064092, with DACO Fire Safety Equipment, for two Rosenbauer 1250 GPM Custom Pumper Trucks.
7. 29. **Resolution - Fleet Services:** Consider a resolution authorizing the Mayor to execute Purchase Order 31064023, with YellowHouse Machinery Co., for the purchase of two John Deere 310SL Backhoe Loaders, for the Water Distribution and Maintenance Department.
7. 30. **Resolution - Fleet Services:** Consider a resolution authorizing the Mayor to execute Contract 16183, with Fleetwash, Inc., of Fairfield, New Jersey, for mobile car wash services for City vehicles.
7. 31. **Resolution - Lubbock Power & Light:** Consider a resolution authorizing the Mayor of the City of Lubbock to execute that certain Second Amended and Restated Partial Requirements Power Service Agreement Scheduling Protocol, by and between the City of Lubbock, acting by and through Lubbock Power & Light, and Southwestern Public Service Company.
7. 32. **Ordinance 2nd Reading - City Secretary:** Consider Ordinance No. 2022-O0009, ordering the 2022 Regular Municipal Election of the City of Lubbock to be held May 7, 2022.
7. 33. **Ordinance 1st Reading - City Secretary:** Consider an ordinance amending Section 1.02.004 of the Code of Ordinances of the City of Lubbock, Texas, with regard to voting precinct boundaries and the establishment of the same by the City Council; creating additional and new voting precincts; and providing a map of the voting precincts and districts of the City of Lubbock.
7. 34. **Resolution - City Secretary:** Consider a resolution authorizing and directing the City Manager to pay in accordance with Article II, Subsection B, of Professional Services Agreement, Contract No. 15708, with Bickerstaff Heath Delgado Acosta LLP, an amount up to \$38,000 for redistricting services related to the City of Lubbock, as the City increased the number of plans and other services.
7. 35. **Resolution - City Manager:** Consider a resolution authorizing the Mayor to execute a Developer Participation Agreement, by and between the City of Lubbock and Rocket Partners I, LLC, for public improvements for the construction of a multi-company fire station at 142nd Street and Indiana.

7. 36. **Ordinance 2nd Reading - Planning (District 6):** Consider Ordinance No. 2022-O0010, for Zone Case 2538-X, a request of Tyson Rowin for Derek Cooper and Lee Mazurek, for a zone change from Family Apartment District (A-1) to Local Retail District (C-2) with a Specific Use for a Self-Storage Facility at 6801 4th Street, located south of 4th Street and east of Quincy Avenue on 2.139 acres of unplatted land out of Block JS, Section 10, and consider an ordinance.

Regular Agenda - Zone Cases

8. 1. **Public Hearing - Planning (District 1):** Consider a request for Zone Case 2016-C, a request of T & D Real Estate and Rentals, LLC, for a zone change from Family Apartment District (A-1) to Garden Office District (GO) at 1306 Avenue R, located west of Avenue R and south of 13th Street, Overton Addition, Block 13, the north 10 feet of Lot 4 and Lot 3, less the west 67.5 feet of the north 10 feet, and consider an ordinance.
8. 2. **Public Hearing - Planning (District 4):** Consider a request for Zone Case 3455, a request of Hugo Reed and Associates, Inc. for Red Canyon Development, LLC, for a Specific Use for a commercial athletic field, park, stadium, or arena on property zoned Transition (T), generally located south of 146th Street and west of Quaker Avenue on 133.1 acres of unplatted land out of Block AK, Section 6, and consider an ordinance.
8. 3. **Public Hearing - Planning (District 4):** Consider a request for Zone Case 3456, a request of Hugo Reed and Associates, Inc. for 146th and Quaker, LLC, for a zone change from Transition District (T) to General Retail District (C-3), generally located west of Quaker Avenue and south of 146th Street, on 8.00 acres of unplatted land out of Block AK, Section 6, and consider an ordinance.
8. 4. **Public Hearing - Planning (District 5):** Consider a request for Zone Case 3457, a request of Delta Land Surveying for Cotter Ranch, Ltd., for a zone change from Transition District (T) to Local Retail District (C-2) at 6201 114th Street, located south of 114th Street and east of Milwaukee Avenue, on 1.21 acres of unplatted land out of Block AK, Section 20, and consider an ordinance.
8. 5. **Public Hearing - Planning (District 6):** Consider a request for Zone Case 3308-E, a request of Delta Land Surveying and Engineering for BBA Homes Land Company, LLC, for a zone change from High-Density Apartment District (A-2) to General Retail District (C-3) and Two-Family District (R-2), generally located south of 19th Street and east of Upland Avenue, on 13.7 acres of unplatted land out of Block AK, Section 43, and consider an ordinance.
8. 6. **Public Hearing - Planning (District 6):** Consider a request for Zone Case 3358-B, a request of Hugo Reed and Associates, Inc. for BBA Homes Land Company, LLC, for a Specific Use for Garden Homes on property zoned Reduced Setback Single-Family District (R-1A) at 901 Inler Avenue, located east of Inler Avenue and south of 4th Street, on 59.1 acres of unplatted land out of Block D6, Section 2, and consider an ordinance.

Regular Agenda - Other Business

- 8. 7. **Resolution - Planning:** Consider a resolution authorizing the Mayor to execute a Municipal Services Agreement, with Ganatra Holdings, LLC, and Ganatra Investments, LLC, for the requested annexation of an area of land generally described as a 3.18 acre tract, located south of 106th Street and east of University Avenue.

- 8. 8. **Resolution - Finance:** Consider a resolution approving the Central Business District Tax Increment Financing Reinvestment Zone Annual Report, for October 1, 2020, through September 30, 2021.

- 8. 9. **Resolution - Finance:** Consider a resolution approving the Lubbock Business Park Tax Increment Financing Reinvestment Zone Annual Report, for October 1, 2020, through September 30, 2021.

- 8. 10. **Resolution - City Council:** Consider a resolution forming a Citizen Advisory Committee to study and make recommendations regarding the street and roadway construction and repair needs of the City of Lubbock, and for a possible future bond election in connection therewith.



Information

Agenda Item

Minutes - December 14, 2021 Regular City Council Meeting

Item Summary

December 14, 2021 Regular City Council Meeting

Fiscal Impact

None

Staff/Board Recommending

Rebecca Garza, City Secretary

Attachments

12.14.2021

CITY OF LUBBOCK
REGULAR CITY COUNCIL MEETING
December 14, 2021
1:00 P. M.

The City Council of the City of Lubbock, Texas met in regular session on the 14th of December, 2021, in City Council Chambers, Citizens Tower, 1314 Avenue K, Lubbock, Texas at 1:00 p.m.

1:00 P.M. CITY COUNCIL CONVENED

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

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

Absent: Mayor Daniel M. Pope

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

- *1.1-1.3; Executive Session; 3.1-3.4.1; Citizen Comments 4; 5.1; 6.1-6.2; 6.4-6.15; 6.17-6.31; 6.3; 6.16; 7.1-7.2; 7.7-7.8; 7.4-7.6; 7.9; 7.11-7.19; 7.10; 7.20.*
- *Item No. 7.3 was deleted.*
- *Item No.'s 6.3 and 7.2 were amended.*
- *Item No.'s 7.4; 7.7; and 7.8 were postponed to January 11, 2022.*

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

1. 1. Presentation and discussion by the Director of Electric Utilities, or his designee, regarding updates on potential for providing customer choice to LP&L customers, the timing and content of a potential irrevocable opt-in resolution, the need for a provider of last resort and any potential process for same, distribution projects necessary for opt-in, proceedings before the Public Utility Commission of Texas, customer education on retail choice, changes in business processes and operations, and other related matters regarding the initiation of competition for retail electric service in Lubbock Power & Light's certificated retail service area.

David McCalla, director of electric utilities, introduced the item, gave comments, and answered questions from City Council. Matt Rose, LP&L government relations & public affairs manager; Luke Miller, engineering manager with LP&L; Jamie Wood, customer service manager for LP&L; Jenny Smith, general counsel for LP&L; and David McCalla, director of electric utilities, gave a presentation on the potential for providing customer choice to LP&L customers and answered questions from City Council. Topics discussed included: the history of retail choice in Lubbock and the state of Texas; the goals of LP&L's transition into ERCOT; capital distribution projects related to the potential opt in to retail choice; the impacts that retail choice would have

on customer service and utility billing; necessary organizational changes; the draft resolution related to the potential opt in to retail choice, and the conditions that would be included in the resolution; and the advantages and disadvantages of opting in to retail choice.

1. 2. City Council 2021 Street Bond Follow-up Discussion

Mayor Pro Tem Steve Massengale introduced the item and gave comments.

City Council engaged in discussion on the 2021 Street Bond that failed at the November 2, 2021 Bond Election. Topics discussed included: the possibility of holding another election, and the timing of that election; and the possible creation of a citizens advisory committee to study next steps and future options.

Rebecca Garza, city secretary, gave comments and answered questions from City Council.

Mayor Pro Tem Massengale asked staff to add this topic to the January 11, 2022, work session for further discussion.

1. 3. Continuing American Rescue Plan Act (ARPA) Discussion

Jarrett Atkinson, city manager, gave a presentation on American Rescue Plan Act (ARPA) funds as they relate to the City of Lubbock and answered questions from City Council. Topics discussed included: an update on the ledger and current placeholders related to ARPA funds; and remaining balances.

Discussion ensued among City Council on potential placeholders that can be added to the ledger.

There was consensus among City Council to add a \$5 million placeholder for small business assistance and a \$3 million placeholder that will be used to obtain and match grants related to parks and recreation.

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

2. Executive Session

The meeting recessed at 2:48 p.m. and reconvened in Executive Session under the provisions of Section 551, Texas Government Code. City Council reconvened in open session at 4:34 p.m., and the meeting was called to order at 5:09 p.m.

- 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.** City Council Rules and Procedures

- 2. 1. 2.** Legal advice and counsel regarding matters identified in Section 2.4(a)-(f) of this Agenda

2. 1. 3. Legal issues regarding customer choice and Texas Utilities Code, Chapters 39 and 40
2. 1. 4. Downtown Civic Park
2. 2. 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. 2. 1. Lots 1 through 20, Block 130, Original Town of Lubbock
2. 3. 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.
2. 4. 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:
 - 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;
 - Discuss and deliberate generation matters.
 - 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;
 - Discuss and deliberate issues regarding bidding and pricing for purchased power, generation, and fuel, and Electric Reliability Council of Texas prices and related services and strategies.
 - c. effective fuel and purchased power agreements and fuel transportation arrangements and contracts;
 - Discuss and deliberate purchased power and fuel matters.
 - d. risk management information, contracts, and strategies, including fuel hedging and storage;
 - Discuss and deliberate risk management strategies.
 - 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.
 - Discuss and deliberate customer billing, contract, and usage information, electric power pricing information, system load characteristics, and electric power marketing analyses and strategies.

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

City Council reconvened at 4:34 p.m.

3. Ceremonial Items

3. 1. Lubbock High School Orchestra

The Lubbock High School Orchestra performed for City Council and those in attendance. Alejos Anaya, Lubbock High School orchestra teacher, gave comments and thanked the City Council for the opportunity to perform.

3. 2. Invocation

Senior Minister Matthew Spitsberg, Raintree Christian Church, led the invocation.

3. 3. Pledges of Allegiance

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

3. 4. Proclamations and Presentations

3. 4. 1. Presentation by Lubbock Area United Way recognizing the City of Lubbock's Annual Campaign

Mark Griffin, campaign chair with Lubbock Area United Way, presented a special recognition in honor of the City of Lubbock's annual campaign that raised over \$150,000. Mr. Griffin gave special thanks to Jarrett Atkinson, city manager; Floyd Mitchell, police chief; Shaun Fogerson, fire chief; and Lisa Thomason, civic center director/chair of the City of Lubbock's United Way Campaign. Additionally, Glenn Cochran, president & CEO of Lubbock Area United Way, presented Ms. Thomason with a plaque recognizing the City of Lubbock's campaign and its success.

Call to Order

The meeting was called to order at 5:09 p.m.

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 December 14, 2021. 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.

Sign ups:

- Thomas Payne appeared before City Council to speak in favor of item 7.20 (resolution authorizing the Mayor to execute an Annexation Agreement for an area of land south of 146th Street and east of Avenue P).

5. Minutes

5. 1. October 19, 2021 Special City Council Meeting - Electric Utility Board
November 16, 2021 Regular City Council Meeting
November 17, 2021 Special City Council Meeting - Joint with Commissioner's Court

Motion by Council Member Juan A. Chadis, seconded by Council Member Latrelle Joy to approve the October 19, 2021 Special City Council Meeting - Electric Utility Board minutes; the November 16, 2021 Regular City Council Meeting minutes; and the November 17, 2021 Special City Council Meeting - Joint Meeting with Commissioner's Court minutes.

Vote: 6 - 0 Motion carried

Other: Mayor Daniel M. Pope (ABSENT)

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.**

Motion by Council Member Randy Christian, seconded by Council Member Juan A. Chadis to approve items 6.1-6.2; 6.4-6.15; and 6.17-6.31.

Vote: 6 - 0 Motion carried

Other: Mayor Daniel M. Pope (ABSENT)

6. 1. **Budget Ordinance Amendment 2nd Reading - Finance:** Ordinance No. 2021-00166, Amendment 3, amending the FY 2021-22 Budget for municipal purposes respecting the Grant Fund to accept and appropriate funding from the Texas Department of State Health Services for the HIV Prevention Services Grant; providing for filing; and providing for a savings clause.
6. 1. 1. **Resolution - Public Health Services:** Resolution No. 2021-R0482 ratifying the acts of the Mayor in executing Amendment No. 3 to the Texas Department of State Health Services Contract No. HHS000077800035, under the HIV Prevention Services Grant, and related documents, by and between the City of Lubbock, and the State of Texas acting by and through the Department of State Health Services (DSHS).

6. 2. **Ordinance 2nd Reading - Right-of-Way:** Ordinance No. 2021-O0167, abandoning and closing a 20-foot underground utility easement, located in Tract L, West End Addition, Lubbock County, Texas.
6. 3. **Ordinance 2nd Reading - Engineering:** Ordinance No. 2021-O0168, amending Chapter 22 of the Code of Ordinances of the City of Lubbock, Texas, amending Articles 22.03 "Water Generally" and 22.04 "Wastewater System", in order to allow for certain utility contractors to tap certain City of Lubbock utility mains for water and sewer.

This item was amended.

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 Randy Christian to approve Ordinance No. 2021-O0168 with the following amendment:

- Replacement of the reference to "Class C Wastewater Operator license" with "Class II Wastewater Operator license" in Section 22.04.045(a).

Vote: 6 - 0 Motion carried

Other: Mayor Daniel M. Pope (ABSENT)

6. 4. **Resolution - Engineering:** Resolution No. 2021-R0483 authorizing the Mayor to execute Change Order No. 1 to Contract 15477, with Garney Construction, for construction of the Low Head C Supply Pipeline along 26th Street.
6. 5. **Resolution - Engineering:** Resolution No. 2021-R0484 authorizing the Mayor to execute Amendment No. 1 to Contract 14993, with Parkhill, for construction phase services related to the Indiana Avenue Corridor Design.
6. 6. **Resolution - Engineering:** Resolution No. 2021-R0485 authorizing the Mayor to execute Change Order No. 1 to Contract 15872, with Horseshoe Construction, Inc., for providing construction services for the Low Pressure Supply Line Rehabilitation Project along Quaker Avenue.
6. 7. **Resolution - Engineering:** Resolution No. 2021-R0486 authorizing the Mayor to execute Amendment No. 1 to Contract 15387, with Freese and Nichols, Inc., for professional engineering bid phase and construction phase services related to the Stormwater Master Plan evaluation of future stormwater system improvement projects, including drainage issues in Vintage Township.
6. 8. **Resolution - Engineering:** Resolution No. 2021-R0487 authorizing the Mayor to execute Amendment No. 2 to Contract 13870, with Plummer Associates, Inc., for professional engineering construction phase services for the construction of a new 8-million gallon ground storage tank at the North Water Treatment Plant.

- 6. 9. **Resolution - Water System Operations:** Resolution No. 2021-R0488 authorizing the Mayor to execute Contract 16042, with Erlys Janitorial Services, for mowing services at the South Water Treatment Plant.
- 6. 10. **Resolution - Solid Waste:** Resolution No. 2021-R0489 accepting, for and on behalf of the City of Lubbock, a donation of trash receptacle carts from Betenbough Quality Homes, Inc., to provide trash and garbage collection and removal services for citizens of the City of Lubbock.
- 6. 11. **Resolution - Solid Waste:** Resolution No. 2021-R0490 authorizing the Mayor to execute Amendment No. 1 to Professional Services Agreement 15866, with Parkhill, for Phase II of professional services for the Solid Waste Transfer Station.
- 6. 12. **Ordinance 2nd Reading - Business Development:** Ordinance No. 2021-O0170, reviewing classifications for the methods of assessing special benefits for the services and improvements of property in the Willow Bend Villas Public Improvement District; approving, adopting, and filing with the City Secretary the assessment role; levying 2022 assessments for the cost of certain services and improvements to be provided in the district during FY 2022-23; fixing charges and liens against the property in the district and against the owners thereof; and providing for the collection of the assessment.
- 6. 13. **Resolution - Business Development:** Resolution No. 2021-R0491 approving a Downtown Grant Program (Facade) expenditure of Market Lubbock, Inc., to be provided to Reside Lubbock, LLC, pursuant to Article IV, Section 5 of the Amended and Restated Bylaws of Market Lubbock Development Corporation.
- 6. 14. **Resolution - Business Development:** Resolution No. 2021-R0492 approving a Downtown Grant Program (Permittable) expenditure of Market Lubbock, Inc., to be provided to Reside Lubbock, LLC, pursuant to Article IV, Section 5 of the Amended and Restated Bylaws of Market Lubbock Development Corporation.
- 6. 15. **Resolution - Business Development:** Resolution No. 2021-R0493 approving a program or expenditure of the Lubbock Economic Development Alliance (LEDA), to be provided to Bandera Ventures, LP, pursuant to Section 501.073 of the Texas Local Government Code.
- 6. 16. **Resolution - Business Development:** Resolution No. 2021-R0509 authorizing the Mayor to execute Contract 16316, with The Broussard Group, Inc., dba TBG Partners, for professional services for design development and construction documents, for a Civic Park in Downtown Lubbock.

Brianna Gerardi, director of business development, gave a presentation and answered questions from City Council. Dan Williams, 2022 chair of the Central Business District Tax Increment Financing Reinvestment Zone Board of Directors, gave comments and answered questions from City Council.

Motion by Council Member Jeff Griffith, seconded by Council Member Randy Christian to approve Resolution No. 2021-R0509.

Vote: 6 - 0 Motion carried

Other: Mayor Daniel M. Pope (ABSENT)

- 6. 17. **Resolution - Aviation:** Resolution No. 2021-R0494 authorizing the Mayor to execute Amendment No. 2 to Contract 15038, with Webber LLC, to extend the contract term of the land lease agreement at Lubbock Preston Smith International Airport.
- 6. 18. **Resolution - Public Transit Services:** Resolution No. 2021-R0495 authorizing the Mayor to execute Purchase Order 27120983, with Creative Bus Sales, Inc., to purchase two Promaster paratransit vans for Citibus.
- 6. 19. **Resolution - Public Transit Services:** Resolution No. 2021-R0496 authorizing the Mayor to execute an Interlocal Agreement, pursuant to the Texas Government Code 791, with Dallas Area Rapid Transit, a regional transportation authority created under Chapter 452 of the Texas Transportation Code, for a Subscription and License for the GoPass mobile application for Citibus.
- 6. 20. **Resolution - Public Transit Services:** Resolution No. 2021-R0497 authorizing the Mayor to execute a Memorandum of Agreement, by and between the City of Lubbock and RATP Dev USA, for the implementation of the Kronos payroll system for Citibus employees.
- 6. 21. **Resolution - Health Benefits:** Resolution No. 2021-R0498 authorizing the Mayor to execute for, and on behalf of the City of Lubbock, the BlueCross BlueShield of Texas Administrative Services Only Benefit Program Application, for the Employee Group Health Plan for Plan Year January 1, 2022, to January 1, 2023.
- 6. 22. **Resolution - Information Technology:** Resolution No. 2021-R0499 authorizing the Mayor to execute Purchase Order 10024759, in accordance with BuyBoard Contract 579-19, by and between the City of Lubbock and SHI Government Solutions, for a Rocket.Chat Cloud-Managed support plan for Emergency Management.
- 6. 23. **Resolution - Fleet Services:** Resolution No. 2021-R0500 authorizing the Mayor to execute Purchase Order 31063201, in accordance with HGAC Contract EF04-21, with Kustom Signals, Inc., for the purchase of forty-one Raptor Radars to be installed on Police Patrol vehicles.
- 6. 24. **Resolution - Fleet Services:** Resolution No. 2021-R0501 authorizing the Mayor to execute Purchase Order 31063374, in accordance with BuyBoard Contract 601-19, with Grapevine DCJ, LLC, for the purchase of three (3) half-ton pickups for Police Investigations and one (1) half-ton pickup for Police Patrol.
- 6. 25. **Resolution - Fleet Services:** Resolution No. 2021-R0502 authorizing the Mayor to execute Purchase Order 3163359, in accordance with TIPS Contract 200206, with Silsbee Ford, for the purchase of two half-ton pickups for Lubbock Fire Rescue, and one half-ton pickup for Police Special Operations.

- 6. 26. **Resolution - Fleet Services:** Resolution No. 2021-R0503 authorizing the Mayor to execute Contract 16244, per RFP 21-16244-MA, with Pro Petroleum, LLC, for bulk motor unleaded and diesel fuel services for City vehicles and Citibus.
- 6. 27. **Resolution - Parks and Recreation:** Resolution No. 2021-R0504 authorizing the Mayor to execute Amendment No. 6 to the Lease Agreement, with Joyland Amusement Park, to extend the term until February 28, 2022.
- 6. 28. **Resolution - City Secretary:** Resolution No. 2021-R0505 authorizing the Mayor to execute Service Agreement Contract 16250, with MCCi LLC, for document scanning services, software licenses and annual support in accordance with Buy Board Contract 625-20, and in regard to the City's Document Management System.
- 6. 29. **Resolution - Lubbock Fire Rescue:** Resolution No. 2021-R0506 authorizing the Mayor to execute Professional Services Agreement Contract 16038, per RFQ 21-16038-MC, with Brinkley Sargent Wiginton Architects, for architectural and engineering services for the construction of Fire Station 20.
- 6. 30. **Resolution - City Manager:** Resolution No. 2021-R0507 authorizing the Mayor to execute a Developer Participation Agreement, by and between the City of Lubbock and Rocket Partners I, LLC, for public improvements for the construction of a multi-company fire station at 142nd Street and Indiana.
- 6. 31. **Resolution - City Manager:** Resolution No. 2021-R0508 authorizing the Mayor to execute the 13th Declaration of Disaster regarding the COVID-19 (Coronavirus) pandemic, which continues this disaster declaration without any local restrictions on businesses or individuals in the City of Lubbock.

7. **Regular Agenda**

- 7. 1. **Ordinance 2nd Reading - City Secretary:** Ordinance No. 2021-O0169, approving the redistricting of the single-member City Council Districts and establishing new single-member district boundary lines for City Council Elections based on 2020 Census Data, and providing for an effective date.

Motion by Council Member Latrelle Joy, seconded by Council Member Juan A. Chadis to approve Ordinance No. 2021-O0169.

Vote: 6 - 0 Motion carried

Other: Mayor Daniel M. Pope (ABSENT)

- 7. 2. **Ordinance 2nd Reading - Engineering:** Ordinance No. 2021-O0171, amending Chapter 36 of the Code of Ordinances of the City of Lubbock, by repealing Article 36.09, Utility Construction in Public Rights-of-Way, and Article 36.10, Wireless Communication Facilities in the Public Rights-of-Way; by adding Chapter 37, Infrastructure Construction, to provide clarification and improve enforcement capabilities within established and future Rights-of-Way; providing a

penalty; providing a savings clause; and providing for publication.

This item was amended.

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 Latrelle Joy to approve Ordinance No. 2021-O0171 with the following amendment:

- to approve a substitute ordinance that makes minor clarifications to the original ordinance and one substantive addition at the request of LP&L. The substantive change is Section 37.01.034(g), requiring the permit holder to notify LP&L if they will be lashing or attaching to any city owned electric utility pole.

Vote: 6 - 0 Motion carried

Other: Mayor Daniel M. Pope (ABSENT)

- 7. 3. Public Hearing - Planning:** Consider a request for Zone Case 763-C, a request of Frank Hayward for Austin M. Carrizales, Tory Brueggeman, Anthony and Rebecca Guajardo, Glaytus Lee Rumsey, Daniel and Sherri Henley, and John and Mary Jan Beakley, for a zone change from Single-Family District (R-1) to Commercial-Apartment District (CA) at 5201, 5202, 5203, 5204 70th Street and 7004 Slide Road, located west of Slide Road and south of 69th Street, Ranch Acres Addition, Lots 1, 2, and 16, and the east 116.12 feet of Lot 15, and consider an ordinance.

This item was deleted (withdrawn by the applicant).

- 7. 4. Public Hearing - Planning:** Consider a request for Zone Case 2538-X, a request of Tyson Rowin for Derek Cooper and Lee Mazurek, for a zone change from Family Apartment District (A-1) to Local Retail District (C-2) with a Specific Use for a Self-Storage Facility at 6801 4th Street, located south of 4th Street and east of Quincy Avenue on 2.139 acres of unplatted land out of Block JS, Section 10, and consider an ordinance.

This item was postponed.

Bryan Isham, director of planning, gave a presentation and answered questions from City Council. Chad Weaver, city attorney, gave comments and answered questions from City Council.

Mayor Pro Tem Massengale opened the public hearing at 5:49 p.m.

No one appeared to speak in favor or opposition.

Mayor Pro Tem Massengale closed the public hearing at 6:01 p.m.

Motion by Council Member Latrelle Joy, seconded by Council Member Shelia Patterson Harris to postpone this item to the January 11, 2022 Regular City Council Meeting.

Vote: 6 - 0 Motion carried

Other: Mayor Daniel M. Pope (ABSENT)

- 7. 5. Public Hearing - Planning:** Ordinance No. 2021-00182, for Zone Case 3096-G, a request of Hugo Reed and Associates, Inc. for Red Canyon Development, LLC, for a zone change from Single-Family District (R-1) to Reduced Setback Single-Family District (R-1A) Specific Use for townhomes at 10601 Chicago Avenue, located east of Chicago Avenue and south of 106th Street, on 12.1 acres of unplatted land out of Block E-2, Section 25, and consider an ordinance.

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

Mayor Pro Tem Massengale opened the public hearing at 5:49 p.m.

Terry Holeman, with Hugo Reed & Associates, appeared to speak in favor.

No one appeared to speak in opposition.

Mayor Pro Tem Massengale closed the public hearing at 6:01 p.m.

Motion by Council Member Jeff Griffith, seconded by Council Member Juan A. Chadis to approve Ordinance No. 2021-00182.

Vote: 6 - 0 Motion carried

Other: Mayor Daniel M. Pope (ABSENT)

- 7. 6. Public Hearing - Planning:** Ordinance No. 2021-00183, for Zone Case 3309-B, a request of AMD Engineering, LLC for Lubbock Land Company, for a zone change from Single-Family District (R-1) Specific Use to Two-Family District (R-2), generally located south of 116th Street and east of Louisville Avenue, on 8.99 acres of unplatted land out of Block E-2, Section 22, and consider an ordinance.

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

Mayor Pro Tem Massengale opened the public hearing at 5:49 p.m.

Westin McCowen, with AMD Engineering, appeared to speak in favor.

No one appeared to speak in opposition.

Mayor Pro Tem Massengale closed the public hearing at 6:01 p.m.

Motion by Council Member Jeff Griffith, seconded by Council Member Juan A. Chadis to approve Ordinance No. 2021-O0183.

Vote: 6 - 0 Motion carried

Other: Mayor Daniel M. Pope (ABSENT)

- 7. 7. Public Hearing - Planning:** Consider a request for Zone Case 3448-A, a request of Centerline Engineering & Consulting LLC for Fleet Pickup Accessories S2 Farms Feed and Firewood, for a zone change from Transition District (T) to Local Retail District (C-2) Specific Use for a Self-Storage Facility and Commercial District (C-4) at 3511 North Frankford Avenue, located south of Kent Street and west of Frankford Avenue, on 4 acres of unplatted land out of Block JS, Section 12, and consider an ordinance.

This item was postponed.

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

Mayor Pro Tem Massengale opened the public hearing at 5:49 p.m.

Justin Cantwell, with Centerline Engineering; and Mike Schwartzkotf, the property owner, appeared to speak in favor.

No one appeared to speak in opposition.

Mayor Pro Tem Massengale closed the public hearing at 6:01 p.m.

Motion by Council Member Latrelle Joy, seconded by Council Member Randy Christian to postpone this item to the January 11, 2022 Regular City Council Meeting.

Vote: 6 - 0 Motion carried

Other: Mayor Daniel M. Pope (ABSENT)

- 7. 8. Public Hearing - Planning:** Consider a request for Zone Case 3453, a request of Cita Lopez, for a zone change from Transition District (T) to Local Retail District (C-2) with a Specific Use for an Event Center at 5525 122nd Street, located south of 122nd Street and west of Chicago Avenue, Frankford Farms Addition, the west 111 feet of the north 376 feet of Tract 18, and consider an ordinance.

This item was postponed.

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

Mayor Pro Tem Massengale opened the public hearing at 5:49 p.m.

No one appeared to speak in favor or opposition.

Mayor Pro Tem Massengale closed the public hearing at 6:01 p.m.

Motion by Council Member Latrelle Joy, seconded by Council Member Randy Christian to postpone this item to the January 11, 2022 Regular City Council Meeting.

Vote: 6 - 0 Motion carried

Other: Mayor Daniel M. Pope (ABSENT)

- 7. 9. Public Hearing - Planning:** Ordinance No. 2021-O0184, for a request for the deannexation of an area of approximately 14.8 acres inside the southwestern city limits of the City of Lubbock, generally lying between 114th Street and 130th Street, and east of the Wolfforth City limits.

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

Mayor Pro Tem Massengale opened the public hearing at 6:15 p.m.

No one appeared to speak in favor or opposition.

Mayor Pro Tem Massengale closed the public hearing at 6:16 p.m.

Motion by Council Member Jeff Griffith, seconded by Council Member Latrelle Joy to approve Ordinance No. 2021-O0184.

Vote: 6 - 0 Motion carried

Other: Mayor Daniel M. Pope (ABSENT)

- 7. 10. Ordinance 2nd Reading - Planning:** Ordinance No. 2021-O0180, for Zone Case 1893-DD, a request of McDougal Realtors for 4th Street Holdings, Ltd., for a zone change from General Retail District (C-3) to Commercial District (C-4) at 6020 4th Street, located west of Homestead Avenue and north of 4th Street, on 7.36 acres of unplatted land out of Block JS, Section 2.

Bryan Isham, director of planning, gave a presentation and answered questions from City Council. Stephen Quisenberry, the proponent, gave comments and answered questions from City Council.

Motion by Council Member Jeff Griffith, seconded by Council Member Randy Christian to approve Ordinance No. 2021-O0180.

Vote: 4 - 2 Motion carried

NAY: Council Member Latrelle Joy
Council Member Shelia Patterson Harris

Other: Mayor Daniel M. Pope (ABSENT)

- 7. 11. Ordinance 2nd Reading - Planning:** Ordinance No. 2021-O0172, for Zone Case 2538-AA, a request of Betenbough Homes, for a zone change from Single-Family District (R-1) to Reduced Setback Single-Family District (R-1A), at 7111 26th Street, located south of 26th Street and east of Upland Avenue, on 21.646 acres of unplatted land out of Block AK, Section 43.

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

Motion by Council Member Jeff Griffith, seconded by Council Member Juan A. Chadis to approve Ordinance No. 2021-O0172.

Vote: 6 - 0 Motion carried

Other: Mayor Daniel M. Pope (ABSENT)

- 7. 12. Ordinance 2nd Reading - Planning:** Ordinance No. 2021-O0173, for Zone Case 2538-Z, a request of AMD Engineering, LLC for MCP Enterprises, LLC, for a zone change from Single-Family District (R-1) to General Retail District (C-3) at 7112, 7118, and 7120 19th Street, located north of 19th Street and east of Upland Avenue, on 11.7 acres of unplatted land out of Block JS, Section 10.

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

Motion by Council Member Jeff Griffith, seconded by Council Member Juan A. Chadis to approve Ordinance No. 2021-O0173.

Vote: 6 - 0 Motion carried

Other: Mayor Daniel M. Pope (ABSENT)

- 7. 13. Ordinance 2nd Reading - Planning:** Ordinance No. 2021-O0174, for Zone Case 2556-D, a request of Raymond Dale and Nannette Pectol, for a zone change from Garden Office District (GO) to Two-Family District (R-2) at 2516 81st Street, located west of University Avenue and north of 81st Street, Gatewood Addition, Lot 53.

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

Motion by Council Member Jeff Griffith, seconded by Council Member Juan A. Chadis to approve Ordinance No. 2021-O0174.

Vote: 6 - 0 Motion carried

Other: Mayor Daniel M. Pope (ABSENT)

- 7. 14. Ordinance 2nd Reading - Planning:** Ordinance No. 2021-O0175, for Zone Case 3132-A, a request of R2M Engineering, LLC for Harvest Church Lubbock, Inc., for a zone change from High-Density Apartment District (A-2) to Reduced Setback Single-Family District (R-1A) with a Specific Use for Garden Homes, generally located south of 58th Street and east of Wausau Avenue, on 41.465 acres of unplatted land out of Block AK, Section 34.

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

Motion by Council Member Jeff Griffith, seconded by Council Member Juan A. Chadis to approve Ordinance No. 2021-O0175.

Vote: 6 - 0 Motion carried

Other: Mayor Daniel M. Pope (ABSENT)

- 7. 15. Ordinance 2nd Reading - Planning:** Ordinance No. 2021-O0176, for Zone Case 3449, a request of OJD Engineering, LLC for Toot' N Totum, for a zone change from Transition District (T) to Interstate Highway Commercial District (IHC), at 9711 Highway 87, located north of 98th Street and east of Highway 87, on 2.26 acres of unplatted land out of Block E, Section 8.

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

Motion by Council Member Jeff Griffith, seconded by Council Member Juan A. Chadis to approve Ordinance No. 2021-O0176.

Vote: 6 - 0 Motion carried

Other: Mayor Daniel M. Pope (ABSENT)

- 7. 16. Ordinance 2nd Reading - Planning:** Ordinance No. 2021-O0177, for Zone Case 3451, a request of Hugo Reed and Associates, Inc. for NWP EB-5 Project, LLC, for a zone change from Single-Family District (R-1), Two-Family District (R-2), Family Apartment District (A-1), High-Density Apartment District (A-2), and Local Retail District (C-2) to Reduced Setback Single-Family District (R-1A), High-Density Apartment District (A-2), Local Retail District (C-2), and General Retail District (C-3) generally located east of Slide Road and south of Ursuline Street, on 262.4 acres of unplatted land out of Block JS, Section 5.

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

Motion by Council Member Jeff Griffith, seconded by Council Member Juan A. Chadis to approve Ordinance No. 2021-O0177.

Vote: 6 - 0 Motion carried

Other: Mayor Daniel M. Pope (ABSENT)

- 7. 17. Ordinance 2nd Reading - Planning:** Ordinance No. 2021-O0178, for Zone Case 3452, a request of Hugo Reed & Associates, Inc. for Red Canyon Development, LLC, for a zone change from Single-Family District (R-1) Specific Use, Transition District (T), High-Density Apartment District (A-2), and Garden Office (GO) to Local Retail District (C-2) and General Retail District (C-3), at 11202 Indiana Avenue, located north of 114th Street and west of Indiana Avenue, on 17.6 acres of land out of Block E-2, Section 18, including Southern Pine Valley Golf Course Addition, Lot 1.

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

Motion by Council Member Jeff Griffith, seconded by Council Member Juan A. Chadis to approve Ordinance No. 2021-O0178.

Vote: 6 - 0 Motion carried

Other: Mayor Daniel M. Pope (ABSENT)

- 7. 18. Ordinance 2nd Reading - Planning:** Ordinance No. 2021-O0181, for Zone Case 3452-A, a request of Hugo Reed & Associates, Inc. for Red Canyon Development, LLC, for a Specific Use for an Event Center on property zoned Local Retail District (C-2), at 11202 Indiana Avenue, located north of 114th Street and west of Indiana Avenue, on 4.2 acres of unplatted land out of Block E-2, Section 18.

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

Motion by Council Member Jeff Griffith, seconded by Council Member Juan A. Chadis to approve Ordinance No. 2021-O0181.

Vote: 6 - 0 Motion carried

Other: Mayor Daniel M. Pope (ABSENT)

- 7. 19. Ordinance 2nd Reading - Planning:** Ordinance No. 2021-O0179, for Zone Case 3454, a request of Parkhill for Plains Capital Bank, for a zone change from Single-Family District (R-1) Specific Use to Local Retail District (C-2) at 5014 University Avenue, located west of University Avenue and south of 50th Street, Caprock Addition, Tract C, Lot 2.

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

Motion by Council Member Jeff Griffith, seconded by Council Member Juan A. Chadis to approve Ordinance No. 2021-O0179.

Vote: 6 - 0 Motion carried

Other: Mayor Daniel M. Pope (ABSENT)

- 7. 20. Resolution - Planning:** Resolution No. 2021-R0510 authorizing the Mayor to execute an Annexation Agreement with Donald Macha, Raynard Macha, Felicia Macha Fillingim, Melvin Macha, Joseph Macha, Marie Elizabeth Macha, as Trustee of The Marie Elizabeth Macha Trust, Macha Holdings, LLC, and Fehleison Properties, Ltd., for an area of land generally described as approximately 986.51 acres, adjacent to the southeastern city limits of the City of Lubbock, south of 146th Street and east of Avenue P.

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

Motion by Council Member Latrelle Joy, seconded by Council Member Juan A. Chadis to approve Resolution No. 2021-R0510.

Vote: 6 - 0 Motion carried

Other: Mayor Daniel M. Pope (ABSENT)

6:35 P.M. CITY COUNCIL ADJOURNED

There being no further business to come before Council, Mayor Pro Tem Massengale adjourned the meeting.

The December 14, 2021 Regular City Council Meeting minutes were approved by the City Council on the 25th day of January, 2022.

DANIEL M. POPE, MAYOR

ATTEST:

Rebecca Garza, City Secretary

Information

Agenda Item

Budget Ordinance Amendment 2nd Reading - Finance: Consider Budget Ordinance No. 2022-O0001, Amendment 4, amending the FY 2021-22 Budget for municipal purposes respecting the Capital Fund to establish Capital Improvement Project 92754, Cyber Security Infrastructure; providing for filing; and providing for a savings clause.

Item Summary

On January 11, 2022, the City Council approved the first reading of the ordinance.

I. Establish Capital Improvement Project 92754, Cyber Security Infrastructure, and appropriate funding of \$2,240,500, funded with American Rescue Plan Act (ARPA) funds. Proposed critical infrastructure improvements are:

| | |
|-------------------------------------|--------------------|
| 1. Backup and Recovery | \$ 241,500 |
| 2. Critical Infrastructure Security | 1,413,000 |
| 3. Cisco Phone System Security | 21,000 |
| 4. Radio System Security | 165,000 |
| 5. Fiber Optic Security/Capacity | 400,000 |
| TOTAL | \$2,240,500 |

Annual recurring costs after implementation total \$196,100.

Fiscal Impact

Included in Item Summary

Staff/Board Recommending

D. Blu Kostelich, Chief Financial Officer

Attachments

Budget Amendment 4

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE FY 2021-22 BUDGET FOR MUNICIPAL PURPOSES RESPECTING THE CAPITAL FUND TO ESTABLISH CAPITAL IMPROVEMENT PROJECT 92754, CYBER SECURITY INFRASTRUCTURE; 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 2021-22 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 2021-22 (Budget Amendment #4) for municipal purposes, as follows:

- I. Establish Capital Improvement Project 92754, Cyber Security Infrastructure, and appropriate funding of \$2,240,500, funded with American Rescue Plan Act funds.

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

Information

Agenda Item

Budget Ordinance Amendment 2nd Reading - Finance: Consider Budget Ordinance 2022-O0002, Amendment 5, amending the FY 2021-22 Budget for municipal purposes respecting the Civic Center and General Funds; providing for filing; and providing for a savings clause.

Item Summary

On January 11, 2022, the City Council approved the first reading of the ordinance.

- I. Amend Civic Center Cost Center 4813, by adding one additional full-time position, Custodian.
- II. Amend Public Health Cost Center 5415, by adding one additional full-time position, Disease Intervention Specialist. The new position will be grant funded.

Fiscal Impact

Included in Item Summary

Staff/Board Recommending

D. Blu Kostelich, Chief Financial Officer

Attachments

Budget Amendment 5

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE FY 2021-2022 BUDGET FOR MUNICIPAL PURPOSES RESPECTING THE CIVIC CENTER FUND; PROVIDING FOR FILING; AND PROVIDING FOR A SAVING 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 2021-22 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 2021-22 (Budget Amendment #5) for municipal purposes, as follows:

- I. Amend the Civic Center cost center 4813 by adding one additional full-time position, Custodian II.

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

Information

Agenda Item

Budget Ordinance Amendment 2nd Reading - Finance: Consider Budget Ordinance No. 2022-O0003, Amendment 7, amending the FY 2021-22 Budget for municipal purposes respecting the Lake Alan Henry Fund to appropriate funding for the purchase of a boat used for Parks and Recreation operations for Lake Alan Henry; providing for filing; and providing for a savings clause.

Item Summary

On January 11, 2022, the City Council approved the first reading of the ordinance.

Amend the FY 2021-22 Lake Alan Henry Operating Budget by increasing the appropriation by \$23,760, from \$637,639 to \$661,399, for the purchase of a boat used for Parks and Recreation operations for Lake Alan Henry.

The operations conducted with the boat include but are not limited to:

- Removing trash and debris from shoreline;
- Relocation and replacement of buoys;
- Inspecting and replacing cables on the boat dock;
- Traveling to and surveying archeological sites;
- The transportation of stranded or broken down patrons; and
- Any and all emergencies taking place on the water.

Fiscal Impact

Included in Item Summary

Staff/Board Recommending

D. Blu Kostelich, Chief Financial Officer.

Attachments

Budget Amendment 7

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE FY 2021-22 BUDGET FOR MUNICIPAL PURPOSES RESPECTING THE LAKE ALAN HENRY FUND TO APPROPRIATE FUNDING FOR THE PURCHASE OF BOAT USED FOR PARKS AND RECREATION OPERATIONS FOR LAKE ALAN HENRY; 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 2021-22 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 2021-22 (Budget Amendment #7) for municipal purposes, as follows:

- I. Amend the FY 2021-22 Lake Alan Henry Operating Budget by increasing the appropriation by \$23,760, from \$637,639 to \$661,399, for the purchase of a boat used for Parks and Recreation operations for Lake Alan Henry.

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

Information

Agenda Item

Budget Ordinance Amendment 2nd Reading - Finance: Consider Budget Ordinance No. 2022-O0004, Amendment 8, amending the FY 2021-22 Budget for municipal purposes respecting the Grant Fund to establish and appropriate funding for Capital Improvements Project 92756 Civic Park; providing for filing; and providing for a savings clause.

Item Summary

On January 11, 2022, the City Council approved the first reading of the ordinance.

Establish Capital Improvement Project 92756, Civic Park, and appropriate funding in the amount of \$1,000,000. The funding will be from a \$500,000 CH Foundation Grant, and a \$500,000 Helen Jones Foundation Grant.

Fiscal Impact

Included in Item Summary

Staff/Board Recommending

D. Blu Kostelich, Chief Financial Officer

Attachments

Budget Amendment 8

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE FY 2021-22 BUDGET FOR MUNICIPAL PURPOSES RESPECTING THE GRANT FUND TO ESTABLISH AND APPROPRIATE FUNDING FOR CAPITAL PROJECT 92756 CIVIC PARK; 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 2021-22 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 2021-22 (Budget Amendment #8) for municipal purposes, as follows:

- I. Establish Capital Improvement Project 92756, Civic Park, and appropriate funding in the amount of \$1,000,000. The funding will be from a \$500,000 CH Foundation grant, and \$500,000 Helen Jones Foundation grant.

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

Information

Agenda Item

Budget Ordinance Amendment 2nd Reading - Finance: Consider Budget Ordinance No. 2022-O0005, Amendment 9, amending the FY 2021-22 Budget for municipal purposes respecting the Lubbock Power & Light Operating and Capital Program; providing for filing; and providing for a savings clause.

Item Summary

On January 11, 2022, the City Council approved the first reading of the ordinance.

Establish Capital Improvement Project 92755, Massengale Station Gas Turbine #8 Repairs and appropriate funding in the amount of \$4,500,000. The project will utilize FY 2021-22 cash funding. The project scope and justification is as follows:

Project Scope:

This project is to repair and restore Gas Turbine #8 at Massengale Station. The project includes costs related to engineering and repairs of the gas turbine and auxiliary equipment.

Project Justification:

In September of 2021, Gas Turbine #8 at Massengale Station suffered a forced outage and is out for repairs. Returning this generation unit to service will provide capacity for LP&L to serve its native load in the Electric Reliability Council of Texas (ERCOT).

Federal Energy Regulatory Commission (FERC) Accounts: 343

Estimated Useful Life: 10 years

Amend Fund 211, "Electric Operating Fund", by increasing the Transfer to the Capital Program in the amount of \$4,500,000, from \$20,969,731 to \$25,469,731.

Fiscal Impact

Included in Item Summary

Staff/Board Recommending

D. Blu Kostelich, Chief Financial Officer.

Attachments

Budget Amendment 9
EUB Resolution

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE FY 2021-22 BUDGET FOR MUNICIPAL PURPOSES RESPECTING THE LUBBOCK POWER & LIGHT OPERATING AND CAPITAL PROGRAM; 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 2021-22 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 2021-22 (Budget Amendment #9) for municipal purposes, as follows:

- I. Establish Capital Improvement Project 92755, Massengale Station Gas Turbine #8 Repairs and appropriate funding in the amount of \$4,500,000. The Project will utilize FY 2022 cash funding. The project scope and justification is as follows:

Project Scope:

This project is to repair and restore Gas Turbine #8 at Massengale Station. The project includes costs related to engineering and repairs of the gas turbine and auxiliary equipment.

Project Justification:

In September of 2021, Gas Turbine #8 at Massengale Station suffered a forced outage and is out for repairs. Returning this generation unit to service will provide capacity for LP&L to serve its native load in the Electric Reliability Council of Texas (ERCOT).

FERC Accounts: 343

Estimated Useful Life: 10 years

- II. Amend fund 211, "Electric Operating Fund", by increasing the Transfer to the Capital Program in the amount of \$4,500,000, from \$20,969,731 to \$25,469,731.

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 2021-22, as follows:

- 1) Establish CIP #92755, Massengale Station Gas Turbine #8 Repairs - and appropriate funding in the amount of \$4,500,000. The project will utilize FY 2022 cash funding. The project scope and justification is as follows:

Project Scope:

This project is to repair and restore Gas Turbine #8 at Massengale Station. The project includes costs related to engineering and repairs of the gas turbine and auxiliary equipment.

Project Justification:

In September of 2021, Gas Turbine #8 at Massengale Station suffered a forced outage and is out for repairs. Returning this generation unit to service will provide capacity for LP&L to serve its native load in the Electric Reliability Council of Texas (ERCOT).

FERC Accounts: 343

Estimated Useful Life: 10 years

- 2) Amend fund 211, Electric Operating Fund", by increasing the Transfer to the Capital Program in the amount of \$4,500,000, from \$20,969,731 to \$25,469,731.

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 28th day of December, 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

Information

Agenda Item

Budget Ordinance Amendment 2nd Reading - Finance: Consider Budget Ordinance No. 2022-O0006, Amendment 10, amending the FY 2021-22 Budget for municipal purposes respecting the General Fund to appropriate funding for the purchase of fence construction used in Solid Waste Landfill Operations; providing for filing; and providing for a savings clause.

Item Summary

On January 11, 2022, the City Council approved the first reading of the ordinance.

Amend the FY 2021-22 Solid Waste Landfill Operating Budget in the General Fund by increasing the appropriation by \$88,000, from \$9,687,345 to \$9,775,345, for fence construction.

Fiscal Impact

Included in Item Summary

Staff/Board Recommending

D. Blu Kostelich, Chief Financial Officer.

Attachments

Budget Amendment 10

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE FY 2021-22 BUDGET FOR MUNICIPAL PURPOSES RESPECTING THE GENERAL FUND TO APPROPRIATE FUNDING FOR THE PURCHASE OF FENCE CONSTRUCTION USED IN SOLID WASTE LANDFILL OPERATIONS; 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 2021-22 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 2021-22 (Budget Amendment #10) for municipal purposes, as follows:

- I. Amend the FY 2021-22 Solid Waste Landfill Operating Budget in the General Fund by increasing the appropriation by \$88,000, from \$9,687,345 to \$9,775,345, for fence construction.

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

Information

Agenda Item

Budget Ordinance Amendment 1st Reading - Finance: Consider Budget Ordinance Amendment 6, amending the FY 2021-22 Budget for municipal purposes respecting the General Capital Fund to establish Capital Improvement Project 8668, Diversion Center Contribution, and Capital Improvement Project 92757, Housing Projects; providing for filing; and providing for a savings clause.

Item Summary

- I. Establish Capital Improvement Project 8668, Diversion Center Contribution, and appropriate funding of \$3,500,000, funded with American Rescue Plan Act Grant funds.
- II. Establish Capital Improvement Project 92757, Housing Projects, and appropriate funding of \$2,500,000, funded with American Rescue Plan Act Grant funds.

Fiscal Impact

Included in Item Summary

Staff/Board Recommending

D. Blu Kostelich, Chief Financial Officer.

Attachments

Budget Amendment 6

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE FY 2021-22 BUDGET FOR MUNICIPAL PURPOSES RESPECTING THE GENERAL CAPITAL FUND TO ESTABLISH CAPITAL IMPROVEMENT PROJECT 8668, DIVERSION CENTER CONTRIBUTION AND 92757, HOUSING PROJECTS; 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 2021-22 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 2021-22 (Budget Amendment #6) for municipal purposes, as follows:

- I. Establish Capital Improvement Project 8668, Diversion Center Contribution, and appropriate funding of \$3,500,000, funded with American Rescue Plan Act grant.
- II. Establish Capital Improvement Project 92757, Housing Projects, and appropriate funding of \$2,500,000, funded with American Rescue Plan Act grant.

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

Information

Agenda Item

Budget Ordinance Amendment 1st Reading - Finance: Consider Budget Ordinance Amendment 11, amending the FY 2021-22 Budget for municipal purposes respecting the Grant Fund to accept and appropriate funding from the U.S. Department of Treasury for Emergency Rental Assistance and the Texas Department of Housing and Community Affairs (TDHCA) for the FY 2021 Comprehensive Energy Assistance Program (CEAP) and American Rescue Plan Act Grant providing for filing; and providing for a savings clause.

Item Summary

1. Accept and appropriate additional \$7,000,000 from the U.S. Department of the Treasury for the Emergency Rental Assistance Program for a total appropriation of \$14,821,802. Additional funding will fund Direct services totaling \$6,300,000 and Administration costs totaling \$700,000.
2. Accept and appropriate \$1,525,972 from the TDHCA for the FY 2021 CEAP and American Rescue Plan Act Grant. Direct services to include Household Crisis, Utility Assistance and Program Services total \$1,387,261; Administration costs total \$138,711.

Fiscal Impact

Included in Item Summary

Staff/Board Recommending

D. Blu Kostelich, Chief Financial Officer

Attachments

Budget Amendment 11

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE FY 2021-22 BUDGET FOR MUNICIPAL PURPOSES RESPECTING THE GRANT FUND TO ACCEPT AND APPROPRIATE FUNDING FROM THE U.S. DEPARTMENT OF TREASURY FOR EMERGENCY RENTAL ASSISTANCE AND THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS (TDHCA) FOR THE FY 2021 COMPREHENSIVE ENERGY ASSISTANCE PROGRAM (CEAP) AND AMERICAN RESCUE PLAN ACT; 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 2021-22 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 2021-22 (Budget Amendment #11) for municipal purposes, as follows:

- I. Accept and appropriate additional \$7,000,000 from the U.S. Department of the Treasury for the Emergency Rental Assistance Program for a total appropriation of \$14,821,802. Additional funding will fund Direct services totaling \$6,300,000 and Administration costs totaling \$700,000.
- II. Accept and appropriate \$1,525,972 from the TDHCA for the FY 2021 CEAP and American Rescue Plan Act Grant. Direct services to include Household Crisis, Utility Assistance and Program Services total \$1,387,261; Administration costs total \$138,711.

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

Information

Agenda Item

Resolution - Risk Management: Consider a resolution ratifying the actions of the City Manager in purchasing, for and on behalf of Lubbock Power and Light, the City's municipal electric utility, property insurance coverage to include boiler and machinery coverage. The subject insurers are AIG, Argenta, Munich RE, Travelers, Amlin, Guide One, Kiln/Faraday, ARK, Aspen, Alcor, and Chubb as listed in the attachment along with the terms and conditions.

Item Summary

The City purchases property insurance on behalf of Lubbock Power and Light, the City's municipal electric utility, for its structures, contents, and equipment. The coverages include, but are not limited to:

- Special Form Property Policy, formerly known as All Risk, covers direct physical loss up to \$552,526,095, which is the estimated total value of all electric utility structures, contents, and equipment;
- Flood and earthquake coverage to include high hazard zones;
- All property and contents;
- Mobile equipment and vehicles;
- Boiler and machinery insurance provides coverage for the mechanical failure and damage of generating equipment, boilers, heating, ventilating, air conditioning equipment, pumps and other mechanical equipment, excluding wear and tear; and
- Business Interruption coverage.

The City, on behalf of LP&L, currently utilizes a layered coverage program including AEGIS, Axis Surplus Insurance Company, Ren Re Synd. 1458, SCOR UK Company Limited, Syndicate 1221 – Navigators, Inter Hannover, Syndicate 2001- MS Amlin, Syndicate 1200 – Argo, Syndicate 1301 – StarStone, Arch Ins Co (Europe) Ltd., Syndicate 1686 – Axis, Ironshore Bermuda, and Helvetia. The non-generating property deductible remains flat at \$1,000,000 per occurrence. Generating property deductibles range from \$250,000 to \$1,000,000 per occurrence. The current rate for this coverage is \$0.4746 per \$100 valuation and a premium of \$2,183,600.

Current year and proposed premium is a combination of property and boiler and machinery coverage. Bundling both property and boiler and machinery coverages affords the electric utility greater coverage, and allows access to loss prevention services that include state inspections for boilers, infrared thermographic testing, oil analysis, and Doble testing, on electric generating and distribution equipment.

The City's broker secured a layered coverage program with AIG, Argenta, Munich RE, Travelers, Amlin, Guide One, Kiln/Faraday, ARK, Aspen, Alcor, and Chubb. Approving this insurance coverage on a rate basis allows the City Manager the ability to add and remove properties, as necessary, to maintain an accurate property valuation.

Carriers bind insurance coverage October 1, 2021, after notification of City Council approval. Insurance policies are issued after premiums are received from the City. The policy for the insurance coverage is

approved by the Texas Department of Insurance as to content. Current insurance policies are available for review in Risk Management.

Fiscal Impact

Funds are budgeted in the 2021-22 Risk Management Fund.

Staff/Board Recommending

D. Blu Kostelich, Chief Financial Officer

Attachments

Resolution - LPL Prop Ratification

LP&L Property

RESOLUTION

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

THAT the actions of the City Manager of the City of Lubbock in purchasing for and on behalf of Lubbock Power and Light, the City's municipal utility, property insurance coverage to include boiler and machinery, is hereby ratified. The subject insurers are AIG, Argenta, Munich RE, Travelers, Amlin, Guide One, Kiln/Faraday, ARK, Aspen, Alcor, and Chubb as listed in the attachment along with the terms and conditions and said attachment is incorporated hereto as if fully set forth herein; and

THAT the City Manager may execute any routine documents and forms associated with said insurance coverage.

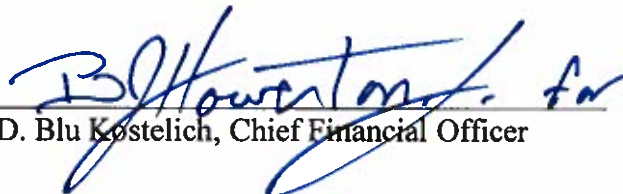
Passed by the City Council this _____.

DANIEL M. POPE, MAYOR

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



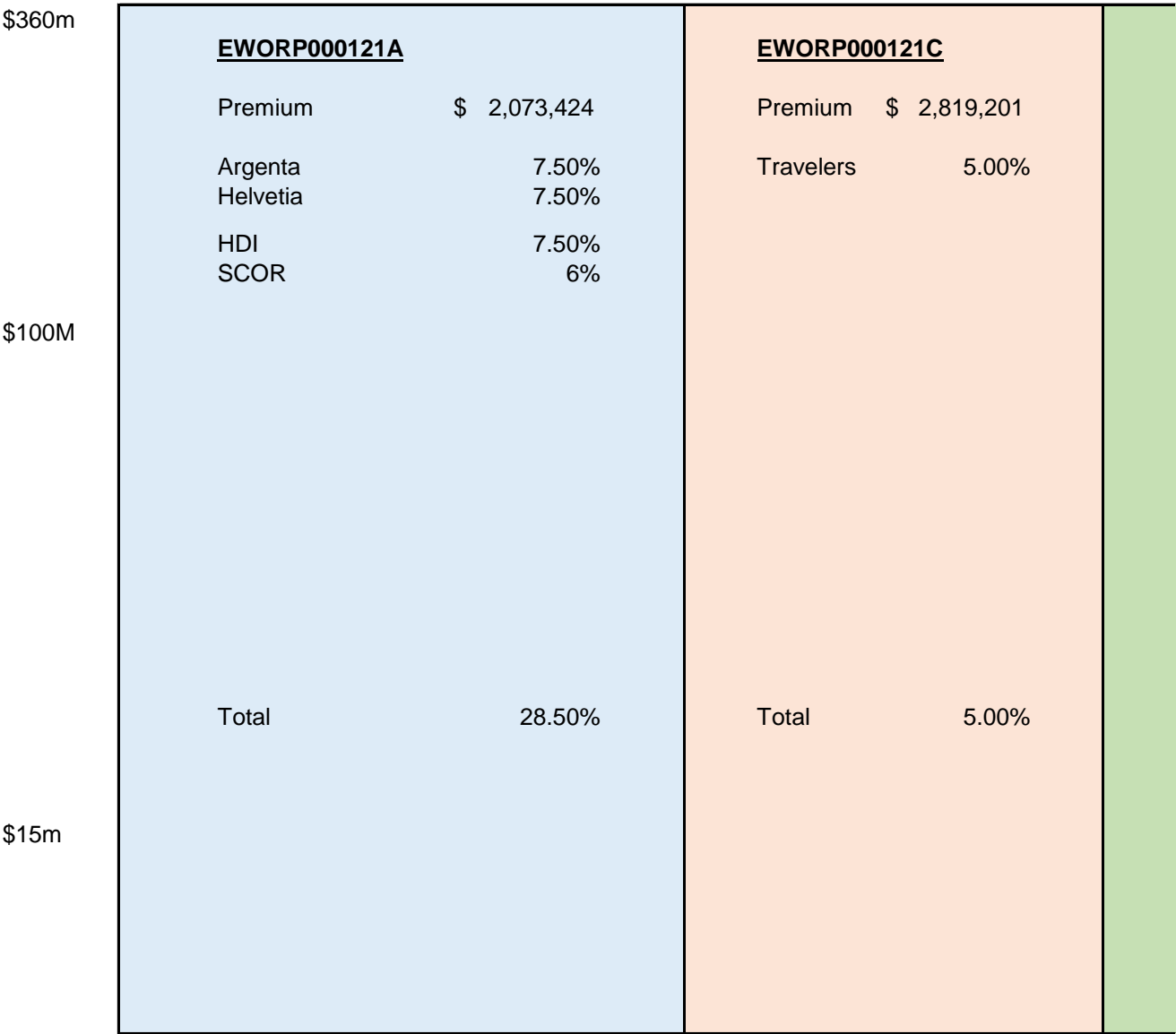
D. Blu Kostelich, Chief Financial Officer

APPROVED AS TO FORM:



Jeff Hartsell, Deputy City Attorney

RES.Risk Mgmt-Ratify-LP&L Property Ins.
January 19, 2022



Premium for share

Tower for share \$ 590,925.84
Tower Price 100% \$ 2,073,424

Premium for share

\$ 140,960.05
\$ 2,819,201

| | | | | | |
|------------|--------------|---------------|--------------|---------------------------------------|--------------|
| AIG | | Munich | | Munich Excess Layer | |
| Premium | \$ 2,920,000 | Premium | \$ 1,407,817 | Premium | \$ 1,055,683 |
| AIG | 18.00% | Munich | 15.00% | Munich (XS) | 4.00% |
| | | | | | |
| Total | 18.00% | Total | 15.00% | Total | 4.00% |
| | | | | Primary \$15M EWORP000121D | |
| | | | | Premium | \$ 1,852,586 |
| | | | | Amlin | 4.00% |
| | | | | Faraday | 3.00% |
| | | | | Kiln | 7.50% |
| | | | | Total | 14.50% |

| <u>Premium for share</u> | <u>Premium for share</u> | <u>Premium for share</u> |
|--------------------------|--------------------------|--------------------------|
| \$ 525,600.00 | \$ 211,172.55 | \$ 310,852.29 |
| \$ 2,920,000 | \$ 1,407,817 | \$ 2,908,269 |

| | | | | |
|--|--|--------------|--|--------------|
| | <u>\$260M xs \$100M</u> | | <u>AIG Excess Layer</u> | |
| | Premium | \$ 650,000 | Premium | \$ 1,810,400 |
| | Chubb (BDA) | 12.50% | AIG (XS) | 17.00% |
| | Total | \$ 81,250.00 | | |
| | <u>\$85M xs \$15M</u> | | <u>\$35M xs \$65M</u> | |
| | Premium | \$735,135 | Premium | \$ 691,891 |
| | Alcor | 5% | Ark | 7.50% |
| | | | Total | 7.50% |
| | | | <u>\$50M xs \$15M</u> | |
| | | | Prorated Premiu | \$ 659,041 |
| | Total | 5% | Aspen | 5.00% |
| | | | Arch* | 2.50% |
| | | | <i>*Annual Premium: \$850,000</i> | |
| | | | Total | 7.50% |
| | | | Total | 17.00% |
| | <u>Primary \$15M EWORP000121E</u> | | <u>Primary \$15M EWORP000121D</u> | |
| | Premium | \$ 2,162,162 | Premium | \$ 2,035,000 |
| | ARK | 4.50% | Guide One | 14.50% |
| | Total | 4.50% | Total | 14.50% |

Premium for share

\$ 215,304.04

\$ 3,547,297

Premium for share

\$ 279,867.19

\$ 4,163,094

Premium for share

\$ 602,843.00

\$ 3,845,400

| | | |
|----------------------|----------------------|---------|
| <u>\$360M</u> | <u>TOTALS</u> | 100.00% |
|----------------------|----------------------|---------|

| | | |
|----------------------|--|---------|
| <u>\$100M</u> | | 100.00% |
|----------------------|--|---------|

| | | |
|---------------------|--|---------|
| <u>\$65M</u> | | 100.00% |
|---------------------|--|---------|

| | | |
|---------------------|--|---------|
| <u>\$15M</u> | | 100.00% |
|---------------------|--|---------|

Composite Premium

| | |
|----|--------------|
| \$ | 2,140,752.41 |
|----|--------------|

10/4/2021

| Lubbock Power & Light, the City of Lubbock's municipally owned electric utility | | | | | | | | | | | | | | |
|--|-------------------------------------|-----------------|-----------------|-------------------------|-----------------|-----------------|-----------------|-----------------|-------------------------------------|-------------------------------------|-----------------------------|-----------------------------|--------------------------------|------------------------|
| Policy Year | 2021-2022 | | | | | | | | | | | | | |
| Description | Values: | Rates | Premium | Surplus Lines Tax & Fee | | | | | | | | | | |
| Property Damage including Business Interruption | \$558,729,452 | \$0.5536 | \$3,092,969 | \$100,861 | | | | | | | | | | |
| Standalone Terrorism Policy | \$558,729,452 | \$0.0036 | \$20,250 | \$982 | | | | | | | | | | |
| Loss Control Services | Services provided by AIG | | \$22,500 | \$0 | | | | | | | | | | |
| Placement Service Fee | Services provided by Wortham | | \$40,000 | \$0 | | | | | | | | | | |
| APPA Marketing Fee | - | | \$0 | \$0 | | | | | | | | | | |
| Annual Property Premium Including: Taxes/Fees/Additional Services/Terrorism | \$3,277,561 | | | | NOT TO EXCEED | Difference | | | | | | | | |
| All In Property Rate Per \$100 Insured | \$0.5866 | | | | \$3,254,599 | \$22,962 | | | | | | | | |
| | | | | | \$0.5825 | -0.0041 | | | | | | | | |
| Carriers | AIG | Argenta | Munich RE | Travelers | Amlin | Guide One | Kiln/Faraday | ARK | *Aspen \$50M XS Amlin (\$15M) | *Alcor \$85M XS Amlin (\$15M) | *Ark \$35M XS (\$65M) | *AIG XS Amlin (\$15M) | *Munich XS Amlin (\$15M) | *Chubb XS \$100M |
| Premium | \$2,920,000.00 | \$ 2,073,424.00 | \$ 1,407,817.00 | \$ 2,819,201.00 | \$ 1,852,586.00 | \$ 2,035,000.00 | \$ 1,852,586.00 | \$ 2,162,162.00 | \$ 659,041.00 | \$735,135 | \$ 691,891.00 | \$ 1,810,400.00 | \$ 1,055,683.00 | \$ 650,000.00 |
| Loss Load based on Unit 8 loss reserved at \$9.3M Payable after loss settles | \$ 1,000,000.00 | \$ 414,684.80 | \$ 351,954.25 | \$ 563,840.20 | \$ 370,517.20 | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - |
| Line Size | 18.00% | 28.50% | 15.00% | 5.00% | 4.00% | 14.50% | 10.50% | 4.50% | 7.50% | 5.00% | 7.50% | 17.00% | 4.00% | 12.50% |
| Line Premium (excl Loss Load) | \$ 525,600.00 | \$ 590,925.84 | \$ 211,172.55 | \$ 140,960.05 | \$ 74,103.44 | \$ 295,075.00 | \$ 194,521.53 | \$ 97,297.29 | \$ 49,428.08 | \$ 36,756.75 | \$ 51,891.83 | \$ 307,768.00 | \$ 42,227.32 | \$ 81,250.00 |
| Total Line Premium (incl Loss Load) | \$ 705,600.00 | \$ 709,111.01 | \$ 263,965.69 | \$ 169,152.06 | \$ 88,924.13 | \$ 295,075.00 | \$ 194,521.53 | \$ 97,297.29 | \$ 49,428.08 | \$ 36,756.75 | \$ 51,891.83 | \$ 307,768.00 | \$ 42,227.32 | \$ 81,250.00 |
| Policy Limit * Denotes Annual Aggregate | \$360,000,000 | \$360,000,000 | \$360,000,000 | \$360,000,000 | \$15,000,000 | \$15,000,000 | \$15,000,000 | \$15,000,000 | \$50,000,000 | \$50,000,000 | \$35,000,000 | \$345,000,000 | \$345,000,000 | \$260,000,000 |
| Earth Movement | \$250,000,000 | \$250,000,000 | \$360,000,000 | \$250,000,000 | \$250,000,000 | \$250,000,000 | \$250,000,000 | \$250,000,000 | \$250,000,000 | \$250,000,000 | \$250,000,000 | \$250,000,000 | \$250,000,000 | \$250,000,000 |
| Earth Movement (High Hazard) Excludes CA EQ | No Coverage | \$20,000,000 | \$20,000,000 | \$ 20,000,000.00 | \$20,000,000 | \$20,000,000 | \$20,000,000 | \$20,000,000 | \$20,000,000 | \$20,000,000 | \$20,000,000 | No Coverage | \$20,000,000 | \$20,000,000 |
| Flood | \$250,000,000 | \$250,000,000 | \$250,000,000 | \$250,000,000 | \$250,000,000 | \$250,000,000 | \$250,000,000 | \$250,000,000 | \$250,000,000 | \$250,000,000 | \$250,000,000 | \$250,000,000 | \$250,000,000 | \$250,000,000 |
| Flood Zone A or V (High Hazard) | \$5,000,000 | \$30,000,000 | \$30,000,000 | \$30,000,000 | \$30,000,000 | \$30,000,000 | \$30,000,000 | \$30,000,000 | \$30,000,000 | \$30,000,000 | \$30,000,000 | \$5,000,000 | \$30,000,000 | \$30,000,000 |
| Named Windstorm (High Hazard) | \$250,000,000 | \$100,000,000 | \$100,000,000 | \$100,000,000 | \$100,000,000 | \$100,000,000 | \$100,000,000 | \$100,000,000 | \$100,000,000 | \$100,000,000 | \$100,000,000 | \$50,000,000 | \$100,000,000 | \$100,000,000 |
| Newly Acquired Property | \$50,000,000 | \$50,000,000 | \$50,000,000 | \$10,000,000 | \$50,000,000 | \$50,000,000 | \$50,000,000 | \$50,000,000 | \$50,000,000 | \$50,000,000 | \$50,000,000 | \$25,000,000 | \$50,000,000 | \$50,000,000 |
| Property in the Course of Construction | \$25,000,000 | \$25,000,000 | \$25,000,000 | \$10,000,000 | \$25,000,000 | \$25,000,000 | \$25,000,000 | \$25,000,000 | \$25,000,000 | \$25,000,000 | \$25,000,000 | \$1,000,000 | \$25,000,000 | \$25,000,000 |
| Personal Property | \$1,000,000 | \$10,000,000 | \$10,000,000 | \$1,000,000 | \$10,000,000 | \$10,000,000 | \$10,000,000 | \$10,000,000 | \$10,000,000 | \$10,000,000 | \$10,000,000 | \$5,000,000 | \$10,000,000 | \$10,000,000 |
| Valuable Papers and Records | \$5,000,000 | \$5,000,000 | \$5,000,000 | \$1,000,000 | \$5,000,000 | \$5,000,000 | \$5,000,000 | \$5,000,000 | \$5,000,000 | \$5,000,000 | \$5,000,000 | \$10,000,000 | \$5,000,000 | \$5,000,000 |
| Accounts Receivable | \$10,000,000 | \$10,000,000 | \$10,000,000 | \$1,000,000 | \$10,000,000 | \$10,000,000 | \$10,000,000 | \$10,000,000 | \$10,000,000 | \$10,000,000 | \$10,000,000 | \$25,000,000 | \$10,000,000 | \$10,000,000 |
| Debris Removal (25% or) | \$25,000,000 | \$25,000,000 | \$25,000,000 | \$15,000,000 | \$25,000,000 | \$25,000,000 | \$25,000,000 | \$25,000,000 | \$25,000,000 | \$25,000,000 | \$25,000,000 | \$2,000,000 | \$25,000,000 | \$25,000,000 |
| Fire & Police Department Charges & Extinguishing Cost | \$2,000,000 | \$2,000,000 | \$2,000,000 | \$1,000,000 | \$2,000,000 | \$2,000,000 | \$2,000,000 | \$2,000,000 | \$2,000,000 | \$2,000,000 | \$2,000,000 | \$5,000,000 | \$2,000,000 | \$2,000,000 |
| Expediting Expense | \$5,000,000 | \$5,000,000 | \$5,000,000 | \$5,000,000 | \$5,000,000 | \$5,000,000 | \$5,000,000 | \$5,000,000 | \$5,000,000 | \$5,000,000 | \$5,000,000 | \$15,000,000 | \$5,000,000 | \$5,000,000 |
| Property in Transit | \$15,000,000 | \$15,000,000 | \$15,000,000 | \$15,000,000 | \$15,000,000 | \$15,000,000 | \$15,000,000 | \$15,000,000 | \$15,000,000 | \$15,000,000 | \$15,000,000 | 30 Days / 1 Mile | \$15,000,000 | \$15,000,000 |
| Ingress/Egress and Prohibited Access | 30 Days / 1 Mile / \$10,000,000 max | 30 Days | 30 Days | 30 Days 1 Mile limit | 30 Days | 30 Days | 30 Days | 30 Days | 30 Days | 30 Days | 30 Days | 30 Days / 1 Mile | 30 Days | 30 Days |
| Civil or Military Authority | 30 Days / 1 Mile / \$10,000,000 max | 30 Days | 30 Days | 30 Days 1 Mile limit | 30 Days | 30 Days | 30 Days | 30 Days | 30 Days | 30 Days | 30 Days | \$1,000,000 | 30 Days | 30 Days |
| Hazardous Substances or Contaminants - Property In | \$1,000,000 | \$5,000,000 | \$5,000,000 | \$1,000,000 | \$5,000,000 | \$5,000,000 | \$5,000,000 | \$5,000,000 | \$5,000,000 | \$5,000,000 | \$5,000,000 | \$25,000 | \$5,000,000 | \$5,000,000 |
| Hazardous Substances or Contaminants - Land and Water (Annual Aggregate) | \$25,000 | | Included Above | included above | Included Above | Included Above | Included Above | Included Above | | | | \$25,000,000 | Included Above | Included Above |
| Demolition and Increased Cost of Construction | \$25,000,000 | \$25,000,000 | \$25,000,000 | \$15,000,000 | \$25,000,000 | \$25,000,000 | \$25,000,000 | \$25,000,000 | \$25,000,000 | \$25,000,000 | \$25,000,000 | \$10,000,000 | \$25,000,000 | \$25,000,000 |
| Errors and Omissions | \$10,000,000 | \$10,000,000 | \$10,000,000 | \$1,000,000 | \$10,000,000 | \$10,000,000 | \$10,000,000 | \$10,000,000 | \$10,000,000 | \$10,000,000 | \$10,000,000 | \$10,000,000 | \$10,000,000 | \$10,000,000 |
| Miscellaneous Unnamed Locations | \$10,000,000 | \$10,000,000 | \$10,000,000 | \$1,000,000 | \$10,000,000 | \$10,000,000 | \$10,000,000 | \$10,000,000 | \$10,000,000 | \$10,000,000 | \$10,000,000 | 30 Days | \$10,000,000 | \$10,000,000 |
| Impounded Water | 30 Days | 30 Days | 30 Days | 30 Days | 30 Days | 30 Days | 30 Days | 30 Days | 30 Days | 30 Days | 30 Days | \$25,000 | 30 Days | 30 Days |
| Fine Arts | \$25,000 | \$5,000,000 | \$5,000,000 | \$1,000,000 | \$5,000,000 | \$5,000,000 | \$5,000,000 | \$5,000,000 | \$5,000,000 | \$5,000,000 | \$5,000,000 | \$10,000,000 | \$5,000,000 | \$5,000,000 |
| Rental Transformers & Spare Equipment | \$10,000,000 | \$10,000,000 | \$10,000,000 | \$1,000,000 | \$10,000,000 | \$10,000,000 | \$10,000,000 | \$10,000,000 | \$10,000,000 | \$10,000,000 | \$10,000,000 | \$500,000 | \$10,000,000 | \$10,000,000 |
| Professional Fees | \$500,000 | \$500,000 | \$500,000 | \$500,000 | \$500,000 | \$500,000 | \$500,000 | \$500,000 | \$500,000 | \$500,000 | \$500,000 | No Coverage | \$500,000 | \$500,000 |
| Recovery of Salvage | No Coverage | \$5,000,000 | \$5,000,000 | \$5,000,000 | \$5,000,000 | \$5,000,000 | \$5,000,000 | \$5,000,000 | \$5,000,000 | \$5,000,000 | \$5,000,000 | \$10,000,000 | \$5,000,000 | \$5,000,000 |
| Pair & Set | \$10,000,000 | \$10,000,000 | \$10,000,000 | \$1,000,000 | \$10,000,000 | \$10,000,000 | \$10,000,000 | \$10,000,000 | \$10,000,000 | \$10,000,000 | \$10,000,000 | \$10,000,000 | \$10,000,000 | \$10,000,000 |
| Electronic Data Processing Media Valuation | \$10,000,000 | \$25,000,000 | \$25,000,000 | \$1,000,000 | \$25,000,000 | \$25,000,000 | \$25,000,000 | \$25,000,000 | \$25,000,000 | \$25,000,000 | \$25,000,000 | \$5,000,000 | \$25,000,000 | \$25,000,000 |
| Extra Expense | \$5,000,000 | \$15,000,000 | \$15,000,000 | \$5,000,000 | \$15,000,000 | \$15,000,000 | \$15,000,000 | \$15,000,000 | \$5,000,000 | \$5,000,000 | \$5,000,000 | \$1,000,000 | \$15,000,000 | \$15,000,000 |
| Contingent Time Element | \$1,000,000 | \$2,500,000 | \$1,100,000 | \$1,100,000 | \$1,100,000 | \$1,100,000 | \$1,100,000 | \$1,100,000 | \$1,000,000 | \$1,000,000 | \$1,000,000 | No Coverage | \$1,100,000 | \$1,100,000 |
| Rental & Leased Equipment | No Coverage | \$5,000,000 | \$5,000,000 | \$5,000,000 | \$5,000,000 | \$5,000,000 | \$5,000,000 | \$5,000,000 | \$5,000,000 | \$5,000,000 | \$5,000,000 | \$6,500,000 | \$5,000,000 | \$5,000,000 |
| Business Interruption | \$6,500,000 | \$6,500,000 | \$6,500,000 | \$6,500,000 | \$6,500,000 | \$6,500,000 | \$6,500,000 | \$6,500,000 | \$6,500,000 | \$6,500,000 | \$6,500,000 | | \$6,500,000 | \$6,500,000 |
| Standalone Terrorism Policy | \$100,000,000 | | | | | | | | | | | | | |
| Deductible - Per Occurrence | | | | | | | | | | | | | | |
| Property Damage | \$1,000,000 | \$250,000 | \$250,000 | \$250,000 | \$250,000 | \$250,000 | \$250,000 | \$250,000 | \$250,000 | \$250,000 | \$250,000 | \$1,000,000 | \$250,000 | \$250,000 |
| Non-generating/Transmission locations | \$1,000,000 | \$250,000 | \$250,000 | \$250,000 | \$250,000 | \$250,000 | \$250,000 | \$250,000 | \$250,000 | \$250,000 | \$250,000 | \$1,000,000 | \$250,000 | \$250,000 |

*Excess Layers added to complete LOL

10/4/2021

| Lubbock Power & Light, the City of Lubbock's municipally owned electric utility | | | | | | | | | | | | | | | |
|---|------------------------|---|--|---|---|---|---|---|---|---|---|------------------------|---|---|--|
| Policy Year | 2021-2022 | | | | | | | | | | | | | | |
| Description | Values: | Rates | Premium | Surplus Lines Tax & Fee | | | | | | | | | | | |
| Steam Turbine Generators including Machinery Breakdown | \$1,000,000 | \$5,000,000 | \$500,000 | \$5,000,000 | \$5,000,000 | \$5,000,000 | \$5,000,000 | \$5,000,000 | \$5,000,000 | \$5,000,000 | \$5,000,000 | \$1,000,000 | \$5,000,000 | \$5,000,000 | |
| Combustion Turbine Generators including Machinery Breakdown | \$1,000,000 | \$5,000,000 | \$500,000 | \$5,000,000 | \$5,000,000 | \$5,000,000 | \$5,000,000 | \$5,000,000 | \$5,000,000 | \$5,000,000 | \$5,000,000 | \$1,000,000 | \$5,000,000 | \$5,000,000 | |
| Cooke #2 54.3MW Turbine or Generator including Machinery Breakdown | \$1,000,000 | \$5,000,000 | \$500,000 | \$5,000,000 | \$5,000,000 | \$5,000,000 | \$5,000,000 | \$5,000,000 | \$5,000,000 | \$5,000,000 | \$5,000,000 | \$1,000,000 | \$5,000,000 | \$5,000,000 | |
| LM6000 | \$1,000,000 | \$5,000,000 | \$5,000,000 | \$5,000,000 | \$5,000,000 | \$5,000,000 | \$5,000,000 | \$5,000,000 | \$5,000,000 | \$5,000,000 | \$5,000,000 | \$1,000,000 | \$5,000,000 | \$5,000,000 | |
| Massengale #8 43MW Turbine or Generator including Machinery Breakdown | \$1,000,000 | \$5,000,000 | \$5,000,000 | \$5,000,000 | \$5,000,000 | \$5,000,000 | \$5,000,000 | \$5,000,000 | \$5,000,000 | \$5,000,000 | \$5,000,000 | \$1,000,000 | \$5,000,000 | \$5,000,000 | |
| Transit | \$1,000,000 | \$250,000 | \$50,000 | \$250,000 | \$250,000 | \$250,000 | \$250,000 | \$250,000 | \$250,000 | \$250,000 | \$250,000 | \$1,000,000 | \$250,000 | \$250,000 | |
| Electronic Data Processing Equipment | \$1,000,000 | \$250,000 | \$10,000 | \$250,000 | \$250,000 | \$250,000 | \$250,000 | \$250,000 | \$250,000 | \$250,000 | \$250,000 | \$1,000,000 | \$250,000 | \$250,000 | |
| Contractor's Equipment | \$1,000,000 | \$250,000 | \$10,000 | \$250,000 | \$250,000 | \$250,000 | \$250,000 | \$250,000 | \$250,000 | \$250,000 | \$250,000 | \$1,000,000 | \$250,000 | \$250,000 | |
| Flood (High Hazard) | \$1,000,000 | 2.50%, subject to minimum of \$500,000 and maximum of \$5,000,000 | 2.50%, subject to minimum of \$500,000 and maximum of \$5,000,000 | 2.50%, subject to minimum of \$500,000 and maximum of \$5,000,000 | 2.50%, subject to minimum of \$500,000 and maximum of \$5,000,000 | 2.50%, subject to minimum of \$500,000 and maximum of \$5,000,000 | 2.50%, subject to minimum of \$500,000 and maximum of \$5,000,000 | 2.50%, subject to minimum of \$500,000 and maximum of \$5,000,000 | 2.50%, subject to minimum of \$500,000 and maximum of \$5,000,000 | 2.50%, subject to minimum of \$500,000 and maximum of \$5,000,000 | 2.50%, subject to minimum of \$500,000 and maximum of \$5,000,000 | \$1,000,000 | 2.50%, subject to minimum of \$500,000 and maximum of \$5,000,000 | 2.50%, subject to minimum of \$500,000 and maximum of \$5,000,000 | |
| Named Windstorm | \$1,000,000 | 2.50%, subject to minimum of \$100,000 | 2.50%, subject to minimum of \$100,000 | 2.50%, subject to minimum of \$100,000 | 2.50%, subject to minimum of \$100,000 | 2.50%, subject to minimum of \$100,000 | 2.50%, subject to minimum of \$100,000 | 2.50%, subject to minimum of \$100,000 | 2.50%, subject to minimum of \$100,000 | 2.50%, subject to minimum of \$100,000 | 2.50%, subject to minimum of \$100,000 | \$1,000,000 | 2.50%, subject to minimum of \$100,000 | 2.50%, subject to minimum of \$100,000 | |
| Earth Movement (High Hazard) | \$1,000,000 | 2.00%, subject to minimum of \$100,000 | 2.00%, subject to minimum of \$100,000 | 2.00%, subject to minimum of \$100,000 | 2.00%, subject to minimum of \$100,000 | 2.00%, subject to minimum of \$100,000 | 2.00%, subject to minimum of \$100,000 | 2.00%, subject to minimum of \$100,000 | 2.00%, subject to minimum of \$100,000 | 2.00%, subject to minimum of \$100,000 | 2.00%, subject to minimum of \$100,000 | \$1,000,000 | 2.00%, subject to minimum of \$100,000 | 2.00%, subject to minimum of \$100,000 | |
| Transformers | \$1,000,000 | \$1.50KVA, subject to a minimum of \$100,000 | \$1.50KVA, subject to a minimum of \$350,000 | \$1.50KVA, subject to a minimum of \$100,000 | \$1.50KVA, subject to a minimum of \$100,000 | \$1.50KVA, subject to a minimum of \$100,000 | \$1.50KVA, subject to a minimum of \$100,000 | \$1.50KVA, subject to a minimum of \$100,000 | \$1.50KVA, subject to a minimum of \$100,000 | \$1.50KVA, subject to a minimum of \$100,000 | \$1.50KVA, subject to a minimum of \$100,000 | \$1,000,000 | \$1.50KVA, subject to a minimum of \$100,000 | \$1.50KVA, subject to a minimum of \$100,000 | |
| Standalone Terrorism Policy | | \$25,000 | | | | | | | | | | | | | |
| Time Element | | | | | | | | | | | | | | | |
| Business Interruption | 60 Days Waiting Period | 45 Day | 45 Day | 45 Day | 60 Days | 60 Days | 60 Days | 60 Days | | | | 60 Days Waiting Period | 60 Days | 60 Days | |
| Contingent Business Interruption | 60 Days Waiting Period | 45 Day | 15 Days | 45 Day | 60 Days | 60 Days | 60 Days | 60 Days | 45 Day | 45 Day | 45 Day | 60 Days Waiting Period | 60 Days | 60 Days | |
| Actual Cash Value Restrictions | N/A | N/A | Actual Cash Value, with a maximum of USD 15,000,000 including Debris Removal on all turbine generators except Brandon 1 and Massengale 8 | ACV with Max \$15M Debris Removal on all turbine generators except Brandon 1 and Massengale 8 | ACV with Max \$15M Debris Removal on all turbine generators except Brandon 1 and Massengale 8 | ACV with Max \$15M Debris Removal on all turbine generators except Brandon 1 and Massengale 8 | ACV with Max \$15M Debris Removal on all turbine generators except Brandon 1 and Massengale 8 | ACV with Max \$15M Debris Removal on all turbine generators except Brandon 1 and Massengale 8 | | | | N/A | ACV with Max \$15M Debris Removal on all turbine generators except Brandon 1 and Massengale 8 | ACV with Max \$15M Debris Removal on all turbine generators except Brandon 1 and Massengale 8 | |
| | | | LM6000 increased retentions - until satisfactory responses to TILs | | | | | | 45 Day | 45 Day | 45 Day | | | | |



Information

Agenda Item

Ordinance 2nd Reading - Right-of-Way: Consider Ordinance No. 2022-O0008, abandoning and closing portions of 13th Street and Vernon Avenue within Block 72, Overton Addition, west of 2201 Broadway, Lubbock County, Texas.

Item Summary

On January 11, 2022, the City Council approved the first reading of the ordinance.

The City of Lubbock is in receipt of a request to abandon and close portions of 13th Street and Vernon Avenue, between Tracts A and B, Overton Addition, Lubbock County, Texas.

The total area being closed is 28,769 square-feet, of which a 10,921 square-foot portion of Vernon Avenue Right-of-Way was originally dedicated by the proponent, First Baptist Church; therefore, there will be no charge for this portion of the closure. The remaining 17,848 square feet of the 13th Street Right-of-Way is valued at \$0.63 per square foot, based on adjacent property land values, for a total of \$11,244.24 due to City of Lubbock. An underground utility easement will be dedicated back to the City; therefore, a 50% credit will be applied, resulting in a total due to the City of \$5,622.12.

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

Fiscal Impact

Revenue of \$5,622.12 to the General Fund

Staff/Board Recommending

Jesica McEachern, Assistant City Manager

Attachments

Ord - ROW, 13th Street and Vernon Ave.

Exhibit A - Abandon and Close two Streets - Blk 72 Overton

Map - Abandon and Close two Streets - Blk 72 Overton

ORDINANCE NO. _____

AN ORDINANCE ABANDONING AND CLOSING A PORTIONS OF VERNON AVENUE AND 13TH STREET WITHIN BLOCK 72, OVERTON ADDITION, LUBBOCK COUNTY, TEXAS, WHICH IS MORE PARTICULARLY DESCRIBED IN THE BODY OF THIS ORDINANCE; RESERVING AN UNDERGROUND UTILITY EASEMENT; DIRECTING THE CITY ENGINEER TO MARK THE OFFICIAL MAPS OF THE CITY TO REFLECT SAID ABANDONMENT AND CLOSING AND RESERVATION; PROVIDING A SAVINGS CLAUSE; AND PROVIDING FOR PUBLICATION.

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

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

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

SECTION 2. THAT an easement is hereby reserved on a portion of the property described in Section 1, above, and such easement is reserved and retained for underground utility easement purposes with the right of ingress and egress at all times for such purpose, and an easement is also reserved for any and all existing pipelines or other utilities within said property together with all rights appurtenant to the continuation of such utilities.

SECTION 3. 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 4. 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 5. 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:



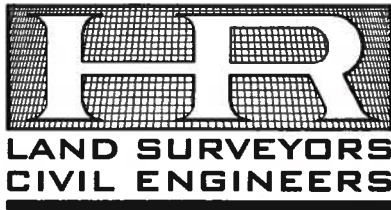
Michael Keenum, P.E., Division Director of Engineering/City Engineer

APPROVED AS TO FORM:

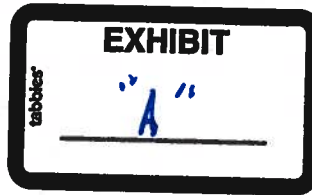


Ryan Brooke, Assistant City Attorney

Ord.A&C-Vernon & 13th Street, Block 72, Overton Addition
11.14.21



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 an 0.6603 acre tract, being a portion of 13th Street as dedicated by plat of Overton Addition recorded in Volume 18, Page 610 of the Deed Records of Lubbock County, Texas (DRLCT), and a portion of Vernon Avenue as dedicated in Volume 363, Page 159, DRLCT, as depicted on final plat of Tracts "A" and "B", Overton Addition, recorded in Volume 3193, Page 140, Real Property Records of Lubbock County, Texas, being further described as follows:

BEGINNING at an "X" cut in concrete found in the North right-of-way line of said 13th Street, at the Southwest corner of Tract "A", Overton Addition to the City of Lubbock, Lubbock County, Texas, according to the map, plat and/or dedication deed thereof recorded in Volume 3193, Page 140 of the Real Property Records of Lubbock County, Texas, for the most Westerly Northwest corner of this tract;

THENCE S. 88°18'17" E., along the North right-of-way line of said 13th Street and the Southern boundary of said Tract "A", a distance of 264.56 feet to a "MAG" nail with washer set in West right-of-way line of said Vernon Avenue, for the Southeast corner of said Tract "A";

THENCE N. 01°43'01" E., along the West right-of-way line of said Vernon Avenue and the Eastern boundary of said Tract "A", a distance of 260.02 feet to an "X" cut in concrete set in the South right-of-way line of Broadway Street, dedicated by plat in Volume 18, Page 610, DRLCT, for the Northeast corner of said Tract "A" and the most Northerly Northwest corner of this tract;

THENCE S. 88°18'28" E., along the South right-of-way line of said Broadway Street, a distance of 42.00 feet to an "X" cut in concrete found in the East right-of-way line of said Vernon Avenue for the Northwest corner of Tract "B", said Overton Addition, and the Northeast corner of this tract;

THENCE S. 01°43'01" W., along the East right-of-way line of said Vernon Avenue and the Western boundary of said Tract "B", a distance of 269.99 feet to a crow's foot cut in concrete found at a point of curvature;

THENCE Southwesterly, continuing along the Western boundary of said Tract "B", along a curve to the right, said curve having a radius of 50.00 feet, a central angle of 89°58'42", a chord distance of 70.70 feet and a chord bearing of S. 46°42'22" W. to an "X" cut in concrete set for a point of tangency in the South right-of-way line of said 13th Street;

THENCE N. 88°18'17" W., continuing along the South right-of-way line of said 13th Street and the Western boundary of said Tract "B", a distance of 256.60 feet an "X" cut in concrete found in the East right-of-way line of Avenue "W", dedicated by plat recorded in Volume 18, Page 610, DRLCT, for the Southwest corner of this tract;

THENCE N. 01°44'16" E., along the East right-of-way line of said Avenue "W", a distance of 59.95 feet to the Point of Beginning.

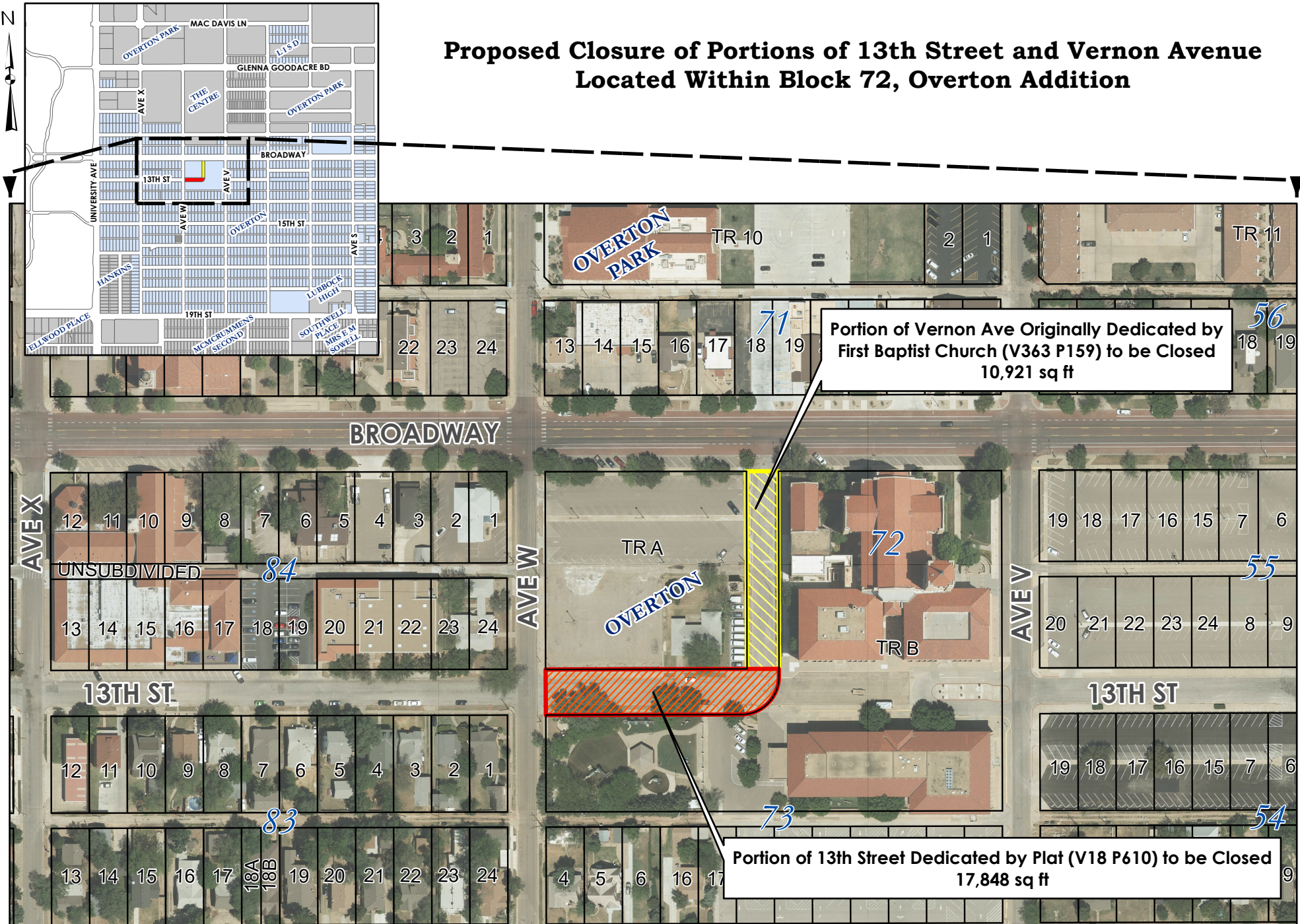
Contains: 28,762 square feet

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

Surveyed on the ground,
April 19, 2021

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





Digital Orthophotography - April 2020

0 100 200 300 Feet

As required by Chapter 2051, SUBCHAPTER D. GEOSPATIAL DATA PRODUCTS of the Government Code, the City of Lubbock hereby provides notice that the data on this map was created by the City of Lubbock. Any data that appears to represent property boundaries 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.



Information

Agenda Item

Resolution - Right-of-Way: Consider a resolution authorizing the Mayor to execute an amendment to Contract 16364, with Hub City Main Street Investment, LLC, for a warehouse lease extension of time.

Item Summary

The City of Lubbock currently leases a warehouse from Hub City Main Street Investment, LLC. This agreement will extend the lease agreement from January 1, 2022, to December 31, 2026.

Fiscal Impact

The cost for the lease is \$13,070.25 per month.

Staff/Board Recommending

Jesica McEachern, Assistant City Manager

Attachments

Resolution - 2021 Lease Amendment - Hub City

2021 Lease Amendment - Hub City Main Street Investments, LLC

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 2021 Lease Amendment, Extension of Term to the Lease of "West Texas Cotton Warehouse" Building 3C, 2511 Avenue C, Lubbock, Texas 79401, by and between the City of Lubbock and Hub City Main Street Investments, LLC, and related documents. Said Amendment 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:



Ryan Brooke, Assistant City Attorney

**RES. Lease Amendment-Extension, 2511 Ave. C
1.10.22**

**2021 Lease Amendment
Extension of Term**

Date: _____, 2021

Lease:

Lease Date: January 2014

Landlord: J.S. Broadbent Properties, LLC

Tenant: The City of Lubbock, Texas

Premises: ~43,830sf and ~6,120sf of warehouse space in the "West Texas Cotton Warehouse" complex, Building 3C, 2511 Ave C, Lubbock, Texas 79401

New Term: January 1, 2022 to December 31, 2026

New Monthly Base Rental Amount: \$13,070.25

New Landlord: Hub City Main Street Investments, LLC

Landlord and Tenant agree to the following:

1. The Lease is ratified and extended as modified herein, incorporated herein by reference and applied in all aspects to the New Term. Capitalized terms not defined herein have the meaning defined in the Lease. In the event Lease and this Amendment conflict, this Amendment controls.
2. The Lease is extended from January 1, 2022 to December 31, 2026 (the "New Term"). Beginning with this Amendment, there are no automatic renewal options.
3. During the New Term, the Base Rental Amount shall be \$13,070.25/month.
4. The parties acknowledge that Hub City Main Street Investments, LLC purchased the property, including the Premises, from J.S. Broadbent Properties, LLC and is the successor-in-interest as Landlord under the Lease and this Amendment.
5. All negotiations relating to this agreement are merged herein. There are no promises, agreements, conditions, undertakings, warranties, or representations, oral or written, express or implied, among the undersigned parties as to such matters other than as set forth herein. No waiver, change or modification of this agreement shall be valid unless the same is in writing and is signed by all of the parties hereto. This agreement and its construction and interpretation shall be governed by the laws of the state of Texas and, to the extent there is an ambiguity, shall not be construed against either party more strongly than against the other.

Agreed as of the first date written above.

Hub City Main Street Investments, LLC

By: 
Marc McDougal, Manager

The City of Lubbock, Texas

By: _____
Daniel Pope, Mayor

Attest:

Rebecca Garza, City Secretary

Approved as to Form:


Ryan Brooke, Assistant City Attorney

Information

Agenda Item

Resolution - Engineering: Consider a resolution authorizing the Mayor to execute Contract 16363, with Freese and Nichols, Inc., for providing professional services for the Unpaved Roads Improvements Project.

Item Summary

The City of Lubbock is contracting with Freese and Nichols, Inc., for performing engineering and design for the Unpaved Roads Improvements Project. The work of the project will include preparation of plans, specifications, and design, of asphalt pavement of various gravel and dirt roads in existing subdivisions where the roads were never constructed by the developer. Additionally, the consultant will provide recommendations for needed rights-of-way and easements, for the construction of the identified roadways.

Staff conducted contract negotiations with Freese and Nichols, Inc., after establishing them as qualified for providing engineering services for the Unpaved Roads Improvements Project. Fair and reasonable hourly rates were agreed upon for a total contract amount of \$250,000, with contract duration of 18 months. Staff recommends Freese and Nichols, Inc., of Lubbock, Texas, be awarded the contract that will provide the plans, specifications, and estimate, for the Unpaved Roads Improvements Project.

Fiscal Impact

This contract in the amount of \$250,000, is funded in Capital Improvements Project 92712, Transportation Improvements/Unpaved, which is funded by the 2021 Tax Supported Certificates of Obligation.

Staff/Board Recommending

Jesica McEachern, Assistant City Manager

Attachments

Resolution
Professional Services Agreement
Location Exhibit
CIP Spreadsheet
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, Professional Services Agreement No. 16363 for the unpaved roads improvements project, by and between the City of Lubbock and Freese and Nichols, Inc., a Texas Corporation, 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

PROFESSIONAL SERVICES AGREEMENT

STATE OF TEXAS §

COUNTY OF LUBBOCK §

This Professional Service Agreement ("Agreement") Contract No. 16363 is entered into this _____ day of _____ 2022, is by and between the City of Lubbock (the "City"), a Texas home rule municipal corporation, and Freese and Nichols, Inc., (the "Engineer"), a Texas corporation.

WITNESSETH

WHEREAS, The City desires to contract with the Engineer to provide professional services for Unpaved Roads Improvements Project, (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 540 days. If the Engineer determines that additional time is required to complete the Services, the City Engineer, 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 \$250,000, as set forth in Exhibit "B" and at such rates as set forth in Exhibit "C".

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 [insert correct value], 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 and Nichols, Inc.

Kevin Morris, P.E.

1500 Broadway, Suite 1150

Lubbock, Texas 79401

Telephone: 806-686-2704

Email: kevin.morris@freese.com

C. City's Address. The City's address and numbers for the purposes of notice are:

Zoltan Fekete, P.E.,

City of Lubbock

P.O. Box 2000

1314 Avenue K

Lubbock, Texas 79457

Email: zfekete@mylubbock.us

Telephone: 806-775-3317

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 "C" 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 Government Code 2274. By entering into this Agreement, Contractor verifies that: (1) it does not, and will not for the duration of the contract, have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association or (2) the verification required by Section 2274.002 of the Texas Government Code does not apply to the contract. If Contractor is a company with 10 or more full-time employees and if this Agreement has a value of at least \$100,000 or more, Contractor verifies that, pursuant to Texas Government Code Chapter 2274, it does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and will not discriminate during the term of the contract against a firearm entity or firearm trade association.

R. Contractor represents and warrants that: (1) it does not, and will not for the duration of the contract, boycott energy companies or (2) the verification required by Section 2274.002 of the Texas Government Code does not apply to the contract. If Contractor is a company with 10 or more full-time employees and if this Agreement has a value of at least \$100,000 or more, Contractor verifies that, pursuant to Texas Government Code Chapter 2274, it does not boycott energy companies; and will not boycott energy companies during the term of the Agreement. This verification is not required for an agreement where a governmental entity determines that these requirements are inconsistent with the governmental entity's constitutional or statutory duties related to the issuance, incurrence, or management of debt obligations or the deposit, custody, management, borrowing, or investment of funds.

S. 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.

T. Professional Responsibility. All architectural or engineering services to be performed shall be done with the professional skill and care ordinarily provided by competent architects or engineers practicing under the same or similar circumstances and professional license.

EXECUTED as of the Effective Date hereof.

CITY OF LUBBOCK

DANIEL M. POPE, MAYOR

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



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



Jessica McEachern, Assistant City Manager

EXHIBIT A
SCOPE OF SERVICES FOR:
UNPAVED ROADS IMPROVEMENTS PROJECT

GENERAL: The City of Lubbock (OWNER) is working on an initiative to pave all existing unpaved roads in the City of Lubbock and is requesting assistance from Freese and Nichols, Inc. (ENGINEER) to complete design tasks in pursuit of this initiative. Specific project locations and needs are to be identified for each project assignment and bid sets will be combined, at the City's discretion and according to the City's funding schedule.

BASIC SERVICES: The Basic Services include the project administration, preliminary investigations and reports, preparation of detailed design as set forth herein, construction documents, and construction bid and award services. ENGINEER shall render the following professional services in connection with the development of the Project:

A. **GENERAL SCOPE OF SERVICES TASKS:** ENGINEER will provide the following as part of the Project:

1. Attend a kick-off meeting to clarify the City's requirements for each assignment, review pertinent data, review Project staffing and organization, and present the initial work plan and schedule.
2. Provide administration and management of The Project. Review ongoing activities. Monitor schedule and budget. Review progress with OWNER on a regular basis. Discuss issues with the OWNER as they are noted. Attend monthly coordination meetings with the OWNER. Prepare and distribute minutes of the meetings. All meetings provided for in this Agreement shall occur at the offices of the OWNER, or other location determined by the OWNER.
3. Provide monthly update reports which include the following:
 - Status of the work
 - Major tasks to be completed in the next month
 - Discussion of major issues
 - Scope changes to project scope or Engineer's scope
 - Project budget update (if major changes since the last update)
 - Project schedule update (if major changes since the last update)
 - Status of deliverables

B. DESIGN PHASE: FNI shall provide professional services in this phase as follows:

1. Prepare plans, specifications, contract documents, designs, and layouts of improvements to be constructed for the execution of the Unpaved Roadway Improvements initiative.
2. Advise OWNER of need for and recommend Right Of Way and Easements.
3. Furnish necessary information to utility companies whose facilities may be affected by the Project. Coordinate the locating and potential relocation with utility companies.
4. Provide appropriate analysis of drainage conditions to show no adverse impacts and to meet City requirements for each assignment.
5. Preliminary (60%) Deliverable - Furnish OWNER electronic copies of preliminary plans, specifications, and estimates marked "Preliminary" for approval by OWNER. Submitted documents will include typical sections, plan and profile sheets, and typical details. The drawings will be sufficient to show the overall layouts and design intent but will lack many notes and minor details. The specifications will include a list of planned City or TxDOT bid items.
6. After OWNER'S review, ENGINEER will meet with OWNER to discuss review comments.
7. 100% Deliverable - Furnish OWNER electronic copies of preliminary (100%) plans, specifications, and bid proposals marked "Preliminary" for approval by OWNER. ENGINEER will meet with the OWNER to present the preliminary plans and specifications. After OWNER'S review, ENGINEER will meet with OWNER to receive comments. Upon final approval by OWNER, ENGINEER will complete the plans and specifications and provide OWNER six (6) sets of copies of "Final" plans and specifications. 100% Deliverable documents will include all drawing sheets and specifications with some minor corrections and notes remaining.
8. Prepare bidder's proposal forms (project quantities) of the improvements to be constructed for the Unpaved Roadway Improvements project.

C. BID AND AWARD PHASE: Upon completion of the design services and approval of "Final" drawings and specifications by Owner, FNI will proceed with the performance of services in this phase as follows upon request from the City:

1. Assist OWNER in securing bids, issuing notice to bidders and notifying selected plan rooms.
2. Attend one (1) pre-bid conference.
3. Issue Addenda as appropriate to clarify, correct, or change the bidding documents.
4. Assist OWNER in the opening, tabulation, and analysis of the bids received and furnish recommendations on the award of contract as appropriate.

SPECIAL SERVICES: FNI shall render the following special services in connection with The Project:

A. **SURVEYING:** FNI will retain and monitor and direct, through a subcontract, the efforts of a survey firm to provide the following services where topographic and/or boundary survey are needed to prepare design documents:

1. Topographic Survey
2. Establish project control.
3. Research property owners, plats, deeds, easements and ROW.
4. Locate existing property corners to establish property and ROW.
5. Request 811 utility marking and incorporate markings into survey deliverable.
6. Prepare exhibits and legal descriptions for right-of-way/easement acquisitions.

TIME OF PERFORMANCE: FNI is authorized to commence work on The Project upon execution of this AGREEMENT and agrees to complete the services within eighteen (18) months.

If FNI's services are delayed through no fault of FNI, FNI shall be entitled to adjust contract schedule consistent with the number of days of delay. In the event FNI asserts that it is entitled to additional time, it shall provide notice to the OWNER as soon as reasonably practicable after the event allegedly causing such delay shall occur ("Delay Event"), but in no event to exceed five (5) business days after the occurrence of the Delay Event. FNI shall use and exercise all diligence to promptly remove or remediate such Delay Event. In the event notice of the Delay Event shall not be provided as prescribed herein, FNI shall not be entitled to relief from schedule as provided in this AGREEMENT. These delays may include but are not limited to delays in OWNER or regulatory reviews, delays on the flow of information to be provided to FNI, except any delays occasioned by subcontracts or sub consultants of FNI, and governmental approvals. These delays may result in an adjustment to compensation.

PART 2, ADDITIONAL SERVICES
UNPAVED ROADS IMPROVEMENTS PROJECT

ADDITIONAL SERVICES: Additional Services to be performed by FNI, if authorized by Owner, which are not included in the above described General Services, Basic Services, and Special Services, are, except as may otherwise provided to be performed by FNI, described as follows:

- A. Subsurface Utility Engineering (SUE).
- B. Geotechnical Engineering (field work or pavement design).
- C. Right-of-Way acquisition services beyond the preparation of instruments as described in SPECIAL SERVICES.
- D. Any drainage modeling or analysis in the case where adverse impacts exist in the proposed condition.
- E. Formal City of Lubbock submittals for Drainage Analysis Reports (DARs) or Playa Lake Cut/Fill Plans.
- F. Field layouts or the furnishing of construction line and grade surveys.
- G. Providing services to investigate existing conditions or facilities, or to make measured drawings thereof, or to verify the accuracy of drawings or other information furnished by Owner.
- H. Making revisions to drawings, specifications or other documents when such revisions are 1) not consistent with approvals or instructions previously given by Owner or 2) due to other causes not solely within the control of FNI.
- I. Preparing data and reports for assistance to Owner in preparation for hearings before regulatory agencies, courts, arbitration panels or any mediator, giving testimony, personally or by deposition, and preparations therefore before any regulatory agency, court, arbitration panel or mediator.
- J. Assisting Owner in preparing for, or appearing at litigation, mediation, arbitration, dispute review boards, or other legal and/or administrative proceedings in the defense or prosecution of claims disputes with Contractor(s).
- K. Assisting Owner in the defense or prosecution of litigation in connection with or in addition to those services contemplated by this AGREEMENT. Such services, if any, shall be furnished by FNI on a fee basis negotiated by the respective parties outside of and in addition to this AGREEMENT. This provision shall not apply to any expense related to a legal action to which FNI is a party.
- L. Design, contract modifications, studies or analysis required to comply with local, State, Federal or other regulatory agencies that become effective after the date of this agreement.

- M. Services required to resolve bid protests or to rebid the projects for any reason other than fault of any type or degree of FNI.
- N. Visits to the site in excess of the number of trips included in the General Services, Basic Services, or Special Services for periodic site visits, coordination meetings, or contract completion activities.
- O. Providing basic or additional services on an accelerated time schedule. The scope of this service include cost for overtime wages of employees and consultants, inefficiencies in work sequence and plotting or reproduction costs directly attributable to an accelerated time schedule directed by the Owner.
- P. Providing services made necessary because of unforeseen, concealed, or differing site conditions or due to the presence of hazardous substances in any form, except as noted in the scope of services.
- Q. Provide any services after the satisfactory conclusion and completion of the General Services, Basic Services, and Special Services of the Project.
- R. Preparation of a Pre-Construction Notification or an Individual Section 404 permit application for submittal to the U.S. Army Corps of Engineers (USACE).
- S. Preparation of a Jurisdictional Determination (JD) Report or a request for a USACE JD.
- T. Presence/absence surveys for federally listed threatened/endangered species.
- U. Conducting cultural resources studies or surveys.
- V. Phase I Environmental Site Assessment.
- W. Preparation of a Storm Water Pollution Prevention Plan (SWPPP).
- X. Other environmental permitting assistance or services not specifically described under BASIC SERVICES of this scope.
- Y. Environmental assessment & THC coordination
- Z. General and/or Resident Representation during construction.

PART 3, RESPONSIBILITIES OF THE OWNER
UNPAVED ROADS IMPROVEMENTS PROJECT

RESPONSIBILITIES OF OWNER: Owner shall perform the following in a timely manner so as not to delay the services of FNI:

- A. Owner recognizes and expects that certain Change Orders, herein so called, may be required.

Any responsibility of Engineer for the costs of Covered Changed Orders will be determined on the basis of applicable contractual obligations and professional liability standards. For purposes of this paragraph, the responsibility of Engineer for the costs of Change Orders will not include:

- any costs that Owner would have incurred if the Change Order work had been included originally in the Contract Documents and its lack of inclusion was not due, in whole or in part, to any fault, error, or omission of Engineer related thereto,
- Any costs that are due to unforeseen site conditions, or
- Any costs that are due to changes made by the Owner.
- Any costs that are incurred due to the negligence of the construction contractor

Wherever used in this document, the term Engineer includes Engineer's officers, directors, partners, employees, agents, and Engineers Consultants.

- B. Designate in writing a person to act as Owner's representative with respect to the services to be rendered under this AGREEMENT. Such person shall have contract authority to transmit instructions, receive information, interpret and define Owner's policies and decisions with respect to FNI's services for the Project.
- C. Provide all criteria and full information as to Owner's requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, flexibility and expandability, and any budgetary limitations; and furnish copies of all design and construction standards which Owner will require to be included in the drawings and specifications.
- D. Assist FNI by placing at FNI's disposal all available information pertinent to the Project including previous reports and any other data relative to design or construction of the Project as provided in this AGREEMENT.
- E. Arrange for access to and make all provisions for FNI to enter upon public and private property as required for FNI to perform services under this AGREEMENT.

- F. Examine all studies, reports, sketches, drawings, specifications, proposals and other documents presented by FNI, obtain advice of an attorney, insurance counselor and other consultants as Owner deems appropriate for such examination and render in writing decisions pertaining thereto within a reasonable time so as not to delay the services of FNI.
- G. Furnish approvals and permits from all governmental authorities having jurisdiction over the Project and such approvals and consents from others as may be necessary for completion of the Project, except as otherwise the responsibility of FNI as provided in this AGREEMENT.
- H. Give prompt written notice to FNI whenever Owner observes or otherwise becomes aware of any development that affects the scope or timing of FNI's services.
- I. Furnish, or direct FNI to provide, Additional Services as stipulated in Exhibit "A," Part 2, if deemed necessary by Owner.
- J. Bear all costs incident to compliance with the requirements of this Exhibit "A", Part 3.
- K. Provide the following services, unless provided specifically otherwise in this Agreement:
 - a. Provide land acquisition services.
 - b. Pay all permits fees and mitigation cost.
 - c. Provide land title research and title policy.
 - d. Provide advertisement for bids in local publications as required.

EXHIBIT B – BUDGET
UNPAVED ROADWAY IMPROVEMENTS

CITY and ENGINEER have established a not-to-exceed budget of \$250,000.00 to complete services under this AGREEMENT. This amount will not be exceeded without a contract amendment. CITY will pay the ENGINEER hourly, for services identified in Exhibit A, based on ENGINEERS Fee Schedule presented as EXHIBIT C. Subconsultant services will be billed at cost to ENGINEER with a 10 percent handling fee. The Budget is presented for the services of ENGINEER under this AGREEMENT are provided in this Exhibit B. CITY and ENGINEER agree to allow redistribution of funds between Tasks as appropriate to allow flexibility in providing the needed services within the not-to-exceed budget.

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.

EXHIBIT C, HOURLY RATE SCHEDULE COMPENSATION UNPAVED ROADWAY IMPROVEMENTS

LUBBOCK RATE SCHEDULE

| <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

Travel

Standard IRS Rates

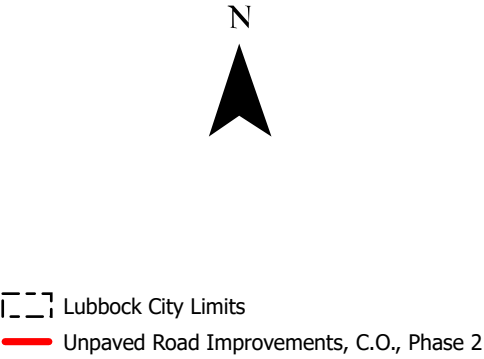
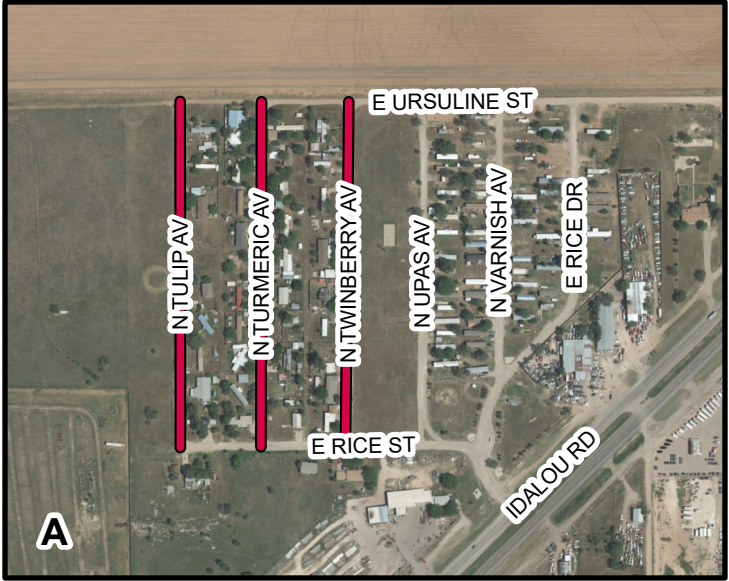
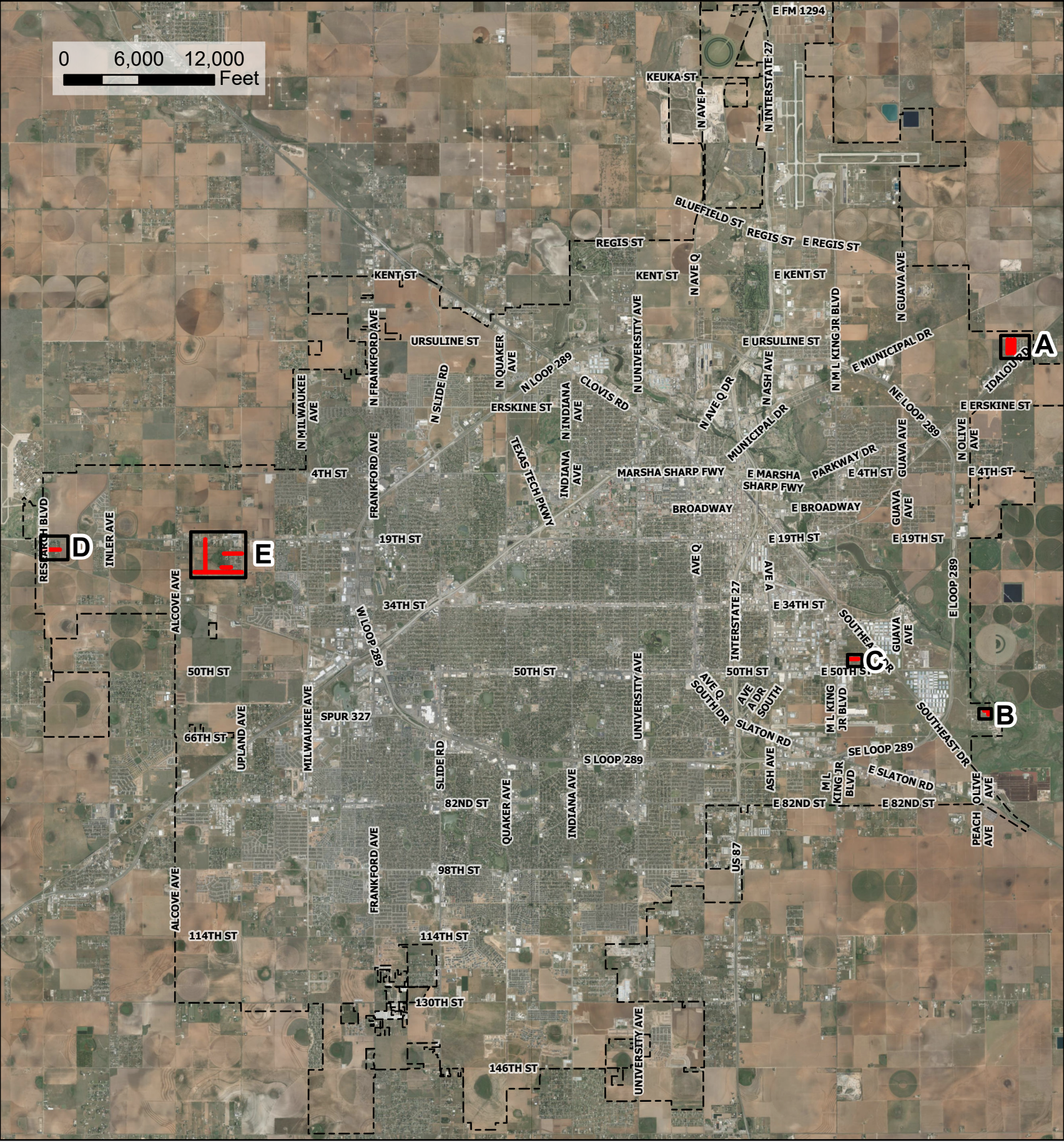
Bulk Printing and Reproduction

| | <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 | |

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



As required by SECTION 1, Chapter 2051, SUBCHAPTER D, GEOSPATIAL DATA PRODUCTS of the Government Code, the City of Lubbock hereby provides notice that the data on this map was created by the City of Lubbock. Any data that appears to represent property boundaries 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.

Unpaved Road Improvements, C.O., Phase 2

**City of Lubbock
Capital Project
Project Cost Detail
January 25, 2022**

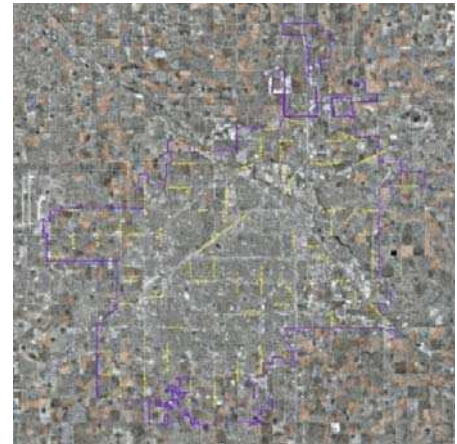
| | |
|-------------------------|---|
| Capital Project Number: | 92712 |
| Capital Project Name: | Transportation Improvements/Unpaved Roads |

| | |
|---|---------------|
| <i>Encumbered/Expended</i> | Budget |
| Construction Contract 16211, West Texas Paving, Inc., | 1,297,081 |
| | - |

| | |
|--|------------------|
| <i>Agenda Item January 25, 2022</i> | |
| Cost Sharing and Payment Agreement 16181 | 358,210 |
| Professional Service Agreement 16363 with Freese and Nichols | 250,000 |
| <i>Encumbered/Expended To Date</i> | 1,905,291 |

| | |
|---|------------------|
| <i>Estimated Cost for Remaining Appropriation</i> | |
| Unimproved Roadway Construction and Design | 7,702,919 |
| <i>Remaining Appropriation</i> | 7,094,709 |

| | |
|----------------------------|---------------------|
| Total Appropriation | \$ 9,000,000 |
|----------------------------|---------------------|

Managing Department **Unpaved Streets**Project Manager **Josh Kristinek**Project Classification **Upgrade/Major Maintenance**Project Status **Approved***Project Scope*

This project will fund the paving and improvement of existing local residential and collector gravel roads in existing subdivisions where the roads were never improved by the developer. This project will fund the design and construction of various inadequate transportation elements within these areas of the City including unimproved roadway surfaces, unsafe roadway widths, drainage improvements, street lighting, and ADA compliance.

Project Justification

Areas of the City of Lubbock have existing local residential roadways that are gravel and not improved with a paved surface. These roadways were part of developments where the roads were never improved by the developer. These roadways do not meet the City's Standard Specifications and this project will help improve mobility and safety in these residential areas.

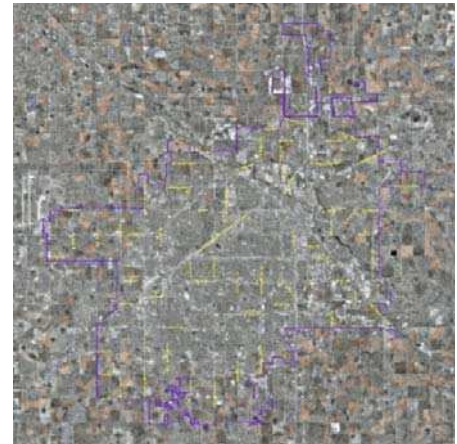
Project History

\$9,000,000 was appropriated in FY 2020-21, Budget Amendment No. 35, Ord. No. 2020-O0077, July 13, 2021.

| Appropriation Detail | Appropriation to Date | Unappropriated Planning Years | | | | | | Total Project Amount |
|------------------------------------|-----------------------|-------------------------------|------------|------------|------------|------------|------------|----------------------|
| | | FY 2021-22 | FY 2022-23 | FY 2023-24 | FY 2024-25 | FY 2025-26 | FY 2026-27 | |
| Construction | 9,000,000 | 0 | 0 | 0 | 0 | 0 | 0 | 9,000,000 |
| Total Project Appropriation | 9,000,000 | 0 | 0 | 0 | 0 | 0 | 0 | 9,000,000 |

| 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 2021 Tax Supported Revenue CO's | 9,000,000 | 0 | 0 | 0 | 0 | 0 | 0 | 9,000,000 |
| Total Funding Sources | 9,000,000 | 0 | 0 | 0 | 0 | 0 | 0 | 9,000,000 |

| 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 |

Managing Department **Public Works Engineering**Project Manager **Josh Kristinek**Project Classification **New Roadways**Project Status **Approved***Project Scope*

This project will fund the paving and improvement of existing local residential and collector gravel roads in existing subdivisions where the roads were never improved by the developer. This project will fund the design and construction of various inadequate transportation elements within these areas of the City including unimproved roadway surfaces, unsafe roadway widths, drainage improvements, street lighting, and ADA compliance.

Project Justification

Areas of the City of Lubbock have existing local residential roadways that are gravel and not improved with a paved surface. These roadways were part of developments where the roads were never improved by the developer. These roadways do not meet the City's Standard Specifications and this project will help improve mobility and safety in these residential areas.

Project History

\$11,300,000 was appropriated in FY 2020-21, Budget Amendment No. 35, Ord. No. 2020-O0077, July 13, 2021.

| Appropriation Detail | Appropriation to Date | Unappropriated Planning Years | | | | | | Total Project Amount |
|------------------------------------|-----------------------|-------------------------------|------------|------------|------------|------------|------------|----------------------|
| | | FY 2021-22 | FY 2022-23 | FY 2023-24 | FY 2024-25 | FY 2025-26 | FY 2026-27 | |
| Construction | 11,300,000 | 0 | 0 | 0 | 0 | 0 | 0 | 11,300,000 |
| Total Project Appropriation | 11,300,000 | 0 | 0 | 0 | 0 | 0 | 0 | 11,300,000 |

| 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 2021 Tax Supported Revenue CO's | 11,300,000 | 0 | 0 | 0 | 0 | 0 | 0 | 11,300,000 |
| Total Funding Sources | 11,300,000 | 0 | 0 | 0 | 0 | 0 | 0 | 11,300,000 |

| 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 |

Information

Agenda Item

Resolution - Engineering: Consider a resolution authorizing the Mayor to execute Contract 16267, with Horseshoe Construction, Inc., for construction services associated with the North University Sewer Line Relocation Project.

Item Summary

The proposed project will relocate 1,140 feet of 18-inch sanitary sewer pipe, and 200 feet of 21-inch sanitary sewer pipe, along North University Avenue between Auburn Street and Colgate Street.

On December 5, 2021, the City of Lubbock released a Request for Proposals (RFP) seeking qualified contractors to perform construction services for the North University Sewer Line Relocation Project. In response to RFP-22-16267-TF, the following three bids were received on December 22, 2021.

| Contractor | Bid Price |
|---|-----------|
| Horseshoe Construction, Inc., La Porte, Texas | \$644,880 |
| Utility Contractors of America, Inc, Lubbock, Texas | \$764,825 |
| MH Civil Constructors, Inc., Amarillo, Texas | \$919,000 |

The proposals were evaluated using the following criteria: Price (65 points), Contractor Qualifications (30 points), and Construction Time (5 points). A 4-member committee evaluated the proposals and the following ranking was obtained:

| Contractor | Points |
|--|--------|
| Horseshoe Construction, Inc., La Porte, Texas | 359.04 |
| Utility Contractors of America, Inc., Lubbock, Texas | 347.16 |
| MH Civil Constructors, Inc., Amarillo, Texas | 300.16 |

Staff and the Evaluation Committee recommend award of the contract to the highest ranked contractor, Horseshoe Construction, Inc., of La Porte, Texas, in the amount of \$644,880. The time for substantial completion of the project is 100 consecutive calendar days. This contract is awarded by the unit price and actual expenditures may be more or less, depending on field conditions.

Fiscal Impact

This contract in the amount of \$644,880, is funded in Capital Improvements Project 92514, Sewer Lines Ahead of Street Paving.

Staff/Board Recommending

Attachments

Resolution

Construction Contract

Location Exhibit

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. 16267 for North University sewer line change out as per RFP 22-16267-TF, by and between the City of Lubbock and Horseshoe Construction, Inc., of La Porte, 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.

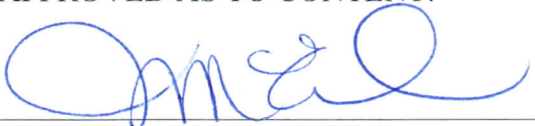
Passed by the City Council on _____.

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: December 21, 2021

PROJECT NUMBER: **RFP 22-16267-TF North University Sewer Line Change Out**

Proposal of Horseshoe Construction, 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 **North University Sewer Line Change Out** 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 **\$100** 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.

City of Lubbock, TX
Public Works
RFP 22-16267-TF
North University Sewer Line Change Out

Horseshoe Construction, Inc. of La Porte, TX

| Item | Description | QTY (+/-) | UoM | Unit Cost | Extended Cost |
|---------------------------|---|----------------------|------------|------------------|--------------------------|
| General | | | | | |
| #1-1 | Mobilization | 1 | LS | \$ 50,000.00 | 50,000.00 |
| #1-2 | SW3P, provide and maintain, including preparation, NOI, NOT, and all other work considered incidental to this item. | 1 | LS | 1,000.00 | 1,000.00 |
| #1-3 | Traffic Control, provide and maintain including approval from COL Traffic Engineering to all sites, and all other work considered incidental to this item. | 4 | MO | 4,000.00 | 16,000.00 |
| Sewer Improvements | | | | | |
| #2-1 | 21" PVC ASTM F-679 PS-46, furnish and install approved Sewer pipe in 8"-10" open cut trench, bedding, embedding and backfilled to 95% compaction, including trench safety | 191 | LF | 240.00 | 45,840.00 |
| #2-2 | 18" PVC ASTM F-679 PS-46, furnish and install approved Sewer pipe in 8'-10' open cut trench, bedding, embedding and backfilled to 95% compaction, including trench safety | 1,141 | LF | 215.00 | 245,315.00 |
| #2-3 | 8" PVC ASTM 3034 SDR-35, furnish and install approved Sewer pipe in 6'-8' open cut trench, bedding, embedding and backfilled to 95% compaction, including trench safety | 50 | LF | 155.00 | 7,750.00 |
| #2-4 | 48" Manhole, furnish and install, fiberglass, polymer composite or concrete as herein specified, including all equipment, tools, and labor to perform work. | 1 | EA | 6,600.00 | 6,600.00 |
| #2-5 | 48" Manhole Extra Vertical Feet, furnish and install, fiberglass, polymer composite or concrete as herein specified, including all equipment, tools, and labor to perform work. | 3 | VF | 175.00 | 525.00 |
| #2-6 | 60" Manhole, furnish and install fiberglass, polymer composite or coated/lined concrete as herein specified, including all equipment, tools, and labor to perform work. | 7 | EA | 9,900.00 | 69,300.00 |
| #2-7 | 60" Manhole Extra Vertical Feet, furnish and install fiberglass, polymer concrete or coated/lined concrete, as herein specified, including all equipment, tools, and labor to perform work. | 46 | VF | 300.00 | 13,800.00 |
| #2-8 | Tie-in existing sewer line into new manhole | 4 | EA | 3,500.00 | 14,000.00 |
| #2-9 | Crossing existing water mains | 4 | EA | 4,500.00 | 18,000.00 |
| #2-10 | Crossing 60" storm water line | 1 | EA | 5,500.00 | 5,500.00 |
| #2-11 | Crossing existing storm water laterals | 5 | EA | 3,800.00 | 19,000.00 |
| #2-12 | Cut and Plug existing 15" sewer line | 10 | EA | 3,200.00 | 32,000.00 |
| #2-13 | Abandon and grout existing 15" sewer line | 60 | CY | 350.00 | 21,000.00 |
| #2-14 | Demolish/abandon existing manhole | 3 | EA | 2,500.00 | 7,500.00 |
| #2-15 | Flow fill (CLSM) as needed | 50 | CY | 150.00 | 7,500.00 |

City of Lubbock, TX
Public Works
RFP 22-16267-TF
North University Sewer Line Change Out

Paving Repair

| | | | | | |
|---|--|-----|----|--------|-----------|
| Saw cut and remove existing asphalt paving, including all material, | | | | | |
| #3-1 | equipment and labor to perform removal, disposal and all other | 650 | SY | 25.00 | 16,250.00 |
| work considered incidental to this item. | | | | | |
| #3-2 | 24" flowable fill cap, full width, finish even with asphalt. | 320 | CY | 150.00 | 48,000.00 |

Total (Items 1-1 through 3-2): \$ 644,880

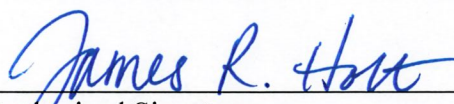
Offerors are required, whether or not a payment or performance bond is required, to submit a cashier's check or certified check issued by a bank satisfactory to the City of Lubbock, or a proposal bond from a reliable surety company, payable without recourse to the order of the City of Lubbock in an amount 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.

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 (5%) of Total Amount Bid Dollars (\$ 32,244.00), 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.

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: December 21, 2021


Authorized Signature

James R. Holt, President

(Printed or Typed Name)

Horseshoe Construction, Inc.

Company

2309 S. Battleground Rd.

Address

La Porte, Harris

City, County

Texas, 77571

State Zip Code

Telephone: 281 - 478-5477

Fax: 281 - 478-6436

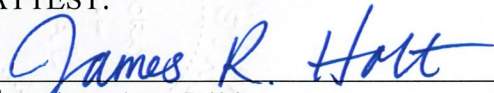
Email: stacey.huang@horseshoe-inc.com

FEDERAL TAX ID or SOCIAL SECURITY No.

76-0389648

(Seal if Offeror is a Corporation)

ATTEST:


Secretary James R. Holt

Offeror acknowledges receipt of the following addenda:

Addenda No. 1 Date 12/15/2021

Addenda No. Date

Addenda No. Date

Addenda No. Date

M/WBE Firm:

| | | | | | |
|--|-------------------|--|------------------------|--|-----------------|
| | Woman | | Black American | | Native American |
| | Hispanic American | | Asian Pacific American | | Other (Specify) |

INSURANCE REQUIREMENTS

I, the undersigned Bidder certify that the insurance requirements contained in this bid document have been reviewed by me and my Insurance Agent/Broker. If I am awarded this contract by the City of Lubbock, I will be able to, within ten (10) business days after being notified of such award by the City of Lubbock, furnish a valid insurance certificate to the City meeting all of the requirements defined in this bid.

If the time requirement specified above is not met, the City has the right to reject this proposal and award the contract to another contractor. If you have any questions concerning these requirements, please contact the Director of Purchasing & Contract Management for the City of Lubbock at (806) 775-2572.

SUSPENSION AND DEBARMENT CERTIFICATION

Federal Law (A-102 Common Rule and OMB Circular A-110) prohibits non-Federal entities from contracting with or making sub-awards under covered transactions to parties that are suspended or debarred or whose principals are suspended or debarred. Covered transactions include procurement contracts for goods or services equal to or in excess of \$25,000 and all non-procurement transactions (e.g., sub-awards to sub-recipients).

Contractors receiving individual awards of \$25,000 or more and all sub-recipients must certify that their organization and its principals are not suspended or debarred by a Federal agency.

Before an award of \$25,000 or more can be made to your firm, you must certify that your organization and its principals are not suspended or debarred by a Federal agency.

I, the undersigned agent for the firm named below, certify that neither this firm nor its principals are suspended or debarred by a Federal agency.

TEXAS GOVERNMENT CODE SECTION 2252.152

The undersigned representative of the undersigned company or business, being an adult over the age of eighteen (18) years of age, pursuant to Texas Government Code, Chapter 2252, Section 2252.152, certify that the company named above is not listed on the website of the Comptroller of the State of Texas concerning the listing of companies that are identified under Section 806.051, Section 807.051 or Section 2253.153. I further certify that should the above-named company enter into a contract that is on said listing of companies on the website of the Comptroller of the State of Texas, which do business with Iran, Sudan or any Foreign Terrorist Organization, I will immediately notify the City of Lubbock Purchasing and Contract Department.

TEXAS GOVERNMENT CODE SECTION 2271.002

Company hereby certifies the following:

1. Company does not boycott Israel; and
2. Company will not boycott Israel during the term of the contract.

The following definitions apply to this state statute:

- (1) "Boycott Israel" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes; and
- (2) "Company" means an organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations that exists to make a profit.

This Certification is required from a Company if the Company has 10 or more full-time employees and the contract for goods or services (which includes contracts formed through purchase orders) has a value of \$100,000 or more that is to be paid wholly or partly from public funds of the governmental entity.

TEXAS GOVERNMENT CODE 2274

By entering into this Agreement, Contractor verifies that: (1) it does not, and will not for the duration of the contract, have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association or (2) the verification required by Section 2274.002 of the Texas Government Code does not apply to the contract.

If Contractor is a company with 10 or more full-time employees and if this Agreement has a value of at least \$100,000 or more, Contractor verifies that, pursuant to Texas Government Code Chapter 2274, it does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and will not discriminate during the term of the contract against a firearm entity or firearm trade association.

Contractor represents and warrants that: (1) it does not, and will not for the duration of the contract, boycott energy companies or (2) the verification required by Section 2274.002 of the Texas Government Code does not apply to the contract.

If Contractor is a company with 10 or more full-time employees and if this Agreement has a value of at least \$100,000 or more, Contractor verifies that, pursuant to Texas Government Code Chapter 2274, it does not boycott energy companies; and will not boycott energy companies during the term of the Agreement. This verification is not required for an agreement where a governmental entity determines that these requirements are inconsistent with the governmental entity's constitutional or statutory duties related to the issuance, incurrence, or management of debt obligations or the deposit, custody, management, borrowing, or investment of funds.

Agreement Example **Review**

This sample Agreement has been reviewed and

(X) is acceptable

() is acceptable as noted

Contractor Acknowledgement

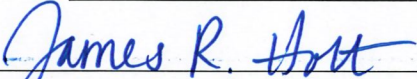
In compliance with this solicitation, the undersigned, having examined the solicitation documents, instructions to offerors, documents associated with the request for proposals, and being familiar with the conditions to be met has reviewed the above information regarding:

- Insurance Requirements
- Suspension and Debarment Certification
- Texas Government Code Section 2252.152
- Texas Government Code Section 2271.002
- Texas Government Code 2274

An individual authorized to bind the company must sign the following section. Failure to execute this portion may result in proposal rejection.

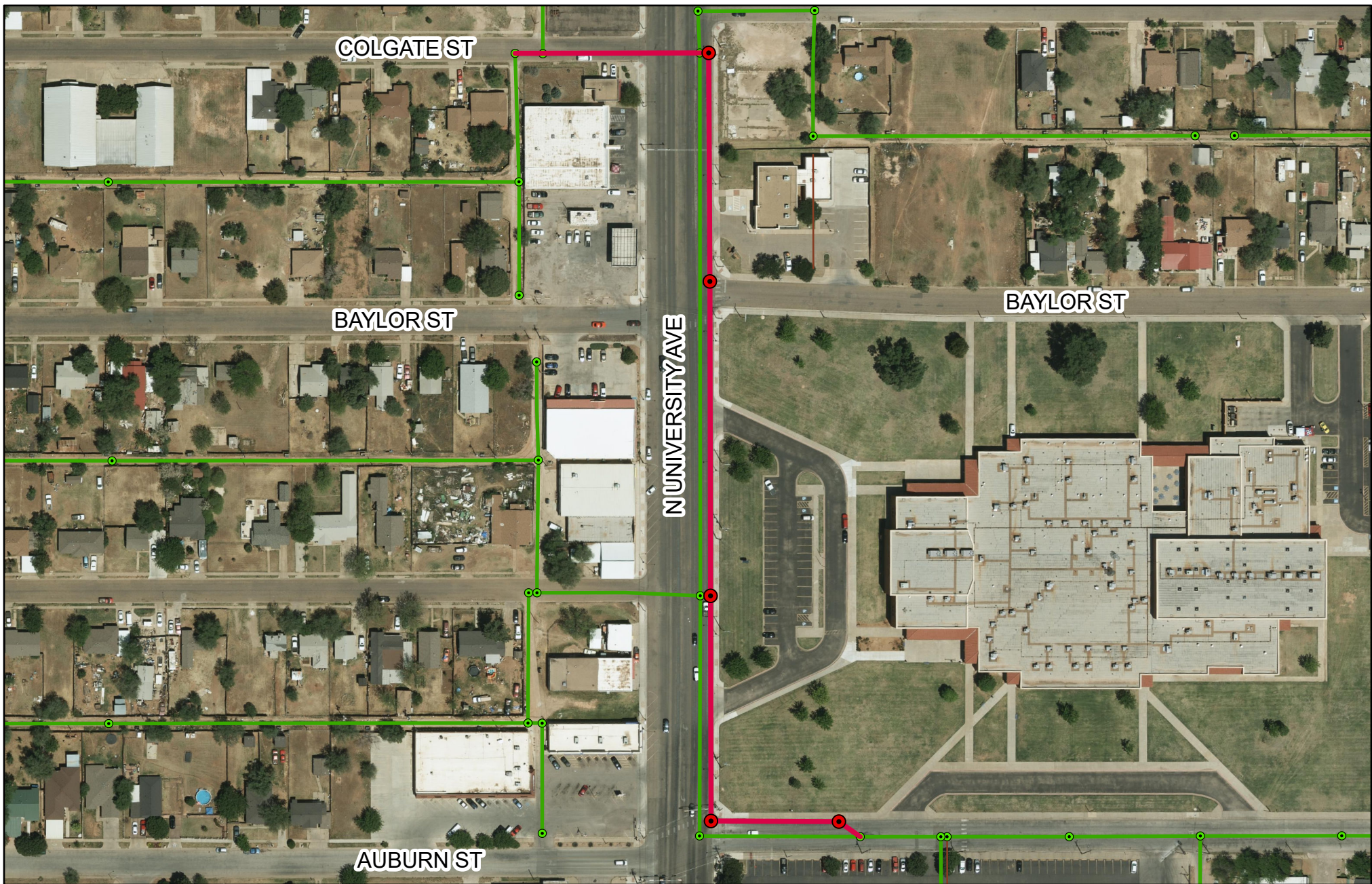
By signing below, the terms stated have been reviewed and approved.

Company Name: Horseshoe Construction, Inc. _____

Signed By:  _____

Print Name and Title: James R. Holt, President _____

Date: December 21, 2021 _____



- Proposed Manholes
- North University Sewer Line Replacement

North University Sewer Line Change Out

0 50 100 200 300 400 Feet

As required by SECTION 1, Chapter 2051, SUBCHAPTER D, GEOSPATIAL DATA PRODUCTS of the Government Code, the City of Lubbock hereby provides notice that the data on this map was created by the City of Lubbock. Any data that appears to represent property boundaries 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.



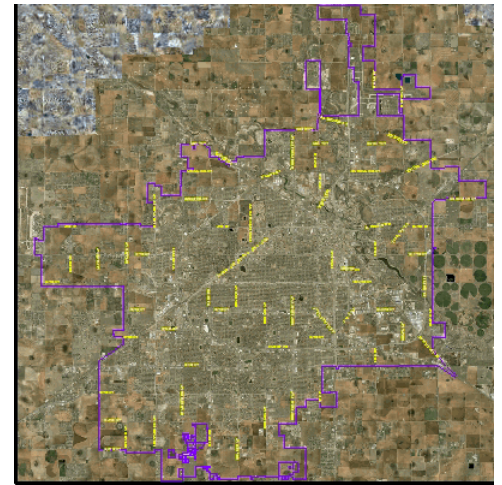
**City of Lubbock
Capital Project
Project Cost Detail
January 25, 2022**

| | |
|-------------------------|---|
| Capital Project Number: | <u>92514</u> |
| Capital Project Name: | <u>Sewer Lines Ahead of Street Paving</u> |

| <i>Encumbered/Expended</i> | <u>Budget</u> |
|----------------------------|----------------------|
| Staff Time | \$ 48,468 |
| Professional Services | 24 |
| Sewer systems improvements | 463,648 |

| | |
|---|-------------------------|
| <i>Agenda Item January 25, 2022</i> | |
| Horseshoe Constructors, Inc. Contract 16267 | <u>644,880</u> |
| <i>Encumbered/Expended To Date</i> | <u>1,157,020</u> |

| | |
|---|---------------------------------------|
| <i>Estimated Cost for Remaining Appropriation</i> | |
| | <u>392,980</u> |
| <i>Remaining Appropriation</i> | <u>392,980</u> |
| Total Appropriation | <u><u>\$ 1,550,000</u></u> |

Managing Department **Public Works Engineering***Project Manager* **Josh Kristinek***Project Classification* **Upgrade/Major Maintenance***Project Status* **Approved***Project Scope*

Installation of sewer lines ahead of municipal, county, and state paving projects including, but not limited to, Gateway Paving Projects.

Project Justification

Coordinating line change-outs with street paving projects reduces paving costs associated with line change-outs and minimizes customer inconvenience.

Project History

\$250,000 was appropriated in the FY 2017-18 Budget, Ord. No. 2017-00111, October 1, 2017.

\$250,000 was appropriated in the FY 2018-19 Budget, Ord. No. 2018-00109, October 1, 2018.

\$250,000 was appropriated in the FY 2020-21 Budget, Ord. No. 2020-00123, October 1, 2020.

\$800,000 was appropriated in the FY 2021-22 Budget, Ord. No. 2021-00126, October 1, 2021.

| <i>Appropriation Detail</i> | Appropriation to Date | Unappropriated Planning Years | | | | | | Total Project Amount |
|------------------------------------|-----------------------|-------------------------------|------------|------------|------------|------------|------------|----------------------|
| | | FY 2021-22 | FY 2022-23 | FY 2023-24 | FY 2024-25 | FY 2025-26 | FY 2026-27 | |
| Construction | 750,000 | 800,000 | 250,000 | 250,000 | 250,000 | 250,000 | 250,000 | 2,800,000 |
| Total Project Appropriation | 750,000 | 800,000 | 250,000 | 250,000 | 250,000 | 250,000 | 250,000 | 2,800,000 |

| <i>Funding Detail</i> | 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 2018 Water/Wastewater Cash | 250,000 | 0 | 0 | 0 | 0 | 0 | 0 | 250,000 |
| FY 2019 Water/Wastewater Cash | 250,000 | 0 | 0 | 0 | 0 | 0 | 0 | 250,000 |
| FY 2021 Water/Wastewater Cash | 250,000 | 0 | 0 | 0 | 0 | 0 | 0 | 250,000 |
| FY 2022 Water/Wastewater Cash | 0 | 800,000 | 0 | 0 | 0 | 0 | 0 | 800,000 |
| FY 2023 Water/Wastewater Cash | 0 | 0 | 250,000 | 0 | 0 | 0 | 0 | 250,000 |
| FY 2024 Water/Wastewater Cash | 0 | 0 | 0 | 250,000 | 0 | 0 | 0 | 250,000 |
| FY 2025 Water/Wastewater Cash | 0 | 0 | 0 | 0 | 250,000 | 0 | 0 | 250,000 |
| FY 2026 Water/Wastewater Cash | 0 | 0 | 0 | 0 | 0 | 250,000 | 0 | 250,000 |
| FY 2027 Water/Wastewater Cash | 0 | 0 | 0 | 0 | 0 | 0 | 250,000 | 250,000 |
| Total Funding Sources | 750,000 | 800,000 | 250,000 | 250,000 | 250,000 | 250,000 | 250,000 | 2,800,000 |



Purchasing and Contract Management

Project Summary

RFP 22-16267-TF

North University Sewer Line Change Out

Notice was published in the Lubbock Avalanche Journal on December 5 & December 12, 2021.

Notice was published on the Purchasing Web Site under Bid Opportunities.

Notice was published on Bonfire.com from December 5 to December 22, 2021.

7 individuals attended the pre-proposal meeting.

34 vendors viewed using Bonfire.com.

34 vendors downloaded the documents.

19 vendors were notified separately.

3 vendors submitted a proposal.

Information

Agenda Item

Resolution - Engineering: Consider a resolution authorizing the Mayor to execute Cost Sharing and Payment Agreement 16181, with Ford Development Corporation, for roadway improvements along Ash Avenue from 66th Street to South Loop 289.

Item Summary

The City Council established Capital Improvement Project (CIP) 92712, Unpaved Roadways, with Budget Amendment Ordinance No. 2021-O0077, and CIP 92484, Substation Upgrades, through Budget Ordinance No. 2021-O0126. Ford Development Corporation is in the process of developing the area adjacent to Ash Avenue. It is the intention that both parties can benefit from significant cost savings, by utilizing the same engineering firm for design of both portions of this corridor. Likewise, the project can expedite construction efforts and avoid duplicate costs, by utilizing a single contractor to complete the project as a whole.

The engineering and construction costs will be divided between the City of Lubbock, LP&L, and Ford Development Corporation, as stipulated in the agreement. The construction portion will follow the City's procurement process and will be bid out and procured by the City. The project will include shared cost for the roadway improvements along Ash Avenue from 66th Street to South Loop 289.

The City of Lubbock and LP&L's contribution will not exceed the appropriated amount of \$492,329.

Fiscal Impact

This agreement in the amount of \$492,329, will be funded by two sources through CIP 92712 Unpaved Roadways, in the amount of \$358,210 and CIP 92484, Substation Upgrades, in the amount of \$134,119.

Staff/Board Recommending

Jesica McEachern, Assistant City Manager

Attachments

Resolution
EUB Signed Resolution
Agreement
Location Exhibit
CIP Spreadsheet
CIP Detail - 92484
CIP Detail - 92712

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, Cost Sharing and Payment Agreement No. 16181 for the paving of Ash Avenue between South Loop 289 and 66th Street, by and between the City of Lubbock and Ford Development Corporation, 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

RESOLUTION

WHEREAS, Lubbock Power & Light is the municipally owned utility of the City of Lubbock ("LP&L");

WHEREAS, pursuant to the City of Lubbock Code of Ordinances, Title I, Chapter 2, Article 2.03, Section 2.03.415, the Electric Utility Board is charged with the authority to "govern, manage, administer and operate the city's electric utility";

WHEREAS, the Cost Sharing and Payment Agreement, Contract 16181, attached to this Resolution ("Contract"), proposes an expenditure of LP&L funds in the amount of one hundred thirty-four thousand one hundred nineteen and 00/100 (\$134,119.00);

WHEREAS, the expenditure of the funds as provided in the Contract satisfies all outstanding issues regarding the City's Planning and Zoning file FPLT-014834-2018, and the final plat for the Slaton Substation may be recorded; NOW THEREFORE,

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

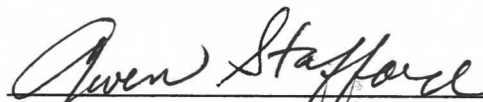
THAT the Electric Utility Board hereby recommends to the City Council of the City of Lubbock approval of that certain Cost Sharing and Payment Agreement, Contract 16181, attached to this Resolution as it relates only to funds expended by the City of Lubbock's municipally owned utility, Lubbock Power & Light.

Passed by the Electric Utility Board this 18th day of January, 2022.



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

COST SHARING AND PAYMENT AGREEMENT

THIS AGREEMENT, Contract No. 16181, is entered into this ____ day of _____ 2022 by and between the City of Lubbock, Texas, a Texas Home Rule Municipality (“City”), and Ford Development Corporation (“Ford”), collectively (“Parties”).

RECITALS

WHEREAS, the Mayor of the City of Lubbock formed a Future Needs Committee (the “Committee”) and appointed certain members of the City of Lubbock City Council (the “Council”) to it for the purposes of identifying anticipated infrastructure needs of the City of Lubbock and its residents; and

WHEREAS, on April 13, 2021, the Committee presented its findings to the Council regarding, among other things, a recommendation to secure funding for an Unpaved Roads Program project and the Council accepted the recommendations of the Committee through Resolution No. 2021-R0141; and

WHEREAS, on April 21, 2021, the Council passed Resolution No. 2021-R0162 for the issuance of certificates of obligation to fund the acquisition, construction, renovation, and improvement of capital projects including various road projects in part as recommended by the Committee; and

WHEREAS, with its recommendation, the Committee included specific streets that should be improved with the issuance of the certificates of obligation, of which included one-half width of paving of the east half of Ash Avenue from the intersection of Ash Avenue and the South Loop 289 frontage road to the intersection of Ash Avenue and US Highway 84 and the full width of 66th Street from the mid-line of Ash Avenue to approximately 80 feet east of Ash Avenue in Lubbock, Texas (the “Engineering Project”), as depicted in “Exhibit A” attached to and incorporated herein; and

WHEREAS, subsequently the City, by and through its Engineering Department (“Engineering”), established Capital Improvement Projects (“CIP”) No. 92712 via Budget Ordinance 2021-O0077 for the Engineering Project and has appropriated three hundred fifty-eight thousand two hundred ten dollars and 00/100 (\$358,210.00) for the Engineering Project; and

WHEREAS, in furtherance of a substation upgrade on Ash Avenue the (“Slaton Substation”), the City by and through its Electric Utility Department, LP&L (the “Utility”), established a CIP No. 92484.9255.30000 via Budget Ordinance 2021-O0126 for the paving of one-half width of the west half of Ash Avenue from approximately 1,136 feet north of the north face of the curb of South Loop 289 frontage road to the intersection of Ash Avenue and US Highway 84 and the full width of 66th Street from the mid-line of Ash Avenue to approximately 80 feet west of Ash Avenue in Lubbock, Texas (“Utility Project”), as depicted in “Exhibit A”,

and has appropriated one hundred thirty-four thousand one hundred nineteen and 00/100 (\$134,119.00) for the Utility Project;

WHEREAS, the Utility's contribution for the paving of the above described portion of Ash Avenue resolves all outstanding issues regarding the City's Planning and Zoning file FPLT-014834-2018, and the final plat for the Slaton Substation may be recorded; and

WHEREAS, Ford owns, and is developing, land adjacent to the area of the Engineering and Utility Projects and as part of the development Ford has need to pave the west half of Ash Avenue from the intersection of Ash Avenue and the South Loop 289 frontage road north for approximately 1,136 feet from the north face of the curb of the South Loop 289 frontage road ("Ford Project"), as depicted in "Exhibit A", for an estimated cost of one hundred forty-nine thousand eight hundred twenty-six and 00/100 (\$149,826), as set forth in "Exhibits B1-B4" attached hereto and incorporated herein; and

WHEREAS, the details of the Parties' Projects are set forth in "Exhibits B2-B4", attached hereto and incorporated herein; and

WHEREAS, the Parties can realize a significant cost savings for the Projects detailed herein by utilizing the same engineering firm and Contractor for the Engineering, Utility, and Ford Projects on Ash Avenue between South Loop 289 and US Highway 84; and

WHEREAS, the Parties hereto agree that in order to expedite construction and avoid duplicative costs, all Parties shall utilize one engineering firm and one Contractor jointly for the completion of said projects; and

WHEREAS, Ford is aware, and agrees, that City funds for the Engineering and Utility Projects in this cost-sharing agreement are limited to a maximum expense of four hundred ninety-two thousand three hundred twenty-nine and 00/100 (\$492,329.00), as set forth in "Exhibit B1".

TERMS

NOW, THEREFORE, in consideration of the promises and mutual agreements hereinafter set forth, the Parties hereby do mutually agree as follows:

1.0 *Parties Obligations*

1.1 City. City shall cause a notice for request for proposals to be issued for construction of the Parties' Projects as described above.

1.2 Ford. Ford shall cause all engineering drawings to be completed that are necessary for all the Parties' Projects herein and forward said drawings to the City upon completion.

1.3 The Parties shall jointly review the engineering drawings and contractor proposal submissions, and the City shall make every reasonable attempt to negotiate a contract between the City and the highest-ranking contractor that is qualified for the joint project and for the best value. Upon review of the drawings and proposal submissions, if either Party deems the project financially unfeasible, either the City or Ford may elect not to pursue the shared project and reject all bids. Rejection of all bids will terminate this agreement in its totality.

1.4 Once construction begins, all change orders will require City approval. For change orders on Ford's Project, Ford must submit a written recommendation to the City for each change order, and the City will promptly consider said change order. Upon project completion, Ford shall render payment to the City for each change order it recommends to, and is approved by, the City.

2.0 *Payments*

2.1 City. City shall fund the Engineering and Utility Projects, at an amount not to exceed four hundred ninety-two thousand three hundred twenty-nine and 00/100 (\$492,329.00).

2.2 Ford. Upon selection of a qualified contractor for construction services via a City-issued request for proposals, Ford shall pay the City for Ford's Project as valued by the contractor's bid that is selected by the Parties plus a ten percent (10%) contingency within fifteen (15) business days from bid opening, and prior to the approval of the bid award by the City's governing body.

2.3. Upon project completion, Ford shall pay the City for any and all amounts incurred for change orders on Ford's Project, and a thorough account shall be made for costs of the Engineering, Utility, and Ford Projects. If any surplus funds designated for the Engineering and/or Utility Projects remain, the City shall keep its surplus funds. If Ford's Project costs are less than the amount given to the City, the City shall refund Ford any surplus funds.

2.4 In the event that all the City funds set forth herein are exhausted, and project costs are greater than the CIP funds for the Engineering and Utility Projects detailed herein, Ford, and not the City, shall pay the City for any and all overage.

2.5 In the event that project costs for Ford's Project are over the estimated amount given herein, Ford shall pay the City for any and all overage.

3.0 *Breach*

The failure of either of the Parties to comply with their obligations, including but not limited to promptly paying the City the agreed amounts set forth in Section 2.0, shall constitute a breach of this Agreement.

4.0 *Waiver*

The waiver of any requirement hereunder by any Party hereto shall not be effective unless properly authorized and in writing.

5.0 *Term; Termination*

This Agreement shall automatically terminate after completion of construction of all projects provided herein, and the final settlement and payment of funds between the Parties is completed. This Agreement is not subject to early termination by any Party, other than as provided herein.

6.0 *Texas Law to Apply*

This Agreement shall be construed under and in accordance with the laws of the State of Texas, and all obligations of the Parties created hereunder are performable in Lubbock County, Texas.

7.0 *Notice*

All notices, whether for reimbursement or otherwise, shall be in writing and may be hand delivered, or sent by registered or certified mail, postage prepaid, return receipt requested to the following addresses:

City of Lubbock
Attn: Michael Keenum, City Engineer
P.O. Box 2000
Lubbock, Texas 79457

Ford Development Corporation
Attn: Rex F. Robertson
16400 N. Dallas Parkway, Suite 140
Dallas, Texas 75248

8.0 *Legal Construction*

If any one or more of the provisions contained in this agreement shall for any reason be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof and this agreement shall be construed as if such invalid, illegal, or unenforceable provisions had never been contained herein.

9.0 *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, the former shall control.

10.0 *Miscellaneous*

A. **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

B. **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.

C. **Texas Government Code 2274.** By entering into this Agreement, Ford verifies that: (1) it does not, and will not for the duration of the contract, have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association or (2) the verification required by Section 2274.002 of the Texas Government Code does not apply to the contract. If Ford is a company with 10 or more full-time employees and if this Agreement has a value of at least \$100,000 or more, Ford verifies that, pursuant to Texas Government Code Chapter 2274, it does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and will not discriminate during the term of the contract against a firearm entity or firearm trade association.

D. **Ford represents and warrants that:** (1) it does not, and will not for the duration of the contract, boycott energy companies or (2) the verification required by Section 2274.002 of the Texas Government Code does not apply to the contract. If Ford is a company with 10 or more full-time employees and if this Agreement has a value of at least \$100,000 or more, Ford verifies that, pursuant to Texas Government Code Chapter 2274, it does not boycott energy companies; and will not boycott energy companies during the term of the Agreement. This verification is not required for an agreement where a governmental entity determines that these requirements are inconsistent with the governmental entity's constitutional or statutory duties related to the issuance, incurrence, or management of debt obligations or the deposit, custody, management, borrowing, or investment of funds.

E. 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, Ford 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.

F. 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.

11.0 *Entire Agreement*

This Agreement supersedes any and all other agreements, either oral or in writing, between the Parties hereto with respect to the subject matter hereof and contains all of the covenants and agreements between the Parties with respect to said matter. Each Party to this Agreement acknowledges that no representations, inducements, promises, or agreements, oral or otherwise, have been made by any Party or anyone acting on behalf of any Party which are not embodied herein and that no other agreements, statement, or promise not contained in this Agreement shall be valid or binding. No modification concerning this instrument shall be of any force or effect, excepting a subsequent amendment in writing signed by the Parties. No official, representative, agent or employee of either entity, has any authority to modify this Agreement except pursuant to express authority to do so granted by the governing body.

12.0 *Parties Bound/Authority*

This Agreement shall be binding upon and inure to the benefit of the Parties to it and their respective legal representatives, successors and assigns where permitted by this Agreement. The undersigned represent and warrant their authority to execute this Agreement, and to bind the Parties hereto.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement this ____ day of _____ 2022.

For the City of Lubbock:

DANIEL M. POPE, Mayor

For Ford Development Corporation:



Rex F. Robertson, President

Attest:

Rebecca Garza, City Secretary

Approved as to Content:



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



Jessica McEachern, Assistant City Manager

David McCalla, Director of Lubbock Power & Light

Approved as to Form:



Kelli Leisure, Assistant City Attorney

Jenny Smith, General Counsel for Lubbock Power & Light

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This Agreement shall be binding upon and inure to the benefit of the Parties to it and their respective legal representatives, successors and assigns where permitted by this Agreement. The undersigned represent and warrant their authority to execute this Agreement, and to bind the Parties hereto.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement this ____ day of _____ 2022.

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For Ford Development Corporation:

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Attest:

Rebecca Garza, City Secretary

Approved as to Content:

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


Jessica McEachern, Assistant City Manager



David McCalla, Director of Lubbock Power & Light

Approved as to Form:

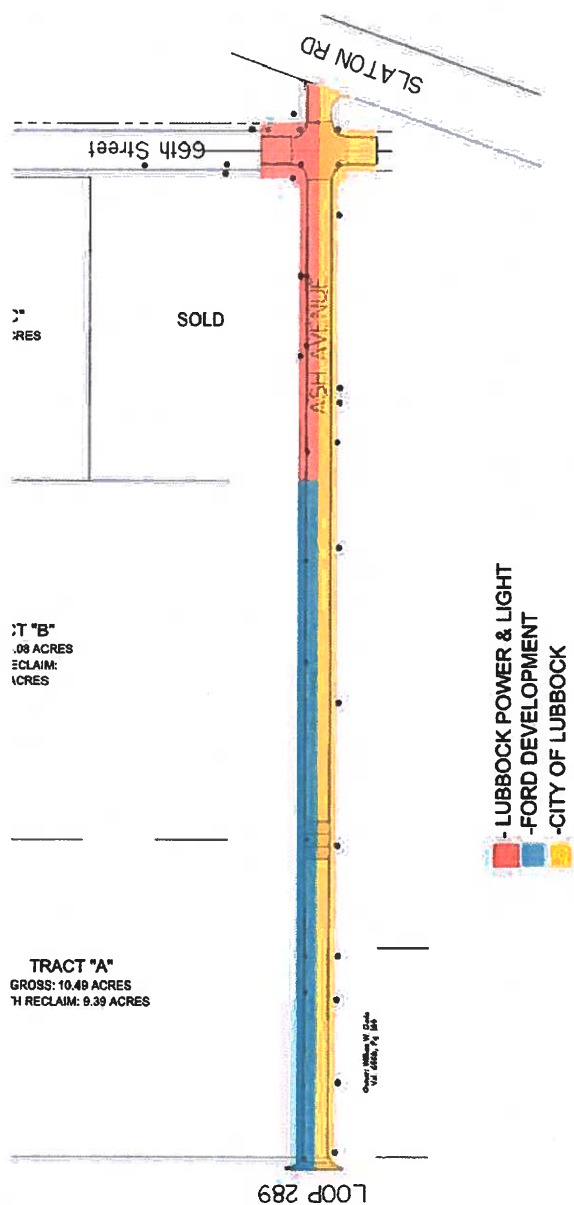
Kelli Leisure, Assistant City Attorney



Jenny Smith, General Counsel for Lubbock Power & Light



Exhibit A



JHR | **HUGO REED**
AND ASSOCIATES, INC.

LAND SURVEYORS • CIVIL ENGINEERS • LAND PLANNERS

DATE: _____

Ash Avenue from US Highway 84 to Loop 289
December 9, 2021

Opinion of Probable Construction Cost

| Project Cost Per Party | | Total |
|----------------------------|----|-------------------|
| 1) Ford Development | \$ | 149,826 |
| 2) City of Lubbock | \$ | 358,210 |
| 3) Lubbock Power and Light | \$ | 134,119 |
| Total Project Cost | | \$ 642,154 |

* Based on 6 month sequential construction time.

** Estimates only, actual amount depend on actual contracted services scope of work.

***This estimate assumes that typical plan review, testing, and inspection fees would be waived by the City of Lubbock and that no utility relocations other than the power pole specifically quantified herein.

**** In providing opinions of probable construction cost, the Client understands that the Consultant has no control over the cost or availability of labor, equipment or materials, or over market conditions or the Contractor's method of pricing, and that the Consultant's opinions of probable construction costs are made on the basis of the Consultant's professional judgment and experience. The Consultant makes no warranty, express or implied, that the bids or the negotiated cost of the Work will not vary from the Consultant's opinion of probable construction cost.

**Ash Avenue from US Highway 84 to Loop 289
Ford Development**

Opinion of Probable Construction Cost

9-Dec-21

10:02 AM

| Item | Quantity | Unit | Unit Price | Total |
|--|----------|------|--------------|-------------------|
| Ash Avenue | | | | |
| Paving Improvements | | | | |
| Excavation and Embankment | 1 | LS | \$ 14,000.00 | \$ 14,000 |
| Type C HMA (2" and Caliche Base) | 2,319 | SY | \$ 30.00 | \$ 69,570 |
| 6" Concrete Paving | 145 | SY | \$ 63.00 | \$ 9,135 |
| 24" Curb and Gutter | 1,111 | LF | \$ 20.00 | \$ 22,220 |
| 6" Concrete Fillets and Valley Gutters | 73 | SY | \$ 63.00 | \$ 4,599 |
| Subtotal Paving Improvements | | | | \$ 119,524 |
| Professional Services | | | | |
| Design Surveying, Engineering Design, and Construction Staking | | | | \$ 16,681 |
| Subtotal Professional Services | | | | \$ 16,681 |
| Contingency | | | | |
| 10% Construction Planning Contingency | | | | \$ 13,621 |
| Subtotal Contingency | | | | \$ 13,621 |
| Total | | | | \$ 149,826 |

**Ash Avenue from US Highway 84 to Loop 289
City of Lubbock**

Opinion of Probable Construction Cost

9-Dec-21

10:02 AM

| Item | Quantity | Unit | Unit Price | Total |
|--|----------|------|--------------|----------------|
| Ash Avenue | | | | |
| Demolition | | | | |
| HMAC Pavement Removal (HMAC and Base Course) | 91 | SY | \$ 20.00 | \$ 1,820 |
| Paving Improvements | | | | |
| Excavation and Embankment | 1 | LS | \$ 22,000.00 | \$ 22,000 |
| Type C HMAC (2" and Caliche Base) | 3,649 | SY | \$ 30.00 | \$ 109,470 |
| 24" Curb and Gutter | 1,810 | LF | \$ 20.00 | \$ 32,200 |
| 6" Concrete Fillets and Valley Gutters | 219 | SY | \$ 63.00 | \$ 13,797 |
| 6" Concrete Paving | 145 | SY | \$ 63.00 | \$ 9,135 |
| Miscellaneous Items | | | | |
| Power Pole Relocation | 9 | EA | \$ 4,500.00 | \$ 40,500 |
| Ash Avenue and 66th Street Intersection | | | | |
| Demolition | | | | |
| HMAC Pavement Removal (HMAC and Base Course) | 461 | SY | \$ 20.00 | \$ 9,220 |
| Paving Improvements | | | | |
| Excavation and Embankment | 1 | LS | \$ 5,000.00 | \$ 5,000 |
| Type C HMAC (2" and Caliche Base) | 388 | SY | \$ 30.00 | \$ 11,640 |
| 24" Curb and Gutter | 100 | LF | \$ 20.00 | \$ 2,000 |
| 6" Concrete Fillets and Valley Gutters | 74 | SY | \$ 63.00 | \$ 4,662 |
| 6" Concrete Paving | 386 | SY | \$ 63.00 | \$ 24,318 |
| Subtotal Paving Improvements | | | \$ | 285,762 |
| Professional Services | | | | |
| Design Surveying, Engineering Design, and Construction Staking | | | \$ | 39,883 |
| Subtotal Professional Services | | | \$ | 39,883 |
| Contingency | | | | |
| 10% Construction Planning Contingency | | | \$ | 32,565 |
| Subtotal Contingency | | | \$ | 32,565 |
| Total | | | \$ | 358,210 |

**Ash Avenue from US Highway 84 to Loop 289
Lubbock Power and Light**

Opinion of Probable Construction Cost

9-Dec-21

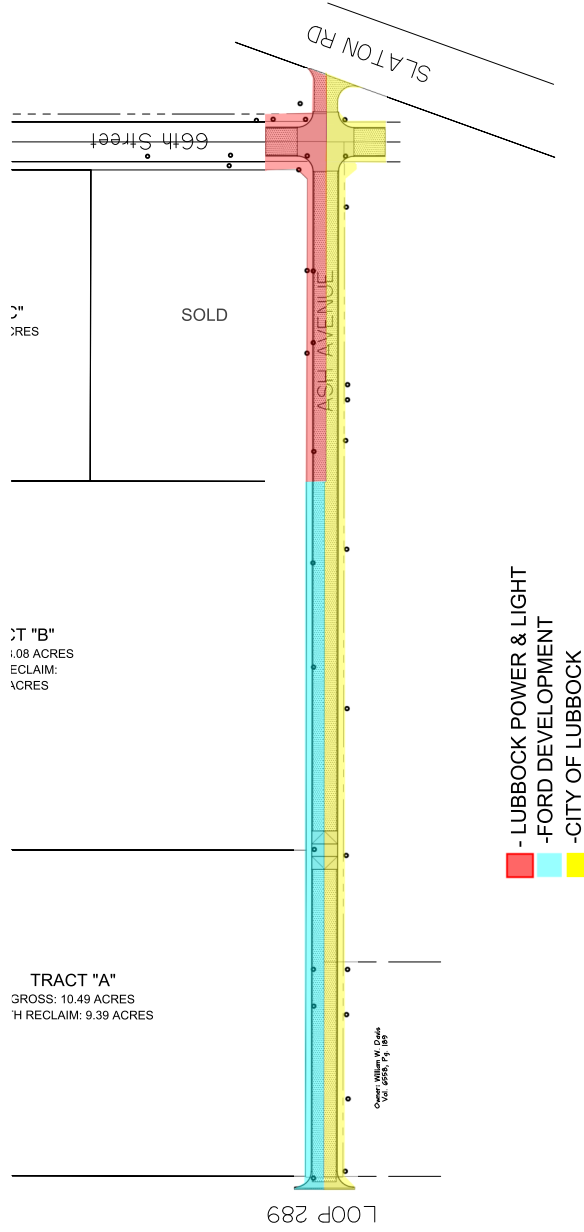
10:02 AM

| Item | Quantity | Unit | Unit Price | Total |
|--|----------|------|-------------|-------------------|
| Ash Avenue | | | | |
| Demolition | | | | |
| HMAC Pavement Removal (HMAC and Base Course) | 91 | SY | \$ 20.00 | \$ 1,820 |
| Paving Improvements | | | | |
| Excavation and Embankment | 1 | LS | \$ 6,000.00 | \$ 6,000 |
| Type C HMAC (2" and Caliche Base) | 1,079 | SY | \$ 30.00 | \$ 32,370 |
| 24" Curb and Gutter | 498 | LF | \$ 20.00 | \$ 9,960 |
| Ash Avenue and 66th Street Intersection | | | | |
| Demolition | | | | |
| HMAC Pavement Removal (HMAC and Base Course) | 461 | SY | \$ 20.00 | \$ 9,220 |
| Paving Improvements | | | | |
| Excavation and Embankment | 1 | LS | \$ 5,000.00 | \$ 5,000 |
| Type C HMAC (2" and Caliche Base) | 388 | SY | \$ 30.00 | \$ 11,640 |
| 24" Curb and Gutter | 100 | LF | \$ 20.00 | \$ 2,000 |
| 6" Concrete Fillets and Valley Gutters | 74 | SY | \$ 63.00 | \$ 4,662 |
| 6" Concrete Paving | 386 | SY | \$ 63.00 | \$ 24,318 |
| Subtotal Paving Improvements | | | | \$ 108,990 |
| Professional Services | | | | |
| Design Surveying, Engineering Design, and Construction Staking | | | \$ | 14,936 |
| Subtotal Professional Services | | | \$ | 14,936 |
| Contingency | | | | |
| 10% Construction Planning Contingency | | | \$ | 12,193 |
| Subtotal Contingency | | | \$ | 12,193 |
| Subtotal | | | \$ | 134,119 |



1:200

Exhibit A



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

LAND SURVEYORS • CIVIL ENGINEERS • LAND PLANNERS
TEXAS LICENSED SURVEYING FIRM 100675-000 PHONE: 806.783.5662 1801 AVENUE N
TEXAS REGISTERED ENGINEERING FIRM E-760 FAX: 806.783.3891 LUBBOCK, TEXAS 79401

DATE:

**City of Lubbock
Capital Project
Project Cost Detail
January 25, 2022**

| | | |
|-------------------------|--|---------------------|
| Capital Project Number: | | 92484 |
| Capital Project Name: | | Substation Upgrades |

| | | |
|-------------------------|--|---|
| Capital Project Number: | | 92712 |
| Capital Project Name: | | Transportation Improvements/Unpaved Roads |

| | Budget | |
|---|---------------|-----------|
| <i>Encumbered/Expended</i> | 92484 | 92712 |
| Staff Time | 169,841 | |
| Professional Services Advertisement | 617 | |
| System Capital Improvements Constriction | 1,880,188 | |
| Construction Contract 16211, West Texas Paving, Inc., | - | 1,297,081 |

Agenda Item January 25, 2022

| | | |
|--|-----------|-----------|
| Cost Sharing and Payment Agreement 16181 | 134,119 | 358,210 |
| Professional Service Agreement 16363 with Freese and Nichols | | 250,000 |
| <i>Encumbered/Expended To Date</i> | 2,184,765 | 1,905,291 |

Estimated Cost for Remaining Appropriation

| | | |
|---|-----------|-----------|
| Unimproved Roadway Construction and Design & Electrical System Improvements | 3,165,235 | 7,094,709 |
| <i>Remaining Appropriation</i> | 3,165,235 | 7,094,709 |

| | | |
|----------------------------|--------------|--------------|
| Total Appropriation | \$ 5,350,000 | \$ 9,000,000 |
|----------------------------|--------------|--------------|

Managing Department **7611-Transmission Supervision & Engineering**

Project Manager **Luke Miller**

Project Classification **Replacement Infrastructure**

Project Status **Approved**



Project Scope

Replace the relay protection on the substations with older relays and assess the substations to determine if any modifications or upgrades are required in preparation for the new system configuration. The assessment includes but is not limited to: analyzing the power flows through the substations and verifying the existing equipment will handle/carry the power/currents safely; and analyzing the existing Alternating Current (AC) Voltage and Direct Current (DC) Voltage system requirements. The project includes the engineering, design, materials, and construction costs associated with upgrading the following substations: Wadsworth, Erskine, Brandon, Northwest, McCullough, Mackenzie, and Thompson.

Project Justification

The existing antiquated protection relays in the affected substations do not provide adequate protection or safety features. The installation of microprocessor relays will allow LP&L to further improve the reliability of the system by providing adequate and redundant protection while improving the safety of personnel by implementing features such as hot line tag. These new digital relays will constantly monitor the health of the system, instantly alarm for abnormal conditions, and more importantly clear system disturbances quickly and as necessary. The current transformers (CTs) in the existing circuit breakers do not have the proper ratings required, thereby reducing the rating of the line. The line rating is what determines how much power the lines can safely carry. Some equipment will need to be replaced if the current ratings do not meet or exceed the requirements.

FERC Accounts: 353

Estimated Useful Life: 30 years

Project History

\$510,000 was appropriated in the FY 2016-17 Budget, Ord. No. 2016-00135, September 8, 2016.

Appropriated \$105,000 in FY 2016-17 Budget Amendment No. 28, Ord. No. 2017-00058, May 25, 2017.

\$3,510,000 was appropriated in the FY 2017-18 Budget, Ord. No. 2017-00111, October 1, 2017.

Reduced funding by \$2.4 million in FY 2017-18 Budget Amendment No. 13, Ord. No. 2018-00057, May 24, 2018.

\$1,410,000 was appropriated in the FY 2018-19 Budget, Ord. No. 2018-00109, October 1, 2018.

\$2,215,000 was appropriated in the FY 2019-20 Budget, Ord. No. 2019-00129, October 1, 2019.

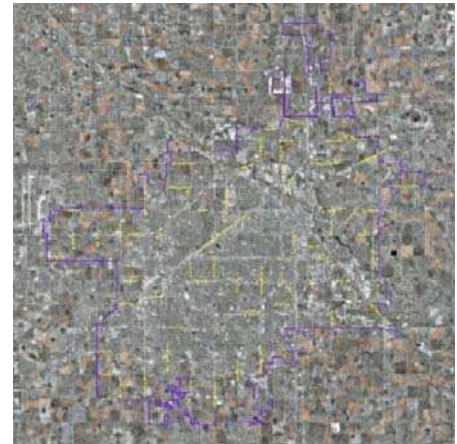
| Appropriation Detail | Appropriation to Date | Unappropriated Planning Years | | | | | | Total Project Amount |
|------------------------------------|-----------------------|-------------------------------|------------|------------|------------|------------|------------|----------------------|
| | | FY 2021-22 | FY 2022-23 | FY 2023-24 | FY 2024-25 | FY 2025-26 | FY 2026-27 | |
| Construction | 5,350,000 | 0 | 0 | 0 | 0 | 0 | 0 | 5,350,000 |
| Total Project Appropriation | 5,350,000 | 0 | 0 | 0 | 0 | 0 | 0 | 5,350,000 |

Project Name **Substation Upgrades**

Project Number **92484**

| <i>Funding Detail</i> | 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 2017 30-Year LP&L Revenue Bonds | 615,000 | 0 | 0 | 0 | 0 | 0 | 0 | 615,000 |
| FY 2018 30-Year LP&L Revenue Bonds | 1,110,000 | 0 | 0 | 0 | 0 | 0 | 0 | 1,110,000 |
| FY 2021 30-Year LP&L Revenue Bonds | 3,625,000 | 0 | 0 | 0 | 0 | 0 | 0 | 3,625,000 |
| Total Funding Sources | 5,350,000 | 0 | 0 | 0 | 0 | 0 | 0 | 5,350,000 |

| <i>Operating Budget Impact</i> | 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 |

Managing Department **Unpaved Streets**Project Manager **Josh Kristinek**Project Classification **Upgrade/Major Maintenance**Project Status **Approved***Project Scope*

This project will fund the paving and improvement of existing local residential and collector gravel roads in existing subdivisions where the roads were never improved by the developer. This project will fund the design and construction of various inadequate transportation elements within these areas of the City including unimproved roadway surfaces, unsafe roadway widths, drainage improvements, street lighting, and ADA compliance.

Project Justification

Areas of the City of Lubbock have existing local residential roadways that are gravel and not improved with a paved surface. These roadways were part of developments where the roads were never improved by the developer. These roadways do not meet the City's Standard Specifications and this project will help improve mobility and safety in these residential areas.

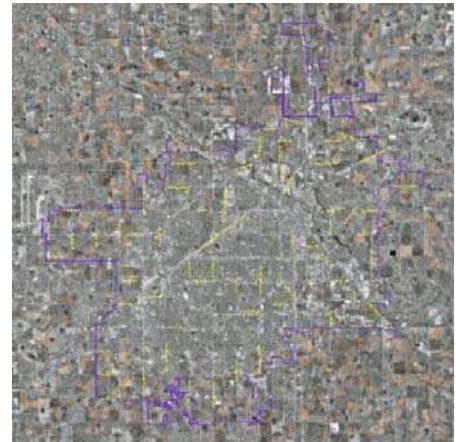
Project History

\$9,000,000 was appropriated in FY 2020-21, Budget Amendment No. 35, Ord. No. 2020-O0077, July 13, 2021.

| Appropriation Detail | Appropriation to Date | Unappropriated Planning Years | | | | | | Total Project Amount |
|------------------------------------|-----------------------|-------------------------------|------------|------------|------------|------------|------------|----------------------|
| | | FY 2021-22 | FY 2022-23 | FY 2023-24 | FY 2024-25 | FY 2025-26 | FY 2026-27 | |
| Construction | 9,000,000 | 0 | 0 | 0 | 0 | 0 | 0 | 9,000,000 |
| Total Project Appropriation | 9,000,000 | 0 | 0 | 0 | 0 | 0 | 0 | 9,000,000 |

| 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 2021 Tax Supported Revenue CO's | 9,000,000 | 0 | 0 | 0 | 0 | 0 | 0 | 9,000,000 |
| Total Funding Sources | 9,000,000 | 0 | 0 | 0 | 0 | 0 | 0 | 9,000,000 |

| 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 |

Managing Department **Public Works Engineering**Project Manager **Josh Kristinek**Project Classification **New Roadways**Project Status **Approved***Project Scope*

This project will fund the paving and improvement of existing local residential and collector gravel roads in existing subdivisions where the roads were never improved by the developer. This project will fund the design and construction of various inadequate transportation elements within these areas of the City including unimproved roadway surfaces, unsafe roadway widths, drainage improvements, street lighting, and ADA compliance.

Project Justification

Areas of the City of Lubbock have existing local residential roadways that are gravel and not improved with a paved surface. These roadways were part of developments where the roads were never improved by the developer. These roadways do not meet the City's Standard Specifications and this project will help improve mobility and safety in these residential areas.

Project History

\$11,300,000 was appropriated in FY 2020-21, Budget Amendment No. 35, Ord. No. 2020-O0077, July 13, 2021.

| Appropriation Detail | Appropriation to Date | Unappropriated Planning Years | | | | | | Total Project Amount |
|------------------------------------|-----------------------|-------------------------------|------------|------------|------------|------------|------------|----------------------|
| | | FY 2021-22 | FY 2022-23 | FY 2023-24 | FY 2024-25 | FY 2025-26 | FY 2026-27 | |
| Construction | 11,300,000 | 0 | 0 | 0 | 0 | 0 | 0 | 11,300,000 |
| Total Project Appropriation | 11,300,000 | 0 | 0 | 0 | 0 | 0 | 0 | 11,300,000 |

| 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 2021 Tax Supported Revenue CO's | 11,300,000 | 0 | 0 | 0 | 0 | 0 | 0 | 11,300,000 |
| Total Funding Sources | 11,300,000 | 0 | 0 | 0 | 0 | 0 | 0 | 11,300,000 |

| 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 |

Information

Agenda Item

Resolution - Public Works Streets: Consider a resolution authorizing the Mayor to execute Contract 16221, with Green Dream International, LLC, to establish the annual pricing for raw construction materials, for repair of streets, alleys, and utility installations.

Item Summary

This contract establishes the annual pricing of various sand, rock and gravel products used in the Public Works Departments as raw material in the construction and repair of streets, allies and utility installations. The original bid advertisement stipulates that the City can award this contract on an “Item by Item” basis. In order to ensure the City gets the best pricing available on a product, the Staff recommendation as outlined below will be to award item by item to multiple vendors. The original Invitation To Bid (ITB) included 8 bid items in the bid proposal.

In response to ITB 22-116221-SB, bids were received and opened on November 17, 2021, from the following vendors:

Vulcan Construction Materials, LLC, of San Antonio, Texas
Green Dream International, LLC, of Erie, Pennsylvania
West Texas Paving Inc., of Wolfforth, Texas

This contract award is for Bid Items 1, 2, 3, and 6 of ITB 22-16221-SB, Raw Materials for Public Works departments, as shown in the attached Bid Tab Form.

The contract is awarded by the unit price. The total amount of the award is estimated based on expected quantities and actual expenditures may be more or less depending on actual quantities. The price per unit will not change.

Staff is recommending award of Contract 16221 to Green Dream International, LLC, of Erie, Pennsylvania, as vendor for Contract Items 1, 2, 3, and 6, for an approximate amount of \$225,225.

Fiscal Impact

Funding is available in the Fiscal Year 2021-22 Operating Budgets of multiple Public Works cost centers.

Staff/Board Recommending

Jesica McEachern, Assistant City Manager
L. Wood Franklin, P.E., Division Director of Public Works

Attachments

Resolution - Green Dream Contract 16221

Contract 16221 - Green Dreamal pricing 2021\Copntract 16221

10391_Bid_Tab_Form (r) - _ITB_22-16221-SB,_Green_Dream (4)

Project Summary Sheet - ITB 22-16221-SB

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, Service Contract No. 16221 for raw materials for public works as per ITB 22-16221-SB, by and between the City of Lubbock and Green Dream International, LLC of Erie, Pennsylvania, 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.

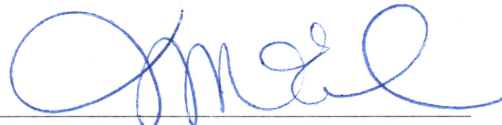
Passed by the City Council on _____.

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

City of Lubbock, TX
Contract for
Raw Materials for Public Works Operations

THIS CONTRACT made and entered into this day, _____, by and between the City of Lubbock ("City"), and **Green Dream International LLC**, ("Contractor").

WITNESSETH:

WHEREAS, the City of Lubbock duly advertised for bids for **Green Dream International LLC** and bids were received and duly opened as required by law; and

WHEREAS, after careful consideration of the bid submitted by Contractor, the City authorized the execution, in the name of the City of Lubbock a contract with said Contractor covering the purchase and delivery of the said **Raw Materials for Public Works Operations**.

NOW, THEREFORE, in consideration of the mutual agreement contained herein, as well as the financial consideration hereinafter referred to, the parties hereby covenant and agree as follows:

1. In accordance with City's specifications and Contractor's bid, copies of which are attached hereto and made part hereof, Contractor will deliver to the City, **Raw Materials for Public Works Operations** and more specifically **Items 1, 2, 3, and 6** on the bid submitted by the Contractor or in the specifications attached hereto.
2. The City promises and agrees to employ, and does employ, the Contractor to cause to be done the work provided for in this Contract and to complete and finish the same according to the attached specifications, offer, and terms and conditions contained herein.
3. The contract shall be for a term of one (1) year, with the option of four (4), one year extensions, said date of term beginning upon formal approval. All stated annual quantities are approximations of usage during the time period to be covered by pricing established by this bid. Actual usage may be more or less. Order quantities will be determined by actual need. The City of Lubbock does not guarantee any specific amount of compensation, volume, minimum, or maximum amount of services under this bid and resulting contract. The Contractor must maintain the insurance coverage required during the term of this contract including any extensions. It is the responsibility of the Contractor to ensure that valid insurance is on file with the Purchasing and Contract Management Department as required by contract or contract may be terminated for non-compliance.
4. Prices quoted shall be set for a period for one (1) year, said date of term beginning upon City Council date of formal approval. The rate may be adjusted upward or downward at this time at a percentage not to exceed the effective change in Consumer Price Index (CPI) or Product Price Index (PPI), which ever is most appropriate for the specific contract for the previous 12-months at the City's discretion, the effective change rate shall be based on either the local or national index average rate for all items. If agreement cannot be reached, the contract is terminated at the end of the current contract period.
5. This contract shall remain in effect until the first of the following occurs: (1) the expiration date, (2) performance of services ordered, or (3) termination of by either party with a 30 day written

notice. The City of Lubbock reserves the right to award the canceled contract to the next lowest and best bidder as it deems to be in the best interest of the city.

6. Contractor shall at all times be an independent contractor and not an agent or representative of City with regard to performance of the Services. Contractor shall not represent that it is, or hold itself out as, an agent or representative of City. In no event shall Contractor be authorized to enter into any agreement or undertaking for or on behalf of City.

7. Insurance Requirements

SECTION A. Prior to the approval of this contract by the City, the Contractor shall furnish a completed Insurance Certificate to the City, which shall be completed by an agent authorized to bind the named underwriter(s) to the coverages, limits, and termination provisions shown thereon, and which shall furnish and contain all required information referenced or indicated thereon. **THE CITY SHALL HAVE NO DUTY TO PAY OR PERFORM UNDER THIS CONTRACT UNTIL SUCH CERTIFICATE SHALL HAVE BEEN DELIVERED TO THE CITY.**

SECTION B. The City reserves the right to review the insurance requirements of this section during the effective period of the contract and to require adjustment of insurance coverages and their limits when deemed necessary and prudent by the City based upon changes in statutory law, court decisions, or the claims history of the industry as well as the Contractor.

SECTION C. Subject to the Contractor's right to maintain reasonable deductibles in such amounts as are approved by the City, the Contractor shall obtain and maintain in full force and effect for the duration of this contract, and any extension hereof, at Contractor's sole expense, insurance coverage written by companies approved by the State of Texas and acceptable to the City, in the following type(s) and amount(s):

| TYPE OF INSURANCE | | COMBINED SINGLE LIMIT | |
|--|------------------------|-----------------------|---------------------|
| GENERAL LIABILITY | | | |
| <input checked="" type="checkbox"/> Commercial General Liability | General Aggregate | | <u>\$2,000,000*</u> |
| <input checked="" type="checkbox"/> Occurrence | | | <u>\$1,000,000</u> |
| | Products-Comp/Op AGG | | <u>X</u> |
| | Personal & Adv. Injury | | <u>X</u> |
| | Contractual Liability | | <u>X</u> |
| <i>*can be combined with Excess Liability to meet requirement</i> | | | |
| AUTOMOTIVE LIABILITY | | | |
| <input checked="" type="checkbox"/> Any Auto | Per Occurrence | | <u>\$1,000,000</u> |
| <input checked="" type="checkbox"/> WORKERS COMPENSATION – STATUTORY AMOUNTS OR OCCUPATIONAL MEDICAL AND DISABILITY | | | |
| <input checked="" type="checkbox"/> EMPLOYERS' LIABILITY | | | <u>\$1,000,000</u> |
| OTHER: COPIES OF ENDOSEMENTS ARE REQUIRED | | | |
| <input checked="" type="checkbox"/> City of Lubbock named as additional insured on Auto/General Liability on a primary and non-contributory bases. | | | |
| <input checked="" type="checkbox"/> To include products of completed operations endorsement. | | | |
| <input checked="" type="checkbox"/> Waiver of subrogation in favor of the City of Lubbock on Commercial General Liability, Automotive Liability and Workers Compensation | | | |

IMPORTANT: POLICY ENDORSEMENTS

The Contractor will provide copies of the policies without expense, to the City and **all endorsements** thereto and may make any reasonable request for deletion, revision, or modification of particular policy terms, conditions, limitations, or exclusions (except where policy provisions are established by law or regulation binding upon either of the parties hereto or the underwriter of any of such policies). Upon such request by the City, the Contractor shall exercise reasonable efforts to accomplish such changes in policy coverages, and shall pay the cost thereof. Any costs will be paid by the Contractor.

REQUIRED PROVISIONS

The Contractor agrees that with respect to the above required insurance, all insurance contracts and certificate(s) of insurance will contain and state, in writing, on the certificate or its attachment, the following required provisions:

- a. Name the City of Lubbock and its officers, employees, and elected representatives as additional insureds, (as the interest of each insured may appear) as to all applicable coverage;
- b. Provide for 30 days notice to the City for cancellation, nonrenewal, or material change; 10 day written notice for non-payment.
- c. Provide for notice to the City at the address shown below by registered mail;
- d. The Contractor agrees to waive subrogation against the City of Lubbock, its officers, employees, and elected representatives for injuries, including death, property damage, or any other loss to the extent same may be covered by the proceeds of insurance;
- e. Provide that all provisions of this contract concerning liability, duty, and standard of care together with the indemnification provision, shall be underwritten by contractual liability coverage sufficient to include such obligations within applicable policies.

NOTICES

The Contractor shall notify the City in the event of any change in coverage and shall give such notices not less than 30 days prior the change, which notice must be accompanied by a replacement CERTIFICATE OF INSURANCE.

All notices shall be given to the City at the following address:

Marta Alvarez, Director of Purchasing & Contract Management
City of Lubbock
1314 Avenue K, 9th Floor
Lubbock, Texas 79401

SECTION D. Approval, disapproval, or failure to act by the City regarding any insurance supplied by the Contractor shall not relieve the Contractor of full responsibility or liability for damages and accidents as set forth in the contract documents. Neither shall the bankruptcy, insolvency, or denial of liability by the insurance company exonerate the Contractor from liability.

8. Neither the City nor the Contractor shall assign, transfer or encumber any rights, duties or interests accruing from this Contract without the written consent of the other.
9. 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.

10. 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 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.
11. All funds for payment by the City under this contract 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 goods or services provided under the contract, the City will terminate the contract, 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 goods or services covered by this contract is spent, whichever event occurs first. If at any time funds are not appropriated for the continuance of this contract, cancellation shall be accepted by the Seller on 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 contract beyond the date of termination.
12. The Contractor shall not assign or sublet the contract, or any portion of the contract, without written consent from the Director of Purchasing and Contract Management. Should consent be given, the Contractor shall insure the Subcontractor or shall provide proof on insurance from the Subcontractor that complies with all contract Insurance requirements.
13. Contractor acknowledges by supplying any Goods or Services that the Contractor has read, fully understands, and will be in full compliance with all terms and conditions and the descriptive material contained herein and any additional associated documents and Amendments. The City disclaims any terms and conditions provided by the Contractor unless agreed upon in writing by the parties. In the event of conflict between these terms and conditions and any terms and conditions provided by the Contractor, the terms and conditions provided herein shall prevail. The terms and conditions provided herein are the final terms agreed upon by the parties, and any prior conflicting terms shall be of no force or effect.
14. The Contractor (i) does not engage in business with Iran, Sudan or any foreign terrorist organization and (ii) it is not listed by the Texas Comptroller under Section 2252.153, Texas Government Code, as a company known to have contracts with or provide supplies or services to a foreign terrorist organization. As used in the immediately preceding sentence, "foreign terrorist organization" shall have the meaning given such term in Section 2252.151, Texas Government Code.
15. **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.

16. 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.
17. The Contractor 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.
18. The Contractor 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 Contractor, its agents, employees, and/or subcontractors, 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.
19. This Contract consists of the following documents set forth herein; Invitation to Bid No. 22-16221-SB and the Bid Form.

-----INTENTIONALLY LEFT BLANK-----

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be executed the day and year first above written. Executed in triplicate.

CITY OF LUBBOCK

Daniel M. Pope, Mayor

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



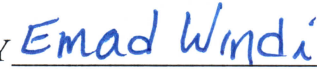
Mike Gilliland, Director of Public Utilities

APPROVED AS TO FORM:



Kelli Leisure, Assistant City Attorney

CONTRACTOR

BY  _____

Authorized Representative

Emad Windi

Print Name

32 W. 8th St. suite no 607

Address

Erie, PA 16501

City, State, Zip Code

City of Lubbock
ITB 22-16221-SB
Raw Materials for Public Works Operations
Specifications

1. 500 Tons "00" Backfill Gravel
2. 3000 Tons ½" Base Aggregate (½" Base Course Gravel)
3. 3000 Tons ¾" Base Aggregate (¾" Base Course Gravel)
4. 1000 Tons 1" Concrete Gravel (1" Concrete Rock)
5. 50 Tons Screenings (Crusher Fines)
6. 1000 Tons Concrete Sand
7. 1000 Tons Flowable Backfill (2 Sack Concrete Blend)
8. 100 Tons 1 ¾" Base Aggregate Flexible Base (Refer to City of Lubbock Engineering Minimum Design Standards and Specifications section 8.08.02)

City of Lubbock
ITB 22-16221-SB Raw Materials for Public Works

Bid Form

Green Dream International, LLC of Erie, PA

| | Qty Required | UOM | Unit Price | Extended Cost |
|---|---------------------------|--------------------------|----------------------------|--|
| #0-1 - "00" Backfill Gravel | 500 | Ton | \$31.35 | \$15,675.00 |
| #0-2 - 1/2" Base Aggregate (1/2" Base Course Gravel) | 3000 | Ton | 25.85 | 77,550.00 |
| #0-3 - 3/4" Base Aggregate (3/4" Base Course Gravel) | 3000 | Ton | 35.20 | 39,600.00 |
| #0-4 - 1" Concrete Gravel (1" Concrete Rock) - - - - - | 1000 - - - - - | Ton - - - - - | 39.60 - - - - - | 39,600.00 |
| #0-5 - Screenings (Crusher Fines) - - - - - | 50 - - - - - | Ton - - - - - | 24.20 - - - - - | 1,210.00 |
| #0-6 - Concrete Sand | 1000 | Ton | 26.40 | 26,400.00 |
| #0-7 - Flowable Backfill (2 Sack Concrete Blend) | 1000 | Ton | No Bid | No Bid |
| #0-8 - 1 3/4" Base Aggregate Flexible Base (Refer to City of | 100 - - - - - | Ton - - - - - | 31.35 - - - - - | 3,135.00 |
| | | | | Lubbock Engineering Minimum Design Standards and Specifications section 8.08.02) |
| | | | Total | \$159,225.00 |

City of Lubbock - Public Works
ITB 22-16221-SB Raw Materials for Public Works
Bid Tabulation Sheet

| Vendor | Location | Qty Required | UOM | Unit Price | Extended Cost |
|--|-----------------|---------------------|------------|----------------|--------------------|
| #0-1 - "00" Backfill Gravel | | | | | |
| Green Dream International, LLC | Erie, PA | 500 | Ton | \$31.35 | \$15,675.00 |
| West Texas Paving, Inc | Wolfforth, TX | 500 | Ton | No Bid | No Bid |
| Vulcan Construction Materials, LLC | San Antonio, TX | 500 | Ton | No Bid | No Bid |
| #0-2 - 1/2" Base Aggregate (1/2" Base Course Gravel) | | | | | |
| Green Dream International, LLC | Erie, PA | 3000 | Ton | 25.85 | 77,550.00 |
| West Texas Paving, Inc | Wolfforth, TX | 3000 | Ton | No Bid | No Bid |
| Vulcan Construction Materials, LLC | San Antonio, TX | 3000 | Ton | No Bid | No Bid |
| #0-3 - 3/4" Base Aggregate (3/4" Base Course Gravel) | | | | | |
| Green Dream International, LLC | Erie, PA | 3000 | Ton | 35.20 | 105,600.00 |
| West Texas Paving, Inc | Wolfforth, TX | 3000 | Ton | No Bid | No Bid |
| Vulcan Construction Materials, LLC | San Antonio, TX | 3000 | Ton | No Bid | No Bid |
| #0-4 - 1" Concrete Gravel (1" Concrete Rock) | | | | | |
| Vulcan Construction Materials, LLC | San Antonio, TX | 1000 | Ton | 35.50 | 35,500.00 |
| Green Dream International, LLC | Erie, PA | 1000 | Ton | 39.60 | 39,600.00 |
| West Texas Paving, Inc | Wolfforth, TX | 1000 | Ton | No Bid | No Bid |
| #0-5 - Screenings (Crusher Fines) | | | | | |
| West Texas Paving, Inc | Wolfforth, TX | 50 | Ton | 12.00 | 600.00 |
| Green Dream International, LLC | Erie, PA | 50 | Ton | 24.20 | 1,210.00 |
| Vulcan Construction Materials, LLC | San Antonio, TX | 50 | Ton | 35.50 | 1,775.00 |
| #0-6 - Concrete Sand | | | | | |
| Green Dream International, LLC | Erie, PA | 1000 | Ton | 26.40 | 26,400.00 |
| West Texas Paving, Inc | Wolfforth, TX | 1000 | Ton | No Bid | No Bid |
| Vulcan Construction Materials, LLC | San Antonio, TX | 1000 | Ton | No Bid | No Bid |
| #0-7 - Flowable Backfill (2 Sack Concrete Blend) | | | | | |
| Green Dream International, LLC | Erie, PA | 1000 | Ton | No Bid | No Bid |
| West Texas Paving, Inc | Wolfforth, TX | 1000 | Ton | No Bid | No Bid |
| Vulcan Construction Materials, LLC | San Antonio, TX | 1000 | Ton | No Bid | No Bid |
| #0-8 - 1 3/4" Base Aggregate Flexible Base (Refer to City of Lubbock Engineering Minimum Design Standards and Specifications section 8.08.02) | | | | | |
| West Texas Paving, Inc | Wolfforth, TX | 100 | Ton | 18.00 | 1,800.00 |
| Green Dream International, LLC | Erie, PA | 100 | Ton | 31.35 | 3,135.00 |
| Vulcan Construction Materials, LLC | San Antonio, TX | 100 | Ton | No Bid | No Bid |
| All or None | | | | | |
| Green Dream International (Items 1, 2, 3, 6) | | \$225,225.00 | | | |
| West Texas Paving, Inc. (Items 5 and 8) | | 2,400.00 | | | |
| Vulcan Construction Materials, LLC (Item 4) | | 35,500.00 | | | |

City of Lubbock - Public Works
ITB 22-16221-SB Raw Materials for Public Works
Bid Tabulation Sheet



**Purchasing and Contract Management
Project Summary
ITB 22-16221-SB Raw Materials for Public Works Operations**

Notice was published in the Lubbock Avalanche Journal on October 24 and October 31, 2021.

Notice was published on the Purchasing Web Site under Bid Opportunities.

Notice was published on Bonfire-hub.com from October 22, 2021 to November 9, 2021.

17 vendors took documents from Bonfire-hub.com

9 vendors were notified separately.

3 vendors submitted a bids.

Information

Agenda Item

Resolution - Public Works Streets: Consider a resolution authorizing the Mayor to execute Contract 16339, with Vulcan Construction Materials, LLC, to establish the annual pricing for raw construction materials for construction and repair of streets, alleys, and utility installations.

Item Summary

This contract is a part of an overall project to establish the annual pricing of certain raw materials. These products are used in the Public Works departments as raw material in the construction and repair of streets, alleys and utility installations. The advertised bid document stipulates that the City can award this contract on an "Item by Item" basis. In order to ensure the City gets the best pricing available on a product Staff recommendation as outlined below will be to award item by item to multiple vendors. The original Invitation To Bid (ITB) included 8 bid items in the bid proposal.

In response to ITB 22-116221-SB, bids were received and opened on November 17, 2021, from the following vendors:

Vulcan Construction Materials, LLC, of San Antonio, Texas
Green Dream International, LLC, of Erie, Pennsylvania
West Texas Paving Inc., of Wolfforth, Texas

This contract award is for Bid Item 4, one-inch concrete rock, of ITB 22-1622-SB, Raw Materials for Public Works departments, as shown in the attached Bid Tab Form.

The contract is awarded by the unit price. The total amount of the award is estimated based on expected quantities and actual expenditures may be more or less depending on actual quantities. The price per unit will not change.

Staff is recommending award of Contract 16339 to Vulcan Construction Materials, LLC, of San Antonio, Texas, as vendor for Contract Item 4, for the approximate amount of \$35,500.

Fiscal Impact

Funding is available in the Fiscal Year 2021-22 Operating Budgets of multiple Public Works cost centers.

Staff/Board Recommending

Jesica McEachern, Assistant City Manager
L. Wood Franklin, P.E., Division Director of Public Works

Attachments

Resolution

Contract 16221 - Vulcan Contruction

Bid Tab - Contract 16221, Vulcan Contruction

10389_Bid_Tab_Form (r) - _Item_4 (1)

Project Summary - Contract 16221

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, Service Contract No. 16339 for raw materials for public works operations as per ITB 22-16221-SB, by and between the City of Lubbock and Vulcan Construction Materials, LLC of San Antonio, 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.

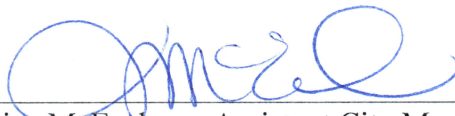
Passed by the City Council on _____.

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

**City of Lubbock, TX
Contract for
Raw Materials for Public Works Operations**

THIS CONTRACT made and entered into this day, _____, by and between the City of Lubbock ("City"), and **Vulcan Construction Materials LLC**, ("Contractor").

WITNESSETH:

WHEREAS, the City of Lubbock duly advertised for bids for **Vulcan Construction Materials LLC** and bids were received and duly opened as required by law; and

WHEREAS, after careful consideration of the bid submitted by Contractor, the City authorized the execution, in the name of the City of Lubbock a contract with said Contractor covering the purchase and delivery of the said **Raw Materials for Public Works Operations**.

NOW, THEREFORE, in consideration of the mutual agreement contained herein, as well as the financial consideration hereinafter referred to, the parties hereby covenant and agree as follows:

1. In accordance with City's specifications and Contractor's bid, copies of which are attached hereto and made part hereof, Contractor will deliver to the City, **Raw Materials for Public Works Operations** and more specifically **Item Four (4)** on the bid submitted by the Contractor or in the specifications attached hereto.
2. The City promises and agrees to employ, and does employ, the Contractor to cause to be done the work provided for in this Contract and to complete and finish the same according to the attached specifications, offer, and terms and conditions contained herein.
3. The contract shall be for a term of one (1) year, with the option of four (4), one year extensions, said date of term beginning upon formal approval. All stated annual quantities are approximations of usage during the time period to be covered by pricing established by this bid. Actual usage may be more or less. Order quantities will be determined by actual need. The City of Lubbock does not guarantee any specific amount of compensation, volume, minimum, or maximum amount of services under this bid and resulting contract. The Contractor must maintain the insurance coverage required during the term of this contract including any extensions. It is the responsibility of the Contractor to ensure that valid insurance is on file with the Purchasing and Contract Management Department as required by contract or contract may be terminated for non-compliance.
4. Prices quoted shall be set for a period for one (1) year, said date of term beginning upon City Council date of formal approval. The rate may be adjusted upward or downward at this time at a percentage not to exceed the effective change in Consumer Price Index (CPI) or Product Price Index (PPI), which ever is most appropriate for the specific contract for the previous 12-months at the City's discretion, the effective change rate shall be based on either the local or national index average rate for all items. If agreement cannot be reached, the contract is terminated at the end of the current contract period.
5. This contract shall remain in effect until the first of the following occurs: (1) the expiration date, (2) performance of services ordered, or (3) termination of by either party with a 30 day written

notice. The City of Lubbock reserves the right to award the canceled contract to the next lowest and best bidder as it deems to be in the best interest of the city.

6. Contractor shall at all times be an independent contractor and not an agent or representative of City with regard to performance of the Services. Contractor shall not represent that it is, or hold itself out as, an agent or representative of City. In no event shall Contractor be authorized to enter into any agreement or undertaking for or on behalf of City.

7. Insurance Requirements

SECTION A. Prior to the approval of this contract by the City, the Contractor shall furnish a completed Insurance Certificate to the City, which shall be completed by an agent authorized to bind the named underwriter(s) to the coverages, limits, and termination provisions shown thereon, and which shall furnish and contain all required information referenced or indicated thereon. THE CITY SHALL HAVE NO DUTY TO PAY OR PERFORM UNDER THIS CONTRACT UNTIL SUCH CERTIFICATE SHALL HAVE BEEN DELIVERED TO THE CITY.

SECTION B. The City reserves the right to review the insurance requirements of this section during the effective period of the contract and to require adjustment of insurance coverages and their limits when deemed necessary and prudent by the City based upon changes in statutory law, court decisions, or the claims history of the industry as well as the Contractor.

SECTION C. Subject to the Contractor's right to maintain reasonable deductibles in such amounts as are approved by the City, the Contractor shall obtain and maintain in full force and effect for the duration of this contract, and any extension hereof, at Contractor's sole expense, insurance coverage written by companies approved by the State of Texas and acceptable to the City, in the following type(s) and amount(s):

| TYPE OF INSURANCE | COMBINED SINGLE LIMIT | |
|--|------------------------|---------------------|
| GENERAL LIABILITY | | |
| <input checked="" type="checkbox"/> Commercial General Liability | General Aggregate | <u>\$2,000,000*</u> |
| <input checked="" type="checkbox"/> Occurrence | | <u>\$1,000,000</u> |
| | Products-Comp/Op AGG | <u>X</u> |
| | Personal & Adv. Injury | <u>X</u> |
| | Contractual Liability | <u>X</u> |
| <i>*can be combined with Excess Liability to meet requirement</i> | | |
| AUTOMOTIVE LIABILITY | | |
| <input checked="" type="checkbox"/> Any Auto | Per Occurrence | <u>\$1,000,000</u> |
| <input checked="" type="checkbox"/> WORKERS COMPENSATION – STATUTORY AMOUNTS OR OCCUPATIONAL MEDICAL AND DISABILITY | | |
| <input checked="" type="checkbox"/> EMPLOYERS' LIABILITY | | <u>\$1,000,000</u> |
| OTHER: COPIES OF ENDOSEMENTS ARE REQUIRED | | |
| <input checked="" type="checkbox"/> City of Lubbock named as additional insured on Auto/General Liability on a primary and non-contributory bases. | | |
| <input checked="" type="checkbox"/> To include products of completed operations endorsement. | | |
| <input checked="" type="checkbox"/> Waiver of subrogation in favor of the City of Lubbock on Commercial General Liability, Automotive Liability and Workers Compensation | | |

IMPORTANT: POLICY ENDORSEMENTS

The Contractor will provide copies of the policies without expense, to the City and all endorsements thereto and may make any reasonable request for deletion, revision, or modification of particular policy terms, conditions, limitations, or exclusions (except where policy provisions are established by law or regulation binding upon either of the parties hereto or the underwriter of any of such policies). Upon such request by the City, the Contractor shall exercise reasonable efforts to accomplish such changes in policy coverages, and shall pay the cost thereof. Any costs will be paid by the Contractor.

REQUIRED PROVISIONS

The Contractor agrees that with respect to the above required insurance, all insurance contracts and certificate(s) of insurance will contain and state, in writing, on the certificate or its attachment, the following required provisions:

- a. Name the City of Lubbock and its officers, employees, and elected representatives as additional insureds, (as the interest of each insured may appear) as to all applicable coverage;
- b. Provide for 30 days notice to the City for cancellation, nonrenewal, or material change; 10 day written notice for non-payment.
- c. Provide for notice to the City at the address shown below by registered mail;
- d. The Contractor agrees to waive subrogation against the City of Lubbock, its officers, employees, and elected representatives for injuries, including death, property damage, or any other loss to the extent same may be covered by the proceeds of insurance;
- e. Provide that all provisions of this contract concerning liability, duty, and standard of care together with the indemnification provision, shall be underwritten by contractual liability coverage sufficient to include such obligations within applicable policies.

NOTICES

The Contractor shall notify the City in the event of any change in coverage and shall give such notices not less than 30 days prior the change, which notice must be accompanied by a replacement CERTIFICATE OF INSURANCE.

All notices shall be given to the City at the following address:

Marta Alvarez, Director of Purchasing & Contract Management
City of Lubbock
1314 Avenue K, 9th Floor
Lubbock, Texas 79401

SECTION D. Approval, disapproval, or failure to act by the City regarding any insurance supplied by the Contractor shall not relieve the Contractor of full responsibility or liability for damages and accidents as set forth in the contract documents. Neither shall the bankruptcy, insolvency, or denial of liability by the insurance company exonerate the Contractor from liability.

8. Neither the City nor the Contractor shall assign, transfer or encumber any rights, duties or interests accruing from this Contract without the written consent of the other.
9. 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.

10. 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 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.
11. All funds for payment by the City under this contract 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 goods or services provided under the contract, the City will terminate the contract, 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 goods or services covered by this contract is spent, whichever event occurs first. If at any time funds are not appropriated for the continuance of this contract, cancellation shall be accepted by the Seller on 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 contract beyond the date of termination.
12. The Contractor shall not assign or sublet the contract, or any portion of the contract, without written consent from the Director of Purchasing and Contract Management. Should consent be given, the Contractor shall insure the Subcontractor or shall provide proof on insurance from the Subcontractor that complies with all contract Insurance requirements.
13. Contractor acknowledges by supplying any Goods or Services that the Contractor has read, fully understands, and will be in full compliance with all terms and conditions and the descriptive material contained herein and any additional associated documents and Amendments. The City disclaims any terms and conditions provided by the Contractor unless agreed upon in writing by the parties. In the event of conflict between these terms and conditions and any terms and conditions provided by the Contractor, the terms and conditions provided herein shall prevail. The terms and conditions provided herein are the final terms agreed upon by the parties, and any prior conflicting terms shall be of no force or effect.
14. The Contractor (i) does not engage in business with Iran, Sudan or any foreign terrorist organization and (ii) it is not listed by the Texas Comptroller under Section 2252.153, Texas Government Code, as a company known to have contracts with or provide supplies or services to a foreign terrorist organization. As used in the immediately preceding sentence, "foreign terrorist organization" shall have the meaning given such term in Section 2252.151, Texas Government Code.
15. **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.

16. 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.
17. The Contractor 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.
18. The Contractor 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 Contractor, its agents, employees, and/or subcontractors, 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.
19. This Contract consists of the following documents set forth herein; Invitation to Bid No. 22-16221-SB and the Bid Form.

-----INTENTIONALLY LEFT BLANK-----

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be executed the day and year first above written. Executed in triplicate.

CITY OF LUBBOCK

Daniel M. Pope, Mayor

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

Mike Gilliland
Mike Gilliland, Director of Public Utilities

APPROVED AS TO FORM:

Kelli Leisure
Kelli Leisure, Assistant City Attorney

CONTRACTOR

BY Julia Farrar
Authorized Representative

Print Name

Address

PO Box 71550
San Antonio, TX 78279
City, State, Zip Code

City of Lubbock
ITB 22-16221-SB
Raw Materials for Public Works Operations
Specifications

1. 500 Tons “00” Backfill Gravel
2. 3000 Tons ½” Base Aggregate (½” Base Course Gravel)
3. 3000 Tons ¾” Base Aggregate (¾” Base Course Gravel)
4. 1000 Tons 1” Concrete Gravel (1” Concrete Rock)
5. 50 Tons Screenings (Crusher Fines)
6. 1000 Tons Concrete Sand
7. 1000 Tons Flowable Backfill (2 Sack Concrete Blend)
8. 100 Tons 1 ¾” Base Aggregate Flexible Base (Refer to City of Lubbock Engineering Minimum Design Standards and Specifications section 8.08.02)

City of Lubbock, TX
Purchasing and Contract Management
Bid Submission Information

In compliance with the **Invitation to Bid**, the undersigned Bidder having examined the Invitation to Bid, instructions to bidders, General Conditions of the Agreement, Specifications, and being familiar with the conditions to be met, hereby submits the following bid for furnishing the material, equipment, labor and everything necessary for providing the items listed and agrees to deliver said items at the locations and for the prices set forth on the bid form and/or the bid table associated with this bid.

A bid will be subject to being considered irregular and may be rejected if it shows omissions, **alterations of form**, conditional alternate bids, additions or alternates in lieu of the items specified, if the unit prices are obviously unbalanced (either in excess of or below reasonably expected values), or irregularities of any kind. The Invitation to Bid is by reference incorporated in this contract.

Where applicable, prices are quoted as: **F.O.B. Destination, Freight Pre-Paid and Allowed**
Where applicable, delivery days are: **Days After Receipt of Order (ARO)**

Unless otherwise specified herein, the City may award the bid either item-by-item or on an all-or-none basis for any item or group of items shown on the bid.

The City of Lubbock is seeking a contract for with one or more contractors. In order to assure adequate coverage, the City may make multiple awards, selecting multiple vendors to provide the products desired, if multiple awards are in the best interest of the City. A decision to make a multiple award of this Bid, however, is an option reserved by the City, based on the needs of the City.

PAYMENT TERMS AND DISCOUNTS - Bidder offers a prompt payment discount of _____%, net _____ calendar days. Discounts will not be considered in determining low bid. Unless otherwise indicated on the Bid Form, payment terms will be NET THIRTY DAYS. The City will pay the successful bidder within thirty days after the receipt of a correct invoice or after the date of acceptance, whichever event occurs later. Discounts for prompt payment requiring payment by the City within a stipulated number of days will be interpreted as applying within the stipulated number of calendar days after the date of receipt by the City of a correct invoice or after the date of acceptance that meets contract requirements, whichever event occurs later. Discounts for payment in less than ten days will not be considered.

MOST FAVORED PRICING: The Bidder certifies that the price quoted is not in excess of the lowest price charged anyone else, including its most favored customer, for like quality and quantity of the products/services; does not include an element of profit on the sale in excess of that normally obtained by the Bidder on the sale of products/services of like quality and quantity; and does not include any provision for discounts to selling agents. If at any time during the contract period, the supplier should sell or offer for sale to any other customer, an equal or less quantity of similar contract products of like or better quality, at a lower net price(s) than provided herein, supplier agrees to notify the City and sell same product(s) at the lower price(s) on all deliveries made during the period in which such lower price(s) is effective.

INTERLOCAL PURCHASING (optional): The City desires to make available to other local governmental entities of the State of Texas, by mutual agreement with the successful bidder, and properly authorized interlocal purchasing agreements as provided for by the Interlocal Cooperation Act (Chapter 791, Government Code), the right to purchase the same services, at the prices quoted, for the period of this contract. Each bidder shall indicate on the Bid Form in the space provided below if he/she will honor Political Subdivision orders in addition to orders from the City of Lubbock. Should these other governmental entities decide to participate in this contract, would you (the bidder) agree that all terms, conditions, specifications, and pricing would apply?

Other governmental entities that might have interests in this contract are Frenship Independent School District, Lubbock Housing Authority, Lubbock County, Lubbock County Hospital District, Lubbock Independent School District, South Plains Association of Governments, City of Texarkana, Texas Tech University, West Texas Municipal Power Agency, Lynn County, and City of Wolfforth.

YES ☒ NO ☐

- If you (the bidder) checked YES, the following will apply:
- Governmental entities utilizing Interlocal Agreements for Cooperative Purchasing with the City of Lubbock will be eligible, but not obligated, to purchase materials/services under the contract(s) awarded as a result of this solicitation. All purchases by governmental entities other than the City of Lubbock will be billed directly to that governmental entity and paid by that governmental entity. City of Lubbock will not be responsible for another governmental entity's debts. Each governmental entity will order their own materials/service as needed.

Addenda

Bidder acknowledges receipt of addenda issued in regard to this solicitation:

Addenda No. _____ Date _____
Addenda No. _____ Date _____
Addenda No. _____ Date _____
Addenda No. _____ Date _____

Insurance Requirements

I, the undersigned Bidder certify that the insurance requirements contained in this bid document have been reviewed by me and my Insurance Agent/Broker. If I am awarded this contract by the City of Lubbock, I will be able to, within ten (10) business days after being notified of such award by the City of Lubbock, furnish a valid insurance certificate to the City meeting all of the requirements defined in this bid.

If the time requirement specified above is not met, the City has the right to reject this proposal and award the contract to another contractor. If you have any questions concerning these requirements, please contact the Director of Purchasing & Contract Management for the City of Lubbock at (806) 775-2572.

Suspension and Debarment Certification

Federal Law (A-102 Common Rule and OMB Circular A-110) prohibits non-Federal entities from contracting with or making sub-awards under covered transactions to parties that are suspended or debarred or whose principals are suspended or debarred. Covered transactions include procurement contracts for goods or services equal to or in excess of \$25,000 and all non-procurement transactions (e.g., sub-awards to sub-recipients).

Contractors receiving individual awards of \$25,000 or more and all sub-recipients must certify that their organization and its principals are not suspended or debarred by a Federal agency. Before an award of \$25,000 or more can be made to your firm, you must certify that your organization and its principals are not suspended or debarred by a Federal agency. I, the undersigned agent for the firm named below, certify that neither this firm nor its principals are suspended or debarred by a Federal agency.

TEXAS GOVERNMENT CODE SECTION 2252.152

The undersigned representative of the undersigned company or business, being an adult over the age of eighteen (18) years of age, pursuant to Texas Government Code, Chapter 2252, Section 2252.152, certify that the company named above is not listed on the website of the Comptroller of the State of Texas concerning the listing of companies that are identified under Section 806.051, Section 807.051 or Section 2253.153. I further certify that should the above-named company enter into a contract that is on said listing of companies on the website of the Comptroller of the State of Texas, which do business with Iran, Sudan or any Foreign Terrorist Organization, I will immediately notify the City of Lubbock Purchasing and Contract Department.

TEXAS GOVERNMENT CODE SECTION 2271.002

Company hereby certifies the following:

1. Company does not boycott Israel; and
2. Company will not boycott Israel during the term of the contract.

The following definitions apply to this state statute:

- (1) "Boycott Israel" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes; and
- (2) "Company" means an organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations that exists to make a profit.

Vendor Acknowledgement

In compliance with this solicitation, the undersigned bidder having examined the invitation to bid, instructions to bidders, documents associated with the invitation to bid, and being familiar with the conditions to be met, has reviewed the information regarding:

- **Insurance Requirements**
- **Suspension and Debarment Certification**
- **Texas Government Code Section 2252.152**
- **Texas Government Code Section 2271.002**

An individual authorized to bind the company must sign the following section. Failure to execute this portion may result in bid rejection.

-----Intentionally Left Blank-----

Submission Information

THIS BID IS SUBMITTED BY Vulcan Construction Materials, LLC
a corporation organized under the laws of the State of Texas, or a partnership consisting
of _____ or individual trading as _____ of
the City of _____


Tax ID No.: 63-1211833

Address: 10101 Reunion Place Ste 500

City: San Antonio State: TX Zip: 78216

| | | | | | | |
|-------------|--------------------------|-------------------|--------------------------|------------------------|--------------------------|-----------------|
| 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) |

Please complete the information below.

By  Date: 11/17/21
Authorized Representative - must sign by hand

Officer Name and Title: Julia Farrar Sales Analyst

Business Telephone Number (210) 965-0419 FAX: (210) 524-3555

E-mail Address: Farrarj@mmcmart.com

Agreement Example

Review

This sample Agreement has been reviewed and

☒ is acceptable

☐ is acceptable as noted

Printed Name: Julia Farrar

Proposer: Vulcan Construction Materials, LLC

Date: 11/17/21

City of Lubbock
ITB 22-16221-SB Raw Materials for Public Works
Bid Form

| Vulcan Construction Materials, LLC of San Antonio, TX | Qty Required | UOM | Unit Price | Extended Cost |
|---|---------------------|----------------|-------------------|----------------------|
| #0-1 - "00" Backfill Gravel | 500 | Ton | No Bid | No Bid |
| #0-2 - 1/2" Base Aggregate (1/2" Base Course Gravel) | 3000 | Ton | No Bid | No Bid |
| #0-3 - 3/4" Base Aggregate (3/4" Base Course Gravel) | 3000 | Ton | No Bid | No Bid |
| #0-4 - 1" Concrete Gravel (1" Concrete Rock) | 1000 | Ton | 35.50 | 35,500.00 |
| #0-5 - Screenings (Crusher Fines) | 50 | Ton | 35.50 | 1,775.00 |
| #0-6 - Concrete Sand | 1000 | Ton | No Bid | No Bid |
| #0-7 - Flowable Backfill (2 Sack Concrete Blend) | 1000 | Ton | No Bid | No Bid |
| #0-8 - 1 3/4" Base Aggregate Flexible Base (Refer to City of Lubbock Engineering Minimum Design Standards and Specifications section 8.08.02) | 100 | Ton | No Bid | No Bid |
| | | | Total | \$35,500.00 |

City of Lubbock - Public Works
ITB 22-16221-SB Raw Materials for Public Works
Bid Tabulation Sheet

| Vendor | Location | Qty Required | UOM | Unit Price | Extended Cost |
|---|-----------------|--------------|-----|------------------|--------------------|
| #0-1 - "00" Backfill Gravel | | | | | |
| Green Dream International, LLC | Erie, PA | 500 | Ton | \$31.35 | \$15,675.00 |
| West Texas Paving, Inc | Wolfforth, TX | 500 | Ton | No Bid | No Bid |
| Vulcan Construction Materials, LLC | San Antonio, TX | 500 | Ton | No Bid | No Bid |
| #0-2 - 1/2" Base Aggregate (1/2" Base Course Gravel) | | | | | |
| Green Dream International, LLC | Erie, PA | 3000 | Ton | 25.85 | 77,550.00 |
| West Texas Paving, Inc | Wolfforth, TX | 3000 | Ton | No Bid | No Bid |
| Vulcan Construction Materials, LLC | San Antonio, TX | 3000 | Ton | No Bid | No Bid |
| #0-3 - 3/4" Base Aggregate (3/4" Base Course Gravel) | | | | | |
| Green Dream International, LLC | Erie, PA | 3000 | Ton | 35.20 | 105,600.00 |
| West Texas Paving, Inc | Wolfforth, TX | 3000 | Ton | No Bid | No Bid |
| Vulcan Construction Materials, LLC | San Antonio, TX | 3000 | Ton | No Bid | No Bid |
| #0-4 - 1" Concrete Gravel (1" Concrete Rock) | | | | | |
| Vulcan Construction Materials, LLC | San Antonio, TX | 1000 | Ton | 35.50 | 35,500.00 |
| Green Dream International, LLC | Erie, PA | 1000 | Ton | 39.60 | 39,600.00 |
| West Texas Paving, Inc | Wolfforth, TX | 1000 | Ton | No Bid | No Bid |
| #0-5 - Screenings (Crusher Fines) | | | | | |
| West Texas Paving, Inc | Wolfforth, TX | 50 | Ton | 12.00 | 600.00 |
| Green Dream International, LLC | Erie, PA | 50 | Ton | 24.20 | 1,210.00 |
| Vulcan Construction Materials, LLC | San Antonio, TX | 50 | Ton | 35.50 | 1,775.00 |
| #0-6 - Concrete Sand | | | | | |
| Green Dream International, LLC | Erie, PA | 1000 | Ton | 26.40 | 26,400.00 |
| West Texas Paving, Inc | Wolfforth, TX | 1000 | Ton | No Bid | No Bid |
| Vulcan Construction Materials, LLC | San Antonio, TX | 1000 | Ton | No Bid | No Bid |
| #0-7 - Flowable Backfill (2 Sack Concrete Blend) | | | | | |
| Green Dream International, LLC | Erie, PA | 1000 | Ton | No Bid | No Bid |
| West Texas Paving, Inc | Wolfforth, TX | 1000 | Ton | No Bid | No Bid |
| Vulcan Construction Materials, LLC | San Antonio, TX | 1000 | Ton | No Bid | No Bid |
| #0-8 - 1 3/4" Base Aggregate Flexible Base (Refer to City of Lubbock Engineering Minimum Design Standards and Specifications section 8.08.02) | | | | | |
| West Texas Paving, Inc | Wolfforth, TX | 100 | Ton | 18.00 | 1,800.00 |
| Green Dream International, LLC | Erie, PA | 100 | Ton | 31.35 | 3,135.00 |
| Vulcan Construction Materials, LLC | San Antonio, TX | 100 | Ton | No Bid | No Bid |
| Green Dream International (Items 1, 2, 3, 6) | | | | \$225,225.00 | |
| West Texas Paving, Inc. (Items 5 and 8) | | | | 2,400.00 | |
| Vulcan Construction Materials, LLC (Item 4) | | | | 35,500.00 | |

City of Lubbock - Public Works
ITB 22-16221-SB Raw Materials for Public Works
Bid Tabulation Sheet

City of Lubbock - Public Works
ITB 22-16221-SB Raw Materials for Public Works
Bid Tabulation Sheet

| Vendor | Location | Qty Required | UOM | Unit Price | Extended Cost |
|---|------------------------|--------------|------------|------------------|--------------------|
| #0-1 - "00" Backfill Gravel | | | | | |
| Green Dream International, LLC | Erie, PA | 500 | Ton | \$31.35 | \$15,675.00 |
| West Texas Paving, Inc | Wolfforth, TX | 500 | Ton | No Bid | No Bid |
| Vulcan Construction Materials, LLC | San Antonio, TX | 500 | Ton | No Bid | No Bid |
| #0-2 - 1/2" Base Aggregate (1/2" Base Course Gravel) | | | | | |
| Green Dream International, LLC | Erie, PA | 3000 | Ton | 25.85 | 77,550.00 |
| West Texas Paving, Inc | Wolfforth, TX | 3000 | Ton | No Bid | No Bid |
| Vulcan Construction Materials, LLC | San Antonio, TX | 3000 | Ton | No Bid | No Bid |
| #0-3 - 3/4" Base Aggregate (3/4" Base Course Gravel) | | | | | |
| Green Dream International, LLC | Erie, PA | 3000 | Ton | 35.20 | 105,600.00 |
| West Texas Paving, Inc | Wolfforth, TX | 3000 | Ton | No Bid | No Bid |
| Vulcan Construction Materials, LLC | San Antonio, TX | 3000 | Ton | No Bid | No Bid |
| #0-4 - 1" Concrete Gravel (1" Concrete Rock) | | | | | |
| Vulcan Construction Materials, LLC | San Antonio, TX | 1000 | Ton | 35.50 | 35,500.00 |
| Green Dream International, LLC | Erie, PA | 1000 | Ton | 39.60 | 39,600.00 |
| West Texas Paving, Inc | Wolfforth, TX | 1000 | Ton | No Bid | No Bid |
| #0-5 - Screenings (Crusher Fines) | | | | | |
| West Texas Paving, Inc | Wolfforth, TX | 50 | Ton | 12.00 | 600.00 |
| Green Dream International, LLC | Erie, PA | 50 | Ton | 24.20 | 1,210.00 |
| Vulcan Construction Materials, LLC | San Antonio, TX | 50 | Ton | 35.50 | 1,775.00 |
| #0-6 - Concrete Sand | | | | | |
| Green Dream International, LLC | Erie, PA | 1000 | Ton | 26.40 | 26,400.00 |
| West Texas Paving, Inc | Wolfforth, TX | 1000 | Ton | No Bid | No Bid |
| Vulcan Construction Materials, LLC | San Antonio, TX | 1000 | Ton | No Bid | No Bid |
| #0-7 - Flowable Backfill (2 Sack Concrete Blend) | | | | | |
| Green Dream International, LLC | Erie, PA | 1000 | Ton | No Bid | No Bid |
| West Texas Paving, Inc | Wolfforth, TX | 1000 | Ton | No Bid | No Bid |
| Vulcan Construction Materials, LLC | San Antonio, TX | 1000 | Ton | No Bid | No Bid |
| #0-8 - 1 3/4" Base Aggregate Flexible Base (Refer to City of Lubbock Engineering Minimum Design Standards and Specifications section 8.08.02) | | | | | |
| West Texas Paving, Inc | Wolfforth, TX | 100 | Ton | 18.00 | 1,800.00 |
| Green Dream International, LLC | Erie, PA | 100 | Ton | 31.35 | 3,135.00 |
| Vulcan Construction Materials, LLC | San Antonio, TX | 100 | Ton | No Bid | No Bid |
| Green Dream International (Items 1, 2, 3, 6) | | | | | |
| | | | | \$225,225.00 | |
| West Texas Paving, Inc. (Items 5 and 8) | | | | | |
| | | | | 2,400.00 | |
| Vulcan Construction Materials, LLC (Item 4) | | | | | |
| | | | | 35,500.00 | |

City of Lubbock - Public Works
ITB 22-16221-SB Raw Materials for Public Works
Bid Tabulation Sheet



**Purchasing and Contract Management
Project Summary
ITB 22-16221-SB Raw Materials for Public Works Operations**

Notice was published in the Lubbock Avalanche Journal on October 24 and October 31, 2021.

Notice was published on the Purchasing Web Site under Bid Opportunities.

Notice was published on Bonfire-hub.com from October 22, 2021 to November 9, 2021.

17 vendors took documents from Bonfire-hub.com

9 vendors were notified separately.

3 vendors submitted a bids.

Information

Agenda Item

Resolution - Public Works Streets: Consider a resolution authorizing the Mayor to execute Contract 16215, with West Texas Paving, Inc., to establish the annual pricing of asphalt materials to repair or replace degraded asphalt paving.

Item Summary

This contract for unit pricing, of various asphalt products used by the Street Maintenance Department, establishes a term of one year, with the option of 4 one-year extensions. These asphalt materials are used to repair damaged asphalt paving caused by utility line maintenance or installation, and to repair and replace failed and degraded asphalt paving. The contract includes 8 items used in asphalt repair, and the advertised bid document stipulates that the City can award this contract on an "Item by Item" basis.

In response to ITB 22-16215-YB, one bid was received and opened on November 17, 2021, from the following vendor:

- West Texas Paving, Inc. of Wolfforth Texas, with a total estimated cost of \$1,116,000

The contract is awarded by the unit price. The total amount of the award is estimated based on proposed quantities and actual expenditures may be more or less depending on actual quantities. The price per unit will not change.

Staff recommends award of this contract to West Texas Paving, Inc., of Wolfforth, Texas, for the assigned item pricing costs, with a total estimated cost of \$1,116,000.

Fiscal Impact

Funding is available in the Fiscal Year 2021-22 Street Maintenance Operating Budget and the Capital Improvement Project 92697, Street Maintenance.

Staff/Board Recommending

Jesica McEachern, Assistant City Manager
L. Wood Franklin, P.E., Division Director of Public Works

Attachments

Resolution - Contract 16215, ITB 22-16215-YB

Contract 16215 - ITB 22-16215-YBicing 2021

Project Summary - ITB 22-16215-YB

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, Service Contract No. 16215 for asphalt materials as per ITB 22-16215-YB, by and between the City of Lubbock and West Texas Paving, Inc. of Wolfforth, 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.

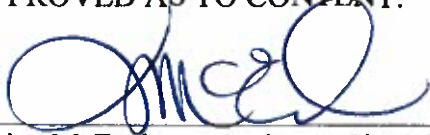
Passed by the City Council on _____.

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

**City of Lubbock
Contract for
Asphalt Materials**

THIS CONTRACT made and entered into this ____ day of _____, 2021, by and between the City of Lubbock ("City"), and **West Texas Paving, Inc.**, ("Contractor").

WITNESSETH:

WHEREAS, the City of Lubbock duly advertised for bids for **Asphalt Materials** and bids were received and duly opened as required by law; and

WHEREAS, after careful consideration of the bid submitted by Contractor, the City authorized the execution, in the name of the City of Lubbock a contract with said Contractor covering the purchase and delivery of the said **Asphalt Materials**.

NOW, THEREFORE, in consideration of the mutual agreement contained herein, as well as the financial consideration hereinafter referred to, the parties hereby covenant and agree as follows:

1. In accordance with City's specifications and Contractor's bid, copies of which are attached hereto and made part hereof, Contractor will deliver to the City, **Asphalt Materials** and more specifically referred to as Items one (1) through eight (8) on the bid submitted by the Contractor or in the specifications attached hereto.
2. The City promises and agrees to employ, and does employ, the Contractor to cause to be done the work provided for in this Contract and to complete and finish the same according to the attached specifications, offer, and terms and conditions contained herein.
3. The contract shall be for a term of one (1) year, with the option of four (4), one year extensions, said date of term beginning upon formal approval. All stated annual quantities are approximations of usage during the time period to be covered by pricing established by this bid. Actual usage may be more or less. Order quantities will be determined by actual need. The City of Lubbock does not guarantee any specific amount of compensation, volume, minimum, or maximum amount of services under this bid and resulting contract. The Contractor must maintain the insurance coverage required during the term of this contract including any extensions. It is the responsibility of the Contractor to ensure that valid insurance is on file with the Purchasing and Contract Management Department as required by contract or contract may be terminated for non-compliance.
4. Prices quoted shall be set for a period for one (1) year, said date of term beginning upon City Council date of formal approval. The rate may be adjusted upward or downward at this time at a percentage not to exceed the effective change in Consumer Price Index (CPI) or Product Price Index (PPI), which ever is most appropriate for the specific contract for the previous 12-months at the City's discretion, the effective change rate shall be based on either the local or national index average rate for all items. If agreement cannot be reached, the contract is terminated at the end of the current contract period.
5. This contract shall remain in effect until the first of the following occurs: (1) the expiration date, (2) performance of services ordered, or (3) termination of by either party with a 30 day written

notice. The City of Lubbock reserves the right to award the canceled contract to the next lowest and best bidder as it deems to be in the best interest of the city.

6. Contractor shall at all times be an independent contractor and not an agent or representative of City with regard to performance of the Services. Contractor shall not represent that it is, or hold itself out as, an agent or representative of City. In no event shall Contractor be authorized to enter into any agreement or undertaking for or on behalf of City.

7. Insurance Requirements

SECTION A. Prior to the approval of this contract by the City, the Contractor shall furnish a completed Insurance Certificate to the City, which shall be completed by an agent authorized to bind the named underwriter(s) to the coverages, limits, and termination provisions shown thereon, and which shall furnish and contain all required information referenced or indicated thereon. **THE CITY SHALL HAVE NO DUTY TO PAY OR PERFORM UNDER THIS CONTRACT UNTIL SUCH CERTIFICATE SHALL HAVE BEEN DELIVERED TO THE CITY.**

SECTION B. The City reserves the right to review the insurance requirements of this section during the effective period of the contract and to require adjustment of insurance coverages and their limits when deemed necessary and prudent by the City based upon changes in statutory law, court decisions, or the claims history of the industry as well as the Contractor.

SECTION C. Subject to the Contractor's right to maintain reasonable deductibles in such amounts as are approved by the City, the Contractor shall obtain and maintain in full force and effect for the duration of this contract, and any extension hereof, at Contractor's sole expense, insurance coverage written by companies approved by the State of Texas and acceptable to the City, in the following type(s) and amount(s):

| TYPE OF INSURANCE | | COMBINED SINGLE LIMIT | |
|--|--|--------------------------|--------------------|
| GENERAL LIABILITY | | | |
| <input checked="" type="checkbox"/> Commercial General Liability | | General Aggregate | <u>\$1,000,000</u> |
| <input type="checkbox"/> Claims Made <input checked="" type="checkbox"/> Occurrence | | Products-Comp/Op AGG | <u>X</u> |
| <input type="checkbox"/> W/Heavy Equipment | | Personal & Adv. Injury | <u>X</u> |
| <input type="checkbox"/> To Include Products of Complete Operation Endorsements | | Contractual Liability | <u>X</u> |
| | | Med Exp (Any one Person) | <u>X</u> |
| AUTOMOTIVE LIABILITY | | | |
| <input checked="" type="checkbox"/> Any Auto <input type="checkbox"/> All Owned Autos | | Per Occurrence | <u>\$1,000,000</u> |
| | | | |
| <input checked="" type="checkbox"/> WORKERS COMPENSATION – STATUTORY AMOUNTS OR | | | <u>\$500,000</u> |
| OCCUPATIONAL MEDICAL AND DISABILITY | | | |
| <input checked="" type="checkbox"/> EMPLOYERS' LIABILITY | | | <u>\$1,000,000</u> |
| OTHER: COPIES OF ENDOSEMENTS ARE REQUIRED | | | |
| <input checked="" type="checkbox"/> City of Lubbock named as additional insured on Auto/General Liability on a primary and non-contributory bases. | | | |
| <input checked="" type="checkbox"/> To include products of completed operations endorsement. | | | |
| <input checked="" type="checkbox"/> Waiver of subrogation in favor of the City of Lubbock on all coverages, except _____ | | | |

IMPORTANT: POLICY ENDORSEMENTS

The Contractor will provide copies of the policies without expense, to the City and **all endorsements** thereto and may make any reasonable request for deletion, revision, or modification of particular policy terms, conditions, limitations, or exclusions (except where policy provisions are established by law or regulation binding upon either of the parties hereto or the underwriter of any of such policies). Upon such request by the City, the Contractor shall exercise reasonable efforts to accomplish such changes in policy coverages, and shall pay the cost thereof. Any costs will be paid by the Contractor.

REQUIRED PROVISIONS

The Contractor agrees that with respect to the above required insurance, all insurance contracts and certificate(s) of insurance will contain and state, in writing, on the certificate or its attachment, the following required provisions:

- a. Name the City of Lubbock and its officers, employees, and elected representatives as additional insureds, (as the interest of each insured may appear) as to all applicable coverage;
- b. Provide for 30 days notice to the City for cancellation, nonrenewal, or material change;
- c. Provide for notice to the City at the address shown below by registered mail;
- d. The Contractor agrees to waive subrogation against the City of Lubbock, its officers, employees, and elected representatives for injuries, including death, property damage, or any other loss to the extent same may be covered by the proceeds of insurance;
- e. Provide that all provisions of this contract concerning liability, duty, and standard of care together with the indemnification provision, shall be underwritten by contractual liability coverage sufficient to include such obligations within applicable policies.

NOTICES

The Contractor shall notify the City in the event of any change in coverage and shall give such notices not less than 30 days prior the change, which notice must be accompanied by a replacement **CERTIFICATE OF INSURANCE**.

All notices shall be given to the City at the following address:

Marta Alvarez, Director of Purchasing & Contract Management
City of Lubbock
1314 Avenue K, 9th Floor
Lubbock, Texas 79401

SECTION D. Approval, disapproval, or failure to act by the City regarding any insurance supplied by the Contractor shall not relieve the Contractor of full responsibility or liability for damages and accidents as set forth in the contract documents. Neither shall the bankruptcy, insolvency, or denial of liability by the insurance company exonerate the Contractor from liability.

8. Neither the City nor the Contractor shall assign, transfer or encumber any rights, duties or interests accruing from this Contract without the written consent of the other.
9. 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.
10. 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 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.

11. All funds for payment by the City under this contract 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 goods or services provided under the contract, the City will terminate the contract, 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 goods or services covered by this contract is spent, whichever event occurs first. If at any time funds are not appropriated for the continuance of this contract, cancellation shall be accepted by the Seller on 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 contract beyond the date of termination.
12. The Contractor shall not assign or sublet the contract, or any portion of the contract, without written consent from the Director of Purchasing and Contract Management. Should consent be given, the Contractor shall insure the Subcontractor or shall provide proof on insurance from the Subcontractor that complies with all contract Insurance requirements.
13. Contractor acknowledges by supplying any Goods or Services that the Contractor has read, fully understands, and will be in full compliance with all terms and conditions and the descriptive material contained herein and any additional associated documents and Amendments. The City disclaims any terms and conditions provided by the Contractor unless agreed upon in writing by the parties. In the event of conflict between these terms and conditions and any terms and conditions provided by the Contractor, the terms and conditions provided herein shall prevail. The terms and conditions provided herein are the final terms agreed upon by the parties, and any prior conflicting terms shall be of no force or effect.
14. The Contractor (i) does not engage in business with Iran, Sudan or any foreign terrorist organization and (ii) it is not listed by the Texas Comptroller under Section 2252.153, Texas Government Code, as a company known to have contracts with or provide supplies or services to a foreign terrorist organization. As used in the immediately preceding sentence, "foreign terrorist organization" shall have the meaning given such term in Section 2252.151, Texas Government Code.
15. **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.

16. 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.

17. The Contractor 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.
18. The Contractor 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 Contractor, its agents, employees, and/or subcontractors, 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.
19. This Contract consists of the following documents set forth herein; Invitation to Bid No. 22-16215-YB, Specifications, and the Bid Form.

-----INTENTIONALLY LEFT BLANK-----

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be executed the day and year first above written. Executed in triplicate.

CITY OF LUBBOCK

Daniel M. Pope, Mayor

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

John Franklin *for*
L. Wood Franklin, P.E.
Director of Public Works

APPROVED AS TO FORM:

Kelli Moore
Kelli Leisure, Assistant City Attorney

CONTRACTOR

BY *Darrell Jarnagin*
West Texas Paving, Inc.

DARRELL JARNAGIN
Print Name

10104 ALCOVE AVE
Address

WORTH TX 79382
City, State, Zip Code

II. GENERAL CONDITIONS

**** PLEASE READ CAREFULLY ****

These General Conditions apply to all bids and become a part of the terms and conditions of any bid submitted. The City shall mean the City of Lubbock.

- 1 **Quantities:** The quantities appearing in this Invitation to Bid are approximate only and the City reserves the right to increase, decrease or delete any or all items. If the quantities of materials to be furnished are increased, such increase shall be paid for according to the unit prices established for the item. In making its bid hereunder, the Seller expressly recognizes the rights of the City provided herein, and further recognizes that the Seller shall have no claims against the City for anticipated profits for the quantities called for, diminished or deleted.
- 2 **Product Guarantee:** Seller guarantees equipment or product offered will meet or exceed specifications identified in this bid invitation. The Seller shall, upon request, replace any equipment or product proved to be defective and make any and all adjustments necessary without any expense to the City. If at any time, the equipment or product cannot satisfactorily meet the requirements of the specifications, the Seller shall upon written request from the City, promptly remove such equipment or product without any further expense to the City. At the City's request, Seller will provide evidence sufficient to demonstrate such equipment or product meets the foregoing.
- 3 **Invoices:** Seller shall submit separate invoices, in duplicate, on each purchase order or purchase release after each delivery. Invoices shall indicate the purchase order or purchase release number and the supply agreement number if applicable. Invoices shall be itemized and transportation charges, if any, shall be listed separately. A copy of the bill of lading, and the freight waybill when applicable, shall be attached to the invoice. Mail to Accounts Payable, City of Lubbock, P.O. Box 2000, Lubbock, Texas 79457. Payment shall not be due unless and until the Seller shall not be in default under the terms of the contract, and until the above instruments are submitted after delivery. CITY MAY MAKE PAYMENTS FOR PURCHASES UNDER THIS CONTRACT USING THE CITY'S MASTERCARD PURCHASING CARD (PCARD). THE SELLER AGREES TO ACCEPT PCARD PAYMENTS WITHOUT ANY ADDITIONS OR SURCHARGES.
- 4 **Delivery Delay:** When delivery delay can be foreseen, the Seller shall give prior notice to the Purchasing Director, who shall have the right to extend the delivery date if reasons for delay appear acceptable. The Seller must keep the Purchasing Director informed at all times of the status of the order.
- 5 **Damage Assessment:** Default in any manner under the contract, including, but not limited to default on promised delivery, without acceptable reasons, or failure to meet specifications hereunder authorizes the Purchasing Director to purchase goods elsewhere and charge any increase in cost and handling to the defaulting Seller, and/or exercise any and all rights available to it by law, equity and/or under the terms of the contract. Every effort will be made by the Purchasing Office to locate the goods at the same or better price as than originally contracted.
- 6 **Late Delivery Fee:** The City will also have the option to charge the vendor a fee of \$50.00 per vehicle per day for late delivery. Late fee applies when vendor has not requested and received prior written permission and approval from the ordering entity to make delivery after the number of days established by the contract or the purchase.
- 7 **Packaging:** Seller will package goods in accordance with good commercial practice. Each shipping container shall be clearly and permanently marked as follows: (a) Seller's name and address. (b) Consignee's name, address and purchase order or purchase release number and the supply agreement number if applicable, (c) Container number and total number of containers, e.g., box 1 of 4 boxes, and (d) the number of the container bearing the packing slip. Seller shall bear cost of packaging unless otherwise provided. Goods shall be suitably packed to secure lowest transportation costs and to conform with requirements of common carriers and any applicable specifications. The City's count or weight shall be final and conclusive on shipments not accompanied by packing lists.
- 8 **Delivery Time:** Deliveries will be accepted only during receiving hours: 9:00 A.M. - 3:30 P.M., Monday through Friday, except on City holidays, at the designated location.
- 9 **Damage:** The City assumes no liability for goods delivered in damaged or unacceptable condition. The Seller must handle all claims with carriers, and in case of damaged goods, shall ship replacement goods immediately upon notification by the City.
- 10 **No Warranty By The City Against Infringements:** As part of the contract for sale, Seller agrees to ascertain whether goods manufactured in accordance with the specifications attached to the contract will give rise to the rightful claim of any third person by way of infringement of the like. The City makes no warranty that the production of goods according to the specification will not give rise to such a claim, and in no event shall The City be liable to Seller for indemnification in the event that Seller is sued on the grounds of infringement or the like. If Seller is of the opinion that an infringement or the like will result, he will notify the City to this effect in writing within two weeks after the signing of the contract. If the City does not receive notice and is subsequently held liable for the infringement or the like, Seller will save The City harmless. If Seller in good faith ascertains the production of the goods in accordance with the specifications will result in infringement or the like, the contract shall be null and void.
- 11 **Material Safety Data Sheets:** Seller shall provide the City of Lubbock with current Material Safety Data Sheets (MSDS) for each chemical defined as hazardous under the Texas Hazard Communication Act (every chemical bearing any manner of warning label on the container) to comply with provisions of the Texas Hazard Communication Act, Title 6, Subchapter D, Chapter 502, Texas Health and Safety Code Ann. (This Act is corollary to OSHA Standard 29 CRF 1910.1200, which is generally known as the Right to Know Law.)

- 12 Shipment Under Reservation Prohibited: Seller is not authorized to ship the goods under reservation and no tender of a bill of lading will operate as a tender of goods.
- 13 Title & Risk Of Loss: The title and risk of loss of the goods shall not pass to the City until the City actually receives and takes possession of the goods at the point or points of delivery as provided herein.
- 14 No Replacement of Defective Tender: Every tender of delivery of goods must fully comply with all provisions of the contract as to time of delivery, quality and the like. If a tender is made which does not fully conform, this shall constitute a breach of the contract and Seller shall not have the right to substitute a conforming tender, provided, where the time for performance has not yet expired, the Seller may reasonably notify the City of his intention to cure and may then make a conforming tender within the Contract time but not afterward.
- 15 Gratuities: The City may, by written notice to the Seller, cancel the contract or purchase order without liability to Seller if it is determined by the City that gratuities, in the form of entertainment, gifts or otherwise, were offered or given by the Seller, or any agent or representative of the Seller, to any officer or employee of the City of Lubbock with a view toward securing a contract or securing favorable treatment with respect to the awarding or amending, or the making of any determinations with respect to the performing of such a contract. In the event the Contract is canceled by the City pursuant to this provision, the City shall be entitled, in addition to any other rights and remedies, to recover or withhold the amount of the cost incurred by Seller in providing such gratuities.
- 16 Special Tools & Test Equipment: If the price stated on the face hereof includes the cost of any special tooling or special test equipment fabricated or required by Seller for the purpose of filing this order, such special tooling or equipment and any process sheets related thereto shall become the property of the City and to the extent feasible shall be identified by the Seller as such.
- 17 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.
- 18 Warranty-Price: a. The price to be paid by the City shall be that contained in Seller's bid which Seller warrants to be no higher than Seller's current prices on orders by other parties for products of the kind and specification covered by the contract for similar quantities under similar or like conditions and methods of purchase. In the event Seller breaches this warranty, the prices of the items shall be reduced to the Seller's current prices on orders by other, or in the alternative. The City may cancel the contract without liability to Seller for breach or Seller's actual expenses. b. The Seller warrants that no person or selling agency has been employed or retained to solicit or secure the contract upon an agreement or understanding for commission, percentage brokerage, or contingent fee excepting bona fide employees of bona fide established commercial or selling agencies maintained by the Seller for the purpose of securing business. For breach or violation of this warranty the City shall have the right in addition to any other right or rights to cancel the contract without liability and to deduct from the Contract price, or otherwise recover the full amount of such claimed commission, percentage, brokerage, or contingent fee.
- 19 Safety Warranty: Seller warrants that the product sold to the City shall conform to the standards promulgated by the U. S. Department of Labor under the Occupational Safety and Health Act of 1970 and/or any other governmental agency standards or regulations. In the event the product does not conform to each OSHA or other standards, Seller shall be in default hereunder, and the City may exercise any of the remedy provided for herein, including but not limited to return of the product for correction or replacement at the Seller's expense. In the event Seller fails to make the appropriate correction within a reasonable time, correction made by the City will be at the Seller's expense
- 20 Right of Inspection: The City shall have the right to inspect the goods at delivery before accepting them.
- 21 Vendor retrieval of Vehicles: Vendor shall remove noncompliant vehicles (s) from City premises within five working days after receiving written notification from the ordering entity. If vehicle is not removed by vendor within the five working days time frame, the city may arrange for vehicles to be removed and secured by a local towing and storage facility. Vendor will be responsible for payment of all related towing and storage charges. The City will not be responsible for payment of all related towing and storage charges. The City will not be responsible for liable for damage or loss of noncompliant vehicles with remain on City premises, or which are removed by towing company, five working days after vendor is notification.
- 22 Cancellation: The City shall have the right to cancel for default all or any part of the undelivered portion of this order if Seller breaches any of the terms hereof including warranties of Seller or if the Seller becomes insolvent and/or files bankruptcy or has bankruptcy filed against it. Such right to cancellation is in addition to and not in lieu of any other remedies which the City may have in law, equity or hereunder.
- 23 Termination: the City may terminate the contract or purchase order in whole, or in part. Termination hereunder shall be effected by the delivery to the Seller of a "Notice of Termination" specifying the extent to which the contract or purchase order is terminated and the date upon which such termination becomes effective. In the event of said termination, in whole or in part, provided that Seller shall not be in default under the Contract, the Seller shall be entitled to payment only for goods actually delivered, and/or services actually performed under and in compliance with the terms of the contract or purchase order.
- 24 Force Majeure: Neither party shall be held responsible for losses or damages hereunder, if the fulfillment of any terms of provisions of the contract is delayed or prevented by strike, walkouts, acts of God, or public enemy, fire, or flood.

- 25 **Assignment-Delegation:** No right or interest in the contract shall be assigned or delegation of any obligation made by Seller without the written permission of the City. Any attempted assignment or delegation by Seller shall be wholly void and totally ineffective for all purposes unless made in conformity with this paragraph.
- 26 **Waiver:** No claim or right arising out of a breach of the contract can be discharged in whole or in part by a waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is in writing signed by the aggrieved party.
- 27 **Interpretation-Parole Evidence:** This writing, plus any specifications for bids and performance provided by the City in its advertisement for bids and any other document provided by Seller as part of his bid, is intended by the parties as a final expression of their agreement and is intended also as a complete and exclusive statement of the terms of their agreement. Whenever a term defined by the Uniform Commercial Code is used in the contract, the definition contained in the Code is to control.
- 28 **Applicable Law:** The Contract shall be governed by the Uniform Commercial Code. Wherever the term "Uniform Commercial Code" is used, it shall be construed as meaning the Uniform Commercial Code as adopted in the State of Texas as effective and in force on the date of the contract.
- 29 **Right To Assurance:** Whenever one party to the contract in good faith has reason to question the other party's intent to perform he may demand that the other party give written assurance of this intent to perform. In the event that a demand is made and no assurance is given within five (5) days, the demanding party may treat this failure as an anticipatory repudiation of the Contract.
- 30 **Indemnification:** Seller shall indemnify, defend, keep and save harmless the City, its agents, officials and employees, against all injuries, deaths, loss, damages, claims, patent claims, suits, liabilities, judgments, costs and expenses, which may in anywise arise or accrue against the City in consequence of the granting of the contract or which may anywise result there from, whether or not it shall be alleged or determined that the act was caused through negligence or omission of the Seller or its employees, or of the subcontractor or assignee or its employees, if any, and the Seller shall, at his own expense, appear, defend and pay all charges of attorneys and all costs and other expenses arising there from or incurred in connection therewith, and, if any judgment shall be rendered against the City in any such action, the Seller shall, at its own expenses, satisfy discharge the same. Seller expressly understands and agrees that any bond required by the contract, or otherwise provided by Seller, shall in no way limit the responsibility to indemnify, keep and save harmless and defend the City as herein provided.
- 31 **Nonappropriation:** All funds for payment by the City under this contract are subject to the availability of an annual appropriation for this purpose by the City. In the event of nonappropriation of funds by the City Council of the City of Lubbock for the goods or services provided under the contract, the City will terminate the contract, 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 goods or services covered by this contract is spent, whichever event occurs first. If at any time funds are not appropriated for the continuance of this contract, cancellation shall be accepted by the Seller 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 contract beyond the date of termination.
- 32 **Time:** It is hereby expressly agreed and understood that time is of the essence for the performance of the contract, and failure by Seller to meet the time specifications of the contract will cause Seller to be in default of the contract.
- 33 **Silence of Specification:** The apparent silence of specifications as to any detail, or the apparent omission from it of a detailed description concerning any point, shall be regarded as meaning that only the best commercial products and practices are to prevail and that only material and workmanship of the finest quality are to be used. All interpretations of the specifications in this bid shall be made on the basis of this statement. The items furnished under this contract shall be new, unused, of the latest product in production to commercial trade, and shall be of the highest quality as to materials used and workmanship. Manufacturer furnishing these shall be experienced in design and construction of such items and shall be an established supplier of the item bid.
- 34 **Environmental Stewardship**

The City of Lubbock is fully committed to environmental excellence. It is the policy of the City to demonstrate sound environmental performance by controlling and mitigating the environmental impact of City activities, operations, and services. This commitment extends to the procurement and contracting process. Contractors and suppliers selected to provide services and materials to the City are required to uphold an equally high standard. To that end all contractors and suppliers hired by the City agree to maintain full compliance with any and all applicable environmental regulations. In addition, contractors and suppliers agree to implement whatever processes and procedures necessary to reduce and eliminate pollution and wastes and conserve natural resources while under contract with the City. To the greatest extent possible, while still delivering the highest quality service or material, City contractors and suppliers, as well as any sub-contractors under their supervision, will:

- minimize waste and pollution generation;
- conserve natural resources and energy;
- minimize the use of hazardous materials by choosing the least toxic - yet effective - materials and products;
- use the highest available post-consumer content materials and products;
- recycle and/or reuse as much as is possible, waste materials; and
- incorporate into project design energy efficient fixtures, appliances and mechanical equipment.

35. 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.

36. CONTRACTOR ACKNOWLEDGES.

Contractor acknowledges by supplying any Goods or Services that the Contractor has read, fully understands, and will be in full compliance with all terms and conditions and the descriptive material contained herein and any additional associated documents and Amendments. The City disclaims any terms and conditions provided by the Contractor unless agreed upon in writing by the parties. In the event of conflict between these terms and conditions and any terms and conditions provided by the Contractor, the terms and conditions provided herein shall prevail. The terms and conditions provided herein are the final terms agreed upon by the parties, and any prior conflicting terms shall be of no force or effect.

37. CONFIDENTIALITY

The Contractor 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.

38. INDEMNITY

The Contractor 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 Contractor, its agents, employees, and/or subcontractors, 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.

Specifications and Bid Form

ITB 22-16215-YB
Asphalt Materials

| ITEM | QTY (+/-) (A) | UNIT OF MEASUR E | DESCRIPTION | UNIT PRICE* BID (B) | EXTENDED COST =(A X B) | Delivery Days ARO** |
|---------------|---------------------|------------------------|--|---------------------------|------------------------------|---------------------------|
| 1. | 500 | Ton | Asphalt Stabilized Base (Refer to City of Lubbock Engineering Minimum Design Standards and Specifications, section 8.08.03) | \$ | | |
| 2. | 3,500 | Ton | TxDOT HMA Type C | | | |
| 3. | 3,500 | Ton | TxDOT HMA Type D | | | |
| 4. | 2,000 | Ton | TxDOT HMA Type C (to include price to deliver on-site) | | | |
| 5. | 2,000 | Ton | TxDOT HMA Type D (to include price to deliver on-site) | | | |
| 6. | 500 | Ton | Cold Mix (TxDOT approved) | | | |
| 7. | 3,000 | GAL | MC 30 Prime Oil (TxDOT Approved) | | | |
| 8. | 3,000 | GAL | PG, AC-10 Tack Oil (TxDOT Approved) | | | |
| Total: | | | | | | |

**City of Lubbock, TX
Purchasing and Contract Management
Bid Submission Information**

In compliance with the **Invitation to Bid**, the undersigned Bidder having examined the Invitation to Bid, instructions to bidders, General Conditions of the Agreement, Specifications, and being familiar with the conditions to be met, hereby submits the following bid for furnishing the material, equipment, labor and everything necessary for providing the items listed and agrees to deliver said items at the locations and for the prices set forth on the bid form and/or the bid table associated with this bid.

A bid will be subject to being considered irregular and may be rejected if it shows omissions, **alterations of form**, conditional alternate bids, additions or alternates in lieu of the items specified, if the unit prices are obviously unbalanced (either in excess of or below reasonably expected values), or irregularities of any kind. The Invitation to Bid is by reference incorporated in this contract.

Where applicable, prices are quoted as: **F.O.B. Destination, Freight Pre-Paid and Allowed**
Where applicable, delivery days are: **Days After Receipt of Order (ARO)**

Unless otherwise specified herein, the City may award the bid either item-by-item or on an all-or-none basis for any item or group of items shown on the bid.

The City of Lubbock is seeking a contract for with one or more contractors. In order to assure adequate coverage, the City may make multiple awards, selecting multiple vendors to provide the products desired, if multiple awards are in the best interest of the City. A decision to make a multiple award of this Bid, however, is an option reserved by the City, based on the needs of the City.

PAYMENT TERMS AND DISCOUNTS - Bidder offers a prompt payment discount of _____%, net _____ calendar days. Discounts will not be considered in determining low bid. Unless otherwise indicated on the Bid Form, payment terms will be **NET THIRTY DAYS**. The City will pay the successful bidder within thirty days after the receipt of a correct invoice or after the date of acceptance, whichever event occurs later. Discounts for prompt payment requiring payment by the City within a stipulated number of days will be interpreted as applying within the stipulated number of calendar days after the date of receipt by the City of a correct invoice or after the date of acceptance that meets contract requirements, whichever event occurs later. Discounts for payment in less than ten days will not be considered.

MOST FAVORED PRICING: The Bidder certifies that the price quoted is not in excess of the lowest price charged anyone else, including its most favored customer, for like quality and quantity of the products/services; does not include an element of profit on the sale in excess of that normally obtained by the Bidder on the sale of products/services of like quality and quantity; and does not include any provision for discounts to selling agents. If at any time during the contract period, the supplier should sell or offer for sale to any other customer, an equal or less quantity of similar contract products of like or better quality, at a lower net price(s) than provided herein, supplier agrees to notify the City and sell same product(s) at the lower price(s) on all deliveries made during the period in which such lower price(s) is effective.

INTERLOCAL PURCHASING (optional): The City desires to make available to other local governmental entities of the State of Texas, by mutual agreement with the successful bidder, and properly authorized interlocal purchasing agreements as provided for by the Interlocal Cooperation Act (Chapter 791, Government Code), the right to purchase the same services, at the prices quoted, for the period of this contract. Each bidder shall indicate on the Bid Form in the space provided below if he/she will honor Political Subdivision orders in addition to orders from the City of Lubbock. Should these other governmental entities decide to participate in this contract, would you (the bidder) agree that all terms, conditions, specifications, and pricing would apply?

City of Lubbock
ITB 22-16215-YB
Asphalt Materials
Bid Form

West Texas Paving, Inc.

| Items | Quantity Required | UOM | Delivery Days ARO | Unit Price | Total Cost |
|---|----------------------|-----|-------------------------|---------------|----------------|
| #0-1 Asphalt Stabilized Base (Refer to City of Lubbock Engineering Minimum Design Standards and Specifications, | 500 | Ton | 1 | \$85.00 | \$42,500.00 |
| #0-2 TxDOT HMAC Type C | 3500 | Ton | 1 | \$88.00 | \$308,000.00 |
| #0-3 TxDOT HMAC Type D | 3500 | Ton | 1 | \$88.00 | \$308,000.00 |
| #0-4 TxDOT HMAC Type C (To include price to deliver on-site) | 2000 | Ton | 1 | \$93.00 | \$186,000.00 |
| #0-5 TxDOT HMAC Type D (To include price to deliver on-site) | 2000 | Ton | 1 | \$93.00 | \$186,000.00 |
| #0-6 Cold Mix (TxDOT Approved) | 500 | Ton | 1 | \$99.00 | \$49,500.00 |
| #0-7 MC 30 Prime Oil (TxDOT Approved) | 3000 | Gal | 1 | \$6.00 | \$18,000.00 |
| #0-8 PG, AC-10 Tack Oil (TxDOT Approved) | 3000 | Gal | 1 | \$6.00 | \$18,000.00 |
| Total Cost | | | | | \$1,116,000.00 |

Other governmental entities that might have interests in this contract are Frenship Independent School District, Lubbock Housing Authority, Lubbock County, Lubbock County Hospital District, Lubbock Independent School District, South Plains Association of Governments, City of Texarkana, Texas Tech University, West Texas Municipal Power Agency, Lynn County, and City of Wolfforth.

YES ☒ NO ☐

- If you (the bidder) checked YES, the following will apply:
- Governmental entities utilizing Interlocal Agreements for Cooperative Purchasing with the City of Lubbock will be eligible, but not obligated, to purchase materials/services under the contract(s) awarded as a result of this solicitation. All purchases by governmental entities other than the City of Lubbock will be billed directly to that governmental entity and paid by that governmental entity. City of Lubbock will not be responsible for another governmental entity's debts. Each governmental entity will order their own materials/service as needed.

Addenda

Bidder acknowledges receipt of addenda issued in regard to this solicitation:

Addenda No. 1 Date 10/26/21
Addenda No. 2 Date 11/9/21
Addenda No. _____ Date _____
Addenda No. _____ Date _____

Insurance Requirements

I, the undersigned Bidder certify that the insurance requirements contained in this bid document have been reviewed by me and my Insurance Agent/Broker. If I am awarded this contract by the City of Lubbock, I will be able to, within ten (10) business days after being notified of such award by the City of Lubbock, furnish a valid insurance certificate to the City meeting all of the requirements defined in this bid.

If the time requirement specified above is not met, the City has the right to reject this proposal and award the contract to another contractor. If you have any questions concerning these requirements, please contact the Director of Purchasing & Contract Management for the City of Lubbock at (806) 775-2572.

Suspension and Debarment Certification

Federal Law (A-102 Common Rule and OMB Circular A-110) prohibits non-Federal entities from contracting with or making sub-awards under covered transactions to parties that are suspended or debarred or whose principals are suspended or debarred. Covered transactions include procurement contracts for goods or services equal to or in excess of \$25,000 and all non-procurement transactions (e.g., sub-awards to sub-recipients).

Contractors receiving individual awards of \$25,000 or more and all sub-recipients must certify that their organization and its principals are not suspended or debarred by a Federal agency. Before an award of \$25,000 or more can be made to your firm, you must certify that your organization and its principals are not suspended or debarred by a Federal agency. I, the undersigned agent for the firm named below, certify that neither this firm nor its principals are suspended or debarred by a Federal agency.

TEXAS GOVERNMENT CODE SECTION 2252.152

The undersigned representative of the undersigned company or business, being an adult over the age of eighteen (18) years of age, pursuant to Texas Government Code, Chapter 2252, Section 2252.152, certify that the company named above is not listed on the website of the Comptroller of the State of Texas concerning the listing of companies that are identified under Section 806.051, Section 807.051 or Section 2253.153. I further certify that should the above-named company enter into a contract that is on said listing of companies on the website of the Comptroller of the State of Texas, which do business with Iran, Sudan or any Foreign Terrorist Organization, I will immediately notify the City of Lubbock Purchasing and Contract Department.

TEXAS GOVERNMENT CODE SECTION 2271.002

Company hereby certifies the following:

1. Company does not boycott Israel; and
2. Company will not boycott Israel during the term of the contract.

The following definitions apply to this state statute:

- (1) "Boycott Israel" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes; and
- (2) "Company" means an organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations that exists to make a profit.

Vendor Acknowledgment

In compliance with this solicitation, the undersigned bidder having examined the invitation to bid, instructions to bidders, documents associated with the invitation to bid, and being familiar with the conditions to be met, has reviewed the information regarding:

- **Insurance Requirements**
- **Suspension and Debarment Certification**
- **Texas Government Code Section 2252.152**
- **Texas Government Code Section 2271.002**

An individual authorized to bind the company must sign the following section. Failure to execute this portion may result in bid rejection.

-----Intentionally Left Blank-----

Submission Information

THIS BID IS SUBMITTED BY West Texas Paving, Inc.

a corporation organized under the laws of the State of Texas, or a partnership consisting of _____ or individual trading as _____ of the City of _____

Tax ID No.: 75-2028682

Address: 10104 Alcove Ave

City: Wolfforth State: TX Zip: 79382

| | | | | | | |
|-------------|--------------------------|-------------------|--------------------------|------------------------|--------------------------|-----------------|
| 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) |

Please complete the information below.

By Marshal Jarnagin Date: 10/27/21
Authorized Representative - must sign by hand

Officer Name and Title: Marshal Jarnagin, CFO

Business Telephone Number 806-833-2882 FAX: 806-833-2884

E-mail Address: marshal@wtxpaving.com



**Purchasing and Contract Management
Project Summary**

ITB 22-16215-YB Asphalt Materials

Notice was published in the Lubbock Avalanche Journal on October 24 and October 31, 2021.

Notice was published on the Purchasing Web Site under Bid Opportunities.

Notice was published on Bonfire-hub.com from October 22, 2021 to November 17, 2021.

9 vendors were notified separately.

1 vendor submitted a bid.

Information

Agenda Item

Resolution - Public Works Streets: Consider a resolution authorizing the Mayor to execute Contract 16300, with Ti-Zak Concrete, Inc., for Concrete Repair and Patching Project in the 2022 Street Maintenance Program.

Item Summary

This project will provide for the repair of failed concrete curbs, ramps and valley gutters in the public road system in targeted areas. These targeted areas will then be ready for an overlay treatment the following year, the final step towards having the road system in superior condition.

In response to ITB 22-163000-YB, bids were received and opened on December 28, 2021. They were as follows:

| Contractor | Amount |
|--|-------------|
| Ti-Zack Concrete, Inc., Le Center, Minnesota | \$1,583,000 |
| Blackstone Concrete Ventures, Lubbock, Texas | \$1,586,550 |
| M H Civil, Amarillo, Texas | \$1,710,000 |

Time for completion is 180 consecutive calendar days with liquidated damages of \$1,204.28 per day for each consecutive calendar day after substantial completion, for completion of this project.

This contract is awarded by unit price. The total amount of the award is estimated based on estimated quantities, actual expenditures may be more or less depending on actual needs the price per unit will not change, and expenditures will not exceed appropriated funds.

Staff recommends award to the lowest bidder, Ti-Zack Concrete Inc. for the estimated amount of \$1,583,500.

Fiscal Impact

Funding for this project is established in the Fiscal Year 2021-22 Capital Improvement Project 92697 Street Maintenance.

Staff/Board Recommending

Jesica McEachern, Assistant City Manager
L. Wood Franklin, P.E., Division Director of Public Works

Attachments

Resolution - Ti-Zack Concrete

Bid Form - Ti-Zack Concrete

Budget Detail

CIP Detail

Project Summary ITB 16300-YB Concrete Patching

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. 16300 for concrete patching as per ITB 22-16300-YB, by and between the City of Lubbock and Ti-Zack Concrete, Inc., of Le Center, Minnesota, 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

**BID SUBMITTAL FORM
BID CONTRACT**

DATE: 12/28/2021

PROJECT NUMBER: **ITB 22-16300-YB, ITB Concrete Patching**

Bid of Ti-Zack Concrete, Inc. (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 within **180 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 **\$1,204.28** 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 29 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, TX
Street Maintenance
ITB 22-16300-YB Concrete Patching

| # | Description | Quantity (+/-) | UOM | Unit Cost | Extended Cost |
|-------|--|----------------|------------------|---------------|---------------|
| #0-1 | 30" Curb and Gutter, Class B (3,000 psi@7 Days) 30" wide separate gutter or saw-tooth curb & gutter, including labor, equipment, removal and disposal of existing material, sub-grade preparation, complete in place. | 3500 | Linear Feet (LF) | \$ 35.00 | 122500 |
| #0-2 | Valley Gutters and Fillets, 8" Class B concrete (3,000 psi @ 7 days) Reinforced (Ref. section 8.7.12 for specifications for reinforcement information) including labor, equipment, removal and disposal of existing materials, sub-grade preparation, complete and in place. | 5000 | Square Yard (SY) | \$ 105.00 | 525000 |
| #0-3 | Placement of 2 sack flowable fill 6" depth, including labor, equipment, removal and disposal of asphaltic surface, caliche base and sub-grade (if soft or unstable) to depth of 8" and replace with 6" of 2 sack flowable fill. | 1500 | Square Yard (SY) | \$ 72.00 | 108000 |
| #0-4 | Patching 2" H.M.A.C.; with approved crushed gravel, including labor, equipment, removal and disposal of existing surface, (if applicable), including prime and tack coat. | 4000 | Square Yard (SY) | \$ 24.00 | 96000 |
| #0-5 | Concrete Slab removal and disposal, including labor, equipment, removal and disposal of concrete surface. | 7500 | Square Feet (SF) | \$ 15.00 | 112500 |
| #0-6 | Concrete Ramp (Class A), 4" reinforced concrete and Detectable Warning Tile; Including labor, equipment, sub-grade preparation, installed and complete in place. | 5000 | Square Feet (SF) | \$ 18.00 | 90000 |
| #0-7 | Concrete flatwork Class A, 4" reinforced concrete (3,000 psi@28days); Including labor, equipment, sub-grade preparation, complete in place. | 3200 | Square Feet (SF) | \$ 18.00 | 57600 |
| #0-8 | 6" 6" Concrete Retaining Wall (Class A), 6" thick and varying heights; Including labor, equipment, sub-grade preparation, complete and in place. | 1100 | Linear Feet (LF) | \$ 54.00 | 59400 |
| #0-9 | Valley Gutter & Fillets, 8" Class C concrete (3,600 psi @ 28 days), Reinforced (Ref. Section 8.7.12 for specifications for reinforcement information); including labor, equipment, removal and disposal of existing materials, sub-grade preparation, saw cut joints, complete and in place. | 2500 | Square Yard (SY) | \$ 93.00 | 232500 |
| #0-10 | Mobilization | 1 | One Time | \$ 180,000.00 | 180000 |

Totals Items 1 - 10 \$1,583,500.00

Enclosed with this bid is a Cashier's Check or Certified Check for

Seventy Nine Thousand, One Hundred Seventy Five Dollars (\$ 79,175.00) or a Bid Bond in the sum of Dollars (\$ 79,175.00), 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: 12/28/2021

Jason Eager
Authorized Signature

Jason Eager
(Printed or Typed Name)

Ti-Zack Concrete, Inc.

Company

39352 221st Ave

Address

Le Center, Le Sueur

City, County

MN, 56057

State Zip Code

Telephone: 507 - 357-6463

Fax: 507 - 357-6096

(Seal if Bidder is a Corporation)

ATTEST:

Secretary

Bidder acknowledges receipt of the following addenda:

Addenda No. Date

Addenda No. Date

Addenda No. Date

Addenda No. Date

FEDERAL TAX ID or SOCIAL SECURITY No.

41-1961752

EMAIL: admin@tizack.com

**M/WBE
Firm:**

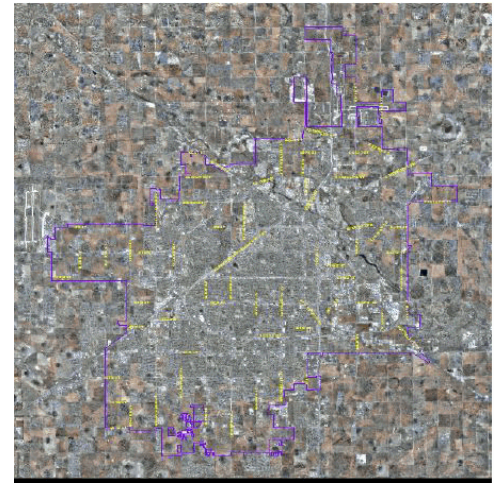
| | | | | | |
|--------------------------|-------------------|--------------------------|------------------------|--------------------------|-----------------|
| <input type="checkbox"/> | Woman | <input type="checkbox"/> | Black American | <input type="checkbox"/> | Native American |
| <input type="checkbox"/> | Hispanic American | <input type="checkbox"/> | Asian Pacific American | <input type="checkbox"/> | Other (Specify) |



**City of Lubbock, TX
Capital Project
Project Cost Detail
January 25, 2022**

| | |
|-------------------------|--------------------------------|
| Capital Project Number: | 92697 |
| Capital Project Name: | <u>Street Maintenance 2021</u> |

| <i>Encumbered/Expended</i> | <u>Budget</u> |
|--|-----------------------------|
| Contract 15647 2021 Asphalt Repair | \$ 1,543,596 |
| Contract 15648 2021 Concrete Repair | 1,486,857 |
| Contract 14517, Amendment Rejuvenator 2021 | 994,801 |
| Contract 15772, 2021 MicroSurfacing | 3,538,696 |
| | |
| Contract 15778, Wausau Avenue (S. of 82nd St) Rebuild | 337,471 |
| Contract 15796, Nuisance Branches and Trees Service | |
| Contract- Asplundh Tree Expert LLC | 33,506 |
| Contract 15875, Brick Paving Project 13th and Texas-MH | |
| Civil Constructors Inc. | 794,014 |
| Contract 15964, MLK Ave. Rebuild | 664,295 |
| Contract 16027 Rebuild Frankford & Alcove Avenues | 1,224,680 |
| In-house Mill and Re-lay | 474,488 |
| Plotter | 5,843 |
| Bid Cost | 933 |
| City of Lubbock Staff Time | 3,137 |
| | |
| <i>Agenda Items, January 25, 2022</i> | |
| Contract 16298, Asphalt Patching | 1,470,000 |
| Contract 16300, Concrete Patching | 1,583,500 |
| <i>Encumbered/Expended To Date</i> | <u>14,155,816</u> |
| | |
| Estimated Costs for Remaining Appropriation | |
| Street Maintenance | <u>7,699,199</u> |
| <i>Remaining Appropriation</i> | <u>7,699,199</u> |
| | |
| Total Appropriation | <u><u>\$ 21,855,015</u></u> |

Managing Department **Streets***Project Manager* **Mike Gilliland***Project Classification* **Upgrade/Major Maintenance***Project Status* **Approved***Project Scope*

Micro-surfacing, asphalt rejuvenation, asphalt milling, asphalt milling and overlay, full or partial depth pavement repair, total reconstruction, patching, crack sealing, concrete joint sealing, and brick street repair.

Project Justification

The project is a preventive maintenance program to help preserve and maintain our street infrastructure. The maintenance program is an essential tool to help extend the useful life of the pavement. Used early in a pavement's life, preventative maintenance corrects small problems before they become big problems, saves money, and improves safety and rideability. At some point, all roads require total rehabilitation as they near the end of their useful life. Total rehabilitation is completed when funding is available.

Project History

\$10,000,000 was appropriated in the FY 2020-21 Budget, Ord. No. 2020-00123, October 1, 2020.

\$1,155,015 was appropriated in FY 2020-21, BCR# 2021-9, April 23, 2021.

Reduced appropriation by \$300,000 in FY 2020-21, BCR# 2021-13, May 17, 2021.

| <i>Appropriation Detail</i> | Appropriation to Date | Unappropriated Planning Years | | | | | | Total Project Amount |
|------------------------------------|-----------------------|-------------------------------|------------|------------|------------|------------|------------|----------------------|
| | | FY 2021-22 | FY 2022-23 | FY 2023-24 | FY 2024-25 | FY 2025-26 | FY 2026-27 | |
| Construction | 10,855,015 | 11,000,000 | 12,000,000 | 13,000,000 | 14,000,000 | 15,000,000 | 0 | 75,855,015 |
| Total Project Appropriation | 10,855,015 | 11,000,000 | 12,000,000 | 13,000,000 | 14,000,000 | 15,000,000 | 0 | 75,855,015 |

| <i>Funding Detail</i> | 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 2020 General Fund Cash | 855,015 | 0 | 0 | 0 | 0 | 0 | 0 | 855,015 |
| FY 2021 General Fund Cash | 10,000,000 | 0 | 0 | 0 | 0 | 0 | 0 | 10,000,000 |
| FY 2022 General Fund Cash | 0 | 11,000,000 | 0 | 0 | 0 | 0 | 0 | 11,000,000 |
| FY 2023 General Fund Cash | 0 | 0 | 12,000,000 | 0 | 0 | 0 | 0 | 12,000,000 |
| FY 2024 General Fund Cash | 0 | 0 | 0 | 13,000,000 | 0 | 0 | 0 | 13,000,000 |
| FY 2025 General Fund Cash | 0 | 0 | 0 | 0 | 14,000,000 | 0 | 0 | 14,000,000 |
| FY 2026 General Fund Cash | 0 | 0 | 0 | 0 | 0 | 15,000,000 | 0 | 15,000,000 |
| Total Funding Sources | 10,855,015 | 11,000,000 | 12,000,000 | 13,000,000 | 14,000,000 | 15,000,000 | 0 | 75,855,015 |



**Purchasing and Contract Management
Project Summary**

ITB 22-16300-YB Concrete Patching

Notice was published in the Lubbock Avalanche Journal on December 5 and December 12, 2021.

Notice was published on the Purchasing Web Site under Bid Opportunities.

Notice was published on Bonfire-hub.com from December 3, 2021 to December 28, 2021.

23 vendors took documents from Bonfire-hub.com

9 vendors were notified separately.

3 vendor submitted a bid.

Information

Agenda Item

Resolution - Public Works Streets: Consider a resolution authorizing the Mayor to execute Contract 16298, with Lone Star Dirt and Paving, Ltd., for Asphalt Repair and Patching Project in the 2022 Street Maintenance Program.

Item Summary

This project will provide for the repair of failed asphalt sections of public roads in targeted areas. These targeted areas will then be ready for an overlay treatment the following year, the final step towards having the road system in superior condition.

In response to ITB 22-16298-YB, one bid proposal was received and opened on December 28, 2021 from the following contractor:

- Lone Star Dirt and Paving, Lubbock, Texas in the amount of \$1,470,000.

Time for completion is 120 consecutive calendar days with liquidated damages of \$1,204.28 per day for each consecutive calendar day after substantial completion set forth herein above for completion of this project.

This contract is awarded by unit price. The total amount of the award is estimated based on estimated quantities, actual expenditures may be more or less depending on actual needs the price per unit will not change, and expenditures will not exceed appropriated funds.

Staff recommends award to Lone Star Dirt and Paving in the amount of \$1,470,000.

Fiscal Impact

Funding for this project is established in the Fiscal Year 2021-2022 Capital Improvement Project 92697 Street Maintenance.

Staff/Board Recommending

Jesica McEachern, Assistant City Manager
L. Wood Franklin, P.E., Division Director of Public Works

Attachments

Resolution - Lone Start Dirt and Paving
Bid Form - Lone Start Dirt and Paving
Budget Detail
CIP Detail
Project Summary ITB 22-16298-YB Asphalt Patching

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. 16298 for asphalt patching as per ITB 22-16298-YB, by and between the City of Lubbock and Lone Star Dirt & Paving, Ltd, 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

**BID SUBMITTAL FORM
BID CONTRACT**

DATE: 12/28/21

PROJECT NUMBER: ITB 22-16298-YB, ITB Asphalt Patching

Bid of Lone Star Dirt & Paving Ltd (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 within 120 as stipulated in the specification and other contract documents. Offeror hereby further agrees to pay to Owner as liquidated damages in the sum of \$1,204.28 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 29 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, TX
ITB 22-16298-YB
Asphalt Patching

| | | | | Lone Star Dirt & Paving \$1,470,000.00 | |
|------|--|----------|------------|---|------------------|
| # | Items | Quantity | Total Cost | Unit Cost | Extended Cost |
| | | (+/-) | UOM | | |
| #0-1 | Patching with Black Base, 3" depth (milling to a depth of 5", with replacement of 3" Black Base and 2" Type D Hot Mix), including labor, equipment, removal and disposal of asphaltic surface, caliche base and sub-grade (if soft or unstable) to a depth of 5" and replacing with 3" of Black Base and 2" Type D Hot Mix. (All Millings will go to the City of Lubbock.) | 5000 | SY | \$61.00 | \$305,000.00 |
| #0-2 | Patching with Black Base, 6" depth (milling to a depth of 8", with replacement of 6" Black Base and 2" Type C Hot Mix), including labor, equipment, removal and disposal of asphaltic surface, caliche base and sub-grade (if soft or unstable) to a depth of 8" and replacing with 6" of Black Base and 2" Type C Hot Mix. | 6000 | SY | \$77.00 | \$462,000.00 |
| #0-3 | Patching with Black Base, 9" depth (milling to a depth of 11", with replacement of 9" Black Base and 2" Type C Hot Mix), including labor, equipment, removal and disposal of asphaltic surface, caliche base and sub-grade (if soft or unstable) to a depth of 11" and replacing with 9" of Black Base and 2" Type C Hot Mix. | 1000 | SY | \$137.00 | \$137,000.00 |
| #0-4 | Patching with 2 sack flowable fill, 6" depth, (milling to a depth of 8", with replacement of 6" 2 sack flowable fill and 2" Type D or C Hot Mix), including labor, equipment, removal and disposal of asphaltic surface, caliche base and sub-grade (if soft or unstable) to a depth of 8" and replacing with 6" of 2 sack flowable fill and 2" Type D or C Hot Mix. | 100 | SY | \$300.00 | \$30,000.00 |
| #0-5 | Patching with Hot Mix, 2" depth, (milling to a depth of 2" with Replacement of 2" Type D or C Hot Mix), including labor, equipment, removal and disposal of asphaltic surface, caliche base and sub-grade (if soft or unstable) to a depth of 2" and replacing with 2" of Type D or C Hot Mix. | 11000 | SY | \$41.00 | \$451,000.00 |
| #0-6 | Mobilization. | 1 | EA | \$85,000.00 | \$85,000.00 |

Enclosed with this bid is a Cashier's Check or Certified Check for

5% Dollars (\$) or a Bid Bond in the sum of
Dollars (\$), 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: 12-28-21

Authorized Signature

(Printed or Typed Name)

Lone Star Dirt & Pav Ltd

Company

11820 Univ

Address

L46

Lub

City,

County

Tx

79423

State

Zip Code

Telephone: 806 - 745 6011

Fax: 806 - 745 4074

FEDERAL TAX ID or SOCIAL SECURITY No.

8000 13291

EMAIL: lone star stene@nts-online.net

(Seal if Bidder is a Corporation)

ATTEST:

Secretary

Bidder acknowledges receipt of the following addenda:

Addenda No. _____ Date _____

Addenda No. _____ Date _____

Addenda No. _____ Date _____

Addenda No. _____ Date _____

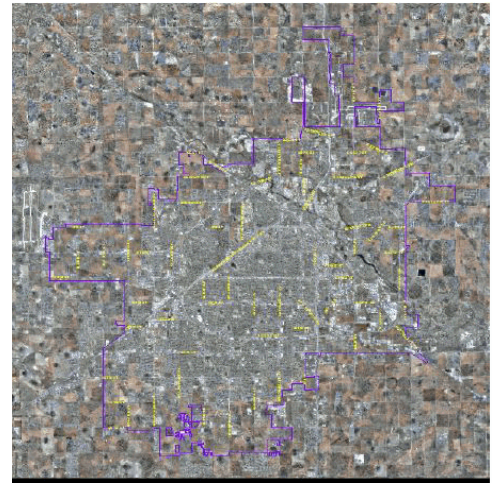
M/WBE
Firm:

| | | | | | |
|--------------------------|-------------------|--------------------------|------------------------|--------------------------|-----------------|
| <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) |

**City of Lubbock, TX
Capital Project
Project Cost Detail
January 25, 2022**

| | |
|-------------------------|-------------------------|
| Capital Project Number: | 92697 |
| Capital Project Name: | Street Maintenance 2021 |

| <i>Encumbered/Expended</i> | Budget |
|---|---------------|
| Contract 15647 2021 Asphalt Repair | \$ 1,543,596 |
| Contract 15648 2021 Concrete Repair | 1,486,857 |
| Contract 14517, Amendment Rejuvenator 2021 | 994,801 |
| Contract 15772, 2021 MicroSurfacing | 3,538,696 |
| Contract 15778, Wausau Avenue (S. of 82nd St) Rebuild | 337,471 |
| Contract 15796, Nuisance Branches and Trees Service | |
| Contract- Asplundh Tree Expert LLC | 33,506 |
| Contract 15875, Brick Paving Project 13th and Texas-MH | |
| Civil Constructors Inc. | 794,014 |
| Contract 15964, MLK Ave. Rebuild | 664,295 |
| Contract 16027 Rebuild Frankford & Alcove Avenues | 1,224,680 |
| In-house Mill and Re-lay | 474,488 |
| Plotter | 5,843 |
| Bid Cost | 933 |
| City of Lubbock Staff Time | 3,137 |
| <i>Agenda Items, January 25, 2022</i> | |
| Contract 16298, Asphalt Patching | 1,470,000 |
| Contract 16300, Concrete Patching | 1,583,500 |
| <i>Encumbered/Expended To Date</i> | 14,155,816 |
| Estimated Costs for Remaining Appropriation | |
| Street Maintenance | 7,699,199 |
| <i>Remaining Appropriation</i> | 7,699,199 |
| Total Appropriation | \$ 21,855,015 |

Managing Department **Streets***Project Manager* **Mike Gilliland***Project Classification* **Upgrade/Major Maintenance***Project Status* **Approved***Project Scope*

Micro-surfacing, asphalt rejuvenation, asphalt milling, asphalt milling and overlay, full or partial depth pavement repair, total reconstruction, patching, crack sealing, concrete joint sealing, and brick street repair.

Project Justification

The project is a preventive maintenance program to help preserve and maintain our street infrastructure. The maintenance program is an essential tool to help extend the useful life of the pavement. Used early in a pavement's life, preventative maintenance corrects small problems before they become big problems, saves money, and improves safety and rideability. At some point, all roads require total rehabilitation as they near the end of their useful life. Total rehabilitation is completed when funding is available.

Project History

\$10,000,000 was appropriated in the FY 2020-21 Budget, Ord. No. 2020-00123, October 1, 2020.

\$1,155,015 was appropriated in FY 2020-21, BCR# 2021-9, April 23, 2021.

Reduced appropriation by \$300,000 in FY 2020-21, BCR# 2021-13, May 17, 2021.

| <i>Appropriation Detail</i> | Appropriation to Date | Unappropriated Planning Years | | | | | | Total Project Amount |
|------------------------------------|-----------------------|-------------------------------|------------|------------|------------|------------|------------|----------------------|
| | | FY 2021-22 | FY 2022-23 | FY 2023-24 | FY 2024-25 | FY 2025-26 | FY 2026-27 | |
| Construction | 10,855,015 | 11,000,000 | 12,000,000 | 13,000,000 | 14,000,000 | 15,000,000 | 0 | 75,855,015 |
| Total Project Appropriation | 10,855,015 | 11,000,000 | 12,000,000 | 13,000,000 | 14,000,000 | 15,000,000 | 0 | 75,855,015 |

| <i>Funding Detail</i> | 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 2020 General Fund Cash | 855,015 | 0 | 0 | 0 | 0 | 0 | 0 | 855,015 |
| FY 2021 General Fund Cash | 10,000,000 | 0 | 0 | 0 | 0 | 0 | 0 | 10,000,000 |
| FY 2022 General Fund Cash | 0 | 11,000,000 | 0 | 0 | 0 | 0 | 0 | 11,000,000 |
| FY 2023 General Fund Cash | 0 | 0 | 12,000,000 | 0 | 0 | 0 | 0 | 12,000,000 |
| FY 2024 General Fund Cash | 0 | 0 | 0 | 13,000,000 | 0 | 0 | 0 | 13,000,000 |
| FY 2025 General Fund Cash | 0 | 0 | 0 | 0 | 14,000,000 | 0 | 0 | 14,000,000 |
| FY 2026 General Fund Cash | 0 | 0 | 0 | 0 | 0 | 15,000,000 | 0 | 15,000,000 |
| Total Funding Sources | 10,855,015 | 11,000,000 | 12,000,000 | 13,000,000 | 14,000,000 | 15,000,000 | 0 | 75,855,015 |



**Purchasing and Contract Management
Project Summary**

ITB 22-16298-YB Asphalt Patching

Notice was published in the Lubbock Avalanche Journal on December 5 and December 28, 2021.

Notice was published on the Purchasing Web Site under Bid Opportunities.

Notice was published on Bonfire-hub.com from December 3, 2021 to December 28, 2021.

24 vendors took documents from Bonfire-hub.com

9 vendors were notified separately.

1 vendor submitted a bid.

Information

Agenda Item

Resolution - Solid Waste: Consider a resolution authorizing the City of Lubbock Solid Waste Services Department to request grant funding under the South Plains Association of Governments Request for Applications of the Regional Solid Waste Grants Program, to host an electronics waste regional collection event in 2022.

Item Summary

Grant Summary

Electronics are a rapidly growing source of waste across the country. Much of this material contains valuable parts that can be recycled and heavy metals that should be kept out of landfills. In Lubbock County there is not a free disposable or recycling option for residents. the City of Lubbock will seek grant funding to host an electronics collection event. By hosting such an event, the City of Lubbock would lead this area in providing an option for the reuse and recycling of unwanted electronics while also saving landfill space and promoting environmental sustainability. This aligns with Goal #2 of South Plains Associations of Governments (SPAG) Regional Solid Waste Management Plan Goals and Objectives for 2022-2042 which is to develop a regional plan to properly dispose of E-Waste from households, to partner municipalities with local commercial electronic vendors to develop joint regional E-Waste disposal and recycling plans, and to educate citizens on the hazards of disposing of electronics in their local dumpsters.

Project Scope

The City of Lubbock will host a Collection Event in 2022 to take in the following material:

- Computers
- Laptops/tablets
- LCD computer monitors
- Printers/fax/scanner etc.,
- Mixed wire
- Gaming consoles/DVD players/VCR/satellite receivers.
- TV's/ Computer Monitors

The City of Lubbock will utilize vendor STS Electronic Recycling to pick up the collected material and haul to Jacksonville, TX. The vendor takes good electronics and refurbishes them for reuse and then takes the unusable electronics apart for recycling. These services comply with the Environmental Protection Agency's Resource Conservation and Recovery Act and ensures environmental responsible practices.

Fiscal Impact

If approved, the grant will provide the City of Lubbock with \$5,000 to promote the event and provide education of sustainable electronic waste options. This will also include the hauling fee from the vendor and offset the cost of taking in televisions and computer screens.

Staff/Board Recommending

Jesica McEachern, Assistant City manager
L. Wood Franklin, P.E., Division Director of Public Works

Attachments

Resolution
Proposal

RESOLUTION

WHEREAS, the South Plains Association of Governments is directed by the Texas Commission on Environmental Quality to administer solid waste grant funds for implementation of the Council of Government's adopted regional solid waste management plan; and

WHEREAS, The City of Lubbock in the State of Texas is qualified to apply for grant funds under the Request for Applications; **NOW, THEREFORE:**

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

THAT the City of Lubbock, a home rule municipal corporation, acting through its City Council hereby authorizes the City of Lubbock Solid Waste Services Department to request grant funding under the South Plains Association of Governments Request for Applications of the Regional Solid Waste Grants Program; and

THAT if the project is funded, the City of Lubbock, acting by and through the City of Lubbock Solid Waste Services Department, will comply with the grant requirements of the South Plains Association of Governments Texas Commission on Environmental Quality and the State of Texas; and

THAT the grant funds and any grant-funded equipment or facilities will be used only for the purposes for which they are intended under the grant; and

THAT activities will comply with and support the adopted regional and local solid waste management plans adopted for the geographical area in which the activities are performed; and

THAT the City Council finds it to be in the best interest of the citizens of the City of Lubbock in order to expedite the performance of city business, to delegate authority to execute any necessary or related documents associated with the South Plains Association of Governments Request for Applications of the Regional Solid Waste Grants Program and the authority to act on behalf of the City of Lubbock in all matters related to the grant application and any subsequent grant contract and grant project that may result; to the City Manager of the City of Lubbock, or his designee.

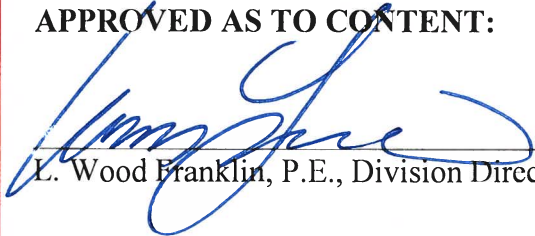
Passed by the City Council on _____.

DANIEL M. POPE, MAYOR

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



L. Wood Franklin, P.E., Division Director of Public Works

APPROVED AS TO FORM:



Ryan Brooke, Assistant City Attorney

RES.Solid Waste SPAG Grant Applications
1.14.22

Electronics Collection Grant

Grant Summary

Electronics are a rapidly growing source of waste across the country. Much of this material contains valuable parts that we can recycle, and heavy metals that we should try to keep out of landfills. In Lubbock County there is not a free disposable or recycling option for residents. By hosting a collection event the City of Lubbock would lead this area in providing an option for the reuse and recycling of unwanted electronics while also saving landfill space and promoting environmental sustainability. This aligns with the South Plains Associations of Governments Regional Solid Waste Management Plan Goals and Objectives for 2022-2042:

Goal #2 Develop a regional plan to properly dispose of E-Waste from households.

Objective 2.A. Partner municipalities with local commercial electronic vendors to develop joint regional E-Waste disposal and recycling plan.

Objective 2.B. Educate citizens on the hazards of disposing of electronics in their local dumpsters.

Project Scope

Host a Collection Event in 2022 to take in the following material:

- Computers
- Laptops/tablets
- LCD computer monitors
- Printers/fax/scanner etc.,
- Mixed wire
- Gaming consoles/DVD players/VCR/satellite receivers.
- TV's/ Computer Monitors

Use STS Electronic Recycling to pick up the material and haul it to Jacksonville, TX. The asset recovery vendor takes good electronics and refurbishes them for reuse and then takes the unusable electronics apart for recycling. These services comply with the Environmental Protection Agency's Resource Conservation and Recovery Act and ensures environmental responsible practices.

Grant Funds Request

\$5,000 to promote the event and education of sustainable electronic waste options. This will also include the hauling fee from the vendor and offset the cost of taking in televisions and computer screens.

Information

Agenda Item

Resolution - Solid Waste: Consider a resolution authorizing the City of Lubbock Solid Waste Services Department to request grant funding under the South Plains Association of Governments Request for Applications of the Regional Solid Waste Grants Program, to host a household hazardous waste regional collection event in 2022.

Item Summary

Grant Summary

The Texas Commission on Environmental Quality (TCEQ) states that “leftover or unused household products can contain chemicals that present safety concerns if not managed properly.” These products such as corrosive cleaners, oil paints, varnishes, pesticides, herbicides, acids, and pool chemicals are often called household hazardous waste (HHW). Improper disposal of these items through drains, outdoors, and garbage receptacles creates health and environmental issues.

Currently, the City of Lubbock Solid Waste Department accepts HHW collection by appointment exclusively. The City of Lubbock will seek grant funding to host a Household Hazardous Waste Collection Event that would allow the City of Lubbock Solid Waste Department to host a large collection opportunity. Prior to and during the event, education will be provided on choosing environmentally sustainable household products as well as options for reuse of the materials through donation to our Reuse Barn. Education and collection objectives for Household Hazardous Waste support the South Plains Associations of Governments Regional Solid Waste Management Plan Goals and Objectives for 2022-2042 in alignment with Goal #3 to encourage proper disposal of household hazardous waste. This will allow the City of Lubbock to educate citizens on the potential hazards of disposing household hazardous waste in local dumpsters or collection stations. Spread awareness on what HHW is and where citizens can properly dispose, while increasing the number of community collection days in the region. This also aligns with Goal #5 to assist joint education efforts on waste reduction and reuse, and proper disposal methods while encouraging citizens to prioritize reuse and reduce.

Project Scope

The City of Lubbock Solid Waste Department will host a Household Hazardous Waste Collection Event. The City will use the contracted services of Green Planet Incorporated to evaluate and collect HHW at the event. The vendor charges a standard flat fee of \$2,000 to the City for an event plus an additional cost for the type and quantity of HHW collected. Prior to and during the event, the City will educate the public on ways to reduce and reuse HHW as well as future responsible disposal options.

Fiscal Impact

This grant will provide the City of Lubbock with \$5,000 to host a Household Hazardous Waste collection event.

Staff/Board Recommending

Jesica McEachern, Assistant City Manager
L. Wood Franklin, P.E., Division Diretor of Public Works

Attachments

Resolution
Proposal

RESOLUTION

WHEREAS, the South Plains Association of Governments is directed by the Texas Commission on Environmental Quality to administer solid waste grant funds for implementation of the Council of Government's adopted regional solid waste management plan; and

WHEREAS, The City of Lubbock in the State of Texas is qualified to apply for grant funds under the Request for Applications; **NOW, THEREFORE:**

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

THAT the City of Lubbock, a home rule municipal corporation, acting through its City Council hereby authorizes the City of Lubbock Solid Waste Services Department to request grant funding under the South Plains Association of Governments Request for Applications of the Regional Solid Waste Grants Program; and

THAT if the project is funded, the City of Lubbock, acting by and through the City of Lubbock Solid Waste Services Department, will comply with the grant requirements of the South Plains Association of Governments Texas Commission on Environmental Quality and the State of Texas; and

THAT the grant funds and any grant-funded equipment or facilities will be used only for the purposes for which they are intended under the grant; and

THAT activities will comply with and support the adopted regional and local solid waste management plans adopted for the geographical area in which the activities are performed; and

THAT the City Council finds it to be in the best interest of the citizens of the City of Lubbock in order to expedite the performance of city business, to delegate authority to execute any necessary or related documents associated with the South Plains Association of Governments Request for Applications of the Regional Solid Waste Grants Program and the authority to act on behalf of the City of Lubbock in all matters related to the grant application and any subsequent grant contract and grant project that may result; to the City Manager of the City of Lubbock, or his designee.

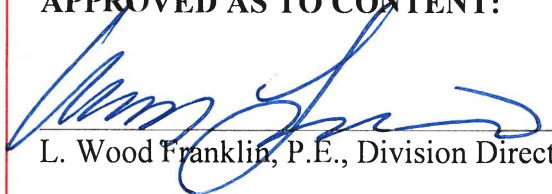
Passed by the City Council on _____.

DANIEL M. POPE, MAYOR

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



L. Wood Franklin, P.E., Division Director of Public Works

APPROVED AS TO FORM:



Ryan Brooke, Assistant City Attorney

RES.Solid Waste SPAG Grant Applications
1.14.22

Household Hazardous Waste Collection Grant

Grant Summary

The Texas Commission on Environmental Quality (TCEQ) states "leftover or unused household products can contain chemicals that present safety concerns if not managed properly." These products such as corrosive cleaners, oil paints, varnishes, pesticides, herbicides, acids, and pool chemicals are often called household hazardous waste (HHW). Improper disposing of these items through drains, outdoors, and garbage receptacles creates health and environmental issues.

Currently the City of Lubbock Solid Waste Department accepts HHW collection by appointment exclusively and is only able to offer four appointments for residents per week. A Household Hazardous Waste Collection Event would allow a large collection opportunity. Prior to and during the event education will be provided on choosing environmentally sustainable household products, and options for reuse of the materials through donation to our Reuse Barn. Education and collection objectives for Household Hazardous Waste support the South Plains Association of Governments Regional Solid Waste Management Plan Goals and Objectives for 2022-2042:

Goal #3 Encourage proper disposal of household hazardous waste.

- Objective 3.A. Educate citizens on the potential hazards of disposing household hazardous waste in their local dumpsters or collection stations. Spread awareness on what HHW is and where citizens can properly dispose.
- Objective 3.B. Increase the number of community collection days in the region.

Goal #5 Assist joint education efforts on waste reduction and reuse, and proper disposal methods.

- Objective 5.A. Encourage citizens to prioritize reuse and reduce.

Project Scope

Host a Household Hazardous Waste Collection Event.

Use the contracted services of Green Planet Incorporated to evaluate and collect HHW at the event. Prior to and during educate on ways to reduce, reuse HHW and future responsible disposal options.

Grant Funds Request

\$5,000 for the event service through Green Planet Inc. as well as funds for promotion and education materials. The vendor has a standard flat fee of \$2,000 for an event plus additional cost for the type and quantity of HHW collected.

Information

Agenda Item

Resolution - Solid Waste: Consider a resolution authorizing the City of Lubbock Solid Waste Services Department to request grant funding under the South Plains Association of Governments Request for Applications of the Regional Solid Waste Grants Program, to activate service with the Litterati Software Application.

Item Summary

Grant Summary

Litter presents itself as a common problem across the region and the country at large. Understanding the factors that lead to the decision to litter and where to litter is key to reducing its impact on our cities and neighborhoods. The City of Lubbock will seek grant funding to activate a subscription to a litter tracking and data software. Utilizing a software application that catalogues the types, locations, and brands of the trash that encompasses littered areas will help provide data that allows the City of Lubbock Solid Waste education and enforcement efforts to be more efficacious to the community. This falls in line with Goal #4 of the South Plains Associations of Governments (SPAG) Regional Solid Waste Management Plan Goals and Objectives for 2022-2042 which is to help decrease illegal dumping to include improperly disposed tires within the region while educating citizens on the proper collection areas within or near local municipalities. This project also supports SPAG Goal #5 which is to assist joint education efforts on waste reduction and reuse, and proper disposal methods, while encouraging citizens to prioritize reuse and reduce.

Project Scope

The City of Lubbock will launch usage of Litterati Digital Application to do the following:

- Generate a map of litter/illegal dumping hot spots
- Develop a working understanding of major contributors to the litter stream
- Work with volunteers to build an information database of troubled areas requiring assistance
- Utilize volunteer time more wisely through the community during cleanup events
- Provide analytical data needed justification of equipment, drop off sites, and education to address litter and dumping issues

Activating service with Litterati Software Application will allow immediate access to already collected data in the Lubbock area, and will permit further access to features for mapping and tracking.

Fiscal Impact

This grant will provide the City of Lubbock with \$5,000 towards purchasing a subscription for digital application and immediate access to regional specific mapping and tracking of litter. Any additional funding needed for this project will come from the Donations Account for Keep Lubbock Beautiful.

Staff/Board Recommending

Jesica McEachern, Assistant City Manager
L. Wood Franklin, P.E., Division Director of Public Works

Attachments

Resolution
Proposal

RESOLUTION

WHEREAS, the South Plains Association of Governments is directed by the Texas Commission on Environmental Quality to administer solid waste grant funds for implementation of the Council of Government's adopted regional solid waste management plan; and

WHEREAS, The City of Lubbock in the State of Texas is qualified to apply for grant funds under the Request for Applications; **NOW, THEREFORE:**

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

THAT the City of Lubbock, a home rule municipal corporation, acting through its City Council hereby authorizes the City of Lubbock Solid Waste Services Department to request grant funding under the South Plains Association of Governments Request for Applications of the Regional Solid Waste Grants Program; and

THAT if the project is funded, the City of Lubbock, acting by and through the City of Lubbock Solid Waste Services Department, will comply with the grant requirements of the South Plains Association of Governments Texas Commission on Environmental Quality and the State of Texas; and

THAT the grant funds and any grant-funded equipment or facilities will be used only for the purposes for which they are intended under the grant; and

THAT activities will comply with and support the adopted regional and local solid waste management plans adopted for the geographical area in which the activities are performed; and

THAT the City Council finds it to be in the best interest of the citizens of the City of Lubbock in order to expedite the performance of city business, to delegate authority to execute any necessary or related documents associated with the South Plains Association of Governments Request for Applications of the Regional Solid Waste Grants Program and the authority to act on behalf of the City of Lubbock in all matters related to the grant application and any subsequent grant contract and grant project that may result; to the City Manager of the City of Lubbock, or his designee.

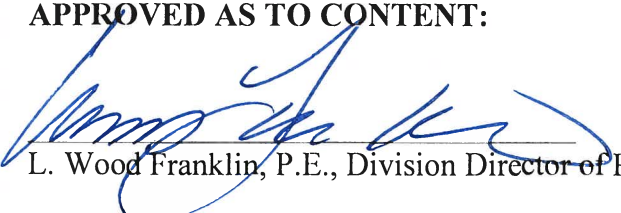
Passed by the City Council on _____.

DANIEL M. POPE, MAYOR

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



L. Wood Franklin, P.E., Division Director of Public Works

APPROVED AS TO FORM:



Ryan Brooke, Assistant City Attorney

RES.Solid Waste SPAG Grant Applications
1.14.22

Litterati Software Application Grant

Grant Summary

Litter presents itself as a common problem across the region and the country at large. Understanding the factors that lead to the decision to litter, and where to litter, is key to reducing its impact on our cities and neighborhoods. Utilizing a software application that catalogues the types, locations and brands of the trash that encompasses littered areas, helps to paint a picture that allows our education and enforcement efforts to be more efficacious to the community. This falls in line with the South Plains Associations of Governments Regional Solid Waste Management Plan Goals and Objectives for 2022-2042:

Goal #4 Decrease illegal dumping to include improperly disposed tires within the region: Objective 4.C Educate citizens on the proper collection areas within or near local Municipalities

Goal #5 Assist joint education efforts on waste reduction and reuse, and proper disposal methods: Objective 5.A. Encourage citizens to prioritize reuse and reduce.

Project Scope

Launch usage of Litterati Application in the City of Lubbock to do the following:

- Generate a map of litter/illegal dumping hot spots
- Develop a working understanding of major contributors to the litter stream
- Work with volunteers to build an information database of troubled areas requiring assistance
- Utilize volunteer time more wisely, and better distribute through the community during cleanup events
- Build justifications for needed equipment, drop off sites and education to address litter and dumping issues

Activating service with Litterati Software Application will allow immediate access to already collected data in the Lubbock area, and will permit further access to features for mapping and tracking.

Grant Funds Request

\$5,000 towards purchasing subscription for application, and immediate access to regional specific mapping and tracking.

Information

Agenda Item

Resolution - Public Health Services: Consider a resolution authorizing the Mayor to execute the Health and Human Services Commission Contract No. HHS000779500006, under the Co-occurring Psychiatric and Substance Use Disorders (COPSD) Grant Program, by and between the City of Lubbock and the State of Texas' Health and Human Services Commission, and all related documents.

Item Summary

This contract provides funding from the Texas Health and Human Services Commission to facilitate substance use treatment services for Co-occurring Psychiatric and Substance Use Disorders (COPSD) in the Lubbock area, as well as case management to help improve treatment outcomes

This is an existing contract that will add funds for 3 additional years from September 1, 2021, through August 31, 2024. The total grant amount is \$239,100.

Period 1, FY2022 (February 1, 2022, through August 31, 2022): \$79,700

Period 2, FY2023 (September 1, 2022, through August 31, 2023): \$79,700

Period 3, FY2024 (September 1, 2023, through August 31, 2024): \$79,700

Fiscal Impact

The required match for FY 2022 through FY 2024, is \$3,985 for each period.

Staff/Board Recommending

Bill Howerton, Deputy City Manager

Katherine Wells, Director of Public Health Services

Attachments

Resolution

COPSD Contract

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, Health and Human Services Commission Contract No. HHS000779500006 under the Co-occurring Psychiatric and Substance Use Disorders (COPSD) Grant Program, by and between the City of Lubbock and the State of Texas' Health and Human Services Commission, and all 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:



Bill Howerton, Deputy City Manager

APPROVED AS TO FORM:



Ryan Brooke, Assistant City Attorney

RES.HHSC Contract No. HHS000779500006 COPSD
1.18.22

**SIGNATURE DOCUMENT FOR
HHSC CONTRACT NO. HHS000779500006
UNDER THE
CO-OCCURRING PSYCHIATRIC AND SUBSTANCE USE
DISORDERS (COPSD) GRANT PROGRAM**

The parties to this agreement ("Grant Agreement" or "Contract") are the Health and Human Services Commission ("HHSC" or "System Agency"), a pass-through entity, and City of Lubbock ("Grantee"), having its principal office at 1625 13th Street, Lubbock, Texas 79401 (each a "Party" and collectively the "Parties").

I. PURPOSE

The purpose of this Grant Agreement is to fund Grantee's delivery of services to eligible persons under the Co-occurring Psychiatric and Substance Use Disorders (COPSD) Program. Service-delivery will follow an integrated approach that treats both mental health needs and substance use disorders.

II. LEGAL AUTHORITY

This "Grant Agreement" or is authorized by and in compliance with the provisions of Block Grants for Prevention and Treatment of Substance Abuse, located at 42 U.S. Code §§ 300x-21 through 300x-35, and Texas Government Code Chapters 531.039.

III. DURATION

This Grant Agreement is effective on February 1, 2022 and terminates on August 31, 2024, unless renewed, extended, or terminated pursuant to the terms and conditions of the Grant Agreement.

System Agency, at its sole discretion, may extend this Grant Agreement for any period(s) of time, provided the Grant Agreement term, including all extensions or renewals, does not exceed five (5) years. Notwithstanding the limitation in the preceding sentence, System Agency, at its sole discretion, also may extend the Grant Agreement beyond five (5) years as necessary to ensure continuity of service, for purposes of transition, or as otherwise determined by System Agency to serve the best interest of the State.

IV. BUDGET

A. HHSC's share of total reimbursements for the following periods is allocated as follows:

1. Period 1 (February 1, 2022 through August 31, 2022)\$79,700.00
2. Period 2 (September 1, 2022 through August 31, 2023)\$79,700.00
3. Period 3 (September 1, 2023 through August 31, 2024)\$79,700.00

B. Grantee's required match for each Period is \$3,985.00.

- C. The total Contract amount, which equals the sum of funds provided by HHSC plus Grantee's required match, is not exceed \$251,055.
- D. Funds that remain unexpended after the end of Period 1 do not rollover to Period 2.
- E. Funds that remain unexpended after the end of Period 2 do not rollover to Period 3.
- F. Funds that remain unexpended after the end of Period 3 shall be forfeited.
- G. All expenditures under the Contract shall be in accordance with Attachment B, Budget.

V. REPORTING REQUIREMENTS

Grantee shall submit all documents identified below, in accordance with Attachment A, Statement of Work:

| Requirement | Deliverable (Report Name) | Due Date | Submission System |
|---------------|--|---|----------------------|
| Section VI, A | Claims in CMBHS | All claims must be entered monthly by the 15th of the following month. | CMBHS |
| Section VI, A | Quarterly Match Report | Due 15 th of the month following the quarter being reported | Globalscape |
| Section VI, A | Closeout documents | Final closeout documents due October 15 th each fiscal year. | GlobalScape |
| Section IV, A | CMBHS Security Attestation Form and list of authorized users | September 15 th and March 15 th annually | GlobalScape |

VI. CONTRACT REPRESENTATIVES

The following persons will act as the representative authorized to administer activities under this Contract on behalf of their respective Party.

HHSC

Bryan Hunter, Contract Manager
Health and Human Services Commission
P.O. Box 149347 (Mail Code 2058)
Austin, Texas 78714
Email: Bryan.Hunter@hhs.texas.gov

Grantee

Daniel Pope
City of Lubbock
1625 13th Street
Lubbock, Texas 79401
Email: dpope@MyLubbock.us

VII. LEGAL NOTICES

Any legal notice required under this Contract shall be deemed delivered when deposited by HHSC either in the United States mail, postage paid, certified, return receipt requested; or with a common carrier, overnight, signature required, to the appropriate address below:

HHSC

Health and Human Services Commission
4601 W. Guadalupe (Mail Code 1100)
Austin, Texas 78751
Attention: Office of Chief Counsel

Grantee

City of Lubbock
1625 13th Street
Lubbock, Texas 79401
Attention: Daniel Pope

VIII. NOTICE REQUIREMENTS

Notice given by Grantee will be deemed effective when received by HHSC. Either Party may change its address for notices by providing written notice to the other Party. All notices submitted to HHSC must:

- A. include the Contract number;
- B. be sent to the person(s) identified in the Contract; and,
- C. comply with all terms and conditions of the Contract.

IX. ADDITIONAL GRANT INFORMATION

- A. Grantee Data Universal Numbering System (DUNS) Number: 058213893
- B. Federal Award Identification Number (FAIN): B08TI083478
- C. Program Assistance Listing
 - 1. Name: Substance Abuse Prevention & Treatment Block Grant
 - 2. Number: 93.959
- C. Federal Award Date: September 1, 2021
- D. Name of Federal Awarding Agency: U.S. Department of Health and Human Services (HHS), Substance Abuse and Mental Health Services Administration (SAMHSA)
- E. Awarding Official Contact Information:
 - Grants Management Officer: Odessa Crocker
 - Point of Contact: Wendy Pang, Grants Specialist
 - Contact Tel. No.: (240) 276-1419
 - Contact Facsimile No.: (240) 276-1430,
 - Email: Wendy.Pang@samhsa.hhs.gov

SIGNATURE PAGE FOLLOWS

SIGNATURE PAGE

HHSC CONTRACT NO. HHS000779500006

HEALTH AND HUMAN SERVICES COMMISSION

CITY OF LUBBOCK

By:

By:

Date

Date

THE FOLLOWING DOCUMENTS ARE ATTACHED TO THIS GRANT AGREEMENT, AND THEIR TERMS ARE HEREBY INCORPORATED BY REFERENCE:

ATTACHMENT A.....Statement of Work
ATTACHMENT A-1Statement of Work Supplemental
ATTACHMENT A-2SAPT Block Grant Supplemental
ATTACHMENT B.....Program Services & Unit Rates
ATTACHMENT C.....Health and Human Services (HHS) Uniform Terms
and Conditions (Grant, v. 3.0)
ATTACHMENT D.....HHS Contract Affirmations (v. 2.1)
ATTACHMENT E.....Additional Provisions (v. 1.0)
ATTACHMENT FFederal Assurances (Non-construction Programs)
and Certification Regarding Lobbying
ATTACHMENT GHHS Data Use Agreement (Local City and County
Entities Version, effective October 23, 2019) with
Security and Privacy Inquiry (SPI))
ATTACHMENT HFederal Funding Accountability and Transparency
Act (FFATA) Certification Form

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ATTACHMENTS FOLLOW

ATTACHMENT A
STATEMENT OF WORK
Co-occurring Psychiatric and Substance Use Disorders Program

SECTION I: PURPOSE

To provide adjunct services to clients with Co-occurring Psychiatric and Substance Use Disorders (COPSD), emphasizing integrated treatment for both mental health needs and substance use disorders.

SECTION II: TARGET POPULATION

Texas residents who meet *Client Eligibility* criteria for System Agency-funded services as stated in the Substance Use Disorder (SUD) Program Guide at <https://hhs.texas.gov/doing-business-hhs/provider-portals/behavioral-health-services-providers/substance-use-disorder-service-providers>

SECTION III: SERVICE AREA

Services or activities will be provided to individuals from the following counties:

Region (1): Armstrong, Bailey, Briscoe, Carson, Castro, Childress, Cochran, Collingsworth, Crosby, Dallam, Deaf Smith, Dickens, Donley, Floyd, Garza, Gray, Hale, Hall, Hansford, Hartley, Hemphill, Hockley, Hutchinson, King, Lamb, Lipscomb, Lubbock, Lynn, Moore, Motley, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, Terry, Wheeler, Yoakum

SECTION IV: SERVICE REQUIREMENTS:

A. Administrative Requirements

Grantee shall:

1. Comply with all applicable Texas Administrative Code (TAC) rules adopted by the System Agency related to SUD treatment and adhere to the most current SUD Program Guide.
2. Document all specified required activities and services in the Clinical Management of Behavioral Health Services (CMBHS) system. Documents that require client or staff signature shall be maintained according to TAC requirements and made available to System Agency for review upon request.
3. Provide age-appropriate medical and psychological therapeutic services designed to treat an individual's substance use disorder and promote recovery.

4. Develop and implement, in addition to TAC and SUD Program Guide required Policies and Procedures, organizational policies and procedures as follows:
 - i. A marketing plan to engage local referral sources and provide information to these sources regarding the availability of substance use disorder treatment, mental health services, and the Client Eligibility criteria for admissions;
 - ii. All marketing materials published shall include Priority Populations for Treatment Programs admissions;
 - iii. Client Retention in services, including protocols for addressing clients absent from treatment and policies defining treatment non-compliance; and
 - iv. All policies and procedures shall be provided to System Agency upon request.
5. Provide services in Grantee's facility, at the client's home, or other locations where confidentiality can be maintained.
6. Ensure that COPSD services are provided in addition to, and not as a replacement for other services.
7. Ensure that COPSD specialist-to-client ratios do not exceed 1:20.
8. Bill only hours that Grantee's COPSD specialist spends in face-to-face, one-on-one counseling or case management sessions with a client. Grantee shall not bill for more than three hours per day, per client.
9. Actively attend and share representative knowledge about Grantee's system and services at the Outreach, Screening, Assessment, and Referrals (OSAR) quarterly regional collaborative meetings.
10. Ensure compliance with *Client Eligibility* requirements to include: Texas residence eligibility, financial eligibility and clinical eligibility as specified in SUD Program Guide. These eligibility requirements can be found in CMBHS while performing the Intake, Financial Eligibility form, and Substance Use Disorder Assessment.
11. Develop a local agreement with Department of Family and Protective Services (DFPS) local offices to address referral process, coordination of services, and sharing of information as allowed per the consent and agreement form.
12. Adhere to Memorandum of Understanding requirements as stated

in the SUD Program Guide.

13. Maintain MOUs with the other COPSD Grantees to ensure that COPSD services are available to all clients of System Agency-funded mental health and SUD treatment providers, when there are multiple System Agency-funded COPSD Grantees in the same Region, Grantee shall.

B. Service Delivery

Grantee shall:

1. Ensure that services to adult and youth clients, as defined as the SUD Program Guide, are age-appropriate and are provided by staff within their scope of practice.
2. Provide all services in a culturally, linguistically, and developmentally appropriate manner for clients, families, and/or significant others.
3. Develop a policy and procedure and have them available for System Agency review on staff training to ensure that information is gathered from clients in a respectful, non-threatening, and culturally competent manner.
4. Adhere to TAC§ 448.906 related to Access to Services for COPSD Clients.
5. Conduct and document a full substance use disorder and mental health assessment (separate or integrated) within three individual service days of admission to services unless completed prior to admission. If the assessment identifies a potential mental health or substance use disorder problem, Grantee shall offer the client appropriate mental health and/or substance use disorder services either internally or through referral. Mental health services shall be provided by a facility or qualified person authorized to provide such services.
6. Document in CMBHS on the client's treatment plan both mental health problems and SUD problems with a goal, objectives and strategies documented for each problem.
7. Adhere to TAC related to Treatment Planning of Services to Clients with COPSD.
8. Document in CMBHS the treatment plan within five (5) service days of admission.
9. Conduct, at minimum, one treatment plan review every three months.
10. Provide and document in CMBHS services that assist in client

stabilization, including Motivational Interviewing, referrals, case management and other counseling as indicated by the treatment plan based on the clinical assessment.

11. Address both psychiatric and substance use disorders simultaneously and assist clients in obtaining available services they need and choose, including self-help groups. Services shall be provided within established practice guidelines for this population.
12. Provide individual counseling and case management as indicated below:
 - i. Individual Counseling comprises counseling methods from qualified staff that assist clients in processing feelings in the area of gaining access to and remaining engaged in substance use disorder or mental health services or obtaining access to both.
 - ii. Case Management comprises services that assist and support the client in developing skills to gain access to needed medical, social, educational, and other services essential to meeting basic human needs.
13. Provide a minimum of one hour per week of documented service in CMBHS to each client.
14. Make reasonable efforts to collaborate with these providers to avoid duplication of services specifically from the mental health and substance use disorder fields, in those instances where the client is receiving multiple services from various other providers in the community.
15. Adhere to TAC 448.701, regarding Client Rights including Client Bill of Rights, Client Grievances, and Abuse, Neglect, and Exploitation.
16. Provide overdose prevention and reversal education to all clients.
17. Conduct specific overdose prevention activities with clients who have opioid use disorders and clients who use drugs intravenously. Grantee must directly provide or refer to community support services for overdose prevention and reversal education to all identified at risk clients prior to discharge. Grantee will document all overdose prevention and reversal education in CMBHS.
18. Ensure access to adequate and appropriate medical and psychosocial tobacco cessation treatment as follow:

- i. Assess all clients for tobacco use and clients seeking to cut back or quit.
 - ii. If the client indicates wanting assistance with cutting back or quitting, the client will be referred to appropriate tobacco cessation treatment.
- 19. Document the client-specific information that supports the reason for discharge listed on the discharge report. A Qualified Credentialed Counselor (QCC) shall sign the discharge summary. A client's treatment is considered successfully completed, if both of the following criteria are met:
 - i. Client has completed the clinically recommended number of treatment units (either initially projected or modified with clinical justification) as indicated in CMBHS.
 - ii. All problems on the treatment plan have been addressed. Grantee shall use the Treatment Plan component of CMBHS to create a final and completed treatment plan version.
 - (1) Problems designated as "treat" or "case manage" status shall have all objectives resolved prior to successful discharge.
 - (2) Problems that have been "referred" shall have associated documented referrals in CMBHS.
 - (3) Problems with "deferred" status shall be re-assessed. Upon successful discharge, all deferred problems shall be resolved, either through referral, withdrawal, treatment, or case management with clinical justification reflected in CMBHS, through the Progress Note and Treatment Plan Review Components.
 - (4) "Withdrawn" problems shall have clinical justification reflected in CMBHS, through the Progress Note and Treatment Plan Review Components.
- 20. Document in CMBHS a Referral and Referral Follow-up.
- 21. Report the Daily Capacity Management Report Monday through Friday in (CMBHS) by 11:00 a.m. Central Time. For example: Monday's daily attendance may be reported on Tuesday and Friday's attendance may be reported on the following Monday.
- 22. Adhere to Wait List requirements found in the SUD Program Guide. The Waiting List is for individuals who cannot enter

services within one week of request.

- i. Upon determining the appropriate level of care, Grantee will make a waiting list entry in CMBHS that details the service type the individual is waiting for and the priority population designation of the individual.
- ii. Arrange for appropriate services in another treatment facility or provide access to interim services as indicated within 48 hours when efforts to refer to other appropriate services are exhausted.
- iii. Have a written policy on waiting list management that defines why and how individuals are removed from the waiting list for any purpose other than admission to treatment.
- iv. Ensure eligible individuals who cannot be admitted within one week of requesting services must be placed on the CMBHS waiting list.
- v. Upon admission, treatment Contractor will close the waiting list entry, indicating the date of admission as the waiting list end date.
- vi. Ensure, either directly or through referral, that individuals waiting for admission receive interim services as required by SAMHSA Block Grant requirements.
- vii. Document weekly contact with all individuals on its waiting list
- viii. Notify Substance Use Disorder (Substance_Use_Disorder@hhs.texas.gov) or System Agency Program Specialist for assistance to ensure immediate admission to priority populations other appropriate services and proper coordination when appropriate.

SECTION V: STAFF COMPETENCY AND REQUIREMENTS

A. Grantee shall ensure the following:

1. All personnel shall receive the training and supervision necessary to ensure compliance with System Agency rules, provision of appropriate and individualized treatment, and protection of client rights, health, safety, and welfare.
2. All COPSD staff shall have at minimum two hours of training annually on working with persons in the target population.
3. All COPSD staff shall adhere to TAC related to Specialty Competencies of Staff Providing Services to Clients with COPSD.

4. All COPSD staff shall have access to additional training annually that allows staff to maintain up-to-date competencies through governing or supervisory boards for the respective disciplines. Additional training can be found at National Association for Alcoholism and Drug Abuse Counselors (NAADAC) website.
<https://www.naadac.org/education>.
5. All direct care staff shall receive a copy of the service requirements within this statement of work.
6. Individuals responsible for planning, directing, or supervising treatment services shall be QCCs.
7. Grantee shall have a clinical program director known as "Program Director" with at least two years of post- QCC licensure experience providing substance use disorder treatment. Substance use disorder counseling shall be provided by a QCC. All counselor interns shall work under the direct supervision of a QCC.
8. Within 90 days of hire and prior to providing service delivery, clinical staff shall have specific documented training in the following:
 - i. Motivational Enhancement Therapy or motivational interviewing techniques;
 - ii. Trauma Informed Care;
 - iii. Cultural Competency;
 - iv. State of Texas co-occurring psychiatric and substance use disorder (COPSD) training located at the following website
www.centralizedtraining.com
9. Licensed Chemical Dependency Counselors shall recognize the limitations of the licensee's ability and shall not provide services outside the licensee's scope of practice or licensure or use techniques that exceed the person's license authorization or professional competence.
10. Individual counseling shall be provided by a Licensed Practitioner of the Healing Arts or a QCC. A QCC shall practice within their scope of practice. As outlined in the 25 TAC Chapter 140, Subchapter I §140.400.
11. Ensure that a Licensed Professional Counselor Intern (LPC-I), Licensed Marriage and Family Therapist Associate (LMFT-A) and Licensed Master Social Worker (LMSW) intending to obtain their LCSW (Licensed Clinical Social Worker) in the State of Texas, is available to provide a mental health diagnosis and COPSD mental

health counseling as long as the following criteria is met:

- i. Confirmation that LPC-I, LMFT-A and LMSW are registered with each of the respective licensing boards with a board-approved supervisor and will ensure that LPC-I, LMFT-A and LMSW are under supervision when providing counseling under the Contract.
 - ii. An LPC-I may provide individual COPSD counseling services. Refer to 22 TAC, Chapter 681, Subchapter B.
 - iii. A LMSW may practice clinical social work in an agency employment setting under clinical supervision, under a board-approved supervision plan, or under contract with an agency when under a board-approved clinical supervision plan. The LMSW under a board supervision plan may provide individual COPSD counseling services under the Contract. Refer to 22 TAC, Chapter 781.
 - iv. An LMFT-A may provide individual COPSD counseling services. Refer to 22 TAC, §801.42.
12. Case Management shall be provided face-to-face and one-on-one by:
- i. An individual who has been credentialed by the LMHA as a QMHP; or,
 - ii. An individual who:
 - (1) has a bachelor's degree from an accredited college or university with a major in psychology, social work, medicine, nursing, rehabilitation, counseling, sociology, human growth and development, physician assistant, gerontology, special education, educational psychology, early childhood education, or early childhood intervention, or
 - (2) is a registered nurse.
13. Grantee shall train COPSD staff responsible for providing direct services using Substance Abuse Mental Health Services Administration (SAMHSA) Treatment Improvement Protocol (TIP) – Comprehensive Case Management to as a guideline. <https://store.samhsa.gov/product/TIP-27-Comprehensive-Case-Management-for-Substance-Abuse-Treatment/SMA15-4215>
14. Grantee shall develop a post-training test and provide certificates of completion, both of which will confirm that COPSD staff demonstrate competency in the following areas:
- i. Knowledge of the location and types of local community resources;

- ii. Making referrals in the community in which the client resides;
- iii. Development of person-centered treatment plans;
- iv. Discharge planning;
- v. Documentation of service delivery; and
- vi. Ensuring services are culturally, linguistically, and developmentally appropriate.

SECTION VI: REPORTING AND SUBMISSION REQUIREMENTS

A. Grantee shall submit required reports of monitoring activities to System Agency by the applicable due date outlined below. The following reports must be submitted to System Agency through GlobalScape EFT (<https://sftp.hhs.texas.gov/>) or CMBHS by the required due date and report name described in Table 1: Submission Requirements:

1. Grantee shall submit all documents listed below in Section VI(B), Table 1 by the designated due date.
2. Grantee will note that if the due date is on a weekend or holiday, the due date is the following business day.
3. Grantee shall submit monthly claims in Clinical Management for Behavioral Health Services (CMBHS) by the 15th of the following month.
4. Grantee shall submit a Quarterly Match Report due the 15th day following the quarter that is being reported.
5. Grantee shall submit annual Contract Closeout documentation each fiscal year with a final contract closeout due October 15 of the final contract year.
6. Grantee shall submit a CMBHS Security Attestation Form electronically on or before September 15th and March 15th to the designated folder in GlobalScape EFT.
7. Grantee's duty to submit documents will survive the termination or expiration of this Contract.

B. System Agency will monitor Grantee's performance of the requirements in Attachment A (Statement of Work) and compliance with the Contract's terms and conditions.

Table 1: Submission Requirements

| Requirement | Deliverable (Report Name) | Due Date | Submission System |
|---------------|--|---|-------------------|
| Section VI, A | Claims in CMBHS | All claims must be entered monthly by the 15th of the following month. | CMBHS |
| Section VI, A | Quarterly Match Report | Due 15 th day following quarter being reported | GlobalScape |
| Section VI, A | Closeout documents | Final closeout documents due October 15 th each fiscal year. | GlobalScape |
| Section VI, A | CMBHS Security Attestation Form and list of authorized users | September 15 th and March 15 th annually | GlobalScape |

SECTION VII: CLINICAL MANAGEMENT FOR BEHAVIORAL HEALTH SERVICES
(CMBHS) SYSTEM MINIMUM REQUIREMENTS

- A. All CMBHS requirements for the COPSD program are detailed in Section V, *System of Record* of the Program Guide, which includes the following references:
1. Security Administrator and backup Security Administrator
 2. Security Policy
 3. Notifications to CMBHS Helpdesk
 4. CMBHS user access
- B. In addition to CMBHS Helpdesk notification, Grantee shall submit a signed CMBHS Security Attestation Form and a list of Grantee's employees, contracted laborers and sub-Grantee's authorized to have access to secure data. The CMBHS Security Attestation Form shall be submitted electronically on or before the 15th day of September and March 15th, to the designated folder in Globalscape EFT.
- C. Attend System Agency training on CMBHS documentation.

ATTACHMENT A-1
STATEMENT OF WORK SUPPLEMENTAL

A. CONTRACT INFORMATION

| | |
|--|-------------------|
| Vendor ID: | 1756000590-034 |
| Grantee Name: | City of Lubbock |
| Contract Number: | HHS000779500006 |
| Contract Type | Treatment |
| Payment Method: | Fee-for-Service |
| DUNS Number: | 058213893 |
| Federal Award Identification Number (FAIN) | B08TI083478 |
| Solicitation Document: | Exempt Government |

B. RENEWALS

System agency may renew this contract for two (2) additional funding years, which is contingent on the availability of funds.

C. CONTACT INFORMATION

| | |
|-----------|--|
| Name: | Bryan Hunter |
| Email: | Bryan.Hunter@hhs.texas.gov |
| Address: | 909 W 45 th Street, Bldg. 555 (MC 2058) |
| City/Zip: | Austin TX 78751 |

ATTACHMENT A-2

SUBSTANCE ABUSE PREVENTION AND TREATMENT (SAPT) BLOCK GRANT CONTRACT SUPPLEMENT

A. The following are important details regarding federal award requirements for Grantees funded with SAPT Block Grant funds:

1. The Catalog of Domestic Federal Assistance (CFDA) number for the SAPT Block Grant is 93.959.
2. The award period covers the term identified in the Contract.

As a subrecipient of the SAPT Block Grant, the Grantee must adhere to each of the applicable requirements below:

B. 45 CFR § 96.127 REQUIREMENTS REGARDING TUBERCULOSIS (TB)

1. The Grantee must, directly or through arrangements with other public or nonprofit private entities, routinely make available the following TB services to each individual receiving treatment for substance abuse:
 - a. Counseling the individual with respect to TB.
 - b. Testing to determine whether the individual has been infected with mycobacteria TB to determine the appropriate form of treatment for the individual.
 - c. Appropriate medical evaluation and treatment for individuals infected by mycobacteria TB.
2. For clients denied admission on the basis of lack of capacity, the Grantee must refer such clients to other providers of TB services.
3. The Grantee must have infection control procedures that are consistent with those established by Texas Department of State Health Services, Infectious Disease Control Unit, to prevent the transmission of TB and that address the following:
 - a. Screening and identifying those individuals who are at high risk of becoming infected.
 - b. Meeting all state reporting requirements while adhering to federal and state confidentiality requirements, including 42 CFR Part 2.
 - c. Case management activities to ensure that individuals receive such services.
 - d. The Grantee must report all individuals with active TB to the Texas Department of State Health Services, Infectious Disease Control Unit, as required by state law and in accordance with federal and state confidentiality requirements, including 42 CFR Part 2.

C. 45 CFR § 96.131 TREATMENT SERVICES FOR PREGNANT WOMEN

1. The Grantee must give preference in admission to pregnant women who seek or are referred for and would benefit from Block Grant-funded treatment services.

EXHIBIT S: SUBSTANCE ABUSE PREVENTION AND TREATMENT (SAPT)
BLOCK GRANT CONTRACT SUPPLEMENT

2. If the Grantee serves an injecting drug-abusing population, the Grantee must give preference to treatment as follows:
 - a. Pregnant injecting drug users.
 - b. Other pregnant substance abusers.
 - c. Other injecting drug users.
 - d. All others.
3. The Grantee must refer pregnant women to the State when the Grantee has insufficient capacity to provide services to any such pregnant women who seek the services of the program.
4. The Grantee must make interim services available within forty-eight (48) hours to pregnant women who cannot be admitted because of lack of capacity.
5. The Grantee must offer interim services, when appropriate, that include, at a minimum,¹ the following:
 - a. Counseling and education about HIV and TB, the risks of needle-sharing, the risks of transmission to sexual partners and infants, and steps that can be taken to ensure that HIV and TB transmission does not occur.
 - b. Referral for HIV or TB treatment services, if necessary.
 - c. Counseling pregnant women on the effects of alcohol and other drug use on the fetus.
 - d. Refer pregnant women for prenatal care.

D. 45 CFR § 96.132 ADDITIONAL REQUIREMENTS

1. The Grantee must make continuing education in substance abuse treatment and prevention available to employees who provide the services.
2. The Grantee must have in effect a system to protect patient records from inappropriate disclosure, and the system must:
 - a. Comply with all applicable state and federal laws and regulations, including 42 CFR Part 2; and
 - b. Include provisions for employee education on confidentiality requirements and the fact that disciplinary action may occur upon inappropriate disclosure.

¹ Interim services may also include federally approved interim methadone maintenance.

EXHIBIT S: SUBSTANCE ABUSE PREVENTION AND TREATMENT (SAPT)
BLOCK GRANT CONTRACT SUPPLEMENT

E. 45 CFR § 96.135 RESTRICTIONS ON THE EXPENDITURE OF THE GRANT

1. The Grantee cannot expend SAPT Block Grant funds to provide inpatient hospital substance abuse services, except in cases when each of the following conditions is met:
 - a. The individual cannot be effectively treated in a community-based, nonhospital, residential treatment program.
 - b. The daily rate of payment provided to the hospital for providing the services does not exceed the comparable daily rate provided by a community-based, nonhospital, residential treatment program.
 - c. A physician makes a determination that the following conditions have been met:
 - i. The primary diagnosis of the individual is substance abuse, and the physician certifies that fact.
 - ii. The individual cannot be safely treated in a community-based, nonhospital, residential treatment program.
 - iii. The service can reasonably be expected to improve the person's condition or level of functioning.
 - iv. The hospital-based substance abuse Contractor follows national standards of substance abuse professional practice
 - d. The service is provided only to the extent that it is medically necessary (e.g., only for those days that the patient cannot be safely treated in a residential, community-based program)
2. Further, the Grantee cannot expend SAPT Block Grant funds to:
 - a. Purchase or improve land; purchase, construct, or permanently improve (other than minor remodeling) any building or other facility; or purchase major medical equipment.
 - b. Satisfy any requirement for the expenditure of non-federal funds as a condition for the receipt of federal funds.
 - c. Provide financial assistance to any entity other than a public or nonprofit private entity.
 - d. Make payments to intended recipients of health services.
 - e. Provide individuals with hypodermic needles or syringes.
 - f. Provide treatment services in penal or correctional institutions of the State

EXHIBIT S: SUBSTANCE ABUSE PREVENTION AND TREATMENT (SAPT)
BLOCK GRANT CONTRACT SUPPLEMENT

F. 45 CFR § 96.137 PAYMENT SCHEDULE

The Grantee must ensure that SAPT Block Grant funds for special services for pregnant women and women with dependent children, TB services, and HIV early intervention services are the “payment of last resort,” and the Grantee must make every reasonable effort to do the following to pay for these services:

1. Collect reimbursement for the costs of providing such services to persons entitled to insurance benefits under the Social Security Act, including programs under Title XVIII and Title XIX, any state compensation program, any other public assistance program for medical expenses, any grant program, any private health insurance, or any other benefit program.
2. Secure from individuals or client’s payments for services in accordance with their ability to pay.

G. Audit

The Grantee shall adhere to the following requirements:

1. If the Grantee expends seven hundred fifty thousand dollars (\$750,000.00) or more in federal financial assistance during the program’s fiscal year, an independent financial and compliance audit must be completed by a Certified Public Accounting firm in accordance with 2 CFR 200 Uniform Grant Guidance. The Grantee must submit two (2) copies of the audit report to the Texas Health and Human Services Commission within thirty (30) calendar days of receipt of the audit reports required by the Independent Single or Program-Specific Audit section of the Texas Health and Human Services Commission Uniform Terms and Conditions – Grant, Version 2.16.1. One (1) of these copies must be submitted electronically by the Grantee at <https://hhsportal.hhs.state.tx.us/heartwebextrSau> as described in instructions that will be provided by the Texas Health and Human Services Commission.
2. The Grantee must also submit a data collection form and reporting package to the Federal Audit Clearinghouse.
3. The Grantee may access the Transactions List report in the Clinical Management for Behavioral Health Services (CMBHS) system to identify the amount of Federal Financial Assistance included in this award by each transaction.
4. If the Certified Public Accounting firm’s audit report includes findings or questioned costs, the Grantee must submit updates on the implementation of the corrective action plan to the Texas Health and Human Services Commission at Single_Audit_Report@hhsc.state.tx.us by the designated due date provided by the Texas Health and Human Services Commission.
5. The Grantee must retain records to support expenditures and make those records available for review or audit by appropriate officials of SAMHSA, the awarding agency, the General Accountability Office and/or their representatives.

EXHIBIT S: SUBSTANCE ABUSE PREVENTION AND TREATMENT (SAPT)
BLOCK GRANT CONTRACT SUPPLEMENT

H. Salary Limitation

The Grantee cannot use the SAPT Block Grant to pay salaries in excess of Level I of the Federal Senior Executive pay scale.

I. Charitable Choice

1. If the Grantee is an SAPT Block Grant-funded Grantee that is part of a faith-based organization, the Grantee may:
 - a. Retain the authority over its internal governance.
 - b. Retain religious terms in its name.
 - c. Select board members on a religious basis.
 - d. Include religious references in the mission statements and other governing documents.
 - e. Use space in its facilities to offer Block Grant-funded activities without removing religious art, icons, scriptures, or other symbols.
2. If the Grantee is part of a faith-based organization, the Grantee cannot use SAPT Block Grant funds for inherently religious activities such as the following:
 - a. Worship.
 - b. Religious instruction.
 - c. Proselytization.
3. The Grantee may only engage in religious activities listed under Section I (2) above if both of the following conditions are met:
 - a. The activities are offered separately, in time or location, from Block Grant-funded activities.
 - b. Participation in the activities is voluntary.
4. In delivering services, including outreach activities, SAPT Block Grant-funded religious organizations cannot discriminate against current or prospective program participants based upon:
 - a. Religion.
 - b. Religious belief.
 - c. Refusal to hold a religious belief.
 - d. Refusal to actively participate in a religious practice.

EXHIBIT S: SUBSTANCE ABUSE PREVENTION AND TREATMENT (SAPT)
BLOCK GRANT CONTRACT SUPPLEMENT

5. If an otherwise eligible client objects to the religious character of the Grantee, the Grantee shall refer the client to an alternative provider within a reasonable period of time of the objection.
6. If the Grantee is a religious organization, the Grantee must:
 - a. Use generally accepted auditing and accounting principles to account for SAPT Block Grant funds similar to other nongovernmental organizations.
 - b. Segregate federal funds from non-federal funds.
 - c. Subject federal funds to audits by the government.
 - d. Apply Charitable Choice requirements to commingled funds when state/local funds are commingled with Block Grant funds.

J. 45 CFR § 96.126 CAPACITY OF TREATMENT FOR INTRAVENOUS SUBSTANCE ABUSERS

If the Grantee treats injecting drug users, the Grantee must:

1. Within seven (7) days, notify the State whenever the Grantee has reached ninety percent (90%) of its treatment capacity.
2. Admit each individual who requests and is in need of treatment for intravenous drug abuse:
 - a. No later than fourteen (14) days after making the request; or
 - b. Within one hundred twenty (120) days of the request if the Grantee has no capacity to admit the individual, the Grantee makes interim services available within forty-eight (48) hours, and the Grantee offers the interim services until the individual is admitted into a substance abuse treatment program
3. Offer interim services, when appropriate, that include, at a minimum, two of the following:
 - a. Counseling and education about HIV and tuberculosis (TB), the risks of needle-sharing, the risks of transmission to sexual partners and infants, and steps that can be taken to ensure that HIV and TB transmission do not occur.
 - b. Referral for HIV or TB treatment services, if necessary.
 - c. Counseling pregnant women on the effects of alcohol and other drug use on the fetus and referrals for prenatal care for pregnant women.
4. Maintain a waiting list that includes a unique individual identifier for each injecting drug abuser seeking treatment, including individuals receiving interim services while awaiting admission.
5. Maintain a mechanism that enables the program to:

EXHIBIT S: SUBSTANCE ABUSE PREVENTION AND TREATMENT (SAPT)
BLOCK GRANT CONTRACT SUPPLEMENT

- a. Maintain contact with individuals awaiting admission.
- b. Consult with the State's capacity management system to ensure that waiting list clients are admitted or transferred to an appropriate treatment program within a reasonable geographic area at the earliest possible time.

ATTACHMENT B
PROGRAM SERVICES & UNIT RATES

GRANTEE NAME

City of Lubbock

CONTRACT NUMBER

HHS000779500006

A. Funding from the U.S. Department of Health and Human Services ("HHS") and the Substance Abuse and Mental Health Services Administration ("SAMHSA") will be used to finance the Texas Health and Human Services Commission ("HHSC" or "System Agency") Substance Use Disorder project(s), which include the services provided under this Contract.

B. The following Assistance Listing Number (ALN) funds, if any, are listed on the Categorical Budget as part of the System Agency's Share.

1. Substance Abuse Prevention Treatment (SAPT) Grant, ALN 93.959
2. State General Revenue

C. Funding

1. HHSC's share of total reimbursements is not to exceed \$239,100.00 for the period of February 1, 2022 through August 31, 2024, as further specified in Article IV of the Contract (Budget). The HHSC share of total reimbursements for each fiscal year (FY) is allocated as follows:

- a. FY 2022 (February 1, 2022 through August 31, 2022)\$79,700.00
- b. FY 2023 (September 1, 2022 through August 31, 2023).....\$79,700.00
- c. FY 2024 (September 1, 2023 through August 31, 2024).....\$79,700.00

2. Grantee's required match per fiscal year shall be five percent (that is, equal to \$3,985.00), for each FY.

3. The total Contract amount is not to exceed \$251,055.00 for the period of February 1, 2022 through August 31, 2024, as follows:

- a. FY 2022 (February 1, 2022 through August 31, 2022)\$83,685.00
- b. FY 2023 (September 1, 2022 through August 31, 2023).....\$83,685.00
- c. FY 2024 (September 1, 2023 through August 31, 2024).....\$83,685.00

D. Grantee shall submit claims each month to HHSC through the Clinical Management for Behavioral Health Services (CMBHS) system.

E. Except as indicated by the CMBHS financial eligibility assessment, Grantee shall accept reimbursement or payment from HHSC as payment in full for services or goods provided to

clients or participants; and Grantee shall not seek additional reimbursement or payment for services or goods, to include benefits received from federal, state, or local sources, from clients or participants.

- F.** Grantee may request revisions to the approved distribution of funds budgeted in the Service Type/Capacity/Unit Rate Chart, by submitting a written request to the Assigned Contract Manager. This change is considered a minor administrative change and does not require an amendment. The System Agency shall provide written notification if the revision is approved; and the assigned Contract Manager will update CMBHS, as needed.
- G.** Any unexpended balance associated with any other HHSC Contract may not be applied to this HHSC Contract.
- H.** HHSC funded capacity is defined as the stated number of clients that will be concurrently served as determined by this Contract.
- I.** Clinic numbers must be approved by the HHSC Contract Manager before billing can occur. A copy of the Clinic Change Request Form is located at: <https://hhs.texas.gov/doing-business-hhs/provider-portals/behavioral-health-services-providers/substance-use-disorder-service-providers>.
- J.** Service Types with no associated amount will be paid from the preceding Service Type with an associated Amount.
- K.** The following Service Types, Capacity, and Unit Rates are approved and shall be delivered through this Contract:

SERVICE TYPE/CAPACITY/UNIT RATE CHART

| Service Type | Number Served | Capacity | Unit Rate | Amount |
|--|----------------------|-----------------|------------------|---------------|
| Co-occurring Psychiatric & Substance Use Disorders | 54 | 9 | | \$79,700.00 |
| Co-occurring Psychiatric & Substance Use Disorders – Adult (COPSD) | | | \$66.98 | |
| Co-occurring Psychiatric & Substance Use Disorders – Youth (COPSD) | | | \$66.98 | |

ATTACHMENT C



TEXAS
Health and Human Services

Health and Human Services (HHS)

Uniform Terms and Conditions - Grant

Version 3.0

Published and Effective – August 2021

Responsible Office: Chief Counsel

ABOUT THIS DOCUMENT

In this document, Grantees (also referred to in this document as subrecipients or contractors) will find requirements and conditions applicable to grant funds administered and passed-through by both the Texas Health and Human Services Commission (HHSC) and the Department of State Health Services (DSHS). These requirements and conditions are incorporated into the Grant Agreement through acceptance by Grantee of any funding award by HHSC or DSHS.

The terms and conditions in this document are in addition to all requirements listed in the RFA, if any, under which applications for this grant award are accepted, as well as all applicable federal and state laws and regulations. Applicable federal and state laws and regulations may include, but are not limited to: 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards; requirements of the entity that awarded the funds to HHS; Chapter 783 of the Texas Government Code; Texas Comptroller of Public Accounts' agency rules (including Uniform Grant and Contract Standards set forth in Title 34, Part 1, Chapter 20, Subchapter E, Division 4 of the Texas Administrative Code); the Texas Grant Management Standards (TxGMS) developed by the Texas Comptroller of Public Accounts; and the Funding Announcement, Solicitation, or other instrument/documentation under which HHS was awarded funds. HHS, in its sole discretion, reserves the right to add requirements, terms, or conditions.

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ARTICLE I. DEFINITIONS AND INTERPRETIVE PROVISIONS

1.1 DEFINITIONS

As used in this Grant Agreement, unless a different definition is specified, or the context clearly indicates otherwise, the following terms and conditions have the meanings assigned below:

“Amendment” means a written agreement, signed by the Parties, which documents changes to the Grant Agreement.

“Contract” or “Grant Agreement” means the agreement entered into by the Parties, including the Signature Document, these Uniform Terms and Conditions, along with any attachments and amendments that may be issued by the System Agency.

“Deliverables” means the goods, services, and work product, including all reports and project documentation, required to be provided by Grantee to the System Agency.

“DSHS” means the Department of State Health Services.

“Effective Date” means the date on which the Grant Agreement takes effect.

“Federal Fiscal Year” means the period beginning October 1 and ending September 30 each year, which is the annual accounting period for the United States government.

“GAAP” means Generally Accepted Accounting Principles.

“GASB” means the Governmental Accounting Standards Board.

“Grantee” means the Party receiving funds under this Grant Agreement. May also be referred to as “subrecipient” or “contractor” in this document.

“HHSC” means the Texas Health and Human Services Commission.

“Health and Human Services” or “HHS” includes HHSC and DSHS.

“Intellectual Property Rights” means the worldwide proprietary rights or interests, including patent, copyright, trade secret, and trademark rights, as such right may be evidenced by or embodied in:

- i. any idea, design, concept, personality right, method, process, technique, apparatus, invention, discovery, or improvement;
- ii. any work of authorship, including any compilation, computer code, website or web page design, literary work, pictorial work, or graphic work;
- iii. any trademark, service mark, trade dress, trade name, branding, or other indicia of source or origin;
- iv. domain name registrations; and
- v. any other proprietary or similar rights. The Intellectual Property Rights of a Party include all worldwide proprietary rights or interests that the Party may have acquired by assignment, by exclusive license, or by license with the right to grant sublicenses.

“Parties” means the System Agency and Grantee, collectively.

“Party” means either the System Agency or Grantee, individually.

“[Project](#)” means specific activities of the Grantee that are supported by funds provided under this Grant Agreement.

“[Signature Document](#)” means the document executed by all Parties for this Grant Agreement.

“[Solicitation](#),” “[Funding Announcement](#)” or “[Request for Applications \(RFA\)](#)” means the document (including all exhibits, attachments, and published addenda), issued by the System Agency under which applications for grant funds were requested, which is incorporated by reference in the Grant Agreement for all purposes in its entirety.

“[Solicitation Response](#)” or “[Application](#)” means Grantee’s full and complete Solicitation response (including any attachments and addenda), which is incorporated by reference in the Grant Agreement for all purposes in its entirety.

“[State Fiscal Year](#)” means the period beginning September 1 and ending August 31 each year, which is the annual accounting period for the State of Texas.

“[State of Texas Texttravel](#)” means the Texas Comptroller of Public Accounts’ state travel rules, policies, and guidelines.

“[Statement of Work](#)” means the description of activities Grantee must perform to complete the Project, as specified in the Grant Agreement and as may be amended.

“[System Agency](#)” means HHSC or DSHS, as applicable.

“[Work Product](#)” means any and all works, including work papers, notes, materials, approaches, designs, specifications, systems, innovations, improvements, inventions, software, programs, source code, documentation, training materials, audio or audiovisual recordings, methodologies, concepts, studies, reports, whether finished or unfinished, and whether or not included in the deliverables, that are developed, produced, generated or provided by Grantee in connection with Grantee’s performance of its duties under the Grant Agreement or through use of any funding provided under this Grant Agreement.

“[Texas Grant Management Standards](#)” or “[TxGMS](#)” means uniform grant and contract administration procedures, developed under the authority of Chapter 783 of the Texas Government Code, to promote the efficient use of public funds in local government and in programs requiring cooperation among local, state, and federal agencies. Under this Grant Agreement, TxGMS applies to Grantee except as otherwise provided by applicable law or directed by System Agency. Additionally, except as otherwise provided by applicable law, in the event of a conflict between TxGMS and applicable federal or state law, federal law prevails over state law and state law prevails over TxGMS.

1.2 INTERPRETIVE PROVISIONS

- A. The meanings of defined terms include the singular and plural forms.
- B. The words “hereof,” “herein,” “hereunder,” and similar words refer to this Grant Agreement as a whole and not to any particular provision, section, attachment, or schedule of this Grant Agreement unless otherwise specified.
- C. The term “including” is not limiting and means “including without limitation” and, unless otherwise expressly provided in this Grant Agreement, (i) references to contracts

(including this Grant Agreement) and other contractual instruments shall be deemed to include all subsequent Amendments and other modifications, but only to the extent that such Amendments and other modifications are not prohibited by the terms of this Grant Agreement, and (ii) references to any statute or regulation are to be construed as including all statutory and regulatory provisions consolidating, amending, replacing, supplementing, or interpreting the statute or regulation.

- D. Any references to agreements, contracts, statutes, or administrative rules or regulations in the Grant Agreement are references to these documents as amended, modified, or supplemented during the term of the Grant Agreement.
- E. The captions and headings of this Grant Agreement are for convenience of reference only and do not affect the interpretation of this Grant Agreement.
- F. All attachments, including those incorporated by reference, and any Amendments are considered part of the terms of this Grant Agreement.
- G. This Grant Agreement may use several different limitations, regulations, or policies to regulate the same or similar matters. All such limitations, regulations, and policies are cumulative.
- H. Unless otherwise expressly provided, reference to any action of the System Agency or by the System Agency by way of consent, approval, or waiver will be deemed modified by the phrase "in its sole discretion."
- I. Time is of the essence in this Grant Agreement.
- J. Prior to execution of the Grant Agreement, Grantee must notify System Agency's designated contact in writing of any ambiguity, conflict, discrepancy, omission, or other error. If Grantee fails to notify the System Agency designated contact of any ambiguity, conflict, discrepancy, omission or other error in the Grant Agreement prior to Grantee's execution of the Grant Agreement, Grantee:
 - i. Shall have waived any claim of error or ambiguity in the Grant Agreement; and
 - ii. Shall not contest the interpretation by the System Agency of such provision(s).

No grantee will be entitled to additional reimbursement, relief, or time by reason of any ambiguity, conflict, discrepancy, exclusionary specification, omission, or other error or its later correction.

ARTICLE II. PAYMENT PROVISIONS

2.1 PROMPT PAYMENT

Payment shall be made in accordance with Chapter 2251 of the Texas Government Code, commonly known as the Texas Prompt Payment Act. Chapter 2251 of the Texas Government Code shall govern remittance of payment and remedies for late payment and non-payment.

2.2 TAXES

Grantee represents and warrants that it shall pay all taxes or similar amounts resulting from the Grant Agreement, including, but not limited to, any federal, State, or local income, sales or excise taxes of Grantee or its employees. System Agency shall not be liable for any taxes resulting from the Grant Agreement.

2.3 ANCILLARY AND TRAVEL EXPENSES

- A. Except as otherwise provided in the Grant Agreement, no ancillary expenses incurred by the Grantee in connection with its provision of the services or deliverables will be reimbursed by the System Agency. Ancillary expenses include, but are not limited to, costs associated with transportation, delivery, and insurance for each deliverable.
- B. Except as otherwise provided in the Grant Agreement, when the reimbursement of travel expenses is authorized by the Grant Agreement, all such expenses will be reimbursed in accordance with the rates set by the Texas Comptroller's *Textravel* guidelines, which can currently be accessed at: <https://fmx.cpa.texas.gov/fmx/travel/texttravel/>.

2.4 BILLING

Unless otherwise provided in the Grant Agreement, Grantee shall bill the System Agency in accordance with the Grant Agreement. Unless otherwise specified in the Grant Agreement, Grantee shall submit requests for reimbursement or payment monthly by the last business day of the month following the month in which expenses were incurred or services provided. Grantee shall maintain all documentation that substantiates invoices and make the documentation available to the System Agency upon request.

2.5 USE OF FUNDS

Grantee shall expend funds under this Grant Agreement only for approved services and for reasonable and allowable expenses directly related to those services.

2.6 USE FOR MATCH PROHIBITED

Grantee shall not use funds provided under this Grant Agreement for matching purposes in securing other funding without the written approval of the System Agency.

2.7 PROGRAM INCOME

Program income refers to gross income directly generated by a supporting activity during the period of performance. Unless otherwise required under the Grant Agreement, Grantee shall use Program Income, as provided in TxGMS, to further the Project, and Grantee shall spend the Program Income on the Project. Grantee shall identify and report Program Income in accordance with the Grant Agreement, applicable law, and any programmatic guidance. Grantee shall expend Program Income during the Grant Agreement term, when earned, and may not carry Program Income forward to any succeeding term. Grantee shall refund Program Income to the System Agency if the Program Income is not expended in the term in which it is earned. The System Agency may base future funding levels, in part, upon Grantee's proficiency in identifying, billing, collecting, and reporting Program Income, and in using Program Income for the purposes and under the conditions specified in this Grant Agreement.

2.8 NONSUPPLANTING

Grant funds must be used to supplement existing, new or corresponding programming and related activities. Grant funds may not be used to supplant (replace) existing funds that have been appropriated, allocated, or disbursed for the same purpose. System Agency may conduct Grant monitoring or audits may be conducted to review, among other things, Grantee's compliance with this provision.

2.9 INDIRECT COST RATES

The System Agency may acknowledge an indirect cost rate for Grantees that is utilized for all applicable Grant Agreements. For subrecipients receiving federal funds, indirect cost rates will be determined in accordance with applicable law including, but not limited to, 2 CFR 200.414(f). For recipients receiving state funds, indirect costs will be determined in accordance with applicable law including, but not limited to, TxGMS. Grantees funded with blended federal and state funding will be subject to both state and federal requirements when determining indirect costs. In the event of a conflict between TxGMS and applicable federal law or regulation, the provisions of federal law or regulation will apply. Grantee will provide any necessary financial documents to determine the indirect cost rate in accordance with the Uniform Grant Guidance (UGG) and TxGMS.

ARTICLE III. STATE AND FEDERAL FUNDING

3.1 EXCESS OBLIGATIONS PROHIBITED

This Grant Agreement is subject to termination or cancellation, without penalty to System Agency, either in whole or in part, subject to the availability and actual receipt by System Agency of state or federal funds. System Agency is a state agency whose authority and appropriations are subject to actions of the Texas Legislature. If System Agency becomes subject to a legislative change, revocation of statutory authority, or lack of appropriated funds that would render either System Agency's or Grantee's delivery or performance under the Grant Agreement impossible or unnecessary, the Grant Agreement will be terminated or cancelled and be deemed null and void. In the event of a termination or cancellation under this Section, System Agency will not be liable to Grantee for any damages that are caused or associated with such termination or cancellation, and System Agency will not be required to give prior notice. Additionally, System Agency will not be liable to Grantee for any remaining unpaid funds under this Grant Agreement at time of termination.

3.2 NO DEBT AGAINST THE STATE

This Grant Agreement will not be construed as creating any debt by or on behalf of the State of Texas.

3.3 DEBTS AND DELINQUENCIES

Grantee agrees that any payments due under the Grant Agreement shall be directly applied towards eliminating any debt or delinquency it has to the State of Texas including, but not limited to, delinquent taxes, delinquent student loan payments, and delinquent child support during the entirety of the Grant Agreement term.

3.4 REFUNDS AND OVERPAYMENTS

- A. At its sole discretion, the System Agency may (i) withhold all or part of any payments to Grantee to offset overpayments, unallowable or ineligible costs made to the Grantee, or if any required financial status report(s) is not submitted by the due date(s); or (ii) require Grantee to promptly refund or credit - within thirty (30) calendar days of written notice - to System Agency any funds erroneously paid by System Agency which are not expressly authorized under the Grant Agreement.
- B. "Overpayments" as used in this Section include payments (i) made by the System

Agency that exceed the maximum allowable rates; (ii) that are not allowed under applicable laws, rules, or regulations; or (iii) that are otherwise inconsistent with this Grant Agreement, including any unapproved expenditures. Grantee understands and agrees that it shall be liable to the System Agency for any costs disallowed pursuant to financial and compliance audit(s) of funds received under this Grant Agreement. Grantee further understands and agrees that reimbursement of such disallowed costs shall be paid by Grantee from funds which were not provided or otherwise made available to Grantee under this Grant Agreement.

ARTICLE IV. ALLOWABLE COSTS AND AUDIT REQUIREMENTS

4.1 ALLOWABLE COSTS

- A. Allowable Costs are restricted to costs that are authorized under Texas Uniform Grant Management Standards (TxGMS) and applicable state and federal rules and laws. This Grant Agreement is subject to all applicable requirements of TxGMS, including the criteria for Allowable Costs. Additional federal requirements apply if this Grant Agreement is funded, in whole or in part, with federal funds.
- B. System Agency will reimburse Grantee for actual, allowable, and allocable costs incurred by Grantee in performing the Project, provided the costs are sufficiently documented. Grantee must have incurred a cost prior to claiming reimbursement and within the applicable term to be eligible for reimbursement under this Grant Agreement. At its sole discretion, the System Agency will determine whether costs submitted by Grantee are allowable and eligible for reimbursement. The System Agency may take repayment (recoup) from remaining funds available under this Grant Agreement in amounts necessary to fulfill Grantee's repayment obligations. Grantee and all payments received by Grantee under this Grant Agreement are subject to applicable cost principles, audit requirements, and administrative requirements including applicable provisions under 2 CFR 200, 48 CFR Part 31, and TxGMS.
- C. OMB Circulars will be applied with the modifications prescribed by TxGMS with effect given to whichever provision imposes the more stringent requirement in the event of a conflict.

4.2 AUDITS AND FINANCIAL STATEMENTS

- A. Audits
 - i. Grantee understands and agrees that Grantee is subject to any and all applicable audit requirements found in state or federal law or regulation or added by this Grant Agreement
 - ii. HHS Single Audit Unit will notify Grantee to complete the Single Audit Determination Form. If Grantee fails to complete the form within thirty (30) calendar days after receipt of notice, Grantee may be subject to sanctions and remedies for non-compliance.
 - iii. If Grantee, within Grantee's fiscal year, expends at least SEVEN HUNDRED FIFTY THOUSAND DOLLARS (\$750,000) in federal funds awarded, Grantee shall have a single audit or program-specific audit in accordance with 2 CFR 200. The federal threshold amount includes federal funds passed through by way of state agency awards.

- iv. If Grantee, within Grantee's fiscal year, expends at least SEVEN HUNDRED FIFTY THOUSAND DOLLARS (\$750,000) in state funds awarded, Grantee shall have a single audit or program-specific audit in accordance with TxGMS. The audit must be conducted by an independent certified public accountant and in accordance with 2 CFR 200, Government Auditing Standards, and TxGMS.
 - v. For-profit Grantees whose expenditures meet or exceed the federal or state expenditure thresholds stated above shall follow the guidelines in 2 CFR 200 or TxGMS, as applicable, for their program-specific audits.
 - vi. Each Grantee required to obtain a single audit must competitively re-procure single audit services once every six years. Grantee shall procure audit services in compliance with this section, state procurement procedures, as well as with applicable provisions of 2 CFR 200 and TxGMS.
- B. Financial Statements.
- Each Grantee that does not meet the expenditure threshold for a single audit or program-specific audit, must provide financial statements for the audit period.

4.3 SUBMISSION OF AUDITS AND FINANCIAL STATEMENTS

- A. Audits.
- Due the earlier of 30 days after receipt of the independent certified public accountant's report or nine months after the end of the fiscal year, Grantee shall submit one electronic copy of the single audit or program-specific audit to the System Agency via:
- i. HHS portal at <https://hhsportal.hhs.state.tx.us/heartwebextr/hhscSau> or,
 - ii. Email to: single_audit_report@hhsc.state.tx.us.
- B. Financial Statements.
- Due no later than nine months after the Grantee's fiscal year-end, Grantees not required to submit an audit, shall submit one electronic copy of their financial statements via:
- i. HHS portal at <https://hhsportal.hhs.state.tx.us/heartwebextr/hhscSau>; or,
 - ii. Email to: single_audit_report@hhsc.state.tx.us.

ARTICLE V. WARRANTY, AFFIRMATIONS, ASSURANCES AND CERTIFICATIONS

5.1 WARRANTY

Grantee warrants that all work under this Grant Agreement shall be completed in a manner consistent with standards under the terms of this Grant Agreement, in the applicable trade, profession, or industry; shall conform to or exceed the specifications set forth in the Grant Agreement; and all deliverables shall be fit for ordinary use, of good quality, and with no material defects. If System Agency, in its sole discretion, determines Grantee has failed to complete work timely or to perform satisfactorily under conditions required by this Grant Agreement, the System Agency may require Grantee, at its sole expense, to:

- i. Repair or replace all defective or damaged work;
- ii. Refund any payment Grantee received from System Agency for all defective or damaged work and, in conjunction therewith, require Grantee to accept the return of such work; and,
- iii. Take necessary action to ensure that Grantee's future performance and work conform to the Grant Agreement requirements.

5.2 GENERAL AFFIRMATIONS

Grantee certifies that, to the extent affirmations are incorporated into the Grant Agreement, the Grantee has reviewed the affirmations and that Grantee is in compliance with all requirements.

5.3 FEDERAL ASSURANCES

Grantee further certifies that, to the extent federal assurances are incorporated into the Grant Agreement, the Grantee has reviewed the federal assurances and that Grantee is in compliance with all requirements.

5.4 FEDERAL CERTIFICATIONS

Grantee further certifies that, to the extent federal certifications are incorporated into the Grant Agreement, the Grantee has reviewed the federal certifications and that Grantee is in compliance with all requirements. In addition, Grantee certifies that it is in compliance with all applicable federal laws, rules, and regulations, as they may pertain to this Grant Agreement.

5.5 STATE ASSURANCES

Except to the extent of any conflict under applicable law or requirements or guidelines of any federal awarding agency from which funding for this Grant Agreement originated, the Grantee must comply with the applicable state assurances included within the TxGMS which are incorporated here by reference.

ARTICLE VI. INTELLECTUAL PROPERTY

6.1 OWNERSHIP OF WORK PRODUCT

- A. All right, title, and interest in the Work Product, including all Intellectual Property Rights therein, is exclusively owned by System Agency. Grantee and Grantee's employees will have no rights in or ownership of the Work Product or any other property of System Agency.
- B. Any and all Work Product that is copyrightable under United States copyright law is deemed to be "work made for hire" owned by System Agency, as provided by Title 17 of the United States Code. To the extent that Work Product does not qualify as a "work made for hire" under applicable federal law, Grantee hereby irrevocably assigns and transfers to System Agency, its successors and assigns, the entire right, title, and interest in and to the Work Product, including any and all Intellectual Property Rights embodied therein or associated therewith, and in and to all works based upon, derived from, or incorporating the Work Product, and in and to all income, royalties, damages, claims and payments now or hereafter due or payable with respect thereto, and in and to all causes of action, either in law or in equity for past, present or future infringement based on the copyrights, and in and to all rights corresponding to the foregoing.
- C. Grantee agrees to execute all papers and to perform such other acts as System Agency may deem necessary to secure for System Agency or its designee the rights herein assigned.
- D. In the event that Grantee has any rights in and to the Work Product that cannot be assigned to System Agency, Grantee hereby grants to System Agency an exclusive, worldwide, royalty-free, transferable, irrevocable, and perpetual license, with the right to

sublicense, to reproduce, distribute, modify, create derivative works of, publicly perform and publicly display, make, have made, use, sell and offer for sale the Work Product and any products developed by practicing such rights.

- E. The foregoing does not apply to Incorporated Pre-existing Works or Third Party IP that are incorporated in the Work Product by Grantee. Grantee shall provide System Agency access during normal business hours to all Grantee materials, premises, and computer files containing the Work Product.

6.2 GRANTEE'S PRE-EXISTING WORKS

- A. To the extent that Grantee incorporates into the Work Product any works of Grantee that were created by Grantee or that Grantee acquired rights in prior to the Effective Date of this Grant Agreement ("**Incorporated Pre-existing Works**"), Grantee retains ownership of such Incorporated Pre-existing Works.
- B. Grantee hereby grants to System Agency an irrevocable, perpetual, non-exclusive, royalty-free, transferable, worldwide right and license, with the right to sublicense, to use, reproduce, modify, copy, create derivative works of, publish, publicly perform and display, sell, offer to sell, make and have made, the Incorporated Pre-existing Works, in any medium, with or without the associated Work Product.
- C. Grantee represents, warrants, and covenants to System Agency that Grantee has all necessary right and authority to grant the foregoing license in the Incorporated Pre-existing Works to System Agency.

6.3 THIRD PARTY IP

- A. To the extent that any Third Party IP is included or incorporated in the Work Product by Grantee, Grantee hereby grants to System Agency, or shall obtain from the applicable third party for System Agency's benefit, the irrevocable, perpetual, non-exclusive, worldwide, royalty-free right and license, for System Agency's internal business or governmental purposes only, to use, reproduce, display, perform, distribute copies of, and prepare derivative works based upon such Third Party IP and any derivative works thereof embodied in or delivered to System Agency in conjunction with the Work Product, and to authorize others to do any or all of the foregoing.
- B. Grantee shall obtain System Agency's advance written approval prior to incorporating any Third Party IP into the Work Product, and Grantee shall notify System Agency on delivery of the Work Product if such materials include any Third Party IP.
- C. Grantee shall provide System Agency all supporting documentation demonstrating Grantee's compliance with this Section 6.3, including without limitation documentation indicating a third party's written approval for Grantee to use any Third Party IP that may be incorporated in the Work Product.

6.4 AGREEMENTS WITH EMPLOYEES AND SUBCONTRACTORS

Grantee shall have written, binding agreements with its employees and subcontractors that include provisions sufficient to give effect to and enable Grantee's compliance with Grantee's obligations under this Article VI, Intellectual Property.

6.5 DELIVERY UPON TERMINATION OR EXPIRATION

No later than the first calendar day after the termination or expiration of the Grant Agreement or upon System Agency's request, Grantee shall deliver to System Agency all completed, or

partially completed, Work Product, including any Incorporated Pre-existing Works, and any and all versions thereof. Grantee's failure to timely deliver such Work Product is a material breach of the Grant Agreement. Grantee will not retain any copies of the Work Product or any documentation or other products or results of Grantee's activities under the Grant Agreement without the prior written consent of System Agency.

6.6 SURVIVAL

The provisions and obligations of this Article survive any termination or expiration of the Grant Agreement.

6.7 SYSTEM AGENCY DATA

- A. As between the Parties, all data and information acquired, accessed, or made available to Grantee by, through, or on behalf of System Agency or System Agency contractors, including all electronic data generated, processed, transmitted, or stored by Grantee in the course of providing data processing services in connection with Grantee's performance hereunder (the "System Agency Data"), is owned solely by System Agency.
- B. Grantee has no right or license to use, analyze, aggregate, transmit, create derivatives of, copy, disclose, or process the System Agency Data except as required for Grantee to fulfill its obligations under the Grant Agreement or as authorized in advance in writing by System Agency.
- C. For the avoidance of doubt, Grantee is expressly prohibited from using, and from permitting any third party to use, System Agency Data for marketing, research, or other non-governmental or commercial purposes, without the prior written consent of System Agency.
- D. Grantee shall make System Agency Data available to System Agency, including to System Agency's designated vendors, as directed in writing by System Agency. The foregoing shall be at no cost to System Agency.
- E. Furthermore, the proprietary nature of Grantee's systems that process, store, collect, and/or transmit the System Agency Data shall not excuse Grantee's performance of its obligations hereunder.

ARTICLE VII. PROPERTY

7.1 USE OF STATE PROPERTY

- A. Grantee is prohibited from using State Property for any purpose other than performing Services authorized under the Grant Agreement.
- B. State Property includes, but is not limited to, System Agency's office space, identification badges, System Agency information technology equipment and networks (e.g., laptops, portable printers, cell phones, iPads or tablets, external hard drives, data storage devices, any System Agency-issued software, and the System Agency Virtual Private Network (VPN client)), and any other resources of System Agency.
- C. Grantee shall not remove State Property from the continental United States. In addition, Grantee may not use any computing device to access System Agency's network or e-mail while outside of the continental United States.
- D. Grantee shall not perform any maintenance services on State Property unless the Grant Agreement expressly authorizes such Services.

- E. During the time that State Property is in the possession of Grantee, Grantee shall be responsible for:
 - i. all repair and replacement charges incurred by State Agency that are associated with loss of State Property or damage beyond normal wear and tear, and
 - ii. all charges attributable to Grantee's use of State Property that exceeds the Grant Agreement scope. Grantee shall fully reimburse such charges to System Agency within ten (10) calendar days of Grantee's receipt of System Agency's notice of amount due. Use of State Property for a purpose not authorized by the Grant Agreement shall constitute breach of contract and may result in termination of the Grant Agreement and the pursuit of other remedies available to System Agency under contract, at law, or in equity.

7.2 DAMAGE TO STATE PROPERTY

- A. In the event of loss, destruction, or damage to any System Agency or State of Texas owned, leased, or occupied property or equipment by Grantee or Grantee's employees, agents, Subcontractors, or suppliers, Grantee shall be liable to System Agency and the State of Texas for the full cost of repair, reconstruction, or replacement of the lost, destroyed, or damaged property.
- B. Grantee shall notify System Agency of the loss, destruction, or damage of equipment or property within one (1) business day. Grantee shall reimburse System Agency and the State of Texas for such property damage within ten (10) calendar days after Grantee's receipt of System Agency's notice of amount due.

7.3 PROPERTY RIGHTS UPON TERMINATION OR EXPIRATION OF CONTRACT

In the event the Grant Agreement is terminated for any reason or expires, State Property remains the property of the System Agency and must be returned to the System Agency by the earlier of the end date of the Grant Agreement or upon System Agency's request.

7.4 EQUIPMENT AND PROPERTY

- A. The Grantee must ensure equipment with a per-unit cost of \$5,000 or greater purchased with grant funds under this award is used solely for the purpose of this Grant or is properly pro-rated for use under this Grant. Grantee must have control systems to prevent loss, damage, or theft of property funded under this Grant. Grantee shall maintain equipment management and inventory procedures for equipment, whether acquired in part or whole with grant funds, until disposition occurs.
- B. When equipment acquired by Grantee under this Grant Agreement is no longer needed for the original project or for other activities currently supported by System Agency, the Grantee must properly dispose of the equipment pursuant to 2 CFR and/or TxGMS, as applicable. Upon termination of this Grant Agreement, use and disposal of equipment by the Grantee shall conform with TxGMS requirements.
- C. Grantee shall initiate the purchase of all equipment approved in writing by the System Agency in accordance with the schedule approved by System Agency, as applicable. Failure to timely initiate the purchase of equipment may result in the loss of availability of funds for the purchase of equipment. Requests to purchase previously approved equipment after the first quarter in the Grant Agreement must be submitted to the assigned System Agency contract manager.
- D. Controlled Assets include firearms, regardless of the acquisition cost, and the following

assets with an acquisition cost of \$500 or more, but less than \$5,000: desktop and laptop computers (including notebooks, tablets and similar devices), non-portable printers and copiers, emergency management equipment, communication devices and systems, medical and laboratory equipment, and media equipment. Controlled Assets are considered supplies.

- E. System Agency funds must not be used to purchase buildings or real property without prior written approval from System Agency. Any costs related to the initial acquisition of the buildings or real property are not allowable without written pre-approval.

ARTICLE VIII. RECORD RETENTION, AUDIT, AND CONFIDENTIALITY

8.1 RECORD MAINTENANCE AND RETENTION

- A. Grantee shall keep and maintain under GAAP or GASB, as applicable, full, true, and complete records necessary to fully disclose to the System Agency, the Texas State Auditor's Office, the United States Government, and their authorized representatives sufficient information to determine compliance with the terms and conditions of this Grant Agreement and all state and federal rules, regulations, and statutes.
- B. Grantee shall maintain and retain legible copies of this Grant Agreement and all records relating to the performance of the Grant Agreement, including supporting fiscal documents adequate to ensure that claims for grant funds are in accordance with applicable State of Texas requirements. These records shall be maintained and retained by the Grantee for a minimum of seven (7) years after the Grant Agreement expiration date or seven (7) years after all audits, claims, litigation or disputes involving the Grant Agreement are resolved, whichever is later.

8.2 AGENCY'S RIGHT TO AUDIT

- A. Grantee shall make available at reasonable times and upon reasonable notice, and for reasonable periods, work papers, reports, books, records, supporting documents kept current by Grantee pertaining to the Grant Agreement for purposes of inspecting, monitoring, auditing, or evaluating by System Agency and the State of Texas.
- B. In addition to any right of access arising by operation of law, Grantee and any of Grantee's affiliate or subsidiary organizations, or Subcontractors shall permit the System Agency or any of its duly authorized representatives, as well as duly authorized federal, state or local authorities, unrestricted access to and the right to examine any site where business is conducted or services are performed, and all records, which includes but is not limited to financial, client and patient records, books, papers or documents related to this Grant Agreement. If the Grant Agreement includes federal funds, federal agencies that shall have a right of access to records as described in this section include: the federal agency providing the funds, the Comptroller General of the United States, the General Accounting Office, the Office of the Inspector General, and any of their authorized representatives. In addition, agencies of the State of Texas that shall have a right of access to records as described in this section include: the System Agency, HHS's contracted examiners, the State Auditor's Office, the Office of the Texas Attorney General, and any successor agencies. Each of these entities may be a duly authorized authority.

- C. If deemed necessary by the System Agency or any duly authorized authority, for the purpose of investigation or hearing, Grantee shall produce original documents related to this Grant Agreement.
- D. The System Agency and any duly authorized authority shall have the right to audit billings both before and after payment, and all documentation that substantiates the billings.
- E. Grantee shall include this provision concerning the right of access to, and examination of, sites and information related to this Grant Agreement in any Subcontract it awards.

8.3 RESPONSE/COMPLIANCE WITH AUDIT OR INSPECTION FINDINGS

- A. Grantee must act to ensure its and its Subcontractors' compliance with all corrections necessary to address any finding of noncompliance with any law, regulation, audit requirement, or generally accepted accounting principle, or any other deficiency identified in any audit, review, or inspection of the Grant Agreement and the services and Deliverables provided. Any such correction will be at Grantee's or its Subcontractor's sole expense. Whether Grantee's action corrects the noncompliance shall be solely the decision of the System Agency.
- B. As part of the services, Grantee must provide to HHS upon request a copy of those portions of Grantee's and its Subcontractors' internal audit reports relating to the services and Deliverables provided to the State under the Grant Agreement.

8.4 STATE AUDITOR'S RIGHT TO AUDIT

The state auditor may conduct an audit or investigation of any entity receiving funds from the state directly under the Grant Agreement or indirectly through a subcontract under the Grant Agreement. The acceptance of funds directly under the Grant Agreement or indirectly through a subcontract under the Grant Agreement acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. Under the direction of the legislative audit committee, an entity that is the subject of an audit or investigation by the state auditor must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit.

8.5 CONFIDENTIALITY

Grantee shall maintain as confidential and shall not disclose to third parties without System Agency's prior written consent, any System Agency information including but not limited to System Agency's business activities, practices, systems, conditions and services. This section will survive termination or expiration of this Grant Agreement. This requirement must be included in all subcontracts awarded by Grantee.

ARTICLE IX. GRANT REMEDIES, TERMINATION AND PROHIBITED ACTIVITIES

9.1 REMEDIES

- A. To ensure Grantee's full performance of the Grant Agreement and compliance with applicable law, System Agency reserves the right to hold Grantee accountable for breach of contract or substandard performance and may take remedial or corrective actions,

including, but not limited to the following:

- i. temporarily withholding cash disbursements or reimbursements pending correction of the deficiency;
 - ii. disallowing or denying use of funds for the activity or action deemed not to be in compliance;
 - iii. disallowing claims for reimbursement that may require a partial or whole return of previous payments or reimbursements;
 - iv. suspending all or part of the Grant Agreement;
 - v. requiring the Grantee to take specific actions in order to remain in compliance with the Grant Agreement;
 - vi. recouping payments made by the System Agency to the Grantee found to be in error;
 - vii. suspending, limiting, or placing conditions on the Grantee's continued performance of the Project;
 - viii. prohibiting the Grantee from receiving additional funds for other grant programs administered by the System Agency until satisfactory compliance resolution is obtained;
 - ix. withholding release of new grant agreements; and
 - x. imposing any other remedies, sanctions or penalties authorized under this Grant Agreement or permitted by federal or state statute, law, regulation or rule.
- B. Unless expressly authorized by System Agency, Grantee may not be entitled to reimbursement for expenses incurred while the Grant Agreement is suspended.
- C. No action taken by System Agency in exercising remedies or imposing sanctions will constitute or operate as a waiver of any other rights or remedies available to System Agency under the Grant Agreement or pursuant to law. Additionally, no action taken by System Agency in exercising remedies or imposing sanctions will constitute or operate as an acceptance, waiver, or cure of Grantee's breach. Unless expressly authorized by System Agency, Grantee may not be entitled to reimbursement for expenses incurred while the Grant Agreement is suspended or after termination.

9.2 TERMINATION FOR CONVENIENCE

The System Agency may terminate the Grant Agreement, in whole or in part, at any time when, in its sole discretion, the System Agency determines that termination is in the best interests of the State of Texas. The termination will be effective on the date specified in the System Agency's notice of termination.

9.3 TERMINATION FOR CAUSE

- A. Except as otherwise provided by the U.S. Bankruptcy Code, or any successor law, the System Agency may terminate the Grant Agreement, in whole or in part, upon either of the following conditions:
- i. **Material Breach**
The System Agency may terminate the Grant Agreement, in whole or in part, if the System Agency determines, in its sole discretion, that Grantee has materially breached the Grant Agreement or has failed to adhere to any laws, ordinances, rules, regulations or orders of any public authority having jurisdiction, whether or not such violation prevents or substantially impairs performance of Grantee's duties under the Grant Agreement. Grantee's misrepresentation in any aspect including, but not limited to, of Grantee's Solicitation Application, if any, or Grantee's

addition to the SAM exclusion list (identification in SAM as an excluded entity) may also constitute a material breach of the Grant Agreement.

ii. Failure to Maintain Financial Viability

The System Agency may terminate the Grant Agreement if the System Agency, in its sole discretion, determines that Grantee no longer maintains the financial viability required to complete the services and deliverables, or otherwise fully perform its responsibilities under the Grant Agreement.

- B. System Agency will specify the effective date of such termination in the notice to Grantee. If no effective date is specified, the Grant Agreement will terminate on the date of the notification.

9.4 GRANTEE RESPONSIBILITY FOR SYSTEM AGENCY'S TERMINATION COSTS

If the System Agency terminates the Grant Agreement for cause, the Grantee shall be responsible to the System Agency for all costs incurred by the System Agency and the State of Texas to replace the Grantee. These costs include, but are not limited to, the costs of procuring a substitute grantee and the cost of any claim or litigation attributable to Grantee's failure to perform any work in accordance with the terms of the Grant Agreement.

9.5 INHERENTLY RELIGIOUS ACTIVITIES

Grantee may not use grant funding to engage in inherently religious activities, such as proselytizing, scripture study, or worship. Grantees may engage in inherently religious activities; however, these activities must be separate in time or location from the grant-funded program. Moreover, grantees must not compel program beneficiaries to participate in inherently religious activities. These requirements apply to all grantees, not just faith-based organizations.

9.6 POLITICAL ACTIVITIES

Grant funds cannot be used for the following activities:

- A. Grantees and their relevant sub-grantees or subcontractors are prohibited from using grant funds directly or indirectly for political purposes, including lobbying, advocating for legislation, campaigning for, endorsing, contributing to, or otherwise supporting political candidates or parties, and voter registration campaigns. Grantees may use private, or non-System Agency money or contributions for political purposes but may not charge to, or be reimbursed from, System Agency contracts or grants for the costs of such activities.
- B. Grant-funded employees may not use official authority or influence to achieve any political purpose and grant funds cannot be used for the salary, benefits, or any other compensation of an elected official.
- C. Grant funds may not be used to employ, in any capacity, a person who is required by Chapter 305 of the Texas Government Code to register as a lobbyist. Additionally, grant funds cannot be used to pay membership dues to an organization that partially or wholly pays the salary of a person who is required by Chapter 305 of the Texas Government Code to register as a lobbyist.
- D. As applicable, Grantee will comply with 31 USC § 1352, relating to the limitation on use of appropriated funds to influence certain Federal contracting and financial transactions.

ARTICLE X. INDEMNITY

10.1 GENERAL INDEMNITY

- A. GRANTEE SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS THE STATE OF TEXAS AND SYSTEM AGENCY, AND/OR THEIR OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEYS' FEES, AND EXPENSES ARISING OUT OF OR RESULTING FROM ANY ACTS OR OMISSIONS OF GRANTEE OR ITS AGENTS, EMPLOYEES, SUBCONTRACTORS, ORDER FULFILLERS, OR SUPPLIERS OF SUBCONTRACTORS IN THE EXECUTION OR PERFORMANCE OF THE GRANT AGREEMENT AND ANY PURCHASE ORDERS ISSUED UNDER THE GRANT AGREEMENT.**
- B. THIS PARAGRAPH IS NOT INTENDED TO AND WILL NOT BE CONSTRUED TO REQUIRE GRANTEE TO INDEMNIFY OR HOLD HARMLESS THE STATE OR THE SYSTEM AGENCY FOR ANY CLAIMS OR LIABILITIES RESULTING FROM THE NEGLIGENT ACTS OF OMISSIONS OF THE SYSTEM AGENCY OR ITS EMPLOYEES.**
- C. For the avoidance of doubt, System Agency shall not indemnify Grantee or any other entity under the Grant Agreement.**

10.2 INTELLECTUAL PROPERTY

GRANTEE SHALL DEFEND, INDEMNIFY, AND HOLD HARMLESS THE SYSTEM AGENCY AND THE STATE OF TEXAS FROM AND AGAINST ANY AND ALL CLAIMS, VIOLATIONS, MISAPPROPRIATIONS, OR INFRINGEMENT OF ANY PATENT, TRADEMARK, COPYRIGHT, TRADE SECRET, OR OTHER INTELLECTUAL PROPERTY RIGHTS AND/OR OTHER INTANGIBLE PROPERTY, PUBLICITY OR PRIVACY RIGHTS, AND/OR IN CONNECTION WITH OR ARISING FROM:

- i THE PERFORMANCE OR ACTIONS OF GRANTEE PURSUANT TO THIS GRANT AGREEMENT;**
- ii ANY DELIVERABLE, WORK PRODUCT, CONFIGURED SERVICE OR OTHER SERVICE PROVIDED HEREUNDER; AND/OR**
- iii SYSTEM AGENCY'S AND/OR GRANTEE'S USE OF OR ACQUISITION OF ANY REQUESTED SERVICES OR OTHER ITEMS PROVIDED TO SYSTEM AGENCY BY GRANTEE OR OTHERWISE TO WHICH SYSTEM AGENCY HAS ACCESS AS A RESULT OF GRANTEE'S PERFORMANCE UNDER THE GRANT AGREEMENT.**

10.3 ADDITIONAL INDEMNITY PROVISIONS

- A. GRANTEE AND SYSTEM AGENCY AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY INDEMNITY CLAIM. GRANTEE SHALL BE LIABLE TO PAY ALL COSTS OF DEFENSE, INCLUDING ATTORNEYS' FEES.**
- B. THE DEFENSE SHALL BE COORDINATED BY THE GRANTEE WITH THE**

OFFICE OF THE TEXAS ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND GRANTEE MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE TEXAS ATTORNEY GENERAL.

- C. GRANTEE SHALL REIMBURSE SYSTEM AGENCY AND THE STATE OF TEXAS FOR ANY CLAIMS, DAMAGES, COSTS, EXPENSES OR OTHER AMOUNTS, INCLUDING, BUT NOT LIMITED TO, ATTORNEYS' FEES AND COURT COSTS, ARISING FROM ANY SUCH CLAIM. IF THE SYSTEM AGENCY DETERMINES THAT A CONFLICT EXISTS BETWEEN ITS INTERESTS AND THOSE OF GRANTEE OR IF SYSTEM AGENCY IS REQUIRED BY APPLICABLE LAW TO SELECT SEPARATE COUNSEL, SYSTEM AGENCY WILL BE PERMITTED TO SELECT SEPARATE COUNSEL AND GRANTEE SHALL PAY ALL REASONABLE COSTS OF SYSTEM AGENCY'S COUNSEL.**

ARTICLE XI. GENERAL PROVISIONS

11.1 AMENDMENTS

Except as otherwise expressly provided, the Grant Agreement may only be amended by a written Amendment executed by both Parties.

11.2 NO QUANTITY GUARANTEES

The System Agency makes no guarantee of volume or usage of work under this Grant Agreement. All work requested may be on an irregular and as needed basis throughout the Grant Agreement term.

11.3 CHILD ABUSE REPORTING REQUIREMENTS

- A. Grantees shall comply with child abuse and neglect reporting requirements in Texas Family Code Chapter 261. This section is in addition to and does not supersede any other legal obligation of the Grantee to report child abuse.
- B. Grantee shall develop, implement and enforce a written policy that includes at a minimum the System Agency's Child Abuse Screening, Documenting, and Reporting Policy for Grantees/Providers and train all staff on reporting requirements.
- C. Grantee shall use the Texas Abuse Hotline Website located at <https://www.txabusehotline.org/Login/Default.aspx> as required by the System Agency. Grantee shall retain reporting documentation on site and make it available for inspection by the System Agency.

11.4 CERTIFICATION OF MEETING OR EXCEEDING TOBACCO-FREE WORKPLACE POLICY MINIMUM STANDARDS

- A. Grantee certifies that it has adopted and enforces a Tobacco-Free Workplace Policy that meets or exceeds all of the following minimum standards of:
- i. Prohibiting the use of all forms of tobacco products, including but not limited to cigarettes, cigars, pipes, water pipes (hookah), bidis, kreteks, electronic cigarettes, smokeless tobacco, snuff and chewing tobacco;

- ii. Designating the property to which this Policy applies as a "designated area," which must at least comprise all buildings and structures where activities funded under this Grant Agreement are taking place, as well as Grantee owned, leased, or controlled sidewalks, parking lots, walkways, and attached parking structures immediately adjacent to this designated area;
 - iii. Applying to all employees and visitors in this designated area; and
 - iv. Providing for or referring its employees to tobacco use cessation services.
- B. If Grantee cannot meet these minimum standards, it must obtain a waiver from the System Agency.

11.5 INSURANCE AND BONDS

Unless otherwise specified in this Contract, Grantee shall acquire and maintain, for the duration of this Contract, insurance coverage necessary to ensure proper fulfillment of this Contract and potential liabilities thereunder with financially sound and reputable insurers licensed by the Texas Department of Insurance, in the type and amount customarily carried within the industry as determined by the System Agency. Grantee shall provide evidence of insurance as required under this Contract, including a schedule of coverage or underwriter's schedules establishing to the satisfaction of the System Agency the nature and extent of coverage granted by each such policy, upon request by the System Agency. In the event that any policy is determined by the System Agency to be deficient to comply with the terms of this Contract, Grantee shall secure such additional policies or coverage as the System Agency may reasonably request or that are required by law or regulation. If coverage expires during the term of this Contract, Grantee must produce renewal certificates for each type of coverage. In addition, if required by System Agency, Grantee must obtain and have on file a blanket fidelity bond that indemnifies System Agency against the loss or theft of any grant funds, including applicable matching funds. The fidelity bond must cover the entirety of the grant term and any subsequent renewals. The failure of Grantee to comply with these requirements may subject Grantee to remedial or corrective actions detailed in section 10.1, General Indemnity, above.

These and all other insurance requirements under the Grant apply to both Grantee and its Subcontractors, if any. Grantee is responsible for ensuring its Subcontractors' compliance with all requirements.

11.6 LIMITATION ON AUTHORITY

- A. Grantee shall not have any authority to act for or on behalf of the System Agency or the State of Texas except as expressly provided for in the Grant Agreement; no other authority, power, or use is granted or implied. Grantee may not incur any debt, obligation, expense, or liability of any kind on behalf of System Agency or the State of Texas.
- B. Grantee may not rely upon implied authority and is not granted authority under the Grant Agreement to:
- i. Make public policy on behalf of the System Agency;
 - ii. Promulgate, amend, or disregard administrative regulations or program policy decisions made by State and federal agencies responsible for administration of a System Agency program; or
 - iii. Unilaterally communicate or negotiate with any federal or state agency or the Texas

Legislature on behalf of the System Agency regarding System Agency programs or the Grant Agreement. However, upon System Agency request and with reasonable notice from System Agency to the Grantee, the Grantee shall assist the System Agency in communications and negotiations regarding the Work under the Grant Agreement with state and federal governments.

11.7 CHANGE IN LAWS AND COMPLIANCE WITH LAWS

Grantee shall comply with all laws, regulations, requirements and guidelines applicable to a Grantee providing services and products required by the Grant Agreement to the State of Texas, as these laws, regulations, requirements and guidelines currently exist and as amended throughout the term of the Grant Agreement. Notwithstanding Section 11.1, Amendments, above, System Agency reserves the right, in its sole discretion, to unilaterally amend the Grant Agreement to incorporate any modifications necessary for System Agency's compliance, as an agency of the State of Texas, with all applicable state and federal laws, regulations, requirements and guidelines.

11.8 SUBCONTRACTORS

Grantee may not subcontract any or all of the Work and/or obligations under the Grant Agreement without prior written approval of the System Agency. Subcontracts, if any, entered into by the Grantee shall be in writing and be subject to the requirements of the Grant Agreement. Should Grantee subcontract any of the services required in the Grant Agreement, Grantee expressly understands and acknowledges System Agency is in no manner liable to any subcontractor(s) of Grantee. In no event shall this provision relieve Grantee of the responsibility for ensuring that the services performed under all subcontracts are rendered in compliance with the Grant Agreement.

11.9 PERMITTING AND LICENSURE

At Grantee's sole expense, Grantee shall procure and maintain for the duration of this Grant Agreement any state, county, city, or federal license, authorization, insurance, waiver, permit, qualification or certification required by statute, ordinance, law, or regulation to be held by Grantee to provide the goods or services required by this Grant Agreement. Grantee shall be responsible for payment of all taxes, assessments, fees, premiums, permits, and licenses required by law. Grantee shall be responsible for payment of any such government obligations not paid by its Subcontractors during performance of this Grant Agreement.

11.10 INDEPENDENT CONTRACTOR

Grantee and Grantee's employees, representatives, agents, Subcontractors, suppliers, and third-party service providers shall serve as independent contractors in providing the services under the Grant Agreement. Neither Grantee nor System Agency is an agent of the other and neither may make any commitments on the other party's behalf. The Grantee is not a "governmental body" solely by virtue of this Grant Agreement or receipt of grant funds under this Grant Agreement. Grantee shall have no claim against System Agency for vacation pay, sick leave, retirement benefits, social security, worker's compensation, health or disability benefits, unemployment insurance benefits, or employee benefits of any kind. The Grant Agreement shall not create any joint venture, partnership, agency, or employment relationship between Grantee and System Agency.

11.11 GOVERNING LAW AND VENUE

The Grant Agreement shall be governed by and construed in accordance with the laws of the State of Texas, without regard to the conflicts of law provisions. The venue of any suit arising under the Grant Agreement is fixed in any court of competent jurisdiction of Travis County, Texas, unless the specific venue is otherwise identified in a statute which directly names or otherwise identifies its applicability to the System Agency.

11.12 SEVERABILITY

If any provision contained in this Grant Agreement is held to be unenforceable by a court of law or equity, such construction will not affect the legality, validity, or enforceability of any other provision or provisions of this Grant Agreement. It is the intent and agreement of the Parties this Grant Agreement shall be deemed amended by modifying such provision to the extent necessary to render it valid, legal and enforceable while preserving its intent or, if such modification is not possible, by substituting another provision that is valid, legal and enforceable and that achieves the same objective. All other provisions of this Grant Agreement will continue in full force and effect.

11.13 SURVIVABILITY

Expiration or termination of the Grant Agreement for any reason does not release Grantee from any liability or obligation set forth in the Grant Agreement that is expressly stated to survive any such expiration or termination, that by its nature would be intended to be applicable following any such expiration or termination, or that is necessary to fulfill the essential purpose of the Grant Agreement, including without limitation the provisions regarding return of grant funds, audit requirements, records retention, public information, warranty, indemnification, confidentiality, and rights and remedies upon termination.

11.14 FORCE MAJEURE

Neither Grantee nor System Agency shall be liable to the other for any delay in, or failure of performance, of any requirement included in the Grant Agreement caused by force majeure. The existence of such causes of delay or failure shall extend the period of performance until after the causes of delay or failure have been removed provided the non-performing party exercises all reasonable due diligence to perform. Force majeure is defined as acts of God, war, fires, explosions, hurricanes, floods, failure of transportation, or other causes that are beyond the reasonable control of either party and that by exercise of due foresight such party could not reasonably have been expected to avoid, and which, by the exercise of all reasonable due diligence, such party is unable to overcome.

11.15 NO IMPLIED WAIVER OF PROVISIONS

The failure of the System Agency to object to or to take affirmative action with respect to any conduct of the Grantee which is in violation or breach of the terms of the Grant Agreement shall not be construed as a waiver of the violation or breach, or of any future violation or breach.

11.16 FUNDING DISCLAIMERS AND LABELING

A. Grantee shall not use System Agency's name or refer to System Agency directly or indirectly in any media appearance, public service announcement, or disclosure relating to this Grant Agreement including any promotional material without first obtaining

written consent from System Agency. The foregoing prohibition includes, without limitation, the placement of banners, pop-up ads, or other advertisements promoting Grantee's or a third party's products, services, workshops, trainings, or other commercial offerings on any website portal or internet-based service or software application hosted or managed by Grantee. This does not limit the Grantee's responsibility to comply with obligations related to the Texas Public Information Act or Texas Open Meetings Act.

- B. In general, no publication (including websites, reports, projects, etc.) may convey System Agency's recognition or endorsement of the Grantee's project without prior written approval from System Agency. Publications funded in part or wholly by HHS grant funding must include a statement that "HHS and neither any of its components operate, control, are responsible for, or necessarily endorse, this publication (including, without limitation, its content, technical infrastructure, and policies, and any services or tools provided)" at HHS's request.

11.17 MEDIA RELEASES

- A. Grantee shall not use System Agency's name, logo, or other likeness in any press release, marketing material or other announcement without System Agency's prior written approval. System Agency does not endorse any vendor, commodity, or service. Grantee is not authorized to make or participate in any media releases or public announcements pertaining to this Grant Agreement or the Services to which they relate without System Agency's prior written consent, and then only in accordance with explicit written instruction from System Agency.
- B. Grantee may publish, at its sole expense, results of Grantee performance under the Grant Agreement with the System Agency's prior review and approval, which the System Agency may exercise at its sole discretion. Any publication (written, visual, or sound) will acknowledge the support received from the System Agency and any Federal agency, as appropriate.

11.18 PROHIBITION ON NON-COMPETE RESTRICTIONS

Grantee shall not require any employees or Subcontractors to agree to any conditions, such as non-compete clauses or other contractual arrangements, that would limit or restrict such persons or entities from employment or contracting with the State of Texas.

11.19 SOVEREIGN IMMUNITY

Nothing in the Grant Agreement will be construed as a waiver of the System Agency's or the State's sovereign immunity. This Grant Agreement shall not constitute or be construed as a waiver of any of the privileges, rights, defenses, remedies, or immunities available to the System Agency or the State of Texas. The failure to enforce, or any delay in the enforcement, of any privileges, rights, defenses, remedies, or immunities available to the System Agency or the State of Texas under the Grant Agreement or under applicable law shall not constitute a waiver of such privileges, rights, defenses, remedies, or immunities or be considered as a basis for estoppel. System Agency does not waive any privileges, rights, defenses, or immunities available to System Agency by entering into the Grant Agreement or by its conduct prior to or subsequent to entering into the Grant Agreement.

11.20 ENTIRE CONTRACT AND MODIFICATION

The Grant Agreement constitutes the entire agreement of the Parties and is intended as a complete and exclusive statement of the promises, representations, negotiations, discussions, and other agreements that may have been made in connection with the subject matter hereof. Any additional or conflicting terms in any future document incorporated into the Grant Agreement will be harmonized with this Grant Agreement to the extent possible.

11.21 COUNTERPARTS

This Grant Agreement may be executed in any number of counterparts, each of which will be an original, and all such counterparts will together constitute but one and the same Grant Agreement.

11.22 PROPER AUTHORITY

Each Party represents and warrants that the person executing this Grant Agreement on its behalf has full power and authority to enter into this Grant Agreement.

11.23 E-VERIFY PROGRAM

Grantee certifies that it utilizes and will continue to utilize the U.S. Department of Homeland Security's E-Verify system to determine the eligibility of:

- A. all persons employed to perform duties within Texas during the term of the Grant Agreement; and
- B. all persons, (including subcontractors) assigned by the Grantee to perform work pursuant to the Grant Agreement within the United States of America.

11.24 CIVIL RIGHTS

- A. Grantee agrees to comply with state and federal anti-discrimination laws, including:
 - i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d et seq.);
 - ii. Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §794);
 - iii. Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.);
 - iv. Age Discrimination Act of 1975 (42 U.S.C. §§6101-6107);
 - v. Title IX of the Education Amendments of 1972 (20 U.S.C. §§1681-1688);
 - vi. Food and Nutrition Act of 2008 (7 U.S.C. §2011 et seq.); and
 - vii. The System Agency's administrative rules, as set forth in the Texas Administrative Code, to the extent applicable to this Grant Agreement.
- B. Grantee agrees to comply with all amendments to the above-referenced laws, and all requirements imposed by the regulations issued pursuant to these laws. These laws provide in part that no persons in the United States may, on the grounds of race, color, national origin, sex, age, disability, political beliefs, or religion, be excluded from participation in or denied any aid, care, service or other benefits provided by Federal or State funding, or otherwise be subjected to discrimination.
- C. Grantee agrees to comply with Title VI of the Civil Rights Act of 1964, and its implementing regulations at 45 C.F.R. Part 80 or 7 C.F.R. Part 15, prohibiting a contractor from adopting and implementing policies and procedures that exclude or have the effect of excluding or limiting the participation of clients in its programs, benefits, or activities on the basis of national origin. State and federal civil rights laws require contractors to provide alternative methods for ensuring access to services for applicants and recipients who cannot express themselves fluently in English. Grantee agrees to take

reasonable steps to provide services and information, both orally and in writing, in appropriate languages other than English, in order to ensure that persons with limited English proficiency are effectively informed and can have meaningful access to programs, benefits, and activities.

- D. Grantee agrees to post applicable civil rights posters in areas open to the public informing clients of their civil rights and including contact information for the HHS Civil Rights Office. The posters are available on the HHS website at: <https://hhs.texas.gov/about-hhs/your-rights/civil-rights-office/civil-rights-posters>.
- E. Grantee agrees to comply with Executive Order 13279, and its implementing regulations at 45 C.F.R. Part 87 or 7 C.F.R. Part 16. These provide in part that any organization that participates in programs funded by direct financial assistance from the United States Department of Agriculture or the United States Department of Health and Human Services shall not discriminate against a program beneficiary or prospective program beneficiary on the basis of religion or religious belief.
- F. Upon request, Grantee shall provide HHSC's Civil Rights Office with copies of the Grantee's civil rights policies and procedures.
- G. Grantee must notify HHSC's Civil Rights Office of any complaints of discrimination received relating to its performance under this Grant Agreement. This notice must be delivered no more than ten (10) calendar days after receipt of a complaint. Notice provided pursuant to this section must be directed to:

HHSC Civil Rights Office
701 W. 51st Street, Mail Code W206
Austin, Texas 78751
Phone Toll Free: (888) 388-6332
Phone: (512) 438-4313
Fax: (512) 438-5885
Email: HHSCivilRightsOffice@hhsc.state.tx.us.

11.25 ENTERPRISE INFORMATION MANAGEMENT STANDARDS

Grantee shall conform to HHS standards for data management as described by the policies of the HHS Chief Data and Analytics Officer. These include, but are not limited to, standards for documentation and communication of data models, metadata, and other data definition methods that are required by HHS for ongoing data governance, strategic portfolio analysis, interoperability planning, and valuation of HHS System data assets.

11.26 DISCLOSURE OF LITIGATION

- A. The Grantee must disclose in writing to the contract manager assigned to this Grant Agreement any material civil or criminal litigation or indictment either threatened or pending involving the Grantee. "Threatened litigation" as used herein shall include governmental investigations and civil investigative demands. "Litigation" as used herein shall include administrative enforcement actions brought by governmental agencies. The Grantee must also disclose any material litigation threatened or pending involving Subcontractors, consultants, and/or lobbyists. For purposes of this section, "material" refers, but is not limited, to any action or pending action that a reasonable person knowledgeable in the applicable industry would consider relevant to the Work under the Grant Agreement or any development such a person would want to be aware of in order to stay fully apprised of the total mix of information relevant to the Work, together with

any litigation threatened or pending that may result in a substantial change in the Grantee's financial condition.

- B. This is a continuing disclosure requirement; any litigation commencing after Grant Agreement Award must be disclosed in a written statement to the assigned contract manager within seven calendar days of its occurrence.

11.27 NO THIRD PARTY BENEFICIARIES

The Grant Agreement is made solely and specifically among and for the benefit of the Parties named herein and their respective successors and assigns, and no other person shall have any right, interest, or claims hereunder or be entitled to any benefits pursuant to or on account of the Grant Agreement as a third-party beneficiary or otherwise.

11.28 BINDING EFFECT

The Grant Agreement shall inure to the benefit of, be binding upon, and be enforceable against each Party and their respective permitted successors, assigns, transferees, and delegates.

HEALTH AND HUMAN SERVICES
Contract Number HHS000779500006

Attachment D CONTRACT AFFIRMATIONS

For purposes of these Contract Affirmations, HHS includes both the Health and Human Services Commission (HHSC) and the Department of State Health Services (DSHS). System Agency refers to HHSC, DSHS, or both, that will be a party to this Contract. These Contract Affirmations apply to all Contractors and Grantees (referred to as "Contractor") regardless of their business form (e.g., individual, partnership, corporation).

By entering into this Contract, Contractor affirms, without exception, understands, and agrees to comply with the following items through the life of the Contract:

1. Contractor represents and warrants that these Contract Affirmations apply to Contractor and all of Contractor's principals, officers, directors, shareholders, partners, owners, agents, employees, subcontractors, independent contractors, and any other representatives who may provide services under, who have a financial interest in, or otherwise are interested in this Contract and any related Solicitation.

2. Complete and Accurate Information

Contractor represents and warrants that all statements and information provided to HHS are current, complete, and accurate. This includes all statements and information in this Contract and any related Solicitation Response.

3. Public Information Act

Contractor understands that HHS will comply with the Texas Public Information Act (Chapter 552 of the Texas Government Code) as interpreted by judicial rulings and opinions of the Attorney General of the State of Texas. Information, documentation, and other material prepared and submitted in connection with this Contract or any related Solicitation may be subject to public disclosure pursuant to the Texas Public Information Act. In accordance with Section 2252.907 of the Texas Government Code, Contractor is required to make any information created or exchanged with the State pursuant to the Contract, and not otherwise excepted from disclosure under the Texas Public Information Act, available in a format that is accessible by the public at no additional charge to the State.

4. Contracting Information Requirements

Contractor represents and warrants that it will comply with the requirements of Section 552.372(a) of the Texas Government Code. Except as provided by Section 552.374(c) of the Texas Government Code, the requirements of Subchapter J (Additional Provisions Related to Contracting Information), Chapter 552 of the Government Code, may apply to the Contract and the Contractor agrees that the Contract can be terminated if the Contractor knowingly or intentionally fails to comply with a requirement of that subchapter.

5. Assignment

- A. Contractor shall not assign its rights under the Contract or delegate the performance of its duties under the Contract without prior written approval from System Agency. Any attempted assignment in violation of this provision is void and without effect.
- B. Contractor understands and agrees the System Agency may in one or more transactions assign, pledge, or transfer the Contract. Upon receipt of System Agency's notice of assignment, pledge, or transfer, Contractor shall cooperate with System Agency in giving effect to such assignment, pledge, or transfer, at no cost to System Agency or to the recipient entity.

6. Terms and Conditions

Contractor accepts the Solicitation terms and conditions unless specifically noted by exceptions advanced in the form and manner directed in the Solicitation, if any, under which this Contract was awarded. Contractor agrees that all exceptions to the Solicitation, as well as terms and conditions advanced by Contractor that differ in any manner from HHS' terms and conditions, if any, are rejected unless expressly accepted by System Agency in writing.

7. HHS Right to Use

Contractor agrees that HHS has the right to use, produce, and distribute copies of and to disclose to HHS employees, agents, and contractors and other governmental entities all or part of this Contract or any related Solicitation Response as HHS deems necessary to complete the procurement process or comply with state or federal laws.

8. Release from Liability

Contractor generally releases from liability and waives all claims against any party providing information about the Contractor at the request of System Agency.

9. Dealings with Public Servants

Contractor has not given, has not offered to give, and does not intend to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with this Contract or any related Solicitation, or related Solicitation Response.

10. Financial Participation Prohibited

Under Section 2155.004, Texas Government Code (relating to financial participation in preparing solicitations), Contractor certifies that the individual or business entity named in this Contract and any related Solicitation Response is not ineligible to receive this Contract and acknowledges that this Contract may be terminated and payment withheld if this certification is inaccurate.

11. Prior Disaster Relief Contract Violation

Under Sections 2155.006 and 2261.053 of the Texas Government Code (relating to convictions and penalties regarding Hurricane Rita, Hurricane Katrina, and other disasters), the Contractor certifies that the individual or business entity named in this Contract and any related Solicitation Response is not ineligible to receive this Contract

and acknowledges that this Contract may be terminated and payment withheld if this certification is inaccurate.

12. Child Support Obligation

Under Section 231.006(d) of the Texas Family Code regarding child support, Contractor certifies that the individual or business entity named in this Contract and any related Solicitation Response is not ineligible to receive the specified payment and acknowledges that the Contract may be terminated and payment may be withheld if this certification is inaccurate.

13. Suspension and Debarment

Contractor certifies that it and its principals are not suspended or debarred from doing business with the state or federal government as listed on the *State of Texas Debarred Vendor List* maintained by the Texas Comptroller of Public Accounts and the *System for Award Management (SAM)* maintained by the General Services Administration. This certification is made pursuant to the regulations implementing Executive Order 12549 and Executive Order 12689, Debarment and Suspension, 2 C.F.R. Part 376, and any relevant regulations promulgated by the Department or Agency funding this project. This provision shall be included in its entirety in Contractor's subcontracts, if any, if payment in whole or in part is from federal funds.

14. Excluded Parties

Contractor certifies that it is not listed in the prohibited vendors list authorized by Executive Order 13224, "*Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism*," published by the United States Department of the Treasury, Office of Foreign Assets Control.'

15. Foreign Terrorist Organizations

Contractor represents and warrants that it is not engaged in business with Iran, Sudan, or a foreign terrorist organization, as prohibited by Section 2252.152 of the Texas Government Code.

16. Executive Head of a State Agency

In accordance with Section 669.003 of the Texas Government Code, relating to contracting with the executive head of a state agency, Contractor certifies that it is not (1) the executive head of an HHS agency, (2) a person who at any time during the four years before the date of this Contract was the executive head of an HHS agency, or (3) a person who employs a current or former executive head of an HHS agency.

17. Human Trafficking Prohibition

Under Section 2155.0061 of the Texas Government Code, Contractor certifies that the individual or business entity named in this Contract is not ineligible to receive this Contract and acknowledges that this Contract may be terminated and payment withheld if this certification is inaccurate.

18. Franchise Tax Status

Contractor represents and warrants that it is not currently delinquent in the payment of any franchise taxes owed the State of Texas under Chapter 171 of the Texas Tax Code.

19. Debts and Delinquencies

Contractor agrees that any payments due under this Contract shall be applied towards any debt or delinquency that is owed to the State of Texas.

20. Lobbying Prohibition

Contractor represents and warrants that payments to Contractor and Contractor's receipt of appropriated or other funds under this Contract or any related Solicitation are not prohibited by Sections 556.005, 556.0055, or 556.008 of the Texas Government Code (relating to use of appropriated money or state funds to employ or pay lobbyists, lobbying expenses, or influence legislation).

21. Buy Texas

Contractor agrees to comply with Section 2155.4441 of the Texas Government Code, requiring the purchase of products and materials produced in the State of Texas in performing service contracts.

22. Disaster Recovery Plan

Contractor agrees that upon request of System Agency, Contractor shall provide copies of its most recent business continuity and disaster recovery plans.

23. Computer Equipment Recycling Program

If this Contract is for the purchase or lease of computer equipment, then Contractor certifies that it is in compliance with Subchapter Y, Chapter 361 of the Texas Health and Safety Code related to the Computer Equipment Recycling Program and the Texas Commission on Environmental Quality rules in 30 TAC Chapter 328.

24. Television Equipment Recycling Program

If this Contract is for the purchase or lease of covered television equipment, then Contractor certifies that it is compliance with Subchapter Z, Chapter 361 of the Texas Health and Safety Code related to the Television Equipment Recycling Program.

25. Cybersecurity Training

- A. Contractor represents and warrants that it will comply with the requirements of Section 2054.5192 of the Texas Government Code relating to cybersecurity training and required verification of completion of the training program.
- B. Contractor represents and warrants that if Contractor or Subcontractors, officers, or employees of Contractor have access to any state computer system or database, the Contractor, Subcontractors, officers, and employees of Contractor shall complete cybersecurity training pursuant to and in accordance with Government Code, Section 2054.5192.

26. Restricted Employment for Certain State Personnel

Contractor acknowledges that, pursuant to Section 572.069 of the Texas Government Code, a former state officer or employee of a state agency who during the period of state service or employment participated on behalf of a state agency in a procurement or contract negotiation involving Contractor may not accept employment from Contractor before the second anniversary of the date the Contract is signed or the procurement is terminated or withdrawn.

27. No Conflicts of Interest

- A. Contractor represents and warrants that it has no actual or potential conflicts of interest in providing the requested goods or services to System Agency under this Contract or any related Solicitation and that Contractor's provision of the requested goods and/or services under this Contract and any related Solicitation will not constitute an actual or potential conflict of interest or reasonably create an appearance of impropriety.
- B. Contractor agrees that, if after execution of the Contract, Contractor discovers or is made aware of a Conflict of Interest, Contractor will immediately and fully disclose such interest in writing to System Agency. In addition, Contractor will promptly and fully disclose any relationship that might be perceived or represented as a conflict after its discovery by Contractor or by System Agency as a potential conflict. System Agency reserves the right to make a final determination regarding the existence of Conflicts of Interest, and Contractor agrees to abide by System Agency's decision.

28. Fraud, Waste, and Abuse

Contractor understands that HHS does not tolerate any type of fraud, waste, or abuse. Violations of law, agency policies, or standards of ethical conduct will be investigated, and appropriate actions will be taken. Pursuant to Texas Government Code, Section 321.022, if the administrative head of a department or entity that is subject to audit by the state auditor has reasonable cause to believe that money received from the state by the department or entity or by a client or contractor of the department or entity may have been lost, misappropriated, or misused, or that other fraudulent or unlawful conduct has occurred in relation to the operation of the department or entity, the administrative head shall report the reason and basis for the belief to the Texas State Auditor's Office (SAO). All employees or contractors who have reasonable cause to believe that fraud, waste, or abuse has occurred (including misconduct by any HHS employee, Grantee officer, agent, employee, or subcontractor that would constitute fraud, waste, or abuse) are required to immediately report the questioned activity to the Health and Human Services Commission's Office of Inspector General. Contractor agrees to comply with all applicable laws, rules, regulations, and System Agency policies regarding fraud, waste, and abuse including, but not limited to, HHS Circular C-027.

A report to the SAO must be made through one of the following avenues:

- SAO Toll Free Hotline: 1-800-TX-AUDIT
- SAO website: <http://sao.fraud.state.tx.us/>

All reports made to the OIG must be made through one of the following avenues:

- OIG Toll Free Hotline 1-800-436-6184
- OIG Website: ReportTexasFraud.com
- Internal Affairs Email: InternalAffairsReferral@hhsc.state.tx.us
- OIG Hotline Email: OIGFraudHotline@hhsc.state.tx.us.
- OIG Mailing Address: Office of Inspector General
Attn: Fraud Hotline
MC 1300
P.O. Box 85200
Austin, Texas 78708-5200

29. Antitrust

The undersigned affirms under penalty of perjury of the laws of the State of Texas that:

- A. in connection with this Contract and any related Solicitation Response, neither I nor any representative of the Contractor has violated any provision of the Texas Free Enterprise and Antitrust Act, Tex. Bus. & Comm. Code Chapter 15;
- B. in connection with this Contract and any related Solicitation Response, neither I nor any representative of the Contractor has violated any federal antitrust law; and
- C. neither I nor any representative of the Contractor has directly or indirectly communicated any of the contents of this Contract and any related Solicitation Response to a competitor of the Contractor or any other company, corporation, firm, partnership or individual engaged in the same line of business as the Contractor.

30. Legal and Regulatory Actions

Contractor represents and warrants that it is not aware of and has received no notice of any court or governmental agency proceeding, investigation, or other action pending or threatened against Contractor or any of the individuals or entities included in numbered paragraph 1 of these Contract Affirmations within the five (5) calendar years immediately preceding execution of this Contract or the submission of any related Solicitation Response that would or could impair Contractor's performance under this Contract, relate to the contracted or similar goods or services, or otherwise be relevant to System Agency's consideration of entering into this Contract. If Contractor is unable to make the preceding representation and warranty, then Contractor instead represents and warrants that it has provided to System Agency a complete, detailed disclosure of any such court or governmental agency proceeding, investigation, or other action that would or could impair Contractor's performance under this Contract, relate to the contracted or similar goods or services, or otherwise be relevant to System Agency's consideration of entering into this Contract. In addition, Contractor acknowledges this is a continuing disclosure requirement. Contractor represents and warrants that Contractor shall notify System Agency in writing within five (5) business days of any changes to the representations or warranties in this clause and understands that failure to so timely update System Agency shall constitute breach of contract and may result in immediate contract termination.

31. No Felony Criminal Convictions

Contractor represents that neither Contractor nor any of its employees, agents, or representatives, including any subcontractors and employees, agents, or representative of such subcontractors, have been convicted of a felony criminal offense or that if such a conviction has occurred Contractor has fully advised System Agency in writing of the facts and circumstances surrounding the convictions.

32. Unfair Business Practices

Contractor represents and warrants that it has not been the subject of allegations of Deceptive Trade Practices violations under Chapter 17 of the Texas Business and Commerce Code, or allegations of any unfair business practice in any administrative hearing or court suit and that Contractor has not been found to be liable for such practices in such proceedings. Contractor certifies that it has no officers who have served as officers of other entities who have been the subject of allegations of Deceptive Trade Practices violations or allegations of any unfair business practices in an administrative hearing or court suit and that such officers have not been found to be liable for such practices in such proceedings.

33. Entities that Boycott Israel

Contractor represents and warrants that (1) it does not, and shall not for the duration of the Contract, boycott Israel or (2) the verification required by Section 2271.002 of the Texas Government Code does not apply to the Contract. If circumstances relevant to this provision change during the course of the Contract, Contractor shall promptly notify System Agency.

34. E-Verify

Contractor certifies that for contracts for services, Contractor shall utilize the U.S. Department of Homeland Security's E-Verify system during the term of this Contract to determine the eligibility of:

1. all persons employed by Contractor to perform duties within Texas; and
2. all persons, including subcontractors, assigned by Contractor to perform work pursuant to this Contract within the United States of America.

35. Former Agency Employees – Certain Contracts

If this Contract is an employment contract, a professional services contract under Chapter 2254 of the Texas Government Code, or a consulting services contract under Chapter 2254 of the Texas Government Code, in accordance with Section 2252.901 of the Texas Government Code, Contractor represents and warrants that neither Contractor nor any of Contractor's employees including, but not limited to, those authorized to provide services under the Contract, were former employees of an HHS Agency during the twelve (12) month period immediately prior to the date of the execution of the Contract.

36. Disclosure of Prior State Employment – Consulting Services

If this Contract is for consulting services,

- A. In accordance with Section 2254.033 of the Texas Government Code, a Contractor providing consulting services who has been employed by, or employs an individual who has been employed by, System Agency or another State of Texas agency at any time during the two years preceding the submission of Contractor's offer to provide services must disclose the following information in its offer to provide services. Contractor hereby certifies that this information was provided and remains true, correct, and complete:
1. Name of individual(s) (Contractor or employee(s));
 2. Status;
 3. The nature of the previous employment with HHSC or the other State of Texas agency;
 4. The date the employment was terminated and the reason for the termination; and
 5. The annual rate of compensation for the employment at the time of its termination.
- B. If no information was provided in response to Section A above, Contractor certifies that neither Contractor nor any individual employed by Contractor was employed by System Agency or any other State of Texas agency at any time during the two years preceding the submission of Contractor's offer to provide services.

37. Abortion Funding Limitation

Contractor understands, acknowledges, and agrees that, pursuant to Article IX of the General Appropriations Act (the Act), to the extent allowed by federal and state law, money appropriated by the Texas Legislature may not be distributed to any individual or entity that, during the period for which funds are appropriated under the Act:

1. performs an abortion procedure that is not reimbursable under the state's Medicaid program;
2. is commonly owned, managed, or controlled by an entity that performs an abortion procedure that is not reimbursable under the state's Medicaid program; or
3. is a franchise or affiliate of an entity that performs an abortion procedure that is not reimbursable under the state's Medicaid program.

The provision does not apply to a hospital licensed under Chapter 241, Health and Safety Code, or an office exempt under Section 245.004(2), Health and Safety Code. Contractor represents and warrants that it is not ineligible, nor will it be ineligible during the term of this Contract, to receive appropriated funding pursuant to Article IX.

38. Funding Eligibility

Contractor understands, acknowledges, and agrees that, pursuant to Chapter 2272 (eff. Sept. 1, 2021, Ch. 2273) of the Texas Government Code, except as exempted under that Chapter, HHSC cannot contract with an abortion provider or an affiliate of an abortion provider. Contractor certifies that it is not ineligible to contract with HHSC under the terms of Chapter 2272 (eff. Sept. 1, 2021, Ch. 2273) of the Texas Government Code.

39. Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment (2 CFR 200.216)

Contractor certifies that the individual or business entity named in this Response or Contract is not ineligible to receive the specified Contract or funding pursuant to 2 CFR 200.216.

40. COVID-19 Vaccine Passports

Pursuant to Texas Health and Safety Code, Section 161.0085(c), Contractor certifies that it does not require its customers to provide any documentation certifying the customer's COVID-19 vaccination or post-transmission recovery on entry to, to gain access to, or to receive service from the Contractor's business. Contractor acknowledges that such a vaccine or recovery requirement would make Contractor ineligible for a state-funded contract.

41. Entities that Boycott Energy Companies

In accordance with Senate Bill 13, Acts 2021, 87th Leg., R.S., pursuant to Section 2274.002 of the Texas Government Code (relating to prohibition on contracts with companies boycotting certain energy companies), Contractor represents and warrants that: (1) it does not, and will not for the duration of the Contract, boycott energy companies or (2) the verification required by Section 2274.002 of the Texas Government Code does not apply to the Contract. If circumstances relevant to this provision change during the course of the Contract, Contractor shall promptly notify System Agency.

42. Entities that Discriminate Against Firearm and Ammunition Industries

In accordance with Senate Bill 19, Acts 2021, 87th Leg., R.S., pursuant to Section 2274.002 of the Texas Government Code (relating to prohibition on contracts with companies that discriminate against firearm and ammunition industries), Contractor verifies that: (1) it does not, and will not for the duration of the Contract, have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association or (2) the verification required by Section 2274.002 of the Texas Government Code does not apply to the Contract. If circumstances relevant to this provision change during the course of the Contract, Contractor shall promptly notify System Agency.

43. Security Controls for State Agency Data

In accordance with Senate Bill 475, Acts 2021, 87th Leg., R.S., pursuant to Texas Government Code, Section 2054.138, Contractor understands, acknowledges, and agrees that if, pursuant to this Contract, Contractor is or will be authorized to access, transmit, use, or store data for System Agency, Contractor is required to meet the security controls the System Agency determines are proportionate with System Agency's risk under the Contract based on the sensitivity of System Agency's data and that Contractor must periodically provide to System Agency evidence that Contractor meets the security controls required under the Contract.

44. Cloud Computing State Risk and Authorization Management Program

In accordance with Senate Bill 475, Acts 2021, 87th Leg., R.S., pursuant to Texas Government Code, Section 2054.0593, Contractor acknowledges and agrees that, if providing cloud computing services for System Agency, Contractor must comply with the requirements of the state risk and authorization management program and that System Agency may not enter or renew a contract with Contractor to purchase cloud computing services for the agency that are subject to the state risk and authorization management program unless Contractor demonstrates compliance with program requirements. If providing cloud computing services for System Agency that are subject to the state risk and authorization management program, Contractor certifies it will maintain program compliance and certification throughout the term of the Contract.

45. Office of Inspector General Investigative Findings Expert Review

In accordance with Senate Bill 799, Acts 2021, 87th Leg., R.S., if Texas Government Code, Section 531.102(m-1)(2) is applicable to this Contract, Contractor affirms that it possesses the necessary occupational licenses and experience.

46. Contract for Professional Services of Physicians, Optometrists, and Registered Nurses

In accordance with Senate Bill 799, Acts 2021, 87th Leg., R.S., if Texas Government Code, Section 2254.008(a)(2) is applicable to this Contract, Contractor affirms that it possesses the necessary occupational licenses and experience.

47. Foreign-Owned Companies in Connection with Critical Infrastructure

If Texas Government Code, Section 2274.0102(a)(1) (relating to prohibition on contracts with certain foreign-owned companies in connection with critical infrastructure) is applicable to this Contract, pursuant to Government Code Section 2274.0102, Contractor certifies that neither it nor its parent company, nor any affiliate of Contractor or its parent company, is: (1) majority owned or controlled by citizens or governmental entities of China, Iran, North Korea, Russia, or any other country designated by the Governor under Government Code Section 2274.0103, or (2) headquartered in any of those countries.

48. Critical Infrastructure Subcontracts

For purposes of this Paragraph, the designated countries are China, Iran, North Korea, Russia, and any countries lawfully designated by the Governor as a threat to critical infrastructure. Pursuant to Section 113.002 of the Business and Commerce Code, Contractor shall not enter into a subcontract that will provide direct or remote access to or control of critical infrastructure, as defined by Section 113.001 of the Texas Business and Commerce Code, in this state, other than access specifically allowed for product warranty and support purposes to any subcontractor unless (i) neither the subcontractor nor its parent company, nor any affiliate of the subcontractor or its parent company, is majority owned or controlled by citizens or governmental entities of a designated country; and (ii) neither the subcontractor nor its parent company, nor any affiliate of the subcontractor or its parent company, is headquartered in a designated country. Contractor will notify the System Agency before entering into any subcontract that will provide direct or remote

access to or control of critical infrastructure, as defined by Section 113.001 of the Texas Business & Commerce Code, in this state.

49. Enforcement of Certain Federal Firearms Laws Prohibited

In accordance with House Bill 957, Acts 2021, 87th Leg., R.S., if Texas Government Code, Section 2.101 is applicable to Contractor, Contractor certifies that it is not ineligible to receive state grant funds pursuant to Texas Government Code, Section 2.103.

50. Prohibition on Abortions

Contractor understands, acknowledges, and agrees that, pursuant to Article II of the General Appropriations Act, (1) no funds shall be used to pay the direct or indirect costs (including marketing, overhead, rent, phones, and utilities) of abortion procedures provided by contractors of HHSC; and (2) no funds appropriated for Medicaid Family Planning, Healthy Texas Women Program, or the Family Planning Program shall be distributed to individuals or entities that perform elective abortion procedures or that contract with or provide funds to individuals or entities for the performance of elective abortion procedures. Contractor represents and warrants that it is not ineligible, nor will it be ineligible during the term of this Contract, to receive appropriated funding pursuant to Article II.

51. False Representation

Contractor understands, acknowledges, and agrees that any false representation or any failure to comply with a representation, warranty, or certification made by Contractor is subject to all civil and criminal consequences provided at law or in equity including, but not limited to, immediate termination of this Contract.

52. False Statements

Contractor represents and warrants that all statements and information prepared and submitted by Contractor in this Contract and any related Solicitation Response are current, complete, true, and accurate. Contractor acknowledges any false statement or material misrepresentation made by Contractor during the performance of this Contract or any related Solicitation is a material breach of contract and may void this Contract. Further, Contractor understands, acknowledges, and agrees that any false representation or any failure to comply with a representation, warranty, or certification made by Contractor is subject to all civil and criminal consequences provided at law or in equity including, but not limited to, immediate termination of this Contract.

53. Permits and License

Contractor represents and warrants that it will comply with all applicable laws and maintain all permits and licenses required by applicable city, county, state, and federal rules, regulations, statutes, codes, and other laws that pertain to this Contract.

54. Drug-Free Workplace

Contractor represents and warrants that it shall comply with the applicable provisions of the Drug-Free Work Place Act of 1988 (41 U.S.C. §701 et seq.) and maintain a drug-free work environment.

55. Equal Employment Opportunity

Contractor represents and warrants its compliance with all applicable duly enacted state and federal laws governing equal employment opportunities.

56. Federal Occupational Safety and Health Law

Contractor represents and warrants that all articles and services shall meet or exceed the safety standards established and promulgated under the Federal Occupational Safety and Health Act of 1970, as amended (29 U.S.C. Chapter 15).

57. Signature Authority

Contractor represents and warrants that the individual signing this Contract Affirmations document is authorized to sign on behalf of Contractor and to bind the Contractor.

Signature Page Follows

Authorized representative on behalf of Contractor must complete and sign the following:

Legal Name of Contractor

Assumed Business Name of Contractor, if applicable (d/b/a or 'doing business as')

Texas County(s) for Assumed Business Name (d/b/a or 'doing business as')
Attach Assumed Name Certificate(s) filed with the Texas Secretary of State and Assumed Name Certificate(s), if any, for each Texas County Where Assumed Name Certificate(s) has been filed.

Signature of Authorized Representative

Date Signed

Printed Name of Authorized Representative
First, Middle Name or Initial, and Last Name

Title of Authorized Representative

Physical Street Address

City, State, Zip Code

Mailing Address, if different

City, State, Zip Code

Phone Number

Fax Number

Email Address

DUNS Number

Federal Employer Identification Number

Texas Identification Number (TIN)

Texas Franchise Tax Number

Texas Secretary of State Filing Number

SAM.gov Unique Entity Identifier (UEI)

ATTACHMENT E



TEXAS
Health and Human Services

Health and Human Services (HHS)
Additional Provisions
Version 1.0
Effective: November 7, 2019

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ADDITIONAL PROVISIONS

The terms and conditions of these Additional Provisions are incorporated into and made a part of the Contract. Capitalized items used in these Additional Provisions and not otherwise defined have the meanings assigned to them in HHSC Uniform Terms and Conditions.

1. HHSC VENDOR ACCESS

At HHSC's request, Contractor will allow parties interested in responding to other HHSC solicitations to have reasonable access during normal business hours to the Work, software, systems documentation, and site visits to the Contractor's facilities. Contractor may elect to have such parties inspecting the Work, facilities, software or systems documentation to agree to use the information so obtained only in the State of Texas and only for the purpose of responding to the relevant HHSC solicitation.

2. HHSC APPROVAL OF STAFFING

- A. Contractor shall not employ or contract with or permit the employment of unfit or unqualified persons or persons not skilled in the tasks assigned to them. The Contractor shall at all times employ sufficient labor to carry out functions and services in the manner and time prescribed by the Contract. The Contractor shall be responsible to HHSC for the acts and omissions of the Contractor's employees, agents (including, but not limited to, lobbyists) and Subcontractors and the Contractor shall enforce strict discipline among the Contractor's employees, agents (including, but not limited to, lobbyists) and Subcontractors performing the services under the Contract.
- B. Any person employed by the Contractor shall, at the written request of HHSC, and within HHSC's sole discretion, be removed immediately by the Contractor from work relating to the Contract.

3. TURNOVER PLAN

HHSC, in its sole discretion, may require Contractor to develop and submit a Turnover Plan at any time during the term of the Contract. Contractor must submit the Turnover Plan to HHSC for review and approval. The Turnover Plan must describe Contractor's policies and procedures that will ensure:

- i. The least disruption in the delivery of the Work during Turnover to HHSC or its designee; and
- ii. Full cooperation with HHSC or its designee in transferring the Work and the obligations of the Contract.

4. TURNOVER ASSISTANCE

Contractor will provide any assistance and actions reasonably necessary to enable HHSC or its designee to effectively close out the Contract and transfer the Work and the obligations of the Contract to another vendor or to perform the Work by itself. Contractor agrees that this obligation survives the termination, regardless of whether for cause or convenience, or the expiration of the Contract and remains in effect until completed to the satisfaction of HHSC.

5. TRADEMARK LICENSE

HHSC grants to Contractor, for the term of the Contract, a limited non-exclusive, royalty-free, non-assignable, non-transferable license to reproduce HHSC's trademarks on published materials in the United States related to the performance of the Contract, provided that such license is expressly conditional upon, and subject to, the following:

- i. Contractor is in compliance with all provisions of the Contract;
- ii. Contractor's use of the trademarks is strictly in accordance with the quality standards and in conformance with the reproduction requirements set forth in Exhibit ___ or as otherwise communicated by HHSC;
- iii. Contractor takes no action to damage the goodwill associated with the trademarks, and refrains from any attempt to contest, attack, dispute, challenge, cancel and/or oppose HHSC's right, title and interest in the trademarks or their validity;
- iv. Contractor makes no attempt to sublicense any rights under this trademark license; and
- v. Contractor complies with any marking requests HHSC may make in relation to the trademarks, including without limitation to use the phrase "Registered Trademark", the registered trademark symbol "®" for registered trademarks, and the symbol "™" for unregistered trademarks.

6. TRADEMARK OWNERSHIP

Contractor acknowledges and agrees that the trademarks remain the exclusive property of HHSC, that all right, title and interest in and to the trademarks is exclusively held by HHSC, and all goodwill associated with such trademarks inures solely to HHSC.

7. DISCOUNTS

If Contractor at any time during the term of the Contract provides a discount on the final contract costs, Contractor will notify HHSC in writing at least ten (10) calendar days prior to the effective date of the discount. HHSC will generate a Purchase Order Change Notice and send a revised Purchase Order to Contractor.

8. ELECTRICAL ITEMS

All electrical items must meet all applicable OSHA standards and regulations, and bear the appropriate listing from Underwriters Laboratory (UL), Factory Mutual Resource Corporation (FMRC), or National Electrical Manufacturers Association (NEMA).

9. NOTICE OF CRIMINAL ACTIVITY AND DISCIPLINARY ACTIONS

- A. Contractor shall immediately report in writing to its assigned HHSC contract manager when Contractor learns of or has any reason to believe it or any person with ownership or controlling interest in Contractor, or their agent, employee, subcontractor or volunteer who is providing services under this Contract has:
 - i. Engaged in any activity that could constitute a criminal offense equal to or greater than a Class A misdemeanor or grounds for disciplinary action by a state or federal regulatory authority; or
 - ii. Been placed on community supervision, received deferred adjudication, or been indicted for or convicted of a criminal offense relating to involvement in any financial matter, federal or state program or felony sex crime.

- B. Contractor shall not permit any person who engaged, or was alleged to have engaged, in any activity subject to reporting under this section to perform direct client services or have direct contact with clients, unless otherwise directed in writing by the System Agency.

10. NOTICE OF IRS OR TWC INSOLVENCY

Contractor shall notify in writing its assigned HHSC contract manager of any insolvency, incapacity or outstanding unpaid obligations of Contractor owed to the Internal Revenue Service or the State of Texas, or any agency or political subdivision of the State of Texas within five days of the date of Contractor's becoming aware of such.

11. DISASTER SERVICES

In the event of a local, state, or federal emergency, including natural, pandemics, man-made, criminal, terrorist, and/or bioterrorism events, declared as a state disaster by the Governor, or a federal disaster declared by the appropriate federal official, Grantee may be called upon to assist the System Agency in providing the following services:

- i. Expand, increase, or modify service delivery in impacted areas;
- ii. Community evacuation;
- iii. Health and medical assistance;
- iv. Assessment of health and medical needs;
- v. Health surveillance;
- vi. Medical care personnel;
- vii. Health and medical equipment and supplies;
- viii. Patient evacuation;
- ix. In-hospital care and hospital facility status;
- x. Food, drug and medical device safety;
- xi. Worker health and safety;
- xii. Mental health and substance abuse;
- xiii. Public health information;
- xiv. Vector control and veterinary services; and
- xv. Victim identification and mortuary services.

Disaster related services may not commence, or expenditures incurred, until System Agency provides Grantee with a written Notification to Proceed. The contract may be amended to incorporate additional funds and performance or reporting requirements to support disaster services in the event services must be expanded, increased, or modified.

12. NOTICE OF A LICENSE ACTION

Contractor shall notify its assigned HHSC contract manager of any action impacting Contractor's license to provide services under this Contract within five days of becoming aware of the action and include the following:

- i. Reason for such action;
- ii. Name and contact information of the local, state or federal department or agency or entity;
- iii. Date of the license action; and
- iv. License or case reference number.



TEXAS
Health and Human Services

ATTACHMENT F

FEDERAL ASSURANCES (NON-CONSTRUCTION PROGRAMS) AND CERTIFICATION REGARDING LOBBYING

ASSURANCES - NON-CONSTRUCTION PROGRAMS

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0040), Washington, DC 20503.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

NOTE: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant, I certify that the applicant:

1. Has the legal authority to apply for Federal assistance and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management and completion of the project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and, (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.
7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
8. Will comply, as applicable, with provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327-333), regarding labor standards for federally-assisted construction subagreements.
10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and, (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).
12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).
14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.
15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. §§2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.
16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.
17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."
18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.
19. Will comply with the requirements of Section 106(g) of the Trafficking Victims Protection Act (TVPA) of 2000, as amended (22 U.S.C. 7104) which prohibits grant award recipients or a sub-recipient from (1) Engaging in severe forms of trafficking in persons during the period of time that the award is in effect (2) Procuring a commercial sex act during the period of time that the award is in effect or (3) Using forced labor in the performance of the award or subawards under the award.

| | |
|---|-------------------------------|
| SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL | TITLE <div></div> |
| APPLICANT ORGANIZATION <div></div> | DATE SUBMITTED <div></div> |

CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Statement for Loan Guarantees and Loan Insurance

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions. Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

* APPLICANT'S ORGANIZATION

[Redacted]

* PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE

Prefix: [Redacted] * First Name: [Redacted] Middle Name: [Redacted]

* Last Name: [Redacted] Suffix: [Redacted]

* Title: [Redacted]

* SIGNATURE:

[Redacted]

* DATE:

[Redacted]

ATTACHMENT G

HHS DATA USE AGREEMENT

This Data Use Agreement ("DUA"), effective as of the date the Base Contract into which it is incorporated is signed ("Effective Date"), is entered into by and between a Texas Health and Human Services Enterprise agency ("HHS"), and the Contractor identified in the Base Contract, a political subdivision of the State of Texas ("CONTRACTOR).

ARTICLE 1.

PURPOSE; APPLICABILITY; ORDER OF PRECEDENCE

The purpose of this DUA is to facilitate creation, receipt, maintenance, use, disclosure or access to Confidential Information with CONTRACTOR, and describe CONTRACTOR's rights and obligations with respect to the Confidential Information. 45 CFR 164.504(e)(1)-(3). This DUA also describes HHS's remedies in the event of CONTRACTOR's noncompliance with its obligations under this DUA. This DUA applies to both Business Associates and contractors who are not Business Associates who create, receive, maintain, use, disclose or have access to Confidential Information on behalf of HHS, its programs or clients as described in the Base Contract.

As of the Effective Date of this DUA, if any provision of the Base Contract, including any General Provisions or Uniform Terms and Conditions, conflicts with this DUA, this DUA controls.

ARTICLE 2.

DEFINITIONS

For the purposes of this DUA, capitalized, underlined terms have the meanings set forth in the following: Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 (42 U.S.C. §1320d, *et seq.*) and regulations thereunder in 45 CFR Parts 160 and 164, including all amendments, regulations and guidance issued thereafter; The Social Security Act, including Section 1137 (42 U.S.C. §§ 1320b-7), Title XVI of the Act; The Privacy Act of 1974, as amended by the Computer Matching and Privacy Protection Act of 1988, 5 U.S.C. § 552a and regulations and guidance thereunder; Internal Revenue Code, Title 26 of the United States Code and regulations and publications adopted under that code, including IRS Publication 1075; OMB Memorandum 07-18; Texas Business and Commerce Code Ch. 521; Texas Government Code, Ch. 552, and Texas Government Code §2054.1125. In addition, the following terms in this DUA are defined as follows:

"**Authorized Purpose**" means the specific purpose or purposes described in the Statement of Work of the Base Contract for CONTRACTOR to fulfill its obligations under the Base Contract, or any other purpose expressly authorized by HHS in writing in advance.

"**Authorized User**" means a Person:

(1) Who is authorized to create, receive, maintain, have access to, process, view, handle, examine, interpret, or analyze Confidential Information pursuant to this DUA;

(2) For whom CONTRACTOR warrants and represents has a demonstrable need to create, receive, maintain, use, disclose or have access to the Confidential Information; and

(3) Who has agreed in writing to be bound by the disclosure and use limitations pertaining to the Confidential Information as required by this DUA.

“Confidential Information” means any communication or record (whether oral, written, electronically stored or transmitted, or in any other form) provided to or made available to CONTRACTOR, or that CONTRACTOR may, for an Authorized Purpose, create, receive, maintain, use, disclose or have access to, that consists of or includes any or all of the following:

(1) Client Information;

(2) Protected Health Information in any form including without limitation, Electronic Protected Health Information or Unsecured Protected Health Information (herein “PHI”);

(3) Sensitive Personal Information defined by Texas Business and Commerce Code Ch. 521;

(4) Federal Tax Information;

(5) Individually Identifiable Health Information as related to HIPAA, Texas HIPAA and Personal Identifying Information under the Texas Identity Theft Enforcement and Protection Act;

(6) Social Security Administration Data, including, without limitation, Medicaid information;

(7) All privileged work product;

(8) All information designated as confidential under the constitution and laws of the State of Texas and of the United States, including the Texas Health & Safety Code and the Texas Public Information Act, Texas Government Code, Chapter 552.

“Legally Authorized Representative” of the Individual, as defined by Texas law, including as provided in 45 CFR 435.923 (Medicaid); 45 CFR 164.502(g)(1) (HIPAA); Tex. Occ. Code § 151.002(6); Tex. H. & S. Code §166.164; and Estates Code Ch. 752.

ARTICLE 3.

CONTRACTOR'S DUTIES REGARDING CONFIDENTIAL INFORMATION

3.01 Obligations of CONTRACTOR

CONTRACTOR agrees that:

(A) CONTRACTOR will exercise reasonable care and no less than the same degree of care CONTRACTOR uses to protect its own confidential, proprietary and trade secret information to prevent any portion of the Confidential Information from being used in

HHS Data Use Agreement

TACCHO VERSION (Local City and County Entities) October 23, 2019

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a manner that is not expressly an Authorized Purpose under this DUA or as Required by Law. **45 CFR 164.502(b)(1); 45 CFR 164.514(d)**

(B) Except as Required by Law, CONTRACTOR will not disclose or allow access to any portion of the Confidential Information to any Person or other entity, other than Authorized User's Workforce or Subcontractors (as defined in **45 C.F.R. 160.103**) of CONTRACTOR who have completed training in confidentiality, privacy, security and the importance of promptly reporting any Event or Breach to CONTRACTOR's management, to carry out CONTRACTOR's obligations in connection with the Authorized Purpose.

HHS, at its election, may assist CONTRACTOR in training and education on specific or unique HHS processes, systems and/or requirements. CONTRACTOR will produce evidence of completed training to HHS upon request. **45 C.F.R. 164.308(a)(5)(i); Texas Health & Safety Code §181.101**

All of CONTRACTOR's Authorized Users, Workforce and Subcontractors with access to a state computer system or database will complete a cybersecurity training program certified under Texas Government Code Section 2054.519 by the Texas Department of Information Resources or offered under Texas Government Code Sec. 2054.519(f).

(C) CONTRACTOR will establish, implement and maintain appropriate sanctions against any member of its Workforce or Subcontractor who fails to comply with this DUA, the Base Contract or applicable law. CONTRACTOR will maintain evidence of sanctions and produce it to HHS upon request. **45 C.F.R. 164.308(a)(1)(ii)(C); 164.530(e); 164.410(b); 164.530(b)(1)**

(D) CONTRACTOR will not, except as otherwise permitted by this DUA, disclose or provide access to any Confidential Information on the basis that such act is Required by Law without notifying either HHS or CONTRACTOR's own legal counsel to determine whether CONTRACTOR should object to the disclosure or access and seek appropriate relief. CONTRACTOR will maintain an accounting of all such requests for disclosure and responses and provide such accounting to HHS within 48 hours of HHS' request. **45 CFR 164.504(e)(2)(ii)(A)**

(E) CONTRACTOR will not attempt to re-identify or further identify Confidential Information or De-identified Information, or attempt to contact any Individuals whose records are contained in the Confidential Information, except for an Authorized Purpose, without express written authorization from HHS or as expressly permitted by the Base Contract. **45 CFR 164.502(d)(2)(i) and (ii)** CONTRACTOR will not engage in prohibited marketing or sale of Confidential Information. **45 CFR 164.501, 164.508(a)(3) and (4); Texas Health & Safety Code Ch. 181.002**

(F) CONTRACTOR will not permit, or enter into any agreement with a Subcontractor to, create, receive, maintain, use, disclose, have access to or transmit Confidential Information to carry out CONTRACTOR's obligations in connection with the Authorized Purpose on behalf of CONTRACTOR, unless Subcontractor agrees to comply

with all applicable laws, rules and regulations. **45 CFR 164.502(e)(1)(ii); 164.504(e)(1)(i) and (2).**

(G) CONTRACTOR is directly responsible for compliance with, and enforcement of, all conditions for creation, maintenance, use, disclosure, transmission and Destruction of Confidential Information and the acts or omissions of Subcontractors as may be reasonably necessary to prevent unauthorized use. **45 CFR 164.504(e)(5); 42 CFR 431.300, et seq.**

(H) If CONTRACTOR maintains PHI in a Designated Record Set which is Confidential Information and subject to this Agreement, CONTRACTOR will make PHI available to HHS in a Designated Record Set upon request. CONTRACTOR will provide PHI to an Individual, or Legally Authorized Representative of the Individual who is requesting PHI in compliance with the requirements of the HIPAA Privacy Regulations. CONTRACTOR will release PHI in accordance with the HIPAA Privacy Regulations upon receipt of a valid written authorization. CONTRACTOR will make other Confidential Information in CONTRACTOR's possession available pursuant to the requirements of HIPAA or other applicable law upon a determination of a Breach of Unsecured PHI as defined in HIPAA. CONTRACTOR will maintain an accounting of all such disclosures and provide it to HHS within 48 hours of HHS' request. **45 CFR 164.524 and 164.504(e)(2)(ii)(E).**

(I) If PHI is subject to this Agreement, CONTRACTOR will make PHI as required by HIPAA available to HHS for review subsequent to CONTRACTOR's incorporation of any amendments requested pursuant to HIPAA. **45 CFR 164.504(e)(2)(ii)(E) and (F).**

(J) If PHI is subject to this Agreement, CONTRACTOR will document and make available to HHS the PHI required to provide access, an accounting of disclosures or amendment in compliance with the requirements of the HIPAA Privacy Regulations. **45 CFR 164.504(e)(2)(ii)(G) and 164.528.**

(K) If CONTRACTOR receives a request for access, amendment or accounting of PHI from an individual with a right of access to information subject to this DUA, it will respond to such request in compliance with the HIPAA Privacy Regulations. CONTRACTOR will maintain an accounting of all responses to requests for access to or amendment of PHI and provide it to HHS within 48 hours of HHS' request. **45 CFR 164.504(e)(2).**

(L) CONTRACTOR will provide, and will cause its Subcontractors and agents to provide, to HHS periodic written certifications of compliance with controls and provisions relating to information privacy, security and breach notification, including without limitation information related to data transfers and the handling and disposal of Confidential Information. **45 CFR 164.308; 164.530(c); 1 TAC 202.**

(M) Except as otherwise limited by this DUA, the Base Contract, or law applicable to the Confidential Information, CONTRACTOR may use PHI for the proper management and administration of CONTRACTOR or to carry out CONTRACTOR's

legal responsibilities. Except as otherwise limited by this DUA, the Base Contract, or law applicable to the Confidential Information, CONTRACTOR may disclose PHI for the proper management and administration of CONTRACTOR, or to carry out CONTRACTOR's legal responsibilities, if: **45 CFR 164.504(e)(4)(A)**.

(1) Disclosure is Required by Law, provided that CONTRACTOR complies with Section 3.01(D); or

(2) CONTRACTOR obtains reasonable assurances from the person or entity to which the information is disclosed that the person or entity will:

(a) Maintain the confidentiality of the Confidential Information in accordance with this DUA;

(b) Use or further disclose the information only as Required by Law or for the Authorized Purpose for which it was disclosed to the Person; and

(c) Notify CONTRACTOR in accordance with Section 4.01 of any Event or Breach of Confidential Information of which the Person discovers or should have discovered with the exercise of reasonable diligence. **45 CFR 164.504(e)(4)(ii)(B)**.

(N) Except as otherwise limited by this DUA, CONTRACTOR will, if required by law and requested by HHS, use commercially reasonable efforts to use PHI to provide data aggregation services to HHS, as that term is defined in the HIPAA, 45 C.F.R. §164.501 and permitted by HIPAA. **45 CFR 164.504(e)(2)(i)(B)**

(O) CONTRACTOR will, on the termination or expiration of this DUA or the Base Contract, at its expense, send to HHS or Destroy, at HHS's election and to the extent reasonably feasible and permissible by law, all Confidential Information received from HHS or created or maintained by CONTRACTOR or any of CONTRACTOR's agents or Subcontractors on HHS's behalf if that data contains Confidential Information. CONTRACTOR will certify in writing to HHS that all the Confidential Information that has been created, received, maintained, used by or disclosed to CONTRACTOR, has been Destroyed or sent to HHS, and that CONTRACTOR and its agents and Subcontractors have retained no copies thereof. Notwithstanding the foregoing, HHS acknowledges and agrees that CONTRACTOR is not obligated to send to HHSC and/or Destroy any Confidential Information if federal law, state law, the Texas State Library and Archives Commission records retention schedule, and/or a litigation hold notice prohibit such delivery or Destruction. If such delivery or Destruction is not reasonably feasible, or is impermissible by law, CONTRACTOR will immediately notify HHS of the reasons such delivery or Destruction is not feasible, and agree to extend indefinitely the protections of this DUA to the Confidential Information and limit its further uses and disclosures to the purposes that make the return delivery or Destruction of the Confidential Information not feasible for as long as CONTRACTOR maintains such Confidential Information. **45 CFR 164.504(e)(2)(ii)(J)**

(P) CONTRACTOR will create, maintain, use, disclose, transmit or Destroy Confidential Information in a secure fashion that protects against any reasonably anticipated threats or hazards to the security or integrity of such information or unauthorized uses. **45 CFR 164.306; 164.530(c)**

(Q) If CONTRACTOR accesses, transmits, stores, and/or maintains Confidential Information, CONTRACTOR will complete and return to HHS at infosecurity@hhsc.state.tx.us the HHS information security and privacy initial inquiry (SPI) at Attachment 2. The SPI identifies basic privacy and security controls with which CONTRACTOR must comply to protect HHS Confidential Information. CONTRACTOR will comply with periodic security controls compliance assessment and monitoring by HHS as required by state and federal law, based on the type of Confidential Information CONTRACTOR creates, receives, maintains, uses, discloses or has access to and the Authorized Purpose and level of risk. CONTRACTOR's security controls will be based on the National Institute of Standards and Technology (NIST) Special Publication 800-53. CONTRACTOR will update its security controls assessment whenever there are significant changes in security controls for HHS Confidential Information and will provide the updated document to HHS. HHS also reserves the right to request updates as needed to satisfy state and federal monitoring requirements. **45 CFR 164.306.**

(R) CONTRACTOR will establish, implement and maintain reasonable procedural, administrative, physical and technical safeguards to preserve and maintain the confidentiality, integrity, and availability of the Confidential Information, and with respect to PHI, as described in the HIPAA Privacy and Security Regulations, or other applicable laws or regulations relating to Confidential Information, to prevent any unauthorized use or disclosure of Confidential Information as long as CONTRACTOR has such Confidential Information in its actual or constructive possession. **45 CFR 164.308 (administrative safeguards); 164.310 (physical safeguards); 164.312 (technical safeguards); 164.530(c)(privacy safeguards).**

(S) CONTRACTOR will designate and identify, a Person or Persons, as Privacy Official **45 CFR 164.530(a)(1)** and Information Security Official, each of whom is authorized to act on behalf of CONTRACTOR and is responsible for the development and implementation of the privacy and security requirements in this DUA. CONTRACTOR will provide name and current address, phone number and e-mail address for such designated officials to HHS upon execution of this DUA and prior to any change. If such persons fail to develop and implement the requirements of the DUA, CONTRACTOR will replace them upon HHS request. **45 CFR 164.308(a)(2).**

(T) CONTRACTOR represents and warrants that its Authorized Users each have a demonstrated need to know and have access to Confidential Information solely to the minimum extent necessary to accomplish the Authorized Purpose pursuant to this DUA and the Base Contract, and further, that each has agreed in writing to be bound by the disclosure and use limitations pertaining to the Confidential Information contained in this DUA. **45 CFR 164.502; 164.514(d).**

(U) CONTRACTOR and its Subcontractors will maintain an updated, complete, accurate and numbered list of Authorized Users, their signatures, titles and the date they agreed to be bound by the terms of this DUA, at all times and supply it to HHS, as directed, upon request.

(V) CONTRACTOR will implement, update as necessary, and document reasonable and appropriate policies and procedures for privacy, security and Breach of Confidential Information and an incident response plan for an Event or Breach, to comply with the privacy, security and breach notice requirements of this DUA prior to conducting work under the Statement of Work. **45 CFR 164.308; 164.316; 164.514(d); 164.530(i)(1).**

(W) CONTRACTOR will produce copies of its information security and privacy policies and procedures and records relating to the use or disclosure of Confidential Information received from, created by, or received, used or disclosed by CONTRACTOR for an Authorized Purpose for HHS's review and approval within 30 days of execution of this DUA and upon request by HHS the following business day or other agreed upon time frame. **45 CFR 164.308; 164.514(d).**

(X) CONTRACTOR will make available to HHS any information HHS requires to fulfill HHS's obligations to provide access to, or copies of, PHI in accordance with HIPAA and other applicable laws and regulations relating to Confidential Information. CONTRACTOR will provide such information in a time and manner reasonably agreed upon or as designated by the Secretary of the U.S. Department of Health and Human Services, or other federal or state law. **45 CFR 164.504(e)(2)(i)(I).**

(Y) CONTRACTOR will only conduct secure transmissions of Confidential Information whether in paper, oral or electronic form, in accordance with applicable rules, regulations and laws. A secure transmission of electronic Confidential Information in motion includes, but is not limited to, Secure File Transfer Protocol (SFTP) or Encryption at an appropriate level. If required by rule, regulation or law, HHS Confidential Information at rest requires Encryption unless there is other adequate administrative, technical, and physical security. All electronic data transfer and communications of Confidential Information will be through secure systems. Proof of system, media or device security and/or Encryption must be produced to HHS no later than 48 hours after HHS's written request in response to a compliance investigation, audit or the Discovery of an Event or Breach. Otherwise, requested production of such proof will be made as agreed upon by the parties. De-identification of HHS Confidential Information is a means of security. With respect to de-identification of PHI, "secure" means de-identified according to HIPAA Privacy standards and regulatory guidance. **45 CFR 164.312; 164.530(d).**

(Z) For each type of Confidential Information CONTRACTOR creates, receives, maintains, uses, discloses, has access to or transmits in the performance of the Statement of Work, CONTRACTOR will comply with the following laws rules and regulations, only to the extent applicable and required by law:

- Title 1, Part 10, Chapter 202, Subchapter B, Texas Administrative Code;

- The Privacy Act of 1974;
- OMB Memorandum 07-16;
- The Federal Information Security Management Act of 2002 (FISMA);
- The Health Insurance Portability and Accountability Act of 1996 (HIPAA) as defined in the DUA;
- Internal Revenue Publication 1075 – Tax Information Security Guidelines for Federal, State and Local Agencies;
- National Institute of Standards and Technology (NIST) Special Publication 800-66 Revision 1 – An Introductory Resource Guide for Implementing the Health Insurance Portability and Accountability Act (HIPAA) Security Rule;
- NIST Special Publications 800-53 and 800-53A – Recommended Security Controls for Federal Information Systems and Organizations, as currently revised;
- NIST Special Publication 800-47 – Security Guide for Interconnecting Information Technology Systems;
- NIST Special Publication 800-88, Guidelines for Media Sanitization;
- NIST Special Publication 800-111, Guide to Storage of Encryption Technologies for End User Devices containing PHI; and

Any other State or Federal law, regulation, or administrative rule relating to the specific HHS program area that CONTRACTOR supports on behalf of HHS.

(AA) Notwithstanding anything to the contrary herein, CONTRACTOR will treat any Personal Identifying Information it creates, receives, maintains, uses, transmits, destroys and/or discloses in accordance with Texas Business and Commerce Code, Chapter 521 and other applicable regulatory standards identified in Section 3.01(Z), and Individually Identifiable Health Information CONTRACTOR creates, receives, maintains, uses, transmits, destroys and/or discloses in accordance with HIPAA and other applicable regulatory standards identified in Section 3.01(Z).

ARTICLE 4.

BREACH NOTICE, REPORTING AND CORRECTION REQUIREMENTS

4.01 Breach or Event Notification to HHS. 45 CFR 164.400-414.

(A) CONTRACTOR will cooperate fully with HHS in investigating, mitigating to the extent practicable and issuing notifications directed by HHS, for any Event or Breach of Confidential Information to the extent and in the manner determined by HHS.

(B) CONTRACTOR'S obligation begins at the Discovery of an Event or Breach and continues as long as related activity continues, until all effects of the Event are mitigated to HHS's reasonable satisfaction (the "incident response period"). **45 CFR 164.404.**

(C) Breach Notice:

(1) Initial Notice.

(a) For federal information, including without limitation, Federal Tax Information, Social Security Administration Data, and Medicaid Client Information, within the first, consecutive clock hour of Discovery, and for all other types of Confidential Information not more than 24 hours after Discovery, or in a timeframe otherwise approved by HHS in writing, initially report to HHS's Privacy and Security Officers via email at: privacy@HHSC.state.tx.us and to the HHS division responsible for this DUA; and IRS Publication 1075; Privacy Act of 1974, as amended by the Computer Matching and Privacy Protection Act of 1988, 5 U.S.C. § 552a; OMB Memorandum 07-16 as cited in HHSC-CMS Contracts for information exchange.

(b) Report all information reasonably available to CONTRACTOR about the Event or Breach of the privacy or security of Confidential Information. **45 CFR 164.410.**

(c) Name, and provide contact information to HHS for, CONTRACTOR's single point of contact who will communicate with HHS both on and off business hours during the incident response period.

(2) Formal Notice. No later than two business days after the Initial Notice above, provide formal notification to privacy@HHSC.state.tx.us and to the HHS division responsible for this DUA, including all reasonably available information about the Event or Breach, and CONTRACTOR's investigation, including without limitation and to the extent available: **For (a) - (m) below: 45 CFR 164.400-414.**

(a) The date the Event or Breach occurred;

(b) The date of CONTRACTOR's and, if applicable, Subcontractor's Discovery;

(c) A brief description of the Event or Breach; including how it occurred and who is responsible (or hypotheses, if not yet determined);

(d) A brief description of CONTRACTOR's investigation and the status of the investigation;

(e) A description of the types and amount of Confidential Information involved;

(f) Identification of and number of all Individuals reasonably believed to be affected, including first and last name of the Individual and if applicable the, Legally Authorized Representative, last known address, age, telephone number, and email address if it is a preferred contact method, to the extent known or can be reasonably determined by CONTRACTOR at that time;

(g) CONTRACTOR's initial risk assessment of the Event or Breach demonstrating whether individual or other notices are required by applicable law or this DUA for HHS approval, including an analysis of whether there is a low probability of compromise of the Confidential Information or whether any legal exceptions to notification apply;

(h) CONTRACTOR's recommendation for HHS's approval as to the steps Individuals and/or CONTRACTOR on behalf of Individuals, should take to protect the Individuals from potential harm, including without limitation CONTRACTOR's provision of notifications, credit protection, claims monitoring, and any specific protections for a Legally Authorized Representative to take on behalf of an Individual with special capacity or circumstances;

(i) The steps CONTRACTOR has taken to mitigate the harm or potential harm caused (including without limitation the provision of sufficient resources to mitigate);

(j) The steps CONTRACTOR has taken, or will take, to prevent or reduce the likelihood of recurrence of a similar Event or Breach;

(k) Identify, describe or estimate the Persons, Workforce, Subcontractor, or Individuals and any law enforcement that may be involved in the Event or Breach;

(l) A reasonable schedule for CONTRACTOR to provide regular updates during normal business hours to the foregoing in the future for response to the Event or Breach, but no less than every three (3) business days or as otherwise directed by HHS, including information about risk estimations, reporting, notification, if any, mitigation, corrective action, root cause analysis and when such activities are expected to be completed; and

(m) Any reasonably available, pertinent information, documents or reports related to an Event or Breach that HHS requests following Discovery.

4.02 Investigation, Response and Mitigation. 45 CFR 164.308, 310 and 312; 164.530

(A) CONTRACTOR will immediately conduct a full and complete investigation, respond to the Event or Breach, commit necessary and appropriate staff and resources to expeditiously respond, and report as required to and by HHS for incident response purposes and for purposes of HHS's compliance with report and notification requirements, to the reasonable satisfaction of HHS.

(B) CONTRACTOR will complete or participate in a risk assessment as directed by HHS following an Event or Breach, and provide the final assessment, corrective actions and mitigations to HHS for review and approval.

(C) CONTRACTOR will fully cooperate with HHS to respond to inquiries and/or proceedings by state and federal authorities, Persons and/or Individuals about the Event or Breach.

(D) CONTRACTOR will fully cooperate with HHS's efforts to seek appropriate injunctive relief or otherwise prevent or curtail such Event or Breach, or to recover or protect any Confidential Information, including complying with reasonable corrective action or measures, as specified by HHS in a Corrective Action Plan if directed by HHS under the Base Contract.

4.03 Breach Notification to Individuals and Reporting to Authorities. Tex. Bus. & Comm. Code §521.053; 45 CFR 164.404 (Individuals), 164.406 (Media); 164.408 (Authorities)

(A) HHS may direct CONTRACTOR to provide Breach notification to Individuals, regulators or third-parties, as specified by HHS following a Breach.

(B) CONTRACTOR shall give HHS an opportunity to review and provide feedback to CONTRACTOR and to confirm that CONTRACTOR's notice meets all regulatory requirements regarding the time, manner and content of any notification to Individuals, regulators or third-parties, or any notice required by other state or federal authorities, including without limitation, notifications required by Texas Business and Commerce Code, Chapter 521.053(b) and HIPAA. HHS shall have ten (10) business days to provide said feedback to CONTRACTOR. Notice letters will be in CONTRACTOR's name and on CONTRACTOR's letterhead, unless otherwise directed by HHS, and will contain contact information, including the name and title of CONTRACTOR's representative, an email address and a toll-free telephone number, if required by applicable law, rule, or regulation, for the Individual to obtain additional information.

(C) CONTRACTOR will provide HHS with copies of distributed and approved communications.

(D) CONTRACTOR will have the burden of demonstrating to the reasonable satisfaction of HHS that any notification required by HHS was timely made. If there are delays outside of CONTRACTOR's control, CONTRACTOR will provide written documentation of the reasons for the delay.

(E) If HHS delegates notice requirements to CONTRACTOR, HHS shall, in the time and manner reasonably requested by CONTRACTOR, cooperate and assist with CONTRACTOR's information requests in order to make such notifications and reports.

ARTICLE 5. STATEMENT OF WORK

"Statement of Work" means the services and deliverables to be performed or provided by CONTRACTOR, or on behalf of CONTRACTOR by its Subcontractors or agents for HHS that are described in detail in the Base Contract. The Statement of Work, including any future amendments thereto, is incorporated by reference in this DUA as if set out word-for-word herein.

ARTICLE 6. GENERAL PROVISIONS

6.01 Oversight of Confidential Information

CONTRACTOR acknowledges and agrees that HHS is entitled to oversee and monitor CONTRACTOR's access to and creation, receipt, maintenance, use, disclosure of the Confidential Information to confirm that CONTRACTOR is in compliance with this DUA.

6.02 HHS Commitment and Obligations

HHS will not request CONTRACTOR to create, maintain, transmit, use or disclose PHI in any manner that would not be permissible under applicable law if done by HHS.

6.03 HHS Right to Inspection

At any time upon reasonable notice to CONTRACTOR, or if HHS determines that CONTRACTOR has violated this DUA, HHS, directly or through its agent, will have the right to inspect the facilities, systems, books and records of CONTRACTOR to monitor compliance with this DUA. For purposes of this subsection, HHS's agent(s) include, without limitation, the HHS Office of the Inspector General or the Office of the Attorney General of Texas, outside consultants or legal counsel or other designee.

6.04 Term; Termination of DUA; Survival

This DUA will be effective on the date on which CONTRACTOR executes the DUA, and will terminate upon termination of the Base Contract and as set forth herein. If the Base Contract is extended or amended, this DUA shall be extended or amended concurrent with such extension or amendment.

(A) HHS may immediately terminate this DUA and Base Contract upon a material violation of this DUA.

(B) Termination or Expiration of this DUA will not relieve CONTRACTOR of its obligation to return or Destroy the Confidential Information as set forth in this DUA and to continue to safeguard the Confidential Information until such time as determined by HHS.

(C) If HHS determines that CONTRACTOR has violated a material term of this DUA; HHS may in its sole discretion:

(1) Exercise any of its rights including but not limited to reports, access and inspection under this DUA and/or the Base Contract; or

(2) Require CONTRACTOR to submit to a Corrective Action Plan, including a plan for monitoring and plan for reporting, as HHS may determine necessary to maintain compliance with this DUA; or

(3) Provide CONTRACTOR with a reasonable period to cure the violation as determined by HHS; or

(4) Terminate the DUA and Base Contract immediately, and seek relief in a court of competent jurisdiction in Texas.

Before exercising any of these options, HHS will provide written notice to CONTRACTOR describing the violation, the requested corrective action CONTRACTOR may take to cure the alleged violation, and the action HHS intends to take if the alleged violation is not timely cured by CONTRACTOR.

(D) If neither termination nor cure is feasible, HHS shall report the violation to the Secretary of the U.S. Department of Health and Human Services.

(E) The duties of CONTRACTOR or its Subcontractor under this DUA survive the expiration or termination of this DUA until all the Confidential Information is Destroyed or returned to HHS, as required by this DUA.

6.05 Governing Law, Venue and Litigation

(A) The validity, construction and performance of this DUA and the legal relations among the Parties to this DUA will be governed by and construed in accordance with the laws of the State of Texas.

(B) The Parties agree that the courts of Texas, will be the exclusive venue for any litigation, special proceeding or other proceeding as between the parties that may be brought, or arise out of, or in connection with, or by reason of this DUA.

6.06 Injunctive Relief

(A) CONTRACTOR acknowledges and agrees that HHS may suffer irreparable injury if CONTRACTOR or its Subcontractor fails to comply with any of the terms of this DUA with respect to the Confidential Information or a provision of HIPAA or other laws or regulations applicable to Confidential Information.

(B) CONTRACTOR further agrees that monetary damages may be inadequate to compensate HHS for CONTRACTOR's or its Subcontractor's failure to comply. Accordingly, CONTRACTOR agrees that HHS will, in addition to any other remedies available to it at law or in equity, be entitled to seek injunctive relief without posting a bond and without the necessity of demonstrating actual damages, to enforce the terms of this DUA.

6.07 Responsibility.

To the extent permitted by the Texas Constitution, laws and rules, and without waiving any immunities or defenses available to CONTRACTOR as a governmental entity, CONTRACTOR shall be solely responsible for its own acts and omissions and the acts and omissions of its employees, directors, officers, Subcontractors and agents. HHS shall be solely responsible for its own acts and omissions.

6.08 Insurance

(A) As a governmental entity, and in accordance with the limits of the Texas Tort Claims Act, Chapter 101 of the Texas Civil Practice and Remedies Code, CONTRACTOR either maintains commercial insurance or self-insures with policy limits in an amount sufficient to cover CONTRACTOR's liability arising under this DUA. CONTRACTOR will request that HHS be named as an additional insured. HHSC reserves the right to consider alternative means for CONTRACTOR to satisfy CONTRACTOR's financial responsibility under this DUA. Nothing herein shall relieve CONTRACTOR of its financial obligations set forth in this DUA if CONTRACTOR fails to maintain insurance.

(B) CONTRACTOR will provide HHS with written proof that required insurance coverage is in effect, at the request of HHS.

6.08 Fees and Costs

Except as otherwise specified in this DUA or the Base Contract, if any legal action or other proceeding is brought for the enforcement of this DUA, or because of an alleged dispute, contract violation, Event, Breach, default, misrepresentation, or injunctive action, in connection with any of the provisions of this DUA, each party will bear their own legal expenses and the other cost incurred in that action or proceeding.

6.09 Entirety of the Contract

This DUA is incorporated by reference into the Base Contract as an amendment thereto and, together with the Base Contract, constitutes the entire agreement between the parties. No change, waiver, or discharge of obligations arising under those documents will be valid unless in writing and executed by the party against whom such change, waiver, or discharge is sought to be

enforced. If any provision of the Base Contract, including any General Provisions or Uniform Terms and Conditions, conflicts with this DUA, this DUA controls.

6.10 Automatic Amendment and Interpretation

If there is (i) a change in any law, regulation or rule, state or federal, applicable to HIPPA and/or Confidential Information, or (ii) any change in the judicial or administrative interpretation of any such law, regulation or rule,, upon the effective date of such change, this DUA shall be deemed to have been automatically amended, interpreted and read so that the obligations imposed on HHS and/or CONTRACTOR remain in compliance with such changes. Any ambiguity in this DUA will be resolved in favor of a meaning that permits HHS and CONTRACTOR to comply with HIPAA or any other law applicable to Confidential Information.



TEXAS
Health and Human
Services

Texas HHS System - Data Use Agreement - Attachment 2
SECURITY AND PRIVACY INQUIRY (SPI)

If you are a bidder for a new procurement/contract, in order to participate in the bidding process, you must have corrected any "No" responses (except A9a) prior to the contract award date. If you are an applicant for an open enrollment, you must have corrected any "No" answers (except A9a and A11) prior to performing any work on behalf of any Texas HHS agency.

For any questions answered "No" (except A9a and A11), an *Action Plan for Compliance with a Timeline* must be documented in the designated area below the question. The timeline for compliance with HIPAA-related requirements for safeguarding Protected Health Information is 30 calendar days from the date this form is signed. Compliance with requirements related to other types of Confidential Information must be confirmed within 90 calendar days from the date the form is signed.

SECTION A: APPLICANT/BIDDER INFORMATION (To be completed by Applicant/Bidder)

| | |
|---|--|
| 1. Does the applicant/bidder access, create, disclose, receive, transmit, maintain, or store Texas HHS Confidential Information in electronic systems (e.g., laptop, personal use computer, mobile device, database, server, etc.)? IF NO, STOP. THE SPI FORM IS NOT REQUIRED. | <input type="radio"/> Yes <input type="radio"/> No |
| 2. Entity or Applicant/Bidder Legal Name | Legal Name: Legal Entity Tax Identification Number (TIN) (Last Four Numbers Only): Procurement/Contract#: Address: City: State: ZIP: Telephone #: Email Address: |
| 3. Number of Employees, at all locations, in Applicant/Bidder's Workforce "Workforce" means all employees, volunteers, trainees, and other Persons whose conduct is under the direct control of Applicant/Bidder, whether or not they are paid by Applicant/Bidder. If Applicant/Bidder is a sole proprietor, the workforce may be only one employee. | Total Employees: |
| 4. Number of Subcontractors (if Applicant/Bidder will not use subcontractors, enter "0") | Total Subcontractors: |
| 5. Name of Information Technology Security Official and Name of Privacy Official for Applicant/Bidder (Privacy and Security Official may be the same person.) | A. Security Official: Legal Name: Address: City: State: ZIP: Telephone #: Email Address: |
| | B. Privacy Official: Legal Name: Address: City: State: ZIP: Telephone #: Email Address: |

| | | | | | | |
|--|--|---|--|--|--|--|
| 6. Type(s) of Texas HHS Confidential Information the Applicant/Bidder will create, receive, maintain, use, disclose or have access to: (Check all that apply) <ul style="list-style-type: none"> • Health Insurance Portability and Accountability Act (HIPAA) data • Criminal Justice Information Services (CJIS) data • Internal Revenue Service Federal Tax Information (IRS FTI) data • Centers for Medicare & Medicaid Services (CMS) • Social Security Administration (SSA) • Personally Identifiable Information (PII) | HIPAA <input type="checkbox"/> | CJIS <input type="checkbox"/> | IRS FTI <input type="checkbox"/> | CMS <input type="checkbox"/> | SSA <input type="checkbox"/> | PII <input type="checkbox"/> |
| Other (Please List) | | | | | | |
| 7. Number of Storage Devices for Texas HHS Confidential Information (as defined in the Texas HHS System Data Use Agreement (DUA)) Cloud Services involve using a network of remote servers hosted on the Internet to store, manage, and process data, rather than a local server or a personal computer. A Data Center is a centralized repository, either physical or virtual, for the storage, management, and dissemination of data and information organized around a particular body of knowledge or pertaining to a particular business. | | | | | | Total # (Sum a-d) 0 |
| a. Devices. Number of personal user computers, devices or drives, including mobile devices and mobile drives. | | | | | | |
| b. Servers. Number of Servers that are not in a data center or using Cloud Services. | | | | | | |
| c. Cloud Services. Number of Cloud Services in use. | | | | | | |
| d. Data Centers. Number of Data Centers in use. | | | | | | |
| 8. Number of unduplicated individuals for whom Applicant/Bidder reasonably expects to handle Texas HHS Confidential Information during one year: | | | | | | Select Option (a-d) |
| a. 499 individuals or less b. 500 to 999 individuals c. 1,000 to 99,999 individuals d. 100,000 individuals or more | | | | | | <input type="radio"/> a. <input type="radio"/> b. <input type="radio"/> c. <input type="radio"/> d. |
| 9. HIPAA Business Associate Agreement | | | | | | |
| a. Will Applicant/Bidder use, disclose, create, receive, transmit or maintain protected health information on behalf of a HIPAA-covered Texas HHS agency for a HIPAA-covered function? | | | | | | <input type="radio"/> Yes <input type="radio"/> No |
| b. Does Applicant/Bidder have a Privacy Notice prominently displayed on a Webpage or a Public Office of Applicant/Bidder's business open to or that serves the public? (This is a HIPAA requirement. Answer "N/A" if not applicable, such as for agencies not covered by HIPAA.) | | | | | | <input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A |
| <u>Action Plan for Compliance with a Timeline:</u> | | | | | | <u>Compliance Date:</u> |
| 10. Subcontractors. If the Applicant/Bidder responded "0" to Question 4 (indicating no subcontractors), check "N/A" for both 'a.' and 'b.' | | | | | | |
| a. Does Applicant/Bidder require subcontractors to execute the DUA Attachment 1 Subcontractor Agreement Form? | | | | | | <input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A |
| <u>Action Plan for Compliance with a Timeline:</u> | | | | | | <u>Compliance Date:</u> |

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| <p>b. Will Applicant/Bidder agree to require subcontractors who will access Confidential Information to comply with the terms of the DUA, not disclose any Confidential Information to them until they have agreed in writing to the same safeguards and to discontinue their access to the Confidential Information if they fail to comply?</p> | <p> <input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A </p> |
| <p><u>Action Plan for Compliance with a Timeline:</u></p> | <p><u>Compliance Date:</u></p> |
| <p>11. Does Applicant/Bidder have any Optional Insurance currently in place?</p> <p>Optional Insurance provides coverage for: (1) Network Security and Privacy; (2) Data Breach; (3) Cyber Liability (lost data, lost use or delay/suspension in business, denial of service with e-business, the Internet, networks and informational assets, such as privacy, intellectual property, virus transmission, extortion, sabotage or web activities); (4) Electronic Media Liability; (5) Crime/Theft; (6) Advertising Injury and Personal Injury Liability; and (7) Crisis Management and Notification Expense Coverage.</p> | <p> <input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A </p> |

SECTION B: PRIVACY RISK ANALYSIS AND ASSESSMENT (To be completed by Applicant/Bidder)

For any questions answered "No," an Action Plan for Compliance with a Timeline must be documented in the designated area below the question. The timeline for compliance with HIPAA-related requirements for safeguarding Protected Health Information is 30 calendar days from the date this form is signed. Compliance with requirements related to other types of Confidential Information must be confirmed within 90 calendar days from the date the form is signed.

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| 1. Written Policies & Procedures. Does Applicant/Bidder have current written privacy and security policies and procedures that, at a minimum: | Yes or No |
| a. Does Applicant/Bidder have current written privacy and security policies and procedures that identify Authorized Users and Authorized Purposes (as defined in the DUA) relating to creation, receipt, maintenance, use, disclosure, access or transmission of Texas HHS Confidential Information? | <input type="radio"/> Yes <input type="radio"/> No |
| <u>Action Plan for Compliance with a Timeline:</u> | <u>Compliance Date:</u> |
| b. Does Applicant/Bidder have current written privacy and security policies and procedures that require Applicant/Bidder and its Workforce to comply with the applicable provisions of HIPAA and other laws referenced in the DUA, relating to creation, receipt, maintenance, use, disclosure, access or transmission of Texas HHS Confidential Information on behalf of a Texas HHS agency? | <input type="radio"/> Yes <input type="radio"/> No |
| <u>Action Plan for Compliance with a Timeline:</u> | <u>Compliance Date:</u> |
| c. Does Applicant/Bidder have current written privacy and security policies and procedures that limit use or disclosure of Texas HHS Confidential Information to the minimum that is necessary to fulfill the Authorized Purposes? | <input type="radio"/> Yes <input type="radio"/> No |
| <u>Action Plan for Compliance with a Timeline:</u> | <u>Compliance Date:</u> |
| d. Does Applicant/Bidder have current written privacy and security policies and procedures that respond to an actual or suspected breach of Texas HHS Confidential Information, to include at a minimum (if any responses are "No" check "No" for all three): | <input type="radio"/> Yes <input type="radio"/> No |
| i. Immediate breach notification to the Texas HHS agency, regulatory authorities, and other required Individuals or Authorities, in accordance with Article 4 of the DUA; ii. Following a documented breach response plan, in accordance with the DUA and applicable law; & iii. Notifying Individuals and Reporting Authorities whose Texas HHS Confidential Information has been breached, as directed by the Texas HHS agency? | |

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| <u>Action Plan for Compliance with a Timeline:</u> | <u>Compliance Date:</u> |
| e. Does Applicant/Bidder have current written privacy and security policies and procedures that conduct annual workforce training and monitoring for and correction of any training delinquencies? | <input type="radio"/> Yes <input type="radio"/> No |
| <u>Action Plan for Compliance with a Timeline:</u> | <u>Compliance Date:</u> |
| f. Does Applicant/Bidder have current written privacy and security policies and procedures that permit or deny individual rights of access, and amendment or correction, when appropriate? | <input type="radio"/> Yes <input type="radio"/> No |
| <u>Action Plan for Compliance with a Timeline:</u> | <u>Compliance Date:</u> |
| g. Does Applicant/Bidder have current written privacy and security policies and procedures that permit only Authorized Users with up-to-date privacy and security training, and with a reasonable and demonstrable need to use, disclose, create, receive, maintain, access or transmit the Texas HHS Confidential Information, to carry out an obligation under the DUA for an Authorized Purpose, unless otherwise approved in writing by a Texas HHS agency? | <input type="radio"/> Yes <input type="radio"/> No |
| <u>Action Plan for Compliance with a Timeline:</u> | <u>Compliance Date:</u> |
| h. Does Applicant/Bidder have current written privacy and security policies and procedures that establish, implement and maintain proof of appropriate sanctions against any Workforce or Subcontractors who fail to comply with an Authorized Purpose or who is not an Authorized User, and used or disclosed Texas HHS Confidential Information in violation of the DUA, the Base Contract or applicable law? | <input type="radio"/> Yes <input type="radio"/> No |
| <u>Action Plan for Compliance with a Timeline:</u> | <u>Compliance Date:</u> |
| i. Does Applicant/Bidder have current written privacy and security policies and procedures that require updates to policies, procedures and plans following major changes with use or disclosure of Texas HHS Confidential Information within 60 days of identification of a need for update? | <input type="radio"/> Yes <input type="radio"/> No |
| <u>Action Plan for Compliance with a Timeline:</u> | <u>Compliance Date:</u> |

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| j. Does Applicant/Bidder have current written privacy and security policies and procedures that restrict permissions or attempts to re-identify or further identify de-identified Texas HHS Confidential Information, or attempt to contact any Individuals whose records are contained in the Texas HHS Confidential Information, except for an Authorized Purpose, without express written authorization from a Texas HHS agency or as expressly permitted by the Base Contract? | <input type="radio"/> Yes <input type="radio"/> No |
| <u>Action Plan for Compliance with a Timeline:</u> | <u>Compliance Date:</u> |
| k. If Applicant/Bidder intends to use, disclose, create, maintain, store or transmit Texas HHS Confidential Information outside of the United States, will Applicant/Bidder obtain the express prior written permission from the Texas HHS agency and comply with the Texas HHS agency conditions for safeguarding offshore Texas HHS Confidential Information? | <input type="radio"/> Yes <input type="radio"/> No |
| <u>Action Plan for Compliance with a Timeline:</u> | <u>Compliance Date:</u> |
| l. Does Applicant/Bidder have current written privacy and security policies and procedures that require cooperation with Texas HHS agencies' or federal regulatory inspections, audits or investigations related to compliance with the DUA or applicable law? | <input type="radio"/> Yes <input type="radio"/> No |
| <u>Action Plan for Compliance with a Timeline:</u> | <u>Compliance Date:</u> |
| m. Does Applicant/Bidder have current written privacy and security policies and procedures that require appropriate standards and methods to destroy or dispose of Texas HHS Confidential Information? | <input type="radio"/> Yes <input type="radio"/> No |
| <u>Action Plan for Compliance with a Timeline:</u> | <u>Compliance Date:</u> |
| n. Does Applicant/Bidder have current written privacy and security policies and procedures that prohibit disclosure of Applicant/Bidder's work product done on behalf of Texas HHS pursuant to the DUA, or to publish Texas HHS Confidential Information without express prior approval of the Texas HHS agency? | <input type="radio"/> Yes <input type="radio"/> No |
| <u>Action Plan for Compliance with a Timeline:</u> | <u>Compliance Date:</u> |
| 2. Does Applicant/Bidder have a current Workforce training program? Training of Workforce must occur at least once every year, and within 30 days of date of hiring a new Workforce member who will handle Texas HHS Confidential Information. Training must include: (1) privacy and security policies, procedures, plans and applicable requirements for handling Texas HHS Confidential Information, (2) a requirement to complete training before access is given to Texas HHS Confidential Information, and (3) written proof of training and a procedure for monitoring timely completion of training. | <input type="radio"/> Yes <input type="radio"/> No |

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| <u>Action Plan for Compliance with a Timeline:</u> | <u>Compliance Date:</u> |
| <p>3. Does Applicant/Bidder have Privacy Safeguards to protect Texas HHS Confidential Information in oral, paper and/or electronic form?</p> <p>"Privacy Safeguards" means protection of Texas HHS Confidential Information by establishing, implementing and maintaining required Administrative, Physical and Technical policies, procedures, processes and controls, required by the DUA, HIPAA (45 CFR 164.530), Social Security Administration, Medicaid and laws, rules or regulations, as applicable. Administrative safeguards include administrative protections, policies and procedures for matters such as training, provision of access, termination, and review of safeguards, incident management, disaster recovery plans, and contract provisions. Technical safeguards include technical protections, policies and procedures, such as passwords, logging, emergencies, how paper is faxed or mailed, and electronic protections such as encryption of data. Physical safeguards include physical protections, policies and procedures, such as locks, keys, physical access, physical storage and trash.</p> | <input type="radio"/> Yes <input type="radio"/> No |
| <u>Action Plan for Compliance with a Timeline:</u> | <u>Compliance Date:</u> |
| <p>4. Does Applicant/Bidder and all subcontractors (if applicable) maintain a current list of Authorized Users who have access to Texas HHS Confidential Information, whether oral, written or electronic?</p> | <input type="radio"/> Yes <input type="radio"/> No |
| <u>Action Plan for Compliance with a Timeline:</u> | <u>Compliance Date:</u> |
| <p>5. Does Applicant/Bidder and all subcontractors (if applicable) monitor for and remove terminated employees or those no longer authorized to handle Texas HHS Confidential Information from the list of Authorized Users?</p> | <input type="radio"/> Yes <input type="radio"/> No |
| <u>Action Plan for Compliance with a Timeline:</u> | <u>Compliance Date:</u> |

SECTION C: SECURITY RISK ANALYSIS AND ASSESSMENT (to be completed by Applicant/Bidder)

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| <p>This section is about your electronic system. If your business DOES NOT store, access, or transmit Texas HHS Confidential Information in electronic systems (e.g., laptop, personal use computer, mobile device, database, server, etc.) select the box to the right, and "YES" will be entered for all questions in this section.</p> | <p>No Electronic Systems</p> <p><input type="checkbox"/></p> |
| <p>For any questions answered "No," an Action Plan for Compliance with a Timeline must be documented in the designated area below the question. The timeline for compliance with HIPAA-related items is 30 calendar days, PII-related items is 90 calendar days.</p> | |
| <p>1. Does the Applicant/Bidder ensure that services which access, create, disclose, receive, transmit, maintain, or store Texas HHS Confidential Information are maintained IN the United States (no offshoring) unless ALL of the following requirements are met?</p> <ul style="list-style-type: none"> a. The data is encrypted with FIPS 140-2 validated encryption b. The offshore provider does not have access to the encryption keys c. The Applicant/Bidder maintains the encryption key within the United States d. The Application/Bidder has obtained the express prior written permission of the Texas HHS agency <p><i>For more information regarding FIPS 140-2 encryption products, please refer to:</i> http://csrc.nist.gov/publications/fips</p> | <p><input type="radio"/> Yes <input type="radio"/> No</p> |
| <p><u>Action Plan for Compliance with a Timeline:</u></p> | <p><u>Compliance Date:</u></p> |
| <p>2. Does Applicant/Bidder utilize an IT security-knowledgeable person or company to maintain or oversee the configurations of Applicant/Bidder's computing systems and devices?</p> | <p><input type="radio"/> Yes <input type="radio"/> No</p> |
| <p><u>Action Plan for Compliance with a Timeline:</u></p> | <p><u>Compliance Date:</u></p> |
| <p>3. Does Applicant/Bidder monitor and manage access to Texas HHS Confidential Information (e.g., a formal process exists for granting access and validating the need for users to access Texas HHS Confidential Information, and access is limited to Authorized Users)?</p> | <p><input type="radio"/> Yes <input type="radio"/> No</p> |
| <p><u>Action Plan for Compliance with a Timeline:</u></p> | <p><u>Compliance Date:</u></p> |
| <p>4. Does Applicant/Bidder a) have a system for changing default passwords, b) require user password changes at least every 90 calendar days, and c) prohibit the creation of weak passwords (e.g., require a minimum of 8 characters with a combination of uppercase, lowercase, special characters, and numerals, where possible) for all computer systems that access or store Texas HHS Confidential Information.</p> <p>If yes, upon request must provide evidence such as a screen shot or a system report.</p> | <p><input type="radio"/> Yes <input type="radio"/> No</p> |
| <p><u>Action Plan for Compliance with a Timeline:</u></p> | <p><u>Compliance Date:</u></p> |

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| 5. Does each member of Applicant/Bidder's Workforce who will use, disclose, create, receive, transmit or maintain Texas HHS Confidential Information have a unique user name (account) and private password? | <input type="radio"/> Yes <input type="radio"/> No |
| <u>Action Plan for Compliance with a Timeline:</u> | <u>Compliance Date:</u> |
| 6. Does Applicant/Bidder lock the password after a certain number of failed attempts and after 15 minutes of user inactivity in all computing devices that access or store Texas HHS Confidential Information? | <input type="radio"/> Yes <input type="radio"/> No |
| <u>Action Plan for Compliance with a Timeline:</u> | <u>Compliance Date:</u> |
| 7. Does Applicant/Bidder secure, manage and encrypt remote access (including wireless access) to computer systems containing Texas HHS Confidential Information? (e.g., a formal process exists for granting access and validating the need for users to remotely access Texas HHS Confidential Information, and remote access is limited to Authorized Users). <i>Encryption is required for all Texas HHS Confidential Information. Additionally, FIPS 140-2 validated encryption is required for Health Insurance Portability and Accountability Act (HIPAA) data, Criminal Justice Information Services (CJIS) data, Internal Revenue Service Federal Tax Information (IRS FTI) data, and Centers for Medicare & Medicaid Services (CMS) data.</i> <i>For more information regarding FIPS 140-2 encryption products, please refer to:</i> http://csrc.nist.gov/publications/fips | <input type="radio"/> Yes <input type="radio"/> No |
| <u>Action Plan for Compliance with a Timeline:</u> | <u>Compliance Date:</u> |
| 8. Does Applicant/Bidder implement computer security configurations or settings for all computers and systems that access or store Texas HHS Confidential Information? (e.g., non-essential features or services have been removed or disabled to reduce the threat of breach and to limit exploitation opportunities for hackers or intruders, etc.) | <input type="radio"/> Yes <input type="radio"/> No |
| <u>Action Plan for Compliance with a Timeline:</u> | <u>Compliance Date:</u> |
| 9. Does Applicant/Bidder secure physical access to computer, paper, or other systems containing Texas HHS Confidential Information from unauthorized personnel and theft (e.g., door locks, cable locks, laptops are stored in the trunk of the car instead of the passenger area, etc.)? | <input type="radio"/> Yes <input type="radio"/> No |
| <u>Action Plan for Compliance with a Timeline:</u> | <u>Compliance Date:</u> |

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| <p>10. Does Applicant/Bidder use encryption products to protect Texas HHS Confidential Information that is <u>transmitted</u> over a public network (e.g., the Internet, WiFi, etc.)?</p> <p>If yes, upon request must provide evidence such as a screen shot or a system report.</p> <p><i>Encryption is required for all HHS Confidential Information. Additionally, FIPS 140-2 validated encryption is required for Health Insurance Portability and Accountability Act (HIPAA) data, Criminal Justice Information Services (CJIS) data, Internal Revenue Service Federal Tax Information (IRS FTI) data, and Centers for Medicare & Medicaid Services (CMS) data.</i></p> <p><i>For more information regarding FIPS 140-2 encryption products, please refer to:</i> http://csrc.nist.gov/publications/fips</p> | <input type="radio"/> Yes <input type="radio"/> No |
| <p><u>Action Plan for Compliance with a Timeline:</u></p> | <p><u>Compliance Date:</u></p> |
| <p>11. Does Applicant/Bidder use encryption products to protect Texas HHS Confidential Information <u>stored</u> on end user devices (e.g., laptops, USBs, tablets, smartphones, external hard drives, desktops, etc.)?</p> <p>If yes, upon request must provide evidence such as a screen shot or a system report.</p> <p><i>Encryption is required for all Texas HHS Confidential Information. Additionally, FIPS 140-2 validated encryption is required for Health Insurance Portability and Accountability Act (HIPAA) data, Criminal Justice Information Services (CJIS) data, Internal Revenue Service Federal Tax Information (IRS FTI) data, and Centers for Medicare & Medicaid Services (CMS) data.</i></p> <p><i>For more information regarding FIPS 140-2 encryption products, please refer to:</i> http://csrc.nist.gov/publications/fips</p> | <input type="radio"/> Yes <input type="radio"/> No |
| <p><u>Action Plan for Compliance with a Timeline:</u></p> | <p><u>Compliance Date:</u></p> |
| <p>12. Does Applicant/Bidder require Workforce members to formally acknowledge rules outlining their responsibilities for protecting Texas HHS Confidential Information and associated systems containing HHS Confidential Information before their access is provided?</p> | <input type="radio"/> Yes <input type="radio"/> No |
| <p><u>Action Plan for Compliance with a Timeline:</u></p> | <p><u>Compliance Date:</u></p> |
| <p>13. Is Applicant/Bidder willing to perform or submit to a criminal background check on Authorized Users?</p> | <input type="radio"/> Yes <input type="radio"/> No |
| <p><u>Action Plan for Compliance with a Timeline:</u></p> | <p><u>Compliance Date:</u></p> |
| <p>14. Does Applicant/Bidder prohibit the access, creation, disclosure, reception, transmission, maintenance, and storage of Texas HHS Confidential Information with a subcontractor (e.g., cloud services, social media, etc.) unless Texas HHS has approved the subcontractor agreement which must include compliance and liability clauses with the same requirements as the Applicant/Bidder?</p> | <input type="radio"/> Yes <input type="radio"/> No |
| <p><u>Action Plan for Compliance with a Timeline:</u></p> | <p><u>Compliance Date:</u></p> |

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| 15. Does Applicant/Bidder keep current on security updates/patches (including firmware, software and applications) for computing systems that use, disclose, access, create, transmit, maintain or store Texas HHS Confidential Information? | <input type="radio"/> Yes <input type="radio"/> No |
| <u>Action Plan for Compliance with a Timeline:</u> | <u>Compliance Date:</u> |
| 16. Do Applicant/Bidder's computing systems that use, disclose, access, create, transmit, maintain or store Texas HHS Confidential Information contain up-to-date anti-malware and antivirus protection? | <input type="radio"/> Yes <input type="radio"/> No |
| <u>Action Plan for Compliance with a Timeline:</u> | <u>Compliance Date:</u> |
| 17. Does the Applicant/Bidder review system security logs on computing systems that access or store Texas HHS Confidential Information for abnormal activity or security concerns on a regular basis? | <input type="radio"/> Yes <input type="radio"/> No |
| <u>Action Plan for Compliance with a Timeline:</u> | <u>Compliance Date:</u> |
| 18. Notwithstanding records retention requirements, does Applicant/Bidder's disposal processes for Texas HHS Confidential Information ensure that Texas HHS Confidential Information is destroyed so that it is unreadable or undecipherable? | <input type="radio"/> Yes <input type="radio"/> No |
| <u>Action Plan for Compliance with a Timeline:</u> | <u>Compliance Date:</u> |
| 19. Does the Applicant/Bidder ensure that all public facing websites and mobile applications containing Texas HHS Confidential Information meet security testing standards set forth within the Texas Government Code (TGC), Section 2054.516; including requirements for implementing vulnerability and penetration testing and addressing identified vulnerabilities? <i>For more information regarding TGC, Section 2054.516 DATA SECURITY PLAN FOR ONLINE AND MOBILE APPLICATIONS, please refer to: https://legiscan.com/TX/text/HB8/2017</i> | <input type="radio"/> Yes <input type="radio"/> No |
| <u>Action Plan for Compliance with a Timeline:</u> | <u>Compliance Date:</u> |

SECTION D: SIGNATURE AND SUBMISSION (to be completed by Applicant/Bidder)*Please sign the form digitally, if possible. If you can't, provide a handwritten signature.*

1. I certify that all of the information provided in this form is truthful and correct to the best of my knowledge. If I learn that any such information was not correct, I agree to notify Texas HHS of this immediately.

2. Signature**3. Title****4. Date:**

To submit the completed, signed form:

- Email the form as an attachment to the appropriate Texas HHS Contract Manager(s).

Section E: To Be Completed by Texas HHS Agency Staff:**Agency(s):**HHSC: ☐DFPS: ☐DSHS: ☐**Requesting Department(s):****Legal Entity Tax Identification Number (TIN) (Last four Only):**

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PO/Contract(s) #:

| | | |
|--------------------------|--|--------------------------------------|
| Contract Manager: | Contract Manager Email Address: | Contract Manager Telephone #: |
| Contract Manager: | Contract Manager Email Address: | Contract Manager Telephone #: |
| Contract Manager: | Contract Manager Email Address: | Contract Manager Telephone #: |
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| Contract Manager: | Contract Manager Email Address: | Contract Manager Telephone #: |

INSTRUCTIONS FOR COMPLETING THE SECURITY AND PRIVACY INQUIRY (SPI)

Below are instructions for Applicants, Bidders and Contractors for Texas Health and Human Services requiring the Attachment 2, Security and Privacy Inquiry (SPI) to the Data Use Agreement (DUA). Instruction item numbers below correspond to sections on the SPI form.

If you are a bidder for a new procurement/contract, in order to participate in the bidding process, you must have corrected any "No" responses (except A9a) prior to the contract award date. If you are an applicant for an open enrollment, you must have corrected any "No" answers (except A9a and A11) prior to performing any work on behalf of any Texas HHS agency.

For any questions answered "No" (except A9a and A11), an *Action Plan for Compliance with a Timeline* must be documented in the designated area below the question. The timeline for compliance with HIPAA-related requirements for safeguarding Protected Health Information is 30 calendar days from the date this form is signed. Compliance with requirements related to other types of Confidential Information must be confirmed within 90 calendar days from the date the form is signed.

SECTION A. APPLICANT /BIDDER INFORMATION

Item #1. *Only contractors that access, transmit, store, and/or maintain Texas HHS Confidential Information will complete and email this form as an attachment to the appropriate Texas HHS Contract Manager.*

Item #2. Entity or Applicant/Bidder Legal Name. *Provide the legal name of the business (the name used for legal purposes, like filing a federal or state tax form on behalf of the business, and is not a trade or assumed named "dba"), the legal tax identification number (last four numbers only) of the entity or applicant/bidder, the address of the corporate or main branch of the business, the telephone number where the business can be contacted regarding questions related to the information on this form and the website of the business, if a website exists.*

Item #3. Number of Employees, at all locations, in Applicant/Bidder's workforce. *Provide the total number of individuals, including volunteers, subcontractors, trainees, and other persons who work for the business. If you are the only employee, please answer "1."*

Item #4. Number of Subcontractors. *Provide the total number of subcontractors working for the business. If you have none, please answer "0" zero.*

Item #5. Number of unduplicated individuals for whom Applicant/Bidder reasonably expects to handle HHS Confidential Information during one year. *Select the radio button that corresponds with the number of clients/consumers for whom you expect to handle Texas HHS Confidential Information during a year. Only count clients/consumers once, no matter how many direct services the client receives during a year.*

Item #5. Name of Information Technology Security Official and Name of Privacy Official for Applicant/Bidder. *As with all other fields on the SPI, this is a required field. This may be the same person and the owner of the business if such person has the security and privacy knowledge that is required to implement the requirements of the DUA and respond to questions related to the SPI. In 4.A. provide the name, address, telephone number, and email address of the person whom you have designated to answer any security questions found in Section C and in 4.B. provide this information for the person whom you have designated as the person to answer any privacy questions found in Section B. The business may contract out for this expertise; however, designated individual(s) must have knowledge of the business's devices, systems and methods for use, disclosure, creation, receipt, transmission and maintenance of Texas HHS Confidential Information and be willing to be the point of contact for privacy and security questions.*

Item #6. Type(s) of HHS Confidential Information the Entity or Applicant/Bidder Will Create, Receive, Maintain, Use, Disclose or Have Access to: *Provide a complete listing of all Texas HHS Confidential Information that the Contractor will create, receive, maintain, use, disclose or have access to. The DUA section Article 2, Definitions, defines Texas HHS Confidential Information as:*

"Confidential Information" means any communication or record (whether oral, written, electronically stored or transmitted, or in any other form) provided to or made available to CONTRACTOR or that CONTRACTOR may create, receive, maintain, use, disclose or have access to on behalf of Texas HHS that consists of or includes any or all of the following:

- (1) Client Information;*
- (2) Protected Health Information in any form including without limitation, Electronic Protected Health Information or Unsecured Protected Health Information;*
- (3) Sensitive Personal Information defined by Texas Business and Commerce Code Ch. 521;*

- (4) Federal Tax Information;
- (5) Personally Identifiable Information;
- (6) Social Security Administration Data, including, without limitation, Medicaid information;
- (7) All privileged work product;
- (8) All information designated as confidential under the constitution and laws of the State of Texas and of the United States, including the Texas Health & Safety Code and the Texas Public Information Act, Texas Government Code, Chapter 552.

Definitions for the following types of confidential information can be found the following sites:

- Health Insurance Portability and Accountability Act (HIPAA) - <http://www.hhs.gov/hipaa/index.html>
- Criminal Justice Information Services (CJIS) - <https://www.fbi.gov/services/cjis/cjis-security-policy-resource-center>
- Internal Revenue Service Federal Tax Information (IRS FTI) - <https://www.irs.gov/pub/irs-pdf/p1075.pdf>
- Centers for Medicare & Medicaid Services (CMS) - <https://www.cms.gov/Regulations-and-Guidance/Regulations-and-Guidance.html>
- Social Security Administration (SSA) - <https://www.ssa.gov/regulations/>
- Personally Identifiable Information (PII) - <http://csrc.nist.gov/publications/nistpubs/800-122/sp800-122.pdf>

Item #7. Number of Storage devices for Texas HHS Confidential Information. The total number of devices is automatically calculated by exiting the fields in lines a - d. Use the <Tab> key when exiting the field to prompt calculation, if it doesn't otherwise sum correctly.

- **Item 7a. Devices.** Provide the number of personal user computers, devices, and drives (including mobile devices, laptops, USB drives, and external drives) on which your business stores or will store Texas HHS Confidential Information.
- **Item 7b. Servers.** Provide the number of servers not housed in a data center or "in the cloud," on which Texas HHS Confidential Information is stored or will be stored. A server is a dedicated computer that provides data or services to other computers. It may provide services or data to systems on a local area network (LAN) or a wide area network (WAN) over the Internet. If none, answer "0" (zero).
- **Item 7c. Cloud Services.** Provide the number of cloud services to which Texas HHS Confidential Information is stored. Cloud Services involve using a network of remote servers hosted on the Internet to store, manage, and process data, rather than on a local server or a personal computer. If none, answer "0" (zero.)
- **Item 7d. Data Centers.** Provide the number of data centers in which you store Texas HHS Confidential Information. A Data Center is a centralized repository, either physical or virtual, for the storage, management, and dissemination of data and information organized around a particular body of knowledge or pertaining to a particular business. If none, answer "0" (zero).

Item #8. Number of unduplicated individuals for whom the Applicant/Bidder reasonably expects to handle Texas HHS Confidential Information during one year. Select the radio button that corresponds with the number of clients/consumers for whom you expect to handle Confidential Information during a year. Only count clients/consumers once, no matter how many direct services the client receives during a year.

Item #9. HIPAA Business Associate Agreement.

- **Item #9a.** Answer "Yes" if your business will use, disclose, create, receive, transmit, or store information relating to a client/consumer's healthcare on behalf of the Department of State Health Services, the Department of Disability and Aging Services, or the Health and Human Services Commission for treatment, payment, or operation of Medicaid or Medicaid clients. If your contract does not include HIPAA covered information, respond "no." If "no," a compliance plan is not required.
- **Item #9b.** Answer "Yes" if your business has a notice of privacy practices (a document that explains how you protect and use a client/consumer's healthcare information) displayed either on a website (if one exists for your business) or in your place of business (if that location is open to clients/consumers or the public). If your contract does not include HIPAA covered information, respond "N/A."

Item #10. Subcontractors. If your business responded "0" to question 4 (number of subcontractors), Answer "N/A" to Items 10a and 10b to indicate not applicable.

- **Item #10a.** Answer "Yes" if your business requires that all subcontractors sign Attachment 1 of the DUA.
- **Item #10b.** Answer "Yes" if your business obtains Texas HHS approval before permitting subcontractors to handle Texas HHS Confidential Information on your business's behalf.

Item #11. Optional Insurance. Answer "yes" if applicant has optional insurance in place to provide coverage for a Breach or any

other situations listed in this question. If you are not required to have this optional coverage, answer "N/A" A compliance plan is not required.

SECTION B. PRIVACY RISK ANALYSIS AND ASSESSMENT

Reasonable and appropriate written Privacy and Security policies and procedures are required, even for sole proprietors who are the only employee, to demonstrate how your business will safeguard Texas HHS Confidential Information and respond in the event of a Breach of Texas HHS Confidential Information. To ensure that your business is prepared, all of the items below must be addressed in your written Privacy and Security policies and procedures.

Item #1. Answer "Yes" if you have written policies in place for each of the areas (a-o).

- **Item #1a.** Answer "yes" if your business has written policies and procedures that identify everyone, including subcontractors, who are authorized to use Texas HHS Confidential Information. The policies and procedures should also identify the reason why these Authorized Users need to access the Texas HHS Confidential Information and this reason must align with the Authorized Purpose described in the Scope of Work or description of services in the Base Contract with the Texas HHS agency.
- **Item #1b.** Answer "Yes" if your business has written policies and procedures that require your employees (including yourself), your volunteers, your trainees, and any other persons whose work you direct, to comply with the requirements of HIPAA, if applicable, and other confidentiality laws as they relate to your handling of Texas HHS Confidential Information. Refer to the laws and rules that apply, including those referenced in the DUA and Scope of Work or description of services in the Base Contract.
- **Item #1c.** Answer "Yes" if your business has written policies and procedures that limit the Texas HHS Confidential Information you disclose to the minimum necessary for your workforce and subcontractors (if applicable) to perform the obligations described in the Scope of Work or service description in the Base Contract. (e.g., if a client/consumer's Social Security Number is not required for a workforce member to perform the obligations described in the Scope of Work or service description in the Base Contract, then the Social Security Number will not be given to them.) If you are the only employee for your business, policies and procedures must not include a request for, or use of, Texas HHS Confidential Information that is not required for performance of the services.
- **Item #1d.** Answer "Yes" if your business has written policies and procedures that explain how your business would respond to an actual or suspected breach of Texas HHS Confidential Information. The written policies and procedures, at a minimum, must include the three items below. If any response to the three items below are no, answer "no."
 - **Item #1di.** Answer "Yes" if your business has written policies and procedures that require your business to immediately notify Texas HHS, the Texas HHS Agency, regulatory authorities, or other required Individuals or Authorities of a Breach as described in Article 4, Section 4 of the DUA.
Refer to Article 4, Section 4.01:
Initial Notice of Breach must be provided in accordance with Texas HHS and DUA requirements with as much information as possible about the Event/Breach and a name and contact who will serve as the single point of contact with HHS both on and off business hours. Time frames related to Initial Notice include:
 - within one hour of Discovery of an Event or Breach of Federal Tax Information, Social Security Administration Data, or Medicaid Client Information
 - within 24 hours of all other types of Texas HHS Confidential Information **48-hour Formal Notice** must be provided no later than 48 hours after Discovery for protected health information, sensitive personal information or other non-public information and must include applicable information as referenced in Section 4.01 (C) 2. of the DUA.
 - **Item #1dii.** Answer "Yes" if your business has written policies and procedures require you to have and follow a written breach response plan as described in Article 4 Section 4.02 of the DUA.
 - **Item #1diii.** Answer "Yes" if your business has written policies and procedures require you to notify Reporting Authorities and Individuals whose Texas HHS Confidential Information has been breached as described in Article 4 Section 4.03 of the DUA.
- **Item #1e.** Answer "Yes" if your business has written policies and procedures requiring annual training of your entire workforce on matters related to confidentiality, privacy, and security, stressing the importance of promptly reporting any Event or Breach, outlines the process that you will use to require attendance and track completion for employees who failed to complete annual training.

- **Item #1f.** Answer "Yes" if your business has written policies and procedures requiring you to allow individuals (clients/consumers) to access their individual record of Texas HHS Confidential Information, and allow them to amend or correct that information, if applicable.
- **Item #1g.** Answer "Yes" if your business has written policies and procedures restricting access to Texas HHS Confidential Information to only persons who have been authorized and trained on how to handle Texas HHS Confidential Information
- **Item #1h.** Answer "Yes" if your business has written policies and procedures requiring sanctioning of any subcontractor, employee, trainee, volunteer, or anyone whose work you direct when they have accessed Texas HHS Confidential Information but are not authorized to do so, and that you have a method of proving that you have sanctioned such an individuals. If you are the only employee, you must demonstrate how you will document the noncompliance, update policies and procedures if needed, and seek additional training or education to prevent future occurrences.
- **Item #1i.** Answer "Yes" if your business has written policies and procedures requiring you to update your policies within 60 days after you have made changes to how you use or disclose Texas HHS Confidential Information.
- **Item #1j.** Answer "Yes" if your business has written policies and procedures requiring you to restrict attempts to take de-identified data and re-identify it or restrict any subcontractor, employee, trainee, volunteer, or anyone whose work you direct, from contacting any individuals for whom you have Texas HHS Confidential Information except to perform obligations under the contract, or with written permission from Texas HHS.
- **Item #1k.** Answer "Yes" if your business has written policies and procedures prohibiting you from using, disclosing, creating, maintaining, storing or transmitting Texas HHS Confidential Information outside of the United States.
- **Item #1l.** Answer "Yes" if your business has written policies and procedures requiring your business to cooperate with HHS agencies or federal regulatory entities for inspections, audits, or investigations related to compliance with the DUA or applicable law.
- **Item #1m.** Answer "Yes" if your business has written policies and procedures requiring your business to use appropriate standards and methods to destroy or dispose of Texas HHS Confidential Information. Policies and procedures should comply with Texas HHS requirements for retention of records and methods of disposal.
- **Item #1n.** Answer "Yes" if your business has written policies and procedures prohibiting the publication of the work you created or performed on behalf of Texas HHS pursuant to the DUA, or other Texas HHS Confidential Information, without express prior written approval of the HHS agency.

Item #2. Answer "Yes" if your business has a current training program that meets the requirements specified in the SPI for you, your employees, your subcontractors, your volunteers, your trainees, and any other persons under you direct supervision.

Item #3. Answer "Yes" if your business has privacy safeguards to protect Texas HHS Confidential Information as described in the SPI.

Item #4. Answer "Yes" if your business maintains current lists of persons in your workforce, including subcontractors (if applicable), who are authorized to access Texas HHS Confidential Information. If you are the only person with access to Texas HHS Confidential Information, please answer "yes."

Item #5. Answer "Yes" if your business and subcontractors (if applicable) monitor for and remove from the list of Authorized Users, members of the workforce who are terminated or are no longer authorized to handle Texas HHS Confidential Information. If you are the only one with access to Texas HHS Confidential Information, please answer "Yes."

SECTION C. SECURITY RISK ANALYSIS AND ASSESSMENT

This section is about your electronic systems. If you DO NOT store Texas HHS Confidential Information in electronic systems (e.g., laptop, personal computer, mobile device, database, server, etc.), select the "No Electronic Systems" box and respond "Yes" for all questions in this section.

Item #1. Answer "Yes" if your business does not "offshore" or use, disclose, create, receive, transmit or maintain Texas HHS Confidential Information outside of the United States. If you are not certain, contact your provider of technology services (application, cloud, data center, network, etc.) and request confirmation that they do not offshore their data.

Item #2. Answer "Yes" if your business uses a person or company who is knowledgeable in IT security to maintain or oversee the configurations of your business's computing systems and devices. You may be that person, or you may hire someone who can provide that service for you.

Item #3. Answer "Yes" if your business monitors and manages access to Texas HHS Confidential Information (i.e., reviews systems to ensure that access is limited to Authorized Users; has formal processes for granting, validating, and reviews the need for remote access to Authorized Users to Texas HHS Confidential Information, etc.). If you are the only employee, answer "Yes" if you have implemented a process to periodically evaluate the need for accessing Texas HHS Confidential Information to fulfill your Authorized Purposes.

Item #4. Answer "Yes" if your business has implemented a system for changing the password a system initially assigns to the user (also known as the default password), and requires users to change their passwords at least every 90 days, and prohibits the creation of weak passwords for all computer systems that access or store Texas HHS Confidential Information (e.g., a strong password has a minimum of 8 characters with a combination of uppercase, lowercase, special characters, and numbers, where possible). If your business uses a Microsoft Windows system, refer to the Microsoft website on how to do this, see example:

<https://docs.microsoft.com/en-us/windows/security/threat-protection/security-policy-settings/password-policy>

Item #5. Answer "Yes" if your business assigns a unique user name and private password to each of your employees, your subcontractors, your volunteers, your trainees and any other persons under your direct control who will use, disclose, create, receive, transmit or maintain Texas HHS Confidential Information.

Item #6. Answer "Yes" if your business locks the access after a certain number of failed attempts to login and after 15 minutes of user inactivity on all computing devices that access or store Texas HHS Confidential Information. If your business uses a Microsoft Windows system, refer to the Microsoft website on how to do this, see example:

<https://docs.microsoft.com/en-us/windows/security/threat-protection/security-policy-settings/account-lockout-policy>

Item #7. Answer "Yes" if your business secures, manages, and encrypts remote access, such as: using Virtual Private Network (VPN) software on your home computer to access Texas HHS Confidential Information that resides on a computer system at a business location or, if you use wireless, ensuring that the wireless is secured using a password code. If you do not access systems remotely or over wireless, answer "Yes."

Item #8. Answer "Yes" if your business updates the computer security settings for all your computers and electronic systems that access or store Texas HHS Confidential Information to prevent hacking or breaches (e.g., non-essential features or services have been removed or disabled to reduce the threat of breach and to limit opportunities for hackers or intruders to access your system). For example, Microsoft's Windows security checklist:

<https://docs.microsoft.com/en-us/windows/security/threat-protection/security-policy-settings/how-to-configure-security-policy-settings>

Item #9. Answer "Yes" if your business secures physical access to computer, paper, or other systems containing Texas HHS Confidential Information from unauthorized personnel and theft (e.g., door locks, cable locks, laptops are stored in the trunk of the car instead of the passenger area, etc.). If you are the only employee and use these practices for your business, answer "Yes."

Item #10. Answer "Yes" if your business uses encryption products to protect Texas HHS Confidential Information that is transmitted over a public network (e.g., the Internet, WIFI, etc.) or that is stored on a computer system that is physically or electronically accessible to the public (FIPS 140-2 validated encryption is required for Health Insurance Portability and Accountability Act (HIPAA) data, Criminal Justice Information Services (CJIS) data, Internal Revenue Service Federal Tax Information (IRS FTI) data, and Centers for Medicare & Medicaid Services (CMS) data.) For more information regarding FIPS 140-2 encryption products, please refer to: <http://csrc.nist.gov/publications/fips>.

Item #11. Answer "Yes" if your business stores Texas HHS Confidential Information on encrypted end-user electronic devices (e.g., laptops, USBs, tablets, smartphones, external hard drives, desktops, etc.) and can produce evidence of the encryption, such as, a screen shot or a system report (FIPS 140-2 encryption is required for Health Insurance Portability and Accountability Act (HIPAA) data, Criminal Justice Information Services (CJIS) data, Internal Revenue Service Federal Tax Information (IRS FTI) data, and Centers for Medicare & Medicaid Services (CMS) data). For more information regarding FIPS 140-2 validated encryption products, please refer to: <http://csrc.nist.gov/publications/fips>. If you do not utilize end-user electronic devices for storing Texas HHS Confidential Information, answer "Yes."

Item #12. Answer "Yes" if your business requires employees, volunteers, trainees and other workforce members to sign a document that clearly outlines their responsibilities for protecting Texas HHS Confidential Information and associated systems containing Texas HHS Confidential Information before they can obtain access. If you are the only employee answer "Yes" if you have signed or are willing to sign the DUA, acknowledging your adherence to requirements and responsibilities.

Item #13. Answer "Yes" if your business is willing to perform a criminal background check on employees, subcontractors, volunteers, or trainees who access Texas HHS Confidential Information. If you are the only employee, answer "Yes" if you are willing to submit to a background check.

Item #14. Answer "Yes" if your business prohibits the access, creation, disclosure, reception, transmission, maintenance, and storage of Texas HHS Confidential Information on Cloud Services or social media sites if you use such services or sites, and there is a Texas HHS approved subcontractor agreement that includes compliance and liability clauses with the same requirements as the Applicant/Bidder. If you do not utilize Cloud Services or media sites for storing Texas HHS Confidential Information, answer "Yes."

Item #15. Answer "Yes" if your business keeps current on security updates/patches (including firmware, software and applications) for computing systems that use, disclose, access, create, transmit, maintain or store Texas HHS Confidential Information. If you use a Microsoft Windows system, refer to the Microsoft website on how to ensure your system is automatically updating, see example:

<https://portal.msrm.microsoft.com/en-us/>

Item #16. Answer "Yes" if your business's computing systems that use, disclose, access, create, transmit, maintain or store Texas HHS Confidential Information contain up-to-date anti-malware and antivirus protection. If you use a Microsoft Windows system, refer to the Microsoft website on how to ensure your system is automatically updating, see example:

<https://docs.microsoft.com/en-us/windows/security/threat-protection/>

Item #17. Answer "Yes" if your business reviews system security logs on computing systems that access or store Texas HHS Confidential Information for abnormal activity or security concerns on a regular basis. If you use a Microsoft Windows system, refer to the Microsoft website for ensuring your system is logging security events, see example:

<https://docs.microsoft.com/en-us/windows/security/threat-protection/auditing/basic-security-audit-policies>

Item #18. Answer "Yes" if your business disposal processes for Texas HHS Confidential Information ensures that Texas HHS Confidential Information is destroyed so that it is unreadable or undecipherable. Simply deleting data or formatting the hard drive is not enough; ensure you use products that perform a secure disk wipe. Please see NIST SP 800-88 R1, *Guidelines for Media Sanitization* and the applicable laws and regulations for the information type for further guidance.

Item #19. Answer "Yes" if your business ensures that all public facing websites and mobile applications containing HHS Confidential Information meet security testing standards set forth within the Texas Government Code (TGC), Section 2054.516

SECTION D. SIGNATURE AND SUBMISSION

Click on the signature area to digitally sign the document. Email the form as an attachment to the appropriate Texas HHS Contract Manager.

FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT (FFATA) CERTIFICATION

The certifications enumerated below represent material facts upon which HHSC relies when reporting information to the federal government required under federal law. If HHSC later determines that the Contractor knowingly rendered an erroneous certification, HHSC may pursue all available remedies in accordance with Texas and U.S. laws. Signor further agrees that it will provide immediate written notice to HHSC if at any time Signor learns that any of the certifications provided for below were erroneous when submitted or have since become erroneous by reason of changed circumstances. **If the Signor cannot certify all of the statements contained in this section, Signor must provide written notice to HHSC detailing which of the below statements it cannot certify and why.**

| | |
|--|---|
| Legal Name of Contractor: | FFATA Contact # 1 Name, Email and Phone Number: |
| Primary Address of Contractor: | FFATA Contact #2 Name, Email and Phone Number: |
| ZIP Code: 9-digits Required www.usps.com <div style="border: 1px solid black; display: flex; width: 100%; height: 20px; margin-top: 5px;"> <div style="flex: 1;"></div> <div style="flex: 1;"></div> <div style="flex: 1;"></div> <div style="flex: 1;"></div> <div style="flex: 1;"></div> <div style="flex: 1;"></div> <div style="flex: 1;"></div> <div style="flex: 1;"></div> <div style="flex: 1;"></div> <div style="flex: 1;"></div> </div> | Primary DUNS Number: 9-digits Required http://www.dnb.com/us/ <div style="border: 1px solid black; display: flex; width: 100%; height: 20px; margin-top: 5px;"> <div style="flex: 1;"></div> <div style="flex: 1;"></div> <div style="flex: 1;"></div> <div style="flex: 1;"></div> <div style="flex: 1;"></div> <div style="flex: 1;"></div> <div style="flex: 1;"></div> <div style="flex: 1;"></div> <div style="flex: 1;"></div> <div style="flex: 1;"></div> </div> |
| State of Texas Comptroller Vendor Identification Number (VIN) 14 Digits <div style="border: 1px solid black; display: flex; width: 100%; height: 20px; margin-top: 5px;"> <div style="flex: 1;"></div> <div style="flex: 1;"></div> <div style="flex: 1;"></div> <div style="flex: 1;"></div> <div style="flex: 1;"></div> <div style="flex: 1;"></div> <div style="flex: 1;"></div> <div style="flex: 1;"></div> <div style="flex: 1;"></div> <div style="flex: 1;"></div> <div style="flex: 1;"></div> <div style="flex: 1;"></div> <div style="flex: 1;"></div> <div style="flex: 1;"></div> </div> | |

| | |
|--|---|
| Printed Name of Authorized Representative | Signature of Authorized Representative |
| Title of Authorized Representative | Date |

FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT (FFATA) CERTIFICATION

As the duly authorized representative (Signor) of the Contractor, I hereby certify that the statements made by me in this certification form are true, complete and correct to the best of my knowledge.

Did your organization have a gross income, from all sources, of less than \$300,000 in your previous tax year? ☐ Yes ☐ No

If your answer is "Yes," skip questions "A," "B," and "C" and finish the certification.
If your answer is "No," answer questions "A" and "B."

A. Certification Regarding Percent (%) of Annual Gross from Federal Awards.

Did your organization receive 80% or more of its annual gross revenue from federal awards during the preceding fiscal year? ☐ Yes ☐ No

B. Certification Regarding Amount of Annual Gross from Federal Awards.

Did your organization receive \$25 million or more in annual gross revenues from federal awards in the preceding fiscal year? ☐ Yes ☐ No

If your answer is "Yes" to both question "A" and "B," you must answer question "C."
If your answer is "No" to either question "A" or "B," skip question "C" and finish the certification.

C. Certification Regarding Public Access to Compensation Information.

Does the public have access to information about the highly compensated officers/senior executives in your business or organization (including parent organization, all branches, and all affiliates worldwide) through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986? ☐ Yes ☐ No

If your answer is "Yes" to this question, where can this information be accessed?

If your answer is "No" to this question, you must provide the names and total compensation of the top five highly compensated officers below.

Provide compensation information here:

Certificate Of Completion

Envelope Id: 96C45EB1C0934A9783FA79264633C4A5
 Subject: New \$251,055.00; HHS000779500006; City of Lubbock; HHSC - MSS/IDD-BHS/SUD
 Source Envelope:
 Document Pages: 131
 Certificate Pages: 2
 AutoNav: Enabled
 Envelope Stamping: Enabled
 Time Zone: (UTC-06:00) Central Time (US & Canada)

Status: Sent

Envelope Originator:
 Texas Health and Human Services Commission
 1100 W. 49th St.
 Austin, TX 78756
 PCS_DocuSign@hhsc.state.tx.us
 IP Address: 167.137.1.15

Record Tracking

Status: Original
 1/14/2022 1:55:57 PM
 Holder: Texas Health and Human Services
 Commission
 PCS_DocuSign@hhsc.state.tx.us

Location: DocuSign

Signer Events**Signature****Timestamp**

Daniel Pope
 dpope@mylubbock.us
 Mayor

City of Lubbock

Security Level: Email, Account Authentication
 (None)

Electronic Record and Signature Disclosure:
 Not Offered via DocuSign

Sent: 1/14/2022 4:08:01 PM

Trina Ita

Trina.Ita01@hhs.texas.gov

Security Level: Email, Account Authentication
 (None)

Electronic Record and Signature Disclosure:
 Not Offered via DocuSign

In Person Signer Events**Signature****Timestamp****Editor Delivery Events****Status****Timestamp****Agent Delivery Events****Status****Timestamp****Intermediary Delivery Events****Status****Timestamp****Certified Delivery Events****Status****Timestamp****Carbon Copy Events****Status****Timestamp**

Contract Developer

Pamela.Fox@hhs.texas.gov

Security Level: Email, Account Authentication
 (None)

Electronic Record and Signature Disclosure:
 Not Offered via DocuSign

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 Viewed: 1/14/2022 4:53:56 PM

SA Mailbox

SubstanceAbuse.Contracts@hhs.texas.gov

Security Level: Email, Account Authentication
 (None)

Electronic Record and Signature Disclosure:
 Not Offered via DocuSign

COPIED

Sent: 1/14/2022 4:08:00 PM

| Carbon Copy Events | Status | Timestamp |
|--|--------|----------------------------|
| Bryan Hunter Bryan.Hunter@hhs.texas.gov Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign | COPIED | Sent: 1/14/2022 4:08:00 PM |

| | | |
|--|--------|--|
| Katherine Wells kwells@mylubbock.us Director of Public Health City of Lubbock Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign | COPIED | Sent: 1/14/2022 4:08:01 PM Viewed: 1/14/2022 4:47:04 PM |
|--|--------|--|

| Witness Events | Signature | Timestamp |
|----------------|-----------|-----------|
|----------------|-----------|-----------|

| Notary Events | Signature | Timestamp |
|---------------|-----------|-----------|
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| Envelope Summary Events | Status | Timestamps |
|-------------------------|------------------|----------------------|
| Envelope Sent | Hashed/Encrypted | 1/14/2022 4:08:00 PM |

| Payment Events | Status | Timestamps |
|----------------|--------|------------|
|----------------|--------|------------|

Information

Agenda Item

Resolution - Community Development: Consider a resolution authorizing the Mayor to execute Contract 16354, and all related documents, between the City of Lubbock, and the United States Department of Housing and Urban Development (HUD), for the Home Investment Partnerships Grant (HOME) American Rescue Plan (ARP) Grant Agreement.

Item Summary

The HOME ARP Grant Agreement is from HUD to the City of Lubbock.

The HOME-ARP “Allocation Plan”, must be developed and approved by HUD, to address those individuals or families that are at the greatest risk of housing instability.

The end date for this grant funding is September 30, 2030.

Fiscal Impact

There is no fiscal impact to the general fund with this contract. The funds used originate from the U. S. Department of Housing and Urban Development (HUD). The maximum allocation of this grant agreement is \$3,615,530.

Staff/Board Recommending

Bill Howerton, Deputy City Manager
Karen Murfee, Community Development Director

Attachments

Resolution
HOME ARP HUD to City Agreement

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, Home Investment Partnerships (HOME) American Rescue Plan (ARP) Grant Agreement, Contract No. 16354 and all related documents, between the City of Lubbock and the U.S. Department of Housing and Urban Development (HUD). 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:



Karen Murfee, Community Development Director

APPROVED AS TO FORM:



Kelli Leisure, Assistant City Attorney

HOME ARP Grant Agreement

Title II of the Cranston-Gonzalez National Affordable Housing Act
Assistance Listings #14.239 – HOME Investment Partnerships Program

| | | | |
|--|--|---|--|
| 1. Grantee Name and Address Lubbock Po Box 2000 Lubbock, TX 79457-0001 | | 2. Grant Number (Federal Award Identification Number (FAIN)) M21-MP480205 | |
| | | 3a. Tax Identification Number 756000590 | 3b. Unique Entity Identifier (formerly DUNS) 058213893 |
| | | 4. Appropriation Number 861/50205 | 5. Budget Period Start and End Date FY 2021 – 09/30/2030 |

| | | |
|---|----|-----|
| 6. Previous Obligation (Enter "0" for initial FY allocation) | | \$0 |
| a. Formula Funds | \$ | |
| | | |

| | | |
|--|----------------|----------------|
| 7. Current Transaction (+ or -) | | \$3,615,530.00 |
| a. Administrative and Planning Funds Available on Federal Award Date | \$180,776.50 | |
| b. Balance of Administrative and Planning Funds | \$361,553.00 | |
| c. Balance of Formula Funds | \$3,073,200.50 | |
| | | |

| | | |
|------------------------------|----|----|
| 8. Revised Obligation | | \$ |
| a. Formula Funds | \$ | |
| | | |

| | |
|---|---|
| 9. Special Conditions (check applicable box) <input checked="" type="checkbox"/> Not applicable <input type="checkbox"/> Attached | 10. Federal Award Date (HUD Official's Signature Date) 09/20/2021 |
|---|---|

| 11. Indirect Cost Rate* <table style="width:100%;"> <tr> <th style="text-align: left;"><u>Administering Agency/Dept.</u></th> <th style="text-align: left;"><u>Indirect Cost Rate</u></th> <th style="text-align: left;"><u>Direct Cost Base</u></th> </tr> <tr><td>—</td><td>—%</td><td></td></tr> <tr><td>—</td><td>—%</td><td></td></tr> <tr><td>—</td><td>—%</td><td></td></tr> <tr><td>—</td><td>—%</td><td></td></tr> </table> | | | <u>Administering Agency/Dept.</u> | <u>Indirect Cost Rate</u> | <u>Direct Cost Base</u> | — | —% | | — | —% | | — | —% | | — | —% | | 12. Period of Performance Date in Box #10 - 09/30/2030 |
|--|---------------------------|-------------------------|-----------------------------------|---------------------------|-------------------------|---|----|--|---|----|--|---|----|--|---|----|--|--|
| <u>Administering Agency/Dept.</u> | <u>Indirect Cost Rate</u> | <u>Direct Cost Base</u> | | | | | | | | | | | | | | | | |
| — | —% | | | | | | | | | | | | | | | | | |
| — | —% | | | | | | | | | | | | | | | | | |
| — | —% | | | | | | | | | | | | | | | | | |
| — | —% | | | | | | | | | | | | | | | | | |

* If funding assistance will be used for payment of indirect costs pursuant to 2 CFR 200, Subpart E-Cost Principles, provide the name of the department/agency, its indirect cost rate (including if the de minimis rate is charged per 2 § CFR 200.414), and the direct cost base to which the rate will be applied. Do not include cost rates for subrecipients.

The HOME-ARP Grant Agreement (the "Agreement") between the Department of Housing and Urban Development (HUD) and the Grantee is made pursuant to the authority of the HOME Investment Partnerships Act (42 U.S.C. 12701 et seq.) and Section 3205 of the American Rescue Plan (P.L. 117-2) (ARP). HUD regulations at 24 CFR part 92 (as may be amended from time to time), the CPD Notice entitled "Requirements for the Use of Funds in the HOME-American Rescue Plan Program" (HOME-ARP Implementation Notice), the Grantee's HOME-ARP allocation plan (as of the date of HUD's approval), and this HOME-ARP Grant Agreement, form HUD-40093a, including any special conditions (in accordance with 2 CFR 200.208), constitute part of this Agreement. HUD's payment of funds under this Agreement is subject to the Grantee's compliance with HUD's electronic funds transfer and information reporting procedures issued pursuant to 24 CFR 92.502 and the HOME-ARP Implementation Notice. To the extent authorized by HUD regulations at 24 CFR part 92, HUD may, by its execution of an amendment, deobligate funds previously awarded to the Grantee without the Grantee's execution of the amendment or other consent. The Grantee agrees that funds invested in HOME-ARP activities under the HOME-ARP Implementation Notice are repayable in accordance with the requirements of the HOME-ARP Implementation Notice. The Grantee agrees to assume all of the responsibility for environmental review, decision making, and actions, as specified and required in regulation at 24 CFR 92.352 and 24 CFR Part 58, as well as the HOME-ARP Implementation Notice.

The Grantee must comply with the applicable requirements at 2 CFR part 200, as amended, that are incorporated by the program regulations and the HOME-ARP Implementation Notice, as may be amended from time to time. Where any previous or future amendments to 2 CFR part 200 replace or renumber sections of part 200 that are cited specifically in the program regulations or HOME-ARP Implementation Notice, activities carried out under the grant after the effective date of the 2 CFR part 200 amendments will be governed by the 2 CFR part 200 requirements, as replaced or renumbered by the part 200 amendments.

The Grantee shall comply with requirements established by the Office of Management and Budget (OMB) concerning the Universal Numbering System and System for Award Management (SAM) requirements in Appendix I to 2 CFR part 200, and the Federal Funding Accountability and Transparency Act (FFATA) in Appendix A to 2 CFR part 170.

Funds remaining in the grantee's Treasury account after the end of the budget period will be cancelled and thereafter not available for obligation or expenditure for any purpose. Per 31 U.S.C. 1552, the Grantee shall not incur any obligations to be paid with such assistance after the end of the Budget Period.

| | | |
|---|--------------------------|-------------------------------|
| 13. For the U.S. Department of HUD (Name and Title of Authorized Official) Shirley J. Henley, CPD Director (817) 978-5933 | 14. Signature | 15. Date 09/20/2021 |
| 16. For the Grantee (Name and Title of Authorized Official) Daniel M. Pope, Mayor | 17. Signature | 18. Date 01/25/2022 |

19. Check one: ☒ Initial Agreement ☐ Amendment #

| | | | |
|---------------------------------|---------------------------|-----------------|----------------|
| 20. Funding Information: | | | |
| <u>Source of Funds</u> | <u>Appropriation Code</u> | <u>PAS Code</u> | <u>Amount</u> |
| 2021 | 861/50205 | HMX | \$3,615,530.00 |

21. Additional Requirements: These additional requirements are attached and incorporated into this Agreement. The Grantee agrees to these additional requirements on the use of the funds in 7., as may be amended from time to time by the Secretary.

- a) As of the Federal Award Date, the Grantee may use up to the amount identified in 7.a. of this Agreement for eligible administrative and planning costs in accordance with the HOME-ARP Implementation Notice.
- b) Until the date of HUD's acceptance of the Grantee's HOME-ARP allocation plan, the Grantee agrees that it will not obligate or expend any funds for non-administrative and planning costs, in accordance with the HOME-ARP Implementation Notice.
- c) In accordance with the HOME-ARP Implementation Notice, as of the date of acceptance by HUD of the Grantee's HOME-ARP allocation plan, HUD shall make the amount identified in line 7. of this Agreement available to the Grantee.
- d) If the Grantee does not submit a HOME-ARP allocation plan or if the Grantee's HOME-ARP allocation plan is not accepted within a reasonable period of time, as determined by HUD, the Grantee agrees that all costs incurred and HOME-ARP funds expended by the Grantee will be ineligible costs and will be repaid with non-Federal funds.

22. Special Conditions

Information

Agenda Item

Resolution - Facilities Management: Consider a resolution authorizing the Mayor to execute Contract 16213, with Roofs, Inc., for roof replacement at the Fire Administration Building, located at 1515 East Ursuline Street, Lubbock, Texas.

Item Summary

Scope of Work for this Project is as follows:

- Power wash the existing roof surface and allow it to dry before any application of new roofing materials.
- Work shall include removal of any existing blisters or ridging in the existing modified bitumen roof membrane.
- Install new ½-inch per foot crickets, as shown on the roof plan.
- Adhere specified ½-inch substrate board as specified.
- Adhere one ply of thermoplastic single ply fleece-backed membrane as specified.
- Install new miscellaneous carpentry and new pre-finished gutter assembly as specified. Install new pre-finished metal coping cap and flashing metal as specified.
- Provide new roller supports for existing piping above roof.
- Provide new cast iron strainers on all drain bowls.
- All work shall include all HVAC and electrical piping disconnects and reconnection as required to complete the project.
- All installation of new work shall be per NRCA, SMACNA, and ASNI/SPRI specifications, details and manufacturer's guidelines.
- Provide a two (2) year contractors warranty and twenty (20) year manufacturer's warranty.

In response to RPF 22-16213-KM, six contractors submitted sealed proposals, but one proposal was incomplete, leaving five contractors that were evaluated and ranked in relation to the published selection criteria, pursuant to Texas Local Government Code, Section 2269. The proposals ranged in price from \$275,560 to \$494,181.51, with construction time estimated between 40-90 days.

The proposals were evaluated using the following criteria: Price (60), Contractor Qualifications (30), and Construction Time (10). The maximum point value is 100 points. After the proposals were evaluated, the following ranking was obtained:

| Contractor | Points (Possible 100) |
|--|-----------------------|
| Roofs, Inc., Lubbock, Texas | 93.59 |
| Lydick-Hooks Roofing Co., Lubbock, Texas | 91.00 |
| Schrader Roofing Company, Lubbock, Texas | 87.42 |
| Tecta America, LLC, Lubbock, Texas | 75.23 |
| Trumble Construction, Texarkana, Texas | 72.79 |

Texas Local Government Code, Section 2269 requires the City to select the offeror that offers the best value based on the published selection criteria and on its ranking evaluation. In determining the best value, the City is not restricted to considering price alone, and considers other factors stated in the selection criteria. The City and its engineer or architect may discuss with the selected offeror options for a scope or time modification and any price change associated with the modification.

Staff and Evaluation Committee recommends award to the most qualified proposer, Roofs Inc. of Lubbock, Texas, for \$308,500, with time duration of 40 days for final completion, and liquidated damages are \$250 per additional calendar day.

Fiscal Impact

Contract 16198 for \$308,500.00 is funded in Capital Improvement Project 92359, Facility Roof Replacements.

Staff/Board Recommending

Bill Howerton, Deputy City Manager

Attachments

Resolution

Contract

Budget Detail

CIP Detail

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. 16213 for roof improvements for the Lubbock Fire Administration Building as per RFP 22-16213-KM, by and between the City of Lubbock and Roofs, 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:

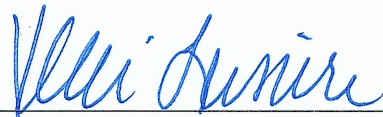
Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



Bill Howerton, Deputy City Manager

APPROVED AS TO FORM:



Kelli Leisure, Assistant City Attorney

**PROPOSAL SUBMITTAL FORM
PRICE PROPOSAL CONTRACT**

DATE: 12/9/2021

PROJECT NUMBER: **RFP 22-16213-KM Roofing Improvements for the Lubbock Fire Administration Building**

Proposal of Roofs 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 **Roofing Improvements for the Lubbock Fire Administration Building** 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: 30 (to Substantial Completion)

TOTAL CONSECUTIVE CALENDAR DAYS: 40 (to Final Completion)

(not to exceed 60 consecutive calendar days to Substantial Completion / 75 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 **60 Consecutive Calendar Days** with **final completion** within **75 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 **\$250** for each consecutive calendar day after **substantial completion** and liquidated damages in the sum of **\$250** 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.

City of Lubbock
RFP 22-16213-KM
Roofing Improvements for the Lubbock Fire Administration Building
Price Proposal Sheet

| | | Roofs, Inc. of Lubbock, TX | | |
|--------|--|----------------------------|--------------|---------------|
| | | \$308,500.00 | | |
| Item # | Description | Materials | Labor | Extended Cost |
| 0 | | | | |
| #0-1 | Complete New Roofing System as Specified | \$208,500.00 | \$100,000.00 | \$308,500.00 |


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.

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 Dollars (\$) or a Proposal Bond in the sum of 50/0 Dollars (\$15,425.00), 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.

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.

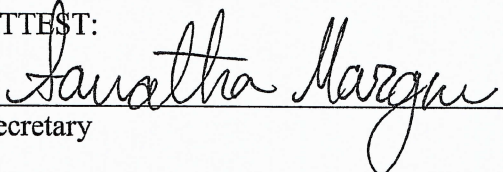
Pursuant to Texas Local Government Code 252.043(g), a competitive sealed proposal that has been opened may not be changed for the purpose of correcting an error in the proposal price. THEREFORE, ANY CORRECTIONS TO THE PROPOSAL PRICE MUST BE MADE ON THE PROPOSAL SUBMITTAL FORM PRIOR TO PROPOSAL OPENING.

Date: 12/9/2021


Authorized Signature

Walker Rainey
(Printed or Typed Name)

(Seal if Offeror is a Corporation)

ATTEST:

Secretary

Offeror acknowledges receipt of the following addenda:

Addenda No. 1 Date 11/15/21
Addenda No. 2 Date 11/15/21
Addenda No. 3 Date 12/6/21
Addenda No. Date

Roof Inc
Company
P.O. Box 9400
Address
Lubbock, Lubbock
City, County
TX, 79493
State Zip Code
Telephone: 806 - 771-9780
Fax: 806 - 771-9781
Email:
FEDERAL TAX ID or SOCIAL SECURITY
No.

20-1522975

M/WBE Firm:

| | | | | | |
|--|-------------------|--|------------------------|--|-----------------|
| | Woman | | Black American | | Native American |
| | Hispanic American | | Asian Pacific American | | Other (Specify) |

**City of Lubbock, TX
Capital Project
January 25, 2022**

| | |
|-------------------------|----------------------------|
| Capital Project Number: | 92359 |
| Capital Project Name: | Facility Roof Replacements |

| | <u>Budget</u> |
|---|----------------------|
| <i>Encumbered/Expended</i> | |
| COL Charges | \$ 1,935 |
| Armko Industries, Inc. | 76,317 |
| Electrical | 414 |
| Silent Wings Museum | 515,270 |
| Eddie Dixon Facility | 63,180 |
| Fire Station #4 | 50,400 |
| Fire Station #9 | 46,992 |
| Fire Station #12 | 77,000 |
| Fire Station #14 | 53,500 |
| Fire Station #8 | 43,170 |
| Fire Station #13 | 51,850 |
| Garden and Arts Center - Lydicks-Hooks Contract 14437 | 116,771 |
| Fire Station #7 - Hamilton Roofing Contract 14401 | 58,200 |
| Advertising | 1,351 |
| Chapman Harvey - Contract 15640 | 38,789 |

Agenda Item January 25, 2022

| | |
|---|-------------------------|
| Roof Inc.- Contract 16213 Fire Admin | 308,500 |
| Roof Inc.- Contract 16198 Groves | 127,300 |
| <i>Encumbered/Expended To Date</i> | <u><u>1,630,939</u></u> |

Estimated Costs for Remaining Appropriation

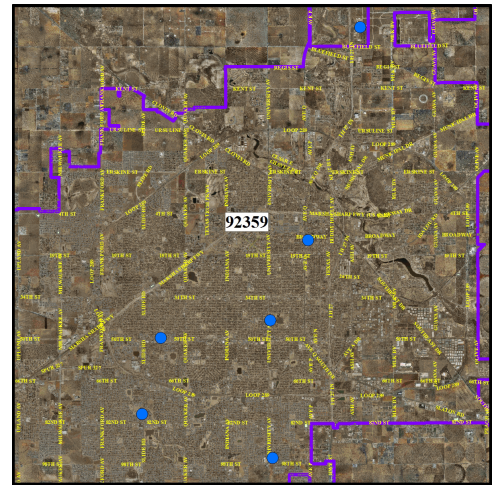
| | |
|---|----------------------------|
| Additional AE fees for project monitoring | 125,681 |
| Additional construction | 55,795 |
| Contingency | 80,886 |
| <i>Remaining Appropriation</i> | <u>262,361</u> |
| Total Appropriation | <u><u>\$ 1,893,300</u></u> |

Managing Department **Facilities Management**

Project Manager **Wesley Everett**

Project Classification **Infrastructure Improvements**

Project Status **Approved**



Project Scope

This project incorporates major roof repairs and roof replacements for most City of Lubbock facility roofs.

FY 2020-21 Groves Library
FY 2021-2022 Fire Administration Complex
FY 2022-23 Hodges Community
FY 2023-24 Fire Station #10 and #3
FY 2024-25 Future Roofs
FY 2025-26 Future Roofs
FY 2026-27 Future Roofs

Start Date: Ongoing project
Bid Date - Design: N/A
Award Date for Bid - Design: N/A
Project Start Date - Design: 10/1/2021
Project End Date - Design: 11/1/2021
Bid Date - Construction: 11/15/2021
Award Date for Bid - Construction: 12/21/2021
Project Start Date - Construction: 01/03/2022
Project End Date - Construction: 02/14/2022
Ongoing project

Project Justification

Roof replacements can/will be rescheduled to address roofs that have deteriorated since their evaluation or other facilities can be included depending on individual circumstances. Many City facilities have roofs that are nearing the end of their expected life. A typical roofing system should last 15-20 years. The wear and tear on these roof systems have compromised the facility's ability to remain watertight from the roof areas. Staff have evaluated many City roofs and have determined the above facilities will need to have roof replacements within the next 6 years.

Project History

The roofing systems scheduled for replacement have ages ranging from 15 to 30+ years. Routine/standard maintenance of these systems are no longer efficient.

FY 2015-16 Roofs at the Silent Wings Museum started. Fire Station #9 & 4 were completed.

FY 2016-17 Fire Station #12 & 14, and the Eddie Dixon Building roofs replaced and Silent Wings Museum roof replacement completed.

FY 2017-18 Fire Stations # 13 and #8.

FY 2018-19 Garden and Arts Center and Fire Station #7 roofs replaced.

FY 2019-20 Fire Station #15, and Fire Station #5

FY 2020-21

No capital spent due to COVID-19 spending restrictions.

\$172,000 was appropriated in the FY 2014-15 Budget, Ord. No. 2014-00122, October 1, 2014.

\$475,000 was appropriated in the FY 2015-16 Budget, Ord. No. 2015-00094, October 1, 2015.

\$440,000 was appropriated in the FY 2016-17 Budget, Ord. No. 2016-00135, October 1, 2016.

\$165,000 was appropriated in the FY 2018-19 Budget, Ord. No. 2018-00109, October 1, 2018.

\$106,000 was appropriated in the FY 2020-21 Budget, Ord. No. 2020-00123, October 1, 2020.

\$535,300 was appropriated in the FY 2021-22 Budget, Ord. No. 2021-00126, October 1, 2021.

| <i>Appropriation Detail</i> | Appropriation to Date | Unappropriated Planning Years | | | | | | Total Project Amount |
|------------------------------------|-----------------------|-------------------------------|----------------|----------------|----------------|----------------|----------------|----------------------|
| | | FY 2021-22 | FY 2022-23 | FY 2023-24 | FY 2024-25 | FY 2025-26 | FY 2026-27 | |
| Construction | 1,240,500 | 505,000 | 140,000 | 200,000 | 100,000 | 100,000 | 100,000 | 2,385,500 |
| Design and Engineering | 117,500 | 30,300 | 8,400 | 12,000 | 6,000 | 6,000 | 0 | 180,200 |
| Total Project Appropriation | 1,358,000 | 535,300 | 148,400 | 212,000 | 106,000 | 106,000 | 100,000 | 2,565,700 |

| <i>Funding Detail</i> | 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 | |
| Capital Project Fund | 100,000 | 0 | 0 | 0 | 0 | 0 | 0 | 100,000 |
| FY 2015 General Fund Cash | 172,000 | 0 | 0 | 0 | 0 | 0 | 0 | 172,000 |
| FY 2016 General Fund Cash | 475,000 | 0 | 0 | 0 | 0 | 0 | 0 | 475,000 |
| FY 2017 General Fund Cash | 440,000 | 0 | 0 | 0 | 0 | 0 | 0 | 440,000 |
| FY 2019 General Fund Cash | 165,000 | 0 | 0 | 0 | 0 | 0 | 0 | 165,000 |
| FY 2021 General Fund Cash | 6,000 | 0 | 0 | 0 | 0 | 0 | 0 | 6,000 |
| FY 2022 General Fund Cash | 0 | 535,300 | 0 | 0 | 0 | 0 | 0 | 535,300 |
| FY 2023 General Fund Cash | 0 | 0 | 148,400 | 0 | 0 | 0 | 0 | 148,400 |
| FY 2024 General Fund Cash | 0 | 0 | 0 | 212,000 | 0 | 0 | 0 | 212,000 |
| FY 2025 General Fund Cash | 0 | 0 | 0 | 0 | 106,000 | 0 | 0 | 106,000 |
| FY 2026 General Fund Cash | 0 | 0 | 0 | 0 | 0 | 106,000 | 0 | 106,000 |
| FY 2027 General Fund Cash | 0 | 0 | 0 | 0 | 0 | 0 | 100,000 | 100,000 |
| Total Funding Sources | 1,358,000 | 535,300 | 148,400 | 212,000 | 106,000 | 106,000 | 100,000 | 2,565,700 |

| <i>Operating Budget Impact</i> | Unappropriated Planning Years | | | | | | Total Impact |
|--------------------------------------|-------------------------------|------------|--------------|------------|------------|------------|--------------|
| | FY 2021-22 | FY 2022-23 | FY 2023-24 | FY 2024-25 | FY 2025-26 | FY 2026-27 | |
| Maintenance Savings Estimated | 500 | 500 | 1,500 | 500 | 500 | 0 | 3,500 |
| Total Operating Budget Impact | 500 | 500 | 1,500 | 500 | 500 | 0 | 3,500 |



**Purchasing and Contract Management
Project Summary
RFP 22-16213-KM Roofing Improvements for the Lubbock Fire
Administration Building**

Notice was published in the Lubbock Avalanche Journal on November 14 and November 21, 2021.

Notice was published on the Purchasing Web Site under Bid Opportunities.

Notice was published on Bonfire-hub.com from November 12, 2021 to December 9, 2021.

28 vendors took documents from Bonfire-hub.com

24 vendors were notified separately.

6 vendor submitted a proposal.

Information

Agenda Item

Resolution - Facilities Management: Consider a resolution authorizing the Mayor to execute Contract 16198, with Roofs, Inc., for roof replacement at Groves Library, located at 5520 19th Street, Lubbock, Texas.

Item Summary

Scope of Work for this Project is as follows:

- Power wash the existing roof surface and allow to dry before any application of new roofing materials.
- Work shall include removal of any existing blisters or ridging in the existing modified bitumen roof membrane.
- Install new ½” per foot crickets as shown on the roof plan.
- Adhere specified ½” substrate board as specified.
- Adhere one ply of thermoplastic single ply fleece-backed membrane as specified.
- new miscellaneous carpentry and new prefinished gutter assembly as specified. Install new prefinished metal coping cap and flashing metal as specified.
- Provide new roller supports for existing piping above roof.
- Provide new cast iron strainers on all drain bowls.
- All work shall include all HVAC and electrical piping disconnects and reconnection as required to complete the project.
- All installation of new work shall be per NRCA, SMACNA, ASNI/SPRI, specifications, details and manufacturer’s guidelines.
- Provide a 2-year contractors warranty and 20-year manufacturer’s warranty.

In response to RFP 22-16198-KM, six contractors submitted sealed proposals, but one proposal was incomplete, leaving five proposals that were evaluated and ranked in relation to the published selection criteria, pursuant to Texas Local Government Code, Section 2269. The proposals ranged in price from \$127,300 to \$216,763.29, with construction time estimated between 20-45 days. The proposals were evaluated using the following criteria: Price (60), Contractor Qualifications (30), and Construction Time (10). The maximum point value is 100 points.

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

| Contractor | Points (Possible 100) |
|--|-----------------------|
| Roofs, Inc., Lubbock, Texas | 100.00 |
| Schrader Roofing Company, Lubbock, Texas | 96.15 |
| Lydick-Hooks Roofing Co., Lubbock, Texas | 90.52 |
| Tecta America, LLC, Lubbock, Texas | 78.11 |
| Trumble Construction, Texarkana, Texas | 65.17 |

Texas Local Government Code, Section 2269 requires the City to select the offeror that offers the best value based on the published selection criteria and on its ranking evaluation. In determining the best value, the City is not restricted to considering price alone, and considers other factors stated in the selection criteria. The City and its engineer or architect may discuss with the selected offeror options for a scope or time modification and any price change associated with the modification.

Staff and Evaluation Committee recommends award to the most qualified proposer, Roofs Inc. of Lubbock, Texas, for \$127,300, with time duration of 20 days for final completion, and liquidated damages of \$250 per additional calendar day.

Fiscal Impact

Contract 16198, for \$127,300, is funded in Capital Improvement Project 92359, Facility Roof Replacements.

Staff/Board Recommending

Bill Howerton, Deputy City Manager

Attachments

Resolution

Contract

Budget Detail

CIP Detail

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. 16198 for roof improvements for the Groves Branch Library Building as per RFP 22-16198-KM, by and between the City of Lubbock and Roofs, 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:

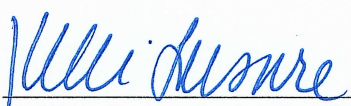
Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



Bill Howerton, Deputy City Manager

APPROVED AS TO FORM:



Kelli Leisure, Assistant City Attorney

**PROPOSAL SUBMITTAL FORM
PRICE PROPOSAL CONTRACT**

DATE: 12/9/2021

PROJECT NUMBER: **RFP 22-16198-KM Roof Replacement at Groves Library**

Proposal of Roofs 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 **Roof Replacement at Groves Library** 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:

TOTAL CONSECUTIVE CALENDAR DAYS: 10 (to Substantial Completion)

TOTAL CONSECUTIVE CALENDAR DAYS: 20 (to Final Completion)

(not to exceed 30 consecutive calendar days to Substantial Completion / 45 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 **30 Consecutive Calendar Days** with **final completion** within **45 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 **\$250** for each consecutive calendar day after **substantial completion** and liquidated damages in the sum of **\$250** 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

City of Lubbock
RFP 22-16198-KM
Roof Improvements for Groves Branch Library Building
Price Proposal Sheet

| | | Roofs, Inc. of Lubbock, TX | | |
|--------|--|----------------------------|--------------|---------------|
| | | \$127,300.00 | | |
| Item # | Description | Materials | Labor | Extended Cost |
| 0 | | | | |
| #0-1 | Complete New Roofing System as Specified | \$87,000.00 | \$403,000.00 | \$127,300.00 |

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.

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 Dollars (\$) or a Proposal Bond in the sum of 5% Dollars (\$ 6,366.00), 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.

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: 12/9/2021



Authorized Signature

Walker Rainey
(Printed or Typed Name)

Roofs Inc

Company

P.O. Box 94010

Address

Lubbock, Lubbock

City, County

TX, 79493

State Zip Code

Telephone: 806 - 771-9780


Fax: 806 - 771-9781

Email: Walker@roofsinc.tx.com

FEDERAL TAX ID or SOCIAL SECURITY No.

20-1522975

(Seal if Offeror is a Corporation)

ATTEST: 

Secretary

Offeror acknowledges receipt of the following addenda:

Addenda No. 1 Date 11/15/21

Addenda No. 2 Date 11/16/21

Addenda No. 3 Date 12/6/21

Addenda No. Date

M/WBE Firm:

| | | | | | |
|--|-------------------|--|------------------------|--|-----------------|
| | Woman | | Black American | | Native American |
| | Hispanic American | | Asian Pacific American | | Other (Specify) |

**City of Lubbock, TX
Capital Project
January 25, 2022**

| | |
|-------------------------|----------------------------|
| Capital Project Number: | 92359 |
| Capital Project Name: | Facility Roof Replacements |

| <i>Encumbered/Expended</i> | Budget |
|---|---------------|
| COL Charges | \$ 1,935 |
| Armko Industries, Inc. | 76,317 |
| Electrical | 414 |
| Silent Wings Museum | 515,270 |
| Eddie Dixon Facility | 63,180 |
| Fire Station #4 | 50,400 |
| Fire Station #9 | 46,992 |
| Fire Station #12 | 77,000 |
| Fire Station #14 | 53,500 |
| Fire Station #8 | 43,170 |
| Fire Station #13 | 51,850 |
| Garden and Arts Center - Lydicks-Hooks Contract 14437 | 116,771 |
| Fire Station #7 - Hamilton Roofing Contract 14401 | 58,200 |
| Advertising | 1,351 |
| Chapman Harvey - Contract 15640 | 38,789 |

Agenda Item January 25, 2022

| | |
|---|------------------|
| Roof Inc.- Contract 16213 Fire Admin | 308,500 |
| Roof Inc.- Contract 16198 Groves | 127,300 |
| <i>Encumbered/Expended To Date</i> | 1,630,939 |

Estimated Costs for Remaining Appropriation

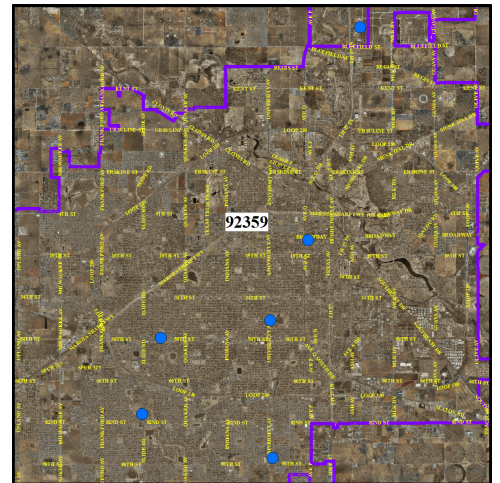
| | |
|---|---------------------|
| Additional AE fees for project monitoring | 125,681 |
| Additional construction | 55,795 |
| Contingency | 80,886 |
| <i>Remaining Appropriation</i> | 262,361 |
| Total Appropriation | \$ 1,893,300 |

Managing Department **Facilities Management**

Project Manager **Wesley Everett**

Project Classification **Infrastructure Improvements**

Project Status **Approved**



Project Scope

This project incorporates major roof repairs and roof replacements for most City of Lubbock facility roofs.

FY 2020-21 Groves Library
FY 2021-2022 Fire Administration Complex
FY 2022-23 Hodges Community
FY 2023-24 Fire Station #10 and #3
FY 2024-25 Future Roofs
FY 2025-26 Future Roofs
FY 2026-27 Future Roofs

Start Date: Ongoing project
Bid Date - Design: N/A
Award Date for Bid - Design: N/A
Project Start Date - Design: 10/1/2021
Project End Date - Design: 11/1/2021
Bid Date - Construction: 11/15/2021
Award Date for Bid - Construction: 12/21/2021
Project Start Date - Construction: 01/03/2022
Project End Date - Construction: 02/14/2022
Ongoing project

Project Justification

Roof replacements can/will be rescheduled to address roofs that have deteriorated since their evaluation or other facilities can be included depending on individual circumstances. Many City facilities have roofs that are nearing the end of their expected life. A typical roofing system should last 15-20 years. The wear and tear on these roof systems have compromised the facility's ability to remain watertight from the roof areas. Staff have evaluated many City roofs and have determined the above facilities will need to have roof replacements within the next 6 years.

Project History

The roofing systems scheduled for replacement have ages ranging from 15 to 30+ years. Routine/standard maintenance of these systems are no longer efficient.

FY 2015-16 Roofs at the Silent Wings Museum started. Fire Station #9 & 4 were completed.

FY 2016-17 Fire Station #12 & 14, and the Eddie Dixon Building roofs replaced and Silent Wings Museum roof replacement completed.

FY 2017-18 Fire Stations # 13 and #8.

FY 2018-19 Garden and Arts Center and Fire Station #7 roofs replaced.

FY 2019-20 Fire Station #15, and Fire Station #5

FY 2020-21

No capital spent due to COVID-19 spending restrictions.

\$172,000 was appropriated in the FY 2014-15 Budget, Ord. No. 2014-00122, October 1, 2014.

\$475,000 was appropriated in the FY 2015-16 Budget, Ord. No. 2015-00094, October 1, 2015.

\$440,000 was appropriated in the FY 2016-17 Budget, Ord. No. 2016-00135, October 1, 2016.

\$165,000 was appropriated in the FY 2018-19 Budget, Ord. No. 2018-00109, October 1, 2018.

\$106,000 was appropriated in the FY 2020-21 Budget, Ord. No. 2020-00123, October 1, 2020.

\$535,300 was appropriated in the FY 2021-22 Budget, Ord. No. 2021-00126, October 1, 2021.

| <i>Appropriation Detail</i> | Appropriation to Date | Unappropriated Planning Years | | | | | | Total Project Amount |
|------------------------------------|-----------------------|-------------------------------|----------------|----------------|----------------|----------------|----------------|----------------------|
| | | FY 2021-22 | FY 2022-23 | FY 2023-24 | FY 2024-25 | FY 2025-26 | FY 2026-27 | |
| Construction | 1,240,500 | 505,000 | 140,000 | 200,000 | 100,000 | 100,000 | 100,000 | 2,385,500 |
| Design and Engineering | 117,500 | 30,300 | 8,400 | 12,000 | 6,000 | 6,000 | 0 | 180,200 |
| Total Project Appropriation | 1,358,000 | 535,300 | 148,400 | 212,000 | 106,000 | 106,000 | 100,000 | 2,565,700 |

| <i>Funding Detail</i> | 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 | |
| Capital Project Fund | 100,000 | 0 | 0 | 0 | 0 | 0 | 0 | 100,000 |
| FY 2015 General Fund Cash | 172,000 | 0 | 0 | 0 | 0 | 0 | 0 | 172,000 |
| FY 2016 General Fund Cash | 475,000 | 0 | 0 | 0 | 0 | 0 | 0 | 475,000 |
| FY 2017 General Fund Cash | 440,000 | 0 | 0 | 0 | 0 | 0 | 0 | 440,000 |
| FY 2019 General Fund Cash | 165,000 | 0 | 0 | 0 | 0 | 0 | 0 | 165,000 |
| FY 2021 General Fund Cash | 6,000 | 0 | 0 | 0 | 0 | 0 | 0 | 6,000 |
| FY 2022 General Fund Cash | 0 | 535,300 | 0 | 0 | 0 | 0 | 0 | 535,300 |
| FY 2023 General Fund Cash | 0 | 0 | 148,400 | 0 | 0 | 0 | 0 | 148,400 |
| FY 2024 General Fund Cash | 0 | 0 | 0 | 212,000 | 0 | 0 | 0 | 212,000 |
| FY 2025 General Fund Cash | 0 | 0 | 0 | 0 | 106,000 | 0 | 0 | 106,000 |
| FY 2026 General Fund Cash | 0 | 0 | 0 | 0 | 0 | 106,000 | 0 | 106,000 |
| FY 2027 General Fund Cash | 0 | 0 | 0 | 0 | 0 | 0 | 100,000 | 100,000 |
| Total Funding Sources | 1,358,000 | 535,300 | 148,400 | 212,000 | 106,000 | 106,000 | 100,000 | 2,565,700 |

| <i>Operating Budget Impact</i> | Unappropriated Planning Years | | | | | | Total Impact |
|--------------------------------------|-------------------------------|------------|--------------|------------|------------|------------|--------------|
| | FY 2021-22 | FY 2022-23 | FY 2023-24 | FY 2024-25 | FY 2025-26 | FY 2026-27 | |
| Maintenance Savings Estimated | 500 | 500 | 1,500 | 500 | 500 | 0 | 3,500 |
| Total Operating Budget Impact | 500 | 500 | 1,500 | 500 | 500 | 0 | 3,500 |



**Purchasing and Contract Management
Project Summary
RFP 22-16198-KM Roof Improvements at Groves Library**

Notice was published in the Lubbock Avalanche Journal on November 14 and November 21, 2021.

Notice was published on the Purchasing Web Site under Bid Opportunities.

Notice was published on Bonfire-hub.com from November 12, 2021 to December 9, 2021.

28 vendors took documents from Bonfire-hub.com

24 vendors were notified separately.

6 vendor submitted a proposal.

Information

Agenda Item

Resolution - Civic Center: Consider a resolution authorizing the Mayor to execute a Lease Agreement, by and between the City of Lubbock, and Lubbock Moonlight Musicals Inc., for use of the Lubbock Moonlight Musicals Amphitheatre, for five annual periods ending November 30, 2026.

Item Summary

Lubbock Moonlight Musicals Inc. (LMMI) desires the use of the Amphitheatre to conduct theatrical productions and rehearsals which will provide economic development benefit by attracting visitors to the City and the surrounding area. It is the City's desire to have regularly scheduled events for the public at the Amphitheatre, and in consideration of the over \$1,500,000 of improvements made to date to the Amphitheatre by Moonlight Musicals Inc., staff recommends continuing this mutually beneficial partnership.

The term of this Agreement will be for a period beginning upon execution of the Agreement, and ending November 30, 2026. There will be five(5) seasons beginning February 1st and running through November 30th of each year during the Term of this Agreement. LMMI agrees to pay the City for the use of the Amphitheatre for each of the five (5) seasons according to the following payment schedule:

| Season | Fee |
|--------|---------|
| 2022 | \$7,500 |
| 2023 | \$8,000 |
| 2024 | \$8,500 |
| 2025 | \$9,000 |
| 2026 | \$9,500 |

Fiscal Impact

LMMI agrees to pay an annual rental fee to the City of Lubbock for use of the Amphitheatre. The fee will be \$7,500 for the 2022 season, and escalate annually by \$500, for a total revenue of \$42,500 over 5 seasons.

Staff/Board Recommending

Brooke Witcher, Assistant City Manager

Attachments

Resolution
Lease Agreement

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 Lubbock Moonlight Musicals Inc. regarding the Amphitheatre at Mackenzie Park, and related documents. Said Lease 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:



Brooke Witcher, Assistant City Manager

APPROVED AS TO FORM:



Ryan Brooke, Assistant City Attorney

RES.Lease-LMMI Amphitheatre
1.5.22

**LEASE AGREEMENT
LUBBOCK MOONLIGHT MUSICALS AMPHITHEATRE**

**THE STATE OF TEXAS §
COUNTY OF LUBBOCK §**

This Lease Agreement ("Agreement") is made and entered into this _____ day of _____, in the City of Lubbock, Lubbock County, Texas, by and between the City of Lubbock, a municipal corporation of the State of Texas, ("City") and Lubbock Moonlight Musicals Inc., ("LMMI"), a State of Texas nonprofit organization.

Whereas, it is a public purpose of the City to operate the City's Lubbock Moonlight Musicals Amphitheatre ("Amphitheatre") and to have regularly scheduled events therein for the public; and

Whereas, in consideration of the \$1,500,000 of improvements made to date to the Amphitheatre, and continued and future improvements that will be made by Lubbock Moonlight Musicals Inc.; and,

Whereas, LMMI desires the use of the Amphitheatre to conduct theatrical productions and rehearsals at the Amphitheatre, which events will provide an economic development benefit by attracting visitors to the City and the surrounding area; and now therefore,

THE PARTIES AGREE AS FOLLOWS:

1. PREMISE. That upon the terms and conditions herein, and in consideration of the covenants and agreements herein and of the faithful performance by LMMI of all such covenants and agreements, the City does hereby grant unto LMMI the right to use and occupy the Amphitheatre for the purpose of theatrical productions, educational camps, and rehearsals and for no other purpose without the written consent of the City. The use of the Amphitheatre shall be deemed to include use of associated available dressing rooms, ticket booth, and storage area above the dressing room storage areas will be available to LMMI on an "as available basis" as determined by the Director of the Lubbock Civic Center ("Director"). This is a non-exclusive agreement and is subject to the Event Services Manual hereto attached as Exhibit A.

2. TERM. The term of this Agreement shall be for a period beginning upon final execution of this Agreement, and ending November 30, 2026 ("Term"). The Term shall consist of five (5) periods beginning February 1st and running through November 30th of each year during the Term of this Agreement ("Season").

3. RENT.

a. LMMI hereby covenants and agrees to pay to City for the use of the Amphitheatre, on or before the first day of each Season during the Term of this Agreement, without demand at its office in the Lubbock Civic Center, according to the following payment schedule:

| <u>Season</u> | <u>Fee</u> |
|---------------|-------------|
| 2022 | \$ 7,500.00 |
| 2023 | 8,000.00 |
| 2024 | 8,500.00 |
| 2025 | 9,000.00 |
| 2026 | 9,500.00 |

b. LMMI further agrees to pay to City on demand any and all sums which may be due to City for additional services. LMMI understands and agrees that City has the right and privilege to alter rates for services, per its discretion and established policy. City and LMMI acknowledge and agree that TIME IS OF THE ESSENCE with respect to the payment schedule and any and all sums which may be due to City for additional services.

4. BUILDING AVAILABILITY.

a. This agreement does not limit or prevent the City from scheduling, promoting, or producing any event in the facility at any time that does not conflict with the terms of this agreement.

b. Because LMMI is the resident tenant during the summer months and has items of great value and for liability reasons, LMMI shall have uninterrupted and exclusive use of the facility, absent a declared emergency by the City, for each Season during the Term of this Agreement. However, from July 1st through noon on July 5th of each Season during the Term of this Agreement the Amphitheatre will not be available for use by LMMI. No performances or other events will be held during the South Plains Fair (generally a nine day period the last week of September).

5. EVENT REQUIREMENTS. LMMI shall file with the Director's office upon signing this Agreement, a full and detailed outline of all dates the Amphitheatre will be utilized for rehearsals, camps, and performances and all other information as may be required by the Director concerning LMMI'S activities.

6. SCHEDULE DATES. A minimum of eighteen (18) performances shall be scheduled during each Season during the Term of this Agreement. Existing holds for events scheduled prior to the effective date of this Agreement will not be released by the City.

7. MAINTAINENCE AND ACTIVITY SCHEDULE.

a. An Activity schedule will be made available to the Director prior to each season. It will be coordinated with one representative from LMMI.

b. An activity schedule shall be submitted to the Director on a monthly basis. All changes to dates and/or times shall be provided to the Director with as much advance notice as possible, but weekly at minimum.

8. SPECIAL PROGRAMS. Subject to prior written approval of the Director, LMMI may engage in a special program, if in the Director's judgment, such program will be mutually beneficial to the parties of this Agreement and may significantly increase gross ticket sales, total attendance, or be

advantageous for advertising, goodwill, or publicity. Written notification as to the details of any special program shall be submitted to the Director at least ten (10) business days prior to the promotion. Any and all costs associated with presenting the programs shall be at LMMI'S expense.

9. PERFORMANCE DAY ACTIVITIES. To assure proper sequencing of activities on performance days, LMMI shall present a performance day schedule forty-eight (48) hours in advance of the performance starting time to assist in providing optimum operational services required under this Agreement. The stage will be cleared of cast by midnight with the exception of the final night of each production when the set is changed. Vector control will be notified not to spray prior to midnight on any production or rehearsal night.

10. QUIET ENJOYMENT.

a. City shall permit LMMI peaceable and quiet enjoyment and use of the Amphitheatre for the purpose and Term of this Agreement, including restroom conveniences customarily open to the general public.

b. The Amphitheatre's halls, ramps, surrounding premises, sidewalks, and entrances shall neither be obstructed by LMMI nor used for any other purposes than ingress or egress. LMMI shall not permit any chairs, movable seats or other obstructions to be or remain in the passageways, and will keep such passageways clear at all times.

11. CONTROL OF PREMISES. The City, acting through the Director, police officers, fire fighters, and other designated representatives, shall have the right at any time to enter any portion of the Amphitheatre for any purpose whatsoever. The Amphitheatre, and any related property or facility, shall at all times be under the charge and control of the Director.

12. ASSIGNMENT. LMMI shall not assign this Agreement, or any part thereof, nor allow or permit any use of said Amphitheatre other than herein specified without the prior written consent of the City. For the purposes of this Agreement, assignment shall mean assumption of the assets of LMMI by any person, association or entity by any means.

13. DELAY IN DELIVERY OF POSSESSION. If the City is unable to deliver possession of the Amphitheatre, by the date specified for the commencement of any Season during the Term of this Agreement or for any option period, as a result of causes beyond City's reasonable control, City shall not be liable for any damage experienced by LMMI for the City's failure to deliver possession. This Agreement shall not be void or voidable for any such delay. The Term of this Agreement shall not be extended by any such delay.

14. FAILURE TO TAKE POSSESSION. If LMMI, being entitled to possession hereunder, shall fail for any reason to take possession of or use the Amphitheatre, without the prior written consent of City, no rent refund shall be made to LMMI by the City, and any payment made to City shall be taken by City as liquidated damages and not as a penalty. The full rent called for by this Agreement, including any disbursements or expenses incurred by City in connection herewith, shall be payable by LMMI to the City.

15. LOCKS; KEYS. No additional locks or bolts of any kind shall be placed on any of the doors or windows by LMMI. LMMI shall, on the termination of LMMI's tenancy, deliver to City all keys to any space within the Amphitheatre. In the event of the loss of any keys furnished to LMMI by City, LMMI shall pay to City the cost of the keys. The City shall retain a key to all spaces at the Amphitheatre for emergency and maintenance purposes.

16. OPENING HOURS. LMMI must open the doors for activities and performances as scheduled unless otherwise agreed upon as necessity indicates. LMMI shall open the doors to the Amphitheatre at least one hour prior to any activity or performance.

17. CONDUCT OF PERFORMERS. Conduct of performers should not be such as to deliberately incite or entice patrons to leave their seats, or tend to create hazardous, uncontrollable crowd situations. Conduct of performers should not be such as to cause deliberate damage to the facility or injury to others.

18. EQUIPMENT ENTRANCE. All articles, equipment, fixtures, materials, etc., of LMMI shall be brought into or out of the Amphitheatre and surrounding premises only at such entrances that are designated by the Director.

19. TICKETING.

a. The City has a contract with Civic Lubbock Inc.'s Select-a-Seat to conduct the sale of tickets to all events taking place in the Venues. Terms of such use will be outlined in a separate box office agreement with Civic Lubbock, Inc., which will be executed prior to the beginning of each Season during the Term of this Agreement.

b. Ticket prices will be set by LMMI at the beginning of each Season during the Term of this Agreement. Ticket prices may be changed during a season for special promotional events and/or to accommodate special group events. Written notification of ticket prices shall be given to the Director prior to such tickets going on sale.

20. SEATING. Seating capacity for the Amphitheatre shall be nine hundred (900) seats. The City will not provide any additional chairs, movable chairs, benches, or any other type of seating device for the purpose of this Agreement. No additional seating may be added without prior approval of the Director and the Fire Marshall. LMMI shall not sell or distribute or permit to be sold or distributed tickets or passes in excess of seating capacity of the Amphitheatre.

21. SMOKING NOTICE. In accordance with Federal, State, and City laws governing smoking in public places, LMMI shall take reasonable and prudent care that its patrons, performers, and other employees are informed of the NO SMOKING rule. Smoking in any interior portion of the Amphitheatre, including, but not limited to seating areas, public restrooms, and dressing rooms, will not be permitted. LMMI's security personnel and ushers shall be responsible for monitoring these areas.

22. TELEVISION/RADIO. All broadcast rights for LMMI's performances are granted to LMMI. Any costs associated with the production of such broadcasts shall be paid by LMMI.

23. STANDARD PERFORMANCE DAY SET-UP. City and LMMI will cooperate and share responsibility for activities in connection with the standard performance set-up in the Amphitheatre. LMMI shall provide reasonable assistance in the set-up as may be requested by City.

24. INTERRUPTION OR TERMINATION OF PERFORMANCE. City retains the right to cause the interruption or termination of any performance when such interruption or termination is, in the City's sole judgment, in the interest of public safety.

25. DRESSING ROOMS. At no additional cost to LMMI, LMMI shall have access to the Amphitheatre's dressing rooms for scheduled performances, rehearsals, and other activities described in this Agreement. At the end of each Season during the Term of this Agreement, LMMI will be required to remove all items from the Amphitheatre. At the Director's discretion LMMI may store items in the area above the dressing room, at their own risk. LMMI's access to this storage area will be allowed throughout the year at the Directors discretion. City is not responsible for any LMMI property.

26. PHYSICAL ALTERATION/SIGNAGE.

a. Except as may be agreed to in advance in writing by the parties to this Agreement, LMMI will not cause or permit: anything which will damage or change the finish or appearance of the Amphitheatre or the furnishings and equipment thereof. LMMI will preserve the integrity of the structure of the Amphitheatre. Any permanent alterations will be agreed on with Director before commencing. LMMI shall pay the cost of repairing any and all injury and damage which may be done to the Amphitheatre or any of the fixtures, furniture, or furnishings thereof by any act of LMMI, LMMI's employees, LMMI's agents, LMMI's patrons, or anyone visiting the Amphitheatre upon the invitation of LMMI. It is expressly agreed that the Director and the City's Risk Management Coordinator shall determine whether any such damage has been done, the amount thereof, the reasonable cost of repairing the same, and whether it is one for which, under the terms of this Agreement, LMMI is to be held responsible. The decision of the Director and City's Risk Management Coordinator shall be final and binding upon LMMI

27. SIGNAGE.

a. Signs, Posters, Literature, and Decorations: Posters and/or signs may only be posted on bulletin boards provided for such use within the Facility. All such advertisements must relate to the event to be held on the premises. The hanging of pictures, banners, or other items must have the approval of the Director.

b. Distribution: The Lessee shall not distribute, circulate, or allow circulation of any advertising matter or programs at the entrance to any part of the premises that does not completely pertain to the immediate attraction. No advertising matter shall be distributed or circulated on parking facilities or walkways adjacent to the facility.

c. Approval: In order to abide by the sign ordinance in effect within the City of Lubbock, approval by the Director will be required prior to any signs/banners of any type being placed on Amphitheatre property outside of the building.

d. **Content of Signage:** All signage shall be in good taste, professionally developed, and presented so as to be inoffensive to the general public and of such high caliber as to contribute to the establishment of the Amphitheatre facilities as a prestigious location for commercial advertising media. LMMI will promptly remove or modify the presentation of any advertising or signage if so directed by the Director if deemed to be in violation of this clause.

28. **CONCESSION SALES.** The City has a contract with Civic Lubbock Inc. to conduct the concession sales all events taking place in the Venues. This includes the sole right to sell or dispense soft drinks, candies, food, alcoholic beverages, and related merchandise commonly sold or dispensed in the Amphitheatre.

29. **UTILITIES AND SERVICES.**

a. During the Term of this Agreement, City shall furnish, at City's expense, heat, water, lights, air conditioning, and custodial services deemed necessary by the Director for LMMI's use of the Amphitheatre. City shall not be responsible for or liable to LMMI for any loss resulting from any lack of heat, water, lights, air conditioning, or custodial services due to an act of God or the failure of equipment to operate or function properly through no fault or act of City. All utilities will be furnished from present openings in the Amphitheatre. No petroleum products, oil lights, or any other artificial lighting, light plants, or electrical equipment shall be permitted.

b. City agrees to provide janitorial and maintenance services for the Amphitheatre and agrees to keep and maintain all areas of the Amphitheatre in a reasonably good and tenantable condition and appearance, through the prompt removal of all trash, litter, and other debris. The City shall maintain its working standard for janitorial and maintenance services for the Amphitheatre as performed by the City prior to this Agreement.

c. LMMI shall provide for its own telephone, cable, Wi-Fi, or any similar service, including any connection fees that LMMI may require, for its performances or any other LMMI-related events.

30. **PARKING LOTS.** Under the supervision and control of the Director, City reserves the right to maintain and operate the Amphitheatre parking lots located within the area. Pending no unforeseen changes to any existing agreement, areas will be maintained as per the appropriate schedule for contracted maintenance through the Parks department.

31. **PERSONNEL.** At its own cost, LMMI shall arrange for and provide the following personnel for each performance and for any special program:

a. Box office staff, ticket takers, door guards, and ushers in numbers approved by the Director to assure safety and control of patrons attending the performance;

b. Approved Security Personnel in numbers sufficient to control the seating area, and control access/egress points. The actual number of security personnel may increase or decrease depending on anticipated crowd size or a developing pattern of crowd management problems at the

discretion of the Director. All security personnel shall be on duty until the Amphitheatre is cleared of the general public;

c. Sound and stage technicians as required to operate any Amphitheatre sound or lighting systems;

d. For special programs, LMMI may be required to provide additional security, ushers, door guards, and other personnel necessary in numbers approved by the Director to assure safety and control of the public attending the functions;

e. LMMI shall hire and pay for any medical equipment, services, and attendants that it deems necessary, including, but not limited to, physicians, physician assistants, trainers, paramedics, emergency medical technicians, and ambulance attendants during the performance and other special programs scheduled by LMMI;

f. City reserves the right at all times to control the ushers, doormen, ticket takers, grounds, security personnel, and all other employees of LMMI. City shall have the right to remove from the Amphitheatre any and all such employees of LMMI. City reserves the right, with its officers and agents, including its police officers, to eject any objectionable person or persons from the building and surrounding premises. In the event of the exercise of this authority, LMMI hereby waives any and all claims for damages or contribution against the City and its officers and employees on account thereof; and

g. LMMI shall hire and pay for personnel to oversee all other activities planned and/or scheduled by LMMI in the Amphitheatre. LMMI's personnel shall insure that participants remain in the proper areas and that the facility is properly secured upon leaving, i.e., lights turned off, doors and gates locked, and secured.

32. INDEMNITY AND INSURANCE.

a. As a material part of the consideration to be rendered to City under this Agreement, and to the fullest extent allowed under any applicable law, LMMI hereby covenants and agrees to hold City harmless and relieve and discharge City, its officers and employees, from any and all liability for loss, injury, or death to any person or persons, or loss or damage to property occasioned by or sustained by reason of the occupancy or use of the Amphitheatre and the facilities thereof without regard to the cause of such loss or whether the loss was caused in whole or in part by the negligence of the City, its officers, and employees.

b. LMMI hereby covenants and agrees to pay for any and all damage to the Amphitheatre, damage to or loss of any of the property or equipment of the Amphitheatre, or to any other City property resulting, either directly or indirectly, from such occupancy or use of the Amphitheatre by or through the negligence or other acts of LMMI, its agents, employees or any person or persons participating in or attending the performances in connection with or during said use and occupancy.

c. City shall not be liable to LMMI for any damage by or from any act or negligence of any other occupant of the Amphitheatre. LMMI agrees to pay for all damages to the Amphitheatre and any related property or facilities, as well as all injury to other occupants of the Amphitheatre and any damage to their property, directly or indirectly caused by LMMI'S misuse or neglect of the Amphitheatre, its apparatus, or appurtenances.

d. LMMI shall secure at its own expense and provide City with evidence that it meets the insurance requirements as outlined in the Event Services Manual, which is attached and is a part of this Agreement. City shall be named as a named insured on a primary and non-contributory basis in said policy of insurance.

e. LMMI shall procure Worker's Compensation Insurance protecting the agents and employees of LMMI or any subcontractor. All Workers' Compensation coverage shall include a waiver of subrogation in favor of City.

33. DAMAGE OR DESTRUCTION.

a. In case the Amphitheatre, in its entirety or any part thereof, should be destroyed or damaged in any way by fire or any other cause, or if any other casualty or unforeseen occurrence shall render fulfillment of this Agreement by City impossible, then the Term of this Agreement shall end and LMMI shall be liable for partial rent only up to the time of such termination and LMMI hereby waives and releases the City from any claim for damages or compensation on account of such termination.

b. In the event that the Amphitheatre should be partially damaged by fire, or other cause, but only to such an extent that it can be rebuilt or repaired within ninety (90) days after the date of such destruction, the Agreement shall be void or voidable, but not terminated except as otherwise provided herein. If the City intends to rebuild or repair the Amphitheatre, it shall, within thirty (30) days after the date of such damage, give written notice to LMMI of the intention to rebuild or repair and shall proceed with reasonable diligence to restore the Amphitheatre to substantially the same condition in which it was immediately prior to the destruction. However, City shall not be required to rebuild, repair, or replace any improvements or alterations made by tenant within the Amphitheatre. During the period of rebuilding or repairing, there shall be no diminution of rent. If, after rebuilding or repairing has commenced, such rebuilding or repairing cannot be completed within ninety (90) days after the date of such partial destruction, the City may either terminate the Agreement or continue with the Agreement with a proportional rent rebate to LMMI. If City undertakes to rebuild or repair, LMMI shall, at its own expense, restore all work required to be done by LMMI under this Agreement.

34. EXPIRATION OF AGREEMENT.

a. At the expiration of this Agreement and in accordance with all applicable provisions of this Agreement, LMMI shall quit its use of the Amphitheatre and return to the City all equipment and facilities procured in as good condition and repair as when acquired, except for normal wear and tear. If LMMI has constructed any temporary alterations or temporary additions to the Amphitheatre, to the extent required by the City, all temporary alterations and temporary additions made by LMMI shall be removed, at the sole cost of the LMMI, and the Amphitheatre shall be restored to the condition when the

Agreement began. LMMI's obligations under this paragraph shall survive the expiration or other termination of the Agreement.

b. City reserves the right, after the expiration of the Term of this Agreement, to remove from the Amphitheatre all effects remaining therein and to store the same wherever it sees fit in its name, or at its option, in the name of LMMI, but at the cost, expense, and risk of LMMI, and City shall not be liable in any way to LMMI on account of so removing and storing any such effects. For such additional period beyond the Term of this Agreement, if any effects of LMMI may so remain in the Amphitheatre, City shall be entitled to charge LMMI a reasonable fee for storage.

35. LICENSES AND LAWS.

a. Throughout the Term of this Agreement, LMMI shall comply with all laws of the United States, and the State of Texas, all ordinances of the City, and all rules and requirements of the Police and Fire Departments, or other municipal authorities of the City, and will obtain and pay for all necessary permits, and licenses, and will not do, nor suffer to be done, anything on the Amphitheatre in violation of any such laws, ordinances, rules or requirements. If the attention of LMMI is called to any such violation on the part of LMMI, any person employed by LMMI, or admitted to the Amphitheatre by LMMI, then LMMI will immediately desist from and correct such violations.

b. LMMI shall comply with the Federal Copyright Act of 1976, as amended, and assure that all copyrighted music played or caused to be played during the Term of this Agreement is played with the permission of the copyright owner. LMMI agrees to pay all the obligations under the copyright license, and to the fullest extent allowed under any applicable law, will hold harmless and indemnify the City and its employees from any such claims or obligations.

c. Any violation of such laws and ordinances by LMMI shall, at the Director's sole discretion, subject LMMI to immediate expulsion from the Amphitheatre and the forfeiture of all paid rents, percentages, or other fees, and in no way will such expulsion release LMMI from its obligation to pay any unpaid rent, percentages, or other fees required during the Term of this Agreement.

36. POSTPONED DELIVERY. In the event that City reasonably postpones delivery of the Amphitheatre on the above described times and/or dates for any reason, such event shall not be considered an event of default hereunder, and the City shall not be subject to any liability, nor shall the validity of this Agreement be affected, nor the Term extended in such event. If the City unreasonably postpones tender of possession of the Amphitheatre to LMMI, LMMI may terminate this Agreement by providing written notice to the City at least ten (10) business days prior to such termination.

37. CONDITION OF PREMISES. LMMI has determined that the Amphitheatre, as presently constituted, is sufficient for the use contemplated by LMMI. LMMI's taking possession of the Amphitheatre is conclusive evidence that the Amphitheatre, including without limitation, the equipment, fixtures, furnishings, and the buildings comprising the Amphitheatre, is clean, sanitary, and in good order and condition at the time of possession by LMMI. LMMI shall, throughout the Term, maintain the Amphitheatre and furnishings in good, clean, and sanitary order and condition.

38. CANCELLATION. During the Term of this Agreement, LMMI may cancel this Agreement by providing written notice of cancellation to City at least thirty (30) days prior to LMMI's expected date of cancellation. In the event LMMI cancels this Agreement, the parties hereby agree that all monies paid by LMMI any time prior to the date of cancellation are presumed to be liquidated damages and such monies shall become the property of the City and shall not be refunded. Any installed permanent equipment, modifications, and or improvements to the Amphitheatre, if not removed within 30 days after the cancellation of the agreement, shall become the property of the City.

39. DEFAULTS AND TERMINATION.

a. In the event LMMI shall fail to keep, perform, or respect the terms, covenants, and conditions of this Agreement, and within ten (10) days after receipt of written notice of such failure by LMMI, LMMI shall not have cured or corrected such failure or is not diligently taking action to cure or correct such failure, LMMI shall be considered to be an event of default of this Agreement. Notwithstanding the above, LMMI shall be in default of this Agreement if LMMI fails to timely follow the payment schedule provided for herein, without the necessity of the City giving LMMI written notice of failure as herein above provided.

b. Upon the occurrence of any one or more event(s) of default, LMMI's right to possession of the Amphitheatre shall terminate, and LMMI shall surrender possession thereof to City immediately. In such event, LMMI hereby grants to City full and free license to enter into and upon Amphitheatre, or any part thereof, to take possession thereof with process of law, and to expel and remove LMMI therefrom, or any person who may be occupying the Amphitheatre, or any part thereof, and City may repossess the Amphitheatre as of its former estate. In addition to terminating this Agreement, City may sue for and recover all damages directly or indirectly caused by such event of default. City may, if it so elects, pursue any other remedy or remedies provided by law for the breach of this Agreement or any of its terms, covenants, conditions or stipulations. No right of entry or remedy herein conferred upon or reserved by City is intended to be exclusive of any other right or remedy.

c. City's acceptance of rent following an event of default hereunder shall not be construed as City's waiver of such event of default. No waiver by City of any violation or breach of any of the terms or provisions and covenants herein contained shall be deemed or construed to constitute a waiver of any other violation or default. The loss or damage that City may suffer by reason of LMMI's default shall include the reasonable expense of repossession and any reasonable repairs or remodeling undertaken by City following repossession.

d. LMMI covenants that if LMMI shall make an assignment for the benefit of creditors, or if a petition shall be filed to have it adjudicated as bankrupt, whether voluntary or involuntary, or if an execution is issued against LMMI and it shall fail to procure a stay thereof within thirty (30) days after the entry of same or otherwise fail to satisfy a judgment against it, then and in such event this Agreement, at the option of the City shall cease and terminate. In the event of such termination, the entire unpaid portion of the payment schedule as set forth in this Agreement shall thereupon immediately become due and payable.

40. STORAGE. City assumes no responsibility whatsoever for any property placed in or on said Amphitheatre, and said City is hereby expressly released and discharged from any and all liabilities for any loss, injury or damages to person or property that may be sustained by reason of the occupancy of said Amphitheatre under this Agreement.

41. THIRD PARTY AGREEMENTS. City shall not be responsible in any way for any third-party agreements entered into by LMMI for supplies, services or any other items, whether in writing or verbal. LMMI shall be solely responsible for all such agreements and any payments due thereon.

42. INDEPENDENT CONTRACTOR. LMMI, in the performance of its functions, duties, and obligations herein, shall at all times be and act as an independent contractor. Nothing in this Agreement shall be construed as creating a partnership or joint venture between the parties hereto, or as constituting LMMI as an agent or employee of City in any manner whatsoever, nor shall any part of this Agreement be construed as giving LMMI any authority whatsoever to bind City in any manner whatsoever. LMMI hereby agrees and covenants that City shall not be liable for any salaries or sums of money due employees of LMMI nor for any expense incurred by LMMI, nor for any debt contracted by LMMI.

43. NON-DISCRIMINATION. LMMI agrees that in conducting its operation hereunder it will not discriminate against any employee, applicant for employment, customer or patron due to age, sex, race, color, handicap, sexual orientation, religion or national origin.

44. AMERICANS WITH DISABILITIES ACT. LMMI agrees that it will comply with all applicable requirements of the Americans with Disabilities Act of 1990, 42 U.S.C. S 12101, et. seq.

45. FIRE HAZARDS. LMMI shall not bring or permit anyone to bring into said building or surrounding premises or keep therein anything that generates any hazardous materials or wastes, or causes a fire hazard.

46. HAZARDOUS MATERIALS. If LMMI uses, stores, or generates any hazardous materials or wastes, LMMI will obey all Federal, State, and Local laws governing such materials. In the event that hazardous materials are discharged on City property, LMMI will be responsible for all costs and activities related to proper clean-up, and will provide the Director with proper documentation evidencing that a complete clean-up has occurred. LMMI shall be responsible for all liabilities related to the use, storage, disposal, and clean-up of all hazardous materials at the Amphitheatre.

47. ATTORNEY'S FEES. If any party to this Agreement should commence legal proceedings to enforce the terms and conditions of this Agreement, the prevailing party will be entitled to reimbursement of all such legal fees and cost incurred, including the legal fees and costs incurred in any appellate proceeding.

48. EXTENT OF AGREEMENT. This Agreement represents the entire and integrated Agreement between the parties hereto and supersedes all prior negotiations, representations or agreements either written or oral, and this Agreement may be amended only by written instrument signed by both parties.

49. PROHIBITION AGAINST NUISANCE OR UNLAWFUL USE. LMMI shall not create or allow any nuisance to exist on the PREMISES, or use or allow the Amphitheatre to be used for any unlawful purpose.

50. CONSENTS. City and LMMI agree that whenever in this Agreement their consent is required to be obtained such consent will not be unreasonably withheld or delayed.

51. LEGAL CONSTRUCTION. If any clause or provision of this Agreement is illegal, invalid or unenforceable under present or future laws effective during the term of this Agreement, or any extension thereof, then it is the intention of the parties hereto that the remainder of this Agreement shall not be affected thereby, and it is also the intention of the parties to this Agreement that in lieu of each clause or provision of this Agreement that is illegal, invalid or enforceable, there be added as a part of this Agreement a clause or provision as similar in terms to such illegal, invalid or unenforceable clause or provision as may be possible and be legal, valid or enforceable.

52. PARTIES BOUND. Each and every provision of this Agreement shall bind and shall inure to the benefit of the parties to the Agreement and their legal representatives.

53. NOTICES. Any notice required hereunder shall be in writing and shall be deemed received by the party to be notified whenever a letter containing such notice is deposited with the United States Postal Service, certified mail, return receipt requested, with proper postage affixed thereto and addressed to the party to be notified in the following manner:

CITY:

Director – Lubbock Civic Center
1501 Mac Davis Lane
Lubbock, Texas 79401
(806) 775-2236

LMMI:

Frank Rendon
Director of Ops
P.O. Box 93522
Lubbock, Texas 79493
(214) 454-2089
Frank@moonlightmusicals.com

Dimitri Pappas
President – LMMI
3707 67th St
Lubbock, TX 79413
(806) 392-2024
DPappas@mac.com

54. CAPTIONS. The captions contained in this Agreement are for convenience of reference only, and shall in no way limit or enlarge the terms and conditions of this Agreement.

55. EXHIBITS AND ATTACHMENTS. All exhibits referred to in this Agreement are incorporated into this Agreement and made a part hereof for all intents and purposes.

56. CHOICE OF LAW. The laws of the State of Texas shall govern the formation, operation, construction, and enforcement of this Agreement.

57. AUTHORITY TO BIND. City represents and warrants that this Agreement has been approved by the City Council of Lubbock, Texas and constitutes a legal, valid, and binding obligation of the City. It is understood and acknowledged by City and LMMI that any extensions of this Agreement as provided for above, are subject to the approval of the City Council of Lubbock, Texas. LMMI represents and warrants to the City that the individual executing this Agreement has the full lawful right, power, and authority to execute this document on behalf of LMMI and that this Agreement constitutes a legal, valid, and binding obligation of LMMI.

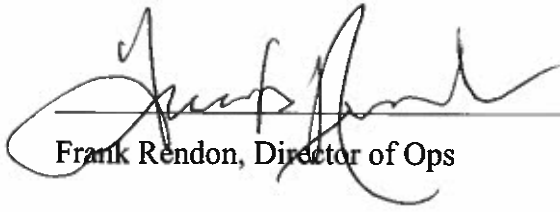
58. NON-ARBITRATION. City reserves the right to exercise any right or remedy available to it by law, contract, equity, or otherwise, including without limitation, the right to seek any and all forms of relief in a court of competent jurisdiction. Further, the City shall not be subject to any arbitration 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.

IN WITNESS WHEREOF, we have hereunto set our hands as date first above written.

City of Lubbock:

Lubbock Moonlight Musicals, Inc.:

Daniel M. Pope, Mayor



Frank Rendon, Director of Ops

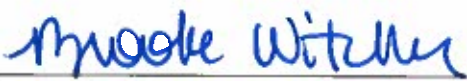


Dimitri Pappas, President

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



Brooke Witcher, Assistant City Manager

APPROVED AS TO FORM:



Ryan Brooke, Assistant City Attorney

Information

Agenda Item

Resolutions - Fleet Services: Consider two resolutions authorizing the Mayor to execute Purchase Order 31064089, with DACO Fire Safety Equipment, for the purchase of one Rosenbauer 101-foot Platform, Custom Cab, and Purchase Order 31064092, with DACO Fire Safety Equipment, for two Rosenbauer 1250 GPM Custom Pumper Trucks.

Item Summary

This purchase order is for 3 apparatus to be utilized in Lubbock Fire Rescue. One unit is a Rosenbauer 101-foot Platform Ladder Truck, including equipment which will replace a 2008 E1-95' platform. The other two units are Rosenbauer 1250 GPM Custom Pumpers, that include equipment as well. These will replace two 2008 E-1 Pumpers.

The two pumpers will be used for fire suppression, medical response, and other emergency response activities. The ladder truck will be used for elevated fire suppression, elevated rescue, vehicle extrication, and other emergency response activities.

The purchase valued at \$3,073,528 will be acquired from DACO Fire Safety Equipment of Lubbock, Texas through the Houston-Galveston Area Council (H-GAC) contract FS12-17, product code FS19YC04. The H-GAC is a regional planning commission created under Acts of the 59th Legislature, Regular Session, 1965, recodified as a Texas Local Government Code, Chapter 391. The H-GAC program was established through the Texas Inter- Local Cooperation Act allowing governments and qualifying governments and qualifying non-profit entities to use the Act to obtain commonly needed products and services. The H-GAC purchases conform to the requirements of Texas competitive bid statutes.

Fiscal Impact

The total cost of \$3,073,528 is funded in Capital Project 92722, General Fund Vehicle Replacement FY 21-22 American Rescue Plan Act (ARPA). The total cost of 1 Rosenbauer 101-foot Platform Custom Cab is \$1,394,490, and \$839,519 each for the Rosenbauer 1250 GPM Custom Pumpers.

Staff/Board Recommending

Erik Rejino, Assistant City Manager
Dominic Esperat, Interim Director of Fleet Operations

Attachments

Resolution - DACO Fire Safety Equipment, Rosenbauer 101-Ft Platform
PO 31064089 - Daco 101-ft. Platform Custom Cab
Resolution - PO 31064092 DACO, Rosenbauer 1250 GMP Custom Pumper

PO 31064092 - DACO Rosenbauer 1250 GPM Custom Pumpers

PO 31064089 - Proposal Documents

PO 31064092 - Proposal Documents

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, Purchase Order No. 31064089 in accordance with HGAC Contract FS12-19 for the purchase of a Rosenbauer 101' platform, by and between the City of Lubbock and Daco Fire Safety Equipment of Lubbock, Texas 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:



Erik Rejino, Assistant City Manager

APPROVED AS TO FORM:



Kelli Leisure, Assistant City Attorney




PURCHASE ORDER

Page - 1
Date - 1/19/2022
Order Number 31064089 000 OP
Branch/Plant 3526

TO: DACO FIRE SAFETY EQUIPMENT
PO BOX 5006
201 AVE R
LUBBOCK TX 79456

SHIP TO: CITY OF LUBBOCK
FLEET SERVICES
206 MUNICIPAL DRIVE
LUBBOCK TX 79404

INVOICE TO: CITY OF LUBBOCK
ACCOUNTS PAYABLE
P.O. BOX 2000
LUBBOCK, TX 79457

BY: 
Marta Alvarez, Director of Purchasing & Contract Management

Ordered 1/19/2022 Freight .
Requested 4/10/2023 Taken By K MORGAN
Delivery PER N DODSON REQ 58307 HGAC FS12-19/PUR 16366

If you have any questions about this order, please contact Natalie Dodson at (806) 775-2374 or via email at NDodson@mylubbock.us

| Description/Supplier Item | Ordered | Unit Cost | UM | Extension | Request Date |
|----------------------------|-------------|----------------|----|--------------|--------------|
| Rosenbauer 101 Ft Platform | 1.000 | 1,394,490.0000 | EA | 1,394,490.00 | 4/10/2023 |
| Total Order | | | | | |
| Terms | NET 30 DAYS | | | 1,394,490.00 | |

This purchase order encumbers funds in the amount of \$1,394,490.00 awarded to Daco Fire Safety Equipment of Lubbock, TX on _____, 2022. The following is incorporated into and made part of this purchase order by reference: Quote dated January 12, 2022, from Daco Fire Safety Equipment of Lubbock, TX, and HGAC Contract FS12-19.
Resolution # _____

CITY OF LUBBOCK

ATTEST:

Daniel M. Pope, Mayor

Rebecca Garza, City Secretary

Seller and Buyer agree as follows:

**PURCHASE ORDER
TERMS AND CONDITIONS
IMPORTANT: READ CAREFULLY
STANDARD TERMS AND CONDITIONS
CITY OF LUBBOCK, TX**

1. **SELLER TO PACKAGE GOODS.** Seller will package goods in accordance with good commercial practice. Each shipping container shall be clearly and permanently marked as follows (a) Seller's name and address, (b) Consignee's name, address and purchase order or purchase release number and the supply agreement number if applicable, (c) Container number and total number of containers, e.g. box 1 of 4 boxes, and (d) the number of the container bearing the packing slip. Seller shall bear cost of packaging unless otherwise provided. Goods shall be suitably packed to secure lowest transportation costs and to conform with requirements of common carriers and any applicable specifications. Buyer's count or weight shall be final and conclusive on shipments not accompanied by packing lists.

2. **SHIPMENT UNDER RESERVATION PROHIBITED.** Seller is not authorized to ship the goods under reservation and no tender of a bill of lading will operate as a tender of goods.

3. **TITLE AND RISK OF LOSS.** The title and risk of loss of the goods shall not pass to Buyer until Buyer actually receives and takes possession of the goods at the point or points of delivery.

4. **NO REPLACEMENT OF DEFECTIVE TENDER.** Every tender of delivery of goods must fully comply with all provisions of this contract as to time of delivery, quality and the like. If a tender is made which does not fully conform, this shall constitute a breach and Seller shall not have the right to substitute a conforming tender, provided, where the time for performance has not yet expired, the Seller may reasonably notify Buyer of his intention to cure and may then make a conforming tender within the contract time but not afterward.

5. **INVOICES & PAYMENTS.** a. Seller shall submit separate invoices, in duplicate, one each purchase order or purchase release after each delivery. Invoices shall indicate the purchase order or purchase release number and the supply agreement number if applicable. Invoices shall be itemized and transportation charges, if any, shall be listed separately. A copy of the bill of lading, and the freight waybill when applicable, should be attached to the invoice. Mail To: Accounts Payable, City of Lubbock, P. O. Box 2000, Lubbock, Texas 79457. Payment shall not be due until the above instruments are submitted after delivery.

6. **GRATUITIES.** The Buyer may, by written notice to the Seller, cancel this contract without liability to Seller if it is determined by Buyer that gratuities, in the form of entertainment, gifts or otherwise, were offered or given by the Seller, or any agent or representative of the Seller, to any officer or employee of the City of Lubbock with a view to securing a contract or securing favorable treatment with respect to the awarding or amending, or the making of any determinations with respect to the performing of such a contract. In the event this contract is canceled by Buyer pursuant to this provision, Buyer shall be entitled, in addition to any other rights and remedies, to recover or withhold the amount of the cost incurred by Seller in providing such gratuities.

7. **SPECIAL TOOLS & TEST EQUIPMENT.** If the price stated on the face hereof includes the cost of any special tooling or special test equipment fabricated or required by Seller for the purpose of filling this order, such special tooling equipment and any process sheets related thereto shall become the property of the Buyer and to the extent feasible shall be identified by the Seller as such.

8. **WARRANTY-PRICE.** a. The price to be paid by the Buyer shall be that contained in Seller's bid which Seller warrants to be no higher than Seller's current process on orders by others for products of the kind and specification covered by this agreement for similar quantities under similar of like conditions and methods of purchase. In the event Seller breaches this warranty, the prices of the items shall be reduced to the Seller's current prices on orders by others, or in the alternative. Buyer may cancel this contract without liability to Seller for breach or Seller's actual expense. b. The Seller warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for commission, percentage, brokerage, or contingent fee excepting bona fide employees of bona fide established commercial or selling agencies maintained by the Seller for the purpose of securing business. For breach of violation of this warranty the Buyer shall have the right in addition to any other right of rights to cancel this contract without liability and to deduct from the contract price, or otherwise recover without liability and to deduct from the contract price, or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee.

9. **WARRANTY-PRODUCT.** Seller shall not limit or exclude any implied warranties and any attempt to do so shall render this contract voidable at the option of the Buyer. Seller warrants that the goods furnished will conform to the specification, drawings, and descriptions listed in the bid invitation, and to the sample(s) furnished by the Seller, if any. In the event of a conflict or between the specifications, drawings, and descriptions, the specifications shall govern. Notwithstanding any provisions contained in the contractual agreement, the Seller represents and warrants fault-free performance and fault-free result in the processing date and date related data (including, but not limited to calculating, comparing and sequencing) of all hardware, software and firmware products delivered and services provided under this Contract, individually or in combination, as the case may be from the effective date of this Contract. The obligations contained herein apply to products and services provided by the Seller, its sub- Seller or any third party involved in the creation or development of the products and services to be delivered to the City of Lubbock under this Contract. Failure to comply with any of the obligations contained herein, may result in the City of Lubbock availing itself of any of its rights under the law and under this Contract including, but not limited to, its right pertaining to termination or default. The warranties contained herein are separate and discrete from any other warranties specified in this Contract, and are not subject to any disclaimer of warranty, implied or expressed, or limitation of the Seller's liability which may be specified in this Contract, its appendices, its schedules, its annexes or any document incorporated in this Contract by reference.

10. **SAFETY WARRANTY.** Seller warrants that the product sold to the Buyer shall conform to the standards promulgated by the U. S. Department of Labor under the Occupational Safety and Health Act of 1970. In the event the product does not conform to OSHA standards, Buyer may return the product for correction or replacement at the Seller's expense. In the event Seller fails to make the appropriate correction within a reasonable time, correction made by Buyer will be at the Seller's expense.

11. **NO WARRANTY BY BUYER AGAINST INFRINGEMENTS.** As part of this contract for sale Seller agrees to ascertain whether goods manufactured in accordance with the specifications attached to this agreement will give rise to the rightful claim of any third person by way of infringement of the like. Buyer makes no warranty that the production of goods according to the specification will not give rise to such a claim, and in no event shall Buyer be liable to Seller for indemnification in the event that Seller is sued on the grounds of infringement of the like. If Seller is of the opinion that an infringement or the like will result, he will notify the Buyer to this effect in writing within two weeks after the signing of this agreement. If Buyer does not receive notice and is subsequently held liable for the infringement or the like, Seller will save Buyer harmless. If Seller in good faith ascertains the production of the goods in accordance with the specifications will result in infringement or the like, the contract shall be null and void.

12. **NON APPROPRIATION.** All funds for payment by the City under this contract are subject to the availability of an annual appropriation for this purpose by the City. In the event of nonappropriation of funds by the City Council of the City of Lubbock for the goods or services provided under the contract, the City will terminate the contract, 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 goods or services covered by this contract is spent, whichever event occurs first. If at any time funds are not appropriated for the continuance of this contract, cancellation shall be accepted by the Seller 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 contract beyond the date of termination.

13. **RIGHT OF INSPECTION.** Buyer shall have the right to inspect the goods at delivery before accepting them.

14. **CANCELLATION.** Buyer shall have the right to cancel for default all or any part of the undelivered portion of this order if Seller breaches any of the terms hereof including warranties of Seller or if the Seller becomes insolvent or commits acts of bankruptcy. Such right of cancellation is in addition to and not in lieu of any other remedies which Buyer may have in law or equity.

15. **TERMINATION.** The performance of work under this order may be terminated in whole, or in part by the Buyer in accordance with this provision. Termination of work hereunder shall be effected by the delivery of the Seller of a "Notice of Termination" specifying the extent to which performance of work under the order is terminated and the date upon which such termination becomes effective. Such right or termination is in addition to and not in lieu of the rights of Buyer set forth in Clause 14, herein.

16. **FORCE MAJEURE.** Neither party shall be held responsible for losses, resulting if the fulfillment of any terms of provisions of this contract is delayed or prevented by any cause not within the control of the party whose performance is interfered with, and which by the exercise of reasonable diligence said party is unable to prevent.

17. **ASSIGNMENT-DELEGATION.** No right or interest in this contract shall be assigned or delegation of any obligation made by Seller without the written permission of the Buyer. Any attempted assignment or delegation by Seller shall be wholly void and totally ineffective for all purpose unless made in conformity with this paragraph.

18. **WAIVER.** No claim or right arising out of a breach of this contract can be discharged in whole or in part by a waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is in writing signed by the aggrieved party.

19. **INTERPRETATION-PAROLE EVIDENCE.** This writing, plus any specifications for bids and performance provided by Buyer in its advertisement for bids, and any other documents provided by Seller as part of his bid, is intended by the parties as a final expression of their agreement and intended also as a complete and exclusive statement of the terms of their agreement. Whenever a term defined by the Uniform Commercial Code is used in this agreement, the definition contained in the Code is to control.

20. **APPLICABLE LAW.** This agreement shall be governed by the Uniform Commercial Code. Wherever the term "Uniform Commercial Code" is used, it shall be construed as meaning the Uniform Commercial Code as adopted in the State of Texas as effective and in force on the date of this agreement.

21. **RIGHT TO ASSURANCE.** Whenever one party to this contract in good faith has reason to question the other party's intent to perform he may demand that the other party give written assurance of his intent to perform. In the event that a demand is made and no assurance is given within five (5) days, the demanding party may treat this failure as an anticipatory repudiation of the contract.

22. **INDEMNIFICATION.** Seller shall indemnify, keep and save harmless the Buyer, its agents, officials and employees, against all injuries, deaths, loss, damages, claims, patent claims, suits, liabilities, judgments, costs and expenses, which may in anywise accrue against the Buyer in consequence of the granting of this Contract or which may anywise result therefrom, whether or not it shall be alleged or determined that the act was caused through negligence or omission of the Seller or its employees, or of the sub-Seller or assignee or its employees, if any, and the Seller shall, at his own expense, appear, defend and pay all charges of attorneys and all costs and other expenses arising therefrom of incurred in connection therewith, and, if any judgment shall be rendered against the Buyer in any such action, the Seller shall, at its own expenses, satisfy and discharge the same Seller expressly understands and agrees that any bond required by this contract, or otherwise provided by Seller, shall in no way limit the responsibility to indemnify, keep and save harmless and defend the Buyer as herein provided.

23. **TIME.** It is hereby expressly agreed and understood that time is of the essence for the performance of this contract, and failure by contract to meet the time specifications of this agreement will cause Seller to be in default of this agreement.

24. **MBE.** The City of Lubbock hereby notifies all bidders that in regard to any contract entered into pursuant to this request, minority and women business enterprises will be afforded equal opportunities to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, sex or natural origin in consideration for an award.

25. **NON-ARBITRATION.** 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.

26. **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.

27. **ASSIGNING OR SUBLETTING THE CONTRACT.** The Contractor shall not assign or sublet the contract, or any portion of the contract, without written consent from the Director of Purchasing and Contract Management. Should consent be given, the Contractor shall insure the Subcontractor or shall provide proof of insurance from the Subcontractor that complies with all contract Insurance requirements.

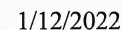
29. **HOUSE BILL 1295 DISCLOSURE OF INTERESTED PARTIES.** House Bill 1295, adopted by the 84th Legislature, created §2252.908, Texas Government Code. Section 2252.908 requires a business entity entering into certain contracts with a governmental entity or state agency to file with the governmental entity or state agency a disclosure of interested parties at the time the business entity submits the signed contract to the governmental entity or state agency. Instructions for completing Form 1295 are available at: <http://www.ci.lubbock.tx.us/departamental-websites/departments/purchasing/vendor-information>

30. **CONTRACTOR ACKNOWLEDGES,** by supplying any Goods or Services that the Contractor has read, fully understands, and will be in full compliance with all terms and conditions and the descriptive material contained herein and any additional associated documents and Amendments. The City disclaims any terms and conditions provided by the Contractor unless agreed upon in writing by the parties. In the event of conflict between these terms and conditions and any terms and conditions provided by the Contractor, the terms and conditions provided herein shall prevail. The terms and conditions provided herein are the final terms agreed upon by the parties, and any prior conflicting terms shall be of no force or effect.

31. **TEXAS GOVERNMENT CODE, CHAPTER 2252.** The undersigned representative of the undersigned company or business, being an adult over the age of eighteen (18) years of age, pursuant to Texas Government Code, Chapter 2252, Section 2252.152, certify that the company named above is not listed on the website of the Comptroller of the State of Texas concerning the listing of companies that are identified under Section 806.051, Section 807.051 or Section 2253.153. I further certify that should the above-named company enter into a contract that is on said listing of companies on the website of the Comptroller of the State of Texas, which do business with Iran, Sudan or any Foreign Terrorist Organization, I will immediately notify the City of Lubbock Purchasing and Contract Department.

32. **TEXAS GOVERNMENT CODE, CHAPTER 2270** 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.

33. **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, Pursuant to Section 552.301(c) of the Texas Government Code, the City of Lubbock has designated the following email address for which public information requests may be made by an emailed request. Please send this request to this email address for it to be processed: ortr@mvlubbock.us.



1394490

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. 31064092 in accordance with HGAC Contract FS12-19 for the purchase of two Rosenbauer 1250 GMP custom pumper, by and between the City of Lubbock and Daco Fire Safety Equipment of Lubbock, Texas 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:



Erik Rejino, Assistant City Manager

APPROVED AS TO FORM:



Kelli Leisure, Assistant City Attorney



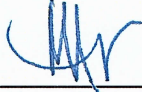
PURCHASE ORDER

Page - 1
Date - 1/19/2022
Order Number 31064092 000 OP
Branch/Plant 3526

TO: DACO FIRE SAFETY EQUIPMENT
PO BOX 5006
201 AVE R
LUBBOCK TX 79456

SHIP TO: CITY OF LUBBOCK
FLEET SERVICES
206 MUNICIPAL DRIVE
LUBBOCK TX 79404

INVOICE TO: CITY OF LUBBOCK
ACCOUNTS PAYABLE
P.O. BOX 2000
LUBBOCK, TX 79457

BY: 
Marta Alvarez, Director of Purchasing & Contract Management

Ordered 1/19/2022 Freight
Requested 2/14/2023 Taken By K MORGAN
Delivery PER N DODSON REQ 58359 HGAC FS12-19/PUR 16366

*If you have any questions about this order, please contact Natalie Dodson at (806) 775-2374 or via email at
NDodson@mylubbock.us*

| Description/Supplier Item | Ordered | Unit Cost | UM | Extension | Request Date |
|--------------------------------|---------|--------------|----|--------------|--------------|
| Rosenbauer 1250 GPM Custom Pum | 2.000 | 839,519.0000 | EA | 1,679,038.00 | 2/14/2023 |

INV

Total Order

Terms NET 30 DAYS

1,679,038.00

This purchase order encumbers funds in the amount of \$1,679,038.00 awarded to Daco Fire Safety Equipment of Lubbock, TX on _____, 2022. The following is incorporated into and made part of this purchase order by reference: Quote dated January 12, 2022, from Daco Fire Safety Equipment of Lubbock, TX, and HGAC Contract FS12-19.

Resolution # _____

CITY OF LUBBOCK

ATTEST:

Daniel M. Pope, Mayor

Rebecca Garza, City Secretary

**PURCHASE ORDER
TERMS AND CONDITIONS
IMPORTANT: READ CAREFULLY
STANDARD TERMS AND CONDITIONS
CITY OF LUBBOCK, TX**

Seller and Buyer agree as follows:

1. **SELLER TO PACKAGE GOODS.** Seller will package goods in accordance with good commercial practice. Each shipping container shall be clearly and permanently marked as follows (a) Seller's name and address, (b) Consignee's name, address and purchase order or purchase release number and the supply agreement number if applicable, (c) Container number and total number of containers, e.g. box 1 of 4 boxes, and (d) the number of the container bearing the packing slip. Seller shall bear cost of packaging unless otherwise provided. Goods shall be suitably packed to secure lowest transportation costs and to conform with requirements of common carriers and any applicable specifications. Buyer's count or weight shall be final and conclusive on shipments not accompanied by packing lists.
2. **SHIPMENT UNDER RESERVATION PROHIBITED.** Seller is not authorized to ship the goods under reservation and no tender of a bill of lading will operate as a tender of goods.
3. **TITLE AND RISK OF LOSS.** The title and risk of loss of the goods shall not pass to Buyer until Buyer actually receives and takes possession of the goods at the point or points of delivery.
4. **NO REPLACEMENT OF DEFECTIVE TENDER.** Every tender of delivery of goods must fully comply with all provisions of this contract as to time of delivery, quality and the like. If a tender is made which does not fully conform, this shall constitute a breach and Seller shall not have the right to substitute a conforming tender, provided, where the time for performance has not yet expired, the Seller may reasonably notify Buyer of his intention to cure and may then make a conforming tender within the contract time but not afterward.
5. **INVOICES & PAYMENTS.** a. Seller shall submit separate invoices, in duplicate, one each purchase order or purchase release after each delivery. Invoices shall indicate the purchase order or purchase release number and the supply agreement number if applicable. Invoices shall be itemized and transportation charges, if any, shall be listed separately. A copy of the bill of lading, and the freight waybill when applicable, should be attached to the invoice. Mail To: Accounts Payable, City of Lubbock, P. O. Box 2000, Lubbock, Texas 79457. Payment shall not be due until the above instruments are submitted after delivery.
6. **GRATUITIES.** The Buyer may, by written notice to the Seller, cancel this contract without liability to Seller if it is determined by Buyer that gratuities, in the form of entertainment, gifts or otherwise, were offered or given by the Seller, or any agent or representative of the Seller, to any officer or employee of the City of Lubbock with a view to securing a contract or securing favorable treatment with respect to the awarding or amending, or the making of any determinations with respect to the performing of such a contract. In the event this contract is canceled by Buyer pursuant to this provision, Buyer shall be entitled, in addition to any other rights and remedies, to recover or withhold the amount of the cost incurred by Seller in providing such gratuities.
7. **SPECIAL TOOLS & TEST EQUIPMENT.** If the price stated on the face hereof includes the cost of any special tooling or special test equipment fabricated or required by Seller for the purpose of filling this order, such special tooling equipment and any process sheets related thereto shall become the property of the Buyer and to the extent feasible shall be identified by the Seller as such.
8. **WARRANTY-PRICE.** a. The price to be paid by the Buyer shall be that contained in Seller's bid which Seller warrants to be no higher than Seller's current process on orders by others for products of the kind and specification covered by this agreement for similar quantities under similar of like conditions and methods of purchase. In the event Seller breaches this warranty, the prices of the items shall be reduced to the Seller's current prices on orders by others, or in the alternative, Buyer may cancel this contract without liability to Seller for breach or Seller's actual expense. b. The Seller warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for commission, percentage, brokerage, or contingent fee excepting bona fide employees of bona fide established commercial or selling agencies maintained by the Seller for the purpose of securing business. For breach of violation of this warranty the Buyer shall have the right in addition to any other right of rights to cancel this contract without liability and to deduct from the contract price, or otherwise recover without liability and to deduct from the contract price, or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee.
9. **WARRANTY-PRODUCT.** Seller shall not limit or exclude any implied warranties and any attempt to do so shall render this contract voidable at the option of the Buyer. Seller warrants that the goods furnished will conform to the specification, drawings, and descriptions listed in the bid invitation, and to the sample(s) furnished by the Seller, if any. In the event of a conflict or between the specifications, drawings, and descriptions, the specifications shall govern. Notwithstanding any provisions contained in the contractual agreement, the Seller represents and warrants fault-free performance and fault-free result in the processing date and date related data (including, but not limited to calculating, comparing and sequencing) of all hardware, software and firmware products delivered and services provided under this Contract, individually or in combination, as the case may be from the effective date of this Contract. The obligations contained herein apply to products and services provided by the Seller, its sub-Seller or any third party involved in the creation or development of the products and services to be delivered to the City of Lubbock under this Contract. Failure to comply with any of the obligations contained herein, may result in the City of Lubbock availing itself of any of its rights under the law and under this Contract including, but not limited to, its right pertaining to termination or default. The warranties contained herein are separate and discrete from any other warranties specified in this Contract, and are not subject to any disclaimer of warranty, implied or expressed, or limitation of the Seller's liability which may be specified in this Contract, its appendices, its schedules, its annexes or any document incorporated in this Contract by reference.
10. **SAFETY WARRANTY.** Seller warrants that the product sold to the Buyer shall conform to the standards promulgated by the U. S. Department of Labor under the Occupational Safety and Health Act of 1970. In the event the product does not conform to OSHA standards, Buyer may return the product for correction or replacement at the Seller's expense. In the event Seller fails to make the appropriate correction within a reasonable time, correction made by Buyer will be at the Seller's expense.
11. **NO WARRANTY BY BUYER AGAINST INFRINGEMENTS.** As part of this contract for sale Seller agrees to ascertain whether goods manufactured in accordance with the specifications attached to this agreement will give rise to the rightful claim of any third person by way of infringement of the like. Buyer makes no warranty that the production of goods according to the specification will not give rise to such a claim, and in no event shall Buyer be liable to Seller for indemnification in the event that Seller is sued on the grounds of infringement of the like. If Seller is of the opinion that an infringement or the like will result, he will notify the Buyer to this effect in writing within two weeks after the signing of this agreement. If Buyer does not receive notice and is subsequently held liable for the infringement or the like, Seller will save Buyer harmless. If Seller in good faith ascertains the production of the goods in accordance with the specifications will result in infringement or the like, the contract shall be null and void.
12. **NON APPROPRIATION.** All funds for payment by the City under this contract are subject to the availability of an annual appropriation for this purpose by the City. In the event of nonappropriation of funds by the City Council of the City of Lubbock for the goods or services provided under the contract, the City will terminate the contract, 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 goods or services covered by this contract is spent, whichever event occurs first. If at any time funds are not appropriated for the continuance of this contract, cancellation shall be accepted by the Seller 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 contract beyond the date of termination.
13. **RIGHT OF INSPECTION.** Buyer shall have the right to inspect the goods at delivery before accepting them.
14. **CANCELLATION.** Buyer shall have the right to cancel for default all or any part of the undelivered portion of this order if Seller breaches any of the terms hereof including warranties of Seller or if the Seller becomes insolvent or commits acts of bankruptcy. Such right of cancellation is in addition to and not in lieu of any other remedies which Buyer may have in law or equity.
15. **TERMINATION.** The performance of work under this order may be terminated in whole, or in part by the Buyer in accordance with this provision. Termination of work hereunder shall be effected by the delivery of the Seller of a "Notice of Termination" specifying the extent to which performance of work under the order is terminated and the date upon which such termination becomes effective. Such right or termination is in addition to and not in lieu of the rights of Buyer set forth in Clause 14, herein.
16. **FORCE MAJEURE.** Neither party shall be held responsible for losses, resulting if the fulfillment of any terms of provisions of this contract is delayed or prevented by any cause not within the control of the party whose performance is interfered with, and which by the exercise of reasonable diligence said party is unable to prevent.
17. **ASSIGNMENT-DELEGATION.** No right or interest in this contract shall be assigned or delegation of any obligation made by Seller without the written permission of the Buyer. Any attempted assignment or delegation by Seller shall be wholly void and totally ineffective for all purpose unless made in conformity with this paragraph.
18. **WAIVER.** No claim or right arising out of a breach of this contract can be discharged in whole or in part by a waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is in writing signed by the aggrieved party.
19. **INTERPRETATION-PAROLE EVIDENCE.** This writing, plus any specifications for bids and performance provided by Buyer in its advertisement for bids, and any other documents provided by Seller as part of his bid, is intended by the parties as a final expression of their agreement and intended also as a complete and exclusive statement of the terms of their agreement. Whenever a term defined by the Uniform Commercial Code is used in this agreement, the definition contained in the Code is to control.
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31. **TEXAS GOVERNMENT CODE, CHAPTER 2252.** The undersigned representative of the undersigned company or business, being an adult over the age of eighteen (18) years of age, pursuant to Texas Government Code, Chapter 2252, Section 2252.152, certify that the company named above is not listed on the website of the Comptroller of the State of Texas concerning the listing of companies that are identified under Section 806.051, Section 807.051 or Section 2253.153. I further certify that should the above-named company enter into a contract that is on said listing of companies on the website of the Comptroller of the State of Texas, which do business with Iran, Sudan or any Foreign Terrorist Organization, I will immediately notify the City of Lubbock Purchasing and Contract Department.
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Rosenbauer Fire Apparatus Proposal



LUBBOCK FIRE RESCUE

101' REAR MOUNT PLATFORM



LOCATIONS

201 AVENUE R – LUBBOCK, TX 79415
6000 HUDDLESTON ST. – FORT WORTH, TX 76137

ROSENBAUER FIRE APPARATUS PROPOSAL

DATE: January 1,2022

This proposal has been prepared for:

LUBBOCK FIRE RESCUE

LUBBOCK, TEXAS 794035

We hereby propose to furnish to you, subject to proper execution of the attached agreement by you and by a representative of this Company in Lubbock, Texas the following Rosenbauer built in accordance with the attached specifications:

MODEL AND DESCRIPTION

- ONE (1) ROSENBAUER 101 FT PLATFORM, CUSTOM CAB
- EXT SERIES BODY WITH ROBINSON ROLLUP DOORS
 - WHELEN LED WARNING LIGHT PACKAGE
 - COMMANDER CAB CHASSIS WITH ALUMINUM WHEELS
 - SEATING FOR FIVE (5)
 - 505 HP CUMMINS ISX15 ENGINE WITH ALLISON AUTOMATIC TRANSMISSION

| | | |
|---------------------------------|----|--------------|
| BID PRICE, EA. | \$ | 1,462,224.00 |
| PRE-PAY SAVINGS, CHASSIS | \$ | (14,432.00) |
| PRE-PAY AERIAL | \$ | (6,414.00) |
| MULTI TRUCK ORDER DISCOUNT, EA. | \$ | (46,888.00) |
| ADJUSTED PRICE, EA | \$ | 1,394,490.00 |
| TOTAL FOR 1 AERIAL | \$ | 1,394,490.00 |

DELIVERY –

Delivery will be made approximately 425 calendar days after order date.

Terms of payment are **NET ON DELIVERY**, unless otherwise stated.

This proposal shall expire unless accepted within 30 days after the date first set above. This expiration date may be extended, in writing, at the discretion of the Company.

DACO FIRE EQUIPMENT, INC.

By: Mike Henricks



Rosenbauer Fire Apparatus Proposal



LUBBOCK FIRE RESCUE

1250 GPM TOP MOUNT

CUSTOM 4 DOOR CHASSIS



LOCATIONS

201 AVENUE R – LUBBOCK, TX 79415
6000 HUDDLESTON ST. – FORT WORTH, TX 76137

ROSENBAUER FIRE APPARATUS PROPOSAL

DATE: January 1, 2022

This proposal has been prepared for:

LUBBOCK FIRE RESCUE

LUBBOCK, TX.

We hereby propose to furnish to you, subject to proper execution of the attached agreement by you and by a representative of this Company in Lubbock, Texas the following Rosenbauer built in accordance with the attached specifications:

MODEL AND DESCRIPTION

ONE (1) ROSENBAUER 1250 GPM CUSTOM PUMPER

- COMMANDER 4 DOOR CAB & CHASSIS
- SEATING FOR FIVE
- EXT ALUMINUM BODY WITH ROBINSON ROLLUP DOORS
- WHELEN LED WARNING LIGHT PACKAGE
- HALE 1250 GPM PUMP
- 500 GALLON POLY TANK
- 450 HP X12L CUMMINS ENGINE WITH ALLISON AUTOMATIC TRANSMISSION
-

| | |
|---------------------------------|-----------------|
| BID PRICE, Ea. | \$ 895,144.00 |
| PRE-PAY SAVINGS, Ea. | \$ (12,464.00) |
| MULTI TRUCK ORDER DISCOUNT, Ea. | \$ (43,161.00) |
| ADJUSTED PRICE, Ea. | \$ 839,519.00 |
| TOTAL FOR 2 PUMPER | \$ 1,679,038.00 |

DELIVERY –

Delivery will be made approximately 425 calendar days.

Terms of payment are **NET ON DELIVERY**, unless otherwise stated.

This proposal shall expire unless accepted within 30 days after the date first set above. This expiration date may be extended, in writing, at the discretion of the Company.

DACO FIRE EQUIPMENT, INC.

By: Mike Henricks

City of Lubbock, TX
Capital Project
January 25, 2022

| | |
|-------------------------|--|
| Capital Project Number: | 92722 |
| Capital Project Name: | General Fund Vehicle Replacement FY 21-22 - ARPA |

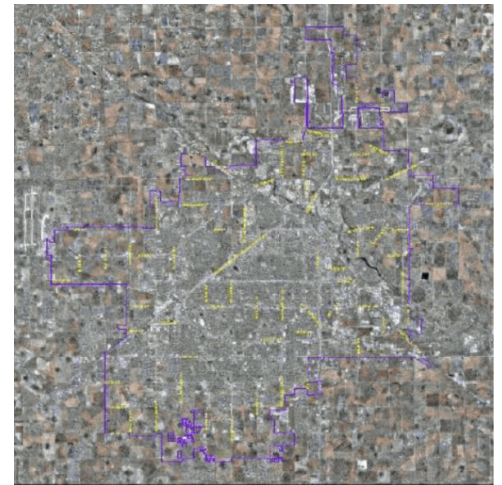
| | Budget |
|---|---------------|
| <i>Encumbered/Expended</i> | |
| 6 Units 2022 Ford Explorer (5 - 5731, 1 - 5713) | \$ 203,669 |
| 41 Units 2022 Ford Explorer (5735) | 1,573,334 |
| GT Distributors Lighting and Accessories (5735) | 542,659 |
| 41 Units Raptor Radars (5735) | 73,895 |
| 4 Units Half Ton Pick Up (5731) | 113,772 |
| 1 Unit Half Ton SSV Pick Up (5735) | 40,215 |
| 1 Unit Half Ton Pick Up (5719) | 33,392 |

Agenda Item January 25, 2022

| | |
|--|------------------|
| 1 Unit Rosenbauer 101' Platform Ladder (5615) | 1,394,490 |
| 2 Unit Rosenbauer 1250 GPM Custom Pumpers (5615) | 1,679,038 |
| <i>Encumbered/Expended To Date</i> | 5,654,464 |

Estimated Costs for Remaining Appropriation

| | |
|---------------------------------------|-------------------------|
| Vehicles and Equipment | 273,536 |
| <i>Remaining Appropriation</i> | 273,536 |
| Total Appropriation | \$ 5,928,000 |

Managing Department **Fleet Maintenance***Project Manager* **Billy Taylor***Project Classification* **Replacement Equipment/Fleet***Project Status* **Approved***Project Scope*

This project is for the annual vehicle replacement for the General Fund.

5615 Lubbock Fire Rescue

- (1) E1- 95' Platform (replacing 82008178) - \$1,400,000
- (2) E-1 Pumper (replacing 82008175 and 82008176) - \$1,680,000

5713 Police Training

- (1) Mid-size SUV (replacing 12009308) - \$35,000

5719 Police Special Operations

- (1) 1/2 ton, extended cab, 4x4 PU (replacing 12013061) - \$32,000

5731 Police Investigations

- (3) 1/2 ton, extended cab PU (replacing 12011117, 12006129 and 12006130) - \$96,000
- (5) Mid-size SUV (replacing 12008018, 12008067, 12009009, 12010077, and 12010088) - \$175,000

5735 Police Patrol

- (41) Patrol SUV (replacing 12008055, 12009033, 12009046, 12009056, 12009058, 12009063, 12009079, 12009087, 12009101, 12009106, 12009122, 12009123, 12009141, 12010101, 12010110, 12011045, 12011051, 12011053, 12011054, 12011057, 12011063, 12011067, 12011070, 12011072, 12011078, 12011084, 12011086, 12011089, 12011099, 12011102, 12011103, 12011138, 12012013, 12012017, 12012023, 12012027, 12012034, 12012038, 12012042, 12013016, 12013039, and 12011069) - \$2,460,000
- (1) 1/2 ton, crew cab, 4x4 pickup (replacing 12011138) - \$50,000

Replacement of vehicles and equipment that are at the end of their useful life.

*Project Justification**Project History*

\$5,928,000 was appropriated in the FY 2021-22 Budget, Ord. No. 2021-O0126, October 1, 2021.

| <i>Appropriation Detail</i> | Appropriation to Date | Unappropriated Planning Years | | | | | | Total Project Amount |
|------------------------------------|-----------------------|-------------------------------|------------|------------|------------|------------|------------|----------------------|
| | | FY 2021-22 | FY 2022-23 | FY 2023-24 | FY 2024-25 | FY 2025-26 | FY 2026-27 | |
| Other Activities | 0 | 5,928,000 | 0 | 0 | 0 | 0 | 0 | 5,928,000 |
| Total Project Appropriation | 0 | 5,928,000 | 0 | 0 | 0 | 0 | 0 | 5,928,000 |

| 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 | |
| American Rescue Plan Act Funding | 0 | 5,928,000 | 0 | 0 | 0 | 0 | 0 | 5,928,000 |
| Total Funding Sources | 0 | 5,928,000 | 0 | 0 | 0 | 0 | 0 | 5,928,000 |

| Operating Budget Impact | FY 2021-22 | Unappropriated Planning Years | | | | | Total Impact |
|-------------------------------|------------|-------------------------------|------------|------------|------------|------------|--------------|
| | | 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 |

Information

Agenda Item

Resolution - Fleet Services: Consider a resolution authorizing the Mayor to execute Purchase Order 31064023, with YellowHouse Machinery Co., for the purchase of two John Deere 310SL Backhoe Loaders, for the Water Distribution and Maintenance Department.

Item Summary

This purchase order is for two John Deere 310SL Backhoe Loaders, at a cost of \$115,000 each, which will replace two 2009 Case 580SM Backhoes in the Water Distribution and Maintenance Department. These backhoes will be utilized for pipeline maintenance related to water utilities including making repairs to water and sewer pipelines.

The purchase valued at \$230,000.00 will be acquired from YellowHouse Machinery Co., of Amarillo, Texas, in accordance with Sourcewell Contract 03211-JDC, and will be used in the Water Distribution and Maintenance Department. Sourcewell has a cooperative purchasing program that manages the solicitation requirements and offers an established network of awarded contracts that have been competitively bid. Cooperative purchasing is authorized in Chapter 271 of the Local Government Code and allows a local government to participate in a cooperative purchasing program. Sourcewell purchases conform to the requirements of Texas competitive bid statutes.

Fiscal Impact

Purchase Order 31064023 for \$230,000.00, is funded in Capital Improvement Project 92724, General Fund Vehicle Replacement FY 2021-22.

Staff/Board Recommending

Erik Rejino, Assistant City Manager

Dominic Esperat, Interim Director of Fleet Operations

Attachments

Resolution

Purchase Order

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, Purchase Order No. 31064023 in accordance with Sourcewell Contract 03211-JDC for the purchase of John Deere 310SL backhoe loaders, by and between the City of Lubbock and Yellowhouse Machinery Company of Amarillo, Texas 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:



Erik Rejino, Assistant City Manager

APPROVED AS TO FORM:



Kelli Leisure, Assistant City Attorney



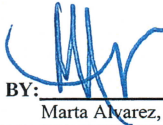
PURCHASE ORDER

Page - 1
Date - 1/13/2022
Order Number 31064023 000 OP
Branch/Plant 3526

TO: YELLOWHOUSE MACHINERY COMPANY
PO BOX 31388
AMARILLO TX 79120

SHIP TO: CITY OF LUBBOCK FLEET
SERVICES
206 MUNICIPAL DRIVE
LUBBOCK TX 79404

INVOICE TO: CITY OF LUBBOCK
ACCOUNTS PAYABLE
P.O. BOX 2000
LUBBOCK, TX 79457

BY: 
Marta Alvarez, Director of Purchasing & Contract Management

Ordered 1/13/2022 Freight
Requested 1/13/2022 Taken By YBUSBY
Delivery PER N DODSON REQ 58338 PUR 16370/SOURCEWELL 03211-JDC

If you have any questions contact Natalie Dodson:ndodson@mylubbock.us Phone 806-775-2374

| Description/Supplier Item | Ordered | Unit Cost | UM | Extension | Request Date |
|---------------------------------|---------|--------------|----|------------|--------------|
| John Deere 310SL Backhoe Loader | 2.000 | 115,000.0000 | EA | 230,000.00 | 3/31/2022 |
| Total Order | | | | 230,000.00 | |
| Terms NET 10 EOM | | | | | |

INSURANCE REQUIRED:

| | |
|---|--|
| Commercial General Liability, per occurrence- \$1,000,000 General Aggregate. To include products of complete operations endorsement Automotive Liability- Combined Single limit for Any Auto - \$1,000,000 | Worker's Compensation Amounts- \$500,000 or Employer's Liability - \$1,000,000. Copies of endorsements are required. |
| City of Lubbock is named as an additional insured on a primary and non-contributory basis with a waiver of subrogation in favor of the City of Lubbock on liability coverages. To include products of completed operations endorsements. Waiver of subrogation provided on the workers' compensation. | |

This purchase order encumbers funds in the amount of \$230,000.00 awarded to Yellowhouse Machinery Company Amarillo, TX, on 2022. The following is incorporated into and made part of this purchase order by reference contract: Sourcewell 03211-JDC from Yellowhouse Machinery Company Amarillo, TX. Resolution#

CITY OF LUBBOCK

ATTEST:

Daniel M. Pope, Mayor

Rebecca Garza, City Secretary

**PURCHASE ORDER
TERMS AND CONDITIONS
IMPORTANT: READ CAREFULLY
STANDARD TERMS AND CONDITIONS
CITY OF LUBBOCK, TX**

Seller and Buyer agree as follows:

1. **SELLER TO PACKAGE GOODS.** Seller will package goods in accordance with good commercial practice. Each shipping container shall be clearly and permanently marked as follows (a) Seller's name and address, (b) Consignee's name, address and purchase order or purchase release number and the supply agreement number if applicable, (c) Container number and total number of containers, e.g. box 1 of 4 boxes, and (d) the number of the container bearing the packing slip. Seller shall bear cost of packaging unless otherwise provided. Goods shall be suitably packed to secure lowest transportation costs and to conform with requirements of common carriers and any applicable specifications. Buyer's count or weight shall be final and conclusive on shipments not accompanied by packing lists.

2. **SHIPMENT UNDER RESERVATION PROHIBITED.** Seller is not authorized to ship the goods under reservation and no tender of a bill of lading will operate as a tender of goods.

3. **TITLE AND RISK OF LOSS.** The title and risk of loss of the goods shall not pass to Buyer until Buyer actually receives and takes possession of the goods at the point or points of delivery.

4. **NO REPLACEMENT OF DEFECTIVE TENDER.** Every tender of delivery of goods must fully comply with all provisions of this contract as to time of delivery, quality and the like. If a tender is made which does not fully conform, this shall constitute a breach and Seller shall not have the right to substitute a conforming tender, provided, where the time for performance has not yet expired, the Seller may reasonably notify Buyer of his intention to cure and may then make a conforming tender within the contract time but not afterward.

5. **INVOICES & PAYMENTS.** A Seller shall submit separate invoices, in duplicate, one each purchase order or purchase release after each delivery. Invoices shall indicate the purchase order or purchase release number and the supply agreement number if applicable. Invoices shall be itemized and transportation charges, if any, shall be listed separately. A copy of the bill of lading, and the freight waybill when applicable, should be attached to the invoice. Mail To: Accounts Payable, City of Lubbock, P. O. Box 2000, Lubbock, Texas 79457. Payment shall not be due until the above instruments are submitted after delivery.

6. **GRATUITIES.** The Buyer may, by written notice to the Seller, cancel this contract without liability to Seller if it is determined by Buyer that gratuities, in the form of entertainment, gifts or otherwise, were offered or given by the Seller, or any agent or representative of the Seller, to any officer or employee of the City of Lubbock with a view to securing a contract or securing favorable treatment with respect to the awarding or amending, or the making of any determinations with respect to the performing of such a contract. In the event this contract is canceled by Buyer pursuant to this provision, Buyer shall be entitled, in addition to any other rights and remedies, to recover or withhold the amount of the cost incurred by Seller in providing such gratuities.

7. **SPECIAL TOOLS & TEST EQUIPMENT.** If the price stated on the face hereof includes the cost of any special tooling or special test equipment fabricated or required by Seller for the purpose of filling this order, such special tooling equipment and any process sheets related thereto shall become the property of the Buyer and to the extent feasible shall be identified by the Seller as such.

8. **WARRANTY-PRICE.** A The price to be paid by the Buyer shall be that contained in Seller's bid which Seller warrants to be no higher than Seller's current process on orders by others for products of the kind and specification covered by this agreement for similar quantities under similar of like conditions and methods of purchase. In the event Seller breaches this warranty, the prices of the items shall be reduced to the Seller's current prices on orders by others, or in the alternative. Buyer may cancel this contract without liability to Seller for breach or Seller's actual expense. b. The Seller warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for commission, percentage, brokerage, or contingent fee excepting bona fide employees of bona fide established commercial or selling agencies maintained by the Seller for the purpose of securing business. For breach of violation of this warranty the Buyer shall have the right in addition to any other right of rights to cancel this contract without liability and to deduct from the contract price, or otherwise recover without liability and to deduct from the contract price, or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee.

9. **WARRANTY-PRODUCT.** Seller shall not limit or exclude any implied warranties and any attempt to do so shall render this contract voidable at the option of the Buyer. Seller warrants that the goods furnished will conform to the specification, drawings, and descriptions listed in the bid invitation, and to the sample(s) furnished by the Seller, if any. In the event of a conflict or between the specifications, drawings, and descriptions, the specifications shall govern. Notwithstanding any provisions contained in the contractual agreement, the Seller represents and warrants fault-free performance and fault-free result in the processing date and date related data (including, but not limited to calculating, comparing and sequencing) of all hardware, software and firmware products delivered and services provided under this Contract, individually or in combination, as the case may be from the effective date of this Contract. The obligations contained herein apply to products and services provided by the Seller, its sub- Seller or any third party involved in the creation or development of the products and services to be delivered to the City of Lubbock under this Contract. Failure to comply with any of the obligations contained herein, may result in the City of Lubbock availing itself of any of its rights under the law and under this Contract including, but not limited to, its right pertaining to termination or default. The warranties contained herein are separate and discrete from any other warranties specified in this Contract, and are not subject to any disclaimer of warranty, implied or expressed, or limitation of the Seller's liability which may be specified in this Contract, its appendices, its schedules, its annexes or any document incorporated in this Contract by reference.

10. **SAFETY WARRANTY.** Seller warrants that the product sold to the Buyer shall conform to the standards promulgated by the U. S. Department of Labor under the Occupational Safety and Health Act of 1970. In the event the product does not conform to OSHA standards, Buyer may return the product for correction or replacement at the Seller's expense. In the event Seller fails to make the appropriate correction within a reasonable time, correction made by Buyer will be at the Seller's expense.

11. **NO WARRANTY BY BUYER AGAINST INFRINGEMENTS.** As part of this contract for sale Seller agrees to ascertain whether goods manufactured in accordance with the specifications attached to this agreement will give rise to the rightful claim of any third person by way of infringement of the like. Buyer makes no warranty that the production of goods according to the specification will not give rise to such a claim, and in no event shall Buyer be liable to Seller for indemnification in the event that Seller is sued on the grounds of infringement of the like. If Seller is of the opinion that an infringement or the like will result, he will notify the Buyer to this effect in writing within two weeks after the signing of this agreement. If Buyer does not receive notice and is subsequently held liable for the infringement or the like, Seller will save Buyer harmless. If Seller in good faith ascertains the production of the goods in accordance with the specifications will result in infringement or the like, the contract shall be null and void.

12. **NON APPROPRIATION.** All funds for payment by the City under this contract are subject to the availability of an annual appropriation for this purpose by the City. In the event of nonappropriation of funds by the City Council of the City of Lubbock for the goods or services provided under the contract, the City will terminate the contract, 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 goods or services covered by this contract is spent, whichever event occurs first. If at any time funds are not appropriated for the continuance of this contract, cancellation shall be accepted by the Seller 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 contract beyond the date of termination.

13. **RIGHT OF INSPECTION.** Buyer shall have the right to inspect the goods at delivery before accepting them.

14. **CANCELLATION.** Buyer shall have the right to cancel for default all or any part of the undelivered portion of this order if Seller breaches any of the terms hereof including warranties of Seller or if the Seller becomes insolvent or commits acts of bankruptcy. Such right of cancellation is in addition to and not in lieu of any other remedies which Buyer may have in law or equity.

15. **TERMINATION.** The performance of work under this order may be terminated in whole, or in part by the Buyer in accordance with this provision. Termination of work hereunder shall be effected by the delivery of the Seller of a "Notice of Termination" specifying the extent to which performance of work under the order is terminated and the date upon which such termination becomes effective. Such right or termination is in addition to and not in lieu of the rights of Buyer set forth in Clause 14, herein.

16. **FORCE MAJEURE.** Neither party shall be held responsible for losses, resulting if the fulfillment of any terms of provisions of this contract is delayed or prevented by any cause not within the control of the party whose performance is interfered with, and which by the exercise of reasonable diligence said party is unable to prevent.

17. **ASSIGNMENT-DELEGATION.** No right or interest in this contract shall be assigned or delegation of any obligation made by Seller without the written permission of the Buyer. Any attempted assignment or delegation by Seller shall be wholly void and totally ineffective for all purpose unless made in conformity with this paragraph.

18. **WAIVER.** No claim or right arising out of a breach of this contract can be discharged in whole or in part by a waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is in writing signed by the aggrieved party.

19. **INTERPRETATION-PAROLE EVIDENCE.** This writing, plus any specifications for bids and performance provided by Buyer in its advertisement for bids, and any other documents provided by Seller as part of his bid, is intended by the parties as a final expression of their agreement and intended also as a complete and exclusive statement of the terms of their agreement. Whenever a term defined by the Uniform Commercial Code is used in this agreement, the definition contained in the Code is to control.

20. **APPLICABLE LAW.** This agreement shall be governed by the Uniform Commercial Code. Wherever the term "Uniform Commercial Code" is used, it shall be construed as meaning the Uniform Commercial Code as adopted in the State of Texas as effective and in force on the date of this agreement.

21. **RIGHT TO ASSURANCE.** Whenever one party to this contract in good faith has reason to question the other party's intent to perform he may demand that the other party give written assurance of his intent to perform. In the event that a demand is made and no assurance is given within five (5) days, the demanding party may treat this failure as an anticipatory repudiation of the contract.

22. **INDEMNIFICATION.** Seller shall indemnify, keep and save harmless the Buyer, its agents, officials and employees, against all injuries, deaths, loss, damages, claims, patent claims, suits, liabilities, judgments, costs and expenses, which may in anywise accrue against the Buyer in consequence of the granting of this Contract or which may anywise result therefrom, whether or not it shall be alleged or determined that the act was caused through negligence or omission of the Seller or its employees, or of the subSeller or assignee or its employees, if any, and the Seller shall, at his own expense, appear, defend and pay all charges of attorneys and all costs and other expenses arising therefrom of incurred in connection therewith, and, if any judgment shall be rendered against the Buyer in any such action, the Seller shall, at its own expenses, satisfy and discharge the same Seller expressly understands and agrees that any bond required by this contract, or otherwise provided by Seller, shall in no way limit the responsibility to indemnify, keep and save harmless and defend the Buyer as herein provided.

23. **TIME.** It is hereby expressly agreed and understood that time is of the essence for the performance of this contract, and failure by contract to meet the time specifications of this agreement will cause Seller to be in default of this agreement.

24. **MBE.** The City of Lubbock hereby notifies all bidders that in regard to any contract entered into pursuant to this request, minority and women business enterprises will be afforded equal opportunities to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, sex or natural origin in consideration for an award.

25. **NON-ARBITRATION.** 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.

26. **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.

27. **ASSIGNING OR SUBLETTING THE CONTRACT.** The Contractor shall not assign or sublet the contract, or any portion of the contract, without written consent from the Director of Purchasing and Contract Management. Should consent be given, the Contractor shall insure the Subcontractor or shall provide proof on insurance from the Subcontractor that complies with all contract Insurance requirements.

29. **HOUSE BILL 1295 DISCLOSURE OF INTERESTED PARTIES.** House Bill 1295, adopted by the 84th Legislature, created §2252.908, Texas Government Code. Section 2252.908 requires a business entity entering into certain contracts with a governmental entity or state agency to file with the governmental entity or state agency a disclosure of interested parties at the time the business entity submits the signed contract to the governmental entity or state agency. Instructions for completing Form 1295 are available at: <http://www.ci.lubbock.tx.us/departamental-websites/departments/purchasing/vendor-information>

30. **CONTRACTOR ACKNOWLEDGES,** by supplying any Goods or Services that the Contractor has read, fully understands, and will be in full compliance with all terms and conditions and the descriptive material contained herein and any additional associated documents and Amendments. The City disclaims any terms and conditions provided by the Contractor unless agreed upon in writing by the parties. In the event of conflict between these terms and conditions and any terms and conditions provided by the Contractor, the terms and conditions provided herein shall prevail. The terms and conditions provided herein are the final terms agreed upon by the parties, and any prior conflicting terms shall be of no force or effect.

31. **TEXAS GOVERNMENT CODE, CHAPTER 2252.** The undersigned representative of the undersigned company or business, being an adult over the age of eighteen (18) years of age, pursuant to Texas Government Code, Chapter 2252, Section 2252.152, certify that the company named above is not listed on the website of the Comptroller of the State of Texas concerning the listing of companies that are identified under Section 806.051, Section 807.051 or Section 2253.153. I further certify that should the above-named company enter into a contract that is on said listing of companies on the website of the Comptroller of the State of Texas, which do business with Iran, Sudan or any Foreign Terrorist Organization, I will immediately notify the City of Lubbock Purchasing and Contract Department.

32. **TEXAS GOVERNMENT CODE, CHAPTER 2270** 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.

33. **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, Pursuant to Section 552.301(c) of the Texas Government Code, the City of Lubbock has designated the following email address for which public information requests may be made by an emailed request. Please send this request to this email address for it to be processed: ort@mylubbock.us.



Quote Summary

Prepared For:

CITY OF LUBBOCK FLEET SERVICES
206 MUNICIPAL DR
LUBBOCK, TX 79403
Business: 806-775-2185

Prepared By:

JAKE OWENS
Yellowhouse Machinery Co.
3405 E Slaton Road
Lubbock, TX 79404
Phone: 806-763-0473
jakeo@yellowhouse.us

TRAVEL TIME & MILEAGE INCLUDED DURING WARRANTY
HYDRAULIC HOSE FAILURE COVERED DURING WARRANTY
FREIGHT TO/FROM YH SHOP COVERED DURING WARRANTY
ETA 2/28/22
DIRECT PAYMENT TO BE MADE TO YELLOWHOUSE
MACHINERY
SOURCEWELL CONTRACT #032119-JDC

Quote Id: 25764024
Created On: 13 December 2021
Last Modified On: 12 January 2022
Expiration Date: 31 January 2022

| Equipment Summary | Selling Price | | Qty | | Extended |
|---|----------------------|---|-----|---|---------------|
| JOHN DEERE 310SL BACKHOE LOADER- 99H.P. | \$ 115,000.00 | X | 1 | = | \$ 115,000.00 |
| John Deere Extended Warranty-5YEAR/5000HR FULL WARRANTY | \$ 0.00 | X | 1 | = | \$ 0.00 |
| JOHN DEERE 310SL BACKHOE LOADER- 99H.P. | \$ 115,000.00 | X | 1 | = | \$ 115,000.00 |
| John Deere Extended Warranty-5YEAR/5000HR FULL WARRANTY | \$ 0.00 | X | 1 | = | \$ 0.00 |
| Equipment Total | \$ 230,000.00 | | | | |

Quote Summary

| | |
|--------------------|----------------------|
| Equipment Total | \$ 230,000.00 |
| SubTotal | \$ 230,000.00 |
| Total | \$ 230,000.00 |
| Down Payment | (0.00) |
| Rental Applied | (0.00) |
| Balance Due | \$ 230,000.00 |

Salesperson : X _____

Accepted By : X _____

Confidential

Selling Equipment

Quote Id: 25764024

Customer: CITY OF LUBBOCK FLEET SERVICES

JOHN DEERE 310SL BACKHOE LOADER- 99H.P.

Hours:

Stock Number:

| Code | Description | Qty |
|-------|----------------------|-----|
| 0A71T | 310SL BACKHOE LOADER | 1 |

Standard Options - Per Unit

| | | |
|------|--|---|
| 170K | JDLINK™ | 1 |
| 1065 | John Deere PowerTech™ EWL 4.5L (276 Cu. In.) Engine Meets Final Tier 4 and Stage IV Emissions | 1 |
| 2035 | Cab | 1 |
| 2401 | English Decals with English Operator and Safety Manuals | 1 |
| 3095 | Mechanical Front Wheel Drive (MFWD) with Limited Slip Differential Autoshift Transmission | 1 |
| 4464 | Galaxy 19.5L - 24 in. 12 PR Rear & 12.5/80-18 10PR Front | 1 |
| 5285 | Pilot Controls, Two Lever, with Pattern Selection | 1 |
| 5420 | Multi-Brand Quick Coupler - Less Thumb | 1 |
| 5626 | 18" (457 mm) Wide, Heavy-Duty, 5.1 Cu. Ft. (0.14 Cu. M.) Capacity Bucket | 1 |
| 6020 | Extendible Dipperstick | 1 |
| 6210 | No Auxiliary | 1 |
| 7025 | Two-Function Loader Hydraulics, Single Lever | 1 |
| 7641 | 1.25 Cu. Yd. (.96 Cu. M.) 86 in. (2.18 m) Wide Long Lip Bucket with Bolt On Cutting Edge and Skid Plates | 1 |
| 8475 | 1000 Lb. (454 kg) Front Counterweight | 1 |
| 8685 | Dual Maintenance Free Batteries With Disconnect and Jump Post | 1 |
| 9045 | Chrome Exhaust Extension | 1 |
| 9060 | Front View Mirror | 1 |
| 9120 | Heavy-Duty Grille Frame | 1 |
| 9505 | Full MFWD Driveshaft Guard | 1 |
| 9515 | Diagnostic Oil Sampling Ports | 1 |
| 9905 | Strobe Light with Magnetic Mount | 1 |
| 9917 | Radio, Bosch Basic Package | 1 |
| 9919 | Sun Visor | 1 |
| 9965 | Seat, Cloth Air-Suspension | 1 |

Selling Equipment

Quote Id: 25764024

Customer: CITY OF LUBBOCK FLEET SERVICES

| Dealer Attachments | | |
|--|-------------------------------|---|
| AT333753 | Backhoe Boom Protection Plate | 1 |
| Service Agreements | | |
| John Deere Extended Warranty - 5YEAR/5000HR FULL WARRANTY | | |

JOHN DEERE 310SL BACKHOE LOADER- 99H.P.

Equipment Notes:

Hours:

Stock Number:

| Code | Description | Qty |
|-----------------------------|--|-----|
| 0A71T | 310SL BACKHOE LOADER | 1 |
| Standard Options - Per Unit | | |
| 170K | JDLink™ | 1 |
| 1065 | John Deere PowerTech™ EWL 4.5L (276 Cu. In.) Engine Meets Final Tier 4 and Stage IV Emissions | 1 |
| 2035 | Cab | 1 |
| 2401 | English Decals with English Operator and Safety Manuals | 1 |
| 3095 | Mechanical Front Wheel Drive (MFWD) with Limited Slip Differential Autoshift Transmission | 1 |
| 4464 | Galaxy 19.5L - 24 in. 12 PR Rear & 12.5/80-18 10PR Front | 1 |
| 5285 | Pilot Controls, Two Lever, with Pattern Selection | 1 |
| 5420 | Multi-Brand Quick Coupler - Less Thumb | 1 |
| 5626 | 18" (457 mm) Wide, Heavy-Duty, 5.1 Cu. Ft. (0.14 Cu. M.) Capacity Bucket | 1 |
| 6020 | Extendible Dipperstick | 1 |
| 6210 | No Auxiliary | 1 |
| 7025 | Two-Function Loader Hydraulics, Single Lever | 1 |
| 7641 | 1.25 Cu. Yd. (.96 Cu. M.) 86 in. (2.18 m) Wide Long Lip Bucket with Bolt On Cutting Edge and Skid Plates | 1 |
| 8475 | 1000 Lb. (454 kg) Front Counterweight | 1 |

Selling Equipment

Quote Id: 25764024**Customer:** CITY OF LUBBOCK FLEET SERVICES

| | | |
|--|---|---|
| 8685 | Dual Maintenance Free Batteries With Disconnect and Jump Post | 1 |
| 9045 | Chrome Exhaust Extension | 1 |
| 9060 | Front View Mirror | 1 |
| 9120 | Heavy-Duty Grille Frame | 1 |
| 9505 | Full MFWD Driveshaft Guard | 1 |
| 9515 | Diagnostic Oil Sampling Ports | 1 |
| 9905 | Strobe Light with Magnetic Mount | 1 |
| 9917 | Radio, Bosch Basic Package | 1 |
| 9919 | Sun Visor | 1 |
| 9965 | Seat, Cloth Air-Suspension | 1 |
| Dealer Attachments | | |
| AT333753 | Backhoe Boom Protection Plate | 1 |
| Service Agreements | | |
| John Deere Extended Warranty - 5YEAR/5000HR FULL WARRANTY | | |

**City of Lubbock
Capital Project
Project Cost Detail
January 25, 2022**

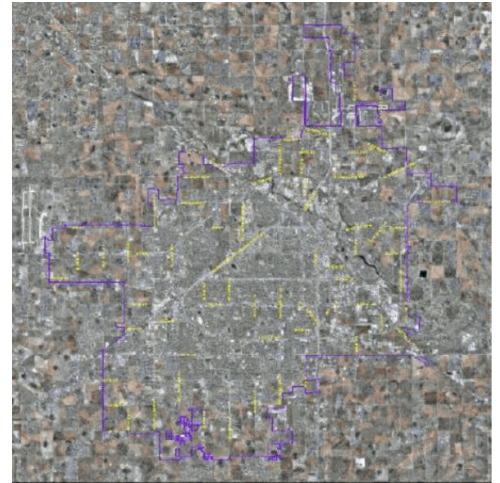
| | |
|-------------------------|---|
| Capital Project Number: | 92724 |
| Capital Project Name: | Water Fund Vehicle Replacement FY 21-22 |

| | |
|----------------------------|---------------|
| <i>Encumbered/Expended</i> | Budget |
| Concrete Truck (6331) | \$ 208,153 |

| | |
|---|----------------|
| <i>Agenda Item January 25, 2022</i> | |
| 2 Units John Deere Backhoes (6331) | 230,000 |
| <i>Encumbered/Expended To Date</i> | 438,153 |

| | |
|---|----------------|
| <i>Estimated Cost for Remaining Appropriation</i> | |
| Vehicles and Equipment | 300,847 |
| <i>Remaining Appropriation</i> | 300,847 |

| | |
|----------------------------|-------------------|
| Total Appropriation | \$ 739,000 |
|----------------------------|-------------------|

Managing Department **Fleet Maintenance***Project Manager* **Billy Taylor***Project Classification* **Replacement Equipment/Fleet***Project Status* **Approved***Project Scope*

This project is for the annual vehicle replacement for the Water/Wastewater Fund.

6311 Water Meter and Customer Service

(3) 3/4 Ton, Extended Cab, 4x4, Service Body (replacing 22009014, 22008134, and 22013015) - \$114,000

6331 Water Distribution & Maintenance

(1) Concrete Truck (replacing 82011007) - \$185,000

(2) Backhoe (replacing 92009249 and 92009182) - \$240,000

(1) Crew Truck W/ Flatbed (replacing 72010005) - \$110,000

6349 Water Reservoir

(1) Land Pride RC2684 3 Point Shredder

(replacing 02012010) - \$5,000

6413 Wastewater Collection

(1) 8" trailer mounted pump (replacing 02000178) - \$50,000

6417 Industrial Monitoring

(1) 1/2 ton, extended cab, 4x4 with crane (replacing 22006237) - \$35,000

Replacement of vehicles and equipment that are at the end of their useful life.

*Project Justification**Project History*

\$739,000 was appropriated in the FY 2021-22 Budget, Ord. No. 2021-00126, October 1, 2021.

| <i>Appropriation Detail</i> | Appropriation to Date | Unappropriated Planning Years | | | | | | Total Project Amount |
|------------------------------------|-----------------------|-------------------------------|------------|------------|------------|------------|------------|----------------------|
| | | FY 2021-22 | FY 2022-23 | FY 2023-24 | FY 2024-25 | FY 2025-26 | FY 2026-27 | |
| Other Activities | 0 | 739,000 | 0 | 0 | 0 | 0 | 0 | 739,000 |
| Total Project Appropriation | 0 | 739,000 | 0 | 0 | 0 | 0 | 0 | 739,000 |

| 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 2022 Water/Wastewater Cash | 0 | 739,000 | 0 | 0 | 0 | 0 | 0 | 739,000 |
| Total Funding Sources | 0 | 739,000 | 0 | 0 | 0 | 0 | 0 | 739,000 |

| Operating Budget Impact | FY 2021-22 | Unappropriated Planning Years | | | | | Total Impact |
|-------------------------------|------------|-------------------------------|------------|------------|------------|------------|--------------|
| | | 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 |

Information

Agenda Item

Resolution - Fleet Services: Consider a resolution authorizing the Mayor to execute Contract 16183, with Fleetwash, Inc., of Fairfield, New Jersey, for mobile car wash services for City vehicles.

Item Summary

In response to ITB-22-16183-SB, for mobile car wash services, the following proposals were received, per the detailed Bid Tab Form attached:

| Bid Tab Items | Vendor | Total |
|---------------------------|---|----------------|
| 1-1, 1-3, 3-1, 3-2 | Fleetwash, Inc. | \$78.50 |
| 1-1, 1-3, 3-1, 3-2 | Erlys Janitorial Services, Lubbock, Texas | \$141.00 |
| 1-1, 1-3, 3-1, 3-2 | Raider Mobile Wash and Detailing, Idalou, Texas | \$220.00 |

| Bid Tab Items | Vendor | Total |
|----------------------|---|-----------------|
| 2-1, 2-2, 2-3 | Fleetwash, Inc. | \$103.50 |
| 2-1, 2-2, 2-3 | Erlys Janitorial Services, Lubbock, Texas | \$195.00 |
| 2-1, 2-2, 2-3 | Raider Mobile Wash and Detailing, Idalou, Texas | No Bid |

After a review of all the bid submittals, Fleet Staff recommends that the City award this contract to the lowest bidder who met all specifications, Fleetwash, Inc., of Fairfield, New Jersey. This contract will be for \$50,000 per year, with the option to renew 2 additional years, for a total of \$150,000 during the life of the contract.

The contract term will be one year with 2 one-year extensions, said date of term beginning upon formal approval. The Contractor must maintain the insurance coverage required during the term of this contract including any extensions. It is the responsibility of the Contractor to ensure that valid insurance is on file with the Purchasing and Contract Management Department, as required by the contract, or the contract may be terminated for non-compliance.

Fiscal Impact

A total of \$50,000 was appropriated in the Fleet Maintenance and Repairs FY 2021-22 Operating Budget.

Staff/Board Recommending

Erik Rejino, Assistant City Manager
Dominic Esperat, Interim Director of Fleet Operations

Attachments

Resolution

Contract

Bid Tabulation Sheet - ITB 22-6183-SB

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, Service Contract No. 16183 for mobile car wash services as per ITB 22-16183-SB, by and between the City of Lubbock and Fleetwash, Inc. of Fairfield, New Jersey, 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:



Erik Rejino, Assistant City Manager

APPROVED AS TO FORM:



Kelli Leisure, Assistant City Attorney

**City of Lubbock, TX
Contract for
Mobile Car Wash Services**

THIS CONTRACT made and entered into this ____ day of _____, **2022**, by and between the City of Lubbock ("City"), and **Fleetwash, Inc.** ("Contractor").

WITNESSETH:

WHEREAS, the City of Lubbock duly advertised for bids for **Mobile Car Wash Services** and bids were received and duly opened as required by law; and

WHEREAS, after careful consideration of the bid submitted by Contractor, the City authorized the execution, in the name of the City of Lubbock a contract with said Contractor covering the purchase and delivery of the said **Mobile Car Wash Services**.

NOW, THEREFORE, in consideration of the mutual agreement contained herein, as well as the financial consideration hereinafter referred to, the parties hereby covenant and agree as follows:

1. In accordance with City's specifications and Contractor's bid, copies of which are attached hereto and made part hereof, Contractor will deliver to the City, Mobile Car Wash Services and more specifically referred to as Item one (1) on the bid submitted by the Contractor or in the specifications attached hereto.
2. The City promises and agrees to employ, and does employ, the Contractor to cause to be done the work provided for in this Contract and to complete and finish the same according to the attached specifications, offer, and terms and conditions contained herein.
3. The contract shall be for a term of one (1) year, with the option of two (2), one year extensions, said date of term beginning upon formal approval. All stated annual quantities are approximations of usage during the time period to be covered by pricing established by this bid. Actual usage may be more or less. Order quantities will be determined by actual need. The City of Lubbock does not guarantee any specific amount of compensation, volume, minimum, or maximum amount of services under this bid and resulting contract. The Contractor must maintain the insurance coverage required during the term of this contract including any extensions. It is the responsibility of the Contractor to ensure that valid insurance is on file with the Purchasing and Contract Management Department as required by contract or contract may be terminated for non-compliance.
4. Prices quoted shall be set for a period for one (1) year, said date of term beginning upon City Council date of formal approval. The rate may be adjusted upward or downward at this time at a percentage not to exceed the effective change in Consumer Price Index (CPI) or Product Price Index (PPI), which ever is most appropriate for the specific contract for the previous 12-months at the City's discretion, the effective change rate shall be based on either the local or national index average rate for all items. If agreement cannot be reached, the contract is terminated at the end of the current contract period.
5. This contract shall remain in effect until the first of the following occurs: (1) the expiration date, (2) performance of services ordered, or (3) termination of by either party with a 30 day written

notice. The City of Lubbock reserves the right to award the canceled contract to the next lowest and best bidder as it deems to be in the best interest of the city.

6. Contractor shall at all times be an independent contractor and not an agent or representative of City with regard to performance of the Services. Contractor shall not represent that it is, or hold itself out as, an agent or representative of City. In no event shall Contractor be authorized to enter into any agreement or undertaking for or on behalf of City.

7. Insurance Requirements

SECTION A. Prior to the approval of this contract by the City, the Contractor shall furnish a completed Insurance Certificate to the City, which shall be completed by an agent authorized to bind the named underwriter(s) to the coverages, limits, and termination provisions shown thereon, and which shall furnish and contain all required information referenced or indicated thereon. THE CITY SHALL HAVE NO DUTY TO PAY OR PERFORM UNDER THIS CONTRACT UNTIL SUCH CERTIFICATE SHALL HAVE BEEN DELIVERED TO THE CITY.

SECTION B. The City reserves the right to review the insurance requirements of this section during the effective period of the contract and to require adjustment of insurance coverages and their limits when deemed necessary and prudent by the City based upon changes in statutory law, court decisions, or the claims history of the industry as well as the Contractor.

SECTION C. Subject to the Contractor's right to maintain reasonable deductibles in such amounts as are approved by the City, the Contractor shall obtain and maintain in full force and effect for the duration of this contract, and any extension hereof, at Contractor's sole expense, insurance coverage written by companies approved by the State of Texas and acceptable to the City, in the following type(s) and amount(s):

| TYPE OF INSURANCE | | COMBINED SINGLE LIMIT | |
|--|--|------------------------|--------------------|
| GENERAL LIABILITY | | | |
| <input checked="" type="checkbox"/> | Commercial General Liability | General Aggregate | <u>\$1,000,000</u> |
| <input checked="" type="checkbox"/> | Occurrence | Products-Comp/Op AGG | <u>X</u> |
| | | Personal & Adv. Injury | <u>X</u> |
| | | Contractual Liability | <u>X</u> |
| | | Med Exp | <u>X</u> |
| AUTOMOTIVE LIABILITY | | | |
| <input checked="" type="checkbox"/> | Any Auto | Per Occurrence | <u>\$1,000,000</u> |
| <input checked="" type="checkbox"/> | WORKERS COMPENSATION – STATUTORY AMOUNTS OR | | |
| | OCCUPATIONAL MEDICAL AND DISABILITY | | <u>\$500,000</u> |
| <input checked="" type="checkbox"/> | EMPLOYERS' LIABILITY | | <u>\$1,000,000</u> |
| OTHER: COPIES OF ENDOSEMENTS ARE REQUIRED | | | |
| <input checked="" type="checkbox"/> | City of Lubbock named as additional insured on Auto/General Liability on a primary and non-contributory bases. | | |
| <input checked="" type="checkbox"/> | To include products of completed operations endorsement. | | |
| <input checked="" type="checkbox"/> | Waiver of subrogation in favor of the City of Lubbock on all coverages, except _____ | | |

IMPORTANT: POLICY ENDORSEMENTS

The Contractor will provide copies of the policies without expense, to the City and all endorsements thereto and may make any reasonable request for deletion, revision, or modification of particular policy terms, conditions, limitations, or exclusions (except where policy provisions are established by law or regulation binding upon either of the parties hereto or the underwriter of any of such policies). Upon such request by the City, the Contractor shall exercise reasonable efforts to accomplish such changes in policy coverages, and shall pay the cost thereof. Any costs will be paid by the Contractor.

REQUIRED PROVISIONS

The Contractor agrees that with respect to the above required insurance, all insurance contracts and certificate(s) of insurance will contain and state, in writing, on the certificate or its attachment, the following required provisions:

- a. Name the City of Lubbock and its officers, employees, and elected representatives as additional insureds, (as the interest of each insured may appear) as to all applicable coverage;
- b. Provide for 30 days notice to the City for cancellation, nonrenewal, or material change;
- c. Provide for notice to the City at the address shown below by registered mail;
- d. The Contractor agrees to waive subrogation against the City of Lubbock, its officers, employees, and elected representatives for injuries, including death, property damage, or any other loss to the extent same may be covered by the proceeds of insurance;
- e. Provide that all provisions of this contract concerning liability, duty, and standard of care together with the indemnification provision, shall be underwritten by contractual liability coverage sufficient to include such obligations within applicable policies.

NOTICES

The Contractor shall notify the City in the event of any change in coverage and shall give such notices not less than 30 days prior the change, which notice must be accompanied by a replacement CERTIFICATE OF INSURANCE.

All notices shall be given to the City at the following address:

Marta Alvarez, Director of Purchasing & Contract Management
City of Lubbock
1314 Avenue K, Floor 9
Lubbock, Texas 79401

SECTION D. Approval, disapproval, or failure to act by the City regarding any insurance supplied by the Contractor shall not relieve the Contractor of full responsibility or liability for damages and accidents as set forth in the contract documents. Neither shall the bankruptcy, insolvency, or denial of liability by the insurance company exonerate the Contractor from liability.

8. Neither the City nor the Contractor shall assign, transfer or encumber any rights, duties or interests accruing from this Contract without the written consent of the other.
9. 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.

10. 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 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.
11. All funds for payment by the City under this contract 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 goods or services provided under the contract, the City will terminate the contract, 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 goods or services covered by this contract is spent, whichever event occurs first. If at any time funds are not appropriated for the continuance of this contract, cancellation shall be accepted by the Seller on 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 contract beyond the date of termination.
12. The Contractor shall not assign or sublet the contract, or any portion of the contract, without written consent from the Director of Purchasing and Contract Management. Should consent be given, the Contractor shall insure the Subcontractor or shall provide proof on insurance from the Subcontractor that complies with all contract Insurance requirements.
13. Contractor acknowledges by supplying any Goods or Services that the Contractor has read, fully understands, and will be in full compliance with all terms and conditions and the descriptive material contained herein and any additional associated documents and Amendments. The City disclaims any terms and conditions provided by the Contractor unless agreed upon in writing by the parties. In the event of conflict between these terms and conditions and any terms and conditions provided by the Contractor, the terms and conditions provided herein shall prevail. The terms and conditions provided herein are the final terms agreed upon by the parties, and any prior conflicting terms shall be of no force or effect.
14. The Contractor (i) does not engage in business with Iran, Sudan or any foreign terrorist organization and (ii) it is not listed by the Texas Comptroller under Section 2252.153, Texas Government Code, as a company known to have contracts with or provide supplies or services to a foreign terrorist organization. As used in the immediately preceding sentence, "foreign terrorist organization" shall have the meaning given such term in Section 2252.151, Texas Government Code.
15. **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.

16. 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.
17. The Contractor 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.
18. The Contractor 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 Contractor, its agents, employees, and/or subcontractors, 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.
19. This Contract consists of the following documents set forth herein: Specifications, and the Bid Form.


-----INTENTIONALLY LEFT BLANK-----

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be executed the day and year first above written. Executed in triplicate.

CITY OF LUBBOCK

CONTRACTOR

Daniel M. Pope, Mayor

BY 
Authorized Representative

ATTEST:

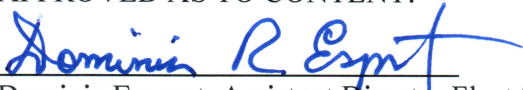
LORRAINE MADRAZO
Print Name

Rebecca Garza, City Secretary

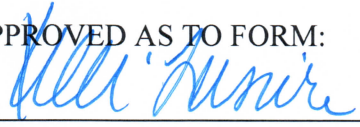
26 LAW DRIVE
Address

APPROVED AS TO CONTENT:

Fairfield, NJ 07004
City, State, Zip Code


Dominic Esperat, Assistant Director Fleet Services

APPROVED AS TO FORM:


Kelli Leisure, Assistant City Attorney

**City of Lubbock, TX
ITB 22-16183-SB
Mobile Car Wash Services
Specifications**

The City of Lubbock Fleet Services is seeking bids for mobile car wash services to be performed at the Fleet Services yard. The Contractor will be responsible for taking proper care of and protecting the condition of the vehicle on which service is being performed.

The Contractor shall comply with all federal, state and local laws which apply and are now in effect or hereafter promulgated for car washing service operations as follows: EPA Section 301 of the Clean Water Act, TCEQ publication RG-434 and City of Lubbock Storm Water Regulation 22.11.

The Contractor shall obtain a Mobile Wash Permit from the City of Lubbock Storm Water Department and have permit available for review upon request. The Contractor shall have one year experience with three retail customer references and provide an equipment list.

The Contractor shall furnish all labor, water, cleansers, materials and equipment for the complete cleaning of City of Lubbock vehicles.

The Vehicles will include light duty cars, pick-up trucks, vans and sport utility vehicles as well as heavy duty trucks including refuse trucks and aerial units from 37' up to 125'.

All vehicles that are washed shall be provided with the same care given to detail and workmanship as the Contractor gives regular retail customers.

SERVICES SPECIFICATIONS:

Option A: Exterior Wash Only

1. Wash exterior of vehicle to remove all dirt, debris, tree sap and tar.
2. Dry exterior of vehicle manually or use soft water to prevent spotting – to include all windows and mirrors.

Option B: Interior and Exterior Service Wash

1. Wash exterior of vehicle to remove all dirt, debris, tree say and tar.
2. Clean wheels and tires to remove road dirt, mud and brake dust.
3. Vacuum interior of vehicle including seats, floor mats and carpets.
4. Clean dashboard and door panels
5. Clean all windows inside and out
6. Clean all mirrors inside and out
7. Dry exterior of vehicle manually or use soft water to prevent spotting – to include all windows and mirrors
8. All trash shall be removed

HOURS OF OPERATION

Services are to be performed between the hours of 8 a.m. to 5 p.m., Monday through Friday, weather permitting. After hour washing permitted with authorization.

PROCEDURAL REQUIREMENTS AND AMENDMENTS

The Contractor shall comply with all written or verbal procedural instructions that may be issued from time to time by the Fleet Services Representative.

During the period of contract, no change is permitted in any of its conditions and specifications unless the Contractor receives written approval from Fleet Services.

Should the Contractor find, at any time, that existing conditions make modification in requirements desirable; they shall promptly report such a matter to Fleet Services for consideration and decision.

RECEIPTS AND BILLING

The Contractor must have a work order number issued by Fleet Services authorizing the service before being performed. The Contractor will provide a receipt for each wash performed with the following information:

1. Department name, unit number, and license plate number.
2. Detailed services performed on the vehicle.
3. All charges for services performed on the vehicle.
4. Signature of the driver or City of Lubbock Representative.

The Contractor shall consolidate the car wash receipts and invoice Fleet Services once a month.

Invoices shall be submitted for pay to:

City of Lubbock
Fleet Services
206 Municipal Drive
Lubbock, TX 79403

City of Lubbock - Fleet Department
ITB 22-16183-SB Mobile Car Wash Services
Bid Sheet

Vendor: Fleetwash, Inc.

| | <u>UOM</u> | <u>Unit Price</u> |
|---|-------------------|--------------------------|
| #1-1 - Light Duty Cars, Pickups, Vans, Sport Utility Vehicles, 1 Ton and Below, per specifications Fleetwash, Inc | EA | \$13.50 |
| #1-2 - Heavy Duty Trucks, 1 Ton with Aerial Units up to 42' (including refuse trucks), per specifications Fleetwash, Inc | EA | 27.50 |
| #1-3 - Heavy Duty Trucks above 1 Ton with Aerial Units 42' to 125', per specifications Fleetwash, Inc | EA | 32.50 |
| #2-1 - Light Duty Cars, Pickups, Vans, Sport Utility Vehicles, 1 Ton and Below, per specifications Fleetwash, Inc | EA | 23.50 |
| #2-2 - Heavy Duty Trucks, 1 Ton with Aerial Units up to 42' (including refuse trucks), per specifications Fleetwash, Inc | EA | 37.50 |
| #2-3 - Heavy Duty Trucks above 1 Ton with Aerial Units 42' to 125', per specifications Fleetwash, Inc | EA | 42.50 |
| #3-1 - Additional Charge for Extra Muddy Vehicles Fleetwash, Inc | EA | 5.00 |
| #3-2 - Additional Charge for Degreasing (Oil or Hydraulic) Fleetwash, Inc | EA | 0.00 |

City of Lubbock - Fleet Department
ITB 22-16183-SB Mobile Car Wash Services
Bid Tabulation Sheet

| <u>Vendor</u> | <u>Location</u> | <u>UOM</u> | <u>Unit Price</u> |
|---|-----------------|------------|-------------------|
| #1-1 - Light Duty Cars, Pickups, Vans, Sport Utility Vehicles, 1 Ton and Below, per specifications | | | |
| Fleetwash, Inc | Fairfield, NJ | EA | \$13.50 |
| Erllys Janitorial Services | Lubbock, TX | EA | 21.00 |
| Raider Mobile Wash and Detailing | Idalou, TX | EA | 35.00 |
| #1-2 - Heavy Duty Trucks, 1 Ton with Aerial Units up to 42' (including refuse trucks), per specifications | | | |
| Fleetwash, Inc | Fairfield, NJ | EA | 27.50 |
| Erllys Janitorial Services | Lubbock, TX | EA | 45.00 |
| Raider Mobile Wash and Detailing | Idalou, TX | EA | 50.00 |
| #1-3 - Heavy Duty Trucks above 1 Ton with Aerial Units 42' to 125', per specifications | | | |
| Fleetwash, Inc | Fairfield, NJ | EA | 32.50 |
| Raider Mobile Wash and Detailing | Idalou, TX | EA | 50.00 |
| Erllys Janitorial Services | Lubbock, TX | EA | 65.00 |
| #2-1 - Light Duty Cars, Pickups, Vans, Sport Utility Vehicles, 1 Ton and Below, per specifications | | | |
| Fleetwash, Inc | Fairfield, NJ | EA | 23.50 |
| Erllys Janitorial Services | Lubbock, TX | EA | 45.00 |
| Raider Mobile Wash and Detailing | Idalou, TX | EA | no bid |
| #2-2 - Heavy Duty Trucks, 1 Ton with Aerial Units up to 42' (including refuse trucks), per specifications | | | |
| Fleetwash, Inc | Fairfield, NJ | EA | 37.50 |
| Erllys Janitorial Services | Lubbock, TX | EA | 65.00 |
| Raider Mobile Wash and Detailing | Idalou, TX | EA | no bid |
| #2-3 - Heavy Duty Trucks above 1 Ton with Aerial Units 42' to 125', per specifications | | | |
| Fleetwash, Inc | Fairfield, NJ | EA | 42.50 |
| Erllys Janitorial Services | Lubbock, TX | EA | 85.00 |
| Raider Mobile Wash and Detailing | Idalou, TX | EA | no bid |
| #3-1 - Additional Charge for Extra Muddy Vehicles | | | |
| Fleetwash, Inc | Fairfield, NJ | EA | 5.00 |
| Raider Mobile Wash and Detailing | Idalou, TX | EA | 15.00 |
| Erllys Janitorial Services | Lubbock, TX | EA | 20.00 |
| #3-2 - Additional Charge for Degreasing (Oil or Hydraulic) | | | |
| Fleetwash, Inc | Fairfield, NJ | EA | 0.00 |
| Raider Mobile Wash and Detailing | Idalou, TX | EA | 15.00 |
| Erllys Janitorial Services | Lubbock, TX | EA | 50.00 |



**Purchasing and Contract Management
Project Summary
ITB 22-16183-SB Mobile Car Wash Services**

Notice was published in the Lubbock Avalanche Journal on October 10 and October 17, 2021.

Notice was published on the Purchasing Web Site under Bid Opportunities.

Notice was published on Bonfire-hub.com from October 8, 2021 to November 2, 2021.

14 vendors took documents from Bonfire-hub.com

8 vendors were notified separately.

3 vendors submitted a bids.

Information

Agenda Item

Resolution - Lubbock Power & Light: Consider a resolution authorizing the Mayor of the City of Lubbock to execute that certain Second Amended and Restated Partial Requirements Power Service Agreement Scheduling Protocol, by and between the City of Lubbock, acting by and through Lubbock Power & Light, and Southwestern Public Service Company.

Item Summary

The Scheduling Protocol was initially approved in 2017 to memorialize an understanding regarding scheduling of all energy purchased and sold between Southwestern Public Service Company (SPS) and Lubbock Power & Light (LP&L). The Scheduling Protocol was amended in May 2021, to account for changes that occurred in transactions between SPS & LP&L at that time. The second amendment is necessary to confirm that SPS will continue its role as the Load Responsible Entity and Market Participant in the Southwest Power Pool Integrated Marketplace, on LP&L's behalf. The second amendment to the Scheduling Protocol is consistent with terms in the Settlement Agreement between SPS and LP&L, approved on May 27, 2021.

Fiscal Impact

SPS will charge a \$12,000 per month fee, for SPS's labor costs to provide this service.

Staff/Board Recommending

David McCalla, Director of Electric Utilities
Electric Utility Board

Attachments

Resolution - SPS, Amended Partial Power Service Agreement
SPS Agreement
EUB Resolution - SPS Amended Partial Power Service Agmt.

RESOLUTION

WHEREAS, Lubbock Power & Light is the municipally owned electric utility of the City of Lubbock ("LP&L");

WHEREAS, LP&L and Southwestern Public Service Company, a New Mexico corporation ("SPS"), are parties to that certain Master Power Purchase and Sale Agreement dated as of November 12, 2009 (the "Master Agreement"), 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"), pursuant to which LP&L is purchasing 170 megawatts of Partial Requirements Power Service, as defined in the Transaction Agreement, and increased annually as provided therein, from SPS;

WHEREAS, LP&L and SPS are also parties to that certain Letter Agreement entitled "Letter Agreement between SPS and LP&L re Future Costs under SPP NITSAs", dated March 21, 2017 (the "Transmission Letter Agreement"), related to transmission charges allocable to LP&L in connection with the PPA;

WHEREAS, LP&L and SPS have agreed to certain terms and conditions outlined in that certain Settlement Agreement by and between SPS and LP&L dated May 27, 2021 ("Settlement Agreement"), to terminate the PPA and the Transmission Letter Agreement;

WHEREAS, LP&L and SPS desire to amend only the Amendment to Scheduling Protocol, attached as Exhibit 1 to the Settlement Agreement; NOW, THEREFORE,

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

THAT the City Council, on behalf of the City of Lubbock, hereby approves that certain Second Amended and Restated Partial Requirements Power Service Agreement Scheduling Protocol, by and between the City of Lubbock, acting by and through Lubbock Power & Light, and Southwestern Public Service Company, as attached hereto and incorporated herein as though set forth fully herein in detail.

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

THAT the City Council, on behalf of the City of Lubbock, hereby acknowledges that no other changes are being made to that certain Settlement Agreement by and between the City of Lubbock, acting by and through Lubbock Power & Light, and Southwestern Public Service Company dated May 27, 2021.

BE IT FURTHER 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 that certain Second Amended and Restated Partial Requirements Power Service Agreement Scheduling Protocol, by and between the City of Lubbock, acting by and through Lubbock Power & Light, and Southwestern Public Service Company, as attached hereto and incorporated herein as though set forth fully herein in detail.

Passed by the City Council this 25th day of January 2022.

Daniel M. Pope, MAYOR

ATTEST:

Becky Garza, City Secretary

APPROVED AS TO CONTENT:



David McCalla, Director of Electric Utilities

APPROVED AS TO FORM:



Jenny Smith, LP&L General Counsel

ATTACHMENT 3

Second Amended and Restated Partial Requirements Power Service Agreement Scheduling Protocol

The City of Lubbock, Texas, a home rule municipal corporation organized under the laws of the State of Texas, acting by and through Lubbock Power & Light (the “Customer” or “LP&L”) and Southwestern Public Service Company (the “Company” or “SPS”), hereby enter into this Second Amended and Restated Partial Requirements Power Service Agreement Scheduling Protocol (the “Protocol”) on the 25th day of January, 2022. This Protocol supplements, forms part of, and is expressly subject to that certain Transaction Agreement for the sale of Partial Requirements Power Service (the “PRPS” or “Agreement”) executed by the Parties on the 12th day of November, 2009, which is on file with the Federal Energy Regulatory Commission (“FERC” or “Commission”) under the SPS designation Rate Schedule No.138. Each of SPS and LP&L may be referred to individually herein as a “Party” and, collectively, as the “Parties”.

The initial level of energy and capacity that SPS will sell to LP&L pursuant to the PRPS shall be 170 MW on June 1, 2019, and shall increase by one and a fifth percent (1.2%) each succeeding June 1, through the term of the Agreement (the “Contract Quantity”). The PRPS contains transaction scheduling provisions and terminology suited more toward operations within a bilateral or Energy Imbalance Market design as the transaction agreement was entered into prior to the inception of the Southwest Power Pool, Inc. (“SPP”) Integrated Marketplace (“IM”). The purpose of this Protocol is to memorialize an understanding between LP&L and SPS regarding Section 5 of the PRPS, “Scheduling”, as well as resulting charges, given present operations under the SPP IM. In the event of a conflict between this Protocol and the PRPS, the PRPS shall prevail.

1) Term.

The procedures and processes established herein shall remain in effect until such time as the PRPS terminates on its own or pursuant to that certain Settlement Agreement between SPS and LP&L dated May 27, 2021, at which time this Protocol shall also terminate, unless otherwise amended or terminated by mutual agreement of the Parties at an earlier date.

2) Load Scheduling and Market Settlements in the SPP IM.

During the term of this Protocol, SPS will act as the Load Responsible Entity, as defined in SPP’s Open Access Transmission Tariff (“OATT”), for LP&L, and as the Market Participant, as defined in the SPP OATT, bidding LP&L load into the SPP IM.

- a) **Resource Adequacy.** LP&L will be responsible to provide, or procure as necessary, sufficient capacity resources for SPS to meet the applicable SPP resource adequacy and planning reserve obligations for the LP&L loads within SPP that exceed the Contract Quantity delivered to LP&L by SPS pursuant to the PRPS. SPS will not have any responsibility for any LP&L load located outside of SPP.

The PRPS provides LP&L with the Contract Quantity of capacity resources that can be used to satisfy the SPP resource adequacy and planning reserve obligations for LP&L loads within SPP. This capacity may be used by LP&L, in conjunction with other generation LP&L or their agent registers in the SPP IM¹ and other third-party agreements LP&L may secure in the future that would be recognized by SPP as a capacity resource, to meet the SPP resource adequacy and planning reserve obligations for the LP&L load served within SPP.

If LP&L or its agent has other generation or third-party purchased capacity resources that are to be used by SPS to meet LP&L's must-offer requirement for its load in the SPP IM, then LP&L or its agent must identify the asset for SPS, include and update the data repository maintained by the SPP Market Monitoring Unit, as defined in the SPP OATT, and take any other steps necessary so that these other LP&L capacity resources can be used by SPS, as necessary, to meet the SPP IM must-offer requirement. SPS will not be the Market Participant for LP&L's other generation or for any other third-party purchased capacity resources.

- b) **Scheduling load in the SPP IM.** SPS will be the SPP Market Participant for LP&L and will bid LP&L load into the SPP IM as instructed by LP&L pursuant to the Protocol. SPS will timely submit demand bids on behalf of LP&L into the SPP IM.

LP&L must provide hourly demand bid schedules to SPS two (2) hours prior to the close of the SPP IM Day-Ahead ("DA") Market ("DA Market") on the last business day prior to the operating day for the volume of energy it intends for SPS to bid into the DA Market for the following day(s).² If LP&L fails to do so, SPS will carry forward the last demand bid schedule provided by LP&L and submit it to SPP for the next day(s). LP&L may request that SPS adjust demand bid schedules already provided to SPS up until two (2) hours prior to the close of the DA Market on the last calendar day prior to the operating day and SPS will use commercially reasonable efforts to make the adjustments for LP&L. SPS will confirm the adjusted demand bid schedule volumes submitted to SPP for LP&L.

- c) **Charges for Load Scheduling and Market Settlements in the SPP IM.** All verified out-of-pocket costs reasonably incurred and paid by SPS to serve LP&L load in the SPP IM, including, but not limited to, charges related to participation in the DA Market and Real-Time ("RT") Market ("RT Market"), LP&L's pro-rata share of any SPP IM Ancillary Service charges and administrative fees, and, unless otherwise specified herein, LP&L's pro-rata share of any other charges and/or credits SPS incurs to serve LP&L's load in the SPP IM, shall be passed through to and paid by LP&L to SPS unless incurred as a result of SPS' negligence or willful misconduct.

- (1) DA Market. SPS will charge LP&L for the volume cleared in the DA Market at a rate equal to the volumes cleared for each hour of each operating day multiplied by the DA Locational Marginal Price ("LMP") at the Delivery Point for the same

¹ Any such generators must adhere to and comply with SPP requirements, including SPP Planning Criteria Accredited Capability Test specifications.

² Currently this deadline shall be 7:30 AM Central Prevailing Time ("CPT") or 06:30 AM Mountain Prevailing Time ("MPT").

hour. SPS will also pass through LP&L's pro-rata share of any other SPP IM charges and/or credits specific to the DA Market incurred by SPS on LP&L's behalf, including but not limited to SPP IM Ancillary Service charges and administrative fees.

- (2) Real-time ("RT") Market. Any deviations between the DA cleared energy volumes and the actual LP&L load for any period will be settled at the RT LMP. SPS will pass along the applicable RT charges to LP&L at a rate equal to the difference between the DA cleared load and the actual load for each period multiplied by the RT LMP at the Delivery Point.
- a. As an example, if LP&L scheduled 150 MWh of load that cleared for an hour in the DA Market and the actual load for the period is 155 MWh, LP&L would be required to pay SPS for 150 MWh at the DA LMP at the Delivery Point and pay for 5 MWh at the RT LMP at the Delivery Point.
 - b. In another example, if LP&L scheduled 150 MWh of load that cleared for an hour in the DA Market and the actual load for the period is 145 MWh, LP&L would be required to pay SPS for 150 MWh at the DA LMP at the Delivery Point and would get a credit from SPS for 5 MWh at the RT LMP at the Delivery Point.

SPS will also pass through LP&L's pro-rata share of any other SPP IM charges and/or credits specific to the RT Market incurred by SPS on LP&L's behalf, including but not limited to SPP IM Ancillary Service charges and administrative fees.

- (3) Market Participant Services. LP&L shall pay SPS a fee of \$12,000 per month for SPS's labor costs associated with its role as the Load Responsible Entity and Market Participant in the SPP IM on LP&L's behalf ("Market Participant Charge").
- (4) Settlement Statements. SPS will issue settlement statements to LP&L that include the charges and/or credits applicable to SPS serving LP&L's load, including the Market Participant Charge, as part of the billing process under the PRPS. Such settlement statements will reflect interim and final SPP IM settlements consistent with the updates described in the Wholesale Fuel Cost and Economic Purchased Power Adjustment Clause, which is Attachment 2 of the PRPS. This Section 1(c)(3) shall survive beyond the termination of this Protocol to the extent necessary to reflect final SPP IM settlements.

3) Partial Requirements Scheduling and Related Charges.

SPS's obligation to provide energy to LP&L shall be determined based on Bi-lateral Schedules ("BS") from SPS to LP&L and confirmed by the Parties.

LP&L may schedule any quantity of the Contract Quantity during a 24-hour period, provided, however, that the smallest quantity scheduled by LP&L for any hour must be

no less than 50% of the largest quantity scheduled for any hour during that same twenty-four hour period as a DA BS. LP&L may opt to utilize and schedule additional energy either as DA or RT BS. The combination of BS schedules may not collectively exceed the Contract Quantity for any hour.

a) PRPS Schedules.

- (1) No later than the 22nd calendar day of each month SPS will provide LP&L a written good faith estimate of its system average fuel costs for the following month.
- (2) LP&L must inform SPS of its election to utilize a DA BS and its desired hourly energy no later than two (2) hours prior to the close of the SPP DA Market on the last calendar day prior to the operating day. Currently this deadline is 7:30 AM Central Prevailing Time (“CPT”) or 06:30 AM Mountain Prevailing Time (“MPT”). The DA BS volume may not be adjusted after the close of the SPP DA Market without mutual agreement of the Parties.
- (3) LP&L may submit a new RT BS energy schedule for any additional available energy not previously scheduled as a DA BS under the Agreement by notifying SPS of its additional desired hourly energy volume at least thirty (30) minutes prior to the operating hour. These RT BS schedule changes are limited to three (3) updates per twenty-four (24) hour operating day period. The RT BS volume may not be adjusted after thirty (30) minutes prior to the start of the operating hour without mutual agreement. The combined DA BS and RT BS scheduled volume may not exceed the energy available to LP&L under the Agreement.

b) PRPS Charges.

Charges for energy scheduled under each BS shall be based on scheduled volumes at the rates prescribed by the Agreement.

Because each BS is transacted outside the SPP IM and all LP&L load is separately settled in the SPP IM, each BS shall be offset by a separate BS from LP&L to SPS (each, an “Offsetting BS”) and the charge for this Offsetting BS, payable from SPS to LP&L, shall be calculated for each hour as follows:

- (1) For a DA BS, the hourly volume scheduled and confirmed for the hour between SPS and LP&L as a DA BS, multiplied by the DA LMP at the Delivery Point; and
- (2) For a RT BS, the hourly volume scheduled and confirmed by the parties for the hour between SPS and LP&L as a RT BS, multiplied by the DA LMP at the Delivery Point.

As charges for each Offsetting BS are based on the DA LMP and RT LMP published by SPP, such charges shall be subject to true-up if the relevant LMP is subsequently revised by SPP.

4) Delivery Point.

For purposes of this Protocol, as long as SPS remains the SPP customer under the SPP Network Integration Transmission Service Agreement (“NITSA”) on behalf of LP&L for LP&L’s load in SPP, the Delivery Point shall be “SPS_SPS” or the commercial pricing node for SPS’s network load that contains LP&L’s load.

If LP&L requests that the NITSA be reassigned from SPS to LP&L, SPS will work with SPP to establish a generation Resource Hub representing SPS’s portfolio of capacity resources, and the Delivery Point shall become a new SPS generation Resource Hub in SPP for LP&L.

5) Meter Data.

Each Party will provide all meter data it has in its possession necessary to settle the energy sales under the PRPS, as described further under this Protocol.

6) Congestion Rights.

As long as SPS remains the SPP customer under the SPP NITSA on behalf of LP&L, SPS will allocate, by separate line item in monthly invoices, to LP&L its pro-rata share of SPS’s total net system Auction Revenue Rights (“ARR”) and Transmission Congestion Rights (“TCR”) charge type settlement charges/credits from SPP. The pro-rata share of ARR/TCRs allocated to LP&L will be based on the energy LP&L schedules under the PRPS divided by the SPS total net system load during the same period. SPS will not allocate LP&L any ARR and TCR charge type settlement charges/credits from SPP should the SPP NITSA be reassigned to LP&L.

For periods where SPS is not the SPP customer under the SPP NITSA on behalf of LP&L, no amounts shall be credited to LP&L for ARR/TCRs under this Protocol.

7) General.

All terms not otherwise defined herein shall have the meaning set out in the PRPS.

The services provided by the Parties to each other hereunder, and any agents thereto, will be provided consistent with Good Utility Practice and applicable protocols, tariffs, and business practices promulgated by SPP in furtherance of the SPP IM. Except as expressly provided therein, nothing in this Protocol, amends, modifies, or replaces any provisions of the PRPS (or any Service Schedule attached thereto).

This Protocol may be executed in multiple original counterparts and any counterpart hereof having attached thereto the signatures of the Parties hereto (whether on one page or on separate pages) shall be deemed a fully executed original.

Southwestern Public Service Company,
a New Mexico corporation

By: _____

Name: John Welch

Title: Vice President, Commercial Operations

Xcel Energy Services Inc. as Agent for

Southwestern Public Service Company

The City of Lubbock, Texas, a home rule municipal corporation organized under the laws of
the State of Texas

CITY OF LUBBOCK, TEXAS

DANIEL M. POPE, MAYOR

[signatures continued on next page]

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

David McCalla
David McCalla, Director of Electric Utilities-LP&L

APPROVED AS TO FORM:

Jenny Smith
Jenny Smith, General Counsel-LP&L

Craig Enochs
Craig Enochs, Outside Legal Counsel

ELECTRIC UTILITY BOARD OF THE CITY OF LUBBOCK, TEXAS

Dan Odom
DAN ODOM, CHAIRMAN

ATTEST:

Gwen Stafford
Gwen Stafford, Board Secretary

APPROVED AS TO CONTENT:

David McCalla
David McCalla, Director of Electric Utilities-LP&L

APPROVED AS TO FORM:

Jenny Smith
Jenny Smith, General Counsel-LP&L

Craig Enochs
Craig Enochs, Outside Legal Counsel

RESOLUTION

WHEREAS, Lubbock Power & Light is the municipally owned electric utility of the City of Lubbock ("LP&L");

WHEREAS, LP&L and Southwestern Public Service Company, a New Mexico corporation ("SPS"), are parties to that certain Master Power Purchase and Sale Agreement dated as of November 12, 2009 (the "Master Agreement"), 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"), pursuant to which LP&L is purchasing 170 megawatts of Partial Requirements Power Service, as defined in the Transaction Agreement, and increased annually as provided therein, from SPS;

WHEREAS, LP&L and SPS are also parties to that certain Letter Agreement entitled "Letter Agreement between SPS and LP&L re Future Costs under SPP NITSAs", dated March 21, 2017 (the "Transmission Letter Agreement"), related to transmission charges allocable to LP&L in connection with the PPA;

WHEREAS, LP&L and SPS have agreed to certain terms and conditions outlined in that certain Settlement Agreement by and between SPS and LP&L dated May 27, 2021 ("Settlement Agreement"), to terminate the PPA and the Transmission Letter Agreement;

WHEREAS, LP&L and SPS desire to amend only the Amendment to Scheduling Protocol, attached as Exhibit 1 to the Settlement Agreement; NOW, THEREFORE,

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

THAT the Electric Utility Board of the City of Lubbock hereby approves that certain Second Amended and Restated Partial Requirements Power Service Agreement Scheduling Protocol, by and between the City of Lubbock, acting by and through Lubbock Power & Light, and Southwestern Public Service Company, as attached hereto and incorporated herein as though set forth fully herein in detail.

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

THAT the Electric Utility Board of the City of Lubbock hereby acknowledges that no other changes are being made to that certain Settlement Agreement by and between the City of Lubbock, acting by and through Lubbock Power & Light, and Southwestern Public Service Company dated May 27, 2021.

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

THAT the Chairman of the Electric Utility Board is hereby authorized and directed to execute that certain Second Amended and Restated Partial Requirements Power Service Agreement Scheduling Protocol, by and between the City of Lubbock, acting by and through Lubbock Power & Light, and Southwestern Public Service Company, as attached hereto and incorporated herein as though set forth fully herein in detail.

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


THAT this resolution shall be null and void if the City Council of the City of Lubbock does not approve a similar resolution approving the Second Amended and Restated Partial Requirements Power Service Agreement Scheduling Protocol, by and between the City of Lubbock, acting by and through Lubbock Power & Light, and Southwestern Public Service Company within thirty (30) days of this resolution.

Passed by the Electric Utility Board this 18th day of January, 2022.



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

Information

Agenda Item

Ordinance 2nd Reading - City Secretary: Consider Ordinance No. 2022-O0009, ordering the 2022 Regular Municipal Election of the City of Lubbock to be held May 7, 2022.

Item Summary

On January 11, 2022, the City Council approved the first reading of the ordinance.

The Lubbock City Council deems it to be in the best interest of the citizens of Lubbock to order a Regular City Election for electing municipal officers. The election is to be held May 7, 2022, pursuant to the Texas Election Code, the Lubbock City Charter, and City ordinances. Said election shall be for the purpose of electing the following officers of the City of Lubbock: Mayor (At Large), 2-year term; Council Members, Districts 1, 3, and 5, 4-year terms.

Fiscal Impact

\$400,000 is appropriated in the Adopted FY 2021-22 Operating Budget for general, runoff, and any special elections this fiscal year.

Staff/Board Recommending

Rebecca Garza, City Secretary

Attachments

Election Ordinance

Ex. A - Election Day Locations and Judges & Alternates

Ex. B - Early Voting Locations

Exhibit C - Notice of Election

ORDINANCE NO. _____

AN ORDINANCE ORDERING THE 2022 REGULAR MUNICIPAL ELECTION OF THE CITY OF LUBBOCK; INDICATING THOSE OFFICERS TO BE ELECTED; PROVIDING FOR AN ACCESSIBLE ELECTRONIC VOTING SYSTEM TO BE USED; ESTABLISHING POLLING PLACES; APPOINTING ELECTION JUDGES; ESTABLISHING HOURS FOR VOTING; ADOPTING THE SEALED BALLOT BOX PROCEDURE; PROVIDING FOR EARLY VOTING; DIRECTING THE CITY SECRETARY TO GIVE NOTICE OF THE REGULAR MUNICIPAL ELECTION OF THE CITY OF LUBBOCK; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Lubbock deems it to be in the best interest of the citizens of the City of Lubbock to order a Regular City Election for the election of municipal officers to be held on **May 7, 2022**, pursuant to the Texas Election Code, the Lubbock City Charter and City ordinances; NOW THEREFORE:

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

SECTION 1. THAT the Regular City Municipal Election for the election of municipal officers of the City of Lubbock is hereby ordered to be conducted on **May 7, 2022**, under the applicable provisions of the Texas Election Code, the Lubbock City Charter and City ordinances.

SECTION 2. THAT said election shall be for the purpose of electing the following officers of the City of Lubbock:

| | |
|----------------------------|-------------|
| MAYOR (AT LARGE) | 2 YEAR TERM |
| COUNCIL MEMBER, DISTRICT 1 | 4 YEAR TERM |
| COUNCIL MEMBER, DISTRICT 3 | 4 YEAR TERM |
| COUNCIL MEMBER, DISTRICT 5 | 4 YEAR TERM |

SECTION 3. THAT said City general election shall be held at the places in the City of Lubbock hereinafter designated as voting precincts and in the voting places designated in **Exhibit A** hereto. Voting places shall be open from 7:00 a.m. to 7:00 p.m., and all electors shall vote a ballot appropriate for the precinct of their residence at any Countywide Polling Place (Vote Center) shown on **Exhibit A**, as provided for in Section 43.007 of the Texas Election Code.

SECTION 4. THAT an accessible electronic voting system shall be used for this election, including early voting. At least one accessible voting device approved and certified by the Texas Secretary of State shall be provided in each polling place and in every polling location used to conduct said City general election. Said approved and certified accessible electronic voting system shall be supplied for said City general election by Lubbock County, acting by and through its Elections Administrator. The sealed ballot box procedure established by Subchapter C, Chapter 127, Texas Election Code, shall be used for this election.

SECTION 5. THAT the persons named in **Exhibit A** hereto are hereby appointed Judges and Alternate Judges to conduct said General City Election on **May 7, 2022**. In the event any named person is unable to serve for any reason, the City Secretary of the City of Lubbock is hereby authorized and directed to make such substitutions as may be required and to amend **Exhibit A** hereto as required. Each Presiding Judge so named is authorized to appoint the number of clerks authorized by the City Secretary of the City of Lubbock, which number shall not be less than two (2) clerks or more than six (6) clerks. The Alternate Judges shall serve as Presiding Judges in the event that the regularly appointed Presiding Judge is unable to serve. The Alternate Judges shall be appointed by the Presiding Judge to serve as one of the clerks in the event that the regularly appointed Presiding Judge conducts the election.

SECTION 6. THAT early voting by personal appearance shall commence on **April 25, 2022**, and end on **May 3, 2022**. Said early voting shall be conducted at the locations, days and hours indicated on **Exhibit B** hereto; and Early Voting Clerk shall be:

Roxzine Stinson
Official Mailing Address: Lubbock County Elections Administrator
P.O. Box 10536
Lubbock, TX 79408
Physical Address: Lubbock County Elections Administrator
1308 Crickets Avenue
Lubbock, TX 79408
E-mail Address: votelubbock@lubbockcounty.gov
Phone Number: (806)775-1338
Fax Number: (806)775-7980
Website Address: <https://www.votelubbock.org/>

SECTION 7. THAT the Mayor, assisted by the City Secretary, is hereby authorized and directed to give notice of the General City Election of municipal officers as required by law (*see Exhibit C* attached hereto).

SECTION 8. THAT the City Secretary of the City of Lubbock is hereby ordered to cause publication of this Ordinance ordering the General City election of municipal officers in a newspaper of general circulation at least once no earlier than the 30th day nor later than the 10th day before election day. In addition, a copy of this Ordinance shall be posted not later than the 21st day before election day on the bulletin board used for posting notices of meetings of the governing body and a notice of consolidation shall be posted prior to the day of the election at any polling places not consolidated at the last previous election, which notice shall indicate the precinct of consolidation and the location of the new polling place.

SECTION 9. THAT the City Secretary shall serve a duly certified copy of this Ordinance and the Election Notice upon each of the Presiding Judges named in **Exhibit A** not later than the 7th day after the signing of this Ordinance or the 15th day before Election Day, whichever is later. In addition, the City Secretary shall deliver a certified copy of this

Ordinance and the Election Notice on the County Clerk not later than the 60th day before election day.

SECTION 10. THAT this Ordinance shall become effective upon final passage by the City Council of the City of Lubbock.

AND IT IS SO ORDERED.

Passed by the City Council on first reading on _____, 2022.

Passed by the City Council on second reading on _____, 2022.

DANIEL M. POPE, MAYOR

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



Rebecca Garza, City Secretary

APPROVED AS TO FORM:



Amy L. Sims, Deputy City Attorney

May 7, 2022 Cities and Schools General and Special Elections
(Elecciones General y Especial de Ciudades y Escuelas el 7 de mayo de 2022)

Election Day Vote Center Locations

(Lugares de Centros de Votación)

Saturday, May 7, 2022

(Sábado, 7 de mayo de 2022)

7:00 A.M. – 7:00 P.M.

***American Sign Language Interpreters available

***Intérpretes de Lenguaje de Señas disponible

Abernathy City Hall – 811 Avenue D (Community Room), Abernathy, 79311

(Municipalidad de Abernathy – 811 avenida D, salón comunitario, Abernathy) **Bacon**

Heights Baptist Church – 5110 54th St (2 Commons Room), Lubbock, 79414 (Iglesia

Bautista Bacon Heights – 5110 calle 54, salón comunal 2)

Broadview Baptist Church – 1302 N Frankford Ave (Fellowship Hall), Lubbock, 79416

(Iglesia Bautista Broadview – 1302 avenida Frankford Norte, sala de compañerismo)

Broadway Church of Christ – 1924 Broadway (Foyer) Lubbock, 79401

(Iglesia de Cristo Broadway – 1924 calle Broadway, vestíbulo)

Byron Martin ATC – 3201 Avenue Q (Entry Hall), Lubbock, 79411***

(Byron Martin ATC – 3201 avenida Q, vestíbulo de entrada) ***

Calvary Baptist Church – 5301 82nd St (Mall Area), Lubbock, 79424***

(Iglesia Bautista Calvario – 5301 calle 82, área de la plaza) ***

Carmona-Harrison Elementary – 1910 Cesar E. Chavez Drive (Fitness Room), Lubbock, 79415

(Escuela Primaria Carmona-Harrison – 1910 avenida Cesar E. Chavez, sala de fitness)

Casey Administration Building – 501 7th St (Room No. 104), Wolfforth, 79382

(Edificio de Administración Casey – 501 calle 7, salón núm. 104, Wolfforth)

Catholic Diocese of Lubbock – 4620 4th St (Archbishop Michael J Sheehan Hall), Lubbock, 79416

(Diócesis Católica de Lubbock – 4620 calle 4, salón del Arzobispo Michael J Sheehan)

Cavazos Middle School – 210 N University Ave (Gym), Lubbock, 79415

(Escuela Intermedia Cavazos – 210 avenida Universidad Norte, gimnasio)

Celebration Christian Center – 8001 Upland Ave (Sanctuary), Lubbock, 79424

(Centro Cristiano de Celebración – 8001 avenida Upland, santuario)

Church on the Rock – 10503 Slide Rd (Café Area), Lubbock, 79424

(Iglesia Sobre la Roca – 10503 Camino Slide, área del café)

Copper Rawlings Senior Center – 213 40th St (Social Hall), Lubbock, 79404

(Centro para personas mayores de Copper Rawlings – 213 calle 40, salón social)

Elks Lodge No. 1348 – 3409 Milwaukee Ave (Lodge Hall), Lubbock, 79407

(Elks Lodge Núm. 1348 – 3409 avenida Milwaukee, vestíbulo)

First Assembly of God Church – 3801 98th St (Classroom), Lubbock, 79423

(Primera Iglesia Asambleas de Dios – 3801 calle 98, salón de clase)

Green Lawn Church of Christ – 5701 19th St (Entry Hall), Lubbock, 79407

(Iglesia de Cristo Green Lawn – 5701 calle 19, vestíbulo de entrada)

Heritage Middle School – 6110 73rd St (Library), Lubbock, 79424

(Escuela Intermedio Heritage – 6110 calle 73, biblioteca)

Hodges Community Center – 4011 University Ave (Social Hall), Lubbock, 79413

(Centro Social Hodges – 4011 avenida Universidad, salón social)

Idalou Community Center – 202 W 7th St, Idalou, 79329

(Centro Social de Idalou – 202 calle 7 oeste, Idalou)

Lubbock – Cooper Middle School (Conference Room) –16310 TX-493, Lubbock, 79423

(Escuela secundaria Lubbock-Cooper Middle School - 16310 TX-493, sala de conferencias)

Lubbock-Cooper North Elementary School – 3202 108th St (Gym), Lubbock, 79423

(Escuela Primaria Lubbock-Cooper North – 3202 calle 108, gimnasio)

Mae Simmons Community Center – 2004 Oak Ave (Activity Room), Lubbock, 79403

(Centro Social Mae Simmons – 2004 avenida Oak, salón de actividades)

Maggie Trejo Supercenter – 3200 Amherst Street (Rodgers Community Center Social Hall), Lubbock, 79415

(Supercentro Maggie Trejo – 3200 calle Amherst, salon social del Centro comunitario Rodgers)

Mattress Firm – 6707 Slide Rd (Breakroom), Lubbock, 79424

(Mattress Firm – 6707 camino Slide, salón de descanso)

New Deal Community Clubhouse – 309 S Monroe Ave, New Deal, 79350

(Centro Social de New Deal – 309 avenida Monroe sur, New Deal)

Parsons Elementary School – 2811 58th St (Gym), Lubbock, 79413

(Escuela Primaria Parsons – 2811 calle 58, gimnasio)

Patterson Library – 1836 Parkway Dr (Community Room), Lubbock, 79403

(Biblioteca Patterson – 1836 avenida Parkway, salón comunitario)

Ransom Canyon City Hall – 24 Lee Kitchens Dr, Ransom Canyon, 79366

(Oficina Municipal de Ransom Canyon – 24 calle Lee Kitchens Dr, Ransom Canyon)

Roberts Elementary School – 7901 Avenue P (Gym), Lubbock, 79423

(Escuela Primaria Roberts – 7901 avenida P, gimnasio)

Roscoe Wilson Elementary School – 2807 25th St (Gym), Lubbock, 79410

(Escuela Primaria Roscoe Wilson – 2807 calle 25, gimnasio)

Shallowater Community Center – 902 Avenue H, Shallowater, 79363

(Centro Social de Shallowater – 902 avenida H, Shallowater)

Slaton Community Clubhouse – 750 W Garza St, Slaton, 79364

(Centro Comunitario de Slaton, 750 calle Garza oeste, Slaton)

South Plains Church of Christ – 6802 Elkhart Ave (Gym Area), Lubbock, 79424

(Iglesia de Cristo South Plains – 6802 avenida Elkhart, área del gimnasio)

Sunset Church of Christ, (Powerhouse) – 3625 34th St, Lubbock, 79410

(Iglesia de Cristo Sunset, powerhouse – 3625 calle 34)

Sutherlands HomeBase – 3701 50th St (Near Lighting Section), Lubbock, 79413

(Sutherlands HomeBase – 3701 calle 50, cerca de la sección de iluminación)

Terra Vista Middle School – 1111 Upland Ave (Library), Lubbock, 79416

(Escuela Intermedia Terra Vista – 1111 avenida Upland, biblioteca)

Texas Tech University Student Union Building – 15th street and Akron Avenue –Student Union Building, Lubbock, 79409

(Edificio de la Unión de Estudiantes de la Universidad Texas Tech - calle 15 y avenida Akron)

ELECTION DAY CENTER LOCATIONS WITH WORKERS**7:00 a.m. to 7:00 p.m.****ABERNATHY CITY HALL, 811 Avenue D, Abernathy**

| | |
|-----------------|------------|
| Judge | Jan Denzer |
| Alternate Judge | |

BACON HEIGHTS BAPTIST CHURCH, 5110 54th St

| | |
|-----------------|--------------|
| Judge | Mel Sanchez |
| Alternate Judge | Alicia Parra |

BROADVIEW BAPTIST CHURCH, 1302 N Frankford Ave

| | |
|-----------------|-----------------|
| Judge | Deborah Minnick |
| Alternate Judge | |

BROADWAY CHURCH OF CHRIST

| | |
|-----------------|-------------|
| Judge | Beth Bender |
| Alternate Judge | Ellen Abreo |

BYRON MARTIN ATC, 3201 Avenue Q

| | |
|-----------------|-----------------|
| Judge | Brenda Davis |
| Alternate Judge | Charla Harrison |

CALVARY BAPTIST CHURCH, 5301 82nd St

| | |
|-----------------|--------------|
| Judge | Tina Overman |
| Alternate Judge | Mona Mojica |

CARMONA-HARRISON ELEMENTARY

| | |
|-----------------|---------------|
| Judge | Delmira Lopez |
| Alternate Judge | |

CASEY ADMINISTRATION BUILDING - 501 7th Street, Wolfforth

| | |
|-----------------|---------------|
| Judge | Randy Whitson |
| Alternate Judge | Hilda Griffin |

CATHOLIC DIOCESE - 4620 4th Street

| | |
|-----------------|--------------|
| Judge | Delia Garcia |
| Alternate Judge | Sandy Howard |

CAVAZOS MIDDLE SCHOOL, 210 N University Ave

| | |
|-----------------|--------------|
| Judge | Penny Morin |
| Alternate Judge | Charly Boley |

CELEBRATION CHRISTIAN CENTER, 8001 Upland Ave

| | |
|-----------------|------------|
| Judge | Lynn Acton |
| Alternate Judge | |

CHURCH ON THE ROCK, 10503 Slide Rd

| | |
|-----------------|-------------------|
| Judge | Tina Mendez |
| Alternate Judge | Ortencia Saldivar |

COPPER RAWLINGS SENIOR CENTER

| | |
|-----------------|----------------|
| Judge | Jayme Mowery |
| Alternate Judge | Robert Chapman |

ELKS LODGE NO. 1348, 3409 Milwaukee Ave

| | |
|-----------------|----------------|
| Judge | Victor Griffin |
| Alternate Judge | Davy Davison |

FIRST ASSEMBLY OF GOD CHURCH, 3801 98th St

| | |
|-----------------|---------------|
| Judge | Julia Soccio |
| Alternate Judge | Cindy Stinson |

GREEN LAWN CHURCH OF CHRIST, 5701 19th St

| | |
|-----------------|--------------|
| Judge | Sheila Hall |
| Alternate Judge | Gloria Reyes |

HERITAGE MIDDLE SCHOOL - 6110 73rd Street

| | |
|-------|-----------|
| Judge | Jim Brown |
|-------|-----------|

| | |
|-----------------|--|
| Alternate Judge | |
|-----------------|--|

| | |
|--|------------------|
| HODGES COMMUNITY CENTER, 4011 University Avenue Lubbock, TX 79413 | |
| Judge | Christina Hughes |
| Alternate Judge | Daniel Lewis |

| | |
|---|--------------------|
| IDALOU COMMUNITY CENTER, 202 W 7th St Idalou, TX 79329 | |
| Judge | Eddie Nathan Payne |
| Alternate Judge | |

| | |
|---|--------------|
| LUBBOCK-COOPER NORTH ELEMENTARY, 3202 108th St Lubbock, TX 79423 | |
| Judge | Penny Pierce |
| Alternate Judge | |

| | |
|--|--------------|
| LUBBOCK COOPER PERFORMING ARTS CENTER (PAC), 910 Woodrow Rd Lubbock, TX 79423 | |
| Judge | Justin Lopez |
| Alternate Judge | |

| | |
|---|--------------------|
| MAE SIMMONS COMMUNITY CENTER, 2004 Oak Ave Lubbock, TX 79403 | |
| Judge | Mark Moore |
| Alternate Judge | Debbie Christenson |

| | |
|--|--|
| MAGGIE TREJO SUPERCENTER, 3200 Amherst St Lubbock, TX 79424 | |
| Judge | |
| Alternate Judge | |

| | |
|---|-------------------|
| MATTRESS FIRM, 6707 Slide Rd Lubbock, TX 79424 | |
| Judge | Lela Tackitt |
| Alternate Judge | Joann Vandergriff |

| | |
|--|------------------|
| NEW DEAL COMMUNITY CLUBHOUSE, 309 S Monroe Ave New Deal, TX 79350 | |
| Judge | Nancy Obenhaus |
| Alternate Judge | Barbara St Croix |

PARSONS ELEMENTARY, 2811 58th St Lubbock, TX 79413

| | |
|-----------------|----------------|
| Judge | Janet Stephens |
| Alternate Judge | Mark Sanders |

PATTERSON LIBRARY, 1836 Parkway Dr Lubbock, TX 79403

| | |
|-----------------|--------------|
| Judge | Connie Adams |
| Alternate Judge | |

RANSOM CANYON CITY HALL, 24 Lee Kitchens Dr Ransom Canyon, TX 79366

| | |
|-----------------|--|
| Judge | |
| Alternate Judge | |

ROBERTS ELEMENTARY, 7901 Avenue P Lubbock, TX 79423

| | |
|-----------------|----------------|
| Judge | Melanie Barnes |
| Alternate Judge | |

ROSCOE WILSON ELEMENTARY, 2807 25th St Lubbock, TX 79410

| | |
|-----------------|--------------|
| Judge | Hedy Coffman |
| Alternate Judge | |

SHALLOWATER COMMUNITY CENTER, 902 Avenue H Shallowater, TX 79363

| | |
|-----------------|-----------------|
| Judge | Robert Hobgood |
| Alternate Judge | Jenny Bustillos |

SLATON COMMUNITY CLUBHOUSE, 750 W Garza St Slaton, TX 79364

| | |
|-----------------|--------------------|
| Judge | Glenn Mullins |
| Alternate Judge | Diana Stubblefield |

SOUTH PLAINS CHURCH OF CHRIST, 6802 Elkhart Ave Lubbock, TX 79424

| | |
|-----------------|------------------|
| Judge | Megan Taylor |
| Alternate Judge | Mary Ann Waymack |

SUNSET CHURCH OF CHRIST, Powerhouse, 3651 34th St Lubbock, TX 79410

| | |
|-----------------|------------------------|
| Judge | Lisa Hiracheta |
| Alternate Judge | Ramona Mathis-Phillips |

SUTHERLANDS HOME BASE

| | |
|-----------------|-------------------|
| Judge | Sharon Kirkwood |
| Alternate Judge | Remington Griffin |

TERRA VISTA MIDDLE SCHOOL, 1111 Upland Ave. Lubbock, TX 79416

| | |
|-----------------|--------------|
| Judge | Judy Curry |
| Alternate Judge | Betty Zamora |

TTU STUDENT UNION BUILDING, 15th St and Akron Ave Lubbock TX 79409

| | |
|-----------------|--------------|
| Judge | Rachel Buck |
| Alternate Judge | Sarah Looten |

May 7, 2022 Cities and Schools General and Special Elections
(Elecciones General y Especial de Ciudades y Escuelas el 7 de mayo de 2022)

NOTICE OF EARLY VOTING

AVISO DE VOTACIÓN ANTICIPADA

Early Voting by personal appearance for the May 7, 2022

Cities and Schools General and Special Elections

ALL EARLY POLLING LOCATIONS ON THE DATES, TIMES, AND LOCATIONS LISTED BELOW:

Votación Adelantada para las Elecciones General y Especial de Ciudades y Escuelas el 7 de mayo,

2022 serán conducidas en LAS FECHAS, HORARIOS Y SITIOS LISTADOS ABAJO:

EARLY VOTING DATES: Monday, April 25 – Tuesday, May 3, 2022

(Fechas de Votación Adelantada: lunes, 25 de abril– martes, 3 de mayo del 2022)

Main Early Voting Polling Place

Lugar principal de la votación anticipada

Lubbock County Elections Office

Oficina de Elecciones del Condado de Lubbock

1308 Crickets Ave, Lubbock, TX 79401

1308 avenida Crickets

Room: Public Room

Sala: *salón público*

Dates: Mon, April 25 – Tues, May 3

Fechas: *lunes, 25 de abril - martes, 3 de mayo*

Times: 8:00 AM - 8:00 PM
horas:

EXCEPT Sunday, May 1

MENOS el domingo, 1 de mayo

1:00 PM - 7:00 PM

Early Voting Branch Polling Places

United Supermarkets

All Locations listed below:

United - 2630 Parkway Dr., Lubbock, TX 79403 *(Parkway & Beech Ave)*

Dates: Mon, April 25 – Tues, May 3

Fechas: *lunes, 25 de abril - martes, 3 de mayo*

United - 401 Slide Road, Lubbock, TX 79416 *(4th & Slide)*

Times: 8:00 AM - 8:00 PM
horas:

United - 6313 4th St., Lubbock, TX 79416 *(4th & Milwaukee)*

EXCEPT Sunday, May 1

MENOS el domingo, 1 de mayo

United - 1701 50th St., Lubbock, TX 79412 *(50th & Avenue Q)*

1:00 PM - 7:00 PM

United - 2703 82nd St., Lubbock, TX 79423 *(82nd & Boston Ave)*

United - 8010 Frankford Ave., Lubbock, TX 79424 *(82nd & Frankford)*

United - 12815 Indiana Ave., Lubbock, TX 79423 *(130th & Indiana)*

United - 11310 Slide Rd, Lubbock, TX 79424 *(114th & Slide)*

Amigos - 112 N University Ave., Lubbock, TX 79415 *(University & Auburn)*

Market Street - 4425 19th St., Lubbock, TX 79407 *(19th & Quaker)*

Market Street - 3405 50th St., Lubbock, TX 79413 *(50th & Indiana)*

Market Street - 4205 98th St., Lubbock, TX 79423 *(98th & Quaker)*

Abernathy City Hall

Municipalidad de Abernathy

811 Avenue D, Abernathy

811 avenida D

Room: Community Room

Sala: Salón comunitario

Abernathy, TX 79311

Dates: Mon, April 25 – Tues, May 3

Fechas: lunes, 25 de abril - martes, 3 de mayo

Times: 8:00 AM - 8:00 PM
horas:

EXCEPT Sunday, May 1

MENOS el domingo, 1 de mayo

1:00 PM - 7:00 PM

Casey Administration Building

Edificio de Administración Casey

501 7th Street, Wolfforth

501 calle 7

Room: Room No. 104

Sala: Salón No. 104

Wolfforth, TX 79382

Dates: Mon, April 25 – Tues, May 3

Fechas: lunes, 25 de abril - martes, 3 de mayo

Times: 8:00 AM - 8:00 PM
horas:

EXCEPT Sunday, May 1

MENOS el domingo, 1 de mayo

1:00 PM - 7:00 PM

Citizens Tower

Citizens Tower

1314 Avenue K (1st Floor) Lubbock, TX 79401

1314 avenida k

Room: Lobby

Sala: vestíbulo

Dates: Mon, April 25 – Tues, May 3

Fechas: lunes, 25 de abril - martes, 3 de mayo

Times: 8:00 AM - 5:00 PM
horas:

Closed Saturday and Sunday

Idalou Community Center

Centro de Comunidad Idalou

202 W. 7th Street, Idalou

202 calle 7 oeste

Room: Community Room

Sala: Salón comunitario

Idalou, TX 79329

Dates: Mon, April 25 – Tues, May 3

Fechas: lunes, 25 de abril - martes, 3 de mayo

Times: 8:00 AM - 8:00 PM
horas:

EXCEPT Sunday, May 1

MENOS el domingo, 1 de mayo

1:00 PM - 7:00 PM

Lubbock ISD Administration Office

Oficina de Administración de Lubbock ISD

1628 19th Street, Lubbock, TX 79401

1628 calle 19

Room: Breezeway

Sala: Breezeway

Dates: Mon, April 25 – Tues, May 3

Fechas: lunes, 25 de abril - martes, 3 de mayo

Times: 8:00 AM - 5:00 PM
horas:

Closed Saturday and Sunday

New Deal Community Clubhouse

Centro Social de New Deal

309 S. Monroe Avenue, New Deal

309 avenida Monroe sur

Room: Community Room

Sala: Salón comunitario

New Deal, TX 79350

Dates: Mon, April 25 – Tues, May 3

Fechas: lunes, 25 de abril - martes, 3 de mayo

Times: 8:00 AM - 8:00 PM
horas:

EXCEPT Sunday, May 1

MENOS el domingo, 1 de mayo

1:00 PM - 7:00 PM

Ransom Canyon City Hall

Oficina Municipal de Ransom Canyon

24 Lee Kitchens Dr

24 calle Lee Kitchens Dr

Room:

Sala:

Dates: Mon, April 25 – Tues, May 3
Fechas: lunes, 25 de abril - martes, 3 de mayo
Times: 8:00 AM - 5:00 PM
horas:
EXCEPT Sunday, May 1
MENOS el domingo, 1 de mayo
1:00 PM - 7:00 PM

Shallowater Community Center

Centro de Comunidad Shallowater

900 Avenue H, Shallowater

900 avenida H

Room: Community Room

Sala: Salón comunitario

Dates: Mon, April 25 – Tues, May 3
Fechas: lunes, 25 de abril - martes, 3 de mayo
Times: 8:00 AM - 8:00 PM
horas:
EXCEPT Sunday, May 1
MENOS el domingo, 1 de mayo
1:00 PM - 7:00 PM

Slaton Community Clubhouse

Centro Comunitario de Slaton

750 W Garza St, Slaton

750 calle Garza oeste

Room: Community Room

Sala: Salón comunitario

Dates: Mon, April 25 – Tues, May 3
Fechas: lunes, 25 de abril - martes, 3 de mayo
Times: 8:00 AM - 8:00 PM
horas:
EXCEPT Sunday, May 1
MENOS el domingo, 1 de mayo
1:00 PM - 7:00 PM

Texas Tech University Student Recreation Center

Universidad de Texas Tech Centro de Recreación para Estudiantes

Texas Tech Campus

Campus de Texas Tech

3219 Main Street, Lubbock, TX 79409

3219 calle Main

Dates: Mon, April 25 – Tues, May 3
Fechas: lunes, 25 de abril - martes, 3 de mayo
Times: 8:00 AM - 8:00 PM
horas:
EXCEPT Sunday, May 1
MENOS el domingo, 1 de mayo
1:00 PM - 7:00 PM

Lubbock, TX 79409

NOTICE OF GENERAL ELECTION (AVISO DE ELECCIÓN GENERAL)
CITY OF LUBBOCK 2022 REGULAR MUNICIPAL ELECTION
(ELECCIÓN REGULAR MUNICIPAL 2022, DE LA CIUDAD DE LUBBOCK)

Notice is hereby given that the polling places listed below will be open from 7:00 a.m. to 7:00 p.m., on **May 7, 2022**, for voting in a general election to elect: *(Notifíquese, por las presente, que las casillas electorales sitados abajo se abrirán desde las 7:00 a.m. hasta las 7:00 p.m. el 7 de mayo de 2022 para votar en la Elección General para elegir:)*

| | |
|--------------------------------|-------------|
| MAYOR - AT LARGE | 2 YEAR TERM |
| ALCALDE - SIN LIMITACIONES | (2 AÑOS) |
| COUNCIL MEMBER, DISTRICT 1 | 4 YEAR TERM |
| CONCEJAL MUNICIPAL, DISTRITO 1 | (4 AÑOS) |
| COUNCIL MEMBER, DISTRICT 3 | 4 YEAR TERM |
| CONCEJAL MUNICIPAL, DISTRITO 3 | (4 AÑOS) |
| COUNCIL MEMBER, DISTRICT 5 | 4 YEAR TERM |
| CONCEJAL MUNICIPAL, DISTRITO 5 | (4 AÑOS) |

Voting by personal appearance will be conducted on Election Day at: *(La votación en persona, el día de Elección, se llevará a cabo en)*

See Exhibit A (Vea Anexo A)

Early voting by personal appearance will be conducted at: *(La votación adelantada en persona se llevará a cabo en)*

See Exhibit B (Vea Anexo B)

Applications for ballot by mail shall be mailed to: *(Las solicitudes para boletas que se votarán en ausencia por correo deberán enviarse a:)*

Early Voting Clerk *(Secretario para la Votación Adelantada)*
Roxzine Stinson

Official Mailing Address: Lubbock County Elections Administrator
P.O. Box 10536, Lubbock, Texas 79408

Physical Address: Lubbock County Elections Administrator
1308 Crickets Avenue
Lubbock, TX 79408

E-mail Address: votelubbock@lubbockcounty.gov

Phone Number: (806) 775-1339

Fax Number: (806) 775-7980

Website Address: <https://www.votelubbock.org/>


Issued this the 25th day of January, 2022.
(Emitada este día 25 de enero, 2022.)

DANIEL M. POPE, MAYOR *(Alcalde)*

ATTEST:

Rebecca Garza, City Secretary *(Secretario Municipal)*

APPROVED AS TO FORM:


Amy L. Sims, Deputy City Attorney *(Asesora Legal Municipal Adjunto)*

Information

Agenda Item

Ordinance 1st Reading - City Secretary: Consider an ordinance amending Section 1.02.004 of the Code of Ordinances of the City of Lubbock, Texas, with regard to voting precinct boundaries and the establishment of the same by the City Council; creating additional and new voting precincts; and providing a map of the voting precincts and districts of the City of Lubbock.

Item Summary

The Lubbock City Council received the results of the 2020 Federal Census and engaged the law firm of Bickerstaff Heath Delgado Acosta, LLP, to act as its redistricting consultant.

On December 14, 2020, the City Council adopted the final plan regarding redistricting of the 6 City Council single-member districts.

On December 27, 2021, the Lubbock County Commissioner's Court adopted reconfigured voting precincts within the City and the County of Lubbock. The City Council deems it to be in the best interest of the citizens of the City of Lubbock to amend the boundaries of existing voting precincts, and to create additional and new voting precincts.

Fiscal Impact

None

Staff/Board Recommending

Rebecca Garza, City Secretary

Attachments

Ord.- Precincts

Precinct Map

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTION 1.02.004 OF THE CODE OF ORDINANCES OF THE CITY OF LUBBOCK, TEXAS, WITH REGARD TO VOTING PRECINCT BOUNDARIES AND THE ESTABLISHMENT OF SAME BY CITY COUNCIL BY ORDINANCE; CREATING ADDITIONAL AND NEW VOTING PRECINCTS; PROVIDING A MAP OF THE VOTING PRECINCTS AND DISTRICTS OF THE CITY OF LUBBOCK; PROVIDING A SAVINGS CLAUSE; AND PROVIDING FOR PUBLICATION.

WHEREAS, the City Council of the City of Lubbock (the "City Council") received the results of the 2020 Federal Census and engaged the law firm of Bickerstaff Heath Delgado Acosta LLP (the "Consultant") to act as its redistricting consultant; and

WHEREAS, on December 14, 2021, the City Council adopted the final plan regarding redistricting of the six City Council single-member districts; and

WHEREAS, the City Council after due consideration of the recommendation of the Consultant and other information provided by the staff and the public has determined that it would be in the best interest of the citizens of the City of Lubbock to require that the following changes be made to the City of Lubbock voting precincts; and

WHEREAS, on December 27, 2021, the Lubbock County Commissioner's Court adopted reconfigured voting precincts within the City and the County of Lubbock; and

WHEREAS, the City Council of the City of Lubbock deems it to be in the best interest of the citizens of the City of Lubbock to amend Section 1.02.004 of the Code of Ordinances of the City of Lubbock to amend the boundaries of existing voting precinct boundaries, creating additional and new voting precincts; NOW THEREFORE:

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

SECTION 1. THAT Section 1.02.004 of the Code of Ordinances of the City of Lubbock, Texas, be amended to read as follows:

Sec. 1.02.004 Precincts and voting places

- (a) All general and special elections of the city shall be held at voting places that will be designated by election order, which shall be the voting places for the voting precincts. Voting precincts shall be established by ordinance and may be altered from time to time in like manner.

(b) The voting precincts shall be divided into six (6) City Council voting districts, with each district to contain the following named voting precincts:

Voting District No. 1: Precinct Nos. 1, 2, 3, 4, 5, 8, 10, 17, 19, 24, 63, and 114.

Voting District No. 2: Precinct Nos. 6, 11, 20, 25, 26, 29, 40, 67, 108, 118, 119, 122, and 153.

Voting District No. 3: Precinct Nos. 7, 13, 14, 15, 21, 22, 23, 27, 30, 49, 50, and 126.

Voting District No. 4: Precinct Nos. 12, 28, 32, 37, 52, 54, 60, 66, 75, 109, 110, 123, 127, and 141.

Voting District No. 5: Precinct Nos. 62, 78, 104, 111, 112, 124, 125, 128, 129, 138, 139, 140, 154, and a portion of 155.

Voting District No. 6: Precinct Nos. 9, a portion of 31, 47, 53, 57, 58, 59, 72, 76, 92, 113, a portion of 120, 135, and 152.

(c) The voting districts and voting precincts, as established by City Council, shall be delineated on a map. A copy of the original of such map shall be kept in the office of the city secretary and shall be available for public inspection. At each special and general city election, a true copy of said map shall be furnished by the city secretary to each of the presiding judges of the voting precincts for such special or general city election.

SECTION 2. THAT pursuant to Chapters 42 of the Texas Election Code, the configurations and boundaries for the City's election precincts are hereby amended, and that the new and reconfigured election precincts plan, as depicted on the maps attached as Exhibit A and incorporated herein by reference as though set out completely in detail, is hereby adopted, approved, and designated to define the City's election precincts from and after the Effective Date. A copy of the attached maps shall be kept on file in the office of the city secretary and shall be available for public inspection.

SECTION 3. THAT should any paragraph, section, 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 and directed to cause publication of the descriptive caption of this Ordinance as an alternative method of publication provided by law.

AND IT IS SO ORDERED.

Passed by the City Council on first reading on _____, 2022.

Passed by the City Council on second reading on _____, 2022.

DANIEL M. POPE, MAYOR

ATTEST:


Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

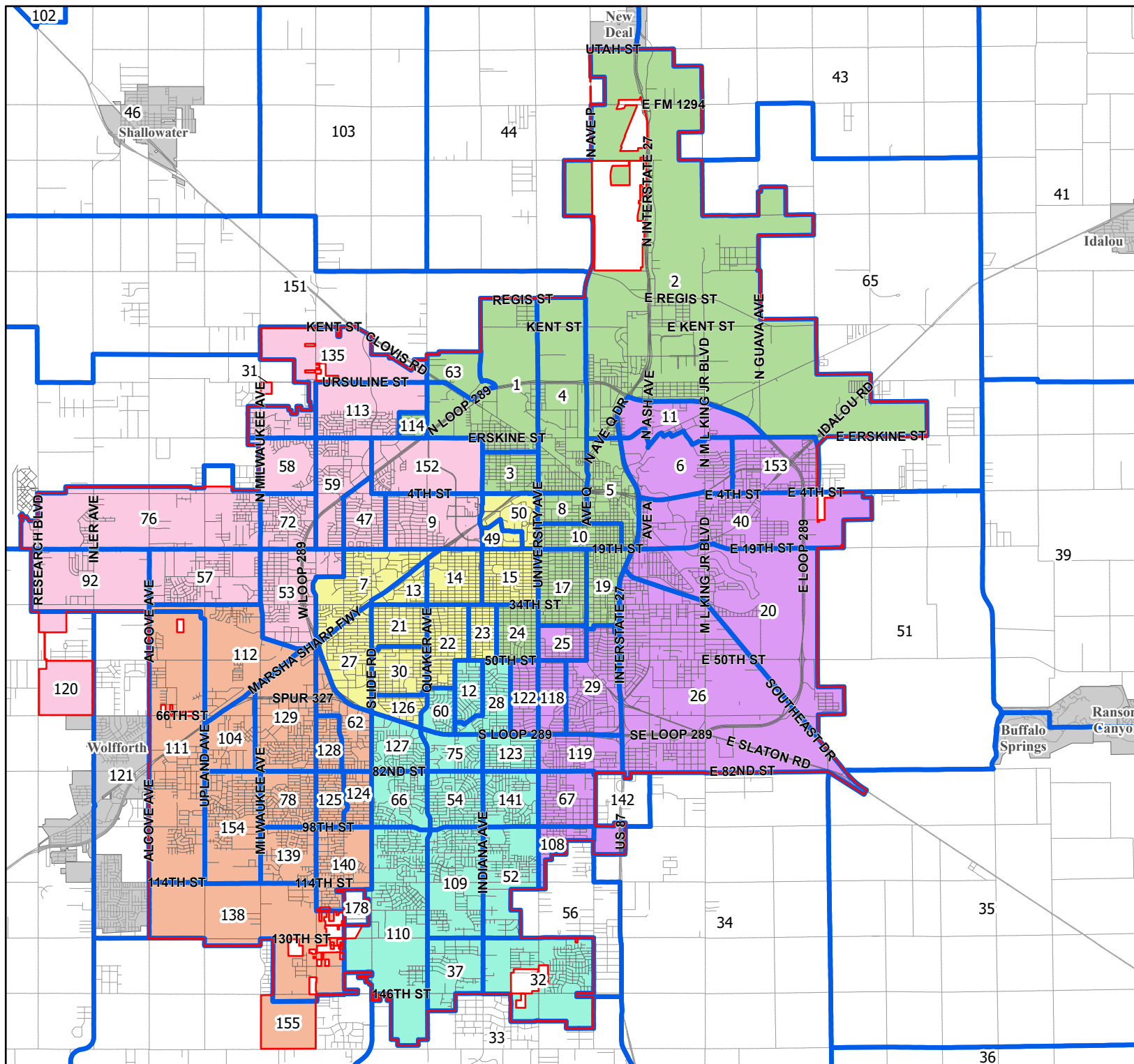


Rebecca Garza, City Secretary

APPROVED AS TO FORM:



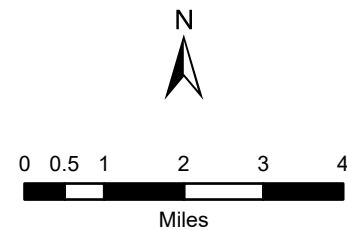
Amy L. Sims, Deputy City Attorney



LUBBOCK CITY COUNCIL DISTRICTS & VOTING PRECINCTS

Effective: January 1, 2022

- Council District 1
- Council District 2
- Council District 3
- Council District 4
- Council District 5
- Council District 6
- Voting Precincts
- Lubbock City Limits



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.

Information

Agenda Item

Resolution - City Secretary: Consider a resolution authorizing and directing the City Manager to pay in accordance with Article II, Subsection B, of Professional Services Agreement, Contract No. 15708, with Bickerstaff Heath Delgado Acosta LLP, an amount up to \$38,000 for redistricting services related to the City of Lubbock, as the City increased the number of plans and other services.

Item Summary

Payment for redistricting services due to increase in plans and services to the City.

Fiscal Impact

Up to \$38,000

Staff/Board Recommending

Rebecca Garza, City Secretary

Attachments

Resolution - Bickerstaff Contract
Article II Section B

RESOLUTION

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

THAT the City Council of the City of Lubbock does hereby authorize and direct the City Manager to pay in accordance with Article II, Subsection B. of Professional Services Agreement Contract No. 15708 for Redistricting Services by and between the City of Lubbock and Bickerstaff Heath Delgado Acosta LLP, an amount up to \$38,000.00 as the City increased the number of plans and other services.

Passed by the City Council on _____.

DANIEL M. POPE, MAYOR

ATTEST:

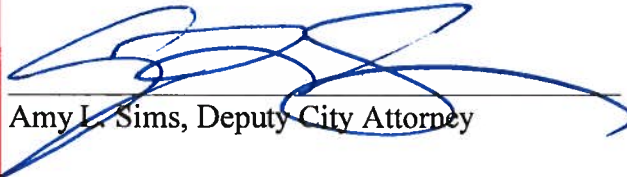
Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



Rebecca Garza, City Secretary

APPROVED AS TO FORM:



Amy L. Sims, Deputy City Attorney

PROFESSIONAL SERVICES AGREEMENT

STATE OF TEXAS §

COUNTY OF LUBBOCK §

This Professional Service Agreement (“Agreement”) Contract No.15708 is entered into Bickerstaff Heath Delgado Acosta LLP (the” Consultant”), a Texas limited liability partnership, and the political subdivisions of the State of Texas, consisting of the City of Lubbock (the “City”), Lubbock County (the “County”) and Lubbock Independent School District (the “LISD”) hereafter referred to collectively as the “Political Subdivisions”.

WITNESSETH

WHEREAS, the City desires to contract with the Consultant to provide professional services for Redistricting Services for and on behalf of the Political Subdivisions (the “Activities”) as awarded in RFQ 21-15708-MA; and

WHEREAS, the Consultant has a professional staff experienced and is qualified to provide professional Consulting services related to the Activities, and will provide the services, as defined below, for the price provided herein, said price stipulated by the City and the Consultant to be a fair and reasonable price; and

WHEREAS, the City desires to contract with the Consultant to provide professional services related to the Activities, and Consultant 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, for itself and on behalf of the other Political Subdivisions, and the Consultant hereby agree as follows:

ARTICLE I. TERM

The initial term of this Agreement commences on the 22nd day of June, 2021 and continues without interruption until the Activities are complete.

Per RFQ 21-15708-MA (Exhibit “B”), Consultant must represent the County in odd years from 2023-2029 to update voting precincts as needed. The County must obtain a Scope of Work and current pricing from the Consultant in each odd numbered year as needed.

ARTICLE II. SERVICES AND COMPENSATION

A. The Consultant shall conduct all activities, and within such timeframes, as set forth in the Consultants response to RFQ 21-15708-MA, attached hereto as Exhibit "C" (the "Services"), or as otherwise agreed.

B. The Consultant shall receive as consideration to be paid for the performance of the Services identified in the Political Subdivisions' respective estimated budgets, in an amount not to exceed \$114,810.00, as set forth in Exhibit "A". Each of those estimated budgets provides for a limited number of plans to be developed, meetings and public meetings to be held, and of other related services; increases in the number of plans, meetings, public meetings, or other services would increase the total price. Reconfigurations of County election precincts in subsequent years is not included in the estimated budget for the County.

ARTICLE III. TERMINATION

A. General. The City may terminate this Agreement, for any reason or convenience, upon thirty (30) days written notice to the Consultant. In the event this Agreement is so terminated, the City shall only pay the Consultant for services actually performed by the Consultant up to the date the Consultant is deemed to have received notice of termination, as provided herein.

B. Termination and Remedies. In the event the Consultant 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.

C. Termination by Consultant. The Consultant may terminate this Agreement as to any one or more of the Political Subdivisions upon thirty (30) days' written notice for failure of the applicable Political Subdivision to timely pay any invoice for Services; or for a Political Subdivision's refusal to accept the Consultant's legal advice regarding the Services.

ARTICLE IV. NON - ARBITRATION

The Political Subdivisions reserves the right to exercise any right or remedy available to them 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 Political Subdivisions 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 Consultant is a limited liability partnership 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 Consultant has the legal power and authority 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 Consultant. This Agreement constitutes legal, valid, and binding obligations of the Consultant and is enforceable in accordance with the terms thereof.

D. Consultant. The Consultant 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 Consultant 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 Consultant warrants that any materials provided by the Consultant for use by the Political Subdivisions pursuant to this Agreement shall not contain any proprietary material owned by any third 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; or that Consultant has consent or other authorization to use and provide such third-party materials. The Consultant shall be solely responsible for ensuring that any materials provided by the Consultant pursuant to this Agreement satisfy this requirement and the Consultant agrees to indemnify

and hold the Political Subdivisions harmless from all liability or loss caused to the Political Subdivisions or to which the Political Subdivisions are exposed on account of the Consultant's failure to perform this duty; except, however, if the Political Subdivisions (or any one or more of them) violate any limitations on use or dissemination stated by Consultant.

ARTICLE VI. SCOPE OF WORK

The Consultant shall accomplish the following: Professional Services related to the Services, as provided in Exhibit "A-C", attached hereto and made a part hereof for each Political Subdivision

ARTICLE VII. INDEPENDENT CONTRACTOR STATUS

The Consultant and the Political Subdivisions agree that the Consultant 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 Consultant 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 Consultant and the Consultant's employees and/or sub-consultants, will not be considered, for any purpose, employees or agents of the Political Subdivisions 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 Consultant 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 Political Subdivisions, 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 Consultant 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 Consultant 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 Consultant shall further cause any approved subcontractor or sub-consultant to procure and carry, during the term of this Agreement, the insurance coverage required of Consultant herein, including without limitation, Professional Liability coverage, protecting the Political Subdivisions against losses caused by the professional negligence of the approved subcontractor or sub-consultant. The Political Subdivisions 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 Consultant shall provide a Certificate of Insurance to the Political Subdivisions as evidence of coverage.

The Certificate shall provide 30 day's 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 Consultant shall elect to obtain worker's compensation coverage pursuant to Section 406.002 of the Texas Labor Code. Further, the Consultant 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 Consultant maintains said coverage. The Consultant 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 Political Subdivisions. If at any time during the life of the Agreement or any extension hereof, the Consultant fails to maintain the required insurance in full force and effect, the Consultant 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 Consultant'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 Consultant may employ or retain consultants, contractors, or third parties (any of which are referred to herein as "Sub-consultant"), to perform certain duties of Consultant, as set forth on Exhibit "A", attached hereto, under this Agreement. The Consultant is at all times responsible to the Political Subdivisions to perform the Services as provided in this Agreement and the Consultant 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 Consultant shall be required by the Consultant to carry, for the protection and benefit of the Political Subdivisions and the Consultant and naming said third parties as additional insureds, insurance as described above required to be carried by the Consultant in this Agreement.

The Consultant 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 Consultant shall retain all information received from or concerning the Political Subdivisions and the Political Subdivisions' business in strictest confidence and shall not reveal such information to third parties without prior written consent of the Political Subdivisions, unless otherwise required by law, except for information deemed public under the Texas Public Information Act.

ARTICLE XI. INDEMNITY

THE CONSULTANT SHALL INDEMNIFY AND SAVE HARMLESS THE POLITICAL SUBDIVISIONS 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 PROXIMATELY CAUSED BY THE NEGLIGENT ACTS OF THE CONSULTANT, ITS AGENTS,

EMPLOYEES, AND/OR SUBCONSULTANTS, RELATED TO THE PERFORMANCE, OPERATIONS OR OMISSIONS UNDER THIS AGREEMENT AND/OR THE USE OR OCCUPATION OF POLITICAL SUBDIVISIONS OWNED PROPERTY. THE INDEMNITY OBLIGATION PROVIDED HEREIN SHALL SURVIVE THE EXPIRATION OR TERMINATION OF THIS AGREEMENT.

TO THE EXTENT PERMITTED BY LAW, THE POLITICAL SUBDIVISIONS (OR THE APPLICABLE POLITICAL SUBDIVISION(S)) SHALL INDEMNIFY AND SAVE HARMLESS THE CONSULTANT AND ITS OFFICERS, AGENTS, EMPLOYEES, AND SUB-CONSULTANTS 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: (A) INJURY OR DEATH TO ANY PERSON, OR INJURY TO ANY PROPERTY, RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR PROPERTY, TO THE EXTENT PROXIMATELY CAUSED BY THE NEGLIGENT ACTS OF THE CONSULTANT, ITS AGENTS, EMPLOYEES, AND/OR SUBCONSULTANTS, RELATED TO THE PERFORMANCE, OPERATIONS OR OMISSIONS UNDER THIS AGREEMENT AND/OR THE USE OR OCCUPATION OF POLITICAL SUBDIVISIONS OWNED PROPERTY; AND (B) ANY CLAIM BY A THIRD PARTY OF INFRINGEMENT OF THE THIRD PARTY'S INTELLECTUAL PROPERTY OR PROPRIETARY INFORMATION BASED IN WHOLE OR PART ON ASSERTIONS OF UNAUTHORIZED USE, DISSEMINATION, OR OTHER INFRINGEMENT ("INFRINGING USE") BY THE RESPECTIVE POLITICAL SUBDIVISION(S), WHERE THE POLITICAL SUBDIVISION WAS INFORMED BY CONSULTANT THAT SUCH INFRINGING USE WAS PROSCRIBED.

ARTICLE XII. COMPLIANCE WITH APPLICABLE LAWS

The Consultant 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 Consultant to the Political Subdivisions or the Political Subdivisions to the Consultant 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. Consultant's Address. The Consultant's address and numbers for the purposes of notice are:

Bickerstaff, Heath, Delgado, Acosta, LLP.

ATTN:David Méndez
3711 S. MoPac Expressway
Building One, Suite 300
Austin, TX 78746
Telephone: 512-472-8021

C. Political Subdivisions' Address. The Political Subdivisions' address and numbers for the purposes of notice are:

City of Lubbock
Attn: Becky Garza
P.O. Box 2000
1314 Avenue K
Lubbock, Texas 79457
Email:bgarza@mylubbock.us
Telephone: 806-775-2061

Lubbock County
Attn: Curtis Parrish
P.O. Box 10536
916 Main Street
Lubbock, TX 79408
Email:cparrish@lubbockcounty.gov
Telephone: 806-775-1687

Lubbock ISD
Attn: Sheri Dahl
1628 19th Street
Lubbock, TX 79401
Email:sherri.dahl@lubbockisd.org
Telephone: 806-219-0233

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. POLITICAL SUBDIVISIONS-PROVIDED DATA AND RESPONSIBILITIES

Provision of Data. The Political Subdivisions shall furnish the Consultant non-confidential studies, reports and other available data in the possession of the Political Subdivisions pertinent to the Consultant's Services (the "Provided Data"). The Consultant 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. Records. The Consultant shall maintain records that are necessary to substantiate the services provided by the Consultant.

D. Assignability. The Consultant 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 Political Subdivisions and the Consultant, and in the case of the Political Subdivisions, its respective successors, legal representatives, and assigns, and in the case of the Consultant, 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 PART 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 Consultant and the City.

I. Entire Agreement. This Agreement, including Exhibits "A" through "C" attached hereto, contains the entire agreement between the City and the Consultant, 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 Consultant and the Political Subdivisions.

K. Documents Owned by Political Subdivisions. Any and all physical documents, drawings and specifications prepared by Consultant as part of the Services hereunder, shall become the property of the Political Subdivisions when the Consultant has been compensated as set forth in Article II, above. The Consultant shall make copies of any and all work products for its files. No copyrights or other rights in or to the work product of Consultant are transferred by this Agreement; provided, that the applicable Political Subdivision shall have the right to use in the ordinary course of its business, including reproducing and disseminating, all work product of Consultant provided by Consultant to the Political Subdivision.

L. Notice of Waiver. A waiver by either a Political Subdivision or the Consultant 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. No Third Party Beneficiaries. Nothing in this Agreement shall be construed to provide any rights or benefits whatsoever to any party other than the Political Subdivisions and the Consultant.

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"); and Consultant shall have no further obligation or liability under the Agreement; provided, that payment for services provided in whole or party by Consultant prior to termination shall be promptly paid, subject to limits of the remaining current appropriation. If at any time funds are not appropriated for the continuance of this Agreement, cancellation shall be accepted by the Consultant on thirty (30) days prior written notice,.

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, Respondent certifies that either (i) it meets an exemption criteria under Section 2271.002; or (ii) it does not boycott Israel and will not boycott Israel during the term of the contract resulting from this solicitation. Respondent shall state any facts that make it exempt from the boycott certification in its Response.

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.

EXECUTED by each Parties on the dates indicted below.

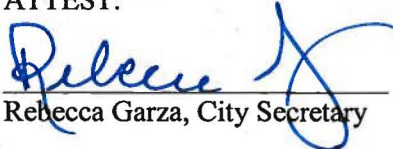
CITY OF LUBBOCK



DANIEL M. POPE, MAYOR

DATE: June 22, 2021

ATTEST:

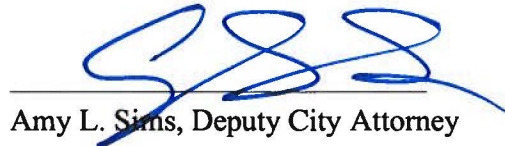


Rebecca Garza, City Secretary



City Department Head

APPROVED AS TO FORM:



Amy L. Sims, Deputy City Attorney

BICKERSTAFF, HEATH, DELGADO, ACOSTA LLP

By: 

[Firm Signature]

DATE: 6/15/2021

Information

Agenda Item

Resolution - City Manager: Consider a resolution authorizing the Mayor to execute a Developer Participation Agreement, by and between the City of Lubbock and Rocket Partners I, LLC, for public improvements for the construction of a multi-company fire station at 142nd Street and Indiana.

Item Summary

On September 14, 2021, the City of Lubbock was gifted 2.401 acres in Section 1, Block AK, Lubbock County, located east of Indiana Avenue and south of 140th Street, from Rocket Partners I, LLC, for the construction of Fire Station No. 20. The site will require the City to construct one-half of 142nd Street and one-half of Geneva Avenue, as well as the required utilities which abut the property in order to plat the property and begin construction. Rocket Partners I, LLC also plans to construct the adjacent half of both of these streets in order to serve the development of the adjacent land. It is beneficial to join the projects in order to construct 142nd Street and Geneva Avenue at one time instead of separately. Thus, this Developer Participation Agreement provides that the City will reimburse Rocket Partners I, LLC for the portion of construction for the City's one-half of the infrastructure.

Fiscal Impact

The estimated cost to the City for the required public infrastructure adjacent to the future site of Fire Station No. 20 is funded in CIP 92711 Fire Station 20.

Staff/Board Recommending

Jesica McEachern, Assistant City Manager

Attachments

Resolution
Agreement
Deed from Rocket Partners I, LLC
Budget Detail
CIP Detail

RESOLUTION

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

THAT pursuant to the provisions of the Texas Local Government Code Section 212.071 and 212.072, the Mayor of the City of Lubbock is hereby authorized and directed to execute for and on behalf of the City of Lubbock, a Developer Participation Agreement for public improvements related to Capital Improvement Project No. 92711 for the construction of a multi-company fire station located at 142nd Street and Indiana Avenue in Lubbock, Texas, by and between the City of Lubbock and Rocket Partners I, 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:



Ryan Brooke, Assistant City Attorney

**DEVELOPER PARTICIPATION AGREEMENT BETWEEN
THE CITY OF LUBBOCK AND ROCKET PARTNERS I, LLC**

THIS AGREEMENT is entered into this ____ day of _____ 20__ by and between the City of Lubbock, Texas, a Texas Home Rule Municipality (“City”), and Rocket Partners I, LLC (“Developer”), collectively (“Parties”).

RECITALS

WHEREAS, on July 13, 2021 the City passed budget amendment ordinance number 2021-O0077 establishing the Capital Improvement Project (CIP) 92711 for the construction and public improvements related to Fire Station 20 (the “Project”) located at Indiana Avenue and 142nd Street in Lubbock, Texas, and appropriated funding in the amount of seven million six hundred and forty-five thousand and 00/100 (\$7,645,000.00); and

WHEREAS, CIP 92711 will include the construction of necessary infrastructure and public improvements, including but not limited to streets and alley ways, municipal water and sewer extensions, associated drainage structures, and utility extensions necessary for the construction of Fire Station 20 (“City’s Work”); and

WHEREAS, Developer owns, and is developing, the land surrounding CIP 92711, which will include the construction of necessary infrastructure and public improvements, including but not limited to streets and alley ways, municipal water and sewer extensions, associated drainage structures, and utility extensions in the area surrounding CIP 92711 (“Developer’s Work”); and

WHEREAS, the Parties can realize a significant cost savings for each Party’s Work within the boundaries of CIP 92711 by utilizing the same engineering firm and Contractor for each the City’s Work and Developer’s Work related to the infrastructure and public improvements in and surrounding the boundaries of CIP 92711; and

WHEREAS, the Parties hereby agree that in order to expedite construction and avoid duplicative costs, both Parties shall utilize one engineering firm and one Contractor jointly for the completion of said projects; and

WHEREAS, Texas Local Government Code Sections 212.071 and 212.072(c) authorize a municipality to enter into a Developer Participation Agreement for improvements required by the municipality, including but not limited to increased capacity of improvements; and

WHEREAS, City of Lubbock Code of Ordinances Section 38.09.003(c) requires Developer to construct half-width streets along the boundary of a proposed subdivision and pay all cost of the paving, except that the City may participate in the cost of paving under existing paving policies; and

WHEREAS, Developer hereby agrees to construct and pave the entire width of the streets surrounding CIP 92711 in compliance with any and all applicable City ordinances, policy, procedure, or other City requirements, in a form and design approved by the City Engineer of the City of Lubbock, or his designee; and

WHEREAS, Developer is aware that City funds for the City's Work in this Developer Participation Agreement are limited to the portion of funds meant for infrastructure and public improvements appropriated for CIP 92711; and

WHEREAS, the City, after due and careful consideration, has concluded that entering into this Agreement will expedite the development of the Project and will further the growth of the City, facilitate the redevelopment of the area surrounding the Project, improve the environment of the City, increase assessed valuation of the real estate situated nearby the Project, foster increased economic activity within the City, upgrade the public infrastructure surrounding the Project, and otherwise be in the best interest of the City by furthering the health, safety, and welfare of its residents and taxpayers.

TERMS

NOW, THEREFORE, in consideration of the promises and mutual agreements hereinafter set forth, the Parties hereby do mutually agree as follows:

1.0 *Parties Obligations*

1.1 City. City shall prepare all engineering drawings necessary related to CIP 92711.

1.2 Developer. Developer shall prepare and forward to the City all engineering drawings necessary for the adjacent projects.

1.3 The Developer shall solicit and procure a Contractor to perform both the City's Work and Developer's Work included in the attached Exhibit "A" ("Joint Project"). Developer shall make every reasonable attempt to negotiate a contract between the Developer and the highest-ranking Contractor that is qualified for the Joint Project and for the best value. If either Party deems the project financially unfeasible, either the City or Developer may elect not to pursue the Joint Project and reject all bids. Rejection of all bids will terminate this agreement in its totality.

1.4 Once construction begins, all change orders will require City approval. For any change orders related to the Joint Project, Developer must submit its written recommendation to the City for each change order, and the City will promptly consider said change order. Upon project completion, City shall render payment to the Developer for each change order it recommends to, and is approved by, the City.

2.0 *Payments*

2.1 **Developer.** Developer shall fund the Developer's Work as valued by the Contractor's bid selected by the Developer and approved by the Parties.

2.2 **City.** Upon selection of a qualified contractor for construction services via Developer's procurement, City shall pay the Developer Two Hundred and Fifty-Two Thousand, Three Hundred and Twenty-Five and 00/100 Dollars (\$252,325.00) for City's Work as valued in the attached Exhibit "B", Preliminary Opinion of Probable Cost, plus a five percent (5%) contingency within thirty (30) business days of executing the Contractor's contract or thirty (30) business days of executing this Agreement, whichever occurs last.

2.3. Upon project completion, City shall pay the Developer fifty percent (50%) of any and all amounts incurred for change orders on the Joint Project approved pursuant to Section 1.4 herein, and a thorough account shall be made for costs of both the City's Work and Developer's Work. If any surplus funds designated for the City's CIP 92711 remain, the City shall keep its surplus funds. If City's Work costs are less than the amount given to the Developer, the Developer shall refund City any surplus funds.

2.4 In the event that all the City CIP 92711 funds set forth herein are exhausted, and project costs are greater than the CIP fund for the City Work detailed herein, Developer, and not the City, shall pay for any and all overage.

2.5 In the event that project costs for Developer's Work are over the estimated amount given herein, Developer shall pay for any and all overage.

3.0 *Breach*

The failure of either of the Parties to comply with their obligations shall constitute a breach of this Agreement.

4.0 *Waiver*

The waiver of any requirement hereunder by any Party hereto shall not be effective unless properly authorized and in writing.

5.0 *Term; Termination*

This Agreement shall automatically terminate after completion of construction, and final settlement and payment of funds between the Parties is completed. This Agreement is not subject to early termination by any Party, other than in accordance with terms of item 1.3 of this Agreement.

6.0 *Texas Law to Apply*

This Agreement shall be construed under and in accordance with the laws of the State of Texas, and all obligations of the Parties created hereunder are performable in Lubbock County, Texas.

7.0 *Notice*

All notices, whether for reimbursement or otherwise, shall be in writing and may be hand delivered, or sent by registered or certified mail, postage prepaid, return receipt requested to the following addresses:

City of Lubbock
Attn: L. Wood Franklin, P.E.
P.O. Box 2000
Lubbock, Texas 79457

Rocket Partners I, LLC
Attn: Thomas K. Payne
P.O. Box 64664
Lubbock, Texas 79424

8.0 *Legal Construction*

If any one or more of the provisions contained in this agreement shall for any reason be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof and this agreement shall be construed as if such invalid, illegal, or unenforceable provisions had never been contained herein.

9.0 *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, the former shall control.

10.0 *Entire Agreement*

This Agreement supersedes any and all other agreements, either oral or in writing, between the Parties hereto with respect to the subject matter hereof and contains all of the covenants and agreements between the Parties with respect to said matter. Each Party to this

Agreement acknowledges that no representations, inducements, promises, or agreements, oral or otherwise, have been made by any Party or anyone acting on behalf of any Party which are not embodied herein and that no other agreements, statement, or promise not contained in this Agreement shall be valid or binding. No modification concerning this instrument shall be of any force or effect, excepting a subsequent amendment in writing signed by the Parties. No official, representative, agent or employee of either entity, has any authority to modify this Agreement except pursuant to express authority to do so granted by the governing body.

11.0 *Parties Bound/Authority*

This Agreement shall be binding upon and inure to the benefit of the Parties to it and their respective legal representatives, successors and assigns where permitted by this Agreement. The undersigned represent and warrant their authority to execute this Agreement, and to bind the Parties hereto.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement this ____ day of _____ 20 ____.

For the City of Lubbock:

DANIEL M. POPE, Mayor

Attest:

Rebecca Garza, City Secretary

Approved as to Content:



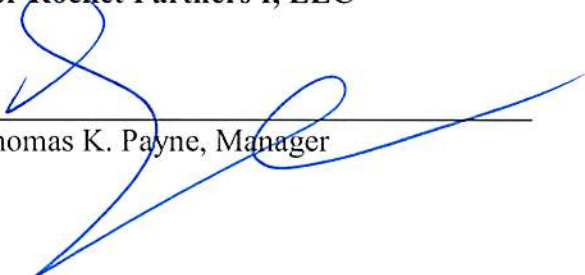
L. Wood Franklin, P.E., Director of Public Works

Approved as to Form:



Ryan Brooke, Assistant City Attorney

For Rocket Partners I, LLC



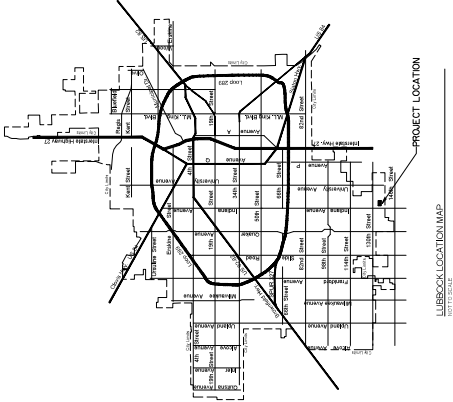
Thomas K. Payne, Manager

MUNICIPAL PAVING AND DRAINAGE IMPROVEMENTS

TRACTS F - K VIRIDIAN

AN ADDITION TO THE CITY OF LUBBOCK,
LUBBOCK COUNTY, TEXAS
SEPTEMBER 2021

| Sheet List Table | |
|------------------|-----------------------------------|
| Sheet Number | Sheet Title |
| --- | COVER |
| C000.1 | TRACTS F - K, VIRIDIAN FINAL PLAT |
| C300.0 | GENERAL NOTES |
| C300.1 | OVERALL PAVING PLAN |
| C300.2 | 1/2"=1' STREET PLAN & PROFILE |
| C300.3 | GENEVA AVE PLAN & PROFILE |
| C300.4 | (ALLEY A, ALLEY B) PLAN & PROFILE |



MUNICIPAL PAVING AND DRAINAGE IMPROVEMENTS

TRACTS F - K
VIRIDIAN
AN ADDITION TO THE CITY OF LUBBOCK,
LUBBOCK COUNTY, TEXAS



DATE :

PRINTS FOR :

EXHIBIT 'A',

APPROVED FOR
CONSTRUCTION

Tammy Harvey Date 10/12/2021

These plans shall remain on the job
site during construction.

These plans are in general conformance with the City's current
design standards and specifications. The Engineer and his/her
firm are responsible for the accuracy of design of plans.

Job Order #321057 Engineering Plan #30.3289

LOCATION MAP
NOT TO SCALE

[illegible]

Contains 3,278 series
 CCFN - County Clerk File Number
 UUE - Underground Utility Easement
 WUE - Water Use Easement
 BSI - by Separate Instrument
 • Found 10" iron rod with cap (marked "Hugs Road & Assoc.")
 • Found 8" iron rod
 • Found 12" iron rod
 • Found 12" iron rod with cap (marked "4460")

Note: This plat does not illustrate certain easements which exist at the time the surveyor has signed this plat. These easements are proposed to be closed as a condition of recording this plat.

NAD83 Coordinates are based on NAD83 or adjusted Texas Coordinate System of 1983. North Central Zone datum as described in Texas Natural Resource Conservation Code, Title 2, Chapter 21, as amended. Coordinates are "grid" coordinates. Distances above are surface. U.S. Survey feet.

Boundaries are relative to GRID North. Texas Coordinate System of 1983.

Numbering of plots for the purposes of identifying the survey. The plot proposed (plot 1) and any research done by this survey was made only for the determination of the boundary of this property. (Any as it may relate to adjoining parcels or right-of-ways). Record documents other than those shown on the plat may exist and encumber the property. The surveyor does not constitute or represent any title examination and any such title examination is the responsibility of the surveyor.

Registered Professional
Land Surveyor No. 5167
Licensed State Land Surveyor
State of Texas

Attest: _____ Director of Planning

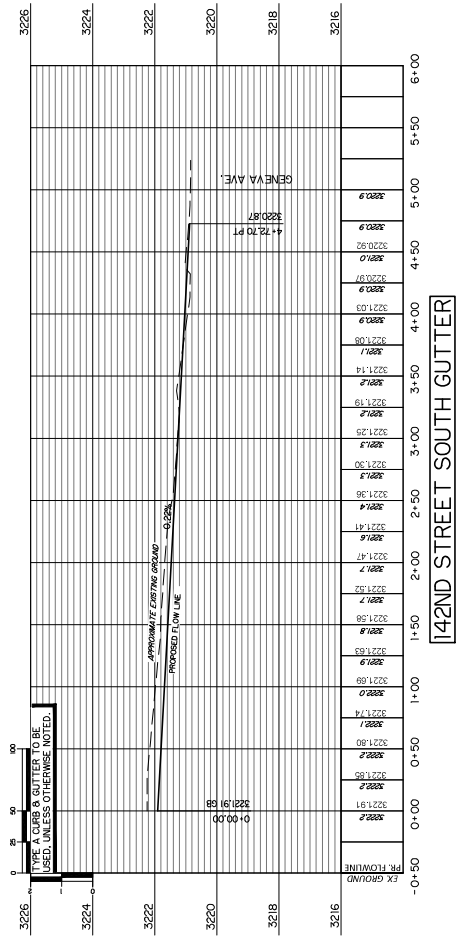
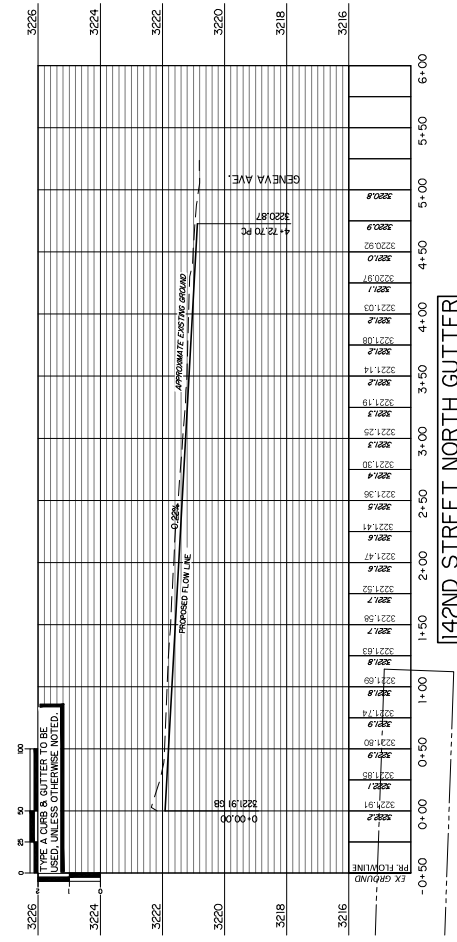
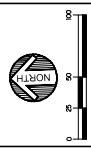
STREET LIGHTS: _____ None Ant _____
 REVIEW TYPE: _____ Rule 1 _____
 REVIEW FEE: _____ \$740 _____

HR HUGO REED
AND ASSOCIATES, INC.

LAND SURVEYORS
CIVIL ENGINEERS

1601 AVENUE N
LUGBOCK, TEXAS 75401
PHONE: 806 / 761-4842
FAX: 806 / 761-4842

REGISTERED SURVEYOR: 100030500

* | LENGTH AND RADII ARE MEASURED TO THE FACE OF CURB *

| EXISTING | PROPOSED | LEGEND |
|----------|----------|---|
| | | - WATER DISTRIBUTION LINE |
| | | - REDUCER |
| | | - FIRE HYDRANT |
| | | - WATER METER PLUG |
| | | - SEWER LINE |
| | | - SEWER MANHOLE |
| | | - CURB AND GUTTER (TYPE A) |
| | | - CURB AND GUTTER (TYPE B) |
| | | - HMAC PAVEMENT |
| | | - CONCRETE PAVEMENT |
| | | - CURB & GUTTER (SLOPE) |
| | | - SPOT ELEVATION |
| | | - GUTTER SLOPE |
| | | - CONTROL |
| | | - BREAKOUT POINT (CHANGE IN DIRECTION OF SLOPE) |
| | | - GRADE BREAK (SLOPE CHANGE) (SAME DIRECTION) |
| | | - FACE OF CURB |
| | | - EDGE OF CONCRETE |
| | | - PROPERTY LINE |
| | | - FLOW LINE |
| | | - MATCH EXISTING GRADE |
| | | - HORIZONTAL POINT OF CURVATURE |
| | | - HORIZONTAL POINT OF TANGENT |
| | | - FACE OF CURB TO FACE OF CURB |
| | | - ADJUST |

APPROVED FOR
CONSTRUCTION

Tommy Hurm Date 10/12/2021

These plans shall remain on the job
site during construction

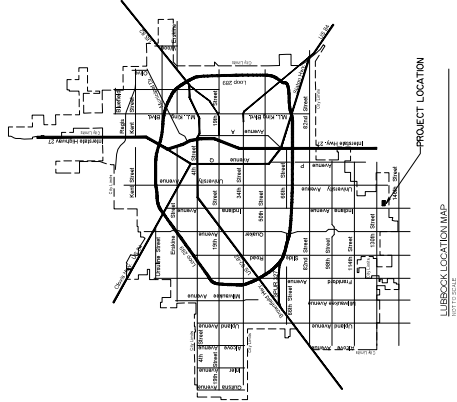
These plans are in general conformance with the City's current
design standards and specifications only. The sealing engineer is

MUNICIPAL WATER DISTRIBUTION AND SANITARY SEWER IMPROVEMENTS

TRACTS F - K, VIRIDIAN

AN ADDITION TO THE CITY OF LUBBOCK,
LUBBOCK COUNTY, TEXAS
AUGUST 2021

| CONTENTS | |
|--------------|---------------------------------------|
| Sheet Number | Sheet Title |
| --- | COVER |
| --- | TRACTS F - K FINAL PLAT |
| --- | GENERAL NOTES |
| C200.0 | MUNICIPAL WATER DISTRIBUTION PLAN |
| C200.1 | OVERALL MUNICIPAL SANITARY SEWER PLAN |
| C200.2 | SANITARY SEWER PLAN & PROFILE S-1 |
| C200.3 | SANITARY SEWER PLAN & PROFILE S-2 |



APPROVED FOR
CONSTRUCTION
Terry Harvey Date 08/19/2021
These plans shall remain on the job
Site during construction.

Job Order #221060 Engineering Plan #1-D-1631 Job Order #121081 Engineering Plan #3-D-1859

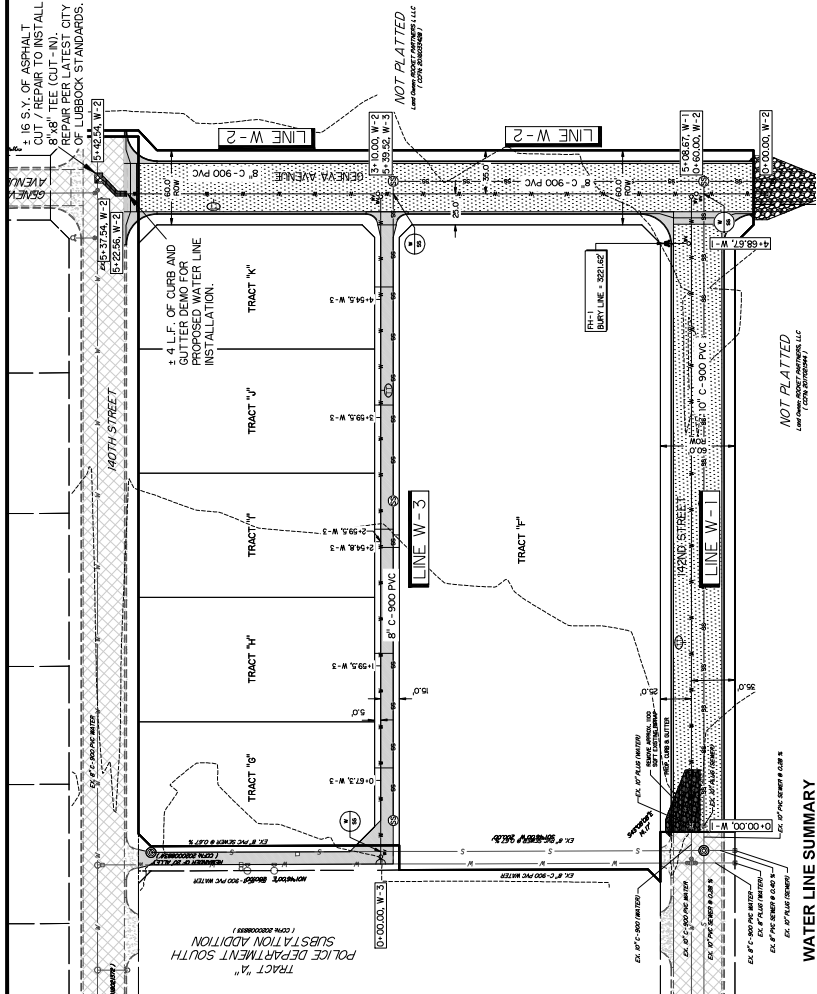
MUNICIPAL WATER DISTRIBUTION AND SANITARY SEWER IMPROVEMENTS

TRACTS F - K,
VIRIDIAN
AN ADDITION TO THE CITY OF LUBBOCK,
LUBBOCK COUNTY, TEXAS



DATE : JULY 2021

PRINTS FOR :



TAP SCHEDULE

- WATER SERVICE LINE SHALL EXTEND TO METER BOX WITH 8"x8" TEE (CUT-IN). REPAIR PER LATEST CITY OF LUBBOCK STANDARDS.
- WATER SERVICE TAP LOCATIONS SHALL BE MARKED WITH 1" SERVICE LINE. 1" SERVICE LINE SHALL BE ADJUSTED BY THE CITY OF LUBBOCK. UNLESS OTHERWISE APPROVED BY THE CITY OF LUBBOCK.

LEGEND

| EXISTING | PROPOSED | DESCRIPTION |
|----------|----------|------------------------------------|
| | | WATER DISTRIBUTION LINE |
| | | WATER VALVE |
| | | REDUCER |
| | | FIRE HYDRANT |
| | | WATER SERVICE PLUG |
| | | SEWER LINE |
| | | SEWER MANHOLE |
| | | UNDERGROUND POWER LINE (SCHEMATIC) |
| | | GAS LINE (SCHEMATIC) |
| | | TELECOMMUNICATION LINE (SCHEMATIC) |
| | | CURB AND GUTTER (TYPE A) |
| | | EXISTING MANHOLE |
| | | CONCRETE PAVEMENT |

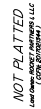
WATER LINE SUMMARY

| LINE WA-1: 10" C-900 PVC | | |
|--|-------------|------------|
| STATION | NORTHING | EASTING |
| 0+00.0 | 7232576.159 | 696102.593 |
| 4+68.67 | 7232560.115 | 69570.8417 |
| 5+08.67 | 7232569.746 | 69610.8078 |
| FH-1 7232560.099 69571.5259 FIRE HYDRANT | | |
| LINE WA-2: 8" C-900 PVC | | |
| STATION | NORTHING | EASTING |
| 0+00.0 | 7232488.796 | 69603.7540 |
| 0+00.0 | 7232569.746 | 69610.8078 |
| 3+10.0 | 7232608.538 | 69619.3959 |
| 5+22.58 | 7232603.921 | 69603.6422 |
| 5+37.54 | 7232639.934 | 69637.7743 |
| 5+42.54 | 7232635.63 | 69637.4602 |
| LINE WA-3: 8" C-900 PVC | | |
| STATION | NORTHING | EASTING |
| 0+00.0 | 7232677.007 | 69600.2940 |
| 5+19.52 | 7232608.538 | 69619.3959 |

SEE CITY OF LUBBOCK ENGINEERING MINIMUM STANDARD SPECIFICATIONS FOR UTILITY LOCATIONS. SECTION 07020 (LAND) FOR UTILITY CROSSING REQUIREMENTS PERTAINING TO THE LOCATIONS AND SCHEDULING WITH APPROPRIATE AUTHORITIES.

WATER PRESSURE AND CLEAR SAMPLE TESTING/APPROPRIATE LOCATION PROVIDE APPROVED WATER PRESSURE AND CLEAR SAMPLE TESTING LOCATIONS ARE FOR SCHEMATIC PURPOSES ONLY. LOCATIONS AND SCHEDULING WITH APPROPRIATE AUTHORITIES.

APPROVED FOR CONSTRUCTION
Terry L. Wette Date: 08/19/2021
These plans shall remain on the job site during construction.



LEGEND

| STATION COORDINATES (NAD 1983) | |
|--------------------------------|------------------|
| DESCRIPTION | NORTHING |
| MH-1 | 732637.389 |
| MH-2 | 732548.442 |
| MH-3 | 732548.304 |
| MH-4 | 732596.204 |
| MH-5 | 732615.815 |
| EX, MH-1 | 732566.732 |
| TAP SCHEDULE | |
| STATION | TRACHT |
| 4472.2, 5.3 | TRACHT "H" |
| 4472.2, 5.3 | TRACHT "G" |
| 3480.0, 5.3 | TRACHT "H" |
| 3480.0, 5.3 | TRACHT "G" |
| 1480.0, 5.3 | TRACHT "H" |
| 0485.0, 5.3 | TRACHT "H" |
| STATION COORDINATES (NAD 1983) | |
| DESCRIPTION | EASTING |
| MH-1 | 590636.348 |
| MH-2 | 590620.4573 |
| MH-3 | 590620.0331 |
| MH-4 | 590614.5791 |
| MH-5 | 590614.5791 |
| EX, MH-1 | 590602.4330 |
| TAP SCHEDULE | |
| STATION | TRACHT |
| 4472.2, 5.3 | 4" - SENSER SERV |
| 4472.2, 5.3 | 4" - SENSER SERV |
| 3480.0, 5.3 | 4" - SENSER SERV |
| 3480.0, 5.3 | 4" - SENSER SERV |
| 1480.0, 5.3 | 4" - SENSER SERV |
| 0485.0, 5.3 | 4" - SENSER SERV |

These plans are in general conformance with the City's current design standards and specifications only. The sealing engineer is responsible for the accuracy of design of plans.

Job Order #221060 Engineering Plan #1-D-1631

[illegible]

HR HUGO REED
AND ASSOCIATES, INC.

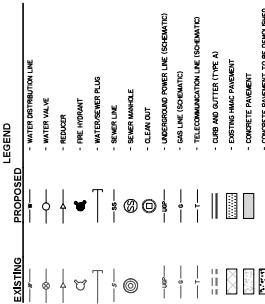
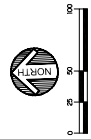
LAND SURVEYORS
CIVIL ENGINEERS

1815 AVENUE M
SARASOTA, FLORIDA 34231
PHONES: (813) 551-1422
FAX: (813) 551-1454

**VIRIDIAN
TRACTS F-K**

SHEET NAME
OVERALL MUNICIPAL
SANITARY SEWER
PLAN

SHEET NUMBER
C210.1



| STATION COORDINATES (NAD 1983) | |
|--------------------------------|-------------|
| DESCRIPTION | NORTHING |
| MH-1 | 7323527.385 |
| MH-2 | 7323548.412 |
| MH-3 | 7323788.204 |
| MH-4 | 7323815.919 |
| MH-5 | 7323815.915 |
| EX, MH-1 | 7323566.732 |

| TAP SCHEDULE | |
|--------------|------------|
| STATION | TRACT ID |
| 7+78.2, 0.2 | TRACT "A" |
| 7+78.2, 0.2 | TRACT "B" |
| 6+86.0, 0.2 | TRACT "C" |
| 5+86.0, 0.2 | TRACT "D" |
| 4+86.0, 0.2 | TRACT "E" |
| 3+86.0, 0.2 | TRACT "F" |
| 2+86.0, 0.2 | TRACT "G" |
| 1+86.0, 0.2 | TRACT "H" |
| 0+86.0, 0.2 | TRACT "I" |
| 0+86.0, 0.2 | TRACT "J" |
| 0+86.0, 0.2 | TRACT "K" |
| 0+86.0, 0.2 | TRACT "L" |
| 0+86.0, 0.2 | TRACT "M" |
| 0+86.0, 0.2 | TRACT "N" |
| 0+86.0, 0.2 | TRACT "O" |
| 0+86.0, 0.2 | TRACT "P" |
| 0+86.0, 0.2 | TRACT "Q" |
| 0+86.0, 0.2 | TRACT "R" |
| 0+86.0, 0.2 | TRACT "S" |
| 0+86.0, 0.2 | TRACT "T" |
| 0+86.0, 0.2 | TRACT "U" |
| 0+86.0, 0.2 | TRACT "V" |
| 0+86.0, 0.2 | TRACT "W" |
| 0+86.0, 0.2 | TRACT "X" |
| 0+86.0, 0.2 | TRACT "Y" |
| 0+86.0, 0.2 | TRACT "Z" |
| 0+86.0, 0.2 | TRACT "AA" |
| 0+86.0, 0.2 | TRACT "AB" |
| 0+86.0, 0.2 | TRACT "AC" |
| 0+86.0, 0.2 | TRACT "AD" |
| 0+86.0, 0.2 | TRACT "AE" |
| 0+86.0, 0.2 | TRACT "AF" |
| 0+86.0, 0.2 | TRACT "AG" |
| 0+86.0, 0.2 | TRACT "AH" |
| 0+86.0, 0.2 | TRACT "AI" |
| 0+86.0, 0.2 | TRACT "AJ" |
| 0+86.0, 0.2 | TRACT "AK" |
| 0+86.0, 0.2 | TRACT "AL" |
| 0+86.0, 0.2 | TRACT "AM" |
| 0+86.0, 0.2 | TRACT "AN" |
| 0+86.0, 0.2 | TRACT "AO" |
| 0+86.0, 0.2 | TRACT "AP" |
| 0+86.0, 0.2 | TRACT "AQ" |
| 0+86.0, 0.2 | TRACT "AR" |
| 0+86.0, 0.2 | TRACT "AS" |
| 0+86.0, 0.2 | TRACT "AT" |
| 0+86.0, 0.2 | TRACT "AU" |
| 0+86.0, 0.2 | TRACT "AV" |
| 0+86.0, 0.2 | TRACT "AW" |
| 0+86.0, 0.2 | TRACT "AX" |
| 0+86.0, 0.2 | TRACT "AY" |
| 0+86.0, 0.2 | TRACT "AZ" |
| 0+86.0, 0.2 | TRACT "BA" |
| 0+86.0, 0.2 | TRACT "BB" |
| 0+86.0, 0.2 | TRACT "BC" |
| 0+86.0, 0.2 | TRACT "BD" |
| 0+86.0, 0.2 | TRACT "BE" |
| 0+86.0, 0.2 | TRACT "BF" |
| 0+86.0, 0.2 | TRACT "BG" |
| 0+86.0, 0.2 | TRACT "BH" |
| 0+86.0, 0.2 | TRACT "BI" |
| 0+86.0, 0.2 | TRACT "BJ" |
| 0+86.0, 0.2 | TRACT "BK" |
| 0+86.0, 0.2 | TRACT "BL" |
| 0+86.0, 0.2 | TRACT "BM" |
| 0+86.0, 0.2 | TRACT "BN" |
| 0+86.0, 0.2 | TRACT "BO" |
| 0+86.0, 0.2 | TRACT "BP" |
| 0+86.0, 0.2 | TRACT "BQ" |
| 0+86.0, 0.2 | TRACT "BR" |
| 0+86.0, 0.2 | TRACT "BS" |
| 0+86.0, 0.2 | TRACT "BT" |
| 0+86.0, 0.2 | TRACT "BU" |
| 0+86.0, 0.2 | TRACT "BV" |
| 0+86.0, 0.2 | TRACT "BW" |
| 0+86.0, 0.2 | TRACT "BX" |
| 0+86.0, 0.2 | TRACT "BY" |
| 0+86.0, 0.2 | TRACT "BZ" |
| 0+86.0, 0.2 | TRACT "CA" |
| 0+86.0, 0.2 | TRACT "CB" |
| 0+86.0, 0.2 | TRACT "CC" |
| 0+86.0, 0.2 | TRACT "CD" |
| 0+86.0, 0.2 | TRACT "CE" |
| 0+86.0, 0.2 | TRACT "CF" |
| 0+86.0, 0.2 | TRACT "CG" |
| 0+86.0, 0.2 | TRACT "CH" |
| 0+86.0, 0.2 | TRACT "CI" |
| 0+86.0, 0.2 | TRACT "CJ" |
| 0+86.0, 0.2 | TRACT "CK" |
| 0+86.0, 0.2 | TRACT "CL" |
| 0+86.0, 0.2 | TRACT "CM" |
| 0+86.0, 0.2 | TRACT "CN" |
| 0+86.0, 0.2 | TRACT "CO" |
| 0+86.0, 0.2 | TRACT "CP" |
| 0+86.0, 0.2 | TRACT "CQ" |
| 0+86.0, 0.2 | TRACT "CR" |
| 0+86.0, 0.2 | TRACT "CS" |
| 0+86.0, 0.2 | TRACT "CT" |
| 0+86.0, 0.2 | TRACT "CU" |
| 0+86.0, 0.2 | TRACT "CV" |
| 0+86.0, 0.2 | TRACT "CW" |
| 0+86.0, 0.2 | TRACT "CX" |
| 0+86.0, 0.2 | TRACT "CY" |
| 0+86.0, 0.2 | TRACT "CZ" |
| 0+86.0, 0.2 | TRACT "DA" |
| 0+86.0, 0.2 | TRACT "DB" |
| 0+86.0, 0.2 | TRACT "DC" |
| 0+86.0, 0.2 | TRACT "DD" |
| 0+86.0, 0.2 | TRACT "DE" |
| 0+86.0, 0.2 | TRACT "DF" |
| 0+86.0, 0.2 | TRACT "DG" |
| 0+86.0, 0.2 | TRACT "DH" |
| 0+86.0, 0.2 | TRACT "DI" |
| 0+86.0, 0.2 | TRACT " |

TAP SCHEDULE

| STATION | TRACT ID | DESCRIPTION |
|------------|-----------|------------------|
| 5490.7.5-2 | TRACT "A" | 4" SEWER SERVICE |
| 7478.2.5-2 | TRACT "G" | 4" SEWER SERVICE |
| 6486.0.3-2 | TRACT "H" | 4" SEWER SERVICE |
| 5486.0.3-2 | TRACT "I" | 4" SEWER SERVICE |
| 4486.0.3-2 | TRACT "J" | 4" SEWER SERVICE |
| 3486.0.3-2 | TRACT "K" | 4" SEWER SERVICE |

[illegible]

RR **HUGO REED**
AND ASSOCIATES, INC.
1011 ARCADE N.
SARASOTA, FL 34236
LAND SURVEYORS
CIVIL ENGINEERS

**VIRIDIAN
TRACTS F-K**

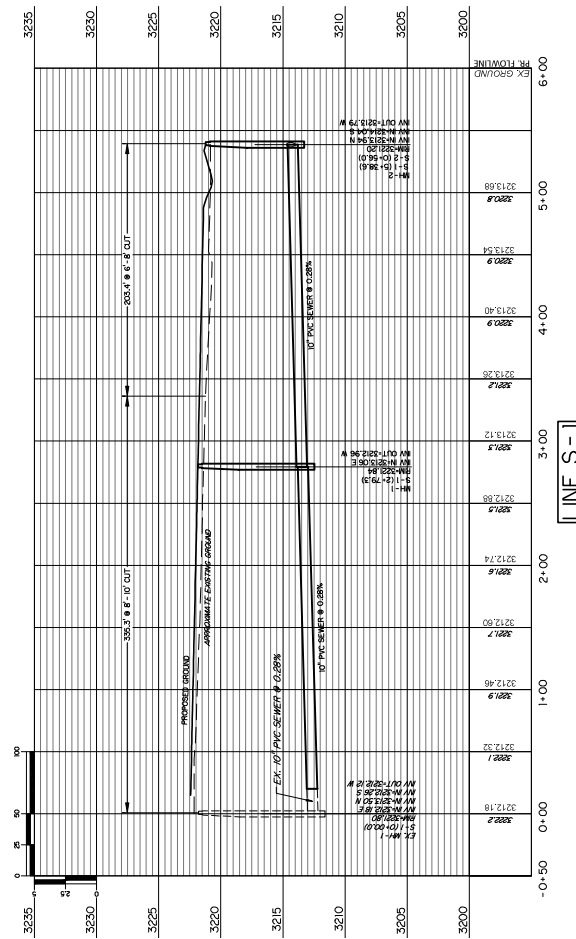
SHEET NAME
SANITARY SEWER
PLAN & PROFILE
S.1

SHEET NUMBER
C210.2

APPROVED FOR
CONSTRUCTION

Tommy Harris Date 08/19/2021
 These plans shall remain on the job site during construction

These plans are in general conformance with the City's current design standards and specifications only. The sealing engineer is





STATION COORDINATES (NAD 83)

| STATION | N | E | U |
|---------|-----------|----------|---------|
| 0+00 | 722584.41 | 15000.00 | 4300.00 |
| 0+10 | 722584.41 | 15000.00 | 4300.00 |
| 0+20 | 722584.41 | 15000.00 | 4300.00 |
| 0+30 | 722584.41 | 15000.00 | 4300.00 |
| 0+40 | 722584.41 | 15000.00 | 4300.00 |
| 0+50 | 722584.41 | 15000.00 | 4300.00 |
| 0+60 | 722584.41 | 15000.00 | 4300.00 |
| 0+70 | 722584.41 | 15000.00 | 4300.00 |
| 0+80 | 722584.41 | 15000.00 | 4300.00 |
| 0+90 | 722584.41 | 15000.00 | 4300.00 |
| 1+00 | 722584.41 | 15000.00 | 4300.00 |

LEGEND

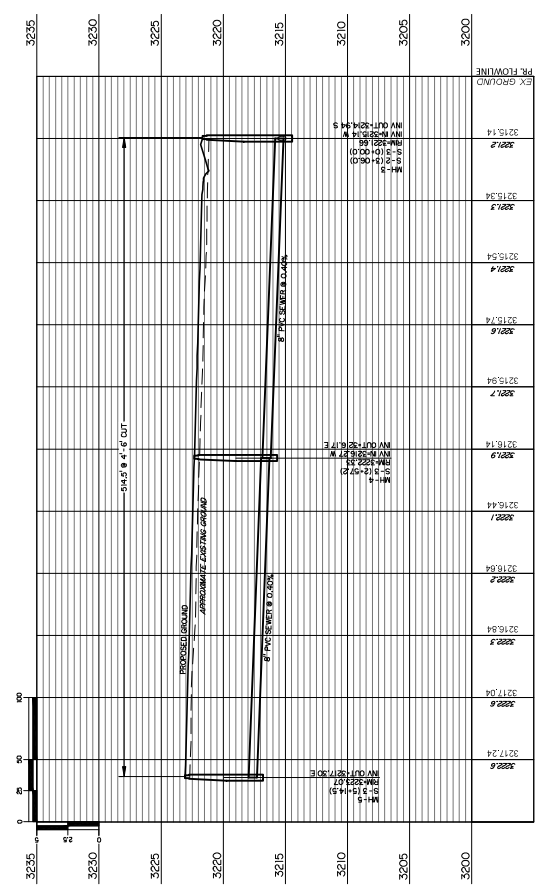
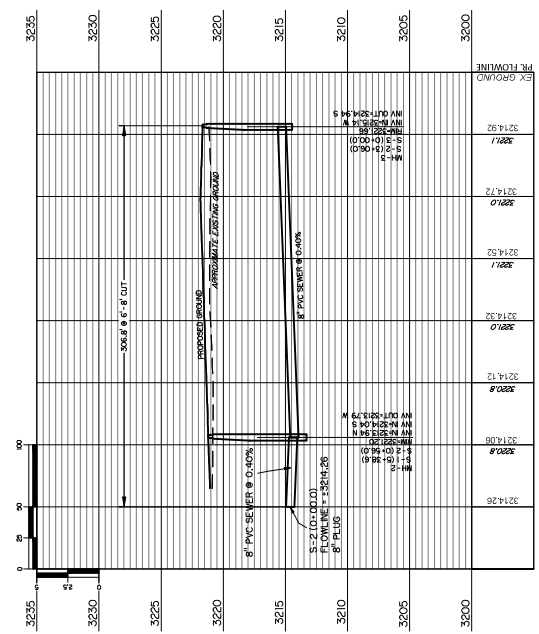
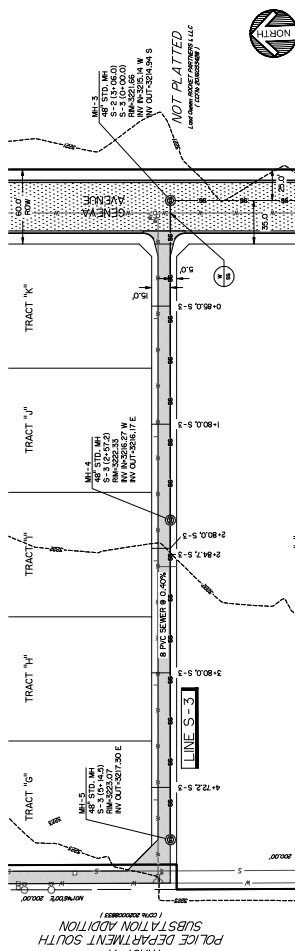
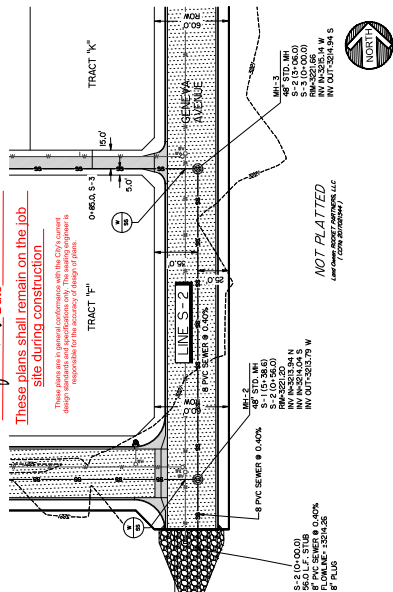
| EXISTING | PROPOSED | DESCRIPTION |
|----------|----------|------------------------------------|
| — | — | WATER DISTRIBUTION LINE |
| — | — | WATER VALVE |
| — | — | REDUCER |
| — | — | FIRE HYDRANT |
| — | — | WATER/SEWER FLAG |
| — | — | SEWER LINE |
| — | — | SEWER MANHOLE |
| — | — | CLEAN OUT |
| — | — | UNDERGROUND POWER LINE (SCHEMATIC) |
| — | — | GAS LINE (SCHEMATIC) |
| — | — | TELECOMMUNICATION LINE (SCHEMATIC) |
| — | — | CURB AND GUTTER (TYPE A) |
| — | — | EXISTING HATCH PAVEMENT |
| — | — | CONCRETE PAVEMENT |

APPROVED FOR CONSTRUCTION

Terry J. Harty Date: 08/19/2021

These plans shall remain on the job site during construction.

These plans are to remain on file with the City of Irving. Design standards are specifications only. The issuing engineer is responsible for the accuracy of the plans.



LINE S-2

LINE S-3

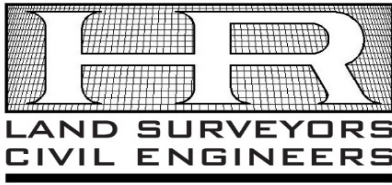


EXHIBIT 'B'
HUGO REED AND ASSOCIATES, INC.
 1601 AVENUE N / LUBBOCK, TEXAS 79401 / 806/763-5642 / FAX 806/763-3891
 TEXAS REGISTERED ENGINEERING FIRM F-760
 TEXAS LICENSED SURVEYING FIRM 100676-00

PRELIMINARY OPINION OF PROBABLE COSTS

Viridian Tract F

Shared Cost Estimate

City of Lubbock/1585 Development, Inc.

December 13, 2021

| Item No. | Item Description | Quantity / Units | Unit Cost | Total Item Cost | COL Cost Share Percentage | COL Total Item Cost | 1585 Dev. Cost Share Percentage | 1585 Dev. Total Item Cost |
|---------------------------|---|------------------|------------|-----------------|---------------------------|---------------------|---------------------------------|---------------------------|
| WATER DISTRIBUTION | | | | | | | | |
| W-1 | 6" C-900 PVC pipe | 20 L.F. | \$25.00 | \$500.00 | 50% | \$250.00 | 50% | \$250.00 |
| W-2 | 8" C-900 PVC pipe | 789 L.F. | \$35.00 | \$27,615.00 | 50% | \$13,807.50 | 50% | \$13,807.50 |
| W-3 | 10" C-900 PVC pipe | 564 L.F. | \$42.00 | \$23,688.00 | 50% | \$11,844.00 | 50% | \$11,844.00 |
| W-4 | 6" gate valves and valve box | 1 Each | \$1,400.00 | \$1,400.00 | 50% | \$700.00 | 50% | \$700.00 |
| W-5 | 8" gate valves and valve box | 4 Each | \$1,800.00 | \$7,200.00 | 50% | \$3,600.00 | 50% | \$3,600.00 |
| W-6 | 10" gate valves and valve box | 1 Each | \$2,800.00 | \$2,800.00 | 50% | \$1,400.00 | 50% | \$1,400.00 |
| W-7 | Valve box adjustment (paved areas only) | 6 Each | \$900.00 | \$5,400.00 | 50% | \$2,700.00 | 50% | \$2,700.00 |
| W-8 | Fire hydrant | 1 Each | \$3,800.00 | \$3,800.00 | 50% | \$1,900.00 | 50% | \$1,900.00 |
| W-9 | Fittings | 760 Lbs. | \$6.00 | \$4,560.00 | 50% | \$2,280.00 | 50% | \$2,280.00 |
| W-10 | Domestic water taps by contractor | 5 Each | \$1,000.00 | \$5,000.00 | 50% | \$2,500.00 | 50% | \$2,500.00 |
| W-11 | Corporation stop for testing/tapping | 3 Each | \$550.00 | \$1,650.00 | 50% | \$825.00 | 50% | \$825.00 |
| | | | | \$83,613.00 | | \$41,806.50 | | \$41,806.50 |

| Item No. | Item Description | Quantity / Units | Unit Cost | Total Item Cost | COL Cost Share Percentage | COL Total Item Cost | 1585 Dev. Cost Share Percentage | 1585 Dev. Total Item Cost |
|-----------------------|---------------------------------------|------------------|------------|-----------------|---------------------------|---------------------|---------------------------------|---------------------------|
| SANITARY SEWER | | | | | | | | |
| S-1 | 8" Sewer at 4'-6" cut | 450 L.F. | \$28.50 | \$12,825.00 | 50% | \$6,412.50 | 50% | \$6,412.50 |
| S-2 | 8" Sewer at 6'-8" cut | 325 L.F. | \$31.50 | \$10,237.50 | 50% | \$5,118.75 | 50% | \$5,118.75 |
| S-3 | 10" Sewer at 6'-8" cut | 194 L.F. | \$36.00 | \$6,984.00 | 50% | \$3,492.00 | 50% | \$3,492.00 |
| S-4 | 10" Sewer at 8'-10" cut | 390 L.F. | \$39.00 | \$15,210.00 | 50% | \$7,605.00 | 50% | \$7,605.00 |
| S-5 | Standard Manhole 48" I.D. | 5 EACH | \$5,500.00 | \$27,500.00 | 50% | \$13,750.00 | 50% | \$13,750.00 |
| S-6 | Extra Vertical Feet (std. 48" mh.) | 13 E.V.F. | \$180.00 | \$2,340.00 | 50% | \$1,170.00 | 50% | \$1,170.00 |
| S-7 | 8" x 4" Service Tee w/plug | 5 EACH | \$250.00 | \$1,250.00 | 50% | \$625.00 | 50% | \$625.00 |
| S-8 | 4" Service/riser Pipe | 65 L.F. | \$18.00 | \$1,170.00 | 50% | \$585.00 | 50% | \$585.00 |
| S-9 | 10" Plug | 1 EACH | \$400.00 | \$400.00 | 50% | \$200.00 | 50% | \$200.00 |
| S-10 | Trench Protection (4'-10') | 1,359 L.F. | \$2.50 | \$3,397.50 | 50% | \$1,698.75 | 50% | \$1,698.75 |
| S-11 | Manhole Adjustment (paved areas only) | 5 Each | \$1,000.00 | \$5,000.00 | 50% | \$2,500.00 | 50% | \$2,500.00 |
| | | | | \$86,314.00 | | \$43,157.00 | | \$43,157.00 |

| Item No. | Item Description | Quantity / Units | Unit Cost | Total Item Cost | COL Cost Share Percentage | COL Total Item Cost | 1585 Dev. Cost Share Percentage | 1585 Dev. Total Item Cost |
|---------------|-------------------------------------|------------------|-------------|-----------------|---------------------------|---------------------|---------------------------------|---------------------------|
| PAVING | | | | | | | | |
| P-1 | HMAC Type "C" 2" and caliche base | 3,472 S.Y. | \$30.00 | \$104,160.00 | 50% | \$52,080.00 | 50% | \$52,080.00 |
| P-2 | 24" curb and gutter | 1,485 L.F. | \$20.00 | \$29,700.00 | 50% | \$14,850.00 | 50% | \$14,850.00 |
| P-3 | 6" conc. fillets and valley gutters | 93 S.Y. | \$65.00 | \$6,045.00 | 50% | \$3,022.50 | 50% | \$3,022.50 |
| P-4 | 6" thick concrete alley returns | 26 S.Y. | \$65.00 | \$1,690.00 | 50% | \$845.00 | 50% | \$845.00 |
| P-5 | Concrete alley paving | 637 S.Y. | \$65.00 | \$41,405.00 | 50% | \$20,702.50 | 50% | \$20,702.50 |
| P-6 | Lump Sum lot cuts and fills | 1 L.S. | \$30,000.00 | \$30,000.00 | 50% | \$15,000.00 | 50% | \$15,000.00 |
| P-7 | Curb & Gutter Removal | 86 L.F. | \$8.00 | \$688.00 | 50% | \$344.00 | 50% | \$344.00 |
| P-8 | Rip-rap Removal | 121 S.Y. | \$15.00 | \$1,815.00 | 50% | \$907.50 | 50% | \$907.50 |
| P-9 | Dry Stone rip-rap | 220 S.Y. | \$65.00 | \$14,300.00 | 50% | \$7,150.00 | 50% | \$7,150.00 |
| | | | | \$229,803.00 | | \$114,901.50 | | \$114,901.50 |

| | | | |
|---------------------------------------|--------------|--------------|--------------|
| ESTIMATED COST OF CONSTRUCTION | \$399,730.00 | \$199,865.00 | \$199,865.00 |
|---------------------------------------|--------------|--------------|--------------|

MUNICIPAL FEES

| | | | | | |
|--|------------|-----|------------|-----|------------|
| City of Lubbock plan review and construction inspection fees | \$2,320.00 | 50% | \$1,160.00 | 50% | \$1,160.00 |
|--|------------|-----|------------|-----|------------|

ENGINEERING AND RELATED SERVICES

| | | | | | |
|---|-------------|-----|-------------|-----|-------------|
| Topographic survey for in-house use only | \$4,000.00 | 50% | \$2,000.00 | 50% | \$2,000.00 |
| Engineering design, City submittals, construction documents, and record documentation | \$32,000.00 | 50% | \$16,000.00 | 50% | \$16,000.00 |
| Construction staking as required by Code | \$16,000.00 | 50% | \$8,000.00 | 50% | \$8,000.00 |

MISCELLANEOUS

| | | | | | |
|-----------------|-------------|-----|-------------|-----|-------------|
| 10% CONTINGENCY | \$50,600.00 | 50% | \$25,300.00 | 50% | \$25,300.00 |
|-----------------|-------------|-----|-------------|-----|-------------|

| | | | | | | | | |
|---|--|--|--|---------------------|--|---------------------|---------------------|--|
| TOTAL | | | | | | | | |
| CITY OF LUBBOCK COST SHARE TOTAL | | | | | | \$252,325.00 | | |
| 1585 DEVELOPMENT INC. COST SHARE TOTAL | | | | | | | \$252,325.00 | |
| TOTAL PROJECT COST | | | | \$504,650.00 | | | | |

September 14, 2021

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, a Special Warranty Deed associated with certain property in Lubbock County, Texas, owned by Rocket Partners I, LLC, and all related documents. Said Special Warranty Deed 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; and

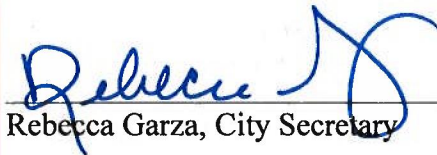
THAT the City Council finds it to be in the best interest of the citizens of the City of Lubbock in order to expedite the performance of city business, to delegate authority to execute any necessary or related documents associated with this conveyance to the City Manager of the City of Lubbock or his designee.

Passed by the City Council on September 14, 2021.



DANIEL M. POPE, MAYOR

ATTEST:



Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



Jessica McEachern, Assistant City Manager

APPROVED AS TO FORM:



Ryan Brooke, Assistant City Attorney

City of Lubbock - Row
County

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.

STATE OF TEXAS

§

KNOW ALL PERSONS BY THESE PRESENTS:

§

COUNTY OF LUBBOCK

§

SPECIAL WARRANTY DEED

This Special Warranty Deed (this "Deed") is executed and delivered effective as of the 21st day of August, 2021 (the "Effective Date") by Rocket Partners I, LLC, a Texas limited liability company ("Grantor"), whose address is P.O. Box 64664, Lubbock, Texas 79464, for the benefit of the CITY OF LUBBOCK ("Grantee"), whose address is 1314 Avenue K, Lubbock, Texas 79401.

In consideration of Ten Dollars (\$10.00) and other good and valuable consideration paid to Grantor, Grantor does hereby **GRANT, SELL, AND CONVEY** unto Grantee the surface estate of that certain real property situated in Lubbock County, Texas and described in Exhibit A attached hereto and made a part hereof for all purposes, together with all improvements and fixtures located thereon, if any (collectively, the "Property") and, without warranty, all right, title and interest of Grantor, if any, in and to the rights, privileges, hereditaments, and appurtenances pertaining to the Property.

This conveyance is made and accepted subject to current real property taxes and all unpaid non-delinquent general and special taxes, bonds and assessments; all zoning ordinances and regulations and any other laws, ordinances or governmental regulations now or hereinafter applicable to and enforceable against the Property; and matters visible on the ground or that would be shown on a current survey of the Property; and any and all conditions and restrictions, outstanding mineral reservations and easements of record, if any, relating to the Property, to the extent, and only to the extent, that the same may be in full force and effect and affect the Property (the foregoing collectively, the "Permitted Exceptions").

Grantor, for Grantor and Grantor's successors and assigns, hereby reserves and does not convey to Grantee all the oil, gas and other minerals in and under and that may be produced from the Property which have not been heretofore granted to third parties or reserved by predecessors in title (the "Mineral Reservation").

TO HAVE AND TO HOLD the Property unto Grantee, Grantee's heirs, executors, administrators, successors, and assigns, and Grantor does hereby bind Grantor and Grantor's successors and assigns to **WARRANT AND FOREVER DEFEND**, all and singular, the Property unto Grantee, Grantee's heirs, executors, administrators, successors, and assigns, against every person whomsoever lawfully claiming, or to claim the same, or any part thereof, by, through or under Grantor, but not otherwise, subject, however, to the Permitted Exceptions and the Mineral Reservation.

Ad valorem taxes for the current year having been prorated between the parties hereto, Grantee hereby assumes liability for the payment thereof for the current year and for subsequent years, and for any rollback taxes for prior years.

Grantor hereby conveys the Property to Grantee, and by its acceptance hereof Grantee hereby accepts the Property, in its present condition "**AS IS**", "**WHERE IS**", and "**WITH ALL FAULTS**" and without any representation or warranty, express or implied (except for the warranty of title above). Grantor

hereby specifically disclaims any representations, warranties, promises, covenants, agreements or guaranties of any kind or character whatsoever, whether express or implied, oral, written, past, present, or future, of, as to, concerning, or with respect to (i) the value, nature, quality, or physical or other condition of the Property, including, without limitation, the water, soil, and geology, and/or the environmental condition of the Property, including hazardous materials; (ii) the income to be derived from the Property; (iii) the water, soil, and geology, the suitability thereof and/or of the Property for any and all activities and uses which Grantee may elect to conduct; (iv) the compliance of or by the Property or its operations with any applicable laws or other laws, rules, ordinances, or regulations of any applicable governmental authority; (v) the habitability, merchantability, marketability, suitability, profitability, developability, or fitness for a particular purpose of the Property; (vi) the manner or quality of the construction or materials, if any, incorporated into the Property; (vii) the manner, quality or state of repair of the Property. By its acceptance hereof, Grantee, on its own behalf and on behalf of anyone claiming by, through or under Grantee, to the maximum extent permitted by applicable laws, irrevocably and unconditionally **WAIVES, RELEASES, DISCHARGES, AND FOREVER ACQUITS** Grantor from any and all claims of any nature whatsoever known or unknown, suspected or unsuspected, fixed or contingent, which Grantee may now or hereafter have, own, hold or claim to have, own or hold, or at any time heretofore may have had, owned, held, or claimed to have, own or hold, against Grantor, relating to the Property, including, without limitation, the physical condition of the Property, the entitlements for the Property, the environmental condition of the Property, any hazardous materials that may be on or within the Property and any other conditions existing, circumstances or events occurring on, in, about or near the Property whether occurring before, after or on the date hereof.

[SIGNATURE PAGE IMMEDIATELY FOLLOWS]

EXECUTED effective as of the Effective Date.

GRANTOR:

Rocket Partners I, LLC,
a Texas limited liability company

By: 
Name: Thomas K. Payne
Title: Manager

THE STATE OF TEXAS

COUNTY OF LUBBOCK

BEFORE ME, the undersigned, being a Notary Public in and for the State of Texas, on this day personally appeared Thomas K. Payne, known to me, or proved to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the instrument as the act of Rocket Partners I, LLC, a Texas limited liability company, and that he executed the instrument on behalf of the limited liability company for the purposes and consideration expressed, and in the capacity hereinabove stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 27 day of August, 2021.




Notary Public, State of Texas

EXHIBIT A

DESCRIPTION OF THE PROPERTY

PERIMETER SURVEY OF A 2.401 ACRE TRACT
OF LAND LOCATED IN
SECTION 1, BLOCK AK
LUBBOCK COUNTY, TEXAS



METES AND BOUNDS DESCRIPTION OF A 2.401 acre tract of land located in Section 1, Block AK, Lubbock County, Texas, being a portion of that 60.015 acre tract of land described under County Clerk File Number 2017021394, Official Public Records of Lubbock County, Texas, said 2.401 acre tract being further described as follows:

NOT PLATTED
(CON. 2017021394)

BEGINNING at a 1/2" iron rod with cap marked "THUGO REED & ASSOC." set in the Eastern boundary of a 2.20 foot alley as recorded under County Clerk File Number (CCCN) 2020088334, Official Public Records of Lubbock County, Texas (OPRLCT), the Southeast corner of this tract, which bears N. 01°46'00" E., a distance of 14.14 feet to the 1/2" iron rod with cap marked "THUGO REED & ASSOC." set in the Eastern boundary of Section 1, Block AK, Lubbock County, Texas;

THENCE N. 43°02'16" E., along the Eastern boundary of said 20 foot alley, a distance of 14.17 feet to a 1/2" iron rod with cap marked "THUGO REED & ASSOC." set for the most Northerly Southeast corner of this tract, then thence N. 43°02'16" E., a distance of 20.00 feet;

THENCE N. 01°46'00" E., continuing along the Eastern boundary of said 20 foot alley, a distance of 200.00 feet to a 1/2" iron rod with cap marked "THUGO REED & ASSOC." set for the Northwest corner of this tract, from whence a Police Department South Substation Addition, according to map, plat and/or dedication deed thereof recorded under CCN 2020088333, OPRLCT, bears N. 88°02'16" W., a distance of 20.00 feet and N. 01°46'00" E., a distance of 200.00 feet;

THENCE S. 88°02'16" E., a distance of 489.42 feet to a 1/2" iron rod with cap marked "THUGO REED & ASSOC." set for the most Northerly Northeast corner of this tract;

THENCE S. 43°02'16" E., a distance of 14.14 feet to a 1/2" iron rod with cap marked "THUGO REED & ASSOC." set for the most Easterly Northeast corner of this tract;

THENCE S. 01°46'00" W., a distance of 185.00 feet to a 1/2" iron rod with cap marked "THUGO REED & ASSOC." set for the most Easterly Southeast corner of this tract;

THENCE S. 46°57'44" W., a distance of 21.21 feet to a 1/2" iron rod with cap marked "THUGO REED & ASSOC." set for the most Southerly Southeast corner of this tract;

THENCE N. 88°02'16" W., a distance of 473.70 feet to the Point of Beginning.

Contains: 104,590 square feet

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

Distances are Surface, U.S. Survey Feet.

TITLE COMMITMENT

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. Record documents other than those shown on this survey may exist and encumber this property.

CERTIFICATION TO: City of Lubbock, Western Title, Thomas Payne, Rocket Partners 1, LLC

I, Robert A. Christopher, Texas Registered Professional Land Surveyor No. 5167, do hereby certify that this survey was made on the ground. A determination as to whether this property lies within a special flood hazard area was not made for this survey. Surveyed on the ground: June 28, 2021

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

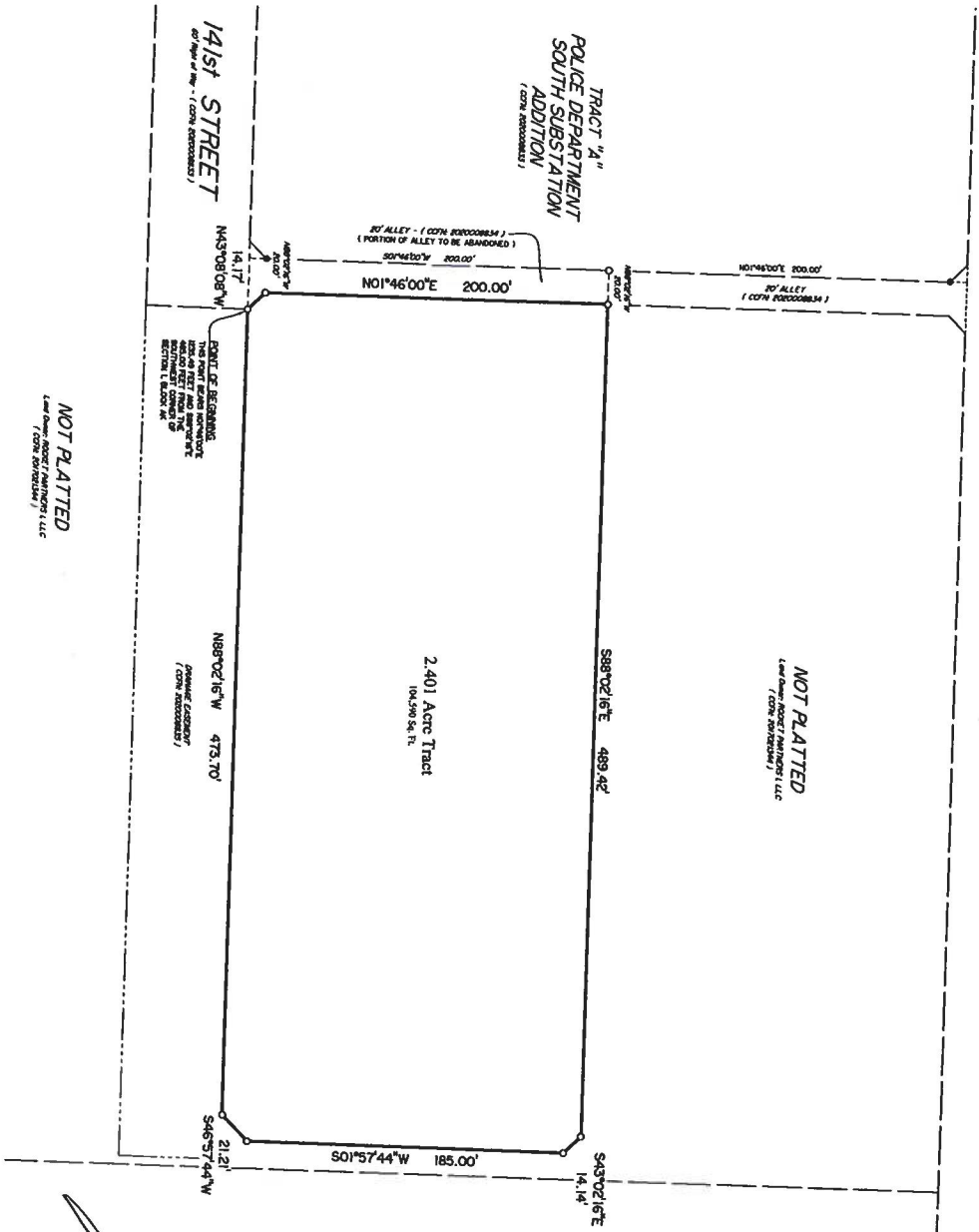


SCALE: 1"=50'
HEAVY LINES INDICATE PLAT LIMITS
CCCN-COUNTY CLERK FILE NUMBER
CONTROL MONUMENTS AS FOUND & SHOWN
• - SET 1/2" CUT ON CONCRETE
• - SET 1/2" IRON ROD w/CAP MARKED "THUGO REED & ASSOC."
• - FD 1/2" IRON ROD w/CAP MARKED "THUGO REED & ASSOC."
20211468/SCD.G.)

WARNING
This plat is invalid unless it bears an original signature across an embossed seal.

THUGO REED & ASSOCIATES, INC.
LUBBOCK, TEXAS 79401
PHONE: 806.742.2222
FAX: 806.742.2223
WWW.THUGOREED.COM

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FILED AND RECORDED

OFFICIAL PUBLIC RECORDS



Kelly Pinion

Kelly Pinion, County Clerk
Lubbock County, TEXAS
10/05/2021 03:54 PM
FEE: \$38.00
2021051401

**City of Lubbock
Capital Project
Project Cost Detail
January 25, 2022**

| | |
|-------------------------|-----------------|
| Capital Project Number: | 92711 |
| Capital Project Name: | Fire Station 20 |

| | |
|----------------------------|---------------|
| <i>Encumbered/Expended</i> | Budget |
| | \$ - |

Agenda Item January 25, 2022

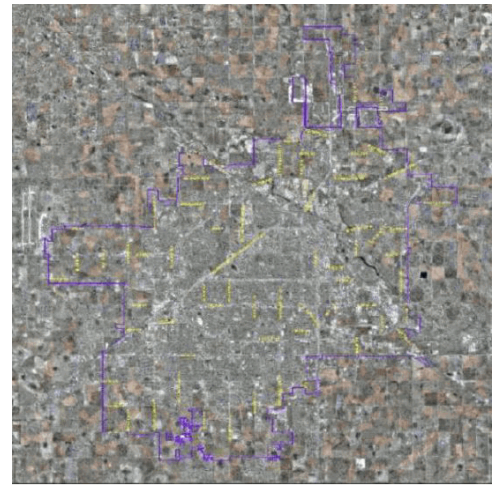
| | |
|---|----------------|
| Rocket Partners Developer Participation Agreement | 264,941 |
| <i>Encumbered/Expended To Date</i> | 264,941 |

Estimated Cost for Remaining Appropriation

| | |
|---------------------------------------|------------------|
| Construction | 7,380,059 |
| <i>Remaining Appropriation</i> | 7,380,059 |

| | |
|----------------------------|---------------------|
| Total Appropriation | \$ 7,645,000 |
|----------------------------|---------------------|

Project Status **Approved**



| 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 |

Information

Agenda Item

Ordinance 2nd Reading - Planning (District 6): Consider Ordinance No. 2022-00010, for Zone Case 2538-X, a request of Tyson Rowin for Derek Cooper and Lee Mazurek, for a zone change from Family Apartment District (A-1) to Local Retail District (C-2) with a Specific Use for a Self-Storage Facility at 6801 4th Street, located south of 4th Street and east of Quincy Avenue on 2.139 acres of unplatted land out of Block JS, Section 10, and consider an ordinance.

Item Summary

On January 11, 2022, the City Council approved the first reading of the ordinance.

On December 14, 2021, the City Council held a public hearing and postponed the first reading of the ordinance to January 11, 2022.

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 December 2, 2021, and recommended approval of the request by a vote of 6-1-0.

Fiscal Impact

None

Staff/Board Recommending

Jesica McEachern, Assistant City Manager
Planning and Zoning Commission

Attachments

Zone Case 2538-X Ordinance

Zone Case 2538-X - Report

Zone Case 2538-X- Documentation

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. 2538-X; A ZONING CHANGE FROM A-1 TO C-2 SPECIFIC USE FOR A SELF-STORAGE FACILITY, AT 6801 4TH STREET, LOCATED SOUTH OF 4TH STREET AND EAST OF QUINCY AVENUE ON 2.139 ACRES OF UNPLATTED LAND OUT OF BLOCK JS, SECTION 10, 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. 2538-X

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 **A-1 to C-2 Specific Use for a Self Storage Facility** zoning district at **6801 4th Street, located south of 4th street and east of Quincy Avenue on 2.139 acres of unplatted land out of Block JS, Section 10, City of Lubbock, Lubbock County, Texas, and being further described as follows:**

METES AND BOUNDS DESCRIPTION: Attached as Exhibit "A".

SECTION 2. THAT the granting of this specific use zoning is hereby made subject to compliance with all provisions of Zoning Ordinance No. 7084, as amended, including particularly, but not limited to, Section 40.03.3102 of the Codified Zoning Ordinance, which provides that a Building Permit shall be applied for and secured within thirty (30) months of the effective date of the zone change or all undeveloped property shall automatically revert back to the previous zoning classification, which in this case is the A-1 zone district; and if such reversion occurs, the Director of Planning is directed to remove from the Zoning Map the legend indicating such specific use. The Specific Use authorized by this Ordinance is permitted under provision of Section 40.03.3101-40.03.3103 of Codified Zoning Ordinance No. 7084 on the property described as **6801 4th Street, located south of 4th street and east of Quincy Avenue on 2.139 acres of unplatted land out of Block JS, Section 10, City of Lubbock, Lubbock County, Texas.**

SECTION 3. 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 4. 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 5. 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

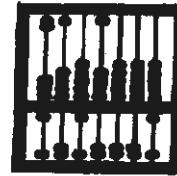
APPROVED AS TO FORM:



Kelli Leisure, Assistant City Attorney

ABACUS ENGINEERING SURVEYING

2737 81ST STREET LUBBOCK, TEXAS 79423
(806) 745-7670



"Count on it"

FIELD NOTES on a 2.139 Acre Tract out of the Northeast Quarter (NE/4) of Section 10, Block JS, Lubbock County, Texas and also out of the Tract described in Volume 6359, Page 253, Lubbock County Real Property Records(LCRPR) and further described as follow:

Beginning at set 1/2" iron rod with green cap marked RPLS 4460 in the West Plat Limits of Westchester Park as shown by the plat recorded in Volume 6582, Page 88, LCRPR from which the Northeast corner of Section 10 by calls bears North 55.00 feet and S 89° 59' 13" E, 2344.92 feet;

THENCE S 01°48'38" W(Texas North Central Zone Bearing Basis), with the West line of the said Plat Limits, 399.00 feet to the most Southerly Southeast corner of this tract;

THENCE N 88°10'35" W, 153.23 feet to the most Southerly Southwest corner of this tract;

THENCE for this and the following 3 calls along a common line with the 0.97± acre tract described in Lubbock County Clerk File Number (CCFN) 201700715, N 01°45'48" E, 106.28 feet to a found 1/2" iron rod with red cap for a corner of this tract;

THENCE N 88°10'30" W, 15.12 feet to a found 1/2" rod with red cap for a corner of this tract;

THENCE S 01°42'11" W, 75.08 feet to a found 1/2" rod with red cap for a corner of this tract;

THENCE N 88°14'12" W, 128.55 feet to the most Westerly Southwest corner of this tract, from which the center of a steel post bears S 15° E, 0.73 feet;

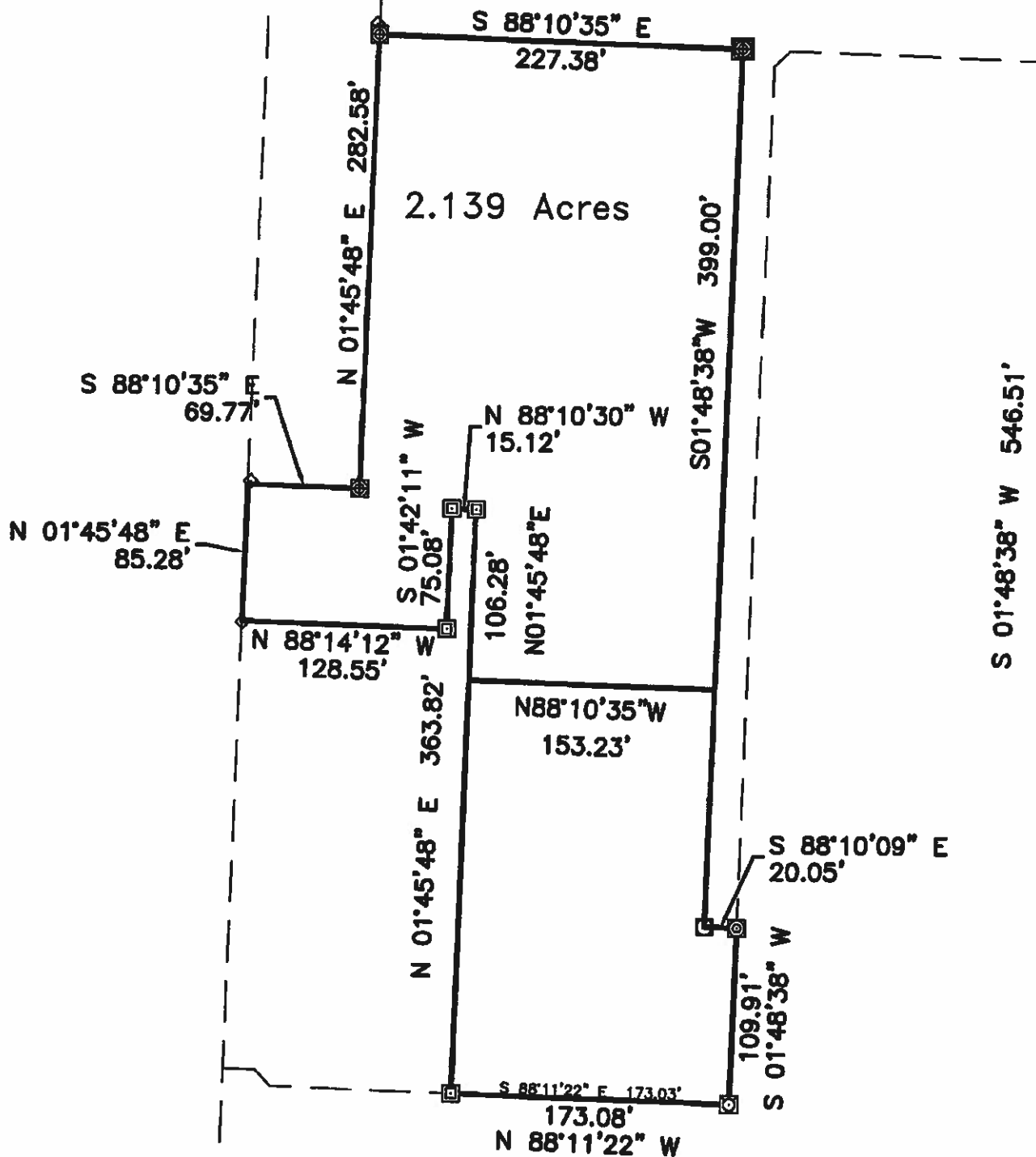
THENCE N 01°45'48" E, 85.28 feet to the most Westerly Northwest corner of this tract from which the center of a steel post bears N 39° E, 2.53 feet;

THENCE S 88°10'35" E, 69.77 feet to a set Abacus Cap for a corner of this tract;

THENCE N 01°45'48" E, 282.58 feet to a set Abacus Cap for the most Northerly Northwest corner of this tract;

THENCE S 88°10'35" E, 227.38 feet to the PLACE of BEGINNING containing 2.139 acres.

These notes represent a survey made on the ground.
J. M. Cieszinski, RPLS # 4460
October 21, 2021



| Staff Report | | Zone Case 2538-X |
|----------------------|--|-------------------|
| City Council Meeting | | December 14, 2021 |

Applicant Tyson Rowin

Property Owner Derek Cooper and Lee Mazurek

Council District 6

Recommendations

- Staff recommends Approval.

Prior Board or Council Action

- September 27, 1985: This property was annexed through Ordinance No. 8660 and zone Transition (T).
- October 10, 1985, Zone Case 2538: This property was rezoned from Transition (T) to Single-Family District (R-1) through Ordinance No. 8827.
- January 26, 2021, Zone Case 2538-R: This property was rezoned from Single-Family District (R-1) to Family Apartment District (A-1) through Ordinance No. 2021-00005.
- December 2, 2021: The Planning and Zoning Commission recommended approval of Zone Case 2538-X by a vote of 6-1-0.

Notification Summary

- Notifications Sent: 26
- Received In Favor: 1
- Received In Opposition: 1

Site Conditions and History

The property was annexed in 1985 and has remained vacant and unsubdivided.

Adjacent Property Development

Property to the east, south, and west is zoned Single-Family District (R-1) and is developed with single family residences, an electric utility substation, and vacant unsubdivided land. Property to the north is zoned Two-Family District (R-2) and consists of subdivided vacant land.

Zoning Request and Analysis

Item Summary

The subject property is located at 6801 4th Street, located south of 4th street and east of Quincy Avenue on 2.139 acres of unplatted land out of Block JS, Section 10. The applicant is requesting to rezone the property from A-1 to C-2 Specific Use for a Storage Facility.

Current zoning: Family Apartment District (A-1)

Requested zoning: Local Retail District (C-2) with a Specific Use for a Storage Facility

Intent Statements

The intent of the current A-1 is “to promote medium-density, multiple-occupancy development. The regulations are designed to promote family-oriented development which provides the occupants with the proper environmental quality, and compatibility with lower-density development. The purpose of this district is not to isolate multi-family units, but to encourage compatible residential land uses through effective planning and urban design.”

The intent of the Specific Use District is “to provide for design and land use flexibility in the various districts. This district provides for variations in the land use standards within the [zoning] ordinance, provided the intent, principles, and innovations of modern urban planning and design are used.”

Traffic Network/Infrastructure Impacts

The proposed rezoning location is located south of 4th Street, which is designated as a Principal Arterial by the Master Thoroughfare Plan, 2018. Arterials are continuous routes whose function is to serve high volume needs of local and regional traffic.

Compatibility with Surrounding Property

The proposed zoning is compatible with the surrounding area and will not change the character of the existing development.

Conformance with Comprehensive Plan Principles and Future Land Use Map

The principles outlined in the Comprehensive Plan designates this area for “Residential Low Density”. The proposed zone change to C-2 Specific Use is not in conformance with the Comprehensive Plan or Future Land Use Map, however, a storage facility would not generate an increase in traffic volume in the area.

Conformance with Zoning Ordinance

The proposed zoning request is not in conformance with the zoning ordinance but is appropriate adjacent to the existing development due to the low density use a storage facility would provide.

Suitability of Property for Allowed Uses

The property is suitable for the proposed uses but may require additional public improvements to support the intensity of uses described in the C-2 zoning district due to this property being unplatted.

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

Aslyn Henry
Planner
Planning Department
806-775-2021
ahenry@mylubbock.us

Kristen Sager
Planning and Zoning Manager
Planning Department
806-775-2109
ksager@mylubbock.us

Case Information: Zone Case 2538-X



Allowable Uses: [Local Retail District \(C-2\)](#)

Transportation: The proposed development has points of access from Upland Avenue.

| Thoroughfare | Existing | Per Thoroughfare Development Plan |
|---|--|---|
| 4 th Street <i>Principal Arterial</i> | R.O.W. 110 feet, four-lane, undivided, paved | R.O.W. 110 feet, seven-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

Case 2538-X: Tyson Rowin for Derek Cooper and Lee Mazurek

Request for a zone change from Family Apartment District (A-1) to Local Retail District (C-2) with a Specific Use for a Self-Storage Facility, at:

- 6801 4th Street, located south of 4th street and east of Quincy Avenue on 2.139 acres of unplatted land out of Block JS, Section 10.

PLANNER ASLYN HENRY stated there were twenty-six notifications sent out. There has been one (1) returned in favor and one (1) returned in opposition. The one returned in opposition is concerned that if the zone change passes that it will affect the value of her property. Staff shared the location of the property including pictures and maps and discussed the surrounding property. Staff recommends approval of this request.

BOARDMEMBER JAMES BELL stated they are requesting C-2 with a Specific Use for a Self-Storage Facility, but their site plan and elevations make it appear it is an office/warehouse, since they have 1,500 square foot building spaces with large overhead doors.

PLANNING AND ZONING MANAGER KRISTEN SAGER stated that she had a conversation with the applicant this afternoon and the units will be used for storage only. They will not be used as an office/warehouse, shop rental, etc.

BOARDMEMBER JAMES BELL stated he has not seen a storage facility with a fourteen-foot door and a personal entrance. If approved, how will it be regulated to make sure it is not being used as an office warehouse?

PLANNING AND ZONING MANAGER KRISTEN SAGER stated the design of the building cannot be regulated. It can be regulated by the code setbacks and use. If it is being used for any other use other than a storage facility, the Codes Department can issue citations.

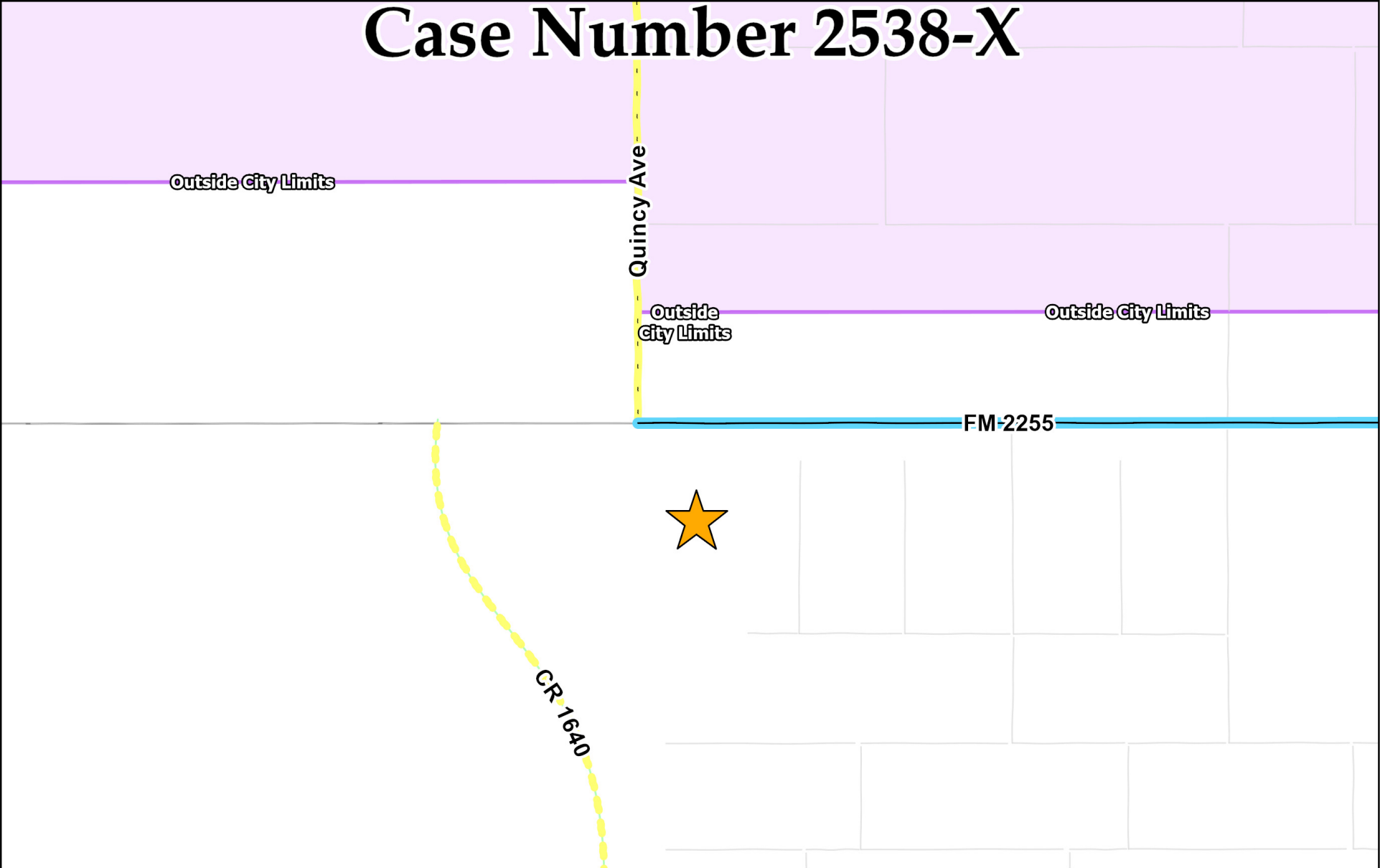
APPLICANT TYSON ROWIN 3914 126th Street and **LEE MAZUREK** 4505 7th Street, stated they are able to answer any questions. Mr. James Bell asked the same question to the applicants about the office/warehouse. Mr. Rowin stated they will be screening tenants and will not allow for businesses to be run out of the facility. The building is to be located next to an electric substation, which they feel is a good use of the land. They find that most of the people that will be renting they units have boats and RVs to store. The facility will be a higher end storage unit. They are aware that if the facility is used for something other then what is requested, then they are liable.

No one spoke in favor or opposition to the request

In matter of **Zone Case 2538-X** a motion was made by **ABEL HERANDEZ** and seconded by **SUSAN TOMLINSON** to approve the request as presented and the Commission members voted 6 (in favor) to 1 (in opposition) to approve the motion. Item will be forwarded to City Council for consideration.

JAMES BELL case the vote in opposition.

Case Number 2538-X



Collector

- Completed
- Partial
- Future

Minor Arterial

- Completed
- Partial
- Future

Modified Arterial

- Partial
- Future

Principal Arterial

- Completed
- Partial
- Future

Freeway







- Completed
- Partial
- Proposed Outer Loop

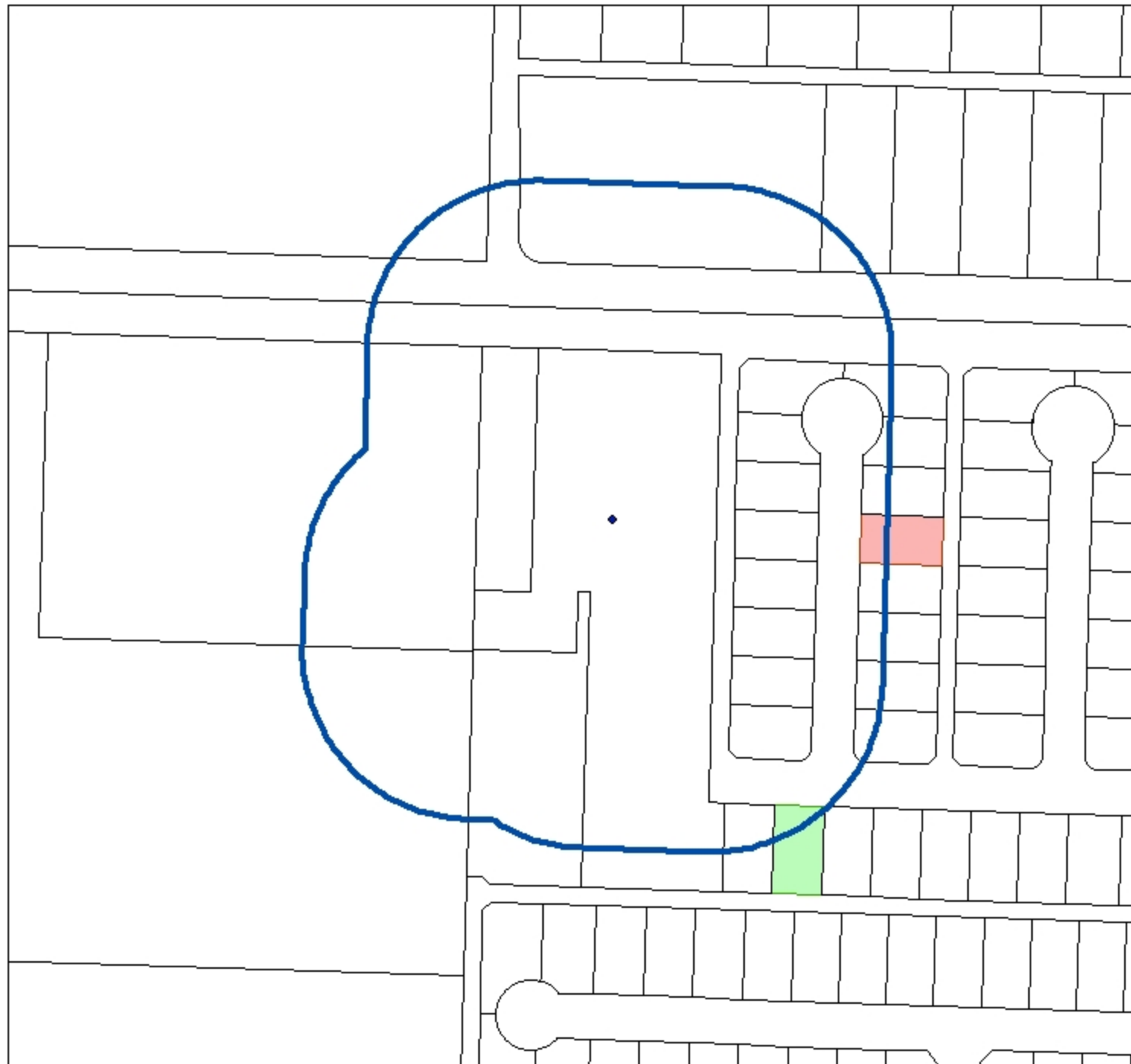


PZC Mailout Notifications Received



Legend

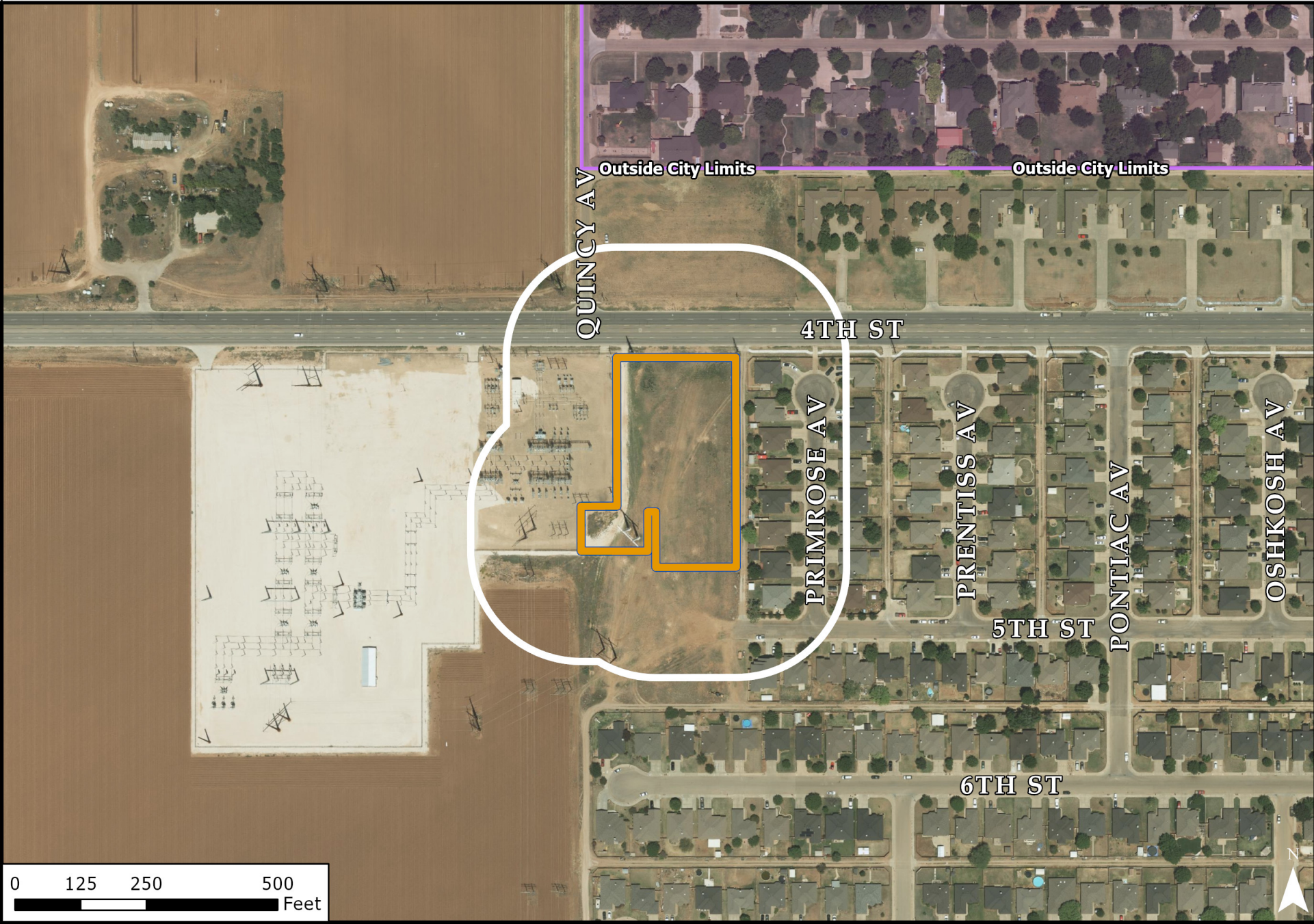
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-  MailoutBuffer2538_X
-  <all other values>
- Notification Result**
 -  In Favor
 -  No Feedback
 -  Opposed
 -  LCAD.DBO.TaxParcel

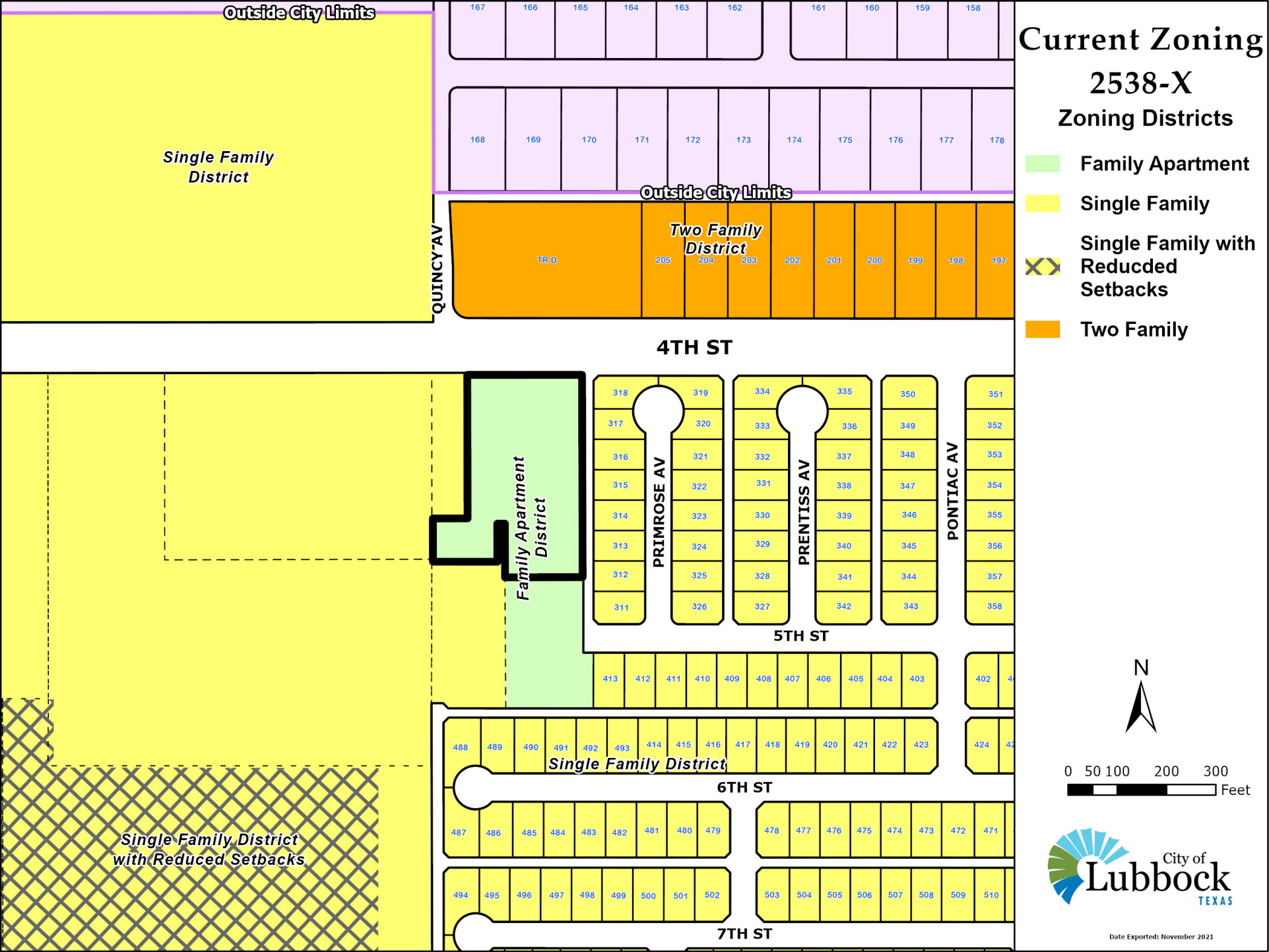


0 110 220 440 Feet

Created by Planning Department
Date: 11/29/2021

Case Number 2538-X





Outside City Limits

Outside City Limits

QUINCY AV

4TH ST

5TH ST

6TH ST

7TH ST

PRIMROSE AV

PRENTISS AV

PONTIAC AV

TR D

Future Land Use Plan Case 2538-X

Future Land Use Type

- 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 50 100 200 300 Feet





Subject Property.



View East.

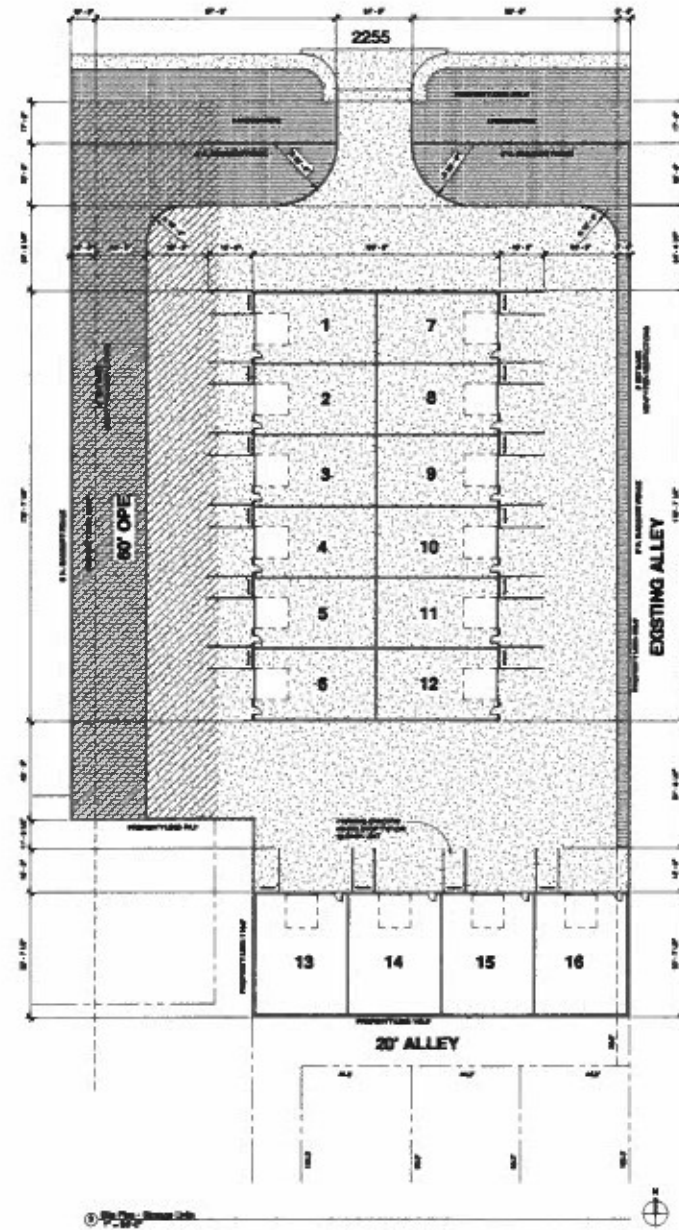
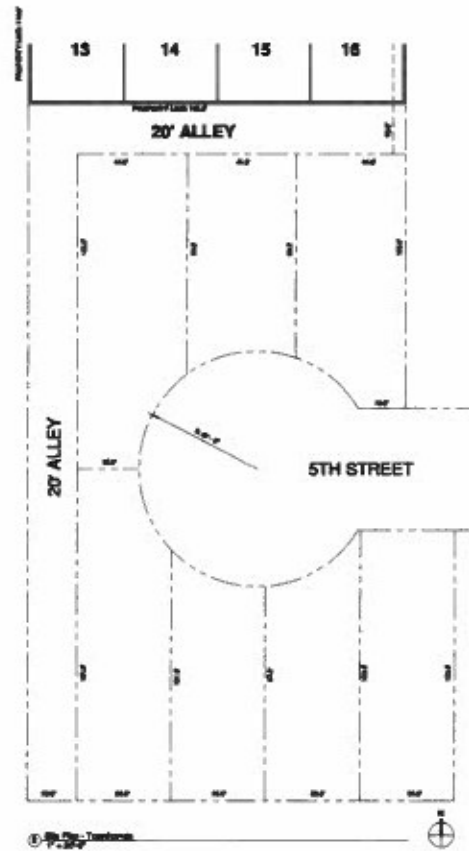
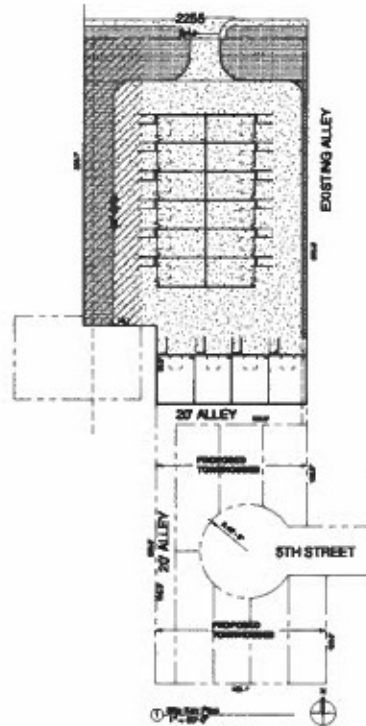


Property located west of Subject property.



View North.

2538-X



| REVISIONS: | |
|------------|-------------|
| DATE | DESCRIPTION |
| | |
| | |
| | |
| | |

Derek Cooper Construction, Inc.
Proposed Development
Lubbock, TX 79407

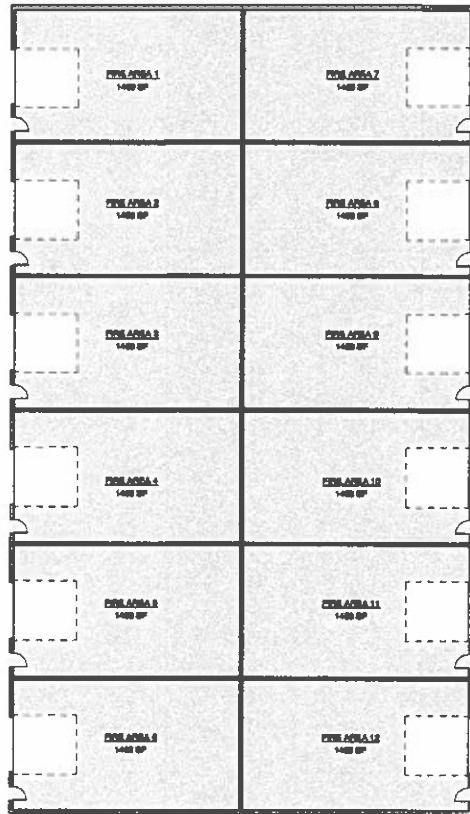


TYLER SMITH
REGISTERED TEXAS
ARCHITECT #8197
PRELIMINARY DESIGN
NOT FOR CONSTRUCTION
APPROVAL, PERMITTING,
OR CONSTRUCTION

Stations Services LLC
Texas Architectural Firm 101.014
6001 Cooper Ave. Ste. 10
Lubbock, TX 79409
(806) 791-1111
info@stations.com

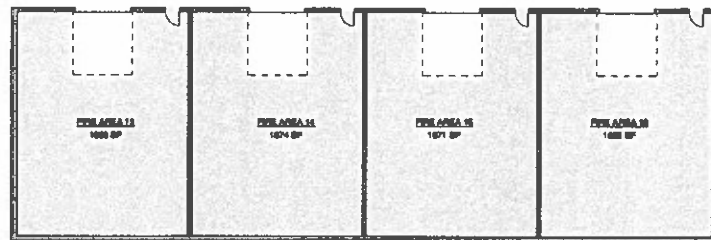
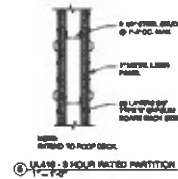
Project Number: 2187
Date: 07.26.17
Owner: DC
Sheet Size: 11.5X17

Preliminary Site
Plan

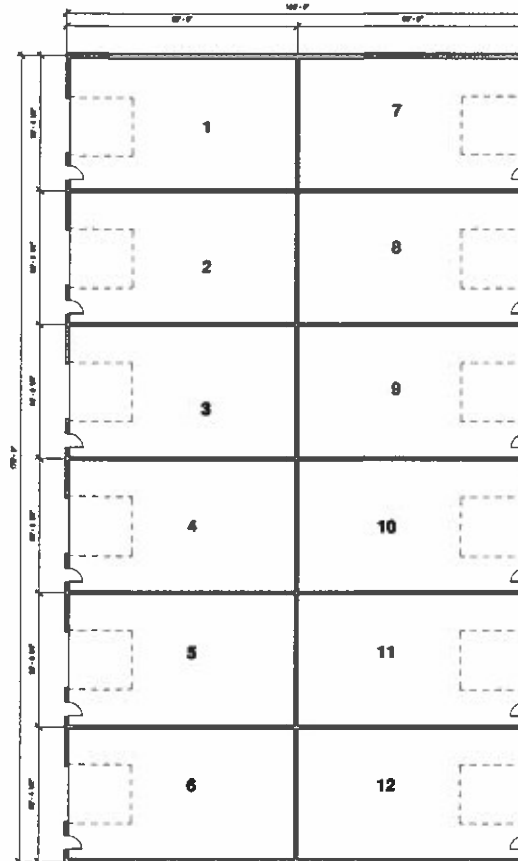


① NORTH BUILDING - FIRE SEPARATION PLAN
3/20" = 1'-0"

| Area | Area | Area |
|--------------|---------|---------|
| FIRE AREA 1 | 1400 SF | 1400 SF |
| FIRE AREA 2 | 1400 SF | 1400 SF |
| FIRE AREA 3 | 1400 SF | 1400 SF |
| FIRE AREA 4 | 1400 SF | 1400 SF |
| FIRE AREA 5 | 1400 SF | 1400 SF |
| FIRE AREA 6 | 1400 SF | 1400 SF |
| FIRE AREA 7 | 1400 SF | 1400 SF |
| FIRE AREA 8 | 1400 SF | 1400 SF |
| FIRE AREA 9 | 1400 SF | 1400 SF |
| FIRE AREA 10 | 1400 SF | 1400 SF |
| FIRE AREA 11 | 1400 SF | 1400 SF |
| FIRE AREA 12 | 1400 SF | 1400 SF |
| FIRE AREA 13 | 1400 SF | 1400 SF |
| FIRE AREA 14 | 1400 SF | 1400 SF |
| FIRE AREA 15 | 1400 SF | 1400 SF |
| FIRE AREA 16 | 1400 SF | 1400 SF |
| TOTAL AREA | 8400 SF | 8400 SF |

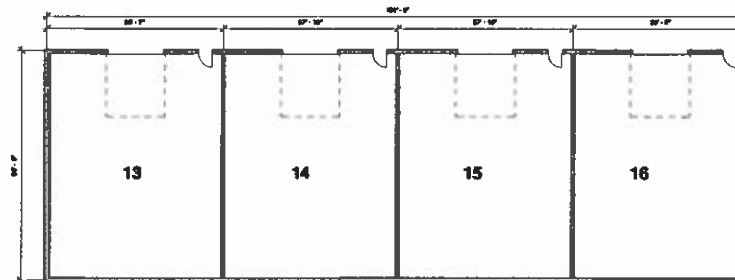


② SOUTH BUILDING - FIRE SEPARATION PLAN
3/20" = 1'-0"



① NORTH BUILDING - FLOOR PLAN
3/20" = 1'-0"

| Area | Area | Area |
|------------|---------|---------|
| ROOM 1 | 1400 SF | 1400 SF |
| ROOM 2 | 1400 SF | 1400 SF |
| ROOM 3 | 1400 SF | 1400 SF |
| ROOM 4 | 1400 SF | 1400 SF |
| ROOM 5 | 1400 SF | 1400 SF |
| ROOM 6 | 1400 SF | 1400 SF |
| ROOM 7 | 1400 SF | 1400 SF |
| ROOM 8 | 1400 SF | 1400 SF |
| ROOM 9 | 1400 SF | 1400 SF |
| ROOM 10 | 1400 SF | 1400 SF |
| ROOM 11 | 1400 SF | 1400 SF |
| ROOM 12 | 1400 SF | 1400 SF |
| TOTAL AREA | 8400 SF | 8400 SF |



② SOUTH BUILDING - FLOOR PLAN
3/20" = 1'-0"

REVISIONS:

| DATE | DESCRIPTION |
|------|-------------|
| | |
| | |
| | |
| | |

Derek Cooper Construction, Inc.
Proposed Development
Lubbock, TX 79407



TYLER GENTRY
REGISTERED TEXAS
ARCHITECT 007112

DEVELOPMENT GROUP

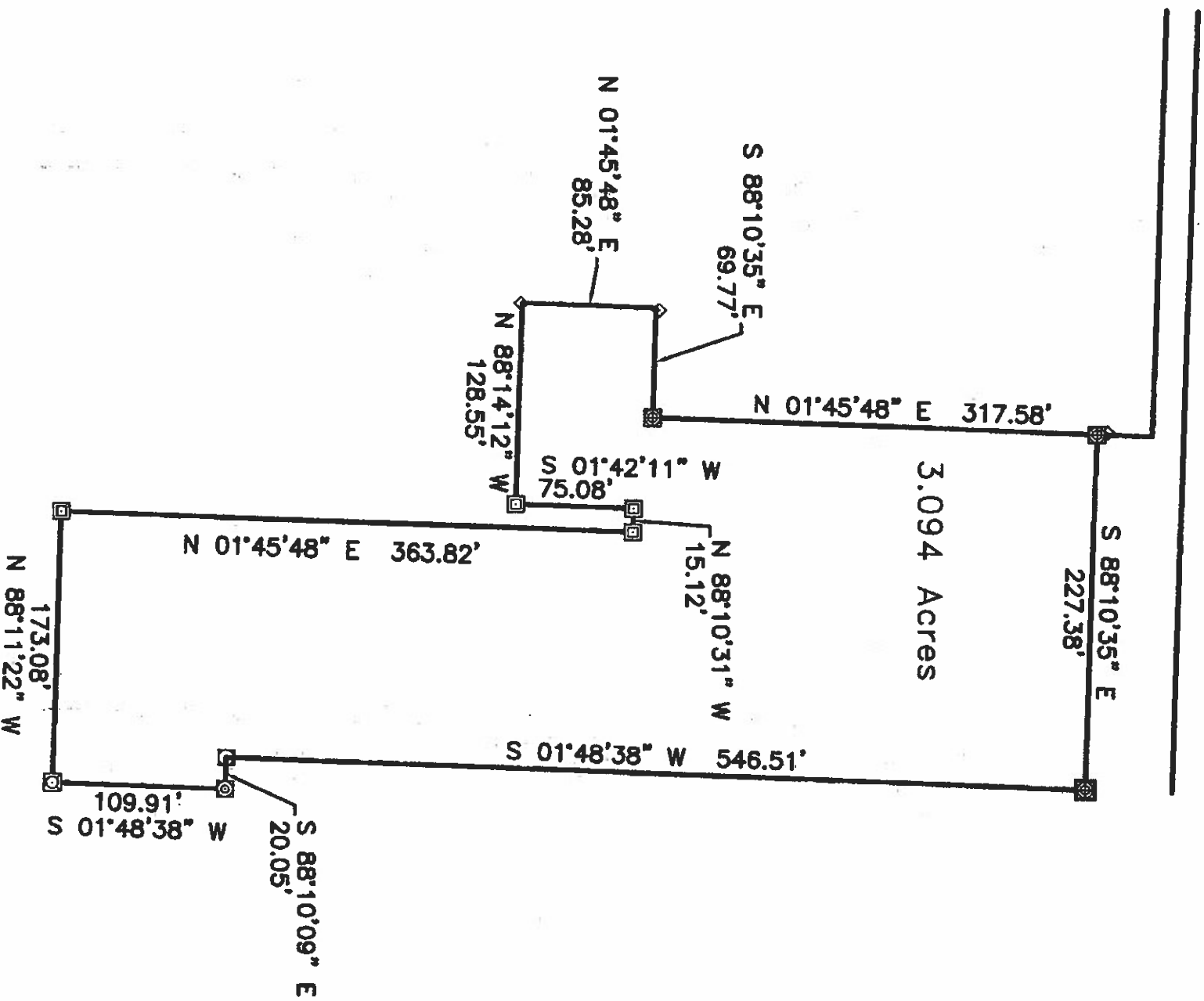
NOT FOR REPRODUCTION
APPROVAL, PERMITTING,
OR CONSTRUCTION

Sanctum Architects, LLC
Texas Architecture Firm 001014

1800 Oakview Ave. Ste. 12
Lubbock, TX 79404
806.787.8888
tyler@12services.com

Project Number: 0781
Date: 07.26.21
Drawn By: JV
Sheet Size: 11 3/4" x 17 1/4"

Preliminary Floor
Plans



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.: **2538-X**

In Favor ☒

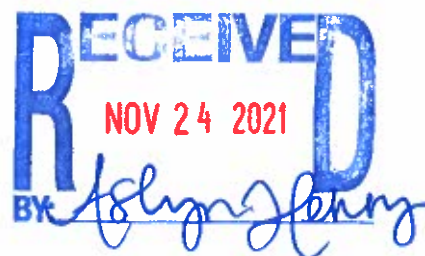
Opposed ☐

Reasons and/or Comments:

Print Name: JJLL LLC
Signature: [Signature]
Address: 5805 CR 77060
Address of Property Owned: 6819 5th ST.
Phone Number: 806 7896261
Email: tyy7@mc.com

Zone Case Number: **2538-X** R156240
JJLL INVESTMENTS LLC
DBA JJLL INVTS LLC SERIES 6819 5TH STREET
5805 COUNTY ROAD 7700
LUBBOCK TX 79424

Recipient 11 of 26



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.: **2538-X**

In Favor _____

Opposed ☒

Reasons and/or Comments:

This is a single family neighborhood. This retail space/space would decrease the value of our home. ^{facility} We do not want 5th Street to ~~go~~ be opened as an axis to other properties. ^{homes.}

Print Name

Carol J Leonard

Signature:

Carol J Leonard

Address:

407 Primrose (79411)

Address of Property Owned:

Phone Number:

325.387-6157

Email:

gcleonard@verizon.net

Zone Case Number: **2538-X**

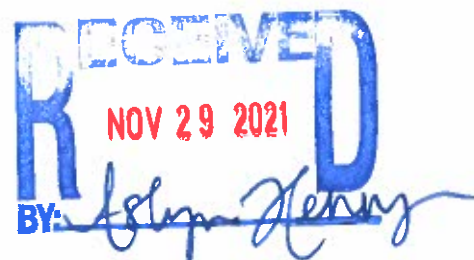
R156150

Recipient 24 of 26

LEONARD GARY C & CAROL J & CRAIG
202 N CONCHO AVE

SONORA

TX 76950





Lubbock Planning Department
PO Box 2000 / 1314 Avenue K
Lubbock, TX 79457
APPLICATION FOR ZONING CHANGE

3451

Project Information

Location or Address: 6801 4th Street. R49749
Lots/Tracts: BLK JS SEC 10 AB 749 TR F ACS: 3.094
Survey & Abstract: _____
Metes and Bounds Attached: Yes ☐ No ☐ Total Acreage of Request: _____
Existing Land Use: Vacant Existing Zoning: A1
Requested Zoning: C2 Specific Use
If property is not subdivided, will a preliminary plat be submitted? Yes ☒ No ☐

Representative/Agent Information (if different from owner)

Firm Name: _____
Name: Tyson Rowin
Address: 6601 Winfield Ave Suite 5 City: Lubbock State: TX
ZIP Code: 79407 Telephone: 806-5495429 Email: tyson.rowin@gmail.com
Applicant's Signature: [Signature]
Date: 08-30-21 Printed Name: Tyson Rowin

Owner Information

Firm Name: _____
Owner: COOPER DEREK & MAZUREK LEE
Address: 918 Ave. J City: Lubbock State: TX
ZIP Code: 79401 Telephone: 806-239-7508 Email: derek@derekcooperconstruction.com
Property Owner's Signature: [Signature]
Date: 08-30-21 Printed Name: Derek Cooper

Preparer Information

Preparer's Signature: [Signature]
Date: 08-30-31 Printed Name: Tyson Rowin

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.

This cover letter is in regards to the property referenced in this application and hearing to be held on Thursday October 21, 2021 in front of the Zoning Board of Adjustment.

PROPERTY DESCRIPTION (See attached Site Plan and existing photos)

This property is currently a vacant lot. The lot is located directly adjacent to an electric utility substation and has an unusual geometric shape.

- Legal Description: BLK JS SEC 10 AB 749 TR F ACS: 3.094
- Current Zoning - Family Apartment District (A-1)
- Proposed Zoning- C-2 Specific Use

PROPOSED PLAN (See attached Site Plan)

The proposed plan will be to construct a 16 unit storage facility on the north side of the property previously described. Each unit will be approximately 1500 sq. ft. with a 14 ft overhead door and a personnel door.

On the south side of the storage facility a cul-de-sac on 5th Street will be developed. The cul-de-sac will be designed to accommodate 7 townhouse. The water and sanitary sewer mains will be extended on the north and west side of the townhomes to provided services to the residents. A 20 foot wide alley will separate the storage facility from the residents and provide access to utilities.

In order to accomplish the proposed plans the zoning on the north side will need to change from A-1 to C-2 Specific use. Additionally the property will have to be platted accordingly. Due to the financial expenses of platting the property, it is requested that the zoning be changed before the property is platted.

EXCEPTIONAL AND EXTRAORDINARY CIRCUMSTANCES:

Again, this property is located directly adjacent to an electric utility substation. The substation maybe seen as an "eye sore" as it can be visually unappealing. Additionally, there are large power line poles and easements for the poles used to support high voltage power lines around the substation. It is challenging to find a good use for the land due to the unusual geometric shape of the property.

Attached:

- Completed Application for Zoning Change
- Proposed Site Plan
- Engineering Survey

Information

Agenda Item

Public Hearing - Planning (District 1): Consider a request for Zone Case 2016-C, a request of T & D Real Estate and Rentals, LLC, for a zone change from Family Apartment District (A-1) to Garden Office District (GO) at 1306 Avenue R, located west of Avenue R and south of 13th Street, Overton Addition, Block 13, the north 10 feet of Lot 4 and Lot 3, less the west 67.5 feet of the north 10 feet, 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 January 6, 2022, and recommended approval of the request by a unanimous vote.

Fiscal Impact

None

Staff/Board Recommending

Jesica McEachern, Assistant City Manager
Planning and Zoning Commission

Attachments

Zoning Case 2016-C Ordinance
Zone Case 2016-C Staff Report
Zone Case 2016-C Documentation

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. 2016-C; A ZONING CHANGE FROM A-1 TO GO ZONING DISTRICT AT 1306 AVENUE R, LOCATED WEST OF AVENUE R AND SOUTH OF 13TH STREET, OVERTON ADDITION, BLOCK 13, THE NORTH 10 FEET OF LOT 4 AND LOT 3, LESS THE WEST 67.5 FEET OF THE NORTH 10 FEET, 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. 2016-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 A-1 to GO zoning district at 1306 Avenue R, located west of Avenue R and south of 13th Street, Overton Addition, Block 13, the north 10 feet of Lot 4 and Lot 3, less the west 67.5 feet of the north 10 feet, 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:



Kelli Leisure, Assistant City Attorney

vw/cityatt/Kelli/ZoneCase/ZC20116-C
January 6, 2022

| Staff Report | | Zone Case 2016-C |
|----------------------|--|------------------|
| City Council Meeting | | January 25, 2022 |

Applicant T & D Real Estate and Rentals, LLC

Property Owner T & D Real Estate and Rentals, LLC

Council District 1

Recommendations

- Staff recommends APPROVAL of this request.

Prior Board or Council Action

- April 22, 1909: The property was included in the initial formation of the City of Lubbock.
- March 13, 1941: The property was zoned Multifamily District (R-3) through Ordinance No. 661.
- October 9, 1975: Ordinance No. 7153; Zone Case 2016. This property was rezoned from Multifamily District (R-3) to Family Apartment District (A-1).
- January 6, 2022: The Planning and Zoning Commission recommended approval of a zone change from Family Apartment District (A-1) to Garden Office District (GO) by a vote of 8-0-0.

Notification Summary

- Notifications Sent: 18
- Received In Favor: 0
- Received In Opposition: 0

Site Conditions and History

The subject property is currently developed with a home built in 1928.

Adjacent Property Development

Properties to the north are developed with offices and zoned Garden Office (GO). To the east and west are apartments zoned A-1 and High-Density Apartment District (A-2), and to the south is a parking lot zoned A-1.

Zoning Request and Analysis

Item Summary

The subject property is addressed as 1306 Avenue R, located west of Avenue R and south of 13th Street. The applicant requests a zone change from Family Apartment District (A-1) to Garden Office District (GO) on a property described as Overton Addition, Block 13, the north 10 feet of Lot 4 and Lot 3, less the west 67.5 feet of the north 10 feet.

Current zoning: Family Apartment District (A-1)

Requested zoning: Garden Office District (GO)

Intent Statements

The intent of the current A-1 zoning is, "... to promote medium-density, multiple-occupancy development. The regulations are designed to promote family-oriented development which provides the occupants with the proper environmental quality, and compatibility with lower-density development. The purpose of this district is not to isolate multi-family units, but to encourage compatible residential land uses through effective planning and urban design."

The intent of the current GO zoning is, "... to provide for quality garden office development through proper planning and design. The regulations are intended to produce an attractive environment which will ensure the compatibility between offices and adjacent uses and promote a stable environment between residential and commercial uses."

Traffic Network/Infrastructure Impacts

The proposed zone change location is along Avenue R, which is designated as a Local Street by the Master Thoroughfare Plan, 2018. Local Streets provide access to smaller, destination-oriented areas, such as neighborhoods, subdivisions or local business districts."

Compatibility with Surrounding Property

The proposed zone change is compatible with the surrounding area, as there is already Garden Office District (GO) zoning directly adjacent to the subject property. Garden Office uses are intended to be compatible with residential zoning districts.

Conformance with Comprehensive Plan Principles and Future Land Use Map

The Future Land Use Map designates the subject property for Medium Density Residential land uses. This zone change would not bring the property into conformance with the Future Land Use Plan; however, it is important to note that Garden Office zoning exists directly adjacent to the subject property. Additionally, "office development is mostly compatible with any adjacent residential area" (2040 Comprehensive Plan p. 61). The 2040 Comprehensive Plan states that more mixed use development is a goal for the future (2040 Comprehensive Plan p. 37). Because of these reasons, the requested zone change is in moderate conformance.

Conformance with Zoning Ordinance

The Code of Ordinances states that Garden Office is appropriate adjacent residential and requires that "a six (6) foot solid screening fence of wood or masonry construction shall be installed and permanently maintained on the development lot along the adjacent property line" (Sec. 40.03.1032(d)). As long as screening requirements are met, the proposed zone change is in conformance with the zoning ordinance and is appropriate in this location.

Suitability of Property for Allowed Uses

The property is suitable for the proposed use and is appropriate in this location.

Attachments

- A. Case Information
- B. Thoroughfare Map
- C. Notification Map
- D. Aerial Map
- E. Zoning Map
- F. Future Land Use Map
- G. Photos
- H. Application and supporting documentation
- I. Notification Replies

Staff Contacts

Bailey Shillings
Planner
Planning Department
806-775-3147
bshillings@mylubbock.us

Kristen Sager
Planning and Zoning Manager
Planning Department
806-775-2109
ksager@mylubbock.us

Case Information: Zone Case 2016-C



Allowable Uses: [Garden Office \(GO\)](#)

Transportation: The proposed development has a point of access from Avenue R.

| Thoroughfare | Existing | Per Thoroughfare Development Plan |
|--|--|--|
| Avenue R <i>Local Street, Completed</i> | R.O.W. 50 feet, two-lane, undivided, paved | R.O.W. 50 feet, 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

5.1 Case 2016-C: T & D Real Estate and Rentals, LLC

Request for a zone change from Family Apartment District (A-1) to Garden Office District (GO), at:

- 1306 Avenue R, located west of Avenue R and south of 13th Street, Overton Addition, Block 13, the north 10 feet of Lot 4 and Lot 3, less the west 67.5 feet of the north 10 feet.

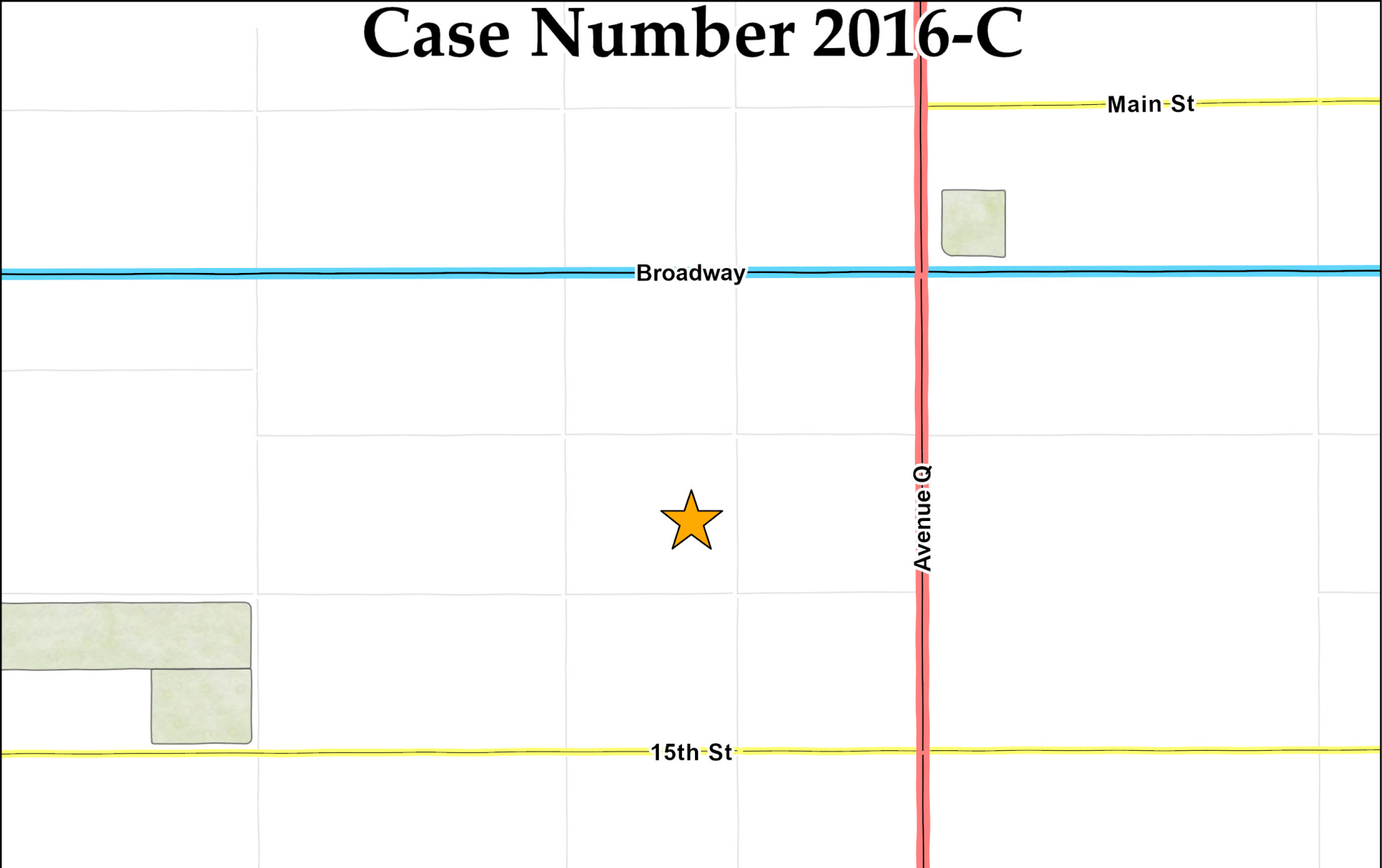
PLANNER BAILEY SHILLINGS stated there were eighteen (18) notifications sent out with zero returned. Staff shared the location of the property including pictures and maps and discussed the surrounding property. The request is in moderate conformance with the Comprehensive Plan and the Future Land Use Map. The applicant has been told they will need to provide a 6-foot fence between their property and residential property in the area. Staff recommends approval of this request.

APPLICANT TAMELA PITTMAN 1306 Avenue R stated they are remodeling the inside of the property to use it for an office and will possibly rent out some of the space to another tenant, since they do not need the entire space.

No one spoke in favor or in opposition to the request.

In matter of **Zone Case 2016-C** a motion was made by **JAMES BELL** and seconded by **ABEL HERNANDEZ** to approve the request and the Commission members voted 8 (in favor) to 0 (in opposition) to approve the motion. Item will be forwarded to City Council for consideration.

Case Number 2016-C



Collector

- Completed
- Partial
- Future

Minor Arterial

- Completed
- Partial
- Future

Modified Arterial

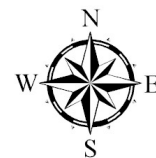
- Partial
- Future

Principal Arterial

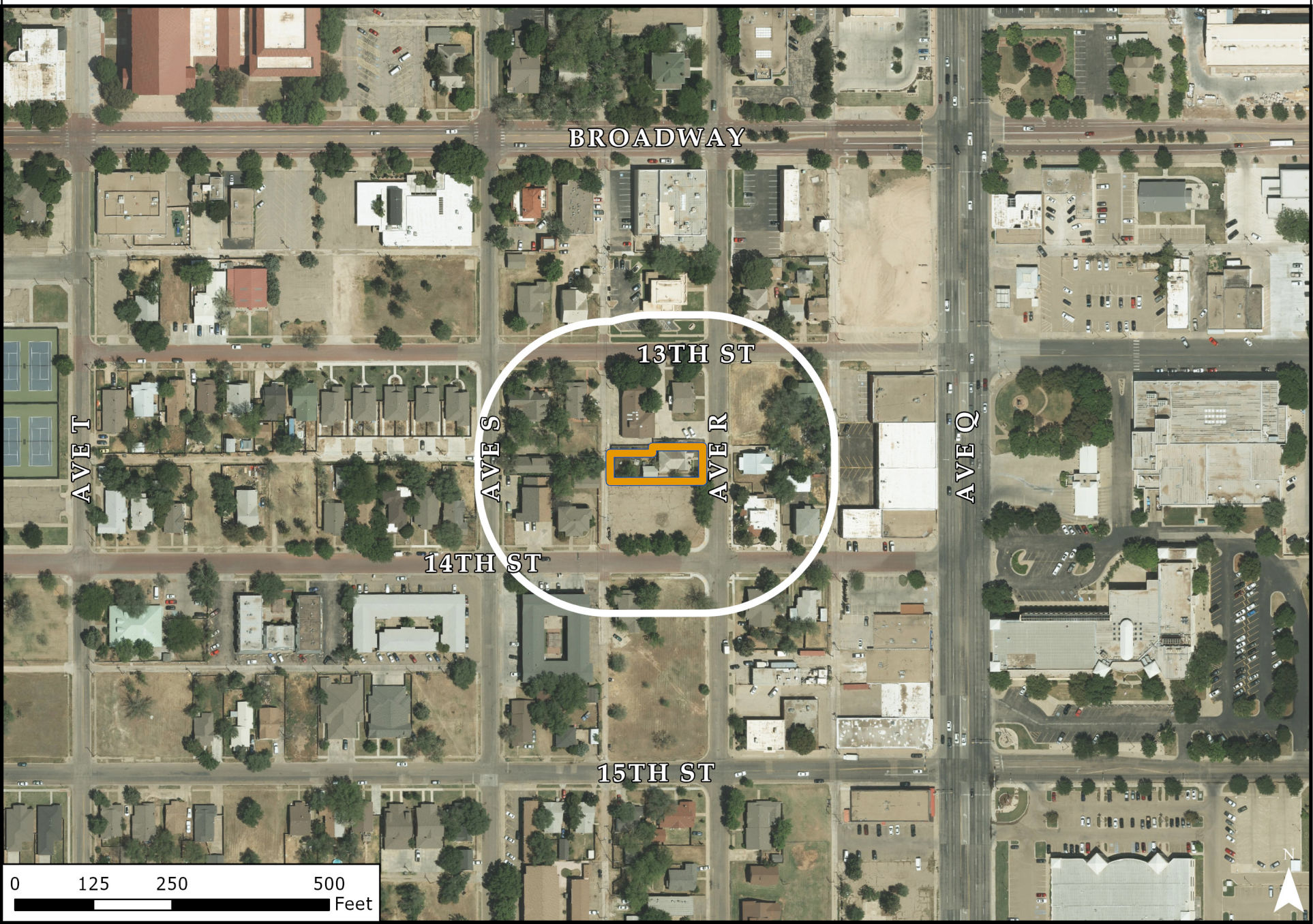
- Completed
- Partial
- Future

Freeway

- Completed
- Partial
- Proposed Outer Loop



Case Number 2016-C



BROADWAY

13TH ST

AVE T

AVE S

AVE R

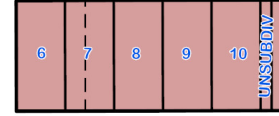
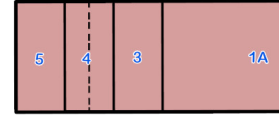
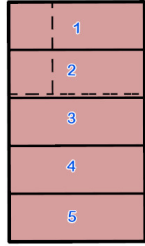
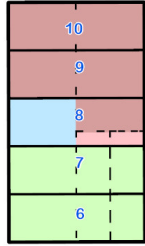
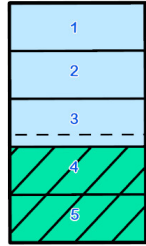
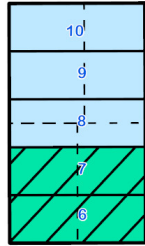
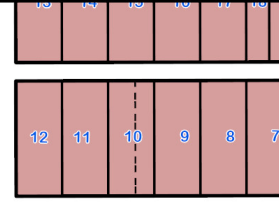
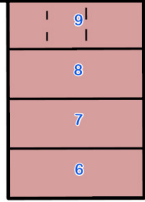
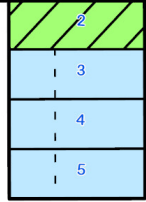
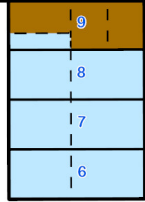
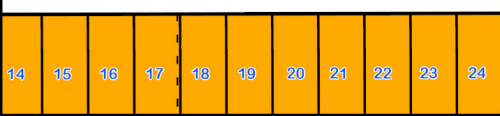
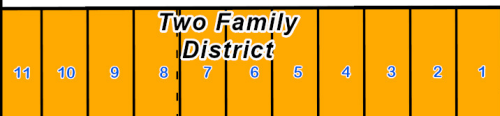
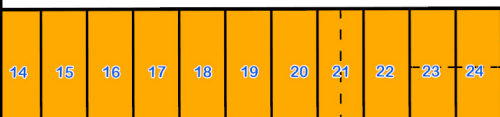
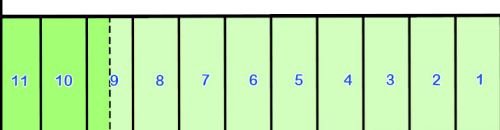
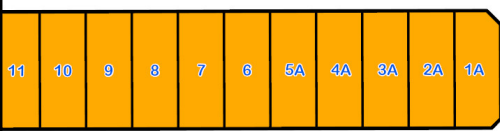
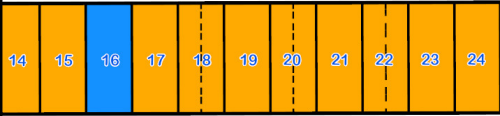
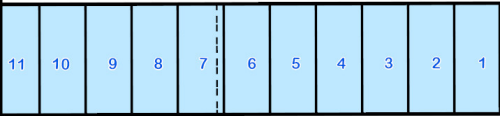
AVE Q

14TH ST

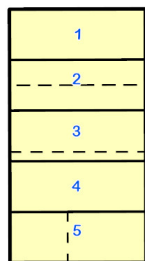
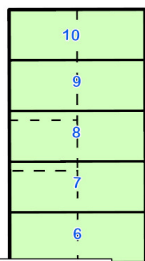
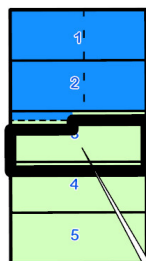
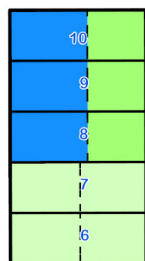
15TH ST

0 125 250 500 Feet

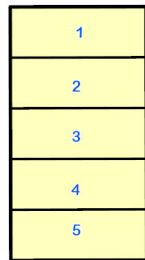
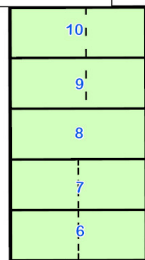
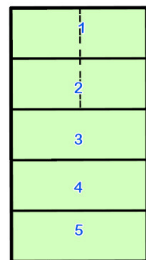
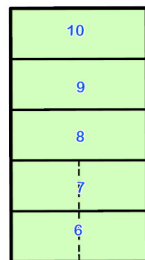




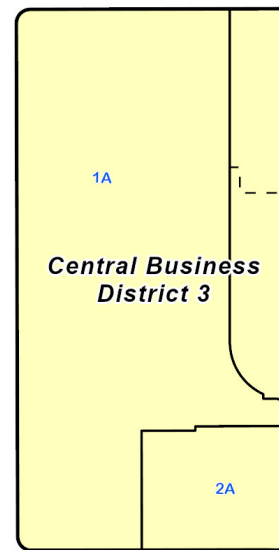
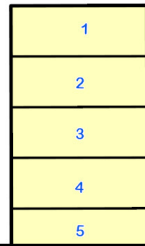
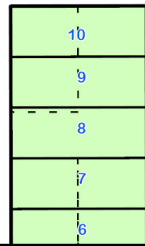
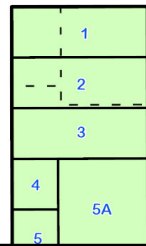
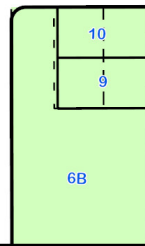
13TH ST



14TH ST

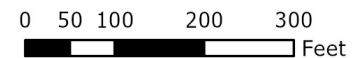


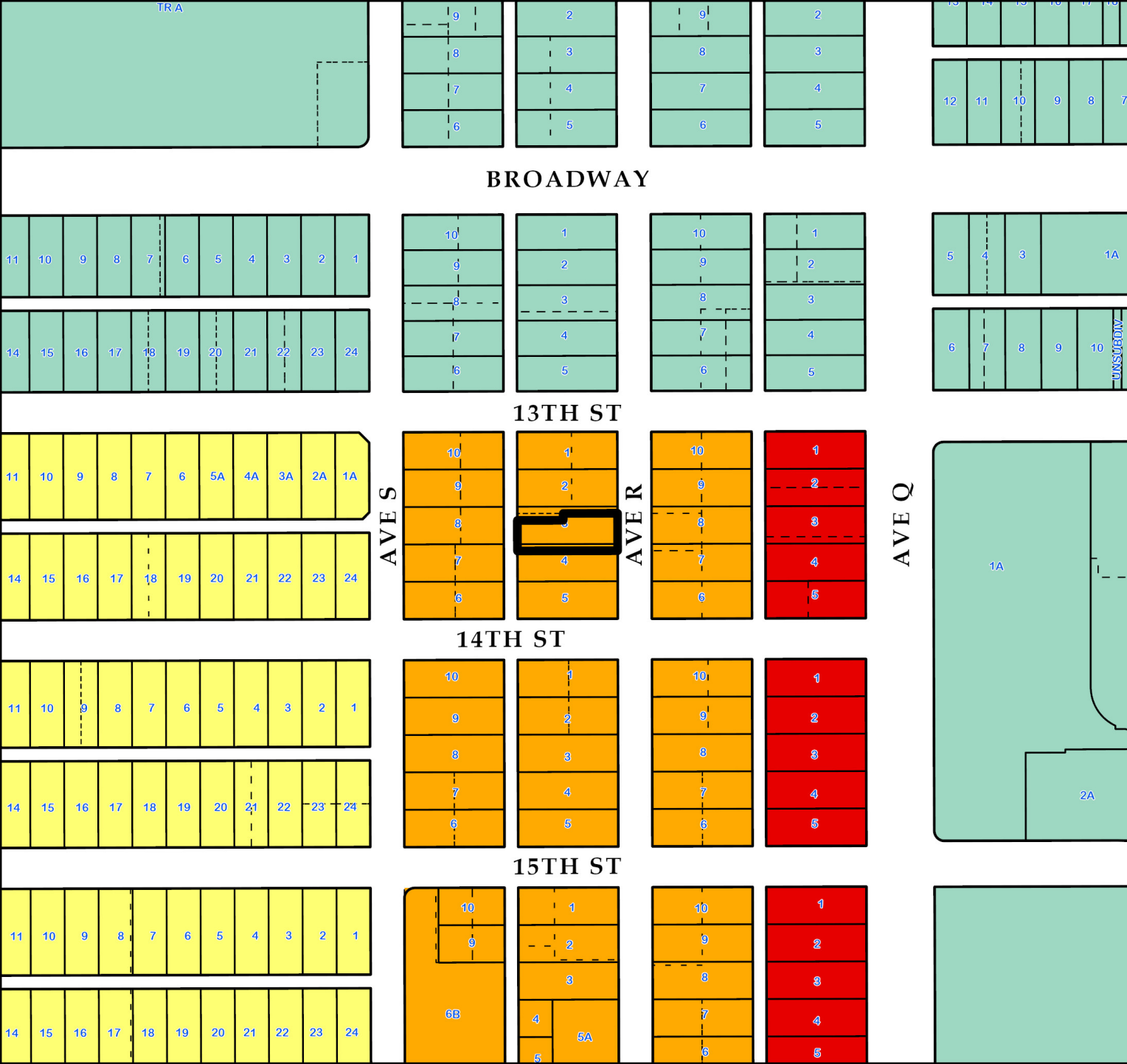
15TH ST



Current Zoning 2016-C Zoning Districts

- Family Apartment
- High Density Apartment
- High Density Apartment Specific Use
- Apartment-Medical Specific Use
- Local Retail
- Central Business District 1
- Central Business District 2
- Central Business District 3
- Garden Office
- Two Family
- Multi-Family

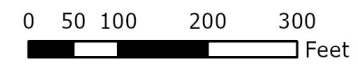




Future Land Use Plan Case 2016-C

Future Land Use Type

- 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



2016-C



View North



View East



View South



View West, Subject Property



Lubbock Planning Department
PO Box 2000 / 1314 Avenue K
Lubbock, TX 79457
APPLICATION FOR ZONING CHANGE

Project Information

Location or Address: 1306 Ave R Lubbock Tx
Lots/Tracts: Overton Block 13 N10' of Lot 4 & 3 less W67.5' of N10'
Survey & Abstract: Don't have one!
Metes and Bounds Attached: Yes ☐ No ☒ Total Acreage of Request: _____
Existing Land Use: Is called a 4plex Existing Zoning: A1
Requested Zoning: G0 Garden Office for Accounting or Law office
If property is not subdivided, will a preliminary plat be submitted? Yes ☐ No ☒

Representative/Agent Information (if different from owner)

Firm Name: _____
Name: _____
Address: _____ City: _____ State: _____
ZIP Code: _____ Telephone: _____ Email: _____
Applicant's Signature: _____
Date: _____ Printed Name: _____

Owner Information

Firm Name: T + D Real Estate and Rentals, LLC
Owner: Don and Tameka Pittman
Address: 1703 CR 7570 City: Lubbock State: Tx
ZIP Code: 79423 Telephone: 806-319-2500 Email: tameka.pittman@yahoo.com
Property Owner's Signature: Tameka Pittman
Date: 11-9-2021 Printed Name: Tameka Pittman

Preparer Information

Preparer's Signature: Tameka Pittman
Date: 11-9-2021 Printed Name: Tameka Pittman

For City Use Only

Zone Case No: _____ Planning and Zoning Commission Date: _____
Request for zoning change from: _____ To: _____
Lots: _____

Information

Agenda Item

Public Hearing - Planning (District 4): Consider a request for Zone Case 3455, a request of Hugo Reed and Associates, Inc. for Red Canyon Development, LLC, for a Specific Use for a commercial athletic field, park, stadium, or arena on property zoned Transition (T), generally located south of 146th Street and west of Quaker Avenue on 133.1 acres of unplatted land out of Block AK, Section 6, 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 January 6, 2022, and recommended approval of the request by a unanimous vote.

Fiscal Impact

None

Staff/Board Recommending

Jesica McEachern, Assistant City Manager
Planning and Zoning Commission

Attachments

Zone Case 3455 Ordinance
Zone Case 3455 Staff Report
Zone Case 3455 Documentation

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. 3455; A ZONING CHANGE FROM T TO T SPECIFIC USE FOR A COMMERCIAL ATHLETIC FIELD, PARK, STADIUM OR ARENA, GENERALLY LOCATED SOUTH OF 146TH STREET AND WEST OF QUAKER AVENUE ON 133.1 ACRES OF UNPLATTED LAND OUT OF BLOCK AK, SECTION 6, 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, 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. 3455

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 **T to T Specific Use for a commercial athletic field, park, stadium or arena** zoning district **generally located south of 146th Street and west of Quaker Avenue on 133.1 acres of unplatted land out of Block AK, Section 6, City of Lubbock, Lubbock County, Texas, and being** further described as follows:

METES AND BOUNDS DESCRIPTION: Attached as Exhibit "A".

SECTION 2. THAT the granting of this specific use zoning is hereby made subject to compliance with all provisions of Zoning Ordinance No. 7084, as amended, including particularly, but not limited to, Section 40.03.3102 of the Codified Zoning Ordinance, which provides that a Building Permit shall be applied for and secured within thirty (30) months of the effective date of the zone change or all undeveloped property shall automatically revert back to the previous zoning classification, which in this case is the T zone district; and if such reversion occurs, the Director of Planning is directed to remove from the Zoning Map the legend indicating such specific use. The Specific Use authorized by this Ordinance is permitted under provision of Section 40.03.3101-40.03.3103 of Codified Zoning Ordinance No. 7084 on the property described as Generally located south of 146th Street and west of Quaker Avenue on 133.1 acres of unplatted land out of Block AK, Section 6, City of Lubbock, Lubbock County, Texas.

SECTION 3. 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 4. 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 5. 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:

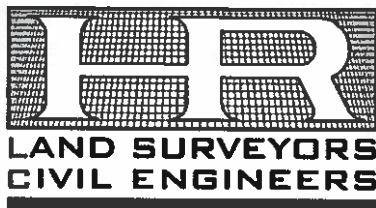


Bryan Isham, Director of Planning

APPROVED AS TO FORM:



Kelli Leisure, Assistant City Attorney



HUGO REED AND ASSOCIATES, INC.
1601 AVENUE N / LUBBOCK, TEXAS 79401 / 806/763-5542 / FAX 806/763-3891
TEXAS REGISTERED ENGINEERING FIRM F-760
TEXAS LICENSED SURVEYING FIRM 100676-00

EXHIBIT "A"

PROPOSED T SPECIFIC USE ZONING

METES AND BOUNDS DESCRIPTION of an approximate 133.1 acre tract of land located in Section 6, Block AK, Lubbock County, Texas, being further described as follows:

BEGINNING at a point for the Northwest corner of this tract which bears N. $88^{\circ}14'24''$ W. an approximate distance of 2563.68 feet and S. $01^{\circ}42'34''$ W. an approximate distance of 407.35 feet from the Northeast corner of Section 6, Block AK;

THENCE S. $88^{\circ}17'26''$ E. an approximate distance of 2178.7 feet to a point for the Northeast corner of this tract;

THENCE S. $01^{\circ}42'34''$ W. an approximate distance of 474.5 feet to a point;

THENCE N. $88^{\circ}17'26''$ W. an approximate distance of 22.0 feet to a point;

THENCE S. $01^{\circ}42'34''$ W. an approximate distance of 2035.0 feet to a point for the Southeast corner of this tract;

THENCE N. $88^{\circ}17'26''$ W. an approximate distance of 2496.7 feet to a point for the Southwest corner of this tract;

THENCE N. $01^{\circ}42'34''$ E. an approximate distance of 1101.5 feet to a point;

THENCE S. $88^{\circ}17'26''$ E. an approximate distance of 340.0 feet to a point;

THENCE N. $01^{\circ}42'34''$ E. an approximate distance of 1408.0 feet to the Point of Beginning.

PREPARED FOR ZONE CHANGE PURPOSES. DOES NOT REPRESENT AN ACTUAL SURVEY.

Prepared for Red Canyon Development LLC
Contains: 133.1 Acres
November 30, 2021

PROPOSED T SPECIFIC USE ZONING

LOCATED IN SECTION 6, BLOCK AK



146TH

NORTH LINE OF SECTION 6, BLOCK AK

STREET

NORTHEAST CORNER OF
SECTION 6, BLOCK AK

POINT OF BEGINNING
THIS POINT BEARS N88°14'24"W
2583.68 FEET & S01°42'34"W 407.35
FEET FROM THE NORTHEAST
CORNER OF SECTION 6, BLOCK AK

NOT PLATTED

Land Owner: Red Canyon Development LLC
CCFN 2017036785

NOT PLATTED

Land Owner: 146TH & QUAKER
LLC
CCFN 2021039518

S88°17'26"E 2178.7'

S01°42'34"W
474.5'

N88°17'26"W
22.0'

N01°42'34"E 1408.0'

NOT PLATTED

Land Owner: Red Canyon
Development LLC
CCFN 2017036785

S88°17'26"E
340.0'

PROPOSED T SPECIFIC USE ZONING
133.1 ACRES

S01°42'34"W 2035.0'

NOT PLATTED

Land Owner: Red Canyon Development LLC
CCFN 2017036785

QUAKER AVENUE

EAST LINE OF SECTION 6, BLOCK AK

N01°42'34"E 1101.5'

N88°17'26"W 2496.7'

NOT PLATTED

Land Owner: Lubbock Cooper ISD
CCFN 2020002430

PROPOSED T SPECIFIC USE ZONING SITE PLAN

LOCATED IN SECTION 6, BLOCK AK



| Staff Report | | Zone Case 3455 |
|----------------------|--|------------------|
| City Council Meeting | | January 25, 2022 |

Applicant Hugo Reed and Associates, Inc. Red

Property Owner Canyon Development, LLC

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).
- January 6, 2022, Zone Case 3455: The Planning and Zoning Commission recommended Approval for a Specific Use for a commercial athletic field, park, stadium, or arena, by a vote of 8-0-0.

Notification Summary

- Notifications Sent: 3
- Received In Favor: 1
- Received In Opposition: 0

Site Conditions and History

The property was annexed in 2016 and has remained vacant and unsubdivided.

Adjacent Property Development

This property is surrounded by Transition zoning on all sides, with additional property to the north zoned Single-Family District (R-1) and General Retail District (C-3), and Restricted Local Retail District (C-2A) and C-3 zoning to the east; all of which consist of vacant and unsubdivided land.

Zoning Request and Analysis

Item Summary

The subject property is generally located south of 146th Street and west of Quaker Avenue on 133.1 acres of unplatted land out of Block AK, Section 6. The applicant is requesting a Specific Use for a commercial athletic field, park, stadium, or arena.

Current zoning: Transition (T)

Requested zoning: Specific Use for a commercial athletic field, park, stadium, or arena

Intent Statements

The intent of the current T zoning is “to protect existing and future development in newly annexed territory until the proper zone classification can be determined and established by zone change.”

The intent of the Specific Use District is “to provide for design and land use flexibility in the various districts. This district provides for variations in the land use standards within the [zoning] ordinance, provided the intent, principles, and innovations of modern urban planning and design are used.”

Traffic Network/Infrastructure Impacts

The property is located south of 146th Street, which is designated as a Principal Arterial (Modified) and west of Quaker Avenue, which is designated as a Principal Arterial by the Master Thoroughfare Plan, 2018. Arterials are continuous routes whose function is to serve high volume needs of local and regional traffic.

Compatibility with Surrounding Property

The proposed Specific Use is compatible with the surrounding area and will not change the character of the existing or future development.

Conformance with Zoning Ordinance

The proposed Specific Use request is in conformance with the Zoning Ordinance and will be appropriate at the proposed location.

Suitability of Property for Allowed Uses

The property is suitable for the proposed uses but may require additional public improvements to support the intensity of the proposed Specific Uses, due to this property being unplatted.

Attachments

- A. Case Information
- B. Thoroughfare Plan Map
- C. Notification Map
- D. Aerial Map
- E. Zoning Map
- F. Photos
- G. Application and Supporting Documentation
- H. Notification Responses

Staff Contacts

Aslyn Henry
Planner
Planning Department
806-775-2021
ahenry@mylubbock.us

Kristen Sager
Planning and Zoning Manager
Planning Department
806-775-2109
ksager@mylubbock.us

Case Information: Zone Case 3455



Allowable Uses: Transition District

Specific Use

Transportation: The proposed development has points of access from 146th Street and Quaker Avenue.

| Thoroughfare | Existing | Per Thoroughfare Development Plan |
|--|--|---|
| 146 th Street <i>Principal Arterial (Modified)</i> | R.O.W. 110 feet, four-lane, undivided, paved | R.O.W. 110 feet, seven-lane, undivided, paved |
| Quaker Avenue <i>Principal Arterial</i> | R.O.W. 110 feet, four-lane, undivided, paved | R.O.W. 110 feet, seven-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

5.4 **Case 3455:** Hugo Reed and Associates, Inc. for Red Canyon Development, LLC

Request for a Specific Use for a commercial athletic field, park, stadium, or arena on property zoned Transition (T) at:

- Generally located south of 146th Street and west of Quaker Avenue on 133.1 acres of unplatted land out of Block AK, Section 6.

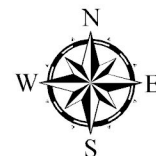
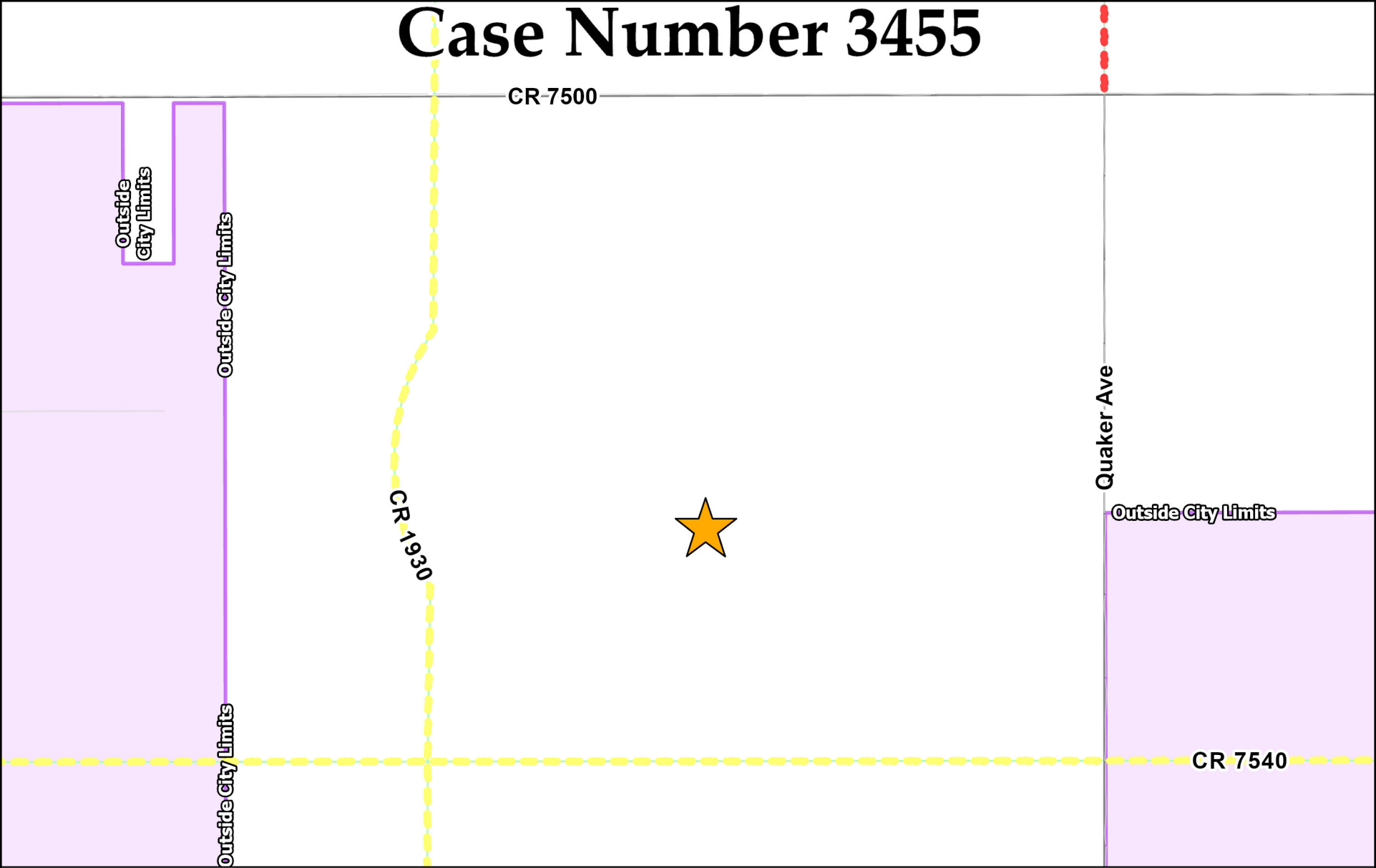
PLANNER ASYLN HENRY stated there were three (3) notifications sent out and one (1) returned in favor. Staff shared the location of the property including pictures and maps and discussed the surrounding property. Staff recommends approval of this request.

APPLICANT TERRY HOLEMAN, Hugo Reed and Associates, Inc., 1601 Avenue N, stated he is working with a developer that wants to build a high-class golf course at this location. Mr. Holeman stated the clubhouse for the course would be off 155th Street and the course would be similar to the Rawls Golf Course.

No one spoke in favor or in opposition to the request.

In matter of **Zone Case 3455** a motion was made by **TANNER NOBLE** and seconded by **JAMES BELL** to approve the request and the Commission members voted 8 (in favor) to 0 (in opposition) to approve the motion. Item will be forwarded to City Council for consideration.

Case Number 3455

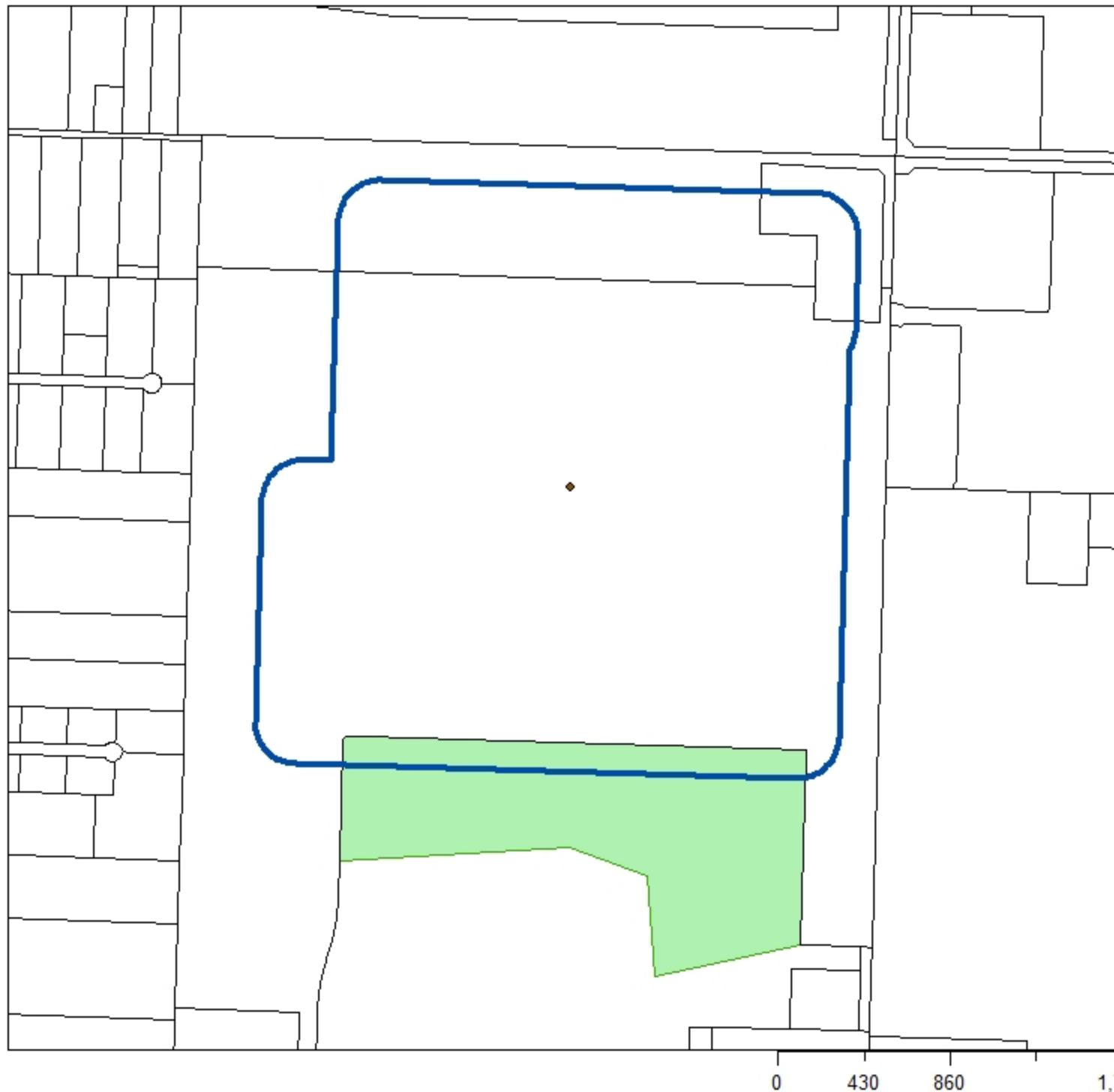


PZC Mailout Notifications Received



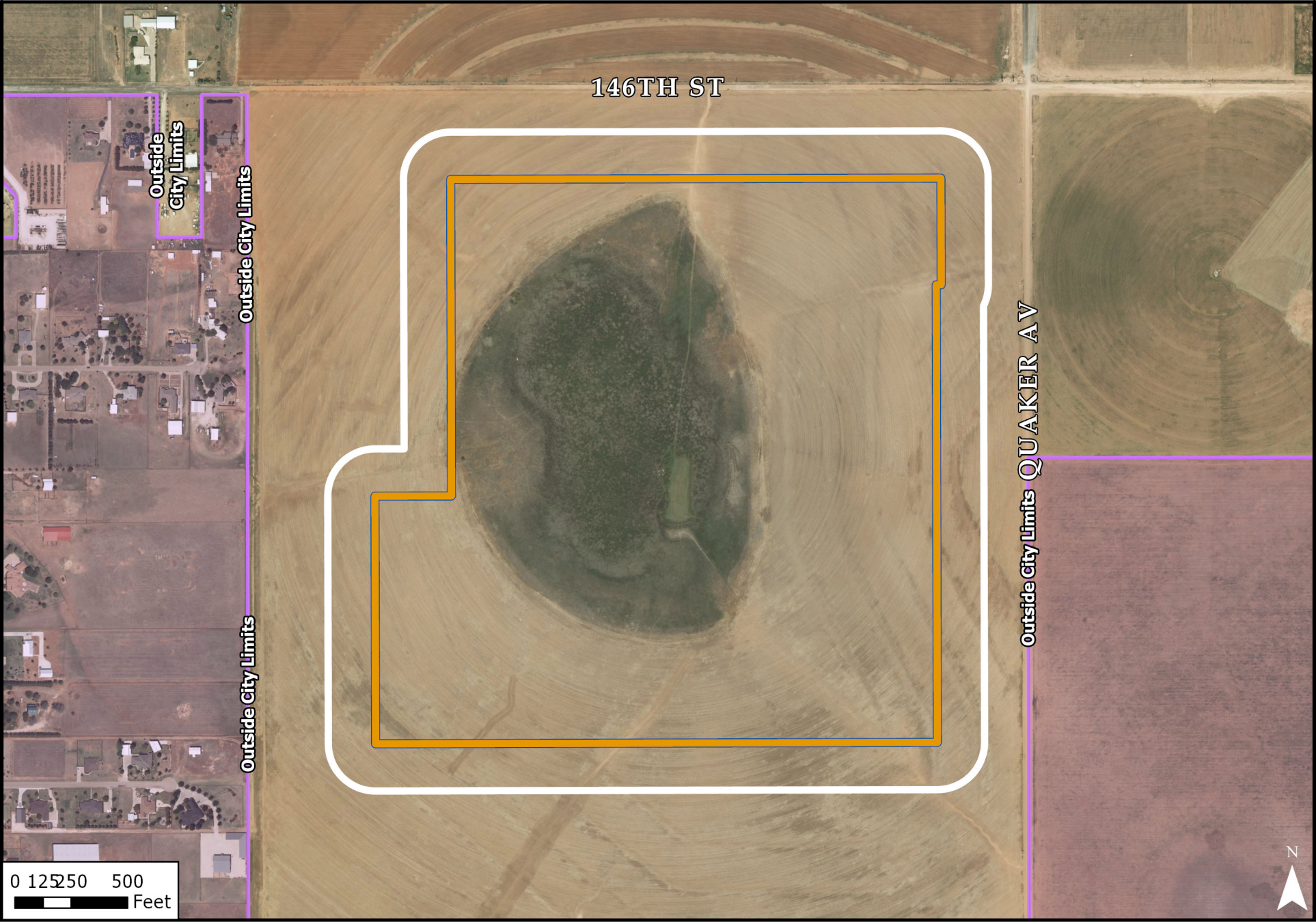
Legend

- LocatorPnt3455
- MailoutBuffer3455
- <all other values>
- Notification Result**
 - In Favor
 - No Feedback
 - Opposed
 - LCAD.DBO.TaxParcel



Created by Planning Department
Date: 1/5/2022

Case Number 3455



146TH ST

Outside
City Limits

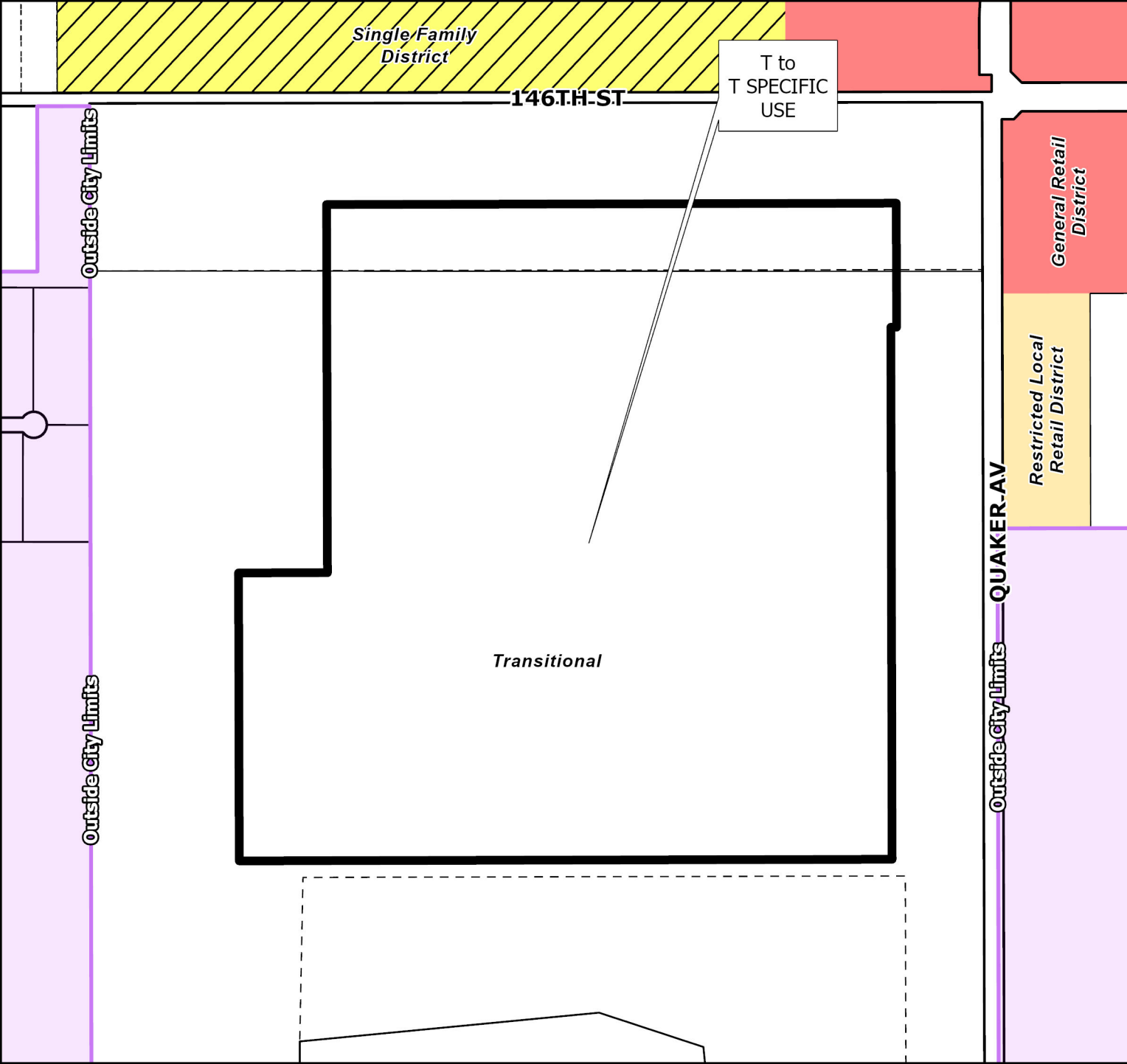
Outside City Limits

Outside City Limits

Outside City Limits QUAKER AV

0 125 250 500
Feet







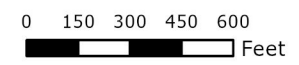


Current Zoning

3455

Zoning Districts

-  Restricted Local Retail
-  General Retail
-  Single Family Specific Use
-  Transitional





View North.



View East.



View South.



View West.

3455



Lubbock Planning Department
PO Box 2000 / 1314 Avenue K
Lubbock, TX 79457
APPLICATION FOR ZONING CHANGE

Project Information

Location or Address: 155th and Quaker
Lots/Tracts: See metes and bounds
Survey & Abstract: Section 6, Block AK
Metes and Bounds Attached: Yes ☒ No ☐ Total Acreage of Request: 133.08
Existing Land Use: vacant Existing Zoning: T
Requested Zoning: T Specific Use for an athletic field, park,...commercial - 40.03.3103(p)
If property is not subdivided, will a preliminary plat be submitted? Yes ☒ No ☐

Representative/Agent Information (if different from owner)

Firm Name: Hugo Reed and 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: November 29, 2021 Printed Name: Terry Holeman

Owner Information

Firm Name: Red Canyon Development, LLC
Owner: Red Canyon Development, LLC
Address: PO Box 64664 City: Lubbock State: TX
ZIP Code: 79464 Telephone: 806-543-0667 Email: tpayn3@gmail.com
Property Owner's Signature: *[Signature]*
Date: November 29, 2021 Printed Name: Thomas Payne

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.

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.: **3455**

In Favor ☒

Opposed ☐

Reasons and/or Comments:

Print Name Keith Bryant
Signature: Keith Bryant
Address: 13807 Indiana Lubbock, TX 79423
Address of Property Owned: 15806 Quaker Lubbock, TX 79424
Phone Number: 806-863-7100
Email: kbryant@lcisd.net

Zone Case Number: **3455**
LUBBOCK COOPER ISD
13807 INDIANA AVE

R338536

Recipient 3 of 3

LUBBOCK

TX 79423

Information

Agenda Item

Public Hearing - Planning (District 4): Consider a request for Zone Case 3456, a request of Hugo Reed and Associates, Inc. for 146th and Quaker, LLC, for a zone change from Transition District (T) to General Retail District (C-3), generally located west of Quaker Avenue and south of 146th Street, on 8.00 acres of unplatted land out of Block AK, Section 6, 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 January 6, 2022, and recommended approval of the request by a unanimous vote.

Fiscal Impact

None

Staff/Board Recommending

Jesica McEachern, Assistant City Manager
Planning and Zoning Commission

Attachments

Zone Case 3456 Ordinance
Zone Case 3456 Staff Report
Zone Case 3456 Documentation

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. 3456; A ZONING CHANGE FROM T TO C-3 ZONING DISTRICT GENERALLY LOCATED WEST OF QUAKER AVENUE AND SOUTH OF 146TH STREET, ON 8.00 ACRES OF UNPLATTED LAND OUT OF BLOCK AK, SECTION 6, 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, 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. 3456

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 T to C-3 zoning district **generally located west of Quaker Avenue and south of 146th Street, on 8.00 acres of unplatted land out of Block AK, Section 6, 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:



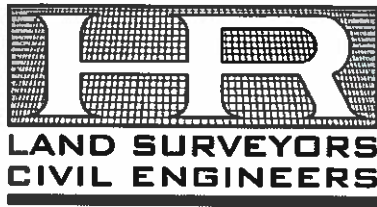
Bryan Isham, Director of Planning

APPROVED AS TO FORM:



Kelli Leisure, Assistant City Attorney

vw/cityatt/Kelli/ZoneCase/ZC3456
January 6, 2022



HUGO REED AND ASSOCIATES, INC.
1601 AVENUE N / LUBBOCK, TEXAS 79401 / 806/763-5542 / FAX 806/763-3891
TEXAS REGISTERED ENGINEERING FIRM F-760
TEXAS LICENSED SURVEYING FIRM 100876-00

EXHIBIT "A"

PROPOSED C-3 ZONING

METES AND BOUNDS DESCRIPTION of an approximate 8.0 acre tract of land located in Section 6, Block AK, Lubbock County, Texas, being further described as follows:

BEGINNING at a point for the Southeast corner of this tract which bears S. 01°42'34" W. a distance of 829.55 feet and N. 88°17'26" W. a distance of 55.00 feet from the Northeast corner of Section 6, Block AK, Lubbock County, Texas;

THENCE N. 88°17'26" W. an approximate distance of 330.0 feet to a point for the most Southerly Southwest corner of this tract;

THENCE N. 01°42'34" E. an approximate distance of 424.5 feet to a point;

THENCE N. 88°17'26" W. an approximate distance of 281.6 feet to a point for the most Westerly Southwest corner of this tract;

THENCE N. 01°45'36" E. an approximate distance of 350.7 feet to a point for the Northwest corner of this tract;

THENCE S. 88°14'24" E. an approximate distance of 161.3 feet to a point;

THENCE S. 85°22'40" E. an approximate distance of 200.3 feet to a point;

THENCE S. 88°14'24" E. an approximate distance of 220.0 feet to a point for the most Northerly Northeast corner of this tract;

THENCE S. 43°15'55" E. an approximate distance of 42.4 feet to a point for the most Easterly Northeast corner of this tract;

THENCE S. 01°42'34" W. an approximate distance of 734.6 feet to the Point of Beginning.

PREPARED FOR ZONE CHANGE PURPOSES. DOES NOT REPRESENT AN ACTUAL SURVEY.

Prepared for 146th and Quaker Avenue LLC
Contains: 8.0 Acres
November 30, 2021

PROPOSED C-3 ZONING

LOCATED IN SECTION 6, BLOCK AK



146TH

NORTH LINE OF SECTION 6, BLOCK AK

STREET

NORTHEAST CORNER OF
SECTION 6, BLOCK AK

S88°14'24"E 161.3' S85°22'40"E 200.3' S88°14'24"E 220.0' S43°15'55"E 42.4'

N01°45'36"E 350.7'

PROPOSED C-3 ZONING

8.0 ACRES

N88°17'26"W 281.6'

NOT PLATTED

Land Owner: Red Canyon Development LLC
CCFN 2017036785

N01°42'34"E 424.5'

N88°17'26"W 330.0'

S01°42'34"W 734.6'

EAST LINE OF SECTION 6, BLOCK AK

QUAKER AVENUE

POINT OF BEGINNING
THIS POINT BEARS
S01°42'34"W 829.55 FEET &
N88°17'26"W 55.00 FEET FROM
THE NORTHEAST CORNER OF
SECTION 6, BLOCK AK

| Staff Report | | Zone Case 3456 |
|----------------------|--|------------------|
| City Council Meeting | | January 25, 2022 |

Applicant Hugo Reed and Associates, Inc.

Property Owner 146th and Quaker LLC

Council District 4

Recommendations

- Staff recommends Approval.

Prior Board or Council Action

- April 28, 2016: This property was annexed and zoned Transition District (T) through Ordinance No. 2016-00054
- January 6, 2022: Zone Case 3456 The Planning and Zoning Commission recommended approval of a zone change from T to General Retail District (C-3) by a vote of 8-0-0.

Notification Summary

- Notifications Sent: 3
- Received In Favor: 0
- Received In Opposition: 0

Site Conditions and History

This property was annexed in 2016 and has remained vacant and unsubdivided.

Adjacent Property Development

The surrounding properties are vacant. To the north and east is property zoned General Retail District (C-3) and Restricted Local Retail (C-2A) and to the south and west is property zoned Transition District.

Zoning Request and Analysis

Item Summary

The subject property is generally located west of Quaker Avenue and south of 146th Street, on 8.00 acres of unplatted land out of Block AK, Section 6. The applicant is requesting a zone change from Transition District (T) to General Retail District (C-3)

Current zoning: **Transition District (T)**

Requested zoning: **General Retail District (C-3)**

Intent Statements

The intent of the current T zoning is "...to protect existing and future development in newly annexed territory until the proper zone classification can be determined and established by zone change."

The intent of the proposed 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."

Traffic Network/Infrastructure Impacts

The location is along Quaker Avenue and 146th Street. 146th Street is designated a Principal Arterial as is Quaker Avenue. Principal Arterials are major thoroughfares which are designed to carry large quantities of traffic at relatively high speeds.

Compatibility with Surrounding Property

The proposed zone change is compatible with the surrounding area and would not change the character of the existing development.

Conformance with Comprehensive Plan Principles and Future Land Use Map

The Future Land Use Map designates this area for both "Commercial" and "Low-Density Residential" land uses. The requested C-3 zoning would be appropriate at this corner because this intersection is designated a Commercial/Retail Node. Though the Future Land Use map designation for Commercial use does not completely encompass the whole requested area, it is understood that commercial/retail nodes are for these major intersections which is what this request entails (Comprehensive Plan 2040 Pg. 60). Furthermore, this request does not extend significantly away from the intersection to any location that could be described as midblock. Therefore, this request is in complete compliance with the Comprehensive Plan principles and the Future Land Use map.

Conformance with Zoning Ordinance

The proposed zoning request is in conformance with the zoning ordinance and is appropriate adjacent to other commercial uses that are already established as there is existing C-3 zoning on the other three corners of this intersection adjacent to this request.

Suitability of Property for Allowed Uses

The property is suitable for the proposed uses, though additional infrastructure improvements may be necessary since the property has not been platted.

Attachments

- A. Case Information
- B. Thoroughfare Plan Map
- C. Location Map
- D. Aerial Map
- E. Zoning Map
- F. Future Land Use Map
- G. Photos
- H. Application and supporting documentation
- I. Notification Responses

Staff Contacts

Shane Spencer
Planner
Planning Department
806-775-2103

sspencer@mylubbock.us

Kristen Sager
Planning and Zoning Manager
Planning Department
806-775-2109

ksager@mylubbock.us

Case Information: Zone Case 3456



Allowable Uses: General Retail District (C-3)

Transportation: The proposed development has points of access from 146th Street and Quaker Avenue.

| Thoroughfare | Existing | Per Thoroughfare Development Plan |
|---|---|--|
| 146 th Street <i>Principal Arterial, (Modified)</i> | R.O.W. 110 feet, four-lane, undivided, paved | R.O.W. 110 feet, 7-lane, undivided, paved |
| Quaker Avenue <i>Principal Arterial</i> | R.O.W. 110 feet, four-lane, undivided, paved | R.O.W. 110 feet, 7-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

5.5 **Case 3456:** Hugo Reed and Associates, Inc. for 146th and Quaker LLC

Request for a zone change from Transition District (T) to General Retail District (C-3) at:

- Generally located west of Quaker Avenue and south of 146th Street, on 8.00 acres of unplatted land out of Block AK, Section 6.

PLANNER SHANE SPENCER stated there were three (3) notifications sent out and zero returned. Staff shared the location of the property including pictures and maps and discussed the surrounding property. This request is in complete conformance with the Comprehensive Plan and the Future Land Use Map. Staff recommends approval of this request.

APPLICANT TERRY HOLEMAN, Hugo Reed and Associates, Inc., 1601 Avenue N, stated this is a policy zone case; it only makes sense that property be zoned C-3 since is at a corner of two thoroughfares.

No one spoke in favor or in opposition to the request.

In matter of **Zone Case 3456** a motion was made by **JAMES BELL** and seconded by **JORDAN WHEATLEY** to approve the request and the Commission members voted 8 (in favor) to 0 (in opposition) to approve the motion. Item will be forwarded to City Council for consideration.

Case Number 3456



Collector

- Completed
- Partial
- Future

Minor Arterial

- Completed
- Partial
- Future

Modified Arterial

- Partial
- Future

Principal Arterial

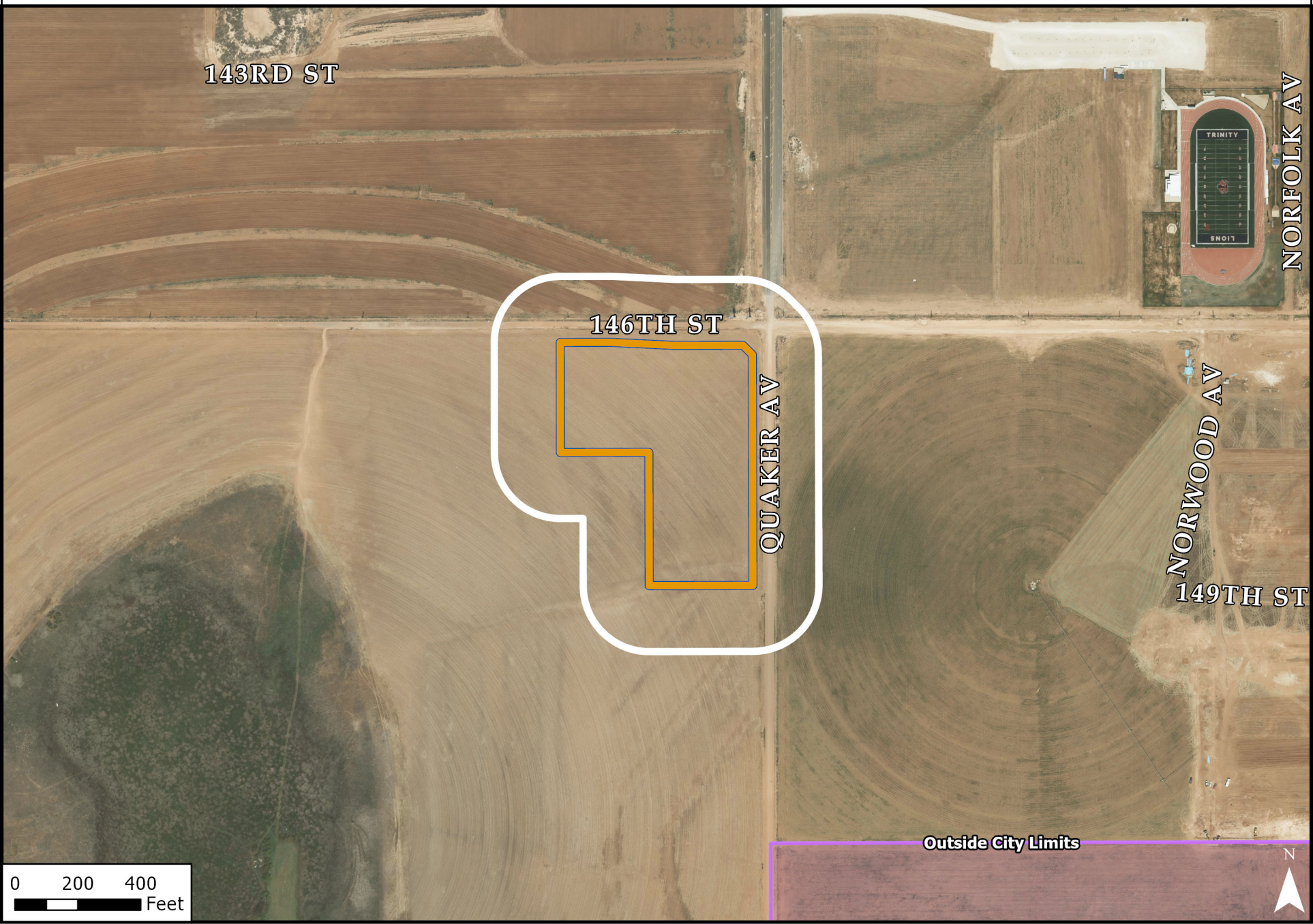
- Completed
- Partial
- Future

Freeway

- Completed
- Partial
- Proposed Outer Loop



Case Number 3456



143RD ST

146TH ST

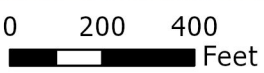
QUAKER AV

NORFOLK AV

NORWOOD AV

149TH ST

Outside City Limits

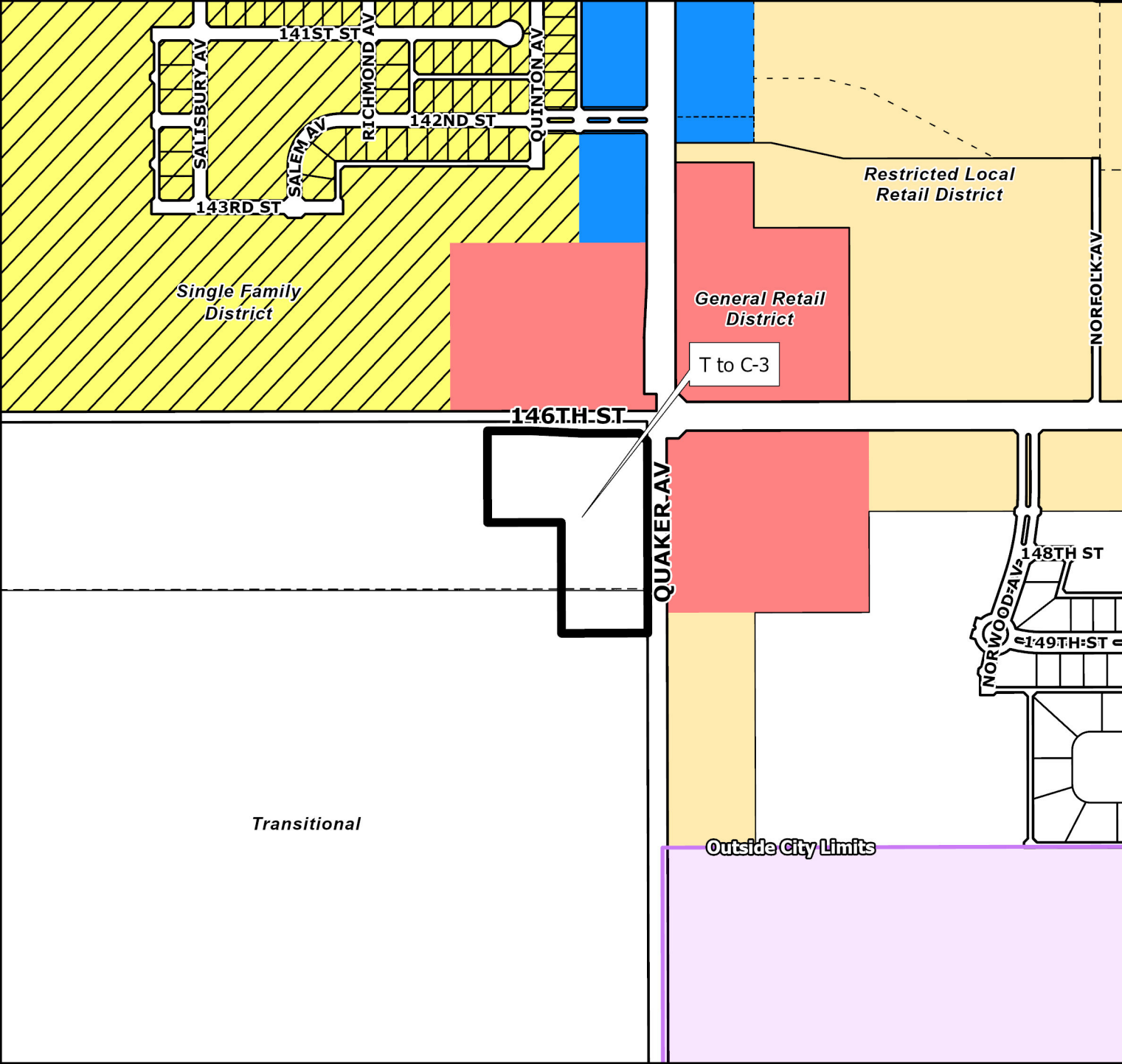


Current Zoning

3456

Zoning Districts

-  Restricted Local Retail
-  General Retail
-  Garden Office
-  Single Family Specific Use
-  Transitional



0 150 300 450 600
Feet



Future Land Use Plan Case 3456

Future Land Use Type

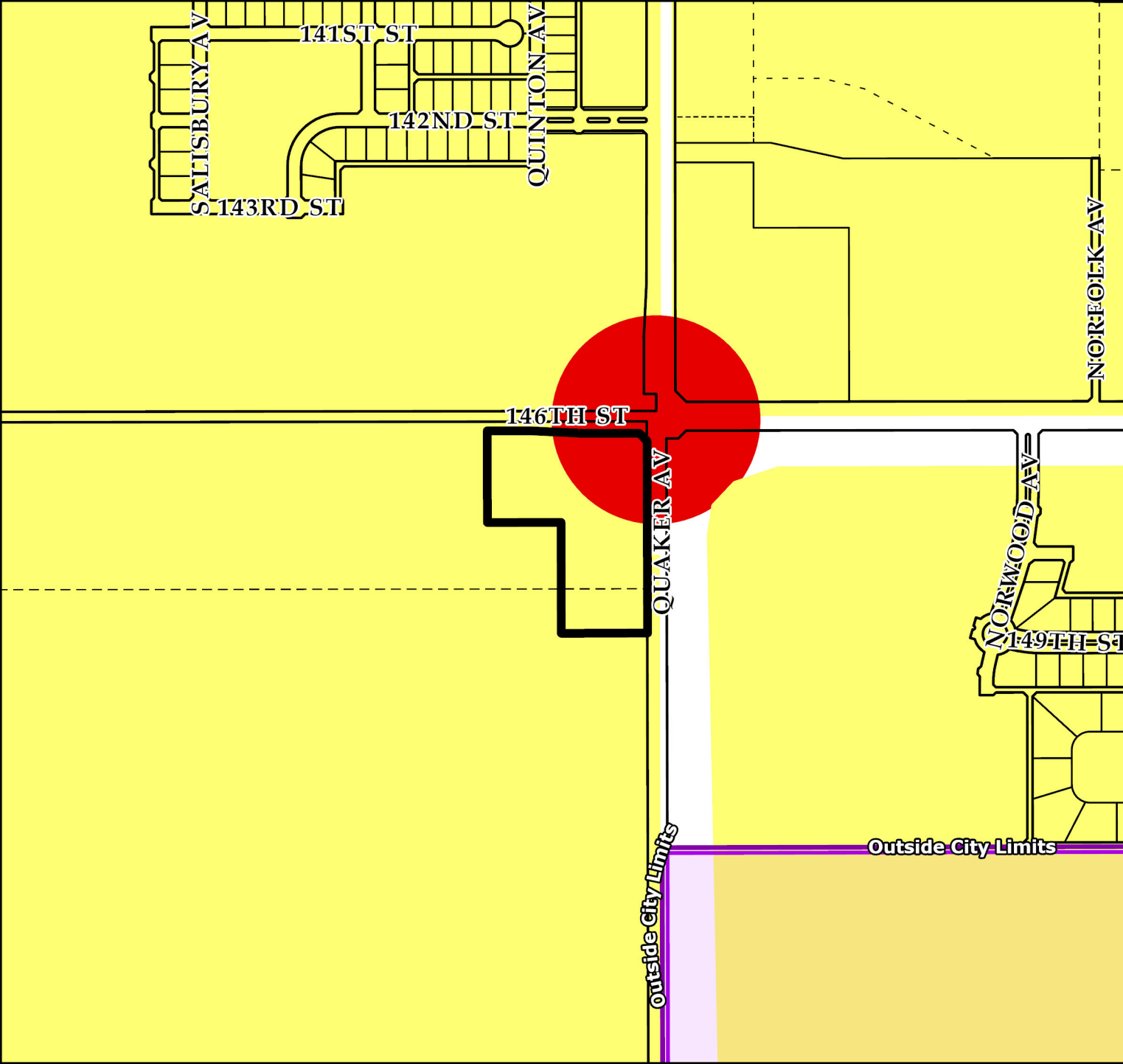
- Commercial
- Heavy Commercial
- Downtown
- Office
- Industrial
- Interstate Commercial
- Interstate Industrial
- Mixed Use
- Parks
- Public/ Semi-Public
- Residential Low Density
- Residential Medium Density
- Residential High Density



0 150 300 450 600
Feet



Date Exported: December 2021



3456



View to the north.



View to the east.



View to the south. Subject Property



View to the west.



Lubbock Planning Department
PO Box 2000 / 1314 Avenue K
Lubbock, TX 79457
APPLICATION FOR ZONING CHANGE

Project Information

Location or Address: 146th and Quaker Avenue
Lots/Tracts: See metes and bounds description
Survey & Abstract: Section 6, Block AK
Metes and Bounds Attached: Yes ☒ No ☐ Total Acreage of Request: 8.0
Existing Land Use: Vacant Existing Zoning: T
Requested Zoning: C-3
If property is not subdivided, will a preliminary plat be submitted? Yes ☒ No ☐

Representative/Agent Information (if different from owner)

Firm Name: Hugo Reed and 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: November 29, 2021 Printed Name: Terry Holeman

Owner Information

Firm Name: 146th and Quaker LLC
Owner: 146th and Quaker LLC
Address: 1722 Broadway City: Lubbock State: TX
ZIP Code: 79401 Telephone: 806-773-0959 Email: troypickering@yahoo.com
Property Owner's Signature: Troy Pickering
Date: December 2 Printed Name: Troy Pickering

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.

Information

Agenda Item

Public Hearing - Planning (District 5): Consider a request for Zone Case 3457, a request of Delta Land Surveying for Cotter Ranch, Ltd., for a zone change from Transition District (T) to Local Retail District (C-2) at 6201 114th Street, located south of 114th Street and east of Milwaukee Avenue, on 1.21 acres of unplatted land out of Block AK, Section 20, 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 January 6, 2022, and recommended approval of the request by a unanimous vote.

Fiscal Impact

None

Staff/Board Recommending

Jesica McEachern, Assistant City Manager
Planning and Zoning Commission

Attachments

Zone Case 3457 Ordinance

Zone Case 3457 Staff Report

Zone Case 3457 Documentation

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. 3457; A ZONING CHANGE FROM T TO C-2 ZONING DISTRICT AT 6201 114TH STREET, LOCATED SOUTH OF 114TH STREET AND EAST OF MILWAUKEE AVENUE, ON 1.21 ACRES OF UNPLATTED LAND OUT OF BLOCK AK, SECTION 20, 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. 3457

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 T to C-2 zoning district at **6201 114th Street, located south of 114th Street and east of Milwaukee Avenue, on 1.21 acres of unplatted land out of Block AK, Section 20, 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:



Kelli Leisure, Assistant City Attorney

vw/cityatt/Kelli/ZoneCase/ZC3457
January 6, 2022



Delta Land Surveying, LLC

1310 Jarvis Street
Lubbock, TX 79403
806-701-5707
www.deltalbk.com

ZONE CHANGE FROM "T" TO "C2"

Metes and Bounds description of a 1.21 acre tract of land out of Section 20, Block AK, Lubbock County, Texas, being more particularly described as follows:

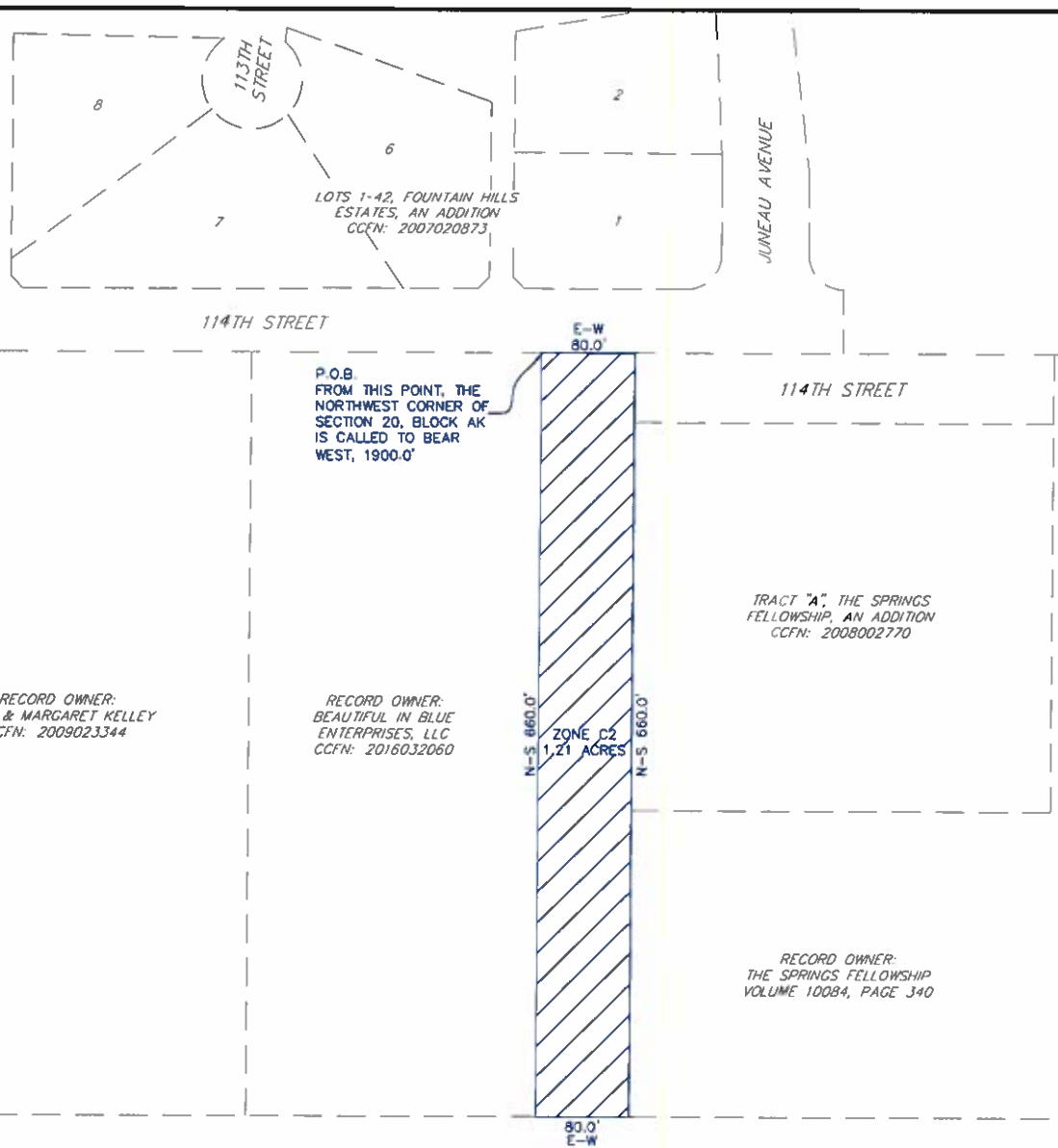
Beginning at a point in the North line of said Section 20 and near the center of 114th Street for the Northeast corner of that tract described in County Clerk File Number (CCFN) 2016032060, Official Public Records of Lubbock County, Texas (OPRLCT) and for the Northwest corner of this tract, whence the Northwest corner of said Section 20 is called to bear West, approximately 1900.0 feet;

Thence East, leaving said tract described in CCFN: 2016032060 and with the North line of said Section 20 and said 114th Street, approximately 80.0 feet to a point for the Northwest corner of the Plat Limits of Tract "A", The Springs Fellowship, an Addition as recorded in CCFN: 2008002770, OPRLCT, and for the Northeast corner of this tract;

Thence South, leaving the North line of said Section 20 and said 114th Street and with the West line of said Tract "A", approximately 660.0 feet to a point in the North line of that tract described in CCFN: 2021056673, OPRLCT, for the Southwest corner of that tract described in Volume 10084, Page 340, OPRLCT and for the Southeast corner of this tract;

Thence West, leaving said tract described in Volume 10084, Page 340 and with the North line of said tract described in CCFN: 2021056673, approximately 80.0 feet to a point for the Southeast corner of said tract described in CCFN: 2016032060 and for the Southwest corner of this tract;

Thence North, leaving said tract described in CCFN: 2021056673 and with the East line of said tract described in CCFN: 2016032060, approximately 660.0 feet to the Point of Beginning.



ZONE CASE SKETCH

ON A 1.21 ACRE TRACT OUT OF SECTION 20, BLOCK AK,
LUBBOCK COUNTY, TEXAS



SCALE: 1" = 100'

PREPARED FOR:
BH DRAFTING AND
COTTER RANCH LTD



DELTA LAND SURVEYING, LLC
FIRM # 10194496
DELTA ENGINEERING, LLC
FIRM # F-22948
1310 JARVIS STREET
LUBBOCK, TX 79403
806-701-5707
WWW.DELTALBK.COM

RECORD OWNER:
LOOP 88 LLC
CCFN: 2021056673

| Staff Report | | Zone Case 3457 |
|----------------------|--|------------------|
| City Council Meeting | | January 25, 2022 |

Applicant Delta Land Surveying LLC

Property Owner Cotter Ranch Ltd.

Council District 5

Recommendations

- Staff recommends Approval.

Prior Board or Council Action

- January 14, 1999: This property was annexed through Ordinance No. 10117 and zoned Transition (T).
- January 6, 2022, Zone Case 3457: The Planning and Zoning Commission recommended approval of a zone change from T to Local Retail District (C-2) by a vote of 8-0-0.

Notification Summary

- Notifications Sent: 9
- Received In Favor: 0
- Received In Opposition: 0

Site Conditions and History

The subject property was annexed in 1999 and has been developed with a commercial building.

Adjacent Property Development

The property to the north is zoned T and has been developed with a single-family house. The property to the east is zoned High-Density Apartment District (A-2) and is developed with a church. The property to the south is zoned T and is vacant. The property to the west is zoned T and has been developed with commercial buildings.

Zoning Request and Analysis

Item Summary

The subject property is addressed as 6201 114th Street, and is located south of 114th Street and east of Milwaukee Avenue, on 1.21 acres of unplatted land out of Block AK, Section 20. The applicant requests to rezone the subject property from T to Local Retail District (C-2).

Current zoning: Transition (T)

Requested zoning: Local Retail District (C-2)

Intent Statements

The intent of the current T zoning is “...to protect existing and future development in newly annexed territory until the proper zone classification can be determined and established by zone change.”

The intent of the proposed C-2 zoning is “...to provide limited local retail and service commercial uses which serve one of several neighborhoods. Such districts may be located on existing thoroughfares or at the intersections of major thoroughfares.”

Traffic Network/Infrastructure Impacts

The proposed rezoning location is along 114th Street, which is designated as a Minor Arterial (Partial) by the Master Thoroughfare Plan. Arterial roads are continuous routes whose function is to serve high volume needs of local traffic and regional traffic (Comprehensive Plan, page 86).

Compatibility with Surrounding Property

The subject property was developed with a commercial building in 1984 and has been used for pecan shelling and retail, which are nonconforming. The proposed use will be for a restaurant and retail boutique. The proposed zoning is compatible with the surrounding area and will not change the character of the existing development.

Conformance with Comprehensive Plan Principles and Future Land Use Map

The principles outlined in the Comprehensive Plan designate this area for “Low-Density Residential” land uses. Although C-2 zoning is not consistent with this designation, the Comprehensive Plan states that neighborhood commercial uses may be appropriate adjacent to residential and are suitable between nodes. Restaurants are included as an example of a use within a neighborhood commercial designation (Comprehensive Plan, page 60). Therefore, the request will be in moderate conformance with 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 may need additional public improvements to support the intensity of uses described in the C-2 zoning district, since the property has not been platted.

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 documents
- I. Notification Letters

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 3457



Allowable Uses: [Local Retail District \(C-2\)](#)

Transportation: The proposed development has points of access from 114th Street.

| Thoroughfare | Existing | Per Thoroughfare Development Plan |
|--|------------------------------------|--|
| 114 th Street <i>Minor Arterial, Partial</i> | R.O.W. 24 feet, two-lane, paved | R.O.W. 100 feet, five-lane, divided, 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

5.6 **Case 3457:** Delta Land Surveying for Cotter Ranch Ltd.

Request for a zone change from Transition District (T) to Local Retail District (C-2), at:

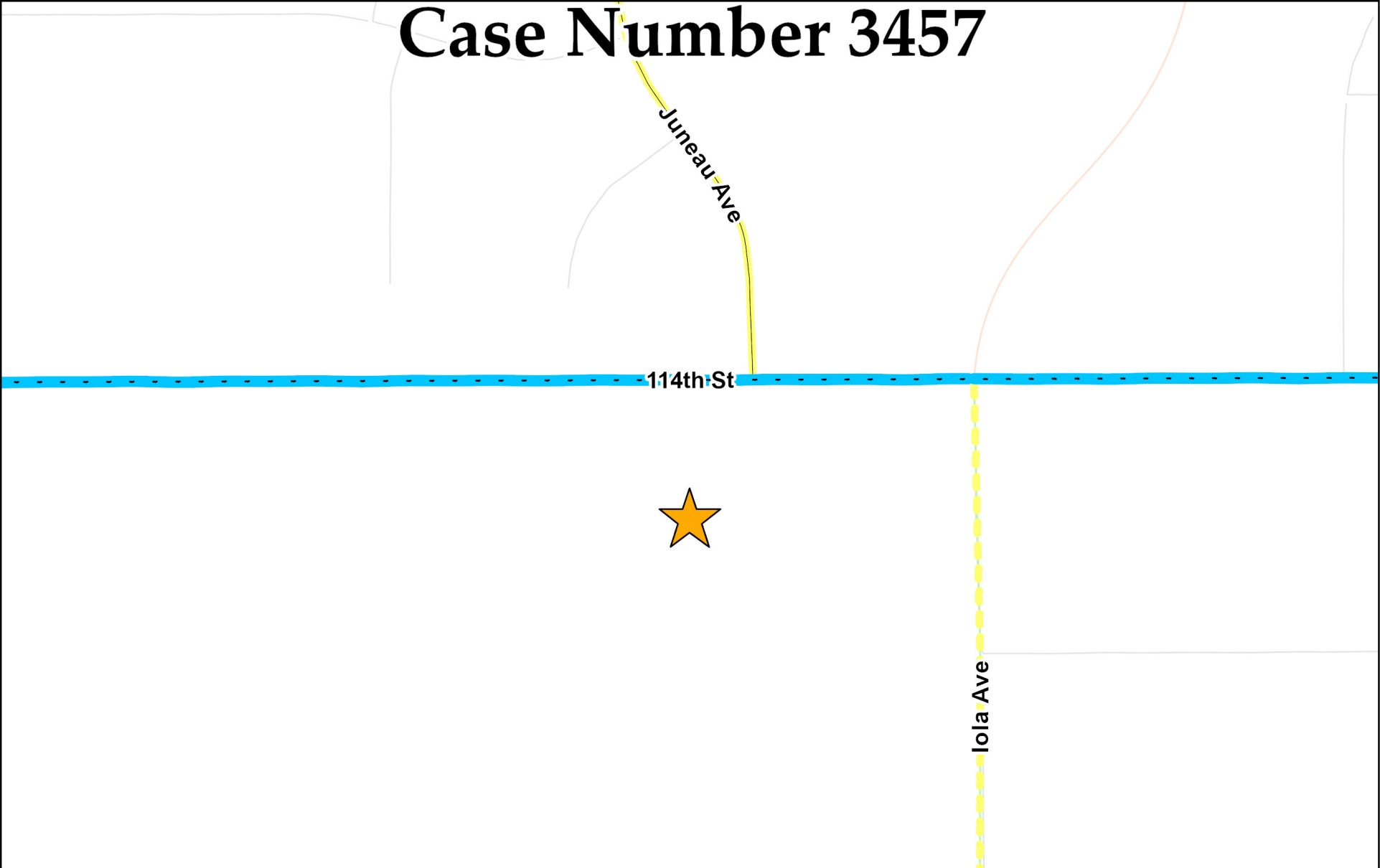
- 6201 114th Street, located south of 114th Street and east of Milwaukee Avenue, on 1.21 acres of unplatted land out of Block AK, Section 20.

PLANNER JACOB HAWKINS stated there were nine (9) notifications sent out and zero returned. Staff shared the location of the property including pictures and maps and discussed the surrounding property. Staff recommends approval of this request.

APPLICANT LACEY COTTER 3520 East Woodrow Road, Slaton, TX, stated she wants to move her meat company onto this property and give local food vendors a chance to have a storefront with a small boutique retail area for local goods.

In matter of **Zone Case 3457** a motion was made by **JORDAN WHEATLEY** and seconded by **JAMES BELL** to approve the request and the Commission members voted 8 (in favor) to 0 (in opposition) to approve the motion. Item will be forwarded to City Council for consideration.

Case Number 3457



Collector

- Completed
- Partial
- Future

Minor Arterial

- Completed
- Partial
- Future

Modified Arterial

- Partial
- Future

Principal Arterial

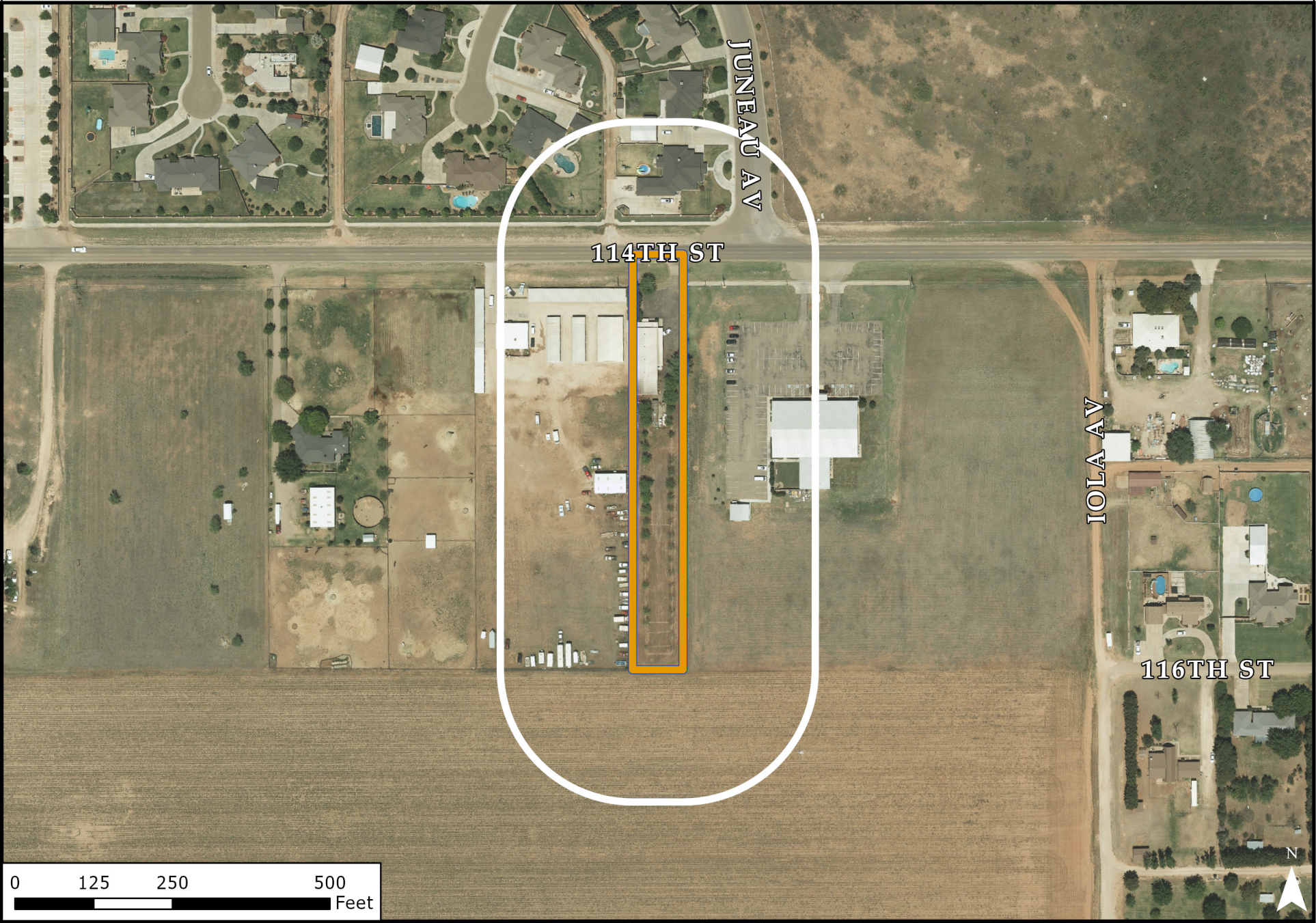
- Completed
- Partial
- Future

Freeway

- Completed
- Partial
- Proposed Outer Loop



Case Number 3457



JUNEAU AV

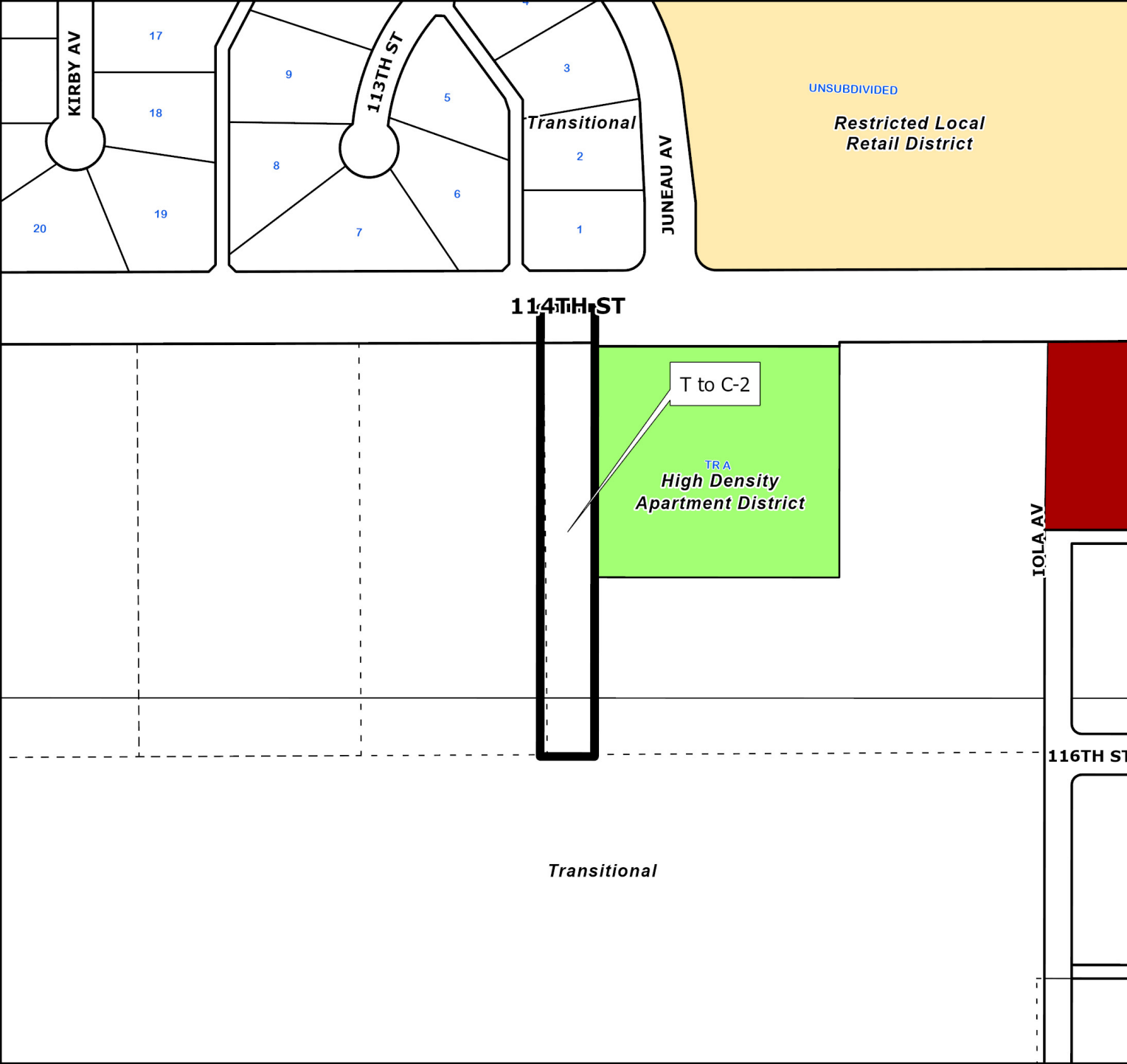
114TH ST

IOLA AV

116TH ST

0 125 250 500
Feet


N



Current Zoning

3457

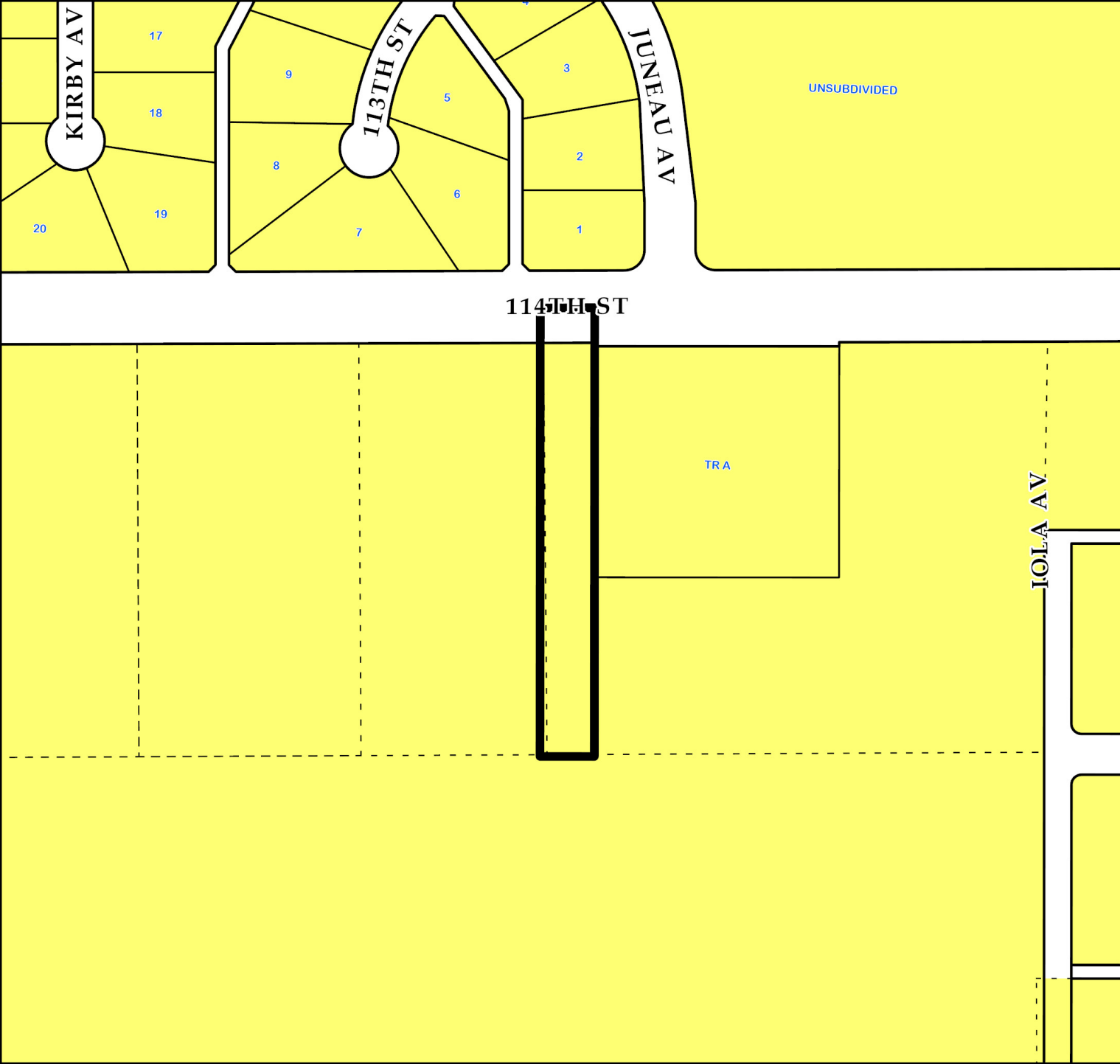
Zoning Districts

-  High Density Apartment
-  Restricted Local Retail
-  Commercial
-  Transitional



0 50 100 200 300 Feet

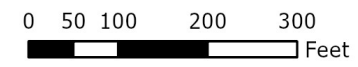




Future Land Use Plan Case 3457

Future Land Use Type

- 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



3457



Subject property. View to the south.



View to the west.



View to the north.



View to the east.



Lubbock Planning Department
PO Box 2000 / 1314 Avenue K
Lubbock, TX 79457
APPLICATION FOR ZONING CHANGE

Project Information

Location or Address: 6201 114th Street

Lots/Tracts: _____

Survey & Abstract: 1.21 Acres in Section 20, Block AK

Metes and Bounds Attached: Yes ☐ No ☐ Total Acreage of Request: 1.21

Existing Land Use: Business

Existing Zoning: T

Requested Zoning: C-2

If property is not subdivided, will a preliminary plat be submitted? Yes ☐ No ☐

Representative/Agent Information (if different from owner)

Firm Name: Delta Land Surveying

Name: Joey Nelson

Address: 1310 Jarvis Street City: Lubbock State: TX

ZIP Code: 79403 Telephone: 806-701-5707 Email: jnelson@deltalbk.com

Applicant's Signature: _____

Date: 12/3/2021

Printed Name: Joey Nelson

Owner Information

Firm Name: Cotter Ranch Ltd

Owner: Lacy Cotter Vardeman

Address: 3520 East Woodrow Road City: Slaton State: TX

ZIP Code: 79364 Telephone: 806-252-2643 Email: lacy@cotterkeyfarms.com

Property Owner's Signature: _____

Date: 12/3/2021

Printed Name: Lacy Cotter Vardeman

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.

Information

Agenda Item

Public Hearing - Planning (District 6): Consider a request for Zone Case 3308-E, a request of Delta Land Surveying and Engineering for BBA Homes Land Company, LLC, for a zone change from High-Density Apartment District (A-2) to General Retail District (C-3) and Two-Family District (R-2), generally located south of 19th Street and east of Upland Avenue, on 13.7 acres of unplatted land out of Block AK, Section 43, 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 January 6, 2022, and recommended approval of the request by a vote of 6-2-0.

Fiscal Impact

None

Staff/Board Recommending

Jesica McEachern, Assistant City Manager
Planning and Zoning Commission

Attachments

Zone Case 3308-E Ordinance
Zone Case 3308-E Staff Report
Zone Case 3308-E Documentation

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. 3308-E; A ZONING CHANGE FROM A-2 TO C-3 AND R-2 ZONING DISTRICT GENERALLY LOCATED SOUTH OF 19TH STREET AND EAST OF UPLAND AVENUE, ON 13.7 ACRES OF UNPLATTED LAND OUT OF BLOCK AK, SECTION 43, 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. 3308-E

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 **A-2 to C-3 and R-2** zoning district **generally located south of 19th Street and east of Upland Avenue, on 13.7 acres of unplatted land out of Block AK, Section 43,** 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:

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

Bryan Isham, Director of Planning

APPROVED AS TO FORM:

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

Kelli Leisure, Assistant City Attorney

vw/cityatt/Kelli/ZoneCase/ZC3308-E
January 6, 2022



**Delta
Land Surveying & Engineering, LLC**

1310 Jarvis Street
Lubbock, TX 79403

806-701-5707

www.deltalbk.com

REZONE FROM A-2 TO C-3

Metes and Bounds description of a 2.6 acre tract of land, being all of those tracts described in Volume 7436, Page 293, Official Public Records of Lubbock County, Texas (OPRLCT), being the remainder of that tract of land described in County Clerk File Number (CCFN) 2016029699, OPRLCT, being out of Section 43, Block AK, Lubbock County, Texas, and being more particularly described as follows:

Beginning at point in the South Right of Way line of State Highway 114 described in Volume 181, Page 213, Deed Records of Lubbock County, Texas (DRLCT), for the Northeast corner of this tract, whence the Northwest corner of Tract "A", Bushland Springs, an Addition to the City of Lubbock, Lubbock County, Texas, as recorded in CCFN 2018046649, OPRLCT, bears S88°10'12"E, approximately 294.5 feet and S01°47'52"W, approximately 15.0 feet;

Thence S01°47'52"W, leaving said State Highway 114, approximately 315.2 feet to a point for the Southeast corner of this tract;

Thence N88°12'08"W, approximately 365.4 feet to a point in the East Right of Way line of Upland Avenue (No Document Found), for the Southwest corner of this tract;

Thence N01°52'48"E, with said Upland Avenue, approximately 315.4 feet to a set nail and shiner marked DELTA LAND SURVEYING in the South Right of Way line of said State Highway 114, for the Northwest corner of this tract;

Thence S88°10'12"E, leaving said Upland Avenue, and with said State Highway 114, approximately 365.0 feet to the Point of Beginning.



**Delta
Land Surveying & Engineering, LLC**

1310 Jarvis Street
Lubbock, TX 79403
806-701-5707
www.deltalbk.com

REZONE FROM A-2 TO R-2

Metes and Bounds description of a 11.1 acre tract of land, being all of those tracts described in Volume 7436, Page 293, Official Public Records of Lubbock County, Texas (OPRLCT), being the remainder of that tract of land described in County Clerk File Number (CCFN) 2016029699, OPRLCT, being out of Section 43, Block AK, Lubbock County, Texas, and being more particularly described as follows:

Beginning at a found 1/2" iron rod in the South Right of Way line of State Highway 114 described in Volume 491, Page 15, Deed Records of Lubbock County, Texas (DRLCT), for the Northwest corner of Tract "A", Bushland Springs, an Addition to the City of Lubbock, Lubbock County, Texas, as recorded in CCFN 2018046649, OPRLCT, and for the most Easterly Northeast corner of this tract;

Thence S01°47'52"W, leaving said State Highway 114 and with the West line of said Tract "A", approximately 892.0 feet to a found 1/2" iron rod in the North Plat Limits of Lots 147-251, Bushland Springs, an Addition to the City of Lubbock, Lubbock county, Texas, as recorded in CCFN 2021023147, OPRLCT, for the Southwest corner of said Tract "A", and for the Southeast corner of this tract;

Thence N88°12'08"W, leaving said Tract "A" and with North Line of said Lots 147-251, Bushland Springs, an addition, approximately 595.8 feet to a found 1/2" iron rod with red cap marked AMD ENGINEERING for a corner of said Lots 147-251, Bushland Springs and for the most Southerly Southwest corner of this tract;

Thence N43°09'40"W, with the North line of said Lots 147-251, Bushland Springs, approximately 14.1 feet to a found 1/2" iron rod with red cap marked AMD ENGINEERING for a corner of said Lots 147-251, Bushland Springs and for a corner of this tract;

Thence N88°07'12"W, with the North line of said Lots 147-251, Bushland Springs, approximately 55.0 feet to a found nail and shiner marked AMD ENGINEERING near the center of Upland Avenue (No Document Found), for the Northwest corner of said Lots 147-251, Bushland Springs and for the most Westerly Southwest corner of this tract;

Thence N01°52'48"E, leaving said Lots 147-251, Bushland Springs, and with said Upland Avenue, approximately 581.9 feet to a point for the most Westerly Northwest corner of this tract;

Thence S88°12'08"E, leaving said Upland Avenue, approximately 365.4 feet to point for a corner of this tract;

Thence N01°47'52"E, 315.2 feet to a point in the South Right of Way line of State Highway 114 recorded in Volume 181, Page 213, DRLCT, for the most Northerly Northwest corner of this tract;

Thence S88°10'12"E, with said State Highway 114, approximately 258.9 feet to a found 1/2" iron rod with orange cap marked AMD ENGINEERING for the most Northerly Northeast corner of this tract;

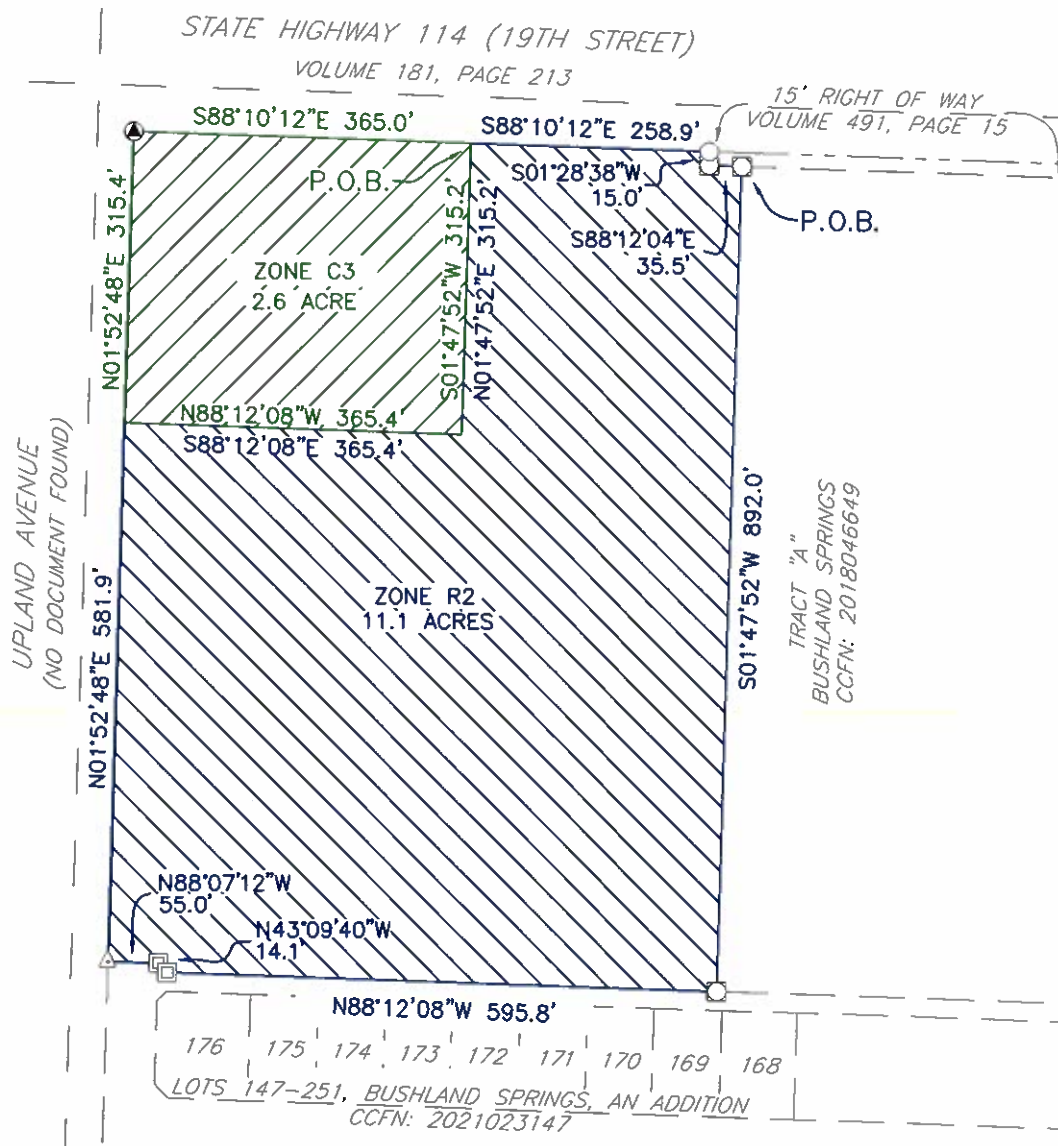
Thence S01°28'38"W, with said State Highway 114, approximately 15.0 feet to a found 1/2" iron rod for a corner of this tract;

Thence S88°12'04"E, with said State Highway 114, approximately 35.5 feet to the Point of Beginning.

ZONE CASE SKETCH

ZONE R2: ON A 11.1 ACRE TRACT OF LAND, BEING ALL OF THOSE TRACTS DESCRIBED IN VOLUME 7436, PAGE 293, OFFICIAL PUBLIC RECORDS OF LUBBOCK COUNTY, TEXAS, BEING THE REMAINDER OF THAT TRACT OF LAND DESCRIBED IN COUNTY CLERK FILE NUMBER 2016029699, OPRCT, BEING OUT OF SECTION 43, BLOCK AK, LUBBOCK COUNTY, TEXAS

ZONE C3: ON A 2.6 ACRE TRACT OF LAND, BEING ALL OF THOSE TRACTS DESCRIBED IN VOLUME 7436, PAGE 293, OFFICIAL PUBLIC RECORDS OF LUBBOCK COUNTY, TEXAS, BEING THE REMAINDER OF THAT TRACT OF LAND DESCRIBED IN COUNTY CLERK FILE NUMBER 2016029699, OPRCT, BEING OUT OF SECTION 43, BLOCK AK, LUBBOCK COUNTY, TEXAS



SCALE: 1" = 200'

SURVEYED FOR:
BBA HOMES LAND COMPANY, LLC



DELTA LAND SURVEYING, LLC
FIRM # 10194496
DELTA ENGINEERING, LLC
FIRM # F-22948
1310 JARVIS STREET
LUBBOCK, TX 79403
806-701-5707
WWW.DELTALBK.COM

DRAFTED BY: KG REV. BY: JN

| Staff Report | | Zone Case 3308-E |
|----------------------|--|------------------|
| City Council Meeting | | January 25, 2022 |

Applicant Delta land Surveying

Property Owner BBA Homes Land Company, LLC

Council District 6

Recommendations

- Staff recommends Approval.

Prior Board or Council Action

- December 13, 1984: This property was annexed and zoned Transition (T) through Ordinance No. 8688.
- October 10, 1985: Ordinance No. 8827; Zone Case 2538. This property was zoned from (T) to Single-Family District (R-1).
- April 13, 2017: Ordinance No. 2017-00038; Zone Case 3308. This property was zoned from (R-1) to (R-1) Specific Use, Two-Family District (R-2) Specific Use, High-Density Apartment District (A-2) and General Retail District (C-3).
- September 14, 2021: Ordinance No. 2021-00121; Zone Case 3308-C. This property was zoned from (R-1), (R-1) Specific Use, (C-3) and Industrial Park District (IDP) to (A-2).
- January 6, 2022: The Planning and Zoning Commission recommended approval of a zone change from High-Density Apartment (A-2) to General Retail District (C-3) and Two Family District (R-2), by a vote of 6-2-0.

Notification Summary

- Notifications Sent: 15
- Received In Favor: 0
- Received In Opposition: 0

Site Conditions and History

The subject property was annexed in 1984 and has remained vacant since.

Adjacent Property Development

Property to the north was recently re-zoned to General Retail District (C-3) and is currently developed with some residential homes. Property to the east is zoned High-Density Apartment District (A-2) developed with apartments. Property to the south is zoned (A-2) also and remains vacant. The property to the west is zoned Commercial District (C-4) developed with commercial businesses.

Zoning Request and Analysis

Item Summary

The subject property is addressed as 7201 19th Street and is located south of 19th Street and east of Upland Avenue, on 13.7 acres of unplatted land out of Block AK, Section 43. The applicant requests a zone change from A-2 to C-3 and R-2.

Current zoning: High-Density Apartment District (A-2)

Requested zoning: General Retail District (C-3) and Two-Family District (R-2)

Intent Statements

The intent of the current 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 proposed 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.”

The intent of the proposed 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.

Traffic Network/Infrastructure Impacts

The proposed rezoning location will be along 19th Street and Upland Avenue, both of which are designated as Principal Arterials by the Master Thoroughfare Plan, 2018. Arterial streets provide connectivity across the transportation network and are continuous routes whose function is to serve high volume needs to local traffic and regional traffic.

Compatibility with Surrounding Property

The proposed zoning is compatible with the surrounding area and will not change the character of the future development.

Conformance with Comprehensive Plan Principles and Future Land Use Map

The Future Land Use Map designates this area for “Residential Low Density” and “Commercial” land uses. The proposed zone change to C-3 is consistent with this designation and conforms to the principles of the Comprehensive Plan, as this intersection is designated as a Commercial/Retail node. Although the R-2 zoning would not conform, it would be in moderate conformance with the R-2 zoning to the south of the property and the A-2 zoning to the east.

Conformance with Zoning Ordinance

The proposed zoning request is in conformance with the zoning ordinance and is appropriate for this area.

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 R-2 and C-3 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. Notification Replies

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 3308-E



Allowable Uses: [General Retail District C-3](#), [Two-Family District R-2](#)

Transportation: The proposed development has points of access from 19th Street and Upland Avenue.

| Thoroughfare | Existing | Per Thoroughfare Development Plan |
|---|---|--|
| 19 th Street, <i>Principal Arterial, Partially Completed</i> | R.O.W. 100 feet, five-lane, undivided, paved | R.O.W. 110 feet, seven-lane, undivided, paved |
| Upland Avenue, <i>Principal Arterial (Modified), Partially Completed</i> | R.O.W. 70 feet, two-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:

5.2 **Case 3308-E:** Delta Land Surveying and Engineering for BBA Homes Land Company, LLC

Request for a zone change from High-Density Apartment District (A-2) to General Retail District (C-3) and Two-Family District (R-2), at:

- Generally located south of 19th Street and east of Upland Avenue, on 13.7 acres of unplatted land out of Block AK, Section 43.

PLANNER ASHLEY VASQUEZ stated there were fifteen (15) notifications sent out and zero returned. Staff shared the location of the property including pictures and maps and discussed the surrounding property. The request is in moderate conformance with the Comprehensive Plan and the Future Land Use Map. Staff recommends approval of this request.

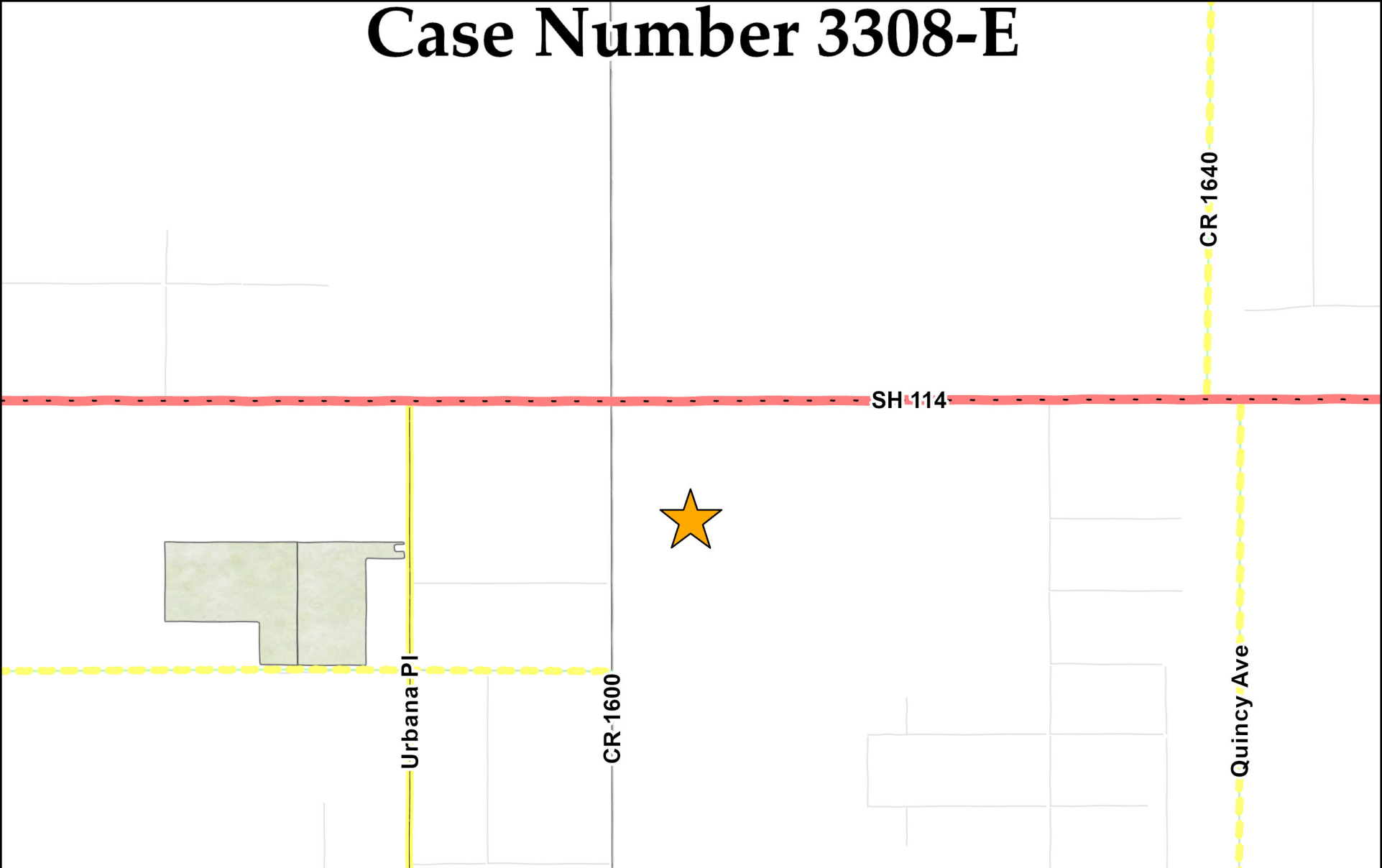
APPLICANT was not present.

No one spoke in favor or in opposition to the request.

In matter of **Zone Case 3308-E** a motion was made by **JORDAN WHEATLEY** and seconded by **TANNER NOBLE** to approve the request and the Commission members voted 6 (in favor) to 2 (in opposition) to approve the motion. Item will be forwarded to City Council for consideration.

RENEE CAGE and **JAMES BELL** cast the votes in opposition.

Case Number 3308-E



Collector

- Completed
- Partial
- Future

Minor Arterial

- Completed
- Partial
- Future

Modified Arterial

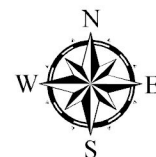
- Partial
- Future

Principal Arterial

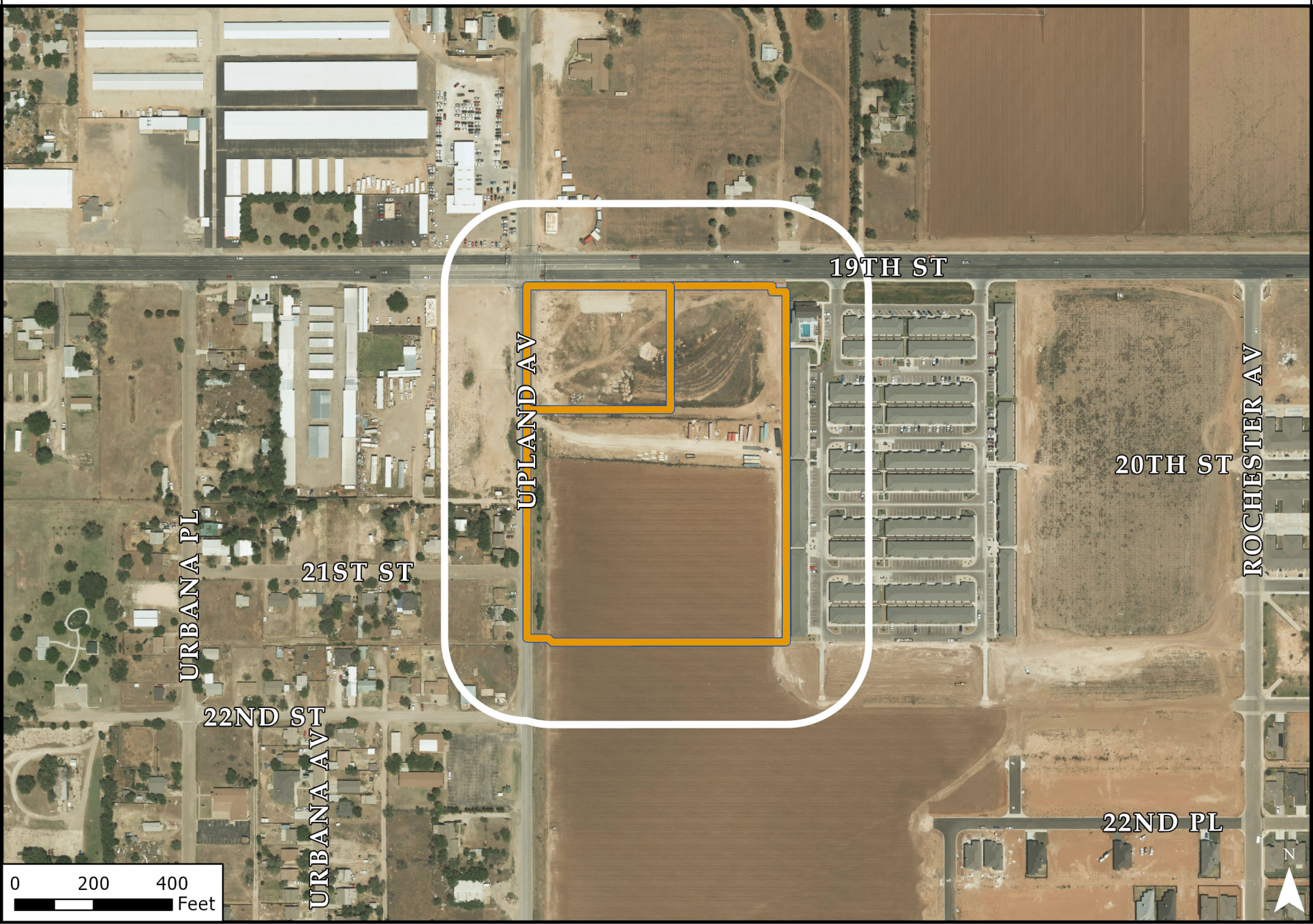
- Completed
- Partial
- Future

Freeway

- Completed
- Partial
- Proposed Outer Loop



Case Number 3308-E



19TH ST

UPLAND AV

21ST ST

URBANA PL

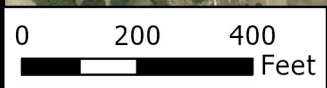
22ND ST

URBANA AV

20TH ST

ROCHESTER AV










22ND PL



Current Zoning

3308-E

Zoning Districts

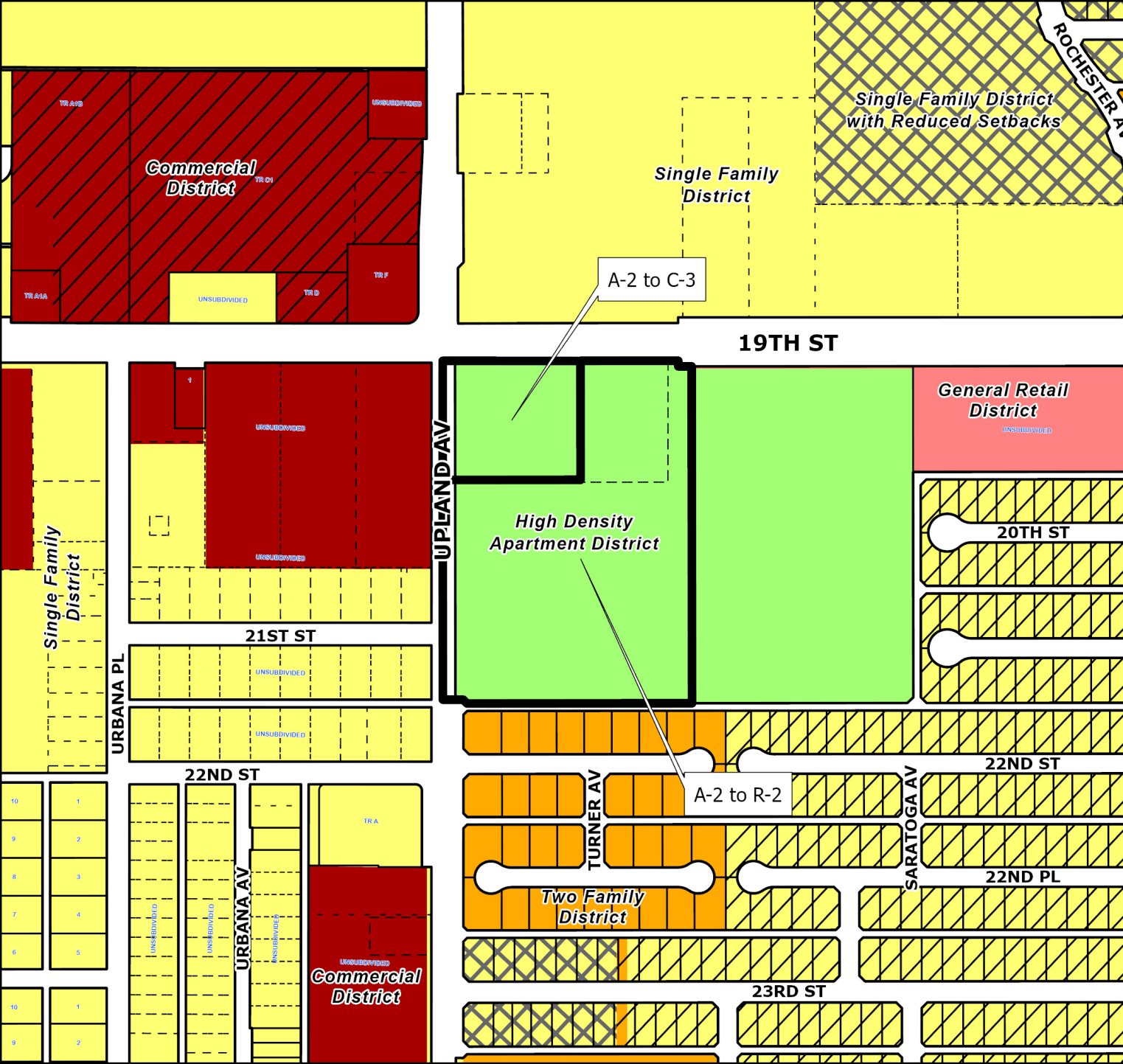
-  High Density Apartment
-  General Retail
-  Commercial
-  Commercial Specific Use
-  Single Family
-  Single Family Specific Use
-  Single Family with Reduced Setbacks
-  Two Family
-  Two Family Specific Use



0 100 200 300 400
Feet



Date Exported: December 2021



Future Land Use Plan Case 3308-E

Future Land Use Type

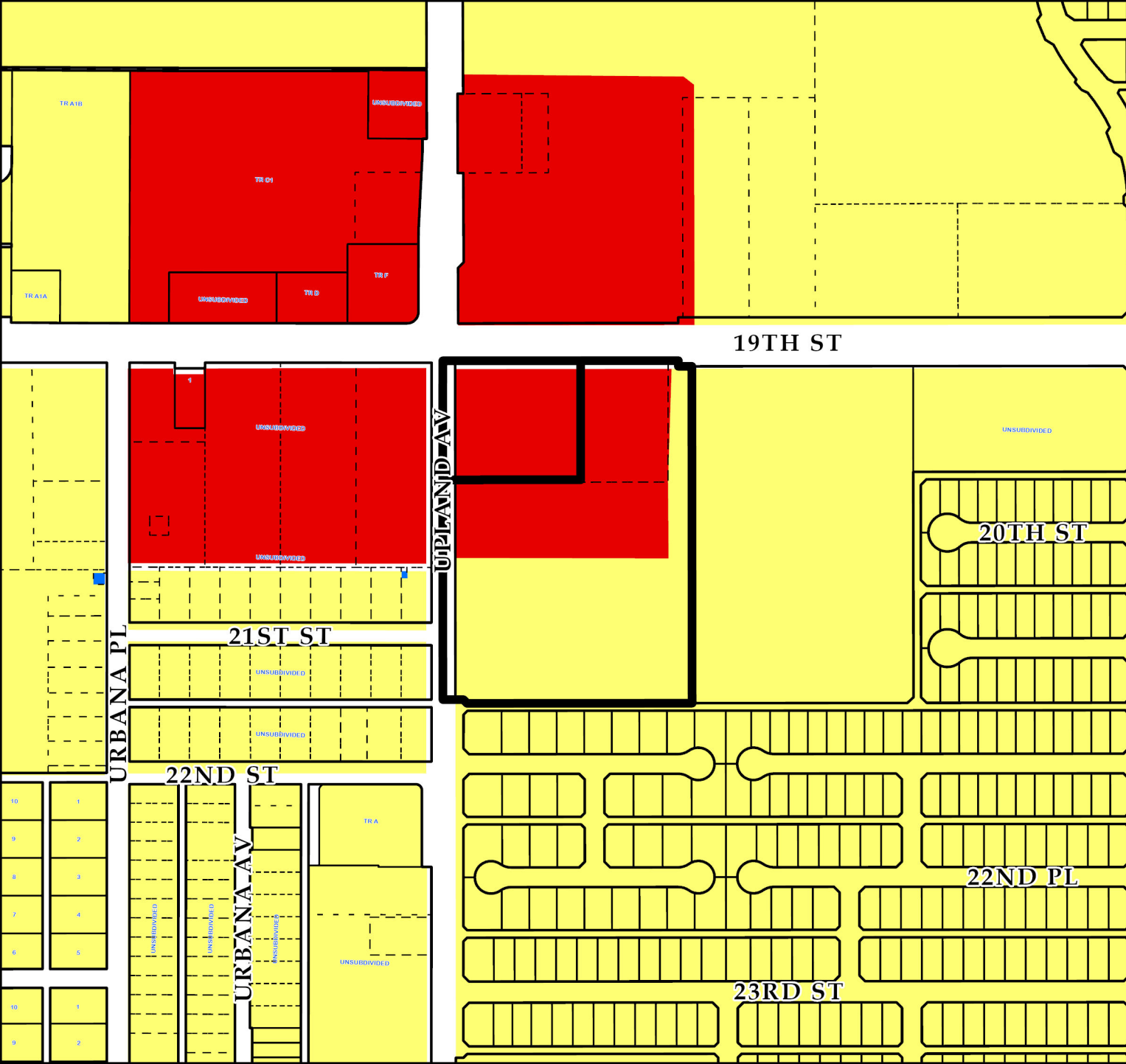
- Commercial
- Heavy Commercial
- Downtown
- Office
- Industrial
- Interstate Commercial
- Interstate Industrial
- Mixed Use
- Parks
- Public/ Semi-Public
- Residential Low Density
- Residential Medium Density
- Residential High Density



0 100 200 300 400
Feet



Date Exported: December 2021



3308-E



Subject property. View to the south.



View to the east.



View to the north.



View to the west.




Lubbock Planning Department
PO Box 2000 / 1314 Avenue K
Lubbock, TX 79457
APPLICATION FOR ZONING CHANGE

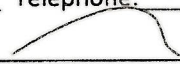
Project Information

Location or Address: 7213 19th Street
Lots/Tracts: Proposed Lots 334-382 and Tract "C", Bushland Springs, an Addition
Survey & Abstract: Section 43, Block AK
Metes and Bounds Attached: Yes ☐ No ☐ Total Acreage of Request: 13.7
Existing Land Use: Vacant Existing Zoning: A-2
Requested Zoning: C-3 (hard corner) and remainder being R-2
If property is not subdivided, will a preliminary plat be submitted? Yes ☐ No ☐

Representative/Agent Information (if different from owner)

Firm Name: Delta Land Surveying
Name: Joey Nelson
Address: 1310 Jarvis Street City: Lubbock State: TX
ZIP Code: 79403 Telephone: 806-701-5707 Email: jnelson@deltalbk.com
Applicant's Signature: 
Date: 12/3/2021 Printed Name: Joey Nelson

Owner Information

Firm Name: BBA Homes Land Company LLC
Owner: Robert Wilbur
Address: 9009 CR 6875 City: Lubbock State: TX
ZIP Code: 79407 Telephone: 432-210-9700 Email: robert@bbahomeslubbock.com
Property Owner's Signature: 
Date: 12/3/2021 Printed Name: Robert Wilbur

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.

Information

Agenda Item

Public Hearing - Planning (District 6): Consider a request for Zone Case 3358-B, a request of Hugo Reed and Associates, Inc. for BBA Homes Land Company, LLC, for a Specific Use for Garden Homes on property zoned Reduced Setback Single-Family District (R-1A) at 901 Inler Avenue, located east of Inler Avenue and south of 4th Street, on 59.1 acres of unplatted land out of Block D6, Section 2, 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 January 6, 2022, and recommended approval of the request by a unanimous vote.

Fiscal Impact

None

Staff/Board Recommending

Jesica McEachern, Assistant City Manager
Planning and Zoning Commission

Attachments

Zone Case 3358-B Ordinance
Zone Case 3358-B Staff Report
Zone Case 3358-B Documentation

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. 3358-B; A ZONING CHANGE FROM R-1A TO R-1A SPECIFIC USE FOR GARDEN HOMES, AT 901 INLER AVENUE, LOCATED EAST OF INLER AVENUE AND SOUTH OF 4TH STREET, ON 59.1 ACRES OF UNPLATTED LAND OUT OF BLOCK D6, SECTION 2, 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, 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. 3358-B

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-1A to R-1A Specific Use for Garden Homes** zoning district at **901 Inler Avenue, located east of Inler Avenue and south of 4th Street, on 59.1 acres of unplatted land out of Block D6, Section 2, City of Lubbock, Lubbock County, Texas, and being further described as follows:**

METES AND BOUNDS DESCRIPTION: Attached as Exhibit "A".

SECTION 2. THAT the granting of this specific use zoning is hereby made subject to compliance with all provisions of Zoning Ordinance No. 7084, as amended, including particularly, but not limited to, Section 40.03.3102 of the Codified Zoning Ordinance, which provides that a Building Permit shall be applied for and secured within thirty (30) months of the effective date of the zone change or all undeveloped property shall automatically revert back to the previous zoning classification, which in this case is the **R-1A** zone district; and if such reversion occurs, the Director of Planning is directed to remove from the Zoning Map the legend indicating such specific use. The Specific Use authorized by this Ordinance is permitted under provision of Section 40.03.3101-40.03.3103 of Codified Zoning Ordinance No. 7084 on the property described as **901 Inler Avenue, located east of Inler Avenue and south of 4th Street, on 59.1 acres of unplatted land out of Block D6, Section 2, City of Lubbock, Lubbock County, Texas.**

SECTION 3. 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 4. 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 5. 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:

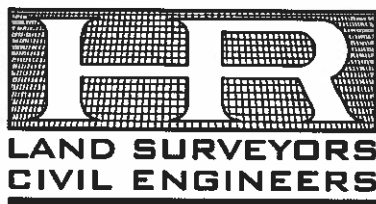
Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:


Bryan Isham, Director of Planning

APPROVED AS TO FORM:


Kelli Leisure, 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

PROPOSED R-1 SPECIFIC USE ZONING

METES AND BOUNDS DESCRIPTION of an approximate 59.1 acre tract of land located in Section 2, Block D-6, Lubbock County, Texas, being further described as follows:

BEGINNING at a point in the East right-of-way line of Farm to Market Road 179 (Inler Avenue) as described in Volume 384, Page 129 of the Deed Records of Lubbock County, Texas, at the most Westerly Southwest corner of this tract, which bears N. 01°42'59" E. an approximate distance of 462.5 feet and S. 88°09'35" E. an approximate distance of 40.0 feet from the Southwest corner of the Northwest Quarter of Section 2, Block D-6;

THENCE N. 01°42'59" E., along said East right-of-way line, an approximate distance of 851.6 feet to a point for the Northwest corner of this tract;

THENCE S. 88°09'28" E. an approximate distance of 2601.9 feet to a point for the Northwest corner of an 80.000 acre tract, described under County Clerk File Number 2013018790 of the Official Public Records of Lubbock County, Texas, and the Northeast corner of this tract;

THENCE S. 01°40'21" W., along the Western boundary of said 80.000 acre tract, an approximate distance of 1313.9 feet to a point in the South line of the Northwest Quarter of said Section 2, for the Southeast corner of this tract;

THENCE N. 88°09'35" W., along the South line of the Northwest Quarter of said Section 2, an approximate distance of 603.8 feet to a point;

THENCE N. 01°50'25" E. an approximate distance of 320.0 feet to a point;

THENCE N. 88°09'35" W. an approximate distance of 380.0 feet to a point;

THENCE N. 43°09'35" W. an approximate distance of 21.2 feet to a point;

THENCE N. 01°50'25" E. an approximate distance of 112.5 feet to a point;

THENCE N. 88°09'35" W. an approximate distance of 1548.0 feet to a point;

THENCE N. 43°13'18" W. an approximate distance of 21.2 feet to a point for the most Southerly Southwest corner of this tract;

THENCE N. 88°17'01" W. an approximate distance of 42.0 feet to the Point of Beginning.

Contains 59.1 acres

PREPARED FOR ZONE CHANGE REQUEST ONLY; DOES NOT REPRESENT A SURVEY.

Prepared for BBA Homes Land Company LLC
November 24, 2021

PRELIMINARY. THIS DOCUMENT SHALL
NOT BE RECORDED FOR ANY PURPOSE.

THIS DOCUMENT IS RELEASED FOR
REVIEW PURPOSES ONLY.

RELEASE DATE: November 24, 2021

| Staff Report | | Zone Case 3358-B |
|----------------------|--|------------------|
| City Council Meeting | | January 25, 2022 |

Applicant Hugo Reed and Associates, Inc.

Property Owner BBA Homes Land Company, LLC

Council District 6

Recommendations

- Staff recommends Approval.

Prior Board or Council Action

- September 27, 1984: This property was annexed through Ordinance No. 8660 and zoned Transition (T).
- October 10, 1985, Zone Case 2538: This property was rezoned from T to Single-Family District (R-1) through Ordinance 8827.
- March 13, 2014, Zone Case 3223: A portion of this property was rezoned from R-1 to High Density Apartment District (A-2) through Ordinance No. 2014-00024.
- December 6, 2018, Zone Case 3358: The applicant withdrew their application for a zone change to R-1 with a Specific Use for a Mobile Home Subdivision.
- March 12, 2019, Zone Case 3358-A: This property was zoned from R-1 and A-2 to Single-Family District with Reduced Setbacks (R-1A) through Ordinance 2019-00028.
- January 6, 2022, Zone Case 3358-B: The Planning and Zoning Commission recommended Approval of the Specific Use for Garden Homes on property zoned R-1A by a vote of 8-0-0.

Notification Summary

- Notifications Sent: 36
- Received In Favor: 0
- Received In Opposition: 0

Site Conditions and History

The subject property was annexed in 1984 and is vacant.

Adjacent Property Development

The property to the east of the subject property is zoned R-1 and is vacant, and the properties to the north, west, and south are zoned R-1 and R-1A and have been developed with residences.

Zoning Request and Analysis

Item Summary

The subject property is addressed as 901 Inler Avenue and is located east of Inler Avenue and south of 4th Street, on 59.1 acres of unplatted land out of Block D6, Section 2. The applicant is requesting a Specific Use for garden homes on property zoned R-1A.

Current zoning: Single-Family District with Reduced Setbacks (R-1A)

Requested zoning: Specific Use for Garden Homes

Intent Statements

The intent of the current R-1A zoning is “...to promote orderly and proper development of single-family residential units, to protect established and future single-family residential developments from inharmonious and harmful land uses, and to provide a “quality environment” for the residents of the district and city.”

The intent of the proposed Specific Use zoning is “...to provide for design and land use flexibility in the various districts. This district provides for variations in the land use standards within the [zoning] ordinance, provided the intent, principles, and innovations of modern urban planning and design are used. The regulations require specific site planning on all aspects of proposed development to ensure that any variations of land uses or land use standards will be in harmony with the purposes and objectives of the zoning ordinance as stated in Section 1.”

Traffic Network/Infrastructure Impacts

The property is along Inler Avenue, which is designated as a Principal Arterial Partial by the Master Thoroughfare Plan. Principal Arterial roads are designed for a higher intensity of traffic (Comprehensive Plan, page 87).

Compatibility with Surrounding Property

The proposed Specific Use is compatible with the surrounding area and will not change the character of the existing development. The proposed use is for garden homes.

Conformance with Zoning Ordinance

The proposed Specific Use 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 may need additional public improvements since the property is not platted.

Attachments

- A. Case Information
- B. Thoroughfare Plan Map
- C. Notification Map
- D. Aerial Map
- E. Zoning Map
- F. Photos
- G. Application and supporting documents
- H. Notification Letters

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 3358-B



Allowable Uses: [Specific Use for Garden Homes](#)

[Reduced Setback Single-Family District \(R-1A\)](#)

Transportation: The proposed development has points of access from Inler Avenue.

| Thoroughfare | Existing | Per Thoroughfare Development Plan |
|--|------------------------------------|---|
| Inler Avenue <i>Principal Arterial, Partial</i> | R.O.W. 24 feet, two-lane, paved | R.O.W. 110 feet, seven-lane, divided, 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

5.3 Case 3358-B: Hugo Reed and Associates, Inc. for BBA Homes Land Company LLC

Request for a Specific Use for Garden Homes on property zoned Reduced Setback Single-Family District (R-1A), at:

- 901 Inler Avenue, located east of Inler Avenue and south of 4th Street, on 59.1 acres of unplatted land out of Block D6, Section 2.

PLANNER JACOB HAWKINS stated there were thirty-six (36) notifications sent out and zero returned. Staff shared the location of the property including pictures and maps and discussed the surrounding property. Staff recommends approval of this request.

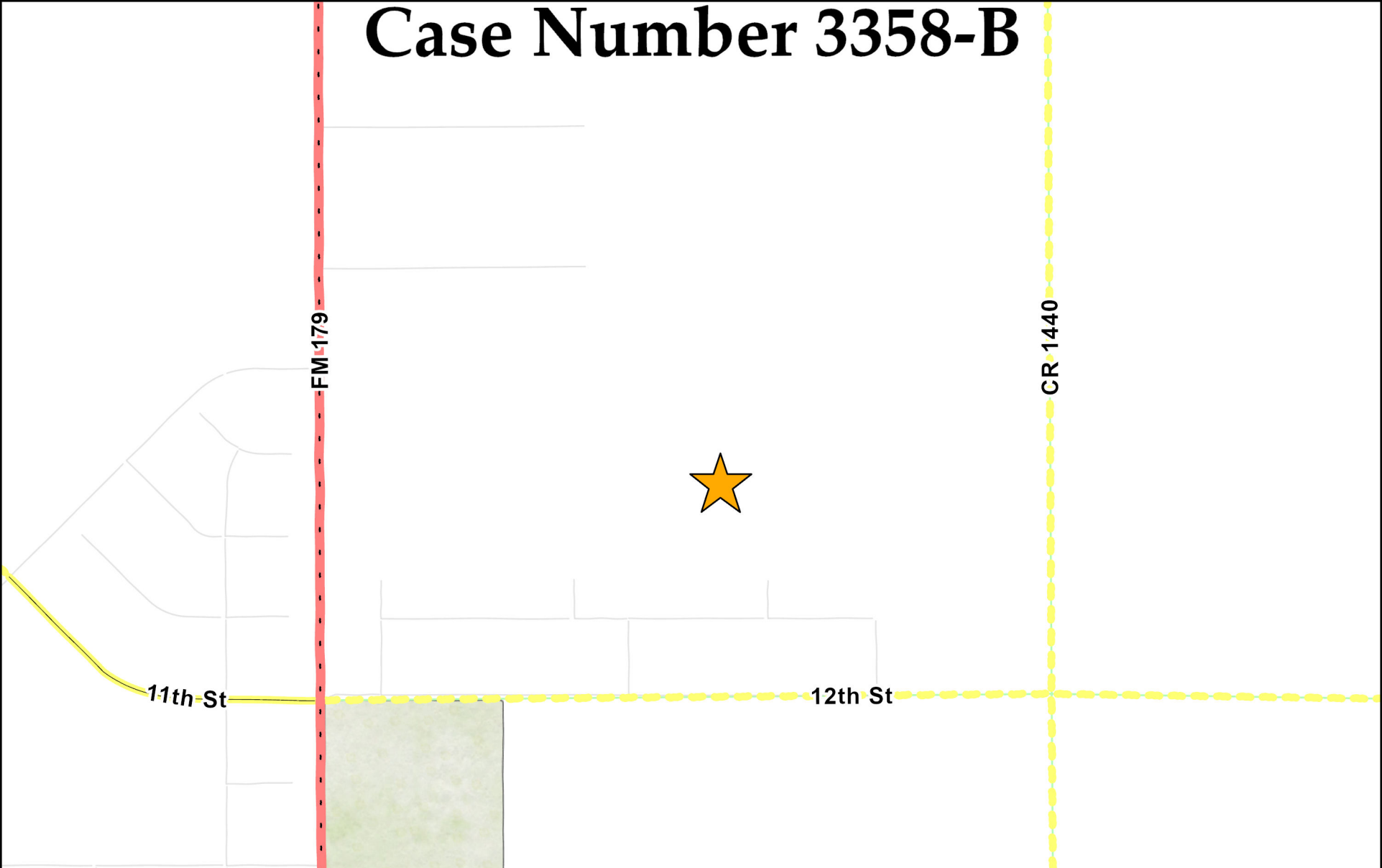
APPLICANT TERRY HOLEMAN, Hugo Reed and Associates, Inc., 1601 Avenue N, stated this area is the remainder of the Hill Valley Development. The completed first phase is to the south. These will all be rear entry garden homes.

No one spoke in favor of the request.

OPPOSITION ISMAEL ZOROLA 8809 13th Street stated he has property nearby and would like to know what is going to be built.

In matter of **Zone Case 3358-B** a motion was made by **JAMES BELL** and seconded by **ABEL HERNANDEZ** to approve the request and the Commission members voted 8 (in favor) to 0 (in opposition) to approve the motion. Item will be forwarded to City Council for consideration.

Case Number 3358-B



Collector

- Completed
- Partial
- Future

Minor Arterial

- Completed
- Partial
- Future

Modified Arterial

- Partial
- Future

Principal Arterial

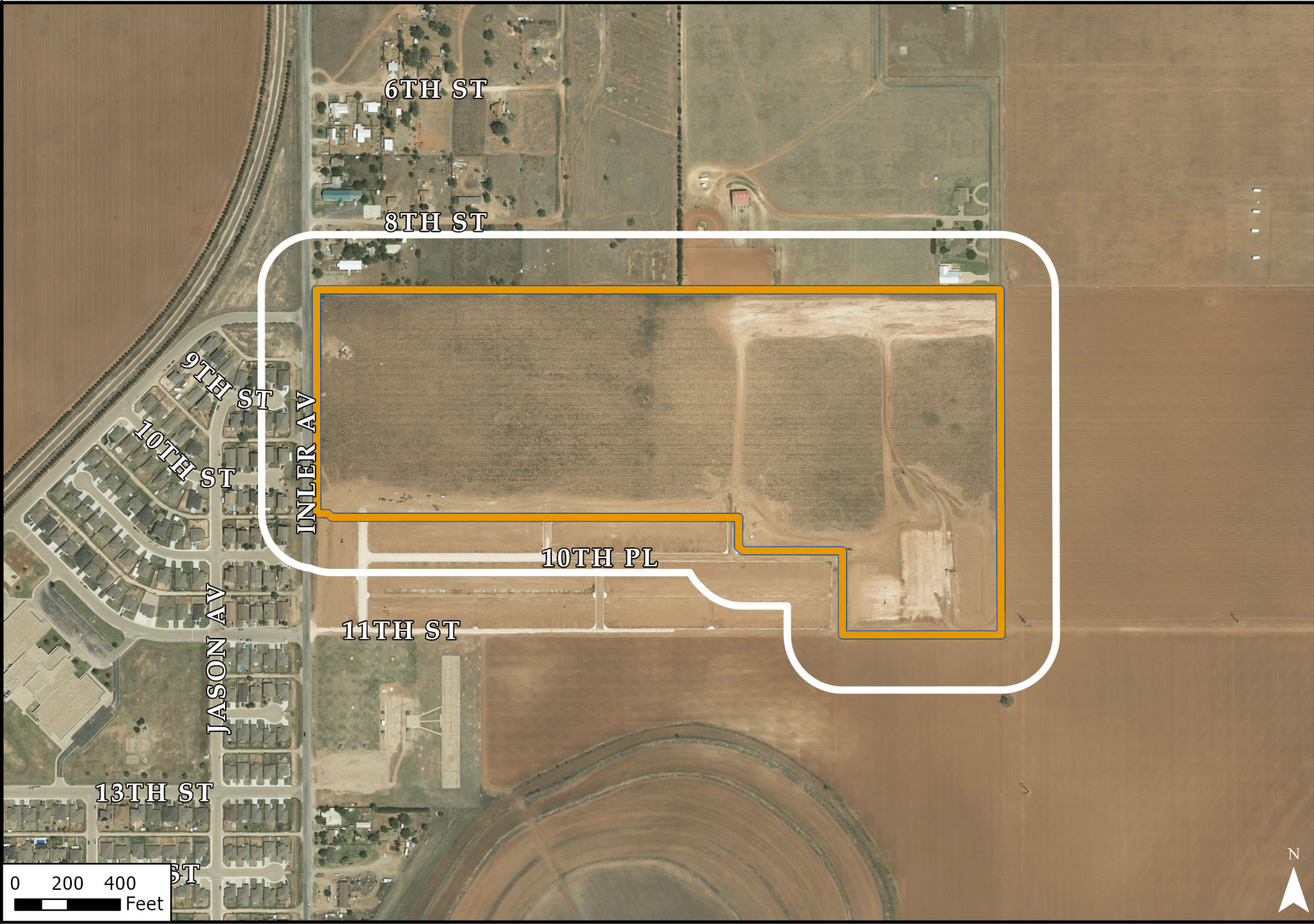
- Completed
- Partial
- Future

Freeway

- Completed
- Partial
- Proposed Outer Loop









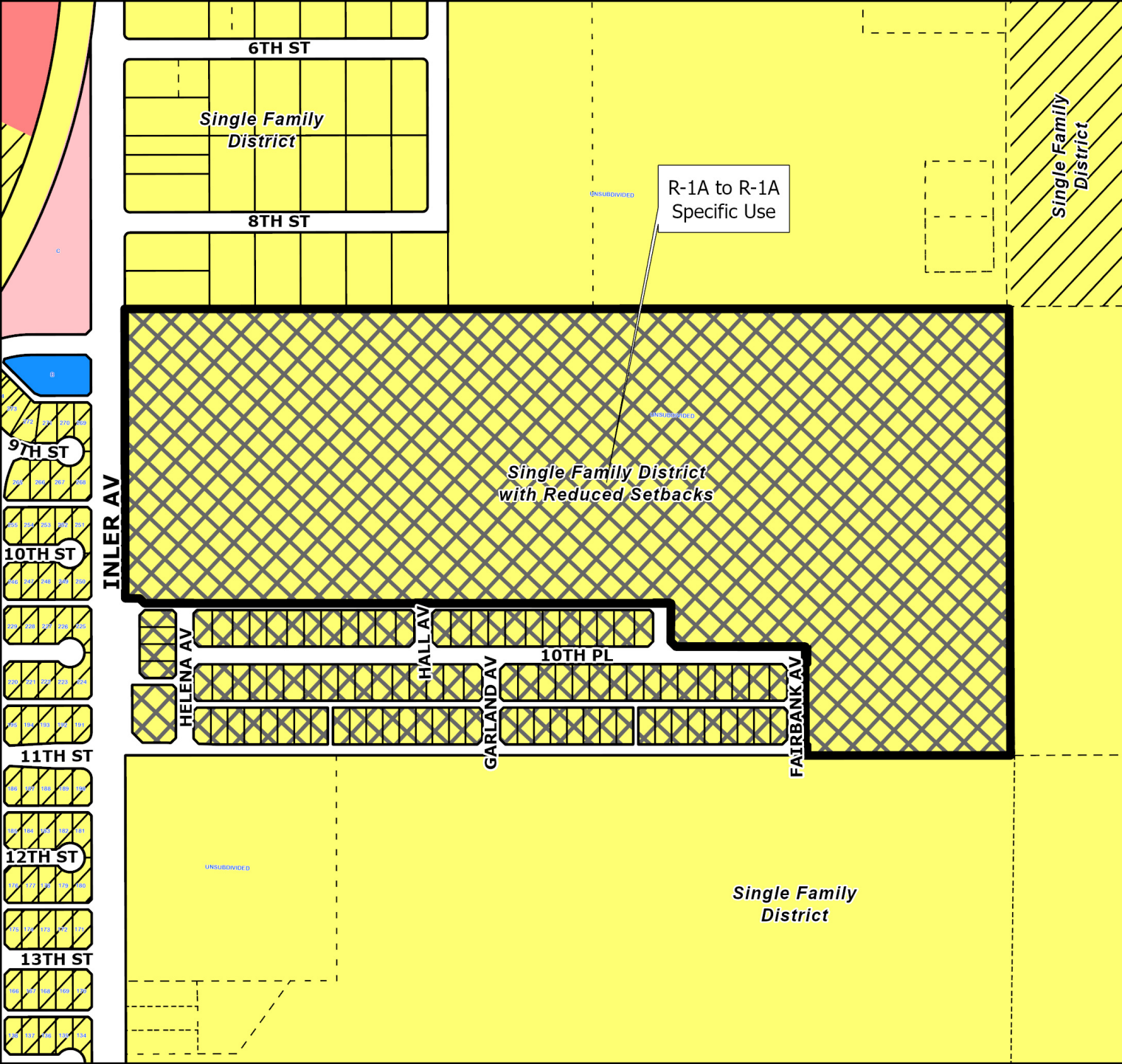
Case Number 3358-B



Current Zoning

3358-B Zoning Districts

-  Local Retail
-  General Retail
-  Garden Office
-  Single Family
-  Single Family Specific Use
-  Single Family with Reduced Setbacks



0 100 200 300 400
Feet



3358-B



Subject property. View to the east.



View to the south.



View to the west.



View to the north.

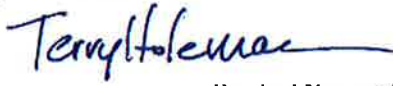


Lubbock Planning Department
PO Box 2000 / 1314 Avenue K
Lubbock, TX 79457
APPLICATION FOR ZONING CHANGE

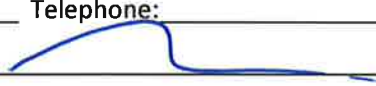
Project Information

Location or Address: 901 Inler Avenue
Lots/Tracts: See Metes and Bounds Description
Survey & Abstract: Section 2, Block D-6
Metes and Bounds Attached: Yes ☒ No ☐ Total Acreage of Request: 59.1
Existing Land Use: Vacant Existing Zoning: Single Family with Reduced Setback (R-1A)
Requested Zoning: R-1 Specific Use for Garden Homes
If property is not subdivided, will a preliminary plat be submitted? Yes ☐ No ☒

Representative/Agent Information (if different from owner)

Firm Name: Hugo Reed and Associates
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: 
Date: 11/19/2021 Printed Name: Terry Holeman

Owner Information

Firm Name: BBA Homes Land Company LLC
Owner: Robert Wilbur
Address: 9009 CR 6875 City: Lubbock State: TX
ZIP Code: 79407 Telephone: _____ Email: _____
Property Owner's Signature: 
Date: 11/19/2021 Printed Name: Robert Wilbur

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.

Information

Agenda Item

Resolution - Planning: Consider a resolution authorizing the Mayor to execute a Municipal Services Agreement, with Ganatra Holdings, LLC, and Ganatra Investments, LLC, for the requested annexation of an area of land generally described as a 3.18 acre tract, located south of 106th Street and east of University Avenue.

Item Summary

Ganatra Holdings, LLC and Ganatra Investments, LLC are the owners of the tract of land containing approximately 3.18 acres in Section 10, Block E, Lubbock County, located south of 106th Street and east of University Avenue. The owner is requesting consideration of voluntary annexation of the land into the City limits.

The first step in the voluntary annexation process is to establish a service plan to which both the City and the property owners agree. The proposed annexation agreement sets forth the plan for services between the City of Lubbock and Ganatra Holdings, LLC and Ganatra Investments, 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

Attachments

Resolution - 106th and University

Signed Annexation Agreement - 106th and University

Annexation Metes and Bounds

Annexation Petition

Annexation Map 106th and University

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 Ganatra Holdings, LLC and Ganatra Investments, 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 GANATRA HOLDINGS, LLC AND GANATRA INVESTMENTS, LLC

This Municipal Services Agreement ("Agreement") is entered into on _____ day of _____, 2022 by and between the City of Lubbock, Texas, a home-rule municipality of the State of Texas, ("City") and Ganatra Holdings, LLC and Ganatra Investments, LLC ("Owners"), collectively referred to as ("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, Section 43.0671 of the Local Government Code ("LGC") permits the City to annex an area when each owner of land in an area requests the annexation;

WHEREAS, the Owners own certain parcels of land situated in Lubbock, Texas which consists of approximately 3 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 ("Property");

WHEREAS, where the City elects to annex such an area, the City is required to enter into a written agreement with the property owners that sets forth the City services to be provided for the Property;

WHEREAS, Owners have filed a written request with the City for full-purpose annexation of the Property, and said petition for annexation is set forth as Exhibit B attached to and incorporated herein ("Petition");

WHEREAS, the City and the Owners 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 Owners 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 the service plan below and 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. 14, located at 2402 96th Street, Station No. 16, located at 4030 114th Street, and Station 17, located at 3241 63rd Street. Station No. 14 is approximately 1.0 miles from the proposed annexation with an approximate response time of 1 to 2 minutes. Station 16 is approximately 2.5 miles from the proposed annexation with an approximate response time of 3 to 4 minutes. Station No. 17 is approximately 3.7 miles from the proposed annexation with an approximate response time of 6 to 6 minutes. Fire suppression activities can be afforded to the annexed area with an acceptable response time within current appropriation. 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. 14, located at 2402 96th Street, Station No. 16, located at 4030 114th Street, and Station 17, located at 3241 63rd Street. Station No. 14 is approximately 1.0 miles from the proposed annexation with an approximate response time of 1 to 2 minutes. Station 16 is approximately 2.5 miles from the proposed annexation with an approximate response time of 3 to 4 minutes. Station No. 17 is approximately 3.7 miles from the proposed annexation with an approximate response time of 6 to 6 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. 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:* 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*: 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. Ordinance 8017 specifies other items including:

1. Pro-rata on property already platted, and extension of services;
2. Pro-rata and extensions to property being platted;
3. Sizes of lines and meter sizes;
4. Location for service connection;
5. Deposits, charges, refunds;

6. Cost of large mains may be partially paid by City, and other consideration; or
7. 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. However, the developer may be asked to assist with infrastructure for residential waste collection, i.e. carts or dumpsters. Depending on the style/type of development additional expectations may be placed on the developer in order for service to be provide in the timeframe requested.

B. It is understood and agreed that the City is not required to provide a service that is not included in this agreement.

C. Owners understand and acknowledge 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 acknowledge 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 to each of them it was recommended to seek legal advice and each Party was given adequate opportunity to seek representation of 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 Properties and is binding on the Owner.
13. **CH. 43 DISCLOSURE IN COMPLIANCE WITH THE TEXAS LOCAL GOVERNMENT CODE SEC. 43.004**
 - A. The City discloses that the Landowners are not required to enter into this agreement, however if the Landowners desire to have their property annexed, the Texas Local Government Code Sec. 43.0672 requires a written agreement for the provision of municipal services;
 - B. The City may, in compliance with and under the authority of the Texas Local Government Code Subchapter C-3, annex the Landowners' property upon the Landowners' request;

- C. The procedural mechanisms in order to annex the Landowners' property shall be as follows:
1. The Landowners of the property must petition the City requesting the annexation of Landowners' property;
 2. If the City desires to annex Landowners' property, a written agreement shall be made with each Landowner requesting property to be annexed and said agreement shall include:
 - a. All of the services the City will provide to the property once annexed; and
 - b. A schedule of any services the City will provide at a later time, if not at the time of annexation.
- D. The above procedures shall require the consent and signature of the City and the Landowners; and
- E. The City waives immunity from suit for the purpose of adjudicating a claim for breach of the agreement.
14. **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 all Parties.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

EXECUTED as of the Effective Date hereof.

CITY OF LUBBOCK

DANIEL M. POPE, MAYOR

GANATRA HOLDINGS, LLC

[Signature]
Shailesh R. Ganatra, Manager

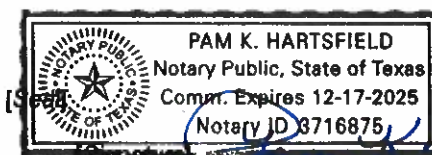
ATTEST:

SUBSCRIBED AND SWORN TO BEFORE ME on the
day of 6 day of January, 2022, to
certify which witness my hand and official seal.

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

[Signature]
Bryan Isham, Director of Planning



[Signature] [Signature]
[Printed name] Pam K. Hartsfield

Notary Public in and for
the State of Texas

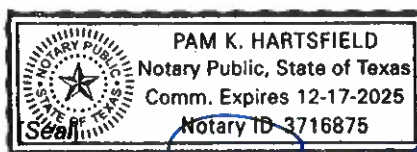
APPROVED AS TO FORM:

[Signature]
Kelli Leisure, Assistant City Attorney

GANATRA INVESTMENTS, LLC

[Signature]
Hina S. Ganatra, Manager

SUBSCRIBED AND SWORN TO BEFORE
ME on the day of 6 day of January
2022, to certify which witness my hand and official
seal.



[Signature] [Signature]
[Printed name] Pam K. Hartsfield

Notary Public in and for
the State of Texas

Exhibit A

METES AND BOUNDS description prepared for Annexation purposes only on a 3.18 acre tract out of Section 10, Block E, Lubbock County, Texas, being further described by metes and bounds as follows:

BEGINNING at a point in the North line of the Southwest Quarter (SW/4) of Section 10 for the Northwest corner of this tract which bears East, an approximate distance of 1260 feet from the Northwest corner of the SW/4 of Section 10, and also being in the South line of the Tract annexed by City of Lubbock by Ordinance(CLO) 2005-O0078;

THENCE East, along the North line of the SW/4 and the South City Limits Line established by CLO 2005-O0078, an approximate distance of 275 feet to the Northeast corner of this tract;

THENCE South an approximate distance of 503.49 feet to a point in the South line of the tract described in Lubbock County Clerk File Number (CCFN) 2017016442 for the Southeast corner of this tract;

THENCE West along the South line of the tract described in CCFN 2017016442, an approximate distance of 275 feet to a point in the City Limits line;

THENCE North, with the City Limits line an approximate distance of 503.49 feet to the **PLACE** of **BEGINNING** and containing 3.18 acres.

PREPARED FOR ANNEXATION PURPOSES ONLY, DOES NOT REPRESENT AN ACTUAL SURVEY.



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): Ganatra Holdings/Investments, LLC
Address: 10601 University Ave, Lubbock TX 79423
Address: 10701 University Ave, Lubbock TX 79423
Telephone: (806) 786-7865 Email: BUILDCRAFT@HDTMAIL.COM
Telephone: () Email: _____
Acreage of property: 3.18 Number of lots and proposed use: 1 - Multifamily

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.

[Signature] H.S. Ganatra
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, is not more than one-half mile in width, and that this petition is signed and duly acknowledged by each and every person having an interest in said land.

Signed: [Signature]

Signed: H. S. Ganatra

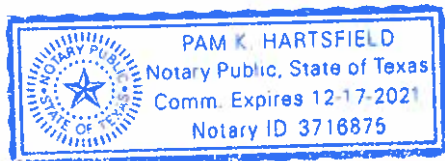
Signed: NA

THE STATE OF TEXAS

COUNTY OF Lubbock

BEFORE ME, the undersigned authority, on this day personally appeared Shailesh R. Ganatra, Hina Shailesh Ganatra, and NA, 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 10 day of Dec., 2021.



[Signature]
Notary Public in and for Lubbock County, Texas.

AFTER RECORDING RETURN TO: ~~Sam Hawthorne, Attorney at Law, 2112 Indiana Avenue, Lubbock, Texas 79410.~~

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.

Special Warranty Deed

Date: March 18, 2019

Grantor: HINA S. GANATRA, joined pro forma by her husband, SHAILESH R. GANATRA

Grantor's Mailing Address: P. O. Box 3130
Lubbock, Lubbock County, Texas 79452-3130

Grantee: GANATRA INVESTMENTS, LLC, a Texas limited liability company

Grantee's Mailing Address: P. O. Box 3262
Lubbock, Lubbock County, Texas 79452-3262

Consideration: As a contribution to capital of Grantee, and other good and valuable consideration, to Grantor herein paid by Grantee herein, the receipt and sufficiency of all which is hereby acknowledged and confessed.

Property (including any improvements):

See legal description of properties listed on Exhibit "A" attached hereto and incorporated herein by this reference as if set forth verbatim.

Reservations from Conveyance: None

Exceptions to Conveyance and Warranty:

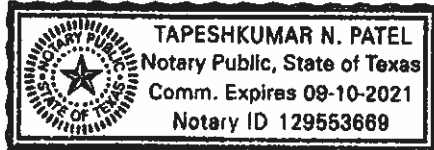
SUBJECT TO all valid and subsisting easements, encumbrances, rights-of-way, exceptions, reservations, covenants and conditions, of whatsoever nature, either of record in the county in which the property is located, or visible to the eye upon inspection of the properties; all rights of adjoining owners in any walls and fences situated on a common boundary; any discrepancies, conflicts or shortages in area or boundary lines; any encroachments or overlapping of improvements; and ad valorem taxes for current year.


STATE OF TEXAS

COUNTY OF LUBBOCK

§
§
§

This instrument was acknowledged before me, the undersigned notary, on this 10 day of April, 2019, by **SHAILESH R. GANATRA**.





Notary Public, State of Texas

FILED AND RECORDED

OFFICIAL PUBLIC RECORDS



Kelly Pinion

Kelly Pinion, County Clerk
Lubbock County, TEXAS
04/11/2019 02:22 PM
FEE: \$38.00
2019012832

AFTER RECORDING RETURN TO: ~~Sam Hawthorne, Attorney at Law, 2112 Indiana Avenue, Lubbock, Texas 79410~~

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.

Special Warranty Deed

Date: March 18, 2019

Grantor: SHAILESH R. GANATRA, joined pro forma by his wife, HINA S. GANATRA

Grantor's Mailing Address: P. O. Box 3130
Lubbock, Lubbock County, Texas 79452-3130

Grantee: GANATRA HOLDINGS, LLC, a Texas limited liability company

Grantee's Mailing Address: P. O. Box 3130
Lubbock, Lubbock County, Texas 79452-3130

Consideration: As a contribution to capital of Grantee, and other good and valuable consideration, to Grantor herein paid by Grantee herein, the receipt and sufficiency of all which is hereby acknowledged and confessed.

Property (including any improvements):

See legal description of properties listed on Exhibit "A" attached hereto and incorporated herein by this reference as if set forth verbatim.

Reservations from Conveyance: None

Exceptions to Conveyance and Warranty:

SUBJECT TO all valid and subsisting easements, encumbrances, rights-of-way, exceptions, reservations, covenants and conditions, of whatsoever nature, either of record in the county in which the property is located, or visible to the eye upon inspection of the properties; all rights of adjoining owners in any walls and fences situated on a common boundary; any discrepancies, conflicts or shortages in area or boundary lines; any encroachments or overlapping of improvements; and ad valorem taxes for current year.

Grantor, for the Consideration and subject to the Reservations from Conveyance and the 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 way belonging, to have

EXHIBIT A

1. Lot Seventy-Nine (79), STONEBROOK SOUTH ADDITION, an Addition to the City of Lubbock, Lubbock County, Texas, according to the map, plat and/or dedication deed thereof recorded in Volume 9258, Page 233, Official Public Records, Lubbock County, Texas.

Together with Grantor's right, title and interest in all system memberships and/or ownership certificates in any non-municipal water and/or sewer systems serving said Property.

2. A tract of land out of the Southwest Quarter (SW/4) of Section 10, Block E, G. C. & S. F. R.R. Co. Survey, Lubbock County, Texas, being more particularly described by metes and bounds as follows:

BEGINNING 40 feet East of the Northwest corner of the SW $\frac{1}{4}$ of Section 10, Block E, Lubbock County, Texas;

THENCE East along the North line of the said SW $\frac{1}{4}$ of said Section 10, a distance of 2597.2 feet to the Northeast corner of the said SW/4;

THENCE South along the East line of the said SW/4 a distance of 335.4 feet;

THENCE West a distance of 2597.2 feet;

THENCE North parallel to the West line of said Section 10, a distance of 335.4 feet to the Place of Beginning.

on a 15.229 Acre Tract out of the tract described in Volume 3649,
Page 32, Lubbock County Real Property Records and out of Section
10, Block E, Lubbock County, Texas

This Plat is based on a survey made on the ground August 9, 2011.

Combined Scale Factor: 0.99975


THENCE N 01°56'30" E, 335.42 feet to the Place of Beginning and containing 15.229 Acres including any Right of Way.

THENCE N 01°47'52" E, 40.0 feet to the Place of Beginning and containing 0.570 Acres including any Right of Way.

This is a detailed survey map of a 15.229-acre tract. The map shows the following features and measurements:

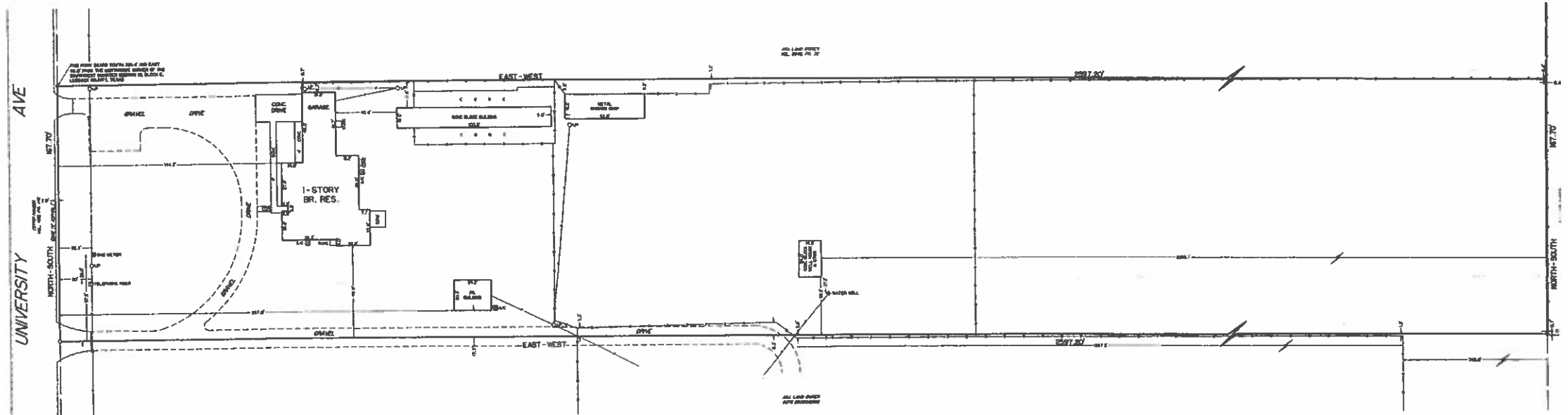
- Tract Identification:** The central area is labeled "15.229 Acres".
- Boundaries and Measurements:**
 - Top boundary: S 88°13'07" E 660.73' (left segment) and S 88°13'07" E 1976.71' (right segment).
 - Bottom boundary: N 88°12'42" W 1977.52'.
 - Left boundary: NO 1°56'30" E 335.42'.
 - Right boundary: S 01°48'17" W 335.65'.
- Easements and Encumbrances:**
 - 40' Access Easement:** Located on the top-left boundary.
 - 40' R-O-W (V. 450, P. 145):** Right-of-way located on the bottom-left boundary.
 - 50' Easement (V. 844, P. 445):** Located on the top-right boundary.
 - H Frame Power Line:** Crosses the top boundary.
 - Barbed Wire Fence Except As Noted:** Indicated along the bottom and right boundaries.
 - Adj. to Chain Link Fence:** Located on the right boundary.
- Other Features:**
 - Northwest Corner of the Southwest Quarter (SW 1/4) of Section 10, Block E:** Marked at the top-left corner.
 - Section Line ±20' West of Centerline:** Indicated on the left side.
 - University Avenue (Strip Paving):** Located on the far left.
 - West Line Section 10:** Located on the far left.
- County Clerk File Numbers:**
 - 2007051016 (top center)
 - 2008013835 (bottom center)
 - 2008008765 (bottom right)

-



ABACUS ENGINEERING
SURVEYING
2737 81st Street
LUBBOCK, TEXAS
806-745-7870

PERIMETER AND IMPROVEMENT SURVEY
OF A 18.00 ACRE TRACT OF LAND LOCATED
IN THE SOUTHWEST QUARTER OF
SECTION 10, BLOCK E
LUBBOCK COUNTY, TEXAS



METES AND BOUNDS DESCRIPTION of a 18.00 acre tract of land located in the Southwest Quarter of Section 10, Block E, Lubbock County, Texas, being further described as follows:

BE BEGINNING at a 3/4" iron rod found in the East right-of-way line of University Ave, at the North-west corner of this tract which bears South a distance of 333.40 feet and that a distance of 40.00 feet from the Northwest corner of the Southwest Quarter of Section 10, Block E, Lubbock County, Texas;

THENCE East a distance of 2597.20 feet to a 3/4" iron rod found at the Northeast corner of this tract;

THENCE South a distance of 167.70 feet to a 3/4" iron rod found at the Southeast corner of this tract;

THENCE West a distance of 2597.20 feet to a 1/2" iron rod found in the East right-of-way line of said University Ave, at the Southwest corner of this tract;

THENCE North, along said right-of-way line, a distance of 167.70 feet to the Point of Beginning.

CERTIFICATION TO: Service Title Co.
FOR: OPR 00714-B ONLY

I, Brent Carroll, Texas Registered Professional Land Surveyor No. 5410, do hereby certify that this survey was made on the ground. A determination as to whether this property lies within a special flood hazard area was not made for this survey.
March 28, 2008

Brent Carroll

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

SCALE: 1"=30'
CONTROL MONUMENTS AS FOUND & SHOWN
FENCES AS SHOWN:
○ - 1/2" IRON ROD
○ - 1/2" IRON ROD
○ - UTILITY POLE
○ - OVERHEAD ELEC. LINE
OD0002/W.I.G.B.)

No abstract of this or this 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.
Record documents other than those shown on this survey may exist and encumber this property.

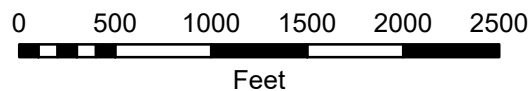


Proposed Annexation Area (3.18 Ac) Located in Section 10, Block E, Lubbock County



Digital Orthophotography - May 2021

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.



Information

Agenda Item

Resolution - Finance: Consider a resolution approving the Central Business District Tax Increment Financing Reinvestment Zone Annual Report, for October 1, 2020, through September 30, 2021.

Item Summary

The City Council created the Central Business District Tax Increment Financing (TIF) Reinvestment Zone and appointed the Central Business District TIF Reinvestment Zone Board on December 3, 2001. According to the Texas Tax Increment Finance Act Section 311.016, the City must submit an annual report to the Chief Executive Officer of each taxing unit that levies taxes on property within a tax increment finance zone. The report must be provided within 150 days of the end of the City's fiscal year and a copy must also be sent to the State Comptrollers Office.

The Texas Tax Increment Finance Act specifies that the report must include:

- Amount and source of revenue in the tax increment fund established for the zone;
- Amount and purpose of expenditures from the fund;
- Amount of principal and interest due on outstanding bonded indebtedness;
- Tax increment base and current captured appraised value retained by the zone;
- Captured appraised value shared by the City and other taxing units;
- Total amount of tax increments received;
- Any additional information necessary to demonstrate compliance with the tax increment financing plan adopted by the City.

Staff prepared the 2021 annual report, which includes all the information required by the above statute, and submitted it to the Central Business District TIF Board of Directors for approval on January 13, 2022. A summary of the information included in the report is as follows:

In FY 2020-21, the Zone received \$1,238,743 in property tax revenues and \$7,424 in interest earnings. Any variance in the actual amount from the amount reported in the FY 2019-20 Annual Report can be attributed to uncollected taxes and/or exemptions. In FY 2020-21, Market Lubbock Inc. transferred \$35,073 to the CBD TIF Capital Project Fund for the Downtown Police Program.

Expenses in FY 2020-21 included \$713,270 for special projects, \$58,000 in administrative costs, \$747 for office supplies, \$6,629 on professional services, and \$4,907 for Lubbock Central Appraisal District collection charges. Life-to-date capital expenditures were \$12.3 million.

The City of Lubbock has issued bonds for the Central Business District TIF capital projects in the amount of \$12.6 million. The total amount of principal and interest remaining on the bonds issued is \$10.3 million principal and \$3.0 million interest.

The Central Business District TIF appraised value is \$249,695,117 in 2020 with a current captured appraised value of \$143,836,866. The current captured appraised value is the total value after the base

year value is subtracted. The total tax increment to be received by the Central Business District TIF for Tax Year 2021 is projected to be \$1,384,725 from all taxing jurisdictions.

The Board of Directors approved the report at their January 13, 2022 meeting, and is submitting it to the City Council for approval.

Fiscal Impact

None

Staff/Board Recommending

D. Blu Kostelich, Chief Financial Officer
Central Business District TIF Board of Directors

Attachments

Resolution
CBD TIF Annual Report

RESOLUTION

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

THAT the City Council of the City of Lubbock does hereby approve the Central Business District Tax Increment Financing Reinvestment Zone ("CBDTIF") Annual Report for October 1, 2020 through September 30, 2021, which will be distributed to the chief executive officer of each taxing unit levying taxes within the CBDTIF, and to the Comptroller of the State of Texas. Said Annual Report 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:



Blu Kostelich, Chief Financial Officer

APPROVED AS TO FORM:



Kelli Leisure, Assistant City Attorney



**Central Business District
Tax Increment Financing Reinvestment Zone
Annual Report**

October 1, 2020 - September 30, 2021

**City of Lubbock, TX
Central Business District
Tax Increment Financing Reinvestment Zone
Annual Report
October 1, 2020 – September 30, 2021**

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**City of Lubbock, TX
Central Business District
Tax Increment Financing Reinvestment Zone
Annual Report
October 1, 2020– September 30, 2021**

Introduction

The Lubbock City Council established the Central Business District (CBD) Tax Increment Financing Reinvestment Zone (Zone) by ordinance on December 3, 2001 in order to promote the development of the CBD. The Zone was created after written notice and formal presentations to the governing body of each taxing unit that levies real taxes in the Zone, and after a properly advertised public hearing regarding the creation of the zone.

According to the Texas Tax Increment Finance Act Section 311.016, the City must submit an annual report to the chief executive officer of each taxing unit that levies taxes on property within a zone. The report must be provided on or before the 150th day following the City's fiscal year (September 30), and a copy must be submitted to the Texas Comptroller of Public Accounts.

The Texas Tax Increment Finance Act specifies that the report must include:

- ❑ Amount and source of revenue in the Tax Increment Fund established for the Zone,
- ❑ Amount and purpose of expenditures from the Fund,
- ❑ Amount of principal and interest due on outstanding bonded indebtedness,
- ❑ Tax increment base and current captured appraised value retained by the Zone,
- ❑ Captured appraised value shared by the City and other taxing units,
- ❑ Total amount of tax increments received, and
- ❑ Any additional information necessary to demonstrate compliance with the Tax Increment Financing Plan adopted by the City.

Distribution of this annual report was approved by resolution of the City Council on January 25, 2022 upon the recommendation of the Central Business District Tax Increment Financing Reinvestment Zone Board of Directors (Board) on January 13, 2022.



Daniel M. Pope, Mayor
City of Lubbock

Dan Williams, Chairman
Central Business District TIF Board of Directors

**City of Lubbock, TX
Central Business District
Tax Increment Financing Reinvestment Zone
Annual Report
October 1, 2020– September 30, 2021**

Financial Report

As set by the Lubbock Central Appraisal District (LCAD), the appraised value of the Zone increased \$143,836,866 in value since the 2001 base year for each taxing jurisdiction. However, exemptions and abatements by the City and other taxing jurisdictions lower the net taxable amount available to the Tax Increment Fund as indicated on this page.

Appraised Values

| | |
|---|-----------------------------|
| Zone 2021 Appraised Value (before abatements and exemptions) | \$249,695,117 |
| Less: 2001 Base Value | <u>105,858,251</u> |
| Current Captured Appraised Value Retained and Shared (before abatements)* | <u><u>\$143,836,866</u></u> |

*The captured appraised value of taxable real property is the total appraised value of all real property taxable by the taxing unit and located in a reinvestment zone for that year, less the tax increment base of the taxing unit. Texas Tax Increment Finance Act Section 311.012(b).

Tax Increment Fund Revenue

| Taxing Jurisdiction/ Tax Rate | 2021 Tax Rate | 2001 Appraised Value | 2021 Net Taxable Value | 2021 Net Tax Increment Value | Projected TIF Fund Revenue (100% Collections) |
|---|------------------|----------------------------|---------------------------|------------------------------------|--|
| City of Lubbock | \$0.523230 | 105,858,251 | 245,505,885 | 139,647,634 | \$ 730,678 |
| Lubbock County | 0.359990 | 105,858,251 | 245,536,007 | 139,677,756 | 502,826 |
| Lubbock County Hospital District | 0.103164 | 105,858,251 | 245,536,007 | 139,677,756 | 144,097 |
| High Plains Underground Water Conservation District #1 | 0.005100 | 105,858,251 | 245,536,007 | 139,677,756 | <u>7,124</u> |
| Total Fund Revenue | | | | | <u><u>\$ 1,384,725</u></u> |

**City of Lubbock, TX
Central Business District
Tax Increment Financing Reinvestment Zone
Annual Report
October 1, 2020– September 30, 2021**

Performance Report

The Board and the City Council are operating with the Fifth Amended Project and Finance Plans approved by the Board on March 22, 2017 and approved by the City Council on April 27, 2017. The Plans outline the financial strategy to accomplish the goal of the Zone. The Financing Plan provides projections of the amount of revenue that may be received in the future. The Project Plan describes the types of projects anticipated to occur in the district.

Revenues

In FY 2020-21, the Zone received \$1,238,743 in property tax revenues and \$7,424 in interest earnings. Any variance in the actual amount from the amount reported in the FY 2019-20 Annual Report can be attributed to uncollected taxes and/or exemptions. In FY 2020-21, Market Lubbock Inc. transferred \$35,073 to the CBD TIF Capital Project Fund for the Downtown Police Program.

Expenditures and Projects

The City Council has issued six series of Certificates of Obligation to fund public improvement projects for the Zone. The principal amount of Certificates of Obligation is as follows:

| | |
|------------------|------------|
| February 4, 2010 | \$ 247,564 |
| March 15, 2011 | 1,404,380 |
| May 1, 2014 | 2,165,000 |
| April 28, 2015 | 2,690,000 |
| April 15, 2016 | 2,005,000 |
| April 15, 2017 | 4,110,000 |

All expenditures are as defined in the Texas Tax Increment Finance Act Section 311.002(1): Project costs means the expenditures made or estimated to be made and monetary obligations incurred or estimated to be incurred by the municipality or county establishing a reinvestment zone that are listed in the project plan as costs of public works or public improvements in the zone, plus other costs incidental to those expenditures and obligations.

**City of Lubbock, TX
Central Business District
Tax Increment Financing Reinvestment Zone
Annual Report
October 1, 2020– September 30, 2021**

Central Business District TIF Expenditures

| | FY 2020-21 | Expenditures To-Date |
|--|-------------------|---------------------------------|
| Capital Projects | | |
| Public Utility Engineering and Coordination | \$ - | 222,148 |
| Underground Utilities | - | 7,111,115 |
| EDA Grant | - | 2,245,614 |
| Glenna Goodacre Boulevard Extension | - | 292,573 |
| CBD TIF Special Projects | 51,540 | 472,991 |
| Gateways | 29,649 | 1,788,644 |
| Civic Center Hotel Project | - | 23,045 |
| Parking Master Plan | 37,894 | 42,536 |
| Historic District Designation | - | - |
| Utility Infrastructure Upgrades/Relocations | - | 121,216 |
| Civic Center Convention Center Hotel | - | - |
| Total Capital Project Expenditures | <u>\$ 119,083</u> | <u>12,319,882</u> |
| Administrative/Bond Issuance Expenditures | | |
| Administrative | | |
| Administrative Costs | \$ 58,000 | 516,268 |
| Office Supplies | 747 | 10,854 |
| Professional Services | 6,629 | 107,610 |
| LCAD Collections Charges | 4,907 | 38,887 |
| Capital Outlay | - | 58,101 |
| Subtotal Administrative Expenses | <u>70,282</u> | <u>731,720</u> |
| Special Projects | | |
| Downtown Redevelopment Plan | - | 100,000 |
| Schrader & Cline - Project and Finance Plan | - | 75,547 |
| Civic Lubbock Guitar Project | - | 8,500 |
| Fiber Optic Line Relocation | - | 25,254 |
| SGS Engineering | - | 8,396 |
| Overland Partners | - | 232,224 |
| Primitive Social Agreement | 39,000 | 147,300 |
| McDougal Master Development Agreement | 167,770 | 3,168,475 |
| ROW Acquisition - GGB & Avenue Q | - | 342,619 |
| Civic Center Hotel Feasibility Study | - | 49,686 |
| Misc. Projects | - | 37,631 |
| Transfer to Capital Project Fund | 506,500 | 1,620,548 |
| Subtotal Special Projects | <u>713,270</u> | <u>5,816,178</u> |
| Bond Sale Charges | - | 119,912 |
| Total Expenditures | <u>783,553</u> | <u>6,667,810</u> |
| Transfer to Debt Service | \$ 961,675 | 5,726,102 |
| * Unaudited | | |

**City of Lubbock, TX
Central Business District
Tax Increment Financing Reinvestment Zone
Annual Report
October 1, 2020– September 30, 2021**

**CITY OF LUBBOCK, TEXAS
DEBT SERVICESCHEDULE**

| ALL CERTIFICATES & BOND ISSUES BUDGET | | | |
|--|----------------------|------------------------|-------------------------|
| CENTRAL BUSINESS DISTRICT TIF | | | |
| FISCAL YEAR | PRINCIPAL | INTEREST | TOTAL REQUIREMENTS |
| 2021-22 | 565,000.00 | 376,827.85 | 941,827.85 |
| 2022-23 | 590,000.00 | 352,234.72 | 942,234.72 |
| 2023-24 | 620,000.00 | 326,260.94 | 946,260.94 |
| 2024-25 | 640,000.00 | 300,954.19 | 940,954.19 |
| 2025-26 | 670,000.00 | 277,051.21 | 947,051.21 |
| 2026-27 | 685,000.00 | 251,896.53 | 936,896.53 |
| 2027-28 | 710,000.00 | 225,269.40 | 935,269.40 |
| 2028-29 | 740,000.00 | 197,733.05 | 937,733.05 |
| 2029-30 | 775,000.00 | 169,555.25 | 944,555.25 |
| 2030-31 | 790,000.00 | 142,190.20 | 932,190.20 |
| 2031-32 | 710,000.00 | 116,428.50 | 826,428.50 |
| 2032-33 | 720,000.00 | 91,050.00 | 811,050.00 |
| 2033-34 | 715,000.00 | 64,959.80 | 779,959.80 |
| 2034-35 | 620,000.00 | 40,050.00 | 660,050.00 |
| 2035-36 | 440,000.00 | 20,275.00 | 460,275.00 |
| 2036-37 | 305,000.00 | 6,100.00 | 311,100.00 |
| 2037-38 | - | - | - |
| 2038-39 | - | - | - |
| 2039-40 | - | - | - |
| 2040-41 | - | - | - |
| \$ | 10,295,000.00 | \$ 2,958,836.63 | \$ 13,253,836.63 |

**City of Lubbock, TX
Central Business District
Tax Increment Financing Reinvestment Zone
Annual Report
October 1, 2020– September 30, 2021**

Board of Directors

The Zone consists of one representative from each of the jurisdictions that levy taxes within the zone and representatives appointed by the municipality. In establishing the Board, the City Council specified nine members with six members appointed by the City Council. City Council appointed Board representatives must be at least 18 years of age and be a resident of the county in which the zone is located or a county adjacent to that county or own real property in the zone. The Board is responsible for administering the Zone throughout its life span and for recommending projects to be financed with the approval of the City Council.

Council Appointee: Dan Williams, Chair
Williams & Company Real Estate
Term: 03/01/2021 – 03/01/23

Council Appointee: Robert Taylor
United Supermarkets – Corporate Office
Term: 03/01/20 – 03/01/22

Council Appointee: David Alderson
Term: 03/01/21 – 03/01/23

Council Appointee: Kade Wilcox
Primitive Social
Term: 03/01/20 – 03/01/22

Council Appointee: Brett McDowell
MGB Interests, LLC
Term: 03/01/20 – 03/01/22

Council Appointee: Suzanne Blake
Blake Cooper Financial
Term: 03/01/21 – 03/01/23

High Plains Underground Water Conservation District Appointee:
Jason Coleman, P.E., General Manager

Lubbock County Hospital District Appointee and Designee:
Mark Funderburk, Chief Executive Officer; Designee: Jeff Dane, C.F.O.

Lubbock County Commissioners Court Appointee:
Honorable Curtis Parrish, County Judge

Information

Agenda Item

Resolution - Finance: Consider a resolution approving the Lubbock Business Park Tax Increment Financing Reinvestment Zone Annual Report, for October 1, 2020, through September 30, 2021.

Item Summary

The City Council created the Lubbock Business Park Tax Increment Financing (TIF) Reinvestment Zone and appointed the Lubbock Business Park TIF Reinvestment Zone Board on December 16, 2009. According to the Texas Tax Increment Finance Act Section 311.016, the City must submit an annual report to the Chief Executive Officer of each taxing unit that levies taxes on property within a tax increment finance zone. The report must be provided within 150 days of the end of the City's fiscal year and a copy must also be sent to the State Comptrollers Office.

The Texas Tax Increment Finance Act specifies that the report must include:

- Amount and source of revenue in the tax increment fund established for the zone;
- Amount and purpose of expenditures from the fund;
- Amount of principal and interest due on outstanding bonded indebtedness;
- Tax increment base and current captured appraised value retained by the zone;
- Captured appraised value shared by the City and other taxing units;
- Total amount of tax increments received;
- Any additional information necessary to demonstrate compliance with the tax increment financing plan adopted by the City.

Staff prepared the 2021 annual report, which includes all information required by the above statute, and submitted it to the Lubbock Business Park TIF Board of Directors for approval on January 12, 2022. A summary of the information included in the report is as follows:

For the year ended September 30, 2021, the Lubbock Business Park TIF received \$616,259 in revenues for value earned in 2020, and \$3,410 in interest earned. Any variance to the actual amount from the amount reported in the FY 2019-20 Annual Report can be attributed to uncollected taxes and/or exemptions

Expenses in FY 2020-21 included \$10,184 in administrative costs, \$3,583 for professional services, \$657 for Office Supplies, and \$69 in Lubbock Central Appraisal District collection costs. Life-to-date capital expenditures were \$3,042,765.

The Lubbock Business Park TIF appraised value is \$64,918,276 in 2021 with a current captured appraised value of \$64,507,790. The current captured appraised value is the total value after the base year value is subtracted. The total tax increment to be received by the Lubbock Business Park TIF for Tax Year 2021 is projected to be \$639,584 from all taxing jurisdictions.

The Board of Directors approved the report at their January 12, 2022 meeting, and is submitting it to the

City Council for approval.

Fiscal Impact

None

Staff/Board Recommending

D. Blu Kostelich, Chief Financial Officer
Lubbock Business Park TIF Board of Directors

Attachments

Resolution
LBP TIF Annual Report

RESOLUTION

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

THAT the City Council of the City of Lubbock does hereby approve the Lubbock Business Park Annual Report for October 1, 2020 through September 30, 2021, which will be distributed to the chief executive officer of each taxing unit levying taxes within the Lubbock Business Park, and to the Comptroller of the State of Texas. Said Annual Report 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:



Blu Kostelich, Chief Financial Officer

APPROVED AS TO FORM:



Kelli Leisure, Assistant City Attorney



**Lubbock Business Park Tax Increment Financing
Reinvestment Zone**

Annual Report

October 1, 2020 - September 30, 2021

**City of Lubbock, TX
Lubbock Business Park
Tax Increment Financing Reinvestment Zone
Annual Report
October 1, 2020 – September 30, 2021**

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**City of Lubbock, TX
Lubbock Business Park
Tax Increment Financing Reinvestment Zone
Annual Report
October 1, 2020 – September 30, 2021**

Introduction

The Lubbock City Council established the Lubbock Business Park Tax Increment Financing Reinvestment Zone (Zone) by ordinance on December 16, 2009 to promote the development of the Lubbock Business Park. The Zone was enacted after written notice and formal presentations to the governing body of each taxing unit that levies real taxes in the Zone, and after a properly advertised public hearing for public comments on the creation of the Zone.

According to the Texas Tax Increment Finance Act Section 311.016, the City must submit an annual report to the chief executive officer of each taxing unit that levies taxes on property within a zone. The report must be provided on or before the 150th day following the end of the City's fiscal year (September 30), and a copy must be sent to the Texas Comptroller of Public Accounts.

The Texas Tax Increment Finance Act specifies that the report must include:

- ☐ Amount and source of revenue in the Tax Increment Fund (Fund) established for the Zone,
- ☐ Amount and purpose of expenditures from the Fund,
- ☐ Amount of principal and interest due on outstanding bonded indebtedness,
- ☐ Tax increment base and current captured appraised taxable value retained by the Zone,
- ☐ Captured appraised taxable value shared by the City and other taxing units,
- ☐ Total amount of tax increments received, and
- ☐ Any additional information necessary to demonstrate compliance with the Tax Increment Financing Plan adopted by the City.

Distribution of this annual report was approved by resolution of the City Council on January 25, 2022 upon the recommendation of the Lubbock Business Park Tax Increment Financing Reinvestment Zone Board of Directors (Board) on January 12, 2022.

Daniel M. Pope, Mayor
City of Lubbock


Sandy Henry
Lubbock Business Park TIF Board of Directors

**City of Lubbock, TX
Lubbock Business Park
Tax Increment Financing Reinvestment Zone
Annual Report
October 1, 2020 – September 30, 2021**

Financial Report

The net taxable value of the Zone is \$64,918,276 for each taxing jurisdiction, an increase of \$64,507,790 over the 2009 base year. Exemptions and abatements by the City and other taxing jurisdictions lower the net taxable amount available to the Tax Increment Fund as indicated on this page.

Appraised Values

| | |
|--|----------------------|
| Zone 2021 Appraised Value | \$ 64,918,276 |
| Zone 2021 Net Taxable Value | 64,918,276 |
| Less: 2009 Base Value | <u>410,486</u> |
| Current Captured Net Taxable Value Retained and Shared * | <u>\$ 64,507,790</u> |

*The captured appraised value of taxable real property is the total appraised value of all real property taxable by the taxing unit and located in a reinvestment zone for that year, less the tax increment base of the taxing unit. Texas Tax Increment Finance Act Section 311.012(b).

Tax Increment Fund Revenue

| Taxing Jurisdiction | 2021 Tax Rate | 2009 Taxable Value | 2021 Net Taxable Value | 2021 Incremental Net Taxable Value | Projected TIF Fund Revenue (100% Collection) |
|---|------------------|--------------------------|---------------------------|---|---|
| City of Lubbock | \$0.523230 | 410,486 | 64,918,276 | 64,507,790 | \$ 337,524 |
| Lubbock County | 0.359990 | 410,486 | 64,918,276 | 64,507,790 | 232,222 |
| Lubbock County Hospital District | 0.103164 | 410,486 | 64,918,276 | 64,507,790 | 66,549 |
| High Plains Underground Water Conservation District #1 | 0.005100 | 410,486 | 64,918,276 | 64,507,790 | <u>3,290</u> |
| Total Fund Revenue | | | | | <u>\$ 639,584</u> |

**City of Lubbock, TX
Lubbock Business Park
Tax Increment Financing Reinvestment Zone
Annual Report
October 1, 2020 – September 30, 2021**

Performance Report

The Board and the City Council are operating with the Project and Finance Plans approved by the Board on December 10, 2010 and approved by the City Council on January 27, 2011. The Project Plan describes the types of projects anticipated to occur in the Zone. The Financing Plan provides projections of the amount of revenue that may be received in the future and how that revenue will be used to support potential projects.

Revenues

In FY 2020-21, the Zone received \$616,259 in revenues for value earned in 2020, and \$3,410 in interest earned. Any variance to the actual amount from the amount reported in the FY 2019-20 Annual Report can be attributed to uncollected taxes and/or exemptions.

Expenditures and Projects

There is no bonded indebtedness. The expenditures incurred in FY 2020-21 are:

Lubbock Business Park TIF Expenditures

| | FY 2020-21 | Expenditures To- Date |
|--|---------------------|--------------------------|
| Capital Projects | | |
| North King Street Project | \$ - | 680,000 |
| Ivory Street | 2,251,228 | 2,362,765 |
| Total Capital Project Expenditures | <u>\$ 2,251,228</u> | <u>3,042,765</u> |
| Administrative/Bond Issuance Expenditures | | |
| Administrative | | |
| Administrative Costs | 10,184 | 72,089 |
| Office Supplies | 657 | 1,668 |
| Professional Services | 3,583 | 38,650 |
| LCAD Collections Charges | 69 | 362 |
| Interest Expense | - | (289) |
| Transfer to TIF CIP | - | 3,945,503 |
| Total Administrative Expenditures | <u>\$ 14,494</u> | <u>4,057,983</u> |

***Unaudited**

All expenditures are as defined in the Texas Tax Increment Finance Act Section 311.002(1): "Project costs means the expenditures made or estimated to be made and monetary obligations incurred or estimated to be incurred by the municipality establishing a reinvestment zone that are listed in the project plan as costs of public works or public improvements in the zone, plus other costs incidental to those expenditures and obligations."

**City of Lubbock, TX
Lubbock Business Park
Tax Increment Financing Reinvestment Zone
Annual Report
October 1, 2020 – September 30, 2021**

Board of Directors

The Zone consists of one representative from each of the jurisdictions that levy taxes within the zone and representatives appointed by the City. The City Council specified nine members, and six members are appointed by the City Council. City Council appointed Board representatives must be at least 18 years of age and be a resident of the county in which the zone is located or a county adjacent to that county or own real property in the zone. The Board is responsible for administering the Zone throughout its life span and for recommending projects to be financed with the approval of the City Council.

Council Appointee: Sandy Henry, Chair
Science Spectrum
Term: 3/01/21 – 3/01/23

Council Appointee: Sonny Garza
City Bank
Term: 3/01/21 – 3/01/23

Council Appointee: Tyler Young
Texas Tech Credit Union
Term: 3/01/21 – 3/01/23

Council Appointee: Steven “Brett” Cate
Term: 3/01/20– 3/01/22

Council Appointee: Tony Whitehead
Prosperity Bank
Term: 3/01/20– 3/01/22

Council Appointee: Dr. Kathy Rollo
Term: 3/01/20– 3/01/22

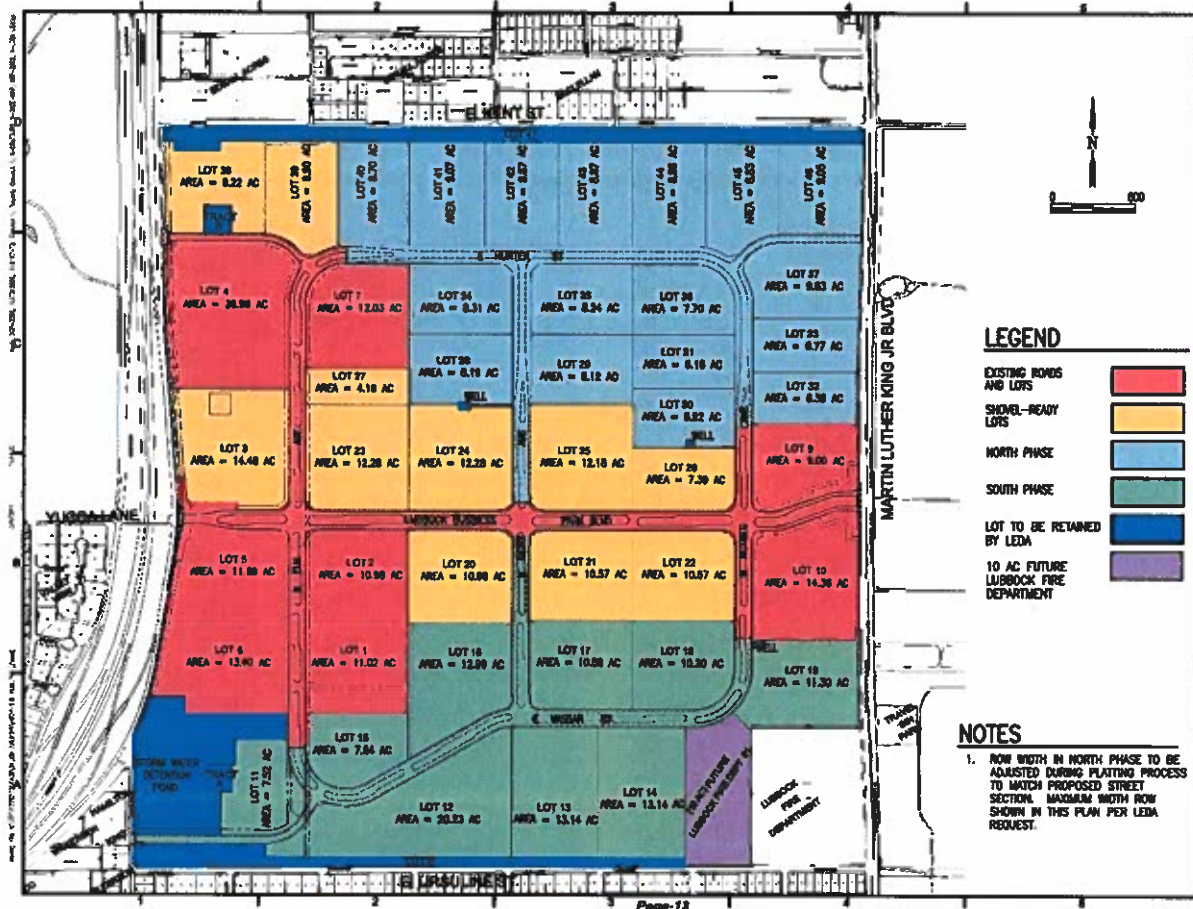
High Plains Underground Water Conservation District Appointee and Designee:
Jason Coleman, General Manager

Lubbock County Hospital District Appointee and Designee:
Mark Funderburk, Chief Executive Officer Designee: Jeff Dane

Lubbock County Commissioners Court Appointee:
Honorable Jason Corley, County Commissioner

City of Lubbock, TX
Lubbock Business Park
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Lubbock Business Park Master Plan



Reinvestment Zone Boundary Map



Information

Agenda Item

Resolution - City Council: Consider a resolution forming a Citizen Advisory Committee to study and make recommendations regarding the street and roadway construction and repair needs of the City of Lubbock, and for a possible future bond election in connection therewith.

Item Summary

This item is a follow-up to ongoing discussions by the Lubbock City Council regarding the recent Street Bond proposal. The resolution will be discussed by the City Council during Work Session, and should the Council choose to do so, a Citizen Advisory Committee can be established under this item.

The Committee's charge will be related to review, evaluation and possible recommendation to the City Council, of future action related to street and roadway construction and repair.

Fiscal Impact

None

Staff/Board Recommending

City Council

Attachments

Resolution - Citizens Advisory Committee

RESOLUTION

WHEREAS, City Councils have received valuable assistance in the past from Citizen Advisory Committees in studying certain topics for the City of Lubbock; and

WHEREAS, the services of a Citizen Advisory Committee continue to be a valid method of evaluating potential outlays to promote the needs of the City's residents, and to enhance the City's vitality; and

WHEREAS, the City Council could benefit from the work of a Citizen Advisory Committee to study and to make recommendations concerning needed street and roadway construction and repairs within the City, including recommendations on possible bond elections or other methods of financing such projects; NOW THEREFORE:

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

SECTION 1. THAT a Citizen Advisory Committee (CAC) is hereby created to be composed of seven (7) members to study the street and roadway construction and repair needs of the City of Lubbock for a possible future bond election.

SECTION 2. THAT each member of the City Council and the Mayor shall appoint one (1) citizen to the CAC, with the Mayor designating the chair of the CAC.

SECTION 3. THAT the Citizen Advisory Committee shall promptly and thoroughly study the need for street and roadway construction and repairs within the City of Lubbock, and make a report, including recommendations, to the City Council in such form and depth as to identify specific construction and repair projects most needed by the City. The CAC also shall consider and recommend appropriate funding mechanisms to accomplish said projects, including but not limited to general obligation bonds to be approved by the citizens of Lubbock at an election.

SECTION 4. The Citizen Advisory Committee may from time to time invite interested citizens and elected or appointed officials of the City of Lubbock to participate in discussions concerning the Committee's work.

SECTION 5. The City Manager shall appoint a member of his staff to act as secretary of the Citizen Advisory Committee, and shall provide assistance to the Committee as needed to carry out its duties in a timely manner.

SECTION 6. The Committee shall make its final report to the Lubbock City Council no later than _____.

Passed by the City Council this _____ day of _____, 2022.

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